



**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-03-69-T
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IN TRIAL CHAMBER I

**Before: Judge Alphons Orie, Presiding
Judge Michèle Picard
Judge Elizabeth Gwaunza**

Registrar: Mr John Hocking

Judgement of: 30 May 2013

PROSECUTOR

v.

**JOVICA STANIŠIĆ
FRANKO SIMATOVIĆ**

PUBLIC WITH CONFIDENTIAL APPENDIX C

JUDGEMENT

VOLUME I OF II

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General abbreviations

ABiH	Army of Bosnia-Herzegovina
Adjudicated Facts	List of facts adjudicated in previous proceedings and admitted pursuant to Rule 94(B) of the Rules by Decisions on Prosecution motions for judicial notice of adjudicated facts of 25 November 2009 (I), 16 December 2009 (II), 28 January 2010 (III), 26 July 2010 (IV), and 17 September 2010 (V)
APC	Armoured Personnel Carrier
APZB	<i>Autonomna Pokrajina Zapadna Bosna</i> – Autonomous Province of Western Bosnia
ARK	Autonomous Region of Krajina
BIA	<i>Bezbednosno-Informativna Agencija</i> – Security Information Agency. See also DB.
Bosnia-Herzegovina	Socialist Federal Republic of Bosnia and Herzegovina (<i>later</i> , Republic of Bosnia and Herzegovina)
Bosnian-Serb Republic	Serbian Republic of Bosnia-Herzegovina; on 12 August 1992, the name of the republic was officially changed to <i>Republika Srpska</i>
CSB	<i>Centar Službi Bezbjednosti</i> – Security Services Centre
DB	<i>Državne Bezbednosti</i> – State Security ¹
DEM	<i>Deutsche Mark</i>
ECMM	<i>European Community Monitoring Mission</i>
FRY	Federal Republic of Yugoslavia
HDZ	<i>Hrvatska Demokratska Zajednica</i> – Croatian Democratic Union
HOS	<i>Hrvatske Obrambene Snage</i> – Croatian Defence Forces
HV	<i>Hrvatska Vojska</i> – Croatian Army
HVO	<i>Hrvatsko Vijeće Obrane</i> – Croatia Defence Council
ICRC	International Committee of the Red Cross
IDP	Internally Displaced Person
JATD	<i>Jedinice za Antiteroristička Dejstva</i> – Unit for Anti-terrorist Operations formed in August 1993
JCE	Joint Criminal Enterprise
JNA	<i>Jugoslovenska Narodna Armija</i> – Yugoslav People's Army
JSO	<i>Jedinice za Specijalne Operacije</i> – Unit for Special Operations
KDF	Captain Dragan Fund

¹ Unless indicated otherwise, the Trial Chamber understood the references to DB, RDB, SDB, and BIA by witnesses and in documentation, to refer to the same structures.

KOS	<i>Kontra-Obavještajna Služba</i> – Counter Intelligence Agency
MoD	Ministry of Defence
MoJ	Ministry of Justice
MUP	<i>Ministarstvo Unutrašnjih Poslova</i> – Ministry of Interior. See also entry for SUP.
OTP	ICTY Office of the Prosecutor
PJM	<i>Posebne Jedinice Milicije</i> – Special Police Unit
PJP	<i>Posebne Jedinice Policije</i> – Special Police Unit
POW	Prisoner-of-war
PSUP	<i>Pokrajinski sekretarijat za unutrašnje poslove</i> – Provincial Secretariat of Internal Affairs for Vojvodina
RDB	<i>Rezor Državne Bezbednosti</i> – State Security Department. See also DB.
Report on IDPs and Refugees	Ethnic Composition, Internally Displaced Persons and Refugees from Five Municipalities of Bosnia and Herzegovina, 1991 to 1997-8, Ewa Tabeau, Marcin Żoltkowski, Jakub Bijak, and Arve Hetland, 9 July 2010
RMO	UNDU's Reporting Medical Officer
RSK	Republic of Serbian Krajina
SAJ	<i>Specijalna Antiteroristička Jedinica</i> – Special Anti-Terrorist Unit
SAO	<i>Srpska Autonomna Oblast</i> – Serbian Autonomous Area
SBWS	Slavonia, Baranja, and Western Srem
SČP	<i>Srpski Četnički Pokret</i> – Serbian Četnik Movement
SDA	<i>Stranka Demokratske Akcije</i> – Party for Democratic Action (Bosnian Muslim)
SDB	<i>Služba Državne Bezbednosti</i> – State Security Service. See also DB.
SDG	<i>Srpska dobrovoljačka garda</i> – Serbian Volunteer Guard
SDK	<i>Služba Društvenog Knjigovodstva</i> – Social Accounting Service
SDS	<i>Srpska Demokratska Stranka</i> – Serb Democratic Party
Serb Forces	Forces referred to in paragraph 6 of the Indictment
SFRY	Socialist Federal Republic of Yugoslavia
SJB	<i>Stanica Javne Bezbednosti</i> – Public Security Service
SMB	<i>Sivo Maslinasta Boja</i> – Olive-grey colour
SNB	<i>Savet za Nacionalnu Bezbednost</i> – Serb National Security
SNO	<i>Sekretarijat za Narodnu Odbranu</i> – Council for National Defence
SOS	<i>Srpske Odbrambene Snage</i> – Serb Defence Forces

SPO	<i>Srpski Pokret Obnove</i> – Serbian Renewal Movement
SRS	<i>Srpska Radikalna Stranka</i> – Serbian Radical Party
SSJ	<i>Stranka Srpskog Jedinstva</i> – Party of Serbian Unity
SSNO	<i>Savezni sekretar za narodnu odbranu</i> – Federal Secretary of National Defence
SUP	<i>Sekretarijat za Unutrašnje Poslove</i> – Secretariat of Internal Affairs ²
SVK	<i>Srpska Vojska Krajine</i> – Serbian Army of Krajina
TO	<i>Teritorijalna Odbrana</i> – Territorial Defence
UN	United Nations
UNDU	United Nations Detention Unit
Unit	Serbian MUP DB unit formed by the Accused in the period from May to August 1991, precursor to the JATD
UNPROFOR	United Nations Protection Force
UNTAES	United Nations Transitional Administration for Eastern Slavonia, Baranja and Western Sirmium
USD	United States Dollar
Victims Report	Victims of War Related to the Jovica Stanišić and Frank Simatović Indictment, Ewa Tabeau and Jan Zwierzchowski, 6 August 2010
VJ	<i>Vojska Jugoslavije</i> – Yugoslav Army, remainder of the former JNA was to become the army of the new Federal Republic of Yugoslavia (Serbia and Montenegro)
VRS	<i>Vojska Srpske Republike Bosne i Hercegovine</i> , later <i>Vojska Republike Srpske</i> – Army of the Bosnian-Serb Republic
ZNG	<i>Zbor Narodne Garde</i> – Croatian National Guard

² The Trial Chamber notes that by virtue of Article 30 (2) of the Law on Ministries adopted by the National Assembly of the Republic of Serbia on 5 February 1991, as of the date of its entry into force the Republican Secretariat of Internal Affairs shall continue working as the Ministry of Interior. (See Exhibit D228 (Law on Ministries of 5 February 1991), pp 1-2, 7.) The Trial Chamber also notes that its references to the SUP or MUP made when reviewing the evidence follow the terms used by the relevant witnesses or authors of documents.

1. Introduction

1. The accused, Jovica Stanišić and Franko Simatović, are charged in the Indictment with crimes allegedly committed between April 1991 and 31 December 1995 against the Croat, Bosnian Muslim, Bosnian Croat, and other non-Serb civilian populations in large areas of Croatia and Bosnia-Herzegovina.

2. The Prosecution alleges that, throughout 1991, while in the position of Deputy Head of the Republic of Serbia DB, Jovica Stanišić was the *de facto* head of DB until his formal appointment to the position of Head or Chief of the DB on 31 December 1991, which he held till 27 October 1998. Franko Simatović worked at various positions within the DB, beginning in counter intelligence and continuing in the Intelligence Administration of the DB and as such was the commander of the Special Operations Unit of the DB. According to the Indictment, Franko Simatović functioned under the authority of Jovica Stanišić throughout the Indictment period.

3. According to the Indictment, Jovica Stanišić and Franko Simatović were responsible for the special units of the DB, which included various groups or members of groups, known by the following names: Special Purpose Unit of the MUP Serbia, JATD, JSO, Skorpions, Serbian Volunteer Guard or Arkan's men, and Arkan's Tigers. They organized, supplied, financed, supported, and directed their involvement in particular operations in Croatia and Bosnia-Herzegovina. It is further alleged that the accused helped to establish training centres in Serb-held areas of Croatia and Bosnia-Herzegovina and organized, supplied, financed, supported, and directed the training of the special units and other Serb Forces which were involved in the commission of crimes in Croatia and Bosnia-Herzegovina during the Indictment period. According to the Indictment, "Serb Forces" included members of the JNA; the Serb TO in SAO Krajina, SAO SBWS, Bosnia-Herzegovina, and the Republic of Serbia; the special police and police forces of the SAO Krajina, SAO SBWS, and in Serb controlled territories of Bosnia-Herzegovina; and members of Serbian, Montenegrin, Bosnian Serb and Croatian Serb paramilitary and volunteer formations.

4. It is further alleged that from no later than April 1991 to the end of 1991, Serb Forces committed crimes and took control of towns and villages in the SAO Krajina and the SAO SBWS. The Indictment alleges that from March 1992 to throughout 1995, Serb Forces committed crimes in Trnovo and committed crimes and took control of towns in the municipalities of Bijeljina, Bosanski Šamac, Doboj, Sanski Most, and Zvornik.

5. Both accused are charged as participants in a joint criminal enterprise which according to the Indictment came into existence no later than April 1991 and continued until at least 31 December 1995. The alleged common criminal purpose of the joint criminal enterprise was the forcible and permanent removal of the majority of non-Serbs, principally Croats, Bosnian Muslims, and Bosnian Croats from large areas of Croatia and Bosnia-Herzegovina. According to the Indictment, this involved the commission of crimes against humanity under Article 5 of the Statute and violations of the laws or customs of war under Article 3 of the Statute, namely persecutions, murder, deportations, and inhumane acts (forcible transfers). The Prosecution alleges that Jovica Stanišić and Franko Simatović contributed to the achievement of the objectives of the enterprise by their acts or omissions. The accused shared the intent to further the common criminal purpose. In the alternative, it is alleged that the crimes of persecution and murder were reasonably foreseeable to Jovica Stanišić and Franko Simatović as a possible consequence of the execution of the joint criminal enterprise, which objective involved deportation and forcible transfer. With this awareness, both the accused allegedly participated in the joint criminal enterprise.

6. In addition to the charges of individual criminal responsibility under Article 7(1) of the Statute for committing crimes as part of a joint criminal enterprise, the Indictment charges each accused with having planned, ordered, and/or otherwise aided and abetted in the planning, preparation, and/or execution of the crimes described in the Indictment.

2. Evidentiary issues

7. *Standard of Proof.* Pursuant to Article 21 (3) of the Statute, the Accused are entitled to a presumption of innocence. Pursuant to Rule 87 (A) of the Rules, the standard for determining guilt is proof beyond a reasonable doubt. Accordingly, all factual findings underlying the elements of the crime or the form of responsibility alleged, as well as all those indispensable for a conviction, must be made beyond a reasonable doubt.³ The burden of proof remains with the Prosecution throughout the trial.⁴ An accused must be acquitted if there is any reasonable explanation of the evidence other than the guilt of the accused.⁵ In making findings, the Trial Chamber applied the standard of proof that it had to be convinced beyond a reasonable doubt. The Trial Chamber notes that in many instances the evidence suggested a conclusion which seemed to be very likely. However, in keeping with the applicable standard of proof the Trial Chamber strictly examined whether such conclusion was the only reasonable one.⁶

8. *Witnesses.* Out of a total of 95 fact and expert witnesses that appeared before the Trial Chamber, 62 were called by the Prosecution, 19 by the Stanišić Defence, and 14 by the Simatović Defence. Out of the total number of witnesses heard in court, eight witnesses were subpoenaed and two were summoned to appear before the Trial Chamber.

9. The Trial Chamber admitted witnesses' testimonies or statements pursuant to Rules 92 *bis*, *ter*, and *quater*. It admitted evidence tendered pursuant to Rule 92 *ter* of the Rules in relation to 66 witnesses. Rule 92 *ter* of the Rules allows for the admission of evidence that goes to proof of acts and conduct of an accused.⁷ The Trial Chamber admitted evidence of 26 witnesses pursuant to Rule 92 *bis* of the Rules.⁸ Rule 92 *bis* of the Rules allows for the admission of evidence that goes to proof of matters other than the acts and conduct of the accused.⁹ Rule 92 *quater* of the Rules allows for the admission of evidence that goes to proof of acts and conduct of an accused, although this may be a factor weighing against

³ *Halilović* Appeal Judgement, paras 125, 129; *Ntagerura et al.* Appeal Judgement, paras 174-175.

⁴ *Brđanin* Trial Judgement, para. 22; *Haradinaj et al.* Trial Judgement, para. 7; *Gotovina et al.* Trial Judgement, para. 14.

⁵ *Čelebići* Appeal Judgement, para. 458.

⁶ See *Vasiljević* Appeal Judgement, paras 120, 128.

⁷ Rule 92 *ter* (B) of the Rules.

⁸ Decision on the Admission of the Written Evidence of Josip Josipović and [...] (Witness C-1230) Pursuant to Rule 92 *bis* of the Rules of Procedure and Evidence, 8 September 2009; Decision on Prosecution's Motion for Admission of Written Evidence Pursuant to Rule 92 *bis*, 7 October 2010; Decision Regarding Requests for Protective Measures and Prosecution's Notices of Compliance With the Trial Chamber's 7 October 2010 Decision, 7 December 2010; Decision on Stanišić Defence Motion for Admission of Transcripts and Related Exhibits in lieu of *Viva Voce* Testimony for Two Witnesses Pursuant to Rule 92 *bis*, 15 December 2011.

admission.¹⁰ The Trial Chamber admitted statements and prior testimony of 12 unavailable witnesses pursuant to this Rule.¹¹ The Trial Chamber, in accordance with the Rules, decided to only admit them if it was satisfied that they were reliable.¹² In its assessment, the Trial Chamber considered whether the statements were corroborated by other evidence, whether the statements were internally consistent, the circumstances in which the statements were made or recorded, and whether the evidence had ever been subject to cross-examination.¹³

10. The Trial Chamber received evidence from eight expert witnesses during the trial. The Trial Chamber admitted expert reports which it found to be relevant and probative. In addition it required the author to qualify as an expert, i.e. a person who by virtue of some specialized knowledge, skill or training could assist the Trial Chamber in understanding an issue in dispute, and that the content of the expert report should fall within this expertise.

11. *Previous inconsistent statements.* The Trial Chamber held that Rules 92 *bis* and 92 *ter* are the *lex specialis* for the admission of written statements and transcripts of testimony of witnesses taken by the parties for the purpose of these proceedings, and their requirements cannot be circumvented by resorting to the *lex generalis* of Rule 89 (C).¹⁴ The Trial Chamber considered that a previous inconsistent statement of a witness may nevertheless be tendered and admitted under Rule 89 (C) for the purpose of assessing that witness's credibility or for the truth of the contents thereof.¹⁵ The Trial Chamber noted, however, that the witness should be confronted with such a statement so as to enable the Trial Chamber to evaluate the

⁹ Rule 92 *bis* (A) of the Rules.

¹⁰ Rule 92 *quater* (B) of the Rules.

¹¹ Decision on Prosecution's Motion for Admission of Evidence of Witnesses Unavailable Pursuant to Rule 92 *quater*, 16 September 2009; Decision on Prosecution Motion for Admission of Evidence of Witness B-179 Pursuant to Rule 92 *quater*, 11 March 2010; Decision on Prosecution's Motion for Admission of Evidence of Witness C-057 Pursuant to Rule 92 *quater*, 12 April 2010; Corrigendum to Decision on Prosecution Motion for Admission of Evidence of Witness B-179 Pursuant to Rule 92 *quater* of 11 March 2010, 5 May 2010; T. 5585-5589; Decision on Prosecution's Motion for Admission of Evidence of Witness B-161 Pursuant to Rule 92 *quater*, 16 June 2010; Decision on Prosecution Motion for Admission of Evidence of Witness JF-070 Pursuant to Rule 92 *quater*, 7 October 2010; Decision on Prosecution Motion for Admission of Evidence of Stevan Todorović Pursuant to Rule 92 *quater*, 29 October 2010; T. 10234-10235; Decision on Prosecution's Motion for Admission of Evidence of Witness Milan Babić Pursuant to Rule 92 *quater*, 16 December 2010; Decision on Stanišić Defence Motion to Amend its Rule 65 *ter* Witness List and for Admission of Written Evidence Pursuant to Rule 92 *quater*, 13 December 2011.

¹² Rule 92 *quater* (A) of the Rules.

¹³ See e.g. Decision on Prosecution Motion for Admission of Evidence of Stevan Todorović Pursuant to Rule 92 *quater*, 29 October 2010, para. 23.

¹⁴ First Decision on Stanišić Defence Second Additional Motion for Admission of Documents into Evidence from the Bar Table, 28 August 2012, para. 4 citing *Prosecutor v. Stanislav Galić*, Case No. IT-98-29-AR73.2, Decision on Interlocutory Appeal concerning Rule 92*bis*(C), 7 June 2002, para. 31.

¹⁵ First Decision on Stanišić Defence Second Additional Motion for Admission of Documents into Evidence from the Bar Table, 28 August 2012, para. 4; T. 13136-13137; Decision on Admission into Evidence of Prior Testimony, Statement, and Related Documents concerning Witness JF-052, 28 January 2011, para. 6.

probative value of the inconsistent statement.¹⁶ The Trial Chamber ruled that while not attesting to parts of a Rule 92 *ter* statement may not always amount to giving inconsistent statements, the effect is the same in that the subsequent testimony in court differs in substance from the initial statement.¹⁷ Unattested portions of Rule 92 *ter* statements are therefore subject to the aforementioned requirement for previous inconsistent statements before they can be admitted into evidence.¹⁸

12. *Documentary Evidence.* The Trial Chamber admitted documents such as exhumation reports, orders, photographs, and (marked) maps tendered in connection with witness testimonies, or admitted them from the bar table pursuant to Rule 89 (C) of the Rules. In total, the Trial Chamber admitted 4843 exhibits.

13. The Trial Chamber emphasized that documents should preferably be tendered through witnesses who may give meaningful context to them.¹⁹ Without such context, the Trial Chamber would be left to determine the relevance and probative value, including authenticity, primarily on the basis of the documents alone.²⁰ Documents not tendered through witnesses were considered for admission by the Trial Chamber as bar table documents. In order to facilitate the examination of bar table motions, the Trial Chamber preferred that the moving party submit a spreadsheet containing descriptions of the tendered documents, comments about their relevance to the case, and objections, if any, from the opposing party.²¹ A number of documents were denied admission from the bar table, as the parties occasionally failed to clearly indicate the relevance of the bar tabled documents, or to specify how they fit into their case.²²

14. The Trial Chamber admitted a number of documents tendered by the Prosecution during cross-examination of Defence witnesses.²³ On 26 August 2011, the Trial Chamber explained that tendering Prosecution documents during the cross-examination of Defence witnesses is both in line with the rationale of cross-examination and consonant with the spirit

¹⁶ First Decision on Stanišić Defence Second Additional Motion for Admission of Documents into Evidence from the Bar Table, 28 August 2012, para. 4.

¹⁷ Decision on Admission into Evidence of Prior Testimony, Statement and Related Documents concerning Witness JF-052, 28 January 2011, para. 8.

¹⁸ Decision on Admission into Evidence of Prior Testimony, Statement and Related Documents concerning Witness JF-052, 28 January 2011, para. 8; T. 13133-13137.

¹⁹ T. 1831, 6107.

²⁰ T. 1831.

²¹ T. 1831-1832, 6107.

²² See, for example, Fifth Decision on Stanišić Defence Bar Table Motion of 17 February 2012, 24 May 2012, paras 5-6; First Decision on Simatović Defence Third Bar Table Motion, 7 September 2012, para. 27; Second Decision on Simatović Defence Third Bar Table Motion, 17 September 2012, paras 6, 12.

²³ See, for example, T. 12095.

of Rule 90 (H) (i) of the Rules, so long as the documents concerned are sufficiently connected to the witness's testimony.²⁴ The Trial Chamber reasoned that such evidence relates to Defence evidence which was announced only after the closure of the Prosecution's case-in-chief. It considered it to be in the interest of an effective ascertainment of the truth if all such contextualization is put before it immediately.²⁵ The Trial Chamber considered that it is for the Defence to argue and demonstrate any prejudice resulting from the admission of Prosecution documents during the cross-examination of Defence witnesses, and if so demonstrated would consider granting appropriate relief.²⁶

15. During the Defence case, the Prosecution requested to tender excerpts of both of the Accused's suspect interviews, seeking their admission specifically as rebuttal evidence.²⁷ The Trial Chamber found it to be in the interests of justice to consider the proffered evidence, despite its tendering during the Defence case.²⁸ The Trial Chamber reasoned that, generally, the earlier rebuttal evidence can be submitted to contextualise or counter Defence evidence, the more stream-lined and focused the following proceedings will be.²⁹ Nonetheless, the Trial Chamber denied the admission of the excerpts, holding that the Prosecution could have reasonably anticipated that the Defence would present evidence on the matter at hand.³⁰

16. *Public character of proceedings.* Accused persons before the Tribunal have a right to a public hearing. This right is not absolute. The Statute and the Rules of Procedure contain provisions for the protection of victims and witnesses (Article 22 of the Statute and Rule 75 of the Rules), as well as the protection of national security interests of States (Rule 54 *bis*) or of public order (Rule 79 of the Rules). A large number of witnesses testified with protective measures, aimed at protecting the witnesses' personal safety and security or that of their family. This was the case for 54 of the 133 witnesses whose evidence the Trial Chamber received. For some of these witnesses, protecting their safety required that the entirety of their evidence be heard in closed session. The Trial Chamber also granted applications from Serbia seeking protective measures to secure its national security interests, mostly by allowing to redact parts of exhibits from the public. In deciding these requests, the Trial Chamber

²⁴ Guidance on the Admission into Evidence of Documents Tendered by the Prosecution During the Defence Case and Reasons for Decisions on Past Admissions of Such Documents, 26 August 2011, para. 14.

²⁵ Guidance on the Admission into Evidence of Documents Tendered by the Prosecution During the Defence Case and Reasons for Decisions on Past Admissions of Such Documents, 26 August 2011, para. 14.

²⁶ Guidance on the Admission into Evidence of Documents Tendered by the Prosecution During the Defence Case and Reasons for Decisions on Past Admissions of Such Documents, 26 August 2011, para. 15.

²⁷ T. 16916-16917.

²⁸ T. 16918.

²⁹ T. 16918.

³⁰ T. 16919.

generally granted protective measures with regard to the identities of active BIA operatives, identities of BIA sources, information regarding contact with foreign intelligence services, as well as locations currently in use by the BIA.³¹ The amount of protective measures granted in this case may have been influenced by the fact that many documents or witnesses' testimonies concerned matters sensitive to Serbia's national security interests. In order to ensure the public character of the trial, the Trial Chamber at an early stage instructed the parties to prepare, where possible, public redacted versions of confidential exhibits. It further invited the parties to use the redacted versions during trial so as to enable the public to follow the proceedings as much as possible.³² It also instructed the parties to file such public redacted versions after the end of the presentation of evidence in this case.³³ The parties filed public redacted versions of confidential exhibits on 2 and 3 April 2013 and 22 May 2013. The Trial Chamber will further address its approach to certain protective measures granted under Rule 54 *bis* of the Rules of Procedure and Evidence in Confidential Appendix C of the Judgement.

17. *Agreed and Adjudicated Facts.* The Trial Chamber instructed the parties to file agreed facts rather than tender them into evidence, as admission of agreed facts would constitute an unnecessary procedural step.³⁴ The Trial Chamber considered the status of recorded agreed facts to be no less than those contained in exhibits formally admitted into evidence under Rule 89 (C) of the Rules. The Trial Chamber noted that it may rely on these facts for the truth of their content without additional supporting evidence, but that it was not bound by any point of fact or law agreed between the parties.³⁵ The parties agreed to certain facts relating to victims of alleged murders, the conflict in the former Yugoslavia, and the biographies of the accused.³⁶ The Trial Chamber notes that the agreed facts about Jovica Stanišić were not explicitly agreed to by the Simatović Defence and, similarly, that the agreed facts about Franko Simatović were not explicitly agreed to by the Stanišić Defence. Nonetheless,

³¹ See e.g. Decision on the Republic of Serbia's Requests for Protective Measures in Relation to Two Witnesses and Related Documents, 11 November 2011; Decision on the Republic of Serbia's Motion for Protective Measures Concerning Three Witnesses, 17 April 2012; Decision on Serbia's Requests for Protective Measures in Relation to Eight Witnesses, 14 June 2012; Decision on Serbia's Requests for Protective Measures in Relation to Defence Documents, 18 July 2012; Decision on the Republic of Serbia's Requests for Protective Measures in Relation to Four Witnesses, 9 October 2012.

³² Decision on Prosecution Motion for Admission of Redacted Copies of Confidential Exhibits as Public Exhibits, 23 August 2010.

³³ *Ibid.*

³⁴ Decision on Motion for Admission of Agreed Facts, 12 January 2011, p. 1.

³⁵ Decision on Motion for Admission of Agreed Facts, 12 January 2011, p. 1.

³⁶ Decision on Motion for Admission of Agreed Facts, 12 January 2011; T. 18660-18661; Prosecution Submission on Agreed Facts, 15 June 2007. With regard to the agreement on murder victims, the Trial Chamber considered the litigation on this agreement and concluded that the agreement must be interpreted to be limited to the names, gender, and age of certain persons.

considering the very individual character of these facts, the Trial Chamber did not require explicit agreement by the Defence of the co-Accused. In the course of the trial, the parties also stipulated to other facts in the context of the testimony of specific witnesses.³⁷ The Trial Chamber also took judicial notice of a number of adjudicated facts throughout the trial.³⁸

18. *Weighing the Evidence.* The Trial Chamber considered the charges against the Accused in light of all the evidence it admitted during the trial. It assessed the evidence in accordance with the Statute, the Rules, and the jurisprudence of the Tribunal. Where no guidance was found in these sources the Trial Chamber decided matters of evidence in such a way as would best favour a fair determination of the case in consonance with the spirit of the Statute and the general principles of law.³⁹

19. In evaluating the evidence, the Trial Chamber always took into account the witnesses' credibility and reliability, which sometimes varied for different portions of their evidence. It considered the demeanour of witnesses when they appeared in court. It further considered the individual circumstances of a witness, including his or her possible involvement in the events and fear of self-incrimination, the witness's relationship with any of the Accused, and whether the witness would have an underlying motive which could affect the witness's credibility and reliability. The Trial Chamber also assessed the internal consistency of each witness's testimony and other features of his or her evidence, as well as whether there was corroborating or contradicting evidence. The evidence presented in this case relates to events which occurred between 1991 and 1995, in some cases up to 21 years before the witnesses' testimony in this Tribunal. The Trial Chamber has considered that the time passed since the events might have affected the memories of witnesses and thereby their testimonies. It has therefore carefully considered whether and if so how minor inconsistencies affected the overall reliability and credibility of the testimony of certain witnesses.⁴⁰

³⁷ See e.g. T. 11957, 20010-20011.

³⁸ Decision on Prosecution's Motion for Judicial Notice of Adjudicated Facts, 25 November 2009; Decision on Taking Judicial Notice of Adjudicated Facts, 16 December 2009; Decision on Second Prosecution Motion for Judicial Notice of Adjudicated Facts, 28 January 2010; Decision on Third Prosecution's Motion for Judicial Notice of Adjudicated Facts, 26 July 2010; Decision on Taking Judicial Notice of Adjudicated Facts and Corrigendum to the Chamber's First, Second and Third Adjudicated Facts Decisions, 17 September 2010; Decision on Stanišić Defence Motion for Judicial Notice of Adjudicated Facts, 16 February 2012; Decision on Second Stanišić Defence Motion for Judicial Notice of Adjudicated Facts, 10 July 2012. The Trial Chamber notes that the Prosecution incorrectly replicated Adjudicated Fact I-376 when submitting it to the Trial Chamber (in relation to the nickname of Predrag Lazarević). In addition, Adjudicated Fact III-85 was taken judicial notice of without redacting a clear legal qualification contained therein. In light of this and considering that these were obvious mistakes, the Trial Chamber does not rely on the mistakenly noticed parts of these facts. This is also true for Adjudicated Facts I-373, I-387, I-388, and I-401.

³⁹ Rule 89 (B) of the Rules.

⁴⁰ See *Čelebići* Appeal Judgement, paras 484-485, 496-498; *Kupreškić et al.* Appeal Judgement, para. 31.

20. Some of the witnesses who played a role in the events at the time were evasive in their testimonies. This in itself did not lead the Trial Chamber to discard all of their evidence irrespective of the subject-matter. This is consistent with the jurisprudence of the Tribunal according to which it is not unreasonable for a Trial Chamber to accept certain parts of witness's testimony while rejecting others.⁴¹ While the Trial Chamber may not always have explicitly stated whether it found a witness's testimony or portions of his or her testimony credible, it consistently took the aforementioned factors into account in making findings on the evidence. The Trial Chamber explicitly dealt with inconsistencies and other credibility and reliability issues where these touched upon significant aspects of the testimony and where the parties raised these issues. On a related note, the Trial Chamber received evidence from Vojislav Šešelj through interviews and contemporaneous statements.⁴² The Trial Chamber considered this evidence but concluded that since he was not called to testify and due to his alleged accomplice position, it could not rely on his evidence.

21. The Appeals Chamber has held that the testimony of a single witness on a material fact does not, as a matter of law, require corroboration.⁴³ Nonetheless, in such situations, the Trial Chamber exercised particular caution, considering all circumstances relevant to the testimony of the witness, including whether the witness may have had a motive to give inaccurate evidence.⁴⁴

22. In assessing and weighing the testimony of expert witnesses, the Trial Chamber considered factors such as the professional competence of the expert, the material at his disposal, the methodologies used, the credibility of the findings made in light of these factors and other evidence, the position or positions held by the expert, and the limits of the expertise of each witness.

23. The Trial Chamber found the testimony of some witnesses lacking in relevance, credibility, and/or reliability and thus, while having considered it, did not place any reliance on it.

24. A number of witnesses provided evidence in relation to marginally relevant issues with regard to the individual criminal responsibility of the Accused. The Trial Chamber considered such evidence but did not necessarily reference it in this Judgement. As an

⁴¹ *Kupreškić et al.* Appeal Judgement, para. 333; *Blagojević and Jokić* Appeal Judgement, para. 82.

⁴² See e.g. exhibit P18 or P1400.

⁴³ *Tadić* Appeal Judgement, para. 65; *Aleksovski* Appeal Judgement, para. 62; *Čelebići* Appeal Judgement, para. 492; *Kupreškić et al.* Appeal Judgement, para. 33.

⁴⁴ See also *Muvunyi* Appeal Judgement, para. 37.

example,⁴⁵ the testimony of Robert Donia, a professor of history,⁴⁶ was useful for contextual purposes, but was not directly relevant to determining the individual criminal responsibility of the Accused in relation to the Counts in the Indictment. In addition, the Trial Chamber preferred in this instance to rely on the exhibits underlying his expert report, where necessary.

25. The evidence of a number of witnesses was, at least partially, deemed unreliable or not credible by the Trial Chamber. The Trial Chamber provides below examples of and reasons for such assessments.

26. In relation to the testimony of Milomir Kovačević, a former member of the reserve staff of the Serbian MUP,⁴⁷ the Trial Chamber considered that his oral testimony was inconsistent, both internally and vis-à-vis his Rule 92 *ter* witness statement to a degree that it seriously impacted his credibility and reliability. Furthermore, the Trial Chamber considered that the witness had offered to submit contemporaneous notes corroborating his testimony but despite many efforts of the Trial Chamber to receive these notes, the witness failed to produce them without providing good cause.⁴⁸ The Trial Chamber considered that this development added to the unreliability of the witness's evidence. With regard to the testimony of Goran Opačić, a former police officer in Sinj and Zadar,⁴⁹ the Trial Chamber in particular did not find his accounts of the Kula ceremony or portions of the Škabrnja operations credible, especially when contrasting it to the mass of other evidence, often more direct, received in relation to these events. In relation to Witness DFS-014, the Trial Chamber would have expected that, given the witness's function, he would have recalled in far greater detail the events relating to his testimony. Given his lack of knowledge of the events, the Trial Chamber generally considered his evidence to be lacking in credibility and reliability.⁵⁰ In relation to a number of other witnesses, for example Witness JF-030, Witness JF-053, Dejan Lučić, Radenko Novaković, Borislav Pelević, and Vladimir Čorbić, the Trial Chamber had similar impressions and considered that the witnesses' lack of knowledge impacted on their reliability and credibility. At times, the Trial Chamber further discussed the reliability of witnesses' evidence in other chapters.

⁴⁵ Other examples are Charles Kirudja, Witness JF-002, Witness JF-004, Vlado Dragičević, Marcus Helgers, Osman Selak, Ivor Roberts, Janusz Kalbarczyk, and Patrick Rechner.

⁴⁶ Robert Donia, T. 6514.

⁴⁷ Milomir Kovačević, T. 2130-2131.

⁴⁸ T. 6921-6922.

⁴⁹ Goran Opačić, T. 18180.

⁵⁰ One exception to this was the witness's evidence in relation to Lovinac which was partly corroborated by the evidence of Witness JF-039.

27. In relation to the testimony of Dragoslav Krsmanović, assistant commander of the JATD in 1993 and deputy commander of the JSO in 1995,⁵¹ the Trial Chamber considered that his evidence lacked reliability. The Trial Chamber noted that the witness often contradicted himself or failed to give explanations when confronted with certain matters.⁵² The Trial Chamber also considered that the witness's evidence was at times in complete contrast to the evidence of other witnesses in the case whom the Trial Chamber found credible and reliable. The aforementioned issues impacted the reliability of Dragoslav Krsmanović to such an extent that the Trial Chamber considered it could not rely on his evidence.

28. On one occasion, the Trial Chamber admitted an expert report of Milan Milošević, an employee of the Serbian DB from March 1983 to September 1995.⁵³ It became clear during his testimony that the witness's expertise could not meaningfully assist the Trial Chamber in making the determinations it needed to make in this case. Moreover, in relation to some of the witness's assertions, particularly those in relation to the Accused Simatović and the operation of the JATD, the Trial Chamber concluded that they were not reliable as the witness's position within the DB was relatively low-ranking, he had little to do with operative work, and had no professional contact with the Accused.⁵⁴

29. On another occasion, the Trial Chamber admitted into evidence the expert report of David Browne, a forensic document expert who examined the "Mladić notebooks".⁵⁵ During his testimony, Browne modified a number of his conclusions in the expert report, particularly in relation to the chronology of the notebooks, and could not reasonably explain some of the methodology he had used.⁵⁶ As such, the Trial Chamber did not consider his conclusions to be reliable. Without relying on the conclusions, the remainder of Browne's evidence lost most of its relevance.

⁵¹ D409 (Dragoslav Krsmanović, witness statement of 29 August 2011), p. 1; Dragoslav Krsmanović, T. 14513; D458 (Excerpt from the personnel file of Dragoslav Krsmanović), p. 5.

⁵² See e.g. in relation to the witness's medical situation (T. 14584, 14601-14602) or his knowledge of exhibit P3042 (T. 14520, 14529, 14531-14532, 14534-14535, 14614-14620; for the latter see also Prosecution Notice of Upload of Unredacted Personnel Files and Request for Replacement, 8 October 2012; Decision on Prosecution Requests for Replacements Concerning Ten Exhibits, 21 November 2012).

⁵³ D790 (Curriculum Vitae of Milan Milošević), pp. 1-2.

⁵⁴ Milan Milošević, T. 18822-18824, 18956-18957, 19100.

⁵⁵ D769 (Expert report of David Browne, 15 December 2011); D778 (Examination Protocol, signed by David Browne and dated 4 October 2011); see also Decision on Prosecution Motion for Admission of Excerpts from Mladić Notebooks and Second Prosecution Notification of Excerpts from Mladić Notebooks, 10 March 2011, paras 12-14, for a discussion of the Notebooks' probative value. Browne's testimony did not change the Trial Chamber's initial assessment.

⁵⁶ David Browne, T. 18365-18367, 18371-18372, 18399-18401, 18517-18518; D769 (Expert report of David Browne, 15 December 2011), pp. 10-12.

30. In assessing documentary evidence, the Trial Chamber considered the origin of the document, the author and his or her role in the relevant events, the chain of custody of the document to the extent that it was known, the source of the information contained in the document, and whether that information was corroborated by witnesses or other documents. The Trial Chamber did not consider unsigned, undated, or unstamped documents *a priori* to be devoid of authenticity. When the Trial Chamber was satisfied with the authenticity of a particular document, it did not necessarily accept the statements contained therein to be an accurate portrayal of the facts. As a general rule, the less the Trial Chamber knew about a document, the circumstances of its creation and usage, the less weight it was inclined to give to it.

31. On a number of occasions, the Defence sought admission of documents in order to show a negative, i.e. that something did not occur because the document made no reference to it. The Trial Chamber reasoned that when such documents are tendered from the bar table without context provided by a tendering witness and if viewed in isolation, there is a risk that the Trial Chamber will ascribe less weight to them. Therefore, in order to properly determine the weight of documents for which a negative inference is sought, the Trial Chamber encouraged the Defence to provide clear references to the documents, in the final trial briefs, and elaborate on the conclusions it invited the Trial Chamber to draw. If appropriate, this should include an explanation of how the documents refuted the Prosecution evidence on the same issues.⁵⁷

32. In addition to direct evidence, the Trial Chamber has admitted hearsay and circumstantial evidence. In evaluating the probative value of hearsay evidence, the Trial Chamber carefully considered all *indicia* of its reliability, including whether the evidence stemmed from a source that gave it voluntarily, whether that source had personal knowledge of the information or whether the information originated from a source further removed, the absence of an opportunity to cross-examine the source, and the circumstances under which the hearsay evidence arose.⁵⁸ The Trial Chamber's primary interest in hearing a witness's testimony was to establish facts which were observed by the witness. Hearsay evidence which was obscure, in the context of all the evidence, may have been given no weight. The Trial Chamber applied a similarly cautious approach in relation to circumstantial evidence.

⁵⁷ Second Decision on Stanišić Defence Bar Table Motion of 17 February 2012, 23 May 2012, para. 16.

⁵⁸ See *Prosecutor v. Aleksovski*, Decision on Prosecutor's Appeal on Admissibility of Evidence, 16 February 1999, para. 15.

33. *Findings.* As set out above, the Trial Chamber received a large quantity of evidence on the crimes alleged in the Indictment. Before addressing the charged incidents against the backdrop of the applicable law, the Trial Chamber made factual findings on all their relevant aspects. These factual findings can be found in Chapter 3. In Chapter 4, the Trial Chamber proceeded to make legal findings on the basis of these factual findings. Finally, in Chapter 6, the Trial Chamber addressed the criminal responsibility of the Accused.

34. The Trial Chamber considered all the evidence before it in making the relevant factual findings. While the Trial Chamber did not cite every piece of evidence in the Judgement, it examined every piece of the evidence on its own, as well as in light of the totality of the evidence received.⁵⁹ The Trial Chamber also paid particular attention to the evidence referred to by the parties in their final trial briefs and closing arguments. The detailed references in the final briefs assisted the Trial Chamber in connecting different pieces of evidence and understanding the parties' positions on various aspects of the case. In that regard, the references served as an important complement to, and clarification of, the parties' case presentations.

35. In making factual findings, the Trial Chamber generally considered the alleged crimes separately and by incident. When the circumstances so allowed, the Trial Chamber considered the evidence on certain crimes together. The Trial Chamber remained mindful of events occurring in temporal and geographical proximity of an incident and considered whether relevant inferences could be drawn from such events.

36. The Trial Chamber used specific terminology in its factual findings. For example, it used the term "the Trial Chamber finds" for incidents where the factual basis was sufficient to further consider the incident against the applicable law. If an incident was not further considered, the Trial Chamber at times used terms like "the evidence indicates" or "the evidence suggests".

37. When assessing the evidence before it, the Trial Chamber was often faced with situations where evidence duplicated adjudicated facts of which the Trial Chamber had taken judicial notice.⁶⁰ The Trial Chamber, in executing its obligation to review all evidence

⁵⁹ In this regard, the Trial Chamber notes that when citing to documentary evidence, it usually referred to the pagination as reflected in eCourt. When citing statements, the Trial Chamber referred to paragraph numbers whenever possible.

⁶⁰ See e.g. in relation to the alleged murder incidents in Škabrnja, Bruška, and Crkvina (see chapters 3.1.5, 3.1.6, and 3.4.1).

presented, analysed such evidence and then determined whether it was consistent with the Adjudicated Facts or rose to such a level so as to rebut them.

38. The Trial Chamber admitted a number of documents entitled “Reports on Circumstances of Death” in relation to alleged murder victims. These reports provide personal information about the victims as well as information about the location, time, and cause of death. The sources of such information, as indicated on the documents, were often relatives of the deceased. The Trial Chamber generally accepted the personal information from such reports as reliable. However, in relation to information on location, time, and cause of death the factual basis on which the information provider relied, remained generally unclear. Furthermore, on occasions such information was contradicted by evidence provided by witnesses to the alleged murders. For these reasons, the Trial Chamber generally decided not to rely on some of the information from “Reports on Circumstances of Death” if uncorroborated by other evidence. The Trial Chamber followed the same approach for “Missing Person Questionnaires”.

39. In relation to exhibit P512, a chart of alleged murder victims prepared by Davor Strinović, some of the witness’s comments led the Trial Chamber to conclude that the witness may not have entered his own findings as to causes of death based on the underlying reports, but merely reproduced the underlying reports’ findings. Accordingly, the Trial Chamber treated the exhibit with caution when it came to relying on the witness’s findings. The Trial Chamber applied the same approach to P516, a similar chart prepared by Višnja Bilić, with the added issue that missing person questionnaires were considered less probative as to relevant issues in this case than autopsy reports.

40. In relation to Ewa Tabeau’s report on IDPs and refugees, exhibit P1657, the Trial Chamber considered the report’s methodology of comparing numbers from the 1991 population census and the 1997-98 OSCE voters register⁶¹ and concluded that on such a basis alone it could not determine whether, when exactly, and for what reason people left the municipalities in which they resided. The Trial Chamber focused on other evidence concerning specific incidents of alleged deportation and forcible transfer and considered whether Ewa Tabeau’s general findings were consistent with that evidence.

41. *Complaint of unfairness in the proceedings due to lack of sufficient notice.* The Stanišić Defence complains about lack of sufficient notice of various elements of the

⁶¹ P1657 (Report on IDPs and Refugees), pp. 5-6.

Prosecution's case which, in its view, resulted in prejudice that rendered the trial unfair. The Trial Chamber will deal with these submissions in turn.

42. *Prejudice due to alleged changes in the Prosecution's case.* The Stanišić Defence submits that the Prosecution's case was inconsistent and shifted from its original thesis based on the "28 elite trainers" to a "new" case as a result of which the Accused could not prepare an effective defence.⁶² Principally, this concerned non-members of the joint criminal enterprise whom the Accused Stanišić is alleged to have used to further the common criminal purpose;⁶³ and in particular the alleged attribution of all acts of DB operatives, especially in SAO SBWS, to Stanišić.⁶⁴ It also concerned the alleged change of the Prosecution's position concerning the legality of Operation "Pauk".⁶⁵ In response, the Prosecution submits that the special units of the Serbian DB which were the focus of this case were clearly set out in the Indictment and that the evidence presented by the Prosecution was consistent with it.⁶⁶

43. At the outset, the Trial Chamber reiterates that criminal liability is determined by considering whether on the basis of the totality of the evidence it has proven beyond reasonable doubt that the crimes charged in the Indictment were committed, and not by the allegations made in the Prosecution's pre-trial brief or other submissions.⁶⁷ The Indictment specifies that one of the relevant forms of the Accused's alleged participation in the joint criminal enterprise was through the acts of members and agents of the DB who participated in the perpetration of the crimes charged.⁶⁸ In light of this, the Prosecution's intention to rely on the conduct of various members and agents of the DB to show the Accused's participation in the joint criminal enterprise was clear from the outset of the proceedings. Consequently, to the extent that the Prosecution has sought to rely on such conduct, it has stayed within the scope of its case as set out in the Indictment. In so far as the alleged change of the Prosecution's position on the legality of Operation Pauk is concerned, the Trial Chamber notes that in support of their allegation the Stanišić Defence relies on the Prosecution's Pre-Trial Brief and

⁶² T. 20262-20265; Stanišić Defence Final Trial Brief, 17 December 2012, paras 27-31, 88-94; 412-413, 492-493, 999, 1247.

⁶³ T. 20264-20265; Stanišić Defence Final Trial Brief, 17 December 2012, paras 89-93, 493-495, 1247.

⁶⁴ Stanišić Defence Final Trial Brief, 17 December 2012, paras 412-413.

⁶⁵ Stanišić Defence Final Trial Brief, 17 December 2012, para. 999.

⁶⁶ T. 20213-20214.

⁶⁷ See, *inter alia*, Decision on Stanišić Defence Motion on the Form of the Indictment, 29 March 2010, para. 10 and Decision on Defence Motion to reject Prosecution's Final Pre-Trial Brief of 2 April 2007, 17 July 2007, para. 43.

⁶⁸ Indictment, paras 3, 5-9, 12, 15-16. See also the decisions confirming the Indictment and, in particular, the Decision on Defence Preliminary Motions, 14 November 2003, p. 2, 4, and the Decision on Defence Motions regarding defects in the Form of the Second Amended Indictment, 12 April 2006, para. 6. See also the Decision on the Prosecution's Motion to Amend the Revised Second Amended Indictment, 4 July 2008, paras 44, 59.

Rule 98 *bis* submissions of 11 April 2011.⁶⁹ The Trial Chamber notes that these do not substantiate a shift in the Prosecution's case and, in any event, they clearly indicate that the Defence was provided with sufficient notice of the context in which Operation Pauk would be relied upon by the Prosecution at the outset of the trial. Accordingly, the Trial Chamber considers that the Defence argument that the Accused has suffered prejudice due to inconsistencies in the Prosecution's case is without merit.

44. *Alleged defect of the Indictment due to lack of specificity about physical perpetrators.* The Stanišić Defence complains of an alleged defect in the Indictment in so far as it does not identify with sufficient specificity the identity of the physical perpetrators of the alleged crimes.⁷⁰ In response, the Prosecution submits that the names of individuals, whether physical perpetrators, "tools" or otherwise relevant, is a matter of evidence and, in any event, this issue had already been fully litigated.⁷¹ The Trial Chamber recalls that the claim as to an alleged defect of the Indictment for lack of specificity with regard to the identities of participants in the alleged crimes has been litigated before the Pre-Trial Chamber and the Trial Chamber.⁷² This issue has been resolved and the relevant Trial Chamber's decisions still stand. In the view of the Trial Chamber, this claim is also without merit.

45. *Failure to give sufficient notice of information concerning the alleged training camps.* The Stanišić Defence submits that the Prosecution has failed to give timely notice of the alleged existence of a training camp in Baranja,⁷³ the timing of the establishment and operation of a training camp in Brčko,⁷⁴ and the alleged existence of a training camp in Divič.⁷⁵ However, the Trial Chamber notes that the Indictment gave notice of the Prosecution's intention to rely on the establishment of a number of training centres in Serb-held parts of Croatia and Bosnia-Herzegovina.⁷⁶ Further information about the location and timing of their operation was a matter of evidence to be presented in the course of the

⁶⁹ Stanišić Defence Final Trial Brief, 17 December 2012, para. 999 and references in fn. 2255.

⁷⁰ Stanišić Defence Final Trial Brief, 17 December 2012, para. 93, 675 (with regard to Subotić, Njegoš i.e. Njegošlav Kusić, Lončar or Crnogorac), 721-722 (with regard to Marko Pavlović) and T. 20262-20263.

⁷¹ T. 20214.

⁷² See Defence Preliminary Motion on the Form of the Indictment, 3 September 2003; Decision on Defence Preliminary Motions, 14 November 2003; Decision on Defence Motions regarding defects in the Form of the Second Indictment on 12 April 2006; Decision on Defence Motion to reject the Prosecution's Final pre-Trial Brief of 2 April 2007, 17 July 2007; Decision on Stanišić Defence Motion on the Form of the Indictment, 29 March 2010; Decision on Defence Motion for Exclusion of Specified Exhibits and Admission of Various Other Documents, 15 August 2012; Decision on Stanišić Request for Certification to Appeal the Trial Chamber's Decision on Defence Motion for Exclusion of Specified Exhibits and Admission of Various Other Documents, 3 October 2012.

⁷³ Stanišić Defence Final Trial Brief, 17 December 2012, para. 627.

⁷⁴ Stanišić Defence Final Trial Brief, 17 December 2012, para. 632.

⁷⁵ Stanišić Defence Final Trial Brief, 17 December 2012, paras 665-666.

proceedings.⁷⁷ Consequently, the Trial Chamber considers the Defence to have had sufficient notice in this respect.

⁷⁶ See in particular para. 3 of the Indictment.

⁷⁷ For instance the establishment of a training camp in Baranja was already referred to in the Prosecution's Pre-Trial Brief, 2 April 2007, para. 72, and the establishment of a training camp in Brčko was referred to in the Prosecution's Pre-Trial Brief, 2 April 2007, para. 69. References to a training camp operating in Divič were made in a number of exhibits listed already in the Prosecution's 65 *ter* Exhibit List of 1 May 2009, for instance P1405 (65 *ter* no. 1823), P1406, p. 7 (65 *ter* no. 4063), P1408 (65 *ter* no. 4069), further information on this was provided in witness Milovanović's testimony, at T. 4381-4382, as well as in P589 which was admitted into evidence during the Prosecution's case.

3. Crimes

3.1 SAO Krajina

3.1.1 Murder of 56 non-Serb civilians near Baćin on 21 October 1991 (Indictment, para. 27)

46. According to the Indictment, on the morning of 20 October 1991, Serb forces (as defined in paragraph 6 of the Indictment), in particular members of Martić's police, rounded up 53 civilians in Dubica and detained them in the village fire station. Over the course of the day and night Serb Forces, in particular Martić's police, released ten of these civilians because they were Serbs or had connections with Serbs. On 21 October 1991, Serb Forces, particularly members of Martić's police, took the remaining 43 detained Croats to a location near the village of Baćin. Members of Martić's police and other Serb Forces also brought at least 13 additional non-Serb civilians from Baćin and Cerovljani to this location, and executed all fifty-six of them.⁷⁸

47. The Trial Chamber will first address the incident involving 43 Croat victims who were detained at the Dubica fire station. The Trial Chamber has taken judicial notice of Adjudicated Facts in relation to this incident. The Trial Chamber has also heard relevant testimony from Witness JF-023 and Tomislav Kozarčanin and received relevant forensic documentation.

48. According to the Adjudicated Facts, in the morning on 20 October 1991, a truck bearing the insignia "Milicija SAO Krajina" with Veljko Rađunović, Radovan Šoša, and a man nicknamed "Janjeta" came to Ana Kesić's house. The men told her and her sister-in-law Katarina to come with them and attend a meeting. Thereafter, the truck picked up several other civilians and brought them to the fire station in Hrvatska Dubica.⁷⁹ Those who were picked up included Vera Franković, Veronika Stanković, Pavle Kropf, Bara Kropf and her daughter, an 80-year-old man nicknamed "Brico", Danica Krizmanović, Ruža Dikulić, Sofija Dikulić, and Nikola Lončar.⁸⁰ On the same date, Tomislav Kozarčanin was told by Branko Majstorović, who was wearing a JNA uniform, to go to the fire station to attend a meeting, which he did. A second bus arrived at the fire station after ten minutes bringing another 20 people. In total, there were then more than 40 people in the fire station but more people arrived later. They were mostly Croats, although there were also Serbs and Muslims.⁸¹ The

⁷⁸ Indictment, para. 27.

⁷⁹ Adjudicated Facts III, fact 80.

⁸⁰ Adjudicated Facts III, fact 81.

⁸¹ Adjudicated Facts III, fact 82.

people in the fire station were guarded by Katarina “Kaća” Pekić and Stevo Rađunovic, who were armed and wore JNA uniforms, and a man with the last name Kovačević. The detainees were not free to leave. Every two or three hours there was a change of guard, and the detainees’ names would be read out from a list to check that no one was missing.⁸² Three Serbs managed to leave the fire station and seven Croats managed to leave the fire station after their Serb neighbours or friends had contacted the guards.⁸³

49. The Adjudicated Facts set out that the following persons were detained in the fire station in Hrvatska Dubica on 20 October 1991 and were killed the following day at Krečane near Baćin: Katarina Alavančić, Terezija Alavančić, Josip Antolović, Marija Batinović, Mara Ćorić, Mijo Čović, Marija Delić, Ana Dikulić, Ruža Dikulić, Sofija Dikulić, Štjepan Dikulić, Antun Đukić, Marija Đukić, Antun Đurinović, Ana Ferić, Juraj Ferić, Kata Ferić, Filip Jukić, Marija Jukić, Jozo Karanović, Antun Krivajić, Reza Krivajić, Barbara Kropf, Pavao Kropf, Ivan Kulišić, Nikola Lončarić, Antun Mucavac, Ivo Pezo, Sofija Pezo, Anka Piktaja, Štjepan Sabljar, Veronika Stanković, Antun Švračić, Marija Švračić, Ana Tepić, Dušan Tepić, Ivan Trninić, Ivo Trninić, Kata Trninić, Terezija Trninić, and Katarina Vladić.⁸⁴ All of the above victims were Croats, except for Ana Tepić and Dušan Tepić, who were Serbs.⁸⁵ The *Milicija Krajine* was responsible for these killings.⁸⁶ Further, according to the Adjudicated Facts, an SAO Krajina TO force and a police force, including a unit of the *Milicija Krajine* consisting of 30 policemen from the area, were set up in Hrvatska Dubica.⁸⁷ Veljko “Velja” Radunović, his son Stevo Radunović, and Momčilo Kovačević were in charge of the *Milicija Krajine* unit, which had a command post at the old school building in Hrvatska Dubica.⁸⁸ There were “reservists” in Živaja under the command of Stevo Borojević.⁸⁹ The reservists wore old military olive-green-grey uniforms.⁹⁰ The Trial Chamber refers to further relevant Adjudicated Facts contained in chapter 6.6.2.

50. **Tomislav Kozarčanin**, a Croat from Hrvatska Dubica in Kostajnica municipality,⁹¹ stated that one day in October 1991, he saw Branko Majstorović, a local who had recently

⁸² Adjudicated Facts III, fact 83.

⁸³ Adjudicated Facts III, fact 84.

⁸⁴ Adjudicated Facts III, fact 85. The Trial Chamber will not rely on the legal qualification (“intentionally”) of this Adjudicated Fact.

⁸⁵ Adjudicated Facts III, fact 86.

⁸⁶ Adjudicated Facts III, fact 87.

⁸⁷ Adjudicated facts III, fact 75.

⁸⁸ Adjudicated facts III, fact 75.

⁸⁹ Adjudicated facts III, fact 75.

⁹⁰ Adjudicated facts III, fact 75.

⁹¹ P259 (Tomislav Kozarčanin, witness statement, 7 November 2000), pp. 1-2.

joined the JNA as a reservist, near his house, wearing a JNA uniform and armed with a semi-automatic rifle, who told him that he should go to the fire station to attend a meeting.⁹² When the witness arrived at the fire station, 60 people were already there, including two local Serb guards called Kaća Pekić and Stevo Rađun, who were armed and in JNA uniforms. The witness escaped from the rear door of the fire station into the woods. In or after 1993, the witness learnt that the others at the fire station had been killed in Krečane, near Baćin in Kostajnica municipality, and that a number of bodies were exhumed and removed from this site.⁹³

51. **Witness JF-023**, a Serb from Dubica, in Hrvatska Dubica municipality,⁹⁴ stated that at approximately 8 a.m. on 20 October 1991, a covered truck bearing the words, “Milicija SAO Krajina”, arrived at his house.⁹⁵ At the time, the witness was at Ruža Dikulić’s house.⁹⁶ The witness hurried back to his house and saw the driver, who was wearing a uniform, and two other men wearing a different uniform, standing near the truck.⁹⁷ Upon confirming that the house belonged to the witness, one of the men told the witness to attend a meeting at the fire station regarding the management of cattle.⁹⁸ The witness told the men, who he could tell were locals, that he would meet them there after changing into warmer clothing.⁹⁹ However, they insisted that he board the truck.¹⁰⁰ When he boarded the vehicle, the witness recognized four Croatian women: Vera Stanković, a woman called Danica, and two women with the last name Kesić.¹⁰¹ After the witness boarded the truck, other individuals were collected from different parts of the town. In total, 23 people were transported to the fire station on the truck, including Pavle and Bara Krof, an 80-year-old man known as Brico, and Ruža and Sofija

⁹² P259 (Tomislav Kozarčanin, witness statement, 7 November 2000), p. 2.

⁹³ P259 (Tomislav Kozarčanin, witness statement, 7 November 2000), p. 3.

⁹⁴ P297 (Witness JF-023, witness statement, 8 November 2000), pp. 1-2; P296 (Witness JF-023, *Martić* transcript, 20 March 2006), p. 2277.

⁹⁵ P297 (Witness JF-023, witness statement, 8 November 2000), p. 3; P296 (Witness JF-023, *Martić* transcript, 20 March 2006), pp. 2298-2300, 2339, 2341; P300 (Two video clips from documentary in which Witness JF-023 was interviewed), p. 2.

⁹⁶ P297 (Witness JF-023, witness statement, 8 November 2000), p. 3; P296 (Witness JF-023, *Martić* transcript, 20 March 2006), pp. 2298, 2358-2359; P300 (Two video clips from documentary in which Witness JF-023 was interviewed), pp. 18-19.

⁹⁷ P297 (Witness JF-023, witness statement, 8 November 2000), p. 3; P296 (Witness JF-023, *Martić* transcript, 20 March 2006), pp. 2299, 2341-2343, 2359.

⁹⁸ P297 (Witness JF-023, witness statement, 8 November 2000), p. 3; P296 (Witness JF-023, *Martić* transcript, 20 March 2006), p. 2299.

⁹⁹ P297 (Witness JF-023, witness statement, 8 November 2000), p. 3; P296 (Witness JF-023, *Martić* transcript, 20 March 2006), pp. 2299, 2342.

¹⁰⁰ P297 (Witness JF-023, witness statement, 8 November 2000), p. 3; P296 (Witness JF-023, *Martić* transcript, 20 March 2006), p. 2299.

¹⁰¹ P297 (Witness JF-023, witness statement, 8 November 2000), p. 4; P296 (Witness JF-023, *Martić* transcript, 20 March 2006), pp. 2299-2300.

Dikulić.¹⁰² About ten minutes after the individuals disembarked from the truck at the fire station, the witness observed the arrival of a former school bus, driven by a civilian, carrying approximately 20 people.¹⁰³ Furthermore, ten people who lived near the fire station were forced to walk there.¹⁰⁴ Altogether, there were 53 individuals detained in the fire station by approximately 10 a.m., the vast majority being elderly Croats (though there were some Serbs and Muslims as well).¹⁰⁵ The guards outside the fire station were reservists wearing JNA “SMB” uniforms and carrying weapons.¹⁰⁶ One of the guards was Milenko Janjetović, nicknamed Janjeta, who was rumoured to be commander of the guards, although the witness believed he had some kind of rank as a reservist and he seemed to be a corporal or shift leader of the guard.¹⁰⁷ Six people were released from the fire station during the day, and three were released at night.¹⁰⁸ Of those freed, the witness specified that two were Serb women, a third was the Croat husband of one of these women, and a fourth person left with his Serb brother-in-law.¹⁰⁹ That evening, upon the witness’s pleas that he was cold and wanted to go home to get warmer clothing, Janjeta drove the witness home and told him not to stay there nor to tell anyone he had seen Janjeta, after which the witness fled to his friend Momčilo Radunović’s house for the night.¹¹⁰

52. While in Bosanska Dubica towards the end of October 1991, the witness at first heard that the people who were detained in the fire station had been exchanged.¹¹¹ The witness then heard that elderly people from a village near Baćin had heard moaning and shooting early on Monday morning and he therefore assumed that the people detained in the fire station had

¹⁰² P297 (Witness JF-023, witness statement, 8 November 2000), p. 4; P296 (Witness JF-023, *Martić* transcript, 20 March 2006), p. 2301.

¹⁰³ P297 (Witness JF-023, witness statement, 8 November 2000), p. 4; P296 (Witness JF-023, *Martić* transcript, 20 March 2006), pp. 2301, 2342.

¹⁰⁴ P297 (Witness JF-023, witness statement, 8 November 2000), p. 4.

¹⁰⁵ P297 (Witness JF-023, witness statement, 8 November 2000), p. 4; P296 (Witness JF-023, *Martić* transcript, 20 March 2006), pp. 2302-2303, 2348; Witness JF-023, T. 3934, 3937.

¹⁰⁶ P297 (Witness JF-023, witness statement, 8 November 2000), p. 4; P296 (Witness JF-023, *Martić* transcript, 20 March 2006), pp. 2303, 2344; Witness JF-023, T. 3949.

¹⁰⁷ P297 (Witness JF-023, witness statement, 8 November 2000), p. 4; P296 (Witness JF-023, *Martić* transcript, 20 March 2006), p. 2305; Witness JF-023, T. 3948-3949, 3955.

¹⁰⁸ P297 (Witness JF-023, witness statement, 8 November 2000), p. 4; P296 (Witness JF-023, *Martić* transcript, 20 March 2006), p. 2304.

¹⁰⁹ P297 (Witness JF-023, witness statement, 8 November 2000), p. 4; Witness JF-023, T. 3925-3926.

¹¹⁰ P297 (Witness JF-023, witness statement, 8 November 2000), p. 4; P296 (Witness JF-023, *Martić* transcript, 20 March 2006), pp. 2305-2306; P300 (Two video clips from documentary in which Witness JF-023 was interviewed), pp. 19-20; Witness JF-023, T. 3930, 3959.

¹¹¹ P296 (Witness JF-023, *Martić* transcript, 20 March 2006), pp. 2308-2310.

been killed.¹¹² However, no one discussing the matter had been present at the killings or knew the location of the grave.¹¹³

53. According to Witness JF-023, all 41 persons listed in Adjudicated Fact 85, with the exception of Dušan and Anka Tepić, and Marija Batinović were detained in the Hrvatska Dubica fire station on 20 October 1991, and that the remaining 38 persons as well as Dušan, and Anka Tepić were killed in Baćin on 22 October 1991.¹¹⁴ In addition, the witness referred to a person called Jukić, a person called Šestić, and a person called Krnić, all Croats, as having been among those detained and killed. In March and April 1997, Witness JF-023 watched as 56 bodies were exhumed from a mass grave in Baćin.¹¹⁵ The bodies of the aforementioned 43 people were among those exhumed.¹¹⁶ Of these 43 individuals, the following 19 were from Hrvatska Dubica: Katarina Alavančić, Terezija Alavančić, Josip Antolović, Mijo Čović, Ana Dikulić, Anka Ferić, Juraj Ferić, Kata Ferić, Filip Jukić, Mijo Krnić, Barbara Kropf, Pavao Kropf, Nikola Lončarić, Antun Mucavac, Anka Piktija, Veronika Stanković, Antun Švračić, Marija Švračić, and Kata Vladić.¹¹⁷

54. Forensic documentation indicates that the bodies of the following 30 individuals mentioned as being killed according to the Adjudicated Facts were identified after having been exhumed in March and April 1997 in Baćin or, in the case of Ivo Pezo, in the Višnjički Bok woods in Hrvatska Kostajnica: Terezija Alavančić (1925, no ethnicity specified), Ana Tepić (1925, Serb), Josip Antolović (1910, Croat), Jura Ferić (1922, Croat), Antun Švračić (1920, Croat), Anka Ferić (1926, Croat), Marija Švračić (1925, Croat), Veronika Stanković (1915, Croat), Kata Ferić (1925, Croat), Mara Čorić (1939, Croat), Mijo Čović (1915, Croat), Ana Dikulić (1942, Croat), Nikola Lončarić (1910, Croat), Ivo Pezo (1910, Croat), Sofija Pezo (1922, Croat), Anka Piktija (1920, Croat), Antun Mucavac (1946, Croat), Ivan Kulušić (1926, Croat), Filip Jukić (1949, Croat), Stjepan Sabljarić (1912, Croat), Marija Jukić (1924, Croat), Pavle Kropf (1931, Croat), Barbara Kropf (1928, Croat), Antun Krivajić (no ethnicity specified), Ruža Dikulić (1913, Croat), Marija Đukić (1923, Croat), Antun Đukić (1933, Croat), Sofija Dikulić (1946, Croat), Marija Batinović (1901, Croat), and Katarina Alavančić

¹¹² P297 (Witness JF-023, witness statement, 8 November 2000), p. 5; P296 (Witness JF-023, *Martić* transcript, 20 March 2006), pp. 2310-2312.

¹¹³ P296 (Witness JF-023, *Martić* transcript, 20 March 2006), p. 2311.

¹¹⁴ P296 (Witness JF-023, *Martić* transcript, 20 March 2006), p. 2313; Witness JF-023, T. 3917; P299 (List compiled by Witness JF-023), pp. 1-2.

¹¹⁵ P297 (Witness JF-023, witness statement, 8 November 2000), p. 5.

¹¹⁶ P296 (Witness JF-023, *Martić* transcript, 20 March 2006), p. 2313.

¹¹⁷ P297 (Witness JF-023, witness statement, 8 November 2000), p. 5.

(1910, Croat).¹¹⁸ The bodies of two other Croats by the names of Marija Šestić (1922) and Mijo Krnić (1929) were also identified after having been exhumed in Baćin.¹¹⁹ The forensic documentation provides information on the clothing found on the bodies of 29 of these 32 cases, including Marija Šestić and Mijo Krnić, indicating in all 29 cases that they were clothed in civilian dress.¹²⁰ According to the forensic documentation and the evidence of **Davor Strinović**, a forensic pathologist,¹²¹ in 21 of these 32 cases, including Mijo Krnić and Marija Šestić, the bodies' heads or limbs were crushed, fractured, detached, or missing, and in 23 cases, including Mijo Krnić and Marija Šestić, the most likely cause of death was gunshot wounds or impact from mechanic devices, head traumas, or blast injuries or explosive wounds.¹²²

¹¹⁸ P717 (Forensic documentation for Marija Jukić), pp. 4-5; P718 (Forensic documentation for Antun Mucavac), pp. 4-5; P719 (Forensic documentation for Marija Batinović), pp. 5-6; P720 (Forensic documentation for Marija Đukić), pp. 4-5; P721 (Forensic documentation for Marija Švračić), pp. 3-4; P722 (Autopsy report for Antun Krivajić, 25 March 1997), p. 3; P723 (Forensic documentation for Ana Dikulić), pp. 4, 6; P724 (Forensic documentation for Mijo Čović), pp. 4-5; P725 (Forensic documentation for Anka Piktija), pp. 3-4; P726 (Forensic documentation for Anka Ferić), pp. 3-4; P727 (Forensic documentation for Ana Tepić), pp. 3-4; P728 (Forensic documentation for Antun Švračić), pp. 4-5; P729 (Forensic documentation for Antun Đukić), pp. 3-4; P730 (Forensic documentation for Kata Ferić), pp. 2-3; P731 (Forensic documentation for Terezija Alavančić), pp. 3, 5; P732 (Forensic documentation for Filip Jukić), pp. 4-5; P733 (Forensic documentation for Jura Ferić), pp. 4-5; P734 (Forensic documentation for Stjepan Sabljarić), pp. 3-4; P735 (Forensic documentation for Mara Čorić), pp. 5-6; P736 (Forensic documentation for Veronika Stanković), pp. 2-3; P737 (Forensic documentation for Nikola Lončarić), pp. 4-5; P738 (Forensic documentation (allegedly) for Pavle Kropf), pp. 2, 5, 8; P739 (Forensic documentation for Barbara Kropf), pp. 3-4; P740 (Forensic documentation for Sofija Dikulić), pp. 1-3; P742 (Forensic documentation for Ivo Pezo), pp. 1, 5; P743 (Forensic documentation for Ivan Kulušić), pp. 1-2, 6; P745 (Forensic documentation for Ruža Dikulić), pp. 1-2; P746 (Forensic documentation for Josip Antolović, 13 May 1997), pp. 1-3; P747 (Forensic documentation for Sofija Pezo), pp. 1-2; P748 (Forensic documentation for Katarina Alavančić), pp. 1-2.

¹¹⁹ P741 (Forensic documentation for Mijo Krnić), pp. 1-3; P744 (Forensic documentation for Marija Šestić), pp. 1-2.

¹²⁰ P717 (Forensic documentation for Marija Jukić), pp. 3-4; P718 (Forensic documentation for Antun Mucavac), p. 3; P719 (Forensic documentation for Marija Batinović), pp. 3-4; P720 (Forensic documentation for Marija Đukić), p. 3; P721 (Forensic documentation for Marija Švračić), p. 3; P722 (Autopsy report for Antun Krivajić, 25 March 1997), pp. 1-2; P723 (Forensic documentation for Ana Dikulić), pp. 3-4; P724 (Forensic documentation for Mijo Čović), pp. 3-4; P725 (Forensic documentation for Anka Piktija), p. 3; P726 (Forensic documentation for Anka Ferić), pp. 2-3; P727 (Forensic documentation for Ana Tepić), p. 3; P728 (Forensic documentation for Antun Švračić), p. 3; P729 (Forensic documentation for Antun Đukić), p. 3; P730 (Forensic documentation for Kata Ferić), p. 1; P732 (Forensic documentation for Filip Jukić), p. 3; P733 (Forensic documentation for Jura Ferić), p. 3; P734 (Forensic documentation for Stjepan Sabljarić), p. 3; P735 (Forensic documentation for Mara Čorić), pp. 3-4; P736 (Forensic documentation for Veronika Stanković), p. 2; P738 (Forensic documentation (allegedly) for Pavle Kropf), p. 3; P739 (Forensic documentation for Barbara Kropf), p. 2; P740 (Forensic documentation for Sofija Dikulić), p. 1; P741 (Forensic documentation for Mijo Krnić), p. 1; P743 (Forensic documentation for Ivan Kulušić), p. 1; P744 (Forensic documentation for Marija Šestić), p. 1; P745 (Forensic documentation for Ruža Dikulić), p. 1; P746 (Forensic documentation for Josip Antolović, 13 May 1997), p. 1; P747 (Forensic documentation for Sofija Pezo), p. 1; P748 (Forensic documentation for Katarina Alavančić), p. 1.

¹²¹ P510 (Davor Strinović, *Martić* transcript, 12-13 April 2006, p. 3655; P511 (Davor Strinović, expert report), p. 1; Davor Strinović, T. 5521.

¹²² P717 (Forensic documentation for Marija Jukić), p. 3; P718 (Forensic documentation for Antun Mucavac), p. 4; P719 (Forensic documentation for Marija Batinović), pp. 4-5; P720 (Forensic documentation for Marija Đukić), p. 3; P721 (Forensic documentation for Marija Švračić), p. 3; P722 (Forensic documentation for Antun Krivajić), p. 2; P723 (Forensic documentation for Ana Dikulić), p. 3; P724 (Forensic documentation for Mijo

55. The parties agree on the identities of these 32, as well as on the identities of 12 additional, victims from the Baćin fire station incident.¹²³ The additional 12 victims are Marija Delić (21 January 1931), Marija Dulić (birth date unknown), Stjepan Dikulić, Antun Durinović, Josip Karanović, Reza Krivajić, Dušan Tepić, Ivan Trninić, Ivo Trninić, Kata Trninić, Terezija Trninić, and Kata Vladić.

56. The Trial Chamber considers that the evidence it has received is largely consistent with the Adjudicated Facts of which it has taken judicial notice.¹²⁴ Based on the un rebutted Adjudicated Facts and having reviewed the evidence and agreed facts before it, the Trial Chamber finds that on or around 21 October 1991, persons shot and killed, or otherwise killed, the following 41 individuals at Krečane, near Baćin: Katarina Alavančić, Terezija Alavančić, Josip Antolović, Marija Batinović, Mara Ćorić, Mijo Čović, Marija Delić, Ana Dikulić, Ruža Dikulić, Sofija Dikulić, Štjepan Dikulić, Antun Đukić, Marija Đukić, Antun Đurinović, Ana Ferić, Juraj Ferić, Kata Ferić, Filip Jukić, Marija Jukić, Jozo Karanović, Antun Krivajić, Reza Krivajić, Barbara Kropf, Pavao Kropf, Ivan Kulišić, Nikola Lončarić, Antun Mucavac, Ivo Pezo, Sofija Pezo, Anka Piktaja, Štjepan Sabljar, Veronika Stanković, Antun Švračić, Marija Švračić, Ana Tepić, Dušan Tepić, Ivan Trninić, Ivo Trninić, Kata Trninić, Terezija Trninić, and Katarina Vladić. All of these individuals were Croats, many of whom were elderly, except for Ana and Dusan Tepić, who were Serbs.¹²⁵

57. The Trial Chamber has not taken judicial notice of Adjudicated Facts in relation to Mijo Krnić and Marija Šestić. Witness JF-023 testified that two persons named Krnić and Šestić were detained in the Hrvatska Dubica fire station on 20 October and killed in Baćin on 22 October 1991. According to forensic documentation, the bodies of Mijo Krnić and Marija

Čović), p. 4; P726 (Forensic documentation for Anka Ferić), p. 3; P728 (Forensic documentation for Antun Švračić), p. 3; P729 (Forensic documentation for Antun Đukić), p. 3; P730 (Forensic documentation for Kata Ferić), p. 2; P731 (Forensic documentation for Terezija Alavančić), p. 4; P732 (Forensic documentation for Filip Jukić), p. 3; P733 (Forensic documentation for Jura Ferić), p. 4; P734 (Forensic documentation for Stjepan Sabljar), p. 3; P735 (Forensic documentation for Mara Ćorić), p. 4; P739 (Forensic documentation for Barbara Kropf), p. 3; P740 (Forensic documentation for Sofija Dikulić), pp. 1, 4; P741 (Forensic documentation for Mijo Krnić), pp. 1-2; P742 (Forensic documentation for Ivo Pezo), p. 3; P743 (Forensic documentation for Ivan Kulušić), p. 1; P744 (Forensic documentation for Marija Šestić), pp. 1, 3; P745 (Forensic documentation for Ruža Dikulić), p. 1; P746 (Forensic documentation for Josip Antolović, 13 May 1997), p. 4; P747 (Forensic documentation for Sofija Pezo), p. 1; P748 (Forensic documentation for Katarina Alavančić), p. 1; P512 (Chart on proof of death documentation filled in by Davor Strinović), pp. 1-5.

¹²³ Decision on Motion For Admission of Agreed Facts, 12 January 2011; First Joint Motion for Admission of Agreed Facts Between the Prosecution and the Stanišić Defence, 16 February 2010, Annex A, Part B.

¹²⁴ The Trial Chamber has considered minor spelling discrepancies between the Adjudicated Facts, agreed facts, and the evidence of Witness JF-023 and forensic documentation in relation to the victims' names. In light of the evidence before it and contrary to the agreed facts, the Trial Chamber considers that the Adjudicated Facts concerning Marija Delić refer to the same person as Witness JF-023's testimony concerning Marija Dulić.

¹²⁵ Considering the charges in the Indictment, the Trial Chamber will not further consider the part of the incident dealing with Serb victims.

Šestić (both Croats over 65 years old in 1991) were exhumed in Baćin with gunshot wounds to the head or chest as the most probable cause of death. Witness JF-023 testified that he observed Mijo Krnić's body being exhumed from a mass grave at Baćin. Based on Witness JF-023's testimony and in view of the agreed facts, having considered the location of their bodies and the causes of death, the Trial Chamber finds that the persons who killed the aforementioned 41 victims also shot and killed Mijo Krnić and Marija Šestić, two Croats, on or around the same date at Krečane, near Baćin.

58. The Adjudicated Facts provide that the SAO *Milicija Krajine* was responsible for the killing of 41 of the 43 victims. The Adjudicated Facts and testimony of Witness JF-023 indicate that persons in a truck bearing "SAO Milicija Krajina" insignia had transported at least six of the victims to the fire station in Hrvatska Dubica on 20 October 1991. According to the Adjudicated Facts, the persons manning the truck included Veljko Rađunović and a man nicknamed "Janjeta".

59. The Adjudicated Facts and testimony of Tomislav Kozarčanin indicate that Stevo Rađunović¹²⁶ and another person, both in JNA uniform, guarded the detainees at the fire station. According to the testimony of Witness JF-023, the guards outside the fire station were reservists wearing JNA "SMB" uniforms and included Milenko Janjetović, known as "Janjeta".

60. On the basis of the unrebutted Adjudicated Facts and the evidence on this incident, and further in view of the Adjudicated Facts and the evidence reviewed in chapter 6.6, the Trial Chamber concludes that the persons who killed the 43 victims were members of the SAO Krajina Police. The Trial Chamber does not consider the evidence indicating that guards at the fire station, including Stevo Rađunović, wore JNA uniforms determinative as to the armed forces they belonged to.

61. Based on the forensic documentation, the Trial Chamber finds that at least 29 of the 43 victims were clothed in civilian dress when killed. Before killing them, the perpetrators had detained at least 41 of the 43 people at the Hrvatska Dubica fire station. The perpetrators released from the fire station ten persons because they were Serbs or, in the case of Croats, because they were helped by their Serb neighbours or friends.

¹²⁶ Based on the evidence received, the Trial Chamber understands Tomislav Kozarčanin's testimony concerning Stevo Rađun to refer to Stevo Rađunović.

62. The Trial Chamber will further consider this incident in relation to Counts 1, 2, and 3 of the Indictment in chapter 4, below.

63. The Trial Chamber will now address the incident involving 13 alleged non-Serb victims from Baćin and Cerovljani. The Trial Chamber has taken judicial notice of Adjudicated Facts in relation to this incident. According to these Adjudicated Facts, some time in October 1991, unidentified armed Serbs gathered the remaining civilians in Cerovljani into the local community centre under the pretext of having a meeting, following which they were detained for the night. The next morning they were taken away. The following persons from Cerovljani were killed on or around 20 or 21 October 1991 either by the *Milicija Krajine*, or units of the JNA or the TO, or a combination of some of them: Marija Antolović, Ana Blinja, Josip Blinja, Katarina Blinja, Nikola Blinja, Andrija Likić, Ana Lončar, Antun Lončar, and Kata Lončar (born 1906). Another woman, also by the name of Kata Lončar, who was a Croat, remained in the village throughout the occupation because she had “connections with the Serbs”.¹²⁷

64. Based on the Adjudicated Facts, the Trial Chamber finds that on or around 20 or 21 October 1991, members of the SAO Krajina police, the JNA, and/or the TO killed the nine persons from Cerovljani mentioned above. The Adjudicated Facts do not establish, nor has the Trial Chamber received sufficient evidence on the location or other circumstances of the killing. The Adjudicated Facts do not address, nor has the Trial Chamber received sufficient evidence regarding the remaining four alleged victims. Therefore, the Trial Chamber will not further consider this part of the incident.

3.1.2 Murder of non-Serb villagers of Saborsko, Poljanak, and Lipovača between August and November 1991 (Indictment, para. 28)

65. According to the Indictment, from early August 1991 until 12 November 1991, the Croatian villages of Saborsko, Poljanak, and Lipovača were attacked by Serb forces (as defined in paragraph 6 of the Indictment), in particular members of Martić’s Police, the JNA, and members of the local Serb TO. The attacking forces killed or forcibly transferred the non-Serb inhabitants, as they entered the villages.¹²⁸ In this chapter the Trial Chamber will deal with the alleged murders. The Trial Chamber took judicial notice of Adjudicated Facts and

¹²⁷ Adjudicated Facts III, facts 91-93.

¹²⁸ Indictment, para. 28.

received relevant evidence from Witness C-1230 and Ana Bićanić, and from forensic documentation. The Trial Chamber will address events in the three villages in turn.

Lipovača (12 killings)

66. The Trial Chamber has taken judicial notice of Adjudicated Facts in relation to alleged murders in the village of Lipovača. According to these Adjudicated Facts, at the end of October 1991, the bodies of Franjo Brozinčević, Marija Brozinčević, Mira Brozinčević, and Katarina Cindrić were found in Franjo Brozinčević's house in Lipovača. The four victims were dressed in civilian clothes and had been killed by gunshots.¹²⁹ Between 29 and 31 October 1991, Neđo Kotur, a local Serb commander, came to the house of Ivan Marjanović and told him that "the Serbs" had killed some Croats and told Ivan Marjanović to go with him to Lipovača to bury the victims. Neđo Kotur, Ivan Marjanović, and three Croat villagers, drove to Lipovača and passed a checkpoint manned by "Martić's men".¹³⁰ In Lipovača, they went to the house of Mate Brozinčević, where they found his body in the kitchen with several bullet holes in the stomach. Mate's wife, Roža, had also been shot, and the body of their son Mirko was lying at the entrance to the bedroom with a bullet hole in the neck. All victims wore civilian clothing.¹³¹ In June 1996, the remains of the above-mentioned seven individuals were exhumed from mass graves in Lipovača Drežnička.¹³² All of these killings were perpetrated by Serb paramilitary forces.¹³³ The following persons were also killed in Lipovača: Ana Pemper, Barbara Vuković, Juraj Šebalj, Juraj Conjar, and Milan Smolčić.¹³⁴

67. Based on the Adjudicated Facts referenced above, the Trial Chamber finds that in Lipovača before the end of October 1991 members of "Serb paramilitary forces" shot and killed Franjo Brozinčević, Marija Brozinčević, Mira Brozinčević, and Katarina Cindrić, all of whom were dressed in civilian clothes. The Adjudicated Facts do not establish the ethnicity of these victims and the Trial Chamber will therefore not further consider this part of the incident. Members of "Serb paramilitary forces" also shot and killed the Croat civilians Mate Brozinčević, his wife Roža, and their son Mirko in Lipovača around the same time. The Trial Chamber will further consider this part of the incident in relation to Counts 1, 2, and 3 of the Indictment in chapter 4, below.

¹²⁹ Adjudicated Facts III, fact 111.

¹³⁰ Adjudicated Facts III, fact 113.

¹³¹ Adjudicated Facts III, fact 114.

¹³² Adjudicated Facts III, fact 115.

¹³³ Adjudicated Facts III, fact 112.

¹³⁴ Adjudicated Facts III, fact 116.

68. The Adjudicated Facts also establish that Ana Pemper, Barbara Vuković, Juraj Šebalj, Juraj Conjar, and Milan Smolčić were killed in Lipovača. They do not establish, however, the identity or affiliation of the perpetrators. Under these circumstances, the Trial Chamber will not further consider this part of the incident.

Poljanak (6 killings)

69. The Trial Chamber received evidence from Witness C-1230 and through forensic documentation in relation to alleged murders in the village of Poljanak.

70. **Witness C-1230**, a Croat from a village in Slunj municipality,¹³⁵ stated that on 8 October 1991 the JNA attacked the hamlet of Vukovići.¹³⁶ During the attack, Kata Matovina, an 80-90-year-old woman, was shot in her upper leg while trying to flee and died as a result of this injury.¹³⁷ Toma Vuković, a Croatian civilian, was found dead in front of his house.¹³⁸ Most of the houses in the village were burned by the soldiers.¹³⁹ The witness stated that after 8 October 1991, armed “Serb soldiers” from the area of Plitvica who were wearing olive-drab JNA uniforms assured the people in the village of Poljanak that they would not harm anybody, but warned them about “people from elsewhere”.¹⁴⁰

71. According to a record of an on-site investigation of 13 August 1996 in Poljanak-Vukovići, *inter alia* the remains of the following individuals were exhumed and examined: Tomo Vuković, born on 16 October 1935 and identified by his son on site.¹⁴¹ Tomo Vuković was killed on 8 October 1991 according to his son. The body was clothed in civilian dress and showed defects consistent with projectile injuries.¹⁴² The medical expert on site assessed that the cause of death was a gunshot wound to the thorax.¹⁴³

¹³⁵ P64 (Witness C-1230, witness statement, 28 February 2001), pp. 1-2.

¹³⁶ P63 (Witness C-1230, *Martić* transcript, 23 March 2006), pp. 2522-2527; P64 (Witness C-1230, witness statement, 28 February 2001), p. 2.

¹³⁷ P64 (Witness C-1230, witness statement, 28 February 2001), pp. 2-3; P66 (Witness C-1230, statement to the Karlovac Police Administration, 21 June 1995), p. 1.

¹³⁸ P64 (Witness C-1230, witness statement, 28 February 2001), p. 2; P66 (Witness C-1230, statement to the Karlovac Police Administration, 21 June 1995), p. 1.

¹³⁹ P63 (Witness C-1230, *Martić* transcript, 23 March 2006), p. 2562; P64 (Witness C-1230, witness statement, 28 February 2001), p. 2.

¹⁴⁰ P63 (Witness C-1230, *Martić* transcript, 23 March 2006), pp. 2527, 2564; P64 (Witness C-1230, witness statement, 28 February 2001), p. 3; P66 (Witness C-1230, statement to the Karlovac Police Administration, 21 June 1995), p. 1.

¹⁴¹ P937 (On-site investigation in Vukovići, 13 August 1996), pp. 1-4, 6-8.

¹⁴² P937 (On-site investigation in Vukovići, 13 August 1996), pp. 6-7.

¹⁴³ P937 (On-site investigation in Vukovići, 13 August 1996), p. 7.

72. Witness C-1230 stated that between 22 and 24 October 1991, approximately 60 local “Serb soldiers” in olive-drab uniforms from Plitvica stayed in Poljanak.¹⁴⁴ They took down and burned a Croatian flag and put up a Serb flag instead.¹⁴⁵ After this Serb flag had been taken down again by someone, the “Serb soldiers” hanged Milan and Ivica Lončar and detained Marko Lončar, Pero Bicanić, and Ivan Bicanić, in response.¹⁴⁶

73. According to a record of the on-site investigation of 13 August 1996 in Poljanak-Vukovići, *inter alia* the remains of the following individuals were exhumed and examined: Ivan Lončar, born on 14 November 1908 and identified by his son on site, and Milan Lončar, born on 8 August 1945 and identified by his brother on site.¹⁴⁷ Ivan Lončar was killed on 24 October 1991 according to his son.¹⁴⁸ Based primarily on the son’s statement, the medical expert on site assessed that the most likely cause of death was hanging. Milan Lončar was killed in the night of 23/24 October 1991 according to his brother.¹⁴⁹ The body was clothed in olive-green clothes and based primarily on the brother’s statement, the medical expert on site assessed that the most likely cause of death was hanging.¹⁵⁰

74. Finally, Witness C-1230 stated that the soldiers who had killed persons in Vukovići on 7 November 1991 (see chapter 3.1.3), then went to Poljanak, dragging him through the fields.¹⁵¹ The witness overheard the soldiers mentioning that they had already been to the Croat villages of Vaganac and Drežnik.¹⁵² In Poljanak, the soldiers entered houses and took anything they wanted.¹⁵³ The witness then noticed that a large group of people had been captured and was gathered next to a house nearby, among them Marija, Nikola, and Ivica Vuković. The soldiers forced the women to go to Vukovići, while the captured men were kept in Poljanak.¹⁵⁴ The soldiers then released the witness and told him to follow the women.

¹⁴⁴ P64 (Witness C-1230, witness statement, 28 February 2001), p. 3; P66 (Witness C-1230, statement to the Karlovac Police Administration, 21 June 1995), p. 1.

¹⁴⁵ P63 (Witness C-1230, *Martić* transcript, 23 March 2006), pp. 2529-2530; P64 (Witness C-1230, witness statement, 28 February 2001), p. 3; P66 (Witness C-1230, statement to the Karlovac Police Administration, 21 June 1995), p. 1.

¹⁴⁶ P63 (Witness C-1230, *Martić* transcript, 23 March 2006), pp. 2529-2530, 2533; P64 (Witness C-1230, witness statement, 28 February 2001), p. 3.

¹⁴⁷ P937 (On-site investigation in Vukovići, 13 August 1996), pp. 1-4, 6-8.

¹⁴⁸ P937 (On-site investigation in Vukovići, 13 August 1996), p. 8.

¹⁴⁹ P937 (On-site investigation in Vukovići, 13 August 1996), p. 8.

¹⁵⁰ P937 (On-site investigation in Vukovići, 13 August 1996), p. 9.

¹⁵¹ P63 (Witness C-1230, *Martić* transcript, 23 March 2006), pp. 2553-2554; P67 (Witness C-1230, statement to the Karlovac Police Administration, 15 September 1995), p. 3.

¹⁵² P64 (Witness C-1230, witness statement, 28 February 2001), p. 5.

¹⁵³ P64 (Witness C-1230, witness statement, 28 February 2001), p. 5; P65 (Witness C-1230, statement to the Medical Centre for Human Rights, 16 April 1993), p. 2.

¹⁵⁴ P64 (Witness C-1230, witness statement, 28 February 2001), p. 5; P67 (Witness C-1230, statement to the Karlovac Police Administration, 15 September 1995), p. 3.

Shortly thereafter, the witness heard shooting from the house where Nikola and Ivica Vuković had been held.¹⁵⁵ The witness stated that the soldiers then set some houses in Poljanak on fire.¹⁵⁶ After the soldiers had left the village, Marija Vuković returned and found the bodies of Nikola and Ivica Vuković and saw that all houses in the village had been set on fire.¹⁵⁷

75. According to a record of the on-site investigation of 13 August 1996 in Poljanak-Vukovići, *inter alia* the remains of the following individuals were exhumed and examined: Nikola Vuković, born on 22 August 1926 and identified by his wife on site, and Ivan Vuković, born on 15 May 1934 and identified by his daughter on site.¹⁵⁸ Nikola Vuković was killed on 7 November 1991 according to his wife.¹⁵⁹ The body was clothed in civilian dress and the cause of death was assessed to be multiple gunshot wounds to the thorax and head.¹⁶⁰ Ivan Vuković was killed on 7 November 1991, according to his daughter.¹⁶¹ The body was clothed in civilian dress and the cause of death was assessed to be gunshot wounds to the head and trunk.¹⁶²

76. The evidence indicates that Kata Matovina and Toma¹⁶³ Vuković were shot dead during the attack on Vukovići on 8 October 1991. The evidence does not sufficiently establish the identity or affiliation of the perpetrators. Under these circumstances, the Trial Chamber will not further consider this part of the incident.

77. Further, based on the evidence received, the Trial Chamber finds that on 23 or 24 October 1991, in Poljanak, persons from a group of approximately 60 local Serbs in olive-drab uniforms from Plitvica hanged Milan and Ivica Lončar in response to the taking down of a Serb flag. Considering the particular circumstances of this incident, the Trial Chamber is satisfied that the victims were of non-Serb ethnicity. The Trial Chamber will further consider this part of the incident in relation to Counts 1, 2, and 3 of the Indictment in chapter 4, below.

78. Lastly, the Trial Chamber has found that on 7 November 1991 members of a group of JNA soldiers (including from the JNA Niš special unit “Niški Specijalci”) and local Serbs

¹⁵⁵ P64 (Witness C-1230, witness statement, 28 February 2001), p. 5; P65 (Witness C-1230, statement to the Medical Centre for Human Rights, 16 April 1993), p. 2; P67 (Witness C-1230, statement to the Karlovac Police Administration, 15 September 1995), p. 3.

¹⁵⁶ P65 (Witness C-1230, statement to the Medical Centre for Human Rights, 16 April 1993), p. 2.

¹⁵⁷ P66 (Witness C-1230, statement to the Karlovac Police Administration, 21 June 1995), p. 2.

¹⁵⁸ P937 (On-site investigation in Vukovići, 13 August 1996), pp. 1-4, 6-8.

¹⁵⁹ P937 (On-site investigation in Vukovići, 13 August 1996), pp. 4-5.

¹⁶⁰ P937 (On-site investigation in Vukovići, 13 August 1996), pp. 3-5.

¹⁶¹ P937 (On-site investigation in Vukovići, 13 August 1996), pp. 2-3.

¹⁶² P937 (On-site investigation in Vukovići, 13 August 1996), pp. 1-3.

¹⁶³ The Trial Chamber noted the inconsistency of the evidence in relation to the spelling of this name but was satisfied that it related to the same person.

committed crimes in Vukovići. Based on the evidence received, the Trial Chamber finds that on the same day, members of that group went to Poljanak where they shot and killed the detained Ivica and Nikola Vuković. Considering the perpetrators' statements and behaviour (see chapter 3.1.3), the Trial Chamber is satisfied that the victims were of non-Serb ethnicity. The Trial Chamber will further consider this part of the incident in relation to Counts 1, 2, and 3 of the Indictment in chapter 4, below.

Saborsko (About 10 killings)

79. The Trial Chamber received evidence from **Ana Bićanić** in relation to alleged murders in Saborsko. This witness, a Croat from Saborsko,¹⁶⁴ stated that from June 1991, the Serbs started shooting gunfire and artillery, mostly from the direction of Lička Jesenica, randomly at Saborsko, mostly at the church and school, even though there were no weapons situated in these buildings. The witness stated that on 5 August 1991 heavy and random artillery shelling began and continued daily until 10 November 1991. About ten people were killed by these attacks and the witness remembered the names of victims Ivica Krizmanić, Marko Krizmanić, Tomo Matovina, Ante Kovačić, Pere Matovina, and Joso Matovina.¹⁶⁵ The witness stated that to defend themselves, the village organized a group of 20-30 men who began to patrol the village at night on foot with hunting guns and some military rifles. Around August 1991, all the traffic into and out of Saborsko had completely stopped as the town was surrounded by the JNA. Around October 1991, two truckloads of approximately 50 Croatian soldiers arrived at the village along with food and small weapons, which included small arms, rifles, and a few hand grenades.¹⁶⁶ According to the witness, the additional influx of Croatian soldiers was necessary to defend the village which only had about ten policemen armed with small rifles.¹⁶⁷ The Trial Chamber has further considered evidence and Adjudicated Facts, reviewed in chapter 3.1.7, concerning shelling in Saborsko in August and November 1991.

80. The evidence indicates that during the shelling attacks on Saborsko between August and November 1991, ten persons died. However, the evidence received in relation to these killings is of such a vague and general nature, in particular concerning the manner in which people were killed, that the Trial Chamber will not further consider this part of the incident.

¹⁶⁴ P1737 (Ana Bićanić, witness statements), 20 January 2001 statement, pp. 1-2.

¹⁶⁵ P1737 (Ana Bićanić, witness statements), 20 January 2001 statement, pp. 2-3; P1738 (Ana Bićanić, *Slobodan Milošević* transcript, 28 August 2003), p. 25522, 25526, 25528, 25532.

¹⁶⁶ P1737 (Ana Bićanić, witness statements), 20 January 2001 statement, pp. 2-3, 26 August 2003 statement, p. 1; P1738 (Ana Bićanić, *Slobodan Milošević* transcript, 28 August 2003), pp. 25523-25524.

¹⁶⁷ P1738 (Ana Bićanić, *Slobodan Milošević* transcript, 28 August 2003), pp. 25523-25525.

3.1.3 Murder of nine civilians in Vukovići on 7 November 1991 (Indictment, para. 30)

81. According to the Indictment, on 7 November 1991, Serbs forces (as defined in paragraph 6 of the Indictment), in particular the JNA and local Serb TO units, and specifically a JNA Special Unit from Niš, entered the hamlet of Vukovići near Poljanak and killed nine civilians.¹⁶⁸ The Trial Chamber received relevant evidence with regard to the alleged murders primarily through the testimony of Witness C-1230 and forensic documentation.

82. **Witness C-1230**, a Croat from a village in Slunj municipality,¹⁶⁹ stated that on 7 November 1991 around 7 or 7:30 a.m. he went to Vukovići.¹⁷⁰ There were the following people in the house of Nikola Vuković, whom he visited, namely the witness, Vjekoslav Vuković (56 years old), Lucija Vuković (67 years old), Milka Vuković (65 years old), Nikola Vuković (65 years old), Joso Matovina (49 years old), Dane Vuković (son of Poldo), Dane Vuković (78 years old, son of Mate), and Nikola Matovina (78 years old).¹⁷¹ The witness noticed someone outside the window around 9-10 a.m. and went out to see who it was.¹⁷² He stated that a group of 10-20 soldiers in camouflage uniforms, all local Serbs he recognized by sight mostly from the area of Titova Korenica and including a person he knew as Miloš Čvijetičanin (son of Žarko) from Rastovača and a person referred to by the others as “Rambo”, were pointing their guns at him.¹⁷³ Those who had initially stayed in the house came out, except for Nikola Vuković who was ill.¹⁷⁴ The witness then noticed another group of “Serbs” who appeared on the other side of the house.¹⁷⁵ Miloš Čvijetičanin gave directions

¹⁶⁸ Indictment, para. 30.

¹⁶⁹ P64 (Witness C-1230, witness statement, 28 February 2001), pp. 1-2.

¹⁷⁰ P64 (Witness C-1230, witness statement, 28 February 2001), p. 3; P65 (Witness C-1230, statement to the Medical Centre for Human Rights, 16 April 1993), p. 1; P66 (Witness C-1230, statement to the Karlovac Police Administration, 21 June 1995), p. 1.

¹⁷¹ P64 (Witness C-1230, witness statement, 28 February 2001), p. 3; P65 (Witness C-1230, statement to the Medical Centre for Human Rights, 16 April 1993), p. 1; P66 (Witness C-1230, statement to the Karlovac Police Administration, 21 June 1995), p. 2; P67 (Witness C-1230, statement to the Karlovac Police Administration, 15 September, 1995), p. 1.

¹⁷² P62 (Witness C-1230, prior testimony), p. 23735; P63 (Witness C-1230, *Martić* transcript, 23 March 2006), pp. 2533-2534; P64 (Witness C-1230, witness statement, 28 February 2001), pp. 3-4; P65 (Witness C-1230, statement to the Medical Centre for Human Rights, 16 April 1993), p. 1; P66 (Witness C-1230, statement to the Karlovac Police Administration, 21 June 1995), p. 2; P67 (Witness C-1230, statement to the Karlovac Police Administration, 15 September, 1995), p. 1.

¹⁷³ P62 (Witness C-1230, prior testimony), pp. 23735, 23740; P63 (Witness C-1230, *Martić* transcript, 23 March 2006), pp. 2551-2552; P64 (Witness C-1230, witness statement, 28 February 2001), p. 4; P65 (Witness C-1230, statement to the Medical Centre for Human Rights, 16 April 1993), p. 1; P66 (Witness C-1230, statement to the Karlovac Police Administration, 21 June 1995), p. 2.

¹⁷⁴ P63 (Witness C-1230, *Martić* transcript, 23 March 2006), p. 2535; P64 (Witness C-1230, witness statement, 28 February 2001), p. 4; P65 (Witness C-1230, statement to the Medical Centre for Human Rights, 16 April 1993), p. 1; P67 (Witness C-1230, statement to the Karlovac Police Administration, 15 September 1995), p. 1.

¹⁷⁵ P62 (Witness C-1230, prior testimony), pp. 23737, 23741-23743, 23751; P66 (Witness C-1230, statement to the Karlovac Police Administration, 21 June 1995), p. 2.

and informed the others about people's ethnicities.¹⁷⁶ The witness also recognized two commanders from Korenica, one of whom was a former police officer called Simon.¹⁷⁷ The witness saw roughly 90-100 soldiers in the hamlet.¹⁷⁸ The witness also stated that there were JNA soldiers and soldiers from the JNA Niš special unit "Niški Specijalci", something the witness overheard them saying. The local Serbs wore camouflage uniforms without any insignia, whereas the "commanders" had the red star Tito caps attached to their belts.¹⁷⁹ The soldiers from the Niš special unit had darker green camouflage uniforms.¹⁸⁰ According to the witness, the local Serbs were mostly acting as guides for the soldiers.¹⁸¹

83. The soldiers called the men "Ustashas", beat them with rifle butts, kicked them, and questioned them about weapons. The soldiers ordered the men to line up next to a house.¹⁸² Suddenly, the soldiers started shooting and the men and women fell to the ground. The witness, standing on the edge of the line, managed to escape but after a short time found himself standing among the soldiers again.¹⁸³ In the meantime, another group of soldiers was searching through the houses in the hamlet and was setting them and some haystacks on fire. Rambo then shot Nikola Vuković through the window of the house.¹⁸⁴ Rambo also came up to the witness wanting to kill him, saying "no Ustashe should stay alive", but he was held back by other soldiers. Rambo or another soldier then threw explosives into Nikola Vuković's house.¹⁸⁵ The witness overheard one of the soldiers later tell Mara Vuković in Poljanak that

¹⁷⁶ P63 (Witness C-1230, *Martić* transcript, 23 March 2006), p. 2551; P64 (Witness C-1230, witness statement, 28 February 2001), p. 5; P66 (Witness C-1230, statement to the Karlovac Police Administration, 21 June 1995), p. 2.

¹⁷⁷ P62 (Witness C-1230, prior testimony) p. 23732; P64 (Witness C-1230, witness statement, 28 February 2001), p. 5; P65 (Witness C-1230, statement to the Medical Centre for Human Rights, 16 April 1993), p. 1; P66 (Witness C-1230, statement to the Karlovac Police Administration, 21 June 1995), p. 2; P67 (Witness C-1230, statement to the Karlovac Police Administration, 15 September 1995), p. 1.

¹⁷⁸ P62 (Witness C-1230, prior testimony), pp. 23732, 23743; P63 (Witness C-1230, *Martić* transcript, 23 March 2006), p. 2551.

¹⁷⁹ P63 (Witness C-1230, *Martić* transcript, 23 March 2006), pp. 2551-2552, 2560, 2563-2564; P64 (Witness C-1230, witness statement, 28 February 2001), p. 5.

¹⁸⁰ P64 (Witness C-1230, witness statement, 28 February 2001), p. 5.

¹⁸¹ P63 (Witness C-1230, *Martić* transcript, 23 March 2006), p. 2551.

¹⁸² P64 (Witness C-1230, witness statement, 28 February 2001), p. 4; P65 (Witness C-1230, statement to the Medical Centre for Human Rights, 16 April 1993), p. 1; P66 (Witness C-1230, statement to the Karlovac Police Administration, 21 June 1995), p. 2; P67 (Witness C-1230, statement to the Karlovac Police Administration, 15 September 1995), p. 1.

¹⁸³ P63 (Witness C-1230, *Martić* transcript, 23 March 2006), pp. 2536, 2540-2541; P64 (Witness C-1230, witness statement, 28 February 2001), p. 4; P66 (Witness C-1230, statement to the Karlovac Police Administration, 21 June 1995), p. 2; P67 (Witness C-1230, statement to the Karlovac Police Administration, 15 September 1995), pp. 1-2.

¹⁸⁴ P64 (Witness C-1230, witness statement, 28 February 2001), pp. 4-5; P66 (Witness C-1230, statement to the Karlovac Police Administration, 21 June 1995), p. 2.

¹⁸⁵ P63 (Witness C-1230, *Martić* transcript, 23 March 2006), pp. 2541-2542, 2552; P64 (Witness C-1230, witness statement, 28 February 2001), p. 4; P65 (Witness C-1230, statement to the Medical Centre for Human

her husband and other relatives of hers had been killed in Vukovići. When the woman inquired as to the reason for the killing, the soldier replied that they were “Ustashe”.¹⁸⁶

84. The parties agree on the identity of eight victims, namely Nikola Vuković, Josip Matovina, Nikola Matovina, two men called Dane Vuković, Lucija Vuković, Milka Vuković, and Vjekoslav Vuković.¹⁸⁷ According to information provided by Slavica Vuković from Poljanak as contained in the record of an on-site investigation, “Chetniks” chased Vjekoslav Vuković, Nikola Vuković, Josip Matovina, Nikola Matovina, two men called Dane Vuković, and Milka Vuković into Lucija Vuković’s house, where they killed them and then set them on fire. During the on-site investigation, fragments of charred bones and five cartridge cases from a 7.62 millimetre automatic rifle were found in the burnt ruins of Lucija Vuković’s house.¹⁸⁸

85. Despite minor discrepancies in the evidence in relation to the exact sequence of events, the Trial Chamber considers the received evidence to be on the whole consistent and reliable and finds that on 7 November 1991 90-100 JNA soldiers, including some from the JNA Niš special unit “Niški Specijalci”, and local Serbs came to the hamlet of Vukovići. At least 10-20 local Serbs, including Miloš Čvijetičanin and “Rambo”, were among this group arriving in the hamlet. Čvijetičanin gave directions and informed the others about people’s ethnicities. Based on the evidence received and the agreement between the parties, the Trial Chamber finds that men from this group, after calling them “Ustasas”, lined up Vjekoslav Vuković, Dane Vuković (son of Poldo), Dane Vuković (son of Mate), Joso Matovina, and Nikola Matovina and shot and killed them. They also killed Lucija and Milka Vuković outside Nikola Vuković’s house.¹⁸⁹ Rambo then shot Nikola Vuković, who was inside the house, through a window. Rambo remarked “no Ustashe should stay alive”. The victims were mainly of advanced age. Later that day, one of the group’s men stated that the people in Vukovići had been killed because they were “Ustashe”. Considering the perpetrators’ statements and behaviour, the Trial Chamber is satisfied that the victims were Croats. The Trial Chamber has received insufficient evidence about the identity or death of the alleged ninth victim of this

Rights, 16 April 1993), p. 2; P66 (Witness C-1230, statement to the Karlovac Police Administration, 21 June 1995), p. 2.

¹⁸⁶ P64 (Witness C-1230, witness statement, 28 February 2001), p. 5.

¹⁸⁷ Decision on Motion For Admission of Agreed Facts, 12 January 2011; First Joint Motion for Admission of Agreed Facts Between the Prosecution and the Stanišić Defence, 16 February 2010, Annex A, Part Q.

¹⁸⁸ P937 (On-site investigation in Vukovići, 13 August 1996), p. 5.

¹⁸⁹ The Trial Chamber considers that minor spelling discrepancies between the agreed facts and the evidence in relation to the victims’ names did not raise a reasonable doubt with the Trial Chamber when reaching its finding.

incident. The Trial Chamber will further consider this incident in relation to Counts 1, 2, and 3 of the Indictment in chapter 4, below.

3.1.4 Murder of at least 20 Croat civilians in Saborsko on 12 November 1991 (Indictment, para. 31)

86. According to the Indictment, on 12 November 1991, Serb forces (as defined in paragraph 6 of the Indictment), particularly members of Martić's Police, the JNA, and local Serb TO units, entered Saborsko where they killed at least 20 Croat civilians and razed the village to the ground.¹⁹⁰ In this chapter the Trial Chamber will deal with the alleged murders. The Trial Chamber has taken judicial notice of Adjudicated Facts in relation to this incident. It has also heard relevant testimony from Ana Bićanić, Vlado Vuković, and Witness JF-006 and Witness C-1231, and received relevant forensic and other documentation.

87. According to the Adjudicated Facts, Saborsko was attacked mid-morning on 12 November 1991 by Tactical Group 2, under the command of Colonel Čedomir Bulat, and the 5th Partisan Brigade, both of which were within the structure of the JNA's 13th Corps.¹⁹¹ During the aerial bombing of 12 November 1991, Ana Bićanić and her husband Milan Bićanić, took shelter in the basement of Petar "Krtan" Bićanić's house, where around 20 people had gathered. Once it became quiet outside in the afternoon, Milan Bićanić heard someone say "give me the matches" which led him to believe that soldiers, who had entered the village, were burning houses and that they were going to be burned inside. In order to prevent this, they waved a white undershirt tied to a piece of wood through the basement door, shouting that they were civilians. There were soldiers outside wearing camouflage and olive-grey uniforms, as well as two soldiers dressed in "Serbian dark grey uniforms and wearing helmets with a five pointed red star". The soldiers told all of the villagers to come out of the basement. The soldiers were armed and spoke in a Serbian dialect. Some of the soldiers swore at them, saying "fuck your Ustaša mother" and that all of them should be slaughtered. One of the soldiers threw a hand grenade into the empty basement. The soldiers separated the men from the women and lined them up opposite each other. The soldiers searched the men and took their money and valuables. While the men were being searched, one soldier hit Jure Štrk and Milan Bićanić. After about 15 minutes, the men were taken around a corner of Ivan Bićanić's house. Two soldiers wearing Serbian dark grey uniforms shot and killed the men

¹⁹⁰ Indictment, para. 31.

with automatic rifle fire. After the killings, the two soldiers returned to the rest of the group. One of the two soldiers pointed the gun at Ana Bičanić and told them that they had an hour to leave or they would be killed. As they ran away the soldiers shot at them. Jeka Vuković fell. They fled towards Borik and after three days, on 15 November 1991, they came to the HVO barracks in Lipice, east of Saborsko. After the attack on Saborsko, Nikola Medaković, in his capacity as president of the municipality of Plaški, issued an order to bury human corpses after which he received a report that the bodies of more than 20 people had been buried, including civilian women and elderly men. Twenty persons were killed in Saborsko on 12 November 1991: Ana Bičanić, Milan Bičanić, Nikola Bičanić, Petar Bičanić, Darko Dumenčić, Ivica Dumenčić, Kata Dumenčić, Nikola Dumenčić, Kata Matovina (born 1920), Mate Matovina (born 1895), Milan Matovina, Slavko Sertić, Mate Špehar, Josip Štrk, Jure/Juraj Štrk, Ivan Vuković, Jeka/Jela Vuković, Jure Vuković (born 1929), Jure Vuković (born 1930), and Petar Vuković.¹⁹²

88. **Ana Bičanić**, a Croat from Saborsko (born in 1935),¹⁹³ stated that on 12 November 1991 around 8:30 a.m., several aeroplanes started attacking her village, shooting tracers, and dropping bombs.¹⁹⁴ The witness and her husband ran into the basement of the family house of Petar Bičanić, nicknamed Krtan, to seek shelter from the assault. Approximately 20 civilians were also there, including Ivan Vuković, Nikola Bičanić, Pero Bičanić, Juraj Štrk and his wife Kate Štrk, two persons named Jure Vuković, a third person named Jure Vuković but called Jura Zenkov, Petar Bičanić nicknamed Krtan and his wife Bara Bičanić, another woman also named Bara Bičanić, Kate Vuković, two other women also named Ana Bičanić, Ana Vuković, Jeka Vuković, Marija Hodak, Jeka Dumančić, and Marija Štrk.¹⁹⁵ At one point, a woman told the people in the basement to flee because tanks had arrived in the village. A few young men were the first ones to run away.¹⁹⁶ The witness and her husband went out to hide two hand grenades in a haystack, and then returned to the basement.¹⁹⁷ Ana Bičanić provided a statement concerning the events in Saborsko on 12 November 1991. Her statement is

¹⁹¹ Adjudicated Facts III, fact 125.

¹⁹² Adjudicated Facts III, facts 131-136.

¹⁹³ P1737 (Ana Bičanić, witness statements), 20 January 2001 statement, pp. 1-2.

¹⁹⁴ P1737 (Ana Bičanić, witness statements), 20 January 2001 statement, p. 3. The witness is a different person than Ana Bičanić mentioned in Adjudicated Facts III, fact 136.

¹⁹⁵ P1737 (Ana Bičanić, witness statements), 20 January 2001 statement, p. 3, 26 August 2003 statement, p. 1.

¹⁹⁶ P1737 (Ana Bičanić, witness statements), 26 August 2003 statement, p. 1.

¹⁹⁷ P1737 (Ana Bičanić, witness statements), 20 January 2001 statement, p. 3; P1738 (Ana Bičanić, *Slobodan Milošević* transcript, 28 August 2003), p. 25528.

consistent with the Adjudicated Facts 132-133 reviewed above.¹⁹⁸ Ana Bićanić added that upon coming out of the basement she saw soldiers dressed in camouflage uniforms, and two soldiers in Serbian dark grey or greyish multi-coloured JNA uniforms, wearing helmets with a five pointed red star, carrying rifles with a round drum and speaking in the Serbian dialect.¹⁹⁹ Some of the soldiers had white ribbons on their upper arms and some had camouflage caps with bills.²⁰⁰ Neither she nor any of the others in the basement knew the soldiers.²⁰¹

89. One of the soldiers, wearing camouflage uniform, shouted that they should all be slaughtered and that because of them he had spent the last four months in trenches on the battlefield. Once outside, the witness also saw many soldiers searching and looting her neighbours' houses. About 15 minutes later, the soldiers took the men behind a house about 10-15 metres away, and the witness saw the two soldiers in Serbian dark grey or greyish multi-coloured uniforms and the five-pointed star, whom she had initially seen upon emerging from the basement, shoot and kill all the seven men, namely, Ivan Vuković, Nikola Bićanić, Juraj Štrk, Jure Vuković, and his half-brother also named Jure Vuković but called Zinkov, Petar Bićanić, and her husband Milan Bićanić with two bursts of automatic machine gun fire.²⁰² None of the seven men killed had any weapons on them at that time.²⁰³ After killing the men, one of the soldiers told the women to leave the village or he would kill them. The witness and other women went on foot in the direction of the Borik forest for three days and three nights until they arrived at Lipice on 15 November 1991, where they met the Croatian army.²⁰⁴ The following day they were brought to Ogulin where the witness stayed until August 1995. In August 1995, the witness returned to Saborsko and could not locate her house because everything had been demolished and burned, including two main churches.²⁰⁵ After Operation Storm in 1995, a mass grave was discovered near the parish house where the witness's husband's body and the bodies of the other men were discovered.²⁰⁶

¹⁹⁸ P1737 (Ana Bićanić, witness statements), 20 January 2001 statement, pp. 3-4; P1738 (Ana Bićanić, *Slobodan Milošević* transcript, 28 August 2003), p. 25528-25529.

¹⁹⁹ P1737 (Ana Bićanić, witness statements), 20 January 2001 statement, p. 4; P1738 (Ana Bićanić, *Slobodan Milošević* transcript, 28 August 2003), pp. 25529, 25536.

²⁰⁰ P1737 (Ana Bićanić, witness statements), 20 January 2001 statement, p. 4.

²⁰¹ P1738 (Ana Bićanić, *Slobodan Milošević* transcript, 28 August 2003), pp. 25536-25537.

²⁰² P1737 (Ana Bićanić, witness statements), 20 January 2001 statement, p. 4; P1738 (Ana Bićanić, *Slobodan Milošević* transcript, 28 August 2003), pp. 25529, 25533.

²⁰³ P1738 (Ana Bićanić, *Slobodan Milošević* transcript, 28 August 2003), p. 25537.

²⁰⁴ P1737 (Ana Bićanić, witness statements), 20 January 2001 statement, p. 4, 26 August 2003 statement, p. 1; P1738 (Ana Bićanić, *Slobodan Milošević* transcript, 28 August 2003), p. 25530.

²⁰⁵ P1737 (Ana Bićanić, witness statements), 20 January 2001 statement, pp. 4-5.

²⁰⁶ P1737 (Ana Bićanić, witness statements), 20 January 2001 statement, p. 5, 26 August 2003 statement, p. 1.

90. **Witness C-1231**, a Croat from a village in Slunj municipality,²⁰⁷ stated that by 12 November 1991, the shelling of Saborsko occurred every day and night. Aeroplanes also dropped bombs on the village before 12 November 1991. On 12 November 1991, the witness saw 11 or 12 aeroplanes flying low over the village. The aeroplanes dropped bombs, and at the same time, the village was also being shelled. The witness and others then moved to the basement of Petar Bićanić's house, where other people had also sought shelter. On the way there, the witness heard tanks. The witness remembered some people leaving the basement. After a while, a man came into the basement and said that soldiers were entering the village.²⁰⁸ Witness C-1231 provided a statement concerning the events in Saborsko on 12 November 1991. The witness's statement is consistent with Adjudicated Facts 132-134 reviewed above, and provides further details with regard to the events of 12 November 1991.²⁰⁹

91. Witness C-1231 did not recognize any of the soldiers. According to the witness, the soldiers were wearing ribbons or armbands around their arms. One of the soldiers was dressed in a camouflage uniform and a "big round" camouflage hat. This soldier only observed the events, as did another soldier, who carried a sniper rifle with a long scope. The other soldiers spoke the "Yugoslavian language", using in particular the word "Bre", and wore SMB olive grey and camouflage uniforms. One of the soldiers waved a knife at the witness, cursed the witness with the phrase "Fuck your Ustasha mother" and said that he would slaughter the witness. One of the soldiers brought a grey police uniform from a neighbour's house and asked the group to whom it belonged, a question which no one answered. At some point, Jure Štrk tried to run away but was stopped by one of the soldiers and returned to the other men. One of the soldiers threw a bomb, painted red, white, and blue, behind the house where the witness and the other people had been hiding.²¹⁰

92. Subsequently, some of the soldiers took the men, namely Milan Bićanić, Ivan Vuković, Nikola Bićanić, Jure Štrk, Jure Vuković, Jure Vuković "Jura", and Petar Bićanić behind a house. Immediately after, the witness heard two bursts of machine-gun fire from the direction of where the men had been taken. The witness stated that all these men were killed. According to the witness, there was no other shooting in the area at this time. The witness and other women, among whom the witness recognized Kate Vuković, Ana Bićanić, Jeka

²⁰⁷ P1768 (Witness C-1231, witness statement, 28 February 2001), pp. 1-6.

²⁰⁸ P1768 (Witness C-1231, witness statement, 28 February 2001), p. 2.

²⁰⁹ P1768 (Witness C-1231, witness statement, 28 February 2001), pp. 3-4.

²¹⁰ P1768 (Witness C-1231, witness statement, 28 February 2001), p. 3.

Vuković, another Ana Bičanić, and Jeka Dumančić, were taken by some of the soldiers down the road in the direction of the main road that ran through Saborsko. On the way, the witness saw Jure Štrk's house and another small building burning. The witness also saw a tank on a street, which was accompanied by 20-30 soldiers.²¹¹

93. The group was then released by the soldiers who started to shoot at them as they ran across a field in the direction of the Šolaje hamlet of Saborsko towards the town of Lička Jesenica.²¹² The witness heard one woman screaming that she had been shot in the leg. The witness testified that Jeka Vuković was later exhumed from a mass grave found by the parish priest's house. They started walking in the direction of the forest from the road which headed towards the village of Lička Jesenica. While they were walking, the witness could see tanks moving around Sivnik, a hill in Saborsko. The tanks were shooting and the witness saw the church tower being hit and they were also shot at by something "big". The witness returned to Saborsko after Operation Storm in 1995 and could not find his house due to the destruction, which had also reduced the main church to rubble and heavily damaged the smaller church.²¹³

94. **Witness JF-006**, a Serb from the town of Plaški,²¹⁴ testified that en route to Saborsko, his unit encountered a local Serb soldier, Bogdan Pešut, a.k.a. Cubra, who informed them that five or six Serb soldiers had killed a Croat known as Krtan, whose name was probably Pero Bičanić, and one or two other Croat men. Pešut said that Zdravko Pejić, Mane Trbojević, a.k.a. Cvekić, and a person named Letica, a.k.a. Lecin, were involved in the killings.²¹⁵ The men were members of the group the witness associated with Ogrizović and Martić's Police.²¹⁶ The witness opined that the killers were motivated not by Bičanić's ethnicity but by the fact that he had a significant amount of money with him.²¹⁷ Witness JF-006 testified that in the summer of 1991, Đuro Ogrizović, a.k.a. Snjaka was in Plaški where he held himself out as an officer of the state security and, when people came to the village, took it upon himself to interrogate them. Ogrizović wore a metal insignia on his uniform indicating that he held the rank of colonel, but the witness believed him to be a retired police inspector. The witness

²¹¹ P1768 (Witness C-1231, witness statement, 28 February 2001), p. 3.

²¹² P1768 (Witness C-1231, witness statement, 28 February 2001), pp. 3-4.

²¹³ P1768 (Witness C-1231, witness statement, 28 February 2001), p. 4.

²¹⁴ P103 (Witness JF-006, witness statement, 20 January 2001), pp. 1-2.

²¹⁵ P103 (Witness JF-006, witness statement, 20 January 2001), p. 5; P104 (Witness JF-006, *Slobodan Milošević* transcript, 15 October 2002), pp. 11601-11602, 11608-11611, 11638-11640; P105 (Witness JF-006, *Martić* transcript, 28 March 2006), pp. 2814-2815; Witness JF-006, T. 2466-2468.

²¹⁶ P103 (Witness JF-006, witness statement, 20 January 2001), p. 5; P104 (Witness JF-006, *Slobodan Milošević* transcript, 15 October 2002), pp. 11638-11640; P105 (Witness JF-006, *Martić* transcript, 28 March 2006), pp. 2803, 2809-2810, 2814-2815, 2825-2826; Witness JF-006, T. 2466-2468, 2505-2506, 2520-2524.

believed that Ogrizović was a member of Martić's Police because he was often in company with members of that group.²¹⁸ During his time in Plaški, Ogrizović was often accompanied by a group of four to six men, including Zdravko Pejić, Mane Trbojević (a.k.a. Cvekic), Čkalja Trbojević, a person named Letica (a.k.a. Lecin), and a person named Momčilović.²¹⁹ The witness could not conclude with certainty, but believed that this group around Ogrizović was part of Martić's Police, as he saw them frequently in company with members of that group both in Plaški and during the attack on Saborsko.²²⁰ The witness also saw them in Plaški wearing the dark blue camouflage uniforms associated with Martić's Police.²²¹ Unlike other members of Martić's Police, these men were violent troublemakers with no respect for the law and who engaged frequently in looting activities.²²² During 1992 and 1993 the witness saw Ogrizović going frequently to the Plaščanska Brigade headquarters.²²³

95. On 7 April 1992, Marinko Mudrić stated to Croatian MUP Ogulin police officials that two of Martić's men named Peić and Željko Mudrić, also known as Buba, boasted that they had shot dead eight people in front of the Centre in Saborsko during the attack on Saborsko because they hated "all Ustashas".²²⁴

96. **Vlado Vuković**, a Croat from Saborsko in Ogulin municipality,²²⁵ stated that on 18 October 1995, a team from Zagreb arrived to exhume bodies located at two sites in or near Saborsko: a first site at Popov Šanac which contained 14 bodies, including seven from killings in the hamlet of Varoš; and a second site at Borik (Brdine) which contained the body of a police officer and a civilian in one grave and another body of a police officer lying on the

²¹⁷ P104 (Witness JF-006, *Slobodan Milošević* transcript, 15 October 2002), pp. 11611-11612; P105 (Witness JF-006, *Martić* transcript, 28 March 2006), p. 2801, 2814-2815.

²¹⁸ P104 (Witness JF-006, *Slobodan Milošević* transcript, 15 October 2002), pp. 11572-11573, 11575, 11639; P105 (Witness JF-006, *Martić* transcript, 28 March 2006), pp. 2811-2812; Witness JF-006, T. 2454-2455, 2502-2503, 2523-2524, 2533-2535.

²¹⁹ P105 (Witness JF-006, *Martić* transcript, 28 March 2006), pp. 2803-2804, 2809, 2826; Witness JF-006, T. 2466-2468, 2523-2524.

²²⁰ P103 (Witness JF-006, witness statement, 20 January 2001), p. 5; P104 (Witness JF-006, *Slobodan Milošević* transcript, 15 October 2002), pp. 11638-11640; P105 (Witness JF-006, *Martić* transcript, 28 March 2006), pp. 2815, 2826; Witness JF-006, T. 2505-2506, 2518-2520, 2522-2524, 2528-2529; 2534-2535.

²²¹ P104 (Witness JF-006, *Slobodan Milošević* transcript, 15 October 2002), pp. 11569-11570; Witness JF-006, T. 2452-2453, 2468.

²²² P103 (Witness JF-006, witness statement, 20 January 2001), p. 5; P104 (Witness JF-006, *Slobodan Milošević* transcript, 15 October 2002), p. 11575; P105 (Witness JF-006, *Martić* transcript, 28 March 2006), pp. 2803-2804, 2808-2810; Witness JF-006, T. 2505-2506, 2518-2519.

²²³ P104 (Witness JF-006, *Slobodan Milošević* transcript, 15 October 2002), pp. 11573-11574.

²²⁴ P2628 (Record of statement, Ogulin Police Station, Croatian MUP, signed by Marinko Mudrić, 7 April 1992), pp. 1, 4.

²²⁵ P1770 (Vlado Vuković, witness statement, 20 January 2001), pp. 1-2; P1775 (Vlado Vuković, *Martić* transcript, 27-28 March 2006), pp. 2647-2648.

ground.²²⁶ Ten skeletons of mostly elderly people, who seemed to have been killed and burned within their homes, were also found amongst the charred remains of their houses.²²⁷ The witness and other police officers went to the destroyed homes to verify these deaths.²²⁸ In all, approximately 28 to 35 bodies were found in Saborsko and seven villagers were still missing at the time of his 2006 testimony.²²⁹ The witness recognized the following names of the dead found at Saborsko: mostly elderly (60-100 years old) civilians Petar Bičanić, Milan Bičanić, Milan Matovina, Jure Vuković, another Jure Vuković, Ana Bičanić, Nikola Bičanić, Ivan Vuković, Jela Vuković, Nikola Dumenčić, Mate Matovina, Petar Vuković, Josip Štrk, Ivica Dumenčić, Marta Matovina, Kate Matovina, Mate Matovina, Josip Kovacic, Jeka Vuković, and Croat police officer Mate Špehar.²³⁰

97. On 5 February 2001, the Karlovac Police Department filed a report (which is in evidence as D7) at the conclusion of a criminal investigation into potential war crimes committed by Čedomir Bulat and Bogdan Grba against civilians in Saborsko. According to the report, seven men, women, and children were hiding in the basement of Petar Bičanić's house when Serb paramilitary forces arrived. "Serbs" took them out of the basement, separated the men from the women and children, and then shot the men. According to the report, the bodies of six of the men and the bodies of eight other persons were exhumed from a mass grave in Popov Šanac on 27 October 1995. Another eight bodies were found and exhumed on 27 October 1995 in Saborsko.²³¹

98. According to autopsy reports dated October 1995, and the reports on circumstances of death, the remains of the following persons were exhumed from Saborsko, and identified by their family members: Ana Bičanić (born on 6 May 1924), Milan Bičanić (born in 1927), Nikola Bičanić (born in 1928), Petar Bičanić (a Croat, born on 13 October 1935), Darko Dumenčić, (a Croat born on 9 March 1970), Ivica Dumenčić, (a Croat born on 13 August 1972), Kata Dumenčić (a Croat born in 1930), Nikola Dumenčić (born on 25 April 1930),

²²⁶ P1770 (Vlado Vuković, witness statement, 20 January 2001), p. 4; P1772 (Vlado Vuković, addendum witness statement, 18 June 2003); P1774 (Vlado Vuković, *Slobodan Milošević* transcript, 3 July 2003), p. 23713; P1775 (Vlado Vuković, *Martić* transcript, 27-28 March 2006), pp. 2676, 2715, 2726.

²²⁷ P1770 (Vlado Vuković, witness statement, 20 January 2001), p. 4; P1774 (Vlado Vuković, *Slobodan Milošević* transcript, 3 July 2003), pp. 23713-23714; P1775 (Vlado Vuković, *Martić* transcript, 27-28 March 2006), pp. 2676, 2714.

²²⁸ P1770 (Vlado Vuković, witness statement, 20 January 2001), p. 4.

²²⁹ P1770 (Vlado Vuković, witness statement, 20 January 2001), p. 4; P1772 (Vlado Vuković, addendum witness statement, 18 June 2003); P1774 (Vlado Vuković, *Slobodan Milošević* transcript, 3 July 2003), p. 23713; P1775 (Vlado Vuković, *Martić* transcript, 27-28 March 2006), pp. 2676, 2715.

²³⁰ P1772 (Vlado Vuković, addendum witness statement, 18 June 2003); P1776 (Vlado Vuković, Annex I of the *Milošević* Croatia indictment, list of victims in Saborsko); P1774 (Vlado Vuković, *Slobodan Milošević* transcript, 3 July 2003), p. 23689; P1775 (Vlado Vuković, *Martić* transcript, 27-28 March 2006), pp. 2676-2577.

Kata Matovina, (a Croat born in 1922), Mate Matovina (born in 1895), Milan Matovina, Slavko Sertić (a Croat born in 1941), Mato Špehar, Joso Štrk (born on 19 January 1934), Ivan Vuković, Jure Vuković, Petar Vuković (born in 1932), and Jela Vuković (a Croat born on 15 August 1930).²³² The parties agree on the identities of the aforementioned 18 victims of this incident and agree on the identity of two additional victims, Juraj Štrk and another man named Jure Vuković.²³³

99. According to autopsy reports dated October 1995, and the reports on circumstances of death, the remains of another person also called Kata Matovina (a Croat born 1918), Lucija Matovina (a Croat born in 1907), Marija Matovina (a Croat born in 1909), Marta Matovina (a Croat born in 1918), and Slavica Matovina (a Croat born in 1959), were also exhumed from Saborsko and identified by their family members.²³⁴

100. According to the reports of death, based on the information provided by, mostly, family members, Petar Bičanić, Darko Dumenčić, Ivica Dumenčić, Kata Dumenčić, two women named Kata Matovina, Slavko Sertić, Jela Vuković, Lucija Matovina, Marija Matovina, Marta Matovina, and Slavica Matovina died on 12 November 1991.²³⁵

101. Civilian clothes and/or shoes were found next to the bodies of Ana Bičanić, Nikola Bičanić, two men named Jure Vuković, Ivan Vuković, Nikola Dumenčić, Jeka/Jela Vuković,

²³¹ D7 (Police report relating to Čedomir Bulat and Bogdan Grba, 5 February 2001), pp. 9-10.

²³² P846 (Autopsy report for Petar Bičanić, 30 October 1995), pp. 1-2; P847 (Autopsy report for Mato Špehar, 30 October 1995), pp. 1-2; P848 (Autopsy report for Ana Bičanić, 30 October 1995), pp. 1-2; P849 (Autopsy report for Nikola Bičanić, 30 October 1995), pp. 1-2; P850 (Autopsy report for Ivan Vuković, 30 October 1995), pp. 1-2; P851 (Autopsy report for Joso Štrk, 30 October 1995), pp. 1-2; P852 (Autopsy report for Milan Matovina, 30 October 1995), p. 1; P854 (Autopsy report for Jure Vuković, 30 October 1995), pp. 1-2; P855 (Autopsy report for Nikola Dumenčić, 1995), pp. 1-3; P856 (Autopsy report for Petar Vuković, 30 October 1995), pp. 1-2; P857 (Autopsy report for Milan Bičanić, 30 October 1995), pp. 1-3; P858 (Autopsy report for Mate Matovina, 30 October 1995), pp. 1-3; P859 (Set of death documentation for Petar Bičanić), pp. 1-3; P860 (Forensic documentation for Slavko Sertić), pp. 1-3; P861 (Forensic documentation for Jela Vuković), pp. 1-3; P863 (Forensic documentation for Kata Dumenčić), p. 1; P864 (Forensic documentation for Ivica Dumenčić), pp. 1-2; P865 (Forensic documentation for Darko Dumenčić), pp. 1-2; P869 (Forensic documentation for Kata Matovina), pp. 1-2.

²³³ Decision on Motion For Admission of Agreed Facts, 12 January 2011; First Joint Motion for Admission of Agreed Facts Between the Prosecution and the Stanišić Defence, 16 February 2010, Annex A, Part C.

²³⁴ P862 (Forensic documentation for Kata Matovina), pp. 1-2; P866 (Forensic documentation for Marija Matovina), pp. 1-2; P867 (Forensic documentation for Lucija Matovina), pp. 1-2; P868 (Forensic documentation for Slavica Matovina), pp. 1-2; P870 (Forensic documentation for Marta Matovina), pp. 1-2, 5. In respect of the date of birth of Kata Matovina, the Trial Chamber relied on the autopsy report (P862, p. 1).

²³⁵ P859 (Set of death documentation for Petar Bičanić), pp. 3, 5; P860 (Forensic documentation for Slavko Sertić), pp. 3, 5; P861 (Forensic documentation for Jela Vuković), pp. 3-5; P862 (Forensic documentation for Kata Matovina), pp. 2-3; P863 (Forensic documentation for Kata Dumenčić), p. 2; P864 (Forensic documentation for Ivica Dumenčić), pp. 2-3; P865 (Forensic documentation for Darko Dumenčić), pp. 2-3; P866 (Forensic documentation for Marija Matovina), pp. 2-3; P867 (Forensic documentation for Lucija Matovina), pp. 1-3; P868 (Forensic documentation for Slavica Matovina), pp. 2-3; P869 (Forensic documentation for Kata Matovina), pp. 2-3; P870 (Forensic documentation for Marta Matovina), pp. 3, 5.

and Joso Štrk²³⁶ The bodies of Ivica Dumenčić, Darko Dumenčić, Milan Matovina, Petar Bičanić, Milan Bičanić, and Mate Matovina were dressed at least partially in military-type clothes.²³⁷ **Davor Strinović**, a forensic pathologist,²³⁸ opined that the cause of death in the case of Petar Bičanić was a possible gunshot wound to the leg, and that Kata Matovina (born in 1922) died of gunshot wounds to the lower abdomen.²³⁹

102. Based on the Adjudicated Facts, and having reviewed the evidence of Ana Bičanić, Vlado Vuković, Witness C-1231 and Witness JF-006, exhibit P2628, exhibit D7, and the forensic documentation, the Trial Chamber finds that on 12 November 1991, in Saborsko, at least two men shot and killed seven unarmed men, namely Ivan Vuković, Jure Vuković (born in 1929), another Jure Vuković (born in 1930), Nikola Bičanić, Petar Bičanić, Milan Bičanić, and Juraj Štrk. At least four of the victims were wearing civilian clothing. On the basis of the Adjudicated Facts and having reviewed the testimony of Ana Bičanić, the Trial Chamber finds that the perpetrators were wearing Serbian dark grey or greyish multi-coloured uniforms and helmets with a five-pointed star. Prior to the killing, the seven men had left a basement shelter alongside approximately 13 other persons, waving a makeshift white flag and shouting that they were civilians. Before killing the seven men, the perpetrators had separated them from the women, lined them up, cursed their Ustaša mothers, and stated that they should all be slaughtered. Based on the forensic documentation the Trial Chamber finds that Petar Bičanić was Croat. Having reviewed the evidence received, and considering the particular circumstances of the incident, the Trial Chamber is satisfied that the other six victims were also of Croat ethnicity.

103. On the basis of the Adjudicated Facts and having reviewed the evidence of Witness C-1231, the Trial Chamber further finds that after killing the men, the two soldiers returned to the others who had left the basement, and one of them pointed a gun at Ana Bičanić and told her to leave or she would be killed. A number of soldiers then shot at the group of persons as they ran away. The unrebutted Adjudicated Facts further indicate that Jeka/Jela Vuković and

²³⁶ P848 (Autopsy report for Ana Bičanić, 30 October 1995), pp. 1-2; P849 (Autopsy report for Nikola Bičanić, 30 October 1995), p. 2; P850 (Autopsy report for Ivan Vuković, 30 October 1995), pp. 1-2; P854 (Autopsy report for Jure Vuković, 30 October 1995), p. 2; P855 (Autopsy report for Nikola Dumenčić, 1995), p. 2; P861 (Forensic documentation for Jela Vuković), p. 1; P851 (Autopsy report for Joso Štrk, 30 October 1995), p. 1.

²³⁷ P846 (Autopsy report for Petar Bičanić, 30 October 1995), p. 2; P852 (Autopsy report for Milan Matovina, 30 October 1995), p. 1; P857 (Autopsy report for Milan Bičanić, 30 October 1995), p. 1; P858 (Autopsy report for Mate Matovina, 30 October 1995), p. 2; P860 (Forensic documentation for Slavko Sertić), p. 1; P864 (Forensic documentation for Ivica Dumenčić), p. 1; P865 (Forensic documentation for Darko Dumenčić), p. 1.

²³⁸ P510 (Davor Strinović, *Martić* transcript, 12-13 April 2006), p. 3655; P511 (Davor Strinović, expert report), p. 1; Davor Strinović, T. 5521.

²³⁹ P512 (Chart on proof of death documentation filled in by Davor Strinović), p. 22.

Ana Bićanić were killed in Saborsko on 12 November 1991. On the basis of the evidence of Ana Bićanić, Vlado Vuković, and Witness C-1231, and the forensic documentation, the Trial Chamber finds that on 12 November 1991, the aforementioned soldiers shot and killed Jeka/Jela Vuković, a Croat, and Ana Bićanić (born on 6 May 1924), while they were running away. Both women were wearing civilian clothes at the time of the killing. Considering the particular circumstances of the incident, the Trial Chamber is satisfied that Ana Bićanić was also of Croat ethnicity.

104. Based on the Adjudicated Facts and having reviewed the evidence received, the Trial Chamber finds that the persons who killed Jeka/Jela Vuković and Ana Bićanić were wearing camouflage uniforms, Serbian dark grey or greyish multi-coloured uniforms, and olive-green SMB uniforms, some wore white ribbons on their upper arms and some had camouflage caps. A number of them spoke in a Serbian dialect and used the word “bre”. The Trial Chamber recalls its finding concerning Saborsko town in chapter 3.1.7 that on 12 November 1991, the following forces attacked Saborsko: the Tactical Group 2 (commanded by Čedomir Bulat) and the 5th Partisan Brigade (both within the JNA’s 13 Corps structure), a unit of the Plaški SDB, the Plaški TO Brigade, units of the SAO Krajina Police, and Plaški police, and finds that the persons who killed the aforementioned nine victims belonged to one or several of these forces.

105. The Trial Chamber will further consider this part of the incident in relation to Counts 1, 2, and 3 of the Indictment in chapter 4, below.

106. The Adjudicated Facts indicate that an additional eleven persons were killed in Saborsko on 12 November 1991, namely Darko Dumenčić, Ivica Dumenčić, Kata Dumenčić, Nikola Dumenčić, Kata Matovina (born 1922), Mate Matovina, Milan Matovina, Slavko Sertić, Mate Špehar, Josip/Joso Štrk, and Petar Vuković. The forensic evidence, exhibit D7, the testimony of Vlado Vuković, and agreed facts indicate that the remains of these eleven persons were exhumed from Saborsko in 1995.²⁴⁰ The forensic evidence further indicates that Kata Matovina (born in 1922) died as a result of a gun shot to the lower abdomen. However, the Trial Chamber has received insufficient evidence on the circumstances under which or by who these persons were killed.

107. The forensic evidence, exhibit D7, and the testimony of Vlado Vuković indicate that the remains of a further five persons, namely Kata Matovina (born in 1918), Lucija Matovina,

Marija Matovina, Marta Matovina, and Slavica Matovina were also exhumed from Saborsko. The reports of death suggest that these five persons died on 12 November 1991. However, these reports are based, at least in part, on information provided by relatives, whose sources of knowledge are unclear. The Trial Chamber has received insufficient evidence on the causes, dates, and other circumstances of death in relation to these five persons. The Trial Chamber will not consider this part of the incident.

3.1.5 Murder of at least 38 non-Serb civilians in Škabrnja on 18 November 1991 (Indictment, para. 32)

108. According to the Indictment, in November 1991, Serb forces (as defined in paragraph 6 of the Indictment), in particular members of Martić's Police, the JNA, and local Serb TO units, attacked Škabrnja. On 18 November 1991, the attacking forces moved from house to house and killed at least 38 non-Serb civilians in their homes or in the streets.²⁴¹ The Trial Chamber received evidence with regard to these killings, primarily through the testimony of Marko Miljanić, Luka Brkić, Tomislav Šegarić, Neven Šegarić, Boško Brkić, and Ivan Jelić, and forensic and other documentary material. The Trial Chamber has also taken judicial notice of a number of Adjudicated Facts relevant to these killings.

109. The Adjudicated Facts provide that in the morning of 18 November 1991, Neven Šegarić, Ivica Bilaver (age 14 or 15), Lucia Šegarić (age 62), Krsto Šegarić (age 60 or 61), Grgica "Maja" Šegarić (age 94), Željko Šegarić (age 14 or 15), Josip Miljanić, and Stana Vicković were hiding in the cellar of Slavko Šegarić's house in Ambar.²⁴² Right before the attack, Grgica "Maja" Šegarić, who was infirm as a result of a stroke, was taken to the house of Neven Šegarić's father Mile Šegarić, also in Ambar, where she was killed on the same day.²⁴³ With regard to the rest of the group, shortly after the first shelling, there was banging on the door and they heard a voice outside asking who was in the cellar. They heard someone outside say "Come out you Ustase, we are going to slaughter you all". When the people in the cellar opened the door, about ten JNA soldiers entered. The soldiers' faces were painted, and they wore plain olive green uniforms with a red star on the buttons and on the epaulets. After having taken a rifle and a pistol which were elsewhere in the house, some of the soldiers

²⁴⁰ The Trial Chamber considered that minor spelling discrepancies between the agreed facts and the evidence in relation to the victims' names have not raised a reasonable doubt with regard to the Trial Chamber's finding.

²⁴¹ Indictment, para. 32.

²⁴² Adjudicated Facts III, fact 158.

²⁴³ Adjudicated Facts III, facts 159, 169.

left.²⁴⁴ Shortly thereafter five or six “Serb volunteers, who were from the neighbouring villages” arrived. They threatened the people in the cellar and forced them out; everyone left the cellar except Lucia Šegarić. Just as the people exited the cellar, Neven Šegarić saw a “Chetnik” fire a burst of gunfire into the cellar. About five minutes later, when Neven Šegarić and Željko Šegarić were forced to enter the cellar to look for weapons, Neven Šegarić saw that Lucia Šegarić lay dead a few metres from the door.²⁴⁵ As Neven Šegarić again left the cellar he saw Stana Vicković and Josip Miljanić being forced to kneel after which a soldier, wearing a camouflage uniform with a patch on his sleeve reading “SAO Krajina”, shot them in the head. After this, Krsto Šegarić was beaten by five or six soldiers wearing green camouflage uniforms with SAO Krajina patches on their sleeves and red stars on the buttons, including Đuro Kosović, whom Neven Šegarić recognized. Đuro Kosović then shot Krsto Šegarić in the back of the head. The soldiers standing around outside at this point in time were a mix of JNA soldiers and soldiers with SAO Krajina patches on their camouflage uniforms.²⁴⁶ After this, Đuro Kosović, using a list of inhabitants in the village, questioned Neven Šegarić about where some of the inhabitants lived and if they had weapons. When Neven Šegarić said that he did not know, Đuro Kosović left. Subsequently, the soldier who had killed Stana Vicković and Josip Miljanić forced Neven Šegarić and Željko Šegarić against the wall of the house; however a “JNA officer” intervened and prevented their killing. The soldiers then took Ivica Bilaver, Neven Šegarić, and Željko Šegarić to Smilčić.²⁴⁷

110. The Adjudicated Facts further provide that when the attack on Škabrnja started on 18 November 1991, Tomislav Šegarić hid in the cellar of Petar “Pešo” Pavičić’s house in Škabrnja together with about 25-30 civilians, including women, children, and elderly people.²⁴⁸ Around 12:30 p.m. the shelling ceased, and there was silence for around 20 minutes whereupon Eva Šegarić went outside the cellar. Shortly thereafter, Tomislav Šegarić heard men shouting that everyone should come out of the cellar or they would throw in hand grenades. The people in the cellar started to leave with their hands up. Outside, near the entrance to the cellar, there was a group of more than ten armed “Chetniks” from the local area who wore camouflage uniforms and a variety of headgear.²⁴⁹ As they left the cellar, people were pulled to the side and killed by the “Chetniks”. Some of these people were first

²⁴⁴ Adjudicated Facts III, fact 160.

²⁴⁵ Adjudicated Facts III, fact 161.

²⁴⁶ Adjudicated Facts III, fact 162.

²⁴⁷ Adjudicated Facts III, fact 163.

²⁴⁸ Adjudicated Facts III, facts 146, 164.

²⁴⁹ Adjudicated Facts III, fact 164.

beaten with rifle butts and then killed. After this, women and children were lined up and insulted and asked where their men were. Subsequently, they were made to walk towards Ambar while being threatened by the “Chetniks”.²⁵⁰ Jozo Brkić, Jozo Miljanić, Slavka Miljanić, Petar Pavičić, Mile Pavičić, Ilija Ražov, Kata “Soka” Rogić, Ivica Šegarić, Rade Šegarić, and Vice Šegarić were killed outside Petar Pavičić’s house in Škabrnja on the same day. The perpetrators of these killings were members of local Serb paramilitary units, who participated, together with other SAO Krajina forces, in the attack on Škabrnja and who wore camouflage uniforms and different sorts of headgear.²⁵¹

111. The Adjudicated Facts likewise provide that Ante Ražov was killed on 18 November 1991 in Škabrnja. He was beaten and had one of his ears cut off before being shot in the head in front of his mother. Ražov was a member of the Croatian defence force in Škabrnja. Nevertheless, he was not taking an active part in the hostilities when he was killed.²⁵² On the same day, several “Chetniks” put Šime Šegarić and Bude Šegarić in a JNA APC, which drove away in the direction of Biljani. Subsequently, their bodies were handed over to their relatives.²⁵³

112. While Adjudicated Fact III-172 refers to the killings of Lucia/Lucka/Luca Šegarić and Grgica “Maja” Šegarić, which are already subject of the aforementioned Adjudicated Facts III-161 and III-169, Adjudicated Fact III-172 also refers to the killings of the following civilians in Škabrnja, Nadin, or Benkovac on 18 and 19 November 1991: Ivan Babić, Luka Bilaver, Marija Brkić (born 1943), Marko Brkić, Željko Ćurković, Marija Dražina, Ana Jurić, Grgo Jurić, Petar Jurić, Niko Pavičići, Josip Perica, Ljubo Perica, Ivan Ražov, Jela Ražov, Branko Rogić, Nikola Rogić, Petar Rogić, Kljajo Šegarić, Mara Žilić, Milka Žilić, Pavica Žilić, Roko Žilić, Tadija Žilić, and Marko Župan.²⁵⁴ These victims, with the exception of Petar Rogić, were killed by members of the units, including JNA and TO units, which took part in the attack on Škabrnja and Nadin on 18 and 19 November 1991.²⁵⁵ Petar Rogić was killed in Benkovac after having been taken from Škabrnja.²⁵⁶ The following members of the Croatian defence forces present in Škabrnja and Nadin were killed on 18 and 19 November

²⁵⁰ Adjudicated Facts III, fact 165.

²⁵¹ Adjudicated Facts III, fact 166.

²⁵² Adjudicated Facts III, fact 170.

²⁵³ Adjudicated Facts III, fact 171.

²⁵⁴ Adjudicated Facts III, fact 172.

²⁵⁵ Adjudicated Facts III, fact 173.

²⁵⁶ Adjudicated Facts III, fact 174. While the Adjudicated Fact refers to unidentified perpetrators, this has been removed herein due to the Trial Chamber finding in relation to the affiliations of the perpetrators in chapter 3.1.7.

1991: Vladimir Horvat, Nediljko Jurić, Slavko Miljanić, Gašpar Perica, Ante Ražov, Marko Rogić, Bude Šegarić, Miljenko Šegarić, Šime Šegarić, Nediljko Škara, and Stanko Vicković. Ante Ražov, Šime Šegarić, Miljenko Šegarić, Vladimir Horvat, Gašpar Perica, and Marko Rogić were not taking an active part in the hostilities at the time of their deaths. These victims, with the exception of Šime Šegarić and Miljenko Šegarić, were killed by members of the units, including JNA and TO units, which took part in the attack on Škabrnja and Nadin on 18 and 19 November 1991. Miljenko Šegarić was killed in Benkovac by unidentified perpetrators after having been taken from Škabrnja. Šime Šegarić was killed in Knin by unidentified perpetrators after having been put by paramilitary soldiers in a JNA APC in Škabrnja.²⁵⁷

113. The Trial Chamber will now review the evidence received in relation to these events. **Luka Brkić**, a Croat from Škabrnja,²⁵⁸ stated that in July 1991 local Serbs started setting up barricades on the roads throughout the area of Škabrnja.²⁵⁹ In the summer of 1991, locals formed a reserve police unit, later known as the “village guard”, with the intention of guarding Škabrnja at several checkpoints.²⁶⁰ The village guard in Ambar, consisting of 21 persons, was part of the TO. The members of the guard, including the witness, received uniforms about a month before the attack on Škabrnja, and received weapons, including hunting rifles, a few days before the attack.²⁶¹

114. **Marko Miljanić**, an employee of the Croatian MUP in Zadar from May 1991,²⁶² testified that in September 1991, he was tasked with organising the civil defence in Škabrnja and Zemunik Gornji in Zadar municipality.²⁶³ Accordingly, he organized the defence of the hamlet of Istok, which was a Croat-populated part of Zemunik Gornji, and the defence in Škabrnja which included approximately 240 local members of the reserve police force and volunteers.²⁶⁴ They had no prior military experience and were only partially armed.²⁶⁵ No

²⁵⁷ Adjudicated Facts III, fact 175.

²⁵⁸ P1803 (Luka Brkić, witness statement, 22 September 2000), pp. 1-2; P1805 (Luka Brkić, *Martić* transcript, 5, 7 April 2006), pp. 3224, 3424.

²⁵⁹ P1803 (Luka Brkić, witness statement, 22 September 2000), p. 2.

²⁶⁰ P1803 (Luka Brkić, witness statement, 22 September 2000), pp. 2-3; P1805 (Luka Brkić, *Martić* transcript, 5, 7 April 2006), pp. 3225-3226, 3386, 3391.

²⁶¹ P1805 (Luka Brkić, *Martić* transcript, 5, 7 April 2006), pp. 3225-3226, 3387-3388.

²⁶² P97 (Marko Miljanić, witness statement, 25 July 1996), pp. 1-2; P95 (Marko Miljanić, *Milošević* transcript, 14 July 2003), pp. 24328-24329, 24338, 24361; P96 (Marko Miljanić, *Martić* transcript, 29-30 March 2006), pp. 2860, 2883, 2897-2898, 2903, 2909.

²⁶³ P97 (Marko Miljanić, witness statement, 25 July 1996), p. 2; P95 (Marko Miljanić, *Milošević* transcript, 14 July 2003), p. 24330; P96 (Marko Miljanić, *Martić* transcript, 29-30 March 2006), pp. 2883, 2910.

²⁶⁴ P97 (Marko Miljanić, witness statement, 25 July 1996), p. 2; P95 (Marko Miljanić, *Milošević* transcript, 14 July 2003), pp. 24333, 24338, 24341, 24361; P96 (Marko Miljanić, *Martić* transcript, 29-30 March 2006), pp. 2864-2865, 2888-2890, 2897, 2908.

ZNG, special police, or “Ustasha” units were present in Škabrnja.²⁶⁶ The Trial Chamber has further considered evidence, reviewed in chapter 3.1.7 about which Serb armed forces were present in Škabrnja.

115. Miljanić heard from eyewitnesses that in the hamlet at the entrance to Škabrnja, about 20 civilians were killed.²⁶⁷ The JNA or the paramilitaries dragged the civilians out of the basements and reportedly killed some of them on the spot, while using others as human shields for JNA tanks.²⁶⁸ A certain Šegarić, and later also Miljanić’s mother, who were both present at the killing, told the witness that at about 11:30 a.m., men wearing masks and black paint on their faces dragged the witness’s father, Joso Miljanić, Krsto Šegarić, Stana Vicković, and Luca Šegarić, from the basement where they were hiding, and killed them.²⁶⁹ The witness further testified that Ante Ražov, Kata Rogić, and Željko Čurković were unarmed and killed on 18 November 1991.²⁷⁰ The witness also provided evidence consistent with Adjudicated Fact III-169.²⁷¹

116. When **Luka Brkić** was outside his house on 18 November 1991, he heard soldiers and “Chetniks”, who were approximately 130 metres away, shouting and saying “get him”. The witness learned later that this was when Marko Brkić, his wife Marija, Stanko Vicković, and a man named Šegarić were killed on the other side of the shed between the witness’s house and Marko Brkić’s house.²⁷² The witness stated that, around the same time that morning, some of the village guards were also killed, including Bude Šegarić, Šime Šegarić, Marko Rogić, Slavko Miljanić also known as Čave, and Ante Ražov. The witness did not see these men being killed, although it happened only 20 metres away from him. Segarić, one of the guards

²⁶⁵ P97 (Marko Miljanić, witness statement, 25 July 1996), p. 2; P95 (Marko Miljanić, *Milošević* transcript, 14 July 2003), pp. 24341-24342; P96 (Marko Miljanić, *Martić* transcript, 29-30 March 2006), pp. 2864, 2889; Marko Miljanić, T. 2363-2364.

²⁶⁶ P95 (Marko Miljanić, *Milošević* transcript, 14 July 2003), p. 24363; P96 (Marko Miljanić, *Martić* transcript, 29-30 March 2006), p. 2899.

²⁶⁷ P96 (Marko Miljanić, *Martić* transcript, 29-30 March 2006), p. 2920.

²⁶⁸ P97 (Marko Miljanić, witness statement, 25 July 1996), p. 5; P96 (Marko Miljanić, *Martić* transcript, 29-30 March 2006), p. 2913.

²⁶⁹ P97 (Marko Miljanić, witness statement, 25 July 1996), pp. 4, 6; P95 (Marko Miljanić, *Milošević* transcript, 14 July 2003), pp. 24344, 24346; P96 (Marko Miljanić, *Martić* transcript, 29-30 March 2006), pp. 2881, 2914, 2924; Marko Miljanić, T. 2393; P100 (On-site investigation report on Škabrnja, Dragan Miljuš, 21 November 1991).

²⁷⁰ P97 (Marko Miljanić, witness statement, 25 July 1996), p. 6; P96 (Marko Miljanić, *Martić* transcript, 29-30 March 2006), pp. 2881, 2914, 2924; Marko Miljanić, T. 2393; P100 (On-site investigation report on Škabrnja, Dragan Miljuš, 21 November 1991).

²⁷¹ P97 (Marko Miljanić, witness statement, 25 July 1996), p. 4; P96 (Marko Miljanić, *Martić* transcript, 29-30 March 2006), pp. 2912, 2920.

²⁷² P1803 (Luka Brkić, witness statement, 22 September 2000), pp. 3-4; P1805 (Luka Brkić, *Martić* transcript, 5, 7 April 2006), p. 3398.

at the checkpoint, was killed approximately 70-80 metres away from the witness's house while withdrawing.²⁷³

117. **Tomislav Šegarić**, a Croat from Škabrnja who was 15 years old in 1991,²⁷⁴ stated that on the morning of 18 November 1991, he heard tanks approaching the village, after which shelling started. The witness realized that houses were being targeted, so he fled his house, leaving his father behind. Shooting and shelling continued as the witness ran for approximately two kilometres along the main road, heading into the town centre.²⁷⁵ The witness further provided testimony consistent with Adjudicated Facts III-164 to III-166. In addition, the witness testified that he saw the corpse of Pešo Pavičić on the ground. Further, the witness saw a tank run over the corpse of a woman he knew, Kata Rogić. The witness stated that during the attack on Škabrnja on 18 November 1991, he lost nine members of his extended family, including one grandfather and three uncles.²⁷⁶

118. **Neven Šegarić**, a Croat from Škabrnja who was eleven years old in 1991,²⁷⁷ stated that in mid-October most of the villagers had left due to sniper shootings, but that they returned to Škabrnja once they heard that a cease-fire had been signed. The witness recalled that afterwards there was an increase in military activity in the area, with more "JNA" troops and airplanes and helicopters flying in the area than usual. The reserve police guarded the village.²⁷⁸ For several days before 18 November 1991, the witness and several members of his family stayed in the basement of his uncle's house.²⁷⁹

119. With regard to the incidents on 18 November 1991, the witness provided testimony consistent with Adjudicated Facts III-158 to III-163.²⁸⁰ He further testified that around 7:30 a.m. on 18 November 1991, he saw a tank in Gornji Zemunik, in Zadar municipality, and went to tell his father, who subsequently left for his guard post with another guard and told the witness to stay in the basement. According to the witness, after "JNA" soldiers as described in Adjudicated Fact III-160 left, "Chetniks" went through the house looking for

²⁷³ P1803 (Luka Brkić, witness statement, 22 September 2000), p. 4.

²⁷⁴ P1764 (Tomislav Šegarić, witness statement, 28 September 2000), pp. 1-2.

²⁷⁵ P1764 (Tomislav Šegarić, witness statement, 28 September 2000), pp. 2-3.

²⁷⁶ P1764 (Tomislav Šegarić, witness statement, 28 September 2000), pp. 3-5.

²⁷⁷ P1788 (Neven Šegarić, witness statement, 28 September 2000), pp. 1-2; P1791 (Neven Šegarić, *Martić* transcript, 29 March 2006), pp. 2830, 2854.

²⁷⁸ P1788 (Neven Šegarić, witness statement, 28 September 2000), pp. 2-3; P1791 (Neven Šegarić, *Martić* transcript, 29 March 2006), p. 2835-2836.

²⁷⁹ P1788 (Neven Šegarić, witness statement, 28 September 2000), p. 2.

