

**UNITED  
NATIONS**



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-08-91-T  
Date: 27 March 2013  
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**IN TRIAL CHAMBER II**

**Before:** Judge Burton Hall, Presiding  
Judge Guy Delvoie  
Judge Frederik Harhoff

**Registrar:** Mr. John Hocking

**Judgement:** 27 March 2013

**PROSECUTOR**

v.

**MIĆO STANIŠIĆ  
STOJAN ŽUPLJANIN**

**PUBLIC**

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**JUDGEMENT**

**Volume 2 of 3**

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## I. RS MUP

### A. RS Ministry of Interior and Judiciary within RS

#### 1. Creation of RS MUP

1. Evidence was adduced about how the RS MUP came into being. In the course of 1991, SDS leadership and Serbs employed in the SRBiH MUP expressed discontent with the development of personnel questions in the Ministry, predominantly regarding the appointment and dismissal of Serbs.<sup>1</sup> Before 1990, ethnicity was taken into account during the appointment process in order to ensure equal representation of the three ethnic groups. However, it was not a decisive factor.<sup>2</sup> After the multi-party elections, the three parties—SDA, SDS, and HDZ—pushed for their own people to be given certain positions.<sup>3</sup> By the autumn of 1991 the possibility of decentralising internal affairs in BiH or establishing a Serb MUP had already been discussed.<sup>4</sup>

2. In this regard, Nedo Vlaški, a Serb and a former police official,<sup>5</sup> testified that between July and September 1991 there was a degree of frustration and tension in the SRBiH MUP about the allocation of posts between the SDS, SDA, and HDZ.<sup>6</sup> Vlaški added that in June 1991 he was removed from a position in the SRBiH MUP and an individual of Muslim ethnicity was appointed in his place. He was given the position of Deputy Under-Secretary for State Security which was subsequently abolished.<sup>7</sup> The abolition of Vlaški's position provoked reactions from a number of leading members of the SDS, including Biljana Plavšić and Radovan Karadžić.<sup>8</sup> On 16 September 1991, Karadžić spoke with Vitomir Žepinić, who was the SDS nominee for the position of SRBiH Minister of Interior, but not a member of the SDS.<sup>9</sup> As of February 1991, Žepinić was the Deputy Minister of the SRBiH MUP, while Alija Delimustafić, a Muslim, was the Minister.<sup>10</sup> In this

<sup>1</sup> Christian Nielsen, 16 December 2009, T. 4906-4907; P508, Nielsen Expert Report, para. 10; Goran Mačar, 5 July 2011, T. 22814-22816, 22818-22819; Slobodan Škipina, 31 March 2010, T. 8423; 1D118, Information on Abuses, Illegalities, and Manipulations by SDA and HDZ Cadres in the State Security Service of SRBiH MUP, 1 March 1992.

<sup>2</sup> ST027, 2 October 2009, T. 724.

<sup>3</sup> ST027, 2 October 2009, T. 777; Vitomir Žepinić, 29 January 2010, T. 5767-5768.

<sup>4</sup> P508, Nielsen Expert Report, paras 32-43, 383. *See also* P520, Document entitled "Possible Ways of Decentralising Internal Affairs in BiH", undated; P521, Document entitled "Possibilities of Organising a Serbian Ministry of the Interior", 17 October 1991.

<sup>5</sup> Nedo Vlaški, 15 February 2010, T. 6284, 6295-6297.

<sup>6</sup> Nedo Vlaški, 15 February 2010, T. 6300-6301.

<sup>7</sup> Nedo Vlaški, 15 February 2010, T. 6303, 6317-6319 and 16 February 2010, T. 6378.

<sup>8</sup> Nedo Vlaški, 15 February 2010, T. 6319-6322. *See also* 1D116, Public Announcement Issued by the BH MUP employees of Serbian Origin, 9 September 1991.

<sup>9</sup> Vitomir Žepinić, 28 January 2010, T. 5683-5685; P902, Transcript of Intercepted Conversations between Vitomir Žepinić and Radovan Karadžić, 16 September 1991.

<sup>10</sup> ST027, 2 October 2009, T. 774; Vitomir Žepinić, 28 January 2010, T. 5686-5687; Momčilo Mandić, 3 May 2010, T. 9410.

conversation of 16 September 1991, Karadžić described Vlaški's treatment to Žepinić as "subjugation of [the] Serbian people", bluntly telling him to revoke the decision.<sup>11</sup>

3. On 17 September 1991, Karadžić called Miodrag Simović, the Vice-President of the Government of SRBiH in charge of internal and political affairs and a member of the SDS,<sup>12</sup> and said:

[W]ould you please tell Žepinić that, as of tomorrow, we are withdrawing all our ministers and all our officials in [the] MUP and we are discontinuing the complete partnership and going into opposition, because Žepinić is allowing maltreatment and removal from office of our men. Vlaški was removed from his office and it is over. Tonight at 8 o'clock, I am going to break up with Izetbegović, I am withdrawing everything, Serbian Democratic Party into opposition. We are going to [...] break apart and then we are going to establish our own SUP, separately and with other men [...] and we'll make the government separately, we'll make everything separately.<sup>13</sup>

Karadžić then went on to say that "Vlaški was the straw that broke the camel's back".<sup>14</sup>

4. On 11 February 1992, Serb officials of SRBiH MUP held a meeting in Banja Luka. Among others, Momčilo Mandić, Mićo Stanišić, and Stojan Župljanin were in attendance.<sup>15</sup> Key conclusions from this meeting led to the creation of a Serbian Collegium within SRBiH MUP consisting of Serb personnel at executive positions. This Collegium was to be under the direction of Momčilo Mandić, Assistant Minister of the SRBiH MUP at the time.<sup>16</sup> The Collegium was instructed to carry out all necessary preparations for the functioning of the Serb MUP, after the promulgation of the RS Constitution.<sup>17</sup> Several other conclusions were taken regarding the establishment of a Serb MUP in BiH. These included the setting up of a commission to submit a proposal for the design of the Serb MUP emblem and police insignia, and plans to carry out intensive work to be done on the training and the arming of Serb police personnel.<sup>18</sup> With regard to the latter conclusion, Vlaški, who had also attended the meeting, stated that it was a result of the "imbalance" in the arming and recruiting that was created by the Muslim and Croat control of the

<sup>11</sup> Nedo Vlaški, 15 February 2010, T. 6316; P902, Transcript of Intercepted Conversations between Vitomir Žepinić and Radovan Karadžić, 16 September 1991, pp. 1-3.

<sup>12</sup> Vitomir Žepinić, 29 January 2010, T. 5766, 5795; Momčilo Mandić, 3 May 2010, T. 9429-9430.

<sup>13</sup> Nedo Vlaški, 15 February 2010, T. 6323-6324; Vitomir Žepinić, 29 January 2010, T. 5794-5795; P903, Intercept of Conversation between Miodrag Simović and Radovan Karadžić, 17 September 1991, p. 1.

<sup>14</sup> Nedo Vlaški, 15 February 2010, T. 6324-6325; P903, Intercept of Conversation between Miodrag Simović and Radovan Karadžić, 17 September 1991, p. 2.

<sup>15</sup> Christian Nielsen, 15 December 2009, T. 4833, 4837; Nedo Vlaški, 15 February 2010, T. 6337-6338, 6344-6350; 1D135, Minutes of a Meeting of the Serbian Representatives of the MUP in Banja Luka, 11 February 1992; P508, Nielsen Expert Report, para. 56. Others included Čedo Kljajić, Slavko Drašković, Stanko Stojanović, Andrija Bjelošević, Nenad Radović, Vladimir Tutuš, Krsto Savić, Goran Žugić, Dragan Develdlaka, Goran Radović, Milan Krnjajić, Nedo Vlaški, Malko Koroman, Predag Ješurić, Nedeljko Kesić, Igor Velašević, and Vaso Škondrić.

<sup>16</sup> Momčilo Mandić, 3 May 2010, T. 9418-9419.

<sup>17</sup> 1D135, Minutes of a Meeting of the Serbian Representatives of the MUP in Banja Luka, 11 February 1992, p. 4, paras 1-3; P508, Nielsen Expert Report, p. 4, para. 59.

<sup>18</sup> 1D135, Minutes of a Meeting of the Serbian Representatives of the MUP in Banja Luka, 11 February 1992, para. 12; P508, Nielsen Expert Report, para. 60.



SRBiH MUP.<sup>19</sup> Momčilo Mandić stated that the meeting was not secret as it was held in a public hotel with many people present. Also, he had informed Delimustafić about the meeting and had sent him the minutes of it.<sup>20</sup>

5. On 28 February 1992, the BSA adopted the Constitution of the RS, along with a host of other formative legislation including the Law on Internal Affairs (“LIA”) and the law on defence.<sup>21</sup> On 11 March 1992, the BSA unanimously called for the implementation of the LIA by the “Council of Ministers”.<sup>22</sup> At the session of the BSA held on 18 March 1992, Momčilo Krajišnik, the President of the BSA, referred specifically to the need for “ethnic division on the ground”.<sup>23</sup> Vještica, an SDS delegate from Bosanska Krupa, referred to the need for the establishment of a Serb police force and a Serb MUP so that the Serbs could seize control of “their territories”. At the end of the session, Radovan Karadžić alluded to the fact that the Bosnian Serbs would soon announce their withdrawal from the SRBiH MUP.<sup>24</sup>

6. On 24 March 1992, the BSA elected Mićo Stanišić to be the first Minister of Internal Affairs of RS, and he accepted the position.<sup>25</sup> The establishment and the activation of the Serb MUP were to take place after the ceremonial promulgation of the RS Constitution on 27 March 1992.<sup>26</sup> On that same day, the BSA established the RS MUP. The legislation on the RS MUP came into effect on 31 March 1992.<sup>27</sup> Mićo Stanišić stated that he was officially appointed the Minister of Interior in the RS MUP on 31 March 1992, while formally continuing in his position as advisor to the Minister Delimustafić of the SRBiH Government.<sup>28</sup>

7. In the period between the passage of the law on the newly created RS MUP and its entry into force on 31 March 1992, the SDS withdrew Vitomir Žepinić from the SRBiH MUP.<sup>29</sup> On 30 March 1992, Mićo Stanišić performed a review of the police force of the SAO Romanija during

<sup>19</sup> Nedo Vlaški, 15 February 2010, T. 6350-6351 and 16 February 2010, T. 6427-6428.

<sup>20</sup> Momčilo Mandić, 6 May 2010, T. 9663-9665.

<sup>21</sup> P1997, 9<sup>th</sup> Session of the BSA, 28 February 1992, pp. 14, 18.

<sup>22</sup> P508, Nielsen Expert Report, para. 77; P707, Shorthand Notes of the 10<sup>th</sup> Session of the BSA, 11 March 1992, p. 54.

<sup>23</sup> P508, Nielsen Expert Report, para. 78; P708, Minutes of the 11<sup>th</sup> Session of the BSA, 18 March 1992, p. 12.

<sup>24</sup> Milan Trbojević, 29 October 2009, T. 2300; P508, Nielsen Expert Report, paras 78-79; P708, Minutes of the 11<sup>th</sup> Session of the BSA, 18 March 1992, pp. 35-36.

<sup>25</sup> P198, Minutes of the 13<sup>th</sup> session of the BSA, 24 March 1992, pp. 6-9; P508, Nielsen Expert Report, para. 83; Christian Nielsen, 16 December 2009, T. 4890.

<sup>26</sup> P508, Nielsen Expert Report, para. 84; Christian Nielsen, 14 December 2009, T. 4722 and 17 December 2009, T. 4928; Adjudicated Fact 132.

<sup>27</sup> Adjudicated Fact 132.

<sup>28</sup> P2301, Second Session of OTP Interview with Mićo Stanišić, 16-17 July 2007, pp. 30-35; P2307, OTP Interview with Mićo Stanišić, 19 July 2007, pp. 9-11.

<sup>29</sup> P508, Nielsen Expert Report, para. 88.

which he announced that, as of that day, the RS “had its own police force” pursuant to the RS Constitution and the LIA.<sup>30</sup>

8. On 31 March 1992, Momčilo Mandić sent a dispatch to the Minister of the SRBiH MUP and all CSBs, SJBs, and SDBs informing them of the establishment of the RS MUP and Stanišić’s appointment.<sup>31</sup> The dispatch further stated that, in order to conduct internal affairs on the territory of the RS, the RS MUP was to establish CSBs in Banja Luka for the ARK, in Trebinje for SAO Herzegovina, in Doboj for SAO Northern Bosnia, in Sarajevo for SAO Romanija-Birač, and in Ugljevik for SAO Semberija. Moreover, SJBs were to be established within the framework of these CSBs. On the day of the entry into force of the LIA, the CSBs and SJBs of the SRBiH MUP were to cease to operate in RS and their jurisdiction, duties, and tasks were to be assumed by the organisational units of the RS MUP.<sup>32</sup>

9. The RS MUP started functioning on 1 April 1992.<sup>33</sup>

## 2. Legal framework concerning RS MUP

### (a) Law on Internal Affairs (“LIA”)

10. According to expert witness Christian Nielsen, the new LIA was largely based on an expurgated version of the 17 April 1990 SRBiH Law on Internal Affairs (“1990 Law”), with almost identical wording.<sup>34</sup> One of the main differences between the two laws concerned specific terminology. While the 1990 Law referred to the Republican SUP as the highest authority in BiH with the Republican Secretary at its head, the LIA speaks of a Ministry of Internal Affairs with a Minister as its top functionary.<sup>35</sup> The LIA also replaced all references to “the working people” with “citizens”.<sup>36</sup> Article 2 of the LIA however retained reference to the mutual “obligatory” relations with the Federal Secretariat.<sup>37</sup> Nielsen opined that this was in line with the public claims of the RS leadership that they wished to maintain relations with the Yugoslav state and federal officials based in Belgrade and their view that the federal organs of the SFRY and its laws continued to apply on

<sup>30</sup> 1D633, RSMUP Video of the CSB Sarajevo Police Line-up for Review attended by Mićo Stanišić, 30 March 1992, p. 1.

<sup>31</sup> Momčilo Mandić, 6 May 2010, T. 9675-9677, 9679-9680; P353, Dispatch by Momčilo Mandić, 31 March 1992; Adjudicated Fact 115.

<sup>32</sup> P353, Dispatch by Momčilo Mandić, 31 March 1992.

<sup>33</sup> P508, Nielsen Expert Report, para. 88; Christian Nielsen, 14 December 2009, T. 4725; P353, Telex Message from Momčilo Mandić to the Minister of MUP, all CSBs, and SJBs and SUP Secretariat, 31 March 1992.

<sup>34</sup> P508, Nielsen Expert Report, paras 96-98, 173; Christian Nielsen, 14 December 2009, T. 4739, and 27 January 2010, T. 5607; P530, LIA, 23 March 1992.

<sup>35</sup> P508, Nielsen Expert Report, para. 99.

<sup>36</sup> Christian Nielsen, 17 December 2009, T. 4961; P508, Nielsen Expert Report, para. 99.

<sup>37</sup> P508, Nielsen Expert Report, para. 101.

the territories under the control of the Bosnian Serbs.<sup>38</sup> Moreover, the old reference to the police as militia (“*milicija*”) was replaced by police (“*policija*”).<sup>39</sup>

11. The LIA defined the internal affairs to include tasks related to public and national security and tasks related to identity cards, citizenship, and various registers.<sup>40</sup> It further included provisions on public security service<sup>41</sup> and national security services (“SNB”, previously known as SDB).<sup>42</sup> The LIA set out the roles and responsibilities of the police and of the RS MUP officials, including the rules on detention of individuals and the use of firearms by RS MUP officials.<sup>43</sup>

12. The LIA listed the same CSBs as part of the Ministry’s organisation as the ones mentioned above in Momčilo Mandić’s dispatch of 31 March 1992, with one difference, namely that the seat of the SAO Semberija CSB was in Bijeljina.<sup>44</sup> Each of the five CSBs covered a given territory, wherein each component municipality had its SJBs.<sup>45</sup> According to the draft 1992 Rulebook of the RS MUP, the chiefs of the regional CSB continued to have a role vis-à-vis both public and national security services.<sup>46</sup> The law further stipulated that CSBs and SJBs of the SRBiH MUP on the territory of RS were to be closed from the day of the entry into force of the LIA.<sup>47</sup> Serb and other employees of SRBiH MUP who so wished, as well as immovable objects and equipment of SRBiH MUP, were to be transferred to the RS MUP.<sup>48</sup>

13. Some of the LIA provisions will be discussed in more detail below.

(b) Rules of Internal Affairs

14. Radomir Njeguš, a lawyer who from 1992 to 1994 was the Head of Legal Affairs at the RS MUP,<sup>49</sup> was in charge of drafting regulations within the scope of internal affairs.<sup>50</sup> Accordingly, Njeguš was responsible for the drafting of a new wartime Rulebook that provided for the internal organisation of the Ministry. A draft of the Rulebook had been completed in September 1992, and it

<sup>38</sup> Christian Nielsen, 17 December 2009, T. 4964-4966; P508, Nielsen Expert Report, para. 101.

<sup>39</sup> Vladimir Tutuš, 23 March 2010, T. 7987-7988; Nenad Krejić, 2 September 2010, T. 14105; Andrija Bjelošević, 17 May 2011, T. 20800.

<sup>40</sup> P530, LIA, 23 March 1992, Articles 3-4; P508, Nielsen Expert Report, para. 102.

<sup>41</sup> P530, LIA, 23 March 1992, Articles 14-17.

<sup>42</sup> P530, LIA, 23 March 1992, Articles 18-25. See also SNB section.

<sup>43</sup> P530, LIA, 23 March 1992, Articles 16, 41-67.

<sup>44</sup> P530, LIA, 23 March 1992, Article 28.

<sup>45</sup> Christian Nielsen, 14 December 2009, T. 4742; Dragan Kezunović, 11 June 2010, T. 11643; P530, LIA, 23 March 1992, Articles 26, 27, 30; P508, Nielsen Expert Report, para. 116.

<sup>46</sup> Christian Nielsen, 15 December 2009, T. 4797.

<sup>47</sup> P530, LIA, 23 March 1992, Article 126; P508, Nielsen Expert Report, para. 168.

<sup>48</sup> P530, LIA, 23 March 1992, Article 127; P508, Nielsen Expert Report, para. 169.

<sup>49</sup> Radomir Njeguš, 7 June 2010, T. 11287, 11293-11294.

<sup>50</sup> Radomir Njeguš, 7 June 2010, T. 11303-11304.

was adopted in April 1993.<sup>51</sup> Large passages of it were identical to the previous one from 1990, on which the Ministry relied in the meantime.<sup>52</sup>

15. According to the new Rulebook, the Ministry was to have a total of 11,240 employees<sup>53</sup> and be divided into nine organisational administrative units: (a) Department of Police; (b) Department of Prevention and Detection of Crime (a.k.a. Crime Prevention Administration); (c) Inspection Department for Protection from Fire and Explosion; (d) Department of Analytical-Informative Affairs and Functioning of the Information System; (e) Department of Communications and Code Protection; (f) Department of Legal Affairs, Personnel, and Foreigners; (g) High School of Internal Affairs; (h) Department of Material, Financial, and Technical Affairs; and (i) Cabinet of the Minister.<sup>54</sup> The first three above mentioned units fell within the Public Security Service, whereas the remainder were established to carry out “other internal and joint tasks”.<sup>55</sup>

16. The new Rulebook further provided that the CSBs consisted of the following organisational units: (a) Sector of the Service of National Security, (b) Sector of the Public Security Service, (c) Unit for Communications, (d) Unit for Foreigners, Legal and Administrative Affairs and Personnel, (e) Unit for Material-Financial and Technical Affairs, and (vi) Police Station.<sup>56</sup>

### 3. Organisation and structure of RS MUP and competencies of different organs

#### (a) The Minister and the Ministry

17. Goran Mačar testified that the RS MUP, just like the SRBiH MUP, was a centralised public administration body headed by the Minister of Interior and that it had in place a *de jure* system of subordination from the top down to the SJBs.<sup>57</sup> During the time that Mićo Stanišić was Minister, there were two Assistant Ministers (also referred to as Under-Secretaries) within the RS MUP: the chief of the SNB, Slobodan Škipina, from early April 1992 to 3 July 1992 when he was replaced by

<sup>51</sup> Radomir Njeguš, 8 June 2010, T. 11428; P508, Nielsen Expert Report, paras 175-177; 1D662, Mladen Bajagić Expert Report, paras 358-359.

<sup>52</sup> Radomir Njeguš, 8 June 2010, T. 11428; P508, Nielsen Expert Report, para. 176; Christian Nielsen, 25 January 2010, T. 5423; P615, Rulebook on Internal Organisation of the Ministry of Internal Affairs under the Circumstances of Immediate Threat of War, September 1992; P850, Rulebook on the Internal Organisation of the Republic Secretariat for Internal Affairs of the SRBiH, 29 January 1990. *See also* 1D54, Rules on the Disciplinary Responsibility of RS MUP Employees under Wartime Regime, 19 September 1992.

<sup>53</sup> P615, Rulebook on Internal Organisation of the Ministry of Internal Affairs under the Circumstances of Immediate Threat of War, September 1992, Article 5. The Chamber notes that even though the new Rulebook was made in September 1992, and adopted in 1993, it provides a good overview of the RS MUP and CSB structures which were applicable in 1992. Also, the new Rulebook largely copied the old one.

<sup>54</sup> P615, Rulebook on Internal Organisation of the Ministry of Internal Affairs under the Circumstances of Immediate Threat of War, September 1992, Article 7.

<sup>55</sup> P615, Rulebook on Internal Organisation of the Ministry of Internal Affairs under the Circumstances of Immediate Threat of War, September 1992, Article 8.

<sup>56</sup> P615, Rulebook on Internal Organisation of the Ministry of Internal Affairs under the Circumstances of Immediate Threat of War, September 1992, Article 19.

Dragan Kijac; and Čedo Kljajić, the Chief of the Public Security Administration.<sup>58</sup> The Assistant Ministers in turn relied on chiefs of administration and primarily on chiefs of operative administration.<sup>59</sup>

18. Pursuant to Article 33 of the LIA, the Ministry was to carry out the following tasks, among others: (a) directly conduct national security related activities; (b) monitor, direct, and co-ordinate the activities of the CSBs and the SJBs; (c) directly participate in the protection of citizens' lives and personal security; (d) activate the reserve police upon orders from the President of the Republic; (e) supply both active and reserve police members with weapons; and (f) organise and maintain a single communications system. In more complex cases, the Ministry was, if necessary, to take direct measures for preventing and detecting criminal offences and tracking down and capturing the perpetrators.<sup>60</sup>

19. The Minister of Interior mainly issued orders addressed to administrations, centres, stations, and units, but generally not to individuals.<sup>61</sup> Although the Minister of Internal Affairs was not prohibited from ordering the SJB directly, he ordinarily would have to issue the instruction through the regional CSB.<sup>62</sup>

20. The RS MUP was responsible for reporting its activities to the BSA.<sup>63</sup> Milan Trbojević agreed that Mićo Stanišić was in the first place answerable to Branko Đerić, the Prime Minister at the time, and should also have been accountable as a member of the RS Government to the BSA.<sup>64</sup> However, at the session of the BSA held on 23 and 24 November 1992, Branko Đerić resigned and stated that the Minister of Interior and the Minister of Justice did not attend Government meetings and that they instead met with the President of the RS, Radovan Karadžić, and the President of the BSA, Momčilo Krajišnik.<sup>65</sup>

(b) Public Security Service

21. Under Articles 14 through 16 of the LIA, the Public Security Service was established to deal with all questions of public security. An Assistant Minister (Under-Secretary) of the MUP directed

<sup>57</sup> Adjudicated Fact 134; Goran Mačar, 18 July 2011, T. 23432.

<sup>58</sup> Slobodan Škipina, 30 March 2010, T. 8280, 8284, 8288, 8295, 8323, 8357; Radomir Njeguš, 7 June 2010, T. 11302; Dragomir Andan, 2 June 2011, T. 21760; Tomislav Kovač, 9 March 2012, T. 27224.

<sup>59</sup> Radomir Njeguš, 7 June 2010, T. 11300.

<sup>60</sup> P530, LIA, 23 March 1992, Article 33.

<sup>61</sup> Tomislav Kovač, 8 March 2012, T. 27145.

<sup>62</sup> Christian Nielsen, 14 December 2009, T. 4753.

<sup>63</sup> Goran Mačar, 19 July 2011, T. 23544; P181, Constitution of the RS as published in the Official Gazette, 16 March 1992.

<sup>64</sup> Milan Trbojević, P427.04, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 7 April 2005, T. 11689.

<sup>65</sup> P400, Transcript of the 22<sup>nd</sup> Session of the BSA Assembly, 23-24 November 1992, p. 12.

the division and was accountable for its operation to the Minister.<sup>66</sup> The competencies of the Public Security Service included the immediate protection of the constitutional order, life and personal security of citizens, prevention and detection of criminal acts, tracking down and apprehension of perpetrators, maintenance of law and order, protection of certain individuals and buildings, traffic safety and specified safety activities in other fields of communication, state border controls, monitoring of the temporary residences and movement of foreigners, passport control, control of weapons and ammunition, fire protection, transportation and storage of dangerous materials, and assistance in cases of natural disasters and epidemics.<sup>67</sup>

22. Police officers were required to wear uniforms and carry arms in the course of duty. However, the Minister, or an official authorised by him, could order police officers to perform certain tasks in civilian clothes.<sup>68</sup> Milan Trbojević testified that there was no systematic dressing in a particular type of uniform in the RS MUP. There were standard blue police uniforms and standard blue camouflage uniforms, but there were also various other uniforms and insignia that were used at the time.<sup>69</sup> In order to avoid this variety in uniforms, on 8 August 1992, the RS Government concluded that a standard MUP uniform needed to be issued for the MUP and its production expedited.<sup>70</sup> However, it is not clear what happened to this decision.

23. In addition to regular police, there was a reserve police force made up of civilians who were not in the regular police force but were part of a defence organisation, which was separate from that of the TO.<sup>71</sup> After the multi-party elections, the SDS, SDA, and HDZ began filling positions with their own people, resulting in a sudden increase in the number of reserve police.<sup>72</sup> As a result, ST027 testified, it was possible that reserve police positions were filled by people who could not meet even the minimum set of requirements for such a position, including those with criminal records.<sup>73</sup> According to Nielsen, the RS Government was to set the total number of policemen, their organisation, the total number of reserve policemen, and the criteria for the filling of posts in the reserve police force.<sup>74</sup>

<sup>66</sup> P530, LIA, 23 March 1992, Article 14; P508, Nielsen Expert Report, para. 109.

<sup>67</sup> P530, LIA, 23 March 1992, Articles 15-16; P508, Nielsen Expert Report, para. 110.

<sup>68</sup> P530, LIA, 23 March 1992, Article 16.

<sup>69</sup> Milan Trbojević, 3 December 2009, T. 4136.

<sup>70</sup> Milan Trbojević, 3 December 2009, T. 4135.

<sup>71</sup> ST027, 2 October 2009, T. 729-730.

<sup>72</sup> ST027, 2 October 2009, T. 777-778.

<sup>73</sup> ST027, 2 October 2009, T. 778; P508, Nielsen Expert Report, para. 213.

<sup>74</sup> P508, Nielsen Expert Report, para. 111.

24. At the “pinnacle” of the RS police forces stood the MUP Special Police Detachment (“SBP”), a unit commanded by Milenko Karišik.<sup>75</sup> The SBP was divided into five detachments with one detachment at each of the five CSBs in Banja Luka, Bijeljina, Doboj, Sarajevo, and Trebinje, respectively.<sup>76</sup>

25. Article 12 of the LIA stated that officials of the Ministry “in execution of their tasks and duties [had to] preserve the lives of people and human dignity.” Only such force as deemed necessary by law was to be employed, in the least harmful way possible.<sup>77</sup> A list of circumstances that allowed for the detention of an individual was set out in Article 49 of the LIA. The LIA increased to three days the permissible period of detention on the premises of CSBs and SJBs.<sup>78</sup> Article 54 of the LIA dealt with powers of the authorities to obtain information for purposes of criminal investigations from persons held in detention.<sup>79</sup> Articles 56 to 61 regulated the use of force and stipulated the circumstances meriting escalation of the “right to use appropriate instruments of coercion”.<sup>80</sup> Within a week of any use of force by officials serving in SJBs, the Chief of the relevant CSB had to evaluate the legality and correctness of such use of force. In case of the use of force by other authorised officials subject to the jurisdiction of the Ministry, the Ministry would do the same. If the chief of the CSB or the Minister found the use of force to have been illegal or improper, he was obliged to take appropriate steps to determine the responsibility of the relevant authorised official.<sup>81</sup>

(c) National Security Services (“SNB”)

26. According to Nielsen, the SNB, which was previously known as the State Security Service (“SDB”), was established to deal with matters of national security, including collecting information aimed at detecting and preventing activities of individuals or groups who intended to violate the constitutional order and state security.<sup>82</sup> Slobodan Škipina stated that the SNB was a separate service within the security system, with its own rules, and only nominally linked to the MUP.<sup>83</sup> It

<sup>75</sup> Christian Nielsen, 26 January 2010, T. 5510; P508, Nielsen Expert Report, para. 183. *See also* P615, Rulebook on Internal Organisation of the Ministry of Internal Affairs under the Circumstances of Immediate Threat of War, September 1992, Article 10.

<sup>76</sup> P615, Rulebook on Internal Organisation of the Ministry of Internal Affairs under the Circumstances of Immediate Threat of War, September 1992, Article 10.

<sup>77</sup> P508, Nielsen Expert Report, para. 107.

<sup>78</sup> Christian Nielsen, 17 December 2009, T. 4985; P530, LIA, 23 March 1992, Article 49; P508, Nielsen Expert Report, para. 130.

<sup>79</sup> P530, LIA, 23 March 1992, Article 54; P508, Nielsen Expert Report, para. 134.

<sup>80</sup> ST027, 2 October 2009, T. 774-775; P530, LIA, 23 March 1992, Articles 56-61; P508, Nielsen Expert Report, para. 136.

<sup>81</sup> P530, LIA, 23 March 1992, Articles 56-61; P508, Nielsen Expert Report, para. 137.

<sup>82</sup> P530, LIA, 23 March 1992, Articles 18-19; P508, Nielsen Expert Report, para. 112.

<sup>83</sup> Slobodan Škipina, 30 March 2010, T. 8320.

dealt with intelligence and counter-intelligence work. All its communications were encrypted.<sup>84</sup> The information gathered by the SNB was reported to the officials of RS MUP and their counter-parts in the MUP of Serbia.<sup>85</sup>

27. Škipina was shown a guide to the structure of the SNB between April and July 1992, when he resigned.<sup>86</sup> The witness verified that he was listed on the document as Under-Secretary, Chief of the SNB, and under him, Goran Radović, as the Assistant Under-Secretary and Assistant Chief of the SNB. Dragan Devedlaka and Nedo Vlaški also held Radović's position at one time, but for a very short period.<sup>87</sup>

28. The SNB consisted of six departments: the Administration for Intelligence, headed by Dragiša Mihić; the Administration for Affairs and Tasks of the Discovery and Prevention of the Activities of Foreign Intelligence Services, headed by Novak Blagojević for a short period; the Security Section, headed by Milan Šćekić; Defence Preparations under Todar Cicović; the Administration for Analytical Information under Ljiljana Trisić; and finally the Legal Department headed by Ranko Šukalo.<sup>88</sup> Škipina stated that these administrations actually had no personnel.<sup>89</sup>

29. Škipina stated that the SNB was based in a building 1 km away from the centre of Pale. Stanišić visited this building occasionally and would spend the night there.<sup>90</sup> The SNBs in Trebinje and Bijeljina were not established during Škipina's tenure.<sup>91</sup> Also, throughout his time as Chief of the SNB, Škipina did not have any contact with the SNBs in Banja Luka and Doboj as it was not possible to have encrypted communications with them.<sup>92</sup>

(d) Investigations by police

30. Goran Mačar testified that the administration in RS MUP headquarters did not deal directly with criminal investigative matters; this was the responsibility of the relevant CSB or SJB.<sup>93</sup>

31. On 16 May 1992, Mićo Stanišić issued an order to the CSBs in Banja Luka, Bijeljina, Doboj, Sarajevo, and Trebinje. In this order, Stanišić gave detailed instructions for the collection of

<sup>84</sup> Slobodan Škipina, 30 March 2010, T. 8324.

<sup>85</sup> P508, Nielsen Expert Report, para. 113; Christian Nielsen, 14 December 2009, T. 4740-4741 and 17 December 2009, T. 4963.

<sup>86</sup> Slobodan Škipina, 30 March 2010, T. 8297; P1251, RS MUP SNB Structure April-June 1992.

<sup>87</sup> Slobodan Škipina, 30 March 2010, T. 8297 and 31 March 2010, T. 8366; P1251, RS MUP SNB Structure April-June 1992.

<sup>88</sup> Slobodan Škipina, 30 March 2010, T. 8297-8298; P1251, RS MUP SNB Structure April-June 1992.

<sup>89</sup> Slobodan Škipina, 30 March 2010, T. 8298.

<sup>90</sup> Slobodan Škipina, 30 March 2010, T. 8299.

<sup>91</sup> Slobodan Škipina, 31 March 2010, T. 8394.

<sup>92</sup> Slobodan Škipina, 30 March 2010, T. 8323-8324 and 31 March 2010, T. 8394.

<sup>93</sup> Goran Mačar, 20 July 2011, T. 23586.



information and documentation on crimes, including those relating to war crimes. However, Stanišić's instructions only related to "crimes against the Serbian population" and "war crimes against Serbs."<sup>94</sup>

32. SZ003, a Muslim who in 1992 was employed at the Banja Luka CSB,<sup>95</sup> described the investigative steps that the police in the area of responsibility of the Banja Luka CSB had to take after receiving information of an alleged crime.<sup>96</sup> After having received a criminal complaint, it was entered into the logbooks of events. If the complaint was "truthful" and a crime had been committed, an on-site investigation was initiated. Before that, a police officer was dispatched to secure the site until the arrival of the on-site investigation team.<sup>97</sup> He would have also marked, in an appropriate way, all material evidence he was able to find. The investigation team consisted of the inspector on duty, a forensic technician, and an inspector for fire prevention and explosive devices (if the nature of the events required such help), and finally the prosecutor on duty and the investigative judge.<sup>98</sup> After the on-site investigation, the inspector filed a criminal complaint against a known or unknown perpetrator, and the entire file was sent to the prosecutor's office; however, if the prosecutor and the investigative magistrate were on the scene, they were in charge of everything, assisted by the CSB.<sup>99</sup>

33. If information about the alleged commission of crimes arrived at the CSB after working hours, the duty operation officer informed the chief of the crime enforcement department, the head of the criminal offences group, and the inspector on duty. Thereafter, the procedure was the same as the one described in the previous paragraph.<sup>100</sup>

34. Gojko Vasić, a crime investigator at the Laktaši SJB in 1992,<sup>101</sup> reviewed and analysed police crime registers—known as "KU"—listing criminal cases that were reported to and investigated by the police in 1992.<sup>102</sup> The Trial Chamber notes that Vasić was unable to locate in the registers any of the crimes alleged in the Indictment, with two possible exceptions. First was a double rape on 29 July 1992 in Kotor Varoš by a member of the Banja Luka CSB Special Police Detachment. However, Vasić was unable to confirm if it was the same crime of rape listed in schedule D.4.3 of the Indictment. Second, eight unidentified male bodies were discovered on 8

<sup>94</sup> P173, Order of Mićo Stanišić to all Security Services Centre Chiefs Requiring Submission of Daily Reports, 16 May 1992.

<sup>95</sup> SZ003, 19 September 2011, T. 24379 (confidential) and 20 September 2011, T. 24436 (confidential).

<sup>96</sup> SZ003, 19 September 2011, T. 24385-24386.

<sup>97</sup> SZ003, 19 September 2011, T. 24385.

<sup>98</sup> SZ003, 19 September 2011, T. 24405.

<sup>99</sup> SZ003, 19 September 2011, T. 24405-24406.

<sup>100</sup> SZ003, 19 September 2011, T. 24404-24405.

<sup>101</sup> Gojko Vasić, 25 August 2010, T. 13651.

August 1992 in Banja Luka. However, without knowledge of whether the bodies were ever identified, Vasić was unable to confirm that they were the same crimes as alleged in schedule B.1.1 or B.1.2 of the Indictment.<sup>103</sup>

35. In addition, the SJBs in Kotor Varoš, Prijedor, Doboj, and Zvornik each recorded only one serious crime committed by a known Serb perpetrator against a non-Serb victim between April and December 1992,<sup>104</sup> while the Sanski Most SJB reported four and the Teslić SJB reported five (including the Miće Group criminal report).<sup>105</sup> The SJBs in Bileća, Gacko, Višegrad, Brčko, Pale, Vlasenica, and Bosanski Šamac recorded no serious crimes committed by Serbs against non-Serbs.<sup>106</sup> The Bijeljina SJB recorded two serious crimes, and the Banja Luka SJB recorded 29.<sup>107</sup>

36. In a November 1992 report on the activities of the RS Ministry of Justice, it was written that:

We face the fact that a large number of criminal acts have been carried out in Republika Srpska. Official organs have filed a small number of criminal reports to the judicial organs. That is why there is a distinct lack of co-operation between the prosecution organs and the Ministry of Interior.<sup>108</sup>

Momčilo Mandić proposed that there be an increase in the cooperation between prosecution organs and the Ministry of the Interior. He also proposed an increase of additional personnel in judicial organs, particularly the public prosecutor's office.<sup>109</sup>

(e) Disciplinary procedure

37. Article 113 of the LIA allowed the Minister, or an official authorised by him, to appoint disciplinary prosecutors. These prosecutors could, at the behest of the Minister, carry out necessary investigations and gather evidence necessary for disciplinary procedures before a disciplinary board.<sup>110</sup> Article 114 of the LIA listed behaviour that was considered misconduct.<sup>111</sup> According to

<sup>102</sup> Gojko Vasić, 25 August 2010, T. 13661; P1558.02, Witness Statement of Gojko Vasić with Annexes 1-16, 1 April 2010, pp. 2-4 (confidential).

<sup>103</sup> P1558.01, Witness Statement of Gojko Vasić, 25 June 2009, p. 6.

<sup>104</sup> P1558.02, Witness Statement of Gojko Vasić with Annexes 1-16, 1 April 2010, pp. 4, 6, 10, 12, Annex 14 (confidential); P1558.03, Revised Annexes to Witness Statement of Gojko Vasić, Annexes 1, 12, and 16 (confidential).

<sup>105</sup> P1558.02, Witness Statement of Gojko Vasić with Annexes 1-16, 1 April 2010, pp. 10-12 (confidential).

<sup>106</sup> P1558.02, Witness Statement of Gojko Vasić with Annexes 1-16, 1 April 2010, pp. 4-8 (confidential).

<sup>107</sup> The Trial Chamber notes that the number for Banja Luka is higher as the witness also took into account a report of crimes against non-Serbs prepared by the War Crimes Investigation Department of the Crime Police Sector in Banja Luka. See P1558.02, Witness Statement of Gojko Vasić with Annexes 1-16, 1 April 2010, pp. 7, 10-11 (confidential).

<sup>108</sup> P1318.23, RS Ministry of Justice and Administration Report on the Activities of the Ministry of Justice and Administration in the May-October 1992 period, Pale, 16 November 1992, p. 4.

<sup>109</sup> P1318.23, RS Ministry of Justice and Administration Report on the Activities of the Ministry of Justice and Administration in the May-October 1992 period, Pale, 16 November 1992, p. 8.

<sup>110</sup> P530, LIA, 23 March 1992, Article 113; P508, Nielsen Expert Report, para. 157.

<sup>111</sup> P530, LIA, 23 March 1992, Article 114; Radomir Rodić, 15 April 2010, T. 8774-8775; P508, Nielsen Expert Report, para. 158; Christian Nielsen, 17 December 2009, T. 4989-4990.

Article 115 of the LIA, a request for disciplinary accountability was issued by an official authorised by the Minister of Interior.<sup>112</sup>

38. Radomir Rodić, a Serb crime inspector at the Banja Luka SJB who on 7 July 1992 became disciplinary prosecutor at the Banja Luka CSB,<sup>113</sup> testified that as of April 1992 the chiefs of CSBs and the administration heads based at the RS MUP headquarters were the only officials authorised by the Minister to initiate a disciplinary proceeding.<sup>114</sup> Rodić added that, pursuant to the regulation applicable between April and September 1992, disciplinary violations were dealt with at CSB level and that the municipal SJBs did not have their own disciplinary committees and prosecutors.<sup>115</sup> However, as soon as they learned of a possible violation of the rules of duty, immediate supervisors of police employees would inform the relevant authorities at the CSB levels.<sup>116</sup>

39. Tomislav Kovač, a Serb, was the chief of the Ilidža SJB until August 1992 and was appointed Assistant Minister of Interior in charge of police in August 1992. From September 1993 until 31 December 1994 he was an Acting Minister of Interior.<sup>117</sup> He stated that the LIA imposed a duty on senior officers to launch proceedings by filing a criminal complaint if they learned that someone had committed a criminal offence, especially in connection with the discharge of their duties.<sup>118</sup>

40. According to ST127, a Serb and a former member of the RS MUP,<sup>119</sup> it was the chief of the SJB who decided whether or not to launch disciplinary procedures. In the event that the SJB chief did not take the disciplinary measures that he should, the chief of the CSB was able to initiate the proceedings.<sup>120</sup> The chief of a CSB was duty-bound to implement the first-instance disciplinary proceedings.<sup>121</sup> The Minister of Interior had the authority to initiate appropriate disciplinary proceedings against CSB chiefs.<sup>122</sup> The Minister of the Interior was the person who had to make the decisions on accepting people into service and dismissing them from service, which was prescribed by the LIA.<sup>123</sup>

<sup>112</sup> P530, LIA, 23 March 1992, Article 115.

<sup>113</sup> Radomir Rodić, 15 April 2010, T. 8762, 8764-8767; P1286, Župljanin's Decision Appointing Radomir Rodić Disciplinary Prosecutor at the Banja Luka CSB, 7 July 1992.

<sup>114</sup> Radomir Rodić, 15 April 2010, T. 8777.

<sup>115</sup> Radomir Rodić, 15 April 2010, T. 8774-8776.

<sup>116</sup> Radomir Rodić, 15 April 2010, T. 8776-8777.

<sup>117</sup> Tomislav Kovač, 7 March 2012, T. 27031, 27033-27034.

<sup>118</sup> Tomislav Kovač, 9 March 2012, T. 27236.

<sup>119</sup> ST127, 16 June 2010, T. 11826-11827.

<sup>120</sup> ST127, 17 June 2010, T. 11886.

<sup>121</sup> Tomislav Kovač, 7 March 2012, T. 27075.

<sup>122</sup> Tomislav Kovač, 8 March 2012, T. 27092.

<sup>123</sup> Tomislav Kovač, 7 March 2012, T. 27076.

41. Criminal offences or gross misconduct committed by police officers were covered by Article 118 of the LIA, which permitted temporary suspension.<sup>124</sup> The following sanctions could also be imposed for disciplinary violations: reprimands, public reprimands, temporary redeployment, fines, and termination of employment.<sup>125</sup> According to Kovač, the most appropriate measures for “cleansing” the RS MUP allowed for two possibilities—to displace someone from his position, especially if it were a position of authority, and to discharge an individual from the MUP.<sup>126</sup> The commission of a criminal offence by a police officer automatically implied, aside from initiation of disciplinary proceedings, the filing of criminal reports to the public prosecutor.<sup>127</sup>

42. On 19 September 1992, Mićo Stanišić adopted new Rules on Disciplinary Responsibility of Employees of the RS MUP in order to adapt the work of the Ministry to wartime conditions.<sup>128</sup> Article 2 of these new rules defined further violations of work duty which entailed disciplinary responsibility, besides those covered by the LIA.<sup>129</sup> Disciplinary measures were also defined and included reassignment, a fine, or termination of employment.<sup>130</sup> Disciplinary measures for “major violations of work duty” were to be imposed by Chiefs of CSBs, Chief of Administration at the Ministry, or a commander of a police detachment. Minor violations were to be sanctioned by a Chief of an SJB, persons authorised by him, or chiefs of sections.<sup>131</sup> Pursuant to the new regulation, the Chief of the CSB became the first instance organ for disciplinary proceedings, and the Minister of Interior dealt with appeals as a second instance disciplinary organ.<sup>132</sup> The Minister’s decision on any appeals was final.<sup>133</sup> Any employee of the Ministry could initiate a disciplinary procedure.<sup>134</sup>

43. Vladimir Tutuš, a Serb, who in 1992 was the Chief of the Banja Luka SJB,<sup>135</sup> testified that the rules governing the dismissal of a police officer involved in criminal activities varied depending on whether the perpetrator was a reserve or an active policeman. For reserve officers, the procedure

<sup>124</sup> Radomir Rodić, 15 April 2010, T. 8784-8785; P530, LIA, 23 March 1992, Article 118.

<sup>125</sup> Radomir Rodić, 16 April 2010, T. 8792-8793; L17, BiH Law on State Administration, 20 March 1990, Article 297, pp. 107-108.

<sup>126</sup> Tomislav Kovač, 9 March 2012, T. 27236-27237.

<sup>127</sup> Radomir Rodić, 16 April 2010, T. 8796.

<sup>128</sup> Tomislav Kovač, 9 March 2012, T. 27238-27239; 1D54, Rules on the Disciplinary Responsibility of RS MUP Employees Under Wartime Regime, 19 September 1992.

<sup>129</sup> 1D54, Rules on the Disciplinary Responsibility of RS MUP Employees under Wartime Regime, 19 September 1992, Article 2.

<sup>130</sup> 1D54, Rules on the Disciplinary Responsibility of RS MUP Employees under Wartime Regime, 19 September 1992, Article 3.

<sup>131</sup> 1D54, Rules on the Disciplinary Responsibility of RS MUP Employees Under Wartime Regime, 19 September 1992, Articles 4, 6.

<sup>132</sup> Radomir Rodić, 16 April 2010, T. 8806-8807.

<sup>133</sup> 1D54, Rules on the Disciplinary Responsibility of RS MUP Employees Under Wartime Regime, 19 September 1992, Articles 15-16.

<sup>134</sup> 1D54, Rules on the Disciplinary Responsibility of RS MUP Employees Under Wartime Regime, 19 September 1992, Article 5.

<sup>135</sup> ST174, P1098.02, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 9 April 2002, T. 4007 (confidential); Vladimir Tutuš, 15 March 2010, T. 7570, 7573.

was short: he could have been taken off the duty roster immediately, stripped of his weapons, and placed at the disposal of the army. For active duty officers, the procedure took longer. Disciplinary proceedings needed to be initiated, and the process involved both the prosecutor and the “chief of the centre”. The prosecutor’s proposal would be sent to the disciplinary court, which decided on the measures to be taken. The alleged perpetrator could also be temporarily suspended pending the completion of disciplinary proceedings. If a full-time employee were suspended, he would receive only 50% of his salary.<sup>136</sup>

#### 4. Development of RS MUP in course of 1992

44. In the spring of 1992, all employees in local SJBs and other public services were required to sign a solemn declaration pledging loyalty to the Bosnian Serb authorities. Bosnian Muslims and Bosnian Croats who refused to sign the solemn declaration were dismissed. Those who agreed to sign it remained within the service for a period of time, but nevertheless were dismissed after a while.<sup>137</sup> This process escalated during the period relevant to the Indictment, resulting in the dismissals of almost all Muslims and Croats from their positions.<sup>138</sup>

45. Miloš Janković, an engineer who in 1992 was the head of communications department and encryption in the Prijedor SJB,<sup>139</sup> testified about a dispatch from Alija Delimustafić dated 10 April 1992 to all CSBs and SJBs that passed through Janković’s communications centre. The dispatch stated that the “forcible formation and organisational units in the so-called Serbian MUP” were in progress and that workers were being blackmailed or pressured to sign documents of loyalty, which they were not required to sign.<sup>140</sup> As a response, Stojan Župljanin issued a dispatch stating that no one was being forced or pressured to sign but that the dispatch from Delimustafić did not have any legal effect in the RS.<sup>141</sup>

46. Milomir Orašanin, a Serb, testified that, when he started work in the RS MUP in early May 1992 as an inspector at the Crime Prevention Administration (also referred to as the Crime Enforcement Administration), there were inadequate working conditions at the RS MUP building in

<sup>136</sup> Vladimir Tutuš, 18 March 2010, T. 7749-7751; Radomir Rodić, 16 April 2010, T. 8805 and 19 April 2010, T. 8898-8899; Drago Borovčanin, 24 February 2010, T. 6814-6816.

<sup>137</sup> Adjudicated Facts 135, 1382; Nijaz Smajlović, 18 November 2011, T. 26019-26020; P508, Nielsen Expert Report, paras 193, 195; Christian Nielsen, 17 December 2009, T. 4930, 4939; 1D78, SRBiH MUP Dispatch in Relation to the Re-Organisation of the Organs for Internal Affairs, 1 April 1992; Amir Džonlić, P2289, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 28 February 2002, T. 2470-2471; BT11, P1098.02, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 9 April 2002, T. 3980-3982 (confidential); Atif Džafić, Witness Statement, P962.01, 17, 19, and 20 February 2001, pp. 12-13.

<sup>138</sup> Adjudicated Fact 753. See also sections on Sanski Most, Banja Luka, Donji Vakuf, Ključ, Kotor Varoš, Prijedor, and Teslić.

<sup>139</sup> Miloš Janković, 10 October 2011, T. 24714.

<sup>140</sup> Miloš Janković, 13 October 2011, T. 24940-24942; 1D138, Dispatch signed by Alija Delimustafić Regarding the Illegality of New RS MUP Solemn Declarations, 10 April 1992.

Pale. There were no vehicles, no equipment, no *materiel*, only a few offices, and one telephone.<sup>142</sup> Dobrislav Planojević, Chief of the Crime Prevention Administration,<sup>143</sup> told Orašanin at the time that Minister Stanišić had tasked them with the setting up of a professional Crime Prevention Administration.<sup>144</sup> The basic tasks of this Administration were to prevent and detect crimes, to apply the regulations linked to crime prevention, and to monitor the work of crime services at CSBs and SJBs.<sup>145</sup> Orašanin stated that in May only four persons worked in the Administration.<sup>146</sup> This number increased to nine in June 1992.<sup>147</sup> Two more inspectors joined in July 1992, and a further two in September 1992.<sup>148</sup>

47. At a meeting of the RS Government on 24 May 1992, it was concluded that the RS MUP should prepare a complete report on the security situation and state of public order and peace in the RS. Milan Trbojević believed that several such reports were produced on different issues, such as crime, protection of public property, war profiteering, harassment of citizens, and other issues relevant to the political situation and state of the “Serbian people”.<sup>149</sup>

48. Orašanin testified that the best way for the MUP to be informed about the actual situation in the SJBs was via “instructive inspections”, which required five to six days to be carried out properly, but that there was insufficient time for such inspections.<sup>150</sup> In 1992, visits or “blitz visits” were conducted—instead of “instructive inspections”—to Doboj, Foča, Skelani, Ilijaš, Vogošća, Karakaj, and Brčko, among others.<sup>151</sup> These types of visits were not actual inspections and were conducted for the purpose of going into the field to get a picture of the situation there, get acquainted with the personnel, learn about the problems they faced, and try to develop solutions.<sup>152</sup> At some stations, the visit was the first contact that the personnel there had with anyone from the RS MUP.<sup>153</sup> Upon returning from a visit or an inspection, there was an obligation to file a report.<sup>154</sup> In terms of reporting, Orašanin stated that, if conditions allowed for it, problems identified as a result of inspections were reported up the chain of command from inspectors—in his case to Goran

<sup>141</sup> Miloš Janković, 13 October 2011, T. 24942-24944, 24954.

<sup>142</sup> Milomir Orašanin, 6 June 2011, T. 21839-21840, 21853-21854, 21857.

<sup>143</sup> Milomir Orašanin, 6 June 2011, T. 21855-21856.

<sup>144</sup> Milomir Orašanin, 6 June 2011, T. 21854.

<sup>145</sup> Milomir Orašanin, 6 June 2011, T. 21869.

<sup>146</sup> Milomir Orašanin, 6 June 2011, T. 21855-21856; 1D569, Pay Roll for the Personnel at the MUP Headquarters for May 1992, 12 June 1992.

<sup>147</sup> Milomir Orašanin, 6 June 2011, T. 21862-21863; 1D570, Pay Roll Crime Prevention Administration for June 1992.

<sup>148</sup> Milomir Orašanin, 6 June 2011, T. 21864, 21868.

<sup>149</sup> Milan Trbojević, P427.05, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 8 April 2005, T. 11752-11754.

<sup>150</sup> Milomir Orašanin, 7 June 2011, T. 21924-21925 and 10 June 2011, T. 22154.

<sup>151</sup> Milomir Orašanin, 6 June 2011, T. 21872-21877; Goran Mačar, 6 July 2011, T. 22911.

<sup>152</sup> Milomir Orašanin, 7 June 2011, T. 21924-21925 and 10 June 2011, T. 22178-22179.

<sup>153</sup> Milomir Orašanin, 10 June 2011, T. 22178-22179.

<sup>154</sup> Milomir Orašanin, 7 June 2011, T. 21924.

Mačar—to Dobrislav Planojević and then Mićo Stanišić.<sup>155</sup> Orašanin submitted some inspection reports to his supervisor, Goran Mačar.<sup>156</sup>

49. During his tenure as an inspector, Orašanin was part of four visits to SJBs: the first to Zvornik, Skelani, Brčko, and Bijeljina; the second to Vogošća and Ilijaš; the third to Doboј, Banja Luka, and Bosanski Šamac; and the fourth to Foča, Rudo, Čajniče, and Višegrad.<sup>157</sup> The situation in the stations differed from one another, as did their problems; some functioned in accordance with the regulations; others did not.<sup>158</sup> Orašanin considered that, given the prevailing situation in the RS in 1992, it was not possible, with the personnel and equipment available to his office, to visit every SJB to determine the situation.<sup>159</sup> Often, the situation on the ground was different from the information about the SJB relied upon at headquarters prior to the visit.<sup>160</sup>

50. During the first visit in mid to late May 1992,<sup>161</sup> Orašanin's inspection team visited Karakaj and then went to Brčko, Bijeljina, and the new Skelani SJB.<sup>162</sup> In Brčko, there were a duty officer and an inspector, named Gavrilović, present at the station.<sup>163</sup> Upon arriving at Bijeljina police station, none of the chiefs were present except for the chief of legal affairs, a man named Grkinić, who was of no assistance for the purpose of the visit.<sup>164</sup> A follow-up visit was undertaken to Brčko five to ten days later by another team, which established that some paramilitary groups were terrorising the people and the police there.<sup>165</sup>

51. During the second visit conducted on 27 and 28 May 1992, Orašanin testified that there were personnel problems at the Vogošća SJB, as the Chief of the SJB and Police Station Commander positions were vacant due to resistance from local structures to the individuals whom the MUP wanted to appoint.<sup>166</sup> Orašanin and Drago Borovčanin, who was also part of the inspection team, recommended Živko Lazarević as head of the crime prevention service at the Vogošća SJB and Branislav Vlačo as crime prevention inspector.<sup>167</sup> Boro Maksimović, who was nominated by

<sup>155</sup> Milomir Orašanin, 8 June 2011, T. 22027.

<sup>156</sup> Milomir Orašanin, 8 June 2011, T. 22026-22027.

<sup>157</sup> Milomir Orašanin, 7 June 2011, T. 21940-21941.

<sup>158</sup> Milomir Orašanin, 6 June 2011, T. 21872.

<sup>159</sup> Milomir Orašanin, 10 June 2011, T. 22179.

<sup>160</sup> Milomir Orašanin, 10 June 2011, T. 22153-22154.

<sup>161</sup> Milomir Orašanin, 6 June 2011, T. 21877.

<sup>162</sup> Milomir Orašanin, 6 June 2011, T. 21875-21877, 21888-21889 and 10 June 2011, T. 22162-22164 (confidential); P993, RS MUP Report about the Performed Supervision of the State of the Organisation and the Work of the Bratunac and Skelani Police Stations 1 August 1992 - 3 August 1992", undated, pp. 2-4.

<sup>163</sup> Milomir Orašanin, 6 June 2011, T. 21888-21889

<sup>164</sup> Milomir Orašanin, 6 June 2011, T. 21887.

<sup>165</sup> Milomir Orašanin, 6 June 2011, T. 21890-21891.

<sup>166</sup> Milomir Orašanin, 6 June 2011, T. 21894-21895; P989, RS MUP Report on the Work of Vogošća and Ilijaš SJBs, 30 May 1992, p. 2.

<sup>167</sup> Milomir Orašanin, 6 June 2011, T. 21896; P989, RS MUP Report on the Work of Vogošća and Ilijaš SJBs, 30 May 1992, pp. 2-4.

the SDS, was eventually removed from his position at the Vogošća SJB for unprofessional conduct and failure to take adequate measures for the operation of the SJB after another inspection visit about a month later.<sup>168</sup>

52. On 6 July 1992, Mićo Stanišić issued a document setting out the functioning of the RS MUP in wartime.<sup>169</sup> In the document, he identified the causes of the problems faced by the Ministry: state of war; appearance of new crimes (war crimes and war profiteering); movement of population; the impossibility of implementing the regulations on purchasing, keeping, and carrying weapons; and the pressure on the communications system. He further mentioned the increased scope of duties and assignments, including participation in combat, relocation, and dispersal of the MUP; shortage of equipment and *materiel*; poor record-keeping; and undefined territories. In order to solve these problems, he called for legal regulation of the field of internal affairs, adherence to the Constitution and the law in all domains, definition of the territory and the borders of RS, prevention of any interventions jeopardising criminal investigations, and organisation of the Ministry into war units. He further called for cooperation and joint action with the VRS.<sup>170</sup>

53. In Višegrad, Orašanin, Nikola Milanović, and Ostoja Minić conducted another visit between 7 and 13 September 1992.<sup>171</sup> Orašanin stated that during the course of that visit they were not informed about the fire incident at the Omeragić house that had taken place in Višegrad, nor did they see any record of the incident in the Višegrad SJB logbook. The Trial Chamber recalls that it has found that approximately 66 Muslim civilians had died in this incident.<sup>172</sup> Orašanin was of the view that, had the inspectors known, they would have included it in their report.<sup>173</sup> The report did state that genocide had been committed in the area of Višegrad against Serbs.<sup>174</sup> Orašanin agreed that the RS MUP found itself completely paralysed in the face of the paramilitary presence in Višegrad in July 1992.<sup>175</sup>

54. Milomir Orašanin stated that between May and July 1992 a number of SJBs had no CSB to which they could report due to the creation of the new RS MUP structure and displacement of

<sup>168</sup> Milomir Orašanin, 6 June 2011, T. 21897.

<sup>169</sup> P508, Nielsen Expert Report, para. 178; P853, Ministry of Interior of the RS, "Some Basic Principles of the Functioning of MUP in Conditions of a War Regime", 6 July 1992.

<sup>170</sup> Christian Nielsen, 14 December 2009, T. 4747; P508, Nielsen Expert Report, para. 178; P853, Ministry of Interior of the RS, "Some Basic Principles of the Functioning of MUP in Conditions of a War Regime", 6 July 1992; 1D46, Order by Mićo Stanišić Organising RS MUP Forces into War Units, 15 May 1992.

<sup>171</sup> 1D571, RS MUP Report following the Inspection of the Foča, Čajniča, Rudo, and Višegrad SJBs, 14 September 1992, pp. 1-2.

<sup>172</sup> See Višegrad section.

<sup>173</sup> Milomir Orašanin, 9 June 2011, T. 22134-22135; 1D571, RS MUP Report following the Inspection of the Foča, Čajniča, Rudo, and Višegrad SJBs, 14 September 1992, p. 2.

<sup>174</sup> 1D571, RS MUP Report following the Inspection of the Foča, Čajniča, Rudo, and Višegrad SJBs, 14 September 1992, p. 2.



former SJB/CSB reporting hierarchy. SJBs, such as Ugljevik, Bijeljina, Brčko, Zvornik, and Bratunac, “were left hanging”, “outside the area [of competence] of both the judiciary and the police.”<sup>176</sup> Later, a number of those SJBs were placed under the Sarajevo CSB, *e.g.*, Bratunac, Zvornik, Milići, and Vlasenica, in an effort to integrate them into the chain of command in a legal sense. MUP headquarters had no influence over these stations between May and July 1992 given the power of the Crisis Staffs in these locations.<sup>177</sup> Orašanin testified that in May 1992 there were CSBs in Banja Luka, Doboj, and Trebinje, while Bijeljina, Zvornik, Foča, and Višegrad had an undefined status. Eventually, Foča, Višegrad, and Rudo became part of the Trebinje CSB.<sup>178</sup> There was a dilemma about whether Zvornik should belong to Bijeljina or Sarajevo, and ultimately a CSB was established in Bijeljina.<sup>179</sup>

55. According to Orašanin, the most prevalent problems with the SJBs in the RS were lack of professional staff; the fact that paramilitary groups were not under control of either the military or the police; and the control exercised by Crisis Staffs, which in the beginning effectively controlled the police in certain areas, such as Foča and Zvornik.<sup>180</sup> Orašanin testified that all reports that arrived in the Crime Prevention Administration were perused by its analysis service. He said that the resolution rate for crimes was approximately 45–50%. Banja Luka and Doboj had particularly high rates of resolution.<sup>181</sup>

56. Milan Trbojević, former deputy Prime Minister of RS, stated that between May and November 1992 the MUP implemented its own structure and hierarchy in the field. Military and police had a clear ambit of work and a clearly defined structure. As a result, “their structure was far more elaborate and far more complete than the structures of any other ministries”.<sup>182</sup> Some individual SJB senior officers organised their work in such a way that enabled Crisis Staffs to run and direct the work of the SJBs, making the Crisis Staff, rather than the CSB, the SJB’s *de facto* superior body in contravention of the LIA.<sup>183</sup> SJBs linked their activities to local politics and political leaders and neglected their legal obligations.<sup>184</sup> Consequently, a number of SJBs ignored

<sup>175</sup> Milomir Orašanin, 10 June 2011, T. 22176; P633, RS MUP Report 08-3/92 – Brief Overview of the Military and Security Situation in the Serbian Municipality of Višegrad from Višegrad SJB Chief Perišić, 13 July 1992, p. 2.

<sup>176</sup> Milomir Orašanin, 6 June 2011, T. 21898-21900.

<sup>177</sup> Milomir Orašanin, 6 June 2011, T. 21899.

<sup>178</sup> Milomir Orašanin, 8 June 2011, T. 22003.

<sup>179</sup> Milomir Orašanin, 8 June 2011, T. 22003; Milomir Orašanin, 10 June 2011, T. 22174. *See also* P2005, Fax Message signed by Predrag Ješurić, Chief of CSB Bijeljina, to the Minister of Interior regarding the Security Situation in Bijeljina, 29 April 1992.

<sup>180</sup> Milomir Orašanin, 7 June 2011, T. 21961.

<sup>181</sup> Milomir Orašanin, 7 June 2011, T. 21962.

<sup>182</sup> Milan Trbojević, 3 December 2009, T. 4183-4184 and 4 December 2009, T. 4224.

<sup>183</sup> Goran Mačar, 11 July 2011, T. 23102.

<sup>184</sup> Goran Mačar, 11 July 2011, T. 23102-23103; P624, Report on the Work of the Banja Luka Security Services Centre from 4 April 1992 to 31 December 1992, January 1993, p. 15.

requests from the CSB for information, undermining the ability of RS MUP to operate as a single entity, which led to difficulties in assessing and controlling the overall security situation.<sup>185</sup>

57. RS MUP units participated frequently in combat operations in the period from April to December 1992.<sup>186</sup> Until the establishment of the VRS on 12 May 1992, the forces within RS MUP were the only armed forces exclusively and directly controlled by the RS leadership.<sup>187</sup> At the outset, RS MUP relied on armaments from police stations they controlled and on supplies of weapons by the JNA, the TO, and by the Federal SUP.<sup>188</sup> Throughout the war in BiH, the MUP was considered part of the armed forces of the RS.<sup>189</sup>

58. On 15 May 1992, Stanišić ordered that all employees of the RS MUP be organised formally into “war units” and formalised the co-operation between RS MUP and the military by explaining how police units would co-operate with the VRS. These units could receive orders from the Minister of Interior and the chiefs of the CSBs, who had to report to the Staff of the Ministry when they used their combat units.<sup>190</sup> The Staff commanded the collective forces of the Ministry.<sup>191</sup> In the course of combat, the police units were subordinate to the VRS albeit with the caveat that the units of MUP were to be directly commanded by the respective employees of the MUP.<sup>192</sup> Strict obedience to the LIA and other legal and military regulations was emphasised.<sup>193</sup> This necessarily led to a severe decline in the amount of resources that could be devoted to ordinary policing and command-and-control became a major issue for the RS MUP.<sup>194</sup>

59. The RS MUP headquarters changed its seat four times between April and December 1992—first, it was at Vrace, then at Pale and Lukavica, and then in Bijeljina and partially in Pale.<sup>195</sup>

<sup>185</sup> Goran Mačar, 11 July 2011, T. 23103 and 13 July 2011, T. 22325-22328; P624, Report on the Work of the Banja Luka Security Services Centre from 4 April 1992 to 31 December 1992, January 1993, p. 15.

