



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

Case No.: IT-04-74-T
Date : 29 May 2013
Original : ENGLISH
French

IN TRIAL CHAMBER III

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

Registrar: Mr John Hocking

Judgement of: 29 May 2013

THE PROSECUTOR

v.

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

PUBLIC

JUDGEMENT

Volume 5 of 6

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ANNEX 1: GLOSSARY**A. Terms and Abbreviations Pertaining to the Trial**

Accused Ćorić	Valentin Ćorić
Accused Petković	Milivoj Petković
Accused Praljak	Slobodan Praljak
Accused Prlić	Jadranko Prlić
Accused Pušić	Berislav Pušić
Accused Stojić	Bruno Stojić
Appeals Chamber	Appeals Chamber of the Tribunal
Ćorić Defence	Counsel for the Accused Ćorić
Defence(s)	Ćorić Defence, Petković Defence, Praljak Defence, Prlić Defence, Pušić Defence and Stojić Defence
Indictment	"Second Amended Indictment", public, 11 June 2008, superseding the "Indictment", public, 3 March 2004 and the "Amended Indictment", public, 16 November 2005
Petković Defence	Counsel for the Accused Petković
Praljak Defence	Counsel for the Accused Praljak
Prlić Defence	Counsel for the Accused Prlić
Prosecution	Office of the Prosecutor of the Tribunal
Pušić Defence	Counsel for the Accused Pušić
Stojić Defence	Counsel for the Accused Stojić
The Accused	Valentin Ćorić, Milivoj Petković, Slobodan Praljak, Jadranko Prlić, Berislav Pušić and Bruno Stojić

Prosecution Pre-Trial Brief	<i>The Prosecutor v. Jadranko Prlić, Bruno Stojić, Slobodan Praljak, Milivoj Petković, Valentin Čorić and Berislav Pušić</i> , Case No. IT-04-74-PT, "Prosecution Pre-Trial Brief", partly confidential, 19 January 2006, and "Prosecution Submission of Pre-Trial Brief with Exhibit Numbers", public, 2 June 2006
Čorić Defence Pre-Trial Brief	<i>The Prosecutor v. Jadranko Prlić, Bruno Stojić, Slobodan Praljak, Milivoj Petković, Valentin Čorić and Berislav Pušić</i> , Case No. IT-04-74-PT, "The Accused Valentin Čorić's Pre-Trial Brief", public, 14 February 2006
Petković Defence Pre-Trial Brief	<i>The Prosecutor v. Jadranko Prlić, Bruno Stojić, Slobodan Praljak, Milivoj Petković, Valentin Čorić and Berislav Pušić</i> , Case No. IT-04-74-PT, "Milivoj Petković's Pre-Trial Brief Pursuant to Rule 65 ter (F)", public, 15 February 2006
Praljak Defence Pre-Trial Brief	<i>The Prosecutor v. Jadranko Prlić, Bruno Stojić, Slobodan Praljak, Milivoj Petković, Valentin Čorić and Berislav Pušić</i> , Case No. IT-04-74-PT, "Slobodan Praljak's Pre-Trial Brief Pursuant to Rule 65 ter (F)", public, 27 March 2006
Prlić Defence Pre-Trial Brief	<i>The Prosecutor v. Jadranko Prlić, Bruno Stojić, Slobodan Praljak, Milivoj Petković, Valentin Čorić and Berislav Pušić</i> , Case No. IT-04-74-PT, "Jadranko Prlić's Response to Prosecution's Pre-Trial Brief", public, 15 February 2006
Pušić Defence Pre-Trial Brief	<i>The Prosecutor v. Jadranko Prlić, Bruno Stojić, Slobodan Praljak, Milivoj Petković, Valentin Čorić and Berislav Pušić</i> , Case No. IT-04-74-PT, "Defence Pre-Trial Brief of Berislav Pušić Pursuant to Rule 65 ter (F)", public, 15 February 2006
Stojić Defence Pre-Trial Brief	<i>The Prosecutor v. Jadranko Prlić, Bruno Stojić, Slobodan Praljak, Milivoj Petković, Valentin Čorić and Berislav Pušić</i> , Case No. IT-04-74-PT, "Bruno Stojić's Rule 65 ter (F) Pre-Trial Brief", public, 15 February 2006

Prosecution Final Trial Brief	<i>The Prosecutor v. Jadranko Prlić, Bruno Stojić, Slobodan Praljak, Milivoj Petković, Valentin Ćorić and Berislav Pušić, Case No. IT-04-74-T, "Prosecution Public Redacted Final Trial Brief", public, 1 April 2011 (confidential version of 7 January 2011)</i>
Ćorić Defence Final Trial Brief	<i>The Prosecutor v. Jadranko Prlić, Bruno Stojić, Slobodan Praljak, Milivoj Petković, Valentin Ćorić and Berislav Pušić, Case No. IT-04-74-T, "Valentin Ćorić's Final Trial Brief", public (redacted), 28 March 2011 (confidential version of 7 January 2011)</i>
Petković Defence Final Trial Brief	<i>The Prosecutor v. Jadranko Prlić, Bruno Stojić, Slobodan Praljak, Milivoj Petković, Valentin Ćorić and Berislav Pušić, Case No. IT-04-74-T, "Petković Defence Final Brief", public, 31 March 2011 (confidential version of 7 January 2011)</i>
Praljak Defence Final Trial Brief	<i>The Prosecutor v. Jadranko Prlić, Bruno Stojić, Slobodan Praljak, Milivoj Petković, Valentin Ćorić and Berislav Pušić, Case No. IT-04-74-T, "Slobodan Praljak's Redacted Final Trial Brief", public, 31 March 2011 (confidential version of 7 January 2011)</i>
Prlić Defence Final Trial Brief	<i>The Prosecutor v. Jadranko Prlić, Bruno Stojić, Slobodan Praljak, Milivoj Petković, Valentin Ćorić and Berislav Pušić, Case No. IT-04-74-T, "Jadranko Prlić's Final Brief", public, 29 March 2011 (confidential version of 7 January 2011)</i>
Pušić Defence Final Trial Brief	<i>The Prosecutor v. Jadranko Prlić, Bruno Stojić, Slobodan Praljak, Milivoj Petković, Valentin Ćorić and Berislav Pušić, Case No. IT-04-74-T, "Final Brief on Behalf of Berislav Pušić", public, 31 March 2011 (confidential version of 7 January 2011)</i>
Stojić Defence Final Trial Brief	<i>The Prosecutor v. Jadranko Prlić, Bruno Stojić, Slobodan Praljak, Milivoj Petković, Valentin Ćorić and Berislav Pušić, Case No. IT-04-74-T, "Bruno Stojić's Redacted Final Trial Brief", public, 31 March 2011 (confidential version of 7 January 2011)</i>

Parties	The Prosecution and the Defences for the six Accused in the trial of <i>The Prosecutor v. Jadranko Prlić, Bruno Stojić, Slobodan Praljak, Milivoj Petković, Valentin Ćorić and Berislav Pušić</i> , Case No. IT-04-74
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B. Terms and Abbreviations Frequently Used in the Judgement

(the) HV	Army of the Republic of Croatia
(the) HVO	Croatian Defence Council (army of BiH Croats)
ABiH	Armed Forces of the Republic of Bosnia and Herzegovina
Aladinići/Crnići School	School known as <i>Branko Šotra</i> , Stolac Municipality
APC	Armoured Personnel Carrier
ATG	Anti-Terrorist Group
BCS	Bosnian, Croatian and Serbian languages
BiH	Bosnia and Herzegovina
Britbat	UNPROFOR British Battalion
Canbat	UNPROFOR Canadian Battalion
CED	Electronic Operations Centre (a service of the Main Staff)
Central Bosnia OZ	Central Bosnia Operative Zone (HVO)
Croatia	Republic of Croatia
CSB	Security Services Centre
Department for Criminal Investigations	Department for the Prevention of Crime/Department for Criminal Investigations/Department for Fighting Crime within the Military Police Administration
<i>Domobrani</i>	Home Guards within the HVO

Dretelj Prison	Dretelj Military District Prison, Čapljina Municipality
East Mostar Hospital	Hospital in East Mostar, likewise called "Institute for Hygiene" and located in Maršal Tito Street in Mostar Municipality
EC	European Community
ECMM	European Community Monitoring Mission
Exchange Commission	Commission for the Exchange of Prisoners and Other Persons
Exchange Service	Service for the Exchange of Prisoners and Other Persons
Faculty of Mechanical Engineering	Building of the Faculty of Mechanical Engineering, Mostar Municipality
Fish Farm	Fish farm near Doljani, Jablanica Municipality
Furniture Factory	Furniture factory at Trnovača, Gornji Vakuf Municipality
Gabela Prison	Gabela Military District Prison, Čapljina Municipality
Glass Bank	Building known as the "Glass Bank" (Glass Bank Building), also called the Blue Bank, at Tito Street in West Mostar
HCR	United Nations High Commissioner for Refugees
HDZ	Croatian Democratic Union
HDZ-BiH	Croatian Democratic Union of Bosnia and Herzegovina
Heliodrom	Heliodrom Camp, Mostar Municipality
HOS	Croatian Defence Forces (military wing of the BiH Croats)
Houses in Junuzovići	Houses in the hamlet of Junuzovići, Jablanica Municipality

HR H-B	Croatian Republic of Herceg-Bosna
HZ H-B	Croatian Community of Herceg-Bosna
HZ(R) H-B	Community and Republic of Herceg-Bosna, referred to jointly
ICFY	International Conference on the Former Yugoslavia
ICRC	International Committee of the Red Cross
ICTR	International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States, between 1 January and 31 December 1994
IPD	Information and Propaganda
JCE	Joint Criminal Enterprise
JNA	Yugoslav People's Army
KB	<i>Kažnjenička Bojna</i> , Convicts Battalion
Ljubuški Prison	Military remand prison in the town of Ljubuški
Medical Centre	Medical centre located at the front line of the town of Mostar
Military Police Building	Military Police Building, Prozor Municipality
MTS	Materiel and Technical Equipment
MUP	Civilian police force reporting to the Ministry of the Interior
MUP Building	Mostar Police Station
Norbat	UNPROFOR Norwegian Battalion
North-West OZ	North-West Herzegovina Operative Zone (HVO)
ODPR	Office for Displaced Persons and Refugees

OLCE	European Community Liaison Officer
OpŠO	Municipal TO
p./pp.	Page/pages
para./paras	Paragraph/paragraphs
PPN	Special Purposes Unit (<i>Postrojba za Posebne Namjene</i>)
Prozor Secondary School	Secondary school in Prozor Municipality, as identified in para. 54 of the Indictment
RBiH	Republic of Bosnia and Herzegovina (following independence)
Ripci School	Primary school in Ripci, Prozor Municipality
RS	<i>Republika Srpska</i>
RSBiH	Socialist Republic of Bosnia and Herzegovina (prior to independence)
SAO	Serbian Autonomous District
SDA	Party of Democratic Action
SDK	Public Auditing Service
SDS	Serbian Democratic Party
Serbia	Republic of Serbia
SFRY	Socialist Federative Republic of Yugoslavia
Silos	Silos in the town of Čapljina
SIS	HVO Information and Security Service
SITREP	Spabat situation report
South-East OZ	South-East Herzegovina Operative Zone (HVO)
Sovići School	School in Sovići, Jablanica Municipality
Spabat	UNPROFOR Spanish Battalion

Supreme Command	Supreme Command of the Armed Forces of the HZ(R) H-B
T(E)	Transcript in English
T(F)	Transcript in French
Tech School	"Tech" school, town of Prozor, Prozor Municipality, as identified in para. 54.2 of the Prosecution Pre-Trial Brief
TO	Territorial Defence
Tobacco Institute	Tobacco Institute, Mostar Municipality
Tribunal	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
UN	United Nations
UNCIVPOL	United Nations Civilian Police
UNICEF	United Nations Children's Fund
Unis Building	Unis Building, Prozor Municipality
UNMO	United Nations Military Observers
UNPROFOR	United Nations Protection Force
Vareš School	<i>Vladimir Nazor</i> Primary School, town of Vareš
Vareš School	<i>Ivan Goran Kovačić</i> Secondary School, town of Vareš
Velež Stadium	Velež Football Stadium, located in West Mostar
Vitina-Otok Camp	Detention facility in the hamlets of Vitina and Otok, Ljubuški Municipality
VJ	Yugoslav Army

Vojno Detention Centre	Buildings clustered in the Vojno sector, Mostar Municipality, and termed "Vojno Camp" in the Indictment
VONS	Defence and National Security Council of the Republic of Croatia
VOS	HVO Military Intelligence Services
VPD	<i>Vaspitno Popravni Dom</i> or Stolac Correctional Education Facility
Vranica Building	Vranica building complex, located in West Mostar
VRS	Army of the Serbs of Bosnia and Herzegovina
ZP Mostar	Mostar Military District (replaced the South-East OZ as of 15 October 1993)
ZP Tomislavgrad	Tomislavgrad Military District (replaced the North-West OZ as of 15 October 1993)
ZP Vitez	Vitez Military District (replaced the Central Bosnia OZ) as of 15 October 1993

C. International Legal Instruments and Doctrine

Rules	Rules of Procedure and Evidence of the Tribunal
Statute	Statute of the Tribunal
Geneva Conventions	Geneva Conventions I-IV of 12 August 1949
Common Article 3	Article 3 of Geneva Conventions I-IV
First Geneva Convention	Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, Geneva, 12 August 1949
Second Geneva Convention	Convention (II) for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, Geneva, 12 August 1949

Third Geneva Convention	Convention (III) Relative to the Treatment of Prisoners of War, Geneva, 12 August 1949
Commentary on the Third Geneva Convention	Commentary – Convention (III) Relative to the Treatment of Prisoners of War, 12 August 1949, International Committee of the Red Cross, Geneva, 1960
Fourth Geneva Convention	Convention (IV) Relative to the Protection of Civilian Prisoners in Time of War, Geneva, 12 August 1949
Commentary on the Fourth Geneva Convention	Commentary – Convention (IV) Relative to the Protection of Civilian Prisoners in Time of War, Geneva, 12 August 1949, International Committee of the Red Cross, Geneva, 1958
Additional Protocol I	Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977
Commentary on Additional Protocol I	Commentary on the Additional Protocol to the Geneva Convention of 12 August 1949 Relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977, International Committee of the Red Cross, Geneva, 1987
Additional Protocol II	Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 8 June 1977
Commentary on Additional Protocol II	Commentary on the Additional Protocol to the Geneva Convention of 12 August 1949 Relating to the Protection of Victims of Non-International Armed Conflicts, (Protocol II), 8 June 1977, International Committee of the Red Cross, Geneva, 1987
Fourth Hague Convention	Convention (IV) Respecting the Laws and Customs of War on Land, The Hague, 18 October 1907

The Hague Convention of 1954	Convention for the Protection of Cultural Property in the Event of Armed Conflict, The Hague, 14 May 1954
The Hague Regulations	Regulations Concerning the Laws and Customs of War on Land, annexed to The Hague Convention IV of 1907 Concerning the Laws and Customs of War on Land
ECHR	European Court of Human Rights
ECHR Convention	Convention for the Protection of Human Rights and Fundamental Liberties
Compilation of Customary Law	J-M Henckaerts, L. Doswald-Beck (ed.), <i>Customary International Humanitarian Law</i> , Cambridge University Press, Cambridge, 2005

D. Decisions by the Chamber

Decision of 14 March 2006	"Decision on Motion for Judicial Notice of Adjudicated Facts Pursuant to Rule 94 (B)", public, 14 March 2006
Decision of 28 April 2006	"Revised Version of the Decision Adopting Guidelines on Conduct of Trial Proceedings", public, 28 April 2006
Decision of 13 July 2006	"Decision on Admission of Evidence", public, 13 July 2006
Decision of 7 September 2006	"Decision on Prosecution Motions for Judicial Notice of Adjudicated Facts of 14 and 23 June 2006", public, 7 September 2006
Decision of 29 November 2006	"Decision Amending the Decision on the Admission of Evidence Dated 13 July 2006", public, 29 November 2006
Decision of 10 May 2007	"Decision on the Mode of Interrogating Witnesses", public, 10 May 2007
Decision of 24 April 2008	"Decision Adopting Guidelines for the Presentation of Defence Evidence", public, 24 April 2008

Decision of 25 April 2008	"Decision Allocating Time to the Defence to Present Its Case", public, 25 April 2008
Decision of 27 November 2008	"Decision on Scope of Cross-Examination Under Rule 90 (H) of the Rules", public, 27 November 2008
Decision of 27 November 2008 on New Documents	"Decision on Presentation of Documents by the Prosecution in Cross-Examination of Defence Witnesses", public, 27 November 2008

E. The Case-Law of the Tribunal

Judgements	
<i>Erdemović</i> Sentencing Judgement	<i>The Prosecutor v. Dražen Erdemović</i> , Case No. IT-96-22-T, "Sentencing Judgement", 29 November 1996
<i>Tadić</i> Judgement	<i>The Prosecutor v. Duško Tadić</i> alias <i>Dule</i> , Case No. IT-94-1-T, "Opinion and Judgement", 7 May 1997
<i>Tadić</i> Sentencing Judgement	<i>The Prosecutor v. Duško Tadić</i> alias <i>Dule</i> , Case No. IT-94-1-T, "Sentencing Judgement", 14 July 1997
<i>Erdemović</i> Sentencing Judgement II	<i>The Prosecutor v. Dražen Erdemović</i> , Case No. IT-96-22-T <i>bis</i> , "Sentencing Judgement", 5 March 1998
<i>Akayesu</i> Judgement	<i>The Prosecutor v. Jean-Paul Akayesu</i> , Case No. ICTR-96-4-T, "Judgement", 2 September 1998
<i>Kambanda</i> Judgement	<i>The Prosecutor v. Jean Kambanda</i> , Case No. ICTR-97-23-S, "Judgement and Sentence", 4 September 1998
<i>Čelebići</i> Judgement	<i>The Prosecutor v. Zejnil Delalić, Zdravko Mucić</i> alias <i>Pavo</i> , <i>Hazim Delić</i> and <i>Esad Landžo</i> alias <i>Zenga</i> , Case No. IT-96-21-T, "Judgement", 16 November 1998

<i>Furundžija</i> Judgement	<i>The Prosecutor v. Anto Furundžija</i> , Case No. IT-95-17/1-T, "Judgement", 10 December 1998
<i>Aleksovski</i> Judgement	<i>The Prosecutor v. Zlatko Aleksovski</i> , Case No. IT-95-14/1-T, "Judgement", 25 June 1999
<i>Kupreškić</i> Judgement	<i>The Prosecutor v. Zoran Kupreškić, Mirjan Kupreškić, Vlatko Kupreškić, Drago Josipović, Dragan Papić, Vladimir Šantić alias Vlado</i> , Case No. IT-95-16-T, "Judgement", 14 January 2000
<i>Blaškić</i> Judgement	<i>The Prosecutor v. Tihomir Blaškić</i> , Case No. IT-95-14-T, "Judgement", 3 March 2000
<i>Kunarac</i> Judgement	<i>The Prosecutor v. Dragoljub Kunarac, Radomir Kovač and Zoran Vuković</i> , Case Nos IT-96-23-T and IT-96-23/1-T, "Judgement", 22 February 2001
<i>Kordić</i> Judgement	<i>The Prosecutor v. Dario Kordić and Mario Čerkez</i> , Case No. IT-95-14/2-T, "Judgement", 26 February 2001
<i>Krstić</i> Judgement	<i>The Prosecutor v. Radislav Krstić</i> , Case No. IT-98-33-T, "Judgement", 2 August 2001
<i>Kvočka</i> Judgement	<i>The Prosecutor v. Miroslav Kvočka, Milojica Kos, Mlađo Radić, Zoran Žigić and Dragoljub Prcać</i> , Case No. IT-98-30/1-T, "Judgement", 2 November 2001
<i>Krnojelac</i> Judgement	<i>The Prosecutor v. Milorad Krnojelac</i> , Case No. IT-97-25-T, "Judgement", 15 March 2002
<i>Simić</i> Sentencing Judgement	<i>The Prosecutor v. Milan Simić</i> , Case No. IT-95-9/2-S, "Sentencing Judgement", 17 October 2002
<i>Vasiljević</i> Judgement	<i>The Prosecutor v. Mitar Vasiljević</i> , Case No. IT-98-32-T, "Judgement", 29 November 2002
<i>Naletilić</i> Judgement	<i>The Prosecutor v. Mladen Naletilić alias Tuta, and Vinko Martinović alias Štela</i> , Case No. IT-98-34-T, "Judgement", 31 March 2003
<i>Stakić</i> Judgement	<i>The Prosecutor v. Milomir Stakić</i> , Case No. IT-97-24-T, "Judgement", 31 July 2003

<i>Simić</i> Judgement	<i>The Prosecutor v. Blagoje Simić, Miroslav Tadić, Simo Zarić</i> , Case No. IT-95-9-T, "Judgement", 17 October 2003
<i>Galić</i> Judgement	<i>The Prosecutor v. Stanislav Galić</i> , Case No. IT-98-29-T, "Judgement and Opinion", 5 December 2003
<i>Brđanin</i> Judgement	<i>The Prosecutor v. Radoslav Brđanin</i> , Case No. IT-99-36-T, "Judgement", 1 September 2004
<i>Blagojević</i> Judgement	<i>The Prosecutor v. Vidoje Blagojević and Dragan Jokić</i> , Case No. IT-02-60-T, "Judgement", 17 January 2005
<i>Strugar</i> Judgement	<i>The Prosecutor v. Pavle Strugar</i> , Case No. IT-01-42-T, "Judgement", 31 January 2005
<i>Halilović</i> Judgement	<i>The Prosecutor v. Sefer Halilović</i> , Case No. IT-01-48-T, "Judgement", 16 November 2005
<i>Limaj</i> Judgement	<i>The Prosecutor v. Fatmir Limaj, Haradin Bala and Isak Musliu</i> , Case No. IT-03-66-T, "Judgement", 30 November 2005
<i>Hadžihasanović</i> Judgement	<i>The Prosecutor v. Enver Hadžihasanović and Amir Kubura</i> , Case No. IT-01-47-T, "Judgement", 15 March 2006
<i>Orić</i> Judgement	<i>The Prosecutor v. Naser Orić</i> , Case No. IT-03-68-T, "Judgement", 30 June 2006
<i>Muvunyi</i> Judgement	<i>The Prosecutor v. Tharcisse Muvunyi</i> , Case No. ICTR-2000-55A-T, "Judgement and Sentence", 12 September 2006
<i>Krajišnik</i> Judgement	<i>The Prosecutor v. Momčilo Krajišnik</i> , Case No. IT-00-39-T, "Judgement", 27 September 2006
<i>Martić</i> Judgement	<i>The Prosecutor v. Milan Martić</i> , Case No. IT-95-11-T, "Judgement", 12 June 2007
<i>Mrkšić</i> Judgement	<i>The Prosecutor v. Mile Mrkšić, Miroslav Radić and Veselin Šljivančanin</i> , Case No. IT-95-13/1-T, "Judgement", 27 September 2007

<i>Boškoski</i> Judgement	<i>The Prosecutor v. Ljube Boškoski and Johan Tarčulovski</i> , Case No. IT-04-82-T, "Judgement", public, 10 July 2008
<i>Delić</i> Judgement	<i>The Prosecutor v. Rasim Delić</i> , Case No. IT-04-83-T, "Judgement", public, 15 September 2008
<i>Milutinović</i> Judgement	<i>The Prosecutor v. Milan Milutinović, Nikola Šainović, Dragoljub Ojdanić, Nebojša Pavković, Vladimir Lazarević, Sreten Lukić</i> , Case No. IT-05-87-T, "Judgement", 26 February 2009
<i>Lukić</i> Judgement	<i>The Prosecutor v. Milan Lukić and Sredoje Lukić</i> , Case No. IT-98-32/1-T, "Judgement", 20 July 2009
<i>Popović</i> Judgement	<i>The Prosecutor v. Vujadin Popović, Ljubiša Beara, Drago Nikolić, Ljubomir Borovčanin, Radivoje Miletić, Milan Gvero and Vinko Pandurević</i> , Case No. IT-05-88-T, "Judgement", 10 June 2010
<i>Dorđević</i> Judgement	<i>The Prosecutor v. Vlastimir Đorđević</i> , Case No. IT-05-87/1-T, "Public Judgement with Confidential Annex", 23 February 2011
Judgements on Appeal	
<i>Tadić</i> Decision on Jurisdiction	<i>The Prosecutor v. Duško Tadić alias Dule</i> , Case No. IT-94-1-AR72, "Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction", 2 October 1995
<i>Tadić</i> Appeals Judgement	<i>The Prosecutor v. Duško Tadić</i> , Case No. IT-94-1-A, "Judgement", 15 July 1999
<i>Aleksovski</i> Appeals Judgement	<i>The Prosecutor v. Zlatko Aleksovski</i> , Case No. IT-95-14/1-A, "Judgement", 24 March 2000
<i>Furundžija</i> Appeals Judgement	<i>The Prosecutor v. Anto Furundžija</i> , Case No. IT-95-17/1-A, "Judgement", 21 July 2000
<i>Čelebići</i> Appeals Judgement	<i>The Prosecutor v. Zejnil Delalić, Zdravko Mucić alias Pavo, Hazim Delić and Esad Land'o alias Zenga</i> , Case No. IT-96-21-A, "Judgement", 20 February 2001

<i>Kayishema Appeals Judgement</i>	<i>The Prosecutor v. Clément Kayishema and Obed Ruzindana, Case No. ICTR-95-1-A, "Judgement (Reasons)", 1 June 2001</i>
<i>Jelišić Appeals Judgement</i>	<i>The Prosecutor v. Goran Jelišić, Case No. IT-95-10-A, "Judgement", 5 July 2001</i>
<i>Musema Appeals Judgement</i>	<i>Alfred Musema v. The Prosecutor, Case No. ICTR-96-13-A, "Judgement", 16 November 2001</i>
<i>Kunarac Appeals Judgement</i>	<i>The Prosecutor v. Dragoljub Kunarac, Radomir Kovač and Zoran Vuković, Case Nos IT-96-23 and IT-96-23/1-A, "Judgement", 12 June 2002</i>
<i>Bagilishema Appeals Judgement</i>	<i>The Prosecutor v. Ignace Bagilishema, Case No. ICTR-95-1A-A, 3 July 2002</i>
<i>Krnolejac Appeals Judgement</i>	<i>The Prosecutor v. Milorad Krnojelac, Case No. IT-97-25-A, "Judgement", 17 September 2003</i>
<i>Vasiljević Appeals Judgement</i>	<i>The Prosecutor v. Mitar Vasiljević, Case No. IT-98-32-A, "Judgement", 25 February 2004</i>
<i>Krstić Appeals Judgement</i>	<i>The Prosecutor v. Radislav Krstić, Case No. IT-98-33-A, "Judgement", 19 April 2004</i>
<i>Blaškić Appeals Judgement</i>	<i>The Prosecutor v. Tihomir Blaškić, Case No. IT-95-14-A, "Judgement", 29 July 2004</i>
<i>Kordić Appeals Judgement</i>	<i>The Prosecutor v. Dario Kordić and Mario Čerkez, Case No. IT-95-14/2-T, "Judgement" 17 December 2004</i>
<i>Kvočka Appeals Judgement</i>	<i>The Prosecutor v. Miroslav Kvočka, Mlađo Radić, Zoran Žigić, Dragoljub Prcać, Case No. IT-98-30/1-A, "Judgement", 28 February 2005</i>
<i>Semanza Appeals Judgement</i>	<i>Laurent Semanza v. The Prosecutor, Case No. ICTR-97-20-A, "Judgement", 20 May 2005</i>
<i>Kajelijeli Appeals Judgement</i>	<i>Juvénal Kajelijeli v. The Prosecutor, Case No. ICTR-98-44A-A, 23 May 2005</i>
<i>Jokić Appeals Judgement</i>	<i>The Prosecutor v. Miodrag Jokić, Case No. IT-01-42/1-A, "Judgement on Sentencing Appeal", 30 August 2005</i>

<i>Kamuhanda Appeals Judgement</i>	<i>Jean de Dieu Kamuhanda v. The Prosecutor, Case No. ICTR-99-54A-A, "Judgement", 19 September 2005</i>
<i>Stakić Appeals Judgement</i>	<i>The Prosecutor v. Milomir Stakić, Case No. IT-97-24-A, "Judgement", 22 March 2006</i>
<i>Naletilić Appeals Judgement</i>	<i>The Prosecutor v. Mladen Naletilić alias Tuta, and Vinko Martinović alias Štela, Case No. IT-98-34-A, "Judgement", 3 May 2006</i>
<i>Ntagerura Appeals Judgement</i>	<i>The Prosecutor v. André Ntagerura, Emmanuel Bagambiki and Samuel Imanishimwe, Case No. ICTR-99-46-A, "Judgement", 7 July 2006</i>
<i>Gacumbitsi Appeals Judgement</i>	<i>Sylvestre Gacumbitsi v. The Prosecutor, Case No. ICTR-2001-64-A, "Judgement", 7 July 2006</i>
<i>Simić Appeals Judgement</i>	<i>The Prosecutor v. Blagoje Simić, Case No. IT-95-9-A, "Judgement", 28 November 2006</i>
<i>Galić Appeals Judgement</i>	<i>The Prosecutor v. Stanislav Galić, Case No. IT-98-29-A, "Judgement", 30 November 2006</i>
<i>Brđanin Appeals Judgement</i>	<i>The Prosecutor v. Radoslav Brđanin, Case No. IT-99-36-A, "Judgement", 3 April 2007</i>
<i>Blagojević Appeals Judgement</i>	<i>The Prosecutor v. Vidoje Blagojević and Dragan Jokić, Case No. IT-02-60-A, "Judgement", 9 May 2007</i>
<i>Limaj Appeals Judgement</i>	<i>The Prosecutor v. Fatmir Limaj, Haradin Bala and Isak Musliu, Case No. IT-03-66-A, "Judgement", 27 September 2007</i>
<i>Halilović Appeals Judgement</i>	<i>The Prosecutor v. Sefer Halilović, Case No. IT-01-48-A, "Judgement", 16 October 2007</i>
<i>Simba Appeals Judgement</i>	<i>The Prosecutor v. Aloys Simba, Case No. ICTR-01-76-A, "Judgement", 27 November 2007</i>
<i>Nahimana Appeals Judgement</i>	<i>The Prosecutor v. Ferdinand Nahimana, Jean-Bosco Barayagwiza and Hassan Ngeze, Case No. ICTR-99-52-A, "Judgement", 28 November 2007</i>