²⁸⁰ P1788 (Neven Šegarić, witness statement, 28 September 2000), pp. 2-5; P1791 (Neven Šegarić, *Martić* transcript, 29 March 2006), pp. 2834-2836, 2841-2842, 2855-2857.

rifles and pistols and found hunting rifles on the second floor.²⁸¹ After killing the witness's grandfather, Đuro Kosović, a man the witness recognized and knew to be from Smoković, in Zadar municipality, showed a book to the witness and asked him if he recognized some of the names in it, wanting to know where the people referred to in the book lived and whether they had any weapons. The witness referred to those men wearing SAO Krajina patches as "Chetniks".²⁸²

120. **Boško Brkić**, a Croat from Škabrnja village,²⁸³ stated that he was living with his family in Škabrnja when on 18 November 1991 the village was attacked by forces led by the JNA. The witness left the village but heard that some villagers had been executed. Zorka Brkić, the witness's aunt, described to the witness how her husband, son, and daughter-in-law were lined up against a wall and shot by men in JNA uniforms, who either wore masks or had their faces painted black.²⁸⁴

121. **Ivan Jelić**, an employee of a Zadar utility company who was responsible for the collection of bodies in Zadar municipalities in 1991,²⁸⁵ stated that on 23 November 1991, he was assigned to meet with the JNA to collect the bodies of 35 Škabrnja villagers. At the meeting there were approximately 40 armed JNA soldiers and four or five armed "Chetniks", who appeared to be in charge. The "Chetniks" were not wearing uniforms but Jelić noticed an arm patch of a white eagle with wings spread on a red background on at least one of them. Major Dušan Dragičević, the chief of a three-person commission described by Jelić as the Serb team for sanitation, conducted the handover of the bodies.²⁸⁶ Dragičević wore a green JNA uniform.²⁸⁷ He presented Jelić with two handwritten one-page documents, both dated 21 and 22 November 1991, listing a total of 35 bodies, all dressed in civilian clothing except for one dressed in a uniform.²⁸⁸ A partly illegible postscript on one page of the list notes that the deceased were killed on 18 November 1991; that "Chetniks", reservists, and the regular army had entered Škabrnja and Nadin in the early morning hours; and that there had been no

²⁸¹ P1788 (Neven Šegarić, witness statement, 28 September 2000), p. 3; P1791 (Neven Šegarić, *Martić* transcript, 29 March 2006), pp. 2834-2835, 2856.

²⁸² P1788 (Neven Šegarić, witness statement, 28 September 2000), pp. 3-4.

²⁸³ P75 (Boško Brkić, witness statement, 20 March 2002), pp. 1- 2.

²⁸⁴ P75 (Boško Brkić, witness statement, 20 March 2002), p. 2.

²⁸⁵ P1739 (Ivan Jelić, witness statement, 26 September 2000), p. 2.

²⁸⁶ P1739 (Ivan Jelić, witness statement, 26 September 2000), p. 2; P1741 (Ivan Jelić, witness statement, 17 March 2006), p. 2; P1746 (Video of bodies from Škabrnja and Nadin, with commentary by an unknown man and Ivan Jelić), p. 2.

²⁸⁷ P1739 (Ivan Jelić, witness statement, 26 September 2000), p. 2.

²⁸⁸ P1739 (Ivan Jelić, witness statement, 26 September 2000), p. 3; P1741 (Ivan Jelić, witness statement, 17 March 2006), p. 2; P1743 (Newspaper article which published the list of bodies from Škabrnja, 30 November

fighting.²⁸⁹ Jelić stated that the bodies were in black body bags in one military truck and two civilian trucks. They were loaded onto smaller trucks and taken to the hospital in Zadar where they were identified by family members and others familiar with the victims, and then taken for autopsies.²⁹⁰ According to Jelić, a 95-year-old man had also been run over by a tank during the 18 November 1991 attack, but his body had not been recovered.²⁹¹

122. On 26 November 1991, Jelić was again assigned to meet the JNA at the same location to pick up ten bodies, seven from Nadin and three from Škabrnja.²⁹² The soldiers were different from those at the first meeting.²⁹³ The bodies were taken for identification and autopsied in the same manner as before.²⁹⁴ A list given to Jelić at that meeting recorded that all ten bodies were in civilian clothes, and that one of the bodies from Škabrnja had died of natural causes.²⁹⁵ A Šibenik Medical Centre fax sent on 27 November 1991 to the company Jelić worked for lists three civilians from Škabrnja who were executed in Knin: Bude Šegarić, Šime Šegarić, and Petar Rogić.²⁹⁶ On 5 December 1991, another meeting was scheduled to transfer bodies. Joso Matešić, who worked for Jelić, attended, but Jelić did not.²⁹⁷ According to a report signed by Joso Matešić relaying information from the Benkovac Garrison command that on 5 December 1991, a terrain restoration team sent to Škabrnja village came across three bodies, one of a man and two of women, all dressed in civilian clothes and determined that one of the women, approximately 75 years old, had died of natural causes. The other two bodies were approximately 70 years old, and the report did not indicate the cause of their deaths.²⁹⁸

123. The Trial Chamber also received other documentary evidence related to this incident. On 8 and 11 March 1992, Lieutenant Commander Simo Rosić and Major Milivoj Ostojić of

1991); P1744 (List of 12 bodies from Škabrnja, 21 and 22 November 1991); P1745 (List of 23 bodies from Škabrnja, 21 and 22 November 1991).

²⁸⁹ P1745 (List of 23 bodies from Škabrnja, 21 and 22 November 1991), p. 2.

²⁹⁰ P1739 (Ivan Jelić, witness statement, 26 September 2000), p. 3; P1746 (Video of bodies from Škabrnja and Nadin, with commentary by an unknown man and Ivan Jelić), 1:20:40-1:21:30, 1:22:30-1:23:20.

²⁹¹ P1746 (Video of bodies from Škabrnja and Nadin, with commentary by an unknown man and Ivan Jelić), transcript, p. 2.

²⁹² P1739 (Ivan Jelić, witness statement, 26 September 2000), p. 3; P1746 (Video of bodies from Škabrnja and Nadin, with commentary by an unknown man and Ivan Jelić), transcript, pp. 2-3.

²⁹³ P1739 (Ivan Jelić, witness statement, 26 September 2000), p. 3.

²⁹⁴ P1739 (Ivan Jelić, witness statement, 26 September 2000), p. 3; P1746 (Video of bodies from Škabrnja and Nadin, with commentary by an unknown man and Ivan Jelić), 1:33:13-1:34:05.

²⁹⁵ P1741 (Ivan Jelić, witness statement, 17 March 2006), pp. 2-3; P1748 (List of bodies from Nadin and Škabrnja, 25 November 1991).

²⁹⁶ P1741 (Ivan Jelić, witness statement, 17 March 2006), p. 3; P1750 (List of killed civilians from Škabrnja, faxed from Šibenik Medical Centre to Zadar, 27 November 1991).

²⁹⁷ P1739 (Ivan Jelić, witness statement, 26 September 2000), p. 3.

²⁹⁸ P1749 (List of three bodies from Škabrnja, 5 December 2012).

the Intelligence Service reported to the JNA's 9th Corps and 180th Motorised Brigade Intelligence Services that they had established, through interviews and examination of the unit's combat documentation, that the murders of civilians in Škabrnja on 18 and 19 November 1991 were committed by volunteers from Serbia who were members of the Benkovac TO Staff special units or units that fought under their command.²⁹⁹ In one of the reports, Benkovac TO Squad Commander Ljubiša Vučićević was accused of throwing a bomb into a cellar owned by "Manda" where a number of civilians were hiding.³⁰⁰

124. In his notebook, Mladić wrote of his conversation with Colonel Čečović, Commander of the 180th Motorized Brigade, on 27 November 1991, wherein killings in Škabrnja were discussed. He noted that 46 ZNG members and civilians were killed in Škabrnja, and that even "grannies" fired from hunting rifles at the army.³⁰¹

125. A list of casualties issued by the municipality of Škabrnja (P99) and a list issued by the Zadar Medical Centre Pathology Unit (P1747) both indicate that the following people died in Škabrnja on 18 November 1991: Joso Brkić, Joso Miljanić, Kata Rogić, Grgica Šegarić, Krsto Šegarić, Rade Šegarić, Vice Šegarić, Stana Vicković, Petar Pavičić, Marija Brkić, Marko Brkić, Grgo Jurić, Petar Jurić, Niko Pavičić, Josip Perica, Ljubo Perica, Ivan Ražov, Nikola Rogić, Mara Žilić,³⁰² Pavica Žilić, and Roko Žilić.³⁰³ Forensic evidence confirms the deaths of all except two of these individuals.³⁰⁴ P1747 lists the following additional casualties: Sime Šegarić, Željko Ćurković, Stanko Vicković, Marko Rogić, Slavko Miljanić, Ivica Šegarić, Ante Ražov, Mile Pavičić, Jela Jurić, Vladimir Horvat, Nediljko Škara, Gaspar

²⁹⁹ P1209 (Official note of the killing of civilians in Škabrnje and Nadin, Simo Rosić and Milivoj Ostojić, 8 March 1992); P1210 (Additional official note of the killing of civilians in Škabrnje and Nadin, Simo Rosić, 11 March 1992).

³⁰⁰ P1209 (Official note of the killing of civilians in Škabrnje and Nadin, Simo Rosić and Milivoj Ostojić, 8 March 1992), pp. 2-3.

³⁰¹ D1474 (Mladić Notebook Excerpt), pp. 7, 9.

³⁰² The Trial Chamber notes that there is a discrepancy between Mara Žilić's year of birth indicated in P1747 (1914) and in P99 (1915) but nevertheless concludes that the two documents refer to the same individual.

³⁰³ P99 (List of Croatian soldiers and civilians who died in Škabrnja, Municipality of Škabrnja, 9 July 2002); P1747 (Zadar Medical Centre list of deceased, with causes of death, 18 November 1991).

³⁰⁴ Autopsy reports of Joso Miljanić and Stana Vicković are not in evidence. P512 (Chart on proof of death documentation filled in by Davor Strinović), pp. 26-34; P871 (Autopsy report for Josip Perica), pp. 1-2; P874 (Autopsy report for Marija Brkić, 23 November 1991); P878 (Autopsy report for Kata Rogić); P879 (Autopsy report for Nikola Rogić); P885 (Autopsy report for Ivan Ražov); P882 (Autopsy report for Roko Žilić); P883 (Autopsy report for Niko Pavičić), pp. 1-2; P886 (Autopsy report for Petar Jurić), pp. 1-3; P887 (Autopsy report for Ljubo Perica), pp. 1, 3; P889 (Autopsy report for Krsto Šegarić); P891 (Autopsy report for Pavica Žilić); P892 (Autopsy report for Mara Žilić); P893 (Autopsy report for Joso Brkić, 24 November 1991), pp. 1, 3; P894 (Autopsy report for Grgo Jurić), pp. 1, 3; P895 (Autopsy report for Grgica Šegarić); P897 (Autopsy report for Rade Šegarić); P898 (Autopsy report for Vice Šegarić); P900 (Autopsy report for Marko Brkić, 25 November 1991); P904 (Autopsy report for Petar Pavičić), pp. 1-3.

Perica, Nediljko Jurić, and Tadija Žilić.³⁰⁵ Forensic evidence confirms all except two of these deaths.³⁰⁶ P99 lists the following additional civilian casualties: Luca Šegarić, Grgo Bilaver, Peka Bilaver, Dumica Gospić, Anica Jurić, Mirko Kardum, Jela Ražov, and Milka Zilić.³⁰⁷ Forensic evidence confirms two of these deaths.³⁰⁸ Marija Dražina and Marko Župan are also listed in exhibit P909, indicating that they died in Škabrnja on 19 November 1991.³⁰⁹ The parties agree on the identities of 39 individuals, most of whom are among the aforementioned casualties.³¹⁰ The forensic evidence often specifies the cause of death of the victims and gives an indication of the circumstances of the death (e.g. point-blank gunshot wound).

126. The Trial Chamber notes that in its Final Trial Brief, the Prosecution includes Boško Brkić's parents among the victims of this incident.³¹¹ Boško Brkić's testimony clarifies however that his parents were still alive in early December 1991, and were only found dead in the evening of 11 March 1992.³¹² As a result, the Trial Chamber will not consider these two persons for the purposes of this finding. Furthermore, the evidence indicates the possibility that Marija Dražina and Marko Župan were killed in Škabrnja on a date other than 18 November 1991. Accordingly, the Trial Chamber will not further consider their deaths in relation to this incident. Lastly, the Trial Chamber notes that while Petar Rogić, Šime Šegarić, and Bude Šegarić were killed, as found in chapter 3.1.7, such killings did not take place in Škabrnja on 18 November 1991, and will likewise not assess their deaths in relation to this incident.

³⁰⁵ P1747 (Zadar Medical Centre list of deceased, with causes of death, 18 November 1991).

³⁰⁶ Autopsy reports of Jela Jurić and Nediljko Jurić are not in evidence. P873 (Autopsy report for Šime Šegarić, undated); P875 (Autopsy report for Željko Čurković, 23 November 1991), pp. 1, 3; P876 (Autopsy report for Vladimir Horvat), pp. 1-2; P877 (Autopsy report for Stanko Vicković); P880 (Autopsy report for Marko Rogić); P881 (Autopsy report for Nediljko Škara); P888 (Autopsy report for Perica Gašpar), pp. 1-3; P890 (Autopsy report for Tadija Žilić); P896 (Autopsy report for Slavko Miljanić), pp. 1-2; P901 (Autopsy report for Mile Pavičić), pp. 1, 3; P902 (Autopsy report for Ivica Šegarić); P903 (Autopsy report for Ante Ražov), pp. 1, 3; P908 (On-site investigation record Škabrnja, 6 April 1996); P910 (List of persons who died in Škabrnja, 5 December 1991).

³⁰⁷ P99 (List of Croatian soldiers and civilians who died in Škabrnja, Municipality of Škabrnja, 9 July 2002).

³⁰⁸ There is forensic evidence for Jela Ražov and Luca Šegarić. P907 (Autopsy report for Jela Ražov); P908 (On-site investigation record Škabrnja, 6 April 1996), pp. 22-24; P910 (List of persons who died in Škabrnja, 5 December 1991). The forensic evidence for Luca Šegarić indicates that she died of violent causes sometime prior to 6 April 1992.

³⁰⁹ P909 (List of individuals who died on 19 November 1991), p. 1.

³¹⁰ These are Jozo Brkić, Josip Miljanić, Jozo Miljanić, Petar Pavičić, Ilija Ražov, Kata "Soka" Rogić, Grgica "Maja" Šegarić, Krsto Šegarić, Lucia Šegarić, Rade Šegarić, Vice Šegarić, Stana Vicković, Ivan Babić, Marija Brkić, Marko Brkić, Željko Čurković, Marija Dražina, Šime Ivković, Marko Ivković, Ana Jurić, Grge Jurić, Petar Jurić, Jozo Miljanić, Noko/Niko Pavičić, Pešo Pavičić, Josip Perić, Joso Perica, Ljubo Perica, Ivan Ražov, Jela Ražov, Branko Rogić, Nikola Rogić, Peter Rogić, Kljajo Šegarić, Mara Zilić, Milka Zilić, Pavica Zilić, Roko Zilić, Tadija Zilić, and Marko Župan. See Decision on Motion For Admission of Agreed Facts, 12 January 2011; First Joint Motion for Admission of Agreed Facts Between the Prosecution and the Stanišić Defence, 16 February 2010, Annex A, Part D; T. 11277.

³¹¹ Prosecution Final Brief, para. 441.

127. The Trial Chamber notes that the Adjudicated Facts and evidence received in relation to the alleged killings in Škabrnja on 18 November 1991 is overall consistent. Furthermore, the Trial Chamber considers the above witnesses heard in relation to this incident credible and reliable. In relation to Neven Segarić, the Trial Chamber notes that he was only eleven years old in 1991. However, considering that he was an eyewitness to certain events and that his evidence does not reveal any internal inconsistencies, the Trial Chamber has relied on the details of his testimony.

128. The Trial Chamber recalls an entry in Mladić's notebook (D1474) indicating that as per an alleged conversation with Colonel Čečović, Commander of the 180th Motorized Brigade, even "grannies" fired on the army in Škabrnja. The Trial Chamber considers that this entry is vague as to the individuals concerned and the surrounding circumstances, and it is unclear whether this information was obtained in whole or in part from Colonel Čečović, and if so, what the latter's source was. Furthermore, the evidence on the killings of elderly people in Škabrnja in fact paints a different picture, whereby such people were unarmed and killed as they were hiding in basements or lying in bed. The Trial Chamber therefore considers that this notebook entry has little or no probative value in relation to whether the people killed in Škabrnja on 18 November 1991 had fired on the perpetrators. Absent any corroborative evidence, and in the face of evidence to the contrary, the Trial Chamber has not relied on D1474 in this respect.

129. The Trial Chamber further notes that a list of casualties issued by the municipality of Škabrnja (P99) and a list of deceased and causes of death from the Zadar Medical Centre (P1747) are inconsistent in relation to the civilian/combatant status of certain victims. As exhibit P1747 is a document from the Zadar Medical Centre Pathology Unit, and it is unclear as to the basis on which the people listed therein were determined to have been civilians, the Trial Chamber does not rely on exhibit P1747 in relation to the victims' civilian or combatant status described therein.

130. The Trial Chamber will proceed to make its findings on these incidents.

131. The Trial Chamber finds that on 18 November 1991, the following civilians were killed after leaving the cellar of Slavko Šegarić's house in Ambar: Stana Vicković, Josip Miljanić, and Krsto Šegarić.³¹³ Lucia Šegarić remained in the cellar and was killed when one

³¹² P75 (Boško Brkić, witness statement, 20 March 2002), p. 3.

³¹³ Adjudicated Facts III, facts 158, 160 and the testimony of Marko Miljanić and Neven Šegarić. The Trial Chamber notes that the testimony of Marko Miljanić is partly inconsistent with Adjudicated Fact III-158 and the

“Chetnik” fired a burst of gunfire into the cellar.³¹⁴ A soldier wearing a camouflage uniform with an “SAO Krajina” patch on his sleeve then forced Stana Vicković and Josip Miljanić to kneel and shot them in the head. Another soldier in the aforementioned uniform, Đuro Kosović, who was from Smoković, Zadar municipality, then shot Krsto Šegarić in the back of the head. The perpetrators of the killings of Lucia Šegarić, Stana Vicković, Josip Miljanić, and Krsto Šegarić were members of the TO, including the Benkovac TO, which was subordinated to the JNA and volunteers from Serbia and Bosnia-Herzegovina, who were joined to the Benkovac TO.³¹⁵ Lucia Šegarić, Krsto Šegarić, and Stana Vicković were of Croat ethnicity.³¹⁶ Josip Miljanić was also of Croat ethnicity.³¹⁷

132. The Trial Chamber finds that on 18 November 1991, Grgica “Maja” Šegarić, a woman in her 90s who was infirm as a result of a stroke, was shot dead in her bed in the house of Mile Šegarić in Ambar.³¹⁸ Grgica “Maja” Šegarić was of Croat ethnicity.³¹⁹ Member(s) of one or more of the following groups which attacked Škabrnja on 18 November 1991 shot and killed Grgica “Maja” Šegarić: the JNA; TO, including the Benkovac TO, which was subordinated to the JNA; volunteers from Serbia and Bosnia-Herzegovina, who were joined to the Benkovac TO; and local Serb paramilitary units (see chapter 3.1.7).

133. The Trial Chamber finds that on 18 November 1991, Joso/Jozo Brkić, Ilija Ražov, Rade Šegarić, and Vice Šegarić were killed by members of local Serb paramilitary units, after they had surfaced from the basement of Petar “Pešo” Pavičić’s house in Škabrnja, along with the following people who were also later found outside the house: Jozo Miljanić³²⁰, Slavka Miljanić, Petar Pavičić, Mile Pavičić, Kata “Soka” Rogić,³²¹ and Ivica Šegarić.³²² Some of the

testimony of Neven Šegarić, in that Marko Miljanić testified that his father, Joso Miljanić, was among those hiding in the cellar, while Adjudicated Fact III, fact 158 and Neven Šegarić’s testimony do not mention Joso Miljanić as having been in the cellar. As set out above, the Trial Chamber relies on the account of Neven Šegarić over the testimony of Marko Miljanić which was largely hearsay in nature.

³¹⁴ Adjudicated Facts III, fact 161.

³¹⁵ Adjudicated Facts III, fact 155 (see the section dealing with the Knin region in chapter 3.1.7) and the testimony of Neven Šegarić,

³¹⁶ P99 (List of Croatian soldiers and civilians who died in Škabrnja, Municipality of Škabrnja, 9 July 2002).

³¹⁷ Adjudicated Facts III, fact 138, 160 and the testimony of Neven Šegarić.

³¹⁸ Adjudicated Facts III, fact 159, 169, 172, 173; the testimony of Marko Miljanić and Neven Šegarić; and the forensic evidence.

³¹⁹ P99 (List of Croatian soldiers and civilians who died in Škabrnja, Municipality of Škabrnja, 9 July 2002).

³²⁰ The Trial Chamber notes the similarity of the names of Joso Miljanić referred to by witness Marko Miljanić as his father, having been killed along with Krsto Šegarić, Stana Vicković, and Luca Šegarić, and of Jozo Miljanić listed in Adjudicated Fact III-166 as having been killed outside Petar Pavičić’s house. The Trial Chamber further notes that the Parties have agreed on the identities of these two individuals, implying that they consider them to be distinct persons. Based on these circumstances, the Trial Chamber concludes that these are two different individuals.

³²¹ The Trial Chamber notes the testimony of witness Tomislav Šegarić that Kata Rogić was already dead when a tank ran over her body.

civilians who had been hiding in the basement were also beaten with rifle butts before being killed. The victims were of Croat ethnicity.³²³

134. The Trial Chamber finds that the following people were killed on 18 November 1991 under circumstances excluding the possibility of collateral damage or accidents by member(s) of the JNA; TO, including the Benkovac TO, which was subordinated to the JNA; volunteers from Serbia and Bosnia-Herzegovina, who were joined to the Benkovac TO; and/or local Serb paramilitary units (see chapter 3.1.7): Ante Ražov, Željko Ćurković, Marija Brkić, Petar Jurić, Niko Pavičić, Josip Perica, Ljubo Perica, Ivan Ražov, Jela Ražov, Nikola Rogić, Mara Žilić, Marko Brkić, Roko Žilić, Grgo Jurić, and Tadija Žilić.³²⁴ These people were of Croat ethnicity.³²⁵ Željko Ćurković was unarmed when he was killed.³²⁶ While Ante Ražov was a member of the Croatian defence force in Škabrnja, he was not taking an active part in the hostilities when he was killed on 18 November 1991.³²⁷ The remainder of these people were civilians.³²⁸

135. The Trial Chamber further received evidence about the deaths of other people on 18 November 1991 in Škabrnja. It considers, however, that there is a reasonable possibility that these persons died as a result of collateral damage or an accident.³²⁹ The Trial Chamber will therefore not further consider the deaths of Jela Jurić, Grgo Bilaver, Peka Bilaver, Ana Brkić, Dumica Gospić, Anica Jurić, Mirko Kardum, Milka Žilić, and Pavica Žilić in relation to this incident.

136. The Trial Chamber finds that the following individuals were killed in Škabrnja on 18 November 1991: Marko Rogić, Slavko Miljanić a.k.a. Ćave, Vladimir Horvat, Nediljko Škara, Nediljko Jurić, Gašpar Perica, and Stanko Vicković.³³⁰ They were members of the Croatian defence forces, and Gašpar Perica, Marko Rogić, and Vladimir Horvat were not taking an active part in the hostilities at the time of their deaths.³³¹ The forensics for Stanko

³²² Adjudicated Facts III, facts 164-166; the testimony of Tomislav Šegarić; and the forensic evidence.

³²³ P99 (List of Croatian soldiers and civilians who died in Škabrnja, Municipality of Škabrnja, 9 July 2002); Adjudicated Facts III, fact 138.

³²⁴ Adjudicated Facts III, facts 170, 172 173; the testimony of Marko Miljanić and Luka Brkić; and forensic evidence.

³²⁵ P99 (List of Croatian soldiers and civilians who died in Škabrnja, Municipality of Škabrnja, 9 July 2002); Adjudicated Facts III, fact 138.

³²⁶ The testimony of Marko Miljanić.

³²⁷ Adjudicated Facts III, fact 170.

³²⁸ P99 (List of Croatian soldiers and civilians who died in Škabrnja, Municipality of Škabrnja, 9 July 2002).

³²⁹ P99 (List of Croatian soldiers and civilians who died in Škabrnja, Municipality of Škabrnja, 9 July 2002); P1747 (Zadar Medical Centre list of deceased, with causes of death, 18 November 1991).

³³⁰ Adjudicated Facts III, facts 166, 175; and forensic evidence.

³³¹ Adjudicated Facts III, fact 175.

Vicković indicate that he was killed at point-blank range. The Trial Chamber finds that they were killed by member(s) of one or more of the groups which attacked Škabrnja on 18 November 1991 (see chapter 3.1.7) under circumstances excluding the possibility of collateral damage or accidents. These four individuals were of Croat ethnicity.³³²

137. The Trial Chamber will further consider these killings in Škabrnja on 18 November 1991 in relation to Counts 1, 2, and 3 of the Indictment in chapter 4, below.

*3.1.6 Murder of ten civilians in Marinović hamlet in Bruška village on 21 December 1991
(Indictment, para. 35)*

138. According to the Indictment, on 21 December 1991, Serb forces (as defined in paragraph 6 of the Indictment), in particular members of Martić's Police, killed ten civilians, including nine Croats, in the hamlet of Marinović in the village of Bruška.³³³ The Trial Chamber has taken judicial notice of Adjudicated Facts in relation to this incident. The Trial Chamber has also heard relevant testimony from witnesses Jasna Denona, Ante Marinović, and Aco Drača and received relevant forensic documentation.

139. According to the Adjudicated Facts, on the evening of 21 December 1991, Ante Marinović was at home with his brother Dušan Marinović, his father Roko Marinović, his uncle Petar Marinović, and Sveto Drača. The men were not armed and were dressed in civilian clothes, except Sveto Drača who was a Serb member of the JNA and who was wearing an olive-drab uniform. Although Ante Marinović was a reserve police officer at the time, he was not on active duty that night.³³⁴ At around 8 or 8:30 p.m., three members of the "Milicija Krajine" barged into the house, took the men outside, lined them up against a wall, and started shooting. Dušan and Roko Marinović were killed and Ante Marinović was wounded. Sveto Drača and Petar Marinović ran away but were chased and killed near the gate.³³⁵ Ante Marinović was shot seven times.³³⁶

140. That same evening, Jasna Denona was in her family home, which was close to Roko Marinović's house, with her mother and her neighbours, Soka and Dragan Marinović. Jasna Denona, her mother, and Dragan Marinović were Croats, and Soka was a Serb. At about the

³³² P99 (List of Croatian soldiers and civilians who died in Škabrnja, Municipality of Škabrnja, 9 July 2002).

³³³ Indictment, para. 35.

³³⁴ Adjudicated Facts III, fact 184.

³³⁵ Adjudicated Facts III, fact 185.

³³⁶ Adjudicated Facts III, fact 186.

same time as the “Milicija Krajine” came to Roko Marinović’s house, men identifying themselves as the “Milicija Krajine” and as “Martić’s men” came to the door. Dragan Marinović went to answer the door.³³⁷ The women fled into the garden and across a wall. As they were running Jasna Denona heard one of the men shout “They got away!”, after which the men started shooting at them and Jasna Denona was hit. Her mother came back and helped her move behind a wall in the vineyard, where they hid together with Jeka and Soka Marinović for about two hours. Jeka then went to check what was happening in the house closest to them, which was the house of Roko Marinović. They followed her and saw that at the gate of the yard she had found the dead bodies of her husband, Petar Marinović, and of her neighbour, Sveto Drača. In the front yard she had found the dead bodies of Roko Marinović and his son, Dušan Marinović.³³⁸ Joso Marinović came to the house and told them that his son, Dragan Marinović, and his wife, Ika Marinović, had been killed. Later that night Dušan Drača, the father of Sveto Drača, came and told them that there were four more dead bodies in Marinovići. The following morning they discovered that the dead bodies belonged to Krsto Marinović, Draginja Marinović, his wife Stana Marinović, and her mother-in-law Manda Marinović. Jasna Denona’s mother and neighbour Kata saw their bodies and told her that they had been shot and that their bodies were riddled with bullets.³³⁹ Krsto Marinović, Draginja Marinović, Stana Marinović, and Manda Marinović were killed by gunshot. All four victims were wearing civilian clothing.³⁴⁰ Sveto Drača, Dragan Marinović, Draginja Marinović, Dušan Marinović, Ika Marinović, Krsto Marinović, Manda Marinović, Petar Marinović, Roko Marinović, and Stana Marinović were killed in Bruška on 21 December 1991 by the “Milicija Krajine”.³⁴¹

141. **Ante Marinović**, a Croat from Bruška in Benkovac municipality,³⁴² and **Jasna Denona** (née Marinović), a Croat from the hamlet of Marinović in Bruška, who was 15 years old in 1991,³⁴³ testified about the above events of the evening of 21 December 1991.³⁴⁴ Their

³³⁷ Adjudicated Facts III, fact 187.

³³⁸ Adjudicated Facts III, fact 188.

³³⁹ Adjudicated Facts III, fact 189.

³⁴⁰ Adjudicated Facts III, fact 190.

³⁴¹ Adjudicated Facts III, fact 192.

³⁴² P490 (Ante Marinović, witness statement, 30 September 2000), pp. 1-2; P491 (Ante Marinović, *Martić* transcript, 23 March 2006), p. 2470.

³⁴³ P37 (Jasna Denona, witness statement, 3 November 2000), pp. 1-2; P39 (Jasna Denona, *Martić* transcript, 9 February 2006), pp. 1268-1269, 1299, 1303; Jasna Denona, T. 2019, 2035; P44 (Official Note by Zadar Police Administration, 13 July 1992), p. 1.

³⁴⁴ Ante Marinović: P490 (Ante Marinović, witness statement, 30 September 2000), pp. 3-4; P491 (Ante Marinović, *Martić* transcript, 23 March 2006), pp. 2480-2482, 2484-2485, 2488, 2499, 2508; Ante Marinović, T. 5359. Jasna Denona: P37 (Jasna Denona, witness statement, 3 November 2000), pp. 2-4; P38 (Jasna Denona, *Slobodan Milošević* transcript, 29 October 2003), pp. 28199-28205, 2812-28213, 28207, 28214-28215; P39

testimony is, on the whole, consistent with and does not rebut the above Adjudicated Facts. Ante Marinović's testimony significantly differed from the Adjudicated Facts in one respect: the witness testified that Sveto Drača had not worn a uniform that evening.³⁴⁵ In this respect, Jasna Denona testified that Sveto Drača, a Serb neighbour, had been mobilized by the JNA Reserve in early November 1991 after attempting to avoid mobilization several times, and that he wore an olive green JNA uniform when he was killed, but was unarmed at that time.³⁴⁶

142. Both witnesses' testimony provided further information regarding the above events which was additional to that contained in the Adjudicated Facts. **Ante Marinović** added that his father Roko, his brother Duško, and his uncle Petar (all Croats), and Sveto Drača (a Serb) had not been part of a military or paramilitary force.³⁴⁷ Further, the three men who entered the house at about 8 or 8:30 p.m. were wearing camouflage uniforms with "Krajina Milicija" insignia on the shoulders.³⁴⁸ The witness recognized one of the men as someone who he had played football against and later learned that the person's name was Olujić and that he was from Bilišane.³⁴⁹ **Jasna Denona** added that at approximately 7:45 p.m., when she heard a knock at the door, a male voice said "Krajina Militia" or "Krajina Police" and then "Martić's men. Open up".³⁵⁰ The witness testified that she believed that there were three persons standing in front of the door, based in particular on the voice she heard and what she saw through the glass of the door.³⁵¹

143. **Aco Drača**, head of the SDB in Benkovac from late winter or early spring in 1991 and deputy chief of the Krajina SDB from August 1992,³⁵² testified that a thorough investigation of the killing of 21 December 1991, including all the potential perpetrators, by the SJB did not

(Jasna Denona, *Martić* transcript, 9 February 2006), pp. 1270-1277, 1283, 1285-1291, 1293, 1299, 1304, 1309; Jasna Denona, T. 2025-2028, 2030-2031, 2034; P43 (Official Record by MoD, 27 December 1991), p. 1; P44 (Official Note by Zadar Police Administration, 13 July 1992), p. 1; P45 (Military confidential note, 11 March 1992), p. 3.

³⁴⁵ P491 (Ante Marinović, *Martić* transcript, 23 March 2006), pp. 2481, 2499; Ante Marinović, T. 5357.

³⁴⁶ P37 (Jasna Denona, witness statement, 3 November 2000), p. 2; P38 (Jasna Denona, *Slobodan Milošević* transcript, 29 October 2003), p. 28214; P39 (Jasna Denona, *Martić* transcript, 9 February 2006), pp. 1276, 1290; Jasna Denona, T. 2036.

³⁴⁷ P491 (Ante Marinović, *Martić* transcript, 23 March 2006), p. 2481.

³⁴⁸ P490 (Ante Marinović, witness statement, 30 September 2000), p. 3; P491 (Ante Marinović, *Martić* transcript, 23 March 2006), pp. 2482-2483, 2499.

³⁴⁹ P490 (Ante Marinović, witness statement, 30 September 2000), p. 3; P491 (Ante Marinović, *Martić* transcript, 23 March 2006), pp. 2483-2484, 2500; Ante Marinović, T. 5358.

³⁵⁰ P37 (Jasna Denona, witness statement, 3 November 2000), p. 2; P38 (Jasna Denona, *Slobodan Milošević* transcript, 29 October 2003), p. 28213; P39 (Jasna Denona, *Martić* transcript, 9 February 2006), pp. 1272, 1281, 1283, 1286-1287, 1297-1298; Jasna Denona, T. 2025, 2029; P43 (Official Record by MoD, 27 December 1991), p. 1; P44 (Official Note by Zadar Police Administration, 13 July 1992), p. 1.

³⁵¹ P38 (Jasna Denona, *Slobodan Milošević* transcript, 29 October 2003), pp. 28203-28205, 28214-28215; P39 (Jasna Denona, *Martić* transcript, 9 February 2006), pp. 1277, 1299.

³⁵² Aco Drača, T. 16692, 16742, 16776-16777.

yield any conclusive outcome, as there were no eyewitnesses and the villagers who may have had some information left for Zadar before any statements were taken from them. According to Drača, two individuals from the neighbouring village of Medvidja, whose family names were Pupovac and Škorić, were suspected of having committed the crime because they had been seen passing through Bruška on tractors several times a day before the killing, they both had criminal records from before the war, and one of them had a private feud with the individual who was killed first. Neither of the suspects were members of any police or military unit. Drača also testified that they later learnt that one of the survivors told his physician in the hospital in Knin that he had recognized a person called Aleksandar Olujić from the village of Bilišane in Obrovac municipality. Olujić had been a member of the reserve force of the Obrovac SUP for some time, but had not reported to his duty station in Obrovac for a month prior to the killing. A background check for public security purposes of the three suspected individuals also showed that they had not attended any training, in Golubić or elsewhere. Drača further testified that during that period, everybody claimed they belonged to “this or that” and wore uniforms and that there were people who were in the police for some days and then did not appear for a year, but who nonetheless continued to wear the uniform.³⁵³

144. According to forensic documentation, the bodies of Petar Marinović (born in 1923), Krsto Marinović (31 January 1926), Draginja Marinović (24 September 1930), Manda Marinović (9 July 1927), Stana Marinović (21 May 1926), Dragan Marinović (21 July 1967), Ika Marinović (1940), Dušan Marinović (13 March 1957), and Roko Marinović (1 August 1931) from Bruška were exhumed from a cemetery in Rodaljice, Lisičić municipality.³⁵⁴ The parties agree on the identities, dates of birth, and gender of these nine victims.³⁵⁵ According to this forensic documentation, all nine bodies had clothing defects and/or bone fractures consistent with entry and/or exit gunshot wounds.³⁵⁶ For seven of the nine bodies, the forensic documentation detailed their clothing; in all seven instances, the bodies were wearing civilian

³⁵³ Aco Drača, T. 16764-16766, 17029-17035, 17087.

³⁵⁴ P749 (On-site investigation record, 26 April 1996), pp. 1-2; P750 (On-site investigation record, 26 April 1996), p. 1; P751 (On-site investigation record, 26 April 1996), pp. 1-2; P752 (Letter about exhumation of nine persons, undated and unsigned), p. 1; P753 (On-site investigation record, 26 April 1996), pp. 1-2. In respect of the date of birth of Draginja Marinović, the Trial Chamber relies on the more specific date of 24 September 1930 provided in exhibit P752.

³⁵⁵ Decision on Motion For Admission of Agreed Facts, 12 January 2011; First Joint Motion for Admission of Agreed Facts Between the Prosecution and the Stanišić Defence, 16 February 2010, Annex A, Part E.

³⁵⁶ P749 (On-site investigation record, 26 April 1996), pp. 3-4, 6-7; P512 (Chart on proof of death documentation filled in by Davor Strinović), p. 8; P750 (On-site investigation record, 26 April 1996), pp. 3-6; P751 (On-site investigation record, 26 April 1996), pp. 3-4; P751 (On-site investigation record, 26 April 1996), pp. 3-6; P753 (On-site investigation record, 26 April 1996), pp. 5-10.

clothing.³⁵⁷ The parties further agree on the identity, date of birth, and gender of the tenth victim Sveto Drača (1 January 1957).³⁵⁸ The Trial Chamber has not received forensic documentation in relation to Sveto Drača.

145. On the basis of the Adjudicated Facts and having reviewed the evidence before it, the Trial Chamber finds that around 8 p.m. on 21 December 1991 in the Marinović hamlet of Bruška, in Benkovac municipality, at least three men shot and killed Roko Marinović, Dušan Marinović, Sveto Drača, Petar Marinović, Ika Marinović, Dragan Marinović, Draginja Marinović, Krsto Marinović, Manda Marinović, and Stana Marinović. Before killing them, the perpetrators had lined up Roko, Dušan, and Petar Marinović and Sveto Drača against a wall. They shot Roko and Dušan Marinović as they were standing by the wall and Petar Marinović and Sveto Drača as they attempted to flee.

146. According to Aco Drača, the SJB investigated three suspects in relation to this incident: two individuals from a neighbouring village who were not in the police or military and SUP reserve force member Aleksandar Olujić. Drača considered the outcome of the SJB investigation inconclusive. The investigation was not based on accounts by eyewitnesses or other villagers. No SJB reports relating to this investigation were tendered and admitted through Drača. The Trial Chamber considers Drača's testimony regarding the SJB's suspects to be inconclusive as to the identity or affiliation of the perpetrators. Thus, Drača's testimony does not rebut the Adjudicated Facts in relation to perpetrators. Two eye-witnesses testified about the perpetrators. Jasna Denona testified that the perpetrators identified themselves as "Krajina Militia" or "Krajina Police" and as "Martić's men" and Ante Marinović described the perpetrators as wearing camouflage uniforms with "Krajina Milicija" insignia on their shoulders. On the basis of the un rebutted Adjudicated Facts, having reviewed the evidence on this incident, and further in view of the Adjudicated Facts and the evidence reviewed in chapter 6.6, the Trial Chamber concludes that the perpetrators were members of the SAO Krajina Police.

147. On the basis of the Adjudicated Facts and having reviewed Jasna Denona's testimony, the Trial Chamber finds that all ten victims were unarmed at the time of the killing. Nine of the ten victims were Croats and wore civilian clothing at the time of the killing. The tenth,

³⁵⁷ P749 (On-site investigation record, 26 April 1996), pp. 3-4; P750 (On-site investigation record, 26 April 1996), pp. 3-6; P751 (On-site investigation record, 26 April 1996), pp. 3-6; P753 (On-site investigation record, 26 April 1996), pp. 6-10.

³⁵⁸ Decision on Motion For Admission of Agreed Facts, 12 January 2011; First Joint Motion for Admission of Agreed Facts Between the Prosecution and the Stanišić Defence, 16 February 2010, Annex A, Part E.

Sveto Drača, was a Serb. The Trial Chamber has received inconsistent evidence as to Sveto Drača's clothing. Despite Ante Marinović's testimony to the contrary, in accordance with the Adjudicated Facts and in light of Jasna Denona's testimony, the Trial Chamber allows for the reasonable possibility that Sveto Drača was wearing an olive green JNA uniform at the time of the killing.³⁵⁹ The Trial Chamber will further consider this incident in relation to Counts 1, 2, and 3 of the Indictment in chapter 4, below.

3.1.7 Incidents of deportation and forcible transfer

148. In this chapter, the Trial Chamber will review the alleged deportation and forcible transfer of non-Serb civilians from the SAO Krajina to other countries or other areas inside the country. The Trial Chamber will first set out its understanding of the geographic scope and population of the SAO Krajina. Then, it will consider the Adjudicated Facts and evidence in relation to the SAO Krajina in its entirety. Thereafter, it will address the Adjudicated Facts and evidence concerning three specific areas of the SAO Krajina: (i) the Kostajnica region, in the north-east of the SAO Krajina; (ii) the Saborsko region, in the north-west of the SAO Krajina; and (iii) the Knin region, in the south of the SAO Krajina. Finally, the Trial Chamber will set out its conclusions in relation to deportation and forcible transfer in the SAO Krajina.

Geographic scope and population of the SAO Krajina

149. According to the Adjudicated Facts, on 21 December 1990, the SAO Krajina was proclaimed by the municipalities of the regions of Northern Dalmatia and Lika, in south-western Croatia.³⁶⁰ On 19 December 1991, the RSK was proclaimed by the Assembly of the SAO Krajina with Milan Babić as its President, and the RSK Constitution was passed.³⁶¹ For the purposes of reaching findings on the alleged incidents of deportation and forcible transfer, the Trial Chamber considers that the SAO Krajina consisted of all of Knin, Obrovac, Gračac, and Donji Lapac municipality and parts of the municipalities of Benkovac, Drniš, Šibenik, and Sinj in the south. The SAO Krajina further included all of Titova Korenica, Slunj, Vojnić, and Vrginmost municipality and parts of the municipalities of Gospić, Otočac, Ogulin, Duga

³⁵⁹ Considering the ethnicity of Sveto Drača, the Trial Chamber will not further consider this part of the incident.

³⁶⁰ Adjudicated Facts III, fact 5.

³⁶¹ Adjudicated Facts III, fact 21.

Resa, and Karlovac in the west. The SAO Krajina also comprised all of Glina, Dvor, and Kostajnica municipality and parts of Petrinja, Sisak, Novska, Pakrac, and Nova Gradiška.³⁶²

150. The Trial Chamber further considers that the territory of the SAO Krajina broadly overlapped with the counties of Karlovac, Lika-Senj, Šibenik-Knin, Sisak-Moslavina, and Zadar.³⁶³ The Radić Report on Expelled Persons in Croatia, in 1991, cites the 1991 census to establish that the population of the counties of Karlovac, Lika-Senj, Šibenik-Knin, Sisak-Moslavina, and Zadar consisted of a total of 393,750 persons, of whom 158,623 were Croats and 215,258 were Serbs.³⁶⁴ The Trial Chamber notes³⁶⁵ that in December 1991, the SAO Krajina became the RSK, which, from February 1992, also included the SAO SBWS and the SAO Western Slavonia.

Deportation and forcible transfer from the entirety of the SAO Krajina, 1991-1995

151. The Trial Chamber has taken judicial notice of Adjudicated Facts in relation to deportation and forcible transfer occurring throughout the SAO Krajina in the period 1991 through 1995.

152. According to the Adjudicated Facts, following the fighting in the Hrvatska Kostajnica, Knin, and Glina areas in August 1991, Croat civilians began to leave their homes to go to Zagreb, Sisak, and other places. Due to the situation prevailing in the Knin area, the Croat population began to fear for their safety and began requesting authorisation from the RSK authorities to leave the RSK territory. The insecurity of the Croats was also aggravated by speeches of Milan Martić on the radio that he could not guarantee their safety, particularly in the area of Knin. As a result, in the period between 1992 and 1993 the RSK police directed the Croat population towards Croat settlements near Knin, such as Vrpolje and Kninsko Polje.³⁶⁶ **Witness JF-041** provided evidence consistent with Adjudicated Fact III-208.³⁶⁷

³⁶² As depicted in P258 (22 Maps from the Court Map Binder), p. 7 (Map depicting SAO Krajina and SAO SBWS as controlled at the end of 1991).

³⁶³ The Trial Chamber bases this understanding in part on the listing of municipalities and towns per county in P551 (Report on the Expelled Population of the Republic of Croatia in 1991), pp. 48-49. While the territory of the listed counties is not identical to the territory controlled by the SAO Krajina in P258 (22 Maps from the Court Map Binder), p. 7 (Map depicting SAO Krajina and SAO SBWS as controlled at the end of 1991), it is sufficiently similar to the territory of the SAO Krajina to be indicative of the population of the SAO Krajina. Nonetheless, the Trial Chamber will treat information relating to the population of counties with caution.

³⁶⁴ P551 (Report on the Expelled Population of the Republic of Croatia in 1991), pp. 48-49.

³⁶⁵ Based on the Adjudicated Facts, including Adjudicated Fact III-22 reviewed in chapter 3.2.6, and the evidence before it,

³⁶⁶ Adjudicated Facts III, facts 207-208.

³⁶⁷ P1548 (Witness JF-041, *Martić* transcript, 23-25 May 2006), p. 4518.

153. Displacement of the Croat population as a result of harassment and intimidation occurred elsewhere in the SAO Krajina, and subsequently RSK, territory and continued until the end of 1994. Harassment and intimidation of the Croat population was carried out on a large scale by the police and by local Serbs in the territory.³⁶⁸ Croats were killed in 1991, their property was stolen, their houses were burned, Croat villages and towns were destroyed, including churches and religious buildings, and Croats were arbitrarily dismissed from their jobs.³⁶⁹ During 1992 on the territory of the RSK, there was a continuation of incidents of killings, harassment, robbery, beatings, burning of houses, theft, and destruction of churches carried out against the non-Serb population.³⁷⁰ Throughout 1993, there were further reports of killings, intimidation, and theft. By 1995, several Croat villages had been attacked and destroyed, including Rakovica, Poljanak, Kuselj, Saborsko, Korana, Rastovača, Celiste, Smoljanac, Drežnik, Rakovac, Lipovača, Vaganac, Hrvatska Dubica and Medviđa.³⁷¹ Considering Adjudicated Facts III-5 and 21 and in light of its original context in the *Martić* Judgement, the Trial Chamber understands the mention of the RSK in Adjudicated Fact III-208 above in relation to events prior to December 1991 to refer to the SAO Krajina. Further, in view of the wording of Adjudicated Fact III-210, the specific geographic names mentioned, and the original context in the *Martić* Judgement, the Trial Chamber understands the above Adjudicated Fact III-212 (and consequently 213) to relate specifically to the SAO Krajina portion of the RSK.

154. The Trial Chamber has received evidence in relation to deportation and forcible transfer occurring throughout the SAO Krajina in the period 1991 through 1995, mainly through the evidence of Milan Babić and the testimony of Anna-Maria Radić, as well as through the Radić Report on Expelled Persons in Croatia.

155. **Milan Babić**, who was the Prime Minister of the SAO Krajina,³⁷² stated that clashes between the Krajina police and the Croatian police forces carried on until the end of August or early September 1991, when the JNA began its offensive against Croatia.³⁷³ Using heavy artillery, the JNA advanced the front lines, forcing the Croatian armed forces and the non-

³⁶⁸ Adjudicated Facts III, fact 210.

³⁶⁹ Adjudicated Facts III, fact 211.

³⁷⁰ Adjudicated Facts III, fact 212.

³⁷¹ Adjudicated Facts III, fact 213.

³⁷² P1878 (Milan Babić, *Slobodan Milošević* transcript, 18-22, 25-26 November, and 2-4, 6, and 9 December 2002), p. 12965; P1880 (Death Certificate of Milan Babić).

³⁷³ P1877 (Milan Babić, *Martić* transcript, 15-17, 20-21 February, and 2-3, and 6 March 2006), pp. 1512, 1515.

Serb population to retreat from the territories.³⁷⁴ The JNA attacked together with other armed formations under its control, namely the TO units, the Krajina police, the paramilitary units of the parallel structure, and other units commanded by the DB of Serbia.³⁷⁵ Cleansing and destruction forced tens of thousands of Croats to flee.³⁷⁶ Houses and other buildings were destroyed in combat operations, and property was subsequently looted and torched; those who stayed behind, mostly the elderly, were killed or detained.³⁷⁷

156. Babić stated that the pattern of attack introduced at the Plitviće Lakes was followed by the Serbs in their subsequent attacks, until November 1991: first the police, the volunteer units, or the units under the DB of Serbia would engage in provocative shootings, and then, following a response from the Croatian police, the JNA, would step in, creating a buffer zone.³⁷⁸ According to Babić, the villages of Dubica, Cerovljani, and Baćin in the Kostajnica region, Saborsko, Poljanak, and Lipovača in the region of Plaški, and Škabrnja, Nadin, and Bruška, close to Knin, were all attacked in this manner.³⁷⁹ The pattern of the Serb attack in the SAO Krajina was also followed in Bosnia-Herzegovina, including in the municipalities of Sanski Most, Bijeljina, and Zvornik.³⁸⁰

157. Babić stated that large numbers of Croats were expelled from the territory of Croatia in the course of the armed conflict in 1991.³⁸¹ According to him, the JNA, the TO, and units under the control of the police, including SAO Krajina police units, were responsible for the expulsion.³⁸²

158. According to the Radić Report on Expelled Persons in Croatia, 100,155 persons left the counties of Karlovac, Lika-Senj, Šibenik-Knin, Sisak-Moslavina, and Zadar between 1991 and 1995.³⁸³ **Anna-Maria Radić**, an employee for the Government of Croatia since 1994,³⁸⁴

³⁷⁴ P1878 (Milan Babić, *Slobodan Milošević* transcript, 18-22, 25-26 November, and 2-4, 6, and 9 December 2002), p. 13064.

³⁷⁵ P1878 (Milan Babić, *Slobodan Milošević* transcript, 18-22, 25-26 November, and 2-4, 6, and 9 December 2002), p. 13064.

³⁷⁶ P1878 (Milan Babić, *Slobodan Milošević* transcript, 18-22, 25-26 November, and 2-4, 6, and 9 December 2002), p. 13550.

³⁷⁷ P1878 (Milan Babić, *Slobodan Milošević* transcript, 18-22, 25-26 November, and 2-4, 6, and 9 December 2002), pp. 13064, 13066.

³⁷⁸ P1877 (Milan Babić, *Martić* transcript, 15-17, 20-21 February, and 2-3, and 6 March 2006), p. 1507; P1878 (Milan Babić, *Slobodan Milošević* transcript, 18-22, 25-26 November, and 2-4, 6, and 9 December 2002), pp. 13065-13066, 13091; P1879 (Milan Babić, *Krajišnik* transcript, 2-4, and 7 June 2004), p. 3388.

³⁷⁹ P1878 (Milan Babić, *Slobodan Milošević* transcript, 18-22, 25-26 November, and 2-4, 6, and 9 December 2002), p. 13065.

³⁸⁰ P1878 (Milan Babić, *Slobodan Milošević* transcript, 18-22, 25-26 November, and 2-4, 6, and 9 December 2002), p. 13081; P1879 (Milan Babić, *Krajišnik* transcript, 2-4, and 7 June 2004), p. 3411.

³⁸¹ P1879 (Milan Babić, *Krajišnik* transcript, 2-4, and 7 June 2004), p. 3340.

³⁸² P1879 (Milan Babić, *Krajišnik* transcript, 2-4, and 7 June 2004), pp. 3340-3341.

³⁸³ P551 (Report on the Expelled Population of the Republic of Croatia in 1991), p. 75.

testified that the data showed the number of displaced persons in different “peak time” periods of displacement, demonstrating the “waves” of displaced persons.³⁸⁵ Almost half of the aforementioned 100,155 persons (48,910) left the counties Sisak-Moslavina, Zadar, and Šibenik-Knin prior to 20 September 1991. Around a fifth of the total 100,155 persons (20,529) left the same counties between 20 September 1991 and 1 May 1992. A further fifth of the total (19,798) had left Karlovac and Lika-Senj counties prior to 16 November 1991 and 2,341 persons left between 16 November 1991 and 1 May 1992. 1,764 persons left the aforementioned five counties in the remainder of 1992. 4,246 persons left in 1993; 2,036 left in 1994; and a final 531 left in 1995.³⁸⁶

159. In relation to ethnicity, the Radić Report on Expelled Persons in Croatia provides that of the total number of persons who fled to Croatia from the counties of Karlovac, Lika-Senj, Šibenik-Knin, Sisak-Moslavina, and Zadar, around 98 per cent were Croats, 0.5 per cent were Muslims, and a small fraction were Hungarians, while a little over 1 per cent were Serbs.³⁸⁷

160. Above, the Trial Chamber has reviewed evidence of Babić, Anna-Maria Radić, and the Radić Report on Expelled Persons in Croatia which it considers consistent with the Adjudicated Facts III 207-208 and 210-212, which relate to the SAO Krajina as a whole. Below, the Trial Chamber will review the Adjudicated Facts and evidence in relation to specific actions which allegedly amount to deportation and forcible transfer in the SAO Krajina. These actions include alleged attacks, killings, arbitrary arrest and detention, burnings of Catholic churches and mosques, forced labour, torture, harassment, use of human shields, looting, rape and other forms of sexual abuse, as well as the threat of further persecutory acts. As set out in chapter 2, the Trial Chamber will examine whether the Adjudicated Facts and evidence on specific actions are consistent with the Adjudicated Facts set out above in relation to the SAO Krajina as a whole, or whether they contradict and rebut the above Adjudicated Facts.

161. The Trial Chamber will further examine the dates on and conditions under which people fled from specific areas. Where appropriate, the Trial Chamber will make findings on those conditions and the perpetrators who brought about those conditions through their

³⁸⁴ Anna-Maria Radić, T. 5861-5864, 5879; P549 (Curriculum Vitae of Anna-Maria Radić), pp. 1-2.

³⁸⁵ Anna-Maria Radić, T. 5876.

³⁸⁶ P551 (Report on the Expelled Population of the Republic of Croatia in 1991), p. 75.

³⁸⁷ P551 (Report on the Expelled Population of the Republic of Croatia in 1991), pp. 75, 80. The Trial Chamber notes that the table on page 80 of the report does not provide an explicit time frame. Comparing the totals provided in the table on page 80 to those on page 75, the Trial Chamber understands the table on page 80 to relate to the period 1991-1997.

actions when such actions are not covered by (and thus additional to) the Adjudicated Facts above in relation to the SAO Krajina as a whole.

162. The Trial Chamber has taken judicial notice of many Adjudicated Facts and received a large amount of evidence in relation to actions in the SAO Krajina. In order to set out its analysis of this material clearly, the Trial Chamber will address three areas of the SAO Krajina separately. First, the Trial Chamber will review the Kostajnica region, in the north-east of the SAO Krajina; second, the Saborsko region, in the north-west of the SAO Krajina; and third, the Knin region, in the south of the SAO Krajina. These areas correspond with the three regions identified by Babić (namely, near Kostajnica, Plaški, and Knin, respectively) as having been attacked in a similar manner. The Trial Chamber emphasizes that addressing these three regions separately is a purely practical means employed in order to deal with the number of actions, locations, and dates arising from the Adjudicated Facts and evidence before it. The Trial Chamber remains mindful that to fully appreciate the conditions under which persons left the SAO Krajina, it must review the conditions which prevailed in the whole of the SAO Krajina. Thus, following its review of the three regions, the Trial Chamber will make findings on deportation and forcible transfer in the SAO Krajina as a whole, in the last section of this chapter.³⁸⁸

Deportation and forcible transfer in the Kostajnica region, in the north-east of the SAO Krajina, July 1991-1993

163. The Trial Chamber will first address the Adjudicated Facts and evidence in relation to the area of Kostajnica, in the north-east of the SAO Krajina, which includes Dvor, Glina, and Kostajnica municipality and parts of Novska, Nova Gradiška, Pakrac, Petrinja, and Sisak municipality in the north.³⁸⁹ The Trial Chamber will consider in turn: Glina and Struga, Hrvatska Kostajnica, Hrvatska Dubica and Predore, and Baćin.

Glina, Struga, and surrounding villages, July 1991

164. The Trial Chamber has taken judicial notice of Adjudicated Facts and received evidence of Witness JF-039 and Mile Bosnić, as well as documentary evidence, in relation to the take-over of Glina, Struga, and surrounding villages in July 1991.

³⁸⁸ Findings on deportation and forcible transfer in the entire SAO Krajina 1991-1995.

³⁸⁹ As depicted in P258 (22 Maps from the Court Map Binder), p. 7 (Map depicting SAO Krajina and SAO SBWS as controlled at the end of 1991).

165. The Trial Chamber will first consider the take-over of Struga. According to the Adjudicated Facts, on 25 July 1991,³⁹⁰ the village of Struga, a few kilometres north of Dvor along the Una river, was attacked by units under the command of Captain Dragan Vasiljković and the Glina War Staff: 50 members of a “special forces” unit, 50 policemen, and 700 civilians participated in the operation.³⁹¹ Following the attack, the JNA intervened and created a buffer zone.³⁹²

166. The Trial Chamber now turns to the documentary evidence it has received in relation to Struga and the surrounding villages. According to eyewitnesses interviewed by Helsinki Watch in late July 1991, Serbian insurgents attacked the predominantly Croatian village of Struga on 26 July 1991. Further, the eyewitnesses reportedly stated that the insurgents humiliated three Croatian police officers who had surrendered, ordered them to run through a field, and then shot and killed them. During their advance through Struga, the Serbian insurgents captured approximately 40 civilians, including some of the eyewitnesses, and used them as human shields. According to the report, the accounts of the eyewitnesses which Helsinki Watch relied on were contained in a separate report of September 1991.³⁹³

167. According to a report of 26 July 1991 by Mišo Popović of the “Republic of Serbia SAO Krajina Special Purposes Unit Knin”, Popović had led eleven men in an attack on Struga that day, which met with heavy armed resistance from opposing forces. On the same day, Živko Šljivar of the “Dvor na Uni Special Purpose Unit” reported that during the attack on Unčane village of 26 July 1991, his mission had been to enter the village and cut off the road, thereby preventing the opposing forces from receiving help from Kostajnica and withdrawing from Struga.³⁹⁴ According to further reports of the same day, by Rade Božić and Boža Novaković of the “Republic of Serbia SAO Krajina Special Operations Unit”, an attack on Divuša village had resulted in heavy fighting that day. Both men reported targeting and hitting the St. Catherine church with a rocket launcher during the attack, after which they went to Struga.³⁹⁵

168. Next, the Trial Chamber will deal with the take-over of Glina. According to the Adjudicated Facts, in mid-July 1991, the town of Glina, located in the Banija area north-west

³⁹⁰ The Trial Chamber notes that the date given by the Adjudicated Facts (25 July 1991) differs from that in the evidence it has received (26 July 1991).

³⁹¹ Adjudicated Facts III, fact 45.

³⁹² Adjudicated Facts III, fact 45.

³⁹³ P1201 (Helsinki Watch letter to Milošević and Adžić, 21 January 1992), p. 3

³⁹⁴ P2881 (Report on the attack on Unčane, Živko Šljivar, 26 July 1991).

of Dvor, was attacked by a unit under the command of Captain Dragan Vasiljković. The JNA intervened after the attack by creating a buffer zone.³⁹⁶

169. **Witness JF-039**, a Serb from Croatia,³⁹⁷ testified that a unit of police officers who had been trained at Golubić went to Glina to take control of the Glina police station.³⁹⁸ The witness testified that people spoke of the men who attacked Glina as being under the command of Frenki and of Captain Dragan and these men were later nicknamed the Knindas.³⁹⁹ **Mile Bosnić**, an SDS regional board member and president of the SDS board in Kordun,⁴⁰⁰ testified that in the operation in Glina, Captain Dragan participated in coordination with a tank unit of the JNA and that generally all military actions and operations were carried out in coordination with and under the command of the JNA.⁴⁰¹

170. With regard to the documentary evidence in relation to Glina, the Trial Chamber will first consider the contemporaneous documents from July 1991. According to a situation report by Captain Dragan dated 19 July 1991 sent from Glina to, amongst others, the Secretariat of the Interior of SAO Krajina, the Commander of the SAO Krajina TO, “Frenki”, and Major Fića, there had been order and discipline in the area since they had taken control of the territory and that the setting up of headquarters and enlisting of soldiers for training had begun.⁴⁰²

171. According to reports dated between 26 and 31 July 1991 by Dragan Oluić and Borjan Vučković and several members of the “Republic of Serbia SAO Krajina Special Purpose Unit”, including Nikola Pupovac, Damir Vladić, Nikola Simić, and Zoran Herceg, Serb forces attacked and took over the Croatian MUP station in Glina on 26 July 1991. During the attack, in which a number of Montenegrin men and a person referred to as Crnogorac participated, the Serb forces came under heavy fire from several houses in Glina.⁴⁰³ Nikola Simić noted

³⁹⁵ P2882 (Report on the attack on Divuša, Rade Božić, 26 July 1991); P2883 (Report on the attack on Divuša, Boža Novaković, 26 July 1991).

³⁹⁶ Adjudicated Facts III, fact 45.

³⁹⁷ P978 (Witness JF-039, witness statement, 12 September 2003), p. 1, paras 1, 5, 23; P977 (Witness JF-039, prior testimony), pp. 1958-1959.

³⁹⁸ P977 (Witness JF-039, prior testimony), p. 2196.

³⁹⁹ Witness JF-039, T. 7252-7253.

⁴⁰⁰ D313 (Mile Bosnić, witness statement, 5 July 2011), para. 2.

⁴⁰¹ Mile Bosnić, T. 12766; D320 (Mile Bosnić, Correspondence received from the ICTY OTP from the Republic of Croatia Ministry of Justice Department), p. 4.

⁴⁰² P1186 (Report from Glina, SAO Krajina, Captain Dragan, 19 July 1991). Given the other evidence it has received in relation to Glina, the Trial Chambers considers that the date of 19 July 1991 typed on this report may have been an error.

⁴⁰³ P2872 (Report on Glina MUP station attack, Nikola Pupovac, 26 July 1991); P2874 (Report on Glina take-over, Damir Vladić, 31 July 1991); P2875 (Report on Glina MUP station attack, Nikola Simić, 26 July 1991); P2877 (Report on Glina MUP station attack, Dragan Olaić, 26 July 1991); P2878 (Report on Glina MUP station

that a tank opened heavy fire on the whole of Vidoševac village and that, upon his orders, the tank fired at and hit a school and a church in the village. On 26 July 1991, Stevo Vukša reported that he had taken part in the attack on Glina under squad commander Ilija Vučković and had supported Crnogorac's squad during the attack.⁴⁰⁴ On the same day, Živojin Ivanović reported from Glina that, upon the orders of the Captain and the Glina TO Staff Command, his men had attacked and taken over the MUP station in Glina and that Captain Dragan had arrived in the town that day.⁴⁰⁵

172. According to a report of 26 July by Saša Medaković of the Republic of Serbia SAO Krajina, he and others had destroyed around 30 houses in Jukinac during an attack that day.⁴⁰⁶ According to Dragan Oluić's report, Jukinac was a part of Glina town which was mostly populated by Croats.⁴⁰⁷

173. According to a report of 27 July 1991, sent by Captain Petar Maglav of the SAO Krajina TO headquarters to, amongst others, "Frenki", on 26 July 1991, cables had arrived from Glina reporting a Croatian MUP attack at 9:56 a.m. Another cable arrived from Glina at 9:55 p.m., reporting that there was fierce fighting for control over the area around the Glina MUP station and the surrounding Ustaša fortifications and Maglav noted that there had been two casualties on the Serb side, while Milan Anđić, a member of a Special unit, had been wounded.⁴⁰⁸

174. On 31 July 1991, in a speech at the Knin SUP press conference broadcast on Knin radio, Captain Dragan stated in relation to the take-over of Glina that around 10 a.m., he had received information of an attack near Dvor na Uni and that he sent four commandos there. Bogdan Vagić led the volunteer units in the south, in Dvor na Uni. Captain Dragan further sent around 21 commandos from Knin (who had been training near Glina that morning and were called Knindas), to participate in the attack on Glina, including Milan Anđić (who was injured during the attack) and Živojin Ivanović (who, the Trial Chamber understands to have also been known as Žika or Crnogorac). Ivanović, a Montenegrin, gathered 20 local volunteers to assist in the attack. According to Captain Dragan, there was heavy fighting in Jukinac and Glina, as all persons there, including those in civilian clothing, had been armed.

attack, Borjan Vučković, 26 July 1991); P2879 (Report on Glina MUP station attack, Zoran Herceg, 31 July 1991); P2880 (Report on Glina MUP station attack, Neven, 26 or 27 July 1991).

⁴⁰⁴ P2876 (Report on Glina MUP station attack, Stevo Vukša, 26 July 1991).

⁴⁰⁵ P2658 (Report on Glina MUP station attack, Živojin Ivanović, 26 July 1991).

⁴⁰⁶ P2873 (Report on an attack on Jukinac, Saša Medaković, 26 July).

⁴⁰⁷ P2877 (Report on Glina MUP station attack, Dragan Oluić, 26 July 1991).

⁴⁰⁸ P2670 (Daily report of the SAO Krajina TO, submitted by Captain Petar Maglav, 27 July 1991).

His men destroyed many fortified houses in Glina and suffered two casualties in combat in Jukinac. Captain Dragan specified that the men who had fought in Glina were the volunteers who had been with them from the start and that special units from Knin and local special units from Glina had been on the front line. These men had been trained locally and included a platoon of the military police.⁴⁰⁹ After they had taken the station in Glina, Captain Dragan visited the positions and the trenches of the troops.⁴¹⁰

175. An undated report on the distribution of weaponry in the SAO Krajina around 28 July 1992, bearing a signature, noted that a part of the special unit from Glina had returned, in relation to which a report would later be presented.⁴¹¹ In its Final Briefs, the Prosecution contends that the signature in this report is that of Franko Simatović.⁴¹² However, in response to the Prosecution's tendering of the document and prior to its admission, the Simatović Defence disputed the document's authenticity and submitted that the signature had been falsified.⁴¹³ The Prosecution submitted that it had received the document from the Republic of Croatia in response to a request for assistance.⁴¹⁴ The Trial Chamber will further consider this report below.

176. The Trial Chamber now turns to the later documentary evidence, dating from December 1991 to December 1993. In an interview with Serbian Radio Television Knin, Dragan Karna, the Commander of the "Special detachment of the Knin SUP" stated that the "Knin SUP Special unit" had liberated the Serb towns of Glina and Dvor na Uni.⁴¹⁵

177. On 19 December 1991 at Pajzoš, the Commander of the "Republican SUP Serbia Special Purposes Unit", reported in relation to the death of Borjan Vučković that he had fought with the deceased against the Ustasha in Glina.⁴¹⁶

178. On 15 December 1993, in a hand-written autobiography, Davor Subotić wrote that after the combat at Plitviće, he participated in the combat at Glina.⁴¹⁷ In a hand-written

⁴⁰⁹ P2659 (Knin Radio, speech of Captain Dragan at a press conference in Knin SUP, 31 July 1991), pp. 1-5, 7.

⁴¹⁰ P2658 (Report relating to specific incident in Glina, signed by Živojin Ivanović, 26 July 1991), pp. 1, 3;

P2659 (Knin Radio, the speech of Captain Dragan at a press conference in Knin SUP, 31 July 1991), pp. 3-7.

⁴¹¹ P2577 (Report in relation to events in SAO Krajina around 28 July 1991).

⁴¹² Prosecution Final Trial Brief, 14 December 2012, paras 215, 623.

⁴¹³ Re-submission of Confidential Annex A to the Prosecution's Second Bar Table Motion with Defence Comments, 27 January 2011, Confidential Annex A, pp. 23-24.

⁴¹⁴ Re-submission of Confidential Annex A to the Prosecution's Second Bar Table Motion with Defence Comments, 27 January 2011, Confidential Annex A, p. 23.

⁴¹⁵ D117 (RTV Knin interview with Dragan Karna).

⁴¹⁶ P2984 (Series of documents relating to Borjan Vučković) (Serbia Republic SUP Special Purpose Unit Commander's report, Pajzoš, 1 December 1991), pp. 14, 17.

⁴¹⁷ D457 (Series of Serbian MUP RDB and SDB documents relating to Davor Subotić), p. 4. (Hand-written autobiography by Davor Subotić, 15 December 1993)

autobiography, Milenko Popović wrote that after training at Golubić and spending time at the fortress he participated in all operations of the special unit in the territory of Krajina from July to September, including Glina.⁴¹⁸ In another hand-written autobiography written at Tara on 4 December 1993, Nikola Pilipović wrote that after training at Golubić and the fortress from June 1991, he participated in all actions of the unit, including Glina.⁴¹⁹

179. Finally, the Trial Chamber turns to the Kula ceremony of the Special Operations Unit of the Republic of Serbia SDB, which took place in 1997. At this ceremony, Simatović stated that from 12 October 1991, the unit provided important support in the liberation of the RSK in battles with armed Croatian police forces, including at Glina.⁴²⁰

180. On the basis of the Adjudicated Facts and exhibits P1201 and P2885, the Trial Chamber finds that on 25 or 26 July 1991, Serb forces attacked the predominantly Croat village of Struga, in the Kostajnica region. These forces were under the command of Captain Dragan Vasiljković and the Glina War Staff and included 50 members of a “special forces” unit, 50 policemen, and 700 civilians. In light of P2885, the Trial Chamber finds that one of these units was the “Republic of Serbia SAO Krajina Special Purpose Unit”.

181. A Helsinki Watch report,⁴²¹ relies on the accounts of unidentified eyewitnesses to establish the use of human shields and the killing of three Croatian policemen during the attack. The Trial Chamber is unable, on the basis of this report, to review the accounts of the reported eyewitnesses directly. Considering that the report is otherwise uncorroborated in respect of these events, the Trial Chamber will not rely on it to make findings on the use of human shields or killing of Croatian policemen during the attack.

182. Based on exhibits P2881-P2883, the Trial Chamber finds that on 26 July 1991, members of the “Dvor na Uni Special Purpose Unit” attacked Unčane village, while members of the “Republic of Serbia SAO Krajina Special Operations Unit”, including Rade Božić, attacked Divuša village.

183. On the basis of the Adjudicated Facts and exhibits P1186, P2568-P2569, P2670, P2872-P2880, P2984, and D117, the evidence of Witness JF-039, and having reviewed the evidence of Mile Bosnić, the Trial Chamber finds that on 26 July 1991, the “Republic of

⁴¹⁸ P3179 (Series of Serbian MUP SDB documents relating to Milenko Popović), p. 11 (Hand-written autobiography, Milenko Popović). (Hand-written auto-biography by Davor Subotić, 15 December 1993)

⁴¹⁹ P3195 (Series of Serbian MUP SDB documents relating to Nikola Pilipović), pp. 13-14 (Hand-written autobiography by Nikola Pilipović, Tara, 4 December 1993).

⁴²⁰ P61 (Video of award ceremony at Kula with transcript), p. 10.

⁴²¹ In evidence as exhibit P1201.

Serbia SAO Krajina Special Purpose Unit” under the command of Captain Dragan attacked the villages of Glina and Vidoševac. This unit consisted of at least 21 men who had been trained in or near Knin and included Borjan Vučković, Milan Anđić, Nikola Pupovac, Nikola Simić, Saša Medaković, Dragan Oluić, and Damir Vladić, as well as squad commanders Ilija Vučković and Živojin Ivanović (also known as ‘Crnogorac’ or ‘the Montenegrin’). Further, based on exhibits D457, P3179, and P3195, and the evidence of Witness JF-039, the Trial Chamber finds that Milenko Popović, Davor Subotić, and Nikola Pilipović participated in the attack on Glina.

184. In relation to the report in evidence as P2577, the Trial Chamber considers that its contents are consistent with Captain Dragan reporting to Frenki in relation to Glina in July 1991 (P1186) and the reports compiled soon after the attack on Glina (D457, P3179, and P3195) as well as with the evidence of Witness JF-039. The Trial Chamber has further considered the document’s provenance and reviewed the signature it bears. It finds the Simatović Defence’s claims that the signature has been falsified to be unsubstantiated and, in view of the evidence regarding Franko Simatović reviewed in chapter 6.3.2, it determines the document to be authentic. Consequently, the Trial Chamber finds that following the attack on Glina, Franko Simatović reported that part of the special unit from Glina had returned. The Trial Chamber refers to its analysis and findings in chapter 6.3.2, where it concludes that the unit which attacked Struga, Divuša, Glina, and Vidoševac was the Unit (a Serbian MUP DB unit formed by the Accused). The evidence on the status or affiliation of the “Dvor na Uni Special Purpose Unit” which attacked Unčane is unclear.

185. Based on the aforementioned documentary evidence received, the Trial Chamber finds that amidst heavy fighting, the aforementioned Serb forces destroyed around 30 houses in Jukinac (a Croat-populated area of Glina) and fired at and hit the St. Catherine church in Divuša and a school and a church in Vidoševac. In light of the Adjudicated Facts, the Trial Chamber finds that following the attacks on Glina and Struga, the JNA intervened and created a buffer zone.

Hrvatska Kostajnica, Hrvatska Dubica, and Predore, August 1991-1995

186. The Trial Chamber has taken judicial notice of Adjudicated Facts and received evidence from Witness C-1211, Witness JF-023, Josip Josipović, and Tomislav Kozarčanin in relation to Hrvatska Kostajnica, Hrvatska Dubica, and Predore.

187. According to the Adjudicated Facts, in 1990, Hrvatska Dubica had around 2,000 to 2,500 inhabitants and in 1991, the population of Hrvatska Dubica was 50 per cent Croat and 38 per cent Serb.⁴²² **Witness JF-023**⁴²³ provided evidence which is consistent with these Adjudicated Facts. **Witness C-1211** provided evidence consistent with the Adjudicated Facts in relation to the size of Hrvatska Dubica.⁴²⁴

188. According to the Adjudicated Facts, in 1991, the Croatian MUP took over the SJB in Hrvatska Dubica. From mid-1991, ZNG units were formed in Hrvatska Dubica. There were about four units, each made up of four to five men, who did not have uniforms. The units had one firearm between them and some carried personal hunting rifles. The headquarters was in Hrvatska Dubica, close to the bridge between Hrvatska Dubica and Bosanska Dubica. Around the same time, the Serb inhabitants started to move out of Hrvatska Dubica.⁴²⁵ The testimony of **Witness JF-023** is mainly consistent with these Adjudicated Facts.⁴²⁶

189. The Adjudicated Facts provide that there were several ongoing clashes between Croatian armed forces and formations and the forces of the SAO Krajina from the spring of 1991, including in Hrvatska Dubica.⁴²⁷ In the area of Hrvatska Kostajnica, there was intensive fighting during August and September 1991, which lasted until the beginning of October. In September 1991, Milan Martić went together with Colonel Dušan Smiljanić, Chief of Security of the JNA 10th Zagreb Corps, to coordinate combat activities in relation to the “liberation of Kostajnica”.⁴²⁸

190. On 12 or 13 September 1991, Serb forces, including the SAO Krajina TO, took control over Hrvatska Kostajnica. The special police unit of the SAO Krajina police at Dvor na Uni participated and cooperated with the TO. Following the take-over of Hrvatska Kostajnica, the operation continued in order to take over the rest of the villages along the axis between Kostajnica and Novska, including the villages of Hrvatska Dubica, Cerovljani, and Baćin. A front line was established from Sunja to Hrvatska Dubica and further towards Novska. Following this operation, there were daily conflicts on the front line.⁴²⁹

⁴²² Adjudicated Facts III, facts 62 and 63.

⁴²³ P297 (Witness JF-023, witness statement, 8 November 2000), p. 2; P296 (Witness JF-023, *Martić* transcript, 20 March 2006), pp. 2278, 2361.

⁴²⁴ P1710 (Witness C-1211, witness statement, 9 November 2000), p. 2; P1713 (Witness C-1211, *Martić* transcript, 12 June 2006), pp. 5410, 5422.

⁴²⁵ Adjudicated Facts III, facts 70-72.

⁴²⁶ P296 (Witness JF-023, *Martić* transcript, 20 March 2006), pp. 2281-2285, 2289, 2322-2324, 2328-2331, 2368-2369.

⁴²⁷ Adjudicated Facts III, fact 18.

⁴²⁸ Adjudicated Facts III, fact 68.

⁴²⁹ Adjudicated Facts III, fact 69.

191. After the occupation of Hrvatska Kostajnica around 12 or 13 September 1991, Hrvatska Dubica was shelled from Hrvatska Kostajnica and from Bosanska Dubica, Bosnia-Herzegovina. Subsequently, the ZNG and Croatian MUP withdrew from Hrvatska Dubica and the surrounding villages and the civilian inhabitants started to leave.⁴³⁰ After 13 September 1991, only about 60 Croats, mainly elderly and women remained in Hrvatska Dubica.⁴³¹ **Josip Josipović**, a Croat from the mixed village of Predore close to Hrvatska Dubica in Kostajnica municipality,⁴³² provided evidence consistent with these Adjudicated Facts,⁴³³ as did **Witness C-1211**.⁴³⁴

192. The Adjudicated Facts set out that on 15 September 1991, the JNA, the TO, and the police surrounded Predore, approximately eight kilometres from Hrvatska Dubica, and proceeded to search houses. They rounded up people and took six or seven, including Josip Josipović, a ZNG member, to the Sava river to reconnoitre the area using them as a live shield, and then returned them to the village.⁴³⁵ **Josip Josipović** provided evidence consistent with these Adjudicated Facts.⁴³⁶ Josipović added that he knew a dozen of the men involved in this attack by name, including Momčilo Kovačević, as well as Veljko and Stevo Rađunović.⁴³⁷

193. In an official note of 1 April 1992, Josipović stated that the Serbs killed Franjo Flekač in Predore and wounded his sons Josip Flekač and Marko Flekač, who were taken to hospital in Dubica. According to the same note, Josipović further stated that Mirko Šarac from Bosanska Dubica and several Chetnik volunteers from Bosnia then took Marko and Josip Flekač out of the hospital and burned them alive.⁴³⁸ The Trial Chamber considers that Josipović's source of knowledge in relation to the killing and ill-treatment of Franjo, Josip, and Marko Flekač from Predore is unclear and that Josipović did not further expand on the information in relation to this event (contained in the official note of 1 April 1992) in his testimony in the *Martić* case. Under these circumstances, the Trial Chamber will not further

⁴³⁰ Adjudicated Facts III, fact 73.

⁴³¹ Adjudicated Facts III, fact 74.

⁴³² P68 (Josip Josipović, *Martić* transcript, 6-7 April 2006), pp. 3293-3294, 3327; P73 (Official Note by Josip Josipović, 1 April 1992), p. 1.

⁴³³ P68 (Josip Josipović, *Martić* transcript, 6-7 April 2006), pp. 3298, 3306-3307, 3346-3347.

⁴³⁴ P1710 (Witness C-1211, witness statement, 9 November 2000), pp. 4, 6; P1713 (Witness C-1211, *Martić* transcript, 12 June 2006), pp. 5414-5417, 5421-5422.

⁴³⁵ Adjudicated Facts III, fact 77.

⁴³⁶ P68 (Josip Josipović, *Martić* transcript, 6-7 April 2006), pp. 3307-3310, 3349-3350.

⁴³⁷ P68 (Josip Josipović, *Martić* transcript, 6-7 April 2006), pp. 3309-3310, 3349.

⁴³⁸ P73 (Official Note by Josip Josipović, 1 April 1992), p. 1.

consider this evidence in relation to the killing and ill-treatment of Franjo, Josip, and Marko Flekač.

194. According to the Adjudicated Facts, Josip Josipović and his cousin Mićo Ćorić were then taken to Dubička Brda where they were detained for one month. Thereafter, they were transferred to the school building in Hrvatska Dubica, which was used as a command post by Serb forces, including the TO and the police. Present at the school building were Momčilo Kovačević and Veljko Rađunović, who issued orders and participated in the beatings of detainees at the school building. Josip Josipović overheard the soldiers discussing amongst themselves and understood them as saying that they were receiving orders from Milan Martić.⁴³⁹

195. Željko Abaza was detained in mid-October in a toilet in the old school building in Hrvatska Dubica. He was later killed by members of the *Milicija Krajine*, and his body was thrown into the Una river by those members.⁴⁴⁰ Josip Josipović was detained together with Željko Abaza, Antun Knežević, and Idriz Čaušević. Idriz Čaušević was killed by persons under Veljko Rađunović's and Momčilo Kovačević's command at the old school building in Hrvatska Dubica. Three days later, Željko Abaza and Ante Knežević had their throats slit and Josip Josipović and Mićo Ćorić were forced by Stevo Rađunović, Momčilo Kovačević, Mirko Sarac, Milan Petrović, Đorđe Ratković, Đuro Jerinić, Marjan Prvalo, and Mladen Pozar to load the dead bodies of Željko Abaza and Antun Knežević onto a truck. Subsequently, the truck drove the three of them and the two bodies to the river and the bodies were thrown into the water by the same Serbs.⁴⁴¹

196. The Trial Chamber refers to Adjudicated Fact III-75, reviewed in chapter 6.6.2, in relation to the *Milicija Krajine* commanded by Veljko "Velja" Rađunović, his son Stevo Rađunović and Momčilo Kovačević in Hrvatska Dubica and the presence of reservists" in Živaja under the command of Stevo Borojević.

197. In addition to providing evidence consistent with the aforementioned Adjudicated Facts in relation to his arrest and detention by the Serbs,⁴⁴² **Josip Josipović** testified that, during their detention at Dubica Brda, the detainees were forced to loot Croat houses for the

⁴³⁹ Adjudicated Facts III, fact 78.

⁴⁴⁰ Adjudicated Facts III, fact 96.

⁴⁴¹ Adjudicated Facts III, fact 97. The Trial Chamber notes that the final sentence of Adjudicated Fact III 97 erroneously reads "the same Serb".

⁴⁴² P68 (Josip Josipović, *Martić* transcript, 6-7 April 2006), pp. 3310-3315, 3350, 3353.

Serbs, and to gather livestock and repair a bridge.⁴⁴³ According to the witness, the JNA, the TO, the police, and the Krajina police were involved in the looting.⁴⁴⁴ In relation to their detention at the old school building in Hrvatska Dubica, Josipović added that he and Čorić were held with Anto Knežević, Željko Abaza, and Idriz Causević in a toilet which was about 2 metres by 70 centimetres.⁴⁴⁵ They were given water from a jerry-can, which used to contain oil, and small liver pate packages and two pieces of bread.⁴⁴⁶ The detainees were beaten with guns or axes and forced to run and sing “Chetnik” songs, while the Serbs fired their guns at them.⁴⁴⁷ Željko Abaza was hit in the hip by the bullets.⁴⁴⁸ The witness suffered several injuries caused by the beatings, including a broken or dislocated jaw and a scar on his head.⁴⁴⁹

198. Josipović provided further evidence consistent with Adjudicated Facts III-96 and 97 in relation to the killings of Idriz Čaušević, Željko Abaza, and Ante Knežević, whose bodies were loaded onto a truck and thrown into the river.⁴⁵⁰ He added that he and Čorić were too weak to load the bodies onto the truck and to take the bodies from the trailer and throw them off the the bridge across the Una river into the water.⁴⁵¹ Mirko Šarac and Milan Petrović threw the bodies into the water and threatened to shoot the witness and Čorić, but a patrol arrived and stopped them from doing so. The detainees were then sent back to where they had previously been detained. The witness and the other remaining detainees were again forced to gather and then drive livestock to a farm.⁴⁵² The witness was detained until the end of November or beginning of December 1991, after which he went back to Hrvatska Dubica. At that point, JNA officers took the witness to a prison in Prijedor where he was interrogated for about 10 days. With the help of a Serb friend, he was released. He was then transferred to Banja Luka where he was exchanged on 10 February 1992.⁴⁵³

⁴⁴³ P68 (Josip Josipović, *Martić* transcript, 6-7 April 2006), pp. 3312-3313, 3350-3351.

⁴⁴⁴ P68 (Josip Josipović, *Martić* transcript, 6-7 April 2006), p. 3313.

⁴⁴⁵ P68 (Josip Josipović, *Martić* transcript, 6-7 April 2006), pp. 3314-3315; P73 (Official Note by Josip Josipović, 1 April 1992), p. 2.

⁴⁴⁶ P68 (Josip Josipović, *Martić* transcript, 6-7 April 2006), p. 3315.

⁴⁴⁷ P68 (Josip Josipović, *Martić* transcript, 6-7 April 2006), pp. 3312, 3314; P73 (Official Note by Josip Josipović, 1 April 1992), p. 2.

⁴⁴⁸ P68 (Josip Josipović, *Martić* transcript, 6-7 April 2006), pp. 3312-3313.

⁴⁴⁹ P68 (Josip Josipović, *Martić* transcript, 6-7 April 2006), pp. 3377-3378.

⁴⁵⁰ P68 (Josip Josipović, *Martić* transcript, 6-7 April 2006), pp. 3316-3319, 3320, 3351-3352, 3375, 3377.

⁴⁵¹ P68 (Josip Josipović, *Martić* transcript, 6-7 April 2006), pp. 3317-3319, 3376; P73 (Official Note by Josip Josipović, 1 April 1992), p. 2.

⁴⁵² P68 (Josip Josipović, *Martić* transcript, 6-7 April 2006), p. 3319, 3321, 3352, 3376.

⁴⁵³ P68 (Josip Josipović, *Martić* transcript, 6-7 April 2006), pp. 3322-3323; P73 (Official Note by Josip Josipović, 1 April 1992), p. 1.

199. **Witness JF-023**, a Serb from Dubica, in Hrvatska Dubica municipality,⁴⁵⁴ testified that on 14 September 1991, most of the Croat residents of Hrvatska Dubica and surrounding villages fled to other parts of Croatia. The witness left on 16 September 1991.⁴⁵⁵ On 18 September 1991, Serb paramilitaries, including the SAO Krajina forces, took over Hrvatska Dubica. On or about 2 October 1991, the witness returned to Hrvatska Dubica.⁴⁵⁶ The commander of the SAO Krajina police was Veljko Radunović and the witness testified that his militia was the only police presence in Dubica in October 1991.⁴⁵⁷ There were, however, Serb army reservists whose headquarters were in Živaja, and they held the border from Jasenovac to Sunja, near the Sava River. Their commander was Stevo Borojević and they wore olive-green-grey military uniforms.⁴⁵⁸ Both the army reservists and the SAO Krajina police or militia consisted mainly of local people.⁴⁵⁹ The witness testified that Radunović seemed to possess the ultimate authority over both the police and the reservists.⁴⁶⁰

200. On 21 October 1991, three armed men wearing SAO Krajina police uniforms arrested Witness JF-023 and took him to the Hrvatska Dubica Police Headquarters.⁴⁶¹ There, the Deputy Commander of the police interrogated the witness, asking him about the fire station.⁴⁶² (For Witness JF-023's evidence on his detention at the Baćin fire station, see chapter 3.1.1.) The witness told the Deputy Commander of the SAO Krajina police that he was willing to return to the fire station, to which the Deputy Commander replied that there was no one in the fire station anymore.⁴⁶³ On 23 October 1991 at 10 p.m., two men in police uniforms drove the witness to Bosanska Dubica and instructed him not to return until the war was over.⁴⁶⁴

⁴⁵⁴ P297 (Witness JF-023, witness statement, 8 November 2000), pp. 1-2; P296 (Witness JF-023, *Martić* transcript, 20 March 2006), p. 2277.

⁴⁵⁵ P297 (Witness JF-023, witness statement, 8 November 2000), p. 2; P296 (Witness JF-023, *Martić* transcript, 20 March 2006), pp. 2281, 2286-2287, 2328, 2331.

⁴⁵⁶ P297 (Witness JF-023, witness statement, 8 November 2000), pp. 2-3; P296 (Witness JF-023, *Martić* transcript, 20 March 2006), pp. 2287-2288, 2331, 2335; Witness JF-023, T. 3918.

⁴⁵⁷ P297 (Witness JF-023, witness statement, 8 November 2000), pp. 2-3; P296 (Witness JF-023, *Martić* transcript, 20 March 2006), pp. 2291, 2333-2334, 2354; Witness JF-023, T. 3943.

⁴⁵⁸ P297 (Witness JF-023, witness statement, 8 November 2000), p. 3; P296 (Witness JF-023, *Martić* transcript, 20 March 2006), pp. 2289-2290, 2293, 2317-2318, 2350-2351; Witness JF-023, T. 3955-3956.

⁴⁵⁹ P296 (Witness JF-023, *Martić* transcript, 20 March 2006), pp. 2331-2333; Witness JF-023, T. 3919, 3944, 3946.

⁴⁶⁰ Witness JF-023, T. 3958.

⁴⁶¹ P297 (Witness JF-023, witness statement, 8 November 2000), pp. 2-4; P296 (Witness JF-023, *Martić* transcript, 20 March 2006), p. 2291, 2298, 2307, 2364; Witness JF-023, T. 3951.

⁴⁶² P297 (Witness JF-023, witness statement, 8 November 2000), pp. 4-5; P296 (Witness JF-023, *Martić* transcript, 20 March 2006), pp. 2308-2309, 2345; Witness JF-023, T. 3952, 3961.

⁴⁶³ P297 (Witness JF-023, witness statement, 8 November 2000), p. 5.

⁴⁶⁴ P296 (Witness JF-023, *Martić* transcript, 20 March 2006), pp. 2309-2310.

201. **Tomislav Kozarčanin**, a Croat from Hrvatska Dubica in Kostajnica municipality,⁴⁶⁵ provided evidence consistent with Adjudicated Fact III-73 in relation to Hrvatska Dubica being shelled from Hrvatska Kostajnica and Croat forces withdrawing. Kozarčanin added that, when withdrawing, the Croat forces instructed the Croatian inhabitants of the village to leave as well. Although most villagers left, the witness stayed, and along with some others he hid in different houses and in the woods. According to the witness, JNA fighter planes also participated in the attack. After shelling Hrvatska Dubica for ten days, the Serbs entered the village and occupied it.⁴⁶⁶

202. In October 1991, Đuro Majastorović and two other persons also called Majastorović, wearing JNA camouflage uniforms and carrying automatic rifles, arrived in a green private car, which they forced the witness into after they handcuffed, blindfolded, and started to beat him. The three men took the witness to an abandoned house, beating throughout the journey, breaking his ribs and stabbing his legs with a knife. The three men then drove the witness to a barn, where they abandoned him after removing his handcuffs. When the witness went back to his house, he met two Serbs who took the witness to the Red Cross for first aid. Later on, one of the Serbs took him to the police station in Hrvatska Dubica, to tell the police what had happened.⁴⁶⁷

203. The witness referred to eleven Serbs, mostly by name, who were involved in looting and burning houses in Hrvatska Dubica in the end of 1992 and the beginning of 1993. They wore JNA uniforms, either camouflage or olive green with a red star or a “Chetnik”, double-headed eagle, insignia. The witness was told that their commander was Sveto Trivanović, a former teacher in Bosanska Dubica. In 1993, the witness’s daughters managed to bring the witness to Zagreb with the help of UNPROFOR.⁴⁶⁸

204. According to the Adjudicated Facts, prior to August 1993, a Catholic church in Hrvatska Dubica was razed to the ground and its foundations were removed. The Orthodox church remained intact and was still standing in 1995. By 1995, many houses in Hrvatska Dubica belonging to Croats had been destroyed. The part of the village which contained both Serb and Croat houses remained intact.⁴⁶⁹ **Josip Josipović**,⁴⁷⁰ **Witness JF-023**,⁴⁷¹ and **Tomislav Kozarčanin**⁴⁷² provided evidence consistent with these Adjudicated Facts.

⁴⁶⁵ P259 (Tomislav Kozarčanin, witness statement, 7 November 2000), pp. 1-2.

⁴⁶⁶ P259 (Tomislav Kozarčanin, witness statement, 7 November 2000), p. 2.

⁴⁶⁷ P259 (Tomislav Kozarčanin, witness statement, 7 November 2000), p. 3.

⁴⁶⁸ P259 (Tomislav Kozarčanin, witness statement, 7 November 2000), pp. 3-4.

⁴⁶⁹ Adjudicated Facts III, fact 99.

205. The Trial Chamber will first consider the reliability of Witness JF-023. The Simatović Defence contend that Witness JF-023's testimony is confusing and unreliable, alleging that the witness did not remember his earlier statements and was confused about the uniforms that armed persons in the region wore.⁴⁷³ The portions of the witness's testimony cited to by the Simatović Defence neither establish that he did not remember his previous statements, nor that he was confused about uniforms.⁴⁷⁴ Instead, the witness amended portions of his previous statement during his testimony in Court and testified that armed persons in the area alternated uniforms.⁴⁷⁵ The Trial Chamber does not consider these amendments to the statements to have a negative impact on the witness's overall reliability. Having further observed the witness's demeanour in Court, and in view of the totality of his evidence, the Trial Chamber considers the witness to be reliable.

206. The Trial Chamber now turns to Hrvatska Dubica and Predore. Having reviewed the totality of their evidence, the Trial Chamber considers the statements of Josip Josipović and Tomislav Kozarčanin, who provided evidence based in part on their own personal observations, to be reliable in this respect, as specified in the findings below. On the basis of the Adjudicated Facts and having reviewed the evidence of Josip Josipović, Witness C-1211, Tomislav Kozarčanin, and Witness JF-023, the Trial Chamber finds that on 12 or 13 September 1991, Serb forces, including the SAO Krajina TO and a special unit of the SAO Krajina police at Dvor na Uni, took over Hrvatska Kostajnica and from there and from Bosanska Dubica shelled the mixed Croat and Serb village of Hrvatska Dubica. As a result of this attack, many inhabitants left Hrvatska Dubica. The ZNG and Croatian MUP were present in Hrvatska Dubica on the day it was shelled and withdrew that same day. Based on the Adjudicated Facts and the evidence of Witness JF-023 and Tomislav Kozarčanin, the Trial Chamber finds that the shelling of Hrvatska Dubica lasted for ten days and that by mid-September 1991, only about 60 Croats, mainly women and elderly inhabitants, remained in Hrvatska Dubica.

207. Considering the Adjudicated Facts reviewed above and Adjudicated Fact III-75, reviewed in chapter 6.6.2, as well as the evidence of Josip Josipović, the Trial Chamber finds that on 15 September 1991, the JNA, the TO, and the SAO Krajina police, including Veljko

⁴⁷⁰ P68 (Josip Josipović, *Martić* transcript, 6-7 April 2006), pp. 3325-3326.

⁴⁷¹ P297 (Witness JF-023, witness statement, 8 November 2000), p. 5; P296 (Witness JF-023, *Martić* transcript, 20 March 2006), pp. 2294-2296, 2318-2319, 2355, 2361-2362, 2365.

⁴⁷² P259 (Tomislav Kozarčanin, witness statement, 7 November 2000), pp. 3-4.

⁴⁷³ Simatović Defence Final Trial Brief, 14 December 2012 (Confidential), para. 142.

⁴⁷⁴ See Witness JF-023, T. 3941-3944.

and Stevo Rađunović and Momčilo Kovačević, surrounded the ethnically-mixed village of Predore and used six or seven inhabitants, including Josip Josipović, a Croat, as human shields.

208. Based on the Adjudicated Facts as well as the evidence of Josip Josipović, the Trial Chamber finds that from 15 September 1991, for one month, members of the JNA, the TO, or the SAO Krajina police detained Josip Josipović, a Croat, and Mićo Ćorić at Dubička Brda and forced them to perform labour and loot Croat houses. On the same basis and considering Adjudicated Fact III-75, reviewed in chapter 6.6.2, the Trial Chamber finds that from October 1991 until late November or early December 1991, members of the SAO Krajina police, including Veljko Rađunović and Momčilo Kovačević, detained Josip Josipović and Mićo Ćorić in poor conditions at the old school building in Hrvatska Dubica, where they beat them and forced them to perform labour and to sing “Chetnik” songs while firing guns at them. After the SAO Krajina Police released him, JNA officers took Josip Josipović from Hrvatska Dubica to Prijedor, where he was detained and interrogated for about ten days.

209. The Trial Chamber takes into account the Adjudicated Facts and evidence which establish that during this time, members of the SAO Krajina police slit the throats of or otherwise killed three other detainees (Željko Abaza, Idriz Čausivić, and Ante Knežević) at the old school building in Hrvatska Dubica and looted houses in Hrvatska Dubica in October 1991. The Trial Chamber considers this to be consistent with Adjudicated Facts III-210 and 211, which establish the actions against the Croat population committed by the police throughout the SAO Krajina, as reviewed above. Based on the evidence of Josip Josipović, the Trial Chamber further finds that members of the JNA and the TO also looted houses in Hrvatska Dubica in October 1991.

210. In light of the evidence of Witness JF-023, the Trial Chamber finds that on 23 October 1991, members of the SAO Krajina police drove Witness JF-023 from Hrvatska Dubica to Bosanski Dubica and instructed him not to return until the war was over. Since Witness JF-23 is a Serb this incident falls outside the Indictment and the Trial Chamber will not further consider this incident.

211. Based on the Adjudicated Facts and the evidence of Witness JF-023 and Tomislav Kozarčanin, the Trial Chamber finds that members of the JNA, the TO, or the SAO Krajina police beat Tomislav Kozarčanin in October 1991 near Hrvatska Dubica, looted and burned

⁴⁷⁵ Witness JF-023, T. 3941-3944.

houses in Hrvatska Dubica in late 1992 and early 1993, and destroyed a Catholic church in Hrvatska Dubica by August 1993, while the Orthodox church remained intact until at least 1995. The Trial Chamber considers Tomislav Kozarčanin's evidence establishing that he left Hrvatska Dubica in 1993 and went to Zagreb to be consistent with Adjudicated Fact III-210, which establishes that displacement of the Croat population as a result of harassment and intimidation occurred in the SAO Krajina until the end of 1994, as reviewed above.

Baćin, August-October 1991

212. The Trial Chamber has taken judicial notice of Adjudicated Facts in relation to Baćin and received evidence from Witness C-1211 and Witness JF-023. According to the Adjudicated Facts, Baćin is situated about three to five kilometres west of Hrvatska Dubica and in 1990 it had 200 to 500 inhabitants.⁴⁷⁶ In 1990 the population in Baćin was 95 per cent Croat, and 1.5 per cent Serb.⁴⁷⁷ Following the take-over of Baćin, all the inhabitants left, with the exception of around 30 mostly elderly civilians.⁴⁷⁸ By 1995, half of the houses in Baćin were destroyed or torched. The Catholic church in Baćin had been completely destroyed.⁴⁷⁹ Witness JF-023 provided evidence consistent with these Adjudicated Facts.⁴⁸⁰

213. **Witness C-1211**, estimated that Baćin in Kostajnica municipality had perhaps a little more than 200 inhabitants in 1990 and had a Croat majority.⁴⁸¹ **Witness JF-023** likewise testified that Baćin was a predominantly Croat village.⁴⁸² Witness C-1211 further stated that he was present in Baćin during the first Serb paramilitary offensive in the area on 25 August 1991.⁴⁸³ He and three Croatian ZNG colleagues were driving in a minibus when the shelling started, prompting them to take refuge in a house. The shelling lasted for about two hours, and the witness estimated that about 90 shells exploded.⁴⁸⁴

214. Based on the testimony of Witness C-1211, the Trial Chamber finds that on 25 August 1991, Serb forces shelled the majority-Croat village of Baćin for about two hours, where at least four Croatian ZNG members were present. On the basis of the Adjudicated Facts, the

⁴⁷⁶ Adjudicated Facts III, fact 66.

⁴⁷⁷ Adjudicated Facts III, fact 67.

⁴⁷⁸ Adjudicated Facts III, fact 94.

⁴⁷⁹ Adjudicated Facts III, fact 101.

⁴⁸⁰ P297 (Witness JF-023, witness statement, 8 November 2000), p. 5; P296 (Witness JF-023, *Martić* transcript, 20 March 2006), pp. 2278, 2362.

⁴⁸¹ P1710 (Witness C-1211, witness statement, 9 November 2000), p. 3; P1713 (Witness C-1211, *Martić* transcript, 12 June 2006), pp. 5401, 5422.

⁴⁸² P297 (Witness JF-023, witness statement, 8 November 2000), p. 2.

⁴⁸³ P1710 (Witness C-1211, witness statement, 9 November 2000), p. 5; P1713 (Witness C-1211, *Martić* transcript, 12 June 2006), pp. 5413, 5417.

⁴⁸⁴ P1710 (Witness C-1211, witness statement, 9 November 2000), pp. 5-6.

Trial Chamber finds that following the Serb take-over of Baćin, all the inhabitants left, with the exception of around 30 mostly elderly civilians. The Trial Chamber further recalls its findings that on or around 21 October 1991, near Baćin, members of the SAO Krajina Police killed 41 Croat detainees who had been held at the Baćin fire station, set out in chapter 3.1.1.

Cerovljani, September 1991-1995

215. The Trial Chamber has taken judicial notice of Adjudicated Facts and received evidence from Witness JF-023 in relation to Cerovljani. According to the Adjudicated Facts, in 1991, the population of Cerovljani was 52.9 per cent Croat and 39.5 per cent Serb. Following the advice of the Croatian police and ZNG, most of the residents of Cerovljani left the village in August and early September 1991, after which only elderly people remained. On 13 and 21 September 1991, armed Serbs from Živaja under the command of Nikola Begović burnt ten houses in Cerovljani. On 24 September, the armed Serbs came again in the afternoon and shooting could be heard; that night three dead bodies were found. On the same day, the houses of Đuro Petrović, Nikola Dragocajac, Anka Barišić, and Željko Blinja were torched by the Serbs and rocket launchers were fired at the Catholic church which damaged the bell tower. Some of the armed Serbs also stole the car of Antun Blažević. By 1995, Croat houses in Cerovljani had been burnt or blown up, and the Catholic church had been destroyed.⁴⁸⁵ **Witness JF-023** provided testimony consistent with the above Adjudicated Facts.⁴⁸⁶

216. Based on the Adjudicated Facts, the Trial Chamber finds that most of the residents of the majority-Croat village of Cerovljani left in August and early September 1991 on the advice of the Croatian police and the ZNG, after which only elderly people remained. Based on the Adjudicated Facts⁴⁸⁷ and the testimony of Witness JF-023, the Trial Chamber finds that in Cerovljani on 13 and 21 September 1991, JNA reservists (whose headquarters were in Živaja) burnt ten houses and on 24 September 1991, burnt another four houses and fired rockets at the Catholic church, thereby damaging it.

Persons departing from the Kostajnica region, in the north-east of the SAO Krajina

217. The Radić Report on Expelled Persons in Croatia provides that by 27 March 1992, a total of 47,322 persons had been registered in the Republic of Croatia as having been expelled

⁴⁸⁵ Adjudicated Facts III, facts 65, 88-90, 100.

⁴⁸⁶ P297 (Witness JF-023, witness statement, 8 November 2000), p. 2; P296 (Witness JF-023, *Martić* transcript, 20 March 2006), pp. 2278, 2362.

⁴⁸⁷ Including Adjudicated Fact III, fact 75.

from the municipalities of Dvor, Glina, Hrvatska Kostajnica, Nova Gradiška, Novska, Pakrac, Petrinja, and Sisak.⁴⁸⁸ According to the same report, the Office of Expelled Persons and Refugees of the Croatian Government provided that after the first registration of expelled persons, in April 1992, of a total of 38,467 expelled from the aforementioned eight municipalities, more than 80 per cent were Croat, less than 10 per cent were Serbs, with the remaining less than 10 per cent made up of other non-Serbs.⁴⁸⁹

218. The Trial Chamber recalls its findings on the actions (including attacks, killings, arbitrary arrest and detention, burnings of Catholic churches, forced labour, torture, harassment, use of human shields, looting, and other persecutory acts) which occurred in the Kostajnica region in July, September, October, November, and December of 1991. In view of these actions, the Trial Chamber considers the evidence of approximately 35,000 to 45,000 Croats and other non-Serbs leaving this region by March or April 1992 to be consistent with Adjudicated Facts 207 and 210, which establish the displacement of the Croat population in the SAO Krajina, as reviewed above. The Trial Chamber will further consider the Kostajnica region in the last section of this chapter.⁴⁹⁰

Deportation and forcible transfer in the Saborsko region, in the north-west of the SAO Krajina, July 1991-1993

219. The Trial Chamber now turns to the Adjudicated Facts and evidence in relation to the area of Saborsko, in the north-west of the SAO Krajina. This region includes Titova Korenica, Slunj, Vojnić, and Vrginmost municipalities and parts of the municipalities of Gospić, Otočac, Ogulin, Duga Resa, and Karlovac.⁴⁹¹ The Trial Chamber will address in turn: the villages of Ljubovo, Lipovača, Poljanak and Vukovići, and Saborsko town.

Ljubovo, July 1991

220. According to the Adjudicated Facts, on 2 July 1991, the village of Ljubovo, south-west of Titova Korenica, was attacked by the *Milicija Krajine* because members of the Croatian MUP had stationed themselves there following the conflict in Plitvice.⁴⁹² In public statements, Milan Martić said that this attack was carried out because an ultimatum of the

⁴⁸⁸ P551 (Report on the Expelled Population of the Republic of Croatia in 1991), pp. 59-60.

⁴⁸⁹ P551 (Report on the Expelled Population of the Republic of Croatia in 1991), pp. 63-64.

⁴⁹⁰ Findings on deportation and forcible transfer in the entire SAO Krajina 1991-1995.

⁴⁹¹ As depicted in P258 (22 Maps from the Court Map Binder), p. 7 (Map depicting SAO Krajina and SAO SBWS as controlled at the end of 1991).

⁴⁹² Adjudicated Facts III, fact 43.

SAO Krajina government had expired which required that all members and units of the Croatian MUP withdraw from the SAO Krajina territory and because of arrests and mistreatment by Croats of Serbs in the area of Lika.⁴⁹³

221. **Witness JF-039**, a Serb from Croatia,⁴⁹⁴ testified that when a group of officers had completed their training at Golubić, they were required to complete a specific assignment to qualify for graduation as special police.⁴⁹⁵ For example, one of the first groups was sent to the entirely Croatian village of Ljubovo and had to fire rockets from a hand-held launcher into the village.⁴⁹⁶ This group was commanded by Milorad Čalić, who later became Goran Hadžić's bodyguard.⁴⁹⁷ The witness testified that he did not take part in the operation and that he did not observe the situation in Ljubovo after the action. The witness's knowledge was based on stories told by the commander of the action and one other person who had participated in the action.⁴⁹⁸ The witness testified that the purpose of the attack on Ljubovo was to cleanse the village, to get the entire population out, and to establish a purely Serb territory.⁴⁹⁹

222. Based on the unrebutted Adjudicated Facts, the Trial Chamber finds that on 2 July 1991, members of the SAO Krajina Police attacked Ljubovo, where members of the Croatian MUP were stationed. Witness JF-039's evidence indicates that at some point following the commencement of training at Golubić, SAO Krajina Police members fired a rocket launcher at Ljubovo. The Trial Chamber considers that Witness JF-039 provided insufficient basis for his testimony regarding the purpose of this attack. The evidence does not establish the extent of the rocket fire on Ljubovo or whether it caused any damage to property, injury, or death, nor does the evidence indicate that any persons left Ljubovo during or immediately after the rocket fire. The Trial Chamber further considers that Croatian MUP members were present in Ljubovo. Under these circumstances, the Trial Chamber will not rely on Witness JF-039's evidence in respect of Ljubovo.

⁴⁹³ Adjudicated Facts III, fact 44.

⁴⁹⁴ P978 (Witness JF-039, witness statement, 12 September 2003), p. 1, paras 1, 5, 23; P977 (Witness JF-039, prior testimony), pp. 1958-1959.

⁴⁹⁵ P978 (Witness JF-039, witness statement, 12 September 2003), para. 45; P977 (Witness JF-039, prior testimony), p. 2005.

⁴⁹⁶ P978 (Witness JF-039, witness statement, 12 September 2003), para. 45; P977 (Witness JF-039, prior testimony), pp. 2005-2006, 2101, 2196-2197; Witness JF-039, T. 7252.

⁴⁹⁷ P978 (Witness JF-039, witness statement, 12 September 2003), para. 45; P977 (Witness JF-039, prior testimony), p. 2005; Witness JF-039, T. 7252.

⁴⁹⁸ P977 (Witness JF-039, prior testimony), p. 2102.

Lipovača, October 1991

223. The Trial Chamber recalls its findings in chapter 3.1.2 that before the end of October 1991, in Lipovača, members of Serb paramilitary forces killed seven persons, at least three of whom were Croats.

Poljanak and Vukovići, October-November 1991

224. The Trial Chamber has reviewed further relevant evidence from Witness C-1230 regarding JNA attacks on Vukovići on 8 October and 7 November 1991 in chapters 3.1.2 and 3.1.3. Following the incidents in Poljanak and Vukovići in October and November 1991 (see chapter 3.1.2), on 15 November 1991, **Witness C-1230** went to Slunj, where he met his mother.⁵⁰⁰ They left Slunj as part of an organized group and travelled to Bosnia-Herzegovina, then on to Zagreb, and finally to Rijeka on 19 or 20 November 1991.⁵⁰¹

225. Having reviewed his evidence in light of the totality of the evidence before it, the Trial Chamber relies on the statements of Witness C-1230 in respect of the following. The Trial Chamber finds that on 8 October 1991, the JNA attacked Vukovići and burned many of the houses in the village. Between 22 and 24 October 1991, persons from a group of approximately 60 local Serbs from Plitvica in olive-drab uniforms took down a Croatian flag in Poljanak, burned it, and put up a Serb flag instead.

226. The Trial Chamber considers the evidence indicating that Kata Matovina and Toma Vuković were shot dead during the attack on Vukovići on 8 October 1991 to be consistent with Adjudicated Fact 211, which establishes the actions against Croats committed throughout the SAO Krajina in 1991 as reviewed above in chapter 3.1.7. The Trial Chamber further recalls its findings in chapter 3.1.2 that on 23 or 24 October 1991, in Poljanak, persons from this group hanged two non-Serbs in response to the taking down of the Serb flag.

227. The Trial Chamber recalls its findings in chapter 3.1.3 that on 7 November 1991, persons from a group of 90-100 JNA soldiers, including some from the JNA Niš special unit “Niški Specijalci”, and local Serbs killed eight Croats in Vukovići hamlet and killed two other non-Serbs in Poljanak. Considering the evidence of Witness C-1230 reviewed in the same

⁴⁹⁹ P977 (Witness JF-039, prior testimony), p. 2201.

⁵⁰⁰ P64 (Witness C-1230, witness statement, 28 February 2001), p. 6; P65 (Witness C-1230, statement to the Medical Centre for Human Rights, 16 April 1993), p. 2; P67 (Witness C-1230, statement to the Karlovac Police Administration, 15 September 1995), p. 3.

⁵⁰¹ P64 (Witness C-1230, witness statement, 28 February 2001), p. 6; P65 (Witness C-1230, statement to the Medical Centre for Human Rights, 16 April 1993), p. 2; P67 (Witness C-1230, statement to the Karlovac Police Administration, 15 September 1995), p. 3.

Chapter, the Trial Chamber finds that on the same day, persons from the same group looted houses in Poljanak and set fire to or otherwise damaged many houses and haystacks in Vukovići and Poljanak.

228. The Trial Chamber considers the evidence of Witness C-1230 reviewed above, that on 15 November 1991, he left the area and went to Slunj, from where he travelled with his mother as part of an organized group to Bosnia-Herzegovina, to be consistent with Adjudicated Facts 208 and 210, reviewed above in the second section of this chapter.⁵⁰²

Saborsko town, March-October 1991

229. The Trial Chamber will first consider the population of Saborsko town and then review the events which occurred there from March through October 1991.

230. The Adjudicated Facts provide that in 1991, Saborsko had 852 inhabitants (93.9 per cent Croat, and 3.3 per cent Serb).⁵⁰³ The Trial Chamber has received evidence in relation to the ethnic composition of Saborsko and the surrounding villages from **Ana Bićanić**,⁵⁰⁴ **Vlado Vuković**,⁵⁰⁵ and **Witness JF-006**⁵⁰⁶ which is consistent with the Adjudicated Facts.

231. The Adjudicated Facts further provide that there were several ongoing clashes between Croatian armed forces and formations and the forces of the SAO Krajina from the spring of 1991, including in Saborsko.⁵⁰⁷ In March 1991, there were armed clashes in Pakrac in Western Slavonia and in Plitvice between Titova Korenica and Saborsko between Croatian MUP special police forces and the police of the SAO Krajina. In both of these clashes, the JNA intervened to separate the two sides.⁵⁰⁸ On 2 April 1991, the Croat members of the Ogulin SJB established an outpost in Saborsko. There were around 30 policemen, armed with automatic rifles and pistols, who engaged in regular police work but also manned checkpoints in case of an attack on Saborsko. Between April and August 1991, JNA armoured vehicles were allowed to pass through roadblocks and patrolled daily through Saborsko going between Plitvice and Lička Jasenica. From around June 1991, about 20 or 30 local men were

⁵⁰² Deportation and forcible transfer from the entirety of the SAO Krajina, 1991-1995.

⁵⁰³ Adjudicated Facts III, fact 119.

⁵⁰⁴ P1737 (Ana Bićanić, witness statements), 20 January 2001 statement, p. 2; P1738 (Ana Bićanić, *Slobodan Milošević* transcript, 28 August 2003), p. 25522.

⁵⁰⁵ P1770 (Vlado Vuković, witness statement, 20 January 2001), p. 2; P1774 (Vlado Vuković, *Slobodan Milošević* transcript, 3 July 2003), p. 23692; P1775 (Vlado Vuković, *Martić* transcript, 27-28 March 2006), pp. 2649, 2679, 2719, 2730.

⁵⁰⁶ P104 (Witness JF-006, *Slobodan Milošević* transcript, 15 October 2002), p. 11615; P105 (Witness JF-006, *Martić* transcript, 28 March 2006), pp. 2747-2748, 2771.

⁵⁰⁷ Adjudicated Facts III, fact 18.

⁵⁰⁸ Adjudicated Facts III, fact 8.

organized in Saborsko and patrolled the village at night carrying “hunting guns or some military rifles”. Between June and August 1991, Saborsko was fired upon with rifle and artillery fire. It was mostly one of the churches and the school that were shot at and the fire came from Lička Jasenica and from Pištenik hill.⁵⁰⁹ As a result of the attacks in June and July 1991, ten people were killed, and there was a large number of wounded.⁵¹⁰ **Milan Babić**’s evidence is generally consistent with Adjudicated Fact III 8.⁵¹¹

232. The Adjudicated Facts establish that in the early morning of 5 August 1991, Saborsko was shelled by mortars from the direction of the Lička Jasenica JNA barracks. Shells fell on the cemetery and central parts of the village.⁵¹² (**Vlado Vuković** provided evidence consistent with these Adjudicated Facts.⁵¹³) On the night of 5 August 1991, most of the civilian population of Saborsko fled through Rakovica to Grabovac, where the Red Cross had arrived with three buses. About 100-150 civilians were evacuated to areas under Croatian control. Around 400 persons returned to Saborsko in the following days.⁵¹⁴ After 5 August 1991, Saborsko was shelled almost every day from various directions, including from the direction of the barracks at Lička Jasenica.⁵¹⁵

233. **Ana Bićanić**, a Croat from Saborsko,⁵¹⁶ stated that in July 1991, Croatian social workers arrived and evacuated several elderly persons and women with young children who, the witness believed, would not have been able to walk or flee through the woods.⁵¹⁷ From June to November 1991 she observed APCs and jeeps full of soldiers driving through the village towards Lička Jesenica, where she knew the JNA had a military training base.⁵¹⁸ The Trial Chamber has reviewed further relevant evidence from **Ana Bićanić** regarding heavy and random artillery shelling on Saborsko between 5 August and 10 November 1991 in chapter 3.1.2.

⁵⁰⁹ Adjudicated Facts III, fact 120.

⁵¹⁰ Adjudicated Facts III, fact 121.

⁵¹¹ P1877 (Milan Babić, *Milan Martić* transcript, 15-17, 20-21 February, and 2-3, and 6 March 2006), pp. 1506, 1512-1513.

⁵¹² Adjudicated Facts III, fact 122.

⁵¹³ P1770 (Vlado Vuković, witness statement, 20 January 2001), p. 3; P1774 (Vlado Vuković, *Slobodan Milošević* transcript, 3 July 2003), pp. 23700-23702, 23715-23716; P1775 (Vlado Vuković, *Martić* transcript, 27-28 March 2006), pp. 2655-2659, 2692-2693, 2722, 2724.

⁵¹⁴ Adjudicated Facts III, fact 123.

⁵¹⁵ Adjudicated Facts III, fact 124.

⁵¹⁶ P1737 (Ana Bićanić, witness statements), 20 January 2001 statement, pp. 1-2.

⁵¹⁷ P1737 (Ana Bićanić, witness statements), 20 January 2001 statement, p. 3; P1738 (Ana Bićanić, *Slobodan Milošević* transcript, 28 August 2003), p. 25525.

⁵¹⁸ P1737 (Ana Bićanić, witness statements), 20 January 2001 statement, p. 3.

234. **Vlado Vuković**, a Croat from Saborsko in Ogulin municipality,⁵¹⁹ stated that in late July 1991, approximately 20 police officers from the municipality of Duga Resa arrived to help defend Saborsko and they were deployed in the police station and in the school building in the centre of town.⁵²⁰ From 5 August 1991, Saborsko was isolated and surrounded: all communications and travel were stopped and nobody could leave or enter Saborsko or use the road towards Plaški.⁵²¹ On 5 August 1991, Saborsko was shelled from 6 a.m. until 10 a.m., but no structures were damaged and there were no casualties in Saborsko.⁵²² According to the witness, 80 mortar shells of 82 millimetre calibre fell on Saborsko during this time.⁵²³ The shelling started again around sunset, coming from various directions. The shelling was stronger than before and a number of homes were damaged.⁵²⁴ The shells fell in the centre of Saborsko.⁵²⁵ That evening some of the Duga Resa police officers left Saborsko with a large proportion of the elderly, women, and children, who headed towards Rakovica.⁵²⁶ Most of the residents, including women, returned to Saborsko the next day, on 6 August 1991. After 5 August 1995, the shelling of Saborsko continued with 100 to 200 shells impacting the area on a daily basis, including shells of 122 millimetres, and the shelling destroyed or damaged many houses and the church, but did not kill anyone while the witness was in Saborsko.⁵²⁷

235. On 23 September 1991, the witness saw a convoy of about 100 men who had lived in the village, wearing green reserve police officer uniforms and referred to as the Independent Company Saborsko, come back from Zagreb to help the police in Saborsko defend the encircled village.⁵²⁸ These men were divided into groups to guard the village against attack.⁵²⁹

⁵¹⁹ P1770 (Vlado Vuković, witness statement, 20 January 2001), pp. 1-2; P1775 (Vlado Vuković, *Martić* transcript, 27-28 March 2006), p. 2648.

⁵²⁰ P1770 (Vlado Vuković, witness statement, 20 January 2001), p. 3; P1774 (Vlado Vuković, *Slobodan Milošević* transcript, 3 July 2003), pp. 23700-23701, 23718; P1775 (Vlado Vuković, *Martić* transcript, 27-28 March 2006), pp. 2659, 2690-2692, 2732.

⁵²¹ P1770 (Vlado Vuković, witness statement, 20 January 2001), p. 3; P1775 (Vlado Vuković, *Martić* transcript, 27-28 March 2006), pp. 2694, 2711-2712.

⁵²² P1770 (Vlado Vuković, witness statement, 20 January 2001), p. 3; P1774 (Vlado Vuković, *Slobodan Milošević* transcript, 3 July 2003), pp. 23700-23701; P1775 (Vlado Vuković, *Martić* transcript, 27-28 March 2006), pp. 2657-2658, 2722.

⁵²³ P1774 (Vlado Vuković, *Slobodan Milošević* transcript, 3 July 2003), p. 23701; P1775 (Vlado Vuković, *Martić* transcript, 27-28 March 2006), pp. 2656-2658.

⁵²⁴ P1770 (Vlado Vuković, witness statement, 20 January 2001), p. 3.

⁵²⁵ P1775 (Vlado Vuković, *Martić* transcript, 27-28 March 2006), p. 2659.

⁵²⁶ P1770 (Vlado Vuković, witness statement, 20 January 2001), p. 3; P1774 (Vlado Vuković, *Slobodan Milošević* transcript, 3 July 2003), pp. 23716, 23718; P1775 (Vlado Vuković, *Martić* transcript, 27-28 March 2006), pp. 2659, 2692-2693, 2727.

⁵²⁷ P1770 (Vlado Vuković, witness statement, 20 January 2001), p. 3; P1774 (Vlado Vuković, *Slobodan Milošević* transcript, 3 July 2003), p. 23716; P1775 (Vlado Vuković, *Martić* transcript, 27-28 March 2006), pp. 2659-2660, 2693, 2727.

⁵²⁸ P1770 (Vlado Vuković, witness statement, 20 January 2001), p. 3; P1774 (Vlado Vuković, *Slobodan Milošević* transcript, 3 July 2003), pp. 23704-23705, 23718; P1775 (Vlado Vuković, *Martić* transcript, 27-28 March 2006), pp. 2660-2662, 2694-2695, 2723.

236. On 29 September 1991, the witness was travelling between Rakovica and Saborsko with two reserve police officers from Zagreb named Ivica Vuković and Nijaz Porić, all three armed and wearing Croatian grey police uniforms, when five to seven armed men in camouflage or JNA uniforms stopped the witness and his companions.⁵³⁰ These men introduced themselves as Martić's Militia.⁵³¹ The witness knew the men were from Plaški.⁵³² The men took the witness and his two companions to the police station in Plaški, where they were held for 12 days. The witness was beaten many times by men wearing camouflage uniforms who said they were Martićevci.⁵³³ The witness claimed that the JNA and Martić's men were almost indistinguishable as the same men wore camouflage uniforms one day and olive-green JNA uniforms the other or drove a civilian vehicle one day and a JNA vehicle the other.⁵³⁴

237. After 12 days, Miloš Momčilović (nicknamed Kole) and Željko Mudrić (nicknamed Buba), both members of Martić's Militia, drove the witness to the Korenica police station, in Titova Korenica municipality, where he was beaten severely several times.⁵³⁵ The witness was held in a cell along with two Croatians, Nikola Pemper and Ignjac Ivanuš. The witness saw policemen with the insignia of the Krajina police and men in camouflage uniforms at Korenica. The men in police uniforms were usually present while the witness was beaten and acted as though nothing was happening or stood around laughing.⁵³⁶

238. After 10 to 12 days at Korenica, the witness (along with Nijaz Porić, Ivica Vuković, and four men from Gospić: Ignjac Ivanuš, Nikola Pemper, Ante Marinić and Josip Kazda) was taken in a JNA vehicle to the JNA-controlled Željjava airport near Bihać, in Bosnia-Herzegovina, where he saw men wearing blue JNA military police uniforms with white belts and olive green JNA uniforms interchangeably, as well as men in camouflage uniforms. The witness was held in a hangar at the airport for around eight days, where men who wore blue

⁵²⁹ P1770 (Vlado Vuković, witness statement, 20 January 2001), p. 3.

⁵³⁰ P1770 (Vlado Vuković, witness statement, 20 January 2001), p. 3; P1774 (Vlado Vuković, *Slobodan Milošević* transcript, 3 July 2003), pp. 23706-23709, 23719; P1775 (Vlado Vuković, *Martić* transcript, 27-28 March 2006), pp. 2662-2664, 2708-2709.

⁵³¹ P1774 (Vlado Vuković, *Slobodan Milošević* transcript, 3 July 2003), p. 23709; P1775 (Vlado Vuković, *Martić* transcript, 27-28 March 2006), pp. 2664, 2705.

⁵³² P1775 (Vlado Vuković, *Martić* transcript, 27-28 March 2006), pp. 2664, 2709-2710.

⁵³³ P1770 (Vlado Vuković, witness statement, 20 January 2001), p. 3; P1775 (Vlado Vuković, *Martić* transcript, 27-28 March 2006), pp. 2665, 2667, 2669, 2705.

⁵³⁴ P1774 (Vlado Vuković, *Slobodan Milošević* transcript, 3 July 2003), pp. 23706, 23709; P1775 (Vlado Vuković, *Martić* transcript, 27-28 March 2006), pp. 2704-2706.

⁵³⁵ P1770 (Vlado Vuković, witness statement, 20 January 2001), pp. 3-4; P1772 (Vlado Vuković, addendum witness statement, 18 June 2003); P1775 (Vlado Vuković, *Martić* transcript, 27-28 March 2006), pp. 2669-2671, 2724-2725.

⁵³⁶ P1775 (Vlado Vuković, *Martić* transcript, 27-28 March 2006), pp. 2669-2672, 2712-2713, 2724.

uniforms with white belts one day and green JNA uniforms the next, severely beat the witness.⁵³⁷ A JNA military policeman at the airport told the witness that the persons beating him were ethnic Serb former colleagues of the witness from the Croatian MUP in Zagreb who had since joined the JNA military police.⁵³⁸ The witness was then taken to a JNA barracks and military training camp at Manjača near Banja Luka, in Bosnia-Herzegovina, where he was held alongside approximately 200 prisoners in three cattle hangars. On 9 November 1991, the witness was exchanged in a group of about 200 people for Serb JNA soldiers at Manjača and then taken to Zagreb.⁵³⁹ Throughout his arrest and detention the witness was not told why he had been arrested as his captors only uttered obscenities to the witness and told him that the Republic of Croatia would cost him dearly.⁵⁴⁰

239. On the basis of the Adjudicated Facts, the Trial Chamber finds that between June and August 1991, Serb forces fired rifles and artillery at the predominantly Croat village of Saborsko. The fire was mostly directed at a church and a school and killed ten people and wounded a large number of others in June and July 1991. From April 1991, around 30 armed Croatian policemen were based in Saborsko and from June 1991, 20-30 local men formed an armed village guard there. Considering the evidence of Ana Bićanić, the Trial Chamber further finds that several elderly Croats and Croat women with young children left Saborsko in July 1991.

240. Having reviewed their evidence in light of the totality of the evidence before it, the Trial Chamber relies on the statements of Ana Bićanić and Vlado Vuković in respect of the following. Further considering the Adjudicated Facts, the Trial Chamber finds that on a daily basis between 5 August and 10 November 1991, Serb forces shelled Saborsko, destroying or damaging many houses and a church. The Trial Chamber has received evidence from Ana Bićanić and Vlado Vuković indicating the presence of Croat forces in Saborsko during this period. Based on this evidence, the Trial Chamber finds that the following Croat forces were present in Saborsko: an armed local village guard of around 20-30 men from August through November 1991; 20 Croatian police officers from Duga Resa from late July to the evening of

⁵³⁷ P1770 (Vlado Vuković, witness statement, 20 January 2001), p. 4; P1772 (Vlado Vuković, addendum witness statement, 18 June 2003); P1775 (Vlado Vuković, *Martić* transcript, 27-28 March 2006), pp. 2672-2673, 2731-2732.

⁵³⁸ P1772 (Vlado Vuković, addendum witness statement, 18 June 2003); P1775 (Vlado Vuković, *Martić* transcript, 27-28 March 2006), pp. 2673, 2725, 2729-2732.

⁵³⁹ P1770 (Vlado Vuković, witness statement, 20 January 2001), p. 4; P1775 (Vlado Vuković, *Martić* transcript, 27-28 March 2006), p. 2673-2674.

⁵⁴⁰ P1775 (Vlado Vuković, *Martić* transcript, 27-28 March 2006), pp. 2674, 2724.

5 August 1991; and the Independent Company Saborsko of about 100 local men from 23 September 1991.

241. In light of the Adjudicated Facts and having reviewed the evidence of Vlado Vuković, the Trial Chamber finds that on the night of 5 August 1991, most of the civilian population of Saborsko fled to Grabovac. Red Cross buses then evacuated about 100-150 Croat civilians to areas under Croatian control. Around 400 persons returned to Saborsko in the following days.

242. Considering the evidence of Vlado Vuković, the Trial Chamber finds that on 29 September 1991, members of the SAO Krajina Police detained three Croat policemen, including Vlado Vuković, a Croat from Saborsko, at the Plaški police station and then transferred these detainees to the Korenica police station, where they had also detained two other Croats. Throughout the detention, members of the SAO Krajina Police beat Vlado Vuković severely. In October 1991, members of the JNA, including members of the JNA military police, then detained the aforementioned five Croats and two other men at Željava airport for at least eight days and severely beat Vlado Vuković. Members of the JNA then took Vlado Vuković to Manjača near Banja Luka, in Bosnia-Herzegovina, after which he was exchanged to Zagreb. The witness's captors told him that the Republic of Croatia would cost him dearly. The Trial Chamber will further consider this incident in relation to Counts 1, 4, and 5 of the Indictment, in the Indictment, in chapter 4, below.

Saborsko town, November 1991

243. The Adjudicated Facts provide that Saborsko was attacked mid-morning on 12 November 1991 by Tactical Group 2, under the command of Colonel Čedomir Bulat, and the 5th Partisan Brigade, both of which were within the structure of the JNA's 13th Corps. A unit of the Plaški SDB, the Plaški TO Brigade, and *Milicija Krajine* units participated in the attack. Within the Plaški TO Brigade, a battalion consisting of three companies under the command of Bogdan Grba participated.⁵⁴¹ The attack commenced with aerial bombing followed by an artillery attack. Afterwards, ground units, including tanks, moved in on Saborsko from three axes.⁵⁴² The Trial Chamber has received documentary evidence (including orders, records of statements, and a police report) and heard the testimony of Witness JF-006, which are consistent with the Adjudicated Facts regarding the

⁵⁴¹ Adjudicated Facts III, fact 125.

⁵⁴² Adjudicated Facts III, fact 126.

mentioned Serb forces participating in the attack on Saborsko and the manner in which the attack was carried out.⁵⁴³

244. Witness JF-006, Witness JF-039, and a record of a statement by Marinko Mudrić (in evidence as exhibit P2628), a police report (in evidence as exhibit D7), and an order by Bogdan Grba (in evidence as exhibit D8) provided additional information regarding the attack on Saborsko. **Witness JF-006**, a Serb from the town of Plaški,⁵⁴⁴ testified that he was mobilized into the Plaški TO in August or September 1991.⁵⁴⁵ According to him, the technical equipment for the attack on Saborsko came from the JNA military training ground between Plaški and Slunj.⁵⁴⁶ Prior to the attack, Commander Bulat stated that a large number of Croat soldiers were stationed in Saborsko, and had refused Serbs passage through the village to other parts of the RSK.⁵⁴⁷ As a result, the take-over of the town was necessary to secure Serbs safe passage out of the area, to allow supplies into Plaški, and to link up Serb lands in the region.⁵⁴⁸

245. The witness testified some 20 to 30 members of Martić's Police took part in the attack, though they were not part of the TO.⁵⁴⁹ They wore blue uniforms with "Policija Krajina" inscribed on the left arm and were under the command of Nikola Medaković.⁵⁵⁰ Exhibits D7 and D8 are consistent with Witness JF-006's evidence that Medaković commanded police

⁵⁴³ Documentary evidence: P107 (Official Note for the Korenica SJB, 13 November 1991); P1138 (Command of 5th Military District order for the formation of Tactical Group 2, 23 October 1991); P1139 (Order on the attack of Saborsko, Čedomir Bulat), pp. 2-3, 5-6; P1140 (Order on the attack of Saborsko, Slobodan Đorđević, 7 November 1991), pp. 1-5, 7; P1141 (Order on the attack of Saborsko, Bogdan Grba, 3 November 1991); P2628 (Record of statement, Ogulin Police Station, Croatian MUP, signed by Marinko Mudrić, 7 April 1992), p. 4; D6 (Report by Dušan Latas, 23 November 1991), p. 2; D7 (Police report relating to Čedomir Bulat and Bogdan Grba, 5 February 2001), p. 7; D8 (Order by Bogdan Grba regarding attack on Saborsko, 11 November 1991). Witness JF-006: P103 (Witness JF-006, witness statement, 20 January 2001), pp. 3-4; P104 (Witness JF-006, *Slobodan Milošević* transcript, 15 October 2002), pp. 11585-11586, 11589-11595, 11627; P105 (Witness JF-006, *Martić* transcript, 28 March 2006), pp. 2751-2752, 2783-2784, 2789-2790, 2793-2794, 2798-2799; Witness JF-006, T. 2475-2476, 2499, 2552-2533, 2538.

⁵⁴⁴ P103 (Witness JF-006, witness statement, 20 January 2001), pp. 1-2.

⁵⁴⁵ P103 (Witness JF-006, witness statement, 20 January 2001), pp. 1-2, 4; P104 (Witness JF-006, *Slobodan Milošević* transcript, 15 October 2002), pp. 11589, 11604; Witness JF-006, T. 2510-2513.

⁵⁴⁶ P104 (Witness JF-006, *Slobodan Milošević* transcript, 15 October 2002), pp. 11585, 11636; P105 (Witness JF-006, *Martić* transcript, 28 March 2006), pp. 2783, 2823-2824.

⁵⁴⁷ P103 (Witness JF-006, witness statement, 20 January 2001), p. 4; P104 (Witness JF-006, *Slobodan Milošević* transcript, 15 October 2002), pp. 11589, 11605; P105 (Witness JF-006, *Martić* transcript, 28 March 2006), p. 2795.

⁵⁴⁸ P103 (Witness JF-006, witness statement, 20 January 2001), p. 4; P104 (Witness JF-006, *Slobodan Milošević* transcript, 15 October 2002), pp. 11592, 11605-11607.

⁵⁴⁹ P103 (Witness JF-006, witness statement, 20 January 2001), p. 5; P104 (Witness JF-006, *Slobodan Milošević* transcript, 15 October 2002), p. 11591; P105 (Witness JF-006, *Martić* transcript, 28 March 2006), pp. 2794-2795; Witness JF-006, T. 2476.

⁵⁵⁰ P103 (Witness JF-006, witness statement, 20 January 2001), p. 5; P105 (Witness JF-006, *Martić* transcript, 28 March 2006), pp. 2794-2795.

units in the attack on Saborsko.⁵⁵¹ According to the witness, 20 to 30 members of the regular Plaški police force, including Dušan Latas, also participated in the attack under the command of the JNA.⁵⁵²

246. **Witness JF-039**, a Serb from Croatia,⁵⁵³ testified that Martić stated that the army and the Red Berets took part in the operation in Saborsko.⁵⁵⁴ In light of the evidence reviewed in chapter 6.3.2, the Trial Chamber understands Witness JF-039's reference to the Red Berets in 1991 to refer to men who moved from Golubić (where they had been known as Martić's men) and the Knin fortress (where they had been known as Kninžas) to Korenica in late July or early August 1991. Witness JF-039 further testified that he saw Saborsko the first time when he drove through the area with Martić, who described it as "scorched earth". Martić made the comment: "we fucked their mothers, this is now pure Serbian land".⁵⁵⁵ The reason the witness was given for the attack was that the politicians in Knin and other Serb areas wanted a direct route to the Serb areas in Kordun and Banja and Saborsko was a Croatian village in the way.⁵⁵⁶

247. On 7 April 1992, Marinko Mudrić stated to Croatian MUP Ogulin police officials that prior to the attack on Saborsko, Nikola Medaković, commander of the Martićevci, read an order signed by General Bulat on how to behave during the attack. Approximately 1,500 people listened to the order for the attack and 23 tanks were lined up.⁵⁵⁷

248. Much later, on 5 February 2001, at the conclusion of a criminal investigation into potential war crimes committed by Čedomir Bulat and Bogdan Grba against civilians in Saborsko, the Karlovac Police Department reported that the artillery and aircraft preparation and tank fire led to fires which damaged a number of houses and businesses in Saborsko. According to the report, most inhabitants of Saborsko fled from the village before the arrival of Serb forces.⁵⁵⁸

⁵⁵¹ D7 (Police report relating to Čedomir Bulat and Bogdan Grba, 5 February 2001), p. 7; D8 (Order by Bogdan Grba regarding attack on Saborsko, 11 November 1991), pp. 2-3.

⁵⁵² P105 (Witness JF-006, *Martić* transcript, 28 March 2006), pp. 2751, 2794, 2821; Witness JF-006, T. 2476; D6 (Report by Dušan Latas, 23 November 1991).

⁵⁵³ P978 (Witness JF-039, witness statement, 12 September 2003), p. 1, paras 1, 5, 23; P977 (Witness JF-039, prior testimony), pp. 1958-1959.

⁵⁵⁴ P977 (Witness JF-039, prior testimony), pp. 2023-2024, 2160.

⁵⁵⁵ P978 (Witness JF-039, witness statement, 12 September 2003), para. 61; P977 (Witness JF-039, prior testimony), pp. 2023, 2189.

⁵⁵⁶ P978 (Witness JF-039, witness statement, 12 September 2003), para. 62; P977 (Witness JF-039, prior testimony), pp. 2160-2161.

⁵⁵⁷ P2628 (Record of statement, Ogulin Police Station, Croatian MUP, signed by Marinko Mudrić, 7 April 1992), p. 4.

⁵⁵⁸ D7 (Police report relating to Čedomir Bulat and Bogdan Grba, 5 February 2001), p. 8.

249. Adjudicated Facts provide that, after the attack, there were many Serb soldiers and policemen in the centre of Saborsko. An individual identified as “Peić” together with Željko “Buba” Mudrić and Nedeljko “Kiča” Trbojević, as well as “other Martić’s men” drove away in private cars they found in Saborsko.⁵⁵⁹ More than 50 cattle from Saborsko were brought to Plaški and 17 sheep were taken to Kunić. Many houses in Saborsko were set alight and burnt after the attack. The perpetrators, who were engaged in the burning of the houses included Nedeljko “Kiča” Trbojević, “Peić”, Željko “Buba” Mudrić, as well as “other Martić’s men”. Houses in the hamlets of Tuk and Dumenčići, and in the Serb hamlet of Šolaje, were also set alight. In Borik, both Croat and Serb houses were burned.⁵⁶⁰ Witness JF-006’s evidence and Exhibits P2628 and D6 are consistent with the Adjudicated Facts on destruction in Saborsko.⁵⁶¹

250. Witness JF-006 and a report by Dušan Latas (in evidence as exhibit D6) and a police report (in evidence as exhibit D7) also provided additional information in relation to the aftermath of the attack on Saborsko. **Witness JF-006** testified that, by the time the unit arrived in Saborsko later that evening, the other Serb forces, including JNA and TO units, had already arrived. The witness testified that he saw 20 to 30 members of Martić’s Police there, including people he knew to have been trained at Golubić. Everything in the town, but for a school building and the church, was already on fire.⁵⁶² In the following months, the church was destroyed by explosives.⁵⁶³ The witness testified that there was no discipline amongst the Serb soldiers arriving in the town and that members of Martić’s Police, as well as some civilians, took part in looting the shops and houses for several days after the attack.⁵⁶⁴

251. A report by Dušan Latas, Section Commander of the Plaški Police, noted that by the time his police unit moved towards Saborsko, they could see that the town was on fire and was no longer there.⁵⁶⁵ A report by the Karlovac Police Department noted that during the

⁵⁵⁹ Adjudicated Facts III, fact 127.

⁵⁶⁰ Adjudicated Facts III, fact 128.

⁵⁶¹ D6 (Report by Dušan Latas, 23 November 1991), p. 3; P103 (Witness JF-006, witness statement, 20 January 2001), p. 4; P104 (Witness JF-006, *Slobodan Milošević* transcript, 15 October 2002), p. 11595-11597; P105 (Witness JF-006, *Martić* transcript, 28 March 2006), p. 2792-2793, 2799-2800, 2821; Witness JF-006, T. 2470; P2628 (Record of statement, Ogulin Police Station, Croatian MUP, signed by Marinko Mudrić, 7 April 1992), p. 4.

⁵⁶² P103 (Witness JF-006, witness statement, 20 January 2001), p. 5; P104 (Witness JF-006, *Slobodan Milošević* transcript, 15 October 2002), pp. 11598-11600, 11608; P105 (Witness JF-006, *Martić* transcript, 28 March 2006), p. 2799; Witness JF-006, T. 2454, 2514, 2517-2518.

⁵⁶³ P104 (Witness JF-006, *Slobodan Milošević* transcript, 15 October 2002), p. 11599; P105 (Witness JF-006, *Martić* transcript, 28 March 2006), p. 2753; Witness JF-006, T. 2513.

⁵⁶⁴ P103 (Witness JF-006, witness statement, 20 January 2001), p. 5; P104 (Witness JF-006, *Slobodan Milošević* transcript, 15 October 2002), pp. 11599-11600.

⁵⁶⁵ D6 (Report by Dušan Latas, 23 November 1991), p. 3.

attack on Saborsko of 12 November 1991, members of Martić's Militia and of the 1st Company from Lička Jasenica began looting and torching abandoned houses and businesses in the hamlet of Varoš.⁵⁶⁶

252. The Adjudicated Facts provide that, following the attack, most of the inhabitants of Saborsko fled to Karlovac, Zagreb, and Ogulin. However, about 30-60 elderly villagers remained in the village and were brought to the Lička Jasenica barracks by the Plaški TO. After spending the night at the barracks, they were taken by bus towards Ogulin and released in territory controlled by the Croatian side.⁵⁶⁷ Witness JF-006's testimony⁵⁶⁸ and exhibit D7⁵⁶⁹ are consistent with these Adjudicated Facts.

253. The report by Dušan Latas (in evidence as exhibit D6), the record of a statement by Marinko Mudrić (in evidence as P2628), and Witness JF-006 provided information on persons who died during the attack on Saborsko. According to D6, a report by Dušan Latas, Section Commander of the Plaški Police, there were over 50 casualties on the Croatian MUP side.⁵⁷⁰ On the Serb side, two or three soldiers were wounded.⁵⁷¹

254. On 7 April 1992, Marinko Mudrić stated to Croatian MUP Ogulin police officials that, in January 1992, he saw the bodies of 30 to 40 people aged over 60 in Saborsko who had been killed by air strikes and stated that in March 1992, the army buried the dead in front of their houses with excavators.⁵⁷² The Trial Chamber has reviewed further relevant information from exhibit P2628 in chapter 3.1.4.

255. **Witness JF-006** testified that he did not see any casualties during the attack on Saborsko.⁵⁷³ He later heard that around 20 Croats had been killed during the attack, and that, other than Pero Bičanić and two other men, these Croats were killed during the shelling.⁵⁷⁴ Witness JF-006 concluded from the lack of Serb casualties and the pace at which Serb forces

⁵⁶⁶ D7 (Police report relating to Čedomir Bulat and Bogdan Grba, 5 February 2001), pp. 8-9.

⁵⁶⁷ Adjudicated Facts III, fact 130.

⁵⁶⁸ P104 (Witness JF-006, *Slobodan Milošević* transcript, 15 October 2002), pp. 11603-11604, 11612-11613, 11637; P105 (Witness JF-006, *Martić* transcript, 28 March 2006), pp. 2801-2803.

⁵⁶⁹ D7 (Police report relating to Čedomir Bulat and Bogdan Grba, 5 February 2001), p. 10.

⁵⁷⁰ D6 (Report by Dušan Latas, 23 November 1991), p. 3.

⁵⁷¹ P103 (Witness JF-006, witness statement, 20 January 2001), p. 5; P104 (Witness JF-006, *Slobodan Milošević* transcript, 15 October 2002), p. 11596; P105 (Witness JF-006, *Martić* transcript, 28 March 2006), p. 2812; Witness JF-006, T. 2472; D6 (Report by Dušan Latas, 23 November 1991), p. 3.

⁵⁷² P2628 (Record of statement, Ogulin Police Station, Croatian MUP, signed by Marinko Mudrić, 7 April 1992), p. 4.

⁵⁷³ P103 (Witness JF-006, witness statement, 20 January 2001), p. 5; P104 (Witness JF-006, *Slobodan Milošević* transcript, 15 October 2002), p. 11609; P105 (Witness JF-006, *Martić* transcript, 28 March 2006), p. 2800; Witness JF-006, T. 2526-2527.

⁵⁷⁴ P103 (Witness JF-006, witness statement, 20 January 2001), p. 5; P104 (Witness JF-006, *Slobodan Milošević* transcript, 15 October 2002), pp. 11602, 11609-11610; Witness JF-006, T. 2468-2469.

advanced that Saborsko put up little or no resistance to the attack.⁵⁷⁵ The 3rd Battalion of the Plaščanska Brigade was responsible for the “cleaning up” of Saborsko after the attack, and for providing fuel for the excavator used to collect dead animals and to dig mass graves.⁵⁷⁶ The witness heard that 10-12 bodies were buried.⁵⁷⁷

256. In a letter addressed to Rudolf Špehar, dated 13 November 1991, Nikola Medaković, as President of the SAO Krajina Plaški municipal assembly, wrote that Saborsko had suffered the same fate as other places (such as Vaganac, Drežnik, and Lovinac) whose residents tried to defy the Serbs by using force, noting that, at the time of writing, there no longer was a Saborsko, and most likely, there never would be again.⁵⁷⁸

257. The Trial Chamber has reviewed further relevant Adjudicated Facts and evidence from Ana Bićanić and Witness C-1231 in relation to the attack on and killings in Saborsko on 12 November 1991 and the departure of Ana Bićanić and others from Saborsko in chapter 3.1.4.

258. Based on the Adjudicated Facts and having reviewed exhibits P107, P1138-P1141, P2628, D6, and D8 and the evidence of Witness JF-006, the Trial Chamber finds that on 12 November 1991, Serb forces attacked Saborsko. These forces were the Tactical Group 2, commanded by Čedomir Bulat, and the 5th Partisan Brigade, both of which were in the structure of the JNA’s 13 Corps. The forces further included a unit of the Plaški SDB, the Plaški TO Brigade, and units of the SAO Krajina Police. Based on exhibit D6 and on the testimony of Witness JF-006, whose evidence it relies on in this respect and in relation to the below, the Trial Chamber finds that the forces included members of the Plaški police. Based on exhibits P2628 and D8 and on the testimony of Witness JF-006, the Trial Chamber finds that Nikola Medaković commanded 20 to 30 members of the SAO Krajina Police who participated in the attack on Saborsko. The Trial Chamber further considers that the evidence of Witness JF-039 regarding the participation of persons who trained at Golubić is corroborated by the evidence of Witness JF-006. Based on this evidence, the Trial Chamber finds that a number of the SAO Krajina Police members who had previously been trained at Golubić and been present at the Korenica camp participated in the attack on Saborsko.

⁵⁷⁵ P104 (Witness JF-006, *Slobodan Milošević* transcript, 15 October 2002), p. 11596; P105 (Witness JF-006, *Martić* transcript, 28 March 2006), pp. 2753, 2812.

⁵⁷⁶ P103 (Witness JF-006, witness statement, 20 January 2001), p. 5; P104 (Witness JF-006, *Slobodan Milošević* transcript, 15 October 2002), pp. 11602-11603; P105 (Witness JF-006, *Martić* transcript, 28 March 2006), p. 2806.

⁵⁷⁷ P103 (Witness JF-006, witness statement, 20 January 2001), p. 5; P104 (Witness JF-006, *Slobodan Milošević* transcript, 15 October 2002), p. 11602, 11609-11610; P105 (Witness JF-006, *Martić* transcript, 28 March 2006), p. 2806.

⁵⁷⁸ P108 (Letter from Nikola Medaković to Rudolf Špehar, 13 November 1991).

However, in view of the date of the attack, the Trial Chamber considers that the evidence does not establish whether any members of the SDB unit on which it has made findings in chapter 6.3.2 participated in the attack on Saborsko.

259. Considering the Adjudicated Facts and having reviewed exhibits P1139-P1141, P2628, and D7-D8, as well as the evidence of Witness JF-006, Ana Bićanić, and Witness C-1231, the Trial Chamber finds that the attack on Saborsko commenced with aerial bombing, followed by artillery fire and a ground assault with troops and tanks. The Trial Chamber finds, based on the evidence of Ana Bićanić reviewed in chapter 3.1.2, that an armed local village guard of 20-30 men was present in Saborsko and that in October 1991, around 50 Croatian soldiers had arrived to defend the village. The evidence does not clearly establish whether any persons died as a result of the aerial bombing and artillery fire.

260. The Trial Chamber takes account of the Adjudicated Facts and exhibits P2628, D6, and D7 and the evidence of Witness JF-006 above and of Ana Bićanić and Witness C-1231 in chapter 3.1.4, which establish that on 12 November 1991, Serb forces, including members of the SAO Krajina Police, looted goods, cars, and cattle from Saborsko and set fire to many houses in Saborsko and in the hamlets of Borik (where they set fire to both Croat and Serb houses), Dumenčići, and Tuk, as well as in the Serb hamlet of Šolaje. Further, members of the SAO Krajina Police looted houses in Saborsko for several days after the attack. The Trial Chamber considers this consistent with Adjudicated Facts III 210 and 211, which establish the actions against Croat persons and property committed by the police throughout the SAO Krajina in 1991, as reviewed above.

261. The Trial Chamber recalls its findings in chapter 3.1.4 that on 12 November 1991, in Saborsko, members of the Serb forces which attacked Saborsko shot and killed nine Croats and pointed a gun at Ana Bićanić and told her to leave or she would be killed, after which they shot at a group of persons as they ran away. The Trial Chamber considers the Adjudicated Facts and the evidence of Ana Bićanić and Witness C-1231 set out in the aforementioned chapter, establishing that after these events, the group, including Ana Bićanić and Witness C-1231, walked towards Lipice, reaching territory controlled by the HVO on 15 November 1991, to be consistent with Adjudicated Facts 207, 208 and 210, which establish the manner in which displacement of the Croat population occurred in the SAO Krajina in 1991, as reviewed above in the second section of this chapter.⁵⁷⁹ Similarly, in view of its findings above in relation to the events of 12 November 1991, the Trial Chamber considers

the Adjudicated Facts and exhibit D7 that during and immediately after the attack, most of the inhabitants of Saborsko fled to Karlovac, Zagreb, and Ogulin, to be consistent with Adjudicated Facts 208 and 210.

262. In light of the Adjudicated Facts and having reviewed the testimony of Witness JF-006, the Trial Chamber further finds that in November 1991 the Plaški TO took 30-60 elderly Croat and non-Serb villagers who had remained in Saborsko and transferred them on buses to territory controlled by Croatian forces near Ogulin. The Trial Chamber will further consider this incident in relation to Counts 1, 4, and 5 of the Indictment, in chapter 4, below.

Persons departing from the Saborsko region in the north-west of the SAO Krajina, March 1992

263. According to the Radić Report on Expelled Persons in Croatia, by 27 March 1992, a total of 25,101 persons had been registered in the Republic of Croatia as having been expelled from the municipalities of Duga Resa, Gospić, Karlovac, Ogulin, Otočac, Titova Korenica, Slunj, Vojnić, and Vrginmost.⁵⁸⁰ According to the same report, the Office of Expelled Persons and Refugees of the Croatian Government provided that after the first registration of expelled persons, in April 1992, of a total of 26,944 persons expelled from the aforementioned nine municipalities, close to 90 per cent were Croat and less than 10 per cent were Serb, with the remaining few per cent made up of other non-Serbs.⁵⁸¹

264. The Trial Chamber recalls its findings on the actions (including attacks, killings, destruction of houses, arbitrary arrest and detention, torture, harassment, and looting) which occurred in the Saborsko region from June to November 1991. In view of these actions, the Trial Chamber considers the evidence of approximately 20,000 to 25,000 Croats and other non-Serbs leaving this region by March or April 1992 to be consistent with the Adjudicated Facts III 207 and 210, which establish the displacement of the Croat population in the SAO Krajina, as reviewed above. The Trial Chamber will further consider the Saborsko region in the last section of this chapter.⁵⁸²

⁵⁷⁹ Deportation and forcible transfer from the entirety of the SAO Krajina, 1991-1995.

⁵⁸⁰ P551 (Report on the Expelled Population of the Republic of Croatia in 1991), pp. 59-60.

⁵⁸¹ P551 (Report on the Expelled Population of the Republic of Croatia in 1991), pp. 63-64.

⁵⁸² Findings on deportation and forcible transfer in the entire SAO Krajina 1991-1995.

Deportation and forcible transfer in the Knin region, in the south of the SAO Krajina, 1991-1993

265. The Trial Chamber now turns to the Adjudicated Facts and evidence in relation to the area of Knin, in the south of the Krajina. This region consisted of all of Donji Lapac, Gračac, Knin, and Obrovac municipality and parts of the municipalities of Benkovac, Drniš, Šibenik, and Sinj.⁵⁸³ The Trial Chamber will address in turn: Škabrnja, Nadin and Benkovac; Lovinac; Bruška; Kijevo and Vrlika; Drniš; and Knin.

Škabrnja, Nadin, and other Croat villages in Benkovac municipality, September 1991-March 1992: Škabrnja and Nadin, September-October 1991

266. The Trial Chamber has taken judicial notice of Adjudicated Facts in relation to the population of Škabrnja and received relevant evidence from Marko Miljanić, an employee of the Croatian MUP in Zadar from May 1991.⁵⁸⁴ In 1991 Škabrnja had about 2,000 inhabitants and was almost exclusively Croat.⁵⁸⁵ Croat villages were located to the south of Škabrnja, whereas predominantly Serb villages were located to the north and north-east of Škabrnja, towards Benkovac municipality.⁵⁸⁶ The evidence of **Marko Miljanić** is consistent with these Adjudicated Facts.⁵⁸⁷ Miljanić added that in 1991 Škabrnja had between 480 and 500 houses and that the population of Nadin was around 90 per cent Croat.⁵⁸⁸

267. The Trial Chamber has taken judicial notice of Adjudicated Facts and received the evidence of Milan Babić, Marko Miljanić, Luka Brkić, and Neven Šegarić in relation to the events in Škabrnja and Nadin in September and October 1991. The Adjudicated Facts provide that in September 1991, Škabrnja and Nadin were shelled and subjected to aerial bombings, including by cluster bombs.⁵⁸⁹

⁵⁸³ As depicted in P258 (22 Maps from the Court Map Binder), p. 7 (Map depicting SAO Krajina and SAO SBWS as controlled at the end of 1991).

⁵⁸⁴ P97 (Marko Miljanić, witness statement, 25 July 1996), pp. 1-2; P95 (Marko Miljanić, *Slobodan Milošević* transcript, 14 July 2003), pp. 24328-24329, 24338, 24361; P96 (Marko Miljanić, *Martić* transcript, 29-30 March 2006), pp. 2860, 2883, 2897-2898, 2903, 2909.

⁵⁸⁵ Adjudicated Facts III, facts 137-138.

⁵⁸⁶ Adjudicated Facts III, fact 140.

⁵⁸⁷ P97 (Marko Miljanić, witness statement, 25 July 1996), pp. 2-3; P96 (Marko Miljanić, *Martić* transcript, 29-30 March 2006), pp. 2862, 2899.

⁵⁸⁸ P98 (Marko Miljanić, addendum to witness statement, 19 June 2003); P96 (Marko Miljanić, *Martić* transcript, 29-30 March 2006), p. 2862.

⁵⁸⁹ Adjudicated Facts III, fact 141.

268. **Marko Miljanić**, an employee of the Croatian MUP in Zadar from May 1991,⁵⁹⁰ testified that on 25 September 1991, the JNA set the forest around Škabrnja on fire using incendiary bombs and shot at people who tried to extinguish it.⁵⁹¹ On 1 October 1991, the Zadar Municipal Crisis Committee ordered Miljanić to evacuate the civilian population from the village of Škabrnja.⁵⁹² On the same day, Miljanić organized the evacuation of civilians from Škabrnja.⁵⁹³ On 2 October 1991, the JNA attacked Nadin (where a ZNG platoon had been stationed, and which withdrew that day) and Zemunik Gornji using infantry and tanks, and, when people were fleeing Nadin through Škabrnja, bombed Škabrnja with cluster and inflammatory bombs and dropped messages such as “greetings from the JNA for Tudjman’s rats”.⁵⁹⁴ After the attack, the remaining civilian population was evacuated from the village to islands off the coast of Croatia.⁵⁹⁵ Once a cease-fire agreement was signed on 5 November 1991, the population returned to the village and life went back to normal.⁵⁹⁶

269. **Luka Brkić**, a Croat from Škabrnja,⁵⁹⁷ stated that in September and October 1991, Škabrnja was shelled regularly until about one week before it was attacked. During the time the shelling persisted, the village had been evacuated, but most of the villagers had returned to Škabrnja by 18 November 1991.⁵⁹⁸ The Trial Chamber has reviewed further relevant evidence of Neven Šegarić in chapter 3.1.5 in relation to villagers leaving Škabrnja in October and returning there in November 1991.

270. The Adjudicated Facts further provide that around September 1991, approximately 240 Croatian reserve police members and local volunteers were present in Škabrnja.⁵⁹⁹ The Trial Chamber has reviewed further relevant evidence of Marko Miljanić, Luka Brkić, and Neven Šegarić in chapter 3.1.5 in relation to the presence of Croat forces in Škabrnja.

⁵⁹⁰ P97 (Marko Miljanić, witness statement, 25 July 1996), pp. 1-2; P95 (Marko Miljanić, *Slobodan Milošević* transcript, 14 July 2003), pp. 24328-24329, 24338, 24361; P96 (Marko Miljanić, *Martić* transcript, 29-30 March 2006), pp. 2860, 2883, 2897-2898, 2903, 2909.

⁵⁹¹ P97 (Marko Miljanić, witness statement, 25 July 1996), p. 3. The Trial Chamber understands the witness’s reference to “napalm bombs” on page 3 of this statement to refer to incendiary bombs.

⁵⁹² P97 (Marko Miljanić, witness statement, 25 July 1996), pp. 2-3.

⁵⁹³ P97 (Marko Miljanić, witness statement, 25 July 1996), p. 3; P95 (Marko Miljanić, *Slobodan Milošević* transcript, 14 July 2003), p. 24340.

⁵⁹⁴ P97 (Marko Miljanić, witness statement, 25 July 1996), p. 3; P96 (Marko Miljanić, *Martić* transcript, 29-30 March 2006), pp. 2863, 2915; Marko Miljanić, T. 2360-2362. The Trial Chamber understands the witness’s reference to “napalm bombs” on page 3 of this statement to refer to incendiary bombs.

⁵⁹⁵ P96 (Marko Miljanić, *Martić* transcript, 29-30 March 2006), pp. 2863, 2915-2916.