<sup>186</sup> P625, RS MUP Annual Report on the Work in the period April–December 1992, January 1993, pp. 4-5.

P508, Nielsen Expert Report, para. 217.

<sup>187</sup> P508, Nielsen Expert Report, para. 191; Christian Nielsen, 25 January 2010, T. 5464-5465.

<sup>188</sup> P508, Nielsen Expert Report, para. 214.

<sup>189</sup> P508, Nielsen Expert Report, para. 191.

<sup>190</sup> P508, Nielsen Expert Report, para. 215.

<sup>191</sup> P508, Nielsen Expert Report, para. 215. The composition of the Staff of the MUP was: Commander–Minister of Internal Affairs; Deputy Commander–Under-secretary for Public Security; Members–Under-secretary for National Security, Assistant Ministers for Criminal Affairs, Police, Communications and Data protection and for material-Financial Matters, Commander of Police Detachment, Deputy Commander of Police Detachment, and Chiefs of CSBs; and Secretary–Chief of Minister’s Office.

<sup>192</sup> See Re-subordination section.

<sup>193</sup> P508, Nielsen Expert Report, para. 216.

<sup>194</sup> P508, Nielsen Expert Report, para. 217.

<sup>195</sup> Dragan Kezunović, 11 June 2010, T. 11631-11632, 11641; Goran Mačar, 7 July 2011, T. 22992; P625, RS MUP Annual Report on the Work in the period April–December 1992, January 1993, p. 7.

## 5. Communication systems

60. Between 5 and 10 April 1992, Mićo Stanišić offered Dragan Kezunović the position of Chief of Administration for Communications in the RS MUP, which he accepted.<sup>196</sup> Kezunović was told by Stanišić to create a system of communications attached to the RS MUP headquarters. He testified that this job meant not just having the proper equipment and manpower but also all encryption documents.<sup>197</sup> In the beginning, he had none of these.<sup>198</sup>

61. On 14 April 1992, Kezunović attended a meeting of the “Expert Board of Directors” of the RS MUP. At this meeting, problems in the communication in the RS were discussed, and it was agreed to request communications equipment from the MUP in Belgrade.<sup>199</sup> On 8 May 1992, the Federal MUP provided the RS MUP with various communications equipment.<sup>200</sup> Kezunović stated that for communication between the RS MUP headquarters, the five CSBs, and SJBs, the RS MUP headquarters had the following equipment in 1992: a short-wave radio, several ultra short-wave radios, one or two teleprinters, and fax machines.<sup>201</sup> At the time, there was also the possibility to use couriers.<sup>202</sup> According to the RS MUP Annual Report for 1992, on average, 15 dispatches a day were sent to the centres and other organs from the RS MUP headquarters (a total of 4,170 in all lines of work) and on average 16 dispatches per day were received (a total of 4,400).<sup>203</sup>

62. There were three communication systems in the RS during 1992: the police, military, and public system.<sup>204</sup> Kezunović explained that, beside the separate and more secure cable connections, both the police and the military had a back-up communications system via radio relays, which was not secure.<sup>205</sup> The RS Presidency, Government, municipality organs, and the BSA used all three communication systems.<sup>206</sup> A communications centre was set up for civilian authorities in Pale that could use the public telecommunications system. It was headed by Colonel Milorad Kotlica and part of the MOD, but was not related to the operational aspects of the army.<sup>207</sup> In early April 1992, there were problems in the functioning of the communications systems in this centre because of

<sup>196</sup> Dragan Kezunović, 10 June 2010, T. 11529, 11536-11538; Slobodan Marković, 13 July 2010, T. 12774.

<sup>197</sup> Dragan Kezunović, 10 June 2010, T. 11537 and 11 June 2010, T. 11639-11640.

<sup>198</sup> Dragan Kezunović, 10 June 2010, T. 11537-11538.

<sup>199</sup> Dragan Kezunović, 10 June 2010, T. 11539-11542; P541, Record from the Session of the RS MUP Expert Board of Directors held on 14 April 1992, pp. 1-2.

<sup>200</sup> Dragan Kezunović, 10 June 2010, T. 11547-11550; P1425, Letter by the Federal SUP to the RS MUP, 8 May 1992.

<sup>201</sup> Dragan Kezunović, 10 June 2010, T. 11551-11552.

<sup>202</sup> Dragan Kezunović, 10 June 2010, T. 11553.

<sup>203</sup> P625, RS MUP Annual Report on the Work in the period April–December 1992, January 1993, p. 23.

<sup>204</sup> Dragan Kezunović, 10 June 2010, T. 11561-11564 and 11 June 2010, T. 11660-11661; ST219, 22 November 2010, T. 17623, 17666-17667, 17669.

<sup>205</sup> Dragan Kezunović, 10 June 2010, T. 11562-11563.

<sup>206</sup> Dragan Kezunović, 10 June 2010, T. 11563; ST219, 22 November 2010, T. 17623-17624.

<sup>207</sup> Dragan Kezunović, 10 June 2010, T. 11563-11565; ST219, 22 November 2010, T. 17620-17621 (confidential), 17622-17624, 17634, 17670.

combat operations, fuel shortage, and low number of trained people.<sup>208</sup> Moreover, there were frequent outages of electricity, and telephone cables were damaged making communication difficult.<sup>209</sup> As a result, radio communication had to be used.<sup>210</sup>

63. In early April and May, the RS MUP communications centre in Vrace shared space with the CSB Sarajevo communications staff with the same people working for two organisations, distributing and receiving dispatches from the two organisational units.<sup>211</sup> Separate logbooks were kept for sent dispatches and received dispatches, both coded and open ones.<sup>212</sup> An internal regulation specified exactly what type of documents may have been transmitted in the open and which type of documents had to be encrypted, a distinction based upon the confidentiality and the importance of information itself.<sup>213</sup> Dragan Kezunović, in commenting on the communications logbook of the RS MUP for 1992, testified that the communication centre in Vrace partially functioned as the RS MUP centre, until it moved to Pale.<sup>214</sup>

64. Slobodan Škipina testified that communications were in operation in the Banja Luka and Doboј CSBs before the war, while communications had to be set-up in Trebinje, Sarajevo, and Bijeljina CSBs after the war broke out.<sup>215</sup> Kezunović agreed that from April 1992 onwards, there were parts of the territory that had previously been held by the Muslims or Croats, thus making it necessary to establish new connections for the RS MUP when a new SJB or CSB was established in these newly acquired territories.<sup>216</sup>

65. According to Radovan Pejić, who worked in the RS MUP communications centre in Vrace in April 1992,<sup>217</sup> the overall communications system, in accordance with all the rules, started functioning at the end of June and the beginning of July. He added that the system of communications had to be built from scratch. According to Pejić, the system of communications in the RS MUP only started functioning towards end of June and the beginning of July. Up to that point, in his view, everything was improvised.<sup>218</sup>

<sup>208</sup> Dragan Kezunović, 11 June 2010, T. 11633, 11657; ST219, 22 November 2010, T. 17622.

<sup>209</sup> ST219, 22 November 2010, T. 17631; Gojko Vasić, 25 August 2010, T. 13661.

<sup>210</sup> ST219, 22 November 2010, T. 17631.

<sup>211</sup> Dragan Kezunović, 11 June 2010, T. 11607.

<sup>212</sup> Dragan Kezunović, 10 June 2010, T. 11555, 11567, 11582; P1428, Communications Logbook of the RS MUP and CSB Sarajevo.

<sup>213</sup> Dragan Kezunović, 10 June 2010, T. 11555, 11 June 2010, T. 11637.

<sup>214</sup> Dragan Kezunović, 11 June 2010, T. 11605-11606; P1428, Communications Logbook of the RS MUP and CSB Sarajevo; Goran Mačar, 6 July 2011, T. 22887-22888.

<sup>215</sup> Slobodan Škipina, 31 March 2010, T. 8394; Dragan Kezunović, 11 June 2010, T. 11641.

<sup>216</sup> Dragan Kezunović, 14 June 2010, T. 11723.

<sup>217</sup> Radovan Pejić, 24 June 2010, T. 12109, 12112-12113.

<sup>218</sup> Radovan Pejić, 24 June 2010, T. 12172.

(a) Reporting within and by RS MUP

66. Within the RS MUP there were daily bulletins that were intended to inform the leading people in the RS MUP about developments on the ground. An operative duty officer or the analysis department summarised the information received from different centres into a single bulletin.<sup>219</sup> The bulletins were signed by Mićo Stanišić or by a senior staff member in his absence if the bulletin was intended for internal use.<sup>220</sup> The President and the Prime Minister were informed of the more important bulletins.<sup>221</sup> According to the MUP Annual Report, 150 daily bulletins were compiled in 1992. In addition, 90 reports were sent to the Prime Minister and the President.<sup>222</sup>

67. According to Mačar, there was an instruction within the RS MUP on reporting. However, it was not possible to adhere to it because of the shortage of technology and equipment at all levels in the RS MUP. He stated that this was resolved in October 1992.<sup>223</sup> Aleksander Krulj, former Chief of the Ljubinje SJB,<sup>224</sup> testified that this instruction obliged SJBs to send quarterly, monthly, and daily reports to the relevant CSBs using telephones, facsimile, official mail, or couriers. Reports detailed the events relevant for the security in a municipality, including criminal issues.<sup>225</sup> Daily reports were only sent for important events, such as a serious crime, at which point the CSB decided whether to provide its own forces or equipment to the police station.<sup>226</sup>

68. Goran Mačar testified that the RS MUP leadership was, in many cases, not informed about what was happening on the ground, nor were SJBs and CSBs informing one another of matters in a timely and regular manner.<sup>227</sup> Security assessments, especially at the beginning of the war, were hampered by the lack of information and co-ordination between the CSBs, the SJBs, and the RS MUP. The CSBs did not really know what was going on in each segment of their territories, making it difficult to plan initiatives and issue instructions to the SJBs.<sup>228</sup> On 18 April 1992, Mićo Stanišić ordered CSB Chiefs in Sarajevo, Trebinje, Banja Luka, Bijeljina, and Doboj to send daily incident bulletins and significant information with a security interest to the RS MUP headquarters, but since there was no police communication system in place at that time, most of the communication

<sup>219</sup> Slobodan Škipina, 31 March 2010, T. 8395.

<sup>220</sup> Slobodan Škipina, 30 March 2010, T. 8318-8319.

<sup>221</sup> Slobodan Škipina, 30 March 2010, T. 8318; P625, RS MUP Annual Report on the Work in the period April–December 1992, January 1993, p. 23.

<sup>222</sup> P625, RS MUP Annual Report on the Work in the period April–December 1992, January 1993, p. 23.

<sup>223</sup> Goran Mačar, 18 July 2011, T. 23490-23491.

<sup>224</sup> Aleksander Krulj, 26 October 2009, T. 1966.

<sup>225</sup> Aleksander Krulj, 26 October 2009, T. 1980-1981; ST027, 2 October 2009, T. 720-721.

<sup>226</sup> ST027, 2 October 2009, T. 721.

<sup>227</sup> Goran Mačar, 7 July 2011, T. 22992.

<sup>228</sup> Goran Mačar, 11 July 2011, T. 23111-23112. *See also* P595, Report of the Banja Luka Security Services Centre from 1 January-30 June 1992, July 1992, p. 16.

occurred through existing fax and telephone lines.<sup>229</sup> Midway through 1992, Stanišić further requested periodic reports from the SJBs as, according to Mačar, the information flow from the SJBs was not adequate due to the overall situation.<sup>230</sup> Mačar testified that the communications system in the territory of the RS was significantly improved by mid-October 1992.<sup>231</sup> The Crime Prevention Administration at RS MUP headquarters in Pale received only 31 dispatches between April and October 1992, when it moved to Bijeljina. Due to difficulties in communicating and disorganisation in the centres that were still being established, only very urgent dispatches, which were few, were sent to Mićo Stanišić.<sup>232</sup>

69. ST219, a former communications officer,<sup>233</sup> testified that the MOD communications centre in Pale—supported by a radio department (both short and ultra-short wave), a telephone department, and a cryptographic data protection department—sent dispatches for other ministries besides the MOD.<sup>234</sup> Around 20 June 1992, this centre began sharing cryptographic documents with the army and the RS MUP, through direct and manual communication as well as all postal systems, including telephone and fax.<sup>235</sup> A teleprinter network made possible the “circular work”, meaning that at any moment dispatches could be sent to all organs on the ground simultaneously.<sup>236</sup> Kezunović testified that he did not believe there was any kind of communication link between the SJBs and the VRS, because one could not communicate with the army directly.<sup>237</sup>

(i) Sarajevo CSB

70. Communication between Sarajevo and Pale was cut off in mid-March 1992, and nearly all security work in Sarajevo stopped.<sup>238</sup> The switchboard located in Sarajevo burned out on or around 2 May 1992.<sup>239</sup> All communication with the SJBs in the territory of the CSB Sarajevo Romanija-Birač region was severed.<sup>240</sup> Telephone lines were cut off at the school in Vrace sometime in mid-May and in Lukavica around July. The only functioning phones at the time were in Pale.<sup>241</sup> Until

<sup>229</sup> Dragan Kezunović, 14 June 2010, T. 11709; Goran Mačar, 5 July 2011, T. 22866; 1D72, Order by Minister Mićo Stanišić to all CSBs to Submit Daily Reports by Fax, 18 April 1992.

<sup>230</sup> Goran Mačar, 18 July 2011, T. 23459.

<sup>231</sup> Goran Mačar, 8 July 2011, T. 23022.

<sup>232</sup> Goran Mačar, 6 July 2011, T. 22887.

<sup>233</sup> ST219, 22 November 2010, T. 17620 (confidential).

<sup>234</sup> ST219, 22 November 2010, T. 17623-17624, 17655 (confidential).

<sup>235</sup> ST219, 22 November 2010, T. 17681.

<sup>236</sup> Dragan Kezunović, 11 June 2010, T. 11637.

<sup>237</sup> Dragan Kezunović, 14 June 2010, T. 11718.

<sup>238</sup> Goran Mačar, 5 July 2011, T. 22838.

<sup>239</sup> Simo Tuševljak, 22 June 2011, T. 22580-22581.

<sup>240</sup> Dragan Kezunović, 11 June 2010, T. 11650; Simo Tuševljak, 16 June 2011, T. 22272, 17 June 2011, T. 22337-22338; Goran Mačar, 5 July 2011, T. 22867-22868; 1D586, Order by CSB Sarajevo to SJBs on How to Relay Information due to Communications Problems, 23 September 1992; P589, Responses of SJBs and CSBs to the 19 July Order of Mićo Stanišić, 25 July 1992.

<sup>241</sup> Simo Tuševljak, 22 June 2011, T. 22580-22583.

the end of the war, Simo Tuševljak—inspector in the SUP in Sarajevo<sup>242</sup>—could not call anyone outside his area unless he used the hotline in the office of the chief of the CSB. This line used a different routing and was not usable at times.<sup>243</sup> Simo Tuševljak stated that, although a communication centre was set up in Sarajevo, dispatches could often not be sent.<sup>244</sup>

71. The Vogošća and Ilijaš SJBs were 20–30 km apart, but could not communicate directly with one another.<sup>245</sup> However, on 23 September 1992 measures were taken to improve the dispatch and communications system in light of the difficulties.<sup>246</sup> As a result, dispatches were transferred by hand to police patrols by personnel from SJB Ilidža, who delivered all dispatches addressed to Vogošća, Rajlovac, and Ilijaš, to Rajlovac SJB, which would retain dispatches addressed to them and distribute the remaining ones to Ilijaš and Vogošća.<sup>247</sup> These personnel had to take a long detour of 160 km between Sarajevo and Ilidža because the regular route was taken over by the BiH TO.<sup>248</sup>

72. ST219 testified that the communications centre in Pale could send telegrams to the ARK and other autonomous regions per the instruction of Bogdan Subotić, the Minister of Defence.<sup>249</sup> Sealed telegrams could only be sent from Pale from around 20 June 1992, which entailed establishing prior contact with six SAOs across the RS to convey the key codes to them.<sup>250</sup> Despite the difficulties caused by the outbreak of hostilities, ST219 testified that the centre managed to use teleprinters, radio communications, and other types of communication. Some telegrams however never made it to their intended recipients.<sup>251</sup> Communication was established between the RS MUP and the army by “direct and manual communication”, but in the first few months, there was a courier service between the two.<sup>252</sup>

(ii) Bijeljina and Trebinje CSBs

<sup>242</sup> Simo Tuševljak, 15 June 2011, T. 22190, 22194.

<sup>243</sup> Simo Tuševljak, 22 June 2011, T. 22580-22581.

<sup>244</sup> Simo Tuševljak, 16 June 2011, T. 22290; P589, Responses of CSBs and SJBs to the 19 July Order of Mićo Stanišić, 25 July 1992.

<sup>245</sup> Milomir Orašanin, 6 June 2011, T. 21898; Simo Tuševljak, 15 June 2011, T. 22242.

<sup>246</sup> Simo Tuševljak, 17 June 2011, T. 22338-22339; 1D586, Order by CSB Sarajevo to SJBs on How to Relay Information Due to Communications Problems, 23 September 1992.

<sup>247</sup> Simo Tuševljak, 17 June 2011, T. 22340; Dragan Kezunović, 10 June 2010, T. 11552-1153.

<sup>248</sup> Simo Tuševljak, 15 June 2011, T. 22241-22242 and 16 June 2011, T. 22272.

<sup>249</sup> ST219, 22 November 2010, T. 17654-17655 (confidential); P1725, Instruction by Bogdan Subotić, Minister of Defence, to Ministries of the Government of RS re: Sending Telegrams, 18 June 1992.

<sup>250</sup> ST219, 22 November 2010, T. 17667-17668; 1D398, Instructions on Information Centres in SAR and SAO by Bogdan Subotić, Minister of Defence of RS.

<sup>251</sup> ST219, 22 November 2010, T. 17672.

<sup>252</sup> ST219, 22 November 2010, T. 17681.

73. Despite difficulties that were experienced in the communications between Zvornik and Sarajevo,<sup>253</sup> the Zvornik SJB continued to report security-related matters to the Bijeljina CSB.<sup>254</sup> Goran Mačar testified that there were no telephone lines that could be used by police to communicate with the Bijeljina CSB in April-May 1992. Sometime in April, instructions were issued to supply fax machines from the RS MUP storage to be installed to enable communication.<sup>255</sup> On 7 May 1992, Predrag Ješurić, Chief of the Bijeljina CSB at the time, reported to the Minister of the Interior that there was a break in telegraph and fax communications and that this is the reason the Minister was not receiving any reports from the Bijeljina CSB at that time.<sup>256</sup> According to a report from 29 June 1992, the RS MUP Headquarters in Pale used public telephone and fax communications to communicate with Bijeljina, Banja Luka, and Sarajevo. The headquarters also established a short-wave radio link with Sarajevo and Trebinje at this time.<sup>257</sup>

74. Kezunović acknowledged the content of a report on the work of the Trebinje CSB between 1 July and 15 August 1992, which noted a non-functional communications system, lack of equipment, *materiel*, frequent fuel shortage, and interruption of communications as posing a problem in performance of daily activities.<sup>258</sup> Aleksandar Krulj stated that it was difficult to find out about meetings, which would mostly be held in Trebinje or Bileća, because telephone communications posed a problem and there were no faxes. Sometimes radio or ultra short-waves were used. Couriers were also used since someone was travelling between these places almost daily.<sup>259</sup> Occasional problems also existed with telephone communications in Bileća and Gacko.<sup>260</sup> Instructions issued by Dobrislav Planojević on 5 June 1992 were forwarded on 24 June 1992 by memorandum from Jovo Čokorilo, Chief of the Trebinje CSB, to all SJBs, which illustrates the communication difficulties at that time.<sup>261</sup>

(iii) Doboj CSB

<sup>253</sup> Milomir Orašanin, 6 June 2011, T. 21898.

<sup>254</sup> Simo Tuševljak, 22 June 2011, T. 22584; P329; Daily Report from Zvornik SJB to Bijeljina CSB re: Security Incidents in the Territory of the Zvornik on 2 June 1992, 3 June 1992.

<sup>255</sup> Goran Mačar, 6 July 2011, T. 22886-22887; 1D324, Information on the Situation in the Territory of CSB Bijeljina by Predrag Ješurić, 7 May 1992.

<sup>256</sup> Dragan Kezunović, 11 June 2010, T. 11646; Goran Mačar, 6 July 2011, T. 22886; 1D324, Information on the Situation in the Territory of CSB Bijeljina by Predrag Ješurić, 7 May 1992, p. 1.

<sup>257</sup> Dragan Kezunović, 14 June 2010, T. 11709-11711; P573, Performance Report of RS MUP for the period from April to June 1992, 29 June 1992.

<sup>258</sup> Dragan Kezunović, 11 June 2010, T. 11654-11655; P158, Information on the Work of the CSB Trebinje from 1 July 1992 to 15 August 1992, 20 August 1992.

<sup>259</sup> Aleksander Krulj, 26 October 2009, T. 1979-1980.

<sup>260</sup> Aleksander Krulj, 26 October 2009, T. 1992.

<sup>261</sup> Goran Mačar, 6 July 2011, T. 22902; 1D84, MUP Instruction to all CSBs on Responding to and Documenting Criminal Offences, 5 June 1992; 1D637, CSB Trebinje forwarding RS MUP's Dispatch Requesting all SJBs to Fight all Types of Crime, 24 June 1992.



75. A status report from the Doboj CSB dated 1 October 1992 indicated that, in the period from 30 July to 30 September 1992, the Doboj CSB established telephone and telegraph communications with Derventa, Modriča, Teslić, Bosanski Šamac, Petrovo, and Maglaj. Moreover, telephone and telegraph communications were also established with the Banja Luka CSB, and a short-wave radio connection was made with the Ministry of Interior. According to the report, at this time, documents regarding cryptographic data had also been exchanged between these organs, thus enabling secure communication.<sup>262</sup>

76. When shown this report, Dragan Kezunović testified that telephone and telegraph connections were not operational in the municipalities of Teslić, Bosanski Šamac, and others at least until 30 July 1992. Moreover, when communication was established between 1 August and 30 September 1992, it functioned under difficult circumstances.<sup>263</sup> Goran Mačar stated that between April and June 1992, it was not possible to physically communicate with the CSBs in Banja Luka and Doboj.<sup>264</sup>

(iv) Banja Luka CSB

77. According to a report on the work of the Banja Luka CSB between 4 April and 31 December 1992, during that period, it had been difficult to ensure proper functioning of the communications system.<sup>265</sup> However, according to another report, on RS MUP performance for the period of April to June 1992, it was recorded that considering the problems that had affected the RS MUP's communications system, the Banja Luka CSB was "in a better position". This was the case because its telephone and telegraph exchanges had remained operational, thus helping communications with all the SJBs in the region to be linked to the telephone or telegraph lines.<sup>266</sup> Between 4 April and 31 December 1992, all SJBs under the Banja Luka CSB were linked to these lines, with some exceptions such as Donji Vakuf and Teslić. During the same period of time, the Banja Luka CSB had received, sent, and forwarded several thousand dispatches.<sup>267</sup>

78. Drago Raković, head of the communications department at Banja Luka CSB, explained that breakdowns in communications, problems with outdated equipment, and blackouts and shortages of electricity affected the entire Krajina region throughout 1992 and dispatches to and from the CSB

<sup>262</sup> P1426, Activity Report of the Communications and Cryptographic Data Protection Department of Doboj CSB for the period from 30 July to 30 September 1992, 1 October 1992, pp. 1-2.

<sup>263</sup> Dragan Kezunović, 11 June 2010, T. 11656-11657.

<sup>264</sup> Goran Mačar, 6 July 2011, T. 22893.

<sup>265</sup> P624, Report on the Work of the Banja Luka Security Services Centre from 4 April 1992 to 31 December 1992, January 1993, p. 12.

<sup>266</sup> P573, RS MUP Performance Report for the period of April to June 1992, 29 June 1992, p. 7.

<sup>267</sup> P624, Report on the Work of the Banja Luka Security Services Centre from 4 April 1992 to 31 December 1992, January 1993, p. 12.

were severely disrupted as a consequence.<sup>268</sup> Raković added that there was no fixed telephone line between the Banja Luka CSB and several of its subordinate municipalities and that in April 1992 half the phone lines, including the secure line, had already been cut off.<sup>269</sup> As a result, the Banja Luka CSB used telephone lines through the public communications system, which also experienced break-downs.<sup>270</sup>

79. SJBs subordinated to the Banja Luka CSB—Prijedor,<sup>271</sup> Sanski Most,<sup>272</sup> Kotor Varoš,<sup>273</sup> and Banja Luka<sup>274</sup>—reported disruptions in their communications systems.<sup>275</sup> While Savo Tepić, chief of the Kotor Varoš SJB, could utilise a special internal line for the MUP, even this special phone line had its limitations in the early period after the establishment of RS MUP.<sup>276</sup> Although ineffective in emergencies, Dragan Raljić testified that couriers were used as a substitute to send dispatches, including to Banja Luka.<sup>277</sup> However, Banja Luka CSB managed to establish communications which remained intact with SJBs that were closer to it.<sup>278</sup> The main road, communications lines, and electricity supply lines went through territory under Muslim and Croat control and faced frequent cut-offs.<sup>279</sup>

80. In May and June 1992, Banja Luka had no electricity for two months and insufficient fuel for generators. This caused a long-term communications break-down.<sup>280</sup> Physically, the Krajina was cut off from the rest of BiH until July 1992, and communications with headquarters started to improve after the corridor opened in July 1992.<sup>281</sup> ST213, a Serb who in 1992 worked at the CSB

<sup>268</sup> Drago Raković, 25 February 2010, T. 6872-6875; Dragan Kezunović, 14 June 2010, T. 11690-11691.

<sup>269</sup> Drago Raković, 26 February 2010, T. 6954-6955, 6969; Miloš Janković, 10 October 2011, T. 24728, 12 October 2011, T. 24876-24879; Radimir Rodić, 13 September 2010, T. 14481; P1471, The Pre-War Telephone Communications Network of SR BiH MUP.

<sup>270</sup> Drago Raković, 26 February 2010, T. 6955; P573, Performance Report of RS MUP for the period from April to June 1992, 29 June 1992, p. 7.

<sup>271</sup> P657, Report of SJB Prijedor to CSB Banja Luka on Activities in the First Half of 1992, June 1992, pp. 3-4; P684, Cover Letter of CSB Banja Luka with attached "Report on the Activities of the Prijedor SJB in the Third Quarter of 1992", 29 September 1992, p. 8; P689, Report of SJB Prijedor on the Work during the Last Nine Months of 1992, January 1993, pp. 14, 16.

<sup>272</sup> Milenko Delić, 19 October 2009, T. 1589; P386, Report on the Work of SJB Sanski Most for the First Six Months of 1992, 20 July 1992, pp. 10-11; P395, End of Year Report of SJB Sanski Most, 12 January 1993, p. 7.

<sup>273</sup> Dragan Raljić, 30 June 2010, T. 12428-12429, 12442, 12451-12452; P1486, SJB Kotor Varoš Annual Report on Organisation, Status, and Functioning of Cryptography for the period 25 December 1991 to 25 December 1992, 16 January 1993, p. 3.

<sup>274</sup> 2D36, Report on the Analysis of the Work of SJBs in 1992 on the Territory of CSB Banja Luka, March 1993, p. 7.

<sup>275</sup> Sreto Gajić, 16 July 2010, T. 12903-12904; P631, Report on Performed Inspection of the SDBs and SJBs in ARK, 5 August 1992.

<sup>276</sup> Dragan Raljić, 29 June 2010, T. 12403-12405.

<sup>277</sup> Dragan Raljić, 30 June 2010, T. 12443.

<sup>278</sup> Drago Raković, 26 February 2010, T. 7012.

<sup>279</sup> Drago Raković, 26 February 2010, T. 6969-6970; ST218, 14 October 2010, T. 15969-15970; Dragan Kezunović, 14 June 2010, T. 11690; P595, Report on the Work of CSB Banja Luka for the period 1 January to 30 June 1992, July 1992.

<sup>280</sup> Drago Raković, 25 February 2010, T. 6872-6875, 26 February 2010, T. 6968-6969. *See* Stanišić Final Trial Brief, para. 462.

<sup>281</sup> Vladimir Tutuš, 18 March 2010, T. 7792-7793; P573, Performance Report of RS MUP for the period April to June 1992, 29 June 1992, p. 7; Tomislav Kovač, 7 March 2012, T. 27068.

building in Banja Luka,<sup>282</sup> testified that power cuts in Banja Luka between April and December 1992 lasted only a few hours at a time and for a few days at the most. Disruption caused by power cuts was alleviated by a generator. ST213 accepted however that Raković was better placed to speak on the communication situation in Banja Luka.<sup>283</sup>

81. Stojan Župljanin brought up these communications problems at a RS MUP meeting in Belgrade on 11 July 1992, stating “the functional communications system has been destroyed.”<sup>284</sup> However, he also testified that there was a fax machine at the Banja Luka CSB and a switchboard with access to the military headquarters, the TO in the town, the Municipal Assembly, and the defence department.<sup>285</sup>

82. The difference in the number of dispatches sent and received by the Banja Luka CSB before and during the war illustrates the extent to which communications were disrupted after the conflict commenced.<sup>286</sup> According to a report on the work of the Banja Luka CSB from 1 January to 30 June 1992, during the first six months of 1992, the CSB received a total number of 9,956 open telegrams and transmitted 9,686; received 728 coded telegrams and transmitted 898; and forwarded 2,297 telegrams.<sup>287</sup> According to a report on the work of the CSB for the months of July, August, and September 1992, the CSB received 1,996 non-coded dispatches, delivered 1,385 non-coded dispatches, received 152 coded dispatches, and transmitted 43 coded dispatches.<sup>288</sup> According to a similar report for the first nine months of 1991, between January and September 1991, the teleprinter system received a total of 188,168 telegrams and sent 39,858.<sup>289</sup> The Banja Luka CSB performance report for 4 April to 31 December 1992 indicated that “a total of 14,808 open dispatches and 1,173 codes were received and 13,080 open and 1,259 closed dispatches sent.”<sup>290</sup>

<sup>282</sup> ST213, 4 March 2010, T. 7200, 7203-7204 (confidential).

<sup>283</sup> ST213, 4 March 2010, T. 7228-7230, 7265 and 5 March 2010, T. 7278, 7293 (confidential).

<sup>284</sup> Drago Raković, 26 February 2010, T. 6968-6972, 6979-6980; P160, Minutes of RS MUP Meeting in Belgrade, 11 July 1992; 2D50, Order and Information Concerning Receipt of Order regarding the Establishment and Maintenance of Communications Systems in SJBs of Banja Luka CSB, 24 July 1992.

<sup>285</sup> Drago Raković, 26 February 2010, T. 6999-7000.

<sup>286</sup> ST213, 5 March 2010, T. 7277-7278; Dragan Kezunović, 14 June 2010, T. 11691-11693; Drago Raković, 26 February 2010, T. 6949-6950; 2D52, CSB Banja Luka Report on Activities for Nine Months of 1991, 1 October 1991; P595, Security Services Centre Banja Luka, Report on the Work of Security Services Centre Banja Luka for the Period 1 January to 30 June 1992, July 1992, p. 13; P621, Report of Security Services Centre Banja Luka on the Work of the Public Security Station Banja Luka for the Period from 1 July to 30 September 1992, October 1992, p. 31.

<sup>287</sup> P595, Banja Luka CSB: Report on the Work of Banja Luka CSB for the period 1 January–30 June 1992, July 1992, p. 12.

<sup>288</sup> P621, Banja Luka CSB: Report on the Work of Banja Luka CSB for the period 1 July–30 September 1992, October 1992, p. 31.

<sup>289</sup> 2D52, CSB Banja Luka Report on Activities for the First Nine Months of 1991, October 1991, p. 11.

<sup>290</sup> P624, Report on the Work of the Banja Luka Security Services Centre from 4 April 1992 to 31 December 1992, January 1993, p. 12.

83. Dragan Kezunović testified that the number of dispatches for the first nine months in 1992 amounted to less than 10% of the number of dispatches for the same period in 1991.<sup>291</sup> Dragan Raljić confirmed that there was a significant drop in the number of incoming and outgoing dispatches in the period from 11 June 1992 until the end of the year.<sup>292</sup>

84. The Defence submitted that the above statistics illustrate the dire state of the communication systems across the Krajina region during the Indictment period,<sup>293</sup> wherefrom it would follow that Stojan Župljanin did not have a means of being informed of events and alleged crimes committed within the municipalities under his *de jure* authority.<sup>294</sup> Župljanin's knowledge in this respect will be assessed in the section on his individual criminal responsibility below. Similarly, the Stanišić Defence argued that because of, among others, the problems with communications, Stanišić was unable to direct and manage the RS MUP effectively.<sup>295</sup> This argument will also be addressed below, in the section on Stanišić's individual criminal responsibility.

## 6. Judiciary

### (a) Civilian judiciary

85. Prior to 1992, the Basic Courts and Basic Prosecutors' Offices in BiH had first-instance jurisdiction over crimes for which the maximum penalty was up to 10 years of imprisonment. The Higher Courts and Higher Prosecutors' Offices had first-instance jurisdiction over criminal offences punishable by sentences of 10 years imprisonment or more, as well as over second-instance appeal cases.<sup>296</sup>

86. The RS Constitution gave full judicial authority to the Constitutional Court and the lower courts of the RS.<sup>297</sup> On 12 May 1992, the BSA issued a decision on the establishment, location, and jurisdiction of the regular courts in RS and stated that the laws and regulations on the regular courts of the former SRBiH were to apply, if they were not in conflict with this decision.<sup>298</sup> New High

<sup>291</sup> Dragan Kezunović, 14 June 2010, T. 11690-11692, 11694-11695; 2D52, CSB Banja Luka Report on Activities for Nine Months of 1991, 1 October 1991, p. 11; P621, Banja Luka CSB: Report on the Work of Banja Luka CSB for the period 1 July–30 September 1992, October 1992, p. 31; P595, Banja Luka CSB: Report on the Work of Banja Luka CSB for the period 1 January–30 June 1992, July 1992, p. 12.

<sup>292</sup> Dragan Raljić, 30 June 2010, T. 12450-12451; Dragan Kezunović, 14 June 2010, T. 11691-11692; P595, Report on the Work of CSB Banja Luka for the period 1 January to 30 June 1992, July 1992, p. 12; P621, Report of CSB Banja Luka on the Work of the Banja Luka SJB for the period 1 July to 30 September 1992, October 1992, p. 31; P1486, SJB Kotor Varoš Annual Report on Organisation, Status, and Functioning of Cryptography for the period 25 December 1991 to 25 December 1992, 16 January 1993.

<sup>293</sup> Stanišić Final Trial Brief, paras 459, 462; Župljanin Final Trial Brief, paras 77-80.

<sup>294</sup> Župljanin Final Trial Brief, para. 80.

<sup>295</sup> Stanišić Final Trial Brief, paras 279, 281.

<sup>296</sup> P1609.01, Witness Statement of Slobodanka Gaćinović, with annexes 1-19, 2 June 2010, p. 2.

<sup>297</sup> P181, Constitution of the RS as published in the Official Gazette of 16 March 1992, 28 February 1992, Articles 69, 120, 126.

<sup>298</sup> L49, Decision on the Basis of Organisation, Seat, and Area of the Regular Courts, 17 May 1992, p. 1.

Courts were established in Banja Luka, Trebinje, Sarajevo, Bijeljina, and Doboj.<sup>299</sup> With a change in the RS law in the first half of 1992, the Basic Courts and Basic Prosecutor's offices assumed jurisdiction over all crimes, regardless of the severity of punishment, and the Higher Courts and Higher Prosecutor's Offices maintained jurisdiction over appeals.<sup>300</sup>

87. During the indictment period, the role of the police was to conduct preliminary investigations on criminal incidents within their area, arrest suspects (if possible), and file criminal reports with the Basic Prosecutor's Offices. Based on these reports, the basic prosecutor could request an investigative judge to conduct a further investigation with the assistance of the police. Whenever convenient and possible, the investigative judge would also be required by the basic prosecutor to lead an on-site investigation. The investigative judge would then be in charge of the investigation. However, if there was no known perpetrator, the prosecutor would not request any further investigation.<sup>301</sup>

88. Marinko Kovačević, a Serb and former deputy public prosecutor in Banja Luka,<sup>302</sup> stated that it was standard practice that an investigative judge would be present during on-site forensic work at the crime scene because the investigative judge's role was to conduct investigative actions with the view to providing evidence for future prosecutions. Kovačević testified that it was possible for an investigative judge to assign his powers to the police, but Kovačević was not aware that this had happened in relation to the killings at Korićanske Stijene.<sup>303</sup>

89. Staka Gojković, a judge of the Basic Court in Sarajevo between 20 June and 19 December 1992, testified that the police could remand a suspect in custody for up to three days prior to being brought before an investigative judge. Upon the application of the public prosecutor, the investigative judge could extend custodial remand for up to one month.<sup>304</sup> The initial one month period could be extended to a maximum of six months upon the agreement of both the investigative judge and the public prosecutor.<sup>305</sup>

90. Gojković testified that between June and December 1992 she never received any files pertaining to crimes committed by Serbs against non-Serbs.<sup>306</sup> Staka Gojković reviewed and analysed information contained in the 1992 logbooks of the Basic Public Prosecutor's Offices in

<sup>299</sup> L49, Decision on the Basis of Organisation, Seat, and Area of the Regular Courts, 17 May 1992, p. 2.

<sup>300</sup> P1609.01, Witness Statement of Slobodanka Gaćinović, with annexes 1-19, 2 June 2010, pp. 2-5.

<sup>301</sup> Staka Gojković, 15 June 2010, T. 11773-11780; Biljana Simeunović, 17 August 2010, T. 13300-13305.

<sup>302</sup> Marinko Kovačević, 2 September 2010, T. 14138, 14140-14141.

<sup>303</sup> Marinko Kovačević, 3 September 2010, T. 14180-14182.

<sup>304</sup> Staka Gojković, 15 June 2010, T. 11791-11792; ST139, P1284.01, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 17 June 2004, T. 3875 (confidential).

<sup>305</sup> Staka Gojković, 15 June 2010, T. 11792.

<sup>306</sup> Staka Gojković, 15 June 2010, T. 11750.

Sarajevo, Sokolac, Vlasenica, and Višegrad.<sup>307</sup> The “KT logbooks” included all criminal offences against known perpetrators, the “KTN logbooks” included criminal offences against unknown perpetrators, and the “KTA logbooks” maintained records on administrative duties of the prosecutor.<sup>308</sup> Gojković was unable to identify any criminal reports for crimes committed against non-Serb victims by Serbs while reviewing the KT and KTN logbooks from 1992.<sup>309</sup> Gojković reviewed the 1993 entries in the KT logbook from the Sarajevo Basic Prosecutor’s Office II and identified only one case where a Serb perpetrator committed a crime against a non-Serb.<sup>310</sup>

91. Slobodanka Gaćinović—who was appointed Higher Prosecutor for Trebinje in August of 1992—also testified before the Chamber. Her office had jurisdiction over two municipalities charged in the Indictment: Gacko and Bileća.<sup>311</sup> Gaćinović reviewed the prosecutor logbooks from the period of 1992 to 1995 covering the 20 municipalities charged in the Indictment.<sup>312</sup> Gaćinović examined whether any of the crimes listed in the Indictment were recorded in the logbooks and whether there were reports of serious crimes committed by Serbs against non-Serbs between 1 April and 31 December 1992.<sup>313</sup>

92. Gaćinović indicated that, based on her review of the logbooks, the courts and the Basic Prosecutor’s Office were functioning between 1 April and December 1992, since she observed that occasionally there were criminal reports filed against identified or unidentified perpetrators.<sup>314</sup> In addition, the Public Prosecutor’s Office and the courts worked in that time period on these cases because there were court decisions.<sup>315</sup> Gaćinović testified that criminal reports for offences committed in 1992 were mostly filed during that same year, although some of them were filed later. However, there were few such reports.<sup>316</sup> Gaćinović located one entry in the 1992 Teslić KT logbook that could possibly fall within the Indictment, specifically under schedules B.7, C.7, and D.7 of the Indictment, and another entry in the Vogošća KT logbook appearing to fall within

<sup>307</sup> Staka Gojković, 15 June 2010, T. 11738, 11740-11741, 11753.

<sup>308</sup> Staka Gojković, 15 June 2010, T. 11752.

<sup>309</sup> Staka Gojković, 15 June 2010, T. 11768.

<sup>310</sup> Staka Gojković, 15 June 2010, T. 11769.

<sup>311</sup> Slobodanka Gaćinović, 29 September 2010, T. 15011.

<sup>312</sup> Slobodanka Gaćinović, 29 September 2010, T. 15011; P1609.01, Witness Statement of Slobodanka Gaćinović, with annexes 1-19, 2 June 2010, p. 2.

<sup>313</sup> Slobodanka Gaćinović, 29 September 2010, T. 15011-15012, 15035; P1609.01, Witness Statement of Slobodanka Gaćinović, with annexes 1-19, 2 June 2010, p. 5. The Trial Chamber notes that the witness did not focus on transfers from KTN books to KT books when the suspect was finally identified, which could mean a crime was listed twice and which could obfuscate the data.

<sup>314</sup> Slobodanka Gaćinović, 29 September 2010, T. 15030.

<sup>315</sup> Slobodanka Gaćinović, 29 September 2010, T. 15030-15031.

<sup>316</sup> Slobodanka Gaćinović, 29 September 2010, T. 15031.

schedule D.16.1.<sup>317</sup> She located two entries in the Banja Luka 1992 KTN logbook that could refer to crimes alleged in schedule B.1.2 and B.6.1 of the Indictment.<sup>318</sup>

93. The Trial Chamber has analysed the logbooks and provides an overview analysis of them in the following paragraph. In its analysis, the Chamber relied upon information contained in the logbooks from 1992 to 1995 in relation to crimes that occurred during the Indictment period.

94. In the municipalities of Bileća, Ilijaš, Gacko, Višegrad, Pale, Vlasenica, Vogošća, and Bosanski Šamac, no serious crimes alleged to have been committed by Serbs against non-Serbs during the Indictment period were reported to the prosecutor's offices.<sup>319</sup> In addition, one crime was reported in each of the following municipalities: Doboj, Kotor Varoš, Prijedor, and Ključ.<sup>320</sup> Approximately two were reported in Zvornik, nine in Teslić, four in Sanski Most, three in Brčko, and four in Bijeljina.<sup>321</sup> Based on the review of the Banja Luka Basic Prosecutor's office, there were a total of 21 serious crimes by Serb perpetrators committed against non-Serb victims reported in Banja Luka, Skender Vakuf, and Donji Vakuf between 1 April and 31 December 1992.<sup>322</sup>

(b) Military courts and military prosecutors

95. The Law on Military Courts was adopted by the SFRY Assembly on 24 December 1976. Military courts were responsible for hearing cases involving criminal offences committed by military personnel or relating to national defence and state security.<sup>323</sup> By means of constitutional amendments on 31 May 1992, the operation, location, and jurisdiction of the military courts and military prosecutor offices were established.<sup>324</sup> Military courts were established in Banja Luka, Sarajevo, and Bijeljina; the Supreme Court in Sarajevo acted as the Court of Appeal for these courts. The Office of the Military Prosecutor with the 1<sup>st</sup> KK Command was seated in Banja Luka, the Military Prosecutor with the Sarajevo-Romanija Corps Command in Sarajevo, and the Military Prosecutor with the Eastern Bosnia Corps Command in Bijeljina.<sup>325</sup>

<sup>317</sup> P1609.01, Witness Statement of Slobodanka Gaćinović, with annexes 1-19, 2 June 2010, pp. 3-5; P1609.04, Revised Witness Statement of Slobodanka Gaćinović, 27-28 September 2010, pp. 3-4.

<sup>318</sup> P1609.04, Revised Witness Statement of Slobodanka Gaćinović, 27-28 September 2010, p. 8.

<sup>319</sup> P1609.01, Witness Statement of Slobodanka Gaćinović, with annexes 1-19, 2 June 2010, pp. 6-9, 12; P1609.04, Revised Witness Statement of Slobodanka Gaćinović, 27-28 September 2010, pp. 2-3; Staka Gojković, 15 June 2010, T. 11766-11768; Lazar Draško, 28 June 2010, T. 12299.

<sup>320</sup> P1609.01, Witness Statement of Slobodanka Gaćinović, with annexes 1-19, 2 June 2010, p. 18, P1609.04, Revised Witness Statement of Slobodanka Gaćinović, 27-28 September 2010, pp. 3, 11, 13.

<sup>321</sup> P1609.04, Revised Witness Statement of Slobodanka Gaćinović, 27-28 September 2010, pp. 4-6, 7, 12, revised annex 12.

<sup>322</sup> P1609.04, Revised Witness Statement of Slobodanka Gaćinović, 27-28 September 2010, p. 8.

<sup>323</sup> P1284.07, Decree on the Proclamation of the Law on Military Courts, 24 December 1976, p. 1.

<sup>324</sup> P1284.06, Decision on the Establishment, Seat, and Jurisdiction of Military Courts and Military Prosecutor's Offices, 31 May 1992, pp. 1-3.

<sup>325</sup> P1284.06, Decision on the Establishment, Seat, and Jurisdiction of Military Courts and Military Prosecutor's Offices, 31 May 1992, p. 1.

96. On 10 July 1992, Momčilo Mandić, the RS Minister of Justice, made a request to the Presidency of RS that the regular courts and the public prosecutor's offices temporarily take over the competence of the military courts and the military prosecutor's offices until their legal organs were established in August 1992.<sup>326</sup>

97. ST139, a military judge, testified that military courts were established in RS in August of 1992.<sup>327</sup> Prior to August 1992, in view of the fact that there was no military court, the civilian police and civilian courts were duty-bound to prosecute soldiers alleged to have committed crimes.<sup>328</sup> According to ST139, once military courts were established, they were supposed to hear mostly crimes related to members of the army and crimes committed by civilians, but only if they were committed against the state or the army.<sup>329</sup>

98. ST139's review of the military prosecutor's logbook from, among others, Banja Luka showed that no police reports were filed against Serb perpetrators where the victims were non-Serbs.<sup>330</sup>

99. The Chamber received evidence that, when the courts were trying Serb soldiers for murder of members of the Muslim or Croatian ethnic groups, they were exposed to pressure, such as from the accused's families and fellow soldiers threatening the military court on several occasions.<sup>331</sup> In addition, there was pressure from "political structures" that tried to intervene to get people released from custody. This even resulted in some cases of mandatory detention being terminated and the accused or suspect being released to the battlefield.<sup>332</sup>

100. The Military Prosecutor's Office failed to follow through with prosecutions in several instances during 1992. One such failure is documented in the decision of the Bijeljina Military Court dismissing the case against Slavan Lukić and others because the military prosecutor decided

<sup>326</sup> P1328, Letter sent by Ministry of Justice to the Presidency of the RS Proposing that Regular Courts and Public Prosecutor's Offices Temporarily Take Over the Competence of Military Courts, signed by Momčilo Mandić, 5 August 1992; 1D639, Command of the Sarajevo-Romanija Corps, Notification on the Commencement of the Work of the Military Court and Military Prosecutor's Office, 24 August 1992; 1D640, RS MUP, No. 10-265/92 to CSB Sarajevo – Forwarding Information on Establishing the Military Court and the Military Prosecutor's Office in Sarajevo, 25 August 1992.

<sup>327</sup> ST139, 12 April 2010, T. 8483, 8486-8487 (confidential); 1D639, Command of the Sarajevo-Romanija Corps, Notification on the Commencement of the Work of the Military Court and Military Prosecutor's Office, 24 August 1992; 1D640, RS MUP, No. 10-265/92 to CSB Sarajevo – Forwarding Information on Establishing the Military Court and the Military Prosecutor's Office in Sarajevo, 25 August 1992.

<sup>328</sup> ST139, 12 April 2010, T. 8486-8487 (confidential); 1D639, Command of the Sarajevo-Romanija Corps, Notification on the Commencement of the Work of the Military Court and Military Prosecutor's Office, 24 August 1992, p. 2.

<sup>329</sup> ST139, P1284.03, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 30 June 2004, T. 18536 (confidential).

<sup>330</sup> ST139, 12 April 2010, T. 8512 (confidential); P1284.11, Banja Luka Military Logbooks for 1992-1995.

<sup>331</sup> ST139, P1284.01, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 17 June 2004, T. 3892, 3896, 3907-3908 (confidential) and P1284.04, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 1 July 2004, T. 18603 (confidential); Srboľjub Jovićinac, 23 February 2012, T. 26822.

<sup>332</sup> ST139, P1284.01, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 17 June 2004, T. 3892 (confidential).



to abandon the prosecution without any reason having been given.<sup>333</sup> In another example, the military prosecutor informed the Banja Luka Military Court that there would be no further investigation of the military's involvement in the Velagići school massacre in Ključ because the RS Deputy Prime Minister and the chairman of the Ključ municipality Executive Committee wanted proceedings to be halted and recommended the release of Željko Bajić and Marinko Miljević.<sup>334</sup> According to ST139, the crime committed at the Velagići school in Ključ municipality was brought before a military court and very little was done about it until 1996.<sup>335</sup>

101. ST139's review of the military court registers and military prosecutor's logbook yielded seven serious crimes which were reported as being perpetrated by Serbs against non-Serb victims.<sup>336</sup>

## 7. Findings

102. The Trial Chamber finds that, even though there were organisational obstacles and problems with regard to the equipment and available personnel, there was an operational civilian law enforcement apparatus, and a functioning judiciary, between April and December 1992. Throughout the Indictment period, the Minister of the Interior was in charge of the RS MUP. The RS MUP consisted of a Public Security Service which comprised five CSBs, in Banja Luka, Trebinje, Doboje, Sarajevo, and Bijeljina. Each of the CSBs was in turn composed of a number of SJBs. Regular, special, and reserve police forces were part of the Public Security Service. The RS MUP further consisted of the SNB which dealt with matters related to national security, intelligence, and counter intelligence work.

103. The Trial Chamber notes that there were indeed many difficulties in the communications within the RS MUP, especially in the period from April to the summer of 1992. However, throughout this time, the system of communications through fax machines, teleprinters, telephone, and couriers did function, albeit with disruptions. In the second half of 1992, the communications system was well established.

104. The Trial Chamber finds that the civilian law enforcement apparatus failed to function in an impartial manner. Between April and December 1992, the police and civilian prosecutors failed to report or under-reported serious crimes committed by Serb perpetrators against non-Serbs. When, in

<sup>333</sup> P1541, Decision of Bijeljina Military Court Dismissing Case against Lukić *et al.*, 24 August 1992.

<sup>334</sup> P1284.38, Proposal by Banja Luka Military Prosecutor Srdoljub Jovičinac to Banja Luka Military Court Investigative Judge, to Release Two Soldiers Detained as a Result of the Investigation into Velagići School Massacre, 29 July 1993.

<sup>335</sup> ST139, P1284.01, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 17 June 2004 (confidential), T. 3893-3894.

<sup>336</sup> ST139, 12 April 2010, T. 8510 (confidential).

fact, such reports were filed with the civilian criminal courts, prosecution rarely ensued. In many instances, no reports of such crimes were recorded. This conclusion is supported by the evidence adduced in relation to the KT logbook. Instead, substantial police resources were directed towards the arrest, detention, and interrogation of thousands of non-Serbs, as was analysed in the sections of the Judgement devoted to crimes committed in the separate municipalities at issue in the Indictment. The Trial Chamber also finds that there were instances in which Bosnian Serb courts failed to properly process cases brought before them.

## II. ARMED FORCES

### A. SFRY

105. Prior to the break-up of the SFRY, a defence system known as the “All People’s Defence” (or “Total National Defence”) was devised to protect the SFRY from external attack.<sup>337</sup> It was comprised of (a) the regular army, navy, and air force, collectively known as the JNA; (b) a reserve force; and (c) TO units.<sup>338</sup>

106. The JNA was a federal force headquartered in Belgrade.<sup>339</sup> It was a powerful national army, comprised of 45,000 to 70,000 regular officers and soldiers along with 110,000 to 135,000 conscripts who served on a more short-term basis. The JNA was equipped with conventional weapons and equipment.<sup>340</sup> Members of the JNA wore the SMB uniform, which was plain green or olive-drab in colour. They also wore green camouflage uniforms.<sup>341</sup> Isak Gaši explained that “SMB” was an abbreviation of “grey-olive colour”.<sup>342</sup> The uniforms bore a five-pointed star insignia.<sup>343</sup> Members of the military police wore the same uniform with the addition of a white belt.<sup>344</sup> The JNA was divided into five military districts with the 2<sup>nd</sup> Military District, seated in Sarajevo, covering the territory of BiH.<sup>345</sup>

107. The TO was an integral part of the defence scheme in the SFRY, designed to operate even in the absence of the JNA.<sup>346</sup> The TO was composed of TO Staffs and TO units.<sup>347</sup> There was a distinct TO in each republic, funded by that republic and under the control of the Minister of Defence of that republic.<sup>348</sup> Members of the TO wore the same uniforms as the JNA.<sup>349</sup> In BiH,

<sup>337</sup> Agreed Fact 140.

<sup>338</sup> ST155, P1500.01, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 14 April 2005, T. 12141 (confidential); ST183, P1295.08, Witness Statement, 6-12 October 2002 (confidential), p. 2; 2D159, Expert Report of Vidosav Kovačević entitled “Armed Forces of Republika Srpska”, 28 March 2011 (“Kovačević Expert Report”), para. 18; Agreed Fact 141.

<sup>339</sup> Agreed Fact 142. *See also* Vitomir Žepinić, 28 January 2010, T. 5686, 5697.

<sup>340</sup> Agreed Fact 144.

<sup>341</sup> ST014, P292.02, *Prosecutor v. Slobodan Milošević*, Case No. IT-02-54-T, 2 June 2003, T. 21442-21443; Isak Gaši, P125, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 4 February 2004, T. 436-437 and P126, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 5 February 2004, T. 520; Rešid Hasanović, P2181, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 22 April 2004, T. 2469; ST079, P175.02, *Prosecutor v. Lukić and Lukić*, Case No. IT-98-32/1-T, 11 July 2008, T. 395; Aleksandar Krulj, 28 October 2009, T. 2181; Kemal Hujdur, 7 December 2010, T. 18219. *See also* Enis Šabanović, P61, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 3 June 2002, T. 6504; ST019, P34, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 16 June 2003, T. 17671; Mirza Lišinović, 10 January 2012, T. 26458.

<sup>342</sup> Isak Gaši, P126, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, February 2004, T. 519-520.

<sup>343</sup> ST014, P292.02, *Prosecutor v. Slobodan Milošević*, Case No. IT-02-54-T, 2 June 2003, T. 21442.

<sup>344</sup> ST197, 21 October 2010, T. 16348-16349; ST253, 1 November 2010, T. 16642.

<sup>345</sup> Dragan Lukač, P2159, *Prosecutor v. Simić et al.*, Case No. IT-95-9-T, 24 September 2001, T. 1556.

<sup>346</sup> P32, Donia Expert Report: Bosnian Serb Leadership and the Siege of Sarajevo, p. 42; P31, Donia Expert Report: Bosnian Krajina in the History of BiH, pp. 55-56.

<sup>347</sup> ST183, P1295.08, Witness Statement, 12 October 2002, p. 2 (confidential).

<sup>348</sup> Dragan Lukač, P2158, *Prosecutor v. Simić et al.*, Case No. IT-95-9-T, 20 September 2001, T. 1531-1532; P32, Donia Expert Report: Bosnian Serb Leadership and the Siege of Sarajevo, p. 42; P31, Donia Expert Report: Bosnian

there was a TO Republic Staff under which there were ten District TO Staffs. Subordinated to the District TO Staffs there were approximately 106 Municipal TOs. Under the Municipal TOs there were TOs organised by communes and industries.<sup>350</sup> TO units were equipped with mostly infantry weapons: rifles, light machine-guns, some small calibre artillery, mortars, and anti-personnel mines.<sup>351</sup> Traditionally all TO weapons were stored locally within each municipality.<sup>352</sup> However, in May 1990, the JNA ordered that weapons be removed from the depots under the control of local TO units and moved to its own armouries.<sup>353</sup>

## **B. JNA in BiH**

108. Throughout 1991, the primary emphasis of the JNA in BiH was the ongoing war and events in Croatia. However, by the early part of 1992, the JNA's focus shifted to the growing instability in BiH, caused by divisions along ethnic and party lines, which threatened BiH's status as a republic within the SFRY.<sup>354</sup> According to Ewan Brown, the JNA adopted a "twin-track" policy in BiH: the JNA attempted to defuse ethnic tension while at the same time supporting and arming Serb volunteers and select Serb TO units.<sup>355</sup>

109. The JNA gradually changed from being the Yugoslav Peoples' Army and representing all ethnic groups and nationalities in the SFRY to a *de facto* Serbian army.<sup>356</sup> From the early stages of the war, authorities in Belgrade expected further disintegration of the SFRY.<sup>357</sup> As President of the Republic of Serbia, Slobodan Milošević made arrangements to ensure that Bosnian Serb Forces could retain personnel and arms by ordering, on 5 December 1991, that soldiers who were native of BiH be transferred to BiH and that those in BiH who were natives of other republics be moved out.<sup>358</sup> From late summer 1991, many military aged men from BiH were mobilised to join the JNA

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Krajina in the History of BiH, pp. 55-56; Agreed Facts 143, 145. *See also* ST183, P1295.08, Witness Statement, 6-12 October 2002, pp. 3-4 (confidential).

<sup>349</sup> ST014, P292.02, *Prosecutor v. Slobodan Milošević*, Case No. IT-02-54-T, 2 June 2003, T. 21443-21444 (confidential). *See also* Radomir Rodić, 14 September 2010, T. 14602-14603.

<sup>350</sup> ST183, P1295.08, Witness Statement, 12 October 2002, pp. 2-3 (confidential).

<sup>351</sup> Dragan Lukač, P2158, *Prosecutor v. Simić et al.*, Case No. IT-95-9-T, 20 September 2001, T. 1533; P32, Donia Expert Report: Bosnian Serb Leadership and the Siege of Sarajevo, p. 42; P31, Donia Expert Report: Bosnian Krajina in the History of BiH, pp. 55-56; Agreed Fact 145.

<sup>352</sup> Sulejman Tihić, P1556.02, *Prosecutor v. Simić et al.*, Case No. IT-95-9-T, 14 September 2001, T. 1268; Dragan Lukač, P2158, *Prosecutor v. Simić et al.*, Case No. IT-95-9-T, 20 September 2001, T. 1532-1533; Agreed Fact 147.

<sup>353</sup> P32, Donia Expert Report: Bosnian Serb Leadership and the Siege of Sarajevo, p. 42; P1803, Brown Expert Report, p. 70, n. 294, citing Federal Secretariat for National Defence Order, 14 May 1990. *See also* Sulejman Tihić, P1556.02, *Prosecutor v. Simić et al.*, Case No. IT-95-9-T, 14 September 2001, T. 1280-1281; Sulejman Tihić, P1556.09, *Prosecutor v. Simić et al.*, Case No. IT-95-9-T, 8 November 2001, T. 3901-3902; P31, Donia Expert Report: Bosnian Krajina in the History of BiH, pp. 55-56; Adjudicated Fact 768.

<sup>354</sup> P1803, Brown Expert Report, pp. 12-13.

<sup>355</sup> Ewan Brown, 11 January 2011, T. 18677; P1803, Brown Expert Report, p. 13.

<sup>356</sup> Adjudicated Fact 766.

<sup>357</sup> Adjudicated Fact 168.

<sup>358</sup> P31, Donia Expert Report: Bosnian Krajina in the History of BiH, pp. 31, 57; P32, Donia Expert Report: Bosnian Serb Leadership and the Siege of Sarajevo, pp. 43-44; Adjudicated Fact 168.

in order to fight in Croatia.<sup>359</sup> A large number of Bosnian Serbs responded, but Muslims and Croats, supported by their respective leaders, generally did not.<sup>360</sup>

110. By early 1992 there were approximately 100,000 JNA troops in BiH with over 700 tanks, 1,000 APCs, heavy weaponry, 100 airplanes, and 500 helicopters, all under the command of the General Staff of the JNA in Belgrade. By the time of BiH's declaration of independence, the JNA was dominated largely by Serbia and staffed mainly by Serb officers.<sup>361</sup>

111. With the declaration of independence on 6 March 1992, open conflict erupted in BiH and the units of the JNA already present in the territory were actively involved in the fighting that took place. Reports of combat included an attack on Bosanski Brod on 27 March 1992 and the occupation of Derventa, as well as incidents in Bijeljina, Foča, and Kupres in early April. After BiH's independence was recognised by the EC on 6 April 1992, these attacks increased and intensified, especially in Sarajevo, Zvornik, Višegrad, Bosanski Šamac, Vlasenica, Prijedor, and Brčko.<sup>362</sup>

### C. Formation of VRS

112. The first phase of development of the VRS occurred from 1 April to 15 May 1992 and involved the seizure of territory by Serbs at the municipal and regional levels. According to an analysis prepared by the VRS in 1993, Serb forces "self-organised" at the municipal and regional levels as Serb TO units.<sup>363</sup> On 16 April 1992, the RS Defence Ministry issued a decision declaring an imminent threat of war and established the Serb TO as the army of RS.<sup>364</sup> Municipal Crisis Staffs and local SDS offices exerted great influence over local TO units.<sup>365</sup>

113. On 12 May 1992 at the 16<sup>th</sup> Session of the BSA, senior SDS representatives announced the establishment of the Army of RS (later renamed "VRS").<sup>366</sup> The Main Staff of the VRS was formed

<sup>359</sup> Adjudicated Fact 735. See also Robert Donia, 18 January 2010, T. 5030-5031; P30, Donia Expert Report: Origins of RS, pp. 30-33; 1D146, Municipal Assembly of Citluk, Moratorium on Sending Recruits to the JNA, 19 June 1991.

<sup>360</sup> Robert Donia, 16 September 2009, T. 407 and 18 January 2010, T. 5031-5032; ST172, 22 January 2010, T. 5342-5343; P32, Donia Expert Report: Bosnian Serb Leadership and the Siege of Sarajevo, p. 41; P27, Interview with Jovan Tintor conducted by Risto Đogo in "My Guest, His Truth" broadcasted by Serb television, July and August 1994, p. 9; 1D147, BH HDZ-Croatian Democratic Union of Bosnia and Herzegovina, Public Proclamation Requesting Croats Not to Serve in the JNA, 26 August 1991; Agreed Fact 184; Adjudicated Fact 735.

<sup>361</sup> Adjudicated Facts 156, 158.

<sup>362</sup> Adjudicated Facts 157, 160, 161.

<sup>363</sup> P1803, Brown Expert Report, pp. 33-34; P1781, Analysis of the Combat Readiness and Activities of the VRS in 1992, April 1993, pp. 10-11.

<sup>364</sup> ST140, 7 December 2009, T. 4296 (confidential); P1803, Brown Expert Report, pp. 6, 37, 64; Adjudicated Facts 116, 759.

<sup>365</sup> P1803, Brown Expert Report, p. 68; Adjudicated Fact 759.

<sup>366</sup> Robert Donia, 16 September 2009, T. 396; P1803, Brown Expert Report, pp. 24, 32; P32, Donia Expert Report: Bosnian Serb Leadership and the Siege of Sarajevo, p. 54; P31, Donia Expert Report: Bosnian Krajina in the History of BiH, p. 75; 2D159, Kovačević Expert Report, para. 52.

on the same date, and Ratko Mladić was named as its commander.<sup>367</sup> The JNA formally withdrew from BiH on 19 May 1992. However, active elements of what had been the JNA remained.<sup>368</sup> The FRY continued to provide logistical and material support to the VRS—even after the JNA had officially withdrawn from BiH.<sup>369</sup>

114. Through a decision of the Presidency of RS on 15 June 1992 on the establishment, organisation, formation, and command of the VRS, “the organised life and combat operations” of the VRS actually started.<sup>370</sup> The decision specified that the VRS was to be formed of “JNA members who refuse[d] to obey the Decision of the FRY Presidency to withdraw to the territory of the FR Yugoslavia” and that units were to be equipped with “weapons and equipment provided by the members of the Serbian people who [were] currently serving the JNA.”<sup>371</sup> Accordingly, JNA units that remained in BiH were renamed and given new uniform insignia, formally transforming them into units and commands of the VRS.<sup>372</sup>

115. The VRS inherited both officers and men from the JNA and also substantial arms and equipment, including over 300 tanks, 800 APCs, and over 800 pieces of heavy artillery.<sup>373</sup> Members of the VRS wore the uniforms of the JNA and TO but the insignia on the caps were changed to the Serbian flag. On the upper arm there was a round field with a Serbian flag and the inscription “Serbian Republic of BH Army”.<sup>374</sup> Despite the change of name from “JNA” to “VRS”, no consequential material changes actually occurred.<sup>375</sup> In particular, there was no alteration of military objectives and strategies, and JNA military operations under the command of Belgrade that had commenced prior to the withdrawal did not cease.<sup>376</sup>

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<sup>367</sup> Manojlo Milovanović, 7 December 2010, T. 18235; P31, Donia Expert Report: Bosnian Krajina in the History of BiH, p. 75. See also Milan Babić, P2117, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 3 June 2004, T. 3390 (confidential).

