



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

Case No.: IT-04-74-T  
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**IN TRIAL CHAMBER III**

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

**Registrar:** Mr John Hocking

**Judgement of:** 29 May 2013

**THE PROSECUTOR**

v.

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

**PUBLIC**

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**JUDGEMENT**

**Volume 2 of 6**

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## CHAPTER 4: FACTUAL FINDINGS REGARDING CRIMES COMMITTED IN MUNICIPALITIES AND DETENTION CENTRES

### Heading 1: The Municipality of Prozor

1. This part of the Judgement deals primarily with the crimes committed in October 1992 and later in the town of Prozor and in several nearby villages. Accordingly, in paragraphs 45 to 50 of the Indictment, it is alleged *inter alia* that, from August to October 1992, tensions between the HVO and the ABiH increased; that on 23 October 1992, the forces of Herceg-Bosna/HVO attacked the Muslims in Prozor town, then plundered, burned and destroyed Muslim homes and other property; that on 24 October 1992, they conducted a wave of arrests involving Muslim men and placed them in detention at the Ripci primary school, where a number of them were beaten; that around 24 October 1992, they attacked the village of Paljike, destroyed Muslim houses and property, confined some Muslims inside a house and then fired shots and threw hand grenades, killing two of the civilians, and that in November 1992, the Herceg-Bosna/HVO forces continued to harass and persecute the Muslim population of Prozor Municipality. The Prosecution contends in paragraphs 51 to 53 that, from approximately 17 to 19 April 1993, Herceg-Bosna/HVO forces attacked, plundered and burned several villages in Prozor Municipality, and killed Muslim civilians in Tošćanica; that as of summer 1993, all movements of BiH Muslims – into, out of or within Prozor Municipality – had to be approved by HVO authorities; that from June to mid-August 1993, Herceg-Bosna/HVO forces attacked Muslim civilians, destroyed and looted their property in several other villages of the municipality, and killed six Muslim civilians hiding in the Prajine and Tolavac region, and that they also burned down or seriously damaged the Skrobućani and Lizoperci Mosques and the Islamic Community building in Prozor. The Prosecution also alleges in paragraphs 54 to 59 of the Indictment that from spring 1993 until the end of that year the Herceg-Bosna/HVO forces arrested Muslim men, took them to various detention centres in Prozor Municipality and physically abused detainees, some of whom were taken away and never seen again; that commencing in July 1993, some detainees were transferred to other detention facilities at Ljubuški, the Heliodrom, Dretelj and Gabela; that the detainees were forced to perform forced labour, during which some died or were injured; that the detainees were often beaten and humiliated, and on some occasions forced to perform sexual acts; that around 31 July 1993, approximately 50 detainees were taken to the confrontation line at Makljen Crni Vrh and after tying them down with telephone cable the Herceg-Bosna/HVO forces opened fire on them, killing at least 20 and wounding many others; that between July and August 1993, several thousand Muslim women, children and elderly were collected inside the village houses in the municipality, where they lived under deplorable conditions, and were robbed, looted, physically abused and humiliated, and the women often raped;

that in late August 1993, they were loaded onto trucks, forced to walk in the direction of ABiH-held territory and shot at resulting in several being wounded; that in late August 1993 and thereafter, Herceg-Bosna/HVO forces continued to persecute and mistreat the Muslim civilians who remained in Prozor Municipality, and, finally, in late December 1993, most of the 500 to 600 Muslims still in Prozor Municipality were detained in prisons or sent to ABiH-held territory or deported to other countries.

2. The Prosecution alleges those acts to constitute persecutions (Count 1), murder (Count 2), wilful killing (Count 3), rape (Count 4), inhuman treatment (sexual assault) (Count 5), deportation (Count 6), unlawful deportation of a civilian (Count 7), inhumane acts (forcible transfer) (Count 8), unlawful transfer of a civilian (Count 9), imprisonment (Count 10), unlawful confinement of a civilian (Count 11), inhumane acts (conditions of confinement) (Count 12), inhuman treatment (conditions of confinement) (Count 13), cruel treatment (conditions of confinement) (Count 14), inhumane acts (Count 15), inhuman treatment (Count 16), cruel treatment (Count 17), unlawful labour (Count 18), extensive destruction of property, not justified by military necessity and carried out unlawfully and wantonly (Count 19), wanton destruction of cities, towns or villages, or devastation not justified by military necessity (Count 20), destruction or wilful damage done to institutions dedicated to religion or education (Count 21), appropriation of property, not justified by military necessity and carried out unlawfully and wantonly (Count 22) and plunder of public or private property (Count 23).

3. In order to rule on the facts alleged, the Chamber has analysed a collection of evidence, reviewing *inter alia* the *viva voce* testimony of Witnesses *Fahrudin Agić, Zdenko Andabak, Ivan Bandić, Peter Hauenstein, Omer Hujdur, Safet Idrizović, Nijaz Islamović, Alija Lizde, Ragib Mulahusić, Herbert Okun, Zvonimir Skender, Edward Vulliamy, Philip Watkins, BK, BL, BP,<sup>1</sup> BR,<sup>2</sup> BS, and E*, as well as the testimony of the Accused *Milivoj Petković* and the Accused *Slobodan Praljak*. The Chamber has also considered the written statements of Witnesses *Rudy Gerritsen, Safet Idrizović, BM, BN,<sup>3</sup> BO,<sup>4</sup> BQ, BT, BU and CC*, admitted under Rule 92 *ter* of the Rules, and supplemented by their testimony in court. The Chamber has also considered the written statements of Witnesses *Dževad Bečirović, Nedžad Čaušević, Šemso Germić, Amira Hadžibegović, Kajdafa Husić, Osmin Osmić,<sup>5</sup> Ibro Pilav, Behaim Šabić, Ibro Selimović, Hasib Zečić* and of Witness *DR* and the transcripts of interviews of Witnesses *AP* and *Alistair Rule*, admitted under Rule 92 *bis* of

<sup>1</sup> Representative victim, paragraphs 57 and 59 of the Indictment.

<sup>2</sup> Representative victim, paragraph 46 of the Indictment.

<sup>3</sup> Representative victim, paragraphs 57 and 59 of the Indictment.

<sup>4</sup> Representative victim, paragraphs 57 and 59 of the Indictment.

the Rules. Lastly, the Chamber reviewed a large number of exhibits admitted into the record through those witnesses or by means of a written procedure.<sup>6</sup>

4. The Chamber will (I) analyse the geographic and demographic circumstances of the municipality, (II) its political, administrative and military structure, in order to highlight the context in which the criminal acts alleged by the Prosecution took place. It will (III) address the events preceding the attack of 23 and 24 October 1992 on Prozor town, and, (IV), the evidence pertaining to the sequence of the criminal events alleged in Prozor Municipality.

## **I. Geographic and Demographic Situation in the Municipality of Prozor**

5. Prozor, which means “window” and is also called *Rama*,<sup>7</sup> is the entry point from Herzegovina into Central Bosnia.<sup>8</sup> At the time of the events relevant to the Indictment, Prozor Municipality consisted of twenty-five villages.<sup>9</sup> In 1991, the municipality had almost 19,500 inhabitants of whom about 63% were Croats, 36% Muslims and 1% Serbs and others.<sup>10</sup> The town of Prozor had approximately 3,565 inhabitants, two-thirds Muslims, one-third Croats, Serbs and others.<sup>11</sup>

6. As of 15 September 1993, the total population of the municipality was 19,750 people, including 3,911 people of Croatian origin from other territories of the HR H-B.<sup>12</sup> On 10 November 1993, there were 600 Muslims in the Municipality of Prozor, more than half of whom were in detention.<sup>13</sup>

## **II. Political, Administrative and Military Structure of the Municipality**

7. After an overview of (A) the Croatian and Muslim political, military and administrative authorities in Prozor Municipality, the Chamber will (B) examine in greater detail the HVO armed forces in Prozor Municipality at the time of the crimes alleged.

<sup>5</sup> Representative victim, paragraph 48 of the Indictment.

<sup>6</sup> The Chamber recalls for all intents and purposes that although it has examined all such evidence (testimonies, statements and exhibits), not all feature in this analysis of the sequence of the crime events. Such is the case for witnesses who testified evasively about various aspects or criminal events or events outside the temporal and factual scope of the Indictment.

<sup>7</sup> The word “*Rama*” is the genitive form of the noun “*ram*”, which means “frame”.

<sup>8</sup> Edward Vulliamy, T(F), p. 1536.

<sup>9</sup> P 09207, p. 15.

<sup>10</sup> 3D 01024, p. 16; Witness BD, T(F), p. 20944, closed session; P 09702 under seal, p. 2; Witness BM, T(F), p. 7102; Witness Omer Hujdur, T(E), pp. 3475 and 3476; P 09731 under seal, p. 3.

<sup>11</sup> Witness Omer Hujdur, T(E), p. 3476.

<sup>12</sup> 3D 02057, p. 2; P 03944 under seal, p. 1.

<sup>13</sup> P 06569, p. 1.

## **A. Overview of the Croat and Muslim Political, Administrative and Military Authorities**

8. Following the multiparty elections of 1990 won by the HDZ,<sup>14</sup> the BiH Croats occupied almost all the important posts in the municipal administration – the executive and municipal assembly – of Prozor.<sup>15</sup> Mijo Jozi } became the President of Prozor Municipality.<sup>16</sup>

9. In April 1992, after the declaration on the imminent threat of war by the Presidency of the RBiH,<sup>17</sup> the Prozor Municipal Assembly was dissolved in favour of the War Presidency, which had eleven members: seven from the HDZ-BiH and four from the SDA.<sup>18</sup>

10. Also in April 1992, the Prozor TO was installed.<sup>19</sup> It consisted solely of Muslims.<sup>20</sup> Some time in late June 1992, the TO was renamed the ABiH.<sup>21</sup>

11. In April 1992 also, after the creation of the HVO of the HZ H-B,<sup>22</sup> the HVO was established in Prozor Municipality.<sup>23</sup> It consisted of a civilian political structure as well as a military structure.<sup>24</sup>

12. It was not until 12 August 1992 that the Prozor Municipal HVO was officially recognised, in a decision signed by Dario Kordić acting on behalf of Mate Boban.<sup>25</sup> Mijo Jozi } was appointed its president;<sup>26</sup> Stipo Juri } was designated HVO Defence bureau chief,<sup>27</sup> and Ilija Franji }, Commander of the HVO Municipal Staff.<sup>28</sup>

<sup>14</sup> P 09702 under seal, p. 2; Witness BM, T(F), pp. 7101 and 7002; 1D 00920, p. 15.

<sup>15</sup> P 09702 under seal, p. 2.

<sup>16</sup> P 09731 under seal, p. 2.

<sup>17</sup> Omer Hujdur, T(F), p. 3485; 1D 01218; Witness 1D-AA, T(F), p. 28943, closed session; P 10484, pp. 3 and 4; Witness 1D-AA, T(F), p. 29155, closed session; P 00150, p. 4; Witness 1D-AA, T(F), p. 29160, closed session.

<sup>18</sup> Witness Omer Hujdur, T(F), pp. 3485 and 3486.

<sup>19</sup> Witness BM, T(F) pp. 7026-7027; P 09702 under seal, p. 6; Witness Omer Hujdur, T(F) pp. 3487, 3488 and 3585; 2D 00055, p. 1.

<sup>20</sup> Witness BM, T(F), pp. 7024 and 7025; P 09702 under seal, p. 6; P 01656, p. 4; Witness BM, T(F), p. 7029; Witness Omer Hujdur, T(F), pp. 3489-3492.

<sup>21</sup> P 09702 under seal, p. 8. The Chamber notes that although the TO was renamed “ABiH” from June 1992, some witnesses heard by the Chamber continued to use the term “TO”. The Chamber will therefore use the terms “TO” and “ABiH” interchangeably.

<sup>22</sup> P 00152 / P 00151 (Identical documents); Decision of 14 March 2006, Adjudicated Fact no. 64 (*Kordić* Judgement, para. 483(d)); Decision of 14 March 2006, Adjudicated Fact no. 65 (*Aleksovski* Judgement, para. 22); P 09545, p. 14; Milivoj Gagro, T(F), p. 2702; 3D 03526, p. 2; 3D 01113, pp. 1 and 3; Amor Ma{ovi}, T(F), pp. 25187-25189; 3D 03720, p.78; P 09536, p. 42.

<sup>23</sup> Witness BM, T(F), pp. 7024, 7025 and 7029; P 09702 under seal, p. 5; P 01656, p. 4.

<sup>24</sup> P 09702 under seal, p. 5.

<sup>25</sup> Nijaz Islamović, T(F), pp. 6920 and 6922; P 00382; Omer Hujdur, T(F), pp. 3584-3585. Nevertheless, the term “HVO”, was used from April 1992 onwards.

<sup>26</sup> Nijaz Islamović, T(F), pp. 6939 and 6940; P 00382. The Chamber also notes that, during June and August 1992 at least, Mijo Jozi } was also a member of the presidency of the municipal assembly of Prozor, *see* for example 1D 02991.

<sup>27</sup> Nijaz Islamović, T(F), pp. 6940 and 6941; P 00382.

<sup>28</sup> Nijaz Islamović, T(F), p. 6941; P 09204 under seal, p. 4; P 00382.

## **B. The HVO Armed Forces Present in the Municipality of Prozor**

### 1. The North-West OZ and the HVO Rama Brigade

13. @eljko Šiljeg was Commander of the North-West OZ from October 1992 until 20 December 1993,<sup>29</sup> whose headquarters were located at the Unis factory in Prozor;<sup>30</sup> a site which also housed the local HVO headquarters.<sup>31</sup>

14. Rudy Gerritsen, a member of the ECMM, stated that he met @eljko Šiljeg on several occasions between mid-July to mid-September 1993, and that Šiljeg was always well informed about what was happening in his area of responsibility.<sup>32</sup> At least on 31 July 1993 in Prozor, Slobodan Praljak introduced himself in Prozor to the officials from the ECMM as @eljko Šiljeg's superior.<sup>33</sup>

15. From October 1992 until 7 December 1992, Ilija Franji} was the Commander of the HVO Rama Brigade, based at the Unis factory in Prozor.<sup>34</sup> He was replaced in succession by Marinko Beljo, a former HOS chief,<sup>35</sup> in early 1993, then by Marinko Zelenika in July-August 1993<sup>36</sup> and by Ante Pavlovi} on 10 August 1993.<sup>37</sup>

16. The Chamber also notes that the name [imun @untić appears in two documents admitted into evidence and observes that, according to these documents, he acted as the *de facto* Rama Brigade commander in late January 1993.<sup>38</sup>

17. From October 1992, Petar Kolakušić *alias* "Pero" was the deputy commander of the Rama Brigade,<sup>39</sup> as well as the chief of military operations for the Brigade.<sup>40</sup>

18. In 1993, Luka Markeši} was the chief of the SIS assigned to the Rama Brigade.<sup>41</sup> On 14 November 1993, he was replaced by Pero Kovačević.<sup>42</sup>

<sup>29</sup> P 10030, p. 3; Rudy Gerritsen, T(F), pp. 19188 and 19190; P 00661; P 00734; Zvonimir Skender, T(F), pp. 45190 and 45302.

<sup>30</sup> P 10030, p. 3.

<sup>31</sup> P 09204 under seal, p. 23.

<sup>32</sup> P 10030, p. 3.

<sup>33</sup> P 09731 under seal, p. 3; P 10030, p. 7; Rudy Gerritsen, T(F), pp. 19193 and 19195; P 09638; Peter Hauenstein, T(F), pp. 7644, 7646 and 7647; P 04256 under seal, p. 1.

<sup>34</sup> P 09731 under seal, p. 3; P 00662; P 00878; P 10030, p. 3.

<sup>35</sup> P 09204 under seal, p. 8; 5D 00538, p. 2.

<sup>36</sup> Witness CC, T(F), p. 10483, closed session; P 09731 under seal, p. 3; P 04234.

<sup>37</sup> Witness CC, T(F), p. 10483, closed session; P 09731 under seal, p. 3; P 04550; 2D 00268; P 04177, p. 5; Nijaz Islamović, T(F), pp. 6909 and 6911; P 04193; P 05621.

<sup>38</sup> P 01327, p. 1; P 01362.

<sup>39</sup> 5D 00538, p. 2.

<sup>40</sup> P 09731 under seal, p. 3; P 00628; 5D 00538, p. 2; 3D 00131.



19. The Chamber observes that, commencing on 24 October 1992, whenever there was combat, all the armed forces in Prozor were subordinated to the HVO *Rama* Brigade, under @eljko Šiljeg's authority.<sup>43</sup>

## 2. Kinder Vod

20. The platoon of soldiers known as the *Kinder Vod*<sup>44</sup> was made up of young, local Croats<sup>45</sup> who were armed and wore the HVO uniform or occasionally civilian dress.<sup>46</sup> Ante Beljo was its commander.<sup>47</sup> Another member of the *Kinder Vod* was Nikola Marić, *alias* Niđo or, the "Kobra".<sup>48</sup> Witness BS said that he wore a black uniform and a cowboy hat.<sup>49</sup> Among the members of the *Kinder Vod* were also @eljko Juki}, Tomislav Beljo, Mato Jeli}, Vlado Mari} *alias* "Cela" (brother of Nikola Mari}),<sup>50</sup> Goran Papković,<sup>51</sup> Pavo Plo~kini}<sup>52</sup> and Zoran Papak.<sup>53</sup>

21. In view of the evidence, the Chamber finds that this platoon of soldiers "fought for the HVO"<sup>54</sup> and was placed under the command of the *Rama* Brigade, as were, moreover, all the other HVO military units located in the *Rama* Brigade's area of responsibility.<sup>55</sup>

## 3. HVO Military Police

22. No later than September 1992, the 4<sup>th</sup> Company of the 2<sup>nd</sup> HVO Military Police Battalion, consisting of 120 military police officers divided into three platoons, were active in the *Rama* Brigade; its headquarters was separate from brigade headquarters and was located at the Prozor fire station.<sup>56</sup>

<sup>41</sup> Witness CC, T(F), pp. 10358 and 10435, closed session.

<sup>42</sup> P 06662; P 06658.

<sup>43</sup> Peter Hauenstein, T(E), p. 7576; P 00645; Milivoj Petkovi}, T(F), pp. 50259 and 50260; 5D 02001, para. 1; P 00970, p. 14.

<sup>44</sup> P 09204 under seal, p. 33; P 09925, pp. 2 and 3; P 09989, p. 4; P 09926, p. 4.

<sup>45</sup> P 09204 under seal, p. 33; P 09926, p. 4.

<sup>46</sup> Nijaz Islamović, T(F), pp. 6927, 6936-6938.

<sup>47</sup> P 09989, p. 4; P 09925, pp. 2 and 3; P 09926, p. 4.

<sup>48</sup> P 09714 under seal, p. 3; Witness BT, T(F), pp. 8298-8300, closed session; Witness BS, T(F), pp. 8197 and 8250, closed session; P 09922, pp. 1 and 2.

<sup>49</sup> Witness BS, T(F), p. 8250, closed session.

<sup>50</sup> P 09193, p. 23; P 09922, p. 2; P 09925, pp. 2 and 3.

<sup>51</sup> Nijaz Islamović, T(F), p. 6928.

<sup>52</sup> P 09925, pp. 2 and 3.

<sup>53</sup> Nijaz Islamović, T(F), p. 6928.

<sup>54</sup> Zvonimir Skender, T(F), pp. 45299 and 45300.

<sup>55</sup> Zvonimir Skender, T(F), pp. 45299 and 45300; P 09989, p. 4; P 00645; Milivoj Petkovi}, T(F), pp. 50259 and 50260; P 09925, pp. 2 and 3; 4D 01456, p. 3.

<sup>56</sup> P 00970, p. 14; Witness CC, T(F), p. 10379, closed session; P 10030, p. 3; P 09193, pp. 22 and 23; P 09922, p. 3; Witness BL, T(F), p. 5854.

23. As of 1 September 1992 at the latest, the 4<sup>th</sup> Military Police Company was placed under the command of Marinko Beljo, assisted by his deputy, Ante Pavlović,<sup>57</sup> until Pavlović became the *Rama* Brigade commander on 10 August 1993.<sup>58</sup> From 10 February 1993 to 21 September 1993, Ilija Franji}, was the Commander of the 4<sup>th</sup> Company of the 6<sup>th</sup> Battalion (formerly the 2<sup>nd</sup> Battalion) of the Military Police.<sup>59</sup> Ilija Fofić was his successor in this job.<sup>60</sup>

24. The Chamber notes that in late October 1992, 100 men from the 1<sup>st</sup> and 2<sup>nd</sup> Companies of the 2<sup>nd</sup> Military Police Battalion were stationed in Prozor Municipality, at Makljen.<sup>61</sup>

25. The Chamber observes, moreover, that a Military Police platoon commanded by Perica Turajlija, and assigned to the 3<sup>rd</sup> Company of the 1<sup>st</sup> Active Battalion,<sup>62</sup> was active in Prozor Municipality, from at least 19 April 1993.<sup>63</sup> The Chamber also notes that on 1 July 1993, Valentin Jorić ordered that this same platoon be subordinated to the command of @eljko Šiljeg,<sup>64</sup> for purposes of front line combat tasks.<sup>65</sup> As of 31 July 1993, the platoon was under the direct command of Slobodan Praljak.<sup>66</sup>

26. The evidence shows that the 4<sup>th</sup> Company of the 6<sup>th</sup> Battalion (formerly, the 2<sup>nd</sup> Battalion) of the Military Police, stationed in Prozor, was under the command of the *Rama* Brigade.<sup>67</sup>

#### 4. Civil Protection Force, the *Domobrani* and the MUP

27. On 6 June 1993, Ivan Babić was in command of the civil protection force.<sup>68</sup> On 7 July 1993, Nikola Budimir was appointed commander of the *Domobrani* unit stationed in Prozor by Marinko Zelenika,<sup>69</sup> commander of the *Rama* Brigade.<sup>70</sup> In June and August 1993, Nikola Budimir received orders from Zelenika to deploy the *Domobrani* in detention facilities in Prozor town.<sup>71</sup>

<sup>57</sup> P 00970, p. 14.

<sup>58</sup> Witness CC, T(F), p. 10483, closed session; P 09731 under seal, p. 3; P 04550; P 04177, p. 5; Nijaz Islamović, T(F), pp. 6909 and 6911.

<sup>59</sup> Zdenko Andabak, T(F), pp. 50954 and 50955; P 09922, p. 3; P 09731 under seal, p. 3; P 01917; 5D 02049.

<sup>60</sup> P 09731 under seal, p. 3; P 09737.

<sup>61</sup> P 00536.

<sup>62</sup> Zdenko Andabak, T(E), p. 50996.

<sup>63</sup> Zdenko Andabak, T(F), pp. 50995 and 50996; P 01966, p. 1.

<sup>64</sup> Zdenko Andabak, T(E), p. 50996.

<sup>65</sup> P 03068; P 00970, p. 14.

<sup>66</sup> 5D 04394.

<sup>67</sup> Milivoj Petkovi}, T(F), pp. 50259 and 50260; Zdenko Andabak, T(F), pp. 50954 and 50955; P 00970, p. 14; Witness CC, T(F), pp. 10458 and 10459.

<sup>68</sup> P 02649.

<sup>69</sup> P 03270; Witness CC, T(F), pp. 10458 and 10495, closed session.

<sup>70</sup> Witness CC, T(F), p. 10494, closed session; P 03270; P 09731 under seal, p. 7; Witness CC, T(F), p. 10501, closed session.

<sup>71</sup> Witness CC, T(F), p. 10458, closed session; P 03270; P 03477; P 09731 under seal, p. 7; P 03954.

28. The Prozor MUP had one building for its use in the town.<sup>72</sup> In July 1993, Marinko Zelenika, the *Rama* Brigade commander, deployed civilian police officers at the Prozor Secondary School which was used at that date as a detention facility.<sup>73</sup> Moreover, on 28 July 1993, Slobodan Praljak ordered the MUP Prozor units to be integrated with the HVO armed forces.<sup>74</sup> On 14 August 1993, the Prozor MUP was mobilised for action in the field, under the command of Slobodan Praljak.<sup>75</sup>

### 5. Presence of Members of the HV

29. The Chamber notes that much evidence attests to the presence of HV troops, who had tanks,<sup>76</sup> in the Prozor area from October 1992 to January 1994.<sup>77</sup>

## III. Events Preceding the Attack of 23-24 October 1992 in Prozor Town

30. The Prosecution alleges that, from August to October 1992, tensions between the HVO and ABiH increased in Prozor.<sup>78</sup> The Stojić Defence contends that the HVO attempted to reduce tensions with the ABiH in October 1992.<sup>79</sup> The Praljak Defence adds that the situation in Prozor was tense and that there could be conflict at any moment.<sup>80</sup>

31. In early May 1992, the HVO set up checkpoints along the road from Prozor to Herzegovina and Croatia.<sup>81</sup> In late summer 1992, tensions rose<sup>82</sup> and the acts of violence<sup>83</sup> between Muslims and Croats of Prozor, which had started, continued to intensify through October 1992.<sup>84</sup> Starting 19 and 20 October 1992, the presence of troops from the HVO and from the HV, including a troop

<sup>72</sup> Nijaz Islamović, T(F), p. 6907.

<sup>73</sup> P 03270; P 03477.

<sup>74</sup> Slobodan Praljak, T(F), pp. 40985 and 40986; 3D 01527.

<sup>75</sup> P 04177, p. 4. However, the Chamber has no information about the actions taken.

<sup>76</sup> Peter Hauenstein, T(F), pp. 7573-7575, private session and 7695; Omer Hujdur, T(F), pp. 3510-3512; 3D 00909, pp. 1 and 2.

<sup>77</sup> Omer Hujdur, T(F), pp. 3501, 3502 and 3620; Peter Hauenstein, T(F), pp. 7572-7576, private session; Peter Hauenstein, T(E), p. 7572, private session; Alistair Rule, P 09803, *Kordić and Čerkez* Case, T(F), pp. 5390-5392; P 00917, p. 2; Christopher Beese, T(F), p. 3222; Philip Watkins, T(F), pp. 18848-18855; P 03771 under seal, p. 3, para. 4-f; P 06448 under seal, p. 1; Grant Finlayson T(F), p. 18090; P 06913, p. 3; P 07625 under seal, p. 4, para. 16; P 07652 under seal, p. 3, para. 11.

<sup>78</sup> Indictment, para. 45 and Prosecution Final Trial Brief, para. 328.

<sup>79</sup> Stojić Defence Final Trial Brief, para. 42.

<sup>80</sup> Praljak Defence Final Trial Brief, para. 135.

<sup>81</sup> P 09204 under seal, p. 28.

<sup>82</sup> P 09989, p. 3; P 09926, p. 2; Witness BR, T(F), p. 8077; P 00608 under seal; P 09702 under seal, pp. 7 and 8; P 01656, p. 4; Omer Hujdur, T(F), pp. 3499 and 3602-3605; 2D 00055; P 00744, p.2.

<sup>83</sup> Omer Hujdur, T(F), pp. 3499 and 3602-3605. *See also* 2D 00055.

<sup>84</sup> P 09204 under seal, pp. 30 and 31.

transporter, armoured vehicles and HV tanks,<sup>85</sup> expanded considerably in the Prozor area.<sup>86</sup> The HVO set up additional checkpoints at the entrances and exits to Prozor town.<sup>87</sup>

32. On 20 October 1992, the SIS of the Prozor HVO sent a report to @eljko Šiljeg, informing him that because the Croatian flag had just been raised over the police office in Prozor town,<sup>88</sup> a surge in violence was to be feared.<sup>89</sup> As a consequence, on 20 October 1992, @eljko Šiljeg ordered the *Rama* Brigade to remain on maximum alert and the political authorities of the Prozor HVO to attempt to calm the situation with the Muslim authorities.<sup>90</sup>

33. On 20 and 21 October 1992, tensions between the Muslims and Croats reached their peak and the Muslim authorities in Prozor expected an imminent attack by the HVO.<sup>91</sup> On 21 October 1992, 100 men from the 1<sup>st</sup> and 2<sup>nd</sup> Companies of the 2<sup>nd</sup> Military Police Battalion arrived in Prozor Municipality.<sup>92</sup> On 21 October 1992 also, the ABiH observed that the HVO had taken Makljen Hill and decided to deploy a platoon of soldiers based in Travnik to reinforce Prozor.<sup>93</sup> Also on 21 October 1992, Milivoj Petković prepared a situation report in which he mentions his fear that the tensions between Croats and Muslims in Prozor would degenerate into open conflict at any moment.<sup>94</sup> An SIS report dated 22 October 1992, attests to the fact that the Prozor HVO was worried about an imminent attack by the ABiH.<sup>95</sup>

#### IV. Sequence of the Alleged Criminal Events

34. The Chamber will examine (A) the attack on Prozor town on 23 and 24 October 1992 and its consequences; (B) the attack on the village of Paljike on 24 October 1992 and its consequences, namely damage to property and deaths; (C) the arrests and detentions of Muslim men arrested in Prozor and Paljike at Ripci primary school on 24 October 1992; (D) the sequence of the negotiations between the belligerents in November 1992 and the return of the Muslim population to Prozor Municipality; (E) the attacks on three villages in Prozor Municipality between 17 and 19 April 1993 and their consequences; (F) the attacks on a dozen or so villages in the municipality

<sup>85</sup> Omer Hujdur, T(F), pp. 3502 and 3620; P 09193, p. 21.

<sup>86</sup> Omer Hujdur, T(F), pp. 3501, 3502, 3620, 3635-3637; P 09193, p. 21.

<sup>87</sup> Omer Hujdur, T(F), pp. 3501 and 3502.

<sup>88</sup> Witness BR, T(F), pp. 8081, 8140-8142; P 09926, pp. 2 and 3; 3D 00287; Omer Hujdur, T(E), p. 3501; P 01656, p. 7; P 00608 under seal; P 00744, p. 2.

<sup>89</sup> P 00608 under seal.

<sup>90</sup> P 00612.

<sup>91</sup> Safet Idrizović, T(F), pp. 9617 and 9618; P 09400, p.11; 4D 00420, pp.1 and 2; Witness CC, T(F), p. 10418, closed session; P 09731 under seal, p. 3.

<sup>92</sup> P 00536, p. 2; P 09204 under seal, p. 30.

<sup>93</sup> 2D 00061.

<sup>94</sup> 4D 00897, p. 1.

<sup>95</sup> 3D 00048.

between June and mid-August 1993 and their consequences; (G) the restrictions on the movements of the Muslims in the municipality commencing in the summer of 1993; and (H) the arrests, detentions and removal of the Muslim men, women, children and elderly people from spring 1993 until the end of the year.

**A. Attack on Prozor Town on 23 and 24 October 1992 and Its Consequences**

35. The Prosecution alleges in paragraph 45 of the Indictment that on the morning of 23 October 1992, while in a meeting, the President of the Prozor HVO told the BiH Muslims *inter alia* that, the increasing Croat-Muslim tensions would be solved by the Muslims' immediate acceptance of Herceg-Bosna/HVO political and military control, which the Muslims did not accept. According to paragraph 46 of the Indictment, on the afternoon of 23 October 1992, the Herceg-Bosna/ HVO forces attacked the BiH Muslims in Prozor town.

36. The Praljak Defence contends that, after the meeting of 23 October 1992 and three hours of talks which failed to produce an agreement, the HVO suggested a reasonable joint solution<sup>96</sup> and that “[n]o evidence proves that the Muslims did not accept the HZ-HB/HVO proposal of 23 October 1992 by Mijo Jozi}, President of the [M]unicipality of Prozor”.<sup>97</sup> The Praljak Defence puts forward that the apparent final trigger of the conflict in Prozor was the killing of a HVO member,<sup>98</sup> adding to this, as did the Petkovi} Defence,<sup>99</sup> that the incidents alleged to have taken place in Prozor amounted to exclusively local events, isolated skirmishes, and that there were no civilian victims during the night of 23 October 1992.<sup>100</sup> According to the Petković Defence, there was no real conflict between the HVO and the ABiH in Prozor in October 1992.<sup>101</sup>

37. After examining the evidence concerning (1) the attack on Prozor town, the Chamber will observe (2) that, in the wake of this attack, the town of Prozor lay under HVO control. It will (3) then analyse the allegations of damage to property and houses, fires and thefts after the takeover of Prozor town.

<sup>96</sup> Praljak Defence Final Trial Brief, para. 137.

<sup>97</sup> Praljak Defence Final Trial Brief, para. 177.

<sup>98</sup> Praljak Defence Final Trial Brief, para. 123.

<sup>99</sup> Petkovi} Defence Final Trial Brief, paras 116-118.

<sup>100</sup> Praljak Defence Final Trial Brief, paras 163 and 176.

<sup>101</sup> Petković Defence Final Trial Brief, para. 116.

## 1. Attack on Prozor Town

38. On 23 October 1992, at a meeting between Croats and Muslims from Prozor, Ilija Petrović, President of the Prozor HDZ,<sup>102</sup> asked the Muslim authorities to accept the political and military authority of the HZ H-B and the HVO, stating that such acceptance would dissipate tensions and end the violence between Muslims and Croats.<sup>103</sup>

39. Around 1500 hours, during a break in the meeting,<sup>104</sup> the HVO, assisted by the HV,<sup>105</sup> attacked Prozor town<sup>106</sup> with tanks, artillery, snipers and armoured personnel carriers.<sup>107</sup> More than 1,500 shells of various calibres fell on the town.<sup>108</sup> The evidence shows that during the attack, the HVO specifically targeted the areas of Prozor town with a Muslim majority (Podgrađe and Varo{, both located in the lower part of Prozor town) as well as strategic points such as the TO/ABiH command posts,<sup>109</sup> the post office, the fire station and the cultural centre.<sup>110</sup>

40. Some evidence indicates that the HVO justified the attack on Prozor town because of the murder of two HVO members by ABiH soldiers at Dobro{a.<sup>111</sup> Other evidence, and two SIS reports in particular, one of which was addressed personally to Bruno Stojić, Milivoj Petković and Janko Bobetko,<sup>112</sup> state that the HVO attack on the town of Prozor was preemptive, seeking to ward off an ABiH attack that was expected on 24 October 1992.<sup>113</sup>

41. Although the evidence does not enable the Chamber to ascertain the roles played by the HVO and the ABiH, respectively, in initiating the attack, it can in any event support a finding that the HVO did attack Prozor town on 23 October 1992.

<sup>102</sup> P 09702 under seal, p. 22; P 00744, p. 3.

<sup>103</sup> P 00628; P 01656, p. 10; P 00744, p. 3; P 00716; Omer Hujdur, T(F), pp. 3505 and 3506.

<sup>104</sup> P 00628; P 01656, p. 10; P 00744, p. 3; P 00716; Omer Hujdur, T(F), pp. 3505 and 3506.

<sup>105</sup> P 01542; P 01656, p. 2; Omer Hujdur, T(F), pp. 3510-3512; P 09204 under seal, p. 31; P 09989, p. 3; P 09925, p. 1; P 09926, p. 3.

<sup>106</sup> Omer Hujdur, T(F), pp. 3510-3512; Witness BR, T(F), p. 8083; Alija Lizde, T(F), p. 17884; P 09989, p. 3; P 09925, p. 1; P 09926, p. 3; P 09193, p. 21; P 09990, p. 3; P 09716 under seal, p. 2; P 00629.

<sup>107</sup> Omer Hujdur, T(F), pp. 3506-3512, 3619 and 3620; P 01542; P 01656, p. 10; P 09702 under seal, p. 9; Witness BR, T(F), pp. 8077 and 8083; P 09207, p. 19.

<sup>108</sup> P 01656, p. 10; P 00744, p. 3; P 00657 under seal; Witness BM, T(F), p. 7006.

<sup>109</sup> Witness BM, T(F), p. 7090; Omer Hujdur, T(E), pp. 3510-3512; P 01656, p. 10; P 00744, p. 3.

<sup>110</sup> Witness BM, T(F), p. 7090.

<sup>111</sup> Zdenko Andabak, T(F), pp. 50965 and P 00712, pp. 2 and 3; Alija Lizde, T(F), p. 17884; P 09204 under seal, p. 31; P 00629; 2D 00054; 3D 00126.

<sup>112</sup> P 00653.

<sup>113</sup> P 00653; P 00687. *See also* P 00702.

## 2. Takeover of Prozor Town

42. On the morning of 24 October 1992, after shots were exchanged between the HVO and the ABiH,<sup>114</sup> military policemen from the 1<sup>st</sup> and 2<sup>nd</sup> Companies of the 2<sup>nd</sup> Battalion, as well as “local forces” of the HVO entered the town of Prozor to disarm the members of the ABiH.<sup>115</sup> The fighting finally ended in the evening of 24 October 1992,<sup>116</sup> when Prozor was taken over by the HVO.<sup>117</sup> The town of Prozor then passed under the control of the Military Police.<sup>118</sup>

43. On 24 October 1992, Milivoj Petković issued an order instructing the HVO military units from several municipalities, including those from Prozor, to negotiate an unconditional cease-fire with the ABiH, to establish joint patrols tasked with monitoring the situation and to report back to him every three hours about the situation and every hour for those with access to the telephone communications network.<sup>119</sup>

44. In the evening of 24 October 1992, @eljko Šiljeg received a report from the *Rama* Brigade saying that the HVO was in control of Prozor town and the Lake *Rama* Sector and that each territory was “ethnically pure as the Muslim population has been detained or has fled”.<sup>120</sup> *Slobodan Praljak* confirmed the capture of Prozor and the region around Lake *Rama* around 25 and 26 October 1992 during his testimony.<sup>121</sup> Bruno Stojić, Head of the Department of Defence of the HZ H-B, Janko Bobetko, Chief of the HV Main Staff, and Milivoj Petković, Chief of the HVO Main Staff, each received a report from the SIS dated 26 October 1992 stating that, as of 25 October 1992, the HVO effectively exercised control over Prozor town and the region around Lake *Rama*.<sup>122</sup>

45. The Chamber notes that many Muslims fled Prozor town starting on 23 October 1992, taking refuge in Jablanica, Gornji Vakuf, Konjic and the Muslim villages of Prozor Municipality;<sup>123</sup> they began to return gradually a few days or a number of weeks after the fighting had stopped.<sup>124</sup>

<sup>114</sup> P 00712, p. 3; P 09731 under seal, p. 3.

<sup>115</sup> P 00536, p. 2.

<sup>116</sup> Witness BM, T(F), p. 7092; P 09731 under seal, p. 3; 4D 01179.

<sup>117</sup> P 00647; P 00716, p. 3.

<sup>118</sup> P 00956, p.12, and 3D 00126.

<sup>119</sup> P 00644.

<sup>120</sup> P 00647; P 00956, p. 12.

<sup>121</sup> P 00653.

<sup>122</sup> P 00653.

<sup>123</sup> Edward Vulliamy, T(F), p. 1532; P 09989, p. 4.

<sup>124</sup> P 09731 under seal, p. 3; P 00653; P 00721.

### 3. Damage to Property and Houses, Fires and Thefts after the Takeover of Prozor Town

46. In paragraph 46 of the Indictment, the Prosecution alleges that after they had taken over Prozor town, the HZ H-B/HVO forces plundered, burned and destroyed Bosnian Muslim homes and other properties. In its Final Trial Brief, the Prosecution specifies that it was troops from the Military Police, placed under the command of Zdenko Andabak, who committed those acts.<sup>125</sup> The Prosecution submits, moreover, that Milivoj Petković gave the order to prevent such actions, fearing that the international media would look poorly on the HVO “for its criminal behaviour”.<sup>126</sup>

47. The Praljak Defence contends that, during the conflict, thieves and criminals who could not be controlled by the HVO authorities robbed homes and stores of ethnic Muslims and Croats, and that cars and other equipment were also stolen.<sup>127</sup> The Praljak Defence also disputes the reliability of exhibits P 00640, P 09376 and P 01564 which list the vehicles alleged to have been “confiscated”<sup>128</sup> and the Muslim houses alleged to have been destroyed<sup>129</sup> by the HVO and the HV. The Praljak Defence submits that these exhibits contain errors, some of which were brought to light by the testimony of *Witness BR*.<sup>130</sup>

48. The Jorić Defence puts forward that *Zdenko Andabak* established during his testimony to the Chamber that the Military Police seized vehicles from criminals and subsequently returned them to their rightful owners.<sup>131</sup>

49. Once it has analyzed the evidence concerning the allegations of (a) damage and setting fire to property and houses owned by Muslims after taking control of the town of Prozor, the Chamber will (b) review the evidence concerning the allegations of theft.

a) Damage to and Burning of Property and Houses Belonging to Muslims after the Takeover of the Town of Prozor

50. On 24 October 1992, in the morning, and continuing until at least 30 October 1992, soldiers from the HVO and members of the HVO Military Police entered Prozor town,<sup>132</sup> destroying and

<sup>125</sup> Prosecution Final Trial Brief, paras 613, 882 and 944.

<sup>126</sup> Prosecution Final Trial Brief, paras 882 and 944.

<sup>127</sup> Praljak Defence Final Trial Brief, para. 147.

<sup>128</sup> P 00640 under seal.

<sup>129</sup> P 09376 under seal; P 01564.

<sup>130</sup> Praljak Defence Final Trial Brief, paras 158, 159 and 161.

<sup>131</sup> Jorić Defence Final Trial Brief, para. 617.

<sup>132</sup> 3D 00126; Alistair Rule, P 09803, *Kordić and Čerkez* Case, T(F), pp. 5373 and 5374.



setting fire to approximately 75 Muslim houses, after dousing them with gasoline.<sup>133</sup> *Witness BR*, a Muslim inhabitant of Prozor town,<sup>134</sup> moreover, indicated that although several Muslim houses had been damaged during the fighting on 23 October 1992,<sup>135</sup> most were burned down later.<sup>136</sup>

51. The Chamber dismisses the allegations of the Praljak Defence concerning the unreliability of exhibits P 01564 and P 09376 in relation to the Muslim houses set on fire.<sup>137</sup>

52. Exhibit P 01564, dated 27 February 1993, lists the Muslim houses burned down, and clearly specifies the time of the events, contrary to what the Praljak Defence submits, that is after the HVO takeover of Prozor town on 24 October 1992.

53. Although Exhibit P 09376 does contain an error – concerning a house that was not actually burned down – as mentioned by the Praljak Defence and pointed out by *Witness BR*, the fact remains that the exhibit, like Exhibit P 01564, is substantially corroborated by other evidence.<sup>138</sup> The Chamber notes, in particular, that *Witness BR* clearly testified to the burning of Muslim houses by HVO soldiers using jerry cans filled with gasoline, specifically on 24 October 1992 and 30 October 1992 as well as in the days that followed.<sup>139</sup> The Chamber likewise notes that Milivoj Petković received reports on the burning and destruction of Muslim houses.<sup>140</sup> As a result, on 31 October 1992, he issued an order prohibiting destroying and setting fire to Muslim houses, arguing that such actions would create serious problems due to the accounts of such behaviour in the foreign media. Nevertheless, according to *Witness BR*, not a single concrete measure appears to have been taken in Prozor to prevent the destruction of Muslim houses around the time of 31 October 1992.<sup>141</sup> Lastly, the Chamber notes that not one of the houses belonging to Croats was burned down or damaged.<sup>142</sup>

54. The HVO soldiers and various members of the HVO Military Police destroyed not just Muslim homes but also other property, such as vehicles owned by Muslims.<sup>143</sup>

<sup>133</sup> *Witness BR*, T(F), pp. 8083-8087, and 8091, private session; *Witness AP*, P 10026 under seal, *Naletilić* Case, T(F), pp. 2106 and 2107; P 00679; P 09376 under seal; P 01564; P 01656, p. 10; P 00744, p. 3; P 01542, p. 1; P 01188 under seal.

<sup>134</sup> *Witness BR*, T(F), pp. 8075 to 8077, private session.

<sup>135</sup> See also: P 09716 under seal, pp. 2 and 3.

<sup>136</sup> *Witness BR*, T(F), p. 8144, private session.

<sup>137</sup> P 09376 under seal; P 01564.

<sup>138</sup> Omer Hujdur, T(F), pp. 3521, 3542-3543, 3546, 3550 and T(E), p. 3520; 3D 00131.

<sup>139</sup> *Witness BR*, T(F), pp. 8083-8087, 8091 and 8093, private session.

<sup>140</sup> P 00679; 3D 00131.

<sup>141</sup> *Witness BR*, T(F), p. 8094, private session.

<sup>142</sup> *Witness BR*, T(F), p. 8094, private session; Edward Vulliamy, T(F), p. 1527.

<sup>143</sup> Edward Vulliamy, T(F), p. 1527; T(E), p. 1529; P 01784; *Witness BR*, private session, T(F), pp. 8086-8089, private session; *Witness BM*, T(F), pp. 7006 and 7069; P 09716 under seal, p. 2; Omer Hujdur, T(F), pp. 3521, 3542-3543,

55. Thus, the Chamber is persuaded, upon review of the evidence, that the Muslim properties were targeted by the fires started by the HVO forces; none of the exhibits, by contrast, supports a finding that burnings of Croatian houses or property took place.<sup>144</sup>

b) Thefts of Property Belonging to Muslims after the Takeover of the Town of Prozor

56. *Slobodan Praljak* admitted in his testimony that many thefts were committed in Prozor, but insisted that they were the result of individual behaviour and were not the responsibility of the HVO, as it had never given orders to this effect.<sup>145</sup>

57. The evidence mention that “thieves [and war profiteers]”,<sup>146</sup> as well as HVO soldiers and military police officers,<sup>147</sup> stole property from houses and shops belonging to Muslims and to Croats.<sup>148</sup> The Chamber finds, more specifically, that military police officers “robbed” or “confiscated” weapons and vehicles.<sup>149</sup>

58. The Chamber concurs with the *Praljak* Defence and finds that in view of *Witness BR's* testimony that a vehicle appearing in list P 00640<sup>150</sup> as seized was in fact torched on 24 October 1992.<sup>151</sup> The Chamber finds nonetheless, contrary to the submission of the *Praljak* Defence, that despite the error in that document, its reliability is not vitiated after a consideration of all the evidence attesting to the theft and confiscation of vehicles belonging to Muslims.

59. Moreover, the Chamber assigns little weight to the statements of *Witness Zdenko Andabak*, who denied any involvement at all in the theft of Muslim property.<sup>152</sup> The Chamber recalls that, as a member of the Military Police, by his own admission, *Zdenko Andabak* participated in the attack and takeover of the town of Prozor and left the town along with “his unit excluding one company”

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3546, 3547-3550, private session, and T(E), p. 3520; P 01542; P 01564; P 01656, p. 10; P 09376 under seal; P 00640 under seal, p. 2 of the BCS version; *Slobodan Praljak*, T(F), p. 43862; P 00744, private session, p. 3; P 01188 under seal; P 09376 under seal; 3D 00424; *Herbert Okun*, T(F), p. 16681; P 01462, para. 30; P 00657 under seal; P 00712; P 03020; P 04247; P 09400, p. 11; P 00536; P 00679.

<sup>144</sup> *Witness BR*, private session, T(F), p. 8094; *Edward Vulliamy*, T(F), p. 1527 and T(E), p. 1529; *Alistair Rule*, P 09803, *Kordić and Čerkez* Case, T(F), pp. 5371-5373.

<sup>145</sup> *Slobodan Praljak*, T(F), pp. 43907 and 43908.

<sup>146</sup> P 00687, p. 4.

<sup>147</sup> *Edward Vulliamy*, T(F), p. 1527; P 00721.

<sup>148</sup> P 00648; P 00687, p. 4; P 00721; *Edward Vulliamy*, T(F), p. 1527; T(E), p. 1529; P 01784; *Witness BR*, T(F), pp. 8086-8089, private session; *Witness BM*, T(F), pp. 7006 and 7069; P 09716 under seal, p. 2; *Omer Hujdur*, T(F), pp. 3521, 3542-3543, 3546, 3547-3550, private session and T(E), p. 3520; P 01656, p. 10; P 00640 under seal, p. 2 in the BCS version; *Slobodan Praljak*, private session, T(F), p. 43862; P 00744, p. 3; P 01188 under seal; 3D 00424, *Herbert Okun*, T(F), p. 16681; P 01462, para. 30; P 00657 under seal; P 00712; P 03020; P 04247; P 09400, p. 11; P 00536; P 00679.

<sup>149</sup> *Edward Vulliamy*, T(F), p. 1527; P 00721.

<sup>150</sup> This is a list of the vehicles “confiscated” in Prozor Municipality since 23 October 1992.

<sup>151</sup> *Witness BR*, T(F), pp. 8088 and 8089, private session; P 00640 under seal, p. 2.

<sup>152</sup> *Zdenko Andabak*, T(F), p. 51068.

only two or three days later, that is, on or about 25 October 1992.<sup>153</sup> The very involvement of Witness *Zdenko Andabak* in the sequence of events as Commander of the 2<sup>nd</sup> Military Police Battalion<sup>154</sup> necessarily vitiates the credibility of his testimony on this point. For the same reason, the Chamber has also decided to assign little weight to an undated report by Zdenko Andabak recounting his activities in the period between 21 and 29 October 1992 and in which he indicates that members of the HOS were the sole perpetrators of thefts committed in Prozor.<sup>155</sup> In this respect, the Chamber recalls that in October 1992 the HOS had already been dissolved and the majority of its members had joined up with the HVO.<sup>156</sup> However, the Chamber assigns more weight to the report by @eljko [iljeg dated 25 October 1992 addressed to the Main Staff and the Military Police Administration, which asserts that on 25 October 1992, part of the Military Police unit from Livno and Tomislavgrad, which was in Prozor under Zdenko Andabak's command, had illegally seized about thirty vehicles and probably stole other property.<sup>157</sup> In that report, @eljko [iljeg expressly asked Valentin Jorić to conduct an investigation into the Military Police unit under Zdenko Andabak's command<sup>158</sup> and to take whatever punitive measures were necessary against the people who had committed these thefts.<sup>159</sup> The Chamber finds that on 14 November 1992, Slobodan Praljak and Valentin Jorić ordered Zdenko Andabak specifically to return all the vehicles "taken" by the Military Police to their owners<sup>160</sup> and further finds that some of the "stolen" or "confiscated" vehicles were in fact returned to their owners.<sup>161</sup>

60. The Chamber has no knowledge of any punitive measures taken against members of the Military Police who committed thefts of vehicles who were under Zdenko Andabak's command. The Chamber observes that Zdenko Andabak was promoted to the rank of Chief of the General Military and Traffic Police four months later by Bruno Stojić, on the recommendation of Valentin Jorić.<sup>162</sup>

<sup>153</sup> Zdenko Andabak, T(F), p. 51068.

<sup>154</sup> P 00712.

<sup>155</sup> P 00536, pp. 2 and 3.

<sup>156</sup> The Chamber recalls that it has already noted that as of 23 August 1992, the members of the HOS had reached an agreement with the HVO, that the members of the HOS had joined the ranks of the HVO at that time and had conducted military operations with them, during which the former members of the HOS were still allowed to wear the black uniform and insignia of the HOS. *See* "Composition of the Armed Forces of the HVO" in the Chamber's findings relating to the military structure of the HZ(R) H-B. For this reason, when the witnesses used the expression "members of the HOS", the Chamber understands this to denote former members of the HOS who joined the HVO.

<sup>157</sup> P 00648.

<sup>158</sup> P 00648, Zdenko Andabak, T(F), pp. 50903 and 50904.

<sup>159</sup> P 00648; P 00721, p. 1.

<sup>160</sup> 3D 00424.

<sup>161</sup> Witness BM, closed session, T(F), p. 7069.

<sup>162</sup> P 01460.

**B. Attack on the Village of Paljike on 24 October 1992, Damage to Property and Houses and Death of Two Residents**

61. Paragraph 48 of the Indictment alleges that on about 24 October 1992, the HVO attacked the village of Paljike, deliberately destroyed Muslim houses and property killing two Muslims residing in Paljike. The Praljak Defence holds the view that the evidence concerning the events at Paljike, particularly the testimonies of *Osmir Osmić* and of *Witness BQ*, are imprecise and lacking reliability – because they consist of multiple hearsay and speculation which do not allow the Chamber to make a finding concerning the crimes alleged.<sup>163</sup> The Praljak Defence adds further that, according to the evidence, there were shots exchanged in the village of Paljike, that members of the TO/ABiH were there, and that at least two people lost their lives, but that it was not established whether those people were soldiers or civilians.<sup>164</sup>

62. At the outset, the Chamber finds, contrary to the Praljak Defence, that the testimony of *Witness BQ*, a Muslim resident of the village of Paljike,<sup>165</sup> is reliable and sufficiently precise, and that the testimony of *Osmir Osmić*, a member of the Paljike TO,<sup>166</sup> admitted under Rule 92 *bis* of the Rules, corroborates *Witness BQ*'s testimony on many points.

63. The village of Paljike, located two kilometres south of Prozor town, consisted of twenty-five houses, for the most part grouped in the same hamlet, except for two Muslim homes some distance from the others.<sup>167</sup>

64. On the morning of 24 October 1992,<sup>168</sup> 18 HVO soldiers, including four from the village of Paljike,<sup>169</sup> started looking for Muslim houses, taking *Witness BQ* hostage and kicking him.<sup>170</sup> On reaching one of the houses some distance from the others, which was occupied by two Muslim villagers – Selmo Polić, an elderly man<sup>171</sup> and Ema Hod`ić<sup>172</sup> – the HVO soldiers forced *Witness BQ* to join the house's two occupants.<sup>173</sup> *Witness BQ* said that at the very instant he passed through the door, after the HVO soldiers had broken it down, gunshots broke out.<sup>174</sup> The HVO soldiers then

<sup>163</sup> Praljak Defence Final Trial Brief, para. 152.

<sup>164</sup> Praljak Defence Final Trial Brief, para. 152.

<sup>165</sup> P 09716 under seal, p. 2.

<sup>166</sup> P 09207 under seal, pp. 15 and 19.

<sup>167</sup> P 09207 under seal, p. 15.

<sup>168</sup> P 09716 under seal, pp. 2 and 3.

<sup>169</sup> P 09716 under seal, p. 3.

<sup>170</sup> P 09716 under seal, p. 3.

<sup>171</sup> P 09716 under seal, p. 3; P 09696 under seal, no. 4, p. 2.

<sup>172</sup> Selmo Polić and Ema Hod`ić (*née* Pračić) are victims from paragraph 48 of the Indictment.

<sup>173</sup> P 09716 under seal, p. 3.

<sup>174</sup> P 09716 under seal, p. 3; P 09207, p. 16.

threw grenades into the house.<sup>175</sup> Some minutes later, the HVO soldiers set the house on fire.<sup>176</sup> While escaping from the house through a window, *Witness BQ* saw that Selim Polić and Ema Hodzić (*née* Pračić) were dead and that their bodies were starting to burn.<sup>177</sup> *Witness BQ* was himself injured.<sup>178</sup>

65. The Chamber notes moreover that according to one exhibit, which is hearsay and uncorroborated, the HVO soldiers set fire to numerous houses and stables during the attack.<sup>179</sup> This exhibit alone does not suffice to observe that houses or other property belonging to Muslims of the village of Paljike were in fact damaged.

66. Consequently, the Chamber finds that the HVO soldiers set fire to at least one Muslim house and killed an elderly person and a woman who lived in the village of Paljike.

### **C. Arrests and Detention of Muslim Men from Prozor and Paljike as of 24 October 1992**

67. Paragraphs 47 and 48 of the Indictment allege that, on or about 24 October 1992, the HVO arrested the Muslim men from Prozor as well as those from the village of Paljike and detained them at Ripci School for several days while others were kept for several weeks. The Prosecution alleges that, while in confinement, some of the Muslim men were beaten severely. The Petkovi} <sup>180</sup> and Praljak Defence teams <sup>181</sup> contend that the Prosecution has not established that the men in confinement were civilians. The Praljak Defence also contends that the confinement came about as a result of a provisional measure undertaken for conducting interrogations and keeping the peace, or was otherwise justified, as this concerned the lawful confinement of ABiH members.<sup>182</sup>

68. The Chamber observes that, on 24 October 1992, after the takeover of Prozor town, the HVO soldiers arrested a great many Muslim members <sup>183</sup> of the TO/ABiH.<sup>184</sup>

69. Around 24 October 1992, the HVO soldiers also arrested about twenty Muslim men from the village of Paljike, among whom were members of the TO/ABiH.<sup>185</sup> The Chamber notes that,

<sup>175</sup> P 09716 under seal, p. 3; P 09207, p. 16.

<sup>176</sup> P 09716 under seal, p. 4; P 09207, p. 16.

<sup>177</sup> P 09716 under seal, p. 4; P 09207, p. 19; P 09696 under seal, no. 4, p. 2.

<sup>178</sup> P 09716 under seal, p. 4.

<sup>179</sup> P 09716 under seal, pp. 4 and 5.

<sup>180</sup> Petkovi} Defence Final Brief, para. 216.

<sup>181</sup> Praljak Defence Final Trial Brief, para. 179.

<sup>182</sup> Praljak Defence Final Trial Brief, para. 171.

<sup>183</sup> Omer Hujdur, T(F), pp. 3521 and 3522.

<sup>184</sup> P 00629; Witness BR, T(F), pp. 8094 to 8096 and T(E), p. 8097, private session.

<sup>185</sup> Witness BR, T(F), pp. 8094 to 8096 and T(E), p. 8097, private session; P09716 under seal, pp. 4-5; P 09207, p. 17; P 00673 under seal.

according to the statement of *Osmir Osmić*, the elderly men from Paljike were not arrested,<sup>186</sup> and that the Prosecution has adduced no evidence to the contrary.

70. Concerning the possibility that minors were arrested, the Chamber notes that only *Witness BQ*, whose testimony on this point is hearsay and not corroborated by other evidence, states that among the Muslim men arrested, there were adolescent minors 13 and 14 years of age.<sup>187</sup> The Chamber considers that this single fact does not suffice to support a finding that there were adolescent minors among the Muslim men from Paljike who were arrested.

71. The HVO soldiers initially detained those men in the basement of a house in the village of Paljike.<sup>188</sup>

72. Commencing on 24 October 1992, the HVO detained the Muslim men belonging to the TO/ABiH who were arrested in Prozor at the Ripci primary school 12 kilometres to the west of the town of Prozor and from 25 October 1992, also detained the Muslim men of military age arrested in Paljike, among whom were members of the TO/ABiH.<sup>189</sup> They were detained for between two days and one week and were then released.<sup>190</sup>

73. The Chamber observes that only the written statement by *Osmir Osmić* admitted under Rule 92 *bis* of the Rules mentions the treatment of the detainees in Paljike. In this statement, he indicates that the detainees were not “mistreated”.<sup>191</sup> Given the lack of evidence to the contrary, the Chamber is not in a position to find that the detainees at Ripci School were mistreated while in confinement.

#### **D. Sequence of Negotiations Between the Belligerents in November 1992 and Return of the Muslim Population to Prozor Municipality**

74. Paragraph 50 of the Indictment alleges that, in November 1992, after negotiations between the Herceg-Bosna/HVO and the ABiH authorities, Bosnian Muslim civilians returned to Prozor Municipality but that the HVO “continued to harass and persecute the Bosnian Muslim population”.

<sup>186</sup> P 09207, p. 19.

<sup>187</sup> Inhabitants of the village of Paljike reported this information to *Witness BQ ex post facto*, see P 09716 under seal, pp. 4 and 5.

<sup>188</sup> P 09207, pp. 18 and 19.

<sup>189</sup> Omer Hujdur, T(F), pp. 3521 and 3522; P 09204 under seal, p. 23; *Witness BR*, T(F), pp. 8094-8096 and T(E), p. 8097, private session; P 00673 under seal; P 00647; P 09731 under seal, p. 3; P 09207, p. 19; P 09716 under seal, p. 4; P 00662.

<sup>190</sup> *Witness BR*, T(F), pp. 8094 to 8096 and T(E), p. 8097; P 00673 under seal; P 09716 under seal, p. 5; P 09207, p. 19; Slobodan Praljak T(F), p. 43876.

<sup>191</sup> P 09207 under seal, p. 19.

In the Annex to the Indictment, the Prosecution refers to a representative victim of “harassment” and “persecution”. Furthermore, in paragraph 50.1 of its Pre-Trial Brief, the Prosecution adds that

“[f]or example, on 27 January 1993, the HVO *Rama* Brigade commander issued an order to his military police not to allow Muslims through the checkpoints in Prozor Municipality and to remove Muslims from buses passing through the municipality. Goods and merchandise belonging to Muslims passing through the municipality were to be confiscated”.

75. The Chamber first observes that, whether in the Indictment or in its Pre-Trial Brief (in the parts which discuss the criminal events in Prozor Municipality) the Prosecution did not in any fashion refer to “harassment” or to “persecutions” of the Muslim population of Prozor prior to November 1992. Consequently, it is not possible for the Chamber to understand to what the Prosecution is referring when it alleges that the HVO “continued” to harass and persecute the Muslim population. Moreover, the Chamber notes that, to illustrate that “harassment” and “persecution”, the Prosecution gives the name of a representative victim. The Chamber has found no trace of that representative victim in the evidence admitted into the record. Nevertheless, inasmuch as in its Pre-Trial Brief the Prosecution did provide the example of an order from the Commander of the *Rama* Brigade dated 27 January 1993, which ordered restrictions on Muslim movements, and the confiscation of their property, the Chamber will analyse the evidence it has with links to the incident of 27 January 1993, in order to confirm or not the alleged “persecutions” and “harassment” committed against the Muslim population of Prozor.

76. As concerns firstly the negotiation process and the gradual return of the population, the Chamber observes that, subsequent to the attack on Prozor town and the takeover by the HVO, on 28 October 1992, Milivoj Petković, Chief of the Main Staff, ordered that a commission of inquiry on the HVO in Prozor be set up.<sup>192</sup> The commission, created on 3 November 1992 by Željko Šiljeg, was supposed to shed light on the events in Prozor in October 1992.<sup>193</sup> The Chamber does not have additional information allowing it to confirm that the commission was actually put in place and that it did in fact investigate those events.

77. On 2 November 1992, a delegation from the HVO and the ABiH came to Prozor, with Slobodan Praljak specifically present, to examine the situation.<sup>194</sup> *Witness BM* learned later on that day that it had been decided that all inhabitants who had fled Prozor Municipality could return, that the civilian authorities in Prozor would be re-established and that, over the longer term, the

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<sup>192</sup> 4D 00901.

<sup>193</sup> 4D 00901; 4D 00903.

members of the TO/ABiH could also return to the municipality.<sup>195</sup> On 6 November 1992, Slobodan Praljak issued an order to “all members of the HVO and the [ABiH]” stamped with the seal of the Department of Defence of the HZ H-B and that of the “RBiH Joint Command of the HVO and the [ABiH]”,<sup>196</sup> for the purpose of creating joint patrols and common checkpoints, consisting of members of the HVO Military Police and members of the ABiH.<sup>197</sup> According to *Witness BM*, the sole measure implemented was the return of the Muslims to the municipality<sup>198</sup> several days after the fighting stopped and continuing for several weeks thereafter.<sup>199</sup>

78. The Prosecution alleges that, despite the negotiations and the return of the population, the HVO “persecuted” and “harassed” the Muslim population. In respect of this, the Chamber observes that, on 27 January 1993, Šimun @unti}, *de facto* commander of the *Rama* Brigade, issued an order to the Military Police units in charge of the checkpoints in Prozor Municipality, under which the Muslims were not authorized to travel to and fro within the municipality.<sup>200</sup> He ordered that buses be searched, that the Muslims be taken off and the property and merchandise they were carrying seized.<sup>201</sup>

79. The Chamber heard *Witness BM* state that he learned from inhabitants of Prozor some time after the events, that, in January 1993, some Muslims had been “mistreated” and that their property had been “looted” by soldiers from the HVO.<sup>202</sup> The Chamber learned of an ABiH report describing attacks,<sup>203</sup> allegedly committed in January 1993 against the Muslims of Prozor by HVO soldiers after the defeat at Gornji Vakuf.<sup>204</sup> In view of those two exhibits only, one hearsay, the other unrelated to the Order of 27 January 1993, concerning restrictions on the movements of the Muslim population and the confiscation of property and merchandise belonging to Muslims, the Chamber is not in a position to find that the Order of 27 January 1993 was actually implemented or that in late January 1993, the Muslim population of Prozor became victims of “harassment” and “persecutions”.

<sup>194</sup> P 09702 under seal, p. 11; P 09204, p. 23; Witness AP, P 10026 under seal, *Naletilić* Case, T(F), p. 2104.

<sup>195</sup> P 09702 under seal, p. 11.

<sup>196</sup> P 00708/3D 00419 (identical documents).

<sup>197</sup> P 00708/3D 00419 (identical documents); Safet Idrizović, T(F), pp. 9872, 9907 and 9908; P 00776; Witness BM, T(F), p. 7067; 3D 00418, p. 2.

<sup>198</sup> Witness BM, T(F), pp. 7067-7068 and 7070; P 09702 under seal, pp. 11 and 12; Slobodan Praljak, T(F), p. 43893; P 09731 under seal, p. 3; P 00721.

<sup>199</sup> P 09731 under seal, p. 3.

<sup>200</sup> P 01327.

<sup>201</sup> P 01327.

<sup>202</sup> P 09702 under seal, p. 16; P 01425, p. 2.

<sup>203</sup> Namely houses on fire, a murder and the deportation of Muslims from their homes, acts not specifically alleged in the Indictment or in the Prosecution Pre-Trial Brief.

<sup>204</sup> P 01425, p. 2.



**E. Attack on the Villages of Parcani, Lizoperci and Tošćanica from 17 to 19 April 1993, Burning of Houses and Death of Three Residents at Tošćanica**

80. The Prosecution contends in paragraph 51 of the Indictment that, on or about 17-19 April 1993, Herceg-Bosna/HVO forces attacked several villages, including Parcani, Lizoperci and Tošćanica. It alleges that the Herceg-Bosna/HVO forces killed BiH Muslim civilians at Tošćanica, entered the villages, burned houses, destroyed livestock and looted the area.

81. The Chamber notes that the wording of paragraph 51 of the Indictment and the use of the word “including”, indicates that the list of three villages attacked is not limited to those alone. Nevertheless, inasmuch as the Chamber received no details, particularly in the Pre-Trial Brief, about other villages that may have been attacked, it will confine its analysis to the three villages mentioned by name in the Indictment.<sup>205</sup>

82. The Chamber observes, moreover, that the Prosecution did not include the crime of plunder (Counts 22 and 23) in paragraph 229 of the Indictment concerning the acts cited in paragraph 51 of the Indictment (“looted the area”). The language of paragraph 51 notwithstanding, the Chamber does not deem itself seized of those allegations of looting, and decides therefore not to address them.

**1. Attack on the Village of Parcani on 17 April 1993 and Burning of Houses**

83. The village of Parcani consisted of about 26 houses, each inhabited by Muslims.<sup>206</sup> According to a report by Ilija Franjić, Commander of the 4<sup>th</sup> Company of the 6<sup>th</sup> Military Police Battalion (formerly the 2<sup>nd</sup> Battalion), dated 17 April 1993, there were “no organized Muslim units” in the village.<sup>207</sup> In the opinion of the Chamber, the report is referring to the absence of any ABiH military units.

84. On 16 April 1993, a “Plan” to attack several villages, including the village of Parcani, was drawn up by Željko Šiljeg, Commander of the North-West OZ and sent to the Main Staff.<sup>208</sup> In keeping with the “Plan” of attack, the Military Police, assisted by “members of the special units”

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<sup>205</sup> See also *The Prosecutor v. Prlic et al.*, Case no. IT-04-74-PT, “Decision on Prosecution Motion for Admission of Eleven Pieces of Evidence Pursuant to Rule 92 bis of the Rules”, confidential, 14 February 2007, para. 49, p. 18, in which the Chamber states that it did not consider itself seized of unspecific allegations and declined to consider looting allegedly committed in the village of Paroš, in Prozor Municipality, but not specifically mentioned in the Indictment or the Prosecution Pre-Trial Brief.

<sup>206</sup> P 09196 under seal, p. 11.

<sup>207</sup> P 01952.

<sup>208</sup> P 01936; P 01909; P 01917; P 01952.

and in conjunction with the *Rama* Brigade<sup>209</sup> conducted “raids” on 17 April 1993, on Parcani in particular, carrying out “offensive activities”<sup>210</sup> that led to the takeover of the village.<sup>211</sup>

85. The evidence confirms that after taking control of Parcani, the members of the HVO described above set fire to nine Muslim houses because the population hiding in the woods had not answered the HVO’s call to lay down their weapons.<sup>212</sup> The Chamber thus finds that the Muslim houses in the village of Parcani were indeed set on fire after the takeover of the village.

## 2. Attack on the Village of Lizoperci on 18 and 19 April 1993 and Burning of Houses

86. The village of Lizoperci consisted of about 50 houses, all belonging to Muslims, and roughly 300 people lived there.<sup>213</sup>

87. According to a report by the IPD, the village of Lizoperci fell to HVO, without a shot fired, on 18 or 19 April 1993.<sup>214</sup> However, an interim report from Željko Šiljeg, dated 18 April 1993 addressed to the Main Staff, indicates that the HVO used grenades and rocket launchers at Lizoperci.<sup>215</sup> The explosions were heard by Šemso Gerčić.<sup>216</sup>

88. Although the Chamber can find that, in view of the evidence, the HVO did launch an attack on the village of Lizoperci, it does not have any evidence establishing damage and/or the burning of houses belonging to the Muslims there on 18 or 19 April 1993.

## 3. Attack on the Village of Tošćanica on 19 April 1993, Burning of Houses and Death of Three Residents

89. In 1993, approximately 200 people lived in Tošćanica.<sup>217</sup> The village had about 35 houses belonging to Muslims – some of whom were members of the HVO<sup>218</sup> – and five belonging to Croats.<sup>219</sup> According to a report from the Prozor SIS dated 10 April 1993, in the village of Tošćanica there were 30 men of military age with infantry weapons and mortars.<sup>220</sup> On 19 April 1993, after issuing an ultimatum instructing the Muslim inhabitants of Tošćanica to lay down their

<sup>209</sup> P 01909; P 01917; P 01952; P 01936; P 01938.

<sup>210</sup> P 01909; P 01917; P 01952; P 01936.

<sup>211</sup> P 01909; P 01917; P 01952; P 01936; P 01937; P 01938; P 09196 under seal, p. 11.

<sup>212</sup> P 09196, p. 12; Safet Idrizović, T(F), pp. 9673 and 9674.

<sup>213</sup> P 09194, p. 17.

<sup>214</sup> P 01977/4D 01156 (identical documents).

<sup>215</sup> P 01955, p. 1.

<sup>216</sup> P 09194, p. 18.

<sup>217</sup> P 09194, p. 17.

<sup>218</sup> Witness BU, T(F), pp. 8355 and 8402; P 09713 under seal, p. 5; P 08615.

<sup>219</sup> P 09194, p. 19.

<sup>220</sup> P 01839, p. 3.

arms – and subsequent to their claim that they no longer had any<sup>221</sup> – a Military Police unit based in Prozor, “the Rama-Prozor Military Police unit”, in conjunction with a Military Police platoon commanded by Pero Turajlija, launched an attack on the village of Tošćanica.<sup>222</sup> Even though no ABiH units were in the village of Tošćanica, some armed Muslims did resist.<sup>223</sup>

90. Women, children and elderly people fleeing Tošćanica – with the exception of about twenty of them, some of whom could not move about and remained where they were – saw that the village was on fire.<sup>224</sup> Šemso Germić stated that those villagers who were fleeing Tošćanica, told him that the HVO had set fire to the village.<sup>225</sup> On 20 April 1993, *Witness BU* went to the village and observed that most of the Muslim houses had been burned down and that the only ones spared this were those belonging to Muslim HVO members.<sup>226</sup> He also saw the lifeless bodies riddled with bullets from an automatic weapon of Ibro Piralić, a Muslim roughly forty years of age dressed in civilian clothing and wearing a pistol attached to his belt, and of Ramo Vila who was about 90 years old.<sup>227</sup> Šemso Germić recalled learning later that four people were confirmed killed during the attack on 19 April 1993, among whom were Ahmet Husrep, who was about seventy years of age,<sup>228</sup> Ibro Piralić and Ramo Vila.<sup>229</sup> *Witness BU* stated that in September 1993 he took part in the exhumation of five people killed by firearms, including Ahmet Husrep.<sup>230</sup> The Chamber also notes that Exhibit P 09696, which is a list drawn up on 3 June 1994 by the BiH Ministry of the Interior identifying the disappeared and deceased people in Prozor Municipality, mentions that Ibro Piralić, Ramo Vila and Ahmet Husrep were killed in Tošćanica on 19 April 1993.<sup>231</sup>

91. In view of the evidence, the Chamber finds that the HVO burned down Muslim houses in the village of Tošćanica. The Chamber also finds that Ibro Piralić, an armed man about forty years old, dressed in civilian clothing, and Ramo Vila and Ahmet Husrep, two elderly people, were indeed shot by members of the HVO military police on 19 April 1993 during the attack on the village of Tošćanica.

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<sup>221</sup> P 09713 under seal, p. 4

<sup>222</sup> P 01966, p. 1; P 01976; P 09713 under seal, p. 4; P 09194, p. 19; P 01839.

<sup>223</sup> P 09194, p. 19; P 01966, p. 1.

<sup>224</sup> P 09713, p. 18.

<sup>225</sup> P 09194, p. 4.

<sup>226</sup> *Witness BU*, T(F), pp. 8355 and 8402; P 09713 under seal, p. 5; P 09194, p. 19; P 08615.

<sup>227</sup> *Witness BU*, T(F), p. 8353; P 09713 under seal, p. 5; P 08477, under seal; P 08289 under seal; P 09696 under seal, nos 134 and 136, p. 19.

<sup>228</sup> *Witness BU*, T(F), p. 8351, private session.

<sup>229</sup> P 09194, p. 19. Ahmet Husrep, Ibro Piralić and Ramo Vila are victims from paragraph 51 mentioned in the Annex to the Indictment.

<sup>230</sup> *Witness BU*, T(F), pp. 8350 and 8351; P 09713 under seal, pp. 5 and 6.

<sup>231</sup> P 09696 under seal, nos 134, 136 and 135, p. 19.

**F. HVO Attack on about a Dozen Villages in Prozor Municipality from June to mid-August 1993, Damage to Property and Mosques and the Death of Six Muslims**

92. Paragraph 53 of the Indictment alleges that from June to mid-August 1993, the forces of Herceg-Bosna/HVO attacked BiH Muslim civilians, and destroyed and looted their property in or about the villages of Duge, Lug, Lizoperci, Skrobućani, Parcani, Munikoze, Podonis (occasionally referred to under the name “Podaniš”) and Gračanica or in their surroundings. It further alleges that the forces of Herceg-Bosna/HVO attacked Muslim civilians hiding in the region of Prajine and Tolavac, killing six of them. The Skrobućani Mosque and the Islamic Community building of Prozor town were burned down by the Herceg-Bosna/HVO forces, and they seriously damaged the Lizoperci Mosque.

93. The Chamber notes that the very language of paragraph 53 of the Indictment and use of the words “in or about” the villages named, the list of the eight villages attacked (in which Muslim civilians were allegedly attacked and had their property looted and destroyed) is not exhaustive. Nevertheless, inasmuch as the Chamber has no specifics in the Pre-Trial Brief concerning other villages that may have been attacked, it will confine its analysis to the eight villages specifically mentioned in the Indictment.

94. The Chamber observes, moreover, that the allegations of looting of property mentioned in paragraph 53 of the Indictment are not included in Counts 22 and 23 laid out in paragraph 229 of the Indictment. The Chamber does not therefore deem itself seized of those allegations and decides, in consequence, not to address them.

95. The Chamber notes that between June and August 1993, and probably in May or June 1993 in respect of the village of Skrobućani,<sup>232</sup> members of the Military Police, as well as members of the Civilian Police and the *Rama* Brigade,<sup>233</sup> conducted “raids” on several Muslim villages in Prozor Municipality.<sup>234</sup> These “raids”, specifically consisted of burning down houses and stables owned by Muslims,<sup>235</sup> usually took place at night.<sup>236</sup> The HVO members terrorised the Muslim population, which was occasionally forced to take refuge in the woods at night.<sup>237</sup> The Chamber

<sup>232</sup> Witness BS, T(F), pp. 8189 and 8190, closed session.

<sup>233</sup> P 03458.

<sup>234</sup> Witness BS, T(F), pp. 8189 and 8190, closed session; Witness BK, T(F), pp. 5466, 5477 and 5514; P 03458; P 03375 .

<sup>235</sup> Witness BS, T(F), pp. 8188-8190, 8192, 8239 and 8240, closed session.

<sup>236</sup> Witness BS, T(F), p. 8190, closed session.

<sup>237</sup> P 09193, p. 22.

notes that Drago Banović, in charge of the SIS of the North-West OZ, made a record of these events and informed the Mostar SIS Administration thereof in a report dated 15 July 1993.<sup>238</sup>

1. Attack on the Villages of Skrobućani and Gračanica and Damage to Property and the Skrobućani Mosque

96. In May or June 1993, soldiers from the HVO, some of whom were from Skrobućani, attacked the Muslim-majority village.<sup>239</sup> The HVO soldiers set fire to Muslim dwellings<sup>240</sup> as well as to stables belonging to Muslims and to the mosque,<sup>241</sup> leaving Croatian property intact. The Muslims in Skrobućani sought refuge, some in the upper village,<sup>242</sup> others in the forest; still others went towards the village of Lug, a 45-minutes walk from Skrobućani.<sup>243</sup>

97. In view of the testimony of *Witness BS*, the Chamber finds that property belonging to the Muslims of Skrobućani, along with the Skrobućani Mosque, were in fact burned down by members of the HVO in May or June 1993.

98. Concerning the village of Gračanica, in majority Muslim, the Chamber observes that, in June 1993, soldiers from the HVO came to the village at night to frighten the population, by knocking at the doors of houses and tossing grenades into the woods,<sup>244</sup> where some of the Muslim population of Gračanica had gone to hide.<sup>245</sup>

99. The Chamber notes that, although *Witness BK* stated that he fled Gračanica and noted upon returning to Gračanica that houses had been burned down and destroyed,<sup>246</sup> he was still unable to specify either the date of his return to the village, the date of the burning of Muslim houses, or the perpetrators. Moreover, the Chamber has no evidence concerning Gračanica, other than the testimony of *Witness BK*.

100. Though the Chamber may find that houses were indeed burned down and destroyed in the village of Gračanica, it is still not in a position to either date those events or to conclude that the perpetrators were HVO soldiers.

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<sup>238</sup> P 03458.

<sup>239</sup> Witness BS, T(F), pp. 8188, 8189 and 8190, closed session.

<sup>240</sup> Witness BS, T(F), pp. 8187-8190, 8192, 8208, 8239 and 8240, closed session.

<sup>241</sup> Witness BS, T(F), pp. 8188-8192, 8209, 8239 and 8240, closed session.

<sup>242</sup> Witness BS, T(F), p. 8191, closed session.

<sup>243</sup> Witness BS, T(F), pp. 8191 and 8192, (closed session).

<sup>244</sup> Witness BK, T(F), pp. 5464, 5466, 5477 and 5514.

<sup>245</sup> Witness BK, T(F), pp. 5467 and 5477.

<sup>246</sup> Witness BK, T(F), p. 5501.

## 2. Attack on the Villages of Duge and Lug and Damage to Property

101. The Chamber first observes that no evidence was admitted into the record concerning the allegations of damage to the property belonging to Muslims in the village of Duge.

102. It then observes that in respect of Lug, one night in late June 1993, men whom *Witness BT* did not identify came to the village and burned down several houses, belonging to Muslims including the one *Witness BT* owned.<sup>247</sup> Exhibit P 02977, an SIS report, indicates that the perpetrators of the fires were HVO soldiers and local troublemakers. After reviewing the exhibit from the SIS itself and the testimony of *Witness BT*, the Chamber can find that the damage was indeed caused by HVO soldiers.

## 3. Attack on the Village of Podani{ or Podonis and Damage to Property

103. On 5 July 1993, the HVO Military Police or the *Kinder Vod* unit attacked the village of Podani{, or Podonis, setting fire to property belonging to Muslims,<sup>248</sup> including eight barns and nine houses, and slaughtering livestock.<sup>249</sup>

104. Taking into account the evidence received, the Chamber can find that property belonging to Muslims in the village was damaged by members of the HVO. Nevertheless, inasmuch as the Chamber has two contradictory items of evidence concerning the perpetrators of those acts, it cannot ascertain who from the Military Police or the *Kinder Vod* unit was behind this.

105. In any event, the Chamber recalls that, on that date, the Military Police units deployed in Prozor Municipality and the *Kinder Vod* unit were all subordinated to the *Rama* Brigade.<sup>250</sup>

## 4. Attack on the Village of Munikoze and Damage to Property

106. The Chamber has only the testimony of *Ibro Selimović*, admitted pursuant to Rule 92 bis of the Rules, whereby on 19 July 1993 Nikola Marić, *alias* the “Kobra”,<sup>251</sup> Goran Papković and someone named “Cela”,<sup>252</sup> members of the *Kinder Vod* unit,<sup>253</sup> set fire to the entire village of Munikoze at a time when there were no longer any inhabitants.<sup>254</sup> The Chamber recalls that it is unable to draw conclusions about the crimes alleged and the perpetrators of those crimes solely on

<sup>247</sup> Witness BT, T(F), p. 8284, closed session; P 09714 under seal, pp. 2 and 3; P 02977.

<sup>248</sup> P 03458; P 09989, p. 4; P 09925, pp. 2 and 3.

<sup>249</sup> P 03458; P 09989, p. 4; P 09925, p. 3.

<sup>250</sup> See “*Kinder Vod*” in the Chamber’s factual findings on Prozor Municipality

<sup>251</sup> P 09714 under seal, p. 3; Witness BT, T(F), pp. 8298-8300, closed session.

<sup>252</sup> P 09193, pp. 22 and 23.

<sup>253</sup> P 09193, pp. 22 and 23; P 09925, pp. 2 and 3.

the basis of one exhibit admitted under Rule 92 *bis* of the Rules.<sup>255</sup> Consequently, the Chamber cannot find that the village of Munikoze was indeed attacked by the HVO between June and mid-August 1993 and that the property of Muslim inhabitants of the village was damaged.

#### 5. Attack on the Village of Lizoperci and Damage to Property and the Mosque

107. The Prosecution alleges in paragraph 53 of the Indictment that the destruction of property belonging to Muslims and the damage to the Lizoperci Mosque took place between June and mid-August 1993. The Chamber heard *Witness BU* and admitted the written statement of *Šemso Germić*, both dating the events at Lizoperci in April 1993.<sup>256</sup>

108. Consequently, the Chamber considers that it would be unfair to the Accused to rely on the evidence referring to April 1993 – even though the Indictment mentions June to August 1993 – in order to find that the HVO in fact damaged property and the mosque between June and August 1993. The Chamber recalls that Article 21, para. 4 (a), of the Statute grants to every individual accused the right to be informed “in detail [...] of the nature and cause of the charge against him”. This implies among other things that the crime charged must be adequately defined – which is what is at issue here – with respect to the date on which it occurred.<sup>257</sup> The Chamber cannot therefore find that property and the mosque in Lizoperci village were damaged by the HVO as alleged in paragraph 53 of the Indictment.

#### 6. Death of Six Muslims in the Region of Prajine and Tolavac

109. On the morning of 19 July 1993, about thirty HVO soldiers<sup>258</sup> attacked the small mountain village of Prajine, where there were six houses.<sup>259</sup> Among the soldiers were members of the *Kinder Vod*,<sup>260</sup> including Nikola Mari}, known as “Nid’o”, *alias* the “Kobra”,<sup>261</sup> who was the only one not wearing the HVO uniform but a black uniform and a cowboy hat.<sup>262</sup> The HVO soldiers shot dead an

<sup>254</sup> P 09193, p. 23; P 09922, pp. 2 and 3.

<sup>255</sup> See “Corroboration” in the Chamber’s reasoning in respect of evidence

<sup>256</sup> *Witness BU*, T(F), pp. 8361 and 8362, private session; P 09194, pp. 19 and 20; P 08939, p. 4.

<sup>257</sup> See in this regard, European Court of Human Rights, *Mattochia v. Italy*, Judgement of 25 July 2000, no. 23969/94 paras 71 and 72. The Chamber adds immediately, that it is on this basis, which will not systematically be restated, that the Chamber may subsequently decide to dismiss certain allegations.

<sup>258</sup> *Witness BS*, T(F), pp. 8193-8196, closed session.

<sup>259</sup> P 09193, p. 22; P 09922, pp. 1 and 2; *Witness BS*, T(F), pp. 8193, 8194 and 8196, closed session.

<sup>260</sup> P 09922, pp. 1 and 2.

<sup>261</sup> *Witness BS*, T(F), pp. 8196, 8197 and 8250, closed session; P 09714 under seal, p. 3; *Witness BT*, T(F), pp. 8298-8300, closed session; P 09922, pp. 1 and 2.

<sup>262</sup> *Witness BS*, T(F), pp. 8196 and 8250, closed session.

ailing, elderly man.<sup>263</sup> Two other men,<sup>264</sup> one of whom was 80 years old and disabled,<sup>265</sup> were severely beaten by the HVO soldiers and then shot dead by Nikola Marić.<sup>266</sup>

110. *Ibro Selimović* stated that while being detained at the Prozor fire station, he heard Nikola Marić tell Ilija Franjić, Commander of the 4<sup>th</sup> Company of the 6<sup>th</sup> Battalion (formerly 2<sup>nd</sup> Battalion) of the Military Police, about the executions he carried out in Prajine.<sup>267</sup>

111. Also on 19 July 1993, a small group of Muslim men, women and children – including *Witness BK* and a physically disabled person – was hiding in a stable on Mount Tolavac.<sup>268</sup> They had fled from the village of Gračanica in June 1993.<sup>269</sup> During the night of 19 July 1993, fifteen HVO soldiers arrived at the stable.<sup>270</sup> They were in fact the same HVO soldiers who had sown terror in Gračanica in June 1993, and among them were Ivica Topić,<sup>271</sup> Ivica Papak and Ivcan Milicević, the last two from the village of Pavci.<sup>272</sup> They came into the stable, and threatening its occupants with death, ordered all of them to go outside of the stable.<sup>273</sup> They separated Bajro Munikoza from the group and struck him with a rifle butt.<sup>274</sup> *Witness BK* subsequently heard a gunshot and never saw Bajro Munikoza again.<sup>275</sup> Two HVO soldiers then took away Saha Munikoza and returned without her.<sup>276</sup> Later, *Witness BK* discovered her lifeless body, covered in blood, lying on the side of the road.<sup>277</sup> Some of the HVO soldiers, chiefly Ivica Papak and Ivcan Milicević, fired two rounds of bullets into Šaban Hodžić, a physically-disabled Muslim.<sup>278</sup> They then doused him with a liquid and set fire to the stable.<sup>279</sup>

112. In view of the evidence, the Chamber finds that on 19 July 1993, in the village of Prajine, HVO soldiers killed three Muslim men, among whom a disabled person 80 years of age, after

<sup>263</sup> Witness BS, T(F), pp. 8200, 8202 and 8215, closed session; P 08409 under seal; P 08900 under seal. The old ailing man is a representative victim of para. 54 of the Indictment mentioned in the Annex to the Indictment.

<sup>264</sup> The two men are representative victims of para. 53 of the Indictment mentioned in the Annex to the Indictment.

<sup>265</sup> Witness BS, T(F), 8197, closed session.

<sup>266</sup> Witness BS, T(F), pp. 8194-8197, 8199, 8204-8206, closed session; P 09193, p. 23; P 09922, p.2; P 09923, p. 3; P 08405 under seal; P 08901 under seal; P 09193, p. 23; P 09922, p.2; P 08701 under seal; P 08903 under seal.

<sup>267</sup> P 09193, p. 28; P 09922, p. 3.

<sup>268</sup> Witness BK, T(F), pp. 5467, 5477 and 5480, and pp. 5478 and 5479, private session.

<sup>269</sup> Witness BK, T(F), pp. 5467, 5477 and 5480, and pp. 5478 and 5479, private session.

<sup>270</sup> Witness BK, T(F), pp. 5481, 5483, 5493 and 5517.

<sup>271</sup> Witness BK, T(F), p. 5525, private session.

<sup>272</sup> Witness BK, T(F), pp. 5482 and 5505 and pp. 5524-5525, private session.

<sup>273</sup> Witness BK, T(F), p. 5483.

<sup>274</sup> Witness BK, T(F), pp. 5482-5483 and 5493.

<sup>275</sup> Witness BK, T(F), p. 5483. Bajro Munikoza is a representative victim of para. 53 of the Indictment.

<sup>276</sup> Witness BK, T(F), pp. 5483 and 5484.

<sup>277</sup> Witness BK, T(F), p. 5484. Saha Munikoza is a representative victim of para. 53 of the Indictment mentioned in the Annex to the Indictment.

<sup>278</sup> Witness BK, T(F), pp. 5479 and 5480, 5494 and 5495.

<sup>279</sup> Witness BK, T(F), p. 5494.



having beaten them severely. The HVO soldiers also killed Bajro Munikoza, Saha Munikoza<sup>280</sup> and Šaban Hodžić on Mount Tolovac on 19 July 1993.<sup>281</sup>

#### 7. Attack on the Village of Parcani and Damage to Property

113. In July 1993, the villagers fled from the village of Parcani, after hearing that HVO soldiers were about to return to the village, which had already been attacked in April 1993.<sup>282</sup> Sometime around August 1993, *Kajdafa Husi*<sup>283</sup> heard villagers who had gone back to the village of Parcani say, that it had been completely burned down.<sup>284</sup> In view of this single exhibit, admitted under Rule 92 *bis* of the Rules, and which, moreover, is hearsay, the Chamber is unable to establish that the HVO attacked the village of Parcani in July 1993 and caused damage to property belonging to the Muslims of this village.

#### 8. Damage to the Islamic Community Building of Prozor Town

114. Concerning the allegation that the “Islamic community building” in Prozor was destroyed, the Chamber has only the report of the Mufti of Mostar indicating the Muslim sites destroyed during the period 1 January 1992 to 1 August 1999, which describes repeated damage to the Prozor Mosque by the “Croats”.<sup>285</sup> Although the Chamber can find that the Prozor Mosque, the “Islamic community building” was indeed damaged on repeated occasions, absent additional evidence, it is unable to determine precisely whether that took place between June and mid-August 1993 and who the perpetrators were.

#### **G. Restrictions on Movements of Muslims in the Municipality of Prozor as of Summer 1993**

115. The Prosecution contends in paragraph 52 of the Indictment that, as of summer 1993 the Herceg-Bosna/HVO authorities required that all movements of Muslims into, out of or within Prozor Municipality be approved. In the Confidential Annex, the Prosecution gives the name of a representative victim of the restrictions on the movements of the Muslims of Prozor, yet the Chamber has found no trace of this victim in the evidence.

<sup>280</sup> Witness BK, T(F), pp. 5509-5511, private session; P 08608; P 08715; Witness BK, T(F), p. 5541; P 08608 and P 08715 state that Bajro Munikoza and Saha Munikoza died on 29 July 1993. However, according to Witness BK, the date is incorrect. In addition, the place of death given in both documents is Skrobućani, whereas the witness confirms that they died on Mount Tolovac and that it was only later that they were taken to Skrobućani, a village 20 minutes on foot from Mont Tolovac.

<sup>281</sup> P 08436 under seal; P 09696 under seal, p. 8; Witness BK, T(F), pp. 5506-5507, private session. P 08436 under seal and P 09696 under seal say that a Muslim man died on 19 June 1993 whereas the witness confirmed that the death occurred on 19 July 1993.

<sup>282</sup> P 09196, pp. 11 and 12.

<sup>283</sup> *Kajdafa Husi* was an inhabitant of the village. P 09196, p. 11.

116. The Chamber observes that in July and August 1993<sup>286</sup> as well as in December 1993,<sup>287</sup> soldiers from the HVO maintained the Makljen checkpoint on a hill north of Prozor.<sup>288</sup> The checkpoint enabled the HVO to monitor the entrance to Prozor from Gornji Vakuf.<sup>289</sup> Moreover, the Chamber observes that, during the summer of 1993, the inhabitants of Prozor Municipality were not free to leave the municipality without a *laissez-passer* issued either by the “Defence Bureau” or by the *Rama* Brigade command or even Ilija Franjić, Commander of the 4<sup>th</sup> Company of the 6<sup>th</sup> Battalion (formerly 2<sup>nd</sup> Battalion) of the Military Police, the sole authorities with the power to issue *laissez-passers*.<sup>290</sup> To obtain a *laissez-passer*, the applicant had to provide the reasons for his departure and the destination to which he was bound.<sup>291</sup> The Chamber does not, however, have additional information concerning requests for *laissez-passers* allegedly denied to the inhabitants of Prozor Municipality generally or to Muslims in particular.

117. During the summer of 1993, the Military Police had the power to prevent anyone from moving around in Prozor town, thereby causing fear among the inhabitants of Prozor, especially as *Peter Hauenstein* said, among the Muslims.<sup>292</sup> The Chamber notes as well that during the summer of 1993 and until at least September 1993, the Imam of Prozor was kept under a compulsory residence order<sup>293</sup> and was required to report to the Military Police post three times per day.<sup>294</sup> The Chamber notes further that the Muslim women, children and elderly people were kept at various locations in Prozor Municipality and could not move about freely.<sup>295</sup>

118. In view of all the evidence, the Chamber finds that during the summer of 1993, the entire population of Prozor – not merely the Muslim population – could not leave the municipality freely without a *laissez-passer*. Nevertheless, the Chamber finds that although the Military Police monitored the inhabitants’ every move, they specifically blocked the Muslim women, children and

<sup>284</sup> P 09196, p. 12.

<sup>285</sup> P 08939, p. 4.

<sup>286</sup> Rudy Gerritsen, T(F), pp. 19203 and 19204; P 09657; P 03909 under seal.

<sup>287</sup> Peter Hauenstein, T(F), pp. 7571 and 7572, 7653.

<sup>288</sup> Peter Hauenstein, T(F), pp. 7571 and 7572, private session, and p. 7653; P 10030, p. 3; Rudy Gerritsen, T(F), pp. 19192 and 19193.

<sup>289</sup> P 10030, p. 3; P 09657; Rudy Gerritsen, T(F), pp. 19203 and 19204.

<sup>290</sup> Witness BR, T(F), p. 8131; P 02999; P 03887.

<sup>291</sup> Witness BR, T(F), pp. 8108 and 8111, private session; P 02999.

<sup>292</sup> Peter Hauenstein, T(F), pp. 7604 and 7605.

<sup>293</sup> P 10030, p. 8; Rudy Gerritsen, T(F), pp. 19221 and 19222; P 09619, p. 2; P 09627.

<sup>294</sup> P 10030, p.8; Rudy Gerritsen, T(F), pp. 19221 and 19222; P 09619, p. 2; P 04083 under seal, para. 4.

<sup>295</sup> Witness BR, T(F), pp. 8103-8105, private session, T(E), p. 8106, closed session, and T(F), pp. 8113-8115; P 09704; Witness BS, T(F), pp. 8215, 8216, 8219 and 8220, closed session; Witness BK, T(F), pp. 5497, 5500, 5527; P 09700 under seal, p. 2; P 09701, pp. 7 and 8; Witness BT, T(F), p. 8298, closed session; Witness BK, T(F), pp. 5499 and 5500; P 09714 under seal, p. 4; P 09196, p. 13; P 09717, under seal, p. 3; Peter Hauenstein, T(F), pp. 7568-7570, private session; P 10030, p. 10; Rudy Gerritsen, T(F), pp.19229 and 19230; P 04307 under seal, p. 2; P 04363 under seal, p. 2; P 09619, p. 1; P 09731 under seal, p. 3. *See also* “Arrests, Detention and Removal of Women, Children and Elderly People from Prozor Municipality in July and August 1993” in the Chamber’s factual findings on Prozor Municipality.

elderly people and the Imam of Prozor from leaving the town and the municipality during the summer of 1993.

**H. Arrests, Confinement and Removal of Muslim Men, Women, Children and Elderly People from Spring 1993 to the End of that Year**

119. The Prosecution alleges in paragraph 54 of the Indictment that, from Spring 1993 until the end of that year, the Herceg-Bosna/HVO forces arrested Muslim men of Bosnia and took them to various detention centres in Prozor Municipality; that the Muslim detainees were physically abused; that some were taken away and never seen again; and that, beginning in July 1993, the HVO transferred some detainees to other detention facilities in Ljubuški, the Heliodrom, Dretelj and Gabela.<sup>296</sup> In paragraph 55 of the Indictment, it is alleged that the Muslim detainees were forced to perform forced labour; that while being used as labourers, they were beaten, humiliated and forced to perform sexual acts, and that some died or were injured while being used as labourers. In paragraph 56 of the Indictment, it is stated that, on or about 31 July 1993, the forces of Herceg-Bosna/HVO took approximately 50 detainees to the confrontation line and that HVO soldiers opened fire in their direction, who were forced to walk in the direction of ABiH positions, and at least twenty detainees were killed. In paragraph 57 of the Indictment, reference is made to women, children and elderly people being collected and confined in two villages in Prozor Municipality and in a part of town called Podgrađe in July and August 1993; that the people were confined in “deplorable” conditions, were abused and humiliated, that their property was looted and women were often raped. In paragraph 58, it is also alleged that in late August 1993, several thousand civilian detainees were taken to the front line, forced to walk in the direction of ABiH-held territory, and that the HVO fired shots at them, resulting in several being injured. In paragraph 59, the Prosecution alleges that in late August 1993 and thereafter, Herceg-Bosna/HVO forces continued to persecute and mistreat Muslim civilians who remained in Prozor Municipality, and finally that, by late December 1993, most of the 500 to 600 Muslims still in Prozor Municipality were either in prisons or were sent to ABiH-held territory or deported to other countries.

120. The Stojić Defence contends that the arrests and placement into detention of Muslim HVO soldiers starting on 30 June 1993 were enforced by Željko [iljeg, Commander of the North-West OZ.<sup>297</sup> As to the Jori} Defence, they contend that the HVO military commanders were in charge of the arrests and for the detention facilities in Prozor town, while the daily maintenance, security,

<sup>296</sup> See also paragraph 57 of the Indictment, referring to the detention of “civilians” in the prisons or camps in late 1993.

<sup>297</sup> Stojić Defence Final Trial Brief, para. 502.

release and the transfer of detainees were provided by the *Rama* Brigade.<sup>298</sup> The Ćorić Defence also puts forward that the Military Police Administration did not form part of the chain of command, was not informed of those operations, did not participate in those operations and did not have effective control over the members of the Military Police contributing to those measures under the orders of the brigade commander.<sup>299</sup>

121. After reviewing (1) the allegations of the arrests of the Muslim men in Prozor Municipality from the spring of 1993 to the end of 1993 the Chamber will consider (2) allegations of the detention of the Muslim men in each of the locations specified in the Indictment. It will examine (3) the allegations of the arrests, confinement and removal of the women, children and elderly people from Prozor Municipality in July and August 1993, and then (4) how the last remaining Muslims in Prozor Municipality were treated, from September to December 1993.

#### 1. Arrests of Muslim Men from Prozor Municipality from Spring 1993 to the End of 1993

122. Before proceeding, the Chamber notes that it does not have any evidence about possible arrests of Muslim men in spring 1993 (in April and May) in Prozor Municipality. Admittedly, the Chamber notes that paragraph 54 of the Indictment refers to the arrest of Bosnian Muslim men without specifying whether they were Muslim men arrested in Prozor Municipality. The Chamber will confine itself in this part relating to Prozor Municipality to analysing the arrests that took place there.

123. A report by Ilija Franjić, Commander of the 4<sup>th</sup> Company of the 6<sup>th</sup> Battalion (formerly 2<sup>nd</sup> Battalion) of the Military Police, confirms that, commencing in June and early July 1993, the objective sought by the Military Police was to arrest the Muslim soldiers in the HVO who had abandoned their combat stations, detain them, interrogate them, search for weapons and radio equipment in their possession and to uncover their secret communication networks.<sup>300</sup>

124. In late June 1993, members of the HVO – the Chamber lacks further details as to their identity – came to arrest and disarm Muslim men in the village of Lug who belonged to the HVO.<sup>301</sup> On 26 or 27 June 1993, 26 Muslim men from the village of Lapsunj, members of the TO/ABiH wearing HVO uniforms and integrated under the command of the HVO on the front line

<sup>298</sup> Ćorić Defence Final Trial Brief, paras 399-417.

<sup>299</sup> Ćorić Defence Final Trial Brief, paras 391-394.

<sup>300</sup> P 03262.

<sup>301</sup> P 09714 under seal, p. 3.

across from the Serb forces<sup>302</sup> were likewise arrested by members of the HVO in Lapsunj and then taken to the fire station in Prozor town.<sup>303</sup>

125. The “target” of the arrests, initially limited to the Muslim soldiers who were members of the HVO, quickly expanded. By an order dated 6 July 1993, Željko [iljeg, Commander of the North-West OZ, instructed the “Military Police and the SIS of the *Rama* Brigade” to arrest and detain all Muslim men between the ages of 16 and 60 from Prozor Municipality.<sup>304</sup>

126. Between 6 and 9 July 1993, the Military Police<sup>305</sup> arrested Muslim men indiscriminately, in the villages of Duge,<sup>306</sup> Lug, Kovačevo Polje and Podani{/Podonis.<sup>307</sup> The Chamber notes that soldiers from the *Kinder Vod* unit commanded by Ante Beljo also proceeded, along with the Military Police, to arrest the majority of the Muslim men of the village of Kovačevo Polje between the ages of 16 and 50 on 8 July 1993.<sup>308</sup> The Chamber is unaware, however, of whether the Muslim men arrested between 6 and 9 July 1993 were members of an armed force.

127. The Muslim men arrested between 6 and 9 July 1993 were subsequently taken to the Secondary School.<sup>309</sup>

128. On 10 July 1993, *Hasib Ze~i}*, a member of the ABiH from Kovačevo Polje, as well as seven other Muslim men – the Chamber does not know whether they were members of the TO/ABiH – who had previously gone into hiding in the woods near Podani{/Podonis to escape the arrests of the Muslim men in Kovačevo Polje, decided to surrender to the members of the Military Police deployed at *Hydro plan Rama*.<sup>310</sup> Out of fear, they did not wish to surrender to the members of the *Kinder Vod* unit.<sup>311</sup> They were taken to the Secondary School.<sup>312</sup>

129. On or about 11 July 1993, the Military Police estimated that they had arrested 237 Muslims in Prozor Municipality.<sup>313</sup> They continued their activities, in particular, on 15 and 16 July 1993, arresting 70 Muslim men in the villages of Varvara and Lapsunj, some of whom were members of

<sup>302</sup> P 09197, p. 11; Witness BL, T(F), p. 5852.

<sup>303</sup> Witness BL, T(F), pp. 5852 and 5853; P 09683.

<sup>304</sup> P 03234.

<sup>305</sup> The Chamber recalls that the 4<sup>th</sup> Company of the 2<sup>nd</sup> Battalion of the HVO Military Police, which was divided into three platoons, was active in Prozor and was assigned to the *Rama* Brigade.

<sup>306</sup> P 09722, p. 2; P 03325.

<sup>307</sup> P 09715 under seal, p. 2; Witness BT, T(F), pp. 8287, 8292, closed session; P 09989, p. 4; P 09925, p. 3; P 03325; P 03375.

<sup>308</sup> P 09715 under seal, p. 2; P 09989, p. 4.

<sup>309</sup> P 09731 under seal, p. 3; P 09722, p. 2; P 09715 under seal, p. 2; P 09989, p. 4.

<sup>310</sup> P 09989, p. 4; P 09925, pp. 2 and 3; P 03458.

<sup>311</sup> P 09989, p. 4; P 09925, pp. 2 and 3; P 03458.

<sup>312</sup> P 09989, p. 3.

<sup>313</sup> P 03401, p. 1.

the TO/ABiH, and subsequently taking them to the Prozor Secondary School.<sup>314</sup> The Chamber notes that the Military Police also arrested three men of Croat ethnicity who refused to join the ranks of the HVO<sup>315</sup> and that those men were subsequently detained in the Secondary School's nuclear fallout shelter.<sup>316</sup>

130. On 17 or 18 July 1993, 35 Muslim men between the ages of 16 and 60, including a Muslim soldier who was a member of the HVO, were arrested, under threat of death,<sup>317</sup> in the village of Lug.<sup>318</sup> The arrests took place under the command of Nikola Marić, *alias* “the Kobra”, member of the *Kinder Vod* unit<sup>319</sup> and of Milan Zelenika, likewise a member of the HVO.<sup>320</sup>

131. Towards late July 1993, Jozo Papak, an HVO soldier and Croatian resident of Skrobućani,<sup>321</sup> informed all the residents of Skrobućani that a truck was ready to take them away.<sup>322</sup> In this manner, all were removed to Varvara.<sup>323</sup> Twenty to thirty men in civilian dress, who were then separated from the women, children and elderly people, were taken, along with a 16-year old minor,<sup>324</sup> to the Unis Building.<sup>325</sup>

132. A report by Luka Markešić, who was in charge of the SIS in the *Rama* Brigade, addressed to the “Presidency of the [Prozor] HVO” and to the *Rama* Brigade, dated 5 August 1993, confirms that the SIS of the *Rama* Brigade and the Military Police, carrying out an “order from a higher level”, placed Muslims between the ages of 16 and 60 into detention – they were considered to be “men of military age” – several individuals under age 16 and several over 60 years of age and several very sick people considered to be “civilians”.<sup>326</sup>

133. The Chamber also notes out that on 4 October 1993, Ante Pavlović, Commander of the *Rama* Brigade, issued an order “pursuant to [an] order by the Commander of the Main Staff [...] with the aim of protecting the Muslim population”, under which Muslim men “fit for military service” were to be placed in detention and under surveillance.<sup>327</sup> *Slobodan Praljak* stated, during

<sup>314</sup> Witness BO, T(F), pp. 7787 and 7788, closed session; P 09717 under seal, p. 2; P 09723, p. 4; P 03480; P 03510.

<sup>315</sup> P 03480.

<sup>316</sup> P 09731 under seal, p. 4.

<sup>317</sup> P 09193, p. 4.

<sup>318</sup> P 09193, p. 4; Witness BT, T(F), pp. 8287, 8292 and 8307, closed session; P 09714 under seal, p. 3; P 03531.

<sup>319</sup> P 09714 under seal, p. 3; Witness BT, T(F), pp. 8197, 8250 and 8298-8300, closed session; P 09922, pp. 1 and 2.

<sup>320</sup> P 09714 under seal, p. 3; Witness BT, T(F), pp. 8298-8300, closed session.

<sup>321</sup> Witness BS, T(F), p. 8190, closed session.

<sup>322</sup> Witness BS, T(F), pp. 8216 and 8218, closed session.

<sup>323</sup> Witness BS, T(F), pp. 8215, 8216 and 8219, closed session.

<sup>324</sup> Witness BS, T(F), p. 8220, closed session.

<sup>325</sup> Witness BS, T(F), pp. 8218 and 8219, closed session.

<sup>326</sup> P 03971.

<sup>327</sup> P 05621.

his testimony, that he did in fact give the order to Ante Pavlović to arrest men of military age as a precautionary measure.<sup>328</sup>

134. Despite this order, the Chamber observes that it does not have evidence to establish that after late July and in early August 1993, the HVO did indeed conduct fresh arrests of Muslim men in Prozor Municipality. There were, however, Muslims detained in Prozor at the end of the summer, through to the end of 1993.

135. The Chamber therefore finds that, at the order of Željko Šiljeg, the Military Police, assisted namely by the soldiers from the *Kinder Vod* unit and the SIS assigned to the *Rama* Brigade, arrested Muslim men, including minors, elderly and sick people, in June, July and August 1993 in Prozor Municipality. Absent the requisite evidence, the Chamber cannot find that arrests of Muslim men took place before late June 1993 or after early August 1993.

## 2. Detention of Muslim Men in Several Detention Facilities in Prozor Municipality from Spring to December 1993

136. The Chamber notes that, it is clear from paragraph 54 of the Indictment, that the list of the four detention centres in Prozor Municipality is not exhaustive.<sup>329</sup> Nevertheless, other than the four centres enumerated in paragraph 54, the Chamber has further details in the Pre-Trial Brief, only about the Tech School, and will therefore analyse only those five detention centres, namely, (a) the Secondary School, (b) the Unis Building (c) the fire station, (d) the MUP buildings in Prozor and (e) the Tech School, each of which is expressly mentioned in the Indictment and in the Prosecution's Pre-Trial Brief.

### a) Detention of Muslim Men at the Prozor Secondary School

137. The Chamber will deal with the Secondary School, (i) how it was organised and operated, (ii) then discuss the detentions during the months of July and August 1993, specifically the arrivals, transfers and releases of detainees of the Secondary School. It will also examine (iii) the treatment of the detainees in the Secondary School as well as (iv) the labour they performed. The Chamber will (v) discuss the fate of the 50 detainees in the Secondary School who were sent to the front lines at Crni Vrh on 31 July 1993 and (vi) how information about the detainees' situation at the Secondary School was transmitted.

<sup>328</sup> Slobodan Praljak, T(F), pp. 42771 and 42772.

<sup>329</sup> Paragraph 54 of the Indictment states that "Herceg-Bosna/HVO forces arrested Bosnian Muslim men and took them to various detention facilities in Prozor Municipality, including the Secondary School Centre, the Unis building, the military police building located at the fire station and the Ministry of Interior ("MUP") building".

i. Description, Organisation and Operation of Prozor Secondary School as a Detention Site

138. Commencing on 6 or 7 July 1993 and lasting throughout the summer of 1993, the Prozor Secondary School served as a temporary detention facility for the Muslim men of the municipality.<sup>330</sup> The official name of the Secondary School as a detention facility was the “Military Prison of the *Rama* Brigade”.<sup>331</sup> The Muslim detainees in the Secondary School were divided up among the classrooms of the 1<sup>st</sup> floor which could accommodate 400 people.<sup>332</sup> The few Croats detained because they had refused to fight alongside the HVO, were held separately, in the Secondary School's nuclear fallout shelter.<sup>333</sup>

139. The Secondary School began to serve as a detention facility on 7 July 1993, pursuant to a series of orders issued by Marinko Zelenika, Commander of the HVO *Rama* Brigade.

140. Accordingly, on 7 July 1993, Marinko Zelenika instructed Ivan Babić, Commander of the Prozor Civil Protection Force, to organise detention for Muslims of “military age” at the Secondary School and to make provisions for meals for the detainees.<sup>334</sup> He likewise ordered that *Rama* Brigade's medical service to make provisions for regular medical visits for the Muslims detained at the School.<sup>335</sup> As soon as the facility opened, he named Mato Zadro as the official in charge of the facility, even though Zadro was not officially appointed warden until 26 July 1993.<sup>336</sup> Mato Zadro's immediate superior was Luka Markešić, who was in charge of the SIS in the *Rama* Brigade, gave Zadro orders, and was continuously informed about the circumstances of the detainees at the Secondary School.<sup>337</sup>

141. On 7 July 1993 as well, Marinko Zelenika asked the Prozor MUP to appoint two police officers assigned to security for the detention facility.<sup>338</sup> That same day, he also entrusted responsibility for organising detainee security to the *Domobrani* Company under Nikola Budimir's

<sup>330</sup> Witness CC, T(F), pp. 10496-10497, closed session; P 09731 under seal, p. 4; P 03266; P 03267; IC 00102 under seal; Witness CC, T(F), pp. 10429-10431, closed session; P 09685; P08994; Witness BQ, T(F), pp. 7899 and 7900; P 09716, p. 5.

<sup>331</sup> Witness CC, T(F), p. 10449, closed session; P 03961, p. 37.

<sup>332</sup> P 08994.

<sup>333</sup> P 09731 under seal, p. 4.

<sup>334</sup> Witness CC, T(F), pp. 10496-10497, closed session; P 09731 under seal, p. 4; P 03266; P 03267; IC 00102 under seal, markings of Witness CC, T(F), pp. 10429-10431, closed session.

<sup>335</sup> Nijaz Islamović, T(F), pp. 6904 and 6905; Witness CC, T(F), pp. 10497-10498, closed session; P 03286; Ragib Mulahusić, T(F), p. 6971.

<sup>336</sup> Witness CC, T(F), pp. 10358 and 10477, closed session; P 09731 under seal, p. 4; 2D 00899; P 03988 under seal, p. 2; P 09734, p. 5; P 09701, p. 5.

<sup>337</sup> Witness CC, T(F), pp. 10360, 10362 and 10363, closed session; P 09731 under seal, pp. 4 and 5.

<sup>338</sup> Witness CC, T(F), pp. 10455, 10456, 10493 and 10494, closed session; P 03267; P 09731 under seal, p. 7.



command.<sup>339</sup> On 15 July 1993, Marinko Zelenika changed the staffing of the personnel in charge of security at the Secondary School, ordering the commanders of the MUP, the Military Police and the *Domobrani* Company to designate three civilian police officers, two military police officers and three *Domobrani*.<sup>340</sup> Only two guards were tasked with guarding the building's entryway.<sup>341</sup>

142. The Chamber heard *Witness BQ*, who was detained at the Secondary School<sup>342</sup> for two or three days starting on 6 July 1993<sup>343</sup> state that the guards at the Secondary School were HVO soldiers and not part of the Military Police.<sup>344</sup> In the opinion of the Chamber, and in view of some other evidence, although it is true that during the early days of the detention facility's operation no military police officers served as guards, there is no doubt that civilian police officers, the *Domobrani*, as well as military police officers from 15 July 1993 onward, but not HVO soldiers, were among the guards.<sup>345</sup>

143. Lastly, to bolster security at the Secondary School, on 4 August 1993 Marinko Zelenika ordered that 14 *Domobrani* be deployed and placed under the authority of the warden of the Secondary School.<sup>346</sup>

144. On 13 August 1993, on the orders of Ante Pavlović, the new commander of the *Rama* Brigade,<sup>347</sup> Mato Zadro was officially replaced by Petar Baketarić, a member of the HVO Military Police.<sup>348</sup> Baketarić was responsible for housing conditions and, unlike Mato Zadro, for monitoring prisoner security.<sup>349</sup> After that time, however, Mato Zadro never really ceased to exercise all his responsibilities, inasmuch as he helped Petar Baketarić to draft situation reports on the detention of prisoners at the Secondary School, and then later, on those detained in the Prozor MUP buildings.<sup>350</sup>

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<sup>339</sup> Witness CC, T(F), p. 10458, closed session; P 03270; P 09731 under seal, p. 7.

<sup>340</sup> Witness CC, T(F), pp. 10409-10412, and pp. 10456-10458, closed session; P 03477; P 09925, p. 5; Ragib Mulahusić, T(F), pp. 6967 and 6982; P 09197, p. 12; P 09723, p. 4.

<sup>341</sup> Witness CC, T(F), pp. 10430 and 10439, closed session.

<sup>342</sup> P 09685; P 08994; Witness BQ, T(F), pp. 7899 and 7900; P 09716 under seal, p. 5

<sup>343</sup> P 09716 under seal, p. 5.

<sup>344</sup> P 09716 under seal, p. 5.

<sup>345</sup> Witness CC, T(F), pp. 10409-10412, closed session; P 09925, p. 5; Ragib Mulahusić, T(F), pp. 6967 and 6982; P 09197, p. 12; P 09723, p. 4.

<sup>346</sup> P 03954.

<sup>347</sup> P 09731 under seal, p. 4.

<sup>348</sup> P 09701, p. 5; Witness CC, T(F), p. 10480, closed session.

<sup>349</sup> 2D 00268.

<sup>350</sup> Witness CC, T(F), p. 10486, closed session.

ii. Arrival, Transfer and Release of Detainees of the Prozor Secondary School

145. Throughout the summer of 1993, between 400 and 500 people, from Prozor town and the surrounding villages,<sup>351</sup> were held in various classrooms of the Prozor Secondary School.<sup>352</sup>

146. Most of the detainees were Muslim men who were members of the TO/ABiH between 16 and 60 years of age;<sup>353</sup> in addition, there were seven detainees under 16 years of age and 40 detainees over 60 years of age who did not belong to any armed force.<sup>354</sup> There were also several men of Croatian origin detained there because they had refused to fight alongside the HVO.<sup>355</sup>

147. As of 6 July 1993, Željko [iljeg dispatched an order to the North-West OZ, to the SIS of the North-West OZ and to the *Rama* Brigade about what was to be done with the arrested Muslims. The order read as follows: “1. Final destination for all arrested military conscripts should be urgently requested through the Security Information Service of the North-West Herzegovina Operative Zone and through the SIS Administration of the Department of Defence of Mostar HVO, and the arrested persons should be immediately sent to the designated destination. 2. [...] only military conscripts who have special skills needed to carry out certain technical or physical work [...] should be kept under control in Rama”.<sup>356</sup>

148. The Chamber notes that the removals of detainees from the Prozor Secondary School to Ljubu{ki Prison took place pursuant to the Željko [iljeg's 6 July 1993 order and that, during the night of 10 to 11 July 1993, 237 detainees described as “not prisoners of war ... detained for security reasons” were thus moved to Ljubu{ki Prison.<sup>357</sup> As there was no room in the prison,<sup>358</sup> they were quickly sent along to Dretelj Prison.<sup>359</sup>

<sup>351</sup> P 09197, p. 12.

<sup>352</sup> The Chamber notes that some witnesses said that there were 400 detainees: *see* Witness CC, P 09731 under seal, p. 4; that other witnesses said that there were somewhere between 300 and 500 detainees: *see* P 09193, p. 23 and P09701, p. 4; Witness BL, T(F), pp. 5860 and 5862.

<sup>353</sup> P 09731 under seal, pp. 4 and 5; P 09197, p. 11; P 09723, p. 4; P 03266; P 09715 under seal, p. 2; P 09989, p. 4 and P 09925, p. 3.

<sup>354</sup> Witness BL, T(F), pp. 5856, 5857, 5859 and 5860; P 9685; Ragib Mulahusić, T(F), pp. 6966, 6967 and 6984; P 09699, p. 2; P 09722, p. 2; P 09715 under seal, p. 2; P 09989, p. 4 and P 09925, p. 3; P 09723, pp. 3 and 4; P 09193, p. 5; Ragib Mulahusić, T(F), pp. 6966, 6967 and 6984; P 09723, p. 4; P 09734 under seal, p. 5.

<sup>355</sup> P 09731 under seal, p. 4.

<sup>356</sup> P 03227.

<sup>357</sup> Witness E, T(F), pp. 22075 and 22076, closed session; P 03380; P 09989, p. 5 and P 09925, p. 3; P 03418.

<sup>358</sup> Witness E, T(F), pp. 22076 and 22077, closed session; P 03401.

<sup>359</sup> Witness E, T(F), pp. 22076 and 22077, closed session; P 03380; P 03401; P 09715 under seal, p. 2; P 09989, p. 5 and P 09925, p. 3.

149. The Chamber notes that on 13 July 1993, Željko [iljeg informed Milivoj Petković and Bruno Stojić that he had moved the detainees from the Secondary School to Ljubuški Prison.<sup>360</sup> On 14 July 1993, Milivoj Petković approved the move *ex post facto*.<sup>361</sup>

150. Also pursuant to Željko [iljeg's 6 July 1993 Order, 155 detainees selected by Luka Markešić, who was in charge of the SIS in the Rama Brigade,<sup>362</sup> left the Prozor Secondary School on the orders of Marinko Zelenika, the Rama Brigade commander, and went to Ljubuški Prison on 16 July 1993, escorted by six military police officers.<sup>363</sup>

151. The Chamber observes that, on 13 August 1993, Ante Pavlović, Commander of the Rama Brigade, ordered that "all persons temporarily housed" at the Prozor Secondary School should be taken to the nuclear fallout shelter at the Unis Building, and, those who were "prisoners of war", to the premises of the MUP.<sup>364</sup> He likewise specified that the "Brigade Police", "the Chief of SIS" and the "Commander of the Logistics Company", were charged with carrying out this order.<sup>365</sup>

152. The Chamber also observes that some detainees at the Secondary School were released. On 5 August 1993, Luka Markešić asked the Rama Brigade command and the "civilian authorities" of Prozor to take a decision on the detention of minors, the elderly and the very ill, whom he characterized as "civilians".<sup>366</sup> Thus, on 6 August 1993, seven Muslims under 16 years of age and about forty Muslims over 60 years of age detained for several days, were released by the prison warden, as decided by the commander of the Rama Brigade.<sup>367</sup> The Chamber, however, does not have information to support a finding that ailing detainees were released on 6 August 1993.

153. Subsequent to a meeting with the "municipal HVO", on 14 August 1993, Ante Pavlović ordered the release of minors under 15 years of age, ailing detainees and persons over 60 years of age.<sup>368</sup> Between 14 and 31 August 1993, some detainees who were sick, injured, or under the age of

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<sup>360</sup> P 03418, p. 4.

<sup>361</sup> P 03455, p. 2.

<sup>362</sup> P 03498.

<sup>363</sup> P 09731 under seal, p. 15; P 09732; P 04849; P 09309. Witness E, T(F), pp. 22075-22076, closed session; Witness BR, T(F), pp. 8096, 8101 and 8102, private session; P 09715 under seal, p. 2.

<sup>364</sup> P 04156; Witness CC, T(E), p. 10468, closed session; Nijaz Islamović, T(F), pp. 6905-6908; P 09686, P 09701, pp. 5 and 6 and P 08998.

<sup>365</sup> P 04156; Slobodan Praljak, T(F), pp. 42767- 42769.

<sup>366</sup> P 0397, pp. 4 and 5.

<sup>367</sup> Ragib Mulahusić, T(F), pp. 6966, 6967 and 6984; P 09699, p. 2; P 09731 under seal, pp. 4 and 5; P 09734 under seal, p. 5.

<sup>368</sup> P 09731 under seal, pp. 4 and 5; P 04193.

15<sup>369</sup> – one of them being *Witness BS*, who had told the guards at the Secondary School that he was under 15 years of age<sup>370</sup> and had been detained for four weeks<sup>371</sup> – were in fact released.<sup>372</sup>

154. More specifically concerning those detainees with physical or mental illnesses released on the medical recommendation of HVO doctors,<sup>373</sup> the Chamber observes that six of them released on 31 August 1993 were placed into the custody of the HVO Military Police, who were to move them to Konjic.<sup>374</sup> They did in fact leave the Secondary School, on 31 August 1993, but were never seen again.<sup>375</sup>

155. In late August 1993, the Secondary School stopped being a detention site as most of the Muslims had been taken to Ljubuški Prison in July 1993 and to the MUP buildings in Prozor in August 1993.<sup>376</sup> Although on 13 August 1993 Ante Pavlović ordered that some of the detainees also be moved from the Secondary School to the Unis Building,<sup>377</sup> the Chamber has no evidence to substantiate such a transfer.

156. Those few detainees released from the Secondary School settled in Podgrađe, a district in Prozor, on the orders of an HVO soldier at the School, who told them that they would then be "transferred with civilians" to ABiH territory.<sup>378</sup>

### iii. Treatment of Detainees at Prozor Secondary School

157. The evidence shows that in July and August 1993, detainees from the Secondary School were subjected to brutal treatment while in detention.<sup>379</sup> Only *Witness BQ*, who remained in detention only two or three days, said that the detainees were not mistreated.<sup>380</sup>

158. The physical abuse of the detainees was primarily the work of people from outside the Secondary School who were members of the Military Police or HVO soldiers, among whom were members of the *Kinder Vod*.<sup>381</sup> They entered the school compound as they wished, occasionally

<sup>369</sup> *Witness BS*, T(F), pp. 8232 and 8235, closed session.

<sup>370</sup> *Witness BS* had hidden the fact that he was 16 years old, not under 15 years of age.

<sup>371</sup> *Witness BS*, T(F), p. 8232, closed session.

<sup>372</sup> *Witness BS*, T(F), p. 8232, closed session.

<sup>373</sup> Nijaz Islamović, T(F), p. 6913; P 09701, pp. 4 and 10; P 03286; P 04193; P 04693.

<sup>374</sup> P 04693.

<sup>375</sup> Nijaz Islamović, T(F), pp. 6913-6915 and 6917; P 09701, p. 10.

<sup>376</sup> *Witness CC*, T(F), pp. 10454 and 10455, closed session; P 09731 under seal, p. 15; P 09732; *Witness E*, T(F), pp. 22075-22076, closed session; P 03380; P 09193, p. 6; P 04156.

<sup>377</sup> P 04156.

<sup>378</sup> *Witness BS*, T(F), pp. 8232-8234, closed session.

<sup>379</sup> P 09731 under seal, p. 5; P 09734 under seal, p. 6.

<sup>380</sup> P 09716 under seal, p. 6.

<sup>381</sup> P 09925, pp. 4 and 5; P 09926, p. 5; P 09989, p. 5.

several nights in a row, beat the detainees, fired shots over their heads and took away their money.<sup>382</sup> *Hasib Zečić* said that he was beaten every day during his detention and the Secondary School and that beatings began late at night and lasted until the next morning.<sup>383</sup> *Ibro Pilav* explained that HVO soldiers slapped the detainees and beat them with their rifle butts.<sup>384</sup> Other detainees were taken away by members of the Military Police – the Chamber does not know why – and never returned to the detention centre.<sup>385</sup> To this day they are still reported missing.<sup>386</sup>

159. The Chamber notes, more specifically, that on 2 August 1993, *Andrjia Beljo*, *alias* "Kamba" or *Nikola Marić* *alias* "Kobra",<sup>387</sup> shot at detainee *Munib Grcić* while he was in the staircase of the School, wounding him badly.<sup>388</sup> Half an hour later, three military police officers, one of whom was named *Zadro Petrović*, took him outside – the Chamber does not have any details concerning his destination.<sup>389</sup> *Munib Grcić* never returned to the Secondary School, and has been reported missing ever since.<sup>390</sup>

160. The Chamber also notes that, on the evening of 3 August 1993, three members of the HVO armed forces, including *Vinko Papak* and *Željko Jukić*, the latter being a member of the *Kinder Vod*, went into the Secondary School and took with them detainees *Mirsad Pilav*, *Ibro Pilav*, *Vahid Berić*, *Šefik Čiča* and *Edis Omanović*<sup>391</sup> who were never seen again.<sup>392</sup> *Hasib Zečić* added that *Ibro Pilav* had been injured by *Željko Jukić* using glass shards, before being taken outside the Secondary School.<sup>393</sup> *Witness BT* heard it said that they had been taken to the *Duška Kosa* waste facility where they were killed by gunshots.<sup>394</sup> In any event, they are still reported missing as of this date.<sup>395</sup>

<sup>382</sup> P 09731 under seal, p. 5; P 03948 under seal, p. 1; P 09734 under seal, pp. 3 and 5; *Witness BT*, T(F), pp. 8282-8283, 8296, 8298-8300, closed session; P 09989, p. 5; P 09197, p. 12; P 09723, p. 4.

<sup>383</sup> P 09989, p. 5.

<sup>384</sup> P 09197, p. 12.

<sup>385</sup> *Nijaz Islamović*, T(F), pp. 6913-6915 and 6917; P 09701, p. 10; P 09696, nos 59, 61 and 62, pp. 9-10; *Witness CC*, T(F), p. 10376, closed session; P 09731 under seal, p. 5; P 03948 under seal; P 09734 under seal, pp. 3 and 6; *Witness BT*, T(F), pp. 8282-8283, 8296, 8298-8300, closed session; P 09989, p. 5.

<sup>386</sup> *Nijaz Islamović*, T(F), pp. 6913-6915 and 6917; P 09701, p. 10; P 09696, nos 59, 61 and 62, pp. 9-10; *Witness CC*, T(F), p. 10376, closed session; P 03948 under seal; P 09734 under seal, p. 3.

<sup>387</sup> P 09989, p. 5.

<sup>388</sup> P 09734 under seal, p. 3; P 09735, p. 2.

<sup>389</sup> P 09731 under seal, p. 5; P 03948 under seal, p. 1; P 09734 under seal, p. 3.

<sup>390</sup> P 09731 under seal, p. 5; P 03948 under seal, p. 1; P 09734, under seal, p. 3; P 09696, no. 68, p. 10.

<sup>391</sup> *Witness CC*, T(F), pp. 10376, private session, 10463 and 10464, closed session; P 09714 under seal, pp. 1 and 2; P 09734, p. 4; P 03948 under seal; P 03988 under seal, p. 2; P 09731 under seal, p. 5.

<sup>392</sup> P 09734, p. 4; P 03948 under seal; P 03988, p. 2; P 03948 under seal; P 08736 under seal; *Witness CC*, T(F), p. 10376, closed session; P 09731 under seal.

<sup>393</sup> P 09926, p. 3.

<sup>394</sup> *Witness BT*, T(F), pp. 8282-8283, 8296, 8298-8300, closed session; P 08736 under seal; P 03988 under seal.

<sup>395</sup> *Witness BT*, T(F), p. 8282, closed session; P 09696, no. 60, p. 9; P 08736 under seal.

161. The Chamber also observes that, on 31 August 1993, six Muslim men were to be released on medical grounds on the recommendation of an HVO doctor:<sup>396</sup> Abdula Alibegović, Ahmet Hodžić, Bajro Pilav, Omer Purgić, Numo Imamović and Haso Hrinčić.<sup>397</sup> Further to that medical recommendation, Ante Pavlović, the *Rama* Brigade Commander, ordered their release and transfer to Konjic Municipality, which was supposed to be organised by the HVO Military Police.<sup>398</sup> Subsequent to this request, sometime between 1 and 5 September 1993, members of the HVO, among whom was Nikola Marić *alias* "Kobra", a member of the *Kinder Vod*,<sup>399</sup> came to collect the detainees, who were never seen again and are still reported missing.<sup>400</sup>

162. The Chamber finds that in July and August 1993, Muslim detainees from the Secondary School were physically abused during their detention by military police officers and HVO soldiers among whom were members of the *Kinder Vod*, and that some were taken out of the facility and never seen again.

#### iv. Labour Performed by Detainees from Prozor Secondary School

163. The Prosecution alleges, in paragraph 55 of the Indictment, that Herceg-Bosna/HVO forces used the Muslim detainees to perform forced labour, including construction of military fortifications and digging trenches. Some Muslim detainees are alleged to have died or were injured when performing forced labour. The HVO soldiers are alleged to have often beaten and humiliated Muslim detainees while being detained or used as labourers, and, on some occasions, forced them to perform sexual acts.

164. The Chamber observes that, during the summer of 1993, detainees from the Secondary School were doing work for the HVO.<sup>401</sup> Some detainees volunteered to do the work, if it was not dangerous, because the detainees would then receive hot meals.<sup>402</sup> The detainees were required to perform every kind of task, without pay:<sup>403</sup> cleaning, road repair, harvesting, various tasks at the

<sup>396</sup> Nijaz Islamović, T(F), p. 6913; P 09701, p. 10 and P 04693; P 09731 under seal, p. 5.

<sup>397</sup> P 09926, p. 5; P 09696, p. 12.

<sup>398</sup> Nijaz Islamović, T(F), p. 6913; P 09701, p. 10; P 04693; P 09696, p. 12.

<sup>399</sup> P 09922, p. 1.

<sup>400</sup> Nijaz Islamović, T(F), pp. 6913-6915 and 6917; P 09701, p. 10; P 09926, p. 5; Numo Imamović, Omer Furgić, Bajro Pilav, Ahmet Hodžić, Hasko Hrinjić and Abdulah Alibegović; P 09926, p. 5; P 09696, p. 12.

<sup>401</sup> Witness CC, T(F), pp. 10408 and 10441, closed session; P 09731 under seal, p. 6; Ragib Mulahusić, T(F), pp. 6971 and 6972; P 09699, p. 2; P 03227.

<sup>402</sup> Witness CC, T(F), p. 10408, private session, and p. 10441, closed session; P 09731 under seal, p. 6.

<sup>403</sup> Witness CC, T(F), p. 10440, closed session.

slaughterhouse, in a butcher's shop,<sup>404</sup> at the service station or at the foundry.<sup>405</sup> In certain cases, the detainees were granted leave to return home to sleep, work in their fields or visit a doctor.<sup>406</sup>

165. Detainees from the Secondary School worked on fortifications and dug trenches on the front lines, or near those lines for the HVO.<sup>407</sup> Several detainees were thus sent to Uzdol, Crni Vrh, Kolaku{i}, Gornji Vakuf, Makljen, Pidri{, Jurići or Pisvir as well as towards Jablanica and Bugojno.<sup>408</sup>

166. The procedure customarily used to requisition detainees went as follows: an HVO soldier, a military police officer or sometimes a *Domobrani*, typically carrying a permit issued by the *Rama* Brigade Commander, the *Rama* Brigade SIS Chief or the Military Police Commander,<sup>409</sup> would come to the Secondary School, to ask the guards to provide him with a certain number of detainees for work on the front line.<sup>410</sup> The person taking on the detainees would sign a register or a form when taking them away from the School or when bringing them back.<sup>411</sup> The detainees left in groups of 10 to 20, chosen because they were young, between 20 and 30 years old.<sup>412</sup>

167. The Chamber notes that, on 28 July 1993, military police officers took away 16 detainees, whom *Witness CC* characterized as "civilians", from the Secondary School to Bugojno, to work on fortifying military positions.<sup>413</sup> The Chamber observes that in the authorisation document, it was specified that they were "(...) not prisoners of war; they are in work unit [and that it was therefore necessary] that they be treated accordingly", adding that it was the individual in charge of taking them who was responsible for them, and specifying that that same person was "obliged to return them alive and in good health".<sup>414</sup>

168. The evidence attests to the fact that when they came back to the Secondary School, several detainees sent to dig trenches were frightened and injured,<sup>415</sup> quite seriously at times.<sup>416</sup> The HVO soldiers routinely beat them.<sup>417</sup> Some detainees had broken noses or ribs, or visible bruises on their

<sup>404</sup> Ragib Mulahusić, T(F), pp. 6971 and 6972; P 09699, p. 2.

<sup>405</sup> Witness CC, T(F), p. 10439, closed session; P 09731 under seal, p. 6.

<sup>406</sup> Witness CC, T(F), p. 10438, closed session.

<sup>407</sup> Witness CC, T(F), p. 10439, closed session; P 09731 under seal, pp. 5 and 6; P 09989, p. 5.

<sup>408</sup> Witness BL, T(F), pp. 5860-5862; Nijaz Islamović, T(F), pp. 6903 and 6904; P 09701, p. 4; P 09925, p. 4; P 09922, p. 3; Witness BT, T(F), p. 8285, closed session; P 09733.

<sup>409</sup> Witness CC, T(F), pp. 10403-10404 and 10412, closed session; P 09922, p. 3.

<sup>410</sup> P 09731 under seal, pp. 6 and 10; P 09733.

<sup>411</sup> P 09731 under seal, p. 6.

<sup>412</sup> Witness BL, T(F), pp. 5860-5862.

<sup>413</sup> P 09731 under seal, p. 10; P 09733.

<sup>414</sup> P 09733.

<sup>415</sup> Nijaz Islamović, T(F), p. 6904; P 09701, p. 4.

<sup>416</sup> P 09701, p. 4.

<sup>417</sup> P 09731 under seal, p. 5; Nijaz Islamović, T(F), p. 6904; P 09701, pp. 4 and 5; P 09989, p. 5.

bodies and faces, particularly around the eyes.<sup>418</sup> Others who had been exposed to ABiH gunfire were wounded or killed.<sup>419</sup> Some never returned from their work, as was the case of a small group of Muslims sent to Jurići on 19 August 1993 by someone named Josip Vidović.<sup>420</sup> The persons concerned were Halid Čorbađić, Salko Fežić, Huso Kovač and Mujo Zečić.<sup>421</sup> Edvin Grečić,<sup>422</sup> who likewise belonged to this group, was wounded and, according to notes made in a register at the Secondary School, was "taken away by HVO members for treatment".<sup>423</sup> The Chamber, however, does not have any additional information about that man.

169. Likewise in August 1993, 22 detainees from the Secondary School were moved for a period of 25 days to a house in Jurići where they slept at night and dug trenches during the day.<sup>424</sup> Three HVO soldiers named "Goran", "Peša" and "Jozo", guarded the room where *Ragib Mulahusić* and 21 other detainees were confined.<sup>425</sup> Over the course of the 25 days, they dug trenches during the day on the front line separating the HVO from the ABiH.<sup>426</sup> While doing this work, the detainees occasionally drew gunfire coming from the ABiH and a fellow detainee, named Osman Pilav, was wounded by a bullet.<sup>427</sup> The detainees were physically assaulted by the HVO soldiers.<sup>428</sup> One such soldier pointlessly ripped out a tooth from detainee Sejad Islamović, with pincers normally used to repair horseshoes.<sup>429</sup> For five or six nights, for hours at a time, "Goran", "Jozo" and "Peša", physically abused the prisoners, beating them, sometimes firing over their heads to frighten them and forcing five of them to have oral sex with one another, under the eyes of other prisoners and HVO soldiers who insulted them.<sup>430</sup>

170. In view of the preceding, the Chamber finds that whereas certain detainees did volunteer to carry out various tasks, particularly in businesses in Prozor, in exchange for additional meals, other detainees were forced to work, without any advantage or remuneration. The Chamber finds further that Muslims detainees were obliged to construct military fortifications and dig trenches for the

<sup>418</sup> Nijaz Islamović, T(F), p. 6904; P 09701, p. 4.

<sup>419</sup> Witness CC, T(F), p. 10460, closed session; P 09731 under seal, p. 6; P 09735; P 09736, p. 1.

<sup>420</sup> P 09735, p. 1; P 09736; *see* Witness BL, T(F), pp. 5860-5862 concerning the fact that the detainees were performing labour in Jurići.

<sup>421</sup> P 09735.

<sup>422</sup> The Chamber observes that the name of Elvedin Grečić – not Edvin Grečić – is given as a representative victim of paragraph 54 of the Indictment.

<sup>423</sup> P 09735.

<sup>424</sup> Ragib Mulahusić, T(F), p. 6972; P 09699, p. 2.

<sup>425</sup> Ragib Mulahusić, T(F), p. 6974; P 09699, pp. 2 and 3.

<sup>426</sup> Ragib Mulahusić, T(F), pp. 6972 and 6976; P 09699, p. 2.

<sup>427</sup> Ragib Mulahusić, T(F), pp. 6972, 6976 and 6977; P 09699, p. 2.

<sup>428</sup> Ragib Mulahusić, T(F), pp. 6973, 6974, 6980 and 6981; P 09699, p. 2.

<sup>429</sup> Ragib Mulahusić, T(F), pp. 6977, 6980 and 6981; P 09699, p.3.

<sup>430</sup> Ragib Mulahusić, T(F), pp. 6972, 6973-6976; P 09699, pp. 2 and 3.



HVO on the front line. Some died or were wounded while working; others were abused by the HVO soldiers, including sexual attacks.

v. 50 Detainees from Prozor Secondary School Sent to the Front Line at Crni Vrh on 31 July 1993

171. Paragraph 56 of the Indictment alleges that on 31 July 1993 or about that date, the Herceg-Bosna/HVO forces took approximately 50 Muslim detainees from the Secondary School to the confrontation line at Makljen Crni Vrh; that the detainees were tied together with telephone cable around their arms and necks and forced to march in front of HVO soldiers in the direction of ABiH positions near the forest; that the HVO soldiers opened fire in their direction and at least twenty detainees were killed; that the dead detainees were untied and left behind; and that the HVO forced the remaining detainees to walk toward the forest. The Prosecution names twenty people allegedly killed by the HVO at Crni Vrh in the Annex to the Indictment.

172. The Jorić Defence contends that, although *Witness CC* implicated Ilija Franjić, Commander of the 4<sup>th</sup> Company of the 6<sup>th</sup> Battalion (formerly 2<sup>nd</sup> Battalion) of the Military Police, in the events at Makljen Crni Vrh, he was the sole witness to have mentioned Jorić's involvement and that, furthermore, that witness did not have reliable information concerning the crimes committed at Makljen Crni Vrh.<sup>431</sup> Again according to the Jorić Defence, the only eyewitness who survived the events at Makljen Crni Vrh stated specifically that the Military Police were not present and did not participate in the crimes alleged.<sup>432</sup>

173. The evidence shows that, among the detainees in the Secondary School who were taken to work on the front lines, some did in fact serve as "human shields" at Crni Vrh, not far from the separation line, near Makljen.<sup>433</sup>

174. Thus, on 31 July 1993, the ABiH objective was to capture the Makljen checkpoint from the HVO, and for this reason, shelled the town of Prozor that very morning, firing two or three shells.<sup>434</sup> The same day, with leave from Petar Kolakušić, Deputy Commander of the *Rama* Brigade and chief "operations officer" of the *Rama* Brigade,<sup>435</sup> 68 Secondary School detainees were selected

<sup>431</sup> Ćorić Defence Final Trial Brief, para. 429.

<sup>432</sup> Ćorić Defence Final Trial Brief, para. 430.

<sup>433</sup> P 09193, p. 24; P 09922, p. 3; P 00284, p. 4; P 09734 under seal, p. 1; P 03988, p. 2.

<sup>434</sup> P 03909 under seal; Witness BL, T(F), p. 5863. The Chamber notes that the written testimony of *Ibro Pilav* – P 09197 – recounts that the events at Crni Vrh took place on 27 July 1993. Nonetheless, in view of other evidence, the Chamber is able to determine that the date of the events at Crni Vrh was 31 July 1993, not 27 July 1993.

<sup>435</sup> Witness CC, T(F), p. 10363, closed session; P 09731, under seal, p. 6; P 03906 under seal; P 09734 under seal, pp. 1-3 and 6.

by a military police officer and handed over to Ilija Franjić, Commander of the 4<sup>th</sup> Company of the 6<sup>th</sup> Battalion (formerly 2<sup>nd</sup> Battalion) of the Military Police, to be taken by lorry not far from the separation line near Makljen,<sup>436</sup> between the HVO positions and the ABiH forces.<sup>437</sup> At Makljen, only 50 detainees continued down the road toward Crni Vrh; the other 18 detainees were returned to the Secondary School.<sup>438</sup> On reaching Crni Vrh, the fifty detainees were forced by HVO soldiers to get out of the lorry, take off their shoes and walk barefoot, lined up in a column two-by-two, with eyes looking down in the direction of the front line<sup>439</sup> which had just fallen under the control of the ABiH.<sup>440</sup> Close to the front line, the HVO soldiers insulted the Muslim detainees.<sup>441</sup> They then tied them up with telephone cable, one-by-one, hands behind their backs, then altogether around their necks, such that if one were to move, he would strangle the others.<sup>442</sup> They had to walk ahead, lined up in a column, one following the other, shoulder-to-shoulder.<sup>443</sup> The HVO soldiers were right behind the column of detainees walking towards the ABiH.<sup>444</sup> Then they opened fire on the column of detainees.<sup>445</sup> The shots hit the detainees in the back, and the first bodies fell.<sup>446</sup> The other detainees then had their necks wrung in the same instant by the telephone cable, pulled by the weight of the falling bodies, which cut off their respiration.<sup>447</sup> The HVO soldiers then untied one detainee so that he could untie the corpses from the remainder of the column and then ordered him to pile them up.<sup>448</sup> The HVO soldiers distanced themselves from the column, leaving just one HVO soldier near the detainees, who was disarmed by the unbound detainee.<sup>449</sup> The detainees all managed to untie themselves and take off running.<sup>450</sup> The HVO soldiers then opened fire at the backs of the escaping detainees.<sup>451</sup> Out of the 50 detainees who made up the column, between 23 and 27 managed to escape and cross the front line, reaching the ABiH camp.<sup>452</sup>

<sup>436</sup> P 09731 under seal, p. 6; P 03906 under seal; P 09925, p. 4; Rudy Gerritsen, T(F), p. 19204; P 03909 under seal.

<sup>437</sup> Witness BT, T(F), pp. 8285 and 8290, closed session; Witness BL, T(F), pp. 5863, 5864 and 5879-5980; P 09731 under seal, p. 6; P 03906 under seal; P 09925, p. 4; P 09197.

<sup>438</sup> Witness BL, T(F), p. 5864; P 03909 under seal, p. 2; P 09197, p. 12. The Chamber notes that the written testimony of *Ibro Pilav* recounts that the events at Crni Vrh took place on 27 July 1993. Nonetheless, in view of other evidence, the Chamber is able to determine that the date of the events at Crni Vrh was 31 July 1993, not 27 July 1993.

<sup>439</sup> Witness BL, T(F), pp. 5864 and 5865; P 09197, p. 12; P 09723, p. 5.

<sup>440</sup> Witness BL, T(F), pp. 5869 and 5870; P 09197, pp. 12 and 13; P 09723, p. 5.

<sup>441</sup> Witness BL, T(F), pp. 5865-5868.

<sup>442</sup> Witness BL, T(F), p. 5867; P 09197, p. 12; P 09723, p. 5.

<sup>443</sup> Witness BL, T(F), pp. 5867 and 5883; IC 00033.

<sup>444</sup> Witness BL, T(F), p. 5870; P 09197, pp. 12 and 13; P 09723, p. 5.

<sup>445</sup> Witness BL, T(F), p. 5871; P 09197, pp. 12 and 13.

<sup>446</sup> Witness BL, T(F), pp. 5871-5873; P 09723, p. 5.

<sup>447</sup> Witness BL, T(F), pp. 5872 and 5873.

<sup>448</sup> Witness BL, T(F), pp. 5872 and 5873; P 09197, p. 12; P 09723, p. 6.

<sup>449</sup> Witness BL, T(F), pp. 5872 and 5873; P 09723, p. 6; P 09197, p. 13.

<sup>450</sup> Witness BL, T(F), pp. 5872 and 5873; P 09197, p. 13.

<sup>451</sup> Witness BL, T(F), p. 5873.

<sup>452</sup> P 03909 under seal, p. 2 and P 10030, p.7; P 04247, p. 4.

175. *Witness BL*, a survivor of the events at Crni Vrh, confirmed that 23 detainees died from shots fired by the HVO soldiers.<sup>453</sup> Other evidence lists no fewer than twenty detainees killed.<sup>454</sup> Out of the approximately 23 who were killed, the Chamber can, however, establish with certainty the deaths of 11 people, all of whom were identified by Witnesses *BL*, *Ibro Pilav* and *Behaim Šabić*, survivors of Crni Vrh and, one who was identified by *Witness CC*. The individuals concerned were: Samir Hadžić,<sup>455</sup> Bećir Kmetaš,<sup>456</sup> Ismet Pilav,<sup>457</sup> Huso (Husein) Pilav,<sup>458</sup> Hazim Pilav,<sup>459</sup> Omer Pilav,<sup>460</sup> Ismet Beri},<sup>461</sup> Smajo Ruvic,<sup>462</sup> Edin Šabić,<sup>463</sup> Emir [abi],<sup>464</sup> and Zajko Ugarak.<sup>465</sup> The Chamber thus finds that those 11 detainees died under the bullets of the HVO soldiers in Crni Vrh on 31 July 1993.

176. In the Annex to the Indictment, the Prosecution gives the names of ten other individuals alleged to have been killed that day as well.

177. In view of a report dated 2 August 1993 by Mate Zadro, the warden of the Secondary School, the Chamber is in a position to find those ten additional people were in fact in the column of the 50 detainees at Crni Vrh on 31 July 1993, and never returned to the Secondary School.<sup>466</sup> The Chamber finds further that those ten people all died, as their bodies were exhumed and buried in Prozor in 1998, that is the same year as the bodies whose deaths at Crni Vrh the Chamber has just noted.<sup>467</sup> These were Džafer Agić,<sup>468</sup> Zijad Grcić,<sup>469</sup> Ramiz Letica,<sup>470</sup> Rasim Letica,<sup>471</sup> Ibro

<sup>453</sup> Witness BL, T(F), pp. 5873 and 5874.

<sup>454</sup> P 09197, pp. 12 and 13; P 03909 under seal, p. 2 and P 10030, p.7.

<sup>455</sup> P 09731, p. 6; P 03906 under seal; P 09696, no. 14, p. 3.

<sup>456</sup> P 09723, p. 5; P 03906 under seal; P 09696, p. 3.

<sup>457</sup> Witness BL, T(F), pp. 5876 and 5878, private session; P 09197, pp. 12 and 13; P 09723, p. 5; P 09734; P 03906 under seal; P 09696, no.18, p. 4.

<sup>458</sup> Witness BL, T(F), pp. 5876 and 5878, private session; P 09723, p. 5; P 09696, no. 23, p. 4.

<sup>459</sup> Witness BL, T(F), pp. 5876 and 5878, private session; P 09197, pp. 12 and 13; P 09723, pp. 4 and 5; P 09734; P 03906 under seal, p. 4.

<sup>460</sup> P 09197, pp. 12 and 13; P 03906 under seal; P 09696, no. 21, p. 4.

<sup>461</sup> Witness BL, T(F), pp. 5876 and 5878 private session; P 09197, pp. 12 and 13; P 09734; P 03906 under seal, 2 August 1993; P 09696 no. 12, p. 3.

<sup>462</sup> P 09723, p. 5; P 03906 under seal. The Chamber observes that the name of Smajo Ruvic does not feature in the Annex to the Indictment, whereas he was part of the column of detainees and was killed at Crni Vrh on 31 July 1993 by the soldiers of the HVO.

<sup>463</sup> P 09197, pp. 4 and 5; P 03906 under seal; P 09696, p. 4.

<sup>464</sup> Witness BL, T(F), pp. 5876 and 5878 private session; P 09723, p. 5; P 09734; P 03906 under seal; P 09696, entry no. 27, p. 5.

<sup>465</sup> Witness BL, T(F), pp. 5876 and 5878, private session; P 09734; P 03906 under seal; P 09696, no. 30, p. 5.

<sup>466</sup> P 03906.

<sup>467</sup> P 09696 under seal.

<sup>468</sup> P 03906; P 09696 under seal, p. 3.

<sup>469</sup> P 03906; P 09696 under seal, p. 3.

<sup>470</sup> P 03906; P 09696 under seal, p. 3.

<sup>471</sup> P 03906; P 09696 under seal, p. 4.

Munikoza,<sup>472</sup> Enver Osmić,<sup>473</sup> Muharem Pračić,<sup>474</sup> Selim Purgić,<sup>475</sup> Mujo Šabić,<sup>476</sup> and Abdulah Trtić.<sup>477</sup>

178. Nevertheless, inasmuch as the Chamber has no more than one exhibit pertaining to the detainees, a documentary exhibit giving only the date of exhumation, that is 1998, without specifying where those people died, how they were killed or on what date, the Chamber cannot find that they did in fact all die on 31 July 1993 at Crni Vrh.

vi. Transmission of Information Concerning the Detainees' Situation at the Prozor Secondary School

179. The warden of the Secondary School reported on a daily basis to his superior in the chain of command, Luka Markešić, Commander of the SIS in the *Rama* Brigade, as well as the President of Prozor Municipality, Mijo Jozić, and alerted them as soon as he had learned of physical violence, gunshots or disappearances of detainees, inside or outside of the Secondary School.<sup>478</sup> As various reports dated July and August 1993 show, the transmission of information between the prison warden, the HVO *Rama* Brigade, and particularly the SIS within the brigade, was in working order.<sup>479</sup> The Chamber notes that on 6 August 1993, Luka Markešić, in charge of the SIS in the *Rama* Brigade, alerted Mijo Jozić, the President of Prozor Municipality, the Commander of the *Rama* Brigade, the commanders of the Military Police and the MUP in Prozor, as well as the SIS Chief in the South-East OZ, Drago Banović, to the impossibility of controlling the situation at the Secondary School.<sup>480</sup> He also stated in his report that the civilian and military authorities in Prozor were constantly kept informed about the situation of the detainees and that they needed to "consider the problem seriously" i.e. the situation of the detainees at the Secondary School.<sup>481</sup>

180. According to *Witness CC*, when he could no longer bear the suffering inflicted on the detainees, the warden of the Secondary School asked to be replaced.<sup>482</sup> The replacement took place on 13 August 1993.<sup>483</sup> On that date, on orders from Ante Pavlović, the new commander of the

<sup>472</sup> P 03906; P 09696 under seal, p. 4.

<sup>473</sup> P 03906; P 09696 under seal, p. 3.

<sup>474</sup> P 09696 under seal, p. 19.

<sup>475</sup> P 03906; P 09696 under seal, p. 4.

<sup>476</sup> P 03906; P 09696 under seal, p. 5.

<sup>477</sup> P 03906, p. 5.

<sup>478</sup> *Witness CC*, T(F), pp. 10360 and 10362-10363, closed session; P 03988, p. 2.

<sup>479</sup> P 03906; P 03948; P 03988.

<sup>480</sup> *Witness CC*, T(F), pp. 10498-10499, closed session; P 04001.

<sup>481</sup> *Witness CC*, T(F), pp. 10498-10499, closed session; P 04001.

<sup>482</sup> P 09731 under seal, p. 4.

<sup>483</sup> *Witness CC*, T(F), pp. 10478-10479, closed session; P 09731 under seal, p. 4; 2D 00268.

*Rama* Brigade,<sup>484</sup> Mate Zadro was officially replaced by Petar Baketarić, a member of the HVO Military Police, who among other tasks was given responsibility for detainee security.<sup>485</sup>

b) Detention of Muslim Men at the Unis Building

181. In 1993, the HVO command post was in the Unis Building.<sup>486</sup> In July 1993, this location also housed an HVO detention facility,<sup>487</sup> in the nuclear fallout shelter, in the basement of the building.<sup>488</sup> The door of the room was always closed and guarded from outside by a guard, who was an HVO soldier.<sup>489</sup>

182. The Chamber has only the testimony of *Nijaz Islamović*, a doctor from Prozor Municipality,<sup>490</sup> who testified that a Muslim police officer was detained at the Unis Building in April and May 1993.<sup>491</sup> In view of this one exhibit, which contains few details as to the circumstances of the detention, the Chamber does not have sufficient evidence to establish that Muslim men were detained at the Unis Building before July 1993.

183. The Chamber has likewise examined the written statement by *Kajdafa Husić*, admitted under the Rule 92 *bis* procedure in the Rules, wherein she stated that she learned that a Muslim man named Husić from Parcani was detained at the Unis Building from July until about November 1993.<sup>492</sup> Still, after reviewing this one exhibit admitted under Rule 92 *bis* of the Rules, the Chamber considers that it does not have evidence sufficient to establish that there were Muslim detainees at the Unis Building after August 1993.

184. Among the Muslim men detained in July 1993, were 20 to 30 Muslim men from Skrobućani, of all ages, including a minor 16 years of age, in civilian dress and characterised as "civilians" by *Witness BS*.<sup>493</sup> In July 1993, there was also an ailing Muslim man locked up in the nuclear fallout shelter.<sup>494</sup>

185. *Witness BS* and the group of 20 to 30 men arrested in late July 1993 were locked up in the nuclear fallout shelter at the Unis Building, where they spent three or four days in the dark before

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<sup>484</sup> P 09731 under seal, p. 4.

<sup>485</sup> P 09701, p. 5; *Witness CC*, T(F), p. 10480.

<sup>486</sup> P 09701, p. 4; P 09204 under seal, p. 31.

<sup>487</sup> Zdenko Andabak, T(F), p. 51066; *Witness BS*, T(F), p. 8220; P 09687, P 09688.

<sup>488</sup> *Witness BS*, T(F), pp. 8218-8221; *Nijaz Islamović*, T(F), pp. 6908 and 6909; P 09701, pp. 3 and 4.

<sup>489</sup> *Witness BS*, T(F), pp. 8223-8225.

<sup>490</sup> P 09701, p. 2.

<sup>491</sup> P 09701, pp. 4 and 10.

<sup>492</sup> P 09196 under seal, p. 14.

<sup>493</sup> *Witness BS*, T(F), pp. 8218-8221.

<sup>494</sup> P 09701, pp. 3 and 4.

being moved to the Prozor Secondary School.<sup>495</sup> *Witness BS* indicated that HVO soldiers – the Chamber does not have any details about their unit – came to look for detainees, so that they could interrogate and/or beat them, and that those detainees were weeping and screaming when they returned.<sup>496</sup> *Witness BS* stated that, while he was in detention, he was terrified and lay face-down in darkness in the back of the room, afraid he would be severely beaten.<sup>497</sup>

186. On 13 August 1993, Ante Pavlović, the Commander of the *Rama* Brigade, ordered that "all persons temporarily detained" at Prozor Secondary School be moved to the Unis Building, and, the "prisoners of war", to the "MUP premises".<sup>498</sup> Nonetheless, the Chamber does not have any evidence attesting to such a move to the Unis Building.

187. In view of the evidence set out above, the Chamber finds that, in July 1993, an ailing Muslim man was detained for a month and that Muslim men in civilian dress, who were characterised as "civilians" by *Witness BS*, including a 16-year-old minor and elderly people, were detained by the HVO for three to four days at the Unis Building. All were locked up, in the dark, in the nuclear fallout shelter of the Unis Building. Some were also beaten by the HVO soldiers.

188. The Chamber does not have evidence attesting to detentions in the Unis Building before and after July 1993.

#### c) Detention of Muslim Men at the Prozor Fire Station

189. The Prozor fire station was the headquarters of the 4<sup>th</sup> Company of the 2<sup>nd</sup> HVO Military Police Battalion as well as an HVO detention facility.<sup>499</sup>

190. The evidence shows that, from at least late June to late July 1993, approximately thirty Muslim men from Lug<sup>500</sup> and Lapsunj<sup>501</sup> were detained, from one<sup>502</sup> to several days<sup>503</sup> in a little room in the basement of the fire station.<sup>504</sup> They were Muslim HVO soldiers as well as members of the TO/ABiH.<sup>505</sup>

<sup>495</sup> *Witness BS*, T(F), pp. 8221, 8222, 8223 and 8224.

<sup>496</sup> *Witness BS*, T(E), p. 8222; P 09701, pp. 4 and 10.

<sup>497</sup> *Witness BS*, T(E), p. 8222; P 09701, pp. 4 and 10.

<sup>498</sup> P 04156.

<sup>499</sup> P 09922, p. 3; *Witness BL*, T(F), p. 5854; P 09683.

<sup>500</sup> P 09193, p. 2.

<sup>501</sup> P 09197, p. 11; *Witness BL* T(F), p. 5847.

<sup>502</sup> P 09197, p. 11.

<sup>503</sup> P 09193, p. 23; P 09922, p. 3; P 09700 under seal, p. 5.

<sup>504</sup> P 09197, p. 11; *Witness BL*, T(F), p. 5853.

<sup>505</sup> P 09989, p. 4; P 09925, pp. 2 and 3; *Witness BL*, T(F), pp. 5848 and 5849; P 09197, p. 11.

191. At the fire station, only the Military Police had contact with the prisoners.<sup>506</sup>

192. *Witness BL*, who was taken to the fire station on 26 June 1993 where he spent between one and two days, before being sent to work at Uzdol, and later Crni Vrh,<sup>507</sup> stated that he was not beaten, threatened or interrogated while in detention, adding that he neither saw nor heard anyone speak about any alleged victim of abuse.<sup>508</sup> However, *Witness Ibro Selimović's* written statement admitted under Rule 92 *bis* of the Rules, states that on 19 July 1993 he was taken to the fire station, where he was beaten by military police officers throughout the five or six days he was there.<sup>509</sup>

193. In view of *Ibro Selimović's* written statement only, admitted pursuant to Rule 92 *bis* of the Rules, and because of the contradictory testimony of *Witness BL*, who testified *viva voce* before the Chamber (even if his testimony does not pertain to the same period of detention), the Chamber finds it cannot establish beyond all reasonable doubt that the detainees in the Prozor fire station were subjected to abuse by military police.

194. The next day or the day after their arrival at the fire station, the group of Muslim detainees from Lapsunj – members of the TO/ABiH arrested on or about 26 June 1993<sup>510</sup> – was, with the exception of their leader, handed over by their guards, members of the Military Police, to HVO soldiers. The Chamber does not know the unit to which those soldiers who took them to Uzdol to work on the front line at Komin, near Kapela, as well as around Here and Kute, until around 9 July 1993 belonged.<sup>511</sup>

195. On or about 9 July 1993, the group was taken by HVO soldiers to Lapsunj.<sup>512</sup> The Chamber does not know to which unit those soldiers belonged. The group left Lapsunj during daylight hours, and went in the direction of Crni Vrh, for the specific purpose of digging trenches and fortifying the lines.<sup>513</sup> Sometime in July 1993, they were taken to the Prozor Secondary School.<sup>514</sup>

196. The Chamber observes that, in his written statement, *Ibro Pilav* stated that, while they were working at Crni Vrh, the detainees were "harrassed" by HVO soldiers, yet failed to clarify what such "harrassment" involved.<sup>515</sup> However, the Chamber heard *Witness BL*, who said nothing during

<sup>506</sup> *Witness BL*, T(F), p. 5854.

<sup>507</sup> *Witness BL*, T(F), pp. 5854-5857.

<sup>508</sup> *Witness BL*, T(F), p. 5910.

<sup>509</sup> P 09193, p. 23; P 09922, p. 3.

<sup>510</sup> P 09197, p. 11; *Witness BL*, T(F), p. 5853.

<sup>511</sup> *Witness BL*, T(F), pp. 5854-5856; P 09197, p. 11.

<sup>512</sup> *Witness BL*, T(F), p. 5856; P 09197, p. 12.

<sup>513</sup> *Witness BL*, T(F), pp. 5856 and 5857; P 09197, p. 11.

<sup>514</sup> *Witness BL*, T(F), pp. 5857 and 5859; P 09197, p. 12.

<sup>515</sup> P 09197, p. 12.

his testimony to the Chamber about any "harrassments" of any kind to which he or the other detainees were subjected at Crni Vrh, on or about 9 July 1993.

197. The Chamber finds that, commencing in late June and in July 1993, some Muslims, members of the HVO or of the TO/ABiH, were detained by the HVO for several days at the fire station by military police officers and were then taken out by HVO soldiers to work on the front line trenches. The Chamber cannot find that the military police officers abused the detainees of the fire station while they were in detention. The Chamber can however find that detainees from the fire station did work on the front line at Crni Vrh but does not have evidence supporting a finding that the detainees were abused during that work. Furthermore, the Chamber lacks evidence that would support a finding that Muslims were detained at the fire station before the end of June and after July 1993.

#### d) Detention of Muslim Men in the Prozor MUP Buildings

198. The Chamber will (i) first discuss the organisation, operation and number of detainees inside the Prozor MUP Buildings between July and November 1993 and then (ii) examine the treatment to which the detainees were subjected.

##### i. Organisation, Operation and Number of Detainees in the Prozor MUP Buildings

199. The Prozor MUP buildings consisted of the police station<sup>516</sup> and the former TO warehouse.<sup>517</sup> In July 1993, there were no less than fifteen Muslim detainees locked up in the dark in one of the two rooms which served as cells in the police station.<sup>518</sup> In addition to the two rooms, the police station also had an isolation cell.<sup>519</sup> Right next to the police station, stood the former TO warehouse, secured by armoured doors.<sup>520</sup> That building held detainees from at least 13 August 1993<sup>521</sup> until at least 19 November 1993.<sup>522</sup> The detainees were guarded by civilian police officers.<sup>523</sup>

200. The Chamber observes that, on 28 October 1993, Željko Šiljeg, denied to the Health Service at the Ministry of Defence, that there were any detention and isolation facilities within his area of

<sup>516</sup> Ismet Islamović, T(F), p. 6907; P 09686.

<sup>517</sup> P 08998; P 09701, p. 3; P 06536, p. 3.

<sup>518</sup> Nijaz Islamović, T(F), pp. 6905-6908; P 09701, pp. 5 and 6; Witness BQ, T(F), p. 7898; P 09716 under seal, p. 5.

<sup>519</sup> Witness BQ, T(F), p. 7933; P 09701, p. 5; P 09716 under seal, p. 5.

<sup>520</sup> P 08998; Witness CC, T(F), p. 10454, private session; P 09701, p. 3; P 06536, p. 3.

<sup>521</sup> Witness CC, T(F), pp. 10485-10487, closed session; P 04156; 2D 00271 under seal.

<sup>522</sup> P 06569, p. 1; P 09193, p. 24.



responsibility.<sup>524</sup> Yet, on that very date, there were 244 detainees in the former TO warehouse;<sup>525</sup> on 9 November 1993, there were 250,<sup>526</sup> and on 10 November 1993, 209.<sup>527</sup>

ii. Treatment of Detainees at Prozor MUP Buildings

201. In July 1993, *Nijaz Islamović*, a doctor from Prozor Municipality,<sup>528</sup> who had been called by his neighbour, a police officer, to come treat detainees at the Prozor MUP police station,<sup>529</sup> stated that he witnessed the individual known as Ibro Agić, a resident of Prozor Municipality, detained in the isolation cell at the police station.<sup>530</sup> Agić had been arrested at home by members of the HVO for having a radio station and was taken by them to the police station in July 1993, for questioning.<sup>531</sup> *Nijaz Islamović* saw that Ibro Agić's face was covered with bruises, that he had difficulty walking and who said that he was in pain. It was obvious to *Nijaz Islamović* that he had been beaten.<sup>532</sup> Ibro Agić did not, however, tell Witness *Nijaz Islamović* who beat him or when, that is whether it was during his arrest or while in detention at the Prozor MUP police station.

202. The Chamber thus cannot determine whether Ibro Agić was beaten at the police station by civilian police officers. Nonetheless, the Chamber does find that civilian police officers placed a wounded man into an isolation cell.

203. In July 1993, *Nijaz Islamović* examined 12 of the 15 prisoners detained at the police station, who were between 17 and 35 years of age, and had been violently beaten in particular by someone named Glasnovi}, an HVO soldier, while working for the HVO soldiers on the front line at Mount Bok{evica.<sup>533</sup> The 12 prisoners the doctor examined had bruises on their backs and their stomachs, broken ribs, and faces swollen and covered with blood.<sup>534</sup> Among them was Jasmin Pupo, 17 years of age.<sup>535</sup> The detainees told *Nijaz Islamović* that 15 of them had left to work at the front line and that only 12 came back to the police station.<sup>536</sup> Among the three detainees missing at the front line,

<sup>523</sup> P 09701, p. 5; Witness CC, T(F), p. 10468, closed session.

<sup>524</sup> P 06203.

<sup>525</sup> Witness CC, T(F), pp. 10485-10487, closed session; 2D 00271 under seal.

<sup>526</sup> P 06536, p. 3.

<sup>527</sup> P 06569, p. 1. The Chamber notes in this respect that the SIS *Rama* Brigade official sent a report to the SIS of the North-West OZ on 10 November 1993, informing them that 209 people were detained at the MUP.

<sup>528</sup> P 09701, p. 2.

<sup>529</sup> P 09701, p. 5.

<sup>530</sup> P 09701, p. 6.

<sup>531</sup> P 09701, p. 6.

<sup>532</sup> P 09701, p. 6.

<sup>533</sup> P 09701, pp. 5 and 6.

<sup>534</sup> P 09701, pp. 5 and 6.

<sup>535</sup> P 09701, p. 6.

<sup>536</sup> P 09701, pp. 5 and 6.

were Emin Plečić and someone named Selimović.<sup>537</sup> The 12 detainees were then moved about a week later to the Secondary School.<sup>538</sup>

204. The Chamber observes that, as a doctor, *Nijaz Islamović* not only saw the injured bodies of the detainees but also remained in physical proximity to them while treating them. This confers on the detainees' statements, as recounted by the witness, great probative value, sufficient to establish beyond any reasonable doubt that the abuse to which the detainees were subjected at the Prozor MUP police station, which *Nijaz Islamović* observed, took place in July 1993 while they were working and that the abuse was committed by HVO soldiers.

205. Moreover, the Chamber notes that, according to *Witness CC*, there were no ill or wounded people in the former TO warehouse in October 1993.<sup>539</sup> This notwithstanding, the Chamber notes an order by Ilija Fofi}, Commander of the 4<sup>th</sup> Company of the 6<sup>th</sup> Battalion (formerly 2<sup>nd</sup> Battalion) of the Military Police in Prozor, dated 16 October 1993 and issued "pursuant to the Order [from Valentin Ćorić on 15 October 1993]", to move the seriously wounded people at the "detention facility in Prozor" to another location prior to the arrival of the ICRC.<sup>540</sup> *Witness CC* confirmed that the "detention facility in Prozor" mentioned in Ilija Fofić's order was the former TO warehouse.<sup>541</sup> However, the Chamber observes that Valentin }ori}'s written order of 15 October 1993, on which Ilija Fofić's order was based, merely allowed the ICRC to enter the detention facility, but did not specify that the detainees were to be moved.<sup>542</sup>

206. The Chamber notes that the ICRC did indeed visit the detainees at the former TO warehouse on 17 October 1993, and that it registered detainees at that time.<sup>543</sup> The Chamber notes that six of them – among them two wounded who were at Makljen that day and did not return to the Prozor MUP buildings but were sent somewhere in the Gornji Vakuf area (the Chamber has no further information on this point); they were therefore not registered by the ICRC.<sup>544</sup> Still, the Chamber cannot, absent additional supporting evidence, determine the circumstances and causes of the wounds of the two wounded detainees who were at Makljen and were moved to Gornji Vakuf on the day of the ICRC visit. Accordingly, the Chamber cannot find that in October 1993 wounded detainees were in the former TO warehouse and were hidden from the ICRC.

<sup>537</sup> P 09701, p. 5; P 09696 under seal, no. 35, p. 6.

<sup>538</sup> P 09701, p. 5.

<sup>539</sup> *Witness CC*, T(F), p. 10468, closed session.

<sup>540</sup> P 09737.

<sup>541</sup> *Witness CC*, T(F), p. 10469, closed session.

<sup>542</sup> *Witness CC*, T(F), pp. 10468 and 10479, closed session; P 09737; 5D 02008.

<sup>543</sup> *Witness CC*, T(F), pp. 10379 and 10380, private session; P 09731 under seal, pp. 3 and 4; P 05333, p. 58.

<sup>544</sup> P 05333, p. 58.

207. The Chamber observes moreover, that according to an ECMM daily report, dated 9 November 1993, representatives of the ECMM visited a detention facility in Prozor "in the basement of a police station", where there were 250 prisoners.<sup>545</sup> In the opinion of the Chamber, and taking into account the evidence it has,<sup>546</sup> this was probably the former TO warehouse. According to the report, the detainees told the ECMM representatives, among other things, that they were given only pork to eat, and that some of them were occasionally dispatched to the front line to dig trenches.<sup>547</sup> The report mentions, moreover, that six of the detainees worked in a bakery and 20 worked in a "motor pool".<sup>548</sup>

208. The Chamber also notes that, according to the report by Luka Markeši}, an SIS official in the *Rama* Brigade, dated 10 November 1993, the 209 detainees from the "MUP prison" were "engaged in the work units, when required".<sup>549</sup>

209. In view of the evidence set out above, the Chamber finds that in July 1993, the detainees at the Prozor MUP police station were subjected to abuse, by HVO soldiers, while they were digging trenches on the front line and that one wounded detainee was locked into the isolation cell at the police station.

210. The Chamber also finds that, in October and November 1993, the detainees from the former TO warehouse also did work including trench-digging. Despite this, given only the ECMM report recounting the statements by the detainees, the Chamber cannot assign sufficient weight to that evidence on this point<sup>550</sup> in order to find that the detainees were only given pork to eat. That allegation is uncorroborated by any other exhibit admitted into evidence.

211. Lastly, the Chamber notes that although it has evidence about the detention of Muslims in the Prozor MUP buildings from July to November 1993, the Chamber cannot find, based on the evidence it has,<sup>551</sup> that there were detainees there prior to that period as well.

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<sup>545</sup> P 06536, p. 3.

<sup>546</sup> P 06569, p. 1; P 08998.

<sup>547</sup> P 06536, p. 3.

<sup>548</sup> P 06536, p. 3.

<sup>549</sup> P 06569, p. 1.

<sup>550</sup> See "Documents Commented on and Tendered through a Witness in Court and the Documents Admitted By Way of Written Motions" in Chamber's discussion of the rules of evidence.

<sup>551</sup> In fact, the Chamber notes that, for the period prior to summer 1993, it has only the written statement of Senad Zahirović, admitted pursuant to Rule 92 *bis* of the Rules (P 10106 and P10107), recounting that he was detained in the former TO warehouse with other Muslims from Gornji Vakuf between February 1993 and 10 April 1993, that is, in a period essentially falling outside the scope of the Indictment. The Chamber also has the written statement of Dževad Bećirović, recounting, *inter alia* his arrest, the detention of men from the village of Gorica in the MUP building in Prozor from 19 April 1993 until May 1993 and the abuse he experienced at the MUP building (*see* P 09990, pp. 2-4; P 09781, p. 2). Those exhibits, admitted pursuant to Rule 92 *bis* of the Rules and not corroborated in respect of the time

## e) Detention of Muslim Men at the Tech School

212. Commencing no later than 19 August 1993 and continuing until at least 9 September 1993, the Tech School, roughly 200 meters from the HVO headquarters,<sup>552</sup> was a detention facility for Muslim men, who were guarded in classrooms by HVO soldiers.<sup>553</sup> The official in charge of the detention facility wore an HVO uniform.<sup>554</sup> The Chamber has no further information about how that detention facility was organised or guarded.

213. Two ECMM observers, Witnesses *Peter Hauenstein* and *Rudy Gerritsen*, went on 19 August 1993 to the Tech School, with the authorisation of Željko Šiljeg, whom they met that day.<sup>555</sup>

214. Further to an order dated 14 August 1993 from Milivoj Petković, sent to Željko Šiljeg, Commander of the North-West OZ,<sup>556</sup> authorising him to grant the request from the "new Chief of the European Community [delegation]" to be shown "the detainees [but ensuring that they be made] presentable" in Prozor,<sup>557</sup> the Chamber is of the opinion that Željko Šiljeg's authorisation for the members of the ECMM to visit the detainees at the Tech School was the result of that order.

215. According to *Rudy Gerritsen*, Željko Šiljeg told the members of the ECMM on 19 August 1993 that "the [Muslim detainees] were not POW's but men between 16 and 60 [years of age] [who] were being kept for their own safety [in order to control them]".<sup>558</sup>

216. Witnesses *Rudy Gerritsen* and *Peter Hauenstein* were thus able to meet the detainees at the Tech School on 19 August 1993 without Željko Šiljeg being present.<sup>559</sup> They observed that 167 Muslims between the ages of 16 and 60 whom they considered "civilians" were being held against their will and "used to perform forced labour".<sup>560</sup> On 9 September 1993, when the ECMM visited a second time, 228 Muslims were being detained, and still characterized as "civilians" by Witness *Rudy Gerritsen*.<sup>561</sup>

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of detention, do not suffice to establish that before July 1993 there were Muslim detainees at the MUP who were mistreated.

<sup>552</sup> P 10030, p. 9; *Rudy Gerritsen*, T(F), pp. 19205, 19206 and 19231; *Peter Hauenstein*, T(F), p. 7634; P 04307 under seal, p. 2.

<sup>553</sup> *Peter Hauenstein*, T(F), pp. 7634-7637, private session; P 10030, p. 9; *Rudy Gerritsen*, T(F), pp. 19205-19207, 19231; P 04307 under seal, p. 2; *Philip Watkins*, T(F), pp. 19127 and 19128; P 04363 under seal, p. 2.

<sup>554</sup> *Peter Hauenstein*, T(F), p. 7638, private session.

<sup>555</sup> P 10030, p. 9; *Rudy Gerritsen*, T(F), pp. 19205 and 19206; P 04307 under seal, p. 2.

<sup>556</sup> *Peter Hauenstein*, T(F), pp. 7644 and 7645.

<sup>557</sup> P 04188.

<sup>558</sup> P 10030, p. 9; P 04307 under seal, p. 2; *Rudy Gerritsen*, T(F), pp. 19205 and 19207.

<sup>559</sup> P 10030, p. 9; P 04184, pp. 19 and 20.

<sup>560</sup> *Rudy Gerritsen*, T(F), pp. 19205-19207; P 10030, p. 9; *Peter Hauenstein*, T(F), pp. 7634-7637, private session; *Philip Watkins*, T(F), pp. 19127 and 19128; P 04307 under seal, p. 2; P 04363 under seal, p. 2.

<sup>561</sup> *Rudy Gerritsen*, T(F), p. 19215; P 09661, p. 1.

217. During the initial visit, detainees told *Peter Hauenstein* and *Rudy Gerritsen* that severe beatings had taken place at the Tech School but that the abuse had diminished with the arrival of the "new [prison] commander" on or about 14 August 1993.<sup>562</sup> The Chamber, however, does not know whether this referred to the warden of the detention facility, or, the new *Rama* Brigade Commander, Ante Pavlović. Moreover, the Chamber notes that neither the witness narratives nor the ECMM reports drafted at the time relevant to those events indicate that the ECMM representatives also observed that the detainees were being subjected to abuse.

218. The detainees also told them, during their initial visit on 19 August 1993, that they were taken outside the facility every day – without specifying by whom – to work on digging trenches alongside the road between Gornji Vakuf and Prozor or along the front line near Gornji Vakuf in the area near Trnova~a.<sup>563</sup> During their second visit, on 9 September 1993, the detainees also told them that they were digging trenches every day in the area around Trnova~a.<sup>564</sup>

219. *Peter Hauenstein* claimed to have seen, around 19 August 1993, men who were guarded by armed HVO soldiers working alongside the road to Gornji Vakuf and that he was convinced they were detainees from the Tech School.<sup>565</sup>

220. In view of the evidence, the Chamber finds that the HVO was holding Muslim men, whom *Peter Hauenstein* and *Rudy Gerritsen* characterised as "civilians", against their will at the Tech School between at least 19 August and 9 September 1993 and that they were regularly taken outside the detention facility to perform labour.

221. Nonetheless, given only the exhibits tendered by the Prosecution, namely two testimonies from members of the ECMM who were not eyewitnesses to the events and who reported the rather vague statements by the detainees concerning the abuse alleged to have taken place at the Tech School and who the perpetrators were, the Chamber cannot support a finding that the detainees were in actual fact subjected to abuse at the Tech School.

222. Nor can the Chamber support a finding that Muslims were detained at the Tech School before 19 August 1993 or after 9 September 1993.

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<sup>562</sup> P 10030, p. 9; P 04307 under seal, p. 2.

<sup>563</sup> Peter Hauenstein, T(F), pp. 7634 and 7635, 7638, private session; P 04363, p. 2.

<sup>564</sup> Rudy Gerritsen, T(F), p. 19215; P 09661, p. 1.

<sup>565</sup> Peter Hauenstein, T(F), pp. 7634 and 7635, 7638, private session.

3. Arrests, Detention and Removal of Women, Children and Elderly People from Prozor Municipality in July and August 1993

223. The Prosecution alleges in paragraph 57 of the Indictment that, during July and August 1993, the Herceg-Bosna/HVO forces collected and confined (in houses under HVO control) several thousand Muslim women, children and elderly people in or about the villages of Lapsunj and Duge and in a part of Prozor town called Podgrađe. The people detained were allegedly forced to live in overcrowded, deplorable conditions. Herceg-Bosna/HVO forces frequently robbed, abused, humiliated and looted their property. Members of the Herceg-Bosna/HVO forces often raped Bosnian Muslim women. The Prosecution also alleges in paragraph 58 of the Indictment that, in late August 1993, Herceg-Bosna/HVO forces gathered the several thousand Bosnian Muslim civilians kept in the three villages, loaded them onto trucks and took them to the village of Kučani, near the front line, where they were forced to walk in the direction of ABiH-held territory. As the Muslim civilians walked toward ABiH territory, the HVO allegedly fired shots at them, resulting in several being injured.

224. Once it has analyzed (a) the arrests and the placement of the women, children and elderly people in the houses in Podgrađe, Lapsunj and Duge, the Chamber will (b) examine the common elements pertaining to how the people were treated while in detention at the three locations. The Chamber will then specifically analyse (c) the conditions of detention and the treatment of the Muslims, the thefts, forced sexual relations and sexual attacks in the village of (d) Lapsunj and in the village of (e) Duge. Finally, the Chamber will (f) analyse how, in late August 1993, the women, children and elderly people detained in Podgrađe, Lapsunj and Duge were moved.

a) Arrests and Placement of Women, Children and Elderly People in Houses in Podgrađe, Lapsunj and Duge

225. In late July and early August 1993, after first arresting the Muslim men, the HVO rounded up, moved and held a number of women – including pregnant women – children and elderly people, all of whom were Muslim, in Podgrađe (a neighbourhood located along the edge of Prozor) and in the villages of Lapsunj and Duge.<sup>566</sup>

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<sup>566</sup> Witness BR, T(F), pp. 8103-8105, T(E), p. 8106, private session, and T(F), pp. 8113-8115; P 09704; Witness BS, T(F), pp. 8215, 8216, 8219 and 8220, closed session; Witness BK, T(F), pp. 5497, 5499, 5500 and 5527; P 09700 under seal, p. 2; P 09701, pp. 7 and 8; Witness BT, T(F), p. 8298, closed session; P 09714 under seal, p. 4; P 09196 under seal, p. 13; P 09717 under seal, p. 3; Peter Hauenstein, T(F), pp. 7568-7570, private session; P 10030, p.10; Rudy Gerritsen, T(F), pp. 19229 and 19230, 19373; P 04307 under seal, p. 2; P 04363 under seal, p. 2; P 09619, p. 1; P 09731 under seal, p. 3.

226. They were Muslim inhabitants of Prozor<sup>567</sup> and villages in the vicinity of Prozor,<sup>568</sup> such as Parcani, Klek, Skrobu}ani, Lapsunj, Varvara, Ruznavi} and Kova~evo Polje.<sup>569</sup>

227. On or about 16 August 1993, around 5,000 women, children and elderly people were held in Podgrađe and in the villages of Lapsunj and Duge.<sup>570</sup> Mijo Jozić, President of Prozor Municipality, told *Rudy Gerritsen* that the Muslims had been moved to those three locations for their own safety.<sup>571</sup> Nevertheless, the Chamber observes, after seeing a report by Luka Markeši}, in charge of the *Rama* Brigade SIS, addressed to the SIS general services in Mostar and dated 14 August 1993, that the removal of the Muslim population to those three locations was related to the arrival *en masse* in Prozor Municipality of Croats from Konjic, Bugojno and a section of Gornji Vakuf.<sup>572</sup> Moreover, Mijo Jozić himself told *Rudy Gerritsen* on 16 August 1993, that the most important problem facing them was the massive influx of Croat "refugees" and that they needed to "make more room for [the Croats]".<sup>573</sup>

228. For the HVO authorities in Prozor, this in fact amounted to taking the properties of the Muslims who had been moved to Podgrađe, Lapsunj and Duge so that they could house the newly arrived Croats there.<sup>574</sup>

229. Some of the testimonies add that the arrests of the Muslim women, children and elderly people were the work of "HVO soldiers" or "HVO military personnel".<sup>575</sup>

230. *Witness BP* said that, on 2 August 1993, the women, children and elderly people from the town of Kovačevo Polje, in Prozor Municipality, were arrested and taken away by the Military Police and HVO soldiers to Lapsunj.<sup>576</sup>

231. The report by Luka Markeši}, in charge of the *Rama* Brigade SIS, sent to the SIS administration on 14 August 1993, states that from his point of view it was the Military Police, under the command of Ilija Franji} of the 4<sup>th</sup> Company of the 6<sup>th</sup> Battalion (formerly the 2<sup>nd</sup>

<sup>567</sup> Witness BR, T(F), pp. 8101, 8103 and 8105, T(E), p. 8106, private session; P 09722, p. 2; P 09196 under seal, p. 13.

<sup>568</sup> P 09196 under seal, p. 13; P 09731 under seal, p. 3; P 10030, p. 8; Rudy Gerritsen, T(F), pp. 19221-19223 and 19372; P 09619.

<sup>569</sup> Witness BK, T(F), p. 5497; Witness BS, T(F), p. 8220, closed session; P 09196 under seal, p. 13; Witness BR, T(F), pp. 8105 and 8106, private session; P 09700 under seal, pp. 2 and 3; Witness BO, T(F), p. 7782, closed session.

<sup>570</sup> P 09701, pp. 7 and 8; P 10030, p. 10; Rudy Gerritsen, T(F), pp. 19226 and 19228; P 09627.

<sup>571</sup> P 10030, p. 8; Rudy Gerritsen, T(F), pp. 19226 and 19228; P 09627.

<sup>572</sup> P 04177, p. 2.

<sup>573</sup> Rudy Gerritsen, T(F), p. 19226; P 10030, p. 8; P 09627.

<sup>574</sup> P 04177, p. 2; P 09714 under seal, p. 4.

<sup>575</sup> Witness BR, T(F), p. 8103, private session; P 09700 under seal, p. 2; P 09717 under seal, pp. 2 and 3; P 09196, p. 13.

<sup>576</sup> P 09715 under seal, p. 2.

Battalion), who rounded up the entire Muslim population of Prozor Municipality into the three "collection centres" in Podgrađe, Duge and Lapsunj.<sup>577</sup>

232. In view of all the evidence, the Chamber considers that HVO soldiers – the Chamber does not know to which unit they belonged – as well as some military police officers under Iljia Franji}’s command, arrested Muslim women, children and elderly people from Prozor Municipality in late July and early August 1993 and detained them in Podgrađe and the villages of Lapsunj and Duge. The Chamber is persuaded that the objective of putting the people in detention was to accommodate the Croats who were arriving in the municipality.

b) Treatment of Women, Children and Elderly People in Podgrađe, Lapsunj and Duge

233. The Chamber observes that between July and August 1993, the Muslim population placed in Podgrađe, Lapsunj and Duge, three locations in the *Rama* Brigade’s area of responsibility,<sup>578</sup> were victims of abuse, thefts, verbal and physical attacks, including sexual attacks, committed by HVO soldiers of the *Rama* Brigade and some military police officers and that the HVO political and military authorities in Prozor as well as the SIS in the Department of Defence knew this was happening.<sup>579</sup>

234. The Chamber heard *Witness BR*<sup>580</sup> testify that in July and August 1993 about 30 Muslim women from villages around Prozor (Varvara, Klek, Lapsunj, Duge and Družinovići) and Prozor town were raped – sometimes repeatedly<sup>581</sup> – by HVO soldiers including Mario Doli} *alias* "Dole" and Zoran ^ali} *alias* "Đoka".<sup>582</sup> Mario Doli} was also cited by *Witness BP*,<sup>583</sup> *Rudy Gerritsen*<sup>584</sup> as well as *Nijaz Islamović*<sup>585</sup> as one of the perpetrators of the rapes. Mario Doli} was about 20 years of age in 1993 and wore a camouflage uniform.<sup>586</sup> Zoran ^ali}, *alias* "Đoka" was likewise identified by *Witness BP* as being among the perpetrators of the rapes.<sup>587</sup> He came from the village of Čališ, was roughly 23 years of age in 1993 and also wore a camouflage uniform.<sup>588</sup> He was a “former

<sup>577</sup> P 04177, p. 2; P 10030, p. 10; Rudy Gerritsen, T(F), pp. 19229 and 19230, 19373; P 04307 under seal, p. 2.

<sup>578</sup> Nijaz Islamović, T(F), pp. 6909 and 6911; P 04193.

<sup>579</sup> P 04177, p. 2; 3D 00422, pp. 1 and 2.

<sup>580</sup> *Witness BR* worked at the State Commission of Bugojno Municipality and was responsible for collecting information or facts about war crimes, *Witness BR*, T(F), p. 8119, private session, and pp. 8131-8133.

<sup>581</sup> *Witness BR*, T(F), pp. 8115-8117, private session. *See also* the testimony of Nijaz Islamović who said that he had learned of at least 20 women who were raped by the HVO soldiers: P 09701, pp. 8-10.

<sup>582</sup> *Witness BR*, T(F), pp. 8119, 8120, private session, and T(F), pp. 8137 and 8138. P 09715 under seal, p. 3; 3D 00422, p. 1.

<sup>583</sup> P 09715 under seal, p. 3.

<sup>584</sup> P 10030, p. 10.

<sup>585</sup> P 09701, p. 9.

<sup>586</sup> P 09715 under seal, p. 3. *Witness BP* said that in 1996 he saw Mario Doli} or Dole, who then had only one arm.

<sup>587</sup> P 09715 under seal, p. 3.

<sup>588</sup> P 09715 under seal, p. 3.



Brigade policeman”.<sup>589</sup> The Chamber does not have any other information concerning the so-called “Brigade police”.

235. The Chamber observes that two HVO reports dated 13 and 14 of August 1993, one issued directly by the Department of Defence, the other by the SIS assigned to the *Rama* Brigade and received at the Mostar SIS administration at the Department of Defence, report thefts, mistreatment, sexual assaults, forced prostitution and rape, committed by members of the *Rama* Brigade, local soldiers and members of the military police in Podgrađe, Lapsunj and Duge,<sup>590</sup> whereas those villages had been placed under the authority of the *Rama* Brigade.<sup>591</sup> In his report of 14 August 1993, Luka Markešić, in charge of the SIS assigned to the *Rama* Brigade, recounted the abuse against Muslim women and girls in Podgrađe, Lapsunj and Duge:

"(...) Every day, women and girls are taken out from the collection centres of Podgrađe, Lapsunj [*sic*] and Duge, which are not secure, and taken to houses where they are raped, abused and humiliated. For example, naked women have to serve them, they are beaten until they agree to have sex, and some have their hair shaven off.

Men also go to Muslim houses and daughters are stripped naked in front of their fathers and vice versa.

All of this has been happening systematically for a considerable time now, even though we informed the HVO /Croatian Defence Council/ President Mijo JOZIĆ, the Brigade Commander and the commanders of the military and civilian police.

(...) Such things are mostly done by local soldiers and some of the military police.”<sup>592</sup>

236. The Chamber notes moreover, that, as attested to in the SIS report dated 14 August 1993, on several occasions prominent figures, like Željko Šiljeg, Commander of the North-West OZ, and Mijo Jozić, the President of Prozor Municipality, were alerted *inter alia* by the ECMM representatives to those acts of violence, including rapes, perpetrated against the Muslim population being held in Prozor Municipality.<sup>593</sup>

237. Lastly, the Chamber also notes that, as stated in a report dated 21 August 1993 by Petar Kalinić, Assistant Commander of the IPD in the North-West OZ, addressed to Veso Vegar, Assistant Head of the Department of Defence responsible for the IPD sector, as well as to the Main Staff, the “Prozor police” did nothing to protect the Muslim population of Prozor Municipality and

<sup>589</sup> 3D 00422, p. 1.

<sup>590</sup> P 04161 under seal, p. 2; P 04177, p. 2.

<sup>591</sup> P 04161 under seal.

<sup>592</sup> P 04177.

<sup>593</sup> Rudy Gerritsen, T(F), pp. 19223, 19224 and 19226.

its members personally engaged in reprehensible acts characterized as "ugly" in the report.<sup>594</sup> The Chamber, however, does not have any additional information about the "Prozor police" referred to in the report.

c) Detention in the Podgrađe Neighbourhood, Treatment of Muslims, Thefts, Forced Sexual Relations and Sexual Attacks

i. Conditions of Confinement of the Muslims Collected in Podgrađe

238. There was only one road for entering and leaving Podgrađe, a neighbourhood of Prozor,<sup>595</sup> controlled by members of the HVO with a barrier.<sup>596</sup> The Chamber does not have information concerning the position of those HVO members in the hierarchy.

239. In late July and early August 1993, women, children and elderly people arrived in Podgrađe by truck under the escort of HVO members.<sup>597</sup> *Witness BS* stated that some underaged, ailing and elderly men, previously detained at the Secondary School for several weeks and then released around the middle of August, had taken refuge in Podgrađe.<sup>598</sup>

240. From about 19 August 1993 until 28 August 1993, at least 1,760 Muslims were being held in Podgrađe,<sup>599</sup> who were collected into about 100 houses.<sup>600</sup>

241. *Peter Hauenstein*, who visited Podgrađe on 19 August 1993, said that the Muslims were guarded by the HVO Military Police.<sup>601</sup> Although the Military Police were indeed present within the neighbourhood, the evidence shows that the houses themselves were not under guard and that there was some freedom of movement, with restrictions.<sup>602</sup>

242. With the exception of Muslims going to seek food at the Prozor distribution centre – probably one person per house<sup>603</sup> – as well as *Witness BO*, who said he went to Lapsunj for one day in late August 1993, accompanied by a child and another woman,<sup>604</sup> most of the Muslims did not

<sup>594</sup> P 04399, p. 3.

<sup>595</sup> P 09731 under seal, p. 3.

<sup>596</sup> P 10030, p.10.

<sup>597</sup> P 09700 under seal, p. 2; *Witness BR*, T(F), pp. 8103-8105, T(E), p. 8106, private session; *Witness BS*, T(F), p. 8220, closed session; *Witness BO*, T(F), p. 7787; P 09717 under seal, p. 3; P 09722, p. 2; P 09196 under seal, p. 4.

<sup>598</sup> *Witness BS*, T(F), pp. 8227, 8232-8235, closed session.

<sup>599</sup> P 10030, p.10; *Rudy Gerritsen*, T(F), pp. 19229 and 19230, 19234; P 09627; P 04307 under seal, p. 2; P 04363 under seal, p. 2; P 09704. The Chamber also notes that *Witness BK* stated that there were about 6,000 of them, *see* *Witness BK*, T(F), pp. 5497, 5500, 5527.

<sup>600</sup> *Peter Hauenstein*, T(F), p. 7629, private session; P 04307 under seal, p. 2; P 09621, p. 1; P 04363, p. 2.

<sup>601</sup> *Peter Hauenstein*, T(F), pp. 7605, 7606, 7631, 7624, 7625, private session; P 09621, p. 1; P 04598 under seal, p. 2.

<sup>602</sup> P 09700 under seal, pp. 2 and 3; P 09196, p. 13; P 09722, p. 2; P 10030, p.10; P 04307 under seal, p. 2.

<sup>603</sup> P 09196 under seal, p. 13.

<sup>604</sup> P 09717 under seal, p. 3; P 09196 under seal, p. 13; *Witness BR*, T(F), pp. 8107 and 8108, private session.

leave Podgrađe.<sup>605</sup> The Muslim men were terrified by the Military Police presence.<sup>606</sup> The women were likewise afraid of stepping outside the houses and being “raped” by HVO soldiers, who entered Podgrađe freely,<sup>607</sup> whereas others, afraid of being “raped” by the HVO soldiers, left the houses at night to go hide in the woods around Podgrađe.<sup>608</sup>

243. *Peter Hauenstein* added that the Muslims in Podgrađe and more broadly in Prozor lived in fear because of the Military Police presence.<sup>609</sup>

244. The houses held 20 to 70 women, children and elderly people.<sup>610</sup> Some houses held more than 80 people.<sup>611</sup> The Muslims had to sleep on the ground due to the lack of space.<sup>612</sup>

245. Although the Muslims of Podgrađe informed *Rudy Gerritsen* during his 19 August 1993 visit that they did not have enough food and that the food they did have was mostly flour,<sup>613</sup> he nonetheless observed in a report that the Muslims of Podgrađe were supplied with food by a humanitarian organisation at a distribution centre,<sup>614</sup> further concluding in his report that the Muslims were receiving adequate quantities of food.<sup>615</sup>

246. The Chamber notes moreover, that several witnesses who said they were held in Podgrađe in July and August 1993 said nothing about not getting enough food or about food consisting solely of flour.<sup>616</sup>

247. The Chamber considers, in view of all the evidence that the Muslims in Podgrađe did receive enough food. Absent any additional supporting evidence, however, it cannot issue an opinion about the quality of the food provided.

248. Moreover, the Chamber notes that, in the houses in Podgrađe, there was access to water, toilets and medical services of two Muslim doctors.<sup>617</sup>

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<sup>605</sup> Rudy Gerritsen, T(F), p. 19233; P 10030, p. 10; P 04307 under seal, p. 2; Peter Hauenstein, T(F), pp. 7605 and 7506; P 09621, p. 1; P 09196 under seal, p. 13; Witness BR, T(F), pp. 8107 and 8108, private session.

<sup>606</sup> Rudy Gerritsen, T(F), p. 19233; P 10030, p. 10; P 04307 under seal, p. 2; Peter Hauenstein, T(F), pp. 7605 and 7506; P 09621, p. 1; P 09196, p. 13.

<sup>607</sup> Witness BS, T(F), pp. 8232-8234, closed session; P 09196 under seal, p. 13; P 04177.

<sup>608</sup> Witness BR, T(F), pp. 8107 and 8108, private session; P 09722, p. 4; P 04307 under seal, p. 2.

<sup>609</sup> Peter Hauenstein, T(F), pp. 7605 and 7506; P 09621, p. 1.

<sup>610</sup> P 10030, p. 10; Rudy Gerritsen, T(F), pp. 19229 and 19230, 19234; P 04363 under seal, p. 2; P 04307 under seal, p. 2; Peter Hauenstein, T(F), p. 7633; P 04307 under seal, p. 2; P 09619, p. 2; P 09722, p. 2; P 09196 under seal, p. 13.

<sup>611</sup> P 10030, p. 8; Rudy Gerritsen, T(F), pp. 19221-19223, 19372; P 09700 under seal, p. 2; Witness BK, T(F), p. 5496.

<sup>612</sup> Nijaz Islamović, T(F), p. 6918; P 09701, p. 8; P 09196 under seal, p. 13.

<sup>613</sup> P 10030, p.10; Rudy Gerritsen, T(F), pp. 19229 and 19230; P 04307 under seal, p. 2.

<sup>614</sup> P 09196 under seal, p. 13; P 04307 under seal, p. 2.

<sup>615</sup> P 04307 under seal, p. 2.

<sup>616</sup> Specifically *Witnesses BK, BN, BO, BR* and *BS*.

249. In view of the evidence, and particularly the evidence given about overcrowding, the Chamber finds that the conditions in which the Muslims of Podgrađe were held in late July and late August were very harsh.

ii. Treatment of Muslims Collected in Podgrađe, Thefts, Forced Sexual Relations and Sexual Attacks

250. The Chamber recalls that two HVO reports dated 13 and 14 August 1993, tell of “thefts”, “abuse”, “humiliating acts”, “brutality”, “sexual assault”, “forced prostitution” and “rapes”, committed by “members of the *Rama* Brigade”, “local soldiers and some of the military police”, and in Podgrađe specifically.<sup>618</sup>

251. Some of the witnesses stated that certain HVO soldiers, who came and went as they pleased in Podgrađe,<sup>619</sup> especially Mario Dolić *alias* "Dole", regularly came to extort things from the Muslims, robbing them of their property, particularly their money and jewels.<sup>620</sup>

252. The Chamber has received numerous exhibits and has *inter alia* heard several witnesses testifying to repeated daily sexual attacks,<sup>621</sup> particularly rapes by HVO soldiers and military police officers of the women and girls being held in Podgrađe.<sup>622</sup> The Chamber heard *Witness BK* testify that, on a regular basis, HVO soldiers, who were drunk most of the time, would come regularly at night, take the women outside and, take them away to rape them at the Prozor fire station.<sup>623</sup> *Amira Hadžibegović* likewise testified that two HVO soldiers came into the house where she was being held and that one of them, armed with a rifle and a knife, attempted to have penetrating oral sex with her while making death threats.<sup>624</sup> *Nijaz Islamović*, a doctor from Prozor Municipality,<sup>625</sup> specified that in August 1993, Mario Dolić *alias* "Dole", a member of the HVO, forced a woman in Podgrađe to undress under the threat of a weapon.<sup>626</sup> *Witness BR* said that Mario Dolić was among those perpetrating the rapes.<sup>627</sup> In view of the evidence, the Chamber understands, on the basis of

<sup>617</sup> P 09196 under seal, p. 13.

<sup>618</sup> P 04161; P 04177.

<sup>619</sup> P 09196 under seal, p. 13; P 09722, p. 2; P 09700 under seal, p. 2; *Witness BS*, T(F), pp. 8232-8234, closed session.

<sup>620</sup> P 09701, p. 9; P 09700 under seal, p. 2.

<sup>621</sup> P 04177, p. 2.

<sup>622</sup> *Witness BS*, T(F), pp. 8232-8234, closed session; P 09700 under seal, p. 2; *Witness BR*, T(F), pp. 8106 and 8107, private session; P 09196, p. 13; *Witness BK*, T(F), pp. 5497-5799, closed session; P 10030, p. 10; *Rudy Gerritsen*, T(F), pp. 19229 and 19230; P 04307 under seal, p. 2; P 04363 under seal, p. 2; P 04026 under seal, p. 2; P 09734 under seal, p. 5; *Peter Hauenstein*, T(F), pp. 7604, 7605, 7638, 7639, private session; P 09621, p. 1.

<sup>623</sup> *Witness BK*, T(F), pp. 5497-5499, 5519 and 5520.

<sup>624</sup> P 09722, p. 3.

<sup>625</sup> P 09701, p. 2.

<sup>626</sup> P 09701, p. 9.

<sup>627</sup> *Witness BR*, T(F), p. 8119 and 8120, private session.

the alleged facts and the generally accepted meaning of the word “rape”, that the victims and witnesses use that word to refer to a sexual relation with non-consensual penetration.

253. The Chamber finds that in August 1993, members of the HVO committed thefts of property belonging to Muslims being held in Podgrađe and that they committed attacks against them. The Chamber also finds that in August 1993, the members of the HVO forced Muslim women and girls to have sexual relations under the threat of weapons and subjected them to sexual abuse.

d) Detention in the Village of Lapsunj, Treatment of Muslims, Thefts, Forced Sexual Relations and Sexual Attacks

i. Conditions of Confinement of the Muslims Collected in the Village of Lapsunj

254. In late July 1993 and August 1993, women, children and elderly people from the villages surrounding Prozor, particularly Kovačevo Polje, were arrested and taken to Lapsunj by military police officers and HVO soldiers.<sup>628</sup> Witness *BP*, who came from the village of Kovačevo Polje,<sup>629</sup> was detained in a house in Lapsunj with 11 other people and their respective children, from 2 August 1993 to 12 August 1993.<sup>630</sup>

255. The Chamber notes that, one day in August 1993, a member of the HVO civilian police took two Muslim doctors, including Witness *Nijaz Islamović*, to examine the Muslims in Lapsunj.<sup>631</sup> The civilian police officer also brought medicine.<sup>632</sup>

256. *Nijaz Islamović* testified that in those houses were elderly people and small children and that the sanitary conditions there were atrocious.<sup>633</sup> The Muslims lived crowded together, 20 to 30 to a house, and slept on the floor.<sup>634</sup> Running water, which had been cut off previously, had not been restored, and the Muslims depended on the HVO – the Chamber does not know specifically on whom – to bring them water.<sup>635</sup> There was no soap for washing and they had contracted lice as well as skin problems.<sup>636</sup> Due to the lack of water, ten days after he brought medication, that same

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<sup>628</sup> P 09715 under seal, p. 2; P 09700 under seal, p. 2.

<sup>629</sup> P 09715 under seal, p. 2.

<sup>630</sup> P 09715 under seal, p. 3.

<sup>631</sup> P 09701, p. 7.

<sup>632</sup> P 09701, p. 7.

<sup>633</sup> *Nijaz Islamović*, T(F), p. 6918; P 09701, p. 8.

<sup>634</sup> *Nijaz Islamović*, T(F), p. 6918; P 09701, p. 8.

<sup>635</sup> *Nijaz Islamović*, T(F), p. 6918; P 09701, p. 8.

<sup>636</sup> *Nijaz Islamović*, T(F), p. 6918; P 09701, p. 8.

civilian police officer took several Muslims to Borovnica.<sup>637</sup> However, the Chamber did not receive any information about access to food for the Muslims in Lapsunj.

257. In view of this evidence, particularly the lack of water and the overcrowding, the Chamber finds that the conditions under which the Muslims of Lapsunj were held between late July and mid-August 1993 were very harsh.

ii. Treatment of Muslims Collected in Lapsunj, Thefts, Forced Sexual Relations and Sexual Attacks

258. The Chamber recalls that two HVO reports dated 13 and 14 August 1993, speak of “thefts”, “abuse”, “humiliating acts”, “brutality”, “sexual assault”, “forced prostitution” and “rapes”, committed by “members of the *Rama* Brigade”, “local soldiers and some of the military police”, and in the village of Lapsunj specifically.<sup>638</sup>

259. *Witness BP* said that during the period from 2 to 12 August 1993, Zoran Čališ *alias* “Doka”, and Mario Dolić *alias* “Dole” came to the village of Lapsunj and insulted and, using their firearms, made death threats against Muslim women and children being held in Lapsunj.<sup>639</sup> Zoran Čališ was out looking for Muslim girls and insulted and struck a woman with his fist, while wearing two metal rings.<sup>640</sup> On 10 August 1993, in the middle of the night, *Witness BP* was taken from a house by two soldiers whom she knew.<sup>641</sup> These were Ljuban Baketarić *alias* “Ljub}e”,<sup>642</sup> roughly 20 years of age, and the individual known as “Marijan”, roughly 23 years of age, both of whom lived in the village of Rumboci.<sup>643</sup> After “Marijan” forced her to undress under threat of death, *Witness BP* said that the two men raped her in turn in a field off the side of the road.<sup>644</sup> *Witness BP* testified that while the one known as “Marijan” was raping her violently at gunpoint, he said:

“Since you are of a different religion, you would never have done that with me, but now I have forced you to do that”.<sup>645</sup>

260. *Witness BP*'s knees were covered in blood and she had internal physical pain as a result of the assault.<sup>646</sup>

<sup>637</sup> P 09701, p. 8.

<sup>638</sup> P 04161; P 04177.

<sup>639</sup> P 09715 under seal, p. 3.

<sup>640</sup> P 09715 under seal, p. 4.

<sup>641</sup> *Witness BP*, T(F), p. 7855, closed session.

<sup>642</sup> *Witness BP*, T(F), p. 7856, closed session; P 09715 under seal, p. 4.

<sup>643</sup> *Witness BP*, T(F), pp. 7855 and 7856, closed session; P 09715 under seal, pp. 4 and 5.

<sup>644</sup> *Witness BP*, T(F), pp. 7855 and 7856, closed session; P 09715 under seal, pp. 4 and 5.

<sup>645</sup> P 09715 under seal, pp. 4 and 5.

261. In view of the evidence and the context of the alleged facts, the Chamber finds that the victims and witnesses used the word “rape” to refer to a non-consensual penetrating sexual relation.

262. The Chamber finds that in August 1993, HVO soldiers and members of the Military Police committed thefts of property belonging to Muslims being held in Lapsunj, and that they committed assaults against them. The Chamber also finds that in August 1993, HVO members forced at least one woman to have sexual relations under the threat of weapons.

e) Detention in the Village of Duge, Treatment of the Muslims, Thefts, Forced Sexual Relations and Sexual Attacks

i. Conditions of Confinement of the Muslims Collected in the Village of Duge

263. From 8 August 1993 at the latest, women, children and elderly people, all Muslims from Prozor or the surrounding villages, such as Lug and Skrobu}ani, arrested by members of the HVO in August 1993, were held in houses in the village of Duge.<sup>647</sup> On 20 August 1993, there were between 700 and 800 Muslims: women, children and elderly people.<sup>648</sup>

264. *Rudy Gerritsen*, observer with the ECMM<sup>649</sup> who visited the village of Duge on 20 August 1993,<sup>650</sup> said that the site was not a prison proper, but that people felt they were in prison there; they could not leave the village, as they had nowhere to go.<sup>651</sup> The Chamber notes, moreover, that *Rudy Gerritsen* heard Muslims in Duge say that police units came regularly to the village and that, in *Rudy Gerritsen's* opinion, they were Military Police, the only police force to patrol in that sector.<sup>652</sup>

265. The Chamber notes that a member of the HVO civilian police, one day in August 1993, took two Muslim doctors, including Witness *Nijaz Islamović*, to examine the Muslims in Duge.<sup>653</sup>

266. The village of Duge was overcrowded and the families had to share houses.<sup>654</sup> There were about 30 people per house.<sup>655</sup> People slept on the floor and did not get enough to eat.<sup>656</sup> *Witness BT*

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<sup>646</sup> P 09715 under seal, p. 4.

<sup>647</sup> P 09714 under seal, p. 4; P 10030, p. 10; P 09621, p. 1.

<sup>648</sup> P 09701, p. 8; P 09621, p. 1.

<sup>649</sup> P 10030, p. 2.

<sup>650</sup> P 10030, p. 10; Rudy Gerritsen, T(F), pp. 19231-19234; P 09621, p. 1.

<sup>651</sup> P 10030, p. 10; Rudy Gerritsen, T(F), p. 19233.

<sup>652</sup> P 10030, p. 10; Rudy Gerritsen, T(F), p. 19246; P 09621, p. 1.

<sup>653</sup> P 09701, p. 7.

<sup>654</sup> P 09714 under seal, p. 4; P 09722, p. 4.

<sup>655</sup> P 09621, p. 1.

<sup>656</sup> P 09714 under seal, p. 4; P 09621, p. 1.

specified that the HVO – while not specifying who they were – had brought food only once in three weeks and even then, not enough for everyone.<sup>657</sup> Still, the Muslims did have access to water.<sup>658</sup>

267. In view of the evidence, and particularly the lack of food and the overcrowding, the Chamber finds that the conditions under which the Muslims of Duge were held in August 1993, under the surveillance of Military Police patrols, were very harsh.

ii. Treatment of Muslims Collected in Duge, Thefts, Forced Sexual Relations and Sexual Attacks

268. The Chamber recalls that two HVO reports dated 13 and 14 August 1993, speak of “thefts”, “abuse”, “humiliating acts”, “brutality”, “sexual assault”, “forced prostitution” and “rapes”, committed by “members of the *Rama* Brigade”, “local soldiers and some of the military police”, in the village of Duge specifically.<sup>659</sup>

269. Further evidence also states that HVO soldiers came to the village, committing thefts in the houses where the Muslims had been collected.<sup>660</sup> The Muslims were terrified.<sup>661</sup> The same soldiers also came, brandishing their weapons, to take women and girls, including at least one minor, out of the village to Prozor among other places, for hours at a time, bringing them back in tears, refusing to say what had happened to them.<sup>662</sup>

270. The Chamber heard several witnesses describe humiliating acts committed by HVO soldiers and members of the Military Police repeatedly day after day<sup>663</sup> against Muslim women and girls, such as forcing them to undress to music in front of them, to serve them naked, and to undress in front of their fathers.<sup>664</sup> Likewise, several witnesses said that in August 1993, Muslim women were victims of “rapes” by local HVO soldiers and “men from the outside coming in”.<sup>665</sup> In view of the evidence and the context of the alleged facts, the Chamber considers that the victims and witnesses used the word “rape” to refer to a non-consensual penetrating sexual relationship.

<sup>657</sup> P 09714 under seal, p. 4; P 09621, p. 1.

<sup>658</sup> P 09701, p. 9; P 09621, p. 1.

<sup>659</sup> P 04161; P 04177.

<sup>660</sup> P 10030, p. 10; P 09621; P 09722, p. 4.

<sup>661</sup> P 09714 under seal, p. 4.

<sup>662</sup> P 09714 under seal, p. 4; P 09717 under seal, pp. 4 and 5.

<sup>663</sup> P 09714 under seal, p. 4; P 04177.

<sup>664</sup> P 09714 under seal, p. 4; P 04177.

<sup>665</sup> P 04177; P 10030, p. 10; Witness BR, T(F), pp. 8115-8117, private session ; P 09621.



271. In order to avoid the attacks by members of the HVO, some women would hide in the woods at night.<sup>666</sup>

272. The Chamber finds that HVO soldiers and members of the Military Police committed thefts of property belonging to Muslims held in Duge and that they committed attacks against them. The Chamber also finds that in August 1993 HVO soldiers and members of the Military Police as well as “men from outside the village” forced Muslim women to have sexual relations. The Chamber lastly finds that Muslim girls and women were humiliated and suffered sexual abuse by members of the Military Police and HVO soldiers.

f) Removal to Kučani in Late August 1993 of Women, Children and Elderly People Held in Podgrađe, Lapsunj and Duge

273. On 28 August 1993, HVO soldiers used military and civilian trucks,<sup>667</sup> moved the Muslim population – women, children and elderly people – from Podgrađe,<sup>668</sup> Lapsunj<sup>669</sup> and Duge<sup>670</sup> to Ku~ani,<sup>671</sup> a village not far from the front line separating the HVO and the ABiH.<sup>672</sup> The Chamber has little information about the units to which the HVO soldiers belonged. It is only in a position to observe, as will be elaborated on at a later point, that there was a least one member of the *Kinder Vod* and assuredly members of the HVO belonging to the *Rama* Brigade.

274. The Chamber notes that *Witness BT*, in particular, told of how the HVO soldiers surrounded the village of Duge and started firing into the air to force the Muslims to get into trucks.<sup>673</sup>

275. While travelling by truck, the Muslims did not have any water, even though it was very hot; some of them were suffocating or fainting.<sup>674</sup>

276. When they reached Ku~ani, the Muslims were forced to walk on foot, escorted by HVO soldiers, towards Jelina,<sup>675</sup> an area controlled by the ABiH.<sup>676</sup> The HVO soldiers told them to walk

<sup>666</sup> P 04177, p. 2.

<sup>667</sup> Witness BR, T(F), p. 8112 private session; Witness BK, T(F), pp. 5499 and 5500; P 10030, p. 11; P 04598 under seal; Rudy Gerritsen, T(F), pp. 19234 and 19235

<sup>668</sup> Peter Hauenstein, T(F), p. 7570, private session; P 04307 under seal, p. 2; P 09621, p. 1; P 04363, p. 2; P 09700 under seal, p. 3.

<sup>669</sup> P 09717 under seal, p. 3.

<sup>670</sup> Peter Hauenstein, T(F), pp. 7569, 7570, 7624 and 7625, private session; P 09714 under seal, p. 5 .

<sup>671</sup> Witness BR, T(F), p. 8112, private session; Witness BK, T(F), pp. 5499 and 5500; P 09196 under seal, p. 14; P 09731 under seal, p. 3; P 09714 under seal, p. 5; P 09701, p. 9; P 09731 under seal, p. 3; P 10030, p. 11; P 09715 under seal, p. 6; P 09717 under seal, p. 3.

<sup>672</sup> P 09715 under seal, p. 6.

<sup>673</sup> P 09714 under seal, p. 5.

<sup>674</sup> P 09714 under seal, p. 5.

<sup>675</sup> Witness BK, under seal, T(F), p. 5500; Witness BR, T(F), p. 8112, private session; P 09717 under seal, p. 3.

<sup>676</sup> Witness BK, under seal, T(F), p. 5500; P 09731 under seal, p. 3.

"to [their] people" and not to stray from the path because of the mines laid alongside it.<sup>677</sup> From Ku~ani, they went about three to four kilometres in the direction of Jelina.<sup>678</sup> Soldiers from the HVO, including the one known as "*Cele*", a member of the *Kinder Vod*, started shooting at them, wounding several.<sup>679</sup> The Muslims then continued on their way, going to Bugojno,<sup>680</sup> Gornji Vakuf, Jablanica<sup>681</sup> and Konjic,<sup>682</sup> territories controlled by the ABiH.<sup>683</sup>

277. The Chamber cannot determine exactly the number of Muslims from Prozor Municipality removed by the HVO on 28 August 1993. Nonetheless, the evidence supports a finding that at least 2,500 people were removed.<sup>684</sup>

278. *Witness CC* stated that, in order to be carried out successfully, the removals required organisation and planning by the HVO.<sup>685</sup> In this respect, the Chamber notes that on 28 August 1993, that is, the same day the Muslims were removed from Prozor, to Kučani then towards the ABiH territories, Slobodan Praljak ordered the commander of the *Rama* Brigade to deploy 30 soldiers in the Kučani area between 28 and 31 August 1993.<sup>686</sup>

279. When *Rudy Gerritsen* went to Podgrađe on 30 August 1993, he observed that Croat families had moved into the Muslims' houses.<sup>687</sup>

280. The Chamber finds that on 28 August 1993, the HVO soldiers, moved the women, children and elderly people being held in Podgrađe, Lapsunj and Duge to the ABiH's territories and, on that occasion, fired on some of them, with several of them receiving gunshot wounds.

#### 4. Treatment of the Last Muslims Remaining in Prozor Municipality from Late August until December 1993

281. The Prosecution alleges in paragraph 59 of the Indictment that at the end of August 1993 and thereafter, Herceg-Bosna/HVO forces continued to persecute and mistreat Bosnian Muslim civilians who remained in Prozor Municipality, subjecting them to harassment, physical and sexual

<sup>677</sup> P 09715 under seal, p. 6; P 09196, p. 14, P 09715 under seal, p. 6.

<sup>678</sup> Witness BK, under seal, T(F), p. 5500.

<sup>679</sup> 3D 00429, under seal, p. 3; P 09717, under seal, p. 3; Witness BK, T(F), pp. 5499 and 5500.

<sup>680</sup> Witness BR, T(F), p. 8112, private session.

<sup>681</sup> Witness BS, T(F), p. 8234, closed session; P 09731 under seal, p. 3.

<sup>682</sup> P 09731 under seal, p. 3.

<sup>683</sup> P 09731 under seal, p. 3; P 04679, p. 6.

<sup>684</sup> P 09714 under seal, p. 5; P 09196 under seal, p. 14; P 09701, p. 7; P 09731 under seal, p. 3; P 10030, p. 11; P 09715 under seal, p. 6; P 04679, p. 6. The Chamber notes that according to what certain witnesses said, up to 4,000 or 6,000 individuals were removed.

<sup>685</sup> P 09731 under seal, p. 3.

<sup>686</sup> 3D 02448.

<sup>687</sup> P 10030, p. 11.

assault and humiliating acts. The Prosecution also alleges that, by December 1993, there were only about 500 to 600 Muslims in Prozor Municipality, and that by the end of the month, most of them were either in HVO prisons or HVO concentration camps, sent to ABiH-held territory or deported to other countries.

282. After analysing (a) how the Muslims still in the Municipality were treated by the Herceg-Bosna/HVO forces, the Chamber will (b) examine the fate of the 500 to 600 Muslims still in the Municipality in December of 1993.

a) Treatment of Muslims in Prozor Municipality from Late August to December 1993

283. At the outset, the Chamber notes that the evidence it has relevant to the allegations in paragraph 59 of the Indictment essentially concern facts pertaining to the village of Duge.

284. After 28 August 1993 and around early September 1993, a group of women, children and elderly people, from Prozor, who had been removed on 28 August 1993 by the HVO of Podgrađe out of Prozor Municipality in the direction of ABiH territory, was again arrested in Prozor Municipality then taken several days later by HVO soldiers to houses in Duge where they were to reside.<sup>688</sup>

285. From September 1993 until May 1994, Muslims whom Luka Markešić, Chief of the SIS within the *Rama* Brigade, characterised as "civilians" were held in the village of Duge; 52 of them were still there as of 10 November 1993.<sup>689</sup>

286. The village of Duge was guarded by at least two military police officers<sup>690</sup> but HVO soldiers came as they wished into the village, typically at night, and engaged *inter alia* in psychological and physical acts of violence comprising death threats, insults and beatings of Muslim men and "rapes" of women and under-age girls.<sup>691</sup> The HVO soldiers wore uniforms, one of them had blond hair, and they introduced themselves to the Muslims of Duge as HVO "police officers".<sup>692</sup> According to *Witnesses BN* and *BO*, they were probably members of the *Kinder Vod* unit.<sup>693</sup> Some of them

<sup>688</sup> P 09717 under seal, p. 4; P 09700 under seal, p. 3.

<sup>689</sup> P 06569, p. 2.

<sup>690</sup> P 09700 under seal, pp. 3 and 4; P 09717, under seal, p. 6.

<sup>691</sup> Witness BO, T(F), p. 7783, closed session; P 09717 under seal, pp. 5-7; P 09700 under seal, pp. 3 and 4; P 09714 under seal, p. 4.

<sup>692</sup> P 09717 under seal, p. 4.

<sup>693</sup> Witness BN, T(F), p. 7132; 3D 00429, p. 1; P 09700 under seal, p. 3.

harassed the Muslims, particularly the older ones.<sup>694</sup> *Witness BN* described how an old man was struck by an HVO soldier with a chair that broke on his head.<sup>695</sup>

287. *Witness BN* who was 16 at the time of the events, in particular, recounted in detail how the man with blond hair, approximately twenty years of age, forced her to have sexual relations with vaginal penetration under the threat of weapons and with extreme brutality for approximately two hours in the forest not far from the village of Duge.<sup>696</sup> *Witness BN* likewise stated that two or three days later, Ante Šistov, Zoran Čališ and Jure Petrović, *alias* "Mendže", kidnapped her and took her to Prozor to an apartment across the street from the Prozor fire station.<sup>697</sup> Zoran Čališ then insulted her and attempted to "rape" her, until two HVO members present there - dressed in black uniforms - prevented him from doing so.<sup>698</sup>

288. *Witness BO* also testified that she was raped one day in December 1993 by the individual known as "Baja", and then by another blond-haired man, repeatedly - differently each time and always brutally; the man then insulted her once he had finished.<sup>699</sup> Two or three days later, the individuals known as "Mendže" and "Ante" threatened, insulted and brutally raped *Witness BO*.<sup>700</sup> After the man known as "Ante" raped her, *Witness BO* said to him: "What did we do wrong, that you are doing this to us?" The man known as "Ante" replied: "You didn't do anything wrong, your only fault is that you are *Balijas*".<sup>701</sup>

289. *Witness BO* also stated that while she was being raped by "Mendže" and "Ante", another woman from Duge was being raped by Zoran Čališ.<sup>702</sup> In view of the evidence and the context of the alleged facts, the Chamber considers that the victims and witnesses used the word "rape" to refer to a sexual relation with non-consensual penetration.

290. *Witness BN* identified some of the perpetrators of the rapes of women and under-age girls in Duge: Jure Petrović *alias* "Mendže"; Zoran Čališ; Ante Šistov and a man with blond hair, about

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<sup>694</sup> P 09700 under seal, pp. 3 and 4.

<sup>695</sup> P 09700 under seal, pp. 3 and 4.

<sup>696</sup> P 09700 under seal, pp. 4 and 5.

<sup>697</sup> P 09700 under seal, p. 5. P 09717 under seal, pp. 4 and 5.

<sup>698</sup> P 09700 under seal, p. 5. An official notice from the HR H-B Military Police Administration dated 20 January 1994 moreover, orders the arrest of Zoran Čališ and Jure Petrović, to answer to charges of rape (3D 00422 under seal).

<sup>699</sup> P 09717 under seal, pp. 5 and 6.

<sup>700</sup> P 09717 under seal, pp. 5 and 6.

<sup>701</sup> P 09717 under seal, p. 6.

<sup>702</sup> P 09717 under seal, p. 6.

twenty years of age.<sup>703</sup> *Witness BN* said that the guards at Duge told him that those responsible for the attacks belonged to the *Kinder Vod*.<sup>704</sup>

291. According to *Ivan Bandić*, an employee at the SIS administration between July 1992 and autumn 1994,<sup>705</sup> the individuals responsible for the “rapes” and acts of humiliation committed against the Muslims in the village of Duge were criminally prosecuted after being identified by the Military Police in June 1994.<sup>706</sup> The Chamber in fact observes in this respect a note signed by Commander Dragan Konta, a member of the 2<sup>nd</sup> Battalion of the 1<sup>st</sup> Company of the HVO Military Police dated 20 June 1994, wherein he ordered the arrest of Zoran ^ali}<sup>707</sup> and Jure Petrović *alias* "Men|o" and the individuals known as "Ante" and "Davor" from Kovačevo Polje, who were former members of the "Brigade Police", for acts of “rape” perpetrated on the Muslim women.<sup>708</sup> The Chamber observes that, except for the individual known as "Davor", they are probably the perpetrators of the forced sexual relations identified by the witnesses heard by the Chamber. The Chamber does not know, however, whether those individuals were in fact arrested and whether criminal prosecutions against them were pursued by the HVO authorities.

292. The Chamber finds that from late August 1993 until December 1993, women, children and elderly people were held in the village of Duge, where they were subjected to abuse, by members of the HVO, particularly those belonging to the *Kinder Vod*. Muslim women and minor girls were also forced to have sexual relations by HVO members belonging *inter alia* to the *Kinder Vod*.

b) Removal of Muslims from Prozor Municipality to Detention Facilities Outside the Municipality, then to Other Territories

293. As of 10 November 1993, there were still over 600 Muslims in Prozor Municipality, among them 300 "civilians" held by the HVO in various locations in Prozor Municipality, including the village of Duge; there were also 306 people characterised as "conscripts", 209 of whom were incarcerated at the "MUP Prison" and 23 at the "Brigade Police Prison".<sup>709</sup>

<sup>703</sup> P 09700 under seal, pp. 4 and 5.

<sup>704</sup> *Witness BN*, T(F), p. 7132 closed session.

<sup>705</sup> *Ivan Bandić*, T(F), pp. 37992-37995.

<sup>706</sup> *Ivan Bandić*, T(F), pp. 38214 and 38215.

<sup>707</sup> 3D 00422, p. 1.

<sup>708</sup> 3D 00422, p. 1.

<sup>709</sup> P 09731 under seal, p. 3; P 06569, p. 1.

294. On 10 November 1993, Luka Markešić, the SIS official in the *Rama* Brigade, in a report addressed to the ZP Tomislavgrad Command,<sup>710</sup> proposed that the majority of the "Muslim conscripts" be removed from Prozor to the "Military Prison of Herceg-Bosna".<sup>711</sup>

295. The Chamber observes that four days after Luka Markešić proposed moving detainees, 105 Muslims detainees were removed on 14 November 1993 "on General Tole's order[s]" from Prozor to Gabela Prison, due to the lack of space.<sup>712</sup>

296. The final removal of "all the prisoners of war", that is 140 detainees in Prozor, took place on 15 December 1993, to the Heliodrom, escorted by the 3<sup>rd</sup> Battalion of the Military Police.<sup>713</sup> The removal of detainees was done on the orders of Radoslav Lavrić, acting Chief of the Military Police, issued pursuant to an order by Marijan Biškić, Assistant Minister of Defence, who himself gave the order to implement the HR H-B President's decision to dismantle the detention facilities.<sup>714</sup>

297. The Chamber observes that, on 15 December 1993, *Hasib Zečić*, a member of the ABiH,<sup>715</sup> and *Ragib Mulahusić*, were indeed brought with other detainees from the "HVO Rama" Camp to the Heliodrom.<sup>716</sup>

298. The Chamber also notes the written statements of *Ragib Mulahusić*, that *Ragib Mulahusić* and other prisoners were moved to the Heliodrom in late summer 1993.<sup>717</sup> The Chamber concludes, in view of documentary evidence, that *Ragib Mulahusić* was moved to the Heliodrom on 15 December 1993, not at the end of summer, as he claimed.<sup>718</sup> The Chamber does not know, however, in which Prozor detention facility *Ragib Mulahusić* was held.

299. The Chamber finds that on 14 November 1993 and 15 December 1993, Muslim men detained in Prozor were moved to Gabela Prison and to the Heliodrom. The Chamber does not have any evidence about the removals of Muslims from Prozor to other territories in December 1993.

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<sup>710</sup> Formerly called the North-West OZ.

<sup>711</sup> P 06569, p. 2.

<sup>712</sup> P 06662; P 06658; P 06661, p. 5.

<sup>713</sup> P 07174, p. 1; P 07212.

<sup>714</sup> P 07174, p. 1; P 07212.

<sup>715</sup> P 09989, p. 4.

<sup>716</sup> P 07174, p. 1, number 94 in the BCS version, p.1; P 09989, p. 5; P 09925, p. 5. The Chamber notes a difference between the statement of 1994 and the one of 2001 concerning the detention site in Prozor, assigning greater value to the one from 1994, as it is not only closer to the date of the events but also appears more likely to be true inasmuch as, in the statement of 2001, the witness indicated that the Prozor Secondary School was a detention site, whereas the School ceased serving as a detention site on 15 December 1993.

<sup>717</sup> P 09699, p. 3.

<sup>718</sup> P 07174; P 07212. The Chamber considers that, contrary to what he stated, *Ragib Mulahusić* could not have been moved to the Secondary School, which closed in late summer 1993, as previously observed by the Chamber. See "Arrivals, Transfer and Release of Detainees from the Prozor Secondary School" in the Chamber's factual findings relating to the Municipality of Prozor.

## Heading 2: Municipality of Gornji Vakuf

300. This part of the Judgement relates to the crimes allegedly committed by the HZ H-B forces in the municipality of Gornji Vakuf, and more specifically in the localities of Gornji Vakuf, Duša, Hrasnica, Trnovača, Ždrimci and Uzričje, in the period from 24 October 1992 through 22 January 1993, approximately, and, for some of the crimes alleged,<sup>719</sup> which also occurred in the weeks that followed.<sup>720</sup>

301. In paragraphs 63-71 of the Indictment, the Prosecution alleges *inter alia* that the forces of the HZ H-B/HVO seized control of several factories and the MUP building in the town of Gornji Vakuf, on or about 25 October 1992, then from 18 January 1993 alleges they attacked Muslim residential areas in Gornji Vakuf town and the villages of Duša, Hrasnica, Uzričje and Ždrimci. Following these attacks, alleged to have killed a number of Muslim civilians and destroyed a substantial amount of their property, the HZ H-B/HVO forces allegedly plundered and burned the Muslim houses and property in and around these villages. Moreover, the HZ H-B/HVO forces allegedly arrested Muslim civilians in these villages, then separated Muslim men from the Muslim women, children and elderly people, and took the Muslim men to detention facilities while they detained the women, children and elderly people in houses in the villages. During their imprisonment in the villages and in the village of Trnovača, the civilians are alleged to have lived in "harsh" conditions, where they were often mistreated or abused.

302. The Prosecution alleges these events to constitute persecutions (Count 1), murder (Count 2), wilful killing (Count 3), inhumane acts (forcible transfer) (Count 8), unlawful transfer of a civilian (Count 9), imprisonment (Count 10), unlawful confinement of a civilian (Count 11), inhumane acts (conditions of confinement) (Count 12), inhuman treatment (conditions of confinement) (Count 13), cruel treatment (conditions of confinement) (Count 14), inhumane acts (Count 15), inhuman treatment (Count 16), cruel treatment (Count 17), extensive destruction of property, not justified by military necessity and carried out unlawfully and wantonly (Count 19), wanton destruction of cities, towns or villages, or devastation not justified by military necessity (Count 20), destruction or wilful damage done to institutions dedicated to religion or education (Count 21), appropriation of property, not justified by military necessity and carried out unlawfully and wantonly (Count 22) and plunder of public or private property (Count 23).

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<sup>719</sup> Imprisonment and unlawful confinement of civilians, the inhumane acts, the inhuman and the cruel treatment (including conditions of confinement), as well as persecutions and plunder, paras 68, 70 and 71 of the Indictment.

<sup>720</sup> Paragraph 68 of the Indictment speaks of approximately one month after 18 January 1993; para. 70 speaks of "two weeks" after 18 January 1993, and para. 71 of "several weeks".

303. In order to rule on the alleged acts, the Chamber has analysed a collection of evidence. It examined the *viva voce* testimony as well as testimony received under Rule 92 *ter* of the Rules of Witnesses *BY, BM, BV, BW, BX, NO, ID-AA, Ray Lane, Zdravko Batinić, Fahrudin Agić, Zdenko Andabak, Andrew Williams, Philip Watkins, Ilija Kožulj, Zrinko Tokić, Muamer Trkić, Zijada Kurbegović, Bo Pellnas, Jacqueline Carter, Christopher Beese, Marita Vihervuori, Senada Basić, Safet Idrizović, Slobodan Praljak* and *Milivoj Petković*. The Chamber has also considered the written statements of witnesses *BV, Kemal Šljivo, Nedžad Čaušević, Derviša Plivčić, Senad Zahirović* and *Đulka Ibrahim Brica*, and the transcripts of depositions by *Alistair Rule* and *Nicholas Short*, admitted pursuant to Rule 92 *bis* of the Rules. The Chamber, lastly, has examined the Prosecution's evidence admitted to the record through those witnesses or through a written procedure.

304. The Chamber will, (I) present the geographic and demographic situation of the municipality of Gornji Vakuf, (II) the political, administrative and military structure of the municipality in order to highlight the context in which the criminal events alleged by the Prosecution took place. It will (III) address the escalation of tensions between the ABiH and HVO, principally from September 1992 to 16 January 1993 and will (IV) analyze the sequence of the 18 January 1993 attacks on the municipality of Gornji Vakuf and the crimes alleged during these attacks. The Chamber will (V) analyse the attempt to reach a cease-fire to end the conflict in the municipality and (VI) will examine the criminal events alleged subsequent to the attacks of 18 January 1993 in the different villages of the municipality of Gornji Vakuf. Finally, the Chamber will (VII) examine the criminal events alleged at the furniture factory at Trnovača, characterised as a detention centre by the Prosecution.

## **I. Geographic and Demographic Situation of the Municipality of Gornji Vakuf**

305. The municipality of Gornji Vakuf is located between the municipalities of Prozor and Konjic to the south, Bugojno to the North-West and Novi Travnik in the North-East.<sup>721</sup> The municipality of Gornji Vakuf comprises the town of Gornji Vakuf, the chief locality in the municipality,<sup>722</sup> and twenty or so small localities, including the villages of Duša,<sup>723</sup> Hrasnica,<sup>724</sup> Uzričje,<sup>725</sup> Trnovača<sup>726</sup> and Ždrimci.<sup>727</sup>

<sup>721</sup> P 09276, p. 17; P 10108, p. 2.

<sup>722</sup> At the time of the 1991 census, the town of Gornji Vakuf had approximately 5,000 inhabitants. See P 09276, p. 17; Decision of 14 March 2006, Adjudicated Fact no. 140 (*Kordić and Čerkez* Judgement, para. 561). Although the Chamber does not have evidence about the population distribution between Croats and Muslims in the city, it nonetheless notes that they lived together in mixed neighbourhoods; see in this regard 3D 02637, p. 20.



306. At the time of the 1991 census, the municipality of Gornji Vakuf numbered close to 25,000 inhabitants,<sup>728</sup> of whom approximately 56% were Muslim and 42.5% Croat.<sup>729</sup>

## II. Political, Administrative and Military Structure of the Municipality of Gornji Vakuf

307. The Chamber will (A) address the political and administrative structure of the municipality of Gornji Vakuf and (B) its military structure, in order to focus on its political institutions and the military actors who played a role during the events relevant during the period covered by the Indictment.

### A. Political and Administrative Structure

308. The Chamber heard one *viva voce* witness, *Zdravko Batinić*,<sup>730</sup> testify about the political and administrative structure of the municipality of Gornji Vakuf at the time of the events. Although the Chamber observes that his testimony appeared to lack credibility on certain points, particularly concerning the role of the HVO in the criminal events alleged to have occurred in January 1993 in the municipality of Gornji Vakuf, due to his closeness to the Accused, he nonetheless provided relevant insight into the municipality's structure, given his experience within the political institutions of Gornji Vakuf in 1992 and 1993.

<sup>723</sup> The village of Duša is one or two kilometres South-West of the town of Gornji Vakuf: *see* in this regard P 10110, p. 2; P 09276, p. 17. The majority of the population was Muslim, *see* P 10110, p. 2. Witness BY, T(F), pp. 9054 and 9055, private session.

<sup>724</sup> The village of Hrasnica is approximately five kilometres North-West of the town of Gornji Vakuf (*see* P 09276, p. 17) and was in majority Muslim (*see* P 09724 under seal, p. 2; P 10106, p. 2). The village was nevertheless surrounded by villages and hamlets inhabited by Croats (*see* P 09724 under seal, p. 2; P 10106, p. 2).

<sup>725</sup> The village of Uzričje is one or two kilometres South-West of the town of Gornji Vakuf (*see* in this regard Zijada Kurbegović, T(F), pp. 8952 and 8988; P 09276, p. 17). The Chamber heard only one witness about the population distribution between Muslims and Croats in the population of Uzričje, who stated that Uzričje had a Muslim majority (*see* Zijada Kurbegović, T(F), pp. 8949 and 9008).

<sup>726</sup> The village of Trnovača is approximately three kilometres west of the town of Gornji Vakuf, along the Bugojno road (*see* P 09276, p. 17). The Chamber received no evidence about the distribution of its population.

<sup>727</sup> The village of Ždrimci is approximately three to four kilometres east of the town of Gornji Vakuf (*see* P 09276, p. 17; P 09201, p. 18). The population of the village of Ždrimci was mostly Croat (*see* in this regard Muamer Trkić, T(F), p. 9156; P 09201, p. 18; P 09797, para. 7) and the Muslim and Croat inhabitants of that village lived in separate areas of the village (*see* Muamer Trkić, T(F), pp. 9156 and 9157; P 09797, para. 7).

<sup>728</sup> The town of Gornji Vakuf, located in the centre of the municipality, at the time of the 1991 census, had approximately 5,000 inhabitants; *see* in this regard P 09276, p. 17 and Decision of 14 March 2006, Adjudicated Fact no. 140 (*Kordić and Čerkez* Judgement, para. 561).

<sup>729</sup> Zdravko Batinić, T(F), p. 34467; P 05502 under seal, p. 1; 3D 01024, p. 13; P 02976, p. 25; Decision of 14 March 2006, Adjudicated Fact no. 140 (*Kordić* Judgement, para. 561; P 10108, p. 2; Alistair Rule, P 09803; *Kordić and Čerkez* Case, T(F), pp. 5383, 5448 and 5449).

<sup>730</sup> Zdravko Batinić had various political roles in the HVO and HDZ-BiH, commencing in January 1993.

309. The Chamber notes that the municipal assembly and the executive committee of the assembly, both before and after the elections of 18 November 1990,<sup>731</sup> and up to 7 April 1992,<sup>732</sup> constituted the principal political and administrative institutions of the municipality of Gornji Vakuf.

310. The municipal assembly of the municipality of Gornji Vakuf, in its decision dated 7 April 1992, created a crisis staff for the Gornji Vakuf municipality, in particular for purposes of structuring the municipality's defence;<sup>733</sup> the assembly transferred all of its powers and authority to the crisis staff, but did not go out of existence.<sup>734</sup> According to *Zdravko Batinić*,<sup>735</sup> eight Muslims and seven Croats were members of that crisis staff.<sup>736</sup> Muhamed Palalić was the president of the municipal assembly.<sup>737</sup> Between 7 April 1992 and June 1992, he was also president of the crisis staff.<sup>738</sup>

311. On 22 June 1992, subsequent to the declaration of the state of war in BiH, Muhamed Palalić created the Presidency of the Municipal Assembly, also called the "War Presidency" of Gornji Vakuf, a new entity formed to assume the role of council for national defence. The Chamber is not in a position to describe the role of the council, absent evidence on this subject.<sup>739</sup> The War Presidency of the Municipality of Gornji Vakuf consisted of members of the crisis staff of Gornji Vakuf municipality and commanders from the TO and the HVO; it was presided over by the President of the Municipal Assembly.<sup>740</sup>

312. Muhamed Palalić thus became President of the Presidency of Gornji Vakuf municipality from 22 June 1992 until 16 November 1992, on which date he was replaced by Abdulah Garača.<sup>741</sup>

<sup>731</sup> Zdravko Batinić, T(F), pp. 34283-34285.

<sup>732</sup> Zdravko Batinić, T(F), pp. 34283-34286.

<sup>733</sup> 1D 03104.

<sup>734</sup> Zdravko Batinić, T(F), pp. 34285, 34286 and 34360.

<sup>735</sup> President of the Executive Committee of the Municipal Assembly of Gornji Vakuf between 1 January 1992 and 11 January 1993.

<sup>736</sup> Zdravko Batinić, T(F), pp. 34285 and 34286.

<sup>737</sup> Zdravko Batinić, T(F), p. 34360.

<sup>738</sup> Zdravko Batinić, T(F), pp. 34359-34360; *see* the decisions signed by Muhamed Palalić – between April and May 1992 – as President of the Gornji Vakuf crisis staff: 1D 03106, 1D 03104.

<sup>739</sup> 1D 01692; Zdravko Batinić, T(F), pp. 34286, 34289, 34467 and 34468.

<sup>740</sup> 1D 01692.

<sup>741</sup> Zdravko Batinić, T(F), pp. 34359-34360 and 34390-34391; *see* the decisions signed by Muhamed Palalić – between 22 June 1992 and 6 November 1992 – as President of the Gornji Vakuf Municipal Assembly: 1D 01692; ID 01787, *see* the decisions signed by Abdulah Garača in April 1993 – as President of the Presidency of the Municipality of Gornji Vakuf, especially 1D 01698, 1D 01699. The evidence shows that Muhamed Palalić tendered his resignation as of 8 July 1992 – which resignation was accepted on 13 July 1993 by the Executive Committee of the SDA – but that the procedure to elect a new president of the municipal assembly took some time. Consequently, between 8 July and 22 October 1992, Muhamed Palalić continued in office. In Document 1D 01682, the President of the SDA of Gornji Vakuf sent a letter to the HDZ-BiH of Gornji Vakuf in which he stated that there was no obstacle to the appointment of

313. Between October 1992 and late July 1993, Ivan Šarić<sup>742</sup> held the post of President of the Gornji Vakuf Municipal HVO.<sup>743</sup> According to *Zdravko Batinić*,<sup>744</sup> Ivan Šarić was appointed President of the Gornji Vakuf Municipal HVO by Mate Boban.<sup>745</sup>

## **B. Military Structure**

314. In order to determine the positions, troop strengths and the lines of command at the time of the facts alleged, the Chamber will examine the armed forces present in the municipality of Gornji Vakuf in 1992-1993. Although the Chamber does note the HV's military presence in the municipality of Gornji Vakuf in June 1992<sup>746</sup> and particularly in January 1993<sup>747</sup> and the presence of members belonging to the HOS in December 1992<sup>748</sup> and January 1993,<sup>749</sup> it observes that the armed forces present were primarily created from the (1) TO/ABiH and (2) the HVO.