⁵⁹⁶ P97 (Marko Miljanić, witness statement, 25 July 1996), p. 4; P95 (Marko Miljanić, *Slobodan Milošević* transcript, 14 July 2003), p. 24343; P96 (Marko Miljanić, *Martić* transcript, 29-30 March 2006), pp. 2863, 2868, 2916.

⁵⁹⁷ P1803 (Luka Brkić, witness statement, 22 September 2000), pp. 1-2; P1805 (Luka Brkić, *Martić* transcript, 5, 7 April 2006), pp. 3224, 3424.

⁵⁹⁸ P1803 (Luka Brkić, witness statement, 22 September 2000), p. 3.

⁵⁹⁹ Adjudicated Facts III, fact 141.

271. **Milan Babić**, who was the Prime Minister of the SAO Krajina,⁶⁰⁰ stated that in September 1991, houses in the Croat villages in Benkovac municipality were looted and destroyed by Martić's police.⁶⁰¹ The Trial Chamber considers this evidence consistent with Adjudicated Facts III 210 and 211 reviewed above in second section of this chapter.⁶⁰²

272. Based on the Adjudicated Facts and the evidence of Marko Miljanić and Luka Brkić, which was generally consistent and not contradicted by other sources, the Trial Chamber finds that in September and on 2 October 1991, the JNA shelled Škabrnja and Nadin and subjected the villages to aerial bombings, including with cluster bombs and, on 25 September 1991, dropped incendiary bombs on the forest surrounding Škabrnja. On the basis of the evidence of Marko Miljanić, the Trial Chamber further finds that on 2 October 1991, the JNA dropped messages such as "greetings from the JNA for Tudjman's rats" on Škabrnja. Based on the Adjudicated Facts and having reviewed the evidence of Marko Miljanić, Luka Brkić, and Neven Šegarić, the Trial Chamber finds that approximately 240 Croatian reserve police and local volunteers were present in Škabrnja around September 1991 and a ZNG platoon was present in Nadin until 2 October 1991. Based on the evidence of Marko Miljanić, Luka Brkić, and Neven Šegarić, the Trial Chamber finds that just prior to and immediately following the 2 October 1991 shelling, the civilian population was evacuated from Škabrnja. Most inhabitants returned after a cease-fire was signed on 5 November 1991.

Škabrnja, Nadin, and other Croat villages in Benkovac municipality, September 1991-March 1992: Škabrnja, Nadin, and Benkovac, November 1991

273. The Trial Chamber has taken judicial notice of many Adjudicated Facts and received a significant amount of evidence in relation to the attacks on Škabrnja and Nadin on 18 and 19 November 1991. It will review in turn: (i) the alleged military objectives of the attacks on Škabrnja and Nadin; (ii) the manner in which the attacks were conducted; (iii) the units which were involved in the attacks; (iv) the killings, use of human shield and other actions which occurred during the attacks; and (v) persons fleeing and being taken from Škabrnja and Nadin during and after the attack.

⁶⁰⁰ P1878 (Milan Babić, *Slobodan Milošević* transcript, 18-22, 25-26 November, and 2-4, 6, and 9 December 2002), p. 12965; P1880 (Death Certificate of Milan Babić).

⁶⁰¹ P1878 (Milan Babić, *Slobodan Milošević* transcript, 18-22, 25-26 November, and 2-4, 6, and 9 December 2002), p. 13402; P1881 (Report on armed attacks of the JNA and Martić's terrorists on Croatian villages, sent to the Crisis Staff of Croatia, signed by Drago Krpina, 2 September 1991).

⁶⁰² Deportation and forcible transfer from the entirety of the SAO Krajina, 1991-1995.

274. The Trial Chamber has received evidence of Milan Babić and Aco Drača regarding alleged military objectives of the attacks on Škabrnja and Nadin. **Milan Babić** stated that in November 1991, there was fighting around the villages of Škabrnja and Nadin, which due to their location in the Krajina were of strategic importance, as the villages jeopardized the flank of the JNA forces in the region of Zemunik.⁶⁰³ General Vuković wanted to regroup his forces and shorten the front line in this area before winter.⁶⁰⁴

275. **Aco Drača**, head of the SDB in Benkovac from late winter or early spring in 1991 and deputy chief of the Krajina SDB from August 1992,⁶⁰⁵ testified that the reason for the attack on Škabrnja was the checkpoints with snipers set at the perimeter of Škabrnja which impaired the military use of the strategically important road between Benkovac and Zemunik airport. During the meeting at the command of the 180th Brigade in Benkovac on 17 November 1991, the Chief of Staff of the Knin Corps, Ratko Mladić, suggested that the situation of having that part of the Benkovac-Zadar road unserviceable was unacceptable, and that the population there would need some “shaking up”.⁶⁰⁶ In reply to Mladić’s suggestion, the president of the Benkovac Government suggested that they should try to remove the checkpoints in the area through peaceful means, but nonetheless make a show of force.⁶⁰⁷

276. In his diary entry of 17 November 1991, Mladić noted: “to be completed in combat [...] properly mop up the sectors of Nadin, Škabrnja” and described the task of the 180th Brigade in relation to Škabrnja and Nadin, next to which he wrote the words “erase that”.⁶⁰⁸ Drača explained that even if the initial plan would have been to obliterate Škabrnja, the JNA never shared any such information with those outside of its ranks, including the police and civilian authorities.⁶⁰⁹ Drača added that the Škabrnja action commenced after two JNA members who had been sent to speak to the National Guards Corps or the MUP, were killed at a checkpoint.⁶¹⁰

⁶⁰³ P1877 (Milan Babić, *Martić* transcript, 15-17, 20-21 February, and 2-3, and 6 March 2006), p. 1605; P1878 (Milan Babić, *Slobodan Milošević* transcript, 18-22, 25-26 November, and 2-4, 6, and 9 December 2002), pp. 13402, 13404.

⁶⁰⁴ P1877 (Milan Babić, *Martić* transcript, 15-17, 20-21 February, and 2-3, and 6 March 2006), p. 1605; P1878 (Milan Babić, *Slobodan Milošević* transcript, 18-22, 25-26 November, and 2-4, 6, and 9 December 2002), p. 13404.

⁶⁰⁵ Aco Drača, T. 16692, 16742, 16776-16777.

⁶⁰⁶ Aco Drača, T. 16728, 16732, 16734, 16736-16737, 17028.

⁶⁰⁷ Aco Drača, T. 16737.

⁶⁰⁸ P2928 (Excerpt from the diary of Ratko Mladić, pages 348, 356-357, 17 November 1991), pp. 1-2; P3078 (Excerpt from the diary of Ratko Mladić, page 348, 16-17 November 1991).

⁶⁰⁹ Aco Drača, T. 17022-17023, 17075.

⁶¹⁰ Aco Drača, T. 16737.

277. **Witness JF-039**, a Serb from Croatia,⁶¹¹ also testified about the reasons for the attack on Škabrnja. He testified that Martić told him that the mission was to liberate the entire area towards Zemunik and Zadar and cleanse it of its Croat population.⁶¹²

278. The Trial Chamber now turns to the Adjudicated Facts and the evidence of Marko Miljanić, Luka Brkić, and Tomislav Šegarić regarding the manner in which Škabrnja and Nadin were attacked on 18 and 19 November 1991. According to the Adjudicated Facts, at around 7:30 a.m. on 18 November 1991, Škabrnja was subjected to intensive shelling, also from the direction of Biljane or Lišane, which lasted until 12:30 p.m. During the attack on 18 and 19 November 1991 cluster bombs were dropped from JNA aircraft on Škabrnja with resulting damage to buildings.⁶¹³ **Marko Miljanić** provided evidence consistent with these Adjudicated Facts regarding the shelling of Škabrnja, the use of cluster bombs, and the resulting damage to buildings.⁶¹⁴

279. According to the Adjudicated Facts, the church of the Assumption of the Virgin in the centre of Škabrnja was shot at by a JNA tank. At one point, tanks attempted to enter the church of the Assumption of the Virgin but were stopped by Captain Janković, a member of the JNA. Following this, and without authorisation by Captain Janković, several soldiers entered the church and fired their weapons. A tank opened fire in the direction of the school in Škabrnja. Fire was opened on private houses by tanks and using hand-held rocket launchers.⁶¹⁵ A 180th Motorised Brigade report of interview with Nenad Živanović, in evidence as exhibit P1206, is consistent with these Adjudicated Facts.⁶¹⁶ **Luka Brkić**, a Croat from Škabrnja,⁶¹⁷ provided evidence consistent with the Adjudicated Facts regarding the shelling of Škabrnja; a tank attempting to enter the church after which soldiers entered the church and opened fire; and tanks firing at a church, the school, and private houses during the

⁶¹¹ P978 (Witness JF-039, witness statement, 12 September 2003), p. 1, paras 1, 5, 23; P977 (Witness JF-039, prior testimony), pp. 1958-1959.

⁶¹² P978 (Witness JF-039, witness statement, 12 September 2003), para. 60; P977 (Witness JF-039, prior testimony), p. 2024.

⁶¹³ Adjudicated Facts III, facts 146-147, 178.

⁶¹⁴ P97 (Marko Miljanić, witness statement, 25 July 1996), p. 4; P95 (Marko Miljanić, *Slobodan Milošević* transcript, 14 July 2003), pp. 24342-24343; P96 (Marko Miljanić, *Martić* transcript, 29-30 March 2006), pp. 2869, 2901; Marko Miljanić, T. 2358, 2367-2369, 2375, 2377-2378.

⁶¹⁵ Adjudicated Facts III, facts 148, 178.

⁶¹⁶ P1206 (180th Motorised Brigade report of interview with Nenad Živanović, Branislav Ristić, 23 November 1991), p. 3.

⁶¹⁷ P1803 (Luka Brkić, witness statement, 22 September 2000), pp. 1-2; P1805 (Luka Brkić, *Martić* transcript, 5, 7 April 2006), pp. 3224, 3424.

attack.⁶¹⁸ Luka Brkić added that he heard four or five soldiers open fire inside the church in Škabrnja and that they destroyed, among other things, the altar and icons. According to Brkić, there were no people in the church.⁶¹⁹ The Trial Chamber has reviewed further relevant evidence of Tomislav Šegarić in chapter 3.1.5, which is consistent with the Adjudicated Facts on the shelling of Škabrnja.

280. According to the Adjudicated Facts, from around 7 a.m. on 18 November 1991, Nadin was shelled from the direction of the Serb villages of Biljane or Lišane, and the shelling continued throughout the day.⁶²⁰ About half of Škabrnja was controlled by the Serb forces by 2 p.m. The fighting in Škabrnja lasted until dusk. There were two dead and several wounded on the Serb side, whereas the Croatian side suffered about 15 killed.⁶²¹ At 5 a.m. on 19 November 1991, the Croatian forces withdrew from Škabrnja. Around 7 a.m., the JNA convoy left Škabrnja and advanced along the road towards Nadin, which was subsequently shelled. The convoy passed through Nadin around 2 p.m. after which it withdrew to the Benkovac barracks. During the night of 19 November 1991, “everything was burning” in Nadin.⁶²²

281. **Marko Miljanić** provided additional information regarding the attack on Škabrnja. He testified that at the time of the attack, around 100 civil defenders were on duty in Škabrnja, and Miljanić sent couriers to instruct the men to take their positions and to tell the villagers to find shelter. Some 15 minutes later, gunshots could be heard throughout Škabrnja.⁶²³ Considering the level of coordination and the fact that both the air force and a tank brigade partook in the attack, Miljanić opined that the attack must have been ordered by persons holding the highest positions within the JNA.⁶²⁴ At 11:30 a.m., the defence line held by the 1st platoon of the 1st company was broken.⁶²⁵

282. The Trial Chamber now turns to the Adjudicated Facts and the evidence of Boško Brkić, Luka Brkić, Aco Drača, Neven Šegarić, Tomislav Šegarić, and several exhibits,

⁶¹⁸ P1803 (Luka Brkić, witness statement, 22 September 2000), pp. 3-6; P1805 (Luka Brkić, *Martić* transcript, 5, 7 April 2006), pp. 3227-3228, 3239, 3242-3243, 3247-3250, 3395, 3397-3398, 3402-3403, 3417, 3434-3435; P1807 (Map of Škabrnja and Nadin, Operation Alan).

⁶¹⁹ P1803 (Luka Brkić, witness statement, 22 September 2000), pp. 5-6; P1805 (Luka Brkić, *Martić* transcript, 5, 7 April 2006), pp. 3242-3243.

⁶²⁰ Adjudicated Facts III, fact 146.

⁶²¹ Adjudicated Facts III, fact 152.

⁶²² Adjudicated Facts III, fact 153. Given its context, the Trial Chamber understands the last sentence of Adjudicated Fact III 153, which reads “on 19 September 1991” to relate to 19 November 1991.

⁶²³ P96 (Marko Miljanić, *Martić* transcript, 29-30 March 2006), p. 2869; Marko Miljanić, T. 2367-2369.

⁶²⁴ P97 (Marko Miljanić, witness statement, 25 July 1996), p. 4; P96 (Marko Miljanić, *Martić* transcript, 29-30 March 2006), p. 2872.

⁶²⁵ P96 (Marko Miljanić, *Martić* transcript, 29-30 March 2006), p. 2901.

regarding the units involved in the attacks. According to the Adjudicated Facts, between 6 and 7 a.m. on 18 November 1991, a JNA mechanised infantry unit of between 80 and 200 men with eight to nine APCs and three tanks advanced from the Serb village of Smilčić towards Škabrnja. When the column reached the junction of the roads leading to Boljani Donji and Zadar, Lieutenant Miodrag Stevanović and a soldier were killed after having left their APC. Thereafter, intensive fire commenced. A ZNG unit fired rockets at the JNA column from the elevation Ražovljeva Glavica. Both the Croatian and the Serb sides had mortars and artillery.⁶²⁶ **Boško Brkić** provided evidence consistent with the Adjudicated Facts on the presence of JNA tanks during the attack.⁶²⁷ **Marko Miljanić** testified that on 18 November 1991, around 11 a.m., he ordered a 20-member ZNG unit to fire anti-tank rockets at the JNA tanks from an elevation, but they were unable to carry out the task.⁶²⁸ As Marko Miljanić's evidence does not necessarily contradict Adjudicated Fact III-147, the Trial Chamber considers that this Adjudicated Fact remains unrebutted.

283. According to the Adjudicated Facts, the JNA units present in Škabrnja on 18 November 1991 were composed of soldiers of different ethnicities. The JNA units were composed of regular soldiers and reservists from neighbouring Serb villages. In addition to the uniforms ordinarily worn by members of the JNA, officers of the JNA present in Škabrnja wore a mix of camouflage uniforms and ceremonial uniforms.⁶²⁹ The evidence of **Luka Brkić**⁶³⁰ and **Tomislav Šegarić**⁶³¹ and a Report by Captain Danilo Čobović, in evidence as exhibit D675⁶³² are consistent with these Adjudicated Facts. Brkić added that the JNA soldiers of different ethnicities included Croats, which he based on the way that the soldiers spoke and testified that one of the JNA soldiers told him that he had come down from Zagreb to do his military service.⁶³³

284. The Adjudicated Facts provide that helicopters were also used by the JNA to deploy ground troops in the vicinity of Škabrnja.⁶³⁴ (**Marko Miljanić** provided evidence of the JNA using MI-8 helicopters to transfer hundreds of soldiers wearing berets and dark blue or black

⁶²⁶ Adjudicated Facts III, facts 146-147.

⁶²⁷ P75 (Boško Brkić, witness statement, 20 March 2002), p. 2.

⁶²⁸ P96 (Marko Miljanić, *Martić* transcript, 29-30 March 2006), pp. 2901-2902.

⁶²⁹ Adjudicated Facts III, fact 154.

⁶³⁰ P1805 (Luka Brkić, *Martić* transcript, 5, 7 April 2006), pp. 3235-3236, 3243-3244, 3405-3406, 3421, 3429, 3440-3441.

⁶³¹ P1764 (Tomislav Šegarić, witness statement, 28 September 2000), pp. 3, 6.

⁶³² D675 (Report by Captain Danilo Čobović on combat activities of 18 November 1991 in the Škabrnja area, 18 November 1991), p. 1.

⁶³³ P1805 (Luka Brkić, *Martić* transcript, 5, 7 April 2006), pp. 3243-3244, 3405-3406.

⁶³⁴ Adjudicated Facts III, fact 147.

uniforms during the attack, which is consistent with Adjudicated Fact III-147.⁶³⁵) The TO, including members of the Benkovac TO, also participated in this operation and were re-subordinated to the JNA.⁶³⁶ The TO present in Škabrnja wore the same uniforms, caps, and helmets as the JNA. However, the TO also wore the Serbian flag on their uniforms and some members had a white band on the left shoulder. Some TO soldiers wore SAO Krajina patches on their uniforms.⁶³⁷ Volunteers from Serbia and Bosnia-Herzegovina, who were joined to the Benkovac TO, participated during the attack on Škabrnja.⁶³⁸ Paramilitary units, often referred to simply as “Chetniks”, were present in Škabrnja and wore various kinds of JNA uniforms, some with an insignia with four Cyrillic “S”, and different kinds of hats, including berets, fur hats with cockades and hats. Their faces were painted and at least some of them appeared to be local.⁶³⁹ The Trial Chamber has reviewed Adjudicated Fact III-166 in chapter 3.1.5, according to which members of local Serb paramilitary unit participated together with other SAO Krajina forces in the attack on Škabrnja and wore camouflage uniforms and different sorts of headgear.

285. The Trial Chamber has reviewed the hand-written notes of Momčilo Bogunović (in evidence as exhibit P1137)⁶⁴⁰ as set out in chapter 3.1.5, which it considers to be consistent with the Adjudicated Facts regarding the participation of TO members. The evidence of **Marko Miljanić**⁶⁴¹ and **Tomislav Šegarić**⁶⁴² and two 180th Motorised Brigade report of interview, in evidence as exhibits P1206-1207⁶⁴³ are consistent with the Adjudicated Facts on the presence of paramilitary formations referred to as “Chetniks”. **Miljanić** added that his mother and other eyewitnesses of the attack told him that during the attack on 18 November 1991, the JNA took the terrain and was followed by certain paramilitary or other forces, which killed everyone they encountered.⁶⁴⁴ **Miljanić**’s mother told him that she recognized

⁶³⁵ P97 (Marko Miljanić, witness statement, 25 July 1996), p. 5; P95 (Marko Miljanić, *Slobodan Milošević* transcript, 14 July 2003), p. 24322; P96 (Marko Miljanić, *Martić* transcript, 29-30 March 2006), pp. 2870, 2875; Marko Miljanić, T. 2378-2379, 2401-2402, 2406-2407, 2420-2421.

⁶³⁶ Adjudicated Facts III, fact 146.

⁶³⁷ Adjudicated Facts III, fact 155.

⁶³⁸ Adjudicated Facts III, fact 149.

⁶³⁹ Adjudicated Facts III, fact 156.

⁶⁴⁰ P1137 (Handwritten notes taken by Momčilo Bogunović, 17 November 1991-27 March 1992), p. 1.

⁶⁴¹ P97 (Marko Miljanić, witness statement, 25 July 1996), p. 3; P96 (Marko Miljanić, *Martić* transcript, 29-30 March 2006), p. 2917-2918, 2929; Marko Miljanić, T. 2414, 2418

⁶⁴² P1764 (Tomislav Šegarić, witness statement, 28 September 2000), pp. 3-6

⁶⁴³ P1206 (180th Motorised Brigade report of interview with Nenad Živanović, Branislav Ristić, 23 November 1991), p. 3; P1207 (180th Motorised Brigade report of interview with Dragan Mitrović, Branislav Ristić, 23 November 1991), p. 1.

⁶⁴⁴ P96 (Marko Miljanić, *Martić* transcript, 29-30 March 2006), pp. 2871-2872, 2905-2906, 2917.

Desimir Ivanez, a member of the SAO Krajina police or “Milicija”, as one of the members of the paramilitaries.⁶⁴⁵

286. The Trial Chamber has reviewed further relevant evidence of Neven Šegarić in relation to the presence of “Chetniks” wearing camouflage uniforms with “SAO KRAJINA” written in Cyrillic on the shoulder and red stars in chapter 3.1.5, which is consistent with the Adjudicated Facts. **Luka Brkić** also provided evidence consistent with the Adjudicated Facts on the presence of soldiers in camouflage uniforms with painted faces.⁶⁴⁶ Brkić added that some of the soldiers had a white eagle insignia on the shoulder of their camouflage uniforms, and had “SAO Krajina” on the left breast of the uniforms.⁶⁴⁷ Some of the soldiers also wore cockades. One soldier asked the witness if he knew what the white eagle insignia meant, and told him, “These are the White Eagles.” The witness thought Captain Dragan was in charge of the White Eagles unit, which were situated in Golubić.⁶⁴⁸

287. **Marko Miljanić** provided additional evidence in relation to the units which attacked Škabrnja. Miljanić testified that on 18 November 1991, 28 tanks arrived at Škabrnja from different directions and were followed by JNA trucks bringing approximately 1,000 infantry soldiers.⁶⁴⁹ After a JNA truck with ammunition exploded on the Zemunik-Biljane road overlooking Škabrnja between 11 a.m. and noon, the witness overheard radio-communication between Colonel Ratko Mladić and Lieutenant Colonel Tripko Čečović, the commander of the 62nd Motorised Brigade in Benkovac.⁶⁵⁰ Mladić ordered Čečović to proceed with the attack, as he would be provided with both ammunition and the soldiers required, and told him that he would execute him if he retreated.⁶⁵¹ Between 2 and 4:30 p.m., the JNA tanks and infantry soldiers wearing SMB, dark blue, and camouflage uniforms took over the western part of the village.⁶⁵² Miljanić added that on 18 November 1991, he received threats on the

⁶⁴⁵ P96 (Marko Miljanić, *Martić* transcript, 29-30 March 2006), pp. 2928-2929.

⁶⁴⁶ P1803 (Luka Brkić, witness statement, 22 September 2000), p. 5; P1805 (Luka Brkić, *Martić* transcript, 5, 7 April 2006), p. 3234.

⁶⁴⁷ P1803 (Luka Brkić, witness statement, 22 September 2000), p. 5; P1805 (Luka Brkić, *Martić* transcript, 5, 7 April 2006), pp. 3235, 3237.

⁶⁴⁸ P1805 (Luka Brkić, *Martić* transcript, 5, 7 April 2006), pp. 3235, 3237, 2427.

⁶⁴⁹ P97 (Marko Miljanić, witness statement, 25 July 1996), p. 4; P96 (Marko Miljanić, *Martić* transcript, 29-30 March 2006), pp. 2869-2870, 2875; Marko Miljanić, T. 2376-2377.

⁶⁵⁰ P97 (Marko Miljanić, witness statement, 25 July 1996), pp. 4-5; P95 (Marko Miljanić, *Slobodan Milošević* transcript, 14 July 2003), pp. 24321, 24340, 24349-24352; P96 (Marko Miljanić, *Martić* transcript, 29-30 March 2006), pp. 2870, 2874, 2902-2903; Marko Miljanić, T. 2400-2401.

⁶⁵¹ P97 (Marko Miljanić, witness statement, 25 July 1996), pp. 4-5; P95 (Marko Miljanić, *Slobodan Milošević* transcript, 14 July 2003), pp. 24321-24322; P96 (Marko Miljanić, *Martić* transcript, 29-30 March 2006), pp. 2870-2871; Marko Miljanić, T. 2400-2401.

⁶⁵² P97 (Marko Miljanić, witness statement, 25 July 1996), p. 5; P95 (Marko Miljanić, *Slobodan Milošević* transcript, 14 July 2003), pp. 24351, 24354; P96 (Marko Miljanić, *Martić* transcript, 29-30 March 2006), p. 2880.

radio that he would be killed.⁶⁵³ Among the voices on the radio, the witness recognized Serb JNA member Petar Radmanović and other villagers told him that they recognized the voice of Goran Opačić.⁶⁵⁴

288. **Aco Drača** testified that the forces participating in the attack were subordinated to the JNA and comprised the 180th Motorised Brigade from Benkovac, reinforced with one company of the TO Benkovac.⁶⁵⁵

289. The Adjudicated Facts provide that Goran Opačić was a member of the Benkovac SJB special unit on 18 and 19 November 1991.⁶⁵⁶ He was present in Škabrnja at some point on 18 November 1991.⁶⁵⁷ A Benkovac Police Station Duty Roster in evidence as Exhibit P1212 is consistent with the Adjudicated Facts in respect of Goran Opačić's membership of a special unit of the Benkovac police.⁶⁵⁸ **Witness JF-039** also testified Opačić was a member of Benkovac special police and under Martić's command at the end of 1991.⁶⁵⁹

290. Contrary to the Adjudicated Facts, **Goran Opačić** testified that on the day of the attack on Škabrnja, he abandoned his position before reaching an elevation outside the town of Škabrnja, and returned to Benkovac, where he spent the rest of the day and spoke briefly to Aco Drača.⁶⁶⁰ Opačić denied being present in Škabrnja on 18 November 1991.⁶⁶¹ The Trial Chamber refers to its discussion of the credibility of Goran Opačić in chapter 2. **Aco Drača** testified that, on the eve of the attack, Goran Opačić, head of the Benkovac special police unit, told him that he would not participate in the attack due to the alleged ploy of the military security to kill him.⁶⁶² On 18 November 1991, as the attack progressed, Drača saw Opačić in front of the "Benkovac Command", outside the Benkovac barracks, about 20 kilometres from Škabrnja, waiting for the commander to explain why he was not engaged in the operation.⁶⁶³

291. **Witness JF-039** testified that in February or March 1992, Martić praised Boško Dražić for the excellent job he and his special police unit had done with cleansing Škarbrnja

⁶⁵³ P95 (Marko Miljanić, *Slobodan Milošević* transcript, 14 July 2003), p. 24364; P96 (Marko Miljanić, *Martić* transcript, 29-30 March 2006), p. 2879-2880, 2914.

⁶⁵⁴ P95 (Marko Miljanić, *Slobodan Milošević* transcript, 14 July 2003), p. 24364; P96 (Marko Miljanić, *Martić* transcript, 29-30 March 2006), p. 2879-2880, 2914, 2922-2923; Marko Miljanić, T. 2429-2430.

⁶⁵⁵ Aco Drača, T. 16746, 17088; D675 (Report by Captain Danilo Čobović on combat activities of 18 November 1991 in the Škabrnja area, 18 November 1991), p. 1.

⁶⁵⁶ Adjudicated Facts III, fact 157.

⁶⁵⁷ Adjudicated Facts III, fact 157.

⁶⁵⁸ P1212 (Benkovac Police Station Duty Roster, 18 October 1991), p. 9.

⁶⁵⁹ P977 (Witness JF-039, prior testimony), pp. 2024, 2199-2200.

⁶⁶⁰ Goran Opačić, T. 18207-18209, 18284-18287.

⁶⁶¹ Goran Opačić, T. 18208-18210, 18227-18279, 18290-18293, 18297-18298.

⁶⁶² Aco Drača, T. 17016, 17019-17020.

⁶⁶³ Aco Drača, T. 17020, 17091-17092.

and stated that “Crazy Goran” (Opačić) and his brothers had done a good job.⁶⁶⁴ He would say that “they fucked their mothers”.⁶⁶⁵ As far as the witness understood, the Škabrnja operation happened at the end of 1991.⁶⁶⁶ According to the Benkovac Police Station Duty Roster of 18 October 1991, Boško Dražić was the Chief of the SJB.⁶⁶⁷

292. The Trial Chamber now turns to specific actions, including killings and the use of persons as human shields, which occurred during and after the attacks on Škabrnja and Nadin. The Trial Chamber has set out Adjudicated Facts and evidence and made findings in relation to a number of killings on 18 November 1991 in chapter 3.1.5. Below, the Trial Chamber will review the Adjudicated Facts and evidence regarding a number of additional killings in Škabrnja, Nadin, Benkovac, and Knin of persons from Škabrnja. According to the Adjudicated Facts relating to the Škabrnja and Nadin region, killings occurred from 18 November 1991 until 11 March 1992. On 20 November 1991, the JNA Naval Military District in Split, on the request of the ECMM, asked the JNA 9th Corps command to provide a report by the following day on the killings in Škabrnja and Nadin on 18 and 19 November 1991. An on-site investigation was carried out in cooperation with the Benkovac SJB. The 180th Motorised Brigade conducted interviews, although not pursuant to superior orders. Following the interviews, reports were sent to the JNA 9th Corps command.⁶⁶⁸ The Trial Chamber has reviewed further relevant Adjudicated Facts in chapter 3.1.5 in relation to the killing of Ivan Babić, Luka Bilaver, Branko Rogić, Petar Rogić, Bude Šegarić, Kljajo Šegarić, Miljenko Šegarić, and Šime Šegarić. **Tomislav Šegarić** provided evidence based on his personal observations reviewed in chapter 3.1.5, in relation to Bude Šegarić and Sime Šegarić, which is consistent with Adjudicated Fact III-171. The Trial Chamber also reviewed a fax from the Šibenik Medical Centre, in evidence as exhibit P1750, in relation to the killings of Bude Šegarić, Sime Šegarić, and Petar Rogić in the same Chapter.

293. **Luka Brkić** stated that around 11 a.m., after a shell had struck his house, he sought shelter in the basement of his brother’s house with around 17 or 18 others. Around noon, the witness heard soldiers enter and search his brother’s house. The soldiers then demanded that everyone come out of the cellar or they would throw a grenade into the cellar. Once outside, the group was told to lie on the ground. The women and children were separated from the

⁶⁶⁴ P978 (Witness JF-039, witness statement, 12 September 2003), para. 60; P977 (Witness JF-039, prior testimony), pp. 2024, 2157-2158, 2189.

⁶⁶⁵ P978 (Witness JF-039, witness statement, 12 September 2003), para. 60; P977 (Witness JF-039, prior testimony), p. 2189.

⁶⁶⁶ P977 (Witness JF-039, prior testimony), p. 2199.

⁶⁶⁷ P1212 (Benkovac Police Station Duty Roster, 18 October 1991), p. 10.

men and were escorted by soldiers towards the village entrance. The men were forced to walk with their hands raised to the centre of Škabrnja until they reached the Catholic Church in the centre of the village. Upon reaching the church, two or three sniper shots hit the tanks, while soldiers were unloading ammunition from an APC. Captain Zoran Janković moved the tanks behind a nearby house and the witness was placed in front of the tanks to act as a human shield. Some soldiers near the church broke into a store, where they took food and began drinking to celebrate the fall of Vukovar (as reported on the radio) and Škabrnja.⁶⁶⁹

294. The Trial Chamber has reviewed further relevant evidence of Luka Brkić and Ivan Jelić, as well as several exhibits⁶⁷⁰ regarding the killings of Bude Šegarić, Šime Šegarić, Miljenko Šegarić, and Ivan Babić in chapter 3.1.5.

295. **Marko Miljanić** testified that among the persons used as human shields during the attack on Škabrnja, the witness observed through his binoculars Luka Brkić, Neno Gurlica, Petar Gurlica, and others, including dozens of women and children.⁶⁷¹ Miljanić's mother and other survivors told him that besides policemen and people belonging to different paramilitary formations, some of the perpetrators of killings were locals from Zemunik Gornji and Nadin wearing JNA uniforms, and that some were female.⁶⁷²

296. **Neven Šegarić** stated that 30-40 villagers were killed between 18 and 19 November 1991 and they were buried in a mass grave in the centre of Škabrnja.⁶⁷³ **Aco Drača** testified that civilians were killed in Škabrnja on 18 November 1991.⁶⁷⁴ According to Drača, Major Branislav Ristić, chief of security of the 180th Motorised Brigade, sought a meeting with Drača in order to identify the perpetrators of the killings. The suspects were, according to Ristić, volunteers from Bosnia-Herzegovina and Serbia under the leadership of a person nicknamed Jara and a certain Ljubiša from Belgrade, who had not been properly registered and subsequently left Škabrnja. There was no on-site investigation in Škabrnja, which would have required the authorization of the 180th Brigade. The military police compiled a list of victims with an indication of the area where their bodies were retrieved.⁶⁷⁵

⁶⁶⁸ Adjudicated Facts III, facts 176-177.

⁶⁶⁹ P1803 (Luka Brkić, witness statement, 22 September 2000), pp. 4-5; P1805 (Luka Brkić, *Martić* transcript, 5, 7 April 2006), pp. 3229-3234, 3238-3240, 3246, 3249-3250, 3397, 3399, 3401-3403, 3430.

⁶⁷⁰ Specifically, P1747, P873, P908, and P913-P915.

⁶⁷¹ P97 (Marko Miljanić, witness statement, 25 July 1996), p. 5.

⁶⁷² P95 (Marko Miljanić, *Slobodan Milošević* transcript, 14 July 2003), p. 24358, 24360; Marko Miljanić, T. 2408-2409, 2411-2412.

⁶⁷³ P1791 (Neven Šegarić, *Martić* transcript, 29 March 2006), p. 2850; P1792 (Photographs related to the witness statement of Neven Šegarić), p. 1.

⁶⁷⁴ Aco Drača, T. 16737, 17021.

⁶⁷⁵ Aco Drača, T. 16751-16755.

297. The Trial Chamber now turns to the documentary evidence it has received in relation to instances of killings and the use of persons as human shields. On 23 November 1991, Major Branislav Ristić of the 180th Motorised Brigade interviewed Nenad Živanović and Dragan Mitrović, members of the military police, who had been in Škabrnja on 18 November 1991. In the village, both men observed TO members and volunteers shoot six or seven civilians at close range, sometimes after lining up, questioning, threatening, or beating the civilians, or forcing them to lie down.⁶⁷⁶ Later, Mitrović saw the TO position five civilians in front of a tank so they could lead and shield the tank.⁶⁷⁷ Ristić suggested to the commander not to take these units any more, since they were disgracing the JNA and were committing crimes under the protection of the 180th Motorised Brigades' tanks.⁶⁷⁸

298. In his handwritten notes, Momčilo Bogunović wrote that an analysis of the mop-up operation was held on 20 November 1991, during which a person referred to as Đurica stated that there had been no co-operation between the TO, the police, and his units. Further, another person stated that that were instances of uncivilised killings, but less arson and looting than in earlier operations; while Lieutenant Tadić stated that special units, wearing Chetnik insignia, could not be used in any future operation and that some of the soldiers in the Company had started looting. The diary entry for this analysis further noted that more than 20 were killed, that they were about to kill a woman and a child saying "Ustasha bastards" and that a 2nd Lieutenant had stated that POWs of war were beaten to death and there was nobody to prevent looting.⁶⁷⁹

299. In an official note of the Benkovac Military Police of 1 December 1991, Lieutenant Ernest Rađen wrote that 50 persons were killed in Škabrnja and Nadin on 18 and 19 November 1991, which he based on information he had gained through fighting, clearing the battleground, and providing assistance to the population. Rađen also reported ten or eleven deceased persons in Nadin, including men and women aged 55-70.⁶⁸⁰

300. On 21 January 1992, in a letter to Milošević and Adžić, Helsinki Watch wrote that they had interviewed a 19 year-old woman on 7 January 1992 in Zagreb in relation to the

⁶⁷⁶ P1206 (180th Motorised Brigade report of interview with Nenad Živanović, Branislav Ristić, 23 November 1991); P1207 (180th Motorised Brigade report of interview with Dragan Mitrović, Branislav Ristić, 23 November 1991).

⁶⁷⁷ P1207 (180th Motorised Brigade report of interview with Dragan Mitrović, Branislav Ristić, 23 November 1991), p. 2.

⁶⁷⁸ P1206 (180th Motorised Brigade report of interview with Nenad Živanović, Branislav Ristić, 23 November 1991), p. 3.

⁶⁷⁹ P1137 (Handwritten notes taken by Momčilo Bogunović, 17 November 1991-27 March 1992), pp. 3, 5.

⁶⁸⁰ P1211 (Official Note, Benkovac Military Police, Ernest Rađen, 1 December 1991), p. 3.

attack on Škabrnja. During the interview, the woman described how roughly 500 insurgents with 20 tanks entered Škabrnja, called the villagers “Ustashas” and stated that they were going to kill them, and then took approximately 35 villagers to the basement of the local church where they beat many of the men, most of whom were elderly. The interviewee’s 80-year-old grandfather was beaten to death. When leaving the cellar she saw approximately ten bodies, both female and male, in a pile, and that her house had been ransacked and sprayed with machine gun fire. She was later taken to a detention centre in Benkovac. Further, according to the Helsinki Watch letter, after 19 November 1991, the local Zadar Red Cross and members of the European Community monitoring mission were denied access to Škabrnja and the JNA claimed access was restricted because of ongoing combat.⁶⁸¹

301. The Trial Chamber has further reviewed an official note of 8 March 1992, in evidence as exhibit P1209 and an entry from the Mladić notebook, in evidence as exhibit D1474, regarding instances of killings and the use of persons as human shields in chapter 3.1.5.

302. The Trial Chamber now turns to the Adjudicated Facts and evidence of Marko Miljanić, Boško Brkić, Aco Drača, Neven Šegarić, Tomislav Šegarić, and Luka Brkić, on persons fleeing from and being taken away from Škabrnja and Nadin.

303. According to the Adjudicated Facts, during the fighting, civilians fled.⁶⁸² On 18 November 1991, most of the women and children left Nadin and went to Polača, Zaton, and Zadar, while only men and a few women remained in the village.⁶⁸³ More than 1,500 civilians of Škabrnja withdrew in the direction of Zadar.⁶⁸⁴ **Marko Miljanić** provided evidence consistent with these Adjudicated Facts.⁶⁸⁵ According to the Adjudicated Facts, around 100 villagers fled to a quarry in the forest, a pre-arranged meeting point should the village come under attack, after which they went by foot to Prkos where buses eventually picked them up.⁶⁸⁶ **Boško Brkić**, a Croat from Škabrnja village,⁶⁸⁷ provided evidence consistent with this Adjudicated Fact.⁶⁸⁸ According to the Adjudicated Facts, civilians were also taken out of

⁶⁸¹ P1201 (Helsinki Watch, letter to Milošević and Adžić, 21 January 1992), p. 8.

⁶⁸² Adjudicated Facts III, fact 150.

⁶⁸³ Adjudicated Facts III, fact 146.

⁶⁸⁴ Adjudicated Facts III, fact 151.

⁶⁸⁵ P97 (Marko Miljanić, witness statement, 25 July 1996), p. 5; P95 (Marko Miljanić, *Slobodan Milošević* transcript, 14 July 2003), pp. 24354-24355; P96 (Marko Miljanić, *Martić* transcript, 29-30 March 2006), p. 2905.

⁶⁸⁶ Adjudicated Facts III, fact 151.

⁶⁸⁷ P75 (Boško Brkić, witness statement, 20 March 2002), pp. 1- 2.

⁶⁸⁸ P75 (Boško Brkić, witness statement, 20 March 2002), p. 2.

Škabrnja by JNA and TO forces and transported to territory under the control of Croat forces.⁶⁸⁹ **Aco Drača** provided evidence consistent with this Adjudicated Fact.⁶⁹⁰

304. **Neven Šegarić**, a Croat from Škabrnja who was eleven years old in 1991,⁶⁹¹ stated that, following the events of 18 November 1991 in Škabrnja reviewed in chapter 3.1.5, a JNA officer took the witness and two other villagers to the village entrance. The three villagers were then put in a van full of hunting rifles with three women and two soldiers.⁶⁹² The witness was first taken to an elementary school at Gornji Biljane, Zadar municipality, which was guarded by five or six soldiers wearing JNA uniforms and two or three civilians. The witness was then taken to Smilčić, where he was joined by others from Škabrnja who had been brought in by an APC and who had been beaten and then taken away in a military truck.⁶⁹³ At Smilčić, civilians guarded the detainees. Around 3 p.m. a civilian car took the witness and two others to Benkovac where they were held with others who had been captured from Škabrnja. In the morning, on 19 November 1991, the witness and the other captured Croats were taken to a village by bus, from where they were made to walk one or two kilometres to rejoin the Croatian army, who took them to Biograd, in Zadar municipality. In the next few days, the witness joined his parents and they took a bus to Germany, where he stayed until February or March of 1992, when he returned to Zadar.⁶⁹⁴

305. **Tomislav Šegarić** stated that, during the attack on Škabrnja, the “Chetniks” made him and other villagers walk down the road, away from the city centre toward the Ambar region. According to the witness, the “Chetniks” constantly threatened and insulted the villagers, but the JNA officers told the “Chetniks” not to kill anymore because they had killed enough. JNA trucks took the witness, the other villagers who were with him, and later others, to the JNA barracks in Benkovac. The witness and the others were kept in the barracks until 6 p.m., when they were transferred to the school across the street. Over the course of the night, the witness and several other people were interrogated individually, including by a JNA officer who asked the witness how many “Ustashas” and weapons there were in Škabrnja. On 19 November 1991, two JNA soldiers drove the witness and two other villagers from Škabrnja to Biljani, in Benkovac municipality, and left them outside a store which was full of “Chetniks”.

⁶⁸⁹ Adjudicated Facts III, facts 150, 152.

⁶⁹⁰ Aco Drača, T. 16775-16776.

⁶⁹¹ P1788 (Neven Šegarić, witness statement, 28 September 2000), pp. 1-2; P1791 (Neven Šegarić, *Martić* transcript, 29 March 2006), pp. 2830, 2854.

⁶⁹² P1788 (Neven Šegarić, witness statement, 28 September 2000), p. 4.

⁶⁹³ P1788 (Neven Šegarić, witness statement, 28 September 2000), p. 4; P1791 (Neven Šegarić, *Martić* transcript, 29 March 2006), pp. 2853-2854.

⁶⁹⁴ P1788 (Neven Šegarić, witness statement, 28 September 2000), pp. 4-5.

The “Chetniks” threatened the witness and his two companions for the rest of the day.⁶⁹⁵ According to the witness, the way the “Chetniks” spoke indicated that they were local, and some discussed going home for lunch. A “Chetnik” showed the witness an HDZ membership card and asked him whether he knew the card’s owner, Slavko Miljanić. The witness responded that Miljanić was his neighbour and the “Chetnik” said that he had killed Miljanić. In the evening, the detainees were taken back to Benkovac in a JNA van. Around 9 a.m. on 20 November 1991, JNA soldiers and an armed “Chetnik” drove the witness and two other villagers from Škabrnja in the direction of Pristeg, in Benkovac municipality. The soldiers left them in the middle of the road and gave them directions which allowed them to rejoin Croat forces.⁶⁹⁶

306. **Luka Brkić** stated that, following the use of human shields set out above, Janković sent the witness and three others from the church to the village entrance, in the direction of Ambar. They were put in a cellar of an abandoned house, with approximately ten others who had been captured earlier.⁶⁹⁷ An armed soldier beat up Neno Gurlica behind the house.⁶⁹⁸ Neno and Marin Gurlica and the witness were lined up by the edge of the road and were threatened with execution. However, no one was shot and the group was taken by bus to the barracks in Benkovac. The group was beaten while boarding the bus. Brkić stated that in the evening of 18 November 1991, he and other captured civilians from Škabrnja arrived at the barracks in Benkovac.⁶⁹⁹ A person named Reks took the group to a room with blood spattered walls, where they were beaten and called “Ustashas”.⁷⁰⁰ The witness, together with five other men spent the night in a room, where they had to sleep on concrete floor and were beaten during the night.⁷⁰¹ The Trial Chamber has reviewed further relevant Adjudicated Facts and evidence in relation to Luka Brkić below, in the section dealing with detention in Kninin 1991 and 1992.

307. Based on the Adjudicated Facts and the evidence received, the Trial Chamber finds that on 18 and 19 November 1991, Serb forces attacked Škabrnja and Nadin. The Trial

⁶⁹⁵ P1764 (Tomislav Šegarić, witness statement, 28 September 2000), p. 4.

⁶⁹⁶ P1764 (Tomislav Šegarić, witness statement, 28 September 2000), p. 5.

⁶⁹⁷ P1803 (Luka Brkić, witness statement, 22 September 2000), p. 6; P1805 (Luka Brkić, *Martić* transcript, 5, 7 April 2006), p. 3250-3251.

⁶⁹⁸ P1805 (Luka Brkić, *Martić* transcript, 5, 7 April 2006), p. 3251.

⁶⁹⁹ P1803 (Luka Brkić, witness statement, 22 September 2000), p. 6; P1805 (Luka Brkić, *Martić* transcript, 5, 7 April 2006), p. 3251-3254, 3390.

⁷⁰⁰ P1805 (Luka Brkić, *Martić* transcript, 5, 7 April 2006), p. 3252.

⁷⁰¹ P1803 (Luka Brkić, witness statement, 22 September 2000), p. 6; P1805 (Luka Brkić, *Martić* transcript, 5, 7 April 2006), pp. 3252-3253.

Chamber recalls its considerations in respect of the reliability of the evidence of Neven Šegarić (regarding the witness's age at the time of the events) in chapter 3.1.5.

308. The Trial Chamber will first consider the forces involved in this attack. On the basis of the Adjudicated Facts and having reviewed the generally consistent evidence of Boško Brkić, Luka Brkić, Aco Drača, Marko Miljanić, Neven Šegarić, Tomislav Šegarić, as well as exhibits D675, P1137, P1206-P1207, and P1209, the Trial Chamber finds that the Serb forces which attacked Škabrnja and Nadin were units of the JNA. The JNA utilized tanks, APCs, helicopters, and aircraft during the attack. The forces further included units of the TO, including the Benkovac TO, which were subordinated to the JNA and volunteers from Serbia and Bosnia-Herzegovina, who were joined to the Benkovac TO. The forces also included local Serb paramilitary units. Based on the evidence of Marko Miljanić and Witness JF-039, the Trial Chamber finds that the forces further included members of the SAO Krajina Police.

309. The Trial Chamber has carefully reviewed the evidence of Luka Brkić regarding the presence of members of the White Eagles. The Trial Chamber considers that, while many other sources which are in evidence refer to Serb paramilitary units participating in the attack, only Luka Brkić's evidence indicates members of the White Eagles specifically. The only other evidence suggesting the presence White Eagles in Škabrnja is the testimony of Ivan Jelić, who saw at least one Chetnik with an arm patch of a white eagle in Škabrnja several days after the attack, on 23 November 1991. The Trial Chamber further considers that Brkić's information regarding the location and leadership of the White Eagles is inconsistent with other evidence received in this respect.⁷⁰² Under these circumstances, the Trial Chamber will not rely on Brkić's evidence to establish the participation of the White Eagles in the attack.

310. The Adjudicated Facts provide that Goran Opačić was present in Škabrnja at some point on 18 November 1991. The Trial Chamber notes that Aco Drača's testimony that he saw Opačić in Benkovac, near Škabrnja, at a certain time on 18 November 1991 does not necessarily contradict Opačić's presence in Škabrnja at other times during that day. The Trial Chamber has considered Opačić's testimony that he was not present in Škabrnja that day. As explained in chapter 2, the Trial Chamber does not consider the witness's evidence in this respect to be credible. The Trial Chamber further considers Witness JF-039's evidence that Martić told him in early 1992 that Goran Opačić and his brothers had done a good job in Škabrnja. Witness JF-039's evidence is somewhat ambiguous as to Opačić and his brothers'

⁷⁰² In this respect the Trial Chamber refers to the evidence it has reviewed in relation to the White Eagles and the evidence reviewed in chapter 6.3.2.

exact involvement in events in Škabrnja. In the absence of corroborating evidence, the Trial Chamber declines to rely on Witness JF-039's hearsay evidence. The Trial Chamber concludes that neither the Adjudicated Facts nor the evidence it has received establish with sufficient certainty that Goran Opačić actually participated in the attack on Škabrnja of 18 November 1991.

311. The Trial Chamber now turns to the presence of Croatian armed forces in Škabrnja. Based on the evidence of Marko Miljanić, the Trial Chamber finds that around 100 civil defenders were on duty in Škabrnja during the attack on 18 November 1991. Based on the Adjudicated Facts, the Trial Chamber further finds that Croat forces in Škabrnja were equipped with mortars and artillery. Based on the Adjudicated Facts and the evidence of Marko Miljanić, the Trial Chamber finds that a ZNG unit armed with anti-tank rocket launchers engaged in combat with Serb forces on 18 November 1991 in Škabrnja and withdrew at 5 a.m. on 19 November 1991.

312. The Trial Chamber will now address instances of destruction, killings, looting, and use of human shields during the attack. Based on the Adjudicated Facts and the evidence of Marko Miljanić, Luka Brkić, and Tomislav Šegarić, and exhibit P1206, the Trial Chamber finds that the Serb forces indicated above shelled Škabrnja intensively in the morning of 18 November 1991 and shelled Nadin on 18 November 1991 throughout the day and again on 19 November 1991, damaging buildings in Nadin. On 18 and 19 November 1991, JNA aircraft dropped cluster bombs on Škabrnja, damaging buildings. Further, on 18 November 1991, a JNA tank fired at houses, the school, and a church in Škabrnja and members of Serb forces fired hand-held rocket launchers at private houses and fired weapons inside an empty church, damaging items inside the church. Based on the evidence of Luka Brkić and Marko Miljanić, as well as exhibits P1207 and P1137, the Trial Chamber further finds that on 18 November 1991, in Škabrnja, members of the forces which attacked Škabrnja used civilians, including Luka Brkić, as human shields in front of tanks and looted goods from Škabrnja.

313. In relation to killings, the Trial Chamber recalls its findings in chapter 3.1.5 that members of the units which attacked Škabrnja killed 27 Croat civilians and four members of the Croatian defence force not taking an active part in hostilities in Škabrnja on 18 November 1991. In addition, based on Adjudicated Facts III-172 and 173 reviewed in chapter 3.1.5, and having reviewed the evidence of Neven Šegarić, Marko Miljanić, and Aco Drača, as well as exhibits P908, P1137, P1201, P1206-P1207, P1209, P1211, and D1474, the Trial Chamber finds that in Škabrnja, Nadin, or Benkovac on 18 and 19 November 1991, members of the

units which attacked Škabrnja killed at least four additional civilians, namely Ivan Babić, Luka Bilaver, Branko Rogić, and Kljajo Šegarić.

314. Based on the Adjudicated Facts and exhibits P1750, P913, and P915, the Trial Chamber finds that Petar Rogić and Miljenko Šegarić were taken from Škabrnja to Benkovac or Knin, where they were killed in November 1991. Considering the date, location, and circumstances of the killing and the results of the autopsies, the Trial Chamber is satisfied that Petar Rogić and Miljenko Šegarić were killed by members of the JNA, the SAO Krajina Police, the SAO Krajina TO, or local Serbs.

315. The Trial Chamber notes that Luka Brkić's evidence that Bude Šegarić and Šime Šegarić were killed in Škabrnja is inconsistent with Adjudicated Facts III-171 and 175 reviewed in chapter 3.1.5 and with the evidence of Tomislav Šegarić reviewed above. The Trial Chamber considers that Luka Brkić did not personally observe whether these two men were killed in Škabrnja and that his source of knowledge is unclear. By contrast, Tomislav Šegarić observed the two men being put into an APC. Under these circumstances, the Trial Chamber decides to rely on Tomislav Šegarić's account in this respect and concludes that the Adjudicated Facts stand un rebutted. Consequently, the Trial Chamber finds, on the basis of the Adjudicated Facts and the evidence of Tomislav Šegarić, as well as exhibits P873, P914, P1747, and P1750, that persons referred to as Chetniks took Šime Šegarić and Bude Šegarić from Škabrnja in a JNA APC to Knin, where they were killed in November 1991. Considering the date, location, and circumstances of the killing, and the results of the autopsies, the Trial Chamber is satisfied that members of a Serb paramilitary group referred to as Chetniks killed Šime Šegarić and Bude Šegarić.

316. The Trial Chamber now turns to persons leaving and being taken from Škabrnja. In view of the above findings on Škabrnja and Nadin, the Trial Chamber considers the Adjudicated Facts and evidence of Boško Brkić and Marko Miljanić that on 18 November 1991, more than 1,600 civilians left Škabrnja in the direction of Zadar and Prkos, while most of the women and children left Nadin and went to Polača, Zaton, and Zadar, consistent with Adjudicated Facts III-210 and 211 reviewed above.

317. Considering the Adjudicated Facts and having reviewed the evidence of Aco Drača, Luka Brkić, Neven Šegarić, and Tomislav Šegarić, as well as exhibit P1201, the Trial Chamber further finds that in November 1991 the JNA and TO took Croat and non-Serb civilians from Škabrnja and transported them to Croat-controlled territory. Based on the

evidence of Luka Brkić, Neven Šegarić, and Tomislav Šegarić, the Trial Chamber finds that members of the JNA and TO threatened and beat the detainees from Škabrnja, including Luka Brkić, in and around Benkovac before transporting them further. The Trial Chamber will further consider this incident in relation to Counts 1, 4, and 5 of the Indictment, in the Indictment, in chapter 4, below.

Škabrnja, Nadin, and other Croat villages in Benkovac municipality, September 1991-March 1992: Škabrnja, December 1991 – March 1992

318. **Boško Brkić** stated that, although the majority of the villagers had fled Škabrnja, his parents Mate and Josipa Brkić, 73 and 70 years old respectively, remained in the village after the attack since his father was confined to a wheelchair and unable to leave. One day in early December 1991, approximately 10 to 15 days after the attack, at about 1 a.m., the witness came back to Škabrnja for the first time. Their family house was burned. Brkić found his parents staying in their old house without electricity and heating, just next to their family house. During the two-hour visit, the witness saw JNA soldiers around the village and machine gun nests in houses all over the village. The JNA had told the witness's parents to be very careful as the "Chetniks" would come and kill them. Brkić's parents told him that every day one group of "Chetniks" threatened to kill them, while another group of "Chetniks" pretended to protect them. These men all had long beards and wore uniforms with "Chetnik" insignia. At the time, four women, Kata Perica, Marija Bilaver, Anica Pavičić, and Eva Pavičić, would spend the night with Brkić's parents. From the end of November 1991 until 11 March 1992, Brkić visited Škabrnja a total of about 50 times, either very late at night or early in the morning. By mid-January 1992, only a few regular JNA soldiers were left guarding and patrolling the village while there were 50-70 soldiers in camouflage uniforms with SAO Krajina and white eagle insignia. Anica and Eva Pavičić told the witness that on 11 March 1992, in the old house, they found his parents, Kata Perica, and Marija Bilaver lying on their stomachs on the floor, shot in the back of the head and in the chest. Anica and Eva Pavičić fled the village. After the death of his parents, Brkić only visited the village intermittently but observed from a distance that the village was randomly looted and burnt. As of 1 December 1992, Škabrnja was virtually completely destroyed.⁷⁰³

319. The Trial Chamber considers Boško Brkić's evidence that in early 1992, Škabrnja was looted and destroyed and that his parents were harassed, and that subsequently his parents, Kata Perica, and Marija Bilaver were killed, to be consistent with Adjudicated Fact III-212

reviewed above. The Trial Chamber further considers Boško Brkić's evidence, that in or soon after March 1992, Anica and Eva Pavičić fled from Škabrnja to be consistent with Adjudicated Facts III-207-208 and 210, reviewed above in the second section of this chapter.⁷⁰⁴

Lovinac, June - September 1991

320. The Trial Chamber has taken judicial notice of Adjudicated Facts and received the evidence of Witness JF-039, Milan Babić, and Aco Drača, as well as several exhibits (including an interview with Dragan Karna, and a Mladić diary entry), in relation to two attacks on Lovinac, first in June and then in September 1991.

321. The Trial Chamber will first address a letter from Helsinki Watch which relates to an alleged attack on Lovinac in August 1991. On 21 January 1992, in a letter to Milošević and Adžić, Helsinki Watch wrote that during the attack of 5 August 1991 on Lovinac, Serbian paramilitary groups "reportedly" kidnapped five Croats whose bodies were found ten days later.⁷⁰⁵ The Trial Chamber has not received any other evidence on Serb forces being present in Lovinac in August 1991. Helsinki Watch did not specify which sources reported this kidnapping. Under these circumstances, the Trial Chamber will not further rely on the report in this respect.

322. With regard to the first attack on Lovinac, an Adjudicated Fact sets out that in June 1991, there was a Croatian SJB in Lovinac and as a consequence the village was attacked by the police of the SAO Krajina. Milan Martić participated in the attack.⁷⁰⁶

323. The Trial Chamber now turns to the evidence it has received in relation to the June 1991 attack, in particular the evidence of Witness JF-039 and Milan Babić. **Witness JF-039**, a Serb from Croatia,⁷⁰⁷ testified that after Golubić⁷⁰⁸ had started, Simatović decided that he wanted an armour sided train with four or five train cars that would be able to travel through Lika and the Croatian villages there. According to the witness, the train had a crew of 30-60 special police officers, all trained at Golubić, and was commanded by Blagoje Guška. The

⁷⁰³ P75 (Boško Brkić, witness statement, 20 March 2002), pp. 2-4.

⁷⁰⁴ Deportation and forcible transfer from the entirety of the SAO Krajina, 1991-1995.

⁷⁰⁵ P1201 (Helsinki Watch letter to Milošević and Adžić, 21 January 1992), p. 3.

⁷⁰⁶ Adjudicated Facts III, fact 42.

⁷⁰⁷ P978 (Witness JF-039, witness statement, 12 September 2003), p. 1, paras 1, 5, 23; P977 (Witness JF-039, prior testimony), pp. 1958-1959.

⁷⁰⁸ The Trial Chamber understands this to refer to the Golubić training camp, see chapter 6.3.2.

first attempt at using this train was an attack on Lovinac, a Croatian village, in June 1991.⁷⁰⁹ According to the witness, Simatović took the armoured train from Gračac to Lovinac to test-drive it. The train was not meant to help take the village but rather to intimidate the villagers and drive them to leave the area.⁷¹⁰

324. The witness testified that during the attack, he was present on an elevation overlooking Lovinac, from where he could see the town at a distance of around 800 metres. Martić was at this location as well.⁷¹¹ The witness further testified that the attack on Lovinac was carried out by Martić's police and under Martić's command.⁷¹² In addition to the train there was a mortar company or squad on a hill above the village. The infantry did not try to take the village during the attack. From the elevation, the witness observed smoke above Lovinac. The witness added that the objective of the attack was to connect Gračac, a Serb territory, with other Serb territory, and to cleanse Lovinac and have as much of the local population leave as possible in order to establish a purely Serb territory.⁷¹³ According to the witness, Martić, Simatović, and Orlović discussed the objective of the attack at Martić's headquarters before the attack and they considered it a unique opportunity to test the armoured train.⁷¹⁴ The witness heard others openly discuss the attack the day before it took place.⁷¹⁵ The witness testified that the attack was unsuccessful and that the village was not taken.⁷¹⁶ From the elevation, the witness was not able to observe the effects of the attack, but later heard that the attack caused injuries and casualties and that the Croatian population fled in panic.⁷¹⁷

325. **Milan Babić**, who was the Prime Minister of the SAO Krajina,⁷¹⁸ stated that in early August 1991, he received a report from the SAO Krajina TO addressed to two TO commanders, the SAO Krajina SUP, the State Security Department, and "Frenki", about armed clashes between Serb forces and "Ustashas" in Lovinac. Babić understood the addressee "Frenki" to refer to Franko Simatović and a reference to the DB in the report to

⁷⁰⁹ P978 (Witness JF-039, witness statement, 12 September 2003), para. 47; P977 (Witness JF-039, prior testimony), pp. 2004, 2010, 2103-2104.

⁷¹⁰ Witness JF-039, T. 7201-7202.

⁷¹¹ P977 (Witness JF-039, prior testimony), pp. 2015-2016, 2104.

⁷¹² P977 (Witness JF-039, prior testimony), pp. 2010-2011.

⁷¹³ P977 (Witness JF-039, prior testimony), pp. 2010-2011, 2016, 2019-2020, 2103-2104, 2198, 2201; Witness JF-039, T. 7201-7202.

⁷¹⁴ P977 (Witness JF-039, prior testimony), pp. 2019-2020.

⁷¹⁵ P977 (Witness JF-039, prior testimony), p. 2197.

⁷¹⁶ P978 (Witness JF-039, witness statement, 12 September 2003), para. 47; P977 (Witness JF-039, prior testimony), pp. 2103-2105, 2197-2198.

⁷¹⁷ P977 (Witness JF-039, prior testimony), pp. 2011, 2016, 2189.

refer to the SAO Krajina MUP DB.⁷¹⁹ In September 1991, at a restaurant near the Knin fortress, Babić heard Franko Simatović bragging about his activities at Lovinac, in Gračac municipality.⁷²⁰ According to Babić, Simatović bragged that he had “razed it all”.⁷²¹ Based on the report he received, what he heard at the restaurant, and what people from Gračac told him, Babić stated that Simatović, Martić, a person called David Rastović, and a mortar platoon from Lapac had fired at the police station in Lovinac and at the village itself.⁷²² According to Babić, these persons were the first to open fire at Lovinac, thereby expelling the Croats from the Gračac area. Babić further stated that this operation preceded the combat with the 1st Partizan Brigade to unblock the warehouses in Sveti Rok, in the Gračac area. According to Babić, the “structures” which included Simatović and which attacked Lovinac, burned and looted the villages in the Lovinac area.⁷²³ Babić further stated that in Belgrade, Dušan Vještica, the President of the Executive Council of the Municipal Assembly of Gračac, told him that he had had to feed and house the local people from Lovinac and to protect them from men who were in Franko Simatović’s circle and under his protection and who would otherwise kill them. Vještica told Babić that he escorted these people towards Croatian-government-controlled territory in the direction of Gospić.⁷²⁴

326. Two pieces of documentary evidence also contained information relevant to the June 1991 attack on Lovinac. First, in an interview with Serbian Radio Television Knin, Dragan Karna, the Commander of the Special detachment of the Knin SUP stated that the Knin SUP Special unit was formed on the orders of Milan Martić and participated in the liberation of Sveti Rok and Lovinac.⁷²⁵ Second, in a hand-written autobiography written at Tara on 4

⁷¹⁸ P1878 (Milan Babić, *Slobodan Milošević* transcript, 18-22, 25-26 November, and 2-4, 6, and 9 December 2002), p. 12965; P1880 (Death Certificate of Milan Babić).

⁷¹⁹ P1877 (Milan Babić, *Martić* transcript, 15-17, 20-21 February, and 2-3, and 6 March 2006), pp. 1519-1520; P1122 (SAO Krajina TO Report on 5 and 6 August 1991, 6 August 1991).

⁷²⁰ P1877 (Milan Babić, *Martić* transcript, 15-17, 20-21 February, and 2-3, and 6 March 2006), pp. 1431-1432, 1604. Contrary to the assertions of the Stanišić Defence, Babić stated that he *heard* Franko Simatović’s remarks, not that he *overheard* them. See Stanišić Defence Final Trial Brief, 17 December 2012, para. 236.

⁷²¹ P1877 (Milan Babić, *Martić* transcript, 15-17, 20-21 February, and 2-3, and 6 March 2006), p. 1432.

⁷²² P1877 (Milan Babić, *Martić* transcript, 15-17, 20-21 February, and 2-3, and 6 March 2006), pp. 1432; P1878 (Milan Babić, *Slobodan Milošević* transcript, 18-22, 25-26 November, and 2-4, 6, and 9 December 2002), p. 14096.

⁷²³ P1878 (Milan Babić, *Slobodan Milošević* transcript, 18-22, 25-26 November, and 2-4, 6, and 9 December 2002), p. 14096.

⁷²⁴ P1878 (Milan Babić, *Slobodan Milošević* transcript, 18-22, 25-26 November, and 2-4, 6, and 9 December 2002), p. 13069.

⁷²⁵ D117 (RTV Knin interview with Dragan Karna).

December 1993, Nikola Pilipović wrote that after training at Golubić and the fortress from June 1991, he participated in all actions of the unit, including Lovinac.⁷²⁶

327. The Trial Chamber now turns to additional evidence it has received regarding the existence and use of an armoured train in the Krajina. A document dated 21 June 1991 in Knin entitled “Putting into Effect the Project on Armoured Vehicles” reported on plans to place guns on three trains. The first train was to be stationed at Benkovac and repel any attack on the Benkovac-Knin route; the second at Golubić to protect the Knin-Drniš route and the Knin-Martin Brod axis; and the third at Gračac, tasked with protecting the Gračac-Gospić axis and having the ability to target and attack Lovinac.⁷²⁷ Witness DFS-014, a former SAO Krajina police official,⁷²⁸ testified that exhibit P2673 was drafted in the Ijekavian dialect, as used in Croatia and the Knin Krajina area.⁷²⁹

328. The Prosecution contends that this document (in evidence as exhibit P2673) is signed by Franko Simatović and demonstrates his plan to use armoured trains in the Krajina.⁷³⁰ When tendering the document for admission into evidence, the Prosecution submitted that it had received the document from the Republic of Croatia in response to a request for assistance.⁷³¹ The Simatović Defence submits that exhibit P2673 is neither reliable nor authentic.⁷³² It points to the presence of – what it considers to be – a Croatian checkerboard stamp on the document and the use of the Ijekavian dialect in the document (as opposed to the Ekavian dialect used in Serbia), as well as the absence of any heading, or information as to who drafted it, or to whom it is addressed.⁷³³ The Prosecution contests that the stamp on P2673 contains a checkerboard and submits that, even if the document were written in Ijekavian, Simatović may have signed the document after it was typed by somebody else.⁷³⁴ The Trial Chamber will further consider this document in the context of the other evidence before it, in its findings below.

⁷²⁶ P3195 (Series of Serbian MUP SDB documents relating to Nikola Pilipović), pp. 13-14 (Hand-written autobiography by Nikola Pilipović, Tara, 4 December 1993).

⁷²⁷ P2673 (Report on putting armoured vehicles into effect, Knin, 21 June 1991).

⁷²⁸ Witness DFS-014, T. 15755-15758.

⁷²⁹ Witness DFS-014, T. 15809, 15960-15963; P3060 (Copy of P2673 with in-court markings by Witness DFS-014 regarding the use of Ijekavian dialect).

⁷³⁰ Prosecution Final Trial Brief, 14 December 2012, paras 404, 707.

⁷³¹ Re-submission of Confidential Annex A to the Prosecution’s Second Bar Table Motion with Defence Comments, 27 January 2011, Confidential Annex A, pp. 22, 24.

⁷³² Simatović Defence Final Trial Brief, 17 December 2012, paras 178-182.

⁷³³ Simatović Defence Final Trial Brief, 17 December 2012, paras 179-182; T. 20344.

⁷³⁴ T. 20382-20383.

329. **Mile Bosnić**, an SDS regional board member and president of the SDS board in Kordun,⁷³⁵ testified that he heard that there was an armoured train manufactured in Knin and commanded by Blagoje Guška who was part of the Kninže unit and who Bosnić saw in Golubić in 1991, but Bosnić did not know whether the train had been used in any operations.⁷³⁶ **Witness DFS-014** testified that Blagoje Guška told him that he had commanded an armoured train and that an armoured train was in action in Benkovac in 1993.⁷³⁷ **Aco Drača**, who was head of the SDB in Benkovac from late winter or early spring in 1991 and deputy chief of the Krajina SDB from August 1992,⁷³⁸ testified that Blagoje Guška constructed an armoured train with Martić's and the TO's support, which was baptised on 30 June 1993 in Benkovac, in Drača's presence.⁷³⁹

330. The Trial Chamber now turns to the evidence in relation to the attack on Lovinac in September 1991. **Aco Drača** testified that there was a large JNA depot near Sveti Rok, which was so close to Lovinac that it could be considered a hamlet of Lovinac.⁷⁴⁰ Dusan Orlović told him that in August and September 1991, the Croats had blockaded this depot and the JNA Knin Corps, in an operation commanded by Colonel Trbović, launched an attack with the 180th Motorised Brigade to take Lovinac.⁷⁴¹ A few days after the operation, Orlović told him that the civilian population had left Lovinac.⁷⁴²

331. In an entry under the heading 26 September 1991, Mladić noted in his diary "Colonel Trbović" "1 battalion in Lovinac", "Command of Sveti Rok", that he had been to Sveti Rok, and "Lovinac is a ghost town".⁷⁴³

332. The Trial Chamber will first address the June 1991 attack. In light of the Adjudicated Facts, and having reviewed the evidence of Milan Babić, Witness JF-039, and exhibits P1122 and D117, the Trial Chamber finds that in June 1991, SAO Krajina Police members, including Milan Martić, attacked Lovinac. Further, based on Witness JF-039's testimony and exhibit P3195, the Trial Chamber finds that Nikola Pilipović and a number of special police officers who had trained at Golubić participated in the operation in Lovinac. There was a Croatian SJB presence in Lovinac at the time of the attack.

⁷³⁵ D313 (Mile Bosnić, witness statement, 5 July 2011), para. 2.

⁷³⁶ Mile Bosnić, T. 12730, 12732-12733, 12866-12871, 12879.

⁷³⁷ Witness DFS-014, T. 15807-15809.

⁷³⁸ Aco Drača, T. 16692, 16742, 16776-16777.

⁷³⁹ Aco Drača, T. 16827-16828.

⁷⁴⁰ Aco Drača, T. 16769-16770.

⁷⁴¹ Aco Drača, T. 16769-16771. See also P1123 (Report of the SAO Krajina headquarters to the SAO Krajina armed forces command, the TO, and "ODB", by Petar Maglov, 17 September 1991).

⁷⁴² Aco Drača, T. 16771-16772.

333. The Stanišić Defence disputes the reliability of Milan Babić's evidence in relation to the attack on Lovinac, submitting that it is a hearsay account by an accomplice and was admitted pursuant to Rule 92 *quater* of the Rules.⁷⁴⁴ The Stanišić Defence also disputes the reliability of Witness JF-039's evidence, submitting that it is internally inconsistent.⁷⁴⁵ It further submits that the accounts of these two witnesses are contradictory.⁷⁴⁶

334. The Trial Chamber has carefully reviewed the evidence of Witness JF-039 and Milan Babić regarding the attack on Lovinac, including the involvement of Franko Simatović therein. Witness JF-039's account of the attack is based primarily on his personal observations. His evidence, as summarized above, is broadly internally consistent. Turning to Babić, the Trial Chamber considers that he clearly distinguished between the different sources of his knowledge regarding Simatović's participation in the attack and that his evidence is internally consistent in this respect. The Trial Chamber further refers to its discussion of Milan Babić's reliability in the last section of this chapter.⁷⁴⁷ The Trial Chamber further considers that the separate accounts of Milan Babić and Witness JF-039 corroborate each other on important points, including on the involvement of a mortar platoon during the attack and on the personal involvement of Milan Martić and Franko Simatović. The Trial Chamber relies on the evidence of Witness JF-039 and Milan Babić in respect of the below.

335. Based on the aforementioned evidence, the Trial Chamber finds that in June 1991, prior to the attack, Franko Simatović, Milan Babić, and Orlović discussed the objective of the attack on Lovinac as being to connect Gračac with other Serb territory and to have as much of the local population leave as possible in order to establish a purely Serb territory. Franko Simatović participated in the attack and later boasted that the attack had razed the village.

336. The Trial Chamber now turns to the attack itself. The Trial Chamber will address in turn: the use of mortars, the armoured train, and looting and burning. Considering the evidence of Witness JF-039 and Milan Babić, the Trial Chamber finds that the attack consisted, at least, of firing mortars at Lovinac, including at the police station. The evidence does not clearly establish the duration or extent of the mortar fire in June 1991. Witness JF-039's evidence on the effects of the mortar attack is based on unidentified hearsay sources.

⁷⁴³ D1473 (Excerpts from the Mladić diary, 9 September – 21 November 1991), p. 15.

⁷⁴⁴ Stanišić Defence Final Trial Brief, 17 December 2012, paras 235-236.

⁷⁴⁵ Stanišić Defence Final Trial Brief, 17 December 2012, paras 237-239.

⁷⁴⁶ Stanišić Defence Final Trial Brief, 17 December 2012, paras 235-237.

⁷⁴⁷ Findings on deportation and forcible transfer in the entire SAO Krajina 1991-1995.

337. Regarding the use of an armoured train during the attack, the Trial Chamber considers that the evidence of Witness JF-039, who was present during the attack, is partially corroborated by Mile Bosnić's evidence. Further, evidence of the existence of an armoured train in Benkovac in 1993 does not necessarily contradict the use of an armoured train in Lovinac in June 1991. Finally, the content of the 21 June 1991 document planning armoured trains, in evidence as P2673, is consistent with Witness JF-039's evidence, in particular in relation to the route from Gračac to Lovinac. The Trial Chamber has further considered the document's provenance. Having carefully reviewed the Simatović Defence's arguments to the contrary, in light of the other evidence received, the Trial Chamber considers P2673 to be authentic and to have been signed or initialled by Franko Simatović. On the basis of the foregoing, the Trial Chamber finds that in June 1991, Franko Simatović planned and participated in the use of an armoured train in the Lovinac area. The evidence does not clearly establish the manner in which the train was used between Gračac and Lovinac or whether its use caused any villagers to leave Lovinac. The Trial Chamber considers Witness JF-039's testimony that the train had the objective of intimidating the villagers into leaving Lovinac. According to the report of 21 June 1991 signed or initialled by Simatović, the purpose of the train was to protect the Gračac-Gospić axis and have the ability to target and attack Lovinac. The Trial Chamber will further consider Simatović's intent in relation to the attack on Lovinac in chapter 6.10.

338. In relation to looting and burning, the Trial Chamber considers that Babić did not specify a source of knowledge for the information that the forces which attacked Lovinac burned and looted houses in the Lovinac area. Further, it is not clear from Babić's evidence upon which basis President Vještica believed that villagers from Lovinac needed protection and feared that persons who wanted to kill them, nor how such persons were protected by or otherwise linked to Franko Simatović. The evidence of Witness JF-039 indicates that the Serb forces did not enter Lovinac town during the June 1991 attack. In light of the foregoing, the Trial Chamber is unable to make any further factual findings in relation to the manner in which the attack on Lovinac in June 1991 was carried out. The evidence does not establish with sufficient certainty whether any persons left Lovinac during or immediately following the June 1991 attack. The evidence of Aco Drača indicates instead that the town remained under Croat control in August and part of September 1991. Under these circumstances, the Trial Chamber will not further consider the June 1991 attack on Lovinac in relation to the alleged deportation and forcible transfer of non-Serb civilians from the SAO Krajina.

339. The Trial Chamber now turns to the September 1991 attack. Based on Mladić's diary entry in exhibit D1473 and the evidence of Aco Drača and Milan Babić, the Trial Chamber finds that in September 1991, members of the JNA Knin Corps attacked Lovinac, after which the village was deserted. There was a large JNA depot nearby Lovinac, at Sveti Rok.

Bruška, February 1991 – January 1992 and 1995

340. The Trial Chamber has taken judicial notice of Adjudicated Facts and received evidence from Ante Marinović, Jasna Denona, and Stanko Erstić, and exhibit P2934 in relation to events in Bruška from February 1991 through January 1992 and in 1995.

341. According to the Adjudicated Facts, in 1991, about 400 people lived in Bruška. Ninety per cent of its inhabitants were Croat, and 10 per cent were Serb. Marinovići is a hamlet in Bruška comprising of eight houses, which in 1991 was inhabited by Croats.⁷⁴⁸ **Jasna Denona**,⁷⁴⁹ **Ante Marinović**,⁷⁵⁰ and **Stanko Erstić**⁷⁵¹ provided evidence consistent with these Adjudicated Facts. One Adjudicated Fact provide that the "Militia Krajina, Martić's police" set up barricades which cut off the bus line between Zadar and Benkovac.⁷⁵² **Ante Marinović**, a Croat from Bruška,⁷⁵³ provided evidence consistent with this Adjudicated Fact.⁷⁵⁴ Marinović added that the first barricades were put up in February 1991 in various places, including in front of predominantly Serb villages, and prevented the villagers in Bruška from leaving.⁷⁵⁵ **Stanko Erstić**, a Croat from Medviđa,⁷⁵⁶ provided evidence consistent with the Adjudicated Facts regarding barricades set up in the area of Medviđa, near Bruška. Erstić added that as the summer of 1991 progressed, the barricades made it increasingly difficult for Croats to travel in the area of Medviđa as the armed Serbs manning the barricades stopped cars and harassed

⁷⁴⁸ Adjudicated Facts III, facts 180-182.

⁷⁴⁹ P37 (Jasna Denona, witness statement, 3 November 2000), p. 2; P38 (Jasna Denona, *Slobodan Milošević* transcript, 29 October 2003), p. 28214; P39 (Jasna Denona, *Martić* transcript, 9 February 2006), pp. 1269-1270, 1286.

⁷⁵⁰ P490 (Ante Marinović, witness statement, 30 September 2000), p. 2; P491 (Ante Marinović, *Martić* transcript, 23 March 2006), p. 2472.

⁷⁵¹ P1777 (Stanko Erstić, witness statement, 31 October 2000), p. 2.

⁷⁵² Adjudicated Facts III, fact 183.

⁷⁵³ P490 (Ante Marinović, witness statement, 30 September 2000), pp. 1-2; P491 (Ante Marinović, *Martić* transcript, 23 March 2006), p. 2470.

⁷⁵⁴ P491 (Ante Marinović, *Martić* transcript, 23 March 2006), pp. 2475-2476; Ante Marinović, T. 5347-5348, 5354-5357.

⁷⁵⁵ P490 (Ante Marinović, witness statement, 30 September 2000), p. 2; P491 (Ante Marinović, *Martić* transcript, 23 March 2006), p. 2475; Ante Marinović, T. 5347-5348, 5355.

⁷⁵⁶ P1777 (Stanko Erstić, witness statement, 31 October 2000), pp.1-2.

passengers. According to Erstić, Medviđa consisted of 70 households of which about half were Croat and half were Serb.⁷⁵⁷

342. According to the Adjudicated Facts, armed men identifying themselves as “Martić’s men” or “Martić’s Militia” came to Bruška almost every day to scare the inhabitants. The armed men called the villagers “Ustašas” and said that Bruška would be a part of a Greater Serbia and that the people of Bruška should leave.⁷⁵⁸ **Ante Marinović** provided evidence consistent with this Adjudicated Fact.⁷⁵⁹ Marinović added that the almost daily harassment of the villagers in Bruška occurred between September and December 1991.⁷⁶⁰ According to the Adjudicated Facts, as of December 1991 almost all of the inhabitants of Bruška were still living there.⁷⁶¹ In this respect, **Marinović** indicated in his testimony in the *Martić* case that almost all of the inhabitants of Bruška were still living there by 21 December 1991, while in his Rule 92 *ter* statement, he indicated that 70 per cent of the villagers still resided in Bruška by that date.⁷⁶²

343. The Trial Chamber further refers to the evidence reviewed in chapter 3.1.6, mainly from Ante Marinović, Jasna Denona, and Aco Drača, with regard to killing of nine Croats and a Serb in Bruška on 21 December 1991.

344. **Marinović** testified that following the killings in Bruška, during which he was wounded, he walked to Kalanja Draga. From there, Marinović was taken to a hospital in Benkovac and then, on 22 December 1991, to the hospital in Knin. Marinović underwent surgery at the hospital in Knin and spent nine to fifteen days there. During his hospital stay, one of Martić’s police (wearing a camouflage uniform with “Milicija Krajina” insignia) came into Marinović’s hospital room and threatened him, saying “this Ustasha must be slaughtered”, at which point a doctor told the policeman to leave. After his hospital stay in Knin, Marinović returned to Bruška for about two hours and then went to stay with relatives in the Lika area, until 17 December 1992. Marinović testified that some Croat civilians stayed

⁷⁵⁷ P1777 (Stanko Erstić, witness statement, 31 October 2000), pp. 2-3; P1781 (Stanko Erstić, *Slobodan Milošević* transcript, 24-25 July 2003), p. 24970.

⁷⁵⁸ Adjudicated Facts III, fact 183.

⁷⁵⁹ P490 (Ante Marinović, witness statement, 30 September 2000), p. 3; P491 (Ante Marinović, *Martić* transcript, 23 March 2006), pp. 2478-2480, 2493, 2498; Ante Marinović, T. 5347, 5359.

⁷⁶⁰ P490 (Ante Marinović, witness statement, 30 September 2000), p. 3; P491 (Ante Marinović, *Martić* transcript, 23 March 2006), pp. 2478-2480, 2493, 2498; Ante Marinović, T. 5347, 5359.

⁷⁶¹ Adjudicated Facts III, fact 183.

⁷⁶² P490 (Ante Marinović, witness statement, 30 September 2000), p. 3; P491 (Ante Marinović, *Martić* transcript, 23 March 2006), p. 2480.

in Bruška for 20 or so days after the attack, but that they were finally all moved out of the village.⁷⁶³

345. **Jasna Denona** (née Marinović), a Croat from the hamlet of Marinović in Bruška, Benkovac municipality, who was 15 years old in 1991,⁷⁶⁴ testified that, following the killings in Bruška, during which she was wounded, on 22 December 1991, she returned to her house with her mother, after which, around 6 p.m. the Krajina police and an ambulance arrived. A woman who said she was from the police took a statement from the witness. The witness was taken to a clinic in Benkovac and then to a hospital in Knin. She had surgery and remained in the hospital for about a week, together with Ante Marinović. The wound in her hip healed, but her right forearm was permanently damaged. After she was released from the hospital, she returned to Bruška. On 18 January 1992, buses were arranged to transport citizens from local villages in the area to Zadar and the witness went and still lived there at the time of testimony.⁷⁶⁵

346. In an entry related to 24 December 1991, Mladić noted in his diary that “KERO” of the “KŠ Zadar” (which the Trial Chamber understands to refer to the Zadar Crisis Staff) requested that eleven dead bodies of Bruška village inhabitants be delivered to him and that they be enabled to evacuate approximately 2,000 Croat inhabitants from Bruška, Rodaljica, and other villages.⁷⁶⁶

347. **Aco Drača**, head of the SDB in Benkovac from late winter or early spring 1991 and deputy chief of the Krajina SDB from August 1992,⁷⁶⁷ testified that in the days and nights following the killings, he organized the securing of the village of Bruška on orders of Milan Martić, who considered the incident to be a failure of the chief of the SJB, Boško Dražić, to assign a patrol ensuring safety to every village with Croat inhabitants. After the incident, Martić asked that Dražić step down, which happened in March or April 1992. During the visit of the Benkovac municipality president Zdravko Zečević to Bruška, a request was made by a villager for buses to be organized to take the villagers out of Bruška. Despite Zečević’s effort

⁷⁶³ P490 (Ante Marinović, witness statement, 30 September 2000), pp. 3-4; ; P491 (Ante Marinović, *Martić* transcript, 23 March 2006), p. 2485-2488, 2500, 2503; Ante Marinović, T. 5349, 5360, 5362-5364.

⁷⁶⁴ P37 (Jasna Denona, witness statement, 3 November 2000), pp. 1-2; P39 (Jasna Denona, *Martić* transcript, 9 February 2006), pp. 1268-1269, 1299, 1303; Jasna Denona, T. 2019, 2035; P44 (Official Note by Zadar Police Administration, 13 July 1992), p. 1.

⁷⁶⁵ P37 (Jasna Denona, witness statement, 3 November 2000), p. 4; P38 (Jasna Denona, *Slobodan Milošević* transcript, 29 October 2003), pp. 28200, 28202-28203; P39 (Jasna Denona, *Martić* transcript, 9 February 2006), p. 1277-1279, 1281, 1293-1296, 1299, 1301, 1304-1305, 1308; ; Jasna Denona, T. 2034; P44 (Official Note by Zadar Police Administration, 13 July 1992), p. 2.

⁷⁶⁶ P2934 (Mladić diary entry, 24 December 1991), pp. 1, 3.

⁷⁶⁷ Aco Drača, T. 16692, 16742, 16776-16777.

to dissuade the villagers from this idea, they persisted and several days later buses were organized by the Red Cross in Benkovac and the Red Cross in Zadar for approximately 120 inhabitants to leave Bruška.⁷⁶⁸ The Trial Chamber has carefully reviewed Drača's evidence in relation to Bruška and, having further considered Drača's position in the Benkovac SDB at the time of the events, does not consider Drača's evidence regarding the events in Bruška to be fully credible. In particular, the Trial Chamber considers, in the context of the totality of the evidence before it, Drača's evidence to be not fully credible in relation to Benkovac municipal president Zečević's efforts to dissuade persons from leaving Bruška.

348. In light of the Adjudicated Facts and based on the evidence of Ante Marinović and Stanko Erstić, the Trial Chamber finds that in April 1991 and throughout the summer of 1991, members of the SAO Krajina Police operated barricades in the Benkovac area, including near Bruška and Medviđa, limiting the ability of Croats to travel. Based on the Adjudicated Facts, the Trial Chamber finds that members of the SAO Krajina Police told the people of Bruška to leave, called them "Ustašas", and said that Bruška would be a part of a Greater Serbia. The Trial Chamber considers Stanko Erstić's evidence that members of the SAO Krajina Police harassed Croats at these barricades consistent with Adjudicated Fact III-210 reviewed in the second section of this chapter.⁷⁶⁹ The Trial Chamber further considers the Adjudicated Facts and evidence of Ante Marinović that members of the SAO Krajina Police harassed and intimidated Croats in the predominantly Croat village of Bruška on an almost daily basis between September and December 1991 consistent with Adjudicated Fact III-210 reviewed above.

349. The Trial Chamber recalls its findings from chapter 3.1.6 that around 6 p.m. on 21 December 1991, members of the SAO Krajina Police shot and killed nine Croats in Bruška. In light of these findings and based on the evidence of Ante Marinović and Jasna Denona reviewed above and in chapter 3.1.6, the Trial Chamber finds that members of the SAO Krajina Police seriously injured the two witnesses during the same incident. At the Knin hospital, a member of the SAO Krajina Police threatened Ante Marinović, saying "this Ustasha must be slaughtered". The Trial Chamber considers the evidence of Jasna Denona, Aco Drača, and Ante Marinović that, following the killings in Bruška, in January 1992, around 120 villagers left Bruška and the surrounding villages in buses and travelled to Zadar,

⁷⁶⁸ Aco Drača, T. 16696, 16762-16764.

⁷⁶⁹ Deportation and forcible transfer from the entirety of the SAO Krajina, 1991-1995.

consistent with Adjudicated Facts III-210 and 211, reviewed above in the second section of this chapter.⁷⁷⁰

Kijevo and Vrlika, August 1991

350. The Trial Chamber has taken judicial notice of Adjudicated Facts and received the evidence of Milan Babić, Witness JF-041, Witness DST-043, and Witness JF-039, as well as exhibits P1132-P1134, P1181, P2984, and D296 in relation to the attacks on Kijevo and Vrlika in August 1991.

351. According to the Adjudicated Facts, the decision to attack Kijevo was taken by Milan Martić in coordination with the JNA and followed an ultimatum issued by him to the Croatian SJB, in which he stated that “you and your leadership have brought relations between the Serbian and Croatian populations to such a state that further co-existence in our Serbian territories of the SAO Krajina is impossible”. In relation to the civilian population in Kijevo, the ultimatum provided that: “We also want to advise the population of Kijevo to find safe shelters on time so that there should be no casualties among them. We would like to stress that we want co-existence and understanding between the residents of the Serbian villages and the Croatian population in Kijevo, and we guarantee civil and human rights to everyone”.⁷⁷¹ The evidence of Milan Babić and exhibits P1133 and D296 are consistent with these Adjudicated Facts regarding Martić’s ultimatum.⁷⁷² Exhibit D296 is an interview of 14 October 1994, in which Martić further stated that he had issued his ultimatum to Kijevo because the Croats in Kijevo had refused to allow transport through the village, as a result of which the Serb villages behind it, including Civljane and Vrlika, were isolated.⁷⁷³ According to the Adjudicated Facts, prior to the attack, between 23 and 25 August 1991, the commander of the Croatian SJB evacuated almost the entire civilian population of Kijevo.⁷⁷⁴ Witness JF-041’s testimony and exhibit D296 are consistent with this Adjudicated Fact.⁷⁷⁵

352. The Adjudicated Facts further provide that on 26 August 1991, the Croat village of Kijevo, situated 15 kilometres east of Knin, was attacked because the MUP of Croatia had

⁷⁷⁰ Deportation and forcible transfer from the entirety of the SAO Krajina, 1991-1995.

⁷⁷¹ Adjudicated Facts III, facts 46-47.

⁷⁷² P1133 (Letter to the Split Police Administration, Kijevo Police Station and the Kijevo Local Commune, Milan Martić, 18 August 1991); P1878 (Milan Babić, *Slobodan Milošević* transcript, 18-22, 25-26 November, and 2-4, 6, and 9 December 2002), pp. 13180-13181; D296 (Interview with Milan Martić, 14 October 1994), pp. 1, 11.

⁷⁷³ D296 (Interview with Milan Martić, 14 October 1994), pp. 1, 11.

⁷⁷⁴ Adjudicated Facts III, fact 48.

⁷⁷⁵ P1548 (Witness JF-041, *Martić* transcript, 23-25 May 2006), p. 4444; Witness JF-041, T. 7967, 8033; D296 (Interview with Milan Martić, 14 October 1994), p. 11.

established an SJB in the village. Units of the JNA 9th Corps in Knin, the *Milicija Krajine*, and the local TO participated in the attack. There was coordination between the JNA and the MUP, and the JNA was in command of the participating forces. The attack on Kijevo on 26 August 1991 only lasted a few hours. The Catholic church in Kijevo was damaged during the attack, and was later destroyed.⁷⁷⁶ The evidence of Milan Babić,⁷⁷⁷ Witness JF-041,⁷⁷⁸ Witness DST-043,⁷⁷⁹ Witness JF-039,⁷⁸⁰ and exhibits P1132, P1134, and D296 are consistent with these Adjudicated Facts.⁷⁸¹

353. Exhibit P1134 is a JNA 9th Corps report to the General Staff of the SFRY Armed Forces of 4 October 1991, in which Ratko Mladić further noted that on 26 August 1991, 9th Corps units had engaged in battle with ZNG members for several hours in order to break through Kijevo and lift a blockade. The 9th Corps units fired at the church in Kijevo, which members of the ZNG were using for shelter and from where they were firing.⁷⁸²

354. **Witness JF-041**, a Serb from Knin municipality,⁷⁸³ testified that Kijevo was an entirely Croat town consisting of between 300 and 350 houses. According to the witness's information at the time, around 40 armed Croatian policemen were deployed at the Kijevo cultural hall, near the church.⁷⁸⁴ The witness, whose task it was to observe, reconnoitre, and report, did not observe any police or other activity from the church in Kijevo.⁷⁸⁵ **Witness DST-043**, a Serb from Knin,⁷⁸⁶ testified that on the day of the attack on Kijevo, the Croatian special police forces were removed and the population fled from the village.⁷⁸⁷

⁷⁷⁶ Adjudicated Facts III, facts 46, 48-50.

⁷⁷⁷ P1877 (Milan Babić, *Martić* transcript, 15-17, 20-21 February, and 2-3, and 6 March 2006), p. 1558; P1878 (Milan Babić, *Slobodan Milošević* transcript, 18-22, 25-26 November, and 2-4, 6, and 9 December 2002), p. 13182; P1879 (Milan Babić, *Krajišnik* transcript, 2-4, and 7 June 2004), p. 3389.

⁷⁷⁸ P1548 (Witness JF-041, *Martić* transcript, 23-25 May 2006), pp. 4383, 4431, 4443-4444, 4523, 4527-4528, 4540-4541; Witness JF-041, T. 7899-7900, 7973-7974.

⁷⁷⁹ D322 (Witness DST-043, witness statement, 29 June 2011), para. 57; Witness DST-043, T. 12903, 12905-12906.

⁷⁸⁰ P977 (Witness JF-039, prior testimony), pp. 2030, 2034-2035, 2113, 2115, 2118, 2189-2190, 2201.

⁷⁸¹ P1132 (Minutes of the 16th Session of the Assembly of the Serbian People in Bosnia-Herzegovina, 12 May 1992), pp. 1, 34, 46; P1134 (Report on Kijevo operations, Ratko Mladić, 4 October 1991), pp. 1-3; D296 (Interview with Milan Martić, 14 October 1994), p. 11.

⁷⁸² P1134 (JNA 9th Corps report on Kijevo operations, Ratko Mladić, 4 October 1991), pp. 1-3.

⁷⁸³ P1545 (Witness JF-041, Pseudonym sheet); P1546 (Witness JF-041, witness statement, 18 February 2005), p. 1, paras 3, 7, 12-15; P1548 (Witness JF-041, *Martić* transcript, 23-25 May 2006), pp. 4374-4377, 4391, 4393, 4399, 4500.

⁷⁸⁴ P1548 (Witness JF-041, *Martić* transcript, 23-25 May 2006), pp. 4443-4444, 4526, 4540; Witness JF-041, T. 7899, 7959, 7965-7967, 7969.

⁷⁸⁵ Witness JF-041, T. 7900, 7972.

⁷⁸⁶ D322 (Witness DST-043, witness statement, 29 June 2011), paras 1-2; Witness DST-043, T. 12914-12919, 13027-13030, 13032; D321 (Witness pseudonym sheet).

⁷⁸⁷ D322 (Witness DST-043, witness statement, 29 June 2011), para. 57; Witness DST-043, T. 12903, 12905-12906.

355. **Witness JF-039**, a Serb from Croatia,⁷⁸⁸ testified that he went to Kijevo shortly after the attack, where he saw ten prisoners from the Croatian MUP standing by a wall. Ratko Mladić then arrived in the village in an APC and said that as a sign of his goodwill, the ten Croatian MUP prisoners should be released. The witness testified that following the attack on Kijevo, the village was “cleansed” of its Croatian population. According to the witness, of the village’s 200 to 300 inhabitants, only some elderly people remained after the attack. The witness testified that the purpose of the attack on Kijevo was to cleanse the village, to get the entire population out, and to establish a purely Serb territory.⁷⁸⁹ **Milan Babić** stated that he passed through Kijevo the day after the attack, and saw it deserted and destroyed by artillery fire, with houses plundered and torched by the Serbs from neighbouring villages.⁷⁹⁰

356. **Witness JF-041** further testified that after the attack on Kijevo, the JNA continued their activities towards Sinj and Velika and the witness’s reconnaissance company and a police company were ordered to mop up the Kijevo area, which according to the witness included searching for enemy soldiers, arms or explosives. The witness testified that his unit was also tasked with protecting civilians and offering them a way to leave the scene, or advising them to stay in their houses until the war operations and the mop-up operation had been completed. According to the witness, approximately 20 to 30 Croat civilians remained in their houses.⁷⁹¹ On 27 August 1991, when the witness’s unit arrived at the Knin-Split road in Kijevo, they met several SAO Krajina police officers who asked them why they had not started torching part of the village. The witness responded that they did not intend to do that. After this exchange, the witness observed that a house in the centre of Kijevo, and a couple of houses at the far end of the village, started burning.⁷⁹² In total, the witness observed that four houses in Kijevo burned to the ground.⁷⁹³ As there were no combat activities in Kijevo on 27 August 1991, the witness assumed these houses were set on fire deliberately.⁷⁹⁴

357. On 19 December 1991 at Pajzoš, the commander of the Serbia Republican SUP Special Purposes Unit, reported in relation to the death of Borjan Vučković that he had fought

⁷⁸⁸ P978 (Witness JF-039, witness statement, 12 September 2003), p. 1, paras 1, 5, 23; P977 (Witness JF-039, prior testimony), pp. 1958-1959.

⁷⁸⁹ P977 (Witness JF-039, prior testimony), p. 2030-2032, 2034-2035, 2113, 2115, 2118, 2162, 2189-2190, 2200-2201, 2203.

⁷⁹⁰ P1877 (Milan Babić, *Martić* transcript, 15-17, 20-21 February, and 2-3, and 6 March 2006), pp. 1558-1559; P1878 (Milan Babić, *Slobodan Milošević* transcript, 18-22, 25-26 November, and 2-4, 6, and 9 December 2002), p. 13183.

⁷⁹¹ P1548 (Witness JF-041, *Martić* transcript, 23-25 May 2006), pp. 4432-4434, 4524, 4540; Witness JF-041, T. 8033.

⁷⁹² P1548 (Witness JF-041, *Martić* transcript, 23-25 May 2006), pp. 4432-4435, 4542.

⁷⁹³ Witness JF-041, T. 7899.

with the deceased against the Ustasha in Kijevo.⁷⁹⁵ The Trial Chamber has reviewed further relevant evidence in relation to Borjan Vučković in chapter 6.3.2.

358. The Trial Chamber will now review the Adjudicated Facts and evidence regarding Vrlika. According to one Adjudicated Fact, on 28 August 1991, TG-1 of the JNA 9th Corps also attacked the mixed Croat and Serb village of Vrlika, located south of Knin near Kijevo.⁷⁹⁶ Exhibit D296 is consistent with this Adjudicated Fact. D296 is a record of an interview of 14 October 1994, in which Martić added that the SAO Krajina Police and the JNA liberated Vrlika.⁷⁹⁷ **Witness JF-041** further testified that after Kijevo, his unit was sent to control the terrain and protect the remaining civilian population in Vrlika, in Knin municipality, which had been taken over by the JNA.⁷⁹⁸ Despite a JNA ban on looting, the witness observed lorries taking looted goods from the Vrlika area towards Knin.⁷⁹⁹

359. On 2 September 1991, Drago Krpina reported to the Northern and Central Dalmatia Crisis Staff President on armed attacks by the JNA and Martić's "terrorists" on Croatian villages in Benkovac municipality. According to Krpina, following the orders of Mladić, Martić's men and military reservists were looting and destroying every house in Croatian villages, resulting in growing bitterness among the evicted people and growing tensions among Croatian police forces in the vicinity of Vrlika.⁸⁰⁰

360. In light of the Adjudicated Facts and having reviewed the evidence of Milan Babić and exhibits P1133 and D296, the Trial Chamber finds that in August 1991, prior to the attack on Kijevo, Milan Martić issued an ultimatum to the Croatian SJB in Kijevo, stating that they had made further co-existence in the Serbian territories of the SAO Krajina impossible and advising civilians to take shelter. Considering the Adjudicated Facts and having reviewed the evidence of Witness JF-041 and exhibit D296, the Trial Chamber finds that following the ultimatum, between 23 and 25 August 1991, the Croatian SJB evacuated almost the entire civilian population of Kijevo.

361. Based on the Adjudicated Facts and having reviewed the evidence of Milan Babić, Witness JF-041, Witness DST-043, and Witness JF-039, as well as exhibits P1132, P1134,

⁷⁹⁴ P1548 (Witness JF-041, *Martić* transcript, 23-25 May 2006), p. 4435.

⁷⁹⁵ P2984 (Series of documents relating to Borjan Vučković) (Serbia Republic SUP Special Purpose Unit Commander's report, Pajzoš, 1 December 1991), pp. 14, 17.

⁷⁹⁶ Adjudicated Facts III, fact 51.

⁷⁹⁷ D296 (Interview with Milan Martić, 14 October 1994), p. 11.

⁷⁹⁸ P1546 (Witness JF-041, witness statement, 18 February 2005), para. 45; P1548 (Witness JF-041, *Martić* transcript, 23-25 May 2006), pp. 4444-4445.

⁷⁹⁹ P1548 (Witness JF-041, *Martić* transcript, 23-25 May 2006), p. 4445.

and D296, the Trial Chamber finds that on 26 August 1991, units of the JNA 9th Corps, the SAO Krajina Police, and the local TO, attacked the Croat village of Kijevo. The latter forces were commanded by the JNA during this operation. During the attack, these Serb forces damaged the Catholic church in Kijevo. Considering Witness JF-041's evidence and exhibit P1134, the Trial Chamber allows for the reasonable possibility that Croatian ZNG members had taken up position near the church at the time of the attack. Based on exhibit P2984, the Trial Chamber finds that Borjan Vučković participated in this attack.

362. The Trial Chamber considers the evidence of Milan Babić and Witness JF-041 and exhibit P1881 that, following the attack on Kijevo, members of the SAO Krajina Police burned or otherwise destroyed houses in Kijevo consistent with Adjudicated Facts III-210 and 211 reviewed above in the second section of this chapter.⁸⁰¹ Witness DST-043 did not provide a source of knowledge for his evidence that the civilian population fled from Kijevo on 26 August 1991. In light of the Adjudicated Facts and evidence of Witness JF-041 and exhibit D296 almost the entire civilian population of Kijevo was evacuated prior to the 26 August 1991 attack, the Trial Chamber will not rely on Witness DST-043's evidence in this respect.

363. Based on the Adjudicated Facts and exhibit D296, the Trial Chamber finds that on 28 August 1991, the JNA and members of the SAO Krajina Police attacked the mixed Croat and Serb village of Vrlika. Based on Witness JF-041's evidence and exhibit P1881, the Trial Chamber finds that following the attack, members of the JNA looted goods from the area of Vrlika.

Drniš, September 1991

364. The Trial Chamber has taken judicial notice of Adjudicated Facts and received evidence from Witness JF-031 and Witness JF-041, as well as through exhibits P1197 and D117 in relation to the attack on Drniš in September 1991.

365. According to the Adjudicated Facts, on 16 September 1991, Drniš, which is located near Knin and at the time was 75 per cent Croat, was attacked by forces and artillery of TG-1 of the JNA 9th Corps. During the attack, and the following days, the centre of Drniš was almost completely destroyed. Approximately 10-15 days after the attack, an SJB of the SAO Krajina MUP was set up in Drniš.⁸⁰² **Witness JF-041** provided evidence consistent with these

⁸⁰⁰ P1881 (Report on armed attacks on Croatian villages, Drago Krpina, 2 September 1991).

⁸⁰¹ Deportation and forcible transfer from the entirety of the SAO Krajina, 1991-1995.

⁸⁰² Adjudicated Facts III, fact 52.

Adjudicated Facts.⁸⁰³ He added that on 17 September 1991, he entered Drniš and observed large-scale looting by the army, the police, and citizens. The Croat citizens of Drniš who had not left feared for their lives.⁸⁰⁴

366. The Trial Chamber has also received relevant documentary evidence. On 14 October 1991, Commander Borislav Đukić of the 221st Motorised Brigade reported to the 9th Corps Command that civilians were increasingly engaged in looting property from abandoned houses and businesses in Drniš and the surrounding villages.⁸⁰⁵ In an interview with Serbian RTV Knin, Dragan Karna, the Commander of the Special detachment of the Knin SUP stated that the Knin SUP Special unit had engaged in cleansing Drniš of Croats.⁸⁰⁶

367. **Witness JF-031**, a Serb from Knin municipality,⁸⁰⁷ testified that sometime in mid-August 1991 a unit from Golubić was deployed to Skradinsko Zalede before an attack on Drniš.⁸⁰⁸ The unit expected to participate in the attack on Drniš. When the unit arrived in Varivode, within 3 or 4 km of Drniš, it was met by Milan Martić. The witness heard Ratko Mladić, who was present in Drniš, tell Martić that the army would carry out the attack on Drniš and that Martić should “take his men away”. The unit returned to Knin without taking part in the attack, which was led by Mladić.⁸⁰⁹ As well as Mladić’s forces, the TO and the police participated in the operation.⁸¹⁰

368. In light of the Adjudicated Facts and having reviewed the evidence of Witness JF-041 and Witness JF-031, the Trial Chamber finds that on 16 September 1991, Tactical Group 1 of the JNA 9th Corps attacked the Croat-majority town of Drniš. Considering the Adjudicated Facts and the evidence of Witness JF-041, the Trial Chamber finds that during the attack and in the following days, members of the JNA looted houses and almost completely destroyed the centre of Drniš. The Trial Chamber considers the evidence of Witness JF-041 and exhibit D117, establishing that SAO Krajina Police engaged in looting in Drniš and “cleansing” the area of Croats following the attack, consistent with Adjudicated Facts III-210 and 211, which establish the actions against the Croat population committed by the police throughout the SAO Krajina, as reviewed above.

⁸⁰³ P1548 (Witness JF-041, *Martić* transcript, 23-25 May 2006), pp. 4446-4450, 4542.

⁸⁰⁴ P1548 (Witness JF-041, *Martić* transcript, 23-25 May 2006), pp. 4450-4451, 4533.

⁸⁰⁵ P1197 (Combat report of 221st Motorised Brigade, Borislav Đukić, 14 October 1991), pp. 1, 3.

⁸⁰⁶ D117 (RTV Knin interview with Dragan Karna).

⁸⁰⁷ P998 (Witness JF-031, witness statement, 1 June 2001), pp. 1-2.

⁸⁰⁸ P998 (Witness JF-031, witness statement, 1 June 2001), p. 13; P1000 (Witness JF-031, *Slobodan Milošević* transcript, 14-15 April 2003), p. 19190.

⁸⁰⁹ P998 (Witness JF-031, witness statement, 1 June 2001), p. 13; Witness JF-031, T. 7458-7459.

⁸¹⁰ P1000 (Witness JF-031, *Slobodan Milošević* transcript, 14-15 April 2003), pp. 19190-19191.

Knin, 1990 and April-June 1991

369. The Trial Chamber has taken judicial notice of Adjudicated Facts and received the evidence of Witness JF-041,⁸¹¹ Witness DST-043, and Milan Babić⁸¹² in relation to actions, including the destruction of businesses, the setting up of barricades, and the arming of local Serbs, which occurred in Knin in 1990.⁸¹³ The Trial Chamber further received evidence from Witness DST-043 regarding Milan Babić using Serb Radio Knin broadcasts to spread war propaganda and fear amongst people around January 1991.⁸¹⁴ These actions pre-date the allegations in the Indictment, which concern actions occurring from April 1991.⁸¹⁵ The Trial Chamber notes this information as providing relevant context and will treat it as such.

370. The Trial Chamber has taken judicial notice of Adjudicated Facts and received relevant evidence in relation to instances of discriminatory policies, destruction of property, and the setting up of barricades, in the area of Knin from April through June 1991. According to the Adjudicated Facts, from around April 1991, discriminatory policies were applied against Croats, and Croat houses in the Knin area were searched for weapons.⁸¹⁶

371. **Witness JF-041**, a Serb from Knin municipality,⁸¹⁷ testified that some members of the Special Purpose Unit within the SAO Krajina MUP (known as the Specialists) blew up railway lines and intimidated people by blowing up businesses belonging to Croats in Knin.⁸¹⁸ He estimated that almost 90 per cent of Croatian workers in Knin were fired after the war broke out.⁸¹⁹ The witness testified that there was constant pressure on the Croat citizens of Knin who felt insecure and feared retaliation whenever a Serb soldier was killed.⁸²⁰

⁸¹¹ P1546 (Witness JF-041, witness statement, 18 February 2005), paras 9-10; P1548 (Witness JF-041, *Martić* transcript, 23-25 May 2006), pp. 4414-4417, 4475-4476, 4521; Witness JF-041, T. 7900, 7912, 7946-7947, 7998.

⁸¹² P1877 (Milan Babić, *Martić* transcript, 15-17, 20-21 February, and 2-3, and 6 March 2006), pp. 1370, 1377-1378, 1381-1282, 1384-1386; P1878 (Milan Babić, *Slobodan Milošević* transcript, 18-22, 25-26 November, and 2-4, 6, and 9 December 2002), pp. 12912, 12917, 12923-12925, 12928-12929, 12930-12932, 12934, 12936-12938.

⁸¹³ Adjudicated Facts III, fact 207.

⁸¹⁴ D322 (Witness DST-043, witness statement, 29 June 2011), para. 26.

⁸¹⁵ Third Amended Indictment, Counts 4 and 5, paras 64-66.

⁸¹⁶ Adjudicated Facts III, fact 207.

⁸¹⁷ P1545 (Witness JF-041, Pseudonym sheet); P1546 (Witness JF-041, witness statement, 18 February 2005), p. 1, paras 3, 7, 12-15; P1548 (Witness JF-041, *Martić* transcript, 23-25 May 2006), pp. 4374-4377, 4391, 4393, 4399, 4500.

⁸¹⁸ P1548 (Witness JF-041, *Martić* transcript, 23-25 May 2006), pp. 4427-4428, 4461; Witness JF-041, T. 7902; P1551 (Witness JF-041 chart of comments on exhibits, 13 October 2010), p. 1; P1558 (BBC news report on two bomb attacks, including one on a Croat-owned restaurant in Titova Korenica municipality and one in Knin municipality, 10 April 1991).

⁸¹⁹ P1546 (Witness JF-041, witness statement, 18 February 2005), para. 48.

⁸²⁰ P1548 (Witness JF-041, *Martić* transcript, 23-25 May 2006), pp. 4461-4462.

372. **Witness JF-038**, an active member of the Yugoslav federal SDB until October 1992,⁸²¹ testified that during his time from May through June 1991 in the Krajina area, he saw many barricades and roadblocks in the area, set up separately by Croats and by Serbs. Some of the barricades had signs saying that Serbs or Croats, depending on which side had erected the barricade, were not allowed to pass. On the Serb side, the barricades were manned by local persons and reserve policemen in blue uniforms, while major checkpoints such as the one at Civljane, in Knin municipality, were also manned by policemen in camouflage uniforms.⁸²² The policemen at these barricades wore sleeve patches with the inscription “Martić’s police”.⁸²³

373. In light of the Adjudicated Facts and the evidence of Witness JF-041, the Trial Chamber finds that from around April 1991, local Serb authorities applied discriminatory policies against Croats, fired them from their jobs, and searched Croat houses in the Knin area for weapons. Based on the evidence of Witness JF-041, the Trial Chamber finds that members of the SAO Krajina Police Special Purpose Unit (known as the “Specialists”) intimidated people by blowing up Croat businesses in Knin in or after April 1991. The evidence does not further identify any of the members of the unit known as the Specialists, nor specify the date of the destruction. The Trial Chamber notes the evidence it has reviewed in chapter 6.3.2 indicating that a special unit of the Knin SUP under the command of Dragan Karna had existed from before April 1991. Under these circumstances, the Trial Chamber finds that this destruction was committed by SAO Krajina Police members under the command of Dragan Karna (and not by members of the Serbian MUP SDB unit formed by Franko Simatović between May and July 1991, as further specified in chapter 6.3.2).

374. Based on the evidence of Witness JF-038, the Trial Chamber finds that from May through June 1991, Croats and Serbs set up barricades on roads near Knin, limiting the ability of civilians of the other side to travel. Members of the SAO Krajina Police were involved in operating the Serb barricades, including at Civljane.

Detention, beatings, sexual abuse, and forced labour in Knin, 1991-1992

375. The Trial Chamber has taken judicial notice of Adjudicated Facts and received evidence from Luka Brkić, Stanko Erstić, Witness JF-038, and Milan Babić, as well as

⁸²¹ P420 (Witness JF-038, *Martić* transcript, 31 March-4 April 2006), pp. 3021, 3023-3025, 3027, 3116.

⁸²² P420 (Witness JF-038, *Martić* transcript, 31 March-4 April 2006), pp. 3075, 3077, 3084, 3086, 3091-3093, 3132, 3138, 3170; Witness JF-038, T. 4920, 4969.

⁸²³ P420 (Witness JF-038, *Martić* transcript, 31 March-4 April 2006), p. 3094.

documentary evidence in the form of exhibit P425, in relation to detention occurring in Knin at various locations.

376. In an undated report (which is in evidence as exhibit P425), Captain Dragan Vasiljković (also known as Captain Dragan) stated that he and others had been holding six prisoners at their detention unit at the fortress for almost two weeks in extremely inadequate conditions. Captain Dragan agreed that the SAO Krajina needed a prison and recommended that the psychiatric ward of the old hospital be converted into a prison, so that they could hold more prisoners captive.⁸²⁴

377. In view of the evidence set out in chapter 6.3.2, the Trial Chamber considers that Captain Dragan's report dates from after his arrival in the SAO Krajina around April 1991 and probably pre-dates the setting up of the detention facility at the old hospital, which, per the Adjudicated Facts set out below, was established in early 1991. Consequently, the Trial Chamber finds that in April or May 1991, Captain Dragan and others under his command detained six persons at the Knin fortress. The evidence does not further specify the perpetrators of this detention. Under these circumstances and given the date of the incident, the Trial Chamber is unable to determine with sufficient certainty whether the perpetrators were members of the Unit (the Serbian MUP DB unit formed by the Accused between May and July 1991 as further specified in chapter 6.3.2).

378. The Trial Chamber now turns to the detention facility at the old hospital in Knin. According to the Adjudicated Facts, in early 1991, a detention facility was established on the premises of the old hospital in the centre of Knin. A section of the hospital was used as a dormitory by "Captain Dragan's men and members of the JNA reserve force". From the summer of 1991, the Ministry of Justice of the SAO Krajina took over control of the old hospital from the TO and hired professional guards. From mid-1991 to mid-1992 between 120 and 300 persons were detained in the old hospital in Knin. Among the detainees were both Croats and other non-Serb civilians and members of Croatian armed forces and formations. The detainees were threatened and beaten every day for long periods, often by several guards at a time using rifle butts, truncheons, and wooden staves. The detainees were interrogated and also beaten by shift commanders. They also had their personal belongings stolen. Some detainees were sexually abused and detainees were subjected to sleep deprivation. There was insufficient food. The detainees were verbally abused by the guards, who said things like "the Croatian nation has to be destroyed", "all Croats have to be killed; Split and Zadar are

burning, Šibenik will burn as well”. On one occasion, Vojislav Šešelj visited the old hospital and insulted the detainees, asking them “how many Serbian children they slaughtered, how many mothers”. “Martić’s police”, wearing blue uniforms, carried out beatings together with people in camouflage uniforms. Ivan Atelj, who was also detained and beaten at the old hospital, stated that while Stevo Plejo and Jovica Novaković were in charge of the old hospital prison, they “allowed beatings of prisoners by civilians, Serbian prisoners, ‘Martić’s Special Forces members’ and all others who wanted to beat them”.⁸²⁵

379. Luka Brkić was brought to the old hospital from the JNA barracks in Knin. Luka Brkić was detained in a small room together with nine people. After approximately 12 days, he was transferred to the ground floor of another wing of the old hospital, which was under the control of the JNA. There, he joined the people who had initially been detained with him at the JNA 9th Corps barracks. From his mistreatment in detention, Luka Brkić sustained permanent injuries to his stomach and contracted Hepatitis B.⁸²⁶ **Luka Brkić** provided evidence consistent with the Adjudicated Facts regarding his transfer to and detention at the old hospital; the conditions of the detention; and the beatings of the detainees committed by members of the SAO Krajina Police and the JNA. Luka Brkić added that, at the old hospital, he and other detainees were made to manufacture prison-bars.⁸²⁷

380. The Adjudicated Facts provide that on 2 October 1991, Stanko Erstić was arrested in Medviđa near Bruška by the *Milicija Krajine* and brought to the old hospital in Knin. He was detained with another 120 prisoners, all non-Serbs from Croat or mixed villages in the Krajina region. Except for 20 members of the ZNG who had been captured during the fighting in Kijevo, all detainees were Croat civilians. He was detained in a room with approximately 12 people.⁸²⁸ As a witness, **Stanko Erstić**, a Croat from Medviđa,⁸²⁹ provided evidence consistent with the Adjudicated Facts regarding his arrest and subsequent detention at the old hospital; the conditions of the detention; and the beatings of the detainees committed by members of the SAO Krajina Police.⁸³⁰ He added that during his detention at the old hospital, he was also forced to do manual labour including repairs, cleaning, digging canals and the

⁸²⁴ P425 (Report entitled “Prison”, signed by Captain Dragan Vasiljković, undated).

⁸²⁵ Adjudicated Facts III, facts 198-199, 203-204.

⁸²⁶ Adjudicated Facts III, facts 202-205.

⁸²⁷ P1805 (Luka Brkić, *Martić* transcript, 5, 7 April 2006), pp. 3274, 3276-3277, 3279-3284, 3291, 3407-3408, 3431-3432, 3438-3439.

⁸²⁸ Adjudicated Facts III, fact 200.

⁸²⁹ P1777 (Stanko Erstić, witness statement, 31 October 2000), pp.1-2.

⁸³⁰ P1777 (Stanko Erstić, witness statement, 31 October 2000), pp. 3-4; P1781 (Stanko Erstić, *Slobodan Milošević* transcript, 24-25 July 2003), p. 24972, 24979-24980, 24995-24997, 24999-25000; P1782 (Stanko Erstić, *Martić* transcript, 26 April 2006), pp. 3873-3874, 3876-3877, 3879.

loading and unloading of weapons, ammunition, food, coal and objects stolen from Croat villages such as farm machines and food.⁸³¹

381. One Adjudicated Fact states that in October 1991, Milan Martić was seen in the prison in Knin wearing a camouflage uniform with the insignia of the *Milicija Krajine*.⁸³² **Stanko Erstić** provided evidence consistent with this Adjudicated Fact.⁸³³ Erstić added that eight to ten days after his arrival, he saw Mladić, a colonel, in uniform escorted by persons whom the witness believed were Captain Dragan's men. The witness believed he saw Mladić because the guards and other prisoners told him so and because he later saw Mladić on television. According to the witness, Captain Dragan's men at the Knin hospital were not local Serbs since they had Bosnian or Serbian accents, which he recognized because he had spent time in Bosnia-Herzegovina and Serbia during his prior military service.⁸³⁴ The witness also saw men with other uniform insignia during his detention at Knin, including patches of the Serb Chetnik Movement and its Main Staff; the Falcons from Tobut; and the Special Police.⁸³⁵

382. The Adjudicated Facts provide that on 2 November 1991, Stanko Erstić and approximately 100 non-Serb prisoners were exchanged for approximately 60 Serb prisoners. Twenty Croats from Lika remained in the prison. Members of "Special Military Police Unit", dressed in JNA uniforms, took them⁸³⁶ to the JNA barracks in Knin, where they were loaded onto buses. Afterwards they were driven to Pakovo Selo where buses from the Croatian side picked them up.⁸³⁷ Stanko Erstić sustained two broken ribs and one cracked rib, while Ivan Atelj, another detainee, sustained three broken ribs and injuries to his spine.⁸³⁸ **Stanko Erstić** provided evidence consistent with these Adjudicated Facts regarding the exchange of prisoners and the injuries he had sustained as a result of beatings during detention.⁸³⁹

⁸³¹ P1777 (Stanko Erstić, witness statement, 31 October 2000), p. 3; P1780 (Stanko Erstić, addendum witness statement, 19 June 2003), p. 1; P1781 (Stanko Erstić, *Slobodan Milošević* transcript, 24-25 July 2003), p. 24980.

⁸³² Adjudicated Facts III, fact 206.

⁸³³ P1780 (Stanko Erstić, addendum witness statement, 19 June 2003), p. 1; P1781 (Stanko Erstić, *Slobodan Milošević* transcript, 24-25 July 2003), p. 24972; P1782 (Stanko Erstić, *Martić* transcript, 26 April 2006), pp. 3869-3870.

⁸³⁴ P1777 (Stanko Erstić, witness statement, 31 October 2000), p. 4; P1781 (Stanko Erstić, *Slobodan Milošević* transcript, 24-25 July 2003), pp. 24972-24974, 24995-24996, 24999.

⁸³⁵ P1780 (Stanko Erstić, addendum witness statement, 19 June 2003), p. 1; P1783 (Patch of Serb Chetnik movement – Serbian Chetniks); P1784 (Patch of Special Police); P1785 (Patch of the Falcons from Tobut); P1786 (Patch of Serbian Chetnik Movement Main Staff).

⁸³⁶ The Trial Chamber understands this to refer to the approximately 100 non-Serb prisoners, not the 20 Croats from Lika.

⁸³⁷ Adjudicated Facts III, fact 201.

⁸³⁸ Adjudicated Facts III, facts 204-205.

⁸³⁹ P1777 (Stanko Erstić, witness statement, 31 October 2000), pp. 4-5; P1781 (Stanko Erstić, *Slobodan Milošević* transcript, 24-25 July 2003), pp. 24973, 24980-24982, 24997, 24999-25000; P1782 (Stanko Erstić, *Martić* transcript, 26 April 2006), pp. 3874-3875, 3877.

383. **Milan Babić** stated that he heard from Risto Matković, the Minister of Justice, that there was mistreatment of the detainees held in the police-controlled prison of Knin, and that the Ministry had to intervene to take control over it.⁸⁴⁰

384. The Trial Chamber now turns to detention facilities at the JNA barracks and a sports hall in Knin. According to the Adjudicated Facts, on 19 November 1991, Luka Brkić, Ante “Neno” Gurlica, and Marin Gurlica were brought by truck to the JNA barracks in Knin by men wearing JNA uniforms. While they were taken to the barracks, they were beaten and verbally abused. Luka Brkić was detained at various locations at the JNA barracks with between 8 and 17 people, ranging from 30 to 80 years old. The detainees were severely beaten for at least 20 days. The detainees did not receive medical treatment, there was insufficient food and water, and there were no sanitary facilities. While being detained in the JNA barracks, in addition to JNA soldiers, Luka Brkić saw soldiers wearing SAO Krajina insignia and the White Eagles (*Beli Orlovi*) insignia.⁸⁴¹ **Luka Brkić** provided evidence consistent with these Adjudicated Facts regarding his transfer to and detention at the JNA barracks, the conditions of detention, and the beatings of the detainees by the guards at the JNA barracks.⁸⁴² Brkić added that after his arrival at Knin, the detainees were forced to take an oath to King Petar and the Serbian fatherland, and kiss the wall in support of it.⁸⁴³ The men who beat the witness and the other prisoners in Knin wore SAO Krajina insignia, JNA insignia, and the Serbian flag. Brkić initially included the Beli Orlovi (White Eagles) insignia as having been worn by the men who beat the detainees as well, but, when later questioned on this point, Brkić stated that the White Eagles had not been present at the barracks.⁸⁴⁴ Brkić learned later that all kinds of units were present there, including Martić’s men.⁸⁴⁵

385. The Adjudicated Facts further provide that Luka Brkić was also detained at the sports hall of the barracks with between 75 and 200 people, mostly Croats. The detainees were occasionally severely beaten. There were limited sanitary facilities and a 200-litre barrel next to the door that was used to urinate in. Ratko Mladić, the then-Commander of the 9th Corps, twice visited the detainees at the sports hall. Ratko Mladić taunted them, saying “if you don't

⁸⁴⁰ P1878 (Milan Babić, *Slobodan Milošević* transcript, 18-22, 25-26 November, and 2-4, 6, and 9 December 2002), p. 13067.

⁸⁴¹ Adjudicated Facts III, fact 194-195, 197.

⁸⁴² P1803 (Luka Brkić, witness statement, 22 September 2000), p. 6; P1805 (Luka Brkić, *Martić* transcript, 5, 7 April 2006), pp. 3264-3273, 3276, 3284-3285, 3288-3289, 3407, 3426, 3430; P1806 (List of 365 detainees in Knin Camp, 10 February 1992); P1808 (List of prisoners captured by the JNA and the SUP of the SAO Krajina, 25 November 1991).

⁸⁴³ P1805 (Luka Brkić, *Martić* transcript, 5, 7 April 2006), pp. 3267-3268, 3437-3438.

⁸⁴⁴ P1805 (Luka Brkić, *Martić* transcript, 5, 7 April 2006), pp. 3244, 3273, 3426-3427.

⁸⁴⁵ P1805 (Luka Brkić, *Martić* transcript, 5, 7 April 2006), p. 3407.

do what you are told your fate will be the same as the fate of the inhabitants from Škabrnja”. The detainees were “displayed as Ustashas” and made to “take an oath for the King and the fatherland, the Serbian fatherland”.⁸⁴⁶ **Luka Brkić** provided evidence consistent with these Adjudicated Facts regarding his detention at the sports hall, the conditions under which detainees were held there, and Ratko Mladić’s two visits.⁸⁴⁷ Brkić added that Mladić first visited the sports hall in the middle of December 1991. Brkić stated that in the beginning of March 1992, the witness saw Mladić for the second time. Mladić, who introduced himself as “General Mladić”, spoke to the witness and about 100 other prisoners in the sports hall.⁸⁴⁸ Mladić said that those from Škabrnja would not be released from the prison so long as he was in the area.⁸⁴⁹ In May 1992, Luka Brkić was released to be exchanged.⁸⁵⁰

386. The Trial Chamber finally turns to detention at the SUP building in Knin. **Witness JF-038**, an active member of the Yugoslav federal SDB until October 1992,⁸⁵¹ testified that in early June 1991, he and his colleagues brought four persons released by Martić’s police to Drniš. One of the men told him that he was a Croat from Knin, had been arrested two days earlier, and had never participated in any Croatian units. The man said he had been held in the basement of the SUP police station in Knin in unsanitary conditions without toilets or running water, had been interrogated every day, and had been beaten by Martić’s police.⁸⁵² The man showed the witness the bruises on his back.⁸⁵³

387. The Trial Chamber will first address the old hospital detention facility. Based on the Adjudicated Facts and the evidence of Stanko Erstić, Luka Brkić, and Milan Babić, the Trial Chamber finds that, from early or mid-1991 until mid-1992, members of the SAO Krajina Police, the TO, the JNA reserve forces, and Captain Dragan’s men⁸⁵⁴ detained 120 to 300 Croat and other non-Serb civilians (including Stanko Erstić and Luka Brkić) and around 20 members of Croatian armed forces at the old hospital in the centre of Knin in poor conditions.

⁸⁴⁶ Adjudicated Facts III, fact 196.

⁸⁴⁷ P1803 (Luka Brkić, witness statement, 22 September 2000), pp. 3, 6; P1805 (Luka Brkić, *Martić* transcript, 5, 7 April 2006), pp. 3272-3275, 3430.

⁸⁴⁸ P1803 (Luka Brkić, witness statement, 22 September 2000), pp. 3, 6; P1805 (Luka Brkić, *Martić* transcript, 5, 7 April 2006), pp. 3275, 3408-3409.

⁸⁴⁹ P1803 (Luka Brkić, witness statement, 22 September 2000), p. 6; P1805 (Luka Brkić, *Martić* transcript, 5, 7 April 2006), p. 3275.

⁸⁵⁰ P1805 (Luka Brkić, *Martić* transcript, 5, 7 April 2006), pp. 3283-3284, 3408.

⁸⁵¹ P420 (Witness JF-038, *Martić* transcript, 31 March-4 April 2006), pp. 3021, 3023-3025, 3027, 3116.

⁸⁵² P420 (Witness JF-038, *Martić* transcript, 31 March-4 April 2006), pp. 3102-3104; Witness JF-038, T. 4821-4822.

⁸⁵³ P420 (Witness JF-038, *Martić* transcript, 31 March-4 April 2006), p. 3102.

⁸⁵⁴ The evidence does not further specify the men under the command of Captain Dragan who detained the Croat and other non-Serb civilians in Knin. Under these circumstances, the Trial Chamber is unable to determine with

Members of the SAO Krajina Police and of the JNA severely beat and sexually abused the detainees, forced them to perform manual labour, and verbally abused them, stating that “the Croatian nation has to be destroyed”, “all Croats have to be killed; Split and Zadar are burning, Šibenik will burn as well”.

388. On one occasion, Vojislav Šešelj visited the old hospital and insulted the detainees, asking them “how many Serbian children they slaughtered, how many mothers”. Based on the evidence of Stanko Erstić, the Trial Chamber finds that Ratko Mladić, members of the Serb Chetnik Movement, the Falcons from Tobut, and a unit known as the Special Police with Cyrillic Special Police patches, visited the old hospital.

389. In light of the Adjudicated Facts and having reviewed the evidence of Stanko Erstić, the Trial Chamber finds that on 2 November 1991, members of the JNA drove approximately 100 non-Serb detainees, including Stanko Erstić, from the old hospital in Knin to Pakovo Selo, where they exchanged the detainees for Serb persons. The Trial Chamber will further consider this incident in relation to Counts 1, 4, and 5 of the Indictment, in chapter 4, below.

390. The Trial Chamber now turns to the detention facility at a JNA barracks and sports hall in Knin. Based on the Adjudicated Facts and the evidence of Luka Brkić, the Trial Chamber finds that from 19 November 1991, for at least 20 days, members of the JNA and of the SAO Krajina Police detained eight to 17 persons, including Luka Brkić, in poor conditions at a JNA barracks in Knin. From around mid-December 1991 to at least May 1992, members of the JNA also detained 75 to 200 mostly Croat persons at the sports hall of the JNA barracks in Knin. Members of the JNA and of the SAO Krajina Police beat the detainees at the barracks and sports hall severely, displayed them as “Ustashas”, and forced them to take an oath to King Petar and the Serbian fatherland. In light of the Adjudicated Facts and based on the evidence of Luka Brkić, the Trial Chamber finds that Ratko Mladić visited the detention centre at the sports hall twice and told the detainees: “if you don't do what you are told your fate will be the same as the fate of the inhabitants from Škabrnja”⁸⁵⁵ and that the detainees from Škabrnja, which included Luka Brkić, would not be released from the prison so long as he was in the area.

391. Adjudicated Fact III-197 provides that Luka Brkić observed men with White Eagles insignia at the JNA barracks. However, the Trial Chamber considers that Luka Brkić's

sufficient certainty whether any of the perpetrators were members of the Serbian MUP SDB unit formed by Franko Simatović between May and July 1991, as further specified in chapter 6.3.2.

evidence is ambiguous and unclear with regard to the presence of White Eagles at the barracks. Under these circumstances, the Trial Chamber will not rely on Adjudicated Fact III-197 or Brkić's evidence to establish the presence of the White Eagles there.

392. Based on the evidence of Witness JF-038, the Trial Chamber finds that in June 1991 members of the SAO Krajina Police detained at least four persons in the basement of the SUP police station in poor conditions and beat at least one Croat detainee there.

Persons leaving the Knin region in the south of the SAO Krajina, June 1991-1993

393. The Trial Chamber has received evidence from Witness JF-031, Witness JF-038, and Witness JF-041, as well as through exhibit P551, the Radić Report on Expelled Persons in Croatia, regarding persons leaving the Knin region in the south of the SAO Krajina from June 1991 through 1993.

394. **Witness JF-038** testified that around 10 June 1991, he saw a large number of persons with bags and suitcases in his hotel in Šibenik. The receptionist told him that they were Croat refugees from Knin and the SAO Krajina, around 600 of whom had been put up at the hotel, while others were staying elsewhere. The witness spoke to the refugees on a daily basis and held a meeting attended by 350 to 400 refugees and asked them why they had left. According to the witness, most of these persons came from Knin. At the meeting, seven or eight young men said Martić's police had beaten them and showed their bruises. Others stated that Serbs and Martić's men had cut down their orchards, poisoned their livestock or burned down their houses because they were Croats. Others said that Martić's police went door to door telling people to leave Knin. Martić himself had told some of them not to expect any help and that if they could not live by the laws of the SAO Krajina, they should leave. The witness and his colleagues then went to meet Martić and told him the reasons the refugees had given for leaving. Martić denied the allegations and stated that the refugees had relatives in the ZNG and the Ustasha units and were hostile to Serbs. Martić suggested they may have inflicted the bruises on themselves or destroyed their own property in order to blame Martić's men.⁸⁵⁶

395. **Witness JF-041**, a Serb from Knin municipality,⁸⁵⁷ testified that in early spring 1992, 40 to 60 Croats from Knin who wanted to leave the SAO Krajina part of the RSK out of

⁸⁵⁵ The Trial Chamber understands this to be a reference to the events in Škabrnja of 18 and 19 November 1991, as reviewed above chapters 3.1.5 and 3.1.7.

⁸⁵⁶ P420 (Witness JF-038, *Martić* transcript, 31 March-4 April 2006), pp. 3106-3113, 3142-3143, 3168.

⁸⁵⁷ P1545 (Witness JF-041, Pseudonym sheet); P1546 (Witness JF-041, witness statement, 18 February 2005), p. 1, paras 3, 7, 12-15; P1548 (Witness JF-041, *Martić* transcript, 23-25 May 2006), pp. 4374-4377, 4391, 4393, 4399, 4500.

concern for their safety went to the Dom Kulture (cultural centre) in Vrpolje, in Knin municipality.⁸⁵⁸ Once they arrived at the centre, they were not allowed to leave and were held in poor conditions. They were provided blankets and mattresses by the Red Cross, but there was no sanitation and they received little food, although relatives brought them food and clothing. The centre functioned in this manner in 1992 and 1993, with people usually being held for up to three days before convoys were organized to take them to Croatia.⁸⁵⁹ Persons who had been held at the cultural centre informed the witness that the Knin police were responsible for protecting the persons held there and escorted the convoys of people leaving the SAO Krajina part of the RSK. In 1993, after Operation Maslenica, a final convoy of Croat citizens from Knin left the SAO Krajina part of the RSK to Croatia, after which only an insignificant number of Croats remained in the Knin area.⁸⁶⁰

396. **Witness JF-031**, a Serb from Knin municipality,⁸⁶¹ testified that in March 1993, around 5,000 Serb refugees from the Zadar region came to Knin.⁸⁶² The witness went to the bridge in Drniš, where he saw three local buses containing two or three hundred Croats who had been living in Knin and wished to leave. The witness was wearing his green camouflage uniform and his red beret. The witness testified that he escorted the Croat refugees toward Šibenik as part of a convoy organized by the UN. The convoy was accompanied by a police car and two UN jeeps, one of which contained the witness, and passed the last Serb checkpoint at Žitnić.⁸⁶³

397. According to exhibit P551, the Radić Report on Expelled Persons in Croatia, by 27 March 1992, a total of 35,236 persons had been registered in the Republic of Croatia as having left from the municipalities of Benkovac, Donji Lapac, Drniš, Gračac, Knin, Obrovac, Šibenik, and Sinj.⁸⁶⁴ According to the same report, the Office of Expelled Persons and Refugees of the Croatian Government provided that after the first registration of persons in April 1992, a total of 33,633 had left from the aforementioned eight municipalities. For seven of these municipalities, more than 95 per cent were Croat and a few per cent were Serbs, with

⁸⁵⁸ P1546 (Witness JF-041, witness statement, 18 February 2005), para. 46; P1547 (Witness JF-041, witness statement, 12 October 2010), p. 2; P1548 (Witness JF-041, *Martić* transcript, 23-25 May 2006), pp. 4460-4461, 4518, 4520, 4543, 4545-4546; Witness JF-041, T. 7999, 8002-8003.

⁸⁵⁹ P1546 (Witness JF-041, witness statement, 18 February 2005), para. 46; P1548 (Witness JF-041, *Martić* transcript, 23-25 May 2006), pp. 4461, 4468, 4519, 4545-4546; Witness JF-041, T. 7999-8000.

⁸⁶⁰ P1548 (Witness JF-041, *Martić* transcript, 23-25 May 2006), pp. 4461, 4465-4466, 4468-4469, 4519, 4521, 4548; Witness JF-041, T. 7999.

⁸⁶¹ P998 (Witness JF-031, witness statement, 1 June 2001), pp. 1-2.

⁸⁶² P998 (Witness JF-031, witness statement, 1 June 2001), pp. 18-19; P999 (Correction to Witness JF-031, witness statement, 1 June 2001), p. 3.

⁸⁶³ P998 (Witness JF-031, witness statement, 1 June 2001), p. 19.

the remaining around 1 per cent made up of other non-Serbs.⁸⁶⁵ For Donji Lapac, of the 15 expelled persons registered, 10 were Croats and 5 were Serbs.⁸⁶⁶

398. Having observed the witness's demeanor in Court and in view of the totality of his testimony, the Trial Chamber relies on Witness JF-038's evidence in respect of the following. The Trial Chamber finds (considering also that bruises sustained during the beatings were still visible in June 1991) that, between April and June 1991, in SAO Krajina, primarily in Knin, members of the SAO Krajina Police beat and destroyed the property of Croat persons and that Martić made intimidating remarks to them. As a result, in or shortly before June 1991, 350-600 Croat persons left the SAO Krajina.

399. The Trial Chamber further considers the evidence of Witness JF-041 establishing that in 1992 and 1993, members of the SAO Krajina Police held Croats, who wanted to leave the SAO Krajina part of the RSK out of concern for their safety, at a centre in Vrpolje and then escorted them in convoys to Croatia, to be consistent with Adjudicated Facts III-208 and 210, which establish that the Croat population of the SAO Krajina was displaced through harassment and intimidation from August 1991 until the end of 1994, as reviewed above.

400. The Trial Chamber recalls its findings on the actions (including attacks, killings, arbitrary arrest and detention, discriminatory policies, setting up of barricades, dismissals from jobs, destruction of property, beatings, sexual abuse, forced labour, and looting) which occurred in the Knin region from April 1991 to May 1992. In view of these actions, the Trial Chamber considers the evidence of the Radić Report on Expelled Persons that around 32,000 to 34,000 Croats and other non-Serbs left this region by March or April 1992, as well as the evidence of Witness JF-031 regarding large numbers of persons leaving Knin in March 1993, to be consistent with Adjudicated Facts III-207-208 and 210-211, reviewed above. The Trial Chamber will further consider the Knin region in the last section of this chapter.⁸⁶⁷

Findings on deportation and forcible transfer in the entire SAO Krajina 1991-1995

401. Having reviewed the three separate regions of the SAO Krajina above, the Trial Chamber will now address the alleged deportation and forcible transfer which occurred in the entire SAO Krajina area between 1991 and 1995. The Trial Chamber will first consider the

⁸⁶⁴ P551 (Report on the Expelled Population of the Republic of Croatia in 1991), pp. 59-60.

⁸⁶⁵ P551 (Report on the Expelled Population of the Republic of Croatia in 1991), pp. 63-64.

⁸⁶⁶ P551 (Report on the Expelled Population of the Republic of Croatia in 1991), p. 63.

⁸⁶⁷ Findings on deportation and forcible transfer in the entire SAO Krajina 1991-1995.

period from April 1991 through April 1992. Before setting out its findings, the Trial Chamber will first briefly recall the Adjudicated Facts and evidence of Milan Babić⁸⁶⁸ relating to the entire SAO Krajina area and then recall the specific actions against Croats and Croat property in three regions of the SAO Krajina.⁸⁶⁹ The Adjudicated Facts⁸⁷⁰ establish the harassment, intimidation, and other actions committed against Croat persons and property in the SAO Krajina by the police and local Serbs in 1991 and 1992 and establish that, as a result, from August 1991 until the end of 1994, Croat civilians left the SAO Krajina.

402. Milan Babić's evidence indicates that from August or September 1991, the JNA, the TO, the SAO Krajina Police, and paramilitary units, including units commanded by the Serbian DB, launched combat operations, using heavy artillery. During these attacks, houses and other buildings were destroyed and after the attacks property was looted and torched, forcing the non-Serb population (including tens of thousands of Croats) to flee, while those who stayed behind were detained or killed. The Trial Chamber considers that given his central position in the SAO Krajina at the time of the events, Milan Babić had a general knowledge of and access to accurate sources regarding the events which occurred throughout the area in 1991 and 1992. Further, Babić's testimony from three different cases before the Tribunal is internally consistent. The evidence of the specific actions which occurred in the three regions of the SAO Krajina is consistent with Babić's overview of the events which occurred throughout the SAO Krajina territory. The Trial Chamber concludes that this portion of his evidence is generally reliable. However, the Trial Chamber has not found that any paramilitary units commanded by the Serbian DB participated in attacks on villages or towns in the SAO Krajina in or after August 1991.⁸⁷¹

403. In the sections dealing with the Kostajnica, Saborsko, and Knin regions, the Trial Chamber reviewed instances of military attacks⁸⁷² on and of actions committed against Croat

⁸⁶⁸ Which it has reviewed in the second section of this chapter (Deportation and forcible transfer from the entirety of the SAO Krajina, 1991-1995).

⁸⁶⁹ Which it has reviewed in sections dealing with the Kostajnica, Saborsko, and Knin regions.

⁸⁷⁰ Adjudicated Facts III, facts 207, 208, 210 211, and 212.

⁸⁷¹ The Trial Chamber refers to chapter 6.3.2 and notes that it has found that members of the Unit only participated in the attacks on Lovinac in June and on Glina and Struga in July 1991. Members of the Unit did participate in an operation in Plitviće in August 1991, where they attacked and, after around 20 minutes, took control of, a building which had been held by Croat police. Given the circumstances of this operation, the Trial Chamber does not consider it an attack on a village or town relevant to the alleged deportation and forcible transfer in the SAO Krajina.

⁸⁷² In this respect, the Trial Chamber recalls the attacks (including shelling and aerial bombing) in July 1991 on Ljubovo, Struga, Unčane, Divuša, Glina, and Vidoševac; in late August 1991 on Baćin, Kijevo, and Vrlika; in September 1991 on Hrvatska Dubica, Drniš, and Lovinac, and in October 1991 on Vukovići. The Trial Chamber further recalls its findings in relation to the attacks from June through November 1991 on Saborsko and from September through November 1991 on Škabrnja and Nadin. For the reasons set out above in the section dealing

persons and property in specific villages and towns in the SAO Krajina with substantial or completely Croat populations. These actions included killings,⁸⁷³ the use of civilians as human shields,⁸⁷⁴ detention, beatings, forced labour, sexual abuse, and other forms of harassment and intimidation,⁸⁷⁵ the use of barricades to limit Croat's ability to travel, and the application of discriminatory policies against Croats and searches of Croat houses for weapons.⁸⁷⁶ These actions further included looting and destruction of property.⁸⁷⁷ Finally, the Trial Chamber reviewed evidence that by March or April 1992 approximately 85,000 to 105,000 Croats and other non-Serbs had left the three regions of the SAO Krajina. In all three regions, the Trial Chamber reviewed instances in which large numbers of persons left an area immediately after specific actions described above.⁸⁷⁸

404. The Trial Chamber finds⁸⁷⁹ that from April 1991 to April 1992, between 80,000 and 100,000 Croat and other non-Serb civilians fled the SAO Krajina (and subsequently that portion of the RSK), mainly to Croatia and (to a lesser extent) to other countries. With the exceptions of Kijevo and Cerovljani,⁸⁸⁰ these persons fled as a result of the situation prevailing in this region at the various times of their departure, which was created by a combination of: the attacks on villages and towns with substantial or completely Croat populations; the killings, use as human shields, detention, beatings, forced labour, sexual

with the Lovinac attack, the Trial Chamber does not consider the June 1991 attack on Lovinac to have contributed to the departure of non-Serb civilians from the wider SAO Krajina region.

⁸⁷³ In this respect, the Trial Chamber recalls the killings of Croats in October 1991 near Baćin and in Hrvatska Dubica, Lipovača, Vukovići, and Poljanak, in November 1991 in Vukovići, Poljanak, Saborsko, Knin, and Škabrnja, in December 1991 in Bruška, and in early 1992 in Škabrnja.

⁸⁷⁴ In this respect, the Trial Chamber recalls the use of civilians as human shields in September 1991 in Predore, and in November 1991 in Škabrnja.

⁸⁷⁵ In this respect, the Trial Chamber recalls the detention, beatings, forced labour, sexual abuse, and other forms of harassment and intimidation from September through December 1991 in Hrvatska Dubica, Plaški, Korenica, Benkovac, and Bruška and from April 1991 to mid-1992 in Knin.

⁸⁷⁶ In this respect, the Trial Chamber recalls the use of barricades to limit Croat's ability to travel in the Benkovac and Knin areas and the application of discriminatory policies against Croats and searches of Croat houses for weapons in the Knin area from April to at least June 1991.

⁸⁷⁷ In this respect, the Trial Chamber recalls the looting and destruction of property in or after April 1991 in Knin and from August through November 1991 in Cerovljani, Hrvatska Dubica, Vukovići and Poljanak, Saborsko, Škabrnja, Kijevo, Vrlika, Drniš, and in Croat villages around Benkovac and in early 1992 in Škabrnja.

⁸⁷⁸ The Trial Chamber notes that clear examples of persons leaving immediately after incidents described above occurred in Hrvatska Dubica in September 1991, in Saborsko and Škabrnja in November 1991, and Bruška in January 1992. The examples are further illustrated by the specific departures of Witness C-1230, Ana Bićanić, Witness C-1231, and Jasna Denona.

⁸⁷⁹ On the basis of Adjudicated Facts III 207, 208, 210, and 211, the evidence of Milan Babić and exhibit P551 reviewed in the second section of this chapter (Deportation and forcible transfer from the entirety of the SAO Krajina, 1991-1995), as well as the Adjudicated Facts, and evidence reviewed in relation to the three separate regions above, and considering its findings on specific incidents in the three separate regions above.

⁸⁸⁰ In this respect, the Trial Chamber recalls its findings on the evacuations from Kijevo in August 1991 and from Cerovljani in August and early September 1991. In these instances, the Trial Chamber allows for the reasonable possibility that these persons fled out of concern for their future safety in view of the pending combat operations.

abuse, and other forms of harassment (including coercive measures) of Croat persons; and the looting and destruction of property. These actions were committed by the local Serb authorities and the members and units of the JNA (including JNA reservists), the SAO Krajina TO, the SAO Krajina Police (including Milan Martić),⁸⁸¹ and Serb paramilitary units,⁸⁸² as well as local Serbs as set out in the Trial Chamber's findings in the sections above. The Trial Chamber will further consider this incident in relation to Counts 1, 4, and 5 of the Indictment, in chapter 4, below.

405. The Trial Chamber further recalls its findings on the expulsions of Croat or non-Serb persons in October 1991 from Saborsko and in November 1991 from Saborsko, Škabrnja, and Knin. The Trial Chamber will further consider these incidents in relation to Counts 1, 4, and 5 of the Indictment, in chapter 4, below.

406. The Trial Chamber now turns to the period from May 1992 through 1995. The Adjudicated Facts⁸⁸³ reviewed above in the second section of this chapter,⁸⁸⁴ establish that displacement of the Croat population continued until the end of 1994 as a result of harassment and intimidation by the police and local Serbs. The Trial Chamber recalls the instances of lootings and destruction it has reviewed in the section dealing with the Kostajnica region.⁸⁸⁵ The Trial Chamber finds that between May 1992 and the end of 1994, approximately 8,000 Croat and other non-Serb civilians⁸⁸⁶ fled the SAO Krajina portion of the RSK, mainly to Croatia and (to a lesser extent) to other countries, as a result of harassment and intimidation committed by the SAO Krajina Police and local Serbs. The Trial Chamber will further consider this incident in relation to Counts 1, 4, and 5 of the Indictment, in chapter 4, below.

407. The Radić Report on Expelled Persons in Croatia finally indicates that more than 500 persons left the SAO Krajina portion of the RSK in 1995. The Adjudicated Facts and evidence do not establish the conditions under which these persons left. In the absence of

⁸⁸¹ Including Veljko and Stevo Rađunović and Momčilo Kovačević. Members of the Plaški police and the Plaški SDB also participated in Saborsko in November 1991.

⁸⁸² Including the Unit and units known as the "Dvor na Uni Special Purpose Unit", the "Special Police Unit of the SAO Krajina Police at Dvor na Uni", the "SAO Krajina Police Special Purpose Unit (also known as the Specialists)", and "Captain Dragan's men".

⁸⁸³ Adjudicated Facts, III 210 and 213.

⁸⁸⁴ Deportation and forcible transfer from the entirety of the SAO Krajina, 1991-1995.

⁸⁸⁵ In this respect, the Trial Chamber recalls looting and destruction of houses in Hrvatska Dubica in late 1992 or early 1993.

⁸⁸⁶ In this respect, the Trial Chamber refers to the Radić Report on Expelled Persons in Croatia, reviewed in the first section of this chapter, which indicates that approximately 1,750 persons left the SAO Krajina portion of the RSK between May and the end of 1992, while around 4,250 left in 1993, and around 2,000 left in 1994. The Trial Chamber further recalls the evidence of Witness JF-041 regarding convoys leaving from Vrpolje to Croatia

further information on when within 1995 and from where within the SAO Krajina area these people left specifically, the Trial Chamber will not further consider their departure.

in 1992 and 1993; and the evidence of Witness JF-031 regarding buses of Croats leaving Knin in 1993, set out in the section dealing with the Knin region.

3.2 SAO SBWS

3.2.1 Murder of eleven detainees at the Dalj police building on 21 September 1991

(Indictment, para. 36)

408. According to the Indictment, in September and October 1991, Serb forces (as defined in paragraph 6 of the Indictment), particularly SAO SBWS TO and SAO SBWS MUP forces, arrested and detained Croat civilians in the police building in Dalj. On 21 September 1991, Goran Hadžić and Željko Ražnatović visited the detention facility and ordered the release of two of the detainees. Serb forces, particularly SAO SBWS TO, SAO SBWS MUP forces, and the SDG lead by Željko Ražnatović, shot and killed eleven detainees and buried them in a mass grave in the village of Čelije.⁸⁸⁷ The Trial Chamber has received relevant evidence with regard to the alleged murders through the testimony of Luka Šutalo, Witness JF-015, Witness JF-032, and Witness C-015, through exhibit P10, and through forensic documentation.

409. The Trial Chamber has reviewed the evidence of **Luka Šutalo**, a Croat from Erdut,⁸⁸⁸ regarding his detention in the Dalj police station in September 1991, summarised in chapter 3.2.6. The witness further testified that through Jovica Panić, he sent a message to his son Vidoje who came to the prison with clothes and cigarettes on 21 September 1991. That same evening, Šutalo heard somebody being beaten and crying in the yard and after some time two policemen carried in a severely beaten Haso Brajić, a “Bosniak” who owned a weekend house in Erdut, and threw him on the floor. Brajić was convinced he would be killed since he was wrongly accused of having weapons and asked Šutalo to inform his wife, Bara Brajić. The next day, 22 September 1991, Goran Hadžić came with two other “Chetniks”, all three in camouflage uniform and took Šutalo, whom he addressed by his name, and Slavko Palinkaš out of the cell. In front of the prison, Šutalo saw Arkan with 30-40 of his men, who greeted Hadžić with honours.⁸⁸⁹ Hadžić confronted the policeman in the police office that he was holding Šutalo without a file and subsequently brought Šutalo to Šutalo’s son’s house in Erdut.⁸⁹⁰ Palinkaš later told the witness that he was released half an hour after him but returned the same day with cigarettes for the prisoners. Upon arrival at the prison one policeman told Palinkaš that no prisoners remained and that they had had their final cigarettes.

⁸⁸⁷ Indictment, para. 36.

⁸⁸⁸ P301 (Luka Šutalo, witness statement, 17 April 1999 and 18 June 2003), p. 2, para. 2.

⁸⁸⁹ P301 (Luka Šutalo, witness statement, 17 April 1999 and 18 June 2003), paras 42-45, 47, 49, 52; P303 (Luka Šutalo, *Slobodan Milošević* transcript, 28 August 2003), pp. 25545, 25578-25580; Luka Šutalo, T. 3984-3986.

⁸⁹⁰ P301 (Luka Šutalo, witness statement, 17 April 1999 and 18 June 2003), paras 48-50; P303 (Luka Šutalo, *Slobodan Milošević* transcript, 28 August 2003), pp. 25578-25579; Luka Šutalo, T. 3985.

The next morning, on 23 September 1991, a Croat woman told Šutalo that the other prisoners had been shot about one hour after his release.⁸⁹¹ Besides Palinkaš, Šutalo never saw any of the prisoners again, and he heard that they were found in a mass grave in Celija near Vinkovci.⁸⁹² Šutalo testified that he was detained with several other men, including Ivan Anđal and Ivan Florjan from Bilje in Baranja, Pavle Beck from Erdut, Haso Brajić from Osijek, Kušić from Sotin, Zelember from Batina, Pavo Zemljak and his son Vladimir from Beli Manastir in Baranja.⁸⁹³ Šutalo testified that he was spared because his Serbian daughter-in-law had a relative in the JNA who, he believed, had exercised some influence.⁸⁹⁴

410. **Witness JF-015**, a former Serb police officer in Dalj,⁸⁹⁵ was told by Dragiša Čančarević that on 3 September 1991, the Special Police from Belgrade called “Plavci” escorted some Croats from Dalj Planina, Erdut, Erdut Planina, Aljmas, Aljmas Planina, and Baranja to the Borovo prison. After about 15 days, around 17 September 1991, they were brought, also by the Special Police, to the TO building in Dalj, where they remained for one or two days, and were subsequently brought by Goran Hadžić to the Dalj police detention facility. On the same day, the witness found out that 14 Croats were detained at the Dalj police building; the officers told him that it was Hadžić’s and his Government’s decision to keep them in detention until their trial for war crimes.⁸⁹⁶ The witness testified that at some point, the Government of the SAO SBWS announced that a court would be established in Dalj. Following this announcement, the Serb TO, the JNA, and the police and Special Police forces began arresting non-Serb civilians and bringing them to the detention centre at the Dalj police station.⁸⁹⁷ Serbs who were arrested for petty criminal offences normally returned to their villages the following day. Occasionally, Milorad Stričević interrogated detainees at the police station.⁸⁹⁸ The witness testified that Stričević searched homes, “looking for enemies”;

⁸⁹¹ P301 (Luka Šutalo, witness statement, 17 April 1999 and 18 June 2003), paras 52-53; Luka Šutalo, T. 3984-3985, 3987.

⁸⁹² P301 (Luka Šutalo, witness statement, 17 April 1999 and 18 June 2003), para. 52; P303 (Luka Šutalo, *Slobodan Milošević* transcript, 28 August 2003), p. 25575; Luka Šutalo, T. 3988.

⁸⁹³ P301 (Luka Šutalo, witness statement, 17 April 1999 and 18 June 2003), para. 52; Luka Šutalo, T. 3988.

⁸⁹⁴ P301 (Luka Šutalo, witness statement, 17 April 1999 and 18 June 2003), para. 40; P303 (Luka Šutalo, *Slobodan Milošević* transcript, 28 August 2003), p. 25575.

⁸⁹⁵ P306 (Witness JF-015, witness statements), witness statement of 18 January 2001, p. 1, paras 1, 22, 43; P312 (Decision on redeployment of Witness JF-015 within the Dalj police, signed for the SAO SUP Minister by Boro Bogunović, 1 October 1991).

⁸⁹⁶ P306 (Witness JF-015, witness statements), witness statement of 18 January 2001, para. 34, proofing note of 11 February 2008, para. 10.

⁸⁹⁷ P306 (Witness JF-015, witness statements), witness statement of 18 January 2001, para. 39, proofing note of 11 February 2008, para. 9.

⁸⁹⁸ P306 (Witness JF-015, witness statements), witness statement of 18 January 2001, paras 37, 40, 62; P321 (Photograph described by Witness JF-015 in para. 62 of witness statement of 18 January 2001).

he and his police seized valuables and real estate of the interrogated people.⁸⁹⁹ Several people died after having been beaten during the investigations.⁹⁰⁰ Jadranka Pavić complained to the witness that it was difficult for her to take part in the interrogations of the prisoners, as Milorad Stričević would heavily beat them.⁹⁰¹

411. On or about 22 September 1991, in the morning, Rajko Milovanović, one of the policemen at the Dalj police station, told the witness that Goran Hadžić and Željko Ražnatović, a.k.a. Arkan, had visited the detention facility the night before and released Slavko Palinkaš and Luka Šutalo.⁹⁰² Milovanović also told the witness that Arkan then took away several other detainees.⁹⁰³ The witness testified that the detainees were taken to the unit of “the Serbian volunteer guards”.⁹⁰⁴ The witness was concerned about their fate; he believed that they had been killed.⁹⁰⁵ The witness testified that contrary to the rumours, the detainees were not thrown in the Danube river, as in 1998, their bodies were excavated from cells.⁹⁰⁶ He later heard that the body of Pavle Bek was found in a ditch near the water pumping station in Dalj. The witness testified that the following prisoners were missing from the detention facility: Ivan Zelember, Zoran Andjel, Čedomir Predojević, Dražen Štimatec, Željko Filipčić, Darko Kušić, Ivan Forjan, Pavo Zemljak, Vladimir Zemljak, Pavle Bek, and Haso Brajević.⁹⁰⁷

412. The Trial Chamber has also considered evidence of **Witness JF-032**, reviewed in the Confidential Appendix to the Judgement.

413. **Borislav Bogunović**, the SBWS Minister of Interior between May and December 1991,⁹⁰⁸ testified that he knew that Arkan had taken prisoners from the Dalj prison and had shot them dead.⁹⁰⁹ Bogunović specifically remembered the incident of 21 September 1991 because one of the victims, Čedomir Predojević, was a Serb and his father had come looking

⁸⁹⁹ Witness JF-015, T. 4110-4111; P329 (Report on unauthorized killings of arrested ZNG members, signed by Chief Major General Mile Babić of the 1st Military District, 18 October 1991), p. 2; P335 (Sambor SDB Report to the Vojvodina SUP, unsigned, 18 October 1991), p. 1.

⁹⁰⁰ P329 (Report on unauthorized killings of arrested ZNG members, signed by Chief Major General Mile Babić of the 1st Military District, 18 October 1991), p. 2.

⁹⁰¹ P306 (Witness JF-015, witness statements), witness statement of 18 January 2001, paras 37, 62; P321 (Photograph described by Witness JF-015 in para. 62 of witness statement of 18 January 2001).

⁹⁰² P306 (Witness JF-015, witness statements), witness statement of 18 January 2001, para. 41, proofing note of 11 February 2008, para. 14.

⁹⁰³ P306 (Witness JF-015, witness statements), witness statement of 18 January 2001, para. 41; Witness JF-015, T. 4033.

⁹⁰⁴ Witness JF-015, T. 4033-4034, 4102-4103.

⁹⁰⁵ P306 (Witness JF-015, witness statements), witness statement of 18 January 2001, para. 42; Witness JF-015, T. 4033.

⁹⁰⁶ Witness JF-015, T. 4102-4103; P334 (Report by Sombor SDB on situation in Slavonia, unsigned, 15 October 1991), p. 1.

⁹⁰⁷ P306 (Witness JF-015, witness statements), witness statement of 18 January 2001, paras 41-42.