<i>Hadžihasanović Appeals Judgement</i>	<i>The Prosecutor v. Enver Hadžihasanović and Amir Kubura, Case No. IT- 01-47-A, "Judgement", 22 April 2008</i>
<i>Orić Appeals Judgement</i>	<i>The Prosecutor v. Naser Orić, Case No. IT-03-68-A, "Judgement", 3 July 2008</i>
<i>Strugar Appeals Judgement</i>	<i>The Prosecutor v. Pavle Strugar, Case No. IT-01-42-A, "Judgement", 17 July 2008</i>
<i>Martić Appeals Judgement</i>	<i>The Prosecutor v. Milan Martić, Case No. IT-95-11-A, "Judgement", 8 October 2008</i>
<i>Krajišnik Appeals Judgement</i>	<i>The Prosecutor v. Momčilo Krajišnik, Case No. IT-00-39-A, "Judgement", 17 March 2009</i>
<i>Mrkšić Appeals Judgement</i>	<i>The Prosecutor v. Mile Mrkšić and Veselin Šljivančanin, Case No. IT-95-13/1-A, "Judgement", 5 May 2009</i>
<i>D. Milošević Appeals Judgement</i>	<i>The Prosecutor v. Dragomir Milošević, Case No. IT-98-29/1-A, "Judgement", 12 November 2009</i>
<i>Boškoski Appeals Judgement</i>	<i>The Prosecutor v. Ljube Boškoski and Johan Tarčulovski, Case No. IT-04-82-A, "Judgement", 19 May 2010</i>
<i>Haradinaj Appeals Judgement</i>	<i>The Prosecutor v. Ramush Haradinaj, Idriz Balaj and Lahi Brahimaj, Case No. IT-04-84-A, "Judgement", 19 July 2010</i>
Decisions	
<i>Krnojelac Decision of 24 February 1999</i>	<i>The Prosecutor v. Milorad Krnojelac, Case No. IT-97-25-PT, "Decision on the Defence Preliminary Motion on the Form of the Indictment", public, 24 February 1999</i>
<i>Milošević Decision of 21 March 2002</i>	<i>The Prosecutor v. Slobodan Milošević, Case No. IT-02-54-T, "Decision on Prosecution's Request to Have Written Statements Admitted Under Rule 92 bis ", public, 21 March 2002</i>
<i>Galić Decision of 7 June 2002</i>	<i>The Prosecutor v. Stanislav Galić, Case No. IT-98-29-AR73.2, "Decision on Interlocutory Appeal Concerning Rule 92 bis (C)", public, 7 June 2002</i>

<i>Hadžihasanović</i> Decision of 12 November 2002	<i>The Prosecutor v. Enver Hadžihasanović, Mehmed Alagić and Amir Kubura</i> , Case No. IT-01-47-PT, "Decision on Joint Challenge to Jurisdiction", public, 12 November 2002
<i>Ojdanić</i> Decision of 21 May 2003	<i>The Prosecutor v. Milan Milutinović, Nikola Šainović and Dragoljub Ojdanić</i> , Case No. IT-99-37-AR72, "Decision on Dragoljub Ojdanić's Motion Challenging Jurisdiction – <i>Joint Criminal Enterprise</i> ", public, 21 May 2003
<i>Hadžihasanović</i> Decision of 16 July 2003	<i>The Prosecutor v. Enver Hadžihasanović, Mehmed Alagić and Amir Kubura</i> , Case No. IT-01-47-AR72, "Decision on Interlocutory Appeal Challenging Jurisdiction in Relation to Command Responsibility", public, 16 July 2003
<i>Halilović</i> Decision of 19 August 2005	<i>The Prosecutor v. Sefer Halilović</i> , Case No. IT-01-48-AR73.2, "Decision on Interlocutory Appeal Concerning Admission of Record of Interview of the Accused from the Bar Table", public, 19 August 2005
<i>Boškoski</i> Decision of 26 May 2006	<i>The Prosecutor v. Ljube Boškoski and Johan Tarčulovski</i> , Case No. IT-04-82-PT, "Decision on Prosecution's Motion to Amend the Indictment and Submission of Proposed Second Amended Indictment and Submission of Amended Pre-Trial Brief", public, 26 May 2006

ANNEX 2: PROCEDURAL BACKGROUND

I. Appointment of Judges and Competent Chambers

1. On 5 April 2004 the indictments were served on the six Accused, and the President of the Tribunal, pursuant to Rule 62 of the Rules,¹ assigned the case to Trial Chamber I² (“Chamber I”). That Chamber designated Judge Orić as Pre-Trial Judge.³ On 31 October 2005 the President of the Tribunal transferred the case to Trial Chamber II⁴ (“Chamber II”). That Chamber designated Judge Antonetti as Pre-Trial Judge.⁵ In a decision of the President of the Tribunal dated 3 April 2006, the following Judges were appointed in this case: Judge Jean-Claude Antonetti (Presiding Judge), Judge Árpád Prandler and Judge Stefan Trechsel.⁶ The case was subsequently transferred, retaining the same bench, to Trial Chamber III⁷ (“Chamber”⁸). On 30 June 2006, Judge Antoine Kesia-Mbe Mindua was assigned as Reserve Judge in the case.⁹

II. Appointment of Counsel for the Accused

2. On 5 April 2004, upon surrendering voluntarily to the Tribunal, the Accused Prlić engaged Mr Želimir Par and Mr Ćamil Salahović to represent him before the Tribunal.¹⁰

¹ Rule 62 of the Rules provides inter alia that: “Upon transfer of an accused to the seat of the Tribunal, the President shall forthwith assign the case to a Trial Chamber. The accused shall be brought before that Trial Chamber or a Judge thereof without delay, and shall be formally charged. [...]”.

² *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-PT, “Order Assigning a Case to a Trial Chamber”, public, 5 April 2004.

³ *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-PT, “Order Designating Pre-Trial Judge”, public, 5 April 2004.

⁴ *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-PT, “Order Reassigning a Case to a Trial Chamber”, public, 31 October 2005.

⁵ *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-PT, “Order Designating Pre-Trial Judge”, public, 31 October 2005.

⁶ *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-PT, “Order Assigning Judges to a Case before a Trial Chamber”, public, 3 April 2006.

⁷ Document IT/245, “Composition of Appeals Chamber and Trial Chambers”, President of the Tribunal, 12 May 2006, pp. 2-3.

⁸ The term “Chamber” designates the Chamber in its current composition, whether part of Chamber II or Chamber III.

⁹ “Order Assigning Reserve Judges to Cases before a Trial Chamber”, public, 30 June 2006.

¹⁰ *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-PT, “Decision” of the Deputy Registrar, public, 15 September 2005.

He dismissed them on 23 February and 11 April 2005, respectively.¹¹ Mr Michael Karnavas and Ms Suzana Tomanović were then assigned as Duty Counsel and Co-Counsel as of 11 and 12 April 2005, respectively.¹²

3 On 31 March 2004, the Accused Stojić formally asked Mr Željko Olujić to represent him before the Tribunal.¹³ On 4 May 2004, he asked the Tribunal to have this Counsel assigned as Duty Counsel.¹⁴ On 30 July 2004, Chamber I decided that Mr Željko Olujić would no longer represent the Accused Stojić due to a possible conflict of interest.¹⁵ In fact, Mr Željko Olujić was assisting both Ivica Rajić and the Accused Stojić. Both Accused were indicted for the same crimes and were allegedly bound by a relatively close hierarchical relationship during the relevant period of their respective indictments. The Appeals Chamber upheld this decision on 24 November 2004.¹⁶

4. On 2 February 2005, the Accused Stojić formally engaged Mr Berislav Živković to represent him provisionally before the Tribunal until such time as the Registry assigned him a Defence Counsel on a permanent basis.¹⁷ The Registry assigned Mr Tomislav Kuzmanović as Counsel on 5 October 2005.¹⁸ On 3 November 2005, the Registry assigned Ms Senka Nožica as Co-Counsel, starting on 12 October 2005.¹⁹

¹¹ *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-PT, “Decision” of the Deputy Registrar, public, 4 August 2005.

¹² *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-PT, “Decision” of the Deputy Registrar, public, 4 August 2005; “Decision” of the Deputy Registrar, public, 15 September 2005.

¹³ *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-PT, “Decision” of the Deputy Registrar, public, 24 February 2006.

¹⁴ *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-PT, “Decision on Appeal by Bruno Stojić Against Trial Chamber’s Decision on Request for Appointment of Counsel”, public, 24 November 2004, para. 6.

¹⁵ *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-PT, “Decision on Requests for Appointment of Counsel”, public, 30 July 2004.

¹⁶ *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-AR73.1, “Decision on Appeal by Bruno Stojić Against the Trial Chamber’s Decision on Request for Appointment of Counsel”, public, 24 November 2004.

¹⁷ *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-PT, “Decision” of the Deputy Registrar, public, 5 October 2005.

¹⁸ *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-PT, “Decision” of the Deputy Registrar, public, 5 October 2005.

¹⁹ *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-PT, “Decision” of the Deputy Registrar, public, 3 November 2005.

5. On 30 January 2006, Mr Tomislav Kuzmanović informed the Registry that he was no longer able to represent the Accused Stojić.²⁰ The Registry appointed Ms Senka Nožica to replace him as Lead Counsel for the defence of the Accused Stojić on 24 February 2006.²¹ On 24 March 2006, the Registry appointed Mr Peter Murphy as Co-Counsel.²² On 25 September 2007, the Registry assigned Mr Karim Khan as Co-Counsel for the defence of the Accused Stojić, replacing Mr Peter Murphy from 27 September 2007 onwards.²³

6. On 5 April 2004, the Accused Praljak retained Mr Krešmir Krsnik to represent him. On 14 June 2004, the Accused Praljak parted ways with him and chose Mr Božidar Kovačić instead as Lead Counsel and Ms Nika Pinter as Co-Counsel.²⁴

7. On 17 June 2005, the Registry rejected the request of the Accused Praljak for assignment of Counsel on the grounds that the said Accused had not provided the information needed to determine his eligibility for it.²⁵ On 21 September 2005, Chamber I upheld this decision, specifically noting that the Accused Praljak had failed to meet his burden of proof that he was unable to remunerate Counsel.²⁶ Following the withdrawal of his Counsel and Co-Counsel on 29 September 2005, the Accused Praljak conducted his own defence.²⁷ On 12 January 2006, the Accused Praljak seized Chamber II to obtain another decision on assignment of Counsel.²⁸ In its decision of 15 February 2006, Chamber II observed that “in the present circumstances and on the basis of the

²⁰ *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-PT, “Decision” of the Deputy Registrar, public, 24 February 2006.

²¹ *Ibid.*

²² *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-PT, “Decision” of the Deputy Registrar, public, 24 March 2005.

²³ “Decision” of the Deputy Registrar, public, 25 September 2007.

²⁴ *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-PT, “Decision” of the Deputy Registrar, public, 17 June 2005.

²⁵ *Ibid.* and *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-PT, “Decision on Assignment of Defence Counsel”, public with confidential annex, 15 February 2006, para. 3.

²⁶ *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-PT, “Decision on Slobodan Praljak’s Request for Review of the Deputy Registrar’s Decision dated 17 June 2005 Regarding the Accused’s Request for Assignment of Counsel”, confidential and *ex parte*, 21 September 2005, and *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-PT, “Decision on Assignment of Defence Counsel”, public with confidential annex, 15 February 2006, para. 4.

²⁷ T(F), p. 245.

²⁸ *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-PT, “Decision on Assignment of Defence Counsel”, public with confidential annex, 15 February 2006, p. 2.

information currently available, it is in the interests of justice [...] that counsel be assigned to the Accused”, and ordered the Registry to assign a Counsel to the Accused Praljak.²⁹ Following this decision, the Registry once again assigned Mr Božidar Kovačić and Ms Nika Pinter as Counsel and Co-Counsel, respectively, for the Accused Praljak on 6 March 2006.³⁰

8. On 11 April 2011, Ms Nika Pinter was appointed by the Registry as Lead Counsel for the defence of the Accused Praljak to replace Mr Božidar Kovačić.³¹ Mr Božidar Kovačić represented the Accused Praljak alongside Ms Nika Pinter as Co-Counsel until the Registrar’s decision of 26 May 2011, whereby the Registry assigned Ms Natacha Fauveau-Ivanović as Co-Counsel to replace Mr Božidar Kovačić.³²

9. On 31 March 2004, the Accused Petković engaged Ms Vesna Alaburić to represent him before the Tribunal. The Registry assigned Ms Vesna Alaburić as Defence Counsel for the Accused Petković on 20 May 2005.³³ On 20 October 2006, the Registry assigned Mr Nicholas Stewart as Co-Counsel for the defence of the Accused Petković.³⁴ On 29 November 2010, the Registry assigned Mr Zoran Ivanišević as Co-Counsel for the defence of the Accused Petković, replacing Mr Nicholas Stewart.³⁵ On 2 May 2013, the Registry assigned Mr Guénaél Mettraux as Co-Counsel for the defence of the Accused Petković, replacing Mr Zoran Ivanišević.³⁶

10. On 1 April 2004, the Accused Ćorić engaged Mr Tomislav Jonjić to represent him before the Tribunal. The Registry assigned Mr Tomislav Jonjić as Counsel for the defence of the Accused Ćorić on 4 August 2005, made retroactive from 12 October

²⁹ *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-PT, “Decision on Assignment of Defence Counsel”, public with confidential annex, 15 February 2006, para. 12 and p. 7.

³⁰ *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-PT, “Decision” of the Deputy Registrar, public, 6 March 2006.

³¹ “Decision” of the Deputy Registrar, public, 11 April 2011.

³² “Decision” of the Deputy Registrar, public, 26 May 2011.

³³ *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-PT, “Decision” of the Deputy Registrar, public, 20 May 2005.

³⁴ *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-PT, “Decision” of the Deputy Registrar, public, 20 October 2006.

³⁵ “Decision” of the Deputy Registrar, public, 29 November 2010.

³⁶ “Decision” of the Deputy Registrar, public, 2 May 2013.

2004.³⁷ On 26 June 2006, Ms Dijana Tomašegović-Tomić replaced Mr Tomislav Jonjić as Counsel for the defence of the Accused Ćorić.³⁸ On 18 August 2006, the Registry assigned Mr Dražen Plavec as Co-Counsel for the defence of the Accused Ćorić.³⁹

11. On 5 April 2004, the Accused Pušić engaged Mr Marinko Skobić to represent him before the Tribunal and informed the Registry that he would not seek eligibility for legal aid. On 18 September 2004, the Accused ultimately did produce a declaration of means in order to be eligible for legal aid on the grounds that he did not have adequate resources to remunerate Counsel. On 11 May 2005 the Registry partially granted this request, assigning Mr Fahrudin Ibrišimović as Counsel for the defence of the Accused Pušić, to run from 18 September 2004, the date on which the Accused Pušić sought eligibility for legal aid.⁴⁰ On 6 April 2006, the Registry appointed Mr Roger Sahota as Co-Counsel to defend the Accused Pušić.⁴¹

III. Pre-Trial Proceedings

12. The pre-trial proceedings in this case took place between 19 July 2004 and 12 April 2006. This phase was marked by procedural developments regarding (A) the initial Indictment, (B) preliminary motions alleging defects in the form of the Indictment (C) preliminary motions challenging jurisdiction, (D) the amended Indictment, (E) the transfer and initial appearance of the Accused, (F) detention and provisional release, (G) status conferences, (H) the filing of pre-trial briefs, and (I) judicial notice.

A. Initial Indictment

13. The initial Indictment was brought jointly, on 3 March 2004, against Jadranko Prlić, Bruno Stojić, Slobodan Praljak, Milivoj Petković, Valentin Ćorić and Berislav

³⁷ *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-PT, “Decision” of the Deputy Registrar, public, 4 August 2005.

³⁸ *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-PT, “Decision” of the Deputy Registrar, public, 26 June 2006.

³⁹ *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-PT, “Decision” of the Deputy Registrar, public, 18 August 2006.

⁴⁰ *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-PT, “Decision” of the Deputy Registrar, public, 11 May 2005, p. 5.

⁴¹ *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-PT, “Decision” of the Deputy Registrar, public, 6 April 2006.

Pušić. Judge Antonetti confirmed the Indictment on 4 March 2004.⁴² Under the initial Indictment, the six Accused were to answer the 26 charges, including nine counts of grave breaches of the Geneva Conventions of 1949,⁴³ nine counts of violations of the laws or customs of war,⁴⁴ and eight counts of crimes against humanity.⁴⁵

14. The initial Indictment alleged *inter alia* that the Accused had participated in a JCE from 18 November 1991 to about April 1994, the purpose of which was to politically and militarily subjugate the Bosnian Muslims and other non-Croats living in the areas within the territory of the Republic of BiH claimed by the Croatian Community (the future Republic of Herceg-Bosna), to remove them permanently, to engage in ethnic cleansing of these regions and to join these areas as part of a “Greater Croatia”.⁴⁶ According to the initial Indictment, all of the Accused were criminally responsible for each of these crimes, under Articles 7 (1) and 7 (3) of the Statute. Only the Accused Pušić was not held criminally responsible for the crimes alleged in October 1992 in the Municipality of Prozor and for the crimes alleged in the Municipality of Gornji Vakuf.

⁴² *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-PT, “Order on Review of Indictment”, confidential and *ex parte*, 4 March 2004.

⁴³ These were: wilful killing (Count 3); inhuman treatment (sexual assault) (Count 5); unlawful deportation of a civilian (Count 7); unlawful transfer of a civilian (Count 9); unlawful confinement of a civilian (Count 11); inhuman treatment (conditions of confinement) (Count 13); inhuman treatment (Count 16); extensive destruction of property, not justified by military necessity and carried out unlawfully and wantonly (Count 19) and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly (Count 22).

⁴⁴ These were: cruel treatment (conditions of confinement) (Count 14); cruel treatment (Count 17); unlawful labour (Count 18); wanton destruction of cities, towns or villages, or devastation not justified by military necessity (Count 20); destruction or wilful damage done to institutions dedicated to religion or education (Count 21); plunder of public or private property (Count 23); unlawful attack on civilians (Mostar) (Count 24); unlawful infliction of terror on civilians (Mostar) (Count 25) and cruel treatment (Mostar siege) (Count 26).

⁴⁵ These were: persecutions on political, racial and religious grounds (Count 1); murder (Count 2); rape (Count 4); deportation (Count 6); inhumane acts (forcible transfer) (Count 8); imprisonment (Count 10); inhumane acts (conditions of confinement) (Count 12) and inhumane acts (Count 15).

⁴⁶ In this respect *see* the initial Indictment at para. 15. *See* also para. 16 of the initial Indictment, which states that, in addition to the Accused, others took part in the JCE, including “Franjo Tudjman (deceased, 10 December 1999), President of the Republic of Croatia; Gojko Šušak (deceased, 3 May 1998), Minister of Defence of the Republic of Croatia; Janko Bobetko (deceased, 29 April 2003), a senior General in the Army of the Republic of Croatia; [and] Mate Boban (deceased, 8 July 1997), President of the Croatian Community (and Republic) of Herceg-Bosna”.

B. Preliminary Motions Alleging Defects in the Form of the Indictment

15. On 14 and 15 December 2004, the Defence teams each filed their preliminary motions alleging defects in the form of the initial Indictment, pursuant to Rule 72 (A) (ii) of the Rules.⁴⁷ Chamber I ruled on these preliminary motions on 22 July 2005.⁴⁸

16. The Defence teams submitted *inter alia* that the information on the personal background of the Accused and their official positions needed to be specified.⁴⁹ Chamber I accepted that this information needed to be stated more clearly and directed the Prosecution to make appropriate amendments.⁵⁰

17. The Defence teams subsequently held that the existence and the nature of a JCE were not sufficiently defined in the initial Indictment.⁵¹ Chamber I found that the Prosecution had provided adequate details concerning the nature, time-frame, geographical frame, criminal objective and form of the JCE, as well as concerning the crimes not included in the JCE but which were a foreseeable and natural consequence thereof. Chamber I nevertheless invited the Prosecution to specify the temporal scope of the JCE as precisely as possible.⁵²

18. The Defence teams likewise argued that the Prosecution had failed to supply sufficient information on the specific role of the Accused within the JCE.⁵³ Chamber I held that the paragraphs in the initial Indictment addressing the role of the various Accused (particularly paragraphs 17 and 39) lacked specificity. As a result, the Chamber

⁴⁷ *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-PT, “Preliminary Motion to Dismiss the Defective Indictment against Jadranko Prlić Pursuant to Rule 72 (A) (ii)”, public, 15 December 2004; “Bruno Stojić’s Preliminary Motion on the Defects in the Form of the Indictment”, public, 15 December 2004; “The Accused Slobodan Praljak’s Motion to Strike the Indictment for Vagueness or to Provide Particulars”, public, 14 December 2004; “The Accused Milivoj Petković’s Preliminary Motion on the Form of the Indictment”, public, 15 December 2004; “The Accused Valentin Ćorić’s Motion on the Form of the Indictment”, public, 14 December 2004; “Berislav Pušić’s Preliminary Motion on the Flaws in the Form of the Indictment”, public, 14 December 2004.

⁴⁸ *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-PT, “Decision on Defence Preliminary Motions Alleging Defect in the Form of the Indictment”, public, 22 July 2005 (“Decision on Preliminary Motions Alleging Defects in Form”).

⁴⁹ Decision on Preliminary Motions Alleging Defects in Form, para. 14.

⁵⁰ *Ibid.*, para. 15.

⁵¹ *Ibid.*, para. 16.

⁵² *Ibid.*, para. 20.

⁵³ *Ibid.*, para. 22.

requested that the Prosecution provide all necessary details in this regard.⁵⁴ Chamber I, moreover, rejected the Defence teams' complaint that the initial Indictment did not provide any information on the international nature of the conflict.⁵⁵ The Chamber did nonetheless insist that the Prosecution clarify how the acts or omissions of the various Accused were related to the alleged armed conflict.⁵⁶

19. The Defence teams were moreover of the view that the causal link required to exist between the JCE, the perpetrators of the crimes and the acts of the Accused had not been clearly stated.⁵⁷ Chamber I followed the Appeals Chamber's reasoning in the *Mitar Vasiljević* Case⁵⁸ and dismissed the complaint. In this regard, the Appeals Chamber had stated that "it is sufficient for a participant in a joint criminal enterprise to perform acts that in some way are directed to the furtherance of the common design". It likewise held that it was not necessary to prove the existence of a causal link between the acts of the perpetrators of the crimes and those of the Accused.⁵⁹

20. The Defence teams also argued that the identities of the representative victims for each detention centre or municipality referred to in the initial Indictment were not listed in the annex to the said Indictment.⁶⁰ Chamber I, despite being satisfied that the victims had been sufficiently identified to enable the Defence to prepare for the case, asked the Prosecution to add, to the extent possible, all of the details pertaining to the identity of at least one victim in each location cited in the initial Indictment and to establish the precise number of victims.⁶¹

21. Lastly, the Defence teams contended that the Prosecution needed to identify clearly the perpetrators and the units of the HVO that had participated in the alleged crimes.⁶² Chamber I found that, as the Accused were being prosecuted for holding

⁵⁴ *Ibid.*, paras 27 and 28.

⁵⁵ *Ibid.*, para. 70.

⁵⁶ *Ibid.*, para. 71.

⁵⁷ *Ibid.*, para. 29.

⁵⁸ *The Prosecutor v. Mitar Vasiljević*, Case No. IT-98-32-A, Appeals Judgement, 25 February 2004, para. 102 (i).

⁵⁹ Decision on Preliminary Motions Alleging Defects in Form, paras 29-31.

⁶⁰ *Ibid.*, para. 45.

⁶¹ *Ibid.*, para. 46.

⁶² *Ibid.*, para. 43.

superior or command positions in the “Herceg-Bosna/HVO forces”, the exact identities of the people who committed the alleged crimes were not an essential element of the allegations brought against the Accused. Instead, it was important to ascertain whether the said forces or authorities fell within the structure in which the Accused could carry out the charged crimes or were at least under the command of the Accused. Bearing this in mind, Chamber I considered that a chart depicting the military or government structure on a municipality by municipality or detention centre basis would help the Defence teams in their preparation. The Prosecution was asked to give this chart to the Defence teams.⁶³

22 Chamber I denied the complaint of the Defence teams that superior-subordinate relationship between the Accused and their subordinates was not clearly articulated and considered that paragraph 228 (except for the mention of “substantial influence”), when read in the context of the initial Indictment, sufficiently informed the Accused about the evidence on which their criminal responsibility rested.⁶⁴

C. Preliminary Motions Challenging Jurisdiction

23. On 14 and 15 December 2004, the Praljak, Petković and Prlić Defence teams filed preliminary motions challenging jurisdiction.⁶⁵ Chamber I ruled on these motions on 26 September 2005.⁶⁶

24. Counsel for the Accused argued that their responsibility resulted merely from their participation in a JCE. According to them, the Prosecution was thus introducing a new crime of membership of an illegal (criminal) organisation in violation of the principle of legality.⁶⁷ Counsel for the Accused considered, furthermore, that such a crime was not recognised by either customary international law or international treaty

⁶³ *Ibid.*, para. 47. This chart was filed by the Prosecution on 21 December 2005.

⁶⁴ *Ibid.*, paras 58 and 59.

⁶⁵ *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-PT, “The Accused Slobodan Praljak’s Preliminary Motion re Jurisdiction”, public, 14 December 2004; “The Accused Jadranko Prlić’s Defense Motion Challenging the Indictment pursuant to Rule 74 (A) (i) for Lack of Jurisdiction”, public, 15 December 2004; “The Accused Milivoj Petković’s Preliminary Motion Challenging Jurisdiction in Relation to Common Purpose Doctrine as Implemented in the Indictment”, public, 15 December 2004.

⁶⁶ *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-PT, “Decision to Dismiss the Preliminary Objections against the Tribunal’s Jurisdiction”, public, 26 September 2005 (“Decision on Objections to Jurisdiction”).

⁶⁷ Decision on Objections to Jurisdiction, para. 8 (a).

law.⁶⁸ Basing itself on the Tribunal's case-law in this matter, Chamber I stated that membership of a JCE was merely a form of criminal responsibility and not a crime in itself.⁶⁹

25. Counsel for the Accused further argued that the JCE was a new form of responsibility not provided for under Article 7 of the Statute.⁷⁰ Chamber I held that this was not the case as the JCE was a form of commission of crimes envisioned by Article 7 (1) of the Statute.⁷¹

26. Finally, Counsel for these Accused submitted that by charging the Accused merely by virtue of their participation in a JCE, without attempting to tie this JCE to their specific criminal actions, the Prosecution was attempting to avoid establishing the required causal relation between the actions of the Accused and the crimes committed.⁷² Chamber I dismissed this complaint, finding that the initial Indictment specifically referred to a number of actions undertaken by each of the Accused in furtherance of the JCE and that, therefore, a causal relation between their actions and the crimes alleged to have been perpetrated could be found in the Indictment.⁷³ On 16 November 2005, the Appeals Chamber dismissed the appeal lodged by the Petković Defence regarding preliminary motions challenging the Tribunal's jurisdiction on the ground that it had failed to prove that Chamber I had not provided a reasoned decision properly addressing his arguments.⁷⁴

⁶⁸ *Ibid.*, para. 8 (a).

⁶⁹ *Ibid.*, para. 16.

⁷⁰ *Ibid.*, para. 8 (b).

⁷¹ *Ibid.*, para. 17.

⁷² *Ibid.*, para. 8 (c).

⁷³ *Ibid.*, para. 18.

⁷⁴ *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-AR72.1 "Decision on Petković's Interlocutory Appeal Against the Trial Chamber's Decision on Jurisdiction", public, 16 November 2005, paras 12 and 14.

D. Amended Indictment

27. On 2 September 2005, the Prosecution filed a draft amended Indictment including an application for leave to amend.⁷⁵ Several of the Defence teams filed responses to this application.⁷⁶ On 18 October 2005, Chamber I granted the Prosecution's application.⁷⁷

28. The Petković Defence *inter alia* raised the point, that the addition of paragraph 16.1 introduced a new form of commission of a crime, indirect perpetration.⁷⁸ Chamber I found, on the contrary, that the change in the said paragraph did nothing more than clarify the original text and did not constitute in itself a factual basis for a conviction. The Chamber found that the criminal responsibility of the Accused was already cited in other paragraphs of the Indictment for their control over the political, administrative or military entities listed in the original paragraph 16. Such direct or indirect control of Hercegovina, the HVO, the HDZ or the HDZ-BiH was notably alleged in paragraph 17 of the Indictment. Chamber I held therefore that the proposed amendments to paragraph 16 of the Indictment and the proposed addition of paragraph 16.1 clarified the factual allegations stated in the Indictment, without causing any prejudice to the Accused.⁷⁹

29. In addition, the Petković Defence disputed the changes to paragraphs 218 to 220, which, in its view, fundamentally altered the basis of the initial Indictment with regard to criminal responsibility under Article 7 (1) of the Statute. The Petković Defence alleged

⁷⁵ *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-PT, "Prosecution's Submission of Proposed Amended Indictment and Application for Leave to Amend", confidential with confidential and confidential *ex parte* annexes, 2 September 2005.

⁷⁶ *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-PT, "Prlić's Response to Prosecution's Submission of Proposed Amended Indictment and Application for Leave to Amend", confidential, 19 September 2005; "Stojić's Opposition to Prosecutor's Submission of Proposed Amended Indictment and Application for Leave to Amend", confidential, 29 September 2005; "Praljak's Response to Prosecution's Submission of Proposed Amended Indictment and Application for Leave to Amend", confidential, 19 September 2005; "Response of the Accused Petković Defence to Prosecution's Submission of Proposed Amended Indictment and Applications for Leave to Amend", confidential, 19 September 2005; "The Accused Valentin Ćorić's Notice of Joinder to Petković's Response to Prosecution's Submission of Proposed Amended Indictment and Application for Leave to Appeal", confidential, 19 September 2005; "Confidential Motion on Behalf of Berislav Pušić to Join the Response of Petković to the Prosecution's Submission of Proposed Amended Indictment and Application for Leave to Amend", confidential, 20 September 2005.

⁷⁷ *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-PT, "Decision on Prosecution Application for Leave to Amend the Indictment and on Defence Complaints on Form of Proposed Amended Indictment", public, 18 October 2005.

⁷⁸ *Ibid.*, para. 35.