### **1. The TO and the ABiH**

315. *Fahrudin Agić*<sup>750</sup> said that, in general, the brigades took up the duties of the TO as of September 1992.<sup>751</sup> On 17 October 1992,<sup>752</sup> the 317<sup>th</sup> Mountain Brigade, placed under the command of the 3<sup>rd</sup> ABiH Corps, was created in Gornji Vakuf.<sup>753</sup> It consisted of 2,500 men, organised in three mountain battalions, an anti-tank unit, a mortar company, a logistics company and a company of Military Police.<sup>754</sup>

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Abdulah Garača as President of the Municipal Assembly of Gornji Vakuf and he requested that the appointment procedure be accelerated; 1D 01682.

<sup>742</sup> Ivan Šarić was the President of the HDZ-BiH of the Municipality of Gornji Vakuf and a member of the Presidency of the Municipality of Gornji Vakuf. 2D 01262, p. 5; Zdravko Batinić, T(F), pp. 34390-34392 and 34483; 1D 01787; 1D 00947, p. 4; 1D 00208/1D 00947; 1D 00207; 1D 01809.

<sup>743</sup> 1D 00947, p. 1; 2D 01211; 2D 01511; 1D 01809; 1D 01787; 1D 00208/1D 00947; 1D 00207.

<sup>744</sup> President of the Executive Committee of the Municipal Assembly of the Municipality of Gornji Vakuf from 1 January 1992 to 11 January 1993.

<sup>745</sup> Zdravko Batinić, T(F), pp. 34482-34483.

<sup>746</sup> Fahrudin Agić, T(F), pp. 9227-9229; P 10108, p. 2.

<sup>747</sup> P 01299, p. 4; P 09702, pp. 15 and 16; P 01188 under seal.

<sup>748</sup> Alistair Rule, P 09803, *Kordić and Čerkez* Case, T(F), p. 5392.

<sup>749</sup> Zrinko Tokić, T(F), pp. 45351, 45352, 45499 and 45500. The Chamber recalls that in the part of this Judgement concerning the armed forces, it already noted that as of 23 August 1992, the members of the HOS reached an agreement with the HVO, that the members of the HOS were then incorporated into the ranks of the HVO and conducted military operations alongside them, during which the former members of the HOS were still permitted to wear the black uniform and insignia of the HOS. For this reason, when witnesses used the terms "members of the HOS", the Chamber understands that they are former members of the HOS who joined the HVO. *See also* section "Composition of the Armed Forces of the HVO" in the Chamber's factual findings relating to the HZ(R) H-B military structure.

<sup>750</sup> Commander in the TO.

<sup>751</sup> Fahrudin Agić, T(F), p. 9240.

<sup>752</sup> Fahrudin Agić, T(F), p. 9242.

<sup>753</sup> Fahrudin Agić, T(F), pp. 9233 and 9240-9242.

<sup>754</sup> Fahrudin Agić, T(F), p. 9241 and T(E), p. 9242.

316. The Chamber also admitted evidence that at least one other unit of the ABiH was on the territory of Gornji Vakuf municipality, in this case a brigade from Jajce based in Gornji Vakuf, between autumn 1992 and late January 1993.<sup>755</sup>

## 2. HVO

317. The *Ante Starčević* Brigade was deployed in the territory of Gornji Vakuf<sup>756</sup> and held several frontlines against the VRS, primarily the frontline at Gornji Vakuf and a part of the frontline in the territory of Bugojno Municipality.<sup>757</sup>

318. Zrinko Tokić was the commander of the HVO's *Ante Starčević* Brigade in Gornji Vakuf from September 1992 to May 1994.<sup>758</sup>

319. The *Ante Starčević* Brigade consisted of three battalions;<sup>759</sup> its forces included conscripts mobilised in the territory of Gornji Vakuf<sup>760</sup> and Croat officers who had left the Gornji Vakuf TO.<sup>761</sup>

320. On 24 October 1992, further to an order from Željko Šiljeg, all the armed forces of the HVO in Gornji Vakuf Municipality, were subordinated to the command of the *Ante Starčević* Brigade.<sup>762</sup>

321. In his report of 22 January 1993, prepared for the HVO Main Staff, Zrinko Tokić also confirmed that all the HVO units in Gornji Vakuf were under his command.<sup>763</sup>

322. As concerns units of the HVO Military Police present in Gornji Vakuf, the Chamber observes that the 3<sup>rd</sup> Company of the 2<sup>nd</sup> Battalion of Military Police manned the checkpoints at Bistrica, Karamustafić, Vrbanja and Resnik as of September 1992.<sup>764</sup> The Chamber also observes that, according to a report dated 5 January 1993 from Valentin Ćorić to Bruno Stojić, the 1<sup>st</sup> Active Battalion<sup>765</sup> and other units of the 2<sup>nd</sup> HVO Military Police Battalion were sent as reinforcements to Gornji Vakuf.<sup>766</sup> The Chamber notes that the units participated, between 11 and 22 January 1993, in

<sup>755</sup> Nicholas Short, P 09804, *Blaškić* Case, T(F), pp. 22648-22652.

<sup>756</sup> Zrinko Tokić, T(F), pp. 45340 and 45341.

<sup>757</sup> Zrinko Tokić, T(F), pp. 45340-45342; IC 01057.

<sup>758</sup> IC 01056; Fahrudin Agić, T(F), p. 9232.

<sup>759</sup> Fahrudin Agić, T(F), p. 9231.

<sup>760</sup> Zrinko Tokić, T(F), pp. 45340 and 45341.

<sup>761</sup> Fahrudin Agić, T(F), p. 9231.

<sup>762</sup> P 00645, p. 1; 3D 02131, p. 4; IC 01056.

<sup>763</sup> 3D 00478.

<sup>764</sup> P 00970, p. 6.

<sup>765</sup> The 1<sup>st</sup> Active Battalion was renamed 1<sup>st</sup> Light Assault Battalion towards the end of the month of January 1993, see the "First Reorganisation of the Military Police Administration and Its Units: October 1992 – July 1993" in the Chamber's factual findings relating to the military structure of the HZ(R) H-B. See also P 01350, p. 1; P 01635, p. 1.

<sup>766</sup> P 01053; P 01635, p. 1; and P 03090, p. 6.

combat missions in the town of Gornji Vakuf, the villages of Uzričje and Karamustafić and the hills around the town of Gornji Vakuf towards Bugojno.<sup>767</sup>

323. Other HVO units were present in Gornji Vakuf, including the *Frankopani* Brigade in June 1992 and January 1993, the *Garavi* Unit in April, then July 1992, and January 1993<sup>768</sup> and the HVO 5<sup>th</sup> *Zvonko Krajin*a Battalion, late in 1992.<sup>769</sup>

324. In January and February 1993, the *Bruno Bušić* Regiment,<sup>770</sup> the *Rama* Brigade, from Prozor, certain members of the *Tomislav* Brigade, from Livno, a detachment of about twenty members of the HOS and the *Ludvig Pavlović* PPN were also present in Gornji Vakuf.<sup>771</sup>

325. In August 1993, the HVO had about 20 units – not counting the Military Police units – totalling 4,224 men based on the "Rama-Uskočlje" frontline.<sup>772</sup>

### III. Escalation of Tensions Between the HVO and the ABiH in Gornji Vakuf Municipality: September 1992 – 16 January 1993

326. Tensions between the HVO and the ABiH in the municipality of Gornji Vakuf gradually increased, particularly starting in September 1992,<sup>773</sup> due primarily to (A) the takeover of the municipality of Gornji Vakuf by the HVO and the ABiH and isolated clashes between the two factions during the second half of 1992; (B) the reinforcement of the HVO's positions in late 1992-early 1993; (C) the "Croatian flag" incident on 6 January 1993; (D) clashes between the HVO and the ABiH around 11 January 1993, and, (E) two subordination orders from the HVO to the armed forces of the ABiH on 14 and 16 January 1993.

<sup>767</sup> Andrew Williams, T(F), pp. 8499, 8500, 8502 and 8507; P 01635, p. 1; P 03090, pp. 6 and 7.

<sup>768</sup> P 10108, p. 2; the Chamber notes that according to *Zrinko Tokić*, the *Garavi* unit, came from Bugojno and formed part of the HVO *Eugen Kvaternik* Brigade, *Zrinko Tokić*, T(F), pp. 45507-45508; P 01653, p. 1; P 10107, p. 3; P 10106, p. 6.

<sup>769</sup> Fahrudin Agić, T(F), pp. 9227 and 9229, where the commander of the Frankopani Brigade is identified as "Zulu"; see P 10108, p. 2, referring to the "zulu" unit in Gornji Vakuf; P 00965, pp. 2 and 3; P11123.

<sup>770</sup> The *Bruno Bušić* Regiment was made up of the "Alpha Force", of which 30 soldiers were active in Gornji Vakuf in January-February 1993: Andrew Williams, T(F), pp. 8493-8498; P 01663, pp. 2 and 3; P 01094.

<sup>771</sup> Andrew Williams, T(F), pp. 8451-8455, 8493 and 8494; P 01094, pp. 4 and 5; P 01663, pp. 2 and 3; 4D 00042, p. 2; 3D 02212. On the HOS detachment, see also Witness Nicholas Short, P 09804, *Blaškić* Case, T(F), pp. 22660 and 22661 and "Composition of the Armed Forces of the HVO" in the Chamber's factual findings relating to the HZ(R) H-B military structure.

<sup>772</sup> P 04235, p. 1; Marijan Biškić, T(F), p. 15208.

<sup>773</sup> The Chamber notes, however, that clashes between the HVO and the TO took place beginning in June 1992 (specifically on 20 June 1992), as well as in July 1992 in the town of Gornji Vakuf and the village of Hrasnica. See on this point Fahrudin Agić, T(F), pp. 9227, 9242 and 9246; Zdravko Batinić, T(F), pp. 34376-34385; P 01653.

**A. Takeover of the Municipality and Clashes Between the HVO and the ABiH in the Second Half of 1992**

327. The evidence attests to the fact that in September-October 1992, the municipality of Gornji Vakuf was under the control of both the HVO and the ABiH.<sup>774</sup>

328. Such joint control by the HVO and the ABiH, however, did not prevent clashes between the two armed forces from breaking out in the municipality, in particular in the town of Gornji Vakuf on 24 and 25 October 1992.<sup>775</sup> Nevertheless, the clashes were contained due *inter alia* to several cease-fires signed between the HVO and the ABiH.<sup>776</sup>

329. Zrinko Tokić's report dated 26 October 1992 explained that, after the fighting on 24 October 1992, the town of Gornji Vakuf was cut in two, with the upper section of the city towards Prozor controlled by the ABiH, the other section by the HVO.<sup>777</sup>

330. Although the situation in Gornji Vakuf Municipality became stable after 27 October 1992,<sup>778</sup> in mid-November 1992, fresh tensions between the HVO and the ABiH surfaced, as attested to by *Ray Lane*, who specifically stated that he witnessed shelling of a part of Gornji Vakuf coming from the area of the Makljen Peak in November 1992.<sup>779</sup>

**B. Reinforcement of HVO Positions in Late 1992 – Early 1993**

331. In late 1992 and early 1993, HVO activity in the region of Gornji Vakuf intensified.<sup>780</sup> Thus, the HVO's transmission and communications systems were reinforced,<sup>781</sup> as was the HVO checkpoint at Makljen, following the arrival of a T-55 tank.<sup>782</sup>

<sup>774</sup> Alistair Rule, P 09803, *Kordić and Čerkez Case*, T(F), p. 5448; Zrinko Tokić, T(F), p. 45353; 4D 01667. Moreover, Ivan Sarić said that during a meeting of the HVO Presidency on 17 October 1992 in the municipality of Gornji Vakuf, the Croats were united in the HZ H-B and the Muslims were likewise united on the other side, as of October 1992, 2D 01262, p. 5.

<sup>775</sup> P 00536, p. 4; P 00643; P 00644; P 01653; Zdravko Batinić, T(F), pp. 34433 and 34434. Moreover, according to a report from the Commander of the 2<sup>nd</sup> Military Police Battalion, Zdenko Andabak, on the incidents at Gornji Vakuf from 19 to 29 October 1992, on 19 October 1992, the Main Staff of Gornji Vakuf ordered the Military Police to go on combat alert; on 23 October 1992, all the HVO units in Gornji Vakuf received the order to remain on combat alert; P 00536, p. 4.

<sup>776</sup> 3D 02131, p. 2; P 00644; P 00536, p. 4; 3D 00480.

<sup>777</sup> 3D 00480.

<sup>778</sup> On 27 October, the joint command post at Karamustafić was reconstituted and the communication route blockades vanished in all the villages, except for Dobrošin, and on 29 October 1992 the situation was stabilised in the region of Gornji Vakuf, P 00536, pp. 4 and 5.

<sup>779</sup> Ray Lane, T(F), pp. 23670-23672, 23674 and 23905-23908; IC 00693; Zijada Kurbegović, T(F), pp. 8950-8952.

<sup>780</sup> Fahrudin Agić, T(F), pp. 9254-9255; Alistair Rule, P 09803, *Kordić and Čerkez Case*, T(F), pp. 5390-5392, 5455-5461.

<sup>781</sup> Alistair Rule, P 09803, *Kordić and Čerkez Case*, T(F), pp. 5394 and 5395.

<sup>782</sup> P 01177, p. 4; Alistair Rule, P 09803, *Kordić and Čerkez Case*, T(F), pp. 5401-5403; P 01089.

### C. The Croatian Flag Incident on 6 January 1993

332. Tensions between the HVO and the ABiH also came to a head following the incident of the Croatian flag raised on 6 January 1993. The Chamber heard *Zrinko Tokić*<sup>783</sup> explain that in 1990 and 1991, in Gornji Vakuf, the Croat and Muslim flags were raised and fastened on certain occasions, particularly at Christmas for the Croats – without that causing any problem.<sup>784</sup> On 24 June 1992, the Presidency of the Municipal Assembly of Gornji Vakuf nevertheless prohibited the raising of flags in the municipality, save over religious edifices and barracks,<sup>785</sup> which they did to quiet the overall situation prevailing in the municipality of Gornji Vakuf following the clash of 20 June 1992.<sup>786</sup> Still, despite the prohibition, the flags of the Croat people in BiH were hoisted by the Croats in celebration of Christmas.<sup>787</sup> Those events sparked several incidents between 24 and 29 December 1992.<sup>788</sup>

333. According to a message from Ivan Sarić, on 4 January 1993, soldiers from the "Muslim armed forces", as a reaction, took down a dozen Croatian flags in Gornji Vakuf Municipality.<sup>789</sup>

334. While the prohibition was still in effect, on 6 January 1993, the HVO, with members of the HOS who *Zrinko Tokić* claimed were under the 113<sup>th</sup> Battalion of the Tomislavgrad HVO,<sup>790</sup> took control of a Muslim school in Gornji Vakuf.<sup>791</sup> The Croatian flag was then hoisted outside this school,<sup>792</sup> in the presence of a Croatian television crew from Split which filmed the event.<sup>793</sup> A soldier from the ABiH attempted to take away the flag, but an HVO soldier prevented him from doing so by firing in his direction.<sup>794</sup>

<sup>783</sup> Commander of the HVO *Ante Starčević* Brigade in Gornji Vakuf from September 1992 until May 1994.

<sup>784</sup> *Zrinko Tokić*, T(F), pp. 45499 and 45500.

<sup>785</sup> ID 01786

<sup>786</sup> *Zdravko Batinić*, T(F), p. 34383. In fact, increasingly sharp tensions between the HVO and TO became clear in the form of clashes in June, and in particular, on 20 June 1992. *Fahrudin Agić*, T(F), pp. 9227, 9242 and 9246; *Zdravko Batinić*, T(F), pp. 34376-34385; P 01653.

<sup>787</sup> Tradition had it that these flags were supposed to remain flying until 6 January 1993, the Day of the Epiphany: *Zdravko Batinić*, T(F), pp. 34381-34383, 34394, 34395, and 34521-34523; ID 00207 .

<sup>788</sup> *Zrinko Tokić*, T(F), pp. 45500-45502; P 01653 .

<sup>789</sup> ID 00207.

<sup>790</sup> *Zrinko Tokić*, T(F), pp. 45351, 45352, 45499 and 45500, 45506.

<sup>791</sup> *Andrew Williams*, T(F), pp. 8446-8447, 8591 and 8592.

<sup>792</sup> *Andrew Williams*, T(F), pp. 8446-8447, 8591 and 8592; *Alistair Rule*, P 09803, *Kordić and Čerkez* Case, T(F), p. 5396; P 01068, p. 1; P 01107, p. 1.

<sup>793</sup> *Andrew Williams*, T(F), pp. 8446-8447.

<sup>794</sup> *Andrew Williams*, T(F), pp. 8446 and 8447; P 01068, p. 1; *Alistair Rule*, P 09803, *Kordić and Čerkez* Case, T(F), p. 5396; *Philip Watkins*, T(F), pp. 18754-18756; P 05502 under seal. The Chamber notes that the ECMM report states that the incident occurred on 8 January 1993; however, the Chamber has been persuaded by the other evidence that the incident took place on 6 January 1993.

335. Subsequent to the 6 January 1993 incident, tensions worsened,<sup>795</sup> and the ABiH set up checkpoints in Gornji Vakuf.<sup>796</sup> The Chamber notes, however, that some of the city's checkpoints were still controlled by both the HVO and the ABiH.<sup>797</sup>

#### **D. Clashes Between the HVO and the ABiH on or about 11 and 12 January 1993**

336. On 11 and 12 January 1993, open fighting broke out between the HVO and the ABiH in Gornji Vakuf Municipality,<sup>798</sup> specifically in the town of Gornji Vakuf<sup>799</sup> and the villages of Duša,<sup>800</sup> Uzričje,<sup>801</sup> Ždrimci<sup>802</sup> and Hrasnica.<sup>803</sup> Several meetings were held and multiple agreements for the cessation of hostilities between the HVO and the ABiH were signed on 12 and 13 January 1993.<sup>804</sup> However, the clashes continued throughout the municipality in the days that followed, involving Serb forces as well.<sup>805</sup> A number of witnesses described the shelling by Serb forces of Uzričje<sup>806</sup> and the town of Gornji Vakuf around 12 and 13 January 1993.<sup>807</sup>

337. From 14 to 16 January 1993, fighting between the BiH Muslims and Croats in the region of Gornji Vakuf went on,<sup>808</sup> at the same time as the meetings between the HVO and the ABiH to calm the situation on the ground continued.<sup>809</sup>

#### **E. HVO Subordination Orders of 14 and 16 January 1993 to ABiH Armed Forces**

338. At a 14 January 1993 meeting between the HVO's representatives, including Željko Šiljeg, commander of the North-West OZ, and Miro Andrić, Colonel in the HVO Main Staff,<sup>810</sup> who was dispatched by Bruno Stojić on 12 January 1993 to manage the situation in Gornji Vakuf

<sup>795</sup> P 01064; Alistair Rule, P 09803, *Kordić and Čerkez* Case, T(F), pp. 5396, 5397, 5440; P 01082, p. 5; P 01236, p. 1.

<sup>796</sup> Alistair Rule, P 09803, *Kordić and Čerkez* Case, T(F), pp. 5396 and 5397.

<sup>797</sup> P 01082, p. 5.

<sup>798</sup> Milivoj Petković, T(F), pp. 49427 and 49728; Zdravko Batinić, T(F), p. 34414; 4D 00042, pp. 1 and 2; P 01112, p. 1; P 09400, p. 15; 3D 02356; Nicholas Short, P 09804, *Blaškić* Case, T(F), p. 22642; Jacqueline Carter, T(F), pp. 3342, 3400 and 3406.

<sup>799</sup> Fahrudin Agić, T(F), pp. 9267-9268, 9270, and 9308; P 01102, pp. 1-3; P 01107, pp. 2 and 3.

<sup>800</sup> P 10109, p. 1.

<sup>801</sup> P 09711, p. 3.

<sup>802</sup> P 09201, pp. 18 and 19.

<sup>803</sup> P 10107, p. 2; P 10106, p. 2; P 09724 under seal, p. 3; Witness BV, T(F), p. 8752.

<sup>804</sup> P 01236, pp. 2 and 3; 3D 00525; 4D 00348; Milivoj Petković, T(F), pp. 50835 and 50836; 3D 00513; Nicholas Short, P 09804, *Blaškić* Case, T(F), p. 22642; 3D 03065, p. 1; Slobodan Praljak, pp. 40690 and 40691.

<sup>805</sup> P 01236, p. 3; 3D 00525; 3D 00513 ; P 01126; 3D 01462; 3D 02361; 3D 02637, p. 20.

<sup>806</sup> Zijada Kurbegović, T(F), p. 8958.

<sup>807</sup> Alistair Rule, P 09803, *Kordić and Čerkez* Case, T(F), pp. 5398, 5400, 5401, 5422 and 5424; Zrinko Tokić, T(F), pp. 45403 and 45404; Zdravko Batinić, T(F), pp. 34414 and 34442; P 01112, p. 1; 2D 00219; 3D 00464.

<sup>808</sup> P 01177, p. 4; P 01163, p. 3; P 01131; 3D 01094, p. 2.

<sup>809</sup> 4D 00348, p. 2; P 01131, p. 3; Nicholas Short, P 09804, *Blaškić* Case, T(F), p. 22642; Alistair Rule, P 09803, *Kordić and Čerkez* Case, T(F), pp. 5406, 5407 and 5481.

<sup>810</sup> Fahrudin Agić, T(F), pp. 9285-9288; Witness DV, T(F), p. 23037; Slobodan Praljak, T(F), pp. 40689 and 40690.



Municipality<sup>811</sup> – with representatives of the ABiH – including Džemal Merdan, Commander of the 3<sup>rd</sup> Corps<sup>812</sup> – and in front of the representatives of the international community,<sup>813</sup> Miro Andrić insisted on subordination of all ABiH forces to the forces of the HVO.<sup>814</sup>

339. At a 16 January 1993 meeting between representatives of the HVO and the ABiH,<sup>815</sup> Miro Andrić transmitted the general subordination order issued by Milivoj Petković on 15 January 1993<sup>816</sup> to the representatives of the ABiH, again insisting on subordination of all ABiH forces to the forces of the HVO.<sup>817</sup>

340. In this regard, the Prosecution emphasises the role of Slobodan Praljak, who arrived from Zagreb to rejoin the HVO troop command in Gornji Vakuf on the evening of 15 January 1993 and also his firm enforcement of the "ultimatum" through his commanders on 16 January 1993, issuing a warning to the ABiH representatives in Gornji Vakuf that they "would be annihilated if they refused to accept the decisions of the HZ H-B".<sup>818</sup> The Praljak Defence stated during its closing argument that during his testimony *Slobodan Praljak*, had refuted those suggestions and that he never made any such statements.<sup>819</sup>

341. On 16 and 17 January 1993, the ABiH rejected Miro Andrić's<sup>820</sup> subordination orders.

<sup>811</sup> 4D 00348, p. 1.

<sup>812</sup> Fahrudin Agić, T(F), pp. 9285-9288.

<sup>813</sup> Specifically those of Britbat: Alistair Rule, P 09803, *Kordić and Čerkez* Case, T(F), pp. 5406, 5407 and 5481.

<sup>814</sup> According to *Fahrudin Agić*, Colonel Andrić produced documents from the government of Herceg-Bosna "signed" by Jadranko Prlić. The documents arrived through packet communication and therefore did not have Jadranko Prlić's signature but simply his name: Fahrudin Agić, T(F), pp. 9297 and 9285-9288; Alistair Rule, P 09803, *Kordić and Čerkez* Case, T(F), pp. 5408 and 5409.

<sup>815</sup> Željko Šiljeg, Miro Andrić and Ivica Lucić for the HVO, and at least Džemal Merdan for the ABiH: P 01236, pp. 3, 4 and 5; P 01163, pp. 3-4.

<sup>816</sup> It should be recalled that a subordination order was dispatched on 15 January 1993 by General Milivoj Petković, Chief of the HVO Main Staff, to the chain of command of the HVO armed forces in three of the four OZs of the HVO armed forces, wherein he instructed all the ABiH units in provinces 3, 8 and 10, which were proclaimed Croatian under the Vance-Owen Plan, to subordinate themselves to the HVO, pursuant to the orders of Jadranko Prlić and Bruno Stojić: *see* in this regard "Subsequent History of the Vance-Owen Plan; Attempts to Implement the Principles of this Plan in the Field (January 1993 – August 1993)" in the Chamber's factual findings relating to the events after the creation of Herceg-Bosna; P 01139; and the reference to the Mostar commander in P 01163, pp. 3 and 4.

<sup>817</sup> P 01163, pp. 3 and 4; P 01299, pp. 3 and 4; P 01207; Andrew Williams, T(F), pp. 8485-8487, 8655; P 01162; P 01185, p. 4; P 01236, pp. 4 and 5; 3D 01228, pp. 1 and 2; Nicholas Short, P 09804, *Blaškić* Case, T(F), pp. 22642 and 22653; the Chamber notes that Nicholas Short, mentioned Zrinko Tokić instead of Miro Andrić as being the author of one of the two subordination orders for Gornji Vakuf. The Chamber considers that this information has limited probative value inasmuch as this testimony was admitted by way of a written motion under Rule 92 *bis* of the Rules, is not corroborated and contradicts testimony and documentary evidence attributing the HVO subordination orders to Miro Andrić as of 14 and 16 January 1993.

<sup>818</sup> Prosecution Final Trial Brief, paras 220, 672 and 718, citing P 01162; Slobodan Praljak, T(E), pp. 41600-41601 and 44090.

<sup>819</sup> Closing Arguments of the Praljak Defence, T(F), pp. 52483-52484, citing Slobodan Praljak, T(E) p. 43698.

<sup>820</sup> P 01236; Alistair Rule, P 09803, *Kordić and Čerkez* Case, T(F), p. 5409; P 01163, pp. 3 and 4; P 01299, p. 4; P 01182, p. 2; P 01207; Nicholas Short, P 09804, *Blaškić* Case, T(F), pp. 22642 and 22653; P 01174, pp. 2 and 3; Andrew Williams, T(F), p. 8659; P 01194; P 01160.

342. At the same time, the HVO and the ABiH, respectively, continued to fortify their positions around the town of Gornji Vakuf and to prepare themselves for combat, particularly in furtherance of a fresh order from Milivoj Petković on 15 January 1993 for the HVO, and orders from Arif Pašalić and Enver Hadžihasanović on 16 and 17 January 1993 for the ABiH.<sup>821</sup>

#### IV. Attacks on 18 January 1993 in the Municipality of Gornji Vakuf

343. In its Final Trial Brief, the Prosecution submits that, immediately after the expiration of the HVO "ultimatum" requiring subordination of ABiH forces to those of the HVO no later than 17 January 1993, "the Croatian/HVO forces" launched an attack on 18 January 1993 on Gornji Vakuf Municipality.<sup>822</sup> It alleges that the armed forces of the HVO took military control of Ždrimci, Hrasnica, Duša, Uzričje, Relej-Kuk, Strmica, Ždrince and Palači between 18 and 21 January 1993, and thus had full control over the territory of these villages.<sup>823</sup> The Prosecution asserts, moreover, that "[t]he events in Prozor in October 1992 and Gornji Vakuf in January 1993 had much to do with the importance of this region for both the HVO and the ABiH, as the principal transportation link for military, civilian and humanitarian material between the Croatian coast and Herzegovina to and from Central Bosnia".<sup>824</sup>

344. The Chamber has admitted a considerable quantity of evidence regarding the attacks on Gornji Vakuf on 18 January 1993<sup>825</sup> and heard several witnesses testifying to those attacks by the HVO forces from the town of Gornji Vakuf and the villages of Duša, Uzričje, Ždrimci and Hrasnica.<sup>826</sup> In this regard, it has given credence to the testimony of victims testifying before the Chamber, namely *Witness BW*, *Witness BY* and *Kemal Šljivo*, for the village of Duša,<sup>827</sup> *Senada Basić*, *Zijada Kurbegović* and *Derviša Plivčić* for the village of Uzričje,<sup>828</sup> *Nedžad Čaušević*, *Đulka*

<sup>821</sup> P 01135, p. 2: Milivoj Petković's Order of 15 January 1993 is a general "combat readiness" order addressed to the HVO's units but more specifically referring to the Municipality of Gornji Vakuf: "prepare 500 to 600 men part of the mobile artillery and two or three tanks for an intervention towards Prozor and Vakuf"; P 01299, p. 4; 3D 02081; 3D 01094, pp. 1 and 2; 2D 00206; 3D 01228, pp. 1 and 2.

<sup>822</sup> Prosecution Final Trial Brief, para. 335.

<sup>823</sup> Prosecution Final Trial Brief, para. 335.

<sup>824</sup> Prosecution Final Trial Brief, para. 566.

<sup>825</sup> In this regard, the Chamber stresses that the arguments regarding the motives for the attack have not been elaborated on here. Although the outbreak of hostilities between the HVO and the ABiH was foreseeable in light of increased tensions in the preceding months and the reinforcement of the HVO and ABiH armed forces' positions through mid-January 1993, the Chamber recalls that, in international humanitarian law, the motive for an attack is not *per se* relevant and may not be taken into account in the characterisation of the crimes. The Chamber will if necessary analyse the considerations relating to the grounds giving rise to the attacks within the context of the joint criminal enterprise.

<sup>826</sup> Raymond Lane, T(F), p. 23954; P 01226; P 01214; Nicholas Short, P 09804, *Blaškić* Case, T(F), p. 22642; P 01206, pp. 1 and 2.

<sup>827</sup> P 10108, p. 3; P 10109, p. 1; P 10110, p. 2.

<sup>828</sup> Zijada Kurbegović, T(F), pp. 8961-8969; P 09169, under seal, p. 15.

*Brica* and *Muamer Trkić* for the village of Ždrimci<sup>829</sup> and *Witness BV*, *Witness BX* and *Senad Zahirović* for the village of Hrasnica.<sup>830</sup>

345. The Chamber notes that the clashes between the HVO and the ABiH, which broke out around 18 January 1993, continued for several days,<sup>831</sup> affecting (A) the town of Gornji Vakuf and (B) a number of villages in the municipality.<sup>832</sup>

#### **A. Attack on the Town of Gornji Vakuf and Crimes Alleged as a Consequence of the Attack**

346. In paragraph 66 of the Indictment, the Prosecution alleges that the forces of the HVO using heavy artillery fire attacked Muslim residential areas in Gornji Vakuf town, and killed a number of Muslim civilians and destroyed or damaged a substantial amount of their property.

347. The Chamber observes that the attack began in the early morning of 18 January 1993.<sup>833</sup> The HVO forces directed the attack from the city of Prozor and from the sector of the Makljen Peak,<sup>834</sup> coming from Tomislavgrad, Livno and other towns in Herzegovina.<sup>835</sup> The forces comprised 430 members of the Military Police<sup>836</sup> and over 3,000 soldiers from the HVO.<sup>837</sup> Nevertheless, the Chamber lacks specific evidence about the HVO units participating in this attack on the town of Gornji Vakuf on 18 January 1993.

348. In its Final Trial Brief the Praljak Defence states that the HVO did not attack the town of Gornji Vakuf with heavy artillery.<sup>838</sup> For its part, the Chamber, notes that the evidence shows that the HVO used tanks, artillery, rockets and mobile anti-aircraft guns to attack the town of Gornji

<sup>829</sup> P 09201, pp. 18 and 19; P 09797, paras 7, 9 and 10; P 10577, p. 1; Muamer Trkić, T(F), pp. 9158-9160.

<sup>830</sup> P 09724 under seal, p. 3; Witness BV, T(F), pp. 8755-8757 closed session; P 10106, p. 3.

<sup>831</sup> According to *Nicholas Short*, the attack lasted six or seven days, Nicholas Short, P 09804, *Blaškić* Case, T(F), p. 22642; Nicholas Short, P 09804, *Blaškić* Case, T(F), p. 22664; P 01209; 3D 00496; Fahrudin Agić, T(F), p. 9460; P 01285, p. 2; 3D 03205 under seal, p. 3; Witness 1D-AA, T(F), p. 29286 closed session; IC 01060; 3D 02530, p. 2; 3D 02353.

<sup>832</sup> Raymond Lane, T(F), p. 23677; P 01214; P 01193, p. 2; Nicholas Short, P 09804, *Blaškić* Case, T(F), p. 22642; P 01198; P 01185, p. 4.

<sup>833</sup> Nicholas Short, P 09804, *Blaškić* Case, T(F), pp. 22642 and T(E) p. 24239; P 01183; P 01226, p. 1.

<sup>834</sup> Raymond Lane, T(F), p. 23953; P 01214.

<sup>835</sup> Raymond Lane, T(F), p. 23954; P 01214.

<sup>836</sup> Of these 430 members of the HVO military police, 154 members were from the 1<sup>st</sup> Battalion, 243 members from the 2<sup>nd</sup> Battalion and 32 members from the 3<sup>rd</sup> Battalion. P 03090, p. 7.

<sup>837</sup> Andrew Williams, T(F), p. 8512; the Chamber has *inter alia* heard and admitted evidence recounting that there was an assault unit commanded by Mladen Naletilić, a military police battalion commanded by Mijo Jurić, an elite platoon commanded by Jure Šmit, members of the 2<sup>nd</sup> Brigade, including Mićo Lasić, see 4D 00348, p. 3; members of the 1<sup>st</sup> Light Assault Battalion of the HVO Military Police, see P 03090, p. 6; from the HVO's *Ante Starčević* Brigade, see P 09201, p. 19; from the HVO's 2<sup>nd</sup> Military Police Battalion as well as Zdenko Andabak, its commander, who were then under the orders of the *Ante Starčević* Brigade commander, see Zdenko Andabak, T(F), pp. 50967, 50980 and 50981; see also 3D 00478.

<sup>838</sup> Praljak Defence Final Trial Brief, para. 239, citing Zrinko Tokić.

Vakuf.<sup>839</sup> In particular, *Raymond Lane* said that light weapons fire from the town of Gornji Vakuf was the work of the ABiH forces, whereas the artillery fire towards the city came from the HVO.<sup>840</sup>

349. *Zrinko Tokić*, in turn, testified that some artillery equipment located on Mount Makljen did not have the range needed to reach the city of Gornji Vakuf,<sup>841</sup> but did not ever deny that the HVO attacked the town of Gornji Vakuf with heavy artillery.

350. Nevertheless, in view of the evidence discussed above, although the Chamber is persuaded that the HVO used artillery to attack the town of Gornji Vakuf, it has insufficient evidence to determine whether the type of artillery used by the HVO met the definition of heavy artillery.

351. The Chamber then examined the evidence directly relevant to the town of Gornji Vakuf proper and the crimes alleged to have resulted from the attack. In this regard, it notes that only three witnesses<sup>842</sup> briefly mentioned the destruction in the town of Gornji Vakuf and that few documents specifically confirm the alleged criminal events in the town of Gornji Vakuf.

352. Accordingly, in view of the evidence, the Chamber observes that, after the attack on 18 January 1993 by the HVO, the town of Gornji Vakuf was in flames<sup>843</sup> and that some parts of the Muslim part of the town of Gornji Vakuf had been badly destroyed.<sup>844</sup> During his visits to the town of Gornji Vakuf on 18 and 25 January 1993, *Ray Lane*<sup>845</sup> observed that a great many shells had fallen on houses and near the UNPROFOR HQ<sup>846</sup> and that the city had been seriously damaged: the private houses bore traces of artillery projectiles; roofs were damaged, walls destroyed.<sup>847</sup>

353. Nonetheless, the Chamber has admitted evidence attesting that the destruction, in particular, of houses<sup>848</sup> in the town of Gornji Vakuf did not merely result from HVO shelling but also from fighting inside the city between the HVO and the ABiH and from shelling by the VRS.<sup>849</sup>

354. Given all the evidence, the Chamber finds that the HVO was at least partially responsible for the damage and devastation in the town of Gornji Vakuf.

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<sup>839</sup> Nicholas Short, P 09804, *Blaškić* Case, T(F), p. 22642; Raymond Lane, T(F), p. 23955; P 01226.

<sup>840</sup> Raymond Lane, T(F), p. 23680.

<sup>841</sup> Zrinko Tokić, T(F), pp. 45395 and 45396.

<sup>842</sup> Raymond Lane, Jacqueline Carter and Fahrudin Agić.

<sup>843</sup> P 01209, p. 1.

<sup>844</sup> P 01250, p. 3.

<sup>845</sup> ECMM envoy in Herzegovina from September 1992 until 22 March 1993.

<sup>846</sup> Raymond Lane, T(F), pp. 23680 and 23681.

<sup>847</sup> Raymond Lane, T(F), pp. 23712 and 23713.

<sup>848</sup> Jacqueline Carter, T(F), p. 3361; P 01299, p. 4.

<sup>849</sup> Raymond Lane, T(F), pp. 23893 and 23894; 3D 01094, p. 2.

355. However, the Chamber does not have evidence about the deaths of Muslim inhabitants in the town of Gornji Vakuf during the HVO attacks on 18 January 1993.

**B. Attack on Several Villages of Gornji Vakuf Municipality and the Alleged Crimes Resulting from this Attack**

356. In paragraph 66 of the Indictment, the Indictment alleges that on 18 January 1993, the HVO attacks and artillery fire in the villages of Duša, Hrasnica, Uzričje and Ždrimci killed a number of Muslim civilians and destroyed or damaged a substantial amount of property belonging to them.

357. The Chamber points out that the attacks on the villages of (1) Duša, (2) Hrasnica, (3) Uzričje and (4) Ždrimci, all located around Gornji Vakuf, also began on the morning of 18 January 1993<sup>850</sup> and that all the villages were attacked with mortar shells, heavy machine guns and artillery.<sup>851</sup>

**1. Attack on the Village of Duša**

358. According to the evidence admitted into the record, the village of Duša was attacked and shelled by the HVO on the morning of 18 January 1993, particularly from Mackovac.<sup>852</sup> The attack was led by HVO and the HV soldiers,<sup>853</sup> among whom were 10 or 15 soldiers wearing a black uniform without insignia and a black headband.<sup>854</sup> In this regard, *Kemal Šljivo* remembered that the soldiers in black uniforms called one of their number by his nickname, "Dajdža",<sup>855</sup> who must have been their commander because he was giving them orders.<sup>856</sup> The other soldiers wore camouflage dress with distinction decorations sewn into their shoulders.<sup>857</sup> Some bore round insignia inscribed with an "H" and a "V"; still others had insignia with a crossed rifle and sabre over the letters

<sup>850</sup> P 10108, p. 3; P 10109, p. 1; P 10110, p. 2; P 03090, p. 6; P 09797, paras 7, 9 and 10; Muamer Trkić, T(F), pp. 9158 and 9159; P 09201, p. 19; 4D 00348, p. 2.

<sup>851</sup> P 01209, p. 2; P 01198; P 09201, p. 19; 3D 03065, p. 3.

<sup>852</sup> P 01213; Witness BY, T(F), pp. 9064 and 9077, private session; Witness BW, T(F), pp. 8769-8771, closed session; Andrew Williams, T(F), pp. 8538-8542; P 10108, p. 3; P 10109, p. 1.

<sup>853</sup> P 10108, p. 4; P 10109, p. 2; P 10110, p. 2; Witness BY, T(F), p. 9064 private session; Witness BW T(F), pp. 8772, 8779, 8781, closed session. The Chamber does not have details about the number of soldiers who led the attack. Only the testimony of *Kemal Šljivo* speaks of about 50 men at the moment the HVO soldiers entered the village; this does not provide a sufficient basis for the Chamber to find that the entire attack was also carried out by a group of about 50 soldiers.

<sup>854</sup> P 10108, p. 4.

<sup>855</sup> The Chamber notes that, according to *Safer Idrizović*, "Dajdža" was the nickname of an HV Croatian General, Mate Šarlija, see Safer Idrizović, T(F), p. 9602, 9607, 9611.

<sup>856</sup> P 10108, p. 4.

<sup>857</sup> P 10108, p. 4.

"HVO".<sup>858</sup> About 15 of the soldiers wore insignia inscribed with the name "Ante Starčević" and about 15 others wore insignia in which the name "Bruno Bušić" appeared.<sup>859</sup>

359. According to the Praljak Defence, during fighting in the village of Duša, the HVO launched an attack against ABiH positions in the village, because one ABiH unit of 25 men was based in an underground shelter near the big house in the village and shot at the HVO soldiers from there.<sup>860</sup> During the attack, an HVO grenade hit the large house adjacent to the underground shelter with the ABiH soldiers resulting in civilian victims. The Praljak Defence asserts that this is a typical example of collateral damage when fighting occurred in populated areas under chaotic conditions.<sup>861</sup>

360. The Praljak Defence, alleges, in particular, that "the inhabitants of the village organized an armed defence of the village on an ongoing basis",<sup>862</sup> enabling the HVO units to legitimately target those reasonably believed to have become combatants or were taking an active role in hostilities.<sup>863</sup> The Praljak Defence challenges *Fahrudin Agić's* testimony inasmuch as he denied that ABiH soldiers were positioned in Duša.<sup>864</sup> The Praljak Defence submits, in effect, that "(a) the witness had no opportunity to directly observe fighting in Duša, (b) it is merely his opinion about events in Duša, thus a hearsay testimony, and (c) his testimony is directly contradicted by the documents".<sup>865</sup>

361. The Chamber notes that *Fahrudin Agić* did deny that ABiH soldiers were present at Duša<sup>866</sup> and that *Kemal Šljivo*, a defender of the village of Duša, also never mentioned that the ABiH was present.<sup>867</sup>

362. However, the Chamber heard and admitted several testimonies that on 18 January 1993, the Muslim women, elderly people and children in Duša took refuge in the basement of Enver Šljivo's house in order to escape from the HVO attack,<sup>868</sup> whereas the men, a number of whom belonged to

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<sup>858</sup> P 10108, p. 4.

<sup>859</sup> P 10108, p. 4.

<sup>860</sup> P 3D 00527; para. 245.

<sup>861</sup> Praljak Defence Final Trial Brief, para. 245.

<sup>862</sup> Praljak Defence Final Trial Brief, para. 246.

<sup>863</sup> Praljak Defence Final Trial Brief, para. 246.

<sup>864</sup> Praljak Defence Final Trial Brief, para. 247, referring to *Fahrudin Agić*, T(F), 9322-23.

<sup>865</sup> Praljak Defence Final Trial Brief, para. 247, referring to 3D 00527 and P 01213.

<sup>866</sup> *Fahrudin Agić*, T(F), pp. 9322 and 9323.

<sup>867</sup> P 10108, p. 3; P 10109.

<sup>868</sup> Witness BW, T(F), p. 8769-8771 closed session; P 10108, p. 3; P 10109, p. 1; Witness BY, T(F), p. 9057.

the ABiH and to the TO, were preparing to defend the village,<sup>869</sup> taking up positions in particular in the forest of Duša.<sup>870</sup>

363. Moreover, several HVO documents likewise speak of a small number of ABiH soldiers present in the village of Duša in mid-January 1993.<sup>871</sup>

364. After reviewing the contradictory evidence about whether or not there were members of the ABiH in the village of Duša during the attack, the Chamber considers that it must find in favour of the Accused, and hold that there were members of the ABiH in the village of Duša in mid-January 1993. Nonetheless, inasmuch as there is evidence that Muslim men in the village were not members of the ABiH, the Chamber will use the expression "defenders of the village" to refer to the armed Muslim men present in Duša.

365. According to *Kemal Šljivo*, on 18 January 1993, toward 1400 hours, while the defenders of the village of Duša were attempting to help the wounded - women, children and elderly people - a group of about 50 HVO and HV soldiers surrounded the village and forced all the inhabitants, including the armed men, to surrender.<sup>872</sup> *Kemal Šljivo* added that the commander of the group of men defending the village, Enver Šljivo, was not arrested on that occasion.<sup>873</sup> The HVO took control of the village of Duša after one or two days of fighting.<sup>874</sup>

366. The Prosecution alleges that several Muslim civilians were killed during the attack on the village. On this point, the Chamber recalls that the HVO had fired – from Mackovac, according to *Witness BY*<sup>875</sup> – several shells on the village of Duša, and notes that one of them hit Enver Šljivo's house,<sup>876</sup> causing the deaths of seven people,<sup>877</sup> among those gathered in Enver Šljivo's cellar.<sup>878</sup> Their names were Mirsada Behlo (an 11 year old child),<sup>879</sup> Muamer Zulum (a 12 year old child),<sup>880</sup> Mirsad Behlo (a three year old child),<sup>881</sup> Sabaha Behlo (a 31 year old woman),<sup>882</sup> Rasiha Behlo (a

<sup>869</sup> Witness BW, T(F), p. 8769 closed session; Witness BY, T(F), p. 9066 private session.

<sup>870</sup> P 10109, pp. 1 and 2; P 10108, p. 3.

<sup>871</sup> 3D 00527; P 01213.

<sup>872</sup> P 10108, p. 4; P 10109, p. 2; P 10110, p. 2.

<sup>873</sup> P 10108, pp. 4 and 5.

<sup>874</sup> P 01209, p. 1; P 01198; 3D 03065, p. 3; P 01220, p. 4; 4D 00348, p. 3; P 10108, p. 4; P 10109, p. 2; P 10110, p. 2.

<sup>875</sup> Witness BY, T(F), p. 9077; IC 00068 under seal; IC 00069 under seal.

<sup>876</sup> Andrew Williams, T(F), pp. 8540-8542; Witness BY, T(F), pp. 9064, 9071, 9074 and 9076; IC 00070 under seal; P 10110, p. 2.

<sup>877</sup> Witness BW, T(F), pp. 8773 and 8780, closed session; P 10108, p. 4; P 10109, p. 1; P 10110, p. 2; P 01213, p. 1; Fahrudin Agić, T(F), pp. 9322-9323; P 01351, p. 3 which lists the names of the people killed by shelling in Duša.

<sup>878</sup> Witness BW, T(F), p. 8769, closed session.

<sup>879</sup> P 09151.

<sup>880</sup> P 09152.

<sup>881</sup> P 09153.

<sup>882</sup> P 09154.

20 year old woman)<sup>883</sup> Fatka Gudić (a 44 year old woman)<sup>884</sup> and Salih Čeho (a 65 year old man) who, after surviving the attack died as a result of his wounds.<sup>885</sup>

367. Finally, the Chamber notes that in view of all the evidence, the village of Duša was one of the Muslim villages most devastated as a result of the HVO attack, and that for this reason a substantial amount of property belonging to the Muslims in the village was also hit.<sup>886</sup> Accordingly, the Chamber is in a position to refer *inter alia* to the report by Colonel Željko Šiljeg, commander of the HVO's North-West OZ, dated 29 January 1993, that 18 houses were destroyed in Duša, including two which had been shelled.<sup>887</sup>

368. In view of all the evidence examined, the Chamber is therefore able to conclude that, during the attack on the village, several inhabitants who were not taking part in the fighting were killed and that Muslim houses were destroyed.

## 2. Attack on the Village of Hrasnica

369. On 18 January 1993, after having shelled the village for several days, 200 to 300 HVO soldiers,<sup>888</sup> solidly armed and wearing either a camouflage uniform or a black- uniform and with black-painted faces, entered Srednja Hrasnica (called "Central Hrasnica") and Donja Hrasnica (called "Lower Hrasnica") and called on the villagers to surrender.<sup>889</sup> Some of the soldiers belonged to the *Garavi* unit.<sup>890</sup> *Witness BX* indicated that when the HVO soldiers entered the village of Hrasnica, the shelling stopped but that light weapons fire from the HVO soldiers continued.<sup>891</sup> The HVO took control of the village of Hrasnica after one or two days of fighting.<sup>892</sup>

370. *Senad Zahirović* and a group of Muslim men – between ten and thirty, according to the testimony – including some who were members of the TO, banded together to defend their homes in the lower part of the village of Hrasnica (Donja Hrasnica) when the attack started.<sup>893</sup> *Witness BX* and other villagers from Hrasnica, took refuge in the basements of houses.<sup>894</sup> Some villagers from

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<sup>883</sup> P 09155.

<sup>884</sup> P 09163.

<sup>885</sup> P 10108, p. 4; P 10109, p. 1; P 10110, p. 2; P 08543; *Witness BY*, T(F), pp. 9073 and 9137 private session.

<sup>886</sup> *Jacqueline Carter*, T(F), pp. 3363-3364, 3366 and 3369; P 01600; P 01351, p. 3.

<sup>887</sup> P 01351, p. 3. This assessment of the situation was confirmed by *Jacqueline Carter*, T(F), pp. 3381-3382.

<sup>888</sup> *Witness BX*, T(F), pp. 8849-8850. *Witness BX* saw that the soldiers were wearing the HVO insignia on the sleeves of their uniforms.

<sup>889</sup> *Witness BX*, T(F), p. 8878; P 09710 under seal, p. 3; P 09724 under seal, p. 3.

<sup>890</sup> P 10107, p. 3; P 10106, p. 6.

<sup>891</sup> *Witness BX*, T(F), p. 8876.

<sup>892</sup> P 01209, p. 1; P 01198; 3D 03065, p. 3; P 01220, p. 4; 4D 00348, p. 3; P 10108, p. 4; P 10109, p. 2; P 10110, p. 2.

<sup>893</sup> P 10106, p. 4; P 10107, p. 3; 3D 00467 under seal, p. 2; *Witness BV*, T(F), pp. 8728-8730, private session.

<sup>894</sup> P 09710 under seal, p. 3.



Srednja Hrasnica were able to flee towards Gornja Hrasnica,<sup>895</sup> whereas the villagers from Donja Hrasnica fled towards the village of Duratbegov Dolac, which was under ABiH control.<sup>896</sup>

371. In general, when referring to the men who defended the village, the witnesses used the terms "TO", "ABiH" or "defenders of the village".<sup>897</sup> The Chamber was unable to obtain more specific information through documentary evidence in order to determine the group to which the Muslim men of the village of Hrasnica belonged. It is therefore unable to find with certainty that members of the ABiH were present in the village of Hrasnica but can, in any case, find that there were armed Muslim men in the village. Moreover, repeating what it has done previously while analysing the attack on the village of Duša, the Chamber will use the expression "defenders of the village" to refer to the armed Muslim men in Hrasnica during the events of January 1993.

372. When the women, children and elderly people had surrendered, the HVO soldiers sent a messenger to the defenders of the village, carrying an ultimatum.<sup>898</sup> The messenger, Izet Muminović, was one of the "civilians" captured earlier in the afternoon of 18 January 1993 in the centre of Hrasnica village by the HVO soldiers.<sup>899</sup> He informed them that all the "civilian prisoners" would be executed if the defenders of the village, including *Senad Zahirović*, did not surrender.<sup>900</sup> *Senad Zahirović* and the group of a dozen defenders of the village he was with refused to surrender and withdrew to the River Vrbas.<sup>901</sup> Following a second ultimatum by the HVO soldiers, the group of defenders of the village hid their arms in Ibrahim Hindić's house and surrendered: other than *Senad Zahirović*, the group included his brother Ferhim Zahirović, Muhamed Gurić, Sejo Gurić, Asim Gurić and Besim Čepalo, Izet Karalić, Jasmin Muminović and someone named Kulaš.<sup>902</sup> They were arrested by the HVO's *Garavi* Unit, commanded by Vinko Žuljević *alias* Klica and consisting of *inter alia* Stipo Kustura *aka* Lipi and Dragan Nikolić *aka* Čiča.<sup>903</sup>

373. The Chamber has no evidence to permit establishing that the death of villagers resulted from the HVO attack and artillery fire on the village of Hrasnica on 18 January 1993, but does find that

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<sup>895</sup> P 09724 under seal, p. 3.

<sup>896</sup> P 09724 under seal, p. 3; P 09710 under seal, p. 3.

<sup>897</sup> P 10106, p. 4; P 10107, p. 3; 3D 00467 under seal, p. 2; Witness BV, T(F), pp. 8728-8730, private session; P 09710 under seal, p. 3.

<sup>898</sup> P 10106, p. 4; P 10107, p. 3.

<sup>899</sup> P 10106, p. 4; P 10107, p. 3.

<sup>900</sup> P 10106, p. 4; P 10107, p. 3.

<sup>901</sup> P 10106, p. 4; P 10107, p. 3.

<sup>902</sup> P 10106, p. 4; P 10107, p. 3; 3D 00467 under seal, p. 2; Witness BV, T(F), pp. 8728-8730, private session.

<sup>903</sup> P 10107, p. 3; P 10106, p. 6.

shells did indeed destroy or damage houses in the village.<sup>904</sup> *Witness BV*, for example, explained that the HVO shelling of the village of Hrasnica destroyed three houses.<sup>905</sup>

### 3. Attack on the Village of Uzričje

374. According to the evidence admitted into the record, the HVO shelled the village of Uzričje as of 12 or 13 January 1993;<sup>906</sup> then HVO soldiers, including 30 members of the 2<sup>nd</sup> HVO Military Police Battalion, attacked the village on 18 January 1993 in the morning.<sup>907</sup> On 19 January 1993, the HVO occupied the village.<sup>908</sup>

375. In its Final Trial Brief, the Praljak Defence, argues that a TO/ABiH unit was in the village of Uzričje and that it evacuated the inhabitants of the village during the fighting, leaving no known civilians in the village of Uzričje.<sup>909</sup>

376. The Chamber notes that the testimony of the three village women who directly witnessed the events in Uzričje, at the time of the attack, shows that some inhabitants fled the village<sup>910</sup> and that others took refuge in shelters or houses.<sup>911</sup> Thus, 30 to 40 people took refuge in an underground shelter on the hillside in the upper part of the village, near the centre of town,<sup>912</sup> whereas other inhabitants took refuge in a second shelter, in the lower part of the village.<sup>913</sup> The inhabitants therefore remained in the village, contrary to the assertion of the Praljak Defence.

377. The Chamber notes that Muslim men, armed with Kalashnikovs or hunting rifles, were positioned 50 metres from the shelters in the central and lower part of the village.<sup>914</sup> The testimonies of the three women of the village nevertheless do not, however, provide facts making it possible to ascertain whether those men belonged to the TO/ABiH. *Fahrudin Agić*, said that there were ABiH troops in Uzričje in mid-January 1993, as does Zrinko Tokić's report of 27 January 1993 sent to the Main Staff and listing the ABiH men arrested in Uzričje in January 1993.<sup>915</sup> Thus, in view of the evidence about whether the armed Muslim men belonged to the TO/ABiH, the

<sup>904</sup> P 09710 under seal, p. 3; *Witness BX*, T(F), p. 8855; *Witness BV*, T(F), pp. 8752 and 8753; P 01357, p. 6; P 01209, p. 1; *Jacqueline Carter*, T(F), pp. 3359, 3363, 3364, 3367, 3369, 3382 and 3433-3435; P 01386, p. 2.

<sup>905</sup> P 09724 under seal, p. 3; *Witness BV*, T(F), p. 8738, closed session; *Witness BV*, T(F), pp. 8752 and 8753.

<sup>906</sup> *Zijada Kurbegović*, T(F), pp. 8961 and 8964; P 09711, p. 3; P 09169 under seal, paras 10-11.

<sup>907</sup> P 03090, p. 6; *Senada Basić*, T(F), pp. 8918-8919.

<sup>908</sup> P 01209, p. 1.

<sup>909</sup> *Praljak Defence Final Trial Brief*, para. 249.

<sup>910</sup> *Zijada Kurbegović*, T(F), p. 9009.

<sup>911</sup> *Zijada Kurbegović*, T(F), pp. 8954, 8961, 8963-8966, 9014, 9028; P 09169, under seal, para. 11; P 09711, p. 3.

<sup>912</sup> *Zijada Kurbegović*, T(F), pp. 8954, 8961, 8965-8966 and 9014.

<sup>913</sup> *Zijada Kurbegović*, T(F), p. 8954.

<sup>914</sup> *Zijada Kurbegović*, T(F), pp. 8963-8964, 9024 and 9028.

<sup>915</sup> *Fahrudin Agić*, T(F), pp. 9322-9323; P 01326, p. 6.

Chamber finds it necessary to rule in favour of the Accused and holds that the members of the ABiH were there in the village of Uzričje at the time of the alleged facts.

378. The Chamber notes that the HVO soldiers called on the Muslim inhabitants of the village to surrender,<sup>916</sup> which they gradually did, including armed men.<sup>917</sup> Thus, *Derviša Plivčić* said that on 19 January 1993, around 0600 or 0700 hours in the morning, the Muslim villagers who had found refuge in an underground shelter in Uzričje while the village was being bombarded, herself included, surrendered and walked to the village centre.<sup>918</sup>

379. The Chamber finds moreover, in view of the evidence admitted into the record, that during the HVO attack and shelling of the village of Uzričje, houses belonging to the Muslims were destroyed, by mortar shells in particular.<sup>919</sup> A report by Željko Šiljeg, commander of the HVO's North-West OZ, lists at least two houses destroyed by HVO shelling.<sup>920</sup> Moreover, according to *Zijada Kurbegović*, several houses owned by Muslims in the village centre, including her own – were damaged or destroyed by the shelling.<sup>921</sup>

380. No evidence was brought to the Chamber's attention that might enable it to find that the deaths of Muslim civilians resulted from the HVO attack and artillery fire on the village of Uzričje on 18 January 1993.

#### 4. Attack on the Village of Ždrimci

381. According to the evidence admitted into the record, the HVO – specifically a unit of the *Ante Starčević* Brigade from Gornji Vakuf under the command of someone named Kalc,<sup>922</sup> attacked the village of Ždrimci in the early morning of 18 January 1993 from several directions, shelling it from the neighbouring hill of Baba, south-west of the village.<sup>923</sup> Machine gun and automatic rifle fire likewise took place in the village, originating from the Croat houses nearby.<sup>924</sup>

<sup>916</sup> P 09711, p. 3.

<sup>917</sup> *Zijada Kurbegović*, T(F), pp. 8966-8967, 8993; P 09169, under seal, para.11.

<sup>918</sup> P 09169 under seal, para. 11.

<sup>919</sup> Andrew Williams, T(F), p. 8536; *Zijada Kurbegović*, T(F), pp. 8967-8968; P 01351, p. 3; P 01027.

<sup>920</sup> P 01351, p. 3.

<sup>921</sup> *Zijada Kurbegović*, T(F), pp. 8961 and 8964-8965.

<sup>922</sup> P 09201, p. 19. The Chamber notes further that *Ned'ad Čaušević* mentioned the role of the *Bruno Bušić* Regiment in arresting the inhabitants of Ždrimci as described below but this information alone does not make it possible for the Chamber to find that the *Bruno Bušić* Regiment participated in the entire attack, and for this reason, it is not mentioned here.

<sup>923</sup> Muamer Trkić, T(F), p. 9158; P 09201, p. 19; P 09797, paras 7, 9 and 10; P 10577, p. 1.

<sup>924</sup> Muamer Trkić, T(F), p. 9159.

382. At the start of the attack, the inhabitants of Ždrimci, including *Muamer Trkić* and *Nedžad Čaušević*, took refuge in the houses of the village<sup>925</sup> and some 25 Muslim men from the village fired back using rifles.<sup>926</sup> Some of the Muslim men defending the village were members of the ABiH.<sup>927</sup>

383. About two hours into the attack, the HVO stopped shelling and, using loudspeakers, the HVO soldiers called on the inhabitants of Ždrimci to surrender.<sup>928</sup> The shelling then resumed for an hour.<sup>929</sup> Once it ended, a dozen HVO soldiers again demanded that the villagers surrender and, hiding behind one of the houses in the village, threatened them with a portable rocket-launcher.<sup>930</sup>

384. Throughout the day of 18 January 1993, the inhabitants of the village of Ždrimci gradually surrendered to the HVO soldiers specifically to the soldiers from the *Bruno Bušić* Regiment, wearing black and green uniforms with camouflage dress, and to the soldiers from the *Ante Starčević* Brigade, who arrested them.<sup>931</sup> For example, *Muamer Trkić* along with about six men and a dozen or so women hiding in Munib Trkić's house, finally surrendered to the HVO.<sup>932</sup> They were then disarmed<sup>933</sup> and gathered together with other inhabitants of the village.<sup>934</sup> In the same way, shortly after 1400 hours, the people hidden in the basement of a house with *Nedžad Čaušević* finally came out to surrender to the soldiers of the HVO.<sup>935</sup>

385. The HVO then separated the group of about 40 men arrested – including those who were members of the ABiH<sup>936</sup> – from the women and children,<sup>937</sup> and took them to Mato Šekerija's, *alias* Matuka, garage<sup>938</sup> in the hamlet of Katušić Sućaci, outside the village.<sup>939</sup>

386. The HVO thus took control of the village of Ždrimci, after one day of fighting.<sup>940</sup>

<sup>925</sup> Muamer Trkić, T(F), pp. 9157-9158; P 09201, p. 19.

<sup>926</sup> Muamer Trkić, T(F), p. 9159. *Nedžad Čaušević* testified that he left his pistol in the basement when he surrendered to the HVO but never mentioned combat: he hid inside a house as soon as the attack started on 18 January 1993, P 09201, p. 20.

<sup>927</sup> Muamer Trkić, T(F), p. 9168.

<sup>928</sup> Muamer Trkić, T(F), pp. 9159-9160; P 09201, pp. 19 and 20.

<sup>929</sup> Muamer Trkić, T(F), p. 9160.

<sup>930</sup> Muamer Trkić, T(F), pp. 9160 and 9161.

<sup>931</sup> P 09201, pp. 19-20; Muamer Trkić, T(F), p. 9162; P 09797, para. 10.

<sup>932</sup> Muamer Trkić, T(F), p. 9162.

<sup>933</sup> Muamer Trkić, T(F), p. 9163.

<sup>934</sup> Muamer Trkić, T(F), p. 9164.

<sup>935</sup> P 09201, p. 20.

<sup>936</sup> Muamer Trkić, T(F), p. 9168.

<sup>937</sup> Muamer Trkić, T(F), pp. 9164 and 9165; P 09797, para. 10.

<sup>938</sup> P 09201, p. 1.

<sup>939</sup> Muamer Trkić, T(F), pp. 9165 and 9168; P 09201, p. 20.

<sup>940</sup> P 01209, p. 1; P 01198; 3D 03065, p. 3; P 01220, p. 4; 4D 00348, p. 3; P 10108, p. 4; P 10109, p. 2; P 10110, p. 2.

387. The Chamber holds, in view of the evidence admitted into the record, that a number of houses were destroyed by HVO artillery fire during the attack.<sup>941</sup> For example, *Nedžad Čaušević* attested to the fact that on 18 January 1993, during the attack, three grenades exploded in front of his house.<sup>942</sup>

388. The Chamber, however, did not receive any evidence about the allegation that Muslim civilians died as a consequence of the HVO attack and artillery fire on the village of Ždrimci on 18 January 1993.

## **V. Attempts to Arrange a Ceasefire Following the Attacks in the Municipality of Gornji Vakuf**

389. On 21 January 1993, Colonel Željko Šiljeg dispatched a report to the Chief of the HVO Main Staff, telling of the "cleansing" of the four villages attacked as described above.<sup>943</sup>

390. Several attempts to arrange a ceasefire took place in the days following the attacks. Thus, on 20 January 1993, Milivoj Petković and Arif Pašalić signed an order requiring the cessation of all combat operations between the ABiH and the HVO in the territory of the municipality of Gornji Vakuf.<sup>944</sup> The order, which concurred with Mate Boban's order of 19 January 1993 on the prohibition on offensive operations by the HVO against the ABiH in the Gornji Vakuf<sup>945</sup> area, likewise provided for: (1) setting up a joint commission to monitor the carrying out of this order, with the assistance of UNPROFOR and the ECMM, (2) the withdrawal of road blocks, (3) the establishment of joint checkpoints and (4) unhindered passage for humanitarian assistance and all other convoys in possession of the necessary documents.<sup>946</sup>

391. On 22 January 1993, Željko Šiljeg ordered all the HVO units stationed in the Gornji Vakuf sector to observe the ceasefire with the ABiH and to initiate an active defence strategy.<sup>947</sup> The units were also supposed to abstain from opening fire on mosques, on civilians or on urban areas and to make provisions for rotating troops, more specifically on the roads linking Pidriš – Gornji Vakuf and Ždrimci – Gornji Vakuf.<sup>948</sup> The commanders of the *Ante Starčević* and *Rama* Brigades were put

<sup>941</sup> Muamer Trkić, T(F), p. 9159; P 09201, p. 19; P 01373, p. 2.

<sup>942</sup> P 09201, p. 19.

<sup>943</sup> P 01249, p. 1.

<sup>944</sup> P 01238 / 1D 00819; Christopher Beese, T(F), pp. 5316-5317; Zrinko Tokić, T(F), pp. 45368-45373; Bo Pellnas, T(F), pp. 19735-10737; P 01205; P 01215; P 01710; Fahrudin Agić, T(F), pp. 9308, 9310-9311, 9323, 9329; P 01229.

<sup>945</sup> P 01211; Zrinko Tokić, T(F), pp. 45368-45370.

<sup>946</sup> 1D 00819.

<sup>947</sup> 3D 02212.

<sup>948</sup> 3D 02212; Slobodan Praljak, T(F), p. 40604.

under a special obligation to perform this duty.<sup>949</sup> Finally, Željko Šiljeg prohibited all HVO units from conducting unauthorised actions which might violate his order, recalling that, if such actions did occur, the commanders would be considered fully responsible.<sup>950</sup>

392. According to a report dated 27 January 1993 sent by Miro Andrić to Bruno Stojić, because of communication difficulties with the town of Gornji Vakuf and continued ABiH sniper fire, on 22 January 1993, the HVO armed forces decided to capture the heights overlooking the town of Gornji Vakuf, without this, according to the report, causing trouble in the town itself.<sup>951</sup>

393. When the town of Gornji Vakuf was under HVO control on 24 January 1993,<sup>952</sup> Milivoj Petković sent Željko Šiljeg and the command post at Prozor a second order from Geneva, asking the HVO units to cease offensive operations against the ABiH in Gornji Vakuf.<sup>953</sup> The Chamber notes that an ECMM report dated 26 January 1993 explains that Jadranko Prlić also ordered the “HVO commander” in Gornji Vakuf to stop any offensive attack in Gornji Vakuf.<sup>954</sup>

394. On the basis of the order issued by Milivoj Petković on 20 and 24 January 1993, Željko Šiljeg issued a new order on 25 January 1993 instructing all the HVO units in the territory of the municipalities of Gornji Vakuf and Prozor to observe a total ceasefire with the ABiH.<sup>955</sup> Moreover, the order mandated the establishment of joint checkpoints by the military police officers of the HVO as well as the ABiH.<sup>956</sup>

395. According to *Nicholas Short*,<sup>957</sup> the first real lull in combat at Gornji Vakuf occurred on 26 or 27 January 1993.<sup>958</sup>

## **VI. Alleged Criminal Events Following the HVO Attack and Takeover of the Villages in the Municipality of Gornji Vakuf**

396. In paragraph 67 of the Indictment, the Prosecution alleges that following the attack on the villages of Duša, Hrasnica, Uzričje and Ždrimci, the HVO plundered and burned Muslim houses

<sup>949</sup> 3D 02212.

<sup>950</sup> 3D 02212; Slobodan Praljak, T(F), p. 40604.

<sup>951</sup> 3D 03065, p. 3; P 01277, pp. 1 and 3. A report by the ECMM confirmed that, on 25 January 1993, the town of Gornji Vakuf was surrounded by the HVO troops, tanks and artillery and that the neighbouring villages were shelled by the HVO; see P 01303 under seal, pp. 1-2.

<sup>952</sup> 3D 02530, p. 2.

<sup>953</sup> Zrinko Tokić, T(F), pp. 45372 and 45373; P 01286.

<sup>954</sup> P 01309, p. 3, para. 16.

<sup>955</sup> P 01300 / 4D 00346; Zrinko Tokić, T(F), p. 45373.

<sup>956</sup> P 01300; Zrinko Tokić, T(F), p. 45373.

<sup>957</sup> A member of Britbat in Gornji Vakuf from December 1992 to June 1993.

and property in and around these villages, that the HVO robbed hundreds of arrested or captured Muslims of their valuables, that they separated the Muslim men from the Muslim women, children and elderly people and that in most instances, the Muslim men were taken away to HVO detention facilities while the women, children and elderly people were detained in the houses in the village; that during their detention the Muslims were kept in harsh conditions often mistreated or assaulted, and that the HVO forced the Muslim civilians to leave the Gornji Vakuf area.

397. The Chamber will address in turn the criminal events alleged subsequent to the attack and takeover of the villages of (A) Duša, (B) Hrasnica, (C) Uzričje and (D) Ždrimci.

#### **A. Alleged Criminal Events Following the Attack and Takeover of the Village of Duša**

##### **1. Allegations of Burned Houses and Theft of Muslim Property in the Village of Duša**

398. The Chamber recalls that the HVO took control of the village of Duša after one or two days of fighting.<sup>959</sup> It notes that, once the fighting ended, several witnesses specifically reported houses burned down by the HVO soldiers, as alleged in paragraph 67 of the Indictment.<sup>960</sup> Thus, a report by Colonel Željko Šiljeg, commander of the HVO's North-West OZ, dated 29 January 1993, reports 18 houses destroyed in Duša, 16 of which were burned down.<sup>961</sup>

399. Moreover, in the afternoon of 18 January 1993, when *Kemal Šljivo* had just been arrested and was being taken to Paloč by HVO soldiers, he personally witnessed HVO soldiers carrying canisters of gasoline set fire to four houses, including two belonging to Salih Šljivo and Mehmed Šljivo.<sup>962</sup> *Kemal Šljivo* also said that 40 Muslim houses in the village of Duša had been destroyed and mostly burned down between 18 January 1993<sup>963</sup> and 22 January 1993.<sup>964</sup>

400. While detained between about 19 January and 29 January 1993 in the house of Hajrudin Šljivo, an inhabitant of the village, *Witness BY* saw three HVO soldiers set fire to a house belonging

<sup>958</sup> Nicholas Short, P 09804, *Blaškić* Case, T(F), p. 24253.

<sup>959</sup> See "Attacks on 18 January 1993 in the Municipality of Gornji Vakuf – The Village of Duša" in the Chamber's factual findings relating to the municipality of Gornji Vakuf.

<sup>960</sup> P 01291, p. 4; Fahrudin Agić, T(F), p. 9332; P 01351, p. 3; P 10108, p. 4; P 10109, p. 2; Witness BY, T(F), p. 9089. The Chamber notes that *Jacqueline Carter* also said that during her visit to Duša at the end of January 1993, there were about twenty houses, and that except for the two houses in which women and children had been detained, all the others had been set on fire and destroyed, *Jacqueline Carter*, T(F), p. 3369.

<sup>961</sup> P 01351, p. 3. This report matches *Jacqueline Carter's* findings on site, (T(F), pp. 3381 and 3382.

<sup>962</sup> P 10108, p. 4; P 10109, p. 2.

<sup>963</sup> P 10110, p. 2.

<sup>964</sup> P 10109, p. 2.

to a Muslim.<sup>965</sup> *Witness BY* also saw HVO soldiers set fire to every house and that the cows in Donja Duša – the lower part of Duša – had been set on fire by the HVO soldiers.<sup>966</sup>

401. *Nicholas Short* affirmed that when he went to Duša with a joint commission comprised of two ABiH military policemen from Bugojno, two HVO military policemen from Bugojno, himself and members of the ECMM,<sup>967</sup> around 27 January 1993, certain houses burned down in Duša bore the inscription “HOS”.<sup>968</sup>

402. The Chamber finds that the evidence is sufficient to warrant a finding that after the attack and takeover of the village by the HVO, HVO soldiers did indeed set fire to the houses in the village.

403. However, the Chamber received only the statement by *Kemal Šljivo* – admitted under Rule 92 *bis* of the Rules<sup>969</sup> – confirming that thefts were committed by the HVO soldiers. Absent corroborating evidence, the Chamber cannot find that members of the HVO stole property belonging to the Muslims in the village.

404. Nor does the Chamber have any evidence to warrant finding beyond a reasonable doubt that the HVO stole the valuables of several Muslims during the arrests in Duša.

## 2. Allegations of Removal and Detention of Women, Children, Elderly and Disabled People in the Village of Duša

405. The evidence supports a finding that women, children and elderly people were arrested after taking refuge in *Enver Šljivo*'s house in Duša. The sources diverge as to the number of people. Whereas *Witness BW* stated that there were about 30 "civilians" in *Enver Šljivo*'s basement,<sup>970</sup> *Kemal Šljivo*<sup>971</sup> said that there were between 70 and 100.<sup>972</sup> Moreover, an HVO report dated 27

<sup>965</sup> *Witness BY*, T(F), pp. 9089-9091.

<sup>966</sup> *Witness BY*, T(F), pp. 9089-9091.

<sup>967</sup> On 27 January 1993, a joint commission consisting of two ABiH military policemen from Bugojno, of two HVO military policemen from Bugojno, *Nicholas Short* and members of the ECMM, was created and travelled to the region of Gornji Vakuf between 27 and 30 or 31 January 1993 to investigate the allegations of crimes committed by both parties after the fighting between 18 and 27 January 1993 in the region of Gornji Vakuf. *Nicholas Short* and the members of the joint commission noted that, after the fighting between the HVO and the ABiH, many Muslim villages from the region of Gornji Vakuf, including the villages of Ždrimci, Duša, Uzričje, Trnovača, Hrasnica, a hamlet located between Ždrimci and Podtrlica, and a group of houses between Pajić Polje and Topići, had been reduced to ashes, particularly with the flammable material used to set buildings on fire, without any trace of fighting in the buildings. See *Nicholas Short*, P 09804, *Blaškić* Case, T(F), pp. 22642-22644, 22647 and 22664. P 09332.

<sup>968</sup> *Nicholas Short*, P 09804, *Blaškić* Case, T(F), p. 22661.

<sup>969</sup> P 10110, p. 2.

<sup>970</sup> *Witness BW*, T(F), pp. 8768 and 8769, closed session.

<sup>971</sup> A representative victim of paragraph 67 of the Indictment listed in the annex to the Indictment.

<sup>972</sup> P 10108, p. 3; P 10109, p. 1.



January 1993 notes the arrest and detention of 40 "Muslim civilians" from Duša and Uzriče.<sup>973</sup> Although the Chamber cannot therefore determine the precise number of women, children and elderly people in Enver Šljivo's house in Duša, or the precise number of persons arrested subsequently, it can still find that there were several dozen people.

406. After the attack on 18 January 1993 and the inhabitants and defenders of the village of Duša had surrendered, the HVO soldiers ordered the women, children and elderly people to go to Paloč.<sup>974</sup> There, a Croat doctor examined the wounded and sent the seriously wounded to Bugojno to receive hospital care.<sup>975</sup>

407. The other women, children and elderly people, including *Witness BY* as well as *Kemal Šljivo's* wife and child,<sup>976</sup> were then detained in Mija Zeko's house which was in Paloč.<sup>977</sup>

408. *Kemal Šljivo* stated that at mid-day on 18 January 1993, four people could not be transferred from Duša to Paloč because they were handicapped.<sup>978</sup> Later that day, *Kemal Šljivo* and a group of men being detained<sup>979</sup> were selected to return to Duša and bring back the four handicapped people.<sup>980</sup> *Kemal Šljivo's* mother was one of them.<sup>981</sup> *Kemal Šljivo* drove the four to Paloč, to Mija Zeko's house.<sup>982</sup>

409. On or around 19 January 1993, the women, children, elderly and handicapped people were moved by the HVO soldiers to another house in Paloč, owned by Hajrudin Šljivo.<sup>983</sup> *Witness BY* said that he stayed about ten days in that house, until UNPROFOR helped him and the others detained with him to leave the village and go towards the town of Gornji Vakuf.<sup>984</sup> *Kemal Šljivo* however, said the women, children and elderly people were moved by UNPROFOR on 15 February 1993.<sup>985</sup>

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<sup>973</sup> P 01333, p. 1.

<sup>974</sup> *Witness BY*, T(F), pp. 9082; P 10109, p. 2.

<sup>975</sup> *Witness BY*, T(F), p. 9083; *Witness BW*, T(F), pp. 8781 and 8782, closed session; P 10109, p. 2. *Jacqueline Carter* testified that she spoke to an HVO doctor who treated inhabitants of Duša in a neighbouring hamlet, T(F), p. 3371.

<sup>976</sup> P 10110, p. 2; P 10108, p. 4.

<sup>977</sup> P 10108, p. 4; P 10109, p. 2; P 10110, p. 2.

<sup>978</sup> P 10108, p. 4.

<sup>979</sup> The Chamber points out that about twenty defenders of the village of Duša were also moved to the hamlet of Paloč subsequent to arrest, on 18 January 1993, and detained in a house in the hamlet, *see* P 10108, p. 4; P 10109, p. 2; *Witness BW*, T(F), pp. 8782-8783, closed session.

<sup>980</sup> P 10108, p. 4.

<sup>981</sup> P 10108, p. 4.

<sup>982</sup> P 10108, p. 4.

<sup>983</sup> *Witness BW*, T(F), p. 8782, closed session; *Witness BY*, T(F), pp. 9085-9086; P 10109, p. 2.

<sup>984</sup> *Witness BY*, T(F), pp. 9105, 9090, and 9092, private session.

<sup>985</sup> P 10110, p. 2.

410. The Chamber notes that after the HVO takeover of the village of Duša on 18 January 1993, the women, children, elderly and handicapped people were held successively in two houses in the village of Paloč. The Chamber notes that it has no evidence about the detention conditions of the women, children, elderly and handicapped people during their detention in Paloč. Moreover, the Chamber finds that during the first half of February 1993, the women, children and elderly people were taken to Gornji Vakuf by UNPROFOR.

### **B. Alleged Criminal Events Following the Attack and Takeover of the Village of Hrasnica**

411. The Chamber notes that, as concerns the criminal events alleged subsequent to the attack on the village of Hrasnica, paragraph 69 clarifies paragraph 67 of the Indictment. In paragraph 69 of the Indictment, the Prosecution alleges that following the HVO takeover in Hrasnica around 18 January 1993, the HVO transferred the Muslim population in buses to a furniture factory in Trnovača which served as an HVO detention centre; that after the first day of detention, the HVO took the Muslim women, children and elderly people to Muslim houses in the neighbourhood where they were held for another two weeks. On being released, the HVO soldiers told them to go to ABiH territory and live there.

#### **1. Allegations of Burned Houses and Theft of Muslim Property in the Village of Hrasnica**

412. The evidence did not always facilitate distinguishing the criminal events alleged to have occurred during the actual attack of the village from the criminal events once the HVO took over the village. Thus, an HVO report dated 30 January 1993 mentions both the destruction and burning of houses, stables and the primary school in Gornja Hrasnica without providing further details as to time or *modus operandi*.<sup>986</sup>

413. However, some witnesses did provide details making it possible to determine that fires and the thefts of property did indeed occur after the attack on the village, as alleged in paragraph 67 of the Indictment. Thus, *Senad Zahirović*, *Witness BV* and *Witness BX* all confirmed that after the attack, the HVO soldiers searched and stole from houses in the village of Hrasnica, and while forcing the inhabitants to leave their houses, they set fire to the Muslim houses in Donja and Srednja Hrasnica.<sup>987</sup>

414. Moreover, in February 1993, at the time of the ceasefire between the HVO and the ABiH in Gornji Vakuf, *Witness BV* observed that all the Muslim houses in Hrasnica had been burned down

<sup>986</sup> P 01357, p. 6.

<sup>987</sup> P 10106, p. 4; P 10107, p. 2; P 09724 under seal, p. 4; P 09710 under seal, p. 3.

and that every tractor and car had been stolen.<sup>988</sup> Only the houses belonging to Croats were intact.<sup>989</sup>

415. Taking into account the evidence as a whole, the Chamber may properly find that the members of the HVO did indeed set fire to houses and commit thefts of property belonging to the Muslims of Hrasnica. The Chamber, however, has no evidence that might enable it to find that the HVO stole the valuables of several Muslims during the arrests in Hrasnica.

2. Allegations of Removal and Detention of Women, Children and Elderly People in the Village of Hrasnica

416. According to the evidence admitted into the record, after the defenders of the village of Hrasnica had surrendered, the HVO separated and arrested the men of military age, from the elderly people, the women and the children,<sup>990</sup> thereby creating two distinct groups of detainees.

417. The Indictment alleges in paragraph 69 that, following the arrests on 18 January 1993, the HVO transferred the Muslim population to a furniture factory in Trnovača. In view of the evidence admitted into the record, the Chamber observes that between the arrests in Hrasnica on 18 January and the arrival at the furniture factory in Trnovača in the evening of 18 January, the two groups of detainees were taken to and detained in several houses in Hrasnica and Volari, that is, 2.5 kilometres from Hrasnica. The Chamber considers that allegations of detention of the women, children and elderly people before their arrival at the furniture factory are covered in paragraph 67 of the Indictment, which states that "[they detained] the women, children and elderly in one or two houses in the village". However, the Chamber considers that the specific use of the term "detention centre" in paragraph 67 of the Indictment to designate the places where Muslim men were detained after the arrests excludes the allegation that Muslim men were detained in the houses in the village before arriving at the furniture factory. The Chamber therefore considered only the evidence about the criminal incidents involving the detention of the elderly, women and children.

418. Thus, after being arrested on 18 January 1993, the women, children and elderly people were taken to the place known as "Rampa", a crossroads in Hrasnica village centre.<sup>991</sup> Some were detained inside a house belonging to Mustapha Muminović, and others nearby.<sup>992</sup> Although the

<sup>988</sup> P 09724 under seal, p. 5; Witness BV, T(F), pp. 8754 and 8755.

<sup>989</sup> P 09724 under seal, p. 5.

<sup>990</sup> P 09710 under seal, p. 3; P 01371.

<sup>991</sup> P 10106, p. 4; P 10107, p. 3.

<sup>992</sup> P 10106, pp. 3-4; P 10107, p. 4.

Chamber could not, in view of the evidence, determine the precise number of people detained, it considers nonetheless that there were probably around 100.<sup>993</sup>

419. In the evening of that same day, the women, children and elderly people were taken to a house called "Martinovića's House", in the hamlet of Volari, village of Ploca, about 2.5 kilometres from Hrasnica.<sup>994</sup> While HVO soldiers wearing masks or black face paint escorted the group of women, children and elderly people, including *Witness BX*, to the exit point of the village of Hrasnica towards Volari, two HVO soldiers, one of whom was Perica Kusturica, came over to the detainees and insulted and "provoked" them.<sup>995</sup> According to *Senad Zahirović*, on arrival at Volari, the HVO searched them and confiscated their jewellery.<sup>996</sup>

420. On 18 January 1993 also, after an hour of detention in Volari, the HVO took some of the women, children and elderly people to a furniture factory in Trnovača used by the HVO as a detention centre.<sup>997</sup> Three buses were used to take them there and they arrived around 2000 hours.<sup>998</sup>

421. According to *Witness BV*, HVO soldiers took the other women, children and elderly people captured at Donja Hrasnica and detained in Volari to the school in Trnovača.<sup>999</sup> The Chamber notes here that the events regarding the school in Trnovača are not alleged in the Indictment and will not be discussed any further. The Chamber does note however that according to *Witness BV*, after they had been held for about two weeks, the HVO released the women, children and elderly people held at the school and ordered them to go to ABiH territory and live there.<sup>1000</sup>

422. When they arrived at the furniture factory in Trnovača, the women, children and elderly people were gathered in what was formerly a dining room.<sup>1001</sup> According to *Witness BX*, the unheated 60 square metre room was guarded by two HVO soldiers.<sup>1002</sup>

423. Inasmuch as the following day they were transferred to nearby houses and a detailed analysis of the detention conditions at the Trnovača furniture factory will be analysed at a later

<sup>993</sup> *Senad Zahirović* speaks of 150 prisoners in all, with 40 or so combatants, P 10106, p. 5; *Witness BX* speaks of 150 civilian prisoners, P 09710 under seal, p. 3; an HVO report dated 27 January 1993 mentions 110 Muslim civilians in Hrasnica who were arrested and detained, P 01333, p. 1; *Fahrudin Agić* speaks of around 120 or 121 civilians, T(F), pp. 9332 and 9333; *Witness BV* speaks of 200 prisoners in all, P 09724 under seal, p. 4.

<sup>994</sup> *Witness BX*, T(F), pp. 8840 and 8848; P 09710 under seal, p. 3; P 10106, p. 5; P 10107, p. 4; P 09724 under seal, p. 4. P 09724, p. 4; P 10106, pp. 4-5; P 10107, pp. 3-4; P 09710 under seal, p. 3.

<sup>995</sup> P 10106, p. 5; P 10107, p. 4. The witness gives a different name at p. 4, *Nesim Muminović*.

<sup>996</sup> P 10106, p. 5; P 10107, p. 4; P 09710 under seal, p. 3.

<sup>997</sup> P 10106, p. 5; P 09710 under seal, p. 3.

<sup>998</sup> P 10106, p. 5; P 09710 under seal, p. 3.

<sup>999</sup> P 09724 under seal, pp. 3 and 4; P 09146; *Witness BV*, T(F), pp. 8724 and 8725, closed session.

<sup>1000</sup> P 09724 under seal, p. 4; *Witness BV*, T(E), p. 8726, closed session.

<sup>1001</sup> P 10106, p. 5; P 10107, p. 4.

point, the Chamber will not further analyse here the evidence about the detention conditions in the factory.<sup>1003</sup>

424. On 19 January 1993, Muslims living in the houses next to the Trnovača furniture factory asked the HVO soldiers to allow to them to take in the people detained in the factory.<sup>1004</sup> The HVO agreed to the request, but only the women, children and elderly people, including *Witness BX*, were placed in three neighbouring houses.<sup>1005</sup>

425. The houses were guarded by HVO soldiers.<sup>1006</sup> *Witness BX* stated that the HVO did not "mistreat" the women, children and elderly people in those houses.<sup>1007</sup>

426. After 21 days of detention, according to *Witness BX*, the HVO released them from the houses of the Muslims living next to the Trnovača furniture factory without giving them specific instructions as to where they should go.<sup>1008</sup> Some rejoined their families, as did *Witness BX* in Planinći, for example; others were taken to Bugojno by UNPROFOR as they could not return to their houses, because they had been destroyed.<sup>1009</sup>

427. In view of all of the evidence admitted into the record, the Chamber finds that after the HVO attack on the village of Hrasnica, the arrested women, children and elderly people were removed and detained by the HVO, at various places, including the furniture factory in Trnovača and houses in Hrasnica and Trnovača. While in detention, some were insulted and "provoked". The Chamber, however, notes that it does not have evidence making it possible to establish in what conditions they were detained and that the "confiscation" of jewellery by HVO soldiers is mentioned only by one witness whose statement was admitted under Rule 92 *bis* of the Rules, which does not suffice to establish a factual finding beyond a reasonable doubt. Finally, the Chamber observes that, once released, some of them were unable to return to their houses in Hrasnica since they had been destroyed.

428. In its Final Trial Brief, the Prosecution contends that the Military Police were directly involved in the violent deportation of the Muslims in the municipality of Gornji Vakuf in 1993 and

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<sup>1002</sup> P 09710 under seal, pp. 3-4.

<sup>1003</sup> See "Criminal Events Regarding the Furniture Factory in Trnovača" in the Chamber's factual findings relating to the municipality of Gornji Vakuf.

<sup>1004</sup> P 09710 under seal, p. 4.

<sup>1005</sup> P 09710 under seal, p. 4; P 10106, p. 5; P 10107, p. 4.

<sup>1006</sup> P 09710 under seal, p. 4.

<sup>1007</sup> P 09710 under seal, p. 4.

<sup>1008</sup> P 09710 under seal, p. 4; P 10106, p. 6.

<sup>1009</sup> P 09710 under seal, p. 4; P 10106, p. 6.

the ethnic cleansing of the village of Hrasnica in mid-January 1993.<sup>1010</sup> In its Final Trial Brief, the Ćorić Defence responds that the Prosecution implicated the Military Police in the events in the village of Hrasnica by relying on the testimony of *Andrew Williams*.<sup>1011</sup> According to the Ćorić Defence, *Andrew Williams* admitted that his testimony about the role of the Military Police in the criminal events in the village of Hrasnica relied on a report; that the report was based on hearsay and that he could not identify the unit in question.<sup>1012</sup> The Ćorić Defence also submits that no other witness saw members of the Military Police in Hrasnica and contends, in view of all the evidence about Hrasnica, that the participation of the Military Police in the deportation of the Muslims from the village of Hrasnica was not demonstrated by the Prosecution.<sup>1013</sup>

429. The Chamber considers that the evidence proves that the members of the HVO armed forces were implicated in the events which took place after the attack on the village of Hrasnica, inasmuch as the witnesses referred on several occasions to the "soldiers of the HVO". However, absent evidence, the Chamber cannot find beyond a reasonable doubt that the Military Police were directly involved in the deportation of Muslims from the village of Hrasnica following the attack.

### 3. Alleged Criminal Events Following the Attack and Takeover of the Village of Uzričje

430. In paragraph 71, which supplements paragraph 67 of the Indictment, the Prosecution alleges that, after the HVO takeover of Uzričje around 22 January 1993, the HVO detained the entire Muslim population for several weeks, under horrible conditions in the only two remaining Muslim houses in the village; that it was winter and each house had only a wood stove, with no electricity; that the 50 to 60 Muslims detained in these houses received no food and stayed alive by eating whatever was left and that when the HVO released them, the HVO soldiers told the Muslims to go to ABiH territory and live there.<sup>1014</sup>

431. As a preliminary matter, the Chamber notes that dates differ somewhat in the three testimonies of the women who lived in the village and directly experienced the events. For example, whereas *Senada Basić* says she surrendered to the HVO soldiers on 13 January 1993, after they entered the village earlier that day,<sup>1015</sup> *Derviša Plivčić* states that she surrendered to the HVO soldiers on 19 January 1993<sup>1016</sup> and *Zijada Kurbegović* did so after having been arrested on 22

<sup>1010</sup> Prosecution Final Trial Brief, para. 1137. The village was attacked three times, and was in the end completely destroyed. The responsibility of the HVO Military Police was never contested: *Andrew Williams*, T(F), 8506 to 8515.

<sup>1011</sup> Ćorić Defence Final Trial Brief, para. 621, citing *Andrew Williams*, T(F), pp. 8546-47 and P 01250, p. 3.

<sup>1012</sup> Ćorić Defence Final Trial Brief, para. 621, citing *Andrew Williams*, T(F), pp. 8580-82 and P 01250, p. 3.

<sup>1013</sup> Ćorić Defence Final Trial Brief, para. 621.

<sup>1014</sup> Indictment, para. 71.

<sup>1015</sup> P 09711, paras 11 and 12.

<sup>1016</sup> P 09169, under seal, para. 11.

January 1993.<sup>1017</sup> The Chamber recalls that it has found that the HVO soldiers entered the village of Uzričje in the morning of 18 January 1993 and occupied the village from 19 January 1993 on.<sup>1018</sup> Although the Chamber observes that the sequence of the events described by *Senada Basić* contradicts other testimonies and certain factual findings of the Chamber, it nevertheless considers, in view of all of the evidence admitted into the record as well as the contents of the statements by *Senada Basić*, that the differences do not vitiate the probative value of the testimonies and that at most, point to a lack of specificity or confusion in dating.<sup>1019</sup>

a) Allegations of Burned Houses and Theft of Muslim Property in the Village of Uzričje

432. According to the evidence admitted into the record, the HVO set fire to at least 22 houses in the village.<sup>1020</sup> Despite this, the houses in the lower village where the Croat houses were located remained intact.<sup>1021</sup> *Zijada Kurbegović* thus testified that, after the attack on the village, she saw HVO soldiers set fire to, shoot incendiary rounds at and blow up Muslim houses.<sup>1022</sup> Generally speaking, according to the evidence gathered, the HVO burned down houses belonging to Muslims particularly, according to the evidence received, in order to prevent those who lived there from returning.<sup>1023</sup>

433. *Derviša Plivčić* stated as well that around 0600 or 0700 hours on the morning of 19 January 1993, she saw a soldier in camouflage dress fire at her house in Uzričje, thereby causing it to burn down.<sup>1024</sup> *Derviša Plivčić* stated further that she had seen other houses on fire.<sup>1025</sup>

434. According to *Nicholas Short*, some of the houses burned down in Uzričje bore the inscription "HOS".<sup>1026</sup>

<sup>1017</sup> *Zijada Kurbegović*, T(F), pp. 8966, 8967 and 8993.

<sup>1018</sup> P 01209, p. 1; P 01220. See also "Allegations of Burned Houses and Theft of Muslim Property in the Village of Uzričje" in the Chamber's factual findings relating to the Municipality of Gornji Vakuf.

<sup>1019</sup> See in this regard *Senada Basić*, T(F), pp. 8918-8919, who speaks there of HVO soldiers entering on 18 January 1993, and no longer on 13 January 1993.

<sup>1020</sup> P 01351, p. 2. The report matches *Jacqueline Carter's* on-site observations, T(F), pp. 3381-3382. According to *Zijada Kurbegović*, 30 to 40 houses in the village centre were damaged or destroyed, specifically by fire, *Zijada Kurbegović*, T(F), pp. 8976, 8987, 9026, 9029. See also P 01027; *Nicholas Short*, P 09804, *Blaškić* Case, T(F), p. 22647.

<sup>1021</sup> *Zijada Kurbegović*, T(F), pp. 9025 and 9026; P 01291, p. 4; *Fahrudin Agić*, T(F), p. 9332.

<sup>1022</sup> *Zijada Kurbegović*, T(F), pp. 8967, 8970-8971; P 07350.

<sup>1023</sup> *Andrew Williams*, T(F), p. 8536; P 09169, under seal, para. 11; *Zijada Kurbegović*, T(F), pp. 8967-8968; P 01198; *Senada Basić*, T(F), p. 8897; P 01291, p. 4; *Fahrudin Agić*, T(F), p. 9332; P 01213; P 01397, p. 1.

<sup>1024</sup> P 09169 under seal, para. 11.

<sup>1025</sup> P 09169 under seal, para. 11.

<sup>1026</sup> *Nicholas Short*, P 09804, *Blaškić* Case, T(F), p. 22661.

435. The Chamber then observes that HVO soldiers did indeed steal property in the Muslim houses before setting them on fire.<sup>1027</sup> Moreover, the 317<sup>th</sup> ABiH Brigade noted in late February 1993 that the HVO soldiers were stealing property belonging to the Muslims in Uzričje.<sup>1028</sup>

436. In view of the evidence, the Chamber finds that the HVO stole property and set fire to houses belonging to the Muslims of Uzričje. It also notes that the HVO soldiers most implicated in the thefts and in the fires in the village of Uzričje belonged to the Uzričje HVO,<sup>1029</sup> and to the *Bruno Bušić* Regiment.<sup>1030</sup>

437. The Chamber, however, has no evidence to warrant finding beyond a reasonable doubt that the HVO stole the valuables of several Muslims during the arrests in Uzričje.

b) Detention of Villagers from the Village of Uzričje

438. In its Final Trial Brief, the Prosecution states that during the following days and weeks after the military takeover of Uzričje, from 18 to 21 January 1993, the HVO forcibly detained the Muslim population of Uzričje.<sup>1031</sup>

439. In its Final Trial Brief, the Petković Defence claims that the "civilians" were neither locked-in nor kept prisoner, but sheltered from the hostilities and protected for their own safety. In fact, as soon as the fighting stopped, the "civilians" were again authorised to move about as they wished.

440. The Chamber points out that after the villagers surrendered, on 19 January 1993, the HVO separated them into two main groups which were put in two separate houses, Ćazim Kurbegović's and Ibrahim Kurbegović's. The men were not separated from the women and children.<sup>1032</sup>

441. Indeed, following their arrest, the HVO took a group of about twenty Muslim women, children and men to Ćazim Kurbegović's house.<sup>1033</sup> *Zijada Kurbegović*, who was part of the group,

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<sup>1027</sup> P 07350.

<sup>1028</sup> P 01567, p. 2.

<sup>1029</sup> Marko Livajšić, HVO Commander for Uzričje; P 07350; *Zijada Kurbegović*, T(F), pp. 8982 and 8988.

<sup>1030</sup> Marko Livajšić, Mate Ivanković, Bero Radić and Ivica Vučemil from Gornji Vakuf, and someone named "Hapara" from Dobrošin; P 07350; *Zijada Kurbegović*, T(F), pp. 8982 and 8988.

<sup>1031</sup> Prosecution Final Trial Brief, para. 335.

<sup>1032</sup> *Zijada Kurbegović*, T(F), pp. 8966, 8967, 8969, 8970, 8977 and 8993; P 09711, p. 4.

<sup>1033</sup> *Zijada Kurbegović*, T(F), p. 8966; P 09711, p. 4.



was held until March or April 1993.<sup>1034</sup> An HVO soldier named "Pile"<sup>1035</sup> was assigned to guard the house.

442. *Senada Basić* was taken to Ibrahim Kurbegović's house, with a group of about twenty Muslim women, children and men, where she remained for about 45 days, guarded by the HVO.<sup>1036</sup>

443. *Derviša Plivčić* stated that she was held under HVO guard in various houses in Uzričje starting on 19 January 1993 and continuing until February 1993.<sup>1037</sup> "Ibro's" house, where she stayed for about 20 days, was not under the control of HVO soldiers, but HVO soldiers armed with rifles and stationed in the neighbouring house, frequently made rounds about the house.<sup>1038</sup>

444. *Senada Basić*, *Zijada Kurbegović* and *Derviša Plivčić*, eyewitnesses to the events, explained that the villagers held in the two Muslim houses in the village retained a certain freedom of movement during the day.<sup>1039</sup> They were in fact free to leave during the day to do domestic chores, listen to news reports or find food, but were required to return by nightfall.<sup>1040</sup>

445. Furthermore, although on 28 January 1993, Željko Šiljeg wrote in his report to the government, the HVO Presidency and the HVO Main Staff that the "civilians" in Uzričje were not in detention,<sup>1041</sup> on 27 January 1993, in his report to the HVO Main Staff, Zrinko Tokić said the opposite indicating that 40 Muslim "civilians" from Uzričje had been arrested and detained.<sup>1042</sup>

446. In view of all the evidence, the Chamber finds that the Muslim villagers of Uzričje were indeed held by the HVO inside the village as of 19 January 1993 for about a month and a half. While the village of Uzričje was under HVO control, the villagers were assembled in the houses in the village, and had to observe a curfew, despite having some freedom of movement during the day.

447. Concerning the living conditions and treatment of the Muslims held in the houses in Uzričje, in its Final Brief, the Ćorić Defence contends that the claim of inhumane treatment due to the harsh

<sup>1034</sup> Zijada Kurbegović, T(F), p. 8969.

<sup>1035</sup> Zijada Kurbegović, T(F), p. 8967.

<sup>1036</sup> P 09711, p. 4.

<sup>1037</sup> P 09169 under seal, paras 11, 12 and 15.

<sup>1038</sup> P 09169 under seal, paras 12-13.

<sup>1039</sup> P 09711, para. 13; *Senada Basić*, T(F), p. 8923; *Zijada Kurbegović*, T(F), pp. 8970 and 9027; P 09169 under seal, paras 13-14.

<sup>1040</sup> *Zijada Kurbegović*, T(F), pp. 8970, 9027; P 09711, para. 13; P 09169 under seal, paras 13-14.

<sup>1041</sup> P 01351.

<sup>1042</sup> P 01333, p. 1.

conditions must fail insofar as the Muslims held in the houses lived under the same conditions as the local population, particularly the lack of heating.<sup>1043</sup>

448. The evidence admitted into evidence regarding the Muslim villagers' living conditions in the houses in Uzričje attests to the fact that there were problems with electricity, that there was no running water in the houses, as was the case in the whole village after the attack; that the villagers did not lack for food, the children could drink milk and the adults could feed themselves on the food left there and that the wood-stove heating worked.<sup>1044</sup>

449. Concerning the allegations of "mistreatment" the evidence shows that on or about 18 January 1993, HVO soldiers beat some of the men held in the two houses in the village, one of whom was Ahmet Kurbegović, and forced one of them to undress during an interrogation.<sup>1045</sup> During February 1993, soldiers of the HVO also forced the villagers to leave their houses and to remain standing in the cold for a long time and then threatened them, firing over their heads.<sup>1046</sup>

450. In view of the evidence admitted into the record, the Chamber finds that the living conditions of the villagers in the houses guarded by the HVO in Uzričje were quite similar to those in the rest of the village following the HVO attack, but that, while in detention, some villagers were beaten or threatened by HVO soldiers.

#### c) Removal of Villagers from the Village of Uzričje

451. According to some of the evidence, a number of villagers, who were being held by the HVO in the houses in Uzričje under guard, left the village, taking a route towards territory controlled by the ABiH because they were still afraid of the fighting or of what might happen to them.<sup>1047</sup>

452. Accordingly, one morning in late February or early March 1993, *Senada Basić*, who had been held for 45 days in a house guarded by the HVO, fled with the members of her family –

<sup>1043</sup> Ćorić Defence Final Trial Brief, para. 619.

<sup>1044</sup> Senada Basić, T(F), pp. 8904 and 8922; Zijada Kurbegović, T(F), pp. 8973, 9015-9016; P 09169 under seal, para. 13.

<sup>1045</sup> P 09711, p. 4; Zijada Kurbegović, T(F), pp. 8973 and 8974; Senada Basić, T(F), p. 8892.

<sup>1046</sup> P 09711, p. 4; P 09169 under seal, para. 14.

<sup>1047</sup> Zijada Kurbegović, T(F), pp. 8993-8994; P 09169 under seal, para. 15. A report by Enver Hadžihasanović dated 19 January 1993 explains that some of the inhabitants of Uzričje were evacuated and transferred to Gornji Vakuf at the time of the attack (P 01226). The Petković Defence argues in this regard that P 01226 was poorly translated into English, with the word "*samovoljno*" translated by "*arbitrarily*" instead of "*voluntarily*", adding that this point was clarified during the testimony of *Raymond Lane*, Raymond Lane, T(F), pp. 23945 to 23949. The Chamber notes in this regard that paragraph 67 of the Indictment alleges only transfers subsequent to the attack.

seizing the opportunity when there were no HVO guards around the house –towards Bugojno in the village of Ždralovići, where she remained with her family until September 1994.<sup>1048</sup>

453. *Zijada Kurbegović* testified that the HVO had exerted pressure, ordering some of the villagers to leave. In March or April 1993, during a ceasefire in Gornji Vakuf, five "Croat soldiers" arrived in Uzričje in a minibus and asked *Zijada Kurbegović* and her husband to clear up their house and leave Uzričje.<sup>1049</sup> *Zijada Kurbegović* left on foot with her children and her husband for Mahala, a neighbourhood in the upper part of the town of Gornji Vakuf.<sup>1050</sup>

454. In view of all the evidence the Chamber finds that, after the attack on the village of Uzričje, some Muslims fled Uzričje in the direction of ABiH-controlled territory, in fear of what lay ahead or following pressure from HVO soldiers.

#### 4. Alleged Criminal Events Following the Attack and Takeover of the Village of Ždrimci

455. In paragraph 68 of the Indictment which supplements paragraph 67, the Prosecution alleges that following the HVO takeover in Ždrimci around 18 January 1993, the HVO separated the Muslim women and children from the men and detained the women and children in a few houses for approximately one month; that, during this time, the HVO burned down the Muslim houses in the village, that the women and children were often intimidated and harassed, and that the HVO burned the *mekteb* down.

##### a) Burned Houses, Thefts of Muslim Property in the Village of Ždrimci and Burning of the *Mekteb*

456. The Chamber notes, in keeping with what it has already noted in respect of the village of Hrasnica, that the evidence has not always made it possible to distinguish the criminal events alleged to have occurred during the attack on the village itself from the criminal events which occurred once the HVO took over the village. The exhibits in evidence speak simply of at least 33 houses and three barns belonging to the Muslims of the village which were destroyed by the HVO in January 1993<sup>1051</sup> and that the destruction was primarily caused by plunder and fires.<sup>1052</sup> Moreover, on 18 February 1993, in the course of a mission monitoring enforcement of the agreed

<sup>1048</sup> P 09711, paras 13 and 17.

<sup>1049</sup> *Zijada Kurbegović*, T(F), p. 8975.

<sup>1050</sup> *Zijada Kurbegović*, T(F), pp. 8976, 9002.

<sup>1051</sup> P 01373, p. 2; Andrew Williams, T(F), pp. 8548, 8549; P 09797, paras 14 and 18; P 01291, p. 4; Fahrudin Agić, T(F), p. 9332; P 09201, p. 19.

<sup>1052</sup> Muamer Trkić, T(F), p. 9159; P 01291, p. 4; Fahrudin Agić, T(F), pp. 9332 and 9335; P 01433; P 10577, p. 2; P 09201, p. 19.

ceasefire between the HVO and the ABiH in Gornji Vakuf, *Christopher Beese* observed, without more detail, that the Muslim area of the village of Ždrimci was almost completely destroyed whereas, in the rest of the village, there were houses still intact.<sup>1053</sup>

457. Nevertheless, the Chamber received some specific evidence about the setting fire to Muslim houses after the HVO attack on the village.<sup>1054</sup> Thus, *Dulka Brica* said that on 18 January 1993, she saw a soldier from the HVO setting fire - for no apparent reason - to a Muslim house next to the *Mekteb*.<sup>1055</sup>

458. The Chamber notes, moreover, that, after the attack of 18 January 1993, the *Mekteb*, a building dedicated to religious education<sup>1056</sup> was indeed burned down.<sup>1057</sup> *Dulka Brica* thus explained that she had been able to see the *Mekteb* burn from the house where she was being held.<sup>1058</sup> However, as none of the witnesses saw how the fire broke out, the Chamber cannot therefore rule out that individuals other than members of the HVO may have set the blaze.

459. Lastly, during February 1993, HVO forces stole valuables such as radios and televisions from the Muslim houses in the village.<sup>1059</sup>

460. In view of the evidence, the Chamber finds that members of the HVO did engage in theft and setting fire to Muslim houses in Ždrimci. Nonetheless, the Chamber does not have evidence warranting a finding beyond a reasonable doubt that members of the HVO stole valuables from several of Muslims during arrests in Ždrimci.

#### b) Allegations of Detention and Removal of Women and Children from the Village of Ždrimci

461. The evidence shows that the HVO took control of the village after one day of fighting; that it arrested all the armed men in the village of Ždrimci and that it put the Muslim women and children in three or four houses in the village controlled by the HVO.<sup>1060</sup>

462. *Muamer Trkić* has estimated the total number of Muslims arrested at 40 men and a greater number of women.<sup>1061</sup> However, an HVO report dated 27 January 1993 puts the number at 70 Muslim "civilians" from Ždrimci who were arrested and detained.<sup>1062</sup>

<sup>1053</sup> Christopher Beese, T(F), p. 3107.

<sup>1054</sup> P 09797, paras 12, 18 and 19; P 01291, p. 4; Fahrudin Agić, T(F), p. 9332.

<sup>1055</sup> P 09797, para. 12.

<sup>1056</sup> P 10577, p. 2.

<sup>1057</sup> Muamer Trkić, T(F), pp. 9175, 9186; P 09797, paras 12 and 17.

<sup>1058</sup> P 09797, para. 17.

<sup>1059</sup> P 09797, para. 19; P 10577, p. 2; P 01567, p. 2.

<sup>1060</sup> P 09201, p. 20; Muamer Trkić, T(F), pp. 9171 and 9172; P 09797, paras 10 and 13.

463. According to *Đulka Brica*, from 18 January 1993 on, HVO soldiers held her with her family and about five other Muslim families for a period of 15 days to a month in the basement of a house in the village of Ždrimci.<sup>1063</sup> *Đulka Brica* was able to leave the house to milk the cows in a cattle shed near the house she was in<sup>1064</sup> but the HVO did not allow the villagers to leave the village.<sup>1065</sup>

464. As concerns the conditions of detention and the treatment of the women and children in the houses in Ždrimci, the Chamber has only the statement of *Đulka Brica* that the members of the HVO forces engaged in intimidation, violence and threats.<sup>1066</sup> The statement, admitted pursuant to Rule 92 *bis* of the Rules, does not suffice to make a finding about the conditions of that detention.

465. *Đulka Brica* and *Muamer Trkić*, moreover, both testified to the fact that during the time the village inhabitants were detained, HVO soldiers gathered the Muslim women together in the front of the *Mekteb*, forced them to recite Christian prayers<sup>1067</sup> and threatened them with setting fire to the *Mekteb*.<sup>1068</sup>

466. During its visit in late January 1993, the joint HVO-ABiH commission under the auspices of UNPROFOR noted that the village of Ždrimci was still under HVO control and that around one hundred Muslims – mostly "civilians" – wanted to leave the village.<sup>1069</sup>

467. About 15 days later, when the Ždrimci villagers had already been detained for a month, members of the joint commission informed them that the HVO and the ABiH had signed a ceasefire and that they had been released.<sup>1070</sup> Some of them then left the village because their houses had been destroyed and burned; others, such as *Đulka Brica*, remained in Ždrimci.<sup>1071</sup>

<sup>1061</sup> Muamer Trkić, T(F), pp. 9164-9165.

<sup>1062</sup> P 01333, p. 1.

<sup>1063</sup> P 09797, paras 9, 13 and 23; P 10577, p. 1.

<sup>1064</sup> P 09797, para. 14.

<sup>1065</sup> P 09797, para. 13.

<sup>1066</sup> P 09797, paras 15-17.

<sup>1067</sup> Muamer Trkić, T(F), pp. 9174 and 9175; P 10577, p. 2.

<sup>1068</sup> Muamer Trkić, T(F), p. 9175; P 10577, p. 2; P 09797, para. 17. The Chamber notes that *Đulka Brica* and *Muamer Trkić* both testified about an incident which took place in front of the *Mekteb* of the village of Ždrimci during the detention period of the inhabitants of the village, but other than the facts discussed above, their stories diverge. Thus, whereas *Muamer Trkić* stated that the HVO soldiers had gathered the Muslim women together in front of the *Mekteb*, had forced them to recite Christian prayers and threatened to burn down the *Mekteb*, according to *Đulka Brica*, the soldiers of the HVO gathered all the Muslims in Ždrimci in front of the village *Mekteb* on 5 February 1993; the HVO soldiers separated the men from the women and the children and staged a macabre scene, ordering the men to dig a large trench which could have been used, *Đulka Brica* said, to bury the bodies of all of the Muslims present. *Đulka Brica* said that the soldiers asked the women to take the Qur'an and go burn the *Mekteb* of Ždrimci. As no one complied, the HVO soldiers sent the women back to the houses where they had previously been held after having beaten them. See P 10577, p. 2; P 09797, para. 17; Muamer Trkić, T(F), pp. 9174 and 9175.

<sup>1069</sup> P 01373, p. 2.

<sup>1070</sup> P 09797, para. 23.

<sup>1071</sup> P 09797, para. 23.

468. In view of all evidence, the Chamber finds that after the attack, the HVO did in fact assemble and detain the Muslim women and children in the village of Ždrimci in houses being guarded. However, although the Chamber has corroborating evidence that the villagers were intimidated, in particular when they were gathered together in front of the *Mekteb* and forced to recite Christian prayers, the Chamber does not have sufficient evidence to determine the conditions of their detention in those houses and how they were treated there. The Chamber observes, moreover, that villagers in Ždrimci did have to leave the village after their release, since they had lost their homes as a result of them being burned and destroyed by the HVO.

## VII. Criminal Events Regarding the Furniture Factory in Trnovača

469. In paragraphs 67 and 69 of the Indictment, the Prosecution alleges that HVO forces transferred the Muslim men from the villages of Duša and Hrasnica to a furniture factory in Trnovača used by the HVO as a detention facility.

470. In paragraph 70 of the Indictment, the Prosecution alleges that sixty or so Muslim men of military age from Duša and Hrasnica were detained in the furniture factory in Trnovača by the forces of the HVO for about two weeks; these men were frequently beaten and subjected to physical and psychological violence, intimidation and inhuman treatment by soldiers of the HVO; after approximately about two weeks, the Muslim men from Duša were exchanged, while the men from Hrasnica were transferred to an HVO detention facility in Prozor.

471. Having analyzed the evidence in relation to (A) the transfer of the Muslim men from Duša and Hrasnica to the furniture factory in Trnovača, the Chamber will (B) discuss the organisation and operation of that detention facility and (C) the conditions and treatment of the Muslim men in the furniture factory and, (D) how they were exchanged and transferred to another "detention facility".

### A. Allegations of Removal of Muslim Men from Duša and Hrasnica to the Furniture Factory in Trnovača

472. Following the arrests of 18 January 1993 in the villages of Duša and Hrasnica, the Muslim men of military age were taken to the furniture factory at Trnovača, where they were detained.<sup>1072</sup> The men from the village of Duša, the twenty or so defenders of the village – including *Kemal Šljivo* and *Witness BW* – arrested on 18 January 1993 and detained in a house in the hamlet of

<sup>1072</sup> See "Attack on the Village of Duša" and "Attack on the Village of Hrasnica" in the Chamber's factual findings relating to the Municipality of Gornji Vakuf.

Paloč, on or about 20 January 1993, were taken to the restaurant in the Trnovača furniture factory.<sup>1073</sup> The Muslim men from Duša were transferred from Paloč to Trnovača on a blue bus driven by Josip Tokić *alias* Jopa, from Trnovača,<sup>1074</sup> and were escorted by 3 HVO soldiers<sup>1075</sup>

473. The men from the village of Hrasnica, were taken by the HVO on 18 January 1993, to the furniture factory in Trnovača, along with the rest of the villagers from Hrasnica.<sup>1076</sup> Three busses were used to drive the Muslim population to the furniture factory in Trnovača, arriving there around 2000 hours.<sup>1077</sup> While the women, children and elderly were moved into the houses near the furniture factory on 19 January 1993, the forty or so men of military age arrested by the HVO remained locked up in the Trnovača furniture factory.<sup>1078</sup> On or about 20 January 1993, the HVO soldiers moved the Muslim men of Hrasnica from the large room previously used as a bar for the Trnovača furniture factory to the restaurant in the factory, where they joined up with the twenty or so Muslim men from Duša.<sup>1079</sup>

#### **B. Organisation and Operation of the Trnovača Furniture Factory as a Detention Facility**

474. There were about 40 to 60 detainees,<sup>1080</sup> between 18 and 55 years of age.<sup>1081</sup> Among them were *Witnesses Kemal Šljivo* and *Senad Zahirović*, and *Witness BV* and *Witness BW*. The Chamber notes that even though the Prosecution mentions only the Muslims from Duša and Hrasnica among those detained in the Trnovača furniture factory, there were also Muslims from Trnovača and other localities in the municipality of Gornji Vakuf.<sup>1082</sup> According to *Senad Zahirović*, those Muslim men were members of the ABiH.<sup>1083</sup> *Witness BV* stated that he was a member of the TO.<sup>1084</sup>

475. The Muslim men were detained by the HVO *Ante Starčević* Brigade in the restaurant of the furniture factory in Trnovača<sup>1085</sup> for about two weeks.<sup>1086</sup>

<sup>1073</sup> Witness BW, T(F), pp. 8782-8783 closed session, P 10108, pp. 4 and 5; P 10109, p. 2; P 01326, p. 4.

<sup>1074</sup> P 10109, p. 2.

<sup>1075</sup> P 10108, p. 5.

<sup>1076</sup> P 10106, p. 5; P 10107, p. 4.

<sup>1077</sup> P 10106, p. 5; P 09710 under seal, p. 3.

<sup>1078</sup> Zrinko Tokić, T(F), pp. 45547, 45564; P 09710 under seal, p. 4; P 10109, p. 2; Witness BW, T(F), p. 8783, closed session.

<sup>1079</sup> P 10106, p. 5; P 10107, p. 4; Witness BW, T(F), p. 8783, closed session; P 01326, p. 4.

<sup>1080</sup> P 10110, p. 2; P 01351, p. 3; P 10107, p. 4.

<sup>1081</sup> P 10108, p. 5; P 10109, p. 2.

<sup>1082</sup> P 10108, p. 5; P 10109, p. 2; P 10110, p. 2; P 10107, p. 5; P 01326, p. 4; Witness BW, T(F), p. 8794, closed session.

<sup>1083</sup> P 10107, p. 4.

<sup>1084</sup> P 09724 under seal, p. 2; Witness BV, T(F), pp. 8730 and 8731 closed session.

<sup>1085</sup> Witness BW, T(F), p. 8784, closed session. The Chamber notes that *Zrinko Tokić* said that there was a *Domobrani* unit at the furniture factory in Trnovača, a unit which was under the command of the *Ante Starčević* Brigade, Zrinko Tokić, T(F), pp. 45547, 45564-45565.

476. Moreover, *Kemal Šljivo* said that Pera Majdžandžić and two members of the HVO military police from Prozor were responsible for questioning the detainees.<sup>1087</sup>

**C. Conditions of Confinement and Treatment of the Muslim Men Detained by the HVO at Trnovača Furniture Factory**

477. The witnesses did not speak in great detail about the conditions of detention in the Trnovača furniture factory. According to *Witness BW*, the detainees had access to water and, were given tinned pâté, fish, sliced cold meats and bread,<sup>1088</sup> whereas *Senad Zahirović* said that the detainees received only one meal a day, consisting of a chunk of bread and soup.<sup>1089</sup> *Senad Zahirović* and *Witness BW* both stated that they had lost seven or eight kilos and 20 kilos, respectively, during their two-week detention.<sup>1090</sup>

478. According to *Senad Zahirović*, the Muslim men suffered from the cold because the rooms where they were detained were not heated.<sup>1091</sup> *Zrinko Tokić* testified that the *Ante Starčević* Brigade provided the detainees in the facilities with suitable accommodation and appropriate conditions,<sup>1092</sup> and that, although there was no electricity,<sup>1093</sup> it was because there was none in the municipality of Gornji Vakuf at the time.<sup>1094</sup> The Chamber considers that in view of *Zrinko Tokić's* role as commander of the *Ante Starčević* Brigade, the credibility of his own statements about the living conditions for detainees is not great; the Chamber has not taken his testimony into account on this specific point.

479. Several witnesses who were kept at the factory said that they were victims and/or witnesses of collective beatings and other abuses from the soldiers of the HVO during their imprisonment.<sup>1095</sup>

480. Their testimony thus shows that HVO soldiers from outside the Trnovača furniture factory and HOS soldiers,<sup>1096</sup> forced the detainees to undress, beat them with wooden sticks or iron rods or

<sup>1086</sup> The Chamber notes that *Zrinko Tokić* spoke about a detention period of ten or so days, but all the evidence shows that the Muslim men remained locked up for about two weeks at the furniture factory in Trnovača, *Zrinko Tokić*, T(F), p. 45564; *Witness BW*, T(F), pp. 8785 and 8792, closed session; P 10107, p. 6; P 10108, p. 5.

<sup>1087</sup> P 10109, p. 2; P 10107, p. 6.

<sup>1088</sup> *Witness BW*, T(F), pp. 8785-86, closed session.

<sup>1089</sup> P 10106, p. 6.

<sup>1090</sup> P 10107, pp. 6 and 7; P 10106, p. 6; *Witness BW*, T(F), p. 8785, closed session.

<sup>1091</sup> P 10107, p. 4.

<sup>1092</sup> *Zrinko Tokić*, T(F), p. 45547.

<sup>1093</sup> *Zrinko Tokić*, T(F), p. 45547.

<sup>1094</sup> *Zrinko Tokić*, T(F), p. 45547.

<sup>1095</sup> P 10108, p. 5; P 10110, p. 2; P 10106, p. 6; P 10107, p. 5.

<sup>1096</sup> *Witness BW*, T(F), pp. 8792 and 8793, closed session.



hit and kicked them,<sup>1097</sup> forced them to sing *Ustashi* songs and beat their fellow detainees.<sup>1098</sup> *Senad Zahirović* was ordered to kick Nesim Muminović.<sup>1099</sup> When he refused to do so, he was severely beaten by the HVO soldiers.<sup>1100</sup>

481. During his detention, *Kemal Šljivo* saw HVO soldiers come into the room where the Muslim men— himself included – were held, and select the eight men closest to the door.<sup>1101</sup> *Kemal Šljivo* could not see the faces of these soldiers, as the room was too dark.<sup>1102</sup> The men selected were Edin Behlo, Sulejman Šljivo, Islam, Muharem, Smajil, Zijad, Hajrudin and Muhamed.<sup>1103</sup> They were taken into the corridor and beaten with rifle butts on their lower back.<sup>1104</sup> When the HVO soldiers left the Trnovača furniture factory, a guard asked the other Muslim men to help the eight persons who had been beaten up return to the restaurant because they could not walk.<sup>1105</sup>

482. About one week after the beginning of their detention in the Trnovača furniture factory, Hasan Behlo and Edin Behlo were taken by a man named Stipo Krišto, an HVO soldier, who arrived at the factory that day with three other HVO soldiers.<sup>1106</sup> Stipo Krišto cut off Hasan Behlo's ear with a knife.<sup>1107</sup> The next week, a group of eight HVO soldiers came to the restaurant and saw the bandage on Hasan Behlo's head. The soldiers knocked him down poured alcohol on him and a soldier started tramping on the wound with his soldier's boot. Another day, about 20 members of the HOS came to the Trnovača furniture factory and one of them came to Hasan Behlo, took a knife and wanted to cut off his nose. In the end, the soldier clubbed him two or three times and then left with the other HOS soldiers.<sup>1108</sup>

483. In respect of the perpetrators of the beatings of and other violence against the Muslim men held at the Trnovača furniture factory, the evidence shows that they were soldiers from outside,

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<sup>1097</sup> *Senad Zahirović* saw Dževad Isaković and Ermin Muminović being beaten during their detention at the furniture factory in Trnovača: P 10107, p. 5; *see also* Witness BW, T(F), pp. 8786-8787, 8792-8793, closed session; P 10106, p. 6; P 10110, p. 2.

<sup>1098</sup> P 10107, p. 4; P 10109, p. 3; P 10108, p. 5; P 10110, p. 2.

<sup>1099</sup> P 10106, p. 6; P 10107, pp. 4 and 5.

<sup>1100</sup> P 10106, p. 6; P 10107, pp. 4 and 5.

<sup>1101</sup> P 10108, p. 5.

<sup>1102</sup> P 10108, p. 5.

<sup>1103</sup> P 10109, p. 3.

<sup>1104</sup> P 10108, p. 5; P 10110, p. 2.

<sup>1105</sup> P 10108, p. 5.

<sup>1106</sup> Witness BW, T(F), pp. 8788-8789, closed session; P 10107, p. 6; P 10106, pp. 5 and 9; P 10110, p. 3.

<sup>1107</sup> Witness BW, T(F), pp. 8788-8789, closed session; P 10106, p. 5; 3D 00472, under seal; P 10107, p. 6; P 10110, p. 2; P 10108, p. 5; P 10109, p. 3; P 01472, under seal.

<sup>1108</sup> Witness BW, T(F), pp. 8792-8793, closed session; P 01472, under seal.

from various places such as Livno, Sovići and Doljani,<sup>1109</sup> and also that the soldiers who did that were wearing black uniforms<sup>1110</sup> with inscriptions on their uniforms such "HOS" or "Tigers".<sup>1111</sup>

484. According to the evidence admitted into the record, the Trnovača furniture factory guards from the HVO did not participate in the violence against the detainees but were present.<sup>1112</sup>

**D. Exchanges of the Men from Duša and Removal of Men from Hrasnica to a Detention Centre in Prozor**

485. Around 31 January 1993, approximately 20 of the Muslim men held at the Trnovača furniture factory from Duša as well as from Uzričje, Paloč and Bistrica, were exchanged for members of the HVO.<sup>1113</sup> *Kemal Šljivo* for example said that he was released in late January or early February 1993,<sup>1114</sup> following an exchange of detainees between the ABiH and HVO.<sup>1115</sup>

486. Moreover some Muslim men held at the Trnovača furniture factory, including *Senad Zahirović*,<sup>1116</sup> were moved, around 1 February 1993, to a detention centre in the municipality of Prozor.<sup>1117</sup>

487. In view of the evidence admitted into the record, in respect of the criminal events at the furniture factory in Trnovača, the Chamber finds that the HVO detained 40 to 60 Muslim men at the Trnovača furniture factory; that some of the Muslim men were beaten by a group of HVO soldiers and/or subjected to abuse by them while in confinement and that, after two weeks or so, the Muslim men were exchanged or moved.

488. However, the Chamber does not have enough evidence to establish the conditions of detention under which these men were confined at the furniture factory in Trnovača.

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<sup>1109</sup> P 10107, pp. 4-5.

<sup>1110</sup> P 10107, p. 6.

<sup>1111</sup> Witness BW, T(F), pp. 8786-8787, closed session; P 10109, pp. 2 and 3.

<sup>1112</sup> P 10107, p. 6; P 10108, p. 5.

<sup>1113</sup> P 10107, p. 6; Witness BW, T(F), p. 8793, closed session; P 10108, p. 5.

<sup>1114</sup> P 10108, p. 5; P 10109, pp. 2 and 3; P 10110, p. 3.

<sup>1115</sup> P 10108, p. 5.

<sup>1116</sup> P 10106, p. 6; P 10107, pp. 6 and 7.

<sup>1117</sup> Zrinko Tokić, T(F), pp. 45564 and 45565; P 09724 under seal, p. 4; Witness BV, T(F), pp. 8719-8724 (closed session); P 01413; P 01636; P 09710 under seal, p. 4. *See also* "Treatment of Detainees at Prozor MUP Buildings" in the Chamber's factual conclusions on the Municipality of Prozor.

### Heading 3: Municipality of Jablanica (Sovići and Doljani)

489. This part of the Judgement deals with the crimes allegedly committed by the forces of the HZ H-B/HVO in Jablanica Municipality, more specifically in the localities of Sovići and Doljani, starting on 17 April 1993 and continuing during the weeks that followed.<sup>1118</sup>

490. Paragraphs 73 to 86 of the Indictment allege *inter alia* that the forces of the HZ H-B/HVO attacked the villages of Sovići and Doljani on 17 April 1993, then, proceeded to collect and detain Muslim men of military age at Sovići School on 17 and 18 April 1993 and at a fish farm near the Doljani between 18 and 23 April 1993; that, on 18 April 1993 the forces collected and detained men, women, children and the elderly at the Sovići School as well as in houses in the hamlet of Junuzovići until approximately 5 May 1993.<sup>1119</sup> The paragraphs likewise allege that the detainees in the School and in the houses in the hamlet of Junuzovići lived under “inhumane” conditions, that the detainees were abused and/or mistreated and that some were compelled to engage in forced labour. The members of the HZ H-B/HVO moreover allegedly executed some detainees between 17 and 23 April 1993 or around those dates at the Sovići School and the Doljani fish farm. The Prosecution also alleges that on the evening of 18 April 1993, the forces of the HZ H-B/HVO transported many of the Muslim men detained at the Sovići School to Ljubuški Prison and that during the journey some detainees were mistreated, and that, on or about 4 or 5 May 1993, the HVO proceeded to forcibly transfer 400 to 500 Muslim civilians detained in the houses in the hamlet of Junuzovići and in the Sovići School to Gornji Vakuf, and then toward ABiH-controlled territory.

491. The Prosecution alleges, moreover, that, on 17 April 1993 and for several days thereafter, the HVO authorities blocked international observers and peacekeeping forces from entering the Sovići and Doljani area.

492. Lastly, the Prosecution alleges that, between 18 and 24 April 1993 and thereafter, the forces of the HZ H-B/HVO deliberately burned or otherwise destroyed most of the Muslim houses and two buildings dedicated to the Muslim religion, and that from approximately 17 April and 4 May

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<sup>1118</sup> Paragraphs 77, 78, 80, 82 to 84 of the Indictment speak of periods of several days after 17 April 1993. Paragraph 79 says “thereafter” and paragraphs 85-86 concern allegations for the period 4 or 5 and 13 May 1993.

<sup>1119</sup> The Chamber notes that the end date of detention, 4 or 5 May 1993, is stated specifically only for the women, children and elderly detained at Sovići school and in the houses at Junuzovići (*see* paragraph 86 of the Indictment). The

1993, the forces of the HZ H-B/HVO confiscated, stole, plundered and robbed the Muslim property in Sovići and Doljani.

493. The Indictment alleges that those acts constitute crimes of persecution (Count 1), murder (Count 2), wilful killing (Count 3), inhumane acts (forcible transfer) (Count 8), unlawful transfer of a civilian (Count 9), imprisonment (Count 10), unlawful confinement of a civilian (Count 11), inhumane acts (conditions of confinement) (Count 12), inhuman treatment (conditions of confinement) (Count 13), cruel treatment (conditions of confinement) (Count 14), inhumane acts (Count 15), inhuman treatment (Count 16), cruel treatment (Count 17), unlawful labour (Count 18), extensive destruction of property, not justified by military necessity and carried out unlawfully and wantonly (Count 19), wanton destruction of cities, towns or villages, or devastation not justified by military necessity (Count 20), destruction or wilful damage done to institutions dedicated to religion or education (Count 21), appropriation of property not justified by military necessity and carried out unlawfully and wantonly (Count 22), and plunder of public or private property (Count 23).

494. In order to rule on the alleged facts the Chamber has analysed a collection of evidence. It has examined the *viva voce* and Rule 92 *ter* of the Rules testimony of *Witnesses BF, BJ, BZ, CA, CB, DV, E, 4D-AB, Christopher Beese, Ismet Poljarević, Nihad Kova, Safet Idrizovi, Mirko Zelenika, Robert Donia, Radmilo Jasak, Milivoj Petković, Slobodan Praljak, Ivan Bagari, Marita Vihervuori, Zdenko Andabak, Bruno Pinjuh, Dragan Juri* and *Klaus Johann Nissen*. The Chamber has also considered the written statement of *Witness DU*, the transcripts of the interview of *Salko Osmi* and of *Witnesses D, JJ, LL, RR, TT, W, X and Y*, admitted pursuant to Rule 92 *bis* of the Rules, as well as the statement by *Hazan Rizvić* admitted under Rule 92 *quater* of the Rules. Finally, the Chamber has reviewed the exhibits admitted into the record through these witnesses or a written procedure and the adjudicated facts in the Decision of 7 September 2006.

495. The Chamber will address below (I) the geographic and demographic situation of Jablanica Municipality, (II) its political, administrative and military structure in order to focus on the context in which the criminal events alleged by the Prosecution occurred. The Chamber will address (III) the premises of the attacks of 17 April 1993 on the villages of Sovići and Doljani and the attacks of 17 April 1993 on the two villages and (IV) the arrests of Muslim men, women, children and elderly people. It will (V) examine the evidence relating to the sequence of the alleged criminal events after the attack on the villages of Sovići and Doljani.

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date of the end of the men's detention is not given. Nonetheless, inasmuch as no detention of either women, children,

## I. Geographic and Demographic Situation of the Municipality

496. The Municipality of Jablanica is located to the south of the municipalities of Prozor and Konjic and to the north of the municipality of Mostar.<sup>1120</sup> The Municipality of Jablanica includes the town of Jablanica, which is the primary locality in the municipality, as well as several small localities, among which are the villages of Sovi}i<sup>1121</sup> and Doljani.<sup>1122</sup>

497. According to the 1991 Census, Jablanica Municipality had 12,664 inhabitants<sup>1123</sup> with 72% Muslims, 18% Croats and 4% Serbs.<sup>1124</sup> Thus, in 1991, the municipality had about 9,100 Muslims and 2,290 Croats.<sup>1125</sup> Between January and April 1993, the number of inhabitants rose to 21,614 because of the arrival of 8,950 “displaced persons” of whom 10% were Croats and 90% Muslims.<sup>1126</sup>

## II. Political, Administrative and Military Structure of the Municipality

498. The Chamber will (A) discuss the political and administrative structure of Jablanica Municipality and (B) its military structure, in order to highlight the political institutions as well as the military actors who played a role in the events which occurred in the period relevant to the Indictment.

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elderly or men is alleged beyond 4 or 5 May 1993, the Chamber will review all detentions up to and including that date.

<sup>1120</sup> P 09276, p. 18.

<sup>1121</sup> The village of Sovi}i is located on the western edge of the municipality, about 7 km from Doljani; the village was divided into several hamlets; Donja Mahala, Srednja Mahala and Gornja Mahala. The village of Sovi}i had a Muslim majority with 202 Croats and 457 Muslims in 1991. The hamlet of Junuzovi}i was also part of the village of Sovi}i, *see* P 09276, pp. 18 and 26; P 08952; Witness Y, P 09873 under seal, *Naletili} and Martinovi}* Case, revised version T(F), pp. 4 to 8, 9 to 11, 62, 64 and 67; P 09058: with a marker, Witness Y circled two of the three hamlets with the letters SM for Srednja Mahala and GM for Gornja Mahala; P 09055: with a marker, Witness Y circled, Junuzovi}i, writing the letter J next to it; P 09246: with a marker Witness RR drew a circle around Junuzovici, wrote the letter J and a circle with the letters HVO around the location of the HVO command; P 08556, pp 1 and 2; Witness W, P 09875 under seal, *Naletili} and Martinovi} Case, T(F), p. 3176.*

<sup>1122</sup> The village of Doljani is located between the village of Sovi}i and the city of Jablanica. The village of Doljani had a Croat majority with 708 Croats and 326 Muslims in 1991: P 08556, pp. 1 and 2; P 09276, pp. 18 and 26; Witness Y, P 09873 under seal, *Naletili} and Martinovi}* Case, revised version T(F), pp. 5, 62 and 64; Witness W, P 09875 under seal, *Naletili} and Martinovi} Case, T(F), p.3176.*

<sup>1123</sup> P 09851 under seal.

<sup>1124</sup> 3D 01024, p. 13; Safet Idrizovi}i, T(F), pp. 9563, 9587 and 9693; 3D 00331, p. 148, P 00498, pp. 22 and 23.

<sup>1125</sup> P 08556, pp. 1 and 2; 2D 00165, p. 9.

<sup>1126</sup> P 09851 under seal.

### A. Political and Administrative Structure

499. In the early 1990s, the main political institutions in Jablanica Municipality were the Municipal Assembly and the Executive Committee of the Municipality, which were responsible for managing the Municipality.<sup>1127</sup>

500. In April-May 1992, the Municipal Assembly set up a crisis staff,<sup>1128</sup> later renamed the “War Presidency” of Jablanica Municipality in a decision on 21 July 1992.<sup>1129</sup> On 5 November 1992, Nijaz Ivković signed a decision establishing the Presidency of the Municipal Assembly of Jablanica, whose role was to organise resistance in the territory of the municipality and to adopt decisions falling within the Assembly's jurisdiction in the event it was unable to meet.<sup>1130</sup>

501. Nijaz Ivković was President of the Crisis Staff of Jablanica Municipality, and later President of the Presidency of the Municipal Assembly of Jablanica, from July 1992 to mid-March 1993.<sup>1131</sup> On 13 March 1993, Alija Izetbegović, President of the Presidency of the RBiH, signed a decision appointing Safet Jibo – nicknamed “the Doctor”<sup>1132</sup> – as President of the Presidency of the Municipal Assembly of Jablanica.<sup>1133</sup> He held the post until he was removed from office in a decision by Alija Izetbegović dated 14 December 1993.<sup>1134</sup>

502. The Chamber notes that crisis staffs comprised of both Croat and Muslim representatives were also constituted in the villages of Sovići and Doljani in early 1992.<sup>1135</sup> *Hasan Rizvić* was elected President of the Crisis Staff of Doljani during the summer of 1992.<sup>1136</sup>

503. Moreover, the plan was to incorporate Jablanica Municipality into the HZ H-B when it was created on 18 November 1991.<sup>1137</sup> The members of the HVO and the leaders of the HDZ of Jablanica thus took numerous initiatives designed to place the Municipality under the control of the

<sup>1127</sup> Safet Idrizović, T(F), pp. 9695-9697; 1D 01456; 1D 00340; 1D 01464.

<sup>1128</sup> 1D 00969; 1D 00973.

<sup>1129</sup> 1D 01456.

<sup>1130</sup> 1D 00340; 1D 00339. *See* for an example of a decision, 1D 01080.

<sup>1131</sup> 1D 01456; 1D 00340; 1D 00339.

<sup>1132</sup> Mirko Zelenika, T(F), pp. 33166 and 33167; Dragan Jurić, T(F), pp. 39276, 39303, 39304 and 39344; 2D 00814.

<sup>1133</sup> P 10668/1D 02753, p. 4; Witness 4D-AB, T(F), pp. 47096, 47100-47102; P 02487, p. 1; Safet Idrizović, T(F), pp. 9720, 9721 and T(E) p. 9720; Milivoj Petković, T(F), pp. 49955-49957.

<sup>1134</sup> P 10667.

<sup>1135</sup> The Chamber notes that during the summer of 1992, the crisis staffs in the villages of Sovići and Doljani had in total 9 Croats and 9 Muslims, but was unable to establish any more precise distinction between the two crisis staffs; *see* P 10358, paras 3 and 4.

<sup>1136</sup> The Chamber notes that it does not have information about the identity of the members of the Sovići village crisis staff; *see* P 10358, paras 3 and 4.

<sup>1137</sup> P 09400, p. 2; Robert Donia, T(F), pp. 1812 and 1813; P 09276, p. 4; P 00302/P 00078, p. 1; P 09536, p. 31; P 08973, p. 7; 3D 03566, p. 13; Decision of 14 March 2006, Adjudicated Fact no. 58 (*Kordić* Judgement, para. 472(e)).

HVO.<sup>1138</sup> By way of example, on 17 November 1992, the HVO and the HDZ proposed to the Jablanica SDA that they form an interim government under the control of the HVO.<sup>1139</sup> The Muslim authorities of Jablanica Municipality repeatedly rejected the HVO requests to incorporate the Municipality into the HZ H-B.<sup>1140</sup>

504. On 24 November 1992, having learned of Jablanica Municipality's refusal to join the HZ H-B, the HVO Croat representatives left the War Presidency and the Assembly of Jablanica Municipality to form their own parallel government.<sup>1141</sup> *Mirko Zelenika* explained that, on 4 February 1993, the Executive Committee of Jablanica no longer had any BiH Croats.<sup>1142</sup> Thus, from December 1992 until mid-March 1993, two authorities operated in parallel in Jablanica, one directed by the HVO the other by the Muslims.<sup>1143</sup>

505. The Chamber, however, reviewed an order from Sefer Halilović, commander in chief of the BiH armed forces dated 28 January 1993, indicating that small groups in the BiH, the "police" and the Jablanica municipal authorities had taken positions favouring the "Greater Croatia policy" and had started to implement orders from the HVO authorities to incorporate Jablanica Municipality into the HZ H-B.<sup>1144</sup>

506. As regards the structure of the HVO and the HDZ in Jablanica Municipality, the Chamber notes that, starting in February 1993, there was an office in the HVO Department of Defence in Mostar responsible for the defence of Jablanica Municipality,<sup>1145</sup> and that, in mid-April 1993, Ivan Rogić, nicknamed "Beli" or "Belo", was President of the HDZ of Jablanica Municipality.<sup>1146</sup>

<sup>1138</sup> P 09400, p. 13; P 02487, pp. 1 and 2; broadly speaking, in autumn 1992, a series of meetings was held in Jablanica, during which members of the HVO and the leaders of the HDZ in Jablanica including *Mirko Zelenika*, President of the Executive Council or Committee of the Municipal Assembly tried to get the leaders of the municipality to accept the structure of the HZ H-B: see *Safet Idrizović*, T(F), pp. 9612, 9635, 9636, 9641-9642 and 9647; P 09400, p. 13; P 02487, pp. 1 and 2.

<sup>1139</sup> P 09400, p. 13.

<sup>1140</sup> *Safet Idrizović*, T(F), pp. 9641 and 9647; P 02487, pp. 1 and 2.

<sup>1141</sup> *Safet Idrizović*, T(F), p. 9724; P 09400, p. 13; P 02487, p. 1.

<sup>1142</sup> The witness relies on Document 1D 01464, which states that *Mirsad Klepo*, a Muslim, was elected to chair the executive committee, thereby, according to *Mirko Zelenika*, replacing the only Croat member still in that institution *Mr Rogić*: *Mirko Zelenika*, T(F), pp. 33116 and 33117; 1D 01464.

<sup>1143</sup> The Chamber observes that the evidence most often refers to the "Croat authorities" and "Muslim authorities" but that some evidence has made it possible for the Chamber to identify the HVO with greater specificity, *Safet Idrizović*, T(F), pp. 9711, 9713, 9887 and 9888; P 02487, pp. 1 and 2; 3D 00547, p. 1.

<sup>1144</sup> 3D 00547, p.1.

<sup>1145</sup> *Bruno Pinjuh*, T(F), pp. 37230-37231 and 37245.

<sup>1146</sup> Witness Y, P 09873 under seal, *Naletilić and Martinović* Case, revised version of T(F), p. 25; P 09726, p. 2. The Chamber also notes that *Ivan Rogić* was the MUP post commander in Jablanica, P 02131, p. 2.

## B. Military Structure

507. In order to determine positions, capacity and lines of command at the time of the alleged facts, the Chamber will examine the armed forces in Jablanica Municipality in 1993. Although the Chamber notes the presence of former members of the HOS in April 1993<sup>1147</sup> and members of the HV in April-May 1993,<sup>1148</sup> but also the absence of Serb forces between April and October 1993<sup>1149</sup> in Jablanica Municipality, it finds that the armed forces present there consisted principally of (1) TO/ABiH forces<sup>1150</sup> and (2) the HVO .

### 1. TO and ABiH

508. Concerning the TO/ABiH at the municipal level, the Chamber notes that, in the Decision of 20 July 1992 signed by Nijaz Ivković,<sup>1151</sup> the “Main Staff of the Territorial Defence” was renamed the “Main Staff of the Armed Forces of the Municipality of Jablanica”<sup>1152</sup> whose purpose was to protect the region from the attacks by the Serb forces.<sup>1153</sup>

509. From October 1992 until the beginning of 1993, the commander of the TO/ABiH in Jablanica was Safet Idrizović.<sup>1154</sup>

510. In 1993 – the Chamber does not have a more specific date – an ABiH brigade was formed in Jablanica Municipality and was initially named the “Neretva Battalion”,<sup>1155</sup> and then the “44<sup>th</sup> Mountain Brigade” of the ABiH.<sup>1156</sup> The brigade – whose commander in April 1993 was Enes

<sup>1147</sup> Witness CB, T(F), p. 10182; P09727, p. 2. The Chamber recalls that in the part of this Judgement concerning the Armed Forces, it has already noted that on 23 August 1992, the members of the HOS had already reached an agreement with the HVO, that the members of the HOS had then joined the ranks of the HVO and conducted military operations together with them, during which the former members of the HOS were still allowed to wear the black uniform and insignia of the HOS. For this reason, when the witnesses used the expression “members of the HOS”, the Chamber understands this to denote former members of the HOS who joined the HVO. See “Composition of the Armed Forces” in the Chamber’s factual findings relating to the HZ(R) HB.

<sup>1148</sup> Witness D, P 09870 under seal, *Naletilić and Martinović* Case, T(F), p. 906; P 09726, p. 2; according to an ECMM report dated 9 May 1993, the 163<sup>rd</sup> HV Brigade was present west of Jablanica, P 02237, p. 3; Witness BF, P 10365 under seal, *Kordić and ^erkez* Case, T(F), pp. 22 and 23, closed session; P 02327, p. 4; P 02620.

<sup>1149</sup> Witness DV, T(F), p. 22871; P 10270 under seal, p. 2.

<sup>1150</sup> Witnesses used either “TO”, or “ABiH”, or sometimes even both when speaking about Muslim armed forces. The Chamber has therefore also used “TO/ABiH” and “ABiH”.

<sup>1151</sup> President of the Crisis Staff of Jablanica Municipality.

<sup>1152</sup> 1D 01453; 1D 01456.

<sup>1153</sup> Witness W, P 09875 under seal, *Naletilić and Martinović* Case, T(F), p. 3175.

<sup>1154</sup> Safet Idrizović, T(F), pp. 9625, 9626, 9660 and 9838; 3D 02344, p. 15.

<sup>1155</sup> Witness Y, P 09873 under seal, *Naletili} and Martinovi}* Case, revised version T(F), p. 54, private session, and T(E) p. 3407, closed session.

<sup>1156</sup> Witness Y, P 09873 under seal, *Naletili} and Martinovi}* Case, revised version T(F), p. 54, private session; 4D 01565.



Kovačević – was part of the 4<sup>th</sup> Army Corps of the ABiH which was itself under the command of Arif Pašalić.<sup>1157</sup>

511. Concerning the TO/ABiH in the villages of Sovići and Doljani more specifically, the Chamber observes that the TO was created in Sovići in 1992.<sup>1158</sup> In April 1992, Džemal Ovnović, a Muslim, was appointed commander of the “Sovići detachment” of the TO by Sovići TO Headquarters, and Stipe Kopilas, a Croat, was appointed deputy commander.<sup>1159</sup>

512. When the ABiH Brigade was formed in Jablanica Municipality in 1993, the “Sovići detachment” was called the “4<sup>th</sup> Sovići and Doljani Battalion” and was based in Sovići.<sup>1160</sup> Džemal Ovnović was confirmed in his post as commander by the ABiH Brigade Commander for Jablanica, Enes Kovačević.<sup>1161</sup> Džemal Ovnović, who remained commander of that battalion until his arrest on 17 April 1993,<sup>1162</sup> reported to the ABiH Jablanica command.<sup>1163</sup>

513. In late 1992 and early 1993, the “Sovići detachment” (later called “the 4<sup>th</sup> Sovići and Doljani Battalion”) consisted of about a hundred soldiers who had not received any military training.<sup>1164</sup> Logistics were provided by the 44<sup>th</sup> Mountain Brigade<sup>1165</sup> which supplied them mainly with infantry weapons.<sup>1166</sup> *Witness RR* stated that the members of the ABiH deployed in Sovići could communicate with their command in Jablanica by radio.<sup>1167</sup>

## 2. The HVO

514. An HVO military unit was officially created in Jablanica in April 1992, as was the case in all Croatian municipalities of the HZ H-B.<sup>1168</sup> However, the Jablanica HVO was not actually constituted until 15 May 1992 and then operated only in the framework of the Crisis Staff, later the

<sup>1157</sup> Witness Y, P 09873 under seal, *Naletilić and Martinović* Case, revised version T(F), p. 54, private session.

<sup>1158</sup> Witness RR, P 09872, under seal, *Naletilić and Martinović* Case, T(F), pp. 6471 and 6472.

<sup>1159</sup> Witness Y, P 09873 under seal, *Naletilić and Martinović* Case, revised version T(F), p. 55, private session, *see also* T(E) p. 3409, closed session; Witness Y, P 09873 under seal, *Naletilić and Martinović* Case, T(E) p. 3407, private session; Witness Y, P 09873 under seal, *Naletilić and Martinović* Case, revised version T(F), pp. 53 and 54, private session; Witness W, P 09875 under seal, *Naletilić and Martinović* Case, T(F), p. 3176.

<sup>1160</sup> Witness Y, P 09873 under seal, *Naletilić and Martinović* Case, revised version T(F), pp. 54 and 57-61, private session.

<sup>1161</sup> Witness Y, P 09873 under seal, *Naletilić and Martinović* Case, revised version T(F), p. 54, private session.

<sup>1162</sup> Witness RR, P 09872 under seal, *Naletilić and Martinović* Case, T(F), p. 6442; Witness D, P 09870 under seal, *Naletilić and Martinović* Case, T(F), pp. 933, 934, 938 and 939, private session; T(E) p. 933, private session; Salko Osmić, P 09876 under seal, *Naletilić and Martinović* Case, T(F), p. 3126.

<sup>1163</sup> Witness RR, P 09872 under seal, *Naletilić and Martinović* Case, T(F), pp. 6442, 6480 and 6481.

<sup>1164</sup> Witness RR, P 09872 under seal, *Naletilić and Martinović* Case, T(F), pp. 6472, 6478 and 6479-6482; Witness Y, P 09873 under seal, *Naletilić and Martinović* Case, revised version T(F), p. 55, private session; Radmilo Jasak, T(F), p. 48643;2D 00246.

<sup>1165</sup> Witness Y, P 09873 under seal, *Naletilić and Martinović* Case, revised version T(F), p. 55, private session.

<sup>1166</sup> Witness Y, P 09873 under seal, *Naletilić and Martinović* Case, revised version T(F), p. 60, private session.

<sup>1167</sup> Witness RR, P 09872 under seal, *Naletilić and Martinović* Case, T(F), pp. 6484 and 6485.

War Presidency of Jablanica Municipality.<sup>1169</sup> On 22 July 1992, the HVO Staff in Jablanica was established and a mobilisation decision was adopted.<sup>1170</sup>

515. In September 1992, the *Herceg Stjepan* Brigade of the HVO – commanded by Zdravko Šagolj from October 1992 to June 1993<sup>1171</sup> – was created for the Jablanica and Konjic region,<sup>1172</sup> and the 3<sup>rd</sup> *Mijat Tomić* Battalion of the *Herceg Stjepan* HVO Brigade was established in Jablanica Municipality.<sup>1173</sup> The *Herceg Stjepan* HVO Brigade and the 3<sup>rd</sup> *Mijat Tomić* Battalion formed part of the South-East OZ, under the command of Mile Lasić.<sup>1174</sup> The Chamber observes however, that in April 1993, the *Herceg Stjepan* Brigade and the 3<sup>rd</sup> *Mijat Tomić* Battalion sent regular reports to both the South-East OZ and the North-West OZ commands.<sup>1175</sup> In addition, both of these commanders were involved in the events in Jablanica Municipality in April 1993, as attested to *inter alia* by the reports that Željko Šiljeg, commander of the North-West OZ, sent to Milivoj Petković, Chief of the Main Staff, assessing the situation on the ground in Sovići and Doljani.<sup>1176</sup> The Chamber was unable to determine Željko Šiljeg's precise role in the events in Jablanica Municipality in April 1993, but notes in view of the evidence that the North-West OZ did indeed provide reinforcements of men and munitions during the clashes of April 1993 in Jablanica Municipality.<sup>1177</sup>

516. In late 1992 and early 1993, the 3<sup>rd</sup> *Mijat Tomić* Battalion of the *Herceg Stjepan* HVO Brigade had about 150 soldiers and had its headquarters near the entrance to Jablanica town.<sup>1178</sup> In April 1993, Stipe Pole was the Commander of the 3<sup>rd</sup> *Mijat Tomić* Battalion.<sup>1179</sup> According to *Safet Idrizović*, the Jablanica HVO was better armed and equipped than the Jablanica ABiH, particularly insofar as it had heavy weapons set up in the region.<sup>1180</sup>

<sup>1168</sup> Safet Idrizović, T(F), p. 9590; P 09400, p. 2.

<sup>1169</sup> P 09400, p.4; P 02487, p.1. See “Political and Administrative Structure” in the Chamber’s factual findings relating to the Municipality of Jablanica (Sovići and Doljani).

<sup>1170</sup> P 09400, p. 7.

<sup>1171</sup> 3D 02344, p. 4; P 00577; P 00582; 2D 01360; P 00795; 2D 00771; 2D 00641; 3D 00775; 2D 00784; P 02694.

<sup>1172</sup> P 09400, p.10; 3D 02344, p. 4.

<sup>1173</sup> Safet Idrizović, T(F), p. 9674; P 09400, p. 9; 3D 02344, p. 14.

<sup>1174</sup> See “The ZO and the Brigades” in the Chamber’s factual findings on the military structure of the HZ(R) H-B. See also P 01866.

<sup>1175</sup> 4D 00453; P 01968, p. 1.

<sup>1176</sup> P 01887, pp. 1-2; P 01933, p. 1; P 01937; P 01932.

<sup>1177</sup> P 01915, p. 2; P 01887, pp. 1-2.

<sup>1178</sup> Dragan Jurić, T(F), p. 39278; 3D 02344, p. 14.

<sup>1179</sup> P 09727 under seal, p. 2; Witness D, P 09870 under seal, *Naletilić and Martinović* Case, T(F), pp. 932 and 933; Witness X, P 09874, under seal, *Naletilić and Martinović* Case, T(F), p. 3338; Witness Y, P 09873 under seal, *Naletilić and Martinović* Case, revised version T(F), p. 86.

<sup>1180</sup> Safet Idrizović, T(F), pp. 9590, 9768 and 9784.

517. The Military Police unit in the Jablanica Municipality HVO, led by Stojan Livaja, and then by Jerko Azinović after 1 February 1993, numbered about 30 men.<sup>1181</sup> In early 1993, there was little cooperation between the municipal HVO and the Jablanica HVO Military Police.<sup>1182</sup> On 1 April 1993, the HVO Military Police unit in Jablanica Municipality set up in Doljani.<sup>1183</sup> On 17 April 1993, Ilija Franjić, Commander of the 4<sup>th</sup> Company of the 2<sup>nd</sup> Battalion (later the 6<sup>th</sup> Battalion) of the Military Police, stationed in Prozor,<sup>1184</sup> sent members of his company as reinforcements to Jablanica Municipality.<sup>1185</sup> According to the evidence admitted into the record, the Military Police units in Jablanica Municipality reported to the Brigade and OZ commands.<sup>1186</sup>

518. Other HVO units were present in Jablanica Municipality in April 1993, specifically the KB, the *Poskok* Battalion, the *Baja Kraljević* ATG and the *Posušje* (or *Posuske*) unit, all under the command of “Tuta” (Mladen Naletelić).<sup>1187</sup> HVO soldiers sent as reinforcements by the North-West OZ or by Milivoj Petković himself such as the *Bruno Bušić* Regiment, or the *Ludvig Pavlović* special unit, were also present.<sup>1188</sup>

519. In April 1993, Jure Groznica, *alias* “Juka”,<sup>1189</sup> was the commander of a subdivision of the 3<sup>rd</sup> *Mijat Tomić* Battalion responsible for the Sovići and Doljani region.<sup>1190</sup> The HVO military base in Sovići was at that time three kilometres from the hamlet of Donja Mahala by the main road,<sup>1191</sup> and as of 20 April 1993, the HVO Doljani headquarters were at the fish farm.<sup>1192</sup>

<sup>1181</sup> Safet Idrizović, T(F), pp. 9659, 9825; 5D 02007, pp. 1 and 3.

<sup>1182</sup> Safet Idrizović, T(F), pp.9659, 9825; 5D 02007, pp. 1 and 3; 3D 02344, p. 14.

<sup>1183</sup> Safet Idrizović, T(F), p.9663; P 09400, p. 19 ; P 02487, pp. 1 and 2; P 01903, pp.1 and 2.

<sup>1184</sup> Zdenko Andabak, T(F), p. 50954; P 09193, pp. 22 and 23; P 09922, p. 3; P 09731 under seal, p. 3; P 01917; 5D 02049. See also “HVO Military Police” in the Chamber’s factual findings relating to the Municipality of Prozor.

<sup>1185</sup> P 01917.

<sup>1186</sup> P 01915, p. 2; P 02218, pp. 1 and 2; P 01917; See also “The Military Police’ in the Chamber’s factual findings relating to the military structure of the HZ(R) H-B.

<sup>1187</sup> P 01915, p. 2; P 01968, p. 1; Milivoj Petković, T(F), p. 49445; Safet Idrizović, T(F), p. 9784; Witness CB, T(F), p. 10207; P 02218, pp. 1 and 2; 4D 01034; Witness JJ, P 09880, under seal, *Naletili} and Martinovi}* Case, T(F), pp. 5005 and 5006; P 02012 under seal, p. 5; Witness RR, P 09872, under seal, *Naletili} and Martinovi}* Case, T(F), pp. 6451, 6500-6502; Salko Osmi}, P 09876, under seal, *Naletilić and Martinovi}* Case, T(F), p. 3132; P 10358, para. 28; P 02037, p. 1 ; Decision of 7 September 2006, Adjudicated Facts nos 29 and 30 (*Naletilić* Judgement, paras 120 and 132).

<sup>1188</sup> P 01915, p. 2; P 01896. The *Bruno Bušić* Regiment, for example, was present at the fish farm, Witness TT, P09879 under seal, *Naletili} and Martinovi}* Case, T(F), pp. 6634, 6686 and 6687.

<sup>1189</sup> P 09727 under seal, p. 3.

<sup>1190</sup> P 09727 under seal, p. 3; Witness D, P 09870 under seal, *Naletili} and Martinovi}* Case, T(F), pp. 932 and 933, private session; Witness X, P 09874, under seal, *Naletili} and Martinovi}* Case, T(F), p. 3338; Witness Y, P 09873 under seal, *Naletili} and Martinovi}* Case, revised version T(F), at p. 86.

<sup>1191</sup> Witness Y, P 09873 under seal, *Naletili} and Martinovi}* Case, revised version T(F), pp. 4-5, 11-12; P 09246.

<sup>1192</sup> Decision of 7 September 2006, Adjudicated Fact no. 41 (*Naletilić* Judgement, para. 33); Witness TT, P09879 under seal), *Naletili} and Martinovi}* Case, T(F), pp. 6632, 6633 and 6660.

### III. Premises of the Attacks of 17 April 1993 on the Villages of Sovići and Doljani

520. Tensions between Croats and Muslims in Jablanica Municipality (A) continued to rise starting in the spring of 1992 culminating (B) in a series of clashes in the municipality in mid-April 1993 and (C) coming to a head in Sovići and Doljani in the days preceding the attack of 17 April 1993.

#### A. Rise of Tension Between Croats and Muslims in Jablanica Municipality between Spring 1992 and mid-April 1993

521. In April-May 1992, the HVO occupied all the positions to the west and south of Jablanica Municipality;<sup>1193</sup> the Croats of Sovići and Doljani had started digging trenches around the valley where the villages of Doljani and Sovići were located<sup>1194</sup> and tensions between the Muslims and the Croats started to surface.<sup>1195</sup> In December 1992 and January 1993, tensions increased substantially, particularly because of the Croat attempts to take over Jablanica town, whose population was 70% Muslim.<sup>1196</sup>

522. Between early February and mid-April 1993, the HVO and the TO/ABiH, each reinforced its military presence in Jablanica Municipality, particularly at Sovići and Doljani.<sup>1197</sup> For example, *Safet Idrizović* testified that the HVO *Mijat Tomić* Battalion command, the HVO Main Staff and members of the Military Police of the Jablanica HVO set up in Doljani as of 1 April 1993.<sup>1198</sup> The Chamber points out, however, that during this period, there were no clashes between the Croats and Muslims in Sovići and Doljani.<sup>1199</sup>

<sup>1193</sup> Including the Mount Bokševica above Ostrovac, Mount Pisvir, above Doljani and at Slatina, Strop, Sovicka Vrata and Risovac, *Safet Idrizović*, T(F), p. 9668.

<sup>1194</sup> P 10358 para. 6.

<sup>1195</sup> For example, an attack was carried out by the HVO against the Jablanica TO, *see Safet Idrizović*, T(F), pp. 9612-9614; P 00388, p. 3; P 09400, p.8. On the subject of tensions in general, *see* P 10358, para. 8; P 00952, p. 1.

<sup>1196</sup> P 00917, p. 1. P 00945, p. 1; 1D 01461; 4D 00421; 4D 00374; P 10358, para. 9; *Safet Idrizović*, T(F), pp. 9657 and 9658; *Mirko Zelenika*, T(F), pp. 33213 and 33214; 3D 02344, pp. 12-13.

<sup>1197</sup> P 10358, para. 11; P 02487, pp. 1 and 2; P 01903, pp. 1 and 2; 4D 00081; *Safet Idrizović*, T(F), pp. 9747-9750; Witness 4D-AB, T(F), pp. 47381 and 47382; 2D 00246; 3D 02344, pp. 12-13; P 01872.

<sup>1198</sup> According to *Safet Idrizović*, the *Mijat Tomić* Battalion set up in Doljani in a house which had belonged to Jure Jurić, near the village church, *Safet Idrizović*, T(F), pp. 9663 and 9676; P 00568 ; P 09400, p. 19; P 02487, pp. 1 and 2; P 01903, pp. 1 and 2.

<sup>1199</sup> Witness RR, P 09872 under seal, *Naletili} and Martinovi}* Case, T(F), p. 6483; Witness BZ, T(F), p. 9956, closed session.

## **B. Clashes in Jablanica Municipality in mid-April 1993**

523. In its Final Trial Brief, the Petković Defence argues that HVO forces launched military operations in Jablanica Municipality in response to the ABiH attacks on the HVO forces in Konjic in mid-March 1993, and did so solely to assist the HVO units under attack by the ABiH, but not to take control of Jablanica town.<sup>1200</sup>

524. The Chamber observes that, according to HVO documents and several witnesses for the Defence, including *Milivoj Petković*, the HVO engagement in Konjic and Jablanica Municipalities around 13-14 April 1993 was in fact aimed at repelling the ABiH offensive against the *Herceg Stjepan* Brigade in Konjic Municipality.<sup>1201</sup> The ABiH was at that time conducting an operation to capture Mount Bokševica, from which they would be able to control the entire Neretva Valley and the road linking Konjic to Jablanica.<sup>1202</sup>

525. According to *Milivoj Petković*, the situation in the Municipalities of Konjic and Jablanica constituted an indivisible whole from a military point of view and the conflicts which broke out between the HVO and the ABiH in Konjic Municipality in mid-April 1993 spread to Jablanica Municipality.<sup>1203</sup>

526. Whatever the underlying reasons may have been, clashes between the HVO and the ABiH did break out on 13-14 April 1993 in Jablanica Municipality.<sup>1204</sup> Thus, starting on 13 April 1993 and for more than a month, the city of Jablanica was surrounded by the HVO and cut off from Konjic; the roads were under HVO fire which made leaving from the city impossible.<sup>1205</sup>

527. On 15 April 1993, with a view to reinforcing the HVO's defensive lines in the Konjic and Jablanica region, Milivoj Petković, Chief of the HVO Main Staff, ordered Antun Luburić, Commander of the *Bruno Bušić* Regiment, and Dragan Čučurić, Commander of the *Ludvig Pavlović* special unit, to keep their units in a state of combat readiness and on highest alert.<sup>1206</sup> Milivoj Petković made clear in his order that he personally would determine when the combat units

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<sup>1200</sup> Petković Defence Final Trial Brief, paras 128-130; *see also* the Preliminary Statement by the Petković Defence, T(F), pp. 46003 and 46004.

<sup>1201</sup> Milivoj Petković, T(F), p. 49433; Dragan Jurić, T(F), pp. 39311-39313, 39319, 39439 and 39440; 2D 00253; P 01874, p. 2; P 02487, pp. 1 and 2; 4D 00453, p. 1; P 01887; Radmilo Jasak, T(F), p. 48654, relying on P 01879, p. 2.

<sup>1202</sup> Radmilo Jasak, T(F), pp. 48651 and 48652, 49077 and 49078, relying on P 01879, p. 4; Witness 4D-AB, T(F), pp. 47149, 47153-47156, 47238-47239, 47304; 4D 00454; P01874, p.2; P 01887.

<sup>1203</sup> Milivoj Petković, T(F), pp. 49433, 49434, 49518 and 49519; 3D 01843, pp. 2-3.

<sup>1204</sup> Dragan Pinjuh, T(F), pp. 37714, 37715 and 37744; Dragan Jurić, T(F), pp. 39353 and 39355; P 01879; 3D 01843.

<sup>1205</sup> Safet Idrizović, T(F), pp. 9665, 9666 and 9778; 4D 00082, p.1.

<sup>1206</sup> P 01896.

were to leave and what the destination would be and that follow-on orders would be sent by telephone.<sup>1207</sup>

528. The same day, the HVO began to shell Jablanica town, in particular from the village of Risovac, where HVO artillery batteries were positioned.<sup>1208</sup>

**C. Rising Tensions between Croats and Muslims in Sovi}i and Doljani in the Days Preceding the Attack of 17 April 1993**

529. Around 13 and 14 April 1993, the HVO forces took up positions along communication routes and at commanding heights, in particular those overlooking *inter alia* Sovi}i and Doljani.<sup>1209</sup> In addition, the “Croats” set up checkpoints on the ways in and out of the village of Doljani, thereby preventing the inhabitants of the village from leaving the village.<sup>1210</sup>

530. Several days before the attack on 17 April 1993, troops from the 44<sup>th</sup> ABiH Mountain Brigade also took up positions in the Sovi}i and Doljani sector.<sup>1211</sup>

531. On the morning of 15 April 1993, a delegation of representatives of the 44<sup>th</sup> ABiH Mountain Brigade, authorities from Jablanica Municipality and representatives of the international community, went to Doljani to speak with representatives of the HVO, including Matan Zari},

<sup>1207</sup> P 01896.

<sup>1208</sup> Witness Y, P 09873 under seal, *Naletili} and Martinovi}* Case, revised version T(F), pp. 12 and 13; Safet Idrizović, T(F), pp. 9669, 9672 and 9673; P 09400, p. 20; Witness RR, P 09872 under seal, *Naletili} and Martinovi}* Case, T(F), pp. 6443, 6483, 6484 and 6519; P 08951; P 09052, Witness RR, T(F), pp. 6443 and 6526-6527; Decision of 7 September 2006, Adjudicated Fact no. 27 (*Naletilić* Judgement, para. 30); P 02627, pp. 2 and 3.

<sup>1209</sup> Safet Idrizović, T(F), p. 9789; P 01775, p. 16. The Chamber notes, moreover, that *Witness CA*, a woman who lived in the village of Doljani, testified to the fact that the Croat and Muslim communities of Doljani had co-existed peacefully until mid-April 1993, Witness CA, T(F), p. 10003, private session.

<sup>1210</sup> Witness CA, T(F), pp. 10005 and 1007. More specifically, whereas the inhabitants of the lower part of the village of Doljani could still leave the village by crossing through the forest at night, the inhabitants of the upper portion of the village were not authorised to leave the town. The Chamber notes that the village of Sovi}i had strategic military importance to the HVO inasmuch as the village was on the road from Prozor to Jablanica, and to the ABiH, inasmuch as it provided access to the Risovac plateau, subsequently allowing it to move towards the Adriatic Coast, Decision of 7 September 2006, Adjudicated Fact no. 28 (*Naletilić* Judgement, para. 30); Radmilo Jasak, T(F), p. 48643.

<sup>1211</sup> Witness 4D-AB, T(F), pp. 47165, 47166, 47168 and 47345; Safet Idrizović, T(F), pp. 9666, 9790 and 9791; P 01882; Safet Idrizović, T(F), pp. 9666, 9790 and 9791. The Chamber heard several explanations for this positioning by the ABiH. According to *Witness 4D-AB*, the ABiH units were given the mission of keeping the HVO units coming from Jablanica to reinforce the HVO units at Sovi}i and Doljani out of combat, and that the ABiH was preparing an attack along the Konjic-Jablanica-Mostar axis, in order to capture the villages of Sovi}i and Doljani and the Risovac plateau. According to *Safet Idrizović*, the ABiH troops had taken up positions in the Sovi}i and Doljani sector in order to defend the villages of Sovi}i and Doljani, protect the population, and permit it to evacuate towards Jablanica in the event of conflict with the HVO. See Witness 4D-AB, T(F), pp.47165-47166, 47168, 47172-47173 and 47345; P 01882; P 01911, p. 3; 4D 00599; Safet Idrizović, T(F), pp. 9666, 9790 and 9791.

director of the Jablanica HDZ, and Stipe Pole, Commander of the 3<sup>rd</sup> *Mijat Tomić* Battalion, in order to try to calm tensions but was unsuccessful in reaching an agreement.<sup>1212</sup>

532. In the evening of 15 April 1993, the 44<sup>th</sup> ABiH Mountain Brigade surrounded the 3<sup>rd</sup> *Mijat Tomić* Battalion of the HVO's *Herceg Stjepan* Brigade stationed in the villages of Sovići and Doljani which led to the HVO forces falling back to Risovac and Posušje.<sup>1213</sup>

533. The same day, the *Herceg Stjepan* Brigade Commander, Zdravko Šagolj, asked the HVO Main Staff and the North-West and South-East OZ commands for reinforcement requesting that they “act IMMEDIATELY in accordance with our previous agreement”<sup>1214</sup>.

534. According to an interim report on 16 April 1993 signed by @eljko [iljeg, Commander of the North-West OZ, heavy artillery batteries and assault tanks had already taken up positions around Sovići,<sup>1215</sup> HVO soldiers, including a company from the *Rama* Brigade and two Military Police platoons, were kept reserve in case they were needed and the HVO attack on the village of Sovići was to start on 16 April 1993 at 0900 hours.<sup>1216</sup> The Chamber notes that “coordination” with “Tuta” was also planned and was to be carried out with the help of the *Posušje* unit based in Sovićka Vrata.<sup>1217</sup>

535. Also on 16 April 1993, Hasan Rizvić, President of the Doljani Crisis Staff, contacted the headquarters of the Jablanica TO/ABiH, which ordered him to evacuate the “civilians” through the mountains in order to reach Jablanica.<sup>1218</sup> In the evening of 16 April 1993, between 100 and 240 “civilians” from Doljani left and reached Jablanica on the morning of 17 April 1993.<sup>1219</sup> According to *Hasan Rizvić*, out of 65 Muslim men from Doljani who were members of the TO/ABiH,<sup>1220</sup> 48 escorted the elderly, pregnant women and very young children through the mountains.<sup>1221</sup> Seventeen men from the TO/ABiH remained on the Ilijina Gruda hillside to prevent the HVO from

<sup>1212</sup> Safet Idrizović, T(F), pp.9668 and 9669 and T(E) p. 9669; P 09400, p.20; P 01903, pp.1 and 2.

<sup>1213</sup> 4D 00453; Milivoj Petković, T(F), pp. 49434 and 49435; 4D 02025; P 02487, pp. 1 and 2.

<sup>1214</sup> 4D 00453.

<sup>1215</sup> More specifically, in Dobro{a, Mlu{a, Donja Vast, Ustirama and Sovićka Vrata, P 01915, p. 2.

<sup>1216</sup> P 01915, p. 2.

<sup>1217</sup> P 01968, p. 1 (*mopping up*); P 01915, p. 2.

<sup>1218</sup> P 10358, para. 18.

<sup>1219</sup> P 10358, paras 19 and 22; Witness CA, T(F), pp. 10007 and 10008. During the hearing, the witness stated that this involved men, women and children, but did not specify whether the men were armed; P 02187, p. 36.

<sup>1220</sup> P 10358, para. 19.

<sup>1221</sup> P 10358, paras 18 and 19.

capturing the “civilians” from Doljani who were fleeing to Jablanica.<sup>1222</sup> Between 40 and 100 “civilians” from Doljani stayed behind in their houses.<sup>1223</sup>

536. At the same time, in Sovići, Muslim inhabitants who “felt an attack was in the making” and feared for their safety, went to take shelter in the houses they considered safest.<sup>1224</sup> Thus, in the afternoon of 16 April 1993, *Witness D* took shelter in a house on the heights above Sovići, from where he could see the entire village and which was about 500 or 600 metres from the school and about 1,500 metres from the mosque.<sup>1225</sup>

#### **IV. HVO Attacks on the Villages of Sovići and Doljani and Arrests of Men, Women, Children and Elderly People from 17 to 23 April 1993**

537. The Chamber will (A) address the HVO attacks on the villages of Sovići and Doljani on 17 April 1993, (B) the arrests which followed between 17 and 23 April 1993 and (C), will identify those who carried out the attacks and made the arrests.

##### **A. Sequence of Attacks on the Villages of Sovići and Doljani on 17 April 1993**

538. All the evidence admitted into the record shows that on 17 April 1993, between 0700 and 0800, the HVO launched an attack in the Jablanica Valley where the villages of Sovići and Doljani are located.<sup>1226</sup> The ABiH soldiers had taken up positions on the Duga Gruda hills in Sovići and the Ilijina Gruda hill in Doljani.<sup>1227</sup> On that day, HVO forces shelled Duga Gruda in Sovići from 0700 to about 1530 hours from their positions at Risovac, Vozdac and Sovićka Vrata.<sup>1228</sup> Most of the shells came from Risovac, to the south of Sovići where the HVO had taken up positions.<sup>1229</sup> To escape the attack by the HVO, the Muslim soldiers posted at Duga Gruda were forced to fall back

<sup>1222</sup> P 10358, paras 18 and 19.

<sup>1223</sup> P 10358, para. 19; Witness CA, T(F), pp. 10007 and 10008. During the hearing, the witness stated that this involved men, women and children, but did not specify whether the men were armed.

<sup>1224</sup> Witness D, P 09870 under seal, *Naletili} and Martinovi}* Case, T(F), p. 903, private session.

<sup>1225</sup> Witness D, P 09870 under seal, *Naletili} and Martinovi}* Case, T(F), pp. 903-904, private session.

<sup>1226</sup> Witness CA, T(F), pp. 10009-10010; Witness CB, T(F), p. 10116; P 09867 under seal, p. 12; P 10358 para. 25; P 01917; Witness TT, P 09879 under seal, *Naletili} and Martinovi}* Case, T(F), p. 6628; Decision of 7 September 2006, Adjudicated Facts nos 33 and 34 (*Naletilić* Judgement, para. 31

<sup>1227</sup> ; Witness BZ, T(F), pp. 9962 and 9963 closed session; Witness TT, P 09879 under seal, *Naletili} and Martinovi}* Case, T(F), p. 6627.

<sup>1228</sup> Witness TT, P 09879 under seal, *Naletili} and Martinovi}* Case, T(F), p. 6628.

<sup>1229</sup> Witness CA, T(F), pp. 10009-10010; Witness Y, P 09873 under seal, *Naletili} and Martinovi}* Case, revised version T(F), pp. 13 and 14; Decision of 7 September 2006, Adjudicated Facts nos 32 and 33 (*Naletilić* Judgement, paras 27 and 31); P 09867 under seal, p. 12; Ismet Poljarevi}, T(F), p. 11597; Milivoj Petković, T(F), pp. 49436, 49444 and 49445; 4D 02025.



to the Munikoze village woods near Sovići village.<sup>1230</sup> Thus, the hostilities between the HVO and the ABiH took place primarily along the ridges of the hills at Sovići and Doljani.<sup>1231</sup>

539. Concerning the village of Sovići proper, the HVO started shelling the village, especially the hamlet of Gornja Mahala, starting at 0800 hours until about 1700 hours.<sup>1232</sup>

540. At the same time, the HVO shelled the village of Doljani continuously, from 0800 to approximately 1500 hours.<sup>1233</sup>

541. The Chamber holds that the evidence attests to the presence of the ABiH in Sovići and Doljani on 17 April 1993, even though the evidence submitted to the Chamber does not always make it possible to distinguish clearly between soldiers who were members of the TO/ABiH and the Muslim men defending their village.<sup>1234</sup> In any event, the Chamber recalls that, according to the evidence, the ABiH had 60 to 170 fighters from the 4<sup>th</sup> Corps at Sovići and Doljani.<sup>1235</sup>

542. The Chamber notes that, on the morning of 17 April 1993, according to *Milivoj Petković*, the ABiH attacked the forces of the HVO deployed in Risovac; he also claimed the ABiH attempted to attack the village of Doljani, which led the HVO to counter by attacking the 4<sup>th</sup> Battalion of the 44<sup>th</sup> ABiH Mountain Brigade (whose positions were at Sovićka Vrata – two or three kilometres from the village of Sovići) and the ABiH soldiers attacking Doljani, who were on the ridges above the locality of Pisvir.<sup>1236</sup>

543. However, in view of the evidence relating to the attack on the entire Jablanica Valley and the preparations for the attack on the village of Sovići described above – specifically the interim report dated 16 April 1993 signed by @eljko [iljeg, explaining that the HVO attack upon the village

<sup>1230</sup> Witness TT, P 09879 under seal, *Naletili} and Martinovi}* Case, T(F), pp. 6629 and 6630.

<sup>1231</sup> P 02218, pp. 1 and 2; Witness TT, P 09879 under seal, *Naletili} and Martinovi}* Case, T(F), pp. 6629 and 6630; Slobodan Praljak, T(F), pp. 44562 and 44575; place marked by the number 4 on the map registered as 3D 03724; Milivoj Petković, T(F), pp. 49436, 49438, 49444 and 49445

<sup>1232</sup> Witness D, P 09870 under seal, *Naletili} and Martinovi}* Case, T(F), p. 905; Witness CA, T(F), p. 10009; P 09727 under seal, p. 2; Witness Y, P 09873 under seal, *Naletili} and Martinovi}* Case, revised version T(F), pp. 13-14, private session; Dragan Juri}, T(F), pp. 39368 and 39369; 4D 01565; Witness RR, P 09872 under seal, *Naletili} and Martinovi}* Case, T(F), pp. 6442-6444 and 6488; P 09728, p. 2; Nihad Kova~, T(F), p. 10263; Decision of 7 September 2006, Adjudicated Facts nos 32, 33 and 34 (*Naletilić* Judgement, paras 27 and 31); Witness D, P 09870 under seal, *Naletili} and Martinovi}* Case, T(F), p. 904; P 09726, p. 2; 2D 00285, p. 1; Witness X, P 09874, under seal, *Naletili} and Martinovi}* Case, T(F), pp. 3304 and 3305.

<sup>1233</sup> Witness CA, T(F), p. 10009, private session.

<sup>1234</sup> Concerning the village defenders, *see*, for example, *Nihad Kova~*, T(F), pp. 10297 and 10298; Witness D, P 09870 under seal, *Naletili} and Martinovi}* Case, T(F), p. 948, private session; Ismet Poljarevi} T(F), pp. 11647 and 11648; 2D 00285, p. 1.

<sup>1235</sup> P 01933; 4D 00430; Milivoj Petkovi}, T(F), pp. 49501 and 49503; Ismet Poljarevi}, T(F), pp. 11630 and 11644 and 11645; 4D 00472. According to the last document, there were 156 members of the ABiH in Sovići, but the witness said that the list also contained the names of people from Doljani; Decision of 7 September 2006, Adjudicated Facts no. 34 (*Naletilić* Judgement, para. 31).

of Sovići was to begin on 16 April 1993 at 0900 hrs<sup>1237</sup> – the Chamber considers that it cannot agree with *Milivoj Petković* and find that the HVO attack on the villages of Sovići and Doljani on the morning of 17 April 1993 was merely a defensive reaction to the ABiH attack that same day.

544. At the time of the attack on the village of Sovići, the Muslim inhabitants, among whom was *Nihad Kovač*, took refuge in the houses on the heights overlooking the village.<sup>1238</sup>

545. The ABiH countered, but on 17 April 1993, around 1700 hours, Džemal Ovnović, Commander of the 4<sup>th</sup> Battalion in Sovići and Doljani, surrendered with some of his men.<sup>1239</sup> Although Džemal Ovnović surrendered, other ABiH soldiers refused to lay down their arms on 17 April 1993 and fled to the hills and woods or hid among the houses and continued firing.<sup>1240</sup>

546. At 1700 hours, there was no longer any ABiH resistance, and the HVO and the HV entered Sovići through the lower village.<sup>1241</sup>

547. According to a report by Željko Šiljeg, Commander of the North-West OZ, sent to the Main Staff on the evening of 17 April 1993, the problem with Sovići was on the verge of being “resolved”.<sup>1242</sup> The same day, relying on the report from Željko [iljeg, Milivoj Petković also drafted a report on the military situation in the Sovići sector in which he indicated that the “the problem of Sovići is near resolution”.<sup>1243</sup>

548. According to a report by Commander Enes Kovačević of the 44<sup>th</sup> Mountain Brigade, the HVO armed forces continued to shell the village of Sovići during the morning of 18 April 1993.<sup>1244</sup> The Chamber observes, however, that most of the fighting had stopped.<sup>1245</sup>

<sup>1236</sup> Milivoj Petković, T(F), pp. 49436-49439, 49444 and 49445; 4D 02025.

<sup>1237</sup> P 01915, p. 2.

<sup>1238</sup> P 09728, p. 2.

<sup>1239</sup> The number of Muslim men who surrendered with him is variously estimated as between 39 and 85, depending on the witness, *see* Witness RR, P 09872 under seal, *Naletilić and Martinović* Case, T(F), pp. 6446, 6447 and 6462; Safet Idrizović, T(F), pp. 9667 and 9792; P 02218, pp. 1 and 2; Milivoj Petković, T(F), pp. 49435-49437, 49504, 49505, 49507 and 49508; P 09726, p. 2; Decision of 7 September 2006, Adjudicated Fact no. 34 (*Naletilić* Judgement, para. 31).

<sup>1240</sup> Decision of 7 September 2006, Adjudicated Fact no. 36 (*Naletilić* Judgement, para. 31); Witness RR, P 09872 under seal, *Naletilić and Martinović* Case, T(F), pp. 6447 and 6448-6449; P 09246.

<sup>1241</sup> Ismet Poljarević, T(F), pp. 11597 and 11598; Witness Y, P 09873 under seal, *Naletilić and Martinović* Case, revised version T(F), pp. 16 and 17, private session; Witness X, P 09874, under seal, *Naletilić and Martinović* Case, T(F), pp. 3306-3307.

<sup>1242</sup> P 01932, p. 1.

<sup>1243</sup> P 01954, p. 11; P 01932.

<sup>1244</sup> Dragan Jurić, T(F), pp. 39368 and 39369; 4D 01565.

<sup>1245</sup> Decision of 7 September 2006, Adjudicated Facts nos 33, 34 and 35 (*Naletilić* Judgement, para. 31); Milivoj Petković, T(F), 49436; Witness Y, P 09873, under seal, *Naletilić and Martinović* Case p. 16; revised version T(F), p.16; P 01933, p. 1; P 01937; P 01932.

549. On 19 April 1993, at 2000 hours, Stipe Pole, Commander of the 3<sup>rd</sup> *Mijat Tomić* Battalion of the *Herceg Stjepan* HVO Brigade, informed Mile Lasić, Commander of the South-East OZ, that the military operation and “mopping up” in the Sovići sector was nearly complete.<sup>1246</sup> That same report said that “Tuta’s” military units participated in this attack.<sup>1247</sup>

**B. Arrests of Men, Women, Children and Elderly People in Sovići and Doljani from 17 to 23 April 1993**

550. After the most of the fighting in Sovići and Doljani had ended, that is, late in the afternoon of 17 April 1993, the armed forces of the HVO and of the MUP of the HVO made the first arrests, primarily of (1) TO/ABiH soldiers and Muslim men of military age, as well as some number of women, children and elderly people (i). In the days that followed, that is, from 18 to 23 April 1993, the HVO armed forces (2) continued to make arrests in the villages of Sovići and Doljani. After (3) reviewing the sequence of those successive events, the Chamber will deal more specifically with the identity of those responsible for the attacks and arrests.

551. The Chamber notes that the Indictment does not specifically mention the arrests of the women, children and elderly people on 17 April 1993. However, the Chamber holds that the expression “commencing on about 18 April 1993” from the first sentence of paragraph 79 of the Indictment allows the Chamber to consider the evidence about the arrests of the women, children and elderly people in Sovići and Doljani on 17 April 1993.

**1. Initial Arrests on 17 April 1993**

**a) Sovići**

552. The Chamber recalls that Džemal Ovnović, Commander of the 4<sup>th</sup> Sovići and Doljani Battalion, surrendered to the HVO on 17 April at around 1700 hrs, along with some of his men from the ABiH.<sup>1248</sup> The HVO soldiers entered the village and proceeded to arrest other ABiH soldiers and Muslim men. The Chamber does not know whether they were members of armed

<sup>1246</sup> P 01968, p. 1; Witness CB, T(F), p. 10207.

<sup>1247</sup> P 01968, p. 1; P 01775, p. 16.

<sup>1248</sup> The number of Muslim men who surrendered with him is variously estimated as somewhere between 39 and 85, depending on the witness, see Witness RR, P 09872 under seal, *Naletili} and Martinovi}* Case, T(F), pp. 6446, 6447 and 6462; Safet Idrizović, T(F), pp. 9667 and 9791-9793; P 02218, pp. 1 and 2; Milivoj Petković, T(F), pp. 49435-49437, 49504, 49505, 49507 and 49508; P 09726, p. 2.

forces.<sup>1249</sup> Thus, at about 1715 hours, a group of soldiers from the HVO and the HV burst into a house on the ridgeline above Sovići where Witness D was hiding,<sup>1250</sup> and ordered all men to leave the house and go towards Sovići School; the women were allowed to remain in the house.<sup>1251</sup>

*Ismet Poljarević*<sup>1252</sup> stated that some Muslim men nevertheless managed to escape during the arrests in Sovići on 17 April 1993.<sup>1253</sup> Even so, they were later captured on the outskirts of Doljani, on 20 April 1993.<sup>1254</sup>

Following these arrests, the soldiers from the HVO took the members of the ABiH and the Muslim men of military age from Sovići to the cellar of a house, then to the Sovići School.<sup>1255</sup>

553. Moreover, various pieces of evidence also report the arrests of women and children in Sovići on 17 April 1993, as well as their transfer to the Sovići School on that same day.<sup>1256</sup> Witness TT<sup>1257</sup> thus testified that the HVO soldiers entered the hamlet of Cilići, just above Sovići School, and ordered the women and the children in the village of Sovići to go to Sovići School.<sup>1258</sup>

#### b) Doljani

554. According to *Witness CA*, on the afternoon of 17 April 1993, the HVO soldiers entered the village of Doljani and ordered all the members of the ABiH to surrender.<sup>1259</sup> *Witness CA* added that the order was issued under threat of gunfire on the remaining “civilian” population who had been unable to flee the village the day before.<sup>1260</sup>

<sup>1249</sup> Witness X, P 09874, under seal, *Naletili} and Martinovi} Case*, T(F), pp. 3305 and 3307; Witness D, P 09870 under seal, *Naletili} and Martinovi} Case*, T(F), p. 906; Witness BZ, T(F), pp. 9934 and 9935 (closed session); P 09727 under seal, p. 3; P 02173.

<sup>1250</sup> Muslim inhabitant of Sovići.

<sup>1251</sup> Witness D, P 09870 under seal, *Naletili} and Martinovi} Case*, T(F), p. 906.

<sup>1252</sup> Inhabitant of Sovići.

<sup>1253</sup> *Ismet Poljarević*, T(F), p. 11602.

<sup>1254</sup> *Ismet Poljarević*, T(F), pp. 11574 and 11602; Witness TT, P 09879 under seal, *Naletili} and Martinovi} Case*, T(F), pp. 6630-6633 and 6660; P 02177, para. 9. See also “Subsequent Arrests between 18 and 23 April 1993 – Doljani” in the Chamber’s factual findings in relation to the municipality of Jablanica (Sovići and Doljani).

<sup>1255</sup> P 09728, p. 2; *Ismet Poljarević*, T(F), pp. 11583, 11631 and 11632; 2D 00285, p. 1; P 09726, p. 2; Witness BZ, T(F), pp. 9934 and 9935, closed session; P 09727 under seal, p. 3; Witness X, P 09874, under seal, *Naletili} and Martinovi} Case*, T(F), pp. 3306-3309.

<sup>1256</sup> The Chamber notes that elderly persons are not mentioned in the evidence; *Ismet Poljarević*, T(F), pp. 11583 and 11632; P 09726, p. 2; 2D 00285, p. 1; P 09728, p. 2; Witness TT, P 09879 under seal, *Naletili} and Martinovi} Case*, T(F), p. 6629; IC 00093, the school is marked no. 1; IC 00094; *Nihad Kovač*, T(F), p. 10277.

<sup>1257</sup> Muslim from Bosnia, soldier in the Sovići TO, 4<sup>th</sup> Battalion of the Neretva Brigade of the ABiH, Witness TT, P 09879 under seal, *Naletili} and Martinovi} Case*, T(F), p. 6627

<sup>1258</sup> Witness TT, P 09879 under seal, *Naletili} and Martinovi} Case*, T(F), p. 6629.

<sup>1259</sup> Witness CA, T(F), pp. 10014, 10018, 10020; P 10358 para. 24.

<sup>1260</sup> Witness CA, T(F), pp. 10014, 10018, 10020; P 08625, p. 5.

555. The Chamber notes that *Hasan Rizvić* indicated that the HVO soldiers had ordered the ABiH soldiers to surrender before the attack, that is, on the morning of 17 April 1993.<sup>1261</sup> The Chamber notes that the two testimonies are not fundamentally at odds because the HVO may have issued several such orders on 17 April 1993. In addition, the Chamber notes that the *viva voce* testimony of *Witness CA* on this point was more thorough and more detailed than *Hasan Rizvić's* written statement.

556. *Witness CA* also observed that 4 or 5 HVO soldiers, including Ivan Rajić and Andjelko Rogić<sup>1262</sup> – the Chamber does not have information about the units to which they were assigned – had collected 15 to 20 Muslim men in Doljani in the centre of the village, including three young boys between 10 and 15 years of age.<sup>1263</sup>

557. The Chamber notes that the evidence attesting to the number of ABiH soldiers captured on 17 April 1993 broadly refers to the arrests in the villages of Sovići and Doljani without distinguishing between arrests in one village or the other. Thus, the Chamber can only establish that between 84 and 90 members of the ABiH were taken prisoner in Sovići and Doljani.<sup>1264</sup>

## 2. Subsequent Arrests from 18 to 23 April 1993

### a) Sovići

558. Between approximately 18 and 23 April 1993, the HVO soldiers arrested other members of the ABiH who had taken up positions among the hills surrounding the village of Sovići and then took them to Sovići School.<sup>1265</sup>

559. Between 18 and 20 April 1993, the HVO soldiers continued to collect and arrest the women, children and elderly people from Sovići and taking them also to Sovići School.<sup>1266</sup>

560. When a Spabat patrol went to Doljani after the fighting on 20 April 1993, *Witness CB*<sup>1267</sup> observed that other than the people detained at Sovići School, there was not a single “civilian” still in the Sovići “area”.<sup>1268</sup>

<sup>1261</sup> P 10358, para. 24.

<sup>1262</sup> *Witness CA*, T(F), p. 10018, private session.

<sup>1263</sup> *Witness CA*, T(F), p. 10024.

<sup>1264</sup> P 02218, pp. 1 and 2; P 02487, pp. 1 and 2.

<sup>1265</sup> P 02218, pp. 1 and 2; P 09728, p. 3; *Milivoj Petković*, T(F), pp. 49437-49439 and 49445; P 01968, p. 1.

<sup>1266</sup> *Ismet Poljarević*, T(F), pp. 11583 and 11632; P 09726, p. 2; 2D 00285, p. 1; P 09728, p. 2; IC 00093; (Photo at the top of the exhibit shows the Sovići school; the photo at the bottom shows where the village inhabitants were separated); *Witness BZ*, T(F), pp. 9935 and 9938, closed session; *Witness CB*, T(F), pp. 10200 and 10202; *Witness X*, P 09874, under seal, *Naletilić and Martinović* Case, T(F), pp. 3310-3313, 3315; *Witness D*, P 09870 under seal, *Naletilić and Martinović* Case, T(F), pp. 907-910; P 09867 under seal, p. 12.

b) Doljani

561. On 20 April 1993, HVO soldiers, among whom were members of the 3<sup>rd</sup> *Mijat Tomić* Battalion, captured soldiers who were members of the TO/ABiH from Sovići who had been hiding in the woods near Doljani, and took them to a former fish farm converted into a command post for the 3<sup>rd</sup> Battalion.<sup>1269</sup>

562. The Chamber recalls that some of the women, children and elderly people from Doljani had managed to reach Jablanica before the fighting broke out on 17 April 1993.<sup>1270</sup> As for the remaining villagers,<sup>1271</sup> the Chamber has received several pieces of evidence reporting the arrests of women, children and elderly people residing in Doljani in the days following the attack.<sup>1272</sup> For example, *Witness CA* declared that, between 18 and 21 or 22 April 1993, some Muslim occupants of the burned down houses and other inhabitants of Doljani, were taken to the Sovići School.<sup>1273</sup>

563. *Witness CB* stated that, around 20 April 1993, the village of Doljani was deserted.<sup>1274</sup> According to a report dated 23 April 1993 sent by Ivica Primorac, Deputy Chief of the HVO Main Staff responsible for professional units, to Bruno Stojić, Head of the Department of Defence, and Milivoj Petković, Chief of the HVO Main Staff, the “cleansing” of Doljani took place on 19 April 1993.<sup>1275</sup>

564. The Chamber nevertheless notes that, according to a report by Spabat dated 4 May 1993, there were still women in the village of Doljani.<sup>1276</sup>

### 3. Perpetrators of Attacks and Arrests

565. At the time of the arrest in the villages of villages of Sovići and Doljani in April 1993 and the arrest that followed,<sup>1277</sup> some evidence indicates the involvement of HV soldiers,<sup>1278</sup> HVO

<sup>1267</sup> Member of an international organization present on the ground; *Witness CB*, T(F), p. 10096, private session.

<sup>1268</sup> *Witness CB*, T(F), p. 10202.

<sup>1269</sup> *Witness TT*, P 09879 under seal, *Naletili} and Martinovi}* Case, T(F), pp. 6630-6633 and 6660; *Witness RR*, P 09872 under seal, *Naletili} and Martinovi}* Case, T(F), pp. 6449 and 6450; P 09074.

<sup>1270</sup> P 08625, p. 5.

<sup>1271</sup> The Chamber notes that *Hasan Rizvić* said that on the morning of 18 April 1993, 41 “civilians” were still in the village of Doljani, whereas, according to *Witness CA*, around 100 were still in the village of Doljani: P 10358, para. 26; *Witness CA*, T(F), pp. 10007-10009.

<sup>1272</sup> *Witness CA*, T(F), pp. 10007-10009; P 08625, p. 5; see also P 02173, p. 4; 4D 01034, p. 1.

<sup>1273</sup> *Witness CA*, T(F), pp. 10027, 10030 and 10031.

<sup>1274</sup> *Witness CB*, T(F), pp. 10200 and 10202.

<sup>1275</sup> 4D 01034.

<sup>1276</sup> P 02192 under seal, p. 4.

soldiers<sup>1279</sup> and members of the MUP of the HVO of the Jablanica<sup>1280</sup> incorporated at the time into the 3<sup>rd</sup> *Mijat Tomić* Battalion<sup>1281</sup> The Chamber likewise notes that the evidence testifies to the participation of former members of the HOS<sup>1282</sup> and members of the Military Police integrated into the HVO brigades present in the municipality.<sup>1283</sup> According to the report by Blaž Azinović from the 3<sup>rd</sup> *Mijat Tomić* Battalion dated 7 May 1993, he was himself the commander in charge of the attack and arrests in Doljani.<sup>1284</sup> This same report, as well as other evidentiary materials admitted into the record, also draws attention to “Tuta’s” command role and the involvement of HVO soldiers under his command, particularly from the *Poskok* Battalion, from the KB and from the *Posuške* and *Grdani* units, in the attacks and arrests in Sovići and Doljani.<sup>1285</sup>

## V. Alleged Criminal Events Subsequent to the Attack on the Villages of Sovići and Doljani and to the Arrests

566. The Chamber will first analyse (A) the allegations relating to the detention at the Sovići School and (B) the treatment of the Muslim men during their removal from the Sovići School to the prison at Ljubuški on 18 April 1993. It will (C) analyse the allegations relating to the detention in the houses in Junuzovići and (D) to the removal of the women, children and elderly people from the Sovići School and the houses in Junuzovići, towards Gornji Vakuf around 5 May 1993, then to the territory controlled by the ABiH. It will also (E) examine the allegations relating to the detention at the fish farm near Doljani and (F) the blocking of the international observers and peacekeeping forces. Finally, the Chamber will review (G) the allegations relating to the houses and the buildings

<sup>1277</sup> P 07541; P 01968, p. 1 Witness JJ, P 09880 under seal, *Naletili} and Martinovi}* Case T(F), p. 5007; P 02081 under seal, p. 5. Amor Mašovi}, T(F), pp. 25127-25130 and 25198; P 07985; Decision of 7 September 2006, adjudicated fact nos 20 and 46) (*Naletili}* Judgement, para. 238); P 02063; Witness X, P 09874, under seal, *Naletili} and Martinovi}* Case T(F), pp. 3305 and 3307; P 09867 under seal, pp. 12 and 13; P 01968; P 02081 under seal, p. 5

<sup>1278</sup> Witness D, P 09870 under seal, *Naletili} and Martinovi}* Case, T(F), p. 906; P 09726, p. 2; 2D 00285, p. 1; P 08625, p. 2.

<sup>1279</sup> See in particular P 02218, pp. 1 and 2; P 01915, pp. 1 and 3; P 01932; P 10358, para. 28.

<sup>1280</sup> Ismet Poljarevi}, T(F), pp. 11582 and 11583; P 02131, p. 1. The civilian police officers integrated into HVO military units were: Andrija Groznica, Andrija Pole, Ivan Groznica, Mato Miji}, Miro Stipanovi}, Vlado Rotim, Milenko Drinovac and Ivica Azinovi}.

<sup>1281</sup> P 02131 p. 1.

<sup>1282</sup> Witness CB, T(F), p. 10182; P 09727 under seal, p. 2. See “The Composition of the HVO Armed Forces” in the Chamber’s factual conclusions relating to the military structure of the HZ(R) H-B.

<sup>1283</sup> P 01917; P 02218, pp. 1 and 2; P 01915, pp. 1 and 3; P 01932; P 10358, para. 28; P 09867 under seal, pp. 12 and 13; Witness BZ, T(F), pp. 9934 and 9938, closed session; Witness CB, T(F), p. 10182; P 09727 under seal, p. 2; Ismet Poljarević, T(F), pp. 11582 and 11583. See also “The HVO” in the Chamber’s factual conclusions relating to the Municipality of Jablanica (Sovići and Doljani).

<sup>1284</sup> P 02218, pp. 1 and 2.

<sup>1285</sup> Milivoj Petković, T(F), p. 49445; Safet Idrizović, T(F), p. 9784; Witness CB, T(F), p. 10207; P 02218, pp. 1 and 2; Witness JJ, P 09880 under seal, *Naletili} and Martinovi}* Case, T(F), pp. 5005 and 5006; P 02012 under seal, p. 5; P 10358, para. 28; P 02037, p. 1; Decision of 7 September 2006, Adjudicated Facts nos 29 and 30 (*Naletilić* Judgement, paras 120 and 132).

dedicated to religion that were burned or destroyed and to (H) the thefts of property belonging to Muslims in the villages of Sovići and Doljani following the attack.

#### **A. Detention at Sovići School, the Deaths of Detainees and the Work Done**

567. Paragraphs 77, 79 and 86 of the Indictment allege that on 17 and 18 April 1993, the HVO collected and detained some 70 to 90 Muslim men of military age from BiH at the Sovići School and that, commencing on about 18 April 1993; that the HVO held in the same school the men, women, children and the elderly driven from their houses in the Sovići and Doljani area, a detention that lasted until approximately 4 or 5 May 1993. During that period of detention, living conditions were harsh and inhumane, and the HVO men beat, mistreated and abused the detainees, including the women. Paragraph 77 of the Indictment alleges, moreover, that on 17 and 18 April 1993 or around this time, the HVO executed at least four BiH Muslim men near the Sovići School.

568. The Prosecution alleges in paragraph 81 that the HVO compelled BiH Muslim men detained in the Sovići and Doljani sector to perform forced labour in various locations nearby, in particular for purposes *inter alia* of building military fortifications, digging trenches and carrying munitions. The Chamber, notes here that all the evidence admitted to the record and going to the allegations of labour by detainees concerns only the detainees in the Sovići School (and not detainees in the Sovići and Doljani sector generally); the Chamber therefore considers it more appropriate to address this allegation in connection with its analysis of the criminal events at the Sovići School.

569. In view of the evidence admitted into the record between 17 and 18 April 1993 and until 4 or 5 May 1993, the Sovići School served as an HVO detention site for the ABiH soldiers captured in Sovići and Doljani after the fighting on 17 April 1993, and also for Muslim men, minors and the elderly from Sovići and Doljani generally.<sup>1286</sup> On 18 April 1993, there were almost one hundred men detained at the Sovići School.<sup>1287</sup> In the evening of 18 April 1993, about 90 Muslim men –

<sup>1286</sup> P 02187, pp. 39 to 42 of the English transcript; Decision of 7 September 2006, Adjudicated Facts nos 21, 37 and 38 (*Naletilić* Judgement, paras 32 and 55; P 08625, pp. 5-7; Witness CA, T(F), p. 10016; Ismet Poljarević, T(F), p. 11632; P 09726, p. 2; 2D 00285, p. 1; Witness BZ, T(F), pp. 9934-9935 and 9938, closed session; P 09727 under seal, p. 3; Witness Y, P 09873 under seal, *Naletilić and Martinović* Case, revised version of the T(F), p. 30, private session; P 09047. The report by the prisoner of war exchange commission of the 44<sup>th</sup> Brigade of the 4<sup>th</sup> ABiH Corps, dated 20 December 1995, and *Safet Idrizović*, attest to the fact that Ismet Čilić, Salem Škampo, Hasan Radoš and Ekrem Tašić were members of the ABiH. However, *Witnesses D, Nihad Kovač and Ismet Poljarević* testified that 3 or 4 of the men killed were “civilians”, see P 08625, p. 2, Safet Idrizović, T(F), pp. 9675 and 9797; Witness D, P 09870 under seal, *Naletilić and Martinović* Case, T(F), p. 911 and p. 956, private session; P 09728, p. 4.

<sup>1287</sup> Witness BZ, T(F), pp. 9936 and 9938, closed session; P 09727 under seal, p. 3; P 09867 under seal, pp. 12 and 13; Witness CA, T(F), pp. 10024 and 10025.



most members of the ABiH – were moved to Ljubuški.<sup>1288</sup> Other Muslim men, including minors and the elderly, remained in detention at Sovići School until 4 or 5 May 1993.<sup>1289</sup> Nihad Kovač stated that seven days after the men were transferred from Sovići School to Ljubuški Prison, on 18 April 1993<sup>1290</sup> about 10 to 15 men who had escaped the HVO attack and arrests on 17 April 1993<sup>1291</sup> arrived. On 3 or 4 May 1993, 55 men aged 13 to 70 years of age were still being detained at the Sovići School.<sup>1292</sup>

570. After 17 April 1993, the Sovići School also served as a place of detention for the women, children and the elderly from the villages of Sovići and Doljani who were captured after 17 April 1993 attack.<sup>1293</sup> The women and some of the children were detained at the Sovići School from 17 April to 22 April 1993 and later taken to houses in the hamlet of Junuzovići; the elderly and the other children remained at the Sovići School until 4 or 5 May 1993.<sup>1294</sup> In respect of this, the Chamber considered *inter alia* the testimony of Witness Y, according to which his wife and child were taken to the Sovići School by order of Ivan Andabak, a member of the KB.<sup>1295</sup>

571. After having analysed the evidence related (1) to the organisation and operation of the Sovići School as a detention site (i), the Chamber will examine (2) the conditions of confinement and the treatment of the detainees, (3) the deaths of Muslim men detained at the Sovići School, and (4) the labour detainees had to perform at the School. The Chamber will (5) set out its overall findings about the criminal events at Sovići School.

<sup>1288</sup> P 08625, p. 3; P 02063. See also “Treatment of Muslim Men During Their Removal from Sovići School to Ljubuški Prison on 18 April 1993” in the Chamber’s factual findings in relation to the municipality of Jablanica (Sovići and Doljani).

<sup>1289</sup> Witness CB, T(F), p. 10117; Witness JJ, P 09880 under seal, *Naletili} and Martinovi}* Case, T(F), p. 5008; P 02192 under seal, p. 4; Witness BJ, T(E) p. 3718; P 10358, para. 39; P 02187; Decision of 7 September 2006, Adjudicated Fact no. 52 (*Naletilić* Judgement), para. 34

<sup>1290</sup> Nihad Kovač, T(F), pp. 10268-10270; P 09728, pp. 2 and 3.

<sup>1291</sup> P 09728, p. 3.

<sup>1292</sup> P 09728, p. 3. Other evidence confirms that there were in fact about sixty men detained at Sovići School in early May 1993, Witness CB, T(F), p. 10117; P 02192 under seal, p. 4; Witness BJ, T(E) p. 3718

<sup>1293</sup> Witness CA, T(F), p. 10030; P 02187, pp. 39 to 42 of the English transcript; P 02063; P 09726, p. 2; Witness D, P 09870 under seal, *Naletili} and Martinovi}* Case, T(F), pp. 912 and 914; P 09728, p. 3; Milivoj Petković, T(F), pp. 49501-49504; P 09867 under seal, p. 13; P 08625, pp. 5-7; Witness RR, P 09872 under seal, *Naletili} and Martinovi}* Case, T(F), pp. 6460-6461; Ismet Poljarevi}, T(F), p. 11632; P 09726, p. 2; 2D 00285, p. 1; P 02187, pp. 39-42 of the English transcripts; Decision of 7 September 2006, Adjudicated Fact no. 52 (*Naletilić* Judgement, para. 34); Nihad Kovač, T(F), pp. 10284 and 10285; Milivoj Petković, T(F), pp. 49492, 49494, 49909 and 49910; IC 00097; (The photo at the top shows the hamlet of Junuzovići) Witness Y, P 09873 under seal, *Naletili} and Martinovi}* Case, revised version T(F), pp. 31 and 34, private session.

<sup>1294</sup> Witness D, P 09870 under seal, *Naletili} and Martinovi}* Case, T(F), pp. 912 and 915; Witness CA, T(F), p. 10030; P 02187, pp. 39 to 42 of the English transcript; Decision of 7 September 2006, Adjudicated Fact no. 54 (*Naletilić* Judgement, para. 34); for more detail see also “Detention of Women, Children and Elderly in Houses in the Hamlet of Junuzovići” in the Chamber’s factual findings on the Municipality of Jablanica (Sovići and Doljani).

<sup>1295</sup> Witness Y, P 09873 under seal, *Naletili} and Martinovi}* Case, revised version T(F), pp. 31 and 34, private session.

## 1. Organisation and Operation of the Sovići School as a Detention Site

572. Commencing on 17 April 1993, the soldiers of the HVO, including some of “Tuta’s” men,<sup>1296</sup> drew up lists of people brought to the Sovići School;<sup>1297</sup> they separated the men from the women, children and the elderly,<sup>1298</sup> thus creating two groups of detainees divided between two classrooms.<sup>1299</sup> Interrogations also took place in the school library and a gymnasium.<sup>1300</sup>

573. According to the evidence admitted by the Chamber, among the HVO soldiers at the Sovići School to guard the detainees or conduct interrogations were (1) members of the 3<sup>rd</sup> *Mijat Tomić* Battalion, including Stipe Pole,<sup>1301</sup> Commander of the battalion, Jure Groznica *alias* “Juka”,<sup>1302</sup> commander of a subdivision of this battalion and in charge of the Sovići School,<sup>1303</sup> and Blaž Azinović,<sup>1304</sup> (2) members of the KB, among whom were Ivan Andabak *alias* “Bura”<sup>1305</sup> and Ivan Rogić, *alias* “Beli” or “Belo”,<sup>1306</sup> the HZ H-B post commander of the MUP in Jablanica<sup>1307</sup> and (3) soldiers wearing camouflage uniforms with white belts,<sup>1308</sup> all of which support a finding by the Chamber that they were members of the Military Police.

## 2. Conditions of Confinement and Treatment of Detainees at the Sovići School

574. Beginning on 17 April 1993, the people detained at the Sovići School were packed into two classrooms.<sup>1309</sup> Living space was cramped and sanitary conditions were rudimentary.<sup>1310</sup> During the early days of detention, the detainees did not have food and water, and the HVO soldiers prohibited

<sup>1296</sup> P 09727 under seal, p. 3; Witness CA, T(F), p. 10031; Witness RR, P 09872 under seal, *Naletili} and Martinovi}* Case, T(F), pp. 6446 and 6461.

<sup>1297</sup> Witness CA, p. 10031; P 09726, p. 2; P 09727 under seal.

<sup>1298</sup> P 09727 under seal, p. 3; P 09728, p. 2; *Nihad Kova-*, T(F), p. 10277; IC 00093 (Photograph of the village of Sovići. no. 2 corresponds to the site where the women, children and elderly were separated from the men of military age.)

<sup>1299</sup> Witness CA, T(F), p. 10030; P 02063; P 09726, p. 2; Witness D, P 09870 under seal, *Naletili} and Martinovi}* Case, T(F), pp. 912 and 914; 2D 00285, p. 1; Ismet Poljarevi}, T(F), p. 11632; P 09726, p. 2.

<sup>1300</sup> P 09867 under seal, p. 13; Witness X, P 09874, under seal, *Naletili} and Martinovi}* Case, T(F), pp. 3315, 3317-3320; Ismet Poljarevi}, T(F), p. 11595; P 09726, p. 2; 2D 00285, p. 2.

<sup>1301</sup> P 10358, para. 39.

<sup>1302</sup> P 09727 under seal, p. 2; P 10358, para. 39.

<sup>1303</sup> Witness X, P 09874, under seal, *Naletili} and Martinovi}* Case, T(F), p. 3338; P 09727 under seal, p. 2; Witness D, P 09870 under seal, *Naletili} and Martinovi}* Case, T(F), pp. 932 and 933, private session; Witness X, P 09874, under seal, *Naletili} and Martinovi}* Case, T(F), p. 3338.

<sup>1304</sup> Safet Idrizović, T(F), p. 9677; P 02218, pp. 1 and 2.

<sup>1305</sup> Witness BZ, T(F), pp. 9963, 9967, private session; P 09727 under seal, p. 3; P 09867 under seal, p. 13; Witness Y, P 09873 under seal, *Naletili} and Martinovi}* Case, revised version of the T(F), pp. 30 and 34, private session; Safet Idrizović, T(F), pp. 9677 and 9784; P 02218, pp. 1 and 2.

<sup>1306</sup> P 09727 under seal, p. 2, and according to Exhibit 2D 00285, p. 2, he was President of the HVO in Jablanica.

<sup>1307</sup> P 02131, p. 2.

<sup>1308</sup> Ismet Poljarevi}, T(F), p. 11584.

<sup>1309</sup> Witness CA, T(F), p. 10030; P 02063; Witness D, P 09870 under seal, *Naletili} and Martinovi}* Case, T(F), pp. 912 and 914; 2D 00285, p. 1; P 02187, pp. 39 to 42.

<sup>1310</sup> Witness CA, T(F), p. 10030.

Muslims or Croats from the outside from bringing them food.<sup>1311</sup> *Witness D*, a Muslim woman detainee,<sup>1312</sup> nevertheless spoke of toilets there and of the possibility of getting water for her newborn in order to keep the nursing baby hydrated.<sup>1313</sup>

575. *Hasan Rizvić*, moreover, indicated that on 4 May 1993, when a delegation from the ABiH and the HVO, accompanied by representatives of Spabat went to the Sovići School to inquire about the conditions of confinement for the detainees,<sup>1314</sup> the delegation saw that “young and old men” who were detained from<sup>1315</sup> Sovići and Doljani had been put together in an overcrowded classroom, that they were exhausted and dirty and that crumbs of leftover food were scattered on the table and on the floor.<sup>1316</sup>

576. Several witnesses held at the Sovići School stated that they were victims of and/or witnesses to severe beatings and other abuse by HVO soldiers while they were locked up. Their testimony shows that men and women were beaten by HVO soldiers, among whom were soldiers from the KB.<sup>1317</sup>

577. Accordingly, on 17 or 18 April 1993, two HVO soldiers “belonging to Tuta's unit” interrogated and beat *Witness DU*, a Muslim man from a locality between the villages of Sovići and Doljani,<sup>1318</sup> striking him with their fists and rifle butts, and kicking him.<sup>1319</sup> After the interrogation, *Witness DU* did not receive any medical attention and suffered from his wounds for 4 or 5 days.<sup>1320</sup>

578. On 19 April 1993, two HVO soldiers not only beat two Muslim woman detainees – including *Witness X* – but also forced *Witness X* and the other Muslim woman to hit one another very hard with a stick for about 30 minutes.<sup>1321</sup>

<sup>1311</sup> Nihad Kovač, T(F), p. 10295; Witness X, P 09874, under seal, *Naletili} and Martinovi}* Case, T(F), pp. 3308 and 3309; Witness D, P 09870 under seal, *Naletili} and Martinovi}* Case, T(F), p. 914; T(E) p. 913.

<sup>1312</sup> Witness D, P 09870 under seal, *Naletili} and Martinovi}* Case, T(F), p. 902, private session.

<sup>1313</sup> Witness D, P 09870 under seal, *Naletili} and Martinovi}* Case, T(F), p. 914; T(E) p. 913.

<sup>1314</sup> P 10358, para. 35; P 02187.

<sup>1315</sup> P 10358, para. 39.

<sup>1316</sup> P 10358, paras 39 and 40.

<sup>1317</sup> P 09867 under seal, p. 13; Witness Y, P 09873 under seal, *Naletili} and Martinovi}* Case, revised version of the T(F), pp. 30, 31 and 34, private session; Witness X, P 09874, under seal, *Naletili} and Martinovi}* Case, T(F), pp. 3317-3320; Witness D, P 09870 under seal, *Naletili} and Martinovi}* Case, T(F), p. 915; Ismet Poljarević, T(F), p. 11595; P 09726, p. 2; 2D 00285, p. 2.

<sup>1318</sup> P 09867 under seal, p. 12.

<sup>1319</sup> P 09867 under seal, pp. 12-13.

<sup>1320</sup> P 09867 under seal, p. 13.

<sup>1321</sup> Witness X, P 09874, under seal, *Naletili} and Martinovi}* Case, T(F), pp. 3317-3320.

579. Moreover, right before the departure of the Muslim men for Ljubuški Prison on the evening of 18 April 1993, HVO soldiers physically abused a detainee named Muharem Helbet, stabbing him in the upper thigh as revenge, because he had not cleared the road the convoy had to use.<sup>1322</sup>

### 3. Death of Muslim Men Detained at Sovići School

580. The evidence shows that, among the detainees at the Sovići School, Ismet Čilić, Salem Škampo, Hasan Radoš and Ekrem Tašić, four Muslim men belonging to the 44th ABiH Brigade and held since 17 April 1993, were killed by HVO soldiers whose identity the Chamber does not know, on 20 or 21 April 1993, near the Sovići School.<sup>1323</sup>

581. Two witnesses recalled the circumstances surrounding the deaths of the four Muslim men. According to *Nihad Kovač*, on 20 or 21 April 1993, two HVO soldiers he did not know arrived at the Sovići School, with a list of names, and called detainees Salem Škampo, Hasan Radoš, Ekrem Tašić and Ismet Čilić, ordering them to come out of the school.<sup>1324</sup> Five minutes later, *Nihad Kovač* heard four gunshots.<sup>1325</sup> *Witness D* said that he heard bursts of gunfire,<sup>1326</sup> and when he went to the toilets behind the school, he saw blood on the ground and recognised the corpses of Ekrem Tašić, Hasan Radoš, Ismet Čilić and Salem Škampo, lying on their backs.<sup>1327</sup> Four HVO soldiers, including two *Witness D* knew because they were guards at the school and one of whom was nicknamed “Velja”, were standing near the corpses and were armed.<sup>1328</sup>

### 4. Labour Performed by Detainees

582. While they were detained at the Sovići School, some detainees, including a minor and a member of the ABiH, were forced to perform labour, such as burying the bodies of soldiers killed in the fighting or doing “engineering” work on the HVO positions.<sup>1329</sup>

583. Although *Witness BZ*, a member of the ABiH,<sup>1330</sup> stated that he volunteered to bury the bodies of Muslims killed during the HVO attack on the villages of Sovići and Doljani, three other witnesses said that some Muslim detainees were forced to perform labour, such as the young *Nihad*

<sup>1322</sup> Ismet Poljarević, T(F), p. 11596; P 09726, p. 3; 2D 00285, p. 3; P 09867 under seal, p. 14.

<sup>1323</sup> P 08667; P 08819; P 08821; P 08401, p. 1; P 08625, p. 2; *Witness D*, P 09870 under seal, *Naletili} and Martinovi}* Case, T(F), pp. 911 and 955, private session; Safet Idrizović, T(F), pp. 9675 and 9797; *Nihad Kovač*, T(F), p. 10271; P 09728, p. 4.

<sup>1324</sup> *Nihad Kovač*, T(F), p. 10271; P 09728, p. 4.

<sup>1325</sup> *Nihad Kovač*, T(F), p. 10271; P 09728, p. 4.

<sup>1326</sup> *Witness D*, P 09870 under seal, *Naletili} and Martinovi}* Case, T(F), pp. 910 and 913.

<sup>1327</sup> *Witness D*, P 09870 under seal, *Naletili} and Martinovi}* Case, T(F), p. 911 and p. 955, private session.

<sup>1328</sup> *Witness D*, P 09870 under seal, *Naletili} and Martinovi}* Case, T(F), p. 911.

<sup>1329</sup> P 09727 under seal, p. 3; P 09867 under seal, p. 13; P 09728, p. 3; *Nihad Kovač*, p. 10276; IC 00092; (Photograph of the village of Sovići: number 3 shows where the grave was dug); P 08625, p. 6.

*Kova~*, a 13-year old minor at the time of the events.<sup>1331</sup> *Kova~* said with regard to this that the HVO soldiers forced him to dig trenches – without specifying precisely where – for three weeks,<sup>1332</sup> and that they forced about 30 prisoners – himself included – to transport heavy ammunition cases to a military site on a hill known as “Pisvir”, about 4 km from the Sovići School.<sup>1333</sup>

##### 5. The Chamber's Findings about Alleged Criminal Events at Sovići School

584. In view of the evidence admitted into the record, the Chamber finds in respect of the alleged criminal events at Sovići School, that members of the HVO - among whom were soldiers belonging to the 3<sup>rd</sup> *Mijat Tomić* battalion, members of the KB and members of the HVO military police – between 17 April and 5 May 1993 detained women, children and elderly people; that the conditions of confinement were very harsh; that some of the detainees, among them women, were beaten and mistreated by HVO soldiers during their imprisonment; that four Muslim ABiH soldiers – Ismet Čilić, Salem Škampo, Hasan Radoš and Ekrem Tašić – were killed by members of the HVO while in detention and that some detainees, including a minor 13 years of age, and a member of the ABiH, were forced to perform labour, including “engineering work” on HVO positions.

##### **B. Treatment of Muslim Men During Their Removal from Sovići School to Ljubuški Prison on 18 April 1993**

585. Paragraph 78 of the Indictment alleges that on or about the evening of 18 April 1993, the Herceg-Bosna/HVO forces transported many of the Muslim men detained at Sovići School to Ljubuški Prison, where they continued to be detained and that while being transported, the HVO forces continued to beat, abuse, and humiliate them, and forced them to sing nationalistic Croatian songs.

586. The Chamber notes with regard to these allegations and in light of paragraph 229 of the Indictment, that the transfer of the Muslim men to Ljubuški Prison is not alleged as a count. The Chamber has therefore not assessed the transfer as such. However, inasmuch as the treatment of the detainees during the move is alleged as inhumane acts and inhuman treatment (Counts 15 and 16) and as cruel treatment (Count 17), the Chamber has reviewed certain aspects relevant to the transfer, particularly to determine the identities of the victims and the perpetrators.

<sup>1330</sup> Member of the Sovići Battalion, the 4<sup>th</sup> Battalion of the ABiH Jablanica Brigade.

<sup>1331</sup> P 09727 under seal, p. 3; P 09867 under seal, p. 13; P 09728, pp. 2 and 4. Nihad *Kova~* was 13 years old in 1993, a Muslim inhabitant of the *Kovači* neighbourhood in the village of Sovići.

<sup>1332</sup> P 09728, p. 4; Nihad *Kova~*, T(F), p. 10271.

<sup>1333</sup> P 09728, p. 4; Nihad *Kova~*, T(F), p. 10266.

587. Moreover, the Chamber has admitted evidence about the removal of Muslim men detained at the fish farm to Ljubuški Prison on 20 April 1993.<sup>1334</sup> Nevertheless, the allegations pertaining to the treatment of the prisoners during the transfer, as set out in paragraph 78 of the Indictment, concern only the transfer of the Muslim men detained at the Sovići School. The Chamber will therefore not examine the transfer of prisoners detained at the fish farm.

588. The Chamber observes that, during the evening of 18 April 1993, at “Tuta’s” orders, about 90 ABiH soldiers and Muslim men – including old men and minors<sup>1335</sup> – who had surrendered or been captured in Sovići and Doljani and then taken to the Sovići School by the HVO on 17 April 1993 were moved to Ljubuški Prison.<sup>1336</sup> The detainees, among whom were *Witness BZ*, a member of the ABiH,<sup>1337</sup> Muharem Helmet, a member of the ABiH,<sup>1338</sup> *Ismet Poljarević*, a Muslim man who participated in defending Sovići village<sup>1339</sup> and Džemal Ovnović, Commander of the 4<sup>th</sup> Sovići and Doljani Battalion,<sup>1340</sup> were moved by bus with an escort of HVO soldiers, including soldiers from the KB.<sup>1341</sup>

589. The Chamber notes that, according to *Milivoj Petković* and a report by the HVO of Jablanica Municipality dated 23 April 1993, the HVO moved only “conscripts” or ABiH members from the villages of Doljani and Sovići to Ljubuški Prison.<sup>1342</sup> The Chamber holds, in light of all the evidence, that among the Muslim men moved from Sovići to Ljubuški Prison characterised as “conscripts”, were members of the ABiH and men in respect of whom the Chamber does not know whether they did or did not belong to the armed forces.<sup>1343</sup>

<sup>1334</sup> Witness RR, P 09872 under seal, *Naletilić and Martinović* Case, T(F), pp. 6459-6461 and 6502-6503; Salko Osmić, P 09876 under seal, *Naletilić and Martinović* Case, T(F), p. 3142; Witness TT, P09879 under seal, *Naletilić and Martinović* Case, T(F), pp. 6644 and 6645.

<sup>1335</sup> Witness Y, P 09873 under seal, *Naletilić and Martinović* Case, revised version of the T(F), pp. 36 and 37, private session; 2D 00285, p. 3; Safet Idrizović, T(F), p. 9677; P 02063

<sup>1336</sup> P 09726, p. 3; 2D 00285, pp. 2 and 3; Nihad Kovač, T(F), pp. 10268-10270; P 09728, pp. 2 and 3; P 02535, p. 4; P 02063; P 09727 under seal, p. 2; P 09867 under seal, p. 14; P 08625, pp. 2-4; Decision of 7 September 2006, Adjudicated Facts nos 21, 37 and 38 (*Naletilić* Judgement, paras 32 and 55); Witness Y, P 09873 under seal, *Naletilić and Martinović* Case, revised version of the T(F), p. 36, private session; Witness CA, T(F), p. 10026; P 02187, pp. 36-38; P 02218, p. 1; Salko Osmić, P 09876 under seal, *Naletilić and Martinović* Case, T(F), pp. 3131-3132.

<sup>1337</sup> Member of the Sovići Battalion, the 4<sup>th</sup> Battalion of the ABiH Jablanica Brigade.

<sup>1338</sup> A representative victim from paragraph 78 of the Indictment mentioned in the Annex to the Indictment; see P 08625, p. 3

<sup>1339</sup> 2D 00285, p. 1.

<sup>1340</sup> Džemal Ovnović is a representative victim from paragraph 78 of the Indictment ; P 09727 under seal, pp. 2 and 3; 2D 00285.

<sup>1341</sup> P 09726, p. 3, and 2D 00285, pp. 2 and 3; Nihad Kovač, T(F), pp. 10268-10270; P 09728, pp. 2 and 3; P 02535, p. 4; P 02063; P 09727 under seal, p. 2; P 09867 under seal, p. 14; P 08625, pp. 2-4; Decision of 7 September 2006, Adjudicated Facts nos 21, 37 and 38 (*Naletilić* Judgement, paras 32 and 55).

<sup>1342</sup> Milivoj Petković, T(F), pp. 49435-49436, 49504-49510 and 50863-50865; P 02063.

<sup>1343</sup> Witness Y, P 09873 under seal, *Naletilić and Martinović* Case, revised version of the T(F), pp. 36 and 37, private session; P 09867 under seal, p. 14; P 09726, p. 3; 2D 00285, p. 2.

590. According to *Safet Idrizović* and a report from the HVO, on 18 April 1993, the ABiH soldiers captured the day before in the attack on Sovići and Doljani, were questioned by Ivan Andabak, a member of the KB, in the presence of Blaž Azinović, deputy commander of the SIS of the *Herceg Stjepan* Brigade and a member of 3<sup>rd</sup> *Mijat Tomić* Battalion of the HVO from Jablanica, seeking information as to whether there were any ABiH weapons inside Jablanica Municipality.<sup>1344</sup> According to *Ismet Poljarević*, once the interrogation ended, and prior to departure, Ivan Rogić}, post commander for the MUP of the HVO of the HZ H-Z of Jablanica,<sup>1345</sup> put together a list of prisoners from Sovići, who had to line up in the courtyard of the school while the “Commander of Tuta’s Unit” read them a charge of rebellion against the HZ H-B, characterising them as “Muslim fundamentalists”.<sup>1346</sup> Ivan Rogić then ordered *Ismet Poljarević* and about 90 other detainees from Sovići School to get on a bus.<sup>1347</sup>

591. During the bus ride from Sovići to Ljubuški, HVO soldiers, including four or five members of the KB – one of them, named “Robo/Roba” who seemed to be in charge of the move,<sup>1348</sup> wearing camouflage uniforms, beat the Muslim detainees and forced them to sing *Ustasha* songs.<sup>1349</sup> *Witness Y*, for example, stated that he was severely beaten during the bus trip between Sovići and Ljubuški, on 18 April 1993,<sup>1350</sup> and that the HVO soldiers had asked him to take off his shirt, to do push-ups and to clean the shoes of the officers with the clothes he had taken off.<sup>1351</sup>

592. Among the detainees, Džemo Ovnović},<sup>1352</sup> Commander of the 4<sup>th</sup> Sovići and Doljani Battalion, and Salem Lulić were the most badly “mistreated”.<sup>1353</sup>

593. On the morning of 19 April 1993, the bus arrived in Ljubuški.<sup>1354</sup> *Witness E*, a member of the HVO,<sup>1355</sup> observed that, in general, the Muslim detainees who came from Sovići and Doljani to Ljubuški Prison showed marks of severe beatings when they arrived.<sup>1356</sup>

<sup>1344</sup> Safet Idrizović, T(F), p. 9677; P 02218, pp. 1 and 2.

<sup>1345</sup> P 02131, p. 2; P 09726, p. 2; Ivan Rogić} was also President of the HDZ

<sup>1346</sup> P 09726, p. 3; 2D 00285, p. 2.

<sup>1347</sup> 2D 00285, p. 3.

<sup>1348</sup> *Witness Y*, P 09873 under seal, *Naletilić and Martinović* Case, revised version of the T(F), pp. 37 and 40, private session.

<sup>1349</sup> *Witness Y*, P 09873 under seal, *Naletilić and Martinović* Case, revised version of the T(F), p. 40, private session; Decision of 7 September 2006, Adjudicated Fact no. 40 (*Naletilić* Judgement, para. 352); P 09867 under seal, p. 14; P 09727 under seal, pp. 3 and 4; P 09726, p. 3; 2D 00285, p. 3.

<sup>1350</sup> *Witness Y*, P 09873 under seal, *Naletilić and Martinović* Case, revised version of the T(F), pp. 38 and 39 private session.

<sup>1351</sup> *Witness Y*, P 09873 under seal, *Naletilić and Martinović* Case, revised version of the T(F), pp. 38-39, private session.

<sup>1352</sup> Representative victim from paragraph 78 of the Indictment; P 09726, p. 3; 2D 00285, p. 3; P 09867 under seal, p. 14; P 09727 under seal, pp. 3 and 4.

<sup>1353</sup> P 09867 under seal, p. 14.

<sup>1354</sup> P 09727 under seal, p. 4; P 09726, p. 4.

594. In view of all the evidence, the Chamber finds that during transport to the Prison in Ljubuški, HVO soldiers, including from the KB, beat Muslim men and ABiH soldiers including the Commander of the 4<sup>th</sup> Sovići and Doljani Battalion, and humiliated them.

**C. Detention of Women, Children and Elderly People in Houses of the Hamlet of Junuzovići**

595. Paragraphs 79 and 86 of the Indictment allege that, commencing on 18 April 1993 and continuing thereafter until 4 or 5 May 1993, the forces of Herceg-Bosna/HVO detained Muslim men, women, children and elderly people in six or seven houses in Junuzovići, that the conditions there were harsh and inhumane, and that the men from the HVO mistreated and abused detainees.

596. The Chamber observes, at the outset, that the evidence it has concerning the criminal events in the houses of Junuzovići hamlet does not support a finding that Muslim men were detained there.

597. The Chamber notes that as of 19 April 1993, the soldiers of the HVO, collected and took away women, children and elderly people from the villages of Sovići and Doljani and transported women and children already collected at the Sovići School, to Junuzovići.<sup>1357</sup> The evidence shows that the number of people detained in the houses was about 400 by late April 1993<sup>1358</sup> and that "Tuta" was at the head of the forces that had collected and taken away the women, children and elderly people.<sup>1359</sup> They were held in the hamlet of Junuzovići until about 4 or 5 May 1993.<sup>1360</sup> The Chamber notes that *Witness X* and *Nihad Kovač* give the date of 17 May 1993 as the end of the detention<sup>1361</sup> but considers, in view of all the evidence admitted into the record, that the detainees were released or moved sometime around 4 or 5 May 1993.<sup>1362</sup>

<sup>1355</sup> Witness E, T(F), pp. 22005-22006, closed session.

<sup>1356</sup> Witness E, T(F), pp. 22005-22006, closed session; P 02068.

<sup>1357</sup> Witness CA, T(F), pp. 10031-10032; Witness X, P 09874, under seal, *Naletilić and Martinović* Case, T(F), pp. 3326 and 3327; Decision of 7 September 2006, Adjudicated Facts nos 52 and 54 (*Naletilić* Judgement, paras 34 and 522); Witness D, P 09870 under seal, *Naletilić and Martinović* Case, T(F), p. 902, private session, and pp. 915-919; P 09049; P 09728, p. 3; Nihad Kovač, pp. 10284-10285; 4D 00447; P 02063.

<sup>1358</sup> Witness CA, T(F), pp. 10031-10032; Decision of 7 September 2006, Adjudicated Fact no. 54 (*Naletilić* Judgement, para. 522); P 02063; Witness X, P 09874, under seal, *Naletilić and Martinović* Case, T(F), pp. 3326 and 3327.

<sup>1359</sup> Decision of 7 September 2006, Adjudicated Fact no. 54 (*Naletilić* Judgement, para. 522); Witness D, P 09870 under seal, *Naletilić and Martinović* Case, T(F), p. 918 and T(F), p. 971, private session.

<sup>1360</sup> P 10358, para. 42; Decision of 7 September 2006, Adjudicated Fact no. 54 (*Naletilić* Judgement, para. 522); Witness X, P 09874, under seal, *Naletilić and Martinović* Case, T(F), p. 3326 and 3327; Witness D, P 09870 under seal, *Naletilić and Martinović* Case, T(F), p. 902, private session and pp. 915, 918 and 919; 4D 00447.

<sup>1361</sup> Witness X, P 09874, under seal, *Naletilić and Martinović* Case, T(F), p. 3327; P 09728, p. 3; Nihad Kovač, T(F), p. 10284.

<sup>1362</sup> Witness D, P 09870 under seal, *Naletilić and Martinović* Case, T(F), pp. 902 and 919, private session; P 10358, paras 35 and 42. See also "Removal of women, children and elderly from the Sovići school and houses in the hamlet of Junuzovići to Gornji Vakuf on or about 5 May 1993" in the Chamber's factual findings in relation to the municipality of Jablanica (Sović and Doljani).



598. The Chamber will (1) address how these houses were organised as detention sites and (2) the conditions of detention and the treatment of the detainees by the HVO soldiers.

### 1. Organisation of Houses in Junuzovići as a Detention Site

599. The women, children and elderly people detained in the six or seven houses in Junuzovići hamlet were identified by the HVO on the basis of lists drawn up by Blaž Azinović, assistant commander of the SIS of the *Herceg Stjepan* Brigade and member of the 3<sup>rd</sup> *Mijat Tomić* Battalion;<sup>1363</sup> The people were forced to remain inside the houses in the hamlet<sup>1364</sup> and were not authorised to move from one house to another. The HVO soldiers, among whom were "Tuta"s soldiers and former members of the HOS,<sup>1365</sup> guarded the front of the houses.<sup>1366</sup>

### 2. Detention and Treatment of Detainees in Houses of the Hamlet of Junuzovići

600. The witnesses expressed themselves rather briefly about the conditions of confinement in Junuzovići hamlet. Nevertheless, the evidence shows that the conditions of confinement were spartan,<sup>1367</sup> that the houses had no electricity and that living quarters were tight.<sup>1368</sup> In this respect, *Witness X* stated that she was detained in a house along with thirty or so other people;<sup>1369</sup> *Witness D*, herself was detained in a house with 12 other people in a three by three metre room.<sup>1370</sup>

601. Several witnesses who were kept inside the houses of Junuzovići hamlet stated that they were victims of or witnesses to severe beatings and other abuse by HVO soldiers. According to the evidence, the detainees were regularly insulted and struck by the guards, including some of "Tuta's" men.<sup>1371</sup> *Witness D*<sup>1372</sup> for example spoke of death threats made against her by HVO soldiers.<sup>1373</sup> They told her that "they all had to be killed and that it was Mladen Naletilić *alias* Tuta who had

<sup>1363</sup> P 02218, pp. 1 and 2

<sup>1364</sup> *Witness X*, P 09874, under seal, *Naletili} and Martinovi}* Case, T(F), pp. 3326-3328; *Witness CA*, T(F), pp. 10031 and 10032; P 02063.

<sup>1365</sup> *Witness X*, P 09874, under seal, *Naletili} and Martinovi}* Case, T(F), pp. 3328 and 3329, 3336, 3342 and 3343; Decision of 7 September 2006, Adjudicated Fact no. 52 (*Naletilić* Judgement, para. 34). See also "Composition of the HVO armed forces" in the Chamber's factual findings in relation to the military structure of the HZ(R) H-B.

<sup>1366</sup> *Witness CA*, T(F), p. 10032; *Witness D*, P 09870 under seal, *Naletili} and Martinovi}* Case, T(F), p. 917.

<sup>1367</sup> *Witness CA*, T(F), p. 10032; *Witness X*, P 09874, under seal, *Naletili} and Martinovi}* Case, T(F), pp. 3327 and 3328, private session; *Witness D*, P 09870 under seal, *Naletili} and Martinovi}* Case, T(F), p. 917.

<sup>1368</sup> *Witness CA*, T(F), p. 10032; *Witness X*, P 09874, under seal, *Naletili} and Martinovi}* Case, T(F), pp. 3327 and 3328, private session; *Witness D*, P 09870 under seal, *Naletili} and Martinovi}* Case, T(F), p. 917.

<sup>1369</sup> *Witness X*, P 09874, under seal, *Naletili} and Martinovi}* Case, T(F), pp. 3327 and 3328, private session.

<sup>1370</sup> *Witness D*, P 09870 under seal, *Naletili} and Martinovi}* Case, T(F), p. 917.

<sup>1371</sup> *Witness CA*, T(F), pp. 10032 and 10033, private session; *Witness X*, P 09874, under seal, *Naletili} and Martinovi}* Case, T(F), pp. 3328-3329 and 3342, private session; *Witness D*, P 09870 under seal, *Naletili} and Martinovi}* Case, T(F), pp. 917, 918 and 971.

<sup>1372</sup> A Muslim woman from Sovići, *Witness D*, P 09870 under seal, *Naletili} and Martinovi}* Case, T(F), p. 902, private session.

<sup>1373</sup> *Witness D*, P 09870 under seal, *Naletili} and Martinovi}* Case, T(F), p. 918 and p. 971, private session.

ordered that their houses be burned and that they be driven out and taken to Junuzovići.<sup>1374</sup> The HVO soldiers went regularly into the houses to take away girls and beat them severely.<sup>1375</sup> When the girls returned, they were wounded, and some had bruises on their bodies.<sup>1376</sup> Lastly, the HVO soldiers regularly shot at the houses and windows of the houses in the hamlets in order to frighten the detainees.<sup>1377</sup> Some witnesses, moreover, described in more general terms the climate of fear among the detainees in the houses in Junuzovići hamlet.<sup>1378</sup>

602. In view of the evidence, the Chamber finds that the conditions of confinement for the women, children and elderly people during their captivity in the hamlet of Junuzovići between 19 April and 4 or 5 May 1993 were harsh, particularly due to the overcrowding, that some detainees were beaten and the victim of other violence at the hands of the HVO soldiers, among whom were some of "Tuta"s soldiers, and that the detainees always lived in fear.

**D. Removal of Women, Children and Elderly People from the Sovići School and Houses in the Hamlet of Junuzovići to Gornji Vakuf around 5 May 1993**

603. Paragraph 86 of the Indictment alleges that until approximately 4-5 May 1993, the HVO transported 400 to 500 BiH Muslim civilians, who were detainees at the Sovići school and the Junuzovići houses, toward Gornji Vakuf and that there the men from the HVO forces unloaded the women, children and elderly people and told them to walk toward territory ABiH controlled territory.

604. The Chamber will analyse (1) the context of the removal, including the orders issued to this effect by Milivoj Petković and (2) the removal of the women, children and elderly people.

**1. Context of the Removal of the Women, Children and Elderly People from the Sovići School and the Houses in the Hamlet of Junuzovići to Gornji Vakuf**

605. On 4 May 1993, a delegation from the HVO and the ABiH, represented respectively by Milivoj Petković and Berislav Pušić for the HVO and by Sefer Halilović and Arif Pašali for the

<sup>1374</sup> Witness D, P 09870 under seal, *Naletili} and Martinovi}* Case, T(F), pp. 918 and p. 971, private session.

<sup>1375</sup> Witness D, P 09870 under seal, *Naletili} and Martinovi}* Case, T(F), pp. 917 and 918; Witness CA, T(F), p. 10033, private session.

<sup>1376</sup> Witness D, P 09870 under seal, *Naletili} and Martinovi}* Case, T(F), pp. 917 and 918; Witness CA, T(F), p. 10033, private session.

<sup>1377</sup> Witness CA, T(F), pp. 10032 and 10033, private session; Witness X, P 09874, under seal, *Naletili} and Martinovi}* Case, T(F), p. 3328.

ABiH, accompanied by staff members of several international organisations – including doctors – came to the Sovići School.<sup>1379</sup>

606. That same day, after the delegation visited the Sovići School,<sup>1380</sup> Sefer Halilović and Milivoj Petković both decided that the detainees would be taken the following day by bus to Jablanica.<sup>1381</sup>

607. On 5 May 1993, the HVO Main Staff also issued an order marked "urgent" to send several buses to Sovići to evacuate the Muslim "population" to Jablanica.<sup>1382</sup> The Chamber notes that the Petković Defence argues that the order (reference number P 02200), on which one can read "Chief of the HVO Main Staff" and the name Milivoj Petković, was drafted neither by nor at the request of Milivoj Petković. According to the Petković Defence, the order sent from Mostar was in fact drafted at the request of Filip Filipović, the HVO representative to the HVO-ABiH joint command from April 1993 to June 1993.<sup>1383</sup> The Chamber holds that, in view of all the evidence and in particular the fact that Milivoj Petković was in Jablanica and not in Mostar on 5 May 1993, that Milivoj Petković could not have been the signer of that written order dated 5 May 1993. The Chamber finds, however, that it was indeed the HVO Main Staff – headed by Milivoj Petković during the relevant period – that issued the order complying with the decisions taken subsequent to the visit from the HVO-ABiH delegation on 4 May 1993, represented, on that occasion, by Milivoj Petković.<sup>1384</sup>

608. The Chamber notes, moreover, that it admitted an order dated 4 May 1993, whereby Milivoj Petković ordered Commander Stipe Pole of the 3<sup>rd</sup> *Mijat Tomić* Battalion of the *Herceg Stjepan* Brigade of the HVO to release all the "civilian detainees" from Sovići and to "keep men fit for military service".<sup>1385</sup> In its Final Trial Brief, the Petković Defence disputes this document, reference number P 02182. The Defence points out that Milivoj Petković did not know about the order, which

<sup>1378</sup> Witness CA, T(F), pp. 10032 and 10033, private session; Witness X, P 09874, under seal, *Naletilić and Martinović* Case, T(F), p. 3328, private session; Witness D, P 09870 under seal, *Naletilić and Martinović* Case, T(F), pp. 917, 918 and 971, private session.

<sup>1379</sup> Milivoj Petković, T(F), pp. 49485, 49486, 49902 and 49909; 4D 00447; P 02187; P 10358, paras 35 and 37; P 04238 minutes 45 and 46; Decision of 7 September 2006, Adjudicated Fact no. 57 (*Naletilić* Judgement, para. 35). See also the discussion of the meeting of 4 May 1993 which gave rise to the visit to the Sovići school in "Blocking the international observers and peacekeeping forces on 17 April 1993 and in the days that followed" in the Chamber's factual findings in relation to the municipality of Jablanica (Sović and Doljani).