⁹⁰⁸ P553 (Borislav Bogunović, witness statement, 6 June 2003), paras 6, 8, 73; Borislav Bogunović, T. 6005.

for him. According to Bogunović, Arkan never established nationality of the prisoners before shooting them. Bogunović testified that he never received the report of the commander of the Dalj police station, dated 23 September 1991 and never initiated an investigation regarding this incident.⁹¹⁰

414. According to the forensic documentation, the remains of the following eight persons were exhumed on 23 February 1998 in Čelije, Trpinja municipality: Zoran Anđal, Vladimir Zemljak, Željko Filipčić, Darko Kušić, Pavao Zemljak, Ivan Zelember, Dražen Štimec, and Čedo Predojević.⁹¹¹ The cause of death for six of these persons very likely was gunshot or explosive wounds; for four of these six persons the aforementioned wounds were to the head.⁹¹² For the remaining two persons, the cause of death was violent or unnatural.⁹¹³ Four of the persons wore civilian clothing.⁹¹⁴ The remains of Pavle Beck were exhumed on 18 March 1999 in Dalj. Pavle Beck wore civilian clothes and a khaki military style jacket, the cause of his death was a back-to-front gunshot wound to the head.⁹¹⁵ The parties agree on the identities of these nine persons, as well as on the identities of Haso Brajić and Ivan Forjan.⁹¹⁶

415. The Trial Chamber has received missing person questionnaires in which family members of the victims provided information, in relation to the following persons: Zoran Anđal (a Hungarian member of the ZNG), Vladimir Zemljak (a Croat civilian); Željko Filipčić (a Croat member of the HV reserve forces); Darko Kušić (a Croat member of the Osijek active MUP forces); Pavo Zemljak (a Croat); Ivan Zelember (a Croat, Batina HDZ

⁹⁰⁹ Borislav Bogunović, T. 6040-6041.

⁹¹⁰ P553 (Borislav Bogunović, witness statement, 6 June 2003), para. 89; P10 (Report from the Commander of the Dalj Police to the Minister of the Interior of the SAO SBWS, 23 September 1991).

⁹¹¹ P512 (Chart on proof of death documentation filled in by Davor Strinović), pp. 10-11; P765 (Set of documents regarding autopsy and exhumation of Željko Filipčić), pp. 1, 3-4, 7; P766 (Autopsy report for Zoran Anđal, 23 February 1998), pp. 1-2; P767 (Autopsy report for Željko Filipčić, 23 February 1998), pp. 1, 3; P768 (Autopsy report for Darko Kušić, 23 February 1998), pp. 1-2; P769 (Autopsy report for Dražen Štimec, 23 February 1998), pp. 1-2; P770 (Autopsy report for Pavao Zemljak, 23 February 1998), pp. 1-2; P771 (Autopsy report for Vladimir Zemljak, 23 February 1998), pp. 1-3, 5; P772 (Autopsy report for Čedo Predojević, 23 February 1998), pp. 1-3; P773 (Autopsy report for Ivan Zelember, 23 February 1998), pp. 1-3.

⁹¹² P512 (Chart on proof of death documentation filled in by Davor Strinović), pp. 10-11; P765 (Set of documents regarding autopsy and exhumation of Željko Filipčić), pp. 1, 3-4, 7; P766 (Autopsy report for Zoran Anđal, 23 February 1998), pp. 1-2; P767 (Autopsy report for Željko Filipčić, 23 February 1998), pp. 1, 3; P768 (Autopsy report for Darko Kušić, 23 February 1998), pp. 1-2; P769 (Autopsy report for Dražen Štimec, 23 February 1998), pp. 1-2; P771 (Autopsy report for Vladimir Zemljak, 23 February 1998), pp. 1-3, 5; P772 (Autopsy report for Čedo Predojević, 23 February 1998), pp. 1-3.

⁹¹³ P770 (Autopsy report for Pavao Zemljak, 23 February 1998), pp. 1-2; P773 (Autopsy report for Ivan Zelember, 23 February 1998), pp. 1-3.

⁹¹⁴ P766 (Autopsy report for Zoran Anđal, 23 February 1998), pp. 1-2; P771 (Autopsy report for Vladimir Zemljak, 23 February 1998), pp. 1-3, 5; P767 (Autopsy report for Željko Filipčić, 23 February 1998), pp. 1, 3; P769 (Autopsy report for Dražen Štimec, 23 February 1998), pp. 1-2.

⁹¹⁵ P512 (Chart on proof of death documentation filled in by Davor Strinović), pp. 10-11; P774 (Forensic documentation for Pavle Beck), first translation, pp. 1-2, 5, second translation, p. 1.

president); Dražen Štimec (a Croat member of the ZNG); Čedomir Predojević (a Croat member of the ZNG), Haso Brajić (a Muslim civilian), and Ivan Forjan (a Croat member of the ZNG).⁹¹⁷ According to the missing person questionnaire and the forensic documentation, Pavle Beck, a Croat civilian, died on 24 December 1991 in Daljski Atar, Erdut, after he was arrested on 12 October 1991 at 6:30 a.m. on his way to work in Erdut by three persons forcing him into a red Mercedes.⁹¹⁸ According to the missing person questionnaire, Ana Beck, Pavle Beck's mother visited him in the Dalj prison on 16 October 1991.⁹¹⁹

416. **Witness C-015**, a Serb from Croatia,⁹²⁰ testified that Goran Hadžić and Arkan came to the Dalj police station, and liberated two prisoners, one of whom was called Šutalo.⁹²¹ He testified that when Hadžić and Arkan left with the two liberated prisoners, Milorad Stričević returned to the Dalj police station and killed the remaining prisoners and threw their bodies into the Danube.⁹²² A veterinarian called Popović witnessed the incident, told Witness C-015 about it and testified thereon in a Croatian court in Osijek.⁹²³ The Trial Chamber considers that the hearsay evidence provided by Witness C-015 does not mention the names of specific victims and is inconsistent with the other evidence received, including with regard to the circumstances of death and the location of the remains of the deceased. The Trial Chamber further considers that Witness C-015 may have confused the incident of 21 September 1991 with the events that took place on 4 October 1991 at the Dalj police station and are described in the next chapter. Therefore, the Trial Chamber will not rely on the testimony of Witness C-015 in relation to this particular incident.

417. The Trial Chamber will first consider the evidence regarding Zoran Anđal, Haso Brajić, Željko Filipčić, Ivan Forjan, Darko Kušić, Čedomir Predojević, Dražen Štimec, Ivan

⁹¹⁶ Decision on Motion For Admission of Agreed Facts, 12 January 2011; First Joint Motion for Admission of Agreed Facts Between the Prosecution and the Stanišić Defence, 16 February 2010, Annex A, Part F.

⁹¹⁷ P755 (Missing person questionnaire for Haso Brajić, 8 February 1994), pp. 1-5; P756 (Missing person questionnaire for Zoran Anđal, 1 March 1994), pp. 1-3, 13; P757 (Missing person questionnaire for Željko Filipčić, 9 February 1994), pp. 1-4, 12-13; P758 (Missing person questionnaire for Ivan Forjan, 14 February 1994), pp. 1-4.; P759 (Missing person questionnaire for Darko Kušić, 15 February 1994), pp. 1-3, 12-13; P760 (Missing person questionnaire for Čedomir Predojević, 22 February 1994), pp. 1-4, 12-13; P761 (Missing person questionnaire for Dražen Štimec, 22 February 1994), pp. 1-4; P762 (Missing person questionnaire for Ivan Zelember, 25 February 1994), pp. 1-4, 11; P763 (Missing person questionnaire for Pavo Zemljak, 16 February 1994), pp. 1-4, 11; P764 (Missing person questionnaire for Vladimir Zemljak, 16 February 1994), pp. 1-4, 11.

⁹¹⁸ P754 (Death documentation for *inter alia* Pavle Beck and Stjepan Tešanac), pp. 1-3, 11; P774 (Forensic documentation for Pavle Beck), second translation, pp. 2-3

⁹¹⁹ P754 (Death documentation for *inter alia* Pavle Beck and Stjepan Tešanac), pp. 3-4, 11.

⁹²⁰ P2 (Witness C-015, witness statement, 13 May 1999), p. 2; P3 (Witness C-015, supplementary witness statement, 24 January 2001), p 1

⁹²¹ Witness C-015, T. 1601-1602; P10 (Report from the Commander of the Dalj Police to the Minister of the Interior of the SAO SBWS, 23 September 1991).

⁹²² Witness C-015, T. 1601-1605.

⁹²³ P2 (Witness C-015, witness statement, 13 May 1999), p. 6; Witness C-015, T.1604-1606.

Zelember, Pavo Zemljak, and Vladimir Zemljak. The forensic documentation establishes that the remains of eight of these ten persons were exhumed in Ćelije on 23 February 1998 and showed indications of unnatural or violent deaths, including gunshot or explosive wounds. In 1994, relatives filled in missing person questionnaires for the other two other men, namely Ivan Forjan and Haso Brajić.

418. Police report P10, as well as the evidence of Luka Šutalo, Witness JF-015, and Witness JF-032, establishes that the abovementioned ten deceased or missing persons were detained at the Dalj police station on or about 21 September 1991.⁹²⁴ The police report P10 and the hearsay evidence of Witness JF-015 and Witness JF-032, which is based on a conversation with a Dalj policeman on duty at the time, indicates that, on the evening of 21 September 1991, Arkan and a number of SDG members came to the Dalj police station, beat, and took away the aforementioned ten detainees. This is further supported by the evidence of Luka Šutalo who observed Arkan and 30-40 SDG members outside of the Dalj police station on the evening of 21 September 1991. The Trial Chamber has further considered the hearsay evidence of Luka Šutalo, based on his conversations with another released detainee and a Croat woman, which suggests that the aforementioned ten detainees were killed shortly after Šutalo's release.

419. Based on this evidence, the Trial Chamber finds that on or about 21 September 1991, Arkan and other SDG members took the aforementioned ten detainees from the Dalj police station and killed them in or near Ćelije. The Trial Chamber has considered the evidence of Borislav Bogunović regarding the ethnicity of Čedomir Predojević and has decided to rely on the information provided in the missing person questionnaire instead. Accordingly, the Trial Chamber establishes that Zoran Anđal was Hungarian, Haso Brajić was a Muslim, and the remaining eight victims were Croats.⁹²⁵ At least four of these men wore civilian clothing at the time of their death. The evidence is insufficient to establish the clothing of the other deceased persons. The Trial Chamber will further consider this part of the incident in relation to Counts 1, 2, and 3 of the Indictment in chapter 4, below.

420. The Trial Chamber will now consider the evidence regarding Pavle Beck. The forensic evidence establishes that the remains of Pavle Beck were exhumed on 18 March 1999 in Dalj.

⁹²⁴ The Trial Chamber has considered minor discrepancies between the victims' names given by Luka Šutalo, Witness JF-015, Witness JF-32, and those mentioned in the documentary evidence, and is satisfied that the evidence before it refers to the same persons.

⁹²⁵ Considering the charges in the Indictment, the Trial Chamber will not further consider the part of the incident dealing with non-Croats.

According to the evidence of Luka Šutalo, Witness JF-015, Witness JF-032, and police report P10, Pavle Beck was also detained at the Dalj police station on or about 21 September 1991 and was taken away from the Dalj police station alongside the ten other detainees.⁹²⁶ However, according to the missing person questionnaire, Pavle Beck was arrested on 12 October 1991 and his mother visited him in the Dalj prison on 16 October 1991. Furthermore, his remains were exhumed in a different location from the remains of the eight other detainees. In light of the aforementioned evidence, the Trial Chamber is unable to determine with sufficient certainty when, by whom, or under which circumstances Pavle Beck was killed. Accordingly, the Trial Chamber will not further consider this part of the incident.

3.2.2 Murder of 26 Croat civilians at the Dalj police building on 4 October 1991 (Indictment, para. 37)

421. According to the Indictment, on 4 October 1991, Serb forces (as defined in paragraph 6 of the Indictment), in particular SAO SBWS TO, SAO SBWS MUP forces and the SDG led by Željko Ražnatović, shot 26 Croat civilian detainees in the detention facility in the Dalj police building and dumped the bodies into the Danube River.⁹²⁷ The Trial Chamber received relevant evidence concerning this incident from Witness JF-015, Witness JF-018, Witness C-015, and Dušan Knežević, as well as forensic and other documentary material.

422. Dalj police station officers Rajko Milanović, Savo Stanojević, Blagoje Stanojević, Đorđe Radivojčević, Predrag Blagojević, and Srboslav Mihaljević informed Dalj police station commander Željko Čizmić on 5 October 1991 that the previous night, on 4 October 1991, Milorad Stričević, commander of security in the Defence headquarters of Dalj, came to the Dalj police station together with Dragoljub Trbić, Djordje Milovanović, Branko Gojsović, and another unknown older man. Stričević began interrogating the detainees, who were from Baranja and Eastern Slavonia. At 9:15 p.m., Pavle Milovanović, the Dalj Defence Commander, and his deputy Djuro Zmijanjac arrived and joined Stričević inside the room where interrogations were being held; they left after a few minutes. Sometime before 11:45 p.m., there was a phone call for Stričević and subsequently there were three phone calls from the TO headquarters, asking whether “the contact” had arrived. At approximately 11:45 p.m., Arkan and 20 of his men arrived in military vehicles. Arkan’s men readied their weapons and

⁹²⁶ The Trial Chamber has considered minor discrepancies between the victim’s name given by Luka Šutalo, Witness JF-015, Witness JF-32, and the one mentioned in the documentary evidence, and is satisfied that the evidence before it refers to the same person.

surrounded the police building. Arkan introduced himself as Commander of the TO; he and five of his men joined Stričević inside, while Dragoljub Trbić, Djordje Milovanović, Branko Gojsović, and the unknown man left the building and stood outside. Detainees were brought for questioning through the side door. Outside, the sound of an object hitting a solid surface could be heard from time to time, as well as the words, “Come on you guardsman and policeman”. Around 4 a.m., Arkan and Stričević went outside, and three detainees carried 12 dead bodies out of the room and loaded them onto a truck after which the truck left. Arkan and his men came back later, asking Srbošlav Mihajlović and Predrag Blagojević whether the room had been cleaned. After having received the confirmation, Arkan, Stričević, Dragoljub Trbić, Djordje Milovanović, Branko Gojsović and the unknown man, left.⁹²⁸

423. On 5 October 1991, Čizmić, Ristić, and Stričević signed a document (P315) certifying that Stričević had taken custody of 26 detainees from the Dalj police station detention facility.⁹²⁹ Of these detainees, 13 are also found in a separate partially illegible list (P11) of 15 detainees missing from the detention unit: Zvonko Mlinarević, Ivan Tomičić/Tomiči, Josip Mikić, Rudolf Jukić, Vinko Oroz, Pero Rašić, Janoš Šinoš, Stanislav Strmač, Ivica Krkalo, Tibor Šilaš, Danijel Tomičić, Martin Banković, and Mile Grbošić.⁹³⁰ P315 lists the following 13 additional detainees: Ranko Soldo, Elvis Hadjić, Franjo Mesarić, an individual surnamed Bača, Karlo Raj, Mihajlo Šimun, Marinko Šomodjvarac, Mihalj Tolaš, Pavo Šarac, Đorđe Radoljević, Andrija Maksimović, Pero Milić, a person surnamed Lukač.⁹³¹ The two detainees listed in P11 but not found in P315 have Zlatko and Josip as their first names.⁹³²

424. The Trial Chamber has also considered evidence that has been reviewed in the Confidential Appendix of the Judgement.

425. **Witness JF-018**, a Serb from Osijek,⁹³³ testified that one day in early October 1991, he reported for duty with the Dalj police force and found that a group of 30 men was detained in a room in the Dalj police building. The witness learned that the men had been brought in

⁹²⁷ Indictment, para. 37.

⁹²⁸ P11 (Official Note of 5 October 1991 by Željko Čizmić, Dalj Police Station Commander, and Bogoljub Ristić), pp. 1-2.

⁹²⁹ P315 (Certificate concerning the incident at Dalj police station, signed by Željko Čizmić, Bogoljub Ristić, and Milorad Stričević, 5 October 1991).

⁹³⁰ P11 (Official Note of 5 October 1991 by Željko Čizmić, Dalj Police Station Commander, and Bogoljub Ristić), p. 2. The Trial Chamber notes the spelling discrepancies between the legible portions of the names in P11 and their counterparts in P315 and considers that they nevertheless refer to the same 14 detainees.

⁹³¹ P315 (Certificate concerning the incident at Dalj police station, signed by Željko Čizmić, Bogoljub Ristić, and Milorad Stričević, 5 October 1991).

⁹³² P11 (Official Note of 5 October 1991 by Željko Čizmić, Dalj Police Station Commander, and Bogoljub Ristić), p. 2.

⁹³³ P340 (Witness JF-018, witness statement, 21 January 2001), pp. 1-2.

from Baranja, where they had been arrested. Members of the Dalj TO guarded the detainees during the day and a duty officer put the names of the detainees in a register book. Several days later, Witness JF-018 arrived at the Dalj police building for the evening shift, and the duty officer was Rajko Milovanović a.k.a. Rajkila. At approximately 10:15 p.m., a group of armed men in camouflage uniforms arrived in two or more military trucks. They surrounded the Dalj police building and ordered the men on duty to leave. The witness realized that they were members of Željko Ražnatović's (a.k.a. Arkan) volunteers guard. They were dressed in military camouflage uniforms with badges on their shoulders and the witness initially testified that he did not see any details thereof as it was dark, but later testified that the men had insignia, namely a tiger patch which read "Serbian guards". The witness saw Arkan's men, but did not see Arkan himself. They had very short haircuts and were armed with automatic assault rifles and all kinds of very sophisticated weapons.⁹³⁴ Arkan's men stopped at the entrance to the Dalj police building and wanted to enter. They also demanded that the detainees be brought to them. However, the men on duty would not allow Arkan's men in or surrender the detainees because they did not have any papers or permits. The staff command of the Dalj TO, which was subordinate to the TO of Baranja, was responsible for issuing such papers or permits. Arkan's men then left.⁹³⁵ The duty officer instructed the witness and other members of the police force to go on patrol duty and said that he would stay behind. The witness patrolled Dalj until early morning. The witness's patrol met up with another patrol and returned to the Dalj police building together. Upon their return, they learned from the duty officer that some of the detainees there had been killed by Arkan's men, and that their bodies had been thrown into the Danube River at a place called "Jama". The witness saw one detainee sweeping the ground in front of the Dalj police building because there was blood there, and said that this man was "probably" part of the same group of detainees. There was much commotion in the Dalj police building, as civilians from Dalj were coming to report floating bodies in the Danube river. He and others in the police force signed a petition condemning the incident and requesting that Arkan be called upon to explain it. The witness testified that the police force, people from Dalj, and members of the Dalj TO were outraged and scared.⁹³⁶ At that time the majority of people in Dalj were Serbs but there were also some Croats.⁹³⁷

⁹³⁴ P340 (Witness JF-018, witness statement, 21 January 2001), p. 3; Witness JF-018, T. 4160, 4165, 4170-4172.

⁹³⁵ Witness JF-018, T. 4165-4166, 4172-4173.

⁹³⁶ P340 (Witness JF-018, witness statement, 21 January 2001), pp. 3-4; Witness JF-018, T. 4166-4168.

⁹³⁷ Witness JF-018, T. 4168.

426. Sometime later in the day on which Witness JF-018 returned from patrol duty, dozens of civilians, militiamen, and members of the TO units gathered at the market square. Arkan arrived and gave a speech. According to the witness, Arkan had been summoned there by a member of the TO staff command and the police commanders. As the witness was standing on the main road he did not hear exactly what Arkan said to the gathering of people. However, the witness heard from others present that Arkan admitted that he had killed the detainees. The witness and a number of others resigned from the Dalj police force several days after this incident, in mid-October 1991. As far as Witness JF-018 knew, no investigation was undertaken into this incident by the authorities during the time the Serbian governments ran the area between 1991 and 1997, and the witness was never interviewed by any authorities in relation to the incident. The witness believed that the TO was under the JNA Command.⁹³⁸

427. **Dušan Knežević**⁹³⁹ and **Witness C-015**⁹⁴⁰ provide hearsay evidence from Zeljko Čizmić and Bogoljub Ristc a.k.a. Boško which is generally consistent with evidence reviewed above, regarding the circumstances surrounding the killing of Croat detainees in the Dalj police station in the evening of 4 October 1991 through to early the following morning, and the perpetrators thereof.

428. According to forensic documentation, the remains of the following 21 persons were exhumed in Novi Sad or Ilok: Elvis Hađić (cause of death gunshot wound to the head), Ernest Bača (shell fragments in hip and spine), Mile Grbešić (civilian clothes, cause of death gunshot injury to the head), Danijel Tomičić (cause of death gunshot wound to the head), Josip Balog (civilian clothes, cause of death gunshot injury to chest), Stanislav Štrmečki (cause of death back-to-front gunshot injury to the head), Rudolf Jukić (1964, found in the Danube on 12 November 1991, cause of death most likely a gunshot or explosive wound to the head), Zvonko Mlinarević (cause of death probably a gunshot wound to the head), Petar Milić (cause

⁹³⁸ P340 (Witness JF-018, witness statement, 21 January 2001), pp. 3-4; Witness JF-018, T. 4167-4169, 4175-4176.

⁹³⁹ D371 (Dušan Knežević, witness statement, 17 August 2011), p. 1, paras 1, 28, 32, 45; Dušan Knežević, T. 13378, 13402-13404, 13490, 13494-13502, 13504, 13537; D372 (Chart of exhibits and potential exhibits marked by Dušan Knežević), p. 1. D371 (Dušan Knežević, witness statement, 17 August 2011), paras 28, 32, 67; D377 (Report by Dušan Knežević about the situation in Pakrac valley and the request for ammunition for the local population addressed to the assistant chief of the SJB Bucalo, 23 April 1991), p. 1; D383 (Record of the reception of criminal charges in the Ilok police station, 27 January 1992); D384 (Record of the reception of criminal charges in the Ilok police station signed by Dušan Knežević, 30 March 1992 and 18 April 1992).

⁹⁴⁰ P2 (Witness C-015, witness statement, 13 May 1999), pp. 2, 5, 6; P3 (Witness C-015, supplementary witness statement, 24 January 2001), p. 1; Witness C-015, T. 1604, 1608-1611, 1645, 1667; P11 (Report regarding the events at Dalj Police Station between 4 October 1991 and 5 October 1991, 5 October 1991), pp. 1-2.

of death gunshot wound to back of skull), Ieš Lukač (cause of death drowning), Franjo Mesarić (cause of death gunshot wound to back of head), Mihalj Toljaš (cause of death gunshot wound to the head), Ivica Krkalo (cause of death gunshot wound to the head), Josip Mikec (Croat, born on 24 February 1954, died in Šarengrad on 3 October 1991, cause of death probably gunshot wounds), Pavao Šarac (Croat, born on 13 September 1936, died in Ilok in October 1991, cause of death probably gunshot wounds), Marin Šomođvarac (cause of death gunshot wound to the head), Janoš Šileš (cause of death gunshot wound to the head), Zlatko Rastija (cause of death gunshot wound to the head), Petar Rašić (found in the Danube near Bogojevo on 15 October 1991, cause of death gunshot wound to the temple), Ranko Soldo (cause of death gunshot wound to the head), and Vinko Oroz (cause of death gunshot injury to the head).⁹⁴¹ The parties agree on the identities of these people as well as on those of Martin Banković, Andrija Maksimović, Đorđe Radaljević, Karlo Raić, Tibor Šileš, Mihajlo Šimun, and Ivan Tomičić.⁹⁴²

429. Forensic documentation provides further information about the following victims: Đorđe Radaljević (Croat, civilian); Tibor Šileš (Hungarian, a private of the ZNG); Mihajlo Šimon (Croat, civilian); Elvis Hađić (Croat, civilian); Ernest Bača (Hungarian ethnicity, civilian); Mile Grbešić (Croat, member of the active Osijek MUP forces); Danijel Tomičić (Croat, civilian); Josip Balog (ethnic Hungarian, civilian); Stanislav Štrmečki (Croat, member of the ZNG); Rudolf Jukić (Croat, civilian); Zvonko Mlinarević (Croat, member of the HV reserve forces); Petar Milić; Ieš Lukač (Romani); Franjo Mesarić (Croat, civilian); Mihalj Toljaš (ethnic Hungarian, civilian); Ivica Krkalo (Croat); Josip Mikec (civilian); Pavo Šarac (member of the HDZ,); Marin Šomođvarac (Croat, civilian); Janoš Šileš (ethnic Hungarian);

⁹⁴¹ P512 (Chart on proof of death documentation filled in by Davor Strinović), p. 13; P796 (Set of documents on identification of Josip Mikec's body, 28 February 2000), pp. 1-3; P775 (Set of four photographs entitled "Baranja 2-3 - Paragraph 51 Oroz VINKO" (2x) and "Baranja 2-3 - Paragraph 51 Marin SOMODJVARAC" (2x)). P797 (Set of documents on identification of Pavao Šarac's body, 28 February 2000), pp. 1-3; P798 (Autopsy report for Vinko Oroz, 20 November 1998), pp. 1-2; P800 (Forensic documentation for Ernest Bača), pp. 2, 4, 6, 13; P801 (Forensic documentation for Josip Balog), first translation, pp. 1-2, second translation, p. 6; P802 (Forensic documentation for Mile Grbešić), first translation, pp. 1-2, second translation, pp. 3, 5; P803 (Forensic documentation for Elvis Hađić), pp. 1-2, 4, 11; P804 (Autopsy report for Rudolf Jukić, 18 September 2003), pp. 1-3; P805 (Forensic documentation for Ivica Krkalo), pp. 1-2, 6, 9; P806 (Forensic documentation for Ieš Lukač), pp. 1-2, 9; P807 (Forensic documentation for Franjo Mesarić), pp. 1-2, 4, 10; P808 (Autopsy report for Petar Milić, 15 January 2003), pp. 1-2, 4; P809 (Forensic documentation for Zvonko Mlinarević), pp. 1-3, 9, 12; P810 (Forensic documentation for Petar Rašić), pp. 1, 3, 5, 12, 14; P811 (Forensic documentation for Zlatko Rastija), pp. 1-2, 5-6; P812 (Autopsy report for Ranko Soldo, 15 January 2003), pp. 1-2, 4; P813 (Autopsy report for Stanislav Štrmečki, 3 November 1999), first document, p. 1, second document, p. 7; P814 (Forensic documentation for Janoš Šileš), pp. 1-2, 5, 12; P815 (Forensic documentation for Marin Šomođvarac), pp. 1-3, 10; P816 (Forensic documentation for Mihalj Toljaš), pp. 1-3, 7, 9; P817 (Forensic documentation for Danijel Tomičić), first translation, pp. 28, 30, second translation, p. 4.

⁹⁴² Decision on Motion For Admission of Agreed Facts, 12 January 2011; First Joint Motion for Admission of Agreed Facts Between the Prosecution and the Stanišić Defence, 16 February 2010, Annex A, Part G.

Zlatko Rastija (Croat); Petar Rašić (Croat, member of the civilian protection); Ranko Soldo (Croat, member of the MUP reserve forces); and Vinko Oroz (Croat, member of the ZNG).⁹⁴³

430. The Trial Chamber notes that while it has received forensic evidence and missing person's questionnaires concerning Josip Balog and Zlatko Rastija, their names do not appear in P315 and the Trial Chamber is therefore unable to conclude that they were among the aforementioned detainees. These two individuals will consequently not be considered in relation to this incident.⁹⁴⁴ The Trial Chamber further considers that while Zlatko Rastija may be the Zlatko listed in P11 with an illegible surname, he is not among the 26 detainees listed in P315 and identified by Witness JF-015. The Trial Chamber is therefore similarly unable to conclude that he was among the detainees killed in this incident.

431. The Trial Chamber will first address a possible inconsistency in the evidence before it. While P11 refers to the arrival of Milorad Stričević at the Dalj police station before 9:15 p.m. on 4 October 1991 and his departure therefrom together with Željko Ražnatović a.k.a. Arkan at 4 a.m. the following morning, Witness JF-018 does not identify Milorad Stričević as having been present. The Trial Chamber considers that while Witness JF-018 had reported for duty at the Dalj police station in the evening of 4 October 1991, he had been sent out on patrol sometime that same evening and did not return to the Dalj police station until early the

⁹⁴³ P776 (Missing person questionnaire for Josip Balog, 16 February 1994), pp. 1-3, 13; P777 (Missing person questionnaire for Pero Rašić, 15 February 1994), pp. 1-3, 11; P778 (Missing person questionnaire for Zlatko Rastija, 21 February 1994), pp. 1-3, 11; P779 (Missing person questionnaire for Pavo Šarac, 16 February 1994), pp. 1-4, 13; P780 (Missing person questionnaire for Mihajlo Šimon, 21 February 1994); P781 (Missing person questionnaire for Marin Šomođvarac, 15 February 1994), pp. 1-4, 13; P782 (Missing person questionnaire for Ranko Soldo, 1 March 1994), pp. 1-4, 14; P783 (Missing person questionnaire for Stanislav Štrmečki, 15 February 1994), pp. 1-3, 12-13; P784 (Missing person questionnaire for Mihalj Tolaš, 23 February 1994), pp. 1-3, 12-13; P785 (Missing person questionnaire for Danijel Tomičić, 26 February 1994), pp. 1, 3-4, 14; P786 (Missing person questionnaire for Josip Mikec, 22 February 1994), pp. 1-4, 12-13; P787 (Missing person questionnaire for Vinko Oroz, 14 February 1994), pp. 1-4, 12-13; P788 (Missing person questionnaire for Ernest Bača, 6 March 1994), pp. 1-3, 12; P789 (Missing person questionnaire for Mile Grbešić, 15 February 1994), pp. 1-4, 14; P790 (Missing person questionnaire for Elvis Hadžić, 18 February 1994), pp. 1-4, 11; P791 (Missing person questionnaire for Rudolf Jukić, 22 February 1994), pp. 1-4, 11; P792 (Missing person questionnaire for Franjo Mesarić, 26 January 1996), pp. 1-4, 13-14; P793 (Missing person questionnaire for Zvonko Mlinarević, 14 February 1994), pp. 1-3, 13; P794 (Missing person questionnaire for Đorđe Radaljević, 23 February 1994); P795 (Missing person questionnaire for Tibor Šileš, 17 February 1994); P800 (Forensic documentation for Ernest Bača), pp. 7-8; P801 (Forensic documentation for Josip Balog), second translation, pp. 1, 3; P802 (Forensic documentation for Mile Grbešić), third translation, pp. 1, 3; P803 (Forensic documentation for Elvis Hadić), pp. 5-6; P805 (Forensic documentation for Ivica Krkalo), pp. 3, 5; P806 (Forensic documentation for Iles Lukač), pp. 3-4; P807 (Forensic documentation for Franjo Mesarić), pp. 5-6; P808 (Autopsy report for Petar Milić, 15 January 2003), p. 1; P809 (Forensic documentation for Zvonko Mlinarević), pp. 5-7; P810 (Forensic documentation for Petar Rašić), pp. 6-7; P811 (Forensic documentation for Zlatko Rastija), pp. 7, 9; P812 (Autopsy report for Ranko Soldo, 15 January 2003), p. 1; P814 (Forensic documentation for Janoš Šileš), pp. 6-7; P815 (Forensic documentation for Marin Šomođvarac), pp. 4, 6; P816 (Forensic documentation for Mihalj Toljaš), pp. 5-6; P817 (Forensic documentation for Danijel Tomičić), second translation, pp. 6-7.

⁹⁴⁴ P776 (Missing person questionnaire for Josip Balog, 16 February 1994), pp. 1-3, 13; P778 (Missing person questionnaire for Zlatko Rastija, 21 February 1994), pp. 1-3, 11; P801 (Forensic documentation for Josip Balog), second translation, pp. 1, 3; and P811 (Forensic documentation for Zlatko Rastija), pp. 7, 9.

following morning. The Trial Chamber therefore considers that Witness JF-018's testimony does not necessarily contradict P11, as it is possible that Milorad Stričević arrived while Witness JF-018 was out on patrol, or that the details in the witness's account had been affected by the passage of time (nine years between the events and the preparation of his statement, and almost 19 years between the events and his appearance as a witness in this case). The Trial Chamber notes that P11, while hearsay in nature, is a compilation of the accounts of several police officers who were present at the Dalj police station at various points in the evening of 4 October 1991 and early the following morning, and one of whom was present all throughout the incident. Moreover, P11 was written on 5 October 1991 and is therefore a contemporaneous account of the events in question.

432. Based on the testimony of Witness JF-018, who testified on, among others, a speech delivered by Željko Ražnatović a.k.a. Arkan on 5 October 1991, Witness JF-015, Witness C-015, and Dušan Knežević, exhibits P11 and P315, the forensic evidence in relation to 19 persons, the missing person questionnaires for a further three persons (namely Đorđe Radaljević, Tibor Šileš, and Mihajlo Šimon), the Trial Chamber finds that on 4 or 5 October 1991, Željko Ražnatović a.k.a. Arkan and a number of SDG members, along with Milorad Stričević, shot or otherwise killed the following 22 detainees at or in the area of the police building in Dalj and of the junction of the "Jama" stream and the Danube River, into which their bodies were dumped: Zvonko Mlinarević, Ranko Soldo, Elvis Hadjić, Franjo Mesarić, Ernest Bača, Mihajlo Šimun/Šimon, Josip Mikić/Mikec, Marin/Marinko Šomodjvarac, Rudolf Jukić, Mihalj Tolaš/Toljaš, Pavao/Pavo Šarac, Đorđe Radaljević, Vinko Oroz, Petar/Pero Rašić, Janoš Šinaš/Šileš, Stanislav Strmeča/Štrmečki, Ivica Krkalo, Tibor Šileš, Danijel Tomičić, Petar/Pero Milić, Ileaš Lukač, and Mile Grbešić. Based on reports of circumstances of death and missing person questionnaires, the Trial Chamber finds that 17 of the 22 victims were of Croat ethnicity, while Mihalj Tolaš, Tibor Šileš, and Janoš Šinaš were of Hungarian ethnicity and Ileaš Lukač was of Romani ethnicity.⁹⁴⁵ There is insufficient evidence to establish the ethnicity of Petar Milić. The Trial Chamber will further consider the killing, on the evening of 4 October 1991 through to early the following morning, of 17 Croat detainees in the Dalj police building by Željko Ražnatović a.k.a. Arkan and a number of his men, along with Milorad Stričević, in relation to Counts 1, 2, and 3 of the Indictment in chapter 4, below.

⁹⁴⁵ The Trial Chamber notes that the report on circumstances of death mentions both Croat and Hungarian in the 'ethnicity' field. Having considered the victim's name, the ethnicity of his son, as well as the fact that there may have been confusion between the fields of ethnicity and citizenship on these forms (see e.g. P816), the Trial Chamber concludes that Janos Siles was Hungarian.

433. The evidence indicates that Ivan Tomičić/Tomiči, Karlo Raj/Raić, Andrija Maksimović, and Martin Banković were also taken away from the Dalj police station on 4 October 1991, alongside the aforementioned 22 victims. However, in the absence of forensic evidence or reports on circumstances of their deaths, the Trial Chamber is unable to determine with sufficient certainty whether these people were killed. Under these circumstances, the Trial Chamber will not further consider this part of the incident.

3.2.3 Murder of Croat and ethnic Hungarian civilians at the Erdut training centre on and after 9 November 1991 (Indictment, para. 38)

434. According to the Indictment, on 9 November 1991, Serb forces (as defined in paragraph 6 of the Indictment), in particular SAO SBWS TO, SAO SBWS MUP forces, and members of the SDG led by Željko Ražnatović, arrested at least nine ethnic Hungarian and Croat civilians in Erdut, Dalj Planina, and Erdut Planina. The forces took the civilians to the training centre of the TO in Erdut and shot them the following day. Eight of the victims were buried in the village of Čelije and one victim was buried in Daljski Atar. Several days after 9 November 1991, members of the SNB of the SAO SBWS in cooperation with several members of the SDG arrested and executed three civilians and threw their bodies into a well in Borovo. Two of the victims were family members of the original Hungarian victims who had inquired about the fate of their relatives. On 3 June 1992, members of the SNB of the SAO SBWS in cooperation with members of the SDG arrested Marija Senaši, a female family member of the original Hungarian victims who had continued to inquire about the fate of her relatives. They subsequently murdered her and threw her body into a well in Dalj Planina.⁹⁴⁶ The Trial Chamber received relevant evidence with regard to these incidents primarily from Witness JF-017, Witness JF-035, and forensic documentation.

435. **Witness JF-017**, a Catholic and ethnic Hungarian from the Hungarian majority village of Erdut Planina,⁹⁴⁷ testified that on 9 November 1991, between 10 and 11 a.m., she saw 10 to 12 soldiers arriving in two jeeps and one green car. The men surrounded Nikola Kalozi snr.'s house.⁹⁴⁸ The witness identified among the soldiers local Serbs from Dalj, wearing JNA or military police uniforms, with the exception of one who was wearing civilian clothing, two

⁹⁴⁶ Indictment, para. 38.

⁹⁴⁷ P292 (Witness JF-017, witness statements), p. 3, paras 1-3 (witness statement, 25 November 1998); Witness JF-017, T. 3841-3842.

⁹⁴⁸ P292 (Witness JF-017, witness statements), para. 15 (witness statement, 25 November 1998); Witness JF-017, T. 3850-3851.

men in green camouflage Krajina police uniforms, and Arkan's men, who were the most aggressive.⁹⁴⁹ Among them the witness recognized a few local Serbs, including Božo Bolić, a SAO Krajina Police commander.⁹⁵⁰ According to the witness, it was Božo Bolić who was in charge of the unit that carried out the arrests.⁹⁵¹ Within the group the witness also recognized Danilo Rašković, a Serb from Osijek who wore a camouflage uniform. The men searched Nikola Kalozi snr.'s house and arrested him together with Antun Kalozi and Ivica Mihaljev, a Croat neighbour, who was passing by. The witness saw Nikola Kalozi leave his house and then return accompanied by a soldier and a Serb named Trbić. Nikola Kalozi told the witness that he had to go to Erdut with the police. Shortly thereafter, Marija Senaši told the witness that Stjepan Senaši and Josip Senaši had been arrested in the same manner earlier that day.⁹⁵² Also on that same day, the witness's ethnic Hungarian neighbours were arrested: Franjo Pap snr.; his younger son, Mihajlo Pap; Josip Bence; and a man from the village of Erdut. When the wife of Josip Bence informed the police that her husband needed medication and proper clothing, she was told that he would not need the medication for much longer.⁹⁵³ Later that day, three of Arkan's men in camouflage uniforms, who spoke with a Serbian accent, looted the witness's house taking all of her money and, as the witness stated, treating her badly.⁹⁵⁴ Subsequently, the witness had to accompany the soldiers to Palko Bereš's house, where Palko was arrested and he was never seen again. On 15 November 1991, the witness went to the police station, where Božo Bolić informed her that he had nothing to do with the men, as they were now in Arkan's hands.⁹⁵⁵ According to the witness, people in Erdut were offered the chance to visit their family members for money. One family, Julijana Pap, her son, and her daughter-in-law, accepted the offer and were taken to see Franjo Pap snr. and Mihajlo Pap, but the family never came back.⁹⁵⁶

436. Witness JF-017 testified that between 9 November 1991 and 3 June 1992, Marija Senaši's house was looted five or six times and that on two different occasions she was beaten

⁹⁴⁹ P292 (Witness JF-017, witness statements), pp. 1-2 (supplementary statement, 20 June 2003), para. 15 (witness statement, 25 November 1998); Witness JF-017, T. 3850-3851, 3875-3876.

⁹⁵⁰ P292 (Witness JF-017, witness statements), para. 15 (witness statement, 25 November 1998); Witness JF-017, T. 3875.

⁹⁵¹ Witness JF-017, T. 3881; P293 (Set of documents and Croatian Missing Person Questionnaire regarding Stjepan Senaši a.k.a. Sobonja, 10 February 1994), p. 4.

⁹⁵² P292 (Witness JF-017, witness statements), paras 3, 15 (witness statement, 25 November 1998); Witness JF-017, T. 3850-3853, 3864-3865, 3875-3877.

⁹⁵³ Witness JF-017, T. 3852-3853, 3865.

⁹⁵⁴ P292 (Witness JF-017, witness statements), paras 15-16 (witness statement, 25 November 1998). See also Witness JF-017, T. 3850.

⁹⁵⁵ P292 (Witness JF-017, witness statements), paras 15-16 (witness statement, 25 November 1998); Witness JF-017, T. 3853-3854.

⁹⁵⁶ Witness JF-017, T. 3854; see also T. 3865.

badly and her house was searched by soldiers, some of whom were Arkan's men, and some of whom wore camouflage uniforms. In the evening of 3 June 1992, Marija Senaši disappeared whilst cycling to her own house in Dalj Planina.⁹⁵⁷ After this disappearance, the witness and her two under-aged sons left Erdut and moved to Osijek.⁹⁵⁸ The bodies of Josip Senaši, Stjepan Senaši, and Nikola Kalozi were exhumed on 13 April 2000 and the body of Marija Senaši was exhumed on 18 June 2001. According to the witness, Josip Senaši and Nikola Kalozi were killed by bullets, while the cause of death for Stjepan Senaši and Marija Senaši could not be established. The body of Ivica Mihajlev was found in a mass grave in Čelije.⁹⁵⁹

437. **Witness JF-035**, a Serb from Bosnia-Herzegovina,⁹⁶⁰ testified that Mihajlo (Mile) Ulemek went to the office of Stevo Bogić, a.k.a. Jajo, and informed Bogić, David Češić, a.k.a. Češo, Milenko Dafinić, a.k.a. Dafo, and Šiniša Gajić, a.k.a. Gaja, to go to the Erdut Training Centre, where there were a number of "Ustashas" who had been arrested, in order to be present during the interrogation. Witness JF-035 went to a small room located on the first floor of the Erdut Training Centre, used by Milorad Stričević, a.k.a. Puki, for the interrogation of prisoners. When the witness entered he saw Stričević, who was interrogating a prisoner, as well as a person with the first name Nebojša, a.k.a. Sučo, who was wearing a tracksuit and holding a baseball bat. Arkan was also present in the room, accompanied by Stojan Novaković, a.k.a. Cope. Two of Arkan's men brought in more prisoners for interrogation. The prisoners were ordered to kneel down and put their hands, which were not tied, behind their backs. Stričević first asked their names and wrote these down; then he asked various questions, and whenever a prisoner answered "I don't know", Nebojša hit him with the baseball bat. The witness saw Stričević and Nebojša do this to two or three prisoners. At a certain point, Stričević said he would give the prisoners "special treatment", and pulled out a stick made of ash-tree. Someone, who Witness JF-035 believed was the owner of a café called "Šaran" in Erdut Planina, was brought into the room. The man was about 40 to 50 years old and he spoke in a local Hungarian dialect. They interrogated him and when he replied that he did not know the answer, Arkan kicked him in his genitals. The man fell on the ground and Milenko Dafinić stepped on him with his both feet as he was lying on his side. The rest of people in the room beat him until he fainted. Novaković placed a revolver into the man's

⁹⁵⁷ P292 (Witness JF-017, witness statements), para. 17 (witness statement, 25 November 1998); Witness JF-017, T. 3855.

⁹⁵⁸ P292 (Witness JF-017, witness statements), para. 18 (witness statement, 25 November 1998).

⁹⁵⁹ P292 (Witness JF-017, witness statements), p. 1 (supplementary statement, 20 June 2003).

mouth and asked Arkan whether he should kill him. Arkan replied that they would still need the man and ordered two of his soldiers to take the prisoner back to the prison. Then another man was brought in, and “they kept it going that way”. The witness recalls that about 15 to 20 prisoners of Croat and Hungarian ethnicity were brought in, all of them from Erdut and Erdut Planina. Witness JF-035 recalled, having seen the prisoners’ identification papers, that one prisoner had the last name Sobonja or Šobota, and another was called Ivan or Josip Pap. Several days later the prison where these prisoners had been held was empty. When Bogić asked Stričević what had happened to the prisoners, Stričević answered that “those people swam away upstream”, an expression he used when referring to people that had been killed.⁹⁶¹

438. Witness JF-035 testified that, more than a week after the interrogation of 15 to 20 prisoners at Erdut Training Centre, the wife of one of the prisoners started enquiring into what happened to her husband.⁹⁶² The woman was approximately 50 years old.⁹⁶³ One evening, Mihajlo Ulemek went to the SNB office very drunk and started yelling at Siniša Gajić, Branko Vasiljević, a.k.a. Roki, and Milenko Dafinić for doing nothing about this woman who was asking around and looking for her husband. She had approached some UN or ECMM members and Ulemek commented that this would be dangerous and yelled that they were not “real Serbs” because they had not personally killed anyone. The next morning, during a meeting, Stevo Bogić told several SNB members that Arkan’s men complained about them not having killed anyone, as they believed that everyone needed to be “baptised” by killing. The woman who Ulemek had mentioned the previous evening was allegedly brought to the Erdut police for interrogation the following day, where she was told not to talk about it any more.⁹⁶⁴

439. The woman continued to make enquiries about her husband and Bogić ordered Gajić and Dafinić to arrest her and bring her to his office, which they did. After a while, Gajić told Dušan Šoškočanin, a.k.a. Duci, and Dafinić that Bogić had ordered them to take the woman home and confiscate her money. She would be told that this was in return for letting her family go, and that she would be reunited with them. Bogić ordered them to take everyone

⁹⁶⁰ P494 (Witness JF-035, witness statement, 18 October 2000), p. 2; P495 (Witness JF-035, supplemental witness statement, 6 May 2001), p. 1; P496 (Witness JF-035, *Slobodan Milošević* transcript, 22-23 October 2002), p. 12231.

⁹⁶¹ P494 (Witness JF-035, witness statement, 18 October 2000), p. 7; P496 (Witness JF-035, *Slobodan Milošević* transcript, 22-23 October 2002), pp. 12164-12167, 12239-12241, 12285-12286.

⁹⁶² P494 (Witness JF-035, witness statement, 18 October 2000), p. 7; Witness JF-035, T. 5459-5460.

⁹⁶³ P494 (Witness JF-035, witness statement, 18 October 2000), p. 9; P496 (Witness JF-035, *Slobodan Milošević* transcript, 22-23 October 2002), p. 12175.

⁹⁶⁴ P494 (Witness JF-035, witness statement, 18 October 2000), pp. 7-8; P496 (Witness JF-035, *Slobodan Milošević* transcript, 22-23 October 2002), p. 12169.

from the house and kill them, but to tell those people that they were being taken to see their family. At that time, Witness JF-035 already knew that their family members had been among the 15-20 prisoners detained at the Erdut Training Centre who had been taken away and had never returned, and had most probably been killed. As ordered, Gajić, Dafinić and Šoškočanin took the woman to her house, where they also found her son and her daughter-in-law. The woman's son was around 30 years old and Witness JF-035 had been told that the son was mentally handicapped. The woman's daughter-in-law was 30 years old. The woman had stored a large amount of money in a chest in the garden, which Gajić took under the pretence that this would be the payment for the release of her family.⁹⁶⁵

440. After taking her money, Gajić, Dafinić, and Šoškočanin took the woman, her son and her daughter-in-law in a car and drove off in the direction of Dalj through the Erdut planina. Gajić ordered them to put their heads down as they drove through the village of Dalj in the direction of Borovo Selo. Gajić told them they would be taken to a "camp" where he said their family was held, which was a lie to keep them calm. When they arrived at Savulja, they turned left at Crni towards the Danube. At a location near Lovački dom they took the woman out of the car, and as they were walking towards another well, Gajić shot the woman in the neck. Gajić then went back and brought her son and daughter-in-law from the car; he shot them both once in the back of their heads. They dumped the bodies in the nearby well.⁹⁶⁶

441. Several days later, when rumours had spread around the village regarding the disappearance of the family that was killed, Goran Hadžić alluded to the incident during a lunch. This lunch was attended by Dafinić, Češić, Gajić, Šoškočanin, Branko Vasiljević, as well as two bodyguards of Goran Hadžić with the first names Ljubo and Milenko, respectively. Goran Hadžić asked about the incident, and Bogić responded that "it had been taken care of". Hadžić told everyone present to be careful in such cases and not to get into trouble.⁹⁶⁷

442. Witness JF-035 testified that about three months after the incident involving the killing of the family who had enquired about their family members, Mihajlo Ulemek ordered Siniša Gajić to arrest a Hungarian woman from Dalj Planina who was approximately 50 years old at the time. Gajić drove a white coffee coloured Lada Samara to the woman's house but

⁹⁶⁵ P494 (Witness JF-035, witness statement, 18 October 2000), pp. 7-9; P496 (Witness JF-035, *Slobodan Milošević* transcript, 22-23 October 2002), p. 12169, 12171, 12175.

⁹⁶⁶ P494 (Witness JF-035, witness statement, 18 October 2000), pp. 8-9; P496 (Witness JF-035, *Slobodan Milošević* transcript, 22-23 October 2002), p. 12169, 12171-12172.

did not find her there. A couple of hours later Gajić returned and intercepted the woman on her bicycle and took her to Mihajlo Ulemek's house that he used for interrogations, and Ulemek, who was already there, ordered that she be taken into the basement, which had been transformed into a prison. The location of this house was on the road between Aljmas and Erdut. Several hours later Siniša Gajić saw Ulemek's car turning onto one of the steep field roads towards the right of the main road towards the Danube, in respect of which Gajić jokingly remarked that Ulemek was "having another late night adventure". Several days later Gajić went to a well on Stevo Bogić's orders, to ensure that Ulemek had not left traces which could compromise the SNB. No traces were found but Gajić threw things that were lying around into the well, which was towards the Danube, as Gajić said there was probably something in the well because Mile had done something on his own. Witness JF-035 later learnt that the woman was found somewhere in Erdut.⁹⁶⁸ Witness JF-035 testified that "before the fall of SAO Krajina", he saw that Mihajlo Ulemek's vehicle was parked in a field in Daljski Atar, where he believed a large number of bodies were buried. The witness testified that he heard that sacks of lime had been delivered to the area, and that Mihajlo Ulemek had been ordered to cover all traces of "potentially compromising activities".⁹⁶⁹

443. **Visnja Bilić**, an expert on missing persons and coordinating the identification of exhumed remains,⁹⁷⁰ testified that, based upon the underlying documents available to her when compiling her expert report, the body of Julijana Pap was exhumed along with Franjo Pap and Natalija Rakin from the mass grave at Borovo Selo on 20 September 2000.⁹⁷¹

444. The Trial Chamber has reviewed further relevant evidence in relation to the presence of Hungarians at the Erdut Training Centre on 11 November 1991 from Stjepan Dasović in chapter 3.2.4.

445. According to forensic documentation, the remains of Franjo Pap snr. (with blunt force trauma to the head) were exhumed from the Dalj gravesite, and the remains of the following seven persons were exhumed from the Čelije gravesite and identified on 13 April 2000: Mihajlo Pap (civilian clothes, skull fractures), Josip Bence (civilian clothes, gunshot wounds to the head), Antun Kalozi (civilian clothes, severe head injuries), Nikola Kalozi (civilian

⁹⁶⁷ P494 (Witness JF-035, witness statement, 18 October 2000), p. 10; P496 (Witness JF-035, *Slobodan Milošević* transcript, 22-23 October 2002), p. 12176, 12286.

⁹⁶⁸ P494 (Witness JF-035, witness statement, 18 October 2000), pp. 5, 10, 13; P496 (Witness JF-035, *Slobodan Milošević* transcript, 22-23 October 2002), pp. 12181-12183.

⁹⁶⁹ P494 (Witness JF-035, witness statement, 18 October 2000), p. 21.

⁹⁷⁰ P514 (Visnja Bilić, Expert report), pp. 1-3; Visnja Bilić, T. 5556-5564.

clothes, gunshot wound to the head), Ivan Mihaljev (civilian clothes, gunshot wound to the head), Stjepan Senaši (1935), and Josip Senaši (1952, civilian clothes, cause of death very likely gunshot wound to the head).⁹⁷² According to Davor Strinović, a forensic pathologist,⁹⁷³ the cause of death for Mihajlo Pap was very likely “explosive or gunshot wounds to the head or even blunt trauma”.⁹⁷⁴ The forensics also show that the body of Pavao Bereš was identified on 13-14 April 2000, and was found at the same location in Čelje as the aforementioned seven men.⁹⁷⁵ The parties agree on the identities of 12 persons, namely Ivica Astaloš, Josip Bence, Pavao Bereš, Antun Kalozi, Nikola Kalozi, Nikola Kalozi snr., Ivan Mihaljev, Atika Paloš, Franjo Pap snr., Mihajlo Pap, Josip Senaši, and Stjepan Senaši.⁹⁷⁶

446. The Trial Chamber has received reports on circumstances of death and missing person questionnaires, based on information provided by family members of the deceased, relating to the following persons: Franjo Pap snr. (Hungarian, 1934); Mihajlo Pap (Hungarian); Josip Bence (Hungarian); Antun Kalozi (Hungarian); Nikola Kalozi (Hungarian); Ivica Astaloš, a.k.a. Pavo; Atika Paloš, a.k.a. Franjo; Nikola Kalozi snr. (Hungarian, 1922); Ivan Mihaljev (Croat); Stjepan Senaši; and Josip Senaši (Hungarian).⁹⁷⁷ In a statement appended to the missing person’s questionnaire for Antun Kalozi, Boriška Kalozi stated that on the day Antun

⁹⁷¹ P514 (Visnja Bilić, Expert report), p. 104. The Trial Chamber notes that the date of identification (18 June 2000) provided in P514 appears to be erroneous.

⁹⁷² P836 (Set of death documentation for Stjepan Senaši), p. 2; P843 (Set of death documentation for Ivan Mihaljev), pp. 1-2; P844 (Set of death documentation for Josip Senaši), p. 3; P925 (Set of death documentation for Mihajlo Pap, 1998-2000), pp. 1, 3-4; P926 (Death documentation for Ivan Mihaljev, 1998-2002), pp. 1-2; P927 (Set of death documentation for Nikola Kalozi, 1998-2000), pp. 1, 7, 9-11; P928 (Set of death documentation for Antun Kalozi, 1998-2000), pp. 1, 3-4; P929 (Set of death documentation for Josip Bence, 1998-2000), pp. 1, 3, 5-6; P930 (Death documentation for Josip Senaši), pp. 1, 7, 9-11; P931 (List identifying deceased, 14 April 2000); P932 (Set of death documentation), p. 19; P933 (Forensic documentation for Franjo Pap), first translation, pp. 3, 5.

⁹⁷³ P510 (Davor Strinović, *Martić* transcript, 12-13 April 2006), p. 3655; P511 (Davor Strinović, expert report), p. 1; Davor Strinović, T. 5521.

⁹⁷⁴ P512 (Chart on proof of death documentation filled in by Davor Strinović), p. 36.

⁹⁷⁵ P27 (Report by the Forensic and Criminology Institute, Zagreb, on identified bodies, 14 April 2000); P844 (Set of death documentation for Josip Senaši), p. 1; P931 (List identifying deceased, 14 April 2000), p. 1.

⁹⁷⁶ Decision on Motion For Admission of Agreed Facts, 12 January 2011; First Joint Motion for Admission of Agreed Facts Between the Prosecution and the Stanišić Defence, 16 February 2010, Annex A, Part H.

⁹⁷⁷ P836 (Set of death documentation for Stjepan Senaši), pp. 2-3; P844 (Set of death documentation for Josip Senaši), pp. 4-5; P917 (Missing person questionnaire for Josip Bence, 7 February 1994), pp. 1-4, 12-13; P918 (Missing person questionnaire for Antun Kalozi, 10 February 1994), pp. 1-3, 12-13; P919 (Missing person questionnaire for Nikola Kalozi snr., 10 February 1994), pp. 1-3; P920 (Missing person questionnaire for Nikola Kalozi, 10 February 1994), pp. 1-3, 12-13; P921 (Missing person questionnaire for Ivica Astaloš, 14 August 1998); P922 (Missing person questionnaire for Atika Paloš, 14 August 1998); P923 (Missing person questionnaire for Josip Senaši, 10 February 1994), pp. 1-3, 10-11; P925 (Set of death documentation for Mihajlo Pap, 1998-2000), pp. 1-2, 5; P926 (Death documentation for Ivan Mihaljev, 1998-2002), pp. 1-2; P927 (Set of death documentation for Nikola Kalozi, 1998-2000), pp. 4-5; P928 (Set of death documentation for Antun Kalozi, 1998-2000), p. 2; P929 (Set of death documentation for Josip Bence, 1998-2000), pp. 1-2; P930 (Death documentation for Josip Senaši), pp. 2-3; P933 (Forensic documentation for Franjo Pap), second translation, pp. 1-2.

Kalozi was taken away, she recognized Milorad Stričević amongst those persons who took him away.⁹⁷⁸

447. According to forensic documentation, the remains of Franjo Papp and Natalija Rakin, wearing civilian clothes and with gunshot wounds to their heads, were exhumed from Borovo.⁹⁷⁹ The parties agree on the identities of three persons, namely Franjo Pap, Julijana Pap, and Natalija Rakin.⁹⁸⁰ The Trial Chamber has received reports on circumstances of death related to Franjo Papp (Hungarian, 1960) and Natalija Rakin (Croat, 1971).⁹⁸¹

448. According to forensic documentation, the remains of Marija Senaši (civilian clothes) were exhumed from a well in Dalj.⁹⁸² The examination showed a fractured skull but the cause of death could not be ascertained.⁹⁸³ According to a report on circumstances of death, based on information provided by her daughter, Marija Senaši, an ethnic Hungarian born on 6 February 1937, died in Dalj on 3 June 1992.⁹⁸⁴ According to her daughter, Boriška Kalozi, Marija Senaši was taken away from Dalj on 3 June 1992, between 6 and 7 p.m., by men affiliated with Arkan who were driving a yellow Lada Samara, which had been seized from Marija Senaši in February 1992.⁹⁸⁵ The parties agree on the identity of Marija Senaši.⁹⁸⁶

449. According to a report, Milorad Stričević was appointed as a colonel in the SDG by Arkan.⁹⁸⁷ **Witness C-1118**, a Croat from Osijek municipality,⁹⁸⁸ testified that at the Erdut Training Centre on 20 November 1991, Stričević grabbed him by the sleeve, approached Arkan, and greeted Arkan with “Commander Sir”.⁹⁸⁹ Stričević asked Arkan what should be done with the witness and Arkan responded “kill him”.⁹⁹⁰

⁹⁷⁸ P918 (Missing person questionnaire for Antun Kalozi, 10 February 1994), p. 13.

⁹⁷⁹ P512 (Chart on proof of death documentation filled in by Davor Strinović), p. 36; P934 (Forensic documentation for Franjo Papp), pp. 1-2; P935 (Forensic documentation for Natalija Rakin), pp. 1-2.

⁹⁸⁰ Decision on Motion For Admission of Agreed Facts, 12 January 2011; First Joint Motion for Admission of Agreed Facts Between the Prosecution and the Stanišić Defence, 16 February 2010, Annex A, Part H.

⁹⁸¹ P934 (Forensic documentation for Franjo Papp), pp. 4, 6; P935 (Forensic documentation for Natalija Rakin), pp. 3, 5.

⁹⁸² P936 (Forensic documentation for Marija Senaši), first translation, pp. 5-6, 10, second translation, pp. 1-2.

⁹⁸³ P936 (Forensic documentation for Marija Senaši), first translation, pp. 5, 7, 11, 15, second translation, p. 1.

⁹⁸⁴ P936 (Forensic documentation for Marija Senaši), second translation, pp. 5-6.

⁹⁸⁵ P918 (Missing person questionnaire for Antun Kalozi, 10 February 1994), p. 14; P924 (Missing person questionnaire for Marija Senaši, 10 February 1994), pp. 1-3, 11.

⁹⁸⁶ Decision on Motion For Admission of Agreed Facts, 12 January 2011; First Joint Motion for Admission of Agreed Facts Between the Prosecution and the Stanišić Defence, 16 February 2010, Annex A, Part H.

⁹⁸⁷ P1078 (12th Corps Command Report on Arkan and the SDG, signed by Milić Jovanović, January 1992), pp. 4-5.

⁹⁸⁸ P23 (Witness C-1118, witness statement, 4 June 1999), pp. 1-2; P24 (Witness C-1118, witness statement, 12 June 1999), p. 1; P25 (Witness C-1118, witness statement, 25 April 2007), p. 1; Witness C-1118, T. 1950, 1968-1969.

⁹⁸⁹ P23 (Witness C-1118, witness statement, 4 June 1999), pp. 6-7; P25 (Witness C-1118, witness statement, 25 April 2007), para. 8; Witness C-1118, T. 1977.

⁹⁹⁰ P23 (Witness C-1118, witness statement, 4 June 1999), p. 7; Witness C-1118, T. 1977.

450. **Witness JF-035** testified that Milorad Ulemek a.k.a. Legija was the commander of the Super Tigers.⁹⁹¹ **Witness C-015**, a Serb from Croatia,⁹⁹² testified that Zarko Aleksić, a.k.a. Marinac, and Mile Ulemek, a.k.a. Legija, who had previously been members of the SAO SBWS security service *Sekuriteta*, were members of Arkan's Tigers.⁹⁹³

451. The Trial Chamber will first consider the evidence relating to Josip Bence, Palko/Pavao Bereš, Antun Kalozi, Nikola Kalozi, Nikola Kalozi snr., Ivan Mihaljev, Franjo Pap snr., Mihaljo Pap, Stjepan Senaši, and Josip Senaši. The testimony of Witness JF-017 indicates that on 9 November 1991, in Erdut Planina, 10 to 12 soldiers in varying uniforms, including Arkan's men and Božo Bolić, took away the aforementioned ten men. The combined evidence of Witness JF-017 and Witness JF-035 indicates, as further set out below, that Arkan's men detained at the Erdut Training Centre, a group of Croat and Hungarian persons from Erdut or the Erdut Planina, including at least Franjo Pap snr. and Mihaljo Pap.⁹⁹⁴ This is further supported by Stjepan Dasović's testimony reviewed in chapter 3.2.4 regarding the presence of Hungarian detainees at the Erdut Training Camp on 11 November 1991, and Božo Bolić's statement to Witness JF-017 on 15 November 1991 that the arrested men were at that time in Arkan's hands. The aforementioned evidence establishes that following their arrest on 9 November 1991, members of the SDG and of the SNB took the ten men mentioned above to the Erdut Training Centre, where they interrogated and beat them. The Trial Chamber further considers the forensic evidence that the remains of eight of the ten men were exhumed from Dalj and Čelije with skull fractures, gunshot wounds, or blunt force injuries to the head, while a relative of the ninth person, Nikola Kalozi snr., filled in a missing person questionnaire in 1994, and the tenth person, Palko/Pavao Bereš, was identified and found at the same gravesite as eight of the aforementioned men. Based on the totality of the evidence before it, the Trial Chamber finds that on or around 9 November 1991 in or around the Erdut Training Centre, members of the SDG and SNB of the SAO SBWS killed Josip Bence, Palko/Pavao Bereš, Antun Kalozi, Nikola Kalozi, Nikola Kalozi snr., Ivan Mihaljev, Franjo Pap snr., Mihaljo Pap, Stjepan Senaši, and Josip Senaši. The Trial Chamber finds that Ivan Mihaljev was of Croat ethnicity, while all the other victims,⁹⁹⁵ except for Palko/Pavao Bereš, were Hungarians. The evidence does not establish the ethnicity of Palko/Pavao Bereš. The

⁹⁹¹ P494 (Witness JF-035, witness statement, 18 October 2000), p. 15.

⁹⁹² P2 (Witness C-015, witness statement, 13 May 1999), p. 2; P3 (Witness C-015, supplementary witness statement, 24 January 2001), p. 1.

⁹⁹³ P3 (Witness C-015, supplementary witness statement, 24 January 2001), pp. 2-3.

⁹⁹⁴ In this respect, the Trial Chamber notes that Franjo Pap snr. and Mihaljo Pap were related to Julijana Pap, Franjo Pap and Natalija Rakin.

Trial Chamber will further consider this part of the incident in relation to Counts 1, 2, and 3 of the Indictment in chapter 4, below.

452. Turning to Ivica Astaloš and Atika Paloš, the Trial Chamber has only received reports on circumstances of death in relation to these two victims. This documentation is based, at least in part, on information provided by relatives whose sources of knowledge are unclear. In the absence of sufficient further evidence in relation to these two persons the Trial Chamber will not further consider this part of the incident.

453. The Trial Chamber will now consider the evidence relating to Franjo Pap/Papp, Julijana Pap, and Natalija Rakin. The testimony of Witness JF-017 establishes that between 9 and 15 November 1991, Julijana Pap and her son and daughter-in-law accepted an offer to be driven to see their missing family members but never returned. The Trial Chamber considers the corresponding testimony of Witness JF-035 that Gajić, Dafinić, and Šoškočanin drove a woman and her son and daughter-in-law to a well near Lovački dom, under the pretence of taking them to see family members who had been taken to the Erdut Training Centre. According to Witness JF-035, Gajić then shot and killed them and their bodies were dumped in a well. Forensic evidence and expert witness Bilić's testimony provides that the remains of Julijana Pap, Franjo Papp and Natalija Rakin were exhumed in Borovo.⁹⁹⁶ Whilst the Trial Chamber finds Witness JF-035's general account of what happened to be credible, it will not rely fully on his evidence in terms of the direct perpetrator of the killing. Thus, the Trial Chamber finds that in November 1991, in Borovo, a group of persons, including Gajić, Dafinić, and Šoškočanin, shot and killed Franjo Papp, Julijana Pap, and Natalija Rakin. On the basis of evidence of Witness JF-017 and forensic documentation, the Trial Chamber finds that Franjo Papp was of Hungarian ethnicity and Natalija Rakin was of Croat ethnicity. On the same basis, the Trial Chamber concludes that Julijana Pap was mother of Franjo Papp and wife of Franjo Pap snr., both of whom were of Hungarian ethnicity. Accordingly, the Trial Chamber finds that also Julijana Pap was of Hungarian ethnicity. Based on the testimony of Witness JF-035 reviewed above, the Trial Chamber finds that the persons who killed Franjo Papp/Pap, Julijana Pap, and Natalija Rakin were members of the SNB of the SAO SBWS. The Trial Chamber will further consider this part of the incident in relation to Counts 1, 2, and 3 of the Indictment in chapter 4, below.

⁹⁹⁵ With regard to Stjepan Senaši, the Trial Chamber considers that his wife and son were of Hungarian ethnicity.

⁹⁹⁶ The Trial Chamber considered that minor spelling discrepancies in the forensic documentation in relation to the victims' names have not raised a reasonable doubt with regard to the Trial Chamber's finding.

454. Finally, the Trial Chamber turns to the evidence concerning Marija Senaši. In this respect the Trial Chamber has carefully compared, on the one hand, the evidence of Witness JF-035 and, on the other hand, the forensic evidence and testimony of Witness JF-017. According to the former, a Hungarian woman was intercepted on her bicycle near her home in Dalj Planina in early 1992. According to the latter, Marija Senaši disappeared whilst cycling to her home in Dalj Planina on 3 June 1992. Witness JF-035 suggests that Ulemek killed this woman and placed her body in a nearby well. Similarly, according to the forensic evidence, the remains of Marija Senaši were exhumed from a well in Dalj Planina. Based on the foregoing, the Trial Chamber considers that the Hungarian woman referred to by Witness JF-035 was Marija Senaši. Accordingly, the Trial Chamber finds that on or shortly after 3 June 1992, a group of persons, including Gajić and Mile Ulemek, killed Marija Senaši, a Hungarian woman, in Dalj Planina. Based on the testimony of Witness JF-035 and Witness JF-017 reviewed above, the Trial Chamber finds that the persons who killed Marija Senaši were members of the SNB of the SAO SBWS and of the SDG. The Trial Chamber will further consider this part of the incident in relation to Counts 1, 2, and 3 of the Indictment in chapter 4, below.

*3.2.4 Murder of non-Serb civilians at the Erdut training centre on 11 November 1991
(Indictment, para. 39)*

455. According to the Indictment, on 11 November 1991, Serb Forces (as defined in paragraph 6 of the Indictment), particularly SAO SBWS TO, SAO SBWS MUP forces, and members of the SDG led by Željko Ražnatović arrested five non-Serb civilians in Klisa and two non-Serb civilians in Dalj and Bijelo Nrdo. They took the detainees to a house in Erdut where they beat and interrogated them. Later that night, the SDG took them to the TO training centre in Erdut, where they were further interrogated. Two of the detainees, who had Serb relatives, were released. The SDG killed the remaining five detainees and buried them in a mass grave in the village of Čelije.⁹⁹⁷ The Trial Chamber has received relevant evidence with regard to the alleged murders through the testimony of Stjepan Dasović, Witness C-1118, and Witness C-015, as well as through forensic documentation.

456. **Stjepan Dasović**, a Croat from Timarci in Hrvatska Kostajnica municipality,⁹⁹⁸ stated that on 11 November 1991 he was working at a house located on the edge of Klisa, in the

⁹⁹⁷ Indictment, para. 39.

direction of Osijek, with Franjo Dasović (his brother), Tomo Curić, Ivan Kućan, and Josip Vaniček. Around 7:30 a.m. he saw seven men (including six “Arkan’s soldiers”) arrive at the house in a white mini-van. One of these men was around 45 years old, and dressed in blue jeans and a denim shirt. The others addressed him as “Colonel”. Dasović heard that this man was from Dalj. The other six men were approximately 25 years old. They were dressed in camouflage uniforms, black woollen caps, and black military boots and they were armed with Kalashnikov automatic assault rifles and some had pistols. One of these six men was addressed as “Crnogorac”. The men put the witness, Tomo Curić, Ivan Kućan, Josip Vaniček, and Franjo Dasović in the mini-van and drove them to Erdut. Rajko Bursać, a Serb, was also captured and brought with them to Erdut.⁹⁹⁹

457. **Witness C-1118**, a Croat from Osijek municipality,¹⁰⁰⁰ testified that at 10 or 11 a.m. on 11 November 1991, he observed a white mini-van coming from the direction of Vukovar to the farm of Filip Grujić, approximately 50 metres from where he was at the time. After about 15 minutes, the van and a local man in his own vehicle, Vojo Nešić, left the farm in the direction of Vukovar.¹⁰⁰¹ The witness later learned from Josip Vaniček (snr), who had been at the farm at the time, that approximately six armed men in green camouflage uniforms and roll down black woollen caps had arrived with the van and arrested the following persons: Jakov Barbarić, Josip Vaniček (jnr), Ivan Kućan, Ivan Debić, Tomo Curić, Stevo Dasović,¹⁰⁰² and Franjo Dasović.¹⁰⁰³

458. Dasović testified that in Erdut, the captors identified themselves to the detainees as Arkan’s men. The witness had heard about Arkan’s men before this incident. On arrival in Erdut, the men asked the detainees if there were any Serbs among them. Rajko Bursać told the soldiers he was a Serb, whereupon he was checked and released. The remaining detainees were all Croat and were taken into a house in Erdut. In the house, the detainees met Jakov Barbarić and Josip Debić, who had been arrested in Dalj and Bijelo Brdo. The detainees were guarded by five Arkan’s men, all dressed in the same camouflage uniforms. The guards changed often, and the witness surmised they were working in shifts. In the evening of 11

⁹⁹⁸ P1731 (Stjepan Dasović, Rule 92 *bis* declaration); P1733 (Stjepan Dasović, witness statement, 17 May 1999), pp. 1-2; P1735 (Stjepan Dasović, supplement to witness statement, 16 June 1999), p. 1.

⁹⁹⁹ P1733 (Stjepan Dasović, witness statement, 17 May 1999), pp. 2-3.

¹⁰⁰⁰ P23 (Witness C-1118, witness statement, 4 June 1999), pp. 1-2; P24 (Witness C-1118, witness statement, 12 June 1999), p. 1; P25 (Witness C-1118, witness statement, 25 April 2007), p. 1; Witness C-1118, T. 1950, 1968-1969.

¹⁰⁰¹ P23 (Witness C-1118, witness statement, 4 June 1999), p. 3; Witness C-1118, T. 1969-1970; P28 (Undated statement by Witness C-1118).

¹⁰⁰² The Trial Chamber understands this to refer to Stjepan Dasović.

¹⁰⁰³ P23 (Witness C-1118, witness statement, 4 June 1999), p. 3; Witness C-1118, T. 1969-1971.

November 1991, the witness and other detainees saw Arkan's men take Jakov Barbarić out to the yard for interrogation. Arkan's men took the remaining detainees out for questioning one by one. When the witness was taken to the yard for interrogation, Arkan's soldiers asked him about his identity, what he and his family were doing during World War II, whether they supported the Partisans or "Ustashas" and other similar questions. No notes were made of this interrogation. Arkan's soldiers then took all the detainees to the basement of the house, again one by one, and they were beaten.¹⁰⁰⁴ The witness and other detainees were beaten by "Crnogorac" and a soldier from Orašje. Other soldiers were present but changing in shifts as before.¹⁰⁰⁵

459. At about 9 p.m., the witness saw Arkan's men take the detainees one by one to the first building after entering the Training Centre. The captors took the detainees into a small room for interrogation, starting with Barbarić and ending with the witness and his brother. In this room, the witness saw a man he identified as a Colonel wearing olive-green uniform with a rank on his shoulders. At the door there was a man who the witness described as "an Arkan's soldier or officer in some kind of yellowish uniform" with a badge on the left side, armed with a Kalashnikov assault rifle. The interviewer asked the witness questions about his family, World War II, and his involvement in the conflict between Croats and Serbs. The interview lasted about 20 minutes. The witness was then taken to a room in another building, without windows or light and with metal doors, where he found the rest of the detainees.¹⁰⁰⁶ The door was guarded by Arkan's soldiers. The detainees used a bucket in the room as a toilet and were brought food. The detainees heard voices of other detainees in what sounded like Hungarian from a nearby room. When two persons from Klisa came to the Training Centre, the witness heard the captors shouting at the men, asking them why they wanted to help "Ustashas" and threatening to arrest them.¹⁰⁰⁷

460. The witness believed that he was detained for two days, whereupon at about 6 a.m. on the third morning, 14 November 1991, the witness and his brother were released by the man from Arkan's men referred to as "Colonel" who first arrested them in Klisa. The Colonel told the witness and his brother that he was going to a meeting in Dalj between the authorities of the area, including Arkan's men, the JNA, and civilian authorities and that a person called

¹⁰⁰⁴ P1733 (Stjepan Dasović, witness statement, 17 May 1999), pp. 3-4; P1735 (Stjepan Dasović, supplement to witness statement, 16 June 1999), p. 2; P1736 (Stjepan Dasović, photos related to witness statement), pp. 1-3.

¹⁰⁰⁵ P1733 (Stjepan Dasović, witness statement, 17 May 1999), p. 4.

¹⁰⁰⁶ P1733 (Stjepan Dasović, witness statement, 17 May 1999), p. 4; P1735 (Stjepan Dasović, supplement to witness statement, 16 June 1999), pp. 1-2; P1736 (Stjepan Dasović, photos related to witness statement), pp. 5-7, 9-11, 14-15.

Radovanović would be present. The witness and Franjo Dasović were driven to Dalj by the Colonel and arrived in Klisa at 1 or 2 p.m. with the assistance of military officers in Dalj. Much later, the witness heard that his relatives from Serbia had intervened on behalf of his brother and himself.¹⁰⁰⁸

461. At the time of their detention at the Training Centre, Josip Debić was wearing a short leather jacket, Jakov Barbarić was wearing trousers and a shirt, and the remaining detainees were dressed in working blue or grey clothing. The witness had not seen Jakov Barbarić, Tomo Curić, Josip Debić, Ivan Kućan, and Josip Vaniček since his release and believed they were still missing.¹⁰⁰⁹ Slavica Barbarić, the wife of Jakov Barbarić, told the witness that the bodies of Jakov Barbarić, Tomo Curić, Josip Debić, Ivan Kućan, and Josip Vaniček were found in a mass grave in 1997 or 1998. Slavica Barbarić told the witness that the body of Jakov Barbarić was found dressed in the same clothes as he was wearing at the Erdut Training Centre.¹⁰¹⁰

462. **Witness C-015**, a Serb from Croatia,¹⁰¹¹ testified that in October 1991, Mile Ulemek allegedly told Arkan that there were Croats living close to the Klisa Airfield. Klisa was a village very close to Čelije, in Srem/Srijem, where Arkan had a training centre. The witness heard that Arkan supposedly ordered Ulemek to bring these Croats to Erdut, after which Ulemek and his men arrested Jakov Barbarić, persons with the last names Debić, Curić, Banček, and Kućan. Barbarić's son, who was in the JNA, asked for Witness C-015's help to secure the release of his father. Five people from Klisa later asked Mrgud what had happened to the Croats from Klisa and Mrgud replied that those Croats were in the Erdut Training Centre for interrogation. Witness C-015 tried to inquire into this matter, but was threatened not to meddle into the matter, because he would end up the way they ended up. Witness C-015 believed the men were taken to Erdut for interrogation and killed, and their bodies thrown into one of the wells of Erdut. The bodies of these Croats were eventually exhumed from mass graves in Čelije.¹⁰¹²

¹⁰⁰⁷ P1733 (Stjepan Dasović, witness statement, 17 May 1999), p. 4.

¹⁰⁰⁸ P1733 (Stjepan Dasović, witness statement, 17 May 1999), p. 5; P1734 (Stjepan Dasović, addendum to witness statement, 18 June 2003).

¹⁰⁰⁹ P1733 (Stjepan Dasović, witness statement, 17 May 1999), p. 5.

¹⁰¹⁰ P1734 (Stjepan Dasović, addendum to witness statement, 18 June 2003).

¹⁰¹¹ P2 (Witness C-015, witness statement, 13 May 1999), p. 2; P3 (Witness C-015, supplementary witness statement, 24 January 2001), p. 1.

¹⁰¹² P2 (Witness C-015, witness statement, 13 May 1999), pp. 5, 8; Witness C-015, T. 1596-1597.

463. **Borislav Pelević**, a member of the SDG since 10 January 1992,¹⁰¹³ claimed that he never heard of the SDG committing war crimes in SBWS during the war and ruled out that the SDG abused prisoners, including at Erdut.¹⁰¹⁴

464. According to forensic documentation, the remains of Tomo Curić, Ivan Kućan, and Josip Vaniček were exhumed in October 1998 in Čelije; they died due to gunshot wounds to the head.¹⁰¹⁵ The parties agree on the identities of five victims of this incident, namely Jakov Barbarić, Tomo Curić, Josip Debić, Ivan Kućan, and Josip Vaniček.¹⁰¹⁶

465. The Trial Chamber has received reports on circumstances of death, based on information provided by family members of the deceased in relation to the following persons: Jakob Barbarić (Croat, civilian, born 1935), Tomo Curić (Croat, civilian, 1937), Josip Debić (Croat, civilian, 1946), Ivan Kućan (Croat, civilian, 1947) and Josip Vaniček (Croat, civilian, 1951).¹⁰¹⁷

466. The Trial Chamber considers Stjepan Dasović's testimony that he last saw Tomo Curić, Ivan Kućan, and Josip Vaniček at the Erdut training centre on 14 November 1991, where the men were detained and beaten by their captors. On the basis of this evidence and the testimony of Witness C-1118 and Witness C-015, having further considered the ill-treatment of the detainees, the proximity of their remains to the Erdut training centre, and their causes of death, the Trial Chamber finds that on or about 14 November 1991, at or near the Erdut training centre, the persons who had detained these three men killed them.

467. Stjepan Dasović testified that Jakov/Jakob Barbarić and Josip Debić were detained at the Erdut training centre alongside the aforementioned three men from 11 to at least 14 November 1991 and beaten by their captors. In 1994, family members filled in missing persons questionnaires for Jakov/Jakob Barbarić and Josip Debić. Slavica Barbarić told Stjepan Dasović that the remains of these two men were exhumed in 1998 alongside those of

¹⁰¹³ Borislav Pelević, T. 16319, 16321-16322, 16515.

¹⁰¹⁴ Borislav Pelević, T. 16626-16631.

¹⁰¹⁵ P824 (Set of death documentation for Tomo Curić), pp. 3, 5; P825 (Set of death documentation for Ivan Kućan), pp. 2-3; P827 (Set of death documentation for Josip Vaniček), p. 4; P931 (List identifying deceased, 14 April 2000).

¹⁰¹⁶ Decision on Motion For Admission of Agreed Facts, 12 January 2011; First Joint Motion for Admission of Agreed Facts Between the Prosecution and the Stanišić Defence, 16 February 2010, Annex A, Part I.

¹⁰¹⁷ P819 (Missing person questionnaire for Jakob Barbarić, 22 February 1994), pp. 1-3; P820 (Missing person questionnaire for Tomo Curić, 24 February 1994), pp. 1-3, 10-11; P821 (Missing person questionnaire for Josip Debić, 26 September 1994), pp. 1-2, 11; P822 (Missing person questionnaire for Ivan Kućan, 11 February 1994), pp. 1-3, 11; P823 (Missing person questionnaire for Josip Vaniček, 9 February 1994), pp. 1-4, 12-13; P824 (Set of death documentation for Tomo Curić), p. 3; P825 (Set of death documentation for Ivan Kućan), pp. 1-2; P826 (Set of death documentation for Josip Debić), pp. 1-2; P827 (Set of death documentation for Josip Vaniček), pp. 2-3.

the aforementioned three men in a mass grave and that Jakov/Jakob Barabić was found wearing the same clothes he had worn when detained at the Erdut centre. Based on this evidence and the testimony of Witness C-1118 and Witness C-015, having further considered the ill-treatment of the detainees at the Erdut training centre, the Trial Chamber finds that on or about 14 November 1991, at or near the Erdut training centre, the persons who detained Jakov/Jakob Barabić and Josip Debić killed them. All five victims wore civilian clothing at the time of the killing and were of Croat ethnicity.

468. On the basis of Stjepan Dasović's testimony indicating that the captors identified themselves as Arkan's men and the further relevant evidence reviewed in relation to the Erdut Training facility provided by several witnesses and exhibits reviewed elsewhere in the Judgement, the Trial Chamber finds that members of the SDG killed Tomo Curić, Ivan Kućan, Josip Vaniček, Jakov/Jakob Barabić, and Josip Debić.¹⁰¹⁸ Prior to the killing, the perpetrators released one of the detainees, Rajko Bursać, after he revealed his Serb ethnicity and referred to the remaining detainees as "Ustashas". Prior to releasing Stjepan Dasović, the perpetrators interrogated him regarding his Croat ethnicity. The Trial Chamber will further consider this incident in relation to Counts 1, 2, and 3 of the Indictment in chapter 4, below.

3.2.5 Murder of Croat and ethnic Hungarian civilians at the Erdut training centre on or about 26 December 1991 (Indictment, para. 42)

469. According to the Indictment, from 22 December 1991 to 25 December 1991, Serb forces (as defined in paragraph 6 of the Indictment), in particular SAO SBWS TO, SAO SBWS MUP forces, and members of the SDG led by Željko Ražnatović, detained seven ethnic Hungarian and Croat civilians in Erdut and took them to the TO training centre in Erdut. On or around 26 December 1991, the forces shot and killed the detainees. Six of the victims were buried in Daljski Atar.¹⁰¹⁹ The Trial Chamber received relevant evidence with regard to the alleged murders primarily through the evidence of witnesses Stana Albert, Jasna Mihajlović, Zlatko Antunović, Borislav Pelević, and forensic documentation.

470. **Stana Albert**, a Croat born in 1925,¹⁰²⁰ stated that in Erdut one day close to Christmas 1991, at around 4 p.m., she saw a military jeep and a yellow sedan parked in front of her

¹⁰¹⁸ The Trial Chamber considered that minor spelling discrepancies between the agreed facts and the evidence in relation to the victims' names have not raised a reasonable doubt with regard to the Trial Chamber's finding.

¹⁰¹⁹ Indictment, para. 42.

¹⁰²⁰ P74 (Stana Albert, witness statement, 17 December 1998), pp. 1-2; P77 (Death certificate of Stana Albert, 8 March 2000), pp. 1-2.

neighbour Franjo Pitl's house. Another neighbour, Andrija Matin, was sitting in the jeep. Gojko Drinić, a 20-30-year-old local Serb in a uniform, and Tihomir Ivošević who was in civilian clothes were sitting in the sedan. The witness knew both of them from before the war. Subsequently, she saw Pitl being led from his house into the jeep by two men who were not from Erdut, one in military uniform and the other one in a camouflage uniform. The cars drove away and the witness never saw her two neighbours again. Further, the witness testified that in the late afternoon on Christmas Eve 1991, she observed a white sedan, with three men in civilian clothes, stopping outside her neighbour Stevo Tešanac's house. Two men entered the house while the third waited outside in the yard. Stevo Tešanac then left the house with the men and was put in the car. The men drove away and the witness never saw Tešanac again. Tešanac had told the witness that he had been arrested on two occasions before this and that he had been in Dalj prison for one or two weeks each time.¹⁰²¹

471. **Jasna Mihajlović**, a Roma from Erdut,¹⁰²² stated that on 25 December 1991, at approximately 2 or 2:30 p.m., two armed soldiers dressed in camouflage uniforms burst into the house where the witness was and, after confirming her identity, told her to go with them to the Training Centre. The witness recognized the men as Arkan's soldiers because of how they were dressed and the location to which she was being taken, as the whole village knew that Željko Ražnatović (Arkan) and his men occupied the Training Centre. The soldiers put the witness in a black jeep and drove her to the Training Centre. The witness was taken to a small office at the Training Centre, in the first building to the right of the main gate, where several soldiers and a local woman, Manda Maj, were already present.¹⁰²³ On her way to and from the interrogation room, the witness noticed a local man from Erdut Planina, Jura Zoretić, tied or cuffed to the handrail of the staircase. He had been badly beaten and his face was so bloody that only his eyes could be seen. Throughout the witness's interrogation, she heard Zoretić's screams as his beatings continued. The witness was questioned by five or six soldiers, all dressed in camouflage uniforms and none of whom the witness knew or recognized, if she knew Manda Maj and about the location of Manda Maj's son, Dinko Maj. Subsequently Manda Maj was escorted out of the room and the soldiers questioned the witness about Croats from her village. During the interrogation, soldiers, one of who the witness believed was addressed as "Puki", threatened to rape and kill her. After approximately three hours, the

¹⁰²¹ P74 (Stana Albert, witness statement, 17 December 1998), pp. 2-3.

¹⁰²² P1751 (Jasna Mihajlović, witness statement, 10 June 1999), pp. 1-2.

¹⁰²³ P1751 (Jasna Mihajlović, witness statement, 10 June 1999), pp. 2-4; P1755 (Video still of soldier).

interrogation ended and the same two soldiers who had brought the witness to the Training Centre took her home in the black jeep.¹⁰²⁴

472. **Zlatko Antunović**, a Croat from Osijek who lived in Erdut immediately before the war,¹⁰²⁵ stated that on 25 December 1991, local police (including a man called Oljača) arrested him for the third time and took him to the Erdut police station and then to the “Military Training centre”, which according to the witness was Arkan’s camp. Upon arrival the witness was taken to a room with some elderly people and was handcuffed to an old woman called Manda Maj, who was struck in the face with a police truncheon by one of Arkan’s men. The witness was then taken to an office where he was interrogated by Stričević about the whereabouts of his brother and who the prominent Croats in “the village” were. During the interrogation, soldiers hit the witness on the back of the head but Stričević would not let them go too far and after an hour or two he was released and taken home.¹⁰²⁶

473. The Trial Chamber has reviewed relevant evidence of Borislav Pelević in chapter 3.2.4, who ruled out that the SDG abused prisoners at the Erdut Training Centre.

474. The Trial Chamber has reviewed further relevant evidence in relation to the Erdut facility in late 1991 from Witness JF-035 in chapter 3.2.3 and Stjepan Dasović in chapter 3.2.4.

475. According to forensic documentation, the remains of the following were exhumed from the Dalj grave site in early November 1998: Manda Maj (civilian clothes, back-to-front gunshot wound to the head), Andrija Matin (civilian clothes, gunshot wound to the neck), Nikola Matošević (civilian clothes, gunshot wound to the neck), Andrija Šimek (civilian clothes, gunshot wound to the head), Franjo Pitl (civilian clothes, gunshot wound to the head), and Stjepan Tešanac (civilian clothes, possible gunshot wound to the head).¹⁰²⁷ According to forensic documentation, the skull of Josip Zoretić, exhumed from the Dalj grave site,

¹⁰²⁴ P1751 (Jasna Mihajlović, witness statement, 10 June 1999), p. 3.

¹⁰²⁵ P1799 (Zlatko Antunović, witness statement, 5 May 1999), pp. 1-2; P1800 (Zlatko Antunović, addendum witness statement, 24 April 2007), p. 1.

¹⁰²⁶ P1799 (Zlatko Antunović, witness statement, 5 May 1999), pp. 2-4.

¹⁰²⁷ P515 (Višnja Bilić, proofing note, 26 May 2010), pp. 1-2; P754 (Death documentation for *inter alia* Pavle Beck and Stjepan Tešanac), pp. 27-28; P837 (Forensic documentation for Manda Maj), first translation, pp. 2-3, second translation, p. 1; P828 (Series of photographs titled Erdut 5: Paragraph 57 Franjo Pitl, Josip Zoretić, and Manda Maj), p. 2; P838 (Forensic documentation for Andrija Matin), first translation, pp. 4-6, second translation, p. 1; P839 (Forensic documentation for Nikola Matošević), first translation, pp. 4-5, third document, p. 3; P840 (Forensic documentation for Franjo Pitl), first translation, pp. 4-5; P841 (Forensic documentation for Andrija Šimek), first translation, pp. 9-10; P842 (Forensic documentation for Stjepan Tešanac), first translation, pp. 7-8.

contained what appears to be a hole in it.¹⁰²⁸ The parties agree on the identities of seven victims of this incident, namely Manda Maj, Andrija Matin, Nikola Matošević, Andrija Šimek, Franjo Pittl, Stjepan Tešanac, Josip Zoretić.¹⁰²⁹

476. The Trial Chamber has received missing person questionnaires based on information provided by family members in relation to the following persons: Manda Maj (Croat), Andrija Matin (Croat), Nikola Matošević (Croat), Andrija Šimek (Croat), Franjo Pitl (Croat), Stjepan (Stevo) Tešanac (Croat), and Josip (Jura) Zoretić (Croat).¹⁰³⁰ According to these questionnaires, Andrija Matin, Franjo Pitl, and Stjepan (Stevo) Tešanac died in Daljski Atar on 24 December 1991.¹⁰³¹

477. The Trial Chamber will first address the evidence of Borislav Pelević. The Trial Chamber considers that Pelević's categorical denial of abuse of detainees at the Erdut training centre is contradicted by the direct evidence of several witnesses, including Jasna Mihajlović and Zlatko Antunović. Having further considered Pelević's former position within the SDG and his relationship with Arkan, the Trial Chamber will not rely on his evidence in relation to this incident.

478. The Trial Chamber now turns to the evidence regarding Manda Maj and Josip/Jura Zoretić. The evidence of Jasna Mihajlović and Zlatko Antunović indicates that Manda Maj and Josip/Jura Zoretić were both detained and severely beaten at the Erdut training centre. Based on this evidence and the forensic evidence indicating the possible causes of death, and in view of the proximity of their remains to the Erdut training centre, the Trial Chamber finds that on or about 25 December 1991, at or near the Erdut training centre, the persons who detained Manda Maj and Josip/Jura Zoretić killed them. Both victims were of Croat ethnicity.

¹⁰²⁸ P27 (Report by the Forensic and Criminology Institute, Zagreb, on identified bodies, 14 April 2000); P828 (Series of photographs titled Erdut 5: Paragraph 57 Franjo Pitl, Josip Zoretić, and Manda Maj), p. 1.

¹⁰²⁹ Decision on Motion For Admission of Agreed Facts, 12 January 2011; First Joint Motion for Admission of Agreed Facts Between the Prosecution and the Stanišić Defence, 16 February 2010, Annex A, Part J.

¹⁰³⁰ P829 (Missing person questionnaire for Manda Maj, 9 February 1994), pp. 1, 3-4, 13; P830 (Missing person questionnaire for Andrija Matin, 9 February 1994), pp. 1-4, 13; P831 (Missing person questionnaire for Nikola Matošević, 22 February 1994), pp. 2-4, 12; P832 (Missing person questionnaire for Franjo Pittl, 23 February 1994), pp. 2-4, 12; P833 (Missing person questionnaire for Andrija Šimek, 18 February 1994), pp. 1-3, 13; P834 (Missing person questionnaire for Stjepan Tešanac, 28 February 1994), pp. 1-3, 12-13; P835 (Missing Person Questionnaire for Josip Zoretić) pp. 1-3; P837 (Forensic documentation for Manda Maj), second translation, pp. 6-7; P838 (Forensic documentation for Andrija Matin), second translation, pp. 2-3; P839 (Forensic documentation for Nikola Matošević), first translation, p. 2; P840 (Forensic documentation for Franjo Pitl), second translation, pp. 2-3; P841 (Forensic documentation for Andrija Šimek), second translation, pp. 2-3; P842 (Forensic documentation for Stjepan Tešanac), second translation, pp. 2-3. The Trial Chamber notes in relation to Manda Maj that the date of death provided in this documentation precedes the date of disappearance and refers to in chapter 2 regarding such discrepancies.

479. The evidence of Jasna Mihajlović and Zlatko Antunović indicates that they were detained by Arkan's men in Erdut alongside Manda Maj and Josip/Jura Zoretić in December 1991. Based on this and further relevant evidence in relation to the Erdut facility received from Witness JF-035 in chapter 3.2.3 and Stjepan Dasović in chapter 3.2.4, the Trial Chamber finds that the persons who killed Manda Maj and Josip/Jura Zoretić were members of the SDG. The Trial Chamber will further consider this part of the incident in relation to Counts 1, 2, and 3 of the Indictment in chapter 4, below.

480. According to the forensic evidence the remains of Andrija Matin, Franjo Pitl, and Stjepan Tešenac were exhumed in Dalj. The forensic evidence further indicates that these three men were shot and killed in or near Dalj prior to November 1998. Stana Albert testified that close to 25 December 1991, Gojko Drinić, a 20-30-year-old Serb in a uniform, Tihomir Ivošević, and two men who were not from Erdut in military and camouflage uniforms, took Andrija Matin and Franjo Pitl away from Erdut in a military jeep and a yellow sedan. Stana Albert further testified that three men in civilian clothes driving a white sedan took Stjepan Tešenac away from Erdut. The missing person questionnaires suggest that these persons were killed on 24 December 1991. However, this documentation is based, at least in part, on information provided by relatives whose sources of knowledge are unclear. While the date and location of the arrest of these three persons and the location of their remains bear striking similarities to the date and location of the arrest and location of the remains of the two victims, in relation to which the Trial Chamber has made findings above, the Trial Chamber is unable to determine with sufficient certainty the circumstances under which or by who these persons were killed. The Trial Chamber will not further consider this part of the incident.

481. The forensic evidence further indicates that Nikola Matošević and Andrija Šimek were shot and killed near Dalj prior to November 1998. However, the Trial Chamber has received insufficient evidence regarding the circumstances of death of these two persons. The Trial Chamber will not further consider this part of the incident.

3.2.6 Incidents of deportation and forcible transfer

482. In this chapter, the Trial Chamber will review the alleged deportation and forcible transfer of non-Serb civilians from the SAO SBWS. According to the Indictment, the attacks,

¹⁰³¹ P830 (Missing person questionnaire for Andrija Matin, 9 February 1994), pp. 1-4, 13; P832 (Missing person questionnaire for Franjo Pittl, 23 February 1994), pp. 2-4, 12; P834 (Missing person questionnaire for Stjepan Tešanac, 28 February 1994), pp. 1-3, 12-13.

killings, arbitrary arrest and detention, burnings of Catholic churches and mosques, forced labour, torture, harassment, use of human shields, looting, rape and other forms of sexual abuse, as well as the threat of further persecutory acts, which targeted non-Serb civilians in the SAO SBWS from no later than April 1991 until 31 December 1995, caused the non-Serb population to flee.¹⁰³² The forcible transfer and deportation took different forms, including forced expulsions.¹⁰³³

483. The SAO SBWS consisted of all of Beli Manastir and Vukovar municipality and parts of the municipalities of Osijek and Vinkovci.¹⁰³⁴ The Trial Chamber considers this territory of the SAO SBWS to broadly overlap with the counties of Vukovar-Srijem and Osijek-Baranja.¹⁰³⁵

484. Below, the Trial Chamber will review the alleged incidents in six separate areas of the SAO SBWS: Erdut, Dalj, other villages in the county of Osijek-Baranja, as well as Vukovar, Ilok, and other villages in the county of Vukovar-Srijem. The Trial Chamber will address these locations separately in order to examine in further detail the areas from which persons fled; the dates on and conditions under which they did so; and the alleged incidents which may have created those conditions. Thereafter, the Trial Chamber will also determine whether incidents in the separately-examined regions had any effect on people leaving other regions.

485. The evidence set out and analyzed below was generally not contested or contradicted by Defence evidence. In addition, many witnesses personally observed the events they provided evidence on and corroborated each others' testimony. As a result, the Trial Chamber generally considered their factual descriptions of the incidents reliable, as further specified in its findings below.

Population

486. According to the Radić Report on Expelled Persons in Croatia, in 1991, as established by the 1991 census, the population of the county of Vukovar-Srijem consisted of 55,628 Croats, 37,968 Serbs, 283 Muslims, and 2,436 Hungarians on a total of 111,781 persons., The

¹⁰³² Indictment, paras 64-65.

¹⁰³³ Indictment, para. 65.

¹⁰³⁴ As depicted in P258 (22 Maps from the Court Map Binder), p. 7 (Map depicting SAO Krajina and SAO SBWS as declared and as controlled at the end of 1991).

¹⁰³⁵ The Trial Chamber bases this understanding in part on the towns listed in P551 (Report on the Expelled Population of the Republic of Croatia in 1991), pp. 48-49. While the county borders are not identical to the territory controlled by the SAO SBWS in P258 (22 Maps from the Court Map Binder), p. 7 (Map depicting SAO Krajina and SAO SBWS as declared and as controlled at the end of 1991), the Trial Chamber is satisfied that the county figures in P551 are indicative of the population of the SAO SBWS. Minor differences in this respect did not affect the overall picture.

population of the county of Osijek-Baranja consisted of 31,546 Croats, 22,130 Serbs, 191 Muslims, and 10,196 Hungarians on a total of 74,210 persons. The population of Erdut consisted of 3,493 Croats, 5,165 Serbs, and 562 Hungarians, out of a total of 10,197 persons.¹⁰³⁶

487. According to the same report, 32,457 persons left the county of Osijek-Baranja between 1991 and 1995 for Croatia. 29,343 persons left the county of Vukovar-Srijem (excluding Vukovar town) during this period, and 21,314 left Vukovar town. Of these 83,114 persons in total, more than half (at least 44,557) left prior to 20 October 1991 (Vukovar-Srijem: 20,593; Osijek-Baranja: 23,964), and around three-quarters (at least 59,355) left prior to 18 November 1991 (Vukovar town: 14,798). 10,875 persons left the two counties (excluding Vukovar town) between 20 October 1991 and 1 May 1992 (Vukovar-Srijem: 6,268; Osijek-Baranja: 4,607). 5,478 persons left Vukovar town between 18 November 1991 and 1 May 1992. 2,589 persons left the aforementioned areas in the remainder of 1992 (Vukovar-Srijem: 1,311; Osijek-Baranja: 1,278).¹⁰³⁷

488. In relation to ethnicity, the report provides that of a total of 92,304 persons who fled to Croatia-held territory between 1991 and 1997 from the area of the SAO SBWS, 82,489 were Croats, 4,901 were Hungarians, and 316 were Muslims, while 1,141 were Serbs.¹⁰³⁸ The same report noted that, according to the UNHCR, as of 27 March 1992, a total of 367,881 persons (from a wider area than the SAO SBWS) were registered as refugees in other former Yugoslav republics and other countries. According to this data, most of these persons were from Croatia.¹⁰³⁹ The Trial Chamber will further consider these figures below.

Erdut, July 1991 – April 1992

489. The Trial Chamber has received evidence in relation to the alleged deportation and forcible transfer from Erdut through the testimonies of Witness C-057, Luka Šutalo, Witness JF-017, Witness C-015, Witness JF-032, Stana Albert, Witness JF-018, Witness C-1118, Željko Šandor, Witness JF-035, Stjepan Dasović, Jasna Mihajlović, and Zlatko Antunović, as well as documentary evidence.

¹⁰³⁶ P551 (Report on the Expelled Population of the Republic of Croatia in 1991), pp. 48-49.

¹⁰³⁷ P551 (Report on the Expelled Population of the Republic of Croatia in 1991), p. 75.

¹⁰³⁸ P551 (Report on the Expelled Population of the Republic of Croatia in 1991), pp. 75, 80. The total number includes 6,004 persons born in "exile".

¹⁰³⁹ In this context, Croatia refers to the SAOs Krajina and SBWS; P551 (Report on the Expelled Population of the Republic of Croatia in 1991), p. 62.

490. The Trial Chamber will first set out the evidence in relation to the shelling and take-over of Erdut in July and August 1991. Thereafter, the Trial Chamber will outline the evidence concerning the conditions and incidents in Erdut following its take-over.

491. On or about the evening of 25 July 1991, the JNA unit of **Witness C-057**, a Croat from Vojvodina,¹⁰⁴⁰ heavily shelled the area of Erdut, Daljska Planina, the Marinovci farm, and the nearby water plant building for about 45 minutes, where they were told, and could see from the checkerboard flag on a tower in Erdut, that Croatian MUP forces were stationed.¹⁰⁴¹ The witness's unit was the first JNA unit to arrive in the area.¹⁰⁴² On 27 July 1991, the witness received an order to march his unit to Novi Erdut to separate the warring sides, defined as "the Serbian population" and "the Croatian MUP forces".¹⁰⁴³ The witness estimated that there had been 200-300 Croatian MUP members in Erdut.¹⁰⁴⁴ The unit left Srpski Miletić on 1 August 1991.¹⁰⁴⁵ The unit took Erdut without resistance.¹⁰⁴⁶ Erdut was mostly deserted except for some elderly Croats, and the witness saw some Croatian MUP members in camouflage uniforms fleeing.¹⁰⁴⁷

492. Witness JF-032 provided evidence in relation to the overall attack on Erdut and Dalj on 1 August 1991. **Witness JF-032**, a former police officer from the SAO SBWS,¹⁰⁴⁸ testified that the attack on Dalj began on 1 August 1991, at 4 a.m., and was organised by the JNA Colonel Garevski, and carried out by the TO units from Borovo Selo managed by Jovica Vučenović, Ilija Kojić, Marko Lončarević, and the Dalj Defence Staff Commander.¹⁰⁴⁹ The witness testified that the attack was well co-coordinated with the JNA, which arrived from the

¹⁰⁴⁰ P357 (Witness C-057, witness statement, 27 July 2003), p. 1, para. 1.

¹⁰⁴¹ P357 (Witness C-057, witness statement, 27 July 2003), paras 11-12; P356 (Witness C-057, *Slobodan Milošević* transcript, 27 November and 2 December 2003), p. 29841.

¹⁰⁴² P356 (Witness C-057, *Slobodan Milošević* transcript, 27 November and 2 December 2003), p. 29878.

¹⁰⁴³ P357 (Witness C-057, witness statement, 27 July 2003), para. 13; P356 (Witness C-057, *Slobodan Milošević* transcript, 27 November and 2 December 2003), p. 29815, 29843-29844; P362 (Order to march and defend, 27 July 1991).

¹⁰⁴⁴ P358 (Witness C-057, addendum to witness statement, 25 November 2003) p. 1; P356 (Witness C-057, *Slobodan Milošević* transcript, 27 November and 2 December 2003), pp. 29837-29838, 29850.

¹⁰⁴⁵ P357 (Witness C-057, witness statement, 27 July 2003), paras 7, 14. Srpski Miletić is located in Serbia.

¹⁰⁴⁶ P357 (Witness C-057, witness statement, 27 July 2003), para. 15; P356 (Witness C-057, *Slobodan Milošević* transcript, 27 November and 2 December 2003), pp. 29807, 29819-29820, 29847-29848; P364 (News report entitled "The Flag – A Guarantee of Peace" reporting taking of Erdut fortress by Serb forces, no date).

¹⁰⁴⁷ P357 (Witness C-057, witness statement, 27 July 2003), paras 14, 18; P358 (Witness C-057, addendum to witness statement, 25 November 2003) pp. 1-2; P356 (Witness C-057, *Slobodan Milošević* transcript, 27 November and 2 December 2003), p. 29816, 29850-29853.

¹⁰⁴⁸ P401 (Witness JF-032, witness statement, 17 May 1999), pp. 1-2; P402 (Witness JF-032, *Slobodan Milošević* transcript, 29-31 January 2003), pp. 15119, 15217, 15291; Witness JF-032, T. 4672-4673 4743, 4795.

¹⁰⁴⁹ P401 (Witness JF-032, witness statement, 17 May 1999), p. 5; P402 (Witness JF-032, *Slobodan Milošević* transcript, 29-31 January 2003), pp. 15147, 15152-15154, 15160, 15191, 15269, 15276, 15336-15337, 15359; Witness JF-032, T. 4778.

direction of Serbia across the Bogojevo bridge at 4.10 a.m.¹⁰⁵⁰ One group of the JNA vehicles drove towards Erdut, which was attacked on the same day, and the other went directly to Dalj, to provide assistance to the TO.¹⁰⁵¹ According to the witness, the primary goal of the attack was to eliminate the ZNG and the MUP from Dalj, and to force local Croats out of Dalj and Erdut, in the direction of Aljmaš.¹⁰⁵² The Croatian army and police transported Croats to Osijek along the Drava River, but many Croats were driven out forcefully by the TO members, or by their own neighbours.¹⁰⁵³ The witness testified that Marko Lončarević, a former policeman in Dalj who organised coordination and cooperation with the JNA, participated in the attack and his group destroyed the Dalj police building, killing many people.¹⁰⁵⁴ The operation ended at noon, and a big celebration in Borovo Selo followed.¹⁰⁵⁵

493. **Luka Šutalo**, a Croat from Erdut,¹⁰⁵⁶ **Witness C-015**, a Serb from Croatia,¹⁰⁵⁷ and **Witness JF-017**, a Catholic Hungarian from the Hungarian majority village of Erdut Planina,¹⁰⁵⁸ provided evidence on the JNA shelling and take-over of Erdut overall consistent with the accounts of Witness C-057 and Witness JF-032.¹⁰⁵⁹ Luka Šutalo added that following the shelling, inhabitants started to leave Erdut. He also testified that soldiers moved into the houses of Croats who had fled and that the police and the JNA looted the houses. He saw them carrying televisions and radios. The witness further saw local Serb policemen with cars, boilers, an excavator, and a chain saw.¹⁰⁶⁰ **Witness JF-017** testified that a day or two after the shelling she and her family left for Hungary, except for her father and her parents-in-law who stayed in Erdut. The witness and her family returned to the village around 10 August 1991.¹⁰⁶¹

¹⁰⁵⁰ P401 (Witness JF-032, witness statement, 17 May 1999), p. 5; P402 (Witness JF-032, *Slobodan Milošević* transcript, 29-31 January 2003), pp. 15153-15154, 15269, 15271-15272, 15276, 15340-15341.

¹⁰⁵¹ P401 (Witness JF-032, witness statement, 17 May 1999), p. 5; P402 (Witness JF-032, *Slobodan Milošević* transcript, 29-31 January 2003), p. 15153.

¹⁰⁵² P401 (Witness JF-032, witness statement, 17 May 1999), p. 5.

¹⁰⁵³ P402 (Witness JF-032, *Slobodan Milošević* transcript, 29-31 January 2003), pp. 15154, 15156, 15271, 15274, 15283, 15363; Witness JF-032, T. 4778.

¹⁰⁵⁴ P401 (Witness JF-032, witness statement, 17 May 1999), p. 5.

¹⁰⁵⁵ P401 (Witness JF-032, witness statement, 17 May 1999), p. 5; P402 (Witness JF-032, *Slobodan Milošević* transcript, 29-31 January 2003), p. 15154.

¹⁰⁵⁶ P301 (Luka Šutalo, witness statement, 17 April 1999 and 18 June 2003), p. 2, para. 2.

¹⁰⁵⁷ P2 (Witness C-015, witness statement, 13 May 1999), p. 2; P3 (Witness C-015, supplementary witness statement, 24 January 2001), p. 1.

¹⁰⁵⁸ P292 (Witness JF-017, witness statements), p. 3, paras 1-3 (witness statement, 25 November 1998); Witness JF-017, T. 3841-3842.

¹⁰⁵⁹ P2 (Witness C-015, witness statement, 13 May 1999), p. 3; P292 (Witness JF-017, witness statements), para. 7 (witness statement, 25 November 1998); P301 (Luka Šutalo, witness statement, 17 April 1999 and 18 June 2003), paras 7-9, 22-23; P303 (Luka Šutalo, *Slobodan Milošević* transcript, 28 August 2003), p. 25554-25555, 25561-25562; Luka Šutalo, T. 3973-3974, 3983-3984, 4003.

¹⁰⁶⁰ P301 (Luka Šutalo, witness statement, 17 April 1999 and 18 June 2003), paras 7, 24; P303 (Luka Šutalo, *Slobodan Milošević* transcript, 28 August 2003), pp. 25562, 25564, 25574-25575; Luka Šutalo, T. 3984, 4003.

¹⁰⁶¹ P292 (Witness JF-017, witness statements), paras 7-8 (witness statement, 25 November 1998); Witness JF-017, T. 3842-3843.

494. The Trial Chamber will now turn to the evidence concerning conditions in Erdut following the attack on it. One witness, **Luka Šutalo**, described how, following the attack on Erdut, he was arrested, detained, and ill-treated. He testified that he left Erdut on 1 August 1991, after hearing that many Croats had been killed in Dalj.¹⁰⁶² Across the bridge towards Bogojevo, in Vojvodina, “Military Police” arrested Šutalo and brought him to a factory in Bogojevo. He and other detainees were then beaten by unidentified persons.¹⁰⁶³ After one to two hours, a soldier brought Šutalo to another room, where Colonel Košutić, in JNA uniform, questioned him about the police and guards in Erdut.¹⁰⁶⁴ On 3 August 1991, Šutalo was driven back home to Erdut. The next morning, 4 August 1991, unidentified persons brought Šutalo back to the factory, where first Košutić questioned him briefly and told him to attend a meeting in Erdut on 5 August where a new government would be formed. Following his release, Šutalo had to report every third day to the local police at Mali Dvor, where at times Božidar Bolić, the chief of police in Erdut, questioned him about the Croatian Police, Croatian Guard, and people’s political preferences.¹⁰⁶⁵ Šutalo heard that on 3 August 1991, the JNA escorted four or five buses with Croats from Dalj to Bogojevo.¹⁰⁶⁶

495. As instructed by Košutić, Šutalo attended the meeting held in Dvor on 5 August 1991, which was attended by about 100 persons from different ethnicities.¹⁰⁶⁷ For subsequent meetings Croats and Hungarians were not invited.¹⁰⁶⁸ After the meeting, telephone and electricity lines were disconnected, as was radio and television, “Serbian police” composed of locals Serbs and dressed in civilian clothes manned checkpoints on each street, and on the third day after the meeting, a curfew was imposed on Croats and Hungarians, who were also no longer allowed to leave Erdut without prior permission.¹⁰⁶⁹ Croats and Hungarians were ordered to join working groups in order to carry out manual labour.¹⁰⁷⁰ On 15 August 1991,

¹⁰⁶² P301 (Luka Šutalo, witness statement, 17 April 1999 and 18 June 2003), paras 8, 10, 12-13, 15-17.

¹⁰⁶³ P301 (Luka Šutalo, witness statement, 17 April 1999 and 18 June 2003), paras 10-11, 13; P303 (Luka Šutalo, *Slobodan Milošević* transcript, 28 August 2003), pp. 25543, 25567-25568; Luka Šutalo, T. 3974, 4000-4001, 4014-4015.

¹⁰⁶⁴ P301 (Luka Šutalo, witness statement, 17 April 1999 and 18 June 2003), paras 11-12; P303 (Luka Šutalo, *Slobodan Milošević* transcript, 28 August 2003), pp. 25568-25569.

¹⁰⁶⁵ P301 (Luka Šutalo, witness statement, 17 April 1999 and 18 June 2003), paras 8, 10, 12-17, 26-27.

¹⁰⁶⁶ P303 (Luka Šutalo, *Slobodan Milošević* transcript, 28 August 2003), pp. 25562, 25564.

¹⁰⁶⁷ P301 (Luka Šutalo, witness statement, 17 April 1999 and 18 June 2003), para. 19; P303 (Luka Šutalo, *Slobodan Milošević* transcript, 28 August 2003), pp. 25543, 25571-25572.

¹⁰⁶⁸ P303 (Luka Šutalo, *Slobodan Milošević* transcript, 28 August 2003), pp. 25544, 25572; Luka Šutalo, T. 3982.

¹⁰⁶⁹ P301 (Luka Šutalo, witness statement, 17 April 1999 and 18 June 2003), para. 21; P303 (Luka Šutalo, *Slobodan Milošević* transcript, 28 August 2003), pp. 25544, 25573; Luka Šutalo, T. 3974, 3999.

¹⁰⁷⁰ P303 (Luka Šutalo, *Slobodan Milošević* transcript, 28 August 2003), pp. 25544, 25581-25582; Luka Šutalo, T. 4004.

Bolić ordered Šutalo to report to the TO facility in the village to join a working party.¹⁰⁷¹ The following ten days, Šutalo was forced to carry out manual labour at the TO facility, together with Janika Babel, Đorđe Malešev, Marinko Vuletić, and four or five other Croats and Hungarians from Erdut.¹⁰⁷²

496. **Witness JF-017** testified that after the take-over of Erdut the JNA did not harm the Croats and Hungarians in Erdut Planina but that the abuse started when Arkan's men and the "reservists" showed up. The witness could observe the soldiers from her house only, as the freedom of movement was restricted.¹⁰⁷³ At the end of September or beginning of October 1991, the witness saw Arkan's men in Erdut. Arkan's training base was located next to the winery.¹⁰⁷⁴ According to the witness, everyone was afraid of them and would get out of their way.¹⁰⁷⁵ The witness testified that since Erdut was occupied, some people were forced to perform agricultural labour.¹⁰⁷⁶

497. With regard to the presence of Arkan and his men in the area, **Witness JF-018**, a Serb from Osijek,¹⁰⁷⁷ testified that he passed by their base in Erdut and one could sometimes see them jogging, training, and serving as guards.¹⁰⁷⁸

498. **Witness C-1118**, a Croat from Osijek municipality,¹⁰⁷⁹ provided evidence about his detention at the Erdut Training Centre. He testified that after having been interrogated by Milorad Stričević in mid-November 1991, he was led to a makeshift prison inside the Erdut Training Centre. The witness testified that altogether there were 28 detainees.¹⁰⁸⁰ Two of the detainees had been interrogated and badly beaten. The witness could hear a woman in the next cell being beaten regularly by female soldiers.¹⁰⁸¹ The witness testified that civilians were also bringing people to the Training Centre.¹⁰⁸²

¹⁰⁷¹ P301 (Luka Šutalo, witness statement, 17 April 1999 and 18 June 2003), para. 28; Luka Šutalo, T. 4004-4005.

¹⁰⁷² P301 (Luka Šutalo, witness statement, 17 April 1999 and 18 June 2003), para. 29.

¹⁰⁷³ P292 (Witness JF-017, witness statements), para. 10 (witness statement, 25 November 1998).

¹⁰⁷⁴ P292 (Witness JF-017, witness statements), para. 11 (witness statement, 25 November 1998).

¹⁰⁷⁵ Witness JF-017, T. 3884-3886.

¹⁰⁷⁶ Witness JF-017, T. 3845-3846, 3855, 3880.

¹⁰⁷⁷ P340 (Witness JF-018, witness statement, 21 January 2001), pp. 1-2.

¹⁰⁷⁸ P340 (Witness JF-018, witness statement, 21 January 2001), p. 3; Witness JF-018, T. 4164.

¹⁰⁷⁹ P23 (Witness C-1118, witness statement, 4 June 1999), pp. 1-2; P24 (Witness C-1118, witness statement, 12 June 1999), p. 1; P25 (Witness C-1118, witness statement, 25 April 2007), p. 1; Witness C-1118, T. 1950, 1968-1969.

¹⁰⁸⁰ P25 (Witness C-1118, witness statement, 25 April 2007), paras 3-4; Witness C-1118, T. 1982-1983.

¹⁰⁸¹ P23 (Witness C-1118, witness statement, 4 June 1999), p. 5.

¹⁰⁸² Witness C-1118, T. 1995.

499. At approximately 3 a.m. on 17 November 1991, three soldiers from Arkan's unit in camouflage uniforms came to the cell and pulled out two of the detainees, closest to the entrance. About 20 minutes after the two detainees had been taken out the witness heard several single shots and then automatic gunfire. The two detainees never returned.¹⁰⁸³ The witness recognized Arkan's soldiers from the insignia on their uniforms which read "Tigers".¹⁰⁸⁴ The witness also testified that most of the soldiers he saw at the Erdut Training Centre wore regular JNA uniforms, although according to him there were no JNA soldiers present at the Training Centre.¹⁰⁸⁵ Some soldiers wore a mix of military and civilian clothes.¹⁰⁸⁶ Some of the soldiers at the Training Centre were locals, which the witness concluded from their accent.¹⁰⁸⁷

500. At approximately 3 a.m. on 18 November 1991, two of Arkan's soldiers came to the cell and one of them ordered all the detainees out. One of the soldiers asked the other whether they should handcuff the detainees but the other answered that it did not make sense for such a short time. One of the soldiers who had brought the detainees asked if anyone wanted to be blindfolded but none of the detainees answered. The witness heard one of the soldiers order "ready", "aim", and "fire" and then the witness heard gunfire. Thereafter, one of the soldiers asked "so, Ustashas, did you shit yourselves?" whereupon the detainees were brought back to the cell. At approximately 3 a.m. on 19 November 1991, three local soldiers from Arkan's unit came with a dog and pulled out two prisoners at random.¹⁰⁸⁸ Several minutes later, the witness heard a few single shots and then automatic gunfire.¹⁰⁸⁹ The next day, the witness was released.¹⁰⁹⁰

501. On 13 December 1991, two men unknown to Witness C-1118 took him and his son-in-law to the Erdut Training Centre. There they met Stričević who was drunk. In Stričević's office Arkan's soldiers beat the witness's son-in-law.¹⁰⁹¹ Upon being brought back to Klisa,

¹⁰⁸³ P23 (Witness C-1118, witness statement, 4 June 1999), p. 5.

¹⁰⁸⁴ P25 (Witness C-1118, witness statement, 25 April 2007), para. 11; Witness C-1118, T. 1981-1982, 2006-2007, 2012; P31 (Tiger insignia).

¹⁰⁸⁵ P25 (Witness C-1118, witness statement, 25 April 2007), para. 11; Witness C-1118, T. 1993.

¹⁰⁸⁶ Witness C-1118, T. 1994.

¹⁰⁸⁷ Witness C-1118, T. 2005.

¹⁰⁸⁸ P23 (Witness C-1118, witness statement, 4 June 1999), pp. 5-6; P25 (Witness C-1118, witness statement, 25 April 2007), para. 6; Witness C-1118, T. 1981, 2006-2007, 2012.

¹⁰⁸⁹ P23 (Witness C-1118, witness statement, 4 June 1999), p. 6.

¹⁰⁹⁰ P25 (Witness C-1118, witness statement, 25 April 2007), para. 10.

¹⁰⁹¹ P23 (Witness C-1118, witness statement, 4 June 1999), p. 8; P24 (Witness C-1118, witness statement, 12 June 1999), p. 1; P26 (Photographs of Witness C-1118 at the Erdut Training Centre), p. 9; Witness C-1118, T. 1981, 2006-2007, 2012.

the witness overheard a conversation of their captors and heard one say that in Dalj “Croats were destroying themselves by identifying themselves”.¹⁰⁹²

502. **Željko Šandor**, a Croat from Vukovar,¹⁰⁹³ testified about an incident of ill-treatment following the surrender of Vukovar. After being captured in Vukovar on 19 November 1991, he and 150-200 other captured men were put on three blue civilian buses, which arrived escorted by a JNA tank. Armed men in uniform, described by the witness as reservists, boarded and drove the buses away, escorted by an APC. At a farm near Erdut, the buses stopped and a group of men in JNA uniforms without insignia dragged the captured men out, severely beat them with different kinds of weapons, and then tied their hands with rope and wire.¹⁰⁹⁴

503. Luka Šutalo, Zlatko Antunović, and Stana Albert provided evidence in relation to further incidents in January and April 1992. **Luka Šutalo** testified that on Christmas Eve 1991, around 11:45 p.m., an unidentified local policeman threw a bomb in Šutalo’s yard, damaging the windows and gate of his house. After the witness had reported the incident to Colonel Čović or Čolić, a JNA commander, he came to investigate but, according to the witness, left saying “That explains it” as soon as he realised that Šutalo was Croat.¹⁰⁹⁵ Following more mistreatment and threats, including continued questioning, nightly house searches, threats, and denial of food and clothing, Šutalo applied for a permit to leave Erdut as he no longer felt safe there.¹⁰⁹⁶ Though his request had previously been denied as Šutalo appeared on a list of Croats, Bolić issued the permit on the condition that Šutalo signed over his house and property to the village council, which he did.¹⁰⁹⁷ The house remained in his name in the registry of deeds, as it was impossible to enter the transfer in the land register. The witness testified that this was also the case for other Croats who had to sign over their property.¹⁰⁹⁸ On 24 February 1992, Joco Ledenčan, a neighbour, took Šutalo and his wife

¹⁰⁹² P23 (Witness C-1118, witness statement, 4 June 1999), p. 8.

¹⁰⁹³ P1760 (Željko Šandor, witness statement, 12 June 2000), pp. 1-2.

¹⁰⁹⁴ P1760 (Željko Šandor, witness statement, 12 June 2000), pp. 5-6.

¹⁰⁹⁵ P301 (Luka Šutalo, witness statement, 17 April 1999 and 18 June 2003), para. 56; P303 (Luka Šutalo, *Slobodan Milošević* transcript, 28 August 2003), p. 25574; Luka Šutalo, T. 4007-4008.

¹⁰⁹⁶ P301 (Luka Šutalo, witness statement, 17 April 1999 and 18 June 2003), para. 58; P303 (Luka Šutalo, *Slobodan Milošević* transcript, 28 August 2003), p. 25547; Luka Šutalo, T. 3990-3991.

¹⁰⁹⁷ P301 (Luka Šutalo, witness statement, 17 April 1999 and 18 June 2003), para. 58; P303 (Luka Šutalo, *Slobodan Milošević* transcript, 28 August 2003), pp. 25547-25548, 25582-25583; Luka Šutalo, T. 3990.

¹⁰⁹⁸ Luka Šutalo, T. 4008.

across the river to Bogojevo in Vojvodina.¹⁰⁹⁹ About 20 days after Šutalo left, all the remaining Croats were expelled from Erdut to Osijek, through Bijelo Brdo.¹¹⁰⁰

504. In April 1992, some of Arkan's men came to the house of **Zlatko Antunović**, a Croat from Osijek who lived in Erdut immediately before the war,¹¹⁰¹ and told him and his relatives to gather some belongings as they would be taken to Osijek. They were packed onto one of two buses and driven to Sarvaš from where they made it to Osijek on their own.¹¹⁰² According to the witness, on the buses were about 90 (primarily elderly) Croat and Hungarian civilians who had remained after the area had been taken over.¹¹⁰³

505. **Stana Albert**, a Croat born in 1925,¹¹⁰⁴ stated that on 9 April 1992, at about 4 p.m., one man in civilian clothes and one armed and in uniform entered her house. The men demanded money. The man in civilian clothes put a knife to the witness's throat and a gun to her head, while the one in uniform ransacked the room and found the witness's savings, 1,500 DEM, 100 USD, and some Yugoslav dinars. While she was assisting her mother through the door, the man in civilian clothes hit the witness on the side of her head so that she started bleeding from her ear and "things went black". The witness and her mother were put on a bus. There was one armed soldier and about 30 people on the bus. The bus went to Sarvaš in Osijek municipality near the Serb-Croat separation line. It was dark when the people were told to get off the bus and walk towards Croat soldiers. The people had to walk through a mined area. Croat soldiers helped the people from the bus and the witness finally made it to Osijek where she stayed with relatives.¹¹⁰⁵

506. With regard to the conditions in Erdut following the take-over, the Trial Chamber has also considered the evidence on the killing incidents in Erdut described in chapters 3.2.3, 3.2.4, and 3.2.5.

507. The Trial Chamber considers that the above evidence is overall consistent and that the witnesses who have provided evidence in relation to the incidents in Erdut generally corroborate each other. Accordingly, the Trial Chamber finds the above evidence reliable.

¹⁰⁹⁹ P301 (Luka Šutalo, witness statement, 17 April 1999 and 18 June 2003), para. 59.

¹¹⁰⁰ Luka Šutalo, T. 4008-4009.

¹¹⁰¹ P1799 (Zlatko Antunović, witness statement, 5 May 1999), pp. 1-2; P1800 (Zlatko Antunović, addendum witness statement, 24 April 2007), p. 1.

¹¹⁰² P1799 (Zlatko Antunović, witness statement, 5 May 1999), pp. 4-5.

¹¹⁰³ P1800 (Zlatko Antunović, addendum witness statement, 24 April 2007), para. 9.

¹¹⁰⁴ P74 (Stana Albert, witness statement, 17 December 1998), pp. 1-2; P77 (Death certificate of Stana Albert, 8 March 2000), pp. 1-2.

¹¹⁰⁵ P74 (Stana Albert, witness statement, 17 December 1998), p. 4.

508. On the basis of the testimony of Witness C-057, Luka Šutalo, and Witness JF-017, the Trial Chamber finds that the JNA started shelling Erdut in July 1991. Following the shelling, inhabitants started to leave Erdut. On 1 August 1991, the JNA took over Erdut without resistance. At that time, Erdut was mostly deserted and some Croatian MUP members were fleeing. Based on these circumstances and the fact that at least some of the inhabitants returned after 1 August 1991, the Trial Chamber finds that most of the inhabitants of Erdut left due to the attack on the village.

509. The Trial Chamber also finds that on the same day TO members forcefully drove out other inhabitants of Erdut in the direction of Aljmaš, which at the time was under non-Serb control. Having considered the ethnic composition of Erdut in 1991, the Trial Chamber finds that at least some of these persons were of Croat ethnicity. The Trial Chamber will further consider the shelling of Erdut and its take-over in relation to Counts 1, 4, and 5 of the Indictment in chapter 4, below.

510. The Trial Chamber will now turn to the conditions and incidents in Erdut after 1 August 1991. Having considered the evidence of Luka Šutalo, the Trial Chamber finds that following the take-over of Erdut, the JNA and local Serbs looted Croat houses. On 8 August 1991, the local police imposed a curfew on Croats and Hungarians. As of August 1991, police chief Bolić and others forced Croats and Hungarians to perform manual labour. The Trial Chamber further recalls its findings in chapters 3.2.3, 3.2.4, and 3.2.5 above in relation to beatings and killings by the SDG and SNB at the Erdut Training Centre of Croat and Hungarian civilians in November and December 1991. In addition to these incidents, based on Witness C-1118's evidence, the Trial Chamber finds that the SDG¹¹⁰⁶ beat, harassed, and killed Croats on numerous occasions at the Erdut Training Centre in late 1991. Local Serb authorities forced Croats who wanted to leave Erdut to sign over all property to the village council. The Trial Chamber will further deal with the effects of these incidents below.

511. The Trial Chamber will now turn to a specific incident on 9 April 1992. Based on the evidence of Zlatko Antunović and Stana Albert, the Trial Chamber finds that on 9 April 1992, SDG members and other armed men collected at least 90, primarily elderly, Croat and Hungarian inhabitants of Erdut and put them on buses to Sarvaš. In Sarvaš, the people were made to walk towards Osijek, which was controlled by Croats. The Trial Chamber will further consider this incident in relation to Counts 1, 4, and 5 of the Indictment, in chapter 4 below.

¹¹⁰⁶ The Trial Chamber understands the mention of Arkan's soldiers to refer to the SDG.

Dalj, August 1991 – June 1992

512. The Trial Chamber has received evidence in relation to the alleged deportation and forcible transfer from Dalj through the testimonies of Witness JF-015, Witness JF-032, Witness C-015, Witness JF-030, Zlatko Antunović, Luka Šutalo, Borislav Bogunović, Witness C-1175, Witness JF-018, Dušan Knežević, Witness JF-017, Witness JF-035, and documentary material.

513. The Trial Chamber will first set out the evidence in relation to the take-over of Dalj in August 1991.

514. **Witness JF-030**, a former Serb MUP officer,¹¹⁰⁷ testified that at the end of July 1991 he attended a meeting at Borovo Selo Serbian TO headquarters with all local TO commanders and two persons from Belgrade.¹¹⁰⁸ The witness testified that these two persons (who the witness referred to by their nicknames) had told him that they were from the Serbian DB.¹¹⁰⁹ They discussed and prepared for the attack on Dalj municipality. Those in attendance were divided into three groups, one of which the witness was a member commanded by Ilija Kojić, and another commanded by Marko Lončarević.¹¹¹⁰ Local TO members and some volunteers from Serbia also joined in the Dalj attack on 1 August 1991.¹¹¹¹

515. The Trial Chamber further recalls the evidence of **Witness JF-032** as set out above in the Erdut sub-chapter. **Witness JF-015**, a former Serb police officer in Dalj,¹¹¹² and **Witness C-015** gave evidence in relation to the attack on Dalj which is overall consistent with the account of Witness JF-032.¹¹¹³ Witness JF-015 added that on 31 July 1991, at the house of Milorad Stričević, it was agreed between Pavle Milovanović a.k.a. Paja or Paka, Đuro Zmijanac, Bogoljub Ristić, Đorđe Milovanović, and Branko Gojsović, that Serbs should keep the gates open, so that their houses can be identified as owned or occupied by Serbs.¹¹¹⁴

¹¹⁰⁷ P2091 (Witness JF-030, witness statement, 21 August 2003), p. 1, paras 4, 37.

¹¹⁰⁸ P2091 (Witness JF-030, witness statement, 21 August 2003), para. 11.

¹¹⁰⁹ P2091 (Witness JF-030, witness statement, 21 August 2003), para. 8.

¹¹¹⁰ P2091 (Witness JF-030, witness statement, 21 August 2003), para. 11.

¹¹¹¹ P2091 (Witness JF-030, witness statement, 21 August 2003), para. 11; P2092 (Witness JF-030, proofing notes, 14 September 2009), p. 1.

¹¹¹² P306 (Witness JF-015, witness statements), witness statement of 18 January 2001, p. 1, paras 1, 22, 43; P312 (Decision on redeployment of Witness JF-015 within the Dalj police, signed for the SAO SUP Minister by Boro Bogunović, 1 October 1991).

¹¹¹³ P306 (Witness JF-015, witness statements), witness statement of 18 January 2001, paras 15-17, 24, 62, proofing note of 11 February 2008, para. 3; P307 (Sketch depicting the incident of 1 August 1991, drawn by Witness JF-015); P321 (Photograph described by Witness JF-015 in para. 62 of witness statement of 18 January 2001); Witness JF-015, T. 4027, 4121-4122, 4134-4135; P2 (Witness C-015, witness statement, 13 May 1999), p. 3.

¹¹¹⁴ P306 (Witness JF-015, witness statements), witness statement of 18 January 2001, paras 11-12, 62; P321 (Photograph described by Witness JF-015 in para. 62 of witness statement of 18 January 2001).

516. The Trial Chamber will now assess the evidence in relation to the conditions and incidents following the take-over of Dalj. **Luka Šutalo** testified that on 25 August 1991, he was re-arrested and two policemen took him to the Dalj police station where he was imprisoned, together with Vlado Štimac, Nikola Gašpar, and a man called Simić, all from Erdut, as well as two or three men from Aljmaš, including Slavko Palinkaš. The witness saw that some of the men had bruises.¹¹¹⁵ Milorad Stričević from Dalj, who was referred to as “Colonel”, was in charge of the facility.¹¹¹⁶ Šutalo only recognized Željko Čizmić among the police officers at the station.¹¹¹⁷ While Šutalo was at the Dalj police station, Čizmić came to the station every day and worked closely with Stričević.¹¹¹⁸ The majority of the prisoners were Croats and Hungarians and during Šutalo’s stay, some left and others arrived.¹¹¹⁹ During the day, groups of unarmed soldiers and men in civilian clothing entered the room and beat the prisoners. Most nights, Stričević questioned Šutalo concerning who in Erdut was a member of the HDZ, who had money, and about the police, though unlike other prisoners, Šutalo was not beaten as his Serb daughter-in-law intervened to protect him.¹¹²⁰

517. Around mid-September 1991, the prisoners were forced to do manual labour and most were beaten day and night, though Šutalo was not beaten. One day, a man who introduced himself as Arkan and who was accompanied by three men in camouflage uniform, forcefully entered the room and cursed the prisoners. While Arkan watched, the men in uniform beat the prisoners with iron chairs, injuring the four men from Bilje, professor Pavo Zemljak from Beli Manastir and his son Vladimir, who suffered an eye injury, Pavle Beck who lost three teeth, and one man, whose ribs were broken. Šutalo was not beaten as he and Slavko Palinkaš hid behind Marko Lončarević, who entered the room as the beating started and whom Palinkaš knew from before the war. Šutalo and Palinkaš later had to clean the blood-covered floor and walls. Šutalo testified that on one occasion, some of Arkan’s men put his neighbour against a wall of a house in Erdut and shot with some kind of dart arrows at him, wounding him.¹¹²¹ Šutalo did not witness the event as he was afraid to go outside, but the neighbour came to his

¹¹¹⁵ P301 (Luka Šutalo, witness statement, 17 April 1999 and 18 June 2003), paras 30-31.

¹¹¹⁶ P303 (Luka Šutalo, *Slobodan Milošević* transcript, 28 August 2003), p. 25581; Luka Šutalo, T. 3974, 3997, 4005.

¹¹¹⁷ P303 (Luka Šutalo, *Slobodan Milošević* transcript, 28 August 2003), pp. 25575-25576; Luka Šutalo, T. 3984, 3992-3993.

¹¹¹⁸ Luka Šutalo, T. 3995, 3997.

¹¹¹⁹ P301 (Luka Šutalo, witness statement, 17 April 1999 and 18 June 2003), para. 34; P303 (Luka Šutalo, *Slobodan Milošević* transcript, 28 August 2003), p. 25545.

¹¹²⁰ P301 (Luka Šutalo, witness statement, 17 April 1999 and 18 June 2003), paras 33-34; P303 (Luka Šutalo, *Slobodan Milošević* transcript, 28 August 2003), p. 25575.

¹¹²¹ P301 (Luka Šutalo, witness statement, 17 April 1999 and 18 June 2003), p. 1, paras 39, 41-42; Luka Šutalo, T. 3989.

house after the incident to ask for brandy to wash out his wounds. According to Šutalo, such incidents were not reported to the police since this would result in serious retaliation.¹¹²²

518. **Zlatko Antunović** stated that on or about 7 August 1991, he went to Dalj where he was arrested by an armed Serb in civilian clothes who took him to an office near “Dom Kulture” (community centre) in Dalj. There, the Chief of Police Željko Čižmić interrogated the witness about his brother. After the questioning, Antunović was first taken downstairs to an improvised prison cell, where four or five persons were already held, and then, in the evening, to a nearby basement, where two or three guards beat him with telephone cables.¹¹²³ The witness was returned to the cell, where there were more prisoners than before, and the guards returned and took out prisoners for beatings. In the morning, Čižmić ordered that the witness be released, after which he returned to Erdut.¹¹²⁴

519. Sometime in October 1991, Goran Đaković and one other local policeman came to Zlatko Antunović’s house, arrested him again, and took him to the local police station. Đaković hit the witness a couple of times in the car on the way to the police station. After being briefly interrogated by the Erdut Chief of Police Bolić, the witness was taken back to Dalj and imprisoned in the same place as he had been in August of that year. This time, a man called Milorad Stričević was in charge of the interrogations. The witness heard him referring to himself as “Colonel”, even though the witness only ever saw him wearing a black leather jacket. As soon as the witness arrived, he was taken to an upstairs office with many different men, including paramilitaries from Prigrevica, who identified themselves as such, and was immediately beaten. The witness heard from other detainees and the paramilitaries themselves that they were from Prigrevica and he stated that they were dressed differently from the JNA and wore camouflaged uniforms and cockades. Siniša Glodić, whom the witness recognized from Dalj, was helping with the beatings and told the witness to burn off with cigarettes an HDZ tattoo the witness had on his right arm. The witness did so. The witness was then taken to the same cell where he had been in August and he was kept there for 15 days, doing manual labour during the days. In the evenings, local Serbs from Dalj and Borovo Naselje, Prigrevica paramilitaries, and Arkan’s men would come in and randomly hit the prisoners, and would

¹¹²² Luka Šutalo, T. 3989-3990.

¹¹²³ P1799 (Zlatko Antunović, witness statement, 5 May 1999), pp. 2-3. The Trial Chamber notes that pages 3 and 4 of P1799 are uploaded in the wrong order. Accordingly, references to page 3 of this statement do not refer to eCourt pages.

¹¹²⁴ P1799 (Zlatko Antunović, witness statement, 5 May 1999), p. 3.

sometimes make them hit each other.¹¹²⁵ The local Serbs were dressed in military camouflage uniforms or civilian clothes.¹¹²⁶ Arkan's men were wearing camouflage uniforms, black woollen hats, and were clean shaven. The witness saw Arkan's men take away Mattija Hum from Aljmaš after which he was never seen again.¹¹²⁷

520. Other witnesses also provided evidence in relation to specific incidents following the take-over of Dalj. **Witness JF-032** testified that looting by civilians and policemen continued several days after the attack, although the civil police tried to prevent them.¹¹²⁸ He saw many people in Borovo Selo driving cars which he believed were stolen in Dalj. He mentioned that the following persons also participated in the looting: Češo, Suljo, Erić, and Dafinić.¹¹²⁹

521. **Witness JF-030** testified that after the attack on Dalj, he saw Croat detainees, in the custody of the TO Dalj, at the detention facility located in the Dalj police station. The witness saw the detainees being beaten by Arkan and his men. The witness further testified that he heard from TO members that Arkan and his men killed several of these Croats.¹¹³⁰

522. On one occasion in early October 1991, when **Borislav Bogunović**, the SBWS Minister of Interior between May and December 1991,¹¹³¹ arrived in Dalj, Government colleagues informed him that moments before his arrival Arkan and his men had fatally shot around 15 men from Beli Manastir. The killings had occurred in a brickyard located on the outskirts of Dalj, along the road to Erdut, where they had been working in the furnaces.¹¹³² Bogunović testified that he did not order an investigation into the incident because he believed any witnesses would have been too afraid to come forward. He also testified that he feared his own life would be in danger.¹¹³³

523. **Witness C-1175**, a Serb from Dalj,¹¹³⁴ stated that when Vukovar fell in November 1991, the JNA brought a large number of refugees to Dalj in buses and trucks to a building near the Dalj Railway Station, which was used by the JNA as its Dalj headquarters. Witness

¹¹²⁵ P1799 (Zlatko Antunović, witness statement, 5 May 1999), p. 3; P1800 (Zlatko Antunović, addendum witness statement, 24 April 2007), paras 5, 7.

¹¹²⁶ P1800 (Zlatko Antunović, addendum witness statement, 24 April 2007), para. 7.

¹¹²⁷ P1799 (Zlatko Antunović, witness statement, 5 May 1999), p. 4; P1800 (Zlatko Antunović, addendum witness statement, 24 April 2007), para. 8.

¹¹²⁸ P401 (Witness JF-032, witness statement, 17 May 1999), p. 5; P402 (Witness JF-032, *Slobodan Milošević* transcript, 29-31 January 2003), pp. 15162, 15284.

¹¹²⁹ P401 (Witness JF-032, witness statement, 17 May 1999), pp. 5-6.

¹¹³⁰ P2091 (Witness JF-030, witness statement, 21 August 2003), para. 24.

¹¹³¹ P553 (Borislav Bogunović, witness statement, 6 June 2003), paras 6, 8, 73; Borislav Bogunović, T. 6005.

¹¹³² P553 (Borislav Bogunović, witness statement, 6 June 2003), para. 88.

¹¹³³ P554 (Borislav Bogunović, witness statement, 8 February 2007), para. 26.

¹¹³⁴ P1718 (Witness C-1175, witness statement, 8 May 2001), pp. 1-2; P1719 (Witness C-1175, *Slobodan Milošević* transcript, 27-28 August 2003), pp. 25463, 25468.

C-1175 heard that one group was taken to the station of the Dalj Militia, which was located in the building of the “Stara zadruga” (Cooperative centre), but did not personally see this group. The following day the TO transported 60-70 women and children, who had been brought to Dalj, to Serbia by bus. There were approximately 50-70 men taken to the TO headquarters, where they were mistreated and interrogated, some of whom were taken to the Dalj Cinema and subsequently transported to Serbia after two or three days.¹¹³⁵ Other men from the group were taken to the TO prison run by Stričević, which was located behind the TO headquarters, was guarded by men from Prigrevica, and was accessible to Branko Gojsović and the man known as Dordila.¹¹³⁶ The witness saw that the men were beaten and mistreated by the Svemirska police and the group from Prigrevica.¹¹³⁷

524. With regard to the situation in Dalj following the take-over, the Trial Chamber also recalls the evidence in relation to killings in Dalj set out in chapters 3.2.3, 3.2.4, and 3.2.5 above.

525. The Trial Chamber finds that the above evidence is overall consistent and that the witnesses who provided evidence in relation to the incidents in Dalj generally corroborate each other. Accordingly, the Trial Chamber finds the above evidence reliable.

526. Based on the evidence received, in particular the testimony of Witness JF-015, Witness JF-032, Witness C-015, and Witness JF-030, the Trial Chamber finds that the JNA, together with TO units and volunteers from Serbia attacked and took over Dalj on 1 August 1991. Croat villagers fled together with the Croatian Army and police. Based on these circumstances, the Trial Chamber finds that most of the inhabitants of Dalj left out of concern for their safety considering the ongoing combat operation.

527. In addition, based on the evidence of Witness JF-032, the Trial Chamber also finds that other inhabitants were driven out forcefully by TO members in the direction of Aljmaš which, at the time, was controlled by non-Serbs. On the same basis, the Trial Chamber finds that one of the purposes of the attack was to force local Croats out of Dalj. Based on this, the Trial Chamber finds that a significant number of those people were of Croat ethnicity. The

¹¹³⁵ P1718 (Witness C-1175, witness statement, 8 May 2001), p. 4; P1719 (Witness C-1175, *Slobodan Milošević* transcript, 27-28 August 2003), pp. 25482, 25485-25488.

¹¹³⁶ P1718 (Witness C-1175, witness statement, 8 May 2001), pp. 3-5; P1720 (Hand-drawn sketch of Dalj TO headquarters and surrounding buildings).

¹¹³⁷ P1718 (Witness C-1175, witness statement, 8 May 2001), p. 5; P1719 (Witness C-1175, *Slobodan Milošević* transcript, 27-28 August 2003), pp. 25489-25490.

Trial Chamber will further consider the take-over of Dalj in relation to Counts 1, 4, and 5 of the Indictment, in chapter 4, below.

528. The Trial Chamber will now assess the conditions and incidents in Dalj after 1 August 1991. Having considered the evidence of Witness JF-032, the Trial Chamber finds that following the take-over of Dalj, civilians, policemen, as well as a person called Dafinić, who the Trial Chamber elsewhere found was an SNB member (chapter 3.2.3), engaged in looting of houses. In August 1991, Croats, including Zlatko Antunović, and Hungarians were detained by Milorad Stričević and the TO at the Dalj police station and were beaten by members of the SDG. In September 1991, the detainees of the Dalj police station were forced to engage in manual labour and were further beaten by the aforementioned. Members of the Prigrevica¹¹³⁸ paramilitaries also participated in the beatings. The Trial Chamber also recalls its findings in relation to killings by members of the SDG on 21 September and 4 October 1991, as set out in chapters 3.2.1 and 3.2.2. The Trial Chamber also recalls its finding in relation to the killing of a Hungarian woman on 3 June 1992 by an SNB and an SDG member, as set out in Chapter 3.2.3. The Trial Chamber will further deal with the effects of these incidents below.

Other villages in Osijek-Baranja county, July 1991 – January 1992

529. The Trial Chamber has received evidence in relation to the alleged deportation and forcible transfer from other villages in Osijek-Baranja county through the testimonies of Witness JF-036, Witness JF-038, Witness JF-032, Witness C-057, Witness C-1118, and documentary material.

530. With regard to Sarvaš, **Witness C-057** testified that in the beginning of September 1991, his JNA unit took Sarvaš, which had been heavily damaged by tanks and artillery fire.¹¹³⁹ The TO participated in the attack but was subordinated to the JNA commander.¹¹⁴⁰

531. **Witness C-1118** testified that at approximately 2 p.m. on 16 November 1991, two men, 25-30 and 40 years old respectively, in civilian clothes and from Bobota village came up to him and ordered him to come with them for an interview. They then took him to a large abandoned house in Sarvaš where, according to him, the JNA was stationed. There, the

¹¹³⁸ Prigrevica is located in Serbia.

¹¹³⁹ P357 (Witness C-057, witness statement, 27 July 2003), para. 34; P358 (Witness C-057, addendum to witness statement, 25 November 2003) p. 3; P356 (Witness C-057, *Slobodan Milošević* transcript, 27 November and 2 December 2003), p. 29863.

¹¹⁴⁰ P358 (Witness C-057, addendum to witness statement, 25 November 2003) p. 3.

witness was questioned by a Major Stojanović, who was dressed in a JNA SMB uniform.¹¹⁴¹ After the interview, two uniformed JNA soldiers entered and started beating the witness. The beating lasted for approximately 20 minutes. A few days later, the witness was released.¹¹⁴²

532. With regard to Aljmaš, **Witness C-057** stated that at the end of September 1991, his unit took the mostly deserted Aljmaš without any resistance.¹¹⁴³ The witness stated that the first time he saw Željko Ražnatović, also known as Arkan, was the day after his unit took Aljmaš.¹¹⁴⁴ On that day, “Arkan’s men” severely damaged the Catholic church in the village with explosives. The witness had received an order by the Battalion Command on the same day to protect the troops because around 4 or 5 p.m. the Catholic church would be torn down by Arkan’s men. According to the witness, no one had opened fire from the church. The witness also stated that a group of men in pink or red berets would come to Aljmaš while his unit was there and remove gas bottles from houses. They were commanded by a man operating under the alias of Captain Kole, who said that he was part of the local TO.¹¹⁴⁵

533. With regard to the wider Beli Manastir area, **Witness JF-036**, a Serb and DB official in the SAO SBWS,¹¹⁴⁶ testified that the first arrests of non-Serbs started in Baranja in the second half of July 1991. There were various reasons for the arrests: for being Croat, being a member of the HDZ, being wealthy, and for revenge. They were detained in the basement of the Beli Manastir police building, and often mistreated by the policemen, including Dušan Vukšić. The SUP Beli Manastir organized the transport of the prisoners to Dalj and Borovo in order to be exchanged. The witness learned from some policemen that in total between 50 and 80 people were arrested and transported to Dalj and Borovo. A number of people who were transported to Dalj and Borovo subsequently disappeared, including Ivan Zelember, Rudolf Jukić, Ernest Bača, Karlo Rajić, and Šimon Mihaljo.¹¹⁴⁷

534. **Witness JF-038**, an active member of the Yugoslav federal SDB until October 1992,¹¹⁴⁸ testified that in mid-August 1991, he undertook a mission to the Osijek and Beli

¹¹⁴¹ P23 (Witness C-1118, witness statement, 4 June 1999), pp. 3-4; Witness C-1118, T. 1989-1990, 2002-2003.

¹¹⁴² P25 (Witness C-1118, witness statement, 25 April 2007), paras 4, 10; Witness C-1118, T. 2004.

¹¹⁴³ P357 (Witness C-057, witness statement, 27 July 2003), paras 29-30; P358 (Witness C-057, addendum to witness statement, 25 November 2003) p. 2; P356 (Witness C-057, *Slobodan Milošević* transcript, 27 November and 2 December 2003), pp. 29861-29862.

¹¹⁴⁴ P356 (Witness C-057, *Slobodan Milošević* transcript, 27 November and 2 December 2003), p. 29809.

¹¹⁴⁵ P357 (Witness C-057, witness statement, 27 July 2003), paras 31-32; P358 (Witness C-057, addendum to witness statement, 25 November 2003) p. 3; P356 (Witness C-057, *Slobodan Milošević* transcript, 27 November and 2 December 2003), pp. 29862-29863.

¹¹⁴⁶ P342 (Witness JF-036, witness statement, 2 May 2001), pp. 1-2.

¹¹⁴⁷ P342 (Witness JF-036, witness statement, 2 May 2001), pp. 10-12; Witness JF-036, T. 4188-4189.

¹¹⁴⁸ P420 (Witness JF-038, *Martić* transcript, 31 March-4 April 2006), pp. 3021, 3023-3025, 3027, 3116.

Manastir area in SAO SBWS, where he visited Manastir and the surrounding villages.¹¹⁴⁹ While the witness was in Osijek, there was fighting day and night between Serb and Croat forces, including Croat forces who crossed over the border from Hungary at night.¹¹⁵⁰ According to the witness, a lot of people had left the area by that time and those who remained were mainly the elderly who could not leave their homes.¹¹⁵¹ The witness testified that all houses in Darda, Bilje, and Tenja, all in Osijek municipality, and other nearby villages were looted, some houses were mined or torched.¹¹⁵²

535. With regard to Klisa, **Witness C-1118** testified that the JNA left Klisa after approximately 20 days since Arkan's men were there and the JNA could not control them.¹¹⁵³ When the witness left Klisa in January 1992, because he felt threatened, he was forced to sign over all his belongings "to the SAO Krajina", without compensation.¹¹⁵⁴ The witness testified that a man in the municipal office told him that he would not be able to return to his village unless he signed the declaration.¹¹⁵⁵

536. The Trial Chamber finds that the above evidence is overall consistent and that the witnesses who provided evidence in relation to the incidents in these villages in Osijek-Baranja county generally corroborate each other. Accordingly, the Trial Chamber finds the above evidence reliable.

537. Based on the evidence received, specifically the testimony of Witness JF-038, and Witness C-057, the Trial Chamber finds that the JNA, together with the TO, took over a number of villages in Osijek-Baranja county in August and September 1991, including Aljmaš, at the end of September 1991, and Sarvaš. Prior to the take-overs, people left these villages. The Trial Chamber will further consider these take-overs in relation to Counts 1, 4, and 5 of the Indictment in chapter 4, below.

538. The Trial Chamber will now turn to the conditions and incidents in these other villages in Osijek-Baranja county following their take-overs. Based on the evidence of Witness C-057, the Trial Chamber finds that after the take-over of Aljmaš, the SDG heavily damaged the village's Catholic church and that the TO removed gas bottles from houses. Based on the

¹¹⁴⁹ P420 (Witness JF-038, *Martić* transcript, 31 March-4 April 2006), p. 3146; Witness JF-038, T. 4847, 4861-4863, 4866, 4947-4948, 4950, 4955.

¹¹⁵⁰ P420 (Witness JF-038, *Martić* transcript, 31 March-4 April 2006), p. 3150; Witness JF-038, T. 4861, 4863, 4963.

¹¹⁵¹ Witness JF-038, T. 4847, 4861, 4950.

¹¹⁵² Witness JF-038, T. 4863.

¹¹⁵³ Witness C-1118, T. 2001.

¹¹⁵⁴ Witness C-1118, T. 1969, 1983-1984.

evidence of Witness C-1118, the Trial Chamber further finds that JNA members beat the witness in Sarvaš in November 1991 and that local Serb authorities forced him to sign over his property in Klisa in January 1992 and that he left because he felt threatened. The Trial Chamber will further deal with the effects of these incidents below.

Vukovar, November 1991

539. The Trial Chamber has received evidence in relation to the alleged deportation and forcible transfer from Vukovar through the testimonies of Goran Stoparić, Željko Šandor, Borislav Bogunović, Witness C-057, Witness JF-030, Witness C-1175, and documentary material.

540. The Trial Chamber will first set out the evidence relating to the take-over of Vukovar on 18 November 1991. **Goran Stoparić**, a former member of the Skorpions,¹¹⁵⁶ testified that the Leva Supoderica unit killed people in Vukovar and Croat houses were taken over on a daily basis. Šešelj and the war staff of the SRS were regularly informed of events on the ground. In the beginning of September 1991, Stoparić's Leva Supoderica/SRS volunteer unit detained many civilians in Vukovar. After checking their ethnicities, the Serbs were released. According to the witness, there were no instructions on how to treat Croat civilians, but people would often be killed if local Serbs advised that someone was an "Ustaša".¹¹⁵⁷

541. **Witness JF-030** testified that in November 1991, he, along with other TO members, fought in the Vukovar battle which lasted four months. The witness testified that his group was under the command and control of the JNA and the attack was coordinated through the JNA and DB members. The witness reported to Kojić during the Vukovar battle, and attended meetings at JNA headquarters to coordinate the operations. The witness further testified that Arkan participated in the Vukovar battle.¹¹⁵⁸ While in battle, the witness saw Arkan being supplied by the JNA. According to the witness, all units, including local police, were supplied by the JNA.¹¹⁵⁹

542. **Željko Šandor** stated that he took part in the defence of Vukovar during its siege. According to the witness, during May 1991 and until 4 July 1991, Serb paramilitaries cleansed the villages around Vukovar of all Croats while the JNA was taking up positions in and around town. According to the witness, the official members of the TO were wearing

¹¹⁵⁵ Witness C-1118, T. 1984.

¹¹⁵⁶ P1702 (Goran Stoparić, witness statement, 24 November 2003), paras 68, 77; Goran Stoparić, T. 10327.

¹¹⁵⁷ P1702 (Goran Stoparić, witness statement, 24 November 2003), paras 28-30, 39.

¹¹⁵⁸ P2091 (Witness JF-030, witness statement, 21 August 2003), para. 26.

JNA olive-grey uniforms with a red or blue-red-white ribbon tied to the shoulder.¹¹⁶⁰ On 18 November 1991, the witness was injured during the shelling of Vukovar and the day after he was captured by JNA soldiers.¹¹⁶¹

543. **Witness C-057** stated that between 4 and 6 p.m. on 18 November 1991, the Croat forces in Vukovar surrendered.¹¹⁶² **Borislav Bogunović** provided evidence overall consistent with the evidence of Goran Stoparić, Witness C-057, and Željko Šandor in relation to groups present during the attack on Vukovar.¹¹⁶³ The JNA report and war journal, in exhibit as P1045 and P1033, further corroborate the evidence on this topic.¹¹⁶⁴

544. The Trial Chamber will now assess the evidence relating to the conditions and incidents in the immediate aftermath of the take-over of Vukovar.

545. **Željko Šandor** stated that following the take-over of Vukovar, some captured men of fighting age were separated from the elderly, women, and children and lined up in front of a building in Borovo Neselje, a suburb of Vukovar. At that point, soldiers arrived, whom the witness recognized as Arkan's soldiers since they wore camouflage uniforms and cockades and because the soldiers identified themselves as Arkan's men. The soldiers threatened the captured men but did not beat them. The witness stated that there was also a JNA major in JNA uniform accompanied by a TO soldier called Milan Gojković a.k.a. Švabo and a "Chetnik" called Balaban from Borovo Naselje. Gojković selected some of the captured men and handed them over to the paramilitary soldiers who took the men into a nearby building from which the witness then heard screams. The witness learned afterwards that some of the men had survived and been taken to prison camps in Serbia.¹¹⁶⁵

546. **Witness C-057** stated that following the surrender of Vukovar, approximately 1,500 people emerged from a shelter, about 200 of whom were wounded. The wounded were loaded onto vehicles with JNA crews and taken away. Branko Avramović with his group of radicals and some local Serbs started beating the prisoners, against the witness's orders, until the witness's superior arrived. Captain Tomislav Mrčela, a Croat, also participated in the

¹¹⁵⁹ Witness JF-030, T. 10676.

¹¹⁶⁰ P1760 (Željko Šandor, witness statement, 12 June 2000), pp. 2-3; P1762 (Željko Šandor, additional witness statement, 17 June 2003), p. 1.

¹¹⁶¹ P1760 (Željko Šandor, witness statement, 12 June 2000), pp. 3-4.

¹¹⁶² P357 (Witness C-057, witness statement, 27 July 2003), para. 66.

¹¹⁶³ P553 (Borislav Bogunović, witness statement, 6 June 2003), para. 74; Borislav Bogunović, T. 6012.

¹¹⁶⁴ P1045 (Report on the progress of combat operations conducted to liberate Vukovar, Guards Motorized Brigade Security Organ, signed by Veselin Šljivančanin, 10 December 1991), pp. 2, 4; P1033 (War Journal, signed by Major Trifunović and Major Gojković, 2 October to 21 November 1991), pp. 12, 39-40.

beating.¹¹⁶⁶ According to the witness, Lukić organized the surrender operation. The women and children were transported to Croatia on buses. All documents and foreign currency were confiscated. All the men who had come out of the shelter wore civilian clothes, although later on the witness found a great quantity of discarded MUP uniforms in the shelter. Around 8 a.m. on 19 November 1991, the military police loaded them into vehicles and drove them away.¹¹⁶⁷

547. **Željko Šandor** stated that after the surrender of Vukovar, he and 150-200 other captured men were ordered to walk in the direction of the Borovo and Trpinja road. After that, three blue civilian buses, escorted by a JNA tank, arrived and the men were forced into them. Armed men in uniform, described by the witness as reservists, boarded and drove the buses away, escorted by an APC, in the direction of Trpinja. Only 1,500 metres from the railway station in Vukovar, the buses were stopped by a man from Borovo Naselje nicknamed Bećar and a group of other “Chetniks”. Bećar selected six or seven men and took them out of the buses whereupon the buses continued. According to the witness, the men’s bodies were later exhumed and identified in the place where the buses had stopped. The men were threatened and forced to sing “Chetnik” songs. In the morning of 20 November 1991, the buses arrived at a civilian correctional centre in Sremska Mitrovica in Serbia.¹¹⁶⁸

548. Major Trifunović reported that on 18 November 1991, the Commander of Operation Group Jug sent vehicles and buses to evacuate the population and “Ustasha” units that had surrendered from Vukovar and that on 19 November 1991, the Guards Motorized Brigade had started mopping up the territory, while large numbers of civilians were being evacuated.¹¹⁶⁹ Some convoys were refused entry into Croatia and returned.¹¹⁷⁰ According to 1st Military District reports by Trifunović and Stojanović, on 21 November 1991, the majority of civilians, wounded, and prisoners were evacuated from Vukovar to Šid.¹¹⁷¹ On 22 November

¹¹⁶⁵ P1760 (Željko Šandor, witness statement, 12 June 2000), pp. 2-5; P1762 (Željko Šandor, additional witness statement, 17 June 2003), p. 1.