⁷⁹ *Ibid.*, paras 38-39.

that the amendment to paragraphs 218 to 225, specifically, introduced indirect perpetration as a new form of criminal responsibility.⁸⁰

30. In its decision of 18 October 2005, Chamber I held that the proposed amendments to these paragraphs did not constitute fresh charges but merely helped clarify factual or legal elements required to prove criminal liability under Article 7 (1) of the Statute.⁸¹ Chamber I likewise held that paragraph 218 of the amended Indictment alleged criminal responsibility under Article 7 (1) of the Statute, excluding the JCE at this stage, as the JCE was specifically mentioned in paragraphs 221 to 227 of the amended Indictment.⁸²

31. Lastly, the Defence teams argued that the Prosecution merely amended paragraph 17 on its face. According to them, as the Prosecution did not provide further clarification as to the exact role of each Accused, the Prosecution did not comply with the decision of 22 July 2005 rendered by Chamber I.⁸³ Chamber I found that, on the contrary, the additional sub-paragraphs (17.1 to 17.6) made it possible for each Accused to be sufficiently informed regarding the role or the conduct he was charged with in the JCE.⁸⁴

32. The Prosecution filed the amended Indictment on 16 November 2005, as it appears in the draft Indictment approved by Chamber I on 18 October 2005.⁸⁵

E. Transfer and Initial Appearance

33. The Accused voluntarily surrendered to the Tribunal on 5 April 2004. At their initial appearance on 6 April 2004, all of them pleaded “not guilty” to all charges contained in the initial Indictment.⁸⁶

⁸⁰ *Ibid.*, para. 53.

⁸¹ *Ibid.*, para. 60. The Chamber notes that in the French translation of the said decision the terms “*responsabilité légale*” /legal responsibility/ appear in place of “*responsabilité pénale*” /criminal responsibility/. Reading the English version, this appears to be an error in translation and it is, in fact, the term “*pénal*” /criminal/ and not “*légal*” /legal/ which ought to be used.

⁸² *Ibid.*, para. 55.

⁸³ *Ibid.*, para. 66.

⁸⁴ *Ibid.*, para. 67.

⁸⁵ *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-PT, “Prosecution Filing of Amended Indictment and Confidential Annex”, partially confidential, 16 November 2005. The Chamber presently notes that this amended Indictment will be the subject of a further amendment on 11 June 2008. See hereinafter on this point the arguments in “New Amended Indictment” in the Chamber’s Procedural Background (Annex 2).

F. Detention and Provisional Release

34. On 30 July 2004, Chamber I granted the requests of the six Accused for provisional release.⁸⁷ On 8 March 2006, Chamber II ordered the Accused to return to the Tribunal on 24 April 2006.⁸⁸ The Accused complied with this order.

G. Status Conferences

35. Between 19 July 2004 and 12 April 2006, the Pre-Trial Judges held nine status conferences. They also laid down the trial guidelines and limited the time allocated to the Prosecution for presenting its case.⁸⁹ In compliance with Rule 73 *bis* of the Rules, the Chamber held a pre-trial conference on 25 April 2006.⁹⁰

H. Filing of Pre-Trial Briefs

36. In his decision of 30 November 2005, the Pre-Trial Judge, Judge Antonetti, ordered the Prosecution to file its pre-trial brief, the lists of documents required under Rule 65 *ter* of the Rules, and a table summarising the case, in electronic form, indicating the nexus between the exhibits and the witnesses, on the one hand, and the counts and the Accused, on the other.⁹¹ On 19 January 2006, the Prosecution filed its pre-trial brief and the lists cited in Rule 65 *ter* of the Rules. It neglected, however, to file the summary table.

⁸⁶ T(F), pp. 44-46.

⁸⁷ *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-PT, “Order on Provisional Release of Jadranko Prlić”, public, 30 July 2004; “Order on Provisional Release of Bruno Stojić”, public, 30 July 2004; “Order on Provisional Release of Slobodan Praljak”, public, 30 July 2004; “Order on Provisional Release of Milivoj Petković”, public, 30 July 2004; “Order on Provisional Release of Valentin Ćorić”, public, 30 July 2004 and “Order on Provisional Release of Berislav Pušić”, public, 30 July 2004.

⁸⁸ *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-PT, “Scheduling Order”, confidential, 8 March 2006.

⁸⁹ *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-PT, “Order on Guidelines for Drawing Up the List of Witnesses and Exhibits”, public, 30 November 2005; “Draft Guidelines for the Admissibility of the Evidence and to Ensure Efficient Conduct of the Proceedings”, public, 1 March 2006.

⁹⁰ Open session of 25 April 2006, T(F), pp. 722-806.

⁹¹ *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-PT, “Order on Guidelines for Drawing Up the List of Witnesses and Exhibits”, public, 30 November 2005.

I. Judicial Notice

37. On 3 February 2006, Chamber II denied the Prosecution's motion asking the Chamber to take judicial notice of facts of common knowledge.⁹² On 14 March 2006, Chamber II partially granted the Prosecution's motion by taking judicial notice of 88 of the 515 facts proposed by the Prosecution.⁹³

IV. On-Site Visit

38. On 22 February 2006, the Pre-Trial Judge, considering that it lay in the interest of Justice to arrange an on-site visit to allow the Parties and the Judges of the Chamber to view the sites where certain facts alleged in the Indictment may have been committed, issued an order containing a draft agenda for an on-site visit.⁹⁴ The Parties were likewise asked to submit their comments on the draft.⁹⁵ Based on the Parties' comments, the Pre-Trial Judge issued an order establishing a modified itinerary corresponding to the sites mentioned in the Indictment.⁹⁶ The itinerary was once more amended somewhat during the status conference of 30 March 2006.

39. On 30 May 2006, the Chamber rendered a decision establishing the specifics of the said visit and confirming the final itinerary. It conveyed this final itinerary to the Parties, and also authorised the Parties to submit their factual observations during this visit.⁹⁷

⁹² *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-PT, "Decision on Prosecution Motion for Judicial Notice of Facts of Common Knowledge and Admission of Documentary Evidence Pursuant to Rules 94 (A) and 89 (C)", public, 3 February 2006.

⁹³ *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-PT, "Decision on Motion for Judicial Notice of Adjudicated Facts Pursuant to Rule 94 (B)", public, 14 March 2006. The adjudicated facts are derived from the judgements of the Trial Chamber and the Appeals Chamber in the following cases: *The Prosecutor v. Anto Furundžija*, *The Prosecutor v. Zlatko Aleksovski*, *The Prosecutor v. Zoran Kupreškić et al.*, *The Prosecutor v. Tihomir Blaškić*, *The Prosecutor v. Dario Kordić and Mario Čerkez*, and *The Prosecutor v. Mladen Naletilić aka Tuta and Vinko Martinović aka Štela*.

⁹⁴ *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-PT, "Order for Draft Programme of On-Site Visit", confidential, 22 February 2006.

⁹⁵ *Ibid.*

⁹⁶ *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-PT, "Order on the Draft Programme for the On-Site Visit", confidential, 16 March 2006.

⁹⁷ "Decision on the On-Site Visit", confidential, 30 May 2006.

40. The on-site visit took place from 6 to 12 June 2006. The Judges and the Parties inspected the majority of the sites mentioned in the Indictment, particularly the town of Mostar and its environs. The observations of the Parties were officially recorded by a representative from the Registry in a transcript, which was admitted into evidence on 25 August 2006.⁹⁸

V. Trial Proceedings

41. The trial began on 26 April 2006,⁹⁹ with the opening statements of the Prosecution and the Defence teams.¹⁰⁰ It ran until 2 March 2011, the date the Presiding Judge of the Chamber declared proceedings closed.¹⁰¹ Between 26 April 2006 and 2 March 2011, the Chamber rendered 818 written decisions and 525 oral decisions. Throughout this phase, the Chamber (A) heard the presentation of the Prosecution and Defence cases and rendered several decisions regarding, *inter alia*, (B) guidelines for the conduct of the trial, (C) the modes of cross-examination and re-examination, (D) judicial notice, (E) a request from the Republic of Croatia to participate in the proceedings *qua Amicus Curiae*, (F) Rule 98 *bis* proceedings, (G) the filing of a newly amended Indictment, (H) requests to reply (I) and to reopen the case, (J) the disqualification and withdrawal of a Judge, (K) the filing of the final trial briefs and closing arguments, and (L) requests for provisional release. The Praljak¹⁰² and Ćorić¹⁰³ Defence teams both filed a notice regarding defence of alibi but subsequently, during the presentation of their case, did not produce evidence on this matter.¹⁰⁴

⁹⁸ The written transcript of the on-site visit was admitted into evidence on 25 August 2006 under exhibit number C00001.

⁹⁹ See T(F), p. 807.

¹⁰⁰ See T(F), p. 807.

¹⁰¹ T(F), p. 52976.

¹⁰² On 23 October 2007, the Praljak Defence filed a notice regarding defence of alibi in relation to the conduct of the Accused Praljak on 6 June 1992 and on 8 and 9 November 1993. See in this regard “The Accused Praljak’s Notice Regarding Defence of Alibi”, confidential, 23 October 2007.

¹⁰³ On 17 and 24 October 2007, the Ćorić Defence filed a notice regarding defence of alibi in relation to the Accused Ćorić’s travels in January 1993. See in this regard “Ćorić’s Notice Regarding an Alibi Defence”, confidential, 17 October 2007, and “Ćorić’s Notice Regarding an Alibi Defence”, confidential, 24 October 2007.

¹⁰⁴ See, nevertheless, on this point as regards the Praljak Defence, the “Decision on Praljak Defence Motion for Admission of Documentary Evidence”, public, 1 April 2010, para. 73, in which the Chamber notes “that the Proposed Exhibits 3D 00686, 3D 00687 and 3D 00906 do not appear in the Notice regarding Defence

A. Presentation of Prosecution and Defence Evidence

42. Pursuant to Rule 85 (A) of the Rules, evidence was presented by (1) the Prosecution and then by (2) each of the Defence teams.

43. Throughout the presentation of evidence by the Parties, the Chamber was intent on ensuring a reasonable period of time for the proceedings while safeguarding the rights of the Parties. With this in view, it monitored the time allotted at trial to the Prosecution and the Defence teams and introduced a system enabling the Registry to compute the sitting time of each Party and of the Judges in the context of testimonies of both Prosecution and Defence witnesses. The Registry, in collaboration with the Chamber, regularly calculated the time used and periodically disclosed the information to the Parties.¹⁰⁵ *In toto*, it appears from the statistics sent by the Registry that from 26 April 2006 to 2 March 2011, the Chamber sat for 2028 hours and 47 minutes; that the Prosecution used 296 hours and 25 minutes for witness examination-in-chief and re-examination, and that it used 217 hours and 34 minutes for cross-examination; that the Defence teams collectively used 247 hours and 11 minutes for examination-in-chief and re-examination, and 452 hours and 11 minutes for cross-examination; that the Chamber used 333 hours and 10 minutes for its questions and that procedural questions took up 482 hours and 16 minutes of the Chamber's and the Parties' time.

1. Presentation of the Prosecution Case

44. In its Decision of 28 April 2006, the Chamber estimated that the overall duration of the trial should not exceed three years.¹⁰⁶ Bearing this in mind, it limited the total time allocated to the Prosecution for presenting its case to 400 hours.¹⁰⁷

of Alibi given by the Praljak Defence on 23 October 2007 and that the Praljak Defence did not comply with Rule 67 (D) of the Rules, which contemplates disclosure to the other parties and to the Chamber as soon as evidence that ought to have been disclosed through a notice regarding defence of alibi under the provisions of Rule 67 (B) of the Rules.. The Chamber observes nevertheless that the Prosecution did not express any objection to the tardy disclosure of the said exhibits but merely to the fact that, for purposes of admission, they ought to have been presented during the deposition of Slobodan Praljak in this case. The Chamber therefore decides to examine the request to admit the said Exhibits”.

¹⁰⁵ Decision of 28 April 2006, para. 9 (b).

¹⁰⁶ *Ibid.*, para. 2.

¹⁰⁷ *Ibid.*, para. 9 (a).

45. In its decision of 13 November 2006, the Chamber supplemented its decision adopting guidelines, rendered on 28 April 2006, to conclude the trial within a reasonable time. The Chamber notably decided to reduce by 107 hours the time allocated to the Prosecution to present its case, thus granting it a total of 293 hours.¹⁰⁸ The Prosecution appealed the decision and, in its decision of 6 February 2007 the Appeals Chamber held that the Chamber had not provided sufficient reasoning for its decision of 13 November 2006, and remanded it to the Chamber for further review.¹⁰⁹

46. On 1 March 2007, the Chamber rendered a new decision affirming its decision of 13 November 2006, and explained that the decision afforded the Prosecution a fair opportunity to set forth its case.¹¹⁰ The decision was upheld by the Appeals Chamber on 11 May 2007.¹¹¹ Nonetheless, taking into account the progress of the trial, on 22 August 2007, the Chamber granted a motion filed by the Prosecution on 12 July 2007,¹¹² requesting an extension of 23 additional hours to complete the presentation of its case.¹¹³ The Chamber notes, however, that the Prosecution did not *in fine* make use of this additional time because the total sitting time used by the Prosecution for presenting its case was 293 hours over a period stretching from 2 May 2006 to 24 January 2008.¹¹⁴ During that time, the Prosecution called 145 witnesses, either *viva voce* or Rule 92 *ter* witnesses, including six expert witnesses. It was also granted admission of 101 witness statements or hearing transcripts from other cases pursuant to Rule 92 *bis* and of three witness statements and hearing transcripts from other cases pursuant to Rule 92 *quater* of the Rules. The Chamber also admitted into evidence 2528 exhibits tendered through witnesses and 2327 exhibits pursuant to Guideline 6 of the Decision of 13 July 2006.

¹⁰⁸ “Decision on Adoption of New Measures to Bring the Trial to an End Within a Reasonable Time”, public, 13 November 2006.

¹⁰⁹ *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-AR-73.4, “Decision on Prosecution Appeal Concerning the Trial Chamber’s Ruling Reducing Time for the Prosecution Case”, public, 6 February 2007.

¹¹⁰ “Decision Following the Appeals Chamber Decision of 6 February 2007 Concerning Appeal Against Reducing Time for the Prosecution Case”, public, 1 March 2007.

¹¹¹ *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-AR-73.4, “Decision on Prosecution Appeal Following Trial Chamber’s Decision on Remand and Further Certification”, public, 11 May 2007.

¹¹² “Prosecution Motion for Additional Time for Completion of Its Case-in-Chief”, public with confidential annex, 12 July 2007.

¹¹³ “Decision Allocating Additional Time for Completion of Case-in-Chief”, public, 22 August 2007.

¹¹⁴ T(F), 2 May 2006, p. 996, and 24 January 2008, pp. 26867-26868.

2. Presentation of the Defence Cases

47. On 31 March 2008, the Defence teams each filed their lists of witnesses and exhibits for the presentation of their cases pursuant to Rule 65 *ter* (G) of the Rules.

48. On 21 April 2008, the Chamber held a pre-defence conference, pursuant to Rule 73 *ter* of the Rules.¹¹⁵

49. In its decision of 25 April 2008, the Chamber set aside a total time of 336 hours and 30 minutes for the Defence teams to present their case and divided this time as follows: 95 hours for the Prlić Defence; 59 hours for the Stojić Defence; 55 hours for the Praljak Defence; 55 hours for the Petković Defence; 50 hours for the Ćorić Defence and 22 hours and 30 minutes for the Pušić Defence.¹¹⁶ The Chamber specified that such allocation of time could possibly lead to requests for modification by a Party, the said Party bearing the burden of proving that, for the sake of fairness, it would require additional time to present its defence case.¹¹⁷ Subsequent to an appeal lodged by the Stojić, Praljak, Petković and Ćorić Defence teams, the Appeals Chamber, in its decision of 1 July 2008, upheld this decision regarding the division and allocation of time.¹¹⁸

50. On 5 May 2008, the Prlić Defence commenced the presentation of its case.¹¹⁹ The other Defence teams then presented their evidence in the order in which the Accused appear in the Indictment.

51. The Prlić Defence presented its case from 5 May 2008 to 15 January 2009, calling 20 witnesses, either *viva voce* or Rule 92 *ter* witnesses, including 2 expert witnesses; four statements of witnesses were admitted pursuant to Rule 92 *bis* of the Rules and 432 documents were admitted pursuant to Guideline 9 of the Decision of 24 April 2008. On 12 February 2009, the Chamber denied a motion by the Prlić Defence filed pursuant to

¹¹⁵ T(F), 21 April 2008, p. 27349.

¹¹⁶ “Decision Allocating Time to the Defence to Present its Case”, public, 25 April 2008 (“Decision of 25 April 2008”), para. 44.

¹¹⁷ *Ibid.*, para. 45.

¹¹⁸ *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-AR73.7, “Decision on Defendants Interlocutory Appeal Against *Décision portant attribution du temps à la Défense pour la présentation de ses moyens à décharge*”, public, 1 July 2008.

¹¹⁹ T(F), pp. 27454-27456.

Rule 84 *bis* of the Rules, requesting that the Chamber admit into evidence an approximately 600-page supplement to the oral statement given by the Accused Prlić when opening his case.¹²⁰ Furthermore, on 3 July 2009, the Chamber ruled on the motion by the Prlić Defence to reopen its case in order to present an expert's *viva voce* testimony and adduce a number of documents through him.¹²¹ The Chamber found that the Prlić Defence had not exercised the required due diligence in identifying and producing this new evidence in the context of the presentation of its case and thus denied the motion.¹²² In total, the Prlić Defence used 94 out of the 95 hours allocated to it by the Chamber. Lastly, the Chamber recalls that on 18 February 2009, the Accused Prlić filed a statement waiving his right to be present in court for the remainder of the proceedings¹²³ and that the Accused Prlić withdrew this statement on 6 July 2009.¹²⁴

52. The Stojić Defence presented its case from 19 January 2009 to 28 April 2009. When its case closed, it had presented 19 witnesses, either *viva voce* or Rule 92 *ter* witnesses, including one expert witness. It obtained admission into the record of 267 documents pursuant to Guideline 9 of the Decision of 24 April 2008 and used 45 of the 59 hours allocated to it by the Chamber.

53. The Praljak Defence presented its case from 4 May 2009 to 14 October 2009 through seven *viva voce* or Rule 92 *ter* witnesses, including three expert witnesses, the Accused Praljak's testimony that lasted for more than three months, four written statements admitted pursuant to Rule 92 *quater* of the Rules, six written statements or witness statements admitted pursuant to Rule 92 *bis* of the Rules and 229 documents admitted pursuant to Guideline 9 of the Decision of 24 April 2008. Concerning in particular the requests for admission of written statements or witness testimonies pursuant to Rule 92 *bis* of the Rules, the Chamber recalls that the Praljak Defence originally filed a motion to admit 155 written statements and transcripts of testimony.¹²⁵

¹²⁰ "Decision Regarding Supplement to the Accused Prlić's Rule 84 *bis* Statement", public, 12 February 2009.

¹²¹ "Decision on Prlić Defence Motion to Reopen its Case", public, 3 July 2009.

¹²² *Ibid.*, pp. 6-7.

¹²³ "Waiver", 18 February 2009.

¹²⁴ T(F), p. 42499.

¹²⁵ "Slobodan Praljak's Motion for Admission of Written Evidence in Lieu of *Viva Voce* Testimony Pursuant to Rule 92 *bis*", public with confidential annexes, 14 September 2009. The Chamber was likewise

The Chamber denied the motion by Majority and ordered the Praljak Defence to file a new motion for 20 written statements and transcripts of testimonies which met the requirements of Rule 92 *bis*.¹²⁶ The Chamber's decision in this regard was validated by the Appeals Chamber.¹²⁷ The Praljak Defence therefore filed a new motion for the admission of 20 written witness statements, which the Chamber, by Majority, granted in part in its decision of 6 October 2010, admitting six witness statements in part or in full.¹²⁸

54. In the end, the Praljak Defence used 52 out of the 55 hours allocated to it by the Chamber. Lastly, the Chamber recalls that on 5 March 2010, the Accused Praljak filed a statement waiving his right to be present in court for the remainder of the proceedings.¹²⁹

55. The Petković Defence presented its case from 26 October 2009 to 11 March 2010 through nine *viva voce* or Rule 92 *ter* witnesses, including one expert witness. The testimony of the Accused Petković lasted one month and 106 documents were admitted pursuant to Guideline 9 of the Decision of 24 April 2008. In the end, the Petković Defence used 46 out of the 55 hours allocated to it by the Chamber.

56. The Ćorić Defence presented its case from 11 March 2010 to 1 April 2010, through six *viva voce* or Rule 92 *ter* witnesses, and 37 documents were admitted pursuant

seized of an additional motion whereby the Praljak Defence requested, over and above the 115 statements and transcripts of witness testimonies, the admission of an additional statement; *see* in this regard "Slobodan Praljak's Motion for Admission of Written Evidence in Lieu of *Viva Voce* Testimony of Vlado Jurić Pursuant to Rule 92 *bis* and Notice Regarding Further Translations", confidential with confidential annexes, 15 October 2009.

¹²⁶ "Decision on Slobodan Praljak's Motion to Admit Evidence Pursuant to Rule 92 *bis* of the Rules", public, 16 February 2010, p. 20.

¹²⁷ *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-AR73.17, "Decision on Slobodan Praljak's Appeal of the Trial Chamber's Refusal to Decide Upon Evidence Tendered Pursuant to Rule 92 *bis*", public, 1 July 2010, p. 28. The Chamber nevertheless recalls that although the Appeals Chamber confirmed the figure of 20 statements or transcripts of witness testimonies which the Praljak Defence could have requested for admission, it nonetheless remanded the Decision of 16 February 2010 to the Chamber, asking the Chamber to clarify its determination of the page limit that said statements or transcripts of testimony were to contain. Subsequent to the remand, on 8 July 2010 the Chamber rendered as a public document the "Order Clarifying 92 *bis* Decision and Order of 17 March 2010", specifying that the limit of 30 pages applied solely to the written statements tendered and not to the hearing transcripts.

¹²⁸ "Decision on Slobodan Praljak's Motion for Admission of Evidence Pursuant to Rule 92 *bis* of the Rules", confidential with confidential annexes, 6 October 2010, pp. 23-24.

¹²⁹ "Waiver", 18 February 2009; "Waiver", 5 March 2010.

to Guideline 9 of the Decision of 24 April 2008. In the end, the Ćorić Defence used nine out of the 50 hours allocated to it by the Chamber.

57. On 7 April 2010, the Pušić Defence informed the Chamber that it would not call any witnesses, either *viva voce* or pursuant to Rules 92 *bis*, *ter* and *quater* of the Rules.¹³⁰ It did not, moreover, submit a motion requesting the admission of exhibits pursuant to Guideline 9 of the Decision of 24 April 2008.

B. Adoption of Guidelines for the Conduct of Trial Proceedings

58. On 28 April 2006, the Chamber rendered its decision adopting guidelines on conduct of trial proceedings, which gave the Prosecution until 4 September 2006 to file a summary table of the case which the Prosecution should have filed with its Pre-Trial Brief.¹³¹

59. In its Decision of 13 July 2006, the Chamber set forth guidelines regarding the admission of evidence.¹³² It decided that, in principle, the documents would be admitted into evidence through a witness in court who would testify as to their reliability, relevance and probative value.¹³³ On 29 November 2006, the Chamber amended the guidelines contained in the Decision of 13 July 2006 to allow the Prosecution to seize the Chamber of written motions requesting the admission of documentary evidence that it did not have an opportunity to put to a witness in court.¹³⁴

60. On 10 May 2007, the Chamber rendered a decision governing the mode of questioning of witnesses, wherein the Chamber *inter alia* recalled the guidelines established in its Decision of 28 April 2006.¹³⁵ Thus, it stated that an Accused represented by Counsel could only question a witness with leave from the Chamber and under exceptional circumstances, particularly on those occasions when examination

¹³⁰ “Berislav Pušić’s Notice Regarding Presentation of Evidence in the Defence Case”, public, 7 April 2010.

¹³¹ Decision of 28 April 2006, para. 9; in relation to the filing of the Prosecution’s Pre-Trial Brief *see* the aforementioned “Filing of the Pre-Trial Briefs” in the Chamber’s procedural background (Annex 2).

¹³² Decision of 13 July 2006.

¹³³ *Ibid.*, Guideline 1 for the Admission of Evidence.

¹³⁴ “Decision Amending the Decision on the Admission of Evidence Dated 13 July 2006”, public, 29 November 2006.

¹³⁵ “Decision on the Mode of Interrogating Witnesses”, public, 10 May 2007 (“Decision of 10 May 2007”).

concerned events in which an Accused personally participated or matters in which the said Accused possessed specific expertise.¹³⁶ In response to Praljak's Appeal, the Appeals Chamber, in its decision of 24 August 2007, upheld the Chamber's decision concerning this issue.¹³⁷ On 26 June 2008, the Chamber rendered a decision, subsequent to a motion by the Praljak Defence, and clarified the meaning of "specific expertise" of an Accused.¹³⁸ The Chamber held that the said "specific expertise" referred to the expertise held by an Accused at the time of the alleged facts and for which he is charged in the Indictment.¹³⁹ In response to the Praljak Defence Appeal, the Appeals Chamber held that the specific expertise needed to be assessed on a case-by-case basis.¹⁴⁰

61. On 24 April 2008, the Chamber rendered a decision adopting guidelines for the presentation of defence evidence, wherein it expounded ten guidelines for examining witnesses presented by the Defence and for admission of documentary evidence.¹⁴¹ The Chamber took this opportunity to determine the time available for direct examination, cross-examination and the re-examination of witnesses,¹⁴² the requirements for admitting documentary evidence tendered through a Defence witness or through a written motion filed by a Defence team,¹⁴³ and the requirements governing the application of Rule 92 *ter* of the Rules.¹⁴⁴

62. On 27 November 2008, the Chamber rendered a decision on the modes of presentation of "new documents" by the Prosecution during cross-examination of Defence witnesses.¹⁴⁵ The Chamber explains notably that if, after the conclusion of its

¹³⁶ *Ibid.*, paras 11 and 12.

¹³⁷ *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-AR-73.5, "Decision on Praljak's Appeal of the Trial Chamber's 10 May 2007 Decision on the Mode of Interrogating Witnesses", public, 24 August 2007. See also *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-AR-73.11, "Decision on Slobodan Praljak's Appeal of the Trial Chamber's Decision on the Direct Examination of Witnesses Dated 26 June 2008", public, 11 September 2008.

¹³⁸ "Decision on Motion for Reconsideration Presented by the Praljak Defence", public, 26 June 2008.

¹³⁹ "Decision on Motion for Reconsideration Presented by the Praljak Defence", public, 26 June 2008, pp. 4-5.

¹⁴⁰ *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-AR-73.11, "Decision on Slobodan Praljak's Appeal of the Trial Chamber's Decision on the Direct Examination of Witnesses dated 26 June 2008", public, 11 September 2008, para. 21.

¹⁴¹ Decision of 24 April 2008, paras 2-40.

¹⁴² *Ibid.*, Guideline 5, paras 14-17.

¹⁴³ *Ibid.*, Guidelines 8 and 9, paras 26 to 36.

¹⁴⁴ *Ibid.*, Guideline 10, paras 37-40.

¹⁴⁵ Decision of 27 November 2008 on new documents.

case, the Prosecution seeks to tender “new documents” into evidence, in other words, documents not admitted during the phase of the presentation of its case-in-chief, in order to establish the guilt of an Accused, it must invoke exceptional circumstances that justify their admission in the interests of justice.¹⁴⁶ Following an appeal by the Praljak, Petković, Ćorić and Pušić Defence teams, the Appeals Chamber upheld the Decision of 27 November 2008 on new documents.¹⁴⁷ On 12 January 2010, the Chamber clarified its Decision of 27 November 2008 on new documents, stating that the said exceptional circumstances needed to be established at the stage of admission of a “new document” and not at the stage when it was put to a witness in court during cross-examination.¹⁴⁸ The Chamber likewise added that this distinction between modes of presentation and modes of admission of “new documents” also applied to the Defence teams after the close of their cases.¹⁴⁹

C. Duration and Scope of Cross-Examination and Re-Examination

63. During the trial proceedings, the Chamber was required to rule on multiple occasions, through guidelines and oral and written decisions,¹⁵⁰ on (1) the duration of cross-examination, (2) the scope of cross-examination, and (3) the scope of re-examination, in order to ensure efficient and fair conduct of trial proceedings.¹⁵¹

1. Duration of Cross-Examination

64. In the context of the presentation of the evidence by the Prosecution, the Chamber, in an oral decision on 8 May 2006, limited the duration of cross-examination as follows: (1) the entire time for cross-examinations conducted by the Defence teams for the six Accused must not, in principle, exceed the time of the Prosecution’s examination, (2) each Counsel will, in principle, have one-sixth of the time allotted for examination—

¹⁴⁶ *Ibid.*, para 23.

¹⁴⁷ *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-73.14, “Decision on the Interlocutory Appeal Against the Trial Chamber’s Decision on Presentation of Documents by the Prosecution in Cross-Examination of Defence Witnesses”, public, 26 February 2009.

¹⁴⁸ “Order Clarifying the Decision of 27 November 2008”, public, 12 January 2010, pp. 3-5.

¹⁴⁹ *Ibid.*, p. 5.

¹⁵⁰ See *inter alia* the Decision of 24 April 2008, the Decision of 28 April 2006 and the Oral Decision of 23 February 2010, T(F), pp. 49825 and 49826.

¹⁵¹ Decision of 28 April 2006, para. 1. See also Rule 90 (F) of the Rules.

in-chief to conduct his cross-examination, (3) the Counsel may agree among themselves on a different distribution of time for cross-examination, provided that the time for all cross-examinations does not exceed that of the examination conducted by the Prosecution, and (4) when one (or several) of the Accused is (or are) directly concerned by the testimony of a witness – because it goes to his (or their) responsibility – this (or these) Accused may be granted additional time by the Chamber at the request of the Defence.¹⁵² The said decision was affirmed by the Appeals Chamber on 4 July 2006.¹⁵³ On 17 August 2007, the Chamber rendered a decision rejecting a motion for severance filed by the Accused Prlić on the grounds that the Accused Prlić had made no showing of specific circumstances to support the conclusion that the breakdown of time allocated for cross-examination by the Defence teams, as decided by the Chamber in its oral decision of 8 May 2006 and upheld by the Appeals Chamber on 4 July 2006, would cause serious prejudice to the Accused Prlić and justify severance, and did not raise any circumstance casting doubt upon the fairness of the proceedings as a whole.¹⁵⁴

65. In the context of the presentation of the Defence case and its Decision of 24 April 2008,¹⁵⁵ the Chamber specifically set forth in Guideline 5 that the Prosecution would have 100% of the time allocated for direct examination to conduct its cross-examination, and that all Defence teams would have 50% of the time allocated for direct examination to conduct their cross-examination, adding that these principles would be enforced with flexibility if circumstances so required.¹⁵⁶ After appeals were lodged by the Petković Defence and by the Praljak Defence opposing these principles, the Appeals Chamber, in a decision of 18 July 2008, ruled that the distribution of sitting time followed a principle of “basic proportionality, rather than a strict principle of mathematical equality”,¹⁵⁷ and that

¹⁵² Oral Decision of 8 May 2006, T(F), pp. 1474 to 1476, 1485 and 1486.