<sup>1380</sup> P 10358, para. 39.

<sup>1381</sup> P 10358; Milivoj Petković, T(F), pp. 49485, 49486 and 49909; 4D 00447.

<sup>1382</sup> P 02200.

<sup>1383</sup> Petković Defence Final Trial Brief, paras 179 and 193 citing Filip Filipović T(E) 47506 and Milivoj Petković T(E) p. 49494. For Filip Filipović's position, see Filip Filipović, T(F), pp. 47399, 47401; 4D 00455.

<sup>1384</sup> See "Blocking the international observers and peacekeeping forces on 17 April 1993 and in the days that followed" in the Chamber's factual findings in relation to the municipality of Jablanica (Sović and Doljani)

<sup>1385</sup> P 02182, p. 1.

is unsigned and had hand-written annotations "Mostar, 4 May 1993, 22:00 hours" and that not evacuating the men from the Sovići School was never at issue.<sup>1386</sup> The Chamber holds that, in connection with the analysis of the allegations concerning Jablanica municipality, it is unnecessary to rule on the issue of ascertaining whether plans had been made to evacuate the men from the Sovići School, because the allegations of removal of detainees, as mentioned in paragraph 86 of the Indictment, pertain solely to the women, children and the elderly. Moreover, the Chamber is persuaded, in view of all the evidence, that the removal of the women, children and the elderly was in fact orchestrated by Milivoj Petković, as evidenced by the visit of the delegation on 4 May 1993, in which he took part, and by the decisions taken thereafter.

## 2. Removal of Muslim Women, Children and Elderly People from the Sovići School and Houses in the Hamlet of Junuzovići on 5 May 1993

609. On 5 May 1993, the women, children, and the elderly detained at Sovići School and in the houses of the hamlet of Junuzovići were removed by HVO soldiers – among whom were some of "Tuta"s men<sup>1387</sup> – in the direction of Gornji Vakuf, and not Jablanica.<sup>1388</sup> The Chamber has no evidence explaining the change of destination, only the preliminary statement by the Petković Defence, whereby these people were taken to Gornji Vakuf because of the obstacles on the road to Jablanica.<sup>1389</sup> In any event, the Chamber observes that approximately 450 women, children, and the elderly detained in the houses of the hamlet of Junuzovići and at the Sovići School were indeed moved toward Gornji Vakuf over the course of the day.<sup>1390</sup>

<sup>1386</sup> Petković Defence Final Trial Brief, paras 189-191, specifically citing Milivoj Petković, T(F), p. 49492. The Petković Defence, more specifically, contends that all these people were evacuated from the Sovići Sector and, furthermore, that the order was not at all logical. According to the Petković Defence, Milivoj Petković was accompanied by Stipe Polo, commander of the *Mijat Tomić* Battalion of the HVO on 4 May 1993 to the Jablanica meeting; they subsequently visited Sovići together and Polo was informed immediately that the ABiH commanders had requested buses to transport the "civilians". Together with Milivoj Petković, he also called the Main Staff in Mostar, requested the buses and received confirmation that he would get them. For this purpose, the Petković Defence argues that it would not have been at all logical to draft a document of this sort, *see* the Petković Defence Final Trial Brief, para. 190.

<sup>1387</sup> P 02218, pp. 1 and 2, Decision of 7 September 2006, Adjudicated Facts nos 54 and 60 (*Naletilić* Judgement, paras 522 and 530).

<sup>1388</sup> P 02218, pp. 1 and 2; P 08625, pp. 5-6; P 02694; Witness CA, T(F), pp. 10035, 10048-10049; Witness D, P 09870 under seal, *Naletilić and Martinović* Case, T(F), p. 919; P 10358, para. 43; Ismet Poljarević, T(F), p. 11572; P 09726, p. 3; Nihad Kovač, T(F), p. 10273; P 09728, pp. 4 and 5; Milivoj Petković, T(F), pp. 49492, 49494-49496, 49909 and 49910; Witness W, P 09875 under seal, *Naletilić and Martinović* Case, T(F), pp. 3201 and 3202; Decision of 7 September 2006, Adjudicated Fact no. 58 (*Naletilić* Judgement, para. 35).

<sup>1389</sup> Preliminary Statement by the Petković Defence, T(F), p. 46004.

<sup>1390</sup> Witness CA, T(F), pp. 10035 and 10036; Witness X, P 09874, under seal, *Naletilić and Martinović* Case, T(F), pp. 3330 and 3331, closed session; Decision of 7 September 2006, Adjudicated Facts nos 54 and 60 (*Naletilić* Judgement, paras 522 and 530); Milivoj Petković, T(F), pp. 49492, 49494-49496, 49909 and 49910; P 02182; P 02191; 4D 00458.

610. In the afternoon of 5 May 1993, on orders from Vlado Ćurić, one of "Tuta's" men ("*Tuta's Commissioner*"),<sup>1391</sup> the HVO transported the women, children and elderly people detained at Sovi}i to Sovička Vrata, about 15 minutes by car from Junuzovići.<sup>1392</sup> The Chamber notes that the HVO soldiers made the Muslim women and children detained inside the houses in the hamlet of Junuzovići – among whom were *Witness CA*, *Witness D* and *Witness X* – step outside, divided them into groups of 30, then had them climb on board buses and trucks, and transported them in the direction of Sovička Vrata.<sup>1393</sup>

611. In Sovička Vrata, they were placed under escort, in the presence of Vlado Ćurić, into HVO buses and trucks, which drove them to Gornji Vakuf.<sup>1394</sup> The HVO soldiers made the women and children from the houses in Junuzovići hamlet get onto eight buses and two covered trucks.<sup>1395</sup> According to *Witness X*, the journey lasted from about 0900 pm, until 1100 am.<sup>1396</sup>

612. According to *Witness CA*, two of the buses broke down and the people on board, one of whom was *Witness CA*, were forced to spend the night on the road to Mount Vran.<sup>1397</sup> The HVO soldiers then took the people in the buses that broke down to a petrol station called "Sicaja", located in Pidri{ in the hills between Prozor and Gornji Vakuf.<sup>1398</sup> The soldiers then released them, saying "you have your Alija, he will take care of you"<sup>1399</sup> or even "now you're here with the "*balijas*".<sup>1400</sup> The Muslims finally reached Gornji Vakuf on their own.<sup>1401</sup> In Gornji Vakuf, UNPROFOR personnel then took responsibility for them and transported them to a hotel in Gornji Vakuf where they were able to obtain medical assistance.<sup>1402</sup> *Witness CA* stayed in Gornji Vakuf from 6 May 1993 until 6 June 1993, on which date she returned to Jablanica.<sup>1403</sup>

613. On 5 May 1993, the President of the Gornji Vakuf HVO, Ivan [ari], sent a report to Jadranko Prlić, President of the HVO of the HZ H-B, informing him that approximately 300 Muslims from Doljani and Sovi}i had been taken by bus to the Sićaj service station, that the Gornji

<sup>1391</sup> P 02218, pp. 1 and 2.

<sup>1392</sup> P 02218, pp. 1 and 2; *Witness X*, P 09874, under seal, *Naletili} and Martinovi}* Case, T(F), pp. 3330 and 3331, closed session.

<sup>1393</sup> *Witness D*, P 09870 under seal, *Naletili} and Martinovi}* Case, T(F), p. 919; *Witness CA*, T(F), p. 10035; *Witness X*, P 09874, under seal, *Naletili} and Martinovi}* Case, T(F), pp. 3330 and 3331, closed session.

<sup>1394</sup> Safet Idrizović, T(F), p. 9677; P 02218, pp. 1 and 2.

<sup>1395</sup> *Witness X*, P 09874, under seal, *Naletili} and Martinovi}* Case, T(F), pp. 3330 and 3331, closed session; *Witness D*, P 09870 under seal, *Naletili} and Martinovi}* Case, T(F), p. 919.

<sup>1396</sup> *Witness X*, P 09874, under seal, *Naletili} and Martinovi}* Case, T(F), pp. 3331 and 3332, closed session.

<sup>1397</sup> *Witness CA*, T(F), p. 10040.

<sup>1398</sup> *Witness CA*, T(F), pp. 10035 and 10036; P 02191.

<sup>1399</sup> *Witness CA*, T(F), pp. 10040 and 10041.

<sup>1400</sup> *Witness X*, P 09874, under seal, *Naletili} and Martinovi}* Case, T(F), p. 3332, closed session.

<sup>1401</sup> *Witness CA*, T(F), p. 10041.

<sup>1402</sup> *Witness X*, P 09874, under seal, *Naletili} and Martinovi}* Case, T(F), p. 3332, closed session.

<sup>1403</sup> *Witness CA*, T(F), p. 10041.

Vakuf HVO had not been informed of this and that the subsequent phase of the removal needed to be organised because the Gornji Vakuf HVO was not in a position to take them in.<sup>1404</sup> The report was received by the HVO Main Staff in Mostar that same day.<sup>1405</sup> The Chamber does not have sufficient evidence to establish what happened next in the removal of the women, children and the elderly.

614. According to *Hasan Rizvić*, after the removal to Gornji Vakuf, not a single Muslim was left in the Sovići and Doljani Valley.<sup>1406</sup>

615. In view of the evidence, the Chamber finds that the women, children and elderly people from the Sovići school and houses in Junuzovići hamlet were removed on 5 May 1993 towards Gornji Vakuf by the HVO, including some of "Tuta"s men, and that the HVO Main Staff was informed of the removal, even though initially the destination was to be Jablanica and not Gornji Vakuf.<sup>1407</sup> Nonetheless, the Chamber does not have sufficient evidence to support a finding that the HVO ordered the Muslims from Sovići school and houses in Junuzovići hamlet to ABiH-controlled territory from Gornji Vakuf.

#### **E. Detention of Muslim Men at the Fish Farm Near Doljani and Death of Some of Them**

616. Paragraph 80 of the Indictment alleges that between 18 and 23 April 1993, Muslim men who were captured or had surrendered were taken to the HVO headquarters, set up on a fish farm near Doljani, where the Herceg-Bosna/HVO forces mistreated, abused, interrogated and tortured them.<sup>1408</sup> Paragraph 80 likewise alleges that some Muslim detainees were executed by the men of the HVO.

617. Paragraph 80 and the list of the counts referred to in paragraph 229 do not, however, refer to the conditions of confinement at the fish farm. The Chamber will therefore not examine this point.

618. The Chamber notes that the evidence it has about the alleged criminal events at the fish farm is limited to 20 April 1993. Thus, on 20 April 1993, a small group of eight or nine ABiH soldiers,

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<sup>1404</sup> P 02191.

<sup>1405</sup> P 02191.

<sup>1406</sup> P 10358.

<sup>1407</sup> *Hasan Rizvić* stated that he did not know who had taken this decision, P 10358, para. 43; Milivoj Petković investigated the matter on 5 May 1993, but the Chamber received no additional information about this, *see* P 02203.

<sup>1408</sup> The Chamber observes that the use of the term "tortured" in paragraph 80 of the Indictment relates to Counts 15 (inhumane acts, a crime against humanity), Count 16 (inhuman treatment, a grave breach of the Geneva Conventions) and Count 17 (cruel treatment, a violation of the laws of customs of war).

which had been holding out against the HVO for several days at Doljani, was finally captured and taken to the fish farm for interrogation.<sup>1409</sup> In the group were *Witness TT*, *Witness RR*, Salko Osmić, Fikret Begić, Denis Skender and one "Cilić".<sup>1410</sup>

619. Late in the day on 20 April 1993, the eight or nine detainees, with the exception of Denis Skender, were moved to Ljubuški Prison by van, on orders from "Tuta".<sup>1411</sup>

620. The Chamber will (1) first address the organisation of the fish farm as a detention site (2) the treatment of the detainees by the HVO soldiers and (3) the deaths of some detainees at the fish farm.

### 1. Organisation of the Fish Farm as a Detention Site

621. The former fish farm in the hamlet of Orlovac in Doljani was converted into a command post for the HVO and the 3<sup>rd</sup> *Mijat Tomić* Battalion.<sup>1412</sup> The farm consisted of a main building and a wooden hut or stable where detainees were interrogated.<sup>1413</sup> There were between 20 and 100 HVO soldiers there – wearing camouflage or black uniforms with HVO insignia – among them members of the 3<sup>rd</sup> *Mijat Tomić* Battalion, the *Bruno Bušić* Regiment and the KB.<sup>1414</sup> Among the members of the KB present at the fish farm, *Witness TT* recognized an old colleague from before the war, "Janos", who came from Gornja Kolonija in Jablanica Municipality.<sup>1415</sup>

<sup>1409</sup> Salko Osmić, P 09876 under seal, *Naletilić and Martinović* Case, T(F), pp. 3131-3132 and 3164; Decision of 7 September 2006, Adjudicated Fact no. 42 (*Naletilić* Judgement, para. 33); *Witness TT*, P 09879, under seal, *Naletilić and Martinović* Case, T(F), pp. 6632, 6633 and 6660; *Witness RR*, P 09872 under seal, *Naletilić and Martinović* Case, T(F), pp. 6449 and 6450.

<sup>1410</sup> *Witness TT*, P 09879 under seal, *Naletilić and Martinović* Case, T(F), p. 6639, private session; *Witness RR*, P 09872 under seal, *Naletilić and Martinović* Case, T(F), pp. 6449 and 6450; Salko Osmić, P 09876 under seal, *Naletilić and Martinović* Case, T(F), pp. 3131-3132 and p. 3164; Decision of 7 September 2006, Adjudicated Fact no. 42 (*Naletilić* Judgement, para. 33).

<sup>1411</sup> *Witness TT*, P 09879 under seal, *Naletilić and Martinović* Case, T(F), pp. 6644 and 6645; Salko Osmić, P 09876 under seal, *Naletilić and Martinović* Case T(F), p. 3142; *Witness RR*, P 09872 and under seal, *Naletilić and Martinović* Case, T(F), pp. 6460 and 6461. The Chamber notes moreover, that although paragraph 80 describes how the captured Muslim men were moved towards the fish farm, the removal is not used as a count of transfer in paragraph 229 of the Indictment. The Chamber has therefore not considered the evidence about this removal.

<sup>1412</sup> *Witness TT*, P 09879 under seal, *Naletilić and Martinović* Case, T(F), pp. 6632, 6633 and 6660; P 09074.

<sup>1413</sup> The statements of the witnesses concerning this place were quite vague and established at most that it was a wooden shack or stable, *Witness TT*, P 09879 under seal, *Naletilić and Martinović* Case, T(F), pp. 6632, 6633, 6639, 6641 and 6642.

<sup>1414</sup> The Chamber notes that *Witness TT* speaks of about 20 HVO soldiers, whereas *Witness RR* speaks of at least 100: *Witness TT*, P 09879, under seal, *Naletilić and Martinović* Case, T(F), pp. 6634, 6686 and 6687; *Witness RR*, P 09872 (admitted in part and under seal), *Naletilić and Martinović* Case, T(F), pp. 6451, 6500-6502; Salko Osmić, P 09876 under seal, *Naletilić and Martinović* Case, T(F), p. 3132.

<sup>1415</sup> *Witness TT*, P 09879, under seal, *Naletilić and Martinović* Case, T(F), pp. 6641, 6642, 6673 and 6674.

622. On 20 April 1993, "Tuta" came to the fish farm in Doljani.<sup>1416</sup> According to *Witness RR*, "Tuta" was the chief of the HVO soldiers present at the farm.<sup>1417</sup>

## 2. Treatment of Detainees at the Fish Farm

623. While detained at the Doljani fish farm on 20 April 1993, *Witness TT*, *Witness RR*, *Salko Osmić*, *Fikret Begić*, *Denis Skender* and someone named *Cilić* were severely beaten, insulted, humiliated and given death threats.<sup>1418</sup> They were for example forced to crawl on the ground while being struck by HVO soldiers, until they reached the wooden hut or stable.<sup>1419</sup>

624. Then, while some detainees were being interrogated by "Tuta" in the shed,<sup>1420</sup> HVO soldiers – the Chamber does not know exactly which ones – subjected the other detainees to the technique known as "grape-picking", which involved striking the detainees in the thorax and stomach while they were kneeling, with their arms in the air as if picking grapes.<sup>1421</sup> *Witness TT* explained that, after leaving the shed, he had to suffer the abuse of "grape-picking" once more.<sup>1422</sup>

625. The Chamber notes that "Tuta" personally took part in the severe beatings and humiliation.<sup>1423</sup> He struck *Witness TT's* face with great force and ordered the detainees to drop to the ground and kiss Croatian soil.<sup>1424</sup>

626. In view of the evidence admitted into the record, the Chamber thus finds that the HVO, including members of the 3<sup>rd</sup> *Mijat Tomić* Battalion, the *Bruno Bušić* Regiment and the KB, detained a group of 8-9 ABiH soldiers at the fish farm – on 20 April 1993 at the least – and that the ABiH soldiers were repeatedly beaten and humiliated by the HVO soldiers, one of whom was "Tuta", over the course of the day they were held.

<sup>1416</sup> *Salko Osmić*, P 09876 under seal, *Naletilić and Martinović* Case, T(F), p. 3132; *Witness RR*, P 09872 under seal, *Naletilić and Martinović* Case, T(F), pp. 6496, 6501 and 6515; P 09074, *Witness RR*, T(F), p. 6449; Decision of 7 September 2006, Adjudicated Fact no. 43 (*Naletilić* Judgement, para. 365).

<sup>1417</sup> *Witness RR*, P 09872 under seal, *Naletilić and Martinović* Case, T(F), pp. 6496, 6501 and 6515; P 09074, *Witness RR*, T(F), p. 6449.

<sup>1418</sup> *Witness TT*, P 09879, under seal, *Naletilić and Martinović* Case, T(F), pp. 6633, 6637-6641; *Salko Osmić*, P 09876 under seal, *Naletilić and Martinović* Case, T(F), p. 3138; *Witness RR*, P 09872 under seal, *Naletilić and Martinović* Case, T(F), pp. 6449, 6452-6456, 6499-6502; P 09074.

<sup>1419</sup> *Witness TT*, P 09879 under seal, *Naletilić and Martinović* Case, T(F), pp. 6633-6635, 6654. *Witness RR*, P 09872, under seal, *Naletilić and Martinović* Case, T(F), pp. 6449-6451; P 09074.

<sup>1420</sup> According to *Witness TT*, some detainees were interrogated in the shed of the fish farm, including *Fikret Begić*, *Denis Skender*, *Witness TT* and *Salko Osmić*, see *Witness TT*, P 09879 under seal, *Naletilić and Martinović* Case, T(F), p. 6639, private session.

<sup>1421</sup> *Witness TT*, P 09879 under seal, *Naletilić and Martinović* Case, T(F), pp. 6637-6640 and 6642, private session; *Witness RR*, P 09872 under seal, *Naletilić and Martinović* Case, T(F), pp. 6453-6455.

<sup>1422</sup> *Witness TT*, P 09879 under seal, *Naletilić and Martinović* Case, T(F), p. 6643.

<sup>1423</sup> *Witness RR*, P 09872 under seal, *Naletilić and Martinović* Case, T(F), pp. 6456-6457, 6497-6500; Decision of 7 September 2006, Adjudicated Facts nos 43, 44 and 45 (*Naletilić* Judgement, paras 353, 365 and 370).

<sup>1424</sup> *Witness TT*, P 09879 under seal, *Naletilić and Martinović* Case, T(F), pp. 6632-6634 and 6644.



### 3. Death of some Muslim Detainees at the Fish Farm

627. The Chamber does not have evidence to establish the death of Muslim men detained at the fish farm between 18 and 23 April 1993.

#### **F. Blocking of International Observers and Peace-Keeping Forces on 17 April 1993 and in the Days that Followed**

628. In paragraph 84 of the Indictment, it is alleged that, on 17 April 1993 and for several days thereafter, the HVO prevented international observers and peace-keeping forces from entering the Sovići and Doljani area.

629. The Ćorić Defence argues in its Final Trial Brief that it was irregular armed forces, and not HVO soldiers, who blocked the international observers and peace-keeping forces from entering Sovići and Doljani, and that there is no evidence that the Military Police were involved in hindering the entrance of international observers in the area.<sup>1425</sup>

630. The Chamber notes that *Milivoj Petković* testified that, commencing on 13 April 1993, UNPROFOR could no longer enter the Sovi}i and Doljani area. It also notes that again according to *Milivoj Petković*, UNPROFOR personnel had asked the 4<sup>th</sup> ABiH Corps for authorisation to enter Sovi}i and Doljani on 8 May 1993, yet were not ultimately permitted to enter, despite the intervention of Sefer Halilović.<sup>1426</sup>

631. The Chamber observes generally that in April 1993, the ABiH checkpoints in Jablanica municipality allowed passage to UNPROFOR, Spabat and the HCR.<sup>1427</sup> As of 17 April 1993, the date of the HVO attack on the Sovići and Doljani area, it was the HVO soldiers who controlled the roads and terrain in the Sovići area; they are the ones who occasionally refused passage to international observers and personnel from peace-keeping forces in the area.<sup>1428</sup> The Chamber did in fact receive testimony that, in the days following 17 April 1993, HVO and HV soldiers did not

<sup>1425</sup> Valentin Ćorić Final Trial Brief, para. 633.

<sup>1426</sup> Milivoj Petković, T(F), pp. 49726 and 49727.

<sup>1427</sup> For example, on 14 April 1993, Spabat was able to travel within Jablanica Municipality, as the ABiH and HVO blockades did not apply to the UN forces, P 01875, p. 8; P 01914 under seal, p. 3.

<sup>1428</sup> Witness LL, P 09881 under seal, *Naletili} and Martinović* Case, T(F), pp. 5252-5260; Christopher Beese, T(F), pp. 3217-3219; Marita Vihervuori, T(F), p. 21580; P 02627, para. 6.

permit the ECMM, UNPROFOR and Spabat to enter Sovići and Doljani area.<sup>1429</sup> Thus, on 24 April 1993, Ante Govorušić, Deputy Commander of the North-West OZ, would not authorise passage for UNPROFOR in the villages of Sovići and Doljani, on orders from the Main Staff<sup>1430</sup> and on 29 April 1993, Spabat was not permitted by the HVO soldiers who controlled the roads and checkpoints in the Sovići area to enter Sovići, thereby, according to Spabat, preventing it from seeing what was happening there.<sup>1431</sup>

632. The Chamber notes, however, that some other convoys of international observers and/or peace-keeping forces were not blocked and that efforts to resolve the situation were undertaken as part of the negotiations between the HVO and the ABiH.

633. *Witness CA*, for example, saw UNPROFOR vehicles parked around the Sovići School on or about 21 or 22 April 1993.<sup>1432</sup> According to him, international observers, including UNPROFOR, were at that time able to go to the Sovići School<sup>1433</sup> to draw up a list of gaoled "old men" but were not authorised to visit the rooms at the Sovići School where the women and children were.<sup>1434</sup>

634. In addition, as part of the negotiations between the ABiH and the HVO between 23 April - 4 May 1993 and in particular during a weekly at Spabat headquarters in Jablanica on 28 April 1993 between Sefer Halilović of the ABiH, Milivoj Petković of the HVO and ECMM and Spabat representatives, Milivoj Petković authorized Spabat to go into the villages of Doljani, Sovići and Slatina.<sup>1435</sup> The report states that Milivoj Petković authorised the visits in exchange for Spabat's promise to visit the Croatian villages of Turija and Polje-Bijela near Konjic.<sup>1436</sup>

635. On 4 May 1993, after a meeting between the ABiH representatives, Sefer Halilović and Arif Pašalić, the HVO representatives, Milivoj Petković, Berislav Pušić and Miljenko Lasić, and those from Spabat, Sefer Halilović and Milivoj Petković reached an agreement providing for a joint ABiH-HVO delegation to visit the villages of Sovići and Doljani.<sup>1437</sup> An UNPROFOR convoy and

<sup>1429</sup> On 21 April 1993, the soldiers of the HVO and HV denied the ECMM observers access to the villages of Sovići and Doljani, P 02009. *See also* Witness LL, P 09881 under seal, *Naletili} and Martinovi}* Case, T(F), pp. 5259-5260; Witness JJ, P 09880 under seal, *Naletili} and Martinovi}* Case, T(F), p. 5008; P 02143 under seal, p. 3; P 02136, p. 1; P 02627, para. 6; Christopher Beese, T(F), pp. 3217-3218 and 5397; P 02066.

<sup>1430</sup> P 02066.

<sup>1431</sup> Witness LL, P 09881 under seal, *Naletili} and Martinovi}* Case, T(F), pp. 5259-5260; Witness JJ, P 09880 under seal, *Naletili} and Martinovi}* Case, T(F), p. 5008; P 02143 under seal, p. 3.

<sup>1432</sup> Witness CA, T(F), p. 10044.

<sup>1433</sup> Witness CA, T(F), p. 10044.

<sup>1434</sup> Witness CA, T(F), p. 10044.

<sup>1435</sup> P 02136, pp. 1 and 2.

<sup>1436</sup> P 02136, pp. 1 and 2.

<sup>1437</sup> P 02187; P 02192 under seal, p. 4; 2D 00707, pp. 1 and 2; P 10358, para. 37; P 04238, minutes 45 and 46.

HVO representatives – among Milivoj Petković and Berislav Pušić – and the ABiH went into the villages of Sovići and Doljani that same day.<sup>1438</sup> The convoy did not, however, go to the hamlet of Junuzovići, whereas,<sup>1439</sup> according to *Hasan Rizvić's* statement, the members of the delegation learned on 4 May 1993 that a group of women and children was being held there.<sup>1440</sup> According to *Hasan Rizvić*, they were refused access to the hamlet because it was not in the schedule as originally planned.<sup>1441</sup>

636. In a report dated 5 or 6 May 1993, sent to the Department of Defence of the HVO of the HZ H-B, Tugomir Gveri}, head of the medical service in the HVO Staff, stated that only one of the humanitarian convoys bound for Doljani, Sovi}i, Konjic, Klis and Vrci managed to get to Doljani and Sovi}i, despite the agreement of 4 May 1993 between Sefer Halilovi} and Milivoj Petkovi}.<sup>1442</sup>

637. In view of all the evidence, the Chamber finds that, even though some observers were able to reach Sovi}i and Doljani and observe at least part of the detention site, the fact remains that the HVO soldiers controlled roads and checkpoints did block the passage of various international observers and convoys of peace-keeping forces, acting specifically on the orders of the Main Staff, in the days following the 17 April 1993 attacks and the HVO takeover of the villages of Sovići and Doljani. The Chamber notes, as did the Ćorić Defence, that it lacks evidence to support a finding that the Military Police participated in these events.

## **G. Destruction and Burning of Houses and Buildings Dedicated to Religion in the Villages of Sovići and Doljani**

638. Paragraphs 82 and 83 of the Indictment allege that, from about 18 to 24 April 1993, after all or most of the principal fighting had ended, the Herceg-Bosna/HVO forces deliberately burned or otherwise destroyed most of the Muslim homes and deliberately destroyed two buildings devoted to the Muslim religion (including one mosque) in the villages of Sovići and Doljani.

<sup>1438</sup> P 02187; P 10358, para. 36; P 02192 under seal, p. 4; 4D 00447, p. 1; 2D 00707, pp. 1 and 2 .

<sup>1439</sup> Witness X, P 09874, under seal, *Naletili} and Martinovi}* Case, T(F), p. 3330, closed session; P 10358, para. 42.

<sup>1440</sup> P 10358, para. 42.

<sup>1441</sup> P 10358, paras 37 and 42. The Croat-Muslim Commission of Inquiry consisted of *Hasan Rizvić*, Sefer Halilović, Commander in Chief of the ABiH Main Staff, Arif Pašalić, Commander of the Mostar Battalion of the ABiH, 41<sup>st</sup> Brigade, Midhat Hujdur, Deputy Commander of the Mostar Battalion of the ABiH, Enes Kovačević, Commander of the Staff of the TO/Staff of the Territorial Defence/ for Jablanica, Milivoj Petković, Chief of the Main Staff of the HVO for Herceg-Bosna, and Berislav Pušić, representing the HVO, President of the Commission for Prisoner Exchanges.

<sup>1442</sup> Ivan Bagari} T(F), pp 38921-38922; 2D 00745.

639. The Chamber will (1) address the allegations concerning the burnings and destruction of Muslim housing and (2) those which concern the destruction of two buildings devoted to the Muslim religion.

1. Burning and Destruction of Muslim Homes in Sovići and Doljani Between 18 and 24 April 1993

640. The Chamber recalls that, although the evidence attests to the fact that there was still some fighting between the HVO and ABiH forces in Sovići and Doljani on the morning of 18 April 1993,<sup>1443</sup> most such fighting had already ended.<sup>1444</sup>

641. Much evidence shows that HVO soldiers – including soldiers from the KB – set fire to and/or destroyed Muslim houses in the villages of Sovići and Doljani between 18 and 24 April 1993.<sup>1445</sup> An HVO report of 23 April 1993 indicates, moreover, that once the conflict ended in the villages of Sovići and Doljani, all the Muslim houses in Sovići and Doljani were burned down, on orders from "high-ranking" commanders.<sup>1446</sup>

642. Thus, on 20 April 1993, *Witness D*<sup>1447</sup> saw HVO and HV soldiers as well as men wearing black uniforms without insignia set fire to houses owned by Muslims, while shouting and singing.<sup>1448</sup>

643. On about 21 April 1993, after the death of Mario Hrkač *alias* "Čikota", the KB commander killed on 20 April 1993, KB soldiers set fire to houses belonging to Muslims in the villages of Sovići and Doljani.<sup>1449</sup> *Milivoj Petković* said that Miljenko Lasić, commander of the South-East OZ, had been informed of these events on his return to the command of the South-East OZ following "Čikota's" burial.<sup>1450</sup> *Milivoj Petković* added that, on 22 April 1993 at Mate Boban's request, he personally ordered the *Herceg Stjepan* Brigade to provide him with a report on the

<sup>1443</sup> Dragan Jurić, T(F), pp. 39368 and 39369; 4D 01565.

<sup>1444</sup> See "Sequence of attacks in the villages of Sovići and Doljani on 17 April 1993" in the Chamber's factual findings in relation to the municipality of Jablanica (Sovići and Doljani)

<sup>1445</sup> Safet Idrizović, T(F), pp. 9677 and 9853; P 02187, English version of the transcript at p. 36; Witness W, P 09875 under seal, *Naletilić and Martinović* Case, T(F), pp. 3201 and 3202; Klaus Johann Nissen, T(F), p. 20413; Decision of 7 September 2006, Adjudicated Facts nos 64, 65 and 68 (*Naletilić* Judgement, paras 526, 585 and 596); P 10358, para. 26; Witness X, P 09874, under seal, *Naletilić and Martinović* Case, T(F), pp. 3321 and 3222, closed session; *Nihad Kovač*, T(F), p. 10283; P 08625, p. 2; P 02009, p. 1; Ismet Poljarević, T(F), p. 11572; P 09726, p. 3; Milivoj Petković, T(F), pp. 49485, 49486 and 49909; 4D 00447.

<sup>1446</sup> P 02063.

<sup>1447</sup> Witness D was a Muslim inhabitant of the village of Sovići in April 1993 who was detained at the Sovići School.

<sup>1448</sup> Witness D, P 09870 under seal, *Naletilić and Martinović* Case, T(F), pp. 908 and 909.

<sup>1449</sup> Witness CA, T(F), p. 10079; Milivoj Petković, T(F), pp. 49440, 49445, 49446, 49453 and 49455; Decision of 7 September 2006, Adjudicated Fact no. 66 (*Naletilić* Judgement, para. 706).

<sup>1450</sup> Milivoj Petković, T(F), pp. 49445 and 49446.

Croatian and Muslim victims, loss of life among the HVO and the ABiH, and the Croat and Muslim villages burned down in the after the events at Sovići and Doljani.<sup>1451</sup>

644. The Chamber notes likewise that *Witness LL* stated that, according to the observations made by Spabat reconnaissance patrols on 29 April 1993 from a location overlooking Doljani and Sovi}i, the village of Sovi}i was shrouded in smoke<sup>1452</sup> and 50% of the village of Doljani had been destroyed.<sup>1453</sup>

645. As of 4 May 1993, *Hasan Rizvić*, a member of the ABiH and HVO delegation<sup>1454</sup> dispatched to Doljani and Sovići, observed that the village of Doljani was completely destroyed, the houses burned down, and two houses flattened by explosives.<sup>1455</sup> He likewise observed that, in Sovići, all of the Muslim houses had been destroyed or burned down but that none of the Croat houses was touched.<sup>1456</sup>

## 2. Destruction of Two Buildings Devoted to the Muslim Religion, Including at Least One Mosque, in Sovići and Doljani between 18 and 22 April 1993

646. The Chamber observes that in the days after the HVO attack on the villages of Sovi}i and Doljani, at least two Muslim places of worship were set on fire or destroyed by HVO soldiers, whose identity the Chamber does not have.<sup>1457</sup>

647. *Witness X* and *Nihad Kovač*,<sup>1458</sup> who were detained at the Sovići School, could see the Sovići Mosque burning.<sup>1459</sup> *Nihad Kovač*, thus said that, on or about 18 April 1993, the Sovići

<sup>1451</sup> Milivoj Petković, T(F), pp. 49440, 49441 and 49526; 4D 01082. Milivoj Petković, moreover, said that he had passed on the information sent by the *Herceg Stjepan and Mijat Tojmi* Brigades on 23 April 1993 to Mate Boban, President of the HZ H-B, and raised with him the idea of taking measures against Mladen Naletilić, Ivan Andabak and Stipe Polo, Commander of the Doljani Battalion, see Milivoj Petković, T(F), pp. 49440-49442 and 49447.

<sup>1452</sup> Witness LL, P 09881 under seal, *Naletilić and Martinovi* Case, T(F), p. 5259.

<sup>1453</sup> Witness LL, P 09881 under seal, *Naletilić and Martinovi* Case, T(F), p. 5259.

<sup>1454</sup> P 10358, para. 37. The Croat-Muslim Commission of Inquiry consisted of Hasan Rizvić, Sefer Halilović, Commander in Chief of the ABiH Main Staff, Arif Pašalić, Commander of the Mostar Battalion of the ABiH, 41<sup>st</sup> Brigade, Midhat Hujdur Deputy Commander of the Mostar Battalion of the ABiH, Enes Kovačević, Commander of the Staff of the TO Main Staff of Jablanica, Milivoj Petković, Chief of the Main Staff of the HVO and Berislav Pušić, representative of the HVO, President of the Commission for Prisoner Exchanges.

<sup>1455</sup> P 10358, para. 36.

<sup>1456</sup> P 10358, para. 38.

<sup>1457</sup> Safet Idrizović, T(F), pp. 9677 and 9853; P 08939, p. 4; Witness Y, P 09873 under seal, *Naletili* and *Martinovi* Case, revised version of the T(F), p. 37, private session; P 09867 under seal, paras 13 and 14; Witness D, P 09870 under seal, *Naletili* and *Martinovi* Case, T(F), p. 913; T(F), pp. 944 and 945, private session; P 09728, p. 3; 4D 00447, p. 1; P 02063; Decision of 7 September 2006, Adjudicated Fact no. 18 (*Naletilić* Judgement, para. 238).

<sup>1458</sup> Representative victim from paras 79, 81 and 86 of the Indictment mentioned in the annex to the Indictment.

<sup>1459</sup> Witness X, P 09874, under seal, *Naletili* and *Martinovi* Case, T(F), p. 3325, closed session; Nihad Kovač, pp. 10282, 10286 and 10287.

Mosque, which was about 1 km from the Sovići School, had exploded, and then burned for half an hour.<sup>1460</sup>

648. Concerning the Doljani Mosque, *Witness CA*<sup>1461</sup> testified to the fact that she heard a very loud explosion and later that the mosque in Doljani had been mined.<sup>1462</sup> Other evidence, including two HVO reports, confirmed that the mosque was destroyed by the HVO in the days following the attack on the village of Doljani.<sup>1463</sup>

649. The Chamber likewise notes that, according to a 23 April 1993 report sent by Marko Rozić, the HVO Defence Bureau Chief in Jablanica, to Slobodan Božić, assistant to the Chief of the Department of Defence of the HZ H-B from mid-January 1993 to November 1993,<sup>1464</sup> high-ranking HVO commanders had ordered that the two mosques in the Sovići and Doljani area be destroyed.<sup>1465</sup> The Chamber has no information about the identity of those commanders.

650. In view of all the evidence admitted into the record, the Chamber finds that HVO soldiers – some of whom were members of the KB – as well as HV soldiers, burned or destroyed Muslim homes and that two buildings dedicated to the Muslim religion were destroyed in the days following the HVO attack upon the villages of Sovići and Doljani.

#### **H. Thefts of Muslim Property at Sovići and Doljani Between 17 April and 4 May 1993**

651. The Prosecution alleges, in paragraph 85 of the Indictment that from 17 April 1993 to approximately 4 May 1993, the forces of Herceg-Bosna/HVO stole, plundered, robbed and confiscated Muslim property in Sovići and Doljani.

652. According to the evidence admitted into the record, in the days following the HVO attack on the villages of Sovići and Doljani, HVO soldiers took property belonging to the Muslims in both of the villages, especially livestock and cars, searched the homes of Muslims and stole property

<sup>1460</sup> Nihad Kovač, pp. 10278, 10279, 10281, 10282, 10286, 10287, 10303, 10309, 10315; P 09728, p. 2; IC 00091 (Photograph of the village of Sovići; the number 2 indicates the location of the mosque); IC 00092 (Photograph of the village of Sovići; the number 1 indicates the location of the mosque); P 08625, p. 2.

<sup>1461</sup> Witness CA was a woman living in the village of Doljani in April 1993.

<sup>1462</sup> Witness CA, T(F), p. 10029.

<sup>1463</sup> P 02063; P 08625, p. 6; 4D 00447, p. 1; Decision of 7 September 2006, Adjudicated Fact no. 18 (*Naletilić* Judgement, para. 238).

<sup>1464</sup> Slobodan Božić, T(F), pp. 36157 and 36158.

<sup>1465</sup> P 08625, p. 6.

there.<sup>1466</sup> As an example, the Chamber notes that *Ismet Poljarević* stated that someone named Ivan, who was under "Tuta's" command,<sup>1467</sup> had given orders to the HVO soldiers to collect all the cars belonging to Muslims held at the Sovići School, and that his car and his official vehicle were in fact confiscated by three HVO soldiers.<sup>1468</sup>

653. The Chamber notes that, after 17 April 1993, the 3<sup>rd</sup> *Mijat Tomić* Battalion of the *Herceci Stjepan* Brigade of the HVO decided to reinforce the Military Police at the checkpoint in Sovička Vrata in order to prevent such thefts.<sup>1469</sup>

654. Moreover, on 13 May 1993, Marko Rozić, Jablanica HVO Defence Bureau Chief, decided that all movable and immovable property belonging to the Muslims in the villages of Sovići and Doljani who had "emigrated" was to be considered spoils of war and became HVO property.<sup>1470</sup>

655. In view of all the evidence admitted into the record, the Chamber finds that HVO soldiers, some of whom were under "Tuta's" command, took property belonging to Muslims in the days following the 17 April 1993 attack on the villages of Sovići and Doljani.

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<sup>1466</sup> Witness CA, T(E) pp. 10026, 10033 and 10034; Safet Idrizović, T(F), pp. 9677-9678 and 9852-9853; P 02218, pp. 1 and 2; Ismet Poljarević, T(F), pp. 11583-11588; P 09726, p. 3; 2D 00285, p. 2.

<sup>1467</sup> Ismet Poljarević, T(F), p. 11595; P 09726, p. 2; 2D 00285, p. 2.

<sup>1468</sup> 2D 00285, p. 2; Ismet Poljarević, T(F), pp. 1583-11588; P 09726, p. 3.

<sup>1469</sup> Safet Idrizović, T(F), p. 9852; P 02218, p. 2.

<sup>1470</sup> P 02372, p. 1; Safet Idrizović, T(F), p. 9852.

#### Heading 4: The Municipality of Mostar

656. This part of the Judgement relates to the allegations of crimes committed in the Municipality of Mostar. It is alleged in paragraphs 90 to 117 of the Indictment that the Herceg-Bosna/HVO authorities had undertaken a campaign of persecuting and discriminating against the Muslim population in 1992, and up to April 1994. It is also alleged in paragraphs 94 to 96 of the Indictment that on 9 and 10 May 1993, Herceg-Bosna HVO forces attacked the Bosnian Muslims in Mostar and then the Vranica building complex in West Mostar, which housed many people; that they arrested Muslim military-aged men and detained them in several locations in Mostar, such as the Mechanical Engineering Faculty building, and that they took other residents from West Mostar to the Velež football stadium, then to the Heliodrom and some to the prison in Ljubuški. It is also alleged in paragraph 97 of the Indictment that on or about 9 May 1993, the *Baba Besir* and *Hadži Ali-Beg* mosques, both in West Mostar, were destroyed by the Herceg-Bosna/HVO forces.

657. The Prosecution alleges in paragraph 101 of the Indictment that the Herceg-Bosna/HVO forces continued to evict Muslims living in West Mostar in the second half of May 1993 and, in paragraph 102, that they once again expelled a large number of Muslims from West Mostar in mid-June 1993. Paragraph 103 of the Indictment states that after the ABiH attacked the *Tihomir Mišić* barracks on 30 June 1993, the HVO arrested several thousand military-aged Muslim men, detained them at the Heliodrom and expelled around 400 Muslim families from West Mostar. Paragraph 104 of the Indictment specifies that the Herceg-Bosna/HVO forces used the building of the Mechanical Engineering Faculty from 9 May 1993 to detain, interrogate and mistreat arrested or captured Muslims; that during the first week of July 1993, five Muslims arrested near Drežnica were severely beaten by members of the HVO, two of whom died from the beatings.

658. The Prosecution alleges in paragraph 105 of the Indictment that in mid-July, Herceg-Bosna/HVO forces carried out another operation in order to evict Muslim women, children and the elderly from their homes in West Mostar and offered to release Muslim men detained at the Heliodrom and their families living in Mostar if they agreed to leave BiH.

659. It also alleges in paragraph 109 of the Indictment that at the end of September 1993, the HVO evicted Bosnian Muslims who lived in the Centar II district in West Mostar and that at least one woman was raped in the course of this operation.

660. The Prosecution specifies in paragraph 99 that from 9 May 1993, the Herceg-Bosna/HVO forces systematically expelled from their homes and forcibly transferred thousands of Muslim civilians from West Mostar; they subjected them to beatings, sexual assault and other mistreatment;



that they fired at them and confiscated or stole their property; that the Muslims were detained in HVO prisons or forced across the confrontation line into East Mostar. The Prosecution adds in paragraph 100 of the Indictment that the Herceg-Bosna/HVO forces allowed some Muslims from West Mostar to go if they left Herceg-Bosna; that hundreds of Muslims were not allowed to leave Mostar until they signed a statement in which they "voluntarily" relinquished all their belongings to the HVO and that their homes were then assigned to HVO soldiers or Croatian civilians. The Prosecution also maintains in paragraph 107 of the Indictment that the Herceg-Bosna/HVO forces looted and stole property belonging to Muslims from their abandoned homes.

661. The Prosecution alleges in paragraph 106 of the Indictment that on around 14 July 1993 a Muslim boy and his grandfather were arrested at their home in Buna and taken to an HVO Military Police station where they were tortured by the HVO Military Police. The Prosecution argues that the boy was wounded and the grandfather shot dead while they were being transferred to Dretelj Prison.

662. It argues in paragraph 108 of the Indictment that on 24 August 1993, the HVO entered Raštani and surrounded the house of an ABiH soldier, who was there with 15 relatives and neighbours, all civilians. According to the Prosecution, HVO soldiers killed the ABiH soldier and three military-aged men - none of whom was armed - and stole money and jewellery from the women and children, and mistreated them. According to the Prosecution, the survivors were forced to go to ABiH-held territory.

663. The Prosecution alleges in paragraphs 110 to 117 that between June 1993 and April 1994, East Mostar and some areas connected to it were under siege. The living conditions there were dangerous, squalid and horrific. The Prosecution argues in paragraph 112 of the Indictment that the HVO blocked humanitarian aid, and cut off or failed to repair water and power supplies in this part of the town. According to paragraph 113 of the Indictment, between the end of June and the end of August 1993, the international humanitarian organisations were completely blocked from entering or had very limited access to Mostar, causing increasing hardships for the Muslims in East Mostar.

664. Paragraphs 114 and 115 of the Indictment state that hundreds of civilians from East Mostar and members of international organisations regularly became targets of Herceg-Bosna/HVO snipers or of shelling and shooting, including of mortar and artillery fire. This gunfire killed or wounded at least 135 civilians in East Mostar and several members of the UN peacekeeping forces.

665. According to paragraph 116 of the Indictment, the Herceg-Bosna/HVO forces deliberately destroyed or significantly damaged several religious properties in East Mostar, and on 9 November 1993 destroyed the Old Bridge in Mostar.

666. The Prosecution is alleging these deeds to constitute persecutions (Count 1), murder (Count 2), wilful killing (Count 3), rape (Count 4), inhuman treatment (sexual assault) (Count 5), deportation (Count 6), unlawful deportation of a civilian (Count 7), inhumane acts (forcible transfer) (Count 8), unlawful transfer of a civilian (Count 9), imprisonment (Count 10), unlawful confinement of a civilian (Count 11), inhumane acts (Count 15), inhuman treatment (Count 16), cruel treatment (Count 17), extensive destruction of property, not justified by military necessity and carried out unlawfully and wantonly (Count 19), wanton destruction of cities, towns or villages, or devastation not justified by military necessity (Count 20), destruction or wilful damage done to institutions dedicated to religion or education (Count 21), appropriation of property, not justified by military necessity and carried out unlawfully and wantonly (Count 22), plunder of public or private property (Count 23), unlawful attack on civilians (Count 24), unlawful infliction of terror on civilians (Count 25) and cruel treatment (Mostar siege) (Count 26).

667. To rule on the alleged acts, the Chamber assessed a great amount of evidence. In particular, it reviewed the *viva voce* testimony of witnesses 2D-AB, 4D-AB, A, *Alija Lizde*, *Amor Mašović*, *Ante Kvešić*, *Antoon Van der Grinten*, BB, BC, BD, *Belinda Giles*, BH, BJ, *Bo Pellnäs*, *Borislav Puljić*, *Božo Pavlović*, *Božo Perić*, *Bruno Pinjuh*, C, CB, *Christopher Beese*, CR, CS, CU, CV, DA, DG, EA, *Edward Vulliamy*, *Enes Delalić*, *Fahrudin Rizvanbegović*, *Grant Finlayson*, *Ibrahim Šarić*, *Ilija Kožulj*, *Jeremy Bowen*, *Jovan Rajkov*, *Klaus Johann Nissen*, *Larry Forbes*, *Marijan Biškić*, *Marinko Simunović*, *Martin Raguz*, *Milan Gorjanc*, *Milivoj Gagro*, *Miroslav Palameta*, *Mustafa Hadrović*, *Neven Tomić*, *Patrick van der Weijden*, *Philip Watkins*, *Radmilo Jasak*, *Ratko Pejanović*, *Raymond Lane*, *Seid Smajkić*, *Sejfo Kajmović*, *Slobodan Božić*, *Slobodan Janković*, *Spomenka Drljević*, *Suad Čupina*, *Veso Vegar*, *Vinko Marić*, *Zdenko Andabak*, *Zoran Buntić*, *Zoran Perković* and *Zvonko Vidović* as well as the statements of witnesses 1D-AA, *Anel Heljić*, *Azra Krajšek*, BA, *Belkisa Beriša*, BF, *Cedric Thornberry*, CM, CT, CW, CZ, *Džemal Baraković*, *Dževad Hadžizukić*, *Damir Katica*, DB, DC, *Dragan Ćurčić*, DV, DW, DZ, *Elvir Demić*, *Enes Vukotić*, *Ismet Poljarević*, *Miro Šalčin*, *Munib Klarić*, NO, *Omer Dilberović*, *Pero Nikolić* and *Zoran Buntić* admitted pursuant to Rule 92 *ter* of the Rules, and supplemented by their testimony in court. The Chamber has also taken into account the testimony of *Milivoj Petković* and *Slobodan Praljak*, as well as the written statements and transcripts of statements by witnesses 3DB, AC, *Ale Sakoć*, *Anthony Turco*, *Arif Gosto*, DT, DY, EC, *Enver Jusufović*, *Fatima Fazlagić*, GG, HH, *Hikmeta Rizvanović*, *Huso Marić*, II, *Jasmina Čišić*, JJ, LL, *Martin Mol*, *Mujo Čopelj*, *Muris Marić*, *Mustafa*

*Burić, Nedžad Bobeta, PP, Sabajra Gaš, Šefik Ratkušić, Senad Dumpor, U and WW* admitted pursuant to Rule 92 *bis* of the Rules and the written statement of *Ljubo Perić* admitted pursuant to Rule 92 *quater* of the Rules. Last, the Chamber examined a considerable number of exhibits admitted into evidence through these witnesses or a written procedure.

668. The Chamber will first present the geographic and demographic situation in the Municipality of Mostar (Section 1), then its political, administrative and military structure in order to highlight the framework in which the criminal events alleged by the Prosecution took place (Section 2). It will then analyse the events that led to the conflict of 9 May 1993 between the Croats and the Muslims (Section 3). The Chamber will then analyse successively the events that took place in the Municipality of Mostar in May 1993 (Section 4), in June 1993 (Section 5), on 30 June 1993 and in July and August 1993 (Section 6), followed by the period between September 1993 and April 1994 (Section 7). Finally, the Chamber will address the allegations concerning the siege of East Mostar and the subsequent crimes (Section 8).

## Section 1: Geographic and Demographic Description of the Municipality

669. Mostar is the largest town in south-eastern BiH and the historical capital of Herzegovina.<sup>1471</sup> It was of symbolic, political and military importance for both the Croats and the Muslims.<sup>1472</sup>

670. The Neretva river runs through the town of Mostar from the north to the south.<sup>1473</sup> Until May 1993, the neighbourhoods on the west bank of the Neretva had a Croatian majority population,<sup>1474</sup> with the exception of Donja Mahala, where the majority population was Muslim.<sup>1475</sup> The Muslim majority neighbourhoods were on the east bank of the Neretva.<sup>1476</sup>

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<sup>1471</sup> Decision of 14 March 2006, Adjudicated Fact no. 217 (*Naletilić* Judgement, para. 37). See also Milivoj Gagro, T (F), pp. 2726 and 2749.

<sup>1472</sup> Witness BF, T(F), p. 25807, closed session.

<sup>1473</sup> See, for example, the map of Mostar marked as P 09410.

<sup>1474</sup> 3D 00780; P 07500, pp. 3-4; Marinko Simunović, T(F), p. 33638. Hereinafter the Chamber will use the term "West Mostar" to describe the neighbourhoods with a Croatian majority on the right bank of the Neretva.

<sup>1475</sup> 3D 00780; Miro Šalčin, T(F), pp. 14292 to 14295.

<sup>1476</sup> 3D 00780; P 07500, pp. 3-4. Hereinafter the Chamber will use the term "East Mostar" to describe the neighbourhoods with a Muslim majority on the left bank of the Neretva and some sectors attached to it, including Blagaj, as indicated in paragraph 110 of the Indictment.

671. According to the 1991 census the Municipality of Mostar had 126,628 inhabitants, 34.6 % of whom were Muslims, 33.9 % Croats and 18.8 % Serbs.<sup>1477</sup> The remainder were “Yugoslavs” and others.<sup>1478</sup>

672. In the period May-June 1992, while the Municipality of Mostar took in approximately 25,000 refugees or displaced persons<sup>1479</sup> from the east of RBiH and Central Bosnia,<sup>1480</sup> most of the Serbian inhabitants left Mostar or were expelled.<sup>1481</sup> The Croats then became the majority in the municipality.<sup>1482</sup>

673. One year later, between January and May 1993, 19,196 people, 17,890 of whom were Muslims and 1,194 Croats, fled the fighting in other areas of BiH, and in Central Bosnia in particular,<sup>1483</sup> and sought refuge in Mostar, swelling the total number of inhabitants of Mostar to 145,263.<sup>1484</sup> The influx of people led to another change in the demographic distribution of Mostar, this time in favour of the Muslims.<sup>1485</sup> However, on 10 November 1993, Mostar had only 66,051 inhabitants, 59 % of whom were Croats and 41 % Muslim.<sup>1486</sup>

## Section 2: Political, Administrative and Military Structure of the Municipality

### I. Political and Administrative Structure

674. The Chamber received the testimony of several witnesses and examined many items of documentary evidence according to which Mostar Municipality organised itself politically and administratively in order to cope with the attacks by the Serbian forces in early 1992. Accordingly, (A) a Crisis Staff was very quickly set up and (B) the HVO created a municipal government.

<sup>1477</sup> Decision of 14 March 2006, Adjudicated Fact no. 217 (*Naletilić* Judgement, para. 37). See also Milivoj Gagro, T(F), pp. 2726 and 2749; P 07500, pp. 3-4; 3D 01024, p. 15 of the original version; Witness BD, T(F), p. 20944, closed session; 3D 00331, p. 151; P 07433, p. 5.

<sup>1478</sup> Decision of 14 March 2006, Adjudicated Fact no. 217 (*Naletilić* Judgement, para. 37). See also Milivoj Gagro, T(F), p. 2726; P 07500, pp. 3-4.

<sup>1479</sup> The Chamber was not able to establish from the evidence where these refugees had come from.

<sup>1480</sup> Witness CS, T(F), pp. 12022-12026, private session; Zoran Buntić, T(F), pp. 30669 to 30672; P 00225 under seal; 5D 05110 under seal, para. 10; Suad Ćupina, T(F), pp. 4899-4900.

<sup>1481</sup> Decision of 14 March 2006, Adjudicated Fact no. 221 (*Naletilić* Judgement, para. 37). See also Milivoj Gagro, T(F), pp. 2725 and 2726.

<sup>1482</sup> Witness CS, T(F), p. 12027 private session.

<sup>1483</sup> Witness BA, T(F), pp. 7379-7383, closed session; P 09712 under seal, para. 6.

<sup>1484</sup> P 09851 under seal; Decision of 14 March 2006, Adjudicated Fact no. 226 (*Naletilić* Judgement, para. 37); Witnesses BB, T(F), p. 17144, closed session; Witness BA, T(F), pp. 7471 and 7472, closed session; 1D 00936, p. 3.

<sup>1485</sup> Decision of 14 March 2006, Adjudicated Fact no. 226 (*Naletilić* Judgement, para. 37); Witness BA, T(F), p. 7172, closed session; P 09712 under seal, paras 24 and 25; Witnesses BB, T(F), pp. 17148 and 17149, closed session; P 09593, p. 3.

<sup>1486</sup> P 09851 under seal.

Moreover, (C) although the Chamber received little information on this subject, the Muslim authorities had also organised themselves.

#### A. Crisis Staff

675. After the elections in October 1990, the Municipal Assembly, with an Executive Council, was established.<sup>1487</sup> The Executive Council, presided over by Ismet Bajrić,<sup>1488</sup> proposed legislative documents to the Municipal Assembly and, when the Assembly voted on them, implemented them under the control of this Assembly.<sup>1489</sup>

676. On 9 April 1992, because of JNA attacks on the south of the town of Mostar, the Municipal Assembly declared a state of war and put in place the Municipal Crisis Staff, which replaced the Municipal Assembly and its Executive Council.<sup>1490</sup>

677. The Crisis Staff was composed of four Croats, three Muslims and two Serbs.<sup>1491</sup> According to the President, *Milivoj Gagro*,<sup>1492</sup> its task was to organise shelter for the population and to ensure supplies of "basic necessities".<sup>1493</sup>

678. In its Final Trial Brief, the Prlić Defence submits that the Crisis Staff was, from its formation, powerless, without any operational defence force<sup>1494</sup> and that this was the reason that the Crisis Staff was disbanded on 15 May 1992.<sup>1495</sup>

679. The Chamber heard two witnesses, *Milivoj Gagro*, President of the Crisis Staff, and *Borislav Puljić*, a member of the Crisis Staff, who testified about this. *Milivoj Gagro* stated that the Crisis Staff worked and met regularly.<sup>1496</sup> *Borislav Puljić* claimed that the Crisis Staff did not serve any purpose and did not have the means to operate.<sup>1497</sup> The Chamber notes that it admitted into evidence decisions issued by the Crisis Staff as well as transcripts of regular meetings that the

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<sup>1487</sup> P 01376, pp. 1 and 2.

<sup>1488</sup> *Milivoj Gagro*, T(F), p. 2854.

<sup>1489</sup> *Milivoj Gagro*, T(F), pp. 2738, 2782 and 2853-2855.

<sup>1490</sup> P 01376, p. 3; P 01619, p. 2; *Milivoj Gagro*, T(F), pp. 2677, 2696-2697, 2864 and T(E), pp. 2698, 2712 and 2713, 2783. The Chamber notes a discrepancy between the testimony of *Milivoj Gagro* (15 February 1992) and Exhibit P 01376 (9 April 1993), with respect to the date on which the Crisis Staff was established. The Chamber chose to take the date mentioned in the document insofar as it was drafted in February 1993 by member of the Mostar Municipal Assembly (*see* *Suad Ćupina*, T(F), pp. 4805-4808 and T(E), p. 4810).

<sup>1491</sup> *Milivoj Gagro*, T(F), p. 2698.

<sup>1492</sup> *Milivoj Gagro*, T(F), p. 2677.

<sup>1493</sup> *Milivoj Gagro*, T(F), p. 2698.

<sup>1494</sup> Prlić Defence Final Trial Brief, paras 120 and 122.

<sup>1495</sup> Prlić Defence Final Trial Brief, paras 122 and 123.

<sup>1496</sup> *Milivoj Gagro*, T(F), p. 2716.

<sup>1497</sup> *Borislav Puljić*, T(F), pp. 32148-32150.

Crisis Staff had with UNPROFOR.<sup>1498</sup> This documentary evidence confirms that the Crisis Staff functioned even though it encountered difficulties.

680. In any case, the Chamber notes that on 15 May 1992, following a decision of the Presidency of the HZ H-B granting executive power to the HVO on the territory of the HZ H-B,<sup>1499</sup> Jadran Topić, President of the Mostar Municipal HVO,<sup>1500</sup> dissolved the Crisis Staff.<sup>1501</sup> The Chamber heard *Milivoj Gagro* state that on that day, when he came to the Crisis Staff building, the door was locked and he was told that he could no longer enter the building.<sup>1502</sup>

681. The Mostar Municipal HVO took charge of creating a new municipal war government in which Milivoj Gagro and Ismet Hadžiosmanović, SDA president, were not re-engaged.<sup>1503</sup>

### **B. Mostar Municipal HVO**

682. On 10 May 1992, Mate Boban, HVO president, and Janko Bobetko, Croatian General acting as HVO Chief of Staff, officially designated Jadran Topić, president of the Mostar Municipal HVO.<sup>1504</sup> They also appointed five other members of the Mostar Municipal HVO and charged them with appointing the remaining members.<sup>1505</sup>

683. Having dissolved the Mostar Crisis Staff on 15 May 1992, Jadran Topić established the various departments of the future HVO municipal government.<sup>1506</sup> It was envisaged that a special purpose council of the Mostar Municipal HVO would be charged with administering the town and citizens of Mostar while awaiting the formation of a government of the Mostar Municipal HVO.<sup>1507</sup> Jadranko Prlić was one of the members of the special purpose council.<sup>1508</sup>

<sup>1498</sup> 1D 01060; 1D 01635; 1D 01903; 1D 01904; 1D 01905; 1D 03050.

<sup>1499</sup> See P 00206.

<sup>1500</sup> Witness U, P 10220 under seal, *Naletilić and Martinović* Case, T(F), p. 2921.

<sup>1501</sup> P 00209; Milivoj Gagro, T(F), p. 2713-2716; Seid Smajkić, T(F), p. 2479 and 2486; P 09545, pp. 16 and 17.

<sup>1502</sup> Milivoj Gagro, T(F), p. 2716.

<sup>1503</sup> Milivoj Gagro, T(F), pp. 2713-2714, 2719 and 2784; P 00209, p. 2.

<sup>1504</sup> P 00199. The existence of a decision dated 10 May 1992 signed by Mate Boban as the HVO president is consistent with the fact that he was officially elected HVO president only on 15 May 1992 by the HZ H-B Presidency.

<sup>1505</sup> P 00199.

<sup>1506</sup> 1D 00543. Moreover, the Chamber notes that Jadran Topić organised each of these departments on 5 June 1992.

See 1D 00551, 1D 00552, 1D 00553, 1D 00554, 1D 00555, 1D 00556.

<sup>1507</sup> P 00209. The Chamber notes that this special purpose council effectively functioned. See 1D 02743; Ilija Kožulj, T (F), pp. 32496 and 32620.

<sup>1508</sup> P 00190, p. 1.

684. A few days later, on 21 May 1992, Jadran Topić effectively set up the government of the Mostar Municipal HVO.<sup>1509</sup> Finally, on 5 June 1992, the Mostar Municipal HVO, presided over by Jadran Topić, adopted Rules of Procedure establishing operating rules.<sup>1510</sup>

685. Through the documentary evidence presented by the parties, the Chamber was able to establish that the Mostar Municipal HVO, presided over by Jadran Topić, was fully operational in 1992 and in 1993, and adopted decisions on various matters.<sup>1511</sup>

686. In order to comply with the HZ H-B legislation, on 5 March 1993, the Mostar Municipal HVO created a regulatory commission charged with harmonising all the documents of the municipal HVO with the HZ H-B legislation.<sup>1512</sup>

687. The Chamber notes that from at least 5 July 1993, Stojan Vrljić replaced Jadran Topić as President of the Mostar Municipal HVO.<sup>1513</sup> However, the Chamber is not able to determine who appointed him to this position.

688. Finally, the Chamber considers that the testimony of witness who came to testify about certain West Mostar institutions under the control of the HVO can prove useful for the understanding of the events in Mostar in 1993 and deems it necessary to discuss this in greater detail at a later point.

689. *Marinko Simunović*<sup>1514</sup> testified about the system of distributing humanitarian aid in West Mostar. This part of town was divided at the beginning of 1992, into local communes in order to facilitate the distribution of humanitarian aid.<sup>1515</sup> Each local commune had a representative of the municipal government, a representative of the Mostar Red Cross and other humanitarian organisations, as well as a representative of the Mostar Welfare Centre.<sup>1516</sup> In order to obtain humanitarian aid, the beneficiaries had to fill out a form at the local commune.<sup>1517</sup> After checking the information, the Mostar Welfare Centre issued family cards allowing humanitarian aid to be

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<sup>1509</sup> P 00221/2D 00024 (documents are identical).

<sup>1510</sup> 1D 00550.

<sup>1511</sup> See for example, 1D 00503; 1D 00544; 1D 00545; 1D 00546; 1D 00549; 1D 00557; 1D 00562; 1D 00564; 1D 00565; 1D 00569; 1D 00568; 1D 00889; 1D 00570; 1D 00594; 1D 00580; 1D 00575; 1D 00576; 1D 00577; 1D 00619; 1D 00437; 1D 00622; 1D 02657; 1D 01328; 1D 00653; 1D 00465; 1D 00728; 1D 00768; Witness CS, T(F), p. 12022, private session.

<sup>1512</sup> 1D 00716.

<sup>1513</sup> P 03181.

<sup>1514</sup> Marinko Simunović was a coordinator and then executive director of the Red Cross in Mostar from June 1992 to April 1998, see Marinko Simunović, T(F), p. 33404.

<sup>1515</sup> Marinko Simunović, T(F), pp. 33497 and 33640.

<sup>1516</sup> Marinko Simunović, T(F), p. 33640.

<sup>1517</sup> Marinko Simunović, T(F), pp. 33460 and 33461.

distributed.<sup>1518</sup> Local communes publicly posted lists of beneficiaries who could claim aid, which was reserved for them.<sup>1519</sup> Humanitarian aid was distributed every day between 8 o'clock and midday.<sup>1520</sup> In addition to this system, on 8 October 1992 the Mostar Municipal HVO established a coordination committee for humanitarian organisations that supplied aid to Mostar.<sup>1521</sup> The coordination committee was made up of a representative from each humanitarian organisation registered with the municipality.<sup>1522</sup>

690. For his part, *Ante Kvešić*<sup>1523</sup> testified about the setting up of the West Mostar war hospital. Thus, on 21 May 1992, the Mostar Municipal HVO renamed the West Mostar hospital, "Mostar war hospital".<sup>1524</sup> This hospital was renamed again as the Mostar regional war hospital on 29 September 1992<sup>1525</sup> and Ante Kvešić was appointed its commander.<sup>1526</sup> It was attached to the health sector of the Department of Defence.<sup>1527</sup> The hospital had 385 employees<sup>1528</sup> and treated both wounded civilians and soldiers.<sup>1529</sup> On 20 January 1994, the hospital officially became a civilian hospital again and was renamed the Mostar clinical hospital by the HR H-B authorities.<sup>1530</sup>

691. Finally, *Pero Nikolić*<sup>1531</sup> explained how the Mostar civilian prison operated. It had a capacity to hold 200 detainees<sup>1532</sup> and was located in the town of Mostar, in Aleksa Šantić Street (formerly, Ričina Street).<sup>1533</sup> During the conflict between the Serbian forces and the joint Croatian and Muslims forces, the Mostar prison was used to detain both ordinary prisoners and captured Serbian soldiers.<sup>1534</sup> The prison became overcrowded in the summer of 1992.<sup>1535</sup> Also, in autumn 1992, the prison stopped taking in detainees and most of the soldiers detained there were transferred

<sup>1518</sup> Marinko Simunović, T(F), pp. 33461 and 33462.

<sup>1519</sup> Marinko Simunović, T(F), pp. 33460 and 33461.

<sup>1520</sup> 1D 00585.

<sup>1521</sup> Marinko Simunović, T(F), p. 33462; T(E), p. 33462; 1D 01328.

<sup>1522</sup> Marinko Simunović, T(F), p. 33572 ; T(E), p. 33462; 1D 01328, p. 1, article I, second paragraph.

<sup>1523</sup> *Ante Kvešić* was the Commander of the regional wartime hospital in Mostar from 29 September 1992 to 20 January 1994. See Ante Kvešić, T(F), pp. 37391 and 37392.

<sup>1524</sup> Ante Kvešić, T(F), pp. 37394 and 37398; 1D 00544.

<sup>1525</sup> Ante Kvešić, T(F), p. 37394.

<sup>1526</sup> Ante Kvešić, T(F), p. 37391.

<sup>1527</sup> Ante Kvešić, T(F), pp. 37391 and 37392.

<sup>1528</sup> Ante Kvešić, T(F), p. 37397.

<sup>1529</sup> Ante Kvešić, T(F), pp. 37391 and 37392.

<sup>1530</sup> Ante Kvešić, T(F), pp. 37391 and 37392.

<sup>1531</sup> Pero Nikolić was the warden of the Mostar district prison from 1 May 1992. See 5D 05111, para. 3; Pero Nikolić, T(F), p. 51393.

<sup>1532</sup> 5D 05111, para. 4; Pero Nikolić, T(F), p. 51393.

<sup>1533</sup> 5D 05111, para. 4; Pero Nikolić, T(F), p. 51393.

<sup>1534</sup> 5D 05111, para. 6; Pero Nikolić, T(F), pp. 51393 and 51394.

<sup>1535</sup> Pero Nikolić, T(F), pp. 51393, 51395 and 51396.



to the Heliodrom.<sup>1536</sup> According to evidence received by the Chamber, the Mostar prison ceased to operate in June 1993 because it was too close to the front.<sup>1537</sup>

### C. Political Organisation of the Muslims in Mostar

692. The Chamber has little evidence relating to the existence and organisation of the Muslim political authorities in Mostar. However, it did receive some evidence indicating that the Muslims in East Mostar had organised themselves into a "War Presidency",<sup>1538</sup> which operated in 1993 and had meetings and exchanges with the ECMM and UNPROFOR, in particular with respect to ceasefire agreements, exchanges of prisoners and humanitarian aid.<sup>1539</sup> Various reports from these two international organisations show that in 1993, Smail Klarić was the President of the Mostar War Presidency<sup>1540</sup> and that Alija Alikadić was a member.<sup>1541</sup> On 30 March 1994, Safet Oručević replaced Smail Klarić as President of the Mostar War Presidency and Smail Klarić became President of the Presidency of the Mostar district.<sup>1542</sup> Moreover, other evidence mentions Zijad Demirović as President of the Mostar regional section of the SDA from the beginning of 1993<sup>1543</sup> and Ismet Hadžiosmanović as the SDA representative for the town of Mostar.<sup>1544</sup>

693. Finally, the Chamber notes that, according to *Philip Watkins*,<sup>1545</sup> the BiH Muslims did not have the same administrative structure as the HR H-B.<sup>1546</sup> Thus, around November 1993, the county of Mostar was formed by the Muslim authorities and Rusmir Cisić was the President.<sup>1547</sup> It had authority over the municipalities of Mostar, Stolac, Čapljina, Jablanica and Konjic.<sup>1548</sup>

## II. Military Structure

694. Faced with attacks by Serbian forces in the spring of 1992, (A) a defence system for the town of Mostar (the TO of Mostar), combining Croats and Muslims, was rapidly set up. (B) In

<sup>1536</sup> Pero Nikolić, T(F), pp. 51395 and 51396.

<sup>1537</sup> P 02925, p. 1; 1D 01976; Zoran Buntić, T(F), p. 30997.

<sup>1538</sup> See in particular P 01376, p. 4.

<sup>1539</sup> P 08019; P 05035, p. 5; P 05662, pp. 2 and 3; p. 06875.

<sup>1540</sup> Philip Watkins, T(F), p. 18897; Witness BD, T(F), p. 20724; P 08019, p. 1; P 03544; P 07929; P 07904.

<sup>1541</sup> Witness BD, T(F), p. 20695, closed session; P 05035, p. 5; P 05662, pp. 2 and 3; P 06875; P 08019, p. 1; 1D 01531.

<sup>1542</sup> 1D 01531. Before this, it seems that Safet Oručević was mayor of East Mostar. See Amor Mašović, T(F), pp 25056 and 25057; Slobodan Praljak, T(F), p. 40671.

<sup>1543</sup> Seid Smajkić, T(F), p. 2523; Marinko Simunović, T(F), p. 33467; Spomenka Drljević, T(F), p. 1028; P 01167; 1D 02572.

<sup>1544</sup> P 01167; Fahrudin Rizvanbegović, T(F), pp. 2303 and 2308.

<sup>1545</sup> Philip Watkins was an ECMM observer in Mostar between October 1993 and January 1994. See Philip Watkins, T(F), p.18749.

<sup>1546</sup> Philip Watkins, T(F), pp. 18870-18872.

<sup>1547</sup> Philip Watkins, T(F), pp. 18869-18872; P 06590 under seal, p. 1.

<sup>1548</sup> Philip Watkins, T(F), pp. 18869-18872; P 06590 under seal, p. 1.

1992, HVO armed forces were also developed, (C) as well as Muslim forces which would later become the ABiH. Moreover, the Chamber notes the presence of HV troops alongside the HVO in the Municipality of Mostar from May 1993 to March 1994<sup>1549</sup> and, in particular, the 5<sup>th</sup> HV Guards Brigade,<sup>1550</sup> the 2<sup>nd</sup> HV Brigade<sup>1551</sup> and the 8<sup>th</sup> Light Assault Brigade, stationed in Buna.<sup>1552</sup>

#### A. Formation of the Mostar TO

695. Responding to the threat from Serbian forces, the TO in Mostar was set up by late March 1992, with defence groups made up of Croats and Muslims.<sup>1553</sup> On 12 April 1992, following a decision of the BiH government issued on 9 April 1992 to muster all the armed forces,<sup>1554</sup> the Mostar Crisis Staff took a decision authorising Commander Šemsudin Hasić to restructure the Mostar TO.<sup>1555</sup>

696. In parallel to the TO system in Mostar, an independent Mostar battalion was created on 4 April 1992.<sup>1556</sup> It was made up of Muslims and Croats.<sup>1557</sup> The independent battalion was under the command of Suad Ćupina<sup>1558</sup> until May 1992, when he was succeeded by Arif Pašalić.<sup>1559</sup> Mobilisation of the battalion took place at the Vranica building.<sup>1560</sup> It cooperated closely with the HVO in the defence of Mostar<sup>1561</sup> and benefited from supplies of rations and military equipment from the HVO.<sup>1562</sup>

697. In light of the considerable evidence, the Chamber finds that in July 1992, this battalion, under the command of Arif Pašalić, joined the ABiH and became the 1<sup>st</sup> Mostar Brigade.<sup>1563</sup>

<sup>1549</sup> See "Evidence Regarding the Direct Intervention by the HV Troops alongside the HVO in the Conflict with the ABiH" in the Chamber's analysis of the general requirements for the application of Articles 2, 3 and 5.

<sup>1550</sup> P 06037; P 03466; P 07559.

<sup>1551</sup> 2D 00934.

<sup>1552</sup> P 07884.

<sup>1553</sup> Decision of 7 September 2006, Adjudicated Fact no. 74 (*Naletilić* Judgement, paras 17 and 18); Witness U, P 10220 under seal, *Naletilić and Martinović* Case, T(F), pp. 2917 and 2918; Seid Smajkić, T(F), 2485, 2486, 2497 and 2498; Vinko Marić, T(F), pp. 48091-48094 and 48096-48100; for the ethnic make-up of the mixed artillery battalion, see in particular: 4D 02020; 4D 02021; 4D 02022; P 10032, para. 5; p 10033, para. 4.

<sup>1554</sup> Milivoj Gagro, T(F), p. 2786.

<sup>1555</sup> Milivoj Gagro, T(F), pp. 2786, 2787, 2795, 2797 and 2846; 1D 00494; 3D 02229.

<sup>1556</sup> Suad Ćupina, T(F), pp. 4893 and 4894; ID 00527, para. 8; 3D 02229.

<sup>1557</sup> 3D 03705 under seal, pp. 9 and 10.

<sup>1558</sup> 5D 01104; 5D 01105; 2D 00068.

<sup>1559</sup> Alija Lizde, T(F), pp. 17912 and 17913; 5D 01106; 3D 00001; 5D 01107; 3D 02229; 2D 00522; 3D 00004.

<sup>1560</sup> 3D 03705 under seal, pp. 9 and 10.

<sup>1561</sup> Alija Lizde, T(F), pp. 17887 and 17888; Suad Ćupina, T(F), pp. 4918 and 4926; 5D 01110; 5D 01105; 3D 01768; 3D 02229; 3D 00003; 2D 00522.

<sup>1562</sup> Suad Ćupina, T(F), p. 4918; 5D 01110; 2D 00068; 3D 01768; 2D 00522; Tihomir Majić, T(F), pp. 37851, 37852, 37859 and 37860.

<sup>1563</sup> Suad Ćupina, T(F), p. 4896; 2D 01420; 5D 01104; 3D 00218; 3D 00208; 3D 00005; 3D 00211; 3D 00024; 5D 01069; 3D 00666.

Moreover, the Chamber finds that this 1<sup>st</sup> Mostar Brigade continued to cooperate very closely with the HVO during military operations against the Serbian armed forces in the second half of 1992.<sup>1564</sup>

### **B. HVO Armed Forces**

698. On 29 April 1992, the Crisis Staff took the decision to muster all the available military forces, calling in particular on the HVO - the only available armed force<sup>1565</sup> – in order to respond to the attack by the Serbian armed forces.<sup>1566</sup>

699. On 11 July 1992, Jadran Topić, President of the Mostar Municipal HVO, called a general mobilisation and ordered all men between the ages of 18 and 60 and all women between the ages of 18 and 50 to come to the National Defence office – an organ of the Department of Defence of the HVO of the HZ H-B.<sup>1567</sup>

700. Moreover, the Chamber received the testimony of several witnesses according to whom, before May 1993, the Mostar HVO accepted both Muslims and Croats.<sup>1568</sup> The written statement of *Witness 3DB* shows that Muslims preferred joining the HVO armed forces because they received payment.<sup>1569</sup>

701. From 5 October 1992, the Mostar Municipal Staff was transformed into the "Command of Mostar Sector" by order of Bruno Stojić.<sup>1570</sup> HVO units in Mostar were therefore placed under the command of the Main Staff.<sup>1571</sup>

702. On 25 February 1993, the municipal HVO, presided over by Jadran Topić, decided to form a *Domobrani* unit in Mostar.<sup>1572</sup> The task of this unit was to guard important infrastructure.<sup>1573</sup>

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<sup>1564</sup> 5D 01106; 5D 01107; P 00485; 4D 01404; 2D 00523/3D 00208 (identical documents); 3D 00211; 2D 00524; 3D 00250.

<sup>1565</sup> Milivoj Gagro, T(F), pp 2796, 2809, 2823 and 2824; Vinko Marić, T(F), pp. 48095, 48096 and 48227.

<sup>1566</sup> P 00180; Milivoj Gagro, T(F), pp. 2703, 2704 and 2809; Seid Smajkić, T(F), p. 2482; Vinko Marić, T(F), pp. 48093-48095.

<sup>1567</sup> 1D 00591.

<sup>1568</sup> Milivoj Gagro, T(F), p. 2827; Seid Smajkić, T(F), p. 2587; Marinko Simunović, T(F), pp. 33530 and 33531; Miro Salčin, T(F), p. 14311; Vinko Marić, T(F), p. 48094; Witness U, P 10220 under seal, *Naletilić and Martinović* Case, T(F), p. 2922; 3D 03705 under seal, pp. 9 and 10; Witness AC, P 10222 under seal, *Naletilić and Martinović* Case, T(F), pp. 7894 and 7898; P 05602; P 10035, para. 16; 3D 01737.

<sup>1569</sup> 3D 03705 under seal, pp. 9 et 10; Miro Salčin, T(F), p. 14315.

<sup>1570</sup> Bruno Pinjuh, T(F), pp. 37331-37335; P 00517, p. 1.

<sup>1571</sup> Bruno Pinjuh, T(F), pp. 37331-37335; P 00517, pp. 1 and 2.

<sup>1572</sup> P 01441; P 01550.

<sup>1573</sup> P 01550.

According to this decision of the Mostar Municipal HVO, the unit continued however to operate under the command of the South-East OZ.<sup>1574</sup>

703. On 2 July 1993, following an order by Milivoj Petković,<sup>1575</sup> Miljenko Lasić, Commander of the South-East OZ, divided the defence zone of the town of Mostar into three sectors and appointed Zlatan Mijo Jelić as commander of the sector that included the town of Mostar.<sup>1576</sup> The Chamber finds that on the same day, Bruno Stojić ordered all the HZ H-B MUP military units in Mostar to be resubordinated and placed under Zlatan Mijo Jelić.<sup>1577</sup>

704. In his order of 6 August 1993, Žarko Tole, the then Chief of Staff of the HVO, appointed Zlatan Mijo Jelić commander of the defence of the town of Mostar.<sup>1578</sup> From that moment on, all the HVO units in Mostar came under the command of Zlatan Mijo Jelić.<sup>1579</sup> Moreover, in this order, Žarko Tole specified that the Main Staff would take over command of the defence of Mostar.<sup>1580</sup>

705. On 3 September 1993, following an order from Slobodan Praljak, Commander of the HVO Main Staff, Miljenko Lasić, Commander of the South-East OZ, reorganised the OZ into three sectors of responsibility: Sector North, Sector Mostar Defence and Sector South.<sup>1581</sup> Miljenko Lasić then appointed Ivan Primorac Commander of Sector North, Zlatan Mijo Jelić, Commander of Sector Mostar Defence and Neđeljko Obradović, Commander of Sector South.<sup>1582</sup>

706. According to the testimony of witnesses heard and received by the Chamber and the documentary evidence analysed by the Chamber, there were several HVO units in Mostar between 1992 and 1994. Units of the 3<sup>rd</sup> Brigade were mentioned,<sup>1583</sup> including the 1<sup>st</sup> Battalion,<sup>1584</sup> the 4<sup>th</sup> Battalion, called *Tihomir Mišić*,<sup>1585</sup> and the 9<sup>th</sup> Battalion (which would become the 2<sup>nd</sup> Battalion of the 3<sup>rd</sup> Brigade around August 1993<sup>1586</sup>).<sup>1587</sup> The 2<sup>nd</sup> HVO Brigade was also based in Mostar at least

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<sup>1574</sup> P 01550, Article III.

<sup>1575</sup> P 03128. In this regard, Milivoj Petković divided the South-East OZ into three zones, including the defence zone of the town of Mostar.

<sup>1576</sup> P 03117; Witness NO, T(F), pp. 51179-51180 and 51210-51211, closed session; 5D 05110 under seal, para. 7.

<sup>1577</sup> P 03124; P 03123.

<sup>1578</sup> P 03983; Witness NO, T(F), p. 51182, closed session; 5D 05110 under seal, para. 8; Slobodan Praljak, T(F), p. 42530.

<sup>1579</sup> 5D 05110 under seal, para. 8.

<sup>1580</sup> P 03983, item 5.

<sup>1581</sup> P 04719; 5D 05110 under seal, para. 9; P 04774 ; Witness NO, T(F), p. 51183, closed session; 3D 02421.

<sup>1582</sup> P 04774.

<sup>1583</sup> P 04594.

<sup>1584</sup> 3D 02421; P 04749; P 07210.

<sup>1585</sup> P 07234, p. 6; P 07559, p. 1; Witness AC, P 10222 under seal, *Naletilić and Martinović* Case, T(F), pp. 7898 and 7998 ; P 09805 under seal, p. 4; P 06721, p. 1.

<sup>1586</sup> P 04594, p. 2.

<sup>1587</sup> P 03260, p. 3; P 04594.

from July 1993.<sup>1588</sup> Numerous witnesses also mentioned that the KB, led by Mladen Naletilić, aka "Tuta",<sup>1589</sup> and his *Benko Penavić* ATG, *Vinko Škrobo* ATG (formerly *Mrmak*<sup>1590</sup>), and professional units, in particular the *Ludvig Pavlović* PPN and the *Bruno Bušić* Regiment and Juka Prazina's unit were present all through 1993.<sup>1591</sup> It was also mentioned that certain Military Police units were present: some units from the 1<sup>st</sup> Battalion of the Military Police;<sup>1592</sup> from the 1<sup>st</sup> Light Assault Battalion of the Military Police;<sup>1593</sup> from the 2<sup>nd</sup> Light Assault Battalion of the Military Police;<sup>1594</sup> from the 3<sup>rd</sup> Battalion of the Military Police;<sup>1595</sup> and from the 5<sup>th</sup> Battalion of the Military Police.<sup>1596</sup>

707. Moreover, several witnesses specified where the headquarters of some units were located. Thus the Department for Criminal Investigations of the Military Police of the HVO was located on the 1<sup>st</sup> floor of the Mechanical Engineering Faculty in Mostar.<sup>1597</sup> The KB was based in Široki Brijeg<sup>1598</sup> and the Juka Prazina unit had its headquarters near the University of Mostar.<sup>1599</sup> Finally, from at least September 1993 the *Vinko Škrobo* ATG (formerly, *Mrmak*) was based in a garage in Kalemova Street, West Mostar.<sup>1600</sup>

### C. ABiH Forces

708. Because Serbian and Montenegrin troops had arrived in Mostar, the Patriotic League was created on 19 September 1991 as an armed branch of the SDA.<sup>1601</sup> Its task was, in particular, to arm the population so that it could defend the BiH territory against the Serbian aggression.<sup>1602</sup>

<sup>1588</sup> P 03128; P 03260, p. 1; P 04749; 3D 02421; P 06721, p. 2; P 07210; P 07433, p. 5; P 07559, p. 1.

<sup>1589</sup> P 10229, p. 25; *see* 3D 02421, diagram p. 3.

<sup>1590</sup> Witness U, P 10220 under seal, *Naletilić and Martinović* Case, T(F), p. 2973, private session.

<sup>1591</sup> Decision of 7 September 2006, Adjudicated Fact no. 145 (*Naletilić* Judgement, paras 113 and 114); Witness DV, T(E), p. 22901; Witness 4D-AB, T(F), p. 47299; Witness AC, P 10222 under seal, *Naletilić and Martinović* Case, T(F), pp. 7905-7907, 7937, 7975 and 7976; P 09805 under seal, pp. 7 and 8; P 09833 under seal, p. 3; P 07433, p. 5; 4D 00433; 4D 01034; P 03260, p. 4; P 04749, p. 2; 3D 02421; P 06721; P 07210; P 07234, p. 6; P 07559, p. 1.

<sup>1592</sup> Milivoj Petković, T(F), pp. 50324 and 50325; Witness NO, T(F), pp. 51181 and 51182, closed session; 5D 05110 under seal, para. 7; P 06721.

<sup>1593</sup> P 07210; P 05471.

<sup>1594</sup> Witness NO, T(F), pp. 51181 and 51182, closed session; 5D 05110 under seal, para. 7; Zdenko Andabak, T(F), pp. 50996-50998; P 04010; P 05471.

<sup>1595</sup> Marijan Biškić, T(F), p. 15059; P 07018, p. 2; P 09117, p. 2.

<sup>1596</sup> P 06721, p. 2; P 07210; Witness NO, T(F), pp. 51181 and 51182, closed session; 5D 05110 under seal, para. 7.

<sup>1597</sup> Zvonko Vidović, T(F), pp. 51489, 51618 and 51619; IC 01230; P 09117, p. 5.

<sup>1598</sup> P 10229, p. 6; para. 25.

<sup>1599</sup> P 09805 under seal, p. 10.

<sup>1600</sup> P 10037, p. 4; paras 15 and 16.

<sup>1601</sup> Suad Ćupina, T(F), p. 4910; ID 01636, p. 1.

<sup>1602</sup> Suad Ćupina, T(F), pp. 4892, 4893 and 4910.

709. On 17 November 1992, the 4<sup>th</sup> Corps of the ABiH was formed and was comprised of five brigades, three battalions and a special unit.<sup>1603</sup> The commander of the corps was Arif Pašalić<sup>1604</sup> and his headquarters at the start of 1993 were located in the Vranica building in Mostar.<sup>1605</sup>

710. According to the evidence, a number of ABiH units were present in Mostar in 1993. The forces of the 4<sup>th</sup> Corps numbered around 4,000 men divided into the 41<sup>st</sup> Motorised Brigade, the 42<sup>nd</sup> Motorised Brigade, the 47<sup>th</sup> Brigade and the 48<sup>th</sup> Brigade.<sup>1606</sup> The Chamber has also taken note of the statement of *Miro Salčin* who was the commander of a company of 120 men in 1993 which operated in the zone of Donja Mahala, from Bulevar to Čekrk, on a line 3 km long.<sup>1607</sup> During the same period, he was the deputy commander of the 2<sup>nd</sup> Battalion of the 441<sup>st</sup> Motorised Brigade which was in the Old Bridge sector up to Čekrk.<sup>1608</sup>

### Section 3: Events Leading to the Conflict of 9 May 1993 between Croats and Muslims

711. From September 1991 to June 1992, numerous battles between the Serbian armed forces and the Croatian and Muslim joint forces took place in the municipality of Mostar, (I) causing considerable damage, in particular to the town of Mostar.

712. In parallel to this conflict, evidence analysed by the Chamber shows that (II) the HVO gradually took control and tried to "Croatise" the municipality, (III) thus causing increasing tensions between the Croats and the Muslims, which culminated on the eve of 9 May 1993.

<sup>1603</sup> P 01186, Suad Čupina, T(F), p. 4896.

<sup>1604</sup> P 01186.

<sup>1605</sup> Raymond Lane, T(F), p. 23885; Grant Finlayson, T(F), p. 18132; Witness A, T(F), p. 14009, closed session; Witness CB, T(F), pp. 10245-10247; IC 00087; 3D 00370; 2D 00289; P 10034 under seal, para. 2; Witness 1D-AA, 1D 02935 under seal, *Naletilić and Martinović* Case, T(F), pp. 9074, 9179 and 9180; 3D 03205 under seal, p. 5; Ibrahim Šarić, T(F), pp. 5071, 5072 and 5074; P 09413, p. 4. According to Ibrahim Šarić, the decision to station the 4<sup>th</sup> Corps of the ABiH in the Vranica building resulted from a political agreement with the HVO, a "joint action against the Serb enemy" (Ibrahim Šarić, T(F), p. 5134). A joint agreement between the ABiH and the HVO of 21 April 1993 envisaged the relocation of ABiH troops to Konak and to the South detention camp within 48 hours of the agreement being signed (3D 00016). However, according to Ibrahim Šarić, despite the agreement, Vranica building was not abandoned by the ABiH (Ibrahim Šarić, T(F), pp. 5137 and 5138). See also Decision of 7 September 2006, Adjudicated Fact no. 93 (*Naletilić* Judgement, para. 39).

<sup>1606</sup> P 07559, p. 9.

<sup>1607</sup> P 09834, paras 7 and 8; Miro Salčin, T(F), pp. 14171, 14172 and 14179.

<sup>1608</sup> Miro Salčin, T(F), pp. 14171 and 14172.

## I. Fighting between Serbian Armed Forces and the Joint Croatian and Muslim Forces

713. On 19 September 1991, the Serbian armed forces entered the Municipality of Mostar and deployed around the Heliodrom and the North Camp – also called the *Tihomir Mišić* barracks - and in the upper parts of the town of Mostar on the right bank of the river Neretva in the direction of Čitluk and Široki Brijeg.<sup>1609</sup> In mid-March 1992, the Serbian armed forces finally entered the town of Mostar.<sup>1610</sup>

714. After the Serbian armed forces shelled the town of Mostar<sup>1611</sup> and occupied the surrounding area,<sup>1612</sup> the Croats and Muslims of BiH organised a joint defence<sup>1613</sup> and their armed forces carried out a joint operation in June 1992<sup>1614</sup> against Serbian armed forces, which then withdrew from the town of Mostar.<sup>1615</sup> The Serbian armed forces took up positions on elevations around the town of Mostar<sup>1616</sup> but the fighting continued.<sup>1617</sup>

715. The Chamber received the testimony of several witnesses who reported destruction in the town of Mostar caused by the Serbian armed forces shelling the town, before the start of the conflict between the Croats and Muslims of Bosnia.<sup>1618</sup> Several bridges were destroyed,<sup>1619</sup> with the exception of the Old Bridge, which was, however, damaged.<sup>1620</sup>

<sup>1609</sup> Milivoj Gagro, T(F), pp. 2695, 2696 and 2746; Seid Smajkić, T(F), pp. 2476 and 2477.

<sup>1610</sup> Witness CS, T(F), p. 12087, private session; Decision of 7 September 2006, Adjudicated Fact no. 74 (*Naletilić* Judgement, paras 17 and 18).

<sup>1611</sup> Milivoj Gagro, T(F), pp. 2822 and 2823; 5D 01091. See also 4D 01671, p 2.

<sup>1612</sup> Milivoj Gagro, T(F), pp. 2695 and 2696; Alija Lizde, T(F), p. 17901.

<sup>1613</sup> See "Formation of the Mostar TO" in the Chamber's factual findings with regard to the Municipality of Mostar.

<sup>1614</sup> Alija Lizde, T(F), pp. 17902, 17906 and 17907; Seid Smajkić, T(F), pp. 2478 and 2497; P 00180.

<sup>1615</sup> Alija Lizde, T(F), pp. 17902-17906; Milivoj Gagro, T(F), pp. 2725, 2808 and 2809; Mustafa Hadrović, T(F), pp. 14554 and 14560; Witness CS, T(F), p. 12018; Slobodan Praljak, T(F), pp. 44559 and 44560; Location marked as number 1 on the map filed under number 3D 03724, p. 3; 3D 00331, para. 460.

<sup>1616</sup> Mustafa Hadrović, T(F), pp. 14554 and 14560; Witness U, P 10220 under seal, *Naletilić and Martinović* Case, T(F), p. 2914.

<sup>1617</sup> Zvonko Vidović, T(F), pp. 51551-51553; Raymond Lane, T(F), pp. 23646 and 23813; 2D 03070; P 00638; 2D 03071; 2D 03072; 2D 03073; P 01879, pp. 4 and 5; Milivoj Petković, T(F), pp. 50149-50156, 50158-50160 and 50162-50165; IC 01192; IC 01191; IC 01193; 3D 00992; 3D 00994; 3D 00919.

<sup>1618</sup> Witness BJ, T(F), pp. 5730 and 5731; Grant Finlayson, T(F), p. 18103, private session, and 18223; 2D 00451 under seal, p. 1; Ratko Pejanović, T(F), pp. 1275 and 1276; Marita Vihervuori, T(F), pp. 21572-21574; Raymond Lane, T(F), p. 23897; 3D 01096, pp. 2 and 3; Veso Vegar, T(F), pp. 37017-37019; 3D 00785, pp. 30-32.

<sup>1619</sup> Milivoj Gagro, T(F), p. 2748; Witness BJ, T(F), pp. 5730 and 5731; Slobodan Praljak, T(F), pp. 40428 and 40429; Ratko Pejanović, T(F), pp. 1285, 1286, 1288, 1290 and 1441; 3D 00785, p. 30.

<sup>1620</sup> Milivoj Gagro, T(F), pp. 2752-2754 and 2764; Slobodan Praljak, T(F), p. 44557; Location marked as number 4 on the map filed under the number 3D 03724, p. 1; 3D 00785, p. 30.

## II. Taking Over Political Control and "Croatisation" of the Municipality by the HVO

716. The Prosecution alleges in paragraph 90 of the Indictment that in 1992 the Herceg-Bosna/HVO authorities engaged in a campaign to control and "Croatise" Mostar Municipality (including Mostar town), with increasing persecution and discrimination of the municipality's Bosnian Muslim population. It adds that by mid-1992 and continuing into 1993, Bosnian Muslims, with few exceptions, were removed from positions in the municipal and local governments and that aid in food was distributed to the disadvantage of the Muslims who were increasingly harassed.

717. Finally, according to paragraph 93 of the Indictment, on 15 April 1993, the Mostar Municipal HVO adopted a "Decision on the Statutory Rights of Refugees and Expelled and Displaced Persons in Mostar Municipality", which redefined the criteria for determining "refugee" status, the effect of which deprived 18,000 Muslim refugees of humanitarian aid.

718. In its Final Trial Brief, the Prosecution maintains that during 1992, the HVO<sup>1621</sup> seized power in Mostar, which "was claimed to be the capital of Herceg-Bosna", and that it took numerous decisions in areas as diverse as the management of refugees, the economy, currency and language.<sup>1622</sup>

719. The Chamber finds that after the appointment of Jadran Topić as President of the Mostar Municipal HVO in May 1992,<sup>1623</sup> the municipal HVO progressively took control of the Municipality of Mostar.<sup>1624</sup> The municipal HVO was made up of 13 members, including four Muslims.<sup>1625</sup> However, according to *Ratko Pejanović*,<sup>1626</sup> all the high-ranking officials elected to the municipal services who did not share the views of the HDZ, including those who were Croats,<sup>1627</sup> were gradually replaced.<sup>1628</sup> According to one of the Muslim members of the municipal HVO, on 2 August 1992, the four Muslim members of the Mostar Municipal HVO resigned, mainly

<sup>1621</sup> The Prosecution did not specify whether it meant by this the municipal HVO or the HVO of the HZ HB, or both.

<sup>1622</sup> Prosecution Final Trial Brief, paras 344 and 345.

<sup>1623</sup> See "Mostar Municipal HVO" in the Chamber's factual findings with regard to the Municipality of Mostar.

<sup>1624</sup> Ratko Pejanović, T(F), p. 1237; Seid Smajkić, T(F), pp. 2478-2482, 2486; Witness WW, P 10024 under seal, *Naletilić and Martinović* Case, T(F), pp. 7012 and 7013; P 09833 under seal, p. 2; Witness CS, T(F), p. 12031; P 01619, pp. 7 and 8; P 10035, para. 3.

<sup>1625</sup> The persons in question were Mumin Isić, Senad Kazazić, Sead Maslo and Hamdija Jahić. See P 08644, p. 1; Milivoj Gagro, T(F), pp. 2718-2723; Seid Smajkić, T(F), pp. 2599-2601.

<sup>1626</sup> Ratko Pejanović was the commander of a fire brigade unit and of the Mostar Civilian Protection. See Ratko Pejanović, T(F), pp. 1229 and 1230.

<sup>1627</sup> Ratko Pejanović, T(F), pp. 1240 and 1241.

<sup>1628</sup> Ratko Pejanović, T(F), pp. 1236, 1240 and 1241; Seid Smajkić, T(F), pp. 2999 and 3000.



because of the attitude of Jadran Topić who took decisions without cooperating with other members and because of the gradual "Croatisation" of civilian life.<sup>1629</sup>

720. The Chamber also notes that from May 1992, the municipal HVO set up checkpoints around the town of Mostar;<sup>1630</sup> that it introduced a curfew and system of permits – permits that were issued in particular by Bruno Stojić – granting freedom of movement around the town of Mostar and permission to leave town,<sup>1631</sup> thus limiting the freedom of movement of the population. Moreover, the HZ H-B flag flew above public buildings in the town of Mostar, such as the police, the schools and courts.<sup>1632</sup>

721. Moreover, and attesting to the gradual taking over and the "Croatisation" of the municipality, the Mostar Municipal HVO was involved in various areas of civilian life in the municipality. On 24 July 1992, the municipal HVO introduced the Croatian dinar as the currency in use in the territory of the municipality.<sup>1633</sup>

722. In November 1992, the municipal HVO also renamed many streets and schools, as well as the university of Mostar.<sup>1634</sup> However, the Chamber observes, as does the Prlić Defence,<sup>1635</sup> that the municipal HVO created a commission charged with renaming the streets and that this commission also had in it Muslims, including its Vice-President Ismet Hadžiosmanović.<sup>1636</sup> Moreover, the Chamber notes that the aim was to remove names with ideological or Yugoslav connotations.<sup>1637</sup> With respect to schools, the Chamber notes, as does the Stojić Defence,<sup>1638</sup> that none of the names given to primary schools in the municipality had any connotations, since they were given a number or were named after the village in which they were located.<sup>1639</sup> Finally, as pointed out by the Stojić

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<sup>1629</sup> P 08644.

<sup>1630</sup> Seid Smajkić, T(F), p. 2510.

<sup>1631</sup> Ilija Kožulj, T(F), pp. 32517, 32518, 32532 and 32533; 1D 02716; 1D 02396; Witness U, P 10220 under seal, *Naletilić and Martinović* Case, T(F), pp. 2919 and 2920; Seid Smajkić, T(F), p. 2494; P 01619, p. 7. For the curfew, *see* 1D 00648; 1D 00656; 1D 00712; 1D 00718; 1D 00719. However, the Chamber notes an exception to the curfew was made for Ramadan, *see* 2D 00665. For permits, *see* P 01313.

<sup>1632</sup> Seid Smajkić, T(F), pp. 2498 and 2499.

<sup>1633</sup> P 00281; *see also* 1D 00636; 1D 00637; 1D 00638; 1D 00640.

<sup>1634</sup> P 00714; 1D 00662; 1D 00612/1D 00438 (identical documents); 1D 00462; P 08538; Fahrudin Rizvanbegović, T(F), p. 2186; Seid Smajkić, T(F), pp. 2564, 2565, 2900-2905 and 3005-3016; Miroslav Palameta, T(F), pp. 32770, 32779, 32780 and 32804-32811; P 09805 under seal, p. 2.

<sup>1635</sup> Closing Arguments by the Prlić Defence, T(F), pp. 52269-52271.

<sup>1636</sup> 1D 00440; 1D 00662; Miroslav Palameta, T(F), p. 32820; Seid Smajkić, T(F), pp. 2564, 2565 and 2901; P 08538.

<sup>1637</sup> 1D 00439; 1D 00662, Article 2.

<sup>1638</sup> Stojić Defence Final Trial Brief, para. 77.

<sup>1639</sup> *See* 1D 00612/1D 00438 (identical documents).

Defence,<sup>1640</sup> the Chamber notes that the *Džemal Bijedić* University of Mostar was simply renamed University of Mostar.<sup>1641</sup>

723. The Chamber observes that the Mostar Municipal HVO was also involved in the economic life of the municipality from the second half of 1992. However, on the basis of various pieces of evidence, the Chamber notes that the public companies, managed by the municipal HVO, recruited and dismissed both Muslims and Croats,<sup>1642</sup> and that some public companies were even under the control of the ABiH.<sup>1643</sup>

724. With respect to public services, the municipal HVO reorganised several municipal services. In 1992, it reorganised the West Mostar Hospital into a war hospital.<sup>1644</sup> The Chamber observes that the hospital staff were both Muslims and Croats,<sup>1645</sup> even though the number of Muslim employees fell dramatically between September 1992 and July 1993.<sup>1646</sup> Two witnesses gave contradictory explanations for this fall in numbers. *Ante Kvešić* attributed the fall to the conflict between the Croats and Muslims and to the exodus that followed.<sup>1647</sup> For his part, *Seid Smajkić* stated that for members of medical staff to keep their positions in a hospital under the control of the HVO, they had to swear allegiance to the HZ H-B.<sup>1648</sup> The Chamber considers both explanations to be credible and is not able to favour one over the other. Finally, the Chamber notes that patients admitted to the hospital were taken in and treated regardless of their ethnic origin.<sup>1649</sup>

725. The municipal HVO also reorganised the Civilian Protection in Mostar.<sup>1650</sup> In June 1992, the voluntary fire brigade in Mostar was integrated into the Civilian Protection.<sup>1651</sup> According to

<sup>1640</sup> Stojić Defence Final Trial Brief, para. 76.

<sup>1641</sup> P 00714, Articles 2 and 3.

<sup>1642</sup> Thus, in Mostar on 23 November 1992, the HVO appointed a Muslim as director of the *Instalater* factory (1D 00447) and another to the position of temporary director of the *Hamo Čerkić* company (1D 00448). On 1 December 1992, a Muslim was appointed director of the *Montproject* factory (Witness CS, T(F), p. 12111; 1D 00458). On 26 March 1993, the HVO appointed Hakija Ljubović as temporary administrator of the *Stanogradnja* public enterprise in Mostar (Witness CS, T(F), pp. 12111 and 12112; 1D 00467). See also Ilija Kožulj, T(F), pp. 32529, 32531 and 32532; 1D 02665; 1D 00665; 1D 00690; 1D 00692; 1D 01805; 1D 01806; 1D 02667; 1D 02644; 1D 00659; 1D 00445; 1D 00450; 1D 00452; 1D 00454; 1D 00456; 1D 00460; 1D 00461; 1D 00685; 1D 00701; 1D 00706; 1D 00463; 1D 00464.

<sup>1643</sup> In December 1992, the aluminium factor in Mostar, one of the largest factories at the time, was under the control of the ABiH (Witness CS, T(F), pp. 12119 and 12120; 2D 00305). In April 1993, the tobacco factory, which was located in East Mostar, was under the control of the ABiH (Witness CS, T(F), pp. 12122 and 12123; 2D 00306).

<sup>1644</sup> See "Mostar Municipal HVO" in the Chamber's factual findings with regard to the Municipality of Mostar.

<sup>1645</sup> Ante Kvešić, T(F), pp. 37391, 37392, 37401-37405 and 37429-37432; 2D 00968; 2D 00965.

<sup>1646</sup> Ante Kvešić, T(F), pp. 37391, 37392, 37401, 37404, 37405 and 37429-37432; 2D 00968; 2D 00965.

<sup>1647</sup> Ante Kvešić, T(F), pp. 37432 and 37433.

<sup>1648</sup> Seid Smajkić, T(F), p. 2500.

<sup>1649</sup> Ante Kvešić, T(F), pp. 37403, 37404, 37406-37411 and 37471; 2D 00966; 2D 00603; 2D 00602; 2D 00971.

<sup>1650</sup> 1D 00889; 1D 00593.

<sup>1651</sup> Ratko Pejanović, T(F), p. 1246; P 09511. A similar decision had already been taken by Jadran Topić in November 1992: 1D 00390.

*Ratko Pejanović* and *Enver Jusufović*,<sup>1652</sup> from the moment the transfer took place, the work of the East Mostar firemen became increasingly difficult. Material was redistributed to firemen in West Mostar by the Mostar Municipal HVO which refused however to provide the volunteer firemen in East Mostar with provisions and logistic support.<sup>1653</sup> Finally, on 3 May 1993, Civilian Protection decided to abolish the East Mostar volunteer Fire Department.<sup>1654</sup>

726. Moreover, the Chamber observes that the legal system in the Municipality of Mostar operated at the beginning of 1993 with a lower court and a higher court, which included Muslim, Croatian and Serbian judges.<sup>1655</sup> In addition, its work was financed, at least in part, by the HVO of the HZ H-B.<sup>1656</sup> However, according to *Zoran Buntić*,<sup>1657</sup> this legal system ceased to operate between May 1993 and June 1994.<sup>1658</sup>

727. Finally, the system of education was reformed in 1992. During a meeting of the board of the University of Mostar held in June 1992, it was decided that Croatian would be the only language used in teaching.<sup>1659</sup> Following this meeting, 42 Muslim professors left the University of Mostar.<sup>1660</sup> *Seid Smajkić* also told the Chamber that during this period, Muslim academics were being thrown out of the University.<sup>1661</sup> The Chamber notes, however, that until at least the end of 1992, the HVO of the HZ H-B continued to appoint Muslims to the University of Mostar.<sup>1662</sup>

728. The Croatian language was also imposed in schools,<sup>1663</sup> and the municipal HVO amended the diplomas by adding the HZ H-B logo and the words "Republic of Bosnia and Herzegovina" to them.<sup>1664</sup> The Chamber heard *Seid Smajkić* state that in the second half of 1992, the Muslims systematically lost their positions in schools in the municipality.<sup>1665</sup> The Chamber notes, however,

<sup>1652</sup> Both were firemen in Mostar. *See* P 10035, para. 2; *Ratko Pejanović*, T(F), pp. 1229 and 1230.

<sup>1653</sup> *Ratko Pejanović*, T(F), pp. 1246 and 1247; P 10035, para. 3; 1D 00393.

<sup>1654</sup> P 09512; *Ratko Pejanović*, T(F), pp. 1248 and 1249.

<sup>1655</sup> *Zoran Buntić*, T(F), pp. 30420, 30429 and 30437-30439; 1D 02382; 1D 02381; 1D 02383; 1D 00645.

<sup>1656</sup> *Zoran Buntić*, T(F), p. 30420; 1D 02132.

<sup>1657</sup> *Zoran Buntić* was the Head of the Department of Justice and General Administration of the HZ H-B from 20 June 1992 to 28 August 1993. *Zoran Buntić*, T(F), pp. 30243, 30244 and 30249.

<sup>1658</sup> *Zoran Buntić*, T(F), pp. 30431, 1D 02370; 1D 01978.

<sup>1659</sup> P 00714, Article 2; *Fahrudin Rizvanbegović*, T(F), p. 2186; *Miroslav Palameta*, T(F), p. 32770; P 02045, p. 1; 1D 00421, p. 3. The Chamber notes that in November and December 1992, the University of Mostar compiled a list of its employees willing to continue working at the University; among them were around 90 Muslims (*see* 1D 02804). The Chamber deems, however, that there is nothing to indicate that all the people on the list actually worked at the University.

<sup>1660</sup> *Fahrudin Rizvanbegović*, T(F), pp. 2187 and 2295.

<sup>1661</sup> *Seid Smajkić*, T(F), pp. 2504-2508.

<sup>1662</sup> 1D 00382; 1D 00383; *Seid Smajkić*, T(F), pp. 2905-2907. The Chamber notes that the appointments to positions at the University of Mostar seemed to fall under the HVO of the HZ H-B and not under the municipal HVO.

<sup>1663</sup> *Seid Smajkić*, T(F), pp. 2500-2503; *Miroslav Palameta*, T(F), p. 32770; P 09805 under seal, p. 2; P 02045, p. 1.

<sup>1664</sup> P 09492; *Seid Smajkić*, T(F), pp. 2500 and 2501; 1D 00600; 1D 00620.

<sup>1665</sup> *Seid Smajkić*, T(F), p. 2500.

that Muslims continued to be appointed by the Mostar Municipal HVO in some schools until at least April 1993.<sup>1666</sup>

729. With regard to the school curricula, the Chamber notes that in late March or early April 1993, Jadranko Prlić received a delegation of Muslim residents of Mostar who asked for the study of Muslim writers to be included in the curricula.<sup>1667</sup> The delegation agreed to prepare a list of authors and works it wanted included in the curricula.<sup>1668</sup> Nevertheless, according to *Miroslav Palameta*,<sup>1669</sup> even though other meetings took place, no solution was found.<sup>1670</sup> With respect to the language issue, *Seid Smajkić* also confirmed to the Chamber that a delegation, which included him, Zijad Demirović and two other people, met with Jadranko Prlić at an unspecified date, to talk to him about the Croatian language issue.<sup>1671</sup> At this meeting, Jadranko Prlić stated that his language was also "Bosnian". When *Seid Smajkić* asked him why he then called his language "Croatian" rather than "Bosnian", Jadranko Prlić replied that the Muslims could call their language "Muslim" if they wanted to.<sup>1672</sup>

730. As the Prlić and Stojić Defence pointed out,<sup>1673</sup> throughout 1992 the municipal HVO also had to deal with the enormous influx of people, both Croats and Muslims, caused by the fighting in other areas and, consequently, with a housing crisis.<sup>1674</sup> Thus, from 29 May 1992, the Mostar Municipal HVO declared null and void all certificates or decisions allocating or allowing occupancy of homes abandoned by their previous owners without a valid reason, because they had been issued by unauthorised persons.<sup>1675</sup> It was envisaged that the Department of Housing and Reconstruction would have authority over the abandoned homes and decide to whom to allocate them in line with established criteria.<sup>1676</sup> On 19 June 1992, the municipal HVO adopted a decision taking over housing that belonged to the JNA.<sup>1677</sup>

<sup>1666</sup> 1D 00503; 1D 00502; 1D 00501; 1D 00500; 1D 00499; 5D 01111; Seid Smajkić, T(F), pp. 2908-2910, 2956, 2957, 3014 and 3015.

<sup>1667</sup> Miroslav Palameta, T(F), pp. 32772 and 32773; *see also* T(E) p. 32773.

<sup>1668</sup> Miroslav Palameta, T(F), p. 32773.

<sup>1669</sup> Miroslav Palameta was a professor at the Academy and then at the Pedagogical Faculty at the University of Mostar from 1992 (*see* Miroslav Palameta, T(F), pp. 32772 and 32781), he was the assistant head of the office responsible for education in HZ H-B from autumn 1992, and then Assistant Minister for Education for the HR H-B from August 1993 to 1994, responsible for higher education. *See* Miroslav Palameta, T(F), pp. 32772, 32777 and 32779.

<sup>1670</sup> Miroslav Palameta, T(F), pp. 32773-32776.

<sup>1671</sup> Seid Smajkić, T(F), pp. 2503 and 2504.

<sup>1672</sup> Seid Smajkić, T(F), p. 2504.

<sup>1673</sup> Closing Arguments by the Prlić Defence, T(F), pp. 52220 and 52221; Stojić Defence Final Trial Brief, para. 475.

<sup>1674</sup> *See* P 09593, pp. 1 and 2. *See also* the introduction in the Chamber's factual findings with regard to the Municipality of Mostar.

<sup>1675</sup> 1D 00548. The Chamber observes that the HVO then changed this text on several occasions: 1D 00715; 1D 00723, 1D 00598.

<sup>1676</sup> 1D 00548; Borislav Puljić, T(F), p. 32158.

<sup>1677</sup> 1D 03016.

731. The municipal HVO then rendered a decision on 24 July 1992, amended on 16 September 1992,<sup>1678</sup> on how abandoned flats would be allocated. According to the decision of 24 July 1992, an abandoned flat was any flat without an occupant, whether furnished or unfurnished, with the exception of flats belonging to HVO members or any member of their family.<sup>1679</sup> Any person whose property had been destroyed could ask to be granted temporary use of an abandoned flat.<sup>1680</sup> This decision gave priority to the families of soldiers who died or were wounded in combat<sup>1681</sup> or to the employees of the municipal HVO.<sup>1682</sup> Finally, the Department of the Interior and the Department of Housing and Reconstruction were responsible for evicting anyone they found sheltering in abandoned flats without following the procedures set out in this decision.<sup>1683</sup>

732. At the same time, on 16 September 1992, the municipal HVO adopted a decision on the eviction of illegal occupants in the territory of the Municipality of Mostar. This decision gave the municipal HVO, with the help of the Military Police, the authority to evict people who "illegally" occupied abandoned flats which had belonged to members of the JNA in the Municipality of Mostar.<sup>1684</sup> Article 3 of the decision named the Mostar Municipal HVO as the owner of these flats.<sup>1685</sup> On the same day, the Mostar Municipal HVO announced that the town could no longer take in "refugees or displaced persons" from other municipalities since it had already taken in 50,000 people displaced within the municipality itself.<sup>1686</sup> On 5 March 1993, the municipal HVO created a commission responsible for allocating the housing that belonged to it.<sup>1687</sup>

733. Moreover, in view of a report dated 24 November 1993 by the committee of the Mostar military district on the matter of housing, the Chamber deems that, in 1993, there was a housing committee responsible to the South-East OZ commander, Miljenko Lasić.<sup>1688</sup> The committee was responsible for allocating abandoned military flats.<sup>1689</sup> During 1993, the office of housing,

<sup>1678</sup> 1D 00618. *See* for example 1D 00641.

<sup>1679</sup> 1D 00606; Article 2; Martin Raguž, T(F), p. 31301.

<sup>1680</sup> 1D 00606; Article 3.

<sup>1681</sup> 1D 00606; Article 10.

<sup>1682</sup> 1D 00606; Article 13. The Chamber notes that the municipal HVO also set up a commission to allocate flats to HVO employees, *see* 1D 00730.

<sup>1683</sup> 1D 00606, Article 25, 1D 00625; P 00375, Seid Smajkić, T(F), p. 2512.

<sup>1684</sup> 1D 00613; 1D 00749.

<sup>1685</sup> 1D 00613; *see* also P 00490. For examples of temporary allocation of housing by the municipal HVO, *see* 1D 00654.

<sup>1686</sup> 1D 00621.

<sup>1687</sup> 1D 00717.

<sup>1688</sup> P 06860.

<sup>1689</sup> P 06860, pp. 1 to 3.

refurbishing and reconstruction passed on to it the responsibility for allocating 600 "abandoned civilian apartments".<sup>1690</sup>

734. When he was in Mostar between 8 April 1993 and the end of May 1994, *Witness BB*<sup>1691</sup> saw that the majority of people occupying the abandoned flats were Muslims.<sup>1692</sup>

735. In order to deal with the influx of people, the HVO implemented a system of distributing humanitarian aid.<sup>1693</sup> According to *Witness BA*,<sup>1694</sup> when the Muslims and Croats were allied against the Serbian armed forces, the HVO distributed humanitarian aid equally between the two communities.<sup>1695</sup> In the course of 1993, the HVO distributed this aid, placing the Muslims at a disadvantage.<sup>1696</sup>

736. At the same time, the Mostar Municipal HVO set up a legal framework through which it could establish the status of "refugees" or "displaced persons". A decision on the protection of refugees and displaced persons in the territory of the Municipality of Mostar dated 16 September 1992 defined a "refugee" as a person who was not a citizen of BiH, but who had had to leave his residence because of an attack on his country, political persecution or a natural disaster.<sup>1697</sup> According to this decision, a displaced person was a BiH citizen who had been forced to leave his place of residence because of an attack or a natural disaster.<sup>1698</sup> It was also specified that a displaced person could not be a member or sympathiser of the enemy forces.<sup>1699</sup> The status of a refugee or a displaced person was obtained after registration with the Social Work Centre.<sup>1700</sup> Once the status was obtained, the beneficiary could receive temporary housing and food.<sup>1701</sup> In order not to lose the status of refugee or displaced person, they had to respond to call-ups by the HVO for military mobilisation or compulsory work.<sup>1702</sup>

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<sup>1690</sup> P 06860, p. 4.

<sup>1691</sup> *Witness BB* was a member of an international organisation stationed in the region of Mostar between 8 April 1993 and the end of May 1994. *See* *Witness BB*, T(F), pp. 17133, 17134 and 17136; T(E) p. 17133, closed session.

<sup>1692</sup> P 09840 under seal, para. 5; *Witness BB*, T(F), p. 17145, closed session. *See* also Veso Vegar, T(F), pp. 37057-37059, commenting on the basis of 3D 01027.

<sup>1693</sup> *See* "Mostar Municipal HVO" in the Chamber's factual findings with regard to the Municipality of Mostar.

<sup>1694</sup> *Witness BA* was a member of an international organisation stationed in the region of Mostar between 14 May 1993 and 20 July 1993. *See* *Witness BA*, T(F), p. 7153, closed session; P 09712 under seal, para. 3.

<sup>1695</sup> *Witness BA*, T(F), pp. 7165 and 7166, closed session; P 09612 under seal, para. 14.

<sup>1696</sup> *Witness BA*, T(F), pp. 7165 and 7166, closed session; P 09612 under seal, para. 14.

<sup>1697</sup> P 00488; Article 4.

<sup>1698</sup> P 00488, Articles 6 and 8.

<sup>1699</sup> P 00488; Article 6.

<sup>1700</sup> P 00488, Articles 5, 7 and 9.

<sup>1701</sup> P 00488; Article 10.

<sup>1702</sup> P 00488, Articles 13 and 14. *See* also Edward Vulliamy, T(F), pp. 1518 and 1519.

737. Moreover, on 15 January 1993, the Mostar Municipal HVO created a public register of persons deported or displaced from other municipalities, with one copy being kept by the MUP.<sup>1703</sup> No administrative matter could be handled without that registration.<sup>1704</sup>

738. On 15 April 1993, the Mostar Municipal HVO adopted a decision, amended on 29 April 1993, on the rights of refugees and persons deported and displaced to the Municipality of Mostar.<sup>1705</sup> In accordance with that decision, a "refugee" or "displaced person" card was issued under the following conditions to persons: (1) aged between 0 and 18, men over the age of 60 and women over the age of 55, with the exception of the disabled and mothers with children under the age of seven; (2) who were not staying in an abandoned flat; and (3) who came from the territories of the RBiH and Croatia.<sup>1706</sup> Moreover, in accordance with this decision, displaced persons staying in the Municipality of Mostar had to return to their original place of residence should it be liberated or, failing that, to stay at collection centres in Mostar.<sup>1707</sup>

739. According to members of the international organisations in the field in 1993, the consequence of this decision was that some 16,000 to 20,000 people, primarily Muslims,<sup>1708</sup> who occupied flats abandoned by Serbs in 1992,<sup>1709</sup> were excluded from having the status of "displaced person". Moreover, the decision denied all men between the ages of 18 and 60 and all women between the ages of 18 and 55 the status of "refugee" or "displaced person".<sup>1710</sup>

740. The members of the international organisations complained about this decision several times to the ODPB and to Mate Boban and Franjo Tuđman, but to no effect.<sup>1711</sup> In a letter of 7 May 1993, the ODPB replied to these protests by saying that the Municipality of Mostar did not have enough available housing and that it therefore gave priority to local people from the municipality. Regarding the exclusion of people between the ages of 18 and 55 or 60, the ODPB replied that these people could not be "fed and given provisions for no reason" and offered the following explanation:

This last group has all the conditions for and a growing inclination towards all kinds of crime because of the old inheritance of oriental laziness, more recent Bolshevik irresponsibility and a

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<sup>1703</sup> 1D 00700.

<sup>1704</sup> 1D 00700.

<sup>1705</sup> P 01894; P 02144; 1D 00757; 1D 00758.

<sup>1706</sup> Witness BA, T(F), pp. 7174, 7175 and 7472, closed session; P 09712 under seal, para. 26; P 01804; P02144.

<sup>1707</sup> P 02144; Witness BB, T(F), pp. 17139 and 17140, 25386, closed session. The evidence does not provide precise information about where the collection centres were located.

<sup>1708</sup> Witness BB, T(F), pp. 17144 and 25420, closed session.

<sup>1709</sup> Witness BA, T(F), p. 7173, closed session; P 09712 under seal, paras 23 and 26; Witness BB, T(F), p. 17142, closed hearing; P 09840 under seal, para. 5. *See also* P 02458, paras 32-34.

<sup>1710</sup> Witness BB, T(F), pp. 17140-17142, closed session; Martin Raguž, T(F), pp. 31494 and 31495.

<sup>1711</sup> P 09712 under seal; para. 27; Witness BB, T(F), pp. 17147 and 17148, closed session; P 09708 under seal, p. 2.

desperately long war so it is no wonder that they go for the destruction of society through spiritual degradation, frustration, disorientation and violence.<sup>1712</sup>

741. Since they were refused the status of "displaced person", the Muslims did not have access to humanitarian aid.<sup>1713</sup> They were left with little choice, either they remained in the flats and did not receive any aid in food; or they left the abandoned flats where they were staying or, being completely destitute, were forced to leave Mostar.<sup>1714</sup>

742. At the beginning of May 1993, the HVO finally issued an ultimatum to the Muslims occupying abandoned flats, obliging them to leave the housing by 9 May 1993<sup>1715</sup> at the latest, and started evicting them as of 8 May 1993.<sup>1716</sup>

743. In view of the evidence analysed, the Chamber notes that from May 1992, the Mostar Municipal HVO gradually took over political power in the municipality and the Muslims no longer had their positions in the municipality's political bodies. It notes that Croatian flags were raised on public buildings and that the Croatian dinar was introduced in the municipality.

744. The Chamber notes that the roads and schools were renamed by the Mostar Municipal HVO without these names having any particular connotations. In addition, the Chamber was not in a position to determine whether municipal public companies were biased more towards Croats than Muslims in respect of recruitment and dismissal. Nor did the evidence admitted into the record allow the Chamber to conclude that the hospitals in West Mostar gave precedence to Croatian staff and patients rather than to Muslims.

745. The Chamber does note, however, that the municipal HVO increasingly made the work of the fire brigade in East Mostar much more difficult than in West Mostar, going as far as abolishing it on 3 May 1993.

746. Moreover, it notes that the Mostar Municipal HVO, supported by the HVO of the HZ-HB, favoured the Croatian language and Croatian symbols in the education system without, however, being able to establish that the Croatian professors and teachers in schools were given priority during recruitment.

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<sup>1712</sup> P 09593, p. 3.

<sup>1713</sup> Witness CS, T(F), pp. 17153 and 17154, closed session; Decision of 7 September 2006, Adjudicated Fact no. 79 (*Naletilić* Judgement, para.43). See also Edward Vulliamy, T(F), pp. 1518 and 1519.

<sup>1714</sup> P 09840 under seal, para. 6; Witness BB, T(F), p. 17145, closed session.

<sup>1715</sup> Witness BB, T(F), pp. 17144 and 17146, closed session; P 09840 under seal, para. 7; Decision of 7 September 2006, Adjudicated Fact no. 79 (*Naletilić* Judgement, para. 43).

<sup>1716</sup> Witness BB, T(F), pp. 17163 and 17164, closed session; P 02227, p. 2; P 02458, paras 32 and 34, Witness BB, T(F), p. 17184, closed session.



747. Finally, the Chamber notes that from May 1992, the municipal HVO began to put in place a legal framework for taking in "refugees and displaced persons" and access to humanitarian aid which, although not specifically aimed at the Muslims, greatly disadvantaged them in respect of housing and access to humanitarian aid.

748. The Chamber therefore finds that between May 1992 and May 1993, the Mostar Municipal HVO, assisted by the HVO of the HZ-HB, took control of the Municipality of Mostar and implemented a policy that sought to introduce a distinction between Croats and Muslims and to disadvantage the Muslims in the municipality.

### III. Rising Tensions Between Croats and Muslims

749. According to paragraph 91 of the Indictment, in October 1992, the Herceg-Bosna/HVO authorities ordered the HVO Military Police to tighten its control of the town of Mostar by occupying government and public buildings, disarming Muslim soldiers, taking over refugee centres, raiding the local headquarters of the SDA, taking the Muslim radio station off the air and imposing curfew.

750. The Chamber notes that in October 1992, while implementing the orders of the Department of Defence and on the basis of decisions of the Presidency of the HVO, various HVO contingents, among them 500 HVO Military Police officers, tightened the HVO's control of the town of Mostar.<sup>1717</sup>

751. Thus, in the night of 21 to 22 October 1992, the HVO Military Police forces took complete control of the town of Mostar.<sup>1718</sup> On 22 October 1992, thanks to the presence of members of the Military Police, the HVO held the important public buildings in the town of Mostar, such as the post office, the Mostar MUP building,<sup>1719</sup> the town hall and the court.<sup>1720</sup> Similarly, on the same day, the HVO Military Police blocked all roads and checkpoints in the town, imposed a curfew on the town and took Radio Mostar BH off the air.<sup>1721</sup> The HVO also put a guard in front of the headquarters of the ABiH, although the Chamber has no further details about this.<sup>1722</sup> According to *Edward Vulliamy*,<sup>1723</sup> on 24 October 1992, Miljenko Lasić stated that the HVO was the civilian and

<sup>1717</sup> P 00619, p. 2; Zvonko Vidović, T(F), pp. 51548 and 51549.

<sup>1718</sup> P 00619, p. 2.

<sup>1719</sup> Witness CV, T(F), pp. 12521 and 12522; P 00619.

<sup>1720</sup> Edward Vulliamy, T(F), p. 1516.

<sup>1721</sup> Witness CV, T(F), p. 12521; P 00619; Alija Lizde, T(E), pp. 17759-17761; T(F), pp. 17841-17844.

<sup>1722</sup> Edward Vulliamy, T(F), p. 1516.

<sup>1723</sup> Edward Vulliamy was a journalist for the *Guardian*. See also Edward Vulliamy, T(F), pp. 1492 and 1493.

military authority in Mostar and that the ABiH should be disarmed.<sup>1724</sup> For his part, Mate Boban declared Mostar the capital of Herceg-Bosna and stated that the Muslims would no longer be involved in the political and military administration of the town.<sup>1725</sup>

752. According to paragraph 92 of the Indictment, in mid-January 1993, the Herceg-Bosna/HVO authorities once again imposed a curfew and confiscated all Muslim transports of weapons and military equipment.

753. When the President of the HVO of the HZ H-B issued an ultimatum to the ABiH on 15 January 1993 demanding that it place itself under the HVO Main Staff,<sup>1726</sup> the HVO controlled all routes out of Mostar and strictly enforced the curfew in town.<sup>1727</sup> On 27 January 1993, Valentin Ćorić also ordered the establishment and reinforcement of the checkpoints at several points of entry into and exit out of Mostar.<sup>1728</sup>

754. In the spring of 1993, relations between the Croats and the Muslims in Mostar continued to deteriorate.<sup>1729</sup> In March 1993, the HVO Military Police controlled the entire town of Mostar by using patrols that were prepared to fight and that operated on both the left and right banks of the town.<sup>1730</sup>

755. In early April 1993, Božo Rajić, Minister of Defence of the RBiH, repeated on television that the ABiH had been ordered to leave the region of Mostar or to place itself under the command of the HVO.<sup>1731</sup> The Chamber also notes that on 14 April 1993, the HVO implemented a plan to intensify the control of the town of Mostar and put on combat readiness all the police forces, both military and civilian, as well as several HVO battalions.<sup>1732</sup> The HVO imposed a blockade on the town of Mostar from 1400 hours on 14 April 1993.<sup>1733</sup>

756. On 15 April 1993, the HVO put on a show of force by parading its tanks and rocket launchers in West Mostar.<sup>1734</sup> Fighting broke out between the HVO and soldiers from an ABiH

<sup>1724</sup> Edward Vulliamy, T(F), pp. 1517 and 1518.

<sup>1725</sup> Edward Vulliamy, T(F), pp. 1520, 1523 and 1631.

<sup>1726</sup> See P 01155. See also P 01299, p. 4; P 02045, p. 1.

<sup>1727</sup> Spomenka Drljević, T(F), pp. 1010 and 1011; Christopher Beese, T(F), p. 3076; Witness A, T(F), p. 14067, closed session; P 01654.

<sup>1728</sup> P 01331. The Chamber moreover notes that nobody was allowed to leave his own municipality without the permission of Bruno Stojić: see P 01313.

<sup>1729</sup> Witness CB, T(F), p. 10122; 2D 01366, p. 3.

<sup>1730</sup> Witness CV, T(F), pp. 12523 and 12526; P 01654.

<sup>1731</sup> Witness U, P 10220 under seal, *Naletilić and Martinović* Case, T(F), pp. 2924 and 3027; P 10032, p. 3, para. 6; Spomenka Drljević, T(F), p. 1012.

<sup>1732</sup> Witness A, T(F), p. 14009, closed session; P 01868; see also 4D 00082; p. 1.

<sup>1733</sup> P 01873.

<sup>1734</sup> Seid Smajkić, T(F), pp. 2937 and 3009.

unit, stationed at the time at the Mostar Hotel<sup>1735</sup> and in the Vranica building.<sup>1736</sup> Although the Presidents of the HDZ and the SDA appealed for calm,<sup>1737</sup> the fighting in Mostar continued for several days.<sup>1738</sup>

757. On 18 and 19 April 1993, meetings were held between the ABiH and the HVO under the auspices of members of international organisations, such as General Pellnäs and General Morillon, and led to the signing of a ceasefire agreement on 20 April 1993.<sup>1739</sup> The agreement also envisaged the placement of UNPROFOR patrols in the town of Mostar and the setting up of a joint commission and joint patrols in order to reduce the tensions between the conflicting parties.<sup>1740</sup> In order for the agreement to be implemented, the Spabat had to escort the ABiH unit based at the *Mostar* Hotel to East Mostar.<sup>1741</sup> Tensions between the Croats and the Muslims however continued to increase, despite certain attempts to calm the situation,<sup>1742</sup> and the two armies continued to prepare for possible combat.<sup>1743</sup>

#### Section 4: Events in May 1993 in the Municipality of Mostar

758. The Chamber received the testimony of many witnesses and many documents relating to the events in Mostar in May 1993. In view of the evidence, the Chamber observes that (I) intensive

<sup>1735</sup> Witness CV, T(F), pp. 12528, 12530 and T(E), p. 12530; Witness WW, P 10024 under seal, *Naletilić and Martinović* Case, T(F), pp. 7015 and 7016; Witness U, P 10220 under seal, *Naletilić and Martinović* Case, T(F), p. 2923. See also Decision of 14 March 2006, Adjudicated Fact no. 225 (*Naletilić* Judgement, para. 38).

<sup>1736</sup> Spomenka Drljević, T(E), pp. 1012 and 1013.

<sup>1737</sup> 3D 03101, pp. 3 and 4.

<sup>1738</sup> P 10131 under seal, para. 15; Witness HH, P 10113 under seal, *Naletilić and Martinović* Case, T(F), p. 4896; Witness U, P 10220 under seal, *Naletilić and Martinović* Case, T(F), pp. 2922 and 2923; Witness CV, T(F), pp. 12528, 12530, 12594, 12640 and 12641; P 01929.

<sup>1739</sup> P 02002; P 01959; 4D 00448; 4D 00557; 3D 00676; 3D 00016; Bo Pellnas, T(F), pp. 19482 to 19484, 19486 and 19603; P 02054 under seal, p. 3; Witness JJ, P 09880 under seal, *Naletilić and Martinović* Case, T(E), pp. 5000, 5005; P 02012 under seal, p. 5; Witness CB, T(F), pp. 10123, 10124, 10212 and 10213; P 02054 under seal, pp. 2 and 3; P 04698, p. 2; 2D 01366, p. 3.

<sup>1740</sup> Witness CB, T(F), pp. 10122, 10123, 10130 and 10131; Witness JJ, P 09880 under seal, *Naletilić and Martinović* Case, T(E), p. 5000; T(F), p. 5009; P 02011 under seal, pp. 1 and 2. On the issue of reaching an agreement and the difficulties with its implementation, see Witness A, T(F), pp. 14011 to 14014, closed session; Witness CV, T(F), p. 12531; Witness HH, P 10113 under seal, *Naletilić and Martinović* Case, T(F), p. 4896; P 02020; P 04698, p. 2; P 02090, p. 2; P 02030/3D 00017 (identical documents); P 02146.

<sup>1741</sup> Witness CB, T(F), p. 10125 and P 02054 under seal, pp. 6 and 7; Witness CV, T(F), pp. 12528, 12530, 12594, 12595, 12600, 12621 and 12622; 2D 01366, p. 3.

<sup>1742</sup> 3D 00676; 3D 00025.

<sup>1743</sup> Bo Pellnas, T(F), pp. 19683, 19684, 19699 and 19700; Witness JJ, P 09880 under seal, *Naletilić and Martinović* Case, T(F), pp. 5000, 5005, 5009 and 5010; Witness DV, T(F), p. 23028; 3D 03705 under seal, pp. 31-33; Slobodan Praljak, T(F), p. 44562; Location marked with number 5 on the map filed under 3D 03724, p. 6; 4D 0033; 4D 00035; 2D 00021; P 01970; P 01970; 3D 00014; 3D 00023; 2D 00478; P 01998; 4D 00036; 3D 01017; 3D 01012; 3D 01019; 3D 00898; P 02227; Witness CB, T(F), p. 10128, P 02012 under seal, p. 5; P 02012 under seal, pp. 3-5; P 02081 under seal, pp. 4 and 6; 3D 02514; 3D 02515; P 02327, p. 5.

military operations took place during this period, (II) many crimes were committed while these operations were ongoing, (III) in particular in the HVO temporary detention centres in Mostar.

### I. Military Operations between 9 and 12 May 1993

759. On the eve of 9 May 1993, the tensions between the Croats and the Muslims had reached a climax.<sup>1744</sup> The work of the joint commission of the HVO and the ABiH, established by the ceasefire agreement of 20 April 1993, stopped because of a boycott by the HVO authorities.<sup>1745</sup> The approximately 260 Croatian inhabitants of the Donja Mahala neighbourhood – with a Muslim majority<sup>1746</sup> – settled in West Mostar.<sup>1747</sup> The town of Mostar was encircled, all access by road was blocked by the HVO and the HV and humanitarian aid could no longer be sent in.<sup>1748</sup> Telephone lines were no longer operating in East Mostar.<sup>1749</sup> Drinking water could be supplied in East Mostar only at public distribution points.<sup>1750</sup>

760. According to several witnesses, it was already clear by 8 May 1993 that an attack was planned for the following day.<sup>1751</sup> For example, when *Witness DT*<sup>1752</sup> wanted to pass through an HVO checkpoint in order to enter Mostar, one of the soldiers manning it told her, "Lady, go home, from tomorrow a bird will not be able to enter Mostar, and tomorrow morning will be a bloody day for all people in Mostar."<sup>1753</sup> Likewise, Ivan Andabak told *Witness LL*, a member of Spabat in 1993,<sup>1754</sup> that the HVO was preparing an attack and that "heads will roll" in the dust.<sup>1755</sup> Finally, *Witness AC*, who was a Muslim member of the HVO in May 1993,<sup>1756</sup> explained that, in the night of 8 to 9 May 1993, his superior at the HVO warned him, after a meeting with Mladen Naletilić, that a war was going to break out between Muslims and Croats the following day.<sup>1757</sup> *Witness AC*'s commander specified that the attack would begin at 0500 hours and that the Muslims would be

<sup>1744</sup> 1D 02065; 3D 01016, p. 1; Klaus Johann Nissen, T(F), pp. 20597-20599; 3D 01013; P 02227, pp. 1 and 2; 3D 01014; *Witness LL*, P 09881 under seal, *Naletilić and Martinović* Case, T(F), pp. 5227 to 5232.

<sup>1745</sup> P 02227, pp. 1 and 2.

<sup>1746</sup> 3D 00780.

<sup>1747</sup> Miro Salčin, T(F), p. 14294.

<sup>1748</sup> P 02215; P 02227; P 09946 under seal, para. 14; Grant Finlayson, T(F), p. 18021; P 10034 under seal, paras 4 and 5.

<sup>1749</sup> P 02227, p. 1.

<sup>1750</sup> P 02227, p. 1.

<sup>1751</sup> Mustafa Hadrović, T(F), pp. 14571 and 14572; *Witness LL*, P 09881 under seal, *Naletilić and Martinović* Case, T(F), pp. 5219, 5227-5230 and 5247-5248; P 10034 under seal, paras 4 and 5; P 02327, para. 12.

<sup>1752</sup> *Witness DT* lived in Stolac. See P 09946 under seal, p. 1, para. 6.

<sup>1753</sup> P 09946 under seal, para. 14.

<sup>1754</sup> *Witness LL*, P 09881 under seal, *Naletilić and Martinović* Case, T(F), pp. 5204 and 5205.

<sup>1755</sup> *Witness LL*, P 09881 under seal, *Naletilić and Martinović* Case, T(F), p. 5227.

<sup>1756</sup> *Witness AC*, P 10222 under seal, *Naletilić and Martinović* Case, T(F), pp. 7894, 7898; P 05602.

<sup>1757</sup> *Witness AC*, P 10222 under seal, *Naletilić and Martinović* Case, T(F), pp. 7901 and 7902.

removed.<sup>1758</sup> *Witness AC* was given the choice between moving to East Mostar or staying with the HVO to "share the fate of the Croats".<sup>1759</sup>

761. At dawn on 9 May 1993, the ABiH controlled the neighbourhoods of Donja Mahala and Cernica, the *Mostar* Hotel and the Vranica building, as well as East Mostar.<sup>1760</sup> The HVO held the North Camp and the rest of West Mostar.<sup>1761</sup>

762. Having analysed the evidence relating to (A) the military operation of 9 May 1993, (B) leading to the fall of the Vranica building on 10 May 1993, (C) the Chamber will describe the front lines and the military positions established on 9 May 1993. It will then (D) examine how, despite attempts at a ceasefire, fighting continued during the month of May 1993.

### **A. Attack on 9 May 1993**

763. In paragraph 94 of the Indictment, it is alleged that on the morning of 9 May 1993, the Herceg-Bosna/HVO forces attacked the Bosnian Muslims in Mostar.<sup>1762</sup> The Stojić, Praljak and Petković Defence teams, on the contrary, contend that on 9 May 1993, the attack was launched by the ABiH.<sup>1763</sup>

764. Having analysed the testimony of former members of the HVO and the ABiH, of inhabitants of the town of Mostar, of international observers stationed in Mostar at the time of the events, and many documents admitted into evidence relating to the attack, the Chamber notes that the evidence remains very divided with respect to how the attack of 9 May 1993 started.

765. The inhabitants of the town of Mostar who testified before the Chamber, all provided a similar description of the events of 9 May 1993. They all said that the fighting began around 0500 hours.<sup>1764</sup> While *Witness WW* said that only East Mostar was shelled,<sup>1765</sup> the other Mostar

<sup>1758</sup> *Witness AC*, P 10222 under seal, *Naletilić and Martinović* Case, T(F), p. 7903.

<sup>1759</sup> *Witness AC*, P 10222 under seal, *Naletilić and Martinović* Case, T(F), pp. 7901, 7903 and 7904.

<sup>1760</sup> Miro Salčin, T(F), pp. 14298, 14299 and 1373 to 1375; IC 00002 Alija Lizde, T(F), p. 17947; *Witness 1D-AA*, 1D 02935 under seal, *Naletilić and Martinović* Case, T(F), p. 9180, closed session.

<sup>1761</sup> *Witness 1D-AA*, 1D 02935 under seal, *Naletilić and Martinović* Case, T(F), p. 9180; Alija Lizde, T(F), p. 17947; Miro Salčin, T(F), pp. 1373 to 1375; IC 00002.

<sup>1762</sup> Indictment, para. 94; Prosecution Final Trial Brief, para. 892.

<sup>1763</sup> Stojić Defence Final Trial Brief, para. 140; Closing Arguments by the Stojić Defence, T(F), pp. 52337 and 52338 ; Praljak Defence Final Trial Brief, para. 358; Petković Defence Final Trial Brief, p. 55.

<sup>1764</sup> P 10038, p. 2; *Witness WW*, P 10024 under seal, *Naletilić and Martinović* Case, T(F), pp. 7016 and 7047; P 10034 under seal, paras 6 and 7; P 09805 under seal, p. 2; *Witness GG*, P 10020 under seal, *Naletilić and Martinović* Case, T(F), p. 4743; P 10032, para. 7; *Witness PP*, P 10223 under seal, *Naletilić and Martinović* Case, T(F), pp. 6071 and 6072; 3D 03101, p. 4; Decision of 7 September 2006, Adjudicated Fact no. 81 (*Naletilić* Judgement, para. 39). *Witness U* mentions 0400 hours. See *Witness U*, P 10220 under seal, *Naletilić and Martinović* Case, T(F), pp. 2924 and 2925.

<sup>1765</sup> *Witness WW*, P 10024 under seal, *Naletilić and Martinović* Case, T(F), pp. 7017, 7047 and 7048.

inhabitants said that West Mostar also came under heavy artillery fire from 0500 hours.<sup>1766</sup> Shots came from Hum mountain and several West Mostar neighbourhoods.<sup>1767</sup> In East Mostar, both the Institute of Hygiene and the fire brigade station came under fire.<sup>1768</sup> The evidence admitted into the record makes notes of many shooting casualties.<sup>1769</sup> *Witness U* could see the fighting from his 9<sup>th</sup>-floor flat in the Centar II district.<sup>1770</sup> According to him, the HVO shelled East Mostar continually,<sup>1771</sup> where approximately 5,000 to 7,000 shells fell from the start of the fighting to the end of the morning.<sup>1772</sup>

766. Several Mostar residents moreover stated that around 0900 hours, the radio broadcast an official HVO press announcement, attributed to Jadran Topić, according to which the HVO had undertaken a large-scale action to establish "law and order".<sup>1773</sup> The press announcement called on the Muslims to place white flags in their windows as a sign of their capitulation.<sup>1774</sup>

767. The Chamber notes that only a few members of the ABiH at the time of the events testified about the attack on 9 May 1993, but they all confirmed that, on that day, the HVO launched an attack on the ABiH.<sup>1775</sup>

768. According to *Slobodan Praljak* and witnesses who belonged to the HVO at the time of the events - in particular, *Vinko Marić*, *Radmilo Jasak* and *Dragan Ćurčić* - but also according to documents from the HVO, the ABiH attacked the *Tihomir Mišić* barracks on the morning of 9 May 1993.<sup>1776</sup> *Slobodan Praljak* and *Radmilo Jasak* also claimed that the ABiH had agreed a ceasefire

<sup>1766</sup> Slobodan Božić, T(F), p. 36356 ; P 10034 under seal, paras 6 and 7; P 09805 under seal, p. 3; Witness CT, T(F), pp. 12178 and 12179, closed session; Witness GG, P 10020 under seal, *Naletilić and Martinović* Case, T(F), pp. 4742 and 4743, private session; Witness AC, P 10222 under seal, *Naletilić and Martinović* Case, T(F), p. 7904; P 10032, para. 7.

<sup>1767</sup> P 10034 under seal, paras 6 and 7; P 09805 under seal, p. 2; P 10032, para. 7; P 10033, para. 7; 3D 03101, p. 4.

<sup>1768</sup> Jovan Rajkov T(E), p. 12930; Ratko Pejanović, T(F), pp. 1251 and 1253. Shots were also fired at vehicles belonging to these two institutions: Ratko Pejanović, T(F), pp. 1263 and 1264; Jovan Rajkov, T(F), p. 12897.

<sup>1769</sup> Jovan Rajkov, T(F), pp. 12897, 12899, 12930 and 12931; P 00378, P 02786.

<sup>1770</sup> Witness U, P 10220 under seal, *Naletilić and Martinović* Case, T(F), p. 2925.

<sup>1771</sup> Witness U, P 10220 under seal, *Naletilić and Martinović* Case, T(F), p. 2925.

<sup>1772</sup> Witness U, P 10220 under seal, *Naletilić and Martinović* Case, T(F), p. 2926.

<sup>1773</sup> Witness CV, T(F), pp. 12533-12535; Witness U, P 10220 under seal, *Naletilić and Martinović* Case, T(F), pp. 2926 and 2927; P 10032, para.7; Witness WW, P 10024 under seal, *Naletilić and Martinović* Case, T(F), pp. 7016 and 7017.

<sup>1774</sup> Witness CV, T(F), pp. 12533 and 12534; Seid Smajkić, T(E), p. 2537; Witness U, P 10220 under seal, *Naletilić and Martinović* Case, T(F), pp. 2926-2928; P 10032, para. 7; Witness WW, P 10024 under seal, *Naletilić and Martinović* Case, T(F), pp. 7016 and 7017; Decision of 7 September 2006, Adjudicated Fact no. 81 (*Naletilić* Judgement, para. 39).

<sup>1775</sup> Jovan Rajkov, T(F), p. 12896; Witness CV, T(F), p. 12536; P 10122, para. 1.

<sup>1776</sup> Slobodan Praljak, T(F), pp. 39570, 40529 to 40531, 41802 to 41804, 42503, 42506, 43289; 3D 03724, p. 7; P 09470, p. 2; Slobodan Božić, T(F), pp. 36262 and 36263, private session; 4D 00915; 5D 04325; 3D 01021; 1D 01666, p. 1; 4D 00628; Slobodan Božić, T(F), p. 36575; Witness U, P 10220 under seal, *Naletilić and Martinović* Case, T(F), pp. 2926-2928 ; Witness NO, T(F), pp. 51187–51188, closed session.

with the Serbs the previous evening, in preparation for the attack.<sup>1777</sup> *Vinko Marić* said that when he arrived at the command post of the South-East OZ at 0440 hours, having been woken up by infantry and artillery fire, only five or six men were there, and Miljenko Lasić was still at home.<sup>1778</sup>

769. According to *Milivoj Petković*, at around 0800 hours, the fighting between the HVO - in particular, the 2<sup>nd</sup> and 3<sup>rd</sup> Brigades of the HVO, the KB, the *Bruno Bušić* Regiment, the *Ludvig Pavlović* PPN, the Military Police and the MUP - and the ABiH started along the Bulevar and spread to Rondo.<sup>1779</sup> According to Miljenko Lasić's report of 9 May 1993, in the middle of the afternoon, the fighting took place in Ričina Street or Šantićeva.<sup>1780</sup> At the end of the afternoon, the HVO repelled the ABiH's attempt to take Hum mountain.<sup>1781</sup>

770. According to *Milivoj Petković*, in response to this attack, Miljenko Lasić issued a number of orders for redeployment.<sup>1782</sup> On 9 May 1993, Miljenko Lasić ordered the *Knez Domagoj* and *Stjepan Radić* Brigades to send 120 armed and trained men to Mostar.<sup>1783</sup> He also ordered a unit of the 4<sup>th</sup> *Stjepan Radić* Brigade to redeploy to Mostar on 10 May 1993 at 0530 hours and the *Ludvig Pavlović* unit at 0600 hours.<sup>1784</sup> According to HVO documents, also on 9 May 1993, but at an unspecified hour, Miljenko Lasić ordered the 4<sup>th</sup> Brigade to send urgently to Mostar: the *Grdani* platoon from the Čitluk Battalion;<sup>1785</sup> six ambulances and their crews;<sup>1786</sup> a mortar and a light rocket launcher with ammunition;<sup>1787</sup> a T-34 tank and its crew;<sup>1788</sup> and an anti-aircraft weapon with its crew and ammunition.<sup>1789</sup> All these units were to place themselves under the command of the Staff of the South-East OZ. The MUP was placed under the command of the South-East OZ and a Livno MUP unit was also redeployed to Mostar.<sup>1790</sup> The Chamber also notes that on the evening of 9 May 1993, Miljenko Lasić ordered all entry routes into Mostar to the south of the town to be blocked.<sup>1791</sup> On 10 May 1993, Miljenko Lasić also ordered in the course of the day the

<sup>1777</sup> Slobodan Praljak, T(F), pp. 42502 and 42503; 4D 01344; 4D 01345; Radmilo Jasak, T(F), pp. 48749 and 48977.

<sup>1778</sup> Vinko Marić, T(F), pp. 48194, 48195 and 48201; see also Milivoj Petković, T(F), pp. 50657 and 50658.

<sup>1779</sup> Milivoj Petković, T(F), pp. 49537 and 49538.

<sup>1780</sup> 3D 01001.

<sup>1781</sup> 3D 01001.

<sup>1782</sup> Milivoj Petković, T(F), pp. 49538 and 49539.

<sup>1783</sup> 3D 01006. The Chamber notes that at 0800 hours on 10 May 1993 the troops had still not arrived in Mostar, see 3D 01022.

<sup>1784</sup> P 02240. For the redeployment of the *Ludvig Pavlović* unit, see Dragan Ćurčić, T(F), pp. 45804 to 45807; 3D 03759, pp. 14 and 15. For the redeployment of the 4<sup>th</sup> Brigade, see Dragan Ćurčić, T(F), p. 45946. The Chamber notes that at 0800 hours on 10 May 1993 the troops had still not arrived in Mostar, see 3D 01022.

<sup>1785</sup> 3D 01010.

<sup>1786</sup> 3D 01023.

<sup>1787</sup> 3D 01007.

<sup>1788</sup> 3D 01008.

<sup>1789</sup> 3D 01009; 3D 01011.

<sup>1790</sup> 3D 04325; 3D 02408.

<sup>1791</sup> P 02249, p. 3.

redeployment of an anti-aircraft machine gun with its crew and ammunition to Hum mountain.<sup>1792</sup> On 12 May 1993, he also ordered the redeployment of another unit from the 4<sup>th</sup> Brigade to Mostar by the end of the morning.<sup>1793</sup>

771. The observers from the international community in Mostar on 9 May 1993 confirmed the description of the fighting on 9 May provided by the inhabitants of Mostar.<sup>1794</sup> Several of the witnesses, as well as several reports from international organisations, mentioned that the HVO had restricted the movement of the international observers, and had even prevented them from entering Mostar until 2300 hours on 9 May 1993.<sup>1795</sup> Nevertheless, the international observers were able to see that the HVO was intensively shelling east of the Bulevar and, in particular, the bridges on the Neretva, as well as the general area of the ABiH 4<sup>th</sup> Corps located in West Mostar.<sup>1796</sup> The observers also confirmed that the HVO used mortars, anti-aircraft machine guns and other pieces of heavy artillery.<sup>1797</sup>

772. The Chamber notes that the observers of the international community all stated that the HVO had started the attack on 9 May 1993.<sup>1798</sup> *Witness DV*, however, said that Miljenko Lasić's redeployment orders could be explained by the fact that the HVO had been surprised by the strong resistance put up by the ABiH.<sup>1799</sup>

773. Finally, the Chamber received evidence about the comings and goings of the Accused in the course of 9 May 1993. Thus, Jadranko Prlić was in Makarska with *Neven Tomić*.<sup>1800</sup> Bruno Stojić

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<sup>1792</sup> 3D 01011.

<sup>1793</sup> 3D 01005.

<sup>1794</sup> Witness CB, T(F), pp. 10223, 10226 to 10228; Witness BJ, T(F), p. 3732; P 02241 under seal, pp. 3 and 4; P 02235 under seal, p. 4; P 02237, p. 2; P 02269 under seal, p. 3; P 01717 under seal, p. 58; P 04698 under seal, pp. 3 and 4.

<sup>1795</sup> Witness BB, T(F), p. 17164, closed session; Grant Finlayson, T(E), p. 18103, private session, 18022 and 18025; 2D 00451 under seal, p. 6; Klaus Johann Nissen, T(F), pp. 20601 and 20602; Witness CB, T(F), pp. 10139 to 10142; Bo Pellnas, T(F), pp. 19517, 19518; P 02241 under seal, p. 4; P 02235 under seal, p. 4; P 02237, p. 2; P 02269 under seal, p. 3; P 10008, p. 1; P 01717 under seal, p. 58; P 04698A under seal, p. 34; P 04698 under seal, p. 3. The Chamber notes that Slobodan Božić told the Chamber that the restrictions were imposed in order to protect the members of the international organisations from the fighting. See Slobodan Božić, T(F), pp. 36263, 36264, private session, 36575.

<sup>1796</sup> Bo Pellnas, T(F), p. 19514; Witness CB, T(F), pp. 10131, 10133, 10134, 10143 and 10144; Witness LL, P 09881 under seal, *Naletilić and Martinović* Case, T(F), pp. 5232 and 5234; P 02235 under seal, p. 4; P 02237, p. 1; P 02241 under seal, p. 3; P 02276, p. 2; P 02269 under seal, p. 3; P 02286 under seal, p. 5; P 01717 under seal, p. 58; P 04698 under seal, p. 34.

<sup>1797</sup> Grant Finlayson, T(F), pp. 18022, 18023, 18025, 18290 and 18291; IC 00537; P 01717 under seal, p. 58; P 04698 under seal, p. 3; P 02235 under seal, p. 4; Witness LL, P 09881 under seal, *Naletilić and Martinović* Case, T(F), pp. 5239, 5242, 5246.

<sup>1798</sup> P 02235 under seal, p. 4; P 02237, p. 1; P 01717 under seal, p. 58; P 02241 under seal, p. 3; 4D 00915; P 02276, p. 2; P 09605; P 02803, para. 11; P 03952, p. 2; P 04419, p. 1; P 04698 under seal, p. 3; Christopher Beese, T(F), pp. 3167-3169; Grant Finlayson, T(F), p. 18103, private session, 18021 and 18213; 2D 00451 under seal, p. 6; Klaus Johann Nissen, T(F), pp. 20600 and 20601; Bo Pellnas, T(F), p. 19514; P 02269 under seal, p. 3; Witness BF, T(F), pp. 25909-25910 and 25958-25959, closed session; Witness DV, T(F), p. 23045.

<sup>1799</sup> Witness DV, T(F), pp. 23043, 23044.

<sup>1800</sup> Neven Tomić, T(F), pp. 34785-34786; P 09078, p. 129.



was in Čitluk on the morning of 9 May 1993 according to *Milivoj Petković*.<sup>1801</sup> *Slobodan Praljak* stated before the Chamber that he could not remember where he was on 9 May 1993, but said that he arrived in Mostar in the morning on 11 May 1993.<sup>1802</sup> *Milivoj Petković* said that he was in Split between 7 and 9 May 1993 and then in Čitluk on the morning of 9 May 1993.<sup>1803</sup> The Chamber was not in a position to determine where Valentin Ćorić and Berislav Pušić were on that date.

774. The Chamber notes that on the eve of 9 May 1993, the HVO and the ABiH both seemed to be preparing for a potential attack. The Chamber notes, moreover, that on 8 May 1993, the HVO blocked access to the town of Mostar and that information about an attack expected in the early hours of 9 May 1993 was already circulating among the ranks of some HVO units.

775. Even though the Chamber does not have the orders confirming that the HVO or the ABiH launched an attack on 9 May 1993, it heard many witnesses, inhabitants of the town of Mostar or members of the international community who were there on 9 May 1993, all of whom gave an identical description of the attack and unanimously claimed that the HVO launched the attack on 9 May. Accordingly, the Chamber can conclude by a majority, with Judge Antonetti dissenting, that the HVO did launch an attack on 9 May 1993 on the town of Mostar.

### **B. Fall of the Vranica Building on 10 May 1993**

776. In paragraph 94 of the Indictment, it is alleged that on the morning of 9 May 1993, the Herceg-Bosna/HVO forces attacked the Vranica building.<sup>1804</sup> According to the Prosecution, the attack was carried out by the KB,<sup>1805</sup> with the help of the Military Police.<sup>1806</sup> Only the Praljak Defence challenges the very existence of such an attack.<sup>1807</sup> In its Final Trial Brief, it claims that nothing proves that the HVO took any measures to capture the Vranica building. It also adds that such a plan would have been too ambitious, especially without any preparations.<sup>1808</sup> According to the Petković Defence, the building had become a legitimate military target because of the presence of ABiH forces.<sup>1809</sup>

<sup>1801</sup> *Milivoj Petković*, T(F), pp. 49572 and 49573.

<sup>1802</sup> *Slobodan Praljak*, T(F), p. 41519.

<sup>1803</sup> *Milivoj Petković*, T(F), pp. 49531-49534, pp. 49568-49573, 50650 and 50651.

<sup>1804</sup> Indictment, para. 94.

<sup>1805</sup> Prosecution Final Trial Brief, para. 298.

<sup>1806</sup> Prosecution Final Trial Brief, para. 1139.

<sup>1807</sup> *Praljak Defence* Final Trial Brief, para. 358.

<sup>1808</sup> *Praljak Defence* Final Trial Brief, para. 358.

<sup>1809</sup> *Petković Defence* Final Trial Brief, para. 130.

777. The Chamber notes, in view of the different testimonies, that the HVO specifically targeted the Vranica building from the start of the fighting in the morning on 9 May 1993.<sup>1810</sup> The Vranica building was a building complex inhabited by Muslims, Croats and Serbs, and also housed the command of the 4<sup>th</sup> Corps of the ABiH, the 1<sup>st</sup> Mostar Brigade and the 41<sup>st</sup> Brigade of the ABiH.<sup>1811</sup> According to the witnesses present in the building during the attack, there were around 30 to 40 ABiH soldiers and a hundred or so inhabitants in the Vranica building on that day.<sup>1812</sup>

778. According to two witnesses who were at the site, the *Ludvig Pavlović* unit, members of the KB units, members of the *Juka Prazina* unit, members of the Military Police and HV soldiers all took part in the attack.<sup>1813</sup>

779. The Vranica building was shelled heavily throughout the day on 9 May 1993.<sup>1814</sup> The people in the building then sought refuge in the basements.<sup>1815</sup> In the morning on 10 May 1993, the Vranica building was on fire.<sup>1816</sup> In the afternoon on 10 May 1993, around 1600 hours, when ABiH soldiers ran out of ammunition, the inhabitants of the building and members of the ABiH surrendered to the HVO.<sup>1817</sup> According to several witnesses, some members of the ABiH then swapped their military clothing for "civilian clothing".<sup>1818</sup>

780. After taking control of the building, Juka Prazina, his men and other HVO members set about assembling the people who were in the Vranica building in front of the School of Economics next door.<sup>1819</sup> They then freed the Croats.<sup>1820</sup> The older Muslims, over the age of 70, were taken to

<sup>1810</sup> Witness A, T(F), pp. 14008, 14015, 14016, 14019, closed session; IC 00405; IC 00402; Witness BJ, T(F), p. 5739; Mustafa Hadrović, T(F), pp. 14572 and 14573; Vinko Marić, T(F), p. 48197; Witness BB, T(F), p. 17164, closed session; Witness HH, P 10113 under seal, *Naletilić and Martinović* Case, T(F), p. 4895 and p. 4896; P 10033, para. 6; Decision of 7 September 2006, Adjudicated Fact no. 94 (*Naletilić* Judgement, para. 40); P 10034 under seal, para. 12.

<sup>1811</sup> Witness A, T(F), p. 14091, closed session; Spomenka Drljević, T(F), pp. 1020 and 1022; Milivoj Petković, T(F), pp. 49544-49546; Dragan Ćurčić, T(F), p. 45918; 3D 03759, p. 10; Ibrahim Šarić, T(F), pp. 5071, 5072, 5074 and 5083; P 09413, p. 4; Witness CV, T(F), pp. 12539 and 12540; IC 00229; Vinko Marić, T(F), pp. 48197 and 48199.

<sup>1812</sup> Spomenka Drljević, T(E), pp. 1023 and 1024; Ibrahim Šarić, T(F), pp. 5074, 5075, 5077, 5778. The Chamber notes that Adjudicated Fact no. 94 (*Naletilić* Judgement, para. 40) admitted by the Decision of 7 September 2006 reports that there were 200 civilians in the Vranica building.

<sup>1813</sup> Dragan Ćurčić, T(F), p. 45918; 3D 03759, p. 10; Mustafa Hadrović, T(F), pp. 14572 and 14573; Witness CV, T(F), pp. 12545 and 12546, and T(E), pp. 12546 and 12547. See also P 10034 under seal, paras 9 and 17; Decision of 7 September 2006, Adjudicated Fact no. 95 (*Naletilić* Judgement, para. 40).

<sup>1814</sup> Ibrahim Šarić, T(F), p. 5074; Witness A, T(F), p. 14014, closed session; Alija Lizde, T(E), p. 17768; Spomenka Drljević, T(F), p. 1023; Witness CV, T(F), pp. 12532 and 12533, 12535, 12645 and T(E), p. 12537.

<sup>1815</sup> Spomenka Drljević, T(F), pp. 1020-1024.

<sup>1816</sup> Witness A, T(F), p. 14019, closed session; Ibrahim Šarić, T(F), p. 5074; Decision of 7 September 2006, Adjudicated Fact no. 95 (*Naletilić* Judgement, para. 40).

<sup>1817</sup> Spomenka Drljević, T(F), pp. 1024-1029; P 10034 under seal, para. 18; Milivoj Petković, T(F), pp. 49544-49546; 1D 02935 under seal, pp. 9077, 9105, 9126, 9178 et 9179; 3D 03205 under seal, p. 5; Vinko Marić, T(F), pp. 48197 and 48199; Amor Mašović, T(F), pp. 25055-25057; P 09036.

<sup>1818</sup> Witness A, T(F), p. 14017, closed session; Ibrahim Šarić, T(F), p. 5078; Witness CV, T(F), p. 12545.

<sup>1819</sup> Witness CV, T(F), pp. 12545 and 12577. See for the location of the School of Economics: IC 00229; Spomenka Drljević, T(F), pp. 1029 to 1031. See also Decision of 7 September 2006, Adjudicated Fact no. 95 (*Naletilić* Judgement, para. 40).

the Velež stadium and the remaining Muslims, who lived in the building – among them young children and women – and ABiH members, were taken to the Tobacco Institute, to the Mechanical Engineering Faculty or to the MUP building.<sup>1821</sup> According to *Spomenka Drljević*, soldiers in uniform wearing armbands separated the men from the women and children in front of the MUP building. The women and children were held in an amphitheatre before some of them were moved the following day to the Heliodrom while others were allowed to return home.<sup>1822</sup>

781. In view of this evidence, the Chamber notes that when the Vranica building fell into the hands of the HVO on 10 May 1993, the HVO and, in particular, Juka Prazina's unit, separated the Croats - who were set free - from the Muslims. They then separated the Muslims over the age of 70 - who were sent to the Velež stadium - from the other Muslims. The Chamber notes, moreover, that the Muslim men - without any distinction being made between ABiH members and others – were sent to the Tobacco Institute, the Mechanical Engineering Faculty or the MUP building. Finally, the Chamber notes that the women and children were separated from the men in front of the MUP building and then held until the following day in a room in the building before being released or transported to the Heliodrom.

### **C. Front Lines and Military Positions after 9 May 1993**

782. According to *Witness CV*, the front line between the HVO and the ABiH did not change after the attack on 9 May 1993.<sup>1823</sup> It went along Bulevar and continued along Aleksa Šantić Street, or Šantićeve Street.<sup>1824</sup> The ABiH occupied the town east of Bulevar and Aleksa Šantić Street.<sup>1825</sup> To the west of Bulevar, the 4<sup>th</sup> *Tihomir Mišić* Battalion of the HVO occupied the Podhum and Zahum neighbourhood;<sup>1826</sup> the *Benko Penavić* ATG occupied the Mostar front line, the zone around Rondo up to the Medical Centre;<sup>1827</sup> the *Vinko Škrobo* ATG occupied the zone beyond the Medical

<sup>1820</sup> *Witness CV*, T(F), pp. 12545 and 12546, and T(E), pp. 12546 and 12547.

<sup>1821</sup> *Spomenka Drljević*, T(F), pp. 1028 to 1031; *Witness CV*, T(F), pp. 12545 and 12546; P 09807 under seal, p. 3; P 10033, para. 11; P 08987. *See also* Decision of 7 September 2006, Adjudicated Facts nos 95, 97 and 98 (*Naletilić* Judgement, paras 40, 41 and 377).

<sup>1822</sup> *Spomenka Drljević*, T(F), pp. 1028-1031.

<sup>1823</sup> *Witness CV*, T(F), p. 12642. The Chamber notes that the front line zone - including homes – seem to have been placed under the military command of the HVO from the month of June 1993; *Witness U*, P 10220 under seal, *Naletilić and Martinović* Case, T(F), p. 2944.

<sup>1824</sup> *Alija Lizde*, T(E), pp. 17926 to 17930; *Witness DB*, T(F), 13322-13327, private session, and T(E), pp. 13323 and 13324, private session; IC 00530; IC 00291; IC 00292; IC 00293; IC 00294; IC 00295; *Witness U*, P 10220 under seal, *Naletilić and Martinović* Case, T(F), pp. 2933, 2935; P 09336; *Larry Forbes*, T(E), p. 21265; Decision of 14 March 2006, Adjudicated Fact no. 294 (*Naletilić* Judgement, para. 49); P 02566; 2D 01366, p. 4.

<sup>1825</sup> *Witness U*, P 10220 under seal, *Naletilić and Martinović* Case, T(F), p. 2935; *Larry Forbes*, T(E), p. 21265; P 02566.

<sup>1826</sup> *Witness AC*, P 10222 under seal, *Naletilić and Martinović* Case, T(F), pp. 7915, 7916, 7978 and 7943; P 10228 under seal; P 03260, p. 4; P 06721.

<sup>1827</sup> *Witness U*, P 10220 under seal, *Naletilić and Martinović* Case, T(F), p. 2942; *Witness AC*, P 10222 under seal, *Naletilić and Martinović* Case, pp. 7915, 7916, 7978; P 03260, p. 3; P 06721.

Centre up to the *Aleksića* house;<sup>1828</sup> the 2<sup>nd</sup> HVO Battalion of the 2<sup>nd</sup> Brigade covered Šantić Street<sup>1829</sup> and the 9<sup>th</sup> Battalion of the 3<sup>rd</sup> Brigade held the front line near Čekrk, Stotina and Tiksara.<sup>1830</sup>

783. Moreover, following an order of 18 November 1993 from Zlatan Mijo Jelić, the then commander of the sector for the defence of Mostar, MUP units of the HZ H-B were joined to HVO units on the front line, and even held some of the front lines on their own, in particular, around the glass building, the Mechanical Engineering Faculty and towards the Carinski bridge.<sup>1831</sup>

#### **D. Continuation of Fighting and Attempts to Reach a Ceasefire**

784. On 10 May 1993, a ceasefire agreement was signed between Mate Boban and Alija Izetbegović.<sup>1832</sup> A second ceasefire agreement was signed by Milivoj Petković and Sefer Halilović on 12 May 1993.<sup>1833</sup> The second agreement, signed at Međugorje under the aegis of Spabat and several other international organisations, envisaged the withdrawal of the HVO and ABiH troops from the town of Mostar, the release of “civilian prisoners”, the exchange of “prisoners of war” and the deployment of a Spabat unit on the front line.<sup>1834</sup>

785. The Spabat deployed its unit on 12 May 1993 around 1800 hours and the troops belonging to the two armed forces were due to withdraw on 13 May by midday at the latest.<sup>1835</sup> However, according to several witnesses, the fighting continued throughout the month of May even though it was less fierce after 10 May 1993.<sup>1836</sup> The Spabat unit deployed on the front was regularly targeted – although the Chamber does not have more detailed information as to where the attacks came from.<sup>1837</sup> Moreover, the Chamber notes that on 19 May 1993, Jadran Topić, the then president of

<sup>1828</sup> Witness AC, P 10222 under seal, *Naletilić and Martinović* Case, T(F), pp. 7915, 7916, 7978; P 09083 under seal; P 09085 under seal; P 03260, p. 3; P 06721; P 07210.

<sup>1829</sup> Witness U, P 10220 under seal, *Naletilić and Martinović* Case, T(F), p. 2940; 1D 02214; P 05079, p. 1.

<sup>1830</sup> P 03260, p. 6.

<sup>1831</sup> 1D 02006; P 06721; P 07210.

<sup>1832</sup> 4D 00456; 4D 00457; Milivoj Petković, T(F), p. 49549; Grant Finlayson, T(F), pp. 18254 and 18255.

<sup>1833</sup> P 02352; Božo Perić, T(F), p. 47935.

<sup>1834</sup> P 02344; P 02366 under seal, p. 9; P 02483; Witness DV, T(F), pp. 22880-22882, 22921 and 22929; P 10217 under seal, paras 44, 45, 47, 55, 57 and 58; Slobodan Božić, T(F), pp. 36569 and 36570.

<sup>1835</sup> Witness DV, T(F), p. 22872; P 10217 under seal, paras 55 and 57; 4D 00307.

<sup>1836</sup> Alija Lizde, T(F), p. 17949; Milivoj Petković, T(F), p. 49555; Božo Perić, T(F), pp. 47935 and 47936; Vinko Marić, T(F), p. 48207; Witness DV, T(F), p. 22929; P 10217 under seal, para. 60; Witness CB, T(F), pp. 10156 and 10157; Witness BJ, T(F), p. 3776; Witness LL, P 09881 under seal, *Naletilić and Martinović* Case, T(F), p. 5262; P 10837, p. 1; 4D 00492; P 02366, pp. 4 and 5; 4D 01680, p. 1; 4D 01681; P 02414 under seal, pp. 4 and 5; P 02423 under seal, p. 5; P 02461, pp. 7 and 10-14; 4D 01683; 4D 01684; P 02471, para. 3; 4D 01685; P 02468, pp. 4 and 5; 4D 01686; 4D 01688; 4D 01689; P 02500, p. 4; 4D 01691; 4D 01692; 4D 01226; 4D 01693; P 02531, pp. 9-16; 4D 01694 ; 3D 00994 ; 4D 01538 ; 4D 01539; P 04698 under seal, p. 4.

<sup>1837</sup> Witness DV, T(F), p. 22872; P 10217 under seal, para. 46; P 02366 under seal, p. 5; P 02423 under seal, p. 5.

the Mostar Municipal HVO, called a general mobilisation for all men between the ages of 18 and 60.<sup>1838</sup>

786. The Chamber notes that General Milivoj Petković and General Sefer Halilović continued to meet after 13 May 1993 and in the days that followed, in an attempt to put a definitive end to the conflicts and to organise the passage of humanitarian convoys.<sup>1839</sup>

## II. Crimes Allegedly Committed in May 1993

787. According to the Prosecution, during the military operations in the first half of May 1993, (A) two mosques in West Mostar were destroyed on 9 and 11 May 1993 or around those dates and (B) a considerable number of Muslims from West Mostar were assembled, placed in detention in various locations and transferred out of West Mostar. The Prosecution also alleges that in the second half of May, (C) other Muslim inhabitants of West Mostar had abandoned this part of town and finally, (D) that in May 1993 the Muslims were victims of theft and violence.

### A. Destruction of Two Mosques in West Mostar around 9 and 11 May 1993

788. Paragraph 97 of the Indictment alleges that on or around 9 May 1993, Herceg-Bosna/HVO forces blew up the *Baba Bešir* mosque (or the *Balinovac* mosque) in the Balinovac district in West Mostar and that on or around 11 May 1993, they dynamited the *Hadži Ali-Beg Lafo* mosque (or the *Hadji Ali-Beg Lafa* mosque) at Pijesak, also in West Mostar.<sup>1840</sup>

789. The *Baba Bešir* mosque was located in West Mostar in the Balinovac district, on the corner of the Braće Bošnjica and Dalmatinska streets.<sup>1841</sup> The *Hadži Ali-Beg Lafo* mosque was located in the Pijesak district, also in West Mostar, near or opposite a primary school.<sup>1842</sup> The Chamber notes that there is nothing to indicate that the mosques were being used for military purposes.

790. The Chamber notes that the evidence regarding the *Hadži Ali-Beg Lafo* mosque which the Prosecution claims was destroyed on or around 11 May 1993 is quite vague as to the date and the manner of its destruction. *Witness CT* and Seid Smajkić, the mufti of Mostar who sent a letter on 29

<sup>1838</sup> 1D 00763. The municipal HVO had already called a general mobilisation in July 1992. See also "HVO Armed Forces" in the Chamber's factual findings with regard to the Municipality of Mostar.

<sup>1839</sup> Witness DV, T(F), p. 22929; P 02366 under seal, pp. 4 and 5; P 02461 under seal, pp. 10-12; P 02468 under seal, p. 5; P 02500 under seal, p. 4; P 02531 under seal, pp. 10 and 11.

<sup>1840</sup> Indictment, para. 97; Prosecution Pre-Trial Brief, paras 97 and 97.1; Prosecution Final Trial Brief, paras 504, 614, 949 and 951.

<sup>1841</sup> P 08939, p. 3; P 09026; Witness CT, T(F), p. 12149, private session; IC 00204; IC 00020; Seid Smajkić, T(F), pp. 2558 and 2559. The Chamber notes that document IC 00020 shows the mosque at Pijesak (marked B) in a slightly different location to that in document IC 00204, but sufficiently close to establish the actual location of the mosque.

<sup>1842</sup> P 08939; Witness CT, T(F), p. 12149, private session; IC 00204.

May 1993 to the Mostar bishop's office, both confirm that the mosque was destroyed but do not specify whether it was destroyed around 11 May 1993.<sup>1843</sup> The other evidence reporting the destruction of the mosque at Pijesak also does not mention how it was destroyed.<sup>1844</sup> The Chamber therefore deems that it cannot establish beyond all reasonable doubt on the basis of the evidence presented that the *Hadži Ali-Beg Lafo* mosque was in fact destroyed around 11 May 1993 or how it was destroyed.

791. The Chamber notes that while the witnesses do not agree on the precise date of the destruction of the *Baba Bešir* mosque,<sup>1845</sup> the dates they mention are sufficiently close and all fall between 9 and 12 May 1993.<sup>1846</sup> Moreover, the testimonies agree on the fact that it was dynamited.<sup>1847</sup> *Enver Jusufović*, an inhabitant of the Balinovac district,<sup>1848</sup> stated before the Chamber that the mosque had been "mined" on 9 May 1993.<sup>1849</sup> *Witness CT*, who lived close to the mosque,<sup>1850</sup> stated that the mosque was still standing when he left for the Heliodrom on 9 May 1993, but that he noticed upon his return on 16 May 1993 that it had been "blown up".<sup>1851</sup> A letter from Bishop Ratko Perić to Milivoj Petković condemns the destruction of the mosque at Balinovac the very same day, that is, 10 May 1993,<sup>1852</sup> and *Borislav Puljić*, director of the public enterprise for the reconstruction and construction of Mostar,<sup>1853</sup> also maintains that the destruction occurred on that day.<sup>1854</sup> In view of all the evidence, the Chamber considers that the *Baba Bešir* mosque was indeed dynamited and completely destroyed around 10 May 1993.

792. With regard to who destroyed the *Baba Bešir* mosque, the Chamber notes that the report of 31 May 1994,<sup>1855</sup> signed by the Chief of the Mostar SIS, Ivica Raspudić, informing the Ministry of Defence that Mladen Mišić, an HVO soldier, claimed that he had destroyed all the Mostar mosques

<sup>1843</sup> Witness CT, T(F), p. 12149, private session; P 02563. In view of this evidence, the Chamber can establish only that the mosque was destroyed between 6 and 16 May 1993.

<sup>1844</sup> P 02563; P 08939, p. 3.

<sup>1845</sup> P 09026, p. 3; Ratko Pejanović, T(F), pp. 1279 and 1280. The Chamber notes that the evidence generally corroborates the fact that the *Baba Bešir* mosque was destroyed in May 1993.

<sup>1846</sup> P 10035, para 7; Witness CT T(F), p.12149, private session; P 09805 under seal, p. 5.

<sup>1847</sup> Ratko Pejanović, T(F), pp. 1276, 1279 and 1280: the Chamber notes that the witnesses used in turn the terms "mined", "blown up" and "dynamited". The Chamber took note of the testimony of Ratko Pejanović that the mosques were destroyed by artillery. However, it is clear that the witness is speaking of all the mosques in Mostar being shelled by artillery throughout May 1993. The Chamber therefore considers that this testimony cannot have weight in the determination of the manner of destruction.

<sup>1848</sup> P 10035, para. 1.

<sup>1849</sup> P 10035, para. 7.

<sup>1850</sup> Witness CT, T(F), p. 12150, private session; P 09805, para. 1.

<sup>1851</sup> Witness CT, T(F), p. 12149, private session; P 09805 under seal, p. 5. The Chamber notes that the witness did not specify the time of his departure on 9 May.

<sup>1852</sup> P 02264.

<sup>1853</sup> Borislav Puljić, T(F), p. 32101. See also P 02644; 1D 00891.

<sup>1854</sup> Borislav Puljić, T(F), pp. 32444 and 32445; P 02563; P 08287.

<sup>1855</sup> P 08287.

by dynamite on orders from Miljenko Lasić, commander of the South-East OZ.<sup>1856</sup> Moreover, the Chamber notes that the mufti of Mostar, Seid Smajkić, claimed in May 1993 that the HVO forces were responsible for the destruction of the mosque.<sup>1857</sup> In light of the evidence, the Chamber considers that the HVO was responsible for the destruction of the *Baba Bešir* mosque in Mostar around 10 May 1993.

**B. Round-up of Muslims from West Mostar, Placement in Detention in Various Locations and Departure of Some to ABiH-Controlled Areas or Other Countries in the First Half of May 1993**

793. In paragraphs 94, 96 and 99 of the Indictment, it is alleged in particular that on 9 May 1993 and thereafter, the Herceg-Bosna/HVO forces arrested and placed in detention camps hundreds of Bosnian Muslim men, women, children and elderly people who lived in West Mostar. The Prosecution also claims that the Herceg-Bosna/HVO forces engaged in the systematic expulsion and forcible transfer of thousands of Bosnian Muslim civilians from West Mostar.

794. In paragraph 100 of the Indictment, it is also alleged that the authorities and the Herceg-Bosna/HVO forces allowed some Muslims from West Mostar to go to ABiH-controlled areas or to other countries, as long as they left Herceg-Bosna. Hundreds of Muslims were allegedly allowed to leave Mostar only if they signed a statement that they "voluntarily" relinquished all of their belongings to the HVO.

795. In its Final Trial Brief, the Prosecution stipulates that contrary to the claims of the HVO, these Muslims were arrested and detained based on their ethnicity alone.<sup>1858</sup> Moreover, it claims that Valentin Ćorić and the Military Police were directly involved in the arrests.<sup>1859</sup>

796. The Stojić, Petković and Ćorić Defence teams maintain that due to intense fighting on 9 May 1993, a considerable number of people were evacuated from the town for their own safety, and taken to the Heliodrom, where they spent a few days under the exclusive responsibility of the

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<sup>1856</sup> The Chamber notes that the testimony of Witness CT corroborates the fact that the sector in question was placed under the control of the 4<sup>th</sup> Battalion and its commander, Mladen Mišić. P 09805, p. 5; Witness CT, T(F), pp. 12161 and 12162, private session.

<sup>1857</sup> P 08939, pp. 3 and 9; P 02563; P 02800, p. 2.

<sup>1858</sup> Prosecution Final Trial Brief, paras 312 and 1089.

<sup>1859</sup> Prosecution Final Trial Brief, paras 1139 and 1141.

ODPR.<sup>1860</sup> According to the Petković Defence, the HVO Main Staff was not involved in any way in this evacuation operation and was not even informed in advance about it.<sup>1861</sup>

797. With respect to the argument of the Defence teams, the Chamber finds that according to the testimony of *Veso Vegar, Milivoj Petković, Vinko Marić, Radmilo Jasak* and *Ante Kvešić*, "the civilian population" living in the combat zones was evacuated on 9 May 1993 and placed in the Heliodrom for safety - in a part of the complex not under the control of the army, according to *Milivoj Petković*.<sup>1862</sup>

798. Nonetheless, the Chamber heard the testimony of many witnesses, in particular, of several Muslims from West Mostar, describing very differently the events that led to their detention in the Heliodrom. Moreover, the Chamber notes that some witnesses stated that their Croatian neighbours were not targeted in the campaign of arrests, which was described to the press by Croatian representatives as an evacuation "for their own safety".<sup>1863</sup> The Chamber notes, however, that the Defence teams did not provide any explanations why this "protection" was extended solely to the Muslim population.

799. The Chamber received little information about the people responsible for the arrests and for the placement in detention of Muslims from West Mostar. According to a UNMO report of 11 May 1993, Miljenko Lasić took the decision to "separate" them, and Darinko Tadić, head of the HVO ODP, was responsible for their "welfare" at the Heliodrom.<sup>1864</sup> The Chamber finds that in their description of the events leading to their detention at the Heliodrom, the witnesses, who were Muslims living in West Mostar, were not always specific about who arrested them and who was responsible for their being placed in detention. Most witnesses simply said that they were arrested and detained by HVO soldiers, or indeed, sometimes, by members of the Military Police.<sup>1865</sup> For their part, *Witnesses CT, WW* and *GG* specified that they were arrested by Ernest Takać, alias

<sup>1860</sup> Stojić Defence Final Trial Brief, para. 500; Petković Defence Final Trial Brief, paras 238 and 239; Ćorić Defence Final Trial Brief, paras 444 to 448.

<sup>1861</sup> Petković Defence Final Trial Brief, para. 238.

<sup>1862</sup> Milivoj Petković, T(F), pp. 49395-49398, 49535, 49536, 49558 and 49912-49914; Radmilo Jasak, T(F), p. 48681; Vinko Marić, T(F), pp. 48197-48199 and 48203-48204; Ante Kvešić, T(F), pp. 37444, 34447 and 37459; P 10837, p. 2; P 02458, para. 30.

<sup>1863</sup> Milivoj Gagro, T(F), p. 2736; Witness WW, P 10024 under seal *Naletilić and Martinović* Case, T(F), p.7021; P 10035, para. 4; P 10838, p. 1. See also Decision of 7 September 2006, Adjudicated Facts nos 80 and 86 (*Naletilić* Judgement, paras 42 and 649); P 02458, paras 31 and 34.

<sup>1864</sup> Grant Finlayson, T(F), p. 18026; P 02293, p. 3.

<sup>1865</sup> P 10033, paras 6 and 7; P 10032, para. 9.



"Brada", Vinko Martinović, alias "Štela", or by someone called Pehar, also known as "Dolma",<sup>1866</sup> all members of the *Vinko Škrobo* ATG.<sup>1867</sup>

800. According to the testimony of several Muslims from West Mostar arrested on 9 May 1993, the HVO soldiers entered several residential buildings in West Mostar from 0500 hours on 9 May 1993 and forced the Muslims residents - men, women and children - to gather in front of their building.<sup>1868</sup> *Witness GG* thus explained that in the morning on 9 May 1993, HVO soldiers forced him, his children and his mother to leave their flat by threatening them with automatic rifles.<sup>1869</sup> In most cases, the HVO soldiers did not let the Muslim inhabitants get dressed before forcing them to leave their homes.<sup>1870</sup>

801. Once they had gathered in front of the buildings, the Muslim inhabitants of West Mostar were transported by bus or escorted on foot by the HVO to the Velež stadium.<sup>1871</sup> Some witnesses stated that the soldiers first took them to the Mechanical Engineering Faculty where they separated the women and young children - who remained in the Faculty's lecture theatre - from the men and older boys who continued on to the Velež stadium.<sup>1872</sup>

802. *Witnesses CT* and *WW* - neither members of the ABiH nor Muslims from the HVO<sup>1873</sup> - were thus detained for a few hours in the lecture theatre of the Mechanical Engineering Faculty.

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<sup>1866</sup> *Witness GG*, P 10020 under seal, *Naletilić and Martinović* Case, T(F), pp. 4744 and 4745; P 09805 under seal, pp. 3 and 4; P 02770; *Witness WW*, P 10024 under seal, *Naletilić and Martinović* Case, T(F), pp. 7018, 7019, 7064 and 7090.

<sup>1867</sup> P 07009, p. 30. *See also* "HVO Armed Forces" in the Chamber's factual findings with regard to the Municipality of Mostar.

<sup>1868</sup> *Witness CS*, T(F), pp. 12038, 12039, 12043 and 12044, private session; *Witness GG*, P 10020 under seal, *Naletilić and Martinović* Case, T(F), pp. 4742 to 4746; *Witness WW*, P 10024 under seal, *Naletilić and Martinović* Case, T(F), pp. 7020, 7021; P 10035, para. 4; *Witness U*, P 10220 under seal, *Naletilić and Martinović* Case, T(F), pp. 2928 and 2931; P 09805 under seal, pp. 2 to 4 and 10; P 09807 under seal, p. 2; P 10032, paras 7 and 8; P 10033, para. 6; P 10838, p. 1; *Seid Smajkić*, T(E), p. 2536; P 04238. *See also* Decision of 7 September 2006, Adjudicated Facts nos 80, 86 and 90 (*Naletilić* Judgement, paras 42, 540 and 649); P 02458, para 27.

<sup>1869</sup> *Witness GG*, P 10020 under seal, *Naletilić and Martinović* Case, T(F), pp. 4742 to 4744.

<sup>1870</sup> *Witness CS*, T(F), p. 12038; *Witness WW*, P 10024 under seal, *Naletilić and Martinović* Case, T(F), p. 7017; *Witness HH*, P 10113, *Naletilić and Martinović* Case, T(F), p. 4803; P 10838, p. 1; *Grant Finlayson*, T(F), p. 18027; P 02293, p. 3; *Witness BB*, T(F), p. 17199, closed session; P 02458, para. 31

<sup>1871</sup> *Witness CS*, T(F), pp. 12041 and 12044, private session; P 10035, para. 17; P 10032, paras 8 and 9; P 10033, para. 6; *Witness U*, P 10220 under seal, *Naletilić and Martinović* Case, T(F), p. 2931; *Witness GG*, P 10020 under seal, *Naletilić and Martinović* Case, T(F), p. 4745; P 09805 under seal, p. 4; P 08880 under seal, pp. 2 and 3; *Witness LL*, P 09881 under seal, *Naletilić and Martinović* Case, T(F), p. 5232; P 09807 under seal, pp. 2 and 3; *Witness CW*, T(F), p. 12673, closed session; P 09413, p. 9; *Witness CB*, T(F), p. 10144; *Klaus Johann Nissen*, T(F), pp. 20433-20435; P 02425, paras 1, 6; P 10838, p. 1; P 04238; Decision of 7 September 2006, Adjudicated Facts nos 88 and 90 (*Naletilić* Judgement, paras 45, 650); *Witness BB*, T(F), pp. 17164 and 17165, closed session; *Grant Finlayson*, T(F), p. 18024; *Seid Smajkić*, T(E), p. 2536.

<sup>1872</sup> *Witness WW*, P 10024 under seal, *Naletilić and Martinović* Case, T(F), pp. 7025 and 7026; P 10038, p. 2; P 09805 under seal, p. 4; IC 00204 under seal; *Witness CT*, T(F), pp. 12149 and 12150, private session; P 08880 under seal, pp. 2 and 3; *Witness LL*, P 09881 under seal, *Naletilić and Martinović* Case, T(F), p. 5232.

<sup>1873</sup> *See* P 09805 under seal, pp. 2 and 11; IC 00203 under seal; *Witness CT*, T(F), pp. 12143-12146 and 12150, private session; *Witness WW*, P 10024 under seal, *Naletilić and Martinović* Case, T(F), pp. 7009 and 7083, closed session.

*Witness CT* described how throughout the morning of 9 May 1993, Muslim women, children and the elderly flooded in from every part of the town.<sup>1874</sup> *Witnesses CT* and *WW* both stated that in the morning, HVO soldiers forced the Muslims - more than 200 people, according to *Witness CT* - to board two buses that went to Vrda.<sup>1875</sup> The HVO soldiers then forced the group of Muslim women, children and elderly people to walk - for almost one and a half hours, according to *Witness CT* - to the Heliodrom.<sup>1876</sup>

803. *Witnesses CS* and *U* - neither members of the ABiH nor Muslims from the HVO<sup>1877</sup> - *Witness CW* - member of the ABiH<sup>1878</sup> - and *Witnesses Mujo Čopelj* and *Muris Marić* - Muslim members of the HVO<sup>1879</sup> - and *Witness GG*<sup>1880</sup> were all taken by bus or on foot by the HVO soldiers to the Velež stadium. *Muris Marić* and *Witness CS* stated that when they arrived, they were searched and the HVO soldiers took their documents and everything they had in their pockets.<sup>1881</sup> *Witness GG* explained that he had been detained in the sun for several hours and that he only had access to a bucket of water an hour or two after their arrival.<sup>1882</sup> At the end of the day, between 1,500 and 4,000 people were gathered at the stadium, primarily men.<sup>1883</sup> Buses then arrived and the HVO soldiers forced the people gathered in the Velež stadium to get on the buses.<sup>1884</sup> Some of the buses took the Muslims straight to the Heliodrom; others dropped them in Vrda from where they had to walk to the Heliodrom.<sup>1885</sup> Some men who were left at the Velež stadium were taken to the Mechanical Engineering Faculty in the early evening.<sup>1886</sup> The Chamber notes that the Muslims

<sup>1874</sup> P 09805 under seal, p. 5; P 08880 under seal, pp. 2-4.

<sup>1875</sup> P 09805 under seal, p. 5; *Witness WW*, P 10024 under seal, *Naletilić and Martinović* Case, T(F), pp. 7026 and 7027; P 08880 under seal, pp. 2-4. The Chamber notes that *Witness WW* spoke of Miljkovići but finds that it also concerns the location called Vrda.

<sup>1876</sup> P 09805 under seal, p. 5; IC 00204 under seal; *Witness CT*, T(F), pp. 12149 and 12150, private session; P 08880 under seal; pp. 2-4; *Witness WW*, P 10024 under seal, *Naletilić and Martinović* Case, T(F), pp. 7026 and 7027; P 02425, paras 1,6.

<sup>1877</sup> *Witness CS*, T(F), p. 12020; *Witness U*, P 10220 under seal, *Naletilić and Martinović* Case, T(F), pp. 2911, 2912, 2933, 2934, 2343 and 2344.

<sup>1878</sup> P 09806 under seal, p. 2.

<sup>1879</sup> P 10032, paras 4 and 5; P 10033, paras 2, 4 and 18.

<sup>1880</sup> The Chamber was unable to determine whether the witness was part of any armed force at the time of his arrest.

<sup>1881</sup> *Witness CS*, T(F), p. 12041, private session; P 10033, para. 7.

<sup>1882</sup> *Witness GG*, P 10020 under seal, *Naletilić and Martinović* Case, T(F), p. 4747.

<sup>1883</sup> *Witness CS*, T(F), p. 12044, private session; P 10032, para. 9 ; P 10033, paras 6 and 7; *Witness U*, P 10220 under seal, *Naletilić and Martinović* Case, T(F), p. 2931.

<sup>1884</sup> *Witness CS*, T(F), pp. 12044, 12045 and 12047, private session; *Witness GG*, P 10020 under seal, *Naletilić and Martinović* Case, T(F), p. 4748; *Witness LL*, P 09881 under seal, *Naletilić and Martinović* Case, T(F), pp. 5236 and 5237. See also *Witness U*, P 10220 under seal, *Naletilić and Martinović* Case, T(F), pp. 2931 and 2932; *Witness BB*, T(F), p. 17168, closed session; *Grant Finlayson*, T(F), pp. 18024 to 18026.

<sup>1885</sup> *Witness CS*, T(F), pp. 12044, 12045 and 12047, private session; *Witness GG*, P 10020 under seal, *Naletilić and Martinović* Case, T(F), p. 4748; *Witness LL*, P 09881 under seal, *Naletilić and Martinović* Case, T(F), pp. 5237; P 10038, paras 12 and 13. See also Decision of 7 September 2006, Adjudicated Facts nos 88 and 90 (*Naletilić* Judgement, paras 45 and 650); *Witness CB*, T(F), p. 10144; *Witness BB*, T(F), p. 17168, closed session; P 10035, para. 18; *Grant Finlayson*, T(F), pp. 18024 to 18026; P 02425, paras 1, 6; P 04238.

<sup>1886</sup> P 09807 under seal, p. 3; P 10033, para. 8.

transported to the Heliodrom were detained there for several days.<sup>1887</sup> Once they were freed, most of the Muslim residents were able to return to their homes in West Mostar.<sup>1888</sup>

804. The Chamber notes that the HVO continued to arrest Muslims from West Mostar and place them in detention at the Heliodrom on 10 and 11 May 1993, using the Mechanical Engineering Faculty at least as a collection centre.<sup>1889</sup> For instance, on 10 May 1993, 351 people were arrested by the HVO, 216 of whom were women, 104 children - between the ages of 2 and 18 - and 31 persons aged up to 82.<sup>1890</sup>

805. The Chamber finds that between 9 and 11 May 1993, the HVO, and members of the *Vinko Škrobo* ATG in particular, forced the Muslim inhabitants of West Mostar to leave their homes and detained them for several hours at the Mechanical Engineering Faculty and the *Velež* stadium – separating the men from the women and children - before transporting them to the Heliodrom. The Chamber notes that the Muslims who were arrested and detained included members of the ABiH, members of the HVO and ordinary residents of West Mostar. The Muslims from West Mostar were detained at the Heliodrom for several days before being released and allowed to return to their homes.

806. The Chamber was not able to establish that the Muslims from West Mostar were forced to cross the front line in order to go to East Mostar in the first half of May 1993, nor that the HVO had released them to leave for the areas of BiH under the control of the ABiH or to other countries. Nor was it able to establish that during this period Muslims were allowed to leave Mostar after signing a statement that they voluntarily relinquished their belongings to the HVO.

**C. Round-up of Muslims from West Mostar, Placement in Detention in Various Locations and Departure of Some to ABiH-Controlled Areas or Other Countries in the Second Half of May 1993**

807. Paragraph 99 alleges that from 9 May 1993 to April 1994, and therefore throughout the second half of the month of May, Herceg-Bosna/HVO forces took away Muslims who had been expelled from their homes and detained them in prisons and detention centres.

<sup>1887</sup> See "Arrival of Detainees Following Waves of Muslim Arrests on 9 and 10 May 1993" in the Chamber's factual findings with regard to Heliodrom.

<sup>1888</sup> Witness A, T(F), p. 14046, closed session; Witness CS, T(F), pp. 12063 and 12064, closed session; Milivoj Petković, T(F), p. 49555; P 10033, para. 18; P 10032, para. 17; P 09807 under seal, p. 5; P 10038, paras 18 and 19; P 09805 under seal, p. 9; Witness WW, P 10024 under seal, *Naletilić and Martinović* Case, T(F), p. 7032; P 04238.

<sup>1889</sup> Witness A, T(F), pp. 14042 to 14044; IC 00404; P 02313; Zoran Perković, T(F), pp. 32020 and 32021; P 10122, paras 1 and 2; P 10121, para. 2; P 02273, p. 3.

<sup>1890</sup> P 02266.

808. Like paragraph 99 of the Indictment, which states that from 9 May 1993 to April 1994 Muslims were expelled from their homes, paragraph 101 of the Indictment also specifies that after releasing many Muslims shortly after having arrested and imprisoned them on 9 and 10 May 1993, the HVO expelled the Muslims of West Mostar from their homes in the second half of May 1993. In its Pre-Trial Brief, the Prosecution claimed that on 25 May 1993 around 300 Muslim civilians were transferred by the HVO to East Mostar.<sup>1891</sup>

809. Finally, in paragraph 100 of the Indictment, it is alleged that the Herceg-Bosna/HVO authorities and armed forces allowed some Muslims from West Mostar to go to ABiH-controlled areas or to other countries, as long as they left Herceg-Bosna. Hundreds of Muslims were allowed to leave Mostar only if they signed a statement that they "voluntarily" relinquished all of their belongings to the HVO.

810. On this last point, the Chamber notes from the outset that it did not receive any evidence allowing it to establish that the HVO released Muslims from West Mostar to other countries in the second half of May 1993. Nor did it obtain evidence showing that Muslims were allowed to leave Mostar after signing a statement that they voluntarily relinquished their property to the HVO. These allegations will not therefore be analysed here.

811. Having (1) first examined whether the Muslims from West Mostar continued to be expelled from their homes in the second half of May 1993, the Chamber will (2) examine in greater detail the allegations relating to the transfer of 300 Muslims to East Mostar by the HVO at the end of May 1993.

1. Muslims from West Mostar Expelled from Their Homes, Placed in Detention or Transferred to East Mostar in the Second Half of May 1993

812. The Chamber notes that in the second half of May 1993, the HVO once again initiated action against the Muslim population of West Mostar, more specifically, for the purpose of expelling them from the flats in which they were living. The members of the international community based in Mostar at the time of events said that this campaign was aimed primarily and

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<sup>1891</sup> Prosecution Pre-Trial Brief, para. 101.7.

specifically at Muslims who lived in flats that had been abandoned by the Serbs in 1992.<sup>1892</sup> According to them, the campaign then quickly spread to all Muslim residents of West Mostar.<sup>1893</sup>

813. *Witness AC* took part in the campaign as part of the *Benko Penavić* ATG.<sup>1894</sup> He said that as soon as a neighbourhood was identified, it was encircled by ATG soldiers who searched houses and flats one by one and expelled all Muslims.<sup>1895</sup> The Muslim inhabitants were transported by lorries to the Heliodrom or directly to East Mostar via Bulevar.<sup>1896</sup> In some cases, the Muslims inhabitants of West Mostar had to move to a collection centre<sup>1897</sup> or slept in the street around the Spabat armoured vehicles in various locations in the town – although the Chamber was unable to establish precisely for how long.<sup>1898</sup>

814. According to evidence received by the Chamber, between 1,200 and 2,000 Muslim inhabitants were forced to leave West Mostar during this HVO operation.<sup>1899</sup>

815. Therefore, the Chamber finds that in the second half of May 1993, the HVO soldiers, and in particular the members of the *Benko Penavić* ATG, systematically expelled from their homes a large number of Muslims from West Mostar, made them cross the front line towards East Mostar or placed them in the Heliodrom.

## 2. Removal of 300 Muslims to East Mostar at the end of May 1993

816. According to the representatives of the international community present in the field at the time of the events, 300 "Muslim civilians" were transported from West Mostar to East Mostar on 26 May 1993.<sup>1900</sup>

817. *Witness A* was removed from West Mostar to East Mostar shortly after he was released from the Heliodrom on 24 May 1993.<sup>1901</sup> He indicated that the Muslim inhabitants of West Mostar

<sup>1892</sup> Witness BB, T(F), pp. 17185 and 17186, 17190, closed session; P 09677 under seal, paras 5 and 6; Witness BA, T(F), pp. 7185 and 7186, closed session; P 09712 under seal, paras 23, 31-33; P 09677 under seal, para. 6.

<sup>1893</sup> P 02557 under seal, p. 1; Klaus Johann Nissen, T(F), p. 20431; Witness BA, T(F), pp. 7185 and 7186, closed session; P 09712 under seal, paras 23, 31-33; P 09677 under seal, para. 6.

<sup>1894</sup> Witness AC, P 10222 under seal, *Naletilić and Martinović* Case, T(F), pp. 7908 and 8036.

<sup>1895</sup> Witness AC, P 10222 under seal, *Naletilić and Martinović* Case, T(F), pp. 7909, 7910 and 7962; P 10038, p. 4; Witness BB, T(F), p. 17199, closed session; P 09678 under seal, para. 6.

<sup>1896</sup> Witness AC, P 10222 under seal, *Naletilić and Martinović* Case, T(F), pp. 7909, 7910 and 7962; P 09240 under seal; P 10038, p. 4; Witness DZ, T(F), p. 26471, closed session; P 10367 under seal, para. 51; P 10035, para. 6.

<sup>1897</sup> The Chamber was unable to determine where precisely the collection centre was located in West Mostar. This centre was under the control of the HVO, which had placed military policemen inside the centre.

<sup>1898</sup> Witness BB, T(F), pp. 17187, 17192, 25420 and 25421, closed session; P 09677 under seal, para. 7; Anton van der Grinten, T(F), pp. 21008-21010; P 02564 under seal, p. 7.

<sup>1899</sup> Witness Miro Salčin, T(F), pp. 14232, 14234, 14300; P 09834, para. 9; P 02425, para. 12.

<sup>1900</sup> P 09677 under seal, paras 2, 3 and 4. See also Decision of 7 September 2006, Adjudicated Fact no. 111 (*Naletilić* Judgement, para. 547).

wanting to leave that part of the town could sign up at the Đački Dom in order to be moved to East Mostar.<sup>1902</sup> *Witness A* stated that since they no longer felt safe, he and his family decided to leave West Mostar. On 26 May 1993, three buses arrived outside the Djacki Dom student dormitory and moved the Muslims to East Mostar.<sup>1903</sup> *Klaus Johann Nissen* told the Chamber that since he was in West Mostar on that day, he saw five coaches with families, women, children and the elderly in them.<sup>1904</sup> He specified that Berislav Pušić seemed to be responsible for this transportation.<sup>1905</sup> According to the Spabat report of 30 May 1993, in the days that followed, the HVO prevented any Muslims from East Mostar from returning to West Mostar.<sup>1906</sup>

818. The Chamber finds that the HVO did indeed move at least 300 Muslims from West Mostar to East Mostar on 26 May 1993 without their having the possibility of returning to West Mostar.

**D. Violence and Thefts Committed against Muslims Arrested, Evicted from Their Flats, Placed in Detention and Displaced in May 1993**

819. Paragraph 99 of the Indictment alleges that during the operations conducted by the Herceg-Bosna/HVO forces to expel the Muslims from West Mostar, the Muslims were beaten, sexually assaulted, shot at, robbed, had their property confiscated and were otherwise mistreated.

820. In paragraph 100 of the Indictment, it is also alleged that the homes and flats from which the Muslims were evicted were then assigned to HVO soldiers or to Bosnian Croat civilians.

821. According to paragraph 107 of the Indictment, in May 1993 and during the operations in which the Muslims were evicted from their homes, the Herceg-Bosna/HVO forces engaged in theft and plunder of Muslim property or entered homes that were still occupied or abandoned.

822. The Chamber received the testimony of several members of the international community<sup>1907</sup> and of Muslim inhabitants of West Mostar arrested or evicted from their homes<sup>1908</sup> who confirmed

<sup>1901</sup> *Witness A*, T(F), pp. 14046 and 14048, closed session.

<sup>1902</sup> *Witness A*, T(F), pp. 14049 and 14110-14113, closed session; P 02524.

<sup>1903</sup> *Witness A*, T(F), p. 14049, closed session.

<sup>1904</sup> *Klaus Johann Nissen*, T(F), pp. 20428-20430. The Chamber notes that *Witnesses A* and *Johann Nissen* do not give the same number of buses during this transport. The Chamber does not see any contradiction here as *Witness A* may not have seen all the buses that made up the transport fleet.

<sup>1905</sup> *Klaus Johann Nissen*, T(F), pp. 20428-20430.

<sup>1906</sup> P 02570 under seal, pp. 3, 4. *See also* P 02662, item 4.

<sup>1907</sup> *Witness BB*, T(F), p. 17199, closed session; *Witness BA*, T(F), p. 7183, closed session; P 09712 under seal, para. 33; *Antoon van der Grinten*, T(F), pp. 21010, 21012 and 21013; P 02600 under seal; *Witness AC*, P 10222 under seal, *Naletilić and Martinović Case*, T(F), pp. 7962 and 7963.

<sup>1908</sup> *Witness GG*, P 10020 under seal, *Naletilić and Martinović Case*, T(F), pp. 4745, 4748; P 09805 under seal, pp. 4 and 10; P 09861, pp. 2 and 3; P 09866 under seal, pp. 2 and 3; P 10035, para. 18; P 10042, para. 9; *Witness AC*, P 10222 under seal, *Naletilić and Martinović Case*, T(F), p. 7912.

that while they were being evicted in May 1993, the HVO soldiers used threats, intimidation and, sometimes physical violence. *Witness GG* described how when the HVO soldiers<sup>1909</sup> made them walk to the Velež stadium, "Štela" severely struck a Muslim journalist several times and HVO soldiers struck anyone who dared speak with their rifle butts.<sup>1910</sup> *Witness WW* claims that "Štela" kicked him in the back with his boot.<sup>1911</sup> *Witness CT* described how when he was evicted from his flat on 9 May 1993, someone called Miro Martinović severely beat him with the butt of his rifle, punched and kicked him,<sup>1912</sup> and how another HVO soldier hit a girl of 9 with the butt of his rifle and continued to do so while she was on the ground.<sup>1913</sup>

823. As part of the operations to arrest and evict people from their homes, the HVO soldiers<sup>1914</sup> searched the flats – usually on the pretext of searching for arms - and took objects of value, such as money, jewellery, gold and televisions.<sup>1915</sup> *Witness CS* said that when he was arrested on 9 May 1993, the HVO soldiers asked for the keys to his flat and his car, and carved the letter "R" which meant "reserved" on the door to his flat.<sup>1916</sup> *Witness AC* - who participated in the evictions in the second half of May 1993 - confirmed that the members of the *Benko Penavić* ATG were instructed to confiscate the keys to flats and any objects of value, and, if they encountered any resistance from the Muslims, were ordered to "trample over them".<sup>1917</sup> ATG members seized Muslim homes and gave the keys to Mario Miličević, alias "Baja".<sup>1918</sup> *Witness AC* also said that Mario Miličević returned to the flats at night with men from the *Benko Penavić* ATG and took everything of value.<sup>1919</sup> Some Muslim inhabitants of West Mostar who were able to return to their homes after being arrested and detained at the Heliodrom for a few days, could thus see that their flats had been burgled and that the electronic and domestic appliances had been stolen.<sup>1920</sup>

<sup>1909</sup> *Witness GG* mentions the presence of Pehar, alias "Domla" and the Hajrić brothers in addition to Vinko Martinović. *Witness GG*, P 10020 under seal, *Naletilić and Martinović* Case, T(F), p. 4745.

<sup>1910</sup> *Witness GG*, P 10020 under seal, *Naletilić and Martinović* Case, T(F), pp. 4744 and 4748.

<sup>1911</sup> *Witness WW*, P 10024 under seal, *Naletilić and Martinović* Case, T(F), p. 7092.

<sup>1912</sup> P 09805 under seal, p. 3.

<sup>1913</sup> P 09805 under seal, p. 4.

<sup>1914</sup> *Witness U* mentions Džemo Škobalj and Oruđević, members of the HVO special unit. Report of the Department of Defence of 1 June 1993 mentions a member of the KB and Vinko Martinović.

<sup>1915</sup> P 10042, para. 9; *Witness U*, P 10220 under seal, *Naletilić and Martinović* Case, T(F), p. 2929; P 02594. *See also* Decision of 7 September 2006, Adjudicated Fact no. 125 (*Naletilić* Judgement, para. 624).

<sup>1916</sup> *Witness CS*, T(F), pp. 12038, 12039, 12043 and 12044, private session. *See also* P 02423 under seal, p. 6.

<sup>1917</sup> *Witness AC*, P 10222 under seal, *Naletilić and Martinović* Case, T(F), pp. 7910 and 7911.

<sup>1918</sup> *Witness AC*, P 10222 under seal, *Naletilić and Martinović* Case, T(F), p. 7962.

<sup>1919</sup> *Witness AC*, P 10222 under seal, *Naletilić and Martinović* Case, T(F), pp. 7911 and 7963. *See also* *Witness CS*, T(F), pp. 12082 and 12083, private session.

<sup>1920</sup> *Witness WW*, P 10024 under seal, *Naletilić and Martinović* Case, T(F), pp. 7032 and 7033; P 10035, paras 5 and 6; P 09805 under seal; p 9; P 10038, para. 19. *See also* Antoon van der Grinten, T(F), p. 21013; *Witness BB*, T(F), p. 17190, closed session; Decision of 7 September 2006, Adjudicated Facts nos 125 and 126 (*Naletilić* Judgement, paras 48 and 624).

824. According to the members of the international community and *Witness AC*, after evicting the Muslims from their flats, the HVO hung notices on the doors of the empty flats with the markings of the HVO or the HVO Military Police assigning a new resident: an HVO soldier or member of the HVO Military Police.<sup>1921</sup> The flats were then occupied by members of the HVO or also by Croatian families who had arrived from other municipalities.<sup>1922</sup> For instance, when *Witness CW* was released from the Heliodrom on 18 May 1993 and tried to return to his home, he found his flat locked and occupied by another person, who threatened to kill him if he returned.<sup>1923</sup>

825. The Chamber received little evidence about the allegations of rape and sexual assault in May 1993. Accordingly, only *Witness BB* and a report from the Special Rapporteur of the United Nations Human Rights Commission dated 17 November 1993 mention in very general terms rape and sexual attack in Mostar in 1993 and 1994.<sup>1924</sup> Lastly, an internal report of the Mostar branch of the Military Police Department for Criminal Investigations mentions rapes committed in Mostar in the first half of 1993.<sup>1925</sup>

826. The Chamber notes that the HVO authorities were informed about the abuse committed by the HVO troops in May 1993.<sup>1926</sup> For example, an internal report of the Mostar branch of the Military Police Department for Criminal Investigations of 23 July 1993 states that there was a significant increase in crimes of breaking and entering, mostly at night, in an organised fashion committed by armed individuals who often introduced themselves as members of the Military Police or ATG. and that forced deportations took place in the first half of 1993 with the majority of victims being Muslims.<sup>1927</sup> The Chamber finds that in order to fight the crimes of theft of both public and private property in the town of Mostar, Bruno Stojić and Branko Kvesić, Head of the Department of the Interior, ordered from 31 May 1993 a step-up in the checking of vehicles leaving town and the strict enforcement of a curfew in town between 2100 and 0700 hours.<sup>1928</sup> However, the Chamber is not in a position to determine whether the HVO took measures against the perpetrators of these crimes.

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<sup>1921</sup> *Witness BC*, T(F), p. 18322, closed session; *Witness BB*, T(F), pp. 17185; 17209; 17295 to 17297, closed session; P 09677 under seal, para. 8; P 02879; *Witness AC*, P 10222 under seal, *Naletilić and Martinović* Case, T(F), pp. 7911 and 7963.

<sup>1922</sup> *Witness BC*, T(F), p. 18322, closed session; *Witness BB*, pp. 17194 and 17195, closed session; P 09678 under seal, para. 6; Antoon van der Grinten, T(F), p. 21007; P 02550 under seal.

<sup>1923</sup> P 09807 under seal, p. 5.

<sup>1924</sup> P 06697, para. 21; *Witness BB*, T(F), pp. 17199, 17212 and 17213, closed session.

<sup>1925</sup> P 03672, pp. 1 and 2.

<sup>1926</sup> P 03672; P 05977; P 07035, pp. 5-12.

<sup>1927</sup> P 03672.

<sup>1928</sup> P 02578, p. 1.



827. The Chamber concludes that when the Muslims were evicted from their flats in May 1993, the HVO and, in particular, the *Benko Penavić* ATG, threatened and intimidated the West Mostar Muslims, kicked them with their boots, punched them and hit them with rifle butts. They also took all valuables that the West Mostar Muslims had on them and took things from their flats either while evicting them from their homes or when they returned later in the night. The HVO also seized flats that were vacated in this way and assigned them to members of the HVO or to Croatian families.

828. Absent specific evidence, the Chamber is, however, not in a position to find whether Muslims were raped and sexually attacked in May 1993.

### **III. Crimes Allegedly Committed at the HVO Detention Centres in Mostar in May 1993**

829. In paragraph 94 of the Indictment, the Prosecution submits that after the capture of the Vranica building, military-aged men were (A) detained and taken to the Tobacco Institute, (B) the Mechanical Engineering Faculty and (C) the MUP building.

830. Also in paragraph 94, the Prosecution specifies that when they arrived at the Tobacco Institute, the Muslim men from the Vranica building were presented to a gathering of senior Herceg-Bosna/HVO officials and officers and that they were beaten, mistreated and abused.

831. The Prosecution adds in paragraph 104 of the Indictment that the Herceg-Bosna/HVO forces used the Mechanical Engineering Faculty to detain, interrogate and mistreat arrested or captured Muslim men.

832. In light of these points and considering the list of counts with regard to paragraphs 94 and 104 of the Indictment alleged for May 1993 in Mostar,<sup>1929</sup> the Chamber notes that the Indictment does not contain any allegations relating to the poor conditions of detention at the Tobacco Institute, the Mechanical Engineering Faculty and the MUP building. Moreover, to the extent that neither paragraph 94 of the Indictment nor the Prosecution Pre-Trial Brief refer to any violence or abuse suffered by the Muslim detainees at the MUP building, the Chamber considers that mistreatment at the MUP building was not alleged.

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<sup>1929</sup> Indictment, para. 229.

### A. Tobacco Institute

833. The Chamber heard *Witness CV*,<sup>1930</sup> a member of the 2<sup>nd</sup> Battalion of the ABiH and detained at the Tobacco Institute after surrendering to the HVO when the Vranica building fell,<sup>1931</sup> say that after his arrest, he was taken by the HVO soldiers with others who had been in the Vranica building - members of the ABiH or ordinary residents - to the Mostar School of Economics<sup>1932</sup> where Juka Prazina's unit proceeded to make a selection.<sup>1933</sup> The Croats were freed and Muslim men over the age of 70 were taken to the Velež stadium.<sup>1934</sup> According to *Witness CV* he had to walk with 30 or so other Muslim men to the Tobacco Institute.<sup>1935</sup>

834. According to the *Witness*, when they arrived, there were senior officials of the HDZ and the HVO in civilian and military clothing at the Tobacco Institute.<sup>1936</sup> Branko Kvesić,<sup>1937</sup> Petar Zelenika,<sup>1938</sup> Petar Mišić, who was also known as "old Mišić",<sup>1939</sup> Juka Prazina, members of his unit<sup>1940</sup> and Mladen Naletilić, alias "Tuta",<sup>1941</sup> were among those present there.<sup>1942</sup>

835. According to *Witness CV*, when they arrived, the Muslim men were placed in a line outside the building.<sup>1943</sup> After exchanging a few words with Branko Kvesić, *Witness CV* was beaten by "Tuta" with a Motorola telephone,<sup>1944</sup> then with rifle butts several times by three men he was not able to identify with certainty.<sup>1945</sup> Juka Prazina then offered him his hand, saying that no one would touch him again, but as Prazina was helping him to get up, he kicked him in the head while he was

<sup>1930</sup> *Witness CV*, T(F), p. 12527.

<sup>1931</sup> *Witness CV*, T(F), p. 12545. The witness told the Chamber that he had changed into civilian clothing with other ABiH soldiers before surrendering.

<sup>1932</sup> *Witness CV*, T(F), pp. 12545 and 12546; IC 00229. Decision of 7 September 2006, Adjudicated Fact no. 95 (*Naletilić* Judgement, para. 40).

<sup>1933</sup> *Witness CV*, T(F), pp. 12545 and 12546.

<sup>1934</sup> *Witness CV*, T(F), p. 12546.

<sup>1935</sup> *Witness CV*, T(F), pp. 12546, 12554, 12555 and 12557; IC 00228; P 08987: the witness and some of the men who were taken to the Tobacco Institute appeared in the video. See also Decision of 7 September 2006, Adjudicated Facts nos 95 and 98 (*Naletilić* Judgement, paras 41 and 377).

<sup>1936</sup> *Witness CV*, T(F), pp. 12548 and 12549.

<sup>1937</sup> Branko Kvesić was Head of the Department of the Interior. See 1D 00173.

<sup>1938</sup> Petar Zelenika was the second man in the South-East OZ. See P 01572; 3D 02081; 3D 00676; 2D 00313/3D 00016; Decision of 7 September 2006, Adjudicated Fact no. 99 (*Naletilić* Judgement, para. 144).

<sup>1939</sup> Petar Mišić was the Commander of the 4<sup>th</sup> Battalion, but the Chamber was unable to determine to which brigade this battalion belonged. *Witness CV*, T(F), pp. 12548 and 12549; Decision of 7 September 2006, Adjudicated Fact no. 99 (*Naletilić* Judgement, para. 144).

<sup>1940</sup> Juka Prazina was the Commander of the unit called "Juka Prazina". P 01498; *Witness CV*, T(F), p. 12549.

<sup>1941</sup> *Witness CV*, T(F), p. 12549. See also Decision of 7 September 2006, Adjudicated Fact no. 99 (*Naletilić* Judgement, para. 144).

<sup>1942</sup> Decision of 07 September 2006, Adjudicated Fact no. 99 (*Naletilić* Judgement, para. 144).

<sup>1943</sup> *Witness CV*, T(F), p. 12549.

<sup>1944</sup> *Witness CV*, T(F), p. 12549.

<sup>1945</sup> *Witness CV*, T(F), pp. 12549 and 12550. According to the witness, the three men were: a man called Dujma, another man called Sležak; the third man was described by the witness as being blond and quite thin. The Chamber notes that the witness did not provide details about the nature of the functions of the three men. See also Decision of 7 September 2006, Adjudicated Fact no. 101 (*Naletilić* Judgement, para. 393).

still crouching.<sup>1946</sup> *Witness CV* added that someone called Pabrić was also hit by "Tuta" on the head with his pistol butt.<sup>1947</sup>

836. *Witness CV* clarified that, once inside the Tobacco Institute, Petar Mišić came up to the men and asked that he be given 10 to execute.<sup>1948</sup> He then changed his mind and asked that they all be executed.<sup>1949</sup> Juka Prazina replied to him that he could kill his own prisoners, but not his because he wanted to keep them to exchange them for members of his unit captured by the ABiH.<sup>1950</sup>

837. *Witness CV* did not provide more details of his detention at the Tobacco Institute and said that he was then taken with around 20 men by bus in the direction of Široki Brijeg to be detained in the MUP building.<sup>1951</sup> The Chamber was therefore not in a position to establish how long the witness stayed at the Tobacco Institute.

838. The Chamber finds that Muslim men, including members of the ABiH, were arrested during the fall of the Vranica building on 10 May 1993 and placed in detention at the Tobacco Institute by HVO soldiers, including Juka Prazina and his unit. These men were beaten by members of the HVO and, in particular, by Mladen Naletilić and Juka Prazina.

## **B. Mechanical Engineering Faculty**

839. The Prosecution alleges in paragraph 104 of the Indictment that from 9 May 1993 the Herceg-Bosna/HVO forces used the Mechanical Engineering Faculty to detain, interrogate and mistreat arrested or captured Muslim men. In paragraphs 94 and 95, the Prosecution submits that on 10 May 1993, Muslim men of military age from Mostar - and in particular those from Vranica building - were arrested and taken, *inter alia*, to the Mechanical Engineering Faculty; that among the men taken to the Mechanical Engineering Faculty were 12 Muslim men, members of the ABiH forces<sup>1952</sup> who were mistreated during their detention at the Mechanical Engineering Faculty and who were never seen again.

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<sup>1946</sup> *Witness CV*, T(F), p. 12550.

<sup>1947</sup> *Witness CV*, T(F), p. 12550.

<sup>1948</sup> *Witness CV*, T(F), p. 12550.

<sup>1949</sup> *Witness CV*, T(F), p. 12550.

<sup>1950</sup> *Witness CV*, T(F), p. 12550.

<sup>1951</sup> *Witness CV*, T(F), p. 12558.

<sup>1952</sup> In order to assist the reading of the developments that follow, the Chamber will call these 12 men, the "12 ABiH soldiers". According to the redacted Annex A of the Indictment, the 12 men were: Hasan Balić, Alija Čamo, Senad Čehić, Dževad Čolić, Mimo Grizović, Vahidin Hasić, Dževad Husić, Zlatko Mehić, Nenad Fedja Milojević, Fahir Penava, Šefko Pabrić and Nazif Šarančić.

840. *Witnesses A, CU, CW, Nedžad Bobeta* – members of the ABiH<sup>1953</sup> – *Muris Marić, Mujo Čopelj* – Muslim members of the HVO<sup>1954</sup> – and *Ismet Poljarević* - Muslim<sup>1955</sup> - were all detained at the Mechanical Engineering Faculty for at least several days from 9 May 1993<sup>1956</sup> and were able to provide information to the Chamber (1) on the organisation of the Mechanical Engineering Faculty as a detention centre, (2) the treatment suffered by the Muslims detained there, and (3) finally, the fate of 12 ABiH soldiers arrested after the fall of the Vranica building.

#### 1. Organisation of the Mechanical Engineering Faculty as a Detention Centre

841. The Mechanical Engineering Faculty was an old building with a basement, ground floor, two upper floors and an attic.<sup>1957</sup> According to the witnesses who were detained at the Mechanical Engineering Faculty, the rooms in which they were imprisoned were in the basement.<sup>1958</sup> *Witness A* indicated that three rooms in the basement served as cells: the detainees in his room were all ABiH members<sup>1959</sup> and *Witnesses CW, Muris Marić and Mujo Čopelj* were detained together in one of the other two rooms.<sup>1960</sup> Another, very dark room in the basement was used by the detainees to urinate.<sup>1961</sup> Witnesses also mentioned a room on the ground floor in which they were interrogated.<sup>1962</sup>

842. The Chamber received the testimony of several witnesses who stated that the Mechanical Engineering Faculty was the general headquarters of the 3<sup>rd</sup> Battalion of the HVO Military Police in 1993 and that *Željko Džidić* was its commander.<sup>1963</sup> Two witnesses mentioned *Mate Anićić*, a

<sup>1953</sup> Witness A, T(F), p. 14008, closed session; Witness CU, T(F), p. 12253, closed session; P 09806 under seal, p. 2; P 10121, para. 2; P 10122, p. 1 and para. 1.

<sup>1954</sup> P 10032, para. 5; P 10033, paras 4 and 18.

<sup>1955</sup> P 09726, p. 2; P 00285, p. 1.

<sup>1956</sup> Witness A was detained at the Mechanical Engineering Faculty from 10 to 11 May 1993 (Witness A, T(F), pp. 14021, 14042 and 14043, closed session; IC 00405, Witness A, T(F), p. 14019, closed session; P 09800); Witness CU during the day of 22 May 1993 (Witness CR, T(F), pp. 12300 and 12301, closed session); Witness CW from 9 to 13 May 1993 (P 09806 under seal, p. 2); *Muris Marić* from 9 to 11 May 1993 (P 10033, paras 8 and 13); *Mujo Čopelj* from 9 to 11 May 1993 (P 10032, paras 10, 15 and 16); *Nedžad Bobeta* for a few hours on 11 May 1993 (P 10122, para. 2); and *Ismet Poljarević* from 17 to 19 May 1993 (*Ismet Poljarević*, T(F), p. 11610; P 09726, pp. 4-6; 2D 00285, pp. 3 and 4). All the witnesses were then transferred to the Heliodrom.

<sup>1957</sup> P 09413, p. 12; IC 00027; P 09791; P 09807 under seal, p. 3.

<sup>1958</sup> P 09800, p. 2; Witness A, T(F), pp. 14025 and 14026, closed session; P 09807 under seal, p. 3; P 09726, p. 5; 2D 00285, p. 4; P 10032, paras 10 and 11; P 10033, paras 8 and 9; P 10122, para. 2.

<sup>1959</sup> P 09800, p. 2; Witness A, T(F), pp. 14025 and 14026, closed session. Witness A and the other members of the ABiH were in room no. 3 and the civilians in rooms nos 8 and 6.

<sup>1960</sup> P 10032, para. 8; P 09807 under seal, p. 3.

<sup>1961</sup> P 09800, p. 2; Witness A, T(F), pp. 14025 and 14026, closed session. This refers to room no. 7. See also P 10032, para. 11; P 10033, para. 9.

<sup>1962</sup> IC 00403; Witness A, T(F), pp. 14024 and 14025, closed session; P 09807 under seal, pp. 3 and 5.

<sup>1963</sup> P 09117, pp. 2 and 3; *Alija Lizde*, T(F), pp. 17959 and 17960; *Ibrahim Šarić*, T(F), p. 5093; P 09807 under seal, p. 3; Witness CW, T(F), p. 12666; Witness A, T(F), pp. 14036 and 14037, closed session; P 01868; *Ismet Poljarević*, T(F), p. 11574; P 09726, p. 5; 2D 00285, p. 4; *Suad Čupina*, T(F), p. 4906; 1D 00527, paras 35 and 37; P 10033, para. 10. See also P 01514, p. 1; P 10033, para. 13.

member of the 3<sup>rd</sup> Battalion of the Military Police,<sup>1964</sup> as having been at the Faculty during their detention in May 1993 and as having taken part in the violence against the Muslims.<sup>1965</sup> Finally, *Muris Marić* said that Mladen Naletilić, together with Armin Pohara and Juka Prazina, ordered that the detainees in the cell where Muris Marić was be sent to the Heliodrom on 11 May 1993, and they were transported there two hours later.<sup>1966</sup>

## 2. Treatment of Detainees at the Mechanical Engineering Faculty

843. The witnesses all claimed that they had been victims or had seen violence against detainees or beatings while they were being held at the Mechanical Engineering Faculty.<sup>1967</sup> *Witness A* was, for instance, struck with a helmet in the face and kicked in the neck, which made him lose consciousness.<sup>1968</sup> *Ismet Poljarević* was beaten up, especially by military police officers, with chairs and a flagpole.<sup>1969</sup> He suffered broken ribs and could no longer walk or lie down for five months.<sup>1970</sup>

## 3. Fate of the 12 ABiH Soldiers

844. According to the Prosecution, the 12 ABiH soldiers detained at the Mechanical Engineering Faculty were subjected to numerous beatings and were not seen again after 10 May 1993. They were allegedly "brutally tortured and murdered" by members of the 3<sup>rd</sup> Battalion of the Military Police.<sup>1971</sup>

845. *Witness A*, a member of the ABiH,<sup>1972</sup> confirmed that he was held in a room with Hasan Balić, Alija Čamo, Senad Čehić, Dževad Čolić, Mimo Grizović, Vahidin Hasić, Dževad Husić, Zlatko Mehić, Nenad Fedja Milojević, Fahir Penava, Šefko Pobrić and Nazif Šarančić, all 12 also

<sup>1964</sup> P 09117, p. 4; *Witness A*, T(F), p. 14022, closed session; P 09807 under seal, p. 3.

<sup>1965</sup> *Witness A*, T(F), p. 14022, closed session; P 09807 under seal, p. 3.

<sup>1966</sup> P 10033, paras 13 and 14.

<sup>1967</sup> P 09807 under seal, pp. 3 and 4; *Witness CW*, T(F), pp. 12678 and 12680, closed session; P 10033, para. 10; P 10032, paras 12 and 13; *Ismet Poljarević*, T(F), p. 11575; P 09726, p. 6; *Witness CU*, T(F), pp. 12300 and 12301, closed session. *See also* P 10122, para. 2.

<sup>1968</sup> *Witness A*, T(F), pp. 14022 and 14023, closed session.

<sup>1969</sup> *Ismet Poljarević*, T(F), pp. 11574, 11611, 11659 and 11660; P 09726, p. 5.

<sup>1970</sup> *Ismet Poljarević*, T(F), p. 11611; P 09726, p. 5. In the cell next to his, he noticed a lot of blood on the ground, bloody hand prints and bullet holes in the walls (*see* 2D 00285, p. 4).

<sup>1971</sup> Indictment, para. 95; Prosecution Final Trial Brief, para. 1173.

<sup>1972</sup> *Witness A*, T(F), p. 14008, closed session.

members of the ABiH,<sup>1973</sup> and identified them in video footage.<sup>1974</sup> According to him, they were later joined by a man called Eso Husić, who was wearing "civilian clothing".<sup>1975</sup>

846. Throughout the night of 10 May 1993, *Witness A* and the 12 ABiH soldiers, were beaten several times by HVO soldiers and military police officers<sup>1976</sup> who took turns in groups of 10 or 15.<sup>1977</sup> They used various implements, such as rifle butts, truncheons and thick cables, to beat them which made them lose consciousness.<sup>1978</sup> *Witness A* said that on that evening, Željko Džidić, the Commander of the 3<sup>rd</sup> Battalion of the Military Police, was present<sup>1979</sup> and that, while he did not hit them, he did not prevent this either.<sup>1980</sup>

847. Paragraph 95 of the Indictment mentions more specifically the case of an ABiH soldier who had an ear cut off and was subsequently shot dead by a member of the HVO.<sup>1981</sup> In this respect, *Witness A* said that, in the same night of 10 May 1993, a group of HVO soldiers arrived and asked who among the detainees in the room were members of Daidža's army. When Dževad Husić said that he was, the members of the HVO took him to the neighbouring room.<sup>1982</sup> *Witness A* said that he then heard them beating him. One of the members of the HVO asked for a knife to cut off his ear, and he asked Dževad Husić which ear was his favourite, before cutting it off.<sup>1983</sup> *Witness A* then heard screams and moaning and then a shot.<sup>1984</sup> *Witness A* stated that he found Dževad Husić's lifeless body lying on its back in the room next door.<sup>1985</sup>

848. According to *Witness A*, shortly after that, another group of HVO members arrived and beat them violently again. They then brought out four ABiH soldiers<sup>1986</sup> to take them to a room next door,<sup>1987</sup> where they were forced to beat each other while singing songs glorifying famous Croats,

<sup>1973</sup> *Witness A*, T(F), pp. 14027, 14028, 14031, 14032 and 14034, closed session. They were detained in a room marked with the number 4 on the sketch of the basement of the Mechanical Engineering Faculty numbered P 09800.

<sup>1974</sup> *Witness A*, T(F), pp. 14028 and 14029-14032, closed session; P 08987.

<sup>1975</sup> *Witness A*, T(F), p. 14032, closed session. The Chamber notes that *Witness A* does not provide details about what became of Eso Husić.

<sup>1976</sup> *Witness A*, T(F), p. 14035, closed session.

<sup>1977</sup> *Witness A*, T(F), pp. 14035 to 14036, closed session.

<sup>1978</sup> *Witness A*, T(F), p. 14035, closed session.

<sup>1979</sup> *Witness A* exchanged a few words with Džidić, who explained that he was guilty of being Muslim. *Witness A*, T(F), p. 14036, closed session.

<sup>1980</sup> *Witness A*, T(F), pp. 14036 and 14037, closed session.

<sup>1981</sup> Indictment, para. 95.

<sup>1982</sup> *Witness A* identified this room as the room marked number 5 on the sketch of the basement of the Mechanical Engineering Faculty numbered P 09800.

<sup>1983</sup> *Witness A*, T(F), pp. 14037 and 14038, closed session. *See also* P 09807 under seal, p. 3; P 10033, para. 11.

<sup>1984</sup> *Witness A*, T(F), pp. 14037 and 14038, closed session. *Witness A* specified that he heard the soldier, who had fired the shots, say that he wanted to avenge a member of his family who had been killed by "Daidža's army". *See also* P 09807 under seal, pp. 3 and 4; P 10033, para. 12.

<sup>1985</sup> *Witness A*, T(F), p. 14039, closed session.

<sup>1986</sup> *Witness A* does not specify which.

<sup>1987</sup> IC 00403 and P 09800; *Witness A*, T(F), p. 14026, closed session.

and were then returned to the cell.<sup>1988</sup> Another group of HVO soldiers came to look for "a sniper".<sup>1989</sup> Assuming – without saying why - that it was Zlatko Mehić, they took him to the adjoining room. According to *Witness A*, one of the members of the HVO deliberately broke his leg. Zlatko Mehić then dragged himself using his arms back to the room where *Witness A* and the other ABiH soldiers were.<sup>1990</sup>

849. After this group of HVO soldiers had left, Juka Prazina and a person called Pohara entered the room where *Witness A* and 11 ABiH soldiers were<sup>1991</sup> (Dževad Husić was dead) and opened fire sideways in their direction.<sup>1992</sup> *Witness A* was hit by a bullet in the foot.<sup>1993</sup> Nazif Šarančić and Mimo Grizović died from these shots and Zlatko Mehić was dying.<sup>1994</sup> The other detainees left the room - including *Witness A*.<sup>1995</sup>

850. The Chamber finds that, in general the witnesses did not provide details on the fate of the eight other ABiH soldiers after these events (the Chamber recalls that there were 12 ABiH soldiers and that Dževad Husić, Nazif Šarančić and Mimo Grizović died, while Zlatko Mehić was dying). The Chamber notes, however, that the disappearance of the 12 ABiH soldiers was confirmed by the Muslim and Croatian military authorities.<sup>1996</sup>

851. The Chamber notes that Berislav Pušić provided contradictory information about the fate of the ABiH soldiers. At a meeting with *Amor Mašović*,<sup>1997</sup> on 29 December 1993, he said that 8 of the 12 ABiH soldiers were alive and had been sent abroad.<sup>1998</sup> In 1995, he said in a letter to the Ombudsman for the BiH Federation that he did not know what had become of the people who disappeared on 10 May 1993 when the Vranica building was captured.<sup>1999</sup>

852. The Chamber notes, however, that a mass grave was discovered in Goranci, in the municipality of Mostar, in May 2007.<sup>2000</sup> According to the DNA analysis carried out, of the 15

<sup>1988</sup> *Witness A*, T(F), p. 14038, closed session.

<sup>1989</sup> *Witness A*, T(F), p. 14038, closed session.

<sup>1990</sup> *Witness A*, T(F), p. 14038, closed session.

<sup>1991</sup> *Witness A*, T(F), p. 14038, closed session.

<sup>1992</sup> *Witness A*, T(F), p. 14038 and p.14039, closed session; P 09807 under seal, p. 4; P 10033, paras 12 and 13.

<sup>1993</sup> *Witness A*, T(F), p. 14039, closed session.

<sup>1994</sup> *Witness A*, T(F), pp. 14038 and 14039, closed session.

<sup>1995</sup> *Witness A*, T(F), p. 14039, closed session.

<sup>1996</sup> P 08542; P 08588; P 08565; P 08595.

<sup>1997</sup> *Amor Mašović* was a member, Deputy President and then President of the RBiH State Commission responsible for the exchange of prisoners of war and persons deprived of their freedom between August 1992 and December 1995. *See Amor Mašović*, T(F), pp. 25006-25012.

<sup>1998</sup> *Amor Mašović*, T(F), pp. 25056 and 25057.

<sup>1999</sup> P 08595. Berislav Pušić confirms in this letter that the ABiH soldiers were captured by Juka Prazina and taken to an unknown destination.

<sup>2000</sup> *Amor Mašović*, T(F), pp. 25063-25067, 25088, 25089, 25104 and 25176-25178; P 10322; P 10323; P 10324.

identified bodies, 10 of the 12 ABiH soldiers were identified, namely, Alija Čamo, Senad Čehić, Dževad Čolić, Mimo Grizović, Vahidin Hasić, Dževad Husić, Zlatko Mehić, Nenad Milojević, Fahir Penava and Nazif Šarančić.<sup>2001</sup> The Chamber notes that the bodies of Hasan Balić and Šefko Pobrić were not found and that they are still listed as missing.<sup>2002</sup>

853. The Chamber finds that at the Mechanical Engineering Faculty - where the 3<sup>rd</sup> Battalion of the Military Police was based under the command of Željko Džidić – Muslim men, whether belonging to the ABiH and to the HVO or not, were detained following the attack on Mostar on 9 May 1993. They were victims of severe and repeated beatings. The Chamber is satisfied that in the night of 10 to 11 May 1993, HVO soldiers killed Alija Čamo, Senad Čehić, Dževad Čolić, Mimo Grizović, Vahidin Hasić, Dževad Husić, Zlatko Mehić, Nenad Milojević, Fahir Penava and Nazif Šarančić while they were being held at the Mechanical Engineering Faculty. The Chamber notes that to this day the bodies of Hasan Balić and Šefko Pobrić have still not been found.

### C. MUP Building

854. The Chamber received the testimony of Witnesses HH,<sup>2003</sup> *Alija Lizde*<sup>2004</sup> and *Spomenka Drljević*,<sup>2005</sup> all three members of the ABiH who were detained at the MUP building by the HVO from the night of 9 to 10 May 1993 until the night of 13 to 14 May 1993, the date on which they were transported to the prison of Ljubuški.<sup>2006</sup> While the Chamber notes that the detention of women at the MUP building is not alleged in the Indictment, the Chamber used the testimony of *Spomenka Drljević* with regard to the description of the locations or the detained people.

855. On 9 May 1993, around 0300 hours, *Alija Lizde* was arrested in his flat not far from the Vranica building<sup>2007</sup> by a dozen or so armed police officers – although the Chamber could not establish whether they were members of the MUP or the Military Police - who then took him to the MUP building.<sup>2008</sup> *Spomenka Drljević* and other inhabitants of the Vranica building were taken

<sup>2001</sup> Amor Mašović, T(F), pp. 25067-25069, 25104, 25114, 25083-25089; P 10323, p. 3; T(F), pp. 25083-25089, 25114; P 10324; P 10337 under seal; P 10338 under seal; P 10339 under seal; P 10340 under seal; P 10341 under seal; P 10342 under seal; P 10343 under seal; P 10344 under seal; P 10345 under seal; P 10346 under seal.

<sup>2002</sup> Amor Mašović, T(F), pp. 25055-25057, 25087; P 08542, pp. 1 and 2.

<sup>2003</sup> Witness HH was a member of the ABiH. Witness HH, P 10113 under seal, *Naletilić and Martinović* Case, T(F), pp. 4782 and 4893.

<sup>2004</sup> Alija Lizde was a journalist and member of the ABiH from April 1992 to 9 May 1993. Alija Lizde, T(F), pp. 17752 and 17947.

<sup>2005</sup> Spomenka Drljević was the secretary to the commander of the ABiH 1<sup>st</sup> Mostar Brigade and surrendered to the HVO on 10 May 1993 when the Vranica building was captured. Spomenka Drljević, T(F), pp. 1024-1029 and 1107.

<sup>2006</sup> Witness HH, P 10113 under seal, *Naletilić and Martinović* Case, T(F), pp. 4784 and 4808; Alija Lizde, T(F), pp. 17765 and 17768; Spomenka Drljević, T(F), pp. 1024-1029, 1036 and 1037.

<sup>2007</sup> The witness said that his flat was around 500 to 1,000 metres from the Vranica building. Alija Lizde, T(F), p. 17762.

<sup>2008</sup> Alija Lizde, T(F), p. 17765.



outside the MUP building.<sup>2009</sup> There, soldiers in uniform with armbands separated the men from the women.<sup>2010</sup> Finally, *Witness HH* was in a flat in a building around 100 metres from the Vranica building when he was arrested in the evening of 10 May 1993 by members of the HVO.<sup>2011</sup> He was then taken with his cousin, an older man and a young man of around 16 or 17 to the MUP building.<sup>2012</sup>

856. According to a document dated 11 May 1993 from the Department of Internal Affairs of the Mostar Police Administration, Berislav Pušić took charge of 19 people, described as civilians, who were arrested during the fall of the Vranica building and detained at the Mostar Police Administration.<sup>2013</sup> The Chamber is satisfied that this was the Department of Internal Affairs of the Mostar MUP and that the building in question was the MUP building. However, the Chamber does not have evidence showing where the detainees were transferred.

857. The Chamber received little information about the locations. Nevertheless, it seems that this building, located next to the Vranica building,<sup>2014</sup> consisted of a courtyard and several buildings where Muslims were detained. In the courtyard, there was a storage area - or a shed - it was very small, and it was called the "Pascara", which literally means "kennel".<sup>2015</sup> The building also included a type of auditorium or conference hall.<sup>2016</sup> There was a stone building around 20 meters from the MUP building.<sup>2017</sup>

858. Generally, the witnesses noticed the presence of armed police officers – although the Chamber cannot establish whether they were members of the MUP or the Military Police - and soldiers in uniform at the MUP building.<sup>2018</sup> *Spomenka Drljević* specified having been interrogated by someone called Marin Jurica.<sup>2019</sup> *Witness HH* stated that he was interrogated by several people, namely: Vinko Beno, a policeman from Herceg-Bosna,<sup>2020</sup> someone called Lovrić; Ernest Takać; Romeo Blazević,<sup>2021</sup> and by another man who wore a black uniform that he was not able to

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<sup>2009</sup> Spomenka Drljević, T(F), pp. 1024-1029.

<sup>2010</sup> Spomenka Drljević, T(F), pp. 1029-1031.

<sup>2011</sup> Witness HH, P 10113 under seal, *Naletilić and Martinović* Case, T(F), pp. 4784, 4790 and 4792.

<sup>2012</sup> Witness HH, P 10113 under seal, *Naletilić and Martinović* Case, T(F), pp. 4792 to 4796.

<sup>2013</sup> P 02290.

<sup>2014</sup> Alija Lizde, T(F), p. 17766.

<sup>2015</sup> Witness HH, P 10113 under seal, *Naletilić and Martinović* Case, T(F), pp. 4798 and 4801.

<sup>2016</sup> Spomenka Drljević, T(F), pp. 1030-1032.

<sup>2017</sup> Spomenka Drljević, T(F), pp. 1030, 1031 and 1036.

<sup>2018</sup> Witness HH, P 10113 under seal, *Naletilić and Martinović* Case, T(F), pp. 4799; Alija Lizde, T(F), 17766.

<sup>2019</sup> Spomenka Drljević, T(F), p. 1034.

<sup>2020</sup> Witness HH, P 10113 under seal, *Naletilić and Martinović* Case, T(F), p. 4800.

<sup>2021</sup> Witness HH, P 10113 under seal, *Naletilić and Martinović* Case, T(F), pp. 4805 and 4806.

identify.<sup>2022</sup> For his part, *Alija Lizde* was interrogated by someone called Jurić and by people in uniforms that he was not able to identify.<sup>2023</sup>

859. In light of the evidence, the Chamber finds that Muslim men arrested in the Vranica building on 9 and 10 May 1993 were detained at the MUP building by HVO soldiers or military policemen. The Chamber finds that among the men arrested and detained at the MUP building were both members of the ABiH and men who did not belong to any armed force.