¹¹⁶⁶ P357 (Witness C-057, witness statement, 27 July 2003), paras 67, 71-72; P358 (Witness C-057, addendum to witness statement, 25 November 2003) p. 5; P356 (Witness C-057, *Slobodan Milošević* transcript, 27 November and 2 December 2003), p. 29854.

¹¹⁶⁷ P357 (Witness C-057, witness statement, 27 July 2003), paras 67-68, 70, 73.

¹¹⁶⁸ P1760 (Željko Šandor, witness statement, 12 June 2000), pp. 5-7, 14.

¹¹⁶⁹ P1033 (War Journal, signed by Major Trifunović and Major Gojković, 2 October to 21 November 1991), pp. 39-41; P1166 (Combat report of 1st Military District Command, signed by Lieutenant General Vladimir Stojanović, 20 November 1991), pp. 2, 6.

¹¹⁷⁰ P1033 (War Journal, signed by Major Trifunović and Major Gojković, 2 October to 21 November 1991), p. 41.

¹¹⁷¹ P1033 (War Journal, signed by Major Trifunović and Major Gojković, 2 October to 21 November 1991), p. 41; P1166 (Combat report of 1st Military District Command, signed by Lieutenant General Vladimir Stojanović, 20 November 1991), pp. 1, 3, 7.

1991, Major General Jerko Crmarić of the 1st Military District Command reported that the transportation of civilians and wounded from Vukovar and Borovo was carried out in full.¹¹⁷²

549. **Witness JF-030** testified that after the Vukovar battle ended on 18 November 1991, he saw Lieutenant Veselin Maksimović and Braco Aršić go to the Borovo Commerce Building and beat Croat detainees, who were being guarded by the JNA. On the same day, the witness saw the JNA guarding hundreds of Croat civilians inside the Vukovar hospital.¹¹⁷³

550. According to **Borislav Bogunović**, for at least ten days after the fall of Vukovar, all groups apart from Arkan's men were subject to the JNA's authority.¹¹⁷⁴ The people of Vukovar, however, were mainly afraid of Serbian volunteers and of Šešelj's men. The witness testified that there were many links between Šešelj's men and JNA officers, and that the two groups appeared to work closely together. Many of the Serbian volunteers who came to Vukovar also operated under the command of the JNA; however, both volunteers and Šešelj's men would occasionally separate themselves from the JNA in order to engage in looting for personal gain.¹¹⁷⁵ The witness was informed by the SAO SBWS police force that members of Šešelj's men had also committed murders in the Vukovar area, though he never received an official report.¹¹⁷⁶

551. The Trial Chamber further recalls the evidence of **Witness C-1175** as set out in the Dalj sub-chapter above in relation to the transfer of Vukovar residents to Serbia.

552. The Trial Chamber finds that the above evidence is overall consistent and that the witnesses providing evidence in relation to the incidents in Vukovar generally corroborate each other. Accordingly, the Trial Chamber finds the above evidence reliable.

553. Based on the evidence received, in particular the testimony of Željko Šandor, Borislav Bogunović, Witness C-057, Witness JF-030, and JNA report P1045, the Trial Chamber finds that the JNA, SDG, and Šešelj's men took over Vukovar on 18 November 1991. The Trial Chamber further finds that before and in the aftermath of the take-over, Serbian volunteers including Šešelj's men beat and killed captured men. Serb detainees were released after their ethnicity had been established. Volunteers and Šešelj's men also engaged in looting in Vukovar. The Trial Chamber will further deal with the effects of these incidents below.

¹¹⁷² P1064 (Daily operations report of the 1st Military District Command, signed by Major General Jerko Crmarić, 22 November 1991), pp. 1-2, 4-6.

¹¹⁷³ P2091 (Witness JF-030, witness statement, 21 August 2003), paras 28-29, 31.

¹¹⁷⁴ P553 (Borislav Bogunović, witness statement, 6 June 2003), para. 56; Borislav Bogunović, T. 6012.

¹¹⁷⁵ P553 (Borislav Bogunović, witness statement, 6 June 2003), paras 53, 74-75.

¹¹⁷⁶ P554 (Borislav Bogunović, witness statement, 8 February 2007), para. 24.

554. The Trial Chamber also finds that after the take-over of Vukovar a group of men and women, which consisted of predominantly Croat inhabitants of Vukovar town, was transported on buses by the JNA to the Croat-controlled part of Croatia and Serbia. On some of the buses, the men were threatened and forced to sing “Chetnik” songs. The Trial Chamber will further consider these incidents in relation to Counts 1, 4, and 5 of the Indictment, in chapter 4, below.

Ilok, October 1991 – April 1992

555. The Trial Chamber has received evidence in relation to the alleged deportation and forcible transfer from Ilok through the testimonies of Borislav Bogunović, Dušan Knežević, and documentary material.

556. **Borislav Bogunović** testified that the town of Ilok was taken over in October 1991. At the beginning of the month the JNA had issued an ultimatum to the armed formations in Ilok to surrender and disarm. Following the ultimatum, a commission from Ilok began daily negotiations with representatives of the JNA in Bačka Palanka and Šid.¹¹⁷⁷ The JNA offered guarantees for the safety of Croat and Slovak residents, but many of them wished to leave for Croatia because they had heard what had happened in surrounding villages.¹¹⁷⁸ On 12 October 1991, the city assembly in Ilok held a referendum and a decision was taken to inform the JNA that the citizens of Ilok wished to leave. An agreement was entered into with the JNA on 14 October 1991, and on 17 October 1991 some 8,000 people, constituting almost the entire population of Ilok, left for Croatia-held territory on JNA trucks.¹¹⁷⁹ **Dušan Knežević**, the Serb police commander in Ilok between November 1991 and June 1992,¹¹⁸⁰ provided evidence overall consistent with that of Borislav Bogunović on that topic.¹¹⁸¹

557. On 2 April 1992, Miroslav Radović, Assistant Chief of Administration of the Federal SFRY SUP SDB, sent a report on the situation in Western Srem to Deputy Chief M. Tepavčević of the Serbian MUP SDB. The report was based on information provided by three inhabitants of Ilok, who were received at the Federal SUP on 27 March 1992 and concerned Croatian and Slovak families who were forced to leave the Western Srem area. According to the report, the former inhabitants of Ilok stated that they left because of pressure from and an

¹¹⁷⁷ Borislav Bogunović, T. 6071-6072.

¹¹⁷⁸ P553 (Borislav Bogunović, witness statement, 6 June 2003), para. 9.

¹¹⁷⁹ Borislav Bogunović, T. 6071-6072.

¹¹⁸⁰ D371 (Dušan Knežević, witness statement, 17 August 2011), p. 1, paras 1, 28, 32; Dušan Knežević, T. 13378, 13504; D377 (Report by Dušan Knežević about the situation in Pakrac valley and the request for ammunition for the local population addressed to the assistant chief of the SJB Bucalo, 23 April 1991), p. 1.

¹¹⁸¹ D371 (Dušan Knežević, witness statement, 17 August 2011), para. 29.

order by the police organs and the TO for 120 Croatian and Slovak families from Ilok and Bapska to leave within two or three days. They further stated that Serbs and Slovaks who stood up to protect Croats were beaten up and one of the inhabitants showed the injuries he had sustained. According to the report, the order for departure was a continuation of pressure ranging from threats to thefts, rapes, and murders, to which the remaining Croats had been subjected since 17 October 1991, and to which more recently Slovaks, persons from mixed marriages and native Serbs were subjected. According to the report, this behaviour was organized, implemented, and tolerated by civilian policemen and TO members who had taken power after the liberation of Ilok and Western Srem. The abuse and threats were also committed by a so-called Special Unit.¹¹⁸²

558. The Trial Chamber finds that the above evidence is overall consistent and that the witnesses who provided evidence in relation to the incidents in Ilok generally corroborate each other. Accordingly, the Trial Chamber finds the above evidence reliable.

559. Based on the evidence received by Borislav Bogunović and Dušan Knežević, the Trial Chamber finds that after the JNA had taken over Ilok in early October 1991, around 8,000 persons, many of them Croat, left for Croatian-controlled territory on 17 October 1991. These people had expressed a wish to leave in a referendum because the JNA had issued an ultimatum to armed formations in Ilok to surrender and because they had heard what had happened in surrounding villages. The Trial Chamber will further consider this incident in relation to Counts 1, 4, and 5 of the Indictment, in chapter 4, below.

560. Based on the SDB report P429, the Trial Chamber also finds that after 17 October 1991, the civil police and TO members, as well as a “Special Unit” abused and threatened the remaining population of Ilok and eventually ordered them to leave. At least three persons left as a result. The Trial Chamber will further deal with the effects of these incidents below.

Other villages in Vukovar-Srijem county, August – November 1991

561. The Trial Chamber has received evidence in relation to the alleged deportation and forcible transfer from other villages in the county of Vukovar-Srijem through the testimonies of Željko Šandor, Witness JF-017, Witness JF-035, Witness JF-032, Witness JF-030, Luka Šutalo, Borislav Bogunović, Goran Stoparić, Witness C-057, and documentary evidence.

¹¹⁸² P429 (Note on the situation in Ilok, Assistant Chief of Administration Miroslav Radović, 2 April 1992), pp. 1-3.

562. The Trial Chamber first recalls the evidence of **Željko Šandor** set out above in the Vukovar sub-chapter in relation to paramilitaries cleansing the villages around Vukovar between May and July 1991.

563. With regard to Borovo Selo, **Witness JF-032** testified that in early June 1991, a self-established village police operated in Borovo Selo, and was armed and supported by the TO.¹¹⁸³ They “terrorized” the local population, bringing people in for interrogations for no particular reason.¹¹⁸⁴

564. **Luka Šutalo** testified that about a week after 25 August 1991, he was transferred to what seemed to be a collection centre in a large stable or workshop in Borovo Selo, where about 80 persons were held. One evening, a group of 12 Croatian policemen from Bilje were brought in, made to kneel and beaten with sticks all night by Serb police in uniform. One of the men had a “U” cut into his forehead. That same night, Ivan Zelember who was the HDZ President in Batina, was so severely beaten by the Serb police that he required medical care. The Croatian policemen were taken for exchange after two days. Another three to four days later, Šutalo and six or seven others were transferred to the Borovo police station, where they were detained for three to four days in a basement with approximately half a metre of sewage water. They were verbally abused by police, soldiers, and civilians.¹¹⁸⁵

565. **Witness JF-032** testified that several prisons were established in Dalj and Borovo Selo. The self-established police in Borovo Selo set up a prison, run by the TO, in the movie theatre in the centre of Borovo Selo, which was operational from around May 1991 to at least the end of October 1991.¹¹⁸⁶ As the Croat villages were taken control of, Croat civilians were brought in, and the witness saw them working outside, carrying wheat and maize, and guarded by the TO.¹¹⁸⁷

566. With regard to Đeletovci and Nijemci, **Witness JF-030** testified that sometime after taking Erdut, Arkan took over Đeletovci and Nijemci villages that were inhabited mostly by Croats with a very small Serb population. According to the witness, Arkan and his men “cleansed that area completely” of Croat civilians. The witness visited the area at the

¹¹⁸³ P401 (Witness JF-032, witness statement, 17 May 1999), p. 4; P402 (Witness JF-032, *Slobodan Milošević* transcript, 29-31 January 2003), pp. 15144, 15146; Witness JF-032, T. 4740, 4750.

¹¹⁸⁴ P401 (Witness JF-032, witness statement, 17 May 1999), p. 4; Witness JF-032, T. 4738.

¹¹⁸⁵ P301 (Luka Šutalo, witness statement, 17 April 1999 and 18 June 2003), paras 30-31, 34-37; Luka Šutalo, T. 3975, 3988.

¹¹⁸⁶ P401 (Witness JF-032, witness statement, 17 May 1999), pp. 4, 6; P402 (Witness JF-032, *Slobodan Milošević* transcript, 29-31 January 2003), pp. 15169-15170, 15291.

¹¹⁸⁷ P402 (Witness JF-032, *Slobodan Milošević* transcript, 29-31 January 2003), pp. 15169-15170.

beginning of 1992 and found the villages completely empty except for Arkan's men and the Red Berets. The witness testified that he heard that Arkan and his men buried the bodies of the Croat civilians with dead animals in a mass grave in front of a church in a different village.¹¹⁸⁸ The witness went to the village where he saw what he described as a mass grave.¹¹⁸⁹

567. With regard to Bršadin, the witness testified that in September 1991 he met with Arkan, JNA, and TO commanders about taking over the village of Bršadin. According to the witness, Arkan was given several members of the 1st Guard Brigade of the JNA, who operated under his command, and attacked and overtook Bršadin. The witness testified that he was present with his TO members when the attack took place.¹¹⁹⁰

568. With regard to Tovarnik, **Borislav Bogunović** testified that on 17 or 18 September 1991, negotiations took place between the JNA and the Croatian TO in Tovarnik. At the conclusion of the negotiations, the Croatian TO asked the JNA to await their decision on this issue; however, before any resolution was reached, the Croatian TO attacked a JNA convoy between Tovarnik and Ilača, destroying technical equipment and killing several JNA officers. It was following this incident that Tovarnik was attacked by the JNA. The witness testified that Tovarnik was shelled and that the army entered the town on the second day of the attack.¹¹⁹¹

569. **Goran Stoparić** testified that in September 1991 he participated as a JNA volunteer in the attack on Tovarnik, the ethnic composition of which was half Croat and half Serb at the time.¹¹⁹² He saw his commander Željko Krnjajić kill and order the killing of two civilians. Stoparić recalled that he saw many dead Croat civilians in Tovarnik. Krnjajić justified the killing of Croat civilians by saying that they had sons who were "Ustaša".¹¹⁹³

570. With regard to Lovas, **Borislav Bogunović** testified that the town was taken over in October 1991. Bogunović testified that the town was not shelled, but that after Mirko Jović entered the town with the "Dušan Silni" he heard reports that villagers had been driven away,

¹¹⁸⁸ P2091 (Witness JF-030, witness statement, 21 August 2003), para. 25; P2092 (Witness JF-030, proofing notes, 14 September 2009), p. 2.

¹¹⁸⁹ P2091 (Witness JF-030, witness statement, 21 August 2003), para. 25.

¹¹⁹⁰ P2091 (Witness JF-030, witness statement, 21 August 2003), para. 19; Witness JF-030, T. 10607.

¹¹⁹¹ P553 (Borislav Bogunović, witness statement, 6 June 2003), paras 85-86.

¹¹⁹² P1702 (Goran Stoparić, witness statement, 24 November 2003), paras 8, 10; Goran Stoparić, T. 10385-10386, 10398.

¹¹⁹³ P1702 (Goran Stoparić, witness statement, 24 November 2003), paras 9-12.

with some shot or killed.¹¹⁹⁴ On the following day, Bogunović received an order from Ljubiša Petković to go to Lovas and tell Jović that he and his men, the White Eagles, were to leave the same evening or Petković would send troops to arrest and disarm them. The witness contacted Jović, and the White Eagles withdrew from Lovas the following day.¹¹⁹⁵ Petković told Bogunović that several villagers had given statements saying people had been killed in Lovas during the attack.¹¹⁹⁶

571. With regard to Bobota, according to **Witness C-057**, on 31 October 1991, the attack on Bobota was executed by his JNA unit together with the SRS volunteers. With regard to Lužac, on the same and the following day, the witness's unit and Arkan's men captured Lužac, and approximately 27 men in the unit were either killed or wounded in this operation, which was completed on 18 November 1991. Arkan's men operated as part of the JNA and the witness observed that they were coordinated and responded to orders given by the commanding officers of the Novi Sad Corps.¹¹⁹⁷ The decision to engage Arkan's men under JNA command was made at the higher level of Corps command.¹¹⁹⁸ On the night following the capture of Lužac, the witness heard the screams and cries for help of women and children who were dragged from their basements.¹¹⁹⁹ The witness stated that on 2 November 1991, he saw Arkan shoot a Croat boy of 15 or 16 years of age, when the boy shouted "Long Live Croatia" as he was dragged towards Arkan by two of Arkan's men.¹²⁰⁰ New Serb forces that arrived that evening and SRS volunteers heavily looted houses on the edge of the settlement, and the witness's commander told him that they did not need to be stopped. One of the "radicals" cut off the ears of a Croatian prisoner and brought them back impaled on a stick. The witness's superior had previously told the witness not to restrain such actions, and the JNA was aware that such crimes were being committed.¹²⁰¹

572. The Trial Chamber finds that the above evidence is overall consistent and that the witnesses who provided evidence in relation to the incidents in other villages in Vukovar-

¹¹⁹⁴ P553 (Borislav Bogunović, witness statement, 6 June 2003), para. 86; Borislav Bogunović, T. 6068.

¹¹⁹⁵ Borislav Bogunović, T. 6064.

¹¹⁹⁶ P553 (Borislav Bogunović, witness statement, 6 June 2003), para. 87.

¹¹⁹⁷ P357 (Witness C-057, witness statement, 27 July 2003), paras 48-49, 51; P358 (Witness C-057, addendum to witness statement, 25 November 2003) pp. 3-4; P356 (Witness C-057, *Slobodan Milošević* transcript, 27 November and 2 December 2003), p. 29821-29822, 29827, 29864-29865, 29876-29877.

¹¹⁹⁸ P356 (Witness C-057, *Slobodan Milošević* transcript, 27 November and 2 December 2003), pp. 29876-29877.

¹¹⁹⁹ P357 (Witness C-057, witness statement, 27 July 2003), para. 55.

¹²⁰⁰ P358 (C-057, addendum to witness statement, 25 November 2003) p. 4.

¹²⁰¹ P357 (Witness C-057, witness statement, 27 July 2003), paras 56-59; P356 (Witness C-057, *Slobodan Milošević* transcript, 27 November and 2 December 2003), pp. 29872, 29875-29876.

Srijem county generally corroborate each other. Accordingly, the Trial Chamber finds the above evidence reliable.

573. Based on the evidence received, in particular the testimony of Witness JF-030, Borislav Bogunović, and Witness C-057, the Trial Chamber finds that between August and November 1991 the following villages in the county of Vukovar-Srijem were taken over: Bršadin (by the SDG and the TO), Đeletovci (by the SDG), Nijemci (by the SDG), Tovarnik (by the JNA), Lovas (by the White Eagles and a group called Dušan Silni), Bobota (by the JNA and SRS volunteers), and Lužac (by the JNA and the SDG). In relation to events occurring during or in the immediate aftermath of these attacks, the Trial Chamber finds as follows. In Borovo Selo in September 1991 Serb policemen detained Croats in appalling conditions and severely beat them. Based on the evidence of Witness JF-032, the Trial Chamber finds that after the take-over of villages, the TO forced Croat civilians to perform manual labour in Borovo Selo. Based on the evidence of Goran Stoparić, the Trial Chamber finds that the JNA killed civilians in Tovarnik on the basis that their sons were “Ustaša”. Based on the evidence of Witness C-057, the Trial Chamber finds that Arkan shot a Croat boy in Lužac after the latter shouted “Long live Croatia” following the village’s take-over. SRS volunteers heavily looted houses in Lužac and abused Croat prisoners. The Trial Chamber also recalls its findings made in chapter 3.2.3 in relation to the killings by SNB members in Borovo Selo in November 1991. The Trial Chamber will further deal with the effects of these incidents below.

574. In relation to Lovas, the Trial Chamber considers that the hearsay evidence received is insufficiently reliable to conclude beyond a reasonable doubt that the White Eagles and the Dušan Silni group committed crimes during or after the take-over. As a result, the Trial Chamber will not further consider this part of this incident. The Trial Chamber similarly has doubts about Witness JF-030’s account of “complete cleansing” in Đeletovci and Nijemci. In particular, while there is evidence that the village was empty in the beginning of 1992, it remained unclear whether, and if so, when and under what circumstances people left the village for some other place.

Conclusion

575. The Trial Chamber will first address some aspects of the evidence of Anna-Maria Radić. Radić’s report (exhibit P551) provides the main basis for the assertion that a number of persons left the area of the SAO SBWS. As a preliminary point, the Trial Chamber was

unable on the basis of the evidence presented to exactly determine the territorial boundaries of the SAO SBWS. This was further complicated by the fact that Radić's report lists population figures in relation to counties. As for people leaving, the figures relate to counties, as opposed to villages, and to time periods of several months. Lastly, the Radić report only takes into account those people who went to Croatia. While the report does not allow the Trial Chamber to rely on the exact numbers of persons leaving as a result of certain events, it provides a good basis for determining a general picture and is indicative of the general number of persons who left the area.

576. With regard to people leaving the county of Osijek-Baranja in 1991 and 1992, based on Radić's report, the Trial Chamber accepts that 23,964 persons left the county of Osijek-Baranja for Croatia prior to 20 October 1991, 4,607 between 20 October 1991 and 1 May 1992, and 1,278 between 2 May 1992 and 31 December 1992. Considering the ethnic composition of this county in 1991, the Trial Chamber finds that a significant number of those who left for Croatia-controlled territory during this period were of Croat or Hungarian ethnicity. Luka Šutalo and Witness JF-017 and her sons were among the people leaving. The Trial Chamber further finds that a number of people left the county around that time and due to the take-over of villages. While the Trial Chamber cannot definitively establish when within the time periods set out in Radić's report (exhibit P551), and thus as a result of what exactly, people left, it finds that a large number of these persons, including Witness C-1118, especially in relation to the time period 20 October 1991 until 1 May 1992, left the county of Osijek-Baranja because of the detentions, destruction of a Catholic church, looting, restriction of freedom, forced labour, beatings, killings, harassment, as well as for the reason that others were forcibly transferred. The aforementioned were perpetrated by the TO, JNA, local police, local authorities, paramilitaries from Prigrevica, SDG, and SNB. The Trial Chamber notes that the only other reasonable explanation for why these people left would be safety concerns due to ongoing combat operations. Considering however that the time frame for the departure of many persons post-dates the combat operations, the Trial Chamber considers this alternative explanation unreasonable for that time frame. The Trial Chamber notes in this respect that the figures provided in Radić's report (exhibit P551) do not differentiate between persons who left the county on their own and persons who were transferred.

577. With regard to people leaving the county of Vukovar-Srijem in 1991 and 1992, based on Radić's report, the Trial Chamber accepts that at least 35,391 persons left the county of Vukovar-Srijem prior to 18 November 1991, at least 5,478 between 18 November 1991 and 1

May 1992, and 1,311 between 2 May 1992 and 31 December 1992. Considering the ethnic composition of this county in 1991, the Trial Chamber finds that a significant number of those who left for Croatia-controlled territory during this period were of Croat ethnicity. The Trial Chamber further finds that a number of people left the county around that time and due to the take-over of villages. While the Trial Chamber cannot definitively establish when during the time periods set out in the Radić report (exhibit P551), and thus as a result of what exactly, people left, it finds that a large number of these persons left the county of Vukovar-Srijem because of the beatings, killings, looting, threats, detentions, forced labour, as well as for the reason that others were forcibly transferred. The aforementioned were perpetrated by the JNA, Šešelj's men, Serbian volunteers, SRS, SNB, police, TO, a "Special Unit", and Arkan. The Trial Chamber notes that the only other reasonable explanation for why these people left would be safety concerns due to ongoing combat operations. Considering however that the time frame for the departure of many persons post-dates the combat operations, the Trial Chamber considers this alternative explanation unreasonable for that time frame. The Trial Chamber notes in this respect that the figures provided in the Radić report (exhibit P551) do not differentiate between persons who left the county on their own and persons who were transferred.

578. The Trial Chamber will now consider any inter-county effects of the incidents and consider the SAO SBWS, as charged, as a whole. The Trial Chamber has considered the geographical proximity of e.g. Dalj and Erdut on the one hand, and Borovo and Vukovar on the other. The Trial Chamber also considered the temporal proximity of incidents occurring all over the SAO SBWS. As such, the Trial Chamber is satisfied that events in the SAO SBWS cannot be compartmentalised and seen in isolation. Accordingly, the Trial Chamber finds that a large number of persons, amounting to many thousands, left the area of the SAO SBWS because of the forcible transfer of others, detentions, destruction of a Catholic church, looting, restriction of freedom, forced labour, beatings, killings, threats, and harassment perpetrated by the JNA, Šešelj's men, Serbian volunteers, local authorities, SRS, paramilitaries from Prigrevica, SNB, police, TO, a "Special Unit", and SDG. Based on Radić's report (exhibit P551) as well as the evidence indicating that the vast majority of incidents in the SAO SBWS in 1991 and 1992 affected the non-Serb population, the Trial Chamber finds that a significant number of those fleeing this area were Croats. The Trial Chamber will further consider these incidents in relation to Counts 1, 4, and 5 of the Indictment, in chapter 4 below.

3.3 Bijeljina

3.3.1 Incidents of deportation and forcible transfer

579. According to the Indictment, the attacks, killings, arbitrary arrest and detention, burnings of Catholic churches and mosques, forced labour, torture, harassment, use of human shields, looting, rape and other forms of sexual abuse, as well as the threat of further persecutory acts, which targeted non-Serb civilians in Bijeljina municipality from no later than April 1991 until 31 December 1995, caused the non-Serb population to flee.¹²⁰² The forcible transfer and deportation took different forms, including forced expulsions.¹²⁰³

580. In this chapter, the Trial Chamber will begin by reviewing the Adjudicated Facts and evidence regarding the ethnic composition of and changes in the population of Bijeljina municipality from 1991 to 1997. Then, the Trial Chamber will turn to the alleged incidents. In this respect, the Trial Chamber will first review the Adjudicated Facts and evidence regarding killings and harassment in Bijeljina in March and April 1992 and then consider the Adjudicated Facts and evidence regarding killings, detention, and harassment in the municipality from April through September 1992.

Population of Bijeljina municipality

581. According to the Adjudicated Facts, the 1991 census in Bosnia-Herzegovina stated that the ethnic composition of Bijeljina municipality was 57,389 (59 per cent) Serbs, 30,229 (31 per cent) Muslims, 492 (1 per cent) Croats, 4,426 Yugoslavs, and 4,452 persons of other or unknown ethnicity.¹²⁰⁴

582. The Trial Chamber has received evidence on population changes in Bijeljina municipality. Having reviewed the Tabeau Report on IDPs and Refugees¹²⁰⁵ and the Tabeau Victims Report,¹²⁰⁶ the Trial Chamber considers that between 1992 and 1995, 399 persons, by majority Muslim and Serb civilians, died or went missing in Bijeljina municipality. In 1992 alone, 221 died or went missing. The Trial Chamber also considers changes in the ratio of civilian versus military victims among the ethnic groups between 1992 and 1995. The Trial Chamber further considers that the ethnic composition of the population of Bijeljina

¹²⁰² Indictment, paras 64-65.

¹²⁰³ Indictment, para. 65.

¹²⁰⁴ Adjudicated Facts IV, fact 254.

¹²⁰⁵ P1657 (Tabeau Report on IDPs and Refugees), Annex A, Tables 1NS, 1M, 1C, 1O, 1S, pp. 40-44. The Tabeau Report on IDPs and Refugees explains why changes in the size of ethnic groups in the period of 1991-1997 are measured in percentages and further explains the reliability of comparing such figures. See P1657 (Tabeau Report on IDPs and Refugees), p. 8 and Ewa Tabeau, T. 9902-9903.

municipality changed drastically in the period of 1991-1997: the non-Serb percentage of the population in the municipality decreased by 77.3 per cent. As further explained in chapter 2, the Trial Chamber will focus below on specific incidents of alleged deportation and forcible transfer in Bijeljina municipality set out below.

Take-over: killings and harassment in Bijeljina, March-April 1992

583. The Trial Chamber has taken judicial notice of relevant Adjudicated Facts and received evidence from Witness B-161, Witness JF-025, and Borislav Pelević, as well as documentary evidence in relation to the take-over of Bijeljina municipality.

584. According to the Adjudicated Facts, Bijeljina was the first municipality in Bosnia-Herzegovina to be taken over by the Bosnian Serbs in 1992. This seizure of power established a pattern which was later repeated in other municipalities in north-eastern Bosnia-Herzegovina.¹²⁰⁷ First, paramilitary groups, or so-called “volunteer units”, from Serbia arrived, and started intimidating and terrorizing local Muslims, as well as Serbs they considered “disloyal”. Many Muslims were killed. As a result, many of the remaining Muslims would eventually leave the territory.¹²⁰⁸ Actual fighting started in Bijeljina town on 31 March 1992. Members of Željko Ražnatović’s paramilitary group came to Bijeljina and, in cooperation with a local paramilitary group under the command of Mirko Blagojević, took control of important town structures.¹²⁰⁹ On 1 or 2 April 1992, armed JNA reservists surrounded the town and columns of JNA tanks and other vehicles were seen in the area.¹²¹⁰ Despite some resistance, Serb forces quickly took control of Bijeljina, and by 4 April 1992, Serb flags had been hoisted on the two mosques in the town.¹²¹¹ Arkan’s men were installed in the local SDS building and, for several days, accompanied all regular police patrols and were involved in arresting members of Bijeljina’s SDA presidency. At this time, members of the White Eagles and the local TO were also present in Bijeljina town.¹²¹² SDG members **Witness JF-025**¹²¹³ and **Borislav Pelević**¹²¹⁴ provided evidence consistent with the Adjudicated Facts related to the take-over of Bijeljina, including details on the actual take-

¹²⁰⁶ P1658 (Tableau Victims Report), Table 4 a-c, p. 20, Annex 2, Table A2.9, p. 38, Annex 3, Table A3.2, p. 39.

¹²⁰⁷ Adjudicated Facts IV, fact 255.

¹²⁰⁸ Adjudicated Facts IV, fact 256.

¹²⁰⁹ Adjudicated Facts IV, fact 257.

¹²¹⁰ Adjudicated Facts IV, fact 258.

¹²¹¹ Adjudicated Facts IV, fact 259.

¹²¹² Adjudicated Facts IV, fact 260.

¹²¹³ P612 (Witness JF-025, prior testimony 2003), pp. 18019, 18054; P611 (Second pseudonym sheet for Witness JF-025); P613 (First pseudonym sheet for Witness JF-025).

¹²¹⁴ Borislav Pelević, T. 16319, 16321-16322, 16515.

over, groups involved, and preparations for the take-over.¹²¹⁵ In his testimony, Witness JF-025 added that the attack on Bijeljina did not involve the JNA or the police of the Republic of Serbia.¹²¹⁶ The witness testified that as a result of the attack, whoever could leave Bijeljina left the town.¹²¹⁷

585. **Witness B-161**, a Serb from Zvornik,¹²¹⁸ stated that local politicians in Bijeljina, including Predrag Ješurić, the chief of Bijeljina MUP, and Mauzer, a member of the SDS and the founder of the paramilitary unit called the Serbian National Guard, had brought in 86 SDGs under the command of Željko Ražnjatović, Arkan, to Bijeljina from Serbia.¹²¹⁹ According to a report by Bijeljina SJB Chief Ješurić to the Bosnian-Serb Republic MUP, on the night of 31 March and on 1 April 1992, the TO and the SDG removed barricades which had been set up in the centre of Bijeljina by Bosnian Muslims.¹²²⁰ The TO and the SDG did so under the supervision of the Bijeljina Municipal Assembly Crisis Staff. The removal of barricades and dispersing of Muslim extremists continued until 6 April 1992, when the “mopping up” was completed.¹²²¹ On 4 April 1992, Major General Savo Janković, Commander of the JNA 17th Corps, reported that there were around 3,000 refugees in the barracks and at the Patkovača Cooperative Hall.¹²²²

586. According to the Adjudicated Facts, at least 48 civilians, most of whom were non-Serbs, had been killed by Serb paramilitaries during the Serb take-over of Bijeljina.¹²²³ Forty-five of these victims were non-Serbs and none wore uniforms. Most of the dead had been shot in the chest, mouth, temple, or back of the head, some at close range.¹²²⁴ The removal of bodies from the streets of Bijeljina was ordered by Serb forces in anticipation of a visit on 4 April 1992 of a delegation of high-ranking Bosnia-Herzegovina officials, including Biljana Plavšić, Fikret Abdić, Minister of Defence Jerko Doko (a Croat), and chief-of-staff of

¹²¹⁵ P612 (Witness JF-025, prior testimony 2003), pp. 18029-18039, 18042, 18073-18081, 18089-18090; Witness JF-025, T. 6244, 6247, 6258-6259, 6262, 6267-6270, 6280-6281, 6300-6301; Borislav Pelević, T. 16346-16350, 16478-16484; P602 (Map of central Bosnia-Herzegovina annotated by Witness JF-025); P603 (Map of downtown Bijeljina drawn by Witness JF-025); P604 (Map of former Yugoslavia, with path from Erdut to Bijeljina indicated by Witness JF-025); P608 (Video of combat in Bijeljina).

¹²¹⁶ P612 (Witness JF-025, prior testimony 2003), p. 18072.

¹²¹⁷ Witness JF-025, T. 6247.

¹²¹⁸ P589 (Witness B-161, *Slobodan Milošević* transcript, 22-23 May and 2 July 2003), p. 21052; P601 (Death certificate of Witness B-161, 27 April 2006).

¹²¹⁹ P589 (Witness B-161, *Slobodan Milošević* transcript, 22-23 May and 2 July 2003), pp. 21004, 21052-21056, 21058, 21109; P590 (List of names to be referred to during testimony, 19 May 2003); P593 (Organisational chart showing the structure of SDB).

¹²²⁰ P1368 (Report on the situation in Bijeljina municipality to Bosnian-Serb Republic MUP, by Ješurić).

¹²²¹ P1368 (Report on the situation in Bijeljina municipality to Bosnian-Serb Republic MUP, by Ješurić), p. 2.

¹²²² P1371 (17th Corps Daily operative report, Major General Savo Janković, 4 April 1992), p. 1.

¹²²³ Adjudicated Facts IV, fact 261.

¹²²⁴ Adjudicated Facts IV, fact 263.

the JNA 2nd Military District General Prašćević.¹²²⁵ At the military barracks, a large number of displaced persons of different ethnicities were surrounded by ten to fifteen JNA soldiers. At the time, General Janković, commander of the 17th Corps of the JNA, claimed he was providing shelter to 309 Muslims and Serbs at the barracks, and that another 1,500 Muslims were at the Patkovača barracks.¹²²⁶ When, in the course of the visit, Plavšić asked Arkan to hand over control of Bijeljina to the JNA, he replied that he had not yet finished his “business” there, and that he would settle the situation in Bosanski Brod next. Plavšić did not persist with her request, and repeatedly praised the good job Arkan had done in saving the local Serb population from the threat of the Muslims.¹²²⁷ When the group returned to the municipality building, Plavšić publicly thanked and kissed Arkan.¹²²⁸ Arkan’s men remained in Bijeljina until at least May 1992.¹²²⁹

587. Based on the Adjudicated Facts and the evidence received, the Trial Chamber finds that in March 1992, Arkan’s men arrived in Bijeljina and started intimidating and terrorizing local Muslims and “disloyal” Serbs. Arkan’s men, a local paramilitary group under Mirko Blagojević, the TO, and the Bijeljina SDS had taken control of Bijeljina town by 4 April 1992. Members of these groups killed at least 45 non-Serb civilians during the take-over. As a result of the take-over, many Muslims left the town. The Trial Chamber will further consider the above incident in relation to Counts 1, 4, and 5 of the Indictment, in chapter 4, below.

Aftermath of take-over: killings, detention, and harassment in Bijeljina, April-September 1992

588. The Trial Chamber has taken judicial notice of relevant Adjudicated Facts and received evidence from Witness B-161 and documentary evidence in relation to the aftermath of the take-over of Bijeljina municipality.

589. According to the Adjudicated Facts, in the months following the take-over of Bijeljina, paramilitary groups in the municipality, together with members of the local MUP, engaged in criminal activities on a massive scale.¹²³⁰ Muslim residents of Bijeljina, as well as some Serbs, were terrorized by these groups.¹²³¹ During the summer of 1992, two mosques in

¹²²⁵ Adjudicated Facts IV, fact 264.

¹²²⁶ Adjudicated Facts IV, fact 266.

¹²²⁷ Adjudicated Facts IV, fact 270.

¹²²⁸ Adjudicated Facts IV, fact 271.

¹²²⁹ Adjudicated Facts IV, fact 273.

¹²³⁰ Adjudicated Facts IV, fact 279.

¹²³¹ Adjudicated Facts IV, fact 280.

Bijeljina municipality were damaged or destroyed.¹²³² Both Muslims and Serbs were leaving Bijeljina as a result of this pressure and terrorization.¹²³³

590. On 15 June 1992, Ljubiša (Mauzer) Savić stated that the presidency of SAO Semberija-Majevica had decided to replace Muslims in managerial positions in Bijeljina, and should “the genocide against the Serbian people” in Bosnia-Herzegovina continue, all Muslims would be fired from their jobs and expelled from the territory.¹²³⁴ Mauzer also stated that the 2,500 Muslims aged between 18 and 35 who had fled Bijeljina in the aftermath of the Serb take-over would lose their jobs, and their apartments would be seized and sealed, and he advised them not to return.¹²³⁵ The Bijeljina SDS compiled a list of names of wealthy Muslims.¹²³⁶ Aided by Mauzer’s men, Vojkan Đurković of the Bijeljina SDS paid visits to those on the list in order to extort property from them. Some of these Muslims initially paid to be able to stay in Bijeljina. Others were detained immediately, stripped of their valuables, and transferred to “no-man’s land” between the warring factions, where they remained, sometimes for days, before being able to cross into Muslim-controlled territory.¹²³⁷ The Bijeljina SDS was determined to rid the municipality of its remaining Muslims.¹²³⁸ At least 52 persons of mainly Muslim ethnicity were killed by Serb forces in Bijeljina municipality in April-September 1992.¹²³⁹

591. From at least June 1992, Serbs detained Muslims and Croats in the Batković camp in Bijeljina municipality. Many had been transferred from other detention facilities, particularly Sušica camp in Vlasenica and Manjača camp in Banja Luka.¹²⁴⁰ In August 1992, the commander at the camp was Velibor Stojanović. At that time, around 1,280 Muslim men were detained in a single warehouse. There were also some women, children, and elderly persons detained in a separate area.¹²⁴¹ Sanitary conditions at Batković were poor and detainees were given little food or water. The detainees were beaten by Serb guards. Three detainees were beaten to death while one detainee was shot dead. Ten detainees were singled out for especially harsh treatment. They were beaten three times a day, forced to beat each other, and repeatedly forced to engage in degrading sexual acts with each other in the presence of other

¹²³² Adjudicated Facts IV, fact 281.

¹²³³ Adjudicated Facts IV, fact 281a.

¹²³⁴ Adjudicated Facts IV, fact 282.

¹²³⁵ Adjudicated Facts IV, fact 283.

¹²³⁶ Adjudicated Facts IV, fact 285.

¹²³⁷ Adjudicated Facts IV, fact 286.

¹²³⁸ Adjudicated Facts IV, fact 287.

¹²³⁹ Adjudicated Facts IV, fact 288.

¹²⁴⁰ Adjudicated Facts IV, fact 274.

¹²⁴¹ Adjudicated Facts IV, fact 275.

detainees. Detainees at Batković were forced to perform manual labour daily, including digging trenches and carrying munitions at the front line, burying bodies, working in fields and factories, and assisting in the construction of an airport near Bijeljina.¹²⁴²

592. In addition to the Batković camp, Serb authorities detained mostly Croat and Muslim civilians in six detention centres in Bijeljina municipality, namely the Bijeljina agricultural school, KP Dom Bijeljina, the Bijeljina SUP, the Bijeljina sugar factory, a fortified castle, and the “4th of July” public utilities building.¹²⁴³ From late May 1992 onwards, Muslims were detained in the Dom Kulture building in Čelopek village.¹²⁴⁴ In early June, a paramilitary group from Serbia assaulted the detainees with spiked metal bars and chains. Some detainees were forced to beat each other.¹²⁴⁵ On or about 20 February 1993, 50 prisoners were exchanged in Lipovac from Batković to Croatia, for 32 soldiers from Pale.¹²⁴⁶ The Trial Chamber also recalls Adjudicated Fact I 396 as set out in chapter 3.4.2.

593. The Trial Chamber also received evidence in relation to a specific incident of people leaving Bijeljina. During a visit to Bijeljina, **Witness B-161**, a Serb from Zvornik,¹²⁴⁷ was asked to transport a Muslim family, who knew his brother, out of Bijeljina. This family feared being killed because they were Muslims. The witness succeeded in transporting this family out of Bijeljina and to Belgrade.¹²⁴⁸

594. The Trial Chamber further received evidence from two reports from Bijeljina authorities describing the aftermath of the take-over of Bijeljina. In a report dated July 1992, addressed to the Bosnian-Serb Republic MUP, Bijeljina SJB, the Chief of Department Danilo Vuković asserted, based upon his department’s investigations, that after the conflict in Bijeljina men from Arkan’s units and SJB employees stole many guns from civilians and from the Bijeljina SJB warehouse.¹²⁴⁹

595. On 29 July 1992, Dragan Andan, Chief of the Bijeljina CSB, reported that the Bosnian-Serb MUP had re-stabilised the security situation within Bijeljina after a brief take-over by paramilitary units present in the area, primarily the SDG. The SDG had established their own authority in the region, which had operated in parallel to the government.

¹²⁴² Adjudicated Facts IV, fact 276.

¹²⁴³ Adjudicated Facts IV, fact 278.

¹²⁴⁴ Adjudicated Facts V, fact 341a.

¹²⁴⁵ Adjudicated Facts V, fact 342.

¹²⁴⁶ Adjudicated Facts I, fact 400.

¹²⁴⁷ P589 (Witness B-161, *Slobodan Milošević* transcript, 22-23 May and 2 July 2003), p. 21052; P601 (Death certificate of Witness B-161, 27 April 2006).

¹²⁴⁸ P589 (Witness B-161, *Slobodan Milošević* transcript, 22-23 May and 2 July 2003), pp. 21014-21015, 21068.

According to the report, the SDG was initially present in the area in order to aid the Bosnian-Serb TO in overcoming an attack by Muslim armed units on 1 April 1992. It was further reported that the SDG had committed numerous crimes, including rape, theft, and murder. The SDG reportedly committed these abuses against both Muslims and Serbs and both Muslims and Serbs departed from Bijeljina town due to the pressure from paramilitary organizations. The CSB took several measures in response, including setting up checkpoints, patrolling, and dismissing any CSB members responsible for illegal practices.¹²⁵⁰

596. Based on the Adjudicated Facts and the evidence received, the Trial Chamber finds that following the take-over of Bijeljina, from at least April to September 1992, paramilitary groups, particularly the SDG, and local MUP members detained, killed, sexually assaulted, and terrorized mostly Muslim and some Serb residents of Bijeljina and destroyed or damaged two Mosques. Mauzer also threatened that Muslims would lose their jobs and be expelled and advised them not to return. As a result of all of this, thousands of the remaining Muslims as well as some Serbs, left the territory. This included one Muslim family who arranged their transportation to Serbia, as they feared for their lives.

597. On the basis of the Adjudicated Facts, the Trial Chamber finds that in 1992 following the take-over of Bijeljina, the Bijeljina SDS, aided by Mauzer's men, and in an effort to rid the municipality of its remaining Muslims, transferred some of Bijeljina's Muslim residents to "no-man's land" between the warring factions.

598. Based on the Adjudicated Facts, the Trial Chamber finds that from at least June 1992, Serb authorities transferred over 1,200 Muslim and Croat civilians to Batković camp and other locations, where they detained them. The detainees were held in horrible conditions. Some detainees were beaten, killed, forced to perform degrading sexual acts and forced to perform manual labour. The Trial Chamber finds that at least some of the detainees from the Batković camp were exchanged to Croatia in early 1993, The Trial Chamber will further consider the above incidents in relation to Counts 1, 4, and 5 of the Indictment, in chapter 4, below.

¹²⁴⁹ P2598 (Report to Bosnian-Serb Republic MUP by Danilo Vuković, July 1992), p. 2.

¹²⁵⁰ P1378 (Bosnian-Serb MUP report on temporary SDG take-over of Bijeljina, signed by Dragan Andan, 29 July 1992), pp. 1-3, 5.

3.4 Bosanski Šamac

3.4.1 Murder of at least 16 non-Serb civilians in Crkvina on or about 7 May 1992

(Indictment, para. 50)

599. According to the Indictment, on or about 6 May 1992, approximately 50 Bosnian Croat and Bosnian Muslim detainees, who had been detained at the Bosanski Šamac TO building, were moved by the Serb authorities to an agricultural building in Crkvina. On or about 7 May 1992, Slobodan Miljković and Dragan Đorđević, with other members of the Serb forces (as defined in paragraph 6 of the Indictment), including special units of the Republic of Serbia DB (as described in paragraph 4 of the Indictment) went to Crkvina. They beat the non-Serb detainees and killed at least 16 of the non-Serb civilian detainees.¹²⁵¹ The Trial Chamber has taken judicial notice of the Adjudicated Facts in relation to these alleged murders. It has also heard relevant testimony from Stevan Todorović, Goran Stoparić, Witness B-1108, Witness JF-047, and Witness B-1638, and received relevant forensic documentation.

600. According to the Adjudicated Facts, on 7 May 1992, “Lugar”, “Crni”, and “Debeli” came to the warehouse, beat Jozo Antunović, and hit him on the back of his head, before “Lugar” shot him dead with three shots.¹²⁵² On this occasion, nine non-Serb detainees were killed by “Lugar”, “Crni”, and “Debeli”.¹²⁵³ The other detainees were lined up again and beaten. Thereafter, six men from Teslić were killed. When the three men counted everyone, they realized that someone was missing. “Crni” found him hiding behind a sack, and shot him.¹²⁵⁴ The Trial Chamber has further reviewed Adjudicated Facts 299 and 300 in chapter 3.4.2, concerning the arrival of paramilitaries to Batkusa.

601. **Witness B-1108**, a Croat from the Bosanski Šamac area,¹²⁵⁵ testified that on 2 May 1992, he and others were arrested by two Serb policemen, with the nicknames Tubonja and Crnogorac (the witness later heard that Tubonja was a local and Crnogorac was from Serbia), and taken to the Bosanski Šamac camp in the TO building.¹²⁵⁶ The witness’s fellow detainees were mostly Muslim or Croat; they were civilians, and only Luka Gregurević, who worked in

¹²⁵¹ Indictment, para. 50.

¹²⁵² Adjudicated Facts I, fact 384.

¹²⁵³ Adjudicated Facts I, fact 385; see also Adjudicated Facts I, fact 324.

¹²⁵⁴ Adjudicated Facts I, fact 385.

¹²⁵⁵ P122 (Witness B-1108, witness statement, 8 December 1994), pp. 1-2; Witness B-1108, T. 2729.

¹²⁵⁶ P122 (Witness B-1108, witness statement, 8 December 1994), pp. 2, 4-5; Witness B-1108, T. 2658, 2692-2694; P125 (Official note of detention for Witness B-1108, 23 September 1992).

the police before the war, was wearing a uniform.¹²⁵⁷ On 7 May 1992 around 7 p.m., the witness and nine other prisoners were taken from the TO building in Bosanski Šamac to a warehouse in Crkvina which housed other prisoners.¹²⁵⁸ Around 10 p.m., two persons, whom the witness judged to be non-locals because of their Serbian accents, entered the warehouse, together with two guards, one of whom was wearing a rifle. The next day, Witness B-1108 learned from a man who kept the key of the warehouse, that the two men were called “Lugar” and “Debeli”. The prisoners were not allowed to look at the men and therefore could not take in their appearance, however, the witness could see that Lugar and Debeli wore camouflage uniforms with patches on them. Debeli beat Jozo Antunović before Lugar shot him three times. The two men then killed six or seven other prisoners, including Luka Gregurević. The remaining prisoners were then lined up and, after being asked about their professions, some of them were killed, including Ilija Matić, Niko Brandić, Josip Oršolić, and Ivo Tuzlak. According to the witness, “Lugar” ordered “Debeli” to kill several of these detainees. The witness counted 16 dead bodies after they had left.¹²⁵⁹ Besides those mentioned, the witness listed the following as being among the dead: Ivan Agatić, Luka Blažanović, and Sead Hurtić.¹²⁶⁰ None of the prisoners in the warehouse were Serbs. Witness B-1108 later noticed that other people referred to the man he called Debeli as Pralja. At a later stage, Witness B-1108 heard from policemen that Lugar’s real name was Slobodan Miljković. Lugar’s direct superior was Crni, who the witness saw once at the camp. Other people later told the witness that Lugar and Debeli sometimes wore black caps. According to the witness, people in camouflage uniform were referred to as “Šešelj’s men”.¹²⁶¹

602. **Witness JF-047**, a Serb who was a member of various paramilitary units including the unit referred to him as the Red Berets,¹²⁶² testified that on 7 May 1992, Lugar told him that he had been ordered to do a job and invited him to go to Crkvina together. In Crkvina, the witness entered some kind of warehouse together with Lugar, Tralja, and Debeli Musa (the witness clarified that he was a different person than his commander Srećko Radovanović, a.k.a. Debeli), who the witness referred to as Red Berets members, and two or three TO

¹²⁵⁷ Witness B-1108, T. 2658-2659; P134 (Interviews with German detainee), p. 2.

¹²⁵⁸ P122 (Witness B-1108, witness statement, 8 December 1994), pp. 5-7; Witness B-1108, T. 2660-2661; P128 (Photograph of TO building); P129 (Photographs of Crkvina warehouse).

¹²⁵⁹ P122 (Witness B-1108, witness statement, 8 December 1994), pp. 6-8; P123 (Witness B-1108, corrections to 1994 witness statement, 13 December 2009); Witness B-1108, T. 2661, 2664-2665, 2668.

¹²⁶⁰ Witness B-1108, T. 2667; P130 (List of victims from Crkvina as marked by Witness B-1108).

¹²⁶¹ Witness B-1108, T. 2665-2667, 2669, 2696-2697, 2707-2708.

¹²⁶² P1516 (Witness JF-047, witness statement, 22 April 2004), p. 1, paras 9, 25, 48.

members.¹²⁶³ **Goran Stoparić**, a former member of the Skorpions,¹²⁶⁴ testified that he knew Tralja and that his real name was Goran Simovic.¹²⁶⁵ On 26 November 1992, an investigative judge of the military court in Banja Luka issued a decision in criminal proceedings against a number of accused, including Goran Simović, a.k.a. “Tralja”.¹²⁶⁶ **Witness JF-047** further testified that Lugar had an automatic rifle and a 5.56-milimetre carbine, Tralja had an automatic rifle and a TT pistol, and Debeli Musa had an automatic rifle.¹²⁶⁷ The witness observed about 30-35 men dressed in civilian clothes lined up against two walls.¹²⁶⁸ The warehouse was guarded by seven or eight members of the TO. When leaving the warehouse, the witness heard shots fired, coming from several different weapons being: an automatic rifle, pistols, a shot-gun, and a 5.56-milimetre carbine.¹²⁶⁹ The Bosnian-Serb MUP reported that 16 persons of Muslim and Croat ethnicity were killed that day by Lugar and two other unidentified persons who were members of the same unit under the command of Dragan Đorđević, a.k.a. Crni.¹²⁷⁰

603. **Stevan Todorović**, the Serb Chief of Police of Bosanski Šamac from April 1992 through at least December 1993,¹²⁷¹ stated that in early May 1992 he became aware of a massacre that had occurred at Crkvina. He was told that Slobodan Miljković, a.k.a. Lugar, killed 16 detainees with a short-barrelled rifle. Todorović stated that Miljković was a member of the SRS and a member of the special unit of the SDB of Serbia that came to Bosanski Šamac. According to Todorović, Miljković was also a member of a JNA unit that was present in Bosanski Šamac at that time.¹²⁷²

¹²⁶³ P1516 (Witness JF-047, witness statement, 22 April 2004), para. 46; Witness JF-047, T. 7642-7645; P1416 (Report of the Bosnian-Serb MUP concerning the situation at the Bosanski Šamac SJB, the arrest of the SJB Chief by military organs and the closing down of the Krajina-FRY-corridor, 19 November 1992), p. 2.

¹²⁶⁴ P1702 (Goran Stoparić, witness statement, 24 November 2003), paras 68, 77; Goran Stoparić, T. 10327.

¹²⁶⁵ Goran Stoparić, T. 10356

¹²⁶⁶ D1207 (Decision of the military court in Banja Luka, investigative judge Nikola Tomašević, 26 November 1992), pp. 1-2, 5. The Trial Chamber notes that these criminal proceedings related to acts separate from the murder incident reviewed in this chapter.

¹²⁶⁷ Witness JF-047, T. 7646-7647.

¹²⁶⁸ P1516 (Witness JF-047, witness statement, 22 April 2004), para. 46; Witness JF-047, T. 7645-7646.

¹²⁶⁹ Witness JF-047, T. 7612-7613, 7643, 7646-7647.

¹²⁷⁰ P1416 (Report of the Bosnian-Serb MUP concerning the situation at the Bosanski Šamac SJB, the arrest of the SJB Chief by military organs and the closing down of the Krajina-FRY-corridor, 19 November 1992), p. 2.

¹²⁷¹ P1576 (Stevan Todorović, *Slobodan Milošević* transcript, 30 June 2003), p. 43290; P1578 (Stevan Todorović, Plea agreement between the Prosecutor and Stevan Todorović in *Simić et al.*, 29 November 2000), Annex, p. 2.

¹²⁷² P1576 (Stevan Todorović, *Slobodan Milošević* transcript, 30 June 2003 pp. 23426, 23429, 23464-23465, 23522; P1579 (Stevan Todorović, List of terms and names used in *Slobodan Milošević* testimony, 31 August 2010).

604. **Witness B-1638**, a Croat from Bosnia-Herzegovina,¹²⁷³ stated that he heard from survivors of the Crkvina massacre that eight Croats and seven Muslims were killed, that the chief of the “killing squad” was a person called Lugar, and that he heard from others that a total of 16 or 17 people were killed there.¹²⁷⁴

605. On 20 December 1993 the RDB commenced operative processing of Slobodan Miljković, a.k.a. Lugar. According to RDB information, from September 1991 to October 1992, Lugar participated in combat in Eastern Slavonia and Bosanski Šamac as part of a 10-men unit from Kragujevac. In Bosanski Šamac, his unit acted under the command of the “Srpska Army” but following Bosanski Šamac’s take-over, he declared himself commander and acted independently, ordering his men to beat the prisoners, and deciding which prisoners to exchange for large sums of money and, which prisoners to execute. This led to a conflict with the “Srpska Army’s” commanders and in October 1992 Lugar was arrested and spent several months imprisoned in Banja Luka.¹²⁷⁵

606. According to forensic documentation, the following bodies were exhumed in Crkvina, Bosanski Šamac municipality, on 6 December 2008: Ivan Agatić (1965, skull fracture, cause of death possibly a firearm injury), Jozo Antunović (1960, civilian clothes, cause of death probably a firearm injury), Džemal Balić (1953, civilian clothes, cause of death probably a firearm injury), Luka Blažanović (1956, civilian clothes, cause of death probably a firearm injury), Niko Brandić (1959, civilian clothes), Miro Ćorković (1967, civilian clothes, cause of death probably a firearm injury), Luka Gregurević (1955, dark blue police jacket and greyish-blue police trousers, cause of death probably a firearm injury), Husein Hrnić (1960, civilian clothes), Sead Hurtić (1963, civilian clothes, cause of death probably a firearm injury), Izet Kahrimanović (1967, civilian clothes, cause of death possibly a firearm injury), Franjo Mandić (1946, civilian clothes), Ilija Matić (1947, civilian clothes, head injury, unnatural and violent cause of death), Nezir Nadžak (1967, civilian clothes, cause of death probably a firearm injury), Josip Oršolić (1948, civilian clothes, cause of death probably a firearm injury), Selim Purak (1957, civilian clothes, unnatural and violent cause of death, possibly a

¹²⁷³ P1809 (Witness B-1638, witness statement, 9 February 1995), pp. 1-2; P1810 (Attestation and declaration of Witness B-1638, 22 May 2010); P1812 (Declaration as to temporary seizure of goods of Witness B-1638, 5 July 1992); P1814 (Certificate issued by the Crisis Staff of the municipality of Bosanski Šamac, 11 September 1992).

¹²⁷⁴ P1809 (Witness B-1638, witness statement, 9 February 1995), p. 17; P1811 (Witness B-1638, *Blagoje Simić et al.* transcript, 30 July-1 August 2002), pp. 11722, 11747.

¹²⁷⁵ D279 (RDB decision on operative processing of Miljkovic, 20 December 1993), pp. 1-2.

firearm injury), and Ivo Tuzlak (1951, civilian clothes).¹²⁷⁶ The parties agree on the identities of these 16 victims.¹²⁷⁷

607. The Trial Chamber has carefully considered the evidence of Witness JF-047 in light of the witness's own possible involvement in the crimes committed and notes that this is generally consistent with the testimonies of others, including Witness B-1638 and Witness B-1108.¹²⁷⁸ In addition, the Trial Chamber notes that the Adjudicated Facts cover most of the aspects discussed by Witness JF-047, but differ with regard to the persons present and the identity of the perpetrators. The Trial Chamber considers that as a member of the same unit, Witness JF-047 may have been reluctant to disclose any possible personal involvement, but was able to provide clear and detailed evidence on who was or was not present in Crkvina on 7 May 1992. The Trial Chamber will therefore rely on his evidence in this respect.

608. On the basis of the Adjudicated Facts and on the basis of the evidence of Witness B-1108, Witness JF-047, and Witness B-1638, the forensic documentation, and exhibit P1416, the Trial Chamber finds that on or about 7 May 1992, three men shot and killed nine men, namely Jozo Antunović, Ivan Agatić, Luka Blažanović, Niko Brandić, Luka Gregurević, Sead Hurtić, Ilija Matić, Josip Oršolić, and Ivo Tuzlak, at the Crkvina warehouse in Bosanski Šamac municipality.¹²⁷⁹

¹²⁷⁶ P2269 (Record of identification for Ivan Agatić, 6 June 2009); P2270 (Record of identification for Jozo Antunović, 6 June 2009); P2271 (Record of identification for Džemal Balić, 6 June 2009); P2272 (Record of identification for Luka Blažanović, 6 June 2009); P2273 (Record of identification for Niko Brandić, 6 June 2009); P2274 (Record of identification for Miro Ćorković, 6 June 2009); P2275 (Record of identification for Luka Gregurević, 6 June 2009); P2276 (Record of identification for Husein Hrnić, 6 June 2009); P2277 (Record of identification for Sead Hurtić, 6 June 2009); P2278 (Record of identification for Izet Kahrimanović, 6 June 2009); P2279 (Record of identification for Franjo Mandić, 6 June 2009); P2280 (Record of identification for Ilija Matić, 6 June 2009); P2281 (Record of identification for Nezir Nadžak, 6 June 2009); P2282 (Record of identification for Josip Oršolić, 6 June 2009); P2283 (Record of identification for Selim Purak, 6 June 2009); P2284 (Record of identification for Ivo Tuzlak, 6 June 2009); P2285 (Forensic report for Ivan Agatić, 2 February 2009), pp. 1, 3; P2286 (Forensic report for Jozo Antunović, 31 January 2009), pp. 1, 3; P2287 (Forensic report for Džemal Balić, 3 February 2009), pp. 1, 3; P2288 (Forensic report for Luka Blažanović, 3 February 2009), pp. 1, 3; P2289 (Forensic report for Niko Brandić, 30 January 2009), pp. 1, 3; P2290 (Forensic report for Miro Ćorković, 2 February 2009), pp. 1, 3; P2291 (Forensic report for Luka Gregurević, 2 February 2009), pp. 1, 3; P2292 (Forensic report for Husein Hrnić, 3 February 2009), pp. 1, 3; P2293 (Forensic report for Sead Hurtić, 3 February 2009), pp. 1, 3; P2294 (Forensic report for Izet Kahrimanović, 2 February 2009), pp. 1, 3; P2295 (Forensic report for Franjo Mandić, 3 February 2009), pp. 1, 3; P2296 (Forensic report for Ilija Matić, 2 February 2009), pp. 1, 3; P2297 (Forensic report for Nezir Nadžak, 30 January 2009), pp. 1, 3; P2298 (Forensic report for Josip Oršolić, 2 February 2009), pp. 1, 3; P2299 (Forensic report for Selim Purak, 2 February 2009), pp. 1, 3; P2300 (Forensic report for Ivo Tuzlak, 2 February 2009), pp. 1, 3. The Trial Chamber notes that in the English translation of P2720 the date of exhumation is illegible. It is however clearly legible in the original version of the exhibit.

¹²⁷⁷ Decision on motion for admission of agreed facts, 12 January 2011; First Joint Motion for Admission of Agreed Facts between the Prosecution and the Stanišić Defence, 16 February 2010, Annex A, Part L.

¹²⁷⁸ The Trial Chamber further considers Witness JF-047's reliability in chapter 3.4.2.

¹²⁷⁹ The forensic evidence does not provide a clear cause of death for Niko Brandić and Ivo Tuzlak. The Trial Chamber is nonetheless satisfied that they were shot and killed in view of the Adjudicated Facts and the remainder of the evidence before it.

609. The forensic evidence shows that the bodies of Džemal Balić, Miro Ćorković, Izet Kahrmanović, Nezir Nadžak, Selim Purak, Husein Hrnić, and Franjo Mandić were likewise exhumed in Crkvina, and that the possible or probable cause of death for five of these men was a firearm injury. Having further considered that according to the Adjudicated Facts, 16 detainees were killed in this incident, the Trial Chamber finds that on or about 7 May 1992, the same three men also shot and killed the above seven persons, at the Crkvina warehouse.¹²⁸⁰ Based on the Adjudicated Facts and having reviewed the evidence of Witness B-1108, the Trial Chamber finds that prior to killing the 16 men, the perpetrators had lined several of them up against the wall.

610. On the basis of the forensic evidence and the testimonies of Witness B-1108 and Witness JF-047, the Trial Chamber finds that except for Luka Gregurević, who was wearing a police uniform, all the victims were wearing civilian clothes at the time of the killing. On the basis of the Adjudicated Facts, exhibit P1416 and the evidence of Witness B-1108 and Witness B-1638, the Trial Chamber finds that the above 16 victims were of either Croat or Muslim ethnicity.

611. The Adjudicated Facts above establish that Lugar, Crni, and Debeli killed the aforementioned 16 men. On the basis of these Adjudicated Facts and Adjudicated Fact I-300 in chapter 3.4.2 and having reviewed the evidence before it, the Trial Chamber finds that Slobodan Miljković (a.k.a. Lugar) was one of the perpetrators of this incident. The Trial Chamber recalls its findings in chapter 6.3.3, that Slobodan Miljković (a.k.a. Lugar) was one of the members of the Unit recruited and trained at the Ilok camp and in chapter 3.4.2 that he was among the Unit members who participated in the operations in Bosanski Šamac in April 1992. The Trial Chamber concludes that Slobodan Miljković was a Unit member at the time of the killing on or about 7 May 1992.

612. However, the evidence before the Trial Chamber differs significantly from the Adjudicated Facts in respect of the remaining perpetrators of this incident. Witness JF-047 testified that he accompanied Lugar, Debeli Musa, and Tralja to the Crkvina warehouse and that they remained in the warehouse when he left, after which he heard shots being fired. Witness JF-047 knew Lugar, Debeli Musa, and Tralja, and considered them members of the unit he also belonged to. The Trial Chamber has further reviewed the evidence of Witness JF-

¹²⁸⁰ The forensic evidence does not provide a clear cause of death for Husein Hrnić and Franjo Mandić. The Trial Chamber is nonetheless satisfied that they were shot and killed in view of the Adjudicated Facts and the remainder of the evidence before it,

047 in chapter 3.4.2 and notes that although the witness knew Crni and Debeli as his commanders, he did not see them at the Crkvina warehouse at the relevant time. The witness clarified that Debeli Musa was not the same person as his commander Debeli. In view of the above, the Trial Chamber finds that the evidence of Witness JF-047 rebuts the Adjudicated Facts with regard to the identity of the remaining perpetrators of this incident.

613. The Trial Chamber will now turn to the evidence it has received in respect of the remaining perpetrators. Witness B-1108 testified that there were only two perpetrators. Witness B-1108 was not, however, allowed to look at the perpetrators, he was only subsequently told their nicknames, and was confused about the identity of one of them who he called Debeli, but others referred to as Pralja. In this respect the Trial Chamber considers the similarities between the nicknames Pralja and Tralja, the latter having been referred to by Witness JF-047. The evidence of Witness B-1108 indicates that there were also two guards at the Crkvina warehouse at the time of the killing, one of whom was armed with a rifle. The witness, however, failed to identify the two guards. In view of the above, the Trial Chamber considers that the evidence of Witness B-1108 is inconclusive as to the number and identity of the perpetrators.

614. On the basis of the evidence of Witness JF-047 and exhibit P1416, a Bosnian-Serb MUP Report indicating that Lugar and two other persons from the same unit were responsible for the killings at the Crkvina warehouse, the Trial Chamber finds that the other two perpetrators of this incident were nicknamed Debeli Musa and Tralja. Having considered the testimony of Goran Stoparić, the Trial Chamber finds that Tralja's name was Goran Simović.

615. On the basis of the evidence of Witness JF-047 and exhibit P1416, a Bosnian-Serb MUP Report indicating that Lugar and two other persons from the same unit were responsible for the killings at the Crkvina warehouse, the Trial Chamber finds that the other two perpetrators of this incident were nicknamed "Debeli Musa" and "Tralja". Having considered the testimony of Goran Stoparić, as corroborated by the Banja Luka military court's decision (in evidence as D1207), the Trial Chamber finds that Tralja's name was Goran Simović. The Trial Chamber refers to its findings in chapter 3.4.2, that Goran Simović (a.k.a. Tralja) was one of the members of the Unit who participated in the operations in Bosanski Šamac in April 1992. The Trial Chamber concludes that Goran Simović was a Unit member at the time of the killing on or about 7 May 1992. The evidence does not clearly establish the real name of the person nicknamed "Debeli Musa", nor whether this is the same person as the person referred to as "Musa" who, according to evidence reviewed in chapter 3.4.2 participated in the

operations in Bosanski Šamac in April 1992. The Trial Chamber concludes that it has received insufficient evidence regarding the person known as Debeli Musa to determine to which armed forces, if any, he belonged.

616. The Trial Chamber will further consider this incident in relation to Counts 1, 2, and 3 of the Indictment in chapter 4, below.

3.4.2 Incidents of deportation and forcible transfer

617. According to the Indictment, the attacks, killings, arbitrary arrest and detention, burnings of Catholic churches and mosques, forced labour, torture, harassment, use of human shields, looting, rape and other forms of sexual abuse, as well as the threat of further persecutory acts, which targeted non-Serb civilians in Bosanski Šamac municipality from no later than April 1991 until 31 December 1995, caused the non-Serb population to flee.¹²⁸¹ The forcible transfer and deportation took different forms, including forced expulsions.¹²⁸²

618. In this chapter, the Trial Chamber will begin by reviewing the Adjudicated Facts and evidence regarding the ethnic composition of, and changes in the population of Bosanski Šamac municipality from 1991 to 1997. Then, the Trial Chamber will turn to the alleged crimes. In this respect, the Trial Chamber will first review the evidence on forces present in the municipality before 17 April 1992. Then, it will consider the Adjudicated Facts and evidence concerning the take-over of Bosanski Šamac town on 17 and 18 April 1992, including the attack, killings, and initial arrests and detention. Finally, it will examine the Adjudicated Facts and evidence on arbitrary arrest and detention in the municipality in the aftermath of the attack, including beatings, mistreatment, killings, forced labour, and exchanges of prisoners.

619. The Trial Chamber has received evidence from **Sulejman Tihiić**, a Bosnian Muslim and former President of the SDA in Bosanski Šamac,¹²⁸³ and **Dragan Lukač**, a Croat police officer from Bosanski Šamac,¹²⁸⁴ indicating that many Serbs and Croats left Bosanski Šamac

¹²⁸¹ Indictment, paras 64-65.

¹²⁸² Indictment, para. 65.

¹²⁸³ P173 (Sulejman Tihiić, witness statement of 31 October 1994), witness information, p. 1; P174 (Sulejman Tihiić, witness statement of 28 February 1995), witness information, p. 1; P175 (Sulejman Tihiić, witness statement of 21 August 2001), p. 1; P176 (Sulejman Tihiić, *Simić et al.* transcript, 13-14 and 17-20 September, and 6-8 November 2001), p. 1242; Sulejman Tihiić, T. 3096.

¹²⁸⁴ P1834 (Dragan Lukač, witness statement, 4 December 1994), pp. 1-2; P1836 (Dragan Lukač, *Blagoje Simić et al.* transcripts, 20, 24-28 September and 1-4 October 2001), pp. 1524-1530.

town before 10 April 1992, because of the growing tension in the municipality.¹²⁸⁵ Considering that both Croats and Serbs left before the actual attack on Bosanski Šamac, and that the Trial Chamber has not received conclusive evidence to sufficiently identify the reasons for their departure, it will not further consider their departure.

Population of Bosanski Šamac

620. The municipality of Bosanski Šamac is located in the north-eastern part of the then-Republic of Bosnia-Herzegovina. The bridge over the Sava river was vital for the exchange of goods and services between Croatia and Bosnia-Herzegovina.¹²⁸⁶ The municipalities comprising the Posavina Corridor were inhabited by a population of mixed ethnic background, the Croats and the Muslims together forming a majority of the population.¹²⁸⁷

621. The municipality of Bosanski Šamac was, according to the 1991 census, an ethnically diverse community of 32,960 people: Serb (41.3 per cent), Croat (44.7 per cent), Muslim (6.8 per cent), and others (7.2 per cent).¹²⁸⁸ The Trial Chamber has reviewed the testimony of Dragan Lukač and Sulejman Tihić, and the Tabeau Report on IDPs and Refugees in relation to the ethnic composition of Bosanski Šamac municipality, which are consistent with the above Adjudicated Fact.¹²⁸⁹ Considering further evidence provided by these witnesses, the Trial Chamber concludes that approximately 38 per cent of the residents of the town of Bosanski Šamac were of Muslim ethnicity, about 27 per cent were of Serb ethnicity, about 15 per cent were of Croat ethnicity, and some 20 per cent were Yugoslavs (most of who were also Muslims).¹²⁹⁰

¹²⁸⁵ P173 (Sulejman Tihić, witness statement of 31 October 1994), witness information, pp. 1, 4; P174 (Sulejman Tihić, witness statement of 28 February 1995), witness information, p. 1; P175 (Sulejman Tihić, witness statement of 21 August 2001), p. 1; P176 (Sulejman Tihić, *Simić et al.* transcript, 13-14 and 17-20 September, and 6-8 November 2001), pp. 1332, 1334, 1336, 1242, 1342, 3896; P177 (Sulejman Tihić, *Slobodan Milošević* transcript, 2-3 December 2003), pp. 29933-29934; Sulejman Tihić, T. 3096; P192 (Excerpt from Sulejman Tihić's book "Memoirs of a politician from Bosnia", 1995), pp. 17-18; P1834 (Dragan Lukač, witness statement, 4 December 1994), pp. 1-2, 7, 10-11, 14, 35; P1836 (Dragan Lukač, *Blagoje Simić et al.* transcripts, 20, 24-28 September and 1-4 October 2001), pp. 1524-1530, 1557, 1572-1575, 1582-1589, 1676, 1861-1862, 1864, 1932; P1867 (Picture of Serb Orthodox chapel in Donji Dubica, Odžak municipality).

¹²⁸⁶ Adjudicated Facts I, fact 274.

¹²⁸⁷ Adjudicated Facts I, fact 276.

¹²⁸⁸ Adjudicated Facts I, fact 276.

¹²⁸⁹ P176 (Sulejman Tihić, *Simić et al.* transcript, 13-14 and 17-20 September, and 6-8 November 2001), p. 1245; P1657 (Tabeau Report on IDPs and Refugees), p. 28, footnote 10; P1834 (Dragan Lukač, witness statement, 4 December 1994), p. 5.

¹²⁹⁰ P1834 (Dragan Lukač, witness statement, 4 December 1994), p. 5; P174 (Sulejman Tihić, witness statement of 28 February 1995), p. 2; P176 (Sulejman Tihić, *Simić et al.* transcript, 13-14 and 17-20 September, and 6-8 November 2001), p. 1245.

622. The Trial Chamber has received evidence on population changes in Bosanski Šamac municipality. Having reviewed the Tabeau Report on IDPs and Refugees¹²⁹¹ and the Tabeau Victims Report,¹²⁹² the Trial Chamber considers that between 1992 and 1995, 279 persons died or went missing in Bosanski Šamac municipality. The year 1992 was by far the most fatal of all the war years. The Trial Chamber also considers changes in the ratio of civilian versus military victims among the ethnic groups between 1992 and 1995. In 1992 alone, 208 persons died or went missing, with a substantially higher number of military victims. The Trial Chamber further considers that the ethnic composition of the population of Bosanski Šamac municipality changed drastically in the period of 1991-1997, with a substantive decrease of the non-Serb population in the Bosnian-Serb Republic part of the municipality. As further explained in chapter 2, the Trial Chamber will focus on the specific incidents of alleged deportation and forcible transfer in Bosanski Šamac municipality set out below.

Forces present in Bosanski Šamac municipality before 17 April 1992

623. The Trial Chamber has taken judicial notice of Adjudicated Facts and received evidence from Witness B-1638, Witness JF-047, Stevan Todorović, Petar Djukić, Sulejman Tihčić, and Dragan Lukač, with regard to forces present in Bosanski Šamac municipality before the attack of 17 April 1992.

624. **Witness B-1638**, a Croat from Bosnia-Herzegovina,¹²⁹³ stated that between the summer of 1991 and the beginning of 1992, he saw heavy tanks, heavy artillery, machinery, and mortars of the JNA, as well as soldiers wearing JNA uniforms positioned on roads in different villages in Bosanski Šamac municipality.¹²⁹⁴

625. According to the Adjudicated Facts, on 11 April 1992, paramilitaries arrived in Batkusa in JNA helicopters. Among the group of 50 men, 30 came from Serbia.¹²⁹⁵ Dragan Đorđević, also known as “Crni”, Slobodan Milković, also known as “Lugar”, and Srećko

¹²⁹¹ P1657 (Tabeau Report on IDPs and Refugees), Annex A, Table 1NS, 1M, 1C, 1O, pp. 40-43. The Tabeau Report on IDPs and Refugees explains why changes in the size of ethnic groups in the period of 1991-1997 are reflected in relative measures and not in absolute numbers. It also explains why relative measures, i.e. percentages, can be seen as reliable, and can be compared. See P1657 (Tabeau Report on IDPs and Refugees), p. 8 and Ewa Tabeau, T. 9902-9903.

¹²⁹² P1658 (Tabeau Victims Report), p. 20, Table 4 a), Annex 2, Table A.2.9, p. 38, Annex 3, Table A3.4, p. 41.

¹²⁹³ P1809 (Witness B-1638, witness statement, 9 February 1995), pp. 1-2; P1810 (Attestation and declaration of Witness B-1638, 22 May 2010); P1812 (Declaration as to temporary seizure of goods of Witness B-1638, 5 July 1992); P1814 (Certificate issued by the Crisis Staff of the municipality of Bosanski Šamac, 11 September 1992).

¹²⁹⁴ P1809 (Witness B-1638, witness statement, 9 February 1995), p. 2; P1811 (Witness B-1638, *Blagoje Simić et al.* transcript, 30 July-1 August 2002), p. 11689; P1813 (Extract from UNPROFOR Map of Bosanski Šamac municipality and surrounding areas); P1815 (Map of Bosanski Šamac municipality showing town structure, fields, river, railroad, roads).

¹²⁹⁵ Adjudicated Facts I, fact 299.

Radovanović, also known as “Debeli”, were part of the group that arrived. “Crni” had the highest position amongst the 30 men from Serbia. “Crni”’s assistant was “Debeli”.¹²⁹⁶ The other 20 people were from Šamac municipality and were trained in Ilok.¹²⁹⁷ Maksim Simeunović, Chief of Intelligence and Security for the 17th Tactical Group of the JNA, Mico Ivanović, Commander of the 1st Detachment, Major Brajković, the Chief of Staff of the 17th Tactical Group, and Stevan Todorović, Serb Chief of Bosanski Šamac police were present at the arrival of the paramilitaries.¹²⁹⁸ The paramilitaries wore camouflage uniforms, face paint, red berets, black knitted hats or hats of various shapes and were recognisable by a grey wolf insignia. They had a five-pointed star on their caps. They spoke in the Ekavian dialect.¹²⁹⁹

626. A document signed by 13 members of the Second Posavina Brigade Command - “the 13 Signatories Document” - states that the paramilitaries were endorsed by Stevan Nikolić and the 17th Tactical Group five or six days after they arrived: “Second, even while the TG-17 existed and Lt. Col. Nikolić, Commander of the 17th Tactical Group of the JNA was here, a group of so-called “Serbian commandos” led by “Crni” and “Debeli”, arrived in this area in a military helicopter.¹³⁰⁰ Nikolić and the TG-17 Command initially branded it as a “paramilitary group” and a “group of bandits and mercenaries”, but after only five or six days they endorsed it and explained it as a “legal elite unit of Serbian Commandos”, whose arrival had been legalised through the official organs of the government and the army both at the level of Šamac municipality and at the highest level in Serbia and Yugoslavia. A platoon-size unit of “local commandos”, trained in Serbia to carry out special war assignments, arrived with the same group. According to official information, this unit was sent by Todorović and a person called “Mijak”.¹³⁰¹

627. **Witness JF-047**, a Serb who was a member of various units including the unit referred to by him as the Red Berets,¹³⁰² provided evidence generally consistent with the Adjudicated Facts above.¹³⁰³ Around 4 April 1992, together with Srećko Radovanović a.k.a. Debeli, Aleksandar Vuković a.k.a. Mali Vuk, Dragan Đorđević a.k.a. Crni, Student, Zlaja, Avram, Musa, Žika Strašni, Miloš Savić, Mali Neša, and others, the witness travelled to Batkuša, a

¹²⁹⁶ Adjudicated Facts I, fact 300.

¹²⁹⁷ Adjudicated Facts I, fact 299.

¹²⁹⁸ Adjudicated Facts I, facts 290, 299; P1576 (Stevan Todorović, *Slobodan Milošević* transcript, 30 June-1 July 2003), p. 43290; P1578 (Stevan Todorović, Plea agreement between the Prosecutor and Stevan Todorović in *Simić et al.*, 29 November 2000), Annex, p. 2.

¹²⁹⁹ Adjudicated Facts I, fact 305.

¹³⁰⁰ Adjudicated Facts I, facts 290, 306. This document is in evidence as exhibit P1418.

¹³⁰¹ Adjudicated Facts I, fact 306.

¹³⁰² P1516 (Witness JF-047, witness statement, 22 April 2004), p. 1, paras 9, 25, 48.

¹³⁰³ P1516 (Witness JF-047, witness statement, 22 April 2004), para. 35. See Adjudicated Facts I, fact 299.

village between Pelagićevo, Crkvina, and Bosanski Šamac.¹³⁰⁴ This group of about 30 men was commanded by Debeli and Crni.¹³⁰⁵ All of the men wore the same uniforms and only Crni, Mali Vuk, and Debeli wore red berets.¹³⁰⁶ Upon arrival, the group was assigned to Lieutenant-Colonel Nikolić, a.k.a. Kriger, who commanded the JNA 17th Tactical Group.¹³⁰⁷ The chain of command was the following: Kriger would issue orders to Crni, who would issue orders to Debeli.¹³⁰⁸ From March to May 1992, Debeli was the witness's immediate superior in the Red Berets. The witness testified that the operations in Bosanski Šamac in which he took part were conducted under the authority of the JNA until 17 May 1992. In May 1992, when the JNA pulled out of the area of Bosanski Šamac, the VRS was immediately established.¹³⁰⁹ In April or May 1992, the unit of the witness was the only unit in and around Bosanski Šamac wearing a depiction of a wolf on the sleeve.¹³¹⁰ The unit was mistakenly referred to as the Grey Wolves by people who only knew them by sight, but the grey wolf patch did not indicate membership of the unit often referred to as the Grey Wolves. The witness testified that his pay in Bosanski Šamac was once brought by a courier in an MI8 army helicopter that came from Belgrade.¹³¹¹

628. **Stevan Todorović** stated that Miloš Bogdanović (from the municipal section of the MoD (Secretariat for National Defence)) informed him that a special unit of the Serbian SDB would arrive in the municipality of Bosanski Šamac and asked him to arrange their accommodation.¹³¹² The witness's evidence with regard to the arrival of about 50 men in helicopters, as well as his description of their uniforms, hats, and insignia, is consistent with Adjudicated Facts above.¹³¹³ The witness further stated that people referred to these men in different ways, as Sareni, specials, elite forces, or grey wolves. The witness remembered the following to be among these 30 men: Srećko Radovanović a.k.a. Debeli, Slobodan Miljković a.k.a. Lugar, Aleksandar Vuković a.k.a. Vuk, Dragan Đorđević a.k.a. Crni, and Avram, Laki,

¹³⁰⁴ P1516 (Witness JF-047, witness statement, 22 April 2004), paras 35-37; Witness JF-047, T. 7628, 7792; D128 (Witness JF-047, local witness statement, 27 November 1992) p. 3.

¹³⁰⁵ D128 (Witness JF-047, local witness statement, 27 November 1992) p. 3.

¹³⁰⁶ P1516 (Witness JF-047, witness statement, 22 April 2004), para. 36.

¹³⁰⁷ P1516 (Witness JF-047, witness statement, 22 April 2004), para. 43; Witness JF-047, T. 7629, 7718-7719, 7792-7793.

¹³⁰⁸ P1516 (Witness JF-047, witness statement, 22 April 2004), para. 34; Witness JF-047, T. 7612, 7627, 7632, 7719.

¹³⁰⁹ Witness JF-047, T. 7627, 7632, 7739-7740, 7822.

¹³¹⁰ P1516 (Witness JF-047, witness statement, 22 April 2004), paras 39, 41, 47; Witness JF-047, T. 7637-7638.

¹³¹¹ Witness JF-047, T. 7637, 7671-7674, 7803-7804.

¹³¹² Adjudicated Facts I, fact 295; P1576 (Stevan Todorović, *Slobodan Milošević* transcript, 30 June-1 July 2003), p. 23441; P1579 (Stevan Todorović, List of terms and names used in *Slobodan Milošević* testimony, 31 August 2010).

Tralja, and Student. Crni appeared to be in charge of the group.¹³¹⁴ According to the witness, Crni, Debeli and Lugar were members of the SRS. Furthermore, Crni and Lugar were also members of the Serbian SDB special unit, and Debeli was Chief of Staff, holding a position lower than Crni.¹³¹⁵

629. **Petar Djukić**, RSK chief police inspector from 15 March 1993 to 1 July 1996,¹³¹⁶ testified that on 12 April 1992, he attended a meeting with, *inter alia*, SRS member Đorđević, a.k.a. Crni, on the organization of the Bosanski Šamac SJB. At the time, the witness was a member of the JNA intelligence and security section. He went to the meeting as he was familiar with the way an SJB station should be run. In this meeting, the witness heard about the arrival of approximately 20 volunteers and Commander Nikolić explained that they had volunteered to join the JNA and had been subordinated to the 17th Tactical Group together with some local men from Šamac, who had also been trained in Ilok.¹³¹⁷ According to Ratko Mladić's notebook, Stevan Todorović stated that on 18 April 1992, 18 men who had been trained in Ilok were transported to Šamac together with 30 volunteers from Kragujevac, including two members of the Serbian MUP, Đorđević and Aleksandar Vuković.¹³¹⁸ A special battalion was later formed and participated in offensive operations under Đorđević's command.¹³¹⁹

630. Dragan Lukač and Sulejman Tihić heard about the arrival of the paramilitaries and provided evidence in essence consistent with Adjudicated Facts.¹³²⁰ **Sulejman Tihić** further testified that people called those who arrived from Serbia "specials" and regarded them as specially trained members of the armed forces "prone to crime", whom even the local Serbs

¹³¹³ P1576 (Stevan Todorović, *Slobodan Milošević* transcript, 30 June-1 July 2003), pp. 23441-23442, 23466, 23557-23558. See Adjudicated Facts I, facts 299 and 305.

¹³¹⁴ P1576 (Stevan Todorović, *Slobodan Milošević* transcript, 30 June-1 July 2003), p. 23442-23443, 23466; P1579 (Stevan Todorović, List of terms and names used in *Slobodan Milošević* testimony, 31 August 2010).

¹³¹⁵ P1576 (Stevan Todorović, *Slobodan Milošević* transcript, 30 June-1 July 2003), pp. 23425-23426.

¹³¹⁶ Petar Djukić, T. 17910, 17913, 17918-17920, 17971, 18003-18004, 18059, 18062, 18065; D759 (Letter of appreciation from Gen. Walter Fallmann, UNTAES Civpol Commissioner, 22 August 1996); D760 (UNTAES Certificate of Appreciation in relation to 13 and 14 April 1997 elections in SBWS); D761 (Letter of Appointment from Jacques Paul Klein, Acting UNTAES Director, 2 June 1996).

¹³¹⁷ Petar Djukić, T. 17912, 17919, 17941-17943, 17948, 17951, 17956, 18061, 18079-18081, 18090-18091; 18167-18168; P1416 (Report of RSMUP on Bosanski Šamac, 19 November 1992), p. 2.

¹³¹⁸ P3117 (Excerpt of the diary of Ratko Mladić, 5 October 1992 to 27 December 1992), pp. 4-5.

¹³¹⁹ P3117 (Excerpt of the diary of Ratko Mladić, 5 October 1992 to 27 December 1992), p. 5.

¹³²⁰ P1834 (Dragan Lukač, witness statement, 4 December 1994), p. 14; P1836 (Dragan Lukač, *Blagoje Simić et al.* transcripts, 20, 24-28 September and 1-4 October 2001), pp. 1614-1616; P173 (Sulejman Tihić, witness statement of 31 October 1994), pp. 4-5; P176 (Sulejman Tihić, *Simić et al.* transcript, 13-14 and 17-20 September, and 6-8 November 2001), pp. 1343-1344; P177 (Sulejman Tihić, *Slobodan Milošević* transcript, 2-3 December 2003), pp. 29883-29884, 29946; Sulejman Tihić, T. 3118, 3199, 3214; P192 (Excerpt from Sulejman Tihić's book "Memoirs of a politician from Bosnia", 1995), p. 15.

were afraid of.¹³²¹ According to him, one could recognize members of the Serbian special forces by their camouflage uniforms, their different insignia and patches, their professional skills and use of force, and their Ekavian accent.¹³²² **Dragan Lukač** stated that in the second part of February 1992, he visited Lieutenant Colonel Stevan Nikolić, commander of the 17th Operative Tactical Group at the JNA barracks in Brčko, who explained that he had coordinates for targets in the town of Bosanski Šamac that had been assigned to 109 artillery weapons.¹³²³ Nikolić said to the witness that “if you try anything”, he would “raze Bosanski Šamac to the ground” which the witness perceived as a warning for the ethnic Croats and Muslims of Bosanski Šamac.¹³²⁴

631. The Trial Chamber will consider this evidence further when addressing the forces that attacked the town of Bosanski Šamac on 17 April 1992.

Take-over of Bosanski Šamac town on 17 and 18 April 1992: attack, killings, detention

632. The Trial Chamber has taken judicial notice of Adjudicated Facts and received evidence from Witness JF-047, Petar Djukić, Dragan Lukač, Sulejman Tihic, Witness B-1108, and Witness B-1638, on the take-over of Bosanski Šamac town.

633. According to the Adjudicated Facts, in the early morning of 17 April 1992, the town of Bosanski Šamac was subject to a forcible take-over by members of the paramilitaries and Serb police. During the take-over, the Serb police and the paramilitaries secured the key facilities in town, including the police station, the post office, and the radio station. The 4th detachment of the JNA entered the town, cut off telephone lines, and fired shots in the town.¹³²⁵ The 4th detachment was established by an order of Lt. Col. Stevan Nikolić on 5 January 1992, following the issuing of mobilisation summonses by the Secretariat for National Defence.¹³²⁶ The 4th Detachment was part of the JNA’s 17th Tactical Group.¹³²⁷

¹³²¹ P177 (Sulejman Tihic, *Slobodan Milošević* transcript, 2-3 December 2003), p. 29886; Sulejman Tihic, T. 3119-3120, 3198-3200.

¹³²² P173 (Sulejman Tihic, witness statement of 31 October 1994), p. 7; P176 (Sulejman Tihic, *Simić et al.* transcript, 13-14 and 17-20 September, and 6-8 November 2001), p. 1360, 1362, 1364-1365; Sulejman Tihic, T. 3122-3123, 3134-3135, 3199, 3219-3220.

¹³²³ P1834 (Dragan Lukač, witness statement, 4 December 1994), pp. 10-11; P1836 (Dragan Lukač, *Blagoje Simić et al.* transcripts, 20, 24-28 September and 1-4 October 2001), pp. 1557, 1572-1575, 1582-1584, 1676.

¹³²⁴ P1836 (Dragan Lukač, *Blagoje Simić et al.* transcripts, 20, 24-28 September and 1-4 October 2001), pp. 1582-1584.

¹³²⁵ Adjudicated Facts I, fact 226.

¹³²⁶ Adjudicated Facts I, fact 290.

¹³²⁷ Adjudicated Facts I, fact 290. The Trial Chamber considers the evidence of Dragan Lukač in this respect consistent with the Adjudicated Fact. See P1834 (Dragan Lukač, witness statement, 4 December 1994), pp. 9-10; P1836 (Dragan Lukač, *Blagoje Simić et al.* transcripts, 20, 24-28 September and 1-4 October 2001), pp. 1559-1560, 1565, 1664, 1890-1893, 2094.

There was some non-Serb resistance quickly squelched by the arrival of JNA tanks and armoured cars.¹³²⁸ The take-over of the town occurred without any significant resistance.¹³²⁹

634. Blagoje Simić, President of the SDS Municipal Board, telephoned Lt. Col. Nikolić in the early morning of 17 April 1992 to inform him that the Crisis Staff of the Serbian Municipality of Bosanski Šamac had been established and that, with the assistance of the Serb paramilitaries and the police, the Crisis Staff had taken the most important facilities in town in order to take over authority in Bosanski Šamac.¹³³⁰ As a result of the telephone conversation between Simić and Nikolić, Nikolić ordered the 4th detachment at 6 a.m. to be in a state of combat readiness.¹³³¹

635. An operation was conducted to collect weapons from the non-Serb population, in the town of Bosanski Šamac on 17, 18, and 19 April 1992, by Serb paramilitaries, police, and the 4th detachment, which collected weapons from the 4th district of the town, and which was ordered to do so by Lt. Col. Nikolić.¹³³² They took away weapons regardless of whether they were possessed legally or illegally.¹³³³ Miroslav Tadić and Simo Zarić were ordered by the command of the 4th detachment on 17 April 1992 to supervise the collection of weapons.¹³³⁴ Paramilitaries and the police did use force when collecting weapons.¹³³⁵ Forces that took control of the town of Bosanski Šamac, within a few days, controlled most of the municipality of Bosanski Šamac.¹³³⁶

636. **Witness JF-047** testified that on 16 April 1992, the day before the take-over of Bosanski Šamac, Debeli and Kriger gave a briefing.¹³³⁷ In addition to the witness's unit, another volunteer unit of local men that had been trained at Ilok and the commander of a group of men from Brčko were also present at the briefing.¹³³⁸ The Red Berets were specifically addressed as a separate group during the briefing.¹³³⁹ The Red Berets, consisting of several squads and commanded by Debeli, participated in the take-over of Bosanski Šamac on 17 April 1992.¹³⁴⁰ The squad commanded by Lugar and a group of local volunteers

¹³²⁸ Adjudicated Facts I, fact 226.

¹³²⁹ Adjudicated Facts I, fact 330.

¹³³⁰ Adjudicated Facts I, facts 309, 316, 331.

¹³³¹ Adjudicated Facts I, fact 332.

¹³³² Adjudicated Facts I, facts 333-334.

¹³³³ Adjudicated Facts I, fact 333.

¹³³⁴ Adjudicated Facts I, fact 335.

¹³³⁵ Adjudicated Facts I, fact 336.

¹³³⁶ Adjudicated Facts I, fact 338.

¹³³⁷ P1516 (Witness JF-047, witness statement, 22 April 2004), para. 39; Witness JF-047, T. 7631-7632.

¹³³⁸ P1516 (Witness JF-047, witness statement, 22 April 2004), para. 40.

¹³³⁹ Witness JF-047, T. 7756.

¹³⁴⁰ Witness JF-047, T. 7630.

occupied the SUP building.¹³⁴¹ According to the witness, during the take-over of the entire municipality no more than 40 shots were fired.¹³⁴² At the time of the take-over the witness considered his group to be the Red Berets, a Serbian MUP special-purpose brigade that was mostly engaged in military action. His group had nothing to do with police units during the operation. On 18 April 1992, the JNA arrived to replace the witness's group, but the JNA did not conduct combat operations in co-operation with the Red Berets.¹³⁴³

637. In a letter addressed to the SRS, the Posavina Brigade Chief of Staff suggested that three persons, including Slobodan Miljković and Witness JF-047, be promoted to the rank of SRS lieutenants, for the courage and skill with which they had commanded SRS units in SBWS, and with which they have now been commanding units in Bosnia-Herzegovina.¹³⁴⁴

638. The Trial Chamber has received JNA military reports regarding clashes with Croatian and ABiH forces in and around Bosanski Šamac on 17 April 1992. According to reports from the JNA 17th Corps Command and the JNA 2nd Military District, on 17 April 1992, the Croatian armed forces and Croat paramilitaries from Bosanski Šamac attempted to launch an attack on Bosanski Šamac, but the attack was repelled by the JNA 17th Tactical Group, and the Serb TO and police.¹³⁴⁵ Another report of the 17th Corps Command stated that on 17 April 1992, members of the TO and MUP of the Serb municipality of Bosanski Šamac took control of the MUP, after having clashed with Alija Izetbegović's ABiH forces and the 17th Tactical Group deployed artillery to prevent the attack of Croatian forces.¹³⁴⁶

639. **Petar Djukić** testified that in the late hours of 16 April 1992, the volunteers who had arrived in Batkusa led by Todorović and members of the 17th Tactical Group took over the SJB in Bosanski Šamac. These forces conducted an extensive raid aimed at seizing weapons from well-armed citizens. According to the witness, Commander Nikolić did not take part in this operation and was only informed about it on the morning of 17 April 1992. Nikolić sent two armoured vehicles to the centre and mobilized a detachment close to the Bosna River in response to the armed Croats in the village of Prut, who had used the bridge over the Sava

¹³⁴¹ P1516 (Witness JF-047, witness statement, 22 April 2004), para. 42; P1516 (Witness JF-047, witness statement, 22 April 2004), para. 42.

¹³⁴² Witness JF-047, T. 7730.

¹³⁴³ P1516 (Witness JF-047, witness statement, 22 April 2004), paras 42-43; Witness JF-047, T. 7631-7633.

¹³⁴⁴ D11 (Letter of recommendation addressed to the SRS, signed by the Chief of the Posavina Brigade, 18 June 1992).

¹³⁴⁵ D17 (Daily Operations Report of the 17th Corps Command to the Second Military District, 18 April 1992, signed by Commander Savo Janković); D18 (Second Military District Command Special Report to the General Staff of the SFRY Armed Forces, 17 April 1992, signed by Senior Commanding Officer, Colonel Nikola Šego).

¹³⁴⁶ D124 (Report from the 17th Corps of the JNA confirming the take-over of Bosanski Šamac to the Second Military District Command, 17 April 1992).

River to attack Bosanski Šamac.¹³⁴⁷ Petar Djukić testified that on 19 May 1992, the JNA, including Commander Nikolić, left Posavina pursuant to an order from the General Staff leaving behind soldiers born in Bosnia-Herzegovina.¹³⁴⁸ Following the JNA's departure, the 17th Tactical Group was reformed into the 2nd Posavina Brigade.¹³⁴⁹ Srećko Radovanović a.k.a. Debeli was nominated as chief of the Brigade's Staff and Đorđević as the brigade's commander by Blagoje Simić, leading member of the SDS and trusted associate of President Karadžić. They were subsequently appointed by Colonel Dencić of the Drina Corps.¹³⁵⁰

640. **Stevan Todorović** stated that the 30 men who arrived at the municipality played a significant role in the take-over, being part of a unit of the Second Posavina Brigade, under the command of the JNA, and later under the command of the VRS.¹³⁵¹

641. According to exhibit P1838, on 17 April 1992, the JNA 17th Corps Headquarters made a request to the JNA 2nd Military District Command in Sarajevo to fly over Bosanski Šamac in order create a psychological effect and intimidate the enemy around Bosanski Brod.¹³⁵² **Dragan Lukač** could not, however, remember hearing any aircraft on that day. The witness provided evidence about the incidents of 17 April 1992 which is consistent with the Adjudicated Facts above.¹³⁵³ There was shooting, and once it had stopped, the witness decided to drive away from the city together with neighbours. In town, the witness saw soldiers in camouflage uniforms with wide-brimmed hats and automatic weapons and soldiers in SMB-coloured and camouflage JNA uniforms. The witness was identified by a soldier in blue police uniform and a beret with a Serb three-coloured flag as the Acting Chief of Police and was arrested. Dragan Stefanović, the chairman of the local community of Gornja Crkvina, confirmed to the witness that Blagoje Simić and the Serb Crisis Committee of the Serb municipality of Bosanski Šamac had ordered the witness's arrest.¹³⁵⁴ On 18 April 1992, the witness saw, from his cell's window in Gornja Crkvina, a column of around 14 JNA tanks

¹³⁴⁷ Petar Djukić, T. 17942-17945, 18081.

¹³⁴⁸ Petar Djukić, T. 17950, 17958.

¹³⁴⁹ Petar Djukić, T. 17954, 17958-17959.

¹³⁵⁰ Petar Djukić, T. 17930-17931, 17954, 17958-17959, 18084, 18088-18089.

¹³⁵¹ P1576 (Stevan Todorović, *Slobodan Milošević* transcript, 30 June-1 July 2003), pp. 23456-23457, 23465, 23515, 23547; P1579 (Stevan Todorović, List of terms and names used in *Slobodan Milošević* testimony, 31 August 2010).

¹³⁵² P1838 (17th Corps Headquarters' Request to Second Military District Command for immediate action by air force, 17 April 1992).

¹³⁵³ P1834 (Dragan Lukač, witness statement, 4 December 1994), pp. 16-17, 19; P1836 (Dragan Lukač, *Blagoje Simić et al.* transcripts, 20, 24-28 September and 1-4 October 2001), pp. 1652-1654, 1669; P1851 (Report by Commander of Operation Group 1 to the Command of the Second Military Region, 17 April 1992). See Adjudicated Facts I, facts 226, 329-330 above.

¹³⁵⁴ P1834 (Dragan Lukač, witness statement, 4 December 1994), pp. 17-19; P1836 (Dragan Lukač, *Blagoje Simić et al.* transcripts, 20, 24-28 September and 1-4 October 2001), pp. 1655, 1659-1662.

heading towards Bosanski Šamac.¹³⁵⁵ By approximately 11:00 a.m. that day, the Serb forces of the Bosanski Šamac TO and MUP had taken control of the entire town.¹³⁵⁶

642. **Sulejman Tihčić** testified that Bosanski Šamac was attacked on 17 April 1992. On the streets of the town the witness saw armed soldiers from the Fourth Detachment, men in JNA uniforms, masked men, people wearing woollen caps, and paramilitary units with different insignia. The witness's testimony about the arrival of JNA tanks and APCs, the collection of weapons throughout the town, and the lack of resistance is consistent with the Adjudicated Facts above.¹³⁵⁷ Around noon, Blagoje Simić called the witness and asked him to surrender.¹³⁵⁸ Simić refused to negotiate or listen to the witness's arguments and said that the Serbs were at war with the Muslims and the Croats.¹³⁵⁹ According to the witness, the special forces from Serbia initiated the attack, but were later joined by the municipality police, the JNA and the Serbian TO.¹³⁶⁰

643. **Witness B-1108**, a Croat from the Bosanski Šamac area,¹³⁶¹ testified that local Serbs wearing JNA uniforms attacked Bosanski Šamac on 17 April 1992 at 2:30 a.m. During the attack the villagers in Gornji Hasić sent elderly persons, women, and children by bus to Domaljevac. The witness's family left in a car to Grebnice. On 20 April 1992, the men from Gornji Hasić surrendered and handed over their weapons.¹³⁶²

644. **Witness B-1638** testified that Bosanski Šamac was attacked on 17 April 1992. The witness was told by someone living in Bosanski Šamac about people being driven out of their houses, house searches, and shooting all around in Bosanski Šamac. People were also forced into their basements so that the occupiers could loot the houses. On 17 and 18 April 1992, people, especially women and children, left the area because they were afraid and felt unsafe

¹³⁵⁵ P1834 (Dragan Lukač, witness statement, 4 December 1994), p. 19; P1836 (Dragan Lukač, *Blagoje Simić et al.* transcripts, 20, 24-28 September and 1-4 October 2001), p. 1676.

¹³⁵⁶ P1836 (Dragan Lukač, *Blagoje Simić et al.* transcripts, 20, 24-28 September and 1-4 October 2001), p. 1675; P1846 (Report 17th Corps Headquarters to Second Military District Command, 18 April 1992).

¹³⁵⁷ P173 (Sulejman Tihčić, witness statement of 31 October 1994), pp. 6-7; P176 (Sulejman Tihčić, *Simić et al.* transcript, 13-14 and 17-20 September, and 6-8 November 2001), pp. 1354, 1358-1360, 1365-1367, 1371; P192 (Excerpt from Sulejman Tihčić's book "Memoirs of a politician from Bosnia", 1995), pp. 19-21. See Adjudicated Facts I, facts 226, 330, 333-334.

¹³⁵⁸ P173 (Sulejman Tihčić, witness statement of 31 October 1994), p. 6; P174 (Sulejman Tihčić, witness statement of 28 February 1995), p. 4; P176 (Sulejman Tihčić, *Simić et al.* transcript, 13-14 and 17-20 September, and 6-8 November 2001), pp. 1368-1369; P192 (Excerpt from Sulejman Tihčić's book "Memoirs of a politician from Bosnia", 1995), p. 21.

¹³⁵⁹ P173 (Sulejman Tihčić, witness statement of 31 October 1994), p. 6; P174 (Sulejman Tihčić, witness statement of 28 February 1995), p. 4; P176 (Sulejman Tihčić, *Simić et al.* transcript, 13-14 and 17-20 September, and 6-8 November 2001), pp. 1368-1369; P192 (Excerpt from Sulejman Tihčić's book "Memoirs of a politician from Bosnia", 1995), p. 21.

¹³⁶⁰ Sulejman Tihčić, T. 3119-3120.

¹³⁶¹ P122 (Witness B-1108, witness statement, 8 December 1994), pp. 1-2; Witness B-1108, T. 2729.

and only a small portion of the population remained. On 18 April 1992, the witness saw men, women, and children going towards the Sava River in order to seek refuge in Croatia because Bosanski Šamac had fallen and on 19 April 1992, when passing through Novo Selo, the witness noted that the village was deserted.¹³⁶³

645. On 17 June 1992, President of the Bosanski Šamac Municipal Executive Committee Milan Simić and Head of the SJB Stevan Todorović sent a proposal to the SRS Belgrade, noting that on 11 April 1992 a group of SRS volunteers under the command of Srećko Radovanović had arrived in the Serbian Posavina with the task of taking the Posavina territory alongside the Serbian military.¹³⁶⁴ On the night of 16 to 17 April 1992, the group entered Bosanski Šamac.¹³⁶⁵ The SRS volunteers included Vuk, Korf, Nena, Pufi, Musa, Lugar, Beli, Ljubin, and Zlaja.¹³⁶⁶ Dragan Đorđević (a.k.a. Crni) planned and led the operations with Srećko Radovanović.¹³⁶⁷ After the JNA left the area, Đorđević and Radovanović were appointed to positions in the newly formed Posavina Brigade (they were made commander and head of headquarters, respectively).¹³⁶⁸

646. The Trial Chamber will first address doubts expressed by the Defence with regard to the reliability of Witness JF-047 and witnesses Stevan Todorović and Sulejman Tihčić. The Simatović Defence claims that the criminal record of Witness JF-047 strongly undermined his credibility and that he drew incorrect conclusions and made contradictory statements, having every reason to reduce the responsibility of the SRS and to attribute all the crimes committed in the municipality to the Serbian DB.¹³⁶⁹ The Stanišić Defence also calls into question the credibility of Witness JF-047, submitting that his assertions were aimed at falsely implicating Jovica Stanišić and that he could not provide any reasonable explanation for discrepancies between the information contained in his personnel file and his testimony in court, in particular with regard to his membership in the Serbian or the Krajina MUP.¹³⁷⁰ With regard to criminal convictions of the witness, the Trial Chamber notes that although some convictions might, in themselves, affect a witness's credibility, the mere fact that a witness

¹³⁶² P122 (Witness B-1108, witness statement, 8 December 1994), pp. 2-4; Witness B-1108, T. 2714.

¹³⁶³ P1809 (Witness B-1638, witness statement, 9 February 1995), pp. 3-4; P1811 (Witness B-1638, *Blagoje Simić et al.* transcript, 30 July-1 August 2002), pp. 11697-11700, 11835-11836, 11843-11844, 11846; P1813 (Extract from UNPROFOR Map of Bosanski Šamac municipality and surrounding areas); P1815 (Map of Bosanski Šamac municipality showing town structure, fields, river, railroad, roads).

¹³⁶⁴ D1198 (Proposal by Serbian Municipality of Bosanski Šamac to SRS Party Belgrade, 17 June 1992).

¹³⁶⁵ D1198 (Proposal by Serbian Municipality of Bosanski Šamac to SRS Party Belgrade, 17 June 1992), p. 1.

¹³⁶⁶ D1198 (Proposal by Serbian Municipality of Bosanski Šamac to SRS Party Belgrade, 17 June 1992), p. 1.

¹³⁶⁷ D1198 (Proposal by Serbian Municipality of Bosanski Šamac to SRS Party Belgrade, 17 June 1992), p. 1.

¹³⁶⁸ D1198 (Proposal by Serbian Municipality of Bosanski Šamac to SRS Party Belgrade, 17 June 1992), p. 1.

¹³⁶⁹ Simatović Defence Final Trial Brief, 14 December 2012, paras 1198-1200, 1202.

was convicted need not necessarily affect the reliability or credibility of the witness's evidence given in a different context. Having regard to the nature of the witness's convictions, the circumstances under which the criminal offences were committed, and in one instance, the age of the witness at the relevant time,¹³⁷¹ the Trial Chamber is satisfied that these convictions do not affect the reliability of Witness JF-047's evidence in the present case. As to the claims of the Stanišić Defence, the Trial Chamber notes that Witness JF-047 did not provide a clear explanation in relation to the discrepancy between his statement and testimony about his membership in the Krajina MUP Special Purpose Unit in the Bosanski Šamac combat group.¹³⁷² In this respect, the Trial Chamber recalls its findings in chapter 6.3.2 that in the SAO Krajina in 1991, the Unit was referred to by different names, including in July and August 1991 the "Special Purpose" or "Special Operations" Unit of the "Republic of Serbia SAO Krajina" and of the "RSK MUP". Nonetheless, the Trial Chamber will remain mindful of this matter. As to other possible discrepancies, the Trial Chamber notes that Witness JF-047 was given an opportunity to review his previous statement and that in the course of his testimony he provided amendments to the statement and corrected the purported inconsistencies in his story that were put to him in cross-examination.¹³⁷³ With further regard to the totality of his evidence, which is in general internally consistent as well as overall consistent with and corroborated by the evidence received from other witnesses and through documentary evidence, the Trial Chamber considers the witness to be generally reliable.¹³⁷⁴

647. The Simatović Defence, referring to the arguments submitted in its response to the Prosecution motion for admission of Stevan Todorović's evidence pursuant to Rule 92 *quater*, contends that Todorović's testimony is unreliable and not credible.¹³⁷⁵ The Trial Chamber first notes that the arguments presented by the Simatović Defence in the aforementioned response have already been examined by the Trial Chamber when deciding on the admission of Todorović's evidence.¹³⁷⁶ In this decision, the Trial Chamber decided, *inter alia*, that the existence of a plea agreement was not enough to render Todorović's evidence unreliable, that the witness was cross-examined in the *Slobodan Milošević* case by

¹³⁷⁰ Stanišić Defence Final Trial Brief, 17 December 2012, paras 575-580.

¹³⁷¹ Witness JF-047, T. 7748-7755, 7823-7824.

¹³⁷² Witness JF-047, T. 10893-10897; P2126 (Personnel file of Witness JF-047, 4 February 1992) p. 2.

¹³⁷³ Witness JF-047, T. 7606-7615. For corrections in cross-examination, see in particular T. 7689, 7691-7692, 10896-10897.

¹³⁷⁴ The Trial Chamber further considers Witness JF-047's reliability in chapter 3.4.2.

¹³⁷⁵ Simatović Defence Final Trial Brief, 14 December 2012, para. 1205. See Defence Response to Prosecution's Motion for Admission of Evidence of Witness B-1244 Pursuant to Rule 92 *quater* and Request Regarding Protective Measures for Witness B-1244, 9 July 2007.

both the Accused and the *amicus curiae*, and that much of his then proffered evidence was, or was reasonably expected to be, corroborated by other evidence. In addition, the Trial Chamber is fully aware that Todorović was identified by several witnesses as one of the perpetrators of beatings and ill-treatment of detainees in Bosanski Šamac, and that he had been convicted before this Tribunal.¹³⁷⁷ Having further reviewed Todorović's evidence in light of all the evidence received, the Trial Chamber considers it to be internally consistent, as well as broadly consistent with the evidence received from other witnesses and through documentary evidence.

648. The Stanišić Defence argues that the evidence of Sulejman Tihić is unreliable, as the witness was confused about the different units present in Bosanski Šamac, and the affiliation of individuals who mistreated detainees.¹³⁷⁸ It further argues that the evidence of Stevan Todorović in this respect is similarly inconsistent.¹³⁷⁹ The Trial Chamber partially agrees with the Defence. It notes that the testimony of Sulejman Tihić, as well as that of Dragan Lukač and Witness B-1638, is not very clear in relation to the paramilitary affiliation of individuals they encountered during the attack on Bosanski Šamac and in the course of their detention, referring to all these people as "specials" or "special forces". The Trial Chamber will consequently treat their evidence in this respect with great caution. As to the reliability of Stevan Todorović, the Trial Chamber notes that, contrary to the Defence assertions, the witness was consistent in explaining the affiliation of the paramilitaries with the SRS, their membership in a unit referred to by him as a special unit of the Serbian DB, and the unit's subordination to the 17th Tactical Group of the JNA during the attack. As explained below, the Trial Chamber does not consider evidence of affiliations with the SRS, membership of a special unit of the Serbian DB, and/or subordination to the JNA to be contradictory, as such affiliations need not be mutually exclusive. In view of the totality of the witness's evidence and having furthermore regard to the fact that as chief of Bosanski Šamac police at the time he was present in town and was aware of the events that unfolded, the Trial Chamber considers the witness to be generally reliable.

649. In light of the entirety of evidence, the Trial Chamber does not follow the Simatović Defence submissions that the presence of the paramilitaries was insignificant to the events

¹³⁷⁶ See Decision on Prosecution Motion for Admission of Evidence of Stevan Todorović Pursuant to Rule 92 *quater*, 29 October 2010.

¹³⁷⁷ See Trial Chamber Judgement of 31 July 2001, Case no. IT-95-9/1-S.

¹³⁷⁸ Stanišić Defence Final Trial Brief, 17 December 2012, para. 584.

¹³⁷⁹ Stanišić Defence Final Trial Brief, 17 December 2012, paras 590, 596.

that unfolded in Bosanski Šamac.¹³⁸⁰ On the basis of the Adjudicated Facts and the evidence reviewed above, as well as exhibits P1417 and P1425 reviewed in chapter 6.3.3, the Trial Chamber finds that on 17 April 1992, the local Serb police, the TO, and about 50 Serb paramilitaries who had arrived in Bosanski Šamac municipality on or about 11 April 1992, took over the town of Bosanski Šamac. Considering the Adjudicated Facts which establish that the JNA entered Bosanski Šamac town with tanks and armoured vehicles and fired shots, as well as further evidence reviewed above, including military reports D17, D18, and D124, the Trial Chamber finds that the Fourth Detachment of the 17th Tactical Group of the JNA became involved in the attack. The take-over was carried out without significant resistance.

650. The Trial Chamber will now consider the affiliation of the around 50 Serb paramilitaries. In light of the Adjudicated Facts and the evidence of Witness JF-047, Stevan Todorović, and Petar Djukić, and exhibit P3117, as well as exhibits P1447 and P1425 reviewed in chapter 6.3.3, the Trial Chamber finds that 30 of these men came from Serbia and 18 of them were locals who had been trained in Ilok. The aforementioned 30 men included Unit members Dragan Đorđević (a.k.a. Crni), Aleksandar Vuković (a.k.a. Vuk), Slobodan Miljković (a.k.a. Lugar),¹³⁸¹ Srećko Radovanović (a.k.a. Debeli), Witness JF-047, and Miloš Savić, as well as a person nicknamed “Tralja”, who the Trial Chamber understands to be Goran.¹³⁸² In light of the Adjudicated Facts and the evidence of Witness JF-047 in the section above dealing with forces present in Bosanski Šamac municipality before 17 April 1992, as well as his evidence above, the Trial Chamber finds that Dragan Đorđević a.k.a. Crni commanded these 30 men from Serbia during the take-over of Bosanski Šamac town, and that Debeli and Lugar were in charge of the unit’s squads. The Trial Chamber notes that Petar Djukić was the only witness who testified that Stevan Todorović was the paramilitaries’ commander. In view of the above, and considering that Djukić has not provided any basis for his assertion, the Trial Chamber will not rely on his testimony in this respect. In view of its findings in chapter 6.3.3 and the Adjudicated Facts and evidence reviewed above, the Trial

¹³⁸⁰ See Simatović Defence Final Trial Brief, 14 December 2012, paras 1147-1151.

¹³⁸¹ The Trial Chamber notes that the Adjudicated Facts refer to Lugar as Slobodan Milković. Having considered the evidence before it, including exhibit P1425, signed by Lugar himself, the Trial Chamber considers that the correct way to spell Lugar’s last name is: Miljković. Furthermore, in view of all the evidence, the Trial Chamber considers that minor spelling discrepancies between the Adjudicated Facts and the evidence in relation to Lugar’s name did not raise a reasonable doubt with regard to the Trial Chamber’s finding.

¹³⁸² For the Trial Chamber’s findings on the Unit membership of Dragan Đorđević and Aleksandar Vuković see the section dealing with the Ležimir camp in chapter 6.3.3. For its findings in respect of Slobodan Miljković, Srećko Radovanović, Witness JF-047, and Miloš Savić, see section dealing with the Pajziš camp at Ilok in chapter 6.3.3. For its findings in respect of Goran Simović see chapter 3.4.1.

Chamber concludes that the 30 paramilitaries from Serbia (including Goran Simović a.k.a. Tralja) were members of the Unit.

651. Stevan Todorović stated that the Serb paramilitaries participated in the attack under the auspices of the Second Posavina Brigade.¹³⁸³ Nevertheless, in light of the evidence of Petar Djukić and of Witness JF-047, and exhibits P1425 and P1417 reviewed in chapter 6.3.3, the Trial Chamber considers that the Second Posavina Brigade (under the command of Crni and with Debeli in the function of Chief of Staff) was created as the result of the transformation of the core of the 17th Tactical Group of the JNA, at the time the JNA had to leave Bosnia-Herzegovina and the VRS came into existence. Consequently, on the basis of the Adjudicated Facts, the testimony of Witness JF-047, and exhibit P1417 in chapter 6.3.3, the Trial Chamber finds that during the operations in Bosanski Šamac the Unit was attached to the 17th Tactical Group of the JNA and acted under its authority.

652. As further explained in chapter 6.3.3, the Trial Chamber is satisfied, having reviewed the evidence before it, that most of these men were associated with the SRS. However, the Trial Chamber does not consider that affiliation with or membership in the SRS precluded these men from being members of the Unit or from acting under the authority of 17th Tactical Group of the JNA.

653. The Trial Chamber now turns to the 18 local paramilitaries sent by Todorović who had been trained in Ilok and who arrived in Bosanski Šamac alongside the 30 Unit members. The evidence reviewed above does not clearly establish who commanded these local paramilitaries and whether they operated as part of the Unit during the operations.¹³⁸⁴ In this respect, the Trial Chamber recalls its findings in chapter 6.3.3 that the Unit at the Pajzoš camp in Ilok trained other groups, including local Serbs who were not members of the Unit. In light of the foregoing, the Trial Chamber is unable to determine whether these 18 local paramilitaries were also members of the Unit.

654. Based on the evidence of Witness B-1108 and Witness B-1638, and in view of its findings above, the Trial Chamber finds that as a result of the attack and take-over of

¹³⁸³ In this respect, the Trial Chamber has further considered exhibit P1517 as reviewed in the section dealing with the Pajzoš camp at Ilok, in chapter 6.3.3, which provided that one of the 30 men from Serbia had joined the Special unit of the Serbian MUP in March and had been a member of the Special Unit of the Posavina Brigade since 16 April 1992.

¹³⁸⁴ In this respect, the Trial Chamber has reviewed the entry from Mladić's notebook (in evidence as P3117) which mentioned that Todorović had stated that following the arrival of the 18 local paramilitaries and the 30 Unit members, a special battalion was later formed which participated in offensive operations under Đorđević's

Bosanski Šamac town, many women, men, and children left Bosanski Šamac municipality on 17 and 18 April 1992, and went to Domaljevac, Grebnice, both in Bosanski Šamac municipality, and Croatia. The attack and take-over included people being driven out of their homes, houses being searched, shooting all around, and looting. In light of all the evidence received, the Trial Chamber finds that most, if not all, of these people, were Croat and Muslim inhabitants of Bosanski Šamac. The Trial Chamber further notes, having considered the evidence of Dragan Lukač above and the Adjudicated Facts and the evidence of Stevan Todorović and Sulejman Tihić in the next section of this chapter, that as of 17 April 1992, local Serb authorities, including the Serb Crisis Staff, arrested and detained Muslims and Croats. Consequently, the Trial Chamber finds that the detentions, as specified in its finding below in the next section of this chapter, were also among the factors that made Croats and Muslims leave the municipality. The Trial Chamber will further consider these events in relation to Counts 1, 4, and 5 of the Indictment, in chapter 4, below.

655. The Trial Chamber has also reviewed exhibits P1418 and P1425 as well as further evidence from Witness B-1108 on the incidents of looting in Bosanski Šamac municipality.¹³⁸⁵ The Trial Chamber notes that as all these incidents appear to have occurred a few days after the take-over of Bosanski Šamac town, and that it has not received any evidence that people left the municipality following these incidents and as a result thereof, it will not further consider the aforementioned evidence in this respect.

656. Furthermore, the Trial Chamber has received evidence, through exhibits P180 and P183, indicating that Serb authorities in Bosanski Šamac introduced administrative policies forbidding citizens to leave the municipality without a special permit, and prohibiting Muslims and Croats from gathering in groups in public places.¹³⁸⁶ The Trial Chamber notes, however, that these policies were introduced as of 21 May and 4 August 1992 respectively, and that it has not received any evidence indicating that people left after the enforcement of these policies and as a result thereof. Consequently, the Trial Chamber will not further consider this evidence in this context.

command. However, the notebook does not clearly establish whether the 18 local paramilitaries were part of this special battalion, nor when it was set up

¹³⁸⁵ P1418 (Report on morale, signed by 13 members of the command of the 2nd Posavina Infantry Brigade Bosanski Šamac, 1 December 1992), p. 2; P1425 (Letter by Lugar to the Kragujevac SDB, unsigned, undated), p. 1; P122 (Witness B-1108, witness statement, 8 December 1994), p. 5.

¹³⁸⁶ See P180 (Serbian Municipality of Bosanski Šamac Decision on the General Ban on Leaving the Territory, 21 May 1992); P183 (Order forbidding public gatherings of Muslims and Croats signed by Stevan Todorović, 4 August 1992).

Arbitrary arrests and detentions in Bosanski Šamac municipality between 17 April 1992 and mid-June 1993, including, beatings, mistreatment, killings, forced labour, and exchanges of prisoners

657. The Trial Chamber has taken notice of Adjudicated Facts and received relevant evidence from Stevan Todorović, Witness JF-047, Dragan Lukač, Sulejman Tihčić, Witness B-1108, and Witness B-1638 with regard to arrests and detentions in Bosanski Šamac municipality and exchanges of non-Serbs to Croatia in 1992 and 1993.

658. According to the Adjudicated Facts, following the take-over in Bosanski Šamac municipality on 17 April 1992, and continuing throughout 1992, large-scale arrests of Bosnian Muslims and Bosnian Croats were carried out in the municipality.¹³⁸⁷ The first arrests were largely carried out by local Serb members of the police and paramilitaries from Serbia. Some people were arrested by members of the 4th detachment.¹³⁸⁸

659. Within the first week of the conflict, up to 50 persons had been arrested and detained at the SUP.¹³⁸⁹ While some persons were arrested who were in possession of weapons, there were non-Serb civilians arrested from their homes and brought to detention facilities in the town of Bosanski Šamac who did not possess weapons at all, those who had heeded the call to surrender their weapons before their arrest, or those who possessed legal permits for their weapons.¹³⁹⁰ Many civilian persons were arrested without legal basis.¹³⁹¹ From May 1992 until the end of the year, the numbers of those arrested and held at the SUP varied from 50-100 persons. Around 200 arrested persons were detained at the TO during this period.¹³⁹² They were guarded by Serb policemen and paramilitaries.¹³⁹³ Detainees were also held at the primary and secondary school gymnasiums, several hundred metres away from the SUP and TO in Bosanski Šamac. The numbers of detainees rose to 50 at the primary school, and between 300 and 500 in the secondary school.¹³⁹⁴ Detainees were held in the schools for months at a time.¹³⁹⁵ Large groups of persons were arrested and taken to facilities in Zasavica and Crkvina.¹³⁹⁶ Following the escape of non-Serb men from Bosanski Šamac across the Sava River to Croatia in late June 1992, Serb police and military came and took the families of

¹³⁸⁷ Adjudicated Facts I, fact 349.

¹³⁸⁸ Adjudicated Facts I, fact 351.

¹³⁸⁹ Adjudicated Facts I, fact 349.

¹³⁹⁰ Adjudicated Facts I, fact 353.

¹³⁹¹ Adjudicated Facts I, fact 354.

¹³⁹² Adjudicated Facts I, fact 349.

¹³⁹³ Adjudicated Facts I, fact 358.

¹³⁹⁴ Adjudicated Facts I, fact 360.

¹³⁹⁵ Adjudicated Facts I, fact 361.

those who had escaped to Zasavica.¹³⁹⁷ The arrest of a large group of women, children, and elderly, who were taken to Zasavica, was also carried out by Serb police and military.¹³⁹⁸ People did not go voluntarily to the camp in Zasavica. People could not leave the area unless they wanted to be exchanged.¹³⁹⁹ A group of approximately 47 Bosnian Muslim and Bosnian Croat detainees, who were held in the TO in Bosanski Šamac, were transferred to the JNA barracks in Brčko at the end of April 1992 and detained there.¹⁴⁰⁰ Later in the year, detainees were transferred from other detention facilities to the TO.¹⁴⁰¹ This group of detainees was held there until the conflict broke out in Brčko on 1 or 2 May 1992. They were then put on a bus and transferred to Bijeljina.¹⁴⁰² **Sulejman Tihić** provided evidence about the existence of six detention facilities in the municipality in 1992 consistent with these Adjudicated Facts.¹⁴⁰³

660. On 15 May 1992, the Crisis Staff of the Serbian municipality of Bosanski Šamac decided that all people of Croatian nationality in Bosanski Šamac be isolated and taken to vital facilities in the town and villages and that the Chief of the Serbian police station in cooperation with the Command of the 2nd Detachment would be responsible for carrying this out.¹⁴⁰⁴ According to the decision, this action was necessary due to “incessant bombardments, reasonable grounds to suspect that aircraft are being guided, that there is collaboration with criminals and subversive conduct”.¹⁴⁰⁵

661. The detention of non-Serb civilians in facilities within Bosanski Šamac, namely, the SUP, TO, and primary and secondary schools, was arbitrary and unlawful.¹⁴⁰⁶ The detainees in these facilities were not given any lawful reasons for their detention, and they were confined for a considerable time without being charged. The legality of their detention was never reviewed by the Serb authorities.¹⁴⁰⁷ Interrogations of those detained were conducted under coercive and forced circumstances. Interrogations were carried out by Simo Zarić, and members of the police that included Simo Božić, Miloš Savić, Vladimir Šarkanović, and Savo

¹³⁹⁶ Adjudicated Facts I, fact 349.

¹³⁹⁷ Adjudicated Facts I, fact 352.

¹³⁹⁸ Adjudicated Facts I, fact 351.

¹³⁹⁹ Adjudicated Facts I, fact 363.

¹⁴⁰⁰ Adjudicated Facts I, fact 364.

¹⁴⁰¹ Adjudicated Facts I, fact 358.

¹⁴⁰² Adjudicated Facts I, fact 364.

¹⁴⁰³ P175 (Sulejman Tihić, witness statement of 21 August 2001), pp. 2-3. See Adjudicated Facts I, facts 349, 360.

¹⁴⁰⁴ P1811 (Witness B-1638, *Blagoje Simić et al.* transcript, 30 July-1 August 2002), p. 11868; P1823 (Crisis Staff order re isolation of all individuals of Croatian nationality, 15 May 1992).

¹⁴⁰⁵ P1823 (Crisis Staff order re isolation of all individuals of Croatian nationality, 15 May 1992).

¹⁴⁰⁶ Adjudicated facts I, fact 365. The Trial Chamber understands the word ‘civilians’ in this Adjudicated Fact in a factual sense, not as a legal term.

¹⁴⁰⁷ Adjudicated Facts I, fact 365.

Čancarević.¹⁴⁰⁸ Detainees were beaten as they were required to give statements, and many did not read the statements that they were forced to sign.¹⁴⁰⁹ Although some detainees were questioned about the offence of illegal possession of weapons, as charged in the “Law on Criminal Proceeding of former Social Federative Republic of Yugoslavia”, they were all non-Serbs, and were clearly singled out and questioned on the basis of their ethnicity and their membership in the SDA and the HDZ.¹⁴¹⁰ None of the detainees were ever advised of their procedural rights before or during their detention.¹⁴¹¹

662. During their imprisonment in the detention facilities, detainees were severely beaten with various objects, such as rifles, metal bars, baseball bats, metal chains, police batons, and chair legs. The detainees were beaten on all parts of their bodies, and many of them suffered serious injuries. Some prisoners were beaten while undergoing interrogation.¹⁴¹² The beatings were applied by paramilitary forces from Serbia, local policemen, and a few members of the JNA. The beatings took place on a daily basis, day and night and caused severe pain and suffering, both physically and mentally, to the detainees.¹⁴¹³ Practically all detainees who were beaten were non-Serbs and they were regularly insulted on the basis of their ethnicity.¹⁴¹⁴ On one occasion, a victim was beaten in the crotch, and his assailants told him that Muslims should not propagate.¹⁴¹⁵

663. Other heinous acts including sexual assaults, the extraction of teeth, and the threat of execution caused severe physical and mental pain and suffering and occurred in order to discriminate on ethnic grounds against the victims.¹⁴¹⁶

664. Among the assailants at the TO were members of the paramilitaries from Serbia including “Lugar”, “Laki” – Predrag Lazarević, “Crni” – Dragan Đorđević, “Debeli” – Srećko Radovanović, a man called “Beli”, “Zuti”, “Avram”, and a local person called “Cera” – Nebojsa Stanković.¹⁴¹⁷ Other assailants were local Serb policemen from Batkusa and Skarići, Slobodan Jačimović, “Zvaka” Rakić, Spasoje Bogdanović, Slavko Trivunović, and “Bobo” Radulović.¹⁴¹⁸

¹⁴⁰⁸ Adjudicated Facts I, fact 367.

¹⁴⁰⁹ Adjudicated Facts I, fact 368.

¹⁴¹⁰ Adjudicated Facts I, facts 368, 370.

¹⁴¹¹ Adjudicated Facts I, fact 369.

¹⁴¹² Adjudicated Facts I, fact 371.

¹⁴¹³ Adjudicated Facts I, facts 372-373.

¹⁴¹⁴ Adjudicated Facts I, fact 373.

¹⁴¹⁵ Adjudicated Facts I, fact 374.

¹⁴¹⁶ Adjudicated Facts I, fact 381.

¹⁴¹⁷ Adjudicated Facts I, facts 300, 376. See chapter 2 for further explanation on this Adjudicated Fact.

¹⁴¹⁸ Adjudicated Facts I, fact 377.

665. Dragan Lukač was beaten severely by “Lugar” on 19 April 1992 with a rubber police truncheon on the back of his head.¹⁴¹⁹ On one occasion, “Cera” made Dragan Lukač kneel on the concrete in the TO courtyard. Then, he kicked him in the head with his military boot, and Lukač fainted. Then “Cera” knocked out four of Lukač’s teeth.¹⁴²⁰

666. Between 22 and 29 April 1992, “Lugar” hit Anto Brandić “Dikan”, aged about 60, with a wooden table leg. “Dikan” moaned and begged “don’t do this, you’ll kill me”. “Lugar” kept hitting him on the head, and at one point “Dikan” fell over a jerrycan of water. His body remained motionless and blood was gushing out his mouth. “Lugar” dragged him out into the courtyard of the TO, and then the prisoners heard one or two shots. Then “Lugar” said, “throw this dog into the Sava River”.¹⁴²¹ **Dragan Lukač** also testified about the killing of Anto Brandić a.k.a. Dikan, providing evidence consistent with these Adjudicated Facts.¹⁴²²

667. The Trial Chamber has also reviewed Adjudicated Facts I 351 through 363, 371, 375, and 380, providing further details about the arrests, detention, and beatings in Bosanski Šamac.¹⁴²³

668. **Witness JF-047** provided evidence about mistreatment of detainees at the SUP which is consistent with the Adjudicated Facts outlined above and further specified that members of the Red Berets and members of the TO mistreated prisoners.¹⁴²⁴

669. The Trial Chamber recalls the evidence of Dragan Lukač above in another section of this chapter, according to which he was arrested on 17 April 1992 in Gornja Crkvina. Lukač further stated that on 19 April 1992, five armed soldiers transferred him and other detainees to the TO offices in Bosanski Šamac by truck.¹⁴²⁵ There they were placed in a storage room where they joined 40 to 50 other detainees, most of whom were ethnic Muslims and Croats from Bosanski Šamac.¹⁴²⁶ The evidence provided by the witness about the beatings and mistreatment of detainees at the SUP and the TO and about the number of people held at the

¹⁴¹⁹ Adjudicated Facts I, fact 378.

¹⁴²⁰ Adjudicated Facts I, fact 379.

¹⁴²¹ Adjudicated Facts I, fact 383.

¹⁴²² P1834 (Dragan Lukač, witness statement, 4 December 1994), pp. 24-25; P1836 (Dragan Lukač, *Blagoje Simić et al.* transcripts, 20, 24-28 September and 1-4 October 2001), pp. 1697-1698.

¹⁴²³ Adjudicated Facts I, facts 351-363, 371, 375, 380.

¹⁴²⁴ P1516 (Witness JF-047, witness statement, 22 April 2004), para. 44, Witness JF-047, T. 7640-7642. See Adjudicated Facts I, fact 371.

¹⁴²⁵ P1834 (Dragan Lukač, witness statement, 4 December 1994), pp. 19-20; P1836 (Dragan Lukač, *Blagoje Simić et al.* transcripts, 20, 24-28 September and 1-4 October 2001), pp. 1661-1662, 1677.

¹⁴²⁶ P1834 (Dragan Lukač, witness statement, 4 December 1994), p. 20; P1836 (Dragan Lukač, *Blagoje Simić et al.* transcripts, 20, 24-28 September and 1-4 October 2001), p. 1677.

SUP is consistent with the Adjudicated Facts.¹⁴²⁷ The witness added that the detainees were forced to sing Chetnik songs and identified the perpetrators as Arkan's men and other "special police". The witness stated that the policemen who he saw guarding the detainees were police officers from the Bosanski Šamac municipality, while the policemen who physically abused the detainees were the ones from the "special police", i.e. the camouflage-uniformed members of the special unit of the Serb SJB of Bosanski Šamac. Some of them had come before the war from Serbia and were stationed in Batkusa. There were also a number of local men from Bosanski Šamac who were wearing the same uniforms as the men coming from Serbia and had been trained in Serbia and ended up being members of this "special police unit". The witness further stated that the following persons ill-treated the detainees: Lugar, Dragan Djordjević, a.k.a. Crni, who he perceived as Commander of Arkan's Units in Bosanski Šamac, Predrag Lazarević, a.k.a. Laki, and Nebojsa Stanković, a.k.a. Cera.¹⁴²⁸ It appeared to the witness that Lugar was in charge.¹⁴²⁹

670. The Trial Chamber further recalls its finding in chapter 3.4.1 that on or about 7 May 1992, Slobodan Miljković (a.k.a. Lugar), a person known as Debeli Musa, and Goran Simović (a.k.a. Tralja) killed 16 non-Serbs detained at the Crkvina warehouse.

671. On 27 April 1992, Simo Zarić informed six detainees in the witness's cell that they were considered political prisoners. On 3 May 1992, the witness, Franjo Barukčić, Sulejman Tihčić, Anto Simović, Sead Mujkanović, and Grga Zubak, were transferred by a military policeman and an Arkan soldier to the JNA barracks in Batajnica, Serbia, by helicopter. From there they were taken to military barracks in Zemun and then to Batajnica, and on 26 or 27 May 1992, the witness was returned to the Bosanski Šamac SUP building. The witness learned from other detainees that on 29 July 1992, a detainee also called by the name Anto Brandić, known by the nickname Anteša, died from the beatings by Todorović and others.¹⁴³⁰

672. **Sulejman Tihčić** testified that on 18 April 1992, at 2 p.m., a local Serb and a man from the special forces with his face painted black entered Boro Pisarević's apartment, where the

¹⁴²⁷ P1834 (Dragan Lukač, witness statement, 4 December 1994), pp. 20-24, 26, 32-33, 35-36; P1836 (Dragan Lukač, *Blagoje Simić et al.* transcripts, 20, 24-28 September and 1-4 October 2001), pp. 1678-1681, 1683-1684, 1686-1687, 1690-1692, 1742-1744, 1755, 1762-1763, 1793; P1839 (Photograph of Slobodan Miljković "Lugar" in a truck); P1847 (Photograph of Slobodan Miljković "Lugar" under a truck); P1855 (Photograph of Slobodan Miljković "Lugar" in a truck). See Adjudicated Facts I, facts 349, 371, 373, 378-379, 381.

¹⁴²⁸ P1834 (Dragan Lukač, witness statement, 4 December 1994), pp. 22-24, 28; P1836 (Dragan Lukač, *Blagoje Simić et al.* transcripts, 20, 24-28 September and 1-4 October 2001), p. 1678, 1686-1688.

¹⁴²⁹ P1834 (Dragan Lukač, witness statement, 4 December 1994), p. 23.

¹⁴³⁰ P1834 (Dragan Lukač, witness statement, 4 December 1994), pp. 26-31 35-36; P1836 (Dragan Lukač, *Blagoje Simić et al.* transcripts, 20, 24-28 September and 1-4 October 2001), pp. 1701-1704, 1709-1710, 1716, 1718, 1721, 1731, 1734, 1763-1764.

witness spent the night, and took the witness and Pisarević to the Bosanski Šamac police station, where the witness noticed many persons in different uniforms: “special forces” such as the Grey Wolves and Red Berets, “Chetniks”, TO Staff and JNA soldiers.¹⁴³¹ According to the witness, some of them introduced themselves as Arkan’s men and showed him their insignia with four reversed Ss; they wore camouflage uniforms and black woollen knitted caps. The witness further testified that he knew the difference between the insignia used by Grey Wolves and the regular four Ss emblem of the Serb forces. At the police station, the witness was interviewed by Dragan Djordjević a.k.a. Crni; the witness concluded that he must have been the Commander of the special forces, as he was issuing orders to those from the special units and to others at the police station. The witness was told by Crni to go on Radio Šamac and tell the Muslims to surrender.¹⁴³² Before going to the radio station, he was beaten in the hall of the police station by a blond man, Slobodan Miljković, nicknamed Lugar, who spoke Ekavian.¹⁴³³ At the radio station, the witness read out a prepared statement calling on the people to surrender, and assuring them that the Serb authorities would guarantee everyone’s safety. After the interview, the witness was allowed to go home, but he was afraid that the paramilitaries would shoot him.¹⁴³⁴ He decided to return with them to the police station, as, at that time, he thought that it was safe.¹⁴³⁵

673. The witness testified that at the TO there was not enough food or water and the detainees were held in poor conditions in overcrowded cells.¹⁴³⁶ While at the police station

¹⁴³¹ P173 (Sulejman Tihić, witness statement of 31 October 1994), pp. 7, 9; P175 (Sulejman Tihić, witness statement of 21 August 2001), p. 2; P176 (Sulejman Tihić, *Simić et al.* transcript, 13-14 and 17-20 September, and 6-8 November 2001), pp. 1374, 1377, 1379-1381, 1423, 1425; Sulejman Tihić, T. 3121, 3218-3220; P207 (Photograph of a garage behind the police station in Bosanski Šamac); P212 (Photograph of the police station in Bosanski Šamac – rear view of the yard, 6 October 1996); P214 (Photograph of the police station in Bosanski Šamac – rear view, 6 October 1996); P216 (Photograph of the police station in Bosanski Šamac, 6 October 1996).

¹⁴³² P173 (Sulejman Tihić, witness statement of 31 October 1994), p. 7; P176 (Sulejman Tihić, *Simić et al.* transcript, 13-14 and 17-20 September, and 6-8 November 2001), pp. 1377, 1379; Sulejman Tihić, T. 3120-3122, 3131, 3135, 3218-3220; P192 (Excerpt from Sulejman Tihić’s book “Memoirs of a politician from Bosnia”, 1995), p. 22.

¹⁴³³ P173 (Sulejman Tihić, witness statement of 31 October 1994), p. 7; P176 (Sulejman Tihić, *Simić et al.* transcript, 13-14 and 17-20 September, and 6-8 November 2001), p. 1380, 1385; Sulejman Tihić, T. 3122; P192 (Excerpt from Sulejman Tihić’s book “Memoirs of a politician from Bosnia”, 1995), p. 23; P205 (Photograph of three men in front of a truck). The Trial Chamber notes that in P192, the witness refers to this person as “Beli”. The Trial Chamber is uncertain whether this is the same person.

¹⁴³⁴ P173 (Sulejman Tihić, witness statement of 31 October 1994), p. 8; P176 (Sulejman Tihić, *Simić et al.* transcript, 13-14 and 17-20 September, and 6-8 November 2001), pp. 1382-1384; P177 (Sulejman Tihić, *Slobodan Milošević* transcript, 2-3 December 2003), pp. 29953-29954; Sulejman Tihić, T. 3121, 3130-3131; P192 (Excerpt from Sulejman Tihić’s book “Memoirs of a politician from Bosnia”, 1995), pp. 23-24.

¹⁴³⁵ P177 (*Slobodan Milošević* transcript, 2-3 December 2003), p. 29954.

¹⁴³⁶ P173 (Sulejman Tihić, witness statement of 31 October 1994), p. 9-10; P174 (Sulejman Tihić, witness statement of 28 February 1995), p. 4; P175 (Sulejman Tihić, witness statement of 21 August 2001), pp. 2-3; P176 (Sulejman Tihić, *Simić et al.* transcript, 13-14 and 17-20 September, and 6-8 November 2001), pp. 1395,

and the TO, the witness was further beaten and threatened with execution and his evidence in this respect, as well as the evidence about mistreatment of other detainees, is consistent with the Adjudicated Facts.¹⁴³⁷ The witness added that the detainees were forced to sing “Chetnik” songs and identified those who beat and mistreated the prisoners as Arkan’s men, Grey Wolves and other “special forces” from Serbia commanded by Djordjević, including Lugar, Crni, Musa, Kid, Lucky, Beli, Zvezdan Jovanović, and Major Bokan.¹⁴³⁸ He further testified that no one tried to stop the beatings and Todorović even encouraged them.¹⁴³⁹

674. On 20 April 1992, during interrogation, Zarić and Vlado Sarkanović told the witness that they needed Todorović’s and Simić’s permission before releasing him.¹⁴⁴⁰ Both Simić and Todorović did not agree that he be released.¹⁴⁴¹ Djordjević also said that without his approval, the witness would not be released.¹⁴⁴² On a morning between 26 and 28 April 1992, the witness was in Zarić’s office, when Lugar arrived at the Bosanski Šamac police station in a yellow Golf car.¹⁴⁴³ Zarić and the witness saw Lugar entering the building, and subsequently they heard a shot.¹⁴⁴⁴ A duty officer told Zarić that Lugar had shot a Croat named Dikan.¹⁴⁴⁵ Zarić called Simić and told him that Lugar killed a man in front of about 50 people, and that

1400, 1410-1411, 1414-1416, 1418, 1431, 1433, 3641-3642; P188 (Sketches drawn by Witness Sulejman Tihic, 23 September 1994), p. 1; P192 (Excerpt from Sulejman Tihic’s book “Memoirs of a politician from Bosnia”, 1995), pp. 24-26.

¹⁴³⁷ P173 (Sulejman Tihic, witness statement of 31 October 1994), pp. 8-11; P175 (Sulejman Tihic, witness statement of 21 August 2001), p. 3; P176 (Sulejman Tihic, *Simić et al.* transcript, 13-14 and 17-20 September, and 6-8 November 2001), pp. 1385-1386, 1393, 1395, 1414-1415; 1419, 1434-1437; Sulejman Tihic, T. 3121, 3123; P192 (Excerpt from Sulejman Tihic’s book “Memoirs of a politician from Bosnia”, 1995), pp. 24, 26-29. See Adjudicated Facts I, facts 371, 381.

¹⁴³⁸ P173 (Sulejman Tihic, witness statement of 31 October 1994), pp. 9, 11; P175 (Sulejman Tihic, witness statement of 21 August 2001), p. 3; P176 (Sulejman Tihic, *Simić et al.* transcript, 13-14 and 17-20 September, and 6-8 November 2001), p. 1395, 1422; P177 (Sulejman Tihic, *Slobodan Milošević* transcript, 2-3 December 2003), p. 29887; Sulejman Tihic, T. 3151-3154.

¹⁴³⁹ P173 (Sulejman Tihic, witness statement of 31 October 1994), pp. 11-12.

¹⁴⁴⁰ P173 (Sulejman Tihic, witness statement of 31 October 1994), pp. 9-10; P174 (Sulejman Tihic, witness statement of 28 February 1995), p. 3; P175 (Sulejman Tihic, witness statement of 21 August 2001), p. 2; P176 (Sulejman Tihic, *Simić et al.* transcript, 13-14 and 17-20 September, and 6-8 November 2001), pp. 1402-1404; 1406-1408; P192 (Excerpt from Sulejman Tihic’s book “Memoirs of a politician from Bosnia”, 1995), p. 25.

¹⁴⁴¹ P173 (Sulejman Tihic, witness statement of 31 October 1994), p. 10; P174 (Sulejman Tihic, witness statement of 28 February 1995), p. 4; P176 (Sulejman Tihic, *Simić et al.* transcript, 13-14 and 17-20 September, and 6-8 November 2001), pp. 1408-1410; P192 (Excerpt from Sulejman Tihic’s book “Memoirs of a politician from Bosnia”, 1995), p. 26.

¹⁴⁴² Sulejman Tihic, T. 3125, 3237-3238.

¹⁴⁴³ P173 (Sulejman Tihic, witness statement of 31 October 1994), p. 12; P176 (Sulejman Tihic, *Simić et al.* transcript, 13-14 and 17-20 September, and 6-8 November 2001), p. 1440.

¹⁴⁴⁴ P176 (Sulejman Tihic, *Simić et al.* transcript, 13-14 and 17-20 September, and 6-8 November 2001), pp. 1441-1444; P192 (Excerpt from Sulejman Tihic’s book “Memoirs of a politician from Bosnia”, 1995), p. 27.

¹⁴⁴⁵ P173 (Sulejman Tihic, witness statement of 31 October 1994), p. 12; P175 (Sulejman Tihic, witness statement of 21 August 2001), p. 3; P176 (Sulejman Tihic, *Simić et al.* transcript, 13-14 and 17-20 September, and 6-8 November 2001), p. 1441; P192 (Excerpt from Sulejman Tihic’s book “Memoirs of a politician from Bosnia”, 1995), p. 27.

he wanted to ask Lieutenant Colonel Nikolić and the JNA for help.¹⁴⁴⁶ Later that day, Captain Petrović arrived with the JNA trucks, and the witness and about 50 other prisoners were taken by these trucks to the JNA Barracks in Brčko, where Zarić told the witness that he was a political prisoner.¹⁴⁴⁷ From there the witness was later transferred to the JNA barracks in Bijeljina, and subsequently to Batajnica Airport and Sremska Mitrovica military prison in Serbia.¹⁴⁴⁸

675. The Trial Chamber recalls the testimony of **Witness B-1108** in chapter 3.4.1, indicating that he was arrested on 2 May 1992 and placed at the Bosanski Šamac TO building, together with other, mostly Croat and Muslim detainees all of whom, except for Luka Gregurević, a police officer, were civilians. The witness was beaten in detention and provided evidence about mistreatment of detainees, derogatory statements about the detainees, and those who applied the beatings, which is consistent with the Adjudicated Facts, identifying the names of the perpetrators as Mitrovic, Lugar, Avram, Laki, Slobodan Radulović, and policemen Dimitrija, Slobodan Rakić, Petrović, and Slobodan Vakić a.k.a Zvaka.¹⁴⁴⁹

676. **Witness B-1638** stated that in the Croatian villages, there were virtually no Croats left after a lot of people were arrested. On 15 May 1992, the witness was arrested by two local Serb policemen and was taken to the SUP building in Bosanski Šamac and then to the TO building across the street, where he was held for about three months.¹⁴⁵⁰ According to him, there were about 600 persons in the camps in Bosanski Šamac. The witness provided evidence

¹⁴⁴⁶ P173 (Sulejman Tihić, witness statement of 31 October 1994), p. 12; P176 (Sulejman Tihić, *Simić et al.* transcript, 13-14 and 17-20 September, and 6-8 November 2001), p. 1441; Sulejman Tihić, T. 3126; P192 (Excerpt from Sulejman Tihić's book "Memoirs of a politician from Bosnia", 1995), p. 27.

¹⁴⁴⁷ P173 (Sulejman Tihić, witness statement of 31 October 1994), pp. 12-13; P175 (Sulejman Tihić, witness statement of 21 August 2001), p. 2; P176 (Sulejman Tihić, *Simić et al.* transcript, 13-14 and 17-20 September, and 6-8 November 2001), pp. 1445, 1448-1450, 1452, 1455, 3708-3709; P177 (Sulejman Tihić, *Slobodan Milošević* transcript, 2-3 December 2003), p. 29968; Sulejman Tihić, T. 3127-3128; P192 (Excerpt from Sulejman Tihić's book "Memoirs of a politician from Bosnia", 1995), pp. 28, 30; Sulejman Tihić, T. 3127-3128.

¹⁴⁴⁸ P173 (Sulejman Tihić, witness statement of 31 October 1994), pp. 15-17, 20, 25; P175 (Sulejman Tihić, witness statement of 21 August 2001), p. 2; P176 (Sulejman Tihić, *Simić et al.* transcript, 13-14 and 17-20 September, and 6-8 November 2001), pp. 1451, 1478-1481, 1502-1503; P177 (Sulejman Tihić, *Slobodan Milošević* transcript, 2-3 December 2003), pp. 29889-29891; P191 (Certificate issued by the Government of Croatia, 19 August 1992, signed by the Secretary, Antun Babić); P192 (Excerpt from Sulejman Tihić's book "Memoirs of a politician from Bosnia", 1995), pp. 34, 36.

¹⁴⁴⁹ P122 (Witness B-1108, witness statement, 8 December 1994), pp. 5-7, 10-13. See Adjudicated Facts I, facts 371-373.

¹⁴⁵⁰ P1809 (Witness B-1638, witness statement, 9 February 1995), pp. 8-9, 10-12; P1811 (Witness B-1638, *Blagoje Simić et al.* transcript, 30 July-1 August 2002), pp. 11690, 11708-11709, 11720, 11723-11724, 11728, 11746, 11750, 11754-11755, 11760, 11768, 11777, 11846, 11868, 11871; P1814 (Certificate issued by the Crisis Staff of the municipality of Bosanski Šamac, 11 September 1992).

about mistreatment of detainees consistent with Adjudicated Facts outlined above.¹⁴⁵¹ He identified the perpetrators as persons speaking with the Serbian accent and referred to as “specials”, including “Beli”, “Laki”, “Lugar”, “Crni”, as well as Stevan Todorović and Serbs in paramilitary uniforms and wearing kokardas.¹⁴⁵²

677. **Stevan Todorović** provided evidence about arrests and detention generally consistent with the Adjudicated Facts.¹⁴⁵³ The witness further stated that the first men to be detained were only those who put up resistance during the night of the take-over and later more people were detained on the basis of information obtained during investigation and from confiscated documents.¹⁴⁵⁴ At first, only people who were armed were taken into custody.¹⁴⁵⁵ Later, a small group of people against whom there was no evidence that they were in possession of weapons or that they were affiliated with any armed groups, was also taken into custody.¹⁴⁵⁶ He further stated that the detainees were primarily mistreated by the 30 or so men who had come in from Serbia and who wore camouflage uniforms but local soldiers also mistreated the detainees from time to time.¹⁴⁵⁷ The Trial Chamber notes that Todorović is the only witness who appears to suggest that most of the arrested persons had some sort of military affiliation or were in possession of arms, and that this evidence differs from the Adjudicated Facts reviewed above.¹⁴⁵⁸ In view of the other evidence received, in particular that of Witness B-1108 and Sulejman Tihčić, the Trial Chamber considers that the evidence of Todorović does not rebut the Adjudicated Facts in this respect.

678. The Adjudicated Facts further state that civilians, both those who remained free and those who were held in detention, were forced to dig trenches, build bunkers, carry sandbags or railway sleepers for the construction of trenches, and build other fortifications on the frontline.¹⁴⁵⁹ Civilians working on military assignments on the frontline were exposed to dangerous conditions and were under a high risk of being injured or killed.¹⁴⁶⁰ This work was

¹⁴⁵¹ P1809 (Witness B-1638, witness statement, 9 February 1995), pp. 9-13, 16-17; P1811 (Witness B-1638, *Blagoje Simić et al.* transcript, 30 July-1 August 2002), pp. 11724-11727, 11729-11730, 11781-11786, 11865, 11868-11869. See Adjudicated Facts I, facts 371, 373, 381.

¹⁴⁵² P1809 (Witness B-1638, witness statement, 9 February 1995), pp. 9-13; P1811 (Witness B-1638, *Blagoje Simić et al.* transcript, 30 July-1 August 2002), pp. 11724-11727, 11729-11730, 11784-11786, 11869.

¹⁴⁵³ P1576 (Stevan Todorović, *Slobodan Milošević* transcript, 30 June-1 July 2003), pp. 23429, 23452-23453, 23456-23459, 23540, 23539-23540; P1579 (Stevan Todorović, List of terms and names used in *Slobodan Milošević* testimony, 31 August 2010). See Adjudicated Facts I, facts 349, 353, 360, 381.

¹⁴⁵⁴ P1576 (Stevan Todorović, *Slobodan Milošević* transcript, 30 June 2003), p. 23539.

¹⁴⁵⁵ P1576 (Stevan Todorović, *Slobodan Milošević* transcript, 30 June 2003), p. 23539.

¹⁴⁵⁶ P1576 (Stevan Todorović, *Slobodan Milošević* transcript, 30 June 2003), pp. 23539-23540.

¹⁴⁵⁷ P1576 (Stevan Todorović, *Slobodan Milošević* transcript, 30 June-1 July 2003), p. 23459.

¹⁴⁵⁸ See for example Adjudicated Facts I-353, 363, 386.

¹⁴⁵⁹ Adjudicated Facts I, fact 386.

¹⁴⁶⁰ Adjudicated Facts I, fact 387.

not rendered voluntarily and they were not paid for their work; they were subjected to humiliating forced labour.¹⁴⁶¹ Civilians were compelled to work under the supervision of armed guards, who beat or fired at those who tried to escape.¹⁴⁶² Bosnian Muslims and Bosnian Croats who were forced to loot the houses of people from their town, who sometimes they knew well and highly respected, were subjected to humiliating treatment.¹⁴⁶³ Persons detained at the SUP, in Bijeljina, Brčko, and Zaslavica were forced to wash and repair the cars of police officers, clean the premises, and do other similar assignments.¹⁴⁶⁴

679. The Adjudicated Facts state that hundreds of Croat and Muslim prisoners from Bosanski Šamac were exchanged to Croatia on 25/26 May, 4/5 July, 4 September, 7 October, and 24 December 1992, and 15/16 June 1993.¹⁴⁶⁵ Dragan Lukač, Hasan Bišić, Muhamed Bišić, Ibrahim Salkić, Esad Dagović, Dragan Delić, Nusret Hadžijusufović, and Jelena Kapetanović were in detention when they were exchanged to Croatia.¹⁴⁶⁶ Only a small number of the Croats and Muslims were exchanged as POWs.¹⁴⁶⁷

680. Furthermore, at the exchange to Dragalić on 5 November 1992, about 100 persons were involved, women and children, men and elderly men, and the number that crossed to Croatia had to correspond to the number of people entering Bosnia-Herzegovina.¹⁴⁶⁸ There were other exchanges of non-Serb civilians to Dragalić on 19 September 1992, and 7 January 1993.¹⁴⁶⁹ Citizens from Bosanski Šamac, and some detainees from Batković, were exchanged in Lipovac on 30 January 1993.¹⁴⁷⁰

681. The Trial Chamber has also received evidence about the exchanges of prisoners. In this respect, **Stevan Todorović** stated that those people who he considered as POWs were, for the most part, exchanged for Serbs who had been previously captured by Croatian and Muslim units in the neighbouring municipality.¹⁴⁷¹ According to the witness, the local Crisis Staff approved of the use of detention facilities in Bosanski Šamac to detain the non-Serb prisoners.¹⁴⁷²

¹⁴⁶¹ Adjudicated Facts I, facts 386, 388.

¹⁴⁶² Adjudicated Facts I, fact 386.

¹⁴⁶³ Adjudicated Facts I, fact 389.

¹⁴⁶⁴ Adjudicated Facts I, fact 390.

¹⁴⁶⁵ Adjudicated Facts I, facts 391-393, 395-398, 401-402.

¹⁴⁶⁶ Adjudicated Facts I, fact 401.

¹⁴⁶⁷ Adjudicated Facts I, fact 402.

¹⁴⁶⁸ Adjudicated Facts I, fact 394.

¹⁴⁶⁹ Adjudicated Facts I, fact 399.

¹⁴⁷⁰ Adjudicated Facts I, fact 396.

¹⁴⁷¹ P1576 (Stevan Todorović, *Slobodan Milošević* transcript, 30 June-1 July 2003), p. 23540.

¹⁴⁷² P1576 (Stevan Todorović, *Slobodan Milošević* transcript, 30 June-1 July 2003), p. 23458.

682. **Dragan Lukač**, a Croat police officer from Bosanski Šamac,¹⁴⁷³ stated that an Exchange Committee was put together in Bosanski Šamac with Tadić as chairman and Svetozar Vasović and Veljo Maslić as members and with mandate to exchange POWs. He further provided evidence about his exchange to Croatia which is consistent with the Adjudicated Facts above.¹⁴⁷⁴ According to a document signed by the President of the Commission for the exchange of prisoners, Mijo Matanović, on 4 September 1992, 29 persons from Bosanski Šamac were exchanged in Dragalić in Croatia.¹⁴⁷⁵ In the witness's view, the Exchange Committee exchanged 2,000 civilians of Muslim and Croat ethnicity from that area.¹⁴⁷⁶

683. **Sulejman Tihčić** testified that on 14 August 1992, he and other prisoners were taken in 15 buses to be exchanged in Croatia. The witness, together with Croat prisoners from Vukovar, was exchanged that day in Nemetin, near Osijek, in Croatia.¹⁴⁷⁷ **Witness B-1638** stated that he and other detainees from the Bosanski Šamac TO building were exchanged to Croatia at Dragalić on 4 September 1992.¹⁴⁷⁸ **Witness B-1108** testified that on 7 October 1992, he and 40 other prisoners from the Bosanski Šamac camp and other detention facilities, all civilians, were transported to Croatia and exchanged in Dragalić.¹⁴⁷⁹

684. Considering the Adjudicated Facts and the evidence before it, the Trial Chamber finds that from 17 April 1992 to at least mid June 1993, local Serb authorities in Bosanski Šamac arbitrarily arrested and detained thousands of Muslim and Croat civilians, including Sulejman Tihčić, Witness B-1108, and Witness B-1638, in at least six detention centres throughout the municipality in overcrowded cells and in poor sanitary conditions. The Trial Chamber further

¹⁴⁷³ P1834 (Dragan Lukač, witness statement, 4 December 1994), pp. 1-2; P1836 (Dragan Lukač, *Blagoje Simić et al.* transcripts, 20, 24-28 September and 1-4 October 2001), pp. 1524-1530.