¹⁵³ *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-AR-73.2, “Decision on Joint Defence Interlocutory Appeal Against the Trial Chamber's Oral Decision of 8 May 2006 Relating to Cross-Examination by Defence and on Association of Defence Counsel's Request for Leave to File an *Amicus Curiae* Brief”, public, 4 July 2006.

¹⁵⁴ “Decision on Jadranko Prlić's Motion for Severance”, public, 17 August 2007, para. 31.

¹⁵⁵ Decision of 24 April 2008.

¹⁵⁶ Decision of 24 April 2008, Guideline 5, paras 14 and 15.

¹⁵⁷ *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-AR73.8, “Decision on Petković's and Praljak's Appeals Against the Trial Chamber's Decision Adopting Guidelines for the Presentation of Defence Evidence”, public, 18 July 2008, para. 19; *see also* “Order Clarifying the Decision Adopting Guidelines for the Presentation of Defence Evidence”, public, 29 May 2008.

the Decision of 24 April 2008, regarding distribution of sitting time reflected a flexible approach that accorded with the established practice of the Tribunal.¹⁵⁸

2. Scope of Cross-Examination

66. At trial, the Chamber adopted a broad approach with regard to the scope of cross-examination. Thus, in its Decisions of 10 May 2007, 24 April 2008 and 27 November 2008, the Chamber recalled that Rule 90 (H) (i) of the Rules does not restrict the scope of cross-examination merely to those matters raised during direct examination or to the credibility of the witness.¹⁵⁹ The Chamber stated nonetheless that cross-examination involving an issue not raised during direct examination did not constitute cross-examination strictly speaking, but examination along the lines of direct examination.¹⁶⁰ Moreover, the Chamber recalled that the case-law of the Tribunal authorised the Party conducting cross-examination to put questions involving its own case.¹⁶¹ The Chamber added, in this regard, that a combined reading of both Rules 85 (A) and Rule 90 (H) (i) of the Rules enshrines the recognised right of each Party to ask questions in cross-examination which relate to its case, even though that Party has concluded its case.¹⁶²

3. Scope of Re-Examination

67. The Chamber remained of the opinion, throughout the trial proceedings, that the re-examination of a witness should be limited to those points covered during cross-

¹⁵⁸ *Ibid.*, para. 21.

¹⁵⁹ Decision of 10 May 2007, para. 13; Decision of 24 April 2008, para. 7; “Decision on Scope of Cross-Examination Under Rule 90 (H) of the Rules”, public, 27 November 2008 (“Decision of 27 November 2008”), para. 10. See also *The Prosecutor v. Ante Gotovina et al.*, Case No. IT-06-90-T, “Decision on Prosecution’s Motion to Limit the Scope of Testimony for Witness 116”, public, 12 June 2008, para. 10; *The Prosecutor v. Enver Hadžihasanović and Amir Kubura*, Case No. IT-01-47-T, “Decision on Defence Motion for Clarification of the Oral Decision of 17 December 2003 Regarding the Scope of Cross-Examination Pursuant to Rule 90 (H) of the Rules”, public, 28 January 2004, p. 3.

¹⁶⁰ Decision of 24 April 2008, para. 8; Decision of 10 May 2007, para. 13.

¹⁶¹ Decision of 27 November 2008, para. 10; Decision of 24 April 2008, para. 7; Decision of 10 May 2007, para. 13; *The Prosecutor v. Ante Gotovina et al.*, Case No. IT-06-90-T, “Decision on Prosecution’s Motion to Limit the Scope of Testimony for Witness 116”, public, 12 June 2008, para. 10; *The Prosecutor v. Enver Hadžihasanović and Amir Kubura*, Case No. IT-01-47-T, “Decision on Defence Motion for Clarification of the Oral Decision of 17 December 2003 Regarding the Scope of Cross-Examination Pursuant to Rule 90 (H) of the Rules”, public, 28 January 2004, p. 3.

¹⁶² Decision of 27 November 2008, para. 12.

examination¹⁶³ and that the issues raised during questioning by the Judges after direct examination could, with leave from the Chamber, be raised during re-examination.¹⁶⁴

D. Judicial Notice

68. After having taken judicial notice of 88 facts during the pre-trial phase of the case, on 7 September 2006, the Chamber partially granted two motions filed by the Prosecution seeking admission by judicial notice of facts adjudicated in the cases of *The Prosecutor v. Tihomir Blaškić* and *The Prosecutor v. Mladen Naletilić aka Tuta and Vinko Martinović aka Štela*, and admitted 182 of the proposed facts.¹⁶⁵

E. Request of the Republic of Croatia to Appear as *Amicus Curiae*

69. On 22 September 2006, the Government of Croatia seized the Chamber of a request for leave to appear as *Amicus Curiae* pursuant to Rule 74 of the Rules.¹⁶⁶ In support of their request, the Government of Croatia submitted that the request would enable them to clarify before the Chamber issues on the participation of the political and military leaders of the Republic of Croatia in the JCE alleged in paragraph 16 of the Indictment and the policy pursued by President Tuđman in BiH as alleged in paragraph 23 of the same Indictment.¹⁶⁷ On 11 October 2006, the Chamber denied the request on the grounds that the points raised in the request went far beyond the scope of the Indictment and were factual in nature.¹⁶⁸ The Chamber likewise found that it would not be in the interests of justice to authorise a State whose former leaders were mentioned in the Indictment as members of a JCE to appear in the proceedings as *Amicus Curiae*.¹⁶⁹ In

¹⁶³ “Revised Version of the Decision Adopting Guidelines on Conduct of Trial Proceedings”, public, 28 April 2006, p. 7; Decision of 24 April 2008, para. 9; Oral Decision of 23 February 2010, T(F), pp. 49825 and 49826.

¹⁶⁴ Oral Decision of 23 February 2010, T(F), pp. 49825 and 49826.

¹⁶⁵ “Decision on Prosecution Motions for Judicial Notice of Adjudicated Facts of 14 and 23 June 2006”, public, 7 September 2006. The adjudicated facts are drawn from the judgements of the Trial Chamber and the Appeals Chamber in the cases of *The Prosecutor v. Tihomir Blaškić* and *The Prosecutor v. Mladen Naletilić aka Tuta and Vinko Martinović aka Štela*.

¹⁶⁶ “Request for Leave to Appear as *Amicus Curiae*”, public, 22 September 2006.

¹⁶⁷ “Request for Leave to Appear as *Amicus Curiae*”, public, 22 September 2006, p. 2.

¹⁶⁸ “Decision on Request by the Government of the Republic of Croatia for Leave to Appear as *Amicus Curiae*”, public, 11 October 2006, pp. 4-5.

¹⁶⁹ “Decision on Request by the Government of the Republic of Croatia for Leave to Appear as *Amicus Curiae*”, public, 11 October 2006.

a decision of 13 December 2006, the Appeals Chamber dismissed the appeal lodged by Croatia against the Chamber's decision.¹⁷⁰

F. Rule 98 bis Decision

70. After the close of the Prosecution case on 24 January 2008, the Defence teams were informed by the Chamber that they could file their motions for acquittal under Rule 98 *bis* of the Rules. Only the Ćorić and Pušić Defences filed such motions, on 29 and 30 January 2008, respectively.¹⁷¹ On 20 February 2008,¹⁷² in its oral decision, the Chamber denied these requests, finding that there was evidence, tendered by the Prosecution, which, for purposes of Rule 98 *bis* of the Rules, would enable a reasonable Judge to reach a verdict of guilty beyond reasonable doubt for those two Accused, under all the counts of the Indictment, under JCE 1 and 3.¹⁷³ The Chamber added that this finding relieved it of the duty to examine, under Rule 98 *bis* of the Rules, the other forms of responsibility alleged in the Indictment at this stage of the proceedings.¹⁷⁴ Consequently, the Chamber denied the motions for acquittal filed by the Ćorić and Pušić Defence teams.

G. New Amended Indictment

71. On 11 June 2008, the Prosecution filed a new amended Indictment. This submission followed an initial request by the Petković Defence on 12 February 2007 to strike parts of the Indictment relating to allegations of forms of responsibility rejected by the Tribunal's case law (co-perpetration, indirect co-perpetration, indirect perpetration and aiding and abetting of JCE).¹⁷⁵ In its decision of 25 April 2007, the Chamber announced that it would rule on this request after rendering its decision pursuant to Rule

¹⁷⁰ *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-AR-108 *bis*.1, "Decision on Prosecution's Motion to Strike Request for Review Under Rule 108 *bis*", public, 13 December 2006.

¹⁷¹ T(F), 29 January 2008, pp. 26937-26986, and 30 January 2008, pp. 26989-27014.

¹⁷² T(F), 20 February 2008, pp. 27201-27238.

¹⁷³ T(F), 20 February 2008, p. 27238.

¹⁷⁴ T(F), 20 February 2008, p. 27238.

¹⁷⁵ "Petković's Submission to the Trial Chamber to Order the Prosecution to Strike from the Amended Indictment Certain Parts Alleging Co-Perpetration, Indirect Co-Perpetration, Indirect Perpetration and Aiding and Abetting of JCE", public, 12 February 2007.

98 *bis* of the Rules.¹⁷⁶ On 20 February 2008, in its oral decision handed down pursuant to Rule 98 *bis* of the Rules, the Chamber ultimately decided to defer ruling on this issue until the end of the trial proceedings, arguing *inter alia* that this stay of decision would not prejudice the right of the Accused to a fair trial.¹⁷⁷ The Petković Defence subsequently filed a request for certification to appeal the decision of 20 February 2008;¹⁷⁸ the Chamber denied it on 13 March 2008.¹⁷⁹ Meanwhile, on 5 March 2008, the Petković Defence appealed the decision of 20 February 2008, raising a preliminary motion challenging jurisdiction.¹⁸⁰ In its decision dated 23 April 2008, the Appeals Chamber held that the notions of co-perpetration and aiding and abetting of JCE were not valid forms of liability and it ordered the Chamber to direct the Prosecution to amend the Indictment accordingly.¹⁸¹ On 22 May 2008, the Chamber called upon the Prosecution to acquaint itself with the Appeals Chamber decision of 23 April 2008 and to comply with it.¹⁸² Finally, on 11 June 2008, the Prosecution filed the amended Indictment pursuant to the decision of 22 May 2008.

H. Replies

72. On 21 April 2010, the Chamber ordered the Parties to file any requests for leave to reply no later than 25 May 2010.¹⁸³ On 17 May 2010, the Chamber issued an order closing presentation of evidence for the Defence, namely “that all of the Defence teams have [...] ended the presentation of their cases even though some requests and decisions

¹⁷⁶ “Decision on Defence Motion to Strike from the Amended Indictment Certain Parts Alleging Co-Perpetration, Indirect Co-Perpetration, Indirect Perpetration and Aiding and Abetting of Joint Criminal Enterprise”, public, 25 April 2007.

¹⁷⁷ T(F), 20 February 2008, pp. 27201-27238.

¹⁷⁸ “Petković Defence Request for Certification to Appeal the Trial Chamber's Rule 98*bis* Oral Decision on its Submission to the Trial Chamber to Order the Prosecution to Strike from the Amended Indictment Certain Parts Alleging Co-Perpetration, Indirect Perpetration, Indirect Co-Perpetration and Aiding and Abetting of JCE of 12 February 2007”, public, 26 February 2008.

¹⁷⁹ “Decision on Petković Defence Request of 26 February 2008 for Certification to Appeal”, public, 13 March 2008.

¹⁸⁰ “Petković Defence Appeal Against the Trial Chamber’s Rule 98 *bis* Decision to Further Postpone Decision on the Defence Submission of 12 February 2007 to Strike from the Amended Indictment Certain Parts Alleging Jurisdictionally Invalid Forms of Liability (of Co-Perpetration, Indirect Co-Perpetration and Aiding and Abetting of JCE) Until Judgement, and the Request for Variation of Time-Limit Pursuant to Rule 127 of the Rules”, public, 5 March 2008.

¹⁸¹ *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-AR72. 3, “Decision on Petković’s Appeal on Jurisdiction”, public, 23 April 2008, para. 21.

¹⁸² “Order Regarding the Appeals Chamber Decision on Jurisdiction”, public, 22 May 2008.

¹⁸³ Scheduling Order for Filing Requests to Reply Pursuant to Rule 85”, public, 21 April 2010.

for the admission of evidence are currently pending before the Chamber or the Appeals Chamber”.¹⁸⁴ On 25 May 2010, the Prosecution seized the Chamber of a request to suspend the deadline for filing its request to reply, should the need arise, which the Chamber had set for 25 May 2010 - *inter alia* on the grounds that, as the Defence cases were not finished, it would be unable to submit any request for leave to reply within the time-limit set by the Chamber.¹⁸⁵ In an order dated 3 June 2010, the Chamber denied the Prosecution’s request, noting that the Prosecution had not filed any requests to reply on 25 May 2010 and had merely conducted a theoretical debate without presenting any tangible element of the Defence evidence that had not been settled by the Chamber or the Appeals Chamber, and that would be important enough, if it were subsequently tendered into evidence, to affect the Prosecution’s case and to warrant a request for leave to reply in accordance with the strict criteria of rebuttal.¹⁸⁶ On 6 July 2010, the Chamber certified the Prosecution’s appeal against the order of 3 June 2010.¹⁸⁷ The Prosecution did not subsequently file an interlocutory appeal with the Appeals Chamber.

I. Reopening of Cases

73. In its motion dated 21 May 2010, the Prosecution requested leave from the Chamber to reopen its case on the basis of the discovery of Ratko Mladić’s Diaries.¹⁸⁸ In its decision of 16 June 2010, the Chamber found that the Prosecution’s request of 21 May 2010 was premature.¹⁸⁹ The Chamber noted that the Prosecution had not identified all of the documents to which the request to reopen was directed and, therefore, ordered the Prosecution to file a new consolidated motion with all relevant documents no later than 9 July 2010.¹⁹⁰ On that date, the Prosecution filed a consolidated motion to reopen its case,

¹⁸⁴ “Order Regarding the Closure of the Presentation of the Defence Cases”, public, 17 May 2010, p. 3.

¹⁸⁵ “Prosecution Motion Concerning Rebuttal Case”, public, 25 May 2010, paras 6, 8, 9, 11-13, 21 and 22.

¹⁸⁶ “Order on Prosecution Motion to Suspend Deadline to File its Request to Reply”, public, 3 June 2010.

¹⁸⁷ “Decision on the Prosecution Motion for Reconsideration or Certification to Appeal Concerning *Ordonnance relative à la demande de l’Accusation de suspendre le délai de dépôt de sa demande de réplique*”, public, 6 July 2010, concerning the ‘Prosecution Motion for Reconsideration or Certification to Appeal Concerning *Ordonnance relative à la demande de l’Accusation de suspendre le délai de dépôt de sa demande de réplique* dated 3 June 2010”, public, 10 June 2010.

¹⁸⁸ “Prosecution Motion to Re-open its Case-in-Chief (Mladić Materials)”, public with confidential annexes, 21 May 2010.

¹⁸⁹ “Decision on Prosecution Motion to Re-Open its Case-In-Chief”, public, 16 June 2010.

¹⁹⁰ “Decision on Prosecution Motion to Re-Open its Case-In-Chief”, public, 16 June 2010.

requesting the admission into evidence of 18 exhibits.¹⁹¹ On 6 October 2010, the Chamber partially granted this request, admitting eight documents, including five excerpts from Ratko Mladić's Diaries.¹⁹² On 23, 24 and 25 November 2010, the Chamber denied the requests for reopening the cases of the Prlić, Praljak and Stojić Defence teams.¹⁹³ The Chamber granted in part the request to reopen the case of the Petković Defence, admitting three documents from among those requested for admission by the Petković Defence.¹⁹⁴

J. Request by the Prlić and Praljak Defence Teams for Disqualification of a Judge

74. On 20 July 2010, the Prlić Defence filed a request seeking clarification from the Chamber about the nature of the relationship between Judge Prandler and Viktor Andreev, UN Civil Affairs Advisor, mentioned briefly by Judge Prandler at the hearing of 8 March 2010, and to convene a public hearing to shed light on the relationship which could have existed when Judge Prandler worked at the United Nations in New York.¹⁹⁵ In its decision of 26 July 2010, the Chamber denied the request by the Prlić Defence, on the grounds *inter alia* that no circumstance justified calling a hearing for the purpose of having Judge Prandler explain his professional background - known to the Prlić Defence through the Judge's *curriculum vitae* posted on the Tribunal's website - to allow the Prlić Defence, should the need arise, to file a request for withdrawal.¹⁹⁶ On 2 August 2010, the

¹⁹¹ "Prosecution Motion to Admit Evidence in Reopening", public with public and confidential annexes, 9 July 2010.

¹⁹² "Decision on the Prosecution's Motion to Re-Open its Case", public, 6 October 2010, pp. 28 and 29. The Chamber admitted the following documents into evidence: P 11376, P 11377, P 11380, P 11386, P 11388, P 11389, P 11391 and P 11392.

¹⁹³ "Decision on Jadranko Prlić's Motion to Admit Evidence Rebutting Evidence Admitted by the Decision of 6 October 2010", public, 24 November 2010; "Decision on Praljak Defence Motion to Reopen Its Case", public, 23 November 2010; "Decision on the Stojić Defence Request to Reopen its Case", public, 25 November 2010.

¹⁹⁴ The Chamber admitted the following documents into evidence: 4D 02512, 4D 02518 and 4D 02510; *see* on this point "Decision on the Petković Defence Motion to Reopen the Case", public, 23 November 2010; "Decision on Petković Defence Motion for Reconsideration or, in the Alternative, for Certification to Appeal the Decision on the Petković Defence Motion to Reopen its Case", public, 7 December 2010; "Decision Amending Decision on Petković Defence Motion to Reopen its Case", public, 14 December 2010.

¹⁹⁵ "Jadranko Prlić's Request for Clarification and Full Disclosure of Judge Prandler's Association with UN Civil Affairs Advisor in BiH Viktor Andreev & Request for a Public Hearing", public with confidential annexes, 20 July 2010, paras 1-13.

¹⁹⁶ "Decision on Jadranko Prlić's Request for (1) Clarification of Judge Prandler's Association with Victor Andreev and (2) Public Hearing", public, 26 July 2010, pp. 3 and 4.

Prlić Defence requested certification to appeal the decision of 26 July 2010,¹⁹⁷ which the Chamber denied in its decision of 24 August 2010.¹⁹⁸ On 30 August 2010, the Prlić Defence seized the Chamber, on the basis of Rule 15 (B) of the Rules, of a motion to disqualify Judge Prandler on the basis of his previous relationship with Victor Andreev.¹⁹⁹ On 31 August 2010, the Praljak Defence joined this request.²⁰⁰ On 8 September 2010, Judge Antonetti, as the Presiding Judge of the *Prlić* Chamber, submitted, in connection with the motion for disqualification, a confidential and partially *ex parte* report to the President of the Tribunal.²⁰¹ On 14 September 2010, he submitted to the President of the Tribunal a supplementary, confidential report.²⁰²

75. In his decision of 16 September 2010, the President of the Tribunal denied the motion of the Prlić and Praljak Defence teams on the ground that pursuant to Rule 15 (B) (i) of the Rules, the motion ought to have been addressed to the Presiding Judge of Trial Chamber III, Judge O-Gon Kwon, and not to the Presiding Judge of the case in question, Judge Antonetti. It was therefore for Judge O-Gon Kwon and not for Judge Antonetti to confer with Judge Prandler and to forward the report to the President of the Tribunal.²⁰³

76. Following the decision of the President of the Tribunal to deny the motion for disqualification on procedural grounds, the Prlić Defence filed a new motion with the Presiding Judge of Trial Chamber III, Judge O-Gon Kwon, alleging the potential appearance of bias as a result of the relationship between Judge Prandler and Viktor Andreev.²⁰⁴ The Praljak Defence joined that motion on the same day.²⁰⁵ On 20 September

¹⁹⁷ “Jadranko Prlić’s Request for Certification to Appeal Under Rule 73 (B) Against the *Décision portant sur la demande de la Défense Prlić de (1) clarification sur le lien entre le Juge Prandler et Viktor Andreev et (2) relative à la tenue d’une audience publique*, 26 July 2010”, public, 2 August 2010.

¹⁹⁸ “Decision on Prlić Defence Request for Certification to Appeal the Decision of 26 July 2010”, public, 24 August 2010.

¹⁹⁹ “Jadranko Prlić’s Motion for Disqualification of Judge Prandler”, public with confidential annex, 20 August 2010.

²⁰⁰ “Slobodan Praljak’s Joinder to Jadranko Prlić’s 30 August 2010 Motion for Disqualification of Judge Prandler”, confidential, 31 August 2010.

²⁰¹ “Report on Motions to Disqualify Judge Prandler Presented by the Presiding Judge to the President of the Tribunal”, confidential, 8 September 2010.

²⁰² “Urgent Supplementary Report to the President of the Tribunal on the Motions for Disqualification of Judge Prandler Submitted by Defence Counsel for Prlić and Praljak”, confidential, 14 September 2010.

²⁰³ “Decision of the President on Jadranko Prlić’s Motion to Disqualify Judge Árpád Prandler”, confidential, 16 September 2010.

²⁰⁴ Viktor Andreev was an advisor in the Department of Civilian Affairs at the United Nations in BiH in 1993. See notably “Jadranko Prlić’s Request for Clarification and Full Disclosure of Judge Prandler’s

2010, the Chamber ordered an adjournment of the proceedings until a decision in response to the motion for disqualification before the Presiding Judge of Chamber III had been rendered.²⁰⁶ On 1 October 2010, the Presiding Judge of Chamber III submitted his report to the President of the Tribunal, as required by Rule 15 (B) (i) of the Rules.²⁰⁷ On 4 October 2010, the President of the Tribunal issued a decision denying the motion of the Prlić Defence, finding that the Prlić Defence had not provided any argument in support of its allegation of real or apparent bias on the part of Judge Prandler.²⁰⁸ In response to this decision, the Chamber ordered the resumption of proceedings on 6 October 2010.²⁰⁹

K. Final Trial Briefs and Closing Arguments

77. In its order of 1 November 2010, the Chamber set the deadline of 13 December 2010 for the Parties to file their Final Trial Briefs and for the start of the Prosecution's closing arguments, to be followed immediately by the Defence teams closing arguments on 17 January 2011.²¹⁰ The Chamber subsequently amended these deadlines on three occasions. On 22 November 2010, the Chamber partially granted the requests of the Prosecution and the Defence teams, moving the filing date for Final Trial Briefs to 4 January 2011 and the commencement of closing arguments to 31 January 2011.²¹¹ On 6 December 2010, the Chamber rescheduled the date for commencing closing arguments to 7 February 2011, subsequent to the requests for reconsideration filed by the Stojić and Ćorić Defence teams.²¹² On 4 January 2011, the Chamber granted an extension of the deadline for filing Final Trial Briefs, subsequent to the technical difficulties raised by the

Association with UN Civil Affairs Advisor in BiH Viktor Andreev & Request for a Public Hearing”, public with confidential annex, 20 July 2010, paras 1-4.

²⁰⁵ “Jadranko Prlić’s Motion for Disqualification of Judge Prandler”, public with confidential annex, 16 September 2010; “Slobodan Praljak’s Joinder to Jadranko Prlić’s 16 September 2010 Motion for Disqualification of Judge Prandler”, confidential, 16 September 2010.

²⁰⁶ “Decision on the Prlić Defence Motion to Stay the Proceedings”, public, 20 September 2010.

²⁰⁷ “Report to the President by Presiding Judge of Trial Chamber III on Motion to Disqualify Judge Prandler”, confidential, 1 October 2010.

²⁰⁸ “Decision of the President on Jadranko Prlić’s Motion to Disqualify Judge Árpád Prandler”, public, 4 October 2010, paras 9, 10 and 30.

²⁰⁹ Decision to Resume the Trial, public, 6 October 2010.

²¹⁰ “Scheduling Order (Final Trial Briefs, Closing Arguments for the Prosecution and the Defence)”, public, 1 November 2010.

²¹¹ “Amended Scheduling Order (Final Trial Briefs, Closing Arguments for the Prosecution and the Defence)”, public, 22 November 2010.

²¹² “Second Amended Scheduling Order (Final Briefs, Closing Arguments for the Prosecution and the Defence)”, public, 6 December 2010.

Prlić, Stojić, Praljak, Ćorić and Pušić Defence teams, and authorised the briefs to be filed on 7 January 2011, while maintaining the date 7 February 2011 for commencement of the Prosecution's closing arguments.²¹³ Concerning the time allocated to the closing arguments by the Prosecution and the Defence teams, the Chamber granted 15 hours to the Prosecution for its closing arguments and 5 hours to each Defence team to make its closing arguments, including 30 minutes for each of the Accused to speak, if he so wished.²¹⁴

78. On 7 January 2011, the Prosecution and all Defence teams filed their Final Trial Briefs as confidential documents.

79. The Chamber heard the Prosecution's closing arguments, the closing arguments of the Defence teams, the replies and rejoinders of the Prosecution and of the Defence teams, from 7 February to 2 March 2011, the date the Presiding Judge declared proceedings closed.²¹⁵

L. Provisional Releases

80. From 13 June 2006 to 15 March 2013 the Chamber rendered 136 decisions granting or denying the requests for provisional release filed by the Defence teams. The majority of these decisions were rendered during the Tribunal's summer or winter judicial recess²¹⁶ or when hearings were adjourned.²¹⁷ In certain cases, the Chamber nevertheless rendered decisions authorising provisional release based on unexpected and/or significant events in the personal and/or family lives of the Accused.²¹⁸ Finally,

²¹³ "Third Amended Scheduling Order (Final Briefs, Closing Arguments for the Prosecution and the Defence)", public, 4 January 2011.

²¹⁴ See notably in this regard the "Amended Scheduling Order (Final Trial Briefs, Closing Arguments for the Prosecution and the Defence)", public, 22 November 2010, p. 11.

²¹⁵ Hearing of 2 March 2011, T(F), p. 52976.

²¹⁶ For the list of the 79 decisions rendered by the Chamber in this matter, see the list appearing at the end of this Annex regarding the Procedural Background as recalled by the Chamber, entitled "List of Decisions On Requests for Provisional Release Rendered During Summer or Winter Judicial Recesses at the Tribunal".

²¹⁷ For the list of the 19 decisions rendered by the Chamber in this matter, see the list appearing at the end of this Annex regarding the Procedural Background as recalled by the Chamber, entitled "List of Decisions On Requests for Provisional Release Rendered During Periods of Adjournment".

²¹⁸ "Order on the Urgent Motion for Provisional Release of Valentin Ćorić", public, 13 June 2006; "Decision on the Motion for Provisional Release of the Accused Prlić", confidential, 29 May 2009";

the Chamber rendered four decisions denying requests for provisional release until the close of the trial proceedings²¹⁹ and ultimately granted requests for provisional release on six occasions for some of the Accused for a duration of three months, pending delivery of the Judgement.²²⁰

81. Until the Appeals Chamber's decision of 21 April 2008²²¹, the Chamber had analysed requests for provisional release solely on the basis of the criteria set out in Rules 65 (A) and (B) of the Rules.²²² Following the development of the Appeals Chamber case-law concerning the criteria for assessing requests for provisional release filed at a late stage of the proceedings – particularly after the close of the Prosecution case,²²³ the close of the Defence case²²⁴ or the close of proceedings while awaiting delivery of

“Decision on the Motion for Provisional Release Filed by the Accused Stojić”, confidential, 3 September 2009; “Decision on Motion for Provisional Release of the Accused Prlić”, confidential, 16 February 2011.

²¹⁹ “Decision on the Accused Prlić's Motion for Provisional Release”, public, 9 April 2009; see also *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74AR65.14, “Decision on Jadranko Prlić's Appeal Against the *Décision relative à la demande de mise en liberté provisoire de l'Accusé Prlić*, 9 April 2009”, public, 5 June 2009; “Decision on Request for Provisional Release by the Accused Valentin Ćorić”, confidential and *ex parte*, 7 April 2011; “Decision on Slobodan Praljak's Motion for Provisional Release”, public, 21 April 2011; “Decision on Jadranko Prlić's Motion for Provisional Release”, public, 21 April 2011; see also *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74AR65.24, “Decision on Jadranko Prlić's Appeal Against the Trial Chamber Decision on His Motion for Provisional Release”, public, 8 June 2011; *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74AR65.25, “Decision on Slobodan Praljak's Appeal Against Decision on His Motion for Provisional Release”, public, 10 June 2011.

²²⁰ For a list of decisions rendered by the Chamber in this matter see the list appearing at the end of this Annex regarding the Procedural Background as recalled by the Chamber, entitled “List of Decisions on Requests for Provisional Release Rendered Pending Delivery of Judgement Pursuant to Rule 65 (B) of the Rules as Amended on 28 October 2011”.

²²¹ *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-AR65.7, “Decision on Prosecution's Appeal from *Décision relative à la Demande de mise en liberté provisoire de l'Accusé Petković*” dated 31 March 2008”, public, 21 April 2008.

²²² See, for example, “Decision on Motion for Provisional Release of the Accused Prlić”, 26 June 2006; “Order Amending the Decision on the Accused Prlić's Request for Provisional Release”, confidential, 4 July 2006; “Decision on Motion for Provisional Release of the Accused Stojić”, public, 26 June 2006; “Decision on Motion for Provisional Release of the Accused Praljak”, public, 26 June 2006; “Decision on Motion for Provisional Release of the Accused Petković”, public, 26 June 2006; “Decision on Motion for Provisional Release of the Accused Ćorić”, public, 26 June 2006; “Decision on Motion for Provisional Release of the Accused Pušić”, public, 26 June 2006.