## Section 5: Crimes Allegedly Committed in June 1993

860. The Chamber recalls that according to paragraph 99 of the Indictment, the Herceg-Bosna/HVO forces engaged in the expulsion and forcible transfer of thousands of Muslim civilians from West Mostar in June 1993. During these operations, the Muslims were allegedly subjected to mistreatment, sexual assault, were robbed, had their property confiscated and were shot at. Some of those Muslims were detained at HVO prisons and centres, while others were forced across the confrontation line into East Mostar. In paragraph 100 of the Indictment, it is specified that the homes and flats from which the Muslims were evicted were then assigned to Croatian civilians or HVO soldiers. In paragraph 102 of the Indictment, it is also specified that in about mid-June 1993, Herceg-Bosna/HVO forces expelled a large number of Muslims living in West Mostar.

861. In paragraph 100 of the Indictment, it is alleged that the Herceg-Bosna/HVO authorities and forces allowed some Muslims from West Mostar to go to ABiH-controlled territories or to other countries, so long as they left Herceg-Bosna. Hundreds of Muslims were allowed to leave Mostar only if they signed a statement that they "voluntarily" relinquished all of their belongings to the HVO.

862. Finally, according to paragraph 107 of the Indictment, during the operations in which the Muslims were evicted from their homes, the Herceg-Bosna/HVO forces engaged in theft and plunder of Muslim property or entered still occupied or abandoned homes and apartments.

863. In its Final Trial Brief, the Petković Defence maintains that the HVO Main Staff and its Chief did not have any competence in relation to public order in Mostar.<sup>2024</sup> It acknowledges that the HVO authorities knew that some Muslims from Mostar were evicted in mid-June 1993, but

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<sup>2022</sup> Witness HH, P 10113 under seal, *Naletilić and Martinović* Case, T(F), p. 4805.

<sup>2023</sup> *Alija Lizde*, T(F), pp. 17765 and 17766.

<sup>2024</sup> Petković Defence Final Trial Brief, para. 204.

maintains that this was regarded and treated as criminal acts relating to law and order issues, which came within the sole remit of the Ministry of Interior.<sup>2025</sup>

864. The Chamber notes that according to several witnesses, Muslim inhabitants of West Mostar and members of the international community who were in Mostar at the time of the events, the HVO continued to expel Muslims from West Mostar throughout the month of June.<sup>2026</sup> According to a report from an international organisation dated 14 June 1993, a few days before this date, HVO soldiers ordered the Muslim inhabitants from several buildings in West Mostar to switch off the light in their flats, to open their doors and to await an order to leave their flats. They spent several days living in fear,<sup>2027</sup> before they were finally ordered to leave their homes.<sup>2028</sup>

865. Several representatives of the international community in Mostar at the time of the events commented for the Chamber on several of their reports that described HVO operations aimed at expelling Muslims from West Mostar between 12 and 14 June 1993. The Chamber also received the statements of *Witnesses WW* and *GG*<sup>2029</sup> who were evicted from their flats in West Mostar on 13 and 14 June 1993, respectively, and who confirmed the information gathered by the representatives of the international community.

866. Therefore, the operation was aimed at legal and long-term residents of the well-off neighbourhoods of West Mostar.<sup>2030</sup> The HVO soldiers armed with rifles arrived in considerable numbers in the afternoon on 13 June 1993 outside various buildings and, shooting in the air and shouting that they were looking for *Balijas*, rounded up all the Muslims in the neighbourhood.<sup>2031</sup> They then confiscated their identity papers, their title of occupancy and other items, such as medication, and burned them.<sup>2032</sup> The HVO soldiers then forced the Muslims of West Mostar to cross the confrontation line in the direction of Donja Mahala or of East Mostar.<sup>2033</sup> During the

<sup>2025</sup> Petković Defence Final Trial Brief, paras 202 and 203.

<sup>2026</sup> Witness BB, T(F), pp. 17213, 25239, 25243 and 25244, closed session; Grant Finlayson, T(F), pp. 18043 and 18044; Suad Ćupina, T(F), pp. 4852 and 4853; 1D 00527, para. 9. See also, P 09842; P 02884, p. 3. For an example from the beginning of June 1993, see Witness U, P 10220 under seal, *Naletilić and Martinović* Case, T(F), p. 2944.

<sup>2027</sup> P 09678 under seal, para. 13.

<sup>2028</sup> P 09678 under seal, para. 9.

<sup>2029</sup> *Witness WW* is a representative victim of paragraph 102 of the Indictment mentioned in the confidential Annex to the Indictment. *Witness WW* was not a member of the ABiH or the HVO. The Chamber was unable to determine whether *Witness GG* was part of any armed force at the time of his arrest.

<sup>2030</sup> P 09678 under seal, paras 2 and 3; Decision of 7 September 2006, Adjudicated Fact no. 130 (*Naletilić* Judgement, para. 620).

<sup>2031</sup> P 09678 under seal, paras 4 and 7; Witness WW, P 10024 under seal, *Naletilić and Martinović* Case, T(F), p. 7037; Witness GG, P 10020 under seal, *Naletilić and Martinović* Case, T(F), pp. 4757 to 4759; Witness BC, T(F), p. 18333, closed session; Witness BB, T(F), pp. 17189, 17199 and 25236, closed session. See also P 02769, p. 2.

<sup>2032</sup> P 09678 under seal; paras 4 and 5; Witness BA, T(F), pp. 7202 and 7203, closed session; P 05091, para. 13. See also Witness WW, P 10024 under seal, *Naletilić and Martinović* Case, T(F), pp. 7037, 7043, 7044 and 7097.

<sup>2033</sup> Witness GG, P 10020 under seal, *Naletilić and Martinović* Case, T(F), pp. 4758 and 4759; Grant Finlayson, T(F), pp. 18043 and 18044; Witness BA, T(F), p. 7203, closed session; P 09678 under seal, para. 8; P 09847 under seal, p. 1;

evictions, the HVO soldiers beat the Muslims with rifle butts, fired shots above their heads or around their legs and humiliated them while forcing them to run to the confrontation line in order to cross it.<sup>2034</sup> *Witness WW* indicated that HVO soldiers fired after the Muslims in order to force them to cross the confrontation line as quickly as possible. Not knowing what was happening, the ABiH started shooting in their direction until the soldiers realised that they were civilians.<sup>2035</sup>

867. *Witnesses WW* and *GG* recognised soldiers from the 4<sup>th</sup> Battalion under the command of Mladen Mišić,<sup>2036</sup> but also Ernest Takać, "Štela", "Dolma", a person called Bojvici and another called Nadilić.<sup>2037</sup> *Witness WW* confirmed that "Štela" was in charge of the operation.<sup>2038</sup>

868. The Chamber notes that on 14 June 1993, Bruno Stojić, Milivoj Petković and Žarko Keža<sup>2039</sup> received a report from the CED informing them that the day before, that is, 13 June 1993, members of the 4<sup>th</sup> Battalion called *Tihomir Mišić* of the 3<sup>rd</sup> HVO Brigade,<sup>2040</sup> Vinko Martinović, alias "Štela", Bobo Perić, Damir Perić, Ernest Takać and Nino Pehar, alias "Žega", members of the *Vinko Škrobo* ATG,<sup>2041</sup> while evicting 90 Muslims from the Dum neighbourhood of West Mostar, had "raped" several women in front of witnesses. According to the same report, the soldiers also beat many people and there are some indicia suggesting that civilians were murdered during these operations.<sup>2042</sup>

869. The Stojić Defence claimed that the list of recipients of the CED report mentioned only the first name "Bruno", which would not allow finding that it was received by Bruno Stojić. It also calls

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Witness CT, T(F), p. 12164, private session; P 02749; Antoon van der Grinten, T(F), pp. 21035 and 21037; P 02756 under seal, p. 2; P 02735 under seal; P 02469 under seal, p. 2.

<sup>2034</sup> Witness WW, P 10024 under seal, *Naletilić and Martinović* Case, T(F), p. 7040, private session, to 7042; Witness GG, P 10020 under seal, *Naletilić and Martinović* Case, T(F), pp. 4758 and 4759; P 09678 under seal, paras 7 and 8; P 02769, p. 2. *Witness GG* described how Ernest Takać hit his brother with a rifle butt.

<sup>2035</sup> Witness WW, P 10024 under seal, *Naletilić and Martinović* Case, T(F), p. 7042. See also Decision of 7 September 2006, Adjudicated Fact no. 112 (*Naletilić* Judgement, para. 549).

<sup>2036</sup> The Chamber recalls that this battalion belonged to the 3<sup>rd</sup> HVO Brigade. See "HVO Armed Forces" in the Chamber's factual findings with regard to the Municipality of Mostar.

<sup>2037</sup> Witness WW, P 10024 under seal, *Naletilić and Martinović* Case, T(F), p. 7037, private session, and 7059, closed session; Witness GG, P 10020 under seal, *Naletilić and Martinović* Case, T(F), pp. 4758 and 4759; P 02749 p. 2; P 02802. See also Decision of 7 September 2006, Adjudicated Fact no. 113 (*Naletilić* Judgement, paras 550 and 553); Antoon van der Grinten, T(F), pp. 21039-21041; P 02744.

<sup>2038</sup> Witness WW, P 10024 under seal, *Naletilić and Martinović* Case, T(F), pp. 7037, 7038, private session, and 7090; P 02749, p. 2.

<sup>2039</sup> Head of the VOS. See "Means to Ensure the Return Flow of Information to the Main Staff and Its Chief" in the Chamber's findings in respect of the military structure of the HZ(R) H-B.

<sup>2040</sup> The *Tihomir Mišić* Battalion has already been mentioned. See "HVO Armed Forces" in the Chamber's factual findings with regard to the Municipality of Mostar.

<sup>2041</sup> The Chamber established that Vinko Martinović, alias "Štela", Ernest Takać, alias "Brada", and Nino Pehar, alias "Dolma", were members of the *Vinko Škrobo* ATG. See "Round-up of Muslims from West Mostar, Placement in Detention in Various Locations and Departure of Some to ABiH-Controlled Areas or Other Countries in the First Half of May 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

<sup>2042</sup> P 02770.

into question whether the handwritten name "Keza" in the document refers to Žarko Keža.<sup>2043</sup> Moreover it contested the events described in the report.<sup>2044</sup>

870. The Chamber heard Defence Witness *Radmilo Jasak*<sup>2045</sup> explain that the CED, responsible for radio intercepts, was one of the means used by the VOS in order to gather information. The CED compiled reports that were submitted to Bruno Stojić and Milivoj Petković.<sup>2046</sup> For this reason, the Chamber has no doubt that the CED report of 14 June 1993, which was specifically addressed to "Bruno", Milivoj Petković and the Head of VOS, Žarko Keža, was actually received by the three recipients.

871. Moreover, the Chamber notes that the events described in the CED report were corroborated to a great extent by other evidence admitted into the record, such as the testimony admitted pursuant to Rule 92 *bis* of one of the victims evicted from the Dum neighbourhood. Moreover, a report of the Military Police describing these events also states that the HVO soldiers stole from these flats.<sup>2047</sup>

872. Consequently, in view of the evidence, the Chamber is able to conclude beyond reasonable doubt that the soldiers of the 4<sup>th</sup> Battalion, called *Tihomir Mišić*, of the 3<sup>rd</sup> HVO Brigade, and also on 13 June 1993, members of the *Vinko Škrobo* ATG,<sup>2048</sup> Vinko Martinović, alias "Štela", Bobo Perić, Damir Perić, Ernest Takać and Nino Pehar, alias "Žega", beat a considerable number of Muslims while evicting them from their homes, stole from these homes, "raped" Muslim women and moved all these people to East Mostar. Considering the evidence and the context of the alleged facts, the Chamber deems that the use of the term "rape" refers to sex involving non-consensual penetration.

873. The Chamber notes that members of the Military Police were informed of these events and relayed the information to the Military Police Administration.<sup>2049</sup> Equally, the representatives of the international community informed Valentin Ćorić, Berislav Pušić, Bruno Stojić and Jadranko Prlić of these events on 16 June 1993. All four gave the same reply, namely, that this was the act by

<sup>2043</sup> Closing Arguments by the Stojić Defence, T(F), p. 52400.

<sup>2044</sup> Closing Arguments by the Stojić Defence, T(F), p. 52400.

<sup>2045</sup> Member of the VOS at the HVO Main Staff from October 1992 to August 1993; Radmilo Jasak, T(F), p. 48446.

<sup>2046</sup> See "Means to Ensure the Return Flow of Information to the Main Staff and Its Chief" in the Chamber's findings with regard to the military structure of the HZ(R) H-B.

<sup>2047</sup> P 02769, p. 2.

<sup>2048</sup> The *Tihomir Mišić* Battalion was cited under "HVO Armed Forces" in the Chamber's factual findings with regard to the Municipality of Mostar.

<sup>2049</sup> P 02749; P 02769; P 02754. See also Witness BB, T(F), p. 17293, closed session.

criminals not under the control of the HVO.<sup>2050</sup> Bruno Stojić and Milivoj Petković were also informed of the “rapes” of Muslim women during the evictions on 14 June 1993.

874. According to information collected by the international organisations in the field during these events, the justifications for the evictions, as provided by HVO soldiers to the Muslim inhabitants they were expelling, was the need to accommodate Croats who were fleeing ABiH attacks in other regions of BiH and Travnik in particular.<sup>2051</sup> The Chamber notes, however, that HVO soldiers and members of the Military Police also moved into these homes.<sup>2052</sup> For example, on 21 June 1993, Valentin Ćorić asked the office of housing and infrastructure to legalise the occupancy of 137 homes by members of the Military Police.<sup>2053</sup>

875. On those few days, between 400 and 650 Muslims were also forced to leave their homes in West Mostar.<sup>2054</sup> The operations continued in the days that followed.<sup>2055</sup> The Chamber notes that, as they no longer felt safe because of the eviction operations, *Witness CS* and his family wanted to leave West Mostar on 18 June 1993 and had to sign a statement that they were leaving voluntarily.<sup>2056</sup>

876. The Chamber finds that in the month of June 1993, more specifically, mid-June, the HVO - and especially members of the 4<sup>th</sup> Battalion of the 3<sup>rd</sup> Brigade of the HVO and members of the KB - continued to expel Muslims from West Mostar. The Muslims were subjected to intimidation, threats and blows. The HVO soldiers forced Muslim women to have sexual relations. The HVO soldiers confiscated their goods and forced them to cross the confrontation line towards East Mostar. Some Muslims had to sign statements confirming that they were leaving West Mostar voluntarily. HVO soldiers and members of the Military Police then moved into their flats. The Chamber notes that Valentin Ćorić, Berislav Pušić, Bruno Stojić and Jadranko Prlić were informed of these events between 14 and 16 June 1993.

<sup>2050</sup> Antoon van der Grinten, T(F), pp. 21046 and 21048; P 02806 under seal, p. 2; Witness BA, T(F), pp. 7201, 7202, 7206 and 7207, closed session; P 09712 under seal, para 66; P 03804 under seal, para. 6.

<sup>2051</sup> Witness BC, T(F), pp. 18333, 18334, 18442-18445 and 18492; Witness BA, T(F), pp. 7202, 7203 and 7217, closed session; P 09678 under seal, para. 6; P 05091, para. 13. *See also* P 03413, para. 1.

<sup>2052</sup> Witness BB, T(F), p. 17194, closed session; P 09678 under seal, para. 6; P 05091, para. 13.

<sup>2053</sup> P 02879 ; Witness BB, T(F), p. 17295, closed session.

<sup>2054</sup> Witness BB, T(F), pp. 17194 and 17198, closed session; P 09678 under seal, para. 14; P 02882, p. 7; P 02884, p. 3. *See also* P 02469 under seal, p. 2.

<sup>2055</sup> Antoon van der Grinten, T(F), pp. 21045 and 21046; P 02782 under seal, p. 3.

<sup>2056</sup> Witness CS, T(F), pp. 12077 to 12081, private session; P 02469 under seal, pp. 2 and 3; P 02811 under seal; P 09809 under seal; P 02809 under seal.

## Section 6: Events of 30 June 1993 and Crimes Allegedly Committed in July and August 1993

877. Having examined the evidence related to (I) the attack by the ABiH on 30 June 1993 on the northern part of the town of Mostar, the Chamber will (II) analyse the allegations of crimes committed by the HVO, following this attack.

### I. Attack on the *Tihomir Mišić* Barracks on 30 June 1993

878. Paragraph 103 of the Indictment alleges that, on 30 June 1993, the ABiH attacked and occupied the HVO's *Tihomir Mišić* Barracks (also known as the "Northern Barracks"), in the northern part of the town of Mostar.

879. The considerable number of items of evidence admitted into the record, including reports and orders of the HVO and of ABiH, reports of international representatives who were there, and statements of international observers, inhabitants of the Mostar area and former members of the HVO, provide a similar description of how events unfolded on 30 June 1993 in the northern part of the town of Mostar.

880. Early on 30 June 1993, between 0300 and 0345 hours,<sup>2057</sup> the ABiH forces launched an offensive against the HVO's *Tihomir Mišić* Barracks, also known as the "Northern Barracks", located in the north of the town of Mostar,<sup>2058</sup> before continuing their attack on the HVO positions, especially in the area of Bijelo Polje.<sup>2059</sup>

881. On 30 June 1993 and on several days that followed,<sup>2060</sup> the ABiH succeeded in taking control of the north zone of East Mostar in the direction of Drežnica and Jablanica up to the

<sup>2057</sup> See in particular P 04698A under seal, p. 38; 4D 00480; P 03029; 4D 01056, p. 1; 2D 00332, p. 1; 4D 01060, p. 2; 4D 01066, p. 1; 2D 00887, p. 3.

<sup>2058</sup> The Chamber notes that *Witness BC* and *Witness BB* gave 29 June as the date the attack began; however, in view of the evidence admitted into the record that indicates that the date was 30 June, early in the morning, the Chamber deems that it was on this date that the ABiH launched the said attack: *Witness BC*, T(F), p. 18335, closed session; *Witness BB*, T(F), pp. 17196, 17197, 17219 and 17220, closed session. See in particular Radmilo Jasak, T(F), pp. 48684, 48685 and 48693; 2D 01389; 4D 00480; Milivoj Petković, T(F), pp. 49482, 49571-49573, 49591 and 49593; 4D 01731, para. 131; P 09712 under seal, p. 10; Veso Vegar, T(F), p. 36978; Božo Pavlović, T(F), pp. 46839 and 46840; P 03206, p. 5; *Witness C*, T(F), p. 22425 and 22426, closed session; P 09833 under seal, p. 5; P 03018 under seal, p. 4; Vinko Marić, T(F), pp. 48211 and 48212; P 03311 under seal, p. 8; P 04698A under seal, p. 38; P 10033, p. 8, para. 18; P 10032, para. 18; P 03025 under seal, p. 3; Klaus Johann Nissen, T(F), pp. 20448 and 20449, 20638; P 03038, p. 1; 1D 02309; P 03196 under seal, p. 2; 4D 00702; 4D 01060, p. 2; Decision of 7 September 2006, Adjudicated Fact no. 114 (*Naletilić* Judgement, para. 541).

<sup>2059</sup> See in particular P 03025 under seal, p. 2; *Witness CB*, T(F), p. 10238; P 04698A under seal, p. 38; Veso Vegar, T(F), p. 36978; *Witness U*, P 10220 under seal, *Naletilić and Martinović* Case, T(F), p. 2945; *Witness DV*, T(F), p. 22890; P 03311 under seal, p. 8; 4D 00480; 4D 00702; 1D 01571; 2D 00887, p. 2; 2D 00860, p. 3; 1D 02245, p. 4.

<sup>2060</sup> P 03206, pp. 5 and 6.

Salakovac dam and, in particular the *Tihomir Mišić* Barracks, Bijelo Polje, Raštani, Vrapčići and Salakovac,<sup>2061</sup> as well as other locations within a 26-km radius in the north of Mostar<sup>2062</sup> including the Potoci area.<sup>2063</sup> Moreover, *Božo Perić*<sup>2064</sup> specified that, at the time, the left bank of the Neretva in front and behind the dam near the Mostar hydro-electric plant was under the control of the ABiH.<sup>2065</sup>

882. The Chamber notes that the ABiH launched an attack on 30 June 1993 in cooperation with HVO soldiers of Muslim ethnicity who had deserted the HVO in order to join the ranks of the ABiH,<sup>2066</sup> and in particular, Muslim soldiers from the 1<sup>st</sup> and 3<sup>rd</sup> Brigades of the HVO<sup>2067</sup> and of the 2<sup>nd</sup> Brigade,<sup>2068</sup> including the 1<sup>st</sup> *Bijelo Polje* Battalion<sup>2069</sup> and the 2<sup>nd</sup> Battalion.<sup>2070</sup>

883. The international observers on the ground pointed out that through this action, the ABiH seemed to have as its military objective uniting the area of Mostar with that of Jablanica,<sup>2071</sup> and even Konjic.<sup>2072</sup>

884. In response to the attack launched by the ABiH on 30 June 1993 in northern part of Mostar, Bruno Stojić, Head of the Department of Defence, ordered a general mobilisation and imposed a curfew in all the municipalities of the HZ H-B between 2100 and 0600 hours, and in Mostar between 2000 and 0600 hours.<sup>2073</sup> The HVO introduced other defence measures, such as the redeployment of HVO units in order reinforce units already there.<sup>2074</sup> A report by Milivoj Petković

<sup>2061</sup> Radmilo Jasak, T(F), pp. 48684 and 48685; 4D 00480; Božo Perić, T(F), p. 47945; Miro Salčin, T(F), pp. 14312, 14313 and 14316; Vinko Marić, T(F), pp. 48211 and 48212; Witness CB, T(F), p. 10238; P 04698A under seal, p. 38; Sejfo Kajmović, T(E), p. 11743; 2D 01389, p. 2; P 03196 under seal, p. 2; Klaus Johann Nissen, T(F), p. 20514.

<sup>2062</sup> 4D 01731, paras 131 and 132; 4D 01216.

<sup>2063</sup> P 03206, p. 5; Witness DZ, T(F), p. 26789, closed session; Sejfo Kajmović, T(E), p. 11743. See also the maps of the position of the parties in the area of Mostar on or after 30 June 1993: IC 01186; 4D 01216; 4D 01217; 4D 00625; 4D 00622.

<sup>2064</sup> Assistant Chief of the communications service with the Mostar HVO Main Staff from October 1992 to April 1994: Božo Perić, T(F), p. 47868.

<sup>2065</sup> Božo Perić, T(F), pp. 47969 and 47970; IC 01152.

<sup>2066</sup> P 04699, pp. 11 and 12; Milivoj Petković, T(F), pp. 49482, 49571-49573, 49591-49593; 4D 01731, paras 131-137; Božo Perić, T(F), p. 47944; Witness C, T(F), pp. 22425 and 22426, closed session; Vinko Marić, T(F), pp. 48211 and 48212; Sejfo Kajmović, T(E), p. 11743; Klaus Johann Nissen, T(F), pp. 20449 and 20638-20640; P 03025 under seal, p. 2; P 03029; 4D 00480; Bruno Pinjuh, T(F), p. 37246; 4D 01060, p. 2; 4D 01062, p. 2; P 03952, p. 2; Witness BF, T(F), pp. 25954 and 25955, closed session.

<sup>2067</sup> P 04698A under seal, p. 38; P 03206, p. 5.

<sup>2068</sup> P 01572, pp. 16 and 17: the *Bijelo Polje* 1<sup>st</sup> Battalion was an integral part of the 2<sup>nd</sup> Brigade, based at the North Camp.

<sup>2069</sup> Božo Perić, T(F), pp. 47943 and 47944; 1D 02245; 2D 00860; 2D 00887.

<sup>2070</sup> 1D 02245; 1D 00860.

<sup>2071</sup> P 03018 under seal, p. 4; P 03311 under seal, p. 8; P 03025 under seal, p. 3; 4D 01731, para. 131.

<sup>2072</sup> P 03311 under seal, p. 8.

<sup>2073</sup> P 03038, p. 1; P 03023, pp. 3 and 4; P 03039, p. 2; P 03018 under seal, p. 5; P 03206, p. 5; P 03311 under seal, p. 8; P 03025 under seal, p. 3; Witness DV, T(F), p. 22890; Witness BD, T(F), pp. 20706-20708, closed session; P 03069 under seal; Witness C, T(F), pp. 22464 and 22466, closed session; P 04698A under seal, p. 38; P 10033, p. 8, para. 18.

<sup>2074</sup> Zdenko Andabak, T(F), pp. 50973 and 50974; P 03146.



dated 30 June 1993 indicates, moreover, that the HVO had established a defence on the right bank of the Neretva, from the village of Raštani to the village of Vrđi, and on the left bank of the Neretva, in the area of Bijela and Ravni.<sup>2075</sup>

885. Finally, following the attack of 30 June 1993, the HVO sealed off the town of Mostar and did not allow any non-governmental or international organisation to enter the town.<sup>2076</sup>

886. In light of all the evidence, the Chamber finds that the ABiH attacked and took control of the HVO *Tihomir Mišić* Barracks, located in the northern part of the town of Mostar, on 30 June 1993.

## **II. Crimes Alleged to Have Been Committed by the HVO Following the Attack of 30 June 1993**

887. According to paragraph 103 of the Indictment, following the attack on 30 June 1993 by the ABiH forces, the HVO arrested several thousand military-aged Muslim men in and around Mostar and held them at the Heliodrom and Dretelj Prison. Around 400 Muslim families made up of women, children and the elderly were expelled from West Mostar at the time of or following these arrests.

888. Having examined the allegations relating to (A) the arrests and the detention of Muslim men, the Chamber will examine (B) the allegations relating to the removal of the Muslim families living in West Mostar, (C) the crimes alleged to have been committed at the Mechanical Engineering Faculty from July 1993, as well as (D) the crimes alleged to have been committed in July and August 1993 in West Mostar, and will then (E) deal with the crimes alleged to have been committed at Buna around 14 July 1993, as well as (F) the attack of 24 August 1993 in the vicinity of Mostar and the crimes alleged to have been committed following this attack.

### **A. Arrests and Detention of Muslim Men Following the Attack on 30 June 1993**

889. The Ćorić Defence points out that the order to disarm and isolate was executed by the commanders of the OZ and the brigades,<sup>2077</sup> and also that the commanders in the field had to determine the locations where the disarmed members of the HVO would be kept.<sup>2078</sup>

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<sup>2075</sup> P 00480; P 03029.

<sup>2076</sup> See "Blocking of International Organisations and Humanitarian Aid" in the Chamber's factual findings with regard to the Municipality of Mostar.

<sup>2077</sup> Ćorić Defence Final Trial Brief, para. 345.

<sup>2078</sup> Ćorić Defence Final Trial Brief, para. 346.

890. According to an order from Milivoj Petković, Chief of the HVO Main Staff, addressed to the South-East OZ: (1) all Muslims from the HVO were to be disarmed and "placed in isolation" and (2) all Muslim men of military age living within the zone of responsibility of the South-East OZ were likewise to be "placed in isolation".<sup>2079</sup>

891. A large number of items of evidence, including documents from the HVO itself, shows that following the attack launched by the ABiH forces on 30 June 1993, the HVO began a widespread and extensive campaign of arresting Muslims men in and around the town of Mostar,<sup>2080</sup> including Muslim HVO soldiers.<sup>2081</sup> At this time, ABiH soldiers were also arrested.<sup>2082</sup> Some of the evidence examined by the Chamber shows that the HVO also arrested Muslim boys aged around 14 and men over 60, some of whom were up to the age of 84.<sup>2083</sup>

892. The HVO 1<sup>st</sup> *Knez Domagoj* Brigade and the HVO Military Police, in particular the 3<sup>rd</sup> Company of the 3<sup>rd</sup> Battalion, under the command of the 1<sup>st</sup> *Knez Domagoj* Brigade, carried out these arrests.<sup>2084</sup> The KB and the HV also participated in some arrest operations.<sup>2085</sup>

893. The arrests were carried out in an organised and systematic fashion and followed a recurring pattern,<sup>2086</sup> namely: arrests were made in residential buildings and usually at night, the men arrested were taken to temporary detention locations - in particular, at the building of the Mechanical

<sup>2079</sup> P 03019 ; Milivoj Petković, T(F), pp. 49574-49581.

<sup>2080</sup> P 03952, p. 2; P 10010 under seal, par. 2; Witness BC, T(F), pp. 18338, 18339, 18353 and 18355, closed session; Witness BB, T(F), pp. 17194, 17197 and 17198, 17230, 17254 and 17255, closed session; Slobodan Praljak, T(F), pp. 43645 and 43646; P 10032, para. 18; Peter Galbraith, T(F), pp. 6494 and 6495; 4D 00480; P 03302, pp. 1 and 2; P 03865, p. 3; Witness II, P 10218 under seal, *Naletilić and Martinović* Case, T(F), pp. 4940-4942; P 03057, p. 3; Witness C, T(F), pp. 22334, 22340 and 22341, closed session; P 09843 under seal, para. 1; P 03151; P 03196 under seal, pp. 1 and 2; P 03278 under seal, p. 5; Milivoj Petković, T(F), pp. 49577 and 49581-49584; P 03175 under seal; P 09712 under seal, paras 44 and 45; P 09861, p. 2; Witness U, P 10220 under seal, *Naletilić and Martinović* Case, T(F), pp. 2943-2948; Klaus Johann Nissen, T(F), pp. 20448 and 20449; P 03075, p. 2; P 06697, para. 58; P 03184 under seal, p. 3; P 09847 under seal, p. 2; P 09897 under seal, p. 1; Martin Raguž, T(F), pp. 31506 and 31507, private session, and pp. 31476, 31477, 31521, 31526 and 31528.

<sup>2081</sup> P 03019, p. 1; P 03151; Slobodan Praljak, T(F), p. 43646; 4D 00480; Witness II, P 10218 under seal, *Naletilić and Martinović* Case, T(F), pp. 4940 and 4941; Milivoj Petković, T(F), pp. 49581-49584; P 03175 under seal.

<sup>2082</sup> Ibrahim Šarić, T(F), pp. 5071, 5082 and 5083; Witness CW, T(F), p. 12695; P 09807 under seal, pp. 5 and 6; P 09806 under seal, pp. 2 and 3.

<sup>2083</sup> Witness U, P 10220 under seal, *Naletilić and Martinović* Case, T(F), pp. 2943 and 2944; P 09502, under seal, p. 1.

<sup>2084</sup> P 03151; P 03075, pp. 1 and 2; P 10010 under seal, para. 2; Witness CM, T(F), pp. 11100 and 11101; P 03121, p. 2; P 10033, para. 18; P 09502 under seal, p. 1; Witness C, T(F), pp. 22334, 22340-22342 and 22429, closed session; P 03057. See also the following evidence which mentions more generally and only "HVO soldiers": Witness PP, P 10223 under seal, *Naletilić and Martinović* Case, T(F), p. 6075, and T(E), pp. 6072-6073. The Chamber also notes that Milivoj Petković's order was sent by Miljenko Lasić to the 2<sup>nd</sup> and 3<sup>rd</sup> Brigades of the HVO: P 03019.

<sup>2085</sup> Witness U, P 10220 under seal, *Naletilić and Martinović* Case, T(F), p. 2946; Witness C, T(F), pp. 22334-22337, closed session.

<sup>2086</sup> P 10010 under seal, para. 2; Witness BB, T(F), pp. 17197, 17202-17204, 25240, 25241, 25243, 25244 and 25246, closed session; Witness U, P 10220 under seal, *Naletilić and Martinović* Case, T(F), pp. 2946-2949; P 10033, para. 18; P 10032, para. 18; P 09502 under seal, p. 1; Witness BC, T(F), pp. 18338 and 18339, closed session; P 03181.

Engineering Faculty for a short period<sup>2087</sup> – followed by transport by bus and/or on foot to the Dretelj Prison or the Heliodrom.<sup>2088</sup> For example, *Witness U*<sup>2089</sup> described how at 1100 hours, two soldiers, KB members, one of whom was Kemal Selmanović, entered his flat at Centar II in West Mostar, and, after checking his identity, ordered him to wait downstairs in the building where a group of 150 to 200 Muslim men had already been grouped together. An hour later, five buses arrived and took them to Kruševo from where they had to go on foot to the Heliodrom, which was located around 10 kilometres away.<sup>2090</sup>

894. The Chamber notes in this respect that according to the report of an international organisation dated 12 July 1993, during a meeting arranged with this organisation in the first week of July, Jadranko Prlić indicated that following the attack of 30 June 1993, the HVO had effectively arrested and placed in detention at the Heliodrom 6,000 Muslim military-aged men.<sup>2091</sup> He added that these men had been arrested for security reasons.<sup>2092</sup> *Milivoj Petković* presented a similar argument when he testified.<sup>2093</sup> Moreover, on 30 June 1993, in one of his reports as the Chief of the Main Staff, he indicated that the "main task is to prevent the linking up of the Muslim forces of Jablanica and Mostar".<sup>2094</sup>

895. The Chamber finds that, following the attack of 30 June 1993, the HVO arrested in and around Mostar several thousand BiH Muslim men, including members of the ABiH and Muslim

<sup>2087</sup> P 10032, para. 18; P 09502 under seal, p. 1; Witness PP, P 10223 under seal, *Naletilić and Martinović Case*, T(F), p. 6075 and T(E), pp. 6072-6073; Ibrahim Šarić, T(F), pp. 5082, 5083, 5088, 5089, 5103; P 09806 under seal, p. 3; P 09807 under seal, pp. 5, 6 and 9; Witness CW, T(F), p. 12695. See also "Crimes Alleged to Have Been Committed at the Mechanical Engineering Faculty from July 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

<sup>2088</sup> P 09855, p. 2; P 10010 under seal, para. 3; P 10033, para. 18; P 10032, para. 18; P 03184 under seal, p. 3; P 03196 under seal, pp. 1 and 2; P 09843 under seal, p. 1, para. 1; Ibrahim Šarić, T(F), p. 5103; P 09806 under seal, p. 3; P 09807 under seal, p. 9; Witness BB, T(F), pp. 17198, 17254 and 17255, closed session; P 06697, para. 58; Witness C, T(F), pp. 22334, 22341 and 22342, closed session; Witness II, P 10218 under seal, *Naletilić and Martinović Case*, T(F), pp. 4940-4942; P 03057, p. 3; P 03075, p. 2; Witness PP, P 10223 under seal, *Naletilić and Martinović Case*, T(F), p. 6075; P 09861, p. 2. See also the following evidence relating to the transfers to other detention centres, including those in Čapljina and Gabela Prison: Witness BC, T(F), p. 18355, closed session; P 03196 under seal, pp. 1 and 2; Witness C, T(F), p. 22334, closed session; Witness PP, P 10223 under seal, *Naletilić and Martinović Case*, T(F), p. 6075; P 09897 under seal, p. 1. See also "Arrival of the Detainees at Dretelj Prison" in the Chamber's factual findings relating to Dretelj Prison and "Arrival of Detainees at the Heliodrom" in the Chamber's factual findings relating to the Heliodrom.

<sup>2089</sup> A Muslim inhabitant of the Centar II area in the town of Mostar from 1991 to 30 June 1993, he was not a member of the HVO or the ABiH: Witness U, P 10220 under seal, *Naletilić and Martinović Case*, T(F), pp. 2911, 2912, 2933, 2934, 2343 and 2344.

<sup>2090</sup> Witness U, P 10220 under seal, *Naletilić and Martinović Case*, T(F), pp. 2945-2949. For the distance between Kruševo and the Heliodrom, see IC 01155.

<sup>2091</sup> P 09843 under seal, p. 1, para. 1. The Chamber also notes that in his testimony Milivoj Petković said that the HVO had never tried to conceal the isolation measures against HVO Muslim soldiers and Muslims fit for combat from the international observers: Milivoj Petković, T(F), pp. 49581-49584; P 03175 under seal.

<sup>2092</sup> Witness BC, T(F), p. 18355, closed session; P 09712 under seal, para. 45; P 03175 under seal, p. 1. See also on the question of objectives: Antoon van der Grinten, T(F), pp. 21072 and 21073.

<sup>2093</sup> Milivoj Petković, T(F), p. 50747.

<sup>2094</sup> 4D 00480.

HVO soldiers, and placed them in detention at the Heliodrom and Dretelj Prison. Moreover, the Chamber finds that boys of around the age of 14 and men over 60, some of whom were up to the age of 84, also found themselves among those arrested.

**B. Removal around 30 June 1993 of Muslim Families Living in West Mostar**

896. The Chamber notes that according to the order of 30 June 1993 from Milivoj Petković, Chief of the HVO Main Staff, addressed to the South-East OZ, the HVO was to allow Muslim women and children in the zone of responsibility of the South-East OZ to remain in their homes.<sup>2095</sup> In this connection, the Chamber received a number of items of evidence indicating that the order was respected.<sup>2096</sup>

897. However, the Chamber notes that following the attack of 30 June 1993, HVO soldiers and military policemen expelled Muslim families from West Mostar to East Mostar on foot or by bus.<sup>2097</sup> The Chamber also notes that on 5 July 1993 Stojan Vrlić, President of the Mostar Municipal HVO, personally sent to Bruno Stojić a list of Muslim families from the Zahum neighbourhood who had a member in the ABiH - which Stojan Vrlić called a "*balija* unit" - that included the address of each family mentioned indicating that a raid would be carried out in the course of the evening.<sup>2098</sup> The Chamber finds that this information indicates that these eviction operations were organised and carried out building by building using the same procedure as in May and June 1993.<sup>2099</sup> Moreover, an ECMM report dated 5 July 1993 states that between 30 June and 5 July 1993, 400 Muslim families, without the men, were expelled from West Mostar to East Mostar.<sup>2100</sup>

898. In addition, an activity report sent out by Žarko Jurić, Commander of the 5<sup>th</sup> Battalion of the Military Police dated 23 July 1993 shows that the Military Police did not arrest those who carried out the evictions.<sup>2101</sup>

899. The Ćorić Defence maintains that the activity report of 23 July 1993 is a fake, arguing that it is missing both a signature and a stamp and bears the logbook sequence number beginning with

<sup>2095</sup> P 03019, item 8.

<sup>2096</sup> Witness C, T(F), p. 22466, closed session; P 09502 under seal, para. 2; P 10010 under seal, para. 2.

<sup>2097</sup> Witness BB, T(F), pp. 17197, 17230, 25420 and 25421, closed session; P 09847 under seal, p. 2; P 09502 under seal, item 8.

<sup>2098</sup> P 03181. The Chamber notes, moreover, the following comment, p. 3: "Kavazbašina Street has not been cleaned of Muslims."

<sup>2099</sup> See in particular "Crimes Allegedly Committed in June 1993" in the Chamber's factual findings with regard to the Municipality of Mostar. See also Witness BB, T(F), pp. 17198, 17199, 17219, 17220, 25420 and 25421, closed session; P 09678 under seal, para. 1; P 09502 under seal, p. 2.

<sup>2100</sup> P 03184 under seal, p. 3; P 03196 under seal, item 4.

"06" (which was not used by the Military Police at the time).<sup>2102</sup> The Chamber recalls that in the "Decision on the Motion for Admission of Documentary Evidence (Čapljina/Stolac Municipalities)", rendered publicly on 23 August 2007, it established that this document showed indicia of reliability, of relevance and of probative value sufficient for admission into evidence; that once admitted, this document was shown to *Witness BB*, who confirmed a substantial part of its content;<sup>2103</sup> that the Ćorić Defence did not raise any objection to the authenticity of this document before presenting its closing arguments and that the format of the document is very similar to other reports admitted by the Chamber and whose authenticity has not been contested by the Ćorić Defence.<sup>2104</sup> In light of the preceding, the Chamber therefore deems that the document is in fact authentic.

900. The Chamber finds that following the attack on the *Tihomir Mišić* Barracks by the ABiH on 30 June 1993 and the mass arrest of Muslim men from Mostar, the HVO expelled many Muslim families from West Mostar to East Mostar.

### **C. Crimes Alleged to Have Been Committed at the Mechanical Engineering Faculty from July 1993**

901. According to paragraph 104 of the Indictment, from 9 May 1993 the Herceg-Bosna/HVO forces used the Mechanical Engineering Faculty to detain, interrogate and mistreat arrested or captured Muslim men. The HVO forces severely beat five Muslim men who had been arrested near Drežnica in the first week of July 1993, causing the death of two of them.

902. The Chamber has already described the organisation of the Mechanical Engineering Faculty as a temporary detention centre; this organisation did not change after May 1993.<sup>2105</sup>

903. The Chamber recalls that at the beginning of July 1993 – following the attack of 30 June 1993 – the HVO detained Muslim men at the Mechanical Engineering Faculty for a period ranging from a few hours to one or two months.<sup>2106</sup> *Ibrahim Šarić*, member of the ABiH,<sup>2107</sup> was thus

<sup>2101</sup> P 03666, p. 1.

<sup>2102</sup> Ćorić Defence Final Trial Brief, para. 698.

<sup>2103</sup> *Witness BB*, T(F), pp. 17229-17231, closed session.

<sup>2104</sup> See as examples: P 03542; P 03580; P 03624.

<sup>2105</sup> See "Organisation of the Mechanical Engineering Faculty as a Detention Centre" in the Chamber's factual findings with regard to the Municipality of Mostar.

<sup>2106</sup> P 09502 under seal, p. 1; P 03302, p. 1; P 10032, para. 18; *Witness PP*, P 10223 under seal, *Naletilić and Martinović* Case, T(F), p. 6075 and T(E), pp. 6072-6073. See also "Arrests and Detention of Muslim Men Following the Attack on 30 June 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

<sup>2107</sup> *Ibrahim Šarić* was Chief of the Communications Centre of the 4<sup>th</sup> Corps of the ABiH in 1993: *Ibrahim Šarić*, T(F), p. 5071.

detained from 7 July 1993 for three days.<sup>2108</sup> The Chamber notes that *Witness CW*, who was also a member of the ABiH,<sup>2109</sup> said that he was detained from 8 July 1993 for one month when he gave his first statement to the Prosecution, and for two months in a second statement.<sup>2110</sup> During his testimony, he acknowledged that he could no longer remember the exact length of his detention. Based solely on this, the Chamber cannot find that Muslim men, whether members or not of the ABiH, were detained at the Mechanical Engineering Faculty after July 1993. Ibrahim Šarić and *Witness CW* were then both transferred to the Heliodrom.<sup>2111</sup>

904. Between 7 and 12 July 1993, the detainees were beaten regularly by members of the HVO.<sup>2112</sup> However, the Chamber was not in a position to determine exactly by whom in the HVO. *Witness CW* was beaten so severely that when he was finally given food after four or five days, he was not able to eat because he could not open his mouth and his stomach hurt him too much.<sup>2113</sup>

905. Ten men – including Adem Hebibović and Azim Mašić<sup>2114</sup> – were arrested on the road between Salakovac and Drežnica,<sup>2115</sup> on 6 July 1993 by a patrol from the 1<sup>st</sup> Company of the 5<sup>th</sup> Battalion of the HVO Military Police.<sup>2116</sup> Adem Hebibović and Azim Mašić, and at least two others, were then taken over by the Department for Criminal Investigations of the Military Police<sup>2117</sup> and were taken to the Mechanical Engineering Faculty.<sup>2118</sup>

906. Between 8 and 11 July 1993, the men were taken by HVO soldiers upstairs to be interrogated and beaten.<sup>2119</sup> When it was the turn of Adem Hebibović and Azim Mašić, *Witness CW* could hear that they were being "tortured" while they were being questioned about their weapons and their uniforms.<sup>2120</sup> When Adem Hebibović and Azim Mašić returned to the basement, *Witness CW* saw Azim Mašić fall down the stairs and not get up again.<sup>2121</sup> An HVO soldier grabbed Adem Hebibović by the hair and kicked him in the head. Adem Hebibović fell, struck his head on the door frame of *Witness CW*'s cell and did not get up again.<sup>2122</sup> *Ibrahim Šarić* told the Chamber that he

<sup>2108</sup> Ibrahim Šarić, T(F), pp. 5082 and 5083; P 09413, p. 12.

<sup>2109</sup> P 09806 under seal, p. 2.

<sup>2110</sup> *Witness CW*, T(F), p. 12695; P 09807 under seal, pp. 5 and 6; P 09806 under seal, p. 3.

<sup>2111</sup> P 09807 under seal, p. 6; P 09806 under seal, p. 3; *Witness CW*, T(F), p. 12681; Ibrahim Šarić, T(F), p. 5103.

<sup>2112</sup> P 09807 under seal, p. 6; Ibrahim Šarić, T(F), pp. 5085-5087; P 09502 under seal, p. 4.

<sup>2113</sup> P 09807 under seal, p. 6.

<sup>2114</sup> Victims from paragraph 104 of the Indictment mentioned in the confidential Annex to the Indictment. The Chamber was unable to determine whether these men were members of any armed forces.

<sup>2115</sup> P 09807 under seal p. 6; Ibrahim Šarić, T(F), pp. 5095 and 5099.

<sup>2116</sup> P 03249, p. 2.

<sup>2117</sup> P 03249, p. 2.

<sup>2118</sup> P 09807 under seal p. 6; Ibrahim Šarić, T(F), pp. 5095 and 5099.

<sup>2119</sup> P 09807 under seal p. 6; Ibrahim Šarić, T(F), pp. 5094 and 5095.

<sup>2120</sup> P 09807 under seal, p. 6; P 09806 under seal, p. 3.

<sup>2121</sup> P 09807 under seal, p. 6.

<sup>2122</sup> P 09807 under seal, p. 6; P 09806 under seal, p. 3; *Witness CW*, T(F), pp. 12666 and 12667.

heard Adem Hebibović groaning all night before finding his lifeless body the following morning lying near the room they used as a toilet.<sup>2123</sup>

907. According to *Witness CW*, the two bodies remained for several days in a small storage space under the stairs before being taken away one night, although the Chamber cannot determine exactly when, by whom and where.<sup>2124</sup> *Witness CW* had to clean and repaint the storage space and the other rooms in the basement to remove the traces of blood.<sup>2125</sup>

908. *Witness CW* mentioned that Mate Aničić, Commander of the 1<sup>st</sup> Company of the 5<sup>th</sup> Battalion of the Military Police,<sup>2126</sup> and two other members of the HVO were present when Adem Hebibović and Azim Mašić died.<sup>2127</sup>

909. The Chamber finds that in July 1993, the detainees were regularly severely beaten by members of the HVO at the Mechanical Engineering Faculty. It also finds that Adem Hebibović and Azim Mašić died following these beatings between 8 and 11 July 1993.

910. Moreover, it notes that the evidence has not allowed it to establish whether the beatings continued in August 1993 or whether Muslims were held at the Mechanical Engineering Faculty after the month of July 1993.

#### **D. Other Crimes Alleged to Have Been Committed in July and August 1993 in West Mostar**

911. According to paragraphs 99, 100 and 107 of the Indictment, during the months of July and August 1993, the Herceg-Bosna/HVO forces expelled from their homes, often at gunpoint, and forcibly transferred thousands of Muslims civilians from West Mostar, mostly to East Mostar. They arrested and placed in detention some of the Muslims expelled from their homes, while others were forced to cross the confrontation line into East Mostar. Throughout this same period they allowed some Muslims from West Mostar to go to other parts of BiH under the control of the ABiH or to other countries, so long as they left Herceg-Bosna. The Muslims were subjected to violence in the course of these operations to evict and detain them, including sexual assault, mistreatment, robbery and had their property confiscated. In paragraph 100 of the Indictment, the Prosecution alleges that hundreds of BiH Muslims were allowed to leave Mostar only if they signed a statement that they "voluntarily" relinquished all their belongings to the HVO. The homes and flats from

<sup>2123</sup> Ibrahim Šarić, T(F), p. 5095.

<sup>2124</sup> P 09807 under seal, p. 6.

<sup>2125</sup> P 09807 under seal, pp. 3 and 6; *Witness CW*, T(F), pp. 12666, 12667 and 12680, private session.

<sup>2126</sup> *See* P 03249.

<sup>2127</sup> P 09807 under seal, pp. 3 and 6; P 09806 under seal, p. 3.

which the Bosnian Muslims were evicted were looted and then assigned to HVO soldiers and Bosnian Croatian civilians.

912. In paragraph 105 of the Indictment, it is alleged that in mid-July 1993, the Herceg-Bosna/HVO forces carried out another round of forcible evictions, expelling BiH Muslim women, children and the elderly from their homes in West Mostar and forcing them into East Mostar. Moreover, it is alleged that the Herceg-Bosna/HVO authorities offered to release the Muslim men detained at the Heliodrom, as well as their families in the Mostar area, if they agreed to leave BiH and go to another country. Approximately 800 Bosnian Muslims agreed to this proposal and were deported to the Republic of Croatia, as a transit point to other countries.<sup>2128</sup>

913. As a preliminary matter, the Chamber notes that it does not have evidence showing that the Muslims evicted from their homes were arrested, taken away and held in HVO prisons and detention centres in the second half of July and in August 1993.

914. Having examined the evidence relating to allegations that in July and August 1993, and in particular in and around mid-July, (1) many Muslims from West Mostar continued to be evicted from their homes and transferred from West Mostar to East Mostar or other countries, the Chamber will examine the allegations relating to (2) the release of Muslim detainees from the Heliodrom in mid-July 1993 if they left BiH with their families to go to a third country. Finally, it will analyse (3) the allegations relating to rape, sexual assault, robbery, threats and intimidation of Muslims allegedly committed during the operations to arrest and evict them.

1. Eviction and Transfer of Muslims to East Mostar or Other Countries from mid-July to August 1993

915. The Petković Defence maintains that the Prosecution's allegation that a new round of operations took place in mid-July 1993 in which Muslims were expelled from their homes in West Mostar and evicted to East Mostar is inadequate, unspecific and unsubstantiated and that there are no requisite material elements relevant to the charges.<sup>2129</sup>

916. First, the Chamber recalls that the vagueness of the Indictment was already dealt with in the Pre-Trial proceedings.<sup>2130</sup> Second, it deems that it does have the evidence relating to these events.

<sup>2128</sup> See also Prosecution Final Trial Brief, paras 68, 455, 1158 and 1159.

<sup>2129</sup> Petković Defence Final Trial Brief, para. 105.

<sup>2130</sup> See "Decision on Preliminary Motions on the Form". See also "Preliminary Motions on the Form" in the Chamber's procedural background (Annex 2).



917. The Chamber notes that around 13 July 1993, the HVO and ABiH forces clashed violently to the south of Mostar, in Buna, Gubavica and Lakševine.<sup>2131</sup> In the same period, the HVO carried out new actions against the Muslims residents of West Mostar with the aim of expelling them from their homes.<sup>2132</sup>

918. The Chamber notes that several members of an international organisation in the field at the time protested several times in vain to senior officials of the HVO, such as Mate Boban and Jadranko Prlić, about the evictions, as early as 13 July 1993.<sup>2133</sup>

919. HVO soldiers nevertheless continued to evict Muslim families from their homes in West Mostar in July and August 1993, forcing them to cross the confrontation line to go to East Mostar.<sup>2134</sup> Thus, for example, on 22 July 1993, six HVO soldiers came to the flat belonging to *Jasmina Čišić*<sup>2135</sup> and took her and her family to Semovac, north of Mostar; once there, the soldiers told them that they were "allowed to leave the West area".<sup>2136</sup> For his part, *Enver Jusufović*<sup>2137</sup> stated that around 1800 hours on 6 August 1993, Ernest Takać<sup>2138</sup> and six other HVO soldiers ordered him and 13 or 14 other Muslims who lived in the same building in West Mostar to leave the building and to board a lorry that took them the demarcation line which they had to cross, under the orders of the HVO, in the direction of East Mostar.<sup>2139</sup>

920. The Chamber finds that the HVO forces carried out a new round of operations in mid-July 1993 in which they expelled Muslims from West Mostar, including the women, children and the elderly, forcing them into East Mostar. The evidence presented above also allows the Chamber to find that the operations continued throughout the second half of July and in August 1993. However, the Chamber does not have any evidence for this period relating to the allegations that hundreds of Muslims were not allowed to leave Mostar unless they signed a statement "voluntarily"

<sup>2131</sup> Witness CY, T(F), pp. 13053, 13060 and 13061; P 07559, p. 1; P 01717 under seal, pp. 110 and 111; 4D 00489 under seal, p. 2. See also "Eviction of Women, Children and Elderly People, Their Removal and Subsequent Alleged Crimes Committed in the Municipality of Čapljina from July to September 1993" in the Chamber's factual findings with regard to the Municipality of Čapljina.

<sup>2132</sup> P 03804 under seal, paras 5 and 6; P 04698, p. 10; P 10038, p. 4; Witness BA, T(F), p. 7232, closed session; P 09712 under seal, para. 73; P 09712 under seal, para. 10; P 03744 under seal, pp. 9 and 10; P 09847 under seal, p. 2.

<sup>2133</sup> Witness BA, T(F), pp. 7163, 7164, 7232, 7344 and 7345, T(E), p. 7346, closed session; P 09712 under seal, paras 73 and 75; P 09679 under seal; P 03804 under seal, paras 5 and 6. The Chamber notes that a protest letter from an international organisation was sent in this respect to Mate Boban on 13 July 1993.

<sup>2134</sup> P 09861, p. 2; P 10035, para. 14; P 04516; P 10033, para. 20; P 09855, p. 2; P 05091, para. 12.

<sup>2135</sup> Muslim inhabitants of West Mostar (P 10038, para. 2).

<sup>2136</sup> P 10038, para. 24. Jasmina Čišić first went to East Mostar and then decided to go to Raštani with her family on 23 August 1993.

<sup>2137</sup> Muslim inhabitant of West Mostar and representative victim in paragraph 99 of the Indictment mentioned in the confidential Annex: P 10035, para. 1.

<sup>2138</sup> The Chamber recalls that Ernest Takać was a member of the *Vinko Škrobo* ATG.

<sup>2139</sup> P 10035, para. 14.

relinquishing all their property to the HVO. Nor was it able to establish whether Muslims were expelled to third countries in August 1993.

2. Release of Muslim Detainees from the Heliodrom in mid-July 1993 in Exchange for Their Leaving BiH with Their Families

921. The Chamber notes that Muslim men detained at the Heliodrom on 17 July 1993 or around that time were given the following alternative: to remain in detention in the Heliodrom without the possibility of guaranteeing their safety - in line with the terms set out by the HVO soldiers who made this proposal to the detainees - or to be released, on condition of agreeing to leave BiH and go with their families to a third country.<sup>2140</sup>

922. The Chamber observes that between 800 and 1,000 Muslims, including the men held until then at the Heliodrom and their families (women, children and the elderly),<sup>2141</sup> accepted the proposal and left the Municipality of Mostar<sup>2142</sup> and the territory of BiH in the days after 17 July 1993. The HVO soldiers drove them, escorted by the HVO Military Police, to the border with Croatia where they were temporarily accommodated until they left for a third country.<sup>2143</sup>

923. In view of the above, the Chamber finds that the HVO proposed to Muslim men held at the Heliodrom to release them and their families in that part of Mostar if they agreed to leave BiH to go to another country, and that at least 800 Muslims accepted this proposal.

3. Rapes, Sexual Assaults, Thefts, Threats and Intimidation of Muslims during Eviction Operations in West Mostar in July and August 1993

924. The Chamber recalls that it was apprised of some evidence, including documents dated August and December 1993, showing that during the operations to arrest and expel Muslims from West Mostar from May 1993, the HVO soldiers used threats and sometimes violence, stole and confiscated property.<sup>2144</sup>

<sup>2140</sup> P 09898 under seal, p. 1; P 03804 under seal, p. 4; P 10052, pp. 2 and 3; P 09680 under seal; P 09681 under seal, p. 1; P 03616, p. 4.

<sup>2141</sup> P 09680 under seal; P 09681 under seal; P 10054, p. 2; P 10052, p. 1; P 03804 under seal, pp. 3-5.

<sup>2142</sup> See in particular P 10052, p. 1.

<sup>2143</sup> See "Departure of Detainees from the Heliodrom to Croatia between about 17 July 1993 and November 1993" in the Chamber's factual findings with regard to the Heliodrom.

<sup>2144</sup> See P 09502 under seal, p. ; P 07265; Witness BB, T(F), pp. 17207-17209, closed session. See also "Violence and Thefts Committed against Muslims Arrested, Evicted from Their Flats, Placed in Detention and Displaced in May 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

925. With respect to the allegations of rapes and sexual assaults in July 1993, the Chamber has had very little evidence<sup>2145</sup> but notes that according to two UN documents from mid-July 1993, two HVO soldiers entered the flat of a Croatian-Muslim family and forced a Muslim woman to have sexual relations, while her children slept in the room next door.<sup>2146</sup>

926. The Chamber notes that, in support of allegations of rapes during the eviction operations in July 1993, the Prosecution presented evidence regarding two girls living in West Mostar.<sup>2147</sup>

927. The Chamber notes that three members of the Military Police responsible for Jadranko Prlić's security took two girls from a street in West Mostar for no apparent reason and raped them. The Chamber considers that while the evidence it examined shows that the two girls were raped, it does not allow it to establish that this was done during an operation to expel them from West Mostar. Consequently, the Chamber decides that it cannot take into consideration the rape of the two girls as mentioned in Annex A of the Prosecution Final Trial Brief under the count of rape as part of the allegations in paragraph 99 of the Indictment.

928. Moreover, the Chamber heard the testimony of Muslim men arrested on 30 June 1993 and placed in detention<sup>2148</sup> who testified that during their arrest, the HVO soldiers used intimidation and threats. *Witness U*<sup>2149</sup> described, for example, how HVO soldiers gathered him and around 200 other Muslim men in front of a building and made them wait in the blazing sun for an hour. When the buses that were supposed to transfer them to the Heliodrom arrived, they were packed almost 80 to a bus although the buses could only hold 50 people.<sup>2150</sup> *Muris Marić*<sup>2151</sup> said that the HVO soldier who came to his home to order him to go to the Heliodrom immediately said to him that if he failed to comply, "Tuta's" soldiers would come around the following day and kill him.<sup>2152</sup> *Mujo Čopelj*<sup>2153</sup> also said that the two or three HVO soldiers who came to his home ordered him at gunpoint to leave the place and to go to the Mechanical Engineering Faculty.<sup>2154</sup> Moreover, the Chamber notes a report from an international organisation dated 30 July 1993 in which

<sup>2145</sup> P 06697, para. 23; P 05091, para. 14; 5D 04115, p. 5.

<sup>2146</sup> P 06697, para. 23; P 05091, para. 14.

<sup>2147</sup> P 03508; P 03483, p. 1; P 03513; P 03482; P 03497; P 03523; P 03571; P 11240; P 03536.

<sup>2148</sup> See "Attack on the *Tihomir Mišić* Barracks on 30 June 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

<sup>2149</sup> Muslim inhabitant of the town of Mostar between 1991 and 1993 in the Centar II district: Witness U, P 10220 under seal, *Naletilić and Martinović* Case, T(F), pp. 2911, 2912, 2933, 2934, 2343 and 2344.

<sup>2150</sup> Witness U, P 10220 under seal, *Naletilić and Martinović* Case, T(F), pp. 2947 and 2948.

<sup>2151</sup> Member of the HVO until 30 June 1993 (P 10033, paras 4 and 18) and Muslim inhabitant of West Mostar (P 10033, para. 2).

<sup>2152</sup> P 10033, para. 18.

<sup>2153</sup> Muslim inhabitant living in Bijeli Brijeg in West Mostar from 30 June 1993 (P 10032, paras 2, 7 and 10) and member of the HVO (P 10032, para. 5).

<sup>2154</sup> P 10032, para. 18.

"considerable violence" is mentioned in general terms - without providing an example or being more specific - as are the shots fired above the heads of Muslims during their evictions in mid-July 1993.<sup>2155</sup>

929. With respect to the allegations of thefts in July 1993, the Chamber notes that the Prosecution relied specifically in its Final Trial Brief<sup>2156</sup> on a report of the SIS of the Department of Defence showing that an anti-terrorist group of the HVO Military Police ("military police ATG")<sup>2157</sup> confiscated some belongings, such as meat, beer and cigarettes as well as an undetermined quantity of technical goods and livestock, from the population of the village of Medine, which was taken by force to the Mechanical Engineering Faculty on 6 July 1993, before the women and children were released.<sup>2158</sup> Nonetheless, the Chamber notes that the allegations in paragraphs 99, 100, and 107 of the Indictment relate solely to West Mostar and, consequently, deems that it cannot take into consideration these acts committed on 6 July 1993 in the village of Medine in the Municipality of Mostar but outside West Mostar.

930. During the operations to evict the Muslims from West Mostar in August 1993,<sup>2159</sup> acts of theft and intimidation and threats were committed. Several items of evidence show that the HVO soldiers confiscated the keys to flats and moved into flats whose inhabitants were removed.<sup>2160</sup> *Muris Marić* also described how an HVO soldier called Pavo Krezić evicted him from his flat in West Mostar under threat of arms in the first half of August 1993, before taking possession of his flat.<sup>2161</sup>

931. The HVO soldiers also ordered the Muslims evicted from their flats in August 1993 to hand over their valuables - or took them themselves - while prohibiting them from taking money or valuable goods with them.<sup>2162</sup>

932. The evidence shows, moreover, that the HVO soldiers, including the *Vinko Škrobo* ATG, placed under the authority of Vinko Martinović alias "Štela",<sup>2163</sup> forced the Muslim prisoners,

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<sup>2155</sup> P 03804 under seal, para. 6.

<sup>2156</sup> Prosecution Final Trial Brief, paras 1148 and 1168.

<sup>2157</sup> The Chamber notes that the group was under the command of Zlatan Mijo Jelić, Commander of the central defence area of the town of Mostar. Witness NO, T(F), pp. 51180, 51182 and 51210, closed session; 5D 05110 under seal, para. 7; P 03117, p. 2.

<sup>2158</sup> P 03302, pp. 1 and 2.

<sup>2159</sup> See "Eviction and Transfer of Muslims to East Mostar or Other Countries from mid-July to August 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

<sup>2160</sup> P 10035, para. 14; P 04516; P 10033, para. 20.

<sup>2161</sup> P 10033, para. 20.

<sup>2162</sup> P 09861, p. 2; P 10035, para. 14.

<sup>2163</sup> The *Vinko Škrobo* ATG was formerly called the *Mrmak* ATG. On this item, see "Organisation of the KB and Its ATG" in the Chamber's factual findings on the military structure of the HZ(R) H-B.

especially those detained at the Heliodrom, to break into abandoned flats in West Mostar, in particular in August 1993,<sup>2164</sup> in order to steal and seize valuables<sup>2165</sup> which were then taken away by the soldiers.<sup>2166</sup>

933. Concerning more specifically the allegations of rapes and sexual assaults during the evictions that took place in August 1993, the Chamber notes that the Prosecution presented evidence concerning a girl in Raštani. This evidence indicates that on 24 August 1993, after the HVO attack on the village of Raštani,<sup>2167</sup> HVO soldiers raped a Muslim girl of 16 who was in one of the houses in the village surrounded by the soldiers. The girl told *Witness DA* that the soldiers forced her to undress and beat her, that she fainted and that the soldiers then raped her.<sup>2168</sup> Later that evening, together with other Muslims, the girl crossed the Neretva to get to the other bank that was controlled by the ABiH.<sup>2169</sup> She was in a state of shock<sup>2170</sup> and had a bruise on her forehead.<sup>2171</sup> The Chamber notes, however, that the allegations in paragraph 99 of the Indictment refer solely to West Mostar. It notes that while situated in the area around West Mostar, the village of Raštani is not in West Mostar. Consequently, the Chamber decides that it cannot take into consideration the rape of this girl, as included in confidential Annex A of the Prosecution Final Trial Brief under the count of rape as part of the allegations in paragraph 99 of the Indictment.

934. The Chamber finds that the Muslims evicted from their homes in West Mostar during the operations in July and August 1993 were subjected to intimidations and threats by HVO soldiers.

935. The Chamber also finds that HVO soldiers were involved in at least one forced sexual relation in July 1993 during the operations to evict the Muslims from West Mostar.

<sup>2164</sup> Witness II, P 10218 under seal, *Naletilić and Martinović* Case, T(F), pp. 4958 and 4961-4963; Decision of 7 September 2006, Adjudicated Fact no. 137 (*Naletilić* Judgement, para. 621).

<sup>2165</sup> Witness II, P 10218 under seal, *Naletilić and Martinović* Case, T(F), pp. 4961-4963. See also Decision of 7 September 2006, Adjudicated Facts nos 133, 134 and 137 (*Naletilić* Judgement, paras 630, 621 and 622).

<sup>2166</sup> Witness II, P 10218 under seal, *Naletilić and Martinović* Case, T(F), paras 4961-4963; Decision of 7 September 2006, Adjudicated Fact no. 138 (*Naletilić* Judgement, para. 622). See also P 03260, p. 3.

<sup>2167</sup> See "Attack on the Village of Raštani, Mostar Hydro-Electric Plant and *Tihomir Mišić* Barracks" in the Chamber's factual findings with regard to the Municipality of Mostar.

<sup>2168</sup> Witness DA, T(F), pp. 13160, 13162 and 13168, closed session. See also P 10038, para. 34: *Jasmina Čišić* said in her statement that the girl told her that the soldiers had placed a rifle in her vagina; the Chamber notes that since the statement of *Jasmina Čišić* was taken pursuant to Rule 92 bis of the Rules and that there is no other evidence to corroborate these particular claims, the Chamber cannot take this information into account

<sup>2169</sup> See "Displacement of Muslim Women and Children during the Attack on the Village of Raštani" in the Chamber's factual findings with regard to the Municipality of Mostar, in which the circumstances surrounding this event are examined in greater detail. P 09866 under seal, pp. 7 and 8; P 10036, paras 23-26; P 10038, p. 5; Witness DA, T(F), pp. 13162, 13164, 13166 and 13167, closed session; P 08865 under seal (the number 1 in the photo marks Mirsad Žuškić's house: Witness DA, T(F), p. 13163, closed session; and the red line marks the path taken by the witness' group to get to the left bank: Witness DA, T(F), p. 13163, closed session); IC 00271 under seal (the number 3 marks the railway station: Witness DA, T(F), p. 13164, closed session).

<sup>2170</sup> P 10038, para. 34; Witness DA, T(F), p. 13168, closed session.

<sup>2171</sup> Witness DA, T(F), p. 13168, closed session.

936. However, the Chamber is not able to find that rapes and sexual attack were carried out against Muslims expelled by the HVO from West Mostar during August 1993.

937. With regard to the allegations that the Muslims were victims of thefts and that their property was confiscated, the Chamber finds that in August 1993, the HVO soldiers did in fact rob the expelled Muslims of their valuables and their flats which were plundered and into which the soldiers then moved. However, the Chamber was not able to establish that the operations in July 1993 included thefts or confiscations of property.

938. Moreover, the Chamber notes that it did not have knowledge of evidence specifically mentioning the assignment of these homes, within the relevant period, to Bosnian Croat civilians, as alleged by the Prosecution. Equally, the Chamber notes that it has no evidence for July and August 1993 relating to the allegations that hundreds of Muslims were not allowed to leave Mostar unless they signed a statement "voluntarily" relinquishing all their property to the HVO.

#### **E. Crimes Allegedly Committed in Buna around 14 July 1993**

939. It is alleged in paragraph 106 of the Indictment that on around 14 July 1993, a Muslim boy and his grandfather were arrested at their home in Buna and taken to an HVO Military Police station where they were interrogated and tortured by the HVO Military Police. The Prosecution alleges that on the same day on the road to Dretelj Prison, the HVO military policemen stopped the van with detainees, ordered the boy and his grandfather to stand on the edge of the road above the Neretva River and opened fire on them, seriously wounding the boy and killing his grandfather.

940. The Chamber notes that from August 1992 the HVO was based in the area of Buna,<sup>2172</sup> to the south of the municipality and the town of Mostar,<sup>2173</sup> and that it was still in the area on 14 July 1993.<sup>2174</sup> In particular, it notes the presence of the HVO Military Police and, especially the presence of the 5<sup>th</sup> Battalion in July 1993.<sup>2175</sup>

<sup>2172</sup> Witness CY, T(F), pp. 13050, 13051 and 13078; 4D 00489 under seal, p. 1.

<sup>2173</sup> P 09276, p. 19.

<sup>2174</sup> 4D 00489 under seal, p. 1; 4D 00625; 4D 00622. Between at least 9 December 1992 and 30 June 1993, Ivan Primorac was commander of the 3<sup>rd</sup> HVO Brigade serving in the territory covering the town of Buna up to the town of Prozor: P 10138 (Written statement of Huso Marić, dated 14 November 2002), para. 8; P 00882 (9 December 1992); P 03035 (30 June 1993). The Buna sector was held by the 3<sup>rd</sup> HVO Brigade, under the command of Božo Pavlović from 20 July 1993 to 4 October 1993: Božo Pavlović, T(F), pp. 46875 and 46935; P 03582 (Appointed on 20 July 1993).

<sup>2175</sup> P 03666, pp. 3 and 4. In its Final Trial Brief the Ćorić Defence challenged the authenticity of document P 03666: Ćorić Defence Final Trial Brief, para. 698. Nevertheless, the Chamber notes that many other items of evidence confirm the existence of a HVO Military Police checkpoint in Buna: P 05497, pp. 2 and 5; Witness BB, T(F), p. 17229, closed session; Witness BC, T(F), p. 18537; Larry Forbes, T(F), pp. 21339 and 21340; 3D 00700; P 07742; 1D 02016, p. 1; 1D 02066. See also on this point "3<sup>rd</sup> Company of the 3<sup>rd</sup> Battalion of the Military Police" in the Chamber's factual finding with regard to the Municipality of Čapljina.

941. *Witness CY*,<sup>2176</sup> who was 16 at the time of the events,<sup>2177</sup> and his grandfather,<sup>2178</sup>, who was 60,<sup>2179</sup>, both Muslim inhabitants of Buna, were arrested in the house of *Witness CY* at around 1100 hours on 14 July 1993 by three HVO military policemen.<sup>2180</sup> *Witness CY* said that they were taken to the Military Police station in Buna for interrogation about the alleged presence of ABiH soldiers in the witness' family home.<sup>2181</sup> According to *Witness CY*, there were no weapons in the house and there were no ABiH soldiers there.<sup>2182</sup>

942. When they arrived at the Military Police building, the military policemen hit *Witness CY* and his grandfather, took them to the basement and handcuffed them together.<sup>2183</sup> After about half an hour, a group of HVO military policemen went down to the basement where they kicked and punched *Witness CY* for at least 10 minutes, and they then beat his bare back around 20 times with an electric cable.<sup>2184</sup>

943. Around 2000 or 2100 hours, the military policemen took *Witness CY* and his grandfather into the courtyard of the Military Police building and again hit *Witness CY*.<sup>2185</sup> Three HVO military policemen then put *Witness CY* and his grandfather on a lorry and took the main road to Čapljina,<sup>2186</sup> telling them that they were taking them to an HVO camp.<sup>2187</sup> Five hundred metres from Buna, and 40 or 50 metres from the Neretva, they stopped, took *Witness CY* and his grandfather to the edge of a 15-metre precipice and ordered them to turn their backs to them. They fired at them, and *Witness CY* and his grandfather fell into the precipice.<sup>2188</sup> Believing the two men to be dead, the HVO military policemen left.<sup>2189</sup> The grandfather was actually killed by the shots, but *Witness CY* was still alive, seriously injured with shots to the chest.<sup>2190</sup> *Witness CY* then lost

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<sup>2176</sup> Victim mentioned in the confidential Annex to the Indictment, paragraph 106.

<sup>2177</sup> *Witness CY*, T(F), pp. 13046 and 13048, closed session; *Witness CY*, T(E), p. 13075, closed session. The Chamber also notes that *Witness CY* was listed in the Split hospital records as a "civilian", as indicated in 4D 00489 under seal, p. 7.

<sup>2178</sup> Victim mentioned in the confidential Annex to the Indictment, paragraph 106.

<sup>2179</sup> P 08486 under seal.

<sup>2180</sup> *Witness CY*, T(F), pp. 13053, 13054 and 13059; 4D 00489 under seal, p. 2.

<sup>2181</sup> *Witness CY*, T(F), pp. 13053, 13054 and 13059; 4D 00489 under seal, p. 2.

<sup>2182</sup> *Witness CY*, T(F), pp. 13055-13058 and 13086, closed session; 4D 00489 under seal, p. 2.

<sup>2183</sup> *Witness CY*, T(F), pp. 13059 and 13060; 4D 00489 under seal, p. 3.

<sup>2184</sup> *Witness CY*, T(F), pp. 13060-13062; 4D 00489 under seal, pp. 3 and 4.

<sup>2185</sup> *Witness CY*, T(F), p. 13062.

<sup>2186</sup> *Witness CY*, T(F), p. 13063; 4D 00489 under seal, p. 4.

<sup>2187</sup> *Witness CY*, T(F), pp. 13063 and 13064; 4D 00489 under seal, pp. 4 and 5.

<sup>2188</sup> *Witness CY*, T(F), pp. 13063 and 13064; P 08486 under seal; 4D 00489 under seal, p. 5.

<sup>2189</sup> *Witness CY*, T(F), pp. 13064 and 13065; 4D 00489 under seal, p. 5.

<sup>2190</sup> *Witness CY*, T(F), pp. 13064 and 13065; 4D 00489 under seal, p. 5.

consciousness.<sup>2191</sup> He only came to the following day and was found by people in camouflage uniform with the insignia of the Red Cross,<sup>2192</sup> who took him to the hospital in Metković.<sup>2193</sup>

944. The Chamber finds that on 14 July 1993, the HVO military policemen from the area of Buna arrested and badly beat a Muslim boy and his grandfather at the Buna Military Police station; they took the two to a roadside and shot them from behind, killing one and seriously wounding the other and leaving him there.

**F. Attack on 24 August 1993 in the Vicinity of Mostar and Crimes Alleged to Have Been Committed Following the Attack**

945. It is alleged in paragraph 108 of the Indictment that on or around 24 August 1993 Herceg-Bosna/HVO forces attacked the village of Raštani, the hydro-electric plant and the *Tihomir Mišić* Barracks. After entering Raštani, the HVO forces surrounded the houses in which ABiH soldiers were supposed to be quartered. In particular, the Prosecution alleges that when the HVO soldiers surrounded the house of one of the Muslim villagers, he was the only ABiH soldier in the house, along with 15 relatives and neighbours who were Muslim civilians. The Prosecution maintains that the HVO forces ordered all the people out of the house and killed the ABiH soldier and three other Muslim men of military age as soon as they came out. None of them was armed. The HVO soldiers lined up the Muslim women and children in front of a wall and stole their money and jewellery and otherwise mistreated them. The Prosecution alleges that the surviving Muslims were then ordered to cross the Neretva River to ABiH-held territory.

946. The Praljak Defence maintains that the HVO was carrying out a militarily justified action in the area of Raštani in order to recapture the sector occupied by the ABiH.<sup>2194</sup> It claims that only ABiH soldiers were in the village at the time of the confrontation, that is, 60 to 70 soldiers, and that only soldiers lost their lives during the confrontation.<sup>2195</sup>

947. After examining the allegations by the Prosecution relating to (1) the HVO attacks on the village of Raštani, the Mostar hydro-electric plant and the *Tihomir Mišić* Barracks, the Chamber will examine (2) the crimes alleged to have been committed during the attack on the village of Raštani by the HVO forces.

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<sup>2191</sup> Witness CY, T(F), p. 13066; 4D 00489 under seal, p. 5.

<sup>2192</sup> Witness CY, T(F), pp. 13066 and 13067. The Chamber notes that it was unable to establish more precisely who these people were.

<sup>2193</sup> Witness CY, T(F), pp. 13066 and 13068; 4D 00489 under seal, p. 6.

<sup>2194</sup> Praljak Defence Final Trial Brief, paras 362 and 363.

<sup>2195</sup> Praljak Defence Final Trial Brief, paras 363, 365 and 366.



1. Attack on the Village of Raštani, Mostar Hydro-Electric Plant and Tihomir Mišić Barracks

948. The Chamber notes that the HVO forces started to attack the village of Raštani on the afternoon of 23 August 1993 with heavy shelling and by setting fires in the woods above the village.<sup>2196</sup> On 24 August 1993, the attack continued on the village of Raštani, the hydro-electric plant and the *Tihomir Mišić* Barracks with infantry fire followed by intense shelling<sup>2197</sup> which continued throughout the day.<sup>2198</sup>

949. On 24 August 1993, the HVO forces took over a large part of the village of Raštani and part of the buildings of the *Tihomir Mišić* Barracks.<sup>2199</sup> On 24 August or in the night of 25 to 26 August 1993,<sup>2200</sup> the HVO forces also took over the dam and the hydro-electric plant called *Mostar I*.<sup>2201</sup> On 26 August 1993, the HVO forces captured the entire area of Raštani and the Mostar dam.<sup>2202</sup>

950. With regard to the HVO military units that took part in the fighting in the village of Raštani on 24 August 1993, the Chamber finds that the KB, led by Mladen Naletilić, alias "Tuta",<sup>2203</sup> actively participated in the attack and the capture of the Raštani area.<sup>2204</sup> Other HVO units were also in Raštani on 24 August 1993, including the 2<sup>nd</sup> Brigade and, in particular, its 3<sup>rd</sup> Battalion, the Orlac Company – a group of 24 soldiers and 21 active-duty MUP officers<sup>2205</sup> – and the *Ludvig Pavlović* PPN.<sup>2206</sup> On 25 August 1993, Slobodan Praljak, Commander of the HVO Main Staff,

<sup>2196</sup> P 09866 under seal, p. 3; P 10036, p. 2, para. 3; P 04415; Witness DA, T(F), pp. 13148 and 13149, closed session.

<sup>2197</sup> P 09866 under seal, p. 4; Witness DA, T(F), p. 13148, closed session; P 10036, p. 2, para. 3; P 04487, p. 3; P 07559, p. 2. See also the reference to the fighting in Raštani: P 04498 and P 04499; P 04481, p. 3; P 04508; P 04476.

<sup>2198</sup> P 09866 under seal, pp. 4 and 8; Witness DA, T(F), pp. 13207 and 13208, closed session; P 04476; P 10036, paras 24-26; IC 00271 under seal (the number 4 marks the site where Nurija Dumpor was wounded and number 6 marks the site from which the shot came, according to the witness: Witness DA, T(F), pp. 13164 and 13165, closed session.

<sup>2199</sup> P 04487, p. 3; P 04468; Witness DA, T(F), pp. 13170-13173, closed session; P 04466, pp. 4 and 5.

<sup>2200</sup> The Chamber notes that the evidence below provides two dates in relation to the capture of the Mostar dam and the hydro-electric plant *Mostar I*, namely, 24 August and the night of 25 to 26 August. Absent additional evidence, the Chamber is unable to establish the precise date of this event.

<sup>2201</sup> 4D 00771/3D 01106 (identical documents); 4D 00770, p. 1; P 04487, p. 3; P 04468; Witness DA, T(F), pp. 13170-13173, closed session; P 04508.

<sup>2202</sup> 3D 02021, p. 3. See also Decision of 14 March 2006, Adjudicated Fact no. 300 (*Naletilić* Judgement, paras 53 and 54).

<sup>2203</sup> See "Organisation of the KB and its ATG" in the Chamber's factual finding with regard to the military structure of the HZ(R) H-B.

<sup>2204</sup> P 04466, p. 5; P 04481, p. 3; P 04487, p. 3; P 04498 and P 04499; P 04520, p. 1; P 04476. See also Decision of 7 September 2006, Adjudicated Fact no. 189 (*Naletilić* Judgement, para. 167); P 09866 under seal, p. 9; Witness DA, T(F), pp. 13168 and 13169, closed session.

<sup>2205</sup> P 04481, p. 3; P 04476.

<sup>2206</sup> P 04498; P 04499. See also "The Professional Units" in the Chamber's factual finding with regard to the military structure of the HZ(R) H-B.

appointed Colonel Milan Štampar commander of combat operations for Raštani, specifying that all units had to be subordinated to him.<sup>2207</sup>

951. Moreover, the Chamber received evidence indicating that there were at least 50 to 70 ABiH soldiers in the village of Raštani at the time of the attack.<sup>2208</sup>

952. Finally, the Chamber notes that, contrary to the claims of the Praljak Defence,<sup>2209</sup> the population of the village of Raštani including women and children was there at the time of the attack on the village.<sup>2210</sup>

953. The Chamber finds that between 24 and 26 August 1993, the HVO attacked the village of Raštani as well as the hydro-electric plan and the *Tihomir Mišić* Barracks.

## 2. Crimes Alleged During the Attack by the HVO on the Village of Raštani

954. Having examined the evidence relating to (a) the allegations of crimes committed against four Muslim men in one of the houses in the village of Raštani, the Chamber will examine (b) the allegations of theft of property belonging to the Muslim villagers, of (c) mistreatment suffered by the Muslim women and children, and (d) those relating to their removal.

### a) Deaths of Four Muslim Men During the Attack on the Village of Raštani

955. In paragraph 108 of the Indictment, the Prosecution alleges that during the attack on the village of Raštani on 24 August 1993, four unarmed Muslim men, one of whom was an ABiH

<sup>2207</sup> P 04508; Witness DA, T(F), p. 13136, closed session. The Chamber notes that while the said appointment order does not specify to which brigade Milan Štampar belonged, another exhibit specified that Milan Štampar was in fact the commander of the 2<sup>nd</sup> HVO Brigade on 15 October 1993 (P 05900).

<sup>2208</sup> Witness DA, T(F), pp. 13179, 13180 and 13189, closed session (indicates a number ranging between 50 and 70); P 04547 (indicates a number of 65). According to *Witness DA*, the document was dated 27 August 1993: Witness DA, T(F), pp. 13215 and 13216. The Chamber notes that this information however includes only the number of soldiers originally from Raštani and not all the soldiers who were there; this evidence indicates in fact that the soldiers not originally from Raštani joined the soldiers who were locals.

<sup>2209</sup> Praljak Defence Final Trial Brief, para. 365.

<sup>2210</sup> P 09866 under seal, p. 8; P 10036, paras 24 and 25; P 10038, p. 5; IC 00271 under seal (the number 4 marks the site where Nurija Dumpor was wounded, and number 6 marks the site from which the shots came, according to the witness: Witness DA, T(F), pp. 13164, 13165, 13166 and 13167, closed session); P 04679, pp. 5 and 6. The Chamber notes that the Praljak Defence and the Ćorić Defence objected to the admission into evidence of the last document, asserting its limited probative value on the ground that it was like a propaganda tool. In a decision dated 26 November 2007, the Chamber nonetheless indicated that Exhibit P 04679 had to do with the allegations set out, in particular, in paragraph 108 of the Indictment and was corroborated by other evidence, especially the testimony of *Witness DA*: "Decision on the Prosecution Motion for Admission of Documentary Evidence (Mostar)", confidential, 26 November 2007, p. 8. See also P 10037, paras 10-12 and P 04653; P 08836 under seal; Witness DA, T(F), pp. 13170-13173, 13175, 13176, 13210, 13212, 13214, closed session. According to *Witness DA*, among the "civilians" killed were: Šaban Dumpor, Murat Dedić, Ismet Čišić, Edina Beglerović, Cera Beglerović, Šaćira Beglerović, Fadila Mujić. See also Witness CZ, T(F), pp. 13126 and 13128-13129, private session.

soldier and the other three military-aged Muslim civilians, were killed by HVO soldiers outside a house in the village of Raštani.

956. The evidence shows that on 24 August 1993, 15 people, including two Muslim families as well as a man described as an older person, Murat Dedić,<sup>2211</sup> sought refuge in the house of Mirsad Žuškić,<sup>2212</sup> an ABiH soldier,<sup>2213</sup> to escape from the attack and to find safety.<sup>2214</sup>

957. Early in the afternoon on 24 August 1993, a group of HVO soldiers fired at Mirsad Žuškić's house and demanded that the occupants come out, under threat of setting the house on fire.<sup>2215</sup> *Witness DA* recalls hearing a voice outside calling them "*balija*".<sup>2216</sup> There were around 15 soldiers.<sup>2217</sup>

958. Šaban Dumpor, the first person to come out of the house, was killed by one of the HVO soldiers after being separated from the rest of the group and taken aside.<sup>2218</sup> Šaban Dumpor, who

<sup>2211</sup> Murat Dedić is a representative victim from paragraph 108 of the Indictment.

<sup>2212</sup> Mirsad Žuškić is a representative victim from paragraph 108 of the Indictment.

<sup>2213</sup> *Witness DA*, T(F), pp. 13154, 13183, 13184, 13205 and 13206, closed session; *Witness CZ*, T(F), p. 13110, private session; P 10036, p. 2, para. 5; *Witness DA*, T(F), p. 13153, closed session.

<sup>2214</sup> The following people were in Mirsad Žuškić's house: the Žuškić and Čišić families, which included Mirsad Žuškić, his wife Fadila Žuškić, his daughter Adisa Žuškić, his son Mehmed Žuškić, his mother Zila Žuškić, his sister Jasmina Čišić, her husband Ismet Čišić (Ismet Čišić is a representative victim from paragraph 108 of the Indictment), her son Sano, aged 13 (P 10038, para. 25); the Dumpor family, which included Šaban Dumpor (Šaban Dumpor is a representative victim from paragraph 108 of the Indictment), his wife Dika Dumpor, his son Senad Dumpor, aged 14 (P 10036, p. 1), his granddaughter Nuriya/Mima Dumpor, Zulka Dumpor; the Ajanić family, which included Edina Ajanić and Admir Ajanić; and Murat Dedić. P 08866 under seal, p. 3; *Witness CZ*, T(F), pp. 13099 and 13100, private session; IC 00263; *Witness CZ*, T(F), pp. 13115-13116; P 09866 under seal, p. 3; P 08867 under seal, p. 3; P 10036, p. 2, paras 4-6; P 10038, p. 4; *Witness DA*, T(F), p. 13149, 13150 and 13163, closed session; P 08865 under seal (number 1 on the photo marks the location of Mirsad Žuškić's house: *Witness DA*, T(F), p. 13163, closed session); IC 00271 under seal (number 2 marks the witness's house): *Witness DA*, T(F), p. 13164, closed session).

<sup>2215</sup> P 09866 under seal, p. 4; *Witness CZ*, T(F), p. 13100, private session; P 10036, p. 2, para. 9; P 10038, p. 4; *Witness DA*, T(F), p. 13152, closed session.

<sup>2216</sup> *Witness DA*, T(F), p. 13152, closed session.

<sup>2217</sup> P 09866 under seal, p. 5; P 10036, para. 14; *Witness DA*, T(F), pp. 13157 and 13158, closed session. The Chamber notes that *Jasmina Čišić* said in her statement that there were around 50 soldiers surrounding Mirsad Žuškić's house; considering the fact that her statement was taken pursuant to Rule 92 *bis* of the Rules and in view of all the other evidence indicating that the group of soldiers was composed of around 10 to 15 people, including the soldiers themselves according to *Witness CZ* (P 09866 under seal, pp. 5 and 7), the Chamber deems that about 15 soldiers surrounded Mirsad Žuškić's house that day. Moreover, the Chamber notes that the soldiers wore uniforms with HVO insignia on one of their sleeves (P 10036, p. 3, para. 11; *Witness DA*, T(F), pp. 13157 and 13158, closed session) and according to *Witness DA*, the ATG insignia on the other sleeve (*Witness DA*, T(F), pp. 13157 and 13158, closed session). The Chamber notes that Senad Dumpor also said that the soldiers had other insignia on their other sleeve, but was not able to determine what type (P 10036, para. 11); some wore camouflage clothing (P 09866 under seal, p. 5; P 10036, p. 3, para. 11). They communicated through walkie-talkies, were heavily armed, wore flack jackets, their rifles had silencers and their faces were blackened up (*Witness DA*, T(F), pp. 13153 and 13158, closed session; P 09866 under seal, p. 5; P 10036, p. 3, paras 19 and 22). Some of them had a Dalmatian accent, others had a Mostar accent (P 09866 under seal, p. 5; P 09866 under seal, p. 5). *Witness CZ* and *Senad Dumpor* recalled that one of the soldiers was called "Splićo" by the others (P 10036, p. 3, para. 19; *Witness DA*, T(F), p. 13158, closed session) and that another was called "Bosanac" (P 10036, p. 3, para. 22; P 09866 under seal, p. 7; *Witness DA*, T(F), p. 13158, closed session).

<sup>2218</sup> P 09866 under seal, p. 5; P 08200 under seal, p. 2; P 08157 under seal; P 08836 under seal, p. 3; P 08867 under seal; *Witness CZ*, T(F), pp. 13100-13102, private session; P 10036, p. 3, paras 11-13; P 10022; P 10038, p. 4; *Witness DA*, T(F), pp. 13152, 13156, 13157 and 13174, closed session. The Chamber notes that *Jasmina Čišić* said that she saw Šaban Dumpor fall a few moments after he came out of the house (P 10038, p. 4) and *Senad Dumpor*, the victim's son,

was 57 at the time of the events,<sup>2219</sup> was unarmed, wearing civilian clothing and did not show any aggression towards the soldiers.<sup>2220</sup> He came out of the house with his hands in the air having seen the HVO soldiers to tell them that there were only women and children in the house and that they surrendered.<sup>2221</sup>

959. After surrounding Mirsad Žuškić's house on that day and demanding that the people inside the house surrender, the HVO soldiers separated the men from the women and children who had remained in the house. They then killed three other unarmed men outside the house, namely Mirsad Žuškić, Ismet Čišić and Murat Dedić. With regard to Mirsad Žuškić, the Chamber heard the testimony of *Witness DA* and received *Senad Dumpor's* statement, both of which describe seeing Mirsad Žuškić being shot in the head behind the left ear and his body falling to the ground.<sup>2222</sup> While Mirsad Žuškić was a member of the ABiH, the evidence indicates that he had come out of the house with his hands behind his head.<sup>2223</sup>

960. With regard to Ismet Čišić, who was 44 at the time of the events,<sup>2224</sup> the Chamber notes, in particular, the testimony *Witness DA* who reported having seen on the ground the body of Ismet Čišić who had been killed.<sup>2225</sup>

961. Finally, the Chamber notes that with respect to Murat Dedić, who was 57 years old at the time of the events,<sup>2226</sup> two witnesses, *Witness CZ* and *Witness DA*, saw his body lying on the ground behind the house, and *Witness CZ* described, in particular, having heard a shot behind him and immediately afterwards saw the body of Murat Dedić on the ground, who he was certain had been

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said that he saw his father's body on the ground a few moments after his father was taken aside (P 10036, p. 3, paras 11-13). *See also* *Witness DA*, T(F), pp. 13152, 13156, 13157 and 13174, closed session: *Witness DA* said that *Senad Dumpor* had told him that he had seen his father's dead body.

<sup>2219</sup> P 10036.

<sup>2220</sup> *Witness DA*, T(F), pp. 13153 and 13154, closed session; P 10036, p. 3, para. 11; P 09866 under seal, p. 5.

<sup>2221</sup> P 09866 under seal, p. 4; *Witness DA*, T(F), p. 13152, closed session.

<sup>2222</sup> *Witness DA*, T(F), pp. 13153 and 13156, closed session; P 10036, p. 3, para. 13; P 08836 under seal, p. 5, number 20; *Witness CZ*, T(F), pp. 13096-13100, private session; P 08696; P 08832; P 08891. The Chamber notes that *Jasmina Čišić* also stated that she saw his body on the ground (P 10038, p. 4). The Chamber, however, notes that *Jasmina Čišić* also said that she saw that he had been hit by a bullet in the chest; insofar as this testimony was admitted pursuant to Rule 92 *bis* of the Rules and in view of all the other evidence, including the very detailed testimony of *Witness DA* corroborated by the statement of *Senad Dumpor*, the Chamber deems that Mirsad Žuškić was shot in the head. *See also* the statement of *Witness CZ* who had heard one of the women present say that Mirsad Žuškić had been killed: P 09866 under seal, p. 6.

<sup>2223</sup> *Witness CZ*, T(F), pp. 13110 and 13111, private session; P 10036, p. 2, paras 5, 7 and 10; *Witness DA*, T(F), p. 13153, closed session.

<sup>2224</sup> P 08885.

<sup>2225</sup> *Witness DA*, T(F), pp. 13153, 13213 and 13214, closed session; P 08836 under seal, p. 3. *See also* the statement of *Jasmina Čišić*, who said that her son told her that he had seen the body of his father who had been killed behind the house: P 10038, p. 5. *Witness CZ* stated that she had heard from one of the women there that Ismet Čišić had been killed: P 09866 under seal, p. 6; *Witness CZ*, T(F), pp. 13096-13100, private session; P 08200 under seal, p. 2 (NN44) and p. 6 (NN61); P 08885; P 08836 under seal, p. 5, number 21; P 08889.

<sup>2226</sup> P 08888.

killed by the same soldier who had killed Šaban Dumpor.<sup>2227</sup> The Chamber notes that several witnesses described Murat Dedić as a man who appeared considerably older.<sup>2228</sup>

962. The Chamber, moreover, notes that according to *Witness DA*, none of the men in Mirsad Žuškić's house that day, apart from the latter, was a member of the ABiH and that none of them was wearing military uniform when they came out of the house to surrender to the HVO soldiers.<sup>2229</sup> The Chamber also notes that while there were one or two rifles in Mirsad Žuškić's house, they had not been used that day.<sup>2230</sup>

963. The Chamber deems that the evidence allows finding that on 24 August 1993 near one of the houses in the village of Raštani, four Muslim men, Ismet Čišić, Murat Dedić, Šaban Dumpor and Mirsad Žuškić, the last being a member of the ABiH, were killed by HVO soldiers even though they had surrendered.

b) Allegations of Thefts of Property Belonging to Muslims in the Village of Raštani

964. In paragraph 108 of the Indictment, the Prosecution alleges that HVO soldiers lined the women and children up against a wall and stole their money and jewellery.

965. The Chamber recalls that after they demanded that the people in Mirsad Žuškić's surrender, which they then did, the HVO soldiers separated the men from the women and children.<sup>2231</sup> They then took these women and children behind the house and ordered them to line up against a wall.<sup>2232</sup> They then forced the women to give them their jewellery and their money,<sup>2233</sup> specifying that they did not want any white metal but only yellow gold.<sup>2234</sup> They threatened them with various reprisals, such as cutting off one of the woman's fingers and putting a grenade into her mouth if she did not quickly give them her ring.<sup>2235</sup> They also searched them under the pretext of checking that they were not hiding anything of value.<sup>2236</sup>

<sup>2227</sup> P 09866 under seal, p. 5; Witness CZ, T(F), pp. 13096 and 13098, private session; P 08200 under seal, p. 2 (NN43); P 08888; P 08836 under seal, p. 3, number 15; P 08890; P 08867 under seal; Witness CZ, T(F), pp. 13100-13102, private session; Witness DA, T(F), p. 13154, closed session; P 10038, p. 4; P 10036, p. 3, para. 17; P 10022.

<sup>2228</sup> P 10036, p. 3, paras 12 and 17; P 10038, p. 5; Witness DA, T(F), p. 13154.

<sup>2229</sup> Witness DA, T(F), pp. 13154, 13183, 13184, 13185, 13205 and 13206, closed session. *See also* P 04547 which does not include any of the names of the four men killed near the house of Mirsad Žuškić.

<sup>2230</sup> Witness DA, T(F), pp. 13155 and 13156, closed session; P 10036, para. 7; P 09866 under seal, p. 4.

<sup>2231</sup> P 09866 under seal, p. 5; P 10038, p. 4.

<sup>2232</sup> P 10038, p. 4; P 09866 under seal, p. 6; P 10036, p. 3, paras 12 and 16; P 10022; Witness DA, T(F), pp. 13154 and 13157, closed session.

<sup>2233</sup> P 10036, para. 18; P 09866 under seal, p. 6; Witness DA, T(F), p. 13159, closed session; P 10038, p. 5.

<sup>2234</sup> Witness DA, T(F), p. 13114.

<sup>2235</sup> P 10036, para. 18; Witness DA, T(F), pp. 13159 and 13160, closed session.

<sup>2236</sup> P 10036, para. 18; Witness DA, T(F), pp. 13159 and 13160, closed session.

966. In light of this evidence, the Chamber finds that the HVO soldiers committed thefts of property belonging to Muslims from the village of Raštani on 24 August 1993.

c) Treatment of Muslim Women and Children during the Attack on the Village of Raštani

967. The Prosecution alleges that, in addition to stealing money and jewellery from the Muslim women and children who were around Mirsad Žuškić's house on 24 August 1993, the HVO soldiers also mistreated them.

968. The Chamber notes that the HVO soldiers searched the women there in an inappropriate way, according to *Witness DA*, who specified during her testimony that the soldiers had touched their breasts and private parts.<sup>2237</sup> Moreover, a soldier violently kicked a woman from the group in the leg and in the chest.<sup>2238</sup> The soldiers also threatened the women and children lined up behind the house that they would kill them all or rape them.<sup>2239</sup> Finally, a girl under the age of 16 was separated from the rest of the group and taken aside by the soldiers;<sup>2240</sup> *Witnesses CZ* and *DA* said that the soldiers had threatened to rape her.<sup>2241</sup> The girl rejoined the group later in the evening in a state of shock<sup>2242</sup> with a bruise on her forehead.<sup>2243</sup> She apparently told *Witness DA* that the soldiers had forced her to undress and beaten her and that she had then fainted.<sup>2244</sup> To the extent that rape was not alleged in paragraph 108 of the Indictment, the Chamber will not examine this particular point any further.

969. In view of this evidence, the Chamber finds that the HVO soldiers subjected the women and children around Mirsad Žuškić's house on 24 August 1993 in the village of Raštani to physical and mental violence as well as sexual assault.

d) Displacement of Muslim Women and Children During the Attack on the Village of Raštani

970. It is alleged in paragraph 108 of the Indictment that the surviving Muslims were ordered to cross the Neretva River to ABiH-held territory.

<sup>2237</sup> *Witness DA*, T(F), pp. 13159 and 13160, closed session; *See also* P 09866 under seal, p. 6.

<sup>2238</sup> P 09866 under seal, p. 6; *Witness DA*, T(F), p. 13160, closed session.

<sup>2239</sup> P 09866 under seal, p. 6; *Witness DA*, T(F), pp. 13157 and 13159, closed session.

<sup>2240</sup> P 09866 under seal, p. 7; P 10036, p. 4, para. 20; P 10038, para. 33; *Witness DA*, T(F), pp. 13160, 13162, 13168, closed session.

<sup>2241</sup> P 09866 under seal, p. 7; *Witness DA*, T(F), p. 13160, closed session.

<sup>2242</sup> P 10038, p. 5; *Witness DA*, T(F), p. 13168, closed session.

<sup>2243</sup> *Witness DA*, T(F), p. 13168, closed session.

<sup>2244</sup> *Witness DA*, T(F), pp. 13160, 13162 and 13168, closed session. *See also* P 10038, p. 5. *Jasmina Čišić* said in her statement that the girl told her that the soldiers had placed a rifle in her vagina; the Chamber notes that since the statement of *Jasmina Čišić* was taken pursuant to Rule 92 bis of the Rules and that there is no other evidence to corroborate these particular claims, the Chamber cannot take this information into account.

971. The testimony heard by the Chamber and the statements admitted pursuant to Rule 92 *bis* of the Rules thus show that the HVO soldiers finally allowed the women and children from Mirsad Žuškić's house to leave.<sup>2245</sup> These people then left, running toward the Neretva River in order to get to the other bank, ABiH-held territory; they crossed the Neretva the same day, on the evening of 24 August 1993.<sup>2246</sup> The Chamber did not receive any evidence allowing it to find that the women and children crossed the Neretva to reach ABiH-held territory on orders from the HVO soldiers who had surrounded Mirsad Žuškić's house on 24 August 1993.

972. The Chamber finds that after the attack on Raštani by the HVO on 24 August 1993, and after killing four Muslim men, stealing and subjecting to abuse the women and children who had sought refuge in a house in the village, the HVO soldiers allowed the women and children to leave to ABiH-held territory. The Chamber is not able to find that the HVO ordered them to cross the Neretva in order to get to ABiH-held territory.

## Section 7: Crimes Alleged to Have Been Committed from September 1993 to April 1994

973. The Chamber recalls that according to paragraph 99 of the Indictment, the Herceg-Bosna/HVO forces engaged in the expulsion and forcible transfer of thousands of Muslim civilians from West Mostar, in particular in the period from September 1993 to April 1994. The Muslims were subjected to violence, mistreatment and sexual assault and had their property stolen and confiscated. Some of those Muslims were detained in the HVO prisons and camps, while others were forced across the confrontation line into East Mostar.

974. In paragraph 100 of the Indictment, it is alleged that the Herceg-Bosna/HVO authorities and armed forces allowed some Muslims from West Mostar to go to ABiH-controlled territory or to other countries, so long as they left Herceg-Bosna. Hundreds of Muslims were allowed to leave Mostar only if they signed a statement that they "voluntarily" relinquished all their property to the HVO. It also specifies that the homes and flats from which the Muslims were evicted were then assigned to Croatian civilians or HVO soldiers.

<sup>2245</sup> P 09866 under seal, p. 7; P 10036, p. 4, para. 21; P 10038, para. 5; Witness DA, T(F), p. 13162, closed session.

<sup>2246</sup> P 09866 under seal, pp. 7 and 8; P 10036, p. 4, paras 23-26; P 10038, p. 5; Witness DA, T(F), pp. 13162, 13164, 13166 and 13167, closed session; P 08865 under seal (number 1 in the photo marks Mirsad Žuškić's house: Witness DA, T(F), p. 13163, closed session, and the red line marks the path taken by the witness's group: Witness DA, T(F), p. 13163, closed session); IC 00271 under seal (number 3 marks the railway station).

975. According to paragraph 107 of the Indictment, during the operations in which the Muslims were evicted from their homes, the Herceg-Bosna/HVO forces engaged in theft and plunder of Muslim property or entered homes that were still occupied or abandoned.

976. The Prosecution specifies in paragraph 109 of the Indictment that at the end of September 1993, the Herceg-Bosna/HVO forces carried out a round of operations in which they expelled around 600 Muslim civilians from the Centar II district of West Mostar. During these operations, at least one woman was "raped".

977. The fighting between the HVO and the ABiH continued throughout September 1993.<sup>2247</sup> Throughout this period, the HVO continued to expel Muslims from West Mostar to East Mostar or to third countries.<sup>2248</sup> During these operations, HVO soldiers, and in particular *Vinko Škrobo* (formerly *Mrmak*) and *Benko Penavić* ATGs entered – or ordered Muslim detainees from the Heliodrom to enter – the empty homes and to steal valuables.<sup>2249</sup>

978. Thus, when fighting between the ABiH and the HVO resumed in the region and the town of Mostar on 2 and 3 September 1993,<sup>2250</sup> the family of *Mujo Čopelj* was evicted from their flat in the Bijeli Brijeg neighbourhood under threat of arms by HVO soldiers.<sup>2251</sup> According to information taken by *Larry Forbes*,<sup>2252</sup> two women were evicted from their flat on 4 September 1993 by two military policemen. One of the military policemen handcuffed one of them and then pulled her trousers down. He then inserted a finger into her anus and her vagina, threatening to kill her if she continued to shout. Nine other members of the HVO - the other military policeman and soldiers from the *Vinko Škrobo* ATG<sup>2253</sup> - entered the room where the victim was, one after the other took off their trousers and inserted their penis in the mouth of the victim, which continued for two hours.<sup>2254</sup> They then took her to the confrontation line which she had to cross.<sup>2255</sup>

979. On 20 September 1993, an HVO soldier called Dragan Mikulić threatened to kill *Witness DY* and took him to the confrontation line near the medical centre, where he was beaten. When

<sup>2247</sup> See in particular 4D 00744; 4D 00709; 4D 01721; 4D 00786, pp. 1 and 4; 4D 01722, pp. 1 and 2; 4D 00550; 3D 00740; 3D 00736; P 09597; 2D 03002; 3D 03039; 2D 00338; P 05271; P 05365; 4D 00711.

<sup>2248</sup> Witness BB, T(F), pp. 17199, 17213, 25239, 25243, 25244, 17293, closed session; P 05053; P 05331.

<sup>2249</sup> Witness II, P 10218 under seal, *Naletilić and Martinović* Case, T(F), pp. 4962 and 4963; Witness BB, T(F), p. 17209, closed session; P 05057. See also Decision of 7 September 2006, Adjudicated Facts nos 137 and 138 (*Naletilić* Judgement, paras 621 and 622); P 10037, para. 12.

<sup>2250</sup> 4D 01719, pp. 1 and 2; P 04743, pp. 1 and 2; 4D 00778; 4D 01702; 3D 01745; 4D 01076.

<sup>2251</sup> P 10032, para. 25.

<sup>2252</sup> Larry Forbes was a member of the UNCIVPOL stationed in Međugorje from 28 June 1993 until around the end of December 1993. See Larry Forbes, T(F), pp. 21260-21264.

<sup>2253</sup> The Chamber notes that the statement taken by Larry Forbes mentions soldiers from Vinko Martinović's unit. The Chamber recalls that Vinko Martinović was commander of the *Vinko Škrobo* ATG.

<sup>2254</sup> P 05800 under seal.



*Witness DY* fled to his father's place in West Mostar, his flat was taken over by an HVO soldier called Dario Rašić.<sup>2256</sup> Around midnight on 26 September 1993, three men, including a member of the HVO, evicted from their flats four families who lived on Avenija 24 in West Mostar. They confiscated the keys to the flat of at least one family and money as well as jewellery belonging to Muslims before forcing them across the confrontation line into East Mostar.<sup>2257</sup>

980. According to two SIS reports dated 30 September and 1 October 1993, an operation to evict the Muslim inhabitants from the Centar II district to East Mostar had been planned for the evening of 29 September 1993.<sup>2258</sup> The Mostar defence sector had prepared stickers in advance to be placed on empty flats saying: "Under the control of the HVO Military Police". The *Vinko Škrobo* ATG and the 1<sup>st</sup> Light Assault Battalion of the Military Police were supposed to carry out this operation, with 40 soldiers and two lorries. The objective of the operation was to seize the keys to flats, to send the women and children to East Mostar and the men to the Heliodrom to work. The operation took place between 1900 and 2200 hours on 29 September, but the Chamber does not have any evidence showing that the men were arrested and sent to the Heliodrom.

981. The members of the international community confirmed that between 400 and 500 people, who said that they were evicted from their flats in West Mostar, arrived in East Mostar in the night of 29 to 30 September 1993.<sup>2259</sup> According to their accounts, taken down by an international organisation, before being moved to East Mostar, the Muslim women and children were taken to the Medical Centre where they were body searched and where HVO soldiers forced some women to undress and confiscated all their valuables. They were then forced to run to the confrontation line, which they crossed to go to Donja Mahala. The evicted Muslims arrived in East Mostar without any personal possessions and some were even in their pyjamas.<sup>2260</sup>

982. Again, according to the accounts of the Muslims who arrived in East Mostar in the night of 29 to 30 September 1993, taken down by an international organisation, three women were "raped", one of whom was a 16-year-old and one woman was forced to undress in the street in front of her building.<sup>2261</sup> The Chamber received an account from *Witness CX*, an inhabitant of the Centar II

<sup>2255</sup> P 05800 under seal; P 05861 under seal, p. 3; Larry Forbes, T(F), pp. 21319-21321, private session.

<sup>2256</sup> P 10034 under seal, paras 20 to 23.

<sup>2257</sup> P 05730 under seal.

<sup>2258</sup> P 05518; P 05554; P 07035, p. 23; P 10037, paras 19 to 22; Decision of 7 September 2006, Adjudicated Fact no. 116 (*Naletilić* Judgement, para. 566).

<sup>2259</sup> P 09850 under seal; P 06365, p. 18; Jeremy Bowen, T(F), p. 12790; *Witness BB*, T(F), pp. 17209, 17210, 17218 and 17219, closed session; P 05778, p. 3; Larry Forbes, T(F), pp. 21313 and 21314, private session; Decision of 7 September 2006, Adjudicated Fact no. 115 (*Naletilić* Judgement, para. 559).

<sup>2260</sup> P 09850.

<sup>2261</sup> P 09850, para. 3.

district,<sup>2262</sup> who described how on 29 September 1993, nine soldiers from the *Vinko Škrobo* ATG, including Ernest Takać and a person called Dinko, came to her flat and confiscated her money, jewellery and car keys.<sup>2263</sup> The soldiers gathered the witness, her husband and her father-in-law in a room and the person called Dinko ordered the witness to undress. When she refused, the person called Dinko struck her violently, pulled off her clothes and forced her to have sexual relations with him in front of her husband and her father-in-law. The eight other soldiers also forced her to have sexual relations for three hours, while the person called Dinko beat her husband because he was crying.<sup>2264</sup> The person called Dinko then made *Witness CX* lick his boots until they shined.<sup>2265</sup> The HVO soldiers then made them leave the building, in front of which there were other Muslims. The person called Dinko again forced *Witness CX* to undress in the middle of the street, before taking her by lorry to the confrontation line.<sup>2266</sup> The HVO soldiers separated *Witness CX* and her father-in-law from her husband and forced *Witness CX* and her father-in-law to cross the confrontation line.<sup>2267</sup>

983. The Chamber notes that on 29 September 1993, Muslims were also expelled from their flats in the Avenija neighbourhood. In this way, HVO soldiers took *Fatima Fazlagić*, her mother and her two children – who lived in the Avenija neighbourhood – by lorry to the Liška park so that they could cross over into East Mostar. One of the HVO soldiers wanted to take *Fatima Fazlagić*'s 13-year-old son to the Heliodrom. Seeing *Fatima Fazlagić*'s tears, the HVO soldiers allowed the boy to cross with his family, but kicked him in the back.<sup>2268</sup> *Larry Forbes* also took a statement from an inhabitant of the Avenija neighbourhood, who had been evicted with her daughter from her flat on 29 September 1993 by a man in uniform, although the Chamber does not have precise information as to which unit he belonged.<sup>2269</sup> After taking all the jewellery and money in the flat, the man took the two women to a building in the Kalemova Street<sup>2270</sup> where there were many soldiers. They were shut up in a hall where the unidentified man and another man undressed the girl, took the money she had on her and violently punched and kicked her.<sup>2271</sup>

<sup>2262</sup> *Witness CX*, T(F), p. 12704, private session; IC 00239.

<sup>2263</sup> P 09833 under seal, p. 5.

<sup>2264</sup> P 09833 under seal, pp. 5 and 6.

<sup>2265</sup> P 09833 under seal, p. 6.

<sup>2266</sup> P 09833 under seal, p. 6.

<sup>2267</sup> P 09833 under seal, p. 6: *Witness CX* specifies that she never saw her husband alive again but identified his body on 17 August 1994; P 08432 under seal; P 08895 under seal.

<sup>2268</sup> P 10042, para. 10.

<sup>2269</sup> P 05739 under seal, p. 1.

<sup>2270</sup> The Chamber recalls that the headquarters of the *Vinko Škrobo* ATG was in Kalemova Street. See "HVO Armed Forces" in the Chamber's factual findings with regard to the Municipality of Mostar.

<sup>2271</sup> P 05739 under seal, p. 4.

984. Several items of evidence and, in particular, reports of the SIS, the Military Police and the MUP report evictions accompanied by thefts and violence in the months of October and November 1993 and February 1994 perpetrated mainly by members of the KB and the *Benko Penavić* ATG and, sometimes, by unidentified members of the Military Police<sup>2272</sup>

985. The Chamber finds that the HVO soldiers continued to expel Muslims from West Mostar into East Mostar and to third countries in September 1993. These evictions were accompanied by thefts of jewellery and money belonging to Muslims, and violence against Muslims. Moreover, the Chamber finds that several women were forced to have sexual relations with members of the *Vinko Škrobo* ATG, under the command of Vinko Martinović, alias "Štela", and members of the *Benko Penavić* ATG, as well as members of the HVO Military Police.

986. The Chamber finds that on 29 September 1993, the HVO organised an operation to evict the Muslim residents from the Centar II district in West Mostar in order to send them to East Mostar. This was carried out by the *Vinko Škrobo* ATG and the 1<sup>st</sup> Light Assault Battalion of the Military Police. During the operation, the soldiers stole the Muslims' jewellery and money and took the keys to the flats. The HVO soldiers forced several women to have sexual relations, one of whom, *Witness CX*, was forced to do so by "Štela's" men.

987. The Chamber finds that HVO members, including members of the KB and the *Benko Penavić* ATG, continued to evict Muslims from West Mostar from October to February 1994 using threats and violence and took property from their flats. However, it was not able to determine whether members of the HVO committed rapes or sexual assaults after September 1993.

988. Nor was the Chamber able to establish that Muslims were allowed to leave Mostar only after signing a statement voluntarily relinquishing all of their belongings to the HVO or that Croats, civilians or HVO members, had moved into the empty flats between September 1993 and March 1994.

989. The Chamber was not able to establish that Muslims from West Mostar were taken and held in HVO prisons between September 1993 and March 1994.

990. Finally, the Chamber was not able to establish that, from October 1993 to April 1994, the Muslims from West Mostar were free to go to areas held by the ABiH or other countries so long as they left Herceg-Bosna.

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<sup>2272</sup> P 05972; P 06561; P 06577; P 06730, p. 1; P 06771, pp. 1 and 3; P 07035, p. 23; P 07950; *Witness BB*, T(F), pp. 17199, 17294 and 17295, 25255, closed session.

## Section 8: Allegations Regarding the Siege of East Mostar and Subsequent Crimes (June 1993 – April 1994)

991. Paragraph 110 of the Indictment alleges that from approximately June 1993 to April 1994, East Mostar and certain connected sectors, notably Blagaj, were under siege and that the Muslim population living there went from 18,400 people before the war to 51,600 people. Paragraph 111 of the Indictment alleges that during this period, there was continuous fighting between the Herceg-Bosna/HVO forces and the ABiH in and around the town of Mostar. In paragraphs 112 to 115, the Prosecution alleges that the Muslims from East Mostar lived in dangerous, squalid and horrific conditions; that the Herceg-Bosna/HVO forces shelled this sector and fired at civilians and members of international organisations; that humanitarian aid was blocked substantially or completely, notably between late June 1993 and late August 1993, and that water and electricity were not restored in this part of the town. In paragraph 116 of the Indictment, the Prosecution submits that the Herceg-Bosna/HVO forces deliberately destroyed or significantly damaged ten mosques or other religious buildings and destroyed the Old Bridge, a renowned international monument that stretched across the Neretva, linking East Mostar to West Mostar. Lastly, the Prosecution specifies in paragraph 117 of the Indictment that the siege of Mostar ended around 12 April 1994 following a peace agreement signed in Split between the Herceg-Bosna/HVO authorities and the Muslim side.

992. The Chamber first recalls that during the period in question, namely June 1993 to April 1994, a front line separated the town of Mostar into two territories, one controlled by the HVO, located on the right bank of the Neretva, the other controlled by the ABiH, located on the left bank of the Neretva and a narrow strip of territory located on the right bank, between the front line<sup>2273</sup> and the riverside; this strip of land included notably the Donja Mahala and Černica neighbourhoods.<sup>2274</sup> This was the territory controlled by the ABiH, which will here be called "East Mostar".

993. The Chamber will first analyse (I) the evidence regarding the allegations of shelling and artillery fire on the population of East Mostar and the consequences of this in terms of people killed

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<sup>2273</sup> The Chamber recalls that it has been established that, during this period, the front line opposing the HVO and the ABiH armed forces ran along the Bulevar and branched off onto Aleksa Šantić Street from Spanish Square, while the VRS forces held the elevations around the town. *See* for example IC 00547; P 09336 under seal. *See* also "Fighting between Serbian Armed Forces and the Joint Croatian and Muslim Forces" and "Circumstances and Analysis of the Incident" (incidents 9 and 14) in the Chamber's factual findings with regard to the Municipality of Mostar.

<sup>2274</sup> *See* notably IC 00002. The Chamber also refers to its findings regarding the position of the parties at the end of the military operations in May 1993 in Mostar. *See* "Front Lines and Military Positions after 9 May 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

and wounded. It will then analyse (II) evidence regarding sniping<sup>2275</sup> of the population of East Mostar and (III) allegations that the population, which lived under extremely harsh conditions, was besieged and could not leave the town. It will subsequently (IV) analyse the specific allegations about the targeting of members of international/humanitarian organisations. Lastly, the Chamber will examine (V) the evidence relating to the alleged destruction of the Old Bridge and (VI) ten mosques and other religious buildings, before (VII) setting out its findings as to the existence of a siege in East Mostar.

## I. Shelling and Artillery Fire Targeting East Mostar

994. In paragraph 111 of the Indictment, the Prosecution alleges that between June 1993 and April 1994, there was continued fighting between the Herceg-Bosna/HVO forces and the ABiH in and around the town of Mostar; that the Herceg-Bosna/HVO forces were better equipped with heavy weapons but that the Muslim forces resisted HVO advances and held a small strip of land west of the Neretva. In paragraph 112 of the Indictment, the Prosecution alleges that the Herceg-Bosna/HVO forces continually shelled the sector of East Mostar and fired on civilians. Paragraph 114 of the Indictment states that the shelling resulted in the killing or wounding of hundreds of Muslim civilians.<sup>2276</sup>

995. The Petković and Praljak Defence teams do not dispute the existence of a "visible and protracted" military conflict and that "intense fighting" was ongoing in Mostar from 30 June 1993.<sup>2277</sup> The Petković Defence also does not dispute the fact that the military conflict was taking place in an urban and densely populated zone.<sup>2278</sup> It submits in particular that the HVO and the ABiH resorted to shelling. It also submits that this was the only effective military method at the time to suppress the heavy artillery of the ABiH.<sup>2279</sup> In addition, the Praljak Defence does not dispute that the HVO fired numerous shells at the East Mostar sector;<sup>2280</sup> it states, nevertheless, that the exact quantity of shells fired by the HVO at ABiH positions, and vice versa, is unknown.<sup>2281</sup>

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<sup>2275</sup> The Chamber will interchangeably use the English term "sniper" and the French term *tireur embusqué* and *tireur isolé*. Likewise, it will use the English term "sniping", which generally corresponds to the expression *tirs isolés* in French.

<sup>2276</sup> See also Prosecution Final Trial Brief, para. 60.

<sup>2277</sup> Petković Defence Final Trial Brief, para. 380, Praljak Defence Final Trial Brief, paras 262 and 301.

<sup>2278</sup> Petković Defence Final Trial Brief, para. 380.

<sup>2279</sup> Petković Defence Final Trial Brief, para. 380.

<sup>2280</sup> Praljak Defence Final Trial Brief, para. 303.

<sup>2281</sup> Praljak Defence Final Trial Brief, para. 304.

996. The evidence shows that between early June 1993 and early March 1994, East Mostar was under intense HVO shelling and firing<sup>2282</sup> which came notably from Hum mountain<sup>2283</sup> and Stotina hill.<sup>2284</sup>

997. During the shelling of East Mostar, the HVO chiefly used heavy artillery<sup>2285</sup> and fired from mortars,<sup>2286</sup> tanks,<sup>2287</sup> rocket launchers,<sup>2288</sup> anti-aircraft weapons,<sup>2289</sup> machine-guns<sup>2290</sup> and anti-aircraft guns.<sup>2291</sup> According to *Witness DV*, a professional soldier,<sup>2292</sup> the use of heavy artillery by the HVO was not an appropriate method of combat for the type of conflict taking place in the town of Mostar, which was not an open battlefield.<sup>2293</sup> The HVO also used infantry weapons.<sup>2294</sup> Moreover, the Chamber received information indicating that the HVO had small aeroplanes with which they dropped shells<sup>2295</sup> or bombs,<sup>2296</sup> notably on Donja Mahala.<sup>2297</sup> Lastly, the HVO also had snipers.<sup>2298</sup>

<sup>2282</sup> Grant Finlayson, T(F), pp. 18041 and 18042, Witness BB, T(F), p. 17222, closed session; Larry Forbes, T(F), pp. 21303, 21304, 21306-21308; Philip Watkins, T(F), p. 18851; P 10287 under seal, paras 74, 78, 79, 87, 91 and 92; Witness U, P 10220 under seal, *Naletilić & Martinović* Case, T(F), pp. 2935 and 2937; P 03771 under seal, p. 4; P 04623 under seal, pp. 4 and 5; P 09506 under seal, p. 1; P 04785, p. 2; P 04822, pp. 5 and 6; P 05354, pp. 3 and 4; P 05750, p. 1; P 06524, p. 2; P 06534, p. 2; P 07314, p. 1; P 07395 under seal, p. 5; P 07527 under seal, p. 4; P 07769 under seal, p. 4; P 07781 under seal, pp. 4 and 5; P 07763 under seal, annexes 1 to 3; P 07986 under seal, pp. 6 and 7.

<sup>2283</sup> P 04623 under seal, p. 5.

<sup>2284</sup> P 09834, para. 11, p. 3; P 01017; P 09861, pp. 3 and 4; P 09862, p. 3. Judge Antonetti raises this issue in his partially dissenting separate opinion to this Judgement.

<sup>2285</sup> See notably: P 10039, para. 38; Witness U, P 10220 under seal, *Naletilić & Martinović* case, T(F), p. 2935; Larry Forbes, T(F), pp. 21289 and 21290; P 09902 under seal, p. 1; P 05428, pp. 4 and 5; Cedric Thornberry, T(F), p. 26250.

<sup>2286</sup> See notably: P 04423 under seal, p. 4; P 03744 under seal, pp. 7 and 8; P 04785, p. 1; Miro Salčin, T(F), p. 14277, private session; P 04905 under seal, p. 4; Larry Forbes, T(F), pp. 21413 and 21414, private session; P 04931 under seal, p. 5; Larry Forbes, T(F), pp. 21416 and 21417, private session; Bo Pellnas, T(F), p. 19530; P 05234, p. 1; P 05416 under seal, p. 2; Larry Forbes, T(F), p. 21421, private session; P 05475 under seal, p. 1; Larry Forbes, T(F), p. 21422, private session; P 05950 under seal, p. 5; Witness DW, T(F), p. 23098; P 09863 under seal, p. 3; Witness DC, T(F), p. 13641, private session; Philip Watkins, T(F), p. 18862; P 04859, p. 2; P 04870 under seal, p. 6; P 04931 under seal, p. 5; P 05428, pp. 4 and 5; Cedric Thornberry, T(F), p. 26250; 2D 01390; P 05416, p. 2; P 07640, p. 3.

<sup>2287</sup> P 04495; Bo Pellnas, T(F), p. 19530; P 05234, p. 1; P 09863 under seal, p. 3; Witness DC, T(F), p. 13641, private session; P 04859, pp. 1 and 2; 2D 01390.

<sup>2288</sup> P 10047, para. 39.

<sup>2289</sup> P 09857, p. 2.

<sup>2290</sup> P 10039, para. 10; P 10039, para. 41.

<sup>2291</sup> P 04623 under seal, p. 5; P 04995 under seal, p. 5; P 05210 under seal, p. 6; Larry Forbes, T(F), pp. 21405 and 21406, private session.

<sup>2292</sup> Witness DV, T(F), pp. 22869, 22870 and 22874; P 10270 under seal, p. 2.

<sup>2293</sup> Witness DV, T(F), p. 23047.

<sup>2294</sup> P 05009, p. 2; Larry Forbes, T(F), pp. 21302 and 21303; Philip Watkins, T(F), pp. 1886 and 18867; P 09997 under seal, p. 2; P 07640 under seal, p. 3.

<sup>2295</sup> P 05091, para. 26.

<sup>2296</sup> P 04785, p. 2; Miro Salčin, T(F), pp. 14276 and 14277.

<sup>2297</sup> P 09834, para. 16. See also P 05210 under seal, p. 6.

<sup>2298</sup> See "Sniping Attacks on the Population of East Mostar" in the Chamber's factual findings with regard to the Municipality of Mostar.

998. The ABiH chiefly had light infantry weapons, such as rifles and hand grenades, as well as home-made bombs,<sup>2299</sup> and had a limited number of soldiers.<sup>2300</sup> In this respect, *Larry Forbes*, an UNCIVPOL member,<sup>2301</sup> stated that he never saw any ABiH barracks in East Mostar or groups of more than about 20 ABiH soldiers walking together in the streets.<sup>2302</sup> The Chamber notes that certain evidence shows that the ABiH also had heavy weapons, such as mortars, rocket launchers, anti-tank missiles and anti-aircraft machine-guns.<sup>2303</sup> *Martin Mol*, an ECMM member,<sup>2304</sup> stated however that he did not see any tanks or vehicles clearly marked as belonging to the ABiH, or lorries loaded with ABiH soldiers driving or parked in East Mostar.<sup>2305</sup>

999. Furthermore, the Chamber heard the testimony of *Witness DV* according to whom the HVO had good artillery while the ABiH had better infantry.<sup>2306</sup>

1000. In any case, the Chamber is satisfied that even if the ABiH had heavy weapons in their possession and used them, the HVO was better equipped and proceeded to shell and open artillery fire on East Mostar daily,<sup>2307</sup> intensely,<sup>2308</sup> and closely.<sup>2309</sup> *Witness DW*, a member of an

<sup>2299</sup> P 04623 under seal, p. 4; 3D 00919; 3D 01745, pp. 1 and 2; 3D 02395; 3D 02430; 3D 02432; 3D 02435; 3D 02436; 3D 02612, p. 1; 4D 00744; 4D 00746; 4D 00772; 4D 00981, pp. 2 and 3; P 06200; *Larry Forbes*, T(F), p. 21290; *Miro Salčin*, T(F), p. 14324.

<sup>2300</sup> *Larry Forbes*, T(F), pp. 21301 and 21302; P 09834, para. 8; *Miro Salčin*, T(F), p. 14189; P 10039, para. 36.

<sup>2301</sup> *Larry Forbes*, T(F), pp. 21260 and 21262-21264.

<sup>2302</sup> *Larry Forbes*, T(F), pp. 21301, 21302 and 21303. *See also* P 10039, para. 35.

<sup>2303</sup> *Witness DW*, T(F), pp. 23226, 23227, 23243 and 23244; *Grant Finlayson*, T(F), p. 18042; P 04857, pp. 3 and 4; P 10047, para. 45; 4D 01222; 3D 02427, p. 2; 3D 02435; 3D 02612, p. 1; 3D 02430; 3D 01745, p. 1; 3D 02432; 2D 03037, p. 2; P 05750, p. 1; P 07408 under seal, p. 4, item 2.B.1; P 07559, p. 11; P 07634, p. 3; P 07640 under seal, p. 3; P 07771 under seal, pp. 2 and 3.

<sup>2304</sup> P 10039, paras. 3 and 45.

<sup>2305</sup> P 10039, para. 35.

<sup>2306</sup> *Witness DV*, T(F), p. 23047.

<sup>2307</sup> *Witness BB*, T(F), p. 17222, closed session; *Edward Vulliamy*, T(F), p. 1595; *Philip Watkins*, T(F), p. 18861; *Witness BC*, T(F), pp. 18398 and 18400, closed session; *Witness U*, P 10220 under seal, *Naletilić & Martinović* case, T(F), p. 2935; P 10287 under seal, para. 78; P 09861, p. 3; P 05091, para. 26; P 03952, p. 2; P 03544, p. 2; P 08016, p. 3; *Grant Finlayson*, T(F), pp. 18052 and 18053; P 04511, p. 5; Decision of 14 March 2006, Adjudicated Fact no. 296 (*Naletilić* Judgement, para. 50).

<sup>2308</sup> P 05899 under seal, p. 1; P 05950 under seal, p. 5; P 07771 under seal, p. 2, item 2.B.1; *Witness U*, P 10220 under seal, *Naletilić & Martinović* case, T(F), p. 2937; *Witness BB*, T(F), p. 17222, closed session; P 03858, p. 6; P 09506 under seal, p. 1; P 05234, p. 1; P 05009, pp. 3 and 4; *Larry Forbes*, T(F), pp. 21290, 21304, 21306 and 21307; P 09901 under seal, p. 1; *Witness BD*, T(F), pp. 20751 and 20752, closed session; *Grant Finlayson*, T(F), p. 18230; P 05285, p. 1; P 05215, p. 2; P 05539, p. 1; P 10287 under seal, para. 78; P 05625, p. 6; P 05857 under seal, p. 2; *Larry Forbes*, T(F), pp. 21422 and 21423, private session; P 05656, p. 2; P 04511, p. 5; P 04813 under seal, p. 5; *Larry Forbes*, T(F), pp. 21410 and 21411, private session; P 04870 under seal, p. 5; *Larry Forbes*, T(F), pp. 21412 and 21413, private session; P 05316 under seal, p. 2; *Larry Forbes*, T(F), pp. 21420 and 21421, private session; P 05899 under seal, p. 1; *Witness DW*, T(F), p. 23098; P 07634, p. 3; P 07219 under seal, p. 2; P 07678, p. 3; P 07769 under seal, pp. 4 and 5; P 07781 under seal, pp. 4 and 5; P 05278, p. 5; P 06135 under seal, pp. 2 and 3.

<sup>2309</sup> P 04401; P 04423 under seal; P 04435 under seal; P 04472 under seal; P 04505 under seal; P 04573; P 04623 under seal; P 04817 under seal; P 04813 under seal; P 04870 under seal; P 04951 under seal; P 04971; P 04995 under seal; P 05210 under seal; P 05278 under seal; P 05316 under seal; P 05369 under seal; P 05416 under seal; P 05452; P 05475; P 05656; P 05680 under seal; P 05778; P 05857 under seal; P 05883 under seal; P 05950 under seal; P 05979; P 06135 under seal; P 06214 under seal; P 06285; P 06405 under seal; P 06518; P 06554; P 06589 under seal.

international organisation present in East Mostar between September 1993 and April 1994,<sup>2310</sup> specified that East Mostar received on average between 20 to 100 impacts from HVO firing per day.<sup>2311</sup>

1001. Admittedly, the Chamber notes that between June and December 1993 there was also shelling from the Serbian armed forces.<sup>2312</sup> However, it does not have any information beyond that date. The Serbs fired from their positions on the crest of Fortica hill, to the east of the town of Mostar<sup>2313</sup>. Nevertheless, the Serbian forces only occasionally fired shells on Mostar, although the Chamber was unable to pinpoint the exact location of these shots. In any case, these shots were in no way similar to shelling.<sup>2314</sup>

1002. The Petković and Praljak Defence teams submit that not only was the HVO shelling aimed at legitimate military targets, but that the shelling was selective and minimal by all military standards.<sup>2315</sup> The Praljak Defence argues that the HVO did not fire unselectively on East Mostar; that ABiH artillery was located in a populated area, amongst civilian or public structures; that the ABiH randomly moved around their mortars and positioned and used them very near to the East Mostar Hospital.<sup>2316</sup> It submits that the HVO never directly hit the East Mostar Hospital.<sup>2317</sup> Lastly, the Praljak Defence argues that had the HVO shelled East Mostar with the intent to deliberately target the civilian population, the number of victims would have been much larger than it was.<sup>2318</sup>

1003. The Chamber first notes that evidence shows that the HVO was technically able to identify its targets, notably using adjustment calculations.<sup>2319</sup> It also notes that overall, (1) East Mostar came under HVO shelling and fire, but that certain zones and/or locations were targeted more particularly

<sup>2310</sup> P 10287 under seal, para. 9; Witness DW, T(F), p. 23085.

<sup>2311</sup> P 10287 under seal, para. 78; Witness DW, T(F), p. 23081, private session. *See* notably: P 03465; P 03963 under seal; P 05354; P 06568 under seal; P 06894 under seal; P 06925 under seal; P 07039 under seal; P 07188; P 07219 under seal; P 07283 under seal; P 07293 under seal; P 07408 under seal; P 07585 under seal; P 07622 under seal; P 07634; P 07640 under seal; P 07678 under seal; P 07706 under seal; P 07730 under seal; P 07771 under seal; P 07918 under seal; P 07986 under seal.

<sup>2312</sup> Zvonko Vidović, T(F), pp. 51550 and 51551; Witness BH, T(F), pp. 19420 and 19421, closed session; Witness CB, T(F), p. 10155; Witness DW, T(F), pp. 23182-23187; Grant Finlayson, T(F), pp. 18223 and 18224; Slobodan Praljak, T(F), pp. 39548 and 39549; 3D 02603, p. 2.

<sup>2313</sup> Damir Katica, T(F), p. 13496; Witness DC, T(F), p. 13600; Witness BH, T(F), p. 19421, closed session; Zvonko Vidović, T(F), pp. 51550 and 51551.

<sup>2314</sup> Witness BH, T(F), p. 19421, closed session; Grant Finlayson, T(F), pp. 18223 and 18224. The Chamber notes that only the testimony of *Zvonko Vidović* would go to prove that the Serbs shelled East Mostar throughout the war. *See* in this respect, *Zvonko Vidović*, T(F), pp. 51438, 51439, 51730 and 51731, 51550 and 51551. The Chamber notes, however, that *Zvonko Vidović* was an HVO member at the time of the events, and that he is the only witness to have stated this. The Chamber decides, consequently, not to take his testimony into account on this point.

<sup>2315</sup> Praljak Defence Final Trial Brief, paras 303, 306 and 313; Petković Defence Final Trial Brief, para. 381; *See* also Preliminary Statement by the Petković Defence, T(F), p. 46005.

<sup>2316</sup> Praljak Defence Final Trial Brief, para. 303.

<sup>2317</sup> Praljak Defence Final Trial Brief, paras 303, 309 and 310.

<sup>2318</sup> Praljak Defence Final Trial Brief, para. 308.



by the HVO, for example (2) the Donja Mahala sector where an ABiH company was located and (3) Marshal Tito Street, where there were possible military targets.

1004. (1) Evidence shows that, contrary to what *Slobodan Praljak* stated during his testimony,<sup>2320</sup> HVO shelling and artillery fire affected all of East Mostar, made up of densely inhabited and populated areas, such as the Tekija and Luka neighbourhoods, in which many homes, stores and public buildings, such as banks, were destroyed.<sup>2321</sup> The Chamber also notes that in a communiqué sent by UNPROFOR dated 23 August 1993, *Cedric Thornberry*<sup>2322</sup> stressed that not a single "structure" seemed to have been spared by the shelling.<sup>2323</sup> In an UNCIVPOL report dated 13 September 1993, *Larry Forbes* also stated that he noted that there was hardly a building or a vehicle that had not been damaged by the shelling.<sup>2324</sup> *Larry Forbes* specified that there were no soldiers in the buildings that had been destroyed.<sup>2325</sup>

1005. (2) The Donja Mahala neighbourhood, densely populated,<sup>2326</sup> was particularly hit not only by artillery fire and intense shelling,<sup>2327</sup> but also by home-made bombs in the form of tyres filled with explosives and launched from Hum mountain,<sup>2328</sup> located in HVO-controlled territory.<sup>2329</sup> The burning tyres rolled down from Hum mountain and explode onto the homes in Donja Mahala.<sup>2330</sup> *Miro Salčin* described how two tyres filled with explosives injured people, including women, and caused material damage to homes.<sup>2331</sup>

<sup>2319</sup> Vinko Marić, T(F), pp. 48146 and 48147; 4D 01676, p. 1; P 06534; 4D 00754.

<sup>2320</sup> Slobodan Praljak stated before the Chamber that the HVO fired selectively and limited its fire to specific targets, excluding, according to him, ABiH positions located in densely inhabited zones. See in this regard Slobodan Praljak, T(F), pp. 41864, 41865, 42495, 43597, 43598 and 43603-43605.

<sup>2321</sup> P 10287 under seal, paras 55 and 91; Miro Salčin, T(F), pp. 14224 and 14225; Grant Finlayson, T(F), pp. 18041 and 18042; P 09862, p. 3; Witness U, P 10220 under seal, *Naletilić & Martinović* case, T(F), pp. 2935 and 2937; P 03858, p. 6; P 09834, paras 13 and 16; P 05009, p. 2; Larry Forbes, T(F), pp. 21302 and 21303; P 10039, para. 41; P 10287 under seal, para. 47; P 08016, p. 3; P 04822, p. 5; P 06894 under seal, p. 4; Witness CB, T(F), pp. 10159 and 10160; P 04679, p. 4; Ratko Pejanović, T(F), pp. 1268 and 1269.

<sup>2322</sup> Deputy Chief of the UNPROFOR mission between August 1992 and March 1994, and the director of civilian affairs between March 1992 and March 1994 at UNPROFOR; Cedric Thornberry, T(F), pp. 26166, 26168, 26171-26173, 26215; P 10041, paras 1 and 4.

<sup>2323</sup> P 03858, p. 6.

<sup>2324</sup> Larry Forbes, T(F), pp. 21293, 21302 and 21303; P 05009, p. 2.

<sup>2325</sup> Larry Forbes, T(F), pp. 21302 and 21303.

<sup>2326</sup> Miro Salčin, T(F), pp. 14224 and 14181. According to him, as of 1 August 1993, there were 5,000 inhabitants in Donja Mahala.

<sup>2327</sup> Miro Salčin, T(F), pp. 14170 and 14171; P 03980 under seal, p. 5; P 05285, p. 1; P 09834, para. 16; Miro Salčin, T(F), p. 14280; P 09861, p. 3; Witness CB, T(F), pp. 10159 and 10160.

<sup>2328</sup> Miro Salčin, T(F), pp. 14185, 14189 and 14221; P 09834, para. 13; Grant Finlayson, T(F), p. 18062.

<sup>2329</sup> See notably P 04623 under seal, p. 5; P 07730 under seal, p. 5; P 07678 under seal, p. 3; Miro Salčin, T(F), p. 14185. See also "Evidence Regarding Positions of HVO Snipers in Mostar" in the Chamber's factual findings with regard to the Municipality of Mostar.

<sup>2330</sup> P 09834, paras 13 and 15; Miro Salčin, T(F), pp. 14222-14224; IC 00420; Grant Finlayson, T(F), pp. 18062 and 18063.

<sup>2331</sup> P 09834, para. 13; Miro Salčin, T(F), p. 14225; Grant Finlayson, T(F), pp. 18062 and 18063.

1006. Moreover, the Chamber notes that on 17 August 1993, an HVO report sent to the HVO Main Staff mentioned that tests involving the dropping of two napalm bombs were conducted on 6 August 1993 on the Donja Mahala neighbourhood.<sup>2332</sup>

1007. The Chamber notes that according to *Miro Salčin*, there was no specific headquarters or fixed assembly point in Donja Mahala for the 120 ABiH soldiers who were present and armed with only light infantry weapons.<sup>2333</sup>

1008. In light of the evidence, the Chamber considers that it was impossible for the HVO to precisely target with shots, shells and tyres filled with explosives ABiH soldiers who were not assembled at a specific location in Donja Mahala.

1009. (3) The Chamber notes that Marshal Tito Street – one of the main streets in East Mostar<sup>2334</sup> – was the location of the headquarters of the 4<sup>th</sup> Corps of the 41<sup>st</sup> ABiH Brigade.<sup>2335</sup> The building which was described by *Witness DW* as a "military target" for the HVO<sup>2336</sup> was hit several times by HVO shells and artillery fire.<sup>2337</sup>

1010. This same street was also the location of the war presidency headquarters consisting of Muslim political authorities<sup>2338</sup> which was frequently shelled by the HVO.<sup>2339</sup> However, the Chamber does not have information which would show the presence of ABiH forces or the shots allegedly fired from this building.

1011. The Chamber also notes that in this zone, the UNMO premises, located behind the ABiH headquarters,<sup>2340</sup> and the Spabat premises, located on Marshal Tito Street, also came under HVO shooting and shelling.<sup>2341</sup>

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<sup>2332</sup> P 04265.

<sup>2333</sup> P 09834, paras 7 and 8; *Miro Salčin*, T(F), pp. 14178 and 14179. *See* also the indication that the Donja Mahala zone was controlled by the ABiH: "Geographic and Demographic Description of the Municipality" in the Chamber's factual findings with regard to the Municipality of Mostar.

<sup>2334</sup> *Witness DW*, T(F), pp. 23106-23108; P 04813 under seal, p. 5; P 04870 under seal, p. 5; *Larry Forbes*, T(F), pp. 21412 and 21413, private session; P 04931 under seal, p. 5; *Larry Forbes*, T(F), pp. 21416 and 21417, private session. *See* also the maps relating to the municipality of Mostar (Annex 4); *Jovan Rajkov*, T(F), p. 12887; *Vinko Marić*, T(F), p. 48221.

<sup>2335</sup> *Jeremy Bowen*, T(F), p. 12749 and 12750; *Witness CB*, T(F), pp. 10243-10247; 3D 00341; IC 00087; IC 00089.

<sup>2336</sup> *Witness DW*, T(F), p. 23188.

<sup>2337</sup> P 07730 under seal, p. 5; P 10047, para. 36; P 04870 under seal, p. 5; P 07771 under seal, p. 3; *Larry Forbes*, T(F), pp. 21412 and 21413, private session. *See* also "Fall of the Vranica Building on 10 May 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

<sup>2338</sup> *See* "Political Organisation of the Muslims in Mostar" in the Chamber's factual findings with regard to the Municipality of Mostar.

<sup>2339</sup> P 10047, para. 36; P 07771 under seal, p. 3.

<sup>2340</sup> *Grant Finlayson*, T(F), pp. 18032, 18033, 18034-18037, 18046 and 18047, 18165, 18166 and 18168; P 09842 under seal, p. 3; IC 00538; P 10000; IC 00539; IC 00540; IC 00546; P 10039, para. 32; *Larry Forbes*, T(F), p. 21289;

1012. Lastly, the East Mostar Hospital also located on Marshal Tito Street, came under frequent artillery fire and shelling by the HVO, notably between September 1993 and February 1994.<sup>2342</sup> *Jovan Rajkov*, a surgeon at the East-Mostar Hospital,<sup>2343</sup> and *Edward Vulliamy* stated that it was possible to see the many impacts left by small-calibre bullets and shells on and inside the walls of the building, which was clearly identifiable as being a hospital.<sup>2344</sup>

1013. Although *Jovan Rajkov* stated that he never saw ABiH mortars positioned around the East Mostar Hospital,<sup>2345</sup> the Chamber notes nevertheless that several other pieces of evidence, including Spabat reports dated September 1993, December 1993 and February 1994, indicate that the ABiH had positioned several mobile mortars,<sup>2346</sup> notably in the vicinity of the Hospital.<sup>2347</sup> The ABiH used the mortars to fire in the direction of West Mostar.<sup>2348</sup> However, the Chamber is unable to determine the precise frequency of the firing.<sup>2349</sup>

1014. The Chamber has no doubt that the HVO intensely shelled this densely-populated zone where the ABiH mortars were positioned. The mortars were, however, mobile and temporary. Assuming that the ABiH positions were the only targets of the HVO firing and shelling, the firing and shelling inevitably affected the whole zone of Marshal Tito Street, which was the location of not only the East Mostar Hospital where injured people were being treated but also numerous homes and a significant proportion of the population.

1015. The constant and intense shelling and artillery fire had the effect of terrifying the population of East Mostar.<sup>2350</sup> The Chamber notes in this respect the report by journalist *Jeremy Bowen* dated 2

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P 09303, p. 20; Larry Forbes, T(F), pp. 21385-21388; P 10047, para. 26; P 07875, p. 5; P 07667, p. 2; P 07981; P 08184; P 07930, p. 5; P 06427; P 07918 under seal, p. 4; P 06389.

<sup>2341</sup> P 05210 under seal, pp. 5 and 10; P 05316, under seal, p. 2; P 05950 under seal, p. 5.

<sup>2342</sup> P 04905 under seal, p. 4; P 04870 under seal, p. 5; P 05007, p. 1; P 04623 under seal, p. 4; P 04817 under seal, p. 5; P 05316 under seal, p. 2; P 05656 under seal, p. 2; P 05263, p. 5; Larry Forbes, T(F), pp. 21413-21417, private session; Edward Vulliamy, T(F), p. 1599; P 05625, p. 6; P 09902 under seal, p. 1; Larry Forbes, T(F), p. 21295; P 10287 under seal, para. 47; P 10047, paras 33 and 36; P 07771 under seal, p. 3; P 07730 under seal, p. 5; P 06894 under seal, p. 4; Witness DW, T(F), p. 23106, *Jovan Rajkov*, T(F), pp. 12929 and 12930.

<sup>2343</sup> *Jovan Rajkov*, T(F), pp. 12974 and 13018.

<sup>2344</sup> *Jovan Rajkov*, T(F), pp. 12929, 12930 and 13028; Edward Vulliamy, T(F), pp. 1599 and 1600; P 09902 under seal, p. 1.

<sup>2345</sup> *Jovan Rajkov*, T(F), pp. 13024 and 13025.

<sup>2346</sup> P 07408 under seal, p. 4. Witness DW, T(F), pp. 23189 and 23243-23247.

<sup>2347</sup> P 05475 under seal, p. 1; P 07771 under seal, p. 3; P 04931 under seal, p. 5; P 07256, p. 3; P 05316 under seal, p. 2; P 06688 under seal, p. 3, item 2.B.2; P 10287 under seal, para. 60; Grant Finlayson, T(F), pp. 18060-18062, 18122, 18123 and 18166-18168, private session; 2D 00451 under seal, p. 9; IC 00546; Witness DW, T(F), pp. 23102, 23105-23108, 23142, 23242, 23243, 23245 and 23247; P 05899 under seal, p. 2.

<sup>2348</sup> P 04931 under seal, p. 5; P 07408 under seal, p. 4; P 05316 under seal, p. 2; P 04905 under seal, p. 4; Witness DW, T(F), pp. 23106-23108; Grant Finlayson, T(F), p. 18060.

<sup>2349</sup> Witness DW, T(F), pp. 23106-23108; P 07771 under seal, p. 3; Grant Finlayson, T(F), pp. 18059, 18060, 18167 and 18168; P 05571, p. 3.

<sup>2350</sup> P 10287 under seal, para. 91; P 07771 under seal, p. 3.

November 1993 which speaks of the fear of the population living under the deafening sound of HVO shelling and firing and ran for cover in the streets.<sup>2351</sup>

1016. The evidence shows that the HVO firing and shelling killed and injured many people in East Mostar,<sup>2352</sup> notably women, children and the elderly.<sup>2353</sup> In his report, *Jeremy Bowen* wrote that due to the shelling and firing, one could be "killed or maimed at any time on any street corner" in East Mostar.<sup>2354</sup> The Chamber notes, therefore, that the records of the East Mostar Hospital for the period 15 June to 18 August 1993 state that 1,037 patients were admitted, 832 of whom were treated for injuries caused by bullets or explosions;<sup>2355</sup> the records for the period 18 August to 13 October 1993 state that 1,004 patients were admitted, 808 of whom were treated for the same types of injuries.<sup>2356</sup>

1017. Although the Chamber notes that the shelling and artillery fire ceased in early March 1994,<sup>2357</sup> it was not until 12 April 1994 that Milivoj Petković, following a peace agreement signed in Split, Croatia between the HVO and the ABiH, ordered the withdrawal of the HVO troops from the Mostar zone.<sup>2358</sup>

1018. In light of all this evidence, the Chamber finds that East Mostar was subjected to intense and uninterrupted firing and shelling from June 1993 to March 1994. It notes more particularly that the HVO firing and shelling were not limited to specific targets, possibly military ones such as the headquarters of the 4<sup>th</sup> Corps and the 41<sup>st</sup> Brigade of the ABiH. The firing and shelling were launched in residential zones and the population was directly affected. Consequently, the Chamber finds that there was intense firing and shelling by the HVO on East Mostar which directly affected the population living there.

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<sup>2351</sup> P 06365.

<sup>2352</sup> P 09834, paras 14 and 16; Miro Salčin, T(F), p. 14297; P 07818, p. 4; P 06925 under seal, pp. 2 and 3; P 06365, pp. 3 and 14-17; Jeremy Bowen, T(F), pp. 12752, 12760, 12761; P 09901 under seal, p. 1; P 10039, para. 33; P 10287 under seal, para. 91; P 05857 under seal, p. 2; P 07887, p. 4; P 04859, p. 2; P 05428, pp. 4 and 5; P 05625, p. 6; P 03544, p. 2; P 05656, p. 2; P 07395 under seal, p. 5; P 07918 under seal, p. 4; P 04971, p. 4; P 04679 under seal, pp. 2 and 4; P 07527 under seal, p. 4; P 07706 under seal, p. 2, item 2.B; P 06285, pp. 4 and 5; P 05979 under seal, p. 2; P 04822, p. 6; P 04423, p. 6; P 10367 under seal, para. 21; P 04785, p. 1; P 10287 under seal, para. 47; Larry Forbes, T(F), pp. 21287 and 21288; Jovan Rajkov, T(F), pp. 12929 and 12930; Cedric Thornberry, T(F), pp. 26167, 26190, 26191 and 26195; P 10041, para. 57; P 03858, p. 7; P 09901 under seal, p. 1; P 05331; Edward Vulliamy, T(F), p. 1599; P 03198.

<sup>2353</sup> P 03858, p. 7; P 02791; P 04287; P 09675; P 05853; Jovan Rajkov, T(F), pp. 12902, 12905, 12932, 12934, 12936, 12937; Jeremy Bowen, T(F), p. 12752; Edward Vulliamy, T(F), p. 1599.

<sup>2354</sup> P 06365, p. 2.

<sup>2355</sup> P 04287.

<sup>2356</sup> P 09675.

<sup>2357</sup> P 10287 under seal, para. 78; Witness DW, T(F), p. 23087; P 07763 under seal, annexes 1 to 3; P 07986 under seal, pp. 6 and 7.

<sup>2358</sup> P 08188.

## II. Sniping Attacks on the Population of East Mostar

1019. Paragraph 114 of the Indictment states in particular that in East Mostar "firemen responding to emergencies, women washing their clothes, family members going out for water and small children who ventured outside were killed or wounded by snipers<sup>2359</sup> of the Herceg-Bosna/HVO".<sup>2360</sup> Neither the Petković nor the Praljak Defence teams challenge the allegation that civilians were killed as a result of the shooting.<sup>2361</sup> However, they object to the allegation that the Muslim civilians were deliberately targeted by HVO snipers.<sup>2362</sup> The Ćorić Defence states in its Final Trial Brief that the Prosecution failed to prove that civilians were targeted by snipers belonging to the regular HVO forces.<sup>2363</sup> The Petković Defence submits, furthermore, that the source of the firing that would impute liability to one of the parties to the conflict cannot be identified with a degree of certainty, i.e. beyond a reasonable doubt.<sup>2364</sup> It points out, moreover, that the ABiH was also present on the "West Bank" of the Neretva and that it was therefore possible that sniper fire could have come from that direction.<sup>2365</sup>

1020. In support of its allegations, the Prosecution highlighted 12 incidents alleged to have occurred between 13 May 1993 and 2 March 1994 involving HVO snipers, which it considers representative of the firing the inhabitants of East Mostar were subjected to.<sup>2366</sup> In order to analyse these incidents, the Chamber will first (A) define the term sniper and describe the methods used during the sniping operations in Mostar. It will then (B) examine the evidence regarding the positions of the HVO snipers in Mostar, and then (C) do a case-by-case analysis of each of the 12 incidents described in the Prosecution's confidential Annex. Lastly, the Chamber will (D) note that, beyond these 12 incidents, the population of East Mostar was the victim of a genuine sniping campaign led by HVO armed forces.

### A. Definition of the Term "Sniper" and Methods Used in the Sniping Operations in Mostar

1021. The Chamber heard the testimony of expert witness *Patrick van der Weijden* who (1) provided evidence allowing it to understand the characteristics of sniping. Other witnesses, such as

<sup>2359</sup> The Chamber will use the terms *tireurs isolés*, *snipers* and *tireurs embusqués* interchangeably.

<sup>2360</sup> Indictment, para. 114.

<sup>2361</sup> Petković Defence Final Trial Brief, para. 387, Praljak Defence Final Trial Brief, para. 282.

<sup>2362</sup> Petković Defence Final Trial Brief, para. 387, Praljak Defence Final Trial Brief, para. 282.

<sup>2363</sup> Closing Arguments by the Ćorić Defence, T(F), p. 52700.

<sup>2364</sup> Petković Defence Final Trial Brief, para. 388.

<sup>2365</sup> Petković Defence Final Trial Brief, para. 389.

<sup>2366</sup> Confidential and revised Annex to the Indictment, 16 November 2005, pp. 13 and 14. The Prosecution recalls that based on the expert report incidents 5 and 12 were removed from the list of incidents in the Indictment: T(F), p. 13765.

*Miro Salčin* and *Elvir Dedić* (2) explained to the Chamber the *modus operandi*, weapons used and positioning of the HVO snipers in Mostar.

### 1. Definition of the Term “Sniper”

1022. According to *Patrick van der Weijden*, a sniper is an expert marksman who is adept at detecting, observing, stalking and neutralising enemy personnel and equipment.<sup>2367</sup> Unlike a sharpshooter, who is part of an infantry unit and obeys the orders of a team or a group commander,<sup>2368</sup> a sniper generally operates alone or as part of a two-man team,<sup>2369</sup> the shooter and the spotter.<sup>2370</sup>

1023. In an urban environment, a sniper prefers shooting positions such as large buildings, which make it difficult for him to be detected, or will sometimes build shooting platforms to facilitate his mission.<sup>2371</sup> In an urbanised environment, the range of fire is limited to an average of 75m, while, according to *Patrick van der Weijden*, long shots are possible only from dominant positions in the city – such as hills – or along the streets.<sup>2372</sup>

1024. The factors that enable identification of a "civilian", particularly in an urban environment, are the following: size, movement, clothing, activity at the moment of shooting, sex and age.<sup>2373</sup> Certain circumstances make identification more difficult, such as the time frame during which the target is visible, available light, the quality and magnification of the rifle optics, the weather and exposure of the target (full body, head).<sup>2374</sup>

1025. Moreover, *Patrick van der Weijden* identified the types of weapons most likely used by the HVO (the *Dragunov* rifle for example)<sup>2375</sup> in the majority of the sniping incidents covered by the Indictment.<sup>2376</sup> These are small-calibre weapons<sup>2377</sup> with a high degree of precision.<sup>2378</sup> In its Final

<sup>2367</sup> P 09808, p. 6; *Patrick van der Weijden*, T(F), p. 13732.

<sup>2368</sup> *Patrick van der Weijden*, T(F), p. 13729.

<sup>2369</sup> *Patrick van der Weijden*, T(F), p. 13729.

<sup>2370</sup> P 09808, pp. 6 and 7.

<sup>2371</sup> P 09808, p. 7. For more details *see* Incidents 8 and 14 where *Patrick van der Weijden* mentions this possibility.

<sup>2372</sup> P 09808, p. 8.

<sup>2373</sup> P 09808, Annex B, p. 48.

<sup>2374</sup> P 09808, Annex B, p. 48; *Patrick van der Weijden*, T(F), p. 13744.

<sup>2375</sup> *Patrick van der Weijden*, T(F), p. 13757 and P 09808, Annex A, pp. 43. and 44.

<sup>2376</sup> The weapons identified by *Patrick van der Weijden* are the following: a *Zastava* M76, generally equipped with a 4x magnification scope (calibre: 7,92 Mauser/7,62x54R/7,62x51 mm. NATO; maximum range: 800 m); a Steyr SSG69, generally equipped with a 6x magnification scope (calibre: 7,62x51 mm. NATO; maximum range: 800 m); a SIG-Sauer SSG 2000/3000, generally equipped with a 6x magnification scope (calibre: 7,62x51 mm. NATO; maximum range: 800 m) and a SVD *Dragunov*, generally equipped with a 4x magnification scope (calibre: 7,62x54R; maximum range: 800 m); *See* P 09808, Annex A, p. 43; *Patrick van der Weijden*, T(F), p. 13757. On the subject of effective range, *Patrick van der Weijden* stated that it corresponds to the range from which the shooter might have a reasonable chance of hitting his target. The maximum range may be superior to the effective range: *Patrick van der Weijden*, T(F),

Trial Brief, the Praljak Defence stated that there was no evidence showing that the HVO armed forces possessed these types of weapons.<sup>2379</sup> Nevertheless, the Chamber was provided with a document showing that in early August 1993, "HVO armed forces" had *Dragunov* rifles at their disposal in Mostar.<sup>2380</sup>

1026. Moreover, although in the case of sniping distance is an important factor for the effectiveness of a shot, other factors such as gravity,<sup>2381</sup> and air and wind resistance must also be taken into consideration because they have an impact on bullet trajectory.<sup>2382</sup> According to *Patrick van der Weijden*, in all the incidents covered by the Indictment, the shots were fired by people with shooting experience and an understanding of ballistics.<sup>2383</sup>

## 2. Modus Operandi, Weapons Used and Positioning of HVO Snipers

1027. Through a description of an event that took place in July 1993, *Miro Salčin*<sup>2384</sup> gave a particularly detailed account of the techniques and weapons used by a group of four HVO snipers positioned on Stotina hill.<sup>2385</sup> According to him, the targets were determined on the basis of information received by HVO reconnaissance agents because the snipers did not fire randomly or regularly.<sup>2386</sup> Consequently, when a person was walking on the bridge, reconnaissance agents would point out the target's location to the snipers.<sup>2387</sup> The first sniping position was manned by a soldier in a camouflage uniform carrying a hunting rifle equipped with a telescopic sight (position 1 marked by *Miro Salčin* on document IC 00418 during his testimony).<sup>2388</sup> The second sniper was inside a house with a rifle (position 2 marked by *Miro Salčin* on document IC 00418 during his

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p. 13757. Patrick van der Weijden added that, although these weapons had a high degree of precision, beyond 300 or 400 m, it would be very difficult to target a specific part of the body, *see* Patrick van der Weijden, T(F), pp. 13754 and 13756; For a basic sketch of the weapons used by snipers *see* IC 00382.

<sup>2377</sup> P 09808, Annex A, pp. 43 and 46.

<sup>2378</sup> Patrick van der Weijden, T(F), p. 13753.

<sup>2379</sup> Praljak Defence Final Trial Brief, para. 283.

<sup>2380</sup> P 03929, 3 August 1993, p. 2; For another example of the availability of sniper weapons to the HVO armed forces *see* P 01868, p. 1.

<sup>2381</sup> *See* for example IC 00383.

<sup>2382</sup> For the composition of the ammunition *see* P 09808, Annex A, p. 46 and Patrick van der Weijden, T(F), pp. 13765, 13770 and 13771; P 09808, p. 41; Patrick van der Weijden, T(F), pp. 13766, 13768 and 13771-13774; IC 00381; IC 00382; IC 00383.

<sup>2383</sup> P 09808, p. 42.

<sup>2384</sup> *Miro Salčin* was the commander of a company in Donja Mahala and the deputy commander of the 2<sup>nd</sup> Battalion of the 441<sup>st</sup> Motorised Brigade located in the sector of the Old Bridge until ^ekrk, *see* P 09834, paras 7 and 8; Witness *Miro Salčin*, T(F), pp. 14171 and 14172.

<sup>2385</sup> *Miro Salčin*, T(F), pp. 14174-14177, 14186 and 14187; IC 00417; IC 00418; IC 00419; P 09834, para. 11; *Miro Salčin*, T(F), pp. 14174-14177.

<sup>2386</sup> *Miro Salčin*, T(F), p. 14178.

<sup>2387</sup> *Miro Salčin*, T(F), p. 14178.

<sup>2388</sup> *Miro Salčin*, T(F), pp. 14186-14188 and 14175; IC 00417; IC 00418.

testimony).<sup>2389</sup> The third shooter, who also had a rifle, was in another house facing the Mahala neighbourhood (position 3 marked by *Miro Salčin* on document IC 00418 during his testimony).<sup>2390</sup> The fourth HVO sniper opened fire from a 12,7 mm weapon and was located in a building directly facing Mahala (position 4 marked by *Miro Salčin* on document IC 00418 during his testimony).<sup>2391</sup> *Miro Salčin* added that the HVO snipers positioned on Hum mountain were particularly dangerous since the shots they fired had an angle of 80, thereby penetrating the victim's neck and reaching the kidneys and thus being fatal.<sup>2392</sup> In light of this testimony, it appears that the sniping was the result, at least in this specific case, of coordinated action. In the same sense, *Patrick Van der Weijden* stated that it was almost impossible for the snipers to have acted completely on their own.<sup>2393</sup>

1028. *Elvir Demić*, a fire-fighter from Mostar,<sup>2394</sup> described the methods used by "the HVO armed forces" to neutralise the East Mostar fire-fighters. He said that they used incendiary bullets to set fire to homes: as soon as a fire lorry would head off to the burning house, it would be targeted by HVO snipers and anti-aircraft guns.<sup>2395</sup> When the vehicle arrived at the scene, it would continue to be targeted, thereby rendering the work of the fire-fighters very difficult.<sup>2396</sup> *Elvir Demić* stated that this type of attack always had this same pattern<sup>2397</sup> of isolating the fire-fighting teams and keeping them immobilised for specific period of time.<sup>2398</sup> *Elvir Demić* added that he felt that the HVO armed forces were "playing some sort of game" with the fire-fighting teams through these attacks.<sup>2399</sup>

1029. The Chamber deems that the testimonies of *Miro Salčin* and *Elvir Demić* provided it information representative of the modus operandi of the HVO snipers.

1030. Furthermore, the Chamber examined a Spabat report dated 1 March 1994 according to which there was an HVO camp at Lističa at that time, which operated as a training ground for snipers who then, according to this report, conducted operations in Mostar.<sup>2400</sup> Likewise, a report on the HVO activities for the period January to June 1993 stated that six teams of two snipers were

<sup>2389</sup> Miro Salčin, T(F), pp. 14186-14188 and 14175; IC 00417; IC 00418.

<sup>2390</sup> Miro Salčin, T(F), pp. 14186-14188 and 14175; IC 00417; IC 00418.

<sup>2391</sup> Miro Salčin, T(F), pp. 14175, 14187-14189; IC 00418.

<sup>2392</sup> P 09834, paras 11 and 13; Miro Salčin, T(F), pp. 14192 and 14196.

<sup>2393</sup> Patrick van der Weijden, T(F), p. 13854.

<sup>2394</sup> P 09857, p. 2.

<sup>2395</sup> P 09857, p. 2.

<sup>2396</sup> P 09857, p. 2.

<sup>2397</sup> P 09857, p. 3.

<sup>2398</sup> P 09857, p. 3.

<sup>2399</sup> P 09857, p. 3.

<sup>2400</sup> P 07986 under seal, pp. 9 and 10.



trained between 10 and 20 May 1993, after which they achieved success on the front line in Mostar.<sup>2401</sup>

1031. The Chamber finds that this evidence shows that the HVO trained, equipped and, contrary to the arguments of the Praljak Defence,<sup>2402</sup> set up teams specialised in sniping.

### **B. Evidence Regarding Positions of HVO Snipers in Mostar**

1032. The Chamber particularly focused on determining who controlled the zones from where it is alleged that HVO snipers opened fire on the 12 representative victims mentioned in paragraph 114 of the Indictment. The witnesses related to these incidents and expert witness *Patrick van der Weijden* identified several potential shooting positions on the right bank of the Neretva: Stotina hill for incidents 1 (13 May 1993),<sup>2403</sup> 2 (3 June 1993),<sup>2404</sup> 3 (6 June 1993),<sup>2405</sup> 4 (27 July 1993),<sup>2406</sup> 9 (29 September 1993),<sup>2407</sup> 10 (10 October 1993),<sup>2408</sup> and 13 (2 February 1994);<sup>2409</sup> locations around Spanish Square for incidents 8 (29 September 1993),<sup>2410</sup> 11 (30 October 1993),<sup>2411</sup> and 14 (2 March 1994);<sup>2412</sup> the *Ledera* building for incidents 6 (30 August 1993),<sup>2413</sup> and 7 (7 September 1993);<sup>2414</sup> the *Centar II* building for incident 7 (7 September 1993);<sup>2415</sup> Hum mountain or the lower part of the Donja Mahala neighbourhood for incident 3 (6 June 1993);<sup>2416</sup> and the *Bristol* hotel and the *Borovo* building for incident 11 (30 October 1993).<sup>2417</sup> Although the Chamber acknowledges, as does the

<sup>2401</sup> P 04699, p. 17; P 03351, p. 9.

<sup>2402</sup> See also Praljak Defence Final Trial Brief, para. 283.

<sup>2403</sup> P 09864 under seal p. 2; Enes Vukotić, T(F), pp. 13664, 13676 and 13677; P 09140. For locations of houses in Stotina see: Enes Vukotić, T(F), pp. 13664-13667; IC 00371; Enes Vukotić, T(F), pp. 13664, 13667, 13668, 13671, 13672; IC 00376; Enes Vukotić, T(F), pp. 13706 and 13708; IC 00380; Enes Vukotić, T(F), p. 13722; IC 00384; Patrick van der Weijden, T(F), p. 13780; P 09808, p. 10.

<sup>2404</sup> P 09860, p. 4; Anel Heljić, T(F), pp. 13410 and 13411; IC 00384; Patrick van der Weijden, T(F), pp. 13783 and 13784; P 09808, pp. 12 and 13.

<sup>2405</sup> Dževad Hadžizukić, T(F), p. 13347; Patrick van der Weijden, T(F), p. 13785; P 09808, p. 14.

<sup>2406</sup> P 09808, p. 15; Ratko Pejanović estimated that the shot came from a location equally referred to as ^ekrk, Vi{njica and Stotina, T(F), pp. 1330 and 1334; See also P 09139.

<sup>2407</sup> Damir Katica, T(F), pp. 13459-13461, 13463, 13464, 13467 and 13484; IC 00334; IC 00336; P 09808, pp. 28 and 29; Patrick van der Weijden, T(F), pp. 13787 and 13788.

<sup>2408</sup> P 09862, p. 3; Munib Klarić, T(F), pp. 13519, 13527 and 13554; IC 00338 and IC 00343; IC 00341; IC 00344 and IC 00345; IC 00346; P 09808, pp. 30 and 31; Patrick van der Weijden, T(F), pp. 13789 and 13790.

<sup>2409</sup> P 09808, p. 36; Patrick van der Weijden, T(F), p. 13791; Belkisa Beriša, T(F), pp. 13940-13941 and 13946-13947; IC 00393; IC 00396; P 09139, p. 2.

<sup>2410</sup> P 09808, p. 26; Patrick van der Weijden, T(F), p. 13801, private session; Patrick van der Weijden, T(F), pp. 13800-13802, private session.

<sup>2411</sup> P 09855, p. 3; Džemal Baraković, T(F), p. 13919; P 09808, pp. 32 and 33; Patrick van der Weijden, T(F), p. 13805.

<sup>2412</sup> P 09808, p. 39; Patrick van der Weijden, T(F), pp. 13801 and 13803, private session.

<sup>2413</sup> Patrick van der Weijden, T(F), pp. 13796 and 13797, P 09808, pp. 20. and 21.

<sup>2414</sup> Patrick van der Weijden, T(F), pp. 13796 and 13798, P 09808, pp. 23. and 24.

<sup>2415</sup> Elvir Demić, T(F), p. 13993.

<sup>2416</sup> Dževad Hadžizukić, T(F), p. 13347.

<sup>2417</sup> Džemal Baraković, T(F), pp. 13920-13922; IC 00392; P 09808, pp. 32 and 33; Patrick van der Weijden, T(F), p. 13805.

Petković Defence,<sup>2418</sup> that numerous reports of international parties present in Mostar about these sniping attacks do not attribute them to either side, it considers that the locations identified by the witnesses and expert witness *Patrick Van der Weijden* are precise enough to determine which armed forces – HVO, ABiH or Serbian armed forces – were responsible at the moment of the incidents alleged in paragraph 114 of the Indictment.

1033. With regard to Stotina hill, the Chamber examined several pieces of evidence showing that the HVO armed forces controlled this zone on 13 May 1993, the date on which incident 1 occurred;<sup>2419</sup> on 3 June 1993, the date of incident 2;<sup>2420</sup> on 6 June 1993, the date of incident 3;<sup>2421</sup> on 27 July 1993, the date of incident 4;<sup>2422</sup> on 29 September 1993, the date of incident 9;<sup>2423</sup> on 10 October 1993, the date of incident 10;<sup>2424</sup> and on 2 February 1994, the date of incident 13.<sup>2425</sup> Although the Chamber does not have abundant evidence for each of these incidents showing that the HVO armed forces controlled Stotina hill (particularly for incidents 10 and 13), it considers that the consistency of the testimonies and the evidence collected allow such a finding. Moreover, the Chamber notes that *Miro Salčin* stated that the ABiH unsuccessfully attempted to recapture Stotina hill on 21 September 1993, and that the Muslims did not make subsequent attempts to take over this position because the operation would have endangered the people living in the neighbourhood

<sup>2418</sup> Petković Defence Final Trial Brief, para. 388.

<sup>2419</sup> P 09864, p. 2; Enes Vukotić, T(F), pp. 13664, 13676 and 13677; Suad Ćupina, T(F), p. 4866; IC 00026; The Chamber also took into consideration evidence corroborating the fact that the HVO forces controlled this town zone in May 1993, such as reports indicating that ABiH snipers opened fire on Stotina hill on 13 and 24 May 1993, which allows for the finding that HVO armed forces were present there during the period in question, *see* 4D 00492 and 4D 01689.

<sup>2420</sup> P 09860, p. 4; Suad Ćupina, T(F), p. 4866; IC 00026; Moreover, the Chamber analysed evidence indicating that on 1 June 1993, ABiH snipers had opened fire on Stotina hill, which corroborates the statement that the hill was controlled by the HVO armed forces in early June 1993, *see* 4D 01452; Likewise, the report by Miljenko Lasić dated 13 June 1993 stating that the HVO armed forces had come under mortar fire on Stotina, ^ekrk and Hum mountain, supports this fact, *see* 4D 01222.

<sup>2421</sup> P 09859, p. 3; IC 00301, IC 00304; Dževad Hadžizukić, T(F), pp. 13343-13345, 13366, 13367 and 13370.

<sup>2422</sup> P 10046, p. 2, paras 3 and 5; Furthermore, the Chamber examined evidence indicating that the 9<sup>th</sup> HVO Battalion controlled Stotina hill on 7 July 1993, *see* P 03260, p. 6; Likewise, Witness *EJ*, a Heliodrom detainee from late July 1993 onwards (*see* P 10227, pp. 7 and 9) stated that he had worked near Stotina during this time, *see* P 10227, p. 11. The Chamber considers that the two documents corroborate the claims by *Arif Gosto* that the HVO armed forces were controlling Stotina hill on or about 27 July 1993.

<sup>2423</sup> P 09861; Damir Katica, T(F), p. 13467; Miro Salčin, T(F), pp. 14179, 14180 and 14195; The Chamber examined evidence indicating that the 2<sup>nd</sup> Battalion of the 3<sup>rd</sup> HVO Brigade used detainees to perform labour at Stotina on 25 September 1993, *see* P 05386 and 2 October 1993, *see* P 05555.

<sup>2424</sup> P 09862, p. 3; Although Munib Klarić did not explicitly state that the armed forces were controlling this area on 10 October 1993, the Chamber would recall that it showed previously that detainees were used by units of the HVO armed forces in this area on 2 October 1993, which allows the finding that they controlled the hill from at least early October 1993, *see* P 05555.

<sup>2425</sup> P 09856, pp. 2 and 3.

adjacent to Donja Mahala.<sup>2426</sup> Furthermore, *Miro Salčin* described several of the positions held by HVO snipers on Stotina hill in July 1993.<sup>2427</sup>

1034. The Chamber finds by majority, with Judge Antonetti dissenting, that the conclusions of the Praljak Defence, according to which an "average" sniper of the ABiH would have been able to eliminate a shooter on that hill<sup>2428</sup> and that, therefore, it would have been impossible for a sniper to have been positioned on Stotina hill, are not supported by any specific evidence. The Praljak Defence merely refers to "photographs" that it claims show impacts of shots on the house located on Stotina hill in which the HVO sniper was allegedly positioned, without specifying the references of these documents.

1035. Consequently, the Chamber finds by majority, with Judge Antonetti dissenting, that Stotina hill, located south of Hum mountain,<sup>2429</sup> was controlled by the HVO armed forces on all of the dates of the alleged incidents.<sup>2430</sup>

1036. The Chamber also heard the testimony of several witnesses, including expert witness *Patrick van der Weijden*, who stated that HVO snipers opened fire from locations around Spanish Square, notably in the case of incidents 8 (29 September 1993),<sup>2431</sup> 11 (30 October 1993),<sup>2432</sup> and 14 (2 March 1994).<sup>2433</sup> On the basis of *Džemal Baraković's* statement,<sup>2434</sup> the Chamber determined that Spanish Square was located in the western part of the town of Mostar.<sup>2435</sup>

1037. Other locations such as the *Ledera* building for incidents 6 (30 August 1993) and 7 (7 September 1993), the *Centar II* building in the case of incident 7 (7 September 1993), mount Hum for incident 3 (6 June 1993) and the *Bristol* hotel and the *Borovo* building for incident 11 (30 October 1993), were mentioned as possible positions for the snipers involved in these incidents. Evidence shows that all these locations are in West Mostar.<sup>2436</sup>

<sup>2426</sup> Miro Salčin, T(F), pp. 14178 to 14181.

<sup>2427</sup> See "Modus Operandi, Weapons Used and Positioning of HVO Snipers in Mostar" in the Chamber's factual findings with regard to the Municipality of Mostar.

<sup>2428</sup> Praljak Defence Final Trial Brief, para. 287.

<sup>2429</sup> P 09864, p. 2.

<sup>2430</sup> See notably 4D 00621; 4D 00622 and 4D 01216; see for example IC 00417; IC 00418; P 09834, para. 11.

<sup>2431</sup> P 09808, p. 26; Patrick van der Weijden, T(F), p. 13801, private session; Patrick van der Weijden, T(F), pp. 13800-13802, private session.

<sup>2432</sup> P 09855, p. 3; Džemal Baraković, T(F), p. 13919; P 09808, pp. 32 and 33; Patrick van der Weijden, T(F), p. 13805.

<sup>2433</sup> P 09808, p. 39; Patrick van der Weijden, T(F), pp. 13801 and 13803, private session.

<sup>2434</sup> Representative victim of paragraph 114 of the Indictment.

<sup>2435</sup> P 09855, p. 2.

<sup>2436</sup> With respect to incident 6 and the *Ledera* building, *Omer Dilberović* was unable to identify where the shot originated from but stated that it came from the western part of town, see *Omer Dilberović*, (T), pp. 13236 and 13240; Expert *Patrick van der Weijden* stated that the shot that hit *Dilberović* could have come from the *Ledera* building, see P 09808, pp. 20, 21 and 22; On the subject of the *Centar II* building, mentioned in the context of incident 7, see *Elvir*

1038. As will be discussed in greater detail later,<sup>2437</sup> the HVO had a sufficient military presence to impose its authority in the western part of town, was able to issue orders to the population residing there and to enforce the said orders in May and July 1993, and even beyond that date.<sup>2438</sup> The Chamber therefore finds by majority, with Judge Antonetti dissenting, that the HVO armed forces controlled the aforementioned locations on the dates the incidents occurred, with the exception of the *Bristol* hotel and the *Borovo* building which, according to *Džemal Baraković* in particular, were controlled by the ABiH and that, consequently, the snipers located there could only have been members of the HVO or been under their control.<sup>2439</sup>

1039. Lastly, the Chamber examined evidence showing that HVO snipers had also opened fire from other positions. The evidence indicates that the HVO had snipers at the secondary school and the primary school located near the Glass Bank, in the vicinity of Tito Street.<sup>2440</sup> In this respect, the

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Demić, T(F), pp. 13965, 13966, 13983, 13984 and 13993; P 09139; IC 00397; IC 00399; Elvir Demić, T(F), pp. 13965-13968; IC 00397; With regard to Hum mountain and the lower part of Donja Mahala in the context of incident 3, Dževad Hadžizukić stated that the terrace of his house faced West Mostar, Stotina hill and a part of Hum mountain, *see* Dževad Hadžizukić, T(F), p. 1337; IC 00298, Dževad Hadžizukić, T(F), pp. 13346 and 13357; IC 00300, Dževad Hadžizukić, T(F), pp. 13363 and 13364; IC 00302, Dževad Hadžizukić, T(F), pp. 13367 and 13368; Dževad Hadžizukić, T(F), pp. 13370 and 13371; IC 00306, Dževad Hadžizukić, T(F), pp. 13371 and 13372 and Dževad Hadžizukić, T(F), p. 13347; With regard to the *Bristol* hotel and the *Borovo* building in the context of incident 11, *see* Džemal Baraković, T(F), pp. 13920-13922; IC 00392; P 09808, pp. 32 and 33; Patrick van der Weijden, T(F), p. 13805.  
<sup>2437</sup> *See* "Existence of an Occupation" in the Chamber's examinations of the general requirements for the application of Articles 2, 3 and 5.

<sup>2438</sup> P 02884, p. 3; P 10038, p. 4; P 10035, para. 18; P 10367 under seal, para. 51; Witness DZ, T(F), p. 26471, closed session; Witness BB, T(F), pp. 17185 and 17186, 17189, 17190, 17213, closed session; P 09677 under seal, paras 5 and 6; P 02564 under seal, p. 7; 1D 00527, para. 9; P 02557 under seal, p. 1; P 09712 under seal, paras 23 and 36; P 02458, para. 27; P 02290; Slobodan Praljak, T(F), pp. 43415, 43471; P 07500, p. 8; 1D 00527, para. 9; P 02884, p. 3; P 10220 under seal, *Naletilić and Martinović* Case, T(F), pp. 2943 and 2944; Witness BB, T(F), pp. 17189, 17199 and 25236, 17213, 25239, 25243 and 25244, closed session; P 02749; P 02769, p. 2; Grant Finlayson, T(F), pp. 18043 and 18044; Decision of 7 September 2006, Adjudicated Facts from the *Naletilić* Judgement, nos 112, 113 and 128, pp. 24 and 25; P 09678 under seal, paras 1, 2, 4 and 7; Witness BC, T(F), p. 18333, closed session; P 09847 under seal, p.1; P 10024 under seal, *Naletilić and Martinović* Case, T(F), pp.7037, 7043, 7044 and 7097; Witness GG, P 10020 under seal, *Naletilić and Martinović* Case, T(F), pp. 4757 to 4759; P 09678 under seal, para. 2; Witness BA, T(F), pp. 7202 and 7203; P 02756 under seal, p. 2; P 02735 under seal; P 05091, para. 12; Witness BB, T(F), pp. 25420 and 25421, closed session; P 03196 under seal, P 1 and 2; Witness BD, T(F), p. 20707, closed session; Witness BD, T(F), pp. 20730 and 20731, closed session; P 03617, p. 1; P 09712 under seal, para. 53; P 10038, p. 4; Witness BJ, T(F), pp. 5632 and 5633; P 10052, p. 1; P 10367 under seal, para. 54; P 10033, pp. 8 and 9; P 09855, p. 2; P 09861, p. 2; P 10035, para. 14; P 09856, p. 2; P 05518; P 05057; P 05053; P 05009, p. 4; P 05331; Witness BD, T(F), pp. 20755-20756, closed session; P 05730 under seal, this document is Annex A which is discussed in the document; P 05742 under seal, p. 5; P 05739 under seal, pp. 4 and 5, this document is Annex B which is discussed in the document: P 05742 under seal, p. 5; P 09850, under seal, paras 2 and 3; Decision of 7 September 2006, Adjudicated Facts from the *Naletilić* Judgement, no. 115, pp. 24 and 25; P 06365, p. 18; Jeremy Bowen, T(F), p. 12790; P 05554; P 09833 under seal, pp. 3 and 5; P 10042, para. 10; P 05742 under seal, pp. 2 and 3; Larry Forbes, T(F), p. 21313, private session; P 09328; P 09851 under seal, para. 2.10; P 07917, para. 16.

<sup>2439</sup> *See* *Džemal Baraković*, T(F), p. 13921; *See* also the statements of Witness DC according to whom the *Bristol* hotel was controlled by the ABiH as of April 1993, Witness DC, private session, T(F), pp. 13614-13616; IC 00360; Also concerning the *Bristol* hotel *see* 2D 00117. The Chamber notes that Suad Čupina stated that the *Bristol* hotel was controlled by HVO snipers but he did not specify during which period, *see* Suad Čupina, T(F), p. 4866; IC 00026; 1D 00527. Nevertheless, based on other evidence, the Chamber considers that the *Bristol* hotel was held by the ABiH. On the subject of the *Borovo* building *see* Witness DC, private session, T(F), pp. 13625-13627. For the location of the *Borovo* building *see*: IC 00364.

<sup>2440</sup> Jovan Rajkov, T(F), pp. 12931 and 12932.

Chamber notes that on 16 June 1993, during a meeting, Bruno Stojić mentioned to *Antoon van der Grinten* that the HVO had complete control over the snipers positioned in the "Blue Bank" building, commonly referred to as the Glass Bank and the "gymnasium".<sup>2441</sup>

1040. Moreover Witness *Dževad Hadžizukić* added that a zone beyond the *Tito* bridge was also targeted by snipers from the Glass Bank.<sup>2442</sup> *Jeremy Bowen* also testified before the Chamber about other locations where sniping was frequent, such as the locations at a "T" junction on Mar{al Tito Street between the "HQ"<sup>2443</sup> and the war hospital, which afforded the snipers total visibility.<sup>2444</sup> On 20 September 1993, the Tekija, Donja Mahala, Luka and Opine zones, located in East Mostar, were all controlled by the ABiH and were under HVO sniper fire,<sup>2445</sup> as were the pedestrian bridges across the Neretva.<sup>2446</sup> In addition, a Spabat report dated 20 March 1994 indicated the presence of HVO snipers at the "health centre" and at the Faculty of Mechanical Engineering.<sup>2447</sup>

1041. In view of all this evidence, the Chamber finds by majority, with Judge Antonetti dissenting, that the HVO had multiple sniping positions in addition to Stotina hill on the territory under its control in West Mostar.

### **C. The 12 Sniping Incidents Specifically Described in the Confidential Annex to the Indictment**

1042. The Chamber will analyse each of the incidents mentioned in the confidential Annex to the Indictment.<sup>2448</sup>

#### 1. Sniping Incident No.1

##### a) Description of Facts

1043. The Chamber heard the testimony of *Enes Vukotić*<sup>2449</sup> who stated that on 13 May 1993 at approximately 1600 hours, he crossed the pedestrian bridge that at the time connected the Donja

<sup>2441</sup> Antoon van der Grinten, T(F), pp. 21046-21048, 21051, 21052 and 21248; P 02806 under seal, p. 2.

<sup>2442</sup> Dževad Hadžizukić, T(F), pp. 13344 and 13345.

<sup>2443</sup> The witness did not specify to whom this "HQ" belonged.

<sup>2444</sup> Jeremy Bowen, T(F), pp. 12749 and 12750.

<sup>2445</sup> 2D 01390, 20 September 1993.

<sup>2446</sup> P 06589 under seal, p. 2.

<sup>2447</sup> P 10287 under seal, para. 92; P 08099 under seal, p. 8.

<sup>2448</sup> Revised confidential Annex to the Indictment, 16 November 2005, pp. 13 and 14. Moreover, Judge Antonetti discusses this issue in his partly dissenting separate opinion attached to the Judgement.

<sup>2449</sup> ABiH member, *see* P 09864 under seal, p. 2; Enes Vukotić, T(F), pp. 13660 and 13661; Representative victim of paragraph 114 of the Indictment.

Mahala to the Luka neighbourhood on the opposite bank of the Neretva.<sup>2450</sup> After crossing over, he turned left and stopped at the entrance to a lane called Šaćir Palata and leaned against a wall with his back towards Stotina hill from where snipers habitually targeted people crossing the bridge.<sup>2451</sup> At this location and at this precise time, he was hit by a bullet above his right knee that passed through his leg.<sup>2452</sup> He was later taken to the East Mostar Hospital for treatment.<sup>2453</sup>

#### b) Circumstances and Analysis of the Incident

1044. *Enes Vukotić* specified that at the time of the events, he was dressed in "civilian clothing" and that although he was a member of the ABiH, he was not on duty and was not armed.<sup>2454</sup>

#### c) Factual Findings

1045. The Chamber deems credible the statements of *Enes Vukotić*, a sniper victim, regarding the origin of the shot fired, namely Stotina hill, all the more so since, according to the witness, at the time of the events snipers were in the habit of targeting people who were crossing the bridge. It notes that *Patrick Van der Weijden* stated that, following his analysis of the victim's position when he was shot and the configuration of the terrain, the shot could have come only from Stotina hill.<sup>2455</sup> Furthermore, the significant distance (760 m<sup>2456</sup>) between the position of the sniper and the location where the victim was shot suggests that a sniper rifle was used. Lastly, as previously mentioned, on 13 May 1993 Stotina hill was controlled by the HVO armed forces.

1046. Consequently, the Chamber finds by majority, with Judge Antonetti dissenting, that on 13 May 1993, *Enes Vukotić* was indeed shot by an HVO sniper positioned on Stotina hill.

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<sup>2450</sup> P 09864 under seal p. 2. For the location of the bridge linking Donja Mahala to the Luka neighbourhood at the time see: IC 00377; *Enes Vukotić*, T(F), pp. 13710 and 13711; IC 00378: number 3 represents the Luka neighbourhood; *Enes Vukotić*, T(F), pp. 13710-13712; IC 00379; T(F), p. 13713; P 09139; *Enes Vukotić*, T(F), p. 13675; IC 00376: no. 1 corresponds to the location of the bridge as indicated by the witness.

<sup>2451</sup> P 09864 under seal, pp. 2 and 3; see IC 00375; IC 00374 for the location of the victim at the time of the events; *Enes Vukotić*, T(F), pp. 13672 and 13673; P 09140.

<sup>2452</sup> P 09864 under seal p. 3; *Enes Vukotić*, T(F), pp. 13673, 13674 and 13686; P 09140.

<sup>2453</sup> P 09864 under seal, p. 3.

<sup>2454</sup> P 09864 under seal p. 2; *Enes Vukotić*, T(F), pp. 13661 and 13662.

<sup>2455</sup> *Patrick van der Weijden*, T(F), pp. 13781 and 13782.

<sup>2456</sup> During his on-site visit, *Patrick van der Weijden* attempted to measure, for all the incidents alleged in the Indictment, the distance between the location of the victim at the time he was alleged to have been shot and the location of the sniper, according to several witnesses. To measure this, he used a laser rangefinder, see *Patrick van der Weijden*, T(F), pp. 13777 and 137778.

## 2. Sniping Incident No. 2.

### a) Description of Facts

1047. The evidence relating to sniping incident no. 2 indicates that in early June 1993,<sup>2457</sup> *Mustafa Burić*, an ABiH soldier and Muslim inhabitant of East Mostar<sup>2458</sup> went to the *Sokol* buildings on Gojka Vukovića Street in Donja Mahala between 1600 and 1700 hours,<sup>2459</sup> to unblock a drain.<sup>2460</sup> He was dressed in "civilian clothing" and drove a blue water truck<sup>2461</sup> belonging to the water company,<sup>2462</sup> which, according to him, was clearly identifiable as being a non-military vehicle.<sup>2463</sup> He was accompanied by his son Nihad Burić,<sup>2464</sup> 10 years old, and two other children, Anel Heljić,<sup>2465</sup> 9 years old and Ermin Sarić, 7 years old.<sup>2466</sup> The three children were sitting on the front seat to the right of the driver, *Mustafa Burić*.<sup>2467</sup>

1048. *Mustafa Burić* parked his vehicle in front of the *Sokol* buildings, in Gojka Vukovića Street, facing Stotina hill.<sup>2468</sup> He stated that together with the three children he entered the building, fixed the pipe problem and returned to his vehicle about ten minutes later, telling the children to climb back into the truck.<sup>2469</sup> The children sat down in the cab of the water-truck and *Mustafa Burić* returned on his own to the building because he had forgotten a tool.<sup>2470</sup> He heard shots fired when he was behind the building.<sup>2471</sup> *Anel Heljić* stated that *Mustafa Burić* had gone alone to perform the repairs and that he left the three children inside the cab of the truck.<sup>2472</sup> The Chamber notes that the two testimonies differ on the facts before the incident occurred but finds that this discrepancy does not affect the credibility and consistency of the account of the incident itself.

1049. *Anel Heljić*, who was in the cab of the water-truck, heard the sound of a bullet and saw it hit the pavement, one-and-a-half metres in front of the yellow Volkswagen Golf beside which the truck

<sup>2457</sup> The Chamber noted that the date of the incident varies according to the evidence: 3 June 1993 according to the medical report on injuries sustained by Anel Heljić, see P 09912 ; 6 or 7 June 1993 according to Mustafa Burić, see P 10044, p. 2 or 13 June 1993, see Anel Heljić, T(F), pp. 13402 and 13403.

<sup>2458</sup> P 10044, p. 2.

<sup>2459</sup> Witness Anel Heljić specified that the sun was setting behind Hum mountain, see P 09860, p. 2.

<sup>2460</sup> P 10044, p. 2; P 09860, pp. 2 and 3.

<sup>2461</sup> P 10044, p. 2 ; P 09860, p. 2 ; P 09220, p. 6.

<sup>2462</sup> Anel Heljić, T(F), p. 13408.

<sup>2463</sup> P 09860, p. 2.

<sup>2464</sup> Representative victim of paragraph 114 of the Indictment; IC 00313.

<sup>2465</sup> Representative victim of paragraph 114 of the Indictment.

<sup>2466</sup> P 09860, p. 2; P 10044, p. 2.

<sup>2467</sup> P 09860, p. 3. Anel Heljić, T(F), pp. 13409, 13414 and 13415; IC 00313.

<sup>2468</sup> P 10044, p. 3.

<sup>2469</sup> P 10044, p. 3; Anel Heljić stated that Mustafa Burić had gone alone to perform the repairs and that he left the three children inside the cab of the truck, see P 09860, p. 3; Anel Heljić, T(F), pp. 13423-13425; P 09140; IC 00316.

<sup>2470</sup> P 10044, p. 3.

<sup>2471</sup> P 10044, p. 3.

was parked.<sup>2473</sup> Two seconds later, a second bullet originating from the same location as the first, whistled and hit the front roof of the Volkswagen Golf.<sup>2474</sup> Five or six seconds later, a third bullet pierced the front windshield of the truck,<sup>2475</sup> injuring *Anel Heljić* on his upper right arm.<sup>2476</sup> The left side of *Nihad Burić*'s chest was grazed in the incident.<sup>2477</sup> After the shots were fired, *Anel Heljić*, *Ermin Sarić* and *Nihad Burić* got out of the truck in an attempt to find shelter and did not come under fire again.<sup>2478</sup> A third person was able to drive the three children to a medical unit and they were subsequently transferred to the Institute of Hygiene.<sup>2479</sup> The Chamber notes here that contrary to *Mustafa Burić*, who testified that he had heard one shot, *Anel Heljić* stated that there were three shots. The Chamber notes, nevertheless, that *Mustafa Burić* stated that he did not directly witness the incident because at the moment it occurred he was not inside the cab of the truck. The Chamber finds, therefore, that this contradiction does not affect the credibility of the two witnesses.<sup>2480</sup>

1050. After being taken to the East Mostar Hospital, *Anel Heljić* underwent surgery and remained there for three months.<sup>2481</sup> According to *Mustafa Burić*, *Anel Heljić*'s arm was broken.<sup>2482</sup> *Nihad Burić* had scratches from the windshield glass and his father, *Mustafa Burić*, stated that bullet fragments were lodged in his chest.<sup>2483</sup> *Mustafa Burić* stated that *Ermin Sarić* was not harmed in the incident.<sup>2484</sup>

#### b) Circumstances and Analysis of the Incident

1051. *Anel Heljić* considered that the three shots he heard came from Stotina hill, which was confirmed by *Patrick van der Weijden* who indicated furthermore that the distance separating the sniper from his victims was approximately 426 m.<sup>2485</sup> *Anel Heljić* specified, moreover, that he saw the flash of the second shot in one of the windows of a house built on that hill which was controlled

<sup>2472</sup> P 09860, p. 3; *Anel Heljić*, T(F), pp. 13423-13425; P 09140; IC 00316.

<sup>2473</sup> P 09860, p. 3; *Anel Heljić*, T(F), pp. 13423-13425; P 00316; IC 00317.

<sup>2474</sup> P 09860, pp. 3 and 4; P 09140.

<sup>2475</sup> P 10044, p. 3; the bullet impact on the windshield was approximately 2m 20 from the ground, *see* P 09140.

<sup>2476</sup> P 09860, pp. 3 and 4; P 09140; IC 00314; IC 00315; *Anel Heljić*, T(F), p. 13416; IC 00314.

<sup>2477</sup> P 09860, p. 3.

<sup>2478</sup> P 09860, p. 3.

<sup>2479</sup> P 10044, p. 3.

<sup>2480</sup> P 10044, p. 3. "F... ģ Then I realised I had forgotten a tool so I went back behind the building and I heard a single shot. I didn't know what was happening so I waited for about one minute and then I went back around to the front of the building."

<sup>2481</sup> P 09860, p. 4; The Chamber notes that in view of the consistency of the statements from *Anel Heljić* and *Mustafa Burić* as to the location where the victims were taken after being administered first aid, it seems that the "Military Hospital" (as referred to by *Anel Heljić*) and the "Hospital" (as referred to by *Mustafa Burić*) are the same location.

<sup>2482</sup> P 10044, p. 3; P 09912.

<sup>2483</sup> P 10044, p. 3. The Chamber notes that *Mustafa Burić* is uncertain whether bullet fragments were lodged in his son's chest: "Nihad had some scratches from the windscreen glass and I think some fragment of the bullet in his chest".

<sup>2484</sup> P 10044, p. 3.



by the HVO at the time.<sup>2486</sup> He stated that Nihad Burić had also seen the flash of the bullet.<sup>2487</sup> *Patrick van der Weijden* admitted on this subject that it was possible, depending on the weapon used and whether a device was used to conceal a flash, that a victim could see a detonation flash from a distance greater than 400 m.<sup>2488</sup>

1052. *Patrick van der Weijden* considered that the range of the shot and the nature of the injury sustained by the victim suggests that the ammunition used, such as 7,62x51 mm, 7,62x54R mm and 7,92 mm Mauser, was intended for sniping activity.<sup>2489</sup>

1053. Regarding the location of the truck, during his testimony before the Chamber, *Slobodan Praljak* stated that *Patrick van der Weijden* was mistaken about the location where the vehicle was parked at the moment the incident occurred.<sup>2490</sup> *Anel Heljić* indicated that it was in the vicinity of the first *Sokol* building, while the expert report of *Patrick van der Weijden* bases its analysis of the incident on the fact that the truck was parked in front of the second *Sokol* building.<sup>2491</sup> According to *Slobodan Praljak*, the "actual" location where the truck was parked made it impossible for it to be targeted from Stotina hill.<sup>2492</sup> The Chamber notes that, although sniping expert *Patrick van der Weijden* admitted during his testimony that he did not know that *Anel Heljić* had placed the truck at a different location<sup>2493</sup> from the one given to him for the purpose of his expert report, he stated that the location indicated by *Anel Heljić* in his testimony was, in any case, visible from Stotina hill.<sup>2494</sup>

1054. At the moment and location of the incident, there was no combat activity and visibility was good.<sup>2495</sup> *Anel Heljić* was wearing a light-green, long-sleeved t-shirt with a large white print.<sup>2496</sup> He added that he was small for his age.<sup>2497</sup> Furthermore, the three children remained inside the cab of the parked truck and were visible for a certain period of time from Stotina hill so that the sniper would have had time to identify them.<sup>2498</sup> Nevertheless, *Patrick van der Weijden* stated that it

<sup>2485</sup> P 09860, p. 4; *Anel Heljić*, T(F), pp. 13410 and 13411; IC 00384; *Patrick van der Weijden*, T(F), pp. 13783 and 13784; P 09808, pp. 12 and 13.

<sup>2486</sup> P 09860, p. 4; *Anel Heljić*, T(F), pp. 13411-13414, 13426-13429 and 13439-13442; IC 00310; IC 00311; IC 00312; IC 00318; IC 00319; IC 00320.

<sup>2487</sup> *Anel Heljić*, T(F), pp. 13435 and 13436.

<sup>2488</sup> *Patrick van der Weijden*, T(F), pp. 13768, 13769 and 13833.

<sup>2489</sup> P 09808, p. 12.

<sup>2490</sup> *Slobodan Praljak*, T(F), p. 41291; *Patrick van der Weijden*, T(F), pp. 16266 and 16267.

<sup>2491</sup> IC 00316; *Anel Heljić*, T(F), p. 13424; P 09808, p. 12.

<sup>2492</sup> *Slobodan Praljak*, T(F), p. 41291; IC 00321; IC 00322; 3D 00765, p. 1.

<sup>2493</sup> IC 00316.

<sup>2494</sup> *Patrick van der Weijden*, T(F), pp. 16267-16269.

<sup>2495</sup> P 09860, p. 2; P 10044, p. 2.

<sup>2496</sup> P 09860, p. 2; *Anel Heljić*, T(F), p. 13402.

<sup>2497</sup> *Anel Heljić*, T(F), pp. 13420 and 13421.

<sup>2498</sup> P 09808, p. 13.

would have been difficult for a sniper to identify who was inside the truck cab unless he had seen them entering the vehicle.<sup>2499</sup>

c) Factual Findings

1055. The Chamber considers the statements of *Anel Heljić*, the sniper victim, to be reliable in terms of the circumstances of the incident and the origin of the shots, all the more so because he stated that he saw the flash produced by the weapon in the house located on Stotina hill, as did Nihad Burić, one of the two other children with him. Furthermore, according to *Mustafa Burić*, it was a well-known fact that there were snipers positioned on Stotina hill.<sup>2500</sup> After completing his expert report, *Patrick van der Weijden* stated that the bullet must have been fired from the house located on this hill as the shot would have been "from the general direction" of this house.<sup>2501</sup>

1056. However, concerning the injury sustained by Nihad Burić, the Chamber considers that the evidence does not support a finding that it was caused by a bullet fragment.

1057. In view of all the testimony, the Chamber finds by majority, with Judge Antonetti dissenting, that it has sufficient evidence to support a finding that the sniper was positioned in the house on Stotina hill. Furthermore, and as shown previously, the Chamber notes that at the time of the incident, Stotina hill was controlled by the HVO armed forces.

1058. Several factors also allow the Chamber to find that the two children were indeed hit by a sniper: the significant distance between the firing position and the location of the victims, approximately 426 m, like the fact that the victims were fired at with several single and distinct shots. Moreover, *Patrick Van der Weijden* specified that the type of injury sustained by *Anel Heljić* suggests that a sniper rifle was used.

1059. Lastly, the Chamber notes that the weather conditions at the time of the event were good. It also notes that the build and clothing of the victims would allow them to be identified as children, despite them being inside a truck cab. In any case, considering the circumstances described above, there was nothing to indicate that the people inside the truck were members of the ABiH or any other armed force.

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<sup>2499</sup> Patrick van der Weijden, T(F), pp. 13833-13835.

<sup>2500</sup> P 10044, p. 3. Stotina hill was held by the HVO armed forces on the dates of the sniping incidents alleged in the Indictment. *See* "Evidence Regarding Positions of HVO Snipers in Mostar" in the Chamber's factual findings with regard to the Municipality of Mostar.

<sup>2501</sup> Patrick van der Weijden, T(F), p. 13784.

1060. In light of the foregoing, the Chamber finds by majority, with Judge Antonetti dissenting, that in early June 1993, *Anel Heljić*, Nihad Burić and Ermin Sarić were targeted by an HVO sniper located on Stotina hill.

### 3. Sniping Incident No.3

#### a) Description of Facts

1061. *Dževad Hadžizukić*<sup>2502</sup> and his wife Arzemina Alihodžić<sup>2503</sup> lived in a house in the residential neighbourhood of Tekija in East Mostar.<sup>2504</sup> The terrace of their two-storey house faced west<sup>2505</sup> towards West Mostar, Stotina hill and a part of Hum mountain.<sup>2506</sup> On 6 June 1993 at approximately 1700 hours,<sup>2507</sup> Arzemina Alihodžić went out onto the terrace and a few minutes later *Dževad Hadžizukić*, who was inside the house, heard three shots fired in 10 to 15 second intervals.<sup>2508</sup> After the third shot, *Dževad Hadžizukić* heard a crash on the balcony.<sup>2509</sup> He went outside and saw his wife lying dead on her back at the foot of the stairs on the lower terrace.<sup>2510</sup> Her head was turned west, towards Stotina hill and Hum mountain,<sup>2511</sup> while her feet were facing the back wall of the house and pointed east.<sup>2512</sup> *Dževad Hadžizukić* stated that he saw a bullet wound behind his wife's left ear<sup>2513</sup> and a bruise on her face.<sup>2514</sup>

#### b) Circumstances and Analysis of the Incident

1062. *Dževad Hadžizukić* testified that 6 June 1993 was a clear and sunny day.<sup>2515</sup> The Tekija neighbourhood was a residential one without any military positions or concentration of ABiH

<sup>2502</sup> Muslim inhabitant of Tekija in East Mostar, *see* P 09859, p. 2.

<sup>2503</sup> Representative victim of paragraph 114 of the Indictment.

<sup>2504</sup> P 09859, p. 2. For the location of *Dževad Hadžizukić*'s house *see*: IC 00296; *Dževad Hadžizukić*, T(F), p. 13339. It should be noted that the statements of the witness differ about the location of the fatal wound sustained by his wife, *see* P 09140. Likewise, the medical certificate from Mostar hospital suggests that the victim was wounded on her right side, *see* P 02655, "capitis seq. occip. dex".

<sup>2505</sup> P 09859, pp. 2 and 3; *Dževad Hadžizukić*, T(F), p. 13337.

<sup>2506</sup> *Dževad Hadžizukić*, T(F), p. 1337. For location of the terrace *see*: P 09140; IC 00298, *Dževad Hadžizukić*, T(F), pp. 13346 and 13357; IC 00299; *Dževad Hadžizukić*, T(F), pp. 13362 and 13363; IC 00300, *Dževad Hadžizukić*, T(F), pp. 13363 and 13364; IC 00302, *Dževad Hadžizukić*, T(F), pp. 13367 and 13368; IC 00303, *Dževad Hadžizukić*, T(F), p. 13369; IC 00305, *Dževad Hadžizukić*, T(F), pp. 13370 and 13371; IC 00306, *Dževad Hadžizukić*, T(F), pp. 13371 and 13372.

<sup>2507</sup> P 09859, p. 3; *Dževad Hadžizukić*, T(F), p. 13336.

<sup>2508</sup> P 09859, p. 3; *Dževad Hadžizukić*, T(F), p. 13339.

<sup>2509</sup> P 09859, p. 3; *Dževad Hadžizukić*, T(F), p. 13336.

<sup>2510</sup> P 09859, p. 3, P 02655, P 09131; *Dževad Hadžizukić*, T(F), p. 13358.

<sup>2511</sup> *Dževad Hadžizukić*, T(F), p. 13354.

<sup>2512</sup> P 09859, p. 3; *Dževad Hadžizukić*, T(F), p. 13354. For the location and position of the victim at the time of the events *see* P 09140; *Dževad Hadžizukić*, T(F), pp. 13351 and 13352; IC 00307; *Dževad Hadžizukić*, T(F), pp. 13373 and 13374; IC 00308, *Dževad Hadžizukić*, T(F), pp. 13374 and 13375; IC 00309, T(F), pp. 13395-13397.

<sup>2513</sup> P 09859, p. 3; *Dževad Hadžizukić*, T(F), pp. 13339 and 13354.

<sup>2514</sup> P 09859, p. 3; *Dževad Hadžizukić*, T(F), pp. 13335, 13352.

<sup>2515</sup> P 09859, p. 3; *Dževad Hadžizukić*, T(F), p. 13338.

soldiers.<sup>2516</sup> Furthermore, *Dževad Hadžizukić* testified that there was no combat activity in this neighbourhood or its vicinity at the time of the events.<sup>2517</sup> The Chamber notes, however, that during his testimony, he specified that the "South Camp", where ABiH soldiers were stationed, was located approximately 500 m from his house and that the front line which stretched along the Bulevar was also very quite near.<sup>2518</sup>

1063. At the time of the incident, Arzemina Alihodžić was wearing a white blouse and a white skirt with large colourful flowers on it.<sup>2519</sup> *Patrick Van der Weijden* estimated, furthermore, that the victim, who was 41 years old at the time of the events,<sup>2520</sup> was visible to the sniper for at least 10 seconds, which was the time it took her to climb the second flight of terrace stairs and reach the front door of her house.<sup>2521</sup> He concluded that the sniper had sufficient time in which to identify her.<sup>2522</sup>

1064. *Dževad Hadžizukić* considers that the shot that killed his wife originated from Stotina hill, although he does not exclude the possibility that it could have come from a position on Hum mountain or the lower part of the Donja Mahala neighbourhood called *Orucluk*.<sup>2523</sup> *Patrick Van der Weijden* thought that the person who fired the shot that killed Arzemina Alihodžić was on Stotina hill, approximately 420 m from his target.<sup>2524</sup> *Dževad Hadžizukić* and *Patrick Van der Weijden* both agreed that the buildings that now obstruct the view between the incident site and Stotina hill did not exist at the time of the events.<sup>2525</sup> Moreover, *Patrick van der Weijden* pointed out that the range of the shot fired and type of injury caused in this incident suggest that calibres suited to snipers, such as 7,62x51 mm, 7,62x54R mm and 7,92 mm Mauser, were used.<sup>2526</sup>

1065. During his testimony before the Chamber, *Slobodan Praljak* argued that based on the type of injury sustained by the victim, it was impossible that the shot came from Stotina hill.<sup>2527</sup> With regard to this fatal wound, the Chamber notes that although *Dževad Hadžizukić* stated in his

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<sup>2516</sup> P 09859, p. 2; *Dževad Hadžizukić*, T(F), p. 13338.

<sup>2517</sup> P 09859, p. 3; *Dževad Hadžizukić*, T(F), p. 13338.

<sup>2518</sup> *Dževad Hadžizukić*, T(F), p. 13348.

<sup>2519</sup> P 09859, p. 3; *Dževad Hadžizukić*, T(F), p. 13338.

<sup>2520</sup> The victim was born on 26 March 1952, *see* P 09859, p. 2.

<sup>2521</sup> P 09808, p. 15.

<sup>2522</sup> P 09808, p. 15.

<sup>2523</sup> *Dževad Hadžizukić*, T(F), p. 13347.

<sup>2524</sup> *Patrick van der Weijden*, T(F), p. 13785; P 09808, p. 14; The witness specified that the GPS coordinates indicated on this page of his report were wrong and could be due to a misprint, *Patrick van der Weijden*, T(F), pp. 16285 and 16286.

<sup>2525</sup> P 09808, p. 14; *Dževad Hadžizukić*, T(F), p. 13357 and T(E), pp. 13355-13357. For the location of the two buildings *see*: IC 00297 and P 09140.

<sup>2526</sup> P 09808, p. 14.

<sup>2527</sup> *Slobodan Praljak*, T(F), p. 41291.

videotaped deposition that his wife was hit behind the right ear,<sup>2528</sup> he subsequently testified before the Chamber that the shot hit her below her left ear<sup>2529</sup> and that he had made a mistake when the Prosecution investigator had asked him the question during the recording.<sup>2530</sup> Nevertheless, the Chamber notes that the death certificate issued for Arzemina Alihodžić includes the Latin phrase "*occiput dex*", indicating that the injury was on the right side of the victim's head.<sup>2531</sup>

1066. In this respect, *Patrick van der Weijden* pointed out that, although there was some uncertainty about the location of the victim's injury,<sup>2532</sup> the uncertainty does not exclude the possibility that it indeed originated from Stotina hill.<sup>2533</sup>

### c) Factual Findings

1067. In light of the statements of *Dževad Hadžizukić*, the husband of the victim, and *Patrick van der Weijden*, the Chamber is satisfied by majority, with Judge Antonetti dissenting, that the sniper was positioned on Stotina hill.<sup>2534</sup> Furthermore, and as shown previously, the Chamber recalls that this hill was controlled by the HVO armed forces at the time of the events.

1068. Several other factors allow for the finding that the victim was indeed hit by a sniper: firstly, the distance between the victim and the firing position, 420 m, suggests that a sniper rifle was used,<sup>2535</sup> notably because from this distance, according to *Patrick van der Weijden*, it is very unlikely that a shooter firing an AK-47 Kalashnikov assault rifle could reach his target.<sup>2536</sup> Secondly, *Patrick van der Weijden* stated that had the victim been hit by a bullet of a larger calibre, the wound would have been considerable.<sup>2537</sup> Furthermore, *Dževad Hadžizukić* stated that he heard three shots fired in intervals of 10 to 15 seconds,<sup>2538</sup> which corroborates that there was sniper fire at the time of the events and excludes the possibility of a stray bullet coming from the front line. He stated, furthermore, that when he publicly announced the death of his wife on *Radio Mostar*, he met a person who informed him that two similar incidents had occurred on the same day, 6 June 1993,

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<sup>2528</sup> P 09140.

<sup>2529</sup> Dževad Hadžizukić, T(F), p. 13378.

<sup>2530</sup> Dževad Hadžizukić, T(F), p. 13352.

<sup>2531</sup> P 02655.

<sup>2532</sup> Patrick van der Weijden, T(F), p. 13878.

<sup>2533</sup> Patrick van der Weijden, T(E) pp. 13882 and 13883.

<sup>2534</sup> Patrick van der Weijden, T(F), p. 13342; Patrick van der Weijden, T(F), p. 13785; P 09808, p. 14; The witness specified that the GPS coordinates indicated on this page of his report were wrong and could be due to a misprint, Patrick van der Weijden, T(F), pp. 16285 and 16286.

<sup>2535</sup> Patrick van der Weijden, T(F), p. 13785; P 09808, p. 14.

<sup>2536</sup> Patrick van der Weijden, T(E) p. 13872.

<sup>2537</sup> Patrick van der Weijden, T(E) p. 13872.

<sup>2538</sup> P 09859, p. 3; Dževad Hadžizukić, T(F), p. 13339.

and at the same time, at approximately 1700 hours, implying that sniper fire originated from Stotina hill.<sup>2539</sup>

1069. The Chamber notes that on the day of the death, visibility was good and that according to *Dževad Hadžizukić*, there was no military activity in the Tekija neighbourhood where his house was located. Although he stated that the south camp of the ABiH was approximately 500 m from his residence,<sup>2540</sup> which would mean that his house was potentially located in a risk area, he also stated that on the day of her death, his wife was dressed in a white blouse and a white skirt with large colourful flowers on it.<sup>2541</sup> Lastly, the Chamber deems, like *Patrick van der Weijden*, that based on the circumstances of the incident, the sniper had sufficient time in which to identify his target.<sup>2542</sup>

1070. Therefore, the Chamber finds by majority, with Judge Antonetti dissenting, that on 6 June 1993, Arzemina Alihodžić was indeed targeted by an HVO sniper located on Stotina hill, who was able to identify her as being a woman who lived in the Tekija neighbourhood before opening fire.

#### 4. Sniping Incident No. 4

##### a) Description of Facts

1071. On 27 July 1993, *Arif Gosto*,<sup>2543</sup> a Muslim inhabitant of East Mostar,<sup>2544</sup> was walking from the Šehovina neighbourhood towards the Tekija neighbourhood in East Mostar.<sup>2545</sup> While walking he hid behind the houses because on that day this part of the town was the target of constant firing and shelling, particularly from Stotina hill, where he alleges snipers were positioned.<sup>2546</sup> When he stopped to help firemen who were attempting to put out a fire<sup>2547</sup> reported in the *Šarić Harem* cemetery and who had come under sniper fire, he was hit by a bullet in the lower right leg.<sup>2548</sup> He subsequently tried to reach the infirmary in Tekija to be treated.<sup>2549</sup> The firemen, including *Ratko Pejanović*, who saw him trying to escape after being injured,<sup>2550</sup> warned him to be careful because

<sup>2539</sup> P 09859, p. 4.

<sup>2540</sup> Dževad Hadžizukić, T(F), p. 13348.

<sup>2541</sup> P 09859, p. 3; Dževad Hadžizukić, T(F), p. 13338.

<sup>2542</sup> P 09808, p. 15.

<sup>2543</sup> Representative victim of paragraph 114 of the Indictment.

<sup>2544</sup> P 10046, p. 2.

<sup>2545</sup> P 10046, p. 2; Ratko Pejanović, T(F), pp. 1326 and 1329.

<sup>2546</sup> P 10046, p. 2.

<sup>2547</sup> Regarding the intervention by the fire brigade in Šarić Harem, see also Ratko Pejanović, T(F), pp. 1327 and 1328.

<sup>2548</sup> P 10046, p. 2.

<sup>2549</sup> P 10046, p. 2; Ratko Pejanović, T(F), p. 1328.

<sup>2550</sup> Ratko Pejanović, T(F), p. 1328.

the sniper was still firing.<sup>2551</sup> He managed to reach the infirmary in Tekija without being hit again.<sup>2552</sup>

#### b) Circumstances and Analysis of the Incident

1072. On the day of the incident, *Arif Gosto*, 62 years old, was dressed in dark-blue trousers and a blue t-shirt.<sup>2553</sup> He considers that he could have been identified as "elderly" by the person who fired the shot,<sup>2554</sup> all the more so because it was clear and sunny on the day in question.<sup>2555</sup> Furthermore, sniping expert *Patrick van der Weijden* stated that the view between the location of the incident and the assumed position of the sniper, namely Stotina hill, was clear.<sup>2556</sup> Furthermore, the fact that the victim was walking towards the cemetery implies that he was visible for a certain period of time, thereby giving the sniper the opportunity to identify him.<sup>2557</sup>

1073. *Arif Gosto* considered that the sniper responsible for his injury was located on Stotina hill and that he had obviously been targeting him as well as the fire fighters who were attempting to extinguish the fire in the *Šarić Harem* cemetery.<sup>2558</sup> *Ratko Pejanović*, the commander of a fire brigade unit in East Mostar,<sup>2559</sup> who at the time of the incident was attempting to extinguish the fire at the cemetery, also confirmed that he and his team were targeted by a sniper located on Stotina hill,<sup>2560</sup> and stated that it was common knowledge that snipers were targeting this sector.<sup>2561</sup> In his report, *Patrick Van der Weijden* confirmed that the shot could have originated from Stotina hill, located 583 m from the victim's position.<sup>2562</sup>

1074. Nevertheless, the Chamber notes that during his testimony, *Patrick Van der Weijden* reconsidered part of the conclusions of his report: he stated that the arrow on pages 16 and 17 of this report represented the position of the witness to the incident, *Ratko Pejanović*, at the moment when he saw the victim had been shot and not the position of the victim himself, who was on the east side of Maršal Tito Street.<sup>2563</sup> *Patrick Van der Weijden* made a mistake in his analysis of the

<sup>2551</sup> P 10046, p. 2; Ratko Pejanović, T(F), p.1328.

<sup>2552</sup> P 10046, p. 2.

<sup>2553</sup> P 10046, p. 3.

<sup>2554</sup> P 10046, p. 3.

<sup>2555</sup> P 10046, p. 3.

<sup>2556</sup> P 09808, p. 17.

<sup>2557</sup> P 09808, p. 17.

<sup>2558</sup> P 10046, p. 2.

<sup>2559</sup> Ratko Pejanović, T(F), pp. 1229 and 1230.

<sup>2560</sup> Ratko Pejanović, T(F), pp. 1330 and 1334. Ratko Pejanović stated that the location where the sniper was positioned was interchangeably referred to as Čekrk, Višnjica and Stotina. See also P 09139.

<sup>2561</sup> Ratko Pejanović, T(F), p. 1330.

<sup>2562</sup> P 09808, p. 16.

<sup>2563</sup> Patrick van der Weijden, T(E), p. 13785.

incident in terms of the position of *Ratko Pejanović* and not the position of *Arif Gosto*.<sup>2564</sup> He added, furthermore, that the location of the victim at the moment of the incident was very vaguely indicated by *Ratko Pejanović*, who only mentioned that the victim was somewhere near the cemetery.<sup>2565</sup> Therefore, *Patrick Van der Weijden* concluded that it was very difficult to determine whether the shot originated from Stotina hill.<sup>2566</sup> Furthermore, in the vicinity of the cemetery and locations other than those where *Ratko Pejanović* was present, *Patrick Van der Weijden* considered that it would be difficult to get a clear sight of the victim, the cemetery and its surroundings from Stotina hill from where the shot originated according to *Arif Gosto* and *Ratko Pejanović*, due to the many tombstones and trees at that spot in the cemetery.<sup>2567</sup>

### c) Factual Findings

1075. The Chamber notes that *Ratko Pejanović* stated that at the time of the incident, his team was being targeted by a sniper.<sup>2568</sup>

1076. In this case, the evidence indicates that *Arif Gosto*, who was near the fire brigade, was also targeted by a sniper.

1077. Nevertheless, given the lack of precision about the sniper's location, the Chamber must consider the possibility that the shot could have come from positions other than those held by the HVO.

1078. The Chamber finds by majority, with Judge Antonetti dissenting, that there is no evidence to show that the location of the incident – near the cemetery – could have been within the range of the Serbian forces. Furthermore, assuming that the Chamber considers that this location was within the range of possible ABiH snipers, finding that they could have been responsible for the sniping would mean that the Chamber finds it possible that they aimed and fired at an inhabitant of East Mostar. However, no evidence was presented by the parties to show that the ABiH ever knowingly opened fire on the inhabitants of East Mostar. Nevertheless, at its own initiative, the Chamber sought to confirm this point during the testimony of another sniping incident witness. When *Witness DC*, whom the Chamber deems very credible, was asked whether it would be realistic to consider that

<sup>2564</sup> Patrick van der Weijden, T(F), p. 13785.

<sup>2565</sup> Patrick van der Weijden, T(E), p. 13786. Patrick Van der Weijden noted: "The arrow points to the location of the witness instead of the victim, because there was no precise location of the victim given by the witness, apart from the graveyard".

<sup>2566</sup> Patrick van der Weijden, T(E), p. 13786; *See also* Praljak Defence Final Trial Brief, para. 290.

<sup>2567</sup> Patrick van der Weijden, T(E), p. 13786; *See also* Praljak Defence Final Trial Brief, para. 290.

<sup>2568</sup> Ratko Pejanović, T(F), pp. 1330 and 1334. Ratko Pejanović stated that the location where the sniper was positioned was interchangeably referred to as Čekrk, Višnjica and Stotina. *See also* P 09139.



the ABiH could be responsible for opening sniper fire on an inhabitant of East Mostar, he categorically rejected this possibility.<sup>2569</sup> In view of these facts, the Chamber is able to dismiss the possibility that *Arif Gosto* could have been the victim of a shot originating from ABiH positions.

1079. Consequently, the Chamber finds by majority, with Judge Antonetti dissenting, that *Arif Gosto* was the victim of a sniping incident that excludes the possibility that the shot originated from the ABiH, and which falls within the modus operandi of the HVO snipers who were targeting the fire brigade unit in East Mostar.<sup>2570</sup> The Chamber notes that incidents 4, 8 and 14<sup>2571</sup> also support the finding that there was a plan of attack that consisted of first aiming at the fire brigade unit in East Mostar and then continuing to target those people that came to assist it. In light of the foregoing evidence, the Chamber finds that the sniper shot that hit *Arif Gosto* could have come only from the HVO.

## 5. Sniping Incident No.6

### a) Description of Facts

1080. The Chamber heard the testimony of *Omer Dilberović*,<sup>2572</sup> a Muslim inhabitant of the Pasjak neighbourhood in East Mostar,<sup>2573</sup> who stated that on the afternoon of 30 August 1993, he was walking with his wife and a female neighbour from Osman Diskića park to his house in Pasjak.<sup>2574</sup> By using this road, the witness, his wife and the neighbour accompanying them, had to cross a clearing of about 20 m in the Mazoljice neighbourhood,<sup>2575</sup> which was reputed to be dangerous because people crossing it were targeted by snipers.<sup>2576</sup> In the vicinity of this location, the witness and the two women heard shots fired by a sniper<sup>2577</sup> and waited in a nearby abandoned house until they stopped.<sup>2578</sup> It was common knowledge, according to *Omer Dilberović*, that the snipers were in the habit of targeting men and sometimes women and children.<sup>2579</sup> The two women accompanying *Omer Dilberović* were the first to cross and there was no sound of shots being fired. They took shelter in a house on the other side of the field.<sup>2580</sup> *Omer Dilberović* then attempted to run and join

<sup>2569</sup> Witness DC, T(F), p. 13618.

<sup>2570</sup> P 09855, p. 3; Džemal Baraković, T(F), p. 13908; P 07996 and incident numbers 7 and 11.

<sup>2571</sup> Incidents 8 and 14 will be analysed below.

<sup>2572</sup> Representative victim of paragraph 114 of the Indictment.

<sup>2573</sup> P 09854, p. 2.

<sup>2574</sup> P 09854, p. 2; *Omer Dilberović*, T(F), pp. 13232 and 13233.

<sup>2575</sup> P 09854, p. 3; *Omer Dilberović*, T(F), pp. 13232, 13233 and 13249; 09140.

<sup>2576</sup> P 09854, p. 2; *Omer Dilberović*, T(F), p. 13250.

<sup>2577</sup> P 09854, p. 2; *Omer Dilberović*, T(F), pp. 13233 and 13235.

<sup>2578</sup> P 09854, p. 2; *Omer Dilberović*, T(F), pp. 13232, 13233, 13235, 13236, 13246 and 13247; IC 00277.

<sup>2579</sup> P 09854, p. 3.

<sup>2580</sup> P 09854, p. 3; *Omer Dilberović*, T(F), p. 13233.

them and was hit in the right leg by a sniper when he was in the middle of the clearing.<sup>2581</sup> He collapsed and did not manage to get back up again due to his injury.<sup>2582</sup> His wife and her neighbour wanted to help him but he stopped them because he knew that generally the people attempting to help a sniping victim would be targeted.<sup>2583</sup> He finally managed to crawl to the house where his wife and their neighbour were.<sup>2584</sup> He sustained a fractured hip<sup>2585</sup> and received first aid at the Mostar Institute of Hygiene<sup>2586</sup> before being transferred with the help of UNPROFOR to the Zenica hospital where he remained for seven months.<sup>2587</sup> The medical board in charge of evaluating cases of disability resulting from the conflict in Mostar concluded that due to the injury inflicted on him on 30 August 1993, *Omer Dilberović* had a 20% disability.<sup>2588</sup>

#### b) Circumstances and Analysis of the Incident

1081. *Omer Dilberović* stated that on the day of the incident, he was dressed in trousers and a blue shirt,<sup>2589</sup> that it was a clear sunny day and that visibility was good.<sup>2590</sup> Military activity was concentrated at the separation line between the areas held by the HVO and the ABiH along Šantić Street.<sup>2591</sup> No military activity was taking place in the vicinity of the location of the incident, and no soldiers or military equipment was in the surrounding area.<sup>2592</sup>

1082. During the hearing, the Petković Defence<sup>2593</sup> and the Ćorić Defence<sup>2594</sup> argued that *Omer Dilberović* was an ABiH soldier at the time of the events, notably because the disability he sustained due to his injury had been assessed by a military board.<sup>2595</sup> The Chamber notes, however, that *Omer Dilberović* stated several times that he was not a member of the ABiH at the time of the incident and the Chamber deems his statements credible.<sup>2596</sup> Moreover, he indicated that he was

<sup>2581</sup> P 09854, p. 3; *Omer Dilberović*, T(F), pp. 13233-13248-13263-13264. For the location and position of the witness at the moment of the shooting, see P 09140; IC 00279; P 09139.

<sup>2582</sup> P 09854, p. 3; *Omer Dilberović*, T(F), pp. 13234.

<sup>2583</sup> P 09854, p. 3; *Omer Dilberović*, T(F), pp. 13234.

<sup>2584</sup> P 09854, p. 3; *Omer Dilberović*, T(F), pp. 13234; IC 00278.

<sup>2585</sup> *Omer Dilberović*, T(F), p. 13234. The Chamber notes that the medical report from Zenica Hospital indicates that *Omer Dilberović* sustained a fractured femur, see P 08404.

<sup>2586</sup> This location is also referred to as the "East Mostar Hospital" in the Judgement.

<sup>2587</sup> P 09854, pp. 3 and 4; *Omer Dilberović*, T(F), pp. 13247 and 13248; P 08404, pp. 1 and 2.

<sup>2588</sup> P 08756, *Omer Dilberović*, T(F), p. 13248.

<sup>2589</sup> P 09854, p. 2; *Omer Dilberović*, T(F), pp. 13235-13255-13256.

<sup>2590</sup> *Omer Dilberović*, T(F), pp. 13234 and 13235.

<sup>2591</sup> *Omer Dilberović*, T(F), pp. 13245, 13250 and 13251.

<sup>2592</sup> *Omer Dilberović*, T(F), pp. 13235 and 12236.

<sup>2593</sup> *Omer Dilberović*, T(F), pp. 13273 and 13274.

<sup>2594</sup> *Omer Dilberović*, T(F), pp. 13277 to 13279.

<sup>2595</sup> P 08756.

<sup>2596</sup> *Omer Dilberović*, T(F), pp. 13249, 13271, 13272 and 13277.

given the status of a "military" disabled person because one of his family members<sup>2597</sup> was killed in combat.<sup>2598</sup> Consequently, the Chamber finds by majority, with Judge Antonetti dissenting, that *Omer Dilberović* was not a member of the ABiH at the time.

1083. Although the witness was unable to indicate precisely the building from which the shot came,<sup>2599</sup> he stated both during the examination-in-chief and cross-examination by Defence Counsel, that he heard the detonation of the shot that wounded him and that he was certain that it originated from the western part of Mostar.<sup>2600</sup> *Patrick van der Weijden* considered that the sniper responsible for wounding *Omer Dilberović* was most likely located on one of the upper floors of the *Ledera* building in West Mostar, which offered a very good view of the incident site, approximately 677 m away.<sup>2601</sup>

1084. According to *Patrick van der Weijden*, the range of the shot and the type of injury caused in the incident suggest the use of calibres adapted to sniping, such as 7,62x51 mm, 7,62x54R mm or 7,92 mm Mauser calibres.<sup>2602</sup> Furthermore, he considers that in this case, the sniper undoubtedly used a scoped rifle because the victim had crossed only approximately 20 m in the open and was visible only for a very short time.<sup>2603</sup> He pointed out that due to this fact it was very difficult to identify the victim and the sniper would have had to be experienced.<sup>2604</sup> Furthermore, the sniper had, *a priori*, used the method of anticipated shooting to compensate for the speed of the target.<sup>2605</sup>

#### c) Factual Findings

1085. The Chamber deems the statements of *Omer Dilberović* to be reliable and considers that on 30 August 1993, he was indeed wounded by a sniper. The Chamber notes that *Patrick van der Weijden* confirmed this allegation and described the way in which the sniper must have opened fire. Furthermore, the victim, who heard the explosion of the shot that injured him, acknowledged that he knew the difference between a sniper shot and other "types" of shots.<sup>2606</sup>

<sup>2597</sup> His son Semir Dilberović, a member of the 4<sup>th</sup> Corps of the ABiH, *see* P 09854, p. 2; *Omer Dilberović*, T(F), p. 13249; P 08170.

<sup>2598</sup> *Omer Dilberović*, T(F), p. 13274.

<sup>2599</sup> *Omer Dilberović*, T(F), pp. 13244 and 13282.

<sup>2600</sup> *Omer Dilberović*, T(F), pp. 13236, 13240 and 13281; *See also* IC 00276; the three circles on photograph IC 00276 showing the direction of West Mostar, *see Omer Dilberović*, T(F), p. 13244.

<sup>2601</sup> *Patrick van der Weijden*, T(F), pp. 13795-13797, P 09808. pp. 20 and 21.

<sup>2602</sup> P 09808, p. 20.

<sup>2603</sup> P 09808, p. 21.

<sup>2604</sup> P 09808, p. 21.

<sup>2605</sup> *Patrick van der Weijden*, T(F), pp. 13825 and 13826.

<sup>2606</sup> *Omer Dilberović*, T(F), p. 13235.

1086. Based on the victim's statement<sup>2607</sup> and the topography of the location of the incident,<sup>2608</sup> the Chamber finds by majority, with Judge Antonetti dissenting, that the shot originated from West Mostar, despite *Omer Dilberović* being unable to indicate precisely where the shot came from and, thus, where the sniper was positioned.<sup>2609</sup> The Chamber notes that *Patrick van der Weijden* stated that the *Ledera* building was the most "obvious"<sup>2610</sup> and indeed "the most convincing"<sup>2611</sup> position of the sniper, without however being able to make a finding with regard to this incident with greater certainty.

1087. Bearing in mind the lack of precision about the sniper's location, the Chamber must consider the possibility that the shot could have come from positions other than those held by the HVO in West Mostar.

1088. Consequently, the Chamber recalls first that, according to the reviewed above, the sniping method generally enables the sniper to identify that the victim is not a member of the armed forces taking part in the conflict in Mostar and that the victim is not involved in the hostilities at the moment of the shooting. Furthermore, since the victim was in the Muslim part of Mostar, a sniper could conclude in all likelihood that this person was a Muslim.

1089. Therefore, the Chamber finds by majority, with Judge Antonetti dissenting, that there is no evidence to show that the location of the incident could have been within the range of the Serbian forces. Furthermore, as is the case for what the Chamber noted about possible ABiH snipers for incident no. 4, there is no evidence to suggest that *Omer Dilberović* could have been a victim of a shot originating from ABiH positions.

1090. In light of the foregoing, the Chamber is satisfied by majority, with Judge Antonetti dissenting, that the shot that hit *Omer Dilberović* came from a sniper located at positions held by the HVO in West Mostar and, therefore, was a member of these armed forces.

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<sup>2607</sup> *Omer Dilberović*, T(F), pp. 13236, 13240 and 13281; *See also* IC 00276; the three circles on photograph IC 00276 depict the direction of West Mostar, *see Omer Dilberović*, T(F), p. 13244.

<sup>2608</sup> The Chamber notes that the location of the incident is only exposed to West Mostar, which limits the possible origin of the shot to this area, *see* P 09139 and P 09140.

<sup>2609</sup> *Omer Dilberović*, T(F), pp. 13244 and 13282.

<sup>2610</sup> *Patrick van der Weijden*, T(F), pp. 13795-13797, P 09808. pp. 20 and 21.

<sup>2611</sup> *Patrick van der Weijden*, T(F), p. 13797.

6. Sniping Incident No. 7

## a) Description of Facts

1091. *Elvir Demić*, a fire fighter from Mostar,<sup>2612</sup> testified before the Chamber that in September 1993, he and three of his colleagues were driving a yellow water truck to extinguish a fire that had engulfed a house in the Pasjak neighbourhood in East Mostar.<sup>2613</sup> While they were extinguishing the fire, the HVO<sup>2614</sup> fired several shots in their direction, which hit the wall of the house facing West Mostar.<sup>2615</sup> The fire fighters took refuge in the burning house and continued to fight the fire from inside.<sup>2616</sup> The house was then targeted by mortar shells, which exploded all around.<sup>2617</sup> At around 1500 hours, two projectiles hit the roof shortly after the fire fighters decided to leave the scene of the fire, which had become too dangerous because of the shelling.<sup>2618</sup> The fire fighters went back to their vehicle to return to the fire station. While the truck was on its way, approximately 50 or 150 metres from the house, the HVO<sup>2619</sup> opened fire three or four times in intervals of a few seconds targeting the truck's right side.<sup>2620</sup> The shots first hit the water tank<sup>2621</sup> and then the truck cab,<sup>2622</sup> wounding driver Alija Jakupović<sup>2623</sup> in the back of the head.<sup>2624</sup> At that moment, the vehicle was driving approximately 20 km/h<sup>2625</sup> and crossing an open space of 100 to 150 m.<sup>2626</sup> *Elvir Demić*, who was sitting beside the driver at the time of the incident, managed to take over the wheel and drive the vehicle to a sheltered spot.<sup>2627</sup> Subsequently, the fire fighters got the victim out of the truck cab and evacuated him to the East Mostar Hospital.<sup>2628</sup>

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<sup>2612</sup> P 09857, p. 2.

<sup>2613</sup> P 09857, p. 3.

<sup>2614</sup> P 09857, p. 3; *Elvir Demić*, T(F), p.13964.

<sup>2615</sup> P 09857, p. 3.

<sup>2616</sup> P 09857, p. 3.

<sup>2617</sup> P 09857, p. 3.

<sup>2618</sup> P 09857, p. 3.

<sup>2619</sup> P 09857, p. 3; *Elvir Demić*, T(F), p.13964.

<sup>2620</sup> *Elvir Demić*, T(F), pp. 13965 and 13971.

<sup>2621</sup> P 09857, p. 3; *Elvir Demić*, T(F), pp. 13971, 13973, 13974 and P 09139; IC 00398; *Elvir Demić*, T(F), p. 13993; P 09140.

<sup>2622</sup> The bullet entered the back of the truck cab at a 45° angle, *see* notably *Elvir Demić*, T(F), p. 13968; P 09857, p. 4 and IC 00398.

<sup>2623</sup> P 09857, p. 3. Representative victim of paragraph 114 of the Indictment.

<sup>2624</sup> P 09857, p. 3; *Elvir Demić*, T(F), p. 13993; IC 00398; P 09140.

<sup>2625</sup> *Elvir Demić*, T(F), p. 13974.

<sup>2626</sup> *Elvir Demić*, T(F), pp. 13963 and 13971. For the direction taken by the truck at the time of the events *see*: P 09140.

<sup>2627</sup> P 09857, p. 4.

<sup>2628</sup> P 09857, p. 4. The witness explained that the commander of the East Mostar fire fighters, Meho Kekić, joined them to put the wounded truck driver into a vehicle.

## b) Circumstances and Analysis of the Incident

1092. *Elvir Demić* stated that visibility was good on the day of the incident<sup>2629</sup> and that the situation was calm, in the sense that there were no military operations in the zone where the fire fighters were present before they arrived at the location where the fire broke out and began extinguishing it.<sup>2630</sup> He estimated that the sniper shots that hit the water truck and its driver came from a complex of tiered white buildings located in the west of the town of Mostar,<sup>2631</sup> called "*Centar II*".<sup>2632</sup> *Patrick van der Weijden*, a sniping expert, concluded that the sniper was most likely located on one of the upper floors of the *Ledera* building located in West Mostar, which offered a very good view of the incident site at a distance of approximately 586 m.<sup>2633</sup> *Patrick van der Weijden* specified furthermore that the view between the incident site and the alleged position of the sniper was clear.<sup>2634</sup>

1093. The Chamber notes that *Elvir Demić* and *Patrick Van der Weijden* disagree about the presumed position of the sniper who hit Alija Jakupović in September 1993. The Chamber deems reliable the statements of *Elvir Demić*, who was not only present at the time of the events but could see for himself the bullet impact at the place where it went through the side of the truck cab.<sup>2635</sup> The Chamber notes, furthermore, that during his testimony, *Elvir Demić* substantiated his reasoning by indicating that the angle at which the bullet went through the truck cab meant that the sniper was located in the *Centar II* building complex.<sup>2636</sup> Furthermore, the Chamber shares the conclusions of the Praljak Defence that the impact of the bullet could not have been at that spot if the sniper had been located in the *Ledera* building.<sup>2637</sup> The Chamber is all the more convinced because during his testimony, *Patrick van der Weijden* indicated the *Ledera* building but specified that he could not be "100% sure" about this conclusion.<sup>2638</sup>

1094. Consequently, the Chamber considers that in September 1993, the sniper who fired at Alija Jakupović was located in the *Centar II* building complex. Furthermore, the Chamber has the

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<sup>2629</sup> P 09857, p. 3.

<sup>2630</sup> *Elvir Demić*, T(F), p. 13971; P 09857, p. 3: "On our way to the house we were not shot at. The burning house was situated at Mehe Tase and once we started extinguishing the fire the HVO started shooting at us " [...] Half of the roof of the house was burned down when the HVO started firing mortars at us".

<sup>2631</sup> *Elvir Demić*, T(F), pp. 13965 and 13966; P 09139; IC 00397; IC 00399; *Elvir Demić*, T(F), pp. 13965-13968; IC 00397; *Elvir Demić*, T(F), pp. 13983 and 13984.

<sup>2632</sup> *Elvir Demić*, T(F), p. 13993; IC 00398; IC 00399.

<sup>2633</sup> *Patrick van der Weijden*, T(F), pp. 13796 and 13798, P 09808, pp. 23 and 24.

<sup>2634</sup> P 09808, p. 24.

<sup>2635</sup> *Elvir Demić*, T(F), pp. 13965 and 13995.

<sup>2636</sup> *Elvir Demić*, T(F), pp. 13967, 13968 and 13993; IC 00398. The angle of the shot in relation to the truck cab is approximately 45°.

<sup>2637</sup> See Praljak Defence Final Trial Brief, para. 292; See also Slobodan Praljak, T(F), pp. 41924 and 41925.

<sup>2638</sup> *Elvir Demić*, T(F), pp. 13796 and 13797.

statement of *Witness U*, a resident of the building complex,<sup>2639</sup> according to which, from 9 May 1993 until the end of the conflict, snipers of "Croatian ethnicity" opened fire day and night on the front line from an abandoned apartment next to his.<sup>2640</sup>

1095. Furthermore, the Chamber noted the statements of *Patrick van der Weijden* according to which the water truck was visible from a distance of 110 m, was climbing up an incline with a speed not more than 20 km/h at that moment.<sup>2641</sup> Consequently, the sniper had a 20-second advantage in which to open fire on the truck, which was sufficient time to fire successive shots at it.<sup>2642</sup> However, he states that the sniper would not have been able to identify the victim inside the truck cab.<sup>2643</sup>

### c) Factual Findings

1096. The Chamber finds that in September 1993, Alija Jakupović was indeed hit by a sniper. The fact that the truck was hit by several separate shots within an interval of a few seconds suggests that a sniper rifle was used. Moreover, *Elvir Demić* stated with certainty that the driver of the water truck was targeted by a sniper.<sup>2644</sup>

1097. As set out previously, the Chamber considers that the sniper responsible for wounding Alija Jakupović was positioned in the *Centar II* building complex. Since at the time of the events the building was in the zone controlled by the HVO armed forces,<sup>2645</sup> the Chamber considers that it can find that the person who fired the shot was a member of the HVO armed forces.

1098. Lastly, the Chamber deems by majority, with Judge Antonetti dissenting, that the water truck, although yellow, could be identified as being the vehicle used by fire fighters in East Mostar. In that respect, *Elvir Demić* stated that the vehicle had been used by the fire brigade before the conflict between the Croats and the Muslims broke out and that "everyone knew" that it transported water.<sup>2646</sup> The Chamber notes that *Elvir Demić* appears to have subsequently retracted that statement,<sup>2647</sup> but like the witness considers that the circumstances in which the truck was being

<sup>2639</sup> Witness U, P 10220 under seal, *Naletilić & Martinović* case, T(F), p. 2943.

<sup>2640</sup> Witness U, P 10220 under seal, *Naletilić & Martinović* case, T(F), pp. 2936 and 2937. The Chamber notes that Witness U stated that the apartment where the snipers were positioned was located in the building where his sister lived, a few hundred metres from his own building.

<sup>2641</sup> P 09808, p. 24; *Patrick van der Weijden*, T(F), pp. 13797 and 13798.

<sup>2642</sup> P 09808, p. 24; *Patrick van der Weijden*, T(F), pp. 13797 and 13798.

<sup>2643</sup> P 09808, p. 24.

<sup>2644</sup> *Elvir Demić*, T(F), pp. 13959 and 13998.

<sup>2645</sup> See "Evidence Regarding Positions of HVO Snipers in Mostar" in the Chamber's factual findings with regard to the Municipality of Mostar.

<sup>2646</sup> *Elvir Demić*, T(F), p. 13980.

<sup>2647</sup> *Elvir Demić*, T(F), pp. 13977 and 13978.

used at the time of the incident, namely the absence of military operations,<sup>2648</sup> and the fact that the truck was driving in broad daylight would have allowed the sniper to deduce that it was not intended for use by the ABiH.<sup>2649</sup>

1099. In light of the foregoing, the Chamber finds by majority, with Judge Antonetti dissenting, that in September 1993, Alija Jakupović was indeed shot by an HVO sniper located in the *Centar II* building complex.

## 7. Sniping Incident No. 8

### a) Description of Facts

1100. *Witness DB*<sup>2650</sup> stated before the Chamber that on 29 September 1993<sup>2651</sup> at approximately 1000 or 1100 hours,<sup>2652</sup> Refik Šarić<sup>2653</sup> was shot in the hand by a sniper<sup>2654</sup> while on Brkić Street, located in East Mostar,<sup>2655</sup> approximately 15 m from the fire station.<sup>2656</sup> According to *Witness DB*, Refik Šarić was dressed in civilian clothing.<sup>2657</sup> *Witness DB*, who was inside the fire station, was hit by a bullet in the right shoulder blade as he emerged onto Brkić Street<sup>2658</sup> to come to his assistance. Another bullet passed over his head after he was shot<sup>2659</sup>. The bullet that wounded him entered through his right shoulder blade and exited on the other side.<sup>2660</sup> At the time of the incident, he was dressed in a fire-fighter's uniform, namely dark blue trousers and a light-green shirt with purple sleeves.<sup>2661</sup>

<sup>2648</sup> Elvir Demić, T(F), p. 13971.