<sup>368</sup> Adjudicated Facts 171, 173, 774, 993, 994. See also Vidosav Kovačević, 14 September 2011, T. 24112-24114.

<sup>369</sup> Adjudicated Fact 179.

<sup>370</sup> 1D534, Decision on the Forming, Organisation, Establishment, and Command and Control of the Army of the RS, 15 June 1992; P1781, Analysis of the Combat Readiness and Activities of the VRS in 1992, April 1993, p. 11; 2D159, Kovačević Expert Report, para. 53.

<sup>371</sup> 1D534, Decision on the Forming, Organisation, Establishment, and Command and Control of the Army of the RS, 15 June 1992, p. 4.

<sup>372</sup> P74, Minutes of the 16<sup>th</sup> Session of the BSA, 12 May 1992, p. 60; P1803, Brown Expert Report, p. 24.

<sup>373</sup> Adjudicated Fact 176.

<sup>374</sup> P74, Minutes of the 16<sup>th</sup> Session of the BSA, 12 May 1992, p. 60. See also SZ007, 5 December 2011, T. 26114 (confidential).

<sup>375</sup> Adjudicated Fact 170.

<sup>376</sup> Adjudicated Facts 171, 774, 993.

#### **D. Composition of VRS**

116. As of July 1992, the VRS was comprised of approximately 177,000 personnel divided into five corps and independent units.<sup>377</sup> The five corps were the 1<sup>st</sup> Krajina Corps (headquartered in Banja Luka, commanded by Momir Talić), the 2<sup>nd</sup> Krajina Corps (headquartered in Drvar), the Eastern Bosnia Corps (headquartered in Bijeljina), the Sarajevo-Romanija Corps (headquartered in Pale), and the Herzegovina Corps (headquartered in Bileća).<sup>378</sup> The 6<sup>th</sup> Corps, known as the Drina Corps, was established on 1 November 1992 and encompassed parts of the former territory of the Eastern Bosnia Corps and the Sarajevo-Romanija Corps.<sup>379</sup>

117. Local Serb TO units initially operated outside the formal chain of command of the VRS but were eventually subject to its command and renamed light infantry brigades.<sup>380</sup> By 1992, the 1<sup>st</sup> KK reported that it had 24 light infantry brigades with an average of approximately 1,200 troops in each.<sup>381</sup>

#### **E. Command and control of VRS**

118. According to the Law of the Army, the President of RS, Radovan Karadžić, was commander-in-chief of the VRS. His authority included establishing a plan of deployment, deciding on deployment in war, issuing basic regulations and other documents related to armed combat strategy, and issuing regulations on military training and discipline.<sup>382</sup> Directly below the President was the commander of the Main Staff, Ratko Mladić. The commander of the Main Staff was tasked with issuing regulations, orders, and instructions implementing the orders of the President.<sup>383</sup>

119. The Main Staff was the highest command in the VRS. It consisted of twelve people: four generals, Ratko Mladić, Milan Gvero, Đorđe Đukić, and Manojlo Milovanović; six colonels and lieutenant-colonels; and two lower-ranking officers, Captain Miodrag Pećanac, the chief of security

<sup>377</sup> P1781, Analysis of the Combat Readiness and Activities of the VRS in 1992, April 1993, p. 71, fig. 21.

<sup>378</sup> P1803, Brown Expert Report, pp. 4, 6, 32-33; 1D534, Decision on the Forming, Organisation, Establishment, and Command and Control of the VRS, 15 June 1992, pp. 2-3.

<sup>379</sup> P1803, Brown Expert Report, pp. 32-33.

<sup>380</sup> For example, on 6 June 1992, the Eastern Bosnia Corps Command ordered that all TO staffs and units of the municipalities of Bosanski Šamac, Brčko, Bijeljina, Ugljevik, Lopare, Zvornik, Kalesija, Šekovići, Vlasenica, Bratunac, Milići, Modriča, and Bosansko Petrovo Selo be renamed into commands and units of the VRS. These units were put under the command of the brigade in whose area of responsibility they operated. ST161, 20 November 2009, T. 3548-3549 (confidential); ST140, 7 December 2009, T. 4318 (confidential); ST179, 1 March 2010, T. 7485; Ewan Brown, 11 January 2011, T. 18672; P1803, Brown Expert Report, p. 68; P2000, Order for the Renaming, Transformation of Territorial Defence Staffs, 6 June 1992; Adjudicated Fact 759. *See also* ST215, 28 September 2010, T. 14955-14957, 14977-14978.

<sup>381</sup> P1803, Brown Expert Report, p. 39, referring to 1<sup>st</sup> KK Analysis of Activity Concerning Elements of Combat Readiness in 1992, p. 3.

<sup>382</sup> L51, Law of the Army, 1 June 1992, Article 174; P257, Minutes of the 1<sup>st</sup> Session of the Presidency of the RS, 12 May 1992.

for the commander of the Main Staff, and Dušan Todić, chief of security for the Chief of Staff. The Chief of Staff of the VRS was Manojlo Milovanović.<sup>384</sup>

#### **F. Role of JNA/VRS**

120. JNA and VRS forces participated in a series of combat operations designed to seize control of and secure territory claimed by Serbs. This included assistance in taking over power in municipalities and attacks on villages and towns thought to pose a threat to Serb authority.<sup>385</sup> For example, the Novi Sad Corps of the JNA assisted in the takeover of vital functions in the town of Vlasenica in April 1992.<sup>386</sup> Between May and September 1992, the VRS, along with Serb police, took control of the entire territory of the municipality of Donji Vakuf.<sup>387</sup> These operations tended to involve close co-operation with municipal TO units, police units, and local civilian authorities and to take place at the unit, battalion, brigade, or Tactical Group or Operational Group level. Tactical Groups and Operational Groups were temporary units, subordinate to the corps commander, established at the direction of the Main Staff in order to facilitate the command and control of units and the control of the territory. The Operational Groups and Tactical Groups were usually based around the headquarters of a particular brigade and were responsible for an area in which a number of brigades operated.<sup>388</sup>

121. JNA and VRS forces also engaged in large-scale formal military operations directed by the Main Staff. These operations were designed to achieve specific strategic objectives or secure important pieces of terrain. For example, the 1<sup>st</sup> KK participated in “Operation Corridor 92”, beginning on 24 June 1992 and lasting for approximately three weeks, to establish a corridor link between the Bosanska Krajina and Serbia, and in “Operation Vrbas”, beginning on 12 August 1992 and lasting until the end of October 1992, to capture the wider Jajce area.<sup>389</sup>

#### **G. Paramilitary groups**

122. As of July 1992, there were approximately 60 paramilitary groups, totalling between four and five thousand men, which had been formed in BiH or had come to BiH from Serbia.<sup>390</sup> Among

<sup>383</sup> L51, Law of the Army, 1 June 1992, Article 175; Milan Babić, P2117, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 3 June 2004, T. 3390 (confidential); P1803, Brown Expert Report, pp. 24, 33.

<sup>384</sup> Manojlo Milovanović, 7 December 2010, T. 18232-18236.

<sup>385</sup> P1803, Brown Expert Report, p. 60.

<sup>386</sup> Ibro Osmanović, P1041.02, Witness Statement, 10 October 1994, p. 2; Ibro Osmanović, 8 March 2010, T. 7326-7327; ST137, 14 September 2010, T. 14595-14596 (confidential); Adjudicated Fact 773.

<sup>387</sup> Adjudicated Fact 1154.

<sup>388</sup> P1803, Brown Expert Report, pp. 60, 178-179.

<sup>389</sup> P1803, Brown Expert Report, pp. 61, 140-144; P1796, Map for Operation Corridor 92.

<sup>390</sup> Milorad Davidović, P1557.04, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 10 June 2005, T. 14245-14247, 14291; Milorad Davidović, P1557.07, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 27 June 2005, T. 15300; P591, Report on Paramilitary Formation in the Territory of the RS, 28 July 1992, p. 3.



the paramilitary forces acting in BiH were Arkan's Men (under the command of Željko Ražnatović, "Arkan"),<sup>391</sup> the White Eagles (under the command of Mirko Jović),<sup>392</sup> the Red Berets (led by Dragan Vasiljković a.k.a. "Captain Dragan"),<sup>393</sup> the SOS (the armed formation of the SDS in Banja Luka),<sup>394</sup> the Yellow Wasps (under the command of Vojin Vučković, "Major Žučo"),<sup>395</sup> the Panthers (under the command of Ljubiša Savić "Mauzer", a leading SDS figure in Bijeljina),<sup>396</sup> the Grey Wolves (under the command of Dragan "Crni" Đorđević),<sup>397</sup> Predo's Wolves (led by Predrag Kujundžić),<sup>398</sup> Martić's Men (under the command of Milan Martić),<sup>399</sup> Boro's Unit (under the command of Boro Radić),<sup>400</sup> Tintor's Men (under the command of Jovan Tintor),<sup>401</sup> Šešelj's Men (under the command of Vojislav Šešelj),<sup>402</sup> Toro's Group (under the command of Major Toro),<sup>403</sup> Gogić's Men,<sup>404</sup> and the Serb Volunteer Guard (under the command of Mirko Blagojević).<sup>405</sup>

123. Some of these paramilitary groups were initially trained and equipped by the JNA and were closely associated with the army or the SDS.<sup>406</sup> In 1991 and into 1992, the Bosnian Serb and

<sup>391</sup> ST144, P317.01, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 21 July 2005, T. 16907 (confidential); P591, Report on Paramilitary Formation in the Territory of the RS, p. 3; Adjudicated Facts 1215, 1226, 1420.

<sup>392</sup> Isak Gaši, P126, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 5 February 2004, T. 513; Adjudicated Facts 1226, 1267, 1422.

<sup>393</sup> Dragomir Andan, 1 June 2011, T. 21668-21669; Isak Gaši, P126, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 5 February 2004, T. 495; P129, Summary of Events and Situations, War Presidency of Brčko Municipality, signed Đorđe Ristanić, p. 3.

<sup>394</sup> Predrag Radulović, 25 May 2010, T. 10757-10761 (confidential); Goran Šajinović, 17 October 2011, T. 25131-25133; ST161, 20 November 2009, T. 3555 (confidential); ST223, P1744.01, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 16 April 2002, T. 4412-4413 (confidential); Adil Draganović, P411.02, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 24 April 2002, T. 4899.

<sup>395</sup> ST121, 23 November 2009, T. 3681; P591, Report on Paramilitary Formations in the Territory of the RS, p. 3; 1D646, Report on the Engagement of a Group of Federal MUP Brigade Members to Provide Expert Assistance to the RS MUP, 8 August 1992, p. 9; Adjudicated Fact 1226.

<sup>396</sup> 1D646, Report on the Engagement of a Group of Federal MUP Brigade Members to Provide Expert Assistance to the RS MUP, 8 August 1992, pp. 6-7; Dragomir Andan, 27 May 2011, T. 21415; ST140, P432.05, Witness Statement, 13 March 2002, p. 10 (confidential); Adjudicated Fact 1435.

<sup>397</sup> Sulejman Tihic, P1556.03, *Prosecutor v. Simić et al.*, Case No. IT-95-9-T, 17 September 2001, T. 1377; Dragomir Andan, 30 May 2011, T. 21492; ST121, 24 November 2009, T. 3731 (confidential).

<sup>398</sup> Edin Hadžović, 26 April 2010, T. 9254; Goran Šajinović, 17 October 2011, T. 25137-25138 (confidential).

<sup>399</sup> Obren Petrović, 10 May 2010, T. 9854.

<sup>400</sup> ST214, 19 July 2010, T. 12960-12961 (confidential).

<sup>401</sup> ST214, 19 July 2010, T. 13009 and 20 July 2010, T. 13064-13065 (confidential).

<sup>402</sup> Ahmed Hido, P2185, Witness Statement, 3 March 1996, p. 6. *See also* ST174, P1098.03, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 10 April 2002, T. 4102 (confidential).

<sup>403</sup> ST088, P2189, Public Redacted Witness Statement, 1 July 1996, p. 7; ST088, P2190, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 4 July 2005, T. 15752 (confidential).

<sup>404</sup> ST222, 8 November 2010, T. 17071-17073 and 8 November 2010, T. 17073-17075 (confidential).

<sup>405</sup> Adjudicated Fact 1420.

<sup>406</sup> Sulejman Tihic, P1556.05, *Prosecutor v. Simić et al.*, Case No. IT-95-9-T, 19 September 2001, T. 1452; ST174, P1098.01, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 8 April 2002, T. 3907-3909 (confidential); ST003, P2152, *Prosecutor v. Slobodan Milošević*, Case No. IT-02-54-T, 21 October 2003, T. 27763; ST105, P2206, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 7 October 2004, T. 6907-6912 (confidential); Milorad Davidović, P1557.04, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 10 June 2005, T. 14261; Vladimir Tutuš, 16 March 2010, T. 7666-7668; ST161, 18 November 2009, T. 3314-3315, 3317 and 20 November 2009, T. 3555 (confidential); ST174, 23 March 2010, T. 8046 (confidential); Predrag Radulović, 25 May 2010, T. 10761 (confidential). *See also* Sulejman Tihic, P1556.09, *Prosecutor v. Simić et al.*, Case No. IT-95-9-T, 8 November 2001, T. 3838; Adil Draganović, P411.09, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 21 May 2002, T. 5819; ST003, P2152, *Prosecutor v. Slobodan Milošević*, Case No. IT-02-54-T, 21 October 2003, T. 27758-27761, 27785-27786; ST140, P432.04, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 22 June 2004, T. 4102, 4120-4121 (confidential); Sulejman Crnčalo, P1466.01, *Prosecutor v.*

Croatian Serb paramilitary forces cooperated with and acted under the command and within the framework of the JNA.<sup>407</sup> Other paramilitary forces were established by local Crisis Staffs or local authorities, which supplied them with weapons, uniforms, premises from which to operate, and assignments.<sup>408</sup> For example, Vojkan Đurković's men acted pursuant to policies and instructions of the Crisis Staff in Bijeljina.<sup>409</sup>

124. Members of paramilitary groups were seen wearing the green camouflage uniforms worn by the former JNA, civilian clothes, or a combination of both.<sup>410</sup> In some cases, members of paramilitary groups could be distinguished by the insignia they wore.<sup>411</sup> For example, members of Arkan's Men wore an insignia with the head of a tiger and a small RS flag on the sleeve,<sup>412</sup> Yellow Wasps wore a white-green insignia with the police seal worn by police of the RS,<sup>413</sup> and White Eagles wore an insignia with a cockade and a two-headed eagle.<sup>414</sup> Members of the SOS were described as wearing either civilian clothes or uniforms with insignia saying "SOS".<sup>415</sup>

125. Paramilitary forces committed crimes against Muslims and Croats and their property, including rape, murder, plunder, looting, and the destruction of property, and engaged in war profiteering.<sup>416</sup> These crimes will be discussed below in the sections dealing with the events in each of the charged municipalities. Serb paramilitary forces also participated in combat operations of the 1<sup>st</sup> KK of the VRS throughout the ARK.<sup>417</sup> Paramilitaries co-operated with JNA/VRS forces, for example, members of the Red Berets acted in concert with members of the JNA and VRS and other Serb Forces to regularly beat detainees at detention centres in Brčko.<sup>418</sup> Members of the JNA and

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*Krajišnik*, Case No. IT-00-39-T, 2 September 2004, T. 5337; ST079, P175.02, *Prosecutor v. Lukić and Lukić*, Case No. IT-98-32/1-T, 11 July 2008, T. 383-384 (confidential); Adjudicated Fact 159.

<sup>407</sup> Adjudicated Fact 159.

<sup>408</sup> Milorad Davidović, P1557.07, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 27 June 2005, T. 15294-15296; ST214, 19 July 2010, T. 12961, 12965 (confidential).

<sup>409</sup> See Bijeljina section.

<sup>410</sup> Dragan Lukač, P2154, *Prosecutor v. Tadić*, Case No. IT-94-1-T, 13 May 1996, T. 626; ST174, P1098.03, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 10 April 2002, T. 4104 (confidential); ST003, P2152, *Prosecutor v. Slobodan Milošević*, Case No. IT-02-54-T, 21 October 2003, T. 27760; ST079, P175.01, *Prosecutor v. Lukić and Lukić*, Case No. IT-93-21-T, 10 July 2008, T. 291, 296, 299, 313 (confidential) and P175.02, *Prosecutor v. Lukić and Lukić*, Case No. IT-93-21-T, 11 July 2008, T. 377-378 (confidential); Ivo Atlija, 18 October 2010, T. 16079-16080; ST079, 29 October 2009, T. 2255; Obren Petrović, 10 May 2010, T. 9843-9844.

<sup>411</sup> ST174, P1098.03, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 10 April 2002, T. 4104 (confidential).

<sup>412</sup> Isak Gaši, P126, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 5 February 2004, T. 487.

<sup>413</sup> ST121, 24 November 2009, T. 3742-3743, 3750-3751 (confidential).

<sup>414</sup> ST079, P175.01, *Prosecutor v. Lukić and Lukić*, Case No. IT-93-21-T, 10 July 2008, T. 291, 296, 299, 313 (confidential); ST079, P175.02, *Prosecutor v. Lukić and Lukić*, Case No. IT-93-21-T, 11 July 2008, T. 377-378 (confidential); ST079, 29 October 2009, T. 2255.

<sup>415</sup> Adil Draganović, P411.02, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 24 April 2002, T. 4901; Predrag Radić, P2105, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 6 November 2003, T. 22215; ST174, 23 March 2010, T. 8063 (confidential).

<sup>416</sup> Sulejman Tihić, P1556.05, *Prosecutor v. Simić et al.*, Case No. IT-95-9-T, 19 September 2001, T. 1452; Adjudicated Fact 806.

<sup>417</sup> Adjudicated Fact 806.

<sup>418</sup> See Brčko section.

other Serb Forces permitted members of paramilitary groups access to detainees that allowed them to mistreat prisoners in Zvornik.<sup>419</sup>

126. While paramilitary forces had initially been invited and supported by Crisis Staffs, eventually they began to act independently and defied control. According to Milorad Davidović, their presence was tolerated until they compromised the war-profiteering plans of the Crisis Staffs or harmed local Serbs.<sup>420</sup> On 28 July 1992, as the result of a critical report by the VRS Main Staff summarising the criminal activities of paramilitary groups in BiH (“Main Staff Report”),<sup>421</sup> Mladić issued an order that all paramilitary groups were to be placed under the command of the VRS. The order made clear that no individual or group responsible for crimes was to be incorporated into the VRS and that any member who refused to submit to the command of the VRS was to be disarmed and arrested.<sup>422</sup> At the same time, the RS MUP conducted operations to arrest and disarm paramilitary groups.<sup>423</sup>

127. According to Ewan Brown, despite these orders, it is evident that paramilitary groups that had been criticised in the Main Staff Report for criminal activity were nevertheless incorporated into the VRS structure and continued to operate.<sup>424</sup>

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<sup>419</sup> See Zvornik section.

<sup>420</sup> Milorad Davidović, P1557.01, Witness Statement, 29 January 2005, p. 19; P1557.04, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 10 June 2005, T. 14247-14250. See also Ewan Brown, 12 January 2011, T. 18748.

<sup>421</sup> In this report, paramilitary groups are described as “composed of individuals of low moral quality, and in many cases of persons previously prosecuted for crimes and offences and even convicted for crimes of murder, robbery, larceny and the like”, “almost worthless in combat terms”, “display[ing] hatred of non-Serbian peoples”, and motivated by “war profiteering and looting.” P591, Report on Paramilitary Formation in the Territory of the RS, 28 July 1992, p. 1.

<sup>422</sup> P1284.56, Order on the Disarmament of Paramilitary Formations, 28 July 1992, pp. 2-3.

<sup>423</sup> ST179, 12 March 2010, T. 7546-7547.

<sup>424</sup> P1803, Brown Expert Report, pp. 84-86. See also ST140, P432.04, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 22 June 2004, T. 4120-4121 (confidential).

### III. EXISTENCE OF A COMMON PLAN, DESIGN, OR PURPOSE

128. The Indictment alleges that a JCE came into existence no later than 24 October 1991 and continued throughout the period of the conflict in BiH until the signing of the Dayton Accords in 1995. It further alleges that the objective of the JCE was “to permanently remove Bosnian Muslims, Bosnian Croats, and other non-Serbs from the territory of the planned Serbian state by means which included the commission of the crimes alleged in Counts 1–10.”<sup>425</sup>

129. According to the Prosecution, besides the Accused, the following persons, among others, were members of the JCE: Radovan Karadžić, Momčilo Krajišnik, Biljana Plavšić, Nikola Koljević, Momčilo Mandić, Velibor Ostojić, Ratko Mladić, Momir Talić, Simo Drljača, and Radoslav Brđanin. Other unnamed members of the JCE included “members of the Bosnian Serb leadership and leading members of the Serbian Democratic Party (‘SDS’) at the republic, regional and municipal levels, leading members of the JNA/VRS in the regions [...] leading members of CSBs, leading members of Public Security Services (‘SJBs’) [...] leading members of regional, and municipal crisis staffs [...] and leading members of other civilian bodies within BiH.”<sup>426</sup>

130. The Indictment further alleges that the objective of the JCE was implemented by the members of the JCE through and by using the physical perpetrators to carry out the *actus reus* of the crimes committed in furtherance of the common criminal purpose. According to the Prosecution, the physical perpetrators of the crimes were members of the Serb Forces, which collectively included members of RS MUP, VRS, JNA, VJ, TO, Serbian MUP, Crisis Staffs, Serbian and Bosnian Serb paramilitary forces and volunteer units, and local Bosnian Serbs acting under their instruction or pursuant to the direction of the aforementioned forces.<sup>427</sup>

#### A. JCE Objective

##### 1. Bosnian Serb leadership at relevant time

131. The Bosnian Serb leadership, at the time, consisted of leading members of the SDS and those who occupied important posts in the RS, which was proclaimed by the BSA on 9 January 1992 as the “Republic of the Serbian People in BiH” and renamed Republika Srpska (“RS”) on 12 August 1992.<sup>428</sup> The most important organs of the RS were the Presidency, the

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<sup>425</sup> Indictment, para. 7.

<sup>426</sup> Indictment, para. 8.

<sup>427</sup> Indictment, para. 9.

<sup>428</sup> Adjudicated Fact 109. The Chamber recalls that, for ease of reference, it will refer to this entity by its acronym “RS” throughout the Judgement.

Government, the NSC, and the BSA. The political influence within the SDS was wielded by Radovan Karadžić, Momčilo Krajišnik, Biljana Plavšić, and Nikola Koljević.<sup>429</sup>

132. Radovan Karadžić was the President of the SDS, President of the RS Presidency, and President of the NSC.<sup>430</sup> He has been described as the main decision maker in the Bosnian Serb leadership and its principal interlocutor.<sup>431</sup> Herbert Okun, a former diplomat involved in the peace negotiations on the former Yugoslavia in 1992 and 1993,<sup>432</sup> described Karadžić as one of the top two Bosnian Serb leaders at the time, the other being Momčilo Krajišnik.<sup>433</sup>

133. Momčilo Krajišnik was President (also referred to as Speaker) of the BiH Assembly, President of the BSA, member of the Executive Board of the SDS, member of the NSC and a member of the expanded RS Presidency.<sup>434</sup> Okun had no doubt that Karadžić treated Krajišnik as his equal.<sup>435</sup>

134. After the elections in 1990, Nikola Koljević and Biljana Plavšić were elected to represent the Serb people in the Presidency of SRBiH.<sup>436</sup> On 24 October 1991, Nikola Koljević was authorised by the BSA to represent and protect the interests of the Bosnian Serbs in peace negotiations, and Plavšić to do the same in respect of states and international organisations.<sup>437</sup> On 15 April 1992, Plavšić was authorised to represent RS in contacts with the UN, and Koljević was tasked with presenting the situation in RS to the Yugoslav and international public.<sup>438</sup> On 12 May 1992, Plavšić and Koljević became members of the RS Presidency.<sup>439</sup> Okun stated that in the beginning he frequently met with Radovan Karadžić and Nikola Koljević. He added however that, as time passed, Koljević played an increasingly lesser role in the negotiations.<sup>440</sup>

<sup>429</sup> Dragan Đokanović, P397.02, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 15 March 2005, T. 10564-10567.

<sup>430</sup> Branko Đerić, 29 October 2009, T. 2279; Christian Nielsen, 14 December 2009, T. 4708; Momčilo Mandić, 3 May 2010, T. 9432, 9442; P257, Minutes of the 1<sup>st</sup> Session of the Presidency of the RS, 12 May 1992; L327, Decision to Establish NSC, 27 March 1992.

<sup>431</sup> Herbert Okun, P2194, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 24 June 2004, T. 4333; Dragan Đokanović, P397.02, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 15 March 2005, T. 10564, 10567.

<sup>432</sup> Herbert Okun, P2192, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 22 June 2004, T. 4137, 4139-4141.

<sup>433</sup> Herbert Okun, P2192, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 22 June 2004, T. 4154-4155 and P2193, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 23 June 2004, T. 4239 and P2194, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 24 June 2004, T. 4277, 4333-4334.

<sup>434</sup> Herbert Okun, P2192, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 22 June 2004, T. 4154 and P2194, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 24 June 2004, T. 4338; Dragan Đokanović, P397.01, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 14 March 2005, T. 10496-10497 and P397.02, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 15 March 2005, T. 10565.

<sup>435</sup> Herbert Okun, P2192, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 22 June 2004, T. 4156.

<sup>436</sup> Sulejman Tihić, P1556.09, *Prosecutor v. Simić et al.*, Case No. IT-95-9-T, 8 November 2001, T. 3790-3792.

<sup>437</sup> P1931, Transcript of the 1<sup>st</sup> BSA Session, 24 October 1991, p. 14.

<sup>438</sup> P204, Minutes of the Joint Meeting of the NSC and the RS Government, 15 April 1992, p. 2.

<sup>439</sup> P257, Minutes of the 1<sup>st</sup> Session of the Presidency of the RS, 12 May 1992.

<sup>440</sup> Herbert Okun, P2192, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 22 June 2004, T. 4154-4155 and P2194, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 24 June 2004, T. 4342.

135. Milan Babić stated that during his time as leader of the RSK, he met with a number of Serb regional leaders in BiH, as well as with Bosnian Serb leaders at the republican level including Radovan Karadžić, Momčilo Krajišnik, Biljana Plavšić, and Nikola Koljević. From these interactions, it became apparent to Babić that Karadžić, Krajišnik, Koljević, and Plavšić were the main leaders of the Bosnian Serbs.<sup>441</sup> He confirmed that Karadžić and Krajišnik were the most powerful in the group.<sup>442</sup> Babić stated that many Serb leaders referred to Muslims as “Turks”; this reference was not only derogatory, but also an expression of deep-rooted hostility.<sup>443</sup>

(a) President of RS and Presidency

136. On 12 May 1992, Radovan Karadžić became the President of the RS Presidency.<sup>444</sup> Under the terms of the RS Constitution, the President of the RS had the power to propose to the BSA candidates for the posts of Prime Minister and the President and Justices of the Constitutional Court.<sup>445</sup> The President was to be elected by the citizens in direct elections by secret ballot for a term of five years.<sup>446</sup> The RS Constitution provided that the President of the Republic was responsible to the citizens and that they could recall him in the same way they elected him.<sup>447</sup> In a time of immediate threat of war, the President had the power to make laws when the BSA could not convene.<sup>448</sup>

137. The Trial Chamber has also been presented with evidence about the RS Presidency. The Presidency was a small institution that consisted of the President of the Republic and senior members of the SDS, namely Nikola Koljević and Biljana Plavšić.<sup>449</sup> At some point, the Presidency was expanded to include more members. Branko Đerić, former Prime Minister of RS,<sup>450</sup> was not a member of the SDS but was considered a part of the expanded Presidency of the RS.<sup>451</sup> He testified that the expanded Presidency functioned as a coordinating body comprised of a number of officials. These officials were the most prominent officials of the SDS, over whom Radovan Karadžić had

<sup>441</sup> Milan Babić, P2117, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 3 June 2004, T. 3395-3397 (confidential).

<sup>442</sup> Milan Babić, P2117, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 3 June 2004, T. 3396-3397 (confidential) and P2121, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 7 June 2004, T. 3562, 3564 (confidential).

<sup>443</sup> Milan Babić, P2119, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 4 June 2004, T. 3448-3449 (confidential).

<sup>444</sup> P257, Minutes of the 1<sup>st</sup> Session of the Presidency of the RS, 12 May 1992.

<sup>445</sup> P181, Constitution of the RS as published in the Official Gazette of the RS of 16 March 1992, 28 February 1992, Article 80, p. 13.

<sup>446</sup> P181, Constitution of the RS as published in the Official Gazette of the RS of 16 March 1992, 28 February 1992, Article 83, p. 14.

<sup>447</sup> P181, Constitution of the RS as published in the Official Gazette of the RS of 16 March 1992, 28 February 1992, Article 88, p. 14.

<sup>448</sup> Branko Đerić, 29 October 2009, T. 2312-2313.

<sup>449</sup> Milan Trbojević, P427.01, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 4 April 2005, T. 11431, 11433.

<sup>450</sup> Branko Đerić, 30 October 2009, T. 2377 and P179.02, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 12 July 2006, T. 27061.

<sup>451</sup> Branko Đerić, 29 October 2009, T. 2279, 30 October 2009, T. 2377 and 3 November 2009, T. 2523 and P179.02, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 12 July 2006, T. 27071-27074 and P179.04, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 14 July 2006, T. 27231.

considerable control.<sup>452</sup> Đerić added that, when the Presidency was expanded to include him and Krajišnik, he was obliged to attend the meetings of the Presidency whenever issues that fell within his competence as Prime Minister were discussed.<sup>453</sup> Đerić further testified that the Presidency met in this expanded form weekly or about once every fortnight with abridged versions of the minutes being provided at subsequent meetings.<sup>454</sup> Milan Trbojević, former deputy Prime Minister of RS,<sup>455</sup> said that it was originally planned that the Presidency would consist of the President and two additional members, Plavšić and Koljević; however, this changed in practice and the law was later changed. Trbojević stated that Karadžić had supreme authority. Below him, Krajišnik exercised the most power within the Presidency, followed by Koljević and Plavšić.<sup>456</sup>

(b) Government of RS

138. According to the RS Constitution, executive authority rested with the RS Government.<sup>457</sup> Under the terms of the Constitution, the Government was to determine principles for the internal organisation of ministries and other administrative republican agencies, including the appointment of officials.<sup>458</sup> The members of the Government were accountable to the BSA.<sup>459</sup> State administration was conducted by ministries and other administrative agencies. Each of the ministries in the RS was independent of each other as provided by the Constitution.<sup>460</sup> Đerić stated that the Government prepared materials, documents, laws, and regulations for the BSA.<sup>461</sup>

139. Branko Đerić was a member of the Government of SRBiH, a member of the Ministerial Council of RS, and subsequently Prime Minister of the Government of the RS.<sup>462</sup> As Prime Minister, Đerić dealt with economic, social, informational, and cultural issues but not war matters.<sup>463</sup> Based on provisions in the RS Constitution, the Prime Minister would propose certain

<sup>452</sup> Branko Đerić, 29 October 2009, T. 2279; Branko Đerić, P179.02, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 12 July 2006, T. 27071, 27073.

<sup>453</sup> Branko Đerić, 29 October 2009, T. 2280.

<sup>454</sup> Branko Đerić, P179.02, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 12 July 2006, T. 27075, 27077-27078.

<sup>455</sup> Milan Trbojević, 2 December 2009, T. 4081.

<sup>456</sup> Milan Trbojević, P427.01, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 4 April 2005, T. 11433, 11433.

<sup>457</sup> P181, Constitution of the RS as published in the Official Gazette of the RS of 16 March 1992, 28 February 1992, Article 69, pp. 11-12.

<sup>458</sup> P181, Constitution of the RS as published in the Official Gazette of the RS of 16 March 1992, 28 February 1992, Article 90, p. 15.

<sup>459</sup> P181, Constitution of the RS as published in the Official Gazette of the RS of 16 March 1992, 28 February 1992, Article 94, p. 15.

<sup>460</sup> P181, Constitution of the RS as published in the Official Gazette of the RS of 16 March 1992, 28 February 1992, Article 97, p. 16.

<sup>461</sup> Branko Đerić, 29 October 2009, T. 2280-2281; Branko Đerić, P179.02, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 12 July 2006, T. 27061.

<sup>462</sup> Branko Đerić, 30 October 2009, T. 2377, 3 November 2009, T. 2523; Branko Đerić, P179.04, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 14 July 2006, T. 27231.

<sup>463</sup> Branko Đerić, 29 October 2009, T. 2280.

candidates to the BSA, and appointments would be made on that basis.<sup>464</sup> Đerić proposed candidates at times, but always at the suggestion of the President of the SDS.<sup>465</sup> Đerić resigned from the position of Prime Minister during the BSA session on 23 and 24 November 1992.<sup>466</sup> The first deputy prime ministers of the Government were Momčilo Pejić and Milan Trbojević.<sup>467</sup>

140. Milan Trbojević became a member of the Government of the RS at the end of May 1992.<sup>468</sup> Trbojević was appointed deputy prime minister of the RS on 8 June 1992 although he started work unofficially on 22 or 23 May 1992.<sup>469</sup> Trbojević was on the SDS ticket but not a member of the party and as a result had little authority.<sup>470</sup> Trbojević dealt with the internal polices of the Government by coordinating the work of the Ministry of Justice and the MUP, while Pejić was in charge of economics and finance.<sup>471</sup>

141. On 24 March 1992, Aleksa Buha was appointed Minister of Foreign Affairs and Mićo Stanišić was appointed Minister of Interior.<sup>472</sup> Velibor Ostojić, who was the Deputy Prime Minister and Minister of Information of SRBiH in May 1991, retained the post of Minister of Information in the RS Government.<sup>473</sup> Before the war, Ostojić was also the President of the SDS Executive Board.<sup>474</sup> According to Trbojević, the Government had a group of staff, led by Velibor Ostojić, that monitored the media and wrote what Ostojić wanted.<sup>475</sup> Momčilo Mandić was the Minister of Justice in the RS government from 19 May to November 1992.<sup>476</sup> Colonel Bogdan Subotić was the Minister of the Defence.<sup>477</sup>

142. Branko Đerić testified that the communication between the Government and Presidency was “very bad” because “Karadžić considered himself to be the government”. The Government was not

<sup>464</sup> Branko Đerić, P179.02, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 12 July 2006, T. 27062.

<sup>465</sup> Branko Đerić, P179.02, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 12 July 2006, T. 27063.

<sup>466</sup> Dragan Đokanović, 23 November 2009, T. 3594-3597; P400, Minutes of the 22<sup>nd</sup> Session of the BSA, 23-24 November 1992, pp. 10-12, 15.

<sup>467</sup> Branko Đerić, 29 October 2009, T. 2281; Milan Trbojević, P427.02, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 5 April 2005, T. 11484 and P427.01, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 4 April 2005, T. 11382.

<sup>468</sup> Milan Trbojević, 2 December 2009, T. 4081.

<sup>469</sup> Milan Trbojević, P427.02, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 5 April 2005, T. 11484 and P427.01, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 4 April 2005, T. 11382 and P427.02, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 5 April 2005, T. 11484.

<sup>470</sup> Milan Trbojević, P427.01, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 4 April 2005, T. 11416-11417.

<sup>471</sup> Branko Đerić, 29 October 2009, T. 2281.

<sup>472</sup> P198, Minutes of the 13<sup>th</sup> Session of the BSA held on 24 March 1992 in Pale, pp. 6-9; Branko Đerić, 29 October 2009, T. 2281-2282.

<sup>473</sup> ST144, 6 November 2009, T. 2795-2796 (confidential); Dragan Đokanović, 20 November 2009, T. 3589; Radomir Kezunović, 22 June 2010, T. 12056; ST179, 5 July 2010, T. 12612-12613; Milan Babić, P2117, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 3 June 2004, T. 3406-3407 (confidential).

<sup>474</sup> Dragan Đokanović, 20 November 2009, T. 3589.

<sup>475</sup> Milan Trbojević, 2 December 2009, T. 4090.

<sup>476</sup> Momčilo Mandić, 3 May 2012, T. 9420.

<sup>477</sup> Branko Đerić, 29 October 2009, T. 2282.



informed about policies, strategies, and the “current situation”. He described the Government as a technical attachment.<sup>478</sup>

143. Trbojević agreed that the Government had not been kept sufficiently informed of issues relevant to its work.<sup>479</sup> According to Trbojević, the SDS, the BSA, and the Presidency were “practically one and the same thing” since the BSA had an overwhelming majority of SDS deputies and the Presidency consisted of the most senior SDS members. In Trbojević’s view, the SDS set government policy and “probably concluded” that the Government should only comprise SDS members in the future. Velibor Ostojić “practically threatened to the effect that those who were not SDS members and were not the party faithful would not be in the government.”<sup>480</sup> Trbojević agreed that there were no significant policy differences or differences of political attitude between the Government, the BSA, and the SDS, “except the Government was the most poorly informed segment”.<sup>481</sup> In September 1992, Trbojević proposed that the Government conduct its own policy, but this proposal was “not met with support” and the Government continued to implement policies given to it by the SDS-dominated BSA. Trbojević described the government as “the most banal executor of the political attitudes” and protested the situation in the BSA.<sup>482</sup>

(c) NSC

144. The Decision to establish the NSC was made on 27 March 1992. The NSC was headed by the President of RS, Radovan Karadžić, and included the following members: the President of the BSA (Momčilo Krajišnik), the Prime Minister (Branko Đerić), the Minister of Defence (Bogdan Subotić), the Minister of Foreign Affairs (Aleksa Buha), the Minister of the MUP (Mićo Stanišić), and two members elected by the BSA among its members.<sup>483</sup> According to Branko Đerić, the main task of the NSC was to handle security matters in the RS.<sup>484</sup>

(d) Other Serb leaders

145. Ratko Mladić became the Commander of the VRS in the first half of 1992. Prior to that, Ratko Mladić was Chief of Staff of the 9<sup>th</sup> Corps of the JNA in Croatia. According to Milan Babić, while there, he was in charge of military operations during which parts of the Croatian population

<sup>478</sup> Branko Đerić, P179.02, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 12 July 2006, T. 27080.

<sup>479</sup> Milan Trbojević, P427.05, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 8 April 2005, T. 11777.

<sup>480</sup> Milan Trbojević, P427.05, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 8 April 2005, T. 11714-11715

<sup>481</sup> Milan Trbojević, P427.05, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 8 April 2005, T. 11717.

<sup>482</sup> Milan Trbojević, P427.05, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 8 April 2005, T. 11712-11714.

<sup>483</sup> P1838, Minutes of the 14<sup>th</sup> Session of the BSA held on 27 March 1992 in Sarajevo, p. 14; L327, Decision to Establish the NSC, 27 March 1992, Article III; Adjudicated Fact 758.

<sup>484</sup> Branko Đerić, 29 October 2009, T. 2312.

were expelled. Babić added that Milošević and Karadžić were aware of the role Mladić had played in Croatia.<sup>485</sup>

146. In March 1992, Rajko Dukić was Head of the SDS Crisis Staff and President of the Executive Board of the SDS, the number two position in the SDS after Radovan Karadžić.<sup>486</sup> He was also in charge of personnel affairs within the party.<sup>487</sup>

147. Radoslav Brdanin was President of the SDS Regional Board in the ARK region and President of the ARK Crisis Staff.<sup>488</sup> In 1991, he was the Coordinator for Implementing Decisions and Vice-President of the ARK Assembly.<sup>489</sup>

148. According to Babić, Milošević and Karadžić collaborated closely with each other.<sup>490</sup> ST105, an international official,<sup>491</sup> testified that as of early April 1992 the President of Yugoslavia, Branko Kostić, did not have any real power anymore.<sup>492</sup>

149. From meetings he had with Slobodan Milošević, ST105 observed that Milošević had direct contact with the significant actors in BiH at the time. In ST105's presence, Milošević phoned Radovan Karadžić.<sup>493</sup> Milošević was also in contact with Predrag Radić, the President of the Banja Luka municipal assembly, who was also referred to as the mayor of Banja Luka.<sup>494</sup> ST105 also met with Radić on a number of occasions.<sup>495</sup>

150. The establishment and the authority of the BSA will be discussed below.

<sup>485</sup> Milan Babić, P2117, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 3 June 2004, T. 3390-3393 (confidential).

<sup>486</sup> Momčilo Mandić, 3 May 2010, T. 9442.

<sup>487</sup> Vitomir Žepinić, 28 January 2010, T. 5723.

<sup>488</sup> ST140, P432.01, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 15 June 2004, T. 3693-3694 (confidential); Milan Babić, P2117, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 3 June 2004, T. 3405 (confidential); Adjudicated Fact 783.

<sup>489</sup> P960.12, Transmission of the Order of SDS Sarajevo, 29 October 1991.

<sup>490</sup> Milan Babić, P2117, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 3 June 2004, T. 3397 (confidential).

<sup>491</sup> ST105, P2205, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 6 October 2004, T. 6716-6717 (confidential); ST102 P2208, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 28 August 2003, T. 20593 (confidential).

<sup>492</sup> ST105, P2209, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 29 August 2003, T. 20763 (confidential).

<sup>493</sup> ST105, P2208, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 28 August 2003, T. 20614 (confidential).

<sup>494</sup> ST105, P2208, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 28 August 2003, T. 20614 (confidential). Vladimir Tutuš, 15 March 2010, T. 7605; Muharem Krzić, P459.05, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 14 February 2002, T. 1746-1747; ST174, P1098.03, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 10 April 2002, T. 4064-4067 (confidential); Predrag Radić, P2100, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 3 November 2003, T. 21945 (confidential); Momčilo Mandić, P1318.08, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 7 December 2004, T. 9284; P459.07, SDA Banja Luka Report to the BiH Mission to the UN, 30 September 1992, p. 2.

<sup>495</sup> ST105, P2208, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 28 August 2003, T. 20644 (confidential).

2. Expressions of political views and aims of Bosnian Serb leadership throughout relevant period

(a) Concept of Greater Serbia and general views and aims

151. The concept of a Greater Serbia has a long history. It emerged at the forefront of political consciousness, in close to its modern form, as early as 150 years ago and gained momentum between the two World Wars. The idea involved two distinct aspects: first, the incorporation of the two autonomous provinces of Vojvodina and Kosovo into Serbia, and secondly, the extension of the enlarged Serbia, together with Montenegro, into those portions of Croatia and BiH containing substantial Serb populations.<sup>496</sup>

152. The second aspect of the idea of a Greater Serbia was strongly pursued in the late 1980s and on into the 1990s. It was encouraged by nationalist writings of earlier days, some of which advocated a Serbian state extending throughout BiH and including the Dalmatian coast and parts of Croatia north of the Sava River. It was actively promoted by Serb propaganda, a key element of the campaign. By recalling the atrocities of the Croat “Ustashas” in the Second World War, its proponents sought to arouse the fears of Serbs everywhere and in the end to have them seek protection within a Greater Serbia.<sup>497</sup>

153. Through public speeches and the media, Serbian political leaders emphasised a glorious past, harking back to the Battle of Kosovo in 1389, and informed their audiences that, if Serbs did not join together, they would again be attacked by “Ustashas”, a term used to instill fear in Serbs. The danger of a “fundamentalist, politicised” Muslim community was also presented as a threat.<sup>498</sup>

154. After the disintegration of the former Yugoslavia began, the theme of the Serb-dominated media was that, if Serbs became a minority, their existence would be endangered. The media presented the Serbs with a choice between waging war or being subjected to concentration camps.<sup>499</sup>

155. The position of Slobodan Milošević was that, if Yugoslavia dissolved, Serbs had the right to remain within Yugoslavia in one state.<sup>500</sup> The Bosnian Serb leadership shared Milošević’s view that Serbs from Serbia, Croatia, BiH, and Montenegro should all live in one state, which would include territories from those republics.<sup>501</sup>

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<sup>496</sup> Adjudicated Fact 30.

<sup>497</sup> Adjudicated Fact 31.

<sup>498</sup> Adjudicated Fact 32.

<sup>499</sup> Adjudicated Fact 33.

<sup>500</sup> Milan Babić, P2115, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 2 June 2004, T. 3332-3333 (confidential).

<sup>501</sup> Milan Babić, P2117, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 3 June 2004, T. 3397, 3399-3400 (confidential).

156. While the SDA and the HDZ promoted the secession of BiH from Yugoslavia, the SDS strongly advocated the preservation of Yugoslavia as a state, in order to ensure that the Serbs would continue to live together in a single state and that they would not become a minority in an independent BiH.<sup>502</sup> The Bosnian Serb leadership considered that Serbs in BiH should control all territories in BiH where Serbs were in a majority at the time, and also where they had been in a majority prior to the Second World War. Babić testified that, at a meeting with Milošević and Karadžić in Belgrade in July 1991, Karadžić said that this would be achieved by expelling the Muslims into the river valleys and by merging Serb territories in BiH. Karadžić also stated that he was not sure whether he should take Zenica from the Muslims as well.<sup>503</sup>

157. On the same day, another meeting took place in Čelinac and was attended by 10 to 15 persons from Banja Luka and surrounding areas, including Radoslav Brdanin, President of the SDS Regional Board in the ARK region.<sup>504</sup> At this meeting, Karadžić repeated what he said at the previous meeting and added that, once the process of expelling Muslims was completed in BiH, the Krajina, meaning the RSK, would be joined to the Serbian territory in BiH.<sup>505</sup> Babić added that he understood Karadžić to mean that he would create a unified Serbian territory in BiH by expelling Muslims. Babić explained that this understanding was made on the basis that the Serb leadership had created Serb areas, consisting of a number of municipalities, and that these areas could not be united through voting based on the majority principle.<sup>506</sup>

158. Milan Babić testified that, in his opinion, Slobodan Milošević, the Bosnian Serb leadership, and Franjo Tuđman, President of Croatia, had agreed to divide BiH.<sup>507</sup>

159. On 23 February 1991, Karadžić was quoted in a press article as saying: “Just as it is natural for it to rain, it is also completely natural for the Serbs to live in the same state. Thus, it is not possible to break up Yugoslavia; it is only possible to leave it.”<sup>508</sup> Dragan Đokanović, a former Bosnian Serb politician and advisor to the Presidency of the RS from July 1992 to January 1993, testified that Karadžić’s words were interpreted as an endorsement by Serb politicians of President

<sup>502</sup> Agreed Fact 87; Robert Donia, 16 September 2009, T. 367-369; P10, Minutes of the 4<sup>th</sup> Session of the BSA Assembly, 21 December 1991, p. 6.

<sup>503</sup> Milan Babić, P2117, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 3 June 2004, T. 3400, 3402, 3404 (confidential).

<sup>504</sup> Milan Babić, P2117, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 3 June 2004, T. 3405 (confidential).

<sup>505</sup> Milan Babić, P2117, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 3 June 2004, T. 3404-3406 (confidential) and P2121, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 7 June 2004, T. 3531-3532 (confidential).

<sup>506</sup> Milan Babić, P2121, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 7 June 2004, T. 3613-3614 (confidential).

<sup>507</sup> Milan Babić, P2121, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 7 June 2004, T. 3551-3553 (confidential).

<sup>508</sup> Dragan Đokanović, P397.01, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 14 March 2005, T. 10455-10457; P397.12, Article from *Oslobodenje*: “Courtesy Visit – Slobodan Milošević at the BH SDS Headquarters”, 23 February 1991, p. 1.

Milošević's views on Serbs remaining in Yugoslavia.<sup>509</sup> In an interview with *Borba* on 26 February 1991, Karadžić stated that the present borders between the republics had to be revised according to ethnic principles.<sup>510</sup>

(b) Session of SRBiH Assembly on 15 October 1991 and establishment and functioning of BSA

160. On the evening of 14 October 1991, Đokanović was informed that the SDA was planning to place a memorandum on the independence of BiH on the agenda of the BiH Assembly. Đokanović testified that Karadžić and Krajišnik were aware of this. To stop the memorandum being adopted, it was proposed that Krajišnik adjourn the BiH Assembly in accordance with the prevailing rules of procedure.<sup>511</sup>

161. On 15 October 1991, Radovan Karadžić addressed the BiH Assembly and stated his views on the proposed declaration of independence:

This is the road that you want Bosnia and Herzegovina to take, the same highway of hell and suffering that Slovenia and Croatia went through. Don't think you won't take Bosnia and Herzegovina to hell and Muslim people in possible extinction. Because, Muslim people will not be able to defend itself when it comes to war here!<sup>512</sup>

Krajišnik then adjourned the session of the BiH Assembly.<sup>513</sup> However, the Vice-President of the Assembly, a Croat deputy Mario Ljubić, reconvened the Assembly without the SDS deputies. According to Đokanović, this was unlawful.<sup>514</sup> Nonetheless, the Assembly declared the sovereignty of BiH on this day.<sup>515</sup> The declaration was made with the support of the HDZ and the SDA members of the Assembly, while the SDS members were absent due to the session being adjourned by Krajišnik.<sup>516</sup> Đokanović described this event as the defining moment that paved the way to

<sup>509</sup> Dragan Đokanović, P397.01, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 14 March 2005, T. 10437-10438, 10445-10458.

<sup>510</sup> Dragan Đokanović, P397.01, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 14 March 2005, T. 10470; P397.13, Article from *Borba*: "I Am Not Milošević's Yes-Man", 23 February 1991, p. 2.

<sup>511</sup> Dragan Đokanović, P397.01, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 14 March 2005, T. 10496-10499.

<sup>512</sup> Robert Donia, 16 September 2009, T. 380-381; Dragan Đokanović, P397.01, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 14 March 2005, T. 10500-10501; P13, Speech of Radovan Karadžić in the BiH Assembly, 15 October 1991, p. 3; P14, Minutes of the SDS Party Council Meeting, 15 October 1991, p. 2; P30, Donia Expert Report: Origins of RS, p. 33; Adjudicated Fact 748.

<sup>513</sup> Robert Donia, 16 September 2009, T. 382-383; P30, Donia Expert Report: Origins of RS, p. 34; P31, Donia Expert Report: Bosnian Krajina in the History of BiH, p. 59.

<sup>514</sup> Dragan Đokanović, P397.01, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 14 March 2005, T. 10499. *See also* P2070, Minutes of the 6<sup>th</sup> Session of the BSA, 26 January 1992, pp. 2-3.

<sup>515</sup> Agreed Fact 62.

<sup>516</sup> Robert Donia, 16 September 2009, T. 382-383; Dragan Đokanović, P397.01, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 14 March 2005, T. 10499; P30, Donia Expert Report: Origins of RS, p. 34; P31, Donia Expert Report: Bosnian Krajina in the History of BiH, p. 59.

war.<sup>517</sup> In this respect, on 18 September 1992, Karadžić told Okun that the international recognition of BiH and its admission to the UN led to the war.<sup>518</sup>

162. On the evening of 15 October 1991, the SDS Party Council held a meeting that was attended by SDS members of the Executive Committee, SDS members of the BiH Presidency, SDS members of the SRBiH Government, and the President of the party. This included Karadžić, Krajišnik, Koljević, and Plavšić. At the meeting, a number of statements were put forward, including one by Todor Dutina, who said that an end must be put to the illusion that a joint existence with Muslims and Croats was possible.<sup>519</sup> Dutina later became the Director of the Serbian News Agency SRNA.<sup>520</sup>

163. On 24 October 1991, Karadžić spoke to Milošević telling him to convey to Izetbegović, the President of the SDA and SRBiH Presidency at the time,<sup>521</sup> the message that the Serbs will establish full authority over the Serbian territories of BiH, meaning 60–65% of the territory. He said that the Serbs were in power in 37 municipalities, out of 109 municipalities in BiH, with a relative majority in a further 10 municipalities.<sup>522</sup>

164. On the same day, the SDS deputies of the BiH parliament proclaimed a separate assembly, called the “BSA”, and elected Momčilo Krajišnik as its President.<sup>523</sup> The decision to hold a plebiscite of the Serb people in BiH on 9 and 10 November 1991 was also adopted on that day.<sup>524</sup>

165. The role of the BSA was to pass laws, regulations, and general enactments. The BSA was also to effect control over the work of the RS Government and other agencies for which it was responsible.<sup>525</sup> The BSA was to consist of 120 representatives, and its composition was to be proportional.<sup>526</sup> The RS Constitution provided that representatives to the BSA were to be elected by direct elections and were to be elected for a term of four years.<sup>527</sup>

<sup>517</sup> Dragan Đokanović, P397.01, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 14 March 2005, T. 10499.

<sup>518</sup> Herbert Okun, P2193, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 23 June 2004, T. 4213.

<sup>519</sup> P14, Minutes of the SDS Party Council Meeting, 15 October 1991, p. 1.

<sup>520</sup> P204, Minutes of the Joint Meeting of the NSC and the RS Government, 15 April 1992, pp. 1-2.

<sup>521</sup> Agreed Fact 78; Adjudicated Fact 748.

<sup>522</sup> P1130, Transcript of the Telephone Conversation between Karadžić and Milošević, 24 October 1991, pp. 1, 2, 5, 7-8. See also Robert Donia, 16 September 2009, T. 346; Ewa Tabeau, 7 October 2010, T. 15547.

<sup>523</sup> Milan Babić, P2119, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 4 June 2004, T. 3512-3513 (confidential); P1931, Transcript of the 1<sup>st</sup> BSA Session, 24 October 1991, pp. 8, 12; P2067, Minutes of the 1<sup>st</sup> Session of the BSA, 24 October 1991, p. 4; Agreed Fact 90; Adjudicated Fact 746.

<sup>524</sup> P1931, Transcript of the 1<sup>st</sup> BSA Session, 24 October 1991, p. 17; P2067, Minutes of the 1<sup>st</sup> Session of the BSA, 24 October 1991, p. 6.

<sup>525</sup> P181, Constitution of the RS as published in the Official Gazette of the RS of 16 March 1992, 28 February 1992, Article 70, p. 12.

<sup>526</sup> P181, Constitution of the RS as published in the Official Gazette of the RS of 16 March 1992, 28 February 1992, Article 71, p. 12. However, the BSA was composed only of elected members of Serb ethnicity.

<sup>527</sup> P181, Constitution of the RS as published in the Official Gazette the RS of 16 March 1992, 28 February 1992, Arts. 71-72, p. 12.

166. Milan Trbojević said that, despite the provisions in the RS Constitution, there were only 82 representatives in the BSA and probably seven (but definitely less than 10) who were not members of the SDS. Trbojević stated that non-SDS members of the BSA were able to air their views and be critical, but could not influence decision-making or voting. Because the BSA was dominated by the representatives from the SDS, “political authority was in the hands of the party”. Trbojević said that the building in Pale where the BSA initially met was “small”, but they transferred in the early summer of 1992 to the Hotel Bistrica in Jahorina.<sup>528</sup>

(c) Karadžić’s speech in November 1991 and Bosnian Serb plebiscite

167. In early November 1991, Radovan Karadžić gave a speech regarding the upcoming plebiscite.<sup>529</sup> The Chamber understands that this speech was addressed to Serb presidents of municipalities and possibly other local Serb politicians at the time.<sup>530</sup> Karadžić spoke about a number of options to resolve the crisis in BiH. The option he thought most probable, and which he favoured, was the establishment of a Serbian, a Croatian, and a Muslim BiH, meaning that all Serbian affairs would be handled by a Serbian government within the framework of a confederated BiH.<sup>531</sup> He said that things would be as they were during the Turkish days: there would be Turkish and Serb towns, Turkish and Serb affairs, Turkish and Serb theatres, cafés, and schools.<sup>532</sup> Therefore, he continued, it was important that Serbs in all municipalities should vote in the upcoming plebiscite so that it would be clear where the homogenous local Serb communities were. Karadžić stated that, if the Serbs failed to “mark [their] territory as dogs do”, they would not achieve anything.<sup>533</sup>

168. Karadžić stated that it would be impossible for Izetbegović to establish his authority in 70% of BiH and that he should have no authority in any Serb village.<sup>534</sup> Karadžić went on to say that foundations of Muslim buildings should never be laid in Serb areas or villages and that, if they were, they would be blown up. Serbs would never allow the demographic picture to change, either naturally or artificially, and that Serbs would be instructed not to sell land to Muslims. He pointed out that Serbs had to fight to the finish as this was a battle for living space. Otherwise, he continued, in 10 years, by the time of the next census, Muslims would have an absolute majority in BiH and that they had planned for this.<sup>535</sup>

<sup>528</sup> Milan Trbojević, P427.01, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 4 April 2005, T. 11413-11416, 11419.

<sup>529</sup> P2059, Speech by Radovan Karadžić, November 1991.

<sup>530</sup> P2059, Speech by Radovan Karadžić, November 1991, p. 10.

<sup>531</sup> P2059, Speech by Radovan Karadžić, November 1991, pp. 4-7.

<sup>532</sup> P2059, Speech by Radovan Karadžić, November 1991, p. 7.

<sup>533</sup> P2059, Speech by Radovan Karadžić, November 1991, pp. 8-9.

<sup>534</sup> P2059, Speech by Radovan Karadžić, November 1991, p. 11.

<sup>535</sup> P2059, Speech by Radovan Karadžić, November 1991, p. 6.

169. Karadžić stated that the plebiscite was a priority, but that afterwards Serbs should seize power wherever they could.<sup>536</sup> He stated that the Serbs were at war.<sup>537</sup> He asked his audience to be energetic and ready to establish their authority in municipalities, regions, and local communities and to prepare for the restructuring and regionalisation of municipalities.<sup>538</sup> In this regard, Karadžić called upon his audience to remove the chairmen and editors of radio stations who were not sympathetic to Serb policies and to be ready to take over the SDK.<sup>539</sup> He added that municipalities were not “God-given” and that they were established to the disadvantage of the Serb people because they split all Serb “units” within BiH, whereby the Serbs were rendered a minority.<sup>540</sup>

170. Karadžić went on to say that the problems in BiH should be resolved peacefully and that most Muslims were of the same opinion because they knew that the Serbs were better armed. He stated that in BiH alone, half a million soldiers could be mobilised and armed with light and heavy weapons. If there were to be a war, it would be bloody and rough, and many things would be decided and solved by it.<sup>541</sup> Karadžić stated that he was aware that the Serb people had acquired a large quantity of weapons and that the army supported them. Commanders in the army had the same aim as his audience. Karadžić pointed out that 80% of the army consisted of Serbs and that the Serbs were secretly filling the ranks of the army.<sup>542</sup> The Chamber understands Karadžić to have meant the JNA when he spoke of the army at the time.

171. Okun testified that one of the early indications of ethnic cleansing of Muslims in BiH by Serb Forces was the plebiscite organised by the BSA in November 1991 on the question of whether the Bosnian Serbs wished to remain in a Bosnian Serb entity in Yugoslavia. Okun referred to the rules of the plebiscite which provided that, in any municipality where more than 50% of the Serbs voted in favour of RS, regardless of the size of the municipality and the percentage of Serbs within it, that municipality would become part of RS.<sup>543</sup>

172. Okun further testified that, at a meeting with Karadžić on 2 December 1991, Karadžić told him that the Muslims wanted all of BiH and that they expected to achieve that through their high birth rate.<sup>544</sup> Karadžić further told him that, if changes were being made with regard to the legal status of BiH and the borders, then territorial changes should also be made within BiH to

<sup>536</sup> P2059, Speech by Radovan Karadžić, November 1991, p. 12; Adjudicated Fact 750.

<sup>537</sup> P2059, Speech by Radovan Karadžić, November 1991, p. 10.

<sup>538</sup> P2059, Speech by Radovan Karadžić, November 1991, pp. 4, 10, 12.

<sup>539</sup> P2059, Speech by Radovan Karadžić, November 1991, p. 4.

<sup>540</sup> P2059, Speech by Radovan Karadžić, November 1991, p. 9.

<sup>541</sup> P2059, Speech by Radovan Karadžić, November 1991, pp. 5-6.

<sup>542</sup> P2059, Speech by Radovan Karadžić, November 1991, p. 11.

<sup>543</sup> Herbert Okun, P2193, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 23 June 2004, T. 4187-4188.

<sup>544</sup> Herbert Okun, P2192, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 22 June 2004, T. 4123-4164, 4168-4170.



accommodate the Serbs in BiH.<sup>545</sup> At this meeting, Karadžić told Okun that, unless the Serb municipalities were somehow legally linked to Yugoslavia, there would be war.<sup>546</sup> Okun thought that this contradicted Karadžić's previous statement at the meeting that he wanted peace.<sup>547</sup>

173. At the BSA session of 25 February 1992, Rajko Dukić spoke about demographics in BiH and how Muslims were on the way to becoming an absolute majority in BiH. He stated that in the 1971 census 39% of the population in BiH was Muslim and 37% Serb, and in 1981 it was 39% and 32% respectively. He made the point that by 2001 Muslims would account for 51% of the population. He called for the establishment of at least 15 to 20 Serb municipalities, arguing that the municipal division of BiH at the time was outdated and disadvantageous to the Serbs.<sup>548</sup>

174. At the same session, Vojislav Kuprešanin stated:

I am against any kind of joint institution with the Muslims and Croats of BiH. I personally consider them to be our natural enemies. You already know what natural enemies are, and that we can never again live together. We can never again do anything together.<sup>549</sup>

175. ST139, a military judge,<sup>550</sup> testified that, up to the end of 1991, the goal of the SDS was to preserve Yugoslavia but that thereafter the goal was to create a unified Serbian state.<sup>551</sup>

(d) Proclamation of RS

176. The Trial Chamber recalls that on 9 January 1992, the BSA proclaimed the "Republic of the Serbian People in BiH"—later renamed to Republika Srpska ("RS")—which was to be a constituent entity of SFRY.<sup>552</sup> RS was proclaimed in the SAOs and other Serbian entities in BiH, including areas "where the Serbian people are a minority because of the genocide conducted against it in the Second World War".<sup>553</sup> The declaration called for a peaceful demarcation from the political communities of the other peoples of BiH.<sup>554</sup> The Bosnian Serb leadership was of the view that they

<sup>545</sup> Herbert Okun, P2192, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 22 June 2004, T. 4164, 4169, 4171-4172.

<sup>546</sup> Herbert Okun, P2192, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 22 June 2004, T. 4172; Herbert Okun, P2195, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 25 June 2004, T. 4400.

<sup>547</sup> Herbert Okun, P2195, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 25 June 2004, T. 4400-4401.

<sup>548</sup> Momčilo Mandić, 3 May 2010, T. 9441-9442; P427.09, Notes of the 8<sup>th</sup> Session of the BSA, 25 February 1992, p. 49.

<sup>549</sup> Momčilo Mandić, 3 May 2010, T. 9443; P427.09, Notes of the 8<sup>th</sup> Session of the BSA, 25 February 1992, p. 59.

<sup>550</sup> ST139, 12 April, 2010, T. 8483 (confidential).

<sup>551</sup> ST139, P1284.04, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 1 July 2003, T. 18626-18627, 18636 (confidential).

<sup>552</sup> P1934, Agenda and Minutes of the 5<sup>th</sup> BSA Session, 9 January 1992, p. 3; P1935, Transcript of the 5<sup>th</sup> BSA Session, 9 January 1992, p. 62.

<sup>553</sup> Herbert Okun, P2193, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 23 June 2004, T. 4188-4189; P1935, Transcript of the 5<sup>th</sup> BSA Session, 9 January 1992, p. 10; P181, Constitution of the Serb Republic of Bosnia and Herzegovina as published in the Official Gazette of 16 March 1992, 28 February 1992, Article 2, p. 2. *See also* Adjudicated Fact 109.