²²³ *The Prosecutor v. Vujadin Popović et al.*, Case No. IT-05-88, “Decision on Gvero's Motion for Provisional Release”, confidential, 17 December 2009, paras 13-17; *The Prosecutor v. Vujadin Popović et al.*, Case No. IT-05-88-AR65.11, “Decision on Prosecution's Appeal Against Decision on Gvero's Further Motion for Provisional Release”, confidential, 25 January 2010, para. 7; *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-AR65.5, “Decision on Prosecution's Consolidated Appeal Against Decisions to Provisionally Release the Accused Prlić, Stojić, Praljak, Petković and Ćorić”, public, 11 March 2008, paras 20-21.

²²⁴ *The Prosecutor v. Vujadin Popović et al.*, Case No. IT-05-88-T, “Decision on Gvero's Motion for Provisional Release”, public redacted version, 15 June 2009, paras 12, 15 and 16.

Judgement²²⁵ – the Chamber was also called upon to assess requests for provisional release in light of sufficiently compelling humanitarian reasons that would warrant provisional release.²²⁶ Moreover, the duration of provisional release had to be assessed in proportion to the said humanitarian circumstances.²²⁷

82. When rendering its decisions on 21 April 2011 concerning the requests for provisional release of the Accused Prlić and Praljak, the Chamber also sought the opinion of the Appeals Chamber concerning the relevance and the applicability of the jurisprudence of 2008 in the procedural context of anticipating delivery of the Judgement.²²⁸ Subsequent to appeals lodged by the Praljak and Prlić Defence teams concerning this issue, the Appeals Chamber upheld its jurisprudence in two decisions dated 8 and 10 June 2011.²²⁹ The Appeals Chamber simply recalled that since its decision of 21 April 2008, it had, on numerous occasions, affirmed by a majority the duty of the Accused to submit compelling humanitarian reasons in order to obtain provisional release at a late stage of the proceedings, and held that there was no cogent reason to justify departure from this practice.²³⁰

²²⁵ *The Prosecutor v. Vujadin Popović et al.*, Case No. IT-05-88-T, “Decision on Miletić’s Motion for Provisional Release”, confidential, 11 February 2010, paras 11 and 14; *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74AR65.24, “Decision on Jadranko Prlić’s Appeal Against the Trial Chamber Decision on His Motion for Provisional Release”, public, 8 June 2011; *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74AR65.25, “Decision on Slobodan Praljak’s Appeal Against Decision on His Motion for Provisional Release”, public, 10 June 2011.

²²⁶ *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-AR65.7, “Decision on Prosecution’s Appeal from *Décision relative à la Demande de mise en liberté provisoire de l’Accusé Petković* dated 31 March 2008”, public, 21 April 2008, para. 17; *The Prosecutor v. Vujadin Popović et al.*, Case No. IT-05-88-AR65.6, “Decision on Consolidated Appeal Against Decision on Borovčanin’s Motion for a Custodial Visit and Decisions on Gvero’s and Miletić’s Motions for Provisional Release During the Break in the Proceedings”, public, 15 May 2008, para. 24.

²²⁷ *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-AR65.7, “Decision on Prosecution’s Appeal from *Décision relative à la Demande de mise en liberté provisoire de l’Accusé Petković* dated 31 March 2008”, public, 21 April 2008, para. 17; *The Prosecutor v. Vujadin Popović et al.*, Case No. IT-05-88-AR65.6, “Decision on Consolidated Appeal Against Decision on Borovčanin’s Motion for a Custodial Visit and Decisions on Gvero’s and Miletić’s Motions for Provisional Release During the Break in the Proceedings”, public, 15 May 2008, para. 24.

²²⁸ “Decision on Slobodan Praljak’s Motion for Provisional Release”, public, 21 April 2011; “Decision on Jadranko Prlić’s Motion for Provisional Release”, public, 21 April 2011.

²²⁹ *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74AR65.24, “Decision on Jadranko Prlić’s Appeal Against the Trial Chamber Decision on His Motion for Provisional Release”, public, 8 June 2011; *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74AR65.25, “Decision on Slobodan Praljak’s Appeal Against Decision on His Motion for Provisional Release”, public, 10 June 2011.

²³⁰ *The Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74AR65.25, “Decision on Slobodan Praljak’s Appeal Against Decision on His Motion for Provisional Release”, public, 10 June 2011, para. 9. See also

83. Following an amendment to Rule 65 (B) of the Rules,²³¹ which stated that “sufficiently compelling humanitarian reasons *may be considered*”²³² by the Chamber when granting provisional release, the Chamber once again analysed the requests for provisional release filed by the Defence teams on the sole basis of the criteria set out in Rule 65 (A) and (B) of the Rules, and deemed that in the present case there was no need to question the compelling humanitarian reasons, and granted provisional release for a three-month renewable period, subject to certain conditions, to five of the Accused pending delivery of the Judgement.²³³ Following the appeals lodged by the Prosecution on this issue, the decisions of the Chamber were upheld by the Appeals Chamber.²³⁴

84. Finally, the Chamber notes that except for minor incidents during the provisional release of the Accused Prlić and Pušić in the summer of 2008²³⁵ and during the provisional release of the Accused Ćorić in August-September 2009,²³⁶ the Accused always complied with the conditions of provisional release set out by the Chamber, regardless of whether those conditions involved continuous surveillance, home confinement or limited movement under surveillance.

The Prosecutor v. Jadranko Prlić et al., Case No. IT-04-74AR65.24, “Decision on Jadranko Prlić’s Appeal Against the Trial Chamber Decision on His Motion for Provisional Release”, public, 8 June 2011, para. 9.

²³¹ Adopted at a Plenary Session of the Judges on 28 October 2011.

²³² Emphasis added.

²³³ See notably “Decision on Jadranko Prlić’s Motion for Provisional Release”, public with one confidential and one public annex, 24 November 2011; “Decision on Valentin Ćorić’s Request for Provisional Release”, confidential and *ex parte* with confidential and *ex parte* annexes, 29 November 2011; “Decision on Slobodan Praljak’s Motion for Provisional Release”, confidential and *ex parte* with confidential and *ex parte* annexes, 30 November 2011; “Decision on Motion for Provisional Release of the Accused Milivoj Petković”, public with one confidential and one public annex, 30 November 2011. For the sixth Accused, taking into account his health, the Chamber granted provisional release for a duration of six months, see “Decision on Application for Provisional Release of Accused Berislav Pušić”, confidential and *ex parte* with confidential and *ex parte* annex, 5 December 2011.

²³⁴ See notably “Decision on the Prosecution’s Appeal of Decision on Provisional Release of Jadranko Prlić”, public, 15 December 2011; “Decision on the Prosecution’s Appeal of the Decision on Further Extension of Jadranko Prlić’s Provisional Release”, public, 23 April 2012.

²³⁵ See notably “Decision on Motion for Provisional Release of the Accused Prlić”, confidential with confidential annex, 10 December 2008, paras 32 to 34, and “Decision on the Accused Prlić’s Motion for Provisional Release”, confidential with confidential annex, 17 July 2008; “Decision on Motion for Provisional Release of Berislav Pušić”, confidential with annex and confidential and *ex parte* annex, 5 December 2008, paras 30 and 31.

²³⁶ See notably “Decision on Accused Valentin Ćorić’s Request for Provisional Release”, confidential, 9 December 2009, paras 25-27

1. List of Decisions on Requests for Provisional Release Rendered During Summer or Winter Judicial Recesses at the Tribunal

- “Decision on Motion for Provisional Release of the Accused Prlić”, 26 June 2006;
- “Order Amending the Decision on the Accused Prlić’s Request for Provisional Release”, confidential, 4 July 2006;
- “Decision on Motion for Provisional Release of the Accused Stojić”, public, 26 June 2006;
- “Decision on Motion for Provisional Release of the Accused Praljak”, public, 26 June 2006;
- “Decision on Motion for Provisional Release of the Accused Petković”, public, 26 June 2006;
- “Decision on Motion for Provisional Release of the Accused Ćorić”, public, 26 June 2006;
- “Decision on the Motion for Provisional Release of the Accused Pušić”, public, 26 June 2006;
- “Decision on the Motion for Provisional Release of the Accused Prlić”, partially confidential, 8 December 2006;
- “Decision on the Motion for Provisional Release of the Accused Stojić”, partially confidential, 8 December 2006;
- “Decision on the Motion for Provisional Release of the Accused Praljak”, partially confidential, 8 December 2006;
- “Decision on the Motion for Provisional Release of the Accused Petković”, partially confidential, 8 December 2006;

- “Decision on the Motion for Provisional Release of the Accused Ćorić”, partially confidential, 8 December 2006;
- “Decision on the Motion for Provisional Release of the Accused Pušić”, partially confidential, 8 December 2006;
- “Decision on the Motion for Provisional Release of the Accused Prlić”, public with confidential annex, 11 June 2007;
- “Decision on the Motion for Provisional Release of the Accused Stojić”, public with confidential annex, 11 June 2007;
- “Decision on the Motion for Provisional Release of the Accused Praljak”, public with confidential annex, 11 June 2007;
- “Decision on the Motion for Provisional Release of the Accused Petković”, public with confidential annex, 11 June 2007;
- “Decision on the Motion for Provisional Release of the Accused Ćorić”, public with confidential annex, 11 June 2007;
- “Decision on the Motion for Provisional Release of the Accused Pušić”, public with confidential annex, 11 June 2007;
- “Order to Amend the Decision on the Motion for Provisional Release of the Accused Petković”, confidential, 10 July 2007;
- “Decision on the Motion for Provisional Release of the Accused Prlić”, public with confidential annex, 29 November 2007;
- “Decision on the Motion for Provisional Release of the Accused Stojić”, public with confidential annex, 29 November 2007;
- “Decision on the Motion for Provisional Release of the Accused Praljak”, public with confidential annex, 29 November 2007;

- “Decision on the Motion for Provisional Release of the Accused Petković”, public with confidential annex, 29 November 2007;
- “Decision on the Motion for Provisional Release of the Accused Ćorić”, public with confidential annex, 29 November 2007;
- “Decision on the Motion for Provisional Release of the Accused Pušić”, public with confidential annex, 29 November 2007;
- “Decision on the Accused Prlić’s Motion for Provisional Release”, public with confidential annex, 17 July 2008;
- “Decision on the Accused Stojić’s Motion for Provisional Release”, public with confidential annex, 17 July 2008;
- “Decision on the Accused Praljak’s Motion for Provisional Release”, public with confidential annex, 17 July 2008;
- “Decision on the Accused Petković’s Motion for Provisional Release”, public with confidential annex, 17 July 2008;
- “Decision on the Accused Ćorić’s Request for Provisional Release”, public with confidential annex, 17 July 2008;
- “Decision on the Accused Pušić’s Application for Provisional Release”, public with confidential annex, 17 July 2008;
- “Decision on the Accused Stojić’s Motion for Provisional Release”, public with confidential annex, 2 December 2008;
- “Decision on the Accused Praljak’s Motion for Provisional Release”, public, 2 December 2008;
- “Decision on Valentin Ćorić’s Request for Provisional Release”, public with confidential annex, 2 December 2008;

- “Decision on the Accused Petković’s Motion for Provisional Release”, public with confidential annex, 5 December 2008;
- “Decision on Motion for Provisional Release of the Accused Berislav Pušić”, confidential with confidential and *ex parte* annex, 5 December 2008;
- “Decision on Motion for Provisional Release of the Accused Prlić”, public with confidential annex, 10 December 2008;
- “Decision on the Motion by Milivoj Petković for a Modification of the Trial Chamber Order of 5 December 2008 Concerning His Provisional Release”, confidential, 15 December 2008;
- “Decision on Valentin Ćorić’s Request for Provisional Release”, confidential and *ex parte*, 29 April 2009;
- “Decision Amending Decision on Valentin Ćorić’s Request for Provisional Release”, confidential and *ex parte*, 12 May 2009;
- “Second Decision Amending Decision on Valentin Ćorić’s Request for Provisional Release”, confidential and *ex parte*, 19 June 2009;
- “Third Decision Amending Decision on Valentin Ćorić’s Request for Provisional Release”, confidential and *ex parte*, 9 July 2009;
- “Order on the Conditions of Provisional Release of Valentin Ćorić”, confidential, 27 August 2009;
- “Fourth Decision Amending Decision on Valentin Ćorić’s Request for Provisional Release”, confidential and *ex parte*, 3 September 2009;
- “Decision *Proprio Motu* on Provisional Release of Accused Valentin Ćorić”, confidential and *ex parte*, 15 September 2009;

- “Redacted Version of ‘Decision on Slobodan Praljak’s Motion for Provisional Release (2009 Summer Judicial Recess)’ of 18 May 2009”, public redacted version, 18 May 2009;
- “Decision on Valentin Ćorić’s Request for Provisional Release”, confidential, 17 June 2009;
- “Decision on Bruno Stojić’s Motion for Provisional Release”, public with confidential annex, 17 June 2009;
- “Decision on the Accused Petković’s Motion for Provisional Release”, public with confidential annex, 17 June 2009;
- “Decision on the Application for Provisional Release of the Accused Pušić”, confidential with annex and confidential and *ex parte* annex, 17 June 2009;
- “Decision on the Accused Prlić’s Motion for Provisional Release”, confidential with confidential annex, 29 June 2009;
- “Decision on Valentin Ćorić’s Request for Provisional Release”, confidential, 17 June 2009;
- “Decision on the Accused Praljak’s Motion for Provisional Release”, confidential with confidential annex, 4 December 2009;
- “Decision on the Accused Berislav Pušić’s Motion for Provisional Release”, confidential with confidential annex and confidential and *ex parte* annex, 4 December 2009;
- “Decision on the Accused Prlić’s Request for Provisional Release”, confidential with confidential annex, 9 December 2009;
- “Decision on the Accused Stojić’s Motion for Provisional Release”, confidential with confidential annex, 9 December 2009;

- “Decision on Motion for Provisional Release of the Accused Petković”, confidential with confidential annex, 9 December 2009;
- “Decision on the Accused Valentin Ćorić’s Request for Provisional Release”, confidential, 9 December 2009;
- “Decision on Motion for Provisional Release of the Accused Prlić”, confidential with confidential annex, 9 July 2010;
- “Decision on Motion for Provisional Release of the Accused Bruno Stojić”, confidential with confidential annex, 12 July 2010;
- “Decision on Motion for Provisional Release of the Accused Praljak”, confidential with confidential annex, 12 July 2010;
- “Decision on Motion for Provisional Release of the Accused Petković”, confidential with confidential annex, 12 July 2010;
- “Decision on Application for Provisional Release of the Accused Berislav Pušić”, confidential with confidential annex and confidential and *ex parte* annex, 12 July 2010;
- “Decision on Request for Provisional Release of the Accused Valentin Ćorić”, confidential with confidential annex and confidential and *ex parte* annex, 13 July 2010;
- “Second Decision on Motion for Provisional Release of the Accused Praljak”, confidential with confidential annex, 15 July 2010;
- “Decision on Extension of Provisional Release of the Accused Praljak”, confidential with confidential annex, 12 August 2010;
- “Second Decision on Extension of Provisional Release of the Accused Praljak”, confidential with confidential annex, 19 August 2010;
- “Decision on Berislav Pušić’s Application for Provisional Release”, confidential with confidential annex and confidential and *ex parte* annex, 1 December 2010;

- “Decision on Valentin Ćorić’s Request for Provisional Release”, confidential with confidential annex and confidential and *ex parte* annex, 7 December 2010;
- “Decision on Motion for Provisional Release by the Accused Prlić”, confidential with confidential annex, 8 December 2010;
- “Decision on Motion for Provisional Release of the Accused Bruno Stojić”, confidential with confidential annex, 9 December 2010;
- “Decision on Slobodan Praljak’s Motion for Provisional Release”, confidential with confidential annex, 9 December 2010;
- “Decision on Motion for Provisional Release filed by the Accused Petković (Winter 2010/2011)”, confidential with confidential annex, 9 December 2010;
- “Decision on Motion for Provisional Release filed by the Accused Praljak”, confidential and *ex parte*, 21 June 2011;
- “Decision on Motion for Provisional Release of the Accused Stojić”, confidential, 21 June 2011;
- “Decision on Request for Provisional Release of Accused Valentin Ćorić”, confidential and *ex parte*, 22 June 2011;
- “Decision on Milivoj Petković’s Motion for Provisional Release”, confidential, 24 June 2011;
- “Decision on Jadranko Prlić’s Motion for Provisional Release”, confidential and *ex parte*, 7 July 2011.

2. List of Decisions on Requests for Provisional Release Rendered During Periods of Adjournment

- “Decision on the Motion for Provisional Release of the Accused Ćorić”, public with confidential annex, 19 February 2008;
- “Decision on the Motion for Provisional Release of the Accused Prlić”, public with confidential annex, 19 February 2008;
- “Decision on the Motion for Provisional Release of the Accused Praljak”, public with confidential annex, 19 February 2008;
- “Decision on the Motion for Provisional Release of the Accused Stojić”, public with confidential annex, 19 February 2008;
- “Decision on the Motion for Provisional Release of the Accused Petković”, public with confidential annex, 19 February 2008;
- “Decision on the Application for Provisional Release of the Accused Pušić”, public with confidential annex, 19 March 2008;
- “Decision on the Motion of the Accused Petković for Provisional Release”, public with confidential annex, 31 March 2008;
- “Further Decision to the Decision on Provisional Release of the Accused Petković”, public with confidential annex, 22 April 2008;
- “Decision on the Accused Praljak’s Motion for Provisional Release”, public, 1 April 2008;
- “Decision on the Motion for Provisional Release of the Accused Prlić”, public with confidential annex, 7 April 2008;
- “Further Decision Regarding the Decision on Provisional Release of the Accused Prlić”, public with confidential annex, 25 April 2008;

- “Decision on the Request for Provisional Release of the Accused Ćorić”, public, 8 April 2008;
- “Decision on Second Motion for Provisional Release of the Accused Stojić”, public with confidential annex, 8 April 2008;
- “Further Decision Regarding the Decision on Provisional Release of the Accused Stojić”, public with confidential annex, 29 April 2008;
- “Decision on Motion for Provisional Release filed by the Accused Praljak”, confidential and *ex parte*, 11 February 2011;
- “Decision on ‘Application for Provisional Release of the Accused Berislav Pušić’”, confidential and *ex parte*, 7 April 2011;
- “Decision on Application for Provisional Release of Accused Berislav Pušić”, confidential and *ex parte* with confidential and *ex parte* annex, 5 December 2011;
- “Decision on Application to Extend Provisional Release of Accused Berislav Pušić”, confidential and *ex parte*, 29 May 2012;
- “Decision on Berislav Pušić’s Application to Extend Provisional Release”, confidential and *ex parte* with confidential and *ex parte* annex, 13 November 2012;
- “Decision on Application to Vary Conditions of Provisional Release for Accused Berislav Pušić”, confidential, 15 March 2013.

3. List of Decisions on Requests for Provisional Release Rendered Pending Delivery of Judgement Pursuant to Rule 65 (B) of the Rules as Amended on 28 October 2011

- “Decision on Jadranko Prlić’s Motion for Provisional Release”, public with one confidential and one public annex, 24 November 2011;

- “Decision on Valentin Ćorić’s Request for Provisional Release”, confidential and *ex parte* with confidential and *ex parte* annexes, 29 November 2011;
- “Decision on Slobodan Praljak’s Motion for Provisional Release”, confidential and *ex parte* with confidential and *ex parte* annexes, 30 November 2011;
- “Decision on Motion for Provisional Release of the Accused Milivoj Petković”, public with one confidential and one public annex, 30 November 2011;
- “Decision on Bruno Stojić’s Motion for Provisional Release”, confidential and *ex parte* with confidential and *ex parte* annexes, 1 December 2011;
- “Order on Jadranko Prlić’s Motion to Extend His Provisional Release”, confidential, 29 February 2012; “Redacted and Public Version of Order on Jadranko Prlić’s Motion to Extend His Provisional Release”, public, 1 March 2012;
- “Order on Motion to Extend Provisional Release of Accused Ćorić”, confidential, 6 March 2012; “Public Redacted Version of Order on Motion to Extend Provisional Release of Accused Ćorić”, public, 6 March 2012;
- “Order on Bruno Stojić’s Motion for Extension of His Provisional Release”, confidential, 8 March 2012; “Redacted and Public Version of Order on Bruno Stojić’s Motion for Extension of His Provisional Release”, public, 8 March 2012;
- “Decision on Motion for Extension of Provisional Release of Accused Slobodan Praljak and Modification of Conditions”, confidential and *ex parte*, 8 March 2012; “Public Redacted Version of Decision on Motion for Extension of Provisional Release of Accused Slobodan Praljak and Modification of Conditions”, public, 8 March 2012;
- “Decision on Motion for Extension on Provisional Release of Accused Milivoj Petković and Modification of Conditions”, confidential, 14 March 2012; “Redacted Version of Decision on Motion for Extension of Provisional Release of Accused Milivoj Petković and Modification of Conditions”, public, 14 March 2012;

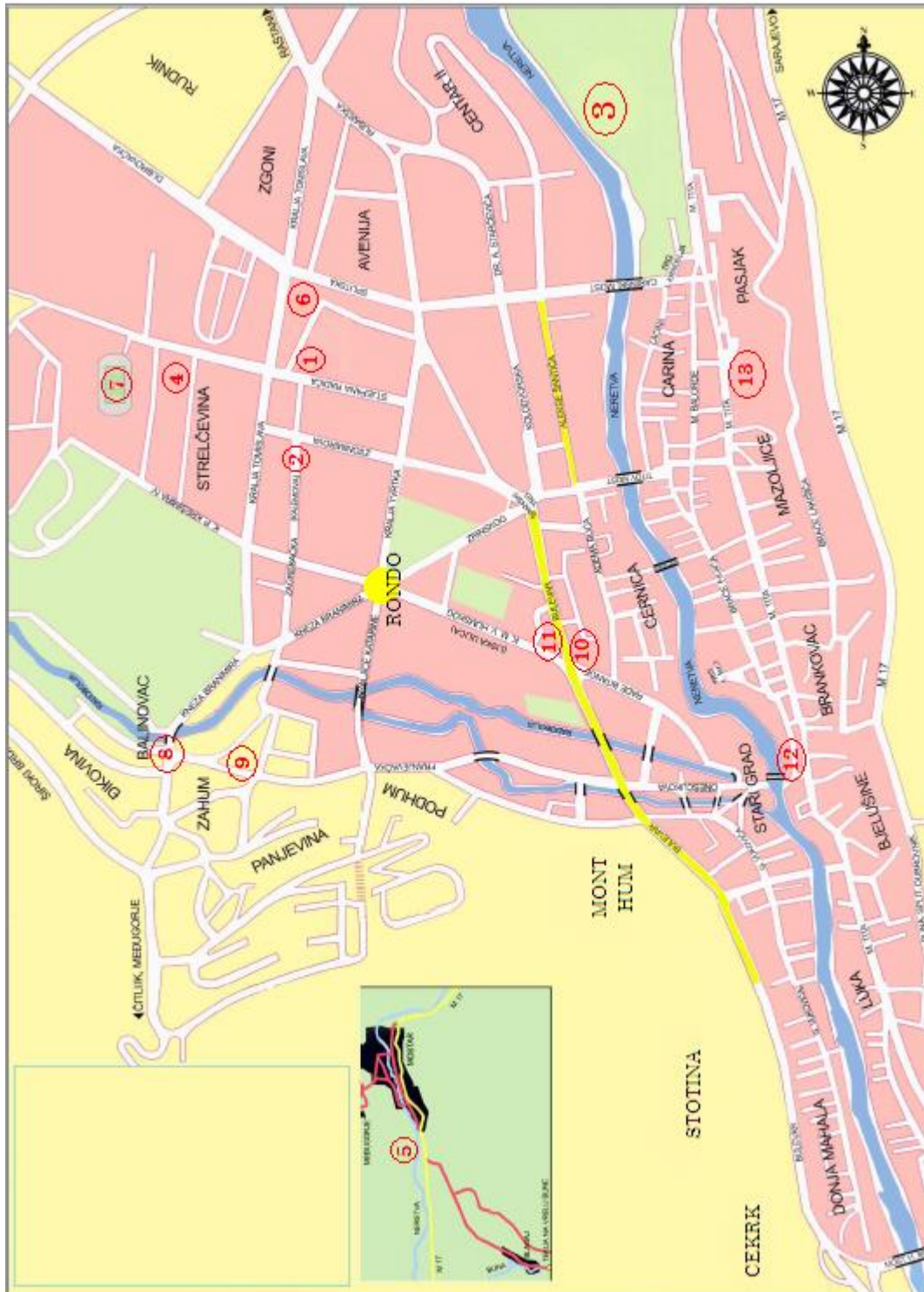
- Order on Motion to Extend Provisional Release of Jadranko Prlić”, confidential, 5 June 2012; “Public Redacted Version of Order on Motion to Extend Provisional Release of Jadranko Prlić”, public, 6 June 2012;
- “Order on Motion to Extend Provisional Release of Accused Bruno Stojić”, confidential, 7 June 2012; “Public Redacted Version of ‘Order on Motion to Extend Provisional Release of Accused Bruno Stojić’”, public, 7 June 2012;
- “Order on Motion to Extend Provisional Release of Accused Ćorić”, confidential, 7 June 2012; “Public Redacted Version of ‘Order on Motion to Extend Provisional Release of Accused Ćorić’”, public, 7 June 2012;
- “Order on Motion to Extend Provisional Release of Accused Milivoj Petković”, confidential, 7 June 2012; “Public Redacted Version of ‘Order on Motion to Extend Provisional Release of Accused Milivoj Petković’”, public, 7 June 2012;
- “Order on Motion for Extension of Provisional Release of Accused Slobodan Praljak and Modification of Conditions”, confidential and *ex parte*, 11 June 2012; “Public Redacted Version of Order on Motion for Extension of Provisional Release of Accused Slobodan Praljak and Modification of Conditions”, public, 13 June 2012;
- “Decision on Slobodan Praljak’s Motion for Provisional Release”, confidential and *ex parte*, 4 September 2012; “Redacted and Public Version of ‘Decision on Slobodan Praljak’s Motion for Provisional Release’”, public, 5 September 2012;
- “Order on Accused Jadranko Prlić’s Motion to Extend His Provisional Release”, confidential, 4 September 2012; “Public Redacted Version of ‘Order on Accused Jadranko Prlić’s Motion to Extend His Provisional Release’”, public, 5 September 2012;
- “Order on Accused Ćorić’s Motion Seeking Renewal of Provisional Release”, confidential, 5 September 2012; “Public Redacted Version of ‘Order on Accused Ćorić’s Motion Seeking Renewal of Provisional Release’”, public 6 September 2012;

- “Order on Motion of Milivoj Petković for Extension of Provisional Release”, confidential, 10 September 2012; “Public Redacted Version of ‘Order on Motion of Milivoj Petković for Extension of Provisional Release’”, public, 10 September 2012;
- “Order on Bruno Stojić’s Motion for Extension of His Provisional Release”, confidential, 10 September 2012; “Public Redacted Version of ‘Order on Bruno Stojić’s Motion for Extension of His Provisional Release’”, public, 11 September 2012;
- “Decision on Slobodan Praljak’s Motion for Provisional Release”, confidential and *ex parte*, 13 November 2012;
- “Order on Jadranko Prlić’s Motion to Extend His Provisional Release”, confidential, 19 November 2012; “Public Redacted Version of “Order on Jadranko Prlić’s Motion to Extend His Provisional Release”, public, 19 November 2012;
- “Order on Motion of Milivoj Petković for Extension of Provisional Release”, confidential, 3 December 2012; “Public Redacted Version of ‘Order on Motion of Milivoj Petković for Extension of Provisional Release’”, public, 3 December 2012;
- “Order on Motion to Renew Provisional Release of Accused Ćorić”, confidential, 4 December 2012; “Public Redacted Version of Order on Motion to Renew Provisional Release of Accused Ćorić”, public, 4 December 2012;
- “Order on Bruno Stojić’s Motion for Extension of His Provisional Release”, confidential, 4 December 2012; “Public Redacted Version of ‘Order on Bruno Stojić’s Motion for Extension of His Provisional Release’”, public, 4 December 2012;
- “Order on Motion to Extend Provisional Release of Accused Jadranko Prlić”, confidential, 26 February 2013; “Public Redacted Version of ‘Order on Motion to Extend Provisional Release of Accused Jadranko Prlić’”, public, 26 February 2013;
- “Order on Motion to Extend Accused Stojić’s Provisional Release”, confidential, 8 March 2013; “Public Redacted Version of Order on Motion to Extend Accused Stojić’s Provisional Release”, public, 8 March 2013;

- “Order on Motion to Renew Provisional Release of Accused Ćorić”, confidential, 8 March 2013; “Public Redacted Version of Order on Motion to Renew Provisional Release of Accused Ćorić”, public, 8 March 2013;
- “Order on Motion to Extend Provisional Release of Accused Milivoj Petković”, confidential, 11 March 2013; “Public Redacted Version of ‘Order on Motion to Extend Provisional Release of Accused Milivoj Petković’”, public, 11 March 2013.

ANNEX 3: MAPS REGARDING THE MUNICIPALITY OF MOSTAR

I. Important Locations in West Mostar



Military Command Centres:

1. *Vranica* Building Complex in West Mostar (the location of the headquarters of the 4th Corps of the ABiH in West Mostar, and the HQ of the ABiH)²³⁷
2. Garage on Kalemova Street in West Mostar (HQ of the *Vinko Škrobo* ATG (formerly the *Mrmak*))²³⁸
3. *Tihomir Mišić* Barracks or the North Camp²³⁹

Temporary Detention Locations in West Mostar:

4. Faculty of Mechanical Engineering Building/University of Mostar (formerly the *Džemal Bijedić* University of Mostar)²⁴⁰
5. Heliodrom²⁴¹
6. Faculty/School of Economics in Mostar²⁴²
7. Velež Stadium²⁴³

²³⁷ IC 01230, the building is marked with number 13; IC 00219, the building is marked with letter “b”. *See* also P 09413, p. 4.

²³⁸ P 10037, paras 14, 16 and 17.

²³⁹ IC 00219, the barracks are marked with number 19; IC 00239, the barracks are marked with number 2; for explanations on annotations, *see* Witness CX, T(F), pp. 12704-12705, closed session.

²⁴⁰ IC 01230, the faculty is marked with number 14; IC 00219, the faculty is marked with number IV; P 09413, p. 12; P 09791.

²⁴¹ IC 00219, the Heliodrom is marked with number III; IC 01230, the Heliodrom is marked with number 17.

²⁴² IC 00219, the faculty is marked with number 23.