<sup>2649</sup> Elvir Demić, T(F), p. 13980.

<sup>2650</sup> Representative victim of paragraph 114 of the Indictment.

<sup>2651</sup> *Witness DB*, T(F), p. 13295, private session.

<sup>2652</sup> *Witness DB*, T(F), p. 13296, private session.

<sup>2653</sup> The Chamber notes that it does not have any evidence about Refik Šarić's function. *Witness DB* simply mentioned that he was present at the fire station as a visitor, *see* P 09858 under seal, p. 3.

<sup>2654</sup> P 09858 under seal, p. 3; P 07775 under seal. Regarding the location of the victim and the impact of the shot *see* P 09140 and P 09139.

<sup>2655</sup> IC 00285; *Witness DB*, T(F), pp. 13314 and 13315, private session.

<sup>2656</sup> P 09858 under seal, p. 3; *Witness DB*, T(F), p. 13296, private session; IC 00284; *Witness DB*, T(F), pp. 13312 and 13313, private session; IC 00286; *Witness DB*, T(F), pp. 13315 and 13316. The East Mostar fire station was located across from the Razvitak building on the road leading to the Tito Bridge, *see* P 10042, para 12.

<sup>2657</sup> P 09858 under seal, p. 3.

<sup>2658</sup> IC 00287; *Witness DB*, T(F), pp. 13316, 13318, 13320, private session; IC 00288; IC 00289; IC 00290; *Witness DB*, T(F), pp. 13321 and 13322, private session.

<sup>2659</sup> P 09858 under seal, p. 3; *Witness DB*, T(F), p. 13296, private session. Regarding the bullet impact to the victim's shoulder and head and his location, *see* P 09140.

<sup>2660</sup> IC 00282; *Witness DB*, T(F), pp. 13299 and 13305-13306, private session; P 09220, p. 16; IC 00283.

<sup>2661</sup> P 09858 under seal, p. 3.



## b) Circumstances and Analysis of the Incident

1101. *Witness DB* told the Chamber that the day of the incident sunny, that visibility was good<sup>2662</sup> and that there was no military activity in the surrounding area.<sup>2663</sup>

1102. However, the witness was unable to state with certainty where the shots came from,<sup>2664</sup> although he did indicate an approximate direction (from Tito Bridge) from the incident site.<sup>2665</sup> *Patrick van der Weijden* estimated that the assumed firing position corresponded to a location at Spanish Square in West Mostar.<sup>2666</sup> He considered that the sniper could be located only at this position since the buildings on either side of Brkić Street (where the victim was shot) formed a tunnel limiting the line of fire to those locations on the same axis as the street itself.<sup>2667</sup> However, *Patrick van der Weijden* specified that the sniper would have been forced to position himself at a high spot on Spanish Square in order to be able to target the location where the victim was.<sup>2668</sup> According to him, the sniper must have been on a 1 m 80-high platform between the trees on the west side of Spanish Square, approximately 625 m from the incident site,<sup>2669</sup> because this position offered not only the best view of the junction formed by Brkić Street and Maršal Tito Street, but also the necessary stability and camouflage.<sup>2670</sup> *Patrick van der Weijden* maintains that it was also possible that the sniper had built a tree house without a roof and dressed in camouflage, which would have allowed him to remain concealed for a longer period of time.<sup>2671</sup> Moreover, he excluded the possibility that the sniper had opened fire from an elevator truck.<sup>2672</sup>

1103. In its Final Trial Brief, the Praljak Defence argues that there was no direct line of sight between the firing position indicated by *Patrick van der Weijden* and the location where the victim was shot.<sup>2673</sup> It argues furthermore that nothing indicates that the platform referred to by the sniping expert existed at the time of the events, and that it was impossible that the sniper was even present

<sup>2662</sup> P 09858 under seal, p. 3.

<sup>2663</sup> P 09858 under seal, p. 3; *Witness DB*, T(F), p. 13296, private session.

<sup>2664</sup> *Witness DB*, T(F), pp. 13302 and 13309, private session; P 09858 under seal, p. 3.

<sup>2665</sup> IC 00281.

<sup>2666</sup> P 09808, p. 26; *Patrick van der Weijden*, T(F), pp. 13801 and 13802, private session.

<sup>2667</sup> P 09808, p. 26; *Patrick van der Weijden*, T(F), p. 13801, private session.

<sup>2668</sup> *Patrick van der Weijden*, T(F), pp. 13799 and 13800, private session, P 09808, p. 26.

<sup>2669</sup> *Patrick van der Weijden*, T(F), p. 13800, private session; *See* photograph of the said platform, P 09808, p. 26 and the view from this position on the incident site, P 09808, p. 27.

<sup>2670</sup> P 09808, pp. 25 and 26.

<sup>2671</sup> *Patrick van der Weijden*, T(F), p. 13802, private session.

<sup>2672</sup> Regarding the possibility that the sniper had positioned himself on the platform of an elevator truck, *Patrick van der Weijden* stated that this type of platform would not provide the stability necessary for shooting, *see* P 09808, p. 26; *Patrick van der Weijden*, T(F), p. 13800, private session; Furthermore, the Chamber notes that in his report *Patrick van der Weijden* indicates that this possibility was suggested to him by "witnesses" and did not provide any further details on this, *see* P 09808, p. 26.

<sup>2673</sup> *Praljak Defence Final Trial Brief*, paras 286 and 294; *See also* *Slobodan Praljak*, T(F), pp. 41926 and 41927.

at Spanish Square, which at the time was a place of fierce combat.<sup>2674</sup> Lastly, *Slobodan Praljak* testified that the HVO armed forces were not holding any positions that would allow them to target the area where the victim of incident No. 8 was shot.<sup>2675</sup>

1104. The Chamber notes that to show that there was no direct line of sight between the alleged position of the sniper and the location where the victim was shot, the Praljak Defence presented several photographs in court, taken from various angles,<sup>2676</sup> to both *Witness DB* and *Patrick van der Weijden*.<sup>2677</sup> The Chamber notes that after all the photographs were shown, *Witness DB* stated that he still had doubts about where the shot that hit him on 29 September 1993 came from.<sup>2678</sup> Nevertheless, the Chamber notes that *Patrick van der Weijden* confirmed that there was a direct line of sight between the platform at Spanish Square where it is alleged the sniper was positioned and the site of the sniping incident.<sup>2679</sup>

1105. Nevertheless, the Chamber considers that *Patrick van der Weijden* did not provide sufficient evidence to suggest that the platform located at Spanish Square was indeed the location of the sniper. He simply testified that he had walked down Brkić Street in the direction of Spanish Square from the location where the victim was shot in order to identify the firing position and that he had "encountered" this platform.<sup>2680</sup> Furthermore, the Chamber does not have any information to support a finding that the said platform existed or did not exist at the time of the events.<sup>2681</sup>

### c) Factual Findings

1106. The Chamber deems the statements of *Witness DB* to be credible and believes that he was indeed targeted by a sniper on 29 September 1993. The fact that he was hit by two distinct shots

<sup>2674</sup> Praljak Defence Final Trial Brief, paras 286 and 294; *See also* Slobodan Praljak, T(F), pp. 41926 and 41927.

<sup>2675</sup> Slobodan Praljak, T(F), p. 41294.

<sup>2676</sup> From Spanish Square or the location where the victim was shot.

<sup>2677</sup> *See* notably photographs IC 00284, IC 00285, IC 00286, IC 00287, IC 00288, IC 00289, IC 00290, IC 00291, IC 00292, IC 00293, IC 00294 and IC 00295, shown by the Praljak Defence to *Witness DB*, T(F), pp. 13311-13312 *et seq.*; *See also* 3D 00844, pp. 9, 11, 17-19, 22-25, 28 shown by the Praljak Defence to *Patrick van der Weijden*, *see* T(F), pp. 16276-16277 *et seq.*

<sup>2678</sup> *Witness DB*, T(F), p. 13328.

<sup>2679</sup> *Patrick van der Weijden* acknowledged that some of the photographs taken from Spanish Square and presented by the Praljak Defence showed locations from where it would have been impossible to shoot at the victim, *see* notably *Patrick van der Weijden*, T(F), pp. 16279, 16280 and 16281. Nevertheless, he specified that the location he designated as the possible location of the sniper did provide a view of the location where the victim was hit, *Patrick van der Weijden*, T(F), pp. 16282 and 16283; *See* the photograph of the platform, P 09808, p. 26 and the view from this position onto the incident site, P 09808, p. 27.

<sup>2680</sup> *Patrick van der Weijden*, T(F), p. 13799, private session.

<sup>2681</sup> Even though the expert witness specified several times in his report that he had investigated as to whether some of the buildings existed at the time of the events, *see*, for example, P 09808, p. 13; Slobodan Praljak pointed out the fact that the expert report did not show that the platform existed at the time of the events, Slobodan Praljak, T(F), p. 41926.

after attempting to come to the assistance of Refik Šarić, himself a sniping victim, reinforces this possibility.<sup>2682</sup>

1107. Nevertheless, there is insufficient evidence to determine the precise location from where the shot that hit *Witness DB* originated. Consequently, the Chamber must review all the possibilities.

1108. The Chamber notes that there is no evidence to indicate that the shot could have originated from Serbian positions or, as set out previously, that the shot could have come from an ABiH sniper. Furthermore, the incident falls within the modus operandi of the HVO which targeted fire fighting units in East Mostar as described in incident no. 4.

1109. In light of the foregoing, the Chamber finds by majority, with Judge Antonetti dissenting, that since *Witness DB* was the victim of a sniping incident that excludes the possibility that the shot could have come from the ABiH and which falls within the modus operandi of the HVO, the sniper shot that hit him could have come only from the HVO.

## 8. Sniping Incident No. 9

### a) Description of Facts

1110. With regard to sniping incident no. 9, the Chamber heard the testimony of *Damir Katica*,<sup>2683</sup> a Muslim inhabitant of Mostar who was 12 years old at the time of the events.<sup>2684</sup> In late September 1993, *Damir Katica*, Neno Mačkić, 14 years old, and Ibrahim Dedović, 13 years old, were walking from *Damir Katica's* house to the shelter where his family had taken refuge from the HVO shelling in the Donja Mahala neighbourhood.<sup>2685</sup> To do so, they had to cross an exposed section of Oručevića Sokak Street, which was approximately 4 m wide<sup>2686</sup> and considered dangerous because people crossing it were targeted by HVO snipers positioned on Stotina hill.<sup>2687</sup> *Damir Katica* specified, moreover, that the view from Stotina on this section was clear and unobstructed.<sup>2688</sup> The inhabitants had to take this road despite its being dangerous and had to do so several times a day because it was practically the only way to get from one part of the Donja Mahala neighbourhood to the other.<sup>2689</sup> *Damir Katica* considered that the HVO snipers deliberately targeted civilians crossing

<sup>2682</sup> P 09858 under seal, p. 3; Witness DB, T(F), p. 13296, private session.

<sup>2683</sup> Representative victim of paragraph 114 of the Indictment.

<sup>2684</sup> P 09861, pp. 2 and 3.

<sup>2685</sup> P 09861, p. 3.

<sup>2686</sup> P 09861, pp. 3 and 4; P 09139, P 09140.

<sup>2687</sup> P 09861, p. 3; *Damir Katica*, T(F), p. 13467; P 09139.

<sup>2688</sup> P 09861, pp. 3 and 4.

<sup>2689</sup> P 09861, p. 3.

the section because there were no military features in the vicinity.<sup>2690</sup> Consequently, people were very careful when forced to take this road and crossed it running.<sup>2691</sup> A sniper warning sign had also been placed at this location.<sup>2692</sup>

1111. When Ibrahim Dedović managed to cross this section at approximately 1430 hours without any shots being fired,<sup>2693</sup> Neno Mačkić and *Damir Katica* followed and attempted to run across it.<sup>2694</sup> Immediately after they started running, one bullet hit Neno Mačkić in the left forearm and *Damir Katica* in the stomach.<sup>2695</sup> A second later, another shot hit Neno Mačkić in the hip and he collapsed to the ground.<sup>2696</sup> While *Damir Katica* was attempting to drag him to a sheltered area, a bullet whistled above his head and immediately after, another bullet grazed his left forearm.<sup>2697</sup> *Damir Katica* then ran to get Neno Mačkić's family to inform them that Neno had been wounded.<sup>2698</sup> When he returned to the site of the incident, he noticed that Neno Mačkić had been moved to a safe location and was receiving treatment.<sup>2699</sup> After running to the infirmary to get the stretcher needed to transport Neno Mačkić, *Damir Katica* noticed that he himself was wounded in the stomach.<sup>2700</sup> The two children were transported to the East Mostar hospital where both underwent surgery.<sup>2701</sup> *Damir Katica* was subsequently transferred to the Dunav war hospital where he remained for approximately a week and then recuperated at home for two months.<sup>2702</sup>

#### b) Circumstances and Analysis of the Incident

1112. At the time of the events, the three children, including *Damir Katica*, were wearing colourful "civilian clothing" and baseball caps.<sup>2703</sup> Visibility was good and there was no sign of military activity in the area.<sup>2704</sup>

1113. *Damir Katica* considered that the shots that hit him and Neno Mačkić came from a house on Stotina hill<sup>2705</sup> controlled by the HVO.<sup>2706</sup> According to him, this possibility is reinforced by his

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<sup>2690</sup> P 09861, p. 3.

<sup>2691</sup> P 09861, p. 3.

<sup>2692</sup> P 09861, p. 3.

<sup>2693</sup> P 09861, p. 3.

<sup>2694</sup> P 09861, p. 4.

<sup>2695</sup> P 09861, p. 4 ; P 09140; P 09220, p. 19 and IC 00331; *Damir Katica*, T(F), pp. 13455-13457.

<sup>2696</sup> P 09861, p. 4.

<sup>2697</sup> P 09861, p. 4 ; *Damir Katica*, T(F), pp. 13455-13457; P 09140; P 09220, p. 18 and IC 00332.

<sup>2698</sup> P 09861, p. 4.

<sup>2699</sup> P 09861, p. 4.

<sup>2700</sup> P 09861, p. 4.

<sup>2701</sup> P 09861, p. 4. The witness specified that before going to the war hospital on Tito Street, he had visited two other infirmaries and was bandaged in one of them.

<sup>2702</sup> P 09861, p. 4; P 05613.

<sup>2703</sup> P 09861, pp. 3 and 4.

<sup>2704</sup> P 09861, p. 3.

position at the moment of the incident and the entry-exit wound he sustained.<sup>2707</sup> Moreover, it was common knowledge that snipers were opening fire from this house.<sup>2708</sup> *Patrick van der Weijden* confirmed this possibility and estimated that the distance between the house on Stotina hill and the incident site was 470 m.<sup>2709</sup>

1114. Regarding the topography of the location, *Damir Katica* specified that the satellite antenna and tree obstructing the view between the location where the incident took place and the house on Stotina hill were much smaller at the time of the events.<sup>2710</sup> According to *Patrick van der Weijden*, the new building obstructing the view did not exist in September 1993 and the shrub that was there was not an obstacle to opening fire from Stotina.<sup>2711</sup> Furthermore, *Patrick van der Weijden* added that the location of the incident had only one visibility corridor ("tunnel view"), which excluded all other firing positions except for Stotina hill.<sup>2712</sup>

1115. Regarding the firing position indicated by *Damir Katica* and *Patrick van der Weijden*, the Praljak Defence submits several points: firstly, it argues that the location of the injury sustained by the victim does not correspond to the direction in which he was running at the moment of the incident.<sup>2713</sup> According to the Praljak Defence, the injuries should, logically, be located on the right side of the body and not the left if the shot came from the house on Stotina hill.<sup>2714</sup> Secondly, it recalls that *Damir Katica* acknowledged that the location where he was shot was visible from Hum mountain and Fortica hill, where the Serbian forces were positioned.<sup>2715</sup> Lastly, it notes that *Damir Katica* noticed that he was wounded only when he arrived at the infirmary several minutes after the incident occurred.<sup>2716</sup>

1116. The Chamber notes that contrary to the statements of *Patrick Van der Weijden*, there were other locations from where it was possible to open fire on the incident site. Nevertheless, although

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<sup>2705</sup> *Damir Katica*, T(F), pp. 13459-13461, 13463, 13464, 13467 and 13484; IC 00334, IC 00335 and IC 00337; IC 00336.

<sup>2706</sup> *Damir Katica*, T(F), p. 13469.

<sup>2707</sup> *Damir Katica*, T(F), pp. 13475 and 13490.

<sup>2708</sup> *Damir Katica*, T(F), p. 13467; IC 00418.

<sup>2709</sup> P 09808, pp. 28 and 29; *Patrick van der Weijden*, T(F), pp. 13787 and 13788.

<sup>2710</sup> P 09140; P 09139.

<sup>2711</sup> P 09808, p. 29.

<sup>2712</sup> P 09808, p. 29; *Patrick van der Weijden*, T(F), p. 13787.

<sup>2713</sup> Praljak Defence Final Trial Brief, para. 295.

<sup>2714</sup> Praljak Defence Final Trial Brief, para. 295.

<sup>2715</sup> Praljak Defence Final Trial Brief, para. 295; *See also Damir Katica*, T(F), p. 13496. The Chamber notes that Witness DC testified in relation to an event in March 1994 that Fortica hill was not occupied by either the Serbian forces, the ABiH, or the HVO armed forces, *see Witness DC*, T(F), p. 13600, private session. Nevertheless, the Chamber notes that under cross-examination, the same witness went back on his statement and said that the Serbian armed forces did in fact control Fortica hill whereas the ABiH was in Podveležje, pp. 13635 and 16636, private session.

<sup>2716</sup> Praljak Defence Final Trial Brief, para. 295; *See also Damir Katica*, T(F), p. 13489.

the location where *Damir Katica* was shot was indeed visible from Hum mountain and Fortica hill, this does not exclude the possibility that the shot could have come from Stotina hill and wounded *Damir Katica* on his left side.<sup>2717</sup> In the video admitted into evidence, *Damir Katica* indicated his exact position when he was shot.<sup>2718</sup> He was facing the firing position, which supports the finding that he could have been wounded on the left side<sup>2719</sup> from the direction of Stotina hill. With regard to the fact that the witness realised he was wounded only when he reached the infirmary, the Chamber notes that the said infirmary was located in the vicinity of the incident site and that *Damir Katica* testified that he had felt a burning sensation while he was at the incident site.<sup>2720</sup>

1117. The Chamber considers that there is sufficient evidence to support a finding that the shot could have originated from Stotina hill judging by the victim's injury. Furthermore, the Chamber finds that statements of *Damir Katica* are reliable<sup>2721</sup> and that he was, indeed, shot at the same time as Neno Mačkić even though he did not become aware of his injury until later.

1118. *Patrick van der Weijden* considers that the range of the shot and the nature of injury sustained by the victim suggest that sniper-suitable calibres such as 7,62x51 mm, 7,62x54R mm or 7,92 mm Mauser rounds were used.<sup>2722</sup>

1119. *Patrick van der Weijden* also states that the sniper had little time in which to identify his targets because the open section they had to cross was short<sup>2723</sup> and the location had many houses and roofs.<sup>2724</sup> In light of these circumstances, *Patrick van der Weijden* concluded that it was very difficult for the sniper to "identify" the victims of the incident,<sup>2725</sup> although he acknowledges that it is easier to identify children than adults.<sup>2726</sup> Nevertheless, he added that if several people were crossing an incident site one after the other, it is possible for the sniper to identify the last people to cross and target them.<sup>2727</sup>

1120. Moreover, if the sniper knew that people were crossing the incident site, he could have waited for the first movement and then, from the first movement on, could have deliberately fired in

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<sup>2717</sup> For the location of the injury on *Damir Katica*'s stomach, see IC 00331.

<sup>2718</sup> See P 09140.

<sup>2719</sup> The Praljak Defence submits that the victim was running perpendicular to the shot with Stotina hill to his right. For an idea of the direction in which the victim was running, see P 09808, p. 28. The witness specified that while crossing this section, his left side was turned towards the location from where the shot came, see *Damir Katica*, T(F), p. 13490.

<sup>2720</sup> *Damir Katica*, T(F), pp. 13488 and 13489.

<sup>2721</sup> Representative victim of paragraph 114 of the Indictment.

<sup>2722</sup> P 09808, p. 28.

<sup>2723</sup> P 09808, p. 29; *Patrick van der Weijden*, T(F), pp. 13787 and 13788.

<sup>2724</sup> *Patrick van der Weijden*, T(F), p. 13788.

<sup>2725</sup> *Patrick van der Weijden*, T(F), p. 13788.

<sup>2726</sup> P 09808, p. 28.

<sup>2727</sup> *Patrick van der Weijden*, T(F), p. 13788.

that direction in the hope of hitting his target.<sup>2728</sup> In this case, the success rate of the shot is minimal due to the movement of the victim.<sup>2729</sup> *Patrick van der Weijden* specified that the sniper had probably "anticipated" the movement of the target and opened fire even before the target was in the open.<sup>2730</sup>

### c) Factual Findings

1121. The Chamber deems the statements of *Damir Katica* to be reliable and that he and Neno Mačkić were indeed targeted by a sniper in later September 1993. The section of the street they used was generally known to be dangerous because of snipers, so much so that a warning sign had been put up to alert people to be careful when crossing;<sup>2731</sup> the two victims were targeted by distinct shots, which supports the possibility that they were targeted by a sniper. Lastly, *Patrick van der Weijden* confirmed that the type of injury inflicted and the distance from the firing position suggest that sniper ammunition was used.<sup>2732</sup>

1122. The Chamber furthermore finds by majority, with Judge Antonetti dissenting, that the sniper was positioned on Stotina hill, notably due to the position of *Damir Katica* at the moment of the incident and the injury he sustained. As shown previously, the Chamber recalls that in late September 1993, Stotina hill was controlled by the HVO armed forces.<sup>2733</sup>

1123. The Chamber notes lastly that the victims of incident no. 9 were wearing ordinary clothing and that the weather was clear at the moment of the events. *Patrick van der Weijden* stated that, due to the configuration of the terrain, the sniper did not have an opportunity to identify his targets precisely. Nevertheless, he added that it was easy to differentiate children from adults.<sup>2734</sup>

1124. Consequently, the Chamber finds by majority, with Judge Antonetti dissenting, that in late September 1993, *Damir Katica* and Neno Mačkić were targeted by a sniper of the HVO armed forces positioned on Stotina hill.

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<sup>2728</sup> *Patrick van der Weijden*, T(F), p. 13829.

<sup>2729</sup> *Patrick van der Weijden*, T(F), p. 13829. *Patrick van der Weijden* estimated that under these circumstances, the sniper had a 10 % chance of hitting his target, *Patrick van der Weijden*, T(F), p. 13830.

<sup>2730</sup> *Patrick van der Weijden*, T(F), p. 16262. The method of "anticipated" shooting would explain how the sniper had hit his target, even though the target was far away and in a narrow alley, *see* on this subject *Slobodan Praljak*, T(F), pp. 41928 and 41929.

<sup>2731</sup> P 09861, p. 3.

<sup>2732</sup> P 09808, p. 28.

<sup>2733</sup> *See* "Evidence Regarding Positions of HVO Snipers in Mostar" in the Chamber's factual findings with regard to the Municipality of Mostar.

<sup>2734</sup> P 09808, p. 29.

9. Sniping Incident No. 10

## a) Description of Facts

1125. Regarding sniping incident no. 10, the Chamber notably heard the testimony of *Munib Klarić*,<sup>2735</sup> a Muslim inhabitant of East Mostar.<sup>2736</sup> He stated that on 10 October 1993, he had decided to go to the Neretva to stock up on water.<sup>2737</sup> He chose to go there at a time when the shooting had stopped for approximately 30 minutes.<sup>2738</sup> For approximately 20 minutes, *Munib Klarić* made several trips<sup>2739</sup> between his house in the Tekija area in East Mostar<sup>2740</sup> and a location approximately 250 or 300 m from his house<sup>2741</sup> called Podharemi, in the Mejdan neighbourhood.<sup>2742</sup> The purpose of the trips was to fill a jerry can with water using a canister.<sup>2743</sup> At approximately 1320 hours,<sup>2744</sup> when he was on his last trip<sup>2745</sup> and was in front of the steps at the end of Kusalova Street<sup>2746</sup> with his back to the Neretva and Stotina hill,<sup>2747</sup> he was shot in the left heel.<sup>2748</sup> The bullet entered the right side of his heel and exited on the left.<sup>2749</sup> He took shelter at the bottom of the steps, between the houses in the aforementioned street.<sup>2750</sup> According to *Munib Klarić*, only a single shot was fired.<sup>2751</sup>

1126. *Munib Klarić* spent six or seven days at the East Mostar Hospital and had to have surgery on his heel.<sup>2752</sup>

## b) Circumstances and Analysis of the Incident

1127. *Munib Klarić* suggested that the shot that wounded him came from Stotina hill,<sup>2753</sup> notably because of the position of his entry-exit wound.<sup>2754</sup> Furthermore, he knew that snipers were

<sup>2735</sup> Representative victim of paragraph 114 of the Indictment.

<sup>2736</sup> P 09862, pp. 1 and 2; *Munib Klarić*, T(F), p. 13506.

<sup>2737</sup> *Munib Klarić*, T(F), pp. 13560-13561 and T(E) p. 13561; P 09862, p. 2; *Munib Klarić*, T(F), p. 13508.

<sup>2738</sup> P 09862, p. 2; *Munib Klarić*, T(F), p. 13509.

<sup>2739</sup> *Munib Klarić*, T(F), pp. 13560-13561 and T(E), p. 13561; IC 00349.

<sup>2740</sup> P 09862, p. 2; *Munib Klarić*, T(F), p. 13506.

<sup>2741</sup> *Munib Klarić*, T(F), pp. 13508 and 13560; IC 00338.

<sup>2742</sup> P 09862, p. 2; *Munib Klarić*, T(F), pp. 13508, 13511, 13539 and 13564; IC 00338; IC 00341; IC 00342; IC 00347; P 09139; P 09140.

<sup>2743</sup> *Munib Klarić*, T(F), pp. 13560-13561 and T(E), p. 13561.

<sup>2744</sup> P 09862, p. 2; *Munib Klarić*, T(F), p. 13508.

<sup>2745</sup> *Munib Klarić*, T(F), pp. 13560-13561 and T(E), p. 13561.

<sup>2746</sup> P 09862, p. 2; *Munib Klarić*, T(F), pp. 13508, 13511, 13539 and 13564; IC 00338; IC 00341; IC 00347; P 09139; P 09140.

<sup>2747</sup> *Munib Klarić*, T(F), pp. 13526-13527 and T(E), p. 13528; IC 09140.

<sup>2748</sup> P 09862, p. 2 ; *Munib Klarić*, T(F), pp. 13508 and 13548; P 09220 and IC 00339; P 09140.

<sup>2749</sup> P 09862, p. 2 ; *Munib Klarić*, T(F), pp. 13508 and 13548; P 09220 and IC 00339; P 09140.

<sup>2750</sup> *Munib Klarić*, T(F), p. 13530.

<sup>2751</sup> P 09862, p. 2.

<sup>2752</sup> P 09862, p. 3; P 06316.



positioned on Stotina hill, that the location offered a clear view of the place he was wounded and that the hill was closer to the said location than Hum mountain.<sup>2755</sup> *Patrick van der Weijden* confirmed the *Munib Klarić*'s suggestion specifying that the assumed position of the sniper was most likely Stotina hill, 449 m from where the victim was standing at the time of the events.<sup>2756</sup>

1128. The Praljak Defence alleges that conclusions about the bullet trajectory can be drawn on the basis of the injury sustained by *Munib Klarić*. According to the Praljak Defence, the witness was shot in the heel and the bullet exited through the sole of his foot.<sup>2757</sup> During the cross-examination of *Patrick van der Weijden*, the Praljak Defence argued that due to the form of the injury, the shot could not have come from Stotina hill.<sup>2758</sup> During the same cross-examination, it reminded *Patrick van der Weijden* that during his testimony *Munib Klarić* stated that the entry-exit lesion caused by the bullet formed a vertical wound.<sup>2759</sup> *Patrick van der Weijden* then admitted, based on this reminder, that it was impossible for the shot to have come from Stotina.<sup>2760</sup>

1129. The Chamber notes, however, that *Munib Klarić* stated that the bullet passed through his left heel from right to left,<sup>2761</sup> and not vertically as claimed by the Praljak Defence during the testimony of *Patrick Van der Weijden*. Consequently, the Chamber might find that the shot came from Stotina hill.

1130. Nevertheless, three factors prevent precise findings as to where the shot originated from based on the injury sustained by the victim: firstly, *Munib Klarić* stated that he underwent two heel operations, one following the shot and the other after a fall.<sup>2762</sup> Consequently, the appearance of the wound could have changed. *Munib Klarić* then testified that he could not indicate on his wound where the bullet entry and exit points were.<sup>2763</sup> Thirdly, *Patrick van der Weijden* indicated that the

<sup>2753</sup> P 09862, p. 3; *Munib Klarić*, T(F), pp.13519, 13527 and 13554; IC 00338 and IC 00343; IC 00341; IC 00344; IC 00345; IC 00346.

<sup>2754</sup> *Munib Klarić*, T(F), pp. 13526, 13527 and 13548.

<sup>2755</sup> P 09862, p. 3.

<sup>2756</sup> P 09808, pp. 30 and 31; *Patrick van der Weijden*, T(F), pp. 13789 and 13790.

<sup>2757</sup> Praljak Defence Final Trial Brief, para. 296. The Chamber notes that the Praljak Defence did not provide any source to support this allegation.

<sup>2758</sup> See *Patrick van der Weijden*, T(F), pp. 16291-16293; see also Slobodan Praljak's analysis of the incident, Slobodan Praljak, T(F), pp. 41929 and 41930.

<sup>2759</sup> See *Patrick van der Weijden*, T(F), pp. 16292 and 16293. The Chamber notes that the Praljak Defence did not provide any source to support the allegation during the cross-examination of *Patrick van der Weijden*.

<sup>2760</sup> *Patrick van der Weijden*, T(F), p. 16293.

<sup>2761</sup> *Munib Klarić*, T(F), p. 13515.

<sup>2762</sup> *Munib Klarić*, T(F), p. 13515.

<sup>2763</sup> *Munib Klarić*, T(E), p. 13518.

heel has many bones and that it is therefore difficult to determine the entry and exit points of a projectile when a person is shot in there.<sup>2764</sup>

1131. Consequently, the Chamber considers that based only on the wound, it is impossible in this specific case to determine the bullet trajectory and the origin of the shot.

1132. Furthermore, the Chamber notes that *Munib Klarić's* statements varied as to the position of the sniper who opened fire on him: although at first he mentioned the possibility that the sniper was positioned on Stotina hill,<sup>2765</sup> he later went back on his statement during his testimony, claiming that he did not know where the bullet came from or the angle at which it hit him.<sup>2766</sup> He also stated that "there could have been a sniper near any of the houses, not just in one of the houses",<sup>2767</sup> while at the same time stating that the bullet came from Stotina hill.<sup>2768</sup> The Chamber notes, furthermore, that at the time of the events, *Munib Klarić* had his back to the said hill<sup>2769</sup> and did not hear the shot that hit him.<sup>2770</sup>

#### c) Factual Findings

1133. The Chamber considers the statements of *Munib Klarić* to be reliable and that he was, indeed, shot by a sniper on 10 October 1993 while fetching water from the Neretva. Regarding this, the Chamber notes that *Munib Klarić's* hospital discharge letter mentions that he was the victim of a sniper.<sup>2771</sup>

1134. Nevertheless, bearing in mind the lack of precision about the sniper's location, the Chamber must consider the possibility that the shot could have come from positions other than those held by the HVO.

1135. The Chamber finds by majority, with Judge Antonetti dissenting, that there is no evidence to indicate that the location of the incident was within the range of the Serbian forces. Furthermore, assuming that the location was within the range of possible ABiH snipers, finding that they were responsible for the shot would mean that they were aiming and firing at an inhabitant of East Mostar. However, as already mentioned in the analyses of previous incidents, no evidence was presented by the parties to show that the ABiH ever knowingly opened fire on the inhabitants of

<sup>2764</sup> Patrick van der Weijden, T(F), p. 16292.

<sup>2765</sup> Munib Klarić, T(F), p. 13519.

<sup>2766</sup> Munib Klarić, T(F), p. 13546.

<sup>2767</sup> Munib Klarić, T(F), p. 13524.

<sup>2768</sup> See notably Munib Klarić, T(F), pp. 13526, 13527 and 13554.

<sup>2769</sup> Munib Klarić, T(F), pp. 13526-13527 and T(E), p. 13528; P 09140; IC 00348.

<sup>2770</sup> P 09862, p. 2; Munib Klarić, T(F), p. 13560.

East Mostar. Considering these facts, the Chamber is able to dismiss the possibility that *Munib Klarić* could have been the victim of a shot originating from ABiH positions.

1136. Therefore, the Chamber finds by majority, with Judge Antonetti dissenting, that since *Munib Klarić* was the victim of a sniping incident that excludes the possibility that the shot came from ABiH or Serbian forces, the sniper shot which hit *Munib Klarić* could have come only from the HVO.

## 10. Sniping Incident No. 11

### a) Description of Facts

1137. The Chamber heard the testimony of *Džemal Baraković*, a Muslim inhabitant of East Mostar and a driver for the East Mostar fire brigade as of late August 1993.<sup>2772</sup> On the morning<sup>2773</sup> of 30 October 1993,<sup>2774</sup> *Džemal Baraković* went to Ale Ćišića Street after his wife told him that one of their women neighbours had been wounded<sup>2775</sup> by a sniper.<sup>2776</sup> While searching for the neighbour, he saw Enver Džih<sup>2777</sup> and Ibro Špago lying on the ground and trying to take shelter behind a library on Maršal Tito Street.<sup>2778</sup> Enver Džih<sup>2778</sup> had been wounded by a sniper and Ibro Špago was attempting to help him.<sup>2779</sup> According to *Džemal Baraković*, Enver Džih<sup>2779</sup> was an ABiH soldier but was not on duty at the time of the events and was dressed in a military shirt and "civilian" trousers.<sup>2780</sup> A few moments after he noticed them, *Džemal Baraković* saw an ambulance and two men with a stretcher arrive at the scene.<sup>2781</sup> One of the men was Stojan Kačić,<sup>2782</sup> aka "Blanja",<sup>2783</sup> an ABiH soldier<sup>2784</sup> dressed in "camouflage trousers" and a "civilian shirt".<sup>2785</sup> Ibro Špago, who was carrying the front end of the stretcher, and Stojan Kačić,<sup>2786</sup> who was carrying the bottom end,

<sup>2771</sup> P 06316.

<sup>2772</sup> P 09855, p. 2.

<sup>2773</sup> *Džemal Baraković*, T(F), p. 13915.

<sup>2774</sup> *Džemal Baraković*, T(F), p. 13909; P 06263; P 08457; P 05853.

<sup>2775</sup> P 09855, p. 3.

<sup>2776</sup> The Chamber notes that *Džemal Baraković* did not witness the shooting of his neighbour but met her a few days later. That was when she told him that her head had been grazed by a sniper bullet, see P 09855, p. 4; See also *Džemal Baraković*, T(F), p. 13924.

<sup>2777</sup> Representative victim of paragraph 114 of the Indictment.

<sup>2778</sup> P 09855, p. 3; *Džemal Baraković*, T(F), p. 13912; IC 00389; P 09140.

<sup>2779</sup> P 09855, p. 3; *Džemal Baraković*, T(F), p. 13899; P 06263; P 08457.

<sup>2780</sup> P 09855, p. 3; *Džemal Baraković*, T(F), pp. 13914 and 13918.

<sup>2781</sup> P 09855, p. 3.

<sup>2782</sup> Representative victim of paragraph 114 of the Indictment.

<sup>2783</sup> P 09855, p. 3.

<sup>2784</sup> *Džemal Baraković*, T(F), p. 13918.

<sup>2785</sup> P 09855, p. 4; *Džemal Baraković*, T(F), p. 13917.

<sup>2786</sup> Representative victim of paragraph 114 of the Indictment.

transported Enver Džiho towards Braće Lakišića Street.<sup>2787</sup> *Džemal Baraković* noticed that at the moment when the "stretcher-carriers" were climbing up the second flight of stairs leading to this street, *Stojan Kačić*<sup>2788</sup> was shot in the leg.<sup>2789</sup> Subsequently, each of them was able to take shelter.<sup>2790</sup>

#### b) Circumstances and Analysis of the Incident

1138. The Chamber notes that the Prosecution listed both *Stojan Kačić* and *Enver Džiho* as victims of incident no. 11.<sup>2791</sup>

1139. The Chamber notes that according to *Džemal Baraković*, visibility was good on 30 October 1993,<sup>2792</sup> and that there were no military operations or military bases in the zone where the incident occurred,<sup>2793</sup> although there were a few soldiers on leave who were present.<sup>2794</sup>

1140. *Džemal Baraković* also suggested the possibility that the shot that wounded *Stojan Kačić* came from the Glass Bank since the incident site, namely the second flight of stairs leading to Braće Lakišića Street was in the line of sight of that building.<sup>2795</sup> Furthermore, this witness also claims that the Glass Bank was higher than the buildings around it and therefore offered better visibility and increased protection to the snipers.<sup>2796</sup> *Patrick van der Weijden* acknowledged that in this case, several "skyscraper" buildings in Mostar were potential and plausible sniper locations, notably the Glass Bank which was approximately 743 m from the incident site.<sup>2797</sup> Although this is a considerable distance, *Patrick Van der Weijden* claims that a skilled and well-equipped sniper would be able to hit a target as far away as this.<sup>2798</sup>

1141. *Patrick van der Weijden* also affirms that the range of the shot and the nature of injury sustained by the victim suggests that sniper-suitable calibres such as 7,62x51 mm, 7,62x54R mm or 7,92 mm Mauser rounds were used.<sup>2799</sup>

<sup>2787</sup> P 09855, p. 3; *Džemal Baraković*, T(E), pp. 13903 and 13912; P 09140.

<sup>2788</sup> Representative victim of paragraph 114 of the Indictment.

<sup>2789</sup> P 09855, p. 4; *Džemal Baraković*, T(F), pp. 13903, 13911, 13926 and T(E), p. 13912; IC 00389; P 09140; P 05853.

<sup>2790</sup> P 09855, p. 4.

<sup>2791</sup> See, confidential Annex to the Indictment, p. 14.

<sup>2792</sup> P 09855, p. 3; *Džemal Baraković*, T(F), p. 13913.

<sup>2793</sup> P 09855, p. 4.

<sup>2794</sup> P 09855, p. 4.

<sup>2795</sup> P 09855, p. 3 and IC 00390, P 09139.

<sup>2796</sup> *Džemal Baraković*, T(F), p. 13906.

<sup>2797</sup> P 09808, pp. 32 and 33; *Patrick van der Weijden*, T(F), p. 13805.

<sup>2798</sup> P 09808, p. 33.

<sup>2799</sup> P 09808, p. 32.

1142. The Praljak Defence submits that the location where the victims were shot was not visible from the Vic, specifically not from the Glass Bank.<sup>2800</sup> It added that the two victims were wearing military clothing and could have been considered ABiH soldiers at the time of the events.<sup>2801</sup> Lastly, it recalled the statement of *Džemal Baraković* that in Mostar "everybody could shoot at everybody else".<sup>2802</sup>

1143. The Chamber notes that although *Džemal Baraković* stated that, generally, it was possible to open fire from all elevations in the town,<sup>2803</sup> he marked a photograph taken from the location where the victims were shot and indicated the Glass Bank.<sup>2804</sup> Furthermore, *Patrick van der Weijden* also acknowledged that this building was visible from the incident site.<sup>2805</sup> The Chamber therefore considers that the first argument of the Praljak Defence that the location where the victims were shot was not visible from the Vic is without merit.

1144. Regarding the clothing worn by the two victims, the Chamber notes that they were, in fact, partially dressed in military clothes, with Enver Džihović wearing a military shirt<sup>2806</sup> and Stojan Kačić camouflage trousers.<sup>2807</sup> The Chamber also notes that these two people were members of the ABiH although they were not on duty at the time they were shot.<sup>2808</sup>

1145. Nevertheless, the Chamber notes that although Enver Džihović and Stojan Kačić were ABiH members at the time of the events, it was obvious to the sniper that Stojan Kačić was performing a medical evacuation and that Enver Džihović had been wounded. The Chamber deems therefore that Stojan Kačić could have been identified as a soldier attempting an "evacuation operation".

1146. Regarding the origin of the shot, the Chamber notes that *Džemal Baraković* stated that it was indeed possible for the shots to have come not only from the Glass Bank but also from any elevation in the town.<sup>2809</sup> He identified other tall buildings visible from Stojan Kačić's location when he was wounded, such as the *Bristol* hotel or the *Borovo* building,<sup>2810</sup> both controlled by the

<sup>2800</sup> Praljak Defence Final Trial Brief, para. 297.

<sup>2801</sup> Praljak Defence Final Trial Brief, para. 297.

<sup>2802</sup> Praljak Defence Final Trial Brief, para. 297.

<sup>2803</sup> *Džemal Baraković*, T(F), pp. 13922 and 13923.

<sup>2804</sup> IC 000392; *Džemal Baraković*, T(F), p. 13921.

<sup>2805</sup> P 09808, p. 33 and the photograph taken from the incident site.

<sup>2806</sup> P 09855, p. 3; *Džemal Baraković*, T(F), pp. 13914 and 13918.

<sup>2807</sup> *Džemal Baraković*, T(F), p. 13917.

<sup>2808</sup> P 09855, p. 3; *Džemal Baraković*, T(F), pp. 13914 and 13918.

<sup>2809</sup> *Džemal Baraković*, T(F), pp. 13922 and 13923.

<sup>2810</sup> IC 00392. Numbers 1 and 2 respectively indicate the *Borovo* building and the *Bristol* hotel; See also IC 00391. Numbers 1 and 2 respectively refer to the "Bank building" and the *Bristol* hotel.

ABiH at the time of the events.<sup>2811</sup> *Patrick van den Weijden* also stated that "the shooter must have been somewhere in the view that I've shown in the photo".<sup>2812</sup>

1147. In light of the foregoing, the Chamber cannot find that the shot that hit Stojan Kačić had indeed come from the Glass Bank since both *Džemal Baraković* and *Patrick van der Weijden* testified that the sniper could have been positioned at any number of elevations with a direct line of sight to where the incident took place.

#### c) Factual Findings

1148. The Chamber notes that neither *Patrick van der Weijden* nor *Džemal Baraković*, who arrived when Enver Džihó had already been wounded and was lying on the ground,<sup>2813</sup> provided evidence on whether Enver Džihó had been shot by a sniper.<sup>2814</sup> Nevertheless, the Chamber reviewed documents P 06263, P 08457 and P 05853, which support the finding that Enver Džihó was indeed targeted by a sniper on 30 October 1993.<sup>2815</sup>

1149. Furthermore, the Chamber considers that the circumstances under which Stojan Kačić was wounded suggest that he was also targeted by a sniper since there was no fighting in the zone at the time of the events,<sup>2816</sup> Stojan Kačić was shot while helping Enver Džihó, himself the victim of a sniper. The proximity of the events supports the Chamber's finding that Stojan Kačić was the victim of the "same type of attack" as Enver Džihó.

1150. No evidence indicates that the location where the victims were shot was within range of the Serbian forces. Furthermore, as the victims were clearly in East Mostar at the time of the incident, the Chamber can exclude, for the same reasons set out for incident no. 6, the possibility that the shot came from an ABiH sniper knowingly firing on the Muslim population in this section of the town.<sup>2817</sup>

1151. In light of the foregoing, the Chamber finds by majority, with Judge Antonetti dissenting, that although the exact location of the sniper cannot be specified, he could have been located only in positions held by the HVO and that, consequently, the sniper belonged to these armed forces.

<sup>2811</sup> *Džemal Baraković*, T(F), p. 13921.

<sup>2812</sup> *Patrick van der Weijden*, T(E), p. 13805. The witness refers here to the photograph attached to document P 09808, p. 33.

<sup>2813</sup> *Džemal Baraković*, T(F), pp. 13899 and 13900.

<sup>2814</sup> On this subject, the Prosecution explained that although Enver Džihó and Stojan Kačić experienced the same incident, it chose to focus on the case of Stojan Kačić, see *Džemal Baraković*, T(F), pp. 13899 to 13902.

<sup>2815</sup> P 06263, P 08457; P 05853.

<sup>2816</sup> P 09855, p. 4.

<sup>2817</sup> See "Sniping Incident no. 6" in the Chamber's factual findings with regard to the Municipality of Mostar.

11. Sniping Incident No. 13

## a) Description of Facts

1152. The Chamber heard the testimony of *Belkisa Beriša*, the mother of the victim and a Muslim inhabitant of the Tekija neighbourhood in East Mostar as of September 1993,<sup>2818</sup> and reviewed the statement of *Sabajra Gaš*, a nurse and an inhabitant of the same neighbourhood.<sup>2819</sup> *Patrick van der Weijden* also contributed his sniping expertise to this case.

1153. *Belkisa Beriša* lived with her family in the Tekija neighbourhood in East Mostar, in a "U-shaped" apartment complex facing West Mostar.<sup>2820</sup> The position of the buildings and the fact that it was common knowledge that the HVO had positioned snipers on Stotina hill<sup>2821</sup> meant that the inhabitants of the neighbourhood had to be careful when moving around building entrances.<sup>2822</sup>

1154. According to *Belkisa Beriša*, on 2 February 1994, around 1300 hours, her son Orhan Beriša,<sup>2823</sup> 8 years old, was shot by a sniper.<sup>2824</sup> She heard directly from Hana Batlak, an eyewitness to the incident, that at the time of the events, Orhan Beriša was running outside between the entrance of the building inside of which he was playing (point A) and the stairs that led to the basement of his building (point B);<sup>2825</sup> the distance between the two locations was approximately 10 m.<sup>2826</sup> He was shot in the back<sup>2827</sup> while near the building where his family's apartment was located<sup>2828</sup> and then crawled to safety after being hit.<sup>2829</sup> *Sabajra Gaš*, a nurse by profession,<sup>2830</sup> stated that on that day after 0900 hours<sup>2831</sup> while she was at her house in the Tekija neighbourhood (Put Za Opine Street, no. 21), she was called to help Orhan Beriša, who had been wounded and was lying on his back behind the building.<sup>2832</sup> When she got to the child, who was already unconscious,

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<sup>2818</sup> P 09856, p. 2.

<sup>2819</sup> P 10045, para. 2.

<sup>2820</sup> *Belkisa Beriša*, T(F), p. 13941.

<sup>2821</sup> P 09856, p. 2; *Belkisa Beriša*, T(F), p. 13938, P 10045; para. 3.

<sup>2822</sup> P 09856, p. 2; *Belkisa Beriša*, T(F), p. 13938.

<sup>2823</sup> Representative victim of paragraph 114 of the Indictment; P 09046 and *Belkisa Beriša*, T(F), p. 13948.

<sup>2824</sup> P 09856, p. 3. The date of 2 February 1994 is also confirmed by exhibit P 05853, p. 198.

<sup>2825</sup> *Belkisa Beriša*, T(F), pp.13938, 13940 and 13944-13947; P 09139; IC 00393; IC 00395.

<sup>2826</sup> P 09856, p. 4; P 09140.

<sup>2827</sup> P 10045, p. 2.

<sup>2828</sup> *Belkisa Beriša*, T(F), pp.13938-13940 and 13944-13947; P 09139; IC 00393; IC 00395.

<sup>2829</sup> P 10045, p. 2; IC 00394.

<sup>2830</sup> P 10045, p. 2.

<sup>2831</sup> P 10045, p. 2. The witness specified that she did not remember the exact time when she had helped the victim, but that she had finished her nursing shift at around 0900 hours.

<sup>2832</sup> Orhan Beriša was shot in front of his building and crawled to safety, which explains why *Sabajra Gaš* had found him behind the building, *see* P 10045, p. 2.

another nurse, Sanela Avdović, was taking care of him.<sup>2833</sup> She noticed blood coming from the lower part of Orhan Beriša's stomach and later learnt that he had been shot in the back.<sup>2834</sup>

1155. While *Sabajra Gaš* was taking care of Orhan Beriša, a civilian vehicle arrived at the incident site.<sup>2835</sup> The child was taken to the East Mostar hospital.<sup>2836</sup> Orhan Beriša died at the hospital<sup>2837</sup> as a result of his wounds shortly after being admitted.<sup>2838</sup> *Belkisa Beriša* heard directly from a "midwife"<sup>2839</sup> who had taken her son to the hospital that the entry wound was small and located on his back, while the exit wound, located on his chest, was much bigger.<sup>2840</sup>

#### b) Circumstances and Analysis of the Incident

1156. *Belkisa Beriša* and *Sabajra Gaš* both agreed that the sniper responsible for killing Orhan Beriša was positioned on Stotina hill, which the building complex faced.<sup>2841</sup> *Patrick van der Weijden* stated that this was a valid assumption and specified that the most likely firing position, a house built on the hill, was 553 m from the incident site.<sup>2842</sup> He pointed out this house because it offered protection from the low winter temperatures (the incident occurred on 2 February 1994) and was within a reasonable range for the majority of the calibres used by snipers.<sup>2843</sup> According to *Patrick van der Weijden*, the range of the shot and the nature of the wound inflicted during the incident suggest that sniper-suitable calibres like 7,62x51 mm, 7,62x54R mm or 7,92 mm Mauser rounds were used.<sup>2844</sup> Lastly, the specific shape of the buildings ("U"-shape) in front of which the child was shot offered only one visibility corridor ("tunnel view") onto Stotina hill or onto a firing position in the vicinity of this location.<sup>2845</sup>

1157. The Chamber notes that although the "witnesses"<sup>2846</sup> who met with *Patrick van der Weijden* and were cited in his expert report indicated that the shot could have come from the ridge on Hum mountain 800 m from the incident site, he excluded this possibility for the following reasons: 1) the

<sup>2833</sup> P 10045, p. 3.

<sup>2834</sup> P 10045, pp. 2 and 3. The Chamber notes that *Sabajra Gaš* stated that she did not remember who told her that the victim had been shot in the back. The Chamber notes that the records from the Mostar Institute of Hygiene confirm that Orhan Beriša was admitted on 2 February 1994 at 1430 hours, *see* P 05853, p. 198.

<sup>2835</sup> P 10045, p.3.

<sup>2836</sup> P 10045, p.3; P 09856, p. 3.

<sup>2837</sup> P 08501, P 09132; P 10045, p. 2.

<sup>2838</sup> P 09856, p. 3.

<sup>2839</sup> The Chamber notes that the witness did not specify here the identity of the "midwife".

<sup>2840</sup> P 09856, p. 3.

<sup>2841</sup> *Belkisa Beriša*, T(F), pp. 13940, 13941, 13946 and 13947 ; IC 00393 ; IC 00396; P 09139; P 10045, p. 2.

<sup>2842</sup> P 09808, p. 36; *Patrick van der Weijden*, T(F), p. 13791.

<sup>2843</sup> P 09808, p. 36; *Patrick van der Weijden*, T(F), p. 13791.

<sup>2844</sup> P 09808, p. 35.

<sup>2845</sup> P 09808, p. 36.

<sup>2846</sup> P 09808, p. 36. The Chamber notes that *Patrick van der Weijden* did not specify the identity of the "witnesses".



too great a distance from the incident site and the mountain, and 2) the fact that the sniper would have been exposed if he was located at this position and 3) the incline of the slope.<sup>2847</sup>

1158. Regarding the topography of the location, although the view between the incident site and the house on Stotina where the sniper was potentially positioned when he opened fire is blocked by new buildings constructed after 1993, the view was clear at the time of the events.<sup>2848</sup>

1159. During the cross-examination of *Patrick van der Weijden*, Slobodan Praljak alleged that some of the buildings which today block the direct view from Stotina hill onto the location where Orhan Beriša was shot in fact existed at the time of the incident.<sup>2849</sup> However, the Chamber notes that Slobodan Praljak did not provide any documents or evidence to support this claim and, consequently cannot consider this allegation correct.

### c) Factual Findings

1160. The Chamber deems credible the statements of *Belkisa Beriša* and *Sabajra Gaš* according to which Orhan Beriša was killed by a sniper on 2 February 1994 while in the vicinity of his home. Although *Belkisa Beriša* and *Sabajra Gaš* were not eyewitnesses to the shooting, several factors support the Chamber's finding that the victim was indeed shot by a sniper. It appears that the zone where the victim lived was targeted "day and night" by snipers,<sup>2850</sup> and it was common knowledge that the snipers were positioned on Stotina hill.<sup>2851</sup> Furthermore, the fact that Orhan Beriša was hit by a single shot corroborates the fact that he was the victim of a sniper and excludes the possibility that an assault weapon was used.

1161. The Chamber also finds by majority, with Judge Antonetti dissenting, that the sniper responsible for the death of Orhan Beriša was positioned on Stotina hill, notably because *Patrick van der Weijden* stated that the particular shape of the building in front of which the victim was shot reduces the possibilities of where the shot came and because the building faced Stotina hill. The Chamber also recalls that the possibility of the sniper's being positioned on Hum mountain was rejected by *Patrick van der Weijden*. Moreover, the distance between Stotina hill and the location where the victim was killed (553 m) reinforces the idea that a sniper rifle was used. As shown previously, the Chamber considers that at the time of the events, Stotina hill was controlled by the HVO armed forces.

<sup>2847</sup> P 09808, pp. 35 and 36; *Patrick van der Weijden*, T(F), p. 16298; *Patrick van der Weijden*, T(E), p. 16295.

<sup>2848</sup> *Belkisa Beriša*, T(F), pp. 13940, 13941, 13946 and 13947; IC 00393; IC 00396; P 09808; pp. 36 and 37.

<sup>2849</sup> See *Patrick van der Weijden*, T(F), pp. 16294-16296, 3D 00843, pp. 1, 3 and 4.

<sup>2850</sup> P 09856, p. 3.

<sup>2851</sup> P 09856, p. 2; *Belkisa Beriša*, T(F), p. 13938; P 10045, p. 2, para. 3.

1162. Lastly, the Chamber notes that on 2 February 1994, Orhan Beriša was wearing blue trousers and a light-green jacket.<sup>2852</sup> His mother, *Belkisa Beriša*, added that he had a small build.<sup>2853</sup> Visibility was good on the day in question<sup>2854</sup> and there had been no military activity or shelling for approximately a week.<sup>2855</sup> *Patrick van der Weijden* considered that the sniper could easily have identified the victim as a child even from a considerable distance notably because the victim was near reference points such as a door, an adult and a building entrance.<sup>2856</sup>

1163. In light of the foregoing evidence, the Chamber finds by majority, with Judge Antonetti dissenting, that on 2 February 1994, Orhan Beriša was shot by a sniper belonging to the HVO armed forces positioned on Stotina hill.

## 12. Sniping Incident No. 14

### a) Description of Facts

1164. Regarding incident no. 14, the Chamber heard the testimony of *Fatima Fazlagić*, a nurse and a Muslim inhabitant of West Mostar<sup>2857</sup> who worked at the fire brigade station on the left bank of the Neretva as of January 1994,<sup>2858</sup> and the testimony of *Witnesses DB* and *DC*. *Patrick van der Weijden* also contributed his sniping expertise to this case.

1165. The fire brigade station in East Mostar was located in the Razvitak neighbourhood<sup>2859</sup> facing the building of the same name (the *Razvitak* building)<sup>2860</sup> on Brkić Street<sup>2861</sup> which leads to the *Tito* bridge.<sup>2862</sup> This zone was known to be dangerous because of snipers who fired at "civilians".<sup>2863</sup> On

<sup>2852</sup> P 09856, p. 4.

<sup>2853</sup> P 09856, p. 4.

<sup>2854</sup> P 09856, p. 3.

<sup>2855</sup> P 09856, p. 3.

<sup>2856</sup> *Patrick van der Weijden*, T(F), p. 13790; P 09808, p. 36.

<sup>2857</sup> P 10042, para. 7.

<sup>2858</sup> P 10042, para. 12.

<sup>2859</sup> IC 00359; IC 00362; IC 00364; IC 00367; *Witness DC*, T(F), pp. 13621-13624, 13631 to 13633, private session.

<sup>2860</sup> P 10042, para. 12.

<sup>2861</sup> P 09858 under seal, p. 3; IC 00359; IC 00362; IC 00364; IC 00367; *Witness DC*, private session, T(F), pp. 13621-13624 and 13631-13633.

<sup>2862</sup> P 10042, para. 12.

<sup>2863</sup> P 10042, para. 12; The Chamber notes on this subject that *Witness DB* gave contradictory statements about how dangerous the zone was: when talking about the same location, namely Brkić Street where the fire station was, he stated that "the area where we were both shot was not normally a dangerous place to be. I had no seen snipers firing there before and I didn't see them firing there afterwards", see *Witness DB*, T(F), pp. 13310 and 13311, private session; See also P 09858 under seal, p. 3. Nevertheless, the Chamber notes that *Witness DB* contradicted himself in his statement when he said "A few months after I was shot the driver of our water tanker was shot and killed by a sniper. His name was Uzeir Jugo", see P 09858 under seal, p. 3. Consequently, the Chamber considers that it cannot consider reliable the statements of *Witness DB* as they relate to how dangerous Brkić Street was because of the presence of snipers.

the street where the station was located, many people had been victims of snipers in the Glass Bank,<sup>2864</sup> which is why signs were posted to warn passers-by of the risk.<sup>2865</sup>

1166. On 1 March 1994 at approximately 1230 hours<sup>2866</sup> or on 2 March 1994 at approximately 1355 hours,<sup>2867</sup> Uzeir Jugo,<sup>2868</sup> a driver with the fire brigade,<sup>2869</sup> was repairing the tyre of a red<sup>2870</sup> fire truck<sup>2871</sup> parked in Brkić Street in front of the station.<sup>2872</sup> Five minutes after Uzeir Jugo had gone out to do the repair, *Fatima Fazlagić* heard a shot and saw him collapse onto the road in front of the truck; this was confirmed by *Witness DC*.<sup>2873</sup> *Witness DB*, who was inside the station when the events occurred, did not see Uzeir Jugo collapse but did hear several shots,<sup>2874</sup> just as *Fatima Fazlagić* had.<sup>2875</sup> *Fatima Fazlagić* saw that Uzeir Jugo was holding his stomach.<sup>2876</sup> *Witness DB* specified that Uzeir Jugo was shot in the back<sup>2877</sup> and that *Witness DC* was shot on the left-hand side of his ribs.<sup>2878</sup> According to *Fatima Fazlagić*, the fire fighters came out of the station to help Uzeir Jugo but the sniper continued shooting.<sup>2879</sup> Finally, some of the fire fighters managed to pull the victim out of the way<sup>2880</sup> and subsequently took him to the hospital.<sup>2881</sup> Uzeir Jugo died in the hospital on 2 March 1994 according to *Fatima Fazlagić*,<sup>2882</sup> a few hours after he was admitted according to *Witness DB*,<sup>2883</sup> and 25 hours later according to *Witness DC*.<sup>2884</sup> The Chamber notes on

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<sup>2864</sup> P 10042, para. 12.

<sup>2865</sup> P 10042, para. 12.

<sup>2866</sup> P 10042, para. 14; P 07998. The Chamber notes that the sources differ about the date of the incident but considers that this does not compromise the credibility of their accounts.

<sup>2867</sup> P 09863 under seal, p. 3.

<sup>2868</sup> Representative victim of paragraph 114 of the Indictment.

<sup>2869</sup> P 09858 under seal, p. 3; P 07998.

<sup>2870</sup> IC 10042, para. 14; P 09858 under seal, p. 3; IC 00359; IC 00366; IC 00356; IC 00357; *Witness DC*, private session, T(F), pp. 13605-13608, 13613, 13632 and 13633; P 09140.

<sup>2871</sup> P 10359; IC 00362; IC 00364; IC 00367; *Witness DC*, private session, T(F), pp. 13621-13624, 13631-13633; P 09858 under seal, p. 4.

<sup>2872</sup> P 10042, para. 14; P 09863 under seal, p. 3; IC 00359; IC 00366; IC 00356; IC 00357; *Witness DC*, private session, T(F), pp. 13605-13608, 13613, 13632 and 13633; P 09140.

<sup>2873</sup> P 10042, para. 15; P 09863 under seal, p. 3.

<sup>2874</sup> P 09858 under seal, p. 3.

<sup>2875</sup> P 10042, para. 15. The Chamber notes that *Fatima Fazlagić* heard a single shot at the moment the victim collapsed and several shots after this which at first prevented any attempts to rescue Uzeir Jugo. *Witness DC* stated that he heard a single shot, *see* *Witness DC*, T(F), p. 13592, private session. Nevertheless, the Chamber notes that he stated that no shots had been fired during the rescue operation, *Witness DC*, T(F), p. 13609, private session.

<sup>2876</sup> P 10042, para. 15.

<sup>2877</sup> P 09858 under seal, pp. 3 and 4.

<sup>2878</sup> *Witness DC*, private session, T(F), p. 13600 and P 09133; P 09140.

<sup>2879</sup> P 10042, para. 16.

<sup>2880</sup> P 10042, para. 17.

<sup>2881</sup> P 10042, para. 17.

<sup>2882</sup> P 10042, para. 17.

<sup>2883</sup> P 09858 under seal, p. 4.

<sup>2884</sup> P 09863, under seal, p. 3; P 09133; P 09128.

this point that the death of Uzeir Jugo is recorded on the certificate issued on 2 March 1994 as 1500.<sup>2885</sup>

#### b) Circumstances and Analysis of the Incident

1167. According to *Witness DC*, the shot had to come from a location between two buildings that faced *Tito* Bridge, on the west side of the town of Mostar.<sup>2886</sup> He specified that he had not seen exactly where the shot came from but that he had an idea of the "general direction" of the shot<sup>2887</sup> which came from the west, from the direction of *Tito* Bridge.<sup>2888</sup> *Witness DC* did not know the victim's exact position at the moment he was shot since, as he stated, he only saw the direction in which Uzeir Jugo's feet were facing.<sup>2889</sup> He was on the other side of the truck and could only see underneath the vehicle.<sup>2890</sup>

1168. *Witness DC* also commented on the locations that offered a view onto the incident site: contrary to what *Fatima Fazlagić* said in her statement,<sup>2891</sup> he told the Chamber that, in his opinion, the sniper could not have been positioned in the Glass Bank – because it did not have a view onto the incident site<sup>2892</sup> – or in the secondary school, for the same reasons.<sup>2893</sup> On the other hand, he stated that the *Neretva* and *Bristol* hotels were visible from the incident site<sup>2894</sup> and that those buildings were under the control of the ABiH as of April 1993.<sup>2895</sup> After the war, *Witness DC* heard directly from inhabitants of Mostar's west bank that the Croats had a truck with a basket crane from the *Electro* company that was used for repairing street lamps.<sup>2896</sup> In his previous statement, he said that the snipers may have used the bucket cranes to open fire from high positions after which they

<sup>2885</sup> P 09128. The Chamber notes that there are discrepancies as to the time and date of Uzeir Jugo's death. According to *Fatima Fazlagić* he died on 2 March 1994, see P 10042, para. 17; a few hours after he was admitted, according to *Witness DB*, see P 09858 under seal, p. 4, and 25 hours later according to *Witness DC*, see P 09863 under seal, p. 3; P 09133; P 09128. The Chamber considers however that the time and date of Uzeir Jugo's death indicated on his death certificate are authoritative.

<sup>2886</sup> IC 00355; IC 00365; IC 00361; IC 00362; IC 00363; IC 00364; IC 00367; IC 00368; *Witness DC*, private session, T(F), pp. 13619-13621, 13623, 13624, 13628-13635, 13596-13598 and T(E), p. 13622.

<sup>2887</sup> *Witness DC*, private session, T(F), pp. 13589, 13592 and 13632.

<sup>2888</sup> *Witness DC*, private session, T(F), p. 13596.

<sup>2889</sup> *Witness DC*, T(F), pp. 13650 and 13651, private session.

<sup>2890</sup> *Witness DC*, T(F), pp. 13650 and 13651, private session.

<sup>2891</sup> P 10042, para. 12.

<sup>2892</sup> P 09863 under seal, p. 3; *Witness DC*, private session, T(F), p. 13631; IC 00365. The Chamber notes that Patrick van der Weijden shares the conclusion that the sniper was not positioned in the Glass Bank, see Patrick van der Weijden, T(E), pp. 13800, private session, and 13803.

<sup>2893</sup> *Witness DC*, private session, T(F), pp. 13639 and 13640.

<sup>2894</sup> IC 00360; IC 00361; *Witness DC*, T(F), pp. 13614, 13615 and 13619-13621.

<sup>2895</sup> IC 00360; *Witness DC*, private session, T(F), pp. 13614-13616. The Chamber notes that regarding the possibility that a sniper could have shot Uzeir Jugo from the *Bristol* Hotel, he said that this was unrealistic because it would mean that someone would have shot a "brother", *Witness DC*, private session, T(F), pp. 13616-13618.

<sup>2896</sup> P 09863 under seal, p. 3.

would change locations.<sup>2897</sup> The Chamber notes, however, that during cross-examination, the witness did not state with certainty that this was a credible possibility<sup>2898</sup> and subsequently denied having seen the bucket cranes or having heard about them.<sup>2899</sup> Furthermore, *Witness DC* admitted in his testimony that Fortica hill, held by the Serbian armed forces at the time of the events, also had a direct line of sight onto the location of the incident.<sup>2900</sup>

1169. According to *Patrick van der Weijden*, the shot could only have come from Spanish Square or a location in its vicinity since the buildings on either side of Brkića Street formed a tunnel that narrowed the line of fire to those locations on the same axis as the street itself.<sup>2901</sup> In his opinion, the most plausible firing position would be a 1 m 80 high platform set up amongst the trees planted on the west side of Spanish Square, in Brkića Street,<sup>2902</sup> approximately 625 m from the incident site.<sup>2903</sup> This position not only provided the most advantageous view of the junction formed by Brkića and Maršal Tito Streets but also the necessary stability and cover.<sup>2904</sup> The sniper could have built a shelter such as a tree shed without a roof and a camouflage trellis which would allow him to remain concealed for a rather long period of time.<sup>2905</sup> According to him, the fact that incidents nos 8 and 14 occurred on 29 September 1993 and early March 1994 respectively supports the idea that a platform had been built.<sup>2906</sup> He also excluded the possibility that the sniper could have used a bucket crane as a platform because that type of material would not have offered the necessary stability for a long-range shot.<sup>2907</sup>

1170. The Chamber notes that the locations where the victims were shot are virtually identical with the alleged firing positions in incidents nos 8 and 14. Although the Chamber considers, as in the case of incident no. 8, that it would have been possible to shoot Uzeir Jugo from a platform located on Spanish Square,<sup>2908</sup> it reiterates its findings that *Patrick van der Weijden* failed to provide sufficient evidence to indicate that the platform located on Spanish Square had indeed been

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<sup>2897</sup> P 09863 under seal, p. 3.

<sup>2898</sup> Witness DC, private session, T(F), pp. 13637-13640.

<sup>2899</sup> Witness DC, private session, T(F), pp. 13640 and 13641.

<sup>2900</sup> Witness DC, T(F), pp. 13635 and 13636, private session.

<sup>2901</sup> P 09808, p. 39; *Patrick van der Weijden*, T(F), pp. 13801 and 13803, private session.

<sup>2902</sup> *Patrick van der Weijden*, T(F), pp. 13801-13803, private session.

<sup>2903</sup> *Patrick van der Weijden*, T(F), pp. 13800-13803, private session.

<sup>2904</sup> P 09808, p. 39; The witness specified that during his visit to the sites, such a platform had been erected at Spanish Square and had a view onto the incident site, *see Patrick van der Weijden*, T(F), p. 16283 and T(E), p. 16281. *See also P 09808 and photograph A on p. 39 of the report.*

<sup>2905</sup> *Patrick van der Weijden*, T(F), pp. 13802 and 13803, private session.

<sup>2906</sup> *Patrick van der Weijden*, T(F), p. 13803, private session.

<sup>2907</sup> P 09808, p. 39; *Patrick van der Weijden*, T(F), pp. 13800 and 13803, private session.

<sup>2908</sup> Representative victim of paragraph 114 of the Indictment.

the location of the sniper or that it had existed at the time of the events.<sup>2909</sup> Furthermore, the Chamber notes that none of the witnesses were able to provide more precise information other than a general direction from where the shot came. Both *Patrick van der Weijden* and *Witness DC* dismissed the possibility that the sniper was positioned in the Glass Bank, as claimed by *Fatima Fazlagić*.<sup>2910</sup> In regard to the *Neretva* and *Bristol* hotels which were held by the ABiH at the time of the events,<sup>2911</sup> the Chamber deems, like *Witness DC*<sup>2912</sup> and as set out above, that no evidence suggests that an ABiH sniper could have knowingly opened fire on people clearly located in East Mostar. However, it notes that Fortica hill, held by the Serbian forces at the time of the events, offered a view onto the incident site.<sup>2913</sup> Furthermore, the Chamber notes that it cannot precisely determine the direction from where the shot came since the position of the victim's body at the moment he was hit is uncertain.<sup>2914</sup>

### c) Factual Findings

1171. The Chamber is satisfied that Uzeir Jugo was killed by a sniper on 1 March 1994, notably based on the report compiled on 3 March 1994 by Ratko Pejanović, commander of the East Mostar professional fire fighting unit.<sup>2915</sup>

1172. Nevertheless, bearing in mind the lack of precision about the sniper's location, the Chamber must consider the possibility that the shot could have come from positions other than those held by the HVO.

1173. The Chamber finds by majority, with Judge Antonetti dissenting, that no evidence indicates that the location of the incident could have been within the range of the Serbian forces. Furthermore, and as already set out, assuming that the location was within the range of possible ABiH snipers, the parties did not produce any evidence to show that the ABiH knowingly opened fire on the inhabitants of East Mostar. Considering these facts, the Chamber is able to dismiss the possibility that Uzeir Jugo could have been the victim of a shot originating from ABiH positions.

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<sup>2909</sup> The Chamber notes furthermore that as in incident no. 8, the Praljak Defence put several photographs to Patrick van der Weijden and Witness DC to show that several possible firing positions existed, *see* IC 00359; IC 00360; IC 00361; IC 00362; IC 00364; IC 00365; IC 00366; IC 00367; IC 00368.

<sup>2910</sup> *See* previous paragraphs.

<sup>2911</sup> Witness DC, T(F), pp. 13615 and 13616, private session.

<sup>2912</sup> Witness DC, T(F), p. 13626, private session.

<sup>2913</sup> Witness DC, T(F), pp. 13635 and 13636, private session.

<sup>2914</sup> Witness DC only indicated that he saw the direction in which the victim's feet were pointing at the moment of the incident because he saw him underneath the truck when he was on the other side, Witness DC, T(F), pp. 13650 and 13651, private session.

<sup>2915</sup> P 07998. The report explicitly lists the cause of death of Uzeir Jugo.

1174. In light of the foregoing, the Chamber finds by majority, with Judge Antonetti dissenting, that since *Witness DB* was the victim of a sniping incident that excludes the possibility that the shot could have come from the ABiH and which is consistent with the modus operandi of the HVO, the sniper shot that hit him could have come only from the HVO.

### 13. General Findings Pertaining to the Sniping Incidents

1175. The Chamber finds by majority, with Judge Antonetti dissenting, that the HVO snipers were involved in incidents 1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 13 and 14. These incidents caused the death or injury of inhabitants of East Mostar between 3 June 1993 and 2 February 1994.

#### **D. Campaign of Sniping Affecting the Entire Population of East Mostar**

1176. The evidence shows that in response to the attacks of the HVO snipers, the Muslim authorities in Mostar took measures to try to protect the population: for example, a daytime curfew was introduced in Donja Mahala for the entire year 1993.<sup>2916</sup> In that same neighbourhood, the ABiH put up blankets to cover alleys and passages.<sup>2917</sup> Moreover, according to *Witness DT*, the inhabitants of East Mostar moved around at night to avoid being targeted.<sup>2918</sup> According to *Miro Salčin*, the ABiH launched counter-sniping operations with the aim of protecting the men, women and children moving around in open spaces to fetch water.<sup>2919</sup> The action of the HVO snipers created a climate of fear amongst the population of East Mostar, in particular the shootings when the inhabitants needed to go to the fire station for fresh supplies of water.<sup>2920</sup>

1177. In addition to the incidents examined previously, the Prosecution presented a list of people killed or wounded in East Mostar as the representative victims of paragraph 114 of the Indictment. The Chamber will now determine (1) whether these people were indeed sniping victims. Furthermore, the Chamber has admitted into evidence numerous documents and testimonies according to which the inhabitants of East Mostar were targeted by snipers. The Chamber finds by majority, with Judge Antonetti dissenting, that (2) the evidence corroborates incidents 1, 2, 3, 6, 7, 9, 13 and attests to the existence of a genuine campaign of sniping against the population of the left bank of the Neretva.

<sup>2916</sup> P 09834, para. 11; regarding the introduction of a curfew in East Mostar, see *Witness CR*, (T)F, p. 18403.

<sup>2917</sup> P 09834, para. 11.

<sup>2918</sup> P 09946 under seal, para. 68.

<sup>2919</sup> *Miro Salčin*, T(F), p. 14183.

<sup>2920</sup> P 09855, p. 3; *Džemal Baraković*, T(F), p. 13908; the inhabitants of East Mostar were also targeted when they went to fetch water from the Neretva or other locations, see *Witness BC*, T(F), pp. 18329 and 18330, closed session.

## 1. Representative Victims Killed or Injured in East Mostar by Snipers

### a) Representative Victims Killed During the Siege of East Mostar

1178. The Chamber notes that the confidential Annex to the Indictment contains a list of 21 people alleged to have been killed during the siege of Mostar.<sup>2921</sup> In the annex to its Final Trial Brief, the Prosecution alleges that these people were killed by snipers.<sup>2922</sup> The Chamber notes that the list contains the names of three people mentioned in connection with sniping incidents already examined in detail.<sup>2923</sup> The Chamber will thus examine the cases of the other 18 people.

1179. The Chamber notes that in order to show that these people were deceased the Prosecution presented evidence in the form of records from the East Mostar Hospital<sup>2924</sup> through Witness *Jovan Rajkov*.<sup>2925</sup> Rajkov described to the Chamber how these records should be read and specified that the circle around the person's name on the record of admission meant that the person was deceased.<sup>2926</sup> He added, moreover, that the doctors noted beside each name the cause of admission, namely "*vulnus explosivum*" for injuries caused by explosions and "*vulnus sclopetarium*" or "*vulnus transsclopetarium*" for wounds caused by bullets.<sup>2927</sup> Although on the basis of these exhibits the Chamber is able to determine that 15 people died,<sup>2928</sup> it cannot reach this conclusion for three of the people who appear on the list because the references provided by the Prosecution are inaccurate.<sup>2929</sup> Furthermore, although the Chamber notes that the description "*vulnus sclopetarium*"

<sup>2921</sup> With regard to the list of these names in the confidential Annex to the Indictment, see pp. 11 and 12.

<sup>2922</sup> See Annex to the Prosecution Final Trial Brief, p. 30, heading "Killings of Muslim civilians in East Mostar by Sniper Fire".

<sup>2923</sup> The persons in question are Arzamina Alihodžić, representative victim of incident no. 3, Orhan Beriša, representative victim of incident no. 13 and Uzeir Jugo, representative victim of incident no. 14.

<sup>2924</sup> Notably Exhibits P 04287, P 05853, P 09675 and P 02791.

<sup>2925</sup> Witness Rajkov, a doctor at the East Mostar Institute of Hygiene, T(F), pp. 12885 and 12886.

<sup>2926</sup> Witness Rajkov, T(F), p. 12902.

<sup>2927</sup> Witness Rajkov, T(F), p. 12905.

<sup>2928</sup> The admission numbers are circled: Avdem Avdić, P 04287, p. 61; Samija Bucman, P 05853, p. 119; Remzo Čenan, P 04287, p. 155; (Jure) Nedjelko Cvitanović, P 09675, p. 188; Edina Helezović, P 05853, p. 86; Nijaz Fazlagić, P 04287, p. 23; Mithat Hebib, P 09675, p. 177; Haso Jugo, P 09675, p. 173; Šaćir Jusufović, P 05853, p. 198; Adisa Mahmutović P 04287, p. 33; Emela Merzić P 04287, p. 269; Sadeta Merzić P 04287 p. 269; Djani Oručević P 05853, p. 49; Hidajif Šikalo P 05853, p. 224 and Stjepan Sforcan P 05853, p. 49.

<sup>2929</sup> The Chamber was unable to find the reference to the pages indicated by the Prosecution in its confidential Annex to the Prosecution Final Trial Brief, (p. 30): Šaćir Rahimić P 02791, pp. 0109-7142; Fatima Sabljčić P 05853, p. 198 and Adis Kelecija P 05853, p. 198.



or "*vulnus transsclopetarium*"<sup>2930</sup> was specified for 12 out of the 15 deceased people,<sup>2931</sup> it notes that the description "*vulnus explosivum*"<sup>2932</sup> has been used for three of the people on the list.<sup>2933</sup>

1180. Nevertheless, the Chamber considers that the descriptions "*vulnus sclopetarium*" and "*vulnus transsclopetarium*" are insufficient to support a finding that the people on the list were killed by a sniper. The description does not exclude the possibility that the wound could have been caused by a shot from an automatic weapon which is all the more possible since Mostar was a combat zone at the time of the events. *Jovan Rajkov* stated only that this description meant that the person died as a result of a gunshot wound. Although it inflicts a gunshot wound by definition, a sniper shot is nevertheless a very specific type of shot. The Chamber finds that the Prosecution, which bears the burden of proof, failed to present sufficient evidence to show that the 18 people were indeed killed by a sniper as alleged in the annex to its Final Trial Brief.<sup>2934</sup>

#### b) Representative Victims Wounded during the Siege of East Mostar

1181. In its confidential Annex to the Indictment, the Prosecution also presented a list of 123 people it alleges were wounded during the siege of East Mostar.<sup>2935</sup> The Chamber notes that the list contains the names of 10 people mentioned in connection with the sniping incidents already examined in detail.<sup>2936</sup>

1182. As in the case of the representative victims killed during the siege of East Mostar, the Prosecution relied on records from the East Mostar Hospital<sup>2937</sup> and on the testimony of *Jovan Rajkov* to determine the alleged cause of the wounds sustained by the victims on the list.<sup>2938</sup> The Chamber notes that of the 113 people whose cases are examined here, six causes of admission to

<sup>2930</sup> Names sometimes written in abbreviated form.

<sup>2931</sup> Avdem Avdić, P 04287, p. 62; Remzo Čenan, P 04287, p. 156; (Jure) Nedjelko Cvitanović, P 09675, p. 188; Edina Helezović, P 05853, p. 86; Nijaz Fazlagić, P 04287, p. 24; Mithat Hebib, P 09675, p. 177; Haso Jugo, P 09675, p. 173; Šaćir Jusufović, P 05853, p. 26; Adisa Mahmutović P 04287, p. 34; Djani Oručević P 05853, p. 49; Hidajif Šikalo P 05853, p. 224 and Stjepan Sforčan P 05853, p. 49.

<sup>2932</sup> Names sometimes abbreviated.

<sup>2933</sup> Samija Bucman, P 05853, p. 119; Emela Merzić P 04287, p. 270 and Sadeta Merzić P 04287 p. 270.

<sup>2934</sup> See Annex to the Prosecution Final Trial Brief, p. 30, heading "Killings of Muslim Civilians in East Mostar by Sniper Fire".

<sup>2935</sup> With regard to the list of these names in the confidential Annex to the Indictment, see pp. 12 and 13.

<sup>2936</sup> The Chamber notes that the list contains the names of victims of the incidents examined by the Chamber in the previous section, namely: Nihad Burić, Omer Dilberović, Edo Dostović, Alija Jakupović, Enver Džih, Anel Heljić, Damir Katica, Munib Klarić, Neno Mačkić and Enes Vukotić. The Chamber notes that the list on p. 13 of the confidential Annex to the Indictment includes the name of Hara Gosto. The Chamber finds it is impossible to know whether the name corresponds to that of Arif Gosto, named in incident 4.

<sup>2937</sup> Notably Exhibits P 04287, P 05853, P 09675 and P 02791.

<sup>2938</sup> See previous paragraph and Annex to the Prosecution Final Trial Brief, pp. 30 and 40, heading "Maltreatment of Muslim Civilians through Siege of East Mostar".

the East Mostar Hospital are illegible,<sup>2939</sup> three of the names on the list cannot be found (the references given by the Prosecution in the Annex to its Final Trial Brief are incomplete),<sup>2940</sup> one of the names is not listed in the references provided by the Prosecution in its Final Trial Brief,<sup>2941</sup> two persons are listed as LNU ("Last Name Unknown"),<sup>2942</sup> one person was admitted for a wound caused by an explosive<sup>2943</sup> and one person was admitted for causes unrelated to wounds caused by bullets or explosives.<sup>2944</sup>

1183. The remaining 99 people on the list of the representative victims injured in East Mostar sustained gunshot wounds.<sup>2945</sup> Nevertheless, and as previously stated, the Chamber considers that the Prosecution, which bears the burden of proof, failed to present sufficient evidence to show that those people were indeed wounded by a sniper. It considers that, without corroborating evidence, the comment indicating that the people exhibited gunshot wounds upon their admission to the East Mostar Hospital is not sufficient to support a finding that they were sniping victims, all the more so because their wounds occurred as part of a conflict.

## 2. Campaign of Sniping Affecting the Entire Population of East Mostar

1184. The Chamber considered several testimonies and exhibits according to which HVO snipers positioned in West Mostar opened fire on Muslims in East Mostar, notably between June 1993 and February 1994.<sup>2946</sup> Several Spabat reports indicate that active HVO snipers were present<sup>2947</sup> and that

<sup>2939</sup> See confidential Annex to the Prosecution Final Trial Brief, pp. 39 and 40: Fatima Bakija P 04287, p. 13, Aldin Redžić P 04287, p. 207, Šerif Kolečić P 05853, p. 90, Ivanca Lončar P 04287, p. 137, Muhamed Oručević P 05853, p. 273 and Lutvo Začinović P 05853, p. 207.

<sup>2940</sup> See confidential Annex to the Prosecution Final Trial Brief, pp. 39 and 40: Selmo Ivković P 04287, Emina Jarvin P 05853 and Stojan Kačić P 05853.

<sup>2941</sup> See confidential Annex to the Prosecution Final Trial Brief, p. 40: Vahid Kulagić P 04287, p. 41.

<sup>2942</sup> See confidential Annex to the Indictment, pp. 12 and 13: Salmo LNU and Amir LNU ("Last Name Unknown"). Without their last names, the Chamber is unable to make a finding on any wounds these persons may have sustained during the siege of East Mostar.

<sup>2943</sup> See confidential Annex to the Prosecution Final Trial Brief, p. 40: Sabina Šendro P 04287, p. 270 ("*vulnus explosivum*", abbreviated).

<sup>2944</sup> See confidential Annex to the Prosecution Final Trial Brief, p. 40: Huso Zukanović P 05853, p. 329.

<sup>2945</sup> The description "*vulnus sclopetarium*" or "*vulnus transsclopetarium*", either abbreviated or written out in full, appears on the records, see Witness Rajkov, T(F), p. 12905.

<sup>2946</sup> Grant Finlayson, T(F), pp. 18044 and 18045; Klaus Johann Nissen, T(F), pp. 20445 and 20446; P 05215; P 05539, pp. 1 and 2; Suad Ćupina, T(F), pp. 4860 and 4863-4866; IC 00026; Witness DV, T(F), p. 22872; P 10217 under seal, para. 99; P 04822, para. 26; P 06365; P 09869; Witness AC, P 10222 under seal, *Naletilić and Martinović* Case, T(F), p. 7930; P 09863 under seal, p. 3; Witness DC, private session, T(F), p. 13641; Jeremy Bowen, T(F), pp. 12749-12752; Edward Vulliamy, T(F), p. 1597; P 05215, pp. 1 and 2; P 05539, pp. 1 and 2; P 10039, para. 33; P 05475 under seal, p. 1; P 10047, para. 33; P 07887, p. 4; Witness DW, CRF pp. 23129 and 23130; P 07706 under seal, p. 2, item 2.B; P 07917, p. 12; P 10047, paras 40 and 43; P 10287 under seal, para. 47; P 07700, p. 1; Ratko Pejanović, T(F), p. 1421; P 02622 under seal, p. 2; Klaus Johann Nissen, T(F), P 20446; Antoon van der Grinten, T(F), pp. 21045 and 21046; P 02782 under seal, p. 3; Grant Finlayson, T(F), p. 18062 and P 05571, p. 3; P 07904, p.1; P 06500, p. 5; P 07929, p. 2; Jovan Rajkov, T(F), pp. 12931 and 12932; Witness BC, T(F), p. 18402; P 05519, p. 3; P 02622 under seal, p. 2; P 10047, para. 33; Witness BB, T(F), p. 17222, closed session.

<sup>2947</sup> P 03465, p. 4; P 05979, p. 2; P 06500 under seal, p. 5; P 06589 under seal, p. 2.

the intensity of their attacks varied.<sup>2948</sup> For example, during the period between 6 and 16 October 1993 alone, the East Mostar Hospital admitted 23 people wounded by snipers, five of whom succumbed to their injuries.<sup>2949</sup> Therefore, it is indisputable that snipers were present amongst the HVO armed forces active in Mostar.<sup>2950</sup>

1185. The Chamber notes that the inhabitants of the left bank of the Neretva (a) had to deal with HVO snipers who targeted women, children and the elderly. Furthermore, some people (b) were targeted while carrying out their daily activities.

a) Women, Children and the Elderly Targeted by Snipers

1186. Several witness testified before the Chamber that women and children were targeted by snipers<sup>2951</sup> positioned in sectors controlled by the HVO.<sup>2952</sup> In particular, *Anthony Turco*<sup>2953</sup> described two incidents during which women were targeted: on 10 November 1993 at approximately 1130 hours, he and the UNMO team he belonged to, were heading towards an ABiH checkpoint on their way out of East Mostar.<sup>2954</sup> At 500 or 800 metres from the ABiH checkpoint, the team came across three men who were attempting to help a young woman lying in a ditch, who the witness claims had been shot in the chest by a sniper.<sup>2955</sup> The UNMO team decided to take the person to the East Mostar Hospital.<sup>2956</sup> According to *Anthony Turco*, the young woman, 17 years of age and called Zada, was dressed in "civilian clothing".<sup>2957</sup> The men around her were dressed in black clothing and could in no way be mistaken for members of armed forces.<sup>2958</sup> *Anthony Turco* also pointed out that there were no ABiH military targets in the zone where the victim was, and that it was impossible to consider that she was part of the team manning the checkpoint.<sup>2959</sup> He later heard that the young woman died as a result of her wounds but was unable to confirm this claim.<sup>2960</sup> At the end of February 1994, *Anthony Turco* and another UNMO member rescued another woman

<sup>2948</sup> P 07929 under seal, p. 2; P 07918 under seal, p. 4 and P 07986 under seal, p. 7; Miro Šalčin, T(F), p. 14178.

<sup>2949</sup> P 05979, p. 2.

<sup>2950</sup> See for example P 03912; See also P 02806, p. 2; Anton van der Grinten, T(F), pp. 21019, 21050 and 21051; Witness BC, T(F), p. 18402; Moreover, Slobodan Praljak confirmed the presence of HVO snipers in Mostar, see Slobodan Praljak, T(F), pp. 42893 and 42894.

<sup>2951</sup> See for example P 06925, pp. 2 and 3; See also Jeremy Bowen, T(F), pp. 12744, 12745 and 12748.

<sup>2952</sup> P 09859, pp. 3 and 4; Dževad Hadžizukić, T(F), pp. 13343 and 13350; Grant Finlayson, T(F), p. 18045; P 02751, p. 2; P 10039, para. 42; P 02947 under seal, pp. 4 and 5; Klaus Johann Nissen, T(F), p. 20444.

<sup>2953</sup> Member of UNMO in East Mostar from December 1993 to 17 March 1994, see P 10047, paras 24 and 52.

<sup>2954</sup> P 10047, para. 17; P 06585.

<sup>2955</sup> P 10047, paras 17 and 18; P 06574.

<sup>2956</sup> P 10047, para. 18. P 06574.

<sup>2957</sup> P 10047, para. 19.

<sup>2958</sup> P 10047, para. 19.

<sup>2959</sup> P 10047, paras. 17 and 19.

<sup>2960</sup> P 10047, para. 18; P 06574.

who he claims had been wounded by a sniper.<sup>2961</sup> *Anthony Turco* remained in his vehicle which was facing west, towards the position of the sniper, while his colleague entered the victim's house to fetch her.<sup>2962</sup> Shortly after, while he was driving the woman who had been wounded in the leg and her son to the hospital, *Anthony Turco* heard several shots being fired in their direction.<sup>2963</sup> He specified that the woman and her son were dressed in "civilian clothes" and that they were in a zone with no potential military targets.<sup>2964</sup>

1187. *Anthony Turco* testified furthermore that elderly people were targeted by snipers.<sup>2965</sup> While he was in East Mostar from December 1993 to 17 March 1994,<sup>2966</sup> he claims to have seen an elderly man being targeted by a sniper while working on his house, which was located near the UNMO premises and exposed to the HVO positions.<sup>2967</sup> He specified that the man, who was not shot, was too old to have been a combatant and was dressed in "civilian clothes", and that there were no military targets in the vicinity of his house.<sup>2968</sup>

1188. The Chamber finds, therefore, that HVO snipers targeted the elderly, women and children in East Mostar. Although the Chamber notes that the testimony of *Anthony Turco* was taken pursuant to Rule 92 *bis* of the Rules, it deems that all the evidence relating to the victims of the sniping incidents examined above corroborates what he said. The Chamber recalls in particular that it has already found that the HVO had snipers, that they were positioned at various locations along the right bank of the Neretva, and that they regularly opened fire on Muslim inhabitants in East Mostar.

1189. With regard to the news report that the Chamber viewed, prepared by *Jeremy Bowen* and entitled "Unfinished Business", in which a woman was shot by a sniper while washing laundry in the Neretva,<sup>2969</sup> the Chamber notes that *Jeremy Bowen* admitted in court that he was not present during this incident and that the footage was recorded by his cameraman, Nigel Chandler.<sup>2970</sup> He stated, furthermore, that he was unable to indicate the precise location where this incident took place.<sup>2971</sup> Consequently, the Chamber considers that it cannot find that the person killed by a gunshot in this incident was targeted by an HVO sniper.

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<sup>2961</sup> P 10047, para. 40; P 07760.

<sup>2962</sup> P 10047, para. 40; P 07760.

<sup>2963</sup> P 10047, para. 40; P 07760.

<sup>2964</sup> P 10047, para. 40.

<sup>2965</sup> Ratko Pejanović, T(E), pp. 1329 and 1330; Miro Salčin, T(F), p. 14184.

<sup>2966</sup> P 10047, paras. 24 and 52.

<sup>2967</sup> P 10047, para. 43.

<sup>2968</sup> P 10047, para. 43.

<sup>2969</sup> P 06365.

<sup>2970</sup> Jeremy Bowen, T(F), p. 12858.

<sup>2971</sup> Jeremy Bowen, T(F), p. 12860.

## b) People Targeted by Snipers While Carrying Out Day-to-day Activities

1190. The Chamber noted the criteria, as set out by *Patrick van der Weijden*, that allowed a sniper to identify a potential victim. It noted in particular the criterion of the target's activity at the moment of shooting. Thus, the Chamber identified certain evidence indicating that some sniping victims were involved in activities *a priori* not linked to combat operations. Thus, *Džemal Baraković*<sup>2972</sup> stated that the East Mostar fire brigade organised the distribution of water for the inhabitants of this part of the town chiefly at night because the brigade's trucks were targeted by HVO snipers during the day.<sup>2973</sup> He stated that people walking on Ale Ćišića Street, which goes up from Maršal Tito Street towards Braće Lakišića Street in the Mazoljice neighbourhood in East Mostar, were targeted by snipers positioned in the Glass Bank building after fetching water at the fire brigade across from the *Razvitak* building between Maršal Tito Street and the *Tito* bridge in East Mostar.<sup>2974</sup> *Larry Forbes*<sup>2975</sup> added that there were long queues at the water supply point and that people had to wait at locations where they were exposed to HVO sniper fire as stated elsewhere in one of his reports dated 1 October 1993.<sup>2976</sup> Likewise, *Witness DB*<sup>2977</sup> stated that the fire fighters were targeted by snipers while they were filling up their water truck to distribute water in the Tekija neighbourhood.<sup>2978</sup> Generally, the East Mostar fire fighters paid a heavy price because several of them, notably Edo Dostović,<sup>2979</sup> Edo Sarić<sup>2980</sup> and Alija Jakupović,<sup>2981</sup> were wounded or killed while carrying out their duties.<sup>2982</sup>

1191. *Ratko Pejanović*<sup>2983</sup> stated that on 1 August 1993, an acquaintance of his who was fetching water using a bucket was hit by a sniper while in the vicinity of the mosque in *Musala* square near

<sup>2972</sup> Muslim inhabitant of East Mostar and fire brigade driver in Mostar as of late August 1993, see P 09855, p. 2.

<sup>2973</sup> P 09855, p. 3; *Džemal Baraković*, T(F), p. 13908.

<sup>2974</sup> P 09855, pp. 2 and 3.

<sup>2975</sup> UNCIVPOL member deployed to Bosnia for six months as of 25 May 1993 and posted in Medjugorje as of 28 June 1993, see *Larry Forbes*, T(F), pp. 21260 and 21262-21266.

<sup>2976</sup> *Larry Forbes*, T(F), pp. 21260, 21262-21264, 21309, 21341, 21342 and 21397; P 05539, p. 2.

<sup>2977</sup> Fire fighter in Mostar, see P 09858 under seal, p. 2.

<sup>2978</sup> P 09858 under seal, p. 2.

<sup>2979</sup> *Ratko Pejanović*, T(F), pp. 1314, 1460; P 08005; Edo Dostović is a representative victim of para. 114 of the Indictment.

<sup>2980</sup> *Ratko Pejanović*, T(F), p. 1314.

<sup>2981</sup> *Ratko Pejanović*, T(F), p. 1460 and P 08009; Alija Jakupović is a representative victim of para. 114 of the Indictment.

<sup>2982</sup> See notably *Ratko Pejanović*, T(F), p. 1352; see the reports signed by *Ratko Pejanović* on the subject of wounded or killed fire fighters P 07996, P 07997, P 07998, P 07999, P 08001, P 08003, P 08005, P 08007, P 08009, and P 09513. Other colleagues of *Ratko Pejanović*, whose names do not appear in the Annex to the Indictment, were also wounded, including *Emir Vilić*, wounded twice, on 2 August and 17 September 1993 (P 07996), *Mirzo Bratić*, wounded on 3 July 1993 and died after being hit by a shell on 23 January 1994 (P 07997 and P 07999), *Elvir Demić*, wounded on 23 January 1994 (P 09513), *Hamza Kodro*, died on 4 July 1993 (P 08001), *Ahmet Šator* wounded on 2 July 1993 (P 08003); P 04240.

<sup>2983</sup> Commander of a fire fighting unit and the Civilian Protection in Mostar, see *Ratko Pejanović*, T(F), pp. 1229 and 1230.

the *Putnik* company.<sup>2984</sup> He added that his own house was approximately 800 m from the headquarters of his fire fighting unit and that in order to get to his place of work, he would have to stop five times to take cover and protect himself from the snipers.<sup>2985</sup> An ECMM report dated 23 August 1993 indicates that the HVO snipers prevented the inhabitants of East Mostar from fetching water from the Neretva.<sup>2986</sup>

1192. Furthermore, *Ratko Pejanović* stated that one day, at approximately 0500 hours, he and his team were called to extinguish a fire in Miro Hamzić's house.<sup>2987</sup> A sniper, probably positioned in the *Aleksa Šantić*<sup>2988</sup> secondary school, opened fire on a fire truck parked 50 or 60 m from Miro Hamzić's house in Cveci Street.<sup>2989</sup> The witness and his colleagues got out of the truck cab and hid behind the truck because they could not cross the street in the open;<sup>2990</sup> they were finally able to take shelter inside a house.<sup>2991</sup>

1193. The Chamber notes that the snipers also fired on physical targets such as vehicles,<sup>2992</sup> and occasionally livestock.<sup>2993</sup> For example, *Witness DV* stated that after 9 May 1993, the HVO ordered its snipers to target civilian and military vehicles, with the exception of those belonging to UNPROFOR.<sup>2994</sup> The presence of members of international organisations in East Mostar did not prevent the snipers from continuing to open fire on this part of the town.<sup>2995</sup>

1194. All this evidence supports the Chamber's finding by majority, with Judge Antonetti dissenting, that the inhabitants of East Mostar were targeted by HVO snipers, notably when they were attempting to fetch water. The evidence also attests to the fact that the fire fighters and fire trucks used to extinguish fires around the town were also targeted by snipers.

### III. Living Conditions for the Population in East Mostar

1195. Paragraphs 110 and 112 of the Indictment allege that increasing numbers of Muslims were expelled or driven out towards East Mostar and that the population of this besieged sector grew

<sup>2984</sup> Ratko Pejanović, T(F), p. 1334.

<sup>2985</sup> Ratko Pejanović, T(F), pp. 1420 and 1421.

<sup>2986</sup> P 04440, p. 1.

<sup>2987</sup> Ratko Pejanović, T(F), p. 1323.

<sup>2988</sup> Ratko Pejanović, T(F), p. 1323; IC 00002, the letter F designates the location of the secondary school.

<sup>2989</sup> Ratko Pejanović, T(F), pp. 1324 and 1325; IC 00002, the letter E designates the location where the fire truck was parked on the day of the incident.

<sup>2990</sup> Ratko Pejanović, T(F), p. 1324.

<sup>2991</sup> Ratko Pejanović, T(F), pp. 1324 and 1325.

<sup>2992</sup> See for example Ratko Pejanović, T(F), pp. 1316 and 1317.

<sup>2993</sup> Miro Salčin, T(F), p. 14192.

<sup>2994</sup> Witness DV, T(F), p. 22891; P 10217 under seal, para. 95; P 02593 under seal, p. 8.

<sup>2995</sup> Cedric Thornberry, T(F), pp. 26184, 26186-26188, 26273, 26316, 26317 and 26348; P 03858, pp. 6 and 14; P 04296, clip 2; 4D 00722, p. 1.

from its pre-war figure of 18,400 people to 51,600; that the Muslims lived and attempted to survive under increasingly dangerous, squalid and appalling conditions; that the HVO/Herceg-Bosna authorities blocked and prevented humanitarian aid from getting to the Muslims in East Mostar; that they cut off or neglected to restore water and electricity supplies; and that the incessant shelling and sniping forced the Muslim population to live underground.

1196. The evidence shows that between June 1993 and April 1994, the Muslim population in East Mostar and its surroundings lived under extremely harsh conditions.<sup>2996</sup> The population was (A) concentrated in a limited area<sup>2997</sup> and frequently forced to live in basements and cellars of buildings – often destroyed by shelling – or in jam-packed apartments due to the many people crammed into them as a result of the inflow of Muslim population.<sup>2998</sup>

1197. Access to (B) food, (C) water, electricity and (D) medical care was very limited throughout this period. The (E) blocking of international organisations and humanitarian aid further exacerbated living conditions. Lastly, (F) the isolation of the population also contributed to worsening their lives.

#### **A. Influx of People to East Mostar**

1198. The Chamber notes that in late May 1993,<sup>2999</sup> large numbers of Muslims arrived in East Mostar, but most of them began arriving as of 30 June 1993, the date on which HVO retaliation for the ABiH attack on the *Tihomir Mišić* barracks began.<sup>3000</sup>

1199. The population increase in East Mostar was essentially the result of the HVO operations to evict Muslims in West Mostar between May 1993 and February 1994 and the evictions of Muslims from the municipalities of Stolac and Čapljina between July and August 1993.<sup>3001</sup>

<sup>2996</sup> Witness BB, T(F), p. 17222, closed session; Grant Finlayson, T(F), pp. 18052 and 18053; Philip Watkins, T(F), p. 18845; Witness DW, T(F), p. 23081, private session, 23102-23105; Larry Forbes, T(F), pp. 21292 and 21293; Bo Pellnas, T(F), p. 19545; P 10039 paras 5, 6, 33, 37 and 40; P 10047, para. 25; P 02636, p. 4; P 02898 under seal, pp. 2 and 3; P 03522, p. 3; P 03952, p. 2; P 04419, p. 1; P 04822, p. 5, para. 25; P 05883 under seal, p. 3; P 09906 under seal; P 06568 under seal, p. 7; P 06688 under seal, p. 1, item 1.A.2.

<sup>2997</sup> Witness BH, T(F), p. 17512, closed session; Witness BB, T(F), pp. 17219 and 17220, closed session; Miro Salčin, T(F), pp. 14225 and 14226; P 09328.

<sup>2998</sup> See "Influx of People to East Mostar" in the Chamber's factual findings with regard to the Municipality of Mostar.

<sup>2999</sup> See "Round-up of Muslims from West Mostar, Placement in Detention in Various Locations and Departure of Some to ABiH-Controlled Areas or Other Countries in the Second Half of May 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

<sup>3000</sup> Larry Forbes, T(F), pp. 21328 and 21329, private session; Witness BB, T(F), pp. 17218-17220, 17227 and 17228, closed session; P 09851 under seal, p. 3, para. 2.10; P 06697, p. 10, paras 53 and 54; P 07917, p. 6, paras 15 and 16; P 08016, p. 3, para. 8.

<sup>3001</sup> Larry Forbes, T(F), pp. 21328 and 21329, private session; Witness BB, T(F), pp. 17218-17220, 17227 and 17228, closed session; P 09851 under seal, p. 3, para. 2.10; P 06697, p. 10, paras 53 and 54; P 07917, p. 6, para. 15; P 08016,

1200. Accordingly, approximately 20,000 people were living in East Mostar in late May 1993.<sup>3002</sup> By late June 1993, the population of East Mostar had reached approximately 30,000 people.<sup>3003</sup> It then rose to 35,000 by 18 July 1993 and reached approximately 55,000 people by late August 1993.<sup>3004</sup> The number remained stable until mid-November 1993.<sup>3005</sup> The Chamber does not have evidence regarding the population of East Mostar beyond that date.

## **B. Access to Food**

1201. The inhabitants of East Mostar suffered from a shortage of food.<sup>3006</sup> The inhabitants of East Mostar generally ate once a day and in insufficient quantities.<sup>3007</sup>

1202. The Chamber notes that on 21 August 1993 Branko Kvesić, the head of the Department of the Interior of the HZ H-B, told Bruno Stojić, the head of the Department of Defence, that there was less and less food in East Mostar.<sup>3008</sup> The Chamber notes that this shortage was due not only to the large number of people in East Mostar, the hemming-in of this part of the town and the few roads open around East Mostar through which food supplies could pass, but also to the HVO's hindering the regular arrival of humanitarian aid – including food convoys – to East Mostar.<sup>3009</sup>

1203. The Chamber notes that based on two documents dated 2 December 1993, Jadranko Prlić, Prime Minister of the HR H-B, suggested to Haris Silajdžić, "President of the Government" of BiH,

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p. 3, para. 7. See also "Evictions and Removal of Women, Children and Elderly People from the Village of Počitelj" in the Chamber's factual findings with regard to the Municipality of Čapljina and "Waves of Removals of Arrested and/or Imprisoned Women, Children and Elderly People to Territories under ABiH Control" in the Chamber's factual findings with regard to the Municipality of Stolac.

<sup>3002</sup> P 02611, p. 2; Witness BH, T(F), pp. 17515 and 17516, closed session; P 09851 under seal, pp. 2 and 3, paras 2.8-2.10; P 02737, p. 2; P 09712 under seal, para. 41; Decision of 14 March 2006, Adjudicated Fact no. 295 (*Naletilić* Judgement, para. 50).

<sup>3003</sup> P 02611, p. 2; Witness BH, T(F), pp. 17515 and 17516, closed session; P 09851 under seal, pp. 2 and 3, paras 2.9-2.10; P 02737, p. 2; P 09712 under seal, para. 41; Decision of 14 March 2006, Adjudicated Fact no. 295 (*Naletilić* Judgement, para. 50).

<sup>3004</sup> P 04419/P 04420 (identical documents), p. 1; P 03858, p. 6; P 10832, p. 1; Edward Vulliamy, T(F), p. 1598; Witness BB, T(F), pp. 17228 and 17229, private session; Decision of 7 September 2006, Adjudicated Fact no. 114 (*Naletilić* Judgement, para. 541); P 03532 under seal, p. 2.

<sup>3005</sup> P 06365, p. 2; P 09851 under seal, pp. 2 and 3; Witness BH, T(F), pp. 17515 and 17516, private session; Decision of 14 March 2006, Adjudicated Fact no. 295 (*Naletilić* Judgement, para. 50); Decision of 7 September 2006, Adjudicated Fact no. 114 (*Naletilić* Judgement, para. 541).

<sup>3006</sup> Witness DW, T(F), p. 26604, closed session; P 10287 under seal, para. 58; Witness 2D-AB, T(F), pp. 37680 and 37681; Witness CB, T(F), p. 10148 ; P 10047, para. 25; P 07437; Belinda Giles, T(F), p. 2054; P 10039, paras 5, 13, 15 and 33; P 02661; P 02750, p. 7, item 5.A.3; P 03522, p. 3; P 04403, p. 3; P 04420 under seal, p. 1; P 04822, p. 6, para. 27; P 09901 under seal, p. 1; P 06568 under seal, p. 7; P 07929 under seal, p. 2; Decision of 14 March 2006, Adjudicated Fact no. 296 (*Naletilić* Judgement, para. 50).

<sup>3007</sup> Belinda Giles, T(F), p. 2053; P 07437; P 10039, paras 13 and 33; Witness CB, T(F), p. 10148; Witness DZ, T(F), pp. 26602-26604, 26606 and 26607, closed session.

<sup>3008</sup> P 04403, p. 3.

<sup>3009</sup> P 04822, p. 6, para. 27; P 09946 under seal, para. 70; P 03545 under seal, p. 9; P 03705 under seal, p. 8; P 04420 under seal, p. 1; P 10039, para. 5; P 09901 under seal, p. 1; P 05091, para. 27; P 03544, p. 2, para. 4; P 07917, p. 13, para. 71; P 07929 under seal, p. 2.



that certain measures be implemented to reduce the suffering of the population of East Mostar, including organising "soup kitchens" in West Mostar accompanied by all sorts of security guarantees for the arrival and departure of the inhabitants of East Mostar.<sup>3010</sup> The Chamber notes, however, that it does not have any evidence to support a finding that the suggestions were ever followed through.

1204. Consequently, the Chamber finds that the inhabitants of East Mostar suffered from a shortage of food between June 1993 and April 1994.

### C. Access to Water and Electricity

1205. Between June 1993 and April 1994, the inhabitants of East Mostar experienced water shortages.<sup>3011</sup> In order to get water while under constant exposure to firing and shelling,<sup>3012</sup> they had to: 1) draw impotable water from the Neretva on their own and boil it;<sup>3013</sup> 2) get water from a water truck located near the Spabat base, in the vicinity of Maršal Tito Street<sup>3014</sup> which pumped water from the Neretva<sup>3015</sup> that was then chlorinated to make it potable;<sup>3016</sup> 3) or go to one of the three water points only two of which by mid-July 1993 were still accessible on foot on the west bank in Černica in territory controlled by the ABiH, while the third was on the east bank in the vicinity of the Old Bridge.<sup>3017</sup> Although some evidence shows that water at these three water supply points, which had already been damaged, was cut off on 18 June 1993 and the following days,<sup>3018</sup> *Ratko*

<sup>3010</sup> 1D 01874, p. 2; P 07008, p. 3.

<sup>3011</sup> Witness BB, T(F), pp. 17220-17222, closed session; Witness BC, T(F), pp. 18365, 18366 and 18397, closed session; Witness BA, T(E), pp. 7218 and 7219; P 09712 under seal, para. 42; Witness BD, T(F), pp. 20709, 20710, 20897 and 20958-20960, closed session; Antoon Van der Grinten, T(F), pp. 21017 and 21018; Witness DW, T(F), pp. 23081 and 23082, private session; Larry Forbes, T(F), pp. 21292, 21293 and 21309-21311; Suad Ćupina, T(F), p. 4857; Witness BH, T(F), p. 17512, closed session; Ratko Pejanović, T(F), p. 1349; Jeremy Bowen, T(F), p. 12750; Cedric Thornberry, T(F), p. 26326; P 09861, p. 3; Witness U, P 10220 under seal, *Naletilić and Martinović* Case, T(F), p. 2937; P 02661; P 02710 under seal, p. 3; P 03544, p. 2; P 04403, p. 3; P 09901 under seal, p. 1; P 08016, p. 3.

<sup>3012</sup> Witness BH, T(F), p. 17512, closed session; Ratko Pejanović, T(F), pp. 1289-1291; Witness BC, T(F), pp. 18365 and 18366, closed session; P 09862, pp. 2 and 3; Witness BD, T(F), p. 20709, closed session; Witness CB, T(F), p. 10148; Suad Ćupina, T(F), pp. 4857-4858; Cedric Thornberry, T(F), p. 26326; P 04822, p. 6, para. 29; P 03980 under seal, p. 4; P 04423 under seal, p. 6; P 09808, pp. 30 and 31.

<sup>3013</sup> Witness 2D-AB, T(F), pp. 37517 and 37518; P 09862, p. 2; P 03925 under seal, p. 4.

<sup>3014</sup> See notably Witness DW, T(F), p. 23110.

<sup>3015</sup> P 10039, para. 33; P 10287 under seal, para. 58; Larry Forbes, T(F), p. 21295; Ratko Pejanović, T(F), p. 1291; Suad Ćupina, T(F), pp. 4857 and 4858.

<sup>3016</sup> Ratko Pejanović, T(F), p. 1291.

<sup>3017</sup> Ratko Pejanović, CRF p. 1285-1294; IC 00002: According to *Ratko Pejanović*, the first two water supply points were located on the section of Mostar's west bank controlled by the ABiH, in Černica; the witness notes, however, that starting around mid-July 1993, only pedestrians could access the water points because the makeshift bridge which the UNPROFOR built at the location where the *Tito* bridge stood between the two conflicts had been destroyed and the fire trucks were unable to cross the river (Ratko Pejanović, T(F), pp. 1285-1289; IC 00002). The third water supply point was located on the east bank of the town, in the immediate vicinity of the Old Bridge: Ratko Pejanović, T(F), pp. 1289-1291; IC 00002; P 02611, p. 2; P 09858, p. 2.

<sup>3018</sup> P 02844 under seal, p. 2; P 02740 under seal, p. 8; P 03311 under seal, p. 8; P 09862, p. 2; P 10047, para. 25; P 03952, p. 2.

*Pejanović* stated that, nevertheless, sometimes and at certain locations in East Mostar, there would be a little water left in the damaged and defective pipes, but very little.<sup>3019</sup> In any case, based on the evidence, the Chamber finds that the water points did not allow sufficient supplies of drinking water to be distributed to the inhabitants of East Mostar.

1206. The population of East Mostar was also deprived of electricity from at least June 1993.<sup>3020</sup> An ECMM report describes it as being "completely cut" on 4 August 1993.<sup>3021</sup>

1207. The Chamber notes that on 21 August 1993, Branko Kvesić, head of the Department of the Interior of the HZ H-B, informed Bruno Stojić that there was still no water or electricity in East Mostar on that date.<sup>3022</sup>

1208. As a result of this situation, the living conditions and hygiene were extremely difficult for the inhabitants of East Mostar, particularly in the summer of 1993 which was very hot and dry.<sup>3023</sup>

1209. The Prosecution alleges in paragraph 112 of the Indictment that it was the Herceg-Bosna/HVO authorities that cut off or failed to restore water and electricity supplies to East Mostar. The Praljak Defence submits in its Final Trial Brief that the Prosecution did not present sufficient evidence to support this allegation.<sup>3024</sup> It submits furthermore that in 1992 attacks by the JNA and/or the VRS seriously damaged electrical power facilities<sup>3025</sup> and important water pipelines and water sources, Radobolja in Mostar and Studenac in Raštani, which were the two main water supplies, and did so long before the conflict between the HVO and the ABiH commenced.<sup>3026</sup> Consequently, it claims both that the HVO was not responsible for damaging the electricity network and the system of water distribution and that the system was not in working order.<sup>3027</sup>

<sup>3019</sup> Ratko Pejanović, T(F), pp. 1294 and 1295.

<sup>3020</sup> Witness BC, T(F), pp. 18365 and 18366, closed session; Witness BB, T(F), pp. 17220-17222, closed session; Witness DV, T(F), pp. 22895, 22896 and 22899, private session; P 10217 under seal, paras. 122-124; Larry Forbes, T(F), pp. 21292 and 21293; Christopher Beese, T(F), pp. 3171-3174, private session; P 09834, para. 12; P 10047, para. 25; P 09947 p. 7; P 02710 under seal, p. 3; P 03532 under seal, p. 2; P 02740 under seal, p. 8; P 03311 under seal, p. 8; P 03530, pp. 1 and 2; P 03952, p. 2; P 04403, p. 3; P 01717 under seal, pp. 113 and 114; P 07904, p. 1; Decision of 14 March 2006, Adjudicated Fact no. 297 (*Naletilić* Judgement, para. 240).

<sup>3021</sup> P 03952, p. 2; P 10047, para. 25.

<sup>3022</sup> P 04403, p. 3.

<sup>3023</sup> P 09901 under seal, p. 1; Witness BC, T(F), p. 18397, closed session; P 05625, p. 6; P 09712 under seal, para. 42; Larry Forbes, T(F), pp. 21309-21311; Suad Ćupina, T(F), pp. 4857 and 4858; Witness BH, T(F), p. 17512, closed session; Ratko Pejanović, T(F), p. 1349; Edward Vulliamy, T(F), pp. 1597, 1602 and 1605; Jeremy Bowen, T(F), pp. 12740 and 12749-12751; P 09861, p. 3; P 08016, p. 3, para. 8; Witness BA, T(E), pp. 7187, 7188, 7218 and 7219, closed session; Witness 2D-AB, T(F), pp. 37680 and 37681; 1D 01566; Witness BD, T(F), pp. 20899-20901, closed session; 1D 01567; 2D 00501.

<sup>3024</sup> Praljak Defence Final Trial Brief, para. 268.

<sup>3025</sup> Praljak Defence Final Trial Brief, para. 270.

<sup>3026</sup> Praljak Defence Final Trial Brief, para. 279.

<sup>3027</sup> Praljak Defence Final Trial Brief, paras 268-280.

1210. Firstly, with respect to the alleged responsibility of the HVO for cutting off electricity, the Chamber notes that it does not have evidence on how the electricity was cut off and on who might have been responsible for this. Consequently, the Chamber is unable to establish whether the HVO cut off electricity supplies to East Mostar.

1211. With respect to the alleged responsibility of the HVO for failing to repair the electricity supply system, the Chamber notes that according to a letter from Smail Klarić, President of the War Presidency, dated 19 February 1994, after months of negotiations the HVO had still not allowed electricity to be restored to East Mostar.<sup>3028</sup> In the absence of supporting evidence to explain how the HVO allegedly obstructed the restoration of electricity to East Mostar, the Chamber cannot reach a finding solely on this basis. Furthermore, evidence shows that between July and November 1993, the HVO attempted to restore electricity supplies to East Mostar, notably by repairing the hydraulic drive system.<sup>3029</sup> Consequently, the Chamber cannot find that the HVO failed to restore electricity supplies to East Mostar.

1212. With respect to the alleged responsibility of the HVO for cutting off water supplies, the Chamber notes that Witnesses *Antoon van der Grinten*, *BB* and *BD* all stated that the HVO had control – "more or less" according to *Antoon van der Grinten*<sup>3030</sup> – of the water supplies in East Mostar.<sup>3031</sup> Nevertheless, these testimonies did not provide more information on this point. Furthermore, only *Witness BH* stated that the "Croats" had deliberately cut off the water in this part of the town<sup>3032</sup> but did not elaborate further. The Chamber considers that based on this evidence alone, which is too imprecise, it cannot find that the HVO in fact cut off the water to East Mostar.

1213. With respect to the alleged responsibility of the HVO for failing to restore the water supply system, the Chamber notes that in June 1993<sup>3033</sup> there were attempts to repair the system by the THW company, which was tasked – the Chamber is unaware by whom – with restoring the delivery of water from West Mostar to East Mostar.<sup>3034</sup> Several pieces of evidence mention the lack of cooperation, and indeed obstruction, by the HVO at that time in facilitating and permitting the

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<sup>3028</sup> P 07904, p. 1; P 07929 under seal, p. 2.

<sup>3029</sup> Witness *BD*, T(F), pp. 20897, 20901-20903 and 20958-20960, closed session; Grant Finlayson, T(F), p. 18150; 1D 02826; 1D 01566; 1D 02180.

<sup>3030</sup> *Antoon van der Grinten*, T(F), p. 21015.

<sup>3031</sup> *Antoon van der Grinten*, T(F), pp. 21014 and 21015; P 02622 under seal, p. 2; Witness *BB*, T(F), p. 17221, closed session (the Chamber notes that *Witness BB* stated that he deduced, based on information provided by the THW company during meetings he attended with the HVO and THW, that "the water was controlled by the HVO side": T(E) p. 17221); Witness *BD*, T(F), p. 20710, closed session.

<sup>3032</sup> Witness *BH*, T(F), p. 17512, closed session.

<sup>3033</sup> Witness *BC*, T(F), p. 18330, closed session.,.

company to repair the water supply system.<sup>3035</sup> A report from an international organisation dated 7 June 1993 explicitly refers to "the clear intention of the HVO authorities to continue to block THW water system reparation project" and to numerous "stall tactics" by the HVO, notably postponing the issuance of a permit to allow the THW company to begin work.<sup>3036</sup> *Witnesses BA* and *BC* also mentioned that, despite Jadranko Prlić's stated wish not to hinder the repair of the water system and allow it to proceed, the HVO constantly erected "bureaucratic obstacles" to prevent repairs to the system in East Mostar by the THW company.<sup>3037</sup>

1214. THW ultimately broke off its activities at the end of June 1993, but the evidence shows that this was for security reasons linked to the escalating combat in Mostar.<sup>3038</sup>

1215. Nevertheless, evidence shows that between July and November 1993, the HVO, and in particular the HVO municipal office for reconstruction in Mostar, attempted to repair the hydraulic drive system.<sup>3039</sup>

1216. However, combat, electricity shortages, poor infrastructure maintenance, the drought of the summer of 1993, shortages in suitable material and the fact that the water supply system was located in both HVO-held territory and territory held by the ABiH, notably in Raštani, were the reasons given by the HVO to explain why there was no repair work done or why it had stopped.<sup>3040</sup>

1217. Furthermore, since one part of the infrastructure was located on HVO-controlled territory and the other on ABiH-controlled territory,<sup>3041</sup> repairs to water pipes could be done only when the respective troops of the HVO and the ABiH withdrew from the zone where the infrastructure was located.<sup>3042</sup> However, neither the HVO nor the ABiH co-operated fully and withdrew their troops so the pipes could be repaired.<sup>3043</sup>

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<sup>3034</sup> Witness BC, T(F), pp. 18329, 18330, 18421, 18423 and 18424, closed session; Grant Finlayson, T(F), pp. 18031 and 18032; P 02657, P 09842 under seal, p. 3; Witness BA, T(F), p. 7219, closed session; P 09712 under seal, paras 43 and 65; P 02622 under seal, p. 2.

<sup>3035</sup> Witness BC, T(F), pp. 18329, 18330, 18421 and 18424, closed session; Grant Finlayson, T(F), pp. 18031 and 18032; P 02657, pp. 1 and 2; P 09842 under seal, p. 3; Witness BD, T(F), pp. 20710 and 20711, closed session; Witness BA, T(F), p. 7219, closed session; P 09712 under seal, paras 43 and 65; P 02622 under seal, p. 2.

<sup>3036</sup> P 09842 under seal, p. 3.

<sup>3037</sup> Witness BC, T(F), p. 18330, closed session (for example *Witness BC* stated that an engineer from the THW company spent days negotiating with the people in charge of the water supply system in West Mostar to obtain permission to repair the water pipes but that he finally gave up): P 09712 under seal, paras. 43 and 65.

<sup>3038</sup> Klaus Johann Nissen, T(F), p. 20511; Witness BB, T(F), p. 17221, closed session; P 02923 under seal, p. 4.

<sup>3039</sup> Witness BD, T(F), pp. 20897, 20901-20903 and 20958-20960, closed session; Grant Finlayson, T(F), p. 18150; 1D 01566; 2D 00501; 1D 02180; 1D 02826.

<sup>3040</sup> 1D 01569; 1D 01566; 1D 01567; 1D 01568; 3D 00723, p. 1.

<sup>3041</sup> Witness BD, T(F), pp. 20901-20903, closed session.

<sup>3042</sup> P 02598, p. 2; Grant Finlayson, T(F), pp. 18151-18155, P 04822; para. 29.

<sup>3043</sup> Grant Finlayson, T(F), pp. 18155 and 18156; P 02657, p. 1; P 04822, para. 29.

1218. Consequently, with respect to the evidence examined, although the Chamber notes that in June 1993, the HVO was clearly hindering the repairs of the water supply system to East Mostar that were proposed by the THW company, on the other hand, from July 1993 until at least November 1993, the HVO attempted to manage the problem of water and electricity supplies in Mostar and perform the necessary repairs, notably on the territory under its control. Therefore, the Chamber cannot find that during this period the HVO willingly refused to restore water and electricity supplies to the east part of the town of Mostar. The Chamber does not have any evidence regarding the period beyond November 1993.

#### **D. Access to Medical Care**

1219. The Chamber notes that the Muslim population in East Mostar lacked medicine and was deprived of adequate medical care.<sup>3044</sup> Furthermore, due to the lack of water, several cases of typhoid fever were reported.<sup>3045</sup>

1220. The evidence examined highlighted the sanitary conditions at the East Mostar Hospital, which *Witness BH* described as being "dreadful"<sup>3046</sup> and *Edward Vulliamy* as "horrendous".<sup>3047</sup> There was a shortage of doctors, medicine, blankets, water and blood and space to accommodate the patients along with, frequent electricity cuts, a lack of sterilization and no painkillers.<sup>3048</sup>

1221. Due to the shortages in electricity and gas in East Mostar, the East Mostar Hospital only had limited electricity with the help of a generator.<sup>3049</sup> Operations even had to be performed by candlelight, sometimes for several days in a row.<sup>3050</sup>

1222. The Chamber notes on the basis of two documents dated 2 December 1993 that Jadranko Prlić, Prime Minister of the HR H-B, notably proposed to Haris Silajdžić, the "President of the

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<sup>3044</sup> Suad Ćupina, T(F), p. 4857; 1D 00527, para. 25; P 02710 under seal, p. 3; P 02923 under seal, p. 3; Witness BB, T(F), pp. 17220-17222, closed session; P 03530, pp. 1-2; P 03597 under seal, p. 8; P 03980 under seal, p. 4; P 04403, p. 3; P 03858, pp. 2 and 6; P 04420 under seal, p. 1; P 10039, para. 5; P 03544, p. 2; P 04822, para. 27; P 03522, p. 3; P 04472, p. 5; Witness BD, T(F), p. 20753, closed session; P 09902 under seal, p. 1; P 09946 under seal, para. 70; P 03925 under seal, p. 4.

<sup>3045</sup> P 03952, p. 2; P 04420 under seal, p. 1; P 02710 under seal, p. 3; P 03925 under seal, p. 4; P 09842 under seal, p. 3.

<sup>3046</sup> Witness BH, T(F), p. 17512, closed session.

<sup>3047</sup> Edward Vulliamy, T(F), p. 1599.

<sup>3048</sup> Witness BH, T(F), pp. 17512-17513, closed session; Jovan Rajkov, T(F), pp. 12915 to 12923; P 03597 under seal, p. 8; 2D 00120, p. 1; P 02703 under seal, p. 2; Cedric Thornberry, T(F), pp. 26167, 26190-26191, 26194-26195 and 26325; P 10041, para. 57; P 03858, p. 7; Witness DZ, T(F), p. 26593, closed session; Witness CB, T(F), p. 10148; Larry Forbes, T(F), p. 21293; P 10039, paras 14 and 15; P 09900 under seal, p. 2; P 09902, p. 1; P 05007, p. 1; Philip Watkins, T(F), p. 18861; P 06894, p. 4; P 03522, p. 3; P 10039, para. 5; Edward Vulliamy, T(F), pp. 1599-1600; P 09869; P 07917, p. 13, para. 71.

<sup>3049</sup> Jovan Rajkov, T(F), pp. 12919 to 12923; Cedric Thornberry, T(F), p. 26194; Witness BH, T(F), p. 17512, closed session; Larry Forbes, T(F), p. 21293; P 07929, p. 2;

<sup>3050</sup> P 07929, p. 2.

Government" of the BiH, that wounded "civilians" and soldiers from East Mostar, both Muslims and Serbs, be treated in the hospitals and other medical institutions in the HR H-B.<sup>3051</sup> The Chamber notes, however, that it does not have any evidence to support a finding that these proposals were implemented.

1223. In light of the foregoing, the Chamber notes that the inhabitants of East Mostar lacked appropriate access to medical care.

#### **E. Blocking of International Organisations and Humanitarian Aid**

1224. In paragraph 112 of the Indictment it is alleged that the Herceg-Bosna/HVO authorities blocked and cut off humanitarian aid to the Muslims in East Mostar. Paragraph 113 of the Indictment specifies that in late June 1993 until approximately late August 1993, access by international and humanitarian organisations to East Mostar was completely blocked or very limited, which exacerbated the difficulties faced by the BiH Muslims in East Mostar who were cut off from outside aid.

1225. In its Final Trial Brief, the Prosecution specifies that the HVO used humanitarian aid as a weapon, blocking or withholding it from East Mostar with the aim of destroying or weakening the population, thereby forcing it to leave the town.<sup>3052</sup> It argues in particular that the policy of the HVO, especially at checkpoints manned by the Military Police, was to prevent international officials from entering Mostar.<sup>3053</sup>

1226. In their Final Trial Briefs, the Stojić and the Praljak Defence refuted the allegation that the HVO obstructed the delivery of humanitarian aid to East Mostar.<sup>3054</sup> The Praljak Defence submits that in one case, the Accused Praljak himself opened a corridor to allow the passage of a convoy blocked by "angry civilians" demanding the fair distribution of provisions.<sup>3055</sup> The Stojić Defence submits that there was no policy within the HVO to block humanitarian aid intended for the Muslims.<sup>3056</sup> On the contrary, it mentions the good co-operation between the HVO and the international organisations.<sup>3057</sup> The Stojić and the Pušić Defence argue in their final trial briefs that

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<sup>3051</sup> 1D 01874, p. 2; P 07008, p. 3.

<sup>3052</sup> Prosecution Final Trial Brief, paras 497, 963.

<sup>3053</sup> Prosecution Final Trial Brief, para. 1006.

<sup>3054</sup> Praljak Defence Final Trial Brief, para. 86, Stojić Defence Final Trial Brief, paras 91-109. *See also* Praljak Defence Final Trial Brief, para. 262.

<sup>3055</sup> Praljak Defence Final Trial Brief, para. 86.

<sup>3056</sup> Stojić Defence Final Trial Brief, para. 109.

<sup>3057</sup> Stojić Defence Final Trial Brief, paras 101 to 104. *See also* Stojić Defence Final Trial Brief, para. 91.

the HVO allowed and organised medical evacuations.<sup>3058</sup> The Stojić Defence acknowledges, however, that the HVO did restrict the activities of the international organisations in East Mostar, but argues that this was justified on security grounds because entry into East Mostar was not safe.<sup>3059</sup>

1227. Between June 1993 and at least December 1993, the Muslims in East Mostar had limited or no access to humanitarian aid during certain periods.<sup>3060</sup>

1228. Some evidence shows that the HVO was pursuing a policy aimed at preventing or limiting the access of the humanitarian convoys and international organisations to East Mostar.<sup>3061</sup> *Witness DZ* stated that the HVO "political leaders" deliberately obstructed the delivery of humanitarian aid to East Mostar by setting conditions impossible to meet in order to weaken the Muslim population of East Mostar and force them to leave the town: "Starving the people was important leverage to remove them".<sup>3062</sup>

1229. The delivery of humanitarian aid to East Mostar was punctuated by incidents linked notably to the conditions required to enter East Mostar. Authorisation from the HVO was required before the convoys of the international organisations, including humanitarian organisations, could enter or leave East Mostar, and the same applied when Muslims or Croats were transferred for medical reasons.<sup>3063</sup> Such authorisation was particularly difficult to obtain and the negotiations with the HVO beforehand could last for several days or even weeks.<sup>3064</sup>

1230. The Chamber recalls that the ODPR of the HVO was one of the organs in charge of issuing permits allowing the international and humanitarian organisations to pass through the HVO checkpoints.<sup>3065</sup> *Witness BA* stated that during a meeting on 10 June 1993, Mate Boban, Jadranko Prlić and Bruno Stojić informed him that a decision had been issued by the ODPR – which the

<sup>3058</sup> Stojić Defence Final Trial Brief, para. 106. Pušić Defence Final Trial Brief, paras 133, 506-508.

<sup>3059</sup> Stojić Defence Final Trial Brief, paras 107 to 109.

<sup>3060</sup> Grant Finlayson, T(F), pp. 18048, 18051 and 18052; Larry Forbes, T(F), pp. 21297-21298; Witness BC, T(F), pp. 18365 and 18366, closed session; Witness BB, T(F), pp. 17220-17222, closed session; Witness CB, T(F), pp. 10148 and 10149; Witness DV, T(F), p. 22890; Antoon van der Grinten, T(F), p. 21015; P 02601; P 03530, pp. 1-2; P 09899 under seal, p. 1; P 04420 under seal, p. 1; P 04483, p. 2; P 07929, p. 2; P 02661; P 03522, p. 3; P 03544, p. 2; P 04472, p. 5; P 06731, p. 1; P 08016, p. 3; 4D 01731, p. 101, para. 208; Decision of 14 March 2006, Fact number 297 (*Naletilić* Judgement, para. 240).

<sup>3061</sup> Witness BD, T(F), pp. 20735-20736, closed session; Witness DZ, T(F), p. 26848, closed session, P 04419, p. 1; P 09899 under seal, p. 1; P 05091, para. 27.

<sup>3062</sup> P 10367 under seal, para. 80.

<sup>3063</sup> Witness BB, T(F), pp. 17238 and 17239, 17242, closed session; Witness BC, T(F), pp. 18537-18540, closed session; Witness CB, T(F), pp. 10147-10149; Witness BD, T(F), pp. 20719-20720, closed session; P 09712 under seal, para. 64; 1D 02207; P 03465, p. 5.

<sup>3064</sup> Witness CB, T(F), p. 10148; Witness DZ, T(F), p. 26856; Witness BD, T(F), pp. 20719-20720, closed session.

<sup>3065</sup> See "Powers of the ODPR" in the Chamber's findings on the political and administrative structure of the HZ(R) H-B. See notably Witness BD, T(F), p. 20698, closed session; 6D 00513.

Chamber does not have – laying down administrative requirements and stricter conditions for the movement of the humanitarian aid convoys, notably requiring that each convoy be individually approved by "the HVO authorities".<sup>3066</sup>

1231. The Chamber also recalls that as the head of the Service for Exchanges, Berislav Pušić was responsible, though not solely,<sup>3067</sup> for issuing special permits for humanitarian evacuation of people from East Mostar.<sup>3068</sup> The decision whether to grant access to the international organisations could also be taken at a political level higher than Berislav Pušić's, namely directly by Jadranko Prlić,<sup>3069</sup> or by Bruno Stojić,<sup>3070</sup> Milivoj Petković<sup>3071</sup> or even Mate Boban.<sup>3072</sup>

1232. Aside from the difficulties in obtaining permits, the Chamber notes that the international and humanitarian organisations faced obstacles when their convoys attempted to enter or leave East Mostar because HVO military policemen would stop and search them at HVO checkpoints<sup>3073</sup> – including medical evacuation convoys<sup>3074</sup> – despite the fact that the convoys had the required authorisation.<sup>3075</sup>

1233. The evidence shows that between 30 June 1993, the date the ABiH attacked the *Tihomir Mišić* barracks,<sup>3076</sup> and 21 August 1993, the date a humanitarian convoy was able to enter East Mostar for the first time in two months,<sup>3077</sup> the HVO did not allow the international and

<sup>3066</sup> P 09712 under seal, para. 64.

<sup>3067</sup> See "Powers of the Exchange Service and Commission" in the Chamber's findings regarding the political and administrative structure of the HZ(R) H-B. Witness BB, T(F), pp. 17238, 17329, 17242, 257277-25279, closed session; Witness BC, T(F), pp. 18537-18538, closed session; P 09851 under seal, para. 2.10; Witness BD, T(F), p. 20698, closed session.

<sup>3068</sup> See "Powers of the Exchange Service and Commission" in the Chamber's findings regarding the political and administrative structure of the HZ(R) H-B. See in particular: Witness BD, T(F), pp. 20698, 20699, closed session; 6D 00513. The Chamber notes that in February 1994, an international organisation turned to Martin Raguž, chief of the ODPR of HR H-B, to evacuate people from East Mostar for medical reasons. The Chamber notes that the letter does not however indicate whether the evacuation in fact took place.

<sup>3069</sup> Witness BD, T(F), p. 20700, closed session.

<sup>3070</sup> P 03900, under seal, p. 2; para. (g).

<sup>3071</sup> P 10013, p. 1; P 07915, p. 1; P 10013, p. 1.

<sup>3072</sup> Slobodan Božić T(F), pp. 36322 and 36323, private session, P 04430, p. 6.

<sup>3073</sup> Antoon van der Grinten, T(F), p. 21015; P 10367 under seal, para. 81; Witness DV, T(F), p. 22890; Larry Forbes, T(F), pp. 21339 and 21340; P 03311 under seal, p. 8; P 05992, p. 3; P 07769, p. 4; P 05091, para. 27; 1D 02207.

<sup>3074</sup> Witness BC, T(F), pp. 18537, 18538, closed session; Jovan Rajkov, T(F), pp. 12924 and 12925.

<sup>3075</sup> Witness CB, T(F), pp. 10147, 10148, 10150, 10151 and 10152 and T(E), p. 10152; Witness BD, T(F), p. 20697, closed session; Witness BC, T(F), pp. 18537-18540, closed session; P 07915, p. 1; P 10013, p. 1; P 03465, p. 5; P 02561; Jovan Rajkov, T(F), pp. 12924 and 12925.

<sup>3076</sup> See "Attack on the *Tihomir Mišić* Barracks on 30 June 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

<sup>3077</sup> Witness BJ, T(F), pp. 5604 to 5606; Witness DZ, T(F), pp. 26598 to 26600, closed session; Larry Forbes, T(F), pp. 21297 and 21298; Cedric Thornberry, T(F), pp. 26177, 26180, 26181, 26184, 26186-26188, 26249, 26273, 26316, 26317, 26320-26325, 26336, 26347 and 26348; P 04358; P 09495 under seal, P 04358; P 02590; P 04296, clip 2; P 04423 under seal, p. 5; 3D 02394; 4D 00722, p. 1; P 04420 under seal, p. 1; P 03858, pp. 6, 7, 14; 3D 02021, p. 3; P 05091, para. 27; P 01717 under seal, pp. 147-148.



humanitarian organisations access to Mostar, in particular East Mostar.<sup>3078</sup> The HVO closed all the roads, using checkpoints around Mostar.<sup>3079</sup>

1234. The Chamber notes in particular that pursuant to an order of the Military Police Administration dated 13 August 1993 signed by Valentin Ćorić, the 5<sup>th</sup> Military Police Battalion in Mostar was instructed to prohibit access to the town to anyone but HVO members, including foreign journalists and television teams, until an order stating otherwise was issued.<sup>3080</sup>

1235. According to *Witness DZ*, as a result, Muslims in East Mostar could receive aid only from the ABiH and only by way of mules over mountain paths.<sup>3081</sup>

1236. The Chamber notes that according to *Klaus Johann Nissen*, an ECMM observer,<sup>3082</sup> a meeting was held on 5 July 1993 in Široki Brijeg between ECMM officials and Bruno Stojić,<sup>3083</sup> during which Stojić attempted to justify why the international organisations could not enter Mostar.<sup>3084</sup> In this respect, he raised security issues which the ECMM members rejected.<sup>3085</sup>

1237. Furthermore, on 9 July 1993, the HVO and notably Mate Boban stated that the international organisations including UNPROFOR, UNMO and the ECMM would not be allowed entry into Mostar for at least one month.<sup>3086</sup> The Chamber does not have additional information on the reasons given by Mate Boban.

1238. According to *Witness BC*, who met with Jadranko Prlić between 10 and 15 July 1993, Prlić told him that as long as the military situation in the field remained the same – according to *Witness*

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<sup>3078</sup> Bo Pellnas, T(F), pp. 19522 and 19523; P 03094; P 03148, p. 1; P 03376, p. 2; P 05091, paras 4, 15, 27; P 06332 under seal; *Witness BC*, T(F), pp. 18335, 18337, 18351 and 18352, closed session; Antoon van der Grinten, T(F), pp. 21092, 21093, 21096, 21186 and 21187; P 03900 under seal, p. 2; P 03858, p. 14; *Witness DZ*, T(F), pp. 26598 to 26600 and 26848, closed session; P 09495; P 02590; P 10832; P 09843 under seal, p. 2; *Witness BC*, T(F), pp. 18351 and 18352, closed session; P 03511 under seal, pp. 5 and 6; Christopher Beese, T(F), p. 3177, private session; P 03952, p. 2; P 10367 under seal, para. 81; P 04027 under seal, pp. 1-2; P 09899 under seal, p. 1; *Witness BD*, T(F), pp. 20735-20737 and 20725, closed session; P 03298 under seal, p. 4; P 03361 under seal, p. 6; P 03453 under seal, p. 1; P 03471 under seal, p. 2; Klaus Johann Nissen, T(F), pp. 20464-20466, 20476, 20487, 20488, 20526 and 20528; P 03362 under seal, p. 1; *Witness DV*, T(F), p. 22889; P 03371 under seal, p. 8; P 04419, p. 1; *Witness BB*, T(F), p. 17220, closed session; P 09851 under seal, para. 2.6; 1D 00527, para. 25; *Witness BC*, T(F), pp. 18364, 18365, 18366, 18606, closed session; Larry Forbes, T(F), pp. 21297 and 21298; P 04420 under seal, p. 1; P 03162 under seal; P 03187, p. 1; P 03465, p. 5; P 04822; P 09897 under seal, p. 1.

<sup>3079</sup> Antoon van der Grinten, T(F), pp. 21070 and 21073, P 03085, under seal, p. 2.

<sup>3080</sup> P 04174.

<sup>3081</sup> *Witness DZ*, T(F), pp. 26570 and 26571, closed session.

<sup>3082</sup> Klaus Johann Nissen, T(F), pp. 20405-20407.

<sup>3083</sup> P 03196 under seal p. 1, Klaus Johann Nissen, T(F), pp. 20453, 20454 and 20457.

<sup>3084</sup> P 03196 under seal p. 1, Klaus Johann Nissen, T(F), pp. 20454, 20455 and 20457.

<sup>3085</sup> P 03196 under seal p. 1, Klaus Johann Nissen, T(F), pp. 20454, 20455 and 20457.

<sup>3086</sup> *Witness DV*, T(F), p. 22889; P 03371 under seal, p. 8; P 03369 under seal, pp. 1 and 2; Antoon van der Grinten, T(F), p. 21179; P 03362, p. 1; Klaus Johann Nissen, T(F), pp. 20526, 20528 and 20529; P 03361 under seal, pp. 6 and 8.

BC, Jadranko Prlić was referring to the ABiH attack on the *Tihomir Mišić* barracks – the HVO would not be in a position to grant humanitarian access to East Mostar.<sup>3087</sup>

1239. The frequent meetings held between July and August 1993 between the representatives of the international organisations and the HVO – like the one on 8 August 1993 in Makarska in the presence of *Witness DZ*, Mate Granić, Minister of Foreign Affairs and Deputy Prime Minister of Croatia, Jadranko Prlić and Berislav Pušić<sup>3088</sup> – to negotiate unobstructed access for humanitarian convoys to East Mostar attest to the difficulties faced by the international organisations in obtaining permission to deliver humanitarian aid to the population of East Mostar<sup>3089</sup> – which was not given until 21 August 1993 – again after difficult negotiations with the HVO.<sup>3090</sup>

1240. The Chamber notes that on 21 and 25 August 1993,<sup>3091</sup> humanitarian convoys were able to get into East Mostar and supplies were air dropped.<sup>3092</sup> Slobodan Praljak himself intervened to ensure the security of the convoy on 25 August 1993.<sup>3093</sup>

1241. The evidence shows that although the delivery of humanitarian aid to East Mostar resumed after 25 August 1993,<sup>3094</sup> it was nevertheless punctuated with incidents notably linked to a lack of security, the violation of the ceasefire between the HVO and the ABiH during the delivery of aid,<sup>3095</sup> roadblocks and searches at checkpoints on HVO-held territory<sup>3096</sup> and by frequent delays caused by the HVO.<sup>3097</sup>

<sup>3087</sup> Witness BC, T(F), pp. 18360 to 18365, closed session; P 09999 under seal.

<sup>3088</sup> Witness DZ, T(F), p. 26469; closed session, P 10367 under seal, para. 79; P 04027 under seal, p. 1.

<sup>3089</sup> P 04420 under seal, p. 1; Witness BD, T(F), pp. 20719-20720, closed session.

<sup>3090</sup> Klaus Johann Nissen, T(F), pp. 20454, 20455, 20470, 20471, 20531 and 20532; Witness DZ, T(F), p. 26469, closed session; P 10367 under seal, para. 79; P 04027 under seal, pp. 1 and 2; P 03858, pp. 15 and 22.

<sup>3091</sup> Witness BC, T(F), pp. 18389-18392, 18394, closed session; Larry Forbes, T(F), pp. 21291, 21297 and 21298; Witness BJ, T(F), pp. 5592 to 5594, 5597, 5721 to 5724 and T(E), p. 5719; Cedric Thornberry, T(F), pp. 26167 and 26168, 26206-26208; P 10041, para. 65; P 10039, paras 7-10; P 01717 under seal, pp. 151 and 152; 3D 00366; P 05091, paras 4 and 27; P 04511, p. 1.

<sup>3092</sup> Witness BC, T(F), pp. 18389-18392, 18394, 18396 and 18397, closed session; P 10832, p. 2; P 04423 under seal, p. 5; Witness BJ, T(F), pp. 5592 to 5594; P 09900 under seal, p. 2; Witness BD, T(F), pp. 20744, 20751-20752, 20783-20786, and 20910, closed session; P 09906 under seal; P 06528, p. 2; 1D 01591; Amor Mašović, T(F), p. 25185; P 09946 under seal, para. 70; 1D 01639; 1D 01640; 1D 01641; P 07904, p. 1; 1D 01637; 1D 02207; P 05497, pp. 2 and 8; P 06514, p. 1; P 07345; P 07769 under seal, p. 4; P 09901 under seal, p. 1; P 05091, paras 4 and 27; Larry Forbes, T(F), pp. 21291, 21297 and 21298; Witness BJ, T(F), pp. 5592 to 5594, 5597, 5721 to 5724 and T(E), p. 5719; P 01717 under seal, pp. 151 and 152; 3D 00366; P 04511, p. 1; P 04573, p. 2; Cedric Thornberry, T(F), pp. 26166-26173, 26206-26208; P 10041, paras 62 and 65; P 10039, paras 7-10.

<sup>3093</sup> Witness BJ, T(F), pp. 5592 to 5594, 5597, 5721 to 5724 and T(E) p. 5719, P 01717 under seal, pp. 151 and 152; Cedric Thornberry, T(F), pp. 26167 and 26168, 26206-26209; P 10041, para. 65; 3 D00366.

<sup>3094</sup> Grant Finlayson, T(F), pp. 18157 and 18158.

<sup>3095</sup> Witness BD, T(F), pp. 20751-20752, closed session; P 09901, p. 1; Miro Salčin, T(F), pp. 14226, 14229 and 14230; P 09834, para. 10; P 05992 under seal, p. 3; Witness BC, T(F), p. 18489, closed session.

<sup>3096</sup> Larry Forbes, T(F), pp. 21339 and 21340; P 05992, p. 3; P 07769 under seal, p. 4; P 05091, para. 27.

<sup>3097</sup> Grant Finlayson, T(F), pp. 18081 and 18082.

1242. Furthermore, the Chamber notes that from 18 to 28 December 1993, the humanitarian aid could not reach East Mostar<sup>3098</sup> and that, according to a UN report dated 23 December 1993, "the Croats" did not allow the delivery of medical supplies intended for a field hospital in East Mostar.<sup>3099</sup>

1243. However, evidence shows that between June and September 1993, the HVO itself provided humanitarian aid, admittedly sporadic, to East Mostar.<sup>3100</sup> Nevertheless, the aid was conditional on securing "gains" in their negotiations with the ABiH such as the reciprocal evacuation of the wounded and sick<sup>3101</sup> or making the humanitarian convoy of 25 August 1993 to East Mostar conditional on the smooth exchange of the bodies of dead soldiers between the HVO and the ABiH.<sup>3102</sup>

1244. In light of the above, the Chamber finds that the HVO hindered the regular delivery of humanitarian aid to East Mostar between June and December 1993 at least, by restricting the access of the international organisations to East Mostar, notably by erecting administrative obstacles and completely blocking entry to East Mostar by the humanitarian convoys for approximately two months during the summer of 1993 and during the month of December 1993. The sporadic aid the HVO did bring in, conditional on obtaining certain advantages, does not cast doubt on the observation that the HVO obstructed the delivery of the humanitarian aid to East Mostar.

#### **F. Isolation of the Population of East Mostar**

1245. The Petković Defence submits that the "civilian population of East Mostar" could leave East Mostar by using the route between East Mostar and Jablanica.<sup>3103</sup> It adds that there is no evidence that the HVO hindered the departure of "civilians" from East Mostar to Jablanica<sup>3104</sup> and that, on the contrary, it was the ABiH that controlled and reduced movement of the East Mostar population

<sup>3098</sup> Grant Finlayson, T(F), pp. 18080 and 18081; P 07368, p. 2.

<sup>3099</sup> P 07917, p. 13; para. 71.

<sup>3100</sup> Ante Kvešić, T(F), pp. 37413, 37414 and 37425-37426; Cedric Thornberry, T(F), pp. 26251-26253; Witness BD, T(F), pp. 20950-20952, closed session; 2D 00119; 2D 00120; 2D 00504; 2D 00321; 2D 00322; 2D 00123; 2D 00333; 2D 00455; 2D 00323; 2D 00333; 2D 00238.

<sup>3101</sup> Witness CB, T(F), pp. 10148 and 10149; P 04511, p. 2; P 04423 under seal, p. 6; P 10041, para. 62; P 10039, para. 9; P 04470, P 02108 under seal, pp. 40 and 42-45; Grant Finlayson, T(F), p. 18159; 3D 00673; P 04823, pp. 1 and 2; 2D 00714, p. 1; P 05007, p. 2; Slobodan Praljak, T(F), pp. 41153 and 41154; 3D 02029; P 02108 under seal, pp. 42-45; Cedric Thornberry, T(F), pp. 26211-26213, 26224-26325, 26238-50; P 04673 under seal; P 09900 under seal, p. 2; Witness BD, T(F), p. 20744, closed session; P 05354, p. 4; Antoon van der Grinten, T(F), p. 21164; P 02929 under seal, p. 1; 2D 00123; P 02703 under seal, p. 2; P 02721 under seal, pp. 2 and 3; P 02782 under seal, pp. 1 and 2; Witness DV, T(F), pp. 23059-23060 and 23062. Moreover, *Witness DV* stated that the HVO had always had a positive attitude about evacuations and that Spabat had thanked him for that. *See also* Witness DV, T(F), p. 23062; P 04857, pp. 1-3 and 6.

<sup>3102</sup> P 04511, p. 2; P 04423 under seal, p. 6; P 10041, para 62; P 10039 para 9.

<sup>3103</sup> Petković Defence Final Trial Brief, para. 402; Closing Arguments by the Petković Defence T(F), p. 52621; *See also* Preliminary Statement by the Petković Defence, T(F), pp. 46006 and 46007.

<sup>3104</sup> Closing Arguments by the Petković Defence, T(F), p. 52617.

out of the city to a minimum.<sup>3105</sup> The Praljak Defence submits that access routes to and from East Mostar, both primary and secondary, were open, which the ABiH and "civilians" could use and that, consequently, East Mostar was not under siege as alleged by the Prosecution.<sup>3106</sup> It submits, furthermore, that the ABiH authorities deliberately kept the civilians in the combat zone for propaganda purposes.<sup>3107</sup>

1246. According to a report from an international organisation, during a dinner on 17 July 1993, Bruno Stojić, the head of the Department of Defence, told the members of this international organisation that the "plan" consisted of exerting maximum pressure on the ABiH from the south of Mostar, while leaving a route open to the north in the direction of Jablanica to allow the ABiH forces to escape.<sup>3108</sup> Bruno Stojić also offered his assistance to organise an evacuation of as many "civilians" from East Mostar as possible.<sup>3109</sup> According to the analysis of the situation by the members of the international organisation at the time of the events after the statements of Bruno Stojić, the HVO military pressure from the south and the shelling and isolation of East Mostar would lead to food shortages thereby forcing the inhabitants of East Mostar to leave the town by going north, after which the ABiH would also leave the town.<sup>3110</sup> Also according to this analysis, Bruno Stojić appeared convinced of the ability of his troops to achieve a definitive military solution to the "Muslim problem" in the town of Mostar once and for all.<sup>3111</sup>

1247. The Chamber notes that in June 1993, it was practically impossible for the Muslims to leave the sector of East Mostar because the HVO refused to allow them to cross their positions and blocked the Muslims from East Mostar from entering West Mostar<sup>3112</sup> by erecting checkpoints,<sup>3113</sup> which were still in place in February 1994.<sup>3114</sup> However, the Chamber does not have evidence on the functioning of these checkpoints beyond that date.

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<sup>3105</sup> Petković Defence Final Trial Brief, paras 402-405; Closing Arguments by the Petković Defence, T(F), pp. 52619-52621.

<sup>3106</sup> Praljak Defence Final Trial Brief, paras 260-264.

<sup>3107</sup> Praljak Defence Final Trial Brief, para. 265.

<sup>3108</sup> P03545 under seal, p. 9.

<sup>3109</sup> P03545 under seal, p. 9.

<sup>3110</sup> P03545 under seal, p. 9.

<sup>3111</sup> P03545 under seal, p. 8.

<sup>3112</sup> Larry Forbes, T(F), p. 21339; Witness BC, T(F), p. 18509, closed session; Witness BD, T(F), pp. 20707, closed session.

<sup>3113</sup> Witness BB, pp. 17221, 17222 and 17229, closed session; 5D 02113; Witness BD, T(F), p. 20697, closed session; P 03311 under seal, p. 8.

<sup>3114</sup> Larry Forbes, T(F), p. 21339; Witness BC, T(F), p. 18509, closed session; P 03666, p. 3; P 05497, p. 5; P 05883 under seal, p. 1; P 05899 under seal, p. 2; P 07769 under seal, p. 5; Bo Pellnas, T(F), pp. 19574 and 19579; P 07915, p. 1; P 10013, p. 1.

1248. The only possible way to cross the HVO checkpoints between June 1993 and at least until late February 1994<sup>3115</sup> was to have an entry permit issued by the HVO.<sup>3116</sup> The Chamber notes, however, that a person wishing to leave East Mostar would first need to have an exit permit issued by the ABiH.<sup>3117</sup>

1249. Nonetheless, neither the HVO nor the ABiH would issue the said permits except for humanitarian evacuations (laboriously negotiated between the parties under the auspices of the international officials), for medical grounds, for rape victims or for children in vulnerable situations.<sup>3118</sup>

1250. In this respect, the Chamber heard *Witness BB*, a member of an international organisation,<sup>3119</sup> who stated that the ABiH wished to consolidate the territory of East Mostar by using "civilians like pawns" and, consequently, "did not want people to leave".<sup>3120</sup>

1251. In order to obtain the HVO exit permits for humanitarian evacuations, the HVO set as a condition for the exchange of "civilians" a "one-for-one" principle: in order for a Muslim to be evacuated from East Mostar, a Croat had to be moved from a besieged enclave.<sup>3121</sup>

1252. Furthermore, the Chamber notes that aside from the procedure for crossing the HVO checkpoints to reach West Mostar, certain routes, notably a mountain path,<sup>3122</sup> enabled members of the ABiH and the inhabitants of East Mostar to leave East Mostar<sup>3123</sup> and get to Jablanica and Central Bosnia.<sup>3124</sup>

1253. An HVO document dated 10 September 1993 described an "intensive evacuation of civilians" from East Mostar to Jablanica, ordered by the Commander of the 4<sup>th</sup> Corps of the ABiH in order to make space for ABiH soldiers and to move the inhabitants away from a "possible

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<sup>3115</sup> Witness BD, T(F), pp. 20783 and 20784, closed session; Witness BB, T(F), p. 17229, closed session; P 03666, pp. 3 and 4; Witness BC, T(F), p. 18509, closed session.

<sup>3116</sup> Larry Forbes, T(F), p. 21339; Witness CB, T(F), pp. 10147 and 10148; Ratko Pejanović, T(F), p. 1257.

<sup>3117</sup> Witness BC, T(F), pp. 18485-18488, closed session; P 09851 under seal, para. 2.10.

<sup>3118</sup> Witness BC, T(F), pp. 18365 and 18366, 18403, 18485-18488, closed session; Witness BB, T(F), pp. 17238 and 17239, 17242 and 25277-25279, closed session; Larry Forbes, T(F), p. 21339; Witness BH, T(F), pp. 17721-17223 and 19413, closed session; Jeremy Bowen, T(F), p. 12775; P 04470; P 05428, p. 5; 6D 00513, Witness DV, T(F), pp. 23059 and 23060; P 02108 under seal, p. 40; Božo Perić, T(F), p. 48073 and 4D 00545; P 07942; P 09900 under seal, p. 2.

<sup>3119</sup> Witness BB, T(F), pp. 17133 and 17134, 17136 and T(E), p. 17133, closed session.

<sup>3120</sup> Witness BB, T(F), pp. 25337 and 25338, closed session.

<sup>3121</sup> Witness BB, T(F), p. 17239-17242, closed session.

<sup>3122</sup> Miro Salčin, T(F), p. 14233, T(E), pp. 14234 and 14235; P 09834, para. 9; Jeremy Bowen, T(F), pp. 12734-12736; P 06365, p. 25; P 10039, para. 16; P 04435 under seal, p. 5; IC 01155; P 11145.

<sup>3123</sup> Miro Salčin, T(F), pp. 14233 and 14234 and T(E), pp. 14234 and 14235; Vinko Marić, T(F), pp. 48215, 48216 and 48242; 2D 01389, p. 2; P 03547, p. 3; P 03952, p. 2; P 04403, p. 3; 4D 00780; P 05992, p. 2; P 09851 under seal, p. 3; 4D 00720.

counter-attack by the Croats".<sup>3125</sup> However, other evidence indicates that departures over the mountain trail were limited not only because it was difficult to obtain exit permits from the ABiH but also because of the physical difficulty involved in such a journey.<sup>3126</sup> *Martin Mol* indicated in his written statement that the majority of the women and children were too weak to cross over the mountains.<sup>3127</sup> The Chamber also notes that *Miro Salčin*, a member of the ABiH, stated that in December 1993 he escorted Muslims who had recently arrived to Donja Mahala to help them reunite with their families by travelling on foot through the mountains in the snow and cold to reach Jablanica which was safer than East Mostar.<sup>3128</sup> He stated that some people froze to death during this trip.<sup>3129</sup>

1254. Evidence also shows that using the M-17 main road linking East Mostar and Jablanica could be dangerous and risky, notably because of the HVO artillery shelling.<sup>3130</sup> Certain sections of the roads out of East Mostar through the south or the north of the town of Mostar could also come under HVO control from time to time depending on ongoing military operations and, consequently, did not actually enable Muslims from East Mostar to leave the sector.<sup>3131</sup>

1255. In view of the foregoing evidence, the Chamber finds that the Muslim population of East Mostar which was under intense shelling by the HVO and sniper fire and lived in extremely harsh conditions could not really leave the sector. The few roads open to the outside and the policies of the ABiH which did not want the population to abandon East Mostar and those of the HVO which did not want the population to return to West Mostar forced the Muslim population to remain in East Mostar.

#### IV. Targeting Members of International Organisations

1256. The Prosecution alleges in paragraph 115 of the Indictment that the members of international organisations were also routinely targeted by HVO snipers and, on occasion, by HVO artillery and mortar fire. The Prosecution also submits that several UN peacekeepers and others were killed or wounded.

<sup>3124</sup> Miro Salčin, T(F), pp. 14233 and 14234 and T(E), pp. 14234 and 14235; P 09834, para. 9; P 10039, para. 16; Milan Gorjanc, T(F), pp. 46143, 46413, 46457 and 46458; P 04447 under seal; 4D 01721, p. 1; P 09851 under seal, para. 2.10.  
<sup>3125</sup> 4D 01721, p. 1.

<sup>3126</sup> P 04435 under seal, p. 5; Witness BC, T(F), pp. 18485-18488, closed session; P 09851 under seal, para. 2.10; Božo Perić, T(F), p. 47987; Jeremy Bowen, T(F), pp. 12734-12736; P 06365, p. 25; IC 00247; P 10039, para. 16; P 07431.  
<sup>3127</sup> P 10039, para. 16.

<sup>3128</sup> Miro Salčin, T(F), p. 14233, T(E), pp. 14234 and 14235; P 09834, para. 9.

<sup>3129</sup> Miro Salčin, T(F), p. 14233, T(E), pp. 14234 and 14235; P 09834, para. 9.

<sup>3130</sup> P 04435 under seal pp.4-6; Božo Perić, T(F), pp. 47981-47983.

<sup>3131</sup> Amor Mašović, T(F), pp. 25186 and 25187; IC 01087; Milan Gorjanc, T(F), pp. 46155-46160, 46444, 46447; P 03465, p. 5; P 04435 under seal, pp. 4-6; Slobodan Praljak, T(F), pp. 44389 and 44390; P 03465, p. 5.

1257. During the period relevant to the Indictment relating to the events in East Mostar, namely between June 1993 and April 1994, international organisations conducted peacekeeping and humanitarian operations in Mostar.<sup>3132</sup> During this period, members of UNPROFOR<sup>3133</sup> (including Spabat<sup>3134</sup> and UNMO<sup>3135</sup>), ECMM<sup>3136</sup> and UNCIVPOL,<sup>3137</sup> were hit, notably whilst in their vehicles near the *Tito* bridge,<sup>3138</sup> or the confrontation line<sup>3139</sup> as they attempted to enter East Mostar.<sup>3140</sup> They were also shot whilst travelling from West Mostar to East Mostar in their vehicles,<sup>3141</sup> in East Mostar,<sup>3142</sup> while delivering medical supplies,<sup>3143</sup> assisting injured people,<sup>3144</sup> unloading their cargo,<sup>3145</sup> escorting UN officials visiting local authorities in East Mostar,<sup>3146</sup> mapping the front lines,<sup>3147</sup> or carrying out mediating missions between the HVO and the ABiH.<sup>3148</sup>

<sup>3132</sup> P 10287 under seal, para. 25; Witness DW, T(F), pp. 23091 and 23092; Witness DZ, T(F), pp. 26469, 26473 and 26750, closed session; P 10367 under seal, para. 10; P 10047, paras 5-7; Witness BF, T(F), pp. 25754-25757, closed session; P 10039, para. 3; Antoon van der Grinten, T(F), pp. 21000, 21001, 21003, 21059, 21060; Witness BD, T(F), pp. 20677-20678, closed session; Witness BC, T(F), p. 18316, closed session; P 09901 under seal, p. 1; P 07852; Witness BB, T(F), p. 17223, closed session.

<sup>3133</sup> Witness DZ, T(F), pp. 26484-26486, 26489 and 26490, closed session; P 10367 under seal, para. 21; Grant Finlayson, T(F), p. 18045; P 02751, p. 2; P 10287 under seal, paras 47-53.

<sup>3134</sup> Witness BJ, T(F), pp. 3751-3756; Witness DV, T(F), pp. 22903, 22929 and 22890; Witness CB, T(F), p. 10141 and P 04698A under seal, p. 35; P 02657, p. 1; Grant Finlayson, T(F), pp. 18031 and 18266, private session; P 02750 under seal, p. 7; P 03311 under seal, pp. 7 and 8; Witness DW, T(F), p. 23081, private session; P 05210 under seal, p. 5; P 05316 under seal, p. 2; P 05742 under seal, p. 4; Larry Forbes, T(F), pp. 21227, 21274, 21275, 21278, 21282, 21287-21289, 21361 and 21364; P 10287 under seal, para. 49; P 05883 under seal, p. 3; P 05950 under seal, p. 5; Witness BD, T(F), pp. 20786-20791, closed session; P 06925 under seal, pp. 2-3; P 10287 under seal, paras 62-63; Witness DW, T(F), p. 23082, private session, 23087, 23113-23115 and 23232; P 07039 under seal, p. 4 (item 1) and p. 6 (item 6); P 03415, pp. 1 and 2; P 02723, p. 1; P 05979, p. 2; P 07188, p. 4.

<sup>3135</sup> Witness CB, T(F), pp. 10150 and 10151; P 02844 under seal, p. 2; Grant Finlayson, T(F), pp. 18031, 18032, 18033, 18034-18037, 18046 and 18047, 18082-18085, 18087, 18166 and 18168 and T(E), pp. 18067 and 18068, 18070 and 18071, 18076 and 18077; IC 00538; P 10000; IC 00539; IC 00540; IC 00546; Larry Forbes, T(F), pp. 21287 and 21289; P 05210 under seal, p. 5; Bo Pellnas, T(F), p. 19546; P 10047, paras 44, 47-55; P 05326, p. 3; P 05404, p. 2; P 06389; P 06686, pp. 2 and 3, P 06993, p. 7; P 07070, p. 3; P 07177, p. 3; P 07255, p. 2; P 07489, p. 6; P 07633, p. 6; P 07766; P 10006; P 07930, pp. 5 and 6; P 07615; P 07667; P 07745, p. 2; P 07981; P 08184; P 10039, para. 32; P 07930, p. 5; P 04771; P 07918, p. 4.

<sup>3136</sup> P 02635 under seal; P 02634 under seal; IC 00629 under seal; 3D 00746, pp. 19 and 25; Antoon van der Grinten, T(F), pp. 21213-21220; IC 00630; IC 00634; P 10039, para. 32.

<sup>3137</sup> Larry Forbes, T(F), pp. 21287 and 21289.

<sup>3138</sup> Grant Finlayson, T(F), pp. 18031, 18167 and T(E), p. 18047; P 02657, p. 1; P 02635 under seal; P 02634 under seal; IC 00629 under seal; Antoon van der Grinten, T(F), pp. 21213-212120, 21232, 21233; 3D 00746, pp. 19 and 25; IC 00630; IC 00634; P 03415, pp. 1 and 2; Larry Forbes, T(F), pp. 21277-21278 and 21282, 21361, 21364; P 02723, p. 1; Witness BH, T(F), p. 17511, closed session; P 07188, p. 4.

<sup>3139</sup> Antoon van der Grinten, T(F), p. 21019.

<sup>3140</sup> P 10287 under seal, para. 46; Witness BC, T(F), pp. 18402-18403, closed session; Grant Finlayson, T(F), pp. 18049 and 18051, 18180-18186 and T(E), pp. 18049, 18186; P 02830, pp. 3 to 5; IC 00548; IC 00547; Klaus Johann Nissen, T(F), p. 20505; P 05742 under seal, p. 4; Larry Forbes, T(F), pp. 21287-21289; P 10041, para. 56.

<sup>3141</sup> Grant Finlayson, T(F), p. 18046; Klaus Johann Nissen, T(F), p. 20505; P 02740 under seal, p. 7; P 03311 under seal, pp. 7 and 8.

<sup>3142</sup> Witness BD, T(F), pp. 20786-20791, closed session, P 09907 under seal; P 06925 under seal, pp. 2-3; Bo Pellnas, T(F), p. 19546; P 10047, para. 44; Grant Finlayson, T(F), p. 18047; P 04771.

<sup>3143</sup> Antoon van der Grinten, T(F), pp. 21032 and 21213; P 02803, para. 11; P 02723, p. 2; Witness DV, T(F), p. 22890; P 03311 under seal, pp. 7 and 8.

<sup>3144</sup> P 05742 under seal, p. 4; Larry Forbes, T(F), pp. 21287-21289; Witness BD, T(F), pp. 20786-20791, closed session; P 06925 under seal, pp. 2-3; P 07760; P 05979, p. 2.

<sup>3145</sup> P 05369 under seal, p. 4. *See also on the subject of unloading HCR cargo in East Mostar: P 07527, p. 4.*

1258. The members of the international organisations and their vehicles were targeted by artillery fire,<sup>3149</sup> mortar fire,<sup>3150</sup> missile and rocket launchers,<sup>3151</sup> infantry weapons,<sup>3152</sup> machine-guns,<sup>3153</sup> hand grenades,<sup>3154</sup> tear gas<sup>3155</sup> and sniper fire.<sup>3156</sup> The shootings were frequent and regular.<sup>3157</sup>

1259. *Grant Finlayson* stated that the sniper attacks against UNMO personnel intensified in late 1993.<sup>3158</sup> UNMO reports also mention several incidents between January and April 1994 during which UNMO members were targeted.<sup>3159</sup> *Witness DZ*, a member of an international organisation posted in the municipality of Mostar from mid-May 1993 to April 1994,<sup>3160</sup> stated that when he would go into the town of Mostar, including East Mostar, his vehicle was almost systematically targeted by artillery and snipers.<sup>3161</sup>

1260. The international organisations fired on were clearly identifiable by their insignia and the uniforms worn by their members.<sup>3162</sup> The Chamber notes, furthermore, that according to *Witness DZ*, the HVO and the ABiH were always notified beforehand about the movement of convoys.<sup>3163</sup>

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<sup>3146</sup> P 10287 under seal, para. 49; P 05883 under seal, p. 3; Witness DW, T(F), pp. 23087 and 23232. The Chamber notes that international organisations were also attacked while they were escorting a convoy of 441 Muslim male prisoners released from Gabela Prison who were being transported to East Mostar: P 07188, p. 4. See also P 07184.

<sup>3147</sup> P 10047, para. 46.

<sup>3148</sup> Witness DV, T(F), p. 22890; P 03311 under seal, pp. 7 and 8.

<sup>3149</sup> Witness DW, T(F), p. 23081, private session; Witness DZ, T(F), pp. 26484-26486, 26489 and 26490, closed session; P 10367 under seal, para. 21; P 05210 under seal, p. 5; P 07918, p. 4; P 10047, para. 44; P 10287 under seal, para. 49.

<sup>3150</sup> Witness BJ, T(F), p. 3755; P 07667; Larry Forbes, T(F), p. 21289, P 05369 under seal, p. 4; P 05950 under seal, p. 5; P 04771; P 02844 under seal, p. 2.

<sup>3151</sup> P 02844 under seal p. 2; Bo Pellnas, T(F), p. 19529; P 05127, pp. 1 and 2; P 07527, p. 4.

<sup>3152</sup> Witness BJ, T(F), p. 3756; P 02461 under seal, pp. 13 and 14; Bo Pellnas, T(F), p. 19546; P 10047, para. 44; P 07615; P 07667; P 07745, p. 2; P 08184; P 07188, p. 4.

<sup>3153</sup> P 07188, p. 4; P 07875, p. 5.

<sup>3154</sup> Antoon van der Grinten, T(F), p. 21019.

<sup>3155</sup> P 06589, p. 2.

<sup>3156</sup> P 04698A under seal, p. 35; P 02593, p. 8; Witness DZ, T(F), pp. 26484-26486, 26489 and 26490, closed session; P 10367 under seal, para. 21; P 02657, p. 1; P 02635 under seal; Antoon van der Grinten, T(F), pp. 21213 and 21214; P 10287 under seal, para. 47; P 05742 under seal, p. 4; Larry Forbes, T(F), pp. 21287-21289; P 10039, para. 32; Witness BD, T(F), pp. 20786-20791, closed session; P 09907 under seal; P 06925 under seal, pp. 2-3; Witness DW, T(F), pp. 23109 and 23111-23112; P 06334 under seal, pp. 18 and 19; P 10047, paras 26 and 46; P 07667; Witness CB, T(F), pp. 10150 and 10151; P 02844 under seal, p. 2; P 06427; Grant Finlayson, T(E), pp. 18046 and 18047.

<sup>3157</sup> Witness CB, T(F), p. 10150 and P 04698A under seal, p. 35; P 03311 under seal, pp. 7 and 8; Larry Forbes, T(F), p. 21277; P 02461 under seal, pp. 13 and 14; Grant Finlayson, T(F), p. 18046; P 10287 under seal, para. 46; P 10047, para. 26.

<sup>3158</sup> Grant Finlayson, T(E), pp. 18067 and 18068, 18070 and 18071, 18076 and 18077; P 05326, p. 3; P 05404, p. 2; P 06389; P 06686, pp. 2 and 3; P 06993, p. 7; P 07070, p. 3; P 07177, p. 3; P 07255, p. 2.

<sup>3159</sup> P 10047, para. 54; P 07615; P. 07667; P 07745, p. 2, P 07981; P 08184.

<sup>3160</sup> Witness DZ, T(F), pp. 26472, 26473 and 26650, closed session; P 10367 under seal, paras 5 and 10.

<sup>3161</sup> Witness DZ, T(F), pp. 26484, 26485, 26489 and 26490, closed session; P 10367 under seal, para. 21.

<sup>3162</sup> Witness BJ, T(F), p. 3754; Grant Finlayson, T(F), p. 18049; Klaus Johann Nissen, T(F), p. 20506; Witness BB, T(F), p. 17226, closed session; P 10039, para. 32; Witness BD, T(F), pp. 20786-20791, closed session; P 09907 under seal; P 06925 under seal, pp. 2-3; P 05979, p. 2; P 06427.

<sup>3163</sup> Witness DZ, T(F), pp. 26485 and 26486, closed session.



1261. The evidence shows that the HVO soldiers were responsible for the majority of the shootings.<sup>3164</sup> Sniper and artillery fire essentially came from the west of the town,<sup>3165</sup> from Hum mountain<sup>3166</sup> and from the positions of HVO snipers,<sup>3167</sup> such as the Glass Bank in West Mostar.<sup>3168</sup> The Chamber notes that in January 1994, "the HVO authorities" acknowledged for the first time that they were responsible for the sniping of a UNMO vehicle on 3 January 1994.<sup>3169</sup>

1262. Nevertheless, some shots also came from the ABiH or positions it held.<sup>3170</sup> However, the number of those shots was considerably smaller than those from the HVO.<sup>3171</sup> *Anthony Turco* stated that between December 1993 and March 1994, the ABiH targeted UNMO on three occasions while the HVO targeted it on 31 occasions.<sup>3172</sup>

1263. The evidence shows that the international organisations were deliberately targeted by the HVO.<sup>3173</sup> *Witness DZ* stated that the HVO targeted convoys of the international organisations in order to terrorise and frighten the UN forces rather than to kill them, as the practice of shooting to the side of the convoys demonstrates.<sup>3174</sup> The result of the attacks was destruction or damage to the equipment of the international organisations that were targeted<sup>3175</sup> and obstruction of evacuations of the wounded,<sup>3176</sup> and also to make some organisations leave the town of Mostar because they were

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<sup>3164</sup> P 04698A under seal, p. 35; P 10287 under seal, para. 47; P 10047, paras 46 and 47; P 06427; P 10217 under seal, para. 95; P 02830, pp. 3 to 5; Grant Finlayson, T(E), pp. 18047, 18049-18051, 18180-18186; Witness BA, T(F), pp. 7203 and 7204, closed session; P 09712 under seal, para. 68; IC 00548; IC 00547; Witness BB, T(F), p. 17226, closed session; P 05127, pp. 1 and 2; P 10287 under seal, para. 49; P 05883 under seal, p. 3.

<sup>3165</sup> P 05742 under seal, p. 4; P 08184; Witness CB, T(F), p. 10141; P 04698A under seal, p. 35; P 02635 under seal, p. 2; Antoon van der Grinten, T(F), pp. 21033, 21213 and 21214; Grant Finlayson, T(F), pp. 18083, 18084 and 18187, and T(E), pp. 18187 and 18189; Witness DW, T(F), pp. 23109 and 23111-23112; P 06334 under seal, pp. 18 and 19; Larry Forbes, T(F), pp. 21299 and 21300-21301; P 04771.

<sup>3166</sup> Witness BJ, T(F), pp. 3751-3754; Witness BC, T(F), pp. 18402-18403, closed session; Witness DV, T(F), p. 22912; IC 00300.

<sup>3167</sup> Witness DW, T(F), p. 23081, private session; Larry Forbes, T(F), pp. 21361-21364; Witness CB, T(F), pp. 10150 and 10151; P 02844 under seal, p. 2; Antoon van der Grinten, T(F), p. 21019. P 02635 under seal, P 02723.

<sup>3168</sup> See "Evidence Regarding Positions of HVO Snipers in Mostar" in the Chamber's factual findings with regard to Mostar. Antoon van der Grinten, T(F), pp. 21019-21022 and 21248: the witness refers several times to the "blue bank", "a dominant building on the front line" (T(F), p. 21017) – on the basis of P 09615 he confirmed that the building was commonly referred to as the "Glass Bank"; IC 00634; IC 00026; P 02731 under seal; P 10269 under seal, p. 6; Grant Finlayson, T(E), pp. 18046, 18047 and 18167; P 03415, pp. 1 and 2; Larry Forbes, T(F), pp. 21277-21278, 21282, and 21361-21364; P 02723, p. 1; Larry Forbes, T(F), pp. 21361 and 21364.

<sup>3169</sup> P 07489, p. 6.

<sup>3170</sup> Witness CB, T(F), p. 10141; P 02387, p. 3; Witness DZ, T(F), p. 26855, closed session; Witness BB, T(F), pp. 17226, 25337 and 25338, closed session; P 10047, para. 49.

<sup>3171</sup> Witness CB, T(F), p. 10141; P 07188, p. 4.

<sup>3172</sup> P 10047, para. 47.

<sup>3173</sup> P 04698A under seal, p. 35; P 06389; P 10217 under seal, para. 95; P 02593, p. 8; Witness BA, T(F), pp. 7203 and 7204, closed session; P 09712 under seal, para. 68; Grant Finlayson, T(E), p. 18047; P 10287 under seal, para. 47; Witness DZ, T(F), p. 26489, closed session.

<sup>3174</sup> Witness DZ, T(F), p. 26489, closed session; Klaus Johann Nissen, T(F), p. 20505.

<sup>3175</sup> P 10287 under seal, para. 48; P 05210 under seal, pp. 5 and 10; Larry Forbes, T(F), p. 21289.

<sup>3176</sup> P 10287 under seal, paras 62-63; Witness DW, T(F), pp. 23113-23115, private session; P 07039 under seal, p. 4, item 1, and p. 6, item 6.

unable to protect their staff.<sup>3177</sup> The UNMO office in East Mostar decided to close in early 1994 after the vehicle carrying *Grant Finlayson* and *Bo Pellnäs* was hit five or six times by bullets in the south of Mostar.<sup>3178</sup>

1264. The members of the international organisations complained to the HVO authorities about these attacks, notably to Martin Raguž, who was the deputy head of the ODPR of the HZ H-B from 31 May 1993 to 1 December 1993,<sup>3179</sup> and later the head of the ODPR until the spring of 1994<sup>3180</sup> and the liaison officer between the HVO and the UNMO in the South East OZ.<sup>3181</sup>

1265. According to *Larry Forbes*, *Witness DW* and *Grant Finlayson*, the complaints of the international organisations did not cause these attacks to cease.<sup>3182</sup>

1266. *Witness DZ* stated furthermore that he met with Jadranko Prlić, Bruno Stojić and Milivoj Petković on several occasions while he was in Mostar between May 1993 and April 1994, and that they were aware that the HVO was shooting at members of international organisations.<sup>3183</sup>

1267. The Chamber notes that in two orders dated 27 August 1993 and 7 December 1993, respectively, Miljenko Lasić, commander of the South East OZ, and Zlatan Mijo Jelić, commander of the Mostar Defence sector,<sup>3184</sup> instructed the recipients of these orders – namely the South East OZ for the order of 27 August 1993<sup>3185</sup> and the Mostar Defence sector for the order of 7 December 1993<sup>3186</sup> – to ensure that the international forces were not endangered during the artillery fire, to provide security at their deployment sites and to take the necessary measures to avoid confrontations with UNPROFOR.<sup>3187</sup> There is no evidence to show that these orders were ever implemented because the attacks never ceased.<sup>3188</sup> However, the Chamber notes a period of calm

<sup>3177</sup> Witness CB, T(F), p. 10150.

<sup>3178</sup> Grant Finlayson, T(F), pp. 18047 and 18051.

<sup>3179</sup> Martin Raguž, T(F), p. 31244.

<sup>3180</sup> Martin Raguž, T(F), pp. 31244, 31336 and 31337; P 07005, p. 4.

<sup>3181</sup> P 04771; P 06427; Larry Forbes, T(F), p. 21287; Grant Finlayson, T(E), p. 18048; P 06389.

<sup>3182</sup> Larry Forbes, T(F), pp. 21288 and 21289; Grant Finlayson, T(F), pp. 18048 and 18068; P 10287 under seal, para. 56.

<sup>3183</sup> Witness DZ, T(F), pp. 26484, 26485, 26489 and 26490, closed session; P 10367 under seal, para. 21.

<sup>3184</sup> See "Operative Zones and Brigades" in the Chamber's findings on the military structure of the HZ(R) H-B. On 3 September 1993, the South-East OZ was reorganised by its commander Miljenko Lasić, on orders from the chief of the Main Staff, Slobodan Prljak, dated 1 September 1993; it was then divided into three sectors: Sector North, the Mostar Defence sector, and Sector North.

<sup>3185</sup> Including Sector North, the 3<sup>rd</sup> Brigade, the 1<sup>st</sup> *Knez Domagoj* Brigade and the *Knez Branimir* Brigade.

<sup>3186</sup> Including the 2<sup>nd</sup> Brigade and the 4<sup>th</sup> Battalion of the 3<sup>rd</sup> Brigade.

<sup>3187</sup> 4D 00754; P 04557; Larry Forbes, T(F), pp. 21288 and 21289.

<sup>3188</sup> Larry Forbes, T(F), pp. 21288 and 21289; Grant Finlayson, T(F), pp. 18048 and 18068; P 10287 under seal, para. 56.

around 16 September 1993, the date on which HVO temporarily stopped shooting at members of the UNMO after the UNMO complained to the "HVO operative zone".<sup>3189</sup>

1268. The Chamber thus notes that the complaints lodged by the international organisations with the HVO authorities did not result in the attacks against them stopping, with the exception of a truce sometime around 16 September 1993.

1269. With respect to the members of the international and humanitarian organisations said to have been wounded or killed by the HVO, the Praljak Defence submits in its Final Trial Brief that the only person who appears as a representative victim in paragraph 115 of the Annex to the Indictment, namely *Grant Finlayson*, testified during the trial that he was not a shooting victim and neither were the 25 members of his group.<sup>3190</sup>

1270. The Chamber notes that during his testimony, *Grant Finlayson* stated that although UNMO staff, himself included, were not injured by the shots,<sup>3191</sup> UNMO members nevertheless did come under, according to him, HVO fire on several occasions.<sup>3192</sup> Furthermore, the Chamber notes that one of the consequences of the HVO attacks on the international organisations was indeed that members of the international organisations and peacekeeping forces present in Mostar were killed<sup>3193</sup> and injured<sup>3194</sup>.

1271. More specifically on subject of the death of Spanish lieutenant Francisco Aguilar Fernandez, a Spabat member, the Petković Defence submits in its Final Trial Brief that the "shot" that killed him could not be attributed, beyond reasonable doubt, to an HVO soldier because the position from which the shots allegedly came could not be proven by the evidence.<sup>3195</sup> It further argues that certain sectors where snipers were reported were "mixed" and that, therefore, the shots could not be attributed to a particular party to the conflict. The Petković Defence submits that even if they could be attributed, the Prosecution failed to show that the shot was fired with the requisite

<sup>3189</sup> P 05127, p. 2; Bo Pellnas, T(F), p. 19529.

<sup>3190</sup> Praljak Defence Final Trial Brief, para. 299.

<sup>3191</sup> Grant Finlayson, T(F), p. 18225.

<sup>3192</sup> Grant Finlayson, CRF pp. 18036-18037, 18046, 18047, 18166 and 18168, and T(E), pp. 18067, 18068, 18070, 18071, 18076 and 18077.

<sup>3193</sup> Witness BJ, T(F), pp. 3751 and 3753; P 02750 under seal, p. 7; P 04419, p. 1; P 10287 under seal, para. 48; Grant Finlayson, T(F), p. 18226; P 02461 under seal, p. 7; Antoon van der Grinten, T(F), pp. 21032, 21033, 21046, 21048 and 21051; P 10270 under seal, p. 5; Witness DV, T(F), p. 22912 and T(E), pp. 23056, 23058 and 23059; IC 00674; P 02768 under seal; 2D 00117; 2D 00116; P 02806 under seal, p. 2; P 03415, pp. 1 and 2; Larry Forbes, T(F), pp. 21277-21278, 21282, 21361 and 21364; P 02723, pp. 1 and 2; 2D 00118 under seal.

<sup>3194</sup> Witness BC, T(F), pp. 18402-18403, closed session; P 10287 under seal, paras 47-53; Witness DW, T(F), p. 23082, private session; P 05210 under seal, p. 10; Larry Forbes, T(F), p. 21277; P 04698A under seal, p. 69.

<sup>3195</sup> Petković Defence Final Trial Brief, paras 391 and 392.

*mens rea*.<sup>3196</sup> It argues, therefore, that it would not be unreasonable to conclude that the death of the soldier could have resulted from accidental fire.<sup>3197</sup>

1272. At the time of the events, several investigations were launched in co-operation with the HVO, and notably with Bruno Stojić, the head of the HVO Department of Defence, and Valentin Ćorić, the head of the Military Police Administration,<sup>3198</sup> in order to determine the origin of the shot that killed Francisco Aguilar Fernandez, a Spabat member,<sup>3199</sup> on 11 June 1993.<sup>3200</sup>

1273. The evidence shows that on 11 June 1993, at approximately 1930-1945 hours, Francisco Aguilar Fernandez was in one of the armoured vehicle escorting a "medical convoy" from West Mostar to East Mostar.<sup>3201</sup> Although the convoy first came under fire on Šantića Street, it was as it was crossing the *Tito* bridge that Francisco Aguilar Fernandez who was in an armoured vehicle but visible was killed by a single bullet at short range, high up and behind him, which hit him in the back of his left shoulder and exited his body through the right shoulder blade; his body then collapsed inside the armoured vehicle.<sup>3202</sup>

1274. The investigations UNPROFOR and UNCIVPOL conducted showed that the shots came from an elevated location in West Mostar, probably the roof of the Glass Bank, the highest building in Mostar, where HVO snipers were located and which the members of international organisations and Bruno Stojić, the head of the Department of Defence of the HZ H-B, knew.<sup>3203</sup>

1275. The Chamber notes that the investigation report from UNCIVPOL was unable to pinpoint exactly where the shooter was located when he opened fire. The report suggests that the shooter was likely in the Glass Bank building. The report concludes that there are grounds to believe that Francisco Aguilar Fernandez was killed by a shooter located in the zone under HVO control; it notes however that UNCIVPOL does not have material proof to support this hypothesis.<sup>3204</sup>

<sup>3196</sup> Petković Defence Final Trial Brief, para. 391.

<sup>3197</sup> Petković Defence Final Trial Brief, para. 391.

<sup>3198</sup> 2D 00117, Larry Forbes, T(F), pp. 21350 and 21351.

<sup>3199</sup> P 02750 under seal, p. 7.

<sup>3200</sup> P 10270 under seal, p. 5; Witness DV, T(F), p. 22992, closed session; Antoon van der Grinten, T(F), pp. 21210 and 21211; 2D 00118 under seal; P 03415, p. 2.

<sup>3201</sup> Antoon van der Grinten, T(F), pp. 21032 and 21033, IC 00634; P 02750 under seal, p. 7; P 10270 under seal, p. 5; Witness DV, T(E), pp. 23056, 23058 and 23059; IC 00674; P 03415, p. 2.

<sup>3202</sup> P 02723 ; P 10269 under seal, pp. 6 and 7; P 10270 under seal, p. 5; Witness DV, T(F), pp. 23055 and 23056; IC 00673; P 03415, pp. 1 and 2; Larry Forbes, T(F), pp. 21278-21282, 21361 and 21364.

<sup>3203</sup> P 02723, pp. 2 and 3; P 10269 under seal, pp. 6 and 7; P 10270 under seal, p. 5; Witness DV, T(F), p. 23001, closed session, and pp. 23055 et 23056; IC 00673; P 03415, pp. 1 and 2; Larry Forbes, T(F), pp. 21277-21278, 21282, 21361 and 21364; P 02635 under seal; Antoon van der Grinten, T(F), pp. 21019-21022, 21046-21048, 21051, 21052, 21213, 21214 and 21248; P 02806 under seal, p. 2.

<sup>3204</sup> P 03415, pp. 1 and 2.

1276. The Chamber also notes other evidence, notably the testimony of *Antoon van der Grinten*, who stated that the shots fired at the convoy came from the west of the town.<sup>3205</sup> Moreover, on 13 June 1993, recent bullet cartridges were found on the roof of the Glass Bank that were identical to the bullet found in the body of Francisco Aguilar Fernandez and were collected by *Witness DV*.<sup>3206</sup> However, Bruno Stojić told *Antoon van der Grinten* on 16 June 1993 that the HVO had not been shooting on 11 June 1993 because he himself was in control of the snipers in the building and that in his opinion, the ABiH was responsible for the shooting.<sup>3207</sup>

1277. The Chamber notes that on 14 June 1993, Bruno Stojić sent a letter to the Spanish Minister of Defence stating that an HVO investigation concluded that the shots that killed Francisco Aguilar Fernandez came from a zone controlled by the ABiH.<sup>3208</sup> Following this investigation, the HVO concluded that it was the ABiH forces that opened fire at the UNPROFOR vehicles from the *Revija* school or *Bristol* Hotel and pointed out that the shot that hit Francisco Aguilar Fernandez came from a two-storey building.<sup>3209</sup> However, *Larry Forbes*, a professional policeman involved in the UNCIVPOL investigation,<sup>3210</sup> disputed the conclusions of the HVO report during his testimony before the Chamber<sup>3211</sup> and stated that, at the time of the events and based on the available information, notably regarding the position of the body when it collapsed into the vehicle after being hit, the shot could not have come from a two-storey building but from a higher point in West Mostar in the zone held by the HVO.<sup>3212</sup>

1278. In the absence of supporting evidence other than from the HVO that the shots came from the ABiH, the Chamber is satisfied that the shot that killed Francisco Aguilar Fernandez had indeed come from West Mostar, the zone held by the HVO, and certainly from the Glass Bank building.

1279. The Chamber is not convinced by the argument of the Petković Defence that this was an accidental HVO shot. No evidence suggests that there was an exchange of fire between the HVO and the ABiH at that moment. Moreover, since the fatal shot that hit Francisco Aguilar Fernandez came from close range, the Chamber finds that an HVO member deliberately fired at and killed Francisco Aguilar Fernandez on 11 June 1993.

<sup>3205</sup> *Antoon van der Grinten*, T(F), pp. 21032 and 21033; P 02731, under seal.

<sup>3206</sup> *Witness DV*, T(F), p. 22891 and 23001, 23002, closed session; P 10269 under seal, pp. 6 and 7; P 10270; p. 5.

<sup>3207</sup> *Antoon van der Grinten*, T(F), pp. 21046, 21048, 21051, 21052 and 21248; P 02806 under seal, p. 2.

<sup>3208</sup> *Witness DV*, T(F), p. 22990, closed session; P 02768 under seal.

<sup>3209</sup> 2D 00117, p. 2; P 02768 under seal; *Witness DV*, T(F), pp. 22990 and 22992, closed session; 2D 00116; *Antoon van der Grinten*, T(F), pp. 21046, 21048, 21051, 21052 and 21248; P 02806 under seal, p. 2.

<sup>3210</sup> *Larry Forbes*, T(F), pp. 21277 and 21278.

<sup>3211</sup> *Larry Forbes*, T(F), pp. 21350-21352.

<sup>3212</sup> *Larry Forbes*, T(F), pp. 21282, 21352 and 21361-21364; P 02723.

1280. In light of the foregoing, the Chamber finds beyond reasonable doubt that the members of the international organisations present in Mostar between May 1993 and April 1994 were deliberately targeted by HVO snipers as well as by HVO artillery and mortar fire. Some of these people, like Spabat member Francisco Aguilar Fernandez, were killed while others were wounded by these shots.

## V. Alleged Destruction of the Old Bridge

1281. The Prosecution alleges in paragraph 116 that "on 9 November 1993, the Herceg-Bosna/HVO forces destroyed the Stari Most ("Old Bridge"), an international landmark that crossed the Neretva River between East and West Mostar".<sup>3213</sup> None of the parties disputed or debated the remarkable unique character of the Old Bridge.

1282. The Chamber recognises the exceptional character of this monument – built by architect Hairudin<sup>3214</sup> and almost 500 years old<sup>3215</sup> – as well as its historical and symbolic nature. All the evidence confirms the importance of the bridge both for the inhabitants of the town of Mostar to which it gave its name<sup>3216</sup> and for the BiH and the Balkan region.<sup>3217</sup> The Old Bridge also symbolised the link between the communities, despite their religious differences.<sup>3218</sup> Lastly, the Chamber notes that although the Old Bridge was one of the major symbols of the Balkan region, it was of particular value to the Muslim community.<sup>3219</sup>

1283. Before recounting (A) the history of the destruction of the Old Bridge as alleged in the Indictment, the Chamber will first (B) recall the purpose served by the Old Bridge before its destruction, particularly as of 9 May 1993, the date on which the conflict between the Croats and Muslims in Mostar began. The Chamber will then (C) present its general findings regarding the destruction of the Old Bridge.

<sup>3213</sup> Indictment, para. 116. The Prosecution Final Trial Brief specifies in para. 821: "The famous Old Bridge (or Stari Most) in Mostar was finally destroyed by HVO fire on 8/9 November 1993".

<sup>3214</sup> The spelling of the name of the architect of the Old Bridge varies depending on the source. Some say that the architect of the Old Bridge was "Hajrudin", see for example P 10820.

<sup>3215</sup> See notably 3D 00785, p. 29; P 08279, paras 39 *et seq.*; P 06554, p. 4. The Chamber notes that document P 02923 under seal states without further detail that the Old Bridge had the status of "World Protected Monument", p. 3; P 10820: the Chamber notes that the document confirms that at the time the Old Bridge was a World Heritage Site ("included in the UN list of worldwide cultural heritage monuments", p. 1), although it was not officially recognised as such until 2005, see <http://whc.unesco.org/fr/list/946/>. Construction of the Old Bridge began in 1557 and was completed in 1566, see notably 3D 00785, p. 29 and P 08279, para. 40; 1D 02705, p. 3.

<sup>3216</sup> See notably P 10287 under seal, p. 12, para. 66.

<sup>3217</sup> P 08279, para. 41.

<sup>3218</sup> See P 08279, para. 41; P 10847.

<sup>3219</sup> See notably P 08279, para. 41; P 06554, p. 4; P 06536 under seal, p. 2, in which Smail Larić, President of the Mostar War Presidency, told the ECMM representatives that the Old Bridge was "the most important symbol of Muslim culture".

### A. Use of the Old Bridge from 9 May 1993 Onwards

1284. Between May and November 1993 the Old Bridge was one of the last structures that enabled the crossing of the Neretva: the evidence indicates that all the other bridges were destroyed between May and June 1992.<sup>3220</sup> Apart from the Old Bridge, between March and November 1993 it was also possible to use the *Kamenica* Bridge, a makeshift construction erected by the ABiH on 21 March 1993.<sup>3221</sup> These two bridges were controlled by the ABiH.<sup>3222</sup> *Enes Delalić*<sup>3223</sup> added that the HCR had installed a "prefab" bridge where the old Tito bridge had been and that it was also possible to cross via the Tenzin bridge but did not specify the date as of which it was possible to use these bridges.<sup>3224</sup>

1285. Between 9 May and 9 November 1993, the date of the alleged destruction of the Old Bridge, both (1) the ABiH and (2) the inhabitants of East Mostar used the Old Bridge as a travelling and supply route.

#### 1. Use of the Old Bridge by the ABiH

1286. In its Final Trial Brief, the Prosecution did not concern itself with determining how the Old Bridge was used during the conflict between the BiH Croats and Muslims in Mostar.<sup>3225</sup> The Prosecution simply recalled, in mentioning the destruction of the Old Bridge that "it is inconceivable that sustained artillery fire would be directed at a civilian location or religious or cultural sites without clearance from the HVO command".<sup>3226</sup> It also reproduces the statements of Jadranko Prlić during his testimony as a suspect in 2001, according to which "no military goals or military targets that were there can justify destruction of that bridge".<sup>3227</sup>

<sup>3220</sup> See notably 3D 00785, p. 29. This book states that nine of the ten bridges joining the Neretva were destroyed during this period, including the *Lučki* bridge on 24 May 1992, the *Tito* bridge on the night of 29 to 30 May 1992, the *Carinski* bridge, the Raštani railway bridge, the *Hasan Brkić* bridge on the same day, 11 June 1992, and the aviator bridge, located in the industrial zone, on the following day; See notably Slobodan Praljak, T(F), p. 40398; 3D 02855, pp. 2 and 4; 3D 03130, minutes 5:22–7:50 and the corresponding transcripts; Milivoj Gagro, T(F), p. 2748.

<sup>3221</sup> Miro Salčin, CRF p. 14250; See also Cedric Thornberry, T(F), p. 26268; 4D 00770, p. 1. Although this report does not specify the name of the pedestrian bridge, based on the geographical indications, the Chamber considers that this is the *Kamenica* Bridge.

<sup>3222</sup> Enes Delalić, T(F), p. 18676; See notably P 01017, p. 2. The Chamber notes that a Spabat report dated 11 October 1993 contains a list of the bridges in Mostar and mentions four: the *Tito* bridge, the *Hasana* bridge and two other "small" bridges and indicates that they could be crossed only on foot and at night because of sniping, see P 06589, p. 2. The Chamber considers that although the document does not mention it, the Old Bridge and the *Kamenica* Bridge were still operational.

<sup>3223</sup> Enes Delalić, T(F), p. 18669.

<sup>3224</sup> Enes Delalić, T(F), p. 18675.

<sup>3225</sup> Prosecution Final Trial Brief, paras 821 *et seq.*

<sup>3226</sup> Prosecution Final Trial Brief, para. 822.

<sup>3227</sup> P 09078, p. 75.

1287. Only the Praljak Defence submitted arguments regarding the use of the Old Bridge during the conflict between the Croats and Muslims in Mostar. It argued, notably, that the Old Bridge was regularly used by the ABiH to transport weapons, ammunition and military materiel.<sup>3228</sup>

1288. All evidence and documents admitted indicate that the ABiH indeed used the Old Bridge to supply Muslim soldiers on the front line with military materiel and food and also to send reinforcements. Moreover, none of the witnesses who testified before the Chamber contested this use.<sup>3229</sup> The various documents issued between July and November 1993, both by the HVO armed forces and the members of the international organisations and journalists in the field, are unanimous on this point.<sup>3230</sup>

1289. Furthermore, the Chamber notes that the ABiH was holding positions in the immediate vicinity of the Old Bridge.<sup>3231</sup>

1290. As the Chamber set out previously, the Old Bridge was one of the only structures that still enabled the crossing of the Neretva after 9 May 1993. Although there were other ways of getting from one bank to the other,<sup>3232</sup> the Chamber considers that the Old Bridge was essential to the ABiH for the combat activities of its units on the front line, for evacuations and for sending troops, provisions and materiel and that it was used for this purpose.

## 2. Use of the Old Bridge by the Inhabitants of East Mostar

1291. The evidence admitted shows that although the Old Bridge was used by ABiH soldiers, it was also used by the inhabitants of the left bank of the Neretva to maintain contact with those on the right bank and to get food and medicine.<sup>3233</sup> It appears that there were very few supply routes for the inhabitants other than the Old Bridge. As the Chamber already mentioned,<sup>3234</sup> between May and November 1993, other than the Old Bridge, all that was available to the inhabitants was the

<sup>3228</sup> Praljak Defence Final Trial Brief, para. 348; *See* also paras 352 and 356 regarding the use of the Old Bridge by the ABiH soldiers.

<sup>3229</sup> Miro Salčin, T(F), p. 14251; Philip Watkins, T(F), p. 18899; P 06559 under seal, p. 1; Slobodan Praljak, T(F), pp. 39566 and 41275; Vinko Marić, T(F), pp. 48377 and 48398; P 10047, para. 22; Witness DZ, closed session, T(F), pp. 26858 and 26859; 3D 01135; Enes Delalić, T(F), pp. 18707-18708 and 18717-18718.

<sup>3230</sup> 3D 00924, p. 1; P 03381, p. 8; P 03465, p. 4; 3D 02435; P 06365, p. 3; P 06564; P 06646 under seal, p. 1; P 06559 under seal, p. 1.

<sup>3231</sup> Vinko Marić, T(F), pp. 48369, 48375- 48377 and 48398; P 06564; P 09992.

<sup>3232</sup> *See* "Use of the Old Bridge from 9 May 1993 Onwards" in the Chamber's factual findings with regard to the Municipality of Mostar; the Chamber also read the statement of Miro Salčin, according to which a pulley system was installed between the right bank of the Neretva and the Donja Mahala neighbourhood enabling the transport of food by baskets, *see* P 09834, para. 10.

<sup>3233</sup> Enes Delalić, T(F), pp. 18675, 18700 and 18707-18708; P 01017, p. 2; P 06684, p. 2; P 08279, para. 42.

<sup>3234</sup> *See* "Use of the Old Bridge from 9 May 1993 Onwards" in the Chamber's factual findings with regard to the Municipality of Mostar.



*Kamenica* Bridge or a mountain path from the Donja Mahala neighbourhood to Jablanica, which was considered very dangerous.<sup>3235</sup> A system of cables and pulleys was also installed to transport baskets with provisions between the left and the right banks of the Neretva.<sup>3236</sup> The Chamber finds, therefore, that the Old Bridge was essential for supplies to the inhabitants of the Muslim enclave on the right bank of the Neretva.

1292. Consequently, the destruction of the Old Bridge not only helped to cut off supplies to ABiH soldiers on the front line but also resulted in the almost total isolation of the inhabitants of the Muslim enclave on the right bank. The head of the Muslim community in Donja Mahala stated in an undated report that after the collapse of the Old Bridge and the destruction of the *Kamenica* Bridge "the local community in Donja Mahala is now in complete encirclement, without any contact with the left side of Mostar and without supplies of food or medicines".<sup>3237</sup> Haris Silajdžić, President of the Government of BiH, stated in a letter dated 13 November 1993 to the UN Security Council that "the destruction of the Old Bridge, a monument of the most important category [...] represents not only an unprecedented act of barbarism but also a deadly situation for more than 10,000 civilians on the right bank of the Neretva River in Mostar".<sup>3238</sup>

1293. In light of the foregoing, the Chamber finds that although the Old Bridge was necessary to the ABiH considering the way in which it was used, its destruction had the immediate effect of preventing supplies from reaching the Muslim enclave on the right bank of the Neretva and seriously exacerbating the humanitarian situation of the people living there.

### **B. Destruction of the Old Bridge**

1294. In its Final Trial Brief, the Prosecution submits that the HVO armed forces were responsible for the destruction of the Old Bridge and argues that at the time of the events Slobodan Praljak was the chief of the Main Staff.<sup>3239</sup> The Praljak Defence rejects this theory for several reasons: it alleges notably that on 9 November 1993 Slobodan Praljak left the post of staff commander and that the shelling by the HVO armed forces did not cause the collapse of the Old Bridge.<sup>3240</sup> It recalls that in

<sup>3235</sup> P 09864 under seal, p. 2. *See* for the location of the bridge linking Donja Mahala to the Luka neighbourhood at the time: IC 00377; Enes Vukotić, T(F), pp. 13710-13713; IC 00378; IC 00379; P 09139; Miro Salčin, T(F), pp. 14233, 14234 and 14235; P 09834, para. 9.

<sup>3236</sup> P 09834, para. 10.

<sup>3237</sup> P 01017, p. 2.

<sup>3238</sup> P 06684, p. 2.

<sup>3239</sup> Prosecution Final Trial Brief, paras 821 to 838.

<sup>3240</sup> Praljak Defence Final Trial Brief, paras 316 to 357. The Praljak Defence also alleges that the Old Bridge was a legitimate military target, an issue the Chamber ruled on previously.

the spring of 1992 the Old Bridge had already been considerably damaged by Serbian artillery fire.<sup>3241</sup>

1295. Regarding Slobodan Praljak's functions on 9 November 1993, the Chamber refers to its previous considerations<sup>3242</sup> and merely recalls that although Slobodan Praljak himself stated that his last order as the commander of the Main Staff was issued on 8 November 1993 at approximately 2230 hours,<sup>3243</sup> it appears that he was officially replaced by Ante Roso on 9 November 1993.<sup>3244</sup> During his witness testimony, he stated that he gave up his duties as of 0730 hours<sup>3245</sup> or 0740 hours that same day.<sup>3246</sup>

1296. After recalling that (1) the Old Bridge was indeed damaged before 8 November 1993, the Chamber will demonstrate (2) that on 8 November 1993 after the fall of Vareš, the HVO armed forces launched an offensive in Mostar during which the Old Bridge was shelled. It will (3) analyse the evidence regarding the collapse of the Old Bridge on 9 November 1993 and then (4) examine the reactions of the HVO authorities, Franjo Tuđman and the international actors following this event.<sup>3247</sup>

#### 1. Damage to the Old Bridge before 8 November 1993

1297. The JNA and the VRS armed forces shelled the Old Bridge during 1992<sup>3248</sup> causing significant structural damage.<sup>3249</sup> During the operation that resulted in the liberation of the town of

<sup>3241</sup> Praljak Defence Final Trial Brief, para. 328.

<sup>3242</sup> See "Slobodan Praljak, Commander of the Main Staff from 24 July 1993 until 9 November 1993" and "Slobodan Praljak and Ante Roso Succeeding One Another as Commander on 9 November 1993 and the Retention of Milivoj Petković on the Main Staff" in the Chamber's factual findings with regard to the Main Staff.

<sup>3243</sup> Slobodan Praljak, T(F), pp. 44465-44466; The Chamber notes that Slobodan Praljak signed an order as the commander of the Main Staff on 8 November 1993, see 3D 02029. That same day, replacing Milivoj Petković, he signed a document in which he requested that he be provided with a report on the events in Stupni Do, see 4D 00834. The two documents contradict document 3D 00280, the order allowing him to resign, dated 8 November 1993 and signed by Mate Boban, which indicates that it is "effective immediately", see 3D 00280.

<sup>3244</sup> See notably 3D 00948; 3D 00953; Milivoj Petković, T(F), pp. 49785, 49788 and 49790; Marijan Biškić, T(F), pp. 15034, 15035 and 15040; Witness EA, T(F), pp. 24313 and 24664, closed session; P 10330 under seal, para. 4.

<sup>3245</sup> Slobodan Praljak, T(F), p. 41274.

<sup>3246</sup> Slobodan Praljak, T(F), p. 39567.

<sup>3247</sup> Judge Antonetti expounds on this issue in his partially dissenting separate opinion attached to the Judgement.

<sup>3248</sup> Neven Tomić, T(F), p. 34051; 3D 02855, pp. 2 and 4. In the same order, Momčilo Perišić ordered that the various bridges of the Neretva in Mostar be prepared for destruction. See also 3D 00785, p. 29; 3D 03130, minutes 4:37-4:49 and see corresponding transcripts; Slobodan Praljak, T(F), p. 40432; 3D 00688; Alija Lizde, T(F), p. 17904; 3D 03735, para. 2.

<sup>3249</sup> Vinko Marić, T(F), p. 48227; 3D 00785, p. 29; 3D 03130, minutes 4:37-4:49 and 5:02-5:22; Slobodan Praljak, T(F), p. 40432. It should be noted that a project to repair the structural components of the Old Bridge was envisaged in 1990 but could not be implemented because of the conflict, see 1D 02705, p. 3. The Chamber therefore notes that the Old Bridge was in poor condition even before the start of the hostilities.

Mostar in June 1992, Slobodan Praljak ordered that the Old Bridge be protected from the Serbian artillery fire and combat violence<sup>3250</sup> due to its historical importance.<sup>3251</sup>

1298. Evidence indicates that at least between June 1993 and 8 November 1993, the Old Bridge was also shelled and fired at, causing significant structural damage, this time by the HVO armed forces: for example, an ECMM report dated 24 June 1993 stated that the "Old Bridge has been severely damaged during the shelling of the last days".<sup>3252</sup> Three Spabat reports also emphasised that the HVO opened fire on the Old Bridge in July 1993.<sup>3253</sup> On 19 September 1993 on orders from the artillery command of the HVO Main Staff, an H-155<sup>3254</sup> positioned at Planinica fired 22 shells at the Old Bridge.<sup>3255</sup> It seems that between June 1993 and 8 November 1993, the HVO armed forces chiefly targeted the parapet of the Old Bridge to prevent any crossing by the Muslims between the left and the right banks.<sup>3256</sup>

1299. In light of the foregoing, the Chamber considers that the shelling by the JNA and the VRS armed forces as well as that of the HVO armed forces had greatly damaged the Old Bridge before 8 November 1993. However, the ABiH and the population of East Mostar were still able to use the bridge until that date.

## 2. Offensive of 8 November 1993 and Shelling of the Old Bridge

1300. The evidence shows that (a) Milivoj Petković ordered an offensive on 8 November 1993, notably against Mostar, and that this order was indeed implemented. Moreover, it seems that (b) on this date and as part of this attack, an HVO tank fired at the Old Bridge throughout the day on 8 November 1993, and that (c) by the night of 8 November 1993, the Old Bridge could already be considered destroyed.

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<sup>3250</sup> 3D 03735, para. 2; Vinko Marić, T(F), pp. 48228, 48229 and 48397; Slobodan Praljak, T(F), pp. 39563 and 39564. The Chamber notes that the three witnesses differ about when in June 1992 the operation to protect the Old Bridge took place, that is on 8 June 1992, in the night of 14 to 15 June 1992 or just generally in 1992. However, the Chamber considers that these differences do not affect the credibility of the witnesses as to the operation itself. With regard to the means used to protect the structure *see* also 3D 03130, minutes 5:02–5:22 and the corresponding transcripts; Slobodan Praljak, T(F), pp. 40432–40433.

<sup>3251</sup> 3D 03735, para. 2.

<sup>3252</sup> P 02923 under seal, pp. 3 and 4.

<sup>3253</sup> P 03381 under seal, p. 8; P 03465, p. 4; P 03705 under seal, p. 7. According to the reports, the Old Bridge was the target of snipers and 20 mm heavy machine-guns belonging to the HVO armed forces. With regard to the significance of the Old Bridge as a supply route for the Muslim enclave on the right bank of the Neretva, *see* "Use of the Old Bridge by the inhabitants of East Mostar" in the Chamber's factual findings with regard to the Municipality of Mostar.

<sup>3254</sup> Howitzer H-155.

<sup>3255</sup> P 05201, pp. 1 and 2.

<sup>3256</sup> P 08279, para. 42.

## a) Order of Milivoj Petković Dated 8 November 1993

1301. In reaction to the fall of Vareš which came under ABiH control in early November 1993,<sup>3257</sup> Milivoj Petković, the deputy commander of the HVO Main Staff at the time,<sup>3258</sup> ordered the HVO armed forces to go on the offensive on 8 November 1993, notably in Mostar.<sup>3259</sup> The order stated that the town of Mostar should be shelled "selectively at various intervals", without further specifications.<sup>3260</sup> The Petković Defence argued in its Final Trial Brief that Milivoj Petković could not have signed the order since he was not in Čitluk on 8 November 1993.<sup>3261</sup> The Chamber notes that this is not a sound argument because even if Milivoj Petković was not physically present in Čitluk on 8 November 1993, nothing prevented him from issuing the order from a distance. Moreover, the Chamber has no evidence showing that Milivoj Petković did not issue the order and notes that the order was indeed sent through the chain of command. Milivoj Petković's order was sent the same day to Miljenko Lasić, the commander of the Mostar ZP,<sup>3262</sup> who then transmitted it through the chain of command to Sector North, Sector South, to the Mostar Defence sector and to the 2<sup>nd</sup> Light Infantry Battalion.<sup>3263</sup>

1302. Upon its reception, the order was implemented in the field by HVO armed forces.<sup>3264</sup> The Old Bridge, although not explicitly designated as a target in either Milivoj Petković's order or Miljenko Lasić's order, was hit several times by artillery fire on 8 November 1993.<sup>3265</sup>

1303. In its Final Trial Brief, the Prosecution argues that the order dated 8 November 1993 issued by Milivoj Petković was the result of discussions during a meeting called the previous night by Slobodan Praljak in Tomislavgrad which brought together the highest-ranks of the HVO in Herzegovina, including Miljenko Lasić.<sup>3266</sup> The Prosecution adds, furthermore, that the order to launch an offensive<sup>3267</sup> could not have been made without the support of Slobodan Praljak.<sup>3268</sup>

<sup>3257</sup> Witness DG, T(F), pp. 16005 and 16006; Witness EA, T(F), pp. 24633 and 24634, closed session; IC 00721.

<sup>3258</sup> P 04493, Witness EA, T(F), pp. 24313-24316, 24524, 24526, 24527, 24664, 24738 and 24740, closed session; P 10330 under seal, para. 4; P 09968.

<sup>3259</sup> P 06534, Slobodan Praljak, T(F), pp. 44461-44462.

<sup>3260</sup> P 06534, Slobodan Praljak, T(F), pp. 44461-44462.

<sup>3261</sup> Closing Arguments by the Petković Defence, T(F), p. 52607.

<sup>3262</sup> P 06534, Slobodan Praljak, T(F), pp. 44461-44462; P 06524.

<sup>3263</sup> P 06524, Slobodan Praljak, T(F), p. 44463.

<sup>3264</sup> See notably P 06518 under seal, p. 3 ; it indicates that shelling and combat were more intense than in the previous days in Mostar. See also Philip Watkins, T(F), pp. 18899-18902; P 06511 under seal, p. 1; P 06559 under seal, p. 1.

<sup>3265</sup> Philip Watkins, T(F), pp. 18899-18902; P 06511 under seal; P 06528 under seal, p. 1; P 06559 under seal, p. 1; P 06554, p. 4 which indicates that the Old Bridge had already been partially destroyed on 8 November 1993 ("yesterday") because of the shelling.

<sup>3266</sup> Prosecution Final Trial Brief, para. 825. See P 06482; 3D 00793.

<sup>3267</sup> See P 06534. The Chamber will analyse this order subsequently.

<sup>3268</sup> Prosecution Final Trial Brief, para. 825.

1304. The Chamber notes that the order of 8 November 1993 refers to the meeting of 7 November 1993.<sup>3269</sup> Item 3 of this order states that "sector commanders shall organise meetings with units up to the level of battalions (...) and issue tasks proceeding from (...) the order of the HVO GS commander issued at the meeting in Tomislavgrad on 7 November 1993".<sup>3270</sup>

1305. The transcript of the meeting on 7 November 1993 shows that the subjects discussed by Slobodan Praljak and the main commanders of the HVO units in Herzegovina<sup>3271</sup> were general and chiefly concerned mobilisation, the structure of the chain of command and the general organisation of the armed forces.<sup>3272</sup> However, the Chamber considers it can find that the offensive of 8 November 1993 was also discussed the evening before the attack amongst the highest-ranking commanders of the HVO armed forces.

b) Attack on the Old Bridge by an HVO Tank on 8 November 1993

1306. *Enes Delalić*<sup>3273</sup> confirmed that a tank positioned on Stotina hill opened fire several times on the Old Bridge on 8 November 1993.<sup>3274</sup> He was able to film a tank firing in the direction of the Old Bridge.<sup>3275</sup> The tank fired between 10 and 15 shells at the Old Bridge while *Enes Delalić* was filming the scene with a video camera<sup>3276</sup> and the firing stopped at approximately 1700 hours.<sup>3277</sup> Furthermore, *Enes Delalić* stated that only the tank he was filming was firing.<sup>3278</sup>

1307. However, the Chamber notes that *Enes Delalić* did not see the Old Bridge hit by the shells of the tank he was filming but did say that the tank was pointed towards the structure and that, while he was filming, he heard on the radio that the "foundations" of the Old Bridge were being targeted.<sup>3279</sup> Since *Enes Delalić* was not able to see the Old Bridge at the moment of the events, the Chamber considers that he could not know whether the tank was in fact the only vehicle firing at the Old Bridge.

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<sup>3269</sup> P 06534, p. 2.

<sup>3270</sup> P 06534, p. 2.

<sup>3271</sup> The transcript states that "a meeting of commander of GS with the commanders of ZP Tomislavgrad and Mostar ZP as well as individual troops, has been held". The Chamber finds that Slobodan Praljak, as commander of the Main Staff, was present at the meeting, *see* 3D 00793.

<sup>3272</sup> 3D 00793.

<sup>3273</sup> Inhabitant of the Donja Mahala neighbourhood in Mostar, *see* *Enes Delalić*, T(F), p. 18669.

<sup>3274</sup> *Enes Delalić*, T(F), pp. 18676 and 18678.

<sup>3275</sup> *Enes Delalić*, T(F), p. 18679; P 09889.

<sup>3276</sup> *Enes Delalić*, T(F), pp. 18678 and 18679.

<sup>3277</sup> *Enes Delalić*, T(F), pp. 18678 and 18679.

<sup>3278</sup> *Enes Delalić*, T(F), p. 18693.

<sup>3279</sup> *Enes Delalić*, T(F), p. 18679.

1308. Nevertheless, the Chamber notes that the Prosecution<sup>3280</sup> demonstrated that the tank shells filmed by *Enes Delalić* were simultaneous with the impacts sustained by the Old Bridge on 8 November 1993.<sup>3281</sup> In this respect, during the testimony of *Enes Delalić*, the Prosecution showed clip 1 of another recording with the number P 01040.<sup>3282</sup> The Chamber notes that the video recorded by *Enes Delalić* shows a shot fired at 1553 hours, another at 1554 hours and another at 1555 hours; that two subsequent shots were filmed at 1556 hours and two shots were filmed at 1557 hours.<sup>3283</sup> Clip 1 of Exhibit P 01040 showing the impacts sustained by the Old Bridge on 8 November 1993 within a short period of time depicts the bridge being hit by a shot at 1552 hours, then by another at 1553 hours and a last one at 1555 hours.<sup>3284</sup> The Chamber notes, in view of the two recordings, that the shots and impacts of the firing at 1553 hours and 1555 hours were synchronised. Although the Chamber cannot find solely on the basis of this observation that the tank filmed by *Enes Delalić* was indeed targeting the Old Bridge, it does consider that this evidence corroborates other similar evidence such as the barrel pointing in the direction of the structure, the radio broadcast *Enes Delalić* heard while he was filming, the location of the impacts on the Old Bridge as shown in clip 1 of Exhibit P 01040,<sup>3285</sup> and the other evidence the Chamber will analyse below.

1309. *Miro Salčin*<sup>3286</sup> stated that on 8 November 1993, he heard a tank fire several times and went to a makeshift observation post in an apartment at 118 Gojka Vukovića Street.<sup>3287</sup> From there, he was able to see the shells hitting the Old Bridge: according to him, the Old Bridge was shelled four times in two-hour intervals.<sup>3288</sup> He stated that the first salvo occurred at 0800 hours, the second at approximately 1000 hours, the third sometime around noon and the fourth between 1500 and 1600 hours and that, in total, the Old Bridge was hit by 60 or 70 shells.<sup>3289</sup> *Miro Salčin* stated that he did

<sup>3280</sup> See *Enes Delalić*, T(F), p. 18693.

<sup>3281</sup> P 09889 shows an assault tank firing on Mostar.

<sup>3282</sup> P 09889 and P 01040. The Chamber notes that recording P 01040 contains two video clips, one showing the shelling of the Old Bridge on 8 November 1993 ("clip 1") and the other its collapse ("clip 2"); *Enes Delalić*, T(F), p. 18693; IC 00574. Regarding the time stamp on the pictures of video P 09889, *Enes Delalić* stated that there was a difference of one hour between the time indicated and the actual time, see *Enes Delalić*, T(F), p. 18681. Consequently, when the recording bears a time stamp of 1657 hours, the actual time is 1557 hours, see *Enes Delalić*, T(F), p. 18682. The one hour difference is noted in the witness's comments on the recording itself, see P 09889.

<sup>3283</sup> P 09889.

<sup>3284</sup> P 01040, clip 1.

<sup>3285</sup> On this subject, *Enes Delalić* stated that the video on which we can see impacts on the Old Bridge on 8 November 1993 was filmed from Donja Mahala, on the right bank of the Neretva, see *Enes Delalić*, T(F), p. 18692. The Chamber therefore finds that the impacts shown could have come from Stotina hill, the assumed position of the assault tank as alleged by *Enes Delalić*.

<sup>3286</sup> Commander of a Donja Mahala ABiH company in West Mostar in 1993; captain, deputy commander of the 2<sup>nd</sup> Battalion of the 441<sup>st</sup> Motorised Brigade of the ABiH (the sector from the Old Bridge to the Čekrk neighbourhood), see P 09834, paras 7 and 8; Witness *Miro Salčin*, T(F), pp. 14171 and 14172.

<sup>3287</sup> *Miro Salčin*, T(F), p. 14208.

<sup>3288</sup> *Miro Salčin*, T(F), pp. 14208, 14210.

<sup>3289</sup> *Miro Salčin*, T(F), pp. 14210 and 14211.

not see the tank shelling the Old Bridge but did see a tank barrel on Čekrk hill in Hum regularly changing positions.<sup>3290</sup>

1310. The Chamber notes that *Miro Salčin* and *Enes Delalić* disagree about the name of the hill where on 8 November 1993 they were able to see a tank barrel pointed towards the Old Bridge. Nevertheless, *Miro Salčin* annotated two maps during his testimony showing what he believed to be the tank position on 8 November 1993.<sup>3291</sup> The positions thus marked correspond to Stotina hill and even if the witnesses do not use the same name to designate the location, they are referring to the same location. The Chamber recalls here that, as has already been determined, on 8 November 1993 Stotina hill was held by the HVO armed forces.<sup>3292</sup>

1311. The Chamber also notes that the statements of *Miro Salčin* corroborate those of *Enes Delalić* and clip 1 of Exhibit P 01040, inasmuch as he said that the Old Bridge was hit by a salvo between 1500 and 1600 hours on 8 November 1993. The Chamber also considers that clip 1 of Exhibit P 01040 shows that the Old Bridge was specifically targeted and that the shells that hit it were not the result of random shelling.<sup>3293</sup> Furthermore, the Chamber deems that the type of shelling to which the Old Bridge was subjected on 8 November 1993 "in regular intervals" – the salvos of the tank on Stotina hill being fired, as indicated by *Miro Salčin*, not continuously but at 0800 hours, around 1000 hours, sometime after noon and between 1500 and 1600 hours<sup>3294</sup> – correspond to the orders issued by Milivoj Petković and Miljenko Lasić.<sup>3295</sup> The Chamber recalls that the two orders indicated that the town of Mostar was to be shelled "selectively at various intervals"<sup>3296</sup>

1312. The Chamber also notes that on the evening of 8 November 1993 at 1900 hours, Miljenko Lasić sent a report to the Main Staff<sup>3297</sup> concerning the combat operations conducted that day which was received at Main Staff headquarters at 2045 hours.<sup>3298</sup> With regard to the zone of Mostar, the report indicates that "from 0810 in the morning our HVO tank was opening fire from Stotina during

<sup>3290</sup> Miro Salčin, T(F), pp. 14211, 14214; IC 00419; IC 00421.

<sup>3291</sup> IC 00419; IC 00421.

<sup>3292</sup> See "Attack on the Old Bridge by an HVO Tank on 8 November 1993" in the Chamber's factual findings with regard to the Municipality of Mostar, for example P 09993; Enes Delalić, T(F), p. 18673; 4D 00621; 4D 00622 and 4D 01216.

<sup>3293</sup> P 01040, clip 1.

<sup>3294</sup> Miro Salčin, T(F), pp. 14210 and 14211.

<sup>3295</sup> See P 06534 and P 06524 both of which contain directives according to which the HVO armed forces were to shell the town of Mostar "selectively at various intervals".

<sup>3296</sup> P 06534 and P 06524.

<sup>3297</sup> See P 09993, p. 2.

<sup>3298</sup> P 09993.

the whole day" and that "it fired 50 projectiles on Stari Grad /the Old Town/".<sup>3299</sup> The report added that "our HVO MB also fired two projectiles on Stari Grad at around 1400 hours".<sup>3300</sup>

1313. Three conclusions that can be drawn from the report: (1) the document confirms the existence of a tank positioned on Stotina hill and corroborates the statements of witnesses *Miro Salčin* and *Enes Delalić* on this issue as well as their allegations about the number of shells fired and the period during which the tank opened fire; (2) the Old Town neighbourhood<sup>3301</sup> of which the Old Bridge was an integral part was deliberately targeted on 8 November 1993 and (3) as of the evening of 8 November 1993, the Main Staff had official knowledge of the locations shelled by the HVO artillery.

1314. The Chamber has also reviewed two dispatches from Reuters news agency and the New York Times dated 10 November 1993, according to which Veso Vegar<sup>3302</sup> stated at the time that 10 shells were fired at the Old Bridge on 8 November 1993.<sup>3303</sup> During his testimony, Veso Vegar denied having said this at the time.<sup>3304</sup> However, the Chamber considers the statements of *Veso Vegar* only moderately credible, because, for example, he stated during cross-examination that he did not meet with any journalists on or around 8 and 9 November 1993 and then went on to retract that statement.<sup>3305</sup> The Chamber deems therefore that it can reasonably take into account the comments of *Veso Vegar* reported by Reuters news agency and the New York Times as they relate to the Old Bridge on 8 November 1993 since the statement is corroborated by the aforementioned evidence.

1315. In light of the foregoing, the Chamber finds that on 8 November 1993, an HVO tank positioned on Stotina hill opened fire throughout the day at the Old Bridge as part of the offensive ordered by Milivoj Petković and implemented by Miljenko Lasić that same day.

c) Destruction of the Old Bridge as of the Evening of 8 November 1993

1316. On the night of 8 to 9 November 1993, *Miro Salčin* approached the Old Bridge to check the state it was in; he stated that he attempted to cross it but that he had to turn back.<sup>3306</sup> The right side

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<sup>3299</sup> P 09993.

<sup>3300</sup> P 09993.

<sup>3301</sup> Enes Delalić, T(F), p. 18697.

<sup>3302</sup> Assistant head of IPD at the Department of Defence from 31 January 1993 to 30 June 1994, see Veso Vegar, T(F), pp. 36887, 36888 and 36904; P 01372.

<sup>3303</sup> P 10820, p. 1; P 10847, p. 1.

<sup>3304</sup> Veso Vegar, T(F), pp. 37183, 37188 and 37189.

<sup>3305</sup> Veso Vegar, T(F), pp. 37196 and 37197.

<sup>3306</sup> Miro Salčin, T(F), p. 14212.



of the structure was completely destroyed and had a "big hole".<sup>3307</sup> The railing of the Old Bridge had also fallen.<sup>3308</sup> One of the protective barriers on the monument had three holes in it measuring half a metre in diameter.<sup>3309</sup> He testified that he was surprised to see the bridge still standing.<sup>3310</sup>

1317. A Spabat report dated 8 November 1993 regarding the situation at 2355 hours stated that "according to the ABiH sources, the Old Bridge was put out of operation after today's shelling".<sup>3311</sup> Another report from the ECMM noted that the structure had sustained several heavy hits but specified that the information was unconfirmed.<sup>3312</sup> A second Spabat report dated 9 November 1993 specified that the Old Bridge had been "partially destroyed by shelling yesterday".<sup>3313</sup> Furthermore, the final report of the UN Commission of Experts on the destruction of cultural property dated 27 May 1994 indicated that the shelling of 8 November 1993 was clearly aimed at destroying the bridge.<sup>3314</sup> Lastly, the Chamber noted in clips 1 and 2 of Exhibit P 01040 the extremely dilapidated state of the Old Bridge right before its collapse on 9 November 1993.<sup>3315</sup>

1318. In view of this evidence and the evidence related to the repeated shelling on 8 November 1993, the Chamber is satisfied that the Old Bridge was in fact destroyed as of the evening of 8 November 1993. The Chamber considers that the destruction of the Old Bridge is not limited solely to its collapse and that, as of the evening of 8 November 1993, the structure could be considered completely unusable.

### 3. Collapse of the Old Bridge on 9 November 1993

1319. After having analysed the two possibilities presented to the Chamber by the Prosecution and the Praljak Defence respectively on the cause of the collapse of the Old Bridge on 9 November 1993 between 1015 and 1030 hours,<sup>3316</sup> the Chamber will present its findings about the causes of the collapse in view of the evidence analysed.

<sup>3307</sup> Miro Salčin, T(F), p. 14212.

<sup>3308</sup> Miro Salčin, T(F), p. 14212.

<sup>3309</sup> Miro Salčin, T(F), p. 14212.

<sup>3310</sup> Miro Salčin, T(F), p. 14212.

<sup>3311</sup> P 06518 under seal, p. 3.

<sup>3312</sup> P 06511 under seal, P 06528 under seal.

<sup>3313</sup> P 06554, p. 4.

<sup>3314</sup> P 08279, para. 42.

<sup>3315</sup> P 01040, clips 1 and 2.

<sup>3316</sup> Vinko Marić, T(F), p. 48371; P 09992; Miro Salčin, T(F), pp. 14198, 14199, 14208, 14212 and 14213; P 01017, p. 1; Enes Delalić, T(F), pp. 18700-18701; P 09992; IC 00574; P 01040, clip 2; Witness BD, T(F), pp. 20792-20797, closed session. It should be noted that Witness BD stated only that the Old Bridge collapsed during the morning; P 09992, p. 1; P 06536 under seal; P 06554; P 06564; P 08016, p. 3; P 08279, para. 39; P 10963, p. 2; P 06639, p. 7; P 09892 under seal, p. 104. The Chamber notes that documents P 06639 and P 09892 contain an error as to the date on which the Old Bridge collapsed, which allegedly occurred on "09. 10. 93"; See also Witness BD, T(F), pp. 20793-20797, closed session.

a) Hypothesis 1: Collapse Caused by Renewed HVO Shelling on the Morning of 9 November 1993

1320. The Prosecution argues in particular that the HVO armed forces resumed shelling on 9 November 1993 and that "it was approximately the sixth shell that finally sent the centuries-old symbol of Mostar into the Neretva River".<sup>3317</sup>

1321. The Chamber is satisfied that shelling from an HVO tank positioned on Stotina hill resumed on the morning of 9 November 1993 and that it targeted the Old Bridge: this was confirmed notably by *Enes Delalić*,<sup>3318</sup> by an ECMM report<sup>3319</sup> and by *Miro Salčin*, who said that the Old Bridge collapsed after being hit by the 6<sup>th</sup> shell.<sup>3320</sup> The Chamber also notes that in a report issued on 9 November 1993 at 1900 hours addressed to the Main Staff, Miljenko Lasić indicated that "at around 1000 hours, our tank fired [a] few projectiles at a target which was determined earlier. At around 1015 hours our reconnaissance people from Hum reported that Stari Most /the Old Bridge/ was [destroyed] and they could not say anything about the cause of its destruction".<sup>3321</sup> In light of the testimony of *Enes Delalić* and the report from Miljenko Lasić dated 9 November 1993, the Chamber considers that the tank mentioned by Miljenko Lasić in his report corresponds to the tank positioned on Stotina hill. Moreover, although Lasić remained vague about the "target which was determined earlier" and indicated that he did not receive information about the cause of the destruction of the Old Bridge from the reconnaissance units, the Chamber deems that the "target" he mentions is the Old Bridge. In respect to this, the Chamber notes the similarity between the statements of *Miro Salčin* regarding the number of shells that hit the structure before its collapse (6<sup>th</sup> shell) and the report by Miljenko Lasić indicating that "our tank fired [a] few projectiles".

1322. Admittedly, the Chamber heard the comments of *Vinko Marić*, the artillery commander for the South East OZ at the time of the events,<sup>3322</sup> about Miljenko Lasić's report, and according to him the Old Bridge was not targeted by the tank that fired on 9 November 1993 at 1000 hours; he also said that he never saw an order to this effect and that had such an order existed, he would have known about it considering his function at the time.<sup>3323</sup> On this point, the Chamber considers the statements of *Vinko Marić* not credible since it is satisfied that the "target which was determined earlier" mentioned in Miljenko Lasić's report corresponds to the Old Bridge. Moreover, the

<sup>3317</sup> Prosecution Final Trial Brief, para. 830.

<sup>3318</sup> Enes Delalić, T(F), p. 18680 and T(E), p. 18681.

<sup>3319</sup> P 06536 under seal.

<sup>3320</sup> Miro Salčin, T(F), p. 14213.

<sup>3321</sup> P 09992, p. 1.

<sup>3322</sup> Vinko Marić, T(F), pp. 48090 and 48091.

<sup>3323</sup> Vinko Marić, T(F), pp. 48371 and 48372; P 09992.

Chamber finds that Vinko Marić, as artillery commander for the South-East OZ at the time of the events,<sup>3324</sup> should have been informed of this order but considers that it cannot give credence to his statements on this matter, notably because of the close ties his position afforded him with Milivoj Petković and Slobodan Praljak at the time of the destruction of the Old Bridge.

1323. The Chamber also heard the testimony of *Slobodan Praljak* according to whom it was "strange" that a tank could open fire from Stotina hill on the Old Bridge for a day and a half without the ABiH attempting to retaliate.<sup>3325</sup> In this respect, the Chamber notes the statements of *Miro Salčin*, according to which the commander of the 1<sup>st</sup> Battalion of the ABiH, Esad Kostić, had attempted to open fire on the tank on 9 November 1993 from *Kamenica* Bridge.<sup>3326</sup> Furthermore, *Miro Salčin*, captain and deputy commander of the 2<sup>nd</sup> Battalion of the 441<sup>st</sup> ABiH Motorised Brigade based in Donja Mahala,<sup>3327</sup> geographically the closest ABiH position to Stotina hill, specified that he had no assets he could use to destroy or prevent the tank from launching that operation.<sup>3328</sup> The Chamber is thus not convinced by *Slobodan Praljak's* argument.

1324. Moreover, the Chamber notes that several items of evidence show that the collapse of the Old Bridge was the result of tank shells fired on the morning of 9 November 1993, admittedly from the south, but also from the north of the Old Bridge.<sup>3329</sup> *Milivoj Petković* told the Chamber that the north of Mostar was held by the ABiH,<sup>3330</sup> and the Praljak Defence argued that it was impossible for the HVO to have fired on the Old Bridge from that direction.<sup>3331</sup>

1325. The Chamber recalls its previous considerations that on the morning of 9 November 1993, an HVO tank had resumed the previous night's shelling of the Old Bridge from Stotina hill, located south of the monument. However, with regard to 9 November, the Chamber does not exclude the possibility that the shelling could have also come from locations other than Stotina hill. Contrary to the allegation that it was impossible for HVO armed forces to have opened fire at the structure from the north of Mostar, the Chamber recalls as an example that on 19 September 1993, an HVO H-155

<sup>3324</sup> Vinko Marić, T(F), pp. 48090 and 48091.

<sup>3325</sup> Slobodan Praljak, T(F), p. 44473.

<sup>3326</sup> Miro Salčin, T(F), p. 14267 and T(E), p. 14267. The Chamber notes that there is a discrepancy between the T(F), and the T(E) as to the date of the alleged incident (8 November and 10 November 1993). However, the Chamber deems that Miro Salčin placed the event on 9 November 1993 because he uses the expression "on the second day yes, but not on the first day" to refer to the days when the Old Bridge was shelled by the HVO assault tank.

<sup>3327</sup> See P 09834, paras 7 and 8; Witness Miro Salčin, T(F), pp. 14171 and 14172.

<sup>3328</sup> Miro Salčin, T(F), p. 14268.

<sup>3329</sup> IC 00574; Slobodan Praljak, T(F), pp. 44692 and 44476; P 10820, p. 1; P 06554, p. 4.

<sup>3330</sup> Milivoj Petković, T(F), pp. 49921-49924; IC 00574.

<sup>3331</sup> Praljak Defence Final Trial Brief, para. 334.

in Planinica, that is to the north of Mostar, fired 22 shells at the Old Bridge.<sup>3332</sup> Likewise, the Chamber notes that Miljenko Lasić's report dated 8 November 1993 mentions the presence of the *M. H. Čikota* Brigade in the north sector of Mostar and indicates that it had opened fire at several targets in the town, such as the Bulevar, "just opposite to the Health Centre" and at the *Razvitak* building.<sup>3333</sup>

1326. It seems clear, therefore, that the HVO armed forces were holding positions in the north of Mostar in addition to the position on Stotina hill from where it was possible to fire artillery at the area around the Old Bridge. Although the Chamber did not receive additional evidence regarding the shots that targeted the Old Bridge from the north of Mostar on 9 November 1993, it considers that the HVO armed forces had the possibility of opening artillery fire at the town from the north of Mostar. Moreover, the Chamber is satisfied that an HVO tank positioned on Stotina hill which opened fire at the Old Bridge on 8 November 1993 resumed the shelling of this target the following morning.

b) Hypothesis 2: Collapse Caused by Explosives Detonated from the Right Bank of the Neretva

1327. The Praljak Defence does not deny that the Old Bridge may have been the target of a tank on 8 and 9 November 1993 but argues that the projectiles fired at the Old Bridge were not intended to destroy it.<sup>3334</sup> It bases this claim on the Janković Report and on the testimony of *Slobodan Janković*. Furthermore, the Praljak Defence alleges that the video recording of the destruction of the Old Bridge shows that there was something before the structure collapsed that looked like a detonating cord lit from the ABiH-held eastern bank of the Neretva<sup>3335</sup> which caused an explosion that resulted in the bridge's collapse. For the Praljak Defence, "the destruction of Stari Most was a propaganda coup for the ABiH, one they used to demonise Slobodan Praljak and unfairly try him in the court of public opinion".<sup>3336</sup>

1328. *Slobodan Janković* analysed two video recordings, one from the "TV ORF 2" channel<sup>3337</sup> and the other from the "TV Mostar" channel,<sup>3338</sup> showing the destruction of the Old Bridge in Mostar and the moments directly preceding its collapse. *Slobodan Janković* recalled that a tank allegedly belonging to the HVO armed forces of the HR H-B located south-west of the Old Bridge

<sup>3332</sup> P 05201, pp. 1 and 2; Grant Finlayson, T(F), pp. 18022-18026 and IC 00537. Witness Grant Finlayson testified that in May 1993, he could see HVO tanks and artillery in the north of Mostar in Orlovac.

<sup>3333</sup> Prosecution Final Trial Brief, para. 828; P 09993.

<sup>3334</sup> Praljak Defence Final Trial Brief, paras 339 and 340.

<sup>3335</sup> Praljak Defence Final Trial Brief, para. 341.

<sup>3336</sup> Praljak Defence Final Trial Brief, para. 335.

<sup>3337</sup> IC 00820.

<sup>3338</sup> IC 00821; See also 3D 03208, hereinafter "Janković Report".

on the right bank of the Neretva, approximately 1,400 metres from its target, was responsible for the destruction of the structure.<sup>3339</sup> He added that the "video recordings" – he did not specify which ones – broadcast on several television channels showed that the Old Bridge had indeed been hit by several projectiles that, according to him, could have been fired by a tank on the morning and afternoon of 8 November 1993 (0957 hours and 1552 hours).<sup>3340</sup>

1329. With regard to the tank projectiles, *Slobodan Janković* stated that in order to destroy a structure such as the Old Bridge, several shots would have to impact the same place<sup>3341</sup> because the tank ammunition was not designed to pierce stone,<sup>3342</sup> and a tank firing at the same spot does not always succeed because of the phenomenon of "dispersion".<sup>3343</sup> *Slobodan Janković* stated that the video recordings – he did not specify which ones – showed that the Old Bridge had indeed been hit by shells but at several different places,<sup>3344</sup> and that he did not have the impression that the tank crew had been aiming at one and the same point.<sup>3345</sup> According to *Slobodan Janković*, since it is unlikely that that the Old Bridge was destroyed by a T-55 tank, one should consider a possibility other than a finding that the Old Bridge was destroyed by a tank belonging to the HVO armed forces of the HR H-B.<sup>3346</sup>

1330. *Slobodan Janković* noted in respect of the recordings provided by "TV ORF 2" and "TV Mostar" that just before the collapse of the Old Bridge, a water geyser appeared along the line of water linking its east pillar to the left bank of the Neretva.<sup>3347</sup> He also said that the geyser could not be caused by a shell falling into the river<sup>3348</sup> and that the bridge was not hit by any projectiles at the moment the water geyser appeared.<sup>3349</sup> On the basis of these observations, *Slobodan Janković* deduced that the water geyser could have resulted from the ignition of a detonating cord and that the black smoke visible next to the eastern pillar of the Old Bridge was due to the detonation of an explosive charge.<sup>3350</sup> According to *Slobodan Janković*, the explosion of the submerged detonating cord produced gas that in turn formed the water geyser visible on the recordings.<sup>3351</sup> The black

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<sup>3339</sup> 3D 03208, p. 2.

<sup>3340</sup> 3D 03208, p. 2: "Footage by several television stations recorded the aforementioned events and shows that the Old Bridge came under fire by several different projectiles, possibly even tank projectiles F...g".

<sup>3341</sup> *Slobodan Janković*, T(F), p. 30085.

<sup>3342</sup> *Slobodan Janković*, T(F), p. 30086.

<sup>3343</sup> *Slobodan Janković*, T(F), p. 30085.

<sup>3344</sup> *Slobodan Janković*, T(F), p. 30085.

<sup>3345</sup> *Slobodan Janković*, T(F), p. 30091.

<sup>3346</sup> 3D 03208, p. 2; IC 00820; *See also Slobodan Janković*, T(F), pp. 30087 and 30088.

<sup>3347</sup> 3D 03208, pp. 2, 3 and 7; IC 00820.

<sup>3348</sup> *Slobodan Janković*, T(F), p. 30106.

<sup>3349</sup> 3D 03208, p. 3; IC 00820; IC 00821, *See also Slobodan Janković*, T(F), pp. 30086 and 30093.

<sup>3350</sup> 3D 03208, p. 3; IC 00820; IC 00821.

<sup>3351</sup> 3D 03208, pp. 3 and 4; IC 00820; IC 00821.

smoke would be due to the explosive charge at the base of the eastern pillar of the Old Bridge which was activated by the detonating cord.<sup>3352</sup>

1331. *Slobodan Janković* then conducted an experiment designed to reproduce an explosion identical to the one on the video recordings provided by "TV ORF 2" and "TV Mostar"<sup>3353</sup> and, based on this experiment,<sup>3354</sup> considered that his theory had been confirmed, namely that the geyser immediately preceding the collapse of the Old Bridge resulted from the ignition of the detonating cord; furthermore, he also considered that the explosion at the base of the eastern pillar of the Old Bridge corresponded to the explosive charge that caused the collapse of the structure.<sup>3355</sup>

1332. In conclusion, based on an analysis of the two video recordings from "TV ORF 2" and "TV Mostar",<sup>3356</sup> *Slobodan Janković* stated that it was very likely that the Old Bridge collapsed as a result of the explosion of a charge placed in one of its pillars activated by a detonating cord from the left bank of the Neretva and not as a result of tank fire.<sup>3357</sup> *Slobodan Janković* stated, furthermore, that all the bridges in the former Yugoslavia were built to be destroyed in case of a conflict, and that it was possible that the explosives used to destroy the Old Bridge, as he suggested, date from that period.<sup>3358</sup> He explained that the strategies in Yugoslavia were to anticipate an attack by western countries, which is why the explosives placed in the bridges could be detonated from the eastern side of those structures.<sup>3359</sup>

1333. Concerning *Slobodan Janković's* methodology, the Chamber notes that, during his testimony, *Slobodan Janković* stated that he based himself chiefly on the footage from the "TV ORF 2" channel, since the footage provided by "TV Mostar" was too bright.<sup>3360</sup> Moreover, he stated that the recording from "TV ORF 2" appeared to consist of two pieces of footage, one showing the situation before the collapse and the second showing the collapse itself.<sup>3361</sup> Consequently, he

<sup>3352</sup> 3D 03208, pp. 4 and 5; IC 00820; IC 00821.