<sup>554</sup> P1935, Transcript of the 5<sup>th</sup> BSA Session, 9 January 1992, p. 11.

needed their own republic in order to ward off majority rule by the Muslims in a unitary, centralised state. They further stated that Izetbegović wanted to create an Islamic republic.<sup>555</sup>

177. During this session, Brdanin stated that the regions constituting RS had to border their own areas and be guarded by either the JNA or by the future army of “this community”.<sup>556</sup> Karadžić stated that, through their policies, the Muslims and Croats had shown the Serbs that it was unreasonable for the Serbs to “espouse Yugoslavia, to advocate a united Yugoslavia, a united Bosnia and Herzegovina as opposed to a united Serbian state”.<sup>557</sup> The BSA adopted the RS Constitution on 28 February 1992.<sup>558</sup> It was officially published on 16 March 1992, and then ceremonially promulgated in the BSA on 27 March 1992.<sup>559</sup>

(e) Spring and summer 1992, independence of BiH, and consolidation of RS

178. ST105 testified that neither Slobodan Milošević nor Radovan Karadžić supported the independence of BiH.<sup>560</sup> With respect to the referendum on the independence of BiH held on 29 February and 1 March 1992, ST105 observed that it was not recognised by the Bosnian Serbs, who boycotted it on the instructions of the SDS. Karadžić was very open in the media and with representatives of different international bodies that, if the referendum were to take place, the results would not be recognised; that the SDS would abandon all republican institutions and create a separate Serb police force; and that war would ensue.<sup>561</sup> ST105 testified that, around the time of the referendum, this was exactly what began to happen and colleagues of ST105 began to see police with different insignia in the Serb areas.<sup>562</sup>

179. Đokanović testified that, because of the heterogeneity of the population in BiH, any war would lead to ethnic division; the resulting homogenisation would mean salvation for some and perdition for others.<sup>563</sup> During a speech given at the BSA on 11 March 1992, Karadžić stated that such a war would include the forcible and bloody transfer of minorities from one region to another and the creation of three ethnically homogenous regions within BiH.<sup>564</sup>

<sup>555</sup> Herbert Okun, P2192, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 22 June 2004, T. 4164, 4168.

<sup>556</sup> P1935, Transcript of the 5<sup>th</sup> BSA Session, 9 January 1992, p. 20.

<sup>557</sup> P1935, Transcript of the 5<sup>th</sup> BSA Session, 9 January 1992, pp. 47-48.

<sup>558</sup> P181, Constitution of the RS as published in the Official Gazette of the RS of 16 March 1992, 28 February 1992, p. 1.

<sup>559</sup> P181, Constitution of the RS as published in the Official Gazette of the RS of 16 March 1992, 28 February 1992; P1838, Minutes of the BSA 14<sup>th</sup> Session, 27 March, 1992, pp. 6-8.

<sup>560</sup> ST105, P2205, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 6 October 2004, T. 6747, 6749-6750 (confidential).

<sup>561</sup> ST105, P2208, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 28 August 2003, T. 20606-20607 (confidential); ST105 P2205, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 6 October 2004, T. 6749-6750 (confidential).

<sup>562</sup> ST105, P2208, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 28 August 2003, T. 20607 (confidential).

<sup>563</sup> Dragan Đokanović, P397.02, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 15 March 2005, T. 10558.

<sup>564</sup> Dragan Đokanović, P397.02, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 15 March 2005, T. 10554-10555; P707, Minutes of the 10<sup>th</sup> Session of the BSA, 11 March 1992, p. 4.

180. At the BSA session of 18 March 1992, Momčilo Krajišnik, the President of the BSA, referred specifically to the need to start implementing what had been agreed upon, namely, the ethnic division on the ground and “determining the territory”.<sup>565</sup> Krajišnik further spoke about the Cutileiro Plan, as did Karadžić.<sup>566</sup> Krajišnik stated that “it would be good if we could do one thing for strategic reasons, if we could start implementing what we agreed upon, the ethnic division on the ground”.<sup>567</sup> Karadžić then stated, “We shall have to establish a full structure of government on the ground because this is our duty to the people who live there: Serbs, Muslims or Croats, so that we can have peace.” Đokanović stated that these words were also expressed in the context of the Cutileiro Plan, as were comments by Biljana Plavšić regarding the maintenance of a link with Serbian territories in Yugoslavia.<sup>568</sup>

181. Sulejman Crnčalo, a Muslim from Pale, testified that, at a meeting in Pale in the second half of March, he and 15 other Muslims asked Nikola Koljević for guarantees that they could continue to live in Pale. Koljević told them that it did not matter that they wanted to remain living in Pale, because the Serbs did not want to continue living there with them.<sup>569</sup> Still at the meeting and in the presence of Koljević, Malko Koroman, the Chief of police in Pale at the time, then told the Muslims that he could no longer guarantee their safety and control the Red Berets who had recently arrived in the municipality.<sup>570</sup>

182. On 24 March 1992, the BSA unanimously verified the decisions made by municipal assemblies on the proclamation of newly-established Serbian municipalities.<sup>571</sup> Also on 24 March 1992, the BSA instructed the RS Government to “draw up a plan of assuming power and rendering operational the authorities in the territory” of RS.<sup>572</sup> At this session, Karadžić said that the newly established municipalities had to establish their organs as soon as possible and place the Serb police at the borders.<sup>573</sup> He further stated that, in the next three to four days, a single method on how to separate the police force and a plan on how to take command that was applicable to all

<sup>565</sup> Dragan Đokanović, P397.02, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 15 March 2005, T. 10543, 10550-10551; P708, Minutes of the 11<sup>th</sup> Session of the BSA, 18 March 1992, p. 12. *See also* P508, Nielsen Expert Report, para. 78, p. 30.

<sup>566</sup> Dragan Đokanović, P397.03, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 17 March 2005, T. 10649-10650, 10653, 10656-10658.

<sup>567</sup> Dragan Đokanović, P397.03, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 17 March 2005, T. 10657.

<sup>568</sup> Dragan Đokanović, P397.03, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 17 March 2005, T. 10661-10662.

<sup>569</sup> Sulejman Crnčalo, P1466.01, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 2 September 2004, T. 5317, 5322-5328.

<sup>570</sup> Sulejman Crnčalo, P1466.01, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 2 September 2004, T. 5323-5332.

<sup>571</sup> P439, Minutes of the 12<sup>th</sup> Session of the BSA, 24 March 1992, p. 24.

<sup>572</sup> P198, Minutes of the 13<sup>th</sup> Session of the BSA, 24 March 1992, p. 13.

<sup>573</sup> P439, Minutes of the 12<sup>th</sup> Session of the BSA, 24 March 1992, p. 17.

municipalities would be devised. He said that the municipality of Zvornik, for example, would take control of everything that constituted the Serbian municipality of Zvornik.<sup>574</sup>

183. On 30 April 1992, Ratko Mladić noted in his diary a meeting with Colonel General Adžić.<sup>575</sup> During the meeting, Adžić spoke at length about what he perceived the goal of the Serb people to be and reiterated the “[a]ll Serbs in one state” motto.<sup>576</sup>

184. On 6 May 1992, a meeting was held between Karadžić, Krajišnik, Adžić, and a group of generals from BiH.<sup>577</sup> During the meeting, Karadžić stated, among other things, the following:

BiH as a state does not exist because it does not have any territory, it has no power. [...] We will soon be one state and one Army. [...] We are controlling the Serbian settlement in the city—and expanding them. It would be a disaster if we did not separate with them. [...] Later, we will unite with the FRY, but we will not annex anything to Serbia. [...] We are on the threshold of achieving our centuries-old dream of creating our own state without many internal enemies.<sup>578</sup>

185. Milorad Davidović, who at the time was the chief police inspector in the federal SUP,<sup>579</sup> testified that in April or May of 1992 he attended a meeting with Radovan Karadžić, Momčilo Krajišnik, Mićo Stanišić, Pero Mihajlović, Frenki Simatović, and Arkan. Frenki Simatović was from the Serbian MUP and was the leader of the Red Berets. At this meeting, certain tasks were being distributed to the units of the federal SUP, and Arkan was being told in which tasks he should not participate.<sup>580</sup>

186. On 21 May 1992, Colonel Vukelić, Assistant Commander for Morale at the 1<sup>st</sup> KK of the VRS, wrote to all Corps units that:

The constituent Serbian people who live on around 65% of the area and represent more than 35% of the population of BH, must struggle for complete separation from the Muslim and Croatian peoples and form their own state.<sup>581</sup>

Branko Basara, the Commander of the 6<sup>th</sup> Krajina Brigade,<sup>582</sup> testified that his assistant for political work must have received this correspondence and informed him about it at the time. Basara added

<sup>574</sup> P439, Minutes of the 12<sup>th</sup> Session of the BSA, 24 March 1992, p. 22.

<sup>575</sup> P1753, Mladić Diary, 14 February 1992–25 May 1992, pp. 211-228.

<sup>576</sup> P1753, Mladić Diary, 14 February 1992–25 May 1992, pp. 213-228.

<sup>577</sup> P1753, Mladić Diary, 14 February 1992–25 May 1992, pp. 255-256.

<sup>578</sup> P1753, Mladić Diary, 14 February 1992–25 May 1992, pp. 256-258.

<sup>579</sup> Milorad Davidović, P1557.03, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 9 June 2005, T. 14172.

<sup>580</sup> Milorad Davidović, P1557.01, Witness Statement, 24-25 November 2004 and 25-29 January 2005, para. 80; Milorad Davidović, P1557.04, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 10 June 2005, T. 14247, 14255-14258.

<sup>581</sup> P106, 1<sup>st</sup> KK Correspondence by Colonel Milutin Vukelić, p. 2. *See also* Branko Basara, 12 October 2009, T. 1258-1260.

<sup>582</sup> Adil Draganović, P411.01, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 23 April 2002, T. 4872; Branko Basara, 12 October 2009, T. 1227, 1234-1236.

that Vukelić must have received the authorisation by Momir Talić, Commander of the 1<sup>st</sup> KK, to send the document.<sup>583</sup>

187. Suljeman Crnčalo testified that in the first half of July he was present at a speech given by Radovan Karadžić in Pale during a memorial service for 40 to 60 Serb soldiers from Pale who had been killed. Karadžić told the families of the soldiers that, by attacking Muslim houses, they would be protecting their own.<sup>584</sup>

(f) Six strategic objectives

188. On 12 May 1992, Momčilo Krajišnik, in his capacity as President of the BSA, issued the following six strategic objectives of the Serbian People in BiH:

1. Establishment of state borders separating the Serbian people from the other two ethnic communities;
2. Establishment of a corridor between Semberija and Krajina;
3. Establishment of a corridor within the Drina river valley, with the aim of eliminating the Drina as a border separating Serbian states;
4. Establishment of a border along the Una and Neretva rivers;
5. Division of Sarajevo into Serbian and Muslim parts and the establishment of effective state authorities in each;
6. Access to the sea for RS.<sup>585</sup>

189. The strategic goals had already been discussed at a meeting on 7 May 1992 that was attended by, among others, Mladić, Krajišnik, and Karadžić.<sup>586</sup> According to the Prosecution expert witness, historian Robert Donia, Krajišnik wanted to immediately make the six goals public, while Karadžić and others felt that they gave away too much of the actual intent of the Bosnian Serb leadership.<sup>587</sup> However, the decision to publish the strategic goals and a corresponding map of RS

<sup>583</sup> Branko Basara, 12 October 2009, T. 1258-1260.

<sup>584</sup> Sulejman Crnčalo, 21 June 2010, T. 11991, 22 June 2010, T. 12026-12028.

<sup>585</sup> P24, Republika Srpska Official Gazette, Decision on the Strategic Objectives of the Serbian People in BiH issued on 12 May 1992, published on 26 November 1993; P31, Donia Expert Report: Bosnian Krajina in the History of BiH, p. 75.

<sup>586</sup> P1753, Mladić Diary, 14 February 1992–25 May 1992, pp. 262-263.

<sup>587</sup> Robert Donia, 16 September 2009, T. 412-413.

was adopted on 9 June 1992 by the War Presidency of RS.<sup>588</sup> The six goals were published on 26 November 1993.<sup>589</sup>

190. Also on 12 May 1992, Karadžić addressed the BSA, stating that the goals were set by the Bosnian Serb Presidency, Government, and the NSC. He then elaborated on each of the six strategic goals. For example, with regard to the second goal, he explained that its realisation would connect RS with RSK and with Serbia. He specifically said that the alliance of Serbian states would not be feasible unless the corridor were secured.<sup>590</sup> Babić testified that the importance of the Posavina corridor was to connect the Serb territories in Bosnian Krajina and SAO Krajina with Serbia and other Serb territories in BiH.<sup>591</sup>

191. ST105 testified that on 11 April 1992—at a meeting he had with Radovan Karadžić, Nikola Koljević, and Momčilo Krajišnik—he was shown a map of the future BiH.<sup>592</sup> The map showed 70% of the territory of BiH belonging to the RS.<sup>593</sup> ST105 was under the impression that the map had been prepared to illustrate the territorial demands of the Bosnian Serbs to José Cutileiro, the EC mediator who was in Sarajevo at the time.<sup>594</sup> ST105 testified that three to four months later, the map corresponded to the front lines and territories controlled by the VRS and that in this way the political and territorial objectives of the Bosnian Serbs were militarily achieved in the first few months of the war.<sup>595</sup> According to ST105, as of April 1992, it was a goal of the Bosnian Serbs to create their own political and territorial structures.<sup>596</sup>

192. ST105 testified that, at the 11 April 1992 meeting in Ilidža, Karadžić and Koljević discussed the specifics of how best to separate the different communities in Sarajevo. Various alternatives were proposed, including the use of checkpoints and the construction of a wall, as was done in Berlin and Beirut.<sup>597</sup> On 10 June 1992, Mladić noted in his diary that Karadžić said the Serbs were now in full control of “many of our territories”.<sup>598</sup>

<sup>588</sup> P260, Minutes of the 4<sup>th</sup> Expanded Meeting of the War Presidency of RS, 9 June 1992.

<sup>589</sup> P24, Republika Srpska Official Gazette, Decision on the Strategic Objectives of the Serbian People in BiH issued on 12 May 1992, published on 26 November 1993.

<sup>590</sup> P74, Minutes of the 16<sup>th</sup> Session of the BSA, 12 May 1992, pp. 13-15.

<sup>591</sup> Milan Babić, P2117, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 3 June 2004, T. 3414 (confidential). *See also* ST183, P1295.03, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 10 March 2003, T. 15447-15448 (confidential).

<sup>592</sup> ST105, P2208, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 28 August 2003, T. 20635 (confidential), P2205, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 6 October 2004, T. 6764, 6767, 6774 (confidential).

<sup>593</sup> ST105, P2208, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 28 August 2003, T. 20635 (confidential), P2205, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 6 October 2004, T. 6767, 6774 (confidential).

<sup>594</sup> ST105, P2207, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 8 October 2004, T. 6928-6929 (confidential).

<sup>595</sup> ST105, P2208, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 28 August 2003, T. 20635 (confidential) and P2207, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 8 October 2004, T. 6940-6941 (confidential). *See also* Adjudicated Fact 118.

<sup>596</sup> ST105, P2205, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 6 October 2004, T. 6751-6752 (confidential).

<sup>597</sup> ST105, P2205, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 6 October 2004, T. 6773-6774 (confidential).

<sup>598</sup> P1755, Mladić Diary, 27 May 1992–31 July 1992, pp. 130, 133.

193. The achievement of the strategic goals was the topic of a number of military directives issued by Ratko Mladić from June to November 1992.<sup>599</sup> For example, on 22 July 1992, Mladić wrote that the corridor in eastern Bosnia and Bosanska Posavina had been “broken through” and that “the centuries long aspiration of the Serbian people from BiH and Serbian Republic of Krajina to be joined with the fatherland Serbia” was thus made possible.<sup>600</sup> Moreover, ST140, a Serb soldier and SDS member who took part in combat operations in Sanski Most during the Indictment period,<sup>601</sup> testified that he was involved in military operations pursuant to the strategic goals.<sup>602</sup>

194. During a meeting on 21 September 1992, Karadžić said that the Serbs would not accept anything other than a Serb state in BiH and that they would never be in another, foreign state.<sup>603</sup> At a session of the BSA on 31 October 1992, Karadžić stated that the ultimate goal of the Serb people was “one constituent entity [...] with elements of statehood [and] sovereignty”. He also specifically referred to the strategic goals on this occasion.<sup>604</sup>

195. At a meeting of the Bosnian Serb leadership on 8 November 1992, Krajišnik said that there was a disproportionate use of the army regarding the strategic goals and that, while goals one and two had been achieved, the others had not. Krajišnik reiterated that the most important task was the separation from Muslims.<sup>605</sup>

196. In an interview, Krajišnik stated that the Serbs wanted the borders of the future RS to be the Neretva River Valley, the Una River, and the Sava River and that territory of RS should include Orašje, Semberija, Ozren Mountain, and eastern BiH. Krajišnik also stated that the territory of RS as a whole should be continuous and that Sarajevo should be divided along ethnic lines.<sup>606</sup>

197. According to Okun, there were six Bosnian Serb wartime goals: (a) the Bosnian Serbs were to have their own state, RS; (b) the state was to have a continuous territory and to be contiguous with Serbia; (c) the state was to be an ethnically pure Serb state or as overwhelmingly Serb as possible; (d) to have a special relationship with Yugoslavia; (e) to divide Sarajevo into a Muslim and a Serb section; and (f) to have a veto power over any residual powers that would be held by the

<sup>599</sup> P1794, Directive for Further Actions, 6 June 1992, pp. 2-3; P1797, Directive by Ratko Mladić, 22 July 1992, p. 1; P1780, Directive by Ratko Mladić, 19 November 1992, pp. 4-5.

<sup>600</sup> P1797, Directive by Ratko Mladić, 22 July 1992, p. 1.

<sup>601</sup> ST140, P432.05, Witness Statement, 13 March 2002, pp. 1-3 (confidential).

<sup>602</sup> ST140, 4 December 2009, T. 4272 (confidential); ST140, P432.02, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 16 June 2004, T. 3769 (confidential).

<sup>603</sup> P1759, Mladić Diary, 10 September 1992–30 September 1992, pp. 105, 108-109.

<sup>604</sup> P2039, Video Clip of Speech by Radovan Karadžić given at 21<sup>st</sup> BSA session in Prijedor, 31 October 1992, pp. 4-5.

<sup>605</sup> P1764, Mladić Diary, 5 October 1992–27 December 1992, pp. 141, 146-147.

<sup>606</sup> ST105, P2205, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 6 October 2004, T. 6770-6771 (confidential).

central BiH government.<sup>607</sup> Okun testified that the third goal was being realised through forcible expulsion and the killing and removal of Muslims and Croats.<sup>608</sup> At a meeting with Okun and Karadžić on 24 April 1993, Mladić insisted that Serbs get the entire bank of the Drina river.<sup>609</sup> Okun stated that both Karadžić and Krajišnik firmly advocated these goals and reiterated them on many occasions.<sup>610</sup> Krajišnik would stress more the need to split Sarajevo into a Serb and a Muslim part because he was from Sarajevo.<sup>611</sup> Okun stated that because the population of Sarajevo was inextricably linked, you could only separate it by force.<sup>612</sup>

198. Reporting on the work of the BSA in the period between October 1991 and October 1993, Krajišnik stated on 31 December 1993 that the establishment of the BSA was the result of the irresponsible secessionism of the Croat and Muslim representatives and of the decision of the Serb people in BiH to remain in the same state as other Serbs in Serbia, Montenegro, and RSK. He stated that a constitution and other legislative acts were adopted by the BSA to create a state and recalled that the BSA was a crucial factor in shaping, building, and establishing the RS. Krajišnik stated that, in the beginning of the war, the BSA adopted the strategic goals of the Serb people in BiH and organised the people in order to achieve them.<sup>613</sup>

199. Predrag Radić, President of the Banja Luka municipal assembly, testified that, on several occasions after the beginning of the war, Karadžić complained that the Serb leaders in Banja Luka had to do more in order for the Muslims and Croats to leave.<sup>614</sup> In 1992, Radoslav Brdanin, President of the Crisis Staff of the ARK, declared that 2% was the upper tolerable limit on the presence of all non-Serbs in this region. Brdanin advocated three stages of ridding the area of non-Serbs: (a) the creation of impossible conditions that would have the effect of encouraging them to leave of their own accord, involving pressure and terror tactics; (b) deportation and banishment; and (c) the liquidation of those who remained and who would not fit into his concept for the region.<sup>615</sup>

<sup>607</sup> Herbert Okun, P2192, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 22 June 2004, T. 4156-4158, 4168-4169, 4174 and P2193, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 23 June 2004, T. 4238, 4265-4266.

<sup>608</sup> Herbert Okun, P2194, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 24 June 2004, T. 4352 and P2195, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 25 June 2004, T. 4415.

<sup>609</sup> Herbert Okun, P2194, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 24 June 2004, T. 4275-4276.

<sup>610</sup> Herbert Okun, P2192, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 22 June 2004, T. 4156 and P2193, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 23 June 2004, T. 4243.

<sup>611</sup> Herbert Okun, P2192, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 22 June 2004, T. 4156 and P2193, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 23 June 2004, T. 4244 and P2194, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 24 June 2004, T. 4275, 4338.

<sup>612</sup> Herbert Okun, P2194, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 24 June 2004, T. 4354-4355.

<sup>613</sup> P2091, Minutes of the 36<sup>th</sup> Session of the RS Assembly, 30-31 December 1993, pp. 4-5.

<sup>614</sup> Predrag Radić, P2097, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 24 October 2004, T. 7476-7482, 7485-7490, 7492-7494 (confidential); Predrag Radić, P2450, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 28 October 2004, T. 7563-7567.

<sup>615</sup> Adjudicated Fact 34.



At a televised rally, Brđanin asked why the Muslims were preparing cabbage for the winter when they would not stay in BiH to eat it.<sup>616</sup>

(g) Expressions of Bosnian Serb leadership during peace negotiations

200. Okun testified that, during peace negotiations, Milošević, Karadžić, Krajišnik, and Koljević often stated that Bosnian Serbs constituted 35% of the people in BiH but that they owned 65% of BiH territory.<sup>617</sup> They also presented a map to support this claim, but Okun testified that it was not clear on which basis this map was made and that he preferred a map made by the US Government mapping services on the basis of the 1981 census.<sup>618</sup> The Bosnian Serb leadership argued that, due to the genocide committed against Serbs during the Second World War, there were less Serbs in 1992 than there were in 1941, that they therefore owned less land, and that these facts should be taken into account when distributing territory.<sup>619</sup> They further argued that the Serbs were rural people and as such owned more land than the Muslims and the Croats. They also claimed that all national parks and Yugoslav installations were part of the Serb territory.<sup>620</sup> Okun stated that it was on these grounds that Bosnian Serb leaders made claims to territories in BiH where non-Serbs were a majority.<sup>621</sup>

201. On 17 September 1992, Karadžić told Okun that the communities in BiH could not live together. Okun testified that this was the position of the Serbs throughout this period. He stated that most of BiH was thoroughly intermixed and there was no place where people were living separately. In his view, ethnic cleansing was designed to separate the people.<sup>622</sup>

202. On 18 September 1992, Karadžić and Koljević told Okun that neither the Serbs nor the Croats would accept BiH on the principle of “one man, one vote” because both feared domination by the Muslims. They reiterated that the Serbs needed their own territorial and functional autonomy. They also pointed out that future internal borders should accommodate ethnic realities. Okun understood this to refer to the new situation on the ground following the forcible displacement of hundreds of thousands of Muslims.<sup>623</sup> At another meeting on 19 September 1992,

<sup>616</sup> ST140, P432.01, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 15 June 2004, T. 3693-3694 (confidential).

<sup>617</sup> Herbert Okun, P2192, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 22 June 2004, T. 4165-4166 and P2195, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 25 June 2004, T. 4388. *See also* Branko Đerić, 30 October 2009, T. 2369.

<sup>618</sup> Herbert Okun, P2195, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 25 June 2004, T. 4387-4388, 4394; P2201, Ethnic Map of BiH based on the 1981 Census provided by Herbert Okun. *See also* P2199, Ethnic Map of BiH provided by Herbert Okun.

<sup>619</sup> Herbert Okun, P2192, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 22 June 2004, T. 4166-4167 and P2195, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 25 June 2004, T. 4370.

<sup>620</sup> Herbert Okun, P2193, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 23 June 2004, T. 4207-4208.

<sup>621</sup> Herbert Okun, P2192, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 22 June 2004, T. 4167-4168.

<sup>622</sup> Herbert Okun, P2193, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 23 June 2004, T. 4203-4205.

<sup>623</sup> Herbert Okun, P2193, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 23 June 2004, T. 4214-4216.

the same Bosnian Serb leaders reiterated their position that territorial units must be based on ethnicity. Also on this day, the Bosnian Serb leadership reiterated that the communities in BiH could no longer live together and that the war had shattered any hope of doing so.<sup>624</sup> At the meetings on 18 and 19 September 1992, the issue of the Muslims and Croats who were held in Bosnian Serb camps was raised.<sup>625</sup> Koljević asked for a route along which these Muslims and Croats could leave BiH.<sup>626</sup>

203. Okun described another meeting with Koljević on 24 September 1992 during which the issue of the ethnic cleansing of Banja Luka was raised. Koljević did not deny that this was occurring and stated that, although Banja Luka was under control, there were problems in Prijedor. Okun understood this to mean that the ethnic cleansing in Banja Luka was not as bad as it was in Prijedor. During this meeting, Koljević contacted the regional chief of police in Banja Luka. This indicated to Okun that the Serb leadership was in control of the people on the ground. Koljević told Okun and others present that Muslims had stolen Serb uniforms and were masquerading as Serbs committing crimes. Okun said this was a standard response and that it was a “fairy tale”.<sup>627</sup>

204. Another example of the control exercised by the Bosnian Serb leadership on the ground is demonstrated by Karadžić’s intervention in the affairs of the Prijedor SDS. On 10 September 1991, a telephone conversation took place between Karadžić, Simo Mišković, Srdjo Srdić, and Nešković, a representative of the SDS Main Board in Prijedor. Mišković explained that the conversation took place because there had been problems between two party factions, one of which was headed by Srdić. On this occasion, Karadžić stated that whoever refused to obey Sarajevo, which the Chamber understands to mean the party leadership in Sarajevo, should resign because the SDS was a party with a clear structure. Karadžić added that whoever failed to adhere to or implement the party’s policies should leave and set up their own party.<sup>628</sup> Following this conversation, on 11 September 1991, Simo Mišković replaced Srdjo Srdić as the President of the SDS in Prijedor.<sup>629</sup> Predrag Radić, President of the Banja Luka Municipal Assembly, testified that when people in Krajina disobeyed instructions from Pale they would be dismissed or had to face disciplinary procedures.<sup>630</sup>

<sup>624</sup> Herbert Okun, P2193, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 23 June 2004, T. 4218-4220.

<sup>625</sup> Herbert Okun, P2195, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 25 June 2004, T. 4393, 4397-4399.

<sup>626</sup> Herbert Okun, P2195, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 25 June 2004, T. 4399, 4417.

<sup>627</sup> Herbert Okun, P2193, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 23 June 2004, T. 4221-4224.

<sup>628</sup> Simo Mišković, 1 October 2010, T. 15160-15167; P1236, Transcript of the Telephone Conversation between Karadžić, Mišković, Srdić, and Nešković, 10 September 1991, pp. 2-3.

<sup>629</sup> Simo Mišković, 1 October 2010, T. 15151, 15157, 15161, 15167, 15175-15176; P1236, Transcript of Intercept of Telephone Conversation between Karadžić, Mišković, Srdić, and Nešković, 10 September 1991, pp. 8-15; P1610, Minutes of the Prijedor SDS Municipal Board Meeting, 1991 Volume, p. 64.

<sup>630</sup> Predrag Radić, P2097, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 24 October 2004, T. 7456-7457 (confidential).

205. Okun described how, on 23 November 1992, Mitsotakis, the then Prime Minister of Greece, conveyed to him the message that Milošević could agree to Serbs getting 45% of BiH territory, as long as that area was ethnically clean. Okun stated that this was congruent with the Bosnian Serb position, stressing however that the Bosnian Serb leadership was markedly tougher than Milošević on this matter.<sup>631</sup>

206. The Chamber also takes note that evidence was adduced regarding Karadžić's efforts to prevent crimes. For example, the Chamber received evidence that on 18 November 1991 Karadžić said in a telephone conversation with a man named Vukić that Serb policies would not be based on criminals and that he did not need Serbs like that.<sup>632</sup> At a meeting of the RS Presidency on 10 July 1992, Karadžić said that the Serbs would not build an ethnically clean state like Muslims and Croats, but a law-abiding one. Other members of the Presidency agreed with this position.<sup>633</sup> On 19 August 1992, Karadžić issued an order to the VRS Main Staff, MUP, and all CSBs that international humanitarian law and in particular the Third and the Fourth Geneva Conventions should be respected.<sup>634</sup> On 19 October 1992, at a meeting between the VRS Main Staff and members of the RS Presidency, Karadžić made the point that RS authorities did not take part in ethnic cleansing anywhere and that it was important to make a distinction between what was done by irresponsible individuals and what was done by the authorities.<sup>635</sup>

## **B. JCE implementation**

### **1. Regionalisation**

#### **(a) Establishment of Serb Autonomous Regions**

207. Babić described how in May 1991 there was a meeting in Karadžić's apartment in Sarajevo that was attended by Jovica Stanišić, Milan Martić, and Velibor Ostojić. At this meeting, Stanišić and Karadžić were looking at a number of maps. In Babić's view, they were analysing territories of municipalities because he saw a map of BiH with municipalities marked in different colours. Babić

<sup>631</sup> Herbert Okun, P2193, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 23 June 2004, T. 4232-4236.

<sup>632</sup> P2113, Transcript of Intercept of Telephone Conversation between Radovan Karadžić and others, p. 3.

<sup>633</sup> P1755, Mladić Diary, 27 May 1992–31 July 1992, pp. 308-309, 313-314.

<sup>634</sup> P1885, Order by Radovan Karadžić Concerning the Respect of International Humanitarian Law, 19 August 1992. Karadžić further ordered that all soldiers and MUP employees respect, among other things, civilians and captured persons. He ordered that all forcible resettlement should be prevented and that certificates of sale of property and statements that refugees would not return should be considered as legally invalid. The order called for measures to improve conditions in all prisons in RS and that all prisoners in bad health, who would not rejoin armies, should be released.

<sup>635</sup> P1764, Mladić Diary, 5 October 1992–27 December 1992, pp. 48-49.

said that he was aware of the SDS political process which was aimed at creating associations of municipalities and merging them.<sup>636</sup>

(i) ARK

a. Establishment

208. The first steps towards regionalisation in Krajina were taken in January 1991, when the presidents of 22 municipal assemblies met to discuss the possibility of forming an association.<sup>637</sup> In March 1991 Mirzet Karabeg, the Muslim President of the Sanski Most Executive Board, attended a meeting in Banja Luka with the presidents of the assemblies and executive boards of 17 Krajina municipalities. Karabeg, together with Asim Medarić, who was the President of the Executive Board of the Ključ municipality, were the only Muslims at the meeting. All the other participants were Serbs. Karabeg testified that during the meeting it was discussed how to reduce the number of “balijs” and “Ustashas” in Krajina. It was also stressed that Croatian and Muslim media should be prevented from broadcasting in the region.<sup>638</sup>

209. On 25 April 1991, representatives of 13 BiH municipalities met at the Hotel Turist in Čelinac to discuss the constitution of the ZOBK.<sup>639</sup> Vojislav Kuprešanin was elected president of the organisation, while Radoslav Brđanin and Dragan Knežević were elected vice-presidents.<sup>640</sup> A formal agreement to establish the ZOBK was signed on 29 April 1991 by representatives of 20 BiH municipalities.<sup>641</sup>

210. On 16 September 1991, the ZOBK changed its name to the “ARK”.<sup>642</sup> In terms of its Statute, the ARK was a voluntary association. However, in the municipalities where the Bosnian Serbs enjoyed a majority, the respective decision to join the ARK was in fact taken only by the Bosnian Serb municipal delegates of these municipalities, with the SDA and the HDZ delegates either opposed to, or unaware of such a decision. In the municipalities where the Bosnian Serbs were in a minority, the decision by the respective municipalities to join the ARK was taken either without the majority of votes provided for by the law or by the assemblies of the newly established

<sup>636</sup> Milan Babić, P2117, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 3 June 2004, T. 3406-3408 (confidential).

<sup>637</sup> P31, Donia Expert Report: Bosnian Krajina in the History of BiH, p. 43.

<sup>638</sup> Mirzet Karabeg, P60, *Prosecutor v. Brđanin*, Case No. IT-99-36-T, 27 May 2002, T. 6070-6072.

<sup>639</sup> P31, Donia Expert Report: Bosnian Krajina in the History of BiH, p. 46; P2078, Transcript of the Video of the Meeting of Representatives of 21 BiH Municipalities in Čelinac on 25 April 1991, p. 3.

<sup>640</sup> P31, Donia Expert Report: Bosnian Krajina in the History of BiH, p. 47; P2078, Transcript of the Video of the Meeting of Representatives of 21 BiH Municipalities in Čelinac on 25 April 1991, p. 53.

<sup>641</sup> P30, Donia Expert Report: Origins of RS, p. 26; P67, Agreement on the Formation of a Community of Bosnian Krajina Municipalities, 29 April 1991, Article 1. These municipalities were Banja Luka, Bosansko Grahovo, Bosanska Dubica, Bosanska Gradiška, Bosanska Krupa, Bosanski Petrovac, Glamoč, Ključ, Kotor Varoš, Laktaši, Mrkonjić Grad, Prnjavor, Sanski Most, Skender Vakuf, Srbac, Titov Drvar, Čelinac, Šipovo, Teslić, and Kupres. Adjudicated Fact 738.

<sup>642</sup> Adjudicated Facts 740, 782; P1880, Decision on the Proclamation of the ARK, 16 September 1991.

Bosnian Serb municipalities. Despite the provisions in Articles 4 and 5 of the ARK Statute, out of the 189 delegates to the ARK Assembly, only a negligible number were of Bosnian Croat or Bosnian Muslim ethnicity.<sup>643</sup>

b. Functioning of ARK

211. The ARK was a regional body vested with both executive and legislative powers within its area of jurisdiction.<sup>644</sup> It had its own assembly and executive council, the functions of which were taken over by the ARK Crisis Staff on 5 May 1992.<sup>645</sup> The ARK acted as an intermediate level of authority between the RS and the municipalities, and its main role was that of co-ordinating the implementation by the municipalities of the instructions issued by the RS and the SDS BiH Main Board.<sup>646</sup> The ARK Crisis Staff directed all aspects of life, including the economy, information, agriculture, electricity, education, and culture.<sup>647</sup>

212. The evidence shows that members of the Bosnian Serb leadership of the ARK, and of the municipal authorities, ensured coordination between the republican, regional, and the municipal levels. Municipal Crisis Staffs coordinated with and received instructions and requested guidance from the ARK Crisis Staff.<sup>648</sup> As of 26 April 1992, municipal Crisis Staffs had to gather information from the field and inform the government commissioners in their area, and send weekly reports to both state and regional organisations.<sup>649</sup> ST140, a Serb soldier and SDS member who took part in combat operations in Sanski Most during the Indictment period,<sup>650</sup> testified that in Sanski Most everything was organised following the instructions from the regional SDS.<sup>651</sup> ARK representatives also held meetings with representatives of the Bosnian Serb leadership. At the 9<sup>th</sup> session of the ARK Assembly held on 6 November 1991, it was decided that Brdanin would inform Radovan Karadžić about the implementation of the conclusions adopted by the ARK Assembly.<sup>652</sup> On 18 May 1992, ARK representatives were scheduled to meet with Karadžić, Koljević, Krajišnik,

<sup>643</sup> Adjudicated Facts 779-781.

<sup>644</sup> Adjudicated Fact 778.

<sup>645</sup> Dorothea Hanson, 8 December 2009, T. 4400-4402; Predrag Radić, P2103, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 5 November 2003, T. 22115; P556, Decision on the Formation of the ARK Crisis Staff, 5 May 1992.

<sup>646</sup> Adjudicated Fact 778.

<sup>647</sup> Amir Džonlić, P2287, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 26 February 2002, T. 2322. *See also* P441, Official Gazette of the ARK, 5 June 1992.

<sup>648</sup> P109, Conclusions of the Sanski Most Crisis Staff, 30 May 1992, p. 1; P448, Minutes from Sessions of the Ključ Crisis Staff, 27 July 1992, p. 23.

<sup>649</sup> P70, Excerpt from Instructions for the Work of the Municipal Crisis Staffs of the Serbian People, 26 April 1992, p. 2.

<sup>650</sup> ST140, P432.05, Witness Statement, 13 March 2002, pp. 1-3 (confidential).

<sup>651</sup> ST140, 4 December 2009, T. 4280-4281, 7 December 2009, T. 4329 (confidential); ST140, P432.01, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 15 June 2004, T. 3662, 3728 (confidential).

<sup>652</sup> ST139, P1284.05, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 2 July 2003, T. 18732-18733 (confidential).

and Mladić on 25 May 1992.<sup>653</sup> According to Predrag Radić and ST191, the ARK Crisis Staff received instructions from the republican level, and specifically from the Bosnian Serb leadership in Pale, since the ARK Crisis Staff had to act as intermediary between the republic and the municipalities.<sup>654</sup>

c. ARK Crisis Staff

213. On 5 May 1992, the ARK Executive Council decided to form a Crisis Staff at the Krajina regional level.<sup>655</sup> The decision was published in the Official Gazette of the ARK on 5 June 1992, but there is evidence that this body started operating before then.<sup>656</sup> The newly constituted organ was a small collective body that acted in the name of the ARK Assembly.<sup>657</sup> Its composition followed the model of the Crisis Staffs at the municipal level and included a number of members of the SDS Main Board and Executive Committee, such as Brđanin, Kuprešanin, Radić, and Vukić. It also included members of the police, represented by Stojan Župljanin, and of the VRS, represented by General Momir Talić.<sup>658</sup> Radoslav Brđanin was appointed President. On 9 July 1992, the ARK Crisis Staff changed its name to the ARK War Presidency.<sup>659</sup>

214. Shortly after its creation, the ARK Crisis Staff declared itself the highest organ of authority in the region and stated that its decisions were binding for all Crisis Staffs at the municipal level. Its authority was justified by circumstances that made the ARK Assembly unable to function.<sup>660</sup> The evidence shows that these were not mere assertions of authority. Muharem Krzić, who during the Indictment period was President of the SDA in Banja Luka,<sup>661</sup> testified that the decisions of the ARK Crisis Staff were all implemented without opposition.<sup>662</sup> In the municipality of Ključ, for instance, on 27 May 1992, the municipal Crisis Staff affirmed the legitimacy of the decisions of the ARK Crisis Staff.<sup>663</sup> In Sanski Most, according to ST140, the municipal Crisis Staff received orders from the ARK Crisis Staff, which in turn received orders from the leadership of the RS.<sup>664</sup> Notably,

<sup>653</sup> ST140, P432.01, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 15 June 2004, T. 3728 (confidential); P441, Official Gazette of the ARK, 5 June 1992, Decision of 18 May 1992, p. 22.

<sup>654</sup> ST191, P1353.03, *Prosecutor v. Brđanin*, Case No. IT-99-36-T, 18 July 2003, T. 19716-19717 (confidential); Predrag Radić, P2096, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 26 October 2004, T. 7401-7403.

<sup>655</sup> Dorothea Hanson, 8 December 2009, T. 4400-4401; P556, Decision on the Formation of the ARK Crisis Staff, 5 May 1992.

<sup>656</sup> P441, Official Gazette of the ARK, 5 June 1992, Decision of 5 May 1992, p. 3. *See*, for example, P443, Conclusions of the Meeting of the Crisis Headquarters of the ARK, 18 May 1992; Adjudicated Fact 107.

<sup>657</sup> Dorothea Hanson, 8 December 2009, T. 4401.

<sup>658</sup> Dorothea Hanson, 8 December 2009, T. 4401-4402, 11 December 2009, T. 4621-4622; P557, List of Telephone Numbers of the ARK War Staff, 6 May 1992; P441, Official Gazette of the ARK, 5 June 1992, Decision of 5 May 1992, p. 3; Adjudicated Fact 99.

<sup>659</sup> Adjudicated Fact 783.

<sup>660</sup> P441, Official Gazette of the ARK, 5 June 1992, Decision of 26 May 1992, p. 29.

<sup>661</sup> Muharem Krzić, P459.01, *Prosecutor v. Brđanin*, Case No. IT-99-36-T, 4 February 2002, T. 1399.

<sup>662</sup> Muharem Krzić, 19 January 2010, T. 5112-5113.

<sup>663</sup> P949, Conclusions of the Meeting of the Ključ Crisis Staff, 27 May 1992, p. 1.

<sup>664</sup> ST140, P432.02, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 16 June 2004, T. 3767-3768 (confidential).

the appointment on 20 May 1992 of Vlado Vrkeš as the Deputy President of the Crisis Staff in Sanski Most was done “at the request of the Regional Crisis Staff”.<sup>665</sup>

215. ST174 testified that Brdanin spoke publicly about the percentage of Muslims and Croats that should be allowed to remain in the Krajina. According to the witness, Brdanin was saying that it was a Serb state and that there was no room for more than 3 to 4% of Muslims and Croats who would be allowed to stay, but who would be used for menial work and physical labour.<sup>666</sup> ST223 heard similar remarks from Brdanin.<sup>667</sup> Krzić recalled Brdanin saying that everything that the Serbian army seized would remain in the hands of the Serbs, that there was no life for non-Serbs except for a negligible number, and that non-Serbs were “worms, lice, insects that had to be trodden on”.<sup>668</sup> Brdanin said in late 1992 or in early 1993 that no one should offer the Serbs a form of co-existence because the Serbs had to create a Serbian national state. In 1993, Brdanin said that the “obligation of the Serbs for the next 100 years is to wipe the shoes of this non-Christian scum who plague this country of ours.”<sup>669</sup>

216. Other actions by the ARK Crisis Staff will be discussed below in the sections on disarmament, dismissals, and pattern of crimes.

(ii) Other Serb Autonomous Regions

217. According to Robert Donia, SAO Romanija was formed on 8 May 1991, and SAO Eastern and Old Herzegovina on 27 May 1991.<sup>670</sup>

218. On 12 September 1991, the Assembly of the Community of Municipalities of Eastern and Old Herzegovina proclaimed the SAO Herzegovina which was said to be an integral part of both BiH and Yugoslavia.<sup>671</sup> The Autonomous Region of North-Eastern Bosnia was proclaimed on 19 September 1991.<sup>672</sup> On 4 November 1991, the SAO Northern Bosnia was proclaimed.<sup>673</sup> Around this time, the SAO Birač was also established with a view to potential unification with SAO Romanija.<sup>674</sup>

<sup>665</sup> P432.10, Conclusion of the Sanski Most Crisis Staff, 20 May 1992, p. 1.

<sup>666</sup> ST174, P1098.02, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 9 April 2002, T. 3989-3990 (confidential).

<sup>667</sup> ST223, P1744.01, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 16 April 2002, T. 4409-4410 (confidential).

<sup>668</sup> Muharem Krzić, P459.02, *Prosecutor v. Brdanin* Case No. IT-99-36-T, 5 February 2002, T. 1548.

<sup>669</sup> ST174, P1098.02, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 9 April 2002, T. 3993-3995 (confidential).

<sup>670</sup> P30, Donia Expert Report: Origins of RS, p. 25.

<sup>671</sup> P771, Article on the Formation of SAO Herzegovina, 14 September 1991.

<sup>672</sup> P772, Article on the Formation of SAO North-Eastern Bosnia, 28 September 1991.

<sup>673</sup> P774, Article on the Formation of SAO Northern Bosnia and SAO Birač, 9 November 1991, p. 1; P1353.19, Decision on the Proclamation of SAO Northern Bosnia, 4 November 1991.

<sup>674</sup> P774, Article on the Formation of SAO Northern Bosnia and SAO Birač, 9 November 1991, p. 2.

219. On 21 November 1991, the BSA issued a decision on the “verification of the proclaimed Serbian autonomous districts in Bosnia and Herzegovina”. This decision listed the five autonomous regions as:

- ARK, with its seat in Banja Luka, and consisting of Banja Luka, Bosanski Petrovac, Čelinac, Glamoč, Ključ, Kotor Varoš, Kupres, Laktaši, Mrkonjić Grad, Prijedor, Prnjavor, Sanski Most, Skender Vakuf, Srbac, Šipovo, Titov Drvar, Bosanska Krupa, and parts of Donji Vakuf;
- Herzegovina, with its seat in Trebinje, and consisting of Trebinje, Bileća, Gacko, Nevesinje, Kalinovik, Ljubinje, Rudo, Foča, and Čajniče;
- Romanijsko-Birčanska, with its seat in Sarajevo, and consisting of municipalities of Han Pijesak, Pale, Sokolac, Vlasenica, Olovo, and Šekovići, and parts of Rogatica;<sup>675</sup>
- Semberija, with its seat in Ugljevik, and consisting of Bijeljina, Lopare, and Ugljevik;
- Northern Bosnia, with its seat in Doboj, and consisting of Teslić, Doboj, Tešanj, Derventa, Bosanski Brod, Odžak, Bosanski Šamac, Modriča, Gradačac, Gračanica, Lukavac, Srebrenik, Živinice, Banovići, Zavidovići, Maglaj, and Orašje.<sup>676</sup>

The decision further stated that the autonomous regions and districts were part of BiH as a federal unit of Yugoslavia.<sup>677</sup>

220. On 21 December 1991, Krajišnik appointed Jovan Čizmović as the co-ordinator between the executive bodies of the SAOs and the ARK.<sup>678</sup> On 24 February 1992, the SDS Executive Board appointed Radislav Vukić as the Board’s Coordinator for the ARK, and Vojo Krunic and Radimir Nešković as the Board’s Coordinators for SAO Eastern Herzegovina.<sup>679</sup> The Bosnian Serb leadership would issue instructions to the SAOs.<sup>680</sup>

<sup>675</sup> The Chamber notes that according to P774, Article on the Formation of SAO Northern Bosnia and SAO Birač, 9 November 1991, p. 2. Bratunac, Srebrenica, Živinice, Zvornik, and Kladanj were also envisaged to be part of the SAO Birač.

<sup>676</sup> P2095, Decision on Verification of the Proclaimed Serbian Autonomous Districts in BiH, signed by Momčilo Krajišnik, 21 November 1991, pp. 1, 2. *See also* Sulejman Tihić, P1556.02, *Prosecutor v. Simić et al.*, IT-95-9-T, 14 September 2001, T. 1306, 1312.

<sup>677</sup> P2095, Decision on Verification of the Proclaimed Serbian Autonomous Districts in BiH, signed by Momčilo Krajišnik, 21 November 1991, p. 2.

<sup>678</sup> P1845, Decree by Momčilo Krajišnik, 21 December 1991.

<sup>679</sup> P1848, Decision by the SDS Executive Board Regarding the ARK, 24 February 1992; P1849, Decision by the SDS Executive Board Regarding SAO Herzegovina, 24 February 1992.

<sup>680</sup> P205, Minutes of the NSC Session, 18 April 1992, para. 10; P207, Minutes of the NSC Session, 24 April 1992, pp. 1-2.



221. According to Article 2 of the RS Constitution, its territory consisted of, among other, SAOs.<sup>681</sup>

(b) Purpose of Serb Autonomous Regions

222. Donia testified that, in anticipation of the independence of BiH, the SDS began to organise areas with substantial Serb populations, with the idea of combining majority Serb municipalities and forming regional associations.<sup>682</sup> The purpose of regionalisation was to remove certain territories from the effective control of BiH authorities.<sup>683</sup>

223. Addressing the BSA on 21 November 1991, Krajišnik stated that:

It is our goal to decentralise all republican funds, to keep most of the income of citizens and legal entities in their municipalities, regions and autonomous districts, so that only limited contributions are paid to the Republic of Bosnia and Herzegovina. We have a duty to determine the function of regions and autonomous districts with a view to preserving the unity of the Serbian people in Bosnia and Herzegovina. That is why we should not allow regions to become independent entities, separate from the rest of the Serbian people. It is essential that the Serbian people organise themselves into one legal and state entity, one common state with all the other peoples who want to build a happier future with us.<sup>684</sup>

224. At the 20<sup>th</sup> session of the BSA, on 14 and 15 September 1992, Vojislav Kuprešanin stated that the purpose of the ARK was to destroy Alija Izetbegović's state, that other regions followed suit, and that the project was successful.<sup>685</sup> According to Sulejman Tihić, the Serb autonomous areas tried to overtake the competence of the regular bodies of power and on paper covered two-thirds of BiH, even though the Serbs only represented a third of the population.<sup>686</sup>

(c) Abolition of Serb Autonomous Regions

225. On 14 September 1992, the BSA revoked the constitutional reference to autonomous regions. This marked the "abolition of regional divisions of the republic and achieved territorial unity with more centralised authority", as stated by BSA President Momčilo Krajišnik.<sup>687</sup> Following these amendments to the RS Constitution, the ARK was abolished on 15 September 1992.<sup>688</sup>

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<sup>681</sup> P181, Constitution of the RS as published in the Official Gazette of the RS of 16 March 1992, 28 February 1992, Article 2, p. 2.

<sup>682</sup> Robert Donia, 16 September 2009, T. 370; Adjudicated Fact 84.

<sup>683</sup> Robert Donia, 16 September 2009, T. 370-371; P30, Donia Expert Report: Origins of RS, p. 23; Adjudicated Fact 84.

<sup>684</sup> P11, Notes of the 2<sup>nd</sup> Session of the BSA, 21 November 1991, p. 10.

<sup>685</sup> P430, Record of the 20<sup>th</sup> Session of the BSA, 14 and 15 September 1992, p. 70.

<sup>686</sup> Sulejman Tihić, P1556.02, *Prosecutor v. Simić et al.*, IT-95-9-T, 14 September 2001, T. 1304-1306.

<sup>687</sup> P31, Donia Expert Report: Bosnian Krajina in the History of BiH, p. 73.

<sup>688</sup> Momčilo Mandić, 5 May 2010, T. 9589; Adjudicated Fact 783.

226. On 18 September 1992, ST105 was informed that the government of ARK no longer existed.<sup>689</sup> However, on 23 September 1992, ST105 received a report that, although the government had been dismantled, it still had a lot of power and was planning to intensify the intimidation of minorities through shootings and arrests.<sup>690</sup>

## 2. Variant A and B Instructions

### (a) Issuance and purpose

227. At the 3<sup>rd</sup> session of the BSA, held on 11 December 1991 in Sarajevo, a proposal for the establishment of municipal assemblies of the Serb people in BiH was adopted.<sup>691</sup> The aim of this decision was to break up the existing municipalities where Serbs were not in a majority.<sup>692</sup> Radovan Karadžić stated that it would be necessary to establish assemblies of the Serb people in municipalities where Serbs were being outvoted. Momčilo Krajišnik emphasised the need to form Serbian municipalities in places where Serbs were in the minority, but also said that there was no obligation to do so in all municipalities.<sup>693</sup>

228. The Trial Chamber recalls that on 19 December 1991, the Main Board of the SDS issued “Instructions for the Organisation and Activities of the Organs of the Serb People in Bosnia and Herzegovina in a State of Emergency” (“Variant A and B Instructions” or “Instructions”).<sup>694</sup> These Instructions were the result of the SDS Main Committee’s concern that BiH, together with its Serb population, was seceding from Yugoslavia.<sup>695</sup> They were to be implemented in “all municipalities where the Serb people live”, completely in municipalities where Serbs were in the majority (Variant A), and partially in municipalities where Serbs were not a majority (Variant B).<sup>696</sup> The Instructions were further divided into two levels.

229. The first level instructions included the following:

<sup>689</sup> ST105, P2208, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 28 August 2003, T. 20646 (confidential); P2222, Memo on the Current Situation in Banja Luka and Surrounding Areas, 23 September 1992 (confidential).

<sup>690</sup> ST105, P2208, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 28 August 2003, T. 20647 (confidential); P2223 (confidential).

<sup>691</sup> P2069, Minutes of the 3<sup>rd</sup> Session of the BSA, 11 December 1991, pp. 4-5; Adjudicated Fact 751.

<sup>692</sup> Adjudicated Fact 751.

<sup>693</sup> P2069, Minutes of the 3<sup>rd</sup> Session of the BSA, 11 December 1991, p. 4.

<sup>694</sup> Adjudicated Fact 100; P15, Variant A and B Instructions by the SDS Main Committee, 19 December 1991. The Trial Chamber notes that this document was also admitted as P69. The BCS copies are identical (although P69 contains an additional handwritten page). The English translations are also the same, save for some semantic differences which are a natural result of the document being translated by different persons. *See also* P434, Expert Report by Dorothea Hanson, Bosnian Serb Crisis Staffs, paras 13-23.

<sup>695</sup> P15, Variant A and B Instructions by the SDS Main Committee, 19 December 1991, para. I.1, p. 2.

<sup>696</sup> P15, Variant A and B Instructions by the SDS Main Committee, 19 December 1991, para. I.3, p. 2; Adjudicated Fact 100.

- (a) SDS municipal committees were to form Crisis Staffs of the Serb people. The members of the Crisis Staffs would be, among others, the holders of certain municipal posts or SDS nominees to those posts. The posts included the following: the president of the municipal assembly, president of the municipal executive board, commander of the SJB, and commander of the municipal TO.<sup>697</sup>
- (b) The president of the municipal assembly or of the municipal executive board was to become the commander of the crisis staff in Variant A municipalities,<sup>698</sup> and the president of the municipal SDS committee in the Variant B municipalities.<sup>699</sup>
- (c) Municipal assemblies of Serb people were to be formed.<sup>700</sup>
- (d) Preparations were to be made for the formation of municipal state organs—such as an executive board, SJBs, and courts—and for the taking over of the staff, facilities, and equipment of CSBs, and their incorporation into a “newly-established body for internal affairs in the centre headquarters”.<sup>701</sup>
- (e) Estimates were to be made of the required number of members of active and reserve police, TO, and civil protection units, and the same were to be reinforced and prepared for activation depending on the development of the situation.<sup>702</sup>
230. The second level instructions included the following:
- (a) The formation of a municipal executive board, creation of municipal organs, and appointment of officials.<sup>703</sup>
- (b) The mobilisation of all Serb police members, reserve JNA forces, and TO units.<sup>704</sup>

<sup>697</sup> P15, Variant A and B Instructions by the SDS Main Committee, 19 December 1991, para. II.I.3, p. 2 (under first level for Variant A), para. II.II.3, pp. 4-5 (under first level for Variant B).

<sup>698</sup> P15, Variant A and B Instructions by the SDS Main Committee, 19 December 1991, para. II.I.3, p. 2 (under first level for Variant A).

<sup>699</sup> P15, Variant A and B Instructions by the SDS Main Committee, 19 December 1991, para. II.II.3, p. 5 (under first level for Variant B).

<sup>700</sup> P15, Variant A and B Instructions by the SDS Main Committee, 19 December 1991, para. II.I.4, p. 3 (under first level for Variant A), para. II.II.4, p. 5 (under first level for Variant B).

<sup>701</sup> P15, Variant A and B Instructions by the SDS Main Committee, 19 December 1991, para. II.I.5, p. 3 (under first level for Variant A), para. II.II.5, p. 5 (under first level for Variant B).

<sup>702</sup> P15, Variant A and B Instructions by the SDS Main Committee, 19 December 1991, para. II.I.9, pp. 2-3 (under first level for Variant A), para. II.II.8, p. 5 (under first level for Variant B).

<sup>703</sup> P15, Variant A and B Instructions by the SDS Main Committee, 19 December 1991, para. II.I.1, p. 4 (under second level for Variant A), para. II.II.1, p. 6 (under second level for Variant B).

<sup>704</sup> P15, Variant A and B Instructions by the SDS Main Committee, 19 December 1991, paras II.I.2, II.I.3, p. 4 (under second level for Variant A), paras II.II.2, II.II.3, p. 6 (under second level for Variant B).

(c) For Variant A only, the takeover of the staff, premises, and equipment of the CSBs and their placement under the jurisdiction of the newly established body for internal affairs.<sup>705</sup>

(d) For Variant B only, the installation of a secret observation system at approaches to places inhabited by Serbs to collect information about all possible dangers to Serbs, and the planning of the transfer of population and material goods to safer regions.<sup>706</sup>

231. These measures were to be developed within the Serb national community of BiH, in accordance with the result of the plebiscite, in which the Serbs in BiH expressed their will to live in a single state.<sup>707</sup> The Instructions further provided that the activities entailed therein could only be applied upon an order of the President of the SDS in BiH according to a secret procedure that was to be established.<sup>708</sup>

232. The Chamber notes that the Instructions further provided that the organs of power were obliged to act in accordance with the federal law, as well as republican regulations, unless those were in contravention of the federal law.<sup>709</sup> Moreover, with regard to Variant A municipalities, the Instructions provided that, in taking these measures, attention should be paid to ensuring respect for the national and other rights of members of all nationalities who should later be engaged in government bodies.<sup>710</sup>

233. Donia testified that the Instructions were not made public until March 1992.<sup>711</sup>

(b) Implementation of the Instructions

234. Simo Mišković, President of the SDS in Prijedor, testified that he received the Variant A and B Instructions at a meeting in Pale that was attended by all SDS presidents, as well as deputies of the BSA. The meeting was chaired by Karadžić, and Mišković and others were asked to convey the Instructions to the municipal boards, to inform them of the two variants, and to act accordingly.<sup>712</sup>

<sup>705</sup> P15, Variant A and B Instructions by the SDS Main Committee, 19 December 1991, para. II.I.6, p. 4 (under second level for Variant A).

<sup>706</sup> P15, Variant A and B Instructions by the SDS Main Committee, 19 December 1991, para. II.II.6, p. 6 (under second level for Variant B).

<sup>707</sup> P15, Variant A and B Instructions by the SDS Main Committee, 19 December 1991, para. I.1, p. 2.

<sup>708</sup> P15, Variant A and B Instructions by the SDS Main Committee, 19 December 1991, paras III.3, III.4, p. 7; Adjudicated Fact 102.

<sup>709</sup> P15, Variant A and B Instructions by the SDS Main Committee, 19 December 1991, para. III.2, p. 6.

<sup>710</sup> P15, Variant A and B Instructions by the SDS Main Committee, 19 December 1991, para. II.I.8, p. 4 (under second level for Variant A).

<sup>711</sup> Robert Donia, 16 September 2009, T. 387-388; P31, Donia Expert Report: Bosnian Krajina in the History of BiH, pp. 63-64.

<sup>712</sup> Simo Mišković, 1 October 2010, T. 15178.

235. At the meeting of the Prijedor Municipal Board of the SDS on 27 December 1991, Simo Mišković read out the Variant A and B Instructions.<sup>713</sup> He focused on Variant B because it was the Muslims who held a majority after the elections in Prijedor. Mišković explained that Variant A was applicable to municipalities where Serbs held a majority and that Variant B was applicable to municipalities in which another ethnicity held a majority. He elaborated that Variant B was concerned with preparing Serbs for the possibility of escalating violence.<sup>714</sup> After reading out the Instructions to the Prijedor Municipal Board, the Board then discussed the steps related to the implementation of the Instructions.<sup>715</sup>

236. At another meeting of the Prijedor Municipal Board of the SDS on 7 February 1992, Simo Mišković stated, “Our option is to create a Serbian state” and to “[b]lock what we can, until the Serbian state is defined under any option”.<sup>716</sup>

237. During a meeting of the Main and Executive Boards of the SDS held on 14 February 1992 in Sarajevo, Karadžić stated that it was time to introduce the second level and to “intensify the functioning of the government at any cost, and on every single millimeter of our territory”.<sup>717</sup> Simo Mišković attended this meeting.<sup>718</sup> At a meeting of the Prijedor Municipal Board of the SDS on 17 February 1992, he reported on the meeting in Sarajevo. He conveyed that Karadžić had said that, due to the secession of BiH, the Serbs were forced to create national communities on ethnic territories.<sup>719</sup> He reported that the Serbs will not participate in the referendum on the independence of BiH<sup>720</sup> and stated that, in anticipation of the secession of BiH and the creation of a separate Serbian state on ethnically Serb territories, it was time for the SDS to activate the “second stage” of the Instructions.<sup>721</sup> Also at the meeting on 17 February 1992, Srdjo Srdić stated that the creation of

<sup>713</sup> Simo Mišković, 1 October 2010, T. 15176-15178; P15, Variant A and B Instructions by the SDS Main Committee, 19 December 1991; P1610, Minutes of Meetings of the Prijedor SDS Municipal Board Meeting, 1991 Volume, pp. 103-107; P435, Abridged Minutes of the Meeting of the Prijedor SDS Municipal Board on 27 December 1991, pp. 1-2; Adjudicated Fact 200.

<sup>714</sup> Simo Mišković, 1 October 2010, T. 15176-15177.

<sup>715</sup> P1610, Minutes of Meetings of the Prijedor SDS Municipal Board Meeting 1991 Volume, pp. 103-107.

<sup>716</sup> Simo Mišković, 1 October 2010, T. 15179-15180; P1610, Minutes of Meetings of the Prijedor SDS Municipal Board Meeting 1991 Volume, p. 117.

<sup>717</sup> P1841, Transcript of the Extended Session of the Meeting of the Main and the Executive Board of the SDS on 14 February 1992, p. 24.

<sup>718</sup> Simo Mišković, 1 October 2010, T. 15180-15182; P1353.17, Receipt of Payment for SDS Members from the Holiday Inn, dated 15 February 1992, p. 10.

<sup>719</sup> P1610, Minutes of Meetings of the Prijedor SDS Municipal Board Meeting 1991 Volume, p. 122.

<sup>720</sup> Simo Mišković, 1 October 2010, T. 15186-15187; P1610, Minutes of Meetings of the Prijedor SDS Municipal Board Meeting 1991 Volume, p. 122.

<sup>721</sup> Simo Mišković, 1 October 2010, T. 15186-15188; P15, Variant A and B Instructions by the SDS Main Committee, 19 December 1991, paras II.I.1-II.I.8, p. 4 (under second level for Variant A), paras II.II.1-II.II.7, p. 6 (under second level for Variant B); P1610, Minutes of Meetings of the Prijedor SDS Municipal Board Meeting, 1991 Volume, p. 122; P1353.17, Receipt of Payment for SDS Members from the Holiday Inn, dated 15 February 1992; Adjudicated Fact 1001.

states brings about mass emigration and resettlement and that the exchange of territories was imminent.<sup>722</sup>

238. ST215, an SDS member from Zvornik, testified that the SDS in Zvornik had received Variant A and B Instructions and that it went about implementing them. He further testified that Zvornik was a Variant B municipality because Serbs were a minority there.<sup>723</sup> On 22 December 1991, the SDS Municipal Board of Zvornik formed a Crisis Staff pursuant to Variant B of the Instructions.<sup>724</sup> Branko Grujić was elected as the Commander of the Crisis Staff.<sup>725</sup> On 9 April 1992, the Crisis Staff created an interim government with Branko Grujić as its President.<sup>726</sup>

239. At the meeting of the Executive Committee of the SDS Municipal Board in Ključ on 23 December 1991, the Variant A and B Instructions and their implementation were discussed and adopted. The composition of the local Crisis Staff was then discussed.<sup>727</sup>

240. Nedeljko Đekanović, President of the SDS in Kotor Varoš, testified that a Crisis Staff was established in Kotor Varoš and that he became its president.<sup>728</sup> He further testified that an assembly of the Serb people of the municipality of Kotor Varoš was formed as well.<sup>729</sup> He testified that he had access to the document containing the Variant A and B Instructions.<sup>730</sup>

241. According to a Miloš Group report, during a working meeting between the political leadership of Teslić municipality and General Mladić and Colonel Slavko Lisica, the two military officers and the President of the Teslić municipal assembly expressed the opinion that ethnic cleansing should be carried out in Teslić municipality by the members of the SJB. The report further notes that Mladić advised members of the VRS and SDS to set on fire and kill Muslims and Croats wherever they could and that he would issue a written guarantee that they could not be held responsible for such acts. The report states that on the next day, Colonel Dejan Bilanović and Major

<sup>722</sup> Simo Mišković, 1 October 2010, T. 15188-15190; P1610, Minutes of Meetings of the Prijedor SDS Municipal Board Meeting 1991 Volume, p. 123.

<sup>723</sup> ST215, 27 September 2010, T. 14857-14859.

<sup>724</sup> ST215, 27 September 2010, T. 14859-14860; P15, Variant A and B Instructions by the SDS Main Committee, 19 December 1991, paras II.II.1-II.II.10, pp. 4-5 (under first level for Variant B), paras II.II.1-II.II.7, p. 6 (under second level for Variant B); P436, Conclusions of SDS Municipal Board, 22 December 1991, p. 1.

<sup>725</sup> ST215, 27 September 2010, T. 14860; P436, Conclusions of SDS Municipal Board, 22 December 1991, p. 1.

<sup>726</sup> ST215, 27 September 2010, T. 14878, 14881, 14917-14918 (partly confidential), 28 September 2010, T. 14944-14945; 1D378, Crisis Staff Decision on Establishment of a Temporary Government in the Serbian Municipality of Zvornik, 8 April 1992, pp. 1-2; 1D384 Decision on Establishment of Municipal Prison in Zvornik, 19 August 1992, pp. 1-2.

<sup>727</sup> P447, Minutes of the 6<sup>th</sup> Meeting of the Executive Committee of the SDS Municipal Board in Ključ, 23 December 1991, pp. 1-2.

<sup>728</sup> Nedeljko Đekanović, 7 October 2009, T. 1008.

<sup>729</sup> Nedeljko Đekanović, 7 October 2009, T. 1010.

<sup>730</sup> Nedeljko Đekanović, 7 October 2009, T. 999-1000.