¹⁴⁷⁴ P1834 (Dragan Lukač, witness statement, 4 December 1994), pp. 36-37; P1836 (Dragan Lukač, *Blagoje Simić et al.* transcripts, 20, 24-28 September and 1-4 October 2001), pp. 1794-1796, 1950-1953, 2078.

¹⁴⁷⁵ P132 (List of persons exchanged on 4 September 1992).

¹⁴⁷⁶ P1834 (Dragan Lukač, witness statement, 4 December 1994), p. 36; P1836 (Dragan Lukač, *Blagoje Simić et al.* transcripts, 20, 24-28 September and 1-4 October 2001), p. 1793.

¹⁴⁷⁷ P173 (Sulejman Tihčić, witness statement of 31 October 1994), pp. 24-25; P175 (Sulejman Tihčić, witness statement of 21 August 2001), p. 2; P176 (Sulejman Tihčić, *Simić et al.* transcript, 13-14 and 17-20 September, and 6-8 November 2001), p. 1511-1512; P177 (Sulejman Tihčić, *Slobodan Milošević* transcript, 2-3 December 2003), p. 29893; Sulejman Tihčić, T. 3124; P191 (Certificate issued by the Government of Croatia, 19 August 1992, signed by the Secretary, Antun Babić); P192 (Excerpt from Sulejman Tihčić's book "Memoirs of a politician from Bosnia", 1995), p. 61.

¹⁴⁷⁸ P1811 (Witness B-1638, *Blagoje Simić et al.* transcript, 30 July-1 August 2002), pp. 11771-11773, 11776, 11849, 11851, 11857-11858, 11871; P1814 (Certificate issued by the Crisis Staff of the municipality of Bosanski Šamac, 11 September 1992); P1816 (News report and interviews at a prisoner exchange at Croatian/Bosnian border – Refugees *inter alia* from Bosanski Šamac/Doboj/Sanski Most), pp. 2, 16-17, 25; P1822 (List of men to be exchanged on 4 September 1992, undated).

¹⁴⁷⁹ P122 (Witness B-1108, witness statement, 8 December 1994), pp. 13-14; Witness B-1108, T. 2668-2669; P131 (List of persons from Bosanski Šamac to be exchanged, 7 October 1992).

finds that the detainees were forced to perform unpaid work. In light of the Adjudicated Facts and the evidence received, in particular that of Dragan Lukač and Stevan Todorović, as well as Order P1823, the Trial Chamber finds that these local Serb authorities included the Serb Crisis Staff.

685. On the basis of the Adjudicated Facts and having reviewed the evidence received, the Trial Chamber finds that the prisoners were beaten, sexually assaulted and threatened, forced to sing Serbian songs, and insulted on the basis of their ethnicity. One prisoner was beaten in his crotch and told that Muslims should not propagate and at least one detainee, Anto Brandić a.k.a. Anteša, died from the beatings. Based on the Adjudicated Facts and having reviewed the testimonies of Sulejman Tihić and Dragan Lukač, the Trial Chamber finds that between 22 and 29 April 1992, at the Bosanski Šamac TO detention centre, Anto Brandić a.k.a. Dikan, a Croat detainee, was beaten and subsequently shot and killed. The Adjudicated Facts and evidence establish that the perpetrators of the beatings of prisoners and the killing of Anto Brandić included Unit members, such as Slobodan Miljković (a.k.a. Lugar), Dragan Đorđević (a.k.a. Crni), and Srećko Radovanović (a.k.a. Debeli). However, the Trial Chamber is unable to determine with sufficient certainty whether any persons left Bosanski Šamac municipality after the beatings, sexual assault, and threatening of prisoners other than through the exchanges of prisoners. Consequently, the Trial Chamber is unable to conclude that any persons left Bosanski Šamac as a result of the beatings, sexual assault, and threatening of prisoners. Under these circumstances, the Trial Chamber will not further consider the perpetrators of these acts in relation to Counts 1, 4, and 5 of the Indictment, in chapter 4, below.

686. With regard to exchanges of prisoners, the Trial Chamber finds, on the basis of the Adjudicated Facts and the evidence provided by Sulejman Tihić, Dragan Lukač, Witness B-1108, and Witness B-1638, that between 25/26 May 1992 and 15/16 June 1993, the same local Serb authorities that detained Muslims and Croats throughout the municipality, organized at least seven exchanges of hundreds of Muslim and Croat prisoners, including Sulejman Tihić, Dragan Lukač, Witness B-1108, Witness B-1638, and Hasan Bišić, Muhamed Bišić, Ibrahim Salkić, Esad Dagović, Dragan Delić, Nusret Hadžijusufović, and Jelena Kapetanović to the territory of Croatia. Based on the Adjudicated Facts and having reviewed the evidence of Stevan Todorović, the Trial Chamber finds that only a few of the Muslims and Croats were exchanged as POWs.

687. The Adjudicated Facts further establish that there were four other exchanges of non-Serb civilians and citizens of Bosanski Šamac to the territory of Croatia, on 19 September and 5 November 1992, and 7 and 30 January 1993. Considering its finding above, and in light of the totality of evidence, the Trial Chamber finds that most, if not all, of the persons exchanged on these four occasions were Muslim and Croats detainees, and that the aforementioned forces that detained Muslims and Croats, organized their exchanges to Croatia. The Trial Chamber will further consider these incidents in relation to Counts 1, 4, and 5 of the Indictment, in chapter 4, below.

3.5 Doboj

3.5.1 Murder of approximately 27 non-Serb civilians by using them as human shields on or about 12 July 1992 (Indictment, para. 54)

688. The Indictment alleges that on or about 12 July 1992, Serb forces (as defined in Indictment paragraph 6), in particular special units of the Republic of Serbia DB (as described in Indictment paragraph 4), used non-Serb detainees as human shields and approximately 27 of these civilians were killed.¹⁴⁸⁰ The Trial Chamber has received relevant evidence with regard to the alleged murders through the testimony of Edin Hadžović, Witness JF-008, and Witness JF-009, and through forensic documentation.

689. **Edin Hadžović**, a Bosnian Muslim from Čaršija neighbourhood in Doboj,¹⁴⁸¹ testified that on or about 12 June 1992, two soldiers wearing camouflage uniforms and red berets with the “four Serb Ss” insignia forced him out of his house, and then transported him together with other men to a former JNA hangar in Usora. On or about 19 June 1992, the guard soldiers loaded him and approximately 130 of the detainees held in Usora onto trucks that transported them to *Perčin disko* in Vila.¹⁴⁸² After their arrival, there were about 340 detainees in the building and it was extremely crowded.¹⁴⁸³ Approximately 40 of the detainees were Croats from Dragalovci, about 160 were from Čivčije, and the rest were from Doboj.¹⁴⁸⁴ The detainees included Ante Kalem; Ešef, Hasan, Zijad, and Senad Ahmić; Safet and Ramiz Hamidović; Muhamed Husanović; Hasib Kadić; Jasmin and Nedžad Makarević; Arif, Hasib, and Mehmed Omerčić; and Muhamed Zečević.¹⁴⁸⁵ The soldiers guarding the detainees at *Perčin disko* wore red berets, some of them were local men.¹⁴⁸⁶

690. On 12 July 1992, Hadžović heard loud shooting and saw a commotion among the guards. Soldiers with red berets who belonged to the Predo’s Wolves unit led by Predo (Predrag) Kujundžić, speaking mostly with local accent, forced 50 of the detainees, including

¹⁴⁸⁰ Indictment, para. 54.

¹⁴⁸¹ P82 (Edin Hadžović, statement before local authorities, 22 June 1998), pp. 1-2; P83 (Edin Hadžović, witness statement, 12 March 2001), pp. 1-2; D4 (Edin Hadžović, statement before local authorities, 11 August 1992), p. 1; D27 (Edin Hadžović, statement before local authorities, 30 November 2007), pp. 2, 5.

¹⁴⁸² P82 (Edin Hadžović, statement before local authorities, 22 June 1998), p. 4; P83 (Edin Hadžović, witness statement, 12 March 2001), pp. 6-7; D27 (Edin Hadžović, statement before local authorities, 30 November 2007), pp. 7-8; P87 (Collection of photographs).

¹⁴⁸³ P82 (Edin Hadžović, statement before local authorities, 22 June 1998), p. 5; P83 (Edin Hadžović, witness statement, 12 March 2001), p. 7; D27 (Edin Hadžović, statement before local authorities, 30 November 2007), p. 8.

¹⁴⁸⁴ P82 (Edin Hadžović, statement before local authorities, 22 June 1998), p. 4; D27 (Edin Hadžović, statement before local authorities, 30 November 2007), p. 8.

¹⁴⁸⁵ Edin Hadžović, T. 2252; P92 (List of victims).

the witness, out of *Perčin disko*.¹⁴⁸⁷ According to the witness, red berets were worn by various military formations apart from Predo's Wolves.¹⁴⁸⁸ The soldiers made these inmates line up in rows of two and run towards a school on the outskirts of Dobož in the direction of Tešanj. Upon arrival, Hadžović saw a large group of soldiers and policemen, among whom he recognized some local men.¹⁴⁸⁹ He overheard Milutin Blašković, a senior official of SUP Dobož, tell Golub a.k.a. Crnogorac (Montenegrin, nicknamed by the detainees for his Montenegrin accent), a soldier with a green camouflage uniform, red beret and a large scar on his face, that CSB chief Andrija Bjelošević had authorised taking the detainees out of the camp.¹⁴⁹⁰ The detainees were then ordered to partially or fully undress, and to line up as a human shield of five rows with ten men each. Hadžović was in the fourth row and the rows were spaced about ten metres apart. The soldiers forced the detainees to walk towards the battlefield at Putnikovo Brdo. As they approached, Golub (a.k.a. Crnogorac) shot Ante Kalem, a Croat detainee from Dragalovci, in the back of the head.¹⁴⁹¹ Golub then said that he would do the same thing to the other detainees if they disobeyed him. Next, the soldiers ordered each line of detainees around a concrete wall at a bend in the road one at a time.¹⁴⁹² When the witness rounded the bend in the fourth group, he saw that many of the detainees from the first three lines were lying dead on the ground. As Hadžović's line was rounding the bend, a wounded reserve lieutenant appeared and told the soldiers to hold their fire on a house because his men were apparently inside. Two uniformed men, whom the witness recognized as Omer Delić and Salko (Salih) Makarević, came running from the house yelling not to shoot.¹⁴⁹³ Nenad Markočević, a Serbian policeman, told the lieutenant that the men were

¹⁴⁸⁶ P82 (Edin Hadžović, statement before local authorities, 22 June 1998), p. 4; Edin Hadžović, T. 2297-2299.

¹⁴⁸⁷ P82 (Edin Hadžović, statement before local authorities, 22 June 1998), p. 5; P83 (Edin Hadžović, witness statement, 12 March 2001), p. 8; D27 (Edin Hadžović, statement before local authorities, 30 November 2007), pp. 9-10; Edin Hadžović, T. 2312, 2318-2319, 2346.

¹⁴⁸⁸ Edin Hadžović, T. 2313-2314.

¹⁴⁸⁹ P82 (Edin Hadžović, statement before local authorities, 22 June 1998), p. 5; P83 (Edin Hadžović, witness statement, 12 March 2001), p. 8; D27 (Edin Hadžović, statement before local authorities, 30 November 2007), p. 10; Edin Hadžović, T. 2236, 2303.

¹⁴⁹⁰ P82 (Edin Hadžović, statement before local authorities, 22 June 1998), p. 5; D27 (Edin Hadžović, statement before local authorities, 30 November 2007), p. 5; Edin Hadžović, T. 2242.

¹⁴⁹¹ P82 (Edin Hadžović, statement before local authorities, 22 June 1998), p. 5; P83 (Edin Hadžović, witness statement, 12 March 2001), p. 8; D4 (Edin Hadžović, statement before local authorities, 11 August 1992), pp. 2-3; D27 (Edin Hadžović, statement before local authorities, 30 November 2007), p. 11; Edin Hadžović, T. 2242.

¹⁴⁹² P82 (Edin Hadžović, statement before local authorities, 22 June 1998), pp. 5-6; D27 (Edin Hadžović, statement before local authorities, 30 November 2007), p. 11; P90 (Sketch by Edin Hadžović on road where detainees were used as human shields).

¹⁴⁹³ P82 (Edin Hadžović, statement before local authorities, 22 June 1998), p. 6; P92 (Edin Hadžović, List of victims, 30 November 2009); D4 (Edin Hadžović, statement before local authorities, 11 August 1992), p. 3; D27 (Edin Hadžović, statement before local authorities, 30 November 2007), p. 11; Edin Hadžović, T. 2253.

actually not Serbian policemen or soldiers, and that Omer Delić was a Muslim.¹⁴⁹⁴ The lieutenant then shot and killed both Delić and Makarević with his pistol. Following an exchange of fire, the Serbian soldiers forced the remaining detainees forward in a human shield of three lines with four men each. As they approached the Bosnian Army, the Bosnian soldiers shouted to the detainees that they should run towards the free territory. Hadžović and Vahid Avdić were the first detainees to jump over the barbed wire on the side of the road and others followed suit. The Serbian soldiers opened fire with a Praga in the direction of the fleeing detainees. Many detainees were shot while trying to escape and their dead bodies fell on top of Hadžović and Avdić.¹⁴⁹⁵ After a short while, the two men crawled out from underneath the bodies and hid in a nearby house until dark.¹⁴⁹⁶ On 14 July 1992, after two days of fleeing, the Doboj Brigade assisted Hadžović and Avdić.¹⁴⁹⁷ Hadžović subsequently stayed in the hospital for 20 days.¹⁴⁹⁸ In his estimate, 37 detainees died in the human shield incident.¹⁴⁹⁹ In 2000, Hadžović helped to identify 27 bodies of detainees who had been part of the human shield, which were found in a mass grave in the village of Matuzići.¹⁵⁰⁰

691. **Witness JF-009**, a Bosnian Muslim from a Muslim village in Doboj municipality,¹⁵⁰¹ testified that on 3 May 1992, a paramilitary group called Predo's Wolves consisting of a group of locals that was commanded by Predo (Predrag) Kujundžić and wore camouflage uniforms with the "four Serb Ss" insignia and black bandanas around their heads, surrounded Bukovačke Čivčije and ordered all men to deliver their remaining weapons at the youth house, at the centre of the village.¹⁵⁰² Predo made the Muslim men line up at gun point in two rows, and fired a gun over their heads; the bullet hit and wounded a Muslim boy. After some time, during which the men were forced to sing Serbian songs, Predo ordered the witness and some 200 Muslims onto four buses which took them to *Perčin disko* in Doboj. In this building

¹⁴⁹⁴ P82 (Edin Hadžović, statement before local authorities, 22 June 1998), p. 6; D4 (Edin Hadžović, statement before local authorities, 11 August 1992), p. 3; D27 (Edin Hadžović, statement before local authorities, 30 November 2007), p. 11.

¹⁴⁹⁵ P82 (Edin Hadžović, statement before local authorities, 22 June 1998), p. 6; P83 (Edin Hadžović, witness statement, 12 March 2001), p. 8; D27 (Edin Hadžović, statement before local authorities, 30 November 2007), pp. 11-12.

¹⁴⁹⁶ P82 (Edin Hadžović, statement before local authorities, 22 June 1998), p. 6; D4 (Edin Hadžović, statement before local authorities, 11 August 1992), p. 3; D27 (Edin Hadžović, statement before local authorities, 30 November 2007), p. 12.

¹⁴⁹⁷ P82 (Edin Hadžović, statement before local authorities, 22 June 1998), p. 6; P83 (Edin Hadžović, witness statement, 12 March 2001), p. 9; D4 (Edin Hadžović, statement before local authorities, 11 August 1992), p. 3; D27 (Edin Hadžović, statement before local authorities, 30 November 2007), p. 12; Edin Hadžović, T. 2280.

¹⁴⁹⁸ Edin Hadžović, T. 2280.

¹⁴⁹⁹ D27 (Edin Hadžović, statement before local authorities, 30 November 2007), p. 12.

¹⁵⁰⁰ P83 (Edin Hadžović, witness statement, 12 March 2001), p. 8. See also P91 (Video of exhumation in 1998).

¹⁵⁰¹ P252 (Witness JF-009, witness statement, 13 March 2001), pp. 1-2; Witness JF-009, T. 3501.

¹⁵⁰² P252 (Witness JF-009, witness statement, 13 March 2001), p. 3; Witness JF-009, T. 3504-3505, 3532-3534.

of about ten by ten metres, approximately 50 Muslim and Croat civilian men were already detained.¹⁵⁰³ The witness saw that there were lots of soldiers and “normal policemen” around.¹⁵⁰⁴

692. The men who guarded the detainees at *Perčin disko* were regular policemen wearing blue uniforms, who would occasionally allow various soldiers to come into the building and mistreat the detainees.¹⁵⁰⁵ The Red Berets, who wore camouflage uniforms with the “four Serb Ss” insignia and had bandanas, some with hats, and who spoke with a distinct accent, were stationed in a house, in the vicinity of *Perčin disko*.¹⁵⁰⁶ Local soldiers from different units, some wearing red berets, others camouflage uniforms, beat the detainees, and sometimes made them beat each other or made them jump from the balcony of the building on the heads of others. On 12 July 1992, a soldier wearing a camouflage uniform and carrying an automatic rifle rushed into *Perčin disko* and ordered 50 male detainees to come outside. Outside, Witness JF-009 and 49 other detainees were ordered to take off their shirts, form five rows of ten detainees each and walk towards the village of Vila, about one kilometre from *Perčin disko*.¹⁵⁰⁷ A large vehicle carrying weapons followed them along with the soldiers.¹⁵⁰⁸ When they set off, the soldier who had ordered the men to come outside and who was not local, shot a Croat from Dragalovci in the head from close range, and warned that anyone who would try to escape would be shot.¹⁵⁰⁹ While walking in the direction of Vila, the detainees were ordered to stop, and the witness heard shooting in front of him, coming from the direction of Tešanj. Later, the witness saw that it was the Bosnian army and that they were at the frontline. When the soldiers ordered the first two rows to continue walking, the witness, who was in the fourth row, heard the detainees in front of him screaming and the soldiers behind him started shooting.¹⁵¹⁰ When the shooting stopped, the remaining detainees were ordered to return to *Perčin disko*. On the way to *Perčin disko*, the witness heard two soldiers who were wearing red berets arguing about whether they should shoot or not, which was followed by a single shot. When the witness and three others were ordered to stop walking and to turn back, he saw the dead body of a young male detainee called Safet Hamidović lying on the ground. Witness JF-009 and the three others were ordered to throw Hamidović’s

¹⁵⁰³ P252 (Witness JF-009, witness statement, 13 March 2001), pp. 3-4; Witness JF-009, T. 3502-3503.

¹⁵⁰⁴ P252 (Witness JF-009, witness statement, 13 March 2001), p. 4.

¹⁵⁰⁵ P252 (Witness JF-009, witness statement, 13 March 2001), p. 4; Witness JF-009, T. 3534.

¹⁵⁰⁶ Witness JF-009, T. 3503, 3505-3506, 3511-3512, 3537-3538; P253 (Photo of *Perčin disko* as marked by Witness JF-009).

¹⁵⁰⁷ P252 (Witness JF-009, witness statement, 13 March 2001), p. 4; Witness JF-009, T. 3506-3507, 3534-3536.

¹⁵⁰⁸ P252 (Witness JF-009, witness statement, 13 March 2001), p. 4.

¹⁵⁰⁹ Witness JF-009, T. 3507-3508, 3535-3536, 3545.

body into the river Bosna, after which they returned to *Perčin disko*.¹⁵¹¹ The witness was ordered never to talk about the killing and did not leave the building after this incident. The next day Muharem Hamidović was asked to identify and bury the 25 Muslims who had been killed while being used as human shields. A few days later, five Serbian police investigators from Doboj interrogated the detainees at *Perčin disko* separately about what had happened in their village and about whether they were afraid of Serbs.¹⁵¹² The witness in court identified 13 persons as detained at *Perčin disko* and killed in the human shields incident, namely Ešef, Hasan, Zijad, and Senad Ahmić, Safet Hamidović, Hasib Kadić, Halil and Meho Mujanović, Arif, Hasib, and Mehmed Omerčić, Bećir Šehić, and Muhamed Zečević.¹⁵¹³

693. **Witness JF-008**, a Croat from the predominantly Croat village of Dragalovci in Doboj municipality,¹⁵¹⁴ testified that in late June 1992, he was, together with other detainees, transferred from the military storage halls in Usora to a prison camp at *Perčin disko* in Vila, just outside Doboj.¹⁵¹⁵ Most of the detainees were Bosniaks from Čivčije, Croats from Dragalovci, Makljenovac, and Milkovac, and some people from Doboj town.¹⁵¹⁶ Policemen from Doboj wearing blue uniforms, including Čedo Porub from Ljeskove Vode, guarded the detention centre.¹⁵¹⁷ While detained at *Perčin disko*, Witness JF-008 observed through small windows in the door a group of about 20 Red Berets providing daily training to approximately 100 members of local units. The witness saw them wearing camouflage uniforms and red berets while engaging in military exercises with rifles.¹⁵¹⁸ On 12 July 1992, three soldiers in green camouflage uniforms and red berets entered the prison camp, cursed at the detainees, and forced approximately 50 of them outside, including Anto Barukčić, Ante Kalem, Franjo Barukčić, Jozo Čolić, and Arif Omerčić. The soldiers spoke with a Serbian accent and used the word “bre” when cursing the detainees, which according to the witness is a term commonly used in Serbia but not in Witness JF-008’s area.¹⁵¹⁹ The detainees were then forced towards the combat line as human shields.¹⁵²⁰ Witness JF-008 was not among the detainees

¹⁵¹⁰ P252 (Witness JF-009, witness statement, 13 March 2001), p. 4.

¹⁵¹¹ P252 (Witness JF-009, witness statement, 13 March 2001), p. 5; Witness JF-009, T. 3508-3509.

¹⁵¹² P252 (Witness JF-009, witness statement, 13 March 2001), p. 5.

¹⁵¹³ Witness JF-009, T. 3515; P254 (List of victims from human shield incident, 12 July 1992).

¹⁵¹⁴ P257 (Witness JF-008, witness statement, 15 April 2009), p. 1, para. 5.

¹⁵¹⁵ P257 (Witness JF-008, witness statement, 15 April 2009), paras 14-15; Witness JF-008, T. 3564-3565.

¹⁵¹⁶ P257 (Witness JF-008, witness statement, 15 April 2009), para. 15; Witness JF-008, T. 3567.

¹⁵¹⁷ P257 (Witness JF-008, witness statement, 15 April 2009), para. 16.

¹⁵¹⁸ P257 (Witness JF-008, witness statement, 15 April 2009), para. 28; Witness JF-008, T. 3580-3581, 3585.

¹⁵¹⁹ P257 (Witness JF-008, witness statement, 15 April 2009), para. 17; Witness JF-008, T. 3565-3567, 3578, 3606.

¹⁵²⁰ P257 (Witness JF-008, witness statement, 15 April 2009), paras 17-18; Witness JF-008, T. 3567, 3569.

forced outside, but he heard what had happened from three others.¹⁵²¹ His testimony regarding the incident is consistent with the testimonies of Edin Hadžović and Witness JF-009.¹⁵²² The witness believed that maybe only half of the group returned to *Perčin disko*.¹⁵²³

694. Witness JF-008 testified that Predrag Kujundžić was the commander of a police unit known as Predo's Wolves, which the witness described as "some sort of special platoon" and which was established before June 1992.¹⁵²⁴ The members of Predo's Wolves wore green camouflage overalls, patches with a wolf image, and grey-green camouflage berets.¹⁵²⁵ The logistical headquarters for Predo's Wolves was in Suvo Polje (located near the town of Doboj, at Mount Ozren), but some members of this unit were billeted in the SUP building, which was a former retirement home in Doboj.¹⁵²⁶ Predo's Wolves had a reputation amongst other policemen and among the citizens of Doboj for being undisciplined and aggressive.¹⁵²⁷ The witness knew various members of Predo's Wolves by sight, but only remembers Golub Maksimović by name.¹⁵²⁸

695. The remains of the following persons were exhumed in Makljenovac, Doboj municipality in November 1998, and identified by family members: Ešref Ahmić (1948, found in civilian clothes with perforating wounds), Hasan Ahmić (1948, found in civilian clothes, cause of death assessed to be probably a result of explosive wounds), Zijad Ahmić (1947, found in civilian clothes), Ramiz Hamidović (1941, found in civilian clothes), Muhamed Husanović (1973, found in civilian clothes), Hasib Kadić (1946, found in civilian clothes, cause of death assessed to be probably a result of explosive wounds), Halid Mujanović (1950, found in civilian clothes), Meho Mujanović (1954, found in civilian clothes), Arif Omerčić (1963, found in civilian clothes, cause of death assessed to be probably a result of explosive wounds), Hasib Omerčić (1967), Mehmed Omerčić a.k.a. Meho (1957, found in civilian clothes), Bećir Šehić (1953, found in civilian clothes with perforating wounds), Muhamed Zečević (1943, found in civilian clothes, cause of death assessed to be probably a result of explosive wounds), and Ante Kalem (1961).¹⁵²⁹ According to Muharem

¹⁵²¹ P257 (Witness JF-008, witness statement, 15 April 2009), paras 17-18; Witness JF-008, T. 3566.

¹⁵²² P257 (Witness JF-008, witness statement, 15 April 2009), paras 17-18; Witness JF-008, T. 3566-3567, 3569, 3617-3618.

¹⁵²³ P257 (Witness JF-008, witness statement, 15 April 2009), para. 18; Witness JF-008, T. 3569.

¹⁵²⁴ P257 (Witness JF-008, witness statement, 15 April 2009), paras 21-22; Witness JF-008, T. 3586.

¹⁵²⁵ P257 (Witness JF-008, witness statement, 15 April 2009), para. 22; Witness JF-008, T. 3593, 3650.

¹⁵²⁶ Witness JF-008, T. 3586-3587, 3592-3593.

¹⁵²⁷ P257 (Witness JF-008, witness statement, 15 April 2009), para. 22; Witness JF-008, T. 3591-3592.

¹⁵²⁸ P257 (Witness JF-008, witness statement, 15 April 2009), para. 23; Witness JF-008, T. 3620.

¹⁵²⁹ P2227 (Forensic documentation, 5 June 2008), p. 1; P2228 (Record of exhumations, 3-14 November 1998), pp. 3-4, 8-9; P2229 (Record of exhumation for Ešref Ahmić, 4 December 1998), p. 2; P2230 (Record of

Hamidović, Ante Kalem was killed as a warning to the other inmates at *Perčin disko*.¹⁵³⁰ Death certificates dated 24 October 2007, stated that Senad Ahmić (1974) and Safet Hamidović (1970) had died on 12 July 1992.¹⁵³¹ There is, however, no forensic evidence concerning these two persons who were in 2008 still listed as missing.¹⁵³² The parties agree on the identities of these 16 victims for this incident.¹⁵³³

696. According to forensic documentation, the remains of the following persons were exhumed in or around Makljenovac and identified by family members: Emin Junuzović (1957, found in camouflage clothes and with multiple injuries probably caused by a firearm), Benjamin Omerčić (1962, found in an SMB uniform, cause of death was assessed to be damage to the spinal cord), Zekerijah Hadžikadunić (1971, found in civilian clothes), Haris Habibović (1969, found in camouflage clothes and SMB socks), Enes Terzić (1963, found in camouflage clothes and an SMB shirt), Midhad Unkić (1960, found in camouflage clothes and SMB socks), Nurudin Hadžikadunić (1958), Ramo Hodžić (1946, found in civilian clothes), Salih Makarević (1964), Omer Delić (1958), Nedžad Makarević (1968), and Jasmin Makarević.¹⁵³⁴ Assumed remains of Nenad Radetić (found in camouflage clothes and SMB

exhumations, 9 November 1998), pp. 3-6; P2231 (Record of identifications, 16 November 1998), pp. 12-14, 16; P2232 (Record of exhumations, 13 November 1998), p. 4; P2233 (Record of identification for Ešref Ahmić, 7 December 1998); P2234 (Forensic report for Ešref Ahmić, 7 December 1998), pp. 1-2, 6; P2235 (Record of identification for Hasan Ahmić, 7 December 1998); P2236 (Forensic report for Hasan Ahmić, 7 November 1998), pp. 1, 6; P2237 (Record of identification for Zijad Ahmić, 7 November 1998); P2238 (Forensic report for Zijad Ahmić, 6 November 1998), pp. 1-2, 6; P2239 (Record of identification for Ramiz Hamidović, 7 November 1998); P2240 (Forensic report for Ramiz Hamidović, 7 November 1998), pp. 1-2, 6; P2241 (Record of identification for Hasib Kadić, 7 November 1998); P2242 (Forensic report for Hasib Kadić, 7 November 1998), pp. 1-2, 6; P2243 (Record of identification for Ante Kalem, 12 November 1998); P2244 (Record of identification for Halid Mujanović, 14 November 1998); P2245 (Forensic report for Halid Mujanović, 7 November 1998), pp. 1-2, 6; P2246 (Record of identification for Meho Mujanović, 7 November 1998); P2247 (Forensic report for Meho Mujanović, 7 November 1998); P2248 (Record of identification for Arif Omerčić, 7 November 1998); P2249 (Forensic report for Arif Omerčić, 7 November 1998), pp. 1-3, 6; P2250 (Record of identification for Hasib Omerčić, 14 November 1998), pp. 1-2; P2251 (Forensic report for Hasib Omerčić, 7 November 1998), pp. 1-3, 6; P2252 (Record of identification for Mehmed Omerčić, 7 November 1998); P2253 (Forensic report for Mehmed Omerčić, 7 November 1998), pp. 1, 2, 6; P2254 (Record of identification for Bećir Šehić, 7 November 1998); P2255 (Forensic report for Bećir Šehić, 7 November 1998), pp. 1-2, 6; P2256 (Record of identification for Muhamed Zečević, 7 November 1998); P2257 (Forensic report for Muhamed Zečević, 7 November 1998), pp. 1-2, 6; P2258 (Record of identification for Muhamed Husanović, 7 November 1998); P2259 (Forensic report for Muhamed Husanović, 7 November 1998), pp. 1-2, 6; P2342 (Forensic report for Hasan Ahmić, 7 November 1998), pp. 1-2, 4; P2343 (Exhumation record for Mehmed Omerčić, 3 November 1998); P2346 (Record of identification for Hasan Ahmić, 7 December 1998); P2347 (Record of identification for Mehmed Omerčić, 7 November 1998).

¹⁵³⁰ P2228 (Record of exhumations, 3-14 November 1998), pp. 5-6.

¹⁵³¹ P2260 (Death certificate for Senad Ahmić, 24 October 2007); P2261 (Death certificate for Safet Hamidović, 24 October 2007).

¹⁵³² P2227 (Letter of the Prosecutor's Office of the BiH, 5 June 2008), p. 2.

¹⁵³³ Decision on Motion for Admission of Agreed Facts, 12 January 2011; First Joint Motion for Admission of Agreed Facts between the Prosecution and the Stanišić Defence, 16 February 2010, Annex A, Part M.

¹⁵³⁴ P2228 (Record of exhumations, 3-14 November 1998); P2230 (Record of exhumations, 9 November 1998), pp. 3-4; P2231 (Record of identifications, 16 November 1998), pp. 2-12, 15-16; P2232 (Record of exhumations, 13 November 1998), p. 4.

socks, and with gunshot wounds to the chest) were also exhumed in Makljenovac.¹⁵³⁵ According to results of investigations conducted by the Prosecutor's office of Bosnia-Herzegovina, Nurudin Hadžikadunić, Salih Makarević, Omer Delić, Nedžad Makarević, and Jasmin Makarević were not prisoners at *Perčin disko*. According to the same source, there were indications that they were members of the ABiH and that they were killed in a conflict around Makljenovac, on 12 July 1992, and subsequently buried in a grave together with the men who had been used as human shields.¹⁵³⁶

697. Based on the evidence received, the Trial Chamber finds that on 12 July 1992, near Doboj, a group of local and non-local Serbs in camouflage uniforms, some of whom wore red berets, including a person known as Golub a.k.a. Crnogorac, took a group of about 50 Muslim and Croat male detainees out of *Perčin disko*. Milutin Blašković, a senior official of SUP Doboj, was present when the detainees were taken away. The Serbs forced the detainees to walk to a nearby frontline close to Putnikovo Brdo near Makljenovac, Doboj municipality. On the way to the frontline, Golub shot a Croat detainee, Anto Kalem, in the back of the head at close range, thereby killing him as a warning to other detainees. At the frontline, the detainees were lined up in five rows of ten, and used as human shields against ABiH.

698. Based on the testimony of Edin Hadžović, Witness JF-009, and Witness JF-008, and the forensic evidence, the Trial Chamber finds that, of those aforementioned detainees, at least eleven, namely Ešref Ahmić, Hasan Ahmić, Zijad Ahmić, Hasib Kadić, Halid Mujanović, Meho Mujanović, Arif Omerčić, Hasib Omerčić, Mehmed Omerčić, Bečir Sehić, and Muhamed Zečević, were used as human shields and shot or otherwise killed as a direct result thereof. At least ten of the victims were wearing civilian clothes at the time of death. The evidence does not establish Hasib Omerčić's clothing.

699. Having considered that Edin Hadžović testified about their detention at *Perčin disko* and based on the relevant forensic evidence, the Trial Chamber finds that Ramiz Hamidović and Muhamed Husanović were also used as human shields and shot or otherwise killed as a direct result thereof. At the moment of death, they were both wearing civilian clothes.

700. The Trial Chamber considered the information from the Prosecutor's Office of Bosnia and Herzegovina listing Senad Ahmić among the missing persons, and the absence of any forensic evidence. However, on the basis of the testimony of Edin Hadžović about Senad

¹⁵³⁵ P2231 (Record of identification, 16 November 1998), p. 10; P2232 (Record of exhumations, 13 November 1998), p. 4.

¹⁵³⁶ P2227 (Letter of the Prosecutor's Office of the BiH, 5 June 2008), p. 2.

Ahmić's detention in *Perčin disk*, and the testimony of Witness JF-009, identifying Ahmić on the list of victims of this incident (P254), the Trial Chamber finds that Senad Ahmić was also used as a human shield and was shot or otherwise killed as a direct result thereof.

701. Based on the testimony of Witness JF-009 and the death certificate P2261, the Trial Chamber finds that following the above incident, two persons wearing red berets shot and killed Safet Hamidović during the return of the surviving detainees to *Perčin disk*.

702. Considering the particular circumstances of the incident, the Trial Chamber is satisfied that all the above victims were of non-Serb ethnicity.

703. Having considered the testimonies of Edin Hadžović, Witness JF-009, and Witness JF-008, the Trial Chamber finds that the perpetrators of the incident included Serb persons who were members of a local paramilitary unit called Predo's Wolves and led by Predrag Kujundžić. These persons wore red berets, camouflage uniforms with the "four Serb Ss" insignia, and black bandanas. One of these persons was referred to as Golub (a.k.a. Crnogorac). Witness JF-008's testimony suggests this may have been Golub Maksimović, a member of Predo's Wolves. The Trial Chamber does not consider this evidence to implicate Živojin Ivanović, who was also known as Crnogorac. The Trial Chamber has considered that the perpetrators wore red berets and that the evidence indicates the presence of a unit referred to as the "Red Berets" stationed in a house in the vicinity of *Perčin disk*. The Trial Chamber further recalls its findings on the presence and activity of the Unit in Doboj municipality between April and July 1992 in chapter 6.3.3. However, the Trial Chamber considers that the use of red berets was not exclusive to the Unit, nor was the Unit the only armed force referred to as the "Red Berets" in the area at the time.¹⁵³⁷ The Trial Chamber concludes that the evidence does not clearly establish that any of the perpetrators of the incident described above were members of the Unit. The Trial Chamber further refers to its discussion in chapter 6.3.3 setting out that it is unable to conclude based on the evidence before it whether Predo's Wolves were trained by members of the Unit at the Doboj camps. The Trial Chamber will further consider this part of the incident in relation to Counts 1, 2, and 3 of the Indictment, in chapter 4, below.¹⁵³⁸

704. The Trial Chamber has received evidence indicating that there were more victims than those identified above who died as a result of the abovementioned human shields incident.

¹⁵³⁷ In this respect, the Trial Chamber refers, *inter alia*, to the evidence of Witness JF-005 reviewed in section dealing with Mount Ozren and Vila camps, in chapter 6.3.3.

Edin Hadžović estimated that 37 detainees died in this manner and testified that he helped identify 27 bodies of detainees who had been part of the human shield found in a mass grave. According to Witness JF-008, maybe only half of the 50 detainees returned to *Perčin disko* and on 13 July 1992, Muharem Hamidović was asked to identify and bury the 25 Muslims who had been killed while being used as human shields. However, in the absence of forensic documentation and detailed evidence on the circumstances of their deaths, the Trial Chamber is unable to determine with sufficient certainty that there were further victims. The Trial Chamber has also received insufficient evidence on the causes, dates, and other circumstances of death in relation to the other ten persons exhumed in or around Makljenovac, namely Emin Junuzović, Benjamin Omerčić, Zekerijah Hadžikadunić, Haris Habibović, Enes Terzić, Midhad Unkić, Nenad Radetić, Nurudin Hadžikadunić, Ramo Hodžić, and Jasmin Makarević.

705. The evidence indicates that a wounded reserve lieutenant shot and killed Omer Delić and Salih Makarević, whose bodies were also exhumed in or around Makljenovac, as they ran from a house, dressed in uniforms and yelling not to shoot. Further, with regard to Nedžad Makarević, whose body was also exhumed in or around Makljenovac, the Trial Chamber has considered Edin Hadžović's testimony as to his detention at *Perčin disko*, the indications of the Prosecutor's office of Bosnia-Herzegovina as to his ABiH affiliation and possible death in conflict around Makljenovac, and the lack of evidence on his clothing at the time of death. The Trial Chamber will further consider this part of the incident in relation to Counts 1, 2, and 3 of the Indictment, in chapter 4, below.

3.5.2 Incidents of deportation and forcible transfer

706. In this chapter, the Trial Chamber will begin by reviewing the Adjudicated Facts and evidence regarding the ethnic composition of and changes in the population of Doboje municipality from 1991 to 1997. Then, the Trial Chamber will turn to alleged incidents of attacks, killings, arbitrary arrest and detention, burnings of Catholic churches and mosques, forced labour, torture, harassment, use of human shields, looting, rape and other forms of sexual abuse, as well as the threat of further persecutory acts, and forced expulsions, which targeted non-Serb civilians in Doboje municipality from no later than April 1991 until 31 December 1995. In this respect, the Trial Chamber will first review the Adjudicated Facts and evidence regarding the take-over of Doboje town, including destruction of mosques and

¹⁵³⁸ The Trial Chamber considered that minor spelling discrepancies between the agreed facts and the evidence in

Catholic churches, harassment and looting in Doboј municipality from March up to 7 May 1992, as well as incidents in Bukovačke Čivčije in April 1992. Second, it will consider the evidence on the attack and forcible transfer in Ankare around 3 May 1992. Third, the Trial Chamber will review the evidence regarding forcible transfers in Bukovačke Čivčije in May 1992 and July 1993. Fourth, the Trial Chamber will review the evidence on the attack, killing and forcible transfer in Gornja Grapska in May 1992. Fifth, the Trial Chamber will consider attacks, killings, looting, harassment, and destruction of mosques and Catholic churches in Doboј municipality as of 7 May and throughout the summer of 1992, and arbitrary arrest and detention from May 1992 to early October 1993. Sixth, it will review the evidence on the forcible transfer in Doboј town in September 1995. Finally, the Trial Chamber will consider the evidence regarding the forcible transfer in Dragalovci in September 1995.

Population of Doboј

707. The Adjudicated Facts state that according to the 1991 census in Bosnia-Herzegovina, the ethnic composition in Doboј municipality was 41,164 (40 per cent) Muslims, 39,820 (39 per cent) Serbs, 13,264 (13 per cent) Croats, 5,765 Yugoslavs, and 2,536 persons of other or unknown ethnicity.¹⁵³⁹ The Trial Chamber has reviewed evidence of Witness B-1115 and Edin Hadžović, and report P1657, which were consistent with the above Adjudicated Fact.¹⁵⁴⁰ **Witness B-1115**, a Bosnian Muslim from Doboј municipality,¹⁵⁴¹ added that prior to the conflict, Gornja Grapska was a mainly Muslim village in Doboј municipality.¹⁵⁴²

708. Having reviewed the Report on IDPs and Refugees¹⁵⁴³ and the Victims Report,¹⁵⁴⁴ the Trial Chamber notes that between 1 April 1992 and 31 December 1995, around 1,326 persons died or went missing in Doboј municipality, of whom 452 were civilians and 874 were militaries. The year 1992 was by far the most fatal of all the war years. In this year alone, 639 persons died or went missing in the municipality of Doboј. The Trial Chamber also notes

relation to the victims' names did not raise a reasonable doubt with regard to the Trial Chamber's finding.

¹⁵³⁹ Adjudicated Facts IV, fact 291.

¹⁵⁴⁰ P1657 (Report on IDPs and Refugees), p. 28, footnote 10.

¹⁵⁴¹ P1871 (Witness B-1115, witness statement, 11 October 1998), pp. 1-2; P1873 (Witness B-1115, *Slobodan Milošević* transcript, 15 October 2003), p. 27571; P1876 (Witness B-1115 statement to the Bosnia-Herzegovina MUP, 29 December 1995), p. 1.

¹⁵⁴² P1871 (Witness B-1115, witness statement, 11 October 1998), p. 2; P1873 (Witness B-1115, *Slobodan Milošević* transcript, 15 October 2003), pp. 27575-27576.

¹⁵⁴³ P1657 (Report on IDPs and Refugees), Annex A, Tables 1NS, 1M, 1C, 1O, 1NS, 1S, pp. 40-44. The Report on IDPs and Refugees explains why changes in the size of ethnic groups in the period of 1991-1997 are reflected in relative measures and not in absolute numbers. It also explains why relative measures, i.e. percentages, can be seen as reliable, and can be compared. See P1657 (Report on IDPs and Refugees), p. 8 and Ewa Tabeau, T. 9902-9903.

¹⁵⁴⁴ P1658 (Victims Report), p. 20, Table 4 (a), Annex 2, Table A.2.9, Annex 3, Table A.3.6.

changes in the share of civilian and military victims among the ethnic groups for each year between 1992 and 1995. The Trial Chamber notes that the ethnic composition of the Doboј municipality population drastically changed in the period of 1991-1997: the non-Serb percentage of the population in the Bosnian-Serb Republic part of the municipality decreased by 84.9 per cent. As further explained in chapter 2, the Trial Chamber will focus below on specific incidents of alleged deportation and forcible transfer in Doboј municipality.

Take-over of Doboј town, including destruction of mosques and Catholic churches, harassment, and looting in Doboј municipality from March to 7 May 1992, as well as torture and sexual violence in Bukovačke Čivčije

709. The Trial Chamber has received evidence from Witness JF-009 on the incidents in Bukovačke Čivčije around April 1992, which it considers relevant to this section. **Witness JF-009**, a Bosnian Muslim from a Muslim village in Doboј municipality,¹⁵⁴⁵ testified that in April 1992, about ten Serb soldiers wearing camouflage uniforms and black bandanas drove into Bukovačke Čivčije on a JNA truck, coming from the direction of Doboј.¹⁵⁴⁶ Some of the soldiers wore eagle insignia, and some wore the “four Serb Ss” on their sleeves.¹⁵⁴⁷ The witness understood from the accents of the soldiers wearing the eagle insignia (they used the word “bre”) that they were Red Berets coming from Serbia, while the soldiers with the “four Serb Ss” on their sleeves spoke a local dialect.¹⁵⁴⁸ A man called Nikola, nicknamed Nidžo, whom the witness believed to be the commander of the Serb soldiers, announced that he would guarantee the safety of the villagers of Bukovačke Čivčije in return for their weapons. The Serb soldiers received about 100 rifles from the villagers, after which they left the village.¹⁵⁴⁹ In the meantime, a unit called Osinjska Brigade had based itself in Bukovačke Čivčije. The witness heard from the women in the village that members of this unit raped and tortured women and attempted to rape one woman who was rescued by a befriended policeman.¹⁵⁵⁰

710. According to the Adjudicated Facts, in March and April 1992, the JNA set up checkpoints in Doboј town.¹⁵⁵¹ On 3 May 1992, Serb paramilitaries, the JNA, and the police

¹⁵⁴⁵ P252 (Witness JF-009, witness statement, 13 March 2001), pp. 1-2; Witness JF-009, T. 3501.

¹⁵⁴⁶ P252 (Witness JF-009, witness statement, 13 March 2001), pp. 2-3.

¹⁵⁴⁷ P252 (Witness JF-009, witness statement, 13 March 2001), p. 3; Witness JF-009, T. 3522-3523, 3525.

¹⁵⁴⁸ Witness JF-009, T. 3501-3502, 3521-3524, 3527-3530, 3541, 3550-3552; P255 (Book of patches, insignia and uniforms of Serbian Armed Forces), pp. 19, 32, 56.

¹⁵⁴⁹ P252 (Witness JF-009, witness statement, 13 March 2001), p. 3.

¹⁵⁵⁰ P252 (Witness JF-009, witness statement, 13 March 2001), p. 6.

¹⁵⁵¹ Adjudicated Facts IV, fact 292.

took over Doboj town.¹⁵⁵² Muslim and Croat monuments were deliberately damaged or destroyed through shelling or explosives.¹⁵⁵³ The Serb crisis staff took control of the municipality, and all remaining Muslim police officers were arrested. Muslims and Croats were ordered to surrender their weapons.¹⁵⁵⁴ The Serb authorities issued a curfew allowing Muslims and Croats to be outside their homes for only two hours per day, prompting many Muslims and Croats to leave town.¹⁵⁵⁵ Serb paramilitaries terrorized the population in Doboj town.¹⁵⁵⁶ During May and June 1992, 21 Muslim and Catholic monuments in Doboj municipality, including the Trnjak mosque and one other mosque in Doboj town, the mosque in Gornja Grapska, and the Catholic Church in Doboj town were either heavily damaged or completely destroyed through shelling or explosives, or occasionally through both.¹⁵⁵⁷

711. As a result of the Serb take-over and of rumours of incidents occurring in Bratunac and Bijeljina, thousands of Muslims, Croats, and displaced persons left Doboj town for Tešanj, a Muslim-majority town south of Doboj in Tešanj municipality.¹⁵⁵⁸ Muslims set up a crisis staff there, and established a line of defence to the south of Doboj town to prevent Serbs from taking control over the entire municipality of Doboj.¹⁵⁵⁹ The take-over of Doboj town and the threats and intimidation of Muslims in Doboj prompted many thousands to leave the town for Tešanj.¹⁵⁶⁰

712. The Trial Chamber has received evidence from Witness JF-008 and Witness B-1115, who provided observations on the take-over of Doboj town. The Trial Chamber has further received evidence from Witness JF-005 and Edin Hadžović with regard to the take-over of Doboj town.

713. **Witness JF-008**, a Croat from the predominantly Croat village of Dragalovci in Doboj municipality,¹⁵⁶¹ testified that the Bosnian-Serb police and “army” occupied the predominantly Muslim town of Doboj on 1 May 1992.¹⁵⁶² The Trial Chamber has further reviewed the evidence of Witness JF-008 in chapter 3.5.1 with regard to the presence of a unit called Predo’s Wolves, commanded by Predrag Kujundžić, in the area of Doboj town at the

¹⁵⁵² Adjudicated Facts IV, facts 295, 306.

¹⁵⁵³ Adjudicated Facts IV, fact 308.

¹⁵⁵⁴ Adjudicated Facts IV, fact 296.

¹⁵⁵⁵ Adjudicated Facts IV, fact 297.

¹⁵⁵⁶ Adjudicated Facts IV, fact 307.

¹⁵⁵⁷ Adjudicated Facts IV, fact 300.

¹⁵⁵⁸ Adjudicated Facts IV, fact 299.

¹⁵⁵⁹ Adjudicated Facts IV, fact 299a.

¹⁵⁶⁰ Adjudicated Facts IV, fact 309.

¹⁵⁶¹ P257 (Witness JF-008, witness statement, 15 April 2009), p. 1, para. 5.

¹⁵⁶² P257 (Witness JF-008, witness statement, 15 April 2009), para. 8; Witness JF-008, T. 3561-3562.

time. **Witness B-1115** stated that on 3 May 1992, the Serb army attacked and occupied Doboj and the non-Serb civilians fled their homes.¹⁵⁶³

714. **Witness JF-005**, a Croatian Serb member of the JSN or Special Purpose Unit a.k.a. the “Red Berets” from April 1992,¹⁵⁶⁴ testified that his first assignment was to take over Doboj on 3 May 1992.¹⁵⁶⁵ The Doboj operation was commanded by Božović and Milovan Stanković, a Major of the JNA Security Organs and a member of the JNA KOS for the Doboj region.¹⁵⁶⁶ The operation started around 8 p.m. on 3 May 1992. The Special Unit, including recruits from Ozren, took over Doboj with around 300 men.¹⁵⁶⁷ The take-over of Doboj itself lasted less than five hours, although the operation continued in the surrounding villages.¹⁵⁶⁸ During the take-over of the town of Doboj, the Special Unit of which the witness part met resistance in Čaršija, Orašje, and Makljenovac, as a result of which one member was killed and two were wounded.¹⁵⁶⁹ The witness and others were tasked with securing the Radio Doboj and MoD buildings to prevent Muslims and other people from entering either building.¹⁵⁷⁰ When the witness and other Special Purpose Unit members entered the buildings, they took everybody inside into custody at the central police station of the MUP in Doboj, where they had to remain until they signed a declaration of loyalty to the Serbs.¹⁵⁷¹ The witness testified that, following the Doboj operation of 3 May 1992, the town was divided between Serbs and Muslims until 7 May 1992, when Doboj was completely cleansed of Muslims by the Serbs.¹⁵⁷² According to the witness, the Muslim women and children in Doboj were expelled in the direction of Tešanj.¹⁵⁷³

715. **Edin Hadžović**, a Bosnian Muslim from Čaršija hamlet in Doboj,¹⁵⁷⁴ testified that in the beginning of 1992, he began to see unfamiliar men dressed in various uniforms with different insignia around Doboj. All of these men were quartered in the 4th July army

¹⁵⁶³ P1873 (Witness B-1115, *Slobodan Milošević* transcript, 15 October 2003), p. 27569, 27585.

¹⁵⁶⁴ P137 (Witness JF-005, witness statement, 25 January 2004), p. 1, paras 1, 3, 11; P136 (Witness pseudonym sheet); Witness JF-005, T. 2760, 2851, 2857.

¹⁵⁶⁵ P137 (Witness JF-005, witness statement, 25 January 2004), para. 11.

¹⁵⁶⁶ P137 (Witness JF-005, witness statement, 25 January 2004), para. 13; P138 (Witness JF-005, witness statement, 4 November 2009), para. 10; Witness JF-005, T. 2866-2867, 2900-2903.

¹⁵⁶⁷ P138 (Witness JF-005, witness statement, 4 November 2009), paras 4-5; Witness JF-005, T. 2852.

¹⁵⁶⁸ P137 (Witness JF-005, witness statement, 25 January 2004), para. 15.

¹⁵⁶⁹ P137 (Witness JF-005, witness statement, 25 January 2004), para. 14.

¹⁵⁷⁰ P137 (Witness JF-005, witness statement, 25 January 2004), para. 11; Witness JF-005, T. 2869-2870, 2872.

¹⁵⁷¹ P137 (Witness JF-005, witness statement, 25 January 2004), para. 11; P138 (Witness JF-005, witness statement, 4 November 2009), para. 9; Witness JF-005, T. 2873.

¹⁵⁷² P138 (Witness JF-005, witness statement, 4 November 2009), para. 9.

¹⁵⁷³ P137 (Witness JF-005, witness statement, 25 January 2004), para. 15.

¹⁵⁷⁴ P82 (Edin Hadžović, statement before local authorities, 22 June 1998), pp. 1-2; P83 (Edin Hadžović, witness statement, 12 March 2001), pp. 1-2; D4 (Edin Hadžović, statement before local authorities, 11 August 1992), p. 1; D27 (Edin Hadžović, statement before local authorities, 30 November 2007), pp. 2, 5.

barracks located in the Miljkovac settlement in Doboj.¹⁵⁷⁵ In March or April 1992, the Serbs fired all Bosniaks and Croats from their jobs.¹⁵⁷⁶ Hadžović's manager dismissed him and the only other non-Serb at the Alliance of Organisations for Physical Culture of the Doboj municipality, citing "an order from above".¹⁵⁷⁷ Around the same time, the Serbs started blowing up Muslim and Croat business premises.¹⁵⁷⁸ They also armed themselves and disarmed non-Serbs.¹⁵⁷⁹ Hadžović witnessed a truck transport infantry weapons from Ševarije and ammunition from Potočani to the barracks in Miljkovac.¹⁵⁸⁰ Shortly after this, the witness observed Serbs wearing olive-green uniforms and carrying weapons such as automatic rifles, semi-automatic guns, and pistols.¹⁵⁸¹ The witness testified that the JNA provided arms to the SDS, which in turn distributed the weapons to local Serbs and reservists.¹⁵⁸² Furthermore, Hadžović twice observed a Serb named Slobodan Karagić driving through Doboj in a civilian car while using a megaphone to order all non-Serbs to deliver any weapons in their possession to the nearest police station.¹⁵⁸³ The witness and his brother complied with this instruction and turned their guns in to the police.¹⁵⁸⁴

716. As of 3 May 1992, Muslims and Croats were only permitted to leave their houses for a limited number of hours, and could not travel in groups of more than three people.¹⁵⁸⁵ On 3 May 1992, between 4 and 6 p.m., the Serbs started firing heavily upon predominantly non-Serb parts of Doboj, including Čaršija, from tanks and other artillery weapons.¹⁵⁸⁶ The witness and his son were in their house in Doboj during this time. After the shelling, he saw the damage inflicted on the minaret of the mosque in Doboj; a day later, the entire mosque was destroyed. A couple of days later, the Serbs demolished the Catholic church in Doboj's

¹⁵⁷⁵ P82 (Edin Hadžović, statement before local authorities, 22 June 1998), pp. 2-3; D27 (Edin Hadžović, statement before local authorities, 30 November 2007), pp. 5-6.

¹⁵⁷⁶ P82 (Edin Hadžović, statement before local authorities, 22 June 1998), p. 2; P83 (Edin Hadžović, witness statement, 12 March 2001), pp. 3-4; D27 (Edin Hadžović, statement before local authorities, 30 November 2007), p. 5; Edin Hadžović, T. 2231-2232.

¹⁵⁷⁷ P82 (Edin Hadžović, statement before local authorities, 22 June 1998), p. 2; P83 (Edin Hadžović, witness statement, 12 March 2001), p. 3.

¹⁵⁷⁸ P82 (Edin Hadžović, statement before local authorities, 22 June 1998), pp. 2-3; Edin Hadžović, T. 2231-2232.

¹⁵⁷⁹ P82 (Edin Hadžović, statement before local authorities, 22 June 1998), p. 2.

¹⁵⁸⁰ P83 (Edin Hadžović, witness statement, 12 March 2001), pp. 2-3.

¹⁵⁸¹ P83 (Edin Hadžović, witness statement, 12 March 2001), p. 3.

¹⁵⁸² P82 (Edin Hadžović, statement before local authorities, 22 June 1998), p. 2; Edin Hadžović, T. 2274.

¹⁵⁸³ P83 (Edin Hadžović, witness statement, 12 March 2001), pp. 3-4. See also P88 (CSB Doboj payment list, April 1992).

¹⁵⁸⁴ P83 (Edin Hadžović, witness statement, 12 March 2001), p. 4.

¹⁵⁸⁵ P83 (Edin Hadžović, witness statement, 12 March 2001), p. 3; D27 (Edin Hadžović, statement before local authorities, 30 November 2007), p. 7; Edin Hadžović, T. 2232.

¹⁵⁸⁶ P82 (Edin Hadžović, statement before local authorities, 22 June 1998), p. 3; P83 (Edin Hadžović, witness statement, 12 March 2001), p. 4; D27 (Edin Hadžović, statement before local authorities, 30 November 2007), p. 6.

town centre.¹⁵⁸⁷ On 6 May 1992, Hadžović observed reserve soldiers, in groups of ten or eleven, looting the houses of Muslims who had fled Doboj. The witness saw detainees, wearing ordinary prison clothes, loading the looted items onto trucks.¹⁵⁸⁸

717. Considering the evidence of Witness JF-009, the Trial Chamber finds that in or around April 1992, in Bukovačke Čivčije, members of the Osinjska Brigade raped and tortured local women. Based on Edin Hadžović's evidence, the Trial Chamber finds that around March-April 1992, Serb persons dismissed Bosnian Muslims and Croats from their jobs and blew up Muslim and Croat businesses in Doboj municipality.

718. On the basis of the Adjudicated Facts and the evidence of Witness JF-005, the Trial Chamber finds that on 3 May 1992, the JNA, the police, and Serb paramilitaries including members of a Special Purpose Unit a.k.a. the "Red Berets", took over Doboj town. Recalling its findings in chapter 6.3.3, the Trial Chamber finds that these members of a Special Purpose Unit a.k.a. the "Red Berets" were members of the Unit in Doboj, including members who had been recruited and trained at the Doboj camps (such as Witness JF-005). Based on the Adjudicated Facts on the presence of the White Eagles nearby Doboj town just prior to 3 May 1992 and the evidence of Witness JF-008 in chapter 3.5.1 with regard to the presence of a unit called Predo's Wolves commanded by Predrag Kujundžić in the area of Doboj town at the time, the Trial Chamber finds that White Eagles and Predo's Wolves also took part in the attack. On the basis of Witness JF-005's testimony reviewed above as well as in chapter 6.3.3, the Trial Chamber finds that during the attack, Unit member Radojica Božović¹⁵⁸⁹ and Milovan Stanković, Major of the JNA and member of the JNA KOS, commanded the Unit in Doboj.

719. In view of Edin Hadžović's testimony, the Trial Chamber finds that on 3 May 1992 between 4 and 6 p.m., Serb forces fired heavily from tanks and artillery weapons at non-Serb parts of the municipality. On the basis of his evidence and the Adjudicated Facts, the Trial Chamber finds that between 3 and 7 May 1992, at least one mosque and one Catholic church in Doboj town were deliberately damaged or completely destroyed through shelling and/or explosives. Having considered the evidence before it, the Trial Chamber finds that this was perpetrated by the forces that attacked Doboj town, as specified above.

¹⁵⁸⁷ P82 (Edin Hadžović, statement before local authorities, 22 June 1998), pp. 3-4; D27 (Edin Hadžović, statement before local authorities, 30 November 2007), p. 6.

¹⁵⁸⁸ P83 (Edin Hadžović, witness statement, 12 March 2001), p. 4; Edin Hadžović, T. 2232.

¹⁵⁸⁹ For the Trial Chamber's findings on Radojica Božović's membership in the Unit, see chapter 6.3.2.

720. Based on Edin Hadžović's testimony, and in light of the evidence reviewed, the Trial Chamber finds that on 6 May 1992, members of the same forces that attacked Doboj town looted the houses of Muslims who had fled Doboj.

721. In light of the Adjudicated Facts, the Trial Chamber finds that following the take-over, on or after 3 May 1992, the Serb Crisis Staff took control of Doboj municipality. On the basis of the Adjudicated Facts and the evidence of Edin Hadžović, the Trial Chamber finds that immediately following the take-over, the Serb authorities issued a curfew allowing Muslims and Croats to be outside their homes for no longer than three hours per day, which prompted many Muslims and Croats to leave Doboj town.

722. On the basis of the Adjudicated Facts above, the Trial Chamber finds that as a result of the take-over of Doboj town, thousands of Croat and Muslim inhabitants left Doboj town for Tešanj, a Muslim controlled town in Tešanj municipality. Having considered the evidence of Witness JF-005 above that by 7 May 1992 Doboj town was emptied of Muslims and the evidence of Witness B-1115 indicating that many non-Serb civilians fled following the take-over of Doboj town, the Trial Chamber finds that these thousands of Croats and Muslims left Doboj town on or before 7 May 1992. On the basis of the entirety of the Adjudicated Facts and the evidence above, the Trial Chamber finds that these thousands of Muslims and Croats fled Doboj town as a result of a combination of the following incidents which occurred on or before 7 May 1992 in Doboj town and throughout the municipality, and on which it has made findings above: (i) the dismissal of Muslims and Croats from their jobs, and destruction of their businesses; (ii) the torture and sexual violence in Bukovačke Čivčije; (iii) the artillery attacks, shelling, and destruction of a mosque and a Catholic church in Doboj town; (iv) the curfew established for Muslims and Croats; and (v) the misappropriation of Croat and Muslim property. The Trial Chamber finds that the aforementioned acts were committed by members of the JNA, Serb police, members of the Unit in Doboj, the White Eagles, Predo's Wolves, the Osinjska Brigade, the Serb authorities, and other Serb persons, as specified in its findings above.

723. In this respect, the Trial Chamber has further considered the Adjudicated Facts and evidence indicating other circumstances which may have given people reason to leave Doboj municipality, including the armed conflict, and rumours of incidents in Bijeljina and Bratunac municipality. The Trial Chamber is satisfied that, while such circumstances may have provided additional reasons for a number of persons to leave, they do not negate its finding on the reasons for thousands of Muslims and Croats to leave the municipality. The Trial

Chamber will further consider this incident in relation to Counts 1, 4, and 5 of the Indictment in chapter 4, below.

Attack and forcible transfer in Ankare around 3 May 1992

724. According to the Adjudicated Facts, a large unit of the White Eagles had entered Doboj municipality around January or February 1992. This paramilitary group consisted of approximately 500 men in olive-drab uniforms that often came to the town's JNA barracks for meals.¹⁵⁹⁰ Just prior to 3 May 1992, this paramilitary group took over an area of Ankare, near Doboj town, and forced the residents to leave.¹⁵⁹¹

725. On the basis of the Adjudicated Facts, the Trial Chamber finds that on or about 3 May 1992, a unit of the White Eagles which had entered Doboj municipality in early 1992, forced the residents of Ankare, near Doboj, to leave. In view of the circumstances of their forced departure, the Trial Chamber is satisfied that the residents of Ankare were of non-Serb ethnicity. The Trial Chamber will further consider this incident in relation to Counts 1, 4, and 5 of the Indictment in chapter 4, below.

Forcible transfers in Bukovačke Čivčije in May 1992 and July 1993

726. The Trial Chamber has received relevant evidence from Witness JF-005 with regard to forced expulsion of local people from the village of Bukovačke Čivčije.

727. **Witness JF-005** testified that around the end of May 1992, Božović ordered the witness and others to expel all people from Bukovačke Čivčije, which was located between Johovac and Grapska, north of Doboj.¹⁵⁹² The witness received this order around the time of Operation Corridor, while he was a member of the Special Purpose Unit and Božović was still in the Bosnian-Serb Republic.¹⁵⁹³ The order followed an attack by a group of armed persons from Bukovačke Čivčije on a police checkpoint on the outskirts of the village.¹⁵⁹⁴ The witness's unit was responsible for organizing seven buses to expel the local Muslim population. The witness and others gathered the persons from the village and took them to the Red Berets camp in Vila in Doboj.¹⁵⁹⁵ The witness's unit escorted four buses to Muslim-held territory at the border of the Federation at the Bosna Bridge, south of the camp, where the

¹⁵⁹⁰ Adjudicated Facts IV, fact 293.

¹⁵⁹¹ Adjudicated Facts IV, fact 294.

¹⁵⁹² P137 (Witness JF-005, witness statement, 25 January 2004), para. 34; P138 (Witness JF-005, witness statement, 4 November 2009), para. 19; Witness JF-005, T. 2906, 2963.

¹⁵⁹³ P137 (Witness JF-005, witness statement, 25 January 2004), para. 34; Witness JF-005, T. 2907-2908, 2963-2964.

¹⁵⁹⁴ Witness JF-005, T. 2908, 2963.

villagers were exchanged for Serbian prisoners.¹⁵⁹⁶ Of the persons in the three remaining buses, the women and children were separated and exchanged later, whereas the able-bodied men were separated and some were taken to the Usora collection centre.¹⁵⁹⁷

728. **Witness JF-009** testified that in July 1993, the whole population of Bukovačke Čivčije, consisting of Muslim men, women, and children, was transported out by the Red Cross and the Serbian police, against their will, in 12 buses to Turbe in Travnik municipality.¹⁵⁹⁸ There were also people from other villages on the buses.¹⁵⁹⁹

729. Based on the evidence of Witness JF-005 and in view of its findings in chapter 6.3.3, the Trial Chamber finds that at the end of May 1992, on Unit member Radojica Božović's orders,¹⁶⁰⁰ members of the Unit in Doboj put Muslims from Bukovačke Čivčije onto seven buses and transferred four of these buses to Muslim-held territory behind the Bosna Bridge border, where the Muslims were exchanged for Serbian prisoners. Some of the able-bodied Muslim men in the three remaining buses were separated from the others and taken to the Usora factory in Doboj municipality, whereas women and children were exchanged later. The Trial Chamber will further consider these incidents in relation to Counts 1, 4, and 5 of the Indictment in chapter 4, below.

730. On the basis of Witness JF-009's testimony, the Trial Chamber finds that in July 1993, the Serbian police, assisted by the Red Cross, transported the entire Muslim population of Bukovačke Čivčije village and some persons from surrounding villages against their will in 12 buses to Turbe in Travnik municipality. The Trial Chamber will further consider these incidents in relation to Counts 1, 4, and 5 of the Indictment in chapter 4, below.

Attack, killing and forcible transfer in Gornja Grapska in May 1992

731. The Trial Chamber has received evidence from Witness B-1115 with regard to the attack on Gornja Grapska and the forcible transfer of its residents.

732. **Witness B-1115** stated that on 9 May 1992, the villagers of Gornja Grapska realized an attack was imminent as they saw Serbian paramilitary formations gathering.¹⁶⁰¹ Armed

¹⁵⁹⁵ P138 (Witness JF-005, witness statement, 4 November 2009), para. 20.

¹⁵⁹⁶ P137 (Witness JF-005, witness statement, 25 January 2004), para. 34; P138 (Witness JF-005, witness statement, 4 November 2009), para. 20; Witness JF-005, T. 2906.

¹⁵⁹⁷ P137 (Witness JF-005, witness statement, 25 January 2004), para. 34; Witness JF-005, T. 2906.

¹⁵⁹⁸ P252 (Witness JF-009, witness statement, 13 March 2001), pp. 2, 6; Witness JF-009, T. 3516-3520.

¹⁵⁹⁹ P252 (Witness JF-009, witness statement, 13 March 2001), p. 6.

¹⁶⁰⁰ For the Trial Chamber's findings on Radojica Božović's membership in the Unit, see chapter 6.3.2.

¹⁶⁰¹ P1876 (Witness B-1115, statement to the Bosnia-Herzegovina MUP, 29 December 1995), p. 2.

Serbs or VRS units prevented the villagers' attempted evacuation.¹⁶⁰² On 10 May 1992, at 11:20 a.m., Serbs from Ozren wearing JNA camouflage uniforms and armed with professional JNA weapons, such as automatic rifles, carried out an attack on Gornja Grapska in combined formation with the JNA, commencing with tank and artillery fire.¹⁶⁰³ The witness testified that the attack was commanded by JNA officer Major Milovan Stanković, because the witness saw him standing in front of a tank when the Serb forces entered the village, and Stanković himself told the witness in May 1993, that he had been the main person in command of the forces who took Gornja Grapska.¹⁶⁰⁴ The witness estimated that five or six shells landed on the village every minute.¹⁶⁰⁵ Thirty-four villagers died during the shelling, including men, women and children, none of whom were wearing military uniforms. The villagers were only armed with hunting rifles and small arms and did not fire any shots in defence. The village was shelled until 5 p.m., at which point the infantry entered the village and herded the inhabitants out of the village like cattle, kicking and beating them.¹⁶⁰⁶ When the witness was removed from his house, he saw the dead body of a five-year-old child.¹⁶⁰⁷ The Serbs took the villagers to Kostajnica, where approximately 2,000 persons were lined up in front of the cultural centre. Nikola Jorgić arrived around 11 p.m. wearing a camouflage military uniform and cap. Jorgić told all women and children to get on the buses and stated that he would kill any children and their mothers who got on a bus if they were able to carry a gun. The witness had no doubt that Jorgić was in command of the operation based on his behaviour and because the others obeyed him. The soldiers then forced the women and children onto buses and took the men to the primary school in Kostajnica, where they were registered and then taken to Bare.¹⁶⁰⁸ Twenty-four persons who were disabled or elderly and unable to walk remained in Gornja Grapska after the attack, and the witness later heard that they were made to collect and bury bodies. While the witness was imprisoned, Čedo Jovanović, a Serb, told the witness that a month after the attack on Gornja Grapska these 24 persons were lined up in

¹⁶⁰² P1873 (Witness B-1115, *Slobodan Milošević* transcript, 15 October 2003), p. 27593; P1876 (Witness B-1115, statement to the Bosnia-Herzegovina MUP, 29 December 1995), p. 2.

¹⁶⁰³ P1871 (Witness B-1115, witness statement, 11 October 1998), p. 4; P1873 (Witness B-1115, *Slobodan Milošević* transcript, 15 October 2003), pp. 27590-27592; P1876 (Witness B-1115, statement to the Bosnia-Herzegovina MUP, 29 December 1995), p. 3.

¹⁶⁰⁴ P1871 (Witness B-1115, witness statement, 11 October 1998), pp. 3-4; P1873 (Witness B-1115, *Slobodan Milošević* transcript, 15 October 2003), pp. 27589-27591.

¹⁶⁰⁵ P1876 (Witness B-1115 statement to the Bosnia-Herzegovina MUP, 29 December 1995), p. 3.

¹⁶⁰⁶ P1871 (Witness B-1115, witness statement, 11 October 1998), p. 4; P1876 (Witness B-1115, statement to the Bosnia-Herzegovina MUP, 29 December 1995), p. 3.

¹⁶⁰⁷ P1871 (Witness B-1115, witness statement, 11 October 1998), p. 4.

¹⁶⁰⁸ P1876 (Witness B-1115, statement to the Bosnia-Herzegovina MUP, 29 December 1995), p. 3.

front of a coffee bar, shot and killed. The Serbs then established detention facilities for the Muslim and Croat populations.¹⁶⁰⁹

733. On the basis of the evidence of Witness B-1115, the Trial Chamber finds that on 10 May 1992, the JNA and Serb men from Ozren wearing JNA camouflage uniforms, commanded by JNA Major Stanković, carried out a joint attack on the village of Gornja Grapska in Doboj municipality. They took about 2,000 of the villagers to Kostajnica, and lined them up in front of the cultural centre. Nikola Jorgić then ordered, and the same forces compelled through threats and violence the women and children to board buses and sent them off, and took the men to Bare in Doboj municipality. Based on the testimony of Witness B-1115 above, with regard to the ethnic composition of Gornja Grapska, the Trial Chamber is satisfied that these villagers were of Muslim ethnicity. The Trial Chamber will further consider this incident in relation to Counts 1, 4, and 5 of the Indictment in chapter 4, below.

Attacks, killings, looting, harassment, and destruction of mosques and Catholic churches in Doboj municipality as of 7 May and throughout the summer of 1992, and arbitrary arrest and detention from May 1992 to early October 1993

734. The Trial Chamber has received evidence from Dragan Lukač and Edin Hadžović, as well as documentary evidence, indicating that people left Doboj municipality in September 1992. The Trial Chamber will now review this evidence.

735. **Dragan Lukač**, a Croat police officer from Bosanski Šamac,¹⁶¹⁰ stated that, on 4 September 1992 in the course of the exchange following his detention by the Serb forces who had taken over Doboj municipality, he saw four buses full of people, whom he later learned were from Doboj municipality, and who were also to be exchanged in the village of Dragalić in Western Slavonia.¹⁶¹¹ At 5:30 p.m., they crossed the bridge on the Sava river to the territory of the Republic of Croatia.¹⁶¹² According to the statements given by persons in video exhibit P1816, about three buses of mainly Muslims and Croats, some prisoners and others citizens from Doboj, were exchanged in Dragalić on 4 September 1992. In the footage, Jozo

¹⁶⁰⁹ P1871 (Witness B-1115, witness statement, 11 October 1998), p. 4; P1873 (Witness B-1115, *Slobodan Milošević* transcript, 15 October 2003), p. 27599.

¹⁶¹⁰ P1834 (Dragan Lukač, witness statement, 4 December 1994), pp. 1-2; P1836 (Dragan Lukač, *Blagoje Simić et al.* transcripts, 20, 24-28 September and 1-4 October 2001), pp. 1524-1530.

¹⁶¹¹ P1836 (Dragan Lukač, *Blagoje Simić et al.* transcripts, 20, 24-28 September and 1-4 October 2001), pp. 1794-1800.

¹⁶¹² P1836 (Dragan Lukač, *Blagoje Simić et al.* transcripts, 20, 24-28 September and 1-4 October 2001), p. 1800.

Mandić stated that he had been brought to the exchange directly from a detention facility in Doboj.¹⁶¹³

736. According to exhibit P93, List of people to be exchanged on 4 September 1992, 140 persons of Croat or Muslim ethnicity were exchanged to Slavonski Brod at Dragalić.¹⁶¹⁴ **Edin Hadžović** testified that his wife, two children and his mother-in-law were amongst those exchanged. The witness testified that with the curfew in force, and having no source of income, his wife decided to register for transfer with the Red Cross. She was only allowed to take one bag of laundry, and all her money and jewellery had been taken from her before she was put on a bus. The witness further recognized Jozo Mandić both on the list of people to be exchanged, and in the video footage of interviews with persons that were to be exchanged.¹⁶¹⁵

737. Based on the testimony of Dragan Lukač and Edin Hadžović and exhibits P93 and P1816, the Trial Chamber finds that on 4 September 1992, at least 140 Croats and Muslims from Doboj municipality, some of whom were prisoners in Doboj municipality, departed from the municipality and went to the Republic of Croatia. The Trial Chamber will further consider the circumstances of their departure below. The Trial Chamber will now turn to the Adjudicated Facts and the evidence concerning arbitrary arrest and detention and other incidents in Doboj municipality, which preceded the departure of these 149 persons.

738. According to the Adjudicated Facts, around 10 May 1992, Šešelj's men intimidated the residents who remained in Doboj town after the take-over of, and the issuing of a curfew in, the town.¹⁶¹⁶ The Trial Chamber further recalls Adjudicated Fact IV 300 as reviewed above, relating to the destruction of Muslim and Catholic monuments in Doboj municipality in May and June 1992.

739. The Trial Chamber recalls and refers to the evidence of Witness B-1115 reviewed above, concerning the attack and killings in Gornja Grapska in early May 1992.

740. The Trial Chamber has further received relevant evidence from Witness JF-005 concerning killings and looting in Doboj municipality throughout the summer of 1992.

¹⁶¹³ P1816 (News report and interviews at a prisoner exchange at Croatian/Bosnian border – Refugees *inter alia* from Bosanski Šamac/Doboj/Sanski Most), pp. 15-16, 19-20, 22-23, 27.

¹⁶¹⁴ P93 (List of Croats and Muslims to be exchanged between Doboj and Bosanski Brod, 4 September 1992).

¹⁶¹⁵ Edin Hadžović, T. 2261-2263; P93 (List of Croats and Muslims to be exchanged between Doboj and Bosanski Brod, 4 September 1992); P1816 (News report and interviews at a prisoner exchange at Croatian/Bosnian border – Refugees *inter alia* from Bosanski Šamac/Doboj/Sanski Most), pp. 19-20. The Trial Chamber notes that although the witness referred to exhibit P94 (Video of an interview with Jozo Mandić) in Court, P94 is in fact a part of exhibit P1816.

¹⁶¹⁶ Adjudicated Facts IV, facts 295, 297-298.

741. **Witness JF-005** estimated that during the summer of 1992, about 2,000 cars were taken from the Teslić and Doboј area to Serbia by the Red Berets.¹⁶¹⁷ An Bosnian-Serb Republic MUP report dated 13 August 1992 signed by Chief Obren Petrović, noted that since the beginning of the war, a large number of passenger cars had been stolen from the Doboј area. According to the report, most cars were stolen by members of the Red Berets, including Riki and Njegoš, a large number by members of the VRS, and a number by members of Banja Luka special units.¹⁶¹⁸ The witness stated that three groups were involved in the looting of the Doboј area. The witness belonged to the first group, which looted for Božović. The second was a separate Special Unit of about 20 persons, many of whom had been trained at Ozren, which was under the command of Slobodan Karagić, a.k.a. Karaga.¹⁶¹⁹ Karaga had been placed in command of the Vila headquarters of the Red Berets and was Božović's deputy.¹⁶²⁰ According to the witness, Karaga wanted to act independently from the other units and set up this unit in the second half of May 1992.¹⁶²¹ The witness recognized a number of the names of members of Karagić's unit, who were from the Ozren area, on a list of Bosnian-Serb Republic MUP Security Services Centre Doboј advance salaries for April 1992.¹⁶²² Karaga's unit wore red berets and camouflage uniforms or old SMB uniforms and looted in Doboј and Tešlić.¹⁶²³ The third group that looted in the Doboј area was known as the Miće and was led by Milan Ninković, who was the Defence Minister for the Bosnian-Serb Republic.¹⁶²⁴ The Miće group was trained by Božović and his men at some point after 3 May 1992.¹⁶²⁵ According to the witness, Rodoljub Sljivić and Ranko Sljuka were members of the Miće.¹⁶²⁶

742. Witness JF-005 testified that in May 1992, from a checkpoint at a distance of between 200 and 300 metres, he observed members of the Miće group kill three persons in the area of the Muslim settlement Makljenovac, Doboј municipality. Miroslav Pijunović, also known as Piko, a Miće member from Ozren, and other members of the Miće group went to the house of

¹⁶¹⁷ P138 (Witness JF-005, witness statement, 4 November 2009), para. 40.

¹⁶¹⁸ P151 (RS MUP Public Security Services Centre Doboј Report, signed by Obren Petrović, 13 August 1992), pp. 2-3.

¹⁶¹⁹ P137 (Witness JF-005, witness statement, 25 January 2004), paras 30-31; P138 (Witness JF-005, witness statement, 4 November 2009), para. 4; Witness JF-005, T. 2878-2879, 2882.

¹⁶²⁰ P137 (Witness JF-005, witness statement, 25 January 2004), paras 29-30; P138 (Witness JF-005, witness statement, 4 November 2009), para. 4; Witness JF-005, T. 2879-2880.

¹⁶²¹ P137 (Witness JF-005, witness statement, 25 January 2004), para. 30; Witness JF-005, T. 2882-2883.

¹⁶²² P138 (Witness JF-005, witness statement, 4 November 2009), para. 33; P88 (List of advance salaries for April 1992, Bosnian-Serb Republic MUP, Security Service Centre Doboј).

¹⁶²³ P137 (Witness JF-005, witness statement, 25 January 2004), para. 32; Witness JF-005, T. 2878-2879, 2881, 2883, 2953.

¹⁶²⁴ P137 (Witness JF-005, witness statement, 25 January 2004), para. 31; Witness JF-005, T. 2872, 2904.

¹⁶²⁵ P139 (Witness JF-005, witness statement, 14 January 2010), p. 2; Witness JF-005, T. 3007.

¹⁶²⁶ Witness JF-005, T. 2954.

Muharem Aldobašić, lined Muharem and his brother and sister outside the house, and asked Muharem for money.¹⁶²⁷ When Muharem responded that he did not have any money, the witness observed one of the men, who he believed to be Piko, shoot Muharem in the head, and then shoot Muharem's brother and sister. As the witness and two other members of the Special Purpose Unit at the checkpoint were outnumbered by the Miće members, they did not interfere.¹⁶²⁸ The witness and others reported the incident to Željko Čudić, who worked for the SJB.¹⁶²⁹

743. The witness testified that in May or June 1992, his unit moved from Doboj to Johovac, in Doboj municipality.¹⁶³⁰ Two groups of the Special Unit attacked the villages in the area: Riki commanded a group which attacked Johovac and included the witness, while Vuk led a group which attacked Kotorsko, in Doboj municipality.¹⁶³¹ In Johovac, some members of the unit were securing the front line, while others were tasked with killing the inhabitants of the village that they had seized. The Special Units captured members of the Muslim and Croat armies in the seized villages and tortured them. The locals looted the villages, but the witness's unit was not allowed to participate in the looting. According to the witness, many of the looted goods were shared between Božović, Riki, and Vuk. The witness's unit stayed in the Johovac area for 24 hours and then continued to Derventa, in Bosnia-Herzegovina, to merge with Milan Martić's police.¹⁶³² In Kotorsko, in Doboj municipality, they found many persons with ZNG insignia.¹⁶³³ Most of them surrendered and were killed on the spot by Special Unit members. At Kotorsko, the witness's group joined the group of Red Berets led by Vuk. At Šešlija, the witness's unit captured the commander of the 112th ZNG and some soldiers. The witness was present when Božović later issued an order for this commander's execution, without any trial, in Doboj.¹⁶³⁴ The witness observed Stevo Lukić, a.k.a. Bambi, and some other men take the commander away, then heard a shot, and saw the men return without the commander.¹⁶³⁵ When the witness later returned to Johovac, he saw the bodies of killed civilians, including two children aged between eight and ten. The witness learned that a

¹⁶²⁷ P137 (Witness JF-005, witness statement, 25 January 2004), para. 39; Witness JF-005, T. 2872, 2964-2967.

¹⁶²⁸ P137 (Witness JF-005, witness statement, 25 January 2004), para. 39; P139 (Witness JF-005, witness statement, 14 January 2010), p. 2; Witness JF-005, T. 2965-2967.

¹⁶²⁹ Witness JF-005, T. 2966.

¹⁶³⁰ P137 (Witness JF-005, witness statement, 25 January 2004), paras 17, 20; P138 (Witness JF-005, witness statement, 4 November 2009), para. 5.

¹⁶³¹ P137 (Witness JF-005, witness statement, 25 January 2004), paras 20, 23.

¹⁶³² P137 (Witness JF-005, witness statement, 25 January 2004), paras 20-21.

¹⁶³³ P137 (Witness JF-005, witness statement, 25 January 2004), paras 11, 17, 20, 21, 23.

¹⁶³⁴ P137 (Witness JF-005, witness statement, 25 January 2004), para. 21, 23-24.

¹⁶³⁵ P137 (Witness JF-005, witness statement, 25 January 2004), paras 4, 24; P139 (Witness JF-005, witness statement, 14 January 2010), p. 1.

team of Red Berets from Serbia and Montenegro which had stayed behind in Johovac after the witness left, had killed all civilians there, including four disabled persons.¹⁶³⁶

744. On the basis of the Adjudicated Facts, the Trial Chamber finds that around 10 May 1992, Šešelj's men intimidated the remaining residents of Doboj town. Considering the evidence of Witness JF-005, the Trial Chamber finds that in May 1992, in the area of Makljenovac, a Muslim settlement in Doboj municipality, Miroslav Pijunović and other members of the Miće group lined up Muharem Aldobašić, his brother, and sister outside a house and shot and killed them.

745. Based on the evidence of Witness B-1115 and Adjudicated Fact IV 300 recalled above, the Trial Chamber finds that the forces that attacked Gornja Grapska on 10 May 1992, heavily shelled the village with tank and artillery fire from 11:20 a.m. until 5 p.m., thereby killing 34 civilians, including children, and destroying or heavily damaging a mosque in Gornja Grapska. The villagers were only armed with hunting rifles and small arms and did not fire any shots in defence.

746. In addition, on the basis of the Adjudicated Facts and the evidence of Edin Hadžović, and in light of other evidence received, the Trial Chamber finds that during May and June 1992, the forces that attacked Doboj town and Gornja Grapska, as specified above, deliberately damaged or completely destroyed a number of other Muslim and Catholic monuments in Doboj municipality through shelling and/or explosives.

747. On the basis of Witness JF-005's evidence, the Trial Chamber finds that in May or June 1992, two squads of a unit referred to by the witness as the Special Purpose Unit a.k.a. the "Red Berets", commanded by Unit member Davor Subotić (a.k.a. Riki)¹⁶³⁷ and Aleksander Vuković (a.k.a. Vuk),¹⁶³⁸ attacked the villages of Johovac and Kotorsko in Doboj municipality. They captured, tortured, and killed members of the Muslim and Croat armies. Following the attack on Johovac, a squad of this unit from Serbia and Montenegro killed the whole civilian population of Johovac including four disabled persons and two children. Recalling its findings in chapter 6.3.3, the Trial Chamber finds that these squads of a Special Purpose Unit a.k.a. Red Berets were composed of members of the Unit in Doboj.

¹⁶³⁶ P137 (Witness JF-005, witness statement, 25 January 2004), para. 22.

¹⁶³⁷ For the Trial Chamber's findings on Davor Subotić's membership in the Unit, see chapter 6.3.2.

¹⁶³⁸ For the Trial Chamber's findings on Aleksander Vuković's membership in the Unit, see the section on the Ležimir camp in chapter 6.3.3.

748. Considering the Bosnian-Serb Republic MUP Report P151 and the evidence of Witness JF-005, the Trial Chamber finds that in the summer of 1992, members of the VRS, members of the “Red Berets” also referred to by the witness as the Special Purpose Unit a.k.a. the “Red Berets” (including Unit members Davor Subotić (a.k.a. Riki) and Njegoš Kušić¹⁶³⁹), another unit referred to as Karaga’s unit, and a third unit referred to as the Miće group stole about 2,000 cars from the area of Doboj and Teslić and brought them to Serbia. Recalling its findings in chapter 6.3.3, the Trial Chamber finds that these members of the “Red Berets” also referred to by the witness as the Special Purpose Unit a.k.a. the “Red Berets” were members of the Unit in Doboj.

749. The Trial Chamber will now turn to incidents of arrests and detention.

750. According to the Adjudicated Facts, on 20 May 1992, Serb forces sealed off the Muslim town of Dragalovci and set up checkpoints. On 2 June 1992, Serb police officers called the villagers to gather at the town railway station and ordered them to surrender their weapons. Armed Serbs then separated out the male villagers at gunpoint, and Serb police took 26 of these men to Spreča prison in Doboj town. In the prison, detainees were threatened and abused by soldiers wearing red berets and black shirts. Around 22 June 1992, several detainees were taken in armoured trucks to a discotheque in Usora in Doboj municipality. The Serb guards packed them tightly into the building, together with other detainees already present, and beat them. One elderly man died due to the harsh conditions. In addition to the facilities mentioned above, Serb authorities detained mainly Muslim and Croat civilians in the JNA (Milikovac) 4th of July barracks, Šešlija camp, a warehouse in Usora, the railway station, “SRC Ozren”, the high school, the tyre factory in Bare, the Stanari mine, the Stanari elementary school, the handball stadium, Bosanska, the Rudanka transmission line factory, Kotorko village, Majeвица hangar “PD”, the Putnikovo brdo military premises, Seona, the Grapska elementary school, the Piperi shop, the Ševarlije military barracks, and Podnovlje. The detainees were severely mistreated. In May and June 1992, Serb authorities in Doboj municipality detained Muslim and Croat civilians in 33 detention centres under cramped and inhumane conditions.¹⁶⁴⁰

751. The Trial Chamber has also received relevant evidence from Witness JF-009, Husein Ahmetović, Witness B-1115, Witness JF-008, Edin Hadžović, and Witness JF-005 with regard to detention facilities in Doboj municipality.

¹⁶³⁹ For the Trial Chamber’s findings on Njegoš Kušić’s membership in the Unit, see chapter 6.3.2.

¹⁶⁴⁰ Adjudicated Facts IV, facts 301-306.

752. The Trial Chamber recalls the evidence of Witness JF-009, reviewed in chapter 3.5.1, according to which on 3 May 1992, he and some 200 Muslim men were transferred by members of Predo's Wolves to *Perčin disko* in Doboj, where they were guarded by regular policemen and soldiers. The witness further testified that one day, some soldiers took 50 volunteers, including him, out of *Perčin disko* and ordered them to catch cattle and to identify and bury bodies. The detainees performed these tasks for one month. The witness testified that one day the approximately 300 detainees, then at *Perčin disko*, were driven by truck to a former military warehouse in Usora village. The warehouse was part of a compound which had hangars where people were detained.¹⁶⁴¹ Karaga, the commander of a paramilitary group wearing the "four Serb S" insignia and camouflage hats, whom Witness JF-009 knew from before, visited the warehouse where the witness was detained.¹⁶⁴² After a couple of days, Witness JF-009 and about 100 detainees were transported back to *Perčin disko* on the same truck that had transported them to the warehouse. The witness's description of the conditions of his detention at *Perčin disko* and in Usora is consistent with Adjudicated Fact IV 306.¹⁶⁴³

753. After a few days, a man wearing a blue police uniform called out the names of five detainees, including Nijaz Memić and Witness JF-009. Two Serbs wearing civilian clothes drove them to the Central Prison of Doboj in a civilian car.¹⁶⁴⁴ The witness was brought to a cell, where 10 or 15 detainees were already detained, some of whom were badly injured. That same day, a policeman and a person in civilian clothes beat and kicked Saban Ibraković leaving him unconscious on the floor. One month later, in late summer 1992, Witness JF-009 was released from the Central Prison in Doboj, but had to work, during the next four months, for "Razvitak" and "Progress" companies in Doboj.¹⁶⁴⁵

754. **Husein Ahmetović**, a Muslim from the town of Doboj,¹⁶⁴⁶ stated that he was arrested by two members of the local Serb police on 11 May 1992.¹⁶⁴⁷ He was given no reason for his arrest either at that time or subsequently, though the order for his detention cites the crime of aggravated theft.¹⁶⁴⁸ The two policemen drove him to *Perčin disko*, where he was detained for

¹⁶⁴¹ P252 (Witness JF-009, witness statement, 13 March 2001), pp. 4-5; Witness JF-009, T. 3514.

¹⁶⁴² P252 (Witness JF-009, witness statement, 13 March 2001), p. 5; Witness JF-009, T. 3536-3537, 3547-3548.

¹⁶⁴³ P252 (Witness JF-009, witness statement, 13 March 2001), p. 5.

¹⁶⁴⁴ P252 (Witness JF-009, witness statement, 13 March 2001), p. 5.

¹⁶⁴⁵ P252 (Witness JF-009, witness statement, 13 March 2001), pp. 5-6; Witness JF-009, T. 3516.

¹⁶⁴⁶ P517 (Husein Ahmetović, witness statement, 11 July 2008), p. 1, para. 6.

¹⁶⁴⁷ P517 (Husein Ahmetović, witness statement, 11 July 2008), paras 5-6; P519 (Order by Obrad Petrović of the Doboj SJB for the release of Husein Ahmetović and others, 13 August 1992), p. 1; P521 (Order by Doboj SJB for detention of Huso Ahmetović, 11 May 1992).

¹⁶⁴⁸ P517 (Husein Ahmetović, witness statement, 11 July 2008), para. 6; P521 (Order by Doboj SJB for detention of Huso Ahmetović, 11 May 1992).

one week before being taken by the same policemen to a camp, which had been set up in the military hangars in Doboј. He was imprisoned in a hangar with approximately 30 prisoners, most of whom were Bosniaks from the settlements of Čaira and Miljkovac.¹⁶⁴⁹ The witness's evidence on the conditions of detention and physical abuse is consistent with Adjudicated Facts IV 306 and 307.¹⁶⁵⁰ The prisoners were subjected to daily physical abuse. The beatings were mainly carried out by two groups: the first were members of the Red Berets, inferred to be from Serbia by their accents; the second wore camouflage hats and the witness thought that they were from Bosanska Krajina.¹⁶⁵¹

755. At the end of May 1992, Ahmetović and approximately 25 other prisoners were transported by a military lorry to the Central Prison in Doboј. Ahmetović was placed in a cell with 47 other prisoners.¹⁶⁵² On 13 August 1992, Obrad Petrović, the Station Chief of the SJB in Doboј, issued an order for the release of a number of persons including Ahmetović.¹⁶⁵³ However, Ahmetović's detention continued.¹⁶⁵⁴ The prisoners in the Central Prison were subjected to frequent beatings. Some of the beatings were carried out by the prison guards, others by members of the Red Berets (including by their commander Božović) or a group who wore camouflage hats and were allowed into the cells by the prison guards.¹⁶⁵⁵ The witness stated that the members of the group in camouflage hats were from Banja Luka.¹⁶⁵⁶ The witness identified the Red Berets as wearing "insignias with some kind of animal".¹⁶⁵⁷ The witness stated that the commander of the Red Berets, a person named Božović, often came to the prison and would verbally abuse and threaten to kill the prisoners and would force them to sing Chetnik songs. Božović wore camouflage military trowsers with a black shirt and a red beret and was always accompanied by two bodyguards wearing the same type of uniform.¹⁶⁵⁸

756. One night in September 1992, Ahmetović witnessed Karlo Grgić, a prisoner in his cell and former commander of the Doboј SJB, being severely beaten by a group of Serb soldiers.¹⁶⁵⁹ On another occasion, in mid-October 1992, eight members of the Red Berets

¹⁶⁴⁹ P517 (Husein Ahmetović, witness statement, 11 July 2008), para. 6.

¹⁶⁵⁰ P517 (Husein Ahmetović, witness statement, 11 July 2008), paras 6-7.

¹⁶⁵¹ P517 (Husein Ahmetović, witness statement, 11 July 2008), paras 7-8.

¹⁶⁵² P517 (Husein Ahmetović, witness statement, 11 July 2008), para. 9.

¹⁶⁵³ P519 (Order by Obrad Petrović of the Doboј SJB for the release of Husein Ahmetović and others, 13 August 1992), pp. 1-2.

¹⁶⁵⁴ P517 (Husein Ahmetović, witness statement, 11 July 2008), paras 9-29.

¹⁶⁵⁵ P517 (Husein Ahmetović, witness statement, 11 July 2008), paras 9, 11-19.

¹⁶⁵⁶ P517 (Husein Ahmetović, witness statement, 11 July 2008), para. 9.

¹⁶⁵⁷ P517 (Husein Ahmetović, witness statement, 11 July 2008), para. 28.

¹⁶⁵⁸ P517 (Husein Ahmetović, witness statement, 11 July 2008), paras 9, 26, 28.

¹⁶⁵⁹ P517 (Husein Ahmetović, witness statement, 11 July 2008), paras 9, 20.

came to Ahmetović's cell and beat an elderly invalid prisoner, whose legs were paralysed, to death with a baseball bat.¹⁶⁶⁰

757. Ahmetović witnessed Božović kicking and slapping members of the group in camouflage hats and took this as a sign of his authority.¹⁶⁶¹ Ahmetović stated that prisoners in the Doboj Central Prison performed forced labour on a daily basis. He himself usually worked in the *Mespromet* company, or had to dig trenches and remove technical appliances from houses.¹⁶⁶² Ahmetović was released from prison on 19 October 1992. From that time until the end of March 1993 he was engaged in compulsory work service on the order of the SNO of the Bosnian-Serb Republic.¹⁶⁶³

758. **Witness B-1115** stated that from 10 to 18 May 1992, he was held in Bare, where over 1,200 prisoners were held in five military hangars, each containing up to 300 men.¹⁶⁶⁴ The commander of Bare prison was Milan Tadić, a member of the SDS. Tadić wore a uniform and occasionally allowed paramilitary units to enter the prison and mistreat the prisoners.¹⁶⁶⁵ The witness's evidence on the conditions of his detention in Bare is consistent with Adjudicated Fact IV 306 above.¹⁶⁶⁶

759. On 18 May 1992, policemen Boro Jekić and Slobodan Basić took the witness and 24 Muslim men, who were originally from Gornja Grapska, and three Muslims from Čivčije to the Spreča prison in the centre of Doboj, where the witness was held until 9 February 1993.¹⁶⁶⁷ Shortly after the witness's arrival, a person called Jorgić entered the witness's cell with ten others, all wearing multi-coloured uniforms and Serbian national caps with the Serbian cockade military insignia and armed with automatic rifles. Jorgić said that the men were in a Serbian state, in the hands of Serbs, and that Jorgić and his companions would do to them whatever they wanted. He kicked the witness in the chin, causing blood to flow from his mouth and asked the oldest Muslim to pray in the Muslim way and then hit him on the back of the neck while he was on the ground. The other soldiers beat the other prisoners with their rifles.¹⁶⁶⁸ At Spreča, the witness was guarded by regular guards who had been employed there

¹⁶⁶⁰ P517 (Husein Ahmetović, witness statement, 11 July 2008), para. 21.

¹⁶⁶¹ P517 (Husein Ahmetović, witness statement, 11 July 2008), para. 28.

¹⁶⁶² P517 (Husein Ahmetović, witness statement, 11 July 2008), paras 22-23.

¹⁶⁶³ P517 (Husein Ahmetović, witness statement, 11 July 2008), para. 29.

¹⁶⁶⁴ P1871 (Witness B-1115, witness statement, 11 October 1998), p. 4; P1876 (Witness B-1115, statement to the Bosnia-Herzegovina MUP, 29 December 1995), p. 3.

¹⁶⁶⁵ P1871 (Witness B-1115, witness statement, 11 October 1998), pp. 4-5.

¹⁶⁶⁶ P1871 (Witness B-1115, witness statement, 11 October 1998), p. 5.

¹⁶⁶⁷ P1871 (Witness B-1115, witness statement, 11 October 1998), pp. 4-5; P1876 (Witness B-1115, statement to the Bosnia-Herzegovina MUP, 29 December 1995), p. 3.

¹⁶⁶⁸ P1876 (Witness B-1115, statement to the Bosnia-Herzegovina MUP, 29 December 1995), pp. 3-4.

before the war, by regular policemen and by Serbs from areas controlled by the ABiH.¹⁶⁶⁹ The prison had eight cells and held about 100 people, 24 of whom were in his cell.¹⁶⁷⁰ The witness's account of the conditions of his detention is consistent with Adjudicated Fact IV 306 above.¹⁶⁷¹ The prisoners received regular meals. At Spreča, "those Serbs from Ozren", which the Trial Chamber understands to refer to the Serbs from the Ozren area who took over the witness's village on 10 May 1992, came into the prison and beat the prisoners.¹⁶⁷²

760. Witness B-1115 estimated that 5,000 people passed through the prison during his detention, as people arrived and left on a daily basis; he only encountered Croat or Bosnian Muslim prisoners, never any Serbian prisoners.¹⁶⁷³ Prisoners were often removed at night and were not seen or heard from again. The witness frequently heard Jorgić's voice when people were removed, and later spoke to a local Roma named Sadija who said that Jorgić ordered him to push dead bodies into the Bosna river. Once, a guard named Milan Vuković accused a Croatian prisoner, named Marko Kikić, of raping three Serbian girls and then beat him in the corridor in front of the witness's cell with a heavy solid cable for an hour, until he died.¹⁶⁷⁴ On 24 May 1992, around 5 p.m., Jorgić, Slobodan Karagić (known as "Karaga"), and Ristić (known as "Riki") entered the witness's cell wearing camouflage military uniforms, and Karagić and Ristić wore red berets. Jorgić ordered Avdo Kurtović and Nijaz Zečević to leave the cell, telling Avdo to say goodbye to everyone. Witness B-1115 heard Jorgić and Ristić call out ten men from Gornja Grapska and Doboj, detained at other cells. These men were not seen or heard from again. In September 1993, the witness encountered Stanković at the VRS headquarters in Doboj. When the witness asked Stanković what had happened to the people from Gornja Grapska, who Jorgić had taken out of their cell in Spreča on 24 May 1992, Stanković responded that these people, along with 36 others from Modriča, Jakeš, Derventa, and Odžak were no longer alive. According to Stanković, these persons were taken to the Ozren Mountain and ordered to run away from Red Berets, who were training at Usora-Vila and who chased them with bayonets.¹⁶⁷⁵

¹⁶⁶⁹ P1871 (Witness B-1115, witness statement, 11 October 1998), p. 6.

¹⁶⁷⁰ P1871 (Witness B-1115, witness statement, 11 October 1998), p. 5.

¹⁶⁷¹ P1871 (Witness B-1115, witness statement, 11 October 1998), p. 5; P1873 (Witness B-1115, *Slobodan Milošević* transcript, 15 October 2003), p. 27599.

¹⁶⁷² P1871 (Witness B-1115, witness statement, 11 October 1998), pp. 4-5.

¹⁶⁷³ P1871 (Witness B-1115, witness statement, 11 October 1998), p. 5; P1873 (Witness B-1115, *Slobodan Milošević* transcript, 15 October 2003), pp. 27599-27600.

¹⁶⁷⁴ P1871 (Witness B-1115, witness statement, 11 October 1998), pp. 5-6.

¹⁶⁷⁵ P1876 (Witness B-1115, statement to the Bosnia-Herzegovina MUP, 29 December 1995), pp. 4-5.

761. At Spreča, guards would select prisoners for daily labour.¹⁶⁷⁶ One of their tasks was to remove valuables from villages in the direction of Modriča and Odžak that had been taken over by the Serbs. In these villages, the witness saw civilians who had been killed. The prisoners gave the valuables they had gathered to Đoko Lavrnić, who wore a uniform, and the valuables were taken to a warehouse. At the warehouse, the witness observed around 500 refrigerators and washing machines. According to the witness, Serb officers and soldiers would take items from the warehouse and drive off in their own cars. The prisoners also dug graves and buried dead bodies.¹⁶⁷⁷

762. During his imprisonment, Witness B-1115 was also sent to the JNA barracks in Miljkovac, on the outskirts of Doboj, to perform tasks such as painting or gardening, on a daily basis for a period of five months.¹⁶⁷⁸ At the barracks, the witness observed regular army, reserve, and paramilitary units that operated in Doboj eat, sleep, train, and leave for battle.¹⁶⁷⁹ Witness B-1115 saw the names of the following paramilitary units written on their APCs: Bijeli Orlovi (White Eagles); Martićevci from Kninska Krajina; Tigrovi from Vučijak mountain in Bosanska Krajina; and Kninđe from Knin. The commander of the barracks was a JNA officer called Borojević and the main operating officer was Major Milovan Stanković. The witness once saw 300 local Serbs being trained at Plane, near the barracks, by Montenegrin Red Berets, who he recognized as Montenegrin from their accents.¹⁶⁸⁰ At the JNA barracks, in the presence of Borojević and Stanković, the Montenegrin Red Berets would threaten and beat the prisoners, and force them to sing songs like “Alija we don’t like you”. While cleaning the barracks, Witness B-1115 would find blood and human teeth where people had been beaten.¹⁶⁸¹ From 16 or 17 May to 1 October 1993, the witness was held at Usora, in a military storage facility where around 50 persons were being held. At Usora, prisoners were occasionally taken out of their cells at night and beaten. Witness B-1115 laboured at a factory

¹⁶⁷⁶ P1871 (Witness B-1115, witness statement, 11 October 1998), p. 6; P1873 (Witness B-1115, *Slobodan Milošević* transcript, 15 October 2003), p. 27586, 27588-27589.

¹⁶⁷⁷ P1871 (Witness B-1115, witness statement, 11 October 1998), p. 5; P1873 (Witness B-1115, *Slobodan Milošević* transcript, 15 October 2003), p. 27588.

¹⁶⁷⁸ P1871 (Witness B-1115, witness statement, 11 October 1998), pp. 3, 6; P1873 (Witness B-1115, *Slobodan Milošević* transcript, 15 October 2003), p. 27588.

¹⁶⁷⁹ P1871 (Witness B-1115, witness statement, 11 October 1998), p. 3; P1873 (Witness B-1115, *Slobodan Milošević* transcript, 15 October 2003), pp. 27587-27588, 27600.

¹⁶⁸⁰ P1871 (Witness B-1115, witness statement, 11 October 1998), pp. 3-4; P1873 (Witness B-1115, *Slobodan Milošević* transcript, 15 October 2003), p. 27589.

¹⁶⁸¹ P1871 (Witness B-1115, witness statement, 11 October 1998), p. 3.

in Doboj. On 1 October 1993, the witness was exchanged to the territory of the Republic of Bosnia-Herzegovina.¹⁶⁸²

763. **Witness JF-008** testified that on 2 June 1992, a group of soldiers and policemen, some of whom (including Božidar Lugonjić) the witness knew to be from Stanari in Doboj municipality, came to Dragalovci. The villagers had to hand over their weapons, were surrounded by Bosnian-Serb policemen and soldiers, and were ordered to line up. One of the soldiers, dressed in a camouflage uniform, singled out between 20 and 28 of the villagers, including Witness JF-008, who were then forced to board a lorry and taken to the District Prison next to the SUP building in Doboj.¹⁶⁸³ This prison was part of the Doboj SJB.¹⁶⁸⁴ According to the witness, the District Prison was guarded by the same guards as before the war.¹⁶⁸⁵ During his detention in the District Prison, the witness observed that some of the villagers appeared beaten up after they had been taken for questioning.¹⁶⁸⁶ He also saw soldiers wearing red berets as he passed the prison building when he was taken out to work. The witness noticed that the policemen from the District Prison who escorted him and the other detainees kept their distance from, and appeared apprehensive of, these soldiers.¹⁶⁸⁷

764. After approximately 15 days, the Dragalovci villagers and some other detainees held at the District Prison were transferred to military storage halls in Usora, near Doboj.¹⁶⁸⁸ Witness JF-008's description of the conditions under which hundreds of Bosnian Muslims and Croats were held in Usora is consistent with Adjudicated Fact IV 306 above.¹⁶⁸⁹ Members of the Bosnian-Serb military police guarded the military storage halls. According to the witness, Bosnian-Serb soldiers would enter the halls every day and beat up detainees. The witness stayed in Usora for approximately ten to 15 days, and was subsequently transferred to *Perčin disko* in Vila, near Doboj.¹⁶⁹⁰

765. The Trial Chamber recalls the evidence of Witness JF-008, reviewed in chapter 3.5.1 with regard to his detention at *Perčin disko*. Following the human shield incident, Witness JF-008 was released from *Perčin disko* with the help of a Serb policeman, and started working

¹⁶⁸² P1871 (Witness B-1115, witness statement, 11 October 1998), p. 6; P1876 (Witness B-1115, statement to the Bosnia-Herzegovina MUP, 29 December 1995), p. 5.

¹⁶⁸³ P257 (Witness JF-008, witness statement, 15 April 2009), paras 10-12.

¹⁶⁸⁴ Witness JF-008, T. 3643.

¹⁶⁸⁵ P257 (Witness JF-008, witness statement, 15 April 2009), para. 12; Witness JF-008, T. 3563, 3643.

¹⁶⁸⁶ P257 (Witness JF-008, witness statement, 15 April 2009), para. 12.

¹⁶⁸⁷ Witness JF-008, T. 3564.

¹⁶⁸⁸ P257 (Witness JF-008, witness statement, 15 April 2009), paras 12-13.

¹⁶⁸⁹ P257 (Witness JF-008, witness statement, 15 April 2009), para. 13.

¹⁶⁹⁰ P257 (Witness JF-008, witness statement, 15 April 2009), para. 14; Witness JF-008, T. 3563-3565.

for the police around 24 or 25 July 1992.¹⁶⁹¹ Shortly thereafter, the other detainees were also released from *Perčin disko* but most of them were given work obligations such as digging trenches and farming.¹⁶⁹² Witness JF-008 was never told about the reasons for his arrest and detention nor were any proceedings conducted against him.¹⁶⁹³

766. **Edin Hadžović** testified that on or about 12 June 1992, two soldiers wearing camouflage uniforms and red berets with the “four Serb Ss” insignia forced him and his brother from his house and onto the street. They were ordered to lie down on the asphalt alongside approximately 17 or 18 of the witness’s male neighbours.¹⁶⁹⁴ The soldiers, all wearing the same kind of uniform and red berets, proceeded to beat the men with baseball bats for about half an hour. The soldiers then forced the men to crawl into the luggage compartments of a bus and transported them to a former JNA hangar in Usora, where they were lined up and herded inside the warehouse at gunpoint. There were at least 218 men imprisoned in that hangar and the witness saw that there were two other hangars on the compound, both packed with detainees as well.¹⁶⁹⁵ The witness provided evidence about the conditions of his detention consistent with Adjudicated Fact IV 306 above.¹⁶⁹⁶ He added that throughout the entire first night, the soldiers forced the detainees to stand with their arms in the air, three fingers raised for the Serbian greeting, while singing Serbian songs and cursing President Alija Izetbegović.¹⁶⁹⁷ The soldiers wearing red berets who had arrested the detainees did not remain in Usora, but instead, men who appeared to be regular soldiers or military police, wearing uniforms without any insignia, guarded and controlled the detainees at the hangar. Zlatan Krekić from Dobož, the Commander of the reserve police, was in charge of the soldiers guarding the hangar.¹⁶⁹⁸

¹⁶⁹¹ P257 (Witness JF-008, witness statement, 15 April 2009), paras 19, 21; Witness JF-008, T. 3569-3570, 3623, 3641.

¹⁶⁹² Witness JF-008, T. 3570, 3595.

¹⁶⁹³ P257 (Witness JF-008, witness statement, 15 April 2009), para. 16; Witness JF-008, T. 3563.

¹⁶⁹⁴ P83 (Edin Hadžović, witness statement, 12 March 2001), p. 6; D4 (Edin Hadžović, statement before local authorities, 11 August 1992), p. 1; D27 (Edin Hadžović, statement before local authorities, 30 November 2007), p. 7.

¹⁶⁹⁵ P82 (Edin Hadžović, statement before local authorities, 22 June 1998), p. 4; P83 (Edin Hadžović, witness statement, 12 March 2001), p. 6; D4 (Edin Hadžović, statement before local authorities, 11 August 1992), p. 1; D27 (Edin Hadžović, statement before local authorities, 30 November 2007), pp. 7-8.

¹⁶⁹⁶ P82 (Edin Hadžović, statement before local authorities, 22 June 1998), p. 4; P83 (Edin Hadžović, witness statement, 12 March 2001), pp. 6-7; D4 (Edin Hadžović, statement before local authorities, 11 August 1992), p. 1; D27 (Edin Hadžović, statement before local authorities, 30 November 2007), p. 8.

¹⁶⁹⁷ P82 (Edin Hadžović, statement before local authorities, 22 June 1998), p. 4; D27 (Edin Hadžović, statement before local authorities, 30 November 2007), pp. 7-8.

¹⁶⁹⁸ P82 (Edin Hadžović, statement before local authorities, 22 June 1998), p. 4; P83 (Edin Hadžović, witness statement, 12 March 2001), p. 6.

767. The Trial Chamber further recalls the evidence of Edin Hadžović, reviewed in chapter 3.5.1, according to which he and approximately 130 detainees were moved to *Perčin disko* on or about 19 June 1992. Hadžović's evidence on the conditions of detention at *Perčin disko* is consistent with Adjudicated Fact IV 306 above.¹⁶⁹⁹ The guard soldiers beat detainees every day.¹⁷⁰⁰ One of the detainees, Stipo Čičak from Dobož, died two days after the witness's arrival at *Perčin disko*, following a severe beating.¹⁷⁰¹ Hadžović did not witness the beating firsthand, but he observed the bruises covering Čičak's head and body and saw that the beaten man was hardly showing any signs of life.¹⁷⁰² Hadžović himself was beaten three times.¹⁷⁰³

768. **Witness JF-005** testified that after the Dobož operation, he and his unit were assigned to look for Muslims in Dobož and its surroundings and bring them to the Dobož central police station, also known as the MUP/SUP building.¹⁷⁰⁴ The witness believed this to be an independent operation under the command of Božović and his close associates. Between 100 and 200 Muslim civilian men were taken to the MUP building in Dobož. From there, they were taken to Usora in Dobož municipality, across from the Bosanska factory, where they were detained in large military hangars.¹⁷⁰⁵ The witness was told that during their detention the men were mistreated. He observed Božović and some of his men take gold from the house of one of the detainees, a Croat goldsmith called Tomo Zlatar. The detainees were held until their family paid for their release, anything between DEM 50 and 100,000, depending on the financial status of the family, after which the detainee would be exchanged at Usora.¹⁷⁰⁶

769. The witness testified that in May or June 1992, the Red Berets tortured civilians at the SUP building in Dobož, which was then under the control of Božović. According to the witness, Red Beret members severely beat the prisoners. The witness did not observe the torture in person, but saw detainees brought into the offices and saw that when they came out,

¹⁶⁹⁹ P82 (Edin Hadžović, statement before local authorities, 22 June 1998), p. 4; P83 (Edin Hadžović, witness statement, 12 March 2001), p. 7; D27 (Edin Hadžović, statement before local authorities, 30 November 2007), p. 8.

¹⁷⁰⁰ P83 (Edin Hadžović, witness statement, 12 March 2001), p. 7; D4 (Edin Hadžović, statement before local authorities, 11 August 1992), p. 2.

¹⁷⁰¹ P82 (Edin Hadžović, statement before local authorities, 22 June 1998), pp. 4-5; P83 (Edin Hadžović, witness statement, 12 March 2001), p. 7; D4 (Edin Hadžović, statement before local authorities, 11 August 1992), p. 2; D27 (Edin Hadžović, statement before local authorities, 30 November 2007), p. 9.

¹⁷⁰² P83 (Edin Hadžović, witness statement, 12 March 2001), p. 7; D27 (Edin Hadžović, statement before local authorities, 30 November 2007), p. 9.

¹⁷⁰³ P83 (Edin Hadžović, witness statement, 12 March 2001), p. 8.

¹⁷⁰⁴ P137 (Witness JF-005, witness statement, 25 January 2004), para. 17; P138 (Witness JF-005, witness statement, 4 November 2009), para. 9; Witness JF-005, T. 2874-2875.

¹⁷⁰⁵ P137 (Witness JF-005, witness statement, 25 January 2004), paras 15, 17; P138 (Witness JF-005, witness statement, 4 November 2009), para. 37.

¹⁷⁰⁶ P137 (Witness JF-005, witness statement, 25 January 2004), para. 15.

they showed obvious signs of having been beaten and tortured.¹⁷⁰⁷ Some were covered in blood.¹⁷⁰⁸ According to the witness, Božović ordered who would be tortured, but did not torture anyone himself.¹⁷⁰⁹

770. In June 1992, a few days after the take-over of Bukovačke Čivčije, members of the witness's unit, including Stevo Lukić, a.k.a. Bambi, told the witness that they had participated in the killing at Mount Ozren of detainees from the Usora camp.¹⁷¹⁰ The witness was present when the bodies of 30 to 50 detainees were buried at Mount Ozren, close to the unit's camp. Most of the bodies were of Muslim men wearing civilian clothes, although some wore uniforms. Other Muslim prisoners were ordered to throw the dead bodies in holes dug by an excavator. After this, chemicals were thrown on the bodies and they were covered with soil.¹⁷¹¹ The witness testified that he knew the approximate location on Mount Ozren, near Vozuca, of five mass graves, each containing between 25 and 40 men killed by the Red Berets.¹⁷¹² Božović had been present at one of the mass burials.¹⁷¹³

771. The Trial Chamber further recalls and refers to its finding in chapter 3.5.1.

772. In their Final Trial Briefs, the Stanišić and the Simatović Defence contend the credibility of Witness JF-005, pointing, *inter alia*, to alleged inconsistencies in his evidence and his previous criminal convictions.¹⁷¹⁴ The Trial Chamber has addressed these issues in chapter 6.3.3 and considered the witness to be generally reliable.

773. Based on the Adjudicated Facts and the evidence before it, the Trial Chamber finds that from May 1992 to at least early October 1993, local Serb authorities detained thousands of Muslims and Croats in 33 detention centres in Doboj municipality, in poor sanitary conditions and forced them to perform labour. At least one man died in detention due to the harsh conditions. In light of all the evidence reviewed, the Trial Chamber finds that the local Serb authorities included the Doboj SJB and local members of the SDS.

¹⁷⁰⁷ P137 (Witness JF-005, witness statement, 25 January 2004), para. 19; P138 (Witness JF-005, witness statement, 4 November 2009), para. 15.

¹⁷⁰⁸ P138 (Witness JF-005, witness statement, 4 November 2009), para. 15.

¹⁷⁰⁹ P137 (Witness JF-005, witness statement, 25 January 2004), para. 19.

¹⁷¹⁰ P137 (Witness JF-005, witness statement, 25 January 2004), paras 4, 34; P138 (Witness JF-005, witness statement, 4 November 2009), para. 21; Witness JF-005, T. 2909.

¹⁷¹¹ P138 (Witness JF-005, witness statement, 4 November 2009), para. 21.

¹⁷¹² P137 (Witness JF-005, witness statement, 25 January 2004), para. 40; P139 (Witness JF-005, witness statement, 14 January 2010), p. 2; Witness JF-005, T. 2968-2969.

¹⁷¹³ P137 (Witness JF-005, witness statement, 25 January 2004), para. 40.

¹⁷¹⁴ Stanišić Defence Final Trial Brief, 14 December 2012, paras 682-691, Annex III-B; Simatović Defence Final Trial Brief, 14 December 2012, paras 1106-1127.

774. The Trial Chamber further finds that Serb forces arbitrarily arrested, beat, and threatened the detainees. At least four men died as a result of the beatings. These Serb forces included members of paramilitary units; Predo's Wolves; soldiers wearing red berets and black shirts; soldiers dressed in camouflage uniforms or hats; Serb men from Ozren; soldiers in multi-coloured uniforms and Serbian national caps and cockades insignia; and Serbs dressed in civilian clothes. Based on the evidence of Witness JF-009 and Witness B-1115, the Trial Chamber finds that the Serb forces also included a man called Jorgić. While beating the detainees at Spreča prison, Jorgić told them they were in a Serbian state and in Serbian hands and asked the oldest Muslim to "pray in the Muslim way". At the Usora detention centre, the soldiers forced the detainees to perform Serbian greetings, sing Serbian songs, and curse President Alija Izetbegović.

775. The Trial Chamber will now review the evidence regarding the Serb forces referred to as "Red Berets" who arbitrarily arrested, beat, and threatened detainees at different times and locations in Doboj municipality. Based on the evidence of Husein Ahmetović and in view of its findings in chapter 6.3.3, the Trial Chamber finds that members of the Unit in Doboj beat detainees at a military hangar in May 1992 and at the Spreča or central prison between May and July 1992. Further, based on the evidence of Witness JF-005 and in view of its findings in chapter 6.3.3, the Trial Chamber finds that members of the Unit in Doboj beat detainees at the MUP/SUP building in Doboj in May or June 1992. Based on the evidence of Husein Ahmetović and Witness JF-005, the Trial Chamber finds specifically that Unit member Radojica Božović¹⁷¹⁵ verbally abused and threatened detainees and gave orders that detainees should be beaten.

776. Based on the evidence of Witness JF-005 and in view of its findings in chapter 6.3.3, the Trial Chamber finds that in June 1992, at Mount Ozren, members of the Unit in Doboj killed at least 30 civilian detainees from the warehouse in Usora, most of whom were Muslim, and buried them in mass graves.

777. Based on the evidence of Witness B-1115, the Trial Chamber further finds that on 24 May 1992, Jorgić, Slobodan Karagić (known as "Karaga"), and a person Witness B-1115 referred to as Ristić (known as "Riki") (the two latter men wearing red berets), took ten detainees from Spreča or central prison. The evidence of Witness B-1115 indicates that these ten men were not seen or heard from again and that in 1993, Stanković stated that they had been taken to Mount Ozren where there were "Red Berets" who were training at Usora-Vila.

Recalling its findings in chapter 6.3.3,¹⁷¹⁶ the Trial Chamber is satisfied that the person Witness B-1115 referred to as Ristić (known as “Riki”) was Unit member Davor Subotić (a.k.a. Riki) and concludes that on 24 May 1992, Slobodan Karagić and members of the Unit in Doboj took ten detainees from Spreča or central prison to Mount Ozren. Having considered the hearsay nature of Witness B-1115’s evidence that the “Red Berets” chased them with bayonets, in the absence of further evidence in this respect, the Trial Chamber is unable to determine with sufficient certainty what happened to the detainees from Spreča prison after they were taken to Mount Ozren.

778. Based on the evidence of Witness B-1115, the Trial Chamber finds that members of a unit referred to as the “Montenegrin Red Berets”, who had Montenegrin accents, beat detainees at a JNA barracks in Miljkovac. The evidence does not establish when in 1992 or early 1993 this beating took place. The Trial Chamber concludes there is insufficient evidence to determine whether these “Montenegrin Red Berets” were members of the Unit.

779. Based on the evidence of Husein Ahmetović, the Trial Chamber finds that in mid-October 1992 at the Spreča or central prison persons referred to as “Red Berets” beat a detainee to death. The Trial Chamber considers the evidence of Witness JF-005 reviewed in chapter 6.3.3, that in July or August 1992, Božović, Vuk, Riki, and Njegoš, left the Bosnian-Serb Republic for Serbia, around which time part of his unit joined the Ozren Guard and part joined the VRS military police, after which his Red Beret unit at Doboj ceased to exist as such. Under these circumstances, the Trial Chamber is unable to conclude that the perpetrators referred to as “Red Berets” in mid-October 1992 were members of the Unit.

780. On the basis of Witness B-1115’s evidence, the Trial Chamber finds that on 1 October 1993, local Serb authorities in Doboj municipality organized the exchange of Witness B-1115, a Bosnian Muslim, to the territory of Bosnia-Herzegovina. He was, at the time, detained in Usora after having been kept in detention in different facilities for almost one and a half year. The Trial Chamber will further consider this incident in relation to Counts 1, 4, and 5 of the Indictment in chapter 4, below.

781. Having made these findings, the Trial Chamber further finds that the same local Serb authorities that detained Muslims and Croats in 33 facilities throughout the municipality organized the exchange of prisoners on 4 September 1992, during which many of the 140

¹⁷¹⁵ For the Trial Chamber’s findings on Radojica Božović’s membership in the Unit, see chapter 6.3.2.

¹⁷¹⁶ And specifically considering the findings regarding the Unit’s camps at Mount Ozren and Vila, the Unit’s training of Karagić’s men in Doboj municipality, and Davor Subotić’s presence at these camps.

Muslims and Croats referred to above were exchanged to the territory of Croatia. Furthermore, the Trial Chamber finds that others among these 140 Muslims and Croats, who had not been held in detention, left Doboj municipality as a result of a combination of the following acts which were performed on or before 4 September 1992 in Doboj town and throughout the municipality: (i) intimidation of Doboj town residents; (ii) the killing of three civilians in Makljenovac; (iii) shelling of Gornja Grapska, which killed 34 civilians and destroyed a mosque; (iv) destruction of a number of Muslim and Croat religious monuments; (v) looting; (vi) arbitrary arrest and detention in inhumane and cramped conditions, causing death of at least one person; (vii) beatings and killings in detention centres; (viii) forced labour; and (ix) the killing of at least 30 detainees at Mount Ozren. Furthermore, the Trial Chamber finds that the incidents which occurred on or before 7 May 1992, and on which it has made findings above, that is: (i) thousands of others fleeing Doboj town on or before 7 May 1992; (ii) forced expulsion of Ankare residents; (iii) forced expulsion of Muslims from Bukovačke Čivčije; and (iv) forced expulsion of 200 Muslims from Gornja Grapska, as well as the use of human shields on or about 12 July 1992, on which it has made a finding in chapter 3.5.1, were also amongst the factors that made these Muslims and Croats leave the municipality.

782. The Trial Chamber finds that the aforementioned acts were committed by the perpetrators as specified above and in chapter 3.5.1. The Trial Chamber will further consider this incident in relation to Counts 1, 4, and 5 of the Indictment in chapter 4, below.

Forcible transfer in Doboj town in September 1995

783. The Trial Chamber has received further relevant evidence from Witness JF-008 and Husein Ahmetović, on the incidents in the municipality in September 1995. **Witness JF-008** testified that in September 1995, Muslims in the town of Doboj were rounded up at the Doboj stadium and forcibly transferred across the front lines.¹⁷¹⁷

784. **Husein Ahmetović** stated that his wife, Lejla Sivčević, his child and her parents were expelled from Doboj in September 1995 and taken by the Serbs for exchange.¹⁷¹⁸

785. The Trial Chamber finds, on the basis of the evidence of Witness JF-008 and Husein Ahmetović, that in September 1995, the remaining Muslims from Doboj town were gathered at the Doboj stadium and transferred across the front-lines, or otherwise transferred out of the

¹⁷¹⁷ P257 (Witness JF-008, witness statement, 15 April 2009), paras 25, 30-31; Witness JF-008, T. 3596-3597.

¹⁷¹⁸ P517 (Husein Ahmetović, witness statement, 11 July 2008), para. 37.

municipality of Dobož. The Trial Chamber has received insufficient evidence regarding the perpetrators of this incident. Under these circumstances, the Trial Chamber will not further consider this incident.

Forcible transfer in Dragalovci in September 1995

786. The Trial Chamber has received evidence from Witness JF-008 regarding one incident about Croats leaving from Dragalovci. **Witness JF-008** testified that exchanges of detainees mainly occurred from 1993 to 1995. In September 1995, he observed 12 buses, carrying approximately 50-60 Croats each, depart from Dragalovci; they carried people to the Republic of Croatia. The Catholic Banja Luka Bishopric and local Dobož authorities organized this move, which the witness testified was for security reasons as there was an expected mass migration of Serb refugees from Croatia into Bosnia-Herzegovina following Operation Storm.¹⁷¹⁹

787. Based on the testimony of Witness JF-008, the Trial Chamber finds that in September 1995, in view of the large number of Serb refugees that were expected to arrive, local Dobož authorities and the Catholic Banja Luka Bishopric organized the moving of 600-720 Croats from Dragalovci to the Republic of Croatia. The Trial Chamber will further consider these incidents in relation to Counts 1, 4, and 5 of the Indictment in chapter 4, below.

¹⁷¹⁹ P257 (Witness JF-008, witness statement, 15 April 2009), paras 25, 30-31; Witness JF-008, T. 3596, 3599-3600.

3.6 Sanski Most

3.6.1 Murder of eleven non-Serb men in Trnova on or about 20 September 1995 (Indictment, para. 56)

788. According to the Indictment, on or about 20 September 1995, members of the SDG took 12 non-Serb men from various locations in Sanski Most and transported them in a truck to a site in the village of Trnova. At this site, they executed eleven of the men and shot and seriously wounded the twelfth.¹⁷²⁰ The Trial Chamber received relevant evidence with regard to this incident primarily through the testimony of Witness JF-064 and forensic documentation.

789. **Witness JF-064**, a Bosnian Muslim from a village close to Ključ,¹⁷²¹ testified that on or about 24 May 1995, Serb military police of the “Republika Srpska” came to his house, having already picked up his neighbours Derviš Šehić, Safet Šehić, Mehmed Šehić, Osman Muratović, and two others, and forced him to go with them to the front line between the VRS and the soldiers of the 5th Corps of the Bosnian Army. The Serb policemen took them and all other non-Serbs from Sanski Most to Grabež where they were made to carry out heavy labour for the VRS. The witness and the four aforementioned neighbours remained in Grabež until 13 September 1995, when the “Serb Army” withdrew to Sanski Most. They were made to accompany six Serb soldiers to Sanski Most. The group arrived there on 19 September 1995 and then travelled to Poljak, in Sanski Most municipality, with a Serb army unit from Ključ, under the command of General Novaković.¹⁷²²

790. The group was instructed to proceed to a warehouse in Poljak by a young soldier who spoke a Serb dialect called *ekavica*, which was spoken by Serbs in Serbia but not spoken by Bosnian Serbs, and wore a uniform which had a white eagle patch with three letters and the inscription “Serb Volunteer Guard”.¹⁷²³ He carried a small backpack and an automatic rifle and wore a black knitted cap and a uniform which was clean and neat, unlike those of other

¹⁷²⁰ Indictment, para. 56.

¹⁷²¹ P2112 (Witness JF-064, witness statement, 26 November 1996), pp. 1-2; P2113 (Witness JF-064, witness statement, 9 and 10 June 2003), p. 1; Witness JF-064, T. 10840-10841; P2110 (Pseudonym sheet for witness JF-064).

¹⁷²² P2112 (Witness JF-064, witness statement, 26 November 1996), pp. 2-3; P2111 (Witness JF-064, *Slobodan Milošević* transcript, 16 June 2003), pp. 22481-22484, 22505, 22512, 22516-22518, 22533; Witness JF-064, T. 10847, 10862.

¹⁷²³ P2112 (Witness JF-064, witness statement, 26 November 1996), p. 3; P2111 (Witness JF-064, *Slobodan Milošević* transcript, 16 June 2003), pp. 22484-22486; Witness JF-064, T. 10848, 10850; P2123 (Photo-file of the Bosnia-Herzegovina police containing photographs of Witness JF-064 at the warehouse taken on 22 July 1996).

Serb soldiers the witness had encountered, whose uniforms consisted of different ill-fitting pieces. At the warehouse, the group met four to six soldiers who were said to be Arkan's men, and loaded weapons and ammunition intended for Arkan onto the truck. The group drove to a hotel in the centre of Sanski Most town, and unloaded the cargo into the hotel.¹⁷²⁴ The witness observed between 10 and 30 of Arkan's soldiers in the hotel parking lot wearing the same uniforms, with some wearing black berets and others with black woollen caps. The witness noticed that the regular Arkan's soldiers wore black berets or black woollen caps without insignia, while others - whom the witness considered to be policemen and who spoke to Arkan more frequently - wore red berets.¹⁷²⁵ The soldiers with the black knitted caps had patches of a white eagle and four Cyrillic "S" letters and the inscription "Serbian Volunteer Guard" on their camouflage uniforms but not on their caps, while the soldiers with red berets had insignia on their berets as well as their uniforms.¹⁷²⁶ Arkan emerged from his office and asked the witness and the others their names.¹⁷²⁷ Another man wearing the same camouflage uniform whom Arkan's soldiers referred to as Colonel or Lieutenant-Colonel approached the witness. Colonel asked the witness three times whether he was a Turk and then forced him and the four others to "sit down like Turks", with crossed legs and heads lowered to the floor. Colonel then called another soldier to watch the group, instructing him to shoot them in the forehead if any of them moved. The soldiers brought seven more Muslims from Sanski Most to the corridor. At about 2:30 a.m. on 20 September 1995, one of Arkan's soldiers instructed the witness and the other villagers to go outside. Arkan's soldiers handcuffed the witness and eleven other villagers, including his four neighbours.¹⁷²⁸ The witness was handcuffed to another Muslim man from Sanski Most. The witness and the other villagers piled into a civilian truck.¹⁷²⁹

¹⁷²⁴ P2112 (Witness JF-064, witness statement, 26 November 1996), pp. 3-4; P2111 (Witness JF-064, *Slobodan Milošević* transcript, 16 June 2003), pp. 22484-22489, 22496; Witness JF-064, T. 10848-10850, 10864-10865.

¹⁷²⁵ P2112 (Witness JF-064, witness statement, 26 November 1996), pp. 3-4; P2111 (Witness JF-064, *Slobodan Milošević* transcript, 16 June 2003), p. 22494, 22499; Witness JF-064, T. 10851-10852, 10862.

¹⁷²⁶ Witness JF-064, T. 10852-10855, 10862; P2124 (Still from Video V000-1416 depicting two men in uniform, one of which Witness JF-064 recognized as Arkan); P2125 (Still from Video V000-1416 depicting a column of men in uniform marching, at the head of which Witness JF-064 recognized Arkan).

¹⁷²⁷ P2112 (Witness JF-064, witness statement, 26 November 1996), p. 4; P2113 (Witness JF-064, witness statement, 9 and 10 June 2003), para. 1; P2111 (Witness JF-064, *Slobodan Milošević* transcript, 16 June 2003), pp. 22497-22498; Witness JF-064, T. 10852-10855, 10862, 10864, 10868-10869; P2124 (Still from Video V000-1416 depicting two men in uniform, one of which Witness JF-064 recognized as Arkan); P2125 (Still from Video V000-1416 depicting a column of men in uniform marching, at the head of which Witness JF-064 recognized Arkan); D220 (Still from Video V000-1416 depicting a column of men in uniform marching, with Arkan's face marked by Witness JF-064 in court).

¹⁷²⁸ P2112 (Witness JF-064, witness statement, 26 November 1996), pp. 5-6; P2111 (Witness JF-064, *Slobodan Milošević* transcript, 16 June 2003), pp. 22499-22502, 22505, 22522; Witness JF-064, T. 10863-10864.

¹⁷²⁹ P2112 (Witness JF-064, witness statement, 26 November 1996), p. 6.

791. Also in the truck were a number of Arkan's soldiers, including a teenager named Željko and Colonel, all of whom spoke *ekavica*. The witness could not see his surroundings because it was dark and the truck had a tarpaulin covering. The truck stopped after about 15 to 30 minutes and five soldiers dismounted, including the Colonel and Željko. The soldiers took two villagers from the truck into the darkness. The witness heard two shots, and the soldiers emerged from the darkness without the two men.¹⁷³⁰ The soldiers continued to take villagers, two by two, out of the truck, including four men from Ključ. When the witness was taken, four men remained in the truck. Still handcuffed to another man, the witness walked with the soldiers to an area which contained a house, another partially-constructed house, and a half-enclosed garage.¹⁷³¹ The witness saw that Colonel was standing nearby. One soldier removed his handcuffs. The witness asked if the soldiers could spare their lives, and one of the soldiers replied that they were lucky to have been caught by Arkan's soldiers, because if they gave the soldiers DEM 5,000 each, they would be released.¹⁷³² The witness told the soldiers he was from Ključ, and the other man said that he only had DEM 200 on him. One soldier swung his flashlight to reveal a small room in which corpses and bloodied bodies were lying.¹⁷³³ The soldiers told the witness and the other man to go into the room and as they turned to enter, the soldiers fired. The witness was hit by a bullet in his back; it entered near his left shoulder blade and exited near his collarbone.¹⁷³⁴ The shot knocked the witness to the floor, and he fell on his back and remained still. The witness's left arm and the left side of his torso went numb. The soldiers then brought in two more men. The witness heard a single shot, then a clicking sound as one of the soldiers switched the rifle to the burst fire position. He fired again, and a bullet hit the witness in the right hip.¹⁷³⁵ The other soldier cursed the soldier who had fired,

¹⁷³⁰ P2112 (Witness JF-064, witness statement, 26 November 1996), pp. 6-7; P2111 (Witness JF-064, *Slobodan Milošević* transcript, 16 June 2003), p. 22502-22503, 22524.

¹⁷³¹ P2112 (Witness JF-064, witness statement, 26 November 1996), p. 7; P2111 (Witness JF-064, *Slobodan Milošević* transcript, 16 June 2003), pp. 22503, 22505-22506, 22523; Witness JF-064, T. 10856; P2115 (Photographs of half-constructed house identified by Witness JF-064); P2116 (Photographs of half-constructed house and garage identified by Witness JF-064).

¹⁷³² P2112 (Witness JF-064, witness statement, 26 November 1996), p. 7; P2111 (Witness JF-064, *Slobodan Milošević* transcript, 16 June 2003), pp. 22503, 22532; Witness JF-064, T. 18063, 10866.

¹⁷³³ P2112 (Witness JF-064, witness statement, 26 November 1996), p. 7; P2111 (Witness JF-064, *Slobodan Milošević* transcript, 16 June 2003), pp. 22503, 22505-22506, 22523; P2117 (Photographs of room which Witness JF-064 identified).

¹⁷³⁴ P2112 (Witness JF-064, witness statement, 26 November 1996), p. 7; P2111 (Witness JF-064, *Slobodan Milošević* transcript, 16 June 2003), pp. 22503, 22506, 22525-22526; P2118 (Photo-file of the Bosnia-Herzegovina police containing photographs of bullet wounds sustained by Witness JF-064 taken on 22 July 1996); P2119 (Medical documents relating to Witness JF-064, dated October 1995 to June 1996).

¹⁷³⁵ P2112 (Witness JF-064, witness statement, 26 November 1996), p. 7; P2111 (Witness JF-064, *Slobodan Milošević* transcript, 16 June 2003), pp. 22503, 22507, 22527; P2118 (Photo-file of the Bosnia-Herzegovina police containing photographs of bullet wounds sustained by Witness JF-064 taken on 22 July 1996); P2119 (Medical documents relating to Witness JF-064, dated October 1995 to June 1996), p. 3.

reminding him that they were not supposed to use burst fire. The two soldiers then left and returned with two more men, whom they ordered to kneel down. One of the two men, whose voice the witness recognized as having been on the truck with him, pleaded with the soldiers, but one of the soldiers called for Željko, who then cut the two men's throats. The blood of one of the men covered the witness's face. One soldier ordered another to shoot the heads of each of the men lying on the floor. The soldier fired, and a bullet grazed the witness beneath his chin.¹⁷³⁶ The soldiers left.¹⁷³⁷

792. When the witness heard the truck leave, he called out to determine if there were any other survivors, but received no answer. The witness returned to Poljak around noon of the following day, 21 September 1995. He described what had happened to his Serb friend Đoko Mladenović, and learned from the latter that the village the witness was brought to was Trnova, in Sanski Most municipality, around one to one-and-a-half kilometres from Sanski Most town.¹⁷³⁸ By the following morning, on 22 September 1995, the witness made his way to Banja Luka, where he received some medical treatment.¹⁷³⁹ He required various medical treatments for almost a year, and was declared 60 per cent permanently disabled as a result of the injuries he that had sustained.¹⁷⁴⁰ He sought inclusion in an exchange program and eventually found himself in Tuzla, where he saw footage on Bosnian television of the massacre he had survived and realized that the bodies had been left lying in the garage, where the Bosnian Army found them.¹⁷⁴¹ The witness observed strict discipline on the part of Arkan's soldiers in Sanski Most, who were physically punished if they acted on their own accord and therefore often waited long periods in Arkan's absence for his return before carrying out any activities.¹⁷⁴²

¹⁷³⁶ P2112 (Witness JF-064, witness statement, 26 November 1996), p. 7; P2111 (Witness JF-064, *Slobodan Milošević* transcript, 16 June 2003), pp. 22503-22504, 22526-22528, 22535; P2118 (Photo-file of the Bosnia-Herzegovina police containing photographs of bullet wounds sustained by Witness JF-064 taken on 22 July 1996); P2119 (Medical documents relating to Witness JF-064, dated October 1995 to June 1996).

¹⁷³⁷ P2112 (Witness JF-064, witness statement, 26 November 1996), p. 7; P2111 (Witness JF-064, *Slobodan Milošević* transcript, 16 June 2003), p. 22504.

¹⁷³⁸ P2112 (Witness JF-064, witness statement, 26 November 1996), pp. 7-8; P2111 (Witness JF-064, *Slobodan Milošević* transcript, 16 June 2003), p. 22504, 22507, 22528-22530, 22534; Witness JF-064, T. 10869.

¹⁷³⁹ P2112 (Witness JF-064, witness statement, 26 November 1996), pp. 8-9; P2111 (Witness JF-064, *Slobodan Milošević* transcript, 16 June 2003), pp. 22530-22532, 22535; P2119 (Medical documents relating to Witness JF-064, dated October 1995 to June 1996).

¹⁷⁴⁰ P2112 (Witness JF-064, witness statement, 26 November 1996), p. 9; P2111 (Witness JF-064, *Slobodan Milošević* transcript, 16 June 2003), p. 22507; P2119 (Medical documents relating to Witness JF-064, dated October 1995 to June 1996).

¹⁷⁴¹ P2112 (Witness JF-064, witness statement, 26 November 1996), p. 9.

¹⁷⁴² Witness JF-064, T. 10864-10866.

793. The Trial Chamber recalls the testimony of Witness JF-010 on the presence of Arkan and his men at the Sanus Hotel, in the centre of Sanski Most town, in September 1995, as reviewed in chapter 6.4.4.

794. According to an 18 October 1995 on-site investigation report by Bosnia-Herzegovina investigating judge Mirsad Mesić, eleven bodies were transferred by soldiers of the BH Army from Trnova to empty workrooms of the Sanski Most concrete factory.¹⁷⁴³ The parties agree on the identities of these eleven victims from Trnova/Sanski Most.¹⁷⁴⁴ Nine of these bodies had IDs on them, indicating their names and birthdates: Hasan Topić (1941), Mesud Smailagić (1945), Osman Muratović (1939), Safet Šehić (1950), Mehmed Šehić (1947), Mihdad Šabić (1955), Idriz Omerspahić (1955), Mehmed Tahudžić (1951), and Dervić Šehić (1949).¹⁷⁴⁵ According to forensic documentation, the tenth body, identified as that of Abdulah Behremović (1946) by his wife, was dressed in civilian clothes and the cause of death was assessed to be injuries to the head, abdomen, and the internal abdominal organs caused by a firearm.¹⁷⁴⁶ Forensic documentation likewise indicates that the eleventh body, identified as that of Nijaz Topalović (1948) by his wife, was dressed in civilian clothes and the cause of the death was assessed to be damage to a major blood vessel and haemorrhage caused by a firearm.¹⁷⁴⁷

795. The Trial Chamber finds the testimony of Witness JF-064, an eyewitness to this incident, to be credible and consistent with investigative reports and forensic evidence. The Trial Chamber further relies on the testimony of Witness JF-010 in chapter 6.4.4 and of Witness B-1048 and Witness JF-060 in chapter 3.6.2 to place Arkan and his men at Sanski Most in September 1995. The Trial Chamber therefore finds that on or about 20 September

¹⁷⁴³ P2262 (On-site investigation report, 18 October 1995); P2120 (On-site investigation report in relation to bodies found at Sanski Most factory, signed by Mirsad Mesić, 18 October 1995); P2121 (Video of remains lying on concrete floor).

¹⁷⁴⁴ Decision on motion for admission of agreed facts, 12 January 2011; First Joint Motion for Admission of Agreed Facts Between the Prosecution and the Stanišić Defence, 16 February 2010, Annex A, Part O; P2111 (Witness JF-064, *Slobodan Milošević* transcript, 16 June 2003), p. 22508; P2120 (On-site investigation report in relation to bodies found at Sanski Most factory, signed by Mirsad Mesić, 18 October 1995); P2121 (Video of remains lying on concrete floor), 00:46, 01:06, 01:38, 02:02, 02:41, 03:26, 03:44, 04:11, 04:29, 04:52, 05:16.

¹⁷⁴⁵ Decision on motion for admission of agreed facts, 12 January 2011; First Joint Motion for Admission of Agreed Facts Between the Prosecution and the Stanišić Defence, 16 February 2010, Annex A, Part O; P2111 (Witness JF-064, *Slobodan Milošević* transcript, 16 June 2003), p. 22508; P2120 (On-site investigation report in relation to bodies found at Sanski Most factory, signed by Mirsad Mesić, 18 October 1995); P2121 (Video of remains lying on concrete floor), 00:46, 01:06, 01:38, 02:02, 02:41, 03:26, 03:44, 04:11, 04:29, 04:52, 05:16; P2262 (On-site investigation report, 18 October 1995).

¹⁷⁴⁶ P2262 (On-site investigation report, 18 October 1995); P2265 (Record of identification of a body, 22 April 1997); P2266 (Record of identification of a body, 22 April 1997); P2267 (Autopsy report, 19 October 1995).

¹⁷⁴⁷ P2262 (On-site investigation report, 18 October 1995); P2263 (Record of identification of a body, 22 April 1997); P2264 (Record of identification of a body, 22 April 1997); P2268 (Autopsy report, 19 October 1995).

1995, near Trnova in Sanski Most municipality, members of the SDG shot and killed eleven non-Serb men (Hasan Topić, Mesud Smailagić, Osman Muratović, Safet Šehić, Mehmed Šehić, Mihdad Šabić, Idriz Omerspahić, Mehmed Tahudžić, Dervić Šehić, Abdulah Behremović, and Nijaz Topalović) and seriously wounded a twelfth Bosnian Muslim man. Prior to killing these men, the SDG members had held them in their custody, handcuffed them, and transported them to a remote location where they were killed. A number of hours before the killing, one of the SDG members (known as the Colonel) had repeatedly asked Witness JF-064 whether he was a Turk and then forced him and four of the eleven victims to “sit down like Turks”, with crossed legs and heads lowered to the floor. The Trial Chamber will further consider this incident in relation to Counts 1, 2, and 3 of the Indictment in chapter 4, below.

3.6.2 Murder of 65 non-Serb civilians in Sasina on or about 21 September 1995 (Indictment, para. 57)

796. According to the Indictment, on or about 21 September 1995, members of the SDG abducted and detained a group of non-Serb civilians in Sanski Most, moving them to Sasina. There, they removed the non-Serb civilians from the vehicles and shot the group, killing approximately 65 of them.¹⁷⁴⁸ The Trial Chamber received relevant evidence with regard to the alleged murders primarily through the testimony of Witness B-1048, Witness JF-060, and forensic documentation.

797. **Witness B-1048**, a Muslim from Kijevo, Sanski Most municipality,¹⁷⁴⁹ testified that in September 1995, he saw Arkan’s men arriving to reinforce the Serb forces in Sanski Most. He concluded that they were Arkan’s men from his conversations with his Serb and non-Serb neighbours. In Sanski Most, Arkan’s men were billeted in the old hotel. On 18 or 19 September 1995, soldiers in camouflage uniforms without any insignias, including Mičo Krunić from Sanski Most, drove out the remaining Bosnian Muslims and Croats in Kijevo.¹⁷⁵⁰ The soldiers went from house to house, gathered villagers near the mosque in the village, and put them on trucks. The villagers were beaten and insulted. On their way to Šehovci, the

¹⁷⁴⁸ Indictment, para. 57.

¹⁷⁴⁹ Witness B-1048, T. 3021; P171 (Witness B-1048, statement provided to local authorities, 8 November 1995), p. 1; D15 (Witness B-1048, statement provided to local authorities, 25 July 1996), p. 1.

¹⁷⁵⁰ Witness B-1048, T. 3031, 3036-3042, 3068-3069; P171 (Witness B-1048, statement provided to local authorities, 8 November 1995), p. 1; D15 (Witness B-1048, statement provided to local authorities, 25 July 1996), p. 2.

trucks stopped in Poljak and most of the able-bodied men were separated from the women, elderly, and children and put on another truck. The witness was on the truck with women, elderly, and children.¹⁷⁵¹ They were transported to Šehovci where they stayed in various houses, with up to 20 people in each house.¹⁷⁵²

798. On 19 or 21 September 1995, soldiers in olive-grey or black uniforms and armed with automatic rifles, some of whom spoke in a Serbian dialect, assembled all the men, including the witness, at the mosque in Šehovci, searched them, and made them board a bus. The witness believed that the soldiers belonged to Arkan's men since they all dressed alike and had short hair. Approximately 25 men boarded the bus, including the following civilians: Šefko Talić, Šefko Džananović, Ekrem Džafić, Ibrahim Sinanović, and Muharem Mahić. A number of the soldiers also boarded the bus. The bus headed towards Sanski Most and stopped in front of the Sanus hotel or bus station there.¹⁷⁵³ The witness could see from the bus that other buses were parked there and he saw people who seemed to be civilians being beaten up and then made to board his bus. These people were all men except for one woman, with the last name Alagić. She was raped on the bus.¹⁷⁵⁴ The bus remained outside the Sanus hotel for approximately one hour, and was driven at night for approximately 30 minutes to Sasina.¹⁷⁵⁵ People then got off the bus, two by two, whereupon the witness heard gunshots and cries. When the witness got off the bus, somebody grabbed him saying "we need someone to kill". The witness was pushed to the left side of the bus and then across a ditch. He was struck by a burst of gunfire to the left side of his body, his chest and his waist, and fell over. While on the ground, he could still hear shooting and the cries of people. The witness also heard the soldiers swearing at the men, referring to their "balija" mothers, and looking for survivors and killing them. The witness then heard a loud explosion whereupon the soldiers left. After about 15 minutes, the witness called out but there was no response.¹⁷⁵⁶ Despite his wounds, the witness started walking towards Sanski Most. He saw a truck coming from the direction of that town. The truck stopped and the witness heard some gunshots and voices. The witness hid in a semi-constructed building until the truck left. A bulldozer then arrived,

¹⁷⁵¹ Witness B-1048, T. 3038-3039; P171 (Witness B-1048, statement provided to local authorities, 8 November 1995), p. 1; D15 (Witness B-1048, statement provided to local authorities, 25 July 1996), p. 1.

¹⁷⁵² Witness B-1048, T. 3040; D15 (Witness B-1048, statement provided to local authorities, 25 July 1996), p. 2.

¹⁷⁵³ Witness B-1048, T. 3042-3043; P171 (Witness B-1048, statement provided to local authorities, 8 November 1995), pp. 1-2; D15 (Witness B-1048, statement provided to local authorities, 25 July 1996), p. 2.

¹⁷⁵⁴ Witness B-1048, T. 3043-3044; P171 (Witness B-1048, statement provided to local authorities, 8 November 1995), p. 2; D15 (Witness B-1048, statement provided to local authorities, 25 July 1996), pp. 2-3.

¹⁷⁵⁵ Witness B-1048, T. 3044-3045, 3048; D15 (Witness B-1048, statement provided to local authorities, 25 July 1996), pp. 2-3.

and the witness hid again and continued walking when the bulldozer had passed.¹⁷⁵⁷ The witness identified the following persons as having been on the bus with him and killed that day: Munevera Alagić, Osman Arapović, Drago Buha, Irfan Čekić, Eniz Cerić, Ekrem Džafić, Šefko Džananović, Safet Jakupović, Ismet Karabeg, Bećo Kumalić, Muharem Mahić, Avdo Pašalić, Ibrahim Sinanović, Rasim Talić, and Šefko Talić.¹⁷⁵⁸ The witness testified that he was later present when 65 bodies, one of them female, were exhumed from a mass grave in Sasina.¹⁷⁵⁹

799. **Witness JF-060**, a Muslim from Sanski Most town,¹⁷⁶⁰ stated that around 5-10 September 1995, he heard on a Serb radio station that Arkan was coming to Sanski Most “to help his fellow Serbs”. On or about 20 September 1995, two soldiers came to the witness’s house together with Dedo Topalović, a Muslim from neighbouring Lukovica. The soldiers were armed with automatic rifles, knives, and hand grenades, and were dressed in camouflage uniforms with circular badges on their sleeves, with an animal head in the centre. One of the soldiers wore a dark red beret. The witness concluded from their accent that they were Serbs from Serbia. The taller soldier searched the witness and the house, seizing all personal documents and items the witness had on him, including 200 DEM. The soldiers then made the witness and Topalović leave the house with them. They walked through the town and passed through various checkpoints which were manned by soldiers whose uniforms and insignia were identical to those of the soldiers who were escorting the witness and Topalović. The group arrived at the Sanus Hotel, where there were more soldiers. They were made to enter an office on the ground floor where Arkan was sitting behind a table next to a Serb woman who used to work as a waitress at the hotel. The witness recognized Arkan, having previously seen him on television. He was wearing a uniform with insignia, both identical to those worn by the soldiers who were escorting the witness and Topalović. The witness was detained in a small narrow room, where he believed up to 30 other people were detained, with more being brought in all the time, even though it was already overcrowded. The witness remembered the names of some of the people, including Mustafa Sadić, Fahim Jakupović, Meša Tuzla, Enes Džinić, Osman Arapović, and the only woman, Nevka Alagić. During one of the two nights

¹⁷⁵⁶ Witness B-1048, T. 3045-3046; P171 (Witness B-1048, statement provided to local authorities, 8 November 1995), p. 2; D15 (Witness B-1048, statement provided to local authorities, 25 July 1996), p. 3.

¹⁷⁵⁷ Witness B-1048, T. 3046-3047; P171 (Witness B-1048, statement provided to local authorities, 8 November 1995), pp. 2-3; D15 (Witness B-1048, statement provided to local authorities, 25 July 1996), p. 3.

¹⁷⁵⁸ Witness B-1048, T. 3048-3049, 3062; P168 (List of victims, marked by Witness B-1048); P170 (Video of the discovery of the killings at Sasina).

¹⁷⁵⁹ Witness B-1048, T. 3062, 3064-3065.

¹⁷⁶⁰ P1797 (Witness JF-060, witness statement, 29 November 1996), pp. 1-2.

they spent there, one of “Arkan soldiers” came and took away Derviš Cerić who the witness never saw again. Cerić was the only detainee taken away.¹⁷⁶¹

800. After midnight on 22 September 1995, “Arkan soldiers” forced the detainees onto a bus, whilst hitting them with sticks and rifle butts. There were around eight “Arkan soldiers” on the bus with the detainees. Before boarding the bus, the soldiers beat an older man. For about 10-15 minutes before the bus departed, several of the soldiers raped a woman while the other detainees were forced to sing “Chetnik” songs. As it was dark and the detainees were not allowed to look out of the windows, the witness could not tell in which direction the bus was going, but the driver drove slowly for 20-30 minutes and then stopped. The bus stereo was turned up very loudly and the soldiers started forcing people out of the bus in groups of four or five. The witness was in the second group, standing close to the front of the bus, and an armed soldier grabbed him by the collar of his jacket. The witness watched as another soldier brought a detainee from the first group in front of the bus, took out a knife and slit his throat, and as a second detainee was shot in the back of the head after being ordered to kneel down. The witness then escaped by slipping out of his jacket, and, darting into the darkness to the side of the bus, he tripped over a bush and fell into a hole where he lay still.¹⁷⁶² The witness assumed that the soldier who was guarding him could not see anything when the soldier fired a burst from his automatic rifle. Despite being hit in the thigh with one bullet, the witness remained completely still. The witness then heard single shots, some bursts of fire, and soldiers yelling at each other to hurry up. The soldiers checked for survivors, fired some final shots, then boarded the bus and left.¹⁷⁶³

801. When the witness was sure that the soldiers were gone, he stood up and attempted to walk for 15-20 metres until he could not walk any further. Lights then appeared in the distance, coming in his direction and he hid. He heard two cars drive up and their doors open, with male voices speaking Serbian with a Bosnian accent. The men pulled two more men out of the cars and pushed them to the edge of the pit, which contained all of the dead bodies, and one of the two men was then told to open his mouth, and the witness heard a shot. The other man let out a strange crying sound, and there was a second shot. The witness then heard two explosions followed by a shower of earth that fell around him. Soon after this, the witness heard the noise of a machine, coming close to the pit, which then started to move the earth and fill it up. At this point, the witness ran into the forest, realising that he was in Sasina after

¹⁷⁶¹ P1797 (Witness JF-060, witness statement, 29 November 1996), pp. 3-5.

¹⁷⁶² P1797 (Witness JF-060, witness statement, 29 November 1996), pp. 3-6.

having reached a road. The witness went to Tomašici and then to Sanski Most, taking care not to be discovered by the Serbs, which took 10 days. In 1996, the witness was present during exhumations and his jacket was found in the grave.¹⁷⁶⁴

802. The Trial Chamber recalls the testimony of Witness JF-010 on the presence of Arkan and his men at the Sanus Hotel, in the centre of Sanski Most town, in September 1995, as reviewed in chapter 6.4.4.

803. According to forensic documentation, the remains of the following persons were exhumed from or found near a mass grave in Sasina, Sanski Most municipality, on 18 and 19 July 1996: Senad Aganović (1954), Fevzija Alagić (1932), Munevera Rešić née Alagić (1953), Remzija Alagić (1932), Kadir Alibabić (1936), Osman Arapović (1939), Mehmedalija Bajrić (1959), Senad Bajrić (1976), Meho Bajrović (1947), Hajrudin Behar (1968), Elvir Behremović (1970), Ibrahim Behremović (1934), Jahija Bešić (1928), Muharem Botonjić (1922), Drago Buha (1972), Irfan Čekić (1928), Derviš Čerić (1934), Eniz Cerić (1939), Aziz Dautović (1957), Ermin Drobić (1976), Ibrahim Drobić (1978), Muharem Drobić (1941), Ekrem Džafić (1932), Šefko Džananović (1933), Enes Džinić (1953), Ernest Hajrić (1977), Avdo Halimović (1930), Mehmed Hasanović (1945), Osman Hasić (1930), Vedad Hromalić (1976), Ago Jakupović (1935), Fadil Jakupović (1958), Fehim Jakupović (1933), Idriz Jakupović (1931), Muharem Jakupović (1954), Husein Talić (1926), Hakija Kasumović (1942), Adnan Talić (1977), Muharem Kamber (1932), Ibraga Talić (1967), Besim Talić (1978), Taib Omić (1936), Rasim Talić (1937), Ibrahim Sinanović (1920), Ibrahim Pašagić (1925), Bećo Kumalić (1929), Osman Kamber (1958), Zijad Kamber (1938), Karanfil Mušić (1966), Avdo Pašalić (1934), Ismet Karabeg (1941), Sulejman Talić (1962), Haris Talić (1973), Muhamed Talić (1952), Muharem Mahić (1927), Arif Omić (1937), Rifet Kursumović (1926), Džemal Talić (1952), Šefko Talić (1933), Safet Jakupović (1940), Mehmed Kurtović (1926), Muharem Šekić (1926), Husein Kurbegović (1932), Adem Lasić (1926), and one unidentified person.¹⁷⁶⁵ These persons were dressed in civilian clothes and their deaths were

¹⁷⁶³ P1797 (Witness JF-060, witness statement, 29 November 1996), p. 7.

¹⁷⁶⁴ P1797 (Witness JF-060, witness statement, 29 November 1996), pp. 7-8.