²⁴³ IC 00204, the stadium is marked with number 3; for explanations on map annotations, *see* Witness CT, T(F), pp. 12148-12151, private session. *See* also IC 01230, the stadium is marked with number 15.

Mosques in West Mostar:

8. *Baba Besir* Mosque (or “*Balinovac* Mosque”) in the Balinovac neighbourhood, on the corner of Braće Bošnjića Street and Dalmatinska Street²⁴⁴
9. *Hadži Ali-Beg Lafo* Mosque (or “*Hadji Ali-Bey Lafa* Mosque”) in Pijesak, across from a primary school²⁴⁵

Other Important Locations:

10. *Aleksića* House, on the Bulevar across from the Medical Centre²⁴⁶
11. Medical Centre²⁴⁷
12. Mostar Old Bridge²⁴⁸
13. East Mostar Hospital/Institute of Hygiene²⁴⁹
 - Čekrk neighbourhood²⁵⁰
 - Stotina neighbourhood²⁵¹
 - Mount Hum²⁵²

²⁴⁴ IC 00020, the mosque is marked with letter C; for explanations on map annotations, *see* Seid Smajkić, T(F), pp. 2558-2559; IC 00204, the mosque is marked with number 2; for explanations on map annotations, *see* Witness CT, T(F), pp. 12148-12151, private session; P 09026, p.7.

²⁴⁵ IC 00204, the mosque is marked with number 1; for explanations on map annotations, *see* Witness CT, T(F), pp. 12148-12151, private session.

²⁴⁶ Witness AC, P 10222 under seal, *Naletilić and Martinović* Case, T(F), pp. 7979-7980, private session; P 03260, pp. 3-4.

²⁴⁷ Witness AC, P 10222 under seal, *Naletilić and Martinović* Case, T(F), pp. 7979-7980, private session; P 03260, pp. 3-4.

²⁴⁸ IC 01230, the bridge is marked with number 3.

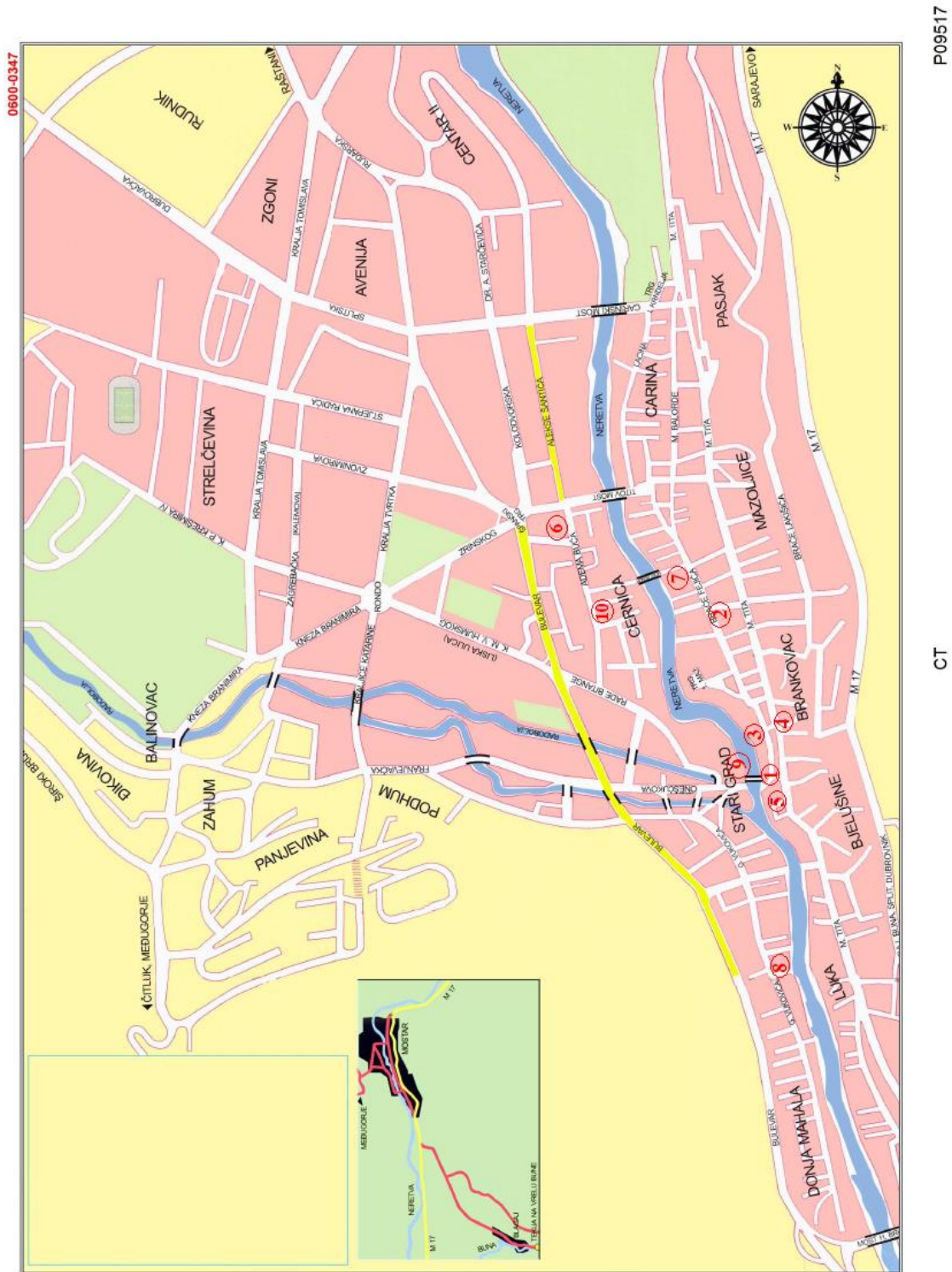
²⁴⁹ IC 00002, the hospital is marked with number 3; for explanations on annotations, *see* Miro Salčin, T(F), p. 1267; IC 00089, the hospital is marked with number 16; IC 00248, the hospital is marked with number 1; for explanations on map annotations, *see* Jovan Rajkov, T(F), p. 12886.

²⁵⁰ IC 00219, the neighbourhood is marked with number 4.

²⁵¹ IC 00298, the neighbourhood is marked with number 2; for explanations on map annotations, *see* Dževad Hadžizukić, T(F), p. 13346.

²⁵² IC 00219, Mount Hum is marked with number 15; IC 01230, Mount Hum is marked with number 16.

II. Mosques Destroyed or Significantly Damaged During the Siege of East Mostar



1. *Sultan Selim Javuz Mosque*²⁵³
2. *Hadži Mehmed-Beg Karadžoz Mosque*²⁵⁴
3. *Koski Mehmed-Paša Mosque*²⁵⁵
4. *Nesuh Aga Vučjaković Mosque*²⁵⁶
5. *Čejvan Čehaja Mosque*²⁵⁷
6. *Hadži Ahmed Aga Lakišić Mosque*²⁵⁸
7. *Roznamedžija Ibrahim Efendija Mosque*²⁵⁹
8. *Ćosa Jahja Hodža Mosque*²⁶⁰
9. *Hadži Kurto or Tabačica Mosque*²⁶¹
10. *Hadži Memija Cernica Mosque*²⁶²

²⁵³ IC 00020, the mosque is marked with number 8; for explanations on map annotations, *see* Seid Smajkić, T(F), pp. 2558 and 2559, and P 08939, pp. 1 and 2.

²⁵⁴ IC 00020, the mosque is marked with number 9; for explanations on map annotations, *see* Seid Smajkić, T(F), pp. 2558 and 2559, and P 08939, pp. 1 and 2; IC 00026, the mosque is marked with number 3; for explanations on map annotations, *see* Suad Jupina, T(F), pp. 4861-4863, 4888, 4891 and 4892, and concerning the said mosque in particular, T(F), p. 4863; IC 00002, the location of the mosques is marked with the letter “X”; for explanations on annotations, *see* Ratko Pejanović, T(F), pp. 1275-1281.

²⁵⁵ IC 00020, the mosque is marked with number 11; for explanations on map annotations, *see* Seid Smajkić, T(F), pp. 2558 and 2559, and P 08939, pp. 1 and 2; IC 00002, the location of the mosques is marked with the letter “X”; for explanations on annotations, *see* Ratko Pejanović, T(F), pp. 1277.

²⁵⁶ IC 00020, the mosque is marked with number 10; for explanations on map annotations, *see* Seid Smajkić, T(F), pp. 2558 and 2559, and P 08939, pp. 1 and 2; IC 00002, the location of the mosques is marked with the letter “X”; for explanations on annotations, *see* Ratko Pejanović, T(F), pp. 1277.

²⁵⁷ IC 00020, the mosque is marked with number 6; for explanations on map annotations, *see* Seid Smajkić, T(F), pp. 2558 and 2559, and P 08939, pp. 1 and 2; IC 00002, the location of the mosques is marked with the letter “X”; for explanations on annotations, *see* Ratko Pejanović, T(F), pp. 1278.

²⁵⁸ IC 00020, the mosque is marked with number 4; for explanations on map annotations, *see* Seid Smajkić, T(F), pp. 2558 and 2559, and P 08939, pp. 1 and 2; IC 00026, the mosque is marked with number 1; for explanations on map annotations, *see* T(F), pp. 4861-4863, 4888, 4891 and 4892, and concerning the said mosque in particular, p. 4861.

²⁵⁹ IC 00020, the mosque is marked with number 5; for explanations on map annotations, *see* Seid Smajkić, T(F), pp. 2558 and 2559, and P 08939, pp. 1 and 2.

²⁶⁰ IC 00020, the mosque is marked with number 7; for explanations on map annotations, *see* Seid Smajkić, T(F), pp. 2558 and 2559, and P 08939, pp. 1 and 2; IC 00002, the location of the mosques is marked with the letter “X”; for explanations on annotations, *see* Ratko Pejanović, T(F), pp. 1278.

²⁶¹ IC 00020, the mosque is marked with number 3; for explanations on map annotations, *see* Seid Smajkić, T(F), pp. 2558 and 2559, and P 08939, pp. 1 and 2; IC 00002, the location of the mosques is marked with the letter “X”; for explanations on annotations, *see* Ratko Pejanović, T(F), pp. 1278.

²⁶² IC 00020, the mosque is marked with number 2; for explanations on map annotations, *see* Seid Smajkić, T(F), pp. 2558 and 2559, and P 08939, pp. 1 and 2; IC 00026, the mosque is marked with number 2; for explanations on map annotations, *see* Suad Čupina, T(F), pp. 4861-4863, 4888, 4891 and 4892, and concerning the said mosque in particular, T(F), p. 4862.

ANNEX 4: LIST OF WITNESSES

<i>Viva Voce Witnesses</i>

- Viva Voce Witnesses for the Prosecution

<i>Name</i>	<i>Date of Testimony</i>	<i>Function</i>
Alija Lizde	1 and 2 May 2007	Journalist and member of the ABiH from April 1992 to 9 May 1993 ²⁶³
Amor Mašović	26 and 27 November 2007	Member, Vice-President and subsequently President of the State Commission of the RBiH for the exchange of prisoners of war and persons deprived of liberty from August 1992 to December 1995 ²⁶⁴
Andrew Pringle	5-7 November 2007	Military expert and retired Major-General of the British Armed Forces ²⁶⁵
Andrew Williams	16-18 October 2006	UNPROFOR intelligence officer in the <i>Cheshire</i> Regiment from November 1992 to May 1993 ²⁶⁶
Antoon van der Grinten	10-12 July 2007	ECMM observer from 23 May 1993 until end of August 1993 ²⁶⁷
Belinda Giles	15 May 2006	Television producer and director of the report "A Greater Croatia" ²⁶⁸
Bo Pellnas	5-7 June 2007	Head of the UNMO from November 1992 to January 1995 ²⁶⁹
Christopher Beese	14 and 15 June, 21, 22 and 23 August 2006	ECMM observer from 2 January to 21 July 1993 ²⁷⁰
Edward Vulliamy	8 and 9 May 2006	Journalist at The Guardian ²⁷¹

²⁶³ Alija Lizde, T(F), pp. 17753 and 17754.

²⁶⁴ Amor Mašović, T(F), p. 25004.

²⁶⁵ Oral decision rendered by the Chamber on 26 June 2006, T(F), pp. 3805 and 3806; P 09549.

²⁶⁶ Andrew Williams, T(F), pp. 8426 and 8427.

²⁶⁷ Antoon van der Grinten, T(F), pp. 20998 and 20999.

²⁶⁸ Belinda Giles, T(F), pp. 2032 and 2034.

²⁶⁹ Bo Pellnas, T(F), p. 19463.

²⁷⁰ Christopher Beese, T(F), p. 3046.

²⁷¹ Edward Vulliamy, T(F), p. 1492.

Enes Delalić	17 May 2007	Muslim inhabitant of the Donja Mahala neighbourhood in Mostar ²⁷²
Ewa Tabeau	23 and 30 August 2007 and 3 September 2007	Demographic expert ²⁷³
Fahrudin Rizvanbegović	22 and 23 May 2006	Vice Dean of the Faculty of Pedagogy at the University of Mostar ²⁷⁴
Fahrudin Agić	31 October 2006, 1 and 2 November 2006	TO member and commander of the Main Staff of the Gornji Vakuf Brigade of the ABiH from October 1992 onwards ²⁷⁵
Fata Kaplan	16 May 2006	Muslim inhabitant of Pješivac Greda, a village near Stolac ²⁷⁶
Ferida Likić	22 March 2007	Muslim inhabitant of Stupni Do ²⁷⁷
Grant Finlayson	7-10 May 2007	UNMO member in BiH from March 1993 to March 1994 ²⁷⁸
Hakan Birger	26 and 27 March 2007	Commander of Nordbat 2 present in Vareš between 1 October 1993 and April 1994 ²⁷⁹
Hasan Hasić	27 November 2006	Agricultural labourer in Rečice village, Čapljina Municipality ²⁸⁰
Ibrahim Šarić	17 August 2006	Head of the communications centre of the 4 th Corps of the ABiH ²⁸¹
Jacqueline Carter	19 and 20 June 2006	General practitioner with Britbat based in Gornji Vakuf from the end of 1992 onwards ²⁸²

²⁷² Enes Delalić, T(F), pp. 18669 and 18670.

²⁷³ “Decision Regarding the Submission of Three Expert Reports of Ewa Tabeau Under Rule 95 *bis* (A) and (B)”, public, 17 August 2007; P 09836; P 09837; P 09835.

²⁷⁴ Fahrudin Rizvanbegović, T(F), p. 2184.

²⁷⁵ Fahrudin Agić, T(F), pp. 9380, 9386, 9387, 9223 and 9224.

²⁷⁶ Fata Kaplan, T(F), p. 2118.

²⁷⁷ Ferida Likić, T(F), p. 16193.

²⁷⁸ Grant Finlayson, T(F), pp. 17996 and 17998.

²⁷⁹ Hakan Birger, T(F), pp. 16314-16317.

²⁸⁰ Hasan Hasić, T(F), pp. 10709, 10710 and 10712.

²⁸¹ Ibrahim Šarić, T(F), pp. 5070 and 5071.

²⁸² Jacqueline Carter, T(F), pp. 3324, 3326-3327, 3329.

Jeremy Bowen	23 and 24 January 2007	Journalist with the BBC during the conflict in the former Yugoslavia ²⁸³
Josip Manolić	3-6 July 2006	High-level Croatian political official. ²⁸⁴ In 1993 he was a member of the Presidential Defence and National Security Council. From March 1993 to April 1994 he was the President of the Upper Chamber of Parliament and a member of the Security Council ²⁸⁵
Josip Praljak	26-29 February 2007	<i>De facto</i> deputy warden of the Heliodrom from 21 September 1992 to 10 December 1993 and co-warden of the Heliodrom from 10 December 1993 to 1 July 1994 ²⁸⁶
Jovan Rajkov	24 and 25 January 2007	Doctor-surgeon in the medical service of the 1 st Battalion of the ABiH ²⁸⁷
Klaus Johann Nissen	25-27 June 2007	ECMM observer from 1 March 1993 to 25 or 26 July 1993 ²⁸⁸
Larry Charles Forbes	16 August 2007	UNCIVPOL member deployed in BiH from 25 May 1993 onwards and posted in Međugorje from 28 June 1993 to the end of December 1993 ²⁸⁹
Marijan Biškić	5-8 March 2007	Assistant minister for security and the Military Police in the HR H-B Ministry of Defence from 1 December 1993 onwards ²⁹⁰

²⁸³ Jeremy Bowen, T(F), pp. 12719 and 12721.

²⁸⁴ Josip Manolić, T(F), pp. 4266-4268.

²⁸⁵ Josip Manolić, T(F), pp. 4266 and 4268.

²⁸⁶ Josip Praljak, T(F), p. 14630.

²⁸⁷ Jovan Rajkov, T(F), p. 12974.

²⁸⁸ Klaus Johann Nissen, T(F), pp. 20405-20407.

²⁸⁹ Larry Forbes, T(F), pp. 21260-21262.

²⁹⁰ Marijan Biškić, T(F), p. 15039.

Marita Vihervuori	27 and 28 August 2007	Journalist present in BiH in 1992 and 1993 ²⁹¹
Milivoj Gagro	29 and 31 May 2006	President of the Mostar Municipal Assembly and of the Mostar Crisis Staff from the end of 1990 to 15 April 1992 ²⁹²
Miroslav Rupčić	8-10 October 2007	HVO officer with the Department of Finance at the Logistics Centre in Grude between August 1992 and 1996 ²⁹³
Muamer Trkić	30 October 2006	Muslim inhabitant of Ždrimci, Gornji Vakuf Municipality ²⁹⁴
Mustafa Hadrović	21 and 22 February 2007	Member of the Public Security Centre in Mostar from 19 September 1991 onwards ²⁹⁵
Nelson Draper	28 and 29 March 2007	UN Military Policeman in 1993 ²⁹⁶
Nermin Malović	19 and 20 February 2007	Press officer in the 44 th Brigade of the ABiH ²⁹⁷
Nicholas J. Miller	24-26 September 2007	History expert ²⁹⁸
Herbert Okun	2-5 April 2007	Deputy co-chairman of the ICFY from September 1992 to May 1993 ²⁹⁹
Omer Hujdur	20 and 21 June 2006	Muslim inhabitant of Prozor and member of the SDA from 24 June 1992 onwards ³⁰⁰
Patrick van der Weijden	7 and 8 February 2007 and 26 March 2007	Sniping expert ³⁰¹

²⁹¹ Marita Vihervuori, T(F), pp. 21569-21571.

²⁹² Milivoj Gagro, T(F), p. 2677.

²⁹³ Miroslav Rupčić, T(F), pp. 23314-23319.

²⁹⁴ Muamer Trkić, T(F), p. 9154.

²⁹⁵ Mustafa Hadrović, T(F), p. 14549.

²⁹⁶ Nelson Draper, T(F), pp. 16452 and 16453.

²⁹⁷ Nermin Malović, T(F), pp. 14330-14332.

²⁹⁸ “Decision Regarding Submission of Two Expert Reports of Nicholas J. Miller Pursuant to Rule 94 *bis* A and B”, public, 13 September 2007; P 10240.

²⁹⁹ Herbert Okun, T(F), p. 16653.

³⁰⁰ Omer Hujdur, T(F), pp. 3473-3474 and 34482.

³⁰¹ Oral Decision rendered by the Chamber on 23 January 2007, T(F), pp. 12712-12713; P 09808.

Peter Galbraith	12-14 September 2006	United States Ambassador to Croatia from 24 June 1993 to 3 January 1998 ³⁰²
Peter Hauenstein	2 and 3 October 2006	Commander with the Canadian forces seconded to the ECMM in BiH between May and end of August 1993 ³⁰³
Philip Watkins	21-24 May 2007	ECMM observer between 1993 and 1995 ³⁰⁴
Ratko Pejanović	4 and 5 May 2006	Commander of a fire-fighting unit and civilian protection in Mostar ³⁰⁵
Raymond (“Ray”) Lane	15-17 October 2007	ECMM official in the Mostar zone from September 1992 to 22 March 1993 ³⁰⁶
Robert J. Donia	10 and 11 May 2006	History expert ³⁰⁷
Safet Idrizović	6-9 November 2006	Officer of the Jablanica TO in 1992 and of the ABiH in 1993 ³⁰⁸
Salem Čerenić	19 March 2007	Member of the ABiH in 1993 ³⁰⁹
Seid Smajkić	24, 25 and 31 May 2006	Mufti of Mostar from 1991 to 1995 ³¹⁰
Sejfo Kajmović	13 and 14 December 2006	Imam of Rečice, Čapljina Municipality ³¹¹
Stjepan Kljuić	26-28 June and 9 October 2006	Founding member and President of the HDZ-BiH from September 1990 to February 1992, and member of the BiH Presidency from 9 December 1990 to 4 November 1992 and from 24 October 1993 to October 1996 ³¹²

³⁰² Peter Galbraith, T(F), p. 6424.

³⁰³ Peter Hauenstein, T(F), pp. 7546, 7547 and 7653.

³⁰⁴ Philip Watkins, T(F), pp. 18748-18749.

³⁰⁵ Ratko Pejanović, T(F), pp. 1229-1230.

³⁰⁶ Raymond (“Ray”) Lane, T(F), pp. 23629, 23638 and 23639.

³⁰⁷ Oral Decision rendered by the Chamber on 25 April 2006, T(F), pp. 790 and 791; P 09536.

³⁰⁸ Safet Idrizović, T(F), pp. 9604, 9625, 9626 and 9838.

³⁰⁹ Salem Čerenić, T(F), pp. 15871 and 15872.

³¹⁰ Seid Smajkić, T(F), p. 2472.

³¹¹ Sejfo Kajmović, T(F), p. 11671.

³¹² Stjepan Kljuić, T(F), pp. 3819-3820.

Suad Ćupina	10 and 11 July 2006	Member of the ABiH ³¹³
Spomenka Drljević	2 and 3 May 2006	Secretary to the commander of the 1 st Mostar Brigade of the ABiH ³¹⁴
Witness A	13 and 14 February 2007	Member of the ABiH ³¹⁵
Witness BB	16-18 April 2007 and 28 and 29 November 2007	Member of an international organisation ³¹⁶
Witness BC	14-16 May and 28 November 2007	Member of an international organisation ³¹⁷
Witness BD	3-5 July 2007	Member of an international organisation ³¹⁸
Witness BH	24-26 April 2007 and 31 May 2007	Diplomat posted in BiH between February 1993 and December 1995 ³¹⁹
Witness BI	23 and 24 May 2006	Muslim inhabitant of the town of Stolac ³²⁰
Witness BJ	22 June 2006, 28-30 August 2006	Member of Spabat ³²¹
Witness BK	23 and 24 August 2006	Muslim inhabitant of Drežnica ³²²
Witness BL	31 August 2006	Member of the TO in Prozor ³²³
Witness BR	10 October 2006	Muslim inhabitant of Prozor ³²⁴
Witness BS	11 October 2006	Muslim inhabitant of Skrobućani, Prozor Municipality ³²⁵
Witness BW	19 October 2006	Local reserve policeman and inhabitant of Paloć village Gornji Vakuf Municipality ³²⁶
Witness BY	27 October 2006	Inhabitant of Duša village, Gornji Vakuf Municipality ³²⁷

³¹³ Suad Ćupina, T(F), pp. 4788-4789.

³¹⁴ Spomenka Drljević, T(F), pp. 999 and 1107.

³¹⁵ Witness A, T(F), p. 14008, closed session.

³¹⁶ Witness BB, T(F), pp. 17133-17134, closed session.

³¹⁷ Witness BC, T(F), pp. 18315-18316, closed session.

³¹⁸ Witness BD, T(F), p. 20676, closed session.

³¹⁹ Witness BH, T(F), pp. 17476-17477, closed session.

³²⁰ Witness BI, T(F), pp. 2392, 2393 and 2396, closed session.

³²¹ Witness BJ, T(F), pp. 3695 and 3696.

³²² Witness BK, T(F), pp. 5460 and 5462, closed session.

³²³ Witness BL, T(F), pp. 5846 and 5846, private session, and 5851.

³²⁴ Witness BR, T(F), pp. 8075-8077, private session.

³²⁵ Witness BS, T(F), pp. 8186-8187, closed session.

³²⁶ Witness BW, T(F), p. 8765.

³²⁷ Witness BY, T(F), p. 9054, private session.

Witness C	17-19 September 2007	Bosnian Croat ³²⁸
Witness CA	13 November 2006	Inhabitant of Doljani village, Jablanica Municipality ³²⁹
Witness CB	14 and 15 November 2006	Member of Spabat ³³⁰
Witness CD	22 November 2006	Muslim inhabitant of Aladinići village, Stolac Municipality ³³¹
Witness CI	30 November 2006	Muslim inhabitant of Bivolje Brdo village, Čapljina Municipality ³³²
Witness CL	4 December 2006	Muslim inhabitant of the town of Stolac ³³³
Witness CO	6 and 7 December 2006	Muslim inhabitant of Višići, Čapljina Municipality ³³⁴
Witness CQ	11 and 12 December 2006	Inhabitant of the Municipality of Stolac and member of the ABiH ³³⁵
Witness CR	8-10 January 2007	Member of the SDA in Stolac ³³⁶
Witness CS	10 and 11 January 2007	Muslim inhabitant of the town of Mostar ³³⁷
Witness CU	15-17 January 2007	Member of the SDA and the ABiH ³³⁸
Witness CV	18 and 22 January 2007	Member of the HVO and subsequently a member of the ABiH as of mid-April 1993 ³³⁹
Witness CY	29 January 2007	Muslim inhabitant of Buna ³⁴⁰
Witness DA	30 January 2007	Muslim inhabitant of Raštani, Mostar Municipality ³⁴¹
Witness DD	20 and 21 February 2007	Muslim inhabitant of Stolac ³⁴²
Witness DE	12-14 March 2007	Croatian inhabitant of Vares ³⁴³

³²⁸ Witness C, T(F), pp. 22310-22312, closed session.

³²⁹ Witness CA, T(F), pp. 10002-10003, private session.

³³⁰ Witness CB, T(F), p. 10096, private session.

³³¹ Witness CD, T(F), p. 10518, private session.

³³² Witness CI, T(F), p. 10894, private session.

³³³ Witness CL, T(F), p. 11043, private session.

³³⁴ Witness CO, T(F), p. 11249, closed session.

³³⁵ Witness CQ, T(F), pp. 11423-11425, private session.

³³⁶ Witness CR, T(F), pp. 11819-11820, private session.

³³⁷ Witness CS, T(F), p. 12016, 12020, 12022 and 12038, private session.

³³⁸ Witness CU, T(F), pp. 12215, 12253 and 12267, closed session.

³³⁹ Witness CV, T(F), pp. 12516, 12517, 12527, 12575, 12623 and 12624.

³⁴⁰ Witness CY, T(F), pp. 13046-13049, closed session.

³⁴¹ Witness DA, T(F), pp. 13136-13137, closed session.

³⁴² Witness DD, T(F), pp. 14422, 14423 and 14425, closed session.

³⁴³ Witness DE, T(F), pp. 15454-15456, closed session.

Witness DF	20 March 2007	Muslim inhabitant of Vareš ³⁴⁴
Witness DG	20 March 2007	Muslim inhabitant of Vareš ³⁴⁵
Witness E	10-13 September 2007	Bosnian Croat ³⁴⁶
Witness EA	12-21 November 2007	Bosnian Croat ³⁴⁷
William Tomljanovich	4-7, 11, 18 and 19 September 2006	History expert ³⁴⁸
Zijada Kurbegović	26 October 2006	Muslim inhabitant of Uzričje village, Gornji Vakuf Municipality ³⁴⁹

- Viva Voce Witnesses for the Defence

<i>Name</i>	<i>Date of Testimony</i>	<i>Function</i>
Adalbert Rebić	19-22 May 2008	Head of the Croatian ODPB from 11 December 1991 to 2 February 1996 ³⁵⁰
Andjelko Makar	23-25 March 2009	Assistant Chief-of-Staff of the 2 nd Corps of the ABiH in charge of operations and training ³⁵¹
Ante Kvesić	25 February 2009	Commander of the war hospital in West Mostar from 29 September 1992 to 20 January 1994 ³⁵²
Borislav Puljić	15-18 September 2008	Director of a publicly-owned enterprise for reconstruction and construction in Mostar between approximately 24 September 1992 and approximately 1993 ³⁵³

³⁴⁴ Witness DF, T(F), p. 15957, closed session.

³⁴⁵ Witness DG, T(F), pp. 15975 and 15976, private session.

³⁴⁶ Witness E, T(F), p. 22005, closed session.

³⁴⁷ Witness EA, T(F), p. 24318 closed session.

³⁴⁸ Oral Decision rendered by the Chamber on 26 June 2006, T(F), pp. 3805 and 3806; P 09545.

³⁴⁹ Zijada Kurbegović, T(F), p. 8949.

³⁵⁰ Adalbert Rebić, T(F), p. 28147.

³⁵¹ Andjelko Makar, T(F), p. 38378.

³⁵² Ante Kvesić, T(F), p. 37391.

³⁵³ Borislav Puljić, T(F), p. 32101.

Božo Pavlović	16-18 November 2009	Member of the Stolac HVO from 1 July 1992 to 3 July 1993 and the Commander of the 3 rd HVO Brigade from 20 July 1993 to 4 October 1993 ³⁵⁴
Božo Perić	8 and 9 December 2009	Assistant Chief of Communications at the HVO Main Staff from October 1992 to April 1994 ³⁵⁵
Bruno Pinjuh	23 and 24 February 2009	Head of the Čitluk Defence Office between 1 June 1992 and July 1994 ³⁵⁶
Damir Zorić	13-15 May 2008	Deputy in the Croatian Parliament and Vice-President of the Chamber of Counties between 5 March 1993 and the end of 1995 ³⁵⁷
Davor Korac	7 April 2009	Member of the HVO battalion in Neum between September 1992 and September 1994 ³⁵⁸
Davor Marijan	19-27 January 2009	Military structure expert ³⁵⁹
Dragan Jurić	27 and 28 April 2009	Assistant Head of Operations and Training in the <i>Herceg Stjepan</i> Brigade of the HVO from September 1992 to 22 March 1993; subsequently Deputy Commander of the <i>Herceg Stjepan</i> Brigade until March 1994 ³⁶⁰

³⁵⁴ Božo Pavlović, T(F), pp. 46787-46788.

³⁵⁵ Božo Perić, T(F), pp. 47868-47870.

³⁵⁶ Bruno Pinjuh, T(F), p. 37225.