Vukašin Nedić insisted that the police kill Muslims and Croats.<sup>731</sup> The report may have been written on the day of the meeting or on the next day in July or early August 1992.<sup>732</sup>

242. ST191 testified that Mladić had only one such meeting in Teslić and that, at that meeting, there was no mention of ethnic cleansing and no insistence on the killing of Muslims and Croats on the next day by Bilanović and Nedić.<sup>733</sup> However, based on the evidence of Predrag Radulović, who testified about the author of the report and its sources,<sup>734</sup> the Chamber does not find the evidence of ST191 on this point to be credible and will rely on the report, which it will consider in light of the totality of the evidence on record.

243. Speaking on 16 April 1995, Karadžić reflected as follows:

At the moment the war began, in the municipalities where we were in the majority, we had municipal power, held it firmly, controlled everything. In the municipalities where we were in the minority, we set up secret government, municipal boards, municipal assemblies, presidents of executive boards. You will remember, the A and B variants. In the B variant, where we were in the minority—20%, 15%—we had set up a government and a brigade, a unit, no matter what size, but there was a detachment with a commander. The war began and the JNA helped as much as it could here and there.<sup>735</sup>

244. The Trial Chamber considers that the establishment of Crisis Staffs was the main instrument used in the implementation of the Variant A and B Instructions.

### 3. Municipal Crisis Staffs

#### (a) Background and formation

245. The Constitutions of the SFRY and the SRBiH provided that, in a state of war or imminent threat of war, emergency governments could be established at both the republic and municipal level. These emergency governments, called Crisis Staffs or War Presidencies, would take over the functions of the Assembly if it were unable to meet.<sup>736</sup>

246. The Trial Chamber recalls that on 11 December 1991, the BSA voted to recommend the establishment of separate Serbian municipalities. The declared aim of this decision was “to break up the existing municipalities where Serbs are not in a majority.”<sup>737</sup>

<sup>731</sup> P1385.01, Public Redacted Version of the Official Note By Miloš Group on a Meeting in Teslić, undated.

<sup>732</sup> Predrag Radulović, 27 May 2010, T. 10948-10950 (confidential).

<sup>733</sup> ST191, 10 January 2011, T. 18546-18550 (confidential).

<sup>734</sup> Predrag Radulović, 27 May 2010, T. 10948-10950 (confidential).

<sup>735</sup> P438, Transcript of the 50<sup>th</sup> Session of the BSA, p. 306.

<sup>736</sup> Dragan Đokanović, 20 November 2009, T. 3574; Dorothea Hanson, 8 December 2009, T. 4375; P434, Expert Report by Dorothea Hanson, Bosnian Serb Crisis Staffs, paras 5-8; Adjudicated Fact 756.

<sup>737</sup> Adjudicated Fact 751.

247. Crisis Staffs were formed in the SAOs to assume governmental functions and carry out general municipal management.<sup>738</sup> In 1992, the municipal Crisis Staffs in the SAOs were composed of either (a) the respective president of the municipal assembly or the president of the municipal executive committee (Variant A) or (b) the president of the SDS municipal board (Variant B). Municipal Crisis Staffs included the commander of the municipal TO staff and the chief of the police. The meetings of the municipal Crisis Staffs were regularly attended by representatives of the army.<sup>739</sup>

248. Dragan Đokanović testified that during the war Crisis Staffs took over the functions of the municipal assemblies and wielded absolute power in the municipalities.<sup>740</sup> Municipal Crisis Staffs and local SDS offices exerted great influence on local TO units and Light Infantry Brigades, which initially operated outside the formal chain of command of the VRS. Both were eventually subordinated to the command of the VRS and were recognised by the VRS Main Staff as having contributed to the formation and success of the VRS.<sup>741</sup>

249. On 7 March 1992, Jovan Tintor, President of the SDS in Vogošća and of the Vogošća Crisis Staff,<sup>742</sup> stated that the municipal system in BiH was such that BiH could not be divided simply on the basis of municipalities because municipal boundaries in BiH discriminated against Serbs. Instead, contiguous Serb lands should be established.<sup>743</sup> In an interview on 1 August 1994, Tintor said that he was the commander of the Crisis Staff in Vogošća and that he was the superior to the military and civil authorities at the time. In this same interview, Tintor explained how he had blockaded Vogošća.<sup>744</sup>

250. Branko Đerić stated that, at the time he received his mandate on 24 March 1992,<sup>745</sup> the Crisis Staffs were already in existence and operating. Đerić stated that the Crisis Staffs were established in order to carry out certain tasks when the municipal organs were unable to do so.<sup>746</sup>

<sup>738</sup> Agreed Fact 97. *See also* P70, Excerpt from the Instructions for the Work on Crisis Staffs, 26 April 1992.

<sup>739</sup> Adjudicated Facts 98, 104.

<sup>740</sup> Dragan Đokanović, 20 November 2009, T. 3574.

<sup>741</sup> Adjudicated Fact 759.

<sup>742</sup> ST214, 19 July 2010, T. 12961 (confidential).

<sup>743</sup> Robert Donia, 16 September 2009, T. 423; P26, Intercept, Jovan Tintor and Žika, 7 March 1992, p. 5; P32, Donia Expert Report: Bosnian Serb Leadership and the Siege of Sarajevo, p. 23.

<sup>744</sup> Robert Donia, 16 September 2009, T. 424-425; P27, Interview with Jovan Tintor conducted by Risto Đogo, July and August 1994, p. 7.

<sup>745</sup> P439, Minutes of the 12<sup>th</sup> Session of the BSA, 24 March 1992, pp. 24-25; P198, Minutes of the 13<sup>th</sup> Session of the BSA, 24 March 1992, pp. 4-5.

<sup>746</sup> Branko Đerić, 2 November 2009, T. 2412-2413.



(b) Relationship between Crisis Staffs and RS police and government

251. Goran Mačar, a former police official,<sup>747</sup> testified that in some instances Crisis Staffs, rather than the CSBs, became the SJB's *de facto* superior body and that this was in contravention of the LIA.<sup>748</sup> In these cases, Crisis Staffs exerted considerable influence on MUP logistical issues and MUP salary payments. Salaries were paid by the Crisis Staffs because regular budget and payment systems were not functioning.<sup>749</sup> The Crisis Staffs also provided material and technical equipment to the SJBs, including fuel, and influenced the appointments of all leading positions in the police stations and crime squads.<sup>750</sup> For the most part, heads of the SJBs did not inform the CSBs or the MUP of situations—even where they were required to do so—but were instead informing Crisis Staffs.<sup>751</sup> The MUP was able to gradually restore its own influence after the autonomous regions and the Crisis Staffs were abolished in August and September 1992.<sup>752</sup>

252. On 4 April 1992, Radovan Karadžić, as President of the NSC, ordered the activation of Crisis Staffs under certain conditions. On 26 April 1992, after the Ministry of Defence of the RS had declared an imminent threat of war, the Bosnian Serb Government issued follow-up instructions for the work of the municipal Crisis Staffs and defined their functions. By virtue of these instructions, Crisis Staffs were recognised by the RS as its governing bodies, rather than as SDS bodies. Nevertheless, SDS control over the Crisis Staffs did not cease.<sup>753</sup>

253. Đerić agreed that the Crisis Staffs had begun to impinge on the competencies of the government.<sup>754</sup> According to Đerić, Crisis Staffs had nothing to do with the government because they were formed by the “party” and continued to work on its behalf.<sup>755</sup> The Chamber understands Đerić's reference to the “party” to mean the SDS. Momčilo Mandić also testified that some local authorities acted independently at times.<sup>756</sup>

254. In an attempt to regulate the actions of the Crisis Staffs, sometime in April 1992, Đerić sent all Crisis Staffs instructions on the work of the municipal Crisis Staffs. He prepared this document together with Karadžić. The instructions provided that in a state of war Crisis Staffs had to assume the power of the municipal assemblies when they were unable to convene. The instructions further

<sup>747</sup> Goran Mačar, 5 July 2011, T. 22807.

<sup>748</sup> Goran Mačar, 11 July 2011, T. 23102.

<sup>749</sup> Goran Mačar, 6 July 2011, T. 22897, 22906, 22909; 1D638, Conclusion of the Prijedor Crisis Staff on the Method of Calculation and Payment of Salaries in Enterprises, Organisations, and Social-Political Communities for the Month of May, 5 June 1992.

<sup>750</sup> Goran Mačar, 6 July 2011, T. 22897, 22906, 22909.

<sup>751</sup> Goran Mačar, 6 July 2011, T. 22289-22900.

<sup>752</sup> Goran Mačar, 6 July 2011, T. 22896-22898.

<sup>753</sup> Adjudicated Fact 758.

<sup>754</sup> Branko Đerić, 2 November 2009, T. 2413-2414, 2417.

<sup>755</sup> Branko Đerić, 2 November 2009, T. 2433.

regulated the composition and the functioning of the Crisis Staffs.<sup>757</sup> At a session of the NSC and RS government of 27 April 1992, it was decided that comprehensive instructions for Crisis Staffs should be drafted.<sup>758</sup>

255. On 30 April 1992, Đerić withdrew his instructions but was unable to recall in-court why he had done that.<sup>759</sup> He allowed for the possibility that this was done because the RS Presidency was planning to deal with the Crisis Staffs. Đerić agreed that Crisis Staffs and SAOs were important factors that limited or restricted the instruments of the central government.<sup>760</sup>

256. According to Tomislav Kovač, former Assistant Minister of the MUP,<sup>761</sup> Crisis Staffs appointed their personnel as part of the distribution of power. Many of the personnel were not appointed on the basis of their quality, but rather because the parties wanted to have their own people in certain positions. In Kovač's view, Simo Drljača was one such appointee.<sup>762</sup>

257. Milan Trbojević, former Deputy Prime Minister of the RS,<sup>763</sup> testified that the need for Crisis Staffs arose from a crisis in the functioning of the government in BiH at all levels.<sup>764</sup> He added that, although the RS Government sent an instruction to establish Crisis Staffs, it had no insight into the work of Crisis Staffs and did not control them.<sup>765</sup> He stated that Crisis Staffs were not submitting reports to the RS Government about the situation on the ground.<sup>766</sup> Trbojević was not aware of any cases where a local police chief at an SJB was taking directions from a Crisis Staff contrary to a direction through his chain of command within the MUP.<sup>767</sup>

<sup>756</sup> Momčilo Mandić, 5 May 2010, T. 9587-9588.

<sup>757</sup> Branko Đerić, 2 November 2009, T. 2426-2429, 2434; P70, Excerpt from the Instructions for the Work on Crisis Staffs, 26 April 1992. The Chamber notes that this document was also admitted into evidence as P179.10.

<sup>758</sup> P208, Minutes of the Session of the NSC and RS Government, 27 April 1992, p. 2.

<sup>759</sup> Branko Đerić, 2 November 2009, T. 2429-2430; P186, Letter from Branko Đerić Withdrawing "Instructions for the Work of the Crisis Staffs of the Serbian People in the Municipalities", 30 April 1992.

<sup>760</sup> Branko Đerić, 2 November 2009, T. 2433-2436.

<sup>761</sup> Tomislav Kovač, 7 March 2012, T. 27034.

<sup>762</sup> Tomislav Kovač, 8 March 2012, T. 27183-27184; P1830, Decision on the Formation of the War Presidencies, 31 May 1992.

<sup>763</sup> Milan Trbojević, P427.01, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 4 April 2005, T. 11382 and P427.02, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 5 April 2005, T. 11484.

<sup>764</sup> Milan Trbojević, 3 December 2009, T. 4177.

<sup>765</sup> Milan Trbojević, 3 December 2009, T. 4174-4175; Milan Trbojević, P427.01, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 4 April 2005, T. 11448, 11451.

<sup>766</sup> Milan Trbojević, P427.06, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 15 April 2005, T. 12206.

<sup>767</sup> Milan Trbojević, 4 December 2009, T. 4238-4239.

(c) War Presidencies

258. On 31 May 1992, the BSA issued a “Decision on the Formation of War Presidencies in Municipalities in Times of War or the Immediate Threat of War”.<sup>768</sup> The decision defined the composition of the War Presidencies and their tasks and provided that the President of RS shall appoint the Republic’s representative who shall provide professional assistance to the War Presidencies.<sup>769</sup> It further provided that the War Presidencies shall be formed within 15 days of the decision and that the Crisis Staffs would then cease to operate across RS.<sup>770</sup>

259. On 9 June 1992, Đokanović was told by Karadžić that the Serb leadership had trouble communicating with the Crisis Staffs and that he was not sure whether the decision on the War Presidencies had been fully implemented.<sup>771</sup> Đokanović was also told by Karadžić—and observed for himself in Zvornik—that the Crisis Staffs enacted their own laws, exercised a significant degree of autonomy, and were detached from the political leadership at the time.<sup>772</sup> In the early stages of the war, local authority was in the hands of the Crisis Staffs, and Đokanović described them as unelected institutions that sought to maintain their independence and authority.<sup>773</sup>

260. After studying the decision on the formation of the War Presidencies, Đokanović spoke with Karadžić about how to improve the situation regarding the Crisis Staffs.<sup>774</sup> On 9 June 1992, Karadžić appointed Đokanović to the position of Republican Commissioner tasked with forming municipal War Commissions and the restoration of power to the elected local civilian authorities. As a result, Đokanović travelled to Zvornik, Vlasenica, Bratunac, Šekovići, Novo Sarajevo, and the Serbian part of Skelani.<sup>775</sup> Despite their apparent independence and autonomy, the Crisis Staffs reorganised themselves according to Đokanović’s directions without opposition.<sup>776</sup> Furthermore, when shown minutes from certain meetings of the NSC, at which reports were received from Crisis Staffs and municipal authorities, Đokanović admitted that he may not have been fully informed about the level of communication between Pale and the Crisis Staffs.<sup>777</sup>

<sup>768</sup> P258, Minutes of the Session of the Presidency of RS, 31 May 1992; P1830, Decision on the Formation of the War Presidencies, 31 May 1992, Article 1; Agreed Fact 108. *See also* P217, Minutes of the 13<sup>th</sup> RS Government Meeting, 23 May 1992, para. 4; P261, Minutes of the 5<sup>th</sup> Extended Session of the Presidency of the RS, 10 June 1992.

<sup>769</sup> P1830, Decision on the Formation of the War Presidencies, 31 May 1992, Arts. 2-4.

<sup>770</sup> P1830, Decision on the Formation of the War Presidencies, 31 May 1992, Article 5. *See also* P217, Minutes of the 13<sup>th</sup> RS Government Meeting, 23 May 1992, para. 4.

<sup>771</sup> Dragan Đokanović, 20 November 2009, T. 3571-3573.

<sup>772</sup> Dragan Đokanović, P397.03, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 17 March 2005, T. 10683-10684, 10699-10700.

<sup>773</sup> Dragan Đokanović, P397.03, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 17 March 2005, T. 10696-10697.

<sup>774</sup> Dragan Đokanović, 20 November 2009, T. 3571-3573.

<sup>775</sup> Dragan Đokanović, 20 November 2009, T. 3571-3574; Dragan Đokanović, P397.01, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 14 March 2005, T. 10442-10444; Dragan Đokanović, P397.02, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 15 March 2005, T. 10581.

<sup>776</sup> Dragan Đokanović, P397.04, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 18 March 2005, T. 10772-10773.

<sup>777</sup> Dragan Đokanović, P397.04, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 18 March 2005, T. 10776-10778.

261. Milan Trbojević stated that the formation of War Commissioners' offices was proposed due to dissatisfaction with Crisis Staffs being too independent and there being insufficient communication between the government and the local authorities. As another reason, he mentioned the disagreement of members of the municipal assembly with the decisions of Crisis Staff.<sup>778</sup> The War Commissioners' offices would consist of representatives of the Presidency and were meant to improve the said problems.<sup>779</sup>

262. However, Đokanović explained that the decision to create War Presidencies had essentially resulted in cosmetic changes: Crisis Staffs were simply renamed "War Presidencies".<sup>780</sup> The ultimate objective of these institutions was to revive civilian organs of authority.<sup>781</sup> Dorothea Hanson testified that War Presidencies, War Commissions, and Crisis Staffs were essentially the same organs. The only difference, according to Hanson, was the presence in War Presidencies and War Commissions of a commissioner who represented the authorities at the state level, which allowed better links between the municipal and republican level.<sup>782</sup>

#### 4. Control and formation of army

263. Robert Donia testified that the JNA transformed itself from a multi-ethnic force supported by all ethnic groups in Yugoslavia into the VRS on 19 May 1992, with Ratko Mladić as its first commander.<sup>783</sup> As General Kadijević, Yugoslav Secretary of Defence from May 1991 until January 1992, explained:

The units and headquarters of the JNA formed the backbone of the army of the Serb republic, complete with weaponry and equipment. That army [...] created the military conditions for an adequate political solution which would meet its national interest and goals to the extent, of course, that present international circumstances allow.<sup>784</sup>

264. Đokanović testified that the Serbs felt that the JNA would be able to protect them and that, since they wished to stay in Yugoslavia, they should be protected by the army of Yugoslavia.<sup>785</sup>

<sup>778</sup> Milan Trbojević, 3 December 2009, T. 4112-4116, 4180-4181.

<sup>779</sup> Milan Trbojević, 3 December 2009, T. 4112-4117.

<sup>780</sup> Dragan Đokanović, P397.02, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 15 March 2005, T. 10576 and P397.04, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 18 March 2005, T. 10773-10774.

<sup>781</sup> Dragan Đokanović, P397.02, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 15 March 2005, T. 10576.

<sup>782</sup> Dorothea Hanson, 8 December 2009, T. 4403-4408, 11 December 2009, T. 4626-4630; P442, Decision of the ARK Crisis Staff, 11 June 1992; P465, Article published in the newspaper *Glas* titled "Executive Board Meeting of Dervishes", 26 July 1992, p. 1.

<sup>783</sup> Robert Donia, 16 September 2009, T. 396; P31, Donia Expert Report: Bosnian Krajina in the History of BiH, p. 75; P32, Donia Expert Report: Bosnian Serb Leadership and the Siege of Sarajevo, p. 54; Agreed Fact 124.

<sup>784</sup> Robert Donia, 16 September 2009, T. 397-398; P18, Excerpt of General Kadijević's Memoirs; P32, Donia Expert Report: Bosnian Serb Leadership and the Siege of Sarajevo, p. 46.

<sup>785</sup> Dragan Đokanović, P397.01, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 14 March 2005, T. 10459-10460.

Milan Babić testified that, in the course of his dealings with Milošević in 1990 and 1991, Milošević indicated to him that he was in control of the JNA.<sup>786</sup>

265. The SDS had a close relationship with the JNA.<sup>787</sup> ST105 had two or three meetings with Radovan Karadžić and senior JNA officers at the Lukavica Barracks near Sarajevo in the first half of 1992.<sup>788</sup> As of April 1992, ST105 had received reports that the JNA was providing support to Arkan's Men and Šešelj's Men and that both groups were allowed to move freely within BiH.<sup>789</sup> For more on the transformation of the JNA to a Serb-dominated armed force, the Trial Chamber refers to the Armed Forces section above.

266. When the VRS was formally established in May 1992, non-Serbs were dismissed from positions of command and soon thereafter almost all non-Serb officers serving in the army were laid off. Bosnian Muslims and Bosnian Croats who had proved themselves in combat and who agreed to sign an oath of loyalty to RS were allowed to remain in the VRS.<sup>790</sup>

267. Karadžić explicitly told Okun that he and the Bosnian Serb civilian leadership controlled Mladić and the military. Okun witnessed the ease of communications between Karadžić and the military; during one of their meetings, Karadžić called the commander of the Banja Luka airfield in order to discuss with him the removal of planes from Banja Luka following the imposition of a no-fly zone over BiH.<sup>791</sup> At the BSA session held on 23 and 24 November 1992, Plavšić stated that after Karadžić had called upon volunteers from "all Serbian lands and all other Orthodox countries", she sent letters looking for people who were willing to fight for the Serbian cause in RS. She sent these letters to, among others, Šešelj and Arkan.<sup>792</sup>

268. The involvement of the JNA—and later the VRS—in the crimes that the Chamber has found to have been committed as charged, has been discussed in Volume 1. Furthermore, the JNA was actively involved in the arming of the Bosnian Serbs and in the disarming of non-Serbs.

<sup>786</sup> Milan Babić, P2115, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 2 June 2004, T. 3343-3344 (confidential).

<sup>787</sup> ST105, P2208, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 28 August 2003, T. 20608 (confidential).

<sup>788</sup> ST105, P2208, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 28 August 2003, T. 20608 (confidential) and P2205, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 6 October 2004, T. 6763-6765 (confidential).

<sup>789</sup> ST105, P2206, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 7 October 2004, T. 6907-6908, 6910-6912 (confidential).

<sup>790</sup> Agreed Fact 124; Adjudicated Fact 767.

<sup>791</sup> Herbert Okun, P2193, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 23 June 2004, T. 4192-4193.

<sup>792</sup> Dragan Đokanović, 23 November 2009, T. 3606, 3638; Momčilo Mandić, 7 May 2010, T. 9746; P400, Transcript of the 22<sup>nd</sup> Session of the BSA Assembly, 23-24 November 1992, p. 20.

## 5. Arming of Serbs and disarming of Muslims and Croats

### (a) Arming of Serbs

269. As noted above in the Armed Forces section, in May 1990, the JNA ordered that weapons be removed from the depots under control of local TO units and moved to its own armouries. In late 1991 and early 1992, all three national parties began arming themselves.<sup>793</sup> The SDS received substantial support from the JNA and had access to a military factory, which was under Bosnian Serb control.<sup>794</sup> The JNA had been providing arms and equipment to the Serb population of BiH from 1991, which had in turn organised into various units and militia in preparation for combat.<sup>795</sup>

270. The JNA systematically supplied light arms to local SDS committees in Bosnian Serb claimed municipalities of the Krajina, as well as to Serbian paramilitary groups. Distribution to Bosnian Serb civilians was carried out by the local communes and was supervised by the SDS, with the support of the JNA and the local police. The arming of Bosnian Serb villages was well organised and involved the use of trucks and occasionally even helicopters. The JNA redistributed weapons to Serbian TO units in predominantly Bosnian Serb populated areas.<sup>796</sup>

271. In his speech at the 50<sup>th</sup> session of the BSA on 16 April 1995, Karadžić recalled:

Distribution of weapons was carried out thanks to the JNA. What could be withdrawn was withdrawn and distributed to the people in the Serbian areas, but it was the SDS which organised the people and created the army.<sup>797</sup>

272. Mevludin Sejmenović testified that, prior to the take-over in Prijedor, helicopters and a green JNA truck delivered weapons to Serb civilians.<sup>798</sup> At the end of March or the beginning of April 1992, colleagues of ST105 saw JNA trucks unloading arms in certain Serbian-populated areas that subsequently became part of the RS, such as the Pale region, Jablanica, areas around Sarajevo, and northern BiH.<sup>799</sup> ST020, a former Muslim JNA officer,<sup>800</sup> testified that in February 1992 Serbs in Trnopolje were already armed because they had fought in Croatia and returned with weapons. He added that the Serbs were armed by the JNA, whereas the Muslims had to buy weapons individually, sometimes from the Serbs.<sup>801</sup>

<sup>793</sup> Adjudicated Fact 768.

<sup>794</sup> Adjudicated Fact 769.

<sup>795</sup> Adjudicated Fact 158.

<sup>796</sup> Adjudicated Fact 770.

<sup>797</sup> P32, Donia Expert Report: Bosnian Serb Leadership and the Siege of Sarajevo, p. 47.

<sup>798</sup> Mevludin Sejmenović, 12 November 2010, T. 17381-17383.

<sup>799</sup> ST105, P2208, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 28 August 2003, T. 20608 (confidential).

<sup>800</sup> ST020, P2140, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 28 October 2002, T. 10962 (confidential).

<sup>801</sup> ST020, P2140, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 28 October 2002, T. 10962, 10972-10974, 10976-10978, 10984 (confidential).

273. The Trial Chamber recalls the evidence regarding the arming of Serbs in the sections of the Judgement devoted to individual municipalities.<sup>802</sup>

(b) Disarming of Muslims and Croats

274. Christian Nielsen, the Prosecution expert on RS MUP, explained that in several municipalities the municipal Crisis Staffs charged the relevant SJBs with the implementation of decisions on the disarming of the non-Serb population.<sup>803</sup>

275. At a meeting of the Presidency of the RS on 10 July 1992, Krajišnik stated that the Muslims must be disarmed as soon as possible.<sup>804</sup> Also during this meeting, it was reported that weapons were collected from Muslims in Bileća.<sup>805</sup> According to a Pale SJB report, in mid-March 1992, weapons owned by non-Serb citizens were seized irrespective of whether they had permits for them.<sup>806</sup>

276. On 4 May 1992, pursuant to a decision of the Ministry of National Defence of the RS of 16 April 1992, the Secretariat for National Defence of the ARK issued an order for mobilisation. With the same order, it imposed a curfew in the entire territory of the ARK and ordered all paramilitary formations and individuals to surrender illegally owned weapons and explosives to the nearest SJB by 3:00 p.m. on 11 May 1992.<sup>807</sup> The presidents of municipal “National Defence Councils” were responsible for the implementation of the decision, were granted the necessary authority to do so, and had to report back to the ARK Crisis Staff regarding disarmament.<sup>808</sup> On the same day, acting in his capacity as Chief of the Banja Luka CSB, Stojan Župljanin forwarded the 4 May 1992 order to the chiefs of all SJBs, requesting its immediate implementation and ordering the SJBs to report their progress to the CSB.<sup>809</sup> The deadline for the surrender of illegally owned weapons was extended several times.<sup>810</sup>

<sup>802</sup> See, for example, the sections on Sanski Most, Kotor Varoš, Donji Vakuf, Bosanski Šamac, Prijedor, Višegrad, Vlasenica, Gacko, Bileća, Zvornik, Banja Luka, and Doboj.

<sup>803</sup> P508, Nielsen Expert Report, para. 203.

<sup>804</sup> P1755, Mladić Diary, 27 May 1992–31 July 1992, pp. 305, 308, 313.

<sup>805</sup> P1755, Mladić Diary, 27 May 1992–31 July 1992, pp. 308, 319.

<sup>806</sup> P1457, Record of Pale SJB Activities in 1992, signed by Commander of Pale SJB, Jovan Škobo, 8 February 1993, p. 1.

<sup>807</sup> P467, Decision of the Secretariat for National Defence of the ARK, 4 May 1992, p. 1.

<sup>808</sup> P467, Decision of the Secretariat for National Defence of the ARK, 4 May 1992, p. 2; P441, Official Gazette of the ARK, 5 June 1992, Decision of 8 May 1992, p. 5.

<sup>809</sup> P555, Order from the Banja Luka CSB to the Chiefs of all SJBs on the Implementation of Order 01-1/92 of the ARK Secretariat of National Defence, pp. 1-3.

<sup>810</sup> ST140, P432.01, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 15 June 2004, T. 3735-3736 (confidential); P441, Conclusions of the Session of ARK Crisis Staff, cited in Official Gazette of the ARK, Decisions of 11 and 18 May 1992, pp. 15, 21.

277. On 13 and 14 May 1992, the ARK Crisis Staff tasked the Banja Luka CSB with implementing the decision on disarmament.<sup>811</sup> On 18 May 1992, it issued a further decision stating: “All formations that are not in the Army of the Serbian Republic of BiH or the Banja Luka Security Service Centre and are in the Autonomous Region of Krajina, are considered paramilitary formations and must be disarmed”.<sup>812</sup> Notwithstanding the general scope of this prescription, the Trial Chamber has received ample and consistent evidence that the disarmament operation targeted only citizens of Muslim or Croatian ethnicity. ST140, in relation to the municipality of Sanski Most, testified that the orders for disarmament only concerned Croats and Muslims and that Serbs did not have to surrender their weapons.<sup>813</sup> On 6 May 1992, in Donji Vakuf, Muslims were requested to lay down their arms.<sup>814</sup> On 28 May 1992, the Ključ Crisis Staff issued a final ultimatum to Muslims to surrender their weapons.<sup>815</sup>

278. Other evidence on the disarming of Muslims and Croats has been discussed in the sections dealing with crimes in municipalities.<sup>816</sup>

## 6. Dismissals of Muslims and Croats

279. Muslims and Croats were dismissed from key positions in the army, the police, the judiciary, local enterprises, the media, hospitals, and other public institutions and enterprises.<sup>817</sup> This process had already started during the war in Croatia when the refusal of non-Serbs to respond to mobilisation resulted in their dismissals. It escalated during the period relevant to the Indictment, resulting in the dismissals of almost all Muslims and Croats from their positions and thus depriving them of their livelihoods.<sup>818</sup> By the end of 1992, almost the entire Bosnian Muslim and Bosnian Croat community had been dismissed from their jobs. Many people who showed up for work during this period were turned back and denied access to their workplace. Generally speaking, people were sent home, told not to come back, and then fired soon thereafter.<sup>819</sup>

280. In May and June 1992, the ARK Crisis Staff issued several decisions prescribing criteria for employment in enterprises in the ARK. On 11 May 1992, for instance, it decided that “management

<sup>811</sup> P441, Official Gazette of the ARK, 5 June 1992, Decisions of 13 and 14 May 1992, pp. 17, 19.

<sup>812</sup> P441, Official Gazette of the ARK, 5 June 1992, Decision of 18 May 1992, p. 21.

<sup>813</sup> ST140, 4 December 2009, T. 4267-4268 (confidential); ST140, P432.01, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 15 June 2004, T. 3735-3736 (confidential). See also Sanski Most section.

<sup>814</sup> P1929, Report of SJB and Speech, 21 November 1992, p. 2; P1799, Letter from SJB Srbobran to the CSB Banja Luka Regarding Formation of Serb SJB in Donji Vakuf, 4 October 1993, p. 2; Adjudicated Fact 1153.

<sup>815</sup> Adjudicated Fact 554.

<sup>816</sup> See, for example, the sections on Kotor Varoš, Donji Vakuf, Prijedor, Višegrad, Vlasenica, Gacko, Sanski Most, Zvornik, and Doboj.

<sup>817</sup> Adjudicated Facts 752-754.

<sup>818</sup> Adjudicated Fact 753.

<sup>819</sup> Adjudicated Fact 754.



posts in Krajina enterprises must be filled by persons who are absolutely loyal to the Serbian Republic of Bosnia and Herzegovina”.<sup>820</sup>

281. On 22 May 1992, the ARK Crisis Staff issued a further decision by which, as part of the “standardisation of key staff”, it ordered that “all those in management positions whose appointment was based on party representation should be replaced”.<sup>821</sup> The need for “standardisation” and “loyalty to the Serbian people” in the RS was reiterated on 26 May 1992.<sup>822</sup> On this date, the 1<sup>st</sup> KK Command reported that the ARK Assembly had taken all possible measures to remove from important posts persons who had failed to meet their obligations and who had boycotted earlier mobilisations. Most of the officials relieved of duty were Muslims and Croats, with the addition of some “Serbian degenerates”.<sup>823</sup>

282. On 22 June 1992, the ARK Crisis Staff adopted a decision explicitly stating that all posts important for the functioning of the economy may only be held by personnel of Serb ethnicity. In addition, Bosnian Serb personnel were expected to have “confirmed their Serbian nationality” in the plebiscite and expressed their loyalty to the SDS. The presidents of the municipal Crisis Staffs were to report on the implementation of the decision.<sup>824</sup> Predrag Radić, President of the Banja Luka municipal assembly, testified that Muslims were dismissed from the police, post, hospitals, and schools in Krajina in 1992.<sup>825</sup>

283. On 28 August 1992, Tadeusz Mazowiecki, Special Rapporteur of the Commission on Human Rights, reported that a variety of measures were used to pursue ethnic cleansing and that Croats and Muslims employed in the public sector had been fired because of their ethnic origin. He further reported that tens of thousands of persons had been affected by such measures.<sup>826</sup>

284. The Chamber further recalls the evidence on dismissals of Muslims and Croats in a number of municipalities.<sup>827</sup>

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<sup>820</sup> P441, Official Gazette of the ARK, 5 June 1992, Decisions of 11 and 13 May 1992, pp. 15, 17; P2289, Amir Dzonlić, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 28 February 2002, T. 2444-2447. In the decision of 11 May 1992, the ARK Crisis Staff further prescribed that work plans of all Krajina enterprises had to be analysed and approved by the National Defence Council of the relevant municipality or by the War Staff of the ARK. Non-Serbs who managed to retain their positions due to a war time assignment were assessed by the Commission for the Standardisation of Staff, which in turn determined whether there were Serb citizens who could adequately replace non-Serbs still holding positions.

<sup>821</sup> P441, Official Gazette of the ARK, 5 June 1992, Decision of 22 May 1992, p. 27.

<sup>822</sup> P441, Official Gazette of the ARK, 5 June 1992, Decision of 26 May 1992, p. 29.

<sup>823</sup> P1809, 1<sup>st</sup> KK report, 26 May 1992, p. 3.

<sup>824</sup> P462, Decision of the ARK Crisis Staff concerning Criteria of Employment, 22 June 1992, p. 1; Adjudicated Fact 789.

<sup>825</sup> Predrag Radić, P2096, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 26 October 2004, T. 7409-7410.

<sup>826</sup> P1993, Mazowiecki August Report, para. 12.

<sup>827</sup> See, for example, the sections on Vogošća, Pale, Bosanski Šamac, Ključ, Teslić, Prijedor, Vlasenica, Gacko, Ilijaš, Sanski Most, Bileća, Banja Luka, and Doboj.

## 7. Takeovers of Municipalities and pattern of crimes

### (a) Takeovers

285. On the basis of the Bosnian Serb plebiscite, the SDS, special police units, and armed forces—including the JNA, paramilitary organisations, and local TO units—began to establish physical and political control over certain municipalities where the SDS had not already gained control by virtue of the elections.<sup>828</sup> The SDS representatives in public office established, in some cases, parallel municipal governments and separate police forces.<sup>829</sup> Physical control was asserted by positioning military units, tanks, and heavy artillery around the municipalities and setting up checkpoints to control the movement of non-Serbs.<sup>830</sup>

286. On 29 October 1991, Radoslav Brđanin, in his capacity as Coordinator for Implementing Decisions and Vice-President of the ARK Assembly, forwarded an order from Karadžić to an unidentified president of a municipal assembly. This order was made public at the meeting of all municipal presidents on 26 October 1991 in Banja Luka, which was chaired by Karadžić. Among other things, the order called for the immediate formation of a town command, the enhancement of the TO's mobility, the formation of units “for the front”, and the takeover of management in public enterprises, such the post office, the SDK, the bank, the judiciary, and the media.<sup>831</sup>

287. Bijeljina was the first municipality in BiH to be taken over by the Bosnian Serbs in 1992. Paramilitary groups, or so-called “volunteer units”, from Serbia arrived and began intimidating and terrorising local Muslims, as well as Serbs they considered “disloyal”. Many Muslims were killed. As a result, many of the remaining Muslims eventually left the territory.<sup>832</sup> When, in the course of her visit on 4 April, Biljana Plavšić asked Arkan to hand over control of Bijeljina to the JNA, he replied that he had not yet finished his “business” there and that he would settle the situation in Bosanski Brod next. Plavšić did not persist with her request and repeatedly praised the good job Arkan had done in saving the local Serb population from the threat of the Muslims. Plavšić also publicly thanked and kissed Arkan. This scene was met by shouts of approval from the local SDS members. At a dinner with UNPROFOR representative Cedric Thornberry on 20 April 1992, Plavšić described Bijeljina as a “liberated” town.<sup>833</sup>

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<sup>828</sup> Adjudicated Fact 94.

<sup>829</sup> Adjudicated Fact 95.

<sup>830</sup> Adjudicated Fact 96.

<sup>831</sup> P960.12, Transmission of the Order of SDS Sarajevo, 29 October 1991.

<sup>832</sup> Adjudicated Fact 1419.

<sup>833</sup> Adjudicated Fact 1429.

288. Milorad Davidović testified that Vojkan Đurković was involved in the removal of Muslims from Bijeljina. In mid-1993, Đurković showed Davidović a document signed by Krajišnik that authorised Đurković to resettle people in a “humane” way. Đurković told Davidović on several occasions that he was paid well to do this job, that he shared the money with Arkan, and that some of the money would be taken to Krajišnik and Karadžić. Sometimes Đurković personally delivered the money to them.<sup>834</sup>

289. The Chamber recalls that takeovers of other municipalities have been discussed above in the sections dealing with the events in each of the charged municipalities.

(b) Pattern of crimes

290. Following the takeovers of municipalities, crimes were committed by Serb Forces against Muslims and Croats. Several witnesses testified that this followed a recurring pattern.

291. Okun testified that the standard procedure for ethnic cleansing in BiH was that some trouble would be created and then the JNA would be called in to protect the Serbs. However, the JNA in fact cooperated with the Serb irregulars in the cleansing of Muslims and Croats.<sup>835</sup>

292. ST105 stated that, based on what he had seen and the reports that he had received, a systematic policy of ethnic cleansing was implemented between April and July 1992.<sup>836</sup> According to him, there were two distinct patterns of ethnic cleansing. The first pattern involved conquest and expulsion. Serb Forces would arrive at a town and the local Serb population would leave. Serb paramilitaries would then attack, expel the non-Serb population, and organise Serbs to repopulate the town. This pattern of ethnic cleansing occurred in areas where the municipal authorities were predominately Muslim, namely Bijeljina, Zvornik, Foča, Bratunac, Vlasenica, Rogatica, and other towns along the Drina River in eastern BiH. The second pattern involved Serb Forces exerting relentless pressure on non-Serb civilians to force them to leave. Threats, selective killings, arrests, deportations, expulsions, and the destruction of religious symbols were used by Serb Forces to pressure the non-Serb population to leave. This pattern occurred in areas controlled by Serb Forces and Bosnian Serb authorities, namely Sanski Most, Prijedor, Banja Luka, and other areas in Krajina.<sup>837</sup>

<sup>834</sup> Milorad Davidović, P1557.01, Witness Statement, 15 March 2005, para. 158; Milorad Davidović, P1557.04, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 10 June 2005, T. 14317-14320.

<sup>835</sup> Herbert Okun, P2195, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 25 June 2004, T. 4408-4409.

<sup>836</sup> ST105, P2208, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 28 August 2003, T. 20635-20636 (confidential).

<sup>837</sup> ST105, P2205, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 6 October 2004, T. 6797, 6799-6800, 6802-6803 (confidential).

293. ST105 explained that the first areas to be cleansed were the borders between BiH and Serbia, along the Drina River, with the exception of certain pockets of resistance around Goražde, Žepa, and Srebrenica. The borders between BiH and Montenegro were also cleansed, followed by the northern parts of BiH, around Banja Luka and along the border with Croatia. ST105 stated that the cleansing was carried out systematically, village by village, all along these borders. He also stated that it would have been impossible to plan, organise, and implement a systematic policy of this magnitude through the spontaneous or criminal actions of isolated radical groups.<sup>838</sup> According to ST105, towns and villages in BiH were being attacked not as military objects but rather for the sole purpose of driving the people away. In his view, the creation of a legion of displaced persons was not the consequence of military action, but the aim of it.<sup>839</sup> The basis of ST105's view was based on a variety of information showing a consistent and coherent pattern: a criminal strategy of cleansing areas of particular ethnic groups in order to make them ethnically homogenous. ST105 testified that this policy was promulgated by the SDS and the VRS.<sup>840</sup>

294. With respect to the destruction of Muslim symbols and Catholic churches, ST105 testified that he saw evidence of this in 25 or 30 villages and received reports of this happening in 50 to 60 villages. He described the destruction as systematic and part of a wider policy of destroying symbols of foreign cultures and rewriting history in the territories occupied by the radical Serbs, the SDS, and the VRS.<sup>841</sup> He also noted that he never saw a single mosque still standing in any of the territories he visited that were under Serbian control and that, up until he left BiH in 1993, he did not see any destruction of Serb Orthodox churches.<sup>842</sup> Predrag Radić confirmed that, throughout 1992, mosques were destroyed in municipalities across Krajina and stated that it was done to wipe out traces of the existence of Muslims from that territory. He stated that Velibor Ostojić conveyed the message from higher ranking persons that there should be no mosques.<sup>843</sup>

295. ST105 testified that attempts were made to legitimise the policy of ethnic cleansing.<sup>844</sup> He referred to an institution called the "Agency for the Movement of People and the Exchange of Properties", which was established on 12 June 1992 by the ARK Crisis Staff.<sup>845</sup> According to him, this agency was responsible for forcing people to renounce certain rights and even to pay money to

<sup>838</sup> ST105, P2208, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 28 August 2003, T. 20635-20636 (confidential).

<sup>839</sup> ST105, P2208, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 28 August 2003, T. 20620, 20622 (confidential).

<sup>840</sup> ST105, P2208, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 28 August 2003, T. 20622, 20632 (confidential).

<sup>841</sup> ST105, P2208, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 28 August 2003, T. 20648-20649 (confidential).

<sup>842</sup> ST105, P2208, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 28 August 2003, T. 20650 (confidential) and P2205, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 6 October 2004, T. 6803 (confidential).

<sup>843</sup> Predrag Radić, P2097, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 24 October 2004, T. 7468, 7473-7477 (confidential).

<sup>844</sup> ST105, P2208, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 28 August 2003, T. 20641 (confidential).

<sup>845</sup> ST105, P2208, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 28 August 2003, T. 20640-20641 (confidential); Adjudicated Fact 799.

be allowed to leave. The director of this agency was a man called Bojinović.<sup>846</sup> The Agency arranged convoys that left the municipality of Banja Luka twice a week, headed for central Bosnia, Croatia, or Serbia. In order to leave, Muslims and Croats had to follow a procedure set by the ARK Crisis Staff.<sup>847</sup> Similar agencies were also established at the municipal level.<sup>848</sup>

296. In May and June 1992, the ARK Crisis Staff passed several decisions that affected the property rights of people who had left the region.<sup>849</sup> On 11 May 1992, the ARK Crisis Staff decided that all able-bodied men between 18 and 55 years had to return to the municipality in order to assist their fellow citizens “in the fight against the enemy”. The decision stated that the movable and immovable property of those who did not return would be confiscated.<sup>850</sup> Amir Džonlić, a lawyer from Banja Luka of Muslim ethnicity,<sup>851</sup> testified that no previous laws allowed for confiscation of property under these circumstances. According to Džonlić, non-Serbs who had already left Banja Luka could not have known about this decision.<sup>852</sup> On 22 May 1992, the ARK Crisis Staff passed another decision by which a dwelling that had been unoccupied for 15 days could be used to house “the homeless”.<sup>853</sup> Previous laws had required six months for such an appropriation.<sup>854</sup> On the same date, the ARK Crisis Staff decided that all holders of tenancy rights who had left the ARK had three days to regulate their housing status. Failure to comply with this decision entailed that the flat owners would allocate them in accordance with the standards prescribed by the ARK Crisis Staff and the municipalities.<sup>855</sup> As a result of this decision, apartments of people leaving Banja Luka were taken over *en masse* and frequently citizens were evicted and forced to leave.<sup>856</sup> As of 19 June 1992, all abandoned property was to be proclaimed property of the state by municipal organs, and all the property of citizens who were not within the territory of the regions was confiscated.<sup>857</sup>

<sup>846</sup> ST105, P2208, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 28 August 2003, T. 20640-20641 (confidential).

<sup>847</sup> Amir Džonlić, P2288, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 27 February 2002, T. 2397-2401. This procedure included obtaining a certificate proving that the person did not have any criminal proceedings instituted against him or her; obtaining certificates from various public institutions stating that all the utility bills and taxes had been paid, with each certificate costing between 20 to 30 German Marks; going to the cadastre of the municipality of Banja Luka to certify that one did not own any real property; and last, stating that they were leaving the municipality of Banja Luka voluntarily and for economic reasons. Citizens were also obliged to pay 250 to 350 German Marks to the Defence Ministry, which was lowered to 50 German Marks. Finally, the price to be placed on a list to leave the municipality was 100 German Marks.

<sup>848</sup> Adjudicated Facts 799, 800.

<sup>849</sup> Amir Džonlić, P2289, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 28 February 2002, T. 2450.

<sup>850</sup> Amir Džonlić, P2289, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 28 February 2002, T. 2447-2448; P441, Official Gazette of the ARK, 5 June 1992, Decision of 11 May 1992, p. 15.

<sup>851</sup> Amir Džonlić, P2287, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 26 February 2002, T. 2292, 2296.

<sup>852</sup> Amir Džonlić, P2289, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 28 February 2002, T. 2450.

<sup>853</sup> Amir Džonlić, P2289, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 28 February 2002, T. 2457; P441, Official Gazette of the ARK, 5 June 1992, Decision of 22 May 1992, p. 26.

<sup>854</sup> Amir Džonlić, P2289, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 28 February 2002, T. 2457.

<sup>855</sup> P441, Official Gazette of the ARK, 5 June 1992, Decision of 22 May 1992, p. 28.

<sup>856</sup> Amir Džonlić, P2289, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 28 February 2002, T. 2457-2458.

<sup>857</sup> Amir Džonlić, P2289, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 28 February 2002, T. 2465.

297. Throughout the summer of 1992, ST105 had a number of meetings with Karadžić. He described Karadžić's attitude to the ethnic cleansing taking place as defensive in the sense that he would say that all parties were committing crimes and that all parties were violating basic human rights. Karadžić told him that, although it was likely that some Serbs were also committing crimes and violating basic human rights, they were not under his control. He also listed the many abuses allegedly committed against Serbs.<sup>858</sup>

298. Okun also testified that he raised the issue of widespread ethnic cleansing with the Bosnian Serb leadership, including Krajišnik. Rather than denying it, Krajišnik referred to the genocide committed against the Serbs in the Second World War and to the crimes being committed against Serbs.<sup>859</sup>

(c) Removal of Muslims and Croats from BiH and attempts to use UN organisations to assist in removal

299. The Trial Chamber heard evidence that the Bosnian Serb authorities, including Mladić, used international relief organisations to legitimise the expulsion of Muslims and Croats at the end of July 1992 in northwest BiH.<sup>860</sup> On 23 July 1992, approximately 4,000 Muslims and Croats had been expelled from their homes in Bosanski Novi and had been given deadlines to surrender their property and sign documents stating that they were leaving voluntarily.<sup>861</sup> On 23 July 1992, more than 9,000 persons crossed the border from BiH to Croatia.<sup>862</sup> Karadžić, Koljević, and Plavšić were informed of these events by an international official but responded that all parties were committing crimes and that these people were leaving voluntarily.<sup>863</sup>

300. ST105 testified that local police, the military, and radical groups pressured Muslim communities to leave through a systematic policy of harassment, discrimination, intimidation, and denial of access to humanitarian aid. ST105 added that Serbs insulted Muslims as they left BiH.<sup>864</sup> As an inducement to leave, some of the Muslim refugees were incorrectly informed by mayors and

<sup>858</sup> ST105, P2208, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 28 August 2003, T. 20626, 20628 (confidential).

<sup>859</sup> Herbert Okun, P2193, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 23 June 2004, T. 4191-4192.

<sup>860</sup> Charles Kirudja, P2244, Witness Statement, 29 September 1999, paras 122, 124; ST105, P2208, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 28 August 2003, T. 20630-20632 (confidential) and P2209, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 29 August 2003, T. 20720-20721 (confidential) and P2205, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 6 October 2004, T. 6785-6787 (confidential).

<sup>861</sup> ST105, P2205, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 6 October 2004, T. 6785-6787 (confidential).

<sup>862</sup> Charles Kirudja, P2244, Witness Statement, 29 September 1999, paras 122, 126, p. 32; Charles Kirudja, P2242, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 1 June 2004, T. 3181; P2270, Memorandum from Kirudja, 22 July 1992, p. 3.

<sup>863</sup> ST105, P2205, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 6 October 2004, T. 6789-6790 (confidential).

<sup>864</sup> ST105, P2205, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 6 October 2004, T. 6785-6787 (confidential).

local authorities in Bosanska Krajina that they would be transferred to Germany where they could work.<sup>865</sup>

301. It was evident to Charles Kirudja—Chief Civil Affairs Coordinator with UNPROFOR and UNPF in the UNPA Sector North in Croatia from April 1992 to March 1994<sup>866</sup>—that the Bosnian Serb authorities considered the exodus of 22 and 23 July 1992 as the “first round” and would ask for further evacuations of non-Serbs until the territory was fully cleansed.<sup>867</sup> Kirudja based this opinion on the various exchanges he and his staff had with Serb authorities, including Pašić, President of the Bosanski Novi Crisis Staff,<sup>868</sup> and Kuprešanin who each referred to specific numbers of additional potential refugees.<sup>869</sup>

302. On 1 June 1992, Kuprešanin told Paolo Raffone, the UN Civil Affairs Officer working for Kirudja at the time, that around 15,000 Muslims were thought to have left their original place of residence and were moving towards Dvor in Croatia and that another 15,000 refugees could be expected to head for Croatia soon thereafter. Kuprešanin appealed to UNPROFOR and western countries to protect the Muslim population and to provide humanitarian aid.<sup>870</sup>

303. On 12 August 1992, Kirudja had another meeting with SDS representatives where he was notified of a list of further 5,000 people who wished to leave the area of Bosanska Kostajnica.<sup>871</sup> Kirudja stated on this occasion that UNPROFOR refused to acquiesce to another evacuation.<sup>872</sup> On 18 August 1992, UNHCR issued a press release stating that it would not be used as a “travel agency” to implement the expulsion of Muslims from BiH.<sup>873</sup>

304. At Topuško on 19 August 1992, UNHCR and Civil Affairs received a delegation of nine representatives, both Muslims and Serbs, from Sanski Most, Bosanska Krupa, and Prijedor,

<sup>865</sup> ST105, P2205, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 6 October 2004, T. 6789-6790 (confidential).

<sup>866</sup> Charles Kirudja, P2244, Witness Statement, 29 September 1999, para. 1.

<sup>867</sup> Charles Kirudja, P2244, Witness Statement, 29 September 1999, para. 123.

<sup>868</sup> P2264, Letter from Radomir Pašić, President of the Bosanski Novi Crisis Staff, 6 July 1992.

<sup>869</sup> Charles Kirudja, P2242, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 1 June 2004, T. 3180.

<sup>870</sup> Charles Kirudja, P2241, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 28 May 2004, T. 3112-3114; P2253, Memorandum from Raffone to UNPROFOR and UNHCR Regarding Refugee Flow from BiH, 6 June 1992, pp. 2-3. On 6 July 1992, Kirudja received a letter from Mayor Pašić in which he requested UNPROFOR to guarantee safe passage to 1,233 Muslims from Bosanski Novi to Dvor. The letter stated that the individuals wished to leave and to go to Croatia, Slovenia, Austria, or Germany and were deregistered from permanent residence. The letter further read that those wishing to leave voluntarily resolved the status of their real estate predominantly through the exchange of their property with people of Serbian ethnicity from, among other places, Croatia and Slovenia and that a small number of Muslim citizens had sold or donated their real estate. See P2264, Letter from Radomir Pašić, President of the Bosanski Novi Crisis Staff, 6 July 1992.

<sup>871</sup> Charles Kirudja, P2244, Witness Statement, 29 September 1999, para. 131.

<sup>872</sup> Charles Kirudja, P2244, Witness Statement, 29 September 1999, para. 137.

<sup>873</sup> ST105, P2205, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 6 October 2004, T. 6803-6804 (confidential); P2218, Article from *The Guardian* titled “200,000 Bosnians Set to Leave”, written by Ed Vulliamy, 18 August 1992, p. 1 (confidential).

including Vlado Vrkeš, SDS President in Sanski Most.<sup>874</sup> Vrkeš said that 11,000 applicants wanted to leave. He then handed Kirudja a printed list with the names of 7,782 Muslims who “were ready” to leave “voluntarily”.<sup>875</sup> According to Vrkeš, the Sanski Most authorities believed that all people wishing to leave should be able to do so, adding that “[w]e offered all these people a declaration for their signature”. Such declarations stated that the signatories were leaving the area voluntarily, that they had no wish to return, and that they were leaving their property to the authorities in the area whence they were leaving.<sup>876</sup> The Muslim representative from Bosanska Krupa said that he was disappointed with UNHCR’s position, stressing that 80% of those wishing to leave had guarantees of accommodation and jobs elsewhere.<sup>877</sup> Kirudja stated that it was obvious that, in the presence of the Serbs, the Muslim representatives were going out of their way to underscore that the Muslims were being treated “correctly” by the Serbs.<sup>878</sup> Given the UN’s refusal to assist in any further evacuations of Muslims or other non-Serbs from northwest BiH, the issue of evacuations through the UNPAs was not raised again.<sup>879</sup>

305. By October 1992, the slow and steady stream of persons crossing the border into UNPA Sector North on a daily basis had steadily increased.<sup>880</sup> The Trial Chamber received evidence of the ethnic cleansing of Muslims and Croats from Banja Luka, Prijedor, Ključ, and Kotor Varoš.<sup>881</sup> Based on the information Kirudja received about displaced Muslims, it was apparent to him that the local Serb authorities in BiH and Croatia were trying to establish separate states in those countries.<sup>882</sup>

306. Charles McLeod, a member of the CSCE mission to Bosnia in August 1992,<sup>883</sup> testified that he observed a particular pattern of events in BiH pursuant to which males and females, young and old, were imprisoned. He testified that he was personally told that people were being held in camps “for their own safety”, ostensibly because they lived in combat zones. To McLeod it was clear that people had been removed from their homes and put into various camps, not for their own safety, but as part of a process of “getting rid of them”.<sup>884</sup>

<sup>874</sup> Charles Kirudja, P2244, Witness Statement, 29 September 1999, para. 138.

<sup>875</sup> Charles Kirudja, P2242, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 1 June 2004, T. 3187.

<sup>876</sup> Charles Kirudja, P2244, Witness Statement, 29 September 1999, para. 141. *See also* P1993, Mazowiecki August Report, para. 23.

<sup>877</sup> Charles Kirudja, P2244, Witness Statement, 29 September 1999, para. 144.

<sup>878</sup> Charles Kirudja, P2242, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 1 June 2004, T. 3190, 3192.

<sup>879</sup> Charles Kirudja, P2244, Witness Statement, 29 September 1999, para. 146.

<sup>880</sup> P2273, UNPROFOR memorandum regarding SITREP No. 7, 8 October 1992, pp. 2, 5.

<sup>881</sup> ST105, P2208, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 28 August 2003, T. 20657-20658 (confidential); P2228, p. 2 (confidential); P2229 (confidential), p. 3.

<sup>882</sup> Charles Kirudja, P2244, Witness Statement, 29 September 1999, paras 64-66, 68.

<sup>883</sup> Charles McLeod, 24 November 2010, T. 17712-17714.

<sup>884</sup> Charles McLeod, 24 November 2010, T. 17725-17727. *See also* P1599, Report of the CSCE Mission to Inspect Places of Detention in BiH, 29 August–4 September 1992, pp. 5-10.



307. On 28 August 1992, Tadeusz Mazowiecki, UN Special Rapporteur of the Commission on Human Rights, reported that BiH was the scene of massive and systematic violations of human rights and serious violations of international humanitarian law and that ethnic cleansing was the cause of these violations.<sup>885</sup> In a further report on 27 October 1992, Mazowiecki stated that the military conflict in BiH was aimed at achieving ethnic cleansing and that the Muslims were the principal victims who were “virtually threatened with extermination”.<sup>886</sup>

### **C. Findings**

308. The dissolution of Yugoslavia was a turbulent process. The new political establishment was faced with many questions, and different national agendas often clashed. The Chamber is not concerned with the question whether some of the concerns and positions of the Bosnian Serb leadership at the time, such as the fear of being dominated by Muslims in an independent BiH, were legitimate. The question before it is whether, on the basis of the evidence it has heard throughout this trial, a joint criminal enterprise, as charged in the Indictment, existed.

309. The Chamber finds that the aim of the Bosnian Serb leadership as of 1991 was for Serbs to live in one state with other Serbs in the former Yugoslavia. The Bosnian Serb leadership shared the idea of Greater Serbia. The main way of achieving this goal was through the preservation of Yugoslavia, in one form or another. Hence the view that Serbs from Serbia, Croatia, BiH, and Montenegro should live together in one state, which would include territory from each of those republics. However, Serb territories in these republics were not defined. Already in 1991, the Bosnian Serb leadership had started to take steps to resolve this situation by establishing SAOs across BiH.

310. Following the adoption of the declaration of independence in the BiH Assembly by the SDA and HDZ delegates on 15 October 1991, the SDS and the Bosnian Serb leadership intensified the process of territorial demarcation, an important part of which was the forceful assumption of control over territories. This was done through the setting up of separate and parallel Bosnian Serb institutions, such as the BSA on 24 October 1991 and eventually the RS with its separate government. The Bosnian Serb leadership initiated the process of establishing Serb municipalities. The main tool in this respect were the Variant A and B Instructions issued by the SDS leadership and implemented throughout BiH. Besides the aim to demarcate Serb territory, the main purpose of these Instructions was to prepare the local Serb communities and their leaders to take over power in the municipalities.

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<sup>885</sup> P1993, Mazowiecki August Report, para. 6.

<sup>886</sup> P1992, Mazowiecki October Report, paras 1, 5-6.

311. What followed were the violent takeovers of those municipalities and the ensuing widespread *and* systematic campaign of terror and violence resulting in crimes that the Chamber has found to have been committed. Throughout the Indictment period, the Bosnian Serb leadership was in charge of the events taking place in the municipalities through its control over the Serb Forces, SDS party structure, Crisis Staffs, and the RS Government. Even though at times there were conflicts between these various entities, the Chamber is satisfied that, nonetheless, they all shared and worked towards the same goal under the Bosnian Serb leadership. On the basis of the numerous statements of the Bosnian Serb leadership at the time, as narrated above, the Chamber finds that the goal of these actions was the establishment of a Serb state, as ethnically “pure” as possible, through the permanent removal of the Bosnian Muslims and Bosnian Croats.

312. In reaching this conclusion, the Trial Chamber considered evidence that on some occasions Serb leaders made statements that their aim was not an ethnically pure state or that international humanitarian law should be respected. However, in light of all the evidence, the Chamber finds that these statements do not reflect the true aims of the majority of the Bosnian Serb leadership.

313. On the basis of the evidence above, the Chamber is satisfied beyond a reasonable doubt that a common plan did exist, the objective of which was to permanently remove Bosnian Muslims and Bosnian Croats from the territory of the planned Serbian state through the commission of the crimes of: forcible transfer and deportation as persecution as a crime against humanity (count 1); deportation as a crime against humanity (count 9); and inhumane acts (forcible transfer) as a crime against humanity (count 10).<sup>887</sup> The joint criminal enterprise came into existence no later than 24 October 1991 and remained in existence throughout the Indictment period. The Chamber finds that there is insufficient evidence to find that other crimes alleged in the Indictment were part of this joint criminal enterprise.

314. The Chamber further finds that, due to their contribution and participation in the realisation of the common plan, the following persons named in the Indictment were members of the joint criminal enterprise: Radovan Karadžić, Momčilo Krajišnik, Biljana Plavšić, Nikola Koljević, Ratko Mladić, Momčilo Mandić, Velibor Ostojić, Momir Talić, Radoslav Brđanin, Milomir Stakić, and Simo Drljača. Moreover, based on the evidence discussed above—as well as the evidence analysed in the individual municipality sections and the factual and legal findings in those sections—the Trial Chamber finds that the following persons were also members of the JCE: Vojislav Kuprešanin, Vlado Vrkeš,<sup>888</sup> Mirko Vručinić,<sup>889</sup> Jovan Tintor,<sup>890</sup> Nedeljko Đekanović,<sup>891</sup> Savo

<sup>887</sup> See Indictment, paras 26(e)(g)(j), 27(e)(g)(j), 28, 37-41.

<sup>888</sup> See Sanski Most section.

<sup>889</sup> See Sanski Most section.

Tepić,<sup>892</sup> Stevan Todorović,<sup>893</sup> Blagoje Simić,<sup>894</sup> Vinko Kondić,<sup>895</sup> Malko Koroman,<sup>896</sup> Đorđe Ristanić,<sup>897</sup> Predrag Radić,<sup>898</sup> Andrija Bjelošević,<sup>899</sup> Ljubiša Savić, a.k.a. “Mauzer”,<sup>900</sup> Predrag Ješurić,<sup>901</sup> and Branko Grujić.<sup>902</sup> The foregoing persons form a plurality of persons. The Trial Chamber will determine whether the Accused were members of the JCE in the sections below dedicated to their individual criminal responsibility.

315. The Trial Chamber therefore finds that it has been established beyond a reasonable doubt that the first and the second elements of joint criminal enterprise have been satisfied.

316. The objective of the JCE was implemented by the members of the JCE by using Serb Forces as physical perpetrators to carry out the *actus reus* of the crimes. The physical perpetrators are identified with more specificity in the factual and legal findings of the individual municipality sections above. Moreover, the question of whether there was a link between the physical perpetrators and a member of the JCE is examined in the section on individual criminal responsibility.

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<sup>890</sup> See Vogošća section.

<sup>891</sup> See Kotor Varoš section.

<sup>892</sup> See Kotor Varoš section.

<sup>893</sup> See Bosanski Šamac section.

<sup>894</sup> See Bosanski Šamac section.

<sup>895</sup> See Ključ section.

<sup>896</sup> See Pale section.

<sup>897</sup> See Brčko section.

<sup>898</sup> See Banja Luka section.

<sup>899</sup> See Doboj section.

<sup>900</sup> See Bijeljina section.

<sup>901</sup> See Bijeljina section.

<sup>902</sup> See Zvornik section.

#### IV. RE-SUBORDINATION

317. The issue of the re-subordination of police to the military was intensely contested during the course of the trial. The central question was whether the Accused could be held criminally responsible for the actions of the members of the police who committed crimes while they may have been re-subordinated to the JNA or the VRS. The parties did not agree on whether and which crimes were committed by the re-subordinated policemen.

318. In its Final Trial Brief, the Prosecution argues that re-subordination of police units to the army was a formal process for a limited time and purpose and that none of the crimes alleged in the Indictment were committed by re-subordinated policemen. In its view, the evidence also shows that in cases of re-subordination, police authorities retained authority over policemen and were still under a duty to investigate and punish them for serious crimes committed during re-subordination.<sup>903</sup>

319. The Defence of Stanišić submits that, once MUP forces were re-subordinated to the military, they became army conscripts and were subject to all military laws and regulations.<sup>904</sup> Similarly, the Defence of Župljanin argues that re-subordinated policemen lost their status as such and became soldiers. It therefore submits that Župljanin is not responsible for crimes committed by police officers who were re-subordinated and that the responsibility to investigate and prosecute re-subordinated policemen rested with the military judiciary.<sup>905</sup>

320. The Trial Chamber has analysed the evidence it has received on the issue of re-subordination. Both the Prosecution and the Defence teams have drawn the attention of the Trial Chamber to Article 104 of the Law on All People's Defence of the SFRY (1982), which provides that:

In war, in time of an immediate threat of war and in other emergencies, the police may be used for carrying out combat activities for the armed forces in accordance with the law. During its engagement for combat activities in the armed forces the police shall be under the command of the authorised officer in charge of the combat activity. The reserve forces of the police shall be reinforced by military conscripts.<sup>906</sup>

321. Slavko Lisica, a former high-ranking officer of the JNA and the VRS,<sup>907</sup> testified that according to SFRY military doctrine, all forces—including police forces—within a particular

<sup>903</sup> Prosecution Final Trial Brief, para. 5.

<sup>904</sup> Stanišić Final Trial Brief, paras 209, 211-212.

<sup>905</sup> Župljanin Final Trial Brief, paras 227-232, 245-249, 251.

<sup>906</sup> L1, The Law on All People's Defence, p. 67. *See also* 1D662, Expert Report by Bajagić, p. 182; ST027, 5 October 2009, T. 794.

<sup>907</sup> Slavko Lisica, 1 March 2012, T. 26862, 26891-26892.

geographical zone of responsibility were automatically subordinated to the commander of that zone. In this way, all police forces in the zone of the Tactical Group Dobož, of which he was the commander from 24 June 1992 to 1993, were directly subordinated to him. These police forces reported to Lisica and he used them in combat operations. Lisica stated that police officers who had been re-subordinated to his command lost their civilian status and participated in combat activities with all the rights and duties of ordinary soldiers.<sup>908</sup>

322. Lisica stated that he had close discussions with Andrija Bjelošević, the former Chief of the CSB Dobož,<sup>909</sup> to reach amicable agreements on the occasional re-subordination of police officers for particular combat operations during which Lisica would be in command and have the power to issue orders which had to be obeyed.<sup>910</sup> Lisica's re-subordination of police forces was based on an order from General Momir Talić on 1 July 1992 according to which all police forces had to be placed under the command of the zone commander during the conduct of combat activities.<sup>911</sup>

323. Lisica testified that police forces were mainly used to hold certain positions and not as assault troops. Individual policemen would usually not be dispersed throughout the army, but would serve together as a unit under their police station commander.<sup>912</sup>

324. Lisica further testified that, if a policeman committed an offence while he was subordinated to the army, the military judiciary system would be responsible for investigating and prosecuting the re-subordinated policeman. He stated that only military courts had jurisdiction over police officers who committed crimes while re-subordinated to the army. In his view, military prosecutors and courts remained in charge of investigating and prosecuting such crimes even after re-subordinated police officers returned to their original police units. As a commander, Lisica was able to impose disciplinary measures on re-subordinated police officers. Such measures included transfers, dismissals, and the use of military remand prison.<sup>913</sup>

325. Srboljub Jovićinac, who served as Deputy Prosecutor with the basic military prosecutor's office in Banja Luka from October 1992,<sup>914</sup> testified that a military court had jurisdiction over all criminal offences committed by military personnel. He stated that Article 3 of the RS Law on the Army provides that members of the army are soldiers, cadets at military academies, active members

<sup>908</sup> Slavko Lisica, 1 March 2012, T. 26863-26864, 26866, 26970-26971, 26878, 26892, 26975.