<sup>3353</sup> 3D 03208, pp. 9 and 10; IC 00822; For details on the experiment conducted *see* *Slobodan Janković*, T(F), p. 30100; *See also* IC 00820 and IC 00821.

<sup>3354</sup> IC 00822.

<sup>3355</sup> 3D 03208, pp. 6, 14 and 15; For a comparison of the video recording of the experiment conducted for the purposes of the report (IC 00822) and the two video recordings of the destruction of the Old Bridge (IC 00820 and IC 00821) *see also*, *Slobodan Janković*, T(F), pp. 30098 to 30100.

<sup>3356</sup> *Slobodan Janković*, T(F), p. 30077; IC 00821; IC 00820; On the fact that *Slobodan Janković* examined several video recordings but only cited two in support of his report, *Slobodan Janković*, T(F), pp. 30207 and 30208.

<sup>3357</sup> 3D 03208, p. 7; *Slobodan Janković*, T(F), pp. 30077 and 30102.

<sup>3358</sup> *Slobodan Janković*, T(F), p. 30109.

<sup>3359</sup> *Slobodan Janković*, T(F), p. 30111.

<sup>3360</sup> *Slobodan Janković*, T(F), p. 30101.

<sup>3361</sup> *Slobodan Janković*, T(F), pp. 30101 and 30102.

considered that the footage from "TV Mostar" was important, despite its bad quality, because in his opinion it did not have "discontinuity".<sup>3362</sup>

1334. The Chamber also notes that during his testimony, *Slobodan Janković* stated that there were only "strong probabilities" that the Old Bridge was destroyed by explosives ignited from the east bank of the Neretva, notably because the footage provided by "TV ORF 2" consisted of two pieces of footage.<sup>3363</sup> It is only by comparing the footage provided by "TV ORF 2" and the footage from "TV Mostar" that *Slobodan Janković* came to this conclusion.<sup>3364</sup> According to *Slobodan Janković*, the footage provided by "TV Mostar" was filmed continuously.<sup>3365</sup>

1335. However, the Chamber notes that *Slobodan Janković* admitted that he did not know whether the two videos recorded the same event but believed that they did despite being unable to certify this.<sup>3366</sup> He also confirmed that the "timing" between the appearance of the water geyser and the collapse of the Old Bridge was, in his opinion, essential.<sup>3367</sup> He conceded that if the explosion, the water geyser and the smoke had been filmed on 8 November 1993 and the collapse of the Old Bridge the following day, it would be logical to consider that the explosion was not the cause of the structure's destruction.<sup>3368</sup>

1336. During *Slobodan Janković's* cross-examination, the Prosecution asked him to view clip 2 of Exhibit P 01040 which shows the same viewing angle as the footage provided by "TV ORF 2", as well as the same water geyser and the same explosion at the base of the Old Bridge: *Slobodan Janković* conceded that, on this same video, the collapse of the structure did not occur immediately after the explosion of the detonating cord and the charge.<sup>3369</sup> He stated that had he had this document while drawing up the Janković report, the probability of his theory regarding the use of explosives to destroy the Old Bridge would have diminished.<sup>3370</sup> He admitted, finally, that on the basis of the video shown by the Prosecution, the collapse of the Old Bridge was not due to an

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<sup>3362</sup> Slobodan Janković, T(F), pp. 30102, 30114, 30115 and 30132.

<sup>3363</sup> Slobodan Janković, T(F), p. 30129.

<sup>3364</sup> Slobodan Janković, T(F), p. 30129.

<sup>3365</sup> Slobodan Janković, T(F), p. 30129.

<sup>3366</sup> Slobodan Janković, T(F), pp. 30130, 30135, 30136 and 30179.

<sup>3367</sup> Slobodan Janković, T(F), pp. 30133 and 30134; See also P 10511, p. 3, where Slobodan Janković stated that "Italics added before the collapse of the bridge, there was a water column that rose along the length of the eastern bank south of the bridge, and you see black smoke at the foundation of the bridge".

<sup>3368</sup> Slobodan Janković, T(F), pp. 30133 to 30135.

<sup>3369</sup> Slobodan Janković, T(F), pp. 30145 to 30147; the video recording shown by the Prosecution has the number P 01040, clip 2; Regarding the similarity between the film shown by the Prosecution and the film provided by channel "TV ORF 2" see also, Slobodan Janković, T(F), pp. 30180 and 30181; For the record, the video recording provided by channel "TV ORF 2" had the number IC 00820, Slobodan Janković, T(F), p. 30079.

<sup>3370</sup> Slobodan Janković, T(F), pp. 30181-30183.

explosion.<sup>3371</sup> However, he stated that it was possible that an initial explosion had been triggered without the Old Bridge collapsing,<sup>3372</sup> and then that a second one which caused the collapse occurred:<sup>3373</sup> in that case, the recording shown by the Prosecution and the recording provided by "TV ORF 2" would have been filmed at two different moments. Nevertheless, the Chamber has no evidence that there had been two explosions.

1337. With regard to clip 2 of Exhibit P 01040, the Praljak Defence argues that it was "edited by unknown people to make it look as though HVO firing caused the collapse", and relies on the statements of Witness *Philip Watkins* to corroborate this.<sup>3374</sup> The Chamber notes that *Philip Watkins*, who saw the original recording at the time of the events,<sup>3375</sup> after viewing clip 2 of Exhibit P 01040, did state that the recording had been edited.<sup>3376</sup> Nevertheless, he pointed out the differences he noted - namely that the original recording was in colour and had a wider perspective.<sup>3377</sup> The Chamber considers that in expressing himself this way, *Philip Watkins* did not cast doubt on the truth of the images filmed or the authenticity of the recording.

1338. The Chamber appointed, *proprio motu*, expert *Heinrich Pichler* to verify the authenticity of the video recordings provided by "TV Mostar" and "TV ORF 2", and notably to determine whether the images on the recordings were continuous or discontinuous.<sup>3378</sup> *Heinrich Pichler* stated that only television channel "ORF 2" was able to provide him with videotapes that could be used for the purposes of an analysis and that he could not determine the authenticity of the recording from "TV Mostar".<sup>3379</sup> With regard to the new videotapes sent by "TV ORF 2", *Heinrich Pichler* found that they contained an undetermined time gap in the sequence of images showing the water geyser and the collapse of the structure, whereas in the video from "TV ORF 2", which served as a basis for the Janković Report, these images were consecutive and did not have a time gap between them.<sup>3380</sup> Thus, according to *Heinrich Pichler*, the video sequence provided by television station "TV ORF 2" cannot be used to determine the chronological order of the demolition process.<sup>3381</sup>

<sup>3371</sup> Slobodan Janković, T(F), p. 30195.

<sup>3372</sup> Slobodan Janković, T(F), pp. 30196 and 30197; P 01040, clip 2.

<sup>3373</sup> Slobodan Janković, T(F), pp. 30196 and 30197; IC 00820; IC 00821; P 01040, clip 2; *See also* Slobodan Janković, T(F), pp. 30216 and 30217.

<sup>3374</sup> Praljak Defence Final Trial Brief, para. 336; *See also* Philip Watkins T(F), p. 18898.

<sup>3375</sup> *See* Philip Watkins, T(F), pp. 18897 and 18898.

<sup>3376</sup> Philip Watkins, T(F), p. 18898.

<sup>3377</sup> Philip Watkins, T(F), p. 18898.

<sup>3378</sup> Regarding the Chamber's appointment of Heinrich Pichler as an expert and his mandate, *see* "Order for the Production of Additional Evidence and for the Appointment of an Expert Witness for the Chamber", public, 9 September 2008.

<sup>3379</sup> C 00002, p. 5.

<sup>3380</sup> C 00002, p. 12.

<sup>3381</sup> C 00002, p. 12.



1339. In light of the foregoing, the Chamber finds that *Heinrich Pichler* confirmed the statements made by *Slobodan Janković* during his testimony regarding the integrity of the recording provided by "TV ORF 2". *Heinrich Pichler* stated that the sequence did not make it possible to establish the chronology of the process of demolition, as recalled above.<sup>3382</sup> *Slobodan Janković* explained to the Chamber that because of this, he used the video recording broadcast by "TV Mostar" at the same time.<sup>3383</sup> The recording, which was of a "poor visual quality" had the advantage, in his opinion, of having been filmed continuously.<sup>3384</sup> The Chamber notes that *Heinrich Pichler* was not able to provide his expert opinion on the video recording broadcast by "TV Mostar".<sup>3385</sup> Consequently, the Chamber cannot rule on the chronological continuity and authenticity of the video recording broadcast by "TV Mostar". However, like *Slobodan Janković* and *Heinrich Pichler*, it considers that the recording provided by "TV ORF 2" was edited using at least two different sequences, and thus cannot establish the chronology of the events immediately preceding the collapse of the Old Bridge.

1340. The Chamber notes, furthermore, that *Slobodan Janković* retracted the findings in the Janković Report during his cross-examination, notably after having viewed clip 2 of Exhibit P 01040 shown by the Prosecution, which depicts an explosion of the Old Bridge that did not lead to it collapsing.<sup>3386</sup> Cross-examination also revealed uncertainty as to the methodology used to compile the report: for example, *Slobodan Janković*, stated that he had started from the premise that the recordings broadcast by "TV ORF 2" and "TV Mostar" had filmed the same event on the same date, but although he could believe this, he could not certify it.<sup>3387</sup>

1341. The Chamber considers that *Slobodan Janković's* statements during his testimony allow for some doubt about the fact that the Old Bridge collapsed because of an explosion triggered from the right bank of the Neretva, which was the conclusion established in the Janković Report.

1342. However, the Chamber deems that the video recordings from "TV Mostar" and "TV ORF 2", like the experiment conducted in order to compile the Janković Report, demonstrate that there could have been at least one attempt to blow up the Old Bridge with explosives set off from the right bank of the Neretva. The Chamber considers that the black smoke rising from the eastern

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<sup>3382</sup> C 00002, p. 12.

<sup>3383</sup> *Slobodan Janković*, T(F), p. 30129.

<sup>3384</sup> *Slobodan Janković*, T(F), p. 30129.

<sup>3385</sup> C 00002, pp. 8 and 9: "The video material from Mostar (the recording provided by TV Mostar) was not directly available as a camcorder tape. The integrity of a video recording cannot be determined without doubt on the basis of a DVD due to the coding in MPEG2, where one can find not only I frames (which allow precise chronological ordering) but also B and P frames (which only allow limited chronological ordering). Through the interpolation of space and time by means of B frames, certain editing traces are obscured in time and therefore no longer clearly recognisable".

<sup>3386</sup> *Slobodan Janković*, T(F), p. 30195.

<sup>3387</sup> *Slobodan Janković*, T(F), pp. 30130, 30135, 30136 and 30179.

pillar of the Old Bridge and the water geyser that rose up practically simultaneously could be characteristic of an explosion set off by a detonating cord.<sup>3388</sup> Moreover, there is evidence that refers to this type of operation.<sup>3389</sup> Nevertheless, even if the Chamber assumes that the explosion indeed contributed to the destruction of the Old Bridge, it does not have any evidence about the possible perpetrators of the explosion.

1343. The Chamber is satisfied that the shelling of the Old Bridge by an HVO tank positioned on Stotina hill resumed on the morning of 9 November 1993. Furthermore, the Chamber does not exclude the possibility that there may have been at least one attempt to blow up the Old Bridge by explosives triggered from the right bank of the Neretva. Nevertheless, even if it accepted that the video recording provided by "TV Mostar" was filmed continuously and without editing on 9 November 1993 – the date on which all the sources agree the Old Bridge collapsed – the Chamber recalls that it previously found that the Old Bridge could already be considered destroyed as of the evening of 8 November 1993 as a result of shelling by an HVO tank positioned on Stotina hill. The Chamber also recalls its findings that the attack occurred as part of an offensive ordered by Milivoj Petković and implemented by Miljenko Lasić.

1344. Furthermore, the Chamber heard the statements of *Slobodan Janković* that a T-55 tank could not have destroyed the Old Bridge,<sup>3390</sup> as well as the statements of *Slobodan Praljak* regarding the effectiveness of the attack.<sup>3391</sup> *Slobodan Praljak* stated during his testimony that, had he decided to reduce the Old Bridge to "ashes", he could have done so by firing only three shells from Hum mountain.<sup>3392</sup> The Chamber finds that both *Slobodan Janković's* and *Slobodan Praljak's* statements are relevant in this case since, even if a tank was not the most efficient weapon with which to destroy the Old Bridge, using such a weapon to shell the structure could have caused its collapse because of the state it was in on the morning of 8 November 1993 before the shelling started.<sup>3393</sup>

1345. In light of the foregoing, the Chamber finds that shelling of the Old Bridge by an HVO tank positioned on Stotina hill resumed on the morning of 9 November 1993, and that there was at least one explosion on the bridge triggered from the right bank of the Neretva. However, the Chamber considers that the Old Bridge had been destroyed and was on the verge of collapse by the evening

<sup>3388</sup> See IC 00820, *Slobodan Janković*, T(F), p. 30079; IC 00821, *Slobodan Janković*, T(F), p. 30079; P 01040, clip 2; *Slobodan Janković*, T(F), p. 30146.

<sup>3389</sup> 3D 00924.

<sup>3390</sup> See "Possibility 2: Collapse Caused by Explosives Detonated from the Right Bank of the Neretva" in the Chamber's factual findings with regard to the Municipality of Mostar.

<sup>3391</sup> See *Slobodan Praljak*, T(F), p. 41274.

<sup>3392</sup> See *Slobodan Praljak*, T(F), p. 41274.

<sup>3393</sup> See "Damage to the Old Bridge before 8 November 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

of 8 November 1993 after being shelled by a tank positioned on Stotina hill throughout the day of 8 November 1993, as part of the offensive launched by Milivoj Petković and implemented by Miljenko Lasić.

4. Reaction of the HVO Political Authorities and Armed Forces to the Unanimous Condemnation of the International Actors

1346. It appears that following the collapse of the Old Bridge, the reactions by the HVO political and military authorities showed (a) their wish to minimise or conceal their responsibility in this event. Despite these reactions, (b) the majority of the international actors quickly moved to place responsibility for the destruction of the Old Bridge on the HVO armed forces, notably because (c) the destruction of the bridge resulted in the total isolation of the ABiH soldiers and the inhabitants of the Muslim enclave on the right bank. The HVO authorities (d) then accused the tank crew of having acted on its own initiative.

a) Attempt by the HVO Authorities to Minimise or Conceal their Responsibility for the Destruction of the Old Bridge

1347. During a meeting at the presidential palace in Zagreb on 10 November 1993 – attended by Franjo Tuđman, Mate Boban, Jadranko Prlić, Mate Granić and Perica Jukić – Franjo Tuđman asked who was responsible for the destruction of the Old Bridge.<sup>3394</sup> Mate Boban replied that the Old Bridge had already been "fired on so much" before it collapsed, without specifying who the perpetrators were, and that the Old Bridge had collapsed on its own due to torrential rains.<sup>3395</sup> The Chamber notes that, instead of determining responsibility for the destruction of the Old Bridge, the discussion among the above-named five individuals quickly turned to the reasons that could be given to prevent the HVO armed forces from being held responsible by the international public. The Chamber notes that Franjo Tuđman asked the other people at this meeting about who would gain a military advantage from the destruction of the Old Bridge.<sup>3396</sup> Mate Boban explicitly stated that its destruction benefited the HVO armed forces.<sup>3397</sup>

1348. Once the participants had made this observation, they proposed several possibilities: Perica Jukić suggested that the torrential rains, and more generally the "war events" be given as reasons to explain the collapse of the Old Bridge.<sup>3398</sup> Jadranko Prlić recalled that the situation was completely

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<sup>3394</sup> P 06581, p. 20.

<sup>3395</sup> P 06581, p. 20.

<sup>3396</sup> P 06581, p. 21.

<sup>3397</sup> P 06581, p. 21.

<sup>3398</sup> P 06581, p. 21.

beyond the HVO's control,<sup>3399</sup> that the front line was 300 metres from the bridge and that it was not possible for the HVO armed forces to reach the Old Bridge.<sup>3400</sup> Mate Granić had previously advocated trying to influence Spabat, which he deemed to have the highest authority, to make a favourable statement about the HVO to the media.<sup>3401</sup>

1349. On the same day as the meeting, Miljenko Lasić sent a report to the government of the HR H-B, to the HVO Main Staff and to the Ministry of Defence setting out the available information regarding the collapse of the Old Bridge.<sup>3402</sup> In the report, he stated that the Old Bridge had been damaged by the ravages of time, even before the war, and that a plan should be made for its restoration, which had begun to a certain extent.<sup>3403</sup> He also stressed the fact that the "Serbian aggressor" had already seriously damaged the bridge with its shelling and that the Old Bridge was in the immediate vicinity of the separation line held by the ABiH.<sup>3404</sup> Lastly, he emphasised that the ABiH had not marked the bridge as a structure enjoying "special protection", because in that case the ABiH could not have used it to transport military materiel and troops to the other bank.<sup>3405</sup> He concluded his report by insisting that the HVO units had never opened fire on the Old Bridge and that its collapse was due to violent combat in the zone of the Old Bridge since the beginning of the conflict.<sup>3406</sup>

1350. Although the Chamber acknowledges that some of the information contained in Miljenko Lasić's report is accurate, such as the damage to the Old Bridge before 8 and 9 November 1993, the proximity of the front line and the ABiH's use of the Old Bridge to transport troops and military materiel, the Chamber considers that the reference that the HVO units never targeted the monument is wrong. As it previously recalled, during the conflict between the Croats and the Muslims in Mostar, the Old Bridge was shelled on orders from the highest-ranking HVO authorities, as evidenced by the report from the Široki Brijeg artillery regiment dated 19 September 1993 according to which the Old Bridge was targeted pursuant to orders from the Main Staff.<sup>3407</sup> The Chamber also recalls its previous findings that between June 1993 and 9 November 1993, the Old Bridge was shelled and shot at from the HVO positions.

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<sup>3399</sup> "It is absolutely beyond our control", P 06581, p. 21.

<sup>3400</sup> P 06581, pp. 20 and 21.

<sup>3401</sup> P 06581, p. 21.

<sup>3402</sup> P 06564; P 06646 under seal.

<sup>3403</sup> P 06564; P 06646 under seal.

<sup>3404</sup> P 06564; P 06646 under seal; For the proximity of the Old Bridge to the front line *see* also P 10820, p. 1; P 10847, p. 1.

<sup>3405</sup> P 06564.

<sup>3406</sup> P 06564.

<sup>3407</sup> P 05201, pp. 1 and 2.

1351. The Chamber finds that Miljenko Lasić's report conveys a wish on the part of the HVO authorities to minimise or conceal the responsibility of the HVO armed forces in the destruction of the Old Bridge and what was said during the aforementioned meeting at the presidential palace in Zagreb on 10 November 1993. Moreover, statements such as the ones made by Jadranko Prlić during an interview in November 1993<sup>3408</sup> with *Belinda Giles*,<sup>3409</sup> according to which the destruction of the Old Bridge began in May 1992 and ended in November 1993, corroborate this conclusion<sup>3410</sup> as they implicitly confirm that the collapse of the bridge was the result of combat operations since the beginning of the conflict. The same holds for *Veso Vegar's* statements<sup>3411</sup> reported by Reuters and the New York Times on 10 November 1993, according to which the collapse of the Old Bridge was caused by constant shelling because of its strategically important location, namely in the vicinity of Muslim positions.<sup>3412</sup>

b) Reaction of the International Actors Holding the HVO Armed Forces Responsible for the Destruction of the Old Bridge

1352. Despite the position taken by the HVO authorities and their reaction, the majority of the international organisations, their members in the field, and a journalist,<sup>3413</sup> placed responsibility for the collapse of the Old Bridge on the HVO tank and artillery fire on 8 and 9 November 1993. *Witness DW* stated that he believed that the only belligerents with something to gain from the destruction of the Old Bridge were the Croats and that they had fired at the bridge with a tank.<sup>3414</sup> In an ECMM report dated 9 November 1993, the collapse of the Old Bridge is presented as a consequence of sustained shelling, notably by a tank, ordered by the "HVO" as "retaliation" in the wake of the fall of Vareš.<sup>3415</sup> Another report from that same organisation dated 18 April 1994 attributes the destruction of the Old Bridge to HVO tank fire.<sup>3416</sup> Without being as affirmative, the final report of the UN Commission of Experts on the destruction of cultural property indicates the

<sup>3408</sup> Belinda Giles, T(F), p. 2038.

<sup>3409</sup> Independent television producer and director of the report "A Greater Croatia", see Belinda Giles, T(F), pp. 2033, 2034 and P 07437.

<sup>3410</sup> P 01015; Belinda Giles, T(F), p. 2075. "I think the Old Bridge or 'Stari Most', was destroyed more than one year and a half ago".

<sup>3411</sup> Assistant head of IPD at the Department of Defence from 31 January 1993 to 30 June 1994, see Veso Vegar, T(F), pp. 36887, 36888 and 36904; P 01372.

<sup>3412</sup> P 10820, p. 1; P 10847, p. 1. The Chamber notes that Veso Vegar denies having made these statements, see Veso Vegar, T(F), pp. 37183, 37188 and 37189, but also notes that in light of all the evidence, it is reasonable to consider that he made them at the time.

<sup>3413</sup> P 10963.

<sup>3414</sup> P 10287 under seal, p. 12; On the subject of the accusations against the HVO armed forces see also P 08016, p. 3

<sup>3415</sup> P 06536 under seal.

<sup>3416</sup> ID 00815, p. 1. With respect to the collapse of the Old Bridge due to firing from an HVO assault tank see also, P 10047, para. 22.

same.<sup>3417</sup> According to a dispatch from Reuters dated 10 November 1993, UN military spokesperson Bill Alkman stated that the "coup de grace" was dealt from HVO positions.<sup>3418</sup>

1353. In light of the foregoing, the Chamber notes that numerous actors present in the field at the time of the events, as well as several international organisations, reported the destruction of the Old Bridge and placed responsibility on the HVO armed forces. It seems that the destruction of the Old Bridge was advantageous to the HVO armed forces.

c) Consequences of the Destruction of the Old Bridge for ABiH Soldiers and Inhabitants of the Muslim Enclave on the Right Bank of the Neretva

1354. From a military point of view, the collapse of the Old Bridge on 9 November 1993 cut off the remaining main supply route for the ABiH soldiers in the Muslim enclave of the right bank. Furthermore, it seems that at the time of the events, the HVO command was aware that the ABiH was using the bridge for this purpose.<sup>3419</sup> For example, *Witness CB* stated that as of 9 May 1993, sustained firing targeted the bridges linking the two sides of the town and that "via reports and conversations with the Croatian defence forces for the development of the operations from a military point of view, we arrived at the conclusion that the Croatian defence forces were attempting to isolate the Muslim part of the city, which was basically on the right riverbank".<sup>3420</sup> Moreover, the Chamber notes that when Slobodan Praljak testified as a witness, he stated that at the time of the events, he was aware that the ABiH was using the bridge to supply the Muslim enclave on the right bank of the Neretva. He stated that despite this use of the Old Bridge by the ABiH, he forbid the HVO units from targeting this monument.<sup>3421</sup>

1355. The Chamber notes furthermore, that the destruction of the *Kamenica* Bridge by the HVO armed forces on 10, 11 and 17 November 1993, that is, a few days after the destruction of the Old Bridge, completely barred access from one bank of the Neretva to the other in Mostar.<sup>3422</sup> The

<sup>3417</sup> "This destruction was carried out by tanks belonging, it seems, to the Croatian forces", see P 08279, paras 43 and 45; "It would seem that the Croats were at the origin of the destruction of Mostar Bridge"; see also P 08016, p. 3.

<sup>3418</sup> P 10820, p. 1; P 10847, p. 1.

<sup>3419</sup> Slobodan Praljak, T(F), pp. 44699 and 39566; Vinko Marić, T(F), pp. 48377 and 48398; P 06564; P 06581; P 06575, pp. 20 and 21; 3D 00924, p. 1 and P 03381, p. 8; P 03465, p. 4.

<sup>3420</sup> *Witness CB*, T(F), p. 10143; Philip Watkins, T(F), p. 18899 and P 06559 under seal, p. 1 and P 10287 under seal, p. 12.

<sup>3421</sup> However, he specified that the prohibition was not issued as a written order, see Slobodan Praljak, T(F), p. 41275; Regarding the opinion of the HVO authorities of the Old Bridge, see also P 10963: "It was viewed as a military target, said an aide to Herzegovina Croat leader Mate Boban", p. 2.

<sup>3422</sup> Enes Delalić stated that *Kamenica* Bridge was destroyed on 11 November 1993, see Enes Delalić, T(F), p. 18700 and T(E), pp. 18698-18699; However, Miro Salčin stated that it was destroyed on 10 November 1993, at approximately 1700 hours, see Miro Salčin, T(F), p. Miro Salčin, T(F), pp. 14215 and 14216; IC 00419. An undated report from the head of the Donja Mahala local commune states that *Kamenica* Bridge was destroyed on 17 November 1993, see P 01017, p. 2; P 06684, p. 2.

Chamber finds that by continuing its bombings once the Old Bridge had been destroyed and the *Kamenica* Bridge was the only structure making it possible to cross the Neretva, the HVO armed forces knowingly risked isolating the population of the Muslim enclave on the right bank of the Neretva.

1356. The Chamber notes furthermore that the destruction of the Old Bridge had a significant psychological impact on the Muslim population in Mostar.<sup>3423</sup> The Chamber recalls here its previous considerations regarding the symbolic importance of the Old Bridge,<sup>3424</sup> particularly for the Bosnian Muslim community. Some sources also state that the destruction of the Old Bridge had a bigger political impact than a military one.<sup>3425</sup>

1357. In light of the its previous considerations, the Chamber considers that the HVO armed forces were aware that the ABiH was using the Old Bridge for military purposes and that its destruction was a strategic advantage because it completely isolated the Muslim enclave on the right bank and prevented the ABiH from supplying the front line. Furthermore, the Chamber finds that the destruction of the Old Bridge had a serious effect on the morale of the population in Mostar, particularly on the Muslims residing in East Mostar, and that the HVO was well aware of this fact.

d) Proceedings Brought Against the Tank Crew by the HVO

1358. After unsuccessfully suggesting to the international actors that the destruction of the Old Bridge was nothing more than a "tragic consequence" of the conflict and the generally dilapidated state of the bridge, while at the same time denying the military advantage that this event constituted for the HVO armed forces, the HVO authorities accused three of its soldiers, members of a tank crew,<sup>3426</sup> of having targeted the Old Bridge without authorisation.

1359. During another meeting at the presidential palace in Zagreb on 23 November 1993, Franjo Tuđman again asked, this time speaking directly to Croatia's Minister of Defence Gojko Šušak, who

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<sup>3423</sup> P 06536 under seal; P 06646 under seal, p. 1; Philip Watkins, T(F), p. 18897; P 06559 under seal, p. 1. The report dated 8 November 1993 also states that the Old Bridge may have been destroyed as a reaction to the events in Vareš, namely as "vengeance". The Chamber notes that Vareš was taken by the ABiH on 4 November 1993; *see also* P 06365, p. 3 and Enes Delalić, T(F), p. 18698. Enes Delalić stated that by destroying the Old Bridge, the HVO armed forces wanted to "stifle" the Muslims "lifeline".

<sup>3424</sup> Regarding the symbolic importance of the Old Bridge, *see also* P 00682. The Chamber deems that the photo of the Old Bridge on this poster indicates its possible symbolic importance.

<sup>3425</sup> *See* P 06646 under seal, p. 1 and Philip Watkins, T(F), pp. 18899-18902.

<sup>3426</sup> The Chamber notes that it does not have information about this tank, particularly about its position. Consequently, the Chamber is unable to determine whether the tank is the same one previously mentioned as being positioned on Stotina hill.

was responsible for the destruction of the Old Bridge.<sup>3427</sup> Although the transcript of the statements made during this meeting does not show what the minister replied,<sup>3428</sup> Franjo Tuđman stated that it was necessary to determine who ordered the destruction of the Old Bridge and the underlying reasons of such an order.<sup>3429</sup> He added that this person had to be relieved of his duties and tried by court martial.<sup>3430</sup>

1360. It appears that proceedings were initiated that same day, 23 November 1993, by the prosecutor of ZP Mostar<sup>3431</sup> who requested that there be an investigation of Tomo Topić, Dražen Rezić and Senaid Čavčić.<sup>3432</sup> These three people, members of the HVO armed forces and of a tank crew, were accused of having opened fire at the Old Bridge in Mostar on their own initiative without having received any orders from their superior.<sup>3433</sup> They were suspected of being responsible for the destruction of the Old Bridge.<sup>3434</sup>

1361. The Chamber has evidence showing that the proceedings were followed up, although the evidence remains mute as to the content of the said proceedings. The proceedings were mentioned by *Philip Watkins* during his testimony,<sup>3435</sup> in a letter sent on 4 December 1993 by Jadranko Prlić to General Cot, the commander of UNPROFOR<sup>3436</sup> and in Annex XI of the final report from the UN Commission of Experts on the destruction of cultural property dated 27 May 1994.<sup>3437</sup> *Milivoj Petković* also stated during his testimony that the investigation was still underway in August 1994.<sup>3438</sup>

1362. Nevertheless, the Chamber does not have any information regarding the results of the alleged investigation of the three men. The Chamber notes, however, that through these proceedings the HVO authorities implicitly acknowledged that an HVO tank had opened fire on the Old Bridge. In this respect, the Chamber recalls that it had previously established that an HVO tank positioned on Stotina hill had opened fire throughout the day of 8 November 1993 and the following morning as part of the offensive launched pursuant on orders from Milivoj Petković.<sup>3439</sup> Even if the Chamber

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<sup>3427</sup> P 06831, p. 7.

<sup>3428</sup> The transcript states "(Rustling of paper, nothing can be heard)", *see* P 06831, p. 7.

<sup>3429</sup> P 06831, p. 8.

<sup>3430</sup> P 06831, p. 8.

<sup>3431</sup> Slobodan Praljak, T(F), pp. 41273 and 41274; 3D 00374, p. 49.

<sup>3432</sup> Slobodan Praljak, T(F), pp. 41273 and 41274; 3D 00374, p. 49.

<sup>3433</sup> Slobodan Praljak, T(F), pp. 41273 and 41274; 3D 00374, p. 49.

<sup>3434</sup> Slobodan Praljak, T(F), pp. 41273 and 41274; 3D 00374, p. 49.

<sup>3435</sup> Philip Watkins, T(F), p. 18837.

<sup>3436</sup> 1D 01912.

<sup>3437</sup> P 08279, para. 45.

<sup>3438</sup> Milivoj Petković, T(F), pp. 49413 and 49414; 4D 01355, p. 4. "Let Mr. Military Prosecutor continue his job".

<sup>3439</sup> *See* "Attack on the Old Bridge by an HVO Tank on 8 November 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.



considers that the tank mentioned in the proceedings launched by the HVO was the one positioned on Stotina hill and that a crew consisting of "rebel" HVO soldiers decided on its own initiative to target the Old Bridge, it also considers that nothing prevented the HVO military authorities from stopping the shelling which had been going on for two days.<sup>3440</sup>

1363. In light of the foregoing, the Chamber finds that the reaction of the international actors and the HVO authorities after the fall of the Old Bridge corroborates its previous findings that an HVO tank positioned on Stotina hill targeted the Old Bridge on 8 and 9 November 1993. Moreover, the Chamber deems that the HVO's strategic interest in destroying the Old Bridge only reinforces its conviction that the Old Bridge was a target to be destroyed.

### **C. General Findings of the Chamber on the Destruction of the Old Bridge**

1364. The Chamber is satisfied that before 8 November 1993, the Old Bridge, although significantly damaged, was still in use not only by the ABiH in Mostar to supply its troops and bring in military materiel to the front line but also by the inhabitants of East Mostar to maintain contact between the two banks and bring in food and medical supplies. Moreover, the Chamber is satisfied that the bridge had great symbolic importance, primarily for the Muslims.

1365. The HVO armed forces had a military interest in destroying the structure since that would cut off practically all possibilities for the ABiH to continue its supply operations. However, the collapse of the Old Bridge also condemned the residents of the Muslim enclave on the right bank of the Neretva to almost complete isolation.

1366. The Chamber considers that on 8 November 1993 as part of an offensive launched by Milivoj Petković and implemented by Miljenko Lasić, an HVO tank opened fire on the Old Bridge throughout the day, making it unusable and on the point of collapse as of the evening of 8 November 1993. The following day, the Old Bridge collapsed between 1015 and 1030 hours after the tank shelling resumed, and also possibly due to explosives set off by a detonating cord from the left bank of the Neretva. From 10 November 1993 onwards, the armed forces and the political authorities of the HVO denied being responsible for the destruction of the Old Bridge, but despite this reaction, they were unanimously held responsible by the international community and the actors present in the field. After attempting to explain the collapse of the monument, notably by citing the overall dilapidation of the structure and its position in the midst of the clashes, the HVO authorities launched an investigation into a tank crew accused of having acted without

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<sup>3440</sup> See also Vinko Marić, T(F), p. 48231.

authorisation. The Chamber deems that the reactions of the political and military authorities of the HVO expressed their wish to minimise or conceal their responsibility and corroborate the evidence concerning the attack of 8 November 1993 during which the Old Bridge was targeted by an HVO tank.

## VI. Alleged Destruction of Religious Institutions in East Mostar

1367. In paragraph 116 of the Indictment, the Prosecution alleges that as part of and during the siege of East Mostar, the HVO deliberately destroyed or significantly damaged the following mosques or religious property: (1) the *Sultan Selim Javuz Mosque*,<sup>3441</sup> (2) the *Hadži Mehmed-Beg Karadžoz Mosque*, (3) the *Koski Mehmed-Paša mosque*, (4) the *Nesuh Aga Vučjaković Mosque*, (5) the *Ćejvan Ćehaja Mosque*, (6) the *Hadži Ahmed Aga Lakišić Mosque*, (7) the *Roznamedžija Ibrahim Efendija Mosque*, (8) the *Ćosa Jahja Hodža Mosque*,<sup>3442</sup> (9) the *Hadži Kurto or Tabačica Mosque*, (10) and the *Hadži Memija Cernica Mosque*.

1368. The Praljak Defence submits that all the mosques listed in paragraph 116 of the Indictment were destroyed before the conflict between the Muslims and the Croats in the Mostar sector began, namely by the JNA and/or the VRS in early 1992.<sup>3443</sup> The Petković Defence submits that the great majority of these mosques were heavily damaged by the Serbs in 1992.<sup>3444</sup> The Praljak and Petković Defence teams<sup>3445</sup> claim that no evidence shows that the HVO deliberately destroyed any of the mosques or religious property listed in paragraph 116 of the Indictment.

1369. The Chamber notes that the evidence attests to the fact that of the ten mosques mentioned in the Indictment, eight were damaged or partially destroyed by the armed forces of the JNA and/or the VRS in 1992 and two were still intact in January 1993, and probably until 9 May 1993, the date when the conflict in Mostar broke out between the HVO and the ABiH.<sup>3446</sup>

1370. Consequently, the Chamber finds that the (1) *Sultan Selim Javuz*, (2) *Hadži Mehmed-Beg Karadžoz*, (3) *Koski Mehmed-Paša*, (4) *Nesuh Aga Vučjaković*, (6) *Hadži Ahmed Aga Lakišić*, (8) *Ćosa Jahja Hodža* and (9) *Hadži Kurto* or *Tabačica* mosques sustained significant damage or were

<sup>3441</sup> Also known as the *Mesdjid Sultan Selimov Javuza Mosque*.

<sup>3442</sup> Also known as the *Džamiha Ćose Jahja Hodžina Mosque*.

<sup>3443</sup> Praljak Defence Final Trial Brief, paras 314 and 315.

<sup>3444</sup> Petković Defence Final Trial Brief, para. 384.

<sup>3445</sup> The Petković Defence specifies the period between 30 June and 24 July 1993.

<sup>3446</sup> 2D 01421; 3D 01057; Ratko Pejanović, T(F), pp. 1275 and 1425; 3D 02845; Seid Smajkić, T(F), p. 2477; Marita Vihervuori, T(F), p. 21754; Neven Tomić, T(F), p. 34051; Veso Vegar, T(F), p. 37023; 3D 00785, pp. 92, 94, 96, 102, 103 and 104.

partially destroyed during the previous conflict in Mostar in 1992.<sup>3447</sup> The Chamber notes that the minaret of the (4) *Nesuh Aga Vučjaković* Mosque remained intact however.<sup>3448</sup> The (10) *Hadži Memija Cernica* Mosque suffered minor damage.<sup>3449</sup>

1371. Only the (5) *Ćejvan Ćehaja* and (7) *Roznamedžija Ibrahim Efendija* mosques did not sustain any damage and were still intact in January 1993, and probably until 9 May 1993.<sup>3450</sup>

1372. Some evidence indicates generally and without specifying names that mosques in East Mostar were damaged or destroyed essentially by artillery fire between June 1993 and December 1993.<sup>3451</sup> *Seid Smajkić*, the Mufti of Mostar from 1992 to 1994,<sup>3452</sup> specified that in 1994, there were no mosques left in the town of Mostar where believers could go to pray because they had all been destroyed.<sup>3453</sup>

1373. More particularly, the Chamber notes that two mosques in the centre of East Mostar which were not damaged in 1992 were hit. The (5) *Ćejvan Ćehaja* Mosque, dating from 1552, was razed to the ground by artillery projectiles,<sup>3454</sup> and the (7) *Roznamedžija Ibrahim Efendija* Mosque, dating from 1620, was destroyed by artillery fire or shelling.<sup>3455</sup>

1374. Regarding the eight other mosques, namely: (1) *Sultan Selim Javuz*,<sup>3456</sup> (2) *Hadži Mehmed-Beg Karadjoz*, (3) *Koski Mehmed-Paša*, (4) *Nesuh Aga Vučjaković*, (6) *Hadži Ahmed Aga Lakišić*, (8) *Ćosa Jahja Hodža* (9) *Hadži Kurto* or *Tabačica* and (10) *Hadži Memija Cernica*, which had already been damaged by the JNA and/or VRS forces in 1992, the Chamber notes that some were again damaged while others were completely demolished,<sup>3457</sup> mainly by artillery fire.<sup>3458</sup> More precisely, the (3) *Koski Mehmed-Paša* Mosque was again significantly damaged while the (9) *Hadži Kurto* or *Tabačica* Mosque was destroyed, both by fire from a tank located on Stotina hill.<sup>3459</sup> The

<sup>3447</sup> 2D 01421; 3D 01057; Ratko Pejanović, T(F), pp. 1275 and 1425; Seid Smajkić, T(F), pp. 2657 and 2658; 3D 02845.

<sup>3448</sup> 3D 01057.

<sup>3449</sup> 2D 01421; 3D 01057.

<sup>3450</sup> 2D 01421; 3D 01057; Witness BJ, T(F), pp. 5730-5732.

<sup>3451</sup> Seid Smajkić, T(F), pp. 2553 and 2554; P 08939, pp. 1 and 2; P 02636, p. 4; Ratko Pejanović, T(F), pp. 1276, 1280 and 1281; Larry Forbes, T(F), pp. 21289 and 21290; Suad Ćupina, T(F), pp. 4858, 4859, 4861-4863; Bo Pellnas, T(F), pp. 19544 and 19545.

<sup>3452</sup> Seid Smajkić, T(F), pp. 2471 and 2472.

<sup>3453</sup> Seid Smajkić, T(F), pp. 2553 and 2554; P 02563, p. 1.

<sup>3454</sup> P 08939.

<sup>3455</sup> Ratko Pejanović, T(F), p. 1280; Larry Forbes, T(F), p. 21289.

<sup>3456</sup> Regarding the *Sultan Selim Javuz* Mosque, the Chamber notes that it was located directly on Mostar's Old Bridge (see P 08939, p. 2 and IC 00020, under number 8).

<sup>3457</sup> P 08939; Seid Smajkić, T(F), pp. 2558 and 2559; IC 00020; Ratko Pejanović, T(F), pp. 1276-1281; IC 00002 (location of the mosques marked with the letter "x"); 1D 00527, para. 26; IC 00026; Miro Salčin, T(F), p. 14297.

<sup>3458</sup> Ratko Pejanović, T(F), p. 1280.

<sup>3459</sup> P 08939, p. 1; Seid Smajkić, T(F), pp. 2657-2659; IC 00002; IC 00020.

Chamber notes that the tank positioned on Stotina hill opened fire on the foundations of the (9) *Hadži Kurto* or *Tabačica* Mosque.<sup>3460</sup> Moreover, the minaret of the (4) *Nesuh Aga Vučjaković* Mosque was destroyed by months of anti-aircraft artillery fire from an anti-aircraft gun located on Hum mountain.<sup>3461</sup> The (8) *Ćosa Jahja Hodža* Mosque was destroyed by tyres filled with explosives launched from Hum mountain.<sup>3462</sup>

1375. The Chamber heard testimony and admitted documents specifically indicating that the HVO was responsible for the destruction of or damage to mosques in East Mostar in 1993.<sup>3463</sup> The Chamber finds that because of the constant shooting on and shelling of East Mostar by the HVO from the direction of West Mostar, Hum mountain and Stotina hill, there is no doubt that the HVO further damaged or destroyed the ten mosques.

1376. Certain evidence attests to the fact that the HVO knowingly attacked<sup>3464</sup> and even destroyed<sup>3465</sup> mosques and other Muslim religious property in the east part of the town of Mostar in 1993. *Seid Smajić* stated that the HVO had destroyed religious property "in a systematic way" and deliberately, by adopting a modus operandi necessarily aimed at destroying the mosques targeted.<sup>3466</sup> Two ECMM reports dated 4 June 1993 and 4 August 1993, respectively, also emphasised that the mosques located in East Mostar were being attacked "systematically" and "intentionally".<sup>3467</sup>

1377. In light of the foregoing, the Chamber finds that the ten mosques listed in paragraph 116 of the Indictment were destroyed or significantly damaged by the constant shooting and shelling of East Mostar by the HVO. The Chamber is satisfied that the HVO deliberately targeted the ten mosques.

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<sup>3460</sup> P 08939, p. 1.

<sup>3461</sup> P 08939, p. 1.

<sup>3462</sup> P 08939, p. 1.

<sup>3463</sup> Larry Forbes, T(F), pp. 21289 and 21290; Suad Ćupina, T(F), p. 4863; IC 00026; 1D 00527, para. 26; P 02563.

<sup>3464</sup> P 02800, p. 2; P 08939, pp. 1 and 2; Larry Forbes, T(F), pp. 21289 and 21290. The Chamber notes that although *Larry Forbes* stated that he had seen the damage done to a mosque in East Mostar after June 1993 caused by a "Bofors" anti-aircraft gun mounted on the back of an HVO truck opening fire on the mosque, it notes, nevertheless, that the witness was not specific about which mosques were targeted in this case.

<sup>3465</sup> P 02636, p. 4; P 03952, p. 3; P 08939, pp. 1 and 2; Seid Smajić, T(F), pp. 2553 and 2554; Suad Ćupina, T(F), pp. 4858, 4859, 4861-4863; P 04822, para. 11.

<sup>3466</sup> P 08939, pp. 1 and 2; Seid Smajić, T(F), pp. 2553 and 2554. The Chamber notes that in his report Seid Smajić refers to "the Croats" in general and not specifically to the HVO. However, in light of the time and place and on the basis of other evidence involving Seid Smajić – including P 02800 and P 02563 – and his testimony, the Chamber considers that the author of the report had to be referring to the HVO.

<sup>3467</sup> P 02636, p. 4; P 03952, p. 3.

## VII. Chamber's Findings on the Existence of a Siege in East Mostar

1378. The Chamber finds that during the period relevant to the Indictment in paragraphs 110 to 117, namely from June 1993 to April 1994, East Mostar was under siege by the HVO. The Chamber finds that although East Mostar was not completely surrounded by the HVO because the roads to the north and the south were open,<sup>3468</sup> the town was indeed besieged in the sense that it was the target of a prolonged military attack by the HVO over several months that included intense constant shooting and shelling, including sniper fire, on a cramped densely-populated residential zone with the result that many inhabitants of East Mostar were injured or killed. Furthermore, the population could not leave East Mostar of its own free will and had to live under extremely harsh conditions, without food, water, electricity and appropriate medical care. The Chamber also notes that the HVO hindered and at times completely blocked the arrival of humanitarian aid and deliberately targeted the members of the international organisations, killing and wounding some of them. Lastly, the HVO destroyed the Old Bridge and also destroyed or significantly damaged ten mosques in East Mostar.

### Heading 5: The Heliodrom

1379. This part of the Judgement concerns crimes allegedly committed by HZ H-B/HVO forces at the Heliodrom.

1380. Paragraph 119 of the Indictment alleges in particular that the HVO detention facility at the Heliodrom was established in September 1992 on the orders of Bruno Stojić and Valentin Ćorić and Bosnian Muslim were detained there until 21 April 1994.

1381. In paragraphs 120 to 122 of the Indictment, the Prosecution alleges that hundreds of Muslims were detained by HZ H-B/HVO forces and held at the Heliodrom, with an estimated maximum of about 6,000 detainees. On 9 and 10 May 1993, in particular, HZ H-B/HVO forces systematically rounded up and detained hundreds of Muslim men, women, children and elderly people living in West Mostar, and transported or forced them to walk to the Heliodrom where they were detained for periods of up to about ten days. Also, on 30 June 1993, following the ABiH attack on the Northern Barracks, Herceg-Bosna/HVO forces arrested several thousand military-aged Muslim men in Herzegovina, and detained many of them at the Heliodrom, for extended periods of time. The Prosecution claims that the last Bosnian Muslim women were released from

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<sup>3468</sup> See "Influx of People to East Mostar" in the Chamber's factual findings with regard to the Municipality of Mostar.

the Heliodrom on 17 December 1993, though a substantial number of Muslim men were held there until April 1994.

1382. In paragraph 123 of the Indictment, the Prosecution further alleges that Muslim men were held at the Heliodrom without a *bona fide* or adequate effort by the Herceg-Bosna/HVO authorities or forces to distinguish between military prisoners and civilian detainees.

1383. In paragraphs 124 to 126 of the Indictment, it alleges that conditions at the Heliodrom prison were inhumane, including for the women, some of whom were more than 70 years old and others had young children with them, and that Herceg-Bosna/HVO forces regularly mistreated, abused and humiliated the male detainees. It claims in paragraphs 127 to 130 of the Indictment that the Muslim men were taken by the HVO on a virtually daily basis to perform forced labour at various locations in the Mostar region, including the Mostar confrontation line and the Vojno detention centre. Such work is said to have been carried out under dangerous conditions and many Muslim detainees were killed or injured. The detainees are claimed to have been used as human shields and to have been abused while they were performing forced labour.

1384. Paragraph 131 of the Indictment alleges that some Bosnian Muslim detainees were released or permitted to leave the Heliodrom on condition that they surrender all of their property to the HVO and move to another country. On about 17 July 1993, approximately 800 Bosnian Muslims accepted this proposal, and were transported to the island of Obonjan and Gašinci in the Republic of Croatia, with the direct involvement of Herceg-Bosna/HVO forces and Republic of Croatia police. Paragraph 132 of the Indictment alleges that "similar practices" continued from July to November 1993. Between 15 and 17 December 1993, at least 1,477 Muslim detainees at the Heliodrom were allegedly deported to Croatia and other countries, or sent to East Mostar.

1385. Finally, in paragraphs 133 and 134 of the Indictment, it is alleged that on various occasions, the Herceg-Bosna/HVO authorities blocked international observers and humanitarian organisations from gaining full and truthful information about the existence and circumstances of Muslim detainees held at the Heliodrom, and on some occasions barred international observers from having contact with the detainees.

1386. The Prosecution alleges that these acts constitute persecution (Count 1), murder (Count 2), wilful killing (Count 3) deportation (Count 6), unlawful deportation of a civilian (Count 7), inhumane acts (forcible transfer) (Count 8), unlawful transfer of a civilian (Count 9), imprisonment (Count 10), unlawful confinement of a civilian (Count 11), inhumane acts (conditions of confinement) (Count 12), inhuman treatment (conditions of confinement) (Count 13), cruel

treatment (conditions of confinement) (Count 14), inhumane acts (Count 15), inhuman treatment (Count 16), cruel treatment (Count 17), and unlawful labour (Count 18).

1387. In order to rule on the alleged facts, the Chamber analysed a collection of evidentiary material. In particular it examined the *viva voce* testimony of witnesses A, BB, BD, CQ, CS, CU, CV, 2D-AB, Josip Praljak, Zoran Buntić, Slobodan Božić, Spomenka Drljević, Zvonko Vidović, Mustafa Hadrović, Marijan Biškić, Davor Marijan, Zdenko Andabak, Antoon van der Grinten, Amor Mašović, Alija Lizde, Ivan Bagarić, Božo Pavlović, Ante Kvešić, Grant Finlayson, Zoran Perković, Klaus Johann Nissen, Ibrahim Šarić and Larry Forbes, as well as the testimony of Milivoj Petković and statements admitted under Rule 92 *ter* of the Rules, in particular those of witnesses BA, CT, DV, DW, NO, Pero Nikolić, Zoran Buntić and Ismet Poljarević, supplemented by their testimony in court. The Chamber also took into account the written statements and interview transcripts of witnesses admitted under Rule 92 *bis* of the Rules, in particular those of witnesses U, W, Y, AC, EJ, GG, HH, II, LL, NN, OO, PP, RR, TT, WW and Salko Osmić. Lastly, the Chamber examined a large quantity of exhibits admitted into the record through these witnesses or upon written motion, in particular many documents stemming from the HVO authorities.

1388. The Chamber will successively analyse (I) the organisation of the Heliodrom as a detention facility), (II) the arrival of detainees at the Heliodrom, (III) the conditions of confinement (IV) the treatment of the male detainees, (V) the forced labour performed by the detainees, (VI) the use of detainees as human shields, (VII) restrictions on members of the international community with regard to information and visits to detainees, (VIII) organisation of the departure of the detainees, and, finally, (IX) the release of other detainees and transfers to other detention facilities leading to the closure of the Heliodrom in April 1994.

## **I. Organisation of the Heliodrom as a Detention Facility**

1389. Once it has (A) recalled the conditions under which the detention facility was set up at the site of the Heliodrom, the Chamber will (B) describe the main infrastructure and (C) the command structure.

### A. Establishment of a Detention Facility at the Site of the Heliodrom

1390. The site known as the Heliodrom is located south of the town of Mostar, in the municipality of the same name.<sup>3469</sup> The HVO took control of the Heliodrom, a one-time JNA military facility,<sup>3470</sup> in June or July 1992 and transformed it into barracks.<sup>3471</sup>

1391. On 3 September 1992, Bruno Stojić took a decision to establish a "central military prison for the HZ H-B" at the site of the Heliodrom and appointed Mile Pušić as warden of this "military prison."<sup>3472</sup> On 22 September 1992, without reference to the decision of Bruno Stojić, Valentin Ćorić ordered a "central military prison for the HZ H-B" to be set up that same day at the Heliodrom, and "prisoners of war" and "military prisoners" to be transferred to this prison.<sup>3473</sup>

1392. Although none of the parties has questioned the authenticity of these two orders, the Stojić and Ćorić Defence teams have challenged their scope. They have both maintained that Bruno Stojić and Valentin Ćorić played no role in the establishment of the "central military prison" at the Heliodrom.<sup>3474</sup> The Stojić Defence has submitted in particular that the decision of Bruno Stojić of 3 September 1992 was aimed only at approving the choice of the Head of the Justice and Administration Department to set up a "central military prison" at the Heliodrom and to formalise the process of establishing the prison which had begun several weeks earlier.<sup>3475</sup> The Ćorić Defence has maintained that the order of Valentin Ćorić of 22 September 1992 did not have any relevance since Bruno Stojić had already decided to establish a "central military prison" at the Heliodrom.<sup>3476</sup>

1393. The Chamber heard much testimony in particular on the roles of Bruno Stojić and Valentin Ćorić in the setting up of a "military prison" at the Heliodrom. It notes, however, that the testimony was very often contradictory and did not enable the Chamber to gain a clear view of the decision-making process that led to the establishment of the Heliodrom as a detention facility.<sup>3477</sup> On this point the Chamber has also decided to refer to the various documents admitted into the record.

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<sup>3469</sup> P 09276, p. 19.

<sup>3470</sup> Josip Praljak, T(F), p. 14640.

<sup>3471</sup> Josip Praljak, T(F), p. 14640; Pero Nikolić, T(F), p. 51406; *See also*: P 00424, article 3.

<sup>3472</sup> P 00452, p. 1.

<sup>3473</sup> P 00513.

<sup>3474</sup> Stojić Defence Final Trial Brief, paras 488 and 495-499; Ćorić Defence Final Trial Brief, paras 432-438.

<sup>3475</sup> Stojić Defence Final Trial Brief, paras 488 and 495.

<sup>3476</sup> Ćorić Defence Final Trial Brief, para. 432.

<sup>3477</sup> The former Mostar district prison warden, *Pero Nikolić* (Pero Nikolić, T(F), p. 51393; 5D 05111, para. 3) stated that the establishment of a "military prison" at the Heliodrom was the initiative of the Mostar municipal authorities and the commander of the HVO battalion stationed at the Heliodrom, Mile Pušić (Pero Nikolić, T(F), p. 51423). *Pero Nikolić* stated that it was the "7<sup>th</sup> Kruševac Battalion" (Pero Nikolić, T(F), pp. 51394 and 51406; 5D 05111, para. 7), whereas the *de facto* deputy warden of the Heliodrom from 1 October 1992, *Josip Praljak*, stated that it was the "6<sup>th</sup> HVO Kruševo Battalion" (Josip Praljak, T(F), p. 14644). *Pero Nikolić* also maintained that he never met Valentin Ćorić and



1394. For example, the log book of Josip Praljak, the man who was to become the *de facto* deputy warden of the Heliodrom on 1 October 1992, reveals that a meeting took place on 8 September 1992 between Valentin Ćorić, Pero Nikolić and himself to discuss the progress of the renovation work at the Heliodrom.<sup>3478</sup> In addition, in one of his reports, Valentin Ćorić mentions that Bruno Stojić's decision of 3 September 1992 establishing the "central military prison" at the Heliodrom was taken following a request from the Military Police Administration.<sup>3479</sup> A report prepared on 22 November 1993 by the acting Chief of the Military Police Administration, Radoslav Lavrić, also makes it clear that the relocation of the Mostar "military detention facility" to the Heliodrom in September 1992 was ordered by the then Chief, Valentin Ćorić, who also chose the site for the prison, together with Pero Nikolić and the Minister of Defence.<sup>3480</sup>

1395. In view of the above, the Chamber finds that Valentin Ćorić ordered the establishment of the Heliodrom detention facility. The evidence does not enable the Chamber to draw any conclusions as to the precise role of Bruno Stojić in this regard.

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stated that he had no idea about any role the latter or Bruno Stojić might have played in the establishment of the "central military prison" at the Heliodrom (Pero Nikolić, T(F) pp. 51401-51403, 51416-51423, 51425-51427 and 51431; 5D 05111, para. 8). *Josip Praljak*, however, testified that a meeting did indeed take place on 8 September 1992 between Valentin Ćorić, Pero Nikolić and himself in the office of Valentin Ćorić at Ljubuški to discuss the progress of the renovation work at the Heliodrom (Josip Praljak, T(F), pp. 14643 and 14644). According to *Josip Praljak*, Valentin Ćorić stated on that occasion that the prison would serve as the future central military prison of BiH. (Josip Praljak, T(F), p. 14644). *Josip Praljak* also indicated that other subjects came up at the meeting, *inter alia* the date of the transfer of detainees to the Heliodrom and the appointment of the warden. Josip Praljak's evidence is supported by the log book he kept at the time: P 00352, pp. 11 and 12. In view of this evidence, the Chamber does not believe that Pero Nikolić's evidence was credible on this issue. The Head of the Justice and Administration Department in the summer of 1992, *Zoran Buntić* (Zoran Buntić, T(F), pp. 30243, 30244 and 30249) for his part, offers a completely different version of events. He stated that he had been in contact with Bruno Stojić's deputy, Slobodan Božić, with whom he chose the Heliodrom to set up a prison where some of the detainees from Mostar district prison could be held (Zoran Buntić, T(F), p. 30596). The work to adapt the building began very soon after this exchange (Zoran Buntić, T(F), p. 30596). The Chamber recalls that the decision taken by Bruno Stojić on 3 September 1992 shows that the decision to set up the "central military prison" at the Heliodrom had been taken following a "proposal" made by the Head of the Justice and Administration Department. *Zoran Buntić*, however, claimed that his "proposal" only concerned the separation of "civilian" and "military" detainees and was not aimed at the establishment of a "central military prison" (Zoran Buntić, T(F), p. 30987) at the Heliodrom. *Slobodan Božić*, for his part, stated that he never discussed the site of the prison with *Zoran Buntić* (Slobodan Božić, T(F), p. 36282). He noted that he only began working for the Department of Defence after the work at the Heliodrom had begun on 1 July 1992 (Slobodan Božić T(F), p. 36280), which would thus exclude him from having any influence whatsoever on the decision concerning the site of the prison (Slobodan Božić, T(F), p. 36282). He added that Bruno Stojić was not Head of the Department of Defence when work began to adapt the Heliodrom (Slobodan Božić, T(F), p. 36280).

<sup>3478</sup> Josip Praljak, T(F), pp. 14643 and 14644.

<sup>3479</sup> P 00956, p. 14.

<sup>3480</sup> P 06805, p. 1.

## **B. Infrastructure of the Detention Facility Established at the Heliodrom**

1396. When it was ready in September 1992, the "central military prison" occupied only two buildings of the Heliodrom complex. The first of these buildings served as a prison<sup>3481</sup> which also housed the "security commander's" offices, those of the "security shift commanders", those of the military police responsible for security and those placed at the disposal of the Department for Criminal Investigations of the Military Police.<sup>3482</sup> Some witnesses also mentioned the existence of isolation cells<sup>3483</sup> located in the basement of the building.<sup>3484</sup> The attic of this building was used to keep the women.<sup>3485</sup> The offices of the warden and the *de facto* deputy warden, i.e. Stanko Božić and Josip Praljak respectively, and that of their secretary, Snježana Cvitanović, were in the second building.<sup>3486</sup>

1397. A third building containing two sports halls<sup>3487</sup> was first used to hold prisoners in May 1993.<sup>3488</sup> A fourth building that had formerly served as a military college was first used to hold

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<sup>3481</sup> P 00352, p. 2. For a photo of this building, see IC 00001 with annotations of Spomenka Drljević (T(F), pp. 1055-1060); Spomenka Drljević, T(F), pp. 1055 and 1056; Josip Praljak, T(F), p. 14673.

<sup>3482</sup> Zvonko Vidović, T(F), pp. 51488 and 51489. See, for example, the minutes of interviews carried out at the Heliodrom: 5D 02040; 5D 04207, p. 2. The Chamber will define the terms "security command" and "security shift commanders" in the part on security below.

<sup>3483</sup> Some individuals claimed that they were imprisoned there: Witness NN, P 10219 under seal, *Naletilić and Martinović* Case, T(F), p. 5881; Witness Y, P 09873 under seal, *Naletilić and Martinović* Case, revised version of the T(F), pp. 45 and 46. Other detainees said they noticed that people were being locked up there: P 09805 under seal, p. 6; P 08880 under seal, p. 5; Witness CT, T(F), pp. 12162 and 12163, private session; Witness CS, T(F), p. 12073; P 02485 under seal, p. 2; P 09807 under seal, p. 5. See also: Mustafa Hadrović, T(F), p. 14579 and T(E), p. 14581.

<sup>3484</sup> Witness Y, P 09873 under seal, *Naletilić and Martinović* Case, revised version of the T(F), p. 45; Witness U, P 10220 under seal, *Naletilić and Martinović* Case, T(F), p. 2955; P 00352, p. 9.

<sup>3485</sup> Witness NN, P 10219 under seal, *Naletilić and Martinović* Case, T(F), p. 5882; Witness U, P 10220 under seal, *Naletilić and Martinović* Case, T(F), pp. 2952 and 2953; Spomenka Drljević, T(F), pp. 1055 and 1056; IC 00001 with annotations of Spomenka Drljević (T(F), pp. 1055-1060).

<sup>3486</sup> Josip Praljak, T(F), p. 14671. For a photo of this building, see IC 00001; with annotations of Spomenka Drljević (T(F), pp. 1055-1060); Spomenka Drljević, T(F), p. 1059.

<sup>3487</sup> P 09408, photo 9.

<sup>3488</sup> P 02414 under seal, p. 5. The Chamber notes that *Josip Praljak* stated during testimony that the sports halls had been first used in July 1993: Josip Praljak, T(F), p. 14673. Considering that the Spabat report admitted under P 02414 was drafted at the time of the events, the Chamber considers that the building containing two sports halls held detainees as of May 1993. With regard to the fact that detainees were kept in a building that contained two sports halls, see generally: P 09807 under seal, p. 5; Witness U, P 10220 under seal, *Naletilić and Martinović* Case, T(F), p. 2950; Witness PP, P 10223 under seal, *Naletilić and Martinović* Case, T(F), p. 6079; P 09843 under seal, p. 1, para. 4. Some witnesses mentioned the existence of a "gym" or a "sports centre" without however providing details: Witness II, P 10218 under seal, *Naletilić and Martinović* Case, T(F), pp. 4954 and 4955; Witness EJ, P 10227 under seal, *Naletilić and Martinović* Case, T(F), p. 1500; Witness OO, P 10224 under seal, *Naletilić and Martinović* Case, T(F), p. 5938; P 10038, para. 13; P 10122, para. 3; P 10233, para. 20.

detainees around 30 June 1993.<sup>3489</sup> Other detainees were confined to hangars, although the Chamber is unaware of the exact number.<sup>3490</sup>

### C. Command Structure in the Heliodrom

1398. In this part, the Chamber will successively examine (1) who was in charge of managing the Heliodrom (2) who was responsible for security, (3) logistics, (4) access to the prison and the detainees, (5) the release, exchange and transfer of detainees, (6) health, and (7) detainee labour.

#### 1. Management of the Heliodrom

1399. Various people were in charge of the Heliodrom between September 1992 and April 1994.

1400. The first warden of the Heliodrom was Mile Pušić.<sup>3491</sup> He was commander of the battalion stationed at the Heliodrom<sup>3492</sup> – whose name the Chamber does not know<sup>3493</sup> – and was appointed to this position by Bruno Stojić on 3 September 1992.<sup>3494</sup>

1401. At a meeting in late September 1992, Valentin Ćorić told Mile Pušić that there would be no deputy warden at the Heliodrom.<sup>3495</sup> On 1 October 1992, Mile Pušić, however, appointed Josip Praljak as *de facto* deputy warden at the Heliodrom.<sup>3496</sup>

1402. Mile Pušić remained in this position until 21 December 1992, when Valentin Ćorić informed the Heliodrom staff that he had appointed Stanko Božić as warden of the Heliodrom.<sup>3497</sup> Božić resigned from his post at the Heliodrom with the authorisation of Valentin Ćorić on 7 February 1993.<sup>3498</sup> Valentin Ćorić then spoke with Josip Praljak and asked him to deal with the "paperwork" until he could find a replacement.<sup>3499</sup> Josip Praljak was, however, not authorised to

<sup>3489</sup> Josip Praljak, T(F), pp. 14672 and 14673; P 09807 under seal, p. 5; P 10233, paras 18 and 19; P 10229, para. 12; Witness EJ, P 10227, *Naletilić and Martinović* Case, T(F), p. 1500; Witness II, P 10218 under seal, *Naletilić and Martinović* Case, T(F), pp. 4954 and 4955; P 09843 under seal, p. 1, para. 5; P 09454; Witness OO, P 10224 under seal, *Naletilić and Martinović* Case, T(F), pp. 5938 and 5939.

<sup>3490</sup> P 09805 under seal, p. 6; P 10217 under seal, para. 68; Witness GG, P 10020 under seal, *Naletilić and Martinović* Case, T(F), p. 4765; P 10038, para. 13.

<sup>3491</sup> P 00352, p. 13.

<sup>3492</sup> Josip Praljak, T(F), p. 14644.

<sup>3493</sup> *Pero Nikolić* stated that it was the "7<sup>th</sup> Kruševac Battalion" (Pero Nikolić, T(F), pp. 51394 and 51406; 5D 05111, para. 7), whereas the *de facto* deputy warden of the Heliodrom from 1 October 1992, *Josip Praljak*, stated that it was the "6<sup>th</sup> HVO Kruševo Battalion" (Josip Praljak, T(F), p. 14644). *See also* P 00352, p. 13.

<sup>3494</sup> P 00452, p. 1.

<sup>3495</sup> P 00352, pp. 15 and 17.

<sup>3496</sup> P 00352, p. 17; Josip Praljak, T(F), pp. 14639, 14654 and 14655. *Josip Praljak* claimed that he never received an order confirming his appointment: Josip Praljak, T(F), p. 14642.

<sup>3497</sup> P 00352, p. 20.

<sup>3498</sup> On 7 February 1993, having obtained permission from Valentin Ćorić, Stanko Božić left the Heliodrom to go back and work for the company in which he had worked before the war: P 01711, p. 1; Josip Praljak, T(F), p. 14656.

<sup>3499</sup> P 00352, p. 21.

give any orders without the advanced approval of Valentin Ćorić.<sup>3500</sup> Nonetheless, Josip Praljak called himself acting warden of the Heliodrom.<sup>3501</sup> Having regretted his decision, Stanko Božić finally returned to the Heliodrom on 22 March 1993.<sup>3502</sup> Stanko Božić and Josip Praljak then both resumed the functions they had earlier had.<sup>3503</sup>

1403. The role and functions of the warden of the Heliodrom were defined by Valentin Ćorić in the instructions for the operation of the Heliodrom of 22 September 1992.<sup>3504</sup> As a general rule, the warden was responsible for all the work at the Heliodrom and for what happened there. In particular, he was to ensure that the "prisoners of war" were treated in accordance with the Geneva Conventions; he was to supervise the work of security personnel every day; he was also to supervise the buildings and "rooms", the "prisoners of war" and the "military prisoners";<sup>3505</sup> he was to receive representatives of the ICRC and visit prisoners of war with them, and was to send daily reports on the situation at the Heliodrom to the Military Police Administration. The instructions did not define the role of the deputy warden. Mile Pušić told Josip Praljak that his role was to help the warden and the "general affairs administrator",<sup>3506</sup> to report on problems he found, and to deal with the paperwork, prison maintenance and procurement for the prison.<sup>3507</sup>

1404. Stanko Božić and Josip Praljak remained in office at the Heliodrom until April 1994.<sup>3508</sup> The Chamber notes that in December 1993, they were made respectively commander and deputy commander of a new company of the Military Police responsible for ensuring the security of detainees at the Heliodrom.<sup>3509</sup> The Chamber is unaware of whether these new functions replaced those of the warden and deputy warden of the Heliodrom or whether they were added to them.

<sup>3500</sup> P 00352, p. 23.

<sup>3501</sup> P 01711, p. 1; P 01577, p. 2; P 01514, pp. 2 and 4. *See also*, Josip Praljak, T(F), p. 14656; P 01518, p. 1; P 00352, pp. 22 and 23.

<sup>3502</sup> P 01711, p. 1; Josip Praljak, T(F), p. 14656.

<sup>3503</sup> P 01711, p. 1; P 00352, p. 25.

<sup>3504</sup> P 00514, p. 2. In the order setting up the Heliodrom, Valentin Ćorić mentioned that the warden was "responsible for the operation and security of the prison": P 00513, p. 1

<sup>3505</sup> Josip Praljak indicated that the term "military prisoners" referred to members of the HVO who were subject to disciplinary action: Josip Praljak, T(F), p. 14711.

<sup>3506</sup> The Chamber will return to the role of the "general affairs administrator" in the part on logistics: *see* "Authorities in Charge of Logistics" in the Chamber's factual findings with regard to the Heliodrom.

<sup>3507</sup> P 00352, pp. 15 and 17.

<sup>3508</sup> For Stanko Božić, *see*, for example: P 08216. For Josip Praljak, *see*, for example: P 00352, p. 46.

<sup>3509</sup> On 3 December 1993, on a proposal from Marijan Biškić, the Deputy Minister for Security in the HR H-B Ministry of Defence, and with the agreement of Ante Roso, Chief of the HVO Main Staff, Perica Jukić, the HR H-B Minister of Defence, ordered the creation of a company of Military Police to ensure security for the Heliodrom detainees: P 07018, p. 2. On 8 December 1993, Marijan Biškić asked the acting Chief of the Military Police Administration, Radoslav Lavrić, to appoint Stanko Božić as acting company commander until the instruction manual was adopted, and to have the employees working at the Heliodrom and Ljubuški Prison form the structure thereof: P 07075, pp. 1 and 2. On 10 December 1993, following a request from Marijan Biškić, the acting Chief of the Military Police Administration, Radoslav Lavrić appointed Stanko Božić as acting commander of the Military Police company, to be responsible for

1405. The Ćorić Defence insisted that Stanko Božić and Josip Praljak were not members of the Military Police.<sup>3510</sup> The Chamber notes, however, that they were being paid by the Military Police;<sup>3511</sup> that *Josip Praljak* indicated clearly that he and Stanko Božić were members of the Military Police;<sup>3512</sup> that Stanko Božić's direct superior was Valentin Ćorić<sup>3513</sup> and that it was on orders from the acting Chief of the Military Police Administration on 10 December 1993 that Stanko Božić was appointed commander of the new company of the Military Police.<sup>3514</sup> In view of the above, the Chamber finds that Stanko Božić and Josip Praljak were members of the Military Police.

## 2. Authorities in Charge of Security at the Heliodrom

1406. The Prosecution and the Petković Defence contend that the Heliodrom was guarded by military policemen.<sup>3515</sup> The Ćorić Defence admits that the Military Police Administration was involved in the maintenance of security at the Heliodrom,<sup>3516</sup> but notes that it was not mandated with this assignment alone since the "Military Police of the Brigade" was also involved in the maintenance of security.<sup>3517</sup> The Stojić Defence claims that Bruno Stojić had no responsibility in matters of security.<sup>3518</sup>

1407. According to the instruction issued by Valentin Ćorić, on 22 September 1992, the commander of the Military Police platoon responsible for securing the Heliodrom was appointed the security commander.<sup>3519</sup> He received his orders from the prison warden,<sup>3520</sup> who was also responsible for the security of the Heliodrom.<sup>3521</sup>

1408. Nikola Puce, who was appointed on 22 September 1992, was the first security commander at the Heliodrom.<sup>3522</sup> He was replaced by Ante Smiljanić on 1 October 1992 on orders from

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ensuring security at the Heliodrom and Ljubuški Prison. Radoslav Lavrić also ordered the commanders of Military Police platoons already responsible for security at the two facilities to come under his authority and for security to be provided by the military policemen already serving there: P 07098/P 07104, p. 1. The position of company commander became permanent around 21 December 1993: P 00352, p. 34. It can be seen from the diary of Josip Praljak that he became deputy commander of the company on 21 December 1993: P 00352, p. 34.

<sup>3510</sup> Stojić Defence Final Trial Brief, paras 433 and 434.

<sup>3511</sup> Josip Praljak, T(F), pp. 14641 and 14642; and T(E), p. 14964; P 00968, nos 2 and 40; P 05812, p. 2.

<sup>3512</sup> Josip Praljak, T(F), pp. 14661 and 14662.

<sup>3513</sup> Josip Praljak, T(F), p. 14661.

<sup>3514</sup> See "Management of the Heliodrom" in the Chamber's factual findings with regard to the Heliodrom.

<sup>3515</sup> Prosecution Final Trial Brief, para. 1069 and Petković Defence Final Trial Brief, para. 338.

<sup>3516</sup> Stojić Defence Final Trial Brief, paras 453 and 462.

<sup>3517</sup> Ćorić Defence Final Trial Brief, para. 467.

<sup>3518</sup> Ćorić Defence Final Trial Brief, para. 506.

<sup>3519</sup> P 00514, art. 2(2), p. 3.

<sup>3520</sup> P 00514, art. 1(5) and 2(5), pp. 2-3; Josip Praljak, T(F), pp. 15001 and 15002; P 01001, p. 1; P 04475, p. 2.

<sup>3521</sup> P 00513, p. 1; P 00514, art. 1(1), p. 2; P 06805, p. 1.

<sup>3522</sup> P 00352, p. 13.

Valentin Ćorić.<sup>3523</sup> Pero Marijanović was made deputy commander in about March 1993.<sup>3524</sup> Between January and November 1993, meetings were held every morning in the office of Stanko Božić, the warden of the Heliodrom, sometimes in the presence of *Josip Praljak*, the deputy warden, during which Ante Smiljanić reported to Stanko Božić about everything that had taken place in the prison from 1600 hours of the day before to 0800 hours in the morning.<sup>3525</sup> The "shift commanders", under the authority of the prison warden and the security commander,<sup>3526</sup> supervised the work of the military policemen responsible for security<sup>3527</sup> and ensured that they were present round the clock.<sup>3528</sup>

1409. In view of the various testimony and documentary evidence it has examined, the Chamber is of the view that the term "security" includes both detainee surveillance and camp security as such.<sup>3529</sup> From at least December 1992, security at the Heliodrom was ensured by the 2<sup>nd</sup> Platoon of the 3<sup>rd</sup> Company of the 1<sup>st</sup> Battalion of the Military Police.<sup>3530</sup>

1410. In early March 1993, Bruno Stojić agreed to the proposal made to him by Zdenko Andabak<sup>3531</sup> to reorganise security at the Heliodrom site by confiding the duty of guarding the main

<sup>3523</sup> P 00352, p. 17. See also: Josip Praljak, T(F), p. 14655; IC 00448; P 00968. Ante Smiljanić remained in office until at least February 1994; P 00352, p. 39.

<sup>3524</sup> Josip Praljak, T(F), pp. 14669 and 14670. Pero Marijanović had to be away from 19 June 1993 to August 1993 because of injuries received in combat in Ričinova Street: Josip Praljak, T(F), p. 14935; P 02853, p. 1; P 04999, no. 5; P 05006, no. 5.

<sup>3525</sup> Josip Praljak, T(F), pp. 14676 and 14677.

<sup>3526</sup> IC 00448; P 00514, art 4 (3), p. 5; P 01001, p. 2.

<sup>3527</sup> P 00514, art. 4(2), p. 4.

<sup>3528</sup> Josip Praljak, T(F), p. 14683.

<sup>3529</sup> The evidence thus shows that both aspects of security were taken over by members of the HVO Military Police. For detainee security, see: Witness A, T(F), p. 14047, closed session; Marijan Biškić, T(F), pp. 15306-15307; Witness U, P 10220 under seal, *Naletilić and Martinović* Case, T(F), pp. 2951 and 2952; Witness Y, P 09873 under seal, *Naletilić and Martinović* Case, amended version of T(F), p. 89; Witness GG, P 10020 under seal, *Naletilić and Martinović* Case, T(F), p. 4749; Witness HH, P 10113 under seal, *Naletilić and Martinović* Case, T(F), p. 4898; Witness II, P 10218 under seal, *Naletilić and Martinović* Case, T(F), pp. 4956, 5121 and 5122; Witness TT, P 09879 under seal, *Naletilić and Martinović* Case, T(F), p. 6684; P 09807 under seal, p. 5; P 10233, para. 11; P 03351, p. 8; P 04699, p. 16; P 06805, p. 1. For camp security, see: Witness NN, P 10219 under seal, *Naletilić and Martinović* Case, T(F), p. 5883; Witness RR, P 09872 under seal, *Naletilić and Martinović* Case, T(F), p. 6512 and 6513; P 10210 under seal, para. 25; P 03133; P 03209. Some evidence simply refers to "security" at the Heliodrom being ensured by the Military Police, with no further information as to which aspect of security is referred to: Spomenka Drljević, T(F), p. 1087; Marijan Biškić, T(F), pp. 15300 and 15301; Davor Marijan, T(F), p. 35968; Zvonko Vidović, T(F), pp. 51728 and 51729; P 06729, p. 7; 5D 05110 under seal, para. 11. The Chamber notes that some witnesses assumed from their insignia that the guards at the Heliodrom belonged to the Military Police: P 09807 under seal, p. 5; Witness Y, P 09873 under seal, *Naletilić and Martinović* Case, revised version of T(F), p. 47. Witness U stated, for his part, that the prison guards at the Heliodrom wore white belts typical of members of the HVO Military Police: Witness U, P 10220 under seal, *Naletilić and Martinović* Case, T(F), pp. 2951 and 2952.

<sup>3530</sup> P 00957, p. 2. See also: P 03133. The Chamber notes that in a prior statement, the one-time warden of the Mostar district prison, Pero Nikolić, asserted that security at the Heliodrom was initially maintained by men who worked at the district prison: 5D 05111, para. 9. The Chamber does not regard itself bound by this statement since the evidence as a whole indicates the contrary. It also notes that in his testimony before the Chamber, the witness stated that none of his guards had been transferred to the Heliodrom when the prison began functioning: Pero Nikolić, T(F), p. 51427.

<sup>3531</sup> Zdenko Andabak was Chief of the HVO main and traffic military police department from 10 February 1993 to 28 June 1993: P 01460; Zdenko Andabak, T(F), pp. 50903 and 50904.

gate to the Military Police and the duty of guarding the other entrances to HVO soldiers.<sup>3532</sup> The Chamber does not know to which unit these soldiers belonged. Nor does it know whether the reorganisation of security at the Heliodrom site in fact took place.

1411. On 28 July 1993, Valentin Ćorić ordered two platoons from the 3<sup>rd</sup> Company of the 5<sup>th</sup> Battalion of the Military Police to join the 3<sup>rd</sup> HVO Brigade which had been deployed to the Heliodrom in line with the order of 22 April 1993 from Miljenko Lasić, commander of the South-East OZ,<sup>3533</sup> – as a reinforcement to defend the "lines" around the Heliodrom barracks.<sup>3534</sup> The Chamber does not know whether this meant the front lines or the roads leading to the Heliodrom.

1412. On 15 August 1993, a platoon of the 1<sup>st</sup> Company of the 5<sup>th</sup> Battalion of the Military Police took charge of security at the Heliodrom.<sup>3535</sup>

1413. In December 1993, the platoon responsible for security at the Heliodrom was integrated into the new Military Police company which was now to ensure security there under the command of Stanko Božić.<sup>3536</sup> The Chamber does not know whether this alteration of the command structure at the Heliodrom changed responsibilities in security issues.<sup>3537</sup> At any rate, Josip Praljak's diary shows that Ante Smiljanić remained "security commander".<sup>3538</sup>

### 3. Authorities in Charge of Logistics

1414. In its Final Trial Brief, the Stojić Defence submits that the logistic aspects of the running of the Heliodrom were "the responsibility of the squad commanders and other military staff," who were members of the military chain of command, over which Bruno Stojić had no authority.<sup>3539</sup>

1415. The instructions issued by Valentin Ćorić on 22 September 1992 set forth that the "general affairs administrator" of the Heliodrom was responsible for prison "logistics," including the

<sup>3532</sup> P 01615; Zdenko Andabak, T(F), p. 50976. Zdenko Andabak made this proposal on a request from Bruno Stojić, who a few days earlier had asked him for a report on the security situation at the Heliodrom: P 01584.

<sup>3533</sup> 3D 00017.

<sup>3534</sup> P 03770.

<sup>3535</sup> P 05160, p. 1. *See also*, generally: P 05893, p. 2; IC 00448. *Josip Praljak* stated that, contrary to what was shown on the chart, this corresponded to the situation at the Heliodrom in June 1993 rather than in April 1993: *Josip Praljak*, T(F), p. 14667. The Chamber notes that *Josip Praljak* stated during testimony that the attachment took place in June 1993: *Josip Praljak*, T(F), pp. 14649, 14661 and 14662. The Chamber prefers the date of 15 August 1993 rather than that mentioned by *Josip Praljak* since Stanko Božić's report of 17 September 1993 was contemporaneous with the events.

<sup>3536</sup> *See* "Management of the Heliodrom" in the Chamber's factual findings with regard to the Heliodrom.

<sup>3537</sup> In the evidence on the setting up of the new Military Police company, mention is made of an instruction manual being compiled, *See*: P 07075, p. 1; P 07098/P 07104, p. 1. The Chamber does not know whether the manual was actually put into practice.

<sup>3538</sup> P 00352, p. 34. The name of Ante Smiljanić appeared on at least one other occasion in the diary of *Josip Praljak*, this time on 22 February 1994: P 00352, p. 39.

<sup>3539</sup> Stojić Defence Final Trial Brief, para. 505.

procurement of office material, bed sheets, light bulbs, clothing, and food.<sup>3540</sup> The first "general affairs administrator" at the Heliodrom was Zdenko Drmać.<sup>3541</sup> Josip Praljak assisted Zdenko Drmać in his duties.<sup>3542</sup>

1416. A report issued by Radoslav Lavrić on 22 November 1993<sup>3543</sup> states that the logistical supply of all "prisons" was the responsibility of the brigade responsible for the area where the prison is located.<sup>3544</sup> The Chamber recalls that the 3<sup>rd</sup> HVO Brigade was deployed to the Heliodrom on 22 April 1993<sup>3545</sup> and that it provided logistical support for the Heliodrom authorities at least from 30 June to 13 August 1993.<sup>3546</sup> On 13 August 1993, Dragan Miličević, deputy commander of the 3<sup>rd</sup> Brigade responsible for logistics, informed the Heliodrom authorities that it could no longer provide logistical support to the prison.<sup>3547</sup> The Chamber, however, does not know whether the 3<sup>rd</sup> HVO Brigade in fact suspended its logistical support, even though the evidence shows that the Heliodrom suffered from logistical problems in the autumn of 1993.<sup>3548</sup> At any rate, the Chamber is in a position to find that the 3<sup>rd</sup> HVO Brigade did provide logistical support to the Heliodrom from 30 June to 13 August 1993.

#### 4. Authorities in Charge of Access to the Prison and to Detainees

1417. In its Final Trial Brief, the Prosecution submits that Jadranko Prlić granted and arranged access to the HVO camps.<sup>3549</sup> It repeats that on 11 February 1993, Bruno Stojić issued instructions regulating such matters as access to prisoners in military camps for prisoners of war.<sup>3550</sup> The Prosecution also points out that Slobodan Praljak passed an order of Mate Boban, dated 15 September 1993, down the chain of command requiring, *inter alia*, that the ICRC be granted free

<sup>3540</sup> P 00514, art. 3(2), p. 4.

<sup>3541</sup> P 00352, p. 15.

<sup>3542</sup> P 00352, pp. 15 and 17.

<sup>3543</sup> Radoslav Lavrić served as acting Chief of the Military Police Administration between 14 and 17 November 1993: *See* "Second Reorganisation of the Military Police Administration and Its Units: July - December 1993" in the Chamber's factual findings with regard to the military structure of the HZ(R) H-B. The Chamber notes that he signed the report of 22 November 1993 as Chief of the Military Police Administration: P 06805, p. 2.

<sup>3544</sup> P 06805, p. 2.

<sup>3545</sup> 3D 00017.

<sup>3546</sup> The management of the Heliodrom established logistical co-operation with the 3<sup>rd</sup> Brigade when a large number of Muslims was taken to the Heliodrom on 30 June 1993 following an ABiH attack on the Northern Barracks: P 03942, p. 1. On 6 August 1993, the deputy commander of the 3<sup>rd</sup> Brigade took part in a meeting organised by Ivo Curić, commander of the infectious, epidemic and toxicological diseases service at the Department of Defence, to discuss health issues at the Heliodrom: 2D 00917. On 13 August 1993, the warden of the Heliodrom, Stanko Božić, asked Dragan Miličević, the deputy commander of the 3<sup>rd</sup> Brigade responsible for logistical support, to increase the amount of bread supplied to the Heliodrom: P 04165.

<sup>3547</sup> P 04153; P 04186, p. 1; P 05008, p. 2.

<sup>3548</sup> P 05563; P 05792, p. 4; P 05812, p. 4.

<sup>3549</sup> Prosecution Final Trial Brief, para. 482, citing exhibit P 09846 under seal.

<sup>3550</sup> Prosecution Final Trial Brief, para. 600, citing exhibit P 01474.



access to detention centres for prisoners of war.<sup>3551</sup> It adds that Valentin Ćorić and the Military Police Administration controlled access to the HVO detention facilities.<sup>3552</sup> Finally, the Prosecution contends that Berislav Pušić had the authority to allow visits to prisoners held at the Heliodrom and to issue permits to representatives of international organisations for access to such detainees.<sup>3553</sup>

1418. The Stojić Defence contends that the instructions referred to by the Prosecution were not sent to the Heliodrom because this camp already had a set of rules that it had received from the Military Police Administration.<sup>3554</sup> For the Petković Defence, it was the Military Police Administration that controlled visits to the Heliodrom.<sup>3555</sup> The Ćorić Defence submits that the order of 3 July 1993 from Neđeljko Obradović, the commander of "Sector South", which prohibited any kind of visits to the Heliodrom without his approval, also applied to the 5<sup>th</sup> Battalion of the Military Police active at the Heliodrom.<sup>3556</sup> The Ćorić Defence adds that it was not proven that the visit by representatives of an international organisation that Valentin Ćorić endeavoured to facilitate in July 1993 actually occurred.<sup>3557</sup> Finally, the Pušić Defence contends that Berislav Pušić never had or exercised any power to authorise visits to the Heliodrom.<sup>3558</sup>

1419. In this part, the Chamber will examine how access to the Heliodrom was controlled for (a) members of the HVO and for (b) the representatives of international organisations and journalists.

<sup>3551</sup> Prosecution Final Trial Brief, paras 802-804, citing exhibit P 05104.

<sup>3552</sup> Prosecution Final Trial Brief, paras 1082-1086, citing in particular exhibits P 03292 under seal, P 02601, P01577, 5D 03008, P 03254, P 09843 under seal. In these paragraphs, the Prosecution also makes mention of the difficulties some international organisations had in getting access to the Heliodrom. The Chamber notes that it will deal with this issue in a subsequent section: *see* "Access to the Heliodrom for Representatives of International Organisations and Journalists" in the Chamber's factual findings with regard to the Heliodrom.

<sup>3553</sup> Prosecution Final Trial Brief, para. 1205, citing in particular exhibits P 02778 and P 07466, as well as the testimony of Witnesses *BB* and *Antoon van der Grinten*.

<sup>3554</sup> Stojić Defence Final Trial Brief, para. 504, citing exhibit P 00514.

<sup>3555</sup> Petković Defence Final Brief, para. 345, citing exhibits P 03292 under seal, and P 03254.

<sup>3556</sup> Ćorić Defence Final Trial Brief, para. 460, citing exhibits P 03161; P 03238; Zvonko Vidović, T(F), pp. 51528-51530. *See also* Ćorić Defence Final Trial Brief, para. 466, also citing exhibit 5D 03008.

<sup>3557</sup> Ćorić Defence Final Trial Brief, para. 461, citing exhibit P 03292 under seal. The Chamber notes that the Ćorić Defence also claims "Before the reorganization process, in May 1993 the approval of Miljenko Lasić, Commander of the OZ concerning the visit of the ICRC to the Heliodrom was enforced without any obstacle". The Chamber notes that the authorisation in question, exhibit 5D 01001, did not concern the Heliodrom and that the evidence cited in support of this claim, and that neither the report of 18 June 1993 by Stanko Božić (exhibit P 02853) nor the extract from the testimony of *Josip Praljak*, mentions who authorised the regular visits of representatives of the ICRC. Consequently, the Chamber will not take this evidence into account in its analysis.

<sup>3558</sup> Berislav Pušić Final Trial Brief, paras 388-396 and 398, citing exhibits P 01474; 5D 04379; P 02293, P 02806 under seal; P 02601; P 02496; P 03161; P 03411; P 03292 under seal; P 03573; P 03674. The Chamber notes immediately that it does not intend to take account of exhibits 5D 04379 and P 03573 in its analysis since they do not concern the Heliodrom, contrary to what the Pušić Defence suggests. Nor will it take into account exhibits P 02293, P 02806 and P 03674, since they do not provide any clear information as to who authorised the visits in question.

## a) Access to the Heliodrom for Members of the HVO

1420. On 19 February and 11 March 1993, Josip Praljak asked Bruno Stojić to allow two members of the security platoon at the Heliodrom, Pero Marijanović and Mile Klemo,<sup>3559</sup> to deploy to the Heliodrom at night.<sup>3560</sup> For Pero Marijanović, the request was made to enable him to conduct inspections, although the request itself does not specify the nature of the inspections.<sup>3561</sup> In both cases, the Chamber is unaware of the reasons why Josip Praljak needed authorisation. Nor has it been established whether Bruno Stojić indeed granted the requests.

1421. On 9 March 1993, Zlatan Mijo Jelić,<sup>3562</sup> Branimir Tučak<sup>3563</sup> and his deputy, Marijofil Čužić, arrived at the Heliodrom to "inspect" prison security.<sup>3564</sup> Josip Praljak, who was acting warden of the prison at the time,<sup>3565</sup> contacted Valentin Ćorić to inform him about the presence of these individuals.<sup>3566</sup> Ćorić told Josip Praljak that he had authorised Zlatan Mijo Jelić, Branimir Tučak and Marijofil Čužić to visit the Heliodrom whenever they wished and at any time.<sup>3567</sup> On 7 April 1993, Stanko Božić informed the Heliodrom staff in writing that Zlatan Mijo Jelić, Branimir Tučak and Marijofil Čužić were authorised to enter the Heliodrom at any time to conduct "inspections."<sup>3568</sup>

1422. On 3 July 1993, Nedeljko Obradović, the "Sector South" commander sent an order to the wardens of Gabela, Dretelj, the Heliodrom and Ljubuški prisons forbidding all visits and access by "unauthorised" people to all "prisoners" in those prisons.<sup>3569</sup> Zvonko Vidović, in charge of the Department for Criminal Investigations of the Military Police Administration, interpreted the order as meaning that members of his department were to obtain authorisation in advance from Nedeljko

<sup>3559</sup> Pero Marijanović was deputy commander of the platoon: see "Authorities in Charge of Security at the Heliodrom" in the Chamber's factual findings with regard to the Heliodrom, whereas Mile Klemo was a member of the platoon: P 00968; P 04999, no. 9; P 05006, no. 8. The Chamber notes that the 10 September 1992 entry in the diary of Josip Praljak mentions that Mile Klemo was "deputy commander" of the "shift commanders": P 00352, p. 13. Exhibits P 00968, P 04999 and P 05006 – all subsequent to this diary entry – do not refer to this function.

<sup>3560</sup> P 01518.

<sup>3561</sup> P 01518 (for Pero Marijanović); P 00285, entry no. 267 (for Mile Klemo).

<sup>3562</sup> Commander of the 1<sup>st</sup> Battalion of the Military Police; P 01466.

<sup>3563</sup> Commander of the 4<sup>th</sup> Company of the 1<sup>st</sup> Battalion of the Military Police; 5D 03094; 5D 03093.

<sup>3564</sup> P 00352, p. 24.

<sup>3565</sup> See "Management of the Heliodrom" in the Chamber's factual findings with regard to the Heliodrom.

<sup>3566</sup> P 00352, p. 24.

<sup>3567</sup> P 00352, p. 24. In his diary, Josip Praljak states that Valentin Ćorić told him on that occasion that "Tučak" was "Chief of all security" so that he was superior to the Heliodrom security commander, Ante Smiljanić. In view of the post held by Branimir Tučak, the Chamber believes that Josip Praljak probably misinterpreted what Valentin Ćorić said. The latter most likely meant Zlatan Mijo Jelić.

<sup>3568</sup> P 01820.

<sup>3569</sup> P 03161. The Chamber notes that Nedeljko Obradović signed this order and two orders on 5 July 1993 (P 03201 and P 03197), as "commander of Sector South". However, Sector South was set up only in the South-East OZ on 1 September 1993: P 04774; P 04719. The reorganisation is also confirmed in P 05271. The Chamber does not know the reasons why Nedeljko Obradović signed the orders as "commander of Sector South" in July 1993. The Chamber recalls that Nedeljko Obradović was commander of the 1<sup>st</sup> *Knez Domagoj* Brigade from at least 16 July 1992 to 9 September 1993: P 00333; 2D 00989; 2D 01223; P 01913; 2D 01350; 2D 00937.

Obradović to enter the Heliodrom to carry out their duties, even if they were members of the Military Police Administration.<sup>3570</sup> *Zvonko Vidović* testified, moreover, that he received the requisite authorisation after having contacted the command of the South-East OZ directly through his battalion.<sup>3571</sup>

1423. On 7 July 1993 Stanko Božić circulated an order from Valentin Ćorić in the Heliodrom preventing all "unauthorised" personnel from entering the prison.<sup>3572</sup>

1424. On 12 July 1993, Zvonko Vidović sent instructions to Stanko Božić and Josip Praljak that there were to be no visits to "detained people" at the Heliodrom without approval in writing from him.<sup>3573</sup> During testimony in court, Zvonko Vidović clarified that the words "detained people" referred only to people under investigation by the Department for Criminal Investigations,<sup>3574</sup> i.e. those suspected of criminal offences in the armed forces<sup>3575</sup> and not HVO prisoners of war.<sup>3576</sup>

1425. On 2 November 1993, Mate Boban's Chef de Cabinet, Vladislav Pogarčić, authorised the "coordinator for detainees and prisoners of war on the territory of HR H-B" and Dretelj prison warden, Tomislav Šakota,<sup>3577</sup> to visit a detainee at the Heliodrom.<sup>3578</sup> The Chamber does not know why Tomislav Šakota visited that detainee.

1426. On 28 November 1993, Stanko Sopta, the commander of the 3<sup>rd</sup> Brigade of the HVO, sent an order to the SIS and the Military Police attached to the brigade prohibiting all visits to the "military detention area" of the Heliodrom without advanced permission from him, his deputy or the assistant brigade commander for the SIS.<sup>3579</sup> The Chamber recalls that the Ćorić Defence had noted in its request for the admission of this order that the exhibit showed that the commander of the 3<sup>rd</sup> HVO Brigade gave orders on the rules in force at the Heliodrom.<sup>3580</sup> The Petković Defence challenged the interpretation of the Ćorić Defence, noting that Stanko Sopta's order did not concern

<sup>3570</sup> Zvonko Vidović, T(F), pp. 51528 and 51529.

<sup>3571</sup> Zvonko Vidović, T(E) 51530. The Chamber notes that Zvonko Vidović also sent the Military Police Administration a report calling attention to the difficulties presented by the order of 3 July 1993; P 03238.

<sup>3572</sup> P 03254.

<sup>3573</sup> P 03411, p. 2.

<sup>3574</sup> Zvonko Vidović, T(F), pp. 51634-51635.

<sup>3575</sup> Zvonko Vidović, T(F), pp. 51439, 51446, 51447, 51465 and 51466; P 00588, art. 137, pp. 40 and 41.

<sup>3576</sup> Zvonko Vidović, T(F), p. 51638.

<sup>3577</sup> See "Management of Dretelj Prison" in the Chamber's factual findings with regard to Dretelj Prison.

<sup>3578</sup> P 00352, p. 30.

<sup>3579</sup> 5D 03091.

<sup>3580</sup> Confidential Annex A to Valentin Ćorić's Request for the Admission of Documentary Evidence, confidential, 20 April 2010, p. 17.

the Heliodrom detention centre as a whole, but only the area where HVO members who were suspected of having committed offences were held.<sup>3581</sup>

1427. The Chamber does not share the view of the Petković Defence since the Heliodrom authorities did not properly define detainee categories and did not classify them correctly.<sup>3582</sup> In addition, the evidence shows that HVO members who were the subject of investigations and criminal proceedings by the Military Police and those convicted of grave offences were held in the same buildings as the other detainees.<sup>3583</sup> Accordingly, since HVO members who committed offences were not separated from the other detainees, the Chamber holds that the alleged "military detention area" held all kinds of detainees. The Chamber finds that the Order of 28 November 1993 thus applied to all categories of detainees.

1428. In view of the above, the Chamber finds that Vladislav Pogarčić, Mate Boban's Chef de Cabinet, Nedeljko Obradović, commander of "Sector South", Valentin Ćorić, Zvonko Vidović, in charge of the Department for Criminal Investigations of the Military Police Administration, and Stanko Sopta, commander of the 3<sup>rd</sup> HVO Brigade, all controlled access to the Heliodrom for the HVO members.

b) Access to the Heliodrom for Representatives of International Organisations and Journalists

1429. According to article 23 of the instructions of 11 February 1993 issued by Bruno Stojić setting out the rules at the military detention centres for "prisoners of war", visits by representatives of international humanitarian organisations and journalists were allowed. Such visits required advanced permission from the administrator of the detention centre after having obtained the opinion of the Head of the Department of Defence.<sup>3584</sup>

1430. In its Final Trial Brief, the Stojić Defence submits that the instructions of Bruno Stojić were not sent to the Heliodrom because this detention centre already had rules set out by Valentin Ćorić on 22 September 1992.<sup>3585</sup>

1431. In this connection, the Chamber notes that *Josip Praljak* stated in court that he had never seen those instructions.<sup>3586</sup> However, the Chamber observes that a logbook at the Heliodrom refers

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<sup>3581</sup> Milivoj Petković's Response to Valentin Ćorić's Request for the Admission of Documentary Evidence, public, 29 April 2010.

<sup>3582</sup> See "Arrival of Detainees at the Heliodrom" in the Chamber's factual findings with regard to the Heliodrom.

<sup>3583</sup> For HVO members subject to inquiries or criminal proceedings by the Military Police, *see*: Zvonko Vidović, T(F), pp. 51630 and 51635; P 00352, p. 28. For HVO members convicted of grave offences, *see*: Spomenka Drljević, T(F), pp. 1057-1059.

<sup>3584</sup> P 01474, art. 23.

to the receipt of the instructions issued by Bruno Stojić on 11 February 1993.<sup>3587</sup> The Chamber thus finds that the Heliodrom logbook, which was created at the time of the events, shows that the instructions of Bruno Stojić were indeed sent and received at the Heliodrom.

1432. Aside from Bruno Stojić as Head of the Department of Defence, other HVO authorities were also involved in controlling access to the Heliodrom for representatives of international organisations and journalists.

1433. On 14 May 1993,<sup>3588</sup> Darinko Tadić, the Head of the ODPR of the HZ H-B, transmitted instructions to Mile Pušić, deputy commander of the 3<sup>rd</sup> Brigade,<sup>3589</sup> and to Stanko Božić that the entry and visit to "displaced and expelled persons" and "refugees" at the Heliodrom by representatives of the media and staff of various international humanitarian and other institutions could be arranged with clearance from the ODPR.<sup>3590</sup>

1434. On 6 July 1993, during a meeting attended by Neđeljko Obradović<sup>3591</sup> and Ivan Primorac, the commander of the 3<sup>rd</sup> HVO Brigade, among others, it was agreed not to allow international humanitarian organisations or any other international organisation to have access to the Heliodrom.<sup>3592</sup>

1435. On 15 September 1993, Mate Boban ordered the Department of Defence of the HVO Main Staff to give the ICRC "free" access to detention centres for "prisoners of war".<sup>3593</sup> On 19 September 1993, Slobodan Praljak transmitted the order to all units and commands as well as to the Military Police Administration and "independent units", instructing them to issue orders to their members to ensure its implementation.<sup>3594</sup>

1436. Moreover, several authorities/key figures of the HVO and the HR H-B provided international organisations with permits to enter the Heliodrom.

<sup>3585</sup> Stojić Defence Final Trial Brief, para. 504.

<sup>3586</sup> Josip Praljak, T(F), pp. 14858 and 14859.

<sup>3587</sup> P 00285, entry no. 400.

<sup>3588</sup> The Chamber notes that the said instructions are undated. A Heliodrom logbook does, however, mention the receipt on 14 May 1993 of instructions from Darinko Tadić on work with detainees: P 00285, p. 86.

<sup>3589</sup> P 03209, p. 1.

<sup>3590</sup> 6D 00576. The Chamber notes that at least one visit from representatives of an international organisation was organised by the ODPR and took place on 10 July 1993: P 09681 under seal, p. 1.

<sup>3591</sup> The minutes of the meeting do not mention in what capacity Neđeljko Obradović took part in the gathering. The Chamber recalls that at that time, Neđeljko Obradović signed orders as "commander Sector South" (P 03201; P 03197) and he was also commander of the 1<sup>st</sup> *Knez Domagoj* Brigade: 2D 01350.

<sup>3592</sup> 5D 03008.

<sup>3593</sup> P 05104, art. 4. Exhibits 1D 01638 and 1D 01704 containing the same order.

<sup>3594</sup> 3D 00915, p. 2.

1437. For example, in a report on a meeting with Jadranko Prlić that took place on 16 August 1993, the representative of one international organisation mentions that Prlić proposed a visit to the Heliodrom and that the representative agreed.<sup>3595</sup> The Chamber does not know however whether the visit actually took place.

1438. Valentin Ćorić, authorised the ICRC to visit the Heliodrom twice in February 1993.<sup>3596</sup> On 8 July 1993, he also authorised a representative of an international organisation to visit three detention centres, including the Heliodrom, to assess the need for humanitarian aid.<sup>3597</sup> *Witness BA* confirmed that he visited the Heliodrom further to that authorisation.<sup>3598</sup>

1439. *Witness BB*, a representative of an international organisation,<sup>3599</sup> stated that Berislav Pušić had given him permission to visit the Heliodrom on or about 12 May 1993 to take aid to the detainees.<sup>3600</sup> The Pušić Defence claims that the testimony of this witness, who was not aware of the internal mechanics of Pušić's office, is in itself insufficient to prove that Pušić had the power to allow access to the Heliodrom.<sup>3601</sup> Nonetheless, the Chamber notes that this was not the only visit by a representative of an international organisation authorised by Berislav Pušić. *Antoon van der Grinten*, an ECMM monitor,<sup>3602</sup> testified that the ECMM visited the Heliodrom on 11 June 1993 with permission in writing from Berislav Pušić.<sup>3603</sup> In addition, on 3 January 1994, Berislav Pušić granted 14 members of the ICRC permission to visit the Heliodrom.<sup>3604</sup> Consequently, there is no doubt that Berislav Pušić had the power to grant international organisations access to the Heliodrom.

1440. After 9 May 1993, Spabat had to obtain authorisation from the Chief of the HVO Main Staff or from the commander of the South-East OZ, Miljenko Lasić, to accompany other international

<sup>3595</sup> P 09846 under seal.

<sup>3596</sup> P01577, p. 2; P 00352, p. 23. On 1 June 1993, the ICRC asked Valentin Ćorić to meet with them to discuss permission for the visits to the Heliodrom: P 02601. The Chamber notes that a discussion of this subject with Berislav Pušić had taken place several days earlier.

<sup>3597</sup> P 03292 under seal.

<sup>3598</sup> *Witness BA*, T(E), pp. 7225 and 7226, closed session.

<sup>3599</sup> *Witness BB*, T(F), pp. 17133 and 17134 closed session.

<sup>3600</sup> *Witness BB*, T(F), pp. 17169 and 17170 closed session. Questioned about Exhibit P 02260, that refers to an order by Berislav Pušić for the release of people detained at the Heliodrom following the attack of 9 May 1993, *Witness BB* held that the document was consistent with what she believed earlier, that Berislav Pušić was the one who granted her organisation permission to enter the Heliodrom: *Witness BB*, T(F), pp. 25426-25428 closed session.

<sup>3601</sup> Pušić Defence Final Trial Brief, para. 394.

<sup>3602</sup> *Antoon van der Grinten*, T(F), pp. 20999 and 21001.

<sup>3603</sup> *Antoon van der Grinten*, T(F), pp. 21028, 21030 and 21244. The Chamber notes that in a report prepared on 11 June 1993, *Antoon van der Grinten* stated that he received "a pass in order to have free access to the Heliodrom prison whenever we wanted" from Berislav Pušić (P 02721 under seal) p. 2 (underlining added). With regard to *Antoon van der Grinten's* testimony, the Chamber does not believe that the said "pass" was a general laissez-passer.

<sup>3604</sup> P 07466.

organisations, like the ICRC, on their visits to the Heliodrom, and was always under the supervision of HVO members.<sup>3605</sup>

1441. In view of the above, the Chamber finds that Mate Boban, Bruno Stojić, Jadranko Prlić, Slobodan Praljak, Valentin Ćorić, Berislav Pušić, Miljenko Lasić, commander of the HVO Main Staff; Nedeljko Obradović, commander of "Sector South"; Ivan Primorac, commander of the 3<sup>rd</sup> HVO Brigade; and Darinko Tadić, the Head of ODPR, regulated access to the Heliodrom for representatives of international organisations and journalists.

##### 5. Authorities Responsible for Releasing, Exchanging and Transferring Detainees

1442. The Prosecution claims that Valentin Ćorić had control over the release of detainees from HVO prisons.<sup>3606</sup> In support of this claim, the Prosecution cites an order that Valentin Ćorić sent to Nedeljko Obradović on 6 July 1993, in which he recalled that all the military prisons came under the exclusive jurisdiction of the Military Police and that Nedeljko Obradović was not authorised to issue any orders on the release of prisoners there.<sup>3607</sup> The Prosecution also contends that Valentin Ćorić personally ordered the release of several prisoners from the Heliodrom.<sup>3608</sup>

1443. The Ćorić Defence claims that it was Nedeljko Obradović who had exclusive authority to decide whether to release prisoners from the Heliodrom and that the Department for Criminal Investigations of the Military Police only had an administrative function concerning the release of prisoners, namely, to provide information about any possible criminal responsibility of prisoners who were to be released.<sup>3609</sup> According to the Ćorić Defence, neither the Military Police Administration nor Valentin Ćorić played any role in the release of detainees.<sup>3610</sup> The Pušić Defence argues that the role of Berislav Pušić in the release of detainees from the Heliodrom was limited to that of a "lower ranking official" tasked with (1) communicating orders taken from higher-up; (2) liaising with military authorities and HVO law enforcement agencies before communicating their approvals and instructions to the Heliodrom wardens and (3) producing discharge papers or certificates for some of those released.<sup>3611</sup> The Stojić Defence claims that the main HVO organ charged with releasing and exchanging prisoners was the Service for the

<sup>3605</sup> Witness CB, T(E), p. 10146.

<sup>3606</sup> Prosecution Final Trial Brief, paras 1079-1081.

<sup>3607</sup> Prosecution Final Trial Brief, paras 1079 and 1080, citing P 03220.

<sup>3608</sup> Prosecution Final Trial Brief, para. 1081.

<sup>3609</sup> Ćorić Defence Final Trial Brief, paras 468-472.

<sup>3610</sup> Ćorić Defence Final Trial Brief, para. 472.

<sup>3611</sup> Pušić Defence Final Trial Brief, para. 262.

Exchange, and that Bruno Stojić was not involved in any step of this process.<sup>3612</sup> Lastly the Petković Defence maintains that Milivoj Petković had no competence in the release of detainees.<sup>3613</sup>

1444. The Chamber will now set forth which authorities were involved in (a) the release, (b) exchange and (c) transfer of detainees to the Heliodrom.

a) Authorities Responsible for Release of Detainees

1445. As a preliminary matter, the Chamber recalls that in the part on the structure of the Military Police, it has already determined that the Military Police Administration was competent to order the release of people held by the HVO, while observing that other HVO authorities also had the power to order the release of detainees.<sup>3614</sup>

1446. With regard to the Heliodrom, the Chamber observes that in May 1993, Valentin Ćorić requested the release of several detainees.<sup>3615</sup> Around August 1993, Valentin Ćorić gave orders for the release from HVO detention centres of all Muslims from the Municipality of Ljubuški in possession of letters of guarantee and transit visas, with the exception of those with a criminal record.<sup>3616</sup> Pursuant to this order, the release of several detainees from the Heliodrom prison was authorised by Ante Prlić,<sup>3617</sup> who was then Military Police commander of the *Stjepan Radić* Brigade and commander of Ljubuški prison.<sup>3618</sup>

1447. In July and August 1993, Zvonko Vidović,<sup>3619</sup> in charge of the Department for Criminal Investigations, ordered the release of some Heliodrom detainees in possession of transit visas and/or letters of guarantee.<sup>3620</sup> On 4 July 1993, on instructions from Radoslav Lavrić, the Deputy Chief of the Military Police Administration, Zvonko Vidović also ordered the release from the Heliodrom of all the detainees under the age of 18 and over the age of 60.<sup>3621</sup> On 5 July 1993, Radoslav Lavrić himself authorised the release of 14 Heliodrom detainees who were members of the Muslim Democratic Party.<sup>3622</sup> On 12 July 1993, Zvonko Vidović sent instructions to Stanko Božić and his

<sup>3612</sup> Stojić Defence Final Trial Brief, paras 529-531.

<sup>3613</sup> Petković Defence Final Brief, paras 307 and 308.

<sup>3614</sup> See "Responsibility of the Military Police in Matters of Detainee Release" in the Chamber's factual findings with regard to the military structure of the HZ(R) H-B.

<sup>3615</sup> P 02285; P02289; P 02297; P 00285, entry no. 350.

<sup>3616</sup> P 04572. Even though it does not have the order of Valentin Ćorić, the Chamber holds that the following orders of Ante Prlić suffice to establish its existence: P 04263, P 04404 and P 10191.

<sup>3617</sup> P 04263; P 04404; P 10191

<sup>3618</sup> On the functions of Ante Prlić, see: Witness E, T(F), pp. 22005 and 22006, closed session; P 09727 under seal, p. 4; Alija Lizde, T(F), pp. 17776 and 17963; 5D 02036; P 04528, p. 3; P 10121, para. 5; P 10122, para. 4.

<sup>3619</sup> See Zvonko Vidović, T(F), pp. 51438, 51439, 51730 and 51731.

<sup>3620</sup> P 03572; P 03577; P 03618; P 04015; P 04017; P 04096.

<sup>3621</sup> P 03167.

<sup>3622</sup> P 03193.



deputy, Josip Praljak, stating that all releases from the Heliodrom now required the approval of Valentin Ćorić or Radoslav Lavrić.<sup>3623</sup>

1448. In an order dated 6 July 1993, Valentin Ćorić quashed the order of 5 July 1993 issued by Neđeljko Obradović, not to release any detainees without his approval,<sup>3624</sup> and reminded him that he had authority to release only people arrested by his brigade.<sup>3625</sup> However, the Chamber notes that on 23 August 1993, Žarko Pavlović, Chief of the Security Service of the 1<sup>st</sup> *Knez Domagoj* Brigade, asked the Heliodrom authorities to release a detainee on the approval of Neđeljko Obradović, granting release from prison to those in possession of a letter of guarantee or a transit visa to go to Croatia or a third country.<sup>3626</sup> The Chamber however does not know when and how such approval was given.

1449. Other HVO authorities also ordered the release of detainees from the Heliodrom. For example, contrary to the claim of the Petković Defence that Milivoj Petković had no competence in the release of prisoners,<sup>3627</sup> the Chamber observes that a report prepared on 1 April 1994 by Željko Šiljeg, the Chief of the Military Police Administration at the time, shows that 52 detainees at the Heliodrom were released further to a verbal order given in June 1993 by Milivoj Petković.<sup>3628</sup> The Chamber also recalls that on 12 May 1993, Milivoj Petković signed a ceasefire agreement with Sefer Halilović, the representative of the ABiH, in which he agreed to all Muslim "civilians" being released immediately on 13 May 1993 and allowed to return home.<sup>3629</sup> Between May and October 1993, Berislav Pušić also personally ordered,<sup>3630</sup> authorised or approved<sup>3631</sup> the release of numerous Heliodrom detainees. The Chamber recalls that Berislav Pušić was a member of the Military Police at that time,<sup>3632</sup> and then President of the Commission for the Exchange and Head of the Service for

<sup>3623</sup> P 03411, p. 1. On that same day, Zvonko Vidović ordered the release of 16 detainees from the Heliodrom, pursuant to an order from Radoslav Lavrić: P 03864.

<sup>3624</sup> P 03201.

<sup>3625</sup> P 03220; P 03216. The Chamber recalls that in the part on the structure of the Military Police, it held that these two documents were authentic: *see* "Responsibility of the Military Police in Matters of Detainee Release" in the Chamber's factual findings with regard to the military structure of the HZ(R) H-B.

<sup>3626</sup> P 04445.

<sup>3627</sup> Petković Defence Final Trial Brief, paras 307 and 308.

<sup>3628</sup> 1D 01254, p. 2.

<sup>3629</sup> P 02344, art. 4; P 02483.

<sup>3630</sup> P 02260; P 02262; P 02278; P 02335; P 02338; P 02347; P 02355; P 02362; P 02363; P 02364; P 02373; P 02379; P 02380; P 02382; P 02385; P 02390; P 02393; P 02394; P 02395; P 02401; P 02402; P 02403; P 02405; P 02408; P 02409; P 02410; P 03008; P 03133; P 10782, p. 8; P 04178; P 08202, pp. 2 and 3.

<sup>3631</sup> The terms "authorisation" and "approval" were used interchangeably: P 02267; P 02321; P 02332; P 02334; P 02343; P 02356; P 02368; P 02371; P 02383; P 02386; P 02396; P 02397; P 02398; P 03093; P 04450; P 04686; P 05949; P 05952. *See also*: P 00285, entry nos 457 and 754. The term "permission" was also used: P 06552.

<sup>3632</sup> Originally a member of the Department for Criminal Investigations of the Military Police, Berislav Pušić was proposed on 1 April 1993 as an officer with the Military Police for co-operation with the opposite side regarding exchanges of prisoners. *See* 2D 00008, pp. 2 and 7; P 01773.

the Exchange,<sup>3633</sup> and finally, from 6 August 1993 onwards, President of the Commission for Prisons and Detention Centres.<sup>3634</sup> Between 10 and 15 May 1993, the vast majority of Berislav Pušić's orders or authorisations were implemented by means of orders issued by Stanko Božić, the warden of the Heliodrom.<sup>3635</sup>

1450. On 12 August 1993, Berislav Pušić, as President of the Commission for Prisons and Detention Centres, took a decision that all orders for the release of detainees at HVO detention centres required the approval of the crime prevention section and the SIS nearest to the prison before being issued by the President of the Commission for Prisons and Detention Centres.<sup>3636</sup> Although many detainees at the Heliodrom were released on orders from Berislav Pušić in accordance with this procedure, namely, with the approval of Zvonko Vidović, in charge of the Department for Criminal Investigations, and of Miroslav Musić, Head of the SIS centre at Mostar,<sup>3637</sup> the Chamber notes that on 27 October 1993, Josip Praljak<sup>3638</sup> informed Mladen Naletilić and Bruno Stojić of his concern at the number of detainees being released from the Heliodrom on the sole authority of Berislav Pušić, without the involvement of the Department for Criminal Investigations and the SIS.<sup>3639</sup>

1451. Josip Praljak noted in his diary that as of 10 December 1993 detainees from the Heliodrom could not be released without authorisation of the Prosecutor of the Military Court of the Mostar military district, who at the time was Mladen Jurisić, and of the Head of the Service for the Exchange, Berislav Pušić.<sup>3640</sup> The Pušić Defence claims that from 10 December 1993, the date of the closure of all the detention centres on the territory of the HR H-B,<sup>3641</sup> only the Military Prosecutor was authorised to order the release of "prisoners" still in detention.<sup>3642</sup> The Chamber notes that on several occasions after 10 December 1993, Mladen Jurisić indeed authorised the

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<sup>3633</sup> On 5 July 1993, the HVO set up the Commission for the Exchange and the Service for the Exchange. Berislav Pušić was appointed Head of the Service for the Exchange at that date, but it appears that he was a member of the Commission for the Exchange of Prisoners and Other People even before its creation, namely from 25 May 1993 onwards. *See* P 03191; P 02520.

<sup>3634</sup> Berislav Pušić was appointed to this post by Bruno Stojić on 6 August 1993: P 03995.

<sup>3635</sup> *See* the orders and authorisations issued by Berislav Pušić mentioned in the same paragraph.

<sup>3636</sup> P 04141, pp. 2 and 3. *See also*: Josip Praljak, T(F), pp. 14769-14771. However, the Chamber notes *Josip Praljak* to have stated that the procedure was in place from July 1993 onwards.

<sup>3637</sup> P 04450; P 04686; P 05044; P 06552. *See also* the following exhibits that confirm the relations between the various services: P 05128; P 05371; P 05714.

<sup>3638</sup> Josip Praljak was also a member of the detainee release commission: P 03985.

<sup>3639</sup> Josip Praljak, T(F), p. 14798; P 06170. *See in particular* P 05952.

<sup>3640</sup> P 00352, p. 33; Josip Praljak, T(F), p. 14983.

<sup>3641</sup> P 07096.

<sup>3642</sup> Pušić Defence Final Trial Brief, para. 255.

release of Heliodrom detainees for exchange.<sup>3643</sup> Nonetheless, the Chamber has no evidence to support a finding that Berislav Pušić also authorised releases after 10 December 1993.

1452. After reviewing all the evidence, the Chamber finds that in addition to the Military Police authorities/members, namely Valentin Ćorić, Ante Prlić, commander of the Military Police of the *Stjepan Radić* Brigade and warden of Ljubuški prison, Zvonko Vidović, in charge of the Department for Criminal Investigations, and Radoslav Lavrić, the Deputy Chief of the Military Police Administration, several other people were involved in the release of detainees at the Heliodrom, such as Bruno Stojić, Milivoj Petković, Berislav Pušić, Neđeljko Obradović, commander of "Sector South", Miroslav Musić, Head of the SIS centre at Mostar, and Mladen Jurišić, Prosecutor at the Military Court of the District of Mostar.

b) Authorities Responsible for Exchange of Detainees

1453. The evidence shows that from May to December 1993, Berislav Pušić was in charge of selecting Heliodrom detainees for exchange.<sup>3644</sup> In addition to this, it seems that from August 1993 to March 1994, Berislav Pušić also took part in negotiations on the exchange of Heliodrom detainees and implemented such exchanges in co-operation with certain international organisations, including UNPROFOR.<sup>3645</sup>

c) Authorities Responsible for Transfer of Detainees

1454. The Chamber recalls that in the part on the structure of the Military Police, it already determined that the Military Police and its Administration were involved in the transfer of detainees from one detention centre to another or in escorting them outside the centres.<sup>3646</sup> In addition, the Chamber recalls that it noted that other HVO bodies could also take part in transferring detainees.<sup>3647</sup>

1455. Several authorities were in fact involved in transferring detainees from the Heliodrom to other HVO detention facilities. For example, on 1 July 1993, Zvonko Vidović, in charge of the Department for Criminal Investigations of the Military Police Administration, and Stanko Božić, Warden of the Heliodrom at that time, ordered the transfer of 200 detainees from the Heliodrom to

<sup>3643</sup> For an authorisation issued on 1 March 1994, *see*: P 07975; P 07985; P 08201, p. 5. *See also*: 6D 00221.

<sup>3644</sup> P 02853; P 06526; P 06805, p. 2; P 07158; P 10367 under seal, paras 41 and 45.

<sup>3645</sup> P 04380; P 07951; P 08084; Amor Mašović, T(F), pp. 25127 and 25128.

<sup>3646</sup> *See* "Responsibility of the Military Police in Matters of Detainee Transfer" in the Chamber's factual findings with regard to the military structure of the HZ(R) H-B.

<sup>3647</sup> *See* "Responsibility of the Military Police in Matters of Detainee Transfer" in the Chamber's factual findings with regard to the military structure of the HZ(R) H-B.

"the prison in Čapljina", without noting precisely to which prison they were referring.<sup>3648</sup> On 18 September 1993, Valentin Ćorić, as Chief of the Military Police Administration, ordered Stanko Božić to transfer 12 "prisoners of war" from the Heliodrom to Ljubuški Prison.<sup>3649</sup> On 6 November 1993, Tomislav Šakota, coordinator for detainees and prisoners of war on the territory of HR H-B,<sup>3650</sup> transferred two detainees from the Heliodrom to Gabela Prison on orders from Berislav Pušić.<sup>3651</sup> On 6 January 1994, Pušić, who had been appointed Head of the Service for the Exchange on 5 July 1993,<sup>3652</sup> proposed transferring 908 detainees from the Heliodrom to Gabela Prison.<sup>3653</sup>

1456. In view of the above, the Chamber finds that Valentin Ćorić, Zvonko Vidović, in charge of the Department for Criminal Investigations, Tomislav Šakota, coordinator for detainees and prisoners of war on the territory of HR H-B, and Berislav Pušić were involved in the transfer of detainees from the Heliodrom to other HVO detention centres.

#### 6. Authorities Responsible for Medical Care and Health of Detainees

1457. According to the Stojić Defence, medical care for prisoners at HVO detention centres was the responsibility of the Assistant to the Brigade Commander for Medical Issues on the territory where the prison was located.<sup>3654</sup> It notes that the health sector of the Department of Defence was responsible only for conducting inspections of the detention centres.<sup>3655</sup> It adds that all requests that the health sector made for changes to improve sanitary conditions for the detainees were unequivocally denied by the "military commander in charge."<sup>3656</sup> The Ćorić Defence claims that the Military Police Administration and Valentin Ćorić did not have any authority concerning health care issues that came up at the Heliodrom.<sup>3657</sup> Like the Stojić Defence, the Ćorić Defence alleges that the medical corps of the "military units" were in charge of medical care within the detention centres and in the Heliodrom prison as well.<sup>3658</sup> It adds, however, that this was also the responsibility of the health sector of the Department of Defence.<sup>3659</sup>

<sup>3648</sup> P 03055.

<sup>3649</sup> P 05193. The Chamber notes that this order was indeed carried out: P 05194; P 05214.

<sup>3650</sup> P 03958; 2D 00517; P 05222; P 07341, p. 1; Witness C, T(F), p. 22438, closed session; Witness DD, T(F), pp. 14459 and 14460, closed session; *Fahrudin Rizvanbegović*, T(F), pp. 2205, 2206, 2207, 2262 and 2378; *Slobodan Božić*, T(F), pp. 36284-36286 and 36288; P 09755 under seal, p. 5; Witness CP, T(F), p. 11372, closed session; P 10140 under seal, p. 6; P 10143, pp. 9-11; P 10125, p. 7; P 10137, para. 41; P 10135 under seal, para. 77.

<sup>3651</sup> P 00352, p. 31.

<sup>3652</sup> P 03191.

<sup>3653</sup> P 07494.

<sup>3654</sup> Stojić Defence Final Trial Brief, para. 528.

<sup>3655</sup> Stojić Defence Final Trial Brief, para. 528.

<sup>3656</sup> Stojić Defence Final Trial Brief, para. 528.

<sup>3657</sup> Ćorić Defence Final Trial Brief, para. 465.

<sup>3658</sup> Ćorić Defence Final Trial Brief, para. 465.

<sup>3659</sup> Ćorić Defence Final Trial Brief, para. 465.

1458. The Chamber notes as an initial matter that the Heliodrom instructions issued by Valentin Ćorić on 22 September 1992 set out that "prisoners of war" and "military prisoners" at the Heliodrom had a right to health care.<sup>3660</sup> The instructions, however, contain few provisions in this connection. Responsibility for ensuring that prisoners enjoyed satisfactory health care was assigned to the "security shift commanders"<sup>3661</sup> and that of escorting prisoners to hospital if necessary to the members of the "intervention group".<sup>3662</sup> The Chamber has no evidence about this intervention group.

1459. In the instructions on house rules in military "prisoner-of-war" centres, set out on 11 February 1993 by Bruno Stojić,<sup>3663</sup> it was stipulated that if external hospital treatment was necessary, "prisoners of war" could be referred only on the decision of the centre's administrator at the recommendation of the doctor. In addition, the "prisoners of war" had to procure medication at their own expense or have it sent by their families or other people.<sup>3664</sup>

1460. On 5 July 1993, Neđeljko Obradović, commander of the 1<sup>st</sup> *Knez Domagoj* Brigade of the HVO, ordered the chiefs of medical corps of the 1<sup>st</sup> and 3<sup>rd</sup> Brigades of the HVO to form a "medical commission" for treatment, examination and recommendations to improve the treatment of prisoners at Gabela, Dretelj and the Heliodrom.<sup>3665</sup> Two reports of the infectious, epidemic and toxicological diseases service at the Department of Defence,<sup>3666</sup> one dated 20 July 1993 and the other 6 August 1993, showed that the doctor in charge of prisoners at the Heliodrom, Dr Nedžad Hadžić, a Muslim who was himself being held at the Heliodrom,<sup>3667</sup> worked under the supervision

<sup>3660</sup> P 00514, p. 8. The Chamber recalls that Josip Praljak indicated that the term "military prisoners" referred to members of the HVO who were the subject of a disciplinary procedure. T(F), p. 14711.

<sup>3661</sup> P 00514, p. 4.

<sup>3662</sup> P 00514, p. 7. The "intervention group" was composed of military policemen from the Military Police platoon responsible for security at the Heliodrom. The group was to be in permanent readiness to carry out all orders from the security commander or the duty supervisor without delay. One of its duties consisted of escorting prisoners to hospital if necessary.

<sup>3663</sup> P 01474.

<sup>3664</sup> P 01474, p. 6.

<sup>3665</sup> P 03197. The Chamber however does not know whether this "medical commission" was actually set up at the Heliodrom. Under the same order, Neđeljko Obradović ordered the chiefs of medical corps of the 1<sup>st</sup> and 3<sup>rd</sup> Brigades of the HVO to send him a "request" with the names of the sickest prisoners and of those who should be "released" for medical treatment. The Chamber notes that the issue of the medical commission was broached on 6 July 1993 at a meeting attended *inter alia* by Neđeljko Obradović, Ivan Primorac, commander of the 3<sup>rd</sup> HVO Brigade, SIS chiefs Žara Pavlović and Ivica Pušić, and Ivan Ančić, commander of the 3<sup>rd</sup> Company of the 5<sup>th</sup> Battalion of the Military Police in Dretelj. On that occasion, it was decided that the commission should prepare a list of sick and handicapped detainees and propose their release to the SIS: 5D 03008.

<sup>3666</sup> The service was under the medical staff headquarters of the health sector of the Department of Defence: 2D 00752.

<sup>3667</sup> 2D 00754; 2D 00917, p. 2. *See also*: Witness 2D-AB, T(F), p. 37540 private session. The Chamber does not know the exact date on which Nedžad Hadžić began providing medical assistance to detainees at the Heliodrom. It notes, however, that he was already working in that capacity on 12 June 1993. On that day, Nedžad Hadžić signed a certificate showing that detainee Alija Lizde could be exempt from labour: P 09398. The Chamber notes that this document refers to 12 June 2002 ("12.06.02") as its date. Considering that Alija Lizde was held at the Heliodrom from 30 May to 30

and with the logistical support of the deputy commander of the medical service of the 3<sup>rd</sup> HVO Brigade, Dr Davor Pehar.<sup>3668</sup> Medical supplies were, however, obtained from the medical staff headquarters of the Department of Defence.<sup>3669</sup> *Witness 2D-AB*<sup>3670</sup> stated that the commander of the 3<sup>rd</sup> HVO Brigade was responsible for medical issues at the Heliodrom.<sup>3671</sup>

1461. The health service of the Department of Defence also tried to control access to health treatment at the Heliodrom. For instance, in a letter dated 12 August 1993 sent to the Heliodrom authorities and the commander of the health service of South-East OZ,<sup>3672</sup> Ivan Bagarić demanded in particular that a dispensary be set up and run by the doctors Nedžad Hadžić and Mirsad Stranjak;<sup>3673</sup> that it be staffed by medical personnel already active at the Heliodrom; that medication and other medical equipment be supplied by the medical service of the South-East OZ, and that the doctors of the 3<sup>rd</sup> Brigade working at the Heliodrom be "relieved" of their duties.<sup>3674</sup> *Witness 2D-AB* stated that after setting up the dispensary, Ivan Bagarić and Ivo Curić, commander of the of the infectious, epidemic and toxicological diseases service at the Department of Defence,<sup>3675</sup> set up a medical centre with beds and medicines, and recruited doctors among the prisoners to work there.<sup>3676</sup> The order was not, however, entirely carried out in that, contrary to what Ivan Bagarić had called for, the medical staff of the 3<sup>rd</sup> HVO Brigade continued to supervise the work of the doctors at the Heliodrom.<sup>3677</sup>

1462. On 28 September 1993, Ivan Bagarić ordered the heads of the health services of each of the HVO brigades, the wardens of the detention centres and the HVO "preventative isolation" centre to:  
(i) create "medical posts" in all the centres, which were to use doctors from the prison population

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June 1993 and then from 19 July 1993 to 19 October 1993 (T(F), pp. 17778-17783 and 17790), the Chamber holds that this is simply a typographical error.

<sup>3668</sup> 2D 00754; 2D 00917, p. 2. *Witness 2D-AB*, T(F), pp. 37540, 37545 private session.

<sup>3669</sup> 2D 00917, p. 2.

<sup>3670</sup> Doctor, member of the HVO medical staff from its creation in April 1992 to June 1995; *Witness 2D-AB*, T(F), p. 37488 private session, and p. 37500.

<sup>3671</sup> *Witness 2D-AB*, T(F), p. 37526.

<sup>3672</sup> Assistant Head of the HVO Department of Defence responsible for health between September 1992 and 1996; Ivan Bagarić, T(F), p. 38873.

<sup>3673</sup> Mirsad Stranjak was also held at the Heliodrom: Ivan Bagarić, T(F), pp. 38992 and 39112.

<sup>3674</sup> P 04145. With regard to the doctors of the 3<sup>rd</sup> Brigade being "relieved" of their duties, *Ivan Bagarić* explained that this was to give maximum autonomy to the doctors from within the detention population, because the detainees who were with them had greater trust in them: Ivan Bagarić, T(F), pp. 38992 and 38993. In a report sent to Valentin Ćorić, Stanko Božić provided a different explanation. In his report, Stanko Božić mentions that the order of Ivan Bagarić followed up on a written notice he had received from the 3<sup>rd</sup> Brigade that it could no longer provide medical services to the Heliodrom detainees: P 05008, p. 2.

<sup>3675</sup> *See*; 2D 00917, p. 2; 2D 00278.

<sup>3676</sup> *Witness 2D-AB*, T(E), p. 37572; P 05008, p. 2. The Chamber notes that the dispensary had still not been set up on 10 October 1993: P 05792, p. 2.

<sup>3677</sup> P 06924, p. 3; Ivan Bagarić, T(F), pp. 38992 and 38993; *Witness 2D-AB*, T(E), pp. 37571-37572.

or, in their absence, specialist personnel from the brigade medical services and local health centres<sup>3678</sup> and (ii) implement about a dozen health measures.<sup>3679</sup>

1463. On 20 July 1993, following a visit to the Heliodrom that same day, the infectious, epidemic and toxicological diseases service at the Department of Defence gave instructions to the warden of the Heliodrom, Stanko Božić, to put in place certain health measures.<sup>3680</sup> The service also ordered Nedžad Hadžić to conduct regular examinations of prisoners and send those showing signs of infection to isolation.<sup>3681</sup>

1464. After reviewing all the evidence, the Chamber finds that the medical treatment available to detainees at the Heliodrom was supervised by personnel of the 3<sup>rd</sup> HVO Brigade. The Chamber also finds that medical supplies were initially provided by the Department of Defence, and then by the South-East OZ. Finally, the Chamber notes that the health service of the Department of Defence was directly involved in the provision of health treatment at the Heliodrom.

#### 7. Authorities Responsible for and Informed about Use of Heliodrom Detainees as Forced Labour

1465. In its Final Trial Brief, the Prosecution maintains that the Military Police administered a system of forced labour at the Heliodrom; that it was the main beneficiary thereof; and that Valentin Ćorić was fully informed about this practice, approved of it and knew that detainees were being wounded and killed while performing forced labour.<sup>3682</sup> The Prosecution also claims that on numerous occasions Berislav Pušić authorised HVO detainees, in particular those from the Heliodrom, to be sent to perform forced labour and was informed about the fate of these detainees.<sup>3683</sup> The Prosecution adds that on at least one occasion, Slobodan Praljak authorised the sending of the Heliodrom detainees for forced labour and that his Chief of Staff, Žarko Tole, was informed about problems that had occurred during forced labour by the Heliodrom detainees.<sup>3684</sup> The Prosecution also argues that in the summer of 1993 and in October 1993, Milivoj Petković ordered detainees to be sent to forced labour and that he had been informed that the detainees were being wounded or killed.<sup>3685</sup> Finally, the Prosecution submits that Bruno Stojić knew that HVO

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<sup>3678</sup> 2D 00412, art. 1.

<sup>3679</sup> 2D 00412, art. 2 to 13; Witness 2D-AB, T(F), p. 37548, private session.

<sup>3680</sup> 2D 00754. These instructions consisted of: isolating people identified as sick; treating them; improving personal and collective hygiene measures, and requesting disinfection material from Davor Pehar.

<sup>3681</sup> 2D 00754.

<sup>3682</sup> Prosecution Final Trial Brief, paras 1121-1134.

<sup>3683</sup> Prosecution Final Trial Brief, paras 1224-1229.

<sup>3684</sup> Prosecution Final Trial Brief, paras 796, 806.

<sup>3685</sup> Prosecution Final Trial Brief, paras 933-941.

detainees, including those from the Heliodrom, were being sent to forced labour and that some of them had been wounded or killed.<sup>3686</sup>

1466. According to the Ćorić Defence, main responsibility for taking prisoners out of detention centres for labour rested with the commanders of the military units; as a secondary matter, it submits that the superiors of the Military Police platoons in charge of prison security bore that responsibility.<sup>3687</sup> The Ćorić Defence adds that the prison warden and not the Military Police Administration was responsible for sending prisoners out to perform forced labour.<sup>3688</sup> Finally, it contends that it has not been established that Valentin Ćorić was ever informed about what happened to the prisoners.<sup>3689</sup> The Pušić Defence claims that Berislav Pušić had no power to authorise or prevent the practice of using detainees for forced labour.<sup>3690</sup> The Praljak Defence, for its part, challenges the authenticity of the "order" which the Prosecution uses to claim that, on at least one occasion, Slobodan Praljak authorised Heliodrom detainees to be sent out to perform forced labour.<sup>3691</sup> The Petković Defence argues that the orders of July 1993 under which Milivoj Petković ordered detainees to be used to consolidate the front lines were not carried out.<sup>3692</sup> Without denying that on 14 October 1993 Milivoj Petković ordered that detainees could be sent to perform forced labour with the permission of the Main Staff, the Petković Defence notes that Milivoj Petković was not in charge of carrying out works authorised by the Main Staff; that a good number of units using detainees were not under his authority; and that the reports about the labour of detained people were never sent to the Main Staff.<sup>3693</sup> Finally, the Stojić Defence maintains that none of the bodies that authorised detainees to carry out forced labour was under the command of Bruno Stojić and that the Prosecution failed to show that Bruno Stojić had knowledge of detainees being sent to the front lines.<sup>3694</sup>

1467. After determining (a) the procedure used for Heliodrom detainees to carry out forced labour, the Chamber will (b) examine which people/authorities authorised detainees to be sent to carry out such labour. It will (c) analyse who was in charge of the detainees during forced labour and (d) who was informed of incidents during such activities. Finally, the Chamber will (e) examine the various attempts to control the use of Heliodrom detainees for forced labour .

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<sup>3686</sup> Prosecution Final Trial Brief, paras 609-612, 627.

<sup>3687</sup> Ćorić Defence Final Trial Brief, para. 474.

<sup>3688</sup> Ćorić Defence Final Trial Brief, para. 475.

<sup>3689</sup> Ćorić Defence Final Trial Brief, paras 496, 499, 501 and 502.

<sup>3690</sup> Pušić Defence Final Trial Brief, paras 401 et sq.

<sup>3691</sup> Praljak Defence Final Trial Brief, paras 104-112.

<sup>3692</sup> Petković Defence Final Trial Brief, paras 369 and 370.

<sup>3693</sup> Petković Defence Final Trial Brief, paras 506-511.

<sup>3694</sup> Stojić Defence Final Trial Brief, paras 525-527.



## a) Procedure for Having Heliodrom Detainees Perform Forced Labour

1468. Units wanting to use Heliodrom detainees for forced labour had to submit a request for this. Instructions issued in August 1993 by Josip Praljak, the *de facto* deputy warden of the Heliodrom, showed that none of the units could take detainees without having first submitted a request, although no indication is given as to whom the request was to be submitted.<sup>3695</sup> While giving evidence, *Josip Praljak* explained that a member of an HVO unit who wanted detainees presented a request to the "shift commander" who would then select the detainees to be used for the work in question.<sup>3696</sup> The Chamber notes, however, that in some cases, the member of the unit who came to get detainees chose them himself.<sup>3697</sup> A report prepared on 22 November 1993 by the Chief of the Military Police Administration, Radoslav Lavrić, clearly states that the presentation of an application bearing the signature of the commander of the Military Police battalion or brigade was required in order for "prisoners of war" to be used for the work.<sup>3698</sup> Finally, the evidence examined shows that on numerous occasions, such applications were indeed submitted, either in writing<sup>3699</sup> or verbally,<sup>3700</sup> before detainees were sent to work.

## b) Authorities that Authorised Use of Heliodrom Detainees as Forced Labour

1469. The instructions for the operation of the Heliodrom issued by Valentin Ćorić on 22 September 1992 stipulated that "prisoners of war" and "military prisoners" held at the Heliodrom could be used for work only on "orders" from the warden of the Heliodrom.<sup>3701</sup>

1470. An official note dated 13 November 1992 issued by the SIS centre at Mostar mentions that Valentin Ćorić had decided on or about 27 October 1992 that no unit could take prisoners from the Heliodrom out to work without his signature.<sup>3702</sup> Aside from the note of the SIS centre at Mostar, the Chamber has no evidence indicating that detainees were sent out to perform forced labour with the approval of Valentin Ćorić.

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<sup>3695</sup> P 04367, p. 2; P 05457, p. 3.

<sup>3696</sup> Josip Praljak, T(F), pp. 14743 and 14752. Some witnesses held at the Heliodrom who were sent out to work stated that they were selected by "policemen." Witness RR, P 09872 under seal, *Naletilić and Martinović* Case, T(F), p. 6468; Witness HH, P 10113 under seal, *Naletilić and Martinović* Case T(F), pp. 4823-4824 and pp. 4904-4905.

<sup>3697</sup> Witness AC, P 10222 under seal, *Martinović and Naletilić* Case T(F), pp. 8072-8073; Witness PP, P 10223 under seal, *Naletilić and Martinović* Case, T(F), pp. 6081-6083 and 6164-6165.

<sup>3698</sup> P 06805, p. 1.

<sup>3699</sup> See for example: P 02916; P 02921; P 03138; P 03168; P 03194; P 03330; P 03953; P 04306.

<sup>3700</sup> See for example: P 02702; P 02915; P 03541; P 03578.

<sup>3701</sup> P 00514, pp. 8 and 10. See also: P 00352, p. 15. Article 19 of the Instructions on house rules in military prisoner-of-war centres, issued by Bruno Stojić on 11 February 1993, stipulated that "prisoners" could be assigned to work at the detention centres did not state who had the authority to approve such work: P 01474.

<sup>3702</sup> P 00740, p. 3.

1471. Much evidence shows that, in actual fact, several people authorised the use of detainees to perform forced labour, more specifically between June 1993 and March 1994. The Chamber notes that the terms "order,"<sup>3703</sup> and "approval"<sup>3704</sup> that occur in the documents are used interchangeably to refer to the step that preceded the sending of detainees to perform forced labour.

1472. Between June 1993 and December 1993, the following people frequently authorised Heliodrom detainees to be sent for forced labour: Zlatan Mijo Jelić,<sup>3705</sup> who was commander of the 1<sup>st</sup> Light Assault Battalion of the Military Police,<sup>3706</sup> then commander of the central sector of defence of the town of Mostar,<sup>3707</sup> and finally, commander of the defence of Mostar,<sup>3708</sup> the successor of Zlatan Mijo Jelić as commander of the 1<sup>st</sup> Light Assault Battalion of the Military Police,<sup>3709</sup> in the person of Vladimir Primorac;<sup>3710</sup> and finally Berislav Pušić.<sup>3711</sup>

<sup>3703</sup> The BCS term "zapovijed" is used in the following document: P 04227.

<sup>3704</sup> The BCS term "odobrenje" is used in the following document: P 03171.

<sup>3705</sup> On at least 235 occasions, between 5 June 1993 and 9 December 1993, sometimes several times a day: P 02642. See also: P 07878, pp. 4-6. The Chamber is also apprised of a certain number of "orders" signed by Zlatan Mijo Jelić. By means of the following "orders", Zlatan Mijo Jelić "permitted" the 1<sup>st</sup> Light Assault Battalion of the Military Police, of which he was commander, to use detainees for forced labour: P 02702; P 02915. See also the other "orders" signed by Zlatan Mijo Jelić as commander of the defence of Mostar: P 04052; P 04212; P 04219; P 04227; P 04860; P 04882; P 05069; P 05126; P 05173; P 05669; P 05712; P 05781; P 05807; P 05814; P 05822; P 05856; P 06690; P 07004; P 07107. In some of his reports about incidents that occurred during forced labour, Stanko Božić refers to the "orders" given by Zlatan Mijo Jelić. See for example: P 05185; P 05242; P 05280; P 05343; P 05430; P 05907; P 06541; P 07118. In a report dated 3 February 1994 on the situation at the Heliodrom, issued by Marijan Biškić and sent to Perica Jukić and Ante Roso, mention is made of a "request" for detainees by Zlatan Mijo Jelić on 13 October 1993: P 07787, p. 2. The Chamber notes that it is more of an "order": P 05856. See also an SIS report of 31 January 1994 with no addressee that makes mention of an order of 8 November "1994" from Zlatan Mijo Jelić: P 07754. Since this report was written on 31 January 1994, the Chamber holds that the said order dates from 8 November 1993. The Chamber also notes that *Witness NO* stated that Zlatan Mijo Jelić issued orders at the request of "his" units: *Witness NO*, T(F), p. 51237 closed session.

<sup>3706</sup> Zlatan Mijo Jelić was appointed to this post by Bruno Stojić on 10 February 1993: P 01466.

<sup>3707</sup> Zlatan Mijo Jelić was appointed to this post by Miljenko Lasić, commander of South-East OZ, on 2 July 1993: P 03117; 5D 05110 under seal, para 7; *Witness NO*, T(F), pp. 51180 and 51210, closed session.

<sup>3708</sup> Zlatan Mijo Jelić was given this position by Žarko Tole, Chief of the Main Staff, on 6 August 1993: P 03983; 5D 05110 under seal, para. 8; *Witness NO*, T(F), p. 51182, closed session. Zlatan Mijo Jelić retained this post during the reorganisation of the South-East OZ on 3 September 1993: P 04774; 5D 05110 under seal, para. 9; *Witness NO*, T(F), p. 51183, closed session.

<sup>3709</sup> See: P 02970, p. 2; 4D 02063. The Chamber notes that Vladimir Primorac spoke at a meeting as commander of the 1<sup>st</sup> Light Assault Battalion: P 03616, p. 2.

<sup>3710</sup> On at least 182 occasions, between 14 July 1993 and 15 September 1993, sometimes several times a day: P 02642. See also three documents entitled "order" in which Vladimir Primorac "approved" the sending out of detainees: P 03541; P 03578; P 03878. See also a report by Stanko Božić: P 04352, p. 2.

<sup>3711</sup> On at least 30 occasions, between 24 June 1993 and 24 July 1993: P 01765; P 08043, with the same references. See also: P 02921; P 02958; P 03194. The Chamber notes that Berislav Pušić "ordered" detainees from the Heliodrom to be sent out to perform forced labour on at least two occasions prior to 24 June 1993, being 17 February 1993 and 14 May 1993: P 01514, p. 1; P 02385. See also the reports of Stanko Božić on the incidents that occurred during forced labour: P 03171; P 03293; P 03414; P 03468; P 03596; P 03646; P 02918; P 03525. The Chamber notes that on at least two occasions, Berislav Pušić gave his "permission" or his "approval" after an order had been issued: P 03435, referring to an order from the deputy commander of the 1<sup>st</sup> Light Assault Battalion of the military police; P 03518 referring to an order from the deputy commander of the 3<sup>rd</sup> SIS brigade, Ivica Pušić. Finally, the Chamber observes that two documents in evidence mention that the detainees were sent to perform forced labour on the basis of a "general" order from Berislav Pušić: P 03583; P 03633.

1473. To a lesser extent, other HVO authorities also authorised the use of detainees for forced labour in the same period: Milivoj Petković (from 14 October 1993);<sup>3712</sup> the commander of the 2<sup>nd</sup> HVO Brigade at least from 15 October 1993,<sup>3713</sup> Milan Štampar;<sup>3714</sup> the commander of the 3<sup>rd</sup> HVO Brigade from 20 July 1993,<sup>3715</sup> Božo Pavlović;<sup>3716</sup> the commander of the KB,<sup>3717</sup> Mladen Naletilić;<sup>3718</sup> the Deputy Chief of the Military Police Administration,<sup>3719</sup> Radoslav Lavrić<sup>3720</sup> and an official in the Department for Criminal Investigations of the Military Police Administration,<sup>3721</sup> Zvonko Vidović.<sup>3722</sup> Moreover, although it is unable to determine whether these were actually orders as such, the Chamber notes that numerous requests sent to the Heliodrom authorities by Mile Puljić, commander of the 2<sup>nd</sup> Battalion of the 2<sup>nd</sup> HVO Brigade, contained the phrase: "You are required to place at our disposal", followed by the number of detainees requested.<sup>3723</sup>

1474. On 15 July 1993, Milivoj Petković ordered all brigade commanders of the South-East OZ to use detainees to fortify the defence lines.<sup>3724</sup> On 20 July 1993, noting that his last order was not being observed, Milivoj Petković once again ordered the "Mostar OZ" to make use of prisoners to fortify the defence lines.<sup>3725</sup> Božo Pavlović,<sup>3726</sup> the commander of the 3<sup>rd</sup> HVO Brigade from 20

<sup>3712</sup> Milivoj Petković "approved" or "agreed to" a request from the 5<sup>th</sup> *Knez Branimir* Brigade: P 05882, p. 2; at least two requests from the 6<sup>th</sup> *Vitez Ranko Boban* Brigade: P 05895; P 06133; P 01765, p. 6; P 07878, p. 4; one request from the 2<sup>nd</sup> HVO Brigade: P 07878, p. 5; one request from the 2<sup>nd</sup> Battalion of the 2<sup>nd</sup> Brigade: P 05922; P 01765, p. 6; and one request from the engineering corps of the 2<sup>nd</sup> Brigade: P 05900; P 01765, p. 6. The Chamber will discuss the circumstances that gave rise to the authorisations in "Attempts to Restrict Use of Heliodrom Detainees for Work" in the factual findings in relation to the Heliodrom". See also Božo Pavlović T(F) pp. 47018 and 47019.

<sup>3713</sup> See a request signed in this capacity by Milan Štampar: P 05900.

<sup>3714</sup> On at least one occasion, the Chamber is, however, unaware of the date: P 01765; P 08043, with the same references.

<sup>3715</sup> P 03582

<sup>3716</sup> On at least one occasion, on 21 September 1993: P 05307. The Chamber notes that in several entries of a logbook of Heliodrom detainees seconded as forced labour, which covered the period from 2 to 21 November 1993, mention is made of an "order" from the 3<sup>rd</sup> Brigade, although there is no indication of the identity of the person who gave the order: P 06777, pp. 10, 11, 12, 35, 36, 37, 66, 67 and 70. See in the same vein: P 07878, p. 6, mentioning an "approval" of the 3<sup>rd</sup> Brigade issued on 25 November 1993.

<sup>3717</sup> See "Organisation of the KB and its ATGs" in the Chamber's factual findings with regard to the military structure of the HZ(R) H-B.

<sup>3718</sup> On at least one occasion, on 2 November 1993: P02642. The Chamber notes that a "request" from Mile Puljić, commander of the 2<sup>nd</sup> Battalion of the 2<sup>nd</sup> Brigade, asking the Heliodrom authorities to "hand over" 15 detainees for work, contains a handwritten amendment by Mladen Naletilić changing the "15" to "20": P 04028. Considering the *de facto* power of authorisation that Mladen Naletilić had, the Chamber holds that this handwritten amendment should be regarded as authorisation for 20 Heliodrom detainees to be used for forced labour.

<sup>3719</sup> P 01379

<sup>3720</sup> On at least three occasions between 25 June 1993 and 4 July 1993: P 01765; P 08043, including both amendments.

<sup>3721</sup> See Zvonko Vidović, T(F), pp. 51438 and 51439, 51730 and 51731.

<sup>3722</sup> On at least five occasions, between 6 July 1993 and 16 August 1993: P 01765. Zvonko Vidović stated that under special circumstances and notably in July 1993 in order to offset logistical problems, he managed, with permission from the investigating judge, to authorise HVO units to borrow Heliodrom detainees who were being processed by the Department for Criminal Investigations, to do work outside the facility: T(F), pp. 51669 and 51670.

<sup>3723</sup> P 03412; P 03426; P 03496; P 03506; P 03540; P 03609; P 03723; P 03742; P 03748; P 03766; P 03775; P 03786; P 03807; P 03844; P 03847; P 03873; P 03902; P 03920; P 03951; P 03955; P 03967; P 04009.

<sup>3724</sup> P 03474, p. 1.

<sup>3725</sup> P 03592, p. 1.

<sup>3726</sup> P 03582.

July 1993, denied that it was this order that gave him the authority to use detainees, and stated that he was only following the existing practice which was to use detainees to do work.<sup>3727</sup> However, since his entire testimony on the use of detainees for forced labour is largely contradicted by other evidence, the Chamber has decided not to take it into account on this issue.<sup>3728</sup>

1475. Moreover, during the trial<sup>3729</sup> and in its Final Trial Brief,<sup>3730</sup> the Praljak Defence challenged the authenticity of Exhibit P 06937, an order dated 8 November 1993, authorising the 2<sup>nd</sup> HVO Brigade to use 40 Heliodrom detainees to do work cleaning streets and parks.<sup>3731</sup> The version of that exhibit admitted by the Chamber bears the signature of Zlatan Mijo Jelić and that of an individual whom the Prosecution has identified as Slobodan Praljak.<sup>3732</sup> The Praljak Defence recalls that, during testimony, Slobodan Praljak maintained that he never signed the document<sup>3733</sup> and that Exhibit P 06937 was the only document of this kind to contain two signatures.<sup>3734</sup> The Prosecution, for its part, indicates that a Heliodrom logbook referred to the order<sup>3735</sup> and that, since Slobodan Praljak was still commander of the Main Staff on 8 November 1993, the order was a continuation of the one issued by Milivoj Petković on 14 October 1993, according to which the use of detainees for forced labour required the approval of the Main Staff.<sup>3736</sup>

1476. The Chamber notes that the Heliodrom logbook does mention Slobodan Praljak as having issued the order for detainees to be sent out to perform forced labour on 8 November 1993.<sup>3737</sup> It also notes that this order was a continuation of the one issued by Milivoj Petković on 14 October 1993 prohibiting the use of prisoners to perform any kind of labour in the brigades' respective zones of responsibility and adding that, for such an activity to be allowed, it must first be approved by the

<sup>3727</sup> Božo Pavlović, T(F), pp. 47028 and 47029.

<sup>3728</sup> In his testimony, Božo Pavlović indicated that throughout his time as commander, the 3<sup>rd</sup> Brigade used detainees only to maintain roads and bridges, for work in the kitchen and laundry rooms, and for cleaning the rooms used by the brigade: T(F), p. 47022. Evidence, nonetheless, shows that the 3<sup>rd</sup> Brigade used detainees to do work on the front line while Božo Pavlović was commander. See "Forced Labour Performed by Detainees" in the Chamber's factual findings with regard to the Heliodrom, in particular: P 10206, under seal, paras 5-6 and 12 (Witness EH stated that the 4<sup>th</sup> Battalion of the 3<sup>rd</sup> Brigade was in charge of the detainees, including him, who worked on Bulevar, where there was a front line); P 10229, para. 15 (Šefik Ratkušić said that Miro Primorac who, as the Chamber will find in the following segment, was a member of the 4<sup>th</sup> Battalion of the 3<sup>rd</sup> Brigade, escorted Heliodrom detainees to a site called Zahum, where there was a confrontation line).

<sup>3729</sup> See; Objection of Slobodan Praljak to Admission of Exhibit P 06937 (Witness Josip Praljak), partly confidential, 6 March 2007; Annex (*Specific Objections of the Accused Praljak to Heliodrom Documents*) to the Joint Defence Response to Prosecution Motion for Admission of Documentary Evidence (Heliodrom Camp), public, 12 September 2007, pp. 9-12.

<sup>3730</sup> Praljak Defence Final Trial Brief, paras 104-112.

<sup>3731</sup> P 06937.

<sup>3732</sup> Prosecution Final Brief, paras 40, 305 and 796.

<sup>3733</sup> Praljak Defence Final Trial Brief, para. 111.

<sup>3734</sup> Praljak Defence Final Trial Brief, para. 107.

<sup>3735</sup> T(F), p. 51999 referring to Exhibit P 02642, p. 17, item 407.

<sup>3736</sup> T(F), p. 52000.

<sup>3737</sup> P 02642, p. 17, item 407.

Main Staff, although it does not indicate what circumstances might lead to the authorisation of detainees performing forced labour.<sup>3738</sup> The Chamber is thus persuaded, by a majority, with Judge Antonetti dissenting, that Slobodan Praljak did indeed co-sign the order of 8 November 1993.

1477. From the end of December 1993 to March 1994, the use of the Heliodrom detainees to perform forced labour was authorised by: the Deputy Minister for Security in the HR H-B Ministry of Defence,<sup>3739</sup> Marijan Biškić,<sup>3740</sup> the Chief of the HVO Main Staff,<sup>3741</sup> Ante Roso;<sup>3742</sup> and the Chief of the Military Police Administration at the time,<sup>3743</sup> Željko Šiljeg.<sup>3744</sup>

1478. In a report dated 3 February 1994, sent *inter alia* to the Military Police Administration, Milenko Rajić, Chief of the SIS at the Ministry of Defence, complained that the Heliodrom detainees were being sent out for forced labour "without permission" and only on verbal orders.<sup>3745</sup>

### c) Authorities in Charge of Detainees during Forced Labour

1479. The evidence examined by the Chamber shows that detainee security during forced labour was generally ensured by the requesting unit.<sup>3746</sup>

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<sup>3738</sup> P 05873 / P 05881. The Chamber will examine how this order was issued in greater detail under item (e).

<sup>3739</sup> See "The SIS of the HR H-B" in the Chamber's factual findings with regard to the political and administrative structure of the HZ(R) H-B.

<sup>3740</sup> On at least five occasions, between 22 December 1993 and 15 January 1994: P 01765; P 08043, with the same references. See also: P 07530; P 07589; P 07594. The Chamber notes that a report by Stanko Božić, dated 1 April 1994, mentions that prisoners of war were handed over to the 2<sup>nd</sup> Battalion of the 3<sup>rd</sup> Brigade on 31 March 1994 based on an "approval" given by Marijan Biškić on 24 December 1993: P 08147.

<sup>3741</sup> See "Slobodan Praljak and Ante Roso Succeeding One Another as Commander on 9 November 1993 and the Retention of Milivoj Petković on the Main Staff": in the Chamber's factual findings on the military structure of the HZ(R) H-B.

<sup>3742</sup> On at least two occasions: 1 January 1994 and 5 February 1994: P 01765. For the handing over of detainees on 1 January 1994, see: P 07459; P 07554; P 07787, p. 2. For the handing over of detainees on 5 February 1994, see: P 07812, p. 2. Ante Roso also gave his "consent" to detainees being handed over on 1 February 1994: P 07767; P 07589; P 07594.

<sup>3743</sup> The Chamber notes that he was appointed between 4 December 1993 (P 07034 appointed to be in charge of the military district of Tomislavgrad) and on 4 January 1994 (P 07478 appointed Chief of the Military Police Administration).

<sup>3744</sup> On at least seven occasions, between 6 January 1994 and 4 March 1994: P 01765; P 08043, with the same references. See also: P 07530; P 07589; P 07594.

<sup>3745</sup> P 07799, p. 2.

<sup>3746</sup> On 17 February 1993, one of the "service shift commanders" at the Heliodrom told a military police officer of the Department for Criminal Investigations of the Military Police Administration who had come to pick up detainees to work at a "Medical School" that the Heliodrom would not provide external security and that the "Military Police" would have to provide security at the "Medical School": P 01514, p. 1. The Chamber recalls that authorisation for this work was given by Berislav Pušić over the phone: P 01514, pp. 1 and 3. According to the report, security was provided by the unit that came to pick up the detainees: P 01514, p. 3. In a report dated 10 October 1993, Stanko Božić mentions to Mate Boban that detainees were being severely beaten at work by members of some of the units which took them out, units which were responsible for their security and safety: P 05792, p. 2. A report dated 22 November 1993 from Radoslav Lavrić, Chief of the Military Police Administration, concerning the situation of "prisoners of war" notes that responsibility for prisoners escaping while outside the Heliodrom lay with those who took the prisoners out: P 06805, p. 2. What is more, requests, orders and reports concerning incidents that occurred during forced labour show that the transport and security of Heliodrom detainees performing forced labour were on numerous occasions ensured by the

## d) Authorities Informed about Incidents during Work

1480. Numerous reports from units that used the Heliodrom detainees show that the administration of the Heliodrom was aware of incidents that occurred when those detainees were performing forced labour<sup>3747</sup> or of delays in returning them to the Heliodrom.<sup>3748</sup>

1481. The HVO authorities were informed very often about incidents that occurred during forced labour. For example, in August 1993 and February and March 1994, representatives of the international community informed Jadranko Prlić that the Heliodrom detainees were being sent to the front to perform forced labour and some of them were being wounded on such occasions.<sup>3749</sup>

1482. On 5 March 1993, Josip Praljak informed Bruno Stojić of the disappearance of a detainee during forced labour.<sup>3750</sup> In August and October 1993, Stanko Božić and Josip Praljak told Bruno Stojić that some Heliodrom detainees, who were sent to the front to perform forced labour, had been wounded and died.<sup>3751</sup>

1483. On 28 October 1993, Stanko Božić asked Milivoj Petković to order the 1<sup>st</sup> and 2<sup>nd</sup> Brigades of the HVO and the 1<sup>st</sup> Light Assault Battalion of the Military Police to return the detainees to the Heliodrom still in their power despite the order issued by Milivoj Petković on 14 October 1993 prohibiting the use of prisoners to perform any kind of labour in the brigades' respective zones of responsibility and added that, should such activity be allowed, it needed prior approval from the Main Staff.<sup>3752</sup>

1484. On 18 February 1993, Josip Praljak informed Valentin Ćorić of the disappearance of a detainee during forced labour.<sup>3753</sup> From July 1993 to November 1993, Valentin Ćorić was informed

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requesting unit. *See* the following requests: P 02916; P 02921; P 03138; P 03168, specifying that the Military Police of the brigade would ensure security. *See* the following orders: P 02385; making the 3<sup>rd</sup> Brigade military police responsible for security; P 04882 making the commander of the 2<sup>nd</sup> Brigade, Ilija Vrljić, responsible for the detainees; P 04052, making the commander of the 2<sup>nd</sup> Brigade, Mile Puljić, responsible for the detainees; P 05126, making the commander of the 2<sup>nd</sup> Battalion of the 2<sup>nd</sup> Brigade, Mile Puljić, responsible for the detainees. *See* the following reports of Stanko Božić: P 02918; P 03596; P 05321; P 05907; P 04273; P 04407, pp. 7-8 and 9; P 07252, pp. 1-2; Božo Pavlović, T(F), pp. 47027-47028. Some witnesses taken out for forced labour have also confirmed this: P 10206, under seal, paras 6-7; P 10213, paras 7-8; Witness II, P 10218 under seal, *Naletilić and Martinović* Case, T(F), p. 4957.; Witness U, P 10220 under seal, *Naletilić and Martinović* Case, T(F), pp. 2958 and 2959; Witness EJ, P 10227 under seal, *Naletilić and Martinović* Case, T(F), p. 1503; P 10229, paras 13, 15 and 28; P 10234, p. 2.

<sup>3747</sup> *See* for example: P 04325; P 04718; P 04858; P 05747; P 04536; P 04542; P 04564; P 05050.

<sup>3748</sup> P 03111; P 04546; P 04491; P 04536;

<sup>3749</sup> P 09846 under seal; P 07895, p. 1; P 08079 under seal, p. 2.

<sup>3750</sup> P 01514, pp. 1-2.

<sup>3751</sup> P 04352, p. 2; P 05812.

<sup>3752</sup> P 06202, pp. 1-2, making reference to P 05873 / P 05881. The Chamber will examine how this order was issued in greater detail under item (e).

<sup>3753</sup> P 01514, pp. 3-4. The Chamber notes that the report sent to Bruno Stojić on 5 March 1993 about this incident was also sent to Valentin Ćorić: P 01514, p. 1-2.

about the disappearance and the wounding of Heliodrom detainees who had been sent out to perform forced labour.<sup>3754</sup>

1485. Berislav Pušić was also informed by the Heliodrom authorities and by the ICRC of incidents involving Heliodrom detainees during forced labour.<sup>3755</sup>

e) Attempts to Restrict Use of Heliodrom Detainees for Work

1486. On 4 August 1993, Stanko Božić informed Valentin Ćorić, Zlatan Mijo Jelić, commander of the central sector of the defence of the city of Mostar, and Božo Pavlović, commander of the 3<sup>rd</sup> HVO Brigade, that he would refuse to supply detainees for work if they were beaten again.<sup>3756</sup> On 10 August 1993, Stanko Božić gave orders that no prisoner not registered with the ICRC was to go to work the next day.<sup>3757</sup> On 16 August 1993, Josip Praljak<sup>3758</sup> spoke to Žarko Tole, Chief of the Main Staff, and asked him to prohibit "soldiers" from continuing to use detainees for labour, without providing any further details.<sup>3759</sup> On 9 September 1993, Stanko Božić forbade all use of detainees for forced labour as of 10 September 1993, 20:00 hours.<sup>3760</sup> Much evidence reveals, however, that the use of detainees continued despite the steps taken by Stanko Božić and Josip Praljak.<sup>3761</sup>

1487. On 14 October 1993, with a view to providing support for the warden of the Heliodrom,<sup>3762</sup> Milivoj Petković sent an order to all the brigades of the South-East OZ prohibiting the use of prisoners for any kind of labour in the brigades' respective zones of responsibility and added that, should such activity be allowed, it needed prior approval from the Main Staff, although it does not

<sup>3754</sup> P 03171; P 03293; P 03414; P 03435; P 03468; P 03518; P 03525; P 03596; P 03633; P 03646; P 11094; P 03936; P 04016; P 04088; P 04221; P 04259; P 04393. A report by Stanko Božić on the general situation at the Heliodrom, which also included information on problems that occurred during forced labour, was sent only to Valentin Ćorić and Zlatan Mijo Jelić: P 03942, p. 2; P 05792, pp. 1 and 2; P 05008, p.1; P 05563; P 06552, p. 1; Josip Praljak, T(F), p. 14741; P 05497, p. 14 / P 05731, p. 6.

<sup>3755</sup> P 03171; P 03293; P 03414; P 03435; P 03468; P 03518; P 03525. The incidents related in the reports took place during forced labour authorised by Berislav Pušić. The Chamber notes that Berislav Pušić was, however, not always mentioned as having been sent the reports of Stanko Božić which referred to the problems during the forced labour he had authorised. *See* for example: P 03646; P 03596; P 07148, p. 3; P 07787, pp. 7 and 8.

<sup>3756</sup> P 03939.

<sup>3757</sup> P 04093.

<sup>3758</sup> Josip Praljak signed his letter as deputy commander of the 5<sup>th</sup> Battalion of the Military Police and deputy warden of the Heliodrom. In his testimony, *Josip Praljak* stated that it was most probably his secretary who mistakenly added the title "deputy commander of the 5<sup>th</sup> Battalion of the Military Police": T(F), p. 14877.

<sup>3759</sup> P 04233.

<sup>3760</sup> P 04902; Josip Praljak, T(F), p. 14951, referring to an inspection carried out by Stanko Božić on 9 September 1993. The inspection is mentioned in a report sent to Branimir Tučak, Zlatan Mijo Jelić and the 5<sup>th</sup> Battalion of the Military Police: P 04918.

<sup>3761</sup> *See*, for example, the following orders signed by Zlatan Mijo Jelić: P 05069; P 05126; P 05173; P 05669; P 05712; P 05781; P 05807; P 05814; P 05822; P 05856. *See* also several reports by Stanko Božić attesting to the use of detainees as forced labour: P 05185; P 05242; P 05280; P 05307; P 05321; P 05343; P 05430.

<sup>3762</sup> Josip Praljak, T(F), pp. 14951-14952.

indicate in what circumstances the use of detainees for forced labour would be authorised.<sup>3763</sup> *Milivoj Petković* stated in court that he issued this order following a suggestion from the ICRC.<sup>3764</sup> On 15 October 1993, Stanko Božić repeated the order of Milivoj Petković in an order he sent to the "prison" and "school", i.e. two of the Heliodrom buildings in which the detainees were being held.<sup>3765</sup>

1488. Milivoj Petković authorised the use of detainees for forced labour on several occasions after 14 October 1993.<sup>3766</sup> His order of 14 October 1993, according to which no prisoner could be used for forced labour outside the camp without his authorisation was, however, not entirely respected. In a report dated 28 October 1993, Stanko Božić informed Milivoj Petković that the 1<sup>st</sup> and 2<sup>nd</sup> Brigades of the HVO and the 1<sup>st</sup> Light Assault Battalion of the Military Police were still keeping the detainees they had been using on 14 October 1993 for forced labour without the permission of the Main Staff.<sup>3767</sup> In addition to this, numerous authorisations were issued after 14 October 1993 by individuals who did not belong to the Main Staff.<sup>3768</sup>

1489. On 7 November 1993, Stanko Božić banned the use of detainees for forced labour, but did permit the 3<sup>rd</sup> HVO Brigade to use them.<sup>3769</sup> On 23 November 1993, Stanko Božić gave orders that the order of Milivoj Petković of 14 October 1993 had "become effective again" as of that date.<sup>3770</sup> With the approval of Stanko Sopta, commander of the 3<sup>rd</sup> HVO Brigade,<sup>3771</sup> Stanko Božić added an exception to the ban issued by Milivoj Petković by indicating that the order of 14 October 1993 did not apply to labour performed at the Heliodrom for the 3<sup>rd</sup> Brigade.<sup>3772</sup> On 24 November 1993, Josip Praljak, the *de facto* deputy warden of the Heliodrom, sent a report to Ante Roso, Radoslav Lavrić and Bruno Stojić in which he complained that the order of 23 November 1993 had not been respected since detainees who were to work at the Heliodrom had, in fact, been taken outside and that some of them had escaped, been wounded or even killed.<sup>3773</sup> The Chamber recalls, however,

<sup>3763</sup> P 05873 / P 05881.

<sup>3764</sup> Milivoj Petković, T(F), p. 50834.

<sup>3765</sup> P 05874.

<sup>3766</sup> In the days following the order of 14 October 1993, Milivoj Petković "approved" or "consented" to a request from the 5<sup>th</sup> *Knez Branimir* Brigade: P 05882, p. 2; at least two requests from the 6<sup>th</sup> *Vitez Ranko Boban* Brigade: P 05895; P 06133; P 01765, p. 6; P 07878, p. 4; one request from the 2<sup>nd</sup> Battalion of the HVO 2<sup>nd</sup> Brigade: P 05922, p. 2; P 07878, pp. 4-5; P 01765, p. 6; and one request from the engineering corps of the 2<sup>nd</sup> Brigade: P 05900; P 01765, p. 6.

<sup>3767</sup> P 06202, pp. 1-2.

<sup>3768</sup> See "Authorities That Authorised Use of Heliodrom Detainees as Forced Labour" in the Chamber's factual findings with regard to the Heliodrom: the authorisations issued by Zlatan Mijo Jelić, Mladen Naletilić, Marijan Biškić (from December 1993) and Željko Šiljeg (from January 1994).

<sup>3769</sup> P 00352, p. 31.

<sup>3770</sup> P 06819; Josip Praljak, T(F), p. 14905.

<sup>3771</sup> P 06848, p. 2.

<sup>3772</sup> P 06819; Josip Praljak, T(F), p. 14952-14953.

<sup>3773</sup> P 06859, p. 2.



that from 15 November 1993, Bruno Stojić no longer had any function in the Government of the HR H-B.<sup>3774</sup>

1490. On 8 December 1993, Marijan Biškić banned the use of detainees for forced labour without permission from the security sector of the Ministry of Defence, which he headed.<sup>3775</sup> On 10 December 1993, Radoslav Lavrić, acting Chief of the Military Police Administration, also banned the use of Heliodrom detainees without the approval of the security sector of the Ministry of Defence.<sup>3776</sup> On 13 December 1993, Stanko Božić informed Radoslav Lavrić that in contravention of the orders of 8 and 10 December 1993, some units had not returned the detainees to the Heliodrom whom they had been using for forced labour.<sup>3777</sup>

1491. On 27 January 1994, Colonel Željko Šiljeg, Chief of the Military Police Administration at the time, ordered the 1<sup>st</sup> and 3<sup>rd</sup> Battalions of the HVO Military Police to return the detainees they had been using for forced labour, including those from the Heliodrom, to their detention centres.<sup>3778</sup>

1492. In view of the above, the Chamber finds that from June 1993 to March 1994, the following in particular had power to authorise the use of Heliodrom detainees for forced labour: Marijan Biškić, the Deputy Minister for Security in the HR H-B Ministry of Defence from 1 December 1993; Slobodan Praljak; Milivoj Petković; Ante Roso, commander of the HVO Main Staff from 9 November 1993; Zlatan Mijo Jelić, commander of the 1<sup>st</sup> Light Assault Battalion of the Military Police and then commander of the central sector of the defence of the city of Mostar; Mladen Naletilić, commander of the KB; Željko Šiljeg, Chief of the Military Police Administration around December 1993; Radoslav Lavrić, Deputy Chief of the Military Police Administration in the summer of 1993; Zvonko Vidović, an official in the Department for Criminal Investigations of the Military Police Administration; Vladimir Primorac, the successor to Zlatan Mijo Jelić as commander of the 1<sup>st</sup> Light Assault Battalion of the Military Police; and Berislav Pušić. The Chamber also finds that the security of the detainees while performing forced labour was generally the responsibility of the requesting unit. Finally, the Chamber finds that the following people were informed of the incidents during forced labour performed by Heliodrom detainees: Stanko Božić, Josip Praljak, Jadranko Prlić, Bruno Stojić, Milivoj Petković, Valentin Ćorić and Berislav Pušić.

<sup>3774</sup> See “Role and Office of the Head of the Department of Defence and the Ministry of Defence” in the Chamber’s factual findings in relation to the political and administrative structure of the HZ(R) H-B.

<sup>3775</sup> Marijan Biškić, T(F), p. 15089 and 15091; P 07075, p. 2.

<sup>3776</sup> P 07098, p. 1.

<sup>3777</sup> P 07153.

<sup>3778</sup> P 07697, pp. 1 and 2.

## II. Arrival of Detainees at the Heliodrom

1493. In its analysis of the evidence about the arrival of detainees at the Heliodrom, the Chamber will concentrate on those who arrived there (A) as a result of the waves of Muslim arrests beginning on 9 and 10 May 1993 in West Mostar, (B) in the second half of May 1993 and (C) after 30 June 1993. Once this has been done, the Chamber will examine (D) the arrival of detainees at the Heliodrom who were brought in from other detention centres.

### A. Arrival of Detainees Following Waves of Muslim Arrests on 9 and 10 May 1993

1494. On 9 May 1993 and in the days that followed, the HVO arrested between 1,500 and 2,500 men, women, children and elderly people living in West Mostar and took them to the Heliodrom.<sup>3779</sup> The HVO declared, in particular to representatives of the international community, that the people detained at the Heliodrom as of 9 May 1993 were being held there for security reasons in order to shelter them from the fighting taking place in the town of Mostar.<sup>3780</sup>

1495. Nonetheless, the Chamber notes that only Muslims were held at the Heliodrom and that Croats who were confronted with the same dangers were not taken there.<sup>3781</sup> According to an international organisation present in the field at the time of the events, the aim of detaining the Muslims was to put pressure on the ABiH.<sup>3782</sup>

1496. During peace negotiations between the ABiH and the HVO at Međugorje on 12 May 1993, the two parties reached an agreement to release the people they were holding.<sup>3783</sup> As a result, the

<sup>3779</sup> Decision of 7 September 2006, Adjudicated Fact no. 146 (*Naletilić* Judgement, para. 45); P 10032, para. 7; Witness CS, T(F), pp. 12044, 12045 and 12047, private session; Witness LL, P 09881 under seal, *Naletilić and Martinović* Case, T(F), pp. 5236 and 5237; Josip Praljak, T(F), p. 14686; Witness WW, P 10024, under seal, *Naletilić and Martinović* Case, T(F), pp. 7028 and 7029; P 10035, paras 1, 4 and 17; Witness GG, P10020, under seal, *Naletilić and Martinović* Case, T(F), pp. 4747 and 4748; Ante Kvešić, T(F), pp. 37444-37446, 37452 and 37455-37461; P 02315; P 10038, paras 10-13; 5D 01004 (*see* discussion on the dating of this document: T(F), pp. 1201-1203); Grant Finlayson, T(F), pp. 18023-18026; P 10122, paras 2 and 3; P 09805 under seal, pp. 2, 4, 6 and 9; IC 00204 under seal, Witness CT, T(F), pp. 12149, 12150, 1254 and 1257, private session; P 02266; Witness BB, T(F), pp. 17169, 17170 and 17183, closed session; P 02458, para. 27; P 02367; Witness BB, T(F), p. 17214, closed session; P 09847, under seal, para. 2.

<sup>3780</sup> Milivoj Petković, T(F), pp. 49395-49398, 49535, 49536, 49558 and 49912-49914; P 02344; 5D 01004 (*See* discussion on the dating of the document: T(F), pp. 1201-1203); Josip Praljak, T(F), p. 14686; Decision of 7 September 2006, Adjudicated Fact no.150 (*Naletilić* Judgement, para. 46); Ante Kvešić, T(F), pp. 37444 and 34447; Grant Finlayson, T(F), p. 18027; P 02293, p. 2; P 09805 under seal, p. 9; 1D 01666.

<sup>3781</sup> Witness BB, T(F), p. 17170, closed session; P 02260; Witness WW, P 10024, under seal, *Naletilić and Martinović* Case, T(F), pp. 7028 and 7029.

<sup>3782</sup> P 09847 under seal, p. 2.

<sup>3783</sup> Witness BB, T(F), p. 17171, closed session; Milivoj Petković, T(F) pp. 49539 and 49555; Slobodan Božić, T(F), p. 36274, private session, and pp. 36274-36276; Witness BA, T(F), pp. 7181-7183, 7221-7223, closed session; P 02471, para. 3; P 09712 under seal, para. 60; P 10838, p. 1; P 09847 under seal, para. 2; Witness BC, T(F), p. 18384, closed session; Witness CS, T(F), pp. 12049 and 12050, private session; Witness WW, P 10024, *Naletilić and Martinović* Case, T(F), pp. 7028-7029; 1D 01666, p. 2.

HVO released most of the Muslims it was holding at the Heliodrom on about 20 May 1993.<sup>3784</sup> However, as early as 10 May 1993, several dozen detainees were released following orders from Berislav Pušić,<sup>3785</sup> although the Chamber does not know the motives behind the releases.

1497. The Chamber holds that the fact that only Muslims were held at the Heliodrom and that most of them were released only after the negotiations with the ABiH - and not at the time of the ceasefire - enables it, at this point already, to reject the argument that the aim of the imprisonment of the Muslims at the Heliodrom as of 9 May 1993 was to shelter them from fighting.<sup>3786</sup>

1498. After the detainees were released around 20 May 1993, several hundred Muslim detainees were still being held at the Heliodrom.<sup>3787</sup>

### **B. Arrival of Detainees Following Waves of Arrests in the Second Half of May 1993**

1499. In the second half of May 1993, the HVO also held a large number of Muslim men of military age who had been arrested in West Mostar.<sup>3788</sup>

1500. On 11 June 1993, the HVO told the ECMM that some 500 "prisoners" were being held at the Heliodrom: about 60 to 70 HVO soldiers who had committed criminal offences, 8 civilians from other detention centres, 11 Serbs, and 431 ABiH prisoners, as well as 10 women.<sup>3789</sup>

<sup>3784</sup> Witness BB, T(F), p. 17171, closed session; Milivoj Petković, T(F) pp. 49539 and 49555; Slobodan Božić, T(F), p. 36274, private session and pp. 36274-36276; Witness BA, T(F), pp. 7181-7183, 7221-7223, closed session; P 02471, para. 3; P 09712 under seal, para. 60; P 10838, p. 1; 09847 under seal, para. 2; Witness CS, T(F), pp. 12049 and 12050, private session; P 02485 under seal, p. 4; Witness WW, P 10024 under seal, *Naletilić and Martinović* Case, T(F), pp. 7028-7029; 1D 01666, p. 2; P 10846, p. 1; 5D 02016; P 02449 under seal; Witness A, T(F), pp. 14048 and 14051, closed session; P 09807 under seal, p. 5; P 09806 under seal, pp. 2 and 3; Witness DV, T(F), pp. 23071-23073; 4D 00614; P 10035, para. 18.

<sup>3785</sup> P 02260; Josip Praljak, T(F), pp. 14689, 14691-4693; P 02278; P 02321; P 02382; Ante Kvešić, T(F), pp. 37444-37446 and 37455-37457; P 02315; P 09805 under seal, p. 9; P 10038, para. 18; P 10838, p. 1; Witness CT, T(F), pp. 12157 and 12158, private session; P 02403. The Chamber recalls that it has already referred to the orders in question in the part on the authorities responsible for the release of detainees from the Heliodrom: See "Authorities Responsible for Release of Detainees" in the Chamber's factual findings with regard to the Heliodrom.

<sup>3786</sup> In the part on the existence of a JCE, the Chamber will analyse what the HVO really intended to achieve with these imprisonments.

<sup>3787</sup> P 02882, p. 3; Witness DV, T(F), pp. 22883, 22934 and 22935; P 10269 under seal, p. 6; Witness U, P 10220 under seal, *Naletilić and Martinović* Case, T(F), p. 2950.

<sup>3788</sup> See "Muslims from West Mostar Expelled from their Homes, Placed in Detention or Transferred to East Mostar in the Second Half of May 1993" in the Chamber's factual findings with regard to the Municipality of Mostar.

<sup>3789</sup> P 02721 under seal, p. 2; Antoon van der Grinten, T(F), p. 21028.

### C. Arrival of Detainees Following Waves of Arrests after 30 June 1993

1501. In early July 1993, the HVO arrested men, women, the elderly and children in West Mostar and took them to the Heliodrom.<sup>3790</sup>

1502. The evidence shows that in July 1993, Muslim men from other BiH municipalities such as Stolac, Čapljina and Ljubuški were also arrested and taken to the Heliodrom.<sup>3791</sup>

1503. During this period there were several releases. On 5 July 1993, for example, 14 MDS (Muslim Democratic Party) members were released from the Heliodrom following an agreement between the Military Police Administration and the MDS.<sup>3792</sup>

1504. One international organisation present in the field around 12 July 1993 had information that some handicapped or ailing men who had been held at the Heliodrom had returned home to Mostar.<sup>3793</sup>

1505. On 15 August 1993, 297 Muslim men from the Municipality of Ljubuški who reported to Ljubuški Prison pursuant to an SIS order dated 14 August 1993<sup>3794</sup> were arrested by the Military Police platoon attached to the 4<sup>th</sup> Brigade<sup>3795</sup> and taken to the Heliodrom that very day by the 4<sup>th</sup> HVO Brigade.<sup>3796</sup>

1506. On 2 or 3 September 1993, the HVO arrested a Muslim man in the Rodoč neighbourhood of Mostar who did not belong to any armed forces and took him to the Heliodrom.<sup>3797</sup>

1507. In November and December 1993, there were over 2,000 detainees at the Heliodrom.<sup>3798</sup>

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<sup>3790</sup> P 03196 under seal, p. 2; Josip Praljak, T(F), p. 14707; Spomenka Drljević, T(F), pp. 1063 and 1064, private session; P 09861, p. 2; P 09897 under seal, p. 1; Witness BD, T(F), pp. 20706 and 20707, closed session; Witness U, P 10220 under seal, *Naletilić and Martinović* Case, T(F), p. 2950; P 03179, pp. 2 and 3; P 05107; P 09843 under seal, para. 2; Witness BA, T(F), p. 7221, closed session; P 09712 under seal, para. 45; Alija Lizde, T(F), pp. 17780 and 17781.

<sup>3791</sup> Antoon van der Grinten, T(F), pp. 21088 and 21089; P 03369 under seal, p. 2; P 03278 under seal, p. 5; Larry Forbes, T(F), p. 21331, private session.

<sup>3792</sup> P 03193; Josip Praljak, T(F), p. 14775.

<sup>3793</sup> P 09843 under seal, para. 2.

<sup>3794</sup> Witness E, T(F), pp. 22090 and 22091, closed session; P 10328, pp. 19 and 20.

<sup>3795</sup> P 04225; P 10328, p. 20. The Chamber notes that in its Final Trial Brief, the Prosecution submits that between 14 and 15 August 1993, three hundred men were arrested by the Military Police in Ljubuški and Vitina. *See* Prosecution Final Trial Brief, para. 1098.

<sup>3796</sup> Witness BB, T(F), pp. 17217, 17231 and 17233, closed session; P 09847, under seal, p. 2; P 09845 under seal; P 10328, pp. 19 and 20.

<sup>3797</sup> P 09856, p. 2.

<sup>3798</sup> P 07148, p. 4; Marijan Biškić, T(F), pp. 15085 and 15102; P 06695, p. 2; Witness DV, T(F), p. 22872; P 10217 under seal, para. 132.

1508. On 6 January 1994, 941 people were still being held at the Heliodrom and in Ljubuški Prison.<sup>3799</sup>

1509. The Chamber notes that these detainees were not properly classified with regard to their status by the HVO/HZ(R) H-B authorities. Marijan Biškić, the Deputy Minister for Security at the HR H-B Ministry of Defence, explained in a report dated 7 December 1993 that the categories of people who qualified as prisoners of war had not been defined and that "lists have not been organised."<sup>3800</sup>

1510. Moreover, the HVO authorities had initiated criminal proceedings against some of the men detained at the Heliodrom who were classed as prisoners of war for having "served in an enemy army".<sup>3801</sup>

1511. All the testimony received by the Chamber indicates that there were women among the detainees,<sup>3802</sup> Muslim members of the HVO,<sup>3803</sup> members of the ABiH,<sup>3804</sup> and men who did not belong to any armed force.<sup>3805</sup> Also among the detainees were people under the age of 15 and over the age of 60.<sup>3806</sup> The Chamber holds that, due to their age, they did not belong to any armed force.

#### **D. Arrival at the Heliodrom of Detainees from Other Detention Centres**

1512. From 15 May 1993 until the closure of the Heliodrom on 18 or 19 April 1994,<sup>3807</sup> HVO units, including the Military Police, took to the Heliodrom Muslim men who had earlier been held,

<sup>3799</sup> Marijan Biškić, T(F), p. 15324; P 07488, p. 1.

<sup>3800</sup> P 07064, p. 2.

<sup>3801</sup> Ismet Poljarević, T(F), pp. 11663 and 11664; 6D 00216; P 07985; Marijan Biškić, T(F), pp. 15341 and 15342; P 07155.

<sup>3802</sup> Spomenka Drljević, T(F), pp. 1063 and 1064, private session.

<sup>3803</sup> P 10032, paras 5, 6, 16, 18 and 19; P 05836 under seal, p. 2; Larry Forbes, T(F), pp. 21325, 21326 and 21328 private session; P 09931, p. 2; P 09946 under seal, paras 12, 22, 41 and 73; Witness OO, P 10224 under seal, *Naletilić and Martinović* Case, T(F), pp. 5935-5936; Witness EJ, P 10227, *Naletilić and Martinović* Case, T(F), pp. 1500, 1513, 1543 and 1528; Witness II, P 10218 under seal, *Naletilić and Martinović* Case, T(F), pp. 4940 and 4954; P 10213, paras 2 and 5; P 10208, paras 1 and 13; P 10037, paras 2 and 10; P 10127 under seal, pp. 3 and 7.

<sup>3804</sup> Spomenka Drljević, T(F), p. 1081; Witness HH, P 10113 under seal, *Naletilić and Martinović* Case, T(F), pp. 4893 and 4785; Witness TT, P 09879 under seal, *Naletilić and Martinović* Case, T(F), pp. 6627, 6645 and 6647; P 09727 under seal, pp. 2 and 4; P 10121, para. 2; P 10122, p. 1 and paras 1 and 4; P 10233, paras 10 and 11; P 10234, p. 1; Witness CV, T(F), pp. 12527, 12575, 12623, 12624 and 12569; P 09807 under seal, p. 9; P 09806 under seal, pp. 2 and 3; Ibrahim Šarić, T(F), p. 5103; Salko Osmić, P 09876 under seal, *Naletilić and Martinović* Case, T(F), pp. 3134 and 3143; P 10121, para. 2; P 10122, p. 1 and paras 1 and 8; Witness PP, P 10223 under seal, *Naletilić and Martinović* Case, T(F), pp. 6070, 6157 and 6079; P 10206, under seal, paras 2 and 5; P 10138, paras 5, 6 and 33.

<sup>3805</sup> P 09855, p. 2; P 10117, para. 2.

<sup>3806</sup> Witness U, P 10220 under seal, *Naletilić and Martinović* Case, T(F), p. 2952; P 03133, p. 2; Marijan Biškić, T(F), p. 15093; P 05328, pp. 1 and 2.

<sup>3807</sup> P 09781, p. 3; P 09990, p. 7, paras 25 and 27; P 09989, p. 6; Amor Mašović, T(F), pp. 25123, 25124 and 25199; P 10206, under seal, para. 14; Ibrahim Šarić, T(F), p. 5119.

*inter alia*, at the Ljubuški, Dretelj and Gabela prisons as well as at detention centres in Prozor.<sup>3808</sup> For example, pursuant to an order from Berislav Pušić and Valentin Čorić dated 27 May 1993, 106 detainees from Ljubuški Prison were taken to the Heliodrom that day.<sup>3809</sup>

### III. Conditions of Confinement

1513. Having examined the conditions under which (A) the Muslim men were held at the Heliodrom, the Chamber will (B) analyse the evidence relating to the conditions of confinement for the women and children.

#### A. Conditions of Confinement for the Men

1514. In paragraph 124 of the Indictment, it is alleged that the conditions of confinement at the Heliodrom prison were inhumane, with severe overcrowding, inadequate medical and sanitary facilities, insufficient food and water, inadequate ventilation, and in the summer, suffocating heat. The Prosecution also alleges that the detainees often slept on concrete floors with no bedding or blankets and that, on occasions, HVO guards withheld all food and water from the detainees, in retaliation for HVO military setbacks.

1515. As a preliminary matter, the Chamber notes that it has no evidence to uphold or reject the allegation of insufficient ventilation and suffocating heat in the summer at the Heliodrom detention sites.

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<sup>3808</sup> P 09727 under seal, pp. 2 and 4; P 09726, p. 6; 2D 00285, p. 4; P 02535, pp. 4 and 7; P 09728, p. 3; P 02546, p. 2; Nihad Kovač, T(F), pp. 10268 to 10270; Witness HH, P 10113 under seal, *Naletilić and Martinović* Case, T(F), p. 4785; Witness W, P 09875 under seal, *Naletilić and Martinović* Case, T(F), pp. 3200 and 3209; Witness RR, P 09872 under seal, *Naletilić and Martinović* Case, T(F), pp. 6448, 6466 and 6510; Pero Nikolić, T(F), pp. 51397 and 51398; P 02925, p. 1; Witness E, T(F), pp. 22071, closed session, 22090 and 22091; P 10032, paras 15 and 16; Witness TT, P 09879 under seal, *Naletilić and Martinović* Case, T(F), p. 6627, 6645 and 6647; P 10121, paras 2 and 4; Witness HH, P 10113 under seal, *Naletilić and Martinović* Case, T(F), pp. 4893 and 4785; Witness D, P 09870 under seal, *Naletilić and Martinović* Case, T(F), p. 921, private session; Alija Lizde, T(F), pp. 17779 to 17783 and 17790; T(E), p. 17779; P 08894; P 09931, p. 2; P 10233, paras 10 and 11; P 10234, p. 1; Witness NN, P 10219 under seal, *Naletilić and Martinović* Case, T(F), p. 5881; P 10122, para. 6; P 09751 under seal, pp. 2 and 3; Witness Y, P 09873 under seal, *Naletilić and Martinović* Case, revised version of T(F), pp. 42 and 43; Spomenka Drljević, T(F), pp. 1050 to 1053; P 09990, p. 5; Witness CV, T(F), p. 12569; P 09867 under seal, p. 14; P 09946 under seal, para. 73; Ibrahim Šarić, T(F), p. 5103; Salko Osmić, P 09876 under seal, *Naletilić and Martinović* Case, T(F), pp. 3134 and 3143; P 05797 under seal, pp. 1 and 4; Larry Forbes, T(F), p. 21323 and 31234, private session; Witness C, T(F), p. 22423, closed session; P 03593 under seal, p. 2; Witness OO, P 10224 under seal, *Naletilić and Martinović* Case, T(F), pp. 5937-5939 and 5947; P 10122, paras 1 and 8; P 10229, para. 12; P 10233, para. 18; P 10234, p. 2; Witness EJ, P 10227, *Naletilić and Martinović* Case, T(F), pp. 1500 and 1534; Witness II, P 10218 under seal, *Naletilić and Martinović* Case, T(F), pp. 4940 and 4954; P 10213, paras 2 and 5; P 10208, paras 1 and 13; Witness PP, P 10223 under seal, *Naletilić and Martinović* Case, T(F), pp. 6070, 6157 and 6079; P 10037, paras 2 and 10; P 10206 under seal, paras 2 and 5; P 10135 under seal, paras 81 and 101; P 08031 under seal, p. 2; Witness CM, T(F), pp. 11100, 11117 and 11118; P 07184; P 07212, p. 1; P 10127 under seal, pp. 3 and 7; P 09989, pp. 4 and 5; P 09925, p. 5; P 07184; Witness CQ, T(F), pp. 11481-11482; Josip Praljak, T(F), pp. 14803, 14805; P 08034 under seal, p. 2; P 10117, para. 69; P 10138, paras 5, 6 and 33; 1D 01976.

1516. The Chamber will successively examine the evidence with regard to the allegations of (1) overcrowding, (2) lack of beds and blankets, (3) insufficient food and water, (4) inadequate sanitary facilities, (5) inadequate medical facilities, and (6) conditions of confinement in the isolation cells.

### 1. Overcrowding at the Camp

1517. According to *Antoon van der Grinten*, an ECMM monitor<sup>3810</sup> who visited the Heliodrom on 11 June 1993 with the ECMM, many prisoners were being held in very small rooms.<sup>3811</sup> En ECMM report dated 4 August 1993 refers more specifically to overcrowding at the detention centres, including the Heliodrom.<sup>3812</sup>

1518. Two reports by Ivo Curić,<sup>3813</sup> dated 30 September and 27 November 1993, mention "crowded jails" and the danger this constituted in respect of epidemics and infectious diseases.<sup>3814</sup>

1519. On 6 January 1994, Berislav Pušić asked Marijan Biškić to allow him to move some of the Heliodrom detainees to Gabela Prison in order to reduce prison overcrowding.<sup>3815</sup> The Chamber has no evidence that would suggest that such moves actually took place. Indeed, *Josip Praljak* also recognised that there was a time when the Heliodrom was overcrowded, although he does not provide any further detail.<sup>3816</sup>

1520. Former Heliodrom detainees also testified about this. *Witness GG*,<sup>3817</sup> for example, noted that for several days starting on 9 May 1993, there were 105 detainees in one cell and that it was so cramped that the detainees had to take turns to lie down and sleep.<sup>3818</sup> *Mujo Čopelj*<sup>3819</sup> mentioned overcrowding in the cells.<sup>3820</sup> *Witness U*<sup>3821</sup> stated that he was held with 60 to 120 prisoners in a cell measuring about 60m<sup>2</sup>.<sup>3822</sup> *Witness TT*<sup>3823</sup> was cramped into a cell that measured 6 by 10 metres

<sup>3809</sup> Witness E, T(F), pp. 22042 and 22043, closed session; P 02541; 2D 00285, p. 4; P 09807 under seal, p. 9; P 09806 under seal, pp. 2 and 3.

<sup>3810</sup> He held this function from 23 May 1993 until the end of August 1993 *Antoon van der Grinten*, T(F), pp. 20999 and 21001.

<sup>3811</sup> *Antoon van der Grinten*, T(F), pp. 21028, 21030 and 21031; P 02721 under seal, p. 2.

<sup>3812</sup> P 03952, p. 3.

<sup>3813</sup> Member of the HVO medical staff from its foundation in April 1992 to June 1995; *Witness 2D-AB*, T(F), p. 37488 closed session, and p. 37500.

<sup>3814</sup> P 05503, p. 2; P 06924, p. 2.

<sup>3815</sup> *Marijan Biškić*, T(F), pp. 15128 and 15325; P 07494, p. 1.

<sup>3816</sup> *Josip Praljak*, T(F), p. 14842.

<sup>3817</sup> Muslim detainee held at the Heliodrom between 9 and 24 or 29 May 1993; *Witness GG*, P 10020, under seal, *Naletilić and Martinović Case*, T(F), p. 4754.

<sup>3818</sup> *Witness GG*, P 10020 under seal, *Naletilić and Martinović Case*, T(F), pp. 4743, 4750 and 4751.

<sup>3819</sup> Muslim detainee held at the Heliodrom between 30 June and 21 December 1993; P 10032, p. 7, para. 19.

<sup>3820</sup> P 10032, paras 18 and 20.

<sup>3821</sup> Muslim detainee held at the Heliodrom between 30 June and 17 or 18 December 1993; *Witness U*, P 10220 under seal, *Naletilić and Martinović Case*, T(F), pp. 2943, 2944 and 2969.

<sup>3822</sup> *Witness U*, P 10220 under seal, *Naletilić and Martinović Case*, T(F), pp. 2948, 2950 and 2953.

with some 100 co-detainees.<sup>3824</sup> Finally, *Ibrahim Šarić*<sup>3825</sup> stated that he was in a cell 2 metres wide that held seven prisoners so that they could barely move around and stretch their legs.<sup>3826</sup>

1521. In view of the above, the Chamber finds that the Heliodrom was overcrowded and that detainees lacked room, at least between May 1993 and mid-April 1994.

## 2. Lack of Beds and Blankets

1522. *Grant Finlayson*,<sup>3827</sup> who observed during his visit to the Heliodrom on 11 May 1993 that the detainees had beds or mattresses to sleep on, also noted that they sometimes had to share them.<sup>3828</sup> During a visit on 11 June 1993, *Antoon van der Grinten*<sup>3829</sup> noticed that only the HVO soldiers and the women had beds and that the other detainees slept on mattresses on the floor.<sup>3830</sup> *Witness TT*<sup>3831</sup> reported that at the beginning of his detention, i.e. early June 1993, the detainees had some "military cots", but were later forced to sleep on blankets on the floor.<sup>3832</sup> A report by *Vladimir Primorac*<sup>3833</sup> dated 17 November 1993 indicates that the detainees had beds but notes the lack of blankets and clothing.<sup>3834</sup>

1523. However, there is a considerable amount of other testimony from former detainees held at the Heliodrom at various times between 11 May 1993 and 19 April 1994 which shows that a number of detainees slept on the ground.<sup>3835</sup>

<sup>3823</sup> Muslim detainee held between 30 May 1993 and 1 March 1994; Witness TT, P 09879 under seal, *Naletilić and Martinović Case*, T(F), pp. 6645 and 6647.

<sup>3824</sup> Witness TT, P 09879 under seal, *Naletilić and Martinović Case*, T(F), p. 6649.

<sup>3825</sup> Muslim detainee held at the Heliodrom between 9 July 1993 and 19 April 1994; *Ibrahim Šarić*, T(F), pp. 5103 and 5119.

<sup>3826</sup> *Ibrahim Šarić*, T(F), p. 5106.

<sup>3827</sup> Member of UNMO in BiH from March 1993 to March 1994. *Grant Finlayson*, T(F), pp. 17998, 18003, 18067; T(E), pp. 18003 and 18004; IC 00536; *Grant Finlayson* was sent to the headquarters of the UNMO BiH in Međugorje in March 1993. In June 1993 he became Head of the UNMO team in East Mostar and resumed his functions as Head of the UNMO for south BiH in September 1993.

<sup>3828</sup> *Grant Finlayson*, T(F), p. 18026; P 02293, p. 2.

<sup>3829</sup> ECMM observer from 23 May 1993 to the end of August 1993, *Antoon van der Grinten*, T(F), pp. 20999 and 21001.

<sup>3830</sup> P 02721 under seal, p. 3; *Antoon van der Grinten*, T(F), p. 21028.

<sup>3831</sup> Muslim detainee held between 30 May 1993 and 1 March 1994; Witness TT, P 09879 under seal, *Naletilić and Martinović Case*, T(F), pp. 6645 and 6647.

<sup>3832</sup> Witness TT, P 09879 under seal, *Naletilić and Martinović Case*, T(F), pp. 6648 and 6649.

<sup>3833</sup> Commander of an anti-terrorist company of the HVO Military Police based in Dretelj; Witness C, T(F), pp. 22330 and 22331 closed session.

<sup>3834</sup> P 06695, p. 3.

<sup>3835</sup> *Grant Finlayson*, T(F), p. 18026; P 02293, p. 3; Witness CT, T(F), p. 12162; P 08880 under seal; Witness TT, P 09879 under seal, *Naletilić and Martinović Case*, T(F), pp. 6648 and 6649; P 09990, p. 5; P 10032, para. 20; Witness OO, P 10224 under seal, *Naletilić and Martinović Case*, T(F), p. 5939; *Ibrahim Šarić*, T(F), pp. 5105-5109; Witness U, P 10220 under seal, *Naletilić and Martinović Case*, T(F), p. 2950.



1524. According to *Mujo Čopelj*,<sup>3836</sup> in early July 1993, the 92 detainees in his cell slept on the floor without blankets.<sup>3837</sup> However, they were supplied with blankets<sup>3838</sup> after a visit from the ICRC on an unspecified date.

1525. *Witness HH*<sup>3839</sup> reported that conditions at the Heliodrom got worse after the ABiH took North Camp on 30 June 1993, and that the beds for elderly people in the same room as *Witness HH* had been removed.<sup>3840</sup>

1526. Although the Chamber could not determine precisely where in the Heliodrom the prisoners had or did not have beds and blankets, it is nonetheless able to find that, in the months of May, June and July 1993 in particular, some detainees were forced to sleep on the ground and some did not have blankets.

### 3. Access to Food and Water

1527. The Čorić Defence argues that since the ECMM report of 14 September 1993 concluded that the detainees appeared satisfactorily nourished and accommodated at the Heliodrom,<sup>3841</sup> Valentin Čorić could not have had knowledge of any problems whatsoever regarding detention conditions there.<sup>3842</sup>

1528. The Chamber notes in this connection that, like the ECMM report of 14 September 1993 cited by the Čorić Defence, a report by the United States Embassy in Zagreb, whose officials visited the Heliodrom on 28 July 1993, indicated that the detainees looked fine and were well fed.<sup>3843</sup> However, the evidence both from representatives of the international community on site at the time of the events and from some HVO reports indicated on the contrary that Heliodrom detainees were not being sufficiently fed.

1529. Moreover, on 14 August 1993, Valentin Čorić received a copy of a report from the warden of the Heliodrom that was sent to Bruno Stojić, the Head of the Department of Defence, that described logistical difficulties, in particular in supplying the detainees with food.<sup>3844</sup> The Chamber consequently rejects the argument of the Čorić Defence that the Accused Čorić could not have

<sup>3836</sup> Muslim detainee held at the Heliodrom between 30 June and 21 December 1993; P 10032, para. 19.

<sup>3837</sup> P 10032, para. 20.

<sup>3838</sup> P 10032, para. 20.

<sup>3839</sup> Muslim detainee held at the Heliodrom from 27 May 1993 to 28 July 1993; *Witness HH*, P 10113 under seal, *Naletilić and Martinović* Case, T(F), p. 4785, p. 4859 open session and p. 4882 private session.

<sup>3840</sup> *Witness HH*, P 10113 under seal, *Naletilić and Martinović* Case, T(F), pp. 4827 and 4829.

<sup>3841</sup> P 05035, pt. 7, p. 4.

<sup>3842</sup> Čorić Defence Final Trial Brief, para. 439.

<sup>3843</sup> P 09504 under seal, p. 1; Peter Galbraith, T(F), pp. 6497 and 6498.

known of any of the problems in feeding Heliodrom detainees because the reports by international representatives did not mention them.

1530. It is clear from various evidence that the detainees lost much weight.<sup>3845</sup> According to a report by Ivo Curić on 27 November 1993, the average loss of body-weight of detainees was 15 kilos.<sup>3846</sup> *Ibrahim Šarić*, for example, lost 30 kilos in the eight months he spent at the Heliodrom;<sup>3847</sup> *Mustafa Hadrović* lost 47 kilos<sup>3848</sup> during nine months of detention.<sup>3849</sup>

1531. As to the number of meals provided, the Chamber notes that some evidence states that there was only one meal,<sup>3850</sup> whereas other evidence shows that there were three meals a day.<sup>3851</sup> However, most of the evidence points to the fact that the detainees generally got two meals a day,<sup>3852</sup> which usually consisted of bread and tea,<sup>3853</sup> though sometimes they did get cooked meals.<sup>3854</sup> Still, the rations were quite limited and the food was of poor quality.<sup>3855</sup> *Witness U* stated, in particular, that in the morning detainees were given a cup of tea without sugar and one slice of bread.<sup>3856</sup> At around 1900 hours, they received a main meal, very frugal as it was, that consisted of one tin of fish divided amongst four prisoners or a few spoons of some cooked meal "which,

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<sup>3844</sup> P 04186, p. 1.

<sup>3845</sup> Nermin Malović, T(F), pp. 14357 to 14369; P 04588; Witness CU, T(F), p. 12310, closed session; Ibrahim Šarić, T(F), pp. 5107 and 5113; P 09726, p. 6; Witness Y, P 09873 under seal, *Naletilić and Martinović* Case, revised version of T(F), p. 51; P 06924, pp. 1 and 4; P 10039, para. 25. *Josip Praljak* indicated, on the other hand, that he had never heard about prisoners losing much weight during detention at the Heliodrom. However, since the other evidence points to the contrary, the Chamber has decided not to take his testimony into account on this point.

<sup>3846</sup> P 06924, p. 4.

<sup>3847</sup> Ibrahim Šarić, T(F), p. 5113. *Ibrahim Šarić* was held at the Heliodrom from 9 July 1993 to 19 April 1994, Ibrahim Šarić, T(F), pp. 5103 and 5119; P 09726, p. 6. *Ismet Poljarević* was held at the Heliodrom from 19 May to 25 December 1993 and from 31 December 1993 to 1 March 1994; 2D 00285, p. 4; P 07158, 6D 00216; Ismet Poljarević, T(F), pp. 11623, 11663 and 11664.

<sup>3848</sup> Mustafa Hadrović, T(F), p. 14582.

<sup>3849</sup> Mustafa Hadrović, T(F), pp. 14564, 14577, 14578 and 14598.

<sup>3850</sup> P 09990 under seal, p. 5, para. 19; P 03554 under seal, p. 1.

<sup>3851</sup> Witness RR, P 09872 under seal, *Naletilić and Martinović* Case, T(F), p. 6510; Witness GG, P 10020 under seal, *Naletilić and Martinović* Case T(F), p. 4765.

<sup>3852</sup> Josip Praljak, T(F), p. 14847; Witness CQ, T(F), p. 11487; Witness DV, T(F), p. 22872; P 10217 under seal, para. 68; Witness II, P 10218 under seal, *Naletilić and Martinović* Case, T(F), p. 5122; P 10233, para. 11; P 06695, p. 3.

<sup>3853</sup> Witness TT, P 09879 under seal, *Naletilić and Martinović* Case, T(F), pp. 6648 and 6649; Witness U, P 10220 under seal, *Naletilić and Martinović* Case, T(F), p. 2952; P 10032, para. 19; P 07283 under seal, p. 4; P 10287 under seal, para. 94.

<sup>3854</sup> Witness U, P 10220 under seal, *Naletilić and Martinović* Case, T(F), p. 2953; P 09843 under seal, p. 2, para. 6; P 06695, p. 3.

<sup>3855</sup> Witness TT, P 09879, under seal, *Naletilić and Martinović* Case, T(F), pp. 6648 and 6649; P 10032, para. 19; Witness OO, P 10224 under seal, *Naletilić and Martinović* Case, T(F), p. 5939; Witness II, P 10218 under seal, *Naletilić and Martinović* Case, T(F), p. 5122, P 02721 under seal, p. 3; Antoon van der Grinten, T(F), p. 21028; P 09843 under seal, pp. 1 and 2, para. 6; P 09847, under seal, p. 3; P 07283 under seal, p. 4; P 10287 under seal, paras 94-95; Witness DW, T(F), pp. 23087 and 23272; P 07283 under seal, p. 4; P 10287 under seal, paras 94 and 95; Witness DW, T(F), pp. 23087 and 23272; P 10032, para. 19; Grant Finlayson, T(F), p. 18026; P 02293, p. 2; Witness GG, P10020, *Naletilić and Martinović* Case, T(F), p. 4750; P 09805 under seal, p. 7; P 04352, p. 1.

<sup>3856</sup> Witness U, P 10220 under seal, *Naletilić and Martinović* Case, T(F), p. 2953.

frankly speaking, looked like anything but food".<sup>3857</sup> He also stated that he suffered from a lack of vitamins and minerals due to the poor quality of the food he was given at the Heliodrom.<sup>3858</sup>

1532. Detainees assigned to physical labour were, however, better fed than the others.<sup>3859</sup>

1533. Evidence from former detainees also confirms that some detainees were deprived of food following an HVO military defeat. *Witness RR*, for example, stated that detainees were systematically deprived of food for two days during ABiH attacks<sup>3860</sup> and, according to *Mujo Čopelj*, if the HVO lost a battle on the front line, the food supply was systematically cut off for three days at a stretch.<sup>3861</sup>

1534. Concerning access to water, the evidence shows that the Heliodrom had running water in several places.<sup>3862</sup> The ABK (atomic-biological-chemical) service of the HVO checked the water and informed the medical service of the 3<sup>rd</sup> HVO Brigade of its quality.<sup>3863</sup>

1535. However, the Chamber has very little evidence about real access to those water taps by the detainees. In his report of 6 August 1993, Dr Ivo Curčić noted that there were problems with the water supply and cuts occasionally occurred.<sup>3864</sup> An ECMM report of 4 August 1993 indicates that detainees at HVO detention facilities had little water despite the heat.<sup>3865</sup> The Chamber considers that this report was also valid for the Heliodrom. On the other hand, several detainees who were held at the Heliodrom for various periods from May 1993 to March 1994,<sup>3866</sup> indicated that the detainees had "enough" water.<sup>3867</sup>

1536. In view of these developments, the Chamber finds that some detainees imprisoned at the Heliodrom between 9 or 11 May 1993 and 19 April 1994 received very little food which was, moreover, of poor quality. As a consequence, they suffered from hunger during their period of

<sup>3857</sup> Witness U, P 10220 under seal, *Naletilić and Martinović* Case, T(F), p. 2953.

<sup>3858</sup> Witness U, P 10220 under seal, *Naletilić and Martinović* Case, T(F), p. 2971.

<sup>3859</sup> P 10035, para 9; Witness II, P 10218 under seal, *Naletilić and Martinović* Case, T(F), pp 5114 and 5115, private session; P 06924, p. 4:

<sup>3860</sup> Witness RR, P09872 under seal, *Naletilić and Martinović* Case, T(F), p. 6511.

<sup>3861</sup> P 10032, para. 19.

<sup>3862</sup> Josip Praljak, T(F), pp. 14723 and 14724; Witness GG, P 10020 under seal, *Naletilić and Martinović* Case, T(F), p. 4750.

<sup>3863</sup> 2D 00917, p. 1.

<sup>3864</sup> 2D 00917, p. 1.

<sup>3865</sup> P 03952, p. 3.

<sup>3866</sup> *Witness CQ* was held at the Heliodrom from 15 December 1993 to 19 March 1994, P 07184; *Witness CQ*, T(F), pp. 11481-11482 and 11488; *Witness U* was held at the Heliodrom from 30 June 1993 to 17 December 1993, *Witness U*, P 10220 under seal, *Naletilić and Martinović* Case, T(F), pp. 2943, 2944 and 2969; *Mujo Čopelj* was first detained at the Heliodrom from 11 May to 18 or 20 May 1993, P 10032, paras 16 and 17, *Witness GG* was detained from 9 to 24 or 29 May 1993; *Witness GG*, P 10020 under seal, *Naletilić and Martinović* Case, T(F), p. 4754.

detention at the Heliodrom and lost weight, often a lot of weight. The HVO authorities were informed of that situation in various reports. The Chamber also notes that some detainees were deprived of food when a military defeat occurred or when the ABiH attacked.

1537. Conversely, the Chamber is not in a position to find that Heliodrom detainees suffered from a lack of water.

#### 4. Lack of Hygiene

1538. A report dated 20 July 1993, prepared by a member of the infectious diseases service following a request from Stanko Božić, the prison warden, showed six cases of scabies among the Heliodrom detainees.<sup>3868</sup> In his report of 6 August 1993, Dr Ivo Curić noted that the premises, and the detainees suffering from *pediculosis pubis*, had been de-infested and that the six detainees with scabies had been properly treated.<sup>3869</sup> At the end of his report and after proposing measures to improve the situation, Dr Ivo Curić stated that he was satisfied with the hygienic and epidemiological situation at the prison.<sup>3870</sup>

1539. However, all other evidence shows clearly that the conditions of hygiene at the Heliodrom were problematic.

1540. In May 1993, members of Spabat, who had an opportunity to visit the Heliodrom, reported that 700 to 800 Muslim men lived in precarious hygienic conditions, in particular in the gymnasium of the former military school, though without going into further detail about the hygienic conditions.<sup>3871</sup>

1541. A report dated 30 September 1993 from doctors from the health service of the Department of Defence of the HR H-B sent *inter alia* to Bruno Stojić and Berislav Pušić, noted that hygienic conditions at the Heliodrom were unsatisfactory and that there was an imminent danger of an outbreak of respiratory and intestinal diseases.<sup>3872</sup>

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<sup>3867</sup> Witness CQ, T(F), p. 11493; Witness U, P 10220 under seal, *Naletilić and Martinović* Case, T(F), p. 2953; P 10032, para. 16; Witness GG, P 10020 under seal, *Naletilić and Martinović* Case, T(F), p. 4750.

<sup>3868</sup> 2D 00754; Witness 2D-AB, T(F), p. 37539, private session.

<sup>3869</sup> 2D 00917, p. 2.

<sup>3870</sup> 2D 00917, p. 2.

<sup>3871</sup> Witness CB, T(F), p. 10146; P 02414, under seal, p. 5.

<sup>3872</sup> P 05503, pp. 1 and 2.

1542. Several former detainees who had been held at the camp for various periods between 30 June 1993 and 19 April 1994,<sup>3873</sup> also stated that the conditions of hygiene at the Heliodrom were not good.<sup>3874</sup> *Ibrahim Šarić* observed that the cells were dirty<sup>3875</sup> and that the detainees had fleas and lice.<sup>3876</sup>

1543. As to opportunities for washing, the evidence shows that the Heliodrom had showers and bathrooms in some of the camp buildings.<sup>3877</sup> *Witness CS*<sup>3878</sup> stated that detainees were allowed to use a bathroom and wash their clothes in cold water.<sup>3879</sup> Other witnesses stated that they had access to showers and toilets.<sup>3880</sup>

1544. On the other hand, *Witness RR* noted that there was only one shower for 200 detainees<sup>3881</sup> and *Dževad Bećirović*,<sup>3882</sup> who was held in a cell with about 50 other detainees,<sup>3883</sup> stated that he had no access at all to the showers.<sup>3884</sup> A report by Dr Ivo Curić dated 27 November 1993 also noted the lack of hot water.<sup>3885</sup>

1545. The Chamber finds that between May 1993 and mid-April 1994 hygiene at the Heliodrom camp was not good.

##### 5. Access to Medical Care

1546. In paragraph 124 of the Indictment, the Prosecution claims that medical facilities at the Heliodrom were inadequate. In paragraph 476 (a) of its Final Trial Brief, it indicates that primary care at the Heliodrom was provided by the detainees themselves, with a rudimentary dispensary. It

<sup>3873</sup> Ibrahim Šarić was held at the Heliodrom between 9 July 1993 and 19 April 1994; Ibrahim Šarić, T(F), pp. 5103 and 5119. *Hasib Zečić* was held at the Heliodrom from 15 December 1993 to 19 April 1994, P 09989, pp. 5 and 6; P 09925, p. 5. *Witness U* was held at the Heliodrom from 30 June 1993 to 17 or 18 December 1993, *Witness U*, P 10220 under seal, *Naletilić and Martinović* Case, T(F), pp. 2943, 2944 and 2969; *Witness CM* was held at the Heliodrom from 15 December 1993 to 22 March 1994: *Witness CM*, T(F), pp. 11100, 11117 and 11118; P 07184; P 07212; P 09753 under seal, p. 7.

<sup>3874</sup> Ibrahim Šarić, T(F), pp. 5105-5109; P 09989, p. 5; *Witness U*, P 10220 under seal, *Naletilić and Martinović* Case, T(F), p. 2953.

<sup>3875</sup> Ibrahim Šarić, T(F), pp. 5105-5109.

<sup>3876</sup> *Witness U*, P 10220 under seal, *Naletilić and Martinović* Case, T(F), p. 2953; P 09989, p. 5.

<sup>3877</sup> *Josip Praljak*, T(F), pp. 14723 and 14724; P 06695, pp. 2 and 3; P 09843 under seal, p. 1, para. 4.

<sup>3878</sup> Muslim detained at the Heliodrom from 9 to 19 May 1993: *Witness CS*, T(F), pp. 12049 and 12050, private session; P 02485 under seal, p. 4.

<sup>3879</sup> *Witness CS*, T(F), p. 12049 private session.

<sup>3880</sup> *Witness CQ*, T(F), p. 11488; *Witness RR*, P 09872 under seal, *Naletilić and Martinović* Case, T(F), pp. 6511 and 6513; P 10217 under seal, para. 68; *Witness GG*, P 10020 under seal, *Naletilić and Martinović* Case, T(F), p. 4750; P 10032, para. 16; P 09990, p. 5, para. 19.

<sup>3881</sup> *Witness RR*, P 09872 under seal, *Naletilić and Martinović* Case, T(F), pp. 6511 and 6513.

<sup>3882</sup> Detainee held at the Heliodrom from 8 June 1993 to mid-April 1994: P 09781, pp. 2 and 3; P 09990, p. 5, para. 19 and p. 7, para. 25.

<sup>3883</sup> P 09990, p. 5, para. 19.

<sup>3884</sup> P 09990, p. 5, para. 19.

<sup>3885</sup> P 06924, p. 2.

adds that health care at the Heliodrom was very poor, causing or resulting in substantial suffering that was wholly unnecessary.

1547. The Chamber will (a) examine the medical infrastructure at the Heliodrom before proceeding to analyse (b) the evidence concerning actual access to care by the detainees.

a) Medical Infrastructure

1548. Evidence from various time periods refers to the medical infrastructure using different terms for it, but showing that, at least from 28 July 1993 onwards, a medical structure did exist at the Heliodrom. A report drafted by a mission from the United States Embassy in Zagreb that visited the Heliodrom camp that day referred to the existence of a "medical clinic",<sup>3886</sup> and *Martin Mol*<sup>3887</sup> stated that he had seen the "surgery" at the Heliodrom camp during a visit there on 13 September 1993.<sup>3888</sup> In addition, an order from *Ivan Bagarić*<sup>3889</sup> dated 12 August 1993 asked the commanding officer of the Heliodrom and the commander of health of the South-East OZ that a dispensary be set up immediately at the Heliodrom<sup>3890</sup> and that the South-East OZ be responsible for the supply of medicine.<sup>3891</sup>

1549. The evidence received is contradictory as to the quantity of medicine and other medical supplies available. *Marinko Simunović*<sup>3892</sup> stated that he supplied sanitary material to the Heliodrom on three occasions between 9 and 18 May 1993.<sup>3893</sup> *Martin Mol* reported that the doctor who worked at the Heliodrom dispensary on 13 September 1993 told him that he had enough equipment to take care of the prisoners.<sup>3894</sup> In a letter dated 29 September 1993, *Stanko Božić*<sup>3895</sup> asked *Ivan Bagarić*<sup>3896</sup> to organise the transfer of severely wounded and sick inmates from the Heliodrom to a hospital in view of inadequate medical facilities and supplies at the Heliodrom.<sup>3897</sup> However, a

<sup>3886</sup> P 09504 under seal, pp. 1 and 3; Peter Galbraith, T(F), pp. 6497-6498 and 6702.

<sup>3887</sup> ECMM Observer between 20 August 1993 and 29 October 1993; P 10039, paras 1, 3 and 45.

<sup>3888</sup> P 10039, para. 25.

<sup>3889</sup> Assistant Head of the HVO Department of Defence responsible for health; *Ivan Bagarić* held the post between September 1992 and 1996; *Ivan Bagarić*, T(F), p. 38873.

<sup>3890</sup> P 04145, p. 1, *Ivan Bagarić* T(F), pp. 38986 and 38987.

<sup>3891</sup> P 04145, pp. 1 and 2.

<sup>3892</sup> *Marinko Simunović* was executive manager of the Red Cross in Mostar from June 1992 to April 1998, *Marinko Simunović*, T(F), p. 33404.

<sup>3893</sup> *Marinko Simunović*, T(F), p. 33532.

<sup>3894</sup> P 10039, para. 25.

<sup>3895</sup> Warden of the Heliodrom, Witness 2D-AB, T(F), p. 37575.

<sup>3896</sup> Assistant Head of the HVO Department of Defence responsible for health between September 1992 and 1996; *Ivan Bagarić*, T(F), p. 38873.

<sup>3897</sup> P 05465, p. 1.

report dated 30 September 1993 from the health service of the Department of Defence stated that the Heliodrom was well equipped with medicines and medical supplies.<sup>3898</sup>

1550. As to the former detainees, *Witness CQ*<sup>3899</sup> stated that the Heliodrom detainees received medication<sup>3900</sup> and *Witness II*<sup>3901</sup> confirmed that he had received pain killers at the Heliodrom.<sup>3902</sup>

1551. Finally, the evidence supports a finding that there were two doctors at the Heliodrom,<sup>3903</sup> Dr Nedžad Hadžić<sup>3904</sup> and Dr Mirsad Stranjak,<sup>3905</sup> who were detainees themselves.<sup>3906</sup> They were in charge of the dispensary from August 1993<sup>3907</sup> and worked under the direct supervision of Dr Davor Pehar, deputy commander of the medical service of the 3<sup>rd</sup> HVO Brigade.<sup>3908</sup> Dr Nedžad Hadžić was already working at the Heliodrom on 20 July 1993.<sup>3909</sup> In addition to the two doctors, there were also four or five nurses and one assistant pharmacist working at the dispensary.<sup>3910</sup>

#### b) Medical Treatment of Detainees

1552. In a press release dated 23 July 1993, Jadranko Prlić stated that detainees at all the detention centres, including the Heliodrom, underwent medical examinations immediately after their arrest, and that anyone with medical problems, regardless of age, was discharged.<sup>3911</sup> The Chamber does not know whether the medical examinations of the detainees on their arrival actually took place.

1553. According to a report dated 4 August 1993 from Stanko Božić that was sent to Valentin Ćorić and a report dated 6 August 1993 signed by Ivo Curić, six detainees with scabies were

<sup>3898</sup> P 05503, p. 2.

<sup>3899</sup> Detainee held at the Heliodrom from 15 December 1993 to 19 March 1994; P 07184; *Witness CQ*, T(F), pp. 11481-11482 and 11488.

<sup>3900</sup> *Witness CQ*, T(F), pp. 11487-11488.

<sup>3901</sup> Muslim detained between 21 July 1993 and 17 December 1993; *Witness II*, P 10218 under seal, *Naletilić and Martinović* Case, T(F), p. 4954.

<sup>3902</sup> *Witness II*, P 10218, under seal, *Naletilić and Martinović* Case, T(F), pp. 5127 to 5129; P 10210, under seal, para. 24.

<sup>3903</sup> Josip Praljak, T(F), pp. 14723 and 14725; *Witness II*, P 10218 under seal, *Naletilić and Martinović* Case, T(F), p. 5129; P 04145, p. 1; P 05503, p. 1; P 06924, p. 3.

<sup>3904</sup> 2D 00754, p. 1; 2D 00971, p. 2; P 04145, p. 1; P 06924, p. 1; *Witness 2D-AB*, T(F), p. 37540, private session.

<sup>3905</sup> P 04145, p. 1.

<sup>3906</sup> Josip Praljak, T(F), pp. 14723 and 14725; *Witness U*, P 10220 under seal, *Naletilić and Martinović* Case, T(F), p. 2953; P 10039, para. 25.

<sup>3907</sup> P 04145, p. 1.

<sup>3908</sup> 2D 00754, p. 1; 2D 00971, p. 1; P 05503, p. 1; *Witness 2D-AB*, T(F), p. 37540, private session.

<sup>3909</sup> 2D 00754, p. 1.

<sup>3910</sup> P 05503, p. 1.

<sup>3911</sup> P 03673, p. 2.

isolated and properly treated.<sup>3912</sup> A report by Dr Ivo Curić dated 27 November 1993 noted that the detainees were regularly screened for scabies, pediculosis or diarrhoea.<sup>3913</sup>

1554. *Witness U*, who was held at the Heliodrom from 30 June 1993 to 17 December 1993,<sup>3914</sup> stated that the detainees could see a doctor, himself a detainee, once a week with permission from a Military Police guard.<sup>3915</sup>

1555. According to a report from the Department for Criminal Investigations of the HVO Military Police Administration, dated 17 November 1993, the Heliodrom detainees could be transferred to Mostar hospital if necessary.<sup>3916</sup>

1556. Another report by Ivo Curić, dated 27 November 1993, lists the various diseases from which the Heliodrom detainees were suffering. For instance, 18 were mentally ill, 8 epileptic, 10 people were recovering from operations, and 55 people were recovering from various wounds.<sup>3917</sup> However, the report does not state whether the detainees received appropriate follow-up treatment.

1557. Conversely, other evidence points to the fact that some detainees did not have access to appropriate medical care. *Witness U* stated, for example, that he left the Heliodrom in an advanced stage of pneumonia with both of his lungs affected, and was suffering from a swollen leg.<sup>3918</sup>

1558. *Witness II*,<sup>3919</sup> who stated that he had been wounded in the hand during forced labour,<sup>3920</sup> was given initial first aid on site.<sup>3921</sup> Two doctors at the Heliodrom gave him pain killers and dressed his wound.<sup>3922</sup> *Witness II* is, nonetheless, still suffering from the after-effects because he was not appropriately treated.<sup>3923</sup>

1559. In view of the above, the Chamber finds that a medical infrastructure existed at the Heliodrom, at least from 28 July 1993 onwards, with two Muslim doctors who were themselves detainees. Furthermore, although the evidence shows that some detainees were taken care of, the

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<sup>3912</sup> 2D 00917, p. 2; P 03942, p. 2.

<sup>3913</sup> P 06924, p. 1.

<sup>3914</sup> *Witness U*, P 10220 under seal, *Naletilić and Martinović* Case, T(F), pp. 2943, 2944 and 2969.

<sup>3915</sup> *Witness U*, P 10220 under seal, *Naletilić and Martinović* Case, T(F), p. 2953.

<sup>3916</sup> P 06695, p. 3.

<sup>3917</sup> P 06924, p. 3.

<sup>3918</sup> *Witness U*, P 10220 under seal, *Naletilić and Martinović* Case, T(F), p. 2971.

<sup>3919</sup> Muslim detainee held at the Heliodrom between 21 July 1993 and 17 December 1993; *Witness II*, P 10218 under seal, *Naletilić and Martinović* Case, T(F), p. 4954.

<sup>3920</sup> *Witness U*, P 10218 under seal, *Naletilić and Martinović* Case, T(F), p. 5127 .

<sup>3921</sup> *Witness U*, P 10218 under seal, *Naletilić and Martinović* Case, T(F), p. 5129.

<sup>3922</sup> *Witness U*, P 10218 under seal, *Naletilić and Martinović* Case, T(F), p. 5129.

<sup>3923</sup> *Witness U*, P 10218 under seal, *Naletilić and Martinović* Case, T(F), p. 4971.



after-effects that *Witnesses II* and *U* suffered, show that their illnesses and wounds were not properly treated at the Heliodrom.

1560. Finally, the Chamber also notes the absence of evidence on the medical situation and on access to care for the months of May and June 1993.

#### 6. Conditions of Confinement in Isolation Cells

1561. *Witness CU*<sup>3924</sup> reported that he was unable to wash and was only given a litre and a half of water a week during his detention in an isolation cell.<sup>3925</sup> Since he did not receive enough to eat and drink, he was forced to eat his own excrement and drink his own urine.<sup>3926</sup> He noted that when he arrived at the Heliodrom, he weighed 104 kilos and when he got out of isolation, he weighed only 44 kilos.<sup>3927</sup>

1562. *Mustafa Hadrović* stated that he was put into isolation directly on 25 or 26 June 1993.<sup>3928</sup> He was held there for a total of 160 days.<sup>3929</sup> He lost 47 kilos during that time.<sup>3930</sup> For sleeping, he only had a blanket<sup>3931</sup> and he had to relieve himself in a biscuit tin.<sup>3932</sup> As to access to food, he stated that it was brought directly to his cell.<sup>3933</sup> The witness received one litre of water per day in his cell.<sup>3934</sup> He also explained that in the isolation cells, morning tea was given to the prisoners with salt instead of sugar.<sup>3935</sup> Finally, *Mustafa Hadrović* testified that the doctors came by to see him in the isolation cell only on one occasion, but did not state whether he received any medical attention from them.<sup>3936</sup>

1563. *Ibrahim Šarić*<sup>3937</sup> and *Witness Y*<sup>3938</sup> stated that the detainees had no access to the toilets and had to relieve themselves in a tin bucket put at their disposal in the cell, which they emptied once a

<sup>3924</sup> Muslim detainee held at the Heliodrom from 22 May to 17 September 1993; *Witness CU*, T(F), pp. 12310, 12351, 12354 and 12359, closed session. In a statement to the RBiH Security Service on 8 April 1994 (an exhibit not admitted into evidence), *Witness CU* stated that he was held at the Heliodrom on 9 May 1993: T(F), pp. 12314 and 12315, closed session; P 05146 under seal and P 05642.

<sup>3925</sup> *Witness CU*, T(F), pp. 12309 and 12310, closed session.

<sup>3926</sup> *Witness CU*, T(F), p. 12310, closed session.

<sup>3927</sup> *Witness CU*, T(E), p. 12310, closed session.

<sup>3928</sup> *Mustafa Hadrović*, T(F), p. 14578.

<sup>3929</sup> *Mustafa Hadrović*, T(F), p. 14578.

<sup>3930</sup> *Mustafa Hadrović*, T(F), p. 14582.

<sup>3931</sup> *Mustafa Hadrović*, T(F), p. 14582.

<sup>3932</sup> *Mustafa Hadrović*, T(F), p. 14582.

<sup>3933</sup> *Mustafa Hadrović*, T(F), p. 14579, 14581; *Mustafa Hadrović*, T(E), p. 14581.

<sup>3934</sup> *Mustafa Hadrović*, T(F), p. 14582.

<sup>3935</sup> *Mustafa Hadrović*, T(F), p. 14582.

<sup>3936</sup> *Mustafa Hadrović*, T(F), pp. 14589 and 14590.

<sup>3937</sup> Muslim detainee held at the Heliodrom between 9 July 1993 and 19 April 1994; *Ibrahim Šarić*, T(F), pp. 5103 and 5119.

week.<sup>3939</sup> The detainees were allowed out once a week to empty the bucket in the toilets at the end of the corridor.<sup>3940</sup>

1564. *Witness Y* stated that he was unable to wash the whole time<sup>3941</sup> and that he had no lighting.<sup>3942</sup>

1565. In a letter dated 20 August 1993, Stanko Božić informed Bruno Stojić that according to an ICRC representative who visited the Heliodrom in early August 1993, the bad conditions in the isolation cells were in violation of the Geneva Conventions.<sup>3943</sup>

1566. In view of the above, the Chamber finds that the conditions of confinement in the isolation cells were extremely bad and that Bruno Stojić was informed about them from at least 20 August 1993 onwards.

### **B. Conditions of Confinement for Women and Children from mid-May to 17 December 1993**

1567. In paragraph 126 of the Indictment, it is alleged that from approximately mid-May to 17 December 1993, at least 30 Bosnian Muslim women (including some more than 70 years old and others who had young children with them) were detained in the attic or in isolation cells in the main building of the Heliodrom prison. Their conditions of detention were inhumane, with insufficient sanitary facilities and medical attention, inadequate food and water, and poor ventilation. Detainees often slept on concrete floors with no bedding or blankets.

1568. The evidence indeed shows that women and children were held at the Heliodrom from 9 and 10 May 1993 onwards.<sup>3944</sup> The Chamber does not know if there were women over the age of 70 among these people, as the Prosecution alleges. According to *Witness CT*, an initial group of 200 women and children arrived at the Heliodrom on 9 May 1993.<sup>3945</sup> Other large groups of women and children arrived at the Heliodrom thereafter,<sup>3946</sup> where between 500 and 600 women and children were then held in three rooms.<sup>3947</sup> *Grant Finlayson* stated that he saw about 1,300 women and

<sup>3938</sup> Muslim detainee held at the Heliodrom between about early June 1993 and 1 March 1994; *Witness Y*, P 09873 under seal, *Naletilić and Martinović* Case, revised version of T(F), pp. 42 and 43.

<sup>3939</sup> Ibrahim Šarić, T(F), p. 5106; *Witness Y*, P 09873 under seal, *Naletilić and Martinović* Case, revised version of T(F), pp. 45 and 46.

<sup>3940</sup> Ibrahim Šarić, T(F), p. 5110.

<sup>3941</sup> *Witness U*, P 09873 under seal, *Naletilić and Martinović* Case, revised version of T(F), p. 46.

<sup>3942</sup> *Witness U*, P 09873 under seal, *Naletilić and Martinović* Case, revised version of T(F), p. 46.

<sup>3943</sup> P 04352, p. 1.

<sup>3944</sup> P 10038, pp. 2-3; P 10838, p. 1; *Witness GG*, P 10020 under seal, *Naletilić and Martinović* Case, T(F), p. 4768; P 09805 under seal, pp. 2, 4-6; *Witness CT*, T(F), pp. 12149 and 12150 private session; P 00352, p. 26.

<sup>3945</sup> P 09805 under seal, pp. 4 and 6.

<sup>3946</sup> P 09805 under seal, p. 6; P 08880 under seal, p. 5.

<sup>3947</sup> P 08880 under seal, pp. 4 and 6.

children from Mostar locked up in the facility during his visit to the Heliodrom on 11 May 1993.<sup>3948</sup> Most of these women from Mostar were held on average for about ten days, at the end of which time they and their children were released.<sup>3949</sup>

1569. *Witness DV*<sup>3950</sup> indicated that on 20 May 1993 there were few women left at the Heliodrom,<sup>3951</sup> which is confirmed by two HVO reports dated 15 September and 18 November 1993 that refer to the presence of about 20 women at the Heliodrom.<sup>3952</sup> The last female detainees were released on 17 December 1993.<sup>3953</sup>

1570. The evidence shows that the women were separated from the men and were held together with the children.<sup>3954</sup>

1571. The female detainees had access to the toilets<sup>3955</sup> and to a water tap where they could get water to wash.<sup>3956</sup> The women had access to a dispensary where they received medical treatment.<sup>3957</sup>

1572. The women received food,<sup>3958</sup> they were provided with two meals a day:<sup>3959</sup> one in the morning consisting of tea and biscuits<sup>3960</sup> and a second one at noon that was served in metal containers.<sup>3961</sup> They received tinned food and biscuits which came from humanitarian aid.<sup>3962</sup> In the attic of the main building they had an electric hotplate and a pot that they also used to wash in, and to wash their clothes in boiling water.<sup>3963</sup>

1573. The Chamber notes that the Indictment alleges that there was poor ventilation. However, the Chamber does not have any evidence in support of this claim.

<sup>3948</sup> Grant Finlayson, T(F), pp. 18025 and 18026.

<sup>3949</sup> Spomenka Drljević, T(F), pp. 1079 and 1081; P 10038, pp. 2 and 3; Witness GG, P 10020, *Naletilić and Martinović* Case, T(F), pp. 4754 and 4768; P 09805 under seal, p. 9; 1D 01666, p. 2; P 02260.

<sup>3950</sup> Member of Spabat serving in BiH from April to October 1993: Witness DV, T(F), pp. 22871 and 22872; P 10270 under seal, p. 2; P 10217 under seal, para. 8.

<sup>3951</sup> Witness DV, T(F), p. 22932; P 10217 under seal, paras 67 and 69.

<sup>3952</sup> P 06729, pp. 5 and 6; P 05107.

<sup>3953</sup> Spomenka Drljević, T(F), pp. 1061 and 1087; P 06955.

<sup>3954</sup> Grant Finlayson, T(F), p. 18026; P 02293, p. 2; P 10838, p. 1; P 09805 under seal, p. 6; P 08880 under seal, p. 5; Witness CT, T(F), p. 12157, private session.

<sup>3955</sup> Spomenka Drljević, T(F), p. 1077; P 10217 under seal, para. 68; P 06695, pp. 2 and 3.

<sup>3956</sup> Spomenka Drljević, T(F), pp. 1077 and 1078; P 06695, pp. 2 and 3.

<sup>3957</sup> Spomenka Drljević, T(F), pp. 1079 and 1083.

<sup>3958</sup> Spomenka Drljević, T(F), pp. 1078 and 1079; P 10038, p. 3; P 10838, p. 1; P 02293, p. 2; P 06695, p. 3.

<sup>3959</sup> Spomenka Drljević, T(F), p. 1078; P 06695, p. 3; P 10217 under seal, para. 68.

<sup>3960</sup> Spomenka Drljević, T(F), p. 1078.

<sup>3961</sup> Spomenka Drljević, T(F), p. 1079.

<sup>3962</sup> Spomenka Drljević, T(F), p. 1079. However, *Witness CT* reported that she received neither water nor food on 9 May 1993: P 09805 under seal, p. 6.

<sup>3963</sup> Spomenka Drljević, T(F), p. 1078.

1574. The female detainees were forced to sleep on cots<sup>3964</sup> or on mattresses on the ground.<sup>3965</sup> Some of them received blankets.<sup>3966</sup> However, there were not enough beds and the mothers left the beds for their children and slept on the ground.<sup>3967</sup> The women were sometimes able to go for a walk with their children.<sup>3968</sup>

1575. In view of the evidence, the Chamber by a majority, with Judge Prandler dissenting, cannot find that the conditions of detention for the women and children at the Heliodrom were excessively harsh. Moreover, the Chamber did not receive evidence showing that women were held in isolation cells.

#### IV. Treatment of Male Detainees at the Heliodrom

1576. In paragraph 125 of the Indictment, it is alleged that Herceg-Bosna/HVO forces regularly mistreated and abused, and inflicted cruel treatment and great suffering to Bosnian Muslim detainees at the Heliodrom or allowed others to do so. The Prosecution claims that passing HVO soldiers often fired their weapons indiscriminately at Muslim detainees held in crowded areas and that guards sometimes released their dogs on the detainees for the specific purpose of inflicting injury and fear.

1577. In its Pre-Trial Brief, the Prosecution notes that the Heliodrom detainees were mistreated in particular by soldiers of the KB under the command of Mladen Naletilić, *alias* "Tuta".<sup>3969</sup> Citing the *Naletilić* Judgement, it states that Mladen Naletilić personally participated in the mistreatment of the prisoners and was "physically present when prisoners were mistreated by soldiers who accompanied him".<sup>3970</sup>

1578. As a preliminary matter, the Chamber notes that it does not have any evidence on the use of dogs at the Heliodrom to intimidate or injure the detainees.

1579. As to the allegation that "passing" HVO soldiers often fired their weapons indiscriminately at Muslim detainees held in crowded areas, the Chamber has the report of Stanko Božić sent to

<sup>3964</sup> P 09805 under seal, p. 6; P 02721 under seal, p. 3; Antoon van der Grinten, T(F), p. 21028; P 06695, p. 3; P 10217 under seal, para. 67.

<sup>3965</sup> Witness DV, T(F), p. 22872; P 10217 under seal, para. 69.

<sup>3966</sup> P 10038, p. 3; Spomenka Drljević, T(F), p. 1077; P 06695, p. 3.

<sup>3967</sup> Spomenka Drljević, T(F), p. 1077; P 09805 under seal, p. 6; Witness CT, T(F), p.12162, private session; P 08880 under seal, pp. 4 and 6; Grant Finlayson, T(F), p. 18026; P 02293, p. 2.

<sup>3968</sup> Grant Finlayson, T(F), p. 18026; P 02293, p. 2.

<sup>3969</sup> Prosecution Pre-Trial Brief, paras 125.2, 125.8 and 125.9, citing paras 435 and 436 of the *Naletilić* Judgement, corresponding to adjudicated facts nos 163-165 of the Decision of 7 September 2006.

<sup>3970</sup> Prosecution Pre-Trial Brief, para 125.8, citing para. 435 of the *Naletilić* Judgement, corresponding to Adjudicated Fact no. 164 of the Decision of 7 September 2006.

Bruno Stojić, Valentin Ćorić, Zvonko Vidović and Berislav Pušić, in which it is stated that on 5 July 1993 at between one and three in the morning, HVO soldiers accommodated at the Heliodrom fired at the windows of the halls and the former military school in which the detainees were being held.<sup>3971</sup> According to the report, the "brigade police" who were supposed to stop the firing, did not intervene; this incident did not result in any deaths. The Chamber does not know whether any of the detainees was injured. No other evidence deals with such incidents. The Chamber finds therefore that the event of 5 July 1993 was the only incident during which HVO members fired their weapons indiscriminately at the building in which the detainees were being held.

1580. The Chamber received testimony from men held at the Heliodrom for periods from between May 1993 and mid-April 1994 attesting to the fact that beatings and other degrading treatment occurred throughout that period.<sup>3972</sup> The evidence does show that detainees were severely beaten up on a regular basis.<sup>3973</sup> The evidence indicates that acts of violence against the detainees were more intense in May 1993<sup>3974</sup> and at the end of June 1993.<sup>3975</sup>

1581. The witnesses testified that the detainees were beaten after military defeats suffered by the HVO.<sup>3976</sup> For example, *Mustafa Hadrović* stated that HVO soldiers who were not Heliodrom guards, including "Tuta's" soldiers, had access to the isolation cells and beat the detainees up when

<sup>3971</sup> P 03209, p. 1; Josip Praljak, T(F), pp. 14732-14734.

<sup>3972</sup> Zvonko Vidović, T(F), pp. 51654 and 51655; Witness A, T(F), p. 14044, closed session; Ismet Poljarević, T(F), p. 11574; 2D 00285, p. 4; P 09807 under seal, p. 5; Witness CS, T(F), pp. 12056 and 12060, private session, and 12073; Witness CT, T(F), p. 12179, private session; P 09805 under seal, p. 7; Witness CU, T(F), pp. 12301, 12302, 12305 and 12311, closed session; Mustafa Hadrović, T(F), pp. 14579, 14582, 14583 and 14584; Ibrahim Šarić, T(F), pp. 5107, 5113 and 5116-5118; Alija Lizde, T(F), pp. 17783 and 17802 and Alija Lizde, T(E), p. 17802; P 08894; Witness GG, P 10020 under seal, *Naletilić and Martinović* Case, T(F), pp. 4751 and 4752; P 10032, paras 16 and 25; P 10122, para. 3; Witness HH, P 10113 under seal, *Naletilić and Martinović* Case, T(F), pp. 4820 and 4827; Witness TT, P 09879 under seal, *Naletilić and Martinović* Case T(F), pp. 6649 and 6650; Witness Y, P 09873 under seal, *Naletilić and Martinović* Case, revised version of T(F), pp. 46 and 51; P 09781, p. 3; P 09990, p. 6; Witness W, P 09875 under seal, *Naletilić and Martinović* Case T(F), pp. 3210 and 3211; Witness RR, P 09872 under seal, *Naletilić and Martinović* Case T(F), pp. 6467 and 6510; Witness U, P 10220 under seal, *Naletilić and Martinović* Case, T(F), p. 2963; P 09867 under seal, para. 19, Witness U is a representative victim of para. 125 of the Indictment, mentioned in the annex to the Indictment; P 10213, paras 9, 12 and 20; P 09989, pp. 5 and 6; Salko Osmić, P 09876 under seal, *Naletilić and Martinović* Case, T(F), pp. 3145 and 3146; Witness OO, P 10224 under seal, *Naletilić and Martinović* Case T(F), pp. 5937, 5938 and 5940; P 09502 under seal, p. 1; P 10052, p. 1.