³⁵⁷ Damir Zorić, T(F), pp. 27857-27859 and 28062-28064.

³⁵⁸ Davor Korac, T(F), p. 38823.

³⁵⁹ “Decision on Submission of the Expert Report of Davor Marijan Pursuant to Rule 94 *bis* (A) and (B) and on Motions for Additional Time to Cross-Examine Davor Marijan”, public, 11 December 2008; 2D 02000.

³⁶⁰ Dragan Jurić, T(F), pp. 39254 and 39255.

Dragan Pinjuh	4 March 2009	Deputy Commander of the <i>Kralj Tvrtko</i> Brigade of the HVO in Sarajevo from 29 December 1992 to 15 August 1993 and subsequently the commander of a unit for the protection of facilities and individuals of special importance within the MUP ³⁶¹
Dragutin Čehulić	1 April 2009	HV member in charge of supplies ³⁶²
Filip Filipović	30 November, 1-3 and 7 December 2009	HVO representative in the HVO/ABiH joint command from April 1993 to June 1993 ³⁶³
Hamid Bahto	11 March 2009	Commander of the Municipal Staff of the Stari Grad TO in Sarajevo from 6 April 1992 onwards and subsequently the head of a section in the Intelligence Administration of the ABiH Main Staff ³⁶⁴
Ilija Kožulj	22-24 September 2008	Minister of Transport and Communications in the HR H-B from 1993 to 1995 ³⁶⁵
Ivan Bagarić	20-23 April 2009	Assistant Head of the HVO Defence Department in charge of the health sector between September 1992 and 1996 ³⁶⁶
Ivan Bandić	16-19 March 2009	Employee of the SIS Administration, first in Mostar and subsequently in the HVO Main Staff, between July 1992 and autumn 1994 ³⁶⁷

³⁶¹ Dragan Pinjuh, T(F), p. 37695.

³⁶² Dragutin Čehulić, T(F), pp. 38685 and 38686.

³⁶³ Filip Filipović, T(F), p. 47399.

³⁶⁴ Hamid Bahto, T(F), pp. 37893-37895

³⁶⁵ Ilija Kožulj, T(F), p. 32496.

³⁶⁶ Ivan Bagarić, T(F), p. 38873.

³⁶⁷ Ivan Bandić, T(F), p. 37992.

Ivan Beneta	9-11 November 2009	Commander of the 116 th Brigade of the HV from 4 June 1992 until March 1993 and chief of anti-aircraft defence at the Split Military District Command from March 1993 onwards ³⁶⁸
Slobodan Janković	30 June and 1 July 2008	Military expert ³⁶⁹
Josip Jurčević	14-17 September 2009	History expert ³⁷⁰
Marinko Šimunović	20-23 October 2008	Co-ordinator and executive manager of the Mostar Red Cross from June 1992 to April 1998 ³⁷¹
Mario Miloš	30 March 2009	Warehouseman in charge of issuing MTS at the Duboki Jarek depot in the Zagreb area in 1992 ³⁷²
Martin Raguž	25-28 August 2008	Minister of social affairs, refugees and displaced persons in BiH from June 1992 to July 1993; Deputy Head of the ODPH of the HZ H-B between 31 May 1993 and 1 December 1993; Head of the ODPH between 1 December 1993 and the spring of 1994 ³⁷³
Milan Cvikl	12-15 January 2009	Economic expert ³⁷⁴
Milan Gorjanc	27 October-3 November 2009	Military expert ³⁷⁵

³⁶⁸ Ivan Beneta, T(F), pp. 46546, 46552, 46562 and 46610.

³⁶⁹ “Order to Admit Evidence Regarding Expert Witness Slobodan Janković and Expert Witness Heinrich Pichler”, 25 May 2010; 3D 03208.

³⁷⁰ “Order on the Qualifications as Expert and Mode of Questioning of Witness Josip Jurčević”, 22 April 2009; 3D 03720.

³⁷¹ Marinko Šimunović, T(F), pp. 33397 and 33402.

³⁷² Mario Miloš, T(F), p. 38642.

³⁷³ Martin Raguž, T(F), pp. 31240-31244.

³⁷⁴ “Order on Modalities of the Hearing of Expert Witness Milan Cvikl”, 10 December 2008; 1D 03111.

³⁷⁵ “Order on Allocation of Time for the Examination of Expert Witness Milan Gorjanc”, 12 October 2009; 4D 01731.

Mile Akmadžić	16-24 June 2008	Prime Minister of the RBiH from 10 November 1992 to 27 August 1993 and the Vice-President of the HDZ-BiH from 14 November 1992 onwards, and subsequently a member of the Presidential Council of the HR H-B from 17 February 1994 onwards ³⁷⁶
Milivoj Petković (Accused's testimony as witness)	11 February 2010 - 11 March 2010	Deputy to Janko Bobetko, commander of the HV forward command post in Grude; Chief of the HVO Main Staff (14 April 1992 - 24 July 1993); Deputy Commander of the HVO Main Staff (24 July 1993 - 9 November 1993); Deputy Commander and Deputy Chief of the Main Staff (9 November 1993 - 6 April 1994); Chief of the HVO Main Staff (26 April 1994 - 5 August 1994) ³⁷⁷
Miomir Žužul	6–8 May 2008 and 21–22 July 2008	Advisor for national security to President Tuđman from September 1992 onwards; special envoy of President Tuđman to the Conference on the former Yugoslavia; Croatian ambassador to the United Nations in Geneva from 1 February 1993 until 1996 ³⁷⁸
Mirko Zelenika	13-16 October 2008	President of the Executive Council of Jablanica Municipality between 11 March 1992 and 29 October 1992 ³⁷⁹

³⁷⁶ Mile Akmadžić, T(F), pp. 29324-29326 and 29639.

³⁷⁷ Milivoj Petković, T(F), pp. 49284-49287.

³⁷⁸ Miomir Žužul, T(F), pp. 27610-27612.

³⁷⁹ Mirko Zelenika, T(F), p. 32992.

Miroslav Crnković	22 September 2009	Member of the HV special police from March to June 1991 and member of the 2 nd Guards Brigade from June 1991 to 7 July 1992 ³⁸⁰
Miroslav Palameta	29 September and 1 October 2008	Deputy Head of the Office for Education in the HZ H-B from autumn 1992 to August 1993 and subsequently the Deputy Minister of Education of the HR H-B from August 1993 until 1994 ³⁸¹
Nedžad Čengić	11 March 2009	Member of the BiH MUP from 1992 until March 1993 ³⁸²
Neven Tomić	27–30 October and 3, 4, 17 and 18 November 2008	High-ranking official of Finance Office of the HVO of the HZ H-B and subsequently of the HR H-B between 15 August 1992 and 15 June 1996 ³⁸³
Slobodan Praljak (Accused's testimony as witness)	5 May - 10 September 2009	Assistant Minister of Defence of Croatia in charge of IPD between March 1992 and approximately 15 June 1993 and subsequently the Commander of the HVO Main Staff from 24 July to 8 November 1993 ³⁸⁴
Radmilo Jasak	18-27 January 2010	VOS member within the HVO Main Staff from October 1992 to August 1993 ³⁸⁵
Slobodan Božić	2-10 February 2009	Deputy Head of the Department of Defence of the HZ H-B between September 1992 and 20 November 1993 ³⁸⁶

³⁸⁰ Miroslav Crnković, T(F), p. 45107.

³⁸¹ Miroslav Palameta, T(F), pp. 32772 and 32777-32779.

³⁸² Nedžad Čengić, T(F), pp. 37941 and 37942.

³⁸³ Neven Tomić, T(F), pp. 33705, 33720 and 33724.

³⁸⁴ Slobodan Praljak, T(F), pp. 43822 and 44515.

³⁸⁵ Radmilo Jasak, T(F), pp. 48445-48446.

³⁸⁶ Slobodan Božić, T(F), pp. 36157 and 36675.

Stipo Buljan	11 and 12 February 2009	Head of the Welfare Section in the Bosanska Posavina OZ from April 1993 until 1995 ³⁸⁷
Svetlana Radovanović	24-26 November 2008	Demographic expert ³⁸⁸
Witness 2D-AB	2 and 3 March 2009	Member of the HVO between April 1992 and June 1995 ³⁸⁹
Witness 4D-AA	8 and 9 February 2010	Member of the HVO Main Staff ³⁹⁰
Witness 4D-AB	23-26 November 2009	Member of the HVO ³⁹¹
Žarko Primorac	24-26 June 2008	Minister of Finance of the RBiH from 15 June 1992 to 23 December 1992 ³⁹²
Tihomir Majić	9 March 2009	Member of the Defence Department in charge of the Procurement and Production Sector from May 1993 to 1997 ³⁹³
Tomislav Krešić	2 April 2009	President of Neum Municipality between 1988 and 1990 and subsequently the manager of a hotel in Neum ³⁹⁴
Veso Vegar	16-19 February 2009	Official in charge of the IPD of the HZ(R) H-B between September 1992 and June 1994 ³⁹⁵
Vinko Marić	11-14 January 2010	Commanding officer in charge of artillery in the South-East OZ from 10 November 1992 to April 1994 ³⁹⁶
Vlado Šakić	5 and 6 October 2009	Expert in socio-psychology ³⁹⁷

³⁸⁷ Stipo Buljan, T(F), pp. 36726, 36728 and 36729.

³⁸⁸ “Order on Modalities of the Testimony of Expert Witness Svetlana Radovanović”, public, 21 November 2008; 1D 03110.

³⁸⁹ Witness 2D-AB, T(F), pp. 37488-37489, private session.

³⁹⁰ Witness 4D-AA, T(F), pp. 49091-49092, closed session.

³⁹¹ Witness 4D-AB, T(F), pp. 47064 and 47065, private session.

³⁹² Žarko Primorac, T(F), p. 29875.

³⁹³ Tihomir Majić, T(F), pp. 37807-37809.

³⁹⁴ Tomislav Krešić, T(F), pp. 38727-38729.

³⁹⁵ Veso Vegar, T(F), pp. 36887-36890.

³⁹⁶ Vinko Marić, T(F), p. 48090.

³⁹⁷ “Order on the Qualifications as Expert and Mode of Questioning of Witness Vlado Šakić”, public, 6 May 2009; 3D 03721.

Zdenko Andabak	15, 17 and 18 March 2010	Commander of the Military Police in the North-West OZ between 1 July and 25 November 1992; Commander of the 2 nd Military Police Battalion between 25 November 1992 and 10 February 1993; Head of the General and Traffic Police Department between 10 February 1993 and 28 June 1993; Assistant Chief of the Military Police Administration for the North-West OZ from 28 June to end of November 1993; Commander of the 2 nd Military Police Battalion from end of November 1993 to March 1994 ³⁹⁸
Zdravko Batinić	10-13 November 2008	President of the Executive Council of the Municipal Assembly of Gornji Vakuf from 1 January 1992 to 11 January 1993, and member of the HVO from 13 January 1993 onwards ³⁹⁹
Zdravko Sančević	26-29 May 2008	Croatian ambassador to BiH from August 1992 until early 1996 ⁴⁰⁰
Zoran Buntić	7-18 July 2008	Head of the Department of Justice and General Administration of the HZ H-B from 20 June 1992 to 28 August 1993 ⁴⁰¹
Zoran Perković	1-4 September 2008	Advisor in the commission for legislative and legal matters of the HVO and subsequently the HR H-B from mid-December 1992 and throughout 1994 ⁴⁰²

³⁹⁸ Zdenko Andabak, T(F), pp. 50903 and 50904.

³⁹⁹ Zdravko Batinić, T(F), p. 34280.

⁴⁰⁰ Zdravko Sančević, T(F), p. 28520.

⁴⁰¹ Zoran Buntić, T(F), pp. 30243-30245.

⁴⁰² Zoran Perković, T(F), p. 31623.

Zrinko Tokić	29-30 September 2009 and 1 October 2009	Commander of the <i>Ante Starčević</i> Brigade of the HVO in Gornji Vakuf from September 1992 to May 1994 ⁴⁰³
Zvonko Vidović	29 March - 1 April 2010	Operative in the Crime Prevention Department of the Military Police from October 1992 to the summer of 1993; Head of the Crime Prevention Department in the 5 th Battalion of the HVO Military Police from early November 1993 to mid-December 1993; Acting Head of the Crime Investigation Department of the Military Police Administration in Ljubuški in early November 1993 to mid-December 1993 ⁴⁰⁴

92 bis Witnesses

- 92 bis Witnesses for the Prosecution

<i>Name</i>	<i>Date of Statement or Testimony in Another Case</i>	<i>Function</i>
Ahmet Alić	5 April 2001	Imam of Lokve, Čapljina Municipality ⁴⁰⁵
Aiša Kaplan	8 November 2001	Muslim inhabitant of Pješivac village, Stolac Municipality ⁴⁰⁶
Aldijana Trbonja	27 March 2001	Muslim inhabitant of Bivolje Brdo village, Čapljina Municipality ⁴⁰⁷

⁴⁰³ Zrinko Tokić, T(F), pp. 45339-45340.

⁴⁰⁴ Zvonko Vidović, T(F), pp. 51438-51439.

⁴⁰⁵ P 10125, p. 2.

⁴⁰⁶ P 09945, p. 2.

⁴⁰⁷ P 09937, p. 2.

Ale Sakoć	7 March 1998	Muslim member of the <i>Knez Domagoj</i> Brigade between April/May 1992 and 1 July 1993 ⁴⁰⁸
Alija Šuta	15 February 2000	Muslim agricultural labourer in Opličići village, Čapljina Municipality, and president of a Muslim humanitarian organisation ⁴⁰⁹
Alistair Rule	27 July 1999, <i>Kordić & Čerkez</i> Case	Commander with BritBat in charge of liaison officers in Central Bosnia between mid-October 1992 and 16 January 1993 ⁴¹⁰
Amira Hadžibegović	11 June 2002	Muslim inhabitant of Duge ⁴¹¹
Anthony Turco	5 and 6 August 2001	Member of the UNMO in Tomislavgrad between October and December 1993 and in East Mostar from December 1993 to 17 March 1994 ⁴¹²
Arif Gosto	2 July 2004	Muslim inhabitant of East Mostar ⁴¹³
Behaim Šabić	19 September 2002	Member of the Družnovići TO, Prozor Municipality ⁴¹⁴
Daniel Ekberg	4 and 5 July 1995 and 1 and 2 December 1995	Military assistant to Ulf Henricsson, Nordbat colonel, from 15 September 1993 to April 1994 ⁴¹⁵
Denis Šarić	26 and 27 May and 21 August 2000	Muslim inhabitant of the town of Stolac ⁴¹⁶
Derviša Plivčić	15 January 2004	Muslim inhabitant of Uzričje village ⁴¹⁷

⁴⁰⁸ P 10037, p. 2.

⁴⁰⁹ P 10112, pp. 1 and 2.

⁴¹⁰ Alistair Rule, P 09803, *Kordić and Čerkez* Case, T(F), p. 5359.

⁴¹¹ P 09722, pp. 1 and 2.

⁴¹² P 10047, p. 2.

⁴¹³ P 10046, p. 2.

⁴¹⁴ P 09723, pp. 1 and 2.

⁴¹⁵ P 10238, p. 1 and paras 1 and 2.

⁴¹⁶ P 10143, pp. 1 and 2.

Dulka Brica	15 January 2004	Muslim inhabitant of Ždrimci, Gornji Vakuf Municipality ⁴¹⁸
Dževad Bećirović	23 June 2004	Muslim inhabitant of Prozor ⁴¹⁹
Edin Baljić	6 and 14 November 2001	Muslim inhabitant of Borojevići village, Stolac Municipality, and member of the HVO ⁴²⁰
Enver Jusufović	26 September 1998	Muslim inhabitant of West Mostar ⁴²¹
Enver Vilogorac	23 February 2002	Muslim member of the HVO ⁴²²
Fadil Elezović	28 February 1998	Muslim member of the HVO ⁴²³
Fatima Fazlagić	30 August 2001	Muslim inhabitant of West Mostar ⁴²⁴
Fatima Šoše	2 April 2001	Muslim inhabitant of Bivolje Brdo, Čapljina Municipality ⁴²⁵
Halid Jazvin	9 March 1999	Muslim member of the HVO ⁴²⁶
Hasib Zečić	10 and 11 October 2001	Member of the ABiH ⁴²⁷
Hikmeta Rizvanović	7 February 2001	Director of the Stolac library ⁴²⁸
Šejla Humačkić	9 November 2001	Muslim inhabitant of Pješivac Greda village, Stolac Municipality ⁴²⁹
Huso Marić	14 November 2002	Member of the <i>Bregava</i> Brigade ⁴³⁰
Ibro Pilav	19 February 2001	Muslim from Lapsunj, Prozor Municipality, member of the ABiH ⁴³¹

⁴¹⁷ P 09169 under seal, p. 13 and para 8.

⁴¹⁸ P 09797, p. 1 and para. 7.

⁴¹⁹ P 09990, p. 1 and para. 7.

⁴²⁰ P 09943, p. 1 and para. 4.

⁴²¹ P 10035, pp. 1 and 2.

⁴²² P 10145, pp. 1 and 3.

⁴²³ P 10208, p. 1 and para. 1.

⁴²⁴ P 10042, pp. 1 and 2.

⁴²⁵ P 09935, pp. 1 and 2.

⁴²⁶ P 10213, p. 1 and para. 2.

⁴²⁷ P 09989, pp. 1-3.

⁴²⁸ P 09947, pp. 1 and 2.

⁴²⁹ P 09986, pp. 1 and 2.

⁴³⁰ P 10138, p. 1 and para. 6.

⁴³¹ P 09197, pp. 10 and 11.

Ibro Selimović	19 February 2001	Muslim inhabitant of Lug village, Prozor Municipality ⁴³²
Ibro Zlomužica	7 February 2000	Imam of Borojevići village, Stolac Municipality ⁴³³
Jan Koet	2 November 2006	Legal advisor to the UNPROFOR commander in Kiseljak from September 1993 onwards ⁴³⁴
Jasmina Čišić	27 February 1998	Muslim inhabitant of West Mostar ⁴³⁵
Kada Likić	8 February 1996	Muslim inhabitant of Stupni Do ⁴³⁶
Kajdafa Husić	5 February 2002	Muslim inhabitant of Parčani village, Prozor Municipality ⁴³⁷
Kemal Lizde	1 and 2 October 1996	Muslim inhabitant of Čapljina ⁴³⁸
Kemal Šljivo	27 May 1997	Muslim inhabitant of Duša village, Gornji Vakuf Municipality ⁴³⁹
Marita Sundstrom	8 July 1995	Nordbat photographer in Vareš from August 1993 to June 1994 ⁴⁴⁰
Martin Mol	6 and 7 November 2001	ECMM member in Mostar between 20 August 1993 and 29 October 1993 ⁴⁴¹
Mujo Čopelj	24 September 2002	Muslim inhabitant of Bijeli Brijeg in Mostar West ⁴⁴²
Muris Marić	20 September 2002	Muslim member of the HVO ⁴⁴³

⁴³² P 09193, pp. 19 and 20.

⁴³³ P 09948, p. 1 and para. 2.

⁴³⁴ P 10092, p. 1 and para. 2.

⁴³⁵ P 10038, pp. 1 and 2.

⁴³⁶ P 10075, p. 1 and para. 3.

⁴³⁷ P 09196 under seal, paras 10 and 11.

⁴³⁸ P 10137, p. 1 and para. 2.

⁴³⁹ P 10110, pp. 1 and 2.

⁴⁴⁰ P 10094, pp. 1 and 2.

⁴⁴¹ P 10039, p. 1 and paras 3 and 32.

⁴⁴² P 10032, pp. 1 and 2.

⁴⁴³ P 10033, pp. 1 and 2.

Mustafa Burić	28 August and 1 September 2001	ABiH soldier and Muslim inhabitant of East Mostar ⁴⁴⁴
Mustafa Salman	27 April 1996 and 11 December 1998	Haulier in the ABiH ⁴⁴⁵
Nedžad Bobeta	10 December 1998	Inhabitant of West Mostar and an ABiH soldier ⁴⁴⁶
Nedžad Čaušević	27 May 1997	Muslim inhabitant of Ždrimci, Gornji Vakuf Municipality ⁴⁴⁷
Nicholas Short	24 June 1999, <i>Blaškić</i> Case	Member of Britbat in Gornji Vakuf from December 1992 to June 1993 ⁴⁴⁸
Ole Brix-Andersen	30 November and 1 December 1999, <i>Kordić and Čerkez</i> Case	ECMM observer from September to December 1992 and subsequently the deputy head of the ECMM in Zagreb from 1 January 1993 to 1 July 1993 ⁴⁴⁹
Osmin Osmić	31 January 2002	Member of the Paljke TO, Prozor Municipality ⁴⁵⁰
Patrick Martin	30 November 1993	Member of the UNMO present in Central Bosnia in October 1993 ⁴⁵¹
Patrik Gustafsson	10 July 1995	Member of Nordbat, stationed in Vareš in October and November 1993 ⁴⁵²
Rolf Weckesser	21 October 1993, <i>Kordić and Čerkez</i> Case	Member of the ECMM based in Travnik between October 1993 and December 1993 ⁴⁵³
Ruzdi Ekenheim	6 July 1995	Member of Nordbat between September 1993 and July 1994 ⁴⁵⁴

⁴⁴⁴ P 10044, pp. 1 and 2.

⁴⁴⁵ P 10233, p. 1 and para. 4.

⁴⁴⁶ P 10122, pp. 1 and 2.

⁴⁴⁷ P 09201, pp. 17 and 18.

⁴⁴⁸ Nicholas Short, P 09804, *Blaškić* Case, T(F), pp. 22640 and 22641.

⁴⁴⁹ Ole Brix-Andersen, P 10356, *Kordić and Čerkez* Case, T(F), p. 10795.

⁴⁵⁰ P 09207, pp. 14 and 15.

⁴⁵¹ P 10202, p. 1.

⁴⁵² P 10084, p. 1, para. 1.

⁴⁵³ Rolf Weckesser, P 10104, *Kordić and Čerkez* Case, T(F), p. 9042.

Sabajra Gaš	4 September 2001	Muslim inhabitant of East Mostar ⁴⁵⁵
Sabina Hajdarović	10 November 2001	Muslim inhabitant of Stolac ⁴⁵⁶
Sabira Hasić	21 February 2002	Muslim inhabitant of Domanovići village, Čapljina Municipality ⁴⁵⁷
Sadeta Čiber	2 April 2001	Muslim inhabitant of Bivolje Brdo village, Čapljina Municipality ⁴⁵⁸
Salko Osmić	26 and 27 September 2001, <i>Naletilić and Martinović</i> Case	Inhabitant of Prozor Municipality and a member of the ABiH ⁴⁵⁹
Sead Delalić	13 June, 28 August and 31 August 2000	Local police officer in Livno ⁴⁶⁰
Šefik Ratkušić	9 December 1998	Muslim inhabitant of Stolac ⁴⁶¹
Šemso Germić	8 February 2000	Imam of the town of Prozor ⁴⁶²
Senad Dumpor	8 October 1998	Muslim from Raštani village ⁴⁶³
Senad Zahirović	20 September 1999 and 30 January 2002	Muslim inhabitant of Hrasnica village, Gornji Vakuf Municipality ⁴⁶⁴
Witness AC	14-17 January 2002, <i>Naletilić and Martinović</i> Case	Muslim soldier in the HVO ⁴⁶⁵
Witness AI	17 February 2000, <i>Kordić and Čerkez</i> Case	Member of the Stupni Do TO ⁴⁶⁶
Witness AP	12-14 September 2001, <i>Naletilić and Martinović</i> Case	Bosnian Muslim and member of the SDA ⁴⁶⁷

⁴⁵⁴ P 10090, p. 1.

⁴⁵⁵ P 10045, pp. 1 and 2.

⁴⁵⁶ P 09944, p. 1 and para. 4.

⁴⁵⁷ P 09931, pp. 1 and 2.

⁴⁵⁸ P 09929, p. 1 and para. 11.

⁴⁵⁹ Salko Osmić, P 09876 under seal, *Naletilić and Martinović* Case, T(F), pp. 3122 and 3155.

⁴⁶⁰ P 10117, pp. 1 and 2.

⁴⁶¹ P 10229, p. 1 and para. 2.

⁴⁶² P 09194, pp. 15 and 16.

⁴⁶³ P 10036, p. 1 and para. 1.

⁴⁶⁴ P 10106, p. 1 and 1.

⁴⁶⁵ Witness AC, P 10222 under seal, *Naletilić and Martinović* Case, T(F), p. 7894.

⁴⁶⁶ Witness AI, P 10014 under seal, *Kordić and Čerkez* Case, T(F), pp. 14526 and 14529-14531, closed session.

⁴⁶⁷ Witness AP, P 10026 under seal, *Naletilić and Martinović* Case, T(F), p. 2064, closed session.

Witness D	29 July 2001, <i>Naletilić and Martinović Case</i>	Muslim inhabitant of Sovići village ⁴⁶⁸
Witness DR	10 February 2000	Member of the Prozor TO ⁴⁶⁹
Witness DS	4 April 2001	Muslim inhabitant of Čapljina ⁴⁷⁰
Witness DT	15-17 February 2000 and 7 April 2000	Muslim inhabitant of Stolac ⁴⁷¹
Witness DU	10 March 1999	Muslim inhabitant of Jablanica Municipality ⁴⁷²
Witness DY	6 March 1998	Muslim inhabitant of West Mostar ⁴⁷³
Witness EB	31 May 2000	Muslim member of the HVO ⁴⁷⁴
Witness EC	29 May 1997	Inhabitant of Lokve village, Čapljina Municipality ⁴⁷⁵
Witness ED	8 November 2002	Present in Gabela Prison from approximately May 1993 until 18 October 1993 ⁴⁷⁶
Witness EE	26 and 27 May 2000, 22 August 2000 and 6, 13 and 15 February 2001	Muslim member of the HVO ⁴⁷⁷
Witness EF	28 June 2002	Member of the ABiH in Stolac ⁴⁷⁸
Witness EG	30 and 31 January 1996	Muslim inhabitant of Stupni Do ⁴⁷⁹
Witness EH	18 March 1999	Member of the ABiH ⁴⁸⁰
Witness EJ	1 August 2001, <i>Naletilić and Martinović Case</i>	Muslim member of the HVO ⁴⁸¹

⁴⁶⁸ Witness D, P 09870 under seal, *Naletilić and Martinović Case*, T(F), p. 902, private session.

⁴⁶⁹ P 09204 under seal, pp. 17 and 18.

⁴⁷⁰ P 09933 under seal, pp. 1 and 2.

⁴⁷¹ P 09946 under seal, p. 1 and para. 6.

⁴⁷² P 09867 under seal, pp. 11 and 12.

⁴⁷³ P 10034 under seal, p. 1 and para. 1.

⁴⁷⁴ P 10127 under seal, pp. 1-4.

⁴⁷⁵ P 10129 under seal, p. 1 and para. 4.

⁴⁷⁶ P 10133 under seal, p. 1 and para. 7.

⁴⁷⁷ P 10135 under seal, p. 1 and para. 24.

⁴⁷⁸ P 10140 under seal, pp. 1 and 2.

⁴⁷⁹ P 10072 under seal, p. 1 and para. 3.

⁴⁸⁰ P 10206 under seal, p. 1 and para. 2.

⁴⁸¹ Witness EJ, P 10227 under seal, *Naletilić and Martinović Case*, T(F), p. 1497.

Witness GG	31 October and 1 November 2001, <i>Naletilić and Martinović Case</i>	Inhabitant of West Mostar ⁴⁸²
Witness HH	1 and 5 November 2001, <i>Naletilić and Martinović Case</i>	Muslim inhabitant of East Mostar and member of the ABiH ⁴⁸³
Witness II	5 and 7 October 2001, <i>Naletilić and Martinović Case</i>	Muslim member of the HVO ⁴⁸⁴
Witness J	6-8 February 2004	Bosnian Croat ⁴⁸⁵
Witness JJ	6 and 7 November 2001, <i>Naletilić and Martinović Case</i>	Member of Spabat ⁴⁸⁶
Witness K	24-26 March 2004	Member of the HVO ⁴⁸⁷
Witness LL	8 and 9 November 2001, <i>Naletilić and Martinović Case</i>	Member of Spabat ⁴⁸⁸
Witness NN	16 November 2001, <i>Naletilić and Martinović Case</i>	Member of the ABiH ⁴⁸⁹
Witness OO	19 and 20 November 2001, <i>Naletilić and Martinović Case</i>	Muslim member of the HVO ⁴⁹⁰
Witness PP	20 and 21 November 2001, <i>Naletilić and Martinović Case</i>	Member of the ABiH in Mostar ⁴⁹¹
Witness RR	27 November 2001, <i>Naletilić and Martinović Case</i>	Member of the ABiH in Sovići ⁴⁹²
Witness TT	29 November 2001, <i>Naletilić and Martinović Case</i>	Member of the ABiH, Jablanica Municipality ⁴⁹³
Witness U	25 and 26 September 2001, <i>Naletilić and Martinović Case</i>	Muslim inhabitant of West Mostar ⁴⁹⁴
Witness W	27 and 28 September 2001, <i>Naletilić and Martinović Case</i>	Member of the TO in the Sovići region ⁴⁹⁵

⁴⁸² Witness GG, P 10020 under seal, *Naletilić and Martinović Case* T(F), p. 4741.

⁴⁸³ Witness HH, P 10113 under seal, *Naletilić and Martinović case*, T(F), p. 4783, open session, p. 4882, private session, and T(E), p. 4893.

⁴⁸⁴ Witness II, P 10218 under seal, *Naletilić and Martinović Case*, T(F), p. 4940.

⁴⁸⁵ P 10082 under seal, p. 1 and para. 30.

⁴⁸⁶ Witness JJ, P 09880 under seal, *Naletilić and Martinović Case*, T(F), pp. 4990, 4993 and 4994.

⁴⁸⁷ P 10080 under seal, pp. 6 and 22.

⁴⁸⁸ Witness LL, P 09881 under seal, *Naletilić and Martinović Case*, T(F), pp. 5204 and 5205.

⁴⁸⁹ Witness NN, P 10219 under seal, *Naletilić and Martinović Case*, T(F), pp. 5874 and 5876.

⁴⁹⁰ Witness OO, P 10224 under seal, *Naletilić and Martinović Case*, T(F), pp. 5935 and 5936.

⁴⁹¹ Witness PP, P 10223 under seal, *Naletilić and Martinović Case*, T(F), pp. 6070 and 6071.