<sup>909</sup> Andrija Bjelošević, 12 April 2011, T. 19418.

<sup>910</sup> Slavko Lisica, 1 March 2012, T. 26868-26869, 26874-26875. In this respect Lisica clarified that his orders regarding the re-subordination of police were officially phrased as "requests", but were nonetheless treated as orders. *See* Slavko Lisica, 1 March 2012, T. 26931-26932, 26943-26945.

<sup>911</sup> Slavko Lisica, 1 March 2012, 26976-26978; 1D406, Order signed by General Talić, 1 July 1992, p. 2.

<sup>912</sup> Slavko Lisica, 1 March 2012, T. 26876, 26933; 2 March 2012, T. 27015.

<sup>913</sup> Slavko Lisica, 1 March 2012, T. 26938-26940, 26972, 26976; Slavko Lisica, 2 March 2012, T. 27013.

<sup>914</sup> Srboljub Jovićinac, 23 February 2012, T. 26729.

of the military, and reserve personnel while on military duty in the army. Unless a person fell within this definition or committed a crime under Article 13 of the Law on Military Courts, military courts did not have criminal jurisdiction.<sup>915</sup>

326. According to Jovičinac, however, civilian police officers who were re-subordinated to the army did not fall within the definition in Article 3. He stated that it is an individual's registered status that determines jurisdiction and that temporary re-subordination does not change the status of a police officer. However, he also stated that this issue had never been clarified in practice and that the law was not clear on the question whether a military court had jurisdiction to try police officers who committed crimes while re-subordinated to the army. In light of this ambiguity, Jovičinac testified that, as a military prosecutor, he would have referred such cases to civilian courts because those cases would most likely have been dismissed by the military courts for lack of jurisdiction on the basis that a civilian policeman is not a registered member of the army. He did not come across such cases while he was a military prosecutor.<sup>916</sup>

327. However, Jovičinac explained that military prosecutors had the authority to investigate and prosecute re-subordinated civilian police officers who committed crimes that were exclusively within the jurisdiction of military courts. According to Article 13 of the Law on Military Courts, such crimes included crimes committed against the armed forces and against the security and integrity of the state. For example, if a re-subordinated policeman had disobeyed an order to fire at an enemy tank, he would be tried by a military court because disobeying an order is a crime that falls under the exclusive jurisdiction of military courts. However, in Jovičinac's view, war crimes outside the scope of Article 13 of the Law on Military Courts do not fall within the exclusive jurisdiction of military courts.<sup>917</sup>

328. According to Mladen Bajagić, a Defence expert on the MUP,<sup>918</sup> cases of re-subordination had to be initiated by an appropriate request issued by the competent authority. In his view, re-subordinated police units were temporarily removed from the chain of command and responsibility of the MUP and placed into the chain of command of the military. During their assignment, thus, the re-subordinated police units acted as military rather than police units and had assumed the status

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<sup>915</sup> Srboľjub Jovičinac, 23 February 2012, T. 26732, 26753-26755, 26760-26761; P1284.07, Law on Military Courts, December 1976, pp. 2-3. Article 13 of the Law on Military Courts refers to a number of crimes stipulated in the SFRY Criminal Code such as an offence directed at undermining the military or defensive power of the state. L51, RS Law on the Army, p. 1.

<sup>916</sup> Srboľjub Jovičinac, 23 February 2012, T. 26738-26741, 26754-26756, 26793-26794, 26797, 26850-26853.

<sup>917</sup> Srboľjub Jovičinac, 23 February 2012, T. 26740, 26827-26828, 26830, 26846-26847; P1284.07, Law on Military Courts, December 1976, Articles 12-13; L11, SFRY Criminal Code, Articles 114-122.

<sup>918</sup> Oral Decision of 2 May 2011, T. 20016; Oral Decision of 8 July 2011, T. 23070.

of military personnel. As such, they were obliged to execute orders from the military superiors and were subject to military discipline and military criminal justice system.<sup>919</sup>

329. Vitomir Žepinić, former Deputy Minister of the SRBiH MUP,<sup>920</sup> testified that in the SFRY the federal Presidency could make a decision to re-subordinate police forces to the army. What was required was a declaration by the Presidency that an imminent threat of war existed. If there were such a declaration, then the re-subordinated police would be subject to the military rules on discipline. In cases where there was no such declaration, the MUP was responsible for disciplinary matters.<sup>921</sup>

330. On 15 May 1992, Mićo Stanišić issued an order stating that the use of MUP units in coordinated action with the armed forces of the RS could be ordered by the Minister of Interior, the commander of the police detachment for the Sarajevo CSB, and the Chief of the CSB for the territory under his jurisdiction. The order further stated that, while participating in combat operations, the MUP units were to be subordinated to the command of the armed forces; however, the MUP unit was to be under the direct command of the head of that unit.<sup>922</sup>

331. Christian Nielsen, the Prosecution expert on RS MUP, testified that, when subordinated to the VRS for the purpose of combat activities, MUP forces were directly commanded by a MUP employee designated for that specific operation.<sup>923</sup>

332. When shown Stanišić's order of 15 May 1992, Aleksandar Krulj, former Chief of the Ljubinje SJB from 1991 to 1994,<sup>924</sup> testified that the MUP official who commanded the re-subordinated MUP unit would be re-subordinated to the relevant military commander and would thus be part of the military hierarchy. In his view, the members of the re-subordinated MUP unit would then become members of the army and would be held accountable under military rules. Krulj further explained that, when he re-subordinated a police unit to a brigade (military) commander, that police unit, while it was with the army, was not duty-bound to send any reports to Krulj, nor was Krulj required to send reports to the police unit because during that time they were no longer policemen.<sup>925</sup>

<sup>919</sup> 1D662, Expert Report by Bajagić, pp. 183-184. *See also* Goran Mačar, 6 July 2011, T. 22922.

<sup>920</sup> Vitomir Žepinić, 28 January 2010, T. 5686.

<sup>921</sup> Vitomir Žepinić, 28 January 2010, T. 5697-5700.

<sup>922</sup> 1D46, Order by Mićo Stanišić Organising RS MUP Forces into War Units, 15 May 1992, p. 2. *See also* Drago Borovčanin, 23 February 2010, T. 6678-6679.

<sup>923</sup> Christian Nielsen, 14 December 2009, T. 4772.

<sup>924</sup> Aleksandar Krulj, 26 October 2009, T. 1966.

<sup>925</sup> Aleksandar Krulj, 27 October 2009, T. 2080-2081, 2092-2093.

333. Andrija Bjelošević, Chief of Doboj CSB, testified that Stanišić's order of 15 May 1992 was issued in accordance with the law and that the order was followed in practice. He explained that, once a company of re-subordinated policemen was established, it would be commanded by a policeman, who would be under the command of the military. When Bjelošević participated in "Operation Corridor", there were four police companies under his command, and he himself was subordinated to the commander of the Tactical Group 3 of the army. Bjelošević stated that, during re-subordination, policemen were subject to military rules and discipline.<sup>926</sup>

334. Sreto Gajić, a former police inspector and head of police defence preparations,<sup>927</sup> testified that a police unit, when it was re-subordinated to the army, would be organised within a certain military formation (a squad, a company, a battalion). It would still be under the command of the head of that police unit, but this police commander would report on the combat activities to the commander of the military unit to which the police unit was re-subordinated. The police commander and all policemen from the re-subordinated unit became part of the military command structure and was exempt from the MUP command structure. According to Gajić, if a re-subordinated policeman were to commit a crime during the time of re-subordination, measures against him would probably have to be taken by the military judiciary.<sup>928</sup>

335. Radomir Njeguš, a Serb lawyer, was the Chief of uniformed police at the Sarajevo SUP in 1990 and in 1991, Chief of the Cabinet of Mićo Stanišić in 1992, and then Chief of the administration for legal, personnel, and alien affairs also in 1992. He testified that a police unit engaged in combat activities would be part of the VRS and was subordinate to the VRS. If a police member committed a crime during such re-subordination, then it was the military that was responsible for an investigation. If the crime were discovered after that unit returned to its ordinary police duties, the military would still be primarily responsible for the investigation. The police would cooperate in this investigation. If the re-subordinated police member committed a crime during the exercise of a regular policing task, then civilian police authorities would investigate the crime.<sup>929</sup>

336. ST027, a former policeman of Croat ethnicity,<sup>930</sup> agreed that, if a police officer re-subordinated to the military committed a crime, he was subject to military jurisdiction. It was

<sup>926</sup> Andrija Bjelošević, 15 April 2011, T. 19651-19656. *See also* 1D406, Order by Momir Talić Assigning Zones of Responsibility, 1 July 1992; 1D468, Order to Attack by Slavko Lisica, 7 September 1992.

<sup>927</sup> Sreto Gajić, 15 July 2010, T. 12799.

<sup>928</sup> Sreto Gajić, 15 July 2010, T. 12856-12861.

<sup>929</sup> Radomir Njeguš, 7 June 2010, T. 11292-11294, 11342, 11344-11345.

<sup>930</sup> ST027, 2 October 2009, T. 715-716, 728 (confidential).



ST027's understanding that, in times of war or imminent danger of war, the entire police function including civil law enforcement was subject to the military command.<sup>931</sup>

337. ST172, a former VRS officer,<sup>932</sup> testified that civilian police sent by the SJBs to provide security to Manjača became subordinated to the army as soon as they arrived at the camp. The re-subordination implied that, if a civilian policeman committed a disciplinary violation or a crime while on duty in Manjača, it would be up to the camp commander or the military courts, respectively, to sanction the disciplinary infraction or to prosecute the crime. ST172 however added that, if criminal proceedings were initiated against a civilian policeman, the Chief of the SJB from which that policeman was re-subordinated would be notified.<sup>933</sup>

338. ST139, a military judge, testified that when the civilian police participated in combat they were re-subordinated to military commands. This meant that during such periods the civilian police were considered part of the army and that the sole jurisdiction for any crimes committed by the police during that time was with the military judiciary system. If, however, the police acted in an area that was not affected by the war, it was the responsibility of the civilian police to investigate. ST139 gave the example of police guards at Manjača camp, a situation that according to him did not amount to a combat operation. However, he also stated that, because the prisoners at the camp enjoyed the protection of international humanitarian law, any crime against them was under the jurisdiction of military courts. ST139 further testified that, if—during a police operation to conduct a house-to-house search for weapons after the shelling of a neighborhood of Sanski Most—a policeman committed a crime, he was subject to the civilian police and judiciary.<sup>934</sup>

339. Vidosav Kovačević, a retired general who served in the JNA and VRS from 1977 to 2009,<sup>935</sup> testified that, when police were used for combat activities, they were always subordinated to the military officers in charge of those combat activities and were under the jurisdiction of the military judiciary.<sup>936</sup>

340. Nenad Krejić, the Chief of the Skender Vakuf SJB from June 1991 to September 1992,<sup>937</sup> testified that from April 1992 onwards the local army command requested assistance of police forces for particular combat operations. The army would then assume command and control of

<sup>931</sup> ST027, 5 October 2009, T. 796-798, 830.

<sup>932</sup> ST172, 21 January 2010, T. 5250, 5255-5256, 5269-5270 (confidential).

<sup>933</sup> ST172, 21 January 2010, T. 5267-5268.

<sup>934</sup> ST139, 12 April 2010, T. 8501-8502, 8555-8559 (confidential) and 13 April 2010, T. 8574-8575, 8581-8583, 8609, 8610 (confidential) and 14 April 2010, 8686-8687 (confidential).

<sup>935</sup> Vidosav Kovačević, 5 September 2011, T. 23619; 2D158, CV of Expert Witness Vidosav Kovačević, 23 November 2010, p. 2.

<sup>936</sup> Vidosav Kovačević, 5 September 2011, T. 23648; 6 September 2011, T. 23717-23718; 8 September 2011, T. 23813.

<sup>937</sup> Nenad Krejić, 1 September 2010, T. 14026-14028.

those policemen for that particular purpose. When that operation was completed, the policemen would be returned to their civil command. In addition, the Supreme Command could also call for the use of the police units.<sup>938</sup>

341. Mićo Stanišić stated that, according to both the SFRY and RS law, the military could order the mobilisation of MUP members for tasks and duties. In such cases, the members of the MUP would come under the command of the relevant military officer. If they committed crimes, they would be within the competence of military courts.<sup>939</sup>

342. On the basis of the evidence above, the Trial Chamber is unable to find whether it was the military or the civilian authorities which may have been responsible for the investigation and prosecution of crimes against Muslims and Croats which may have been committed by policemen re-subordinated to the military. The Chamber considers that the question of the Accused's criminal responsibility for actions of re-subordinated policemen is primarily of importance for their responsibility pursuant to Article 7(3) of the Statute. The Chamber has already found that there existed a joint criminal enterprise, the objective of which was to permanently remove Bosnian Muslims and Bosnian Croats from the territory of the planned Serbian state. In the subsequent sections of the Judgement, the Chamber finds that the members of the police, the JNA, and the VRS were all used as tools in the furtherance of the joint criminal enterprise and that the Accused were members of this enterprise. The Chamber will therefore consider whether the actions of policemen, which the Defence claims were re-subordinated to the military at the time of the commission of the crimes,<sup>940</sup> can be imputed to a member of the JCE and ultimately to the Accused.<sup>941</sup> It will do so in the section dealing with the Accused's individual criminal responsibility. In light of this, the Chamber finds that it is not necessary to make any further findings on the issue of re-subordination.

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<sup>938</sup> Nenad Krejić, 2 September 2010, T. 14133-14134.

<sup>939</sup> P2302, OTP Interview with Mićo Stanišić, 17-21 July 2007, pp. 28-29.

<sup>940</sup> See Župljanin Final Trial Brief, paras 252-338.

<sup>941</sup> *Martić* Appeal Judgement, paras 168, 171-172.

## V. INDIVIDUAL CRIMINAL RESPONSIBILITY

### A. Responsibility of Stojan Župljanin

#### 1. The alleged participation of Stojan Župljanin in JCE

343. The Indictment alleges that Stojan Župljanin was the Chief of the Banja Luka CSB from 1991 onwards, and a member of the ARK Crisis Staff from at least 5 May 1992 until July 1992.<sup>942</sup>

#### (a) Charges under Article 7(1) of the Statute

344. The Indictment charges Stojan Župljanin with individual criminal responsibility under Article 7(1) of the Statute for crimes referred to in Articles 3 and 5 of the Statute in the municipalities of Banja Luka, Donji Vakuf, Ključ, Kotor Varoš, Prijedor, Sanski Most, Skender Vakuf, and Teslić (“ARK Municipalities”), which he is alleged to have committed through his participation in a JCE.<sup>943</sup> According to the Indictment, Župljanin, acting through the positions he held and their attendant powers, participated in the JCE in concert with other members,<sup>944</sup> from no later than 1 April 1992 until at least 31 December 1992, with the intent to commit each of the crimes enumerated in Counts 1 through 10 and was aware that his conduct occurred in the context of an armed conflict and was part of a widespread or systematic attack directed against a civilian population.<sup>945</sup>

345. In the alternative, the Indictment charges that, insofar as the crimes enumerated in Counts 1 to 8 were not within the objective of the JCE, these crimes were foreseeable consequences of the execution of the JCE and Stojan Župljanin “willingly took that risk”.<sup>946</sup>

346. In the further alternative, the Prosecution alleges that if Stojan Župljanin was not a member of the JCE, he aided and abetted through his conduct in the perpetration of all of the crimes described in paragraph 12 of the Indictment. The Prosecution further charges Stojan Župljanin with ordering, planning, and instigation in relation to the acts listed in paragraph 12 (d)-(g) of the Indictment and alleges that he directly intended or was aware of the substantial likelihood that the execution of his plans and orders, and/or the carrying out of the acts and conduct which he instigated, would involve or result in the crimes charged in the Indictment.<sup>947</sup>

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<sup>942</sup> Indictment, para. 3.

<sup>943</sup> Indictment, paras 5, 6, 12.

<sup>944</sup> Indictment, para. 8.

<sup>945</sup> Indictment, paras 10, 12(a)-(g), 13.

<sup>946</sup> Indictment, para. 14.

<sup>947</sup> Indictment, para. 16.

(b) Charges under Article 7(3) of the Statute

347. The Indictment alleges that Stojan Župljanin, as Chief of the Banja Luka CSB, was the most senior police officer in the ARK, subordinated only to Mićo Stanišić. As such, he had overall authority and responsibility for the functioning of the members and agents of the RS MUP within the ARK. Accordingly, the Indictment charges Župljanin with individual criminal responsibility for the acts and omissions of his subordinates under Article 7(3) of the Statute. It alleges that, as the Chief of the Banja Luka CSB and police representative in the ARK Crisis Staff, Župljanin exercised *de jure* and *de facto* command and control over members and agents of the RS MUP in the ARK who participated in crimes alleged in the Indictment.<sup>948</sup> The Indictment alleges that Župljanin knew or had reason to know that the crimes alleged in the Indictment were about to be or had been committed by his subordinates, and that he failed to take necessary and reasonable measures to prevent such acts or to punish the perpetrators thereof. In this context, the Indictment alleges that Župljanin's duties included obligations to investigate the crimes, to put an end to the criminal activity, to impose appropriate punitive measures, and to take measures to prevent or deter further criminal acts by members and agents of RS MUP.<sup>949</sup>

2. Stojan Župljanin's role and authority(a) Background, education, and career

348. Stojan Župljanin was born on 22 September 1951 in the village of Maslovare, in the municipality of Kotor Varoš.<sup>950</sup> In 1975, after graduating from law school, he started working at the Municipal Secretariat of Internal Affairs (which at the time was called "SUP") in Banja Luka, where he also taught trainees.<sup>951</sup> At the end of the 1970s he became Chief of the Mejdan police station in Banja Luka.<sup>952</sup> After three years at the Mejdan police station, Župljanin was transferred to the Centar police station in Banja Luka, where he worked first as Deputy Commander, then as Assistant Commander, and finally, in 1981, as Chief of the station.<sup>953</sup> In the early 1980s, he was deployed in Kosovo as Deputy Commander of the joint BiH police force.<sup>954</sup>

349. On 25 January 1991, Zoran Aleksić and Radoslav Brđanin, members of the Čelinac SDS municipal board, wrote to the Banja Luka SDS municipal board to give their "unreserved support"

<sup>948</sup> Indictment, paras 18, 21-22.

<sup>949</sup> Indictment, para. 23.

<sup>950</sup> Stojan Župljanin's Initial Appearance, 23 June 2008, IT-99-36-1, T. 11-12. The Trial Chamber will only rely on Župljanin's initial appearance to determine his date and place of birth and his education.

<sup>951</sup> Stojan Župljanin's Initial Appearance, 23 June 2008, Case No. IT-99-36-1, T. 11-12; SZ003, 20 September 2011, T. 24466 (confidential).

<sup>952</sup> SZ003, 20 September 2011, T. 24466 (confidential).

<sup>953</sup> Anto Đebro, 2D141, Witness Statement, 22 March 2011, p. 2; SZ023, 7 October 2011, T. 24643 (confidential).

to Stojan Župljanin for the post of Head of the Banja Luka CSB.<sup>955</sup> On 6 May 1991, Alija Delimustafić, Minister of Interior of SRBiH, appointed Župljanin as Chief of the Banja Luka CSB.<sup>956</sup>

(b) Appointment as Chief of Banja Luka CSB of RS MUP

350. The Trial Chamber has discussed in the section dedicated to the RS MUP that, in April 1992, the RS MUP was created as a separate body from the SRBiH MUP.<sup>957</sup> On 11 April 1992, the ARK Assembly appointed Župljanin as “chief of Center for security services of ARK.”<sup>958</sup> On the same date, Vojislav Kuprešanin, who was President of the ARK Assembly and a prominent member of the SDS,<sup>959</sup> wrote to the RS MUP to express the Assembly’s unanimous support for the appointment of Župljanin as Chief of the CSB Banja Luka in the newly created RS MUP.<sup>960</sup> On 15 May 1992, Mićo Stanišić, Minister of Interior of RS, appointed Župljanin to this position.<sup>961</sup>

351. On 27 March 1992, on the occasion of the adoption of the Constitution by the BSA, the Banja Luka CSB was assigned the territory of the ARK as its area of responsibility.<sup>962</sup> By 6 May 1992, the Banja Luka CSB had in its areas of responsibility the SJBs of all of the ARK Municipalities. By 11 May 1992 the Banja Luka CSB was reportedly in “total control” of 25 police stations in the ARK.<sup>963</sup> Predrag Radić, the president of the Banja Luka municipal assembly,<sup>964</sup> testified that Župljanin was the leading representative of the RS MUP in the ARK.<sup>965</sup>

352. In the chapters dealing with the alleged existence of a JCE and with Mićo Stanišić’s alleged membership therein, the Trial Chamber has reviewed evidence concerning a meeting of the Main and Executive Boards of the SDS held on 14 February 1992 in Sarajevo, where Radovan Karadžić

<sup>954</sup> SZ003, 20 September 2011, T. 24466-24469 (confidential); ST027, 2 October 2009, T. 716-717 (confidential).

<sup>955</sup> ST174, P1098.01, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 8 April 2002, T. 3861-3862 (confidential); P1098.12, Letter from the Čelinac SDS Municipal Board to the Banja Luka SDS Municipal Board, 25 January 1991.

<sup>956</sup> ST213, 4 March 2010, T. 7204 (confidential); P2043, Decision on the Appointment of Stojan Župljanin as Chief of the Banja Luka CSB, 6 May 1991.

<sup>957</sup> The creation of the RS MUP is discussed in the chapter of this Judgement dedicated to the MUP.

<sup>958</sup> 1D776, Appointment of Stojan Župljanin as Chief of Centre for Security Services of ARK, 11 April 1992.

<sup>959</sup> ST174, P1098.03, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 10 April 2002, T. 4051 (confidential).

<sup>960</sup> P1417, Letter from the President of the ARK Assembly to the RS MUP, 11 April 1992.

<sup>961</sup> P458, Decision on the Appointment of Stojan Župljanin as Chief of the Banja Luka CSB of the RS MUP, 15 May 1992.

<sup>962</sup> P353, Telex Message from Momčilo Mandić, Assistant Minister of Internal Affairs of the RS, 31 March 1992, p. 1; P960.24, Information on the Work of the Ključ SJB during Combat Operations, July 1992, pp. 3, 4.

<sup>963</sup> P560, Article published in the newspaper *Glas* titled “We Guarantee Peace”, 12 May 1992, p. 1; P367, Conclusions reached at the Meeting of the Banja Luka CSB on 6 May 1992, p. 1, 20 May 1992; Adjudicated Fact 1214.

<sup>964</sup> Muharem Krzić, P459.05, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 14 February 2002, T. 1746-1747; ST174, P1098.03, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 10 April 2002, T. 4064-4067 (confidential); ST183, P1295.06, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 13 March 2003, T. 15766 (confidential); Predrag Radić, P2100, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 3 November 2003, T. 21945 (confidential); Momčilo Mandić, P1318.08, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 7 December 2004, T. 9284; Vladimir Tutuš, 15 March 2010, T. 7605; P459.07, SDA Banja Luka Report to the BiH Mission to the UN, 30 September 1992, p. 2.

<sup>965</sup> Predrag Radić, P2096, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 26 October 2004, T. 7388.

called for the formation of municipal executive boards and other municipal organs, followed by mobilisation of Serb Forces to takeover Variant A municipalities and monitor Variant B municipalities. In a phone conversation of 13 February 1992 between Radovan Karadžić and Jovan Čizmović, a Serb ARK politician,<sup>966</sup> the latter asked Karadžić to meet “tomorrow” and told him that “Stojan” would have liked to come too. Karadžić replied that they could meet during “breaks.”<sup>967</sup> The Prosecution has tendered in evidence a receipt of the Holiday Inn Hotel in Sarajevo concerning the stay of members of the “SDS Assembly” for 14 and 15 February 1992. The receipt includes the names of Vojislav Kuprešanić, Radislav Vukić, and Radoslav Brđanin. It also lists a person named “Župljanin” to have arrived at the hotel on 14 February 1992 and departed on the following day.<sup>968</sup> Based on this evidence, and considering the presence of a number of top ARK leaders at the SDS meeting as shown by the receipt, the Trial Chamber is satisfied that the “Stojan” referred to in the conversation is Stojan Župljanin, the Accused, and, in conjunction with the hotel receipt listing a guest registered as Župljanin, it finds that he was present at the SDS meeting on 14 February 1992, where he was scheduled to meet with Karadžić.

353. On 5 May 1992, Župljanin became a member of the newly created ARK Crisis Staff. In a report of 2 September 1992 concerning a meeting with ICRC representatives on the closure of the detention camps, the Assistant Commander for Information and Legal Affairs of the 1<sup>st</sup> KK qualified Župljanin as the “Minister of Interior” of the ARK.<sup>969</sup>

(c) Stojan Župljanin’s duties and authority as Chief of Banja Luka CSB

354. Pursuant to Article 10 of the RS Constitution, RS citizens had equal rights in their freedom, rights, and obligations, and they were equal before the law and enjoyed the same legal protection regardless of race, sex, language, ethnic origin, religion, social background, birth, education, financial situation, political and other beliefs, social position, or other personal attributes.<sup>970</sup> Pursuant to Article 42 of the LIA of the RS, RS MUP authorised officials had the duty to protect the constitutional order and the lives and personal security of the national population. Župljanin also had the duty to prevent the commission of criminal offences and, when prevention was not possible, to capture their perpetrators. He was duty-bound to carry out activities and tasks related to maintaining law and order at all times, regardless of whether he was on duty and whether he had

<sup>966</sup> Predrag Radić, P2100, *Prosecutor v. Brđanin*, Case No. IT-99-36-T, 3 November 2003, T. 21990.

<sup>967</sup> P870, Transcript of Intercepted Conversation between Radovan Karadžić and Jovan Čizmović, 13 February 1992, p. 4.

<sup>968</sup> P1353.17, Receipt of the Holiday Inn Sarajevo for 14 and 15 February 1992, pp. 1, 8, 14, 36, 71.

<sup>969</sup> 1D675, 1<sup>st</sup> KK Report on Meeting with Representatives of the ICRC, 2 September 1992, p. 1. The Trial Chamber has reviewed evidence of Župljanin’s membership in the ARK Crisis Staff in the JCE section, specifically in the ARK sub-section.

<sup>970</sup> P181, RS Constitution, 28 February 1992, Article 10. See also Article 5, which states that the RS constitutional order is based, *inter alia*, on the assurance of national equality.

been explicitly assigned a particular task. According to the LIA, Župljanin had to carry out activities and tasks related to national and public security even when the execution of such activities and tasks placed his life in danger.<sup>971</sup>

355. As Chief of the Banja Luka CSB, Stojan Župljanin had authority over and coordinated the activities of the ARK SJBs. The CSB was duty-bound to assist the police stations in their areas of responsibility, including in the investigation of crimes, and was responsible for police activities in their territories. SJB chiefs were obliged to obey orders coming from the CSB. In addition, Župljanin coordinated the several departments within the CSB.<sup>972</sup> On 6 May 1992, Župljanin, speaking before the chiefs of the ARK SJBs, stated that his orders, be they oral or in the form of dispatches, were their law and had to be carried out.<sup>973</sup>

356. Župljanin had the power to appoint SJB chiefs and staff, as well as personnel of the Banja Luka CSB, including disciplinary prosecutors. For appointments of chiefs and commanders, however, Mićo Stanišić's prior agreement was necessary.<sup>974</sup> The CSB was also responsible for investigating crimes and filing criminal reports to the competent courts.<sup>975</sup>

(i) Role of ARK municipal Crisis Staffs during Indictment period

357. On 30 April 1992, Župljanin sent a dispatch to the ARK SJB chiefs whereby he complained of "criminal activities of some authorised officials" and of instances where SJBs had not carried out the orders of the Banja Luka CSB. Župljanin wrote that it was necessary that senior SJB officers take urgent measures, including suspension, against police officers who committed crimes and to inform the CSB of any such instance.<sup>976</sup> On 28 May 1992, Župljanin sent a dispatch to all SJBs in the area of the Banja Luka CSB stating that new "crisis areas" had emerged without the coordinated and organised activity, knowledge, and consent of the Banja Luka CSB and of the relevant corps commands of the RS. He warned that further uncontrolled activity could have "major undesirable consequences" and forbade all armed action and police activity without the consent of the CSB and the "relevant corps commands of the RS". He also forbade SJB chiefs and officials from ordering police to take part in armed actions with the military or to go to the areas of other SJBs to carry out

<sup>971</sup> P530, Law on Internal Affairs, 23 March 1992, Article 42.

<sup>972</sup> ST174, 24 March 2010, T. 8143 (confidential); ST027, 2 October 2009, T. 720, 722.

<sup>973</sup> P367, Conclusions reached at the Meeting of the Banja Luka CSB on 6 May 1992, 20 May 1992, p. 2.

<sup>974</sup> 1D73, Decision by Mićo Stanišić giving CSB Chiefs Power to Appoint RS MUP personnel, 25 April 1992; P366, Request from Stojan Župljanin to Mićo Stanišić for Approval of the Appointment of Police Chiefs and Commanders, 4 May 1992; P384, Decision by Stojan Župljanin to Appoint Mirko Vručinić Chief of the Sanski Most SJB, 13 June 1992 (confidential); P1286, Župljanin's Decision appointing Radomir Rodić Disciplinary Prosecutor at the Banja Luka CSB, 7 July 1992.

<sup>975</sup> ST174, 23 March 2010, T. 8041-8042 (confidential); Aleksandar Krulj, 28 October 2009, T. 2226.

<sup>976</sup> P1002, Dispatch from the Banja Luka CSB to the ARK SJB Chiefs, 30 April 1992, p. 2.

activities, without his consent.<sup>977</sup> On 30 July 1992, Župljanin sent a dispatch to the chiefs of all ARK SJBs complaining that policemen and the leading structures of individual public security stations were “pushed by those currently holding power in the field” into performing tasks outside the competence of the MUP and contrary to the LIA. In addition, Župljanin complained that many chiefs of SJBs took orders from “certain political organs” and dealt with issues that were beyond the scope of their jobs. In order to overcome this situation, Župljanin ordered SJBs not to implement decisions of municipal and regional Crisis Staffs, or of other organs, unless they were adopted according to the established procedure and delivered to the SJBs “in written form”. This included “political decisions which do not have a legal form.”<sup>978</sup> Župljanin directed the ARK SJBs to request the approval of the CSB before taking any action, even actions falling within their competence in “complex” cases. Župljanin further complained that local authorities carried out personnel changes based on personal interest. He ordered his SJBs chiefs not to carry out any personnel changes in the managerial structure of public security stations without the approval of the CSB.<sup>979</sup>

358. In a report on the work of Banja Luka CSB for the period from 1 July to 30 September 1992, it was observed that “[i]nefficiency, lack of professionalism and superficiality of work in a number of SJBs contributed to the functional “detachment” of a number of SJBs from the Centre.”<sup>980</sup> Tomislav Kovač, a police chief who in August 1992 was appointed Assistant Minister of Interior in charge of the police in the RS MUP,<sup>981</sup> testified that in his assessment Župljanin was unable to “cope” with the problems in the area of responsibility of the Banja Luka CSB, and that a direct intervention of the RS MUP with its political power was necessary to address the problems outlined in the report.<sup>982</sup>

359. The Trial Chamber has reviewed documentary and testimonial evidence showing that the Prijedor SJB operated with a certain degree of independence and implemented orders of the Prijedor Crisis Staff to provide security in detention camps. According to a report on the work of the Banja Luka CSB from 1 January to 30 June 1992, in some instances SJB chiefs dealt with issues that were outside of their scope of authority and that were essentially political; unauthorised

<sup>977</sup> Vidosav Kovačević, 15 September 2011, T. 24221-24222; P376, Dispatch of the Banja Luka CSB to the ARK SJBs, 28 May 1992.

<sup>978</sup> Predrag Radulović, 1 June 2010, T. 11135; 2D25, CSB Banja Luka to all SJB Chiefs, Command of 1<sup>st</sup> and 2<sup>nd</sup> Krajina Corps and MUP of the RS providing Information on the Security Situation, sent by Stojan Župljanin, 30 July 1992, pp. 2-3.

<sup>979</sup> 2D25, CSB Banja Luka to all SJB Chiefs, Command of 1<sup>st</sup> and 2<sup>nd</sup> Krajina Corps and MUP of the RS providing Information on the Security Situation, sent by Stojan Župljanin, 30 July 1992, pp. 3-4.

<sup>980</sup> P621, Banja Luka CSB: Report on the Work of Banja Luka CSB for the Period 1 July-30 September 1992, October 1992, p. 43.

<sup>981</sup> Tomislav Kovač, 7 March 2012, T. 27033-27034.

<sup>982</sup> Tomislav Kovač, 9 March 2012, T. 27259-27262; P621, Banja Luka CSB: Report on the Work of Banja Luka CSB for the Period 1 July to 30 September 1992, October 1992, p. 43.



decisions were taken under the influence of certain political organs and individuals.<sup>983</sup> According to Sreto Gajić, who was Head of the Defence Preparations of the Police section in the RS MUP,<sup>984</sup> Simo Drljača, Chief of the Prijedor SJB, was one of the most prominent examples of such behaviour on behalf of SJB chiefs,<sup>985</sup> even though the CSB had demanded that local SJBs were to act only within their duties and in accordance with the law.<sup>986</sup>

360. On 1 August 1992, Drljača reported to the Banja Luka CSB that he was unable to implement the decision of the War Presidency of the Prijedor Municipal Assembly concerning the reduction of the reserve police forces engaged in detention camps in Prijedor (Keraterm, Trnopolje, and Omarska). According to the War Presidency, the number of police at these camps should be “greatly reduced” and security should be provided by the army. However, Drljača informed Župljanin that because “[t]he Army refused to assume security duties at the centers, which [the Prijedor] Station supplie[d] with staff of 300 police officers every day” the police could not withdraw.<sup>987</sup> According to Gajić, this dispatch showed that Drljača, who had his own political ambitions and wanted a CSB to be formed in Prijedor with him as chief, was under the influence of the Prijedor municipal authorities.<sup>988</sup> He added that Drljača showed disrespect for Župljanin and “just wanted to be the boss of the whole area”.<sup>989</sup> However, on 4 August 1992, Župljanin replied to Drljača, and authorised him to postpone the implementation of the War Presidency’s order until solutions were found, together with the VRS, “in accordance with the decisions of the War Presidency of the Prijedor Municipal Assembly.”<sup>990</sup>

361. In the second half of 1992 Goran Mačar, a Serb who during the Indictment period worked at the crime police directorate of the RS MUP,<sup>991</sup> took part in a series of visits to the SJBs of the ARK municipalities.<sup>992</sup> Mačar testified that the Prijedor SJB was “out of our control”.<sup>993</sup> During Mačar’s stay at Prijedor, Drljača told him that he was “not interested” in dispatches coming from the MUP or the CSB.<sup>994</sup> Drljača also told Mačar that his “bosses” were the municipal authorities.<sup>995</sup>

<sup>983</sup> P595, Banja Luka CSB, Report on the Work of Banja Luka CSB for the Period 1 January to 30 June 1992, July 1992, p. 4.

<sup>984</sup> Sreto Gajić, 15 July 2010, T. 12800.

<sup>985</sup> Sreto Gajić, 16 July 2010, T. 12910; P595, Banja Luka CSB, Report on the Work of Banja Luka CSB for the Period 1 January to 30 June 1992, July 1992, p. 4.

<sup>986</sup> P595, Banja Luka CSB, Report on the Work of Banja Luka CSB for the Period 1 January to 30 June 1992, July 1992, p. 4.

<sup>987</sup> P668, Dispatch of Prijedor SJB Chief to CSB Banja Luka stating Inability to Reduce the Reserve Police Force, 1 August 1992.

<sup>988</sup> Sreto Gajić, 15 July 2010, T. 12876 and 16 July 2010, T. 12914, 12933.

<sup>989</sup> Sreto Gajić, 15 July 2010, T. 12876.

<sup>990</sup> P1682, Dispatch of CSB Banja Luka to SJB Prijedor Permitting Postponement at Carrying out the Decision of the Crisis Staff to Reduce the Number of Reserve Policemen at Keraterm, Omarska, and Trnopolje, 4 August 1992.

<sup>991</sup> Goran Mačar, 5 July 2011, T. 22803, 22807; Simo Tuševljak, 15 June 2011, T. 22211.

<sup>992</sup> Goran Mačar, 7 July 2011, T. 22971-22973.

<sup>993</sup> Goran Mačar, 7 July 2011, T. 22972.

<sup>994</sup> Goran Mačar, 7 July 2011, T. 22978.

According to Mačar, Drljača stayed at the head of the Prijedor SJB until the end of 1992 and it was difficult to remove him because the municipal authorities had a strong influence over these matters at the time.<sup>996</sup>

362. Predrag Radulović, too, testified that municipal authorities exercised influence over the police.<sup>997</sup> In relation to Simo Drljača, Radulović testified that he was supported by the police and the army in Prijedor and that consequently the Prijedor SJB was completely out of the control of the Banja Luka CSB and the RS authorities.<sup>998</sup> He also testified that he and Župljanin were in agreement that Drljača had to be removed from his post “one way or the other”.<sup>999</sup>

363. In Sanski Most, too, the municipal Crisis Staff exercised great authority and tasked the police with guarding and transporting prisoners arrested following the military operations carried out by Serb Forces in the municipality.<sup>1000</sup> However, the evidence shows that the Sanski Most Crisis Staff was not taking every decision autonomously. On 20 April 1992, it instructed two of its members, Nedeljko Rašula and Colonel Aničić, to visit the ARK leadership, explain the situation in Sanski Most, and seek “guidelines for further action.”<sup>1001</sup> In addition, there were never conflicts between the orders of the municipal Crisis Staff and the CSBs.<sup>1002</sup> According to ST161, after the police force had been changed from multi-ethnic to mono-ethnic, it was required to carry out tasks which he did not consider to fall in the purview of the police. In the witness’s view, “there was a tendency to establish such a structure that would be unified and play the same melody.”<sup>1003</sup> The evidence shows a similar relationship between the Ključ Serb authorities and the ARK. From the end of 1991, local Serb authorities affiliated with the SDS sought guidance and instructions from regional SDS authorities in Banja Luka. This relationship continued in the summer of 1992, as was demonstrated by the implementation by the Ključ Crisis Staff of a number of decisions of the ARK Crisis Staff. Atif Džafić, a Muslim who was the Commander of the police in Ključ until the end of May 1992, testified that there were never conflicting orders from the Banja Luka CSB and the Chief of the Ključ police, Vinko Kondić, who often met in Banja Luka with Stojan Župljanin.

<sup>995</sup> Goran Mačar, 7 July 2011, T. 22978 and 15 July 2011, T. 23377.

<sup>996</sup> Goran Mačar, 15 July 2011, T. 23381-23382.

<sup>997</sup> Predrag Radulović, 1 June 2010, T. 11131.

<sup>998</sup> Predrag Radulović, 31 May 2010, T. 11088-11089.

<sup>999</sup> Predrag Radulović, 26 May 2010, T. 10854-10855.

<sup>1000</sup> Dragan Majkić, 16 November 2009, T. 3201-3202; ST161, 19 November 2009, T. 3390-3340 (confidential); SZ007, 7 December 2011, T. 26329-26331 (confidential). The Trial Chamber has reviewed evidence and made findings on role of the Sanski Most Crisis Staff in the chapter dedicated to the municipality of Sanski Most.

<sup>1001</sup> P411.17, Conclusions of the Crisis Staff of the Serbian Municipality of Sanski Most reached on 20 April 1992, 21 April 1992.

<sup>1002</sup> ST161, 18 November 2009, T. 3342-3343 (confidential).

<sup>1003</sup> ST161, 18 November 2009, T. 3339, 3342-3343 (confidential).

364. The Trial Chamber will now review evidence showing that, until 1 July 1992, Župljanin, on more than one occasion, reminded his subordinates of the binding nature of the decisions of the ARK Crisis Staff and ensured their implementation by his subordinates. The Trial Chamber recalls that it has reviewed evidence in the JCE section, showing that decisions of the ARK Crisis Staff were binding for all municipal Crisis Staffs in the region.

365. On 4 May 1992, the ARK Secretariat for National Defence issued a decision ordering full mobilisation, the disarmament of paramilitary groups and individuals in possession of illegal weapons, and the imposition of a curfew.<sup>1004</sup> On the same day, Župljanin forwarded the decision to all his SJB chiefs, ordering that the ARK decision be implemented immediately and in full.<sup>1005</sup> On 6 May 1992, Župljanin, who had just become a member of the ARK Crisis Staff, informed the ARK SJB chiefs that “[i]n all our activities, we are obliged to observe measures and apply all procedures” ordered by the ARK Crisis Staff. With regard to the disarming operations, he stated that the police should take no action until the ARK Crisis Staff had made the relevant decisions.<sup>1006</sup> The ARK Crisis Staff issued several decisions extending the deadline to hand in illegally owned weapons and ammunition to the nearest SJB, and tasked the Banja Luka CSB with fully implementing the disarmament.<sup>1007</sup> On 11 May 1992, Župljanin sent an order to all chiefs of SJBs in the ARK stating that the deadline for the completion of the disarming operation had been moved to midnight on 15 May 1992. He requested the SJBs to inform the CSB’s duty operations team every day about the progresses made and stated that, when the deadline expired, weapons would be forcibly confiscated. Instructions for the confiscation would be sent in due course.<sup>1008</sup> On 12 May 1992, the newspaper *Glas* reported that Župljanin, discussing how to achieve peace, had stated that “we shall keep the peace if we are carrying out the decisions of the Crisis Staff of Autonomous Region of Krajina. One of these is that about giving back weapons.”<sup>1009</sup> Muharem Krzić confirmed that the police were in charge of the disarming operation.<sup>1010</sup>

366. On 22 June 1992 the ARK Crisis Staff issued a decision that stated, under Article 1, that “[o]nly personnel of Serbian ethnicity may hold executive posts” in the MUP and the army.<sup>1011</sup> On 1 July 1992, Stojan Župljanin forwarded the 22 June 1992 decision to all the ARK SJBs. The

<sup>1004</sup> P467, Decision of the ARK Secretariat for National Defence, 4 May 1992, p. 1.

<sup>1005</sup> P555, Župljanin’s Dispatch to ARK SJB Chiefs forwarding the 4 May 1992 Decision of the ARK Secretariat for National Defence, 4 May 1992, p. 2.

<sup>1006</sup> P367, Conclusions reached at the Extended Meeting of the Banja Luka CSB Council on 6 May 1992, 20 May 1992, p. 4.

<sup>1007</sup> P441, Collection of Conclusions of the ARK Crisis Staff, 5 June 1992, pp. 13, 15, 17, 19, 21.

<sup>1008</sup> P370, Order from Stojan Župljanin to the ARK SJB Chiefs concerning the Seizure of Weapons, 11 May 1992.

<sup>1009</sup> P560, Article published in the newspaper *Glas* titled “We Guarantee the Peace”, 12 May 1992, p. 2.

<sup>1010</sup> Muharem Krzić, 19 January 2010, T. 5130.

<sup>1011</sup> P432.19, Decision of the ARK Crisis Staff reached at a Meeting held on 22 June 1992, 22 June 1992. The 22 June 1992 decision is also discussed in the JCE section.

dispatch stated that “[i]n the implementation of this Decision, the chiefs of public security stations are obliged particularly to abide by its provisions regarding the proposal of candidates for the posts described in Article 1.”<sup>1012</sup>

367. Christian Nielsen, the Prosecution’s expert witness on the MUP, testified that between April and the end of June 1992, in many cases municipal Crisis Staffs were in control, and they often requested the police to perform tasks outside of their normal duties, without first consulting with the RS MUP. However, Nielsen also noted that, until 11 July 1992, Stojan Župljanin himself had directed the SJBs in the ARK Municipalities to follow the instructions of municipal and regional Crisis Staffs. After that date, he changed his position and directed his subordinates to only carry out orders coming from police organs.<sup>1013</sup> Nielsen, in his testimony, was referring to statements, reviewed above in this section, made by Župljanin at an RS MUP meeting held in Belgrade on 11 July 1992. However, the Trial Chamber notes that the first dispatch whereby Župljanin directed his subordinates not to carry out illegal or oral orders coming from regional and municipal Crisis Staffs was sent on 30 July 1992.<sup>1014</sup>

(d) Disciplinary powers

368. The Banja Luka CSB Disciplinary Commission, which had its own inspectors and prosecutors, was set up on 7 July 1992 by Stojan Župljanin “in order to hear cases and impose measures based on severe violations of duty.” According to Radomir Rodić, a Serb crime inspector at the Banja Luka SJB who on 7 July 1992 became disciplinary prosecutor at the Banja Luka CSB,<sup>1015</sup> the commissioners appointed in the decision were of Serb ethnicity.<sup>1016</sup> Upon reception of information on alleged wrongdoing by an employee, the secretary of the Disciplinary Commission would assign a disciplinary prosecutor to the case.<sup>1017</sup> The initiation of disciplinary proceedings was mandatory in the case of the commission of a crime.<sup>1018</sup> The prosecutor had to forward a proposal for initiation of disciplinary proceedings to the Chief of the CSB, whose signature was a necessary requirement in order for the proceedings to go forward. The Chief of the CSB also had to approve requests by the disciplinary prosecutor to temporarily suspend an alleged perpetrator; in deciding,

<sup>1012</sup> SZ003, 22 September 2011, T. 24580-24581; P577, Dispatch of CSB Banja Luka to all the Chiefs of SJBs forwarding the Decision of the ARK Crisis Staff, 1 July 1992, p. 2.

<sup>1013</sup> Christian Nielsen, 26 January 2010, T. 5553-5555.

<sup>1014</sup> 2D25, CSB Banja Luka to all SJB Chiefs, Command of 1<sup>st</sup> and 2<sup>nd</sup> Krajina Corps and MUP of the RS providing Information on the Security Situation, sent by Stojan Župljanin, 30 July 1992, p. 3.

<sup>1015</sup> ST213, 4 March 2010, T. 7255-7256 (confidential); Radomir Rodić, 15 April 2010, T. 8762, 8764-8767; P1286, Župljanin’s Decision appointing Radomir Rodić Disciplinary Prosecutor at the Banja Luka CSB, 7 July 1992.

<sup>1016</sup> Radomir Rodić, 15 April 2010, T. 8786-8788; P1287, Decision establishing a Disciplinary Commission at the Banja Luka CSB, 7 July 1992, p. 2.

<sup>1017</sup> Radomir Rodić, 15 April 2010, T. 8776, 8781.

<sup>1018</sup> Radomir Rodić, 16 April 2010, T. 8796.

he enjoyed complete discretion.<sup>1019</sup> Župljanin could initiate disciplinary proceedings against the SJB chiefs under the CSB's area of responsibility.<sup>1020</sup> His disciplinary jurisdiction included members of the Banja Luka CSB Special Police Detachment.<sup>1021</sup> After the CSB Chief authorised the initiation of disciplinary proceedings, the Disciplinary Commission would hold a hearing and take a decision, which would then be sent to the Chief of the CSB.<sup>1022</sup>

### 3. Stojan Župljanin's sources of knowledge

369. As Chief of the Banja Luka CSB, Stojan Župljanin had access to information on the events on the ground through multiple sources, which included written and oral reports, collegial meetings with the chiefs of the ARK SJBs, meetings with ARK regional and municipal authorities, and personal visits in ARK municipalities, including detention centres.

#### (a) Reporting system

370. SZ003, a Muslim who in 1992 was employed at the Banja Luka CSB,<sup>1023</sup> testified that the Banja Luka CSB had a duty operations department in the Department for Police Duties and Assignments. The department was headed by Stevan Marković.<sup>1024</sup> It worked 24 hours per day, seven days a week.<sup>1025</sup> Pursuant to an order of Mićo Stanišić, all SJBs in the RS MUP had to send daily reports to the duty operations team in the CSB.<sup>1026</sup> Reports had to include detailed information on criminal activities.<sup>1027</sup> The Duty Operations unit collected information from SJB reports and compiled it in a daily report that was sent to Župljanin and the chiefs of other CSB departments.<sup>1028</sup> The duty operation officer who drafted the report also related the most important information to Chief Marković, whose job included briefing Župljanin at professional collegium meetings.<sup>1029</sup>

371. SZ003 testified that reports were not always adequate, comprehensive, timely, and complete. The witness attributed these shortcomings partly to disruptions in the communication

<sup>1019</sup> Vladimir Tutuš, 18 March 2010, T. 7750; Radomir Rodić, 15 April 2010, T. 8782-8784, 8786; P1039, Request to Initiate Disciplinary Proceedings, 20 August 1992; P1038, Decision on Temporary Suspension from Service, 21 August 1992.

<sup>1020</sup> Radomir Rodić, 15 April 2010, T. 8778-8779; Tomislav Kovač, 7 March 2012, T. 27072.

<sup>1021</sup> P865, Report on the Formation and Activities of Special Police Detachment Banja Luka, 5 August 1992, p. 3.

<sup>1022</sup> Radomir Rodić, 15 April 2010, T. 8776-8777, 8789 and 16 April 2010, T. 8794-8795.

<sup>1023</sup> SZ003, 19 September 2011, T. 24379 (confidential) and 20 September 2011, T. 24436 (confidential).

<sup>1024</sup> SZ003, 19 September 2011, T. 24383, 24386-24387 (confidential).

<sup>1025</sup> SZ003, 22 September 2011, T. 24565 (confidential).

<sup>1026</sup> ST161, 18 November 2009, T. 3344; SZ003, 19 September 2011, T. 24400-24401.

<sup>1027</sup> SZ003, 19 September 2011, T. 24402.

<sup>1028</sup> SZ003, 19 September 2011, T. 24388, 24394, 24396-24397 (confidential); 2D150, Report of the Banja Luka CSB Operations Duty Officer on the Situation on the Field on 22 and 23 May 1992, 23 May 1992; 2D151, Report of the Banja Luka CSB Operations Duty Officer on the Situation on the Field on 24 and 25 May 1992, 25 May 1992 (confidential); 2D152, Report of the Banja Luka CSB Operations Duty Officer on the Situation on the Field on 25 and 26 May 1992, 26 May 1992.

<sup>1029</sup> SZ003, 19 September 2011, T. 24388-24389 and 22 September 2011, T. 24565 (confidential).

system at the CSB and partly to the lack of diligence of some police officers.<sup>1030</sup> On more than one occasion, Župljanin reminded his subordinates of the need to send accurate reports in a timely fashion.<sup>1031</sup> On 26 May 1992, Župljanin sent a dispatch to all SJBs under the Banja Luka CSBs stating that there were “considerable omissions and shortcomings in the daily reports by SJB to the Banja Luka CSB operative duty section on major incidents”.<sup>1032</sup> Župljanin then specified what information the reports should include in relation to specific crimes.<sup>1033</sup> Sreto Gajić agreed that some reports sent from the SJBs to the Banja Luka CSB were incomplete.<sup>1034</sup> On 17 November 1992, the Banja Luka CSB again requested all criminal investigation services of SJBs in its area of responsibility to start sending daily reports to the CSB criminal investigations department detailing crimes committed in the previous 24 hours and actions taken in their respect.<sup>1035</sup>

372. The CSB building also hosted the Banja Luka branch of the SNB, with Nedeljko Kesić as its Chief. Predrag Radulović was an intelligence officer who headed a unit codenamed “Miloš” which collected intelligence for the SNB. Miloš was staffed with officers from the SJB, CSB, and SNB, but for large operations the unit recruited people outside of the police or intelligence service.<sup>1036</sup> Miloš collected intelligence from multiple sources, including SJB employees and members of the Banja Luka CSB Special Police Detachment.<sup>1037</sup> The group prepared intelligence reports, which according to Radulović included the commission of crimes against non-Serbs.<sup>1038</sup> The Miloš reports were sent to the SNB of Serbia, Belgrade and to Sajinović and Radulović’s superiors in the Banja Luka SNB, albeit in a different form.<sup>1039</sup> Both Sajinović and Radulović testified that Vojin Bera and Nedeljko Kesić, their superiors at the Banja Luka SNB, related to Župljanin information collected by Miloš, but they did not know whether all of the gathered information reached him.<sup>1040</sup>

373. The Trial Chamber has reviewed evidence in the RS MUP section concerning breakdowns in the communication systems that affected the RS MUP in 1992.

<sup>1030</sup> SZ003, 19 September 2011, T. 24399-24400.

<sup>1031</sup> SZ003, 19 September 2011, T. 24400-24401; P1078, Dispatch from Stojan Župljanin to all SJB Chiefs, 2 March 1992, p. 3; P374, Dispatch from Banja Luka CSB to the Chiefs of all Public Security Stations (except Jajce) requesting Comprehensive, Timely, and Accurate Daily Reports, 26 May 1992, pp. 1, 5-6.

<sup>1032</sup> P374, Dispatch from Banja Luka CSB to the Chiefs of all Public Security Stations (except Jajce) requesting Comprehensive, Timely, and Accurate Daily Reports, 26 May 1992, p. 1.

<sup>1033</sup> P374, Dispatch from Banja Luka CSB to the Chiefs of all Public Security Stations (except Jajce) requesting Comprehensive, Timely, and Accurate Daily Reports, 26 May 1992, pp. 1, 5-6.

<sup>1034</sup> Sreto Gajić, 16 July 2010, T. 12907.

<sup>1035</sup> 2D115, Banja Luka CSB Dispatch to all SJBs in relation to the Reporting of Crimes, 17 November 1992.

<sup>1036</sup> Predrag Radulović, 25 May 2010, T. 10719-10724 (confidential) and 28 May 2010, T. 10971; Goran Sajinović, 17 October 2011, T. 25112 (confidential); SZ002, 8 November 2011, T. 25409 (confidential). The Trial Chamber notices that witnesses Tutuš and Radulović refer to the National Security Service as “SNB” and “SDB”, respectively. The Trial Chamber is satisfied that both acronyms refer to the same department, namely the National Security Service.

<sup>1037</sup> Predrag Radulović, 25 May 2010, T. 10724-10727 (confidential).

<sup>1038</sup> Predrag Radulović, 25 May 2010, T. 10729-10731.

<sup>1039</sup> Predrag Radulović, 25 May 2010, T. 10729, 10735, 10736; Goran Sajinović, 17 October 2011, T. 25120-25123.

<sup>1040</sup> Predrag Radulović, 25 May 2010, T. 10731-10732 and 26 May 2010, T. 10804; Goran Sajinović, 17 October 2011, T. 25120-25123.

(b) Meetings and other forms of communication

374. Aside from receiving written reports, Stojan Župljanin had meetings in Banja Luka with other members of the ARK Crisis Staff and politicians like General Momir Talić, Predrag Radić, and Radoslav Brdanin.<sup>1041</sup> At least during May 1992, he attended ARK Crisis Staff meetings in Banja Luka.<sup>1042</sup> In addition, throughout 1992, he had monthly or bimonthly meetings with the chiefs of the ARK SJBs at the CSB.<sup>1043</sup> Župljanin had regular meetings with the Chief of the Banja Luka SNB, Nedeljko Kesić, who conveyed to him information relating to law, order, and crime prevention. According to Radulović, Kesić shared with Župljanin intelligence gathered by the Miloš group.<sup>1044</sup> Župljanin had frequent meetings with Predrag Radulović, who testified that he always informed Župljanin orally whenever members of the police or the army committed crimes. In 1992, Radulović “regularly” provided Župljanin with a selection of foreign newspapers articles concerning the “events” in Prijedor and Kotor Varoš.<sup>1045</sup>

4. Analysis of Stojan Župljanin’s alleged conduct in furtherance of JCE(a) Župljanin’s alleged participation in formation of Bosnian Serb bodies and forces that implemented forcible takeovers of ARK Municipalities and participated in crimes charged in Indictment(i) Formation of RS MUP

375. On 25 July 1991, Stojan Župljanin wrote to Biljana Plavšić about what he himself characterised as something “exceptionally important for future relations in the BiH MUP.” Specifically, he wrote that, at a meeting at the SRBiH MUP on 22 July 1991 he had noticed that an official MUP document was printed on green paper, and not blue, which was the colour of police equipment. He wondered whether this was a sign of “dominance of Muslims” in the SRBiH MUP.<sup>1046</sup> He further complained that, at a police course on 22 July 1991, around 80% of the trainees were Muslims from the Sandžak region whom, as he specified, he would not have accepted “at this Centre”. He informed Plavšić that he had information that the BiH MUP was sending

<sup>1041</sup> ST174, P1098.06, Witness Statement, 14 March 2001, p. 9 (confidential); ST213, 4 March 2010, T. 7227-7228 (confidential). The Trial Chamber has reviewed evidence on Talić and Brdanin’s membership in the ARK Crisis Staff in the chapter of this Judgement dedicated to the alleged existence of a joint criminal enterprise, and specifically in the sub-section dedicated to the ARK.

<sup>1042</sup> ST191, 14 May 2010, T. 10225-10226 (confidential).

<sup>1043</sup> Dragan Majkić, 13 November 2009, T. 3075-3076; ST161, 18 November 2009, T. 3338 (confidential); ST213, 4 March 2010, T. 7216-7219 (confidential).

<sup>1044</sup> ST213, 4 March 2010, T. 7216 (confidential); Predrag Radulović, 25 May 2010, T. 10730-10731; SZ002, 8 November 2011, T. 25411.

<sup>1045</sup> Predrag Radulović, 25 May 2010, T. 10731-10732 and 26 May 2010, T. 10804 and 27 May 2010, T. 10902 (confidential).

Muslims to Croatia for training. According to Župljanin, it was apparent that there was an attempt to create a “Muslim army from this Ministry.” He concluded by asking Plavšić to take all necessary measures within her power to ensure that “this extremely calculated and perfidious game being played against Serbian personnel and the Serbian people as a whole is defeated.”<sup>1047</sup> According to ST174, a former police officer in the ARK,<sup>1048</sup> the reason for a higher number of Muslim recruits at the police course was not favouritism, but the fact that the national composition of the police did not reflect the ethnical composition of BiH. In ST174’s opinion, this was an attempt to equalise the ethnic balance within the police.<sup>1049</sup>

376. On 11 February 1992, Stojan Župljanin took part, together with Mićo Stanišić and Momčilo Mandić, in a meeting in Banja Luka where the participants discussed activities related to the formation of a Serb MUP in BiH. The Trial Chamber has reviewed evidence concerning this meeting in the RS MUP section. On 31 March 1992, Momčilo Mandić informed all CSBs and SJBs about the changes in the new RS MUP upon adoption of the RS Constitution and LIA.<sup>1050</sup> Article 41 of the LIA prescribed that “[a]uthorised officials shall make a solemn declaration before the Minister or an official authorised by the Minister.”<sup>1051</sup> According to Dragan Majkić, who was Chief of the Sanski Most SJB until 30 April 1992,<sup>1052</sup> on 2 April 1992 Mandić sent a dispatch to all CSBs and SJBs in BiH, directing that, wherever possible, SJBs should be “taken over” by 15 April 1992.<sup>1053</sup>

377. On 6 or 7 April 1992, an enlarged CSB Advisory Council meeting was held at the Banja Luka CSB to discuss the consequences of the creation of the RS MUP.<sup>1054</sup> Stojan Župljanin announced that the CSB would be organised according to the RS Constitution and LIA and consist of the SJBs, which were part of the ARK. Second, he recalled that authorised employees would have to sign, by 15 April 1992, a solemn declaration of loyalty to the RS MUP, and that failure to do so would imply termination of employment. As a consequence of the new regulations, police employees had to wear new uniforms with sleeve insignia reading “milicija”, written in Cyrillic,

<sup>1046</sup> P895, Letter from Stojan Župljanin to Biljana Plavšić, 25 July 1991, p. 1; ST213, 4 March 2010, T. 7232-7233 (confidential).

<sup>1047</sup> P895, Letter from Stojan Župljanin to Biljana Plavšić, 25 July 1991, pp. 1-2.

<sup>1048</sup> ST174, P1098.06, Witness Statement, 14 March 2001, pp. 1, 3 (confidential).

<sup>1049</sup> ST174, P1098.01, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 8 April 2002, T. 3868-3871 (confidential).

<sup>1050</sup> P353, Telex Message from Momčilo Mandić, Assistant Minister of Internal Affairs of the RS, 31 March 1992, p. 1.

<sup>1051</sup> P530, Law on Internal Affairs, 23 March 1992, Article 41.

<sup>1052</sup> See Sanski Most section.

<sup>1053</sup> Dragan Majkić, 13 November 2009, T. 3078-3079.

<sup>1054</sup> P355, Conclusions reached at the CSB Advisory Council Meeting on 6 or 7 April 1992, 10 April 1992, p. 2. Exhibit P355 contains a discrepancy with regard to the exact date of the CSB Advisory Council meeting. While at page 1 the meeting is recorded to have taken place on 6 April 1992, at page 2 the meeting is stated to have taken place on 7 April 1992.



and blue berets with a badge showing the Serbian flag.<sup>1055</sup> Finally, Župljanin stressed that “[i]t is in our interest to preserve the ethnic representation of the SJB employees in accordance to the ethnic structure of the population in the municipalities.”<sup>1056</sup>

378. On 3 April 1992, the Banja Luka CSB sent a dispatch to all the SJBs in its area of responsibility, informing that all employees who wanted to remain employed in the RS MUP had to sign a formal declaration in accordance with the LIA. The dispatch specified that the declaration should be no different from the declaration of the former Ministry of Internal Affairs and that it had “nothing to do with the so-called statement of loyalty mentioned in a dispatch sent by the MUP of BiH”.<sup>1057</sup> On 15 April 1992, Župljanin dismissed a Muslim officer upon his refusal to sign the declaration.<sup>1058</sup>

379. There is evidence that Župljanin instructed his subordinates to wait before introducing the new insignia and signing declarations in the municipalities of Prijedor and Sanski Most. On 6 April 1992, during a meeting in Banja Luka, Župljanin showed Dragan Majkić new blue camouflage uniforms for the police and gave him some hundred blue berets with the Serbian flag and solemn declarations. He told Majkić to distribute them in Sanski Most only when the right conditions were in place, which could have taken as long as one year. The same applied, according to Majkić, to Prijedor and Bosanski Novi.<sup>1059</sup> Majkić was unable to precisely explain during his testimony to what “conditions” Župljanin was referring.<sup>1060</sup> Majkić testified that Župljanin had told him on several occasions that the police should maintain peace and curb all national tensions in the municipality of Sanski Most. Župljanin said that—irrespective of the situation in BiH—in Prijedor, Ključ, Sanski Most, and Bosanski Novi the police should continue working together.<sup>1061</sup> On 16 April 1992, Župljanin sent a telegram to the chiefs of SJBs and “everyone in the Banja Luka CSB area” that SJB chiefs were to conduct interviews with authorised officials who had not signed the solemn declaration on 15 April 1992 and inform them that, as of 16 April, they would be put on annual leave until further notice. The employees who had signed were to wear the new uniforms and insignia. Župljanin specified that these provisions did not apply to the Prijedor and Kotor Varoš SJBs, where authorised officials “may continue to wear the current insignia if they wish, until further notice (until the political situation in these municipalities is solved).”<sup>1062</sup> Nusret Sivac

<sup>1055</sup> P355, Conclusions reached at the CSB Advisory Council Meeting on 6 or 7 April 1992, 10 April 1992, pp. 2-3; P539, Article of a Press Conference with Stojan Župljanin, 8 April 1992.

<sup>1056</sup> P355, Conclusions reached at the CSB Advisory Council Meeting on 6 or 7 April 1992, 10 April 1992, p. 6.

<sup>1057</sup> P354, Dispatch from the Banja Luka CSB to the Chiefs and Commanders of SJBs, 10 April 1992, p. 1.

<sup>1058</sup> See Banja Luka section.

<sup>1059</sup> Dragan Majkić, 13 November 2009, T. 3103-3108.

<sup>1060</sup> Dragan Majkić, 13 November 2009, T. 3106-3107.

<sup>1061</sup> Dragan Majkić, 13 November 2009, T. 3079-3082.