<sup>3973</sup> Witness A, T(F), p. 14044, closed session; Witness CS, T(F), pp. 12059, 12060 and 12073, private session; Witness CU, T(F), pp. 12301, 12302, 12305 and 12308, closed session; P 09805 under seal, p. 7; Ibrahim Šarić, T(F), pp. 5116-5118; P 10213, paras 9, 12 and para. 20; Witness TT, P 09879 under seal, *Naletilić and Martinović* Case, T(F), p. 6649; P 09989, pp. 5 and 6; Witness OO, P 10224 under seal, *Naletilić and Martinović* Case, T(F), pp. 5937, 5938 and 5940; Witness HH, P 10113 under seal, *Naletilić and Martinović* Case, T(F), pp. 4820 and p. 4827; Witness Y, P 09873 under seal, *Naletilić and Martinović* Case revised version of T(F), pp. 46 and 51; P 09781, p. 3; P 09990, p. 6.

<sup>3974</sup> Witness A, T(F), p. 14044, closed session; Witness CU, T(F), pp. 12301-12302, 12305, 12310 and 12311, closed session; P 09807 under seal, p. 5; Witness CS, T(F), pp. 12059 and 12060, private session; P 09805 under seal, p. 7; Witness GG, P 10020 under seal, *Naletilić and Martinović* Case, T(F), pp. 4751 and 4752; P 10032, para. 16; Witness HH, P 10113 under seal, *Naletilić and Martinović* Case, T(F), p. 4820.

<sup>3975</sup> Mustafa Hadrović, T(F), pp. 14579, 14582 and 14583; Witness HH, P 10113 under seal, *Naletilić and Martinović* Case, T(F), p. 4827; P 10052, p. 1.

<sup>3976</sup> Mustafa Hadrović, T(F), p. 14584; Witness RR, P 09872 under seal, *Naletilić and Martinović* Case, T(F), p. 6467; P 09781, p. 3; P 09990, p. 6.

the HVO suffered losses on the front.<sup>3977</sup> *Witness RR* stated that Ante Buhovac, who was a member of the Military Police,<sup>3978</sup> and someone called "Miro" beat the detainees up and deprived them of food when the ABiH took some positions from the HVO.<sup>3979</sup>

1582. As to the intensity of the violence against the detainees, two witnesses mentioned that they were beaten until they lost consciousness.<sup>3980</sup> *Witness CU*, in particular, stated that on 22 May 1993, half an hour after his arrival at the Heliodrom, four men in uniform, including at least two belonging to the Military Police,<sup>3981</sup> beat him for about eight hours non-stop.<sup>3982</sup> On 23 May 1993, *Witness CU* was beaten up once again between 0900 and 1800 hours.<sup>3983</sup> He then lost consciousness and was locked in an isolation cell until the next day.<sup>3984</sup> From the cell, *Witness CU* could hear other detainees being beaten<sup>3985</sup> and stated that one detainee in the cell next to his was regularly abused verbally by the police and lay moaning in pain for several days.<sup>3986</sup> *Witness CU* stated that on 28 or 29 May 1993, he was beaten up again, this time in the presence of the security commander, Ante Smiljanić, of "Tuta" and of two other men, one of whom was a member of the Split Brigade of the HV.<sup>3987</sup>

1583. *Alija Lizde* stated that during his second period of detention at the Heliodrom from 19 July 1993 to 19 October 1993,<sup>3988</sup> when he was being held with other detainees in one of the halls of the former military school building, he saw one of the "guards" hitting the detainees, extinguishing cigarettes on their backs and ordering them to do push-ups.<sup>3989</sup>

1584. Some witnesses stated that the Heliodrom detainees were also beaten with various objects.<sup>3990</sup> *Witness GG*, for example, saw detainees being beaten with a rifle butt when they were

<sup>3977</sup> Mustafa Hadrović, T(F), p. 14584.

<sup>3978</sup> Mustafa Hadrović, T(F), pp. 14578 and 14579.

<sup>3979</sup> *Witness RR*, P 09872 under seal, *Naletilić and Martinović* Case, T(F), p. 6467.

<sup>3980</sup> *Witness CU*, T(F), p. 12305, closed session; *Witness Y*, P 09873 under seal, *Naletilić and Martinović* Case, revised version of T(F), p. 46.

<sup>3981</sup> *Witness CU*, T(F), pp. 12305 and 12307, closed session.

<sup>3982</sup> *Witness CU*, T(F), pp. 12301-12302, closed session.

<sup>3983</sup> *Witness CU*, T(F), p. 12305, closed session.

<sup>3984</sup> *Witness CU*, T(F), p. 12305, closed session.

<sup>3985</sup> *Witness CU*, T(F), p. 12307, closed session.

<sup>3986</sup> *Witness CU*, T(F), p. 12308, closed session.

<sup>3987</sup> *Witness CU*, T(F), pp. 12310 and 12311, closed session; *Witness Y* identified the Split Brigade as belonging to the HV; *Witness Y*, P 09873 under seal, *Naletilić and Martinović* Case, revised version of T(F), p. 19, private session, and 80.

<sup>3988</sup> *Alija Lizde*, T(F), pp. 17779, 17780-17783 and T(E), p. 17779; P 08894.

<sup>3989</sup> *Alija Lizde*, T(F), pp. 17783 and 17802 and *Alija Lizde*, T(E), p. 17802; P 08894.

<sup>3990</sup> P 09781, p. 3; *Witness GG*, P 10020 under seal, *Naletilić and Martinović* Case, T(F), p. 4751; *Witness Y*, P 09873 under seal, *Naletilić and Martinović* Case, revised version of T(F), p. 51; *Witness TT*, P 09879 under seal, *Naletilić and Martinović* Case T(F), p. 6649.

taken out and brought back to their cells.<sup>3991</sup> *Witness Y* stated that one day, five "policemen" came to his cell and beat him with all sorts of implements, including pickaxes.<sup>3992</sup> One of the policemen ordered him to lick his blood because no "*balija*" blood should remain on Croatian soil.<sup>3993</sup> *Witness TT* stated that he was repeatedly beaten, at least ten times, during his detention and remembered that a "policeman" who took him out of his cell beat him with a truncheon and punched him,<sup>3994</sup> and then placed the barrel of a loaded pistol in his mouth.<sup>3995</sup> *Witness A*, for his part, saw members of the *Bruno Bušić* Regiment take prisoners out of the rooms where they were held in order to beat them.<sup>3996</sup>

1585. *Ibrahim Šarić* stated that the guards at the Heliodrom camp occasionally took him and other detainees out of their cell and beat them with truncheons or kicked them in the back and in the kidneys.<sup>3997</sup> During his detention at the Heliodrom, *Ibrahim Šarić* also noted that some of the detainees had wounds and bruises on their bodies.<sup>3998</sup>

1586. *Ibrahim Šarić* also stated that his co-detainee, Mustafa Hadrović, was beaten by the Heliodrom "guards" more often than the other detainees. They would come and get him once a week to beat him up, humiliate and threaten him.<sup>3999</sup> *Ibrahim Šarić* saw Mustafa Hadrović come back from these beatings covered in bruises and blood, frightened and terribly humiliated.<sup>4000</sup> *Mustafa Hadrović* confirmed himself when he testified before the Chamber that as soon as he arrived at the Heliodrom on 25 or 26 June 1993 he was beaten up by Miro Kolobara, a member of the KB, and by members of the Military Police including Miro Marjanović and Ante Buhovac.<sup>4001</sup>

1587. Finally, various witnesses stated that they were insulted,<sup>4002</sup> humiliated<sup>4003</sup> or threatened.<sup>4004</sup> For instance, some witnesses report that the HVO soldiers called them *balija*<sup>4005</sup> and *Witness Hasib*

<sup>3991</sup> Witness GG, P10020 under seal, *Naletilić and Martinović* Case, T(F), p. 4751.

<sup>3992</sup> Witness Y, P 09873 under seal, *Naletilić and Martinović* Case, revised version of T(F), p. 51.

<sup>3993</sup> Witness Y, P 09873 under seal, *Naletilić and Martinović* Case, revised version of T(F), p. 51.

<sup>3994</sup> Witness TT, P 09879 under seal, *Naletilić and Martinović* Case, T(F), p. 6649.

<sup>3995</sup> Witness TT, P 09879 under seal, *Naletilić and Martinović* Case, T(F), p. 6649.

<sup>3996</sup> Witness A, T(F), p. 14044.

<sup>3997</sup> *Ibrahim Šarić*, T(F), pp. 5116-5118.

<sup>3998</sup> *Ibrahim Šarić*, T(F), pp. 5107-5113.

<sup>3999</sup> *Ibrahim Šarić*, T(F), pp. 5111-5113. As part of the humiliation inflicted on Mr Hadrović, *Ibrahim Šarić* stated that the guards made him wash the floors and when he finished, he would have to start over again and wash the same floor again; he was also made to sing songs to the guards and if he sang out of tune he would be beaten and would have to start again singing properly (*Ibrahim Šarić*, T(F), pp. 5115 and 5116).

<sup>4000</sup> *Ibrahim Šarić*, T(F), pp. 5111, 5112 and 5115.

<sup>4001</sup> Mustafa Hadrović, T(F), pp. 14578, 14579, 14582 and 14583, T(E), p. 14583.

<sup>4002</sup> Witness CU, T(F), p. 12308, closed session; P 10032, para. 25; Witness U, P 10220 under seal, *Naletilić and Martinović* Case, T(F), p. 2963; Witness HH, P 10113 under seal, *Naletilić and Martinović* Case, T(F), p. 4820; P 10213, paras 9, 12 and 20.

*Zečić*<sup>4006</sup> indicated that the "guards" often forced the detainees to sing Croatian nationalist songs while they beat them brutally.<sup>4007</sup> *Witness CT* stated that the men held from 9 May 1993 on the upper floor of the main building of the Heliodrom where *Witness CT*<sup>4008</sup> was kept, spent 36 hours without food and were then given cans of dog food to eat.<sup>4009</sup>

1588. The Chamber, however, also heard from witnesses who were on site at the time of the events and who stated that they had no knowledge of acts of violence committed against the Heliodrom detainees.

1589. For example, *Josip Praljak* stated that he never had knowledge of detainees at the Heliodrom being mistreated.<sup>4010</sup> The Pušić Defence expressed serious doubts as to the credibility of his testimony in general and in particular on this issue.<sup>4011</sup> Given his position as deputy warden of the Heliodrom, it is entirely implausible, according to the Pušić Defence, that *Josip Praljak* would not have been aware of the mistreatment detainees were suffering.<sup>4012</sup> The Ćorić Defence also indicated that it regarded the credibility of *Witness Josip Praljak* as highly questionable and observed that there were some contradictions in his testimony.<sup>4013</sup> It notes that *Josip Praljak* initially stated that he did not hear of a single instance where any detainees from the Heliodrom were mistreated or died, but later stated that he heard that detainees had sustained wounds or were killed.<sup>4014</sup> Like the Pušić and Ćorić Defence teams, the Chamber holds that *Josip Praljak* was not credible when he testified about the acts of violence committed against the Heliodrom detainees and observes that his testimony is in total contradiction to the events reported by numerous detainees. The Chamber has consequently decided not to take account of the testimony of *Josip Praljak* on this point.

1590. According to *Witness DV*, the detainees he saw during his visit to the Heliodrom on 20 May 1993<sup>4015</sup> showed no signs of "mistreatment."<sup>4016</sup> *Witness II* indicated that no one had "personally"

<sup>4003</sup> P 09805 under seal, p. 7; *Witness CT*, T(F), p. 12179, private session; Mustafa Hadrović, T(F), p. 14584; Ibrahim Šarić, T(F), pp. 5111-5113; *Witness U*, P 10220 under seal, *Naletilić and Martinović Case*, T(F), p. 2963; P 09989, p. 6; *Witness HH*, P 10113 under seal, *Naletilić and Martinović Case*, T(F), p. 4820; P 09502 under seal, p. 1.

<sup>4004</sup> Ibrahim Šarić, T(F), pp. 5111-5113; *Witness TT*, P 09879 under seal, *Naletilić and Martinović Case*, T(F), pp. 6649 and 6650; P 09502 under seal, p. 1.

<sup>4005</sup> P 10032, para. 25; *Witness HH*, P 10113 under seal, *Naletilić and Martinović Case*, T(F), p. 4820.

<sup>4006</sup> Muslim detainee held at the Heliodrom from 13 December 1993 to 19 April 1994; P 09989, pp. 5 and 6; P 09925, p. 5.

<sup>4007</sup> P 09989, p. 6.

<sup>4008</sup> P 09805 under seal, p. 6.

<sup>4009</sup> P 09805 under seal, p. 7; *Witness CT*, T(F), p. 12179 private session.

<sup>4010</sup> *Josip Praljak*, T(F), pp. 14850-14851.

<sup>4011</sup> Pušić Defence Final Trial Brief, para. 427.

<sup>4012</sup> Pušić Defence Final Trial Brief, para. 430.

<sup>4013</sup> Ćorić Defence Final Trial Brief, paras 433 and 724-734.

<sup>4014</sup> Ćorić Defence Final Trial Brief, para. 730.

<sup>4015</sup> *Witness DV*, T(F), p. 22872; P 10217 under seal, para. 67.

<sup>4016</sup> *Witness DV*, T(F), p. 22872; P 10217 under seal, para. 69.



beaten him at the Heliodrom but only, on one occasion, while he was working outside the camp.<sup>4017</sup> The Chamber notes that the observations of *Witness DV* are limited to a single one-day visit to the Heliodrom on 20 May 1993 and that *Witness II* did not say anything about any violence suffered by his co-detainees. The Chamber holds consequently that these two witness statements do not contradict all the analysed evidence attesting to violence suffered by the Heliodrom detainees.

1591. In view of the evidence, the Chamber finds that from May 1993 to mid-April 1994, the members of the Military Police responsible for guarding the detainees<sup>4018</sup> regularly and brutally beat the Heliodrom detainees, sometimes for hours on end, with implements and until the detainees lost consciousness; they also insulted, threatened and humiliated them. Members of the HVO armed forces, including those of KB professional units and the *Bruno Bušić* Regiment as well as other individuals unidentified by the evidence also brutally and regularly beat the Heliodrom prisoners.

## V. Forced Labour Performed by Detainees

1592. In paragraphs 127 to 130 of the Indictment it is alleged that the Muslim men being held at the Heliodrom were taken by the HVO on a virtually daily basis to perform forced labour at various locations in the Mostar region, including the Mostar confrontation line and the Vojno detention centre. Such work is said to have been carried out under dangerous conditions and many Muslim detainees were killed or injured. The detainees were also mistreated while they were performing forced labour.

1593. The Chamber will (A) analyse the use of the Heliodrom detainees by HZ H-B/HVO forces to perform forced labour; it will (B) consider the detainees killed or wounded during forced labour; and (C) the treatment of the detainees during forced labour. All the allegations of forced labour performed by the Heliodrom detainees at the Vojno detention centre and about the treatment of detainees during forced labour will be examined below in the part on the Vojno detention centre.

### A. Use of Heliodrom Detainees for Work

1594. The Chamber heard the testimony of *Witness NO*<sup>4019</sup> who stated that the Heliodrom detainees were never used either for the defence of the town of Mostar or on the front line.<sup>4020</sup> He

<sup>4017</sup> Witness II, P 10218 under seal, *Naletilić and Martinović* Case, T(F), p. 5127.

<sup>4018</sup> The Chamber recalls that it has already found that members of the Military Police were responsible for detainee surveillance at the Heliodrom. See "Authorities in Charge of Security at the Heliodrom" in the Chamber's factual findings with regard to the Heliodrom.

<sup>4019</sup> Member of the Military Police and then member of the HVO armed forces at Mostar from July 1993 onwards, Witness NO, T(F), pp. 51180, 51182, 51210, 51225 and 51226, closed session; 5D 05110 under seal, paras 3 and 7–9.

<sup>4020</sup> Witness NO, T(F), pp. 51226, 51236, 51237, 51242, 51263, 51267, 51268 and 51270, closed session.

also asserted that it was not permitted to send detainees to fortify the front line.<sup>4021</sup> According to him, the orders dealing with labour to be performed by "detainees" were only for "communal service work",<sup>4022</sup> including maintaining roads and buildings, removing rubble after shelling, picking up broken glass and other debris following various military operations, and fortifying and protecting buildings.<sup>4023</sup> According to *Witness NO*, such labour was carried out together with the civil protection people.<sup>4024</sup>

1595. However, the Chamber lends no credence to this testimony on this point since it has been clearly contradicted by all the evidence. The Chamber finds trustworthy the testimony of many *viva voce* witnesses<sup>4025</sup> or testimony admitted under Rule 92 *bis* of the Rules<sup>4026</sup> from former Heliodrom detainees who were compelled to perform forced labour other than the types of labour acknowledged by *Witness NO*. What is more, this abundant testimony has been corroborated not only by evidence from international organisations present in the field at the time of the events, such as the ICRC, but also by reports and other documents issued by the HVO authorities.

1596. All the evidence indicates, for example, that between May 1993 and March 1994, the HVO sent Heliodrom detainees out to perform forced labour in Mostar in Šantićeva Street and in Bulevar, where the front line between the HVO and the ABiH was.<sup>4027</sup> This labour consisted of reinforcing

<sup>4021</sup> Witness NO, T(F), p. 51268, closed session; 5D 05110 under seal, para. 13.

<sup>4022</sup> Witness NO, T(F), pp. 51231 and 51267, closed session.

<sup>4023</sup> Witness NO, T(F), pp. 51231 and 51267, closed session; 5D 05110 under seal, para. 13.

<sup>4024</sup> Witness NO, T(F), p. 51263, closed session.

<sup>4025</sup> For example, Alija Lizde, Witness CV, Witness CW and Mustafa Hadrović.

<sup>4026</sup> For example, Witness AC, Witness TT, Witness OO, Witness RR and Witness HH.

<sup>4027</sup> Witness AC, P10222 under seal, *Naletilić and Martinović* Case, T(F), p. 7917; Witness TT, P 09879 under seal, *Naletilić and Martinović* Case, T(F), pp. 6650 and 6651; Alija Lizde, T(F), p. 17793; Witness RR, P 09872 under seal, *Naletilić and Martinović* Case, pp. 6467 to 6469; Witness NN, P 10219 under seal, *Naletilić and Martinović* Case, T(F), pp. 5889, 5900, 5901, 5903 and 5904; Witness U, P 10220 under seal, *Naletilić and Martinović* Case, T(F), p. 2959; Witness EJ, P 10227, *Naletilić and Martinović* Case, T(F), pp. 1502-1503, 1535, 1540; Witness HH, P 10113 under seal, *Naletilić and Martinović* Case, T(F), pp. 4836 and 4837; P 10233, paras 38 and 39; P 10234, pp. 2 and 3; P 10032, paras 20 and 24; Witness II, P 10218 under seal, *Naletilić and Martinović* Case, T(F), pp. 4957 and 4960; Witness CV, T(F), p. 12572, private session; P 02921; Josip Praljak, T(F), p. 14749; P 09867 under seal, p. 15; P 09867 under seal, p. 15; P 10032, p. 8, para. 24; P 02921; Josip Praljak, T(F), p. 14749; Miro Salčin, T(F), pp. 14176, 14177; Witness OO, P 10224 under seal, *Naletilić and Martinović* Case, T(F), pp. 5938-5941, 5947, 6044 and 6045; Witness PP, P 10223 under seal, *Naletilić and Martinović* Case, T(F), pp. 6079-6081 and 6167; P 07636, p. 1; 3D 01747, p. 1; P 00284, pp. 3 and 4; P 05008, pp. 1 and 2; P 04824; P 05091, para. 22; Witness W, P 09875 under seal, *Naletilić and Martinović* Case, T(F), pp. 3174, 3206, 3209, 3210 and p. 3212; P 05731, p. 6; P 10213, par 12; P 10233, para. 38; P 10234, p. 3; P 10208, para 24; Witness PP, P 10223 under seal, *Naletilić and Martinović* Case, T(F), p. 6080; P 09502 under seal, p. 2; Peter Galbraith, T(F), p. 6495. *See also* Peter Galbraith, T(F), p. 6712; Salko Osmić, P 09876 under seal, *Naletilić and Martinović* Case, T(F), pp. 3144 and 3147; P 10229, p. 3, para. 13; P 10122, paras 8-11; P 10206, under seal, paras 5-7 and 13; P 09726, pp. 5-6; 2D 00285, p. 4; Mustafa Hadrović, T(F), pp. 14591 and 14592; P 09807 under seal, pp. 7 and 8; P 09806 under seal, p. 3; P 09781, p. 3; P 09990, p. 6; Decision of 7 September 2006, adjudicated facts nos 169 and 187 (*Naletilić* Judgement, paras 295, 302 and 303); P 10210 under seal, p. 6, para. 24; P 07895, p. 1; Witness CM, T(F), pp. 11169 and 11170, private session; P 08079 under seal, p. 2; Zoran Buntić, T(F), pp. 30988 and 30989; P 09502 under seal, pp. 1 and 2; P 00284, pp. 3 and 4; P 05563; P 07629, p. 1; P 07660, p. 1; P 07799, p. 1; Ismet Poljarević, T(F), p. 11574; P 10037, para. 33; P 03391, p. 3.

or constructing fortifications, or collecting the bodies of HVO soldiers or of Muslims killed during work on the front line.<sup>4028</sup>

1597. Witness HH<sup>4029</sup> stated that on 13 or 14 July 1993, he was taken by HVO and HV soldiers<sup>4030</sup> to the Rašica and Borovnici sector, commonly known as "Bada and Nada", situated at the exit from the town of Mostar at the junction between the main road to Dubrovnik and a local road to Nevesinje, on the front line between the HVO and the ABiH.<sup>4031</sup>

1598. The detainees were also compelled to work on the front line at Raštani<sup>4032</sup> where they had to collect the bodies of HV soldiers.<sup>4033</sup>

1599. The evidence indicates that the HVO Military Police took detainees from the Heliodrom<sup>4034</sup> out to work for various units of the HVO armed forces, for whom they performed forced labour, in particular for the ATG of Vinko Martinović, also known as "Štela",<sup>4035</sup> the KB,<sup>4036</sup> the 2<sup>nd</sup> Battalion of the 2<sup>nd</sup> HVO Brigade,<sup>4037</sup> and the 3<sup>rd</sup> and 4<sup>th</sup> Battalions of the 3<sup>rd</sup> HVO Brigade.<sup>4038</sup>

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<sup>4028</sup> Witness AC, P 10222 under seal, *Naletilić and Martinović* Case, T(F), pp. 7917 and 7919; Witness GG, P10020 under seal, *Naletilić and Martinović* Case, T(F), p. 4753; Witness TT, P 09879 under seal, *Naletilić and Martinović* Case, T(F), pp. 6650 and 6651; Alija Lizde, T(F), p. 17793; P 10233, para. 11; Witness RR, P 09872 under seal, *Naletilić and Martinović* Case, T(F), pp. 6467-6469; Witness NN, P 10219 under seal, *Naletilić and Martinović* Case, T(F), pp. 5889, 5900 and 5901; Witness U, P 10220 under seal, *Naletilić and Martinović* Case, T(F), p. 2959; Witness EJ, P 10227, *Naletilić and Martinović* Case, T(F), pp. 1504 and 1505; Witness II, P 10218 under seal, *Naletilić and Martinović* Case, T(F), p. 4970; P 10032, p. 8, para. 24; Witness CV, T(F), p. 12572, private session; Witness OO, P 10224 under seal, *Naletilić and Martinović* Case, T(F), pp. 5940 and 5964; P 05091, para. 22; Witness NN, P 10219 under seal, *Naletilić and Martinović* Case, T(F), pp. 5900 and 5901; P 10213, paras 15, 16, 17, 18 and Annex 1, no. 9 shows the site of the machine gun and no. 11 the houses that were fired on; P 10208, para. 23; Witness PP, P 10223 under seal, *Naletilić and Martinović* Case, T(F), pp. 6080 and 6086-6088; P 09502 under seal, p. 2; Salko Osmić, P 09876 under seal, *Naletilić and Martinović* Case, T(F), p. 3147; P 10229, p. 4, paras 15 and 16; P 10122, paras 8 and 11; P 10206, under seal, para. 6; P 09726, pp. 5 and 6; 2D 00285, p. 4; Mustafa Hadrović, T(F), pp. 14591 and 14592; Witness CW, T(F), pp. 12671 and 12672, closed session; P 09807 under seal, pp. 7 and 8; Decision of 7 September 2006, Adjudicated Fact no. 295 (*Naletilić* Judgement, para. 295); P 00284, p. 3; P 10037, para. 33.

<sup>4029</sup> Member of the ABiH held at the Heliodrom from 27 May 1993 to 28 July 1993; Witness HH, P 10113 under seal, *Naletilić and Martinović* Case, T(E), p. 4893; T(F), pp. 4785 and 4859 open session, and p. 4882 private session.

<sup>4030</sup> Witness HH, P 10113 under seal, *Naletilić and Martinović* Case, T(F), p. 4841.

<sup>4031</sup> Witness HH, P 10113 under seal, *Naletilić and Martinović* Case, T(F), pp. 4833-4835.

<sup>4032</sup> Decision of 7 September 2006, Adjudicated Fact no. 187 (*Naletilić* Judgement, paras 302 and 303).

<sup>4033</sup> Witness HH, P 10113 under seal, *Naletilić and Martinović* Case, T(F), p. 4836.

<sup>4034</sup> Witness U, P 10220 under seal, *Naletilić and Martinović* Case, T(F), p. 2961; P 05343; see also "Authorities Responsible for and Informed about Use of Heliodrom Detainees as Forced Labour" in the Chamber's factual findings with regard to the Heliodrom.

<sup>4035</sup> In the part on the structure of the HVO armed forces at Mostar, the Chamber has held that the *Mrmak* ATG became the *Vinko Škrobo* ATG; see "Organisation of the KB and its ATGs" in the Chamber's factual findings with regard to the military structure of the HZ(R) H-B. Moreover, Mustafa Salman identified Vinko Knezović as being a member of the Štela unit; P 10234, p. 2. See also: Witness EJ, P 10227, *Naletilić and Martinović* Case, T(F), pp. 1502-1503, 1535, 1540; Witness HH, P 10113 under seal, *Naletilić and Martinović* Case, T(F), p. 4837; P 10234, pp. 2 and 3; Witness II, P 10218 under seal, *Naletilić and Martinović* Case, T(F), pp. 4957 and 4960; Witness OO, P 10224 under seal, *Naletilić and Martinović* Case, T(F), pp. 5940-5941, 5947 and pp. 6044-6045; Witness PP, P 10223 under seal, *Naletilić and Martinović* Case, T(F), pp. 6080-6082 and p. 6167; Witness W, P 09875 under seal, *Naletilić and Martinović* Case, T(F), p. 3274; P 10229, p. 3, para. 13; Witness U, P 10220 under seal, *Naletilić and Martinović* Case, T(F), pp. 2939 and 2962; P 10233, para. 37; P 06999, p. 2; P 04181.

1600. Exposed to military confrontation, some detainees were wounded or killed while performing forced labour on the front line,<sup>4039</sup> including several representative victims of paragraph 130 of the Indictment.<sup>4040</sup>

1601. For example, *Witness EJ*<sup>4041</sup> explained that every time the detainees were taken out for work on the front line, they were exposed to firing.<sup>4042</sup> While he was working in Šantićeva Street, a fellow detainee of *Witness EJ*, Enver Puzić from Stolac, was killed by gunfire as he tried to repair fortifications and shelters for the HVO.<sup>4043</sup> The death of Enver Puzić is confirmed in a report dated 6 January 1994 sent by Stanko Božić to Berislav Pušić.<sup>4044</sup>

1602. *Mujo Čopelj*<sup>4045</sup> moreover testified that on about 15 August 1993, while he was working with 100 other detainees on the front line in Šantićeva Street under armed threat by HVO soldiers, 88 detainees, including Semir Omerika, were shot and wounded by the ABiH.<sup>4046</sup> The wounding of

<sup>4036</sup> P 10206, under seal, paras 5-8 and 13; P 10122, para. 9; Witness W, P 09875 under seal, *Naletilić and Martinović* Case, T(F), pp. 3216-3220.

<sup>4037</sup> Witness CW explained that Ivo Zelenika was the commander of the anti-terrorist unit of the 2<sup>nd</sup> Battalion; P 09807 under seal, p. 8. Several witnesses referred to someone known as Ivan Zelenika. The Chamber is of the view that Ivan and Ivo Zelenika are in fact the same person. P 02921 under seal; Josip Praljak, T(F), p. 14749; P 10206, under seal, para. 6; *Witness NN*, P 10219 under seal, *Naletilić and Martinović* Case, T(F), pp. 5903 and 5904; P 10206, under seal, para. 13; P 04221.

<sup>4038</sup> In the part concerning the armed forces of the HVO at Mostar, the Chamber has already determined that the 9<sup>th</sup> Battalion became the 3<sup>rd</sup> Battalion of the 3<sup>rd</sup> HVO Brigade around August 1993; See “The Armed Forces of the HVO” in the Chamber’s factual findings with regard to the military structure of the HZ(R) H-B. In this same section, the Chamber determined that the 4<sup>th</sup> Battalion of the 3<sup>rd</sup> Brigade was also deployed in Mostar; The witnesses who referred to forced labour performed for the 4<sup>th</sup> Battalion did not provide any further detail. However, the Chamber holds that it can find that this was indeed the 4<sup>th</sup> Battalion of the 3<sup>rd</sup> Brigade. Witness Mustafa Salman identified Miro Primorac as belonging to the 4<sup>th</sup> Battalion: P 10234, p. 2. P 09807 under seal, p. 7; Božo Pavlović, T(F), pp. 47019-47029 and 47033; P 01765, pp. 17, 19, 21, 29, 41, and 45-47; P 10229, p. 4, para. 15; P 10206, under seal, paras 5-6 and 12.

<sup>4039</sup> Witness Y, P 09873 under seal, *Naletilić and Martinović* Case, revised version of T(F), pp. 49 and 104; P 10032, p. 8 (para. 24); 3D 01747, p. 1; P 05008, pp. 1 and 2; P 09502 under seal, pp. 1 and 2; Witness C, T(F), p. 22454 closed session; P 05731, p. 6; P 10213, para. 20 and Annex 1, no. 15 showing the site where the witness was wounded; Salko Osmić, P 09876 under seal, *Naletilić and Martinović* Case, T(F), pp. 3147 and 3166; P 10206, under seal, para. 6; P 10210 under seal, p. 6, para. 24; P 00284, p. 4; P 07629, p. 1; P 07660, p. 1; Ismet Poljarević, T(F), pp. 11574, 11621 and 11627; P 07498; P 03414, p. 1; P 04181.

<sup>4040</sup> P 09781, p. 3; P 09990, pp. 5-7; P 09867 under seal, pp. 14 and 15; P 10233, paras 10, 11, 18, 20, 35-37; P 10234, p. 3; P 04824; P 10213, paras 2, 5, 20 and 23; P 10213, Annex 1, no. 15 showing the site where the victim was wounded and could not see the bodies of the Muslim prisoners who had been killed; P 10208, paras 1, 13, 23 and 27; Witness PP, P 10223 under seal, *Naletilić and Martinović* Case, T(F), pp. 6070, 6079, 6087 and 6157; P 10229, p. 4, para. 15, p. 5, paras 17 and 18 and p. 6, paras 21 and 22; P 10122, paras 9 and 12; P 05324; P 05343; P 07787, p. 2 - identical to P07798; Witness HH, P 10113 under seal, *Naletilić and Martinović* Case, T(F), p. 4909; P 07895, p. 1; P 04221.

<sup>4041</sup> HVO Muslim soldier held at the Heliudrom camp from 21 July 1993 to about 17 September 1993; Witness EJ, P 10227, *Naletilić and Martinović* Case, T(F), pp. 1500, 1513, 1543 and 1528; P 10208, paras 1, 13, 23 and 27.

<sup>4042</sup> Witness EJ, P 10227, *Naletilić and Martinović* Case, T(F), p. 1505.

<sup>4043</sup> Witness EJ, P 10227, *Naletilić and Martinović* Case, T(F), p. 1505.

<sup>4044</sup> P 07498, p. 1.

<sup>4045</sup> Muslim member of the HVO held at the Heliudrom between 30 June and 21 December 1993; P 10032, p. 2, para. 5 and p. 7, para. 19.

<sup>4046</sup> P 10032, p. 8, para. 24.

Semir Omerika is confirmed in a report of the Military Police Administration dated 14 August 1994.<sup>4047</sup>

### **B. Detainees Killed or Wounded during Forced Labour**

1603. Several dozen detainees exposed to military confrontation were killed<sup>4048</sup> or wounded<sup>4049</sup> while performing forced labour on the front line. Some of the detainees were killed<sup>4050</sup> or wounded<sup>4051</sup> by HVO forces themselves.

1604. The evidence makes it possible for the Chamber to find that the following detainees, representative victims of paragraph 130 of the Indictment, were killed while performing forced labour on the front line at Mostar: Semir Berić,<sup>4052</sup> Adis Brković,<sup>4053</sup> Semir Čehajić,<sup>4054</sup> Emir Čolić,<sup>4055</sup> Ašim Drljević,<sup>4056</sup> Ibrahim Filandra,<sup>4057</sup> Saša Grabovac,<sup>4058</sup> Zahid Hadžić,<sup>4059</sup> Azim Karadžuz,<sup>4060</sup> Zuka Hajrović,<sup>4061</sup> Huso Ljević,<sup>4062</sup> Sakib Malahasić,<sup>4063</sup> Ramiz Mehmedović,<sup>4064</sup>

<sup>4047</sup> P 08428, p. 20.

<sup>4048</sup> Witness NO, T(F), pp. 51235–51237, 51263 and 51270 closed session; P 05907; P 10052, p. 1; Witness Y, P 09873 under seal, *Naletilić and Martinović* Case, revised version of T(F), pp. 103 and 104, *see also* T(E), p. 3461; Witness EJ, P 10227, *Naletilić and Martinović* Case, T(F), p. 1505; Witness II, P 10218 under seal, *Naletilić and Martinović* Case, T(F), pp. 4970, 4971 and 5124; P 10032, p. 8, para. 24; P 09867 under seal, p. 15; 3D 01747, p. 1; P 05008, pp. 1 and 2; P 10233, para. 36; P 10234, p. 3; P 10213, paras. 12, 20, 23 and Annex 1, no. 15 showing the site where the witness was wounded and could not see the bodies of the Muslim prisoners who were killed; P 10208, para. 23; Witness PP, P 10223 under seal, *Naletilić and Martinović* Case, T(F), pp. 6081-6083, 6175 and 6176; P 09502 under seal, p. 2; Peter Galbraith, T(F), p. 6495; P 10229, p. 5, para. 17, and p. 6, paras 21 and 22; P 10122, paras 9 and 13; P 10206, under seal, para. 6; Ismet Poljarević, T(F), pp. 11574, 11621 and 11627; P 07498; Mustafa Hadrović, T(F), pp. 14594, 14596 and 14597; P 09781, p. 3; P 09990, p. 6; P 05324; P 05343; P 10210 under seal, p. 6, para. 24; Witness CQ, T(F), p. 11485; P 06848; Josip Praljak, T(F), pp. 14790, 14801, 14802 and 14953; P 07787, p. 2 - identical to P 07798); P 08079 under seal, p. 2.

<sup>4049</sup> Witness II, P 10218 under seal, *Naletilić and Martinović* Case, T(F), pp. 4957 and 4960; P 10032, p. 8, para. 24; Witness BZ, T(F), pp. 9949, 9953, closed session; P 09727 under seal, p. 5; P 03171; P 03435; Josip Praljak, T(F), pp. 14766 and 14767; P 03942; Josip Praljak, T(F), pp. 14777-14778; P 04512; Josip Praljak, T(F), p. 14783; P 04500; Josip Praljak, T(F), pp. 14783 and 14784; Witness U, P 10220 under seal, *Naletilić and Martinović* Case, T(F), p. 2963; 3D 01747, p. 1; P 05008, pp. 1 and 2; Witness C, T(F), p. 22454 closed session; P 05731, p. 6; P 10234, p. 3; P 10233, para. 31; P 10213, para. 21; Witness PP, P 10223 under seal, *Naletilić and Martinović* Case, T(F), pp. 6081-6083, 6175 and 6176; Salko Osmić, P 09876 under seal, *Naletilić and Martinović* Case, T(F), pp. 3147 and 3166; P 10229, p. 4, para.15; P 10206, under seal, para. 6; P 10122, para. 12; P 09781, p. 3; P 10210 under seal, p. 6, para. 24; Witness CQ, T(F), p. 11485; P 06848; Josip Praljak, T(F), pp. 14790, 14801, 14802 and 14953; P 07787, p. 2 - identical to P 07798.

<sup>4050</sup> Witness PP, P 10223 under seal, *Naletilić and Martinović* Case, T(F), p. 6087; P 09807 under seal, p. 8; Witness CM, T(F), pp. 11169 and 11170.

<sup>4051</sup> P 09867 under seal, p. 15; P 09807 under seal, pp. 8 and 9.

<sup>4052</sup> P 07498, p. 1.

<sup>4053</sup> P 07498, p. 1.

<sup>4054</sup> P 10208, para. 23; Mustafa Hadrović, T(F), p. 14594; P 05343.

<sup>4055</sup> P 10122, para. 9; P 09807 under seal, p. 8.

<sup>4056</sup> P 07498, p. 1.

<sup>4057</sup> P 07498, p. 2.

<sup>4058</sup> P 07498, p. 1.

<sup>4059</sup> P 07498, p. 1.

<sup>4060</sup> P 05324.

<sup>4061</sup> P 09807 under seal, p. 8; P 07498, p. 2.

<sup>4062</sup> Mustafa Hadrović, T(F), p. 14594; P 07498, p. 1; P 04221.

<sup>4063</sup> P 07498, p. 2.

<sup>4064</sup> P 07498, p. 2.

Veledin Mezetović,<sup>4065</sup> Muhamed Muminagić,<sup>4066</sup> Mehmed Muminagić,<sup>4067</sup> Nedžad Nožić,<sup>4068</sup> Semir Perić,<sup>4069</sup> Enver Pužić,<sup>4070</sup> Remza Sabljčić,<sup>4071</sup> Avdo Selimanović,<sup>4072</sup> Ahmet Hajrić,<sup>4073</sup> Nesib Halilović,<sup>4074</sup> Salem Hurseinović,<sup>4075</sup> Elmir Jazvin,<sup>4076</sup> Irfan Torle,<sup>4077</sup> and Mehmed Tumbić.<sup>4078</sup>

1605. The Chamber is also in a position to find that the following detainees, representative victims of paragraph 130 of the Indictment, were wounded while performing forced labour on the front line at Mostar: Hasan Bečirević,<sup>4079</sup> Ibro Ćilić,<sup>4080</sup> Dervo Ćolaković,<sup>4081</sup> Osman Elezović,<sup>4082</sup> Adi Fejzić,<sup>4083</sup> Nijaz Kladaušak,<sup>4084</sup> and Nedžad Kubić.<sup>4085</sup>

### **C. Treatment of Detainees during Forced Labour**

1606. In paragraph 125 of the Indictment, it is alleged that Herceg-Bosna/HVO forces regularly mistreated, abused, inflicted cruel treatment and great suffering on the Muslim detainees at the Heliudrom or allowed others to do so.<sup>4086</sup>

1607. Several former Heliudrom detainees stated that they were regularly beaten and insulted by HVO soldiers while they were performing forced labour.<sup>4087</sup>

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<sup>4065</sup> P 07498, p. 1.

<sup>4066</sup> P 05907.

<sup>4067</sup> P 07498, p. 1.

<sup>4068</sup> P 10208, para. 23; P 05343; P 07498, p. 1.

<sup>4069</sup> P 07498, p. 1.

<sup>4070</sup> Mustafa Hadrović, T(E), p. 14594; Witness EJ under seal, P 10227, *Naletilić and Martinović* Case, T(F), p. 1505; P 07498, p. 1; P 10208, para. 23.

<sup>4071</sup> Mustafa Hadrović, T(E), p. 14594; P 07498, p. 1; P 10229, p. 5, para. 17.

<sup>4072</sup> P 07498, p. 1.

<sup>4073</sup> P 07498, p. 1.

<sup>4074</sup> P 07498, p. 1.

<sup>4075</sup> P 07498, p. 1.

<sup>4076</sup> P 07787, p. 2 - identical to P 07798; P 08079 under seal, p. 2.

<sup>4077</sup> P 07498, p. 1.

<sup>4078</sup> P 07498, p. 1.

<sup>4079</sup> P 04500.

<sup>4080</sup> P 04500; P 03171.

<sup>4081</sup> P 04221.

<sup>4082</sup> P 07787, p. 2 - identical to P 07798.

<sup>4083</sup> P 04512.

<sup>4084</sup> P 04500; Witness BZ, T(F), p. 9953 closed session; P 09727 under seal, p. 5.

<sup>4085</sup> P 04221.

<sup>4086</sup> The Prosecution also submitted the names of 3 representative victims of paragraph 125 of the Indictment for the mistreatment they suffered during forced labour. The Chamber has, however, found no reference to the three representative victims in the evidence in the case file.

<sup>4087</sup> Witness TT, P 09879 under seal, *Naletilić and Martinović* Case, T(F), p. 6651; Witness W, P 09875 under seal, *Naletilić and Martinović* Case, T(F), pp. 3216 to 3220; P 09807 under seal, pp. 8 and 9; P 09781, p. 3; P 10213, paras 9, 12 and 20; Witness PP, P 10223 under seal, *Naletilić and Martinović* Case, T(F), p. 6091; P 10234, p. 2; Decision of 7 September 2006 Adjudicated Fact no. 179 (*Naletilić* Judgement, para. 270); Witness OO, P 10224 under seal, *Naletilić and Martinović* Case, T(F), pp. 5959 and 5960; Witness NN, P 10219 under seal, *Naletilić and Martinović* Case, T(F), pp. 5893-5895; P 10206, under seal, para. 9; P 06729, p. 5; Witness U, P 10220 under seal, *Naletilić and Martinović* Case, T(F), pp. 2939, 2940, 2965 and 2966.

1608. *Šefik Ratkušić* stated that on 13 August 1993, while he was working with some 30 other Heliodrom detainees in Šantićeva Street, an HVO soldier yelled at them and fired a burst of gunfire over their heads.<sup>4088</sup>

1609. An ICRC letter dated 16 March 1994 sent to *Marijan Biškić*,<sup>4089</sup> *Jadranko Prlić*, *Željko Šiljeg* and *Ante Roso* indicates that on 1 January 1994, a group of Heliodrom detainees was taken out to Šantićeva Street in Mostar to perform forced labour.<sup>4090</sup> According to the letter, soldiers put out their cigarettes on their bodies and beat them.<sup>4091</sup>

1610. The witnesses identified the ATG soldiers of *Vinko Martinović*, aka "Štela" – including "Štela" himself<sup>4092</sup> – soldiers from the 2<sup>nd</sup> Battalion of the 2<sup>nd</sup> HVO Brigade<sup>4093</sup> and members of the KB<sup>4094</sup> as the perpetrators of the mistreatment.

1611. Mention is also made in a report of the HR H-B Military Police Administration, dated 12 August 1994, of Muslim detainees being "mistreated" on numerous occasions in the summer and autumn of 1993 and in early 1994 while carrying out forced labour.<sup>4095</sup> The report identifies in particular the 2<sup>nd</sup> Battalion of the 3<sup>rd</sup> Brigade and the 2<sup>nd</sup> Battalion of the 2<sup>nd</sup> Brigade as being responsible for those acts.<sup>4096</sup>

1612. This evidence makes it possible for the Chamber to find that members of the 2<sup>nd</sup> Battalion of the 2<sup>nd</sup> HVO Brigade and of the 2<sup>nd</sup> Battalion of the 3<sup>rd</sup> HVO Brigade, as well as members of the KB and the ATG of *Vinko Martinović* – including *Vinko Martinović* himself – hit, physically abused and insulted the Heliodrom detainees while they were performing forced labour.

## VI. Use of Detainees as Human Shields

1613. In paragraph 129 of the Indictment, it is alleged that on a number of occasions, Herceg-Bosna/HVO forces used Muslim detainees as human shields, placing them between HVO and

<sup>4088</sup> P 10229, p. 6, para. 21.

<sup>4089</sup> Officially appointed by *Jadranko Prlić* on 1 December 1993 as Deputy Minister for Security and the HVO Military Police in the HR H-B Ministry of Defence; *Marijan Biškić*, T(F), pp. 15039, 15048 and 15049; P 07236, p. 2, art. 4; P 06994; P 06998, p. 1.

<sup>4090</sup> P 08079 under seal, p. 2.

<sup>4091</sup> P 08079 under seal, p. 2.

<sup>4092</sup> Witness TT, P 09879 under seal, *Naletilić and Martinović* Case, T(F), pp. 6650 and 6651; Witness W, P 09875 under seal, *Naletilić and Martinović* Case, T(F), pp. 3216-3220; Witness OO, P 10224 under seal, *Naletilić and Martinović* Case, T(F), pp. 5942, 5947 and 5948; Witness U, P 10220 under seal, *Naletilić and Martinović* Case, T(F), p. 2966.

<sup>4093</sup> P 09807 under seal, pp. 8 and 9.

<sup>4094</sup> P 10206 under seal, para. 9.

<sup>4095</sup> P 08428, pp. 4, 8, 26, 29 and 30.

<sup>4096</sup> P 08428, pp. 4 and 30.

ABiH forces or making them walk in front of advancing HVO forces. On some occasions, Muslim detainees were given wooden rifles or were made to look like HVO soldiers and forced to walk toward ABiH positions in order to draw fire and assist the HVO in identifying ABiH positions. In its Pre-Trial Brief, the Prosecution noted that on 17 September 1993, the *Vinko Škrobo* ATG used four Heliodrom detainees equipped with wooden rifles as human shields in Mostar.<sup>4097</sup>

1614. In paragraph 130 of the Indictment, the Prosecution also alleges that "the use of Bosnian Muslim detainees held at the Heliodrom in forced labour or as human shields resulted in at least 56 Muslim detainees being killed and at least 178 being wounded".

1615. After (A) analysing the evidence showing the use of the Heliodrom detainees as human shields, the Chamber will (B) examine the allegations that detainees were wounded and (C) killed while serving as human shields.

#### **A. Use of Heliodrom Detainees as Human Shields**

1616. As a preliminary matter, the Chamber notes that it only has evidence on the use of the Heliodrom detainees as human shields for the months of July to September 1993.

1617. All the evidence shows that the Heliodrom detainees were used as "human shields" on the Mostar front line<sup>4098</sup> in July, August and September 1993<sup>4099</sup> by the *Vinko Škrobo* ATG.<sup>4100</sup>

<sup>4097</sup> Prosecution Pre-Trial Brief, paras 129.1, 129.2, 129.3 and 129.4. The Chamber notes that in paragraphs 129.5 and 129.6 of its Pre-Trial Brief, the Prosecution refers to incidents of illegal work and not to the use of detainees as human shields.

<sup>4098</sup> Salko Osmić, P 09876 under seal, *Naletilić and Martinović* Case, T(F), p. 3146; Witness OO, P 10224 under seal, *Naletilić and Martinović* Case, T(F), pp. 5947-5951; P 10122, para. 10; Miro Salčin, T(F), p. 14176; Witness X, P 09874, under seal, *Naletilić and Martinović* Case, T(F), p. 3333; Witness D, P 09870 under seal, *Naletilić and Martinović* Case, T(F), pp. 921 and 942, private session; P 10035, para. 15; P 09946 under seal, para. 73; P 09867 under seal, p. 15; Witness II, P 10218 under seal, *Naletilić and Martinović* Case, T(F), p. 4982, private session; Ibrahim Šarić, T(F), p. 5114; Witness HH, P 10113 under seal, *Naletilić and Martinović* Case, T(F), p. 4844; Witness AC, P 10222 under seal, *Martinović and Naletilić* Case, T(F), pp. 7922 and 7924; Witness EJ, P 10227 under seal, *Naletilić and Martinović* Case, T(F), pp. 1518, 1520, 1549, 1553; P 07636, p. 1.

<sup>4099</sup> P 05079, p. 1; P 07636, p. 1; Miro Salčin, T(F), pp. 14174-14177; P 09834, para. 11; IC 00419; Ibrahim Šarić, T(F), p. 5114; P 09867 under seal, p. 15; P 10122, para. 10; Salko Osmić, P 09876 under seal, *Naletilić and Martinović* Case, T(F), pp. 3134, 3143 and 3147; Witness HH, P 10113 under seal, *Naletilić and Martinović* Case, T(F), pp. 4841, 4842, 4844 and 4928; Witness EJ, P 10227 under seal, *Naletilić and Martinović* Case, T(F), pp. 1514, 1518-1520, 1549 and 1553; P 10233, para. 27; P 10234, p. 2; P 10213, paras 7-11; P 10121, para. 2; P 10122, paras 1 and 10; Witness OO, P 10224 under seal, *Naletilić and Martinović* Case, T(F), pp. 5947-5951 and 5983; Witness PP, P 10223 under seal, *Naletilić and Martinović* Case, T(F), pp. 6088, 6096 and 6172. See also Witness II, P 10218 under seal, *Naletilić and Martinović* Case, T(F), pp. 4954, 4957, 4958, 4960, public session and 4982, private session; Decision of 7 September 2006, adjudicated facts nos 185 and 186 (*Naletilić* Judgement, paras 276 and 290).

<sup>4100</sup> For the post of Vinko Martinović aka "Štela", as commander of the *Vinko Škrobo* ATG (formerly called the *Mrmak* ATG), see "Organisation of the KB and its ATGs" in the Chamber's factual findings with regard to the military structure of the HZ(R) H-B.



1618. *Witness HH* explained that around mid-July 1993, he and about 30 other detainees were taken by lorry to the "Rondo".<sup>4101</sup> A dozen of them, including *Witness HH*, equipped with shovels and pickaxes were to go to Kantarevac stadium and "mingle" with HVO soldiers.<sup>4102</sup> He explained that the detainees had to mix in so that ABiH snipers would not fire at the group composed of HVO soldiers and Muslim detainees, knowing that they were very close to the front lines.<sup>4103</sup>

1619. The Chamber also heard *Miro Salčin*<sup>4104</sup> explain that in July 1993, when he was deployed on Mount Hum above Stotina in a cave called Crvena, he saw through his binoculars at a distance of 200 to 400 metres, four HVO snipers and the Heliodrom detainees "wearing civilian clothes" and were sitting on rocks "on the separation line", near the snipers.<sup>4105</sup> When they noticed the presence of the detainees, the ABiH soldiers under the command of Miro Salčin did not want to shoot at the snipers.<sup>4106</sup>

1620. Moreover, Jadranko Prlić, Milivoj Petković and Marijan Biškić were informed in a letter from the Međugorje office of the ICRC dated 10 January 1994 that many detainees had been taken to the front line in Mostar and forced to wear HVO uniforms and carry fake wooden weapons while battle was raging in August and September 1993.<sup>4107</sup>

1621. In view of the above, the Chamber finds that the Heliodrom detainees were forced by the *Vinko Škrobo* ATG under the command of Vinko Martinović to position themselves in front of or among HVO troops in order to protect those troops from possible ABiH attacks along the Mostar front line in July, August and September 1993. They were sometimes given fake wooden rifles, were dressed in HVO uniforms and forced to cross the front line to protect the HVO soldiers.

## **B. Heliodrom Detainees Wounded while Being Used as Human Shields in Mostar**

1622. One adjudicated fact from the *Naletilić* Judgement refers to (the Heliodrom) "prisoners being used as human shields and injured while working in the Šantićeva Street",<sup>4108</sup> although it does not specify how the detainees were used to protect the HVO soldiers or the date of those events.

<sup>4101</sup> *Witness HH*, P 10113 under seal, *Naletilić and Martinović* Case, T(F), pp. 4837 and 4841.

<sup>4102</sup> *Witness HH*, P 10113 under seal, *Naletilić and Martinović* Case, T(F), pp. 4842, 4844 and 4928.

<sup>4103</sup> *Witness HH*, P 10113 under seal, *Naletilić and Martinović* Case, T(F), p. 4844.

<sup>4104</sup> *Miro Salčin* was commander of an ABiH company from Donja Mahala in West Mostar in 1993 and captain and deputy commander of the 2<sup>nd</sup> Battalion of the 441<sup>st</sup> Motorised Brigade in the sector from the Old Bridge to Čekrk. P 09834, paras 7 and 8; *Witness Miro Salčin*, T(F), pp. 14171 and 14172.

<sup>4105</sup> *Miro Salčin*, T(F), pp. 14174-14177, 14186, 14189 and 14190; P 09834, para. 11; IC 00419.

<sup>4106</sup> *Miro Salčin*, T(F), p. 14176.

<sup>4107</sup> P 07636, p. 1.

<sup>4108</sup> Decision of 7 September 2006, Adjudicated Fact no. 169 (*Naletilić* Judgement, para. 295).

1623. In its Pre-Trial Brief, the Prosecution alleges that on 17 September 1993, four Heliodrom detainees equipped with wooden rifles by the *Vinko Škrobo* ATG were used as human shields in Mostar.<sup>4109</sup> The Chamber admitted the statements of two witnesses: *Hadil Jazvin* and *Mustafa Salman*<sup>4110</sup> and the transcript of the testimony of three witnesses from the *Naletilić and Martinović* Case: *EJ*, *OO* and *PP*,<sup>4111</sup> who all gave very similar accounts of the use of the Heliodrom detainees as human shields in Mostar in September 1993.<sup>4112</sup> The Chamber notes that the said witnesses do not all give the same date in their accounts but since they identify the same victims and refer to the same events as those alleged by the Prosecution in its Pre-Trial Brief, the Chamber is in a position to find that they are all referring to the same incident.

1624. Around 17 September 1993<sup>4113</sup> at about 0600, Dinko Knežović – a member of the *Vinko Škrobo* ATG<sup>4114</sup> – arrived to pick up about 30 detainees in the Heliodrom sports hall.<sup>4115</sup> About 17 of the detainees<sup>4116</sup> were taken to Mostar to the headquarters of the *Vinko Škrobo* ATG.<sup>4117</sup> In the building there were also quite a few HVO soldiers, including Vinko Martinović, Ernest Takać aka "Brada",<sup>4118</sup> someone called Marinko, aka "Dolma",<sup>4119</sup> and someone called "Dado".<sup>4120</sup>

1625. Vinko Martinović ordered Ernest Takać to choose four detainees, who went down to the basement of the building.<sup>4121</sup> Vinko Martinović then promised to release the four detainees within

<sup>4109</sup> Prosecution Pre-Trial Brief, paras 129.1, 129.2, 129.3 and 129.4. The Chamber notes that in paragraphs 129.5 and 129.6 of its Pre-Trial Brief, the Prosecution refers to incidents of illegal work and not to the use of detainees as human shields.

<sup>4110</sup> P 10213, para. 26; P 10234, p. 2

<sup>4111</sup> Witness EJ, P 10227 under seal, *Naletilić and Martinović* Case, T(F), p. 1513; Witness OO, P 10224 under seal, *Naletilić and Martinović* Case, T(F), pp. 5948-5951 and 5984; Witness PP, P 10223 under seal, *Naletilić and Martinović* Case, T(F), p. 6088.

<sup>4112</sup> *Witnesses EJ, Hadil Jazvin, Mustafa Salman*, confirmed by the adjudicated facts in the *Naletilić* Judgement (Decision of 7 September 2006, adjudicated facts nos 185 and 186 (*Naletilić* Judgement, paras 276 and 290)) date the incident as occurring on 17 September 1993. See Witness EJ, P 10227 under seal, *Naletilić and Martinović* Case, T(F), p. 1513; P 10213, paras 7 and 8; P 10233, paras 23-27; P 10234, p. 2. Witness OO dates the incident as occurring on 18 September 1993 (Witness OO, P 10224 under seal, *Naletilić and Martinović* Case, T(F), pp. 5947-5949 and 5984), whereas Witness PP speaks of 19 September 1993 (Witness PP, P 10223 under seal, *Naletilić and Martinović* Case, T(F), p. 6088).

<sup>4113</sup> Witness EJ P 10227 under seal, *Naletilić and Martinović* Case, T(F), pp. 1513, 1514, 1516, 1543, 1544. See also Witness D, P 09870 under seal, *Naletilić and Martinović* Case, T(F), pp. 921 and 942, private session.

<sup>4114</sup> Witness II, P 10218 under seal, *Naletilić and Martinović* Case, T(F), pp. 4957 and 4984; P 04636, para. 12.

<sup>4115</sup> Witness PP, P 10223 under seal, *Naletilić and Martinović* Case, T(F), p. 6088; Witness EJ, P 10227 under seal, *Naletilić and Martinović* Case, T(F), pp. 1513 and 1514; P 10213, paras 7 and 8; Decision of 7 September 2006, Adjudicated Fact no. 185 (*Naletilić* Judgement, para. 276).

<sup>4116</sup> P 10233, para. 23; P 10234, p. 2.

<sup>4117</sup> Witness EJ, P 10227 under seal, *Naletilić and Martinović* Case, T(F), pp. 1513 and 1514; P 10213, paras 7 and 8; P 10233, paras 23 and 24; P 10234, p. 2; Decision of 7 September 2006, adjudicated facts nos 185 and 186 (*Naletilić* Judgement, paras 276 and 290).

<sup>4118</sup> Witness EJ P 10227 under seal, *Naletilić and Martinović* Case, T(F), p. 1515.

<sup>4119</sup> Witness PP, P 10223 under seal, *Naletilić and Martinović* Case, T(F), pp. 6090, 6091, 6097 and 6172.

<sup>4120</sup> Witness PP, P 10223 under seal, *Naletilić and Martinović* Case, T(F), pp. 6090, 6097 and 6173; Witness EJ, P 10227 under seal, *Naletilić and Martinović* Case, T(F), pp. 1513 and 1514.

<sup>4121</sup> Witness EJ, P 10227 under seal, *Naletilić and Martinović* Case, T(F) p. 1514; P 10213, para. 11; Decision of 7 September 2006, Adjudicated Fact no. 185 (*Naletilić* Judgement, para. 276).

48 hours<sup>4122</sup> and let them go abroad if they succeeded in crossing the front line on Bulevar<sup>4123</sup> while protecting the ATG soldiers and discovering the exact ABiH position.<sup>4124</sup> These four detainees were then given HVO camouflage uniforms,<sup>4125</sup> wooden rifles painted black with real rifles slings, which resembled real Kalashnikovs,<sup>4126</sup> as well as bottles of motor oil that were put in their pockets by an HVO soldier to look like Motorola telephones.<sup>4127</sup> Around noon, Ernest Takać ordered the four detainees to accompany him to the health centre.

1626. The detainees proceeded to the Mostar health centre<sup>4128</sup> where they met up, a few minutes later, with a T 55 HVO tank.<sup>4129</sup> The detainees advanced in single file in front of the tank so that they would be the first people hit if there was any shooting.<sup>4130</sup> About five metres behind them, they were followed by some HVO soldiers.<sup>4131</sup> Other detainees were charged with removing bags in the street so that the tank could pass through.<sup>4132</sup> When they came up alongside the barrel, the T 55 tank began to fire at a nearby building,<sup>4133</sup> thereby wounding some of the detainees by light projectiles and shrapnel.<sup>4134</sup> One detainee was then slightly injured by shrapnel.<sup>4135</sup> A second detainee was seriously wounded in the back by shrapnel and a third was seriously injured in the leg by the collapse of the building<sup>4136</sup> or shrapnel.<sup>4137</sup>

<sup>4122</sup> Witness EJ, P 10227 under seal, *Naletilić and Martinović Case*, T(F), pp. 1519 and 1548; Witness OO, P 10224 under seal, *Naletilić and Martinović Case*, T(F), pp. 5950 and 5983.

<sup>4123</sup> Witness OO, P 10224 under seal, *Naletilić and Martinović Case*, T(F), pp. 5950-5951 and 5983.

<sup>4124</sup> Witness EJ, P 10227 under seal, *Naletilić and Martinović Case*, T(F), pp. 1518, 1520, 1549, 1553; P 10233, para. 27; P 10234, p. 2; Witness PP, P 10223 under seal, *Naletilić and Martinović Case*, T(F), pp. 6088, 6091-6093 and 6099; Decision of 7 September 2006, Adjudicated Fact no. 186 (*Naletilić Judgement*, para. 290).

<sup>4125</sup> P 10213, para. 11; Witness EJ, P 10227 under seal, *Naletilić and Martinović Case*, T(F), pp. 1514, 1516, 1543 and 1544. EJ speaks of HVO camouflage dress; P 09070; Witness OO, P 10224 under seal, *Naletilić and Martinović Case*, T(F), pp. 5950-5952, 5954-5957, 5981 and 5983; P 10233, para. 26; P 10234, p. 2; Witness PP, P 10223 under seal, *Naletilić and Martinović Case*, T(F), pp. 6092, 6097-6098 and 6116; Decision of 7 September 2006, Adjudicated Fact no. 185 (*Naletilić Judgement*, para. 276).

<sup>4126</sup> Witness EJ, P 10227 under seal, *Naletilić and Martinović Case*, T(F), pp. 1516, 1544, 1560, 1567; P 10213, para. 11; P 10233, para. 26; P 10234, p. 2; Witness OO, P 10224 under seal, *Naletilić and Martinović Case*, T(F), pp. 5951, 5976, 5984 and 6048; Witness PP, P 10223 under seal, *Naletilić and Martinović Case*, T(F), pp. 6093, 6098, 6121-6122 and 6171; Decision of 7 September 2006, Adjudicated Fact no. 185 (*Naletilić Judgement*, para. 276).

<sup>4127</sup> Witness EJ, P 10227 under seal, *Naletilić and Martinović Case*, T(F), pp. 1519, 1520; Witness OO, P 10224 under seal, *Naletilić and Martinović Case*, T(F), pp. 5951, 5976, 5984 and 6048; Witness PP, P 10223 under seal, *Naletilić and Martinović Case*, T(F), pp. 6092-6093 and 6098. It was "Štela" who gave the bottle to Witness PP (put the plastic bottle in his pocket as a Motorola telephone).

<sup>4128</sup> Witness EJ, P 10227 under seal, *Naletilić and Martinović Case*, T(F), p. 1520; Witness OO, P 10224 under seal, *Naletilić and Martinović Case*, T(F), pp. 5951 and 5952.

<sup>4129</sup> Witness OO, P 10224 under seal, *Naletilić and Martinović Case*, T(F), p. 5951.

<sup>4130</sup> Witness EJ, P 10227 under seal, *Naletilić and Martinović Case*, T(F), p. 1551.

<sup>4131</sup> Witness EJ, P 10227 under seal, *Naletilić and Martinović Case*, T(F), pp. 1552, 1553 and 1559; P 10233, para. 27; P 10234, p. 2.

<sup>4132</sup> Witness OO, P 10224 under seal, *Naletilić and Martinović Case*, T(F), p. 5957.

<sup>4133</sup> Witness OO, P 10224 under seal, *Naletilić and Martinović Case*, T(F), p. 5952.

<sup>4134</sup> Witness OO, P 10224 under seal, *Naletilić and Martinović Case*, T(F), p. 5952.

<sup>4135</sup> Witness OO, P 10224 under seal, *Naletilić and Martinović Case*, T(F), pp. 5953 and 5954 private session.

<sup>4136</sup> Witness OO, P 10224 under seal, *Naletilić and Martinović Case*, T(F), pp. 5953 and 5954 private session.

1627. The shooting subsided a little later, enabling the detainees to get to the ABiH side.<sup>4138</sup> Having succeeded in crossing the “Bulevar” without being seen by the ABiH, *Witness EJ* stated that he had to lie on the ground to protect himself from the firing but did not indicate its source.<sup>4139</sup> At that moment he was wounded in the back and in the shoulder blade.<sup>4140</sup> Another detainee was also wounded in the back.<sup>4141</sup>

1628. In view of the above, the Chamber finds that three men were wounded on 17 September 1993 while being used as human shields on the Mostar front line on the orders of Vinko Martinović.

### C. Heliodrom Detainees Killed while Being Used as Human Shields

1629. The testimony of *Witness X* and *Witness D*, an ICRC protest letter sent to Marijan Biškić, Milivoj Petković, Jadranko Prlić and Vladislav Pogarčić on 20 January 1994, an HVO register of reports concerning the mistreatment, deaths, wounding and escape of "prisoners of war," as well as a 1995 report of the Commission for the Exchange of Prisoners of the 44<sup>th</sup> ABiH Mountain Brigade show that several detainees were killed while being used as human shields in Mostar on 17 September 1993.

1630. For instance, Salim Kadušak, Mustafa Tašić, Sefik Tašić and Ismet Čilić, members of the 44<sup>th</sup> ABiH Mountain Brigade, who were then being held prisoner, were killed while being used as human shields in Mostar on 17 September 1993.<sup>4142</sup> The Chamber recalls that it already established that the Heliodrom detainees who served as human shields on the front line in Mostar in September 1993 were used as such by the *Vinko Škrobo* ATG.<sup>4143</sup> The Chamber thus finds that the four detainees were killed while being used by the *Vinko Škrobo* ATG as human shields.

1631. Moreover, the 1995 report of the Commission for the Exchange of Prisoners of the 44<sup>th</sup> ABiH Mountain Brigade shows that Mustafa Čilić<sup>4144</sup> and Rasim Lulić,<sup>4145</sup> members of the said

<sup>4137</sup> Witness PP, P 10223 under seal, *Naletilić and Martinović* Case, T(F), pp. 6100-61013; P 08909 under seal; P 08950 under seal.

<sup>4138</sup> Witness EJ, P 10227 under seal, *Naletilić and Martinović* Case, T(F), pp. 1520-1521.

<sup>4139</sup> Witness EJ, P 10227 under seal, *Naletilić and Martinović* Case, T(F), pp. 1520, 1554 and 1558.

<sup>4140</sup> Witness EJ, P 10227 under seal, *Naletilić and Martinović* Case, T(F), p. 1561.

<sup>4141</sup> Witness EJ P 10227 under seal, *Naletilić and Martinović* Case, T(F), p. 1561.

<sup>4142</sup> P 07629; pp. 3-5 of the BCS version; P 08625, p. 16; P 08428, p. 14; Witness X, P 09874, under seal, *Naletilić and Martinović* Case, T(F), p. 3333; Witness D, P 09870 under seal, *Naletilić and Martinović* Case, T(F), pp. 921 and 942, private session. *Witness D* mentions "Salem" Kadušak. However, in view of the circumstances of this death, as described by *Witness D*, the Chamber concludes that he is referring to the death of Salim Kladašak; Witness OO, P 10224 under seal, *Naletilić and Martinović* Case, T(F), pp. 5957 and 5958.

<sup>4143</sup> See “Use of Heliodrom Detainees as Human Shields” in the Chamber’s factual findings with regard to the Heliodrom.

<sup>4144</sup> Representative victim of paragraph 130 of the Indictment.

<sup>4145</sup> Representative victim of paragraph 139 of the Indictment.

mountain brigade, and one "civilian", were killed while being used as human shields in Mostar,<sup>4146</sup> although the Chamber has no details as to whether these three victims were Heliodrom detainees or not, or as to the date of their deaths, or even to the circumstances and exact spot in Mostar where this event took place. In the absence of other evidence about these three deaths, the Chamber holds that it is not in a position to determine beyond reasonable doubt that these three men were detainees and actually died while being used as human shields by Herceg Bosna/HVO forces.

1632. *Ibrahim Šarić*<sup>4147</sup> stated that some detainees from the detention centre had been sent to the front as human shields and had lost their lives, as was the case of Muharem Budić.<sup>4148</sup> However, *Ibrahim Šarić* does not state whether he was an actual eyewitness to those events and offers no details as to the circumstances of the death of his fellow detainees. Absent further evidence, the Chamber is thus unable to determine beyond reasonable doubt whether these individuals actually died and whether their deaths really took place while the HVO was using them as human shields on the front line.

1633. The Chamber is thus in a position to find that Salim Kadušak, Mustafa Tašić, Sefik Tašić and Ismet Čilić, all four of whom were members of the ABiH and were prisoners at the Heliodrom, were killed on 17 September 1993 while being used as human shields in Mostar by the *Vinko Škrobo* ATG.

## **VII. Restrictions on Visits to Heliodrom Detainees by Members of the International Community**

1634. The evidence shows that on several occasions, the HVO authorities prevented representatives of the international community from gaining access to the Heliodrom.<sup>4149</sup> For instance, at a meeting on 6 July 1993, the commanders of the 1<sup>st</sup> and 3<sup>rd</sup> HVO Brigades, the SIS chiefs of the 1<sup>st</sup> and 3<sup>rd</sup> HVO Brigades, who were Žara Pavlović and Ivica Pušić respectively, the platoon commanders of the Military Police attached to the 1<sup>st</sup> and 3<sup>rd</sup> HVO Brigades, and the

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<sup>4146</sup> P 08625, p. 16.

<sup>4147</sup> Muslim detainee held at the Heliodrom from 9 July 1993 for about eight months; Ibrahim Šarić, T(F), pp. 5103 and 5119; IC00028.

<sup>4148</sup> Ibrahim Šarić, T(F), p. 5114. "Very many people from upstairs were taken to the front lines as human shields, and that's where people were killed or injured. A man called Muharem Budić, who had been in my communications unit, lost his life while he was being used as a human shield on the battlefield. "

<sup>4149</sup> P 02882, pp. 3 and 4; P 10367 under seal, paras 59 and 61; P 09843 under seal, p. 2, para. 7; Spomenka Drljević, T(F), pp. 1084 and 1085; Witness BD, T(F), pp. 20692 and 20693 closed session.

commander of Dretelj prison, Ivan Ančić, decided to prohibit international and humanitarian organisations from entering the Heliodrom.<sup>4150</sup>

1635. However, the evidence indicates that around mid-May 1993, representatives of the international community, including the ICRC and UNPROFOR, visited the Heliodrom on several occasions.<sup>4151</sup> The representatives of the ICRC, sometimes accompanied by other representatives of the international community, were also able to visit the Heliodrom where they registered some of the detainees in June,<sup>4152</sup> July<sup>4153</sup> and August 1993,<sup>4154</sup> on an unknown date in the autumn of 1993,<sup>4155</sup> in November 1993<sup>4156</sup> and in January<sup>4157</sup> and February 1994.<sup>4158</sup>

1636. The evidence, nonetheless, shows that international representatives did not often have access to all of the detention facility and that some detainees were hidden from them during their visits.<sup>4159</sup> Moreover, former detainees stated that during the visit of representatives of the international community to the Heliodrom in mid-May 1993, child detainees were allowed to leave their cells and were given oranges and biscuits and were taken back to their cells when the representatives departed.<sup>4160</sup>

1637. Finally, in letters dated 18 February 1994 and 10 March 1994 that were sent to Željko Šiljeg, Marijan Biškić, Berislav Pušić and Jadranko Prlić, the ICRC stated that some detainees were

<sup>4150</sup> Witness C, T(F), pp. 22552 and 22553 closed session; 5D 03008.

<sup>4151</sup> P 09805 under seal, p. 7; Witness CT, T(F), p.12179 private session; 2D 01321, p. 2; Witness BB, T(F), pp. 17169 and 17170 closed session; Witness DV, T(F), p. 22882; P 10217 under seal, paras 65, 67 and 72; Witness CU, T(F), p. 12312 closed session; Witness CB, T(F), p. 10146; P 02446, under seal, p. 5; P 10038, p. 3; Witness HH, P 10113 under seal, *Naletilić and Martinović* Case, T(F), pp. 4821 and 4923; Milan Gorjanc, T(F), pp. 46287-46290 private session; *See also* P 08880 under seal, p. 4.

<sup>4152</sup> P 09990, p. 6; Alija Lizde, T(F), pp. 17779, 17949 and 17950; P 09090; P 08894 There is an error in T(F) as to the number of the exhibit, which should be P 08894 (Alija Lizde, T(E), p. 17779) and not P 09994; Antoon van der Grinten, T(F), p. 21030; P 09843 under seal, p. 2, para. 7; Witness RR, P 09872 under seal, *Naletilić and Martinović* Case, T(F), p. 6522.

<sup>4153</sup> Witness RR, P 09872 under seal, *Naletilić and Martinović* Case, T(F), p. 6522; Veso Vegar, T(F), pp. 36942 and 37014; P 09843 under seal, p. 1, paras 1 and 6; P 09504 under seal, p. 1; Peter Galbraith, T(F), pp. 6497 and 6498; P 09502 under seal, p. 4.

<sup>4154</sup> Spomenka Drljević, T(F), p. 1084; P 04027 under seal, p. 3; Mustafa Hadrović, T(F), pp. 14584, 14588 and 14589; P 04352.

<sup>4155</sup> Witness U, P 10220 under seal, *Naletilić and Martinović* Case, T(F), p. 2954; P 08050, p. 1.

<sup>4156</sup> P 10210 under seal, p. 2, para. 6, p. 3, para. 9 and p. 6 para. 24; Witness EI, T(F), pp. 26137 and 26138.

<sup>4157</sup> Amor Mašović, T(F), pp. 25040 and 25041; P 07852.

<sup>4158</sup> P 07895, p. 1.

<sup>4159</sup> Alija Lizde, T(F), p. 17792; Witness PP, P 10223 under seal, *Naletilić and Martinović* Case, T(F), pp. 6166 and 6167; P 09504 under seal, p. 2; Peter Galbraith, T(F), pp. 6497 and 6498; P 09502 under seal, p. 4; Mustafa Hadrović, T(F), pp. 14584 and 14586; Witness U, P 10220 under seal, *Naletilić and Martinović* Case, T(F), p. 2955; Witness CB, T(F), pp. 10145 and 10146 and P 02446, under seal, p. 5; Witness HH, P 10113 under seal, *Naletilić and Martinović* Case, T(F), pp. 4921 and 4922.

<sup>4160</sup> Witness GG, P 10020 under seal, *Naletilić and Martinović* Case, T(F), p. 4754.

not present during the ICRC visits to the Heliodrom and that the authorities at the detention facility had refused to disclose any information about them.<sup>4161</sup>

1638. The Chamber finds that although the HVO authorities enabled the ICRC and other representatives of the international community to have access to the Heliodrom, they did not allow them to visit all the sites and all the detainees held there. Moreover, the HVO authorities concealed detainees from representatives of the international community and refused to disclose information about the detainees not present during the visits of the representatives.

### **VIII. Organisation of Departure of Detainees from the Heliodrom to Third Countries or to ABiH-Held Territory**

1639. Paragraph 131 of the Indictment alleges that some Bosnian Muslim detainees were released or permitted to leave the Heliodrom on the condition that they surrender all of their property to the HVO and move to another country. More specifically, the Prosecution claims that on about 17 July 1993, the Herceg-Bosna/HVO authorities offered to release Muslim men detained at the Heliodrom if they agreed to be transferred to Croatia, from where the HVO would allegedly assist them in relocating to other countries. The Prosecution also alleges that approximately 800 Bosnian Muslims accepted this proposal, and were transported to the island of Obonjan and Gašinci in Croatia, with the direct involvement of Herceg-Bosna/HVO forces and Croatian police. Paragraph 132 of the Indictment alleges that "similar practices" continued from July to November 1993, with the Herceg-Bosna/HVO authorities agreeing to release detained Muslim men on the usual condition that they leave Herceg-Bosna.

1640. Finally, paragraph 132 of the Indictment alleges that between 15 and 17 December 1993, at least 1,477 Muslim detainees were released from the Heliodrom. Many were deported to Croatia or other countries, and some were sent or allowed to return to East Mostar. Muslim detainees were also apparently told they would be released if they signed loyalty oaths to the HVO.

1641. In order to rule on these allegations, the Chamber will (A) analyse the departure of the detainees from the Heliodrom to Croatia between about 17 July 1993 and November 1993. It will (B) examine the departures from the Heliodrom to third countries or to ABiH-held territory between 15 and 17 December 1993.

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<sup>4161</sup> P 07895, p. 1; P 08050 under seal, p. 1.

**A. Departure of Detainees from the Heliodrom to Croatia between about 17 July 1993 and November 1993**

1642. All the evidence shows that between about 17 July and November 1993, the "HVO authorities" offered to release the Heliodrom detainees if they agreed to leave BiH for a third country, passing through Croatia on their way.<sup>4162</sup> After signing a "form" issued by the ODPH of the HZ H-B indicating their country of destination,<sup>4163</sup> detainees in possession of a letter of guarantee<sup>4164</sup> were released from the Heliodrom and returned home, that is, to Mostar or Ljubuški, where they were given from 30 minutes to three hours to pack and collect their families before being taken to Croatia by bus.<sup>4165</sup>

1643. Much evidence indicates that several hundred Heliodrom detainees and their families living in Mostar<sup>4166</sup> were transferred to the island of Obonjan or to Gašinci in Croatia between 17 and 20 July 1993.<sup>4167</sup> It can be seen, in particular, from the report of Azra Krajšek,<sup>4168</sup> sent to the BiH Embassy in Croatia and to the Ministry of Foreign Affairs in BiH, that a group of detainees from Mostar – yet with no indication of their numbers – left Mostar on 18 July 1993 in buses driven by HVO soldiers and was escorted to the Croatian border by the HVO Military Police.<sup>4169</sup>

1644. In August 1993, the Heliodrom detainees from the Municipality of Ljubuški were also taken to Croatia.<sup>4170</sup> Thus, detainees with letters of guarantee<sup>4171</sup> were released from the Heliodrom and were obliged to leave the territory of the Municipality of Ljubuški with their families within 24 hours.<sup>4172</sup> Once they were released from the Heliodrom, the detainees were given a "laissez-passer" for Croatia, issued by Adalbert Rebić, Head of the Office for Refugees, Exiled and Displaced

<sup>4162</sup> P 09680 under seal; P 09681 under seal; P 09502 under seal, p. 3; Josip Praljak, T(F), pp. 14769 and 14770; Azra Krajšek, T(F), pp. 20002 and 20003; P 03617, pp. 1 and 2; P 09847 under seal, p. 1.

<sup>4163</sup> P 09681 under seal, para. 2; P 09502 under seal, p. 3; P 03617, p. 2.

<sup>4164</sup> P 04572; P 06436; P 06816; Josip Praljak, T(F), pp. 14769-14771.

<sup>4165</sup> P 09502 under seal, p. 3; P 03617, pp. 1 and 2; P 09847 under seal, p. 1.

<sup>4166</sup> P 10052, p. 3; Azra Krajšek, T(F), p. 20016.

<sup>4167</sup> P 09502 under seal, p. 3; P 09680 under seal; P 09681 under seal, para. 2; P 03617, pp. 1, 2 and 3. In document P 03617 there are several contradictions as to the exact number of people from Mostar who arrived at the Gašinci centre on 19 July 1993. *Azra Krajšek* indicates that the appeal received by the BiH Embassy in Croatia on 20 July 1993 referred to a group of 550 people. Branko Vukoja (director of the Gašinci centre), for his part, mentions the arrival of a group of 450 people; a fax the refugees had with them on their arrival, drafted by Adalbert Rebić, director of the ODPH, indicates the arrival of a group of 500 people. P 10124, paras 54 and 55; P 10048 under seal. P 10052, p. 1.

<sup>4168</sup> Employee of the Ministry of Foreign Affairs responsible for refugee issues at the BiH Embassy in Zagreb from 1 March 1993 to 31 August 1994; Azra Krajšek, T(F), pp. 19981, 19982 and 19989; P 10124, paras 12 and 13.

<sup>4169</sup> P 03617, p. 2; P 10052, p. 3.

<sup>4170</sup> P 04404; P 10188; P 04443; P 10191; P 04603; P 10124, para. 86; P 04620.

<sup>4171</sup> Muslim resident of Ljubuški; P 10178.

<sup>4172</sup> Witness E, T(F), pp. 22094, 22095, 22097-22100, 22283 and 22284, closed session; for an example of a letter of guarantee, *see* P 10174; P 04263; P 10183; P 04297.



Persons in Croatia,<sup>4173</sup> and each family was obliged to pay for their tickets to the country to which they wanted to go.<sup>4174</sup>

1645. On 19 October 1993, Berislav Pušić approved of the release of several Heliodrom detainees, including *Alija Lizde*, who came to testify before the Chamber.<sup>4175</sup> He indicated that on 19 October 1993, the Military Police took him and other Heliodrom detainees to the Faculty of Mechanical Engineering where someone called Goran Cipra, member of the Department for Criminal Investigations,<sup>4176</sup> explained to them that they were to go the following day to the office of Berislav Pušić at the Service for the Exchange.<sup>4177</sup> *Alija Lizde* was then taken to his home in Mostar where he noticed that the lock had been changed and that there was a notice on the door stating that the apartment had been made available to an HVO military policeman.<sup>4178</sup> *Alija Lizde* spent about ten days in Mostar, although the Chamber does not know where.<sup>4179</sup> On 4 November 1993, Berislav Pušić asked the Croatian border police for a permit to enable *Alija Lizde* to cross the border and go to a third country.<sup>4180</sup> He travelled to Slovenia,<sup>4181</sup> and returned to BiH on 21 February 1994, but was unable to get his apartment back until 2004 or 2005.<sup>4182</sup>

1646. On 4 and 22 November 1993, Stanko Božić sent Berislav Pušić a list of 151 Heliodrom prisoners who had letters of guarantee.<sup>4183</sup> The Chamber however, does not know whether the detainees were actually taken to Croatia.

1647. As to the voluntary nature of the departures for third countries, the Chamber admitted into the record an ICRC letter dated 7 October 1993 addressed to Mate Granić, Foreign Minister of Croatia, recapping the agreement reached following negotiations between the HVO and the ABiH on the release of detainees that was to begin on 11 October 1993; this letter clearly indicates that the two parties were to respect the free will of the detainees concerning their destination.<sup>4184</sup> The transcript of an undated interview with Ivo Curić also shows that following the decision of Mate

<sup>4173</sup> P 10328, p. 20; P 10124, paras 86 and 88; Azra Krajšek, T(F), pp. 20021 and 20023; P 04603, p. 2.

<sup>4174</sup> *Milada Orman*, for example, refers to Norway, Sweden, Turkey, Denmark or Germany. P 10328, p. 20.

<sup>4175</sup> P 05949; *Alija Lizde*, T(F), p. 17815; P 08894, *Alija Lizde*, T(E), p. 17779.

<sup>4176</sup> Testimony of Zvonko Vidović: "Damir Cipra: that is my colleague from the office". T(E), pp. 51523 and 51524.

<sup>4177</sup> *Alija Lizde*, T(F), pp. 17813 and 17814.

<sup>4178</sup> *Alija Lizde*, T(F), p. 17816.

<sup>4179</sup> *Alija Lizde*, T(F), p. 17818.

<sup>4180</sup> *Alija Lizde*, T(F), p. 17819; P 06433.

<sup>4181</sup> *Alija Lizde*, T(F), p. 17819.

<sup>4182</sup> *Alija Lizde*, T(F), p. 17820.

<sup>4183</sup> P 06436; P 06816; Josip Praljak, T(F), pp. 14770 and 14771; P 00285, p. 126 item 724 and p. 129 item 746.

<sup>4184</sup> 1D 00938.

Boban on the "release of all civilians from prisons," they had the choice of going to East Mostar under ABiH control, West Mostar under HVO control or to third countries.<sup>4185</sup>

1648. According to the report of an international organisation, following a meeting with Jadranko Prlić, Krešimir Zubak and Darinko Tadić on 16 July 1993, they informed the international organisation of their intention to negotiate with the Croatian ODPB to get transit visas for Muslims "wishing to leave",<sup>4186</sup> about 10,000 people including men still in detention, and asked the said organisation to help them in this endeavour; the international organisation refused, characterising the project as "ethnic cleansing".<sup>4187</sup> According to the report of an international organisation, based on HVO information, about 2,500 detainees were "voluntarily" moved on 18 and 19 July 1993. The report explains, however, that detention conditions were terrible and that the detainees "voluntarily" left these conditions.<sup>4188</sup>

1649. The Chamber also heard *Azra Krajšek*,<sup>4189</sup> and admitted several documents, including the report of an international organisation dated 22 July 1993, indicating that, in order to be released, the detainees had to sign a document in which they gave all their belongings to Herceg-Bosna.<sup>4190</sup> The report of the international organisation adds that, if the detainees refused, the HVO made threats on their lives and those of their families.<sup>4191</sup> In a written statement, *Milada Orman* noted that before leaving Ljubuški, the Muslims had to hand the keys to their houses over to the municipal building.<sup>4192</sup>

1650. From the above, the Chamber finds, by a majority, with Judge Antonetti dissenting, that in order to leave the detention centre, the Heliodrom detainees were forced to leave BiH with their families and move, at least at first to Croatia, in July, August, October and November 1993, from where they were to leave for third countries.

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<sup>4185</sup> 1D 02213.

<sup>4186</sup> The quotation marks are in the original text.

<sup>4187</sup> P 09679 under seal, p. 1.

<sup>4188</sup> P 03554 under seal, p. 1; Klaus Johann Nissen, T(F), p. 20488.

<sup>4189</sup> Azra Krajšek was an employee of the Ministry of Foreign Affairs responsible for refugee issues at the BiH Embassy in Zagreb from 1 March 1993 to 31 August 1994. Azra Krajšek, T(F), pp. 19981, 19982 and 19989; P 10124, paras 12 and 13.

<sup>4190</sup> Azra Krajšek, T(F), p. 20003. P 09898 under seal, p. 1; Witness BD, T(F), p. 20730 closed session: P 10052, p. 2.

<sup>4191</sup> P 09898 under seal, p. 1; Witness BD, T(F), pp. 20730 and 20731.

<sup>4192</sup> P 10328, p. 20.

**B. Departures from the Heliodrom to Third Countries or to ABiH-Held Territory between 15 and 17 December 1993**

1651. The minutes of a meeting held on 13 December 1993 and presided over by Marijan Biškić<sup>4193</sup> show that of the 1,896 people held at the Heliodrom, 240 could remain in HR H-B, 491 were to be sent to territory under ABiH control, and 203 were to be removed to a third, unspecified country.<sup>4194</sup>

1652. On 15 December 1993, 150 men held at the Heliodrom were released and transferred by the ICRC, under Spabat escort: some to West Mostar and others to Metković in Croatia.<sup>4195</sup> The Chamber, however, does not know whether they subsequently left for third countries. On 17 December 1993, two women were released from the Heliodrom for third countries.<sup>4196</sup>

1653. In addition, in December 1993, some Heliodrom detainees transited through Gabela Prison before leaving for third countries.<sup>4197</sup> A report by Berislav Pušić recaps the departures from various detention centres, including the Heliodrom, in December 1993 and indicates in particular that 21 detainees left for third countries on 15 December 1993 as did two detainees on 17 December 1993.<sup>4198</sup>

1654. The Chamber is thus in a position to find that in December 1993, several dozen detainees were released from the Heliodrom to leave for third countries.

1655. Moreover, between 15 and 17 December 1993, the HVO released some women and several hundred men who were being held at the Heliodrom in order to send them to East Mostar with the help of the ICRC and Spabat.<sup>4199</sup>

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<sup>4193</sup> Present at the meeting were: the Minister of Defence, Perica Jukić; the Head of the Office for the Liberation of Captured and Missing Persons in the HR H-B, Berislav Pušić; and the acting Chief of the Military Police Administration, Radoslav Lavrić. P 07143, pp. 1 and 2.

<sup>4194</sup> P 07143, pp. 4 and 5. The meeting of 13 December 1993 followed a similar one held on 11 December 1993 at which Marijan Biškić ordered a list to be made of people in detention who could be released on HR H-B territory, a list of prisoners of war and of detainees against whom criminal charges could be initiated, a list of people who had permits to leave for third countries and, finally, a list of people to be sent to ABiH-held territory. P 07214, p. 7.

<sup>4195</sup> P 07188 under seal; P 10287 under seal, para. 71; Witness DW, T(F), p. 23087. *See also* Witness U, P 10220 under seal, *Naletilić and Martinović* Case, T(F), pp. 2968 and 2969.

<sup>4196</sup> P 06955, p. 2 item 12.

<sup>4197</sup> P07181; P 07371; P 07391, entries 11, 12 and 17; P 07266, p. 2

<sup>4198</sup> P 07468, p. 2.

<sup>4199</sup> P 10287 under seal, para. 70; Witness DW, T(F), p. 23087; Philip Watkins, T(F), pp. 18826-18828; P 07226 under seal, p. 2; P 08202, p. 2 item 11; P 07266, p. 2; P 07222, p. 2; Spomenka Drljević, T(F), pp. 1061 and 1087; P 06955. By 15 December 1993, 12 Muslim women being held at the Heliodrom were released but remained in Mostar-East ("They remained on the Right Bank and they are Muslim by nationality". P 07178; P 07238; Witness U, P 10220 under seal, *Naletilić and Martinović* Case, T(F), pp. 2944, 2968 and 2969; P 07468, p. 1.

## **IX. Further Releases or Transfers to Other Detention Facilities Prior to the Closure of the Heliodrom in April 1994**

1656. The Chamber will first analyse (A) the transfer of detainees to other HVO detention facilities and (B) the exchange of detainees and the final releases.

### **A. Transfer of Heliodrom Detainees to Other HVO Detention Facilities**

1657. The Military Police transferred the Heliodrom detainees to Dretelj Prison in late June and early July 1993.<sup>4200</sup>

1658. On orders from Valentin Ćorić on 17 September 1993, *Witness CU*<sup>4201</sup> was moved from the Heliodrom to Ljubuški Prison that same day.<sup>4202</sup> The Military Police also moved other detainees to Ljubuški on dates the Chamber does not know.<sup>4203</sup>

1659. Other detainees were moved to Gabela Prison in November and December 1993.<sup>4204</sup> The Chamber does not know which HVO unit carried out this transfer or the reasons behind it.

### **B. Detainee Exchanges with the ABiH and Final Releases**

1660. About a hundred detainees were released from the Heliodrom around the end of December 1993.<sup>4205</sup>

1661. In January and February 1994, the president of the RBiH state commission for the exchange of prisoners of war and people deprived of liberty informed the ECMM that there were only 908 prisoners left at the Heliodrom.<sup>4206</sup>

1662. Most of the remaining Heliodrom detainees were released in March 1994 following exchanges with the ABiH with the cooperation of the ICRC.<sup>4207</sup>

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<sup>4200</sup> Alija Lizde, T(F), pp. 17781, 17782; P 03121, pp. 2 and 3; P 05146 under seal.

<sup>4201</sup> Member of the ABiH; *Witness CU*, T(F), p. 12253 closed session.

<sup>4202</sup> *Witness CU*, T(F), pp. 12314 and 12315 closed session; P 05146 and P 05642.

<sup>4203</sup> *Witness A*, T(F), pp. 14045 and 14046 closed session.

<sup>4204</sup> P 09807 under seal, p. 9; P 00352, p. 31. The evidence shows that the transfer was carried out under orders from Berislav Pušić; P 07317, pp. 2 and 3.

<sup>4205</sup> Josip Praljak, T(F), p. 14807; P 10210 under seal, p. 6 para. 25; P 10211 under seal; P 10032, p. 9, para 26; Philip Watkins, T(F), pp. 18869, 18870 and 18888-18890; P 09995 under seal, p. 11; P 07356 under seal, p. 2.

<sup>4206</sup> Philip Watkins, T(F), pp 18890 and 18891; P 07606 under seal, para 28; Amor Mašović, T(F), pp. 25040 and 25041; P 07852.

<sup>4207</sup> P 09727 under seal, p. 5; *Witness Y*, P 09873 under seal, *Naletilić and Martinović* Case, revised version of T(F), p. 43; P 07985, p. 1; *Witness TT*, P 09879 under seal, *Naletilić and Martinović*, Case, T(F), pp. 6645 and 6647; Ismet Poljarević, T(F), pp. 11663 and 11664; P 09726, p. 6; P 07158, 6D 00216; *Witness RR*, P 09872 under seal, *Naletilić*

1663. After these releases took place there were still 200 detainees at the Heliodrom, the last of whom were finally released on 18 or 19 April 1994.<sup>4208</sup>

## Heading 6: The Vojno Detention Centre

1664. The Prosecution alleges that these events constitute persecutions (Count 1), murder (Count 2), wilful killing (Count 3), rape (Count 4), inhuman treatment (sexual assault) (Count 5), imprisonment (Count 10), unlawful confinement of a civilian (Count 11), inhumane acts (conditions of confinement) (Count 12), inhuman treatment (conditions of confinement) (Count 13), cruel treatment (conditions of confinement) (Count 14), inhumane acts (Count 15), inhuman treatment (Count 16), cruel treatment (Count 17) and unlawful labour (Count 18).

1665. In order to rule on the alleged events, the Chamber has analysed the evidence available to it. It reviewed the *viva voce* testimony of *Witness NO*, *Marijan Biškić* and *Zvonko Vidović*, as well as the transcript of the witness interview of *Witness NN*, admitted pursuant to Rule 92 *bis* of the Rules. The Chamber also considered the exhibits admitted into the record through these witnesses or by means of a written procedure.

1666. By way of introduction, the Chamber notes the lack of evidence pertaining to the detention of women and children at the Vojno Detention Centre, as well as to the crimes related to the detention of these persons, as alleged in paragraphs 140 to 142 of the Indictment.<sup>4209</sup> The Chamber is therefore not in a position to rule on the alleged facts that fall under the counts of rape (Count 4) and inhumane treatment (sexual assault) (Count 5), counts alleged solely in respect of the detention of those women. Moreover, given the lack of evidence concerning the detention of women and children, the Chamber cannot find that they were detained without the HVO's having made any

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*and Martinović* Case, T(F), p. 6466; Witness W, P 09875 under seal, *Naletilić and Martinović* Case, T(F), pp. 3206 and 3210; P 09990, p. 7; P 09751 under seal, p. 3; P 10117, para. 71; P 10287 under seal, paras 76 and 77; P 08099 under seal, p. 5; Witness DW, T(F), pp. 23087 and 23138; Amor Mašović, T(F), pp. 25041-25044, 25124-25130 and 25198-25200; P 07985; 6D 00499; P 08084, p. 1; Witness CQ, T(F), p. 11488; P 10138, para. 33; P 10127 under seal, p. 8; P 09753 under seal, p. 7.

<sup>4208</sup> P 09781, p. 3; P 09990, p. 7; P 09989, p. 6; Witness CU, T(F) p. 12231, closed session; Amor Mašović, T(F) pp. 25123, 25124 and 25199; P 09990, p. 7; P 10206, under seal, para. 14; Ibrahim Šarić, T(F) p. 5119.

<sup>4209</sup> The events described in paragraph 140 of the Indictment are alleged to be: persecutions (Count 1), imprisonment (Count 10) and unlawful confinement of a civilian (Count 11).

The events set out in paragraph 141 of the Indictment are alleged to be: persecutions (Count 1), rape (Count 4), inhuman treatment (sexual assault) (Count 5), imprisonment (Count 10), unlawful confinement of a civilian (Count 11), inhumane acts (Count 15), inhuman treatment (Count 16) and cruel treatment (Count 17). The events described in paragraph 142 of the Indictment are alleged to be: persecutions (Count 1), imprisonment (Count 10), unlawful confinement of a civilian (Count 11), inhumane acts (conditions of confinement) (Count 12), inhuman treatment

genuine or *bona fide* effort to determine their status or make a distinction between them and the other detainees.

1667. After describing (I) the organisation of the Vojno Detention Centre, the Chamber will (II) analyse the evidence pertaining to the status of the detainees, (III) the conditions under which they were detained, and (IV) the treatment to which they were subjected. Lastly, (V) the Chamber will examine the allegations relevant to the labour of those detainees and the circumstances of their treatment during such labour.

## **I. Organisation of the Vojno Detention Centre**

1668. In paragraph 136 of the Indictment the Prosecution alleges that, from approximately June 1993 to March 1994, Herceg-Bosna/HVO forces used and operated several buildings in the area of Vojno (Mostar Municipality), about twelve kilometres north of the town of Mostar, as detention sites, close to a front line that was the scene of fighting between the HVO and ABiH.

1669. By way of introduction, the Chamber notes that it lacks any information concerning the circumstances surrounding the creation or the establishment of the Vojno Detention Centre. As concerns its dates of operation, the evidence indicates only that detainees were sent to and imprisoned at the Vojno Detention Centre between August 1993 and January 1994. The Chamber does not have information to support a finding that the detention centre was in operation before or after those dates.

1670. The Chamber will (A) first describe the Vojno Detention Centre before (B) analysing its structure and operation.

### **A. Description of the Vojno Detention Centre**

1671. The Vojno Detention Centre<sup>4210</sup> was located near Mostar,<sup>4211</sup> near the village of Bijelo Polje.<sup>4212</sup>

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(conditions of confinement) (Count 13), cruel treatment (conditions of confinement) (Count 14), inhumane acts (Count 15), inhuman treatment (Count 16) and cruel treatment (Count 17).

<sup>4210</sup> The Chamber observes that the Vojno Detention Centre is referred to as the “Bijelo Polje Prison” or the “Vojno Prison”. Paragraph 139 of the Indictment, relating to the forced labour by the Heliostrom detainees and the Vojno Detention Centre, states only that such labour was performed “in the Vojno area”. Regarding the sites at which the detainees from Vojno or from the Heliostrom sent to Vojno to do that work, the former detainees make reference, without distinction, to “Vojno” and to “Bijelo Polje” or even to “Vojno Bijelo Polje”. Moreover, Mario Mihalj and Dragan Šunjić were designated, respectively, as warden and deputy warden of the Vojno Detention Centre and what the HVO documents call the “Bijelo Polje Military Prison” or the “Bijelo Polje Private Prison”, *see* Witness NN, P 10219

1672. According to a joint statement by detainees from the Heliodrom sent to the Vojno Detention Centre between 8 November 1993 and 28 January 1994 that was attached to an information report dated 3 February 1994 from Marijan Biškić, Deputy Minister for Security and the HVO Military Police at the HR H-B Ministry of Defence,<sup>4213</sup> addressed to the Minister of Defence, Perica Jukić, and to the Chief of the Main Staff, Ante Roso (“Marijan Biškić’s Report of 3 February 1994”), the detainees from the Vojno Detention Centre were placed into two rooms: a six-by-four-metre garage and the boiler room in a private home.<sup>4214</sup>

1673. The Chamber has no further information of the Vojno Detention Centre.

## **B. Structure and Operation of the Vojno Detention Centre**

1674. The Chamber will first concern itself with determining (1) which authorities were responsible for the operation of the Vojno Detention Centre, before (2) noting that numerous other bodies/authorities/prominent figures were informed of its existence and of the incidents taking place there.

### **1. Authorities Responsible for Operation of the Vojno Detention Centre**

1675. In its Final Trial Brief, the Prosecution submits that the HVO prisons, including the Vojno Detention Centre, operated as a unified system, under Valentin Ćorić.<sup>4215</sup>

1676. The Ćorić Defence contends that the Vojno Detention Centre did not fall under the authority of the Military Police or its Administration but that the “military units” in Vojno were under the authority of “the OZ” and thus, the Chief of the Main Staff.<sup>4216</sup> It submits that in September 1993 the Crime Prevention Unit of the Military Police became aware of the “incidents” at the Vojno Detention Centre and “took all the measures that were possible under the circumstances”.<sup>4217</sup> The

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under seal, *Naletilić and Martinović* Case, T(F), p. 5888; P 07787, pp. 2-6; P 07799; P 04908; P 08079 under seal, p. 1; P 04918, p. 6; P 05288; P 05054.

<sup>4211</sup> P 09276, map no. 18, p. 19; P 07787, p. 2.

<sup>4212</sup> P 09276, map no. 18, p. 19; P 07787, p. 4.

<sup>4213</sup> Marijan Biškić came to the territory of Herceg-Bosna in November 1993 and was officially appointed Deputy Minister of Defence of HR H-B for Security and the HVO Military Police by the government of the HR H-B on 1 December 1993. Marijan Biškić, T(F), pp. 15039, 15040, 15048 and 15049; P 07236, p. 2, art. 4; P 06994; P 06998.

<sup>4214</sup> P 07787, p. 4; P 08079 under seal, p. 2.

<sup>4215</sup> Prosecution Final Trial Brief, para. 1078.

<sup>4216</sup> Ćorić Defence Final Trial Brief, paras 512 and 516.

<sup>4217</sup> Ćorić Defence Final Trial Brief, paras 515 and 516. In support of this contention, the Brief makes reference to the testimony of *Zvonko Vidović*, who stated he was aware of the events taking place at the Vojno Detention Centre (Bijelo Polje Prison) in September 1993 (the witness was questioned about Document P 05054 and then submitted a written request to the OZ, which replied that “this” fell within their area of responsibility and that they would conduct an investigation. (*Zvonko Vidović*, T(F), pp. 51531-51533). The Chamber recalls here that *Zvonko Vidović* held the posts of: operative in the Crime Prevention Department of the Mostar Military Police from October 1992 to summer 1993,

Ćorić Defence further contends that Mario Mihalj, identified on several occasions as the only person responsible for the mistreatment inflicted on the Vojno detainees, was a member of the 2<sup>nd</sup> HVO Brigade, not the Military Police.<sup>4218</sup>

1677. The Chamber observes that, commencing on or before 2 September 1993, the warden and the deputy warden of the Vojno Detention Centre were Mario Mihalj and Dragan Šunjić, respectively, both members of the 2<sup>nd</sup> HVO Brigade.<sup>4219</sup>

1678. The Chamber notes that, prior to 2 September 1993, these two men were members of the HVO Military Police and remained so at least until June 1993.<sup>4220</sup> On 21 June 1993, Valentin Ćorić, Chief of the Military Police Administration, requested from the “Office for Housing and Infrastructure” that members of the Military Police, among whom these two men are mentioned by name, be allowed to occupy apartments in Mostar.<sup>4221</sup> Consequently, in June 1993, Mario Mihalj and Dragan Šunjić were still members of the Military Police. However, the evidence does not allow the Chamber to determine whether in August 1993, the date for which the Chamber does have evidence demonstrating that the Vojno Detention Centre was in operation, these two persons were already in charge of the Vojno Detention Centre and whether they were still members of the Military Police.

1679. *Zvonko Vidović*, acting head of the Department for Criminal Investigation of the Military Police Administration from the beginning of November 1993 until mid-December 1993,<sup>4222</sup> indicated during his testimony to the Chamber that Zlatan Mijo Jelić, commander of the Mostar Defence Sector, had informed him that the Vojno Detention Centre did not fall within his area of responsibility.<sup>4223</sup> This was confirmed by *Witness NO*,<sup>4224</sup> a member of the Mostar HVO from July 1993.<sup>4225</sup> However, the Chamber finds that all the evidence shows that, given its location – near

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Chief of that department within the 5<sup>th</sup> HVO Military Police Battalion of Mostar, and then from early November to mid-December 1993, and acting head of the Department for Criminal Investigation of the Military Police Administration in Ljubuški from early November 1993 to mid-December 1993 (*Zvonko Vidović*, T(F), pp. 51438, 51439, 51730 and 51731).

<sup>4218</sup> Ćorić Defence Final Trial Brief, para. 512.

<sup>4219</sup> P 07787, p. 2; Marijan Biškić, T(F), p. 15153; P 04908; Witness NN, P 10219 under seal, *Naletilić and Martinović* Case, T(F), p. 5925; P 08079 under seal, p. 1; P 05054; P 08428, p. 13, item 51, pp. 15 and 16, item 59 and p. 18, item 69; P04767.

<sup>4220</sup> P 02879, p. 2; 5D 04165, p. 1.

<sup>4221</sup> P 02879, pp. 1 and 2. The Chamber notes that they had been prosecuted by the Mostar Military Prosecutor on 16 April 1993 for having extorted money from certain persons in exchange for permission to pass a checkpoint they were monitoring, in their capacity as military police, and that they were fugitives, as of 16 April 1993. The Chamber has no information about the subsequent course of such proceedings. *See* 5D 04165.

<sup>4222</sup> *Zvonko Vidović*, T(F), pp. 51438-51440, 51730 and 51731.

<sup>4223</sup> *Zvonko Vidović*, T(F), pp. 51531 and 51532.

<sup>4224</sup> Witness NO, T(F), p. 51255, closed session.

<sup>4225</sup> Witness NO, T(F), pp. 51180, 51182, 51210 and 51225–51226, closed session; 5D 05110 under seal, paras 3 and 7–9.



Mostar and not far from Bijelo Polje – the said detention centre lay within the South-East OZ, and more specifically the area of responsibility of the 2<sup>nd</sup> HVO Brigade, based in Bijelo Polje.<sup>4226</sup> That is, moreover, corroborated by the fact that the warden, Mario Mihalj, and the deputy warden, Dragan Šunjić, of the Vojno Detention Centre, were members of the 2<sup>nd</sup> HVO Brigade. Lastly, despite the denial of Zlatan Mijo Jelić reported by *Zvonko Vidović* and the testimony of *Witness NO* concerning his authority in respect of the Vojno Detention Centre, the Chamber notes that it was principally on the order of the commander of the town of Mostar Defence Sector, Zlatan Mijo Jelić, that the detainees from the Heliodrom were sent out to work for the benefit of the 2<sup>nd</sup> HVO Brigade and placed under the guard of the warden and deputy warden of the Vojno Detention Centre.<sup>4227</sup>

1680. The Chamber finds that insofar as exchanges and/or releases of detainees from the Vojno Detention Centre are concerned, the detention centre's warden and deputy warden took orders from the command of the 2<sup>nd</sup> Brigade and “from the SIS”, although it could not determine which SIS body this involved. According to a report from the warden and the deputy warden at the Vojno Detention Centre, sent to the Military Police Administration on 9 September 1993 – and received on 10 September 1993 – two detainees from the Heliodrom, imprisoned at that time in the Vojno Detention Centre, were released further to a request to that effect from the “command of the 2<sup>nd</sup> Brigade and the SIS”.<sup>4228</sup>

1681. The Chamber notes that the Service for the Exchange also played a role in the release and/or exchange of certain detainees from the Vojno Detention Centre. By majority the Chamber notes that a report by the head of the SIS centre in Mostar, sent to the SIS of the Ministry of Defence on 3 December 1993, shows that the Service for the Exchange had arranged the “release” of certain “civilian” detainees without giving advance notice thereof or coordinating with the SIS centre in Mostar.<sup>4229</sup> According to the report, this practice led to “disagreements” in the relationship between these two institutions, particularly in respect of an “exchange in Vojno”.<sup>4230</sup> The Chamber notes that the report from the head of the SIS centre in Mostar initially speaks of a release, then later, an exchange, and that, in any case, the Chamber does not have any further information concerning this release or exchange.

1682. In light of all the evidence, the Chamber finds that the Vojno Detention Centre fell under the authority of the 2<sup>nd</sup> HVO Brigade. As far as exchanges and/or releases of detainees were concerned,

<sup>4226</sup> P 00907, p. 4; 4D 00830, pp. 2 and 3.

<sup>4227</sup> P 04305; P 04767; P 05288; P 07799; P 07787.

<sup>4228</sup> P 04908; P 00285, p. 111, item 578.

<sup>4229</sup> This commission was created on 23 November 1993 and established as part of the Ministry of Defence. P 07023, p. 2.

the warden and deputy warden of the Vojno Detention Centre, Mario Mihalj and Dragan Šunjić, implemented the orders of the 2<sup>nd</sup> Brigade command and the SIS.<sup>4231</sup> The Chamber finds, by majority, with Judge Antonetti dissenting, that the report by the chief of the Mostar SIS shows that the Service for the Exchange did participate in a release and/or exchange of “civilian” detainees in the Vojno Detention Centre.

2. Authorities and Prominent Figures Informed of the Existence of the Vojno Detention Centre and the Incidents Taking Place There

1683. The Chamber notes that on 9 September 1993, Mario Mihalj and Dragan Šunjić sent to the Military Police Administration a report on the release of two detainees from the Heliodrom imprisoned at that time in the Vojno Detention Centre.<sup>4232</sup> The report was received by the Military Police Administration on 10 September 1993.<sup>4233</sup>

1684. On 14 September 1993, Stanko Božić, warden of the Heliodrom, sent a report about the death of detainees at the Vojno Detention Centre to Branimir Tučak, Zlatan Mijo Jelić, Zvonko Vidović and to the 5<sup>th</sup> Battalion (“Stanko Božić’s Report of 14 September 1993”).<sup>4234</sup> The report bears a stamp marking receipt by the SIS of the Department of Defence dated 16 September 1993.<sup>4235</sup> In addition, the report by the chief of the SIS centre in Mostar mentioning coordination problems in the organisation of the release and/or an exchange at the Vojno Detention Centre was sent to the SIS at the Ministry of Defence on 3 December 1993 and received on 5 December 1993.<sup>4236</sup>

1685. The Chamber then notes that the ICRC sent letters directly to Jadranko Prlić (two in January and one in February 1994), to Milivoj Petković (two in January 1994), and to Berislav Pušić (one in January 1994) about the Vojno Detention Centre, and specifically labour by detainees and the deaths of some.<sup>4237</sup>

1686. In view of such evidence, the Chamber finds that, commencing at least as early as September 1993, the Department of Defence was informed of the existence of the Vojno Detention Centre through the Deputy Minister for Security and the Military Police at the HR H-B Ministry of

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<sup>4230</sup> P 07023, pp. 3 and 4.

<sup>4231</sup> P 04908.

<sup>4232</sup> P 04908; P 00285, p. 111, item 578.

<sup>4233</sup> P 04908; P 00285, p. 111, item 578.

<sup>4234</sup> P 05054.

<sup>4235</sup> P 05054.

<sup>4236</sup> This commission was created on 23 November 1993 and was established as part of the Ministry of Defence. P 07023, pp. 1, 3 and 4.

Defence, Marijan Biškić, as well as through the SIS at the Department of Defence. The Military Police Administration likewise knew of the existence of the Vojno Detention Centre at least as early as September 1993. Moreover, in January 1994, Jadranko Prlić, Milivoj Petković and Berislav Pušić directly received letters from the ICRC concerning the situation of the detainees at the Vojno Detention Centre and were thus aware of the existence of this detention centre at least as early as that date.

## II. Status of Detainees at the Vojno Detention Centre

1687. At paragraph 136 of the Indictment, it is alleged that the BiH Muslim men, women and children who were arrested or otherwise taken into custody were held at the Vojno Detention Centre.<sup>4238</sup>

1688. The Chamber has previously stated that it has no evidence about the detention of the women and children.<sup>4239</sup>

1689. Concerning the men detained at the Vojno Detention Centre, the Chamber notes that *Witness NN*, a Muslim and an ABiH soldier<sup>4240</sup> whose testimony was admitted under Rule 92 *bis* of the Rules, said that he did work at the Vojno Detention Centre for 15 to 20 days while in detention at the Heliodrom between 13 June 1993 and 19 March 1994.<sup>4241</sup> He was not more specific regarding the dates. In his testimony before the Chamber, *Marijan Biškić*<sup>4242</sup> confirmed that the Vojno Detention Centre held several ABiH members.<sup>4243</sup> In his Report of 3 February 1994, Marijan Biškić described the detainees returning from the Vojno Detention Centre to the Heliodrom as “prisoners of war”.<sup>4244</sup>

1690. Lastly, the Chamber observes by majority, with Judge Antonetti dissenting, that the report sent by the Mostar SIS centre's chief to the SIS at the Ministry of Defence on 3 December 1993 shows that the Service for the Exchange had arranged for the release and/or exchange of certain “civilian” detainees at the Vojno Detention Centre.<sup>4245</sup> Accordingly, the Chamber finds by majority,

<sup>4237</sup> P 07537 under seal; P 07636; P 07660; P 07895.

<sup>4238</sup> Indictment, para. 136.

<sup>4239</sup> See the introduction to the Chamber’s factual findings relating to the Vojno Detention Centre.

<sup>4240</sup> *Witness NN*, P 10219 under seal, *Naletilić and Martinović* Case, T(F), pp. 5875 and 5876.

<sup>4241</sup> *Witness NN*, P 10219 under seal, *Naletilić and Martinović* Case, T(F), p. 5888.

<sup>4242</sup> *Marijan Biškić* was the Deputy Minister for Security and the HVO Military Police in the HR H-B Ministry of Defence.

<sup>4243</sup> *Marijan Biškić*, T(F), p. 15375; P 08077.

<sup>4244</sup> P 07787, p. 3.

<sup>4245</sup> P 07023, pp. 3 and 4.

with Judge Antonetti dissenting, that the chief of the SIS himself acknowledges in his report that “civilians” were detained at Vojno.

1691. In view of the foregoing, the Chamber finds by majority, with Judge Antonetti dissenting, that members of the ABiH and persons described as “civilians” by the HVO authorities were detained at the Vojno Detention Centre.

1692. Moreover, the Chamber notes that the Prosecution alleges that the detainees were imprisoned without the HVO’s having made any genuine or *bona fide* effort to determine their status or make a distinction among the detainees. The Chamber has no evidence allowing it to determine whether the HVO detained the men without making any genuine or *bona fide* effort to determine their status or make a distinction among the detainees.

### III. Detention Conditions at the Vojno Detention Centre

1693. The Prosecution alleges that the detainees from the Vojno Detention Centre lived under harsh and unhealthy conditions because of overcrowding, poor ventilation and insufficient food, water, bedding and inadequate sanitation facilities.<sup>4246</sup>

1694. The Chamber has admitted two documents concerning the detention conditions at the Vojno Detention Centre: Marijan Biškić's Report of 3 February 1994, to which is attached a joint statement by 61 former Heliodrom detainees sent to Vojno between 8 November 1993 and 28 January 1994<sup>4247</sup> and a letter from the ICRC dated 16 March 1994 addressed to Željko Šiljeg, Marijan Biškić, Ante Roso and Jadranko Prlić based on information obtained from the Heliodrom detainees sent to Vojno between 8 November 1993 and 28 January 1994<sup>4248</sup> (“ICRC Letter of 16 March 1994”).

1695. The Chamber would first note that the ICRC Letter indicates only that detainees from the Heliodrom sent to the Vojno Detention Centre were deprived of food for 48 hours,<sup>4249</sup> without providing additional details concerning the detention conditions.

1696. Marijan Biškić's Report of 3 February 1994, to which the joint statement of the 61 detainees sent to the Vojno Detention Centre between 8 November 1993 and 28 January 1994 is attached, is therefore the only evidence the Chamber has describing the detention conditions at Vojno.

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<sup>4246</sup> Indictment, para. 137.

<sup>4247</sup> P 07787.

<sup>4248</sup> P 08079 under seal.

<sup>4249</sup> P 08079 under seal, p. 1.

Inasmuch as the information about the detention conditions derives from the joint statement by the detainees, and not directly from the Report's author, namely Marijan Biškić, it can be deemed circumstantial. The Chamber recalls, however, that the Report by Marijan Biškić, as well as the joint statement, were the subject of argument by both parties in the courtroom during *Marijan Biškić's* testimony before the Chamber. Biškić as Deputy Minister for Security and the Military Police in the Ministry of Defence at the time of the relevant events,<sup>4250</sup> confirmed the authenticity of his Report and the joint statement attached thereto.<sup>4251</sup> Although *Marijan Biškić* explained during the hearing that he was away from the HR H-B on the date the Report was drafted and thus did not sign it himself, he did not question its content.<sup>4252</sup> Moreover, he added that the information in the said Report originated with the SIS and confirmed that it had been transmitted to the Ministry of Defence and to the Chief of the Main Staff.<sup>4253</sup> He also explained that, following the Report, the officials of the SIS and the “members of the Military Police” had compiled or collected intelligence and “done everything that was necessary to file a criminal report against certain individuals”<sup>4254</sup> yet did not succeed in enlightening the Chamber as to the subsequent course of these proceedings.<sup>4255</sup>

1697. His testimony before the Chamber also confirms that several questions had been put to him directly concerning the joint statement attached to his Report and that, during cross-examination, none of the Defence teams questioned its authenticity or probative value. The Chamber notes, moreover, that the names of the detainees who drafted the joint statement appear in the original BCS version of the document and that at the end of their statement it is made clear that it was read out to them and that they gave their consent to it.<sup>4256</sup>

1698. In view of the explanations provided by *Marijan Biškić* when he was heard by the Chamber and the fact that the Defence teams did not dispute authenticity and the content of the joint statement at the hearing or in their final trial briefs, the Chamber has decided to consider the content of this statement in order to establish the conditions under which the detainees were imprisoned at the Vojno Detention Centre.

1699. The joint statement shows that the detention conditions at the Vojno Detention Centre were poor. The prisoners were placed into two rooms: a six-by-four metre garage whose windows did not

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<sup>4250</sup> Marijan Biškić, T(F), pp. 15039, 15048 and 15049; P 07236, p. 2, art. 4; P 06994; P 06998, p. 1.

<sup>4251</sup> Marijan Biškić, T(F), pp. 15147-15156.

<sup>4252</sup> Marijan Biškić, T(F), pp. 15154.

<sup>4253</sup> Marijan Biškić, T(F), pp. 15147-15149 and 15156.

<sup>4254</sup> Marijan Biškić, T(F), pp. 15154 and 15155.

<sup>4255</sup> Marijan Biškić, T(F), p. 15156.

<sup>4256</sup> P 07787.

have window panes, and the unlit boiler room of a private house.<sup>4257</sup> Each was given a daily individual ration of a quarter of a loaf of bread and 200 grams of meat.<sup>4258</sup> They had to relieve themselves and to urinate in the room where they slept, they could not wash and had their personal belongings taken from them.<sup>4259</sup> In January 1994, the “first bath” was organised for the prisoners who had been detained since November 1993.<sup>4260</sup>

1700. Taking this evidence into account, the Chamber finds that the detention conditions at the Vojno Detention Centre between 8 November 1993 and 28 January 1994 were very harsh.

#### **IV. Treatment of the Detainees in the Vojno Detention Centre and the Death of Some Detainees**

1701. Paragraph 138 of the Indictment alleges that the HVO forces physically and mentally abused the Muslim men detained at the Vojno Detention Centre on a daily basis; that the Herceg-Bosna/HVO forces killed at least 15 detainees and injured many others; that they routinely beat the detained Muslim men with fists, feet, rubber batons or with various wooden objects, subjected them to electrical shocks, often forced them to beat each other and otherwise abused and humiliated them; that the Muslim detainees were forced to witness the summary execution of other detainees and subjected to particularly severe mistreatment in retaliation for ABiH military successes. The Prosecution prepared both a list of representative victims of mistreatment at the Vojno Detention Centre<sup>4261</sup> and a list of victims representing the persons killed or injured at the Vojno Detention Centre.<sup>4262</sup> The Chamber notes from the outset that it has no information on the persons named by the Prosecution in those two lists, with the exception of Mustafa Kahvić, with whom the Chamber will deal when it addresses the issue of the persons killed at the Vojno Detention Centre.

1702. The Chamber will first analyse (A) the treatment of the detainees and (B) the alleged death of some of them while in detention at the Vojno Detention Centre .

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<sup>4257</sup> P 07787, p. 4.

<sup>4258</sup> P 07787, p. 5.

<sup>4259</sup> P 07787, p. 5.

<sup>4260</sup> P 07787, p. 5.

<sup>4261</sup> Confidential Annex to the Indictment, p. 20. Representative victims of the mistreatment at the Vojno Detention Centre alleged at para. 138 of the Indictment and mentioned in the Annex to the Indictment.

<sup>4262</sup> Confidential Annex to the Indictment, p. 19. Victims representing the persons injured or killed at the Vojno Detention Centre as alleged in para. 138 of the Indictment and mentioned in the Annex to the Indictment.

### A. Treatment of Detainees During Detention at the Vojno Detention Centre

1703. The joint statement of 61 former Heliodrom detainees sent to Vojno between 8 November 1993 and 28 January 1994, attached to Marijan Biškić's Report of 3 February 1994,<sup>4263</sup> shows that one of the prisoners suffering from mental problems was physically abused on a regular basis by Dragan Šunjić and Mario Mihalj specifically, who beat him one day for two hours running.<sup>4264</sup> He was also forbidden to sit or to sleep for 20 days.<sup>4265</sup>

1704. Later, when the first “bath” for detainees was organised in January 1994, the detainees were forced at gunpoint to insult Dragan Šunjić and Mario Mihalj; once they did so, gunshots were fired over their heads and between their legs.<sup>4266</sup> They were also beaten on the head with rifle butts or knife sheaths.<sup>4267</sup> On 26 January 1993, Dragan Šunjić struck a detainee with such force that he was unable to stand up and then forced him to drink the urine of the other detainees.<sup>4268</sup> On that same day, another prisoner was taken into the office of the detention centre's warden, where electric shocks were administered by Dragan Šunjić and Mario Mihalj.<sup>4269</sup>

1705. The joint statement of the detainees goes on to say that Mario Mihalj forced three detainees to kneel, place their hands behind their backs and bow their heads; they were punched, kicked and struck on the head with a truncheon, until one of them fainted.<sup>4270</sup> The head of one of the detainees was so swollen that he could no longer see or hear.<sup>4271</sup>

1706. In his Report of 3 February 1994,<sup>4272</sup> Marijan Biškić informed the Minister of Defence, Perica Jukić, and the Chief of the HVO Main Staff, Ante Roso, that Mario Mihalj “was abusing” the Muslim detainees at the Vojno Detention Centre.<sup>4273</sup> During his testimony to the Chamber, *Marijan Biškić* explained that this information came from the SIS and that it had in fact been sent to the Minister of Defence and to the Chief of the Main Staff.<sup>4274</sup> At the end of his report, Marijan Biškić finds that:

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<sup>4263</sup> P 07787.

<sup>4264</sup> P 07787, p. 5.

<sup>4265</sup> P 07787, p. 5.

<sup>4266</sup> P 07787, p. 5.

<sup>4267</sup> P 07787, p. 5.

<sup>4268</sup> P 07787, pp. 4 and 5.

<sup>4269</sup> P 07787, p. 5.

<sup>4270</sup> P 07787, p. 5.

<sup>4271</sup> P 07787, p. 5.

<sup>4272</sup> Marijan Biškić, T(F), pp. 15039, 15048 and 15049; P 07236, p. 2, art. 4; P 06994; P 06998, p. 1.

<sup>4273</sup> P 07787, pp. 2 and 3; Marijan Biškić, T(F), p. 15153.

<sup>4274</sup> Marijan Biškić, T(F), pp. 15149 and 15156.

“It can be concluded from the stated examples that certain commanders still do not comply with the agreed procedures with regards to the use of prisoners of war for certain works and that their treatment has not even been close to the international conventions on the treatment of prisoners of war. Such methods must be prevented and sanctioned because they will continue to bring us harm on an international political level. We ask that you take measures at your level to prevent arbitrariness of some individuals and that the orders that have been submitted to everybody to that effect be obeyed.”<sup>4275</sup>

1707. *Marijan Biškić* also explained that, subsequent to his Report of 3 February 1994, “SIS officials” and “members of the Military Police” had collected and compiled information and had done “everything necessary in order to file a criminal report against certain individuals”,<sup>4276</sup> without however enlightening the Chamber as to the subsequent course of such proceedings.<sup>4277</sup>

1708. Lastly, according to the ICRC Letter of 16 March 1994 based on information received from the Heliodrom detainees sent to Vojno between 8 November 1993 and 28 January 1994, the detainees from the Vojno Detention Centre were “mistreated” by Mario Mihalj and Dragan Šunjić.<sup>4278</sup> These two men woke the detainees up to five times a night, to “humiliate” them.<sup>4279</sup> One night, one detainee was made to drink the urine of the other detainees; some were made to swallow animal or human excrement.<sup>4280</sup> Another detainee was burned with a cigarette.<sup>4281</sup>

1709. In view of this evidence, the Chamber finds that the detainees at the Vojno Detention Centre were subjected to abuse and severe beatings inflicted by Mario Mihalj and Dragan Šunjić between 8 November 1993 and 28 January 1994. The Chamber does not have information relevant to the Prosecution's allegation that the Muslim detainees were forced to witness the summary execution of other detainees and were subjected to particularly brutal treatment in reprisal for ABiH military successes.

## **B. Death of Detainees While in Detention at the Vojno Detention Centre**

1710. According to Stanko Božić's Report of 14 September 1993, Mario Mihalj, warden at the Vojno Detention Centre, informed Stanko Božić, warden at the Heliodrom, that on 11 September

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<sup>4275</sup> P 07787, p. 3.

<sup>4276</sup> *Marijan Biškić*, T(F), pp. 15154 and 15155.

<sup>4277</sup> *Marijan Biškić*, T(F), p. 15156.

<sup>4278</sup> P 08079 under seal, p. 1.

<sup>4279</sup> P 08079 under seal, p. 1.

<sup>4280</sup> P 08079 under seal, p. 1.

<sup>4281</sup> P 08079 under seal, p. 1.



1993, Husnija Ćorojević, Enver Kajtazi, Havdo Jelin, Haris Začinagić<sup>4282</sup> and Haris Balić,<sup>4283</sup> detainees from the Heliodrom then incarcerated at the Vojno Detention Centre, had died.<sup>4284</sup> The Report provides no further detail about the circumstances of those deaths, specifically as to whether they were killed while incarcerated at the Vojno Detention Centre or while performing work assignments.

1711. The Chamber has also admitted a letter from the ICRC to Marijan Biškić, Milivoj Petković, Jadranko Prlić and Vladislav Pogarčić dated 20 January 1994<sup>4285</sup> (“ICRC Letter of 20 January 1994”). The Chamber points out that, contrary to what the Ćorić Defence asserts in its Final Trial Brief,<sup>4286</sup> the letter does in fact bear a stamp marking receipt, even if it is not very legible and therefore prevents the Chamber from determining specifically which HVO authority received it.<sup>4287</sup> Moreover, the Chamber heard *Marijan Biškić* express his views on the ICRC Letters, indicating that

“regardless of the fact that they were also forwarded to other addresses, all these letters were sent to the Military Police Administration so that they could check the allegations in the letters and so that they could respond to the ICRC and inform them of the results of the Military Police investigation.”<sup>4288</sup>

1712. He adds: “So not a single letter from the ICRC at the time when I was responsible was ignored.”<sup>4289</sup> These statements, together with the stamp marking receipt, constitute evidence that the ICRC letters were in fact received by the Military Police Administration.

1713. This letter points out that at Vojno certain detainees – without however specifying how many or on what date – were killed by “the person in charge of the place”.<sup>4290</sup> The letter states that the ICRC was made aware of these deaths by “the authorities or former co-detainees”.<sup>4291</sup> The Chamber considers this information far too vague and too far removed in time from Stanko Božić's Report of 14 September 1993 to consider it corroborating evidence or offering additional details about the five detainee deaths mentioned in the said Report.

<sup>4282</sup> Husnija Ćorojević, Enver Kajtazi, Havdo Jelin, Haris Začinagić are four representative victims from paragraph 138 mentioned in the Annex to the Indictment.

<sup>4283</sup> This is a representative victim from paragraph 139 mentioned in the Annex to the Indictment.

<sup>4284</sup> P 05054. This report was addressed to Branimir Tučak, Zlatan Mijo Jelić and Zvonko Vidović. The report also mentions the death of a person named Željko Ćorić, but it is apparent from Stanko Božić's report that he was not detained at the Heliodrom.

<sup>4285</sup> P 07629.

<sup>4286</sup> Ćorić Defence Final Trial Brief, para. 519.

<sup>4287</sup> P 07629, p. 1.

<sup>4288</sup> Marijan Biškić, T(F), p. 15158.

<sup>4289</sup> Marijan Biškić, T(F), p. 15159.

<sup>4290</sup> P 07629, p. 2; P 07636.

<sup>4291</sup> P 07629, p. 2; P 07636.

1714. In his Report of 3 February 1994, Marijan Biškić informed the Minister of Defence, Perica Jukić, and the Chief of the HVO Main Staff, Ante Roso, that it had proved impossible to obtain reliable information concerning Mario Mihalj's responsibility in the deaths of the detainees at Vojno.<sup>4292</sup>

1715. According to the ICRC Letter of 16 March 1994 based on information received from Heliodrom detainees sent to Vojno between 8 November 1993 and 28 January 1994, after being beaten, Mustafa Kahvić was killed, by “the person in charge”, by four or five gunshots, sometime between 1 and 5 December 1993, and his body buried near the garage of the Vojno Detention Centre.<sup>4293</sup> The Letter states, moreover, that the persons in charge at Vojno were “Mario Mikhail”<sup>4294</sup> and Dragan Sunić.<sup>4295</sup> Although the ICRC was made aware of this death by certain “detainees”, the letter provides additional details regarding the identity of a victim and the persons in charge of the detention centre.<sup>4296</sup> The death of Mustafa Kahvić is corroborated by a Military Police report dated 12 August 1994, which establishes a list of reports on the “prisoners of war” killed or injured as they worked (“Military Police Report of 12 August 1994”), based on a report by Mario Mihalj, warden at Vojno Detention Centre, the date and contents of which remain unknown to the Chamber as such.<sup>4297</sup>

1716. The Chamber considers that this evidence suffices to support a finding that Mustafa Kahvić was beaten and killed by a gunshot on 5 December 1993. Although the ICRC Letter of 16 March 1994 does not give the name of the individual who killed this detainee, it nevertheless states that it was “the person in charge”, who has already been determined by the Chamber to be Mario Mihalj.<sup>4298</sup>

## **V. Labour by the Detainees from the Heliodrom and Vojno in the Vojno-Bijelo Polje Area and How They Were Treated During Such Labour**

1717. In paragraph 139 of the Indictment, it is alleged that, between August 1993 and March 1994, Muslim men detained at the Vojno Detention Centre and certain detainees from the Heliodrom were used in forced labour assignments in the Vojno area.

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<sup>4292</sup> P 07787, p. 3.

<sup>4293</sup> P 08079 under seal, p. 2.

<sup>4294</sup> The Chamber notes that in the letter from the ICRC Mario Mihalj's name is spelled “Mikhail”. It notes, however, that this is probably a typographical error and that the ICRC was referring to Mario Mihalj.

<sup>4295</sup> P 08079 under seal, p. 1.

<sup>4296</sup> P 08079 under seal, pp. 1 and 2.

<sup>4297</sup> P 08428, p. 31, item 138.

<sup>4298</sup> See “The Authorities Overseeing the Operation of the Vojno Detention Centre” in the Chamber's factual findings relating to the Vojno Detention Centre.

1718. In paragraph 125 of that portion of the Indictment devoted to the Heliodrom, it is alleged that Herceg-Bosna/HVO forces regularly mistreated and abused Muslim detainees or allowed others to do so, both at the Heliodrom as well as at various locations where the detainees were taken for forced labour or other purposes. Concerning the sites where the Heliodrom detainees were taken for forced labour, the Indictment adds in paragraph 128 that from approximately August 1993 to March 1994, Bosnian Muslim men detained at the Heliodrom prison were transported to the Vojno Detention Centre, often on a seven-day rotation, where they were used in forced labour in dangerous conditions. Many Muslim detainees were killed or injured in the course of such labour.

1719. In order to rule on these allegations, the Chamber will first analyse the evidence concerning the Heliodrom detainees sent to work (A) in the Vojno area, (B) the types and locations of that labour, (C) the treatment of the Heliodrom detainees during that labour at Vojno and, (D) the information pertaining to the Heliodrom and Vojno detainees injured or killed during that labour.

#### **A. Detainees Sent from the Heliodrom for Labour in the Vojno-Bijelo Polje Area**

1720. *Witness NN*, a Muslim and an ABiH soldier who was detained at the Heliodrom from 13 June 1993 to 19 March 1994,<sup>4299</sup> and whose testimony was admitted under Rule 92 *bis* of the Rules, stated that, during his detention at the Heliodrom, he had worked at Vojno-Bijelo Polje for 15 to 20 days,<sup>4300</sup> yet failed to specify on which dates.

1721. In two of the four statements which were attached<sup>4301</sup> to a report by Stanko Božić, warden at the Heliodrom, dated 10 September 1993, and sent to Branimir Tučak, Zlatan Mijo Jelić and to the 5<sup>th</sup> Battalion (“Stanko Božić’s Report of 10 September 1993”), two detainees from the Heliodrom – Halil Hamzić and Emir Šehović – explained that they were sent with 50 other detainees to work at the Vojno Detention Centre between 19 August and 3 September 1993.<sup>4302</sup> The Chamber observes that this does not, as argued by the Ćorić Defence in its Final Trial Brief,<sup>4303</sup> amount to “statements given by unidentified victims” inasmuch as both statements attached to the report were given by two clearly identified detainees.<sup>4304</sup> Moreover, the statements by these two detainees are confirmed by the fact that on 19 August 1993, on orders from Zlatan Mijo Jelić, Commander of the Mostar

<sup>4299</sup> *Witness NN*, P 10219 under seal, *Naletilić and Martinović* Case, T(F), pp. 5878, 5880 and 5888.

<sup>4300</sup> *Witness NN*, P 10219 under seal, *Naletilić and Martinović* Case, T(F), p. 5888.

<sup>4301</sup> Four witness statements are attached to the report. Only two of those statements (Halil Hamzić and Emir Šehović) pertain to the Vojno Detention Centre.

<sup>4302</sup> P 04918, pp. 5 and 6; *Witness NO*, T(F), pp. 51252 and 51253, closed session. *Witness NO* submitted that Zlatan Mijo Jelić had not received this report. The Chamber previously determined that the Vojno Detention Centre was the same as the Bijelo Polje camp; what is more, he mentions Mario Mihalj, warden at the Vojno Detention Centre, as the perpetrator of the violence used on him.

<sup>4303</sup> Ćorić Defence Final Trial Brief, para. 519.

Defence Sector, and Vladimir Primorac, Commander of the 1<sup>st</sup> Military Police Light Assault Battalion,<sup>4305</sup> detainees characterised as “prisoners of war” were given to Dragan Šunjić, a member of the 2<sup>nd</sup> HVO Brigade and deputy warden of the Vojno Detention Centre, to work.<sup>4306</sup>

1722. Furthermore, on 2 September 1993, on order from Zlatan Mijo Jelić, 50 detainees were sent to the 1<sup>st</sup> Battalion of 2<sup>nd</sup> HVO Brigade, which wanted to use them for work assignments.<sup>4307</sup> Stanko Božić's Report of 14 September 1993 shows that the detainees were then under the responsibility of Dragan Šunjić.<sup>4308</sup>

1723. Subsequent to an order by Zlatan Mijo Jelić, on 13 September 1993, 70 detainees from the Heliodrom were “given” to the 2<sup>nd</sup> HVO Brigade.<sup>4309</sup> The Chamber notes that Dragan Šunjić, deputy warden of the Vojno Detention Centre, was in charge of their safety and that Mario Mihalj, warden of the Vojno Detention Centre, was also responsible for the detainees.<sup>4310</sup>

1724. The Chamber has also admitted<sup>4311</sup> a report by the Chief of the SIS Administration, specifically addressed to the Military Police Administration, on 3 February 1994<sup>4312</sup> (the “SIS Chief's Report of 3 February 1994”). The Chamber notes, as does the Ćorić Defence in its Final Trial Brief,<sup>4313</sup> that the report bears no stamp marking receipt. However, the Chamber notes that Marijan Biškić's Report of 3 February 1994 explicitly states that it was based on a report “submitted by the security sector” and that the information contained in Marijan Biškić's Report of 3 February

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<sup>4304</sup> P 04918, pp. 5 and 6.

<sup>4305</sup> P 03616; P 06802, p. 2.

<sup>4306</sup> P 04305; this order was received by the Military Police Administration on 20 August 1993. *See also* P 04779; P 02642, p. 8, items 163, 164 and 168.

<sup>4307</sup> P 04767. The order by Zlatan Mijo Jelić was received at the Military Police Administration on 3 September 1993. *See also* P 05054.

<sup>4308</sup> P 05054.

<sup>4309</sup> The report was sent to Branimir Tučak, Zlatan Mijo Jelić and Zvonko Vidović. *Witness NO* submitted that Zlatan Mijo Jelić did not receive the report. *Witness NO*, T(F), pp. 51252 and 51253, closed session; P 05288.

<sup>4310</sup> P 05288. The Chamber will later determine that the “Bijelo Polje private prison” was a term used to designate the Vojno Detention Centre. *See* “A Description of the Vojno Detention Centre” in the Chamber’s factual findings relating to the Vojno Detention Centre.

<sup>4311</sup> “Decision on Prosecution Motion for Admission of Documentary Evidence (45 Documents Relating to the HVO Military Police)”, confidential, 13 December 2007, p. 8. In the Annex to the joint response by the Stojić, Praljak, Ćorić and Pušić Defence teams, filed confidentially on 27 November 2007 (“Bruno Stojić, Slobodan Praljak, Valentin Ćorić and Berislav Pušić Response to Prosecution Motion for Admission of Documentary Evidence (Related to the HVO Military Police)”), they objected to the admission of the said document on the ground that there was a dating problem in the document but, particularly because “contrary to what is submitted by the Prosecution, it does not mention the Military Police or their control. Moreover this document relates only to the period after 8 November 1993”. The Prosecution filed a confidential reply on 3 December 2007 in which it says that the report recounted violent treatment visited on certain detainees and that the said document was specifically addressed to the Military Police Administration (Confidential Annex 1 to the “Prosecution Reply to the Response of the Accused Stojić, Praljak, Ćorić and Pušić to the Prosecution Motion for Admission of Documentary Evidence (Related to the HVO Military Police)”).

<sup>4312</sup> P 07799.

<sup>4313</sup> Ćorić Defence Final Trial Brief, para. 519.

1994 is in fact similar to that contained in the SIS Chief's Report of 3 February 1994.<sup>4314</sup> The Chamber can thus deduce that the SIS Chief's Report of 3 February 1994 did in any event reach Marijan Biškić, and therefore does not doubt that the said report also reached the Military Police Administration, which was under the latter's responsibility as Deputy Minister for Security and the Military Police at the Ministry of Defence. Thus, the Chamber points out that, following orders from Zlatan Mijo Jelić, Commander of the Mostar Defence Sector, on 8 November 1993 and 17 November 1993, 15 and 58 Heliodrom detainees, respectively, were sent to work in the Vojno area.<sup>4315</sup>

1725. According to an ICRC letter addressed to Marijan Biškić, Željko Šiljeg and Jadranko Prlić on 18 February 1994 during a visit by representatives from the ICRC to the Heliodrom in February 1994, the representatives noted that 76 detainees visited by the organisation on 5 January 1994 were no longer at the Heliodrom.<sup>4316</sup> The letter indicates that, according to the information obtained from the detainees, 64 of them had been taken out of the Heliodrom to work at the front line in the areas around the towns of Mostar and Vojno.<sup>4317</sup> However, this information is too vague to support a finding by the Chamber that those detainees were indeed sent to the Vojno Detention Centre and on what date this occurred.

1726. The Chamber therefore finds that, between August 1993 and the end of January 1994, several dozen Heliodrom detainees were sent to the Vojno Detention Centre for labour in the Vojno area. As concerns the status of these detainees, the Chamber recalls that it previously found, by majority, with Judge Antonetti dissenting, that members of the ABiH as well as "civilians" were detained at the Vojno Detention Centre.

### **B. Types and Locations of Labour in the Vojno-Bijelo Polje Area**

1727. *Witness NN* explained that his labour at "Vojno-Bijelo Polje" consisted of digging trenches, building floating bridges spanning the Neretva, bunkers, shelters, and other labour<sup>4318</sup> without however providing further details.

1728. According to the SIS Chief's Report of 3 February 1994 and Marijan Biškić's Report of 3 February 1994, the labour consisted of fortifying the front lines in the 2<sup>nd</sup> HVO Brigade's area of

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<sup>4314</sup> P 07787.

<sup>4315</sup> P 07787, p. 3; P 07799; P 08079 under seal.

<sup>4316</sup> P 07895, p. 1.

<sup>4317</sup> P 07895, p. 1.

<sup>4318</sup> *Witness NN*, P 10219 under seal, *Naletilić and Martinović Case*, T(F), p. 5889.

responsibility at Vojno and Bijelo Polje or otherwise working as needed by the 2<sup>nd</sup> Brigade.<sup>4319</sup> According to the ICRC's Letter of 20 January 1994, many detainees from the "HVO camps in Mostar, Vojno or Vrđi" were taken in August and September 1993 to the front lines at Mostar for labour, even as the fighting raged.<sup>4320</sup>

1729. According to another ICRC letter sent to Milivoj Petković, Perica Jukić, Jadranko Prlić and Vladislav Pogarčić on 24 January 1994 ("ICRC Letter of 24 January 1994"), some detainees were forced to do military-style work, such as building fortifications, along the front lines, particularly at Vojno.<sup>4321</sup>

1730. According to the ICRC Letter of 16 March 1994, which was based on information obtained from Heliodrom detainees sent to Vojno between 8 November 1993 and 28 January 1994, those with responsibility over the Vojno Detention Centre, Mario Mihalj and Dragan Šunjić, forced the detainees to work.<sup>4322</sup> The Letter specifies that the detainees had to work every day along the front line, starting at 6 o'clock in the morning.<sup>4323</sup>

1731. The Chamber therefore finds that the detainees from the Heliodrom who were sent to the Vojno Detention Centre and the Vojno Detention Centre detainees were forced by those persons with responsibility over the detention centre to do work, such as building fortifications along the front lines, as needed by the 2<sup>nd</sup> HVO Brigade even while the fighting between the ABiH and the HVO was ongoing.

### **C. Treatment of Heliodrom Detainees During Labour in the Vojno-Bijelo Polje Area**

1732. Paragraphs 125 and 128 of the Indictment allege that detainees from the Heliodrom who were sent to the Vojno Detention Centre for forced labour were abused and mistreated while they were at the sites where they worked.

1733. The Chamber has two documents which mention that the Heliodrom detainees were compelled to work on the front lines, and were regularly beaten and violently abused by the "guards" from the Vojno Detention Centre.<sup>4324</sup> Thus, the ICRC Letter of 16 March 1994, based on information obtained from Heliodrom detainees sent to Vojno between 8 November 1993 and 28 January 1994, reports that 75 detainees from the Heliodrom sent to the Vojno Detention Centre

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<sup>4319</sup> P 07799; P 07787, p. 4.

<sup>4320</sup> P 07636, p. 1.

<sup>4321</sup> P 07660.

<sup>4322</sup> P 08079 under seal, p. 1.

<sup>4323</sup> P 08079 under seal, p. 1.

<sup>4324</sup> P 08079 under seal; P 07787.

were beaten on a regular basis by the “guards” as they worked.<sup>4325</sup> According to this Letter, on or about 31 December 1993, a detainee received head injuries from a “guard” who struck him at least 30 times.<sup>4326</sup> He continued to work on the front lines for the next three days, and on the morning of 3 January 1994, he was beaten by “the person in charge of the camp”, previously determined by the Chamber to be Mario Mihalj; he was taken at night in an ambulance to Bijelo Polje, and then to the Bijeli Brijeg hospital.<sup>4327</sup> The Chamber is not in a position to determine what happened to him afterwards.

1734. According to the joint statement of 61 former Heliodrom detainees sent to the Vojno Detention Centre between 8 November 1993 and 28 January 1994, attached to Marijan Biškić's Report of 3 February 1994, while they were working along the front line between Bijelo Polje and Vojno, they were victims of physical maltreatment.<sup>4328</sup> The Chamber points out that the detainees provide the names of HVO unit commanders and limited, sometimes quite vague, information about them, but nevertheless do refer to soldiers from the HVO armed forces. For instance, they explain that they were subjected to abusive treatment in particular by members of the “3<sup>rd</sup> HVO Company, commanded by Š. Marko”,<sup>4329</sup> that they were struck while lying on the ground in the trenches with truncheons, chains and boots;<sup>4330</sup> that an HVO soldier named “Brekalo A.” forced one of the detainees to drink a cup of coffee filled with cigarette butts<sup>4331</sup> and that three “soldiers” forced the detainees to dig communicating trenches as they targeted them with their automatic rifles.<sup>4332</sup> Certain detainees working at Zalihići<sup>4333</sup> were likewise struck with truncheons, rifles and boots by “three soldiers from Grabovica and Drežnica”, whose identity and chain of command are not stated.<sup>4334</sup>

1735. The joint statement further reports that four detainees were beaten and treated in a degrading manner by Mario Mihalj and Dragan Šunjić while working in a communicating trench located along the front line at Vojno.<sup>4335</sup> The men then ordered one of the detainees to place a plastic bottle on his head and shot at him from a distance of ten metres, with an automatic weapon.<sup>4336</sup> Then they

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<sup>4325</sup> P 08079 under seal.

<sup>4326</sup> P 08079 under seal, p. 2.

<sup>4327</sup> P 08079 under seal, p. 2.

<sup>4328</sup> P 07787, p. 4; P 08079 under seal, p. 1.

<sup>4329</sup> P 07787, p. 4; P 08079 under seal, p. 1.

<sup>4330</sup> P 07787, p. 4; P 08079 under seal, p. 1.

<sup>4331</sup> P 07787, p. 4.

<sup>4332</sup> P 07787, pp. 4 and 5.

<sup>4333</sup> It appears from this document that Zalihići is located along the front line between Bijelo Polje and Vojno.

<sup>4334</sup> P 07787, pp. 4 and 5.

<sup>4335</sup> P 07787, p. 5.

<sup>4336</sup> P 07787, p. 5.

beat him severely.<sup>4337</sup> Dragan Šunjić struck a second detainee, using two stones, until he bled.<sup>4338</sup> The second detainee received further blows after returning to the Vojno Detention Centre, meted out by Dragan Šunjić and Mario Mihalj.<sup>4339</sup> Lastly, Mario Mihalj forced a third detainee to eat goat excrement over which human urine had been poured, and then put out a cigarette on the back of a fourth detainee.<sup>4340</sup>

1736. According to the ICRC Letter of 16 March 1994, based on information obtained from Heliodrom detainees sent to Vojno between 8 November 1993 and 28 January 1994, the soldiers forced the detainees to kiss one another, to ride on each others' backs, to dance, to perform *fellatio*, and to bark.<sup>4341</sup>

1737. The Chamber also admitted the report of Berislav Pušić, Head of the Service for the Exchange, to Marijan Biškić, pertaining to the information reported by the ICRC about what happened to some of the Heliodrom detainees, dated 29 January 1994 (“Berislav Pušić’s Report of 29 January 1994”).<sup>4342</sup> The Ćorić Defence argues that the report does not have a stamp indicating that it was actually received by its addressee<sup>4343</sup> and that it merely transcribes the information obtained from the ICRC.<sup>4344</sup> The Chamber notes, contrary to what is asserted by the Ćorić Defence, that Berislav Pušić’s Report of 29 January 1994 does in fact have a stamp marking receipt;<sup>4345</sup> that it does not merely transcribe the information obtained from the ICRC but confirms some of it, particularly that 60 detainees worked at Vojno “while Mario Mihalj (...) abus[ed] his position, abus[ed the] prisoners [and] kill[ed] them”.<sup>4346</sup>

1738. According to the Report by the SIS Chief of 3 February 1994, only 61 of the 73 detainees sent to the Vojno Detention Centre in November 1993 were returned to the Heliodrom on 29 January 1994.<sup>4347</sup> Thus, 12 detainees did not come back to the Heliodrom.<sup>4348</sup> The SIS Chief states in his Report that he obtained information – without identifying the source – stating that those detainees had been wounded on the front line and that they were in hospital.<sup>4349</sup> However, the

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<sup>4337</sup> P 07787, p. 5.

<sup>4338</sup> P 07787, p. 5.

<sup>4339</sup> P 07787, p. 5.

<sup>4340</sup> P 07787, p. 5. *See also* P 08079 under seal, p. 1.

<sup>4341</sup> P 08079 under seal, p. 1. *See also* P 07787, p. 4.

<sup>4342</sup> P 07722, p. 1.

<sup>4343</sup> Ćorić Defence Final Trial Brief, para. 519.

<sup>4344</sup> P 07722, p. 1.

<sup>4345</sup> P 07722.

<sup>4346</sup> P 07722, p. 1.

<sup>4347</sup> P 07799.

<sup>4348</sup> P 07799. The Chamber does not know the source of the information purporting that the detainees would be treated, but in any event, it is clear from this report that the Chief of the SIS Administration does not lend them credence.

<sup>4349</sup> P 07799.



Report asserts that these explanations are incorrect, that some detainees were harassed, tortured or killed whereas others were released.<sup>4350</sup> The Report specifies that the detainees were harassed by a “group of soldiers headed by Mario Mihalj, who is an alcoholic and a drug addict”.<sup>4351</sup> The content of the Report is confirmed by the ICRC Letter of 16 March 1994 based on information obtained from the Heliodrom detainees sent to Vojno between 8 November 1993 and 28 January 1994.<sup>4352</sup>

1739. In one of the four statements attached to Stanko Božić's Report of 10 September 1993, Emir Šehović, a Heliodrom detainee, explains that he was taken on 19 August 1993, along with 50 other detainees, to the Vojno Detention Centre, to work there, and that while they were on the front lines, the detainees were treated well.<sup>4353</sup> The Chamber, however, holds that this single testimony does not vitiate the probative value of all of the other evidence in its possession.

1740. In view of all the evidence, the Chamber finds that the detainees sent from the Heliodrom to the Vojno Detention Centre between August 1993 and March 1994 to work at the front lines were severely abused by Mario Mihalj and Dragan Šunjić, and by other persons also whose chain of command the Chamber has not been able to establish precisely but who were in any case HVO soldiers present at the work sites.

**D. Detainees from the Heliodrom and from the Vojno Detention Centre Who Were Injured or Killed during Labour**

1741. Paragraph 139 of the Indictment alleges that, between August 1993 and March 1994, the Muslim men detained at the Vojno Detention Centre, together with detainees from the Heliodrom, who were used for forced labour activity in the Vojno sector, were regularly exposed to mortar, sniper and other small arms fire, and that at least 38 of them were killed or wounded. The Prosecution has compiled a list of victims who are representative of the persons wounded<sup>4354</sup> or killed<sup>4355</sup> while doing forced labour.

1742. In its Final Trial Brief, the Ćorić Defence contends that no evidence for the deaths of certain detainees was provided by the Prosecution and that, consequently, the Chamber must consider that

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<sup>4350</sup> P 07799.

<sup>4351</sup> P 07799.

<sup>4352</sup> P 08079 under seal.

<sup>4353</sup> P 04918, p. 5.

<sup>4354</sup> Victims representative of the individuals from the Vojno Detention Centre who were injured during the forced labour alleged in para. 139 of the Indictment and mentioned in the Annex to the Indictment.

<sup>4355</sup> Victims representative of the individuals from the Vojno Detention Centre who were killed during the forced labour alleged in para. 139 of the Indictment.

their death was not proven adequately.<sup>4356</sup> In respect of other detainees, that Defence contends that proof of death is supported solely by reports or lists based exclusively on reports drafted by Stanko Božić, who was not present at the scene where the labour took place; that he based his submissions on who had died only on what he was told and that he was not brought as a witness so as to be cross-examined, so that his credibility can be assessed.<sup>4357</sup> The Ćorić Defence argues that it would accordingly be improper to rely on his reports by themselves for proof of death.<sup>4358</sup>

1743. The Chamber notes that it does not have any information about the majority of the representative victims indicated by the Prosecution, with the exception of those the Chamber will address at a later stage.

1744. The Chamber will first examine the evidence pertaining (1) to the detainees from the Heliodrom and from Vojno alleged to have been injured while working and (2) to those alleged to have been killed.

#### 1. Detainees from the Heliodrom and the Vojno Detention Centre Injured While Working

1745. According to the ICRC Letter of 16 March 1994, seven detainees were injured while working at the front line between 8 November 1993 and 28 January 1994.<sup>4359</sup> The ICRC Letter of 20 January 1994 points out that several detainees – without specifying how many – were injured during shelling or sniping as they worked along the front lines, at Vojno in particular.<sup>4360</sup> According to the ICRC Letter of 24 January 1994, “several detainees” were injured while performing tasks of a military nature along the front line, at Vojno in particular.<sup>4361</sup>

1746. The Chamber has also admitted a report by Stanko Božić, warden at the Heliodrom, dated 7 August 1993, and sent to Valentin Ćorić, Zlatan Mijo Jelić and Zvonko Vidović indicating that on the previous day six detainees who had been placed into the custody of the 2<sup>nd</sup> Battalion of the 2<sup>nd</sup> Brigade, of Anđelko Tomić specifically, had not returned to the Heliodrom because they had been injured by the ABiH as they worked.<sup>4362</sup> These six persons feature among the representative victims whose names are provided by the Prosecution as persons detained at the Vojno Detention Centre who were injured while working. However, nothing in this document indicates or would allow the Chamber to infer that these persons were detained at the Vojno Detention Centre or were sent to the

<sup>4356</sup> Ćorić Defence Final Trial Brief, para. 753.

<sup>4357</sup> Ćorić Defence Final Trial Brief, para. 761.

<sup>4358</sup> Ćorić Defence Final Trial Brief, para. 761.

<sup>4359</sup> P 08079 under seal, p. 2.

<sup>4360</sup> P 07629, p. 1; *see also* P 07636.

<sup>4361</sup> P 07660.

Vojno Detention Centre. Therefore, lacking any additional supporting evidence, the Chamber cannot find that the injuries of these detainees were related to the work at the Vojno Detention Centre.

1747. According to a report by Stanko Božić on 3 September 1993 sent to Branimir Tučak, Zlatan Mijo Jelić and Zvonko Vidović (“Stanko Božić's Report of 3 September 1993”), on 2 September 1993, Azer Handžak, a Heliodrom detainee –who had been working since 19 August 1993 for the 1<sup>st</sup> Battalion of the 2<sup>nd</sup> Brigade under the authority of Dragan Šunjić, deputy warden of the Vojno Detention Centre – was injured by ABiH forces.<sup>4363</sup> The Chamber may for this reason conclude that Azer Handžak was injured while working at the Vojno Detention Centre.

1748. Moreover, the Military Police Report of 12 August 1994 shows that Husein Alečković was injured on 3 September 1993 while working for Dragan Šunjić of the 2<sup>nd</sup> Brigade,<sup>4364</sup> deputy warden of the Vojno Detention Centre, and that Saša Lulić was also injured on 1 September 1993 while working for the 2<sup>nd</sup> Brigade.<sup>4365</sup> The same report lists six detainees: Elvir Isić, Mujo Lulić, Rasim Sijanović, Suad Osmić, Ismet Kare and Safet Puljić, who were injured on 31 January 1994.

1749. The above mentioned evidence supports a finding by the Chamber that certain detainees, members of the ABiH and, by majority with Judge Antonetti dissenting, the “civilians”, from Vojno and from the Heliodrom were injured while working in the Vojno area.

## 2. Detainees from the Heliodrom and the Vojno Detention Centre Killed While Working

1750. According to the ICRC Letter of 20 January 1994, “large numbers of prisoners from the HVO camps in Mostar, Vojno or Vrđi” were taken to the Mostar front line to work while the fighting was raging in August and September 1993 and that “many of them” were killed by shelling or rifle fire.<sup>4366</sup> The ICRC Letter points out that, of those detainees wounded by heavy shelling or rifle fire while working on the front line, some died, either on the spot or while being transferred to the hospital.<sup>4367</sup> The Letter offers no specifics as to the number of detainees killed under those circumstances.

1751. According to Stanko Vidović's Report of 3 September 1993, on 2 September 1993, Mensud Dedajić – a representative victim from paragraph 139 of the Indictment – a Heliodrom detainee

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<sup>4362</sup> P 04016.

<sup>4363</sup> P 04779.

<sup>4364</sup> P 08428, p. 18, item 69.

<sup>4365</sup> P 08428, p. 19, item 72.

<sup>4366</sup> P 07629, p. 1; P 07636, p. 1.

<sup>4367</sup> P 07629, p. 1; P 07636, p. 1.

who had been working since 19 August 1993 for the 1<sup>st</sup> Battalion of the 2<sup>nd</sup> Brigade under the authority of Dragan Šunjić, deputy warden at the Vojno Detention Centre, was killed by ABiH forces.<sup>4368</sup> The report is corroborated by evidence that certain detainees were indeed sent to work at the Vojno Detention Centre on 19 August 1993.<sup>4369</sup> Moreover, the death of Mensud Dedajić is corroborated by Stanko Božić's Report of 14 September 1993.<sup>4370</sup>

1752. Two HVO documents<sup>4371</sup> show that on 15 September 1993, Salim Alilović, a Heliodrom detainee sent to work for the 2<sup>nd</sup> Brigade at the Vojno Detention Centre, died while digging canals at Vojno under ABiH sniper and machine-gun fire.<sup>4372</sup>

1753. According to the ICRC Letter of 16 March 1994, three Heliodrom detainees sent to Vojno between 8 November 1993 and 28 January 1994 were killed by snipers: Hamdija Tabaković was killed on 9 January 1994; Džemal Sabitović was killed on 5 January 1994 and Salman Mensur was killed in late November 1993.<sup>4373</sup> The Letter does not provide any additional details concerning the circumstances surrounding the deaths of these three representative victims from paragraph 139 of the Indictment. The deaths of Hamdija Tabaković and of Salman Mensur are, however, corroborated by the Military Police Report of 12 August 1994.<sup>4374</sup>

1754. The ICRC Letter of 16 March 1994 also states that the bodies of 11 detainees from the Vojno Detention Centre killed while working along the front line, were burned near the garage of the Vojno Detention Centre.<sup>4375</sup>

1755. According to Marijan Biškić's Report of 3 February 1994, a detainee was killed by an ABiH sniper between November 1993 and 28 January 1994, while he was in the "Andorra" communicating trench.<sup>4376</sup>

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<sup>4368</sup> P 04779.

<sup>4369</sup> This report was sent to Branimir Tučak, Zlatan Mijo Jelić and to the 5<sup>th</sup> Battalion. *Witness NO* submitted that Zlatan Mijo Jelić had not received this report. *Witness NO*, T(F), pp. 51252 and 51253, closed session; P 04918, pp. 5 and 6. The Chamber has previously determined that the Vojno Detention Centre was equivalent to the Bijelo Polje camp; furthermore, he states that Mario Mihalj, warden of the Vojno Detention Centre, was the perpetrator of the physical abuse inflicted on him. P 04305: the order was received by the Military Police Administration on 20 August 1993. P 04779.

<sup>4370</sup> P 05054.

<sup>4371</sup> P 05288; P 05067. The report issued by Stanko Božić, warden at the Heliodrom, sent to Branimir Tučak, Zlatan Mijo Jelić and Zvonko Vidović on 22 September 1993 and a written account by Dragan Šunjić concerning the death of Salim Alilović on 15 September 1993.

<sup>4372</sup> P 05288; P 05067, p. 13, item 52.

<sup>4373</sup> P 08079 under seal, p. 2.

<sup>4374</sup> P 08428, p. 31, item 138.

<sup>4375</sup> P 08079 under seal, p. 2.

<sup>4376</sup> P 07787, p. 4.

1756. Moreover, the Military Police Report of 12 August 1994 shows that Kemal Zuhrić<sup>4377</sup> was reported killed on 31 January 1994.<sup>4378</sup>

1757. In view of the foregoing, the Chamber finds that several detainees were killed while working in the Vojno area. More specifically, Mensud Dedajić, Salim Alilović, Hamdija Tabaković, Džemal Sabitović, Kemal Zuhrić and Salman Mensur, detainees from the Heliodrom and from Vojno, were killed between 2 September 1993 and 31 January 1994 while working in the Vojno area. As to the status of the detainees, the Chamber has already found, by majority with Judge Antonetti dissenting, that members of the ABiH as well as “civilians” were detained at the Vojno Detention Centre.

### **Heading 7: Ljubuški Municipality and Detention Centres**

1758. This part of the Judgement relates primarily to the crimes associated with the detentions of Muslims in Ljubuški Prison and in the Vitina-Otok Camp. Accordingly in paragraphs 146-149 of the Indictment, the Prosecution alleges that the forces of Herceg-Bosna/the HVO detained Muslims, including leaders, women and intellectuals in the Prison at Ljubuški and the Camp in Vitina-Otok from April 1993 to March 1994 in “harsh and unhealthy conditions”.<sup>4379</sup> The Prosecution also alleges that the HVO regularly made prisoners perform forced labour, including dangerous military-related tasks, on which occasions certain detainees were wounded or killed. The Prosecution contends that members of the HVO routinely beat, tortured and mistreated, from May to July 1993. The Prosecution alleges, moreover, that between 16 and 28 August 1993, the HVO deported the Muslim populations of Gradska, Vitina and other parts of the Municipality of Ljubuški from Bosnia and Herzegovina. It alleges, furthermore, that the HVO also transferred or deported detainees from Ljubuški Prison and the Vitina-Otok Camp to other detention centres: to East Mostar, in territories held by the ABiH or to third countries, between July 1993 and March 1994. Lastly, the Prosecution contends that the inhabitants of the Municipality of Ljubuški were victims of “persecution” and that the mosque in the village of Gradska was destroyed in September 1993.

1759. The Prosecution alleges that these events constitute persecutions (Count 1), deportation (Count 6), unlawful deportation of a civilian (Count 7), inhumane acts (forcible transfer) (Count 8),

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<sup>4377</sup> Kemal Zuhrić is a representative victim from paragraph 139 of the Indictment mentioned in the Annex to the Indictment.

<sup>4378</sup> P 08428, p. 31, item 138.

unlawful transfer of a civilian (Count 9), imprisonment (Count 10), unlawful confinement of a civilian (Count 11), inhumane acts (conditions of confinement) (Count 12), inhuman treatment (conditions of confinement) (Count 13), cruel treatment (conditions of confinement) (Count 14), inhumane acts (Count 15), inhuman treatment (Count 16), cruel treatment (Count 17), unlawful labour (Count 18) and destruction or wilful damage done to institutions dedicated to religion or education (Count 21).

1760. In order to rule on the facts alleged, the Chamber analysed a collection of evidence, particularly the *viva voce* testimony of witnesses *Spomenka Drljević, Fahrudin Rizvanbegović, Alija Lizde, Safet Idrizović, Amor Mašović, Edward Vulliamy, Larry Forbes, Klaus Johann Nissen, A, BB, BC, BD, C, CA, CR, CU, CV, DV, E, Josip Praljak, Suad Ćupina, Azra Krajšek, Marijan Biškić, Zoran Buntić, Martin Raguž, Adalbert Rebić, Milan Cvikl, Marinko Simunović, Stipo Buljan, 2D-AB, Ivan Beneta, Zdenko Andabak and Zoran Perković*, as well as the statements of witnesses *Ismet Poljarević, Nihad Kovač, BO, BZ, CC, CX, DD and EI*, which were admitted under Rule 92 *ter* of the Rules and supplemented by their testimony in court. The Chamber has also taken into account the written statements and transcripts of the interviews of witnesses *Dževad Bećirović, Sead Delalić, Salko Osmić, Nedžad Bobeta, Huso Marić, AP, D, DU, EC, EH, HH, RR, TT, W, WW* and *Y*, admitted under Rule 92 *bis* of the Rules, and the written statement by *Milada Orman*, admitted under Rule 92 *quater* of the Rules. The Chamber, lastly, examined a great many exhibits admitted into the record through these witnesses or by means of a written procedure.<sup>4380</sup>

1761. The Chamber points out that, in its Final Trial Brief, the Ćorić Defence calls into question the credibility of *Witness E*, a member of the HVO military police posted in Ljubuški from April 1993.<sup>4381</sup> The brief contends that he appeared incoherent and contradictory during his testimony to the Chamber. It underscores that he stated, in particular, that he was regularly at the battlefield, not in Ljubuški Prison, and could not therefore have known what was going on there.<sup>4382</sup> The Chamber holds that even though it has concluded that *Witness E* was not credible on certain issues, such as the conditions of confinement in Ljubuški Prison,<sup>4383</sup> on the whole, his testimony was credible and

<sup>4379</sup> Indictment, para. 147.

<sup>4380</sup> The Chamber recalls for all intents and purposes that, despite having examined all this evidence (testimonies, statements, exhibits...), not all are included in this analysis of the sequence of those criminal events. This is the case with the witnesses who testified in only the most evasive manner about a particular criminal aspect or incident (*see*, for example, *Klaus Johann Nissen*, whose testimony concerning the ICRC visits to HVO detention centres was general in nature and lacking in detail).

<sup>4381</sup> Ćorić Defence Final Trial Brief, paras 711 to 723, and Closing Arguments by the Ćorić Defence, T(F), pp. 52709 to 52711, private session. To understand the capacity in which Witness E was testifying, *see* Witness E, T(F), pp. 22005 – 22006, closed session.

<sup>4382</sup> Ćorić Defence Final Trial Brief, paras 717 and 719.

<sup>4383</sup> *See* “The Conditions of Detention at Ljubuški Prison” in the Chamber’s factual findings relating to Ljubuški Municipality and the Ljubuški detention centres.

consistent. The Chamber thus observes that the testimony of *Witness E* is corroborated by many documents from various sources – the HVO and international organisations more specifically – and by other witnesses, in particular those who were detained in Ljubuški Prison or at the Vitina-Otok Camp. The Chamber finds that *Witness E* was sufficiently present at Ljubuški Prison to give consideration to his testimony when analysing what happened in that Prison.

1762. The Ćorić Defence and Pušić Defence teams also raise the issue of *Witness E*'s criminal record, which they say, casts doubt on his credibility.<sup>4384</sup> However, the Chamber notes that *Witness E*'s criminal record is unrelated to the events described in the Indictment and, for this reason, they do not have a decisive impact on the credibility of the witness with regard to those events.

1763. The Chamber holds that it has very little evidence relevant to the destruction of the Gradska Mosque – as alleged in paragraph 152 of the Indictment. The Chamber had only *Milada Orman*'s very imprecise statement,<sup>4385</sup> *Marita Vihervuori* equally imprecise testimony,<sup>4386</sup> the report by the Mufti of Mostar concerning the destruction of mosques in the area of his responsibility between 1 January 1992 and 1 August 1999, referring to the destruction of the mosque of Gradska by “the Croats” but without further detail,<sup>4387</sup> and, lastly the Spabat report of 25 October 1993 referring to the “recent destruction” of the mosque in the village of Gradska without stating when it occurred.<sup>4388</sup> As a consequence, the Chamber cannot rule out that the Gradska Mosque may have been destroyed by other persons present in the village at the time of the events, such as, for example, Croats not belonging to the HVO, and is cannot find beyond a reasonable doubt that the Gradska Mosque was indeed destroyed in September 1993 by the HVO. Therefore, it will not further examine the Prosecution's allegations on this point.

1764. As to the Prosecution's other allegations, the Chamber will first review (I) the political, administrative and military structure of the municipality in order to better grasp the sequence of the events in the Municipality of Ljubuški. It will (II) analyse the events which the Prosecution claims attest to “persecutions” of the inhabitants of the Municipality of Ljubuški; (III) then focus on the allegations pertaining to Ljubuški Prison and (IV) the Vitina-Otok Camp. The Chamber will lastly assess (V) how the HVO organised the departure of Muslims from the Municipality of Ljubuški to third countries, with passage through Croatia, starting in August 1993.

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<sup>4384</sup> Ćorić Defence Final Trial Brief, para. 712 and Closing Arguments by the Ćorić Defence, T(F), p. 52710, private session; Pušić Defence Final Trial Brief, para. 330.

<sup>4385</sup> P 10328, p. 18.

<sup>4386</sup> *Marita Vihervuori*, T(F), pp. 21639 and 21640.

<sup>4387</sup> P 08939, p. 4.

<sup>4388</sup> P 06135 under seal, p. 4.

## I. Political, Administrative and Military Structure of the Municipality

1765. At the outset, the Chamber notes that, according to the 1991 census, the population of Ljubuški Municipality consisted of 26,127 Croats and 1,592 Muslims.<sup>4389</sup> In September 1993, the municipality had a total population of 33,429, of whom 30,776 were Croats and 2,381 Muslims.<sup>4390</sup> Then on 10 November 1993, the municipality had 32,240 inhabitants, of whom 31,414 were Croats and 826 Muslims.<sup>4391</sup> The Chamber notes, furthermore, that it has received no information about the existence or the operation of the Muslim civilian authorities in the municipality and will therefore confine itself to a description of the structure and the operation of the municipal HVO of Ljubuški as part of its assessment of the civilian authorities within (A) the Municipality of Ljubuški. The Chamber will then (B) address the military structure within the said municipality.

### A. Civilian Authorities in Ljubuški Municipality as Embodied by the Municipal HVO

1766. The Chamber observes that the Municipal HVO of Ljubuški was set up on 10 July 1992<sup>4392</sup> and that Milan Šimić was its president until at least October 1993.<sup>4393</sup>

1767. The Chamber points out that there was tension throughout 1993 between the HVO of the HZ H-B HVO and the Municipal HVO, specifically concerning problems related to mobilisation within the municipality.<sup>4394</sup> Thus, on 22 March 1993, the HVO of the HZ H-B appointed Milan Šimić, who was still serving as president of the Ljubuški Municipal HVO, as “Commissioner of the HVO of the HZ H-B for the Area of the Municipality of Ljubuški”.<sup>4395</sup> He was tasked with ensuring the “enforcement of HZ H-B regulations”.<sup>4396</sup> In a letter dated 1 April 1993 sent to the Executive Council of the HDZ of Croatia, Vije Majić, President of the Municipal Board of the Ljubuški HDZ, contested this decision which, in his opinion, meant closing down the Ljubuški Municipal HVO.<sup>4397</sup>

1768. On 13 April 1993, Jadranko Prlić and Bruno Stojić met with members of the Ljubuški HDZ to discuss managing the municipality and, it would seem, to clarify the status of the municipal

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<sup>4389</sup> IC 00833.

<sup>4390</sup> P 09851 under seal, p. 9.

<sup>4391</sup> P 09851 under seal, p. 10.

<sup>4392</sup> P 05805; *see also* 1D 02052, Part I, p. 1; Part VI, pp. 4 and 5.

<sup>4393</sup> P 01700, Article 1. The Chamber observes that Milan Šimić signed the decisions of the municipal HVO as President as of 11 July 1992 (*see* 1D 02053); P 05805.

<sup>4394</sup> P 01700, p. 2.

<sup>4395</sup> P 01700, Article 1.

<sup>4396</sup> P 01700, Article 2.

<sup>4397</sup> P 01781.



HVO, asserting that it had not been closed down.<sup>4398</sup> Vije Majić made known that the Ljubuški HVO wanted to take part in such management.<sup>4399</sup>

1769. Accordingly, on 11 October 1993, when Milan Šimić asked Jadranko Prlić to have the HVO of the HZ H-B take a decision approving the composition of the Ljubuški Municipal HVO, Prlić, understood this to mean, in addition to himself, Vije Majić as Vice President, Mladen Šimić, as Chief of the MUP, and Vencel Tomas, as the bureau chief for Defence.<sup>4400</sup>

### **B. Military Structure of Ljubuški Municipality**

1770. The Chamber observes that the 4<sup>th</sup> *Stjepan Radić* Brigade of the HVO was based in Ljubuški Municipality, to which was attached a Military Police platoon, professional units and a company from *Domobrani*.

1771. According to the annual report of the Ministry of Defence of the HR H-B for the year 1993, the 4<sup>th</sup> HVO Brigade comprised 2,392 conscripts,<sup>4401</sup> of whom 4.5% were Muslim.<sup>4402</sup> Until July 1993, Ivica Tomić served as its commander, with Zdravko Vujević as the “chief of brigade”.<sup>4403</sup> Starting in July 1993, Stanko Primorac was appointed commander of this 4<sup>th</sup> Brigade and Jure Rupčić, and later Zdenko Lulić, in turn held the post of “chief of brigade”, although the Chamber cannot ascertain the precise times they assumed their responsibilities.<sup>4404</sup>

1772. *Witness E* stated that at least from April to December 1993, a platoon squad of the 4<sup>th</sup> Company of the 5<sup>th</sup> HVO Military Police Battalion was assigned to the 4<sup>th</sup> HVO Brigade in Ljubuški.<sup>4405</sup> The platoon had between 35 and 40 men.<sup>4406</sup> From April to December 1993, Ante Prlić was commander of this platoon<sup>4407</sup> and his deputy was Ivan Šantić, who was replaced in July 1993 by Ljubo Herceg.<sup>4408</sup>

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<sup>4398</sup> P 01863, pp. 1 and 2.

<sup>4399</sup> P 01863, p. 1.

<sup>4400</sup> P 05805.

<sup>4401</sup> P 07433, p. 19.

<sup>4402</sup> P 02223, p. 1; P 10328, p. 18; 2D 00627; Stipo Buljan, T(F), p. 36767.

<sup>4403</sup> Witness E, T(F), p. 22088, closed session.

<sup>4404</sup> Witness E, T(F), p. 22088, closed session; P 03367.

<sup>4405</sup> 4D 00629; Witness E, T(F), pp. 22005–22006 and 22143, closed session.

<sup>4406</sup> Witness E, T(F), p. 22006, closed session. *Witness E* did not specify to which time he was referring but the Chamber is of the view that this must have been, at least, the period between April and December 1993.

<sup>4407</sup> Witness E, T(F), pp. 22005–22006 and 22276–22277, closed session; P 09727 under seal, p. 4; P 04528, p. 3.

<sup>4408</sup> Witness E, T(F), pp. 22009 and 22087, closed session; P 04528, p. 3.

1773. According to the annual report of the Ministry of Defence of the HR H-B for the year 1993, units of the KB were also present in the municipality in 1993.<sup>4409</sup>

1774. Lastly, the Chamber points out that on 4 March 1993, Bruno Stojić appointed Gojko Nižić as head of the company of *Domobrani* based in the Municipality of Ljubuški.<sup>4410</sup> The same day, he appointed Radojko Paponja and Branko Paninić as members of that company's command.<sup>4411</sup>

## **II. Events Relating to the Allegations of Persecutions of the Inhabitants of Ljubuški Municipality**

1775. In paragraph 145 of the Indictment Prosecution alleges that in 1992 and 1993 Herceg-Bosna/HVO forces and authorities increasingly persecuted the Muslim inhabitants of the town of Ljubuški and the villages of Gradska and Vitina.

1776. The Chamber points out that, as stated, these allegations of “persecutions” are extremely vague and that no factual element which can be considered an “act of persecution” has been provided by the Prosecution. Still, the Chamber notes that in its Pre-Trial Brief, the Prosecution laid out these allegations in paragraph 145, and specifically illustrated them with several examples.

1777. Accordingly, in paragraph 145.1 of its Pre-Trial Brief, the Prosecution states that the civilian authorities and the HVO military command decided in May 1993 that the Muslim men from the HVO 4<sup>th</sup> Brigade were to be disarmed and that the “refugees” in the municipality would be recorded. In Paragraph 145.2, the Prosecution points out that, in mid-July 1993, the Muslim residents of Gradska and other villages in the region who were employed in Ljubuški, were suspended from work and denied humanitarian assistance. In Paragraph 145.3, the Prosecution indicates that, on or about 27 July 1993, three buses and 15 trucks, escorted by HVO Military Police vehicles, were seen by UNPROFOR, carrying “a large number of civilians” on the road between Grude and Ljubuški. In Paragraphs 145.4 and 145.5, the Prosecution adds that, in mid-August 1993, the HVO arrested 297 Muslim men in Ljubuški Municipality and 92 Muslim men in the village of Gradska, which was subjected to nightly looting. Lastly, in paragraph 145.6, the Prosecution cites a document from October 1993 signed by Valentin Ćorić, stating that five apartments, formerly the homes of Muslims, were available for temporarily use by members of the Military Police.

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<sup>4409</sup> P 07433, p. 19. Forty-one conscripts were assigned to professional units within Ljubuški Municipality – 7 in the KB, 27 in the *Ludvig Pavlović* PPN and 6 in the *Bruno Bušić* Regiment.

<sup>4410</sup> P 01604.

1778. The Chamber observes that the documents on which the Prosecution relies in its Pre-Trial Brief that concern the events in paragraph 145.2 and the nightly looting of Gradska referred to in paragraph 145.5, should be covered in a later disclosure, as indicated by the Prosecution. The Chamber observes that *Witness BB* does indeed mention that towards mid-July 1993 certain Muslims from Gradska who were working in Ljubuški were fired from their jobs;<sup>4412</sup> that the local Red Cross refused to provide them with any humanitarian assistance;<sup>4413</sup> and that HVO soldiers were looting the homes of certain Muslims from Gradska during the night.<sup>4414</sup> The Chamber notes, however, that the evidence does not support a finding that *Witness BB* did go to the scene at the time of the events, indicating rather that *Witness BB* heard a member of the international organisation to which he belonged speak about these events, without however specifying how that person had learned of the events. The Chamber has no other evidence concerning these allegations, other than the words and reports of *Witness BB*. On that basis alone, the Chamber cannot find beyond a reasonable doubt that the Muslims of Gradska and “other villages of the region” were suspended from work and denied humanitarian assistance in mid-July 1993. Likewise, the Chamber is unable to find beyond a reasonable doubt that the village of Gradska was looted nightly after 15 August 1993.

1779. As for the other details contained in the Prosecution Pre-Trial Brief, and in view of the evidence admitted to the record, the Chamber points out that, commencing on 7 May 1993, there was indeed a campaign to disarm and register the Muslims present in the Municipality of Ljubuški, which campaign subsequently included (A) certain measures designed to restrict liberties. The Chamber then notes (B) that, in mid-August 1993, the HVO did in fact arrest the Muslims who were in the Municipality of Ljubuški and that (C) in October, apartments belonging to Muslims, then standing vacant, were made available to members of the HVO Military Police.

**A. Disarming, Identification and Restrictions on Liberties of Muslims in the Municipality of Ljubuški**

1780. On 7 May 1993, a report from the SIS of the 4<sup>th</sup> Brigade of the HVO indicated that the military and civilian authorities from Ljubuški Municipality were concerned that 4.5% of the 4<sup>th</sup> Brigade soldiers were Muslims, as well as by the presence of an unknown number of “Muslim

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<sup>4411</sup> P 01604.

<sup>4412</sup> Witness BB, T(F), pp. 17231 and 17233, closed session; P 09845 under seal.

<sup>4413</sup> Witness BB, T(F), p. 17231, closed session; P 09845 under seal.

<sup>4414</sup> Witness BB, T(F), p. 17233, closed session.

refugees of military age in the municipality”<sup>4415</sup> at a time when tensions between Muslims and Croats were reaching a boiling point in most HZ H-B municipalities. The Brigade command and the Ljubuški Municipal HVO then started working to see how they might disarm every Muslim in the municipality, including those who belonged to the HVO, and to identify all Muslim men between 18 and 60 years of age who had taken refuge in the municipality.<sup>4416</sup> *Witness E* thus explained how, in early May 1993, the Military Police platoon assigned to the 4<sup>th</sup> HVO Brigade had received a list of Muslim soldiers to disarm and of arms to seize.<sup>4417</sup> He also added that the MUP had received a similar list regarding the Muslim civilians carrying weapons who needed to be disarmed.<sup>4418</sup> This process of disarmament and identification continued apace, as evidenced by Milivoj Petković's order of 30 June 1993, instructing the commanding officer of the South-East OZ to make arrangements to disarm all of the Muslims remaining in HVO units and to isolate all of the men of military age in his area of responsibility.<sup>4419</sup> Further to this order, after receiving a list of HVO Muslim soldiers to disarm, the commander of the Military Police platoon attached to the 4<sup>th</sup> HVO Brigade, Ante Prlić, set up a plan of action to disarm HVO soldiers of Muslim origin in Ljubuški Municipality.<sup>4420</sup> They continued to disarm Muslims throughout the month of July 1993, using the same procedures as those in May 1993, that is, the disarmament of the Muslim soldiers by the Military Police platoon assigned to the 4<sup>th</sup> Brigade and disarmament of the Muslim civilians by the MUP.<sup>4421</sup>

1781. In July 1993, the municipal HVO also promulgated regulations for men of military age and “refugees” in Ljubuški Municipality.<sup>4422</sup> In them, men of military age originally from Ljubuški Municipality could not leave the said municipality;<sup>4423</sup> the men of military age from other municipalities were forbidden to enter Ljubuški Municipality; those already in the territory of the said municipality were to be “escorted” to their respective municipalities.<sup>4424</sup> Further to this, the municipal HVO, citing a housing shortage, ordered that “refugees” in the territory of the municipality be “escorted” to Croatia.<sup>4425</sup> As evidence of these “departures” the Prosecution refers, in its Pre-Trial Brief, to a SPABAT report on 27 July 1993 that UNPROFOR soldiers observed a

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<sup>4415</sup> P 02223.

<sup>4416</sup> P 02223; *Witness E*, T(F), pp. 22037 to 22039, closed session.

<sup>4417</sup> P 02223; *Witness E*, T(F), pp. 22037 to 22039, closed session.

<sup>4418</sup> P 02223; *Witness E*, T(F), pp. 22037-22039; *Witness E*, T(F), pp. 22116-22121, closed session.

<sup>4419</sup> P 03019, para. 8.

<sup>4420</sup> P 03116; P 03132; P 03210. The Chamber observes that the Military Police from the 4<sup>th</sup> Brigade of the HVO received a list of Muslim soldiers to be disarmed, with no indication of the source of the list; *see* P 03132, p. 2.

<sup>4421</sup> *Witness E*, T(F), p. 22074, closed session; P 03229; P 03305, p. 4; P 03353.

<sup>4422</sup> 1D 02053. The Chamber notes that the Ljubuški Municipal HVO used the term “refugees” to define those persons having left their municipality of origin.

<sup>4423</sup> 1D 02053.

<sup>4424</sup> 1D 02053.

<sup>4425</sup> 1D 02053.

convoy of 3 buses and 15 trucks filled with women, children and elderly persons on the road between Ljubuški and Grude, escorted by an MUP car and a car from HVO Military Police.<sup>4426</sup> Nevertheless, the Chamber lacks additional information about this convoy which allow it to pinpoint the origin and destination of the convoy.

### **B. Arrests of Muslims in Ljubuški Municipality in August 1993**

1782. The Chamber points out, like the Prosecution,<sup>4427</sup> that arrangements were being made to arrest Muslims in Ljubuški Municipality in August 1993, while Jadranko Prlić was claiming to the international community that the Muslims of Ljubuški were being interned for their own safety, as HVO soldiers returning from the front were out for vengeance.<sup>4428</sup>

1783. Thus, the Chamber observes that subsequent to an SIS order dated 14 August 1993, the Muslim men of the municipality were informed that they had to report to Ljubuški Prison.<sup>4429</sup> The Chamber notes that, on that same day, almost 300 detainees from Ljubuški Prison were moved to the Heliodrom, making space within the Prison.<sup>4430</sup> The Chamber points out that on the following day, 15 August 1993, 297 Muslims reported to Ljubuški Prison pursuant to the SIS order of 14 August 1993, were arrested by the Military Police platoon assigned to the 4<sup>th</sup> Brigade<sup>4431</sup> and moved that same day to the Heliodrom by the 4<sup>th</sup> HVO Brigade.<sup>4432</sup>

1784. As it alleged in its Pre-Trial Brief,<sup>4433</sup> the Prosecution states in its Final Trial Brief that on 15 August 1993 “the Military Police arrested the draft-age Muslim male population in Gradska”.<sup>4434</sup>

1785. The village of Gradska, roughly 5 kilometres distant from Ljubuški, was inhabited only by Muslims.<sup>4435</sup> The Chamber concludes, on the basis of the evidence, that on 15 August 1993, pursuant to the SIS order of 14 August 1993, the Muslim men of Gradska were arrested and detained at the Heliodrom.<sup>4436</sup>

<sup>4426</sup> P 03744 under seal, pp. 9 and 10.

<sup>4427</sup> Prosecution Final Trial Brief, paras 458 to 460 and 506.

<sup>4428</sup> P 09846; Witness BB, T(F), pp. 17284 and 17285, closed session.

<sup>4429</sup> Witness E, T(F), pp. 22090-22091, closed session; P 10328, p. 19.

<sup>4430</sup> P 02822.

<sup>4431</sup> P 04225; P 10328, p. 20. The Chamber observes that in its Final Trial Brief, the Prosecution submits that, between 14 and 15 August 1993, 300 men were arrested in Ljubuški and Vitina by the Military Police. *See* Prosecution Final Trial Brief, para. 1098.

<sup>4432</sup> Witness E, T(F), pp. 22090-22091, closed session.

<sup>4433</sup> Prosecution Pre-Trial Brief, para. 145.5.

<sup>4434</sup> Prosecution Final Trial Brief, paras 458 and 1098.

<sup>4435</sup> Witness E, T(F), pp. 22074 and 22075, closed session.

<sup>4436</sup> P 10328, p. 21; Witness BB, T(F), pp. 17231 and 17233, closed session; Larry Forbes, T(F), pp. 21330 and 21331, private session; P 10217 under seal, para. 146; P 09845 under seal; P 09847 under seal, p. 2; *see also* P 04214 under seal, p. 5; P 02108 under seal, p. 37; P 06135 under seal, p. 4; P 04822, para. 17; P 05091, para. 17; P 06697, para. 58.

### **C. Vacant Muslim Apartments in the Municipality Made Available in October 1993**

1786. The Chamber points out that in October 1993, Muslim-owned residences were occupied, at least temporarily, by members of the HVO Military Police.<sup>4437</sup> Accordingly, the Chamber points out that on 29 October 1993, Valentin Ćorić asked the municipal HVO in Ljubuški to authorise temporary occupancy of “vacant” apartments by members of the Military Police.<sup>4438</sup> The Chamber is also able to conclude, as the Prosecution argues in its Final Trial Brief,<sup>4439</sup> that, more broadly, and well before October 1993, “Croats” were moving to residences belonging to “deported” Muslims.<sup>4440</sup> *Witness E* thus testified that Croats from Travnik who had arrived in Ljubuški in early June 1993, started taking over Muslim properties in the town of Ljubuški in mid-August 1993 and that Croats from Kakanj, Konjic and Vareš also moved into Muslim residences in the village of Gradska in mid-August.<sup>4441</sup>

## **III. Ljubuški Prison**

1787. The Chamber will (A) first describe how Ljubuški Prison was organised (B), analyse events within the Prison, describing detainee arrivals and relocation, (C) their conditions of detention, (D) the type of labour they were expected to perform and (E) their treatment.

### **A. Organisation of Ljubuški Prison**

#### **1. Description of Ljubuški Prison**

1788. Ljubuški Prison was a police station dating back more than 50 years.<sup>4442</sup> The building comprised two parts: one was the main building, where the interrogation of detainees took place; the other part consisted of cells.<sup>4443</sup> According to *Witness E*,<sup>4444</sup> Ljubuški Prison had seven 4 by 3 metre cells, a large 5 by 5 metre cell and an auxiliary room with no door used for the sick and the

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<sup>4437</sup> P 05917; P 06232.

<sup>4438</sup> P 06232. The apartments were previously occupied by Mustafa Tančica, Mustafa Česko, Vahid Mušić, Huso Falzić and Mustafa Hajdarević.

<sup>4439</sup> Prosecution Final Trial Brief, para. 1152.

<sup>4440</sup> *Witness E*, T(F), p. 22104, closed session; P 10328, p. 20; *see also* *Witness BB*, T(F), pp. 17217 and 17218, closed session.

<sup>4441</sup> *Witness E*, T(F), p. 22104, closed session; P 04863 under seal, p. 2.

<sup>4442</sup> P 09727 under seal, p. 4; *Witness E*, T(F), p. 22021, closed session.

<sup>4443</sup> P 09727 under seal, p. 4; P 09089.

<sup>4444</sup> *Witness E* was a member of the HVO Military Police posted in Ljubuški from April 1993 onward, *see* *Witness E*, T(F), pp. 22005-22006, closed session.

elderly.<sup>4445</sup> However, the Muslims who were detained in Ljubuški Prison who testified before the Chamber, indicated various sizes – ranging from less than 2 m<sup>2</sup> to 25 m<sup>2</sup> –when they described the cells in which they were kept,<sup>4446</sup> whereas other witnesses detained in the Prison stated that some men were also held in old sheds.<sup>4447</sup> Although the Chamber was not in a position to ascertain where exactly those sheds were located, it considers nonetheless that they must have been inside the prison premises. Lastly, the Chamber points out that certain men were detained in the prison basement<sup>4448</sup> and that there was only one toilet for the entire prison.<sup>4449</sup>

## 2. Command Structure in Ljubuški Prison

1789. In its Final Trial Brief, the Prosecution alleges that Valentin Ćorić established Ljubuški Prison and that he and Berislav Pušić had the authority to transfer detainees from one detention site to another and to release its prisoners.<sup>4450</sup> It also alleges that the Military Police Administration oversaw the operation of the prison.<sup>4451</sup> The Prosecution states during its closing arguments that the evidence reveals that the head of the government, Jadranko Prlić, the Head of the Department of Defence, Bruno Stojić, and the Chief of the Military Police Administration, Valentin Ćorić, were all responsible for running Ljubuški Prison.<sup>4452</sup> The Prlić Defence alleges that neither Jadranko Prlić nor the HVO of the HZ H-B nor the HR H-B government participated in establishing and/or administering Ljubuški Prison.<sup>4453</sup> The Stojić Defence contends that nothing proves that Bruno Stojić was *de jure* or *de facto* responsible for Ljubuški Prison, whether as to its establishment, operation, arrests or security.<sup>4454</sup>

1790. The Prosecution further contends that the Military Police Administration was the primary organ responsible for management of Ljubuški Prison.<sup>4455</sup> In support of this statement, the Prosecution refers in particular to a security plan for the prisoner of war camp at Kerestinec in

<sup>4445</sup> Witness E, T(F), pp. 22019-22020, closed session.

<sup>4446</sup> Witness CU, T(F), pp. 12315 and 12316, closed session; P 09867 under seal, p. 14; Ismet Poljarević, T(F), p. 11598; Witness E, T(F), p. 22021, closed session; Witness CV, T(F), p. 12562; Witness TT, P 09879 under seal, *Naletilić and Martinović* Case, T(F), p. 6646; Witness Y, P 09873 under seal, *Naletilić and Martinović* Case, corrected version of T(F), p. 41 (private session); Salko Osmić, P 09876 under seal, *Naletilić and Martinović* Case, T(F), p. 3142. Witness CU added that he was detained in an 80 by 80 cm cell.

<sup>4447</sup> Spomenka Drljević, T(F), pp. 1038 and 1039; Witness W, P 09875 under seal, *Naletilić and Martinović* Case, T(F), p. 3200; P 09089.

<sup>4448</sup> Fahrudin Rizvanbegović, T(F), p. 2225; P 08644 under seal, p. 3; *see also* P 10117, para. 59.

<sup>4449</sup> Witness E, T(F), p. 22021, closed session; P 09089.

<sup>4450</sup> Prosecution Final Trial Brief, paras 1071 and 1078 to 1081.

<sup>4451</sup> Prosecution Final Trial Brief, paras 1071 to 1073.

<sup>4452</sup> Closing Arguments by the Prosecution, T(F), p. 51926

<sup>4453</sup> Prlić Defence Final Trial Brief, para. 347 (d).

<sup>4454</sup> Stojić Defence Final Trial Brief, paras 507 to 511.

<sup>4455</sup> Prosecution Final Trial Brief, para. 1071.

Croatia, dating from May 1992, which Valentin Ćorić drew on in setting up the prison at Ljubuški.<sup>4456</sup> The Chamber points out that the Ćorić Defence denies that this document has any connection to the prison at Ljubuški or to the Military Police Administration and states that the drafter of the markings attributed to Valentin Ćorić is in fact unknown.<sup>4457</sup> The Chamber notes that this document was not presented to any witness able to confirm that Valentin Ćorić was indeed the author of the said markings. The Chamber is therefore not in a position to ascertain beyond a reasonable doubt that Valentin Ćorić did actually mark and personally amend the document for the purpose of using it to regulate operations at Ljubuški Prison. The Chamber therefore decides not to take this document into account.

1791. The Chamber does however observe, that the Military Police Administration did in fact play a major role in establishing, setting up and managing the Prison.<sup>4458</sup> The Military Police Administration did in fact establish Ljubuški Prison some time in June 1992.<sup>4459</sup> The prison began to take in prisoners starting in early 1993<sup>4460</sup> and was guarded by a dozen HVO military police officers.<sup>4461</sup> The number of guards doubled in September 1993.<sup>4462</sup>

1792. From April to September 1993, Ante Prlić, commander of the Military Police platoon assigned to the 4<sup>th</sup> Brigade, was the prison commander at Ljubuški.<sup>4463</sup> He was replaced by Ivica Kraljević in September 1993, and by Stanko Božić on 10 December 1993.<sup>4464</sup>

1793. In view of the evidence, the Chamber concludes that the Military Police platoon assigned to the 4<sup>th</sup> Brigade was responsible for detainee safety and accommodation and “compliance with the Geneva conventions”.<sup>4465</sup>

1794. However, the HVO 4<sup>th</sup> Brigade's command also acted widely across areas involving the operation and structure of the Prison at Ljubuški.<sup>4466</sup> Thus, the 4<sup>th</sup> Brigade supplied food for the

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<sup>4456</sup> P 00234, pp. 8-21.

<sup>4457</sup> Closing Arguments by the Ćorić Defence, T(F), pp. 52722 and 52723.

<sup>4458</sup> P 00956, p. 14; P 00128, p. 10; Witness E, T(F), pp. 22142 and 22133, closed session; Witness CV, T(F), pp. 12561 and 12562. *See for example:* P 02535; P 03401, p. 2; P 05146; P 05193; P 05302; P 05312.

<sup>4459</sup> P 00956, p. 14; P 00128, p. 10.

<sup>4460</sup> Witness E, T(F), pp. 22012-22013, closed session.

<sup>4461</sup> Spomenka Drljević, T(F), p. 1041; *see also* Witness TT, P 09879 under seal, *Naletilić and Martinović* Case, T(F), pp. 6683-6684.

<sup>4462</sup> P 05497, p. 3; P 05642; P 06273, p. 2. *See also* P 06663, p. 1.

<sup>4463</sup> Witness E, T(F), pp. 22005-22006, closed session; P 09727 under seal, p. 4; Alija Lizde, T(F), pp. 17776 and 17963; 5D 02036; P 04528, p. 3; P 10121, para. 5; P 10122, para. 4.

<sup>4464</sup> P 07098, p. 1; Witness E, T(F), p. 22107, closed session; Marijan Biškić, T(F), p. 15383; 2D 00950; P 07075, pp. 1 and 2; P 07104; Witness CU, T(F), p. 12319, closed session; P 10138, para. 30. The Chamber also notes that Exhibit P 06838 was signed by Mate Jelčić as Ljubuški Prison commander. However, on the basis of this one document alone, the Chamber is not able to confirm that Mate Jelčić in fact held the post of commander of Ljubuški Prison.

<sup>4465</sup> Witness E, T(F), p. 22134, closed session; Zdenko Andabak, T(F), p. 51171; P 06838; Witness HH, P 10113 under seal, *Naletilić and Martinović* Case, T(F), p. 4903.



detainees, while the Military Police Administration supplied “items of basic necessity”.<sup>4467</sup> As regards the relocation of prisoners to other prisons, the 4<sup>th</sup> Brigade provided the means of transport and the drivers, and the Military Police escorted the prisoners.<sup>4468</sup> Finally, the various brigades, including the 4<sup>th</sup> Brigade, which relied upon prisoners for labour, organised the transport of prisoners between Ljubuški Prison and the work sites.<sup>4469</sup>

1795. The commander of the 4<sup>th</sup> Brigade and Ante Prlić, Prison commander and commander of the Military Police platoon assigned to the 4<sup>th</sup> Brigade, had a briefing every morning in which Prlić received instructions from the commander of the 4<sup>th</sup> Brigade as to the number of prisoners to be sent the next day, or even that same day, to work along side the HVO units.<sup>4470</sup> Other written or oral orders for sending prisoners to work for HVO units might also come in to the prison during the day.<sup>4471</sup>

1796. In its Final Trial Brief, the Prosecution contends that, as far as the tasks involving the detainees and the prison administration were concerned, the Military Police responsible for Ljubuški Prison reported to Valentin Ćorić, rather than to the 4<sup>th</sup> HVO Brigade command.<sup>4472</sup> According to the Prosecution, the Military Police Administration, in addition, received daily reports from the Prison commander.<sup>4473</sup>

1797. The Chamber notes that the Ljubuški Prison commander was required to draft daily reports on the activities of the Military Police platoon assigned to the 4<sup>th</sup> Brigade and responsible for prison security, which he sent not only to the Military Police Administration but also to the commander of the 4<sup>th</sup> Brigade.<sup>4474</sup> He also provided an oral report on the number of prisoners needing to be fed during a daily briefing with the commander of the 4<sup>th</sup> Brigade.<sup>4475</sup>

1798. In view of the evidence assessed above, the Chamber thus finds that the Military Police Administration, the 4<sup>th</sup> Brigade as well as the Military Police platoon assigned to the said Brigade were all involved in the management and operations of Ljubuški Prison. It also finds that the Military Police platoon was answerable to the 4<sup>th</sup> Brigade – to which it was assigned – but that it also provided reports to the Military Police Administration.

<sup>4466</sup> Witness E, T(F), pp. 22142 and 22133, closed session.

<sup>4467</sup> Witness E, T(F), p. 22257, closed session.

<sup>4468</sup> Witness E, T(F), p. 22257, closed session.

<sup>4469</sup> Witness E, T(F), pp. 22015, 22209 and 22257, closed session.

<sup>4470</sup> Witness E, T(F), pp. 22029-22030, closed session.

<sup>4471</sup> Witness E, T(F), p. 22034, closed session; P 02456.

<sup>4472</sup> Prosecution Final Trial Brief, para. 1071.

<sup>4473</sup> Prosecution Final Trial Brief, para. 1072.

<sup>4474</sup> Witness E, T(F), p. 22233, closed session; *see*, for example, P 02456; P 03034; P 04167.

1799. Lastly, the Chamber observes that the Exchange Commission, headed by Berislav Pušić, was in charge of managing detainee identification in HVO prisons and particularly in Ljubuški Prison. The commission thus set up a procedure for identifying detainees in a decision on 12 August 1993, under whose provisions a personal data slip was created for each detainee.<sup>4476</sup>

### **B. Arrival and Transfer of Detainees of Ljubuški Prison**

1800. Ljubuški Prison started to take in Muslim prisoners in early 1993, in small numbers initially but then in larger and larger numbers.<sup>4477</sup> Ljubuški Prison also took in Serb detainees.<sup>4478</sup> Finally, the prison took in many Croats,<sup>4479</sup> detained because they were serving out a prison sentence<sup>4480</sup> or because they had deserted.<sup>4481</sup>

1801. The Chamber observes out that, sometimes, Ljubuški Prison took in women. Thus, between 13 May 1993 and 8 June 1993, five women, including Spomenka Drljević, a member of the ABiH,<sup>4482</sup> shared the same cell.<sup>4483</sup> Between 20 and 27 July 1993, *Witness CX*, a Muslim woman from Mostar, was detained in Ljubuški Prison, where she saw another woman.<sup>4484</sup>

1802. Throughout 1993, Ljubuški Prison was also a processing centre for prisoner exchanges.<sup>4485</sup> The Military Police Administration prepared a list of exchanges of Serb and Muslim prisoners, who were then distributed among various exchange locations, including the Heliodrom.<sup>4486</sup>

1803. During the time that the Prison was in operation, the Muslim detainees came from everywhere in the territory under HVO control and also from Croatia.<sup>4487</sup> Thus, several reports of Military Police platoon assigned to the 4<sup>th</sup> Brigade mention relocations to Ljubuški Prison of Muslims arrested in Croatia or while crossing the border.<sup>4488</sup>

<sup>4475</sup> Witness E, T(F), pp. 22155-22157, closed session.

<sup>4476</sup> P 04141.

<sup>4477</sup> Witness E, T(F), pp. 22012-22013, closed session; P 01393. The Chamber has not been able to establish the reasons why these individuals were detained.

<sup>4478</sup> Witness E, T(F), pp. 22109 and 22291, closed session; Witness CU, T(F), p. 12323, closed session.

<sup>4479</sup> Witness AP (formerly O), P 10026 under seal, *Naletilić and Martinović* Case, T(F), pp. 2150, 2173, 2190.

<sup>4480</sup> Witness CU, T(F), p. 12323, closed session; P 04167; P 06322; P 06349; P 06520; P 06908; P 04667.

<sup>4481</sup> P 04063; P 05149; P 04872; P 06322; Zdenko Andabak, T(F), pp. 50940 and 50941.

<sup>4482</sup> Spomenka Drljević, T(F), pp. 1106 and 1107.

<sup>4483</sup> Spomenka Drljević, T(F), pp. 1107, 1038 and 1039; *see also* P 02400; P 09990, para. 17.

<sup>4484</sup> P 09833 under seal, p. 5; Witness CX, T(F), p. 1270, closed session.

<sup>4485</sup> Witness E, T(F), pp. 22048-22050, closed session; P 03034.

<sup>4486</sup> Witness E, T(F), pp. 22048-22050, closed session; P 03034; P 08202, entries n° 27, p. 10, and n° 45, p. 13 – it is stated that these detainees were members of the ABiH.

<sup>4487</sup> Witness E, T(F), pp. 22048-22050, closed session; P 02917; P 02969; P 03034.

<sup>4488</sup> P 01986; P 02042; P 02969; P 03034; P 03308; P 03806; P 04299.

1804. According to a member of the HVO Military Police platoon posted in Ljubuški in April 1993, the Muslims were detained primarily because they refused to fight for the HVO.<sup>4489</sup> That military police officer also stated that the Muslims were later detained simply because they were Muslims.<sup>4490</sup>

1805. The Chamber had the opportunity to hear abundant testimony that the Ljubuški Prison detainees came from various HVO-controlled municipalities, such as Jablanica, Prozor, Mostar, Stolac or Čapljina, and also from other detention facilities, such as Dretelj Prison or the Heliodrom.

1806. Ljubuški Prison was a detention and transit centre that was almost permanently overcrowded. Using a chronological analysis of the arrivals and departures of Muslim detainees in Ljubuški Prison, the Chamber will conclude at a later point that in the majority of cases, arrivals were related to incidents occurring in the various municipalities relevant to the Indictment and that, very often, departures were related to prison overcrowding. The Chamber will also point out that, on several occasions, numerous detainees from other detention centres were also transported to Ljubuški Prison. Nonetheless, the Chamber has not always been able to determine the motives behind these relocations to Ljubuški Prison, although it does not rule out the possibility that reasons related to overcrowding in the other detention centres or even to the closure of some of these, and the role as a transit centre prior to being taken away to third countries, may have been what led to these relocations.

1807. Several witnesses initially refer to a large transfer of Muslim prisoners from the school at Sovići to Ljubuški Prison during the night of 18-19 April 1993.<sup>4491</sup> The Chamber finds, that the evidence shows that some of these detainees from the school at Sovići were members of the TO or

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<sup>4489</sup> Witness E, T(F), p. 22109, closed session.

<sup>4490</sup> Witness E, T(F), p. 22026, closed session. The Chamber observes that the witness did not clarify when this change in policy came about; however, in view of the evidence subsequently analysed, it would appear that the change took place between April and May 1993.

<sup>4491</sup> Safet Idrizović, T(F), p. 9677; P 09726, p. 4; P 09727 under seal, p. 4; P 01974; *see also* Witness CA, T(F), p. 10026; P 09867 under seal, p. 14; P 02187, pp. 36-38; Decision of 7 September 2006, adjudicated facts nos 21 and 38 (*Naletilić* Judgement).

the ABiH,<sup>4492</sup> and that according to the SIS, others were “civilians”,<sup>4493</sup> or even children.<sup>4494</sup> On 21 April 1993, Ljubuški Prison also took in six prisoners from Stolac.<sup>4495</sup>

1808. On 6 May 1993, Ljubuški Prison held 186 detainees.<sup>4496</sup> The Military Police platoon assigned to the 4<sup>th</sup> Brigade, with responsibility for Ljubuški Prison, received an order that day from Valentin Ćorić to release, in the words of the order, the “civilian prisoners”.<sup>4497</sup> 87 detainees were thus released, reducing the number of detainees in the prison to 99.<sup>4498</sup> Likewise, on 9 May 1993, this same Military Police platoon organised a 32-truck convoy to transfer the detainees – who were described in the report as “civilians” – to Tomislavgrad.<sup>4499</sup>

1809. Nevertheless, in the days after 9 May 1993, many Muslim detainees, for the most part members of the ABiH or the TO, again arrived at Ljubuški Prison from Mostar.<sup>4500</sup> Among these detainees were members of the ABiH arrested in the Vranica building.<sup>4501</sup>

1810. The Chamber observes that, near the end of May 1993, Ljubuški Prison again accommodated numerous detainees, thus raising the number of prisoners beyond the prison's capacity to house prisoners, which was roughly one hundred.<sup>4502</sup>

1811. The detainees from Ljubuški Prison were also relocated to other detention centres. On the orders of both Berislav Pušić and Valentin Ćorić on 27 May 1993, 106 prisoners held at Ljubuški Prison were relocated to the Heliodrom that very day.<sup>4503</sup>

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<sup>4492</sup> P 01974; P 02063; P 02218; Safet Idrizović, T(F), p. 9677; Witness RR, P 09872 under seal, *Naletilić and Martinović* Case, T(F), pp. 6459 to 6461 and 6502-6503; Witness Y, P 09873 under seal, *Naletilić and Martinović* Case, corrected version from T(F), pp. 40, 53, 54 and 58; Witness W, P 09875 under seal, *Naletilić and Martinović* Case T(F), pp. 3175 and 3200; Salko Osmić, P 09876 under seal, *Naletilić and Martinović* Case, T(F), pp. 3155, 3131 and 3134; P 09727 under seal, p. 4.

<sup>4493</sup> P 02177, para. 9.

<sup>4494</sup> Witness RR, P 09872 under seal, *Naletilić and Martinović* Case, T(F), p. 6502 – Denis Skender was a minor at the time of the incidents; Nihad Kovač, T(F), pp. 10268 to 10270 – Armin Skender was 15 years old at the time of the incidents.

<sup>4495</sup> P 02132, p. 4.

<sup>4496</sup> P 02206.

<sup>4497</sup> P 02206.

<sup>4498</sup> P 02206.

<sup>4499</sup> P 02247.

<sup>4500</sup> Witness BZ, T(F), pp. 9943 and 9944, closed session; Spomenka Drljević, T(F), pp. 1036 and 1037; Alija Lizde, T(F), p. 17768; Witness CV, T(F), pp. 12561 and 12562; Witness A, T(F), pp. 14045 and 14046, closed session; P 09727 under seal, p. 4; Witness HH, P 10113 under seal, *Naletilić and Martinović* Case, T(F), pp. 4807, 4808, 4809; P 10121, paras 2 and 4; P 10122, paras 1 and 4; P 02158; P 02400.

<sup>4501</sup> Witness BZ, T(F), pp. 9943-9945, closed session; P 09727 under seal, p. 4; Spomenka Drljević, T(F), pp. 1035, 1036 and 1037; P 02158; P 02400.

<sup>4502</sup> P 02497; P 02521; P 10121, paras 4 and 5.

<sup>4503</sup> P 02541/P 02535 (identical documents); P 02546, p. 2; Witness BZ, T(F), pp. 9933 and 9934, closed session; Witness E, T(F), pp. 22042-22043, closed session.

1812. In June and July 1993, detainees were regularly transported from Ljubuški Prison to the Heliodrom by the Military Police.<sup>4504</sup>

1813. On 6 July 1993, Željko Šiljeg, commanding officer of the North-West OZ, ordered the arrest of all Muslims between 16 and 60 years of age in the territory of the North-West OZ.<sup>4505</sup> They were later sent to Ljubuški Prison.<sup>4506</sup> Thus, whereas on 11 July 1993, the number of detainees had fallen to 62,<sup>4507</sup> 237 detainees from Prozor were transported to Ljubuški Prison pursuant to this order,<sup>4508</sup> then relocated – with the authorisation of Valentin Ćorić and the commander of the Čapljina Military Police – to Dretelj Prison again the next day, due to a lack of space.<sup>4509</sup> As a further result of the implementation of the order of 6 July 1993, roughly 155 detainees from the secondary school at Prozor were transferred to Ljubuški Prison on 16 July 1993.<sup>4510</sup>

1814. According to a report by Ante Prlić dated 11 August 1993, 121 detainees from Ljubuški Prison were transferred to Dretelj Prison on the order of the Military Police Administration.<sup>4511</sup> On 14 August 1993, 286 and 186 detainees were relocated from Ljubuški Prison to the Heliodrom.<sup>4512</sup> Likewise, on 9 September 1993, 351 prisoners from Ljubuški Prison were relocated to the Heliodrom.<sup>4513</sup> Lastly, according to a document signed by Berislav Pušić, on 15 September 1993, 130 detainees characterised in that document as “members of the ABiH” were relocated from Ljubuški Prison to the Heliodrom.<sup>4514</sup>

1815. According to a report by Ante Prlić dated 14 August 1993, two “civilian” detainees – the Chamber does not know from which municipality they came – were released on 13 August 1993 after a month in detention by order of Valentin Ćorić, because they had letters of guarantee for their departure for Germany.<sup>4515</sup>

<sup>4504</sup> Witness BZ, T(F), pp. 9936 and 9938, closed session; P 09727 under seal, p. 4; P 09867 under seal, p. 14; Witness RR, P 09872 under seal, *Naletilić and Martinović* Case, T(F), pp. 6466 and 6510; P 03284; P 03255; P03256; P 03277; P 03259.

<sup>4505</sup> P 03234; P 03229.

<sup>4506</sup> Witness E, T(F), p. 22210, closed session; P 03229; *see also* Witness BO, T(F), pp. 7788 and 7789; P 09309.

<sup>4507</sup> P 03377; Witness DD, T(F), pp. 14431 and 14432, closed session. The report describes the detention of 35 Serbs, 25 Muslims and 1 Croat.

<sup>4508</sup> Witness E, T(F), pp. 22075-22077, closed session; P 03380. The Chamber notes that the report states that these detainees were not prisoners of war but detainees, for unstated security reasons.

<sup>4509</sup> Witness E, T(F), pp. 22075-22077, closed session; P 03401.

<sup>4510</sup> Witness CC, T(F), pp. 10453-10455, closed session; P 09731 under seal, p. 15; P 09732.

<sup>4511</sup> Witness E, T(F), pp. 22082-22083, closed session; P 04101, p. 1.

<sup>4512</sup> P 02822; P 05008, p. 2; P 08202, Entry n° 1, p. 6.

<sup>4513</sup> P 04899; P 08202, Entry n° 2, p. 6.

<sup>4514</sup> P 05083.

<sup>4515</sup> P 10175. For the procedure of release of detainees from Ljubuški Prison, *see* “Organisation of the Departure of the Muslims from Ljubuški Municipality” in the Chamber’s factual findings relating to Ljubuški Municipality and Ljubuški detention centres.

1816. In September 1993, Valentin Ćorić ordered the relocation of numerous detainees from Dretelj and Gabela Prisons, and also from the Heliodrom, to the prison at Ljubuški.<sup>4516</sup> Thus, many Muslim intellectuals and prominent figures were transferred from Dretelj Prison or the Heliodrom to Ljubuški Prison as of that date.<sup>4517</sup> This was for instance the case of Mostar University Professor Fahrudin Rizvanbegović, *Witnesses CR, AP, and Hamdija Jahić*, representatives of the SDA, and also Doctor Mehmed Kapić.<sup>4518</sup> According to a report from the Department for Criminal Investigation of the Military Police, in September 1993, Ljubuški Prison had become a detention site for “persons of interest” or “of importance”.<sup>4519</sup>

1817. In November 1993, the number of detainees at Ljubuški Prison fluctuated between 29 and 147 detainees, at least.<sup>4520</sup> The detainees were at times characterised by the HVO as “prisoners of war” or even “detainees under investigation”.<sup>4521</sup> The Chamber notes that several pieces of evidence referring to Mate Boban's 10 December 1993 decision ordering unilateral closure of the HVO prisons and the subsequent initiatives by the HVO to release the Muslim detainees from Ljubuški Prison.<sup>4522</sup> In late December 1993, the ECMM noted that the prison was empty.<sup>4523</sup> Despite this, several reports – issued by the HVO as well as by international organisations – from late December 1993 or early January 1994, mention that there were 80 “prisoners of war” at Ljubuški Prison at that time.<sup>4524</sup> Likewise, on 3 February 1994, a letter from the office of the President of the Presidency of the RBiH sent to the Prime Minister of Croatia indicates that “at least 80 detainees, mostly Muslim intellectuals and prominent figures”,<sup>4525</sup> were still in detention at Ljubuški Prison.<sup>4526</sup> A report by Stanko Božić dated 10 February 1994 says that Ljubuški Prison held 122 prisoners, of whom 120 were being investigated and 2 subjected to disciplinary measures.<sup>4527</sup>

<sup>4516</sup> P 04838; P 05146; P 05193; P 05194; P 05312; P 05302; P 05214.

<sup>4517</sup> Fahrudin Rizvanbegović, T(F), pp. 2226, 2229, 2230 (Dretelj). Fahrudin Rizvanbegović is a representative victim from paragraph 151 of the Indictment mentioned in the Annex to the Indictment; Witness CR, T(F), pp. 11899 and 11900, closed session (Dretelj); Witness CU, T(F), pp. 12315, 12318 and 12319, closed session (Heliodrom); P 06984; P 05312; P 07605; P 07785; Witness AP (formerly O), P 10026 under seal, *Naletilić and Martinović* Case, T(F), pp. 2150, 2173, 2190 (Heliodrom); P 10117, para. 54.

<sup>4518</sup> Fahrudin Rizvanbegović, T(F), pp. 2226, 2229, 2230, 2232 and 2238; Witness CR, T(F), pp. 11899 and 11900, closed session; Witness CU, T(F), pp. 12315, 12318 and 12319, closed session; Josip Praljak, T(F), p. 14804; P 04838; P 05193; P 05194; P 05312; Witness AP (formerly O), P 10026 under seal, *Naletilić and Martinović* Case, T(F), pp. 2150, 2173, 2190; P 06984; P 08644, p. 3.

<sup>4519</sup> P 06695, p. 2.

<sup>4520</sup> P 04667; entry for 1 November 1993, p. 60; P 06349; P 06393.

<sup>4521</sup> P 04667; entry for 1 November 1993, p. 60; P 06349; P 06695, p. 2.

<sup>4522</sup> P 07140; P 07546 under seal, pp. 5 and 6. *See* P 07096; P 07143, p. 5. *See also* Marijan Biškić, T(F), pp. 15341 and 15342; P 07155; 1D 01255, p. 2.

<sup>4523</sup> P 07356 under seal, p. 2.

<sup>4524</sup> P 07612; P 00352, pp. 34-35; P 07606 under seal, para. 28; P 07546 under seal, p. 6; P 07605; P 07746; P 07810; Philip Watkins, T(F), pp. 18890-18891; P 10117, paras 51 to 54.

<sup>4525</sup> P 07785.

<sup>4526</sup> P 07785; P 07852, p. 2; Amor Mašović, T(F), pp. 25040 and 25041.

<sup>4527</sup> P 07841, p. 2.

1818. The Chamber points out that, in actual fact, Ljubuški Prison continued to take in detainees until late March 1994.<sup>4528</sup> On 19 March 1994, almost all the detainees in Ljubuški Prison were relocated to the Heliodrom, then exchanged.<sup>4529</sup> The last detainees from Ljubuški Prison were relocated to the Heliodrom on 21 March 1994 and released, pursuant to a prisoner exchange between the HVO and the ABiH on 29 March 1994.<sup>4530</sup>

### **C. Conditions of Detention at Ljubuški Prison**

1819. In paragraph 147 of the Indictment, the Prosecution alleges that detention conditions at Ljubuški Prison were harsh and unhealthy, that the rooms were overcrowded with bad ventilation a complete lack of bed, insufficient bedding, insufficient food and water and poor sanitation facilities.

1820. In its Final Trial Brief, the Prosecution adds that in the reports by Ante Prlić, Prison commander from April to September 1993, to the Military Police Administration about the conditions of detention in Ljubuški Prison, it says that the detainees were being confined “inhumanely”.<sup>4531</sup>

1821. The Chamber was presented with several documents from the HVO<sup>4532</sup> and heard the testimony of *Witness E*, according to which the conditions of detention at Ljubuški Prison were good for the most part. Thus, as *Witness E* put it, broadly speaking, the Muslim detainees were more or less in good health even if the older detainees “looked quite bad”.<sup>4533</sup> Even so, *Witness E* also stated that the Muslim detainees had no right to visits, could not leave their cells and ate the food handed out by the prison,<sup>4534</sup> whereas the Croat detainees enjoyed a degree of freedom of movement, could receive visitors and meals from their families and were generally treated well by the prison wardens.<sup>4535</sup> The Chamber thus observes that *Witness E* appears to state that the Croat detainees and the Muslim detainees were not held under the same conditions of detention, all the more so because the Chamber notes that, the Croats and Muslims were detained in separate

<sup>4528</sup> Witness CU, T(F), p. 12324, closed session; Witness CA, T(F), p. 10041; *see also* P 07605; P 07785; P 08084, para. 2.1; P 10138, para. 33.

<sup>4529</sup> Witness CU, T(F), p. 12324, closed session; P 10138, para. 33; P10129 under seal, para. 41; *see also* P 06982, detainees nos 42 to 53, 57 to 63, 65 to 81 and 85 to 128.

<sup>4530</sup> Witness CU, T(F), p. 12324, closed session; Witness AP (formerly O), P 10026 under seal, *Naletilić and Martinović* Case, T(F), pp. 2152 and 2153; P 08644, p. 4; P 10117, para. 69; P 08846, p. 2; P 10118; P 10119; P 06982, detainees nos 64 and 82 to 84; P 08202, Entry n° 34.

<sup>4531</sup> Prosecution Final Trial Brief, para. 1103.

<sup>4532</sup> P 03377, p. 1. *See also* ID 01797.

<sup>4533</sup> Witness E, T(F), pp. 22026, closed session.

<sup>4534</sup> Witness E, T(F), pp. 22270-22275, closed session.

<sup>4535</sup> Witness E, T(F), pp. 22271-22274, closed session; P 10117, para. 62.

locations in the prison.<sup>4536</sup> The Chamber has moreover heard from many Muslim witnesses detained in Ljubuški Prison who described the harsh conditions of detention at the prison, as the Chamber will assess at a later point. Lastly, the Chamber was shown the summary report of Dr Ivo Curić dated 24 November 1993<sup>4537</sup> concerning conditions in the HVO detention centres, referring to unsatisfactory conditions in Ljubuški Prison as regards heating and hot water, personal hygiene, accommodations and clothing of the detainees.<sup>4538</sup> The report states that the sanitary conditions and the level of disinfection, insect and rat eradication were only partially satisfactory.<sup>4539</sup> Viewed in light of such evidence, the Chamber does not accept the statements of *Witness E* with regard to the conditions of detention and lends little credence to the HVO documents describing good conditions of detention at Ljubuški Prison.

1822. Concerning the conditions of detention more specifically, the Chamber received information about (1) the housing capacity of the Prison and its cells, (2) detainee food, (3) the lack of comfort and hygiene, (4) access to medical care, (5) the conditions in which the women were held and, (6) finally, the visits of international organisations and joint commissions.

#### 1. Holding Capacity of Ljubuški Prison and the Condition of the Cells

1823. In its Final Trial Brief, the Prosecution alleges that overcrowding in Ljubuški Prison was brought to the attention of the Military Police Administration in the daily reports concerning the overall number of detainees.<sup>4540</sup>

1824. The Chamber points out that although the housing capacity at Ljubuški Prison did not exceed one hundred detainees,<sup>4541</sup> on several occasions the prison held many more detainees than that: the Military Police platoon assigned to the 4<sup>th</sup> Brigade and in charge of prison security actually counted 131 Muslim detainees – of whom 85 were “Muslim soldiers” – on 20 April 1993, 162 detainees on 23 April 1993 and even 262 detainees on 22 May 1993.<sup>4542</sup> On 11 July 1993, 237 prisoners arrested in Prozor had to be transferred immediately on arrival to Dretelj Prison, because

<sup>4536</sup> Witness E, T(F), pp. 22152 and 22272, closed session.

<sup>4537</sup> Head of the Service for Infection, Epidemiology and Toxicology at the Health Care Section of the Department of Defence. See for example 2D 00914.

<sup>4538</sup> P 06858.

<sup>4539</sup> P 06858.

<sup>4540</sup> Prosecution Final Trial Brief, para. 1103.

<sup>4541</sup> Witness E, T(F), pp. 22036-22037, closed session.

<sup>4542</sup> P 01986; P 02042; P 02068; P 02465; P 02489. The Chamber observes that not one of these reports indicates for whom it is written.



Ljubuški Prison was already overcrowded.<sup>4543</sup> In September and November 1993, the Chamber notes that the number of detainees was always more than one hundred.<sup>4544</sup>

1825. According to the testimony received by the Chamber, certain detainees were packed in together, sometimes up to 40 of them at once, in cells measuring roughly 7 to 25 m<sup>2</sup>.<sup>4545</sup> The detainees could not lie down to sleep, barely had room to sit down and the air in the cells was suffocatingly heavy.<sup>4546</sup> The Chamber, for example, heard *Witness RR*<sup>4547</sup> who was detained in a 7.5 m<sup>2</sup> cell with about twenty other people,<sup>4548</sup> and *Sead Delalić*,<sup>4549</sup> who was detained in a 12 m<sup>2</sup> cell with 12 other people and had to sleep on a damp floor, squeezed in with the other detainees.<sup>4550</sup>

1826. Witnesses stated that men were also detained in one-time sheds,<sup>4551</sup> and some men were detained in the Prison basement.<sup>4552</sup> The Chamber points out that *Witness CU* was kept in isolation for eight days in a cell measuring less than 2 m<sup>2</sup>, with water up to his knees.<sup>4553</sup>

1827. The Chamber notes that although the cells were locked only at night, the Muslim detainees could not go out,<sup>4554</sup> except to eat.<sup>4555</sup>

## 2. Detainee Food at Ljubuški Prison

1828. The detainees in Ljubuški Prison were poorly fed: in general, they had only one meal per day, which was of poor quality.<sup>4556</sup> They usually were given nothing for breakfast and nothing for

<sup>4543</sup> P 03401; Witness E, T(F), pp. 22076 to 22077, closed session.

<sup>4544</sup> Witness CU, T(F), p. 12318, closed session; P 06349. The Chamber observes that the report was addressed to the Head of the Military Police Administration, Valentin Ćorić.

<sup>4545</sup> Ismet Poljarević, T(F), p. 11598; P 09726, p. 4; Witness E, T(F), p. 22021, closed session; Witness CV, T(F), p. 12562; P 09867 under seal, p. 14. Witness CV is a representative victim from paragraph 147 of the Indictment mentioned in the Annex to the Indictment; Witness TT, P 09879 under seal, *Naletilić and Martinović Case*, T(F), p. 6645; Witness Y, P 09873 under seal, *Naletilić and Martinović Case*, corrected version from T(F), p. 41 (private session); Salko Osmić, P 09876 under seal, *Naletilić and Martinović Case*, T(F), p. 3142.

<sup>4546</sup> Witness E, T(F), p. 22037, closed session; Fahrudin Rizvanbegović, T(F), pp. 2227 and 2229; Spomenka Drljević, T(F), pp. 1046 and 1047; Witness CV, T(F), p. 12562; P 09990, p. 4; Witness RR, P 09872 under seal, *Naletilić and Martinović Case*, T(F), pp. 6461-6462; Witness Y, P 09873 under seal, *Naletilić and Martinović Case*, corrected version from T(F), p. 41 (private session); Salko Osmić, P 09876 under seal, *Naletilić and Martinović Case*, T(F), p. 3142; Witness TT, P 09879 under seal, *Naletilić and Martinović Case*, T(F), p. 6645; P 10129 under seal, para. 38.

<sup>4547</sup> Detained at the Ljubuški Prison between 20 April and 20 June 1993. See Witness RR, P 09872 under seal, *Naletilić and Martinović Case*, T(F), pp. 6448 and 6466.

<sup>4548</sup> Witness RR, P 09872 under seal, *Naletilić and Martinović Case*, T(F), pp. 6461 and 6462.

<sup>4549</sup> Detained at the Ljubuški Prison from late December 1993 until March 1994. See P 10117, paras 51 and 69.

<sup>4550</sup> P 10117, para. 54. See also P 10129 under seal, para. 38.

<sup>4551</sup> Spomenka Drljević, T(F), pp. 1038 and 1039; Fahrudin Rizvanbegović, T(F), p. 2225; Witness W, P 09875 under seal, *Naletilić and Martinović Case*, T(F), p. 3200; see also P 09089.

<sup>4552</sup> Witness CR, T(F), p. 11898 (private session); P 08644, p. 3; P 10117, para. 59.

<sup>4553</sup> Witness CU, T(F), pp. 12315 and 12316, closed session. See also T(E), p. 12315. Sead Delalić also testified that the detainees in the basement were in water up to their knees during the winter of 1993-1994. See P 10117, paras 59 and 60.

<sup>4554</sup> Witness E, T(F), pp. 22021 and 22271-22275, closed session.

<sup>4555</sup> Ismet Poljarević, T(F), p. 11598; P 09726, p. 4.

lunch or just a bit of bread and tinned meat spread.<sup>4557</sup> *Witness AP*<sup>4558</sup> stated that he lost 30 kilos during his detention;<sup>4559</sup> and that *Sead Delalić*<sup>4560</sup> lost between 15 and 20 kilos.<sup>4561</sup>

1829. The Chamber notes further that the detainees were required to eat standing in the prison courtyard,<sup>4562</sup> with a very short time to eat it.<sup>4563</sup>

### 3. Lack of Comfort and Hygiene of the Detainees at Ljubuški Prison

1830. The prisoners were forced to sleep on the ground, and had either very few coverings or none at all, even when temperatures were cold.<sup>4564</sup> The prison lacked running water.<sup>4565</sup> There was only a single toilet for the entire prison and one tap, located across from the prison.<sup>4566</sup> Detainees were to request leave from the guards to use the toilets, fetch water or wash<sup>4567</sup> and had very little time in which to use the toilets.<sup>4568</sup>

### 4. Access to Medical Care for Detainees at Ljubuški Prison

1831. The Chamber heard *Ismet Poljarević's* testimony<sup>4569</sup> that there were no doctors inside the Prison.<sup>4570</sup> However, the Chamber has reviewed other evidence whereby medical services were provided to the detainees from time to time by doctors outside the prison. For instance, on 2 May 1993, certain detainees had an opportunity to ask for medical treatment, for various injuries from

<sup>4556</sup> Witness E, T(F), p; 22022 and 22054, closed session; Fahrudin Rizvanbegović, T(F), pp. 2227 and 2229; P 09990, p. 4; Witness AP (formerly O), P 10026 under seal, *Naletilić and Martinović* Case, T(F), p. 2152; Witness Y, P 09873 under seal, *Naletilić and Martinović* Case, corrected version from T(F), p. 41 (private session); P 10117, para. 57; P 02068; P 10166; P 03952, pp. 2 and 3; P 06349. The Chamber notes that *Witness W* stated that he was properly fed during his detention (see Witness W, P 09875 under seal, *Naletilić and Martinović* Case, T(F), pp. 3262 and 3263). However, as this statement was not corroborated by any evidence, the Chamber has decided not to consider it.

<sup>4557</sup> Witness E, T(F), pp. 22022 and 22054, closed session; P 02068; P 08644, p. 3.

<sup>4558</sup> Witness AP was a member of the SDA and was detained between August 1993 and February 1994 in the Ljubuški prison; see Witness AP (formerly O), P 10026 under seal, *Naletilić and Martinović* Case, T(F), pp. 2137, 2138 and 2150.

<sup>4559</sup> Witness AP (formerly O), P 10026 under seal, *Naletilić and Martinović* Case, T(F), p. 2152.

<sup>4560</sup> Detained in Ljubuški Prison from late December 1993 until March 1994. See P 10117, paras 51 and 69.

<sup>4561</sup> P 10117, para. 56.

<sup>4562</sup> Witness RR, P 09872 under seal, *Naletilić and Martinović* Case, T(F), p. 6504; P 09089.

<sup>4563</sup> Ismet Poljarević, T(F), p. 11598; P 09726, p. 4; P 10117, para. 55.

<sup>4564</sup> Ismet Poljarević, T(F), pp. 11603 and 11604; P 09867 under seal, p. 14; Witness AP (formerly O), P 10026 under seal), *Naletilić and Martinović* Case, T(F), p. 2152.

<sup>4565</sup> Witness E, T(F), p. 22024, closed session; 2D 00914, pp. 1 and 2.

<sup>4566</sup> Witness E, T(F), p. 22024, closed session; P 09990, p. 4; Witness AP (formerly O), P 10026 under seal, *Naletilić and Martinović* Case, T(F), p. 2152; Alija Lizde, T(F), p. 17770; P 09089; P 10117, para. 54; Witness Y, P 09873 under seal, *Naletilić and Martinović* Case, corrected version from T(F), p. 41 (private session); 2D 00913, p. 1.

<sup>4567</sup> Witness E, T(F), pp. 22021 and 22025, closed session.

<sup>4568</sup> P 10117, para. 54.

<sup>4569</sup> Ismet Poljarević was a bus driver, detained in Ljubuški Prison between 19 April and 25 May 1993; see P 09726, p 4; 2D 00285, p. 4.

<sup>4570</sup> Ismet Poljarević, T(F), p. 11604.

which they were suffering, from a joint commission comprising members of the ABiH and the HVO whose objective was to visit the prisons in the South-East OZ.<sup>4571</sup> *Ismet Poljarević*, however, informed the Chamber that the detainees never received this medical attention.<sup>4572</sup> On the other hand, prisoners who complained of pain were examined by a physician, whose identity is not specified, who visited the Prison on 21 May 1993.<sup>4573</sup>

1832. On 25 August 1993, a joint commission consisting of members of the Department for Criminal Investigation of the Military Police, of the “Chief of Medical Corps”, Mladen Tolić, and the doctor from the Medical Service of the Military Police, came to Ljubuški Prison.<sup>4574</sup> The commission ordered that a physician be appointed to examine the detainees every two weeks, that a medical log be kept and that the prison be thoroughly disinfected.<sup>4575</sup> The Chamber was unable to ascertain whether the recommendations of the commission were put into effect. However, the Chamber observes that the detainees' access to medical care improved in late October – early November 1993. Thus, a doctor and a nurse from the Military Police Administration examined a dozen detainees from Ljubuški Prison on 21 October 1993.<sup>4576</sup> Furthermore, on 2 November 1993, Ivica Kraljević, then Prison Commander, informed Valentin Ćorić that a doctor, who had just been hired, was examining the detainees on a weekly basis, without providing further details about the doctor.<sup>4577</sup>

##### 5. Conditions of Detention of the Women at Ljubuški Prison

1833. According to the testimonies it has heard, the Chamber notes that the women were separated from the other detainees and received better treatment.<sup>4578</sup> They stayed in the office of the night watchman of the Military Police inside the prison and had beds<sup>4579</sup> and what they needed for personal hygiene.<sup>4580</sup>

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<sup>4571</sup> P 02177, p. 5.

<sup>4572</sup> *Ismet Poljarević*, T(F), p. 11600.

<sup>4573</sup> P 02479.

<sup>4574</sup> P 04528, p. 2.

<sup>4575</sup> P 04528, p. 2.

<sup>4576</sup> P 04667, p. 49.

<sup>4577</sup> P 06349.

<sup>4578</sup> Witness E, T(F), pp. 22252 and 22291, closed session; Spomenka Drljević, T(F), pp. 1129 and 1196.

<sup>4579</sup> Witness E, T(F), pp. 22121-22122, closed session; Spomenka Drljević, T(F), p. 1038.

<sup>4580</sup> Witness E, T(F), pp. 22121-22122, closed session.

## 6. Visits to Ljubuški Prison by International Organisations and Joint Commissions

1834. The Chamber reviewed evidence describing visits from international organisations including the ICRC, and also from joint commissions comprising members of the HVO and the ABiH who were visiting prisons in Herzegovina.<sup>4581</sup> Some of the ICRC visits were authorised by Valentin Ćorić.<sup>4582</sup>

1835. The Chamber has observed that certain visits were prepared in advance. Thus, on 1 May 1993,<sup>4583</sup> two military police officers, acting in advance of an ICRC visit announced by Valentin Ćorić to the commander of Ljubuški Prison, brought 80 detainees to Čapljina so that they could wash.<sup>4584</sup> One of the prisoners also cleaned the cells and the Prison yard in anticipation of the visit.<sup>4585</sup> Representatives from the ICRC did in fact come to visit that day.<sup>4586</sup>

1836. In addition, a commission on the military prisons of the HR H-B, established on 23 November 1993, was allowed – on an unspecified date – to visit Ljubuški Prison.<sup>4587</sup> In a report dated 3 December 1993, the SIS reported that the said commission which specifically mentioned Ljubuški Prison, described, *inter alia*, the overcrowding in the prisons and the lack of familiarity with any rules of conduct by the wardens of these prisons.<sup>4588</sup> The commission also recommended the release of all detainees not under criminal investigation and those who were under 18 or over 50 years of age.<sup>4589</sup> It proposed, in addition to this, that Ljubuški Prison be used only to accommodate members of the HVO who were subject to disciplinary proceedings.<sup>4590</sup>

1837. Later, on 27 January 1994, the staff of Ljubuški Prison prepared for a visit to the prison of European Parliamentarians, scheduled for 30 January 1994.<sup>4591</sup> Anticipating this visit, on 27 January 1994, Colonel Željko Šiljeg, then Head of the Military Police Administration of the

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<sup>4581</sup> Witness E, T(F), pp. 22030-22032, closed session; Spomenka Drljević, T(F), pp. 1045 and 1049; Witness CR, T(F), pp. 11895 and 11896, closed session; Witness BA, T(F), pp. 7225 and 7226, closed session; Witness BZ, T(F), p. 9946, closed session; P 02164, pp. 2-3; P 02177; P 08816; P 07472, describing three visits by the ICRC to Ljubuški Prison on 10 June, and 6 and 16 July 1993; 5D 01001; P 04528, p. 2; P 04667, p. 17, entry for 26 November 1993, p. 89; entry for 28 December 1993, p. 106; 1D 00938, p. 2; 1D 01585, p. 3. See also Witness T, P09879 under seal, *Naletilić and Martinović* Case, T(F), pp. 6680 and 6681; P 09990, p. 5; Witness W, P 09875 under seal, *Naletilić and Martinović* Case, T(F), pp. 3203 to 3206 and 3207; P 10138, para. 31.

<sup>4582</sup> P 02601, p. 1; P03250, para. 9; P 03292 under seal.

<sup>4583</sup> Witness E, T(F), pp. 22030-22032, closed session; P 02170.

<sup>4584</sup> P 02170.

<sup>4585</sup> P 02170.

<sup>4586</sup> Witness E, T(F), p. 22032, closed session.

<sup>4587</sup> P 07023, p. 2.

<sup>4588</sup> P 07023, p. 2.

<sup>4589</sup> P 07023, p. 3.

<sup>4590</sup> P 07023, p. 3.

<sup>4591</sup> P 00352, p. 37.

Ministry of Defence of the HR H-B, ordered the 1<sup>st</sup> and 3<sup>rd</sup> HVO Military Police Battalions to return the prisoners they were using for labour to their detention centres, including Ljubuški Prison.<sup>4592</sup>

1838. Certain projected visits, however, fell through. On 2 May 1993, two joint commissions were formed for the purpose of visiting the prisons in the North-West and South-East regions of Herzegovina.<sup>4593</sup> One of the two commissions was supposed to visit Ljubuški Prison to count how many Muslim detainees were there.<sup>4594</sup> While the commission was visiting the Prison, Berislav Pušić stopped it, blocking it from proceeding with the visit<sup>4595</sup> arguing that the Muslim forces from Jablanica were refusing to allow passage to the other commission assigned to visit the prisons of North-West Herzegovina.<sup>4596</sup>

1839. The Chamber notes finally that on 3 July 1993, the commander of the South sector of the South-East OZ, Colonel Obradović, forbade access to the Prison to any “unauthorised” person – yet without specifically delineating those persons.<sup>4597</sup>

#### **D. Work Performed by the Detainees from Ljubuški Prison**

1840. The Prosecution argues, in its Final Trial Brief, that the reports Ante Prlić prepared for the period April and July 1993 for use by the Military Police Administration contained unambiguous notice, that prisoners were engaging in forced labour on the front lines.<sup>4598</sup>

1841. The Chamber concludes, after reviewing the evidence, that the detainees from Ljubuški Prison were forced to work on a daily basis at various sites for different HVO units.<sup>4599</sup> The prison commander received requests<sup>4600</sup> and verbal or written orders<sup>4601</sup> to dispatch the prisoners to various military units or state or private enterprises to carry out this work. The prisoners selected to carry out these tasks were most often the youngest ones and those in the best health.<sup>4602</sup> They were

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<sup>4592</sup> P 07697, pp. 1 and 2.

<sup>4593</sup> P 02164, p. 2. The commission assigned to visit prisons in the south-east of Herzegovina consisted of Josip Marčinko, Boro Kutleša and Zvonko Vidović, representing the HVO, and Jasenko Sijerčić, Nusret Džeko and Salih Hodžić, representing the Muslims.

<sup>4594</sup> P 02164, p. 2

<sup>4595</sup> P 02164, pp. 2 and 3. *See also* P 02882, pp. 3 and 4; P 02557 under seal, p. 1; Klaus Johann Nissen, T(F), pp. 20429 and 20430.

<sup>4596</sup> P 02164, pp. 2 and 3.

<sup>4597</sup> Witness C, T(F), p. 22494, closed session; P 03161. *See also* Witness BB, T(F), p. 17254, closed session.

<sup>4598</sup> Prosecution Final Trial Brief, para. 1120.

<sup>4599</sup> *See, for example*, P 04667.

<sup>4600</sup> Witness E, T(F), pp. 22029-22030, closed session; P 05136; P 05934; P 06503; P 06866; P 06949.

<sup>4601</sup> Witness E, T(F), pp. 22029-22030, closed session; P 02456; P 03457; P 04752; P 07687.

<sup>4602</sup> Witness E, T(F), p. 22015, closed session; Ismet Poljarević, T(F), p. 11606.

transported in covered trucks supplied by the HVO brigades that needed the prisoners – who had to be returned at night.<sup>4603</sup>

1842. The Chamber received the testimony of several witnesses detained at Ljubuški Prison and had to perform tasks on the front line and at various military facilities, testimony confirmed by several reports from the Military Police platoon assigned to the 4<sup>th</sup> HVO Brigade.<sup>4604</sup> The witnesses testified that one of the locations was Popovo Polje outside Stolac, a site near Trebinje and Neum.<sup>4605</sup> They also mentioned locations such as the town of Ljubuški, at the National Red Cross Centre, for example, or at the Ljubuški MUP,<sup>4606</sup> or such locations in Ljubuški as would reinforce the front line against Serb forces.<sup>4607</sup> The detainees were required to dig trenches, build bunkers or fortifications, perform earth-moving tasks,<sup>4608</sup> and also clean roads, parks or buildings and unload trucks.<sup>4609</sup>

1843. The detainees from Ljubuški Prison were also required to do work along the Gornji Vakuf front line in July and August 1993.<sup>4610</sup> In October 1993, the 4<sup>th</sup> HVO Brigade ordered that detainees be utilised to the fullest extent possible for the purpose of preparing facilities along the front for winter.<sup>4611</sup>

1844. The work was sometimes carried out under dangerous conditions, during combat at the front line, and some detainees were injured. Thus, *Ismet Poljarević* mentioned to the Chamber that a prisoner named Ibro Kukić was wounded by mortar explosions between Stolac and Popovo Polje.<sup>4612</sup> The Chamber also admitted the written statement of *Witness DU*<sup>4613</sup> wherein the witness

<sup>4603</sup> Witness E, T(F), pp. 22015 and 22209, closed session.

<sup>4604</sup> P 02042; P 02110; P 02197; P 02247; P 02400; P 02456; P 02465; P 02465; P 02479; P 02497; P 02546; P 03429; P 03457.

<sup>4605</sup> Witness E, T(F), p. 22078, closed session; Witness BZ, T(F), p. 9946 (private session); P 09727 under seal, p. 4; Ismet Poljarević, T(F), p. 11598; Alija Lizde, T(F), p. 17774; P 09726, p. 4; P 09867 under seal, p. 14 (Witness DU is a representative victim from paragraph 148 of the Indictment); P 09990, para. 18; Witness TT, P 09879 under seal, *Naletilić and Martinović* Case, T(F), p. 6647; Witness W, P 09875 under seal, *Naletilić and Martinović* Case, T(F), pp. 3202 and 3206; P 08644, p. 3; P 10122, para. 5; P 05934.

<sup>4606</sup> Witness BZ, T(F), p. 9946 (private session); P 09727 under seal, p. 4; Alija Lizde, T(F), p. 17774; Witness E, T(F), pp. 22059-22061, closed session; P 02170; P 02247; P 02294; P 02369; P 02400; P 02456; P 02465; P 02489; P 02497; P 03535; P 03736.