⁴⁹² Witness RR, P 09872 under seal, *Naletilić and Martinović Case*, T(F), pp. 6471, 6472 and 6480.

⁴⁹³ Witness TT, P 09879 under seal, *Naletilić and Martinović Case*, T(F), p. 6627.

⁴⁹⁴ Witness U, P 10220 under seal, *Naletilić and Martinović Case*, T(F), pp. 2911 and 2934, private session.

⁴⁹⁵ Witness W, P 09875 under seal, *Naletilić and Martinović Case*, T(F), p. 3175.

Witness WW	5 and 6 December 2001, <i>Naletilić and Martinović Case</i>	Inhabitant of West Mostar ⁴⁹⁶
Witness X	28 September 2001, <i>Naletilić and Martinović Case</i>	Muslim inhabitant of Sovići ⁴⁹⁷
Witness Y	8 and 9 October 2001, <i>Naletilić and Martinović Case</i>	Member of the ABiH in Sovići, Jablanica Municipality ⁴⁹⁸
Ulf Henricsson	3 and 4 July 1995	Commander of Nordbat from 1 September 1993 to 6 April 1994 ⁴⁹⁹
Zijad Vujinović	3 July 2002	Muslim inhabitant of Prenj village, Stolac Municipality ⁵⁰⁰

⁴⁹⁶ Witness WW, P 10024 under seal, *Naletilić and Martinović Case*, T(F), pp. 7009 and 7083, closed session.

⁴⁹⁷ Witness X, P 09874 under seal, *Naletilić and Martinović Case*, T(F), pp. 3304 and 3332.

⁴⁹⁸ Witness Y, P 09873 under seal, *Naletilić and Martinović Case*, revised version of T(F), pp. 4 and 54.

⁴⁹⁹ P 10087, p. 1 and para. 1.

⁵⁰⁰ P 10147, pp. 1 and 3.

- 92 bis Witnesses for the Defence

<i>Name</i>	<i>Date of Statement or Testimony</i>	<i>Function</i>
Jacques Paul Klein (Character witness for the Accused Prlić)	30 June 2008	Representative of the international community from January 1996 to January 2003 ⁵⁰¹
Wolfgang Petritsch (Character witness for the Accused Prlić)	15 October 2008	Representative of the international community from August 1999 to May 2002 ⁵⁰²
Carlos Westendorp (Character witness for the Accused Prlić)	9 October 2008	Representative of the international community from 1997 to 1999 ⁵⁰³
Carl Bildt (Character witness for the Accused Prlić)	24 October 2008	Representative of the international community from the end of spring 1995 to the summer of 1997 ⁵⁰⁴
Bogoljub Zurovac (Character witness for the Accused Praljak)	25 October 2004	Serbian inhabitant of Grabovina village, Čapljina Municipality ⁵⁰⁵
Duško Ljuština (Character witness for the Accused Praljak)	24 July 2008 (statement taken in June 2005)	Director of a theatre in Zagreb ⁵⁰⁶
Goran Moro (Character witness for the Accused Praljak)	5 June 2008 (statement taken in September 2005)	Head of the medical corps in a JNA garrison in Čapljina between 1990 and 24 April 1992 ⁵⁰⁷
3DB	November 2005	Member of the 1 st Mostar Brigade ⁵⁰⁸
Jadranko Barišić	13 May 2008	Surgeon in the HV ⁵⁰⁹
Žarko Pavlović	September 2005 and 8 March 2006	Deputy Commander for security in the 1 st Knez Domagoj Brigade ⁵¹⁰

⁵⁰¹ 1D 03041, p. 3.

⁵⁰² 1D 03042, p. 1.

⁵⁰³ 1D 03043, pp. 2 and 3.

⁵⁰⁴ 1D 03098, p. 1.

⁵⁰⁵ 3D 03666, pp. 1 and 2.

⁵⁰⁶ 3D 03609, p. 2.

⁵⁰⁷ 3D 03707, p. 1.

⁵⁰⁸ 3D 03705 under seal, p. 1 and paras 9-11.

⁵⁰⁹ 3D 03768, p. 1.

92 ter Witnesses

- 92 ter Witnesses for the Prosecution

<i>Name</i>	<i>Date of Testimony</i>	<i>Function</i>
Anel Heljić	1 February 2007	Muslim inhabitant of East Mostar ⁵¹¹
Azra Krajšek	18-21 June 2007	Employee of the Ministry of Foreign Affairs, Attaché for Refugees at the BiH Embassy in Zagreb between 1 March 1993 and 31 August 1994 ⁵¹²
Belkisa Beriša	12 February 2007	Muslim inhabitant of Rodoć and from September 1993 onwards of East Mostar ⁵¹³
Cedric Thornberry	14-16 January 2008	Deputy Chief of Mission for UNPROFOR from August 1992 to March 1994 and Director of Civil Affairs for UNPROFOR from March 1992 to March 1994 ⁵¹⁴
Ciril Ribičić	10 and 11 December 2007	Witness who testified as a constitutional expert in the <i>Kordić and Čerkez Case</i> ⁵¹⁵
Damir Katica	5 February 2007	Muslim inhabitant of Mostar ⁵¹⁶
Džemal Baraković	12 February 2007	Muslim inhabitant of Mostar and member of the fire brigade in Mostar from end of August 1993 onwards ⁵¹⁷

⁵¹⁰ 3D 03624, pp. 29 and 31.

⁵¹¹ P 09860, pp. 1 and 2.

⁵¹² P 10124, p. 1 and para. 12.

⁵¹³ P 09856, pp. 1 and 2.

⁵¹⁴ P 10041, p. 1 and para. 4.

⁵¹⁵ Ciril Ribičić, 1D 02036.

⁵¹⁶ P 09861, pp. 1 and 2.

⁵¹⁷ P 09855, pp. 1 and 2.

Dževad Hadžizukić	31 January 2007 and 1 February 2007	Muslim inhabitant of East Mostar ⁵¹⁸
Elvir Demeć	12 February 2007	Fireman in Mostar ⁵¹⁹
Enes Vukotić	6 and 7 February 2007	Member of the ABiH in Donja Mahala ⁵²⁰
Husnija Mahmutović	12 December 2007	Inhabitant of Stupni Do village ⁵²¹
Ismet Poljarević	12 and 13 December 2006	Inhabitant of Gornja Mahala, Jablanica Municipality ⁵²²
Kemal Likić	16 and 17 January 2008	Inhabitant of Stupni Do village ⁵²³
Miro Salčin	15 and 19 February 2007	Commander of an ABiH company in Donja Mahala in West Mostar in 1993 and Deputy Commander of the 2 nd Battalion of the 441 st Motorised Brigade of the ABiH ⁵²⁴
Miroslav Desnica	11 March 2010	Independent inspector in the Croatian MUP between 1991 and 1997 ⁵²⁵
Mufid Likić	20 and 21 March 2007	Muslim inhabitant of Stupni Do ⁵²⁶
Mufida Likić	21 March 2007	Muslim inhabitant of Stupni Do ⁵²⁷
Munib Klarić	5 February 2007	Muslim inhabitant of East Mostar ⁵²⁸
Nihad Kovač	16 November 2006	Muslim inhabitant of Sovići ⁵²⁹
Nijaz Islamović	19 September 2006	Doctor from Prozor Municipality ⁵³⁰

⁵¹⁸ P 09859, pp. 1 and 2.

⁵¹⁹ P 09857, pp. 1 and 2.

⁵²⁰ P 09864 under seal, pp. 1 and 2.

⁵²¹ Witness W, P 10015, *Kordić and Čerkez* Case, T(F), p. 10887, closed session.

⁵²² P 09726, pp. 1 and 2.

⁵²³ P 10102, p. 1 and para. 2.

⁵²⁴ P 09834, p. 1 and paras 7 and 8; Miro Salčin, T(F), pp. 14171 and 14172.

⁵²⁵ Miroslav Desnica, T(F), p. 50874.

⁵²⁶ P 09883, pp. 1 and 2.

⁵²⁷ P 09884, pp. 1 and 2.

⁵²⁸ P 09862, pp. 1 and 2.

⁵²⁹ P 09728, pp. 1 and 2.

⁵³⁰ P 09701, pp. 1 and 2.

Omer Dilberović	31 January 2007	Muslim inhabitant of East Mostar ⁵³¹
Ragib Mulahusić	20 September 2006	Muslim inhabitant of Prozor ⁵³²
Rudy Gerritsen	29 and 30 May 2007	ECMM observer in Gornji Vakuf from 18 July to 15 September 1993 ⁵³³
Salko Bojčić	5 December 2006	Muslim from Počitelj ⁵³⁴
Senada Bašić	25 October 2006	Muslim inhabitant of Korenići village, Gornji Vakuf Municipality ⁵³⁵
Witness BA	25-27 September 2006	Member of an international organisation ⁵³⁶
Witness BF	7 December 1999, <i>Kordić and Čerkez</i> Case	Member of an international organisation ⁵³⁷
Witness BM	20 and 21 September 2006	Inhabitant of Prozor and member of the Prozor TO ⁵³⁸
Witness BN	21 September 2006	Muslim inhabitant of Prozor Municipality ⁵³⁹
Witness BO	4 October 2006	Muslim inhabitant of Varvare village, Prozor Municipality ⁵⁴⁰
Witness BP	4 and 5 October 2006	Muslim inhabitant of Kovačevo Polje village, Prozor Municipality ⁵⁴¹
Witness BQ	5 October 2006	Muslim inhabitant of Paljike village, Prozor Municipality ⁵⁴²
Witness BT	12 October 2006	Muslim inhabitant of Lug village, Prozor Municipality ⁵⁴³
Witness BU	12 October 2006	Member of the Jablanica TO ⁵⁴⁴

⁵³¹ P 09854, pp. 1 and 2.

⁵³² P 09699, pp. 1 and 2.

⁵³³ P 10030, pp. 1 and 2.

⁵³⁴ P 09798, pp. 1 and 2.

⁵³⁵ P 09711, p. 1 and paras 7-9.

⁵³⁶ P 09712 under seal, p. 1 and para. 3.

⁵³⁷ P 10365 under seal, *Kordić and Čerkez* Case, T(F), pp. 89 and 90.

⁵³⁸ P 09702 under seal, pp. 1 and 6.

⁵³⁹ P 09700 under seal, pp. 1 and 2.

⁵⁴⁰ P 09717 under seal, pp. 1 and 2.

⁵⁴¹ P 09715 under seal, pp. 1 and 2.

⁵⁴² P 09716 under seal, pp. 1 and 2.

⁵⁴³ P 09714 under seal, pp. 1 and 2.

⁵⁴⁴ P 09713 under seal, pp. 1 and 2.

Witness BV	18 and 19 October 2006	Muslim inhabitant of Hrasnica village, Gornji Vakuf Municipality, and member of the TO ⁵⁴⁵
Witness BX	25 October 2006	Muslim inhabitant of Hrasnica, Gornji Vakuf Municipality ⁵⁴⁶
Witness BZ	3 May 1997	Member of the ABiH ⁵⁴⁷
Witness CC	28-29 September 2006	Inhabitant of the town of Prozor ⁵⁴⁸
Witness CE	23 November 2006	Muslim inhabitant of the town of Stolac ⁵⁴⁹
Witness CF	26 November 2006	Muslim inhabitant of Stolac Municipality ⁵⁵⁰
Witness CG	28 November 2006	Muslim inhabitant of Bivolje Brdo, Čapljina Municipality ⁵⁵¹
Witness CH	28 November 2006	Muslim inhabitant of Prenj village, Stolac Municipality ⁵⁵²
Witness CJ	30 November 2006	Muslim inhabitant of Počitelj village, Čapljina Municipality ⁵⁵³
Witness CK	4 December 2006	Muslim inhabitant of the town of Čapljina ⁵⁵⁴
Witness CM	5 December 2006	Muslim inhabitant of Pješivac Greda, Stolac Municipality ⁵⁵⁵
Witness CN	6 December 2006	Muslim inhabitant of Višići village, Čapljina Municipality ⁵⁵⁶
Witness CP	7 December 2006	Muslim inhabitant of Višići village, Čapljina Municipality ⁵⁵⁷

⁵⁴⁵ P 09724 under seal, pp. 1 and 2.

⁵⁴⁶ P 09710 under seal, pp. 1 and paras 7 and 8.

⁵⁴⁷ P 09727 under seal, pp. 1 and 2.

⁵⁴⁸ P 09731 under seal, pp. 1 and 2.

⁵⁴⁹ P 09750 under seal, pp. 1 and 2.

⁵⁵⁰ P 09751 under seal, pp. 1 and 2.

⁵⁵¹ P 09770 under seal, pp. 1 and 2.

⁵⁵² P 09749 under seal, pp. 1 and 2.

⁵⁵³ P 09768 under seal, pp. 1 and 2.

⁵⁵⁴ P 09799 under seal, pp. 1 and 2.

⁵⁵⁵ P 09753 under seal, pp. 1 and 2.

⁵⁵⁶ P 09754 under seal, pp. 1 and 2.

⁵⁵⁷ P 09755 under seal, pp. 1 and 2.

Witness CW	22 January 2007	Muslim inhabitant of Bijeli Brijeg in West Mostar ⁵⁵⁸
Witness CX	22 January 2007	Muslim inhabitant of West Mostar ⁵⁵⁹
Witness CZ	29 January 2007	Muslim inhabitant of West Mostar ⁵⁶⁰
Witness DB	31 January 2007	Fireman from Mostar ⁵⁶¹
Witness DC	6 February 2007	Fireman from Mostar ⁵⁶²
Witness CT	11 January 2007	Muslim inhabitant of West Mostar ⁵⁶³
Witness DH	21 March 2007	Muslim inhabitant of Stupni Do ⁵⁶⁴
Witness DV	1 and 2 October 2007	Member of Spabat ⁵⁶⁵
Witness DW	3 and 4 October 2007	Member of Spabat ⁵⁶⁶
Witness DZ	22 to 24 January 2008	Member of an international organisation ⁵⁶⁷
Witness EI	10 January 2008	Muslim inhabitant of Maglaj Municipality ⁵⁶⁸
Witness L	15 March 2007	Member of the HVO ⁵⁶⁹

⁵⁵⁸ P 09807 under seal, pp. 1 and 2.

⁵⁵⁹ P 09833 under seal, pp. 1 and 2.

⁵⁶⁰ P 09866 under seal, pp. 1 and 2.

⁵⁶¹ P 09858 under seal, pp. 1 and 2.

⁵⁶² P 09863 under seal, pp. 1 and 2.

⁵⁶³ P 09805 under seal, pp. 1 and 2.

⁵⁶⁴ P 09913 under seal, pp. 1 and 2.

⁵⁶⁵ P 10270 under seal, pp. 1 and 2; P 10217 under seal, p. 1 and para. 8.

⁵⁶⁶ P 10287 under seal, p. 1 and para. 9.

⁵⁶⁷ P 10367 under seal, p. 1 and paras 4 and 5.

⁵⁶⁸ P 10210 under seal, p. 1 and para. 1.

⁵⁶⁹ P 09882 under seal, p. 5, para. 19, and p.13, para. 70.

- 92 ter Witnesses for the Defence

<i>Name</i>	<i>Date of Testimony</i>	<i>Function</i>
Alojz Arbutina	22 September 2009	Commander of the HV in Sunja in charge of logistics ⁵⁷⁰
Dragan Ćurčić	12 and 13 October 2009	Member of the <i>Ludvig Pavlović</i> PPN of the HVO from June 1992 until mid-1994 and commander of this unit during 1993 ⁵⁷¹
Pero Nikolić	25 March 2010	Warden of the district prison in Mostar from 1 May 1992 ⁵⁷²
Witness 1D-AA	2-5 and 9 June 2008	Member of the HDZ-BiH and the BiH Presidency for several years ⁵⁷³
Witness NO	22 and 23 March 2010	Bosnian Croat ⁵⁷⁴
Zvonimir Skender	24 and 28 September 2009	Observer and co-ordinator in the HVO in Čitluk from June to December 1993 ; commander of a military operation from 15 August 1993 and Commander of the Tomislavgrad ZP from December 1993 onwards ⁵⁷⁵

⁵⁷⁰ Alojz Arbutina, T(F), p. 45099.

⁵⁷¹ Dragan Ćurčić, T(F), p. 45788.

⁵⁷² 5D 05111, p. 1 and paras 2 and 3.

⁵⁷³ 1D 02934 under seal, pp. 1 and 2.

⁵⁷⁴ 5D 05110 under seal, p. 1 and paras 2 and 3.

⁵⁷⁵ 3D 03710, pp. 1 and 3.

92 quater Witnesses

- 92 quater Witnesses for the Prosecution

<i>Name</i>	<i>Date of Testimony</i>	<i>Function</i>
Hasan Rizvić	11 March 1999	President of the Doljani Crisis Staff from early 1992 until 17 April 1993 ⁵⁷⁶
Milada Orman	Written statement dated 12 February and 23 March 2001 and supplementary statement dated 19 October 2007	Muslim inhabitant of Ljubuški ⁵⁷⁷
Witness AR	8 December 1997, <i>Blaškić</i> Case	Representative of the international community ⁵⁷⁸

- 92 quater Witnesses for the Defence

<i>Name</i>	<i>Date of Testimony</i>	<i>Function</i>
Mahmud Eid	September 2005	Doctor in Sunja in Croatia ⁵⁷⁹
Juraj Njavro	January 2006	Minister of Health in Croatia from early August 1992 to late 1993 ⁵⁸⁰
Ljubo Perić	13 May 2005	Assistant in charge of logistics in the HVO of Mostar Municipality ⁵⁸¹
Fatima Tanović	7 October 2004	Muslim inhabitant of Mostar ⁵⁸²

⁵⁷⁶ P 10358, paras 2-4.

⁵⁷⁷ P 10328, p. 17.

⁵⁷⁸ Witness AR, P 10027 under seal, *Blaškić* Case, T(F), p. 4710.

⁵⁷⁹ 3D 03679, p. 2.

⁵⁸⁰ 3D 03618, pp. 2 and 3.

⁵⁸¹ 3D 03735, p. 1.

⁵⁸² 3D 03652, p. 1.

Chamber Witnesses

<i>Name</i>	<i>Date of Testimony</i>	<i>Function</i>
Heinrich Pichler	19 November 2009	Expert appointed by the Chamber to comment on the integrity of the video recordings regarding the destruction of the Old Bridge ⁵⁸³

⁵⁸³ “Order for the Production of Additional Evidence and for the Appointment of an Expert Witness for the Chamber”, public, 9 September 2008; C 00002.

**SEPARATE OPINION OF JUDGE TRECHSEL: RECKLESSNESS,
DOLUS EVENTUALIS, INDIRECT INTENT**

1) General Background

1. Criminal intent, *dolus*, consists of two elements, a cognitive element (the perpetrator is aware of the present situation, the elements of the crime and the consequences of his behaviour) and a volitional element (through his behaviour, the perpetrator wishes to carry out the elements of the crime and bring about the illegal result). Recklessness, *dolus eventualis* or “indirect intent”, is distinguished from *dolus directus* insofar as the perpetrator is not certain that he will carry out all the elements of the crime; however, he is aware of the likelihood of the result occurring; the volitional element is always present: the perpetrator intends the result, in the event that it does occur. In other words, he is prepared for the result, he accepts it, he says, for example: “I am aware of the likelihood that my behaviour will cause death, but ‘never mind’, I will not change my behaviour.” Criminal law considers *dolus eventualis* in the same way as it considers *dolus directus*.¹

2. A distinction must be made between this “continental” notion of *dolus eventualis* and the notion of “recklessness” in common law: “a person acts recklessly with respect to (i) a circumstance when he is aware of a risk that it exists or will exist; (ii) a result when he is aware of a risk that it will occur; and it is in the circumstances known to him, unreasonable to take the risk”.² This definition fails to take into account the volitional element, the intention of the perpetrator. Non-intentional behaviour would qualify as negligence if all conditions (expectation or foreseeability of the criminal result and lack of caution) were met.

¹ See, for example, Jorge de Figueiredo Dias, “*Direito Penal, Parte Geral*”, Vol. 1, 2nd edition, Coimbra, 2007, 3.2, para. 37 *et seq.*; Eugenio Raúl Zaffaroni, “*Derecho Penal, Parte General*”, 2nd edition, Buenos Aires, 2011, p. 524 *et seq.*; Cramer/Sternberg-Lieben in Schönke-Schröder, “*Kommentar Strafgesetzbuch*”, 27th edition, para. 15, notes 72 *et seq.*; ATF 69(1943) IV 80, 119(1993) IV 3, 121 (1995) IV 253; Hans Schultz, “*Einführung in den Allgemeinen Teil des Strafrechts*”, Vol. I, 4th edition, Bern, 1987, p. 196; Günter Stratenwerth, “*Schweizerisches Strafrecht, Allgemeiner Teil I*”, 4th edition, Bern, 1996, para. 9, notes 101 *et seq.*

² “English Draft Criminal Code Bill”, Sec. 18 (c) (1989); see also for American law the “Model Penal Code”, Sec. 2.02 (2) (c).

3. The question of whether *dolus eventualis* is sufficient to establish the criminal responsibility of an Accused has been the subject of discussions at an international level. For example, a definition of *dolus eventualis* does not appear in the final text of the Rome Statute since the notion itself is absent from it.³ This omission is, however, only apparent. For example, German legislation does not even define *dolus*,⁴ but *dolus eventualis* is unquestionably recognised as a form of *dolus*.⁵ The Swiss Penal Code, before its amended version entered into force on 1 January 2007, defined *dolus* in Article 18, subparagraph 1, without mentioning *dolus eventualis*. Nevertheless, doctrine and practice have accepted it unquestionably.⁶ On the other hand, there is a definition that corresponds to what I have just explained in the current Swiss Penal Code and in the Austrian Penal Code.⁷

4. Recently, this was the approach taken in the *Lubanga* Case: the Pre-Trial Chamber of the International Criminal Court considered that the responsibility of the perpetrator could be established if he acted with the awareness of the likelihood that an illegal result could be the consequence of his behaviour, even though the risk of it was low. He must, furthermore, have clearly accepted the idea that this result might be the outcome of his actions or omissions.⁸ This language corresponds to what I have just explained.

5. There are several references in ICTY and ICTR case law to *dolus eventualis*, considered as sufficient to establish the *mens rea* of intentional crimes. The first reference to this notion appears in the *Stakić* Judgement, which is explicitly based on German law regarding murder. In that case, the Chamber ruled that “[t]urning to the *mens rea* element of the crime, the Trial Chamber finds that both a *dolus directus* and a *dolus eventualis* are

³ Gerhard Werle, “Principles of International Criminal Law”, 2005, para. 331, p. 114.

⁴ German Criminal Code, para. 15.

⁵ See, for example, Cramer/Sternberg-Lieben in Schönke-Schröder, “*Kommentar Strafgesetzbuch*”, 27th edition, para. 15, notes 72 *et seq.*

⁶ See, for example, ATF 69(1943) IV 80, 119(1993) IV 3, 121 (1995) IV 253; Hans Schultz, “*Einführung in den Allgemeinen Teil des Strafrechts*”, Vol. I, 4th edition, Bern, 1987, p. 196; Günter Stratenwerth, “*Schweizerisches Strafrecht, Allgemeiner Teil I*”, 4th Volume, Bern, 1996, para. 9, notes 101 *et seq.*

⁷ Swiss Penal Code, Article 12, para. 2; Austrian Penal Code, para. 5, subparagraph 1.

⁸ *The Prosecutor v. Lubanga Dyilo*, ICC Pre-Trial Chamber, “Decision”, 29 January 2007, paras 352 and 353.

sufficient to establish the crime of murder under Article 3⁹. [...] German law takes *dolus eventualis* as sufficient to constitute intentional killing. The technical definition of *dolus eventualis* is the following: if the actor engages in life-endangering behaviour, his killing becomes intentional if he ‘reconciles himself’ or ‘makes peace’ with the likelihood of death. Thus, if the killing is committed with ‘manifest indifference to the value of human life’, even conduct of minimal risk can qualify as intentional homicide”.¹⁰

6. This position was subsequently adopted by the Trial Chamber in the *Hadžihasanović* Judgement¹¹ with respect to wilful killing as described under Article 2 (a) of the Statute.¹²

7. Lastly, the ICTR adopted the notion of *dolus eventualis* in its *Kayishema* Judgement and found that “the act(s) or omissions(s) may be done with intention, recklessness or gross negligence”.¹³

2) Language Used by the Chamber

8. a) The Chamber ruled on the subjective element of the crime of wilful killing in the following terms: “The Chamber is satisfied that by depriving the detainees of food and water and keeping them locked up in hangars in mid-July, when the heat was suffocating,

⁹ See, for example, Schönke/Schröder, “*Strafgesetzbuch, Kommentar, 26; Auflage*”, Cramer/Sternberg-Lieben, Point 15, para. 84.

¹⁰ *Stakić* Judgement, para. 587.

¹¹ *Hadžihasanović* Judgement, para. 31, referring to the *Stakić* Judgement, para. 587.

¹² It should be noted that the crime of murder punishable under Article 3 of the Statute and the crime of murder punishable under Article (a) of the Statute have the same constituent elements, namely the death of the victim must result from an act or omission by the Accused or persons for whom the Accused is criminally responsible, who had the intent to kill the victim or cause him serious bodily harm which the perpetrator should reasonably have foreseen could lead to death (regarding murder, see *Hadžihasanović* Judgement, para. 31, referring to the *Kvočka* Appeals Judgement, para. 261. See also *The Prosecutor v. Zdravko Tolimir*, Case No. IT-05-88/2-T, “Judgement”, 12 December 2012, para. 716. Regarding wilful killing, see *Brđanin* Appeals Judgement, para. 381; *Čelebići* Appeals Judgement, para. 422; *Kordić* Appeals Judgement, para. 36. See also “Wilful Killing” in the Chamber’s reasoning on applicable law: grave breaches of the Geneva Conventions.

¹³ *The Prosecutor v. Kayishema and Ruzindana*, ICTR, “Judgement”, 21 May 1999, para. 146.

the members of the HVO intended to cause the detainees serious bodily harm which they must have reasonably foreseen could cause their deaths...”¹⁴

9. The formula seems incomplete to me. The words “...a result which they accepted” or “...a result for which they were prepared” should be added. The likelihood of death expresses a cognitive element that describes a perpetrator’s knowledge of the likely consequences of his behaviour. Intent is characterised by a desire to produce a result that, according to the legislative text, is incriminating, namely in the case of murder, to cause death or at least to accept that death is a likely consequence. In other words, the perpetrator must at least be driven by *dolus eventualis*. Unfortunately, this volitional element was not clearly expressed in the text.

10. b) At times, the Trial Chamber provides a different reasoning to explain why it concludes that certain perpetrators acted with intent. Here is an example:

“The Chamber is satisfied not only that by inflicting such treatment on the detainees, the HVO soldiers intended to cause them great physical and mental suffering constituting a serious attack on their dignity but also that the soldiers in charge of guarding the detainees – members of the *Ante Starčević* Brigade¹⁵ – who were aware of such treatment and did nothing to stop it, knew that the probably consequences of such treatment would be great physical and mental suffering constituting a serious attack on the detainees’ human dignity, and accepted this.”¹⁶

11. In my opinion, this paragraph implies that the soldiers should have intervened to prevent their fellow soldiers from maltreating or continuing to maltreat the detainees. An obligation to intervene does indeed rest upon the shoulders of superiors pursuant to Article 7 (3) of the Statute. The same could be said of the persons required to guard the detainees. They all have the duty to protect. In the case in point, to which the cited

¹⁴ See, for example, “Vojno Detention Centre”, “Dretelj Prison” and “Gabela Prison” in the Chamber’s legal findings with regard to Count 2 (murder as a crime against humanity) and Count 3 (wilful killing as a grave breach of the Geneva Conventions).

¹⁵ See “Organisation and Operations of the Trnovača Furniture Factory as a Detention Facility” and “Conditions and Treatment of the Muslim Men Detained by the HVO at Trnovača Furniture Factory” in the Chamber’s factual findings with regard to the Municipality of Gornji Vakuf.

¹⁶ See “Municipality of Gornji Vakuf” in the Chamber’s legal findings with regard to Count 17 (cruel treatment as a violation of the laws or customs of war).

passage refers, the perpetrators of the acts are HVO soldiers who came in from outside to maltreat the detainees. These soldiers do not have any legal obligation to prevent each other from committing crimes.

12. Failure to do something a person is under no obligation to do cannot be held against that person. I conclude from this that we cannot establish that there was intent to commit a crime on the basis of such an omission, and I cannot subscribe to the argument of the majority. However, the act of maltreating a person clearly demonstrates the intent to cause suffering beyond any particular circumstances that would justify the act, such as, for example, performing surgery despite a lack of anaesthesia. There is no justification whatsoever in that case.

13. I wished to record my opinion to clarify my interpretation of the text of the judgement, but I am satisfied that in the instant case, even though the majority does not refer to it, the volitional element is apparent to the reader in the paragraphs under review.

/signed/

Stefan Trechsel

**DISSENTING OPINION OF JUDGE TRECHSEL: FORCED LABOUR
PERFORMED BY NIHAD KOVAČ, LEGAL FINDINGS REGARDING THE
MUNICIPALITY OF JABLANICA (SOVIĆI AND DOLJANI) (COUNTS 15, 16
AND 17).**

1. The discussion of the facts concerning victim Nihad Kovač led me to conclude differently from my Colleagues. The majority determined that the facts must be qualified as inhumane acts, a crime against humanity: inhuman treatment, a violation of the Geneva Conventions; and cruel treatment, a violation of the laws or customs of war. I acknowledge that the treatment of the victim, who at the time was only 13 years old, was harsh. He was forced to carry out work on the front line, such as digging trenches and transporting, together with the other detainees, heavy crates of ammunition to a military site located approximately four kilometres away. The fact that Nihad Kovač was forced to carry out this work is punishable as unlawful labour, a violation of the laws or customs of war.¹

2. In my opinion, however, this does not constitute cruel treatment. The statement of the witness is devoid of specific complaints. It must be inferred that he was not insulted, beaten or otherwise maltreated. He does not complain of the consequences of this work, such as pain or trauma. If I compare this to the “average” degree of ill treatment examined by the Chamber in the present case, I cannot help but notice a significant difference, even if I take into account the age of Nihad Kovač at the time. In my opinion, the particular level of gravity that characterises an inhumane act, or inhuman or cruel treatment, in international criminal law has not been reached.

/signed/

Stefan Trechsel

¹ See “Municipality of Jablanica” in the Chamber’s factual findings with regard to Count 18 (unlawful labour as a violation of the laws or customs of war).