<sup>1062</sup> 2D18, Telegram from Stojan Župljanin Temporarily Exempting the Prijedor and Kotor Varoš SJBs’ Authorised Officials from Signing of Solemn Declarations, 16 April 1992.

confirmed that in April they received information that the Prijedor police “was not to split until further notice.”<sup>1063</sup>

380. With regard to Prijedor, the Trial Chamber recalls its findings that Serb Forces took over the municipality on 29 or 30 April 1992, and that after that date police officers were required to sign the solemn declaration. Refusal to do so implied termination from employment.<sup>1064</sup> With regard to Sanski Most, the Trial Chamber recalls its findings that on 16 April 1992, Nedeljko Rašula fired all the policemen of Muslim and Croat ethnicity who refused to sign a declaration of loyalty to RS and the Serb people. In Teslić in April 1992, and in Kotor Varoš in late April or early May 1992, and in Ključ in May 1992, all uniformed employees of the Kotor Varoš SJB were asked to sign the declaration, and the ones who did not sign were dismissed.

381. On 6 May 1992, Stojan Župljanin, speaking before the chiefs of the ARK SJBs, stated that people who had not responded to the mobilisation could not be employed in the police, including the reserve force, or given permanent posts and that in the recommendation of candidates for active or reserve police “priority is to be given to those candidates who have had war experiences in Western Slavonia.”<sup>1065</sup> During the same meeting, Župljanin stated that he would have arranged for the Banja Luka CSB to be entitled to acquire—and use for equipping the CSB—all seized foreign currency and dinars intended to be exchanged for foreign currency, as well as confiscated ownerless property.<sup>1066</sup>

382. On 28 May 1992, Župljanin wrote to all the chiefs of SJBs in the ARK, specifying that all the employees who had not signed the solemn declaration no longer had entitlements as employees of the former SJBs and ordering that they should be considered dismissed as of 15 April 1992.<sup>1067</sup>

383. With regard to the signing of solemn declarations by police officers in Banja Luka, SZ003, a Muslim, testified that Župljanin had appealed and pleaded with the staff to stay and that no one was prevented from signing.<sup>1068</sup> ST174, also a Muslim,<sup>1069</sup> testified that, at a meeting held in Banja Luka in April 1992 in order to discuss the signing of the solemn declarations, Stojan Župljanin and some

<sup>1063</sup> Nusret Sivac, 16 August 2010, T. 13227-13228; 2D18, Telegram from Stojan Župljanin Temporarily Exempting the Prijedor and Kotor Varoš SJBs’ Authorised Officials from Signing of Solemn Declarations, 16 April 1992.

<sup>1064</sup> See Prijedor section.

<sup>1065</sup> P367, Conclusions Reached at the Extended Meeting of the Banja Luka CSB Council on 6 May 1992, 20 May 1992, pp. 2-3.

<sup>1066</sup> P367, Conclusions Reached at the Extended Meeting of the Banja Luka CSB Council on 6 May 1992, 20 May 1992, p. 3.

<sup>1067</sup> ST161, 18 November 2009, T. 3366-3367 (confidential); P377, Telegram from the Banja Luka CSB to all SJBs in the Region, 28 May 1992.

<sup>1068</sup> SZ003, 20 September 2011, T. 24444 (confidential).

<sup>1069</sup> ST174, P1098.06, Witness Statement, 14 March 2001, p. 1 (confidential).

ARK political leaders tried to convince him to sign the declaration, but ST174 refused. Upon his refusal to sign, ST174 was forced to leave the police forces.<sup>1070</sup>

(ii) Formation of Banja Luka CSB Special Police Detachment

a. Župljanin's role in creation of Banja Luka CSB Special Police Detachment

384. On 14 April 1992, Župljanin announced the formation of a special counter-terrorism unit at the Banja Luka CSB.<sup>1071</sup> On 21 April 1992, Župljanin sent a dispatch to all SJB chiefs requesting them to propose suitable candidates as possible members of the unit.<sup>1072</sup> On 23 April 1992, he sent a letter to the Commander of the 2<sup>nd</sup> Military District, Milutin Kukanjac, requesting military equipment for the special unit, including helicopters, APCs, weapons, and ammunition.<sup>1073</sup> On the following day, Kukanjac forwarded the request to the National Secretariat for Defence, recommending that the request be granted. At least part of the requested material was provided by the military.<sup>1074</sup> On 27 April 1992, the ARK Assembly decided to form a Special Purpose Police Detachment at the Banja Luka CSB. The Assembly decided that the new unit, which was to number about 160 members, would be composed of active and reserve police officers and made the Chief of the Banja Luka CSB, Stojan Župljanin, responsible for the implementation of the decision.<sup>1075</sup>

385. On 6 May 1992, Stojan Župljanin informed the chiefs of the ARK SJBs that he had established a counter-sabotage and counter-terrorism police unit of about 150 members, equipped with the most modern combat gear, and formed by policemen and veterans who had fought in Western Slavonia. This special unit was to be deployed in the ARK in the most complex security operations. He also announced that, on 12 May 1992, an official parade would be held in Banja Luka to celebrate the creation of the unit.<sup>1076</sup>

b. Leadership, structure, and composition of Banja Luka CSB Special Police Detachment

i. Leadership within Detachment

<sup>1070</sup> ST174, 24 March 2010, T. 8081-8082 (confidential).

<sup>1071</sup> P542, Article published in the newspaper *Glas* titled "Keeping the Peace through Prevention and Negotiations", 15 April 1992, p. 2.

<sup>1072</sup> P2408, Dispatch from Župljanin to all SJB Chiefs, 21 April 1992.

<sup>1073</sup> P548, Letter from Župljanin to General Kukanjac for the Provision of Military Equipment, 23 April 1992.

<sup>1074</sup> SZ002, 8 November 2011, T. 25423-25424 (confidential); P548, Letter from Župljanin to General Kukanjac for the Provision of Military Equipment, 23 April 1992; P549, Request to the National Secretariat for Defence Forwarded by Milutin Kukanjac, 24 April 1992, pp. 1, 4.

<sup>1075</sup> 2D55, Decision on the Formation of a Special Purpose Police Detachment, 27 April 1992.

<sup>1076</sup> P367, Conclusions reached at the Extended Meeting of the Banja Luka CSB Council on 6 May 1992, 20 May 1992, p. 5.

386. The Trial Chamber has received ample evidence showing that the commander of the Banja Luka CSB Special Police Detachment was Captain Mirko Lukić, a serviceman. Ljuban Ečim was Lukić's deputy commander, and Zdravko Samardžija was Ečim's deputy. Both Ečim and Samardžija were members of the Banja Luka SNB.<sup>1077</sup> Slobodan Dubočanin, who had a military background, was another prominent member of the Banja Luka CSB Special Police Detachment and led part of the unit in Kotor Varoš in 1992.<sup>1078</sup> According to Radulović, the authority for appointing the commander of the Detachment rested with Župljanin.<sup>1079</sup>

ii. Composition, structure, and equipment of Detachment

387. The Detachment numbered more than 200 members in June 1992, which decreased to about 160 by August 1992.<sup>1080</sup> The unit comprised both persons with a military background and members of the police.<sup>1081</sup> According to an article published on 29 April 1992 in the newspaper *Glas*, Stojan Župljanin had announced that some members of the SOS, reliable and experienced fighters who had been placed under the Banja Luka CSB's jurisdiction by the ARK Assembly, would be tested for engagement in the Detachment, while the others would be assigned to the ARK reserve police and TO. Thus, concluded Župljanin, the SOS would virtually cease to exist.<sup>1082</sup> During meetings with Predrag Radić that took place on 5 or 6 April 1992, Radić asked Vladimir Tutuš to use members of the SOS to form a special police unit as part of the Banja Luka SJB, of which Tutuš was Chief.<sup>1083</sup> Tutuš refused repeatedly, both because only the MUP was legally entitled to form special units and because some of the SOS members were convicted criminals. Radić insisted that it was necessary to increase the security in town. From Tutuš's testimony, the Trial Chamber understands that Župljanin, who was present at the meeting, asked Tutuš to reconsider his position. After having toured the town for an assessment of the security situation, Tutuš, one day after the meeting, agreed

<sup>1077</sup> Christian Nielsen, 27 January 2010, T. 5580; Predrag Radulović, 25 May 2010, T. 10785-10786; Dragan Rajčić, 29 June 2010, T. 12395-12396; SZ002, 11 November 2011, T. 25669-25670 (confidential); P1502, Report on the Visit to the CSB and SJBs of the ARK, 10 August 1992, p. 1; P1077, Banja Luka CSB and SJB Chart; P2414, List of Members of the Banja Luka CSB Special Police Detachment, 1 July 1992, p. 11; P586, Article published in the newspaper *Glas* titled "Who Decides on Releases?", 23 July 1992, p. 1.

<sup>1078</sup> ST183, P1295.03, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 10 March 2003, T. 15485-15486 and P1295.04, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 11 March 2003, T. 15546 (confidential); ST183, 21 April 2010, T. 9003-9004, 9080-9081 (confidential); Nedeljko Đekanović, 8 October 2009, T. 1109; P2414, List of Members of the Banja Luka CSB Special Police Detachment, 1 July 1992, p. 12. The participation of the Banja Luka CSB Special Police Detachment in the takeover of Kotor Varoš is discussed below in this chapter.

<sup>1079</sup> Predrag Radulović, 25 May 2010, T. 10785-10786.

<sup>1080</sup> Christian Nielsen, 27 January 2010, T. 5578-5579; P631, Report of Inspections in the ARK CSB and SJBs, 5 August 1992, p. 2; P2412, Payroll for the CSB Banja Luka Special Detachment, 3 August 1992; P2413, Payroll for the CSB Banja Luka Special Detachment, 2 August 1992.

<sup>1081</sup> Sreto Gajić, 16 July 2010, T. 12916; Predrag Radulović, 25 May 2010, T. 10783-10784; SZ003, 21 September 2011, T. 24536; SZ002, 8 November 2011, T. 25420 (confidential) and 14 November 2011, T. 25715-25718, 25729-25736 (confidential); P2413, Payroll of the Banja Luka Special Police Detachment for July 1992, p. 4.

<sup>1082</sup> P552, Article published in the newspaper *Glas* titled "Special Detachments to be Formed Soon", 29 April 1992, p.

1.

<sup>1083</sup> Vladimir Tutuš, 16 March 2010, T. 7649-7650.

to have some SOS members accepted individually in the reserve police force upon preliminary background checks. After this meeting, however, Tutuš received no further requests in relation to this issue.<sup>1084</sup> Eventually, some SOS members were incorporated into the Banja Luka CSB Special Police Detachment, others into the TO, and others into the Banja Luka SNB.<sup>1085</sup> According to Radulović, former SOS members in the Detachment included deputy commanders Zdravko Samardžija and Ljuban Ečim.<sup>1086</sup>

388. Radulović considered that the transfer of some SOS members to the active-duty section of the police was an “incomprehensible and unnecessary” measure because, in his view, the SOS were criminals who, by becoming active policemen, were given a basis to continue their criminal activities in a more “rampant” fashion. Radulović manifested his concerns to Župljanin, who responded by saying that the SOS were “Serbian knights”.<sup>1087</sup>

389. With respect to the Detachment’s civilian or military nature, ST258, a former police officer in the ARK,<sup>1088</sup> testified that what mattered was not the members’ origin or training, but rather the service that they actually did during the war. By way of example, ST258 testified that he, too, had graduated from the reserve officers’ academy, but ended up in the police.<sup>1089</sup>

390. The Banja Luka CSB Special Police Detachment was divided into four or five platoons.<sup>1090</sup> Members of the unit normally wore blue and grey camouflage uniforms and blue berets. However, some members of the Detachment wore, at least on some occasions, red berets.<sup>1091</sup> For instance, members of the Detachment wore green camouflage uniforms and red berets during their deployment in Kotor Varoš.<sup>1092</sup> The Detachment was equipped with blue-painted APCs that used to

<sup>1084</sup> Vladimir Tutuš, 15 March 2010, T. 7632-7635 and 16 March 2010, T. 7650-7652.

<sup>1085</sup> Predrag Radulović, 25 May 2010, T. 10783 and 1 June 2010, T. 11148; SZ003, 21 September 2011, T. 24523-24524; SZ002, 11 November 2011, T. 25689-25690; P560, Article published in the newspaper *Glas* titled “We Guarantee the Peace”, 12 May 1992, pp. 3-4; P591, Report on Paramilitary Formation in the Territory of the RS, 28 July 1992, pp. 4-5.

<sup>1086</sup> Predrag Radulović, 25 May 2010, T. 10760, 10761 (confidential).

<sup>1087</sup> Predrag Radulović, 25 May 2010, T. 10777-10778.

<sup>1088</sup> ST258, 18 November 2010, T. 17537-17540 (confidential).

<sup>1089</sup> ST258, 18 November 2010, T. 17592-17593 (confidential).

<sup>1090</sup> SZ002, 8 November 2011, T. 25419 (confidential); P2410, List of Members of the Banja Luka CSB Special Police Detachment.

<sup>1091</sup> Dragan Rajjić, 29 June 2010, T. 12395-12396; SZ003, 21 September 2011, T. 24524-24531; SZ002, 8 November 2011, T. 25422-25423 (confidential); P1393, Video Footage of the Police Parade held in Banja Luka on 12 or 13 May 1992, minute 45:40.

<sup>1092</sup> ST241, 5 November 2010, T. 16940-16941, 16946 (confidential), 16949-16950, 16974. ST241 stated that uniforms were often swapped. ST241 stated that, for example, “Dule” Vujičić, who was an active duty police officer, was seen in a blue camouflage uniform and in a green camouflage uniform and red cap when he returned from mopping up operations. ST241, 5 November 2010, T. 16949-16951. *See also* P1579, showing Slobodan Dubočanin, Ljuban Ečim, and Nenad Kajkut wearing green camouflage and red berets; ST197, 8 September 2010, T. 14450-14452; P1579, Video showing Dubočanin, Kajkut, and Ečim in Kotor Varoš, minutes 5:40, 9:18, 12:00.

be part of the JNA arsenal. The APCs had the word “Milicija” painted on them in Cyrillic script.<sup>1093</sup> Župljanin provided the members of the Detachment with ID cards, which authorised them to arrest people, to search apartments and other premises without a warrant, and to carry and use fire arms.<sup>1094</sup>

391. On 12 or 13 May 1992 a parade was held in Banja Luka for the presentation of the Detachment. Mićo Stanišić, who was wearing a green camouflage uniform at the time, Vojislav Kuprešanin, Stojan Župljanin, Radovan Karadžić, Milan Martić, Radislav Vukić, Biljana Plavšić, and others were present.<sup>1095</sup> ST183, who had learned of the parade from fellow army officers, went to see it and noticed that neither General Talić nor anyone else representing the army was present.<sup>1096</sup>

### c. Authority over Banja Luka CSB Special Police Detachment

392. Predrag Radulović and ST183 testified that the Detachment was subordinated to Stojan Župljanin.<sup>1097</sup> According to a report issued on 5 August 1992 by Sreto Gajić following an inspection at the Banja Luka CSB, the CSB had defined staffing criteria and the tasks of the unit.<sup>1098</sup> Payrolls for the months of June and July 1992 show that Stojan Župljanin on behalf of the Banja Luka CSB authorised payments to the members of the Detachment.<sup>1099</sup>

393. According to another witness, SZ002, Colonel Stevilović, from the military, had played the main role in establishing this unit and had authority over the majority of its members, who were servicemen. Specifically, according to SZ002, Stevilović had included members of the “red berets” in the Detachment whom he commanded in the Banja Luka area. SZ002 testified that it was Stevilović who decided when and where to deploy this special unit, often in coordination with Colonel Peulić, and that it was Stevilović who appointed Mirko Lukić as commander of the unit, as well as the other platoon commanders.<sup>1100</sup> SZ002 added that, while Stevilović was responsible for the military aspects of operations, Stevan Marković, of the Banja Luka CSB, had a liaison function

<sup>1093</sup> Predrag Radulović, 28 May 2010, T. 10958-10959; SZ002, 8 November 2011, T. 25423 (confidential); P1393, Video Footage of the Police Parade held in Banja Luka on 12 or 13 May 1992, minute 34:50. “Milicija” means “police” in BCS.

<sup>1094</sup> Predrag Radulović, 26 May 2010, T. 10809-10811; 2D72, Criminal File against *Boskan et al.* prepared by the Department of Crime Prevention and Detection of the Banja Luka SJB, 20 August 1992, pp. 11, 23.

<sup>1095</sup> Predrag Radulović, 28 May 2010, T. 10959-10961; SZ002, 8 November 2011, T. 25423 (confidential); P1393, Video Footage of the Police Parade held in Banja Luka on 12 or 13 May 1992, minutes 49:00-52:30, 55:05-55:44.

<sup>1096</sup> ST183, 20 April 2010, T. 8938-8940 (confidential); SZ002, 14 November 2011, T. 25700-25701; P560, Article published in the newspaper *Glas* titled “We Guarantee Peace”, 12 May 1992, p. 3.

<sup>1097</sup> ST183, P1295.04, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 11 March 2003, T. 15548 (confidential); Predrag Radulović, 26 May 2010, T. 10803-10806; P1295.21, p. 282 (confidential).

<sup>1098</sup> P631, Report of Inspections in the ARK CSB and SJBs 5 August 1992, p. 2.

<sup>1099</sup> P2412, Payroll for the CSB Banja Luka Special Detachment, 3 August 1992; P2413, Payroll for the CSB Banja Luka Special Detachment, 2 August 1992.

<sup>1100</sup> SZ002, 8 November 2011, T. 25418-25420 and 10 November 2011, T. 25563 (confidential).

between the CSB and the Detachment when it was deployed in the field.<sup>1101</sup> SZ002 testified that the Detachment was headquartered at the Rakovačke Bare, a military installation used by the TO.<sup>1102</sup> SZ002 testified that, when deployed in combat operations, the Detachment was re-subordinated to the military, as would any other police unit be for the purpose of taking part in a military operation.<sup>1103</sup>

394. ST183 testified that the Detachment was not part of the army and that this was often stressed by General Talić. ST183's testimony was corroborated by ST197.<sup>1104</sup> Finally, in an interview to the newspaper *Glas* of 12 May 1992, speaking about the Detachment, Župljanin reportedly stated that "the detachment will certainly be under total control and will be ready to carry out the most complex assignments. If it is necessary for the detachment to fight together with the Army, it will be made available."<sup>1105</sup>

#### d. Disbandment of Banja Luka CSB Special Police Detachment

395. During a meeting held in Banja Luka on 2 and 4 August 1992, the order of Mićo Stanišić to disband special units, which the Trial Chamber will review in the section dedicated to Mićo Stanišić's alleged criminal responsibility, was discussed. Stojan Župljanin and members of the Detachment were present and expressed concerns about the decision.<sup>1106</sup>

396. On 7 and 8 August 1992 another meeting with Gajić was held at the Banja Luka CSB to discuss the disbanding of the Detachment.<sup>1107</sup> Stojan Župljanin was present, together with Zdravko Samardžija and other police officers. On 9 August 1992, Colonel Bogojević, Chief of Security of the 1<sup>st</sup> KK, and "the Command of the Special Police Detachment" joined the meeting.<sup>1108</sup> Members of the Detachment and their platoon commanders insisted on preserving the status of the unit, but eventually Župljanin and Bogojević decided that the unit, numbering 100 men, would be put at the disposal of the 1<sup>st</sup> KK. The hand-over was scheduled to take place on 10 August 1992 in Kotor Varoš, where the Detachment was deployed at the time. Đuro Bulić and Colonel Bogojević would attend the meeting on behalf of the CSB and of the 1<sup>st</sup> KK, respectively. It was also decided that the Banja Luka CSB would pay the salaries of the unit's members until the end of August 1992. All members of the Detachment were supposed to hand in their official identification documents and

<sup>1101</sup> SZ002, 10 November 2011, T. 25560-25564 (confidential).

<sup>1102</sup> SZ002, 8 November 2011, T. 25422 (confidential). *See also* SZ023, 7 October 2011, T. 24667-24668 (confidential).

<sup>1103</sup> SZ002, 14 November 2011, T. 25749-25752.

<sup>1104</sup> ST183, 20 April 2010, T. 8989 (confidential); ST197, 8 September 2010, T. 14428-14429.

<sup>1105</sup> P560, Article published in the newspaper *Glas* titled "We Guarantee Peace", 12 May 1992, p. 3.

<sup>1106</sup> P631, Report of Inspections in the ARK CSB and SJBs, 5 August 1992, pp. 2-3.

<sup>1107</sup> SZ002, 10 November 2011, T. 25544-25545; P1502, Report on the Visit to the CSB and SJBs of the ARK, 10 August 1992, p. 1.

<sup>1108</sup> P1502, Report on the Visit to the CSB and SJBs of the ARK, 10 August 1992, p. 1.

police equipment on the date of the transfer.<sup>1109</sup> During the meeting, Župljanin stated that there were no other special units in SJBs in the area of responsibility of the Banja Luka CSB.<sup>1110</sup> Vladimir Tutuš testified that the Detachment was eventually disbanded, but did not recall when.<sup>1111</sup>

397. At a meeting on 18 August 1992, at which Stojan Župljanin was present, the issue of groups of ex-members of the Detachment expelling people from the municipality of Čelinac, from the town of Ivanjska, in the municipality of Banja Luka, and from other villages, was discussed. According to ST183, by this date, former members of the Detachment had not been placed in the light brigades yet.<sup>1112</sup> Between 21 and 29 August 1992, former members of the Detachment led by Dubočanin were still located in Kotor Varoš. They were expelling Muslim families and causing problems on the ground in the municipality. There is evidence that they had not joined the 22<sup>nd</sup> Light Brigade yet.<sup>1113</sup> According to SZ002, the Detachment was disbanded at the end of August 1992, and the equipment was returned to the army. However, on 3 September 1992 the 1<sup>st</sup> KK reported that “all units and armed formations have essentially been put under the control of the 1<sup>st</sup> Krajina Corps, although there is still resistance from the CSB.”<sup>1114</sup>

398. On 31 December 1992, Stojan Župljanin appointed Ljuban Ečim, Zdravko Samardžija, and Nenad Kajkut—all former members of the Detachment—to commanding positions within the Banja Luka CSB Police Brigade.<sup>1115</sup> On 5 May 1993, Ljuban Ečim, Zdravko Samardžija, and Nenad Kajkut were still listed as members of the Banja Luka CSB.<sup>1116</sup>

(b) Ordering, commanding, and directing members and agents of RS MUP in support of implementation of JCE objective

(i) Župljanin’s role in blockade of Banja Luka by SOS

399. In March 1992, Serbs erected barricades in Sarajevo in response to the killing of a Serb at a wedding in Baščaršija in Sarajevo.<sup>1117</sup> The barricades were erected with the coordination of both the

<sup>1109</sup> Sreto Gajić, 16 July 2010, T. 12914-12916; P1502, Report on the Visit to the CSB and SJBs of the ARK, 10 August 1992, p. 2.

<sup>1110</sup> Sreto Gajić, 15 July 2010, T. 12837; SZ002, 9 November 2011, T. 25459; P1502, Report on the Visit to the CSB and SJBs of the ARK, 10 August 1992, p. 2.

<sup>1111</sup> Vladimir Tutuš, 22 March 2010, T. 7970-7971.

<sup>1112</sup> ST183, P1295.08, Witness Statement, 6 October 2002, p. 35 (confidential); P1295.21, pp. 219-221 (confidential).

<sup>1113</sup> Nedeljko Đekanović, 9 October 2009, T. 1168; ST197, 19 October 2010, T. 16184-16187; P97, Minutes of War Presidency Meetings in Kotor Varoš, 21 August 1992, p. 1.

<sup>1114</sup> SZ002, 8 November 2011, T. 25433 (confidential); P611, 1<sup>st</sup> KK Report on State of Combat Morale, 3 September 1992, p. 2.

<sup>1115</sup> Vladimir Tutuš, 23 March 2010, T. 8010-8012; P1096, Order for Appointments in the Banja Luka CSB Police Brigade, 31 December 1992, p. 2.

<sup>1116</sup> Vladimir Tutuš, 22 March 2010, T. 7962-7967; 2D63, Dispatch from Stojan Župljanin to the Chief of the Banja Luka SJB, 5 May 1993, pp. 3-4, 10.

<sup>1117</sup> Nedo Vlaški, 15 February 2010, T. 6352-6354, 6358; P735, Article by Jelena Stamenković titled “Momčilo Mandić” in *Slobodna Bosna*, issue 74, pp. 10-11, 10 April 1998, p. 3.



SDS and Serb members of the MUP, including Mićo Stanišić, Dragan Kijac, Rajko Dukić, and Momčilo Mandić.<sup>1118</sup> On 2 March 1992, a phone conversation took place between Mićo Stanišić and a certain “Gvozden”, in Sarajevo, and Stojan Župljanin, in Banja Luka, regarding the possible establishment of similar blockades in Banja Luka.<sup>1119</sup> Initially, “Gvozden” told Župljanin that “everything is at a standstill”, that they were creating the conditions to do something “now”, and that Župljanin should do the same in Banja Luka to reach some degree of readiness. Župljanin answered that they were getting ready, and that it just remained to be seen if “we will be going for a total blockade or not.” Then “Gvozden” put Mićo Stanišić on the line with Župljanin, and the following exchange took place:

Župljanin: We are just listening a bit how things are going over there.

Stanišić: Well, you can hear...

Župljanin: We are following and listening, as they say, and waiting for further instructions.

[...]

Stanišić: Well, all right. Now, be ready, and we'll be in touch.

Župljanin: Uh-huh. All right. For the most part, everything is ready on our side.

Stanišić: Yes.

Župljanin: We are waiting for the sign. If a total blockade is needed or the rest, it will be done.<sup>1120</sup>

400. The Trial Chamber notes that the Prosecutor showed a transcript of this conversation to Nedo Vlaški before asking him to identify the voices in the audio-tape. The transcript contained the names of the participants to the conversation. While Vlaški testified that this helped him in recognising the voices, he also confidently asserted that he recognised the voices of Mićo Stanišić and Stojan Župljanin. Župljanin's voice in this conversation was also identified by ST213. On this basis, the Trial Chamber is satisfied that the participants to this conversation were Mićo Stanišić and Stojan Župljanin.<sup>1121</sup>

401. The Trial Chamber recalls its finding that on 3 April 1992, the SOS, acting as a tool of the SDS in implementing its political agenda, blockaded the town of Banja Luka. The police did not take any action against the blockade. It further recalls the evidence, discussed in the Banja Luka section, that representatives of the military and of the security apparatus, including Stojan

<sup>1118</sup> Nedo Vlaški, 15 February 2010, T. 6358-6359; P735, Article by Jelena Stamenković titled “Momčilo Mandić” in *Slobodna Bosna*, issue 74, pp. 10-11, 10 April 1998, p. 4.

<sup>1119</sup> Nedo Vlaški, 16 February 2010, T. 6365; ST213, 4 March 2010, T. 7231 (confidential); P981, Transcript of Conversation between Stojan Župljanin, Mićo Stanišić, and “Gvozden”, 2 March 1992, pp. 1, 2.

<sup>1120</sup> Nedo Vlaški, 16 February 2010, T. 6365; P981, Transcript of Conversation between Stojan Župljanin, Mićo Stanišić, and “Gvozden”, 2 March 1992, p. 2.

<sup>1121</sup> Nedo Vlaški, 17 February 2010, T. 6449-6454, 6460; ST213, 4 March 2010, T. 7231 (confidential).

Župljanin, began negotiating with the SOS in order to “normalise” the situation and that the negotiations led to the formation of a Crisis Staff, of which Župljanin himself became a member on 3 April 1992.<sup>1122</sup> As discussed in the Banja Luka section, immediately after its creation the Crisis Staff accepted the demands of the SOS, and required CSB employees, in order to keep their jobs, to sign a solemn declaration. It announced that the police staff would be reorganised, that people loyal to the BSA and Yugoslavia would be appointed to key positions, and that CSB employees would get new insignia.

402. On 6 April 1992, Dragan Majkić attended a meeting in Banja Luka, where Župljanin briefly informed the participants about the blockade of Banja Luka by the SOS. Župljanin said that power had “changed hands”. From Majkić’s testimony, the Trial Chamber understands that, after Župljanin conveyed the information about the blockade, there was no further discussion on the matter.<sup>1123</sup>

403. In Vladimir Tutuš’s view, police forces were unable, at that time of the blockade, to neutralise the SOS.<sup>1124</sup> Tutuš stated that the use of force against the SOS by the security services would have resulted in the beginning of a civil war.<sup>1125</sup>

404. On 7 May 1992, in a telephone conversation with Čedo Kljajić, the chief of the Public Security Administration, Župljanin informed Kljajić that Serb Forces had just taken over Ključ and that Muslims in Banja Luka had realised that they had lost.<sup>1126</sup> On 12 May 1992, during an interview, Župljanin stated that some of the members of the SOS were really “quality people, above all in terms of character, and then they are people with combat experience. With such men we have no problems.” He then announced that some members had been put under the command of the Banja Luka CSB, including in its Special Police Detachment, while the remaining members had been told that the SOS no longer existed. In the interview, Župljanin stated that the bad reputation of the SOS was due to some rogue members from whom the SOS had distanced itself.<sup>1127</sup>

(ii) Župljanin’s role in takeover of other ARK Municipalities

405. The evidence shows that during spring and summer of 1992, upon requests by municipal authorities, Župljanin dispatched platoons of the Banja Luka CSB Special Police Detachment and

<sup>1122</sup> The Trial Chamber has reviewed evidence of Župljanin’s membership in the Banja Luka Crisis Staff in the Banja Luka section.

<sup>1123</sup> Dragan Majkić, 13 November 2009, T. 3094-3101.

<sup>1124</sup> Vladimir Tutuš, 15 March 2010, T. 7609.

<sup>1125</sup> Vladimir Tutuš, 15 March 2010, T. 7613-7614.

<sup>1126</sup> P1124, Transcript of Intercepted Telephone Call between Stojan Župljanin and Čedo Kljajić, 7 May 1992, p. 1; ST213, 4 March 2010, T. 7231 (confidential).

<sup>1127</sup> P560, Article published in the newspaper *Glas* titled “We Guarantee Peace”, 12 May 1992, pp. 3-4.

other CSB uniformed personnel to various municipalities, including Kotor Varoš, Prijedor, Donji Vakuf, and Sanski Most, and designated commanders for single operations.<sup>1128</sup> At meetings held in Banja Luka on 2 and 4 August 1992 to discuss the disbandment of the Detachment, Župljanin emphasised the positive results that the Detachment had achieved during its combat engagements.<sup>1129</sup> According to a 1993 report on the work of the Banja Luka CSB between 4 April and 31 December 1992, the Detachment had taken part, “in cooperation” with VRS units, in combat operations in the municipalities of Bosanski Novi, Prijedor, Sanski Most, Kupres, Ključ, Donji Vakuf, Mrkonjić Grad, Šipovo, Derвента, Doboј, Modriča, and Kotor Varoš.<sup>1130</sup> The Trial Chamber also recalls its findings in the Prijedor, Kotor Varoš, and Ključ sections that the Detachment took part in the takeovers of these municipalities in spring and summer of 1992.

406. The Trial Chamber also recalls its findings that the police took part with the army in the takeover of the ARK Municipalities. The 1993 report on the work of the Banja Luka CSB between 4 April and 31 December 1992 provides figures of the level of police involvement in these operations. In addition to participating independently in combat operations, the police had made 1,593 reserve and 39 active-duty policemen available to the VRS.<sup>1131</sup>

(iii) Župljanin’s knowledge and role in departure of non-Serbs from ARK

407. On 28 May 1992, the ARK Crisis Staff concluded that if Muslims, Croats, or members of either the SDA or HDZ wished to move out of Krajina, “they must enable the endangered Serbian people, against whom unprecedented genocide is being conducted, to move collectively into their places, i.e. they must facilitate an exchange based on reciprocity.”<sup>1132</sup> Muharem Krzić testified that the exchanges of property were not voluntary and that both the HDZ and the SDA condemned this practice at several press conferences.<sup>1133</sup>

<sup>1128</sup> Nedeljko Đekanović, 7 October 2009, T. 1038, 1041 and 15 October 2009, T. 1495-1504; ST161, 18 November 2009, T. 3318-3320 (confidential) and 19 November 2009, T. 3384-3385; Predrag Radulović, 26 May 2010, T. 10803-10806 and 27 May 2010, T. 10911; ST197, 8 September 2010, T. 14406, 14409-14410, 14415-14416 (confidential); ST161, 18 November 2009, T. 3318-3320 (confidential); SZ002, 14 November 2011, T. 25708-25713; P1124, Transcript of Intercepted Telephone Call between Stojan Župljanin and Čedo Kljajić, 7 May 1992, p. 3; P659, Report on the Conduct of the Banja Luka CSB Special Unit Members in Prijedor, 13 June 1992; P2411, Letter from the Petrovac Crisis Staff to Stojan Župljanin, 25 June 1992; P76, Miloš Group Report, 9 June 1992.

<sup>1129</sup> Sreto Gajić, 15 July 2010, T. 12826; P631, Report of Inspections in the ARK CSB and SJBs, 5 August 1992, p. 2.

<sup>1130</sup> SZ002, 15 November 2011, T. 25838-25839; P865, Report on Formation and Activities of Special Purpose Detachment Banja Luka, 5 August 1992, p. 2.

<sup>1131</sup> P624, Report on the Work of the Banja Luka Security Services Centre from 4 April 1992 to 31 December 1992, January 1993, p. 5.

<sup>1132</sup> P468, Conclusions of the ARK Crisis Staff reached at a Meeting on 28 May 1992, 28 May 1992, p. 2.

<sup>1133</sup> Muharem Krzić, 19 January 2010, T. 5134-5136; P468, Conclusions of the ARK Crisis Staff Reached at a Meeting on 28 May 1992, 28 May 1992, p. 2.

408. On 6 June 1992, the Miloš Group reported that the ICRC had exhibited interest in visiting the Banja Luka detention camps as well as any villages that used to be inhabited by Muslims and Croats and in which war operations had been conducted.<sup>1134</sup>

409. On 31 July 1992, Župljanin sent a memorandum to the chiefs of the ARK SJBs noting that, with the mediation of humanitarian organisations and of the Population Resettlement Bureau, large numbers of Muslims and Croats had started to leave the ARK to go to Croatia, Slovenia, and other Western European countries. In the dispatch, Župljanin recalled that on 3 June 1992 the ARK Crisis Staff had decided that “[i]ndividuals leaving the Autonomous Region of Krajina may take with them a maximum of 300 DM, or a corresponding amount of other currency” and that people leaving could not take out precious metals and works of art, with the exception of personal jewellery. Župljanin’s assessment was that the decision was lawful. He requested the chiefs of SJB to implement it, to issue certificates of temporary seizure when amounts in excess of 300 DM were taken, and to deposit the seised amounts at the Banja Luka CSB cash office.<sup>1135</sup> The Trial Chamber has found in the chapters dedicated to the ARK Municipalities that the imposition of these limitations on non-Serbs amounted to the crime of persecution through appropriation of property.

410. On 15 August 1992, the Bosanski Novi SJB<sup>1136</sup> reported to the Banja Luka CSB that thousands of non-Serbs were leaving from Bosanski Novi. According to the report, on 24 May the entire Muslim population of the Japra river valley, about 4,000 persons left their homes and found refuge in the central section of the Blagaj Japra village. The report stipulates that on 9 June 1992, the refugees agreed with the local Crisis Staff to set off in a train of 22 closed wagons to Doboj. The police provided security for the train between Blagaj Japra and Doboj.<sup>1137</sup>

411. On 18 August 1992, during a meeting in Doboj attended by Brđanin, Radić, Colonel Gojko, a person named Erceg, whom the Trial Chamber understands to be Nikola Erceg, and others, Stojan Župljanin stated that there was “sensationalism” in the world in relation to the exodus of non-Serbs from the ARK.<sup>1138</sup> At this meeting, General Talić stated that foreign journalists who did not have the RS government clearance should be denied access.<sup>1139</sup>

<sup>1134</sup> P1391, Miloš Group Report, 6 June 1992.

<sup>1135</sup> P594, Memorandum from Stojan Župljanin to the Chiefs of the ARK SJBs, 31 July 1992.

<sup>1136</sup> Stojan Župljanin is not charged for crimes committed in Bosanski Novi. However, the Trial Chamber considers this evidence relevant to establish Župljanin’s knowledge of the departures of Muslims and Croats from the ARK.

<sup>1137</sup> P755, Report of the Bosanski Novi SJB to the Banja Luka CSB, 15 August 1992, pp. 2-3.

<sup>1138</sup> ST183, P1295.03, *Prosecutor v. Brđanin*, Case No. IT-99-36-T, 10 March 2003, T. 15488-15489 and 15497-15499 (confidential); P1295.21, pp. 219-221 (confidential).

<sup>1139</sup> ST183, P1295.04, *Prosecutor v. Brđanin*, Case No. IT-99-36-T, 11 March 2003, T. 15519-15520 (confidential); P1295.21, pp. 224-226 (confidential).

412. On 26 September 1992, Župljanin told Ian Traynor, a British journalist, that the “migration of people sometimes called ‘ethnic cleansing’” was in fact the consequence of monetary incentives that European countries provided to people who wanted to relocate.<sup>1140</sup>

413. On 23 October 1992, the Prijedor SJB informed the Banja Luka CSB that there was a “mass exodus” of Muslims and Croats from Prijedor, while roughly 38,000 had already left the municipality.<sup>1141</sup>

414. The Trial Chamber has reviewed evidence in the Sanksi Most section showing that, on 19 October 1992, Predrag Radulović and other Banja Luka SNB operatives wrote that around 20,000 Muslims had moved out and that the remaining 10,000 wished to leave. The reason for this exodus was, according to the drafters of the report, uncertainty in the future and lack of safety, “due to the wilful behaviour of individuals and groups who abuse citizens of Muslim background and exert pressure on them.”<sup>1142</sup>

(c) Župljanin’s knowledge of crimes committed against non-Serbs in ARK and police role in operation of detention centres

(i) Banja Luka

415. The Trial Chamber recalls its finding in the Banja Luka section that, starting on 3 April 1992, a group of people driving in a red van, and after May 1992 also members of the Banja Luka CSB Special Police Detachment, carried out attacks against Muslim and Croatian persons and property in Banja Luka, arrested a large number of them, and took them to the Banja Luka CSB, where CSB and SNB inspectors interrogated them. According to ST218, some of the inspectors carrying out interrogations at the Banja Luka CSB reported to either Stojan Župljanin or Đuro Bulić, the Chief of the Public Security Sector of the Banja Luka SJB.<sup>1143</sup> The Trial Chamber has also found in the Banja Luka section that the red van’s crew included police officers, and has reviewed evidence that they carried out attacks from the premises of the Banja Luka CSB. According to Radulović, Živko Bojić, who was Chief of the Crime Prevention Department of the Banja Luka SJB, discussed the issue of the red van with Župljanin, who answered that he would look into it. Radulović was unable to recall what measures, if any, Župljanin took, but testified that the red van operated in Banja Luka throughout 1992.<sup>1144</sup> The Trial Chamber also found that Muslims and Croats brought to the CSB were openly beaten and humiliated upon arrival by people

<sup>1140</sup> Ian Traynor, P1356.02, Witness Statement, 8 and 9 March 2000, p. 10.

<sup>1141</sup> P688, Security Assessment for the Prijedor Municipality, Prijedor SJB, 23 October 1992, p. 2.

<sup>1142</sup> P693, Banja Luka CSB Official Note, 19 October 1992, pp. 1-2.

<sup>1143</sup> ST218, 14 October 2010, T. 16007. *See also* Vladimir Tutuš, 22 March 2010, T. 7939.

<sup>1144</sup> Vladimir Tutuš, 22 March 2010, T. 7951; Predrag Radulović, 26 May 2010, T. 10813-10815.

present in the CSB's corridors. On 11 June 1992, Stojan Župljanin was present at a distance of 5 or 6 metres from three Croats and other prisoners being mistreated and beaten in the corridors of the CSB.<sup>1145</sup>

416. On 17 July 1992, authorised officials of the Banja Luka CSB compiled an official note recording the identification of six or seven bodies found along the Pavići-Hazići local road. The dead men were part of a group of 51 people who, pursuant to orders of the Chief of the Sanski Most SJB, should have been transferred from a detention centre in Sanski Most to a military prison in Dobrnja on 11 June 1992.<sup>1146</sup>

417. At the end of July or beginning of August 1992, Stojan Župljanin visited the Manjača camp in Banja Luka together with Nenad Balaban, the head of the security of the 1<sup>st</sup> KK. Together with Božidar Popović, the camp commander,<sup>1147</sup> they made a tour in the camp, including the stables where the inmates were held.<sup>1148</sup> Adil Draganović testified about Župljanin's visit to the camp. Župljanin reassured him that he and the other prisoners would be released and no one would get hurt.<sup>1149</sup>

(ii) Sanski Most

418. On 17 June 1992 the Chief of the SJB, Mirko Vručinić, wrote to Župljanin requesting help to "determine the status of the prisons" in which a large number of prisoners "mostly of Muslim nationality" had been detained in connection with combat and disarming operations and for collection of intelligence.<sup>1150</sup> On 2 July 1992, the Chief of the SJB informed Župljanin that since 27 May 1992, 391 "extremists" of Muslim and Croatian ethnicity had been arrested and detained at the SJB. The Sanski Most police processed 332 of them, after which 82 were released and 250 were sent to the Manjača camp. He further informed him that 500 able-bodied persons who had fled from combat areas had been accommodated in the sports hall and were being treated as "civilian prisoners".<sup>1151</sup> On 5 August 1992, the Chief of the SJB informed Župljanin that "[i]n combat operations or so-called clearing operations, the army picks up the population (of late only persons fit for military service), and simply hands them over to the civilian organs and authorities. After that

<sup>1145</sup> ST027, 2 October 2009, T. 739, 746-748 (confidential).

<sup>1146</sup> P383, Official Record of the Banja Luka CSB, 17 June 1992.

<sup>1147</sup> See Banja Luka section.

<sup>1148</sup> Enis Šabanović, 6 October 2009, T. 909-914, 946-948, 955-956. See also Adil Draganović's testimony reviewed in the Banja Luka section.

<sup>1149</sup> Adil Draganović, P411.04, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 26 April 2002, T. 5109-5110, 5114. See also Adil Draganović's testimony reviewed in the Banja Luka section.

<sup>1150</sup> P411.21, Letter from the Chief of the Sanski Most SJB to the Chief of the Banja Luka CSB, 17 June 1992.

<sup>1151</sup> P117, Telegram from the Sanski Most SJB to the Banja Luka CSB regarding the Detention of Muslims and Croats from 27 May 1992 to 2 July 1992, 2 July 1992, p. 1.

the police are obliged to provide security for these camps.”<sup>1152</sup> On 18 August 1992, the SJB reported to the SNB at the Banja Luka CSB that, pursuant to orders of the Sanski Most Crisis Staff, the police had provided security and escorts for the transport of people “resettling in other areas.” The report also specified that, since the end of July 1992, about 12,000 people of Muslim and Croatian ethnicity had requested to de-register and move out of the municipality.<sup>1153</sup> On 10 November 1992, the Chief of the SJB reported to Župljanin that violence against Muslims and Croats in Sanski Most had escalated and that several people had been killed. It also reported that the Muslim population had fled the village of Trnovo after it had been attacked by artillery fire. Vrućinić wrote that he knew the identity of some of the perpetrators of the crimes, but considered it not “advisable” to arrest them and prosecute them “because of the safety of SJB employees and legal organs.”<sup>1154</sup>

419. Dragan Majkić, who was the Chief of the Sanski Most SJB until 30 April 1992,<sup>1155</sup> and ST161, testified that Župljanin was made aware of some of the crimes committed by the paramilitaries, including the SOS, in Sanski Most, because these crimes were reported on a daily basis to the Banja Luka CSB.<sup>1156</sup> In addition, in one of his “half-yearly” reports to the Banja Luka CSB, ST161 informed Župljanin of the suffocation of a number of detainees transported from Sanski Most to the Manjača prison camp in Banja Luka. The Trial Chamber recalls its finding in the Sanski Most section that these prisoners had been murdered by Sanski Most police officers on 7 July 1992.<sup>1157</sup> According to ST161, it was the Banja Luka CSB which sent orders for police officers to provide security in Manjača.<sup>1158</sup>

(iii) Prijedor

420. At the end of May 1992, the Miloš Group reported that a “huge number of persons” of Muslim ethnicity had been arrested or had surrendered to the Prijedor municipal authorities, including children, women, and elderly people. The reports stated that there were problems with food and accommodation, as well as with “lack of professionalism” of the commanding personnel of the Prijedor SJB and TO. Radulović testified that Serb Forces razed villages, destroyed mosques, arrested people, including women, children, and the elderly, and detained them at the Trnopolje,

<sup>1152</sup> P390, Official Letter from Mirko Vrućinić, Chief Sanski Most SJB, to Banja Luka Security CSB, conveying Information on the Situation in the Municipality, 5 August 1992, p. 2.

<sup>1153</sup> P391, Report from the Sanski Most SJB to the Banja Luka CSB, 18 August 1992.

<sup>1154</sup> P123, Report from the Sanski Most SJB to the Banja Luka CSB, 10 November 1992.

<sup>1155</sup> See Sanski Most section.

<sup>1156</sup> Dragan Majkić, 17 November 2009, T. 3269-3270; ST161, 20 November 2009, T. 3551, 3557-3558 (confidential). See also P390, Official Letter from Mirko Vrućinić, Chief Sanski Most SJB, to Banja Luka Security CSB, conveying Information on the Situation in the Municipality, 5 August 1992, p. 2.

<sup>1157</sup> ST161, 20 November 2009, T. 3557-3558 (confidential).

<sup>1158</sup> ST161, 19 November 2009, T. 3461 (confidential).

Keraterm, and Omarska camps. On more than one occasion, Radulović discussed “the events in Prijedor” with Župljanin. During these discussions, Radulović proposed the removal of the Prijedor SJB Chief, Simo Drljača, who he considered to be responsible for these events and to be “crazy” and a “maniac”.<sup>1159</sup>

421. ST245 testified that towards the end of May 1992, when he arrived at Omarska camp, he saw a small squad that had come from Banja Luka in a blue APC. Judging from their uniforms, he thought they were a “special squad.”<sup>1160</sup> ST245 knew that they were taking valuables from prisoners in the camp, and briefed Drljača on the matter.<sup>1161</sup> The squad’s commander was named Straživuk; when ST245 approached him to discuss his unit’s behaviour, Straživuk dismissed him by saying that he had his own commander in Banja Luka.<sup>1162</sup> On 13 June 1992, Simo Drljača, Chief of the Prijedor SJB, reported to Stojan Župljanin that members of the Banja Luka CSB “special unit”, whose help had been valuable in the takeover of Prijedor, were now carrying out arbitrary arrests, interrogations, and were abusing prisoners at the Omarska camp. They were also robbing prisoners of their valuables and looting during mopping up operations. Drljača reported “conflicts between the ‘special unit members’ and the policemen on security duty.” According to Drljača, they were under the command of a certain “Straživuk”, who however did not have actual control over them.<sup>1163</sup>

422. On 31 May 1992, a copy of Simo Drljača’s order on the creation of the Omarska camp was sent to the Banja Luka CSB. The implementation of the order was to be supervised by Dušan Janković, Deputy Chief of the Prijedor SJB, “in collaboration” with the Banja Luka CSB.<sup>1164</sup> From June to August 1992, Simo Drljača reported to Župljanin about the number of the detainees in the Omarska, Keraterm, and Trnopolje camps and also about the role that the police officers played in guarding the detainees and bringing in new suspects in Omarska and Keraterm.<sup>1165</sup>

423. At some point in summer 1992, and in any event after the compilation of the 28 and 30 May 1992 Miloš reports, Predrag Radulović and Goran Sajinović travelled to Prijedor to visit the

<sup>1159</sup> Predrag Radulović, 26 May 2010, T. 10853-10858; P1376, Miloš Group Report, 28 May 1992; P1377, Miloš Group Report, 30 May 1992.

<sup>1160</sup> ST245, 2 November 2010, T. 16729, 16733-16735. The Trial Chamber has reviewed evidence above showing that the Banja Luka CSB Special Police Detachment was equipped with former JNA APCs which were repainted in blue.

<sup>1161</sup> ST245, 2 November 2010, T. 16734-16737 (confidential).

<sup>1162</sup> ST245, 2 November 2010, T. 16735-16736 (confidential). *See also* P1092, Payroll of the Banja Luka CSB Special Police Detachment, August 1992, p. 3, n. 44.

<sup>1163</sup> P659, Report on the Conduct of the Banja Luka CSB Special Unit Members in Prijedor, 13 June 1992.

<sup>1164</sup> ST245, 2 November 2010, T. 16745; P1560, Order for the Establishment of a Collection Centre at the Omarska Mines, 31 May 1992, pp. 1, 3-4.

<sup>1165</sup> P657, Report of Prijedor SJB to Banja Luka CSB on Activities in the First Half of 1992, June 1992, pp. 5-7; P668, Report of Chief of Prijedor SJB to RS MUP and Banja Luka CSB, 1 August 1992; P669, Dispatch of SJB Prijedor to Banja Luka CSB, 4 August 1992, p. 2; P670, Request from Simo Drljača to Stojan Župljanin to Secure Safe Passage to



Keraterm and Omarska camps.<sup>1166</sup> At the end of the visit, they went back to Banja Luka, where they met Stojan Župljanin and Đuro Bulić in front of the CSB building.<sup>1167</sup> Radulović and Sajinović informed them of the bad conditions in which the detainees were held in these camps, and that persons arresting and guarding the detainees, which included members of the police, were abusing them.<sup>1168</sup> According to Radulović, Župljanin was surprised by this information, stated that he would look into it, but also added the following comment: “It’s a war.” Immediately after Radulović conveyed this information, Đuro Bulić told Župljanin that they should hurry up because they were late for a football match, and so they left. Radulović was shocked, because a football game could not be more important than the criminal activities in Omarska and Keraterm.<sup>1169</sup> Some days after that incident, Župljanin told Radulović that he had received information corroborating Radulović’s oral report on the conditions in the detention facilities and that he would establish a commission to investigate these claims.<sup>1170</sup>

424. On 16 July 1992, Župljanin, together with Predrag Radić, Radislav Vukić, Radoslav Brđanin, and others, visited the Omarska camp in the municipality of Prijedor, where the police were involved in interrogations. During the visit, the delegation saw the detainees whom according to Nusret Sivac and Simo Mišković looked miserable and undernourished, were foul-smelling, and showed signs of abuse. The detainees were also forced to sing Serbian national songs and give the three-finger salute. According to Nusret Sivac, who was an inmate present during the visit, the members of the delegation laughed at the scene.<sup>1171</sup>

(iv) Kotor Varoš

425. Nedeljko Đekanović, a Serb member of the Municipal Assembly in Kotor Varoš and later President of its Crisis Staff,<sup>1172</sup> testified that, during its deployment in Kotor Varoš, the Banja Luka CSB Special Police Detachment carried out killings in front of a health centre and stole valuables and cars, which they took back to Banja Luka.<sup>1173</sup> Towards the end of June 1992, Đekanović

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a Convoy of Prisoners directed to Manjača, 5 August 1992; P671, Dispatch to the Chief of the Banja Luka CSB concerning Omarska and Trnopolje, 9 August 1992.

<sup>1166</sup> Goran Sajinović, 17 October 2011, T. 25145-25146; Predrag Radulović, 26 May 2010, T. 10857, 10861.

<sup>1167</sup> Goran Sajinović, 17 October 2011, T. 25151-25152.

<sup>1168</sup> Predrag Radulović, 26 May 2010, T. 10861-10864, 10865-10867 (confidential), 10868 and 27 May 2010, T. 10874-10875, 10877-10878; Goran Sajinović, 17 October 2011, T. 25151-25153.

<sup>1169</sup> Predrag Radulović, 27 May 2010, T. 10875-10877; Goran Sajinović, 17 October 2011, T. 25153.

<sup>1170</sup> Predrag Radulović, 27 May 2010, T. 10878.

<sup>1171</sup> Predrag Radić, P2096, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 26 October 2004, T. 7436-7437; Predrag Radulović, 27 May 2010, T. 10879-10881; Nusret Sivac, 16 August 2010, T. 13196-13200; Simo Mišković, 4 October 2010, T. 15247-15250; P1378, Article published in the newspaper *Glas* titled “It’s Difficult for Everyone”, 17 July 1992.

<sup>1172</sup> Nedeljko Đekanović, 7 October 2009, T. 972-974 and 10 January 2011, T. 18527-18528.

<sup>1173</sup> Nedeljko Đekanović, 8 October 2009, T. 1104-1110 and 15 October 2009, T. 1504, 1509-1512; Predrag Radulović, 27 May 2010, T. 10911-10912; P81, Extracts from Minutes of Session of the Kotor Varoš Crisis Staff, 26 June 1992, p. 1.

discussed the Detachment's involvement in these crimes with Župljanin and told him that measures needed to be taken.<sup>1174</sup> Predrag Radulović, too, testified that he had reported to Župljanin that the Detachment had committed looting, physical mistreatment, killings, and rapes at the sawmill in Kotor Varoš.<sup>1175</sup> During a meeting held in Banja Luka on 2 and 4 August 1992, Župljanin informed Sreto Gajić of the RS MUP of crimes that had been committed by the Detachment during its deployment in Kotor Varoš, including theft and robberies.<sup>1176</sup>

(v) Ključ

426. In July 1992, the Chief of the Ključ SJB, Vinko Kondić, reported to the Banja Luka CSB that in the previous two-month period the police in cooperation with the army had processed 2,000 people and sent to detention camps 1,278 persons suspected of having been involved in armed rebellion, in the “so called Muslim TO”, or in smuggling of weapons, but also people who owned weapons without a permit, even though they were not members of any armed formation. According to Kondić, during this process, “things happened that are not in the nature and are against the moral code of the Serbian people”.<sup>1177</sup> On 29 August 1992, Kondić sent to the Banja Luka CSB a list of 1,161 prisoners who were sent to Manjača and reported that there were no detention camps left in the Ključ municipality.<sup>1178</sup>

(vi) Donji Vakuf

427. On 5 August 1992, Donji Vakuf SJB Chief Boško Savković responded to a letter written by Župljanin on 19 July 1992, reporting that there was a prison for Muslims and Croats in the municipality. According to Savković, the detainees were brought in by the military police and personnel of the Donji Vakuf SJB. Sixty of them were being held at the SJB, some had been released, while the rest had been transferred to Manjača.<sup>1179</sup> On 26 August 1992, Savković informed Župljanin that 61 non-Serbs were being held at the Vrbas Promet detention centre.<sup>1180</sup>

(vii) Teslić

<sup>1174</sup> Nedeljko Đekanović, 8 October 2009, T. 1108-1110 and 15 October 2009, T. 1510-1512.

<sup>1175</sup> Predrag Radulović, 27 May 2010, T. 10911-10912.

<sup>1176</sup> Sreto Gajić, 15 July 2010, T. 12826-12828; P631, Report of Inspections in the ARK CSB and SJBs, 5 August 1992, p. 2. According to the Kotor Varoš SJB, on 29 July 1992, Danko Kajkut, a member of the Banja Luka CSB Special Police Detachment, was suspected of the rape of two women. *See* P1558.06, Kotor Varoš Open Cases Logbook for 1992, p. 4 (logbook number 277) (confidential).

<sup>1177</sup> P960.24, Information of Ključ SJB on Combat Operations on the Territory of Ključ, July 1992, p. 8.

<sup>1178</sup> P972, Dispatch from Ključ SJB to Banja Luka CSB, 29 August 1992.

<sup>1179</sup> P1037, Dispatch of Donji Vakuf SJB to the Banja Luka CSB Chief, 5 August 1992, p. 2.

<sup>1180</sup> P1927, Dispatch of Donji Vakuf SJB to the Banja Luka CSB Chief, 26 August 1992, p. 1.

428. On 20 May 1992, the Miloš Group reported that a mass exile of Muslim and Croat children and women was ongoing in the area of Teslić, “[a]s in most other places”.<sup>1181</sup> On 11 July 1992, the Miloš Group reported that “the killing of civilians in Doboј, Teslić and Kozarac” was “not in favour of the Serbian dignity”.<sup>1182</sup>

429. Around late July or early August 1992, Predrag Radulović forwarded to Nedeljko Kesić a Miloš report stating that, during a meeting in Teslić, General Ratko Mladić, Colonel Lisica, and the President of the municipality had stated that “ethnic cleansing” had to be carried out in Teslić as soon and as efficiently as possible by members of the SJB. The Miloš report also stated that Mladić, allegedly, had advised the SDS and the army to kill Muslims and Croats whenever they could and that they would not be held responsible. The day after the meeting, two army officers insisted that the police had to kill Muslims and Croats with the aim to force them to leave. Under the present circumstances, added the report, Muslims and Croats wanted to leave, but they could not organise a convoy to leave RS.<sup>1183</sup> The report concluded with a warning that Serb extremists were using the opinions of the top military leadership as a basis to carry out the “most heinous crimes” against citizens of Muslim and Croat ethnicity.<sup>1184</sup> Radulović testified that Kesić responded that that was none of their business and that they should stay out of it and not write about it.<sup>1185</sup> According to ST191, however, neither ethnic cleansing nor killings were discussed during Mladić’s visit in Teslić.<sup>1186</sup> Having considered this evidence of ST191 in light of the role and position the witness had at the time of this meeting, the Trial Chamber does not find it credible and will not rely on it.

430. The Trial Chamber has reviewed above the evidence of Radulović, who testified that Kesić reported to Župljanin on matters concerning the prevention of crimes. However, the Trial Chamber cannot establish if Kesić actually informed Župljanin about the content of this Miloš report.

(viii) Bosanski Novi

431. On 21 May 1992, the Bosanski Novi SJB reported to the Banja Luka CSB that its Special Police Detachment, which the CSB had dispatched to Bosanski Novi on 14 May 1992, was engaged in a number of illegal activities, such as entering houses by force and beating up the residents, confiscating weapons despite the owners displaying their respective licences, confiscation of cars without the approval of the SJB, unauthorised arrests, and taking away persons for whom the SJB

<sup>1181</sup> 1D306, Miloš Group Report, 20 May 1992.

<sup>1182</sup> P1388, Miloš Group Report, 11 July 1992.

<sup>1183</sup> Predrag Radulović, 27 May 2010, T. 10948-10951 (confidential); P1385, Miloš Group Report regarding Meeting Between Teslić Political Leadership and Ratko Mladić and Other VRS Representatives, undated, p. 1 (confidential).

<sup>1184</sup> P1385, Report of Miloš Group Regarding Meeting Between Teslić Political Leadership and Ratko Mladić and Other VRS Representatives, undated, p. 1 (confidential).

<sup>1185</sup> Predrag Radulović, 27 May 2010, T. 10950 (confidential).

<sup>1186</sup> ST191, 10 January 2011, T. 18547-18548 (confidential).

had issued an arrest warrant. The Bosanski Novi SJB asked the CSB to consider the behaviour of the unit in the light of these events, taking into account that the Serbs of Bosanska Kostajnica also disagreed with the way that the Detachment was operating.<sup>1187</sup> On 15 August 1992, the Bosanski Novi SJB filed a report to the Banja Luka CSB where it complained again about the “coercive” measures that the Detachment used while carrying out the disarmament operation, reminding the CSB that they had already filed a report on such incidents.<sup>1188</sup> Stojan Župljanin is not charged for crimes committed in the municipality of Bosanski Novi. Nevertheless, the Trial Chamber considers this evidence relevant to establish Župljanin’s knowledge of the character and attitude of the members of the Detachment.

(ix) Other evidence of Župljanin’s knowledge of and conduct in relation to arrests and detention of Muslims and Croats in ARK

432. In determining if Župljanin had knowledge of the large scale unlawful detention of non-Serbs in the ARK during the Indictment period, and of the involvement of the police in the operation, the Trial Chamber has considered that State Security inspectors from the Banja Luka SNB assisted in conducting interrogations of detainees in detention centres in the ARK Municipalities, including Prijedor and Kotor Varoš. For instance, five SNB inspectors stationed in Prijedor, but subordinated to the Banja Luka CSB, took part in the interrogations of detainees at the Omarska and Keraterm camps. These inspectors answered to Vojin Bera and Nedeljko Kesić.<sup>1189</sup> Predrag Radulović testified that he had informed Kesić about abuses of detainees in these camps.<sup>1190</sup>

433. The Trial Chamber has also reviewed dispatches, orders, and statements made by Župljanin. Already by 30 April 1992, Župljanin was aware of “criminal activities” of authorised officials.<sup>1191</sup> On 11 May 1992, the RS MUP informed Župljanin that in some ARK SJBs there were cases of “unprincipled conduct” by the reserve police and that individuals with a criminal record could not be part of the reserve police, with the exception of traffic-related tasks. On 15 May 1992, Župljanin forwarded the RS MUP’s dispatch to the chiefs of the ARK SJBs.<sup>1192</sup> On 18 May 1992, Župljanin forwarded a communication of the MUP to the chiefs of all SJBs in the Banja Luka CSB’s area of

<sup>1187</sup> P567, Report from the Bosanski Novi SJB to the Banja Luka CSB, 21 May 1992.

<sup>1188</sup> P755, Report from the Bosanski Novi SJB to the Banja Luka CSB, 15 August 1992, p. 5.

<sup>1189</sup> Predrag Radulović, 26 May 2010, T. 10866 (confidential); Radomir Rodić, 13 September 2010, T. 14476; ST245, 2 November 2010, T. 16725-16727, 16741-16742 (confidential); Goran Sajinović, 17 October 2011, T. 25134-25135 and 19 October 2011, T. 25323-25326; P117, Telegram from the Sanski Most SJB to the Banja Luka CSB concerning the Detention of Alleged Extremists between 27 May and 2 July 1992, 2 July 1992, p. 1; P805, Report on the Activities of the Prijedor SNB for 1992, 20 January 1993, p. 3; P583, Dispatch of the Banja Luka CSB to the RS MUP, 20 July 1992, p. 1.

<sup>1190</sup> Predrag Radulović, 26 May 2010, T. 10857-10858.

<sup>1191</sup> P1002, Dispatch from the Banja Luka CSB to the ARK SJB Chiefs, 30 April 1992, p. 2.

responsibility, stating that the unprincipled behaviour among the police reserve force in certain SJBs had to be stopped, that persons convicted of criminal acts could not be part of the police reserves, and that employees who did not fulfil the conditions prescribed for the police reserves were to return their equipment to the police stations and be placed at the disposal of the Serb TO.<sup>1193</sup>

434. At an RS MUP meeting held in Belgrade on 11 July 1992, Župljanin stated that the army and the Crisis Staffs, or War Presidencies, were requesting that as many Muslims as possible be “gathered”, and added that these bodies were leaving the responsibility to deal with these “undefined camps” to the internal affairs organs. He added that conditions in these camps were bad, there was no food, and “some individuals” were not respecting “international norms”.<sup>1194</sup>

435. On 20 July 1992, Župljanin wrote to Mićo Stanišić informing him that between April and July 1992 there had been conflicts between Serb Forces, on one side, and Muslim and Croatian forces, on the other. In the context of these operations, the army and the police had arrested several thousand citizens of Muslim and Croat nationality. Men of military age, who according to Župljanin made up the majority of the prisoners, were interrogated by army and state security officers and were divided into three categories. Župljanin stated that, while persons in the first two categories were “of security interest to us”, the third category consisted of men regarding whom they did not have any information of security interest and could be treated as “hostages”. He added that numerous policemen from different SJBs were engaged in guarding these prisoners, with repercussions on the effectiveness of the Public Security Service.<sup>1195</sup> He asked Stanišić to contact the “authority organs” and the VRS and to clarify which status and what treatment should be afforded to these detainees and requested guidance on how to deal with prisoners belonging to the third category and with minors, prisoners older than 60 years, and the ones who were chronically sick. Finally, he suggested to file criminal charges against people for whom there was proof of criminal responsibility, to “assume decisive attitude” in relation to minors, the elderly, and the sick, and to try to exchange the people in the third category with Serb prisoners.<sup>1196</sup>

436. On 30 July 1992, Župljanin wrote in a dispatch sent to all the SJBs under the Banja Luka CSB that, especially in areas where military operations were being conducted, groups of people,

<sup>1192</sup> 1D666, Banja Luka CSB’s Dispatch to the ARK SJB Chiefs, 15 May 1992.

<sup>1193</sup> Vladimir Tutuš, 16 March 2010, T. 7659; P1013, Dispatch signed by Župljanin and forwarded to all SJBs Chiefs regarding the Inadmissibility of People Convicted for Criminal Acts or Responsible for Breaches of Public Order into the Reserve Police Forces, 15 May 1992.

<sup>1194</sup> P160, Minutes of RS MUP Meeting held in Belgrade on 11 July 1992, p. 7.

<sup>1195</sup> P583, Information from Stojan Župljanin to Mićo Stanišić on Arrests and Detention Centres in the ARK, 20 July 1992, p. 1.