¹⁷⁶⁵ P2165 (Record of on-site investigations, 19 July 1996), pp. 3-37; P2166 (Autopsy reports, 22 July 1996); P2167 (Record of exhumations, 2 October 1996); P2168 (Record of identification of body for Mehmed Hasanović, 2 August 1996), pp. 1-2, 9; P2169 (Court document in relation to Senad Aganović, 14 September 1999); P2170 (Court document in relation to Fevzija Alagić, 25 June 1999); P2171 (Court ruling for Remzija Alagić, 24 June 1999); P2172 (Death certificate for Remzija Alagić, 27 May 1999); P2173 (Court ruling for Osman Arapović, 15 February 2000); P2174 (Court ruling for Elvir Behremović, 20 July 1999); P2175 (Court ruling for Ibrahim Behremović, 8 September 1999); P2177 (Court ruling for Eniz Cerić, 20 September 1999); P2179 (Court ruling for Ekrem Džafić, 2 August 1999); P2180 (Court ruling for Šefko Džananović, 26 August 1999); P2181 (Court ruling for Enes Džinić, 2 August 1999); P2182 (Birth certificate for Enes Džinić, 22 July

established as being the result of firearm injuries – a number of times at point-blank range – except in two cases where the cause of death was due to injuries caused by a knife and a blunt instrument, respectively.¹⁷⁶⁶ The parties agree on the identities of these 64 victims.¹⁷⁶⁷

1999); P2183 (Court ruling for Ago Jakupović, 22 February 2000); P2184 (Birth certificate for Ago Jakupović, 3 August 1999); P2185 (Court ruling for Fadil Jakupović, 9 November 1999); P2186 (Court ruling for Idriz Jakupović, 30 July 1999); P2187 (Court ruling for Bećo Kumalić, 28 July 1999); P2189 (Court ruling for Taib Omić, 27 July 1999); P2190 (Marriage certificate for Taib Omić, 27 July 1999); P2191 (Court ruling for Ibrahim Pašagić, 27 July 1998); P2193 (Court ruling for Ibrahim Sinanović, 21 October 1998); P2194 (Court ruling for Besim Talić, 15 February 2000); P2195 (Birth certificate for Besim Talić, 9 April 1997), p. 2; P2196 (Court ruling for Ibraga Talić, 15 September 1999); P2197 (Marriage certificate for Ibraga Talić, 15 September 1999); P2198 (Court decision for Rasim Talić, 15 February 2000); P2199 (Court file for Drago Buha, 20 May 2002), p. 4; P2200 (Court file for Muharem Kamber, 24 May 2002); P2201 (Court file for Hakija Kasumović, 27 March 2002); P2202 (Court file for Irfan Čekić, 26 February 2002), p. 7; P2203 (Court ruling for Jahija Bešić, 26 September 2000); P2204 (Court record for Jahija Bešić, 26 September 2000); P2205 (Birth certificate for Jahija Bešić, 12 September 2000); P2206 (Court ruling for Aziz Dautović, 20 October 2000); P2207 (Birth certificate for Aziz Dautović, 11 October 2000); P2208 (Court ruling for Muharem Jakupović, 6 December 2000); P2209 (Court ruling for Muharem Jakupović, 6 December 2000); P2210 (Court ruling for Adnan Talić, 2 August 2000); P2211 (Court ruling for Adnan Talić, 2 August 2000); P2212 (Court ruling for Husein Talić, 9 November 2000); P2213 (Court ruling for Husein Talić, 9 November 2000); P2214 (Court ruling for Ermin Drobić, 5 December 2000); P2215 (Court ruling for Ermin Dobrić, 5 December 2000); P2216 (Court ruling for Ibrahim Drobić, 5 December 2000); P2217 (Court record for Ibrahim Drobić, 5 December 2000); P2218 (Court ruling for Muharem Drobić, 5 December 2000); P2219 (Court records, 5 December 2000); P2220 (Court ruling for Muharem Jakupović, 6 December 2000); P2221 (Court record for Muharem Jakupović, 5 December 2000); P2222 (Court ruling for Munevera Rešić, 5 April 2001); P2223 (Court ruling for Munevera Rešić, 5 April 2001); P2224 (Court ruling for Husein Talić, 9 November 2000); P2225 (Court record for Husein Talić, 9 November 2000).

¹⁷⁶⁶ P2165 (Record of on-site investigations, 19 July 1996), pp. 3-37; P2166 (Autopsy reports, 22 July 1996); P2167 (Record of exhumations, 2 October 1996); P2168 (Record of identification of body for Mehmed Hasanović, 2 August 1996), pp. 1-2, 9; P2169 (Court document in relation to Senad Aganović, 14 September 1999); P2170 (Court document in relation to Fevzija Alagić, 25 June 1999); P2171 (Court ruling for Remzija Alagić, 24 June 1999); P2172 (Death certificate for Remzija Alagić, 27 May 1999); P2173 (Court ruling for Osman Arapović, 15 February 2000); P2174 (Court ruling for Elvir Behremović, 20 July 1999); P2175 (Court ruling for Ibrahim Behremović, 8 September 1999); P2177 (Court ruling for Eniz Cerić, 20 September 1999); P2179 (Court ruling for Ekrem Džafić, 2 August 1999); P2180 (Court ruling for Šefko Džananović, 26 August 1999); P2181 (Court ruling for Enes Džinić, 2 August 1999); P2182 (Birth certificate for Enes Džinić, 22 July 1999); P2183 (Court ruling for Ago Jakupović, 22 February 2000); P2184 (Birth certificate for Ago Jakupović, 3 August 1999); P2185 (Court ruling for Fadil Jakupović, 9 November 1999); P2186 (Court ruling for Idriz Jakupović, 30 July 1999); P2187 (Court ruling for Bećo Kumalić, 28 July 1999); P2189 (Court ruling for Taib Omić, 27 July 1999); P2190 (Marriage certificate for Taib Omić, 27 July 1999); P2191 (Court ruling for Ibrahim Pašagić, 27 July 1998); P2193 (Court ruling for Ibrahim Sinanović, 21 October 1998); P2194 (Court ruling for Besim Talić, 15 February 2000); P2195 (Birth certificate for Besim Talić, 9 April 1997), p. 2; P2196 (Court ruling for Ibraga Talić, 15 September 1999); P2197 (Marriage certificate for Ibraga Talić, 15 September 1999); P2198 (Court decision for Rasim Talić, 15 February 2000); P2199 (Court file for Drago Buha, 20 May 2002), p. 4; P2200 (Court file for Muharem Kamber, 24 May 2002); P2201 (Court file for Hakija Kasumović, 27 March 2002); P2202 (Court file for Irfan Čekić, 26 February 2002), p. 7; P2203 (Court ruling for Jahija Bešić, 26 September 2000); P2204 (Court record for Jahija Bešić, 26 September 2000); P2205 (Birth certificate for Jahija Bešić, 12 September 2000); P2206 (Court ruling for Aziz Dautović, 20 October 2000); P2207 (Birth certificate for Aziz Dautović, 11 October 2000); P2208 (Court ruling for Muharem Jakupović, 6 December 2000); P2209 (Court ruling for Muharem Jakupović, 6 December 2000); P2210 (Court ruling for Adnan Talić, 2 August 2000); P2211 (Court ruling for Adnan Talić, 2 August 2000); P2212 (Court ruling for Husein Talić, 9 November 2000); P2213 (Court ruling for Husein Talić, 9 November 2000); P2214 (Court ruling for Ermin Drobić, 5 December 2000); P2215 (Court ruling for Ermin Dobrić, 5 December 2000); P2216 (Court ruling for Ibrahim Drobić, 5 December 2000); P2217 (Court record for Ibrahim Drobić, 5 December 2000); P2218 (Court ruling for Muharem Drobić, 5 December 2000); P2219 (Court records, 5 December 2000); P2220 (Court ruling for Muharem Jakupović, 6 December 2000); P2221 (Court record for Muharem Jakupović, 5 December 2000); P2222 (Court ruling for Munevera Rešić, 5 April 2001); P2223 (Court ruling for Munevera Alagić Rešić, 5 April

804. Based on the testimony of Witness JF-060 and Witness B-1048 and the forensic evidence, the Trial Chamber finds that on 19, 21, or 22 September 1995, a group of men transported a number of detainees to Sasina in Sanski Most municipality, where they killed at least 64 of them. The Trial Chamber finds that these victims were Senad Aganović, Fevzija Alagić, Munevera Alagić (Rešić), Remzija Alagić, Kadir Alibabić, Osman Arapović, Mehmedalija Bajrić, Senad Bajrić, Meho Bajrović, Hajrudin Behar, Elvir Behremović, Ibrahim Behremović, Jahija Bešić, Muharem Botonjić, Drago Buha, Irfan Čekić, Eniz Cerić, Aziz Dautović, Ermin Drobić, Ibrahim Drobić, Muharem Drobić, Ekrem Džafić, Šefko Džananović, Enes Džinić, Ernes Hajrić, Avdo Halimović, Mehmed Hasanović, Osman Hasić, Vedad Hromalić, Ago Jakupović, Fadil Jakupović, Fehim Jakupović, Idriz Jakupović, Muharem Jakupović, Husein Talić, Hakija Kasumović, Adnan Talić, Muharem Kamber, Ibraga Talić, Besim Talić, Taib Omić, Rasim Talić, Ibrahim Sinanović, Ibrahim Pašagić, Bećo Kumalić, Osman Kamber, Zijad Kamber, Karanfil Mušić, Avdo Pašalić, Ismet Karabeg, Sulejman Talić, Haris Talić, Muhamed Talić, Muharem Mahić, Arif Omić, Rifet Kursumović, Djemal Talić, Šefko Talić, Safet Jakupović, Mehmed Kurtović, Muharem Šekić, Husein Kurbegović, Adem Lasić, and one unidentified person. Prior to killing them, the group of men swore at the detainees, referred to their “balija” mothers, and forced them to sing Chetnik songs. Considering Witness JF-060’s testimony that one of the men from the same group separated the detained Derviš Cerić from other detainees on 20 or 21 September 1995 and the forensic evidence that Derviš Cerić’s body was exhumed from or near the mass grave at Sasina, the Trial Chamber finds that a person from the same group of men killed Derviš Cerić. All of the victims wore civilian clothing. Based on the testimony of Witness B-1048 and Witness JF-060 on the circumstances of their abduction and detention, and on the conduct of the group of men accompanying the detainees on the bus to Sasina prior to killing them, the Trial Chamber finds that all victims were of non-Serb ethnicity. The Trial Chamber notes that the testimony of these witnesses was consistent with the forensic evidence.

805. Witness B-1048 and Witness JF-060 both referred to the perpetrators as Arkan’s men or soldiers, and testified that some of them spoke with a Serbian accent. Witness B-1048 testified that the men who made him and others board the bus in Šehovci wore olive-grey or black uniforms. Witness JF-060 testified that the men who made him and others board the bus

2001); P2224 (Court ruling for Husein Talić, 9 November 2000); P2225 (Court record for Husein Talić, 9 November 2000).

¹⁷⁶⁷ Decision on Motion for Admission of Agreed Facts, 12 January 2011; First Joint Motion for Admission of Agreed Facts between the Prosecution and the Stanišić Defence, 16 February 2010, Annex A, Part P.

at the Sanus Hotel wore camouflage uniforms with circular badges on their sleeves with an animal head in the centre. The witness observed that Arkan wore the same uniform with the same insignia at the Sanus Hotel. The witness further observed other persons wearing identical insignia manning checkpoints in Sanski Most town. Based on the foregoing and in light of the evidence reviewed in chapter 6.4 and the testimony of Witness JF-064 in chapter 3.6.1, the Trial Chamber finds that the perpetrators belonged to the SDG. The Trial Chamber will further consider this incident in relation to Counts 1, 2, and 3 of the Indictment in chapter 4, below.

3.6.3 Incidents of deportation and forcible transfer

806. According to the Indictment, the attacks, killings, arbitrary arrest and detention, burnings of Catholic churches and mosques, forced labour, torture, harassment, use of human shields, looting, rape and other forms of sexual abuse, as well as the threat of further persecutory acts, which targeted non-Serb civilians in Sanski Most municipality from no later than April 1991 until 31 December 1995, caused the non-Serb population to flee.¹⁷⁶⁸ The forcible transfer and deportation took different forms, including forced expulsions.¹⁷⁶⁹

807. In this chapter, the Trial Chamber will begin by reviewing the Adjudicated Facts and evidence regarding the ethnic composition of and changes in the population of Sanski Most municipality from 1991 to 1997. Then, the Trial Chamber will turn to the alleged incidents. In this respect, the Trial Chamber will first review the Adjudicated Facts and evidence regarding attacks, killings, arbitrary arrest and detention, harassment, looting, and forced expulsions in the Vrhpolje area of Sanski Most municipality from May through July 1992. Second, the Trial Chamber will consider the Adjudicated Facts and evidence regarding attacks, killings, arbitrary arrest and detention, burnings of Catholic churches and mosques, torture, harassment, looting, and forced expulsions in Sanski Most town and the remainder of Sanski Most municipality from April through September 1992. Finally, the Trial Chamber will review the Adjudicated Facts and evidence regarding killings, arbitrary arrest and detention, forced labour, torture, harassment, looting, rape and other forms of sexual abuse, and forced expulsions in Sanski Most municipality from 1993 to 1995.

¹⁷⁶⁸ Indictment, paras 64-65.

¹⁷⁶⁹ Indictment, para. 65.

Population of Sanski Most municipality

808. The Adjudicated Facts state that according to the 1991 census in Bosnia-Herzegovina, the ethnic composition of Sanski Most municipality was 28,136 (47 per cent) Muslims, 25,363 (42 per cent) Serbs, 4,322 (7 per cent) Croats, 1,247 Yugoslavs, and 1,239 persons of other or unknown ethnicity.¹⁷⁷⁰ The Trial Chamber has reviewed Witness JF-060's testimony and the Tabeau Report on IDPs and Refugees in relation to the ethnic composition of Sanski Most municipality, which was consistent with the Adjudicated Facts.¹⁷⁷¹

809. The Trial Chamber has received evidence on population changes in Sanski Most municipality. Having reviewed the Tabeau Report on IDPs and Refugees¹⁷⁷² and the Tabeau Victims Report,¹⁷⁷³ the Trial Chamber considers that between 1992 and 1995 around 979 persons, the majority of who were non-Serb civilians, died or went missing in Sanski Most municipality. In 1992 alone, 450 died or went missing. The Trial Chamber also considers changes in the ratio of civilian versus military victims among the ethnic groups between 1992 and 1995. The Trial Chamber further considers that the ethnic composition of the population of Sanski Most municipality changed drastically in the period of 1991-1997: the non-Serb percentage of the population in the Bosnian-Serb Republic part of the municipality decreased by 86.4 per cent. As further explained in chapter 2, the Trial Chamber will focus on the below specific incidents of alleged deportation and forcible transfer in Sanski Most municipality set out below.

Dismissal of Croats and Muslims from public office, December 1991-July 1992

810. The Trial Chamber has taken judicial notice of Adjudicated Facts and received evidence from various sources in relation to the dismissals of Croats and Muslims in the municipality from December 1991 to July 1992. The Trial Chamber will first review the Adjudicated Facts.

811. According to the Adjudicated Facts, the Crisis Staff dismissed many Muslims and Croats from their jobs, including judges and directors of public companies, the local radio, and the health centre; others were put off from going to work by the treatment they received

¹⁷⁷⁰ Adjudicated Facts IV, fact 355.

¹⁷⁷¹ P1797 (Witness JF-060, witness statement, 29 November 1996), pp. 1-2; P1657 (Tabeau Report on IDPs and Refugees), p. 28, footnote 10.

¹⁷⁷² P1657 (Tabeau Report on IDPs and Refugees), Annex A, Tables 1NS, 1M, 1C, 1O, 1S, pp. 40-44. The Tabeau Report on IDPs and Refugees explains why changes in the size of ethnic groups in the period of 1991-1997 are reflected in relative measures and not in absolute numbers. It also explains why relative measures, i.e. percentages, can be seen as reliable, and can be compared. See P1657 (Tabeau Report on IDPs and Refugees), p. 8 and Ewa Tabeau, T. 9902-9903.

there, and were replaced with Serbs.¹⁷⁷⁴ Serb managers who had allowed Croats and Muslims to work in their companies were also dismissed. SDS president Vrkeš, accompanied by “SOS” members and the Serb police, forced out the Croat director of the municipal Serbian Volunteer Corps, appointing a Serb in her place.¹⁷⁷⁵ On 11 April 1992, Adil Draganović, the Muslim president of the Sanski Most municipal court, received a threatening letter signed by members of the White Eagles stating that he and the municipal deputy prosecutor, Enver Cerić, also a Muslim, were to leave Sanski Most by 15 May 1992 or their families would be harmed.¹⁷⁷⁶

812. On 17 April 1992, Stojan Župljanin, head of the CSB Banja Luka, ordered the division of the police along ethnic lines. Police officers were ordered to demonstrate their loyalty to the Serb municipality by wearing the insignia of the Bosnian-Serb Republic and signing a declaration that they would respect its laws and regulations. Only persons of Serb ethnicity signed the declaration.¹⁷⁷⁷ Nedeljko Rašula, as head of the crisis staff, dismissed Muslim and Croat officers from the police force.¹⁷⁷⁸ On 15 May 1992, the Muslim employees of the court were informed by the Serb police that they had to take mandatory leave. Draganović was dismissed from his post and the judiciary authority was transferred to the Serbs, upon an order of the crisis staff.¹⁷⁷⁹

813. The Trial Chamber now turns to the evidence it has received. **Witness JF-010**, a Serb from a village in Sanski Most municipality,¹⁷⁸⁰ testified that in April 1992, Muslim and Croat officers abandoned the police force and were replaced by Serbs.¹⁷⁸¹ In an entry for 14 April 1992, Nedeljko Rašula wrote in his diary that the SDS municipal board had decided that employees of the SJB should declare loyalty to the Serbian Republic of Bosnia-Herzegovina and acceptance of Serbian symbols and insignia.¹⁷⁸² **Witness B-1048**, a Muslim from Kijevo in Sanski Most municipality,¹⁷⁸³ testified that at a certain point after the attacks of July 1992, the Serb authorities took control of the municipality after which Muslims and Croats “could

¹⁷⁷³ P1658 (Tableau Victims Report), Table 4 a), p. 20, Annex 2, Table A2.9, Annex 3, Table A3.14.

¹⁷⁷⁴ Adjudicated Facts IV, fact 360.

¹⁷⁷⁵ Adjudicated Facts IV, fact 361.

¹⁷⁷⁶ Adjudicated Facts IV, fact 362.

¹⁷⁷⁷ Adjudicated Facts IV, fact 364.

¹⁷⁷⁸ Adjudicated Facts V, fact 365.

¹⁷⁷⁹ Adjudicated Facts IV, fact 363.

¹⁷⁸⁰ P262 (Witness JF-010, *Slobodan Milošević* transcript, 1-5 May 2003), pp. 19834-19835, 20029, 20077; P261 (Pseudonym sheet for Witness JF-010); P263 (Background information on Witness JF-010).

¹⁷⁸¹ P262 (Witness JF-010, *Slobodan Milošević* transcript, 1-5 May 2003), pp. 19854-19855, 19878.

¹⁷⁸² P262 (Witness JF-010, *Slobodan Milošević* transcript, 1-5 May 2003), pp. 19892-19894; P264 (Hand-written diary of Nedeljko Rašula, December 1991-May 1992), p. 13.

no longer work” there and they were asked to give an oath of loyalty to the new Serbian government.¹⁷⁸⁴

814. Based on the Adjudicated Facts and having reviewed the evidence of Witness B-1048 and diary P264, the Trial Chamber finds that from April 1992, the Sanski Most Crisis Staff dismissed Muslim and Croat employees from public office and from publicly owned companies. Based on the Adjudicated Facts and having reviewed the evidence of Witness JF-010, the Trial Chamber finds that in April 1992, Rašula dismissed Muslim and Croat officers from the police force after which they were replaced by Serbs. Around the same time, the SDS, Sanski Most police officers, and members of the White Eagles forced Muslims and Croats to leave their jobs in Sanski Most municipality, including through threats and by compelling them to declare loyalty to the Bosnian-Serb Republic. The Trial Chamber will further consider the dismissals below, in relation to the departure of 4,500 Muslims from Sanski Most municipality.

Attacks, killings, arbitrary arrest and detention, harassment, looting, and forced expulsions in the Vrhpolje area of Sanski Most municipality, May-July 1992

815. The Trial Chamber has taken judicial notice of Adjudicated Facts and received evidence from various sources in relation to incidents of deportation and forcible transfer in the area of Vrhpolje, in Sanski Most municipality, south of Sanski Most town.

816. The Trial Chamber will first review the Adjudicated Facts. According to the Adjudicated Facts, at the end of May 1992, after calls for disarmament had been made, attacks were launched on the Bosnian Muslim neighbourhoods and villages of Mahala, Muhići, Begići, Hrustovo, Vrhpolje, and some other small villages. These attacks were planned well in advance by the army and the municipal Crisis Staff, and were carried out by the army acting jointly with the SOS.¹⁷⁸⁵ The attacks followed a similar pattern. Heavy shelling from outside the targeted neighbourhoods or villages caused severe damage and people were killed. The shelling forced the inhabitants of these villages to flee. After the troops had entered the villages, a number of people who had not fled were killed. Houses were looted and people fleeing were deprived of the valuables that they were carrying with them.¹⁷⁸⁶

¹⁷⁸³ Witness B-1048, T. 3021; P171 (Witness B-1048, statement provided to local authorities, 8 November 1995), p. 1; D15 (Witness B-1048, statement provided to local authorities, 25 July 1996), p. 1.

¹⁷⁸⁴ Witness B-1048, T. 3028, 3066.

¹⁷⁸⁵ Adjudicated Facts I, fact 528.

¹⁷⁸⁶ Adjudicated Facts I, fact 529.

817. On or around 25 May 1992, the JNA 6th Krajina Brigade and the TO also launched an artillery attack on the Muslim settlements of Mahala, Muhići, and Otoka.¹⁷⁸⁷ Serb soldiers forced Mahala residents to gather at a training ground and then shelled the village and partially destroyed houses and the local mosque.¹⁷⁸⁸ On 27 May 1992, Serb forces shelled the village of Hrustovo, an almost exclusively Muslim village. On 30 May, the Muslims of the village decided to hand in their weapons, but the shelling continued.¹⁷⁸⁹ On or around 28 May 1992, the Muslim village of Vrhpolje was shelled by Serb forces. Shortly thereafter, the inhabitants were summoned to hand in their weapons. They were told that that was a condition for them to be allowed to leave their village.¹⁷⁹⁰

818. On 31 May 1992, as people from 21 households were forced to leave Jelečevići, a Muslim hamlet in the area of Hrustovo, about 30 women and children and one man took refuge inside a garage. Eight to ten Serb soldiers in camouflage uniform came to the garage and ordered the Muslims out. A man who tried to mediate was shot and the soldiers killed 16 women and children when they tried to run away.¹⁷⁹¹ Between 50 and 100 Serb soldiers escorted the survivors with around 200 inhabitants of neighbouring villages to the hamlet of Kljevći, where their valuables were confiscated. Serb soldiers detained the villagers at various locations before transporting them by bus and train to Doboj, where they were ordered to find their way to Muslim-held territory.¹⁷⁹²

819. The Trial Chamber has taken judicial notice of two Adjudicated Facts in relation to an incident at the Vrhpolje bridge. According to these Adjudicated Facts, upon the armed attack by Bosnian Serb soldiers on the hamlet of Begići, on 31 May or 1 June 1992, Serb soldiers led by Jadranko Palja escorted a group of Bosnian Muslim men from the hamlet of Donji Begići towards the Vrhpolje bridge which spans the Sana River.¹⁷⁹³ Four of the men were killed by the soldiers along the way.¹⁷⁹⁴ The others, arriving on the bridge, were surrounded by 50 Serb soldiers, forced to surrender their belongings, beaten, and ordered to jump off the bridge.¹⁷⁹⁵ Once in the water, the soldiers opened fire upon them from the bridge and killed almost all of them.¹⁷⁹⁶ A total of at least 19 persons were killed in this event.¹⁷⁹⁷

¹⁷⁸⁷ Adjudicated Facts IV, fact 372.

¹⁷⁸⁸ Adjudicated Facts IV, fact 372-373.

¹⁷⁸⁹ Adjudicated Facts IV, fact 376.

¹⁷⁹⁰ Adjudicated Facts IV, fact 379.

¹⁷⁹¹ Adjudicated Facts IV, fact 377.

¹⁷⁹² Adjudicated Facts IV, fact 378.

¹⁷⁹³ Adjudicated Facts I, fact 529; Adjudicated Facts IV, fact 380.

¹⁷⁹⁴ Adjudicated Facts IV, fact 380.

¹⁷⁹⁵ A Adjudicated Facts I, fact 529; Adjudicated Facts IV, fact 380.

¹⁷⁹⁶ Adjudicated Facts I, fact 529; Adjudicated Facts IV, fact 380.

820. In early July 1992, all Muslims from Hrustovo and Kamičak who had sought refuge in the Tomina elementary school were taken to the Krings Hall in Sanski Most, where they were detained with 600 others. The hygiene conditions at this detention centre were extremely poor. Serb police officers beat the detainees with batons and rifles, and one man was beaten to death in July 1992.¹⁷⁹⁸

821. The Trial Chamber now turns to the evidence it has received. **Witness JF-010**, a Serb from a village in Sanski Most municipality,¹⁷⁹⁹ testified that on 26 May 1992, Serbian forces launched an attack on the non-Serb-controlled areas of Sanski Most municipality.¹⁸⁰⁰ The witness's unit's task was to defend its village, which was surrounded by Muslim villages, while other units were tasked with entering Muslim villages and clearing the inhabitants away.¹⁸⁰¹ Between 26 and 28 May 1992, the Serb forces took control of all of Sanski Most municipality.¹⁸⁰² According to Witness JF-010, 12 Muslim villages in Sanski Most municipality (including Hrustovo, Vrhpolje, Kamičak, Mahala, Otok, Muhići, and Skučani Vakuf) were destroyed.¹⁸⁰³

822. Witness JF-010 testified that during the take-over of Sanski Most, more than 25 Muslim civilians were killed near Vrhpolje, in Sanski Most municipality, at a bridge over the river Sana.¹⁸⁰⁴ According to the witness, 180 inhabitants of Vrhpolje had refused to disarm and had killed several Serb members of the 6th Partisan Brigade, so the Serbs killed the Muslims on the bridge in retaliation.¹⁸⁰⁵ Thirty men from the witness's village's paramilitary unit, placed under the command of a military unit, took part in the attack on Vrhpolje.¹⁸⁰⁶ Over 100 persons observed the killing at the bridge.¹⁸⁰⁷

823. In early June 1992, on the orders of Colonel Aničić, the witness's unit removed from the Muslim-inhabited village of Pobrežje, in Sanski Most municipality, the Muslim civilians

¹⁷⁹⁷ Adjudicated Facts I, fact 529; Adjudicated Facts IV, fact 380. The Adjudicated Facts differ in terms of the number of victims of this incident: Adjudicated Fact I 529 states that there were at least 28 victims, while Adjudicated Fact IV 380 states that almost all of a group of 19 men were killed. Under these circumstances, the Trial Chamber finds that at least around 19 Muslim men were killed in this incident.

¹⁷⁹⁸ Adjudicated Facts IV, fact 386.

¹⁷⁹⁹ P262 (Witness JF-010, *Slobodan Milošević* transcript, 1-5 May 2003), pp. 19834-19835, 20029, 20077; P261 (Pseudonym sheet for Witness JF-010); P263 (Background information on Witness JF-010).

¹⁸⁰⁰ Witness JF-010, T. 3797.

¹⁸⁰¹ P262 (Witness JF-010, *Slobodan Milošević* transcript, 1-5 May 2003), p. 19881, 19884-19885, 20006.

¹⁸⁰² Witness JF-010, T. 3797.

¹⁸⁰³ Witness JF-010, T. 3791.

¹⁸⁰⁴ P262 (Witness JF-010, *Slobodan Milošević* transcript, 1-5 May 2003), pp. 19887, 20007.

¹⁸⁰⁵ P262 (Witness JF-010, *Slobodan Milošević* transcript, 1-5 May 2003), pp. 20007-20008.

¹⁸⁰⁶ P262 (Witness JF-010, *Slobodan Milošević* transcript, 1-5 May 2003), p. 20077.

¹⁸⁰⁷ P262 (Witness JF-010, *Slobodan Milošević* transcript, 1-5 May 2003), p. 20008.

who had sought refuge there.¹⁸⁰⁸ The order was to “cleanse” the village, which the witness understood to mean to confiscate weapons from the Muslims. The witness took part in the operation.¹⁸⁰⁹ The witness’s unit entered houses, identified the men who were not from the village, being mainly Muslims from Hrustovo, Vrhpolje, Kamičak, Mahala, Otok, and Muhići, all in Sanski Most municipality, and loaded them onto buses.¹⁸¹⁰ The buses took the refugees from Pobrežje to Krings or Krinks Hall, from where, on the same or the following day, the refugees were transported by bus in the direction of Bihać, which was under Muslim control.¹⁸¹¹

824. Another witness provided further information on the attacks in the Vrhpolje area. **Witness B-1048**, a Muslim from Kijevo in Sanski Most municipality,¹⁸¹² testified that after the conflict broke out, the “Serb army” attacked Muslim and Croat villages in the municipality, including Begiči, Hrustovo and Vrhpolje, using both heavy and infantry weapons.¹⁸¹³ According to the witness, the 6th Krajina Brigade was the unit present in Sanski Most.¹⁸¹⁴

825. On the basis of the Adjudicated Facts and having reviewed the evidence of Witness B-1048 and Witness JF-010, as well as Aničić’s order P270 (reviewed below), the Trial Chamber finds that between 25 and 30 May 1992, the 6th Brigade, the Sanski Most TO, and the SOS launched artillery attacks on the Bosnian Muslim neighbourhoods and villages of Begiči, Hrustovo, Mahala, Muhići, Otoka, and Vrhpolje.¹⁸¹⁵ Further, based on the Adjudicated Facts and having reviewed the evidence of Witness JF-010, the Trial Chamber finds that the artillery attacks killed people in and caused severe damage to at least Begiči, Hrustovo, Mahala, Muhići, and Vrhpolje. In Mahala, the artillery fire partially destroyed houses and the local mosque. The forces continued to fire artillery at Mahala after they had forced the inhabitants to gather at a training ground. The same forces continued to fire artillery at Hrustovo after the local Muslims had handed in their weapons. Considering the Adjudicated Facts and having reviewed diary P264 and Aničić’s order P270 elsewhere in this

¹⁸⁰⁸ P262 (Witness JF-010, *Slobodan Milošević* transcript, 1-5 May 2003), pp. 19881, 19888-19889, 20006; Witness JF-010, T. 3789, 3796.

¹⁸⁰⁹ P262 (Witness JF-010, *Slobodan Milošević* transcript, 1-5 May 2003), pp. 20006, 20010.

¹⁸¹⁰ Witness JF-010, T. 3789.

¹⁸¹¹ P262 (Witness JF-010, *Slobodan Milošević* transcript, 1-5 May 2003), pp. 19889, 20010; Witness JF-010, T. 3789.

¹⁸¹² Witness B-1048, T. 3021; P171 (Witness B-1048, statement provided to local authorities, 8 November 1995), p. 1; D15 (Witness B-1048, statement provided to local authorities, 25 July 1996), p. 1.

¹⁸¹³ Witness B-1048, T. 3023.

¹⁸¹⁴ Witness B-1048, T. 3023, 3066.

¹⁸¹⁵ The Trial Chamber understands Witness JF-010’s testimony in relation to Otok to refer to Otoka.

chapter, the Trial Chamber finds that the attacks had been planned in advance by the army and the municipal Crisis Staff. The artillery attacks forced the inhabitants of the aforementioned villages to flee. In light of the totality of the evidence, the Trial Chamber finds that those who left were predominantly Muslim. Further, based on the Adjudicated Facts, the Trial Chamber finds that following the artillery attacks, the same forces confiscated valuables from a number of inhabitants of these villages who were fleeing, killed a number of those who had not fled, and looted houses. The Trial Chamber will further consider this incident in relation to Counts 1, 4, and 5 of the Indictment in chapter 4, below.

826. In view of the testimony of Witness JF-010, the Trial Chamber finds that in late May or early June 1992 a number of Muslim men from Hrustovo, Kamičak, Mahala, Muhići, Otoka, and Vrhpolje left their villages and sought refuge in the Muslim village of Pobrežje. There, in early June 1992, pursuant to Aničić's orders, the local Serb paramilitary unit to which Witness JF-010 belonged sought out the aforementioned Muslim men and loaded them into buses. The buses took these men to Krings/Krinks Hall, from where they were transported towards Muslim-held territory in the area of Bihać. The Trial Chamber will further consider this incident in relation to Counts 1, 4, and 5 of the Indictment in chapter 4, below.

827. On the basis of the Adjudicated Facts, the Trial Chamber finds that between late May and early July 1992, a number of Muslims from Hrustovo and Kamičak left their villages and sought refuge in the elementary school in Tomina. In July 1992, these men were taken to the Krings/Krinks Hall in Sanski Most town, where they were detained alongside 600 others in poor hygienic conditions. At the Krings/Krinks Hall, Serb police officers beat the detainees with batons and rifles, beating one man to death in July 1992. The Trial Chamber will further consider the detention at the Krings/Krinks Hall, below in relation to the departure of 4,500 Muslims from Sanski Most municipality.

828. Based on the Adjudicated Facts, the Trial Chamber finds that on 31 May 1992, in the Muslim hamlet of Jelečevići in the area of Hrustovo, eight to ten Serb soldiers shot one man who tried to mediate with them and then killed 16 women and children who tried to run away. Following this killing, between 50 and 100 Serb soldiers escorted the surviving inhabitants of Jelečevići and around 200 inhabitants of neighbouring villages, to the hamlet of Kljevći, where the soldiers detained the villagers. In light of the Adjudicated Facts and evidence on the ethnic composition of Hrustovo and the surrounding villages, the Trial Chamber is satisfied that these more than 200 villagers were of non-Serb ethnicity. The Serb soldiers transported

the villagers by bus and train to Doboj, where they were ordered to go to Muslim-held territory.

829. On the basis of the Adjudicated Facts and having reviewed the evidence of Witness JF-010, the Trial Chamber finds that on 31 May or 1 June 1992, a group of around 50 Serb soldiers shot and killed at least around 19 Muslim men from Begići at or near a bridge in Vrhpolje. Prior to shooting them, the Serb soldiers had beaten a number of the men, taken their belongings, and ordered them to jump off the bridge into the water.

830. The Adjudicated Facts, the testimony of Witness JF-010, Aničić's order P270 and the 6th Brigade war record P267 (reviewed elsewhere in this chapter) indicate that the 6th Brigade, the Sanski Most TO, the SOS, and the local Serb paramilitary unit to which Witness JF-010 belonged were tasked with attacking and disarming villages in the area of Hrustovo and Vrhpolje in late May 1992. Consequently, having further considered the numbers and descriptions of the perpetrators, the Trial Chamber finds that the groups of eight to ten, around 50, and 50-100 Serb soldiers who killed the aforementioned persons at Jelečevići and near Vrhpolje and who detained and transported the remaining villagers of Jelečevići and neighbouring villages were members of the 6th Brigade, the Sanski Most TO, the SOS, or a local Serb paramilitary unit. The Trial Chamber will further consider this incident in relation to Counts 1, 4, and 5 of the Indictment in chapter 4, below.

Attacks, killings, arbitrary arrest and detention, burnings of Catholic churches and mosques, torture, harassment, looting, and forced expulsions in Sanski Most town and the remainder of Sanski Most municipality, April-September 1992

831. The Trial Chamber has taken judicial notice of Adjudicated Facts and received evidence from various sources in relation to incidents of deportation and forcible transfer in Sanski Most town and throughout Sanski Most municipality from April to September 1992.

832. The Trial Chamber will first review the Adjudicated Facts. According to the Adjudicated Facts, in March and April 1992, Serb forces, including soldiers of the JNA 6th Krajina Brigade, and Serb police, erected checkpoints in the town of Sanski Most and around non-Serb villages, and the crisis staff established a curfew prohibiting movement at night.¹⁸¹⁶

833. Some non-Serb police officers and Party of Democratic Action leaders took refuge in the municipality building, where negotiations between the political parties continued.¹⁸¹⁷ On

¹⁸¹⁶ Adjudicated Facts IV, fact 367.

¹⁸¹⁷ Adjudicated Facts V, fact 364a.

19 April 1992, the crisis staff addressed an ultimatum to those inside. The building was surrounded by soldiers of the JNA 6th Krajina Brigade.¹⁸¹⁸ Those inside the building managed to flee to surrounding villages.¹⁸¹⁹ On the same day, Serb forces attacked the municipality building in the town.¹⁸²⁰ According to the Adjudicated Facts, in Sanski Most, the SDS took control over the municipality on 19 April 1992 through the armed attack on the municipality building conducted by the JNA's 6th Krajina Brigade, TO forces, and members of a Bosnian Serb paramilitary group known as the Red Berets.¹⁸²¹

834. Around that time, members of the "SOS" who were supported by the SDS, armed with automatic weapons and dressed in camouflage, destroyed 28 shops and restaurants belonging to Muslims and Croats in the Sanski Most area.¹⁸²²

835. In late May 1992, Serb forces began to arrest Croat and Muslim leaders. Some, including the secretary of the Party of Democratic Action municipal board, a Muslim judge, and the municipal chief of police, were killed.¹⁸²³ Mirzet Karabeg, president of the executive board of the municipal assembly, was detained at the Sanski Most police station and in the Betonirka prison camp from 25 May to 28 August 1992. In the police station, he was held together with 14 prominent Muslim and Croat civilians, and in Betonirka together with 75 persons.¹⁸²⁴ The conditions at the police station were bad, with little food, insufficient space to lie down, no toilet, and no shower. Police officers, soldiers, and ordinary citizens severely beat the detainees on a regular basis. The detainees were not given any medical treatment.¹⁸²⁵

836. Approximately 30 men were detained in Betonirka prison camp by June 1992. The building where the detainees were kept was so crowded that the detainees were forced to sleep sitting up. The detainees were provided with insufficient food and water. Serb police officers and outsiders who were allowed into the camp beat and mistreated the detainees.¹⁸²⁶ A Muslim religious leader from Vrhpolje, Emir Seferović, was mistreated more frequently than other detainees and was forced by prison guards to eat pork.¹⁸²⁷

¹⁸¹⁸ Adjudicated Facts V, fact 365.

¹⁸¹⁹ Adjudicated Facts V, fact 365.

¹⁸²⁰ Adjudicated Facts IV, fact 366.

¹⁸²¹ Adjudicated Facts I, fact 527.

¹⁸²² Adjudicated Facts IV, fact 366.

¹⁸²³ Adjudicated Facts IV, fact 381.

¹⁸²⁴ Adjudicated Facts IV, fact 383.

¹⁸²⁵ Adjudicated Facts IV, fact 382.

¹⁸²⁶ Adjudicated Facts IV, fact 384.

¹⁸²⁷ Adjudicated Facts IV, fact 385.

837. On 1 August 1992, a group of soldiers in olive-coloured uniform with a red stripe pinned to their epaulettes came to the majority-Muslim village of Lukavica and broke into several houses.¹⁸²⁸ They led away 14 civilian men aged 22-60 years. The following day, the villagers found the bodies of 13 of the men, marked with bullet holes and severe wounds.¹⁸²⁹

838. On 5 August 1992, the Sanski Most SJB reported that in the previous two months, there had been a great deal of activity by certain paramilitary groups that had “broken free” from the command of the army and conducted their own operations, such as planting explosives, torching houses, killings, and other types of crimes against the Muslim and Croatian population, all aimed at acquiring material profit and putting pressure on them to move out. It further referred to 45 explosions that had been set off at Muslim houses and business premises, and two mosques destroyed. It reported that it had registered four such groups, among them the “SOS” group, a former paramilitary group of around 30 men, which had formally been placed under the command of the local military unit.¹⁸³⁰

839. According to the Adjudicated Facts, in total, more than 88 Muslim civilians were killed by Serb forces in the municipality of Sanski Most in the period of end of May to August 1992.¹⁸³¹

840. Following the aforementioned events, in Sanski Most municipality, Bosnian Muslim representatives met with Bosnian Serb municipal authorities and representatives of the SDS on several occasions between June and August 1992, during which they requested that the Bosnian Serb municipal authorities organize convoys so that Bosnian Muslims could safely leave the area.¹⁸³² They organized a convoy of approximately 2,000 Muslim men, women, children, and elderly that left for Travnik at the beginning of August 1992.¹⁸³³ Bosnian Serb civilian and military police also escorted a Travnik-bound convoy of approximately 2,500 Bosnian Muslim men, women, children, and elderly on 2 and 3 September 1992.¹⁸³⁴

841. The Trial Chamber has received relevant evidence from Witness JF-010 and Witness JF-060, as well as through the diary of Neđeljko Rašula of the SDS Crisis Staff. In relation to a Crisis Staff meeting of 26 May 1992, Rašula noted in his diary that POWs were to be taken

¹⁸²⁸ Adjudicated Facts IV, fact 374-375.

¹⁸²⁹ Adjudicated Facts IV, fact 375.

¹⁸³⁰ Adjudicated Facts IV, fact 369.

¹⁸³¹ Adjudicated Facts IV, fact 387. In this respect, the Trial Chamber has also reviewed, for comparison, the Victims Report P1658.

¹⁸³² Adjudicated Facts I, fact 530.

¹⁸³³ Adjudicated Facts I, fact 531.

¹⁸³⁴ Adjudicated Facts I, fact 532.

over from the MUP, held overnight, and that the most extreme among them should be isolated and punished “so as not to walk this earth”.¹⁸³⁵ Rašula further wrote that many fires were set in the town by Serb citizens driven by revenge and that vehicles and property were plundered. Further, the Crisis Staff’s forces would carry out cleansing or mopping up.¹⁸³⁶

842. **Witness JF-010** testified that at the orders of the SDS municipal leadership, Colonel Aničić, and Vlado Vrkeš, the SOS blew up more than ten businesses owned by non-Serbs, to put pressure on the non-Serb population.¹⁸³⁷ Further, after the take-over of Sanski Most municipality, the SOS members appropriated Muslim and Croat property, including buildings, vehicles, and other valuables.¹⁸³⁸ According to the witness, the Sanski Most SDS Municipal Board ordered the TO to destroy the mosques in Sanski Most.¹⁸³⁹ Dragan Majkić of the TO told the witness that, at the orders of TO Staff commander Colonel Aničić, Majkić’s unit destroyed 14 mosques in Sanski Most municipality.¹⁸⁴⁰ According to the witness, the mosques were destroyed with TNT, which could only be found in the JNA’s arsenal and the TO headquarters.¹⁸⁴¹ SDS members explained that they needed to eliminate any remaining will on the part of the Muslims to return to Sanski Most.¹⁸⁴²

843. In June 1992, the witness visited a sports hall in the centre of town where he saw a couple of thousand Muslims held in inhumane conditions, without minimum requirements for personal hygiene. Those held at the sports hall were only fed what their families would bring them. In the same month, the witness also visited the Betonirka camp, where in the guards’ offices, he met with a friend who was detained at the camp and who had bruises around his eyes and appeared afraid.¹⁸⁴³ When the witness asked him whether he had been beaten, his friend looked at the guards who were present, answered no, and explained that he had fallen, bruising himself.¹⁸⁴⁴ The prisoners at the Betonirka camp numbered more than a hundred men, mostly Muslims and some Croats, who were held in metal, single-car garages, with more than 20 persons to a garage. The commander of the Betonirka facility was a policeman

¹⁸³⁵ P262 (Witness JF-010, *Slobodan Milošević* transcript, 1-5 May 2003), pp. 19892-19894; P264 (Hand-written diary of Nedeljko Rašula, December 1991-May 1992), p. 39.

¹⁸³⁶ P264 (Hand-written diary of Nedeljko Rašula, December 1991-May 1992), p. 39.

¹⁸³⁷ P262 (Witness JF-010, *Slobodan Milošević* transcript, 1-5 May 2003), pp. 19845-19846, 19996-19997; Witness JF-010, T. 3802-3803.

¹⁸³⁸ Witness JF-010, T. 3803.

¹⁸³⁹ Witness JF-010, T. 3790.

¹⁸⁴⁰ P262 (Witness JF-010, *Slobodan Milošević* transcript, 1-5 May 2003), pp. 20081-20082; Witness JF-010, T. 3790.

¹⁸⁴¹ Witness JF-010, T. 3801.

¹⁸⁴² Witness JF-010, T. 3790.

¹⁸⁴³ P262 (Witness JF-010, *Slobodan Milošević* transcript, 1-5 May 2003), pp. 19889, 20011.

¹⁸⁴⁴ P262 (Witness JF-010, *Slobodan Milošević* transcript, 1-5 May 2003), p. 20011.

and the facility was right next to the police station. According to the witness, the guards would let anyone enter the Betonirka camp to beat up the prisoners. The prisoners were beaten day and night. The witness believed the people at both Betonirka and the sports hall were being held pursuant to categories set by the SDS.¹⁸⁴⁵

844. According to the witness, on 4 June 1992, the Sanski Most Crisis Staff tasked Mirko Vručinić, Neđeljko Rašula, and Colonel Aničić with classifying and deporting to Manjača three categories of prisoners: politicians, extreme nationalists, and undesirable people.¹⁸⁴⁶ On 6 June 1992, the Sanski Most Crisis Staff ordered the SJB to evacuate 150 prisoners to Manjača.¹⁸⁴⁷ According to the witness, many of the sports hall and Betonirka camp prisoners were transferred to Manjača.¹⁸⁴⁸

845. On 2 July 1992, the Sanski Most Crisis Staff decided that those persons who had provided a statement to the municipality that they were leaving permanently and handing over their property to the municipality, as well as those who had exchanged or sold their property, may voluntarily depart from Sanski Most municipality. Witness JF-010 testified that following the take-over of Sanski Most, every Muslim or Croat family that wanted to leave the municipality had to collect 12 documents from different institutions at considerable financial expense.¹⁸⁴⁹

846. **Witness JF-060**, a Muslim from Sanski Most town,¹⁸⁵⁰ stated that one day in the first half of May 1992, the town was occupied by “the Serb Army”. According to the witness, the soldiers who occupied the town wore camouflage uniforms and had various Serb insignia, such as the Serbian flag. After taking over the town, they shelled and destroyed most of the Muslim part after which they gathered and transferred people to various places that served as prisons (the sports hall, the Krinks hall, and “Betonirka”). According to the witness, people were later transported to camps such as Manjača. The shelling of surrounding non-Serb villages and deportations continued until August 1992. After these events the number of Muslims remaining in the area was reduced from about 35,000 before the war to 2,000.¹⁸⁵¹

¹⁸⁴⁵ P262 (Witness JF-010, *Slobodan Milošević* transcript, 1-5 May 2003), p. 19890, 20010-20012.

¹⁸⁴⁶ P262 (Witness JF-010, *Slobodan Milošević* transcript, 1-5 May 2003), pp. 19890, 20012-20014; P271 (Conclusions of the Sanski Most Crisis Staff, 4 June 1992).

¹⁸⁴⁷ P272 (Order of the Sanski Most crisis staff to the public security station, 6 June 1992).

¹⁸⁴⁸ P262 (Witness JF-010, *Slobodan Milošević* transcript, 1-5 May 2003), p. 19890.

¹⁸⁴⁹ P262 (Witness JF-010, *Slobodan Milošević* transcript, 1-5 May 2003), pp. 19891-19892, 20041; P273 (Decision on voluntary departure, Sanski Most Crisis Staff, 2 July 1992).

¹⁸⁵⁰ P1797 (Witness JF-060, witness statement, 29 November 1996), pp. 1-2.

¹⁸⁵¹ P1797 (Witness JF-060, witness statement, 29 November 1996), pp. 2-3.

847. The Trial Chamber will now review relevant evidence on the local armed forces in Sanski Most municipality. In this respect, **Witness JF-010** testified that there were two types of paramilitary units in the Sanski Most area: the village units and the SOS.¹⁸⁵² In mid-summer 1991, the SDS set up the SOS.¹⁸⁵³ The SOS were financed by and fell under the authority of the SDS.¹⁸⁵⁴ The local Serb paramilitary units were under SDS control, but were not funded by the SDS, as they financed themselves.¹⁸⁵⁵ The SOS unit initially consisted of 33 men.¹⁸⁵⁶ The same number of persons was listed under the SOS heading in Rašula's diary entry for 6 May 1992.¹⁸⁵⁷

848. At the end of 1991, following attacks by Muslim extremists on the 6th Light Partisan Brigade, the SDS set up the village guard for the defence of the witness's village.¹⁸⁵⁸ Prior to the attack on Sanski Most municipality, the paramilitary unit from the witness's village consisted of 176 men armed with automatic weapons, two or three 60 millimetre mortars, and grenades.¹⁸⁵⁹ According to the witness, there were 43 other Serb units from different communities within Sanski Most.¹⁸⁶⁰

849. On 3 April 1992, the JNA 6th Light Partisan Brigade returned to Sanski Most from the Croatian front to their peacetime locations, under pressure from the Sanski Most SDS leadership.¹⁸⁶¹

850. In an order on the disarmament operation in Sanski Most, Serbian TO Commander Aničić noted that the Sanski Most TO's task was to disarm enemy forces and that the 6th Brigade was, in coordination with the TO, undertaking combat operations along the Skučani Vakuf-Sanski Most-Vrhopolje axis.¹⁸⁶² Aničić further decided that the Serbian TO units should

¹⁸⁵² Witness JF-010, T. 3802.

¹⁸⁵³ P262 (Witness JF-010, *Slobodan Milošević* transcript, 1-5 May 2003), pp. 19845, 19994, 19996; Witness JF-010, T. 3802.

¹⁸⁵⁴ Witness JF-010, T. 3802, 3806.

¹⁸⁵⁵ Witness JF-010, T. 3798, 3802.

¹⁸⁵⁶ P262 (Witness JF-010, *Slobodan Milošević* transcript, 1-5 May 2003), pp. 19845, 19996; Witness JF-010, T. 3808.

¹⁸⁵⁷ P264 (Hand-written diary of Nedeljko Rašula, December 1991-May 1992), p. 23.

¹⁸⁵⁸ P262 (Witness JF-010, *Slobodan Milošević* transcript, 1-5 May 2003), p. 20029.

¹⁸⁵⁹ P262 (Witness JF-010, *Slobodan Milošević* transcript, 1-5 May 2003), pp. 19844, 19994; Witness JF-010, T. 3799.

¹⁸⁶⁰ Witness JF-010, T. 3799.

¹⁸⁶¹ P262 (Witness JF-010, *Slobodan Milošević* transcript, 1-5 May 2003), pp. 19852, 19869, 19982-19983, 19985-19987; Witness JF-010, T. 3814; P267 (War record of the 6th Infantry Brigade, Colonel Branko Basara), p. 2.

¹⁸⁶² P270 (Order on the disarmament operation in Sanski Most, Nedeljko Aničić), p. 1.

take prisoners to the sports hall of the secondary school and hand over war booty to the Sanski Most Serbian TO Staff.¹⁸⁶³

851. On 29 May, 1 June, and 6 June 1992, Major General Momir Talić of the 5th Krajina Corps Command reported to the 1st Krajina Corps Command that the Sanski Most area was controlled by 1st Krajina Corps units and that mopping-up of the terrain and disarming of illegal formations in Sanski Most was ongoing.¹⁸⁶⁴

852. In the war record for the 6th Infantry Brigade, Colonel Basara noted that the Brigade was given the task of disarming Muslims and Croats and that it managed to disarm a large number of Muslims and Croats in Sanski Most municipality.¹⁸⁶⁵

853. On 1 June 1992, Colonel Basara, commander of the 6th Partisan Brigade, ordered that the following persons should be immediately discharged: all soldiers prone to committing genocide against people unable to conduct an armed struggle; all soldiers prone to burning down and destroying buildings from which the enemy is not opening fire; and all soldiers prone to wilful behaviour, drinking, and serious indiscipline incompatible with decent human behaviour. In the order, Basara noted that mistakes made in relation to the treatment of prisoners must not be repeated and prisoners must not be beaten. Basara strictly forbade acts of genocide against those who are unable to fight, including women, children, the sick, and the elderly. Basara further noted that all self-declared soldiers from other units or irregular formations must be strictly prohibited from entering the combat operations zones, because in most cases they did so to commit genocide and loot property.¹⁸⁶⁶

854. The Trial Chamber will first address the attack on the municipality building. On the basis of the Adjudicated Facts, the Trial Chamber finds that on 19 April 1992, members of the 6th Brigade, of the Sanski Most TO, and of a Bosnian Serb paramilitary group known as the Red Berets attacked the municipality building in Sanski Most town where a number of non-Serb police officers and SDA leaders had taken refuge. Prior to the attack, the SDS Crisis Staff had addressed an ultimatum to those inside. Following the attack, those inside fled to surrounding villages. The Trial Chamber understands this incident to concern movement of people engaged in conflict and will not further consider it.

¹⁸⁶³ P270 (Order on the disarmament operation in Sanski Most, Nedeljko Aničić), p. 3.

¹⁸⁶⁴ P1476 (Report to 1st Krajina Corps Command, Momir Talić, 29 May 1992), pp. 1, 3; P1477 (Report to 1st Krajina Corps Command, Momir Talić, 1 June 1992); P1478 (Report to 1st Krajina Corps Command, Momir Talić, 6 June 1992), pp. 1, 3.

¹⁸⁶⁵ P267 (War record of the 6th Infantry Brigade, Colonel Branko Basara), p. 3.

¹⁸⁶⁶ P274 (Order on establishing discipline in the units of the 6th Partisan Brigade, Colonel Basara, 1 June 1992).

855. The Trial Chamber will now turn to incidents of destruction and misappropriation of property. Based on the Adjudicated Facts and having reviewed the evidence of Witness JF-010, the Trial Chamber finds that in April 1992, members of the SOS destroyed 28 businesses belonging to Muslims and Croats in the Sanski Most area. Considering the evidence of Witness JF-010 reviewed above, the Trial Chamber finds that the SOS did so at the orders of Colonel Aničić, Vlado Vrkeš, and the SDS municipal leadership. The Trial Chamber further finds that following the take-over of Sanski Most municipality, the SOS appropriated Muslim and Croat property and that, at the orders of the SDS municipal board and Colonel Aničić, the Sanski Most TO destroyed 14 mosques in Sanski Most municipality.

856. The Trial Chamber now turns to incidents of detention at five locations, namely the police station, Betonirka, the sports hall, the Krings/Krinks Hall, and Manjača. On the basis of the Adjudicated Facts, the Trial Chamber finds that from late May to August 1992 Sanski Most police detained at least 14 prominent Muslim and Croat civilians at the Sanski Most police station in poor conditions. On the same basis, having reviewed the evidence of Witness JF-010 and Witness JF-060, the Trial Chamber further finds that Serb forces under the command of a Sanski Most police officer detained at least 75 men, mostly Muslim and some Croat, at a facility known as Betonirka, right next to the police station, in poor conditions. Police officers severely beat and allowed others to severely beat the detainees at the police station and at Betonirka.

857. In view of the testimony of Witness JF-010 and Witness JF-060, the Trial Chamber finds that following the take-over of Sanski Most municipality, large numbers of Muslims were also detained at the sports hall in the centre of Sanski Most in poor conditions. Prior to the attack on Sanski Most, Aničić had ordered the Sanski Most TO to take prisoners to the sports hall of the secondary school.

858. The Trial Chamber further recalls its findings in relation to the Vrhpolje area of Sanski Most municipality in May-July 1992, above, that in July 1992, at least 600 persons were detained at the Krings/Krinks Hall in Sanski Most town in poor hygienic conditions and that Serb police officers beat the detainees there. Neither the Adjudicated Facts, nor Witness JF-010, nor Witness JF-060, nor Aničić's order, specify who detained the aforementioned persons at the sports hall and the Krings/Krinks Hall. Nonetheless, in light of the evidence reviewed above regarding the armed forces present in Sanski Most municipality, the Trial Chamber finds that Serb forces, being members of the 6th Brigade, the Sanski Most TO, the

police, the SOS, or other local Serb paramilitary groups, detained the persons at the sports hall and at the Krings/Krinks Hall in Sanski Most town.

859. In view of order P272, the Trial Chamber finds that on 4 June 1992, the Crisis Staff tasked Vručinić, Rašula, and Aničić with transferring to Manjača prisoners who they labelled as: politicians, extreme nationalists, or undesirables. Further, based on the SDS Crisis Staff's conclusions P271 and order P272 and the testimony of Witness JF-010 and Witness JF-060, the Trial Chamber finds that on or after 6 June 1992, Serb forces, including Sanski Most police officers, transferred at least 150 of the persons detained at the sports hall and Betonirka to a camp at Manjača.

860. The Trial Chamber will now address the remaining killing incidents in Sanski Most municipality. On the basis of the Adjudicated Facts, the Trial Chamber finds that on 1 August 1992, in the majority-Muslim village of Lukavica, a group of soldiers in olive-coloured uniforms with a red stripe pinned to their epaulettes broke into several houses and shot and killed at least 13 civilian men. Considering the evidence reviewed above, the Trial Chamber finds that the soldiers belonged to either the 6th Brigade, the Sanski Most TO, the SOS, or a local paramilitary group.

861. Based on the Adjudicated Facts, the Trial Chamber finds that between May and August 1992 in Sanski Most municipality Serb forces killed at least 88 Muslim civilians.

862. The Trial Chamber now turns to the convoys leaving Sanski Most municipality. On the basis of the Adjudicated Facts, the Trial Chamber finds that following negotiations between Bosnian-Muslim representatives and Bosnian-Serb municipal authorities and SDS representatives, at the beginning of August 1992 and on 2 and 3 September 1992, two convoys of a total of approximately 4,500 Muslim inhabitants of Sanski Most municipality, including men, women, children, and elderly left Sanski Most municipality for Travnik, in the Federation part of Bosnia-Herzegovina. Bosnian Serb police and military police escorted the convoy of 2 and 3 September 1992.

863. Having considered the totality of the Adjudicated Facts and evidence before it, and in light of the timing and locations of the events, the Trial Chamber finds that the approximately 4,500 Muslims left Sanski Most municipality at the beginning of August and on 2 and 3 September 1992 as a result of a combination of the following three sets of acts with regard to which the Trial Chamber has made findings above: first, the dismissals of Croats and Muslims from public office around April 1992; second, the artillery attacks, killings, detentions,

beatings, and misappropriation of property in villages in the Vrhpolje area from May through July 1992 by the perpetrators specified above; and third, the destruction of businesses and misappropriation of property by SOS, the destruction of mosques by Sanski Most TO members, and the detentions, beatings, and killings in Sanski Most town and throughout the municipality from April to August 1992 by the perpetrators specified above. In this respect, the Trial Chamber has considered that other circumstances, including the armed conflict and the selective disarming of non-Serbs, may have influenced the approximately 4,500 Muslims in their departure from Sanski Most municipality. Nonetheless, the Trial Chamber is satisfied that such additional factors do not affect its findings on the primary causes of their flight set out above. The Trial Chamber will further consider this incident in relation to Counts 1, 4, and 5 of the Indictment in chapter 4, below.

Killings, arbitrary arrest and detention, forced labour, torture, harassment, looting, rape and other forms of sexual abuse, and forced expulsions in Sanski Most municipality 1993-1995

864. The Trial Chamber has reviewed relevant evidence regarding incidents of forcible transfer and deportation in Sanski Most from 1993 through 1995 from several sources, including Witness JF-064 who testified about the killing of eleven non-Serb men near Trnova in Sanski Most municipality by members of the SDG in September 1995, as reviewed in chapter 3.6.1 and Witness B-1048 and Witness JF-060 who testified about the killing of 65 non-Serb detainees at Sasina in Sanski Most municipality by members of the SDG in September 1995, as reviewed in chapter 3.6.2.

865. Witness B-1048 and Witness JF-060 provided further relevant evidence, in addition to that reviewed in the aforementioned chapter. **Witness B-1048**, a Muslim from Kijevo in Sanski Most municipality,¹⁸⁶⁷ testified that starting from early 1993 and up to 1995, Bosnian Muslims and Croats, including the witness and his son were forced to work for the “Serb army” both within and outside Sanski Most municipality, to cut firewood, dig trenches, and carry ammunition.¹⁸⁶⁸

866. Witness B-1048 also testified about the events which occurred after the killing of 65 non-Serb detainees at Sasina in September 1995, which incident the Trial Chamber has reviewed in chapter 3.6.2. Following this incident, Witness B-1048 kept walking to Sanski Most. After around two hours he reached a hospital there, where his wounds were taken care

¹⁸⁶⁷ Witness B-1048, T. 3021; P171 (Witness B-1048, statement provided to local authorities, 8 November 1995), p. 1; D15 (Witness B-1048, statement provided to local authorities, 25 July 1996), p. 1.

of.¹⁸⁶⁹ He stayed in the hospital for about an hour and a half. He was given some sort of pass indicating that he could go home and that he should come back every other day to change his bandages.¹⁸⁷⁰ The witness testified that soon after he left the hospital, a car with some soldiers stopped him, the soldiers tore up the pass, and forced him to get in the trunk of the car.¹⁸⁷¹ The soldiers took him to a room in the Sanus hotel where some soldiers interrogated him.¹⁸⁷² He told the soldiers that he had been wounded at the front line.¹⁸⁷³

867. The soldiers took him to Šehovci where they demanded 1,000 DEM from him. When the witness told them that he did not have the money, they took him back to Sanski Most stopping the car where they had picked him up, outside the Sanus hotel. The witness was put in a boiler room in the hotel together with 35 other men, including Mirsad Ahmetegić, Elmir Aganović, and a man called Džafić, where he was held for five or six days.¹⁸⁷⁴ The room was about one and a half metres wide. The detainees were taken out and beaten and two of them died as a result of the beatings.¹⁸⁷⁵ Their bodies were left in the room for as long as the witness was detained there.¹⁸⁷⁶ During his detention, an armed person called Ranjić took the witness out, made him walk in a circle, and then told him that he would have to kill him. Ranjić was wearing a red beret and a camouflage uniform.¹⁸⁷⁷ After being detained in the Sanus hotel in Sanski Most, the witness was taken to a place in front of the building in Sanakeram in Usmane village.¹⁸⁷⁸ The witness and others were then lined up next to a wall of a building and made to raise their arms. Around 350 people were detained in a mess hall at

¹⁸⁶⁸ Witness B-1048, T. 3028-3030; P171 (Witness B-1048, statement provided to local authorities, 8 November 1995), p. 1.

¹⁸⁶⁹ Witness B-1048, T. 3050; P171 (Witness B-1048, statement provided to local authorities, 8 November 1995), p. 3.

¹⁸⁷⁰ Witness B-1048, T. 3050; P171 (Witness B-1048, statement provided to local authorities, 8 November 1995), p. 3.

¹⁸⁷¹ Witness B-1048, T. 3050; P171 (Witness B-1048, statement provided to local authorities, 8 November 1995), p. 3; D15 (Witness B-1048, statement provided to local authorities, 25 July 1996), p. 5.

¹⁸⁷² Witness B-1048, T. 3051; P171 (Witness B-1048, statement provided to local authorities, 8 November 1995), p. 3; D15 (Witness B-1048, statement provided to local authorities, 25 July 1996), p. 5. The Trial Chamber understands the old hotel mentioned in Witness B-1048's testimony to be the Sanus hotel.

¹⁸⁷³ Witness B-1048, T. 3052; P171 (Witness B-1048, statement provided to local authorities, 8 November 1995), p. 3.

¹⁸⁷⁴ Witness B-1048, T. 3052-3053, 3055-3056; P171 (Witness B-1048, statement provided to local authorities, 8 November 1995), p. 3; D15 (Witness B-1048, statement provided to local authorities, 25 July 1996), p. 6.

¹⁸⁷⁵ Witness B-1048, T. 3056; P171 (Witness B-1048, statement provided to local authorities, 8 November 1995), p. 3; D15 (Witness B-1048, statement provided to local authorities, 25 July 1996), pp. 6-7.

¹⁸⁷⁶ Witness B-1048, T. 3056; D15 (Witness B-1048, statement provided to local authorities, 25 July 1996), p. 7.

¹⁸⁷⁷ Witness B-1048, T. 3056-3057, 3071.

¹⁸⁷⁸ Witness B-1048, T. 3057; P171 (Witness B-1048, statement provided to local authorities, 8 November 1995), p. 3; D15 (Witness B-1048, statement provided to local authorities, 25 July 1996), p. 7.

Sanakeram. According to the witness, eleven people were killed the night before this detention centre was taken over by the ABiH on 10 October 1995.¹⁸⁷⁹

868. **Witness JF-060**, a Muslim from Sanski Most town,¹⁸⁸⁰ testified that during the entire occupation the non-Serbs, including the witness, were forced to work for the Serbs.¹⁸⁸¹ Witness JF-060 provided further details regarding his detention at the Sanus hotel in September 1995 prior to the killing of 65 non-Serb detainees at Sasina, in addition to the testimony the Trial Chamber has reviewed in chapter 3.6.2. Witness JF-060 further testified that upon their arrival at the Sanus hotel, Arkan ordered that Witness JF-060 and Topalović should have their heads shaved and then be punished with 25 blows each. The guards handcuffed Topalović and the witness and took them to the hotel lobby, where their heads were shaved. Then they were taken to a building opposite the hotel, where they were handcuffed to a column. In the car park, the witness saw four or five empty buses with licence plates starting with the letters VK, several military APCs, “Arkan soldiers”, and some civilians.¹⁸⁸² One of the two guards ordered a soldier to render the punishment on Topalović and the witness, and he delivered 25 blows using a “special police stick”. The witness lost consciousness several times during the beating, and afterwards he and Topalović were left standing against the columns while other soldiers occasionally hit them. While tied to the column, the witness saw Arkan leave the hotel for the car park on several occasions, swearing at the soldiers and yelling orders. The witness did not notice anyone else giving orders. After about one hour, when it was dark, the witness also saw Hakija Kasumović being tied to a column and beaten. At about 10 p.m., soldiers moved the witness and Topalović to a lamppost next to the hotel entrance, where they were occasionally beaten by passing soldiers.¹⁸⁸³

869. Sometime after midnight, a soldier brought the witness to a corridor full of people guarded by two other soldiers, while Topalović and Kasumović were left behind. When entering the corridor, the witness was ordered to look down, though he managed to see some of the people there, including the man who had shaved his head, Fadil Talić, and a woman called Nevka Alagić. At 3 or 4 a.m., guards took the witness and the other detainees through the hotel, to a small narrow room with a metal door and that was lined with pipes. The

¹⁸⁷⁹ Witness B-1048, T. 3057-3059; P169 (Video of the discovery of the killings at Sanakeram); P171 (Witness B-1048, statement provided to local authorities, 8 November 1995), p. 3; D15 (Witness B-1048, statement provided to local authorities, 25 July 1996), pp. 7-8.

¹⁸⁸⁰ P1797 (Witness JF-060, witness statement, 29 November 1996), pp. 1-2.

¹⁸⁸¹ P1797 (Witness JF-060, witness statement, 29 November 1996), p. 3.

¹⁸⁸² P1797 (Witness JF-060, witness statement, 29 November 1996), pp. 4-5.

¹⁸⁸³ P1797 (Witness JF-060, witness statement, 29 November 1996), p. 5.

detainees were not given any food or water and were constantly harassed and threatened by guards pretending to detonate hand-grenades in the room.¹⁸⁸⁴

870. Witness JF-060 also addressed the events which occurred after the killing of 65 non-Serb detainees at Sasina in September 1995, which incident the Trial Chamber has reviewed in chapter 3.6.2. The witness stated that, following those events, after reaching his house in Sanski Most and discovering that his family was no longer there, and that it was instead occupied by some people that he did not know, the witness spent two nights at the nearby garbage dump. He then decided to go to Šehovci where he found his family. People in the village were being organized into convoys leaving the village. However, at the Milin Birt checkpoint, the Serbs removed all men capable of military service, including the witness, and escorted them to the Sanakeram camp and after three days they were transported to Prijedor where the Serbs locked them up in the "Autotransport hall". A few days later, the witness was exchanged.¹⁸⁸⁵

871. The Trial Chamber will consider in turn the incidents involving Witness JF-064, Witness JF-060, and Witness B-1048. The Trial Chamber turns first to Witness JF-064. Based on the testimony of Witness B-1048 and Witness JF-060 reviewed above and the testimony of Witness JF-064 reviewed in chapter 3.6.1, the Trial Chamber finds that from early 1993 through 1995, members of the VRS forced Bosnian Muslims, Croats, and other non-Serbs, including Witness B-1048 and Witness JF-064, from Sanski Most municipality to carry out heavy labour.

872. The Trial Chamber recalls its findings on the killing of eleven non-Serb men near Trnova in Sanski Most municipality on or about 20 September 1995 by members of the SDG in chapter 3.6.1, and notes that Witness JF-064 survived this incident, although members of the SDG seriously wounded him. Based on the evidence of Witness JF-064 reviewed in that chapter, the Trial Chamber finds that, following and as a result of these events and as a result of the labour non-Serbs were forced to perform by the VRS, Witness JF-064, a Bosnian Muslim, left Sanski Most municipality and on 22 September 1995 travelled to Banja Luka and later to Tuzla. In this respect, the Trial Chamber has considered that other circumstances, including the witness's need for medical treatment, may have influenced his departure from Sanski Most. Nonetheless, the Trial Chamber is satisfied that such additional factors do not affect its findings on the primary cause of his flight set out above. The Trial Chamber will

¹⁸⁸⁴ P1797 (Witness JF-060, witness statement, 29 November 1996), p. 5.

¹⁸⁸⁵ P1797 (Witness JF-060, witness statement, 29 November 1996), p. 8.

further consider this incident in relation to Counts 1, 4, and 5 of the Indictment in chapter 4, below.

873. The Trial Chamber now turns to Witness JF-060 and Witness B-1048. The Trial Chamber will first consider the movement of persons from Kijevo to Poljak and Šehovci. Based on the evidence of Witness B-1048 reviewed in chapter 3.6.2, the Trial Chamber finds that on 18 or 19 September 1995, men in camouflage uniforms put the remaining Bosnian Muslims and Croats in Kijevo, including Witness B-1048, on trucks and insulted and beat them. The men in camouflage uniforms transported the men from Kijevo to Poljak and transported the women, elderly, and children to Šehovci. Witness B-1048 did not indicate to which armed group the men in camouflage uniforms belonged, did not see insignia on their uniforms, and testified that they included a local man from Sanski Most. Under these circumstances, the Trial Chamber is unable to determine with sufficient certainty to which armed group, if any, the perpetrators belonged.

874. The Trial Chamber will now consider the movement of persons from Šehovci onwards. Based on the evidence of Witness B-1048 and Witness JF-060 reviewed in chapter 3.6.2, and recalling its findings in the same Chapter, the Trial Chamber further finds that around 19 to 21 September 1995, in Šehovci, SDG members forced at least around 25 men, including Witness B-1048, onto a bus and transported them to the Sanus hotel in Sanski Most, where they had detained and severely beaten Witness JF-060 alongside 30 other detainees in a small room. SDG members then forced the detainees, including Witness JF-060, onto the same bus as Witness B-1048 and raped Nevzija Alagić.

875. The Trial Chamber further recalls its findings on the killing of 65 non-Serb detainees at Sasina in Sanski Most municipality on 19, 21, or 22 September 1995 by members of the SDG. Based on both witnesses' testimony in chapter 3.6.2, the Trial Chamber finds that while Witness B-1048 and Witness JF-060 survived this incident, members of the SDG shot at and seriously injured them.

876. Based on Witness JF-060's testimony reviewed in chapter 3.6.2, the Trial Chamber finds that following and as a result of these events and as a result of the labour non-Serbs were forced to perform by the VRS and the detentions, beatings, and rape of Nevzija Alagić committed by SDG members on which the Trial Chamber has made findings above, Witness JF-060, a Muslim, left Sanski Most town and travelled to Šehovci, where he met his family. At the end of September 1995, people left Šehovci in convoys, including Witness JF-060 and

his family. At a checkpoint, Serb forces separated the men of military age, including Witness JF-060, from the rest of the convoy and transported them to Sanakeram camp in Usmane village and then to a hall in Prijedor, after which Witness JF-060 was exchanged. In this respect, the Trial Chamber has considered that other circumstances, including that other persons had occupied his home in Sanski Most, may have influenced his departure from Sanski Most. Nonetheless, the Trial Chamber is satisfied that such additional factors do not affect its findings on the primary cause of his flight set out above. The Trial Chamber will further consider this incident with regard to Witness JF-060 in relation to Counts 1, 4, and 5 of the Indictment in chapter 4, below. The Trial Chamber has received insufficient evidence regarding the other persons leaving Šehovci in convoys at the end of September 1995 and will not further consider this part of the incident.

877. Based on Witness B-1048's testimony reviewed above, the Trial Chamber finds that following the events on which it has made findings in chapter 3.6.2, SDG members again arrested Witness B-1048, a Muslim, and took him back to the Sanus hotel. At the hotel, SDG members detained the witness alongside 35 other men in a small room and beat the detainees severely, beating two men to death. At the end of September 1995, SDG members took Witness B-1048 to Sanakeram camp in Usmane village, where he was detained until the ABiH took over the camp on 10 October 1995. The Trial Chamber will further consider this incident in relation to Counts 1, 4, and 5 of the Indictment in chapter 4.

3.7 Trnovo

3.7.1 Murder of six Muslim men and boys at Godinjske Bare in July 1995 (Indictment, para. 61)

878. According to the Indictment, in July 1995, certain Muslim men and boys who were captured after the fall of the Srebrenica enclave were taken to the base of the Skorpions at Trnovo. On the orders of Slobodan Medić, a.k.a. Boca, members of the Skorpions took six of these detainees by truck to a secluded rural area at Godinjske Bare. At this location, they shot and killed the six detainees. Acting on Medić's orders, members of the Skorpions videotaped the murders.¹⁸⁸⁶ In relation to these alleged murders the Trial Chamber heard relevant testimony from Witness JF-024 and Goran Stoparić, as well as from some of the victims' relatives, namely Osman Salkić, Saidin Salkić, Witness PW-125, and Ramzija Ibrahimović, and received relevant forensic documentation and video exhibit P2161.

879. **Osman Salkić, Saidin Salkić, Witness PW-125, and Ramzija Ibrahimović**, all Bosnian Muslims,¹⁸⁸⁷ described how their male relatives Sidik Salkić (1959), Beriz Salkić (1960), Azmir Alsipahić (1978), Safet Fejzić (1978), and Smajil Ibrahimović (1960) fled from the Srebrenica area in early July (some of them specified it as 11 July 1995) upon hearing that the Serb forces were taking over the area.¹⁸⁸⁸ The men, some still adolescents, fled separately from the women and children.¹⁸⁸⁹ None of these witnesses has seen their relatives again.¹⁸⁹⁰ All the witnesses were shown photographs, some after having recognized the relatives in a video footage that was publicly broadcast, and they all recognized their missing relatives.¹⁸⁹¹

¹⁸⁸⁶ Indictment, para. 61.

¹⁸⁸⁷ P1793 (Osman Salkić, witness statement, 4 December 2004), pp. 1-2; P2488 (Saidin Salkić, witness statement, 28 July 2005), p. 1, para. 4; Saidin Salkić, T. 11214; P1829 (Witness PW-125, witness statement, 5 December 2004), pp. 1-2; P1831 (Witness PW-125, *Popović* transcript, 31 October 2006), p. 3304; P1868 (Ramzija Ibrahimović, witness statement, 1 August 2005), p. 1.

¹⁸⁸⁸ P1793 (Osman Salkić, witness statement, 4 December 2004), pp. 2, 4; P2488 (Saidin Salkić, witness statement, 28 July 2005), paras 4-5; Saidin Salkić, T. 11214, 11218; P2508 (Map of the Srebrenica region annotated by Saidin Salkić); P1829 (Witness PW-125, witness statement, 5 December 2004), p. 2; P1831 (Witness PW-125, *Popović* transcript, 31 October 2006), pp. 3305, 3308-3309; P1868 (Ramzija Ibrahimović, witness statement, 1 August 2005), paras 1, 4, 7.

¹⁸⁸⁹ P1793 (Osman Salkić, witness statement, 4 December 2004), p. 4; P2488 (Saidin Salkić, witness statement, 28 July 2005), para. 6; Saidin Salkić, T. 11214, 11218; P2508 (Map of the Srebrenica region annotated by Saidin Salkić); P1829 (Witness PW-125, witness statement, 5 December 2004), p. 2; P1831 (Witness PW-125, *Popović* transcript, 31 October 2006), pp. 3308-3309; P1868 (Ramzija Ibrahimović, witness statement, 1 August 2005), para. 4.

¹⁸⁹⁰ P1793 (Osman Salkić, witness statement, 4 December 2004), p. 4; P2488 (Saidin Salkić, witness statement, 28 July 2005), para. 5; Saidin Salkić, T. 11214; P1829 (Witness PW-125, witness statement, 5 December 2004), p. 2; P1868 (Ramzija Ibrahimović, witness statement, 1 August 2005), para. 4.

¹⁸⁹¹ P1793 (Osman Salkić, witness statement, 4 December 2004), p. 5; P1796 (Photographs admitted through Osman Salkić), pp. 1-5; P2488 (Saidin Salkić, witness statement, 28 July 2005), para. 12; P2489 (Photographs referred to by Saidin Salkić), pp. 1-2; P1829 (Witness PW-125, witness statement, 5 December 2004), p. 3;

In some cases, they also recognized the clothing in which they had seen them last.¹⁸⁹² The photographs shown to the witnesses¹⁸⁹³ were stills taken from video exhibit P2161, depicting the Skorpions' Trnovo operation, including footage of the alleged murder of six men.¹⁸⁹⁴ P2161 and these stills show that the six men were wearing civilian clothes and were unarmed.

880. **Witness JF-024**, a Serb from Croatia,¹⁸⁹⁵ testified that after the Velika Kladuša operation, the Skorpions unit under the command of Slobodan Medić, a.k.a. Boca, went to Trnovo in Bosnia-Herzegovina for an operation.¹⁸⁹⁶ The witness learnt about the alleged murder by watching a video tape of the Skorpions' Trnovo operation, which the Trial Chamber understands to be identical to video exhibit P2161, and hearing about it from the Skorpion members participating in the operation.¹⁸⁹⁷ According to the witness, in late July 1995, Slobodan Medić ordered Pero Opačić, a.k.a. Čoke, to prepare buses and trucks and ordered two men, Đuro Meleusić and a person called Braco, to take a civilian bus and an army truck and drive to Srebrenica.¹⁸⁹⁸ The truck, which was provided to the Skorpions by Milan Milanović and General Lončar, had its license plates removed before the unit left for Bosnia-Herzegovina.¹⁸⁹⁹ The witness testified that, on the orders of a superior unknown to the witness, the bus and truck were used to bring groups of captured prisoners, referred to as "packages", from Srebrenica to different locations to be killed.¹⁹⁰⁰ Medić told the Skorpions that the last group of prisoners transported from Srebrenica was for them and then ordered some of the men, including his own bodyguards, to take the prisoners away and kill them.¹⁹⁰¹ Medić also sent a cameraman, Slobodan Stojković, a.k.a. Bugar, to film the entire event.¹⁹⁰² Upon being shown video exhibit P2161, the witness recognized the men escorting the six

P1831 (Witness PW-125, *Popović* transcript, 31 October 2006), p. 3314; P1868 (Ramzija Ibrahimović, witness statement, 1 August 2005), paras 7, 9; P1780 (Video stills depicting a man in a black leather jacket, a blue shirt, and dark trousers).

¹⁸⁹² P1868 (Ramzija Ibrahimović, witness statement, 1 August 2005), para. 9; P1780 (Video stills depicting a man in a black leather jacket, a blue shirt, and dark trousers).

¹⁸⁹³ P1796 (Photographs admitted through Osman Salkić), pp. 1-5; P2489 (Photographs referred to by Saidin Salkić), pp. 1-2; P1870 (Video stills depicting a man in a black leather jacket, a blue shirt, and dark trousers).

¹⁸⁹⁴ P2146 (Witness JF-024, witness statement, 17 February 2005), paras 77, 79, 86, 88.

¹⁸⁹⁵ P2146 (Witness JF-024, witness statement, 17 February 2005), paras 4-6; P2147 (Witness JF-024, witness statement, 25 May 2005), pp. 1-2; P2148 (Witness JF-024, witness statement, 31 May 2005), p. 1; P2149 (Witness JF-024, witness statement, 7 October 2010), p. 1.

¹⁸⁹⁶ P2146 (Witness JF-024, witness statement, 17 February 2005), paras 50, 65, 69, 87-88; Witness JF-024, T. 11092-11093, 11191-11192; Witness JF-024, T. 11028, 11048.

¹⁸⁹⁷ P2146 (Witness JF-024, witness statement, 17 February 2005), para. 79; P2147 (Witness JF-024, witness statement, 25 May 2005), paras 8-10.

¹⁸⁹⁸ P2146 (Witness JF-024, witness statement, 17 February 2005), para. 76; Witness JF-024, T. 11139.

¹⁸⁹⁹ P2146 (Witness JF-024, witness statement, 17 February 2005), para. 76.

¹⁹⁰⁰ P2146 (Witness JF-024, witness statement, 17 February 2005), paras 77-78.

¹⁹⁰¹ P2146 (Witness JF-024, witness statement, 17 February 2005), para. 78; Witness JF-024, T. 11138.

¹⁹⁰² P2146 (Witness JF-024, witness statement, 17 February 2005), para. 88; P2147 (Witness JF-024, witness statement, 25 May 2005), para. 7; Witness JF-024, T. 11028.

captured male Muslims, who had their hands tied behind their backs, as a person known as Šiptar, Pero Petrašević, Branislav Medić, a.k.a. Čipa, Milorad Momić, Aleksandar Medić, Slobodan Davidović, Stojković, a person called Saša, a.k.a. Vuk, and two Skorpion Reconnaissance members, one of them a person called Branislav.¹⁹⁰³ Petrašević, Branislav Medić, Momić, Aleksandar Medić, and Davidović took the six captured male Muslims to a grassy area beside an abandoned house, and forced them to move through the grass on their knees.¹⁹⁰⁴ They insulted the captured men, referring to their Muslim faith.¹⁹⁰⁵ Petrašević killed the first three captured men and Branislav Medić killed the fourth.¹⁹⁰⁶ The two remaining captured prisoners got up from lying in the grass and Branislav Medić untied their hands.¹⁹⁰⁷ After Davidović shot the four dead bodies in the head, the two remaining prisoners carried the dead bodies.¹⁹⁰⁸ Branislav Medić then killed the two prisoners inside the abandoned house.¹⁹⁰⁹ The witness testified that ten copies of the footage of the event were distributed to Slobodan Medić and his bodyguards.¹⁹¹⁰ Days after the Skorpions returned to Đeletovci, they watched the video in the command room of the camp.¹⁹¹¹ The witness testified that during a later operation, Medić tried to collect all the tapes and destroy them.¹⁹¹²

881. **Goran Stoparić**, a former member of the Skorpions¹⁹¹³ testified that a few days after the fall of Srebrenica, at Treskavica near Sarajevo, from a distance of 100 metres, he saw a bus with about 60 civilians from Srebrenica, who the witness assumed were Muslims, arrive escorted by men from the Doboj CSB.¹⁹¹⁴ The CSB told Slobodan Medić that the civilians

¹⁹⁰³ P2146 (Witness JF-024, witness statement, 17 February 2005), para. 88; P2148 (Witness JF-024, witness statement, 31 May 2005), pp. 2-3; Witness JF-024, T. 11042-11045; P2153 (Witness JF-024 comments on Pauk Video and Skorpion Video), pp. 11-12; P2161 (Video of Trnovo Skorpion operation), 1'38''46-1'57''44.

¹⁹⁰⁴ P2146 (Witness JF-024, witness statement, 17 February 2005), para. 88; P2148 (Witness JF-024, witness statement, 31 May 2005), pp. 2-3; Witness JF-024, T. 11136; P2153 (Witness JF-024 comments on Pauk Video and Skorpion Video), p. 12; P2161 (Video of Trnovo Skorpion operation), 1'38''46-1'57''44.

¹⁹⁰⁵ P2161 (Video of Trnovo Skorpion operation).

¹⁹⁰⁶ P2146 (Witness JF-024, witness statement, 17 February 2005), para. 88; Witness JF-024, T. 11133; P2153 (Witness JF-024 comments on Pauk Video and Skorpion Video), pp. 12-13; P2161 (Video of Trnovo Skorpion operation), 1'38''46-1'57''44.

¹⁹⁰⁷ P2146 (Witness JF-024, witness statement, 17 February 2005), para. 88; P2153 (Witness JF-024 comments on Pauk Video and Skorpion Video), p. 12; P2161 (Video of Trnovo Skorpion operation), 1'38''46-1'57''44.

¹⁹⁰⁸ P2146 (Witness JF-024, witness statement, 17 February 2005), para. 88; Witness JF-024, T. 11046-11047; P2153 (Witness JF-024 comments on Pauk Video and Skorpion Video), p. 13; P2161 (Video of Trnovo Skorpion operation), 1'38''46-1'57''44.

¹⁹⁰⁹ P2146 (Witness JF-024, witness statement, 17 February 2005), para. 88; P2153 (Witness JF-024 comments on Pauk Video and Skorpion Video), p. 14; P2161 (Video of Trnovo Skorpion operation), 1'38''46-1'57''44.

¹⁹¹⁰ P2147 (Witness JF-024, witness statement, 25 May 2005), para. 9; Witness JF-024, T. 11048.

¹⁹¹¹ P2147 (Witness JF-024, witness statement, 25 May 2005), para. 10; Witness JF-024, T. 11048

¹⁹¹² P2146 (Witness JF-024, witness statement, 17 February 2005), para. 80.

¹⁹¹³ P1702 (Goran Stoparić, witness statement, 24 November 2003), paras 68, 77; Goran Stoparić, T. 10327.

¹⁹¹⁴ P1702 (Goran Stoparić, witness statement, 24 November 2003), para. 105; P1703 (Goran Stoparić, witness statement, 20 January 2005), paras 5, 8; P1704 (Goran Stoparić, corrections to witness statements, 13 December 2010), p. 2; Goran Stoparić, T. 10476.

were his “share” and explained that civilians were being distributed for killings so as not to have too many killed in one place.¹⁹¹⁵ After the CSB members left, Medić ordered that six of the civilians be taken to the front line to be disposed of.¹⁹¹⁶ Around four to five kilometres from the Skorpions’ makeshift base, the civilians were lined up lying face down on the side of the road and eventually shot.¹⁹¹⁷ Stoparić was 200 metres away from the killings and could not see everything clearly. Having watched video exhibit P2161, Stoparić testified that Miodrag Momić did most of the killings while Slobodan Stojković a.k.a. Bugar filmed them.¹⁹¹⁸ The other perpetrators were Pera Petrašević, Branislav Medić, a.k.a. Zekan, Aleksandar Medić, and a Croat named Bodo.¹⁹¹⁹

882. According to forensic documentation, the remains of six males, identified as Safet Fejzić (1978) who was registered as a missing person on 11 July 1995, Azmir Alispahić (1978), Smajil Ibrahimović (1960), Sidik Salkić (1959), Juso Delić (1970), and Dino Salihović (1979) were exhumed in Godinjske Bare, Trnovo municipality, in April 1999.¹⁹²⁰ The bodies were dressed in civilian clothes, the hands of at least one of them were tied, and the cause of death for the victims was found to be destruction of the brain tissue, caused by bullets fired from a handheld firearm.¹⁹²¹ The parties agreed on the identities of these six victims found in Trnovo.¹⁹²²

883. On the basis of the agreed facts and the testimony of Witness JF-024 and Goran Stoparić, the forensic documentation, and video exhibit P2161, the Trial Chamber finds that in July 1995, approximately four or five kilometres from the Skorpions’ base in the Trnovo area, members of the Skorpions unit, which included Pero Petrašević, Branislav “Zekan” or

¹⁹¹⁵ P1702 (Goran Stoparić, witness statement, 24 November 2003), para. 105; P1703 (Goran Stoparić, witness statement, 20 January 2005), para. 6.

¹⁹¹⁶ P1703 (Goran Stoparić, witness statement, 20 January 2005), para. 12; Goran Stoparić, T. 10462.

¹⁹¹⁷ P1702 (Goran Stoparić, witness statement, 24 November 2003), para. 105; P1703 (Goran Stoparić, witness statement, 20 January 2005), para. 13; Goran Stoparić, T. 10466.

¹⁹¹⁸ P1702 (Goran Stoparić, witness statement, 24 November 2003), para. 105; P1703 (Goran Stoparić, witness statement, 20 January 2005), paras 9-10, 13; Goran Stoparić, T. 10361, 10462; P1705 (Clip of Skorpions video), at 0:07.

¹⁹¹⁹ Goran Stoparić, T. 10462-10463.

¹⁹²⁰ P2162 (Forensic documentation for Safet Fejzić, 2003), first document, p. 2, second document, p. 1; P2163 (Letter regarding the exhumation, autopsy, and identification of Azmir Alispahić and Safet Fejzić, 30 December 2004); P2164 (Forensic documentation for Safet Fejzić and Azmir Alispahić, 2003- 2005), first document, pp. 2-3; P2226 (Forensic documentation for Smajil Ibrahimović, Sidik Salkić, Juso Delić, and Dino Salihović, 2006-2008), first document, p. 1; P2570 (Order for exhumation and autopsy, 25 March 1999); P2571 (Exhumation photo-file record, 18 May 1999); P2572 (Exhumation and autopsy report, 28 April 1999); P2573 (On-site investigation report, 18 May 1999).

¹⁹²¹ P2571 (Exhumation photo-file record, 18 May 1999), p. 4; P2575 (Expert interview record, 28 September 1999), pp. 4, 6-9, 11, 13-14, 16.

¹⁹²² Decision on Motion for Admission of Agreed Facts, 12 January 2011; First Joint Motion for Admission of Agreed Facts Between the Prosecution and the Stanišić Defence, 16 February 2010, Annex A, Part N.

“Čipa” Medić, Miodrag Momić, Aleksandar Medić, and Slobodan “Bodo” Davidović, shot and killed six persons, namely Safet Fejzić, Azmir Alispahić, Smajil Ibrahimović, Sidik Salkić, Juso Delić, and Dino Salihović. Based on the evidence received, in particular the testimony of the victims’ relatives Osman Salkić, Saidin Salkić, Witness PW-125, and Ramzija Ibrahimović, all being Bosnian Muslims, on the circumstances of the victims’ flight from Srebrenica, the Trial Chamber finds that all six victims were Muslim. At the time of the killing, all six victims wore civilian clothes and were unarmed. At least four of them also had their hands tied. Prior to killings, the perpetrators insulted the victims, referring to their Muslim faith. The Trial Chamber further finds that prior to the incident, Slobodan “Boca” Medić had ordered the Skorpion members to kill the six victims, who had been captured. The Trial Chamber acknowledges that neither Witness JF-024 nor Goran Stoparić were present at the site of the incident, but considers their testimonies reliable, in particular when considered alongside video exhibit P2161. The Trial Chamber will further consider this incident in relation to Counts 1, 2, and 3 of the Indictment in chapter 4, below.

3.8 Zvornik

3.8.1 Murder of approximately 20 non-Serb civilians in Zvornik on or about 8 April 1992

(Indictment, para. 62)

884. According to the Indictment, on or about 8 April 1992, Serb forces (as defined in paragraph 6 of the Indictment), particularly Željko Ražnatović and members of the SDG, attacked and took control of Zvornik. During this attack, they killed approximately 20 non-Serb civilians.¹⁹²³ The Trial Chamber has heard relevant testimony from Witness JF-007 and received forensic documentation in relation to the alleged murders.

885. **Witness JF-007**, a Bosnian Muslim woman who lived in Zvornik in 1992 with her husband and her two sons,¹⁹²⁴ testified that in the afternoon of 8 April 1992, she and her neighbours, all of whom were Muslim, except for one Croat, decided to go to the shelter in their building as shelling on Zvornik had started. At about 10 a.m. the next day, those who had hid in the shelter heard a loud detonation and the heavy door of the basement flew open. Between seven and ten armed men wearing black camouflage uniforms and black woollen hats, which had been rolled down to form masks, entered the room and threatened the people in the shelter. The soldiers, who spoke with an accent different than the one spoken in Zvornik, ordered the men out of the shelter.¹⁹²⁵ The witness believed that they were Arkan's men as they introduced themselves as such and she had seen Arkan training men in the same uniforms on television.¹⁹²⁶ Once the men were taken out, another group of men wearing green suits of different shades and not wearing masks came in the shelter and introduced themselves as "Šešelj's men", who claimed that they had come to defend the people while Arkan's men were killing the people.¹⁹²⁷ According to the witness, Arkan's men took Zvornik in three or four days and, as they moved on, Šešelj's men "finished it off". They also spoke differently than local Serbs. As the women and children were rushed out of the basement, the witness, being the last one to come out, could see the men lined up against the wall of her apartment block, with their hands on their heads.¹⁹²⁸ As the witness walked past the men, she tried to

¹⁹²³ Indictment, para. 62.

¹⁹²⁴ P113 (Witness JF-007, witness statement, 29 September 1996), pp. 1-2; P111 (Witness JF-007, prior testimony), pp. 5949-5950; D9 (Witness JF-007, witness statement to local authorities, 3 February 2003), p. 1.

¹⁹²⁵ P113 (Witness JF-007, witness statement, 29 September 1996), p. 3; P111 (Witness JF-007, prior testimony), pp. 5954-5956; Witness JF-007, T. 2598.

¹⁹²⁶ P111 (Witness JF-007, prior testimony), p. 5956; see also Witness JF-007, T. 2569-2571, 2599.

¹⁹²⁷ P111 (Witness JF-007, prior testimony), pp. 5955-5956; Witness JF-007, T. 2603-2604, 2606. See also P111 (Witness JF-007, prior testimony), p. 5971.

¹⁹²⁸ P113 (Witness JF-007, witness statement, 29 September 1996), p. 3; P111 (Witness JF-007, prior testimony), pp. 5957-5959, 5971.

turn around but one of the men in the second group prodded her with an automatic rifle and told her that she must not turn around. She was only able to see one Croat.¹⁹²⁹ The witness then heard shooting, which was not directed at the women and children.¹⁹³⁰ According to the witness, Arkan's men carried out the shooting and went from house to house killing men.¹⁹³¹ Witness JF-007 never saw any of the 12 men who were with her at the shelter again: these were Hajrudin Delić, Sead Hidić, Senad Hidić, Šemsudin Ahmetović, Nusret Ahmetović, an elderly man known as "Dedo", Samir Bilalić, Senad Bilalić, Sabit Bilalić, Ivo Kojić, Fahrudin Alajbegović and Edhem Hadžić.¹⁹³² The witness asserted that none of these 12 men had any military status or TO affiliation.¹⁹³³

886. Later that day, the witness met other local women from her neighbourhood who told her that they had seen dead bodies of the men who were taken out of the basement lying in front of the witness's apartment building. Also on that day, Witness JF-007 saw the dead bodies of two men, Hakija Šehić, a tailor, and Izet, a veterinary surgeon. Thereafter, during a bus journey to Karakaj, Witness JF-007 saw dead bodies every three or four metres, among which she recognized the body of Fehim Kujundžić.¹⁹³⁴ Seven or eight days later, witness JF-007 went to the wall, underneath her balcony, where the men from the shelter had been lined up on 8 April 1992. There, she saw bullet holes, a lot of blood, her husband's cap, as well as one of her son's trainers.¹⁹³⁵

887. According to forensic documentation, the remains of the following eleven persons were identified after having been exhumed in May 2008 from Karakaj or Kazanbašča, both in Zvornik municipality: Mevludin Ahmetović, a.k.a. Šemsudin, Nusret Ahmetović, Fahrudin Alajbegović, Sabit Bilalić, Samir Bilalić, Senad Bilalić, Edhem Hadžić, Sejad Hidić, Senad Hidić, Ivo Kojić, and "Dedo" Krtićić.¹⁹³⁶ Of these eleven persons, eight had, at least possible,

¹⁹²⁹ P111 (Witness JF-007, prior testimony), pp. 5957-5958.

¹⁹³⁰ P113 (Witness JF-007, witness statement, 29 September 1996), p. 3; P111 (Witness JF-007, prior testimony), pp. 5957-5958.

¹⁹³¹ P111 (Witness JF-007, prior testimony), p. 5958.

¹⁹³² P113 (Witness JF-007, witness statement, 29 September 1996), p. 3; P111 (Witness JF-007, prior testimony), p. 5968; D9 (Witness JF-007, witness statement to local authorities, 3 February 2003), p. 2.

¹⁹³³ P111 (Witness JF-007, prior testimony), p. 5962.

¹⁹³⁴ P113 (Witness JF-007, witness statement, 29 September 1996), p. 4; P111 (Witness JF-007, prior testimony), pp. 5961-5962, 5966-5967; P114 (Witness JF-007, addendum to statement, 3 September 2003), p. 1.

¹⁹³⁵ P113 (Witness JF-007, witness statement, 29 September 1996), p. 5; P111 (Witness JF-007, prior testimony), p. 5966.

¹⁹³⁶ P2301 (Record of exhumations, 22-25 May 2008), pp. 2-6; P2302 (Record of identification for Mevludin Ahmetović, 24 December 2008); P2303 (Record of identification for Nusret Ahmetović, 24 December 2008); P2304 (Record of identification for Fahrudin Alajbegović, 26 November 2008); P2305 (Record of identification for Sabit Bilalić, 23 December 2008); P2306 (Record of identification for Samir Bilalić, 23 December 2008); P2307 (Record of identification for Senad Bilalić, 23 December 2008); P2308 (Record of identification for "Dedo" Krtićić, 19 February 2009); P2309 (Record of identification for Edhem Hadžić, 20 January 2006); P2310

gunshot or head wounds and seven wore civilian clothes.¹⁹³⁷ In July 2010, Hajrudin Delić was registered as missing as of April 1992.¹⁹³⁸ The Trial Chamber has received further forensic documentation in relation to the remains of the following 13 persons who were also identified after having been exhumed in May 2008 from Karakaj or Kazanbašča: Šemsudin Avdić, Hasan Dušković, Salem Džonlić, Faruk Hadžiefendić, Mensura Hadžiefendić, Mihdat Halilbašić, Asim Hudović, Taib Hudović, Fehim Kujundžić, Izet Sabirović, Hakija Šehić (1930), Hakija Šehić (1934), and Faruk Uzunić, and a certificate of missing persons for Hazim Hadžiavdić.¹⁹³⁹ According to this documentation, these persons died or went missing on 8 or 9 April 1992.¹⁹⁴⁰ The parties agree on the identities of 18 of the above persons.¹⁹⁴¹

(Record of identification for Sejad Hidić, 23 December 2008); P2311 (Record of identification for Senad Hidić, 23 December 2008); P2312 (Record of identification for Taib Hudović, 22 December 2008); P2314 (Record of identification for Ivo Kojić, 23 December 2008); P2326 (Forensic report for Mevludin Ahmetović, 11 July 2008), pp. 1-2; P2327 (Forensic report for Nusret Ahmetović, 11 July 2008), pp. 1, 3; P2328 (Forensic report for Fahrudin Alajbegović, 10 July 2008), p. 1; P2329 (Forensic report for Sabit Bilalić, 10 July 2008), p. 1; P2330 (Forensic report for Samir Bilalić, 10 July 2008), pp. 1, 3; P2331 (Forensic report for Senad Bilalić, 10 July 2008), p. 1; P2332 (Forensic report for “Dedo” Krtićić, 10 July 2008), pp. 1-2; P2333 (Forensic report for Edhem Hadžić, 14 February 2004), pp. 1-2; P2334 (Forensic report for Sejad Hidić, 10 July 2008), p. 1; P2334 (Forensic report for Senad Hidić, 10 July 2008), pp. 1-3; P2336 (Forensic report for Taib Hudović, 10 July 2008), pp. 1, 3; P2338 (Forensic report for Ivo Kojić, 10 July 2008), p. 1.

¹⁹³⁷ P2301 (Record of exhumations, 22-25 May 2008), pp. 2-6; P2302 (Record of identification for Mevludin Ahmetović, 24 December 2008); P2303 (Record of identification for Nusret Ahmetović, 24 December 2008); P2304 (Record of identification for Fahrudin Alajbegović, 26 November 2008); P2305 (Record of identification for Sabit Bilalić, 23 December 2008); P2306 (Record of identification for Samir Bilalić, 23 December 2008); P2307 (Record of identification for Senad Bilalić, 23 December 2008); P2308 (Record of identification for “Dedo” Krtićić, 19 February 2009); P2309 (Record of identification for Edhem Hadžić, 20 January 2006); P2310 (Record of identification for Sejad Hidić, 23 December 2008); P2311 (Record of identification for Senad Hidić, 23 December 2008); P2312 (Record of identification for Taib Hudović, 22 December 2008); P2314 (Record of identification for Ivo Kojić, 23 December 2008); P2326 (Forensic report for Mevludin Ahmetović, 11 July 2008), pp. 1-2; P2327 (Forensic report for Nusret Ahmetović, 11 July 2008), pp. 1, 3; P2328 (Forensic report for Fahrudin Alajbegović, 10 July 2008), p. 1; P2329 (Forensic report for Sabit Bilalić, 10 July 2008), p. 1; P2330 (Forensic report for Samir Bilalić, 10 July 2008), pp. 1, 3; P2331 (Forensic report for Senad Bilalić, 10 July 2008), p. 1; P2332 (Forensic report for “Dedo” Krtićić, 10 July 2008), pp. 1-2; P2333 (Forensic report for Edhem Hadžić, 14 February 2004), pp. 1-2; P2334 (Forensic report for Sejad Hidić, 10 July 2008), p. 1; P2334 (Forensic report for Senad Hidić, 10 July 2008), pp. 1-3; P2336 (Forensic report for Taib Hudović, 10 July 2008), pp. 1, 3; P2338 (Forensic report for Ivo Kojić, 10 July 2008), p. 1.

¹⁹³⁸ P2345 (Certificate for missing persons for Hajrudin Delić, 23 July 2010).

¹⁹³⁹ P2301 (Record of exhumation, 22-25 May 2008), pp. 1-7; P2313 (Record of identification for Asim Hudović, 22 December 2008); P2315 (Record of identification for Fehim Kujundžić, 24 December 2008); P2316 (Record of identification for Izet Sabirović, 11 December 2008); P2317 (Record of identification for Hakija Šehić, 11 December 2008); P2318 (Record of identification for Šemsudin Avdić, 24 December 2008); P2319 (Record of identification for Hasan Dušković, 22 December 2008); P2320 (Record of identification for Salem Džonlić, 22 December 2008); P2321 (Record of identification for Faruk Hadžiefendić, 24 December 2008); P2322 (Record of identification for Mensura Hadžiefendić, 24 December 2008); P2323 (Record of identification for Mihdat Halilbašić, 22 December 2008); P2324 (Record of identification for Faruk Uzunić, 22 December 2008); P2325 (Record of identification for Hakija Šehić, 19 February 2009); P2337 (Forensic report for Asim Hudović, 10 July 2008); P2339 (Forensic report for Fehim Kujundžić, 11 July 2008), p. 1; P2340 (Forensic report for Izet Sabirović, 10 July 2008), p. 1; P2341 (Forensic report for Hakija Šehić, 11 July 2008), p. 1; P2344 (Certificate for missing persons for Hazim Hadžiavdić, 23 July 2010).

¹⁹⁴⁰ P2301 (Record of exhumation, 22-25 May 2008), pp. 1-7; P2313 (Record of identification for Asim Hudović, 22 December 2008); P2315 (Record of identification for Fehim Kujundžić, 24 December 2008); P2316 (Record of identification for Izet Sabirović, 11 December 2008); P2317 (Record of identification for Hakija Šehić, 11 December 2008); P2318 (Record of identification for Šemsudin Avdić, 24 December 2008); P2319

888. The Trial Chamber notes in relation to Witness JF-007 that exhibit D9 is a statement purportedly made by the witness to local Bosnia-Herzegovina authorities on 3 February 2003.¹⁹⁴² Witness JF-007 denied having given a statement to local authorities, but acknowledged the signature on the document as hers.¹⁹⁴³ The Trial Chamber does not consider this to detract from the overall credibility and reliability of Witness JF-007's testimony.

889. Based on the evidence of Witness JF-007 and the forensic documentation, the Trial Chamber finds that on or about 8 April 1992, in Zvornik, members of the SDG, or of Šešelj's men, or of both groups, shot and killed eleven men, namely Mevludin Ahmetović a.k.a. Šemsudin, Nusret Ahmetović, Fahrudin Alajbegović, Sabit Bilalić, Samir Bilalić, Senad Bilalić, Edhem Hadžić, Sead Hidić, Senad Hidić, Ivo Kojić, and "Dedo" Krtićić. At least six of the men wore civilian clothes. None of the men had any military status or TO affiliation. Prior to killing them, the perpetrators lined the men up against a wall with their hands on their heads. Of the eleven men killed, ten were of Muslim ethnicity and one was of Croat ethnicity.

890. According to Witness JF-007, Hajrudin Delić was lined up alongside the aforementioned eleven men who were shot by SDG members in Zvornik on or around 8 April 1992. In 2010, Hajrudin Delić was registered as missing since 9 April 1992. Based on this evidence, the Trial Chamber finds that the same perpetrators also killed Hajrudin Delić, a Muslim, in Zvornik on or about 8 April 1992. The Trial Chamber will further consider this part of the incident in relation to Counts 1, 2, and 3 of the Indictment in chapter 4, below.

891. Witness JF-007's testimony, the forensic documentation, and the missing persons certificate suggest that the following persons were killed or went missing on 8 or 9 April 1992: Šemsudin Avdić, Hasan Dušković, Salem Džonlić, Hazim Hadživdić, Faruk

(Record of identification for Hasan Dušković, 22 December 2008); P2320 (Record of identification for Salem Džonlić, 22 December 2008); P2321 (Record of identification for Faruk Hadžiefendić, 24 December 2008); P2322 (Record of identification for Mensura Hadžiefendić, 24 December 2008); P2323 (Record of identification for Mihdat Halilbašić, 22 December 2008); P2324 (Record of identification for Faruk Uzunić, 22 December 2008); P2325 (Record of identification for Hakija Šehić, 19 February 2009); P2337 (Forensic report for Asim Hudović, 10 July 2008); P2339 (Forensic report for Fehim Kujundžić, 11 July 2008), p. 1; P2340 (Forensic report for Izet Sabirović, 10 July 2008), p. 1; P2341 (Forensic report for Hakija Šehić, 11 July 2008), p. 1; P2344 (Certificate for missing persons for Hazim Hadživdić, 23 July 2010).

¹⁹⁴¹ Decision on motion for admission of agreed facts, 12 January 2011; First Joint Motion for Admission of Agreed Facts between the Prosecution and the Stanišić Defence, 16 February 2010, Annex A, Part K. These 18 are: Mevludin Ahmetović, a.k.a. Šemsudin, Nusret Ahmetović, Fahrudin Alajbegović, Sabit Bilalić, Samir Bilalić, Senad Bilalić, "Dedo" Krtićić, Edhem Hadžić, Sejad Hidić, Senad Hidić, Ivo Kojić, Hajrudin Delić, Asim Hudović, Taib Hudović, Fehim Kujundžić, Izet Sabirović, Hakija Šehić, and Hazim Hadživdić.

¹⁹⁴² D9 (Statement purportedly given by Witness JF-007, Bosnia-Herzegovina Sarajevo Intelligence and Security Service, 3 February 2003).

Hadžiefendić, Mensura Hadžiefendić, Mihdat Halilbašić, Asim Hudović, Taib Hudović, Fehim Kujundžić, Izet Sabirović, Hakija Šehić (1930), Hakija Šehić (1934), and Faruk Uzunić. However, the forensic documentation is based, at least in part, on information provided by relatives whose sources of knowledge are unclear. The Trial Chamber has received insufficient evidence as to the circumstances under which the aforementioned persons died. The Trial Chamber will not further consider this part of the incident.

3.8.2 Incidents of deportation and forcible transfer

892. According to the Indictment, the attacks, killings, arbitrary arrest and detention, burnings of Catholic churches and mosques, forced labour, torture, harassment, use of human shields, looting, rape and other forms of sexual abuse, as well as the threat of further persecutory acts, which targeted non-Serb civilians in Zvornik municipality from no later than April 1991 until 31 December 1995, caused the non-Serb population to flee.¹⁹⁴⁴ The forcible transfer and deportation took different forms, including forced expulsions.¹⁹⁴⁵

893. In this chapter, the Trial Chamber will begin by reviewing the Adjudicated Facts and evidence regarding the ethnic composition of and changes in the population of Zvornik municipality from 1991 to 1997. Then, the Trial Chamber will turn to the alleged incidents. In this respect, the Trial Chamber will first review the Adjudicated Facts and evidence regarding the take-over of Zvornik town on 8 April 1992, including attacks, destruction of Muslim monuments, arbitrary arrest and detention, killings, and forcible transfer of the Muslim population in April and May 1992. Second, the Trial Chamber will examine the Adjudicated Facts and evidence on the attack on Divič and forcible transfer of its residents in April and May 1992. Third, the Trial Chamber will turn to the Adjudicated Facts and evidence concerning the take-over of the village of Đulići and forcible transfer of the local population in April-June 1992. Fourth, the Trial Chamber will review the evidence on the attack on Šepak and forcible transfer of the population in April-July 1992. Fifth, it will review the evidence on the incidents in Kozluk in April-June 1992, including the departure of many Muslims, and forcible transfer of Muslims from Kozluk and Skočić on or about 26 June 1992. Finally, the Trial Chamber will examine the Adjudicated Facts and evidence concerning the aftermath of the attack on Zvornik town.

¹⁹⁴³ P111 (Witness JF-007, prior testimony), pp. 5983-5986, 5990-5991; Witness JF-007, T. 2601-2608, 2613, 2621-2622.

¹⁹⁴⁴ Indictment, paras 64-65.

Population of Zvornik municipality

894. The Adjudicated Facts state that according to the 1991 census in Bosnia-Herzegovina, the ethnic composition of Zvornik municipality was 48,102 (59 per cent) Muslims, 30,863 (38 per cent) Serbs, 122 Croats, 1,248 Yugoslavs, and 960 persons of other or unknown ethnicity.¹⁹⁴⁶ The Trial Chamber has reviewed the evidence of **Fadil Mujić**, a Muslim police officer from Zvornik,¹⁹⁴⁷ and the Tabeau Report on IDPs and Refugees in relation to the ethnic composition of Zvornik municipality, which are consistent with the Adjudicated Fact above.¹⁹⁴⁸

895. The Trial Chamber has received evidence on population changes in Zvornik municipality. Having reviewed the Tabeau Report on IDPs and Refugees¹⁹⁴⁹ and the Tabeau Victims Report,¹⁹⁵⁰ the Trial Chamber considers that between 1992 and 1995, 4,153 persons, by majority non-Serb militaries and civilians, died or went missing in Zvornik municipality. The year 1992 was by far the most fatal of all the war years – in 1992 alone, 2,097 persons died or went missing. The Trial Chamber also considers that the ratio of civilian and military victims over the 1992-1995 period did not remain the same. The Trial Chamber further observes that the ethnic composition of the population of Zvornik municipality changed drastically in the period of 1991-1997: the non-Serb percentage of the population in the Bosnian-Serb Republic part of the municipality decreased by 94.3 per cent. As further explained in chapter 2, the Trial Chamber will focus on the below specific incidents of alleged deportation and forcible transfer in Zvornik municipality set out below.

Take-over of Zvornik town on 8 April 1992 and attacks, destruction of Muslim monuments, arbitrary arrest and detention, killings, and forcible transfers in Zvornik municipality in April-May 1992

896. The Trial Chamber has taken judicial notice of Adjudicated Facts and received evidence from Witness JF-026, Miroslav Deronjić, Witness JF-007, Fadil Mujić, Borislav

¹⁹⁴⁵ Indictment, para. 65.

¹⁹⁴⁶ Adjudicated Facts IV, fact 310.

¹⁹⁴⁷ P1756 (Fadil Mujić, witness statement, 6 June 1996), pp. 1-2; P1757 (Fadil Mujić, witness statement, 13 May 1997), pp. 1-2.

¹⁹⁴⁸ P1756 (Fadil Mujić, witness statement, 6 June 1996), pp. 1-2; P1757 (Fadil Mujić, witness statement, 13 May 1997), pp. 1-2; P1657 (Report on IDPs and Refugees), p. 28, footnote 10.

¹⁹⁴⁹ P1657 (Tabeau Report on IDPs and Refugees), Annex A, Tables 1NS, 1M, 1C, 1O, 1S, pp. 40-44. The Tabeau Report on IDPs and Refugees explains why changes in the size of ethnic groups in the period of 1991-1997 are reflected in relative measures and not in absolute numbers. It also explains why relative measures, i.e. percentages, can be seen as reliable, and can be compared. See P1657 (Tabeau Report on IDPs and Refugees), p. 8 and Ewa Tabeau, T. 9902-9903.

¹⁹⁵⁰ P1658 (Tabeau Victims Report), p. 20, Table 4 a), Annex 2, Table A2.9, p. 38, Annex 3, Table A3.20, p. 47.

Pelević, Witness B-161, Witness JF-061, and Witness JF-070, and has reviewed relevant documentary evidence concerning the take-over of Zvornik town.

897. According to the Adjudicated Facts, around 5 April 1992, paramilitary forces, including the White Eagles, the Yellow Wasps, and the Red Berets began to arrive in the municipality.¹⁹⁵¹ In Zvornik, in the period April to May 1992, the Yellow Wasps, a paramilitary unit consisting of around 100 heavily armed men, cooperated closely with the TO and was even issued arms by the TO's logistics staff.¹⁹⁵² Once the VRS was established and the Zvornik Brigade formed towards the end of May 1992, the Yellow Wasps were subordinated to it.¹⁹⁵³ The evidence provided by **Miroslav Deronjić**, a Serb municipal leader from Bratunac,¹⁹⁵⁴ and the combat report of the 2nd Military District are consistent with the Adjudicated Fact above on the arrival of paramilitaries.¹⁹⁵⁵ Deronjić further specified that Šešelj's volunteers were among those who arrived to Zvornik and added that the volunteers, which he stated were from Serbia but were not invited or paid by the leadership of the SDS in Zvornik, brought panic to the area by killing people and looting, and, as a result, mainly Muslims fled.¹⁹⁵⁶

898. The Trial Chamber has received a vast amount of evidence from Witness JF-026, Miroslav Deronjić, Fadil Mujić, Witness B-161, Witness JF-061, as well as through the Statement by Svetislav Mitrović (member of the SDG), and the Note of an interview, which shows the presence of members of the SDG (including Ljubiša Savić, a.k.a. Mauzer and Marko Pejić), the Yellow Wasps (led by the Vučković brothers, including Vojin a.k.a. Žučo/Žuča), White Eagles (led by Zoran Obrenović a.k.a. Aždaja), SRS volunteers (including Zoran Subotić), Vuk Drašković's SPO, and Niški and Pivarski units in Zvornik municipality in the beginning of April 1992.¹⁹⁵⁷ In contrast to Adjudicated Fact IV 312, **Witness JF-026**, a

¹⁹⁵¹ Adjudicated Facts IV, fact 312.

¹⁹⁵² Adjudicated Facts IV, fact 159.

¹⁹⁵³ Adjudicated Facts IV, fact 160.

¹⁹⁵⁴ P2511 (Miroslav Deronjić, witness statement, 25 November 2003), paras 1-3, 46, 215, 231, p. 1; P2509 (Miroslav Deronjić, *Slobodan Milošević* transcript, 26-27 November 2003), p. 29617, 29935, 29939, 29966; P2510 (Miroslav Deronjić, *Krajišnik* transcript, 12-13, 16, 18-19 February 2004), pp. 856, 858-859, 862-865, 867-868, 873, 909, 923, 1126, 1223.

¹⁹⁵⁵ P1390 (Combat report of the 2nd Military District, Colonel Petar Salapura, 10 April 1992); P2509 (Miroslav Deronjić, *Slobodan Milošević* transcript, 26-27 November 2003), pp. 29626, 29757.

¹⁹⁵⁶ P2509 (Miroslav Deronjić, *Slobodan Milošević* transcript, 26-27 November 2003), pp. 29627, 29757, 29633; P2510 (Miroslav Deronjić, *Krajišnik* transcript, 12-13, 16, 18-19 February 2004), pp. 1016-1017.

¹⁹⁵⁷ P1700 (Witness JF-026, witness statement, 16 December 2008), paras 51, 69; P1701 (Witness JF-026, *Slobodan Milošević* transcript, 23 and 26 May 2003, 5 June 2003), pp. 21196-21197, 21846, 21867-21868; D215 (Witness JF-026, *Šešelj* transcript, 12-13 January 2010), pp. 14938-14940, 14994-14995; Witness JF-026, T. 9745-9746, 9776-9777, 9820, 9823-9825; P2511 (Miroslav Deronjić, witness statement, 25 November 2003), para. 50; P2509 (Miroslav Deronjić, *Slobodan Milošević* transcript, 26-27 November 2003), pp. 29627, 29757-29758, 29797; P2510 (Miroslav Deronjić, *Krajišnik* transcript, 12-13, 16, 18-19 February 2004), pp. 1012, 1015,

Bosnian Serb from Zvornik,¹⁹⁵⁸ testified that the “Red Berets”, a special unit of the Serbian DB, never came to Zvornik during the attack.¹⁹⁵⁹ All of the volunteers, except for Arkan’s men, were issued weapons upon reporting to the TO headquarters in the Alhos building and joining the TO.¹⁹⁶⁰ Some of the volunteers also came with their own weapons.¹⁹⁶¹

899. According to the Adjudicated Facts, on 8 April 1992, a combination of Serb forces - the police, the TO, the JNA, and Arkan's men - launched an attack against Zvornik town, which originated, at least partially, from inside Serbia.¹⁹⁶² Many civilians were killed during the attack on Zvornik town on 8 April 1992 and many left the town in the direction of Tuzla.¹⁹⁶³ Zvornik town was taken over by the Serb forces within a day.¹⁹⁶⁴ The Serbian flag was hoisted on top of the main town mosque.¹⁹⁶⁵ As a result of the take-over, many Muslims withdrew to the nearby deserted village of Kula Grad, which was also attacked and taken over by paramilitaries and local police on 26 April 1992.¹⁹⁶⁶ Serb soldiers separated a column of approximately 3,000 Muslims who had left in fear of their safety, bringing the women, children, and elderly to Muslim-controlled territory, and detaining the military-aged men in a hangar in the Karakaj technical school.¹⁹⁶⁷ On 10 April 1992, Arkan’s men piled dozens of dead bodies – including the bodies of women, children, and elderly persons – onto trucks.¹⁹⁶⁸ More dead bodies lay in the streets and outside houses.¹⁹⁶⁹

900. **Miroslav Deronjić, Witness B-161**, a Serb from Zvornik,¹⁹⁷⁰ **Jovan Dimitrijević**, a former member of the SDG,¹⁹⁷¹ and **Borislav Pelević**, a member of the SDG since 10 January

1242; P1756 (Fadil Mujić, witness statement, 6 June 1996), pp. 2, 4-5; P589 (Witness B-161, *Slobodan Milošević* transcript, 22-23 May and 2 July 2003), pp. 23634, 23636-23637; P597 (Report on the security situation in Zvornik, 20 July 1992), pp. 1, 3, 5; P2130 (Witness JF-061, witness statement, 30 March 2002), pp. 4, 6; Witness JF-061, T. 10928-10929, 10969; P1383 (Statement of Svetislav Mitrović concerning personal involvement in SDG, signed by Svetislav Mitrović, 3 August 1992), p. 1; D162 (Official note of an interview, 4 July 1992), pp. 3-6, 8-10.

¹⁹⁵⁸ P1700 (Witness JF-026, witness statement, 16 December 2008), para. 1; P1654 (Pseudonym sheet for Witness JF-026); P2507 (Background information on Witness JF-026).

¹⁹⁵⁹ D215 (Witness JF-026, *Šešelj* transcript, 12-13 January 2010), p. 15027.

¹⁹⁶⁰ P1700 (Witness JF-026, witness statement, 16 December 2008), para. 69; P1701 (Witness JF-026, *Slobodan Milošević* transcript, 23 and 26 May 2003, 5 June 2003), p. 21200; D215 (Witness JF-026, *Šešelj* transcript, 12-13 January 2010), pp. 14937; Witness JF-026, T. 9777.

¹⁹⁶¹ Witness JF-026, T. 9683.

¹⁹⁶² Adjudicated Facts IV, fact 316.

¹⁹⁶³ Adjudicated Facts IV, facts 316, 348.

¹⁹⁶⁴ Adjudicated Facts IV, fact 316.

¹⁹⁶⁵ Adjudicated Facts IV, fact 317.

¹⁹⁶⁶ Adjudicated Facts IV, fact 320.

¹⁹⁶⁷ Adjudicated Facts IV, fact 351.

¹⁹⁶⁸ Adjudicated Facts IV, fact 318.

¹⁹⁶⁹ Adjudicated Facts IV, fact 319.

¹⁹⁷⁰ P589 (Witness B-161, *Slobodan Milošević* transcript, 22-23 May and 22-23 May and 2 July 2003), p. 21052; P601 (Death certificate of Witness B-161, 27 April 2006).

¹⁹⁷¹ Jovan Dimitrijevic, T. 16055.

1992,¹⁹⁷² provided evidence about the forces that attacked Zvornik town, which is consistent with Adjudicated Fact IV 316.¹⁹⁷³

901. **Borislav Pelević**, a member of the SDG since 10 January 1992,¹⁹⁷⁴ testified that in 1995, in Zvornik, Radovan Karadžić and Tomislav Kovac attended the anniversary of the Bosnian-Serb Republic MUP, at which a Bosnian-Serb Republic MUP official presented Arkan with an engraved pistol commemorating the liberation of Zvornik.¹⁹⁷⁵ Also, in a speech before a crowd, and in a television interview, Arkan confirmed that his forces had taken Zvornik town.¹⁹⁷⁶

902. Furthermore, **Witness JF-026** testified that in the attack on Zvornik, which began in the early morning hours of 8 or 9 April 1992, Arkan's men were aided by Žuča's group, Gogić's group, the Radicals, the Vukovar group and part of the local TO forces and police reserve units from Zvornik.¹⁹⁷⁷ According to the statements of Vojin and Dušan Vučković, as accused before the Šabac District Court, and the statement by Dušan Vučković to the Serbia MUP, between 9 April and 29 July 1992, the Yellow Wasps unit under the command of Vojin Vučković a.k.a. Žuča, consisting of 64 volunteers and including Dušan Vučković, as well as individuals known as Legija and Miroslav Bogdanović, participated in the liberation of the Zvornik area.¹⁹⁷⁸

903. The Trial Chamber has also received evidence about the coordination between these forces. In this respect, **Jovan Dimitrijević**, who arrived to Zvornik following the take-over, further testified that the JNA and the SDG must have acted together in Zvornik, as deaths of

¹⁹⁷² Borislav Pelević, T. 16319, 16321-16322, 16515.

¹⁹⁷³ P2511 (Miroslav Deronjić, witness statement, 25 November 2003), para. 52; P2510 (Miroslav Deronjić, *Krajišnik* transcript, 12-13, 16, 18-19 February 2004), p. 1016; P589 (Witness B-161, *Slobodan Milošević* transcript, 22-23 May and 2 July 2003), pp. 21006-21007, 21015-21016, 21020-21021, 21026-21027, 21029-21032, 21076-21077, 23675-23676; P590 (List of names to be referred to during testimony, 19 May 2003); Borislav Pelević, T. 16346-16348, 16350-16351, 16479-16480, 16482-16483; Jovan Dimitrijević, T. 16109-16110, 16112-16113, 16131-16132, 16288.

¹⁹⁷⁴ Borislav Pelević, T. 16319, 16321-16322, 16515.

¹⁹⁷⁵ Borislav Pelević, T. 16351-16353; D652 (Photograph of Radovan Karadžić at Bosnian-Serb Republic MUP anniversary in Zvornik, 1995); D653 (Photograph of Arkan at Bosnian-Serb Republic MUP anniversary in Zvornik, 1995); D654 (Photograph of Radovan Karadžić, Arkan, and Tomislav Kovac at Bosnian-Serb Republic MUP anniversary in Zvornik, 1995).

¹⁹⁷⁶ P1600 (Video of speech by Arkan with transcript); P1601 (Two video-clips of an interview with Arkan with transcript).

¹⁹⁷⁷ P1700 (Witness JF-026, witness statement, 16 December 2008), paras 59, 71; P1701 (Witness JF-026, *Slobodan Milošević* transcript, 23 and 26 May 2003, 5 June 2003), pp. 21207, 21828; D215 (Witness JF-026, *Šešelj* transcript, 12-13 January 2010), pp. 14936, 14994-14995; Witness JF-026, T. 9828-9829.

¹⁹⁷⁸ P1190 (Statement of Vojin Vučković, signed by Vojin Vučković, 4 November 1993), p. 1; P1403 (Statement regarding Vojin Vučković for the investigating judge of the Šabac District Court, signed by Vojin Vučković, 8 November 1993), p. 2; P1411 (Statement regarding Dušan Vučković for the investigating judge of the Šabac District Court, signed by Duško Vučković, 8 November 1993), p. 2; D160 (Statement of Duško Vučković to the MUP of the Republic of Serbia, 4 November 1993), p. 2.

the SDG members were recorded in a military report and added that Colonel Marko Pejić was responsible for the Zvornik operation on behalf of the SDG.¹⁹⁷⁹ Furthermore, an official note to the 3rd Administration of the Serbian DB stated that during the first few days of the armed conflict in Zvornik, joint operations were coordinated by Marko Pavlović, commander of the Zvornik TO, but as his influence weakened, certain groups started committing crimes against the Muslim population.¹⁹⁸⁰ Witness B-161 stated that Marko Pavlović was also known as Branko Popović.¹⁹⁸¹ Witness JF-026 recognised Pavlović's signature approving reimbursement of Žuča's unit expenses on 4 May 1992 and payments to members of this unit who participated in the military training between 1 and 17 May 1992.¹⁹⁸²

904. In addition to the Adjudicated Facts, the Trial Chamber has also received evidence indicating that many people fled Zvornik town following the take-over. In this respect, daily reports by Colonel Tomić and the operatives of the 17th Corps Command are consistent with Adjudicated Fact IV 348 above.¹⁹⁸³ P1389 further specified that there were many women and children refugees crossing to Serbia.¹⁹⁸⁴ **Fadil Mujić**, a Muslim police officer from Zvornik,¹⁹⁸⁵ stated that on 8 April 1992 during a telephone conversation with Captain Marko, who the witness later learned was named Marko Pavlović, Pavlović told him that thousands of Muslims were fleeing from the fighting into Mali Zvornik.¹⁹⁸⁶ The witness himself knew that Muslims were also fleeing to Kula Grad.¹⁹⁸⁷

905. Furthermore, **Witness B-161**, a Serb from Zvornik,¹⁹⁸⁸ stated that on the evening the war broke out in Zvornik he passed through Mali Zvornik, where he saw a mass of panicked Muslim and Serb civilians, mostly women and children, gathered near a small bridge, attempting to cross to Serbia on a ferry.¹⁹⁸⁹ These civilians were screaming, claiming that

¹⁹⁷⁹ Jovan Dimitrijević, T. 16117, 16213.

¹⁹⁸⁰ D162 (Official note of an interview, 4 July 1992), pp. 2-3.

¹⁹⁸¹ P589 (Witness B-161, *Slobodan Milošević* transcript, 22-23 May and 2 July 2003), p. 21031.

¹⁹⁸² P1700 (Witness JF-026, witness statement, 16 December 2008), para. 74; P2498 (Payment records for members of Žuča's unit for May 1992, May 1992), p. 7); D154 (Payment records including members of Žuča's unit, May and June 1992), pp. 4-6, 9, 11.

¹⁹⁸³ P1389 (Confidential daily report, Colonel Tomić, 10 April 1992), pp. 1, 6-7; P1391 (Operative daily report of the 17th Corps Command, Commander Savo Janković, 11 April 1992), p. 2; P1433 (Operative report of the 17th Corps Command to the 2nd Military District Command, Colonel Božo Milohanović, 12 April 1992).

¹⁹⁸⁴ P1389 (Confidential daily report, Colonel Tomić, 10 April 1992), p. 6.

¹⁹⁸⁵ P1756 (Fadil Mujić, witness statement, 6 June 1996), pp. 1-2; P1757 (Fadil Mujić, witness statement, 13 May 1997), pp. 1-2.

¹⁹⁸⁶ P1756 (Fadil Mujić, witness statement, 6 June 1996), p. 7; P1757 (Fadil Mujić, witness statement, 13 May 1997), p. 3.

¹⁹⁸⁷ P1757 (Fadil Mujić, witness statement, 13 May 1997), p. 3.

¹⁹⁸⁸ P589 (Witness B-161, *Slobodan Milošević* transcript, 22-23 May and 22-23 May and 2 July 2003), p. 21052; P601 (Death certificate of Witness B-161, 27 April 2006).

¹⁹⁸⁹ P589 (Witness B-161, *Slobodan Milošević* transcript, 22-23 May and 2 July 2003), pp. 21015, 21018-21019, 21062, 21128-21129.

killings were being carried out and they ultimately travelled to the Serbian side. Afterwards, Fadil Mujić, a policeman in the Zvornik SUP, told him over the phone that Zvornik had been attacked and emptied of most of its citizens.¹⁹⁹⁰

906. The Trial Chamber has also received evidence from **Witness JF-007**, a Bosnian Muslim woman who lived in Zvornik in 1992 with her husband and her two sons,¹⁹⁹¹ indicating that people were transferred from Zvornik municipality on or about 8 April 1992. The Trial Chamber recalls the testimony of **Witness JF-007** in chapter 3.8.1, that on or about 8 April 1992, in Zvornik, she and other women and children were rushed by Šešelj's men out of a cellar where they had taken shelter. The witness further testified that Šešelj's men led the women and children towards the library opposite the municipal building.¹⁹⁹² A lot of people, both men and women, wearing the same kind of green uniforms as Šešelj's men and insignia with the four Serbian Ss were walking around Zvornik.¹⁹⁹³ At the library, Witness JF-007's group was guarded by one of Šešelj's men, while other members of Šešelj's men came and went.¹⁹⁹⁴ All of Šešelj's men at the library had automatic rifles or machine guns and pistols and behaved abusively towards those who had been gathered.¹⁹⁹⁵ Two women, Vera Leskovic and Granny Sadeta, were allowed to go to their respective houses, change and come back while being escorted by a woman in a green camouflage uniform.¹⁹⁹⁶ Arkan came to the library and told the member of Šešelj's men guarding Witness JF-007's group that a bus would collect them.¹⁹⁹⁷ Ten minutes later, Witness JF-007 and her group were made to board a bus along with men from other buildings.¹⁹⁹⁸ Arkan, who was wearing a blue beret and a blue camouflage uniform, accompanied them on the bus until the Karakaj Bridge, three

¹⁹⁹⁰ P589 (Witness B-161, *Slobodan Milošević* transcript, 22-23 May and 2 July 2003), pp. 21005, 21019, 21073-21074; P590 (List of names to be referred to during testimony, 19 May 2003).

¹⁹⁹¹ P113 (Witness JF-007, witness statement, 29 September 1996), pp. 1-2; P111 (Witness JF-007, prior testimony), pp. 5949-5950; D9 (Witness JF-007, witness statement to local authorities, 3 February 2003), p. 1.

¹⁹⁹² P113 (Witness JF-007, witness statement, 29 September 1996), p. 4; P111 (Witness JF-007, prior testimony), pp. 5956-5957, 5959.

¹⁹⁹³ P111 (Witness JF-007, prior testimony), pp. 5970-5971; Witness JF-007, T. 2594-2595.

¹⁹⁹⁴ P111 (Witness JF-007, prior testimony), p. 5960.

¹⁹⁹⁵ P113 (Witness JF-007, witness statement, 29 September 1996), p. 4; P111 (Witness JF-007, prior testimony), p. 5960; P114 (Witness JF-007, Addendum to statement, 3 September 2003), p. 1.

¹⁹⁹⁶ P113 (Witness JF-007, witness statement, 29 September 1996), p. 4; P111 (Witness JF-007, prior testimony), p. 5961. See also Witness JF-007, T. 2594-2595.

¹⁹⁹⁷ P113 (Witness JF-007, witness statement, 29 September 1996), p. 4; P111 (Witness JF-007, prior testimony), p. 5962.

¹⁹⁹⁸ P111 (Witness JF-007, prior testimony), pp. 5962-5963.

kilometres from Zvornik towards Bijeljina, where he got off.¹⁹⁹⁹ The people on the bus were let off at Banja Koviljača in Serbia.²⁰⁰⁰

907. Seven or eight days later, Witness JF-007 returned to Zvornik to check what had happened to her family.²⁰⁰¹ She went to see Grujić, the president of the Zvornik municipality, who told the witness that there was no longer any place for her in Zvornik.²⁰⁰² She went briefly to her apartment, but nothing was left inside.²⁰⁰³

908. According to the Adjudicated Facts, most of the 19 Muslim monuments in Zvornik municipality had been damaged or completely destroyed through shelling or explosives during the attacks on Muslim villages in April and May 1992.²⁰⁰⁴ According to the Zvornik SJB's own reports, during the same period the Serb police engaged in house searches and interrogations of Muslims on a massive scale, accusing the Muslims of having "prepared the liquidation of Serbs".²⁰⁰⁵ Many were detained in various locations in the municipality. For example, the Serb police, Arkan's men, and the White Eagles detained Muslims in the Alhos factory in the Karakaj area of Zvornik town, where the Muslims were extensively mistreated.²⁰⁰⁶ On 9 April 1992, an individual was interrogated and beaten by Branko Grujić, and approximately 18 other Muslim detainees were killed by Arkan's men that same day or soon thereafter.²⁰⁰⁷ In total, approximately 507 Muslim civilians were killed by Serb forces in Zvornik municipality from April to June 1992.²⁰⁰⁸

909. The evidence provided by Witness JF-061 and the statements by Duško Vučković a.k.a. Repić and Vojin Vučković a.k.a. Žuča on the detention and mistreatment of detainees are consistent with Adjudicated Fact IV 337 above.²⁰⁰⁹ Repić further specified that an SDG member called Pejić or Peja questioned the detainees.²⁰¹⁰

¹⁹⁹⁹ P113 (Witness JF-007, witness statement, 29 September 1996), p. 4; P111 (Witness JF-007, prior testimony), pp. 5962-5963; Witness JF-007, T. 2589, 2599, 2611.

²⁰⁰⁰ P113 (Witness JF-007, witness statement, 29 September 1996), p. 4; P111 (Witness JF-007, prior testimony), pp. 5963-5964.

²⁰⁰¹ P113 (Witness JF-007, witness statement, 29 September 1996), p. 4; P111 (Witness JF-007, prior testimony), p. 5964; Witness JF-007, T. 2595.

²⁰⁰² P113 (Witness JF-007, witness statement, 29 September 1996), p. 5; P111 (Witness JF-007, prior testimony), pp. 5965-5966.

²⁰⁰³ P111 (Witness JF-007, prior testimony), p. 5966.

²⁰⁰⁴ Adjudicated Facts IV, fact 335.

²⁰⁰⁵ Adjudicated Facts IV, fact 336.

²⁰⁰⁶ Adjudicated Facts IV, fact 337.

²⁰⁰⁷ Adjudicated Facts IV, fact 338.

²⁰⁰⁸ Adjudicated Facts IV, fact 347.

²⁰⁰⁹ P2129 (Witness JF-061, witness statement, 9 February 1998), p. 7; P2132 (Witness JF-061, *Slobodan Milošević* transcript, 9 and 19 May 2003), pp. 20694-20695; P1190 (Statement of Vojin Vučković, signed by Vojin Vučković, 4 November 1993), p. 2; P1411 (Statement of Duško Vučković for investigating judge of the

910. The Trial Chamber also recalls the Notes of an interview indicating that members of the SDG tortured and killed 200-300 Muslim men who were detained in Karakaj immediately after the take-over of the town.²⁰¹¹

911. **Witness JF-070**, a Serb from Zvornik,²⁰¹² stated that on 5 or 6 April 1992, Brano Grujić told him to go to the Alhos textile factory in Karakaj to be deployed.²⁰¹³ The witness went to the factory where he saw 40 to 50 people in black and other types of uniforms, most of them wearing ski-masks over their faces, who the witness believed were paramilitaries. After twenty minutes, Grujić and Spasojević arrived with Arkan, whom the witness recognized from television, and Arkan's deputy Pejo. Arkan selected six men, including the witness, and told them that they would be responsible for collecting dead bodies after the attack on Zvornik and bringing them back to Alhos. As of 9 April 1992, and throughout April and May 1992, the witness collected the bodies of men and women found around Zvornik town. At Alhos, the witness washed the bodies for post-mortems, and then a pathologist from Belgrade examined the bodies to determine the cause of death, specifically whether the dead had been shot from the front while in combat or shot in the back, without performing full autopsies.²⁰¹⁴ The bodies were eventually buried at the Zvornik cemetery.²⁰¹⁵ About half of the bodies he collected were dressed in uniform and the other half in civilian clothing.²⁰¹⁶

912. Witness JF-070 further stated that he was told that he could provide transport to younger Muslims who wanted to leave Zvornik, so he drove some of them in his truck in the direction of Tuzla and dropped them at Crni Vrh, from where they continued on their own.²⁰¹⁷ According to the witness, these young Muslims were not forced to leave but they did not want to stay in Zvornik.²⁰¹⁸ He transported about seven elderly people from Zvornik.²⁰¹⁹

Šabac District Court), p. 2; D160 (Statement of Duško Vučković to the MUP of the Republic of Serbia, 4 November 1993), p. 2.

²⁰¹⁰ D160 (Statement of Duško Vučković to the MUP of the Republic of Serbia, 4 November 1993), p. 2.

²⁰¹¹ D162 (Official note of an interview, 4 July 1992), pp. 3-4.

²⁰¹² P1529 (Witness JF-070, witness statements), 17 October 2002 statement, p. 1, 20 November 2002, p. 1, 26 May 2003, p. 1.

²⁰¹³ P1529 (Witness JF-070, witness statements), 17 October 2002 statement, p. 2; P1530 (Witness JF-070, *Slobodan Milošević* transcript, 29 May 2003), pp. 21333-21335; P1538 (Photograph of Alhos Factory).

²⁰¹⁴ P1529 (Witness JF-070, witness statements), 17 October 2002 statement, pp. 2-4; P1530 (Witness JF-070, *Slobodan Milošević* transcript, 29 May 2003), pp. 21322-21323, 21343-21344, 21346-21348.

²⁰¹⁵ P1530 (Witness JF-070, *Slobodan Milošević* transcript, 29 May 2003), p. 21323, 21347-21349.

²⁰¹⁶ P1530 (Witness JF-070, *Slobodan Milošević* transcript, 29 May 2003), pp. 21320-21322, 21344.

²⁰¹⁷ P1529 (Witness JF-070, witness statements), 17 October 2002 statement, p. 3; P1530 (Witness JF-070, *Slobodan Milošević* transcript, 29 May 2003), p. 21348.

²⁰¹⁸ P1529 (Witness JF-070, witness statements), 17 October 2002 statement, p. 3; P1530 (Witness JF-070, *Slobodan Milošević* transcript, 29 May 2003), p. 21349.

²⁰¹⁹ P1530 (Witness JF-070, *Slobodan Milošević* transcript, 29 May 2003), p. 21374.

913. The Trial Chamber has also taken judicial notice of Adjudicated Facts and received evidence from Witness JF-026, concerning administrative measures adopted by the provisional government in Zvornik municipality in April-May 1992.

914. **Witness JF-026** testified that after 9 April 1992, the provisional government in Zvornik withheld the payment of pensions to non-Serbs.²⁰²⁰ According to the Adjudicated Facts, on 10 April 1992, the provisional government of Zvornik instructed all persons with tenancy rights in socially owned apartments, as well as all owners of immovable property including private houses and businesses, to return and lay claim to those properties before 15 May 1992, or face loss of title to the municipality.²⁰²¹ On 5 May 1992, the provisional government established a “real estate exchange agency” authorized to execute exchanges of real estate between residents of Zvornik municipality and other municipalities.²⁰²² According to a decision of the Assembly of the Serbian municipality of Zvornik, as of mid-March 1992, real estate was to be traded only between the ethnic Serbs.²⁰²³ In early June 1992, Serbs were seen moving into the villages in Zvornik municipality where Muslims had been evicted. Some of them had been ordered to do so by the provisional government of the Serb municipality of Zvornik.²⁰²⁴ **Witness JF-026** was not aware of any instance of signing over property of Muslims, but he testified that the Crisis Staff and the provisional government disposed of immovable property left behind by Muslims who had left Zvornik.²⁰²⁵

915. In its Final Trial Brief, the Stanišić Defence disputes the reliability of Witness JF-026, claiming that he admitted to having played “tactical games” with the Prosecution, in order to save himself.²⁰²⁶ The Trial Chamber will address these assertions first. In this respect it notes that the issue of admitting Witness JF-026’s previous statements and transcripts of his previous testimony was discussed at length in Court.²⁰²⁷ Witness JF-026 indeed admitted that having had a status of a suspect, he may not have been wholly truthful when previously providing evidence before the Court.²⁰²⁸ The Trial Chamber notes, however, that the witness had been given an opportunity to review his previous statement and the transcript of his

²⁰²⁰ P1700 (Witness JF-026, witness statement, 16 December 2008), para. 18; P1701 (Witness JF-026, *Milošević* transcript, 23 and 26 May 2003, 5 June 2003), pp. 21821-21822, 21895-21896.

²⁰²¹ Adjudicated Facts IV, fact 321.

²⁰²² Adjudicated Facts IV, fact 322.

²⁰²³ P2144 (Decision regarding the Ban on Sale of Real Estate Properties, signed by Jovo Mijatović, 15 March 1992).

²⁰²⁴ Adjudicated Facts IV, fact 330.

²⁰²⁵ P1701 (Witness JF-026, *Milošević* transcript, 23 and 26 May 2003, 5 June 2003), p. 21909.

²⁰²⁶ Stanišić Defence Final Trial Brief, 14 December 2012, paras 724-725.

²⁰²⁷ Witness JF-026, T. 9654-9662.

²⁰²⁸ Witness JF-026, T. 9652-9654, 9675-9676, 9690-9693.

previous testimony, which he amended and further clarified in Court.²⁰²⁹ Having further observed the witness's demeanour in Court, noting his good memory of the events in Zvornik, and in view of the totality of his evidence, the Trial Chamber considers the witness to be reliable. The Trial Chamber further notes that with regard to the presence of a unit referred to as the Red Berets in Zvornik municipality, the Adjudicated Facts differ significantly from the evidence of Witness JF-026. Witness JF-026 did not provide an explicit source of knowledge for his assertion. Nonetheless, the Trial Chamber considers that the witness had detailed knowledge about the presence of multiple paramilitary units in Zvornik during the conflict and notes the witness's position at that time. The Trial Chamber also notes in this respect that in its Final Trial Brief, the Prosecution has not made any further submissions with regard to the presence of a unit referred to as the Red Berets in Zvornik at the relevant time or their participation in the events that unfolded. In view of the above and the general assessment of Witness JF-026's credibility and reliability, the Trial Chamber finds that the evidence of Witness JF-026 rebuts the Adjudicated Facts in this respect. Consequently, the Trial Chamber considers that the evidence does not establish presence of a unit referred to as the Red Berets in Zvornik in the relevant period.

916. Apart from the aforementioned discrepancy, the Trial Chamber considers that the evidence received is on the whole coherent, reliable, mutually reinforcing and consistent with the Adjudicated Facts.

917. On the basis of the Adjudicated Facts and the evidence provided by Witness B-161, Jovan Dimitrijević, and the Note of an interview, and having reviewed the remaining evidence before it, the Trial Chamber finds that early in the morning of 8 April 1992, a combination of Serb forces – the police, the TO (under the command of Marko Pavlović a.k.a. Branko Popović), the JNA, and the SDG (led by Marko Pejić a.k.a. Peja or Pejo) – attacked Zvornik town. In light of further evidence indicating the presence of other paramilitary units in Zvornik and their participation in the attack, in particular the evidence of Witness JF-026, the Trial Chamber finds that the following aided in the attack on Zvornik town: (i) the Yellow Wasps commanded by Zoran Obrenović a.k.a. Aždaja (including a unit of Vojin Vučković a.k.a. Žučo/Žuča and Dušan/Duško Vučković a.k.a. Repić); (ii) Gogić's group; (iii) Šešelj's men (including a unit led by Zoran Subotić); (iv) White Eagles; (v) the Vukovar group; and (vi) Serb reserve police. Considering the Adjudicated Facts, the Trial Chamber finds that the Yellow Wasps cooperated closely with the Zvornik TO. In view of the Adjudicated Facts and

²⁰²⁹ See, in particular, Witness JF-026, T. 9666-9678, 9690-9694.

the evidence before it, the Trial Chamber finds that as of 8 April 1992, the forces that attacked Zvornik damaged or completely destroyed a number of Muslim monuments through shelling or explosives.

918. On the basis of the Adjudicated Facts and the evidence of Witness JF-070, Miroslav Deronjić, and Witness JF-026, the Trial Chamber finds that the forces that attacked Zvornik town killed many civilians, including Muslim men, women and children and engaged in looting. Considering that Witness JF-026 testified about the presence of Vuk Drašković's SPO in the area at the relevant period, the Trial Chamber finds that this group also took part in the aforementioned actions.

919. Based on the Adjudicated Facts, the Trial Chamber finds that following the take-over, the Serb police searched the houses of Muslims, interrogated many Muslims, and accused them of preparing the liquidation of Serbs. Based on the above and exhibits P1190, P1403, P1411, and D160 – statements by Dušan and Vojin Vučković, the Trial Chamber further finds that the Serb police, the SDG, including Marko Pejić a.k.a. Peja, the White Eagles, and the Yellow Wasps detained, interrogated and severely mistreated many Muslims at the Alhos factory in Karakaj. Having examined the Adjudicated Facts and the Note of an interview reviewed above, the Trial Chamber finds that on or about 9 April 1992, SDG members tortured and killed 200-300 Muslims detained in Karakaj.

920. The Trial Chamber further finds, on the basis of the Adjudicated Facts, Decision on the ban on real estate sale (P2144), and the evidence of Witness JF-026, that as of March and April 1991, the Serb authorities in Zvornik introduced several discriminatory measures aimed at marginalising the non-Serb population in the municipality.

921. The Trial Chamber further recalls its findings in chapter 3.8.1 that on or about 8 April 1992, in Zvornik, members of the SDG, or of Šešelj's men, or of both groups, shot and killed 13 men. On the basis of the Adjudicated Facts and the evidence of Miroslav Deronjić, Witness B-161, Witness JF-070, Fadil Mujić, and 17th Corps Command Operative Reports P1391 and P1433, and in view of the findings made above, the Trial Chamber finds that as a result of the marginalisation of non-Serbs, the attack on and take-over of Zvornik town, looting, damage and destruction of Muslim monuments, arbitrary arrest and detention, beatings, mistreatment, and killings, many Muslim inhabitants fled the town of Zvornik and went to Tuzla, Kula Grad in Zvornik municipality, which was taken by Serb forces at a later date, or to Serbia.

922. Based on the unrebutted Adjudicated Fact IV 351, the Trial Chamber further finds that Serb soldiers separated a column of approximately 3,000 Muslims who had left in fear of their safety, and transferred the women, children, and elderly to Muslim-controlled territory.

923. Having reviewed the evidence of Witness JF-007 above and in chapter 3.8.1, the Trial Chamber finds that on or about 8 April 1992, Šešelj's men took a group of Muslim women and children, including Witness JF-007, out of a cellar, where he had taken shelter, and that Šešelj's men and Arkan forced the Muslim women and children, and a group of Muslim men onto a bus in Zvornik town, and transported them to Banja Koviljača in Serbia. Having considered the circumstances of this incident, the Trial Chamber finds that these Muslims were inhabitants of Zvornik.

924. The Trial Chamber will further consider these incidents in relation to Counts 1, 4, and 5 of the Indictment, in chapter 4, below.

Attack on Divič and forcible transfer of its residents in April-May 1992

925. According to the Adjudicated Facts, in late April or early May, Serb forces demanded the surrender of the Muslim village of Divič. However, before the deadline for surrender had expired, Divič was attacked by Serb forces consisting of Arkan's men, White Eagles, and reserve police officers.²⁰³⁰ About 1,000 Muslims fled towards the nearby village of Jošanica. When some of them attempted to return later in May, they were turned away by Serb forces.²⁰³¹ Around 28 May 1992, between 400 and 500 Muslims from Divič village, including women, children, and elderly persons, were forced onto buses by members of the Yellow Wasps, told that they would be taken to Muslim territory, and brought to Crni Vrh.²⁰³² The same day, Major Svetozar Andrić, commander of the VRS 1st Birač Brigade, ordered the Zvornik TO to organize and co-ordinate the moving out of the Muslim population with municipalities through which they would pass.²⁰³³ Only women and children would be moved out, while men fit for military service were to be placed in camps for exchange.²⁰³⁴

926. The Trial Chamber has further reviewed the content of the Order by Major Svetozar Andrić, which is consistent with Adjudicated Fact IV 328 above.²⁰³⁵

²⁰³⁰ Adjudicated Facts IV, fact 325.

²⁰³¹ Adjudicated Facts IV, fact 326.

²⁰³² Adjudicated Facts IV, facts 327, 350.

²⁰³³ Adjudicated Facts IV, fact 328.

²⁰³⁴ Adjudicated Facts IV, fact 329.

²⁰³⁵ P2143 (Order from the SV Brigade Command "Birač" to the Zvornik TO Staff, signed by Major Svetozar Andrić, 28 May 1992).

927. On the basis of the Adjudicated Facts, the Trial Chamber finds that in late April or early May 1992, Serb forces consisting of Arkan's men, White Eagles and reserve police officers attacked the village of Divič and that following the attack at least 1,000 Muslim inhabitants fled Divič towards the nearby village of Jošanica. Those who tried to return to their homes in May 1992, were turned away by the aforementioned forces.

928. The Trial Chamber now moves to the incident in Divič in late May 1992. In light of the Adjudicated Facts, the Trial Chamber finds that on or about 28 May 1992, members of the Yellow Wasps forced 400-500 Muslim men, women and children from Divič onto buses, told them that they would be taken to Muslim territory, and sent them to Crni Vrh. Having further considered the Order by Major Svetozar Andrić on the moving of the Muslims in Zvornik municipality and the manner in which it was implemented in the villages of Đulići and Kozluk and Šepak, as specified in the findings in sections below, and Adjudicated Fact IV 159 above, providing that there was a close cooperation between the TO and the Yellow Wasps, the Trial Chamber finds that the Zvornik TO, under the command of Marko Pavlović, organized the transport of the Muslims from Divič at the order of Major Svetozar Andrić, commander of the VRS 1st Birač Brigade. The Trial Chamber will further consider the above incidents in relation to Counts 1, 4, and 5 of the Indictment, in chapter 4, below.

Take-over of the village of Đulići and forcible transfer of the local population in April-June 1992

929. According to the Adjudicated Facts, by late April 1992, Serb authorities had taken control of the Muslim village of Đulići in Zvornik municipality, and the villagers surrendered their weapons to Serb forces.²⁰³⁶ In order to remain employed, Muslims had to sign a pledge of loyalty to the Serb authorities.²⁰³⁷

930. The Trial Chamber has received evidence from Witness JF-026 on the transfer of Muslims from the village of Đulići. **Witness JF-026** testified that in June 1992, 4,000-5,000 Muslims from Đulići, loyal to the Serb authorities, that is those who subjected themselves to the new temporary government, requested to be transferred out of the area in order to save themselves. Their transport was organized from Bijeli Potok and the witness observed that members of the TO and police separated the women and children from the military-aged men. The women and children were driven towards Kalesija, which bordered the Muslim-held

²⁰³⁶ Adjudicated Facts IV, fact 323.

²⁰³⁷ Adjudicated Facts IV, fact 324.

territory, while the men were taken to the Karakaj Technical School.²⁰³⁸ Marko Pavlović, commander of the Zvornik TO, explained to the witness that the men were to be exchanged.²⁰³⁹ One of the drivers involved in the transport of people told the witness that there had been killings during the transport of men to the Karakaj Technical School.²⁰⁴⁰ On the first day that people were brought to Karakaj Technical School in June 1992, the witness went there to get two of his acquaintances and observed that the school was held by the Zvornik police and TO.²⁰⁴¹ Although the witness did not enter the school, he observed that a couple of hundred of people were detained in a small room, which was so hot that steam arose from it.²⁰⁴² Five or six days later, men held at the Karakaj Technical School were taken to be exchanged at Batković, and soon thereafter, rumours that they had been robbed and killed started spreading.²⁰⁴³ Grujić told the witness that during a session of the provisional government, his request that the detainees be given food and water was met by laughter, followed by Pavlović explaining that they had taken them “off food and water”.²⁰⁴⁴

931. On the basis of the Adjudicated Facts, the Trial Chamber finds that in late April 1992, the Serb authorities in Zvornik municipality took over the village of Đulići, disarmed the Muslims and forced them to sign a loyalty pledge in order to keep their jobs. Based on Witness JF-026’s testimony, the Trial Chamber finds that in June 1992, Zvornik TO and police transported about 4,000-5,000 Muslim inhabitants out of Đulići. Before placing the Muslims in vehicles, the Zvornik TO (under the command of Marko Pavlović) and police separated men from women and children. Having regard to the manner in which the transport of the Muslims was undertaken, and in light of Adjudicated Fact IV 328 and the Order by Major Svetozar Andrić reviewed elsewhere in this chapter, the Trial Chamber finds, despite Witness’s JF-026 indication that the Muslims requested to be driven out of the village, that the Zvornik TO and the police did not merely facilitate these Muslims departure, but they forcefully transported the women and children to the Muslim-held territory bordering Kalesija. Furthermore, the aforementioned forces transported the Muslim men to Karakaj

²⁰³⁸ P1700 (Witness JF-026, witness statement, 16 December 2008), para. 95; P1701 (Witness JF-026, *Slobodan Milošević* transcript, 23 and 26 May 2003, 5 June 2003), pp. 21818-21819, 21839, 21892.

²⁰³⁹ P1700 (Witness JF-026, witness statement, 16 December 2008), paras 76, 96; P1701 (Witness JF-026, *Slobodan Milošević* transcript, 23 and 26 May 2003, 5 June 2003), pp. 21892- 21893.

²⁰⁴⁰ P1700 (Witness JF-026, witness statement, 16 December 2008), para. 98.

²⁰⁴¹ P1701 (Witness JF-026, *Slobodan Milošević* transcript, 23 and 26 May 2003, 5 June 2003), pp. 21839, 21893.

²⁰⁴² P1700 (Witness JF-026, witness statement, 16 December 2008), para. 97, 99; P1701 (Witness JF-026, *Slobodan Milošević* transcript, 23 and 26 May 2003, 5 June 2003), pp. 21820.

²⁰⁴³ P1700 (Witness JF-026, witness statement, 16 December 2008), para. 98; P1701 (Witness JF-026, *Slobodan Milošević* transcript, 23 and 26 May 2003, 5 June 2003), pp. 21818-21819, 21894-21895.

²⁰⁴⁴ P1700 (Witness JF-026, witness statement, 16 December 2008), para. 98.

Technical School, from where they were to be exchanged. The Trial Chamber will further consider this incident in relation to Counts 1, 4, and 5 of the Indictment, in chapter 4, below.

Attack on Šepak and forcible transfer of the population in April-July 1992

932. The Trial Chamber received evidence from Witness B-161 and Witness JF-061 as well as relevant documentary evidence concerning the events in the village of Šepak in April-July 1992.

933. **Witness B-161** stated that on or about 8 April 1992 he met Branko Popović a.k.a. Marko Pavlović who said that Šepak, a Muslim village of about 2,000 people in the municipality of Zvornik, was heavily armed and that it was only a question of time before the local people attacked the surrounding villages.²⁰⁴⁵ Branko Popović, Mujić and another person went into Šepak to check the situation, while the witness and Dragan Spasojević remained outside. The witness later heard that Mujić and Popović had reached an agreement with the locals to the effect that all weapons in the town be surrendered in order to avoid a conflict. The witness heard that the locals then handed over about 60 weapons of different kinds. The witness also heard that some time later most of the local people, the Muslims, went to Loznica “in an organized fashion”.²⁰⁴⁶ According to the witness, the departure was discussed between Marko Pavlović and the local population.²⁰⁴⁷

934. **Witness JF-061** testified that after he had left Kozluk, he heard that people from Šepak were also expelled in the direction of Loznica on 5 July 1992.²⁰⁴⁸

935. Based on the evidence of Witness B-161 and Witness JF-061, and having considered the manner in which the Order by Major Svetozar Andrić on the moving of the Muslims in Zvornik municipality was implemented in the villages of Đulići, Kozluk, and Skočić, as specified in the findings in other sections of this chapter, the Trial Chamber finds that on or about 4 July 1992, the Zvornik TO, commanded by Marko Pavlović a.k.a. Branko Popović, forcefully transported the Muslim population of Šepak to Loznica in Serbia. Prior to the transportation the Muslims were forced to surrender their weapons. The Trial Chamber will further consider this incident in relation to Counts 1, 4, and 5 of the Indictment, in chapter 4, below.

²⁰⁴⁵ P589 (Witness B-161, *Slobodan Milošević* transcript, 22-23 May and 2 July 2003), pp. 21021-21022, 21073-21074.

²⁰⁴⁶ P589 (Witness B-161, *Slobodan Milošević* transcript, 22-23 May and 2 July 2003), pp. 21022, 21074-21075.

²⁰⁴⁷ P589 (Witness B-161, *Slobodan Milošević* transcript, 22-23 May and 2 July 2003), p. 21075.

²⁰⁴⁸ P2129 (Witness JF-061, witness statement, 9 February 1998), p. 8; Witness JF-061, T. 10926-10927.

Incidents in Kozluk in April-June 1992, including thousands of Muslims fleeing the village and forcible transfer of Muslims from Kozluk and Skočić on or about 26 June 1992

936. The Trial Chamber will first review the Adjudicated Facts and evidence regarding the situation of the local population in Kozluk from April to early June 1992, before turning to the Adjudicated Facts and evidence on the alleged forcible transfer of people from Kozluk and Skočić on or about 26 June 1992.