<sup>4607</sup> Witness CV, T(F), pp. 12562 and 12563; Salko Osmić, P 09876 under seal, *Naletilić and Martinović* Case, T(F), p. 3143; Witness HH, P 10113 under seal, *Naletilić and Martinović* Case, T(F), pp. 4810-4811; P 10122, para. 5.

<sup>4608</sup> Witness E, T(F), pp. 22013-22015, closed session; Alija Lizde, T(F), p. 17774; Ismet Poljarević, T(F), pp. 11598 and 11606; P 09726, p. 4; P 09727 under seal, p. 4; P 01987; P 02026; P 09867 under seal, p. 14 (Witness DU is a representative victim from paragraph 148 of the Indictment mentioned in the Annex to the Indictment); P 09990, p. 5; Witness HH, P 10113 under seal, *Naletilić and Martinović* Case, T(F), pp. 4810 and 4811; Witness W, P 09875 under seal, *Naletilić and Martinović* Case, T(F), pp. 3202, 3206.

<sup>4609</sup> Witness E, T(F), pp. 22059-22061 and 22078, closed session; P 02110; P 02170; P 02247; P 02465; P 03736; P 10328, p. 19; Alija Lizde, T(F), p. 17774.

<sup>4610</sup> P 00284, p. 4.

<sup>4611</sup> P 05914.

<sup>4612</sup> Ismet Poljarević, T(F), pp. 11572-11574, 11599 and 11600, and 11605; P 09726, p. 4; 2D 00285, pp. 3-4.

tells of a detainee, Omer Kukić, who was wounded by bullets to his leg while at the front line in the Stolac region.<sup>4614</sup>

### **E. Treatment of Detainees at Ljubuški Prison**

1845. The Chamber heard testimony stating that the guards conducted themselves properly with inmates.<sup>4615</sup> However, the Chamber also heard testimony from detainees at Ljubuški Prison detailing “mistreatment” and “beatings”.<sup>4616</sup> According to the evidence received by the Chamber, soldiers from the HVO sometimes came into the prison to strike and injure detainees.<sup>4617</sup> The Chamber notes that, in general, it was difficult for the witnesses detained at Ljubuški Prison who suffered injuries, blows and beatings to identify the perpetrators of these actions with precision. Most of the witnesses simply spoke of soldiers from the HVO. Several witnesses did, however, mention a prison guard named “Petrović”, who repeatedly struck detainees.<sup>4618</sup>

1846. The Chamber points out that, according to the testimony of numerous witnesses detained at Ljubuški Prison, the detainees were slapped and punched<sup>4619</sup> and were insulted<sup>4620</sup> by HVO soldiers over the course of their detention. The Chamber thus heard *Ismet Poljarević* recount how an HVO soldier from outside the prison severely beat another detainee, Feriz Junuzović, so badly that his face was bloodied and his body covered with bruises.<sup>4621</sup> The Chamber also heard *Witness CU*<sup>4622</sup> who was called into the office of Ivica Kraljević, Prison Commander at the time, where two other

<sup>4613</sup> P 09867 under seal, p. 14. *Witness DU* was detained in Ljubuški Prison from 19 April 1993 until late June - early July 1993.

<sup>4614</sup> P 09867 under seal, p. 14.

<sup>4615</sup> *Witness CV*, T(F), pp. 12564 and 12567; *Witness BZ*, T(F), pp. 9946-9947, closed session; *Witness W*, P 09875 under seal, *Naletilić and Martinović Case*, T(F), pp. 3206-3207 and 3263.

<sup>4616</sup> *Fahrudin Rizvanbegović*, T(F), pp. 2226 and 2227, 2230 and 2231; *Alija Lizde*, T(F), pp. 17774-17776 and 17785-17788; P 10117, paras 54, 58, 63, 64, 66, 67 and 69; *Witness TT*, P 09879 under seal, *Naletilić and Martinović Case*. T(F), pp. 6646, 6682-6683, 6693 and 6694; P 10121, para. 6; P 10138, para. 30.

<sup>4617</sup> *Ismet Poljarević*, T(F), pp. 11572, 11599 and 11600; P 09726, p. 4; 2D 00285, p. 3; *Spomenka Drljević*, T(F), pp. 1041 and 1044; *Witness CV*, T(F), pp. 12564-12567; *Alija Lizde*, T(F), p. 17777; P 09727 under seal, p. 4; *Witness Y*, P 09873 under seal, *Naletilić and Martinović Case*, corrected version of T(F), pp. 41- 42; *Witness HH*, P 10113 under seal, *Naletilić and Martinović Case*, T(F), pp. 4807 and 4901.

<sup>4618</sup> *Alija Lizde*, T(F), pp. 17774-17776; *Ismet Poljarević*, T(F), pp. 11572, 11599 and 11600; P 09726, p. 4; 2D 00285, p. 3; P 09867 under seal, p. 14; *Witness TT*, P 09879 under seal, *Naletilić and Martinović Case*, T(F), pp. 6646, 6682, 6694-6698; P 08644, p. 3; P 10121, para. 6.

<sup>4619</sup> *Fahrudin Rizvanbegović*, T(F), pp. 2227, 2230 and 2231; *Witness CV*, T(F), p. 12566; P 09727 under seal, p. 4; P 09990, p. 4; P 09781, p. 2; P 09867 under seal, p. 14; *Witness TT*, P 09879 under seal, *Naletilić and Martinović Case*, T(F), pp. 6646, 6694-6698; *Witness RR*, P 09872 under seal, *Naletilić and Martinović Case*, T(F), pp. 6504 and 6505; *Witness Y*, P 09873 under seal, *Naletilić and Martinović Case*, corrected version of T(F), p. 41 (private session).

<sup>4620</sup> P 09990, p. 4.

<sup>4621</sup> P 09726, p. 4. *Feriz Junuzović*, the brother of *Eniz Junuzović*, was among the victims of the physical violence committed at Ljubuški Prison.

<sup>4622</sup> *Witness CU*, T(F), pp. 12314-12316 and 12324, closed session; P 05146. *Witness CU* is a representative victim from paragraph 149 of the Indictment mentioned in the Annex to the Indictment. He was detained at Ljubuški Prison between 17 September 1993 and 29 March 1994.

men were waiting; once Ivica Kraljević left, they attached electric wires to points around his ears and administered electric shocks to him. The two men even put water into his ears to increase his suffering.<sup>4623</sup> This went on for half an hour, until he fainted.<sup>4624</sup> *Alija Lizde* also told the Chamber how an HVO soldier from outside the prison struck him so hard with a shovel that his nose was pushed back inside of his head.<sup>4625</sup> *Alija Lizde* made the statement that he was himself beaten up and threatened with death on three occasions by men from the outside.<sup>4626</sup> *Fahrudin Rizvanbegović* detailed for the Chamber how two men came into his cell and stuck a pistol so deeply in his mouth that he started vomiting, and how two of his teeth were broken when one of the men abruptly pulled the pistol out of his mouth.<sup>4627</sup> Lastly, it is evident from the testimony of *Witness Y*<sup>4628</sup> that he was beaten so hard that he could almost no longer walk<sup>4629</sup> and bears numerous scars as a result of the blows he received at Ljubuški Prison.<sup>4630</sup>

1847. The detainees at Ljubuški Prison were, moreover, regularly interrogated by the SIS or members of the Department for Criminal Investigation of the Military Police Administration.<sup>4631</sup> In this regard, *Witness BZ* and *Spomenka Drljević* declared to the Chamber that they were repeatedly interrogated by members of the SIS.<sup>4632</sup> *Spomenka Drljević* even said that she was given a death threat during one such interrogation session by someone named Dr. Ludonga,<sup>4633</sup> although the Chamber was not given further details concerning his identity.

1848. The Chamber is in a position to conclude that the beatings were sometimes linked to defeats suffered by the HVO and sometimes to the deaths of Croats. *Alija Lizde* was thus beaten up by an HVO soldier from outside the prison who had lost his brother in the fighting.<sup>4634</sup> Likewise, *Witness Y* explained that he was beaten up by HVO soldiers after the death of the deputy commander of their unit.<sup>4635</sup>

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<sup>4623</sup> Witness CU, T(F), pp. 12316-12317, closed session.

<sup>4624</sup> Witness CU, T(F), p. 12316, closed session.

<sup>4625</sup> *Alija Lizde*, T(F), pp. 17772 and 17774; see also Witness HH, P 10113 under seal, *Naletilić and Martinović* Case, T(F), pp. 4807 and 4901-4902.

<sup>4626</sup> *Alija Lizde*, T(F), pp. 17775 - 17777.

<sup>4627</sup> *Fahrudin Rizvanbegović*, T(F), p. 2227.

<sup>4628</sup> Witness Y, P 09873 under seal, *Naletilić and Martinović* Case, corrected version from T(F), pp. 40 and 41 (private session). Witness Y was detained at Ljubuški Prison from 19 April until roughly 4 June 1993.

<sup>4629</sup> Witness Y, P 09873 under seal, *Naletilić and Martinović* Case, corrected version from T(F), p. 41 (private session); Witness RR, P 09872 under seal, *Naletilić and Martinović* Case, T(F), pp. 6462, 6504 and 6505.

<sup>4630</sup> Witness Y, P 09873 under seal, *Naletilić and Martinović* Case, corrected version of T(F), pp. 41 and 42, private session; Witness RR, P 09872 under seal, *Naletilić and Martinović* Case, T(F), pp. 6462, 6504 and 6505.

<sup>4631</sup> P 02369; P 03210; see also *Fahrudin Rizvanbegović*, T(F), pp. 2233; P 10129 under seal, para. 40.

<sup>4632</sup> *Spomenka Drljević*, T(F), p. 1038; Witness BZ, T(F), p. 9943, closed session; P 09727 under seal, p. 4.

<sup>4633</sup> *Spomenka Drljević*, T(F), p. 1044.

<sup>4634</sup> *Alija Lizde*, T(F), p. 17775.

<sup>4635</sup> Witness Y, P 09873 under seal, *Naletilić and Martinović* Case, corrected version of T(F), pp. 42 and pp. 88 and 89.



1849. Finally, according to the evidence received by the Chamber, certain detainees were “mistreated” and beaten by the HVO soldiers whilst working for the HVO.<sup>4636</sup> For instance, *Witness HH* described how, while reinforcing a front line between the HVO and the Serb forces at Ravno, when he asked for something to drink, an HVO soldier forced him to imbibe a large volume of cognac, then tied him to a tree in direct sunlight facing the front line with the Serbs.<sup>4637</sup>

1850. The Chamber points out that the Military Police platoon assigned to the 4<sup>th</sup> HVO Brigade likewise prepared several reports recounting the complaints of detainees who were beaten at the places where they worked, especially by the members of the *Bekija* Battalion.<sup>4638</sup> Moreover, Ante Prlić decided, with the support of the commander of the 4<sup>th</sup> Brigade, to discontinue sending detainees to HVO units that were causing problems.<sup>4639</sup>

#### **IV. Vitina-Otok Camp**

1851. The Chamber has very little evidence at its disposition regarding the establishment, operation and closing of the Vitina-Otok Camp. Similarly, the Chamber received very little information concerning the number of detainees, their conditions of detention or even their possible release or relocation to other detention sites. The Chamber was actually able to review only the testimonies of *Witnesses E, EI* and *EH* as well as a few documents from the HVO. The evidence does, however, enable the Chamber to amass information concerning (A) the organisation of the Camp, (B) the arrivals of detainees, (C) the conditions of detention, (D) the tasks performed by the detainees and (E) the treatment of the detainees.

##### **A. Organisation of Vitina-Otok Camp**

1852. In its Final Trial Brief, the Prosecution submits that when the first prisoners reached the Vitina-Otok Camp, there was nothing there, simply a meadow in a vineyard with an awning.<sup>4640</sup>

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<sup>4636</sup> Witness E, T(F), p. 22029, closed session; P 09990, p. 5; Witness W, P 09875 under seal, *Naletilić and Martinović* Case, T(F), p. 3206; P 02206; P 02247.

<sup>4637</sup> Witness HH, P 10113 under seal, *Naletilić and Martinović* Case, T(F), pp. 4810-4811.

<sup>4638</sup> P 02206; P 02247; Witness E, T(F), p. 22029, closed session. The Chamber again points out that the reports do not indicate their intended recipients.

<sup>4639</sup> Witness E, T(F), p. 22029, closed session; P 02247; Witness W, P 09875 under seal, *Naletilić and Martinović* Case, T(F), pp. 3206 and 3207.

<sup>4640</sup> Prosecution Final Trial Brief, para. 1073.

1853. In light of the evidence considered, the Chamber concludes that the Vitina-Otok Camp was actually a vineyard with clearings and meadows, one of which was covered over by a concrete slab of roughly 20 metres by 10, itself covered by a roof.<sup>4641</sup>

1854. The Prosecution contends, in its Final Trial Brief, that the Military Police platoon assigned to the 4<sup>th</sup> Brigade was initially in charge of overseeing security of the detainees at Vitina-Otok Camp.<sup>4642</sup> Subsequently – although the Prosecution does not say when – the *Domobrani* were placed in charge of it, under the supervision of the Military Police.<sup>4643</sup> Krešo Medić was appointed “Head of the Military Prison Otok” by the Military Police Administration, at some date not specified by the Prosecution.<sup>4644</sup>

1855. The Chamber concludes in light of the evidence that Vitina-Otok Camp began operations on or about 6 July 1993.<sup>4645</sup> Contrary to what the Prosecution alleges, the Chamber concludes that, as of 6 July 1993, detainee security at Vitina-Otok Camp was put in the hands of the company of *Domobrani*, under the supervision of a Military Police platoon assigned to the 4<sup>th</sup> HVO Brigade.<sup>4646</sup> This company of *Domobrani* numbered between 15 and 20 guards.<sup>4647</sup> Patrols from the Military Police platoon assigned to the 4<sup>th</sup> HVO Brigade made regular inspection visits to the camp in order to check on the work of the *Domobrani*.<sup>4648</sup>

1856. The Chamber points out that Krešo Medić was appointed Commander of the Vitina-Otok Camp on 21 July 1993 by the Head of the Department for Criminal Investigation of the Military Police, Krešimir Tolj.<sup>4649</sup>

1857. The Prosecution submits that, acting through the agency of the HVO Military Police Administration and the Brigade SIS, the two Accused, Valentin Ćorić and Berislav Pušić, were responsible for the prisoners at the Vitina-Otok Camp and under an obligation to ensure their humane treatment and release.<sup>4650</sup>

<sup>4641</sup> Witness E, T(F), pp. 22069–22070 and 22072, closed session.

<sup>4642</sup> Prosecution Final Trial Brief, para. 1071.

<sup>4643</sup> Prosecution Final Trial Brief, para. 1073.

<sup>4644</sup> Prosecution Final Trial Brief, para. 1073.

<sup>4645</sup> P 10210 under seal, p. 2, para. 6 and p. 3, paras 9 and 10; Witness EI, T(F), pp. 26132 and 26144; P 09440; P 03282.

<sup>4646</sup> P 03282; P 03250, p. 2; P 03305, p. 2.

<sup>4647</sup> Witness E, T(F), pp. 22209–22210, closed session; P 03282; P 03305, p. 2; P 04772.

<sup>4648</sup> P 03282; P 03308; P 03393; P 03401.

<sup>4649</sup> Witness E, T(F), p. 22073, closed session; P 03613.

<sup>4650</sup> Prosecution Final Trial Brief, para. 1073.

1858. The Chamber has heard and also received evidence that the SIS and the commander of the 4<sup>th</sup> HVO Brigade, Stanko Primorac, did in fact have some control over the Vitina-Otok Camp with regard to security,<sup>4651</sup> conditions of detention,<sup>4652</sup> and the use of the detainees for work.<sup>4653</sup> The Military Police platoon assigned to the 4<sup>th</sup> Brigade monitored the conduct of the *Domobrani* toward the prisoners as well as their presence at their posts and took responsibility for escorting detainees to the places where they worked.<sup>4654</sup>

### **B. Arrival and Relocation of Detainees from the Vitina-Otok Camp**

1859. As did the Prosecution,<sup>4655</sup> the Chamber concludes that on 6 July 1993, approximately 430 Muslim men, characterised in the evidence received by the Chamber as “civilian and military”, between 20 and 60 years of age, reached Vitina-Otok Camp from Central Bosnia.<sup>4656</sup>

1860. The Chamber has very little evidence concerning the number of detainees and how long the Vitina-Otok Camp was in operation. The Camp appears to have operated between July and August 1993.<sup>4657</sup> According to the testimonies received by the Chamber, during that period, the number of detainees at Vitina-Otok Camp seems to have fluctuated between 600 and 700 detainees.<sup>4658</sup> *Witness E* said that the detainees did not stay very long in the camp but did not supply further detail.<sup>4659</sup> The detainees were allegedly then relocated to the Heliodrom, and Vitina-Otok Camp was then closed.<sup>4660</sup> *Witness EI*, a member of the TO, and *Witness EH*, a member of the ABiH, both of whom arrived on about 6 July 1993 at the Vitina-Otok Camp,<sup>4661</sup> were, for example, detained in this camp for two months.<sup>4662</sup> The Chamber points out that on 10 August 1993, 100 detainees from Vitina-Otok Camp were relocated to a school in Sutina in the Municipality of Posušje.<sup>4663</sup> According to a report of the HVO's 6<sup>th</sup> *Vitez Ranko Boban* Brigade, based in Bogodol, six detainees

<sup>4651</sup> P 03793; P03784.

<sup>4652</sup> P 03367; *Witness E*, T(F), p. 22071, closed session.

<sup>4653</sup> *Witness E*, T(F), pp. 22205–22207, closed session; P 03421; P 3793.

<sup>4654</sup> P 03282; P 03507; P 03308; P 03393; P 03401; P 03491; P 10206, under seal, para. 4.

<sup>4655</sup> Prosecution Final Trial Brief, para. 1073.

<sup>4656</sup> *Witness E*, T(F), pp. 22068–22069; *Witness EI*, T(F), pp. 26132 and 26144 (*Witness EI* is a representative victim from paragraph 146 of the Indictment mentioned in the Annex to the Indictment); P 10210 under seal, p. 2, para. 6, and p. 3, para. 10; P 10164; P 09440; P 03282.

<sup>4657</sup> P 10210 under seal, p. 3, para. 10; *Witness EI*, T(F), p. 26140; P 10206, under seal, paras 2 to 5.

<sup>4658</sup> *Witness E*, T(F), p. 22071, closed session.

<sup>4659</sup> *Witness E*, T(F), p. 22071, closed session; *see also* P 10112, para. 19.

<sup>4660</sup> *Witness E*, T(F), p. 22071, closed session; *Alija Lizde*, T(F), pp. 17791 and 17792.

<sup>4661</sup> P 10210 under seal, p. 3, para. 10; P 10206, under seal, paras 2 and 4.

<sup>4662</sup> P 10210 under seal, p. 3, para. 10; *Witness EI*, T(F), p. 26140; P 10206, under seal, para. 4.

<sup>4663</sup> P 04068.

from the Vitina-Otok Camp were relocated to Bogodol, in the Municipality of Mostar, on 13 August 1993.<sup>4664</sup>

### C. Conditions of Detention at Vitina-Otok Camp

1861. In paragraph 147 of the Indictment, the Prosecution alleges that the conditions of detention at the Vitina-Otok Camp were harsh and unhealthy due to overcrowding and bad ventilation; that there was a complete lack of beds and insufficient bedding, insufficient food and water and poor sanitation facilities.

1862. The Chamber points out that the detainees were housed in a small sheet metal shed, measuring roughly 20 metres by 10, without beds, chairs or blankets.<sup>4665</sup> Fifty detainees had to sleep outside because there was not enough room inside the shed.<sup>4666</sup> The temperature inside the shed sometimes reached 40° C.<sup>4667</sup>

1863. The detainees were given one or two meals per day,<sup>4668</sup> supplied by the 4<sup>th</sup> Brigade of the HVO.<sup>4669</sup> The detainees who did not work had the right to a quarter of a loaf of bread, whereas those who worked received cooked food in addition to the quarter of a loaf.<sup>4670</sup> The Camp wardens promised more food to the prisoners who volunteered to work.<sup>4671</sup>

1864. Stanko Primorac, Commander of the 4<sup>th</sup> Brigade of the HVO, on 9 July 1993 ordered the Ljubuški electric utility company to provide electricity to the Vitina-Otok Camp.<sup>4672</sup> However, the Chamber heard *Witness E* describe the camp as lacking running water, electricity, sanitation,<sup>4673</sup> and a doctor.<sup>4674</sup> The detainees had to make use of rainwater, a well<sup>4675</sup> and even cisterns brought in by the HVO.<sup>4676</sup>

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<sup>4664</sup> P 07120, p. 4. For the geographic location of Bogodol, see P 09276, map no. 26.

<sup>4665</sup> P 10210 under seal, p. 3, para. 11; Witness EI, T(F), p. 26135; Witness E, T(F), p. 22071, closed session. Witness EI is a representative victim from paragraph 147 of the Indictment.

<sup>4666</sup> P 10210 under seal, p. 3, para. 11; Witness EI, T(F), p. 26135.

<sup>4667</sup> P 10210 under seal, p. 3, para. 12.

<sup>4668</sup> P 10210 under seal, p. 3, para. 12; Witness E, T(F), p. 22071, closed session.

<sup>4669</sup> Witness E, T(F), p. 22071, closed session.

<sup>4670</sup> Witness EI, T(F), p. 26132.

<sup>4671</sup> P 10210 under seal, p. 3, para. 12.

<sup>4672</sup> P 03367.

<sup>4673</sup> Witness E, T(F), p. 22070, closed session.

<sup>4674</sup> Witness EI, T(F), p. 26133.

<sup>4675</sup> Witness EI, T(F), p. 26133.

<sup>4676</sup> Witness E, T(F), p. 22072, closed session.

#### **D. Work Performed by the Detainees from the Vitina-Otok Camp**

1865. The Chamber notes that, according to the evidence available, the detainees from Vitina-Otok Camp were required to perform tasks that involved such things as building bunkers or digging trenches, but also offloading food from humanitarian aid trucks in Ljubuški, cleaning infrastructure facilities or work in the fields or factories around Ljubuški.<sup>4677</sup> This work could also be performed at the forward command posts.<sup>4678</sup>

1866. For example, the Chamber points out that, on 8 August 1993, Milivoj Petković gave the order to the commanders of the brigades at Posušje, Široki Brijeg and Grude to bolster the front lines immediately, authorising the use of Muslim detainees for this purpose, on the condition that the brigades secure the approval of the Military Police Administration.<sup>4679</sup> The same day, pursuant to that order, the commander of the Posušje Brigade asked Valentin Ćorić to supply him with 100 Muslim detainees.<sup>4680</sup> On 10 August 1993, the Military Police platoon of the Posušje Brigade took charge of 100 detainees from the Vitina-Otok Camp who were transferred pursuant to the said request by the Brigade commander.<sup>4681</sup>

#### **E. Treatment of Detainees at Vitina-Otok Camp**

1867. The Chamber heard *Witness EI*<sup>4682</sup> describe how, on reaching Vitina-Otok Camp on or about 6 July 1993, members of the HVO Military Police looked for and found Hamdija Tabaković<sup>4683</sup> and beat him savagely right in front of the other detainees in the camp even though they ordered them not to watch.<sup>4684</sup> *Witness EI* added for the Chamber that, following this incident, he never saw Hamdija Tabaković again.<sup>4685</sup>

1868. Moreover, the Chamber also received evidence that the Military Police platoon assigned to the 4<sup>th</sup> Brigade had to intervene on at least two occasions to protect the detainees of Vitina-Otok

<sup>4677</sup> P 10210 under seal, p. 3, para. 12, and p. 4, para. 13; P 03429; P 03507; P 04525; P 04772. The Chamber is persuaded that Exhibit P 04525, involves detainees from Vitina-Otok Camp, inasmuch as there were never *Domobrani* at Ljubuški Prison.

<sup>4678</sup> P 03491.

<sup>4679</sup> P 04039.

<sup>4680</sup> P 04030.

<sup>4681</sup> P 04068.

<sup>4682</sup> A Muslim detainee at Vitina-Otok. See P 10210 under seal, p. 3, para. 10. Witness EI is a representative victim from paragraph 149 of the Indictment mentioned in the Annex to the Indictment.

<sup>4683</sup> P 10210 under seal, p. 3, para. 10; Witness EI, T(F), p. 26132; P 09440.

<sup>4684</sup> P 10210 under seal, p. 3, para. 10; Witness EI, T(F), p. 26132.

<sup>4685</sup> Witness EI, T(F), p. 26132.

Camp from the inhabitants of the village of Vitina.<sup>4686</sup> Those people were firing towards the Camp where the Muslims were held, and even attempted to get there on 7 July 1993.<sup>4687</sup> The Military Police platoon assigned to the 4<sup>th</sup> Brigade had to intervene and evacuate the villagers.<sup>4688</sup>

## V. Organisation of Departure of the Muslims from Ljubuški Municipality

1869. In paragraph 150 of the Indictment, the Prosecution contends that, starting in August 1993, the Muslims of Ljubuški were allowed to leave the detention facilities only if they provided a letter of guarantee from another country willing to accept them and their families. In this regard, the Prosecution alleges that this “letter of guarantee” scheme was approved by Valentin Ćorić and had his support.<sup>4689</sup>

1870. The evidence actually shows that, towards the middle of August 1993 – the Chamber has no more specific date here – Jure Herceg, assistant commander of Ljubuški Prison from July 1993,<sup>4690</sup> received an order from Valentin Ćorić, which stipulated that all persons with a letter of guarantee were to be released and promptly leave the territory of the Municipality of Ljubuški with their family.<sup>4691</sup> The letters had to guarantee that the detainee and his family would be accepted in a third country.<sup>4692</sup>

1871. In this regard, the Chamber heard the testimony of *Witness E*, who explained precisely the procedure to be followed concerning these letters of guarantee.<sup>4693</sup> He then described how the 4<sup>th</sup> Brigade of the HVO received letters of guarantee from the family members – residing abroad – of the Muslims of Ljubuški Municipality detained in the various centres run by the HVO.<sup>4694</sup> *Witness E* distinguished between two sorts of cases: either the Muslims of Ljubuški Municipality were detained in Ljubuški Prison and the Military Police platoon assigned to the 4<sup>th</sup> Brigade issued them a certificate allowing them and their families to cross the border with Croatia, from where they were then required to leave for third countries such as Germany or Norway;<sup>4695</sup> or the Muslims of

<sup>4686</sup> Witness E, T(F), pp. 22070 and 22071, closed session; P 03282; P 03691.

<sup>4687</sup> Witness E, T(F), pp. 22070 and 22071, closed session; P 03282; P 03691.

<sup>4688</sup> P 03282.

<sup>4689</sup> Prosecution Final Trial Brief, paras 1153 to 1162; Closing Arguments by the Prosecution, T(F), pp. 52089 to 52094.

<sup>4690</sup> Witness E, T(F), p. 22087, closed session.

<sup>4691</sup> Witness E, T(F), pp. 22089-22091 and 22094-22095, closed session; P 10328, pp. 19 and 20; P 10175; P 04267; P 04263; P 04404; P 10190; P 04572.

<sup>4692</sup> See for example P 10174 as well as the testimony of Josip Praljak, T(F), pp. 14769-14771.

<sup>4693</sup> Witness E, T(F), pp. 22283-22284, closed session; see also P 09734, p. 4; P 04274.

<sup>4694</sup> Witness E, T(F), pp. 22283-22284, closed session. For an example of a guarantee letter, see P 10174.

<sup>4695</sup> Witness E, T(F), pp. 22097-22100, closed session; P 10183; 5D 02056; P 10192; P 10193; P 05642; P 04667, entries of 10 November 1993, p. 69, and 15 November 1993, p. 74, entry of 14 December 1993, p. 93, entry of 15 December 1993, p. 94; P 09578; P 07097; P 07140; P 07178; P 06982.

Ljubuški Municipality had been relocated to another detention centre – the Heliodrom in most cases – and the Military Police platoon assigned to the 4<sup>th</sup> Brigade would then draw up a list of those detainees from Ljubuški Municipality and held a letter of guarantee, which was brought to the detention centre in question, leading to their immediate release or transfer to Ljubuški Prison and then released to go to a third country with their families.<sup>4696</sup>

1872. The Muslims from Ljubuški Municipality held in the HVO detention centres had, under SIS Chief Petar Majić's orders, 24 hours to leave the territory of the municipality with their families.<sup>4697</sup>

1873. The Chamber points out that the Military Police platoon assigned to the 4<sup>th</sup> Brigade drafted numerous reports in August 1993 attesting to this “release” procedure for the Muslims from the Municipality of Ljubuški held in the HVO detention centres, contingent upon their departure towards a third country. Thus on 18 August 1993, 78 Muslims from Ljubuški Municipality, detained at the Heliodrom and holding letters of guarantee, were released and forced to leave the territory of the municipality that same day with their families.<sup>4698</sup> On 21 and 22 August 1993, 60 Muslims from Ljubuški Municipality, detained at the Heliodrom and holding letters of guarantee, were transferred to Ljubuški Prison, where they were released and required to leave the territory of the municipality with their families.<sup>4699</sup>

1874. Furthermore, although the Chamber was provided little evidence on this point, it would appear that the detainees from Vitina-Otok Camp were also released if they held letters of guarantee and transit visas permitting them to leave the territory to go to Croatia.<sup>4700</sup> For example, on 31 August 1993, Žarko Pavlović, Chief of the SIS, acting with the approval of the deputy chief of the 4<sup>th</sup> Brigade of the HVO, authorised the release of a detainee at Vitina-Otok Camp named Hasan Lizde who was carrying a letter of guarantee and a transit visa.<sup>4701</sup>

1875. Finally, also attesting to these releases from HVO detention centres contingent on departure to third countries, the Chamber admitted into evidence two reports from 28 and 29 August 1993 by Azra Krajšek, Attaché at the Embassy of BiH in the Republic of Croatia, noting the arrival in

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<sup>4696</sup> Witness E, T(F), pp. 22094-22095, closed session. For an example of a list, *see* P 04263; P 10178; P 04297; P 04299; P 04404; P 10187; P 10190; P 04443; P 10191. *See also* P 04846, pp. 22-24 and 28.

<sup>4697</sup> Witness E, T(F), pp. 22091 and 22094-22095, closed session. As an example of a list, *see* P 04263; P 04283; P 04299; P 04404; P 10190. *See also* P 04603; P 04620.

<sup>4698</sup> P 04299.

<sup>4699</sup> P 04443.

<sup>4700</sup> Witness E, T(F), p. 22107, closed session; P 04572.

<sup>4701</sup> Witness E, T(F), p. 22197; 5D 02132.

Zagreb during that time period of almost 700 Muslims from Ljubuški Municipality who had been released from HVO detention centres on condition that they leave BiH territory within 24 hours.<sup>4702</sup>

## **VI. Factual Findings of the Chamber relating to Ljubuški Municipality and Detention Centres**

1876. With respect to the evidence concerning the events which took place in Ljubuški Municipality, the Chamber concludes that, after having made provisions for identifying and disarming the Muslims of Ljubuški Municipality as of May 1993 and after having restricted freedom of movement for men aged between 18 and 60 in the municipality, the HVO decided to arrest all Muslim males in the municipality on 14 and 15 August 1993. The HVO then made provisions for releasing those Muslim men, detained in various places by the HVO, on condition that they guarantee departure from the territory of the municipality with their entire families within 24 hours and move to countries such as Germany and Norway via Croatia. Most of those Muslims did indeed leave BiH. Croats from Travnik, Kakanj, Vareš and Konjic, and members of the Military Police as well – at least on a temporary basis – then moved into Muslim properties in Ljubuški Municipality.

1877. Concerning the events in Ljubuški Prison, the Chamber points out that the prison started receiving Muslim detainees in April 1993 and did so until March 1994. During this period, the Muslim detainees included both members of the ABiH or the HVO as well as Muslims who did not belong to any armed forces, more specifically, minors, teachers and politicians. The prison was overcrowded, accommodating on occasion up to three times its official capacity. The cells were not suitable and were unsanitary. The detainees, with the exception of certain female detainees, lacked beds and blankets. The food was inadequate and of poor quality. The facility as a whole had only one toilet and access to medical care was very limited. The detainees of Ljubuški Prison had to work on a daily basis at the front, leading to injuries. The detainees were routinely insulted, struck and beaten up, on the front as well as in the prison. The Chamber was given few details concerning the perpetrators of these deeds, but was persuaded that the insults, blows and beatings were carried out by the soldiers of the HVO who came into the prison or who used the detainees to perform labour as well as by certain members of the Military Police responsible for security at the prison. The Chamber notes that two detainees characterised as civilians by the HVO were released on 13 August 1993 because they guaranteed their departure to Germany. The Chamber has no other

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<sup>4702</sup> P 04603; P 04620.



evidence that would allow it to establish that other detainees from Ljubuški Prison were sent to East Mostar or to the territories held by the ABiH, or relocated in third countries. Conversely, the Chamber notes that the detainees from the prison were routinely relocated to the Heliodrom and Dretelj Prison between May 1993 and March 1994.

1878. The Chamber notes, moreover, that the second detention centre for Muslims in Ljubuški Municipality, the Vitina-Otok Camp, operated on a temporary basis during July and August 1993. It held both members of the TO and the ABiH and Muslims who did not belong to any armed forces. The detainees were housed in an overcrowded shed, with no access to sanitation or to care of any kind. The detainees from Vitina-Otok Camp were also sent to work on the front. The Chamber, however, lacks sufficient evidence – just one example of a severe beating was brought before the Chamber as well as several reports from the Military Police platoon assigned to the 4<sup>th</sup> HVO Brigade mentioning the incursions of residents of Vitina into the camp – to establish how the detainees in Vitina-Otok Camp were treated. The Chamber was also unable to establish whether the detainees from the Camp were sent to East Mostar or to territories held by the ABiH. On the other hand, the Chamber notes that, in the first half of August 1993, some detainees were relocated to the municipalities of Posušje and Mostar, and that, in late August 1993, some detainees from Vitina-Otok Camp were released on the condition that they leave the territory and move to third countries via Croatia, while the rest of the detainees were relocated to the Heliodrom.

## **8: The Municipality of Stolac**

1879. This part of the Judgement pertains to the crimes allegedly committed by the HZ H-B/HVO forces in the Municipality of Stolac, more specifically, in the localities of Prenj, Aladinići, Crnići, Pješivac Greda, Rotimlja and Borojevići, and in the town of Stolac.

1880. Paragraphs 154 to 170 of the Indictment allege that around 20 April 1993, after taking control of the municipality, the HZ H-B/HVO forces initially arrested a number of prominent Muslims, imprisoning them in the HVO detention facilities; in May 1993, the HVO converted the Koštana hospital into a detention facility for Muslim men; in July and August 1993, the HVO orchestrated campaigns to arrest and imprison Muslim men, expelling Muslim women, children and elderly from their homes in Stolac Municipality, sending them toward the territories held by the ABiH or to third countries, via Croatia; that over the course of these operations, the HVO destroyed Muslim houses as well as mosques in several localities of the municipality, robbing Muslims of their property; that the HVO conducted these campaigns by either bringing the Muslims directly to ABiH territory, or by keeping them in detention for varying time periods in several detention

facilities of the municipality, where they were subjected to mistreatment and to particularly harsh conditions of confinement; that several detainees died subsequent to such mistreatment and that, in September 1993, not a single Muslim remained in the Municipality of Stolac.

1881. The Prosecution alleges these events as persecutions (Count 1), murder (Count 2), wilful killing (Count 3), inhumane acts (forcible transfer) (Count 8), unlawful transfer of a civilian (Count 9), imprisonment (Count 10), unlawful confinement of a civilian (Count 11), inhumane acts (conditions of confinement) (Count 12), inhuman treatment (conditions of confinement) (Count 13), cruel treatment (conditions of confinement) (Count 14), inhumane acts (Count 15), inhuman treatment (Count 16), cruel treatment (Count 17), extensive destruction of property, not justified by military necessity and carried out unlawfully and wantonly (Count 19), wanton destruction of cities, towns or villages, or devastation not justified by military necessity (Count 20), destruction or wilful damage done to institutions dedicated to religion or education (Count 21), appropriation of property, not justified by military necessity and carried out unlawfully and wantonly (Count 22), and plunder of public or private property (Count 23).

1882. In order to rule on the facts alleged, the Chamber has analysed a variety of evidence. It has examined both *viva voce* testimony, and pursuant to Rule 92 *ter*, the testimony of witnesses who experienced these events directly, that is, *Fata Kaplan, Fahrudin Rizvanbegović, Witness BI, Witness CD, Witness CE, Witness CF, Witness CH, Witness CJ, Witness CL, Witness CM, Witness CQ, Witness CR, Witness CU, Šefik Ratkusić, Edin Baljić, Šejla Humačkić, Aiša Kaplan, Sabina Hajdirović, Hikmeta Rizvanović, Božo Pavlović* and *Ivan Beneta*. The Chamber also heard testimony of representatives of the international community deployed on site at the time of the events, such as *Ray Lane, Witness CB* and *Witness BB*. Lastly, the Chamber examined a substantial number of documents admitted into the record through those witnesses or otherwise by way of a written procedure, including some issued by the HVO authorities themselves.

1883. The Chamber will (I) discuss the demographic situation in the municipality, (II) the political, administrative and military structure of the municipality, in order to emphasize the context in which the criminal incidents alleged by the Prosecution took place and (III) examine the evidence as it relates to the sequence of these criminal incidents .

## I. Demographic Situation in the Municipality of Stolac

1884. According to the evidence examined by the Chamber, in 1991, the population of Stolac Municipality numbered 18,845 inhabitants, of whom roughly 44% were Muslims, 33% Croats and roughly 22% Serbs.<sup>4703</sup>

1885. *Ivan Beneta*<sup>4704</sup> testified that, just before Serb forces arrived in the town of Stolac in 1992, most of the Croat population had left the town but that the majority of the Muslim population had remained behind.<sup>4705</sup>

1886. According to *Slobodan Praljak*, the HVO armed forces managed to retake control of the town of Stolac towards 15 May 1992, which resulted in the Serb inhabitants of the town being forced to flee while the Muslims remained behind.<sup>4706</sup> *Ivan Beneta* stated that when he entered Stolac after its liberation by the HV and the HVO in late June 1992, the town was deserted and not a single civilian remained.<sup>4707</sup> He testified that groups of Muslims and Croats gradually returned to the town about ten days after the fighting ended, in early July 1992.<sup>4708</sup>

1887. According to a forward command post report from the 1<sup>st</sup> *Knez Domagoj* Brigade in Stolac, in early April 1993, there were 4,160 people in the Municipality of Stolac, whereas, as of 22 May 1993, the return of Muslims to the municipality brought this figure to 8,525.<sup>4709</sup>

1888. According to a report from an international organisation, in October-November 1993, there were no longer any Muslims in Stolac Municipality.<sup>4710</sup>

## II. Political, Administrative and Military Structure of the Municipality of Stolac

1889. After examining (A) the political and administrative structure of the municipality the Chamber will (B) analyse the structure of the ABiH forces and (C) those of the HVO (C) deployed in the municipality at the time of the events.

<sup>4703</sup> Witness CU, T(F), p. 12214, closed session; Witness CR, T(F), p. 11822; 3D 01024, p. 16; Witness BD, T(F), p. 20944, closed session; P 09947, p. 2; P 09851 under seal, para. 3.4; IC 00833 and IC 00834.

<sup>4704</sup> Chief of Staff for the 4<sup>th</sup> HV Guards Brigade from July 1991, then Commander of the 116<sup>th</sup> HV Brigade from 4 June 1992 until March 1993; *Ivan Beneta*, T(F), pp. 46551 and 46552; and, finally, head of anti-air defences at the Split region military command from March 1993 onward; *Ivan Beneta*, T(F), p. 46610.

<sup>4705</sup> *Ivan Beneta*, T(F), p. 46733; P 08559.

<sup>4706</sup> *Slobodan Praljak*, T(F), p. 40400; P 09947, p. 3.

<sup>4707</sup> *Ivan Beneta*, T(F), p. 46601.

<sup>4708</sup> *Ivan Beneta*, T(F), p. 46604.

<sup>4709</sup> 4D 02000, p. 2.

<sup>4710</sup> P 09851 under seal, para. 3.4; IC 00833.

### A. Political and Administrative Structure of the Municipality of Stolac

1890. Željko Raguž, a Croat, elected mayor of Stolac in the 1990 elections,<sup>4711</sup> left the town of Stolac when the Serb army reached it in April 1992, yet resumed his responsibilities once they left in mid-June 1992.<sup>4712</sup>

1891. On 1<sup>st</sup> July 1992, representatives from the SDA and the HDZ organized a Croat-Muslim crisis staff in the Municipality of Stolac, under the leadership of Željko Raguž<sup>4713</sup> who was later replaced by Anđelko Marković.<sup>4714</sup> The purpose of the crisis staff was to provide structure for civil society and organise the return of the population that had fled the fighting.<sup>4715</sup>

1892. The Chamber heard the testimony of *Witness CR*, who said that after some time – how much he did not specify – the members of the SDA in Stolac “turned down a proposal by Anđelko Marković for ordering civil and political society within Stolac Municipality”. Anđelko Marković’s proposal was spelled out in documentation pertaining to the “rules of procedure governing the Municipality of Stolac, prepared on the basis of the HZ H-B fundamental laws”.<sup>4716</sup> The Muslims stopped cooperating with the Croats on the crisis staff at that time,<sup>4717</sup> and the Croats from the crisis staff moved their HQ to a building called *Vrtić* in the town of Stolac. The crisis staff was subsequently replaced by the Stolac HVO, presided over by Anđelko Marković,<sup>4718</sup> who remained in office until 1995.<sup>4719</sup>

1893. The evidence indicates that Pero Raguž was the chief of the MUP.<sup>4720</sup> According to *Witness C*, the Stolac MUP was subordinated to the mayor of Stolac.<sup>4721</sup>

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<sup>4711</sup> *Witness CR*, T(F), pp. 11823-11825.

<sup>4712</sup> Fahrudin Rizvanbegović, T(F), pp. 2178 and 2345; *Witness CU*, T(F), pp. 12246 and 12247, closed session.

<sup>4713</sup> Milivoj Petković, T(F), pp. 49366-49368; Ivan Beneta, T(F), p. 46598; *Witness CR*, T(F), pp. 11833-11836, closed session; Božo Pavlović, T(F), pp. 46810 and 46811.

<sup>4714</sup> Fahrudin Rizvanbegović, T(F), pp. 2178 and 2353; *Witness CU*, T(F), pp. 12246 and 12247, closed session; P 10229, p. 2, para. 5.

<sup>4715</sup> Ivan Beneta, T(F), pp. 45602 and 45603; *Witness CR*, T(F), p. 11836, closed session.

<sup>4716</sup> *Witness CR*, T(F), pp. 11851-11855, closed session.

<sup>4717</sup> *Witness CR*, T(F), p. 11857, closed session.

<sup>4718</sup> *Witness CR*, T(F), p. 11857, closed session; P 05717, p. 1.

<sup>4719</sup> *Witness CU*, T(F), p. 12247, closed session.

<sup>4720</sup> P 10229, p. 2, para. 5; P 09947, p. 6; *Witness C*, T(F), p. 22563, closed session; 1D 01209, p. 8.

<sup>4721</sup> *Witness C*, T(F), pp. 22444 and 22447, closed session.

## B. Military Structure of the Municipality of Stolac

### 1. ABiH

1894. According to *Witness CU*, in mid-May 1992, the Muslims of Stolac created the Dubrava Detachment, consisting solely of Muslims<sup>4722</sup> and commanded by someone named Zuhrić.<sup>4723</sup> On 22 August 1992, the ABiH command in Sarajevo created the *Bregava* Brigade, consisting mostly of Muslims from the municipalities of Stolac and Čapljina.<sup>4724</sup> In late November 1992, the *Bregava* Brigade was incorporated into the 4<sup>th</sup> ABiH Corps, commanded by Arif Pašalić; the commander of the *Bregava* Brigade was Bajro Pizović, until at least April 1993.<sup>4725</sup> This post was later held, from May 1993 onwards, by Colonel Ibrahim Skerc.<sup>4726</sup> A report dated 11 April 1993, signed by Bajro Pizović, indicated that the *Bregava* Brigade had changed its name to the 42<sup>nd</sup> Mountain Brigade.<sup>4727</sup>

1895. Moreover, several orders sent by Miljenko Lasić, Commanding Officer of the South-East OZ, to the 1<sup>st</sup> *Knez Domagoj* Brigade, to the 3<sup>rd</sup> HVO Brigade, and to the ABiH *Bregava* Brigade show that the *Bregava* Brigade worked together with the HVO to defend the common front lines against the Serb forces between December 1992 and February 1993.<sup>4728</sup>

1896. The evidence indicates that the HVO attempted to force the ABiH troops to leave the municipality starting in April 1993.<sup>4729</sup> Finally, on 19 April 1993, the HVO disarmed and placed 183 members of the ABiH *Bregava* Brigade into detention at the Gubavica barracks.<sup>4730</sup>

### 2. Armed Forces of the HVO

1897. The 1<sup>st</sup> *Knez Domagoj* Brigade of the HVO took control of the town of Stolac in June 1992, following the withdrawal of the Serb forces towards the hills near the town.<sup>4731</sup> At the time, its forces included Croat and Muslim soldiers.<sup>4732</sup> Nedeljko Obradović was the commander of that brigade, which was headquartered in Čapljina.<sup>4733</sup>

<sup>4722</sup> Witness CU, T(F), p. 12372, closed session.

<sup>4723</sup> Witness CU, T(F), pp. 12239-12240, closed session.

<sup>4724</sup> Witness CU, T(F), pp. 12374 to 12377, closed session; Witness CR, T(F), pp. 11849 and 11940; P 00492 under seal.

<sup>4725</sup> Witness CU, T(F), p. 12267, closed session; Alija Lizde, T(F), p. 17944.

<sup>4726</sup> P 02192 under seal, p. 5.

<sup>4727</sup> P 01843. See also Witness CU, T(F), p. 12266, closed session, who confirmed the name change.

<sup>4728</sup> 4D 01521 / P 01402; Božo Pavlović, T(F), pp. 46813-46814; P 00868; Božo Pavlović, T(F), p. 46973; 4D 00478; Božo Pavlović, T(F), p. 46816; Slobodan Praljak, T(F), p. 44562.

<sup>4729</sup> 4D 01715, p. 2; 5D 03046; 4D 00568; P 01913.

<sup>4730</sup> 4D 01715, p. 2; P 02790, p. 2.

<sup>4731</sup> P 10135 under seal, para. 22.

<sup>4732</sup> Ivan Beneta, T(F), p. 46608; Radmilo Jasak, T(F), p. 48550; P 00314; P 10135 under seal, para. 24.

<sup>4733</sup> Witness CR, T(F), pp. 11840 and 11841; P 10135 under seal, paras 24, 27 and 28; P 10138, para. 8.

1898. The HVO also had a Stolac Defence Office, which reported to the Defence Administration in Mostar and was run by Marinko Papac.<sup>4734</sup>

1899. In July 1992, *Božo Pavlović*<sup>4735</sup> created four mixed companies and also a company that consisted solely of Muslims, under the command of the Stolac Defence Office,<sup>4736</sup> pursuant to an order from Colonel Ivan Beneta, Commander of the 116<sup>th</sup> HV Brigade.<sup>4737</sup> In July 1992, the 116<sup>th</sup> HV Brigade handed over to the 1<sup>st</sup> *Knez Domagoj* Brigade of the HVO the territory it controlled around Stolac.<sup>4738</sup> In August 1992, the 116<sup>th</sup> Brigade also handed over to the 1<sup>st</sup> *Knez Domagoj* Brigade all the remaining territory it controlled south of Stolac, running over to the Croatian border.<sup>4739</sup> According to *Božo Pavlović*, after the 116<sup>th</sup> HV Brigade departed in mid-July 1992, command of the four mixed companies was taken up by the 1<sup>st</sup> *Knez Domagoj* Brigade.<sup>4740</sup>

1900. The 1<sup>st</sup> *Knez Domagoj* Brigade had a forward command post in Stolac, under the command of Božo Pavlović, from 1 July 1992 to 3 July 1993.<sup>4741</sup> It comprised two battalions in the brigade: the 1<sup>st</sup> Battalion, first commanded by Stanko Milanović then later Veso Raguž, and the 2<sup>nd</sup> Battalion, commanded by Ante Raguž.<sup>4742</sup>

1901. *Witness DT* declared that, after 3 July 1993,<sup>4743</sup> an HVO unit called “Crna Legija”, whose members wore black hats and black ties, was also present in Stolac.<sup>4744</sup>

1902. As concerns the HVO Military Police deployed in Stolac, the evidence establishes that the 3<sup>rd</sup> Company of the 3<sup>rd</sup> Battalion of the Military Police was deployed in the South-East OZ, which had a zone of responsibility including Stolac Municipality.<sup>4745</sup>

1903. According to *Witness C*,<sup>4746</sup> Anđelko Marković appointed Mirko Juković, commander of the Military Police platoon based in Stolac, with the consent of the Chief of the Military Police Administration.<sup>4747</sup> However, no document specifies whether Anđelko Marković actually appointed

<sup>4734</sup> P 07433, pp. 26 and 27.

<sup>4735</sup> Chief of the HVO Main Staff in Stolac (later to become the forward command post of the HVO's 1<sup>st</sup> *Knez Domagoj* Brigade) from 1 July 1992 until 3 July 1993; Božo Pavlović, T(F), pp. 46787-46788, 46793, 46794, 46919 and 46942.

<sup>4736</sup> 4D 00914, pp. 1 and 4; Božo Pavlović, T(F), pp. 46812 and 46813.

<sup>4737</sup> Božo Pavlović, T(F), pp. 46795-46797; P 10135 under seal, paras 24 and 26.

<sup>4738</sup> P 00326; Ivan Beneta, T(F), p. 46581.

<sup>4739</sup> 4D 01406, Ivan Beneta, T(F), p. 46582.

<sup>4740</sup> Božo Pavlović, T(F), pp. 46805, 46806; Ivan Beneta, T(F), p. 46608.

<sup>4741</sup> Božo Pavlović, T(F), pp. 46787-46788, 46793, 46794, 46919 and 46942.

<sup>4742</sup> P 10135 under seal, paras 24 and 25; 5D 03046; *Witness CR*, T(F), pp. 11840 and 11841.

<sup>4743</sup> P 09946 under seal, para. 34.

<sup>4744</sup> P 09946 under seal, para. 34.

<sup>4745</sup> *Witness E*, T(F), p. 22224, closed session; see “The Operations Zones and the Brigades” in the Chamber’s findings relating to the military structure of the HZ(R) H-B.

<sup>4746</sup> A BiH Croat; *Witness C*, T(E), p. 22312, closed session.

<sup>4747</sup> *Witness C*, T(F), p. 22326, closed session.

Mirko Juković to this post or whether he recommended his appointment to the Chief of the Military Police Administration.

1904. Mirko Jurković was removed from office for criminal acts and replaced by Vide Palameta.<sup>4748</sup> who was likewise recalled from his office for criminal activity.<sup>4749</sup> Anđelko Marković at that time proposed Marinko Puljić as commander of the Military Police platoon in Stolac to replace Vide Palameta even though he did not come from the ranks of the Military Police.<sup>4750</sup> According to *Witness C*, the Military Police Administration was then required to appoint him to this post.<sup>4751</sup>

1905. According to *Witness C*, the commander of the 3<sup>rd</sup> Company of the 3<sup>rd</sup> Military Police Battalion did not wield any authority over the Chief of the Military Police platoon in Stolac because he was appointed at the request of the President of the HVO of that municipality and followed his orders.<sup>4752</sup>

1906. In 1993, when the Muslims and Croats of BiH were fighting the Serbs together,<sup>4753</sup> an HVO unit was assigned to hold the front line against Serb forces at Pješivac Greda; its members set up for two or three months in an empty Muslim house in the village.<sup>4754</sup> The person in charge of this unit was someone called Jazo.<sup>4755</sup> Two other HVO soldiers named Drago and Boro, from Čeljevo or Višići in the Municipality of Čapljina, also formed part of this unit.<sup>4756</sup>

### III. Sequence of the Incidents of Crime

1907. The Chamber will (A) analyse the allegations pertaining to the arrests of prominent Muslims in the municipality, (B) those pertaining to the arrest and incarceration of Muslim men of military age, (C) the campaigns to arrest women, children and elderly, to remove the population, and to steal and damage property in the Municipality of Stolac in July and August 1993. It will (D) analyse the allegations pertaining to the incarceration of those women, children and elderly in the Municipality of Stolac, recalling thereafter (E) that, subsequent to the campaigns of arrest and incarceration, the women, children and elderly from the municipality were moved to territories under the control of the ABiH in several waves. Finally, the Chamber (F) will examine the events which took place at

<sup>4748</sup> *Witness C*, T(F), p. 22326, closed session.

<sup>4749</sup> *Witness C*, T(F), p. 22326, closed session.

<sup>4750</sup> *Witness C*, T(F), p. 22326, closed session.

<sup>4751</sup> *Witness C*, T(F), pp. 22326 and 22327, closed session; 5D 01056.

<sup>4752</sup> *Witness C*, T(F), p. 22360, closed session.

<sup>4753</sup> P 09986, p. 2.

<sup>4754</sup> P 09986, p. 2.

<sup>4755</sup> P 09986, p. 2.

the Koštana Hospital, which was transformed into a detention centre for Muslim men (F), before (G) analysing whether the evidence indeed attests that, in September 1993, not a single Muslim remained in Stolac Municipality.

1908. The Chamber notes first that the count of persecution is alleged in paragraphs 154 to 156 of the Indictment. Paragraphs 155 and 156 refer to persecutions allegedly carried out against Muslims by the authorities of Herceg-Bosna/the HVO and the “Croatisation” of the municipality. However, in the parts concerning the Municipality of Stolac neither the Indictment nor the Prosecution Pre-Trial Brief provides a single example of underlying acts constituting these persecutions. The Chamber thus holds that this lack of specificity is too significant to enable the various Accused to prepare their defences appropriately, and decides therefore to reject the count of persecution alleged in those three paragraphs.

1909. The Chamber then observes that the Praljak Defence contests the Prosecution’s claim that the Serbs left the town of Stolac around the middle of 1992<sup>4757</sup> which would then imply, it says, that they thus left the town of their own will, whereas, in fact, they were deported as part of a military action put together by the HVO and jointly executed by the Croats and the Muslims.<sup>4758</sup>

1910. The Chamber recalls that the criminal acts alleged which it is called to analyse in connection with Stolac Municipality took place after the departure of Serb forces in mid-1992 and that, for this reason, the incidents prior to this date are not relevant to the individual criminal responsibility of the various Accused. The Chamber thus declines to review this point in greater detail.

1911. The Ćorić Defence submits, moreover, in its Final Trial Brief, that the Prosecution failed to prove that the Military Police was implicated in the criminal incidents which took place in Stolac.<sup>4759</sup> However, it then submits that *Witness C* stated that the Military Police had “picked up” the Muslim men previously arrested.<sup>4760</sup>

1912. The Ćorić Defence further asserts that the witnesses were unable to identify the units responsible for the crimes. It provides by way of example the fact that *Witness CE* identified Pero Raguž as a member of the Military Police whereas several other witnesses contradicted his testimony, stating that Raguž was actually a member of the MUP.<sup>4761</sup> The Ćorić’s Defence has

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<sup>4756</sup> P 09986, p. 2.

<sup>4757</sup> Indictment, para. 155.

<sup>4758</sup> Praljak Defence Final Trial, paras 388-392.

<sup>4759</sup> Ćorić Defence Final Trial Brief, paras 666 and 667.

<sup>4760</sup> Ćorić Defence Final Trial Brief, para. 668.

<sup>4761</sup> Ćorić Defence Final Trial Brief, para. 669.



likewise submitted that, while *Fahrudin Rizvanbegović* identified Veselin Raguž as a member of the Military Police, Exhibit 5D 01056, which lists the members of the Stolac platoon of the 3<sup>rd</sup> Company of the 3<sup>rd</sup> Military Police Battalion and is dated 4 June 1993, proved that he was not.<sup>4762</sup>

1913. The Chamber notes that although *Witness CE* was mistaken as to the post held by Pero Raguž, many other witnesses clearly identified members of the Military Police as being involved in several of the criminal incidents that occurred in Stolac Municipality.<sup>4763</sup> The Chamber must stress that *Witness Fahrudin Rizvanbegović* did not claim that Veselin Raguž was a member of the Military Police at the time of the events.<sup>4764</sup> Lastly, Document 5D 01056, proffered by the Ćorić Defence, actually contains the names of several men belonging to the Military Police who were recognised by the witnesses as having participated in the criminal events in the municipality.

#### **A. Arrests of Prominent Muslims in the Municipality of Stolac around 20 April 1993**

1914. In paragraph 157 of the Indictment, it is there alleged that around 20 April 1993, the HVO authorities arrested prominent Muslims in Stolac Municipality, including members of the Stolac crisis staff.

1915. The evidence indicates that on 20 April 1993, the 3<sup>rd</sup> Company of the 3<sup>rd</sup> HVO Military Police Battalion in Stolac, as well as soldiers from the HVO, did indeed arrest prominent Muslims from the Municipality of Stolac, detaining them in Grabovina.<sup>4765</sup>

1916. Among those men were members of the civil protection force in Stolac, including Dr Kapić, Director of Koštana Hospital and President of the Merhamet Association, Ibro Mahmutović, a teacher, Mehmet Dizdar, a police officer, Ragid Dizdar, Salko Marić known as “Zenda”, Ibrahim Mahmutović, Sakir Turković, a teacher, and Mohamed Sator, a teacher.<sup>4766</sup>

1917. On 25 April 1994, Pero Raguž, the chief of the Stolac MUP, sent a report to the military prosecutor in Stolac, indicating that some of those men had been accused of being behind the

<sup>4762</sup> Ćorić Defence Final Trial Brief, para. 669.

<sup>4763</sup> See, for example, “The Deaths of Detainees at the Koštana Hospital” in the Chamber’s factual findings relating to the Municipality of Stolac.

<sup>4764</sup> Fahrudin Rizvanbegović, T(F), p. 2199.

<sup>4765</sup> 5D 02195; Witness CR, T(F), pp. 11881 and 11882, private session; P 10147 (French version), p. 3; P 09947, p. 4; Fahrudin Rizvanbegović, T(F), p. 2200; Witness CL, T(F), pp. 11045-11046 and 11048, private session; Witness BB, T(F), pp. 17230 and 17231, closed session.

<sup>4766</sup> P 09947, p. 4; Fahrudin Rizvanbegović, T(F), p. 2200 and 2201.

placement of barricades at the town of Stolac's points of entry and exit on 31 March 1992, in order to prevent the leaders of the Stolac HVO from entering the town.<sup>4767</sup>

**B. Arrest and Incarceration of the Muslim Men of Military Age in Stolac Municipality in July 1993**

1918. It is alleged in paragraph 159 of the Indictment that, in July 1993, the HVO arrested and detained most of the Muslim men of military age who lived in the Municipality of Stolac.

1919. The Chamber has admitted into evidence a 30 June 1993 order from Milivoj Petković, Chief of the HVO Main Staff, addressed to the South-East OZ, by whose terms: (1) all Muslims from the HVO were to be disarmed and "placed in isolation" and (2) all of the Muslim men of military age living within the zone of responsibility of the South-East OZ were also to be "placed in isolation". According to this order, the HVO was to allow the Muslim women and children in the South-East OZ zone of responsibility to remain in their homes.<sup>4768</sup>

1920. Significant numbers of witnesses who directly experienced those events and documents from the HVO itself indicate that as of 1 or 2 July 1993, the Military Police<sup>4769</sup> and the 1<sup>st</sup> *Knez Domagoj* Brigade of the HVO conducted a large-scale systematic campaign to disarm and arrest the Muslim men of military age in Stolac Municipality, particularly in the localities of Pješivac Greda, Stolac, Prenj and Aladinići; the men were subsequently detained in the prisons of Dretelj, Gabela, Ljubuški and the Heliodrom.<sup>4770</sup>

1921. The large body of evidence received by the Chamber shows that the campaign targeted both the Muslim members of the HVO and the ABiH, and the civilians.<sup>4771</sup> Among them were Ferid

<sup>4767</sup> 2D 00869, pp. 24-26.

<sup>4768</sup> Witness C, T(F), pp. 22463 and 24065, closed session; P 03019, p. 2.

<sup>4769</sup> P 03121, p. 2; P 03889, p. 3; P 03075, p. 1; Witness CM, T(F), p. 11100; Witness C, T(F), pp. 22363 and 22365, closed session; P 04000 under seal, p. 3.

<sup>4770</sup> P 10229, p. 2, paras 3 and 6; P 09947, p. 5; Witness BI, T(F), pp. 2401 and 2402; Witness BB, T(F), pp. 17198, 17254 and 17255, closed session; P 06697, para. 58; P 09847 under seal, p. 2; P 05091, para. 17; P 03057, p. 3; Witness CM, T(F), p. 11100; Witness C, T(F), p. 22465, closed session; P 10138, paras 18 and 19; P 10147 (French version), p. 4; P 10135, paras 30-32; P 03121, p. 2; P 09712, under seal, paras 44 and 45; Witness BA, T(F), pp. 7221 and 7222, closed session; P 09986, p. 3; Witness BI, T(F), pp. 2403 and 2405; P 09948, paras 12-13 and 16; P 09753 under seal, p. 2; P 03075, p. 2; Witness CM, T(F), pp. 11100 and 11101; P 03121, p. 2; Witness CM, T(F), p. 11104, private session; Witness DD, T(F), pp. 14425 and 14426, closed session; P 09768 under seal, p. 3; Fahrudin Rizvanbegović, T(F), pp. 2198-2201; P 09750 under seal, p. 4; P 09751 under seal, p. 3; P 09946 under seal, paras 29-32 and 37; Witness CD, T(F), pp. 10527-10529 and 10532; P 09749 under seal, p. 2; Witness CH, T(F), pp. 10859-10860, private session; P 03105; P 03110; Fata Kaplan, T(F), pp. 2123 and 2124; Witness CQ, T(F), pp. 11430-11432; Witness CL, T(F), pp. 11048-11051; P 10147, p. 4; P 09948, para. 15; P 03478; P 03580, p. 3; P 03362 under seal, p. 3; Klaus Johann Nissen, T(F), p. 20526; P 03369 under seal, pp. 1-2; Antoon van der Grinten, T(F), p. 21089; P 03952, p. 2.

<sup>4771</sup> Witness BI, T(F), pp. 2401 and 2402; P 06697, para. 58; P 09847 under seal, p. 2; P 10135, paras 30-32; P 09712 under seal, paras 44 and 45; P 09768 under seal, p. 3; Witness CQ, T(F), pp. 11430-11432; P 03369 under seal, pp. 1 and 2; P 03952, p. 2.

Rizvanović, an economist who before the war worked as an inspector at the S. D. K. financial institution,<sup>4772</sup> Himzo Humačkić, a worker at the HEPOK enterprise,<sup>4773</sup> Fahrudin Rizvanbegović, a teacher,<sup>4774</sup> *Witness DD*, a general practitioner,<sup>4775</sup> the father of *Witness BI*, an employee of the Municipality of Stolac,<sup>4776</sup> Šefik Ratkušić, a member of the HVO *Knez Domagoj Brigade*<sup>4777</sup> and Huso Mehmed, a member of the ABiH *Bregava Brigade*.<sup>4778</sup>

**C. Arrests of Women, Children and Elderly People; Removal of the Population; Thefts of Property and Damage to Property in Stolac Municipality in July and August 1993**

1922. In paragraphs 159 to 166 of the Indictment, it is alleged that, in July and August 1993, the HVO conducted campaigns to arrest and transfer Muslim civilians, during which their property was plundered and destroyed.

1923. The evidence indeed attests that, on 3 July 1993, Neđeljko Obradović, commander of the *Knez Domagoj Brigade* of the HVO, instructed all units in the 1<sup>st</sup> HVO Brigade to “prevent [...] crimes [...] in the brigade’s zone of responsibility” and to “group the Muslim population” in the said zone and to “secure it”.<sup>4779</sup>

1924. Nevertheless, the Chamber has admitted documents from both the HVO and international organisations in the field at the time of the events, and heard testimony from international representatives as well as local witnesses, indicating that in July 1993, the HVO launched a campaign of arrests and removal of women, children and elderly in Stolac Municipality.<sup>4780</sup>

1925. As alleged in paragraphs 160-166 of the Indictment, the Chamber will now analyse in greater detail the evidence concerning the criminal events in each of the expressly designated localities. it will thus (1) focus attention on the events which took place at Prenj on 6 July 1993,(2) address the events unfolding from 12 to 15 July 1993 in (a) the village of Aladinići, (b) the village of Pješivac Greda, (c) the village of Rotimlja and (d) in the town of Stolac. Next, the events will be analysed which took place (3) at Borojevići in late July 1993, (4) the events of August 1993) (a) in the town of Stolac and (b) the village of Prenj.

<sup>4772</sup> P 09947, pp. 2 and 5.

<sup>4773</sup> P 09986 pp. 2 and 3.

<sup>4774</sup> Fahrudin Rizvanbegović, T(F), pp. 2174, 2198-2201.

<sup>4775</sup> *Witness DD*, T(F), pp. 14426, 14425 and 14426, closed session.

<sup>4776</sup> *Witness BI*, T(F), pp. 2399, 2403 and 2405.

<sup>4777</sup> P 10229, p. 2, paras 2, 3 and 6.

<sup>4778</sup> P 10138, paras 6, 9, 18 and 19.

<sup>4779</sup> The original term in *BCS* is "*osigurati*"; P 03135, p. 2.

<sup>4780</sup> *Witness BB*, T(F), pp. 17197, 17198, 17227, 17254 and 17255, closed session; P 06697, para. 58; P 03223 under seal, pp. 4 and 5; P 09847 under seal, p. 2.

1. Events of 6 July 1993 in Prenj: Removal of the Population and Theft of Property

1926. In paragraphs 159 and 160 of the Indictment, it is alleged that on or about 6 July 1993, the HVO removed the Muslim women, children and elderly from their homes from in and around Prenj. While these removals were taking place, the members of the HVO forces robbed the Muslim civilians of their property.

1927. The Chamber heard *Witness CH*, who said that on or about 6 or 7 July 1993, after taking away men of the village, HVO soldiers returned and the women of Prenj<sup>4781</sup> to climb into a truck under the threat of death and brought them to the school at Aladinići/Crnići.<sup>4782</sup> They were released from the school on 2 August 1993 and transported to Buna.<sup>4783</sup>

1928. The Chamber does not have any information concerning the thefts committed during the removal of the women of Prenj.

2. Incidents of 12 to 15 July 1993 in Aladinići, Pješivac Greda, Rotimlja and Stolac

a) Removal of the Population, Theft of Property and Damage to Houses and the Mosque in Aladinići

1929. Paragraphs 159, 161 and 162 of the Indictment allege that, from 12 to 15 July 1993, the HVO expelled Muslim civilians of the village of Aladinići from their homes, subsequently robbing them of their property and forcibly removing them to other territories. The HVO is also alleged to have destroyed the mosque and the houses belonging to the Muslims of the village.

1930. The Chamber has heard the *viva voce* testimony of *Witness CD*,<sup>4784</sup> according to which the HVO attacked Aladinići on or about 13 July 1993.<sup>4785</sup> Subsequent to this attack, six men wearing HVO uniforms – including one named Ljubo Bošković,<sup>4786</sup> who belonged to the Military Police – arrested *Witness CD* and threatened to kill him with automatic weapons in order to make him disclose where his son was hiding.<sup>4787</sup> The men then locked him into a shop in Aladinići village, where there were already elderly men, women (including Muhiba Balavac) and children.<sup>4788</sup> The

<sup>4781</sup> The Chamber notes that the witness mentions only the women of Prenj and does not refer to either the children or the elderly.

<sup>4782</sup> P 09749 under seal, p. 2.

<sup>4783</sup> P 09749 under seal, p. 5.

<sup>4784</sup> Representative victim from paragraph 161 of the Indictment mentioned in the Annex to the Indictment.

<sup>4785</sup> *Witness CD*, T(F), pp. 10537 and 10539, private session.

<sup>4786</sup> *Witness CD*, T(F), p. 10539, private session.

<sup>4787</sup> *Witness CD*, T(F), p. 10540, private session.

<sup>4788</sup> *Witness CD*, T(F), pp. 10541, 10542 and 10544, private session.

HVO kept those persons in the shop for a day and then brought them to the Aladinići/Crnići School on 14 July 1993.<sup>4789</sup>

1931. On 14 July 1993, *Sejfo Kajmović* could see that the Aladinići Mosque was on fire. He could not, however, specifically identify who started the fire.<sup>4790</sup> For this reason, the Chamber cannot rule out that this fire might have been the work of other persons in the village at the time of the events, such as Croats who were not members of the HVO. Therefore, although the Chamber can find that on 14 July 1993 the Aladinići Mosque was indeed burned down, it cannot find beyond a reasonable doubt that the perpetrators were members of the HVO. Moreover, the Prosecution has brought no evidence about the damage to the houses or the theft of property in the village of Aladinići.

b) Removal of the Population, Death of a Women and Thefts of Property in Pješivac Greda

1932. Paragraphs 159 and 161 of the Indictment allege that from 12 to 15 July 1993, the HVO expelled the Muslim civilians of Pješivac Greda from their homes and then robbed them of their property and forcibly transferred them to other territories. It alleges that the HVO forces shot and killed an 18-year old Muslim woman while these operations were underway.

1933. After analysing the evidence pertaining to (i) the removal of the population and the death of a young woman, the Chamber will (ii) refer to the evidence pertaining to the theft of property belonging to the Muslims of the village).

i. Removal of the Muslim Population and Death of a Young Woman at Pješivac Greda

1934. The Chamber received the testimony of several members of the Kaplan family, including that of *Fata Kaplan*,<sup>4791</sup> who lived through the events in Pješivac Greda in July 1993.

1935. In 1993, the village of Pješivac Greda comprised thirteen Muslim houses and two Croat houses.<sup>4792</sup>

1936. On 13 July 1993, at or about 0200 pm, the HVO drove out and arrested the Muslims from the village of Pješivac Greda, among whom were children, infants, women and elderly.<sup>4793</sup> Among them were several members of the Kaplan family, Fata, Aiša, Sanida, Enad and Salko.<sup>4794</sup> An HVO

<sup>4789</sup> Witness CD, T(F), p. 10543, private session.

<sup>4790</sup> Sejfo Kajmović, T(F), pp. 11694 and 11695. See also P 08939, p. 8.

<sup>4791</sup> Representative victim from paragraph 161 of the Indictment mentioned in the Annex to the Indictment.

<sup>4792</sup> P 09753 under seal (French version), p. 2; Witness CM, T(F), pp. 11097 and 11098.

<sup>4793</sup> Fata Kaplan, T(F), pp. 2125, 2126, 2133 and 2134. On that day, fighting did not take place in Pješivac but instead near Satorova Gomila; P 09753 under seal, p. 2 (French version).

<sup>4794</sup> P 09945, para. 7.

soldier, Dragan Bonojza, arrived in front of the house of Fata Kaplan and killed her daughter, Sanida, who was then 17 years of age,<sup>4795</sup> firing a burst of gunshots toward her as she was coming out of the house and asking him: “You’ve already taken the men, why are you taking us now?”<sup>4796</sup> The HVO then brought the villagers by truck to Jasoć, 7 km from Pješivac Greda. Sanida’s body was left where it was and her mother was forced to leave it behind. At the order of Veselko Raguž,<sup>4797</sup> the HVO then led the persons it had arrested to the school in Aladinići/Crnići.<sup>4798</sup> For about a week and a half, commencing on 13 July 1993, approximately 3,000 Muslim villagers from Stolac Municipality, including the village of Pješivac Greda, including infants, children and elderly<sup>4799</sup> were detained in the school in Aladinići/Crnići.<sup>4800</sup>

1937. *Šejla Humačkić*<sup>4801</sup> reported that on 13 July 1993, around 9 o’clock in the morning, while she and some of her family were present at the home of Sejo Humačkić in Pješivac Greda where the women and the children of the village had gathered, HVO soldiers surrounded the house and ordered the people inside to leave under threat of arms, making death threats and firing several shots into the air.<sup>4802</sup> Later that day, members of the HVO brought these persons to the home of Hamzo Kaplan, which was located in the hamlet of Kaplan, making death threats against the Muslims as they went.<sup>4803</sup>

1938. Once they reached the house of Hamzo Kaplan, *Šejla Humačkić* noticed that the HVO soldiers, including a certain Drago, were present in the courtyard of the house; then she heard a burst of automatic weapon fire and crying.<sup>4804</sup> The Kaplan family was forced to leave its home and met up with the group.<sup>4805</sup> Fata Kaplan then told them that her daughter, Sanida Kaplan, had just been killed by a soldier in a burst of fire from an automatic weapon.<sup>4806</sup> Fata Kaplan then pointed to the perpetrator of the murder, who was in the courtyard in front of Hamzo Kaplan’s house.<sup>4807</sup> *Šejla*

<sup>4795</sup> Victims killed in Stolac who are mentioned in the Annex to the Indictment in connection with paragraph 161 of the Indictment; P 09753 under seal, p. 2 (French version).

<sup>4796</sup> Fata Kaplan, T(F), pp. 2125-2132; P 09067; P 08789; IC 00008 and IC 00009. Exhumation of the body of Sanida Kaplan revealed that she was killed by bullets to the shoulder and head: Fata Kaplan, T(E), p. 2150; P 09945, paras 8-11; P 10135, para. 34; P 09986, p. 3; P 09753 under seal (French version), p. 2.

<sup>4797</sup> The Chamber has no information regarding Veselko Raguž’s post.

<sup>4798</sup> Fata Kaplan, T(F), pp. 2133-2135; IC 00010 and IC 00011; P 09945, para. 5.

<sup>4799</sup> Fata Kaplan, T(F), p. 2136.

<sup>4800</sup> Fata Kaplan, T(F), pp. 2136 and 2139; P 09945, para. 11.

<sup>4801</sup> Representative victim from paragraph 161 of the Indictment mentioned in the Annex to the Indictment.

<sup>4802</sup> P 09986, p. 3.

<sup>4803</sup> P 09986, p. 3.

<sup>4804</sup> P 09986, p. 3.

<sup>4805</sup> P 09986, p. 3.

<sup>4806</sup> P 09986, p. 3.

<sup>4807</sup> P 09986, p. 3.

*Humačkić* recognised Drago, who was carrying an automatic weapon at that very moment.<sup>4808</sup> Aiša Kaplan confirmed what she said, pointing to Drago as the perpetrator of Sanida's murder.<sup>4809</sup>

1939. According to *Šejla Humačkić*, the HVO drove the Kaplan family from its home, taking them, along with the group of women and children that included *Šejla Humačkić* and other families also driven out of their homes,<sup>4810</sup> in the direction of trucks, and drove them to Jasoć.<sup>4811</sup> The villagers of Pješivac Greda remained some time in Jasoć before being brought to the Aladinići/Crnići primary school.<sup>4812</sup>

1940. After incarcerating them in the Aladinići/Crnići primary school for about a week and a half, the HVO brought the villagers to Pješivac Greda, where they put 250 people in Fata Kaplan's house, and the others, almost 1,000 people, in the rest of the village, 13 families per house.<sup>4813</sup>

1941. On 2 August 1993, the HVO brought the villagers as far as Buna on trucks, and then forced them to walk toward Blagaj while the HVO soldiers fired shots over their heads.<sup>4814</sup>

1942. In its Final Trial Brief the Petković Defence argues, that the Muslim inhabitants of some villages in Stolac Municipality were gathered and temporarily moved with a view to guaranteeing their safety; that they were turned back to their villages in a few days and that they were not transferred outside Stolac Municipality before the end of July 1993.<sup>4815</sup>

1943. The Chamber observes, however, that the evidence shows that, contrary to what is alleged by the Petković Defence, the Muslim inhabitants of Pješivac Greda were taken to HVO detention centres. In addition, , they were not brought back to their homes once the threat of hostilities had passed, as the Petković Defence seems to imply, but were packed into a few houses in the village and then taken to the territory controlled by the ABiH several days later. Furthermore, the Chamber observes that, at the time of the arrests, there was no armed confrontation in the village.

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<sup>4808</sup> P 09986, p. 3.

<sup>4809</sup> P 09986, p. 4.

<sup>4810</sup> P 09986, p. 3.

<sup>4811</sup> P 09986, p. 4.

<sup>4812</sup> P 09986, p. 4.

<sup>4813</sup> Fata Kaplan, T(F), pp. 2140-2142; P 09945, para. 11; P 09986, pp. 3 and 4.

<sup>4814</sup> P 09945, para. 15; Fata Kaplan, T(F), pp. 2142-2144; P 09986, p. 4.

<sup>4815</sup> Petković Defence Final Trial Brief, para. 207.

ii. Theft of Property Belonging to the Muslims of the Village of Pješivac Greda

1944. From about 2 to 13 July 1993, two soldiers from the HVO unit stationed in Pješivac Greda named Jazo and Boro stole the cars and tractors belonging to Muslims from the village.<sup>4816</sup> *Witness CM* saw the HVO soldiers steal all stores of food from the houses in the hamlets of Đulić and Kaplan.<sup>4817</sup>

1945. *Šejla Humačkić* stated that, before being taken to Blagaj from private homes where women, children and elderly were detained in Pješivac Greda, she saw lying on a table a stack of banknotes and jewels that had been stolen from the detainees by the HVO.<sup>4818</sup>

1946. The evidence therefore supports a finding by the Chamber that the members of the HVO stole property belonging to Muslims in Pješivac Greda in July 1993.

c) Removal of the Population, Theft of Property and Damage to Houses, Property and the Mosque in Rotimlja.

1947. In paragraphs 159, 161 and 162 of the Indictment, it is alleged that, from 12 to 15 July 1993, the HVO expelled Muslim civilians of Rotimlja from their homes and then robbed them of their property forcibly transferred them to other territories. The HVO is likewise alleged to have destroyed the mosque, the houses and the property of Muslims in the village during these operations.

1948. Concerning the mosque, the Chamber has only the report by the Mufti of Mostar listing the Muslim sites destroyed during the period from 1 January 1992 to 1 August 1999, which mentions the demolition of the Rotimlja Mosque.<sup>4819</sup> Although the Chamber can find that the said mosque was indeed destroyed, it cannot, due to the lack of additional evidence, determine who the perpetrators were. Moreover, the Chamber has no evidence about the other allegations concerning this locality.

d) Removal of the Population, Damage to the Mosque and Theft of Property in Stolac

1949. It is alleged in paragraphs 159 and 163 of the Indictment that on 13 and 14 July 1993, the HVO expelled the Muslim civilians from the town of Stolac out of their homes, and then robbed

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<sup>4816</sup> P 09753 under seal, p. 2 (French version); P 09945, para. 14.

<sup>4817</sup> P 09753, p. 3.

<sup>4818</sup> P 09986, p. 4.

<sup>4819</sup> P 08939, p. 7.



them of their property and forcibly removed them to other territories. The HVO then allegedly destroyed the *Sultan Selim* Mosque, also known as the Emperor's Mosque.

1950. The Chamber first notes that it has no evidence about the removal of women, children and elderly from the town of Stolac in July 1993.<sup>4820</sup>

1951. As to the allegations of theft, *Witness EE* stated that all his property, that is, his cars, farm machines, trucks and herds, were stolen.<sup>4821</sup> *Hikmeta Rizvanović* added that, starting in late 1992 and throughout 1993, there was no longer any electricity in Stolac and that the stores were empty, as most of them had been "looted".<sup>4822</sup> However, the witnesses did not personally witness these events and are unable to clarify in any way the date of the thefts or the perpetrators. The Chamber thus cannot rule out that these thefts were committed by other persons in the town at the time of the events, as, for example, Croats who were not members of the HVO. As a result, the Chamber cannot find beyond a reasonable doubt that the HVO did indeed commit the thefts in Stolac in July 1993.

1952. Concerning the damage to the mosque, *Witness CL*<sup>4823</sup> stated that, on or about 13 and 14 July 1993, the HVO burned down "the Tsar's Mosque".<sup>4824</sup> The testimony is corroborated by the report from the Mufti of Mostar cataloguing the Muslim sites destroyed during the period from 1 January 1992 to 1 August 1999<sup>4825</sup> and by the testimony of *Witness BI*,<sup>4826</sup> which says that, between 15 and 25 July 1993, he saw the *Sultan Selim* Mosque burning, along with the buildings surrounding it, while HVO soldiers, including Marijan Prce,<sup>4827</sup> stood about one hundred metres away from where it stood but did not intervene.<sup>4828</sup> Once the fire ended, only the skeleton of the building remained.<sup>4829</sup> Although *Witness BI* did not formally identify the persons who started the

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<sup>4820</sup> As described in "The Removal of the Population of the Town of Stolac" in the Chamber's factual findings relating to the Municipality of Stolac, Muslims continued to reside in the town of Stolac in August 1993.

<sup>4821</sup> P 10135 under seal, para. 107.

<sup>4822</sup> P 09947, p. 4.

<sup>4823</sup> An inhabitant of the town of Stolac; *Witness CL*, T(F), pp. 11043 and 11044, private session; IC 00134 under seal.

<sup>4824</sup> *Witness CL*, T(F), pp. 11055-11060 and 11076, private session.

<sup>4825</sup> P 08939, p. 7.

<sup>4826</sup> A Muslim inhabitant of the town of Stolac; *Witness BI*, T(F), pp. 2392, 2396, 2407 and 2408, private session.

<sup>4827</sup> *Witness BI*, T(F), p. 2457. Concerning Marijan Prce's responsibilities, see "Detention of Women, Children and Elderly Persons of Stolac Municipality" in the Chamber's factual findings relating to the Municipality of Stolac, where the Chamber finds that, although several witnesses referred to Marijan Prce as an HVO soldier, he was in fact a member of the MUP.

<sup>4828</sup> *Witness BI*, T(F), pp. 2406-2408, 2421. *Witness BI* identified the location of the *Sultan Selim* Mosque on Exhibit IC 00018, p. 1, p. 3, p. 5 and p. 7.

<sup>4829</sup> *Witness BI*, T(F), p. 2421.

fire, he stated that there had been no shelling on the day it started and that only HVO units were patrolling in Stolac.<sup>4830</sup>

1953. The Chamber considers that the fact that the witnesses submitted slightly differing dates for this event does not vitiate their testimonies which, generally speaking, concur. The Chamber can therefore find that HVO soldiers did indeed burn down the *Sultan Selim* Mosque in Stolac in mid-July 1993.

### 3. Removal of the Population, Theft of Property and Damage to Houses and Property in Late July 1993 in Borojevići

1954. It is alleged in paragraphs 159 and 164 of the Indictment that in late July 1993, the HVO expelled the Muslim civilians of Borojevići from their homes and robbed them of their property. The HVO also allegedly destroyed the houses and the property of the Muslim inhabitants of the village.

1955. The Chamber first points out that in its Final Trial Brief, the Praljak Defence argues that paragraph 164 is not sufficiently precise concerning the time of the events and that, as a result, this does not afford the Accused Praljak the chance to be specifically informed of the charges against him.<sup>4831</sup> The Chamber recalls that, during the pre-trial phase of the case, Trial Chamber I had already adjudicated the issues relating to formal defects in the Indictment, and specifically in this regard, holding that the Indictment already contained the necessary details.<sup>4832</sup> The Chamber holds that it is therefore inappropriate to return to that point at this stage.

1956. The Chamber received the written statements of two eyewitnesses to the events at Borojevići in July 1993, *Edin Baljić*<sup>4833</sup> and *Ibro Zlomužica*.<sup>4834</sup> The two men, who hid in nearby woods for about three months, saw HVO soldiers commit thefts in many Muslim houses of the village, especially those close to the mosque and in Razića Mahala,<sup>4835</sup> and set them on fire, after the soldiers had taken control of the village.<sup>4836</sup>

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<sup>4830</sup> Witness BI, T(F), p. 2421.

<sup>4831</sup> Praljak Defence Final Trial Brief, para. 386. The Chamber notes that the Praljak Defence alleges the same ambiguities for paragraphs 167, 168 and 170. For the same reasons set forth above, the Chamber will not take this into account in subsequent discussions.

<sup>4832</sup> *The Prosecutor v. Prlić et al*, Case No. IT-04-74-PT, “Decision on Defence Preliminary Motions Alleging Defect in the Form of an Indictment”, public, 22 July 2005, para. 49.

<sup>4833</sup> A Muslim inhabitant of the village of Borojevići; P 09943, para. 4.

<sup>4834</sup> The imam since 1989 of the village of Borojevići; P 09948, para. 2.

<sup>4835</sup> P 09948, para. 2.

<sup>4836</sup> P 09943, paras 7, 9 and 11; P 09948, para. 14.

1957. Concerning the allegations of transfer in Borojevići, the Chamber has only the statement of *Ibro Zlomužica*, in which he says that he learned from an inhabitant of the village who witnessed the events that all of the Muslim inhabitants, even the women and children of the village, were taken away by the soldiers of the HVO.<sup>4837</sup> The Chamber considers, however, that it cannot use that information, inasmuch as the statement of *Ibro Zlomužica* is hearsay, was admitted under Rule 92 *bis* of the Rules, and is uncorroborated by any other evidence.

#### 4. Events of August 1993 in the Town of Stolac and Village of Prenj

1958. Paragraphs 165 and 166 of the Indictment allege that on or about 4 August 1993, the HVO forces expelled Muslim civilians out of the town of Stolac, destroying the Begovina complex, the old town centre, and three mosques (the *Ali Paša Rizvanbegović* Mosque, the *Hadži Alija Hadžisalihović* Mosque, and the *Ismail Kapetan Šarić* Mosque). On 4 and 5 August 1993, the HVO is also alleged to have destroyed the Muslim houses and property in Prenj, including the village mosque, as well.

1959. The Chamber will first (a) examine the allegations pertaining to the events which took place in the town of Stolac, and (b) analyse those pertaining to the Prenj locality.

a) Removal of the Population, Damage to Cultural Objects, Mosques and Dwellings in the Town of Stolac

1960. The Chamber will review the allegations pertaining (i) to the removal of the population, (ii) to the damage to cultural objects and mosques, and (iii), those pertaining to the damage to houses in the town.

##### i. Removal of the Population of the Town of Stolac

1961. Concerning these allegations, the Chamber has heard the testimony of *Witness BI*<sup>4838</sup> as well as that of members of the international community on site at the time of the events, such as *Witness BC*.<sup>4839</sup> It has also reviewed written statements of several witnesses who personally experienced the events at Stolac in August 1993.

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<sup>4837</sup> P 09948, para. 13.

<sup>4838</sup> A Muslim inhabitant of the town of Stolac; Witness BI, T(F), pp. 2392, 2396, private session.

<sup>4839</sup> A representative of an international organisation in the region of Mostar from 10 or 11 May until June 1994; Witness BC, T(F), pp. 18315, 18316, 18335-18337, closed session.

1962. Accordingly, the evidence shows that, on 4 August 1993,<sup>4840</sup> certain HVO soldiers, including Marijan Prce,<sup>4841</sup> Vide Palameta (a.k.a. “Dugi”) and Bošković, who was nicknamed “Celo”,<sup>4842</sup> took women, children and elderly of the town of Stolac by force, and gathered them together – sometimes under threat and allowing them to take only one plastic bag with belongings – at several points in the town, including the school at Stolac,<sup>4843</sup> afterwards bringing them to Blagaj.<sup>4844</sup>

ii. Damage to Cultural Objects and Mosques in the Town of Stolac

1963. The Chamber notes that, according to *Fahrudin Rizvanbegović’s* testimony,<sup>4845</sup> on or about 19 July 1993, his wife and one of his fellow detainees in Dretelj Prison, Esad Sefo, saw a unit of the HVO armed forces stationed in the Begovina Complex set fire to the buildings after leaving it.<sup>4846</sup> This architectural ensemble, dating back to the late 18<sup>th</sup> Century and owned by the Rizvanbegović family, had been protected since 1952 by the Institute for the Protection of Cultural Monuments of the Republic of BiH.<sup>4847</sup> According to *Fahrudin Rizvanbegović*, the Indictment, which mentions the date of 4 August 1993, errs on this point.<sup>4848</sup>

1964. The Chamber notes that *Fahrudin Rizvanbegović’s* testimony is hearsay, inasmuch as he was himself in detention at the time the Begovina Complex burned. Moreover, the date on which the witness states that the fire took place, 19 July 1993, differs from the approximate date of 4 August 1993 alleged in the Indictment.

1965. The Chamber holds by majority, with Judge Antonetti dissenting, that, even if it chose to lend credence to *Fahrudin Rizvanbegović’s* indirect testimony, the dating gap between this single piece of evidence and the Indictment is too significant to support a finding by the Chamber that the Prosecution has proved that allegation beyond a reasonable doubt.

<sup>4840</sup> Witness BI, T(F), p. 2426.

<sup>4841</sup> On this point and the responsibilities of Marijan Prce, described by several witnesses as a member of the HVO whereas he was a member of the MUP, *see* “The Detention of the Women, Children and Elderly Persons of Stolac Municipality” in the Chamber’s factual findings relating to the Municipality of Stolac.

<sup>4842</sup> Witness BI, T(F), p. 2462.

<sup>4843</sup> Witness BI, T(F), pp. 2403, 2426 and 2427. Witness BI identified the location of the primary school in Exhibit IC 00018, pp. 1-3 and 10.

<sup>4844</sup> Witness BI, T(F), p. 2403; P 09847 under seal, p. 2; P 10143, p. 9; P 09946 under seal, paras 46-59; P 09947, pp. 2 and 6; Witness CL, T(F), pp. 11067, 11068, private session, and 11069; P 09583; Witness CL, T(F), p. 11075; *Fahrudin Rizvanbegović*, T(F), pp. 2202 and 2203; P 09750 under seal, p. 4; Witness CE, T(F), p. 10598, private session; P 09751 under seal, p. 4.

<sup>4845</sup> A teacher and inhabitant of the town of Stolac; *Fahrudin Rizvanbegović*, T(F), pp. 2177 and 2178.

<sup>4846</sup> *Fahrudin Rizvanbegović*, T(F), pp. 2239, 2247, 2248, 2362, 2363 and 2373; T(E), p. 2247.

<sup>4847</sup> *Fahrudin Rizvanbegović*, T(F), pp. 2241-2247; P 00001; P 03842; P 08918; IC 00014, IC 00015, IC 00016 and IC 00017.

<sup>4848</sup> *Fahrudin Rizvanbegović*, T(F), pp. 2250 and 2251.

1966. Furthermore, as concerns the demolition of the three mosques in Stolac, despite the evidence attesting to this event, the evidence nevertheless diverges with regard to the dates. Thus, whereas *Fahrudin Rizvanbegović* stated that every one of the mosques in the town of Stolac was destroyed on or about 19 July 1993,<sup>4849</sup> a report from an international organisation present on site at the time of the events placed the events on 1 August 1993,<sup>4850</sup> whereas *Witness DT* stated that this occurred on 4 August.<sup>4851</sup> The report by the Mufti of Mostar listing the Muslim sites destroyed during the period of 1 January 1992 to 1 August 1999 tells of the demolition of those mosques, which he attributes to the “Croats” without specifying the date or the perpetrators.<sup>4852</sup> Although that destruction is confirmed by other evidence, none provides any details as to the date.<sup>4853</sup> Moreover, none of the witnesses heard by the Chamber witnessed these events directly and thus, none can testify as to the perpetrators.

1967. In view of the preceding, the Chamber is persuaded that the three old mosques in the town of Stolac were indeed demolished in late July or early August 1993. However, the Chamber cannot rule out the possibility that those events were the work of other persons who happened to be in the town at the same moment, such as Croats who were not members of the HVO. As a result, the Chamber cannot find beyond a reasonable doubt that the HVO was responsible for the demolitions.

### iii. Damage to Houses in the Town of Stolac

1968. Several witnesses saw houses belonging to Muslims demolished or set on fire in early August 1993.<sup>4854</sup> However, as they did not witness the moment the houses were demolished or burned down, they are unable to provide further detail as to the perpetrators.

1969. The Chamber therefore finds that although dwellings belonging to the Muslim inhabitants of Stolac were indeed demolished in early August 1993, it cannot rule out that these demolitions may have been carried out by persons who happened to be in the town at the time of the events, such as Croats who were not members of the HVO. The Chamber cannot therefore find beyond a reasonable doubt that members of the HVO demolished the dwellings of Muslims in the town of Stolac on those dates.

<sup>4849</sup> *Fahrudin Rizvanbegović*, T(F), pp. 2248 and 2249.

<sup>4850</sup> P 09847 under seal, p. 2.

<sup>4851</sup> P 09946 under seal, paras 34, 37 and 39.

<sup>4852</sup> P 08939, p. 7.

<sup>4853</sup> *Witness C*, T(F), p. 22422, closed session; P 08939, p. 7.

<sup>4854</sup> P 09946 under seal, para. 37; *Witness BI*, T(F), pp. 2422, 2423. *Witness BI* identified a flower shop in Exhibit IC 00018, in particular, pp. 3 and 9. *Witness BI* identified the beauty salon in Exhibit IC 00018, p. 9 (formerly P 09586) and IC 00018, pp. 8, and 10; P 09947, pp. 6 and 8.

b) Damage to Houses, Property and the Mosque in Prenj

1970. The Chamber has no evidence in its possession concerning the damage to Muslim dwellings, property or the Mosque in Prenj.

**D. Detention of the Women, Children and Elderly of Stolac Municipality**

1971. It is alleged in paragraph 168 of the Indictment that prior to their transfer to ABiH-controlled sectors Muslim civilians, were detained by the HVO authorities, including at the school in Crnići, in the TGA factory, at the VPD and in private houses. The detention conditions are alleged to have been horrible, due to overcrowding, cruel treatment, insufficient food and water, and inadequate sanitary facilities, bedding and medical care.

1972. In this section, the Chamber will analyse the events pertaining to these allegations by detention site, namely (1) the Aladinići/Crnići school, (2) the private homes, (3) the TGA factory, (4) the VPD (4), and (5) the other non-specified detention sites.

1973. The Chamber first indicates, that in the narrative of events covered below, the name of Marijan Prce is mentioned several times by various witnesses. Many of them simply identified him as an HVO soldier.<sup>4855</sup> However, the Chamber finds the statements of *Fahrudin Rizvanbegović* particularly credible as to Marijan Prce's responsibilities, inasmuch as he very clearly explained that Prce was the commander of the MUP platoon assigned to the Begovina district of the town of Stolac and made a clear distinction between the MUP and the HVO military police.<sup>4856</sup> The Chamber therefore finds that Marijan Prce was a member of the MUP at the time of the events.

1. Detentions in the Aladinići/Crnići School

1974. In order to better structure the information pertaining to the events alleged in relation to the school, the Chamber will (a) identify the school, (b) discuss detentions at the school in July 1993, (c) after 4 August 1993 and (d) examine which authorities were responsible for the detention centre.

a) Identification of the Aladinići/Crnići School

1975. The Chamber observes that although some witnesses mentioned the Aladinići School and others the Crnići School, taken as a whole, the evidence clearly demonstrates that this was the same

<sup>4855</sup> P 09946 under seal, para. 72; Witness BI, T(F), p. 2457; P 09986, p. 4.

<sup>4856</sup> Fahrudin Rizvanbegović, T(E), p. 2239. Witness CQ also identified Marijan Prce as a member of the MUP, Witness CQ, T(F), p. 11452, private session.

school, the one called *Branko Šota*.<sup>4857</sup> *Zijad Vujinović*, a former student at that school, confirmed that the *Branko Šota* School served both villages.<sup>4858</sup>

b) Detentions at the Aladinići/Crnići School in July 1993

1976. The testimony received by the Chamber shows that, on 13 July 1993, the HVO arrested women, children and elderly in several villages in Stolac Municipality, including Aladinići, Prenj and Pješivac Greda, and detained them at the Aladinići/Crnići School.<sup>4859</sup> The people who came to the school on 13 July 1993 remained in detention until the third week of July 1993.<sup>4860</sup>

1977. The Chamber does not have the exact number of people incarcerated at the Aladinići/Crnići School. *Witness CH* spoke of roughly one thousand;<sup>4861</sup> whereas *Šejla Humačkić* said several hundred people,<sup>4862</sup> whereas *Fata Kaplan* spoke of 3,000.<sup>4863</sup> Although the numbers put forward differ, the Chamber can nonetheless ascertain that there were at least several hundred detainees at the Aladinići/Crnići School in July 1993. Despite this, the Chamber considers that these differences do not vitiate the overall credibility of these testimonies, which are in substantial agreement over the remaining points.

1978. As concerns the conditions of confinement at the school in July 1993, the witnesses said that the detainees slept on the ground, did not have toilets, did not receive anything to eat during the first three days of confinement, and that, subsequently, they were forced to share pieces of bread with one another as well as several tins of food brought to them by the guards.<sup>4864</sup>

<sup>4857</sup> For example, *Fata Kaplan* placed the *Branko Šota* School in Aladinići, T(F), pp. 2133-2135; IC 00010 and IC 00011, and *Witness CF* spoke about the Crnići school, P 09751 under seal, p. 5; P 09557; P 09558, although both identified the same building.

<sup>4858</sup> P 10147 (French version), p. 4.

<sup>4859</sup> *Witness NN*, P 10219 under seal, the *Naletilić and Martinović* Case, T(F), pp. 5877-5879; P 09986, p. 4; P 10147 (French version), p. 4; P 09753 under seal (French version), pp. 2 and 3; P 10135, para. 32; *Witness CD*, T(F), pp. 10540 and 10545; *Witness CQ*, T(F), pp. 11433 and 11528, private session; P 09749 under seal, pp. 3 and 5; *Fata Kaplan*, T(F), pp. 2133-2135; P 09943, paras 4, 8 and 10; P 09945, para. 6.

<sup>4860</sup> P 09753 under seal (French version), p. 3. *Witness CQ*, T(F), p. 11434; P 09943, para. 8; P 10135, para. 32; *Witness CQ*, T(F), p. 11434; *Fata Kaplan*, T(F), p. 2141; P 09945, para. 11.

<sup>4861</sup> P 03134, pp. 3 and 4; P 03075, pp. 1 and 2; *Witness CH*, T(F), p. 10861, private session; *Witness CH*, T(E), p. 10861.

<sup>4862</sup> P 09986, p. 4.

<sup>4863</sup> *Fata Kaplan*, T(F), pp. 2136 and 2139.

<sup>4864</sup> P 09986, p. 4; P 10135, para. 32; *Witness CD*, T(F), p. 10553, private session; P 09749 under seal, p. 5; *Fata Kaplan*, T(F), p. 2136.

1979. The only exhibit the Chamber has pertaining to the treatment of the detainees is the statement by *Šejla Humačkić* received pursuant to Rule 92 *bis* of the Rules, saying that none of the detainees at the school was beaten by the members of the HVO guarding them.<sup>4865</sup>

c) Detentions at the Aladinići/Crnići School from 4 August 1993

1980. On 4 August 1993, a second wave of women, children and elderly from Stolac Municipality arrived at that same school from other HVO detention facilities, including the TGA factory and Koštana Hospital, as well as from the town of Stolac.<sup>4866</sup> The detainees arrived at the school on 4 August 1993, remaining there until roughly 14 August 1993, when they were transferred to the VPD.<sup>4867</sup>

1981. The women, children and elderly detained at the school during that period also slept on the ground and the only available toilet had no running water.<sup>4868</sup> The detainees who arrived at the school on 4 August 1993 were deprived of food for the first two days they were detained but on the third day, the soldiers from the HVO gave them bread, powdered milk and cheese spread.<sup>4869</sup>

1982. As concerns the number of detainees, the Chamber has relied on the testimony of *Witness BI*, according to whom 250 to 300 Muslim women, children and elderly were detained at the school on 4 August 1993.<sup>4870</sup>

d) Authorities Responsible for the HVO Detention Centre at the Aladinići/Crnići School

1983. A number of witnesses recognised Zdenko Beno and Mile Pazin as the persons in charge of the HVO detention centre at the Aladinići/Crnići School.<sup>4871</sup> *Witness CF* identified Zdenko Beno as a member of the Military Police because he was wearing a white sash.<sup>4872</sup> The Chamber does not know to which unit Mile Pazin belonged. The *Domobrani* were assigned to guard the school, subject to the authority of those two individuals.<sup>4873</sup>

<sup>4865</sup> P 09986, p. 4.

<sup>4866</sup> P 09751 under seal, p. 5; P09557; P 09558. *Witness CF* gives the names of those persons but does not specify their ethnicity; P 09750 under seal, p. 5; P 09946 under seal, para. 72; P 09944, paras 11 and 13; *Witness CD*, T(F), pp. 10557 and 10558, private session.

<sup>4867</sup> P 09944, para. 14; P 09750 under seal, p. 5; *Witness CD*, T(F), p. 10560, private session; P 09751 under seal, p. 6; *Witness BI*, T(F), p. 2427; *Witness CL*, T(F), pp. 11067, 11068, private session, and 11069.

<sup>4868</sup> P 09944, para. 13; P 09750 under seal, p. 5.

<sup>4869</sup> P 09944, para. 13; *Witness CD*, T(F), p. 10558, private session.

<sup>4870</sup> *Witness BI*, T(F), pp. 2426 and 2427.

<sup>4871</sup> *Witness CD*, T(F), p. 10557, private session; P 09750 under seal, p. 5; P 09751 under seal, pp. 5 and 6.

<sup>4872</sup> P 09751 under seal, p. 4 of the French version.

<sup>4873</sup> P 09750 under seal, p. 5; P 09751 under seal, p. 5. In English, these are the *Home Guards*: see Exhibit P 09752 under seal, p. 3.



1984. *Witness CL* also saw Željko Raguž, a member of the Military Police,<sup>4874</sup> Marijan Prce, a member of the MUP,<sup>4875</sup> and Pero Raguž, the head of the Stolac MUP, at the school on 4 August 1993.

## 2. Detentions in Private Houses in the village of Pješivac Greda

1985. All of the testimony received by the Chamber concurs that on or about 19 July 1993, the HVO brought the women, children and elderly detained at the Aladinići/Crnići School to private homes in the village of Pješivac Greda which belonged to the Đulić and Kaplan families. Those people remained in detention there until 2 August 1993.<sup>4876</sup> The testimony states that the HVO grouped together 13 families per house, that the detainees had some food and that the soldiers from the HVO brought food they collected in the village proper to the individuals detained in the home of Fata Kaplan.<sup>4877</sup>

1986. Concerning the authorities responsible for guarding those private houses, the Chamber notes that the witnesses generally referred to the HVO soldiers.<sup>4878</sup>

1987. According to Šejla Humačkić, the soldiers of the HVO who searched the detainees in the private houses in Pješivac Greda on 19 July 1993 had a Zagreb accent and were wearing uniforms and black hats. She said that Marijan Prce, an HVO soldier<sup>4879</sup> assigned to guard the Aladinići/Crnići School was also present.<sup>4880</sup> Nevertheless, she is the only witness who said that Marijan Prce was there in the private houses. Insofar as her testimony was received pursuant to Rule 92 *bis* of the Rules and absent corroborating evidence, the Chamber cannot find that Marijan Prce and the MUP were involved with the detention in these private houses.

1988. Moreover, *Witness EE* said that the *Domobrani* were guarding the houses.<sup>4881</sup> Insofar as this testimony was not only admitted under Rule 92 *bis* of the Rules but is also hearsay,<sup>4882</sup> the Chamber cannot find that the *Domobrani* were assigned to guard the Muslims in the private houses in Pješivac Greda.

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<sup>4874</sup> P 04671.

<sup>4875</sup> Witness BI, T(F), p. 2457.

<sup>4876</sup> P 09753 under seal, p. 3 of the French version; P 10135 under seal, para. 33; Fata Kaplan, T(F), pp. 2139-2143; P 09945, paras 11 and 14; P 09986, p. 4.

<sup>4877</sup> Fata Kaplan, T(F), pp. 2140-2142; P 09986, p. 4.

<sup>4878</sup> P 09753, p. 3.

<sup>4879</sup> Witness BI, T(F), p. 2457.

<sup>4880</sup> P 09986, p. 4.

<sup>4881</sup> P 10135 under seal, para. 33.

<sup>4882</sup> The Witness was detained in Dretelj Prison as of the date of the events he recounts; P 10135 under seal, paras 30, 31 and 101.

1989. In view of the preceding, the Chamber can find that the HVO detained women, children and elderly in private houses in Pješivac Greda. However, it has no evidence concerning how the detainees were treated.

### 3. Detentions at the TGA Factory

1990. The Chamber heard *Witnesses CE* and *CF* address the detention of the inhabitants of Stolac in the TGA factory who indicated that, once all of the remaining inhabitants of the town of Stolac had been arrested on 4 August 1993, the HVO armed forces and Military Police forced the majority of them to go to the TGA factory.<sup>4883</sup> According to *Witness CE*, Marijan Prce and Pero Raguž were in charge of the operation removing the women, children and elderly of the town of Stolac and detaining them at the TGA factory.<sup>4884</sup> The Chamber notes that, in his prior testimony *Witness CE* said that Pero Raguž led the Stolac MUP, whereas, when testifying in court, he said that Pero Raguž became the Chief of the Military Police “when the war broke out”.<sup>4885</sup> The Chamber considers that, as previously specified, when taken in its entirety, the evidence demonstrates that Pero Raguž retained his post as chief of the Stolac MUP at all times relevant under the Indictment.<sup>4886</sup> It is the opinion of the Chamber that this conflation by the witness still does not undermine his testimony as a whole.

1991. In view of the preceding, the evidence supports a finding by the Chamber that the HVO detained women, children and elderly at the TGA factory. However, it has no information about the conditions of confinement or how the detainees were treated in that factory.

### 4. Incarcerations at the VPD

1992. The evidence shows that the HVO detained Muslim women, children and elderly from Stolac, including some from the Aladinići/Crnići School, inside the VPD from August to November 1993.<sup>4887</sup> Despite not having the exact number of detainees in the VPD at that time, the Chamber does point to *Sabina Hajdarović* stated that in October 1993, after the arrival of a group of aged

<sup>4883</sup> P 09750 under seal, p. 4; P 09751 under seal, p. 4.

<sup>4884</sup> P 09750 under seal, p. 4; *Witness CE*, T(F), p. 10623; P 03347.

<sup>4885</sup> *Witness CE*, T(F), pp. 10622 and 10623.

<sup>4886</sup> See “The Political and Administrative Structure in the Municipality of Stolac” in the Chamber’s factual findings relating to the Municipality of Stolac and, specifically, P 03347.

<sup>4887</sup> P 09986, p. 4; P 09946 under seal, para. 72; P 09750 under seal, pp. 5 and 6; P 09944, paras 5, 11 and 14; *Witness CD*, T(F), p. 10560, private session; P 09751 under seal, p. 6.

and/or handicapped persons expelled from the villages of Stolac Municipality, there were 65 detainees.<sup>4888</sup>

1993. One of the witnesses identified Marijan Prce and Boško Bošković, both members of the MUP,<sup>4889</sup> as responsible for questioning the detainees in the VPD.<sup>4890</sup> Zdenko Beno, a member of the Military Police, was in charge of the VPD.<sup>4891</sup> *Witness CD* stated that the VPD was guarded by four armed, plainclothes guards, while *Witness CF* stated that they were *Domobrani*.<sup>4892</sup>

1994. The evidence set out above supports a finding by the Chamber that the VPD – where Muslim women, children and elderly were detained – fell within the purview of the Military Police and was guarded by a *Domobrani* unit. The MUP was in charge of questioning detainees. The Chamber recalls that the formal hierarchical relationship between the *Domobrani* and the other HVO units was analysed previously, in the part of the Judgement pertaining to the HVO Military Structure.<sup>4893</sup>

1995. Concerning the conditions of confinement in the VPD, the Chamber notes that the testimonies it has on this point do not concur. Thus, some witnesses stated that the detainees in the VPD, including the sick or handicapped, slept on the ground, without any blankets, and had only one toilet.<sup>4894</sup> *Sabina Hajdarović* stated that the conditions of detention at the VPD were better than at the Aladanići/Crnići School: the detainees slept on rugs in the VPD administrative offices, were fewer to a room, and received food daily, including bread and fish or tinned meats.<sup>4895</sup> *Sabina Hajdarović* and her family had their own sleeping quarters.<sup>4896</sup>

1996. In view of the preceding, the Chamber cannot find that the conditions of confinement at the VPD were especially harsh.

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<sup>4888</sup> P 09944, para. 18.

<sup>4889</sup> See “The Detention of the Women, Children and Elderly Persons of Stolac Municipality” in the Chamber’s factual findings relating to the Municipality of Stolac. As for Boško Bošković, the Chamber lends credence to the statements of *Witness CQ*, T(F), p. 11562, private session, who identified him as a member of the MUP.

<sup>4890</sup> P 09946 under seal, para. 72.

<sup>4891</sup> P 09944, para. 15; P 09751 under seal, p. 6.

<sup>4892</sup> *Witness CD*, T(F), p. 10563, private session; P 09751 under seal, p. 6.

<sup>4893</sup> See “The *Domobrani*” in the Chamber’s findings relating to the military structure of the HZ(R) H-B.

<sup>4894</sup> P 09750 under seal, p. 5; P 09751 under seal, p. 6.

<sup>4895</sup> On this point the testimony is corroborated by *Witness CF*, P 09751 under seal, p. 6.

<sup>4896</sup> P 09944, para. 15.

1997. Furthermore, Sabina *Hajdarović* was the only one to have mentioned the treatment of the detainees in the VPD. According to her, the VPD guards conducted themselves correctly with the detainees.<sup>4897</sup>

##### 5. Detentions in other Locations not Specified in the Indictment

1998. *Witness CD*, a Muslim from Aladinići aged 56, arrested around 13 July 1993 by HVO soldiers and military policemen, stated that, on 13 July 1993, HVO soldiers and military policemen locked her up for several days along with other Muslim women and elderly in a shop in the village of Aladinići owned by Deni Hanić.<sup>4898</sup> *Witness CD* and the other detainees could not leave that place to go to the toilets and were not given anything to eat.<sup>4899</sup>

1999. *Sabina Hajdarović* stated that the HVO detained women, children and elderly persons in the *Mak Dizdar* School in Stolac on 4 August 1993 for several hours before taking them to the TGA factory, and then to the Aladinići/Crnići School.<sup>4900</sup>

2000. The Chamber has no evidence concerning the conditions of confinement or the treatment of the individuals incarcerated individuals there.

#### **E. Waves of Removals of Arrested and/or Imprisoned Women, Children and Elderly People to Territories under ABiH Control**

2001. The evidence previously analysed by the Chamber indicates that the HVO removed women, children and elderly persons to Blagaj in several waves.

2002. Accordingly, in early August 1993, the HVO moved the women, the children and elderly from Stolac Municipality, whom it had earlier grouped together in private houses of Pješivac Greda, to Buna aboard trucks, and then forced them to walk to Blagaj, a territory under ABiH control, while firing weapons over their heads.<sup>4901</sup>

2003. Subsequently,<sup>4902</sup> the HVO brought some of those who had been collected in the town of Stolac on 4 August 1993 directly to Blagaj *via* Buna.<sup>4903</sup>

<sup>4897</sup> P 09944, para. 17.

<sup>4898</sup> *Witness CD*, T(F), pp. 10540-10542, private session.

<sup>4899</sup> *Witness CD*, T(F), p. 10544.

<sup>4900</sup> P 09944, paras 7-13.

<sup>4901</sup> *Witness BB*, T(F), pp. 17197, 17198, 17227, 17254 and 17255, closed session; P 06697, paras 54 and 58; P 09753 under seal, p. 3 of the French version; *Witness C*, T(F), p. 22365, closed session; P 09986, p. 4; P 09945, para. 15; *Fata Kaplan*, T(F), pp. 2142-2144.

<sup>4902</sup> The evidence provides nothing more specific about the dates of those events.

2004. Lastly, the HVO removed to Buna, and later Blagaj, some of the people detained at the VPD on 2 October 1993.<sup>4904</sup> The detainees remaining at the VPD were brought to Blagaj, *via* Buna, in November 1993.<sup>4905</sup>

#### **F. Detention of Muslim Men at Koštana Hospital during Summer and Autumn of 1993**

2005. Paragraphs 158 and 184 of the Indictment allege that, on or about 10 May 1993, the HVO converted the Koštana Hospital in Stolac into an HVO Military Police facility; that they transferred the patients there to the Grabovina Barracks, in Čapljina Municipality; that on 24 July 1993, these patients were transferred to a territory under ABiH control and that the Koštana Hospital was used as a short-term detention centre for Muslim men from Bosnia. Paragraph 169 of the Indictment alleges that, during the summer and autumn of 1993, HVO forces severely mistreated the Muslim men detained at Koštana Hospital, with at least five Muslim men dying between July and mid-October 1993.

2006. The Chamber will analyse the allegations contained in those paragraphs of the Indictment, addressing (1) the conversion of the Koštana Hospital into a Military Police base and the removal of the patients to the Grabovina Barracks, (2) the removal of the sick individuals to the territories under ABiH control, (3) the detention of Muslim men at the hospital, and (4) the treatment of the detainees and the deaths of some of them.

##### **1. Conversion of Koštana Hospital into a Military Police Base and Removal of Patients to Grabovina Barracks**

2007. On 7 May 1993, Neđeljko Obradović, Commander of the 1<sup>st</sup> *Knez Domagoj* Brigade of the HVO, gave the order to forbid new patients from entering Koštana Hospital. *Božo Pavlović*<sup>4906</sup> confirmed receipt of this order.<sup>4907</sup>

2008. In May 1993, the HVO requisitioned Koštana Hospital, transporting the sick there in military trucks to the Grabovina Barracks, in Čapljina where they were detained without medical assistance.<sup>4908</sup> The HVO then arrested the hospital's director, Dr Mehmet Kapić.<sup>4909</sup> *Hikmeta*

<sup>4903</sup> P 09947, pp. 6 and 7; Witness BI, T(F), pp. 2426-2428.

<sup>4904</sup> P 09751 under seal, p. 7; P 08742 under seal.

<sup>4905</sup> P 09750 under seal, pp. 4 and 7; P 09751 under seal, p. 7. *See also* Exhibit P 08742 under seal.

<sup>4906</sup> Commander of the *Knez Domagoj* Brigade's forward post; Božo Pavlović, T(F), pp. 46787-46788, 46793, 46794, 46919 and 46942.

<sup>4907</sup> P 02215, p. 4; Božo Pavlović, T(F), pp. 47013 and 47014; Witness CU, T(F), pp. 12298-12300, closed session; Witness BB, T(F), p. 17168, closed session.

<sup>4908</sup> P 09750 under seal, pp. 2 and 3; Witness CE, T(F), p. 10602, private session, and p. 10621; P 09751 under seal, pp. 2 and 3; P 09752 under seal, p. 1; Božo Pavlović, T(F), pp. 47013 and 47014. The Chamber notes that according to

*Rizvanović*,<sup>4910</sup> whose statement was received pursuant to Rule 92 *bis* of the Rules, placed the take-over of the hospital by the HVO and the arrest of its director in April 1993.<sup>4911</sup> However, in view of all the remaining evidence, particularly the aforementioned order by Colonel Obradović, the Chamber considers those events to have occurred in early May 1993.

2009. According to *Witness C*,<sup>4912</sup> a platoon from the 3<sup>rd</sup> Company of the 3<sup>rd</sup> Battalion of the Military Police was quartered on the ground floor of Koštana Hospital.<sup>4913</sup> *Witness CM* identified Pero Matić as the Commander of the Military Police unit based in Koštana.<sup>4914</sup> The Stolac Battalion of the 1<sup>st</sup> *Knez Domagoj* Brigade was also quartered in the basement of the hospital, where they guarded several detainees.<sup>4915</sup> *Witness CD* stated that Miroslav Raguž, an HVO soldier, questioned him at Koštana Hospital.<sup>4916</sup>

## 2. Removal of the Sick from Koštana Hospital to Territories Under ABiH Control

2010. The Chamber has relied on the testimony of *Salko Bojčić*,<sup>4917</sup> who stated that during the night of 25 to 26 July 1993, an HVO military police officer<sup>4918</sup> entered Hangar No 3 in the Gabela Prison and asked whether there was a driver among the prisoners who was capable of driving all types of vehicles.<sup>4919</sup> As he volunteered, two military police officers brought *Salko Bojčić* by car to the Grabovina Barracks in Čapljina. On reaching Grabovina Barracks, one of the military police officers ordered him to climb into a 2-tonne Mercedes truck, not knowing what was inside, and to follow the car.<sup>4920</sup> Once the convoy had gone past the HVO headquarters at Buna, right after *Salko Bojčić*, heard a woman sobbing in the rear of the truck, he decided not to follow the car which had

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*Hikmeta Rizvanović*, the patients from the Koštana Hospital were transferred to Mostar; P 09947, p. 4. Nevertheless, in view of all the other evidence, the Chamber considers that the destination of those patients was the Grabovina Barracks, in Čapljina.

<sup>4909</sup> P 09751 under seal, pp. 2 and 3.

<sup>4910</sup> She was the director of the Stolac Library until 4 August 1993; P 09947, pp. 2, 6 and 7.

<sup>4911</sup> P 09947, p. 4.

<sup>4912</sup> *Witness C*, T(E), p. 22312, closed session.

<sup>4913</sup> *Witness C*, T(F), p. 22563, closed session. Likewise testifying that the military police were present at the hospital were Edin Baljić, P 09943, para. 14; Ibro Zlomužica, P 09948, para. 26; *Witness EF*; P 10140 under seal, p. 3; Šefik Ratkušić, P 10229, p. 2, paras 4 and 6; Zijad Vujanović, P 10147 (French version), p. 4; *Witness CM*, P 09753 under seal (French version), p. 3; *Witness CQ*, T(F), pp. 11434, 11435, 11436, 11437 and 11455, private session. *See P 09745*.

<sup>4914</sup> P 09753 under seal (French version), p. 3.

<sup>4915</sup> *Witness C*, T(F), p. 22563, closed session.

<sup>4916</sup> *Witness CD*, T(F), pp. 10527, 10545-10547, private session.

<sup>4917</sup> Detained at Gabela Prison from 19 to 25 July 1993; P 09798 (French version), p. 3.

<sup>4918</sup> *Salko Bojčić*, T(F), p. 11193, private session.

<sup>4919</sup> P 09798 (French version), p. 3.

<sup>4920</sup> P 09798 (French version), p. 4; *Salko Bojčić*, T(F), pp. 11193 and 11194, private session.

entered a road and accelerated, continuing on his way toward Blagaj.<sup>4921</sup> The military police officers in the car following him did not attempt to follow the truck *Salko Bojčić* was driving.<sup>4922</sup>

2011. Near Blagaj, *Salko Bojčić* opened the rear of the truck and discovered eleven women of all ages lying on the floor of the truck, as well as two men about forty years of age, one of whom was mentally handicapped.<sup>4923</sup> The women told *Salko Bojčić* that they were invalid patients from Koštana Hospital in Stolac.<sup>4924</sup> Among them, only one could stand up – with difficulty – whereas all of the others were completely invalid.<sup>4925</sup> *Salko Bojčić* drove the truck to the centre of Blagaj, where the invalid persons were sheltered in the home of the Imam.<sup>4926</sup>

### 3. Incarceration of the Muslim Men in Koštana Hospital and their Departure to other HVO Detention Facilities

2012. The Chamber points out that Muslim men arrested by the HVO in Stolac Municipality were detained at Koštana Hospital between May and October 1993.<sup>4927</sup> The evidence shows that the HVO detained Muslim men belonging to the HVO<sup>4928</sup> and the ABiH<sup>4929</sup> at Koštana Hospital, as well as Muslim men not members of any army.<sup>4930</sup> *Witness EE* stated that women and children were detained at Koštana Hospital.<sup>4931</sup> However, this testimony, received pursuant to Rule 92 *bis* provides no additional clarification and is uncorroborated by other evidence on this point. For this reason, the Chamber deems it appropriately disregarded. Between June and October 1993, the HVO brought the detainees from Koštana Hospital to other HVO detention facilities, such as the prisons in Gabela or Dretelj.<sup>4932</sup>

<sup>4921</sup> P 09798 (French version), pp. 4 and 5.

<sup>4922</sup> P 09798 (French version), p. 4.

<sup>4923</sup> P 09798 (French version), p. 5.

<sup>4924</sup> P 09798 (French version), p. 5.

<sup>4925</sup> P 09798 (French version), p. 5.

<sup>4926</sup> P 09798 (French version), p. 5.

<sup>4927</sup> Witness BI, T(F), pp. 2401 and 2402; P 09943, para. 11; P 09948, paras 13, 15, 17, 29 and para. 33; P 10140 under seal, p. 3; P 10229, p. 2, para. 3; P 10147, p. 4 of the French version; P 09753 under seal, pp. 2 and 3 of the French version; Witness CM is a representative victim from paragraph 169 of the Indictment mentioned in the Annex to the Indictment; Witness CQ, T(F), pp. 11434-11435, private session. *Witness CQ* gave the names of the other 15 men arrested, in private session: Witness CQ, T(F), pp. 11436-11437 and 11455, private session; P 09745.

<sup>4928</sup> P 10229, p. 2; P 09943, paras 4 and 11.

<sup>4929</sup> P 10141 under seal, para. 1; Witness CQ, T(F), pp. 11423-11425, private session.

<sup>4930</sup> Witness BI, T(F), p. 2395, closed session: *Witness BI* was at least 15 years of age at the time of the events; P 09948, para. 2; Zijad Vujinović, P 10147 (French version), p. 3; P 09753 under seal (French version), p. 2.

<sup>4931</sup> P 10135 under seal, para. 43.

<sup>4932</sup> P 10229, p. 2, para. 6; P 09753 under seal (French version), p. 6; P 10140 under seal, pp. 3 and 5; Witness CQ, T(F), pp. 11453 and 11463, private session.

#### 4. Deaths and Severe Beatings of Detainees at Koštana Hospital

2013. The Ćorić Defence alleges that the HVO Military Police was in no way responsible for management and security of Koštana Hospital and that, as a result, the Accused Ćorić cannot be held responsible for criminal acts allegedly committed there.<sup>4933</sup>

2014. The Chamber holds that, although the evidence does not show that the Military Police was responsible for managing the Hospital, it does clearly show that members of the Military Police were implicated in several deaths and severe beatings.

##### a) Deaths of Detainees at the Koštana Hospital

2015. On 3 August 1993, Milenko Perić and Boro Perić, two members of the Military Police, interrogated and beat Vejsil Đulić, a 57-year old detainee and a “civilian”, for roughly an hour and a half, according to the statement by *Witness CM*.<sup>4934</sup> Then, Vejsil Đulić was laid down in front of *Witness CM*'s cell, his face covered with bruises and no longer able to walk.<sup>4935</sup> *Witness CM* laid him on a bed, where he died shortly thereafter from his injuries.<sup>4936</sup> Immediately following this, Salem Đulić, who had been severely beaten earlier, suffered the same fate as Vejsil Đulić. He, too, died several moments later as a result of his injuries.<sup>4937</sup> Subsequently, soldiers came by truck to get *Witness CM* and other detainees, to have them bury the bodies of Vejsil Đulić and Salem Đulić in the cemetery of the hamlet where the Kaplans lived, only fifty centimetres deep and covered with a simple sheet, while two or three HVO military police officers stood guard.<sup>4938</sup>

2016. The Chamber also received testimony from several witnesses recounting the death of Salko Kaplan – arrested on 1 August 1993 – following severe beatings by HVO soldiers from Stolac at Koštana Hospital.<sup>4939</sup> *Witness CD* explained to the Chamber that he had been severely beaten at Koštana Hospital and then taken to Dretelj Prison, where he arrived nearly comatose. He died shortly after his arrival.<sup>4940</sup>

2017. Witnesses, including *Witness CQ*, also provided the Chamber with information about the death of Ibro Razić. On 25 September 1993, as 16 Muslim men arrived at Koštana Hospital, members of the Military Police violently assaulted them with truncheons, rifle butts, belts, chair

<sup>4933</sup> Ćorić Defence Final Trial Brief, paras 601-609.

<sup>4934</sup> P 09753 under seal, p. 4 of the French version.

<sup>4935</sup> P 09753 under seal, pp. 4 and 5 of the French version.

<sup>4936</sup> P 09753 under seal, p. 4 of the French version; P 10135 under seal, para. 44.

<sup>4937</sup> P 09753 under seal, p. 5 of the French version; P 10135 under seal, para. 44.

<sup>4938</sup> P 09753 under seal, p. 5 of the French version.

<sup>4939</sup> Witness DD, T(F), p. 14452, closed session; Fata Kaplan, T(F), pp. 2125 and 2148.



legs and their fists, for an hour or two.<sup>4941</sup> Subsequently, Vicko Marjanović, a member of the Military Police, brought *Witness CQ* and another detainee to a room where Ante Kresić and Dragan Kresić – members of the Military Police<sup>4942</sup> – were standing, and where Ibro Razić lay heaped on the floor, gravely injured.<sup>4943</sup> Dragan, Ante, Vide and Jovo Kresić ordered *Witness CQ* and the other detainee to attach the wires from a telephone to the toes and ears of Ibro Razić and then press on a button sending electrical charges to those parts of his body.<sup>4944</sup> They threatened the detainees with death if they failed to carry this out.<sup>4945</sup> The two detainees carried this out and were forced to press the button, harder and harder to make the charges more powerful.<sup>4946</sup> This session lasted 15 to 20 minutes.<sup>4947</sup> Ibro Razić very quickly lost consciousness.<sup>4948</sup> The goal of this session was to force the detainees to disclose who had killed Ivan Kresić, an HVO soldier, and where he was buried.<sup>4949</sup> Ibro Razić, who was also beaten after being brought to Gabela Prison, died as a result of his injuries there.<sup>4950</sup>

2018. On 25 September 1993, Dragan and Ante Kresić severely beat Suad Obradović.<sup>4951</sup> Dragan Kresić then dragged the body of Suad Obradović to the gaol cell, located underground. *Witness CQ* and *Edin Baljić* saw that he had sustained severe injuries to the head, that his face was covered with bruises and that he was bleeding profusely from his mouth, ears and nose.<sup>4952</sup> Suad Obradović succumbed the next morning before sunrise to the injuries he received while being mistreated.<sup>4953</sup> His body was then taken by several detainees and several guards, to the local Muslim cemetery in Stolac.<sup>4954</sup>

2019. The Chamber finds that members of the Military Police and the HVO Army participated in these beatings and this physical violence against Salem and Vejsil Đulić, Suad Obradović and Ibro Razić while they were detained at Koštana Hospital, causing their death. Soldiers from the Stolac HVO also beat Salko Kaplan severely, leading to his death, too, in August 1993.

<sup>4940</sup> Witness DD, T(F), p. 14452, closed session.

<sup>4941</sup> Witness CQ, T(F), p. 11442, private session; P 09943, para. 11 and 13.

<sup>4942</sup> 5D 01056.

<sup>4943</sup> Witness CQ, T(F), pp. 11443-11444, private session; P 09943, para. 19.

<sup>4944</sup> Witness CQ, T(F), pp. 11444-11445, private session.

<sup>4945</sup> Witness CQ, T(F), p. 11445, private session; P 09948, paras 29 and 45.

<sup>4946</sup> Witness CQ, T(F), p. 11445, private session.

<sup>4947</sup> Witness CQ, T(F), p. 11447, private session.

<sup>4948</sup> Witness CQ, T(F), p. 11447, private session.

<sup>4949</sup> Witness CQ, T(F), pp. 11443-11445, private session.

<sup>4950</sup> Witness CQ, T(F), p. 11447, private session, and pp. 11480-11481; P 08302; P 09943, paras 15 and 19; P 09948, paras 29 and 45.

<sup>4951</sup> Witness CQ, T(F), p. 11448, private session; P 09943, para. 20.

<sup>4952</sup> Witness CQ, T(F), p. 11448, private session; P 09943, para. 20.

<sup>4953</sup> Witness CQ, T(F), p. 11448 and pp. 11452-11453, private session; P 05385; P 09948, para. 30; P 09943, para. 20.

<sup>4954</sup> P 09943, para. 20.

## b) Severe Beatings at Koštana Hospital

2020. Several witnesses stated that they were severely beaten by members of several HVO units present at Koštana Hospital.

2021. *Witness EF* stated that, during his brief stay at Koštana Hospital from 19 to 20 June 1993,<sup>4955</sup> he was twice interrogated by members of the HVO,<sup>4956</sup> including Mišo Papac<sup>4957</sup>, who beat him so hard with billy clubs that they fractured his nose and cut his right ear with a knife.<sup>4958</sup> *Witness EF* indicated that detainees Faruk Šarić and Osman Obradović were likewise subjected to physical violence while being questioned that day.<sup>4959</sup> *Witness EF* stated he was not beaten during his second interrogation session by members of the MUP on that same day.<sup>4960</sup>

2022. According to *Zijad Vujinović*, who was arrested on 18 July 1993 and transferred to Koštana Hospital by members of the HVO *Knez Domagoj Brigade*,<sup>4961</sup> detainees Adnan Selmić, Suad Razić, Suad Boškailo and Hakija Omanić bore traces of blows.<sup>4962</sup> *Ibro Zlomužica* stated that, during his detention at Koštana on 18 and 19 July 1993,<sup>4963</sup> an SIS colonel from the HVO brigade in Čapljina came to question the prisoners individually, but did not beat or mistreat them.<sup>4964</sup>

2023. The Chamber also heard *Witness CM*<sup>4965</sup> who stated that while he was detained at Koštana Hospital on 2 August 1993,<sup>4966</sup> he saw three detainees with blood stains on their clothing and traces of blows on their faces.<sup>4967</sup> That same day, Milenko Perić *alias* “Mile” and Boro Perić, two members of the Military Police, interrogated and beat Haso Đulić, Suad Đulić, Emir Đulić, Đemo Selimić, and Šerif Selimić.<sup>4968</sup>

2024. On 3 August 1993,<sup>4969</sup> a member of the HVO ordered *Witness CM* to beat his head against a wardrobe, which he did until it split open.<sup>4970</sup> *Witness CM* was then forced to spread his arms and

<sup>4955</sup> P 10140 under seal, pp. 3 and 5; P 10141 under seal, para. 2.

<sup>4956</sup> P 10140 under seal, p. 4.

<sup>4957</sup> P 10141 under seal, paras 3 and 5.

<sup>4958</sup> P 10140 under seal, p. 4; P 10141 under seal, para. 5.

<sup>4959</sup> P 10141 under seal, para. 7.

<sup>4960</sup> P 10140 under seal, p. 4; P 10141 under seal, para. 6.

<sup>4961</sup> P 10147 (French version), p. 4.

<sup>4962</sup> P 10147 (French version), pp. 3-5.

<sup>4963</sup> P 10147 (French version), pp. 4 and 5.

<sup>4964</sup> P 09948, para. 23.

<sup>4965</sup> P 09753 under seal (French version), pp. 2 and 3; IC 00137 under seal; IC 00136 under seal; P 08905 under seal, p. 3; *Witness CM*, T(F), pp. 11089-11090, 11118-11120, private session.

<sup>4966</sup> P 09753 under seal (French version), p. 3; P 09745 under seal; *Witness CM*, T(F), p. 11126, private session.

<sup>4967</sup> P 09753 under seal (French version), p. 3; P 09756; P 09757; *Witness CM*, T(F), p. 11126, private session.

<sup>4968</sup> P 09753 under seal (French version), pp. 3 and 4.

<sup>4969</sup> P 09753 under seal (French version), pp. 3 and 4.

<sup>4970</sup> P 09753 under seal (French version), pp. 4 and 6.

legs, and every one of the individuals present,<sup>4971</sup> save one, took turns beating him with a billy club, punching and kicking him, all over his body, including his genitals, until he collapsed.<sup>4972</sup> Nikita Bošković, a military police officer, put a switchblade to the throat of *Witness CM*, forcing him to get up.<sup>4973</sup> Members of the HVO and a military police officer continued to beat *Witness CM* for roughly an hour, until another military police officer showed up, forcing the brutality to stop.<sup>4974</sup>

2025. On 3 August 1993, Vidan Prkaćin, wearing a cap on his head with the U insignia of the “Ustashas”,<sup>4975</sup> and Marinko Rajić (called “Migo”),<sup>4976</sup> both soldiers dressed in camouflage, entered *Witness CM*’s cell,<sup>4977</sup> and Migo struck *Witness CM* and another detainee with a truncheon on the head, shoulders and neck.<sup>4978</sup>

2026. On or about 25 September 1993, Miro Bošković, *alias* “Beli”, and Nikica Obradović, *alias* Hegilo, struck *Witness CQ* so hard that he lost consciousness and was no longer able to get up.<sup>4979</sup> He received the severe beatings in the presence of Boško Bošković, an MUP investigator,<sup>4980</sup> Pero or Petar Matić, Commander of the Stolac Military Police,<sup>4981</sup> and Marijan Prce, who was a member of the MUP.<sup>4982</sup> *Witness CQ* said Dragan and Ante Kresić, members of the Military Police,<sup>4983</sup> struck him on several occasions during his detention at Koštana Hospital.<sup>4984</sup> Moreover, *Witness CQ* stated that, among the officers of the HVO, Nedjo Obradović, Petar Matić and Božo Pavlović, who had a command function at the Stolac HVO,<sup>4985</sup> had struck him violently at Koštana Hospital.<sup>4986</sup> As a result of the blows he received at Koštana Hospital as well as at Gabela Prison, where the HVO brought him on 2 October 1993,<sup>4987</sup> *Witness CQ* suffered three broken ribs; he has balance problems even now, years later, when he walks and feels numbness in his right arm, hand,

<sup>4971</sup> Among others, four military policemen – Mile Perić, Boro Perić, Marinko Šutalo and Nikita Bošković – were present: P 09753 under seal (French version), p. 5.

<sup>4972</sup> P 09753 under seal (French version), pp. 5 and 6.

<sup>4973</sup> P 09753 under seal (French version), p. 6.

<sup>4974</sup> P 09753 under seal (French version), p. 6.

<sup>4975</sup> *Witness CM*, T(F), pp. 11098 and 11113, private session.

<sup>4976</sup> P 09753 under seal (French version), p. 5; *Witness CM*, T(F), p. 11098, private session: in the written statement, the witness referred to a man named Krešić and called Migo, but at the hearing, the witness changed his statements and referred to Marinko Rajić, known as Migo.

<sup>4977</sup> P 09753 under seal (French version), p. 5.

<sup>4978</sup> P 09753 under seal (French version), p. 5.

<sup>4979</sup> *Witness CQ*, T(F), p. 11448, private session.

<sup>4980</sup> *Witness CQ*, T(F), p. 11562, private session; P 09801 under seal.

<sup>4981</sup> *Witness CQ*, T(F), p. 11461, private session.

<sup>4982</sup> *Witness CQ*, T(F), p. 11449, private session; *see* “Detention of the Women, Children and Elderly Persons of Stolac Municipality” in the Chamber’s factual findings relating to the Municipality of Stolac.

<sup>4983</sup> *See* “The Death of Detainees at the Koštana Hospital” in the Chamber’s factual findings relating to the Municipality of Stolac.

<sup>4984</sup> *Witness CQ*, T(F), p. 11449, private session.

<sup>4985</sup> *Witness CQ*, T(F), pp. 11550-11552, private session.

<sup>4986</sup> *Witness CQ*, T(F), pp. 11461 and 11462, private session.

<sup>4987</sup> *Witness CQ*, T(F), pp. 11453 and 11463, private session.

leg and foot.<sup>4988</sup> *Witness CQ* saw bloodstains on the walls and floor of the cell during his detention.<sup>4989</sup>

2027. On 25 September 1993, when *Ibro Zlomužica* arrived at Koštana Hospital,<sup>4990</sup> the HVO members on duty at the hospital forced him, along with 14 other Muslim detainees, to stay propped against the wall in the hospital lobby, with their hands on their heads from 1000 am to 0630 pm.<sup>4991</sup> *Ibro Zlomužica* said that the guards beat them with their boots, fists, rubber clubs and rifle butts while they were in the hospital lobby.<sup>4992</sup> The HVO members forced *Ibro Zlomužica* to shake hands with another Muslim man, instead of greeting him as the Muslims do amongst themselves and beat his hands with a baton.<sup>4993</sup>

2028. While in detention at Koštana Hospital from 25 September 1993 to 1 or 2 October 1993,<sup>4994</sup> *Ibro Zlomužica* and the 14 other Muslim men arrested at the same time he was<sup>4995</sup> were interrogated at least three times a day by the HVO soldiers and were beaten during the interrogation.<sup>4996</sup> According to him, the questioning was led by Boško Bošković, *alias* Čelo, who took notes while two or three soldiers beat the detainees, and asked them questions.<sup>4997</sup> During the questioning, Nikica Obradović, *alias* Hegilo, hit him in the back with a wooden rod and hanged him by his neck two or three times with an electric cable, causing him to lose consciousness.<sup>4998</sup> On 26 and on 27 September 1993, HVO soldiers whose names he does not know, broke three chairs over his back while questioning him.<sup>4999</sup> After all the severe beatings, his face and his body were bruised, he lost his teeth and his lower lip was drooping.<sup>5000</sup> HVO soldiers, moreover, forced him to clean up the bloodstains left on the walls during the interrogation sessions.<sup>5001</sup>

2029. On 25 September 1993,<sup>5002</sup> HVO members beat twelve men who were arrested near Borojevići, one of whom was *Edin Baljić*, a Muslim resident of the village of Borojevići,<sup>5003</sup> for an

<sup>4988</sup> Witness CQ, T(F), pp. 11488-11489.

<sup>4989</sup> Witness CQ, T(F), pp. 11456-11458, private session.

<sup>4990</sup> Imam of Borojevići; P 09948, para. 2.

<sup>4991</sup> P 09948, para. 17.

<sup>4992</sup> P 09948, para. 17.

<sup>4993</sup> P 09948, para. 17.

<sup>4994</sup> P 09948, paras 13 and 33.

<sup>4995</sup> P 09948, paras 13, 15 and 16.

<sup>4996</sup> P 09948, paras 20 and 21.

<sup>4997</sup> P 09948, paras 20 and 21.

<sup>4998</sup> P 09948, para. 25.

<sup>4999</sup> P 09948, para. 22.

<sup>5000</sup> P 09948, para. 28.

<sup>5001</sup> P 09948, para. 24.

<sup>5002</sup> P 09943, para. 11.

<sup>5003</sup> P 09943, para. 4.

hour.<sup>5004</sup> *Edin Baljić* was taken to a room and questioned by *Miroslav Raguž* who conducted all of the interrogation sessions at the Koštana Hospital.<sup>5005</sup> After he had been taken away for questioning, members of the HVO continued to beat the other detainees.<sup>5006</sup>

2030. According to *Edin Baljić*, the detainees were selected at random and beaten for about an hour three to four times a day.<sup>5007</sup> These severe beatings usually took place after dark with the lights switched off. When they occurred during daytime, the victims of the severe beatings administered by members of the HVO were positioned facing the wall so that they would not recognise the faces of those who beat them.<sup>5008</sup>

2031. According to *Edin Baljić*, “Hegilo” Obradović, a member of the HVO from Koštana Hospital, took particular delight in beating the detainees.<sup>5009</sup>

2032. In view of the preceding, the Chamber finds that members of the Military Police as well as members of the HVO Army and of the MUP engaged in severe beatings and other brutality towards the detainees at Koštana Hospital.

### **G. “Not a Single Muslim Remained in Stolac”, September 1993**

2033. Paragraph 170 of the Indictment alleges that, during the last two weeks of September 1993, the leaders of Herceg-Bosna/the HVO informed Franjo Tuđman that not a single Muslim remained in Stolac, and that the town had been repopulated with Croats from Central Bosnia, accommodated in Muslim houses.

2034. The Chamber observes that, on 21 September 1993, Anđelko Marković, the President of the Stolac HVO, actually announced to President Tuđman that there was not a single Muslim left in Stolac Municipality.<sup>5010</sup> According to *Witness CR*, at the end of 1993, the Muslims from Stolac Municipality were all in centres; not a single Muslim was left in Stolac.<sup>5011</sup>

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<sup>5004</sup> P 09943, para. 13.

<sup>5005</sup> P 09943, para. 13.

<sup>5006</sup> P 09943, para. 13.

<sup>5007</sup> P 09943, para. 17.

<sup>5008</sup> P 09943, para. 17.

<sup>5009</sup> P 09943, para. 18.

<sup>5010</sup> P 05237, p. 4.

<sup>5011</sup> *Witness CR*, T(F), p. 11911, private session, and p. 11870.

## Heading 9: The Municipality of Čapljina

2035. This part of the Judgement pertains to the crimes allegedly committed by the Herceg-Bosna/HVO forces in the territory of the Municipality of Čapljina, more specifically, in the localities of Bivolje Brdo, Domanovići, Počitelj, Opličići, Lokve and Višići, and in the town of Čapljina.

2036. Paragraphs 172 to 185 of the Indictment allege that in 1992 and 1993, there were growing tensions between the Herceg-Bosna/HVO authorities and the Muslim population, and that during this period, the persecutions against the Muslim population in the municipality intensified; that around 20 April 1993, the Herceg-Bosna/HVO forces arrested a substantial number of BiH Muslim men in the Municipality of Čapljina, including prominent men in that area, and detained them at various HVO detention facilities; that between July and September 1993, after arresting and detaining most of the Muslim men, the Herceg-Bosna/HVO forces systematically removed the Muslim women, children and elderly from the Municipality of Čapljina and expelled them to ABiH-controlled areas or other countries via Croatia and that in the course of these expulsions, the Herceg-Bosna/HVO forces robbed the Muslims of their property, detained Muslim civilians under conditions of detention that were on occasion inhumane and cruel, killed several people, destroyed houses belonging to Muslims as well as mosques.

2037. As a preliminary matter, the Chamber recalls that the allegations in paragraph 184 of the Indictment relating to the detention of Muslim men at Koštana Hospital were addressed as part of its analysis of the events in the Municipality of Stolac.<sup>5012</sup>

2038. The Prosecution alleges these events constitute persecutions (Count 1), murder (Count 2), wilful killing (Count 3), deportation (Count 6), unlawful deportation of a civilian (Count 7), inhumane acts (forcible transfer) (Count 8), unlawful transfer of a civilian (Count 9), imprisonment (Count 10), unlawful confinement of a civilian (Count 11), inhumane acts (conditions of confinement) (Count 12), inhuman treatment (conditions of confinement) (Count 13), cruel treatment (conditions of confinement) (Count 14), inhumane acts (Count 15), inhuman treatment (Count 16), cruel treatment (Count 17), extensive destruction of property, not justified by military necessity and carried out unlawfully and wantonly (Count 19), wanton destruction of cities, towns or villages, or devastation not justified by military necessity (Count 20), destruction or wilful damage done to institutions dedicated to religion or education (Count 21), appropriation of

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<sup>5012</sup> See "The Detention of Muslim Men at Koštana Hospital During the Summer and Autumn of 1993" in the Chamber's factual findings relating to the Municipality of Stolac.

property, not justified by military necessity and carried out unlawfully and wantonly (Count 22), and plunder of public or private property (Count 23).

2039. To rule on the facts alleged, the Chamber analysed a collection of evidence. It examined the *viva voce* testimony of witnesses *Edward Vulliamy, Klaus Johann Nissen, Bruno Pinjuh, Hasan Hasić, Sejfo Kajmović, Ivan Beneta, Martin Raguž, BB, BD, C, CI, CO, CR, DD and E*, as well as the testimony of *Slobodan Praljak*. It also received the statements of *Salko Bojčić, Dragan Ćurčić* and of witnesses *CG, CJ, CP, DV, CK, CM and CN* admitted pursuant to Rule 92 *ter* of the Rules, supplemented by their testimony in court. It then analysed the written statements and transcripts of the testimony of *Alija Šuta, Sadeta Ćiber, Enver Vilogorac, Aldijana Trbonja, Ahmet Alić, Fatima Šoše, Halid Jazvin, Denis Sarić, Sabira Hasić, Kemal Lizde, Huso Marić, and Fadil Elezović*, as well as of witnesses *AP, BA, DS, DT, EC, ED and HH* admitted pursuant to Rule 92 *bis* of the Rules. Lastly, the Chamber examined a substantial number of documents admitted into the record through these witnesses or by way of a written procedure.

2040. The Chamber will discuss (I) the demographic situation in the municipality and (II) its political, administrative and military structure. It will then examine (III) the evidence relating to the sequence of the criminal events alleged by the Indictment.

## I. Demographic Situation in the Municipality

2041. In 1991, the Municipality of Čapljina consisted of approximately 53.7 % Croats,<sup>5013</sup> 27.5 % Muslims and 13.5 % Serbs.<sup>5014</sup>

2042. The villages of Počitelj,<sup>5015</sup> Opličići,<sup>5016</sup> Bivolje Brdo<sup>5017</sup> – including, among others, the hamlet of Kevčići<sup>5018</sup> – and Lokve<sup>5019</sup> were situated on the Dubrave Plateau, which straddled Čapljina and Stolac municipalities and had a mixed population with a Muslim majority.<sup>5020</sup>

2043. Before the conflict, the village of Višići was inhabited primarily by Croats.<sup>5021</sup>

<sup>5013</sup> P 09276, p. 30; Witness BD, T(F), pp. 20944 and 20945 closed session.

<sup>5014</sup> P 09276, p. 31; 3D 01024, p. 12; P 10112, para. 7. The rest of the population, that is, approximately 5.3 %, were people the majority of whom had refused to declare their ethnicity or had declared themselves as "other".

<sup>5015</sup> P 09768 under seal, p. 2.

<sup>5016</sup> P 10112, para. 2.

<sup>5017</sup> P 09929, para. 8.

<sup>5018</sup> Witness CI, T(F), p. 10898. The neighbourhood of Selo and the hamlet of Ruda were also part of the village of Bivolje Brdo. See P 10145, p. 2; P 09937, para 7.

<sup>5019</sup> P 00020, p. 7; P 10129 under seal, paras 1 and 6; P 10125, p. 2.

<sup>5020</sup> Hasan Hasić, T(F), p. 10712; Bruno Pinjuh, T(F), p. 37309; P 09276, p. 30.

<sup>5021</sup> P 09755 under seal, p. 2; Witness CO, T(F), p. 11249 closed session; Bruno Pinjuh, T(F), p. 37307; P 00020, p. 7.

2044. The Chamber took note of the statement of *Alija Šuta*, President of the Muslim humanitarian organisation *Merhamet*,<sup>5022</sup> who said that in the spring of 1992, many Muslims fleeing Serbian attacks in eastern BiH began arriving in the Municipality of Čapljina.<sup>5023</sup>

2045. According to a report by an international organisation, in October and November 1992, the Municipality of Čapljina had between 12,096 and 12,600 displaced persons or refugees, of whom 80 % were Muslims and 19 % Croats.<sup>5024</sup> In July 1993, because of the shelling of the town of Stolac, many people - of unspecified ethnicity - also reached the Municipality of Čapljina.<sup>5025</sup>

2046. In July 1993, between 60 % and 70 % of the population of the Municipality of Čapljina was Muslim.<sup>5026</sup>

2047. According to a report by an international organisation, the number of Muslims in the Municipality of Čapljina dropped from 14,085 (of whom 10,760 were residents<sup>5027</sup> and 3,325 displaced persons) in September 1993 to 3,852 in October 1993.<sup>5028</sup>

## II. Political, Administrative and Military Structure of the Municipality

2048. After examining (A) the political and administrative structure of the municipality, the Chamber will analyse (B) the formation of ABiH and HVO forces from the TO and (C) the structure of the armed forces of the HVO.

### A. Political and Administrative Structure of the Municipality

2049. The HDZ, whose Chairman was Pero Marković and Vice Chairman Krunoslav Kordić, won the elections in the Municipality of Čapljina in 1990.<sup>5029</sup> Pero Marković was then elected mayor of the municipality.<sup>5030</sup>

2050. The Chamber has little information on the establishment of the municipal HVO in Čapljina. According to *Witness ED*, as Chairman of the municipal HDZ and mayor of the municipality, Pero Marković was also the President of the municipal HVO.<sup>5031</sup> His office was in Široki Brijeg.<sup>5032</sup>

<sup>5022</sup> P 10112, paras 2, 3 and 6.

<sup>5023</sup> P 10112, para. 4. The Chamber notes that the witness does not specify the number of refugees concerned.

<sup>5024</sup> 3D 00597; Witness CJ, T(F), p. 10974. *See also* 3D 00599.

<sup>5025</sup> Witness DD, T(F), p. 14424 closed session.

<sup>5026</sup> P 09847 under seal, p. 2.

<sup>5027</sup> P 09851 under seal, para. 3.4; IC 00833.

<sup>5028</sup> P 09851 under seal, para. 3.4; IC 00833.

<sup>5029</sup> P 10112, para. 7.

<sup>5030</sup> P 10112, para. 7.



2051. According to *Witness C*, the Čapljina MUP was subordinated to Pero Marković.<sup>5033</sup> The Chamber also notes an order dated 3 July 1993 issued by Neđeljko Obradović, Commander of the 1<sup>st</sup> *Knez Domagoj* Brigade, according to which the MUP of Stolac and Čapljina was responsible for the protection of citizens of the two towns as well as their property against any acts of violence and plunder.<sup>5034</sup>

### **B. Formation of ABiH and HVO Forces from the TO**

2052. As of July 1992, members of the TO were integrated into the ranks of the HVO.<sup>5035</sup> The HVO gradually took military control of the municipality during the summer of 1992.<sup>5036</sup>

2053. Before mid-1992 and before the ABiH was formed, members of the TO had fought alongside the HVO against the Serbian forces.<sup>5037</sup> As the evidence admitted into the record shows, during the war against the Serbian forces in 1992 and 1993, the HVO and the ABiH fought side by side in the territory of the municipality<sup>5038</sup> and did so until April 1993.<sup>5039</sup>

### **C. Structure of the Armed Forces of the HVO**

2054. According to *Witness CJ*, the HVO in the Municipality of Čapljina was well organised and equipped because it received support from Croatia which also supplied it with military materiel.<sup>5040</sup> The Chamber has no further information on this point.

2055. In around March and April 1993, the HVO military structures deployed in the Municipality of Čapljina comprised (1) the 1<sup>st</sup> *Knez Domagoj* Brigade and (2) the 3<sup>rd</sup> Company of the 3<sup>rd</sup> Military Police Battalion.<sup>5041</sup>

<sup>5031</sup> P 10133 under seal, para. 27.

<sup>5032</sup> P 10112, para. 14.

<sup>5033</sup> *Witness C*, T(F), p. 22444 closed session.

<sup>5034</sup> *Witness C*, T(F), p. 22561 closed session; P 03160.

<sup>5035</sup> P 10213, para. 2; *Witness HH*, P 10113 under seal, *Naletilić and Martinović* Case, T(F), p. 4783; P 09768 under seal, p. 3; P 10145, p. 3.

<sup>5036</sup> P 10112, paras 9 and 10; P 09929, paras 9 and 10; P 10145, p. 3; P 09770 under seal, p. 4.

<sup>5037</sup> P 09768 under seal, p. 3.

<sup>5038</sup> Slobodan Praljak, T(E), pp. 40402 and 40403; P 09933 under seal, p. 2; *Witness HH*, P 10113 under seal, *Naletilić and Martinović* Case, T(F), p. 4893; P 09935, p. 2; P 09931, p. 2.

<sup>5039</sup> P 10131 under seal, para. 19; Slobodan Praljak, T(E), pp. 40402 and 40403; P 09933 under seal, p. 2; *Witness HH*, P 10113 under seal, *Naletilić and Martinović* Case, T(F), p. 4893.

<sup>5040</sup> P 09768 under seal, p. 3.

<sup>5041</sup> P 10133 under seal, para. 27; *Witness C*, T(F), p. 22374 closed session; P 03119.

### 1. 1<sup>st</sup> Knez Domagoj Brigade

2056. The 1<sup>st</sup> *Knez Domagoj* Brigade, commanded by Nedeljko Obradović, covered a zone that included, among others, Stolac and Čapljina.<sup>5042</sup> On 23 February 1993, Miljenko Lasić, Commander of the South-East OZ, sent an order for "active defence" to the 1<sup>st</sup> *Knez Domagoj* Brigade, in which he said that the 1<sup>st</sup> *Knez Domagoj* Brigade was tasked, *inter alia*, with defending the Municipality of Čapljina.<sup>5043</sup>

2057. The headquarters of the 1<sup>st</sup> *Knez Domagoj* Brigade was in Čapljina<sup>5044</sup> and then, as of June 1993, in the village of Dabrica, 3 km to the east of the town of Čapljina.<sup>5045</sup>

2058. The 1<sup>st</sup> *Knez Domagoj* Brigade also comprised a Military Police platoon whose commander was appointed by the Commander of the 1<sup>st</sup> *Knez Domagoj* Brigade.<sup>5046</sup> The platoon submitted the reports on its operations to the Military Police Administration.<sup>5047</sup>

2059. As of 11 May 1993, this Military Police platoon was tasked with arresting the HVO conscripts who refused to report for service, deserted the front line or were guilty of other military offences.<sup>5048</sup>

### 2. 3<sup>rd</sup> Company of the 3<sup>rd</sup> Military Police Battalion

2060. The Commander of the 3<sup>rd</sup> Battalion was Željko Džidić in 1992 and then Žarko Jurić in 1993.<sup>5049</sup>

2061. The 3<sup>rd</sup> Company of the 3<sup>rd</sup> Military Police Battalion covered one of the zones of responsibility of the 1<sup>st</sup> *Knez Domagoj* Brigade<sup>5050</sup>, which comprised Čapljina, Stolac, Neum, Ravno and, later - at an unspecified date - Buna.<sup>5051</sup> The 3<sup>rd</sup> Company of the 3<sup>rd</sup> Battalion was based in Čapljina.<sup>5052</sup>

<sup>5042</sup> P 10217 under seal, para. 28; Witness DV, T(F), p. 22872.

<sup>5043</sup> 4D 00475, p. 4.

<sup>5044</sup> See "Structure of the HVO" in the Chamber's factual findings relating to the Municipality of Stolac.

<sup>5045</sup> P 02619 under seal, p. 1.

<sup>5046</sup> Witness C, T(F), pp. 22513 and 22514 closed session; P 02310, p. 2.

<sup>5047</sup> Witness C, T(F), pp. 22513 and 22514 closed session; P 02310, p. 2.

<sup>5048</sup> Witness C, T(F), pp. 22513 and 22514 closed session; P 02310, p. 2.

<sup>5049</sup> Witness C, T(F), p. 22318 closed session.

<sup>5050</sup> Witness C, T(F), p. 22322 closed session.

<sup>5051</sup> Witness C, T(F), p. 22319 closed session; Witness E, T(F), p. 22224 closed session.

<sup>5052</sup> Witness E, T(F), p. 22224 closed session.

2062. Ivan Ančić was the commander of that company until the end of June 1993, when he was replaced by Krešimir Bogdanović.<sup>5053</sup> Vladimir Šakota was Bogdanović's deputy.<sup>5054</sup>

2063. After Krešimir Bogdanović was appointed head of the 3<sup>rd</sup> Company, the headquarters was at the Dretelj barracks.<sup>5055</sup>

2064. The Commander of the 3<sup>rd</sup> Company was answerable to the Command of the 3<sup>rd</sup> Military Police Battalion, the Command of the 1<sup>st</sup> *Knez Domagoj* Brigade and the Military Police Administration.<sup>5056</sup> The 3<sup>rd</sup> Company reports were also to be sent to Pero Marković, President of the Čapljina municipal HVO, if he so requested.<sup>5057</sup>

2065. During a meeting on 11 May 1993 between Pero Marković, Valentin Ćorić, Chief of the Military Police Administration, and Ivan Ančić, Commander of the 3<sup>rd</sup> Company of the 3<sup>rd</sup> Military Police Battalion, it was decided that the tasks of the 3<sup>rd</sup> Company of the 3<sup>rd</sup> Military Police Battalion would include the protection of people and property in the zones of military operations, the security of "prisoners of war" and the security of the military prisons.<sup>5058</sup>

2066. The 3<sup>rd</sup> Military Police Company was to arrest the members of the 1<sup>st</sup> *Knez Domagoj* Brigade who refused to go to the front and to hand them over to the brigade;<sup>5059</sup> it also had to secure the transports of the 1<sup>st</sup> *Knez Domagoj* Brigade.<sup>5060</sup>

2067. According to *Witness C*, a BiH Croat,<sup>5061</sup> the Military Police was not tasked with arresting the Muslims at their homes.<sup>5062</sup> However, a report signed by Ivan Ančić, Commander of the 5<sup>th</sup> Military Police Battalion at that time, and sent to the Chief of the Military Police Administration, Valentin Ćorić, shows that the members of the Military Police participated in numerous arrests of Muslims as of 30 June 1993.<sup>5063</sup> In this respect, the Chamber has a report dated 8 July 1993, which says that the members of the 3<sup>rd</sup> Company of the 3<sup>rd</sup> Military Police Battalion, in cooperation with

<sup>5053</sup> *Witness C*, T(E), p. 22312, and T(F), p. 22318 closed session.

<sup>5054</sup> *Witness C*, T(F), p. 22320 closed session.

<sup>5055</sup> *Witness C*, T(F), p. 22319 closed session. *See also* "The 3<sup>rd</sup> Company of the 3<sup>rd</sup> and then 5<sup>th</sup> Military Police Battalion" in the Chamber's factual findings relating to Dretelj Prison.

<sup>5056</sup> *Witness C*, T(E), p. 22322 closed session.

<sup>5057</sup> *Witness C*, T(F), pp. 22320 and 22443 closed session.

<sup>5058</sup> *Witness C*, T(F), pp. 22513 and 22514 closed session; P 02310, p. 2.

<sup>5059</sup> *Witness C*, T(F), p. 22324 closed session.

<sup>5060</sup> *Witness C*, T(F), p. 22324 closed session.

<sup>5061</sup> *Witness C*, T(F), p. 22312 closed session.

<sup>5062</sup> *Witness C*, T(F), pp. 22348 and 22349 closed session.

<sup>5063</sup> P 03960, pp. 1 and 2.

the Čapljina MUP, arrested a significant number of Muslims aged between 18 and 60 while controlling entry points in the town of Čapljina on 7 and 8 July 1993.<sup>5064</sup>

2068. *Witness DS*, a Muslim inhabitant of the town of Čapljina<sup>5065</sup>, stated that between about 20 July 1993 and 23 August 1993, there were five checkpoints set up by the HVO between Čapljina and Počitelj.<sup>5066</sup>

### III. Sequence of the Criminal Events

2069. The Chamber will first analyse (A) the allegations relating to the acts of persecution that the HVO committed against the Muslims population of the Municipality of Čapljina as of 1992, then (B) the allegations relating to the arrest and incarceration of Muslim men, including prominent local men, in the Municipality of Čapljina on 20 April 1993, and (C) the arrest and incarceration of Muslim men in the Municipality of Čapljina in July 1993. The Chamber will separately analyse (D) the allegations relating to the disappearance of 12 Muslim men from Bivolje Brdo on 16 July 1993. The Chamber will analyse (E) the eviction of women, children and elderly people, their removal and the subsequent crimes allegedly perpetrated in the Municipality of Čapljina from July to September 1993, as well as (F) the incarceration of Muslims and their removal to ABiH-controlled territories or third countries.

#### A. Acts of Persecution Against the Muslim Population of Čapljina Municipality as of 1992

2070. Paragraph 173 of the Indictment alleges that in 1992 and 1993, there were growing tensions between the Herceg-Bosna/HVO authorities and the Muslim population in the Municipality of Čapljina with increasing HVO persecution against the Muslims.<sup>5067</sup>

2071. The Chamber notes that, as stated, the allegations of persecutions are extremely vague and that no event that may be considered an "act of persecution" has been provided by the Prosecution. The Chamber observes that in paragraph 173.1 of its Pre-Trial Brief, the Prosecution quotes a report by Milivoj Petković announcing that on 26 June 1992, the HVO allegedly captured, *inter alia*, the territory of the Municipality of Čapljina. The Chamber nevertheless deems that the paragraph does not indicate with sufficient precision the events which may be considered as "acts of persecution".

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<sup>5064</sup> P 03307.

<sup>5065</sup> P 09933 under seal, pp. 1, 2 and 19.

<sup>5066</sup> P 09933 under seal, p. 3.

<sup>5067</sup> The Chamber notes that paragraph 173 of the Indictment refers back to the confidential annex in which a representative victim is mentioned, but the Prosecution tendered no evidence with regard to that person.

2072. The Chamber notes, in addition, that acts which might constitute "acts of persecution" are described in paragraphs 174.1 and 181.5 of the Prosecution Pre-Trial Brief. The Chamber nevertheless considers that because of where they figure in the Pre-Trial Brief, that is, in support of paragraphs 174 and 181, the acts do not clarify paragraph 173 of the Indictment. Therefore, the Chamber will not examine paragraphs 174.1 and 181.5 of the Prosecution Pre-Trial Brief as part of its examination of paragraph 173.

2073. The Chamber therefore deems that because of the Prosecution's imprecision, the general allegation relating to persecutions of Muslims in the Municipality of Čapljina in 1992 and 1993 appearing in paragraph 173 of the Indictment is too vague and that it cannot make a relevant ruling on the issue.

**B. Arrest and Incarceration of Muslim Men, Including Prominent Local Men, in the Municipality of Čapljina on 20 April 1993**

2074. Paragraph 174 of the Indictment alleges that around 20 April 1993, the Herceg-Bosna/HVO authorities arrested a substantial number of Bosnian Muslim men in the Municipality of Čapljina, including prominent Muslim men in that area, and detained them at various HVO detention facilities (including the Grabovina barracks) for varying periods of time.<sup>5068</sup>

2075. The Chamber heard several witnesses in connection with these arrests. Although these witnesses were not always precise as to the exact date of the arrests or the affiliation of those who made them, all the witnesses gave a similar description of the events. Thus the testimony of the witnesses shows that in April 1993, HVO members arrested Muslim men in the Municipality of Čapljina,<sup>5069</sup> including Muslims intellectuals,<sup>5070</sup> members of the SDA<sup>5071</sup> and members of the ABiH,<sup>5072</sup> and detained them at the Grabovina barracks<sup>5073</sup> and Dretelj Prison,<sup>5074</sup> but provides no further details about the length of their detention.

<sup>5068</sup> The Chamber notes that, in the confidential annex to the Indictment, the Prosecution mentioned the name of a representative victim, but the Chamber has no information on that person.

<sup>5069</sup> P 09851 under seal, p. 4, para. 3.4; Witness CR, T(F), pp. 11878-11880 private session.

<sup>5070</sup> Sejfo Kajmović, T(F), pp. 11679 and 11680; P 10137, para. 5; P 09755 under seal, p. 3; P 09933 under seal, pp. 2 and 3; Witness CK, T(F), pp. 11022 and 11023 private session.

<sup>5071</sup> Witness AP, P 10026 under seal, *Naletilić and Martinović* Case, T(E), pp. 2127 and 2128; P 10137, para. 47.

<sup>5072</sup> Denis Šarić, a member of 2<sup>nd</sup> Company of the 1<sup>st</sup> Battalion of the 1<sup>st</sup> *Knez Domagoj* Brigade, and Huso Marić, member of the *Bregava* Brigade, indeed stated that most members of the *Bregava* Brigade of the ABiH in Gubavica were arrested by the HVO around 19 April 1993 and taken to the Grabovina barracks in Čapljina. In this respect, see P 10143, p. 5; P 10138, paras 16 and 19.

<sup>5073</sup> Sejfo Kajmović, T(F), pp. 11679 and 11680; P 09799 under seal, p. 2; Witness CK, T(F), pp. 11022 and 11023 private session; P 09755 under seal, p. 3.

<sup>5074</sup> Witness CR, T(F), pp. 11878-11880 private session; Witness AP, P 10026 under seal, *Naletilić and Martinović* Case, T(E), pp. 2127 and 2128; P 09933 under seal, p. 3.

2076. Among the men were, *inter alia*, Damir Sadović, a lawyer working for the government of Čapljina,<sup>5075</sup> Nazif Bašić, President of the Islamic Community, and also workers and tradesmen, for example, Ale Zaklan, Huso Obradović, Kemo Boloban and Mustafa Dizdar.<sup>5076</sup>

2077. The Chamber finds that in April 1993, Muslim men from the Municipality of Čapljina – some of whom did not belong to any armed forces – were taken to the Grabovina barracks and Dretelj Prison by members of the HVO, but the Chamber does not know to which units they belonged.

### **C. Arrest and Incarceration of Muslim Men in the Municipality of Čapljina in July 1993**

2078. Paragraph 175 of the Indictment alleges that in July 1993, the Herceg-Bosna/HVO forces arrested and detained most of the Muslim men of military age who lived in the Municipality of Čapljina.

2079. The Chamber admitted into evidence an order issued on 30 June 1993 by Milivoj Petković, Chief of the HVO Main Staff, and addressed to the South-East OZ, which said that (1) all Muslims in the HVO were to be disarmed and "isolated" and (2) all Muslim men of military age living in the zone of responsibility of the South-East OZ were also to be "isolated".<sup>5077</sup>

2080. Many witnesses who directly experienced the events and documents from the HVO itself indicate that, between 30 June 1993 and mid-July 1993, the 3<sup>rd</sup> Company of the 3<sup>rd</sup> Military Police Battalion of the HVO (which in mid-July became the 5<sup>th</sup> Battalion<sup>5078,5079</sup>) and the 1<sup>st</sup> *Knez Domagoj* Brigade<sup>5080</sup>, in cooperation with the Čapljina MUP,<sup>5081</sup> conducted a campaign of arrests of Muslim men in the Municipality of Čapljina,<sup>5082</sup> among others, in the localities of Bivolje Brdo,<sup>5083</sup> Višići,<sup>5084</sup> Domanovići<sup>5085</sup> and Lokve.<sup>5086</sup>

<sup>5075</sup> Witness AP, P 10026 under seal, *Naletilić and Martinović* Case, T(E), pp. 2127 and 2128, and T(F), p. 2127.

<sup>5076</sup> P 09755 under seal, p. 3.

<sup>5077</sup> P 03019.

<sup>5078</sup> On this point, see "Second Reorganisation of the Military Police Administration and Its Units: July-December 1993" in the Chamber's factual findings relating to the military structure of the HZ(R) H-B.

<sup>5079</sup> Witness C, T(F), p. 22429 closed session; P 03121, p. 2; P 03134, pp. 4 and 5; P 03170, pp. 2 and 3; P 03666, pp. 1 and 5; P 03478, p. 1; P 03175 under seal, p. 1; P 09843 under seal, p. 2, para. 1; Witness BC, T(F), pp. 18348 and 18349 closed session; Sejfo Kajmović, T(F), pp. 11701 and 11702; P 03075, p. 2; P 03057, p. 3.

<sup>5080</sup> P 03063; P 03121, p. 2; Witness CM, T(F), p. 11104 private session; Witness C, T(F), p. 22429.

<sup>5081</sup> Witness BB, T(F), pp. 17229-17231, closed session; P 03666, p. 5; Witness C, T(F), p. 22429, closed session; P 03121, p. 2; P 10129 under seal, para. 12; P 03121, p. 2; Witness CM, T(F), p. 11104 private session; P 03230, p. 2.

<sup>5082</sup> Witness BB, T(F), pp. 17198, 17227, 17229-17231, 17254 and 17255, closed session; Witness CI, T(F), p. 10899; P 03121, p. 2; P 03307, p. 1; P 03326; P 03347; P 03666, p. 5; Witness C, T(F), pp. 22334, 22427, 22429 and 22430, closed session; P 09755 under seal, p. 4; P 10125, p. 4; P 10131 under seal, para. 22; P 10137, paras 9 and 11; P 10138, paras 18 and 19; P 03170, pp. 2 and 3; Witness DD, T(F), p. 14429, closed session; P 09798, pp. 2 and 3; Edward Vulliamy, T(F), pp. 1550 and 1551; Sejfo Kajmović, T(F), pp. 11701 and 11702; Witness BC, T(F), p. 18350, closed

2081. After the arrests, Bruno Stojić issued an order, dated 3 July 1993, transferring the management of the detention of the Muslim men of military age arrested in the Municipality of Čapljina from the 1<sup>st</sup> *Knez Domagoj* Brigade to the local HVO.<sup>5087</sup> However, the Chamber has no evidence showing that the local HVO took responsibility for the detention of the Muslim men arrested.

2082. Ample evidence however shows that the arrested men were then taken by those who made the arrests<sup>5088</sup> to the prisons in Dretelj<sup>5089</sup> and Gabela<sup>5090</sup> as well as to the Heliodrom,<sup>5091</sup> where they were detained. Among them were both Muslim men who did not belong to any armed forces,<sup>5092</sup> as well as Muslim members of the HVO<sup>5093</sup> and the ABiH.<sup>5094</sup>

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session; P 09768 under seal, p. 3; P 03362 under seal, p. 3; Klaus Johann Nissen, T(F), pp. 20448 and 20526; P 09843 under seal, p. 2, para. 1; P 03250, p. 3; P 03075, p. 2; P 03057, p. 3; P 09847 under seal, p. 2; Witness CM, T(F), pp. 11100 and 11101; P 06697, paras 57 and 58; P 09929, para. 13; P 09712 under seal, paras 44 and 45; Witness BA, T(F), pp. 7221 and 7222, closed session; P 03069 under seal, p. 1.

<sup>5083</sup> Witness CI, T(F), pp. 10898 and 10899; P 03478.

<sup>5084</sup> P 09755 under seal, pp. 3 and 4; P 03478.

<sup>5085</sup> P 10125, p. 4.

<sup>5086</sup> P 10131 under seal, para. 9.

<sup>5087</sup> 4D 00461. The Chamber notes that, in its Final Trial Brief, the Stojić Defence alleges that this order lacked reliability and was not authentic. In support of the allegations, the Stojić Defence argues that the Petković Defence did not provide the source of the document during the proceedings in court nor in any written submission; that *Witness CG*, to whom the document was shown, did not testify to its reliability; and that the said document could not be found in the archives of the Republic of Croatia. The Stojić Defence alleges that, consequently, the Chamber should not attribute any weight to the order of 3 July 1993 in its evaluation of the evidence. *See* Stojić Defence Final Trial Brief, paras 544-547. The Chamber recalls that, in its oral decision rendered in open session on 13 December 2006, it established that the document offered indicia of reliability, relevance and probative value sufficient for admission into evidence; that in "Order on Stojić Defence Motion to Admit Exhibit (2D 03088)", public, 3 June 2010 ("Order of 3 June 2010"), it rejected the admission of Exhibit 2D 03088 - which, according to the Stojić Defence, called into question the authenticity and the reliability of Exhibit 4D 00461 - because the Stojić Defence, *inter alia*, did not show due diligence by producing a motion for admission at that late stage of the proceedings; that Exhibit 4D 00461 was shown to *Witness CG*, who confirmed that Muslim men had been detained in the Municipality of Čapljina, and that the document was similar to other orders signed by Bruno Stojić and admitted by the Chamber. In view of the foregoing, the Chamber considers that the document 4D 00461 is indeed authentic. The Chamber also notes that, in its "Decision on Stojić Defence Motion for Reconsideration or, in the Alternative, for Certification to Appeal the Order on Stojić Defence Motion to Admit Exhibit (2D 030088)", public, 23 June 2010, it denied the motion for reconsideration and the motion for certification to appeal the Order of 3 June 2010.

<sup>5088</sup> P 03121, p. 3; Witness CM, T(F), p. 11100.

<sup>5089</sup> Witness BB, T(F), pp. 17229-17231, closed session; Witness CI, T(F), p. 10899; P 03121, p. 3; P 03307, p. 1; P 03326; P 03347; P 03666; Witness C, T(F), pp. 22429 and 22430, closed session; P 09755 under seal, p. 4; P 10125, p. 4; P 10131 under seal, para. 22; P 10137, paras 9 and 11; P 10138, paras 18 and 19; P 03170, pp. 2 and 3; Witness DD, T(F), pp. 14429 and 14430, closed session; P 09798, p. 2; P 03057, p. 3; Witness CM, T(F), p. 11100; P 09843 under seal, p. 2, para. 1.

<sup>5090</sup> Edward Vulliamy, T(F), pp. 1550 and 1551; Sejfo Kajmović, T(F), pp. 11701 and 11702; Witness BC, T(F), p. 18350, closed session; P 09768 under seal, p. 3; P 09798, p. 3; Witness BB, T(F), pp. 17254 and 17255, closed session.

<sup>5091</sup> P 03362 under seal, p. 3; Klaus Johann Nissen, T(F), p. 20526; P 03369 under seal, pp. 1 and 2; P 03362 under seal, p. 3.

<sup>5092</sup> Dragan Ćurčić, T(F), p. 45875; Witness CI, T(F), pp. 10895 and 10899, private session; P 09798, p. 2; Sejfo Kajmović, T(F), pp. 11698-11702; P 03952, p. 2.

<sup>5093</sup> Dragan Ćurčić, T(F), p. 45865; Witness C, T(F), pp. 22464 and 22465, closed session; P 09937, para. 13; P 09755 under seal, pp. 2 and 4; P 10125, pp. 2 and 4; P 10131 under seal, paras 9 and 21; P 10137, paras 8 and 9; P 03546;

2083. The Chamber finds that between 30 June 1993 and mid-July 1993, members of the 1<sup>st</sup> *Knez Domagoj* Brigade of the 3<sup>rd</sup> Company of the 3<sup>rd</sup> Military Police Battalion and members of the Čapljina MUP arrested Muslim men from the municipality, some of whom did not belong to any armed forces, and detained them at the prisons in Dretelj and Gabela, as well as at the Heliodrom.

#### **D. Disappearance of 12 Muslim Men from Bivolje Brdo on 16 July 1993**

2084. Paragraph 177 of the Indictment alleges, *inter alia*, that on 16 July 1993, in the course of expelling the Muslims from Bivolje Brdo, the Herceg-Bosna/HVO forces separated 12 Muslim men, who went missing and were never seen alive again.

2085. The Chamber observes that around 16 July 1993, 12 Muslim men, residents of Bivolje Brdo, were arrested in the village by "HVO soldiers"<sup>5095</sup> and by men from the 3<sup>rd</sup> Company of the 5<sup>th</sup> Military Police Battalion.<sup>5096</sup>

2086. *Fatima Šoš*e stated that the 12 men were taken, along with a group of villagers she was with, to Ruda and were then separated from the rest of the group by "HVO soldiers" and lined up against the wall of a house.<sup>5097</sup> Although the Chamber is not in a position to find solely on the basis of this testimony received pursuant to Rule 92 *bis* of the Rules that the 12 men were indeed taken to Ruda, it does have sufficient evidence confirming their disappearance.

2087. The Chamber observes that the group of men included Nijaz Ćiber, aged 61, whose wife, *Sadeta Ćiber*,<sup>5098</sup> testified that he had indeed been arrested on 16 July 1993 by four "HVO soldiers";<sup>5099</sup> Halil Šoše;<sup>5100</sup> Mustafa Đonko;<sup>5101</sup> Šafet Đonko;<sup>5102</sup> Mustafa Torlo;<sup>5103</sup> Ahmet Torlo;<sup>5104</sup> Ibro Trbonja, aged 72;<sup>5105</sup> Bećir Trbonja, aged 71;<sup>5106</sup> Hilmo Mrgan, aged 62;<sup>5107</sup> Bećir

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Witness CG, T(F), p. 10848; P 09798, pp. 2 and 3; P 09935, pp. 2 and 3; P 10208, paras 1, 9 and 10; Witness CJ, T(F), p. 10933; P 09768 under seal, p. 3.

<sup>5094</sup> P 10138, paras 18 and 19; P 09768 under seal, p. 3.

<sup>5095</sup> Witness CI, T(F), p. 10910; P 09935, pp. 5 and 6; P 09929, para. 15.

<sup>5096</sup> P 03478.

<sup>5097</sup> P 09935, pp. 5 and 6.

<sup>5098</sup> *Sadeta Ćiber* was a Muslim inhabitant of the village of Bivolje Brdo, *see* P 09929, para. 11.

<sup>5099</sup> P 09929, para. 15.

<sup>5100</sup> P 09935, p. 6.

<sup>5101</sup> P 09935, p. 6.

<sup>5102</sup> P 09935, p. 6.

<sup>5103</sup> P 09935, p. 6.

<sup>5104</sup> P 09935, p. 6.

<sup>5105</sup> P 10145 (French version), p. 6; P 09935 (French version), p. 6; P 09937, para. 31; P 08858 under seal, p. 12.

<sup>5106</sup> P 10145 (French version), p. 6; P 09935 (French version), p. 6; P 08858 under seal, p. 12.

<sup>5107</sup> The Chamber notes that the list of representative victims from paragraph 177 of the Indictment included in its confidential annex contains the name "Halil Mrgan" (Representative Victim 6). However, both the witnesses and the autopsy report of 25 August 1998 mention the name "Hilmo Mrgan" which is why, the Chamber will use the first name "Hilmo". P 09935 (French version), p. 6; P 08858 under seal, p. 12.



Mrgan,<sup>5108</sup> Džemal Elezović, aged 62,<sup>5109</sup> and Ibro Rahimić, aged 85.<sup>5110</sup> All of them are representative victims from paragraph 177 of the Indictment.

2088. The Chamber notes that in 1998, 12 bodies were exhumed near the former bauxite mine in Bivolje Brdo.<sup>5111</sup> According to the autopsy report of 25 August 1998, the 12 bodies found were those of Halil Šoše, Mustafa Đonko, Šafet Đonko, Mustafa Torlo, Ahmet Torlo, Ibro Trbonja, Bećir Trbonja, Hilmo Mrgan, Bećir Mrgan, Džemal Elezović and Ibro Rahimić.<sup>5112</sup> Although the report could not determine the exact circumstances of their death, it concluded that the 12 men had died a violent death and that the corpses had been burned in order to hide them and to destroy all evidence.<sup>5113</sup>

2089. The Chamber has already noted that the 12 Muslim men were arrested by men from the 3<sup>rd</sup> Company of the 5<sup>th</sup> Military Police Battalion. It further observes that these arrests took place simultaneously with the campaigns of eviction and removal of villagers conducted not only by members of the 3<sup>rd</sup> Company of the 5<sup>th</sup> Military Police Battalion but also by soldiers from the 1<sup>st</sup> *Knez Domagoj* Brigade.<sup>5114</sup>

2090. In view of this evidence, the Chamber is satisfied that HVO members, some of whom were soldiers from the 1<sup>st</sup> *Knez Domagoj* Brigade while others were military policemen from the 3<sup>rd</sup> Company of the 5<sup>th</sup> Military Police Battalion, participated on 16 July 1993 in the arrest of 12 Muslim men from the village of Bivolje Brdo and subsequently killed them, burned them and buried their bodies near the former bauxite mine in Bivolje Brdo.

#### **E. Eviction of Women, Children and Elderly People, Their Removal and Subsequent Alleged Crimes in the Municipality of Čapljina from July to September 1993**

2091. Paragraphs 175 to 183 and paragraph 185 of the Indictment allege that between July and September 1993, the HVO conducted campaigns of expulsions and transfers of Muslim civilians and that, in the course of the campaigns, the HVO also perpetrated other crimes, namely the

<sup>5108</sup> P 09935 (French version), p. 6.

<sup>5109</sup> P 09935 (French version), p. 6; P 08858 under seal, p. 12.

<sup>5110</sup> P 10145 (French version), p. 6; P 09935 (French version), p. 6; P 08858 under seal, p. 12.

<sup>5111</sup> P 08858 under seal, p. 2. *See also* Witness CG, T(F), p. 10805; P 09743; P 10145 (French version), p. 6; P 10130 under seal, para. 2; P 09937, para. 40.

<sup>5112</sup> The 12 bodies exhumed near the former mine in Bivolje Brdo were identified following a forensic examination and the identification of the victims' bodies, personal items and clothes by members of their families. The identification reports were put together by the special service of the Ministry of the Interior of the Hercegovina-Neretva Canton and signed by the family members of the bodies identified: P 08858 under seal.

<sup>5113</sup> P 08858 under seal, paras 39 and 40; P 09929, para. 20.

<sup>5114</sup> On this point, *see* "Evictions and Removal of Women, Children and Elderly People from the Village of Bivolje Brdo" in the Chamber's factual findings relating to the Municipality of Čapljina.

appropriation, plunder and destruction of Muslim property, as well as the killing of some Muslim civilians.

2092. In his order of 30 June 1993 to the South-East OZ, Milivoj Petković instructed the HVO to allow the Muslim women and children in the South-East OZ zone of responsibility to remain in their houses.<sup>5115</sup>

2093. As previously noted, on 1 July 1993, Neđeljko Obradović, Commander of the 1<sup>st</sup> *Knez Domagoj* Brigade, ordered the 1<sup>st</sup> and the 3<sup>rd</sup> battalions of the 1<sup>st</sup> *Knez Domagoj* Brigade that same day to "mop up" several areas of the Municipality of Čapljina, including Bivolje Brdo and Počitelj.<sup>5116</sup> On 3 July 1993, Neđeljko Obradović ordered all units of the 1<sup>st</sup> HVO Brigade to "prevent any [...] crimes [...] in the brigade's zone of responsibility" and to "group the Muslim population" in the zone in order to "secure them".<sup>5117</sup>

2094. In this respect, the Praljak Defence submits that the 1<sup>st</sup> *Knez Domagoj* Brigade took measures with the sole purpose of protecting the population and the territory, that nothing supports the claim that the purpose of these orders was to expel the Muslim population and that the HVO Main Staff had no knowledge of any orders or reports concerning the removal of Muslims to ABiH-controlled territories.<sup>5118</sup> The Praljak Defence further submits that the 1<sup>st</sup> *Knez Domagoj* Brigade, which operated locally as a municipal brigade, "overstepped its standard military authorities".<sup>5119</sup>

2095. The Petković Defence, for its part, asserts that in mid-July 1993, fighting was under way on the Dubrave Plateau and that civilians from some villages between Stolac and Čapljina were "gathered in one house in the village or transported to Počitelj", but that it has not been established that "civilians from the Čapljina area were transferred outside the area prior to the end of July 1993".<sup>5120</sup>

2096. The Chamber notes that according to *Ivan Beneta*, a commander in the HV,<sup>5121</sup> in July 1993 the situation in the area held by the 1<sup>st</sup> *Knez Domagoj* Brigade was very problematic due to the fact that the HVO forces deployed there were subjected to repeated attacks, which prompted the

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<sup>5115</sup> Witness C, T(F), pp. 22463 and 24065 closed session; P 03019, p. 1.

<sup>5116</sup> P 03063; Witness CG, T(F), pp. 10798 and 10799.

<sup>5117</sup> P 03135, p. 2.

<sup>5118</sup> Praljak Defence Final Trial Brief, para. 381.

<sup>5119</sup> Praljak Defence Final Trial Brief, para. 385.

<sup>5120</sup> Petković Defence Final Trial Brief, para. 208.

<sup>5121</sup> *Ivan Beneta*, T(F), p. 46610.

command to evacuate the "civilian population" from some areas of the Municipality of Čapljina in order to protect it.<sup>5122</sup>

2097. However, the Chamber admitted a large body of evidence from different sources - namely documents from international organisations and testimony by international representatives and inhabitants of the municipality - showing that between July and September 1993, the HVO launched a campaign of evictions and removal of exclusively Muslim women, children and elderly people from the Municipality of Čapljina.<sup>5123</sup>

2098. As alleged in paragraphs 176 to 182 of the Indictment, the Chamber will now analyse in greater detail the evidence relating to the criminal events in each of the specified localities. It will thus address, in turn, events that took place in or around the villages of (1) Domanovići; (2) Bivolje Brdo; (3) Počitelj; (4) Opličići; (5) Lokve; and (6) Višići. Lastly, it will address the events that took place in (7) the town of Čapljina.

#### 1. Events in or around Domanovići around 13 July 1993

2099. Paragraphs 175 and 176 of the Indictment allege that during the days around 13 July 1993, the Herceg-Bosna/HVO forces expelled and removed Muslim women, children and elderly people from or around the village of Domanovići; that during these expulsions, the Herceg-Bosna/HVO forces shot and killed two young BiH Muslim women and, moreover, robbed the Muslims of their property.

2100. After examining (a) the evidence relating to the wave of evictions and removal of women, children and elderly people from the village of Domanovići, the Chamber will analyse (b) the evidence relating to the death of the two young women and (c) the theft of property belonging to Muslims.

a) Evictions and Removals of Women, Children and Elderly People from the Village of Domanovići

2101. According to the evidence admitted into the record, around 13 July 1993, "HVO soldiers" entered the village of Domanovići,<sup>5124</sup> expelled women, children and elderly people from their

<sup>5122</sup> Ivan Beneta, T(F), pp. 46619, 46620 and 46766; P 10145 (French version), p. 5; Ivan Beneta, T(F), p. 46615.

<sup>5123</sup> See, in particular, P 09843 under seal, p. 2, para. 2; Witness BC, T(F), pp. 18384 and 18385, closed session; P 09847 under seal, p. 2; P 09851 under seal, para. 3.4; Witness C, T(F), p. 22365, closed session; Witness DV, T(F), p. 22872; P 10217 under seal, para. 144; P 09798 (French version), p. 2; P 04679, p. 5.

<sup>5124</sup> P 09931, p. 3; Hasan Hasić, T(F), pp. 10725-10726, and T(E), p. 10725; Dragan Ćurčić, T(F), pp. 45895 and 45896; 4D 01042; Sejfo Kajmović, T(F), pp. 11684-11692; IC 00178.

houses and took them to the Silos in Čapljina.<sup>5125</sup> *Sabira Hasić*, a Muslim inhabitant of the village of Domanovići,<sup>5126</sup> for example, said that on 13 July 1993, while some villagers, including her and her daughters, decided to flee from their homes and hide in a forest in Lokve, in the place known as Pašćevevine, the people who had remained in the village – she did not specify their number or identity – were arrested and taken by "HVO soldiers" to the Silos.<sup>5127</sup>

2102. The Chamber recalls that on 3 July 1993, Neđeljko Obradović ordered all units of the 1<sup>st</sup> HVO Brigade to "prevent any [...] crimes [...] in the brigade's zone of responsibility" and to "group the Muslim population" in the zone in order to "secure them".<sup>5128</sup>

2103. In view of this order and the closeness in time between its issuance and the events that took place in the village, the Chamber is satisfied that soldiers of the 1<sup>st</sup> *Knez Domagoj* Brigade of the HVO participated in the evictions and removal of the villagers.

2104. The Chamber finds that around 13 July 1993, HVO members, including soldiers from the 1<sup>st</sup> *Knez Domagoj* Brigade, evicted women, children and elderly people living in the village of Domanovići and removed them to the Silos.

#### b) Death of Two Young Women in the Village of Domanovići

2105. The Chamber<sup>5129</sup> notes that around 13 July 1993,<sup>5130</sup> two young women, Dženita and Sanela Hasić,<sup>5131</sup> aged 17 and 23 respectively, were shot dead by snipers while they were on the main road in the village of Domanovići.<sup>5132</sup> When there was no fighting in the village, Ramiza Hasić was travelling in the direction of Glavica together with two of her daughters, Dženita and Sanela, when Sanela was hit by bullets and collapsed into the canal by the side of the road, in front of the bridge leading to the neighbours' house.<sup>5133</sup> The young woman was still breathing when her sister, Dženita Hasić, was also hit by bullets – in the left leg and the head<sup>5134</sup> – and collapsed, lifeless, on the road, in front of the neighbours' house.<sup>5135</sup> *Hasan Hasić*, the father, who at that moment was in his house not far away, went to the scene of the incident and witnessed the death of his daughter Sanela. He

<sup>5125</sup> P 09931, pp. 3 and 5; P 09933 under seal, p. 3; P 09798 (French version), p. 2.

<sup>5126</sup> P 09931, p. 2.

<sup>5127</sup> P 09931, p. 3.

<sup>5128</sup> P 03135, p. 2.

<sup>5129</sup> Judge Antonetti discusses this incident in his separate, partially dissenting opinion appended to the Judgement.

<sup>5130</sup> Hasan Hasić, T(F), pp. 10728-10730; P 09747; P 09748.

<sup>5131</sup> Sanela and Dženita Hasić, representative victims from paragraph 176 of the Indictment.

<sup>5132</sup> P 09931, p. 4; Hasan Hasić, T(F), pp. 10724-10725, 10729-10731 and 10734-10736, private session; P 09747; P 09748; IC 00116.

<sup>5133</sup> P 09931, p. 4; Hasan Hasić, T(F), pp. 10729-10730; IC 00116.

<sup>5134</sup> P 09931, pp. 4 and 5; P 09747; Hasan Hasić, T(F), p. 10731.

<sup>5135</sup> P 09931, p. 4.

then took the bodies of his two daughters to a neighbour's house.<sup>5136</sup> According to *Hasan Hasić*, the snipers were "HVO soldiers" hidden in houses about 300 metres away from where his daughters were killed.<sup>5137</sup>

2106. On the basis of the evidence admitted into the record, the Chamber finds by majority, with Judge Antonetti dissenting, that on 13 July 1993 two young Muslim women were shot dead by HVO members in the village of Domanovići.

c) Thefts of Muslim Property in the Village of Domanovići

2107. According to *Sabira Hasić*, following the waves of arrests of men and the removal of women, children and elderly people from the village of Domanovići, the "HVO soldiers" searched the Muslim houses for weapons.<sup>5138</sup> Thus on 14 July 1993, *Sabira Hasić* returned to the village with her family in search of provisions and noted that her house had been searched.<sup>5139</sup>

2108. On the basis of this piece of evidence alone, admitted pursuant to Rule 92 *bis* of the Rules, the Chamber is not in a position to find that, in the course of the evictions and removal of women, children and elderly people from the village of Domanovići around 13 July 1993, HVO members stole property belonging to the Muslims.

2. Events in or around the Village of Bivolje Brdo around 13 July 1993

2109. Paragraphs 175 and 177 of the Indictment allege that during the days around 13 July 1993, the Herceg-Bosna/HVO forces expelled women, children and elderly people from or around the village of Bivolje Brdo. Moreover, the Prosecution claims that, in the course of this expulsion, the HVO soldiers shot and killed an 83-year-old Muslim man from the Kevčići hamlet, destroyed Bosnian Muslim houses and stole property belonging to BiH Muslims.

2110. After examining (a) the wave of evictions and removal of women, children and elderly people from or around the village of Bivolje Brdo around 13 July 1993, the Chamber will analyse the evidence relating to (b) the death of an elderly person, (c) the destruction of Muslim houses and (d) the thefts of property belonging to Muslims.

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<sup>5136</sup> P 09931, p. 4; *Hasan Hasić*, T(F), pp. 10729-10731; IC 00116.

<sup>5137</sup> *Hasan Hasić*, T(F), pp. 10734-10736, private session.

<sup>5138</sup> P 09931, p. 3.

<sup>5139</sup> P 09931, p. 3.

a) Evictions and Removals of Women, Children and Elderly People from the Village of Bivolje Brdo

2111. Around 13 July 1993, as the ABiH and the HVO were exchanging fire in and around the village of Bivolje Brdo,<sup>5140</sup> several hundred inhabitants of Bivolje Brdo, among whom was also *Witness CG*, fled the village in the direction of Blagaj or Pašćevine-Lokve.<sup>5141</sup> The villagers who remained hidden in the houses of Bivolje Brdo and some of the villagers who had fled but decided to return to the village on 14 July 1993, were expelled and moved to the Silos between 13 and 16 July 1993 by men wearing the HVO uniform.<sup>5142</sup>

2112. Although the Chamber is satisfied that inhabitants from or around the village of Bivolje Brdo were moved to the Silos, it does not have insufficient evidence to estimate their number or to make a finding on possible other locations where the inhabitants of the village might have been moved. *Aldijana Trbonja*, whose statement was received pursuant to Rule 92 *bis* of the Rules, is the only witness to have stated that around 70 inhabitants of the village were taken to the Silos and then, two days later, to a school in Sovići.<sup>5143</sup> Moreover, *Fatima Šoše*, whose statement was also received pursuant to Rule 92 *bis* of the Rules, is the only witness to state that 50 villagers were taken to a school in Muninovača.<sup>5144</sup>

2113. Concerning the perpetrators of these evictions and removal, the Chamber recalls that men from the 3<sup>rd</sup> Company of the 5<sup>th</sup> Military Police Battalion participated in the operations.<sup>5145</sup> It also notes that on 1 and 3 July 1993, Nedeljko Obradović, Commander of the 1<sup>st</sup> *Knez Domagoj* Brigade of the HVO, whose zone of responsibility included the Municipality of Čapljina<sup>5146</sup>, ordered the 1<sup>st</sup> and the 3<sup>rd</sup> battalions of the 1<sup>st</sup> *Knez Domagoj* Brigade to "cleanse" in particular the village of Bivolje Brdo and to "group the Muslim population" in the zone in order to "secure them".<sup>5147</sup>

2114. In view of these orders and the closeness in time between their issuance and the events in that village, the Chamber is satisfied that soldiers of the 1<sup>st</sup> *Knez Domagoj* Brigade of the HVO and

<sup>5140</sup> P 09770 under seal, p. 7; P 09937, para. 17.

<sup>5141</sup> P 10145, p. 5; P 09770 under seal, pp. 7 and 8; *Witness CG*, T(F), pp. 10804, 10820 and 10821; P 09742; IC 00118. The Chamber notes that, according to the testimonies received, 500 persons: (P 09770 under seal (French version), p. 8) or between 800 and 900 persons: (P 10145, p. 5) fled the village.

<sup>5142</sup> P 10145, pp. 5 and 6; P 09770 under seal, p. 8; *Witness CI*, T(F), p. 10915; P 09937, para. 30; P 09935, pp. 5 and 6.

<sup>5143</sup> P 09937, para. 30.

<sup>5144</sup> P 09935, pp. 5 and 6.

<sup>5145</sup> P 03478.

<sup>5146</sup> P 10217 under seal, para. 28; *Witness DV*, T(F), pp. 22872 and 22873; 4D 00475, p. 4.

<sup>5147</sup> P 03063; *Witness CG*, T(F), pp. 10798 and 10799; P 03135. Regarding Nedeljko Obradović's orders, *see also* "Eviction of Women, Children and Elderly People, Their Removal and Subsequent Alleged Crimes Perpetrated in the Municipality of Čapljina from July to September 1993" in the Chamber's factual findings relating to the Municipality of Čapljina.

members of the 3<sup>rd</sup> Company of the 5<sup>th</sup> Military Police Battalion participated in the evictions and removal of the villagers.

2115. The Chamber therefore finds that, between 13 and 16 July 1993, HVO members, some of whom belonged to the 1<sup>st</sup> *Knez Domagoj* Brigade and others to the 3<sup>rd</sup> Company of the 5<sup>th</sup> Military Police Battalion, expelled women, children and elderly people from their houses and the village of Bivolje Brdo, and that some of them were moved to the Silos.

b) Death of an 83-Year-Old Person in the Village of Bivolje Brdo

2116. On 14 July 1993, while *Witness CI*, an inhabitant of the hamlet of Kevčići in the village of Bivolje Brdo,<sup>5148</sup> was hiding in a shelter from which she could see her house approximately 15 metres away,<sup>5149</sup> an HVO armoured personnel carrier stopped in front of her house. "HVO soldiers" entered the house, shouting the surname of her father-in-law, a disabled 83-year-old man who had remained in the house.<sup>5150</sup> From her hiding place, *Witness CI* heard the men "provoke" her father-in-law, asking him if his son was a "mujahid".<sup>5151</sup> She then heard shots and saw smoke and flames rising from the house.<sup>5152</sup> When night fell, *Witness CI* saw the lifeless body of her father-in-law pierced by a bullet lying in front of the house.<sup>5153</sup>

2117. The Chamber finds that on 14 July 1993, a disabled 83-year-old man was killed by HVO members, but the Chamber has no evidence as to their identity.

c) Destruction of Muslim Houses in the Village of Bivolje Brdo

2118. Several witnesses testified to having seen Muslim houses in the village of Bivolje Brdo on fire or destroyed during the wave of evictions of women, children and elderly people around 13 July 1993.<sup>5154</sup>

2119. Thus *Aldijana Trbonja*, a Muslim inhabitant of the village of Bivolje Brdo,<sup>5155</sup> asserted that on the morning of 14 July 1993, HVO "soldiers" set her grandmother's house in Bivolje Brdo on fire.<sup>5156</sup>

<sup>5148</sup> *Witness CI*, T(F), p. 10894, private session.

<sup>5149</sup> *Witness CI*, T(F), p. 10907.

<sup>5150</sup> *Witness CI*, T(F), pp. 10894 and 10895 private session and pp. 10908-10910.

<sup>5151</sup> *Witness CI*, T(F), pp. 10908-10910; T(E), pp. 10909 and 10910.

<sup>5152</sup> *Witness CI*, T(F), p. 10911.

<sup>5153</sup> *Witness CI*, T(F), p. 10912.

<sup>5154</sup> *Sejfo Kajmović*, T(F), p. 11698; P 09935, p. 4; *Witness CI*, T(F), pp. 10911 and 10912; P 09937, para. 28.

<sup>5155</sup> P 09937, para. 6.

<sup>5156</sup> P 09937, para. 28.

2120. *Witness CI* asserted that on 14 July 1993, an HVO armoured personnel carrier stopped in front of her house in Bivolje Brdo. "HVO soldiers" entered the house, shouting the surname of her father-in-law, who had remained in the house.<sup>5157</sup> A few minutes later, *Witness CI* saw smoke and flames rising from the house.<sup>5158</sup> *Witness CI* also stated that in the evening of 14 July 1993, her house was burned to the ground and that there were traces of white powder around it.<sup>5159</sup> She also stated that, on that day, the same men torched several other houses in the village.<sup>5160</sup>

2121. The Chamber finds that HVO members – the Chamber has no evidence as to their identity – torched houses belonging to Muslims in the village of Bivolje Brdo around 13 July 1993.

d) Thefts of Muslim Property in or around the Village of Bivolje Brdo

2122. *Fatima Šoše* stated that around 13 July 1993, while she was taking refuge in one of the houses in the hamlet of Selo near Bivolje Brdo<sup>5161</sup> together with other girls from the village, she saw "three soldiers" wearing HVO insignia, some of whom were from Bivolje Brdo,<sup>5162</sup> go into Bećir Trbonja's house and then go back and forth between the house and the car parked in front of it as if they were carrying items.<sup>5163</sup> She also stated that several days later, around 16 July 1993, during the removal of a group of about fifty people expelled from the hamlet of Selo,<sup>5164</sup> a woman who had managed to bring a bag with her, had the bag snatched by one of the soldiers.<sup>5165</sup>

2123. *Witness CI*, an inhabitant of the hamlet of Kevčiči<sup>5166</sup> in the village of Bivolje Brdo, saw "soldiers" in uniform – without, however, identifying the insignia on their uniforms – steal livestock near her house around 14 July 1993.<sup>5167</sup>

2124. The Chamber finds that HVO members – the Chamber has no evidence as to their identity – stole Muslim property in the village of Bivolje Brdo around 13 or 14 July 1993.

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<sup>5157</sup> *Witness CI*, T(F), pp. 10908-10910.

<sup>5158</sup> *Witness CI*, T(F), p. 10911.

<sup>5159</sup> *Witness CI*, T(F), pp. 10911 and 10912.

<sup>5160</sup> *Witness CI*, T(F), p. 10911.

<sup>5161</sup> P 09935, p. 4.

<sup>5162</sup> P 09935, p. 4.

<sup>5163</sup> P 09935, p. 4.

<sup>5164</sup> P 09935, p. 5.

<sup>5165</sup> P 09935, p. 5.

<sup>5166</sup> *Witness CI*, T(F), p. 10894, private session.

<sup>5167</sup> *Witness CI*, T(E), p. 10920.



3. Events that Took Place around 13 July 1993 and between 27 July and 5 August 1993 in or around the Village of Počitelj

2125. Paragraphs 175 and 178 of the Indictment allege that around 13 July 1993 and then between 27 July and 5 August 1993, the Herceg-Bosna/HVO forces expelled the women, children and elderly from in or around the village of Počitelj, most of whom were refugees from other villages; that the Herceg-Bosna/HVO forces then loaded the Muslim civilians onto trucks and took them to Buna, where they were made to walk to Blagaj – which was part of the East Mostar enclave – and, finally, that in the course of these activities, the Herceg-Bosna/HVO forces robbed the Muslims of the village of Počitelj of their property.

2126. After (a) examining the evidence relating to the wave of evictions and removal of the women, children and elderly from Počitelj, the Chamber will (b) analyse the evidence relating to the allegations of thefts of Muslim property in that village.

a) Evictions and Removals of Women, Children and Elderly People from the Village of Počitelj

2127. The evidence shows that between early July and early August 1993, the village of Počitelj became a refuge and collection point for the Muslim women, children and elderly people who had fled the villages and hamlets on the Dubrave Plateau or who had been arrested by the HVO in the villages and hamlets in the Municipality of Čapljina.<sup>5168</sup>

2128. The Chamber recalls that on 1 and 3 July 1993, Nedeljko Obradović, Commander of the 1<sup>st</sup> *Knez Domagoj* Brigade of the HVO, ordered the 1<sup>st</sup> and the 3<sup>rd</sup> battalions of the 1st *Knez Domagoj* Brigade to "cleanse", *inter alia*, the village of Počitelj and to "group the Muslim population" in order to "secure them".<sup>5169</sup> Furthermore, the Chamber notes that on 4 August 1993, Miljenko Obradović, Commander of the 3<sup>rd</sup> Battalion of the 1<sup>st</sup> *Knez Domagoj* Brigade of the HVO, ordered – further to a verbal order by the Commander of the 1<sup>st</sup> *Knez Domagoj* Brigade - three companies of his battalion to group the Muslim population of the village of Počitelj, regardless of their age, on 5 August 1993.<sup>5170</sup>

2129. Thus on two occasions in the summer of 1993, that is, around 13 July 1993 and then in early August 1993, HVO members – including soldiers of the 1<sup>st</sup> *Knez Domagoj* of the HVO – expelled

<sup>5168</sup> P 09768 under seal, pp. 5 and 6.

<sup>5169</sup> P 03063; Witness CG, T(F), pp. 10798 and 10799; P 03135. Regarding Nedeljko Obradović's orders, *see also* "Eviction of Women, Children and Elderly People, Their Removal and the Subsequent Alleged Crimes in the Municipality of Čapljina from July to September 1993" in the Chamber's factual findings relating to the Municipality of Čapljina.

<sup>5170</sup> P 03940; P 03962.

women, children and elderly people who were in Počitelj, including the women in *Salko Bojčić's* family.<sup>5171</sup> *Sabira Hasić* also stated that she, her daughters and inhabitants of Počitelj had been "assembled" by MUP members and forced by them to get into buses. They were then taken first to Buna and then to Blagaj.<sup>5172</sup> However, since *Sabira Hasić's* statement was received pursuant to Rule 92 *bis* of the Rules, the Chamber cannot find that MUP members participated in the arrests of the inhabitants of Počitelj who were then taken in HVO trucks to Buna and Petak and made to walk from there to Blagaj in East Mostar.<sup>5173</sup>

2130. In September/October 1993, the village of Počitelj had no inhabitants.<sup>5174</sup>

2131. In view of all the evidence admitted into the record, the Chamber finds that HVO members, including soldiers of the 1<sup>st</sup> *Knez Domagoj* Brigade, expelled women, children and elderly people from the village of Počitelj and moved them to Buna and then to Blagaj around 13 July 1993 and then in early August 1993.

b) Thefts of Muslim Property in the Village of Počitelj

2132. The Chamber has no evidence to support a finding that HVO members stole Muslim property in the village of Počitelj.

4. Events that Took Place around 13 April 1993 and between 27 July and 7 August 1993 in or around the Village of Opličići

2133. The Chamber received no evidence to support a finding in respect of the crimes alleged by the Prosecution to have taken place in this village.

5. Events that Took Place between 13 and 16 July 1993 in or around the Village of Lokve

2134. Paragraphs 175 and 180 of the Indictment allege that from 13 to 15 July 1993, the Herceg-Bosna/HVO forces expelled Muslim civilians from in or around the village of Lokve; that on 14 July 1993, they destroyed the mosque in or about Lokve; that on 16 July 1993, they also destroyed Muslim houses, and that in the course of these activities, they robbed the Muslims from the village of Lokve of their property.

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<sup>5171</sup> P 09798 (French version), pp. 2 and 5; P 09931, p. 6; Witness CJ, T(F), pp. 10944 and 10945, closed session; P 09768 under seal, p. 4; Sejfo Kajmović, T(F), p. 11702; P 03940; P 03962.

<sup>5172</sup> P 09931, p. 6.

<sup>5173</sup> P 09798 (French version), p. 5; Witness CJ, T(F), pp. 10944 and 10945, closed session; P 09931, p. 6; P 03940; P 03962.

<sup>5174</sup> Witness BC, T(F), p. 18387, closed session.

2135. The Chamber will first examine the evidence relating to (a) the evictions and removal of Muslim women, children and elderly people from in or around the village of Lokve, then (b) the destruction of the mosque and Muslim houses in the village of Lokve and (c) the evidence relating to the thefts of Muslim property in that village.

a) Evictions and Removals of Women, Children and Elderly People from the Village of Lokve

2136. When the HVO forces launched an attack on the village of Lokve on 12 July 1993, some villagers<sup>5175</sup> fled to take refuge in the woods around the village; others were arrested by HVO "soldiers".<sup>5176</sup> On 14 July 1993, the villagers who had taken refuge in the woods surrendered to HVO "soldiers". They were placed in houses in the village.<sup>5177</sup>

2137. The Chamber observes that only *Enver Vilogorac* stated that around 13 July 1993, "people from Lokve" were transported by "HVO soldiers" in trucks to Podpetak and then "expelled" to Blagaj which was under ABiH control.<sup>5178</sup> The Chamber notes that *Enver Vilogorac's* statement was admitted pursuant to Rule 92 *bis* of the Rules.

2138. On the basis of only this testimony admitted pursuant to Rule 92 *bis* of the Rules, the Chamber cannot find that HVO members removed women, children and elderly people from the village of Lokve around 13 July 1993.

b) Destruction of the Mosque in the Village of Lokve on 14 July 1993 and of the Houses of Muslim Inhabitants of the Village of Lokve on 16 July 1993

i. Destruction of the Mosque in the Village of Lokve on 14 July 1993

2139. Several witnesses testified that the Lokve mosque was destroyed around mid-July 1993.<sup>5179</sup> Thus *Sejfo Kajmović*, the imam of Rečiče, testified that, on 13 or 14 July 1993, watching from the nearby forest where he was hiding, he saw the upper part of the Lokve mosque on fire.<sup>5180</sup> *Witness EC* and *Ahmet Alić*, the imam of Lokve<sup>5181</sup>, said, that the Lokve mosque had been mined, although

<sup>5175</sup> The Chamber notes that the witnesses were not specific in their description of the people involved in the events in the village of Lokve around 13 July 1993.

<sup>5176</sup> P 10129 under seal, para. 8. According to Witness EC, there were about 500 of them; P 10125 (French version), p. 8.

<sup>5177</sup> P 10125 (French version), p. 8; P 10129 under seal, para. 8.

<sup>5178</sup> P 10145 (French version), p. 5.

<sup>5179</sup> *Sejfo Kajmović*, T(F), pp. 11694 and 11696; P 10125 (French version), p. 8; P 10129 under seal, para. 8; P 10145 (French version), p. 7.

<sup>5180</sup> *Sejfo Kajmović*, T(F), p. 11694.

<sup>5181</sup> P 10125 (French version), p. 2.

they had not witnessed the events themselves.<sup>5182</sup> *Ahmet Alić* said that according to his wife, pieces of the minaret "were flying everywhere" and that the mosque had been destroyed.<sup>5183</sup>

2140. The Chamber notes that none of the witnesses or documents admitted into evidence was able to identify the perpetrators of this destruction. Although the Chamber observes that, according to a report by the 1<sup>st</sup> *Knez Domagoj* Brigade of 18 July 1993, a group of thirty or so Muslim men were indeed in Lokve,<sup>5184</sup> it nevertheless notes that, according to *Sejfo Kajmović*, the fighting in the village of Lokve had ceased around 14 July 1993 and the village was under the control of the HVO forces.<sup>5185</sup> The Chamber can therefore find that the Lokve mosque was destroyed around 14 July 1993 by HVO members, but cannot determine to which unit they belonged.

#### ii. Destruction of Muslim Houses on 16 July 1993

2141. Several witnesses stated that Muslim houses in the village of Lokve were set on fire after 13 July 1993.<sup>5186</sup> For example, *Sejfo Kajmović* testified that his house as well as other houses belonging to Muslims was burned down between 13 and 17 July 1993.<sup>5187</sup> *Witness EC* stated that after 13 July 1993, Muslim houses were set on fire.<sup>5188</sup>

2142. The Chamber notes that none of the witnesses clearly identified the people who set fire to the Muslim houses. Nevertheless, as previously stated, as of 13 July 1993, fighting in the village of Lokve had ceased and the village was under the control of HVO forces.<sup>5189</sup> The Chamber can thus rule out the possibility that the fires could have been set by armed forces other than the HVO. However, inasmuch as the Chamber does not have precise information, it cannot rule out the possibility that the fire were set by people who did not belong to any armed forces. Therefore, although the Chamber can find that Muslim houses in the village of Lokve were destroyed/burned down after 13 July 1993, it cannot find beyond a reasonable doubt that that they were destroyed by HVO members.

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<sup>5182</sup> P 10129 under seal, paras 7 and 8. Witness EC was a Muslim inhabitant of the village of Lokve. He was arrested on 2 July 1993 by the HVO forces; P 10125 (French version), pp. 2 and 8; according to the witness *Ahmet Alić*, the Lokve mosque was mined at the time the villagers were being kept in detention.

<sup>5183</sup> P 10125 (French version), p. 8.

<sup>5184</sup> P 03546, p. 2.

<sup>5185</sup> *Sejfo Kajmović*, T(F), pp. 11694 and 11696.

<sup>5186</sup> *Sejfo Kajmović*, T(F), pp. 11694, 11695 and 11698; P 10129 under seal, para. 8; P 09770 under seal, p. 8; P 10145 (French version), p. 7; Witness CI, T(E), pp. 10924 and 10925.

<sup>5187</sup> *Sejfo Kajmović*, T(F), pp. 11694, 11695 and 11698. See also P 10145 (French version), p. 7; P 09770 under seal, pp. 5 and 8: on her arrival in the village of Lokve, Witness CG saw smoke rising from some of the houses.

<sup>5188</sup> P 10129 under seal, para. 8.

<sup>5189</sup> *Sejfo Kajmović*, T(F), pp. 11694 and 11696.

c) Thefts of Muslim Property in the Village of Lokve

2143. The Chamber notes that it received only the written statement of *Ahmet Alić*, admitted pursuant to Rule 92 *bis* of the Rules, who said that the houses in the village of Lokve had been looted and the property stolen.<sup>5190</sup>

2144. On the basis of only this evidence, the Chamber cannot find that HVO members stole Muslim property in the village of Lokve.

6. The Events that Took Place around 14 July 1993 and 11 August 1993 in or around the Village of Višići

2145. In paragraphs 175 and 181 of the Indictment, the Prosecution alleges that on about 14 July 1993, the Herceg-Bosna/HVO forces destroyed the mosque in the village of Višići and that on 11 August 1993, they expelled Muslim civilians from that village, initially detaining them for several days at Silos and then evicting them from HVO-held territory.<sup>5191</sup> The Prosecution claims that, in the course of these evictions, the Herceg-Bosna/HVO forces robbed the Muslims of their property.

2146. The Chamber will first examine the evidence relating to (a) the destruction of the mosque in Višići on or about 14 July 1993, then that relating to (b) the evictions and removal of women, children and elderly people from the village of Višići on 11 August 1993 and, lastly, the evidence relating to (c) the thefts of property belonging to Muslims from that village.

a) Destruction of the Mosque in Višići on or about 14 July 1993

2147. The Chamber heard several witnesses who confirmed that the mosque in Višići was destroyed around mid-July 1993.<sup>5192</sup>

2148. *Witnesses CO*<sup>5193</sup> and *CN*<sup>5194</sup> explained that the mosque had been destroyed in several stages.<sup>5195</sup> More specifically, according to *Witness CO*, around mid-July 1993, four men in military uniform – the witness could not provide any further details as to their identity – arrived in a car

<sup>5190</sup> P 10125 (French version), p. 8.

<sup>5191</sup> The Chamber notes as a preliminary matter that the detention at the Silos of women, children and elderly people from the village of Višići as well as their transfer from the Silos to ABiH-held territories are addressed below in the general part relating to the detentions at the Silos, *see* "Incarceration of Muslims from the Municipality of Čapljina" in the Chamber's factual findings relating to the Municipality of Čapljina.

<sup>5192</sup> *Witness CO*, T(F), pp. 11282-11283; *Sejfo Kajmović*, T(F), p. 11734; *Witness CN*, T(F), p. 11212; *Witness C*, T(F), p. 22422 closed session.

<sup>5193</sup> Inhabitant of the village of Višići. *Witness CO*, T(F), pp. 11249 and 11251, private session.

<sup>5194</sup> Inhabitant of the village of Višići. P 09754 under seal, p. 2.

<sup>5195</sup> *Witness CO*, T(F), p. 11282; *Witness CN*, T(F), p. 11212.

close to the mosque, broke the windows of the mosque, threw something inside and then took flight before two explosions destroyed a part of the mosque.<sup>5196</sup>

2149. The evidence shows that the rest of the mosque was destroyed several days later by an explosion in the middle of the night.<sup>5197</sup> A report by the 3<sup>rd</sup> Company of the 5<sup>th</sup> Military Police Battalion of the HVO dated 20 July 1993 confirmed that the mosque had been blown up at around 0300 hours on 19 or 20 July 1993 but did not say who had destroyed it.<sup>5198</sup>

2150. The Chamber observes that none of the witnesses or documents admitted into evidence identified who exactly destroyed the mosque in Višići. Nevertheless, the Chamber notes that (1) *Witness CO* identified four men in military uniform; (2) according to a report for 14 July 1993, members of the 3<sup>rd</sup> Company of the 5<sup>th</sup> Military Police Battalion of the HVO were in the village of Višići on that date in order to arrest Muslim men; (3) according to an order of 3 July 1993, Neđeljko Obradović instructed all units of the 1<sup>st</sup> HVO Brigade to "prevent any [...] crimes [...] in the brigade's zone of responsibility" and to "group the Muslim population" in the zone in order to "secure them";<sup>5199</sup> (4) no fighting was underway when the mosque was destroyed;<sup>5200</sup> (5) no evidence attest to the presence of members of the ABiH or Serbian forces in the zone; and (6) the HVO controlled the area.<sup>5201</sup> In view of these findings, the Chamber is in a position to find that the mosque was indeed destroyed by members of the HVO. However, the evidence does not allow the Chamber to determine to which HVO unit the people who destroyed it belonged.

b) Evictions and Removals of Women, Children and Elderly People from the Village of Višići on 11 August 1993

2151. The Chamber heard several witnesses who confirmed that members of the MUP and the local HDZ expelled Muslim women, children and elderly people from the village of Višići around 11 August 1993.<sup>5202</sup> Thus, and particularly, *Witness CN*, a Muslim inhabitant of the village of Višići,<sup>5203</sup> explained that on 11 August 1993, three members of the Čapljina MUP – including a certain "Konjčanin" and a man called Berko Karadžić – asked her to come out of her house with the other members of her family, including her 18-month-old daughter, her sister-in-law and her two

<sup>5196</sup> *Witness CO*, T(F), p. 11283.

<sup>5197</sup> *Witness CO*, T(F), pp. 11283-11285; *Witness CN*, T(F), pp. 11212 and 11213; *Witness C*, T(F), p. 22422, closed session; P 03593 under seal, p. 2; P 03580, p. 3; P 09755 under seal, p. 7.

<sup>5198</sup> P 03593 under seal, p. 2; P 03580, p. 3; *Witness CO*, T(F), p. 11282: *Witness CO* also asserted that the mosque in the village of Višići was still intact in early July 1993; P 09285.

<sup>5199</sup> P 03135, p. 2.

<sup>5200</sup> *Witness CO*, T(F), p. 11287.

<sup>5201</sup> *Witness CO*, T(F), p. 11287; Sejfo Kajmović, T(F), p. 11694.

<sup>5202</sup> P 09754 under seal, pp. 2-4; *Witness CN*, T(F), p. 11202; P 09755 under seal, pp. 7 and 8.

children.<sup>5204</sup> They were then driven to the MUP station in the town of Čapljina and then to a house in Tasovčići.<sup>5205</sup>

2152. The evidence admitted into the record supports a finding by the Chamber that on 11 August 1993, members of the MUP and the local HDZ evicted Muslim women, children and elderly people from the village of Višići and that some Muslim inhabitants were taken to a house in Tasovčići. However, the Chamber does not have evidence to establish that, after being expelled from their homes on 11 August 1993, women, children and elderly people were moved to the Silos. This finding will not prevent the Chamber from noting that Muslims from that village were indeed detained at the Silos at a later date, after being kept in other detention facilities.<sup>5206</sup>

c) Thefts of Muslim Property in the Village of Višići

2153. The Chamber does not have precise evidence to establish that members of the HVO stole Muslim property. *Witness CO* was in fact the only witness to have stated that after 1 July 1993,<sup>5207</sup> a group of soldiers who spoke in a Dalmatian dialect and whose vehicle had Makarska number plates came to the village on two or three occasions and searched and stole property belonging to Muslims, but she did not provide any further details as to the dates or the identity or affiliation of the soldiers who carried out the thefts.<sup>5208</sup>

2154. The Chamber is therefore not in a position to find that property belonging to Muslims was stolen during the eviction campaign in the village of Višići on 11 August 1993.

7. Events in August and September 1993 in the Town of Čapljina

2155. Paragraphs 175, 182 and 185 of the Indictment allege that in August and September 1993, the Herceg-Bosna/HVO forces expelled and transferred Muslim women, children and elderly from Čapljina town; that the main expulsion occurred on or about 23 August 1993, when the Herceg-Bosna/HVO forces loaded about 3,000 civilians onto trucks and removed them from the town in the direction of the Silos, and that on 29 September 1993, they expelled the last remaining BiH Muslims from the town of Čapljina. Paragraph 175 of the Indictment adds that, in the course of the evictions and removal, the Herceg-Bosna/HVO forces robbed the Muslims of their property.

<sup>5203</sup> P 09754 under seal, p. 2.

<sup>5204</sup> P 09754 under seal, pp. 3 and 4; Witness CN, T(F), p. 11202.

<sup>5205</sup> P 09754 under seal, pp. 3 and 4.

<sup>5206</sup> In the part dealing with the detentions at the Silos, the Chamber will examine the evidence that villagers of Višići were detained there as of 2 October 1993.

<sup>5207</sup> Witness CO, T(F), p. 11269.

<sup>5208</sup> Witness CO, T(F), pp. 11270, 11271 and 11279-11281.

2156. The evidence demonstrates that, in August and September 1993, many Muslim children, women and elderly people from the town of Čapljina were expelled from the town by "HVO soldiers" and members of the MUP, and taken, in various HVO vehicles, to Silos or in the direction of towns in ABiH-controlled territory.<sup>5209</sup>

2157. Thus on 23 August 1993, women, children and elderly people, including *Witness DS*<sup>5210</sup> and *Witness CO*,<sup>5211</sup> were expelled from their apartments in the town of Čapljina, loaded onto trucks and driven to the Silos by the "HVO" and members of the MUP.<sup>5212</sup>

2158. *Witness DS* explained that on 23 August 1993, at around 1300 hours, a "civilian covered truck" and three "civilian cars" drew up near her building and the neighbouring one in the town of Čapljina and a man "in civilian clothes" called over the megaphone on the Muslims in the buildings, namely the women, children and men who had not been arrested in July 1993, to leave their apartments and gather around the truck.<sup>5213</sup> *Witness DS* stated that they were crammed into the truck and driven to the Silos.<sup>5214</sup>

2159. On 29 September 1993, *Witness CK*, an inhabitant of the town of Čapljina<sup>5215</sup>, was arrested along with another 34 people, including her two children aged 13 and 15,<sup>5216</sup> by two policemen, one wearing a camouflage uniform and the other a blue MUP one, and taken in a minibus to the Silos.<sup>5217</sup>

2160. In the late summer of 1993, other women, children and elderly people were expelled from their houses in the town of Čapljina and moved to towns in the ABiH-controlled territory.<sup>5218</sup> For example, according to *Witness ED*, Muslim women, children and elderly people from the town of Čapljina who had been authorised at the beginning of the summer to remain in their homes were forcibly displaced to the towns of Buna and Mostar at the end of the summer of 1993. However, the Chamber does not have precise information as to who carried out the displacements.<sup>5219</sup>

<sup>5209</sup> *Witness CK*, T(F), pp. 1106-11008; P 09799 under seal, pp. 3 and 4; P 09755 under seal, p. 7; *Witness CO*, T(F), pp. 11295 and 11296; P 09933 under seal, pp. 3 and 4; P 10133 under seal, p. 5, paras 46 and 47.

<sup>5210</sup> Muslim inhabitant of the town of Čapljina until 23 August 1993; *see* P 09933 under seal, pp. 1 and 2.

<sup>5211</sup> Muslim inhabitant of Višići who took refuge in the town of Čapljina as of August 1993. *See* *Witness CO*, T(F), pp. 11249 and 11251, closed session.

<sup>5212</sup> P 09933 under seal, pp. 3 and 4; *Witness CO*, T(F), pp. 11295 and 11296; P 09755 under seal, p. 7.

<sup>5213</sup> P 09933 under seal, pp. 3 and 4.

<sup>5214</sup> P 09933 under seal, pp. 3 and 4.

<sup>5215</sup> P 09799 under seal, p. 2.

<sup>5216</sup> P 09799 under seal, p. 3.

<sup>5217</sup> *Witness CK*, T(F), pp. 11006-11008; P 09799 under seal, pp. 3 and 4.

<sup>5218</sup> P 10133 under seal, p. 5, para. 47; 3D 00942, p. 12; Slobodan Praljak, T(F), p. 40896.

<sup>5219</sup> P 10133 under seal, p. 5, paras 46 and 47.



2161. In view of all the evidence admitted into the record, the Chamber finds that, in August and September 1993, members of the HVO and the MUP expelled and removed women, children and elderly people from the town of Čapljina and took them to the Silos or territories under ABiH control. Moreover, the Chamber notes that it has no evidence showing that thefts were carried out in the course of these campaigns of evictions and removals.

**F. Incarceration of Muslims and Their Removal to ABiH-Controlled Territories or Third Countries between July and October 1993**

1. Incarceration of Muslims from the Municipality of Čapljina

a) Incarceration of Muslims at the Silos

2162. Paragraph 181 of the Indictment alleges that, starting on 11 August 1993, the Herceg-Bosna/HVO forces detained Bosnian Muslim civilians from the village of Višići for several days at the Silos and then evicted them from HVO-held territory. Paragraphs 182 and 183 of the Indictment also allege that the Herceg-Bosna/HVO forces detained Muslims civilians at the Silos, among other locations; that on or about 23 August 1993, 3,000 Bosnian Muslim civilians from the village of Čapljina were taken in a large convoy of trucks out of the town, making a brief stop at the Silos, where their personal property was taken from them. They were then taken to Buna and made to walk to Blagaj.

2163. Furthermore, paragraph 193 of the Indictment alleges that at the end of August 1993, the HVO moved from Dretelj Prison detained Muslim clerics, detainees in the worst physical condition and detainees held in the isolation cell at the Silos, in order to conceal them from representatives of the ICRC who visited the prison in early September 1993.

2164. The Chamber will (i) analyse the evidence relating to the organisation of the Silos as a detention centre as well as to the identity of the detainees and the guards, and will then (ii) examine the conditions under which the Muslims were detained and (iii) the alleged thefts to which they were subjected.

i. Organisation of Silos in Čapljina as a Detention Centre, Number and Identity of Detainees and Guards

2165. The building called Silos was on the Ljubuški road at the crossing with the road leading to the Grabovina barracks;<sup>5220</sup> it was used for storing grain.<sup>5221</sup>

2166. The Chamber observes that the Silos had four rooms on each side of a large corridor.<sup>5222</sup>

2167. The Silos had a courtyard where the trucks loaded with Muslims expelled from various localities in the Municipality of Čapljina and removed by the HVO entered directly.<sup>5223</sup>

2168. Regarding the identity of the detainees, the Chamber notes that, at the Silos were Muslim women, children and elderly people from the village of Domanovići who were brought there around 13 July 1993;<sup>5224</sup> Muslim women, children and elderly people from the village of Višići who were brought there on 2 October 1993 after being detained in a house in Tasovčići as of 11 August 1993;<sup>5225</sup> Muslim women, children and elderly people from the village of Bivolje Brdo who were brought there between 13 and 16 July;<sup>5226</sup> as well as Muslim women, children and elderly people from the town of Čapljina who were brought there in August and September 1993.<sup>5227</sup>

2169. Thus the Chamber notes, in particular, that *Albijana Trbonja* stated that her mother, her grandmother, pregnant women and other women with small children were taken from the village of Bivolje Brdo to the Silos around 14 July 1993;<sup>5228</sup> that, according to a report by an international organisation, on 13 July 1993, at least 420 women, children and elderly people from seven villages between Stolac and Čapljina were put in a convoy of six armoured trucks and transported to the Silos, where they stayed for three days;<sup>5229</sup> that on 29 September 1993, *Witness CK* was taken from the town of Čapljina to the Silos together with another 34 people – no further details were provided

<sup>5220</sup> P 09799 under seal, p. 4; P 09086.

<sup>5221</sup> P 09799 under seal, p. 4.

<sup>5222</sup> P 09754 under seal, p. 4; Witness CO, T(F), pp. 11296 and 11297; P 09933 (French version), p. 4.

<sup>5223</sup> P 09933 under seal, p. 4.

<sup>5224</sup> See "Evictions and Removal of Women, Children and Elderly People from the Village of Domanovići" in the Chamber's factual findings relating to the Municipality of Čapljina. P 09931, pp. 3 and 5; P 09933 under seal, p. 3.

<sup>5225</sup> See "Evictions and Removal of Women, Children and Elderly People from the Village of Višići on 11 August 1993" and "Incarceration of Women, Children and Elderly People in Various Houses and Schools in the Municipality of Čapljina" in the Chamber's factual findings relating to the Municipality of Čapljina. P 09754 under seal, pp. 3 and 4.

<sup>5226</sup> See "Evictions and Removal of Women, Children and Elderly People from the Village of Bivolje Brdo" in the Chamber's factual findings relating to the Municipality of Čapljina. P 09770 under seal, p. 8; P 10145, pp. 5 and 6; P 09937, para. 30.

<sup>5227</sup> See "Events in August and September 1993 in the Town of Čapljina" in the Chamber's factual findings relating to the Municipality of Čapljina. P 09933 under seal, p. 4; Witness CK, T(F), p. 11008; P 09799 under seal, p. 4; Witness CO, T(F), pp. 11296 and 11297.

<sup>5228</sup> P 09937, para. 30.

<sup>5229</sup> P 09847 under seal, p. 2; Witness BC, T(F), p. 18384, closed session.

– where she spent one night before being driven to Blagaj along with the other people arrested at the same time;<sup>5230</sup> and that *Witness CN* stated that on 2 October 1993, after being held in a house in the village of Tasovčići since 11 August, she was driven, together with six women and children from her family, from the village of Višići to the Silos.<sup>5231</sup>

2170. Moreover, when he arrived at the Silos in October 1993, *Huso Marić*, a member of the *Bregava* Brigade of the ABiH,<sup>5232</sup> found children's clothing.<sup>5233</sup>

2171. Finally, imams, "minors", elderly people and detainees from the isolation cell at Dretelj Prison, that is, around 120 detainees, were removed from Dretelj Prison shortly before 6 September 1993 and the first visit to Dretelj Prison by the ICRC, and spent two days at the Silos.<sup>5234</sup>

2172. Concerning the identity of the guards at the Silos, the Chamber notes that they were members of the HVO Military Police, but the Chamber has no further relevant details.<sup>5235</sup> The Chamber also received evidence confirming that in October 1993, members of the MUP were at the Silos and mistreated the detainees.<sup>5236</sup> *Witness CN* stated, *inter alia*, that the MUP members who were on duty at the beginning of October 1993 were Miro Bukovac, a certain "Bruno", a man called "Rodin" and a certain "Obradović" and that their commander was Nikola Zovko.<sup>5237</sup>

2173. The Chamber also received the statement of *Huso Marić*, according to which in September and October 1993, "members of the SIS", including Marinko Marić and Željko Rodin, were in charge of the interrogations at the Silos.<sup>5238</sup> However, on the basis of this one statement, received pursuant to Rule 92 *bis* of the Rules, the Chamber cannot find that members of the SIS were at the Silos.

2174. The Chamber finds that, between July and October 1993, the HVO detained men – some of whom did not belong to any armed forces – women, children and elderly people at the Silos for varying periods of time. The Chamber also finds that among the HVO members in charge of the detainees were members of the HVO Military Police and those of the MUP.

<sup>5230</sup> P 09799 under seal (French version), pp. 3 and 4.

<sup>5231</sup> P 09754 under seal, pp. 3 and 4. Concerning the detention of villagers from Višići in a house in Tasovčići, *see* "Evictions and Removal of Women, Children and Elderly People from the Village of Višići on 11 August 1993" in the Chamber's factual findings relating to the Municipality of Čapljina.

<sup>5232</sup> P 10138, paras 5 and 6.

<sup>5233</sup> P 10138, para. 29.

<sup>5234</sup> *See* "Concealment of some Detainees in the Silos in Čapljina in late August 1993 to Hide Them from ICRC Representatives" in the Chamber's factual findings relating to Dretelj Prison.

<sup>5235</sup> P 09937, para. 32; P 10147 (French version), p. 6.

<sup>5236</sup> P 09754 under seal, pp. 4 and 5.

<sup>5237</sup> P 09754 under seal, p. 5.

<sup>5238</sup> P 10138, para. 29.

## ii. Conditions of Confinement at the Silos

2175. The Chamber takes note of the testimony of *Witness CN*, a detainee at the Silos in early October 1993, who said that the conditions of confinement were "terrible".<sup>5239</sup>

2176. The detainees were crammed into rooms, some of which contained as many as 150 people.<sup>5240</sup> *Aldijana Trbonja* reported that she was in a 16-square-metre room with 30 or so other detainees.<sup>5241</sup> Most of the detainees went for several days without any or very little food,<sup>5242</sup> without water<sup>5243</sup> or electricity.<sup>5244</sup> The evidence also demonstrates that the prisoners had to relieve themselves in a bucket<sup>5245</sup> in a corner of the room.<sup>5246</sup>

2177. The detainees had to sleep on the bare ground, without blankets, in concrete rooms<sup>5247</sup> that had no ceiling<sup>5248</sup> and that were very cold at the time when the witnesses were detained there, that is, in September and October.<sup>5249</sup> Moreover, *Witness CN* stated that one of the detainees, Almira Čolaković, had a newborn baby and had no means of taking care of it.<sup>5250</sup> Finally, the Chamber notes that on 19 October 1993, *Witness CN* was moved, together with other women and children, to the students' dormitory in Čapljina because the Silos had become too cold for the children detained there.<sup>5251</sup> According to *Witness CN*, the detention conditions there were much better than at the Silos, the detainees had toilets, electricity and food.<sup>5252</sup>

2178. The Chamber finds that the conditions of confinement at the Silos were extremely harsh, the detainees received very little food, had no sanitary facilities at their disposal and had to sleep in rooms in which the temperature was very low in September and October 1993.

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<sup>5239</sup> *Witness CN*, T(F), p. 11200.

<sup>5240</sup> P 09770 under seal (French version), p. 8; P 09933 under seal (French version), p. 4.

<sup>5241</sup> P 09937, para. 32.

<sup>5242</sup> The Chamber takes note of the testimony of *Zijad Vujanović*, who spent the night of 4-5 September 1993 at the Silos and who stated that on 5 September, the detainees who had been brought from Dretelj Prison received two meals. *See* P 10147 (French version), pp. 2 and 6.

<sup>5243</sup> P 09847 under seal, p. 2; *Witness BC*, T(F), p. 18384, closed session; P 09770 under seal (French version), p. 8; P 09799 (French version), p. 4; P 09933 under seal (French version), p. 4; P 09754 under seal, pp. 4 and 5.

<sup>5244</sup> P 09799 (French version), p. 4.

<sup>5245</sup> P 09770 under seal (French version), p. 8.

<sup>5246</sup> P 09754 under seal, p. 4.

<sup>5247</sup> P 10138, para. 29; P 09933 under seal (French version), p. 4; P 09931, p. 2.

<sup>5248</sup> P 09770 under seal (French version), p. 8.

<sup>5249</sup> P 10138, para. 29; P 09754 under seal, p. 4; *Witness CN*, T(F), p. 11200; P 10147 (French version), pp. 6 and 1.

<sup>5250</sup> P 09754 under seal, p. 4.

<sup>5251</sup> P 09754 under seal, p. 6.

<sup>5252</sup> P 09754 under seal, p. 6.

iii. Alleged Thefts of Property Belonging to the Muslims Incarcerated at the Silos

2179. The Chamber has already noted that on 23 August 1993, a group of women, children and elderly people, among them *Witness DS*<sup>5253</sup> and *Witness CO*,<sup>5254</sup> were expelled from their apartments in the town of Čapljina and taken in trucks to the Silos by members of the HVO and the MUP.<sup>5255</sup>

2180. The evidence shows that the group stayed at the Silos until midnight that same day, that is, 23 August 1993, and that before leaving the Silos and being moved to Vrda, they were ordered under threat of force – the Chamber does not know exactly by whom – to put their money and jewellery in boxes placed on each side of the exit at the Silos.<sup>5256</sup> The Chamber recalls that it has already noted that among the HVO members in charge of the detainees at the Silos were members of the HVO Military Police and members of the MUP.<sup>5257</sup>

2181. The Chamber thus finds that in the evening of 23 August 1993, members of the HVO Military Police and members of the MUP seized personal items belonging to the women, children and elderly people brought to the Silos from the town of Čapljina on 23 August 1993.

b) Incarceration of Women, Children and Elderly People in Various Houses and Schools in the Municipality of Čapljina

2182. The evidence admitted into the record makes it possible for the Chamber to note that several Muslim women, children and elderly people from the village of Višići were taken to a house in Tasovčići around 11 August 1993;<sup>5258</sup> that around 14 July 1993, several Muslim women, children and elderly people from the village of Lokve were held in houses in their village by HVO members;<sup>5259</sup> that children, women and elderly people from, among others, the village of Bivolje Brdo were taken to the school in Sovići around 23 July 1993<sup>5260</sup> and that around 16 July 1993, several hundred women, children and elderly people from Bivolje Brdo spent seven to ten days in a collection centre at Gradina in the locality of Počitelj.<sup>5261</sup>

<sup>5253</sup> Muslim inhabitant of the town of Čapljina until 23 August 1993; *see* P 09933 under seal, pp. 2 and 4.

<sup>5254</sup> Muslim inhabitant of Višići who took refuge in the town of Čapljina as of August 1993.

<sup>5255</sup> P 09933 under seal (French version), pp. 3 and 4; *Witness CO*, T(F), pp. 11295 and 11296; P 09755 under seal, p. 7.

<sup>5256</sup> *Witness CO*, T(F), p. 11296; P 09933 under seal (French version), pp. 3 and 4.

<sup>5257</sup> *See* "Organisation of the Silos in Čapljina as a Detention Centre, the Number and Identity of Detainees and Guards" in the Chamber's factual findings relating to the Municipality of Čapljina.

<sup>5258</sup> P 09754 under seal, pp. 3 and 4.

<sup>5259</sup> P 10125 (French version), p. 8; P 10129 under seal, para. 8. *See* "Evictions and Removals of Women, Children and Elderly People from the Village of Lokve" in the Chamber's factual findings relating to the Municipality of Čapljina.

<sup>5260</sup> P 09937, para. 35; P 09770 under seal (French version), p. 8; P 03670.

<sup>5261</sup> P 09937, para. 35; P 09935, p. 6; P 09847 under seal, p. 2; *Witness BC*, T(F), p. 18384, closed session.

2183. Thus *Witness CN*, a Muslim inhabitant of the village of Višići, stated that on 11 August 1993, members of the MUP took her and members of her family, including her 18-month-old daughter and her grandmother,<sup>5262</sup> in a police van to the MUP station in Čapljina<sup>5263</sup> and then to a house in Tasovčići.<sup>5264</sup> Around 15 women and children were detained there.<sup>5265</sup> An HVO policeman told them to stay in the house because he could not guarantee their safety if they went out.<sup>5266</sup> One day between 11 August and 2 October 1993, Zlatko Vegar, an "SIS member", explained to them that they were "prisoners of war" and had to stay in the house until they were exchanged.<sup>5267</sup>

2184. Likewise, when on about 15 July 1993, *Sabira Hasić*, a Muslim inhabitant of the village of Domanovići,<sup>5268</sup> was transported from the Silos to the Veleđari district in Počitelj together with her three daughters,<sup>5269</sup> a MUP member ordered them to find accommodation with someone living there, telling them not to go far because the area was mined.<sup>5270</sup> She was then taken in by an inhabitant and stayed at her place for about 20 days.<sup>5271</sup>

2185. About 400 people or so were detained at the school in Sovići around 23 July 1993.<sup>5272</sup> They included children, women and elderly people from the village of Bivolje Brdo.<sup>5273</sup>

2186. The Chamber finds that women, children and elderly people from the Municipality of Čapljina were taken to various locations, including houses and schools, where they were detained for varying periods of time by members of the MUP and HVO soldiers as part of the eviction campaigns carried out in the villages of the Municipality of Čapljina in July and August 1993.

2187. On the other hand, the Chamber does not have evidence to rule on the conditions under which the women, children and elderly people were detained.

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<sup>5262</sup> P 09754 under seal, pp. 3 and 4; *Witness CN*, T(F), p. 11202.

<sup>5263</sup> P 09754 under seal, p. 4.

<sup>5264</sup> P 09754 under seal, p. 4.

<sup>5265</sup> P 09754 under seal, p. 4.

<sup>5266</sup> P 09754 under seal, p. 4.

<sup>5267</sup> P 9754 under seal, p. 4.

<sup>5268</sup> P 09931 (French version), p. 2.

<sup>5269</sup> P 09931 (French version), p. 6.

<sup>5270</sup> P 09931 (French version), p. 6.

<sup>5271</sup> P 09931 (French version), p. 6.

<sup>5272</sup> P 09770 under seal (French version), p. 8; P 03670.

<sup>5273</sup> P 09770 under seal (French version), p. 8.

2. Removal of Women, Children and Elderly People to ABiH-Controlled Territories or Third Countries

2188. Paragraph 183 of the Indictment alleges that, after detaining Bosnian Muslim civilians, the Herceg-Bosna/HVO forces eventually transferred them to ABiH-controlled areas or deported them to other countries via the Republic of Croatia.

2189. The Chamber notes that, from late July 1993 to early October 1993, the women, children and elderly people from the Municipality of Čapljina were taken from the Silos, where they had been detained, to Blagaj<sup>5274</sup> and Vrda,<sup>5275</sup> and from the houses and schools to Doljani<sup>5276</sup> and Blagaj, passing through Buna.<sup>5277</sup>

2190. Finally, the Chamber has the report of an international organisation dated 13 July 1993 which says that the 420 women, children and elderly people from seven villages between Stolac and Čapljina spent three days at the Silos before being taken to Gradina, where they spent seven days guarded by HVO soldiers.<sup>5278</sup> Around 22 or 23 July 1993, they were taken to Doljani to the north-west of Jablanica and, after spending three days there, they were taken to the front line. No further details of this were provided.<sup>5279</sup>

2191. The Chamber finds that from late July 1993 to early October 1993, HVO members moved women, children and elderly people from various detention facilities, including the Silos, houses and a school, to ABiH-controlled areas. However, the Chamber has no evidence that women, children and elderly people were sent to third countries.

<sup>5274</sup> P 09799 under seal (French version), p. 4; P 09754 under seal, p. 5.

<sup>5275</sup> Witness CO, T(F), p. 11311. The Chamber notes that Witness DS was taken from the Silos in Čapljina to a place whose location the Chamber does not know. ("Decision on Prosecution Motion for Admission of Evidence Pursuant to Rule 92 *bis* (A) and (B) (Stolac and Čapljina Municipalities)", confidential, 5 November 2007, admitted Witness DS's statement only in part; the paragraph in which the witness says that she was taken in the direction of Ljubuški was not accepted.)

<sup>5276</sup> P 09770 under seal (French version), pp. 8 and 9.

<sup>5277</sup> P 09937, paras 35 and 37; P 09929, para. 19; P 09935, p. 7.

<sup>5278</sup> P 09847 under seal, p. 2.

<sup>5279</sup> P 09847 under seal, p. 2; Witness BC, T(F), p. 18384, closed session.