937. According to the Adjudicated Facts, by the end of May 1992, a large number of Muslim villagers gathered in the predominantly Muslim village of Kozluk fearing paramilitaries and Serb forces who harassed them with demands to surrender arms.²⁰⁴⁹ After the take-over of Zvornik town, paramilitary groups and local Serbs had set up barricades in nearby villages and isolated Kozluk.²⁰⁵⁰

938. The Trial Chamber has received further relevant evidence from Witness JF-026 and Witness JF-061 concerning the situation in Kozluk in the relevant period. **Witness JF-026** testified that by June 1992, the situation of Muslims in the local commune of Kozluk, where they comprised more than 90 per cent of the population, had become unbearable, as there was a mounting pressure on the provisional government to forcibly “exchange” the property of Muslims from Kozluk with that of more than 20,000 Serb refugees from Tuzla, Živinice, and Sarajevo, who had arrived in Zvornik.²⁰⁵¹

939. **Witness JF-061** testified that in April 1992, armed and uniformed members of the Serbian police, military scouts units, the TO, and the paramilitaries appeared on the streets of Kozluk and the neighbouring villages, there was increasingly frequent shooting, and grenades were thrown into the town, and the situation became tense.²⁰⁵² Captain Dragan’s red-bereted troops often ran through Kozluk doing their physical exercises.²⁰⁵³ Muslim foresters told the witness that they had seen military training being performed in the forest; the men had weapons and wore armbands with “Military Scouts” inscription.²⁰⁵⁴ The witness also saw the Serb paramilitaries training local Serbs and performing military exercises on the Drina River. According to him, the paramilitaries arrived from the bases located in Koviljača, Radaljska,

²⁰⁴⁹ Adjudicated Facts IV, fact 331.

²⁰⁵⁰ Adjudicated Facts IV, fact 331.

²⁰⁵¹ P1700 (Witness JF-026, witness statement, 16 December 2008), paras 101, 107-108.

²⁰⁵² P2129 (Witness JF-061, witness statement, 9 February 1998), p. 4; P2130 (Witness JF-061, witness statement, 30 March 2002), p. 6; P2132 (Witness JF-061, *Slobodan Milošević* transcript, 9 and 19 May 2003), p. 20618; Witness JF-061, T. 10928.

²⁰⁵³ P2130 (Witness JF-061, witness statement, 30 March 2002), p. 6; Witness JF-061, T. 10928.

Banja, and Gučevo, all in Serbia.²⁰⁵⁵ The witness noticed that even the local Serbs felt pressured by the paramilitaries.²⁰⁵⁶ His evidence about the isolation of Kozluk and the setting up of the barricades is consistent with Adjudicated Fact IV 331 above.²⁰⁵⁷ The witness was told that Brano Grujić had invited the paramilitaries and given an order to set up the barricades.²⁰⁵⁸ According to the witness, the military police in Kozluk was under the command of “Studeni”, who had good relations with Žučo.²⁰⁵⁹ Vajo Šakotić, who was “the direct contact” between the Kozluk Serbs and Marko Pavlović, commanded a Serb unit which consisted of some 23 men, including extremists such as Pero Obrenović and Slobodan Josić.²⁰⁶⁰

940. In April 1992, the witness took part in a meeting at Alhos factory with Grujić and a uniformed man named Pejić, who introduced himself as a man “in charge of the people from the Kozluk area” and who the witness believed was superior to Grujić. Pejić assured the villagers that nobody had reason to be afraid and explained that people could move to Serbia, but would not be allowed to go to Tuzla, as it was unsafe, and they feared the Muslims would join their army. Pejić came to Kozluk and assured the population that medicines and food would be provided.²⁰⁶¹ He was very angry when he saw soldiers at the barricades. The witness heard that he later beat some of the soldiers.²⁰⁶² The next day, truckloads of food and medicine and an ambulance vehicle arrived to Kozluk.²⁰⁶³

941. Pejić was succeeded by a man from Serbia called Žučo.²⁰⁶⁴ According to the witness, he was a paramilitary commander, as he wore fingerless gloves and a dirty camouflage uniform, was well armed, and drove a combat vehicle with a machine gun. The witness believed that Žučo was not in full control of the deteriorating situation in Kozluk - there were

²⁰⁵⁴ P2129 (Witness JF-061, witness statement, 9 February 1998), pp. 2, 4; P2132 (Witness JF-061, *Slobodan Milošević* transcript, 9 and 19 May 2003), pp. 20671-20673.

²⁰⁵⁵ P2129 (Witness JF-061, witness statement, 9 February 1998), pp. 2-3.

²⁰⁵⁶ P2129 (Witness JF-061, witness statement, 9 February 1998), p. 6.

²⁰⁵⁷ P2129 (Witness JF-061, witness statement, 9 February 1998), pp. 2, 4; P2132 (Witness JF-061, *Slobodan Milošević* transcript, 9 and 19 May 2003), pp. 20618-20619; P2133 (Summary of Witness JF-061 background), p. 1.

²⁰⁵⁸ P2129 (Witness JF-061, witness statement, 9 February 1998), p. 2; P2130 (Witness JF-061, witness statement, 30 March 2002), p. 6.

²⁰⁵⁹ P2130 (Witness JF-061, witness statement, 30 March 2002), p. 6.

²⁰⁶⁰ P2130 (Witness JF-061, witness statement, 30 March 2002), p. 6.

²⁰⁶¹ P2129 (Witness JF-061, witness statement, 9 February 1998), pp. 6-7; P2132 (Witness JF-061, *Slobodan Milošević* transcript, 9 and 19 May 2003), pp. 20692-20694.

²⁰⁶² P2129 (Witness JF-061, witness statement, 9 February 1998), pp. 6-8; Witness JF-061, T. 10972-10974.

²⁰⁶³ P2129 (Witness JF-061, witness statement, 9 February 1998), p. 6.

²⁰⁶⁴ P2129 (Witness JF-061, witness statement, 9 February 1998), p. 7; P2130 (Witness JF-061, witness statement, 30 March 2002), p. 4; P2131 (Witness JF-061, witness statement, 6 May 2003), p. 2; Witness JF-061, T. 10975-10977.

clashes between the paramilitaries, and stores and cars were looted by soldiers who were passing through the village and by paramilitary units. The witness estimated that between April and early June 1992, some 2,100-2,200 Muslims received TO permits to leave, and decided to go to Tuzla and Western Europe, as the situation in Kozluk had become unbearable - people had no food, the village was surrounded, and there was burning and looting around, and all the Muslims were forced to leave their employment.²⁰⁶⁵

942. On the basis of Witness JF-061's evidence the Trial Chamber finds that following the take-over of Zvornik town, in April 1992, Serb police, military scout units, the TO, and Serb paramilitaries appeared on the streets of Kozluk. Based on the Adjudicated Facts and having reviewed the evidence of Witness JF-061, the Trial Chamber finds that these Serb paramilitary units and local Serbs set up barricades isolating the village of Kozluk and restricting the freedom of movement of its residents. Having examined Witness JF-061's testimony, the Trial Chamber finds that members of the SDG, under the command of Marko Pejić, detained and beat Muslims at Alhos factory. At the same time, soldiers passing through Kozluk and Serb paramilitary units looted cars and stores. Furthermore, local Serb authorities forced the Muslims to leave their employment. In view of the above, and the evidence of Witness JF-061 and Witness JF-026, the Trial Chamber finds that as a result of these incidents, over 2,000 Muslim inhabitants left the village of Kozluk between April and early June 1992 and went to Tuzla and to Western Europe.

943. According to the Adjudicated Facts, on the night of 20 June 1992, the Serb TO under the command of Marko Pavlović attacked Kozluk.²⁰⁶⁶ On 26 June 1992, a large number of Serb soldiers, TO, and paramilitary units entered Kozluk in tanks and other military vehicles. Among the group were Branko Grujić, president of the Zvornik SDS and crisis staff, Pavlović, and Jovan Mijatović, a member of the Zvornik crisis staff and a deputy to the Bosnian-Serb Assembly. They informed the Muslims that they had one hour to leave or they would be killed. They also told them that they could not take any personal belongings with them and forced them to sign statements surrendering their property.²⁰⁶⁷ On the same day, a convoy of vehicles organized by the Serbs who had attacked and taken over Kozluk transported approximately 1,800 persons out of the municipality to Serbia.²⁰⁶⁸

²⁰⁶⁵ P2129 (Witness JF-061, witness statement, 9 February 1998), p. 7; P2132 (Witness JF-061, *Slobodan Milošević* transcript, 9 and 19 May 2003), pp. 20706-20707; Witness JF-061, T. 10951-10953, 10799-10981.

²⁰⁶⁶ Adjudicated Facts IV, fact 332.

²⁰⁶⁷ Adjudicated Facts IV, fact 333.

²⁰⁶⁸ Adjudicated Facts IV, fact 334.

944. Witness JF-026 and Witness JF-061 also testified about this incident and Witness JF-061 provided further information about the transfer of Muslims from Skočić. **Witness JF-026** testified that sometime around the beginning of July 1992, Muslims were ordered to leave Kozluk.²⁰⁶⁹ Subsequently, the witness learned from the media that before moving the Muslims out, an attack on Kozluk was staged. Fadil Banjanović, a representative of Kozluk commune, and others later reported that during that attack people were wounded, killed, and raped.²⁰⁷⁰ The “abandoned” property of the Muslims who had left Kozluk was distributed among the Serb refugees, in accordance with the decision of the municipality commission, without any change in property ownership records in Zvornik. The majority of movable property in Kozluk was stolen.²⁰⁷¹

945. According to **Witness JF-061**, Pavlović organized the attack on Kozluk, which took place on 21 June 1992, at 3:15 a.m.²⁰⁷² The witness further provided evidence about the events of 26 June 1992, which is consistent with Adjudicated Fact IV 333 above.²⁰⁷³ The witness added that he also saw Serbian police, military scouts, White Eagles, and a unit from Loznica under the command of Gagić in Kozluk on that day.²⁰⁷⁴ The tanks he saw had “JNA” markings, and the APCs had flags and military markings.²⁰⁷⁵ The soldiers were shouting and firing, they burnt a house and a few stables, and Galib Hadžić was seriously wounded by a bearded Chetnik. The witness provided evidence consistent with Adjudicated Fact IV 334 above and specified that 1,822 persons, 173 from Skočić and 1,649 from Kozluk, among them the witness, were put in 17 buses and expelled.²⁰⁷⁶ The List of persons moved from Skočić was signed by Marko Pavlović, and the Document containing a list of persons leaving Kozluk was signed by the Staff Commander for Marko Pavlović; both were dated 26 June 1992.²⁰⁷⁷

²⁰⁶⁹ P1701 (Witness JF-026, *Slobodan Milošević* transcript, 23 and 26 May 2003, 5 June 2003), p. 21823.

²⁰⁷⁰ P1700 (Witness JF-026, witness statement, 16 December 2008), para. 110.

²⁰⁷¹ P1700 (Witness JF-026, witness statement, 16 December 2008), para. 111.

²⁰⁷² P2130 (Witness JF-061, witness statement, 30 March 2002), p. 5.

²⁰⁷³ P2129 (Witness JF-061, witness statement, 9 February 1998), pp. 7-8; P2130 (Witness JF-061, witness statement, 30 March 2002), p. 7; P2132 (Witness JF-061, *Slobodan Milošević* transcript, 9 and 19 May 2003), pp. 20621-20622, 20626-20627, 20629, 20664; P2134 (Sketch of Dom Kulture in Kozluk drawn by Witness JF-061); Witness JF-061, T. 10929-10931.

²⁰⁷⁴ P2132 (Witness JF-061, *Slobodan Milošević* transcript, 9 and 19 May 2003), p. 20621; Witness JF-061, T. 10929.

²⁰⁷⁵ P2132 (Witness JF-061, *Slobodan Milošević* transcript, 9 and 19 May 2003), p. 20617, 20664-20665; Witness JF-061, T. 10944-10945.

²⁰⁷⁶ P2129 (Witness JF-061, witness statement, 9 February 1998), p. 8; P2132 (Witness JF-061, *Slobodan Milošević* transcript, 9 and 19 May 2003), pp. 20622, 20629-20630, 20632-20633, 20666; Witness JF-061, T. 10926-10927, 10932; P2138 (Document containing a list of persons leaving Kozluk, signed by Staff Commander for Marko Pavlović, 26 June 1992), p. 1.

²⁰⁷⁷ P2129 (Witness JF-061, witness statement, 9 February 1998), p. 8; P2132 (Witness JF-061, *Slobodan Milošević* transcript, 9 and 19 May 2003), pp. 20630-20631; Witness JF-061, T. 10925; P2138 (Document

According to the Document containing a list of persons leaving Kozluk, the Muslims were given authorisation to move pursuant to their explicit request, as they wished to avoid mobilization to the Muslim formations.²⁰⁷⁸ The witness testified that this was not true.²⁰⁷⁹ The witness's testimony about the Muslims surrendering their property is consistent with Adjudicated Fact IV 333 above.²⁰⁸⁰

946. The Muslims were escorted by local Serb police to Loznica, and were assisted by a Serb doctor Nikolić and the Red Cross representatives.²⁰⁸¹ The Serbian Commission for Refugees granted the Muslims permission to leave the territory of Yugoslavia, noting that they were refugees and that they had voluntarily expressed their will as to where they wanted to live.²⁰⁸² Afterwards, the local Serb police from Loznica escorted the buses to Ruma in Serbia, where they were forced into cattle wagons and taken by train to Subotica and then to Palić refugee camp.²⁰⁸³ Once provided with the SFRY passports, the Muslims, including the witness, were put on trains for Hungary, Austria, and Germany.²⁰⁸⁴ At no time during this journey were the Muslims free to walk away or to move around.²⁰⁸⁵ Some people wanted to remain in Serbia, but they were not allowed to do so.²⁰⁸⁶

947. On the basis of the Adjudicated Facts and having reviewed the evidence of Witness JF-061 and Witness JF-026, the Trial Chamber finds that on the night of 20 June 1992, the Serb TO of Zvornik under the command of Marko Pavlović attacked Kozluk. Based on the Adjudicated Facts and the testimony of Witness JF-061, the Trial Chamber finds that on or about 26 June 1992, a large number of Serb soldiers, TO members and paramilitary units, including military scouts, White Eagles, and members of Gagić's unit entered the village of

containing a list of persons leaving Kozluk, signed by Staff Commander for Marko Pavlović, 26 June 1992); P2139 (List of persons moved from Skočić, signed by Marko Pavlović, 26 June 1992).

²⁰⁷⁸ P2132 (Witness JF-061, *Slobodan Milošević* transcript, 9 and 19 May 2003), pp. 20630-20631; P2138 (Document containing a list of persons leaving Kozluk, signed by Staff Commander for Marko Pavlović, 26 June 1992), p. 1.

²⁰⁷⁹ P2132 (Witness JF-061, *Slobodan Milošević* transcript, 9 and 19 May 2003), pp. 20632, 20703-20704.

²⁰⁸⁰ P2138 (Document containing a list of persons leaving Kozluk, signed by Staff Commander for Marko Pavlović, 26 June 1992), p. 1.

²⁰⁸¹ P2129 (Witness JF-061, witness statement, 9 February 1998), p. 8; P2132 (Witness JF-061, *Slobodan Milošević* transcript, 9 and 19 May 2003), pp. 20633-20635, 20703; Witness JF-061, T. 10927, 10932, 10958.

²⁰⁸² P2132 (Witness JF-061, *Slobodan Milošević* transcript, 9 and 19 May 2003), pp. 20636, 20704-20705; P2140 (Serbian Commission for Refugees Permission to leave Yugoslavia, 26 June 1992).

²⁰⁸³ P2129 (Witness JF-061, witness statement, 9 February 1998), p. 8; P2132 (Witness JF-061, *Slobodan Milošević* transcript, 9 and 19 May 2003), pp. 20636-20637; Witness JF-061, T. 10927, 10933, 10936; P2135 (Map showing the route from Kozluk to Subotica, marked by Witness JF-061).

²⁰⁸⁴ P2129 (Witness JF-061, witness statement, 9 February 1998), p. 8; P2132 (Witness JF-061, *Slobodan Milošević* transcript, 9 and 19 May 2003), p. 20641; Witness JF-061, T. 10933; P2141 (Two SFRY passports issued on 29 June 1992 to Muslims from Kozluk by the Serbian MUP).

²⁰⁸⁵ P2132 (Witness JF-061, *Slobodan Milošević* transcript, 9 and 19 May 2003), p. 20643; Witness JF-061, T. 10934-10935, 10953-10954, 10957.

Kozluk. Marko Pavlović, Brano/Branko Grujić, the Zvornik SDS president, and Jovan Mijatović, a member of the Zvornik crisis staff, arrived with them and gave an ultimatum to the Muslim villagers to leave within an hour and a half, or they would be killed. The forces that entered the village fired weapons, burned several buildings, and injured at least one Muslim man. On the basis of the Adjudicated Facts, the evidence of Witness JF-061 and Witness JF-026, and in light of the List of persons moved from Skočić and the Document containing a list of persons leaving Kozluk, signed by and for Pavlović, the Trial Chamber finds that the aforementioned forces placed 1,882 Muslim inhabitants from Kozluk and Skočić onto 17 buses and transferred them, with a local Serb police escort, to Loznica in Serbia. Before leaving, these forces obliged the Muslims to sign statements surrendering their property. In Serbia, the Muslims were put on trains for Hungary, Germany and Austria. In view of Adjudicated Fact IV 328 and the Order by Major Svetozar Andrić reviewed elsewhere in this chapter, the Trial Chamber finds that Major Svetozar Andrić, commander of the VRS 1st Birač Brigade, ordered the Zvornik TO to organize and coordinate the moving of the Muslim population. The Trial Chamber will further consider these incidents in relation to Counts 1, 4, and 5 of the Indictment, in chapter 4, below.

Aftermath of the attack on Zvornik town: arbitrary arrest and detention and other incidents that occurred after 10 April 1992

948. The Trial Chamber has reviewed the Adjudicated Facts and further evidence from Witness B-161, Witness JF-026, and Witness JF-070, as well as documentary evidence, including exhibits P1059 and P1060, concerning arbitrary arrests and detentions of Muslims in the municipality of Zvornik, mistreatment and killings of Muslims in detention facilities, destruction of mosques, killings, and sexual abuse in Zvornik town and throughout the municipality of Zvornik in the aftermath of the attack.²⁰⁸⁷ The Trial Chamber observes that

²⁰⁸⁶ P2132 (Witness JF-061, *Slobodan Milošević* transcript, 9 and 19 May 2003), p. 20709.

²⁰⁸⁷ See *inter alia*, Adjudicated Facts IV, facts 339-341, 343-346; P589 (Witness B-161, *Slobodan Milošević* transcript, 22-23 May and 2 July 2003), pp. 21036-21037; P1190 (Statement of Vojin Vučković for the investigating judge of the Šabac District Court, signed by Duško Vučković, 4 November 1993), p. 2; P1411 (Statement regarding Dušan Vučković for the investigating judge of the Šabac District Court, signed by Duško Vučković, 8 November 1993), p. 2; P1529 (Witness JF-070, witness statements), 17 October 2002 statement, pp. 3-6; P1530 (Witness JF-070, *Slobodan Milošević* transcript, 29 May 2003), pp. 21325-21326, 21328-21331, 21351, 21363, 21365-21367, 21372, 21381; P1530 (Witness JF-070, *Slobodan Milošević* transcript, 29 May 2003), p. 21328; P1531 (Photograph of Dom Kulture in Drinjaze); P1534 (Photograph of Dom Kulture Čelopek); P1535 (Photograph of Economija Factory); P1536 (Photograph of Karakaj Technical School); P1537 (Photograph of Gero's slaughterhouse); P1700 (Witness JF-026, witness statement, 16 December 2008), paras 93-94, 113; P1701 (Witness JF-026, *Slobodan Milošević* transcript, 23 and 26 May 2003, 5 June 2003), pp. 21817, 21825, 21834; 21905-21906; D160 (Statement of Duško Vučković to the MUP of the Republic of Serbia, 4 November 1993), pp. 3-4; D162 (Official note of an interview, 4 July 1992), pp. 6-7; D215 (Witness JF-026, *Šešelj* transcript, 12-13 January 2010), p. 15017.

the alleged killings and other crimes have not been separately charged by the Prosecution in the Indictment. Furthermore, the Trial Chamber has not received any evidence indicating that people left as a result of the alleged incidents. Consequently, the Trial Chamber will not further consider the aforementioned incidents in this context.

4. Legal findings on crimes

4.1 Violations of the laws and customs of war: general elements and jurisdictional requirements

4.1.1 Applicable law

949. The Indictment charges the Accused with one count of violations of the laws or customs of war under Article 3 of the Statute. Count 3 charges them with murder, based on Common Article 3 (1) (a) to the four Geneva Conventions of 1949. Article 3 of the Statute states: “The International Tribunal shall have the power to prosecute persons violating the laws or customs of war”. The jurisdictional requirements and general elements are analyzed below.

950. Article 3 of the Statute is a “residual clause” which gives the Tribunal jurisdiction over any serious violation of international humanitarian law not covered by Articles 2, 4, or 5 of the Statute.²⁰⁸⁸ To fall within this residual jurisdiction, the offence charged must meet four conditions: (i) it must violate a rule of international humanitarian law; (ii) the rule must bind the parties at the time of the alleged offence; (iii) the rule must protect important values and its violation must have grave consequences for the victim; and (iv) such a violation must entail the individual criminal responsibility of the perpetrator.²⁰⁸⁹

951. It is well established in the jurisprudence of this Tribunal that violations of Common Article 3 to the four Geneva Conventions of 1949 fall within the ambit of Article 3 of the Statute.²⁰⁹⁰ In the present case, the charge of murder under Common Article 3 (1) (a) clearly meets the four jurisdictional requirements set out above. The rules contained in Common Article 3 are part of customary international law applicable in both international and non-international armed conflicts.²⁰⁹¹ The acts prohibited by Common Article 3 undoubtedly breach rules protecting important values and involve grave consequences for the victims. They also entail individual criminal responsibility.²⁰⁹² The Trial Chamber therefore has jurisdiction over such violations.

952. Once jurisdiction is established, certain general conditions must be met for the applicability of Article 3 of the Statute: first, there must be an armed conflict; second, there

²⁰⁸⁸ *Tadić* Jurisdiction Decision, paras 89-93; *Čelebići* Appeal Judgement paras 125, 131, 133.

²⁰⁸⁹ *Tadić* Jurisdiction Decision, paras 94, 143.

²⁰⁹⁰ *Tadić* Jurisdiction Decision, para. 89; *Čelebići* Appeal Judgement, paras 125, 133-136; *Kunarac et al.* Appeal Judgement, para. 68.

²⁰⁹¹ *Tadić* Jurisdiction Decision, paras 89, 98; *Čelebići* Appeal Judgement, paras 138-139, 147.

must be a nexus between the alleged offence and the armed conflict,²⁰⁹³ and third, for charges based on Common Article 3, the victim must not take active part in the hostilities at the time of the alleged offence.²⁰⁹⁴

953. *Armed Conflict*. The test for determining the existence of an armed conflict was set out by the Appeals Chamber in the *Tadić* Jurisdiction Decision:

[A]n armed conflict exists whenever there is a resort to armed force between States or protracted armed violence between governmental authorities and organized armed groups or between such groups within a State.²⁰⁹⁵

954. In its Judgement in *Tadić*, the Appeals Chamber observed that it is “indisputable that an armed conflict is international if it takes place between two or more States”.²⁰⁹⁶ The Appeals Chamber went on to find that an internal armed conflict,

may become international (or, depending on the circumstances, be international in character alongside an internal armed conflict) if (i) another State intervenes in that conflict through its troops, or alternatively if (ii) some of the participants in the internal armed conflict act on behalf of that other State.²⁰⁹⁷

The Appeals Chamber subsequently set out the standard of “overall control” for determining when an organized armed group may be considered to be acting on behalf of another State, thereby making the conflict international in character.²⁰⁹⁸ This test is satisfied where, *inter alia*, a State has a role in organizing, coordinating or planning the military actions of the organized armed group and that State finances, trains, equips or provides operational support to that group.²⁰⁹⁹ The test calls for an assessment of all the elements of control taken as a whole, and thus contains no requirement, e.g., that the third-party State issue specific instructions or orders to the organized armed group.²¹⁰⁰

955. The armed conflict extends to the whole territory of the warring States or, in the case of internal conflicts, the whole territory under the control of a party, whether or not actual

²⁰⁹² *Tadić* Jurisdiction Decision, para. 134; *Čelebići* Appeal Judgement, paras 173-174.

²⁰⁹³ *Tadić* Jurisdiction Decision, para. 70; *Kunarac et al.* Appeal Judgement, para. 55; *Stakić* Appeal Judgement, para. 342.

²⁰⁹⁴ Common Article 3 (1); *Čelebići* Appeal Judgement, para. 420; *Krajišnik* Trial Judgement, para. 847; *Haradinaj et al.* Trial Judgement, para. 62.

²⁰⁹⁵ *Tadić* Jurisdiction Decision, para. 70. See also *Kunarac et al.* Appeal Judgement, para. 56; *Kordić and Čerkez* Appeal Judgement, para. 336.

²⁰⁹⁶ *Tadić* Appeal Judgement, para. 84.

²⁰⁹⁷ *Tadić* Appeal Judgement, para. 84.

²⁰⁹⁸ *Kordić and Čerkez* Appeal Judgement, para. 306.

²⁰⁹⁹ *Kordić and Čerkez* Appeal Judgement, paras 306, 308.

²¹⁰⁰ *Aleksovski* Appeal Judgement, paras 143-146.

combat takes place there.²¹⁰¹ The armed conflict ends when there is a general conclusion of peace (for international armed conflicts) or when a peaceful settlement is achieved (for armed conflicts not of an international character).²¹⁰²

956. *Nexus*. The alleged crime need not have occurred at a time and place in which there was actual combat, so long as the acts of the perpetrator were “closely related” to hostilities occurring in territories controlled by parties to the conflict.²¹⁰³ The existence of this close relationship between the crime and the armed conflict will be established where it can be shown that the conflict played a substantial part in the perpetrator’s ability to commit the crime, his or her decision to commit it, the manner in which it was committed, or the purpose for which it was committed.²¹⁰⁴

957. *Status of Victims*. The final requirement for the application of an Article 3 charge based on Common Article 3 is that the victim was not actively participating in the hostilities at the time the offence was committed.²¹⁰⁵ The Appeals Chamber has explained that active participation in hostilities means participating in acts of war intended by their nature or purpose to cause actual harm to the personnel or equipment of enemy armed forces.²¹⁰⁶ Protected victims include members of armed forces who have laid down their arms and those placed *hors de combat* by sickness, wounds, detention, or any other cause.²¹⁰⁷ The perpetrator must know or should have known the status of the victims as persons taking no active part in the hostilities.²¹⁰⁸

4.1.2 Legal findings

958. The parties agreed as to the existence of an armed conflict in Croatia and Bosnia-Herzegovina at all times relevant to the crimes charged in the Indictment.²¹⁰⁹ The Trial Chamber has considered the parties’ agreement in the light of a number of Adjudicated Facts and evidence with regard to the outbreak and development of the armed conflict in Croatia

²¹⁰¹ *Tadić* Jurisdiction Decision, para. 70.

²¹⁰² *Tadić* Jurisdiction Decision, para. 70. See also *Kunarac et al.* Appeal Judgement, para. 57; *Kordić and Čerkez* Appeal Judgement, para. 319.

²¹⁰³ *Kunarac et al.* Appeal Judgement, para. 57; *Stakić* Appeal Judgement, para. 342.

²¹⁰⁴ *Kunarac et al.* Appeal Judgement, para. 58.

²¹⁰⁵ Common Article 3 (1); *Čelebići* Appeal Judgement, paras 420, 424; *Strugar* Appeal Judgement, paras 172, 178; *Boškoski and Tarčulovski* Appeal Judgement, para. 66.

²¹⁰⁶ *Strugar* Appeal Judgement, para. 178.

²¹⁰⁷ Common Article 3 (1); *Strugar* Appeal Judgement, para. 175.

²¹⁰⁸ *Boškoski and Tarčulovski* Appeal Judgement, para. 66.

²¹⁰⁹ T. 18660-18661; Prosecution Final Trial Brief, 14 December 2012, para. 383. See also para. 19 of the Indictment.

and Bosnia-Herzegovina.²¹¹⁰ Accordingly, the Trial Chamber finds that there was an armed conflict in the territory of Croatia and Bosnia-Herzegovina that extended throughout the period relevant to the crimes charged in the Indictment.

²¹¹⁰ See Adjudicated facts I, facts 70, 73-75, 77, 80-81, 86-87, 102, 118-119, 121, 143, 145, 152, 161, 231, 233, 234, 284-285, 326, 405, 428, 527; Adjudicated facts III, facts 8, 13, 18, 42-46, 51-52, 68-70, 73, 89, 120, 122, 124-126, 141, 145-146, 178, 207; Adjudicated Facts IV, facts 59-60, 198, 257, 292, 294-295, 306, 316, 348-349, 372, 376, 379; P1483 (Robert Donia expert report, 17 March 2008), pp. 2, 95; P1575 (Reynaud Theunens expert report, 30 June 2007), paras 15-16, 22, 32, 33, 34, 35, 36, 38, 39, p. 124-126, 131, Part III, pp. 3, 8, 11, 13, 40, 41, 42, 49, 50, 56, 76, 77, 91, 100, 123-125, 128, 130-131.

4.2 Crimes against humanity: general elements and jurisdictional requirement

4.2.1 Applicable law

959. The Indictment charges the Accused with four counts of crimes against humanity under Article 5 of the Statute. Count 1 charges them with persecution under Article 5 (h). Count 2 charges them with murder under Article 5 (a). Counts 4 and 5 charge them with deportation and forcible transfer as inhumane acts under Article 5 (d) and (i), respectively. Article 5 states: “The International Tribunal shall have the power to prosecute persons responsible for the following crimes when committed in armed conflict, whether international or internal in character, and directed against a civilian population”. The jurisdictional requirement and general elements are analyzed below.

960. *Committed in armed conflict.* The crimes must be committed in an armed conflict, whether international or internal in character. This requirement is not part of the customary law definition of crimes against humanity.²¹¹¹ It is a jurisdictional requirement,²¹¹² which translates into the need for proof that there was an armed conflict at the relevant time and place.²¹¹³ The definition of armed conflict is found below, in chapter 4.1.

961. *Widespread or systematic attack directed against a civilian population.* The general elements for the applicability of Article 5 of the Statute are:

- (i) there was an attack;
- (ii) the attack was widespread or systematic;
- (iii) the attack was directed against a civilian population;
- (iv) the acts of the perpetrator were part of the attack; and
- (v) the perpetrator knew that there was, at the time of his or her acts, a widespread or systematic attack directed against a civilian population and that his or her acts were part of that attack.²¹¹⁴

962. *Attack.* An attack on a civilian population is a separate and distinct concept from that of an armed conflict.²¹¹⁵ The attack is not limited to the use of force, but encompasses any mistreatment of the civilian population, and can commence before, outlast, or continue during

²¹¹¹ *Tadić* Appeal Judgement, para. 249.

²¹¹² *Tadić* Appeal Judgement, para. 249; *Kunarac et al.* Appeal Judgement, para. 83.

²¹¹³ *Tadić* Appeal Judgement, paras 249, 251; *Kunarac et al.* Appeal Judgement, para. 83.

²¹¹⁴ *Kunarac et al.* Appeal Judgement, para. 85.

²¹¹⁵ *Tadić* Appeal Judgement, para. 251.

the armed conflict.²¹¹⁶ An attack is composed of acts of violence, or the kind of mistreatment referred to in Article 5 (a) through (i) of the Statute.²¹¹⁷

963. *Widespread or systematic.* “Widespread” refers to the large-scale nature of the attack and the number of targeted persons.²¹¹⁸ “Systematic” refers to the “organized nature of the acts of violence”.²¹¹⁹ The existence of a plan or policy can be indicative of the systematic character of the attack but it is not a distinct legal element.²¹²⁰

964. *Directed against a civilian population.* “Directed against” indicates that it is the civilian population which is the primary object of the attack.²¹²¹ The attack does not have to be directed against the civilian population of the entire area relevant to the indictment.²¹²² It is sufficient to show that enough individuals were targeted in the course of the attack, or that they were targeted in such a way as to satisfy the Trial Chamber that the attack was in fact directed against a civilian “population”, rather than against a limited and randomly selected number of individuals.²¹²³

965. According to the Appeals Chamber, the definition of civilian for the purpose of Article 5 of the Statute corresponds with the definition of civilian contained in Article 50 of Additional Protocol I to the 1949 Geneva Conventions.²¹²⁴ Additional Protocol I defines a “civilian” as an individual who is not a member of the armed forces or otherwise a combatant.²¹²⁵ The Appeals Chamber has emphasized that the fact that an attack for the purpose of crimes against humanity must be directed against a civilian population, does not mean that the criminal acts within that attack must be committed against civilians only.²¹²⁶ A person placed *hors de combat*, for example by detention, may also be a victim of an act amounting to a crime against humanity, provided that all the other necessary conditions are

²¹¹⁶ *Tadić* Appeal Judgement, para. 251; *Kunarac et al.* Appeal Judgement, para. 86; *Kordić and Čerkez* Appeal Judgement, para. 666.

²¹¹⁷ *Nahimana et al.* Appeal Judgement, para. 918.

²¹¹⁸ *Kunarac et al.* Appeal Judgement, para. 94; *Blaškić* Appeal Judgement, para. 101; *Kordić and Čerkez* Appeal Judgement, paras 94, 666; *Nahimana et al.* Appeal Judgement, para. 920.

²¹¹⁹ *Kunarac et al.* Appeal Judgement, para. 94; *Blaškić* Appeal Judgement, para. 101; *Kordić and Čerkez* Appeal Judgement, para. 666; *Nahimana et al.* Appeal Judgement, para. 920.

²¹²⁰ *Kunarac et al.* Appeal Judgement, paras 98, 101; *Blaškić* Appeal Judgement, para. 120; *Nahimana et al.* Appeal Judgement, para. 922.

²¹²¹ *Kunarac et al.* Appeal Judgement, para. 91.

²¹²² *Kunarac et al.* Appeal Judgement, para. 90.

²¹²³ *Kunarac et al.* Appeal Judgement, para. 90; *Blaškić* Appeal Judgement, para. 105; *Kordić and Čerkez* Appeal Judgement, para. 95; *Stakić* Appeal Judgement, para. 247.

²¹²⁴ *Blaškić* Appeal Judgement, para. 110; *Kordić and Čerkez* Appeal Judgement, para. 97; *Galić* Appeal Judgement, para. 144; *Martić* Appeal Judgement, para. 302.

²¹²⁵ Additional Protocol I, Art. 50 (1), compared with Geneva Convention III, Art. 4 (A) (1), (2), (3), and (6) and Additional Protocol I, Art. 43.

met, in particular that the act in question is part of a widespread or systematic attack against a civilian population.²¹²⁷

966. *Acts of the perpetrator are part of the attack.* Acts which cannot reasonably be understood to be objectively part of the attack fail this requirement.²¹²⁸

967. *Perpetrator's knowledge.* The perpetrator must know that there is a widespread or systematic attack against a civilian population and that his or her acts are part of that attack.²¹²⁹ The perpetrator does not need to have detailed knowledge of the attack or share the purpose of it.²¹³⁰

4.2.2 Legal findings

968. As concluded in chapter 4.1.2, the Trial Chamber finds that there was an armed conflict in the territory of Croatia and Bosnia-Herzegovina that extended throughout the period relevant to the crimes charged in the Indictment. The jurisdictional requirement for crimes against humanity has therefore been met. The Trial Chamber will now deal with the general elements of crimes against humanity.

969. In its Final Brief, the Prosecution submits that the charged crimes formed part of an attack that was both widespread – covering significant parts of Croatia and Bosnia-Herzegovina – and systematic, as demonstrated by the Serb Forces' consistent and coordinated manner of taking over and ethnically cleansing targeted territories. It further submits that the attack was characterized by military attacks on undefended non-Serb villages, systematic executions of non-Serb civilians, and destruction of mosques, churches, and homes of non-Serbs and other civilian targets.²¹³¹

970. When assessing whether the general elements of crimes against humanity are fulfilled, the Trial Chamber will consider the evidence with regard to the individual counts in the Indictment. This evidence is dealt with in detail in chapter 3, and the review and analysis of this evidence will not be repeated here. As set out in the above-mentioned chapters, the Trial

²¹²⁶ *Martić* Appeal Judgement, para. 305; *Mrkšić and Šljivančanin* Appeal Judgement, paras 27-29, 32; *Dragomir Milošević* Appeal Judgement, para. 58.

²¹²⁷ *Kordić and Čerkez* Appeal Judgement paras 421, 570-571, 580; *Martić* Appeal Judgement, para. 313.

²¹²⁸ *Kunarac et al.* Appeal Judgement, para. 100.

²¹²⁹ *Kunarac et al.* Appeal Judgement, para. 99; *Blaškić* Appeal Judgement, paras 124, 126; *Kordić and Čerkez* Appeal Judgement, paras 99-100.

²¹³⁰ *Tadić* Appeal Judgement, paras 248, 252; *Kunarac et al.* Appeal Judgement, paras 102-103; *Blaškić* Appeal Judgement, para. 124; *Kordić and Čerkez* Appeal Judgement, para. 99.

²¹³¹ Prosecution Final Brief, para. 391.

Chamber finds that Serb Forces (as defined in paragraphs 4 and 6 of the Indictment) committed a large number of murders against Croats, Muslims, and other non-Serbs. The Trial Chamber further finds that these Serb Forces committed deportation and forcible transfer of many thousands of Croats and Muslims from each of the areas referred to in the Indictment: SAO Krajina, SAO SBWS, and the Indictment municipalities in Bosnia-Herzegovina. In this respect, the Trial Chamber has considered incidents where people were moved against their will or without a genuine choice. The Trial Chamber has also considered incidents where Serb Forces created an environment where the victims had no choice but to leave. This included attacks on villages and towns, arbitrary detention, killings, and ill-treatment. These conditions prevailed during the days or weeks, and sometimes months, prior to people leaving. The Trial Chamber has also found that the crimes of murder, deportation, and forcible transfer constituted underlying acts of persecution as well.

971. The Trial Chamber finds that crimes were committed throughout the Indictment area over the course of many years, although with a concentration in the fall of 1991 in SAO Krajina and SAO SBWS, and April through September 1992 in Bosnia-Herzegovina. The victims of the crimes were, with few exceptions, non-Serbs. In SAO Krajina and SAO SBWS most victims were Croats and in the Indictment municipalities in Bosnia-Herzegovina most were Muslims. The evidence shows that the persons targeted were primarily members of the civilian population. Based on the foregoing, the Trial Chamber finds the requirements of “attack”, “widespread”, and “civilian population” have been met. Considering this, and that the legal requirement is that the attack was widespread *or* systematic, the Trial Chamber will not address whether the attack was systematic.

972. In conclusion, the Trial Chamber finds beyond a reasonable doubt that there was a widespread attack directed against the non-Serb civilian population in SAO Krajina, SAO SBWS, and the Indictment municipalities in Bosnia-Herzegovina. Unless otherwise stated with regard to specific incidents of murder, deportation, forcible transfer, and persecution in chapters 4.3.2, 4.4.2, and 4.5.2, the Trial Chamber considers the circumstances such as the ethnicity of the victims and the time and place where the acts took place, and finds that the crimes found in aforementioned chapters were part of a widespread attack against a civilian population, and that the perpetrators knew that their acts were part of that widespread attack.

4.3 Murder

4.3.1 Applicable law

973. Count 2 of the Indictment charges the Accused with murder as a crime against humanity, punishable under Article 5 (a) of the Statute. Count 3 of the Indictment charges the Accused with murder as a violation of the laws or customs of war under Article 3. The general elements and jurisdictional requirements for these crimes have been discussed in chapters 4.1 and 4.2, above.

974. The crime of murder requires proof of the following elements:

- (a) the victim died;
- (b) an act or omission of the perpetrator caused the victim's death; and
- (c) the act or omission was committed with intent to kill the victim or to wilfully cause serious bodily harm which the perpetrator should reasonably have known might lead to death.²¹³²

4.3.2 Legal findings

975. In chapter 3, the Trial Chamber decided to further consider the following incidents of alleged murder against the applicable law:

Murder of 56 non-Serb civilians near Baćin on 21 October 1991 (Indictment, para. 27) (chapter 3.1.1): 41 victims;

Murder of non-Serb villagers of Saborsko, Poljanak, and Lipovača between August and November 1991 (Indictment, para. 28) (chapter 3.1.2): seven victims;

Murder of nine civilians in Vukovići on 7 November 1991 (Indictment, para. 30) (chapter 3.1.3): eight victims;

Murder of at least 20 Croat civilians in Saborsko on 12 November 1991 (Indictment, para. 31) (chapter 3.1.4): nine victims;

Murder of at least 38 non-Serb civilians in Škabrnja on 18 November 1991 (Indictment, para. 32) (chapter 3.1.5): 37 victims;

²¹³² *Kvočka et al.* Appeal Judgement, para. 261.

Murder of ten civilians in Marinović hamlet in Bruška village on 21 December 1991 (Indictment, para. 35) (chapter 3.1.6): nine victims;

Murder of eleven detainees at the Dalj police building on 21 September 1991 (Indictment, para. 36) (chapter 3.2.1): ten victims;

Murder of 26 Croat civilians at the Dalj police building on 4 October 1991 (Indictment, para. 37) (chapter 3.2.2): 17 victims;

Murder of Croat and ethnic Hungarian civilians at the Erdut training centre on and after 9 November 1991 (Indictment, para. 38) (chapter 3.2.3): 13 victims;

Murder of non-Serb civilians at the Erdut training centre on 11 November 1991 (para. 39) (chapter 3.2.4): five victims;

Murder of Croat and ethnic Hungarian civilians at the Erdut training centre on or about 26 December 1991 (Indictment, para. 42) (chapter 3.2.5): two victims;

Murder of at least 16 non-Serb civilians in Crkvina on or about 7 May 1992 (Indictment, para. 50) (chapter 3.4.1): 16 victims;

Murder of approximately 27 non-Serb civilians by using them as human shields on or about 12 July 1992 (Indictment, para. 54) (chapter 3.5.1): 19 victims;

Murder of eleven non-Serb men in Trnova on or about 20 September 1995 (para. 56) (chapter 3.6.1): eleven victims;

Murder of 65 non-Serb civilians in Sasina on or about 21 September 1995 (Indictment, para. 57) (chapter 3.6.2): 65 victims;

Murder of six Muslim men and boys at Godinjske Bare in July 1995 (Indictment, para. 61) (chapter 3.7.1): six victims; and

Murder of approximately 20 non-Serb civilians in Zvornik on or about 8 April 1992 (Indictment, para. 62) (chapter 3.8.1): 12 victims.

976. In assessing whether the victims died and whether their deaths were caused by an act or omission of another person, the Trial Chamber considered in particular: Adjudicated Facts on the death and the circumstances surrounding the death, forensic evidence, evidence from witnesses who observed the killings, and evidence from other witnesses who could provide information about the circumstances surrounding the death. This included witnesses who provided evidence about where and with whom the victim was last seen alive and about

encounters between the victim and potential and likely perpetrators prior to the victim's death. It also included witnesses who provided evidence about the exhumation of bodies. Recalling the factual findings made in chapter 3, the Trial Chamber is satisfied that the legal requirements are met, namely that the victims under consideration died, and that their deaths were caused by the acts of the perpetrators.

977. When assessing the mental element of murder, the Trial Chamber considered the forensic evidence about the cause of death and other injuries to the victims. The Trial Chamber further considered evidence concerning the circumstances of the incidents, including the treatment of the victim by the perpetrator (for example, beating).

978. With regard to one incident (*Murder of approximately 27 non-Serb civilians by using them as human shields on or about 12 July 1992 (Indictment, para. 54)*), the Trial Chamber considered the manner in which the victims were forced by perpetrators to take off their shirts, line up in rows as human shields, and walk towards the frontline.

979. With regard to another incident (*Murder of ten civilians in Marinović hamlet in Bruška village on 21 December 1991 (para. 35)*) there is insufficient evidence as to the exact circumstances of the killings of six of the victims (Ika Marinović, Dragan Marinović, Draginja Marinović, Krsto Marinović, Manda Marinović, and Stana Marinović). However, the Trial Chamber finds that having concluded that the killings were carried out by the same perpetrators, at or around the same time and in the same location as killings for which the Trial Chamber did receive evidence as to their exact circumstances, the necessary intent on the part of those same perpetrators has been established. The same reasoning applied to a number of other similar incidents.

980. In relation to another incident (*Murder of 26 Croat civilians at the Dalj police building on 4 October 1991 (para. 37)*) the Trial Chamber considered admissions by the perpetrator that he killed the victims.

981. With regard to the incidents under consideration, the Trial Chamber finds that the perpetrators acted with intent to kill the victims or at least wilfully caused them serious bodily harm, which they should reasonably have known might lead to death.

982. The Trial Chamber recalls its findings in chapter 4.1.2 with regard to general elements for violations of the laws or customs of war.

983. The Trial Chamber will now consider the status of the victims. The Trial Chamber finds that in relation to one incident (*Murder of at least 38 non-Serb civilians in Škabrnja on*

18 November 1991 (para. 32)) the evidence regarding four victims (Slavko Miljanić a.k.a. Čave, Nediljko Škara, Nediljko Jurić, and Stanko Vicković), who were members of the Croatian defence forces, is insufficient to establish that they were *hors de combat* or otherwise not taking part in active hostilities at the time they were killed. As such, the Trial Chamber will not consider their deaths in relation to this finding.

984. In relation to the same incident, (*Murder of at least 38 non-Serb civilians in Škabrnja on 18 November 1991 (para. 32)*) the Trial Chamber recalls the evidence in the factual finding regarding Josip Miljanić, who was forced to kneel and was then shot in the head. The Trial Chamber therefore finds that Josip Miljanić was *hors de combat* or otherwise not taking part in active hostilities at the time he was killed and will further consider his death in relation to this finding.

985. In relation to another incident (*Murder of approximately 27 non-Serb civilians by using them as human shields on or about 12 July 1992 (para. 54)*), the Trial Chamber, having considered the circumstances in which two of the alleged victims (Omer Delić, Salih Makarević) were killed, their uniform and the active hostilities in and around the relevant area at the time of their deaths, and for a third alleged victim (Nedžad Makarević) having considered evidence of ABiH affiliation and the active hostilities in and around the relevant area at the time of his death, finds that they were all three killed in a context which might reasonably be perceived as a combat situation. As such, the evidence is insufficient to establish that they were *hors de combat* or otherwise not taking part in active hostilities when they were killed. Consequently, the Trial Chamber will not consider these killings further in relation to this finding.

986. With regard to the remaining victims, considering their age and clothing as well as the circumstances in which the murders were carried out, and in certain cases Adjudicated Facts and direct evidence on the status of the victims, the Trial Chamber finds that they were civilians or detained, or otherwise placed *hors de combat* or otherwise not taking part in active hostilities when they were killed.

987. The Trial Chamber further finds, based on the affiliation of the perpetrators and the manner in which the acts took place, that there was a close relationship between the killings and the armed conflict.

988. The Trial Chamber recalls its findings in chapter 4.2.2 with regard to general elements and jurisdictional requirements for crimes against humanity.

989. With regard to the status of the victims, the Trial Chamber recalls its findings above and concludes that the legal requirements for crimes against humanity are met in this respect.

990. Therefore, the Trial Chamber finds that the following incidents (with respect to the listed victims) constitute murder as a crime against humanity and as a violation of the laws or customs of war:

Murder of 56 non-Serb civilians near Baćin on October 1991 (Indictment, para. 27) (chapter 3.1.1): Katarina Alavančić, Terezija Alavančić, Josip Antolović, Marija Batinović, Mara Ćorić, Mijo Čović, Marija Delić, Ana Dikulić, Ruža Dikulić, Sofija Dikulić, Štjepan Dikulić, Antun Đukić, Marija Đukić, Antun Đurinović, Ana Ferić, Juraj Ferić, Kata Ferić, Filip Jukić, Marija Jukić, Jozo Karanović, Antun Krivajić, Reza Krivajić, Barbara Kropf, Pavao Kropf, Ivan Kulišić, Nikola Lončarić, Antun Mucavac, Ivo Pezo, Sofija Pezo, Anka Piktaja, Štjepan Sabljar, Veronika Stanković, Antun Švračić, Marija Švračić, Ivan Trninić, Ivo Trninić, Kata Trninić, Terezija Trninić, Katarina Vladić, Mijo Krnić, and Marija Šestić;

Murder of non-Serb villagers of Saborsko, Poljanak, and Lipovača between August and November 1991 (Indictment, para. 28) (chapter 3.1.2): Mate Brozinčević, Roža Brozinčević, Mirko Brozinčević, Milan Lončar, Ivica Lončar, Nikola Vuković, and Ivica Vuković;

Murder of nine civilians in Vukovići on 7 November 1991 (Indictment, para. 30) (chapter 3.1.3): Nikola Vuković, Vjekoslav Vuković, Lucija Vuković, Milka Vuković, Joso Matovina, Dane Vuković (son of Poldo), Dana Vuković (son of Mate), and Nikola Matovina;

Murder of at least 20 Croat civilians in Saborsko and the destruction of the village on 12 November 1991 (Indictment, para 31) (chapter 3.1.4): Ivan Vuković, Jure Vuković (born in 1929), another Jure Vuković (born in 1930), Nikola Bićanić, Petar Bićanić, Milan Bićanić, and Juraj Štrk, Jeka/Jela Vuković, and Ana Bićanić;

Murder of at least 38 non-Serb civilians in Škabrnja on 18 November 1991 (Indictment, para. 32) (chapter 3.1.5): Lucia/Lucka/Luca Šegarić, Stana Vicković, Josip Miljanić, Krsto Šegarić, Grgica “Maja” Šegarić, Joso/Jozo Brkić, Ilija Ražov, Rade Šegarić, Vice Šegarić, Jozo Miljanić, Slavka Miljanić, Petar Pavičić, Mile Pavičić, Kata “Soka” Rogić, Ivica Šegarić, Ante Ražov, Željko Ćurković, Marija Brkić, Petar Jurić, Niko Pavičić, Josip Perica, Ljubo Perica, Ivan Ražov, Jela Ražov, Nikola Rogić, Mara Žilić, Marko Brkić, Roko Žilić, Grgo Jurić, Tadija Žilić, Gašpar Perica, Marko Rogić, and Vladimir Horvat;

Murder of ten civilians in Marinović hamlet in Bruška village on 21 December 1991 (Indictment, para. 35) (chapter 3.1.6): Dušan Marinović, Roko Marinović, Petar Marinović,

Dragan Marinović, Ika Marinović, Krsto Marinović, Draginja Marinović, Stana Marinović, and Manda Marinović;

Murder of eleven detainees at the Dalj police building on 21 September 1991 (Indictment, para. 36) (chapter 3.2.1): Ivan Zelember, Čedomir Predojević, Dražen Štimec, Željko Filipčić, Darko Kušić, Ivan Forjan, Pavo Zemljak, Vladimir Zemljak, Zoran Anđal, and Haso Brajić;

Murder of 26 Croat civilians at the Dalj police building on 4 October 1991 (Indictment, para. 37) (chapter 3.2.2): Zvonko Mlinarević, Ranko Soldo, Elvis Hadjić, Franjo Mesarić, Ernest Bača, Mihajlo Šimun/Šimon, Josip Mikić/Mikec, Marin/Marinko Šomodjvarac, Rudolf Jukić, Pavao/Pavo Šarac, Đorđe Radaljević, Vinko Oroz, Petar/Pero Rašić, Stanislav Strmeča/Štrmečki, Ivica Krkalo, Danijel Tomičić, and Mile Grbešić;

Murder of Croat and ethnic Hungarian civilians at the Erdut training centre on and after 9 November 1991 (Indictment, para. 38) (chapter 3.2.3): Josip Bence, Mihaljo Pap, Franjo Pap snr., Franjo Pap/Papp, Julijana Pap, Natalija Rakin, Antun Kalozi, Nikola Kalozi, Nikola Kalozi snr., Josip Senaši, Stjepan Senaši, Marija Senaši, and Ivan Mihaljev;

Murder of non-Serb civilians at the Erdut training centre on 11 November 1991 (Indictment, para. 39) (chapter 3.2.4): Tomo Curić, Ivan Kućan, Josip Vaniček, Jakov/Jakob Barbarić, and Josip Debić;

Murder of Croat and ethnic Hungarian civilians at the Erdut training centre on or about 26 December 1991 (Indictment, para. 42) (chapter 3.2.5): Manda Maj and Josip/Jura Zoretić;

Murder of at least 16 non-Serb civilians in Crkvina on or about 7 May 1992 (Indictment, para. 50) (chapter 3.4.1): Jozo Antunović, Luka Gregurević, Ilija Matić, Niko Brandić, Josip Oršolić, Ivo Tuzlak, Ivan Agatić, Luka Blažanović, Sead Hurtić, Džemal Balić, Miro Ćorković, Husein Hrnić, Izet Kahrmanović, Franjo Mandić, Nezir Nadžak, and Selim Purak;

Murder of approximately 27 non-Serb civilians by using them as human shields on or about 12 July 1992 (Indictment, para. 54) (chapter 3.5.1): Ešref Ahmić, Hasan Ahmić, Zijad Ahmić, Hasib Kadić, Halid Mujanović, Meho Mujanović, Arif Omerčić, Hasib Omerčić, Mehmed Omerčić, Bečir Sehić, Muhamed Zečević, Ramiz Hamidović, Muhamed Husanović, Senad Ahmić, Safet Hamidović, and Anto Kalem;

Murder of eleven non-Serb men in Trnova on or about 20 September 1995 (Indictment, para. 56) (chapter 3.6.1): Hasan Topić, Mesud Smailagić, Osman Muratović, Safet Šehić, Mehmed

Šehić, Mihdad Šabić, Idriz Omerspahić, Mehmed Tahudžić, Dervić Šehić, Abdulah Behremović, and Nijaz Topalović;

Murder of 65 non-Serb civilians in Sasina on or about 21 September 1995 (Indictment, para. 57) (chapter 3.6.2): Senad Aganović, Fevzija Alagić, Munevera Alagić (Rešić), Remzija Alagić, Kadir Alibabić, Osman Arapović, Mehmedalija Bajrić, Senad Bajrić, Meho Bajrović, Hajrudin Behar, Elvir Behremović, Ibrahim Behremović, Jahija Bešić, Muharem Botonjić, Drago Buha, Irfan Čekić, Eniz Cerić, Aziz Dautović, Ermin Drobić, Ibrahim Drobić, Muharem Drobić, Ekrem Džafić, Šefko Džananović, Enes Džinić, Ernes Hajrić, Avdo Halimović, Mehmed Hasanović, Osman Hasić, Vedad Hromalić, Ago Jakupović, Fadil Jakupović, Fehim Jakupović, Idriz Jakupović, Muharem Jakupović, Husein Talić, Hakija Kasumović, Adnan Talić, Muharem Kamber, Ibraga Talić, Besim Talić, Taib Omić, Rasim Talić, Ibrahim Sinanović, Ibrahim Pašagić, Bećo Kumalić, Osman Kamber, Zijad Kamber, Karanfil Mušić, Avdo Pašalić, Ismet Karabeg, Sulejman Talić, Haris Talić, Muhamed Talić, Muharem Mahić, Arif Omić, Rifet Kursumović, Djemal Talić, Šefko Talić, Safet Jakupović, Mehmed Kurtović, Muharem Šekić, Husein Kurbegović, Adem Lasić, one unidentified person, and Derviš Cerić;

Murder of six Muslim men and boys at Godinjske Bare in July 1995 (Indictment, para. 61) (chapter 3.7.1): Safet Fejzić, Azmir Alispahić, Smajil Ibrahimović, Sidik Salkić, Juso Delić, and Dino Salihović; and

Murder of approximately 20 non-Serb civilians in Zvornik on or about 8 April 1992 (Indictment, para. 62) (chapter 3.8.1): Mevludin Ahmetović a.k.a. Šemsudin, Nusret Ahmetović, Fahrudin Alajbegović, Sabit Bilalić, Samir Bilalić, Senad Bilalić, Edhem Hadžić, Sead Hidić, Senad Hidić, Ivo Kojić, “Dedo” Krtićić, and Hajrudin Delić.

4.4 Deportation and forcible transfer

4.4.1 Applicable law

991. Counts 4 and 5 of the Indictment charge the Accused with deportation and forcible transfer as crimes against humanity. According to the Indictment, “attacks, arbitrary arrest and detention, burnings of Catholic churches and mosques, forced labour, torture, harassment, use of human shields, looting, rape and other forms of sexual abuse, as well as the threat of further persecutory acts” caused non-Serb civilians in the Indictment area to flee. The Trial Chamber further considers that certain acts, although not specifically enumerated, are included within the definition of attacks and harassment.²¹³³ The crime of deportation (Count 4) is listed in Article 5 (d) of the Statute, whereas forcible transfer (Count 5) is a charge under “other inhumane acts” in Article 5 (i). The general elements and jurisdictional requirements for these crimes have been discussed in chapters 4.1 and 4.2, above.

992. Deportation and forcible transfer both entail the forcible displacement of persons from the area in which they are lawfully present, without grounds permitted under international law.²¹³⁴ The crime of deportation requires that the victims be displaced across a *de jure* state border, or, in certain circumstances, a *de facto* border.²¹³⁵ Forcible transfer involves displacement of persons within national boundaries.²¹³⁶

993. Forcible displacement means that people are moved against their will or without a genuine choice.²¹³⁷ Fear of violence, duress, detention, psychological oppression, and other such circumstances may create an environment where there is no choice but to leave, thus amounting to the forcible displacement of people.²¹³⁸ Displacement of persons carried out pursuant to an agreement among political or military leaders, or under the auspices of the ICRC or another neutral organization, does not necessarily make it voluntary.²¹³⁹

994. International humanitarian law recognizes limited circumstances under which the displacement of civilians during armed conflict is allowed, namely if it is carried out for the

²¹³³ The Trial Chamber has generally not considered transfers of people to, and between, detention facilities to fall within the charges of forcible transfer.

²¹³⁴ *Stakić* Appeal Judgement, paras 278, 317; *Krajišnik* Appeal Judgement, paras 304, 308.

²¹³⁵ *Stakić* Appeal Judgement, paras 278, 300; *Krajišnik* Appeal Judgement, para. 304.

²¹³⁶ *Stakić* Appeal Judgement, para. 317.

²¹³⁷ *Krnjelac* Appeal Judgement, paras 229, 233; *Stakić* Appeal Judgement, para. 279.

²¹³⁸ *Stakić* Appeal Judgement, para. 281.

²¹³⁹ *Stakić* Appeal Judgement, para. 286; *Naletilić and Martinović* Trial Judgement, para. 523; *Simić et al.* Trial Judgement, para. 127; *Krajišnik* Trial Judgement, para. 724.

security of the persons involved, or for imperative military reasons.²¹⁴⁰ In such cases the displacement is temporary and must be carried out in such a manner as to ensure that displaced persons are returned to their homes as soon as the situation allows.²¹⁴¹ Whether a forcible displacement of people is lawful is, however, more appropriately dealt with when considering the general elements of crimes against humanity.²¹⁴²

995. The perpetrator of deportation or forcible transfer must intend to forcibly displace the persons, however, the intent need not be to displace on a permanent basis.²¹⁴³

4.4.2 Legal findings

SAO Krajina

996. The Trial Chamber will now consider the alleged incidents of deportation and forcible transfer of persons from the SAO Krajina.²¹⁴⁴ In chapter 3.1.7, the Trial Chamber decided to further consider six incidents of alleged deportation or forcible transfer in and from the region, four of which will be dealt with together.

First incident: departure of between 80,000 and 100,000 Croats and other non-Serbs from the SAO Krajina between April 1991 and April 1992

997. The Trial Chamber recalls its findings in chapter 3.1.7 that from April 1991 to April 1992, between 80,000 and 100,000 Croat and other non-Serb civilians fled the SAO Krajina (and subsequently the Krajina area of the RSK). They did so as a result of the situation prevailing in the region at the time of their respective departures, which was created by a combination of: the attacks on villages and towns with substantial or completely Croat populations; the killings, use as human shields, detention, beatings, forced labour, sexual abuse, and other forms of harassment of Croat persons; and the looting and destruction of property. These actions were committed by the local Serb authorities and the members and units of the JNA (including JNA reservists), the SAO Krajina TO, the SAO Krajina Police,

²¹⁴⁰ Geneva Convention III, Art. 19; Geneva Convention IV, Art. 49; Additional Protocol II, Art. 17; *Stakić* Appeal Judgement, paras 284-285; *Blagojević and Jokić* Trial Judgement, paras 597-598; *Krajišnik* Trial Judgement, para. 725; *Krajišnik* Appeal Judgement, para. 308.

²¹⁴¹ Geneva Convention IV, Art. 49; *Krstić* Trial Judgement, para. 524; *Blagojević and Jokić* Trial Judgement, para. 599; *Krajišnik* Trial Judgement, para. 725.

²¹⁴² See *Brđanin* Appeal Judgement, para. 167.

²¹⁴³ *Stakić* Appeal Judgement, paras 278, 304-307, 317; *Brđanin* Appeal Judgement, para. 206; *Krajišnik* Appeal Judgement, para. 304.

²¹⁴⁴ The Trial Chamber notes that on 19 December 1991, the SAO Krajina Assembly proclaimed the RSK (Adjudicated Facts, fact 149). For reasons of consistency, the Trial Chamber use the name “SAO Krajina” throughout this chapter.

and Serb paramilitary units, as well as local Serbs and certain named individuals (including Milan Martić). The Trial Chamber notes that the persons fleeing were Croats and other non-Serbs and that their ethnicity thus corresponds to the charges in the Indictment.

998. The Trial Chamber finds that the aforementioned acts caused duress and fear of violence such that they created an environment in which the Croats and other non-Serbs in the SAO Krajina had no choice but to leave. Therefore, the Trial Chamber finds that those who left were forcibly displaced. Considering the circumstances of the forcible displacement, and absent any indication to the contrary, the Trial Chamber finds that the displaced individuals were forced to leave an area in which they were lawfully present.

999. The persons who were forcibly displaced mainly fled to non-Serb controlled parts of Croatia and, to a lesser extent, to other countries. Based on this, the Trial Chamber finds that they crossed a *de facto* or *de jure* border.

1000. The Trial Chamber will now consider the *mens rea* of those constituting each of the aforementioned groups. The Trial Chamber considers the nature of the acts of those constituting local Serb authorities and the members and units of the JNA (including JNA reservists), the SAO Krajina TO, the SAO Krajina Police, and Serb paramilitary units, as well as local Serbs and certain named individuals, and the circumstances under which they were carried out. With regard to those constituting the JNA and the SAO Krajina TO, the Trial Chamber further considers the evidence of the *mens rea* in relation to this incident not in isolation but also considers its finding that those constituting these groups acted in relation to other incidents in the SAO Krajina with the required *mens rea* for deportation and forcible transfer. The Trial Chamber therefore finds that those constituting local Serb authorities and the members and units of the JNA (including JNA reservists), the SAO Krajina TO, the SAO Krajina Police, and Serb paramilitary units, as well as local Serbs and certain named individuals (including Milan Martić) had the intent to forcibly displace Croats and other non-Serbs.

1001. The Trial Chamber considers the nature of the acts of those constituting the “Dvor na Uni Special Purpose Unit” and the Unit and the circumstances under which they were carried out. The Trial Chamber has in particular considered the 26 July 1991 combat report of Mišo Popović, the reports of the same day by Rade Božić and Boža Novaković, reports dated between 26 and 31 July 1991 by Dragan Oluić and Borjan Vučković and several members of the “Republic of Serbia SAO Krajina Special Purpose Unit”, as well as Captain Dragan’s

speech of 31 July 1991, which all indicate that there was heavy combat between the Serb forces and the Croat forces in these villages during the relevant period. The Trial Chamber therefore allows for the reasonable possibility that the attack was solely directed at the Croatian forces and was not intended to forcibly displace the inhabitants. Therefore, the Trial Chamber is unable to conclude that those constituting the “Dvor na Uni Special Purpose Unit” and the Unit had the required intent.

1002. Considering the circumstances of their displacement the Trial Chamber finds that those who were forcibly displaced were civilians or persons placed *hors de combat*.

1003. In conclusion, the Trial Chamber finds beyond a reasonable doubt that, between April 1991 and April 1992, those constituting local Serb authorities and members and units of the JNA (including JNA reservists), the SAO Krajina TO, the SAO Krajina Police, and Serb paramilitary units, as well as local Serbs and certain named individuals (including Milan Martić) committed the crime of deportation as a crime against humanity.

Second to fourth incidents: exchange of Croats and other non-Serbs from Saborsko, Škabrnja, and Knin to Croat held territory between October and November 1991

1004. The Trial Chamber recalls its findings in chapter 3.1.7 on the expulsions of Croat and non-Serb persons by members of the JNA and the SAO Krajina TO in October 1991 from Saborsko and in November 1991 from Saborsko, Škabrnja, and Knin. Some of the displaced persons were first transferred to a detention facility prior to their exchange, whereas other displaced persons were directly and physically transported to Croat-held territory. The Trial Chamber notes that these persons were Croats and of non-Serb ethnicity and that their ethnicity thus corresponds to the charges in the indictment.

1005. Having considered the aforementioned acts, the Trial Chamber finds that the Croats and other non-Serbs were transported against their will or without genuine choice and as such were forcibly displaced. The Trial Chamber finds, having considered that those who were forcibly displaced were inhabitants of Saborsko, Škabrnja, and Knin, and absent any indication to the contrary that they were lawfully present there.

1006. Since those who were forcibly displaced, were transferred to Croat-held territory, the Trial Chamber finds that they crossed a *de facto* or *de jure* border.

1007. With regard to the *mens rea* of those constituting the JNA and the SAO Krajina TO, the Trial Chamber finds that the character of the acts themselves and circumstances under

which they were carried out, provide the basis for the Trial Chamber's inference that they acted with the required intent.

1008. Considering how the transfer was carried out and that some of those transferred were detained at the time, the Trial Chamber finds that they were civilians or persons placed *hors de combat*.

1009. In conclusion, the Trial Chamber finds beyond a reasonable doubt that those constituting the JNA and the SAO Krajina TO committed the crime of deportation as a crime against humanity.

Sixth incident: departure of approximately 8,000 Croats and other non-Serbs from the SAO Krajina between May 1992 and 1994

1010. The Trial Chamber recalls its finding in chapter 3.1.7 that between May 1992 and the end of 1994, approximately 8,000 Croat and other non-Serb civilians fled the Krajina area of the RSK, mainly to Croatia and (to a lesser extent) to other countries, as a result of harassment and intimidation committed by the SAO Krajina Police and local Serbs. The Trial Chamber notes that these persons were Croats and other non-Serbs and that their ethnicity thus corresponds to the charges in the Indictment.

1011. The Trial Chamber has already found that the attacks and subsequent crimes committed in the Krajina area of the RSK in 1991-1992 caused duress and fear of violence such that they created an environment in which the Croats and other non-Serbs had no choice but to leave. The Trial Chamber is satisfied that the forcible displacement of Croats and other non-Serbs in this area continued in the years 1992-1994. The Trial Chamber finds that those who left the Krajina area of the RSK between May 1992 and the end of 1994 were forcibly displaced. The Trial Chamber finds, having considered that those who were forcibly displaced were inhabitants, and absent any indication to the contrary, that the displaced individuals were forced to leave an area in which they were lawfully present.

1012. The persons who were forcibly displaced mainly fled to the non-Serb controlled parts of Croatia and, to a lesser extent, to other countries. Based on this, the Trial Chamber finds that they crossed a *de facto* or *de jure* border.

1013. With regard to the *mens rea* of those constituting the SAO Krajina Police and local Serbs, the Trial Chamber considers the nature of the acts and the circumstances under which they were carried out. The Trial Chamber further considers the evidence of the *mens rea* in relation to this incident not in isolation but also considers its finding that those constituting

these groups acted in relation to another incident with the required *mens rea* for deportation and forcible transfer in the same area between April 1991 and April 1992.

1014. Based on the circumstances of their displacement, the Trial Chamber finds that those who were forcibly displaced were civilians or persons placed *hors de combat*.

1015. In conclusion, the Trial Chamber finds beyond a reasonable doubt that those constituting the SAO Krajina Police and local Serbs committed the crime of deportation.

SAO SBWS

1016. The Trial Chamber will now consider the alleged forcible transfer and deportation of persons from the SAO SBWS. In chapter 3.2.6, the Trial Chamber decided to further consider nine incidents of alleged deportation or forcible transfer in relation to the SAO SBWS.

First Incident: departure from Erdut between July and 1 August 1991

1017. The Trial Chamber recalls its findings in chapter 3.2.6 that the JNA started shelling Erdut in July 1991. Following the shelling, inhabitants started to leave Erdut and on 1 August 1991, the JNA took over Erdut without resistance. At the time of the take-over, this area was mostly deserted and some Croatian MUP members were fleeing.

1018. The Trial Chamber considers that those who left Erdut did so out of concern for their safety in light of ongoing combat operations and that other inhabitants had left prior to the take-over. The Trial Chamber considers that there is insufficient evidence to conclude that the take-over of Erdut was conducted so as to create an environment whereby the inhabitants had no choice but to leave. Therefore, the Trial Chamber will not consider this incident further.

Second Incident: departure from Erdut on 1 August 1991

1019. The Trial Chamber recalls its finding in chapter 3.2.6 that on 1 August 1991, TO members forcefully drove out inhabitants of Erdut in the direction of Aljmaš. The Trial Chamber notes Witness JF-032's evidence that one of the purposes of the attack was to force local Croats out of Erdut. The Trial Chamber notes that at least some of the inhabitants were of Croat ethnicity and therefore concludes that their ethnicity corresponds to the charges in the Indictment.

1020. Having considered the aforementioned acts, the Trial Chamber finds that the Croats were transferred against their will or without genuine choice, and as such were forcibly

displaced. Considering that the Croats were inhabitants of Erdut town and, absent any indication to the contrary, the Trial Chamber therefore finds that they were lawfully present there.

1021. The Trial Chamber notes that the displaced persons were forced to leave the town of Erdut, and go in the direction of Aljmaš, an area under non-Serb control about 9 kilometres from Erdut. The Trial Chamber infers from this that they arrived at Aljmaš. As such the Trial Chamber finds that those forcibly displaced crossed a *de facto* border.

1022. With regard to the *mens rea* of those constituting the TO the Trial Chamber finds that the character of the acts themselves and circumstances under which they were carried out, provide the basis for the Trial Chamber's inference that they acted with the required intent.

1023. Considering that those forcibly displaced were inhabitants of Erdut and that they did not put up any resistance prior to being forced out, the Trial Chamber finds that they were civilians or persons placed *hors de combat*.

1024. In conclusion, the Trial Chamber finds beyond a reasonable doubt that those constituting the TO committed the crime of deportation as a crime against humanity.

Third Incident: transfer of at least 90 Croats and Hungarians from Erdut on 9 April 1992

1025. The Trial Chamber recalls its finding in chapter 3.2.6 that on 9 April 1992, SDG members and other armed men collected at least 90, primarily elderly, Croats and Hungarians from Erdut and put them on buses to Sarvaš and told them to walk to Osijek. The Trial Chamber notes that those transferred were of Croat and Hungarian ethnicity and concludes that their ethnicity thus corresponds to the charges in the Indictment.

1026. Having considered the aforementioned acts, the Trial Chamber finds that the Croats and Hungarians were transported against their will or without genuine choice and as a result were forcibly displaced. Considering that the Croats and Hungarians were inhabitants of Erdut town and, absent any indication to the contrary, the Trial Chamber therefore finds that they were lawfully present there.

1027. The Trial Chamber further considers that the displaced persons were forced to leave the town of Erdut, were driven to Sarvaš, and were made to walk towards Osijek, which was controlled by Croats. As such, the Trial Chamber finds that they crossed a *de facto* border.

1028. With regard to the *mens rea* of those constituting the SDG and other armed men, the Trial Chamber finds that the character of the acts themselves and circumstances under which

they were carried out, provide the basis for the Trial Chamber's inference that they acted with the required intent.

1029. Considering that those forcibly displaced were primarily elderly inhabitants of Erdut and the circumstances of the transfer, the Trial Chamber finds that they were civilians or persons placed *hors de combat*.

1030. In conclusion, the Trial Chamber finds beyond a reasonable doubt that those constituting the SDG and other armed men committed the crime of deportation as a crime against humanity.

Fourth Incident: take-over of Dalj on 1 August 1991

1031. The Trial Chamber recalls its findings in chapter 3.2.6 that on 1 August 1991, the JNA, together with TO units and volunteers from Serbia, attacked and took over Dalj municipality, causing the Croat villagers, as well as the Croatian Army and police to flee. The Trial Chamber notes that the people displaced as a result of the attack on Dalj were predominantly Croats and concludes that their ethnicity thus corresponds to the charges in the Indictment.

1032. The Trial Chamber found that those who left Dalj did so out of concern for their safety in light of ongoing combat operations. The Trial Chamber considers that there is insufficient evidence to conclude that the take-over of Dalj was conducted so as to create an environment whereby the inhabitants had no choice but to leave. Therefore, the Trial Chamber will not consider this incident further.

Fifth Incident: transfer from Dalj between 1 August 1991 and June 1992

1033. The Trial Chamber recalls its findings in chapter 3.2.6 that on 1 August 1991, the inhabitants of Dalj were driven out forcefully by TO members in the direction of Aljmaš. The Trial Chamber notes Witness JF-032's evidence that the purpose of the attack was to force local Croats out of Dalj. The Trial Chamber further notes that a significant number of these people were Croats and concludes that their ethnicity thus corresponds to the charges in the Indictment.

1034. Having considered the aforementioned acts, the Trial Chamber finds that the Croats were driven out against their will or without genuine choice and as such, were forcibly displaced. Considering that the Croats were inhabitants of Dalj and, absent any indication to the contrary, the Trial Chamber therefore finds that they were lawfully present there.

1035. The Trial Chamber notes that those who were forcibly displaced were forced in the direction of Aljmaš, an area under non-Serb control about six kilometres from Dalj. The Trial Chamber infers from this that the displaced persons arrived at Aljmaš. As such the Trial Chamber finds that those who were forcibly displaced crossed a *de facto* border.

1036. With regard to the *mens rea* of those constituting the TO the Trial Chamber finds that the character of the acts themselves and circumstances under which they were carried out, provide the basis for the Trial Chamber's inference that they acted with the required intent.

1037. Considering that those forcibly displaced were inhabitants of Dalj and that they did not put up any resistance prior to being forced out, the Trial Chamber finds that they were civilians or persons placed *hors de combat*.

1038. In conclusion, the Trial Chamber finds beyond a reasonable doubt that those constituting the TO committed the crime of deportation as a crime against humanity.

Sixth Incident: take-over of villages in Osijek-Baranja county in August and September 1991

1039. The Trial Chamber recalls its findings in chapter 3.2.6 that in August and September 1991, the JNA and TO units took over a number of villages in Osijek-Baranja county, including Aljmaš and Sarvaš. Prior to the take-overs, people left these villages.

1040. The Trial Chamber allows for the reasonable possibility that those who left the villages did so out of concern for their safety in light of ongoing combat operations and that the inhabitants left their villages prior to the take-overs. The Trial Chamber considers that there is insufficient evidence to conclude that the attacks were conducted so as to create an environment whereby the inhabitants had no choice but to leave. Therefore, the Trial Chamber will not consider this incident further.

Seventh Incident: Transport from Vukovar to Croatia and Serbia after November 1991

1041. The Trial Chamber recalls its findings in chapter 3.2.6 that after the take-over of Vukovar, in November 1991, a group of men and women were transported on buses by the JNA to Croatia and Serbia. On some of the buses, the men were threatened and forced to sing "Chetnik" songs. The Trial Chamber notes that the men and women who were transported from Vukovar were predominantly Croats and concludes that their ethnicity thus corresponds to the charges in the Indictment.

1042. Having considered the aforementioned facts, the Trial Chamber finds that the Croats were transported against their will or without genuine choice and as such were forcibly

displaced. Considering that the Croats were inhabitants of Vukovar town and, absent any indication to the contrary, the Trial Chamber therefore finds that they were lawfully present there.

1043. The Trial Chamber recalls that these men and women were transported to other parts of Croatia and Serbia, and as such finds that they crossed a *de jure* or *de facto* border.

1044. With regard to the *mens rea* of those constituting the JNA, the Trial Chamber finds that the character of the acts themselves and circumstances, under which they were carried out, provide the basis for the Trial Chamber's inference that they acted with the required intent.

1045. Considering that those forcibly displaced were inhabitants of Vukovar town and that at the time of their transfer, they were not identified as combatants, the Trial Chamber finds that they were civilians or persons placed *hors de combat*.

1046. In conclusion, the Trial Chamber finds beyond a reasonable doubt that those constituting the JNA committed the crime of deportation as a crime against humanity.

Eighth Incident: departure of 8,000 persons from Ilok on 17 October 1991

1047. The Trial Chamber recalls its findings in chapter 3.2.6 that after the JNA had taken over Ilok in early October 1991, around 8,000 persons, many of them Croat, left for Croatia-held territory on 17 October 1991. These people had expressed a wish to leave because they had heard what happened in surrounding villages. The Trial Chamber notes that many of these people were Croat and concludes that their ethnicity thus corresponds to the charges in the Indictment.

1048. The Trial Chamber notes that those who left Ilok did so after a referendum was held and that the citizens expressed a wish to leave for Croatia-held territory, as the JNA had issued an ultimatum to the armed formations in Ilok to surrender and disarm and the citizens had heard of the conditions in the surrounding villages. The majority, Judge Picard dissenting, considers that there is insufficient evidence to conclude that the environment was such that the inhabitants had no choice but to leave, and as such, will not consider this incident further.

Ninth Incident: departure of thousands of people from the SAO SBWS between 1991 and 1992

1049. The Trial Chamber recalls its findings in chapter 3.2.6 that between 1991 and 1992, the JNA, Šešelj's men, Serbian volunteers, local authorities, SRS, paramilitaries from Prigrevica, SNB, police, TO, a "Special Unit", and the SDG launched attacks all over the

SAO SBWS, causing thousands of people to flee. The Trial Chamber recalls that these attacks involved acts of forcible transfer, detentions, destruction of a Catholic Church, looting, restriction of freedom, forced labour, beatings, killings, threats, and harassment. The Trial Chamber notes that a significant number of those people who fled were Croats, and other non-Serbs and concludes that their ethnicity thus corresponds to the charges in the Indictment.

1050. The Trial Chamber considers that the aforementioned acts caused duress and fear of violence such that they created an environment in which the Croats and other non-Serbs had no choice but to leave. Therefore, the Trial Chamber finds that those who left were forcibly displaced. The Trial Chamber finds, having considered that those who were forcibly displaced were inhabitants of the SAO SBWS, absent any indication to the contrary, were lawfully present there.

1051. The Trial Chamber recalls that thousands of Croats and other non-Serbs were forcibly displaced from their town and villages and left the SAO SBWS, and as such finds that they crossed a *de facto* or *de jure* border.

1052. With regard to the *mens rea* of those constituting the JNA, Šešelj's men, Serbian volunteers, local authorities, SRS, paramilitaries from Prigrevica, SNB, police, TO, a "Special Unit", and the SDG the Trial Chamber finds that the character of the acts themselves and circumstances, under which they were carried out, provide the basis for the Trial Chamber's inference that they acted with the required intent.

1053. Based on the circumstances of their displacement, the Trial Chamber finds that those forcibly displaced were civilians or persons placed *hors de combat*.

1054. In conclusion, the Trial Chamber finds beyond a reasonable doubt that those constituting the JNA, Šešelj's men, Serbian volunteers, local authorities, SRS, paramilitaries from Prigrevica, the SNB, police, TO, a "Special Unit", and the SDG committed the crime of deportation as a crime against humanity.

Bijeljina municipality

1055. The Trial Chamber will now consider the alleged forcible transfer and deportation of persons from Bijeljina municipality. In chapter 3.3.1, the Trial Chamber decided to further consider four incidents of alleged deportation or forcible transfer in relation to the municipality.

First incident: take-over of Bijeljina town by 4 April 1992

1056. The Trial Chamber recalls its finding in chapter 3.3.1 that many Muslims left Bijeljina as a result of the take-over of the town by 4 April 1992 by the SDG, a local paramilitary group under Mirko Blagojević, the TO, and the Bijeljina SDS. The Trial Chamber further recalls its finding that these groups killed at least 45 non-Serb civilians and that the SDG intimidated and terrorized local Muslims and “disloyal” Serbs from March 1992 onwards. The Trial Chamber notes that the people who left as a result of the take-over of Bijeljina were Muslims and concludes that their ethnicity thus corresponds to the charges in the Indictment.

1057. The Trial Chamber finds that the aforementioned acts caused duress and fear of violence such that they created an environment in which the Muslims had no choice but to leave. Consequently, the Trial Chamber finds that those who left were forcibly displaced. Considering that those displaced were inhabitants and absent any indication to the contrary, the Trial Chamber therefore finds that they were lawfully present there.

1058. The forcibly displaced Muslims left the town of Bijeljina but the Trial Chamber has been unable to establish where they ended up. As such the Trial Chamber is unable to conclude that those displaced crossed a *de facto* or *de jure* border.

1059. With regard to the *mens rea* of those constituting the SDG, a local paramilitary group under Mirko Blagojević, the TO, and the Bijeljina SDS, the Trial Chamber considers the nature of the aforementioned acts and the circumstances under which they were carried out and finds that they had the required intent.

1060. Based on the circumstances of their displacement, the Trial Chamber finds that those forcibly displaced were civilians or persons placed *hors de combat*.

1061. In conclusion, the Trial Chamber finds beyond a reasonable doubt that those constituting the SDG, a local paramilitary group under Mirko Blagojević, the TO, and the Bijeljina SDS committed the crime of forcible transfer as a crime against humanity.

Second incident: after-math of take-over of Bijeljina town April to September 1992

1062. The Trial Chamber recalls its finding in chapter 3.3.1 that following the take-over of Bijeljina, from at least April to September 1992, paramilitary groups, particularly the SDG, and local MUP members detained, killed, sexually assaulted, and terrorized mostly Muslim and some Serb residents and destroyed or damaged two Mosques. Further, Mauzer threatened that Muslims would lose their jobs and be expelled and advised them not to return. As a

result, thousands of Muslims as well as some Serbs left Bijeljina. This included one Muslim family that left to go to Serbia. The Trial Chamber notes that the people who left were predominantly Muslim and concludes that their ethnicity thus corresponds to the charges in the Indictment.

1063. The Trial Chamber finds that the aforementioned acts caused duress and fear of violence such that they created an environment in which the Muslims had no choice but to leave. The Trial Chamber therefore finds that those who left were forcibly displaced. Considering that the Muslims were residents, and absent any indication to the contrary, the Trial Chamber is satisfied that they were lawfully present there.

1064. At least one Muslim family was forcibly displaced from Bijeljina to Serbia and as such crossed a *de jure* border. As regards the remaining thousands of Muslims, the Trial Chamber has not received evidence on where they ended up and as such is unable to conclude that they crossed a *de facto* or *de jure* border.

1065. The Trial Chamber will now consider the *mens rea* of those constituting each of the aforementioned groups and Mauzer, The Trial Chamber considers the nature of the acts of those constituting paramilitary groups, particularly the SDG and the local MUP and the circumstances in which they were carried out. With regard to Mauzer the Trial Chamber has considered his statements threatening the Muslim population remaining in Bijeljina with expulsion after the take-over with expulsion. The Trial Chamber therefore finds that those constituting the aforementioned groups, and Mauzer had the intent to forcibly displace the Muslims.

1066. Considering that those displaced were residents and absent any indication to the contrary, the Trial Chamber finds that the victims of the forcible displacement were civilians or persons placed *hors de combat*.

1067. In conclusion, the Trial Chamber finds beyond a reasonable doubt that in the aftermath of the take-over of Bijeljina, that those constituting paramilitary groups, particularly the SDG, the local MUP, as well as Mauzer committed the crimes of forcible transfer and deportation as crimes against humanity.

Third incident: transfer to “no-man’s land”, June 1992

1068. The Trial Chamber recalls its finding in chapter 3.3.1 that in June 1992, the Bijeljina SDS, aided by Mauzer’s men, and in an effort to rid the municipality of its remaining Muslims, transferred some of Bijeljina’s Muslim residents to “no-man’s land” between the

warring factions. The Trial Chamber notes that the people transferred were Muslim and concludes that their ethnicity thus corresponds to the charges in the Indictment.

1069. The Trial Chamber finds that as the displaced persons were detained and transferred to “no-man’s land” that they were transferred against their will or without any genuine choice, and so, were forcibly displaced. The Trial Chamber finds, having considered that the Muslims were residents, and absent any indication to the contrary, that they were lawfully present there.

1070. Since the forcibly displaced persons were transferred to “no-man’s land” between the warring factions, the Trial Chamber considers that they did cross a *de facto* border.

1071. With regard to the *mens rea* of those constituting the Bijeljina SDS and Mauzer’s men, the Trial Chamber finds that the character of the acts themselves and circumstances under which they were carried out, provide the basis for the Trial Chamber’s inference that they acted with the required intent.

1072. Considering that those displaced were inhabitants of Bijeljina and were detained prior to being transferred, the Trial Chamber finds that the victims of the forcible displacement were civilians or persons placed *hors de combat*.

1073. The Trial Chamber finds beyond a reasonable doubt that in the aftermath of the take-over of Bijeljina, those constituting the Bijeljina SDS and Mauzer’s men committed the crime of deportation as a crime against humanity.

Fourth incident: exchanges from Batković camp between June 1992 and early 1993

1074. The Trial Chamber recalls its findings that from at least June 1992, Serb authorities transferred over 1,200 Muslim and Croat civilians to Batković camp and other locations, where they detained them. The detainees were held in horrible conditions. Some detainees were beaten, killed, forced to perform degrading sexual acts and forced to perform manual labour. Some of the detainees from Batković camp were exchanged to Croatia in early 1993. The Trial Chamber notes that the people transferred and exchanged were Muslims and Croats and concludes that their ethnicity thus corresponds to the charges in the Indictment.

1075. Considering the aforementioned acts, the Trial Chamber finds that the Muslims and Croats were transferred and exchanged against their will or without genuine choice. As such the Trial Chamber finds that they were forcibly displaced. The Trial Chamber finds, having

considered that the Muslims were inhabitants of Bijeljina, and absent any indication to the contrary, that they were lawfully present there.

1076. Considering that some of the victims were exchanged to Croatia, the Chamber finds that they crossed a *de jure* border. With regard to the remaining people, although the Trial Chamber has not received any evidence as to where they were exchanged, it considers that the only logical conclusion is that they were exchanged to an area where the opposing side to the Serb authorities was in control.

1077. With regard to the *mens rea* of those constituting the Serb authorities, the Trial Chamber finds that the character of the acts themselves and circumstances under which they were carried out, provide the basis for the Trial Chamber's inference that they acted with the required intent.

1078. Considering that many of those displaced had been transferred from other detention facilities, and included women, children and elderly persons, the Trial Chamber finds that they were civilians or persons placed *hors de combat*.

1079. The Trial Chamber finds beyond a reasonable doubt that in the aftermath of the take-over of Bijeljina, those constituting the Serb authorities committed the crime of deportation as a crime against humanity.

Bosanski Šamac municipality

1080. The Chamber will now address the alleged forcible transfer and deportation of persons from towns and villages in Bosanski Šamac municipality. In chapter 3.4.2, the Trial Chamber decided to further consider two incidents of alleged deportation or forcible transfer with regard to this municipality.

First incident: attack and take-over of Bosanski Šamac town 17 April 1992

1081. The Trial Chamber recalls its findings in chapter 3.4.2 that numerous men, women and children, most if not all of whom were Croats and Muslims, left Bosanski Šamac town on 17 and 18 April 1992. They went to Domaljevac and Grebnice, both in Bosanski Šamac municipality, and Croatia. That they left was the result of the attack and take-over of Bosanski Šamac town, by the local Serb police, the TO, 30 members of the Unit, 18 local Serb paramilitaries, and the Fourth Detachment of the 17th Tactical Group of the JNA. The attack and take-over occurred on 17 April 1992. The attack and take-over included people being

driven out of their homes, houses being searched, shooting all around and looting of houses. Local Serb authorities, including the Serb Crisis Staff arrested and detained Muslims and Croats as of 17 April 1992 and these arrests and detentions were also among the factors that made them leave the municipality. The Trial Chamber notes that most, if not all, of those who left Bosanski Šamac municipality were Muslims and Croats and concludes that their ethnicity thus corresponds to the charges in the indictment.

1082. The Trial Chamber considers that the aforementioned acts caused duress and fear of violence such that they created an environment in which those present had no choice but to leave. Consequently, the Trial Chamber finds that those who left Bosanski Šamac town on 17 April 1992 were forcibly displaced. The Trial Chamber finds that the Croats and Muslims were inhabitants of Bosanski Šamac, and absent any indication to the contrary, that they were lawfully present there.

1083. The Trial Chamber finds that those who were displaced to the territory of Croatia, did cross a *de jure* border. As for those who were displaced to Domaljevac and Grebnice, both in Bosanski Šamac municipality, the Trial Chamber is unable to conclude that they crossed a *de facto* or *de jure* border or even that they went to an area under non-Serb control.

1084. The Trial Chamber will now consider the *mens rea* of each of the aforementioned groups. The Trial Chamber considers the nature of the acts committed by those constituting the forces that attacked and took over Bosanski Šamac town as mentioned above, and the circumstances in which they were carried out, and finds that they had the intent to forcibly displace the Muslims and Croats. With regard to those constituting the local Serb authorities including the Serb Crisis Staff the Trial Chamber further considers the evidence of the *mens rea* in relation to this incident not in isolation but also considers its finding that the authorities acted in relation to other incidents with the required *mens rea* for deportation and forcible transfer in Bosanski Šamac municipality. The Trial Chamber therefore finds that those constituting these authorities also had the intent to forcibly displace the Muslims and Croats.

1085. Based on the circumstances of their displacement, the Trial Chamber finds that those who were forcibly displaced were civilians or persons placed *hors de combat*.

1086. In conclusion, the Trial Chamber finds beyond a reasonable doubt that those constituting the local Serb police, the TO, 30 members of the Unit, 18 local Serb paramilitaries, and the Fourth Detachment of the 17th Tactical Group of the JNA, and the

local Serb authorities, including the Serb Crisis Staff committed the crimes of deportation and forcible transfer as crimes against humanity.

Second incident: exchanges of Muslims and Croats 17 April 1992 – mid June 1993

1087. The Trial Chamber recalls its findings in chapter 3.4.2 that from 17 April 1992 to at least mid June 1993, local Serb authorities in Bosanski Šamac municipality, including the Serb Crisis Staff, in Bosanski Šamac municipality arbitrarily arrested and detained thousands of Muslim and Croat civilians. The detainees were forced to perform unpaid work, beaten, sexually assaulted and threatened, forced to sing Serbian songs and insulted on the basis of their ethnicity. Between 25/26 May 1992 and 15/16 June 1993 these same local Serb authorities exchanged hundreds of these Muslim and Croat prisoners, in at least eleven exchanges, to the territory of Croatia. Only a few of the Muslims and Croats were exchanged as POWs. The Trial Chamber notes that most, if not all, of those who were exchanged from Bosanski Šamac municipality were Croats and Muslims and concludes that their ethnicity thus corresponds to the charges in the indictment.

1088. The Trial Chamber considers that the aforementioned acts caused duress and fear of violence such that they created an environment in which these persons had no choice but to accept to be subjected to exchange. Consequently, the Trial Chamber finds that those exchanged were forcibly displaced. Considering the circumstances of this incident the Trial Chamber finds that the Croats and Muslims were inhabitants of Bosanski Šamac and, absent any indication to the contrary, that they were lawfully present there.

1089. The Trial Chamber finds that as the displaced people were exchanged to the territory of Croatia, that they crossed a *de jure* border.

1090. With regard to the *mens rea* of those constituting the local Serb authorities, including the Serb Crisis Staff, the Trial Chamber finds that the character of the acts themselves and circumstances under which they were carried out, provide the basis for the inference that they acted with the required intent.

1091. Based on the circumstances of their displacement, the Trial Chamber finds that those who were forcibly displaced were civilians or persons placed *hors de combat*.

1092. In conclusion, the Trial Chamber finds beyond a reasonable doubt that local Serb authorities, including the Serb Crisis Staff committed the crime of deportation as a crime against humanity.

Doboj municipality

1093. The Trial Chamber will now consider the alleged incidents of deportation and forcible transfer of persons from Doboj municipality. In chapter 3.5.2, the Trial Chamber decided to further consider eight incidents of alleged deportation or forcible transfer in Doboj municipality.

First incident: take-over of Doboj town on 7 May 1992

1094. The Trial Chamber recalls its finding in chapter 3.5.2 that as a result of the take-over of Doboj town and a combination of numerous incidents, which occurred on or before 7 May 1992, namely, the dismissal of Muslims and Croats from their jobs and destruction of their businesses; the torture and sexual violence in Bukovačke Čivčije; the artillery attacks, shelling, and destruction of a mosque and a Catholic church in Doboj town; the curfew established for Muslims and Croats; and the misappropriation of Croat and Muslim property, thousands of Croats and Muslims left Doboj town for Tešanj on or before 7 May 1992. The Trial Chamber further recalls its finding that these acts were committed by members of the JNA, Serb police, the Unit in Doboj, White Eagles, Predo's Wolves, Osinjska Brigade, Serb authorities, and other Serb persons. The Trial Chamber notes that the people who left Doboj town were Croats and Muslims and is thus satisfied that their ethnicity corresponds to the charges in the Indictment.

1095. The Trial Chamber finds that the aforementioned acts caused duress and fear of violence such that they created an environment where Muslims and Croats had no choice but to leave. Consequently, the Trial Chamber finds that the thousands of Muslims and Croats that left Doboj town on or before 7 May 1992 were forcibly displaced. Having considered the fact that the forcibly displaced people were inhabitants of Doboj town, and absent any indication to the contrary, the Trial Chamber finds that they were lawfully present there.

1096. The thousands of Muslims and Croats who left Doboj town went to Tešanj, a Muslim controlled town in Tešanj municipality. Accordingly, the Trial Chamber finds that they crossed a *de facto* border.

1097. The Trial Chamber will now consider the *mens rea* of those constituting each of the aforementioned groups. With regard to the *mens rea* of those constituting the JNA, Serb police, the Unit in Doboj, White Eagles, and Predo's Wolves, the Osinjska Brigade and Serb authorities the Trial Chamber has considered the nature of the aforementioned acts and the circumstances under which they were carried out. With regard to the *mens rea* of the Serb

persons who fired Muslims and Croats from their jobs and blew up their businesses around March-April 1992, the Trial Chamber has considered that these actions were designed to deprive Muslims and Croats of their means of subsistence thereby compelling them to leave the town. The Trial Chamber finds that those constituting the JNA, Serb police, the Unit in Doboj, White Eagles, Predo's Wolves, and Serb persons had the required intent. With regard to those constituting the Osinjska Brigade and Serb authorities the Trial Chamber is unable to conclude that they had the required intent. The Trial Chamber will not consider this part of the incident further.

1098. Having considered the circumstances that compelled the Muslims and Croats to leave Doboj, the Trial Chamber finds that the thousands of Muslims and Croats leaving Doboj town were civilians or persons placed *hors de combat*.

1099. In conclusion, the Trial Chamber finds beyond a reasonable doubt that those constituting the JNA, the Serb police, the Unit in Doboj, the White Eagles, and the Predo's Wolves, and Serb persons committed the crime of deportation as a crime against humanity.

Second incident: departure of Ankare residents on or about 3 May 1992

1100. The Trial Chamber recalls its finding in chapter 3.5.2 that on or about 3 May 1992, a unit of the White Eagles which had entered Doboj municipality in early 1992, forced the non-Serb residents of Ankare to leave. The Trial Chamber notes that those who were forced to leave were non-Serbs and that their ethnicity thus corresponds to the charges in the Indictment.

1101. Considering that the non-Serbs were forced to leave Ankare, the Trial Chamber finds that they left against their will or without genuine choice, and as such were forcibly displaced. Since those displaced were residents of Ankare, and absent any indication to the contrary, the Trial Chamber finds that they were lawfully present there.

1102. The Trial Chamber has not received any evidence as to where those who were forcibly displaced ended up and is thus unable to conclude that they crossed a *de facto* or *de jure* border, or even that they moved to an area under non-Serb control within Doboj municipality.

1103. With regard to the *mens rea* of those constituting the aforementioned unit of the White Eagles, the Trial Chamber finds that the character of the acts themselves and circumstances under which they were carried out, provide the basis for the inference that they acted with the required intent.

1104. Having considered the circumstances of the displacement, the Trial Chamber finds that those displaced were civilians or persons placed *hors de combat*.

1105. In conclusion, the Trial Chamber finds beyond a reasonable doubt that those constituting a unit of the White Eagles committed the crime of forcible transfer as a crime against humanity.

Third incident: transfer of Muslim population of Bukovačke Čivčije in May 1992

1106. The Trial Chamber recalls its finding in chapter 3.5.2 that at the end of May 1992, at Radojica Božović's orders to expel the local Muslim population, members of the Unit in Doboj put Muslims from Bukovačke Čivčije onto seven buses and transferred four of these buses to Muslim-held territory behind the Bosna Bridge border, where the Muslims were exchanged for Serbian prisoners. From the three remaining buses some able-bodied Muslim men were separated and taken to the Usora factory, whereas women and children from these buses were later exchanged. The Trial Chamber notes that the people who were put on buses and exchanged were Muslims and that their ethnicity corresponds to the charges in the Indictment.

1107. Considering the aforementioned acts, the Trial Chamber is satisfied that the Muslims were transported from Bukovačke Čivčije against their will or without a genuine choice. Accordingly, the Trial Chamber finds that they were forcibly displaced. Considering that the forcibly displaced Muslims were inhabitants of Bukovačke Čivčije, and absent any indication to the contrary, the Trial Chamber finds that they were lawfully present there.

1108. The Trial Chamber notes that the Muslims from the first four buses were transferred to Muslim-held territory behind the Bosna Bridge border. Consequently, the Trial Chamber finds that these Muslims crossed a *de facto* border. As to the Muslim women and children from the other three buses, although the Trial Chamber has not received any evidence as to where they were exchanged, it considers that the only logical conclusion is that they were exchanged to an area where the opposing side to the Serb authorities was in control. The Trial Chamber therefore finds that they crossed a *de facto* border. With regard to the Muslim men who were separated, the Trial Chamber considers that they were taken to Usora factory, still in Doboj municipality. As such the Trial Chamber is unable to conclude that they crossed a *de facto* or *de jure* border.

1109. With regard to the *mens rea* of those constituting the Unit in Doboj, the Trial Chamber finds that the character of the acts themselves and circumstances under which they were carried out, provide the basis for the inference that they acted with the required intent.

1110. Having considered the circumstances in which the Muslims were transferred out of Bukovačke Čivčije, and that those displaced included women and children, the Trial Chamber finds that the Muslims were civilians or persons placed *hors de combat*.

1111. In conclusion, the Trial Chamber finds beyond a reasonable doubt that those constituting the Unit in Doboj committed the crimes of deportation and forcible transfer as crimes against humanity.

Fourth incident: transfer of Muslim population of Bukovačke Čivčije in July 1992

1112. The Trial Chamber recalls its finding in chapter 3.5.2 that in July 1993, the Serbian police, assisted by the Red Cross, transported the entire Muslim population of Bukovačke Čivčije village and some other persons from surrounding villages in 12 buses to Turbe in Travnik municipality. The Trial Chamber further recalls its finding that these persons were transported against their will. The Trial Chamber notes that it was the Muslim population of Bukovačke Čivčije that was transported and is thus satisfied that their ethnicity corresponds to the charges in the Indictment. In relation to the persons from the surrounding villages who were also on those buses while the Trial Chamber considers that, given the context and circumstances, it is very likely that they were also Muslim, it has not received sufficient evidence to make a finding on their ethnicity. Accordingly, in relation to these persons the requirements set out in the Indictment have not been satisfied and therefore, the Trial Chamber will not consider them further in relation to this incident.

1113. Considering the aforementioned acts and its finding that the Muslims were transported against their will, the Trial Chamber finds that the Muslim population was forcibly displaced from Bukovačke Čivčije. Having considered that the forcibly displaced Muslims were inhabitants of Bukovačke Čivčije, and absent any indication to the contrary, the Trial Chamber finds that they were lawfully present there.

1114. The Muslim population of Bukovačke Čivčije village was transported to Turbe in Travnik municipality. On the basis of the evidence before it, the Trial Chamber is unable to establish whether these Muslims crossed a *de facto* or *de jure* border.

1115. With regard to the *mens rea* of those constituting the Serbian police, the Trial Chamber finds that the character of the acts themselves and the circumstances in which they were carried out, provide the basis for the inference that they acted with the required intent.

1116. Having considered that the entire Muslim population was transferred and the absence of resistance on their part, the Trial Chamber finds that these Muslims were civilians or persons placed *hors de combat*.

1117. In conclusion, the Trial Chamber finds beyond a reasonable doubt that those constituting the Serbian police committed the crime of forcible transfer as a crime against humanity.

Fifth incident: transfer of Muslims from Gornja Grapska on 10 May 1992

1118. The Trial Chamber recalls its finding in chapter 3.5.2 that on 10 May 1992 the JNA and Serb men from Ozren wearing JNA camouflage uniforms, commanded by Milovan Staković, carried out a joint attack on the village of Gornja Grapska. The same forces took about 2,000 Muslim villagers to Kostajnica and lined them up in front of the cultural centre where, upon the orders of Nikola Jorgić, they compelled the women and children to board buses and sent them off, and took the men to Bare. The Trial Chamber notes that these people were Muslims and is thus satisfied that their ethnicity corresponds to the charges in the Indictment.

1119. Considering the aforementioned acts, the Trial Chamber finds that the Muslims left against their will or without genuine choice, and as such were forcibly displaced. Since those displaced were inhabitants of Gornja Grapska, and absent any indication to the contrary, the Trial Chamber finds that they were lawfully present there.

1120. The Trial Chamber has not received any evidence as to where the Muslim women and children were sent. As such, the Trial Chamber is unable to conclude that those displaced crossed a *de facto* or *de jure* border, or even that they were transferred to an area under non-Serb control within Doboje municipality. With regard to the Muslim men who were taken to Bare, the Trial Chamber notes that the Bare detention facility is in Doboje municipality, and that these Muslim men remained under Serb control.

1121. With regard to the *mens rea* of those constituting the JNA and Serb men from Ozren commanded by Milovan Staković, the Trial Chamber finds that the character of the acts themselves and circumstances under which they were carried out, provide the basis for the inference that they acted with the required intent.

1122. Having considered the circumstances of the displacement, and that those displaced included women and children, the Trial Chamber finds that they were civilians or persons placed *hors de combat*.

1123. In conclusion, the Trial Chamber finds beyond a reasonable doubt that those constituting the JNA and Serb men from Ozren commanded by Milovan Staković, committed the crime of forcible transfer as a crime against humanity.

Sixth incident: transfer of B-1115 to Bosnia-Herzegovina on 1 October 1993

1124. The Trial Chamber recalls its finding in chapter 3.5.2 that on 1 October 1993 local Serb authorities in Doboje municipality organized the exchange of B-1115, a Bosnian Muslim who was detained in Usora at that time, to the territory of Bosnia-Herzegovina. The Trial Chamber notes that B-1115 is a Bosnian Muslim, and concludes that his ethnicity thus corresponds to the charges in the Indictment.

1125. The Trial Chamber finds that as B-1115 was kept in detention for a prolonged period prior to being exchanged, that he was exchanged against his will or without any genuine choice, and so, was forcibly displaced. Having considered the fact that B-1115 was an inhabitant of Doboje municipality, and absent any indication to the contrary, the Trial Chamber finds that B-1115 was lawfully present there.

1126. As B-1115 was transferred to Bosnia-Herzegovina, the Trial Chamber finds that he crossed a *de facto* border.

1127. With regard to the *mens rea* of those constituting the local Serb authorities, the Trial Chamber finds that the character of the acts themselves and circumstances under which they were carried out, provide the basis for the inference that they acted with the required intent.

1128. Having considered that B-1115 was kept in detention for almost one and half years prior to being moved to Bosnia-Herzegovina, the Trial Chamber finds that B-1115 was either a civilian or a person placed *hors de combat*.

1129. In conclusion, the Trial Chamber finds beyond a reasonable doubt that those constituting the local Serb authorities in Doboje municipality committed the crime of deportation as a crime against humanity.

Seventh incident: exchange of 140 Muslims and Croats from Doboj municipality on 4 September 1992

1130. The Trial Chamber recalls its finding in chapter 3.5.2 that on 4 September 1992 at least 140 Croats and Muslims left the municipality and went to the Republic of Croatia in an exchange organized by the local Serb authorities, which included the Doboj SJB and local members of the SDS. Many of the 140 Croats and Muslims had been kept by the aforementioned Serb authorities in detention in 33 facilities throughout the Doboj municipality before being exchanged. Others among these 140 Croats and Muslims who had not been held in detention, left Doboj municipality as a result of the combination of the following acts, which were performed on or before 4 September 1992 in Doboj town or throughout the municipality: intimidation of Doboj town residents; the killing of three civilians in Makljenovac; shelling of Gornja Grapska, which killed 34 civilians and destroyed a mosque; destruction of a number of Muslim and Croat religious monuments; looting; arbitrary arrest and detention in inhumane and cramped conditions, causing the death of at least one person; beatings and killings in detention centres; forced labour; and the killing of at least 30 detainees at Mount Ozren.

1131. The Trial Chamber further recalls its finding that the abovementioned acts were committed by Serb authorities in Doboj, including Doboj SJB and local members of the SDS; the JNA; the VRS; the local Serb police; members of the Unit in Doboj; Šešelj's men; members of Karaga's unit and the Miće group; White Eagles; Predo's Wolves; members of a unit referred to as Montenegrin Red Berets; and other paramilitary units; as well as Serb men from Ozren; soldiers in red berets and black shirts; soldiers dressed in camouflage uniforms or hats; soldiers in multi-coloured uniforms and Serbian national caps and cockades insignia; and Serb persons dressed in civilian clothes. The Trial Chamber also found that the incidents, which occurred on or before 7 May 1992, such as thousands of people leaving Doboj town, forced expulsion of Ankare residents, forced expulsion of Muslims from Bukovačke Čivčije, forced expulsion of 200 Muslims from Gornja Grapska, and the use of human shields on or about 12 July 1992, were also amongst the factors that made these Muslims and Croats leave the municipality. As the 140 people who were exchanged from Doboj municipality on 4 September 1992 were Muslims and Croats, the Trial Chamber is satisfied that their ethnicity corresponds to the charges in the Indictment.

1132. In relation to those of the 140 Muslims and Croats who were exchanged from detention, the Trial Chamber finds that, as they were detained prior to their exchange, they

were subjected to exchange against their will or without a genuine choice, and so, were forcibly displaced. With regard to those of the 140 Muslims and Croats who were not detained prior to their exchange the Trial Chamber finds that aforementioned acts which occurred on or before 4 September 1992 caused duress and fear of violence such that they created an environment where the Muslims and Croats had no choice but to leave. The Trial Chamber therefore finds that these Muslims and Croats were also forcibly displaced. Having considered the fact that the 140 forcibly displaced Muslims and Croats were inhabitants of Doboj municipality, and absent any indication to the contrary, the Trial Chamber finds that they were lawfully present there.

1133. As the 140 Muslims and Croats who left Doboj municipality on 4 September 1992 were exchanged to the Republic of Croatia, the Trial Chamber finds that they crossed a *de jure* border.

1134. The Trial Chamber will now consider the *mens rea* of those constituting each of the aforementioned groups. With regard to the *mens rea* of those constituting local Serb authorities, which included those constituting the Doboj SJB and local SDS, concerning the transfer of those among the 140 Muslims and Croats who were exchanged from detention, the Trial Chamber finds that the character of the acts themselves and circumstances under which they were carried out, provide the basis for the Trial Chamber's inference that they acted with the required intent.

1135. In relation to those of the 140 Muslims and Croats who were not detained prior to their exchange, the Trial Chamber will first consider the *mens rea* of those constituting the Unit in Doboj, Šešelj's men, the local Serb authorities, which included those constituting the Doboj SJB and the local SDS, as well as the forces that attacked Doboj and Gornja Grapska, which included those constituting the JNA, Serb men from Ozren wearing JNA uniforms, the police, Serb paramilitaries, White Eagles and Predo's Wolves. The Trial Chamber has considered the nature of the acts and the circumstances under which they were carried out. The Trial Chamber further considers the evidence of the *mens rea* in relation to this incident not in isolation but also considers its finding that those constituting these groups acted in relation to other incidents in Doboj municipality with the required *mens rea* for deportation and forcible transfer. The Trial Chamber finds that those constituting the aforementioned groups had the intent to forcibly displace the Muslims and Croats.

1136. The Trial Chamber has also considered the *mens rea* of those constituting Miće's group, the VRS, Karaga's unit, as well as Montenegrin Red Berets, soldiers in different uniforms, and Serb persons dressed in civilian clothes. The Trial Chamber considers that the evidence received is insufficient to establish that the acts perpetrated by those constituting the aforementioned groups were committed with the specific intent to forcibly displace the Muslims and Croats who left Doboj town during the exchange of 4 September 1992.

1137. Having considered the fact that the 140 Muslims and Croats left the municipality without putting up any resistance, that some of the 140 Muslims and Croats were kept in detention prior to their exchange, as well as the circumstances that compelled the others to be exchanged from Doboj municipality, the Trial Chamber finds that they were civilians or persons placed *hors de combat*.

1138. In conclusion, the Trial Chamber finds beyond a reasonable doubt that those constituting the JNA, the police, the Serb paramilitaries, including the Unit in Doboj, White Eagles, Predo's Wolves, Serb men from Ozren, Šešelj's men, and local Serb authorities in Doboj municipality, including those constituting the Doboj SJB and local members of the SDS, committed the crime of deportation as a crime against humanity.

Eighth incident: moving of 600-720 Croats from Dragalovci to Croatia in September 1995

1139. The Trial Chamber recalls its finding in chapter 3.5.2 that in September 1995, in view of the large number of Serb refugees whose arrival was expected, local Doboj authorities and the Catholic Banja Luka bishopric organized the moving of 600-720 Croats from Dragalovci to the Republic of Croatia. The Trial Chamber notes that those who moved from Dragalovci were Croats and is thus satisfied that their ethnicity corresponds to the charges in the Indictment.

1140. The Trial Chamber has not received sufficiently specific evidence to establish that these Croats were moved against their will or without a genuine choice. Accordingly, the Trial Chamber is unable to establish that they were forcibly displaced and will not consider this incident further.

Sanski Most municipality

1141. The Trial Chamber will now address the alleged forcible transfer and deportation of persons from towns and villages in Sanski Most municipality. In chapter 3.6.3, the Trial

Chamber decided to further consider eight incidents of alleged deportation or forcible transfer with regard to the municipality.

First incident: attacks on Begiči, Hrustovo, Mahala, Muhići, Otoka, and Vrhpolje 25-30 May 1992

1142. The Trial Chamber recalls its findings in chapter 3.6.3 that between 25 and 30 May 1992, the JNA 6th Krajina Brigade, the Sanski Most TO, and the SOS launched artillery attacks on the Bosnian Muslim neighbourhoods and villages of Begiči, Hrustovo, Mahala, Muhići, Otoka, and Vrhpolje. The artillery attacks killed people in and caused damage to at least Begiči, Hrustovo, Mahala, Muhići, and Vrhpolje. The forces continued to fire artillery at Mahala after the inhabitants had been forced to gather at a training ground and after the local Muslims in Hrustovo had handed in their weapons. The artillery attacks forced the inhabitants of all of the villages, including Otoka, to leave. Following the artillery attacks the same forces confiscated valuables from a number of inhabitants of these villages who were fleeing, killed a number of those who had not fled, and looted houses. The Trial Chamber notes that those who left as a result of the attacks on the aforementioned villages were predominantly Muslim and concludes that their ethnicity thus corresponds to the charges in the Indictment.

1143. The Trial Chamber considers that the aforementioned acts caused duress and fear of violence such that they created an environment where the Muslims had no choice but to leave. Therefore, the Trial Chamber finds that they were forcibly displaced. The Trial Chamber considers that those leaving were inhabitants of the Muslim neighbourhoods and villages and, absent any indication to the contrary, finds that they were lawfully present there.

1144. Some of the Muslim men from Hrustovo, Mahala, Muhići, Otoka, and Vrhpolje left for Pobrežje, in Sanski Most municipality, where they were sought out in early June 1992 by a local Serb paramilitary unit. The Trial Chamber cannot conclude that they crossed a *de facto* or *de jure* border. As for the remaining Muslim inhabitants, the Trial Chamber has not received evidence on their destination and is therefore unable to conclude that they crossed a *de facto* or *de jure* border.

1145. With regard to *mens rea*, the Trial Chamber considers the nature of the aforementioned acts and the circumstances in which they were carried out both during and after the attack. The Trial Chamber finds that those constituting the aforementioned forces had the intent to forcibly displace the Muslims from their villages and neighbourhoods.

1146. Considering that those who were forcibly displaced were inhabitants of the Muslim neighbourhoods and villages and that they were fleeing, the Trial Chamber finds that they were civilians or persons placed *hors de combat*.

1147. In conclusion, the Trial Chamber finds beyond a reasonable doubt that those constituting the JNA 6th Krajina Brigade, the Sanski Most TO, and the SOS committed the crimes of forcible transfer as a crime against humanity.

Second incident: transportation of Muslim men from Pobrežje June 1992

1148. The Trial Chamber recalls its findings in chapter 3.6.3 that in early June 1992, pursuant to Ančić's orders, members of a local Serb paramilitary unit sought out a number of Muslim men from Hrustovo, Kamičak, Mahala, Muhići, Otoka, and Vrhpolje who had taken refuge in Pobrežje, and loaded them into buses. The buses took these men to Krings/Krinks Hall, from where they were transported towards Muslim-held territory in the area of Bihać. The Trial Chamber notes that the people who were transported were Muslim and concludes that their ethnicity thus corresponds to the charges in the Indictment.

1149. Considering the aforementioned acts, the Trial Chamber finds that the Muslim men were transported against their will or without genuine choice and therefore that they were forcibly displaced. The Muslim men were in Pobrežje after having fled from their own villages shortly before and, absent any indication to the contrary, the Trial Chamber therefore finds that they were lawfully present there.

1150. Considering that the men were transported towards Muslim-held territory in the area of Bihać, the Trial Chamber finds that they crossed a *de facto* border.

1151. With regard to the *mens rea* of those constituting the local Serb paramilitary unit, the Trial Chamber finds that the character of the acts themselves and circumstances under which they were carried out, provide the basis for the inference that they acted with the required intent.

1152. The Trial Chamber considers that those forcibly displaced were in Pobrežje after fleeing from their own villages, that the local Serb paramilitary unit had to specifically seek them out, and that they did not put up any resistance. Based on this, the Trial Chamber finds that they were civilians or persons placed *hors de combat*.

1153. In conclusion, the Trial Chamber finds beyond a reasonable doubt that those constituting a local Serb paramilitary unit in Sanski Most municipality committed the crime of deportation as a crime against humanity.

Third incident: transportation of over 200 inhabitants on or about 31 May 1992

1154. The Trial Chamber recalls its findings in chapter 3.6.2 that on 31 May 1992, 50-100 members of the 6th Brigade, the Sanski Most TO, the SOS, or a local paramilitary unit escorted a group of more than 200 inhabitants of Jelečevíci and surrounding villages to the hamlet of Kljevčí where they detained the villagers. The villagers were then transported by bus and train to Doboj, where they were ordered to go to Muslim-held territory. The Trial Chamber notes that those who were transported were non-Serbs and concludes that their ethnicity thus corresponds to the charges in the Indictment.

1155. Considering the aforementioned acts, the Trial Chamber finds that the group of more than 200 inhabitants of Jelečevíci and surrounding villages were transported against their will or without genuine choice. Therefore, the Trial Chamber finds that they were forcibly displaced. Considering that those who were transported were inhabitants of Jelečevíci and the surrounding villages and, absent any indication to the contrary, the Trial Chamber therefore finds that they were lawfully present there.

1156. The Trial Chamber considers that the inhabitants of Jelečevíci and surrounding villages were transported to Doboj and then ordered to go to Muslim-held territory. Based on this, the Trial Chamber finds that they crossed a *de facto* border.

1157. With regard to the *mens rea* of those constituting the 6th Brigade, the Sanski Most TO, the SOS, or a local paramilitary unit, the Trial Chamber finds that the character of the acts themselves and circumstances under which they were carried out, provide the basis for the inference that they acted with the required intent.

1158. Considering that those forcibly displaced were inhabitants of Jelečevíci and surrounding villages and that they were detained immediately prior to being transported to Doboj, the Trial Chamber finds that they were civilians or persons placed *hors de combat*.

1159. In conclusion, the Trial Chamber finds beyond a reasonable doubt that those constituting the 6th Brigade, the Sanski Most TO, the SOS, or a local Serb paramilitary unit committed the crime of deportation as a crime against humanity.

Fourth incident: transfer of Muslims to Manjača on or after 6 June 1992

1160. The Trial Chamber recalls its findings in chapter 3.6.3 that Serb forces under the command of a Sanski Most police officer detained at least 75 men, mostly Muslim and some Croat, at Betonirka after having removed them from their houses. Further, members of the 6th Brigade, the Sanski Most TO, the police, the SOS, or another local Serb paramilitary group, detained a large number of Muslims at the sports hall in Sanski Most town, after having removed them from their homes. On 4 June 1992, the Crisis Staff tasked Vručinić, Rašula, and Aničić with transferring to Manjača prisoners who they labelled as: politicians, extreme nationalists, or undesirables. On or after 6 June 1992, Serb forces, including Sanski Most police officers, transferred at least 150 of the detainees at the sports hall and Betonirka in Sanski Most municipality to a camp at Manjača in Banja Luka municipality. The Trial Chamber notes that those who were transported were Muslims and Croats, and concludes that their ethnicity corresponds to the charges in the Indictment.

1161. Considering the aforementioned acts, the Trial Chamber finds that the 150 persons who were detained prior to being transported were transported against their will or without genuine choice. Therefore, the Trial Chamber finds that they were forcibly displaced. Considering that those who were transported were inhabitants of Sanski Most and, absent any indication to the contrary, the Trial Chamber therefore finds that they were lawfully present there.

1162. The Trial Chamber finds that those sent to Manjača did not cross a *de facto* or *de jure* border.

1163. With regard to the *mens rea* of those constituting the Crisis Staff and Serb forces, including Sanski Most police officers, the Trial Chamber finds that the character of the acts themselves and circumstances under which they were carried out, provide the basis for the Trial Chamber's inference that they acted with the required intent.

1164. Considering that those forcibly displaced were inhabitants of Sanski Most municipality and that they were detained when they were transferred, the Trial Chamber finds that they were civilians or persons placed *hors de combat*.

1165. In conclusion, the Trial Chamber finds beyond a reasonable doubt that those constituting the Crisis Staff and members of the Serb forces, including Sanski Most police officers, committed the crime of forcible transfer as a crime against humanity.

Fifth incident: departure of approximately 4,500 Muslims between beginning of August and 3 September 1992

1166. The Trial Chamber recalls its findings in chapter 3.6.3 that at the beginning of August 1992 and on 2 and 3 September 1992, approximately 4,500 Muslim men, women, children, and elderly left Sanski Most for Travnik, in convoys escorted by Bosnian-Serb police and military police, as a result of a combination of three sets of acts. The first was the dismissal of Muslims and Croats from public office by the Sanski Most Crisis Staff, the SDS, Sanski Most police officers, and members of the White Eagles. The second was comprised of the artillery attacks, killings, detentions, beatings, and misappropriation of property in villages in the Vrhpolje area from May through July 1992 by members of the 6th Brigade, the Sanski Most TO, the SOS, and a local Serb paramilitary unit. Finally, the third set of acts was the destruction of businesses and misappropriation of property by members of the SOS, the destruction of mosques by Sanski Most TO members, and the detentions, beatings, and killings in Sanski Most town and throughout the municipality from April to August 1992 by members of the 6th Brigade, the Sanski Most TO, the SOS, or a local Serb paramilitary unit, and Serb police officers. The Trial Chamber notes that the people who left were Muslim and concludes that their ethnicity thus corresponds to the charges in the Indictment.

1167. The Trial Chamber considers that the aforementioned acts caused fear of violence and duress such that they created an environment where Muslims had no choice but to leave. As such, the Trial Chamber finds that those who left were forcibly displaced. Considering that those who fled were inhabitants of Sanski Most and, absent any indication to the contrary, the Trial Chamber therefore finds that they had been lawfully present there.

1168. The Trial Chamber further finds that those who fled to Travnik crossed a *de facto* or *de jure* border.

1169. The Trial Chamber will now consider the *mens rea* of each of the aforementioned groups. The Trial Chamber has considered the nature of the acts of those constituting the SDS and the White Eagles and the circumstances under which they were carried out. With regard to those constituting the Sanski Most Crisis Staff, Sanski Most police officers, the 6th Brigade, the Sanski Most TO, the SOS, and a local Serb paramilitary unit the Trial Chamber further considers the evidence of the *mens rea* in relation to this incident not in isolation but also considers its finding that those constituting these groups acted in relation to other incidents in Sanski Most municipality with the required *mens rea* for deportation and forcible

transfer. Based on this, the Trial Chamber finds that those constituting the aforementioned groups and institutions had the intent to forcibly displace the Muslims.

1170. Considering that those forcibly displaced were inhabitants of Sanski Most and that they included women, children, and the elderly, the Trial Chamber finds that they were civilians or persons placed *hors de combat*.

1171. In conclusion, the Trial Chamber finds beyond a reasonable doubt that those constituting the Sanski Most Crisis Staff, the SDS, Sanski Most police officers, the White Eagles, the 6th Brigade, the Sanski Most TO, the SOS, and a local Serb paramilitary unit committed the crime of deportation as a crime against humanity.

Sixth incident: departure of JF-064 on or about 20 September 1995

1172. The Trial Chamber recalls its findings in chapter 3.6.3 on the killing of eleven non-Serb men near Trnova in Sanski Most municipality on or about 20 September 1995 by members of the SDG, and that JF-064 was seriously wounded by the SDG in this incident. The Trial Chamber further recalls that following, and as a result of these events, and as a result of the labour non-Serbs were forced to perform by the VRS, JF-064, a Bosnian Muslim, left Sanski Most municipality and on 22 September 1995 travelled to Banja Luka and later to Tuzla. The Trial Chamber notes that JF-064 is Muslim and concludes that his ethnicity thus corresponds to the charges in the Indictment.

1173. With regard to the *mens rea* of those constituting the SDG, the Trial Chamber considers, that their intent was to kill JF-064, along with the other 11 non-Serbs whom they succeeded in killing. With regard to the *mens rea* of those constituting the VRS, the majority, Judge Picard dissenting, is unable to conclude that they had the intent to forcibly displace JF-064 when they forced non-Serbs to perform labour. As the majority, Judge Picard dissenting, does not find that those constituting the aforementioned forces had the intent to forcibly displace JF-064 from Sanski Most municipality, this incident will not be considered further.

Seventh incident: departure of JF-060 in September 1995

1174. The Trial Chamber recalls its findings in chapter 3.6.3 on the killing of 65 non-Serb detainees at Sasina in Sanski Most municipality on 19, 21, and 22 September 1995 by members of the SDG, and that JF-060 was seriously wounded by the SDG in this incident. The Trial Chamber further recalls that as a result of these events, and as a result of the labour non-Serbs were forced to perform by the VRS and detentions, beatings, and rape committed by the SDG members, JF-060 left Sanski Most town for Šehovci. At the end of September

1995, JF-060 and his family left Šehovci in a convoy. At a check-point, Serb forces separated the men of military age, including JF-060, from the rest of the convoy and transported them to Sanakeram camp in Usmane village and then to a hall in Prijedor, after which JF-060 was exchanged. The Trial Chamber notes that JF-060 is Muslim and thus concludes that his ethnicity corresponds to the charges in the Indictment.

1175. With regard to the *mens rea* of those constituting the SDG, the Trial Chamber considers that they intended to kill JF-060 along with the other 65 non-Serb men whom they succeeded in killing. With regard to when they carried out detention, beatings, and rape, the majority, Judge Picard dissenting, is unable to conclude that they had the intent to forcibly displace JF-060. With regard to the *mens rea* of those constituting the VRS, the majority, Judge Picard dissenting, is unable to conclude that they had the intent to forcibly displace him when they forced non-Serbs to perform labour. As the majority, Judge Picard dissenting, does not find that those constituting the aforementioned forces had the intent to forcibly displace JF-060 from Sanski Most municipality, this incident will not be considered further.

Eighth incident: departure of B-1048 in September 1995

1176. The Trial Chamber recalls its findings in chapter 3.6.3 that SDG members arrested B-1048, a Muslim, and took him to the Sanus hotel and detained him there. At the end of September 1995, SDG members took him to Sanakeram camp in Usmane village, where he was detained until the ABiH took over the camp on 10 October 1995. The Trial Chamber notes that B-1048 is a Muslim and concludes that his ethnicity thus corresponds to the charges in the Indictment.

1177. Considering the aforementioned acts, the Trial Chamber finds that B-1048 was transferred against his will or without genuine choice, and as such was forcibly displaced. Since B-1048 was an inhabitant of Sanski Most the Trial Chamber finds that he was lawfully present there.

1178. The Trial Chamber considers that Usmane village is in Sanski Most municipality and that B-1048 remained under Serb control. As such the Trial Chamber cannot conclude that he crossed a *de facto* or *de jure* border, or even that he was displaced to an area under non-Serb control within Sanski Most municipality.

1179. With regard to the *mens rea* of those constituting the SDG, the Trial Chamber finds that the character of the acts themselves and circumstances under which they were carried out, provide the basis for the inference that they acted with the required intent.

1180. Having considered the circumstances of the displacement and the absence of any resistance on his part, the Trial Chamber finds that B-1048 was a civilian or person placed *hors de combat*.

1181. In conclusion, the Trial Chamber finds beyond a reasonable doubt that those constituting the SDG committed the crime of forcible transfer as a crime against humanity.

Zvornik municipality

1182. The Trial Chamber will now address the alleged forcible transfer and deportation in Zvornik municipality. In chapter 3.8.2, the Trial Chamber decided to further consider nine incidents of alleged deportation or forcible transfer with regard to this municipality.

First incident: attack and take-over of Zvornik Town 8 April 1992

1183. The Trial Chamber recalls its findings in chapter 3.8.2 that many Muslims fled Zvornik town and went to Tuzla, Kula Grad in Zvornik municipality, or to Serbia as a result of the attack and take-over of Zvornik town and other acts carried out around the time of the attack. The attack on and take-over of the town on 8 April 1992 was carried out by the Serb police, the Zvornik TO, the JNA, and the SDG, aided by the Yellow Wasps, Gogić's group, Šešelj's men, the White Eagles, the Vukovar group, and the Serb reserve police. The other acts included the imposition of discriminatory measures aimed at marginalisation of non-Serbs, looting, damage or destruction of Muslim monuments, arbitrary arrest and detention, torture, beatings, mistreatment, and killings carried out by a combination of the aforementioned Serb forces, as well as the Serb authorities in Zvornik and Vuk Drašković's SPO. The Trial Chamber notes that the people who fled were Muslim and concludes that their ethnicity thus corresponds to the charges in the Indictment.

1184. The Trial Chamber considers that the aforementioned acts caused duress and fear of violence such that they created an environment where the Muslims had no choice but to leave. Consequently, the Trial Chamber finds that those who left were forcibly displaced. Considering the circumstances of this incident, the Trial Chamber finds that the Muslims were inhabitants of Zvornik and, absent any indication to the contrary, therefore that they were lawfully present there.

1185. The Trial Chamber finds that all those who left crossed a *de facto* or *de jure* border.

1186. The Trial Chamber will now consider the *mens rea* of those constituting each of the aforementioned groups. The Trial Chamber considers the nature of the acts of those constituting the Serb police, the Zvornik TO, the JNA, the SDG, the Yellow Wasps, Gogić's group, Šešelj's men, the White Eagles, the Vukovar group, the Serb reserve police, and Vuk Drašković's SPO and the circumstances in which they were carried out. With regard to those constituting the Serb police, the Zvornik TO, the SDG, the Yellow Wasps, Šešelj's men, the White Eagles, and the Serb reserve police, the Trial Chamber further considers the evidence of the *mens rea* in relation to this incident not in isolation but also considers its finding that those constituting these groups acted in relation to other incidents in Zvornik municipality with the required *mens rea* for deportation and forcible transfer. The Trial Chamber therefore finds that those constituting these groups had the intent to forcibly displace the Muslims when they participated in the present incident. The Serb authorities in Zvornik introduced discriminatory measures, as specified in chapter 3.8.2, aimed at marginalising the non-Serb population in the municipality. The Trial Chamber therefore finds that those constituting the Serb authorities had the intent to forcibly displace the Muslims.

1187. Considering that those who were forcibly displaced were inhabitants of Zvornik town and that they did not put up any resistance during or after the attack, the Trial Chamber finds that they were civilians or persons placed *hors de combat*.

1188. In conclusion, the Trial Chamber finds beyond a reasonable doubt that those constituting the Serb police, Zvornik TO, the JNA, the SDG, the Yellow Wasps, Gogić's group, Šešelj's men, the White Eagles, the Vukovar group, the Serb reserve police, the Serb authorities in Zvornik, and Vuk Drašković's SPO committed the crime of deportation as a crime against humanity.

Second incident: transfer of women children and elderly to Muslim-controlled territory

1189. The Trial Chamber recalls its findings in chapter 3.8.2 that Serb soldiers separated a column of approximately 3,000 Muslims who had left in fear of their safety, and transferred the women, children, and elderly to Muslim-controlled territory. The Trial Chamber notes that these people were Muslim and that their ethnicity thus corresponds to the charges in the Indictment.

1190. Having considered the aforementioned acts, the Trial Chamber finds that the Muslims were transported against their will or without genuine choice and as such were forcibly displaced. Considering the circumstances of this incident, the Trial Chamber finds that the

Muslims were inhabitants of Zvornik and, absent any indication to the contrary, therefore that they were lawfully present there.

1191. Since the Muslim women, children, and elderly were transferred to Muslim-controlled territory, the Trial Chamber finds that they crossed a *de facto* border.

1192. With regard to the *mens rea* of those constituting the Serb soldiers, the Trial Chamber finds that the character of the acts themselves and circumstances under which they were carried out, provide the basis for the inference that they acted with the required intent.

1193. Considering that the forcibly displaced group, consisting of women, children, and the elderly, were separated after they had left in fear of their safety the Trial Chamber finds that they were civilians or persons placed *hors de combat*.

1194. In conclusion, the Trial Chamber finds beyond a reasonable doubt that those constituting the group of Serb soldiers committed the crime of deportation as a crime against humanity.

Third incident: Transfer of Muslim women and children to Banja Koviljača Serbia on or about 8 April 1992

1195. The Trial Chamber recalls its findings in chapter 3.8.2 that on or about 8 April 1992, Šešelj's men took a group of Muslim women and children, including Witness JF-007, out of a cellar where they had taken shelter and that Šešelj's men and Arkan forced the Muslim women and children, and a group of Muslim men onto a bus in Zvornik town, and transported them to Banja Koviljača in Serbia. The Trial Chamber notes that the men, women and children who were transported from Zvornik were Muslims and concludes that their ethnicity thus corresponds to the charges in the Indictment.

1196. The Trial Chamber considers that the Muslims, including Witness JF-007, were taking shelter in a cellar before being taken out and then put onto a bus. Based on this, the Trial Chamber finds that they were transported against their will or without a genuine choice and as such were forcibly displaced. Considering the circumstances of this incident, that the Muslims were inhabitants of Zvornik and, absent any indication to the contrary, the Trial Chamber finds that they were lawfully present there.

1197. Since the Muslims were transported to Banja Koviljača in Serbia, the Trial Chamber finds that they were forcibly displaced across a *de jure* border.

1198. With regard to the *mens rea* of those constituting Šešelj's men, and Arkan, the Trial Chamber finds that the character of the acts themselves and circumstances under which they were carried out, provide the basis for the inference that they acted with the required intent.

1199. Considering that those who were forcibly displaced included women and children and that they were taking shelter in a cellar at the time, the Trial Chamber finds that they were civilians or persons placed *hors de combat*.

1200. In conclusion, the Trial Chamber finds beyond a reasonable doubt that those constituting Šešelj's men, and Arkan committed the crime of deportation as a crime against humanity.

Fourth Incident: attack on the village of Divič late April or early May 1992

1201. The Trial Chamber recalls its findings in chapter 3.8.2 that in late April or early May 1992, the SDG, the White Eagles and the reserve police attacked the village of Divič and that at least 1,000 Muslims fled towards the nearby village of Jošanica following the attack. Those who tried to return in May 1992 were turned away by the mentioned forces. The Trial Chamber notes that the people who fled Divič following the attack on the village were Muslims and concludes that their ethnicity thus corresponds to the charges in the Indictment.

1202. The Trial Chamber considers that the attack on the village of Divič caused duress and fear of violence such that it created an environment where there was no choice but to leave. Therefore, the Trial Chamber finds that those who left were forcibly displaced. The Trial Chamber finds, having considered that those who were forcibly displaced were inhabitants of Divič and absent any indication to the contrary, therefore that they were lawfully present there.

1203. With regard to whether those who left crossed a *de facto* or *de jure* border, the Trial Chamber considers that they left for the nearby village of Jošanica from where they later attempted to return. It understands from this that Jošanica was not under the control of Serb forces at the time.

1204. If doubt would exist about the *mens rea* of those constituting the forces that attacked Divič, whether they intended to forcibly displace those who fled the village, the subsequent turning away of those who tried to return to Divič would remove such doubts. The Trial Chamber finds that those constituting these same forces thereby confirmed that they intended by their conduct to forcibly displace those who fled.

1205. Considering that those who were forcibly displaced were inhabitants of Divič and that they did not put up any resistance during the attack, the Trial Chamber finds that they were civilians or persons placed *hors de combat*.

1206. In conclusion, the Trial Chamber finds beyond a reasonable doubt that those constituting the SDG, the White Eagles, and the reserve police committed the crime of deportation as a crime against humanity.

Fifth Incident: transfer of 400-500 Muslims from Divič

1207. The Trial Chamber recalls its findings in chapter 3.8.2 that on or about 28 May 1992, the Yellow Wasps forced 400-500 Muslims from Divič onto buses, told them that they would be taken to Muslim territory, and transported them from Divič to Crni Vrh. The Zvornik TO under the command of Marko Pavlović organized the transport of the Muslims from Divič at the order of Major Svetozar Andrić, commander of the VRS 1st Birač Brigade. The Trial Chamber notes that the people who were transported from Divič were Muslims and concludes that their ethnicity thus corresponds to the charges in the Indictment.

1208. Since the 400-500 Muslims had been forced onto buses by the Yellow Wasps in order to be transported, as organized by the Zvornik TO, the Trial Chamber finds that they were transported against their will or without genuine choice and therefore were forcibly displaced. Considering the circumstances of this incident, the Trial Chamber finds that the Muslims were inhabitants of Divič and, absent any indication to the contrary, therefore that they were lawfully present there.

1209. The evidence does not establish where Crni Vrh is and there are a number of villages with this name in the territory of the FRY. However, considering that those who were forcibly displaced were told that they would be taken to Muslim territory, the Trial Chamber finds that they were transported across a *de facto* border.

1210. With regard to the *mens rea* of those constituting the Yellow Wasps and the Zvornik TO, the Trial Chamber finds that the character of the acts themselves and circumstances under which they were carried out, provide the basis for the Trial Chamber's inference that they acted with the required intent.

1211. The Trial Chamber finds that since those forcibly displaced included women and children, and considering the way in which they were moved out, that they were civilians or persons placed *hors de combat*.

1212. In conclusion, the Trial Chamber finds beyond a reasonable doubt that those constituting the Yellow Wasps and the Zvornik TO committed the crime of deportation as a crime against humanity.

Sixth Incident: transportation of 4,000-5,000 Muslims from Dulići

1213. The Trial Chamber recalls its findings in chapter 3.8.2 that in June 1992, the Zvornik TO and the police transported 4,000-5,000 Muslims out of Dulići. Before placing the Muslims in vehicles, the Zvornik TO and police separated men from women and children and forcefully transported the women and children to Muslim-held territory bordering Kalesija. Furthermore, the aforementioned forces transported the Muslim men to Karakaj Technical School, from where they were to be exchanged. The Trial Chamber notes that the people who were transported from Dulići were Muslim and concludes that their ethnicity thus corresponds to the charges in the Indictment.

1214. Having considered the aforementioned acts, the Trial Chamber finds that the Muslims were transported against their will or without genuine choice and as such were forcibly displaced. Considering the circumstances of this incident, the Trial Chamber finds that the Muslims were inhabitants of Dulići and, absent any indication to the contrary, therefore that they were lawfully present there.

1215. Considering that the women and children transported were sent from Dulići to the Muslim-held territory bordering Kalesija, the Trial Chamber finds that they did cross a *de facto* border. With regard to the Muslim men, the Trial Chamber considers that they were transported to Karakaj Technical School, still in Zvornik municipality and under Serb control. As such the Trial Chamber is unable to conclude that these Muslim men were transported across a *de facto* or *de jure* border.

1216. With regard to the *mens rea* of those constituting the Zvornik TO and the police, the Trial Chamber finds that the character of the acts themselves and circumstances under which they were carried out, provide the basis for the Trial Chamber's inference that they acted with the required intent.

1217. Considering that those who were forcibly displaced were women and children, the Trial Chamber finds that they were civilians or persons placed *hors de combat*.

1218. In conclusion, the Trial Chamber finds beyond a reasonable doubt that those constituting the Zvornik TO and the police committed the crimes of deportation and forcible transfer as crimes against humanity.

Seventh Incident: transportation of the Muslim population of Šepak to Loznica, Serbia on or about 4 July 1992

1219. The Trial Chamber recalls its findings in chapter 3.8.2 that on or about 4 July 1992 the Zvornik TO forcefully transported the Muslim population of Šepak to Loznica in Serbia. The Trial Chamber notes that the people who were transported from Šepak were Muslim and concludes that their ethnicity thus corresponds to the charges in the Indictment.

1220. Considering the aforementioned acts, the Trial Chamber finds that the Muslims were transported against their will or without genuine choice, and thus were forcibly displaced. The Trial Chamber finds, having considered that those who were forcibly displaced were inhabitants of Šepak and, absent any indication to the contrary, that they were lawfully present there.

1221. The Trial Chamber further finds that the Muslim population crossed a *de jure* border when it was forcibly displaced from Šepak to Serbia.

1222. With regard to the *mens rea* of those constituting the Zvornik TO, the Trial Chamber finds that the character of the acts themselves and circumstances under which they were carried out, provide the basis for the Trial Chamber's inference that they acted with the required intent.

1223. Considering that those displaced constituted the whole Muslim population of Šepak, and that they were forced to surrender weapons prior to being displaced, the Trial Chamber finds that they were civilians or persons placed *hors de combat*.

1224. In conclusion, the Trial Chamber finds beyond a reasonable doubt that those constituting the Zvornik TO committed the crime of deportation as a crime against humanity.

Eighth Incident: departure of over 2,000 Muslims from Kozluk village between April and early June 1992

1225. The Trial Chamber recalls its findings in chapter 3.8.2 that Serb paramilitary units and local Serbs set up barricades isolating the village of Kozluk and restricting the freedom of movement of its residents. Members of the SDG detained and beat Muslims at Alhos factory. At the same time, soldiers passing through Kozluk and Serb paramilitary units looted cars and stores. Furthermore, local Serb authorities forced the Muslims to leave their employment. As a result of these incidents, over 2,000 Muslims left the village of Kozluk between April and early June 1992 and went to Tuzla and to Western Europe. The Trial Chamber notes that the

people who left Kozluk were Muslim and concludes that their ethnicity thus corresponds to the charges in the Indictment.

1226. The Trial Chamber considers that the aforementioned acts caused duress and fear of violence such that they created an environment in which the Muslims had no choice but to leave. Therefore, the Trial Chamber finds that those who left were forcibly displaced. The Trial Chamber finds, having considered that those who were forcibly displaced were inhabitants of Kozluk and, absent any indication to the contrary, that they were lawfully present there.

1227. Since the Muslims went to Tuzla and Western Europe, the Trial Chamber finds that they crossed a *de facto* or *de jure* border.

1228. With regard to the *mens rea*, the Trial Chamber will now consider the intent of those constituting each of the aforementioned groups. The Trial Chamber has considered the nature of the acts of the Serb paramilitary units, the local Serbs, the soldiers and the SDG, and the circumstances under which they were carried out. As for the SDG, Trial Chamber further considers the evidence of the *mens rea* in relation to this incident not in isolation but also considers its finding that those constituting this group acted in relation to other incidents in Zvornik municipality with the required *mens rea* for deportation and forcible transfer. The Trial Chamber therefore finds that those constituting the SDG had the intent to forcibly displace the Muslims. With regard to those constituting the Serb authorities, the Trial Chamber has considered that they forced the Muslims to leave their employment, thus leaving them without means of survival, and therefore finds that they had the intent to forcibly displace the Muslims. However, in relation to those constituting the Serb paramilitary units, the local Serbs and the soldiers, the majority, Judge Picard dissenting, having considered their actions, is unable to conclude that they had the intent to forcibly displace the Muslims.

1229. Considering that those displaced were inhabitants of Kozluk and that they left instead of putting up resistance, the Trial Chamber finds that they were civilians or persons placed *hors de combat*.

1230. In conclusion, the Trial Chamber finds beyond a reasonable doubt that those constituting the Serb authorities and the SDG committed the crime of deportation as crimes against humanity.

Ninth Incident: transfer of 1,882 Muslims from Kozluk and Skočić to Loznica, Serbia

1231. The Trial Chamber recalls its findings in chapter 3.8.2 that on or about 26 June 1992, a large number of Serb soldiers, TO members, and paramilitary units, including military scouts, White Eagles, and members of Gagić's unit entered the village of Kozluk. Marko Pavlović, Brano/Branko Grujić, the Zvornik SDS president, and Jovan Mijatović, a member of the Zvornik crisis staff arrived with them and gave an ultimatum to the Muslim villagers to leave within an hour and a half, or they would be killed. The forces that entered the village fired weapons, burned several buildings, and injured at least one Muslim man. The forces placed 1,882 Muslims from Kozluk and Skočić onto 17 buses and transferred them, with a local Serb police escort, to Loznica in Serbia. Before leaving, these forces obliged the Muslims to sign statements surrendering their property. The Trial Chamber notes that the people who were transported from Kozluk and Skočić were Muslim and concludes that their ethnicity thus corresponds to the charges in the Indictment.

1232. Considering the aforementioned acts, the Trial Chamber finds that the Muslims were transported against their will or without genuine choice and as such were forcibly displaced. The Trial Chamber finds, having considered that those who were forcibly displaced were inhabitants of Kozluk and Skočić and, absent any indication to the contrary, that they were lawfully present there.

1233. The Trial Chamber considers that the Muslims were transported to Loznica in Serbia and finds that they crossed a *de jure* border.

1234. With regard to the *mens rea* of those constituting the formations referred to above, as well as the individuals mentioned, the Trial Chamber finds that the character of the acts themselves and circumstances under which they were carried out, provide the basis for the Trial Chamber's inference that they acted with the required intent.

1235. Considering that those forcibly displaced were inhabitants of Kozluk and Skočić, and absent any indication that they put up resistance, the Trial Chamber finds that they were civilians or persons placed *hors de combat*.

1236. In conclusion, the Trial Chamber finds beyond a reasonable doubt that those constituting the Serb soldiers, TO, paramilitary units, including military scouts, the White Eagles, and Gagić's unit, as well as Marko Pavlović, Brano/Branko Grujić, and Jovan Mijatović committed the crime of deportation as a crime against humanity.

4.5 Persecution

4.5.1 Applicable law

Common elements of persecution as a crime against humanity

1237. Count 1 of the Indictment charges the Accused with persecution as a crime against humanity, punishable under Article 5 (h) of the Statute, committed against Croats, Bosnian Muslims and Bosnian Croats, and other non-Serbs within the SAO Krajina, SAO SBWS, and the Bosnia-Herzegovina municipalities of Bijeljina, Bosanski Šamac, Doboj, Sanski Most, Trnovo, and Zvornik. The general elements and jurisdictional requirements for this crime have been discussed in chapter 4.2.2, above.

1238. The crime of persecution consists of an act or omission which:

- (a) discriminates in fact and denies a fundamental human right laid down in international law; and
- (b) is carried out with the intention to discriminate on political, racial, or religious grounds.²¹⁴⁵

1239. Acts listed under the other sub-headings of Article 5 of the Statute or provided for elsewhere in the Statute, as well as acts not explicitly mentioned in the Statute, may qualify as underlying acts of persecution.²¹⁴⁶ The underlying act itself need not constitute a crime in international law.²¹⁴⁷ However, not every denial of a fundamental human right will be serious enough to constitute a crime against humanity.²¹⁴⁸ The underlying act committed on discriminatory grounds, considered in isolation or in conjunction with other acts, must be of the same gravity as other crimes listed under Article 5 of the Statute.²¹⁴⁹

²¹⁴⁵ *Krnjelac* Appeal Judgement, para. 185; *Vasiljević* Appeal Judgement, para. 113; *Blaškić* Appeal Judgement, para. 131; *Kordić and Čerkez* Appeal Judgement, paras 101, 671, 674; *Kvočka et al.* Appeal Judgement, para. 320; *Stakić* Appeal Judgement, para. 327; *Simić et al.* Appeal Judgement, para. 177. According to this case law, the definition also includes discrimination on grounds of ethnicity.

²¹⁴⁶ *Krnjelac* Appeal Judgement, para. 219; *Brđanin* Appeal Judgement, para. 296; *Tadić* Trial Judgement, paras 700, 702-703; *Kupreškić et al.* Trial Judgement, paras 605, 614.

²¹⁴⁷ *Kvočka et al.* Appeal Judgement, para. 323; *Brđanin* Appeal Judgement, para. 296.

²¹⁴⁸ *Kupreškić et al.* Trial Judgement, para. 621; *Krnjelac* Trial Judgement, para. 434; *Krajišnik* Trial Judgement, para. 735.

²¹⁴⁹ *Krnjelac* Appeal Judgement, paras 199, 221; *Blaškić* Appeal Judgement, para. 135; *Kordić and Čerkez* Appeal Judgement, paras 102, 671; *Kvočka et al.* Appeal Judgement, para. 321; *Naletilić and Martinović* Appeal Judgement, para. 574; *Simić et al.* Appeal Judgement, para. 177; *Brđanin* Appeal Judgement, para. 296.

Underlying acts of persecution

(a) Murder

1240. Count 1 of the Indictment charges the Accused with persecution through murder. These acts are also charged elsewhere in the Indictment as murders as crimes against humanity under Article 5 of the Statute and murders as violations of the laws or customs of war under Article 3 of the Statute. The elements of the crime of murder have been discussed in chapter 4.3, above.

1241. An act of murder, carried out on discriminatory grounds, and for which the general elements of crimes against humanity are fulfilled, constitutes the crime of persecution.²¹⁵⁰

(b) Deportation and forcible transfer

1242. Count 1 of the Indictment charges the Accused with persecution through “deportation and forcible transfer”. These acts are also charged elsewhere in the Indictment as deportation and forcible transfer as crimes against humanity punishable under Article 5(d) and (i) of the Statute. The elements of deportation and forcible transfer have been discussed in chapter 4.4, above.

1243. An act of forcible transfer or deportation, carried out on discriminatory grounds, and for which the general elements of crimes against humanity are fulfilled, constitutes the crime of persecution.²¹⁵¹

4.5.2 Legal findings

(a) Murder

1244. The Trial Chamber recalls its findings in chapters 4.2 and 4.3, including that the murders were part of a widespread attack against the non-Serb civilian population in SAO Krajina, SAO SBWS, and the Indictment municipalities in Bosnia-Herzegovina. These findings also include that the murders were committed against non-Serbs and, in particular, Croats, Muslims, Bosnian Croats, Bosnian Muslims, and ethnic Hungarians. Based on this, the Trial Chamber finds that the murders were discriminatory in fact.

²¹⁵⁰ *Vasiljević* Appeal Judgement, para. 143; *Blaškić* Appeal Judgement, para. 143; *Kordić and Čerkez* Appeal Judgement, para. 106.

1245. The Trial Chamber has examined the evidence and its findings in relation to each of the murders it found to have been committed in order to ascertain whether the particular principal perpetrators involved acted with discriminatory intent. In its assessment, the Trial Chamber has taken into consideration its findings that in certain instances the principal perpetrators targeted their victims specifically because of their ethnicity, as demonstrated by their questioning about ethnicity and subsequent release of Serb persons just before the killings took place.²¹⁵² In relation to other instances, the Trial Chamber has found that the principal perpetrators called their victims “*Ustashas*” and stated that “no *Ustashe* should stay alive” or that they should all be slaughtered just before or right after killing them and, subsequently, explained the killings on grounds that they “hated all *Ustashas*” or “because the victims were *Ustashas*”.²¹⁵³ Furthermore, in some instances the principal perpetrators were found to have insulted their victims on the basis of their non-Serb ethnicity, for instance by cursing their “*Ustasha*” or “*balija*” mothers, immediately before the victims were murdered.²¹⁵⁴ In other instances the Trial Chamber has considered that the principal perpetrators, who had shown discriminatory intent by their explicit discriminatory statements made before killing their victims, were also found to have participated in other murder incidents targeting victims of the same ethnicity.²¹⁵⁵ In such cases, the Trial Chamber infers that the victims of the other incidents have also been specifically targeted on grounds of their ethnicity. Lastly, with regard to a number of murder incidents, the Trial Chamber concludes that the principal perpetrators acted with discriminatory intent given its findings on their engagement in deliberate harassing, terrorising, looting, beating and, at times, killing other victims of the same ethnicity within the same period.²¹⁵⁶

1246. The Trial Chamber has further considered that the murders were committed in the context of a wider discriminatory attack against the non-Serb civilian population in SAO Krajina, SAO SBWS, and the Indictment municipalities in Bosnia-Herzegovina, as described in chapter 4.2.2.

1247. Based on the above, the Trial Chamber finds that the principal perpetrators in each of the established murder incidents acted with the requisite discriminatory intent.

²¹⁵¹ *Krnjelac* Appeal Judgement, para. 222; *Blaškić* Appeal Judgement, para. 153; *Naletilić and Martinović* Appeal Judgement, paras 153-154; *Simić et al.* Appeal Judgement, paras 172, 174.

²¹⁵² See for instance the findings and evidence reviewed in chapters 3.1.1, 3.2.4, and 3.6.1.

²¹⁵³ See for instance the findings and evidence reviewed in chapters 3.1.3, 3.1.4, and 3.1.5.

²¹⁵⁴ See for instance the findings in chapters 3.1.4, 3.6.2, and 3.7.1.

²¹⁵⁵ See for instance the findings in chapters 3.1.2, 3.1.3, 3.2.3, 3.2.4, and 3.2.5.

²¹⁵⁶ See for instance findings and evidence reviewed in chapters 3.1.6, 3.1.7, 3.2.1, 3.2.2, 3.2.3, 3.2.5, 3.2.6, 3.4.1, 3.5.1, and 3.5.2.

1248. In conclusion, the Trial Chamber finds that the murders as set out in chapter 4.3.2 constitute persecution as a crime against humanity.

(b) Deportation and forcible transfer

1249. The Trial Chamber recalls its findings in chapter 4.4.2 on the incidents of deportation and forcible transfer as well as its findings that these incidents were part of a widespread attack against the non-Serb civilian population in SAO Krajina, SAO SBWS, and the Indictment municipalities in Bosnia-Herzegovina. These findings include that the crimes of deportation and forcible transfer were committed against Croats, Bosnian Muslims, and other non-Serbs. On this basis, the Trial Chamber finds that these incidents of deportation and forcible transfer were discriminatory in fact.

1250. The Trial Chamber has examined the evidence and its findings in relation to each of the incidents of deportation and forcible transfer it found to have been committed in order to ascertain whether the particular principal perpetrators involved acted with discriminatory intent. In its assessment, the Trial Chamber considered its findings that in certain incidents the principal perpetrators introduced several discriminatory measures aimed specifically at marginalising the non-Serb population.²¹⁵⁷ In particular, the principal perpetrators intimidated and terrorised their victims on the basis of their ethnicity,²¹⁵⁸ including by engaging in criminal activities on a massive scale,²¹⁵⁹ damaging or destroying their local worship places,²¹⁶⁰ looting their houses,²¹⁶¹ threatening members of particular ethnicities that they would lose their jobs and be expelled,²¹⁶² dismissing persons or otherwise forcing them to leave their jobs and destroying the businesses of others on grounds of their ethnicity,²¹⁶³ imposing curfews on members of these ethnicities or other restrictions on their freedom of movement,²¹⁶⁴ and misappropriating the properties of victims belonging to a particular ethnicity after they were forced to leave or just before they were forced to leave.²¹⁶⁵ The Trial Chamber has also considered that in certain incidents the principal perpetrators were

²¹⁵⁷ See for instance findings in chapter 3.8.2.

²¹⁵⁸ See for instance findings in chapters 3.1.7 and 3.3.1.

²¹⁵⁹ See for instance findings in chapters 3.3.1, 3.5.2, 3.6.3, and 3.8.2.

²¹⁶⁰ See for instance findings in 3.1.7, 3.2.6, 3.3.1, 3.5.2, 3.6.3, and 3.8.2.

²¹⁶¹ See for instance findings in chapters 3.1.7, 3.2.6, and 3.5.2.

²¹⁶² See for instance findings in chapter 3.3.1.

²¹⁶³ See for instance findings in chapters 3.1.7, 3.5.2, 3.6.3, and 3.8.2.

²¹⁶⁴ See for instance findings in chapters 3.1.7, 3.2.6, 3.5.2, and 3.8.2.

²¹⁶⁵ See for instance findings in chapters 3.2.6, 3.3.1, 3.6.3, and 3.8.2.

specifically assigned to search for and detain persons on grounds of their ethnicity.²¹⁶⁶ In a number of instances such persons were found to have been arbitrarily detained, at times on a large-scale and for considerable time,²¹⁶⁷ ill-treated,²¹⁶⁸ tortured,²¹⁶⁹ sexually abused,²¹⁷⁰ or forced to perform labour on grounds of their ethnicity.²¹⁷¹ The principal perpetrators' discriminatory intent was evidenced by the fact that Serb detainees were released after their ethnicity had been established,²¹⁷² references that the arrests were made because of the victims' ethnicity and for revenge,²¹⁷³ the cursing of victims using derogatory terms associated with their ethnicity, as well as other attempts to insult them on ethnic grounds by forcing them, for instance, to sing "Chetnik songs" and curse their political leaders.²¹⁷⁴ Notably, in one municipality detainees were beaten, sexually assaulted, tortured, and insulted all on the basis of their ethnicity, for instance one prisoner was beaten in his crotch and told that Muslims should not propagate.²¹⁷⁵ In another municipality detainees were abused while being told that "the Croatian nation has to be destroyed" and "all Croats have to be killed".²¹⁷⁶ In a number of incidents, the principal perpetrators issued ultimatums that all members of a particular ethnicity had to leave their town immediately or would be killed,²¹⁷⁷ and selected and transferred or organized the transfer of persons away in an effort to rid areas of members of that ethnicity.²¹⁷⁸ In other instances, the Trial Chamber found that the attacks on specific towns were aimed at forcing the local population to leave in order to establish a purely Serb territory,²¹⁷⁹ and in at least one incident the local population, referred to as "*Ustašas*", was requested to leave so that the village could form part of a Greater Serbia.²¹⁸⁰

1251. The Trial Chamber further considered that these incidents of deportation and forcible transfer were committed in the context of a wider discriminatory attack against the non-Serb civilian population in SAO Krajina, SAO SBWS, and the Indictment municipalities in Bosnia-Herzegovina, as described in chapter 4.2.2.

²¹⁶⁶ Findings in chapters 3.2.6, 3.5.2, and 3.8.2.

²¹⁶⁷ Findings in chapters 3.1.7, 3.2.6, 3.4.2, and 3.5.2.

²¹⁶⁸ Findings in chapters 3.1.7 and 3.2.6.

²¹⁶⁹ Findings in chapters 3.1.7, 3.2.6, and 3.4.2.

²¹⁷⁰ Findings in chapter 3.1.7.

²¹⁷¹ Findings in chapters 3.1.7, 3.5.2, and 3.8.2.

²¹⁷² Findings in chapter 3.2.6.

²¹⁷³ Findings and evidence reviewed in chapter 3.2.6.

²¹⁷⁴ Findings and evidence reviewed in chapters 3.1.7, 3.2.6, 3.5.2, and 3.8.2.

²¹⁷⁵ Findings in chapter 3.4.2.

²¹⁷⁶ Findings in chapter 3.1.7.

²¹⁷⁷ Findings in chapter 3.8.2.

²¹⁷⁸ See for instance findings in chapter 3.3.1, 3.5.2, and 3.8.2.

²¹⁷⁹ See for instance findings and evidence reviewed in chapters 3.1.7 and 3.2.6.

²¹⁸⁰ See findings on chapter 3.1.7.

1252. Based on the above, the Trial Chamber considers that the principal perpetrators in each of the relevant incidents of deportation and forcible transfer it found to have been committed had acted with discriminatory intent.

1253. In conclusion, the Trial Chamber finds that these incidents of deportation and forcible transfer as set out in chapter 4.4.2 constitute persecution as a crime against humanity.