<sup>1196</sup> P583, Information from Stojan Župljanin to Mićo Stanišić on Arrests and Detention Centres in the ARK, 20 July 1992.

often wearing the insignia and uniforms of the Serbian army or of the police, appropriated movable property and valuables on a large scale.<sup>1197</sup> Župljanin also stated that the already difficult situation caused by the conflict was aggravated by “gross violations of the law” in the work of a number of employees in the SJB, including illegal confiscations, tolerance of criminal incidents, and direct participation in criminal acts.<sup>1198</sup> Župljanin ordered the chiefs of SJBs in the ARK to “immediately” coordinate with the military and take “appropriate and vigorous measures” to prevent the arrest of citizens, “regardless of their ethnic affiliation”, by unauthorised persons. He also ordered them to “immediately” take appropriate legal measures against those responsible for such incidents. He prohibited the detention of persons arrested by “unauthorised persons”, absent the approval of the Centre. Župljanin ordered the release of persons already in custody, unless they were of interest for security, and the circumstances of their being brought into custody was to be recorded.<sup>1199</sup>

437. On 10 August 1992, during a meeting at the Banja Luka CSB, Župljanin informed Colonel Bogojević of the 1<sup>st</sup> KK and other police officers that some members of the light brigades in the area of the Banja Luka CSB, including some under the responsibility of the 1<sup>st</sup> KK who were engaged in the implementation of the curfew, were “prone to various types of crime”.<sup>1200</sup>

(x) Evidence of Župljanin’s knowledge of undisciplined behaviour of members of Banja Luka CSB Special Police Detachment

438. In June 1992, Vladimir Tutuš, Chief of the Banja Luka SJB, reported on several occasions to the Banja Luka CSB that members of the Detachment behaved arrogantly and violently in contravention of legal provisions and committed crimes. A number of Tutuš’s reports concerned armed threats issued by members of the Detachment against members of the police who were carrying out their official duties. One report recounted violent behaviour of members of the Detachment, including death threats, against a Croat who had been arrested on suspicion of being a member of the “Croatian Guard Corps”.<sup>1201</sup> Tutuš reported that, on one occasion, two police

<sup>1197</sup> Predrag Radulović, 1 June 2010, T. 11132; 2D25, CSB Banja Luka to all SJB Chiefs, Command of 1<sup>st</sup> and 2<sup>nd</sup> Krajina Corps and MUP of the RS providing Information on the Security Situation, sent by Stojan Župljanin, 30 July 1992, pp. 1-2.

<sup>1198</sup> Predrag Radulović, 1 June 2010, T. 11132; 2D25, CSB Banja Luka to all SJB Chiefs, Command of 1<sup>st</sup> and 2<sup>nd</sup> Krajina Corps and MUP of the RS providing Information on the Security Situation, sent by Stojan Župljanin, 30 July 1992, p. 1.

<sup>1199</sup> 2D25, CSB Banja Luka to all SJB Chiefs, Command of 1<sup>st</sup> and 2<sup>nd</sup> Krajina Corps and MUP of the RS providing Information on the Security Situation, sent by Stojan Župljanin, 30 July 1992, p. 3.

<sup>1200</sup> P1502, Report on the Visit to the CSB and SJBs of the ARK, 10 August 1992, pp. 1, 3.

<sup>1201</sup> Vladimir Tutuš, 16 March 2010, T. 7682-7683, 7686-7693; P1081, Dispatch from Vladimir Tutuš to the Banja Luka CSB concerning Illegal Activities of the Special Police Detachment, 4 June 1992, p. 2; P1082, Official Note from SJB Banja Luka concerning an Incident involving a Member of Special Police Detachment, 19 June 1992; P1083, Official Note from SJB Banja Luka concerning an Incident involving Members of Special Police Detachment in Banja Luka, 20 June 1992; P628, Information on Registered Illegal Activities of the Members of the former Banja Luka CSB Special Police Detachment, 5 May 1993, p. 10; P1084, Official Note from SJB Banja Luka concerning an Incident involving Members of Special Police Detachment, 20 June 1992, pp. 1-2; P1086, Official Note from SJB Banja Luka

officers of the Banja Luka SJB stopped a man named Svetko Makivić, who identified himself as a member of the Detachment and who told the officers: “Call Stojan Župljanin or Kesić for me so that I can talk to them. Who are you to stop me?” The officers told the driver to go to the Banja Luka MUP, and he complied with the order.<sup>1202</sup> The duty officer at the MUP verified that the individual in question was a member of the Detachment and he was released.<sup>1203</sup> On 21 June 1992, the Banja Luka SJB urged the CSB to discipline the Detachment, to ensure that they act legally, and that they cooperate with and respect regular police employees, whom they occasionally humiliated.<sup>1204</sup>

439. On 24 June 1992, Tutuš sent a comprehensive report to Župljanin in which he listed all the previously reported incidents. Tutuš reported that this information had already been conveyed to the CSB on several occasions in dispatches and memos and expressed “hope” that the CSB would undertake measures falling under its jurisdiction.<sup>1205</sup> On 1 July 1992, the Head of the Banja Luka SJB Crime Section sent a dispatch to Župljanin listing again crimes and undisciplined behaviour of the Detachment. The dispatch contained information on Danko Kajkut, Nenad Kajkut, Ljuban Ečim, and various other members of the Detachment who were suspected of crimes.<sup>1206</sup> The report also contained mention of an incident in the early hours of 20 June 1992 in the Banja Luka SJB, where three members of the Detachment cursed, threatened police officers at gun point, and fired a bullet inside the police premises. One of the Detachment’s members wore a camouflage uniform, and the other two “jogging suits and running shoes”. The raid was carried out to protest the arrest of a member of the Detachment by five police officers. One of the three men, named Makivić, called Župljanin from the police station to request the removal of the police officers who had carried out the arrest.<sup>1207</sup>

440. The Trial Chamber has also considered evidence showing that in May 1992, Predrag Radulović had informed Župljanin both orally and in writing of crimes committed in Doboj by the

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concerning an Incident involving Members of Special Detachment, 21 June 1992; P1087, Official Note from SJB Banja Luka concerning an Incident involving Members of Special Police Detachment, 22 June 1992.

<sup>1202</sup> Vladimir Tutuš, 16 March 2010, T. 7686; P1082, Official Note from SJB Banja Luka concerning an Incident involving a Member of Special Police Detachment, dated 19 June 1992, p. 1.

<sup>1203</sup> P1082, Official Note from SJB Banja Luka concerning an Incident involving a Member of Special Police Detachment, 19 June 1992, p. 2.

<sup>1204</sup> P1085, Report from the Banja Luka SJB to the Banja Luka CSB, 21 June 1992, pp. 3-4.

<sup>1205</sup> Vladimir Tutuš, 16 March 2010, T. 7695-7696; P1088, Overall and Comprehensive Report from SJB Banja Luka to CSB Banja Luka concerning a List of Incidents involving Members of Special Purpose Detachment Banja Luka, 24 June 1992.

<sup>1206</sup> P1089, Report to the Chief of the Banja Luka CSB on the Alleged Criminal Activities of Members of the Banja Luka Special Police Detachment, 1 July 1992.

<sup>1207</sup> P1089, Report to the Chief of the Banja Luka CSB on the Alleged Criminal Activities of Members of the Banja Luka Special Police Detachment, 1 July 1992, pp. 8-9.

Banja Luka Special Police Detachment.<sup>1208</sup> According to Radulović, during this action the Detachment was led by Ljuban Ečim and Zdravko Samardžija.<sup>1209</sup>

(d) Failing, while under duty under laws and regulations applicable to MUP, to protect entire civilian population within areas in ARK Municipalities and to take adequate steps to ensure that RS MUP forces protected Muslim, Croat, and other non-Serb populations residing in those areas

(i) Župljanin's orders and actions to protect non-Serb population

441. According to statements made by Župljanin at an RS MUP meeting held in Belgrade on 11 July 1992, there were at that time about 8,500 policemen "in the region", which the Trial Chamber understands to be the area of responsibility of the Banja Luka CSB.<sup>1210</sup> According to Christian Nielsen, in the spring and summer of 1992, the police in Banja Luka were "well organized", as demonstrated by the manpower and hardware displayed at the parade held on 12 or 13 May 1992 to introduce the Banja Luka CSB Special Police Detachment.<sup>1211</sup> The Trial Chamber has also reviewed evidence above showing that the Banja Luka CSB had at its disposal a well-armed and equipped Detachment of more than 150 men. In considering the capabilities of the RS MUP forces in the ARK during the Indictment period, the Trial Chamber has also taken into account that during the spring and summer of 1992, a large number of policemen under the Banja Luka CSB was, at different times, engaged in combat operations in ARK Municipalities.<sup>1212</sup>

442. On 6 May 1992, Župljanin, speaking before the chiefs of the ARK SJBs, stated that the situation in the CSB's area of responsibility was "complicated and difficult". He exhorted the participants of the meeting to take all measures available "within our powers" to preserve the peace in the areas falling under their responsibility.<sup>1213</sup>

443. On 30 July 1992, Župljanin sent a dispatch to all chiefs of SJBs in which he noted that, on the territory of some SJBs, the TO, local and regional Crisis Staffs, and other unauthorised organs had set up their own checkpoints in addition to the ones set up by the police. These checkpoints were manned by paramilitaries "with the purpose of committing criminal acts", including the physical abuse of civilians. According to the dispatch, there was a general feeling among the public that the police were incapable of dealing with these incidents, which called into question the

<sup>1208</sup> Predrag Radulović, 25 May 2010, T. 10731-10732 and 26 May 2010, T. 10804. Župljanin is not indicted for crimes committed in the municipality of Dobož.

<sup>1209</sup> Predrag Radulović, 26 May 2010, T. 10799-10800.

<sup>1210</sup> P160, Minutes of RS MUP Meeting held in Belgrade on 11 July 1992, p. 7.

<sup>1211</sup> P508, Nielsen Expert Report, pp. 70-71.

<sup>1212</sup> P560, Article published in the newspaper *Glas* titled "We Guarantee Peace", 12 May 1992, pp. 2-3; 2D36, Report on the Analysis of the Work of the SJBs in the Banja Luka CSB Area in 1992, 22 March 1993, p. 3.



efficiency of the police and the system's legal institutions. Župljanin noted that these occurrences fuelled fear and ethnic division among Serbs and other ethnic groups and that action had to be taken to prevent such criminal activities.<sup>1214</sup> Župljanin ordered SJBs to “[i]mmediately establish the existence and activity of paramilitary formations” and inform the competent military authorities and the CSB to “immediately remove” all checkpoints set up by unauthorised persons. Župljanin then ordered the SJBs to take “immediate, decisive and uncompromising action” to uncover and document criminal activities in SJBs and police stations, and to take appropriate criminal legal and disciplinary measures against the perpetrators, including temporary suspension and detention.<sup>1215</sup> Radulović testified that this was exactly how the work was done in Teslić.<sup>1216</sup> Pursuant to Župljanin's orders, after taking legal measures against police culprits and removing them from the organ, the SJBs were to immediately relieve them of their wartime posts and immediately inform the competent military organs and the Secretariat for All-People's Defence. Župljanin concluded by specifying that the chiefs of SJBs were personally responsible for carrying out the orders by 10 August 1992.<sup>1217</sup> ST161 testified that this order did not introduce new regulations, but was just a reminder of the formal legal obligations of the police.<sup>1218</sup> ST161 added that police officers who committed criminal acts were seldom subjected to these procedures.<sup>1219</sup> ST161 was aware of Župljanin's order of 30 July 1992, but testified, with regard to the municipality of Sanski Most, that it was practically impossible to implement, because the personnel in the field was in “a weak position” *vis-à-vis* stronger authorities above them, such as the SDS, their organs, paramilitaries, and the military.<sup>1220</sup> SZ007 testified that these orders could almost never be implemented in actual practice.<sup>1221</sup>

444. On 5 August 1992, foreign journalists visited detention camps in Prijedor, and international press reported that detainees at Omarska and Trnopolje were held in inhumane conditions and subject to physical abuse.<sup>1222</sup> At the beginning of August 1992, the ICRC became aware of the

<sup>1213</sup> P367, Conclusions reached at the Extended Meeting of the Banja Luka CSB Council on 6 May 1992, 20 May 1992, p. 2.

<sup>1214</sup> 2D25, CSB Banja Luka to all SJB Chiefs, Command of 1<sup>st</sup> and 2<sup>nd</sup> Krajina Corps and MUP of the RS providing Information on the Security Situation, sent by Stojan Župljanin, 30 July 1992, p. 2.

<sup>1215</sup> 2D25, CSB Banja Luka to all SJB Chiefs, Command of 1<sup>st</sup> and 2<sup>nd</sup> Krajina Corps and MUP of the RS providing Information on the Security Situation, sent by Stojan Župljanin, 30 July 1992, p. 4.

<sup>1216</sup> Predrag Radulović, 1 June 2010, T. 11138.

<sup>1217</sup> 2D25, CSB Banja Luka to all SJB Chiefs, Command of 1<sup>st</sup> and 2<sup>nd</sup> Krajina Corps and MUP of the RS providing Information on the Security Situation, sent by Stojan Župljanin, 30 July 1992, p. 4.

<sup>1218</sup> ST161, 20 November 2009, T. 3536 (confidential).

<sup>1219</sup> ST161, 20 November 2009, T. 3535-3536 (confidential).

<sup>1220</sup> ST161, 20 November 2009, T. 3527-3528, 3533-3535 (confidential).

<sup>1221</sup> SZ007, 7 December 2011, T. 26313 (confidential).

<sup>1222</sup> Ian Traynor, 17 May 2010, T. 10341-10342; P427.20, Article by Jonathan Miller in the *Sunday Times* regarding the Impact of Concentration Camps Photos, 9 August 1992, pp. 2-3.

unsatisfying conditions of detention facilities in Manjača and made requests to the Bosnian Serb leadership for their improvement.<sup>1223</sup>

445. On 8 August 1992, Stanišić ordered all “leading staff” in CSBs to “immediately release and allow free movement to the category of the civilian population, which includes all persons, regardless of age, who were not members of enemy formations”.<sup>1224</sup> A reminder order was sent to all CSBs on 17 August 1992.<sup>1225</sup> On 19 August 1992, Stojan Župljanin forwarded the orders to all ARK SJBs.<sup>1226</sup> In Prijedor, Simo Drljača forwarded them to the Prijedor SJB sub-stations.<sup>1227</sup>

446. On 14 August 1992, Župljanin decided to form a commission to visit the municipalities of Prijedor, Sanski Most, Bosanski Novi, and the SJBs of these municipalities. He appointed commissioners Vojin Bera, Vaso Škondrić, Ranko Mijić, and Jugoslav Rodić. The commission was to determine: whether any POW camp, reception centre, investigation centre, or other facilities for the “reception” of citizens had been established in these municipalities; the reasons for their establishment; the number of people arrested, processed, and released; and the ethnicity, gender, and age of the persons and the conditions in which they lived. The commission was also tasked with ascertaining if in these municipalities there had been instances of citizens being moved out, and if so, their ethnicity, their number, and whether they had moved out voluntarily or under coercion.<sup>1228</sup> Commissioners Ranko Mijić and Vojin Bera were both involved in interrogating prisoners at Omarska camp.<sup>1229</sup>

447. On 18 August 1992, the commission presented its findings to Župljanin. In relation to Prijedor, the existence of Omarska, Keraterm, and Trnopolje was reported. From 27 May to 16 August 1992, 3,334 persons had been brought to the Omarska Investigation Centre, 3,197 of whom were Muslim and 125 Croat. The report stated that prisoners had been divided in three categories. One category consisted of people brought in from areas where there had been fighting, another one of people who were not involved in fighting, and the last one of people for whom there was no material evidence of involvement in the armed rebellion. Of the 3,334 persons interrogated

<sup>1223</sup> P179.13, Radovan Karadžić’s Letter to the RS Prime Minister concerning ICRC’s Requests to Improve Conditions in Detention Facilities in Manjača and Bileća, 7 August 1992.

<sup>1224</sup> 1D563, RS MUP Order to all CSBs to Obtain Information about Conditions of Detainees in Prisons, 8 August 1992, p. 1.

<sup>1225</sup> 1D56, RS MUP Order that Employees of CSBs and SJBs follow Law and International Conventions in their Treatment of Prisoners and Refugees, 17 August 1992. The Chamber notes that 1D77, Order to Treat POW and Refugees in Accordance with International Law, 17 August 1992, is duplicative of 1D56.

<sup>1226</sup> P605, Order from Chief of CSB Banja Luka to all Chiefs of SJBs regarding Orders of 10 and 17 August 1992, 19 August 1992.

<sup>1227</sup> 1D83, Memorandum of the Prijedor SJB documenting the Contents of Dispatch from Banja Luka CSB, 20 August 1992; P1903, Memorandum of the Prijedor SJB forwarding Dispatch from Banja Luka CSB, 21 August 1992.

<sup>1228</sup> 2D26, Župljanin’s Decision to form a Commission to Investigate the Existence and Conditions of Detention Centres in Prijedor, Bosanski Novi, and Banja Luka, 14 August 1992, p. 1.

<sup>1229</sup> ST245, 2 November 2010, T. 16731-16732, 16741-16742 (confidential).

at Omarska, 1,773 had been transferred to the “Open Reception Centre in Trnopolje”, and the others had been divided between Omarska and Manjača.<sup>1230</sup> Considering the nature of the Trnopolje camp,<sup>1231</sup> the Trial Chamber is satisfied that the 1,773 people transferred there belonged to the category of people of no security interest and against whom there was no evidence of involvement in armed rebellion. SJB Prijedor personnel had taken part in guarding and interrogating prisoners at Omarska and Keraterm and transported detainees to Manjača and Trnopolje.<sup>1232</sup> The commission’s report contained information on detention centres, the number of detainees, and police involvement with detention centres in Sanski Most and Bosanski Novi.<sup>1233</sup> It also contained information on departure of non-Serbs from these municipalities.<sup>1234</sup> The report does not contain information on the mistreatment of prisoners or the inadequacy of the detention facilities. Moreover, the findings of the commission appear to be based on reports provided to the commission by the Prijedor, Sanski Most, and Bosanski Novi SJBs, rather than on first hand information obtained by the commissioners.<sup>1235</sup>

448. On 19 August 1992, Župljanin forwarded to all SJB employees and chiefs a dispatch of the RS Minister of Interior, Mićo Stanišić, on the need to restrict the use of custody and detention measures only within the scope of the regulations in force, to prevent abuse of detainees, and to provide satisfying standards of care.<sup>1236</sup> On the same day, pursuant to orders of the “highest authorities” of RS, he ordered all SJBs which had transported detainees to Manjača to start assembling personal files for each “prisoner of war”, on the basis of which decisions about further treatment of prisoners would be made. He added that police chiefs were obliged to make contact with civilian authorities in their municipalities to organise the “take-over and transport of prisoners who might be released”.<sup>1237</sup> On 21 August 1992, Župljanin informed the SJB chiefs that there was the risk that prisoners who were released would be attacked; he therefore instructed them to take appropriate measures to guarantee their security.<sup>1238</sup> In a follow-up dispatch of 22 August 1992, Župljanin ordered SJB chiefs to “select and separate from the detainees at Manjača camp people

<sup>1230</sup> P602, Report on Inspection of Detention Facilities in Prijedor, Sanski Most, and Bosanski Novi, 18 August 1992, pp. 1-4 (the Report indicates that the 3,334 persons also included 11 Serbs and one “other”). See also 2D90, Report on Prisoners, Centres, Resettlement, and Role of SJB relating to Prijedor, Bosanski Novi, and Sanski Most, 19 August 1992.

<sup>1231</sup> See Prijedor section.

<sup>1232</sup> P602, Report on Inspection of Detention Facilities in Prijedor, Sanski Most, and Bosanski Novi, 18 August 1992, p. 5.

<sup>1233</sup> P602, Report on Inspection of Detention Facilities in Prijedor, Sanski Most, and Bosanski Novi, 18 August 1992, pp. 6-10.

<sup>1234</sup> P602, Report on Inspection of Detention Facilities in Prijedor, Sanski Most, and Bosanski Novi, 18 August 1992, pp. 4, 7-9.

<sup>1235</sup> P391, Dispatch from the Sanski Most SJB to the Banja Luka CSB on Detention Centres in the Municipality of Sanski Most, 18 August 1992; P672, Prijedor SJB Report on Detention Centres in the Municipality of Prijedor, 16 August 1992; P755, Bosanski Novi SJB Report on Detention Centres in the Municipality of Bosanski Novi, 15 August 1992.

<sup>1236</sup> P605, Župljanin’s Dispatch to the SJB Chiefs and Employees concerning the Arrest and Treatment of Prisoners, 19 August 1992.

<sup>1237</sup> P603, Dispatch from Župljanin to the Chiefs of all SJBs under the Banja Luka CSB, 19 August 1992.

whose further detention in the camp cannot be confirmed by any material evidence. These people should be taken over from the camp administration and transported with due security measures to admission points prepared in cooperation with the civilian authorities.” This order had to be carried out immediately and no later than 8:00 p.m. on 22 August 1992.<sup>1239</sup> On the same day, Simo Drljača, Chief of the Prijedor SJB, informed Župljanin that they had completed the selection of detainees in Manjača and had transferred them to the Trnopolje camp on 21 August 1992.<sup>1240</sup> The Ključ Crisis Staff also responded on the same day, stating that Ključ was unable to either provide security or accommodate persons hypothetically released from Manjača. The Ključ Crisis Staff suggested to either delay the return of the prisoners until further notice or to place them in reception centres at the disposal of humanitarian organisations operating in the municipality of Banja Luka.<sup>1241</sup>

449. On 3 September 1992, the 1<sup>st</sup> KK reported to the VRS Main Staff that in Sanski Most, Kotor Varoš, Ključ, and Prijedor there were still tensions caused by the arrest of a large number of citizens for whom there was no evidence of involvement in the armed rebellion. It was also reported that the CSB was not helping to resolve the situation.<sup>1242</sup>

(ii) Requests for protection by Muslim community in Banja Luka

450. On 15 April 1992, Muharem Krzić, president of the SDA in Banja Luka, had a meeting with Predrag Radić and Vladimir Tutuš to discuss a statement made by Župljanin that he could not guarantee the physical security and the safety of property of non-Serb citizens in Banja Luka. Muharem Krzić testified that the Muslims found that statement “shattering” and realised that their security was in great jeopardy. Radić responded by stating that the situation for Serbs outside the ARK was even worse than that of Muslims in Banja Luka.<sup>1243</sup>

451. Some days after 16 August 1992, ST223 and ST225 attended, together with other representatives of the Muslim community, a meeting in Gornji Seher, a Muslim area of the town of Banja Luka.<sup>1244</sup> Stojan Župljanin, Predrag Radić, and a representative of the military were present. The Muslims informed Župljanin and the others of the crimes and abuses committed against them,

<sup>1238</sup> P607, Dispatch from Župljanin to the Chiefs of all SJBs under the Banja Luka CSB, 21 August 1992.

<sup>1239</sup> P608, Dispatch from Župljanin to the Chiefs of all SJBs under the Banja Luka CSB, 22 August 1992.

<sup>1240</sup> P677, Dispatch from Drljača to Župljanin concerning the Transfer of Detainees from Manjača to Trnopolje, 22 August 1992.

<sup>1241</sup> P750, Response of the Ključ Crisis Staff to Župljanin’s Dispatches concerning Detainees in Manjača, 22 August 1992, p. 1.

<sup>1242</sup> P611, 1<sup>st</sup> KK Report on State of Combat Morale, 3 September 1992, pp. 3-4.

<sup>1243</sup> Muharem Krzić, 19 January 2010, T. 5138-5142; P470, Article published in the newspaper *Glas* titled “Preserving Peace is a Joint Concern”, 16 April 1992, pp. 1-2.

<sup>1244</sup> ST225, 11 November 2010, T. 17257-17259 (confidential); ST223, 2 December 2010, T. 18028; P1713, Map of Banja Luka Town marked by ST225.

including the crimes committed by the persons driving the infamous red van in Banja Luka,<sup>1245</sup> murders, attacks against property, and destruction of mosques. They also discussed the problem of expulsions and detention in camps. They sought protection, and the Serb representatives promised that they would do everything in their power to improve the situation.<sup>1246</sup> However, according to both ST223 and ST225, the day after the meeting the situation worsened. Serb police started carrying out large-scale raids, searching several hundreds of houses in the Muslim areas of Banja Luka town, officially looking for weapons. They looted and arrested persons who had not responded to the mobilisation. The victims of these searches, arrests, and looting were mostly non-Serbs.<sup>1247</sup> ST225 testified that on another occasion he had reported to Župljanin a number of crimes committed against his property, but Župljanin replied that he was powerless to control the situation.<sup>1248</sup>

452. In September 1992, Muharem Krzić attended a press conference in Banja Luka in the presence of Cyrus Vance, Lord David Owen, representatives from both the SDA and the SDS, and local and foreign reporters. Representatives of the Serb side included Karadžić, Kuprešanić, Krajišnik, Brđanin, and Župljanin. During this press conference, non-Serb representatives voiced again their concern for the crimes committed against their community, including mass killings and the situation in detention camps.<sup>1249</sup>

(iii) Police action against Miće Group in Teslić

453. Around mid-June 1992, Predrag Markočević, commander of the Teslić police station,<sup>1250</sup> informed Stojan Župljanin that members of the so-called “Miće Group” had beaten Muslim and Croat detainees at the Teslić SJB and that there had been a number of casualties among them. ST207 testified that Župljanin’s response was that a war was going on and that similar things were happening in a number of other places. Župljanin suggested to ST207 to go to Doboj and discuss the matter with the local authorities, because the members of Miće were from there.<sup>1251</sup>

<sup>1245</sup> The crimes committed by the persons moving around Banja Luka in a red van, also referred to as “red combi”, are discussed in the Banja Luka section.

<sup>1246</sup> ST225, 11 November 2010, 17257-17264 (confidential); ST223, 2 December 2010, T. 18027-18030.

<sup>1247</sup> ST225, 11 November 2010, T. 17250, 17263-17264 (confidential); ST223, 2 December 2010, T. 18030-18032.

<sup>1248</sup> ST225, 11 November 2010, T. 17265-17266 (confidential).

<sup>1249</sup> Muharem Krzić, 19 January 2010, T. 5140-5142.

<sup>1250</sup> ST191, P1353.01, *Prosecutor v. Brđanin*, Case No. IT-99-36-T, 15 July 2003, T. 19567 (confidential). For Predrag Markočević’s position, see also the Teslić section.

<sup>1251</sup> ST207, 13 May 2010, T. 10090-10092; P839, Official Note to the MUP from the Teslić SJB, 3 July 1992, p. 7; P840, Official Note on Abuses against Detainees in Teslić, 3 July 1992.

454. Members of the Miće Group had threatened to arrest or kill Nikola Perišić, President of the municipality of Teslić and member of the SDS.<sup>1252</sup> In response, Župljanin ordered Predrag Radulović to put together a task force, arrest them, and file a criminal report.<sup>1253</sup> On 30 June 1992, Radulović and his squad, together with units of the VRS, arrested 16 members of the group. On the day of the arrests, during a meeting at the police station in Teslić, “CSB Doboј executives” told Radulović that it would not be a good idea to include the name of Milan Savić, who was from the Doboј CSB and part of the Miće Group, in the report that he was to draft on the arrests. Župljanin was present during this meeting.<sup>1254</sup> ST191 testified that Župljanin was talking to Markočević and Kuzmanović, who were respectively the Commander and the Chief of the Teslić SJB, and told them that they should not have allowed the crimes committed by the Miće Group.<sup>1255</sup> After the arrests, Župljanin temporarily appointed Radulović as Chief of the Teslić SJB, with the task of gathering evidence for the prosecution of the Miće Group and to ensure the proper functioning of the SJB. Radulović stayed in that post for about two months.<sup>1256</sup>

455. On 8 and 9 July 1992, Radulović submitted criminal charges to the investigative judge of the Teslić lower court and to the public prosecutor, respectively. The charges concerned, *inter alia*, unlawful imprisonment and murder. The name of Milan Savić did not feature among the names of the suspects.<sup>1257</sup> On 8 July 1992, Radulović requested assistance from the Banja Luka CSB to form a forensic team to exhume the victims of the Miće Group, in the “interest of a proper investigation and presentation of the truth”.<sup>1258</sup> On 10 July 1992, he reiterated the request, this time addressing it personally to Župljanin.<sup>1259</sup> Župljanin, however, did not respond. Radulović discussed these two letters with Župljanin, in particular that in Teslić insufficient information had been gathered about the crimes. Župljanin’s comment was that it was not the right time and that there was no need for forensic examinations.<sup>1260</sup> Radulović testified that, after the arrests, he received threats from

<sup>1252</sup> ST191, P1353.01, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 15 July 2003, T. 19558-19559 and 19567-19568 (confidential); ST191, 14 May 2010, T. 10279-10280 (confidential); Branko Perić, 19 May 2010, T. 10505-10506; Predrag Radulović, 27 May 2010, T. 10918-10919, 10927; ST121, 24 November 2009, T. 3721 (confidential).

<sup>1253</sup> ST191, P1353.01, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 15 July 2003, T. 19559-19564 (confidential); Predrag Radulović, 27 May 2010, T. 10925-10927, 10935.

<sup>1254</sup> Predrag Radulović, 27 May 2010, T. 10943-10944; P1353.09, Article published in the newspaper *Glas* titled “The Notorious Miće Are Free”, 23 July 1992, pp. 1-2; P702, Dispatch from General Talić to Radovan Karadžić on the Situation in the Municipality of Teslić, 1 July 1992, pp. 5-6.

<sup>1255</sup> ST191, 14 May 2010, T. 10204-10205 (confidential).

<sup>1256</sup> ST191, 14 May 2010, T. 10213-10216 (confidential); Branko Perić, 20 May 2010, T. 10599; P703, Letter from Radulović to Župljanin requesting Forensic Assistance in the Investigation of Members of the Miće Group, 8 July 1992, p. 2.

<sup>1257</sup> ST191, 14 May 2010, T. 10224-10225 (confidential); P837, Report on Apprehension of 16 Individuals in Teslić, 8 July 1992; P838, Criminal Report to the Teslić Public Prosecutor, 9 July 1992, pp. 1, 5-6, 10.

<sup>1258</sup> P703, Letter from Radulović to Župljanin Requesting Forensic Assistance in the Investigation of Members of the Miće Group, 8 July 1992.

<sup>1259</sup> P1383, Second Letter from Radulović to Župljanin requesting Forensic Assistance in the Investigation of Members of the Miće Group, 10 July 1992.

<sup>1260</sup> Predrag Radulović, 27 May 2010, T. 10940-10941.

members of the CSB, members of the Doboj SNB, and from the military.<sup>1261</sup> The arrested members of the Miće Group were originally detained in Teslić and then moved to a prison in Banja Luka. Eventually, upon request of the Doboj High Court, they were transferred to Doboj. By 23 July 1992, after less than two months, they had all been released by Judge Nešković.<sup>1262</sup>

(iv) Župljanin's role in preventing killing of hundreds of Muslims and Roma in Doboj around mid-May 1992

456. Around mid-May 1992, Predrag Radulović was returning from Doboj to Banja Luka with Goran Sajinović and another colleague of his when they encountered a group of armed individuals in military uniform, which included Predrag and Nenad Kujundžić, the leaders of a unit known as Predo's Wolves.<sup>1263</sup> Radulović and Sajinović testified that these men had lined up a group of 300-600 people primarily of Roma and Muslim ethnicity and intended to execute them.<sup>1264</sup> Both witnesses testified that they immediately contacted Župljanin via radio and he told them to make every effort to avert the imminent crime and that he would make sure that assistance would be on its way, if necessary.<sup>1265</sup> Indeed, Župljanin sent a group of policemen from Prnjavor, the nearest police station, and owing to this intervention the massacre was prevented.<sup>1266</sup>

(e) Encouraging and facilitating commission of crimes by Serb Forces against Croats, Muslims, and other non-Serbs in ARK Municipalities by not taking adequate steps to investigate, arrest, or punish perpetrators of such crimes

(i) Evidence on efforts to investigate crimes committed by Serbs against non-Serbs in ARK

457. On 25 May 1992, the Crime Prevention Department of the Banja Luka CSB drafted a secret operative work plan, signed by Živko Bojić and by Stojan Župljanin. The plan was aimed at "solving robberies, terrorism, extortion, etc., which have escalated in the territory of the Banja Luka

<sup>1261</sup> Predrag Radulović, 27 May 2010, T. 10938.

<sup>1262</sup> ST191, P1353.01, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 15 July 2003, T. 19564 (confidential); Branko Perić, 19 May 2010, T. 10518-10519; P1353.09, Article published in the newspaper *Glas* titled "The Notorious Miće Are Free", 23 July 1992, p. 2.

<sup>1263</sup> Goran Sajinović, 17 October 2011, T. 25137 (confidential), 25140-25141, 25141-25143 (confidential) and 18 October 2011, T. 25298; Predrag Radulović, 28 May 2010, T. 11020. The Trial Chamber is satisfied that this incident happened around mid-May 1992 based on the evidence of Sajinović and of Radulović, who was reporting from Doboj in May 1992. *See* Predrag Radulović, 26 May 2010, T. 10799-10800.

<sup>1264</sup> Goran Sajinović, 17 October 2011, T. 25140-25141 and 18 November 2011, T. 25299-25300 (confidential); Predrag Radulović, 28 May 2010, T. 11020 (confidential).

<sup>1265</sup> Goran Sajinović, 17 October 2011, T. 25141 and 18 November 2011, T. 25300; Predrag Radulović, 28 May 2010, T. 11020 (confidential).

<sup>1266</sup> Goran Sajinović, 17 October 2011, T. 25142; Predrag Radulović, 28 May 2010, T. 11020.

SJB since the beginning of April” 1992.<sup>1267</sup> The work plan listed a number of measures to be taken in order to deal with the crimes, including explosions and fires, which had been committed in the territory of the Banja Luka SJB. These measures included the establishment of a list of offenders who were recruited into SOS units by a man nicknamed Čanak, the identification and arrest of people who had committed crimes at the barricades on 3 and 4 April 1992, and the identification of people who had murdered a Muslim man named Mirsad Šabić.<sup>1268</sup> The measures also included disarming and arresting Dragan Javorac and Goran Gatarić, who, according to ST225, were members of the group driving the red van that terrorised the population of Banja Luka after April 1992.<sup>1269</sup> The work plan also included investigations of the bombing of the Arnaudija mosque.<sup>1270</sup> A list of “robberies committed by uniformed personnel” was included in an annex to the work plan, with several of the identified victims being Muslims and Croats.<sup>1271</sup> The work plan however warned that “[a]s long as the military prosecution office and the military court are in the process of being established, the plan cannot be implemented because most of the offenders are conscripts and members of the former TO, which is why civilian courts and prosecutors refuse to conduct these proceedings”.<sup>1272</sup> Tutuš confirmed that the military prosecutor’s office was not operating at the time the work plan was drafted.<sup>1273</sup>

458. Tutuš testified that the work plan showed that the Banja Luka CSB, in cooperation with the SJB, had identified a large number of persons who had seized cars, valuables, and money from civilians at the barricades on 3 and 4 of April 1992 in Banja Luka.<sup>1274</sup> According to Tutuš, in April and May 1992, the Banja Luka CSB and SJB were conducting investigations, carrying out arrests, and informing the judicial authorities of crimes such as murder, theft, and other offences against persons or property regardless of the ethnicity of the victims.<sup>1275</sup> He testified that there had been arrests and remands in custody in relation to some of the crimes listed in the work plan.<sup>1276</sup>

<sup>1267</sup> Vladimir Tutuš, 18 March 2010, T. 7796; 1D198, Banja Luka CSB Operative Work Plan on Discovering Crimes, 25 May 1992, p. 1.

<sup>1268</sup> Vladimir Tutuš, 18 March 2010, T. 7798; 1D198, Banja Luka CSB Operative Work Plan on Discovering Crimes, 25 May 1992, pp. 1-2.

<sup>1269</sup> ST225, 11 November 2010, T. 17278-17280 (confidential); 1D198, Banja Luka CSB Operative Work Plan on Discovering Crimes, 25 May 1992, p. 2.

<sup>1270</sup> Vladimir Tutuš, 18 March 2010, T. 7799; 1D198, Banja Luka CSB Operative Work Plan on Discovering Crimes, 25 May 1992, p. 4.

<sup>1271</sup> Vladimir Tutuš, 18 March 2010, T. 7800-7802; 1D198, Banja Luka CSB Operative Work Plan on Discovering Crimes, 25 May 1992, pp. 6-11.

<sup>1272</sup> Vladimir Tutuš, 18 March 2010, T. 7799-7800; 1D198, Banja Luka CSB Operative Work Plan on Discovering Crimes, dated 25 May 1992, p. 4.

<sup>1273</sup> Vladimir Tutuš, 18 March 2010, T. 7800.

<sup>1274</sup> Vladimir Tutuš, 22 March 2010, T. 7930.

<sup>1275</sup> Vladimir Tutuš, 18 March 2010, T. 7802, 7811-7816; 1D203, Criminal File, 17 April 1992, pp. 1-2; 1D204, Criminal File, 22 April 1992, pp. 1-2; 1D205, Criminal File, 18 May 1992.

<sup>1276</sup> Vladimir Tutuš, 18 March 2010, T. 7797-7798.



459. Further documentary and testimonial evidence shows that the work plan was, at least in part, implemented. On 23 June 1992, Stojan Župljanin submitted a criminal report against Branko Palačković and another 29 alleged perpetrators (a number of whom were “unidentified”) for 37 criminal offences to the public prosecutor’s office in Banja Luka. Police action against “Brane” Palačković and his group had already been planned in the 25 May 1992 work plan. The victims of the crimes listed in this report were Serbs, Muslims, and Croats.<sup>1277</sup> On 25 June 1992, Župljanin filed another criminal report against Branko Palačković and other alleged perpetrators. Palačković was suspected of having caused major material damage in April 1992 to restaurants and other businesses owned by Muslims and Albanians.<sup>1278</sup> On 6 July 1992, Župljanin ordered custody in remand for some of the perpetrators, all of Serb ethnicity, for the murder of Mustafa Smajlagić, a Muslim. This was one of the 37 crimes reported on 23 June 1992.<sup>1279</sup>

460. On 15 July 1992, Župljanin forwarded a report to the Chief of the Banja Luka SJB concerning the fires in Banja Luka in the first half of 1992. The report distinguished between cases of arson and accidental fires. For the 17 cases of arson, eight of the owners of the damaged properties were Muslims, five were Croats, one was a Serb, and another three of unspecified ethnicity. According to the report, the crime investigation staff of the Banja Luka CSB had identified the perpetrators of two cases of arson and filed a criminal report against Branko Palačković. The victims of these two cases of arson were the owners of a kebab shop and a florist.<sup>1280</sup> Tutuš testified that Branko Palačković was arrested in connection with these crimes.<sup>1281</sup> However, the Trial Chamber received evidence that in September 1992 Brane Palačković was provoking attacks in Mejdan, Banja Luka. Based on the fact that witnesses have referred to Palačković alternatively as “Brane” or “Branko”, and considering that both “Brane” and “Branko” operated in Banja Luka, the Trial Chamber is satisfied that the person provoking attacks in September was one and the same person, who according to Tutuš had been arrested.<sup>1282</sup>

461. On 25 June 1992, Župljanin decided to abolish the Banja Luka CSB crime register until the issuance of new instructions by the Minister of Interior and delegated the investigation of serious offences such as murder, robbery, and others to the SJBs. Tutuš, who during his testimony questioned the legality of the order, complained to Župljanin about the change because the SJB did

<sup>1277</sup> Vladimir Tutuš, 18 March 2010, T. 7806-7809; Radimir Rodić, 19 April 2010, T. 8897-8898, 8909; 1D201, Criminal Report from the CSB Banja Luka to the Public Prosecutor’s Office against Branko Palačković and his Group, 23 June 1992, pp. 1-3; 1D198, Banja Luka CSB Operative Work Plan on Discovering Crimes, 25 May 1992, pp. 1-2.

<sup>1278</sup> Vladimir Tutuš, 18 March 2010, T. 7806; 1D200, Second Criminal Report from the CSB Banja Luka to the Public Prosecutor’s Office against Branko Palačković and his Group, 25 June 1992, pp. 1-3.

<sup>1279</sup> Vladimir Tutuš, 18 March 2010, T. 7802-7803; 1D199, Župljanin’s Order for Custody in Remand, 6 July 1992.

<sup>1280</sup> Vladimir Tutuš, 18 March 2010, T. 7809-7811; 1D202, Analysis of the Fires in the Municipality of Banja Luka for the First Six Months of 1992, 15 July 1992, pp. 1, 3.

<sup>1281</sup> Vladimir Tutuš, 18 March 2010, T. 7806.

<sup>1282</sup> P1295.21, pp. 278-279 (confidential).

not have the manpower for this task and because, unless urgent staffing measures were taken, the Banja Luka SJB was not able to accept the expanded scope of its activities.<sup>1283</sup>

462. The Trial Chamber has also reviewed evidence on the filing of criminal reports in other ARK Municipalities in 1992 for crimes committed against non-Serbs by persons of Serb ethnicity. For the period from January to December 1992, 256 crimes were recorded in the Prijedor Crime Register. Only one of these crimes concerned an incident where the victim was a non-Serb and the alleged perpetrator a Serb.<sup>1284</sup> Milenko Delić, a former public prosecutor in Sanski Most,<sup>1285</sup> testified that from April to December 1992 the police reported to his office seven cases against alleged perpetrators of Serb ethnicity who committed crimes against Muslims or Croats. These cases were recorded into the 1992 “KT” logbook from the basic Prosecutor’s office, and none of them concerned crimes allegedly committed by members of the police.<sup>1286</sup> All the crimes not present in the KT logbook were either unreported by the police or they were reported by the police as unsolved crimes with unknown perpetrators.<sup>1287</sup> In 1992, the Teslić police filed no criminal charges against persons of Serb ethnicity for war crimes. While there were instances of crimes committed by Serbs against non-Serbs, according to Branko Perić, former public prosecutor in Teslić, these reports concerned “classical” crimes. According to Perić, when cases were not prosecuted, it was either because the perpetrators were under control of the police or because for some other reason the police did not want to initiate proceedings.<sup>1288</sup> The Crime Register (KU) of the Kotor Varoš SJB for the period between January and December 1992 lists 122 criminal reports. Only two serious crimes committed by a Serb against non-Serbs are recorded, neither of which were prosecuted before the courts. The first one is a double rape allegedly committed by Danko Kajkut, a member of the Detachment, on 29 July 1992.<sup>1289</sup> Gojko Vasić, a former Crime Inspector of the Laktaši SJB, testified that a criminal report for this rape was never submitted to the competent basic Prosecutor, and that the available documentation indicated that this case was archived.<sup>1290</sup> The second one was an attempted murder.<sup>1291</sup>

<sup>1283</sup> Vladimir Tutuš, 16 March 2010, T. 7699-7700; P1015, Memorandum from Stojan Župljanin to the Chiefs of SJBs and to the RS MUP, 25 June 1992, p. 1; P1090, Response of the Banja Luka SJB to Župljanin’s Memorandum of 25 June 1992, 2 July 1992.

<sup>1284</sup> P1558.03, Annexes to Gojko Vasić’s Statement, p. 7 (confidential); P1558.07, Prijedor SJB Crime Register for 1992-1995, p. 4 (confidential).

<sup>1285</sup> Milenko Delić, 15 October 2009, T. 1514,

<sup>1286</sup> Milenko Delić, 15 October 2009, T. 1514 and 19 October 2009, T. 1557-1560; P121, Sanski Most Basic Public Prosecutor’s KT Logbooks for 1992-1995 (confidential).

<sup>1287</sup> Milenko Delić, 19 October 2009, T. 1560.

<sup>1288</sup> Branko Perić, 19 May 2010, T. 10477, 10535-10537.

<sup>1289</sup> P1558.06, Kotor Varos Open Cases Logbook for 1992, p. 4 (logbook number 277) (confidential); P2412, CSB Banja Luka Special Police Payroll for June, 3 August 1992, p. 4, n. 1.

<sup>1290</sup> P1558.02, Witness Statement of Gojko Vasić, 1 April 2010, pp. 1, 4 (confidential).

<sup>1291</sup> P1558.03, Annexes to Gojko Vasic Statement, p. 1 (“KU” record number 49) (confidential).

463. On 17 November 1992, the Banja Luka CSB requested all SJBs in its area of responsibility to submit, by 22 November 1992, details of all serious crimes committed by unidentified perpetrators since 1 January 1992. This was done so that the CSB could provide assistance to the SJBs in solving these crimes.<sup>1292</sup> On 23 November 1992 the Chief of the Ključ SJB, Vinko Kondić, abided by the request and informed the CSB of a number of cases of murder, rape, theft, and arson.<sup>1293</sup> Kondić concluded his dispatch noting that the Ključ SJB had already contacted the Banja Luka CSB asking them for instructions for dealing with the reported crimes, as large numbers of people were killed and many bodies mutilated, and inquiring whether they should make these crimes public by bringing criminal charges against unidentified perpetrators “as the victims were Muslims”. Kondić requested “again” the CSB’s views in dealing with these crimes.<sup>1294</sup> ST218 testified that Kondić did not know what to do in respect to these crimes and had requested guidance from the Banja Luka CSB on a number of occasions. The 23 November 1992 dispatch is an example of such requests.<sup>1295</sup>

464. On 18 December 1992, the Banja Luka CSB issued a report on the planting of explosives in the municipality of Banja Luka in 1992. According to the report, the police had often failed to secure the crime scenes and to gather evidence that would help to identify the perpetrators. Reportedly, only 8% of 172 known incidents had been solved.<sup>1296</sup>

(ii) Župljanin’s role in investigation of death of prisoners during their transport from Prijedor to Manjača camp in August 1992

465. On 5 August 1992, Drljača requested Stojan Župljanin to ensure safe passage on 6 August 1992 for a convoy of 1,466 prisoners scheduled to travel from Prijedor to Manjača camp, in Banja Luka.<sup>1297</sup> On 7 August 1992, a policeman named Tomašević on duty at a checkpoint in Karanovac, about 20 km south of Banja Luka, stopped two policemen of the Prijedor SJB who were travelling in a Golf and escorting a yellow TAM truck with Prijedor plates. Tomašević reported that he noticed something that looked like legs under the truck’s tarpaulin cover, but did not inspect the cargo, assuming it was legitimate since it was escorted by the police. The police in the Golf and the truck passed through, but came back after 20 minutes, saying that they had taken the wrong route

<sup>1292</sup> 2D115, Banja Luka CSB dispatch to all SJBs in relation to the Reporting of Crimes, 17 November 1992.

<sup>1293</sup> P1655, Dispatch from the Ključ SJB to the Banja Luka CSB concerning Serious Crimes Committed by Unidentified Perpetrators from 1 January to 21 November 1992, 23 November 1992.

<sup>1294</sup> P1655, Dispatch from the Ključ SJB to the Banja Luka CSB concerning Serious Crimes Committed by Unidentified Perpetrators from 1 January to 21 November 1992, 23 November 1992, p. 4.

<sup>1295</sup> ST218, 13 October 2010, T. 15919-15920 (confidential).

<sup>1296</sup> 2D127, Banja Luka CSB report on Planting of Explosives in the Municipality of Banja Luka, 18 December 1992, pp. 1-2, 4.

<sup>1297</sup> P670, Request from Simo Drljača to Stojan Župljanin to Secure Safe Passage to a Convoy of Prisoners directed to Manjača, 5 August 1992.

and that they were directed to Manjača. Tomašević noticed that the truck's cover had disappeared, and so had the cargo. Eventually, Tomašević found about five bodies dumped on the side of the road in the direction of Jajce.<sup>1298</sup> On the same day, at the Banja Luka CSB, officer Marković interviewed Boško Grabež and Vladimir Šobot, the two Prijedor policeman who had been stopped earlier that day at Karanovac by officer Tomašević. Grabež and Šobot stated that, on 6 August 1992, they had transported detainees from Omarska to Manjača. The detainees had spent the night between 6 and 7 August 1992 in the buses, waiting to be admitted into the camp on the following day, but during the night, several prisoners had died in the buses. On the following day, a lieutenant colonel told them that the bodies should be dumped into the Vrbas river. The Trial Chamber recalls its finding in the Banja Luka section that these prisoners were beaten to death overnight by their Prijedor police escort.<sup>1299</sup> On 8 August 1992, forensic inspectors of the Banja Luka CSB were able to identify two of the victims as Dedo Crnalić and Nezir Krak.<sup>1300</sup> On the same day, the Banja Luka CSB informed the judicial authorities that they had recovered eight unidentified bodies on the bank of the Vrbas river.<sup>1301</sup> On 10 August 1992, a security officer of the 1<sup>st</sup> KK who was deployed in Manjača reported to his superiors in the army that policemen from the Prijedor SJB had sadistically beaten and killed prisoners in front of the Manjača camp.<sup>1302</sup> On 26 August 1992, Stojan Župljanin drafted a criminal report to the Public Prosecutor's Office in Banja Luka, stating that there were "reasonable grounds for suspicion that unknown perpetrators had killed eight so far unidentified persons."<sup>1303</sup> The report was delivered to the prosecutor Marinko Kovačević between 7 and 10 September 1992, but did not include information on the identity of the victims. It also did not include any information on the involvement of the Prijedor police in the disposal of the bodies, nor did it include the information that the victims had died at Manjača in the night between 6 and 7 August 1992. The report was filed against unknown perpetrators.<sup>1304</sup> The Public Prosecutor sent the file back to the police for further investigation to uncover the identity of the perpetrators and shed light on other circumstances of the crime. He needed this information to be able to open a criminal investigation.<sup>1305</sup> On 14 September 1992, the Banja Luka CSB sent to the Public Prosecutor photographs of the eight bodies and official notes with the interviews of Šobot and Grabež, as well

<sup>1298</sup> 2D71, Criminal Report, Official Notes of 14 September 1992 and Official Note of 7 August 1992, pp. 13-16.

<sup>1299</sup> 2D71, Criminal Report, Official Notes of 14 September 1992, pp. 13-14.

<sup>1300</sup> 2D71, Criminal Report, Official Note of 31 December 1992, p. 23.

<sup>1301</sup> 2D71, Criminal Report, Record of On-Site Investigation, 8 August 1992, p. 3.

<sup>1302</sup> ST172, 21 January 2010, T. 5270-5271, 5319; P506, Official Note regarding Violent and Inhumane Treatment of Prisoners by the People of the Prijedor SJB during their Transport from Omarska to Manjača, 10 August 1992 (confidential).

<sup>1303</sup> Marinko Kovačević, 2 September 2010, T. 14142; 2D71, Criminal Report, 26 August 1992, pp. 1-2.

<sup>1304</sup> Marinko Kovačević, 2 September 2010, T. 14143-14145 and 3 September 1992, T. 14156; P1574, Pictures of the Logbook of the Public Prosecutor's Office in Banja Luka, p. 26.

<sup>1305</sup> Marinko Kovačević, 3 September 1992, T. 14156-14158; 2D71, Request for Further Investigation, 10 September 1992, p. 22.

as the official note compiled by officer Tomašević at the Karanovac checkpoint.<sup>1306</sup> Kovačević could not explain the reason the official notes taken on 7 August 1992 had not been included in the first report sent by the CSB.<sup>1307</sup> On 28 October 1992, the Banja Luka CSB drafted a work plan to supplement the investigation, as requested by Kovačević on 10 September 1992. The CSB planned to interview Šobot and Grabež, and the policemen at the Karanovac checkpoint who had stopped them. It also planned to identify and interview the driver of the TAM truck which transported the prisoners, and to identify the still unidentified bodies.<sup>1308</sup> The Trial Chamber did not receive evidence on whether these measures were implemented.

(iii) Župljanin's role in investigation of Korićanske Stijene massacre in Skender Vakuf

466. The Trial Chamber recalls its finding in the Prijedor section that on 21 August 1992 policemen from Prijedor killed approximately 150 to 200 prisoners of Muslim ethnicity.

467. ST197 testified that on 21 August 1992 commander Boško Peulić learned that a mass killing of persons travelling in the Prijedor–Travnik convoy had occurred in the area of Korićanske Stijene. By way of telegram, Peulić informed General Talić about the incident in the evening of 21 August 1992.<sup>1309</sup> An identical telegram was sent to CSB Banja Luka that very same evening.<sup>1310</sup> The telegram stated that a large number of civilians had been killed at Korićanske Stijene and that the incident had allegedly been committed by the policemen accompanying the refugee convoy that was moving towards Skender Vakuf. In the dispatch, Lieutenant Peulić requested that a commission of the 1<sup>st</sup> KK conduct an on-site investigation and that the CSB be informed so that it could attend the on-site investigation.<sup>1311</sup> ST197 testified that, while the army command responded immediately, the Banja Luka CSB did not reply to the telegram in any way.<sup>1312</sup> Predrag Radulović, who at the time was an inspector at Banja Luka SNB,<sup>1313</sup> confirmed that on 21 August 1992 the CSB received information that 208 Muslim civilians had been killed by the policemen of the PIP at Korićanske Stijene. After verifying the information, he discussed it with an SJB officer in charge of crime

<sup>1306</sup> 2D71, Photographs and Official Notes sent by the Banja Luka CSB to the Public Prosecutor's Office, 14 September 1992, p. 12.

<sup>1307</sup> Marinko Kovačević, 3 September 1992, T. 14161-14162.

<sup>1308</sup> 2D71, Work Plan for Further Investigation on the Murders, 28 October 1992, pp. 18-19.

<sup>1309</sup> ST197, 8 September 2010, T. 14455-14457 (confidential); P675, Special Report No. 21/8 of the 22<sup>nd</sup> Light Brigade Command to the 1<sup>st</sup> KK Command concerning the Killing of Refugees on a Convoy at Korićanske Stijene, 21 August 1992.

<sup>1310</sup> ST197, 19 October 2010, T. 16170-16171, 16173 (confidential).

<sup>1311</sup> P675, Special Report No. 21/8 of the 22<sup>nd</sup> Light Brigade Command to the 1<sup>st</sup> KK Command concerning the Killing of Refugees on a Convoy at Korićanske Stijene, 21 August 1992.

<sup>1312</sup> ST197, 19 October 2010, T. 16170-16171 (confidential).

<sup>1313</sup> Predrag Radulović, 25 May 2010, T. 10713.

named Živko Bojić.<sup>1314</sup> He immediately informed the SNB Chief Nedeljko Kesić and later wrote a report.<sup>1315</sup>

468. ST023, a Prijedor policeman at the time of the massacre at Korićanske Stijene,<sup>1316</sup> testified that at 6:30 a.m. on 22 August 1992 Simo Drljača, Chief of the Prijedor SJB, summoned the policemen involved in the incident to report immediately at the police station.<sup>1317</sup> Aside from Drljača himself, Stojan Župljanin, PIP's commander Miroslav Paras, and another man who ST023 was told was Subotić were present at the meeting.<sup>1318</sup> Referring to the killings, ST023 recalled that during the meeting the participants voiced different opinions about the massacre, including whether the massacre "should have happened, but not in the way in which it happened." ST023 testified that, after the meeting, the policemen involved in the incident returned from hiding but no statements were taken from them. Nor were they questioned about the events at Korićanske Stijene.<sup>1319</sup> Shortly after the incident, the PIP was sent away to take part in a military operation in Han Pijesak.<sup>1320</sup>

469. Nenad Krejić, who at the time was the head of the Skender Vakuf SJB,<sup>1321</sup> testified that on 23 August 1992 he was informed by his duty officer that the latter had received a report from the Banja Luka CSB that around 150 people travelling in the convoy had been killed at Korićanske Stijene. The report did not include information about the identity of the perpetrators.<sup>1322</sup> Upon receiving the information, Krejić telephoned Stojan Župljanin. On cross-examination, Nenad Krejić testified that he was under the impression that Župljanin learned of the incident the same day he did and only heard of the report from the Banja Luka CSB when Nenad Krejić brought it to his attention.<sup>1323</sup> Župljanin instructed Krejić to inspect the site, together with the chief of the crime service, and to report back to him afterwards.<sup>1324</sup> Krejić and the Chief of the crime service inspected the site and also spoke to members of the police forces who had been re-subordinated to the army and stationed along the Prijedor–Travnik road on which the convoy had been travelling. The men of the unit informed Krejić that the Prijedor police that had been accompanying the convoy had

<sup>1314</sup> Predrag Radulović, 27 May 2010, T. 10883-10884; P1379, Report Regarding the Killing of a Large Number of Muslims in Korićanske Stijene, 22 August 1992.

<sup>1315</sup> Predrag Radulović, 27 May 2010, T. 10884.

<sup>1316</sup> ST023, P1569.01, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 17 October 2003, T. 21067-21070 (confidential); ST023, P1569.02, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 20 October 2003, T. 21139, 21141-21142 (confidential). The Trial Chamber has found in the Prijedor section that the murders were perpetrated by Prijedor policemen, including members of the PIP.

<sup>1317</sup> ST023, 31 August 2010, T. 13984 (confidential).

<sup>1318</sup> ST023, 31 August 2010, T. 13985-13987 (confidential); ST023, P1569.02, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 20 October 2003, T. 21150 (confidential).

<sup>1319</sup> ST023, P1569.02, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 20 October 2003, T. 21150-21155 (confidential).

<sup>1320</sup> ST023, P1569.02, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 20 October 2003, T. 21154 (confidential).

<sup>1321</sup> Nenad Krejić, 1 September 2010, T. 14027-14028. The Chamber notes that Skender Vakuf was renamed "Kneževo" in 1992.

<sup>1322</sup> Nenad Krejić, 1 September 2010, T. 14034-14035.

<sup>1323</sup> Nenad Krejić, 1 September 2010, T. 14077.

<sup>1324</sup> Nenad Krejić, 1 September 2010, T. 14036-14037.

stopped at their command post on 21 August 1992. They admitted to the members of the unit stationed at the command post that they had committed the killings.<sup>1325</sup> Krejić testified that, immediately upon his return, he reported to Župljanin all the information he had been able to gather.<sup>1326</sup> Župljanin then instructed Krejić to report to the Banja Luka CSB the next day, together with Milan Komljenović and Vladimir Glamočić.<sup>1327</sup>

470. A meeting was held at the Banja Luka CSB on 24 August 1992. The meeting was chaired by Stojan Župljanin and was attended by the Chief of the Banja Luka CSB Public Security Sector, Đuro Bulić, Krejić, Komljenović and Glamoc (in representation of the Skender Vakuf municipal authorities), Drljača, Milomir Stakić, and another person from Prijedor (whom Krejić did not know).<sup>1328</sup> Krejić testified that there was an open dispute between the representatives of Skender Vakuf and Prijedor, which almost culminated in a physical altercation. Krejić testified that there was open acknowledgment at the meeting that policemen from Prijedor had committed the killings.<sup>1329</sup> Whereas Simo Drljača seemed unconcerned with the incident, Župljanin told Drljača in no uncertain terms that he insisted on the recovery, burial, and identification of the bodies and the prosecution of the perpetrators of this crime.<sup>1330</sup> During cross-examination Krejić specified that, according to Drljača, what had happened was normal, given that the victims were Muslims and that they were Serbs, and that Drljača suggested that the best way of dealing with it would be to conceal it. Župljanin responded that not one crime, one murder, let alone murder on such a massive scale could be concealed and that it had to be dealt with in the “proper” fashion and that someone had to answer for this crime.<sup>1331</sup> Krejić testified that Župljanin ordered Drljača to coordinate the recovery and burial of the bodies from Korićanske Stijene.<sup>1332</sup> According to Krejić, none of these things were done in the following seven or eight days.<sup>1333</sup> ST023, however, testified that on 23 or 24 August 1992 a unit was taken to Korićanske Stijene to remove the bodies from the gorge. According to ST023, Drljača and Župljanin were present at this first and unsuccessful attempt to extract the bodies from the gorge.<sup>1334</sup> ST023 testified that he did not see any investigative judge or any representative of an investigating organ at the site.<sup>1335</sup>

<sup>1325</sup> Nenad Krejić, 1 September 2010, T. 14043-14044.

<sup>1326</sup> Nenad Krejić, 1 September 2010, T. 14044-14045.

<sup>1327</sup> Nenad Krejić, 1 September 2010, T. 14045.

<sup>1328</sup> Nenad Krejić, 1 September 2010, T. 14045-14047; ST197, 8 September 2010, T. 14465 (confidential); Vladimir Tutuš, 22 March 2010, T. 7960.

<sup>1329</sup> Nenad Krejić, 1 September 2010, T. 14047.

<sup>1330</sup> Nenad Krejić, 1 September 2010, T. 14047-14048.

<sup>1331</sup> Nenad Krejić, 1 September 2010, T. 14078-14079.

<sup>1332</sup> Nenad Krejić, 1 September 2010, T. 14049-14050.

<sup>1333</sup> Nenad Krejić, 1 September 2010, T. 14050.

<sup>1334</sup> ST023, P1569.02, *Prosecutor v. Brdanin*, Case No. IT-99-36-T, 20 October 2003, T. 21157-21158 (confidential). Note that on cross-examination, ST023 was unable to remember if he saw Stojan Župljanin on the first or second attempt to recover the bodies. ST023, 31 August 2010, T. 13987-13992 (closed session).

<sup>1335</sup> ST023, 30 August 2010, T. 13926 (closed session).

471. At the 24 August 1992 meeting, Stojan Župljanin informed those present that he had received information to the effect that survivors of the killings at Korićanske Stijene had crossed the demarcation line and given statements to *Radio Jajce*.<sup>1336</sup> Four or five days after the killings at Korićanske Stijene, a survivor was brought in to the Skender Vakuf SJB by members of the 22<sup>nd</sup> Brigade. Krejić informed Župljanin, who ordered him to bring the survivor to the Banja Luka CSB, which was done the following day. Krejić was told by Župljanin that the man would be handed over to the Swiss Red Cross.<sup>1337</sup>

472. A second meeting in relation to the Korićanske Stijene incident, chaired by Bogdan Subotić, the then Minister for Defence, was held at the Banja Luka CSB around 30 August 1992. The meeting was attended by all those who had been present at the 24 August meeting, except for Stojan Župljanin. Brane Buhavac, chief of the crime scene officers, did not inform the participants on whether he had already conducted an on-site investigation. According to Krejić, everybody knew it had not been done. Krejić testified that Minister Subotić mentioned that the security services and the judicial and prosecutorial authorities “would normally conduct an investigation” after or in parallel to the recovery of the bodies.<sup>1338</sup>

473. Nenad Krejić testified that after the meeting of 30 August 1992, on or about 4 September 1992, Krejić went to the crime scene at Korićanske Stijene accompanied by, *inter alios*, Brane Buhavac. Once there, Krejić noticed that, between the first and second visit to the crime scene, someone had covered the bodies.<sup>1339</sup> He testified that he knew that the civilian protection of Skender Vakuf had cut down shrubbery and underbrush and used it to cover the bodies to deter animals and subdue the stench. According to Krejić, the Skender Vakuf civil protection was not within the jurisdiction of the Skender Vakuf SJB, which is the reason he had not been involved in this. While Krejić testified that all those attending the site visit on 30 August 1992 agreed that the bodies should be recovered, identified, and buried, he was unaware of any conversation pertaining to securing the crime site for evidentiary purposes, although he agreed it was possible that such a conversation had taken place.<sup>1340</sup>

474. Marinko Kovačević, who in August 1992 was deputy basic prosecutor in Banja Luka,<sup>1341</sup> testified that in late August 1992 he was informed by the basic public prosecutor that there was an incident that happened in the area of Skender Vakuf. He was further informed that he was going to

<sup>1336</sup> Nenad Krejić, 2 September 2010, T. 14131.

<sup>1337</sup> Nenad Krejić, 1 September 2010, T. 14051.

<sup>1338</sup> Nenad Krejić, 1 September 2010, T. 14052-14054.

<sup>1339</sup> Nenad Krejić, 1 September 2010, T. 14054-14055. *See also* P1563, Video showing Brane Buhavac in Korićanske Stijene, minute 01:28:10; Nenad Krejić, 1 September 2010, T. 14071-14072.

<sup>1340</sup> Nenad Krejić, 1 September 2010, T. 14055-14056.

<sup>1341</sup> Marinko Kovačević, 2 September 2010, T. 14140-14141.



work on this case, once the criminal report was received.<sup>1342</sup> Župljanin submitted a criminal report regarding the incident at Korićanske Stijene to the Banja Luka Public Prosecutor Office on 8 September 1992. However, the report was filed against “unidentified perpetrators”. It included interviews, a list of victims, and an incident report dated 21 August 1992 from the Command of the 22<sup>nd</sup> Light Infantry Brigade.<sup>1343</sup> Marinko Kovačević testified that he received the criminal report from the Banja Luka CSB on 11 September 1992, together with the entire case file but that he was unable to proceed immediately with the prosecution since the perpetrators were unknown.<sup>1344</sup>

475. On 11 September 1992, Stojan Župljanin sent a dispatch to the chief of the Prijedor SJB, quoting a dispatch from RS MUP of 31 August 1992, ordering the Prijedor SJB to take written statements from the policemen who escorted the convoy. The written statements, together with the personal details of all persons who travelled in the convoy, were to be personally delivered to the Banja Luka CSB by 15 September 1992.<sup>1345</sup> ST023 testified that no member of the PIP was interviewed about the events that took place at Korićanske Stijene.<sup>1346</sup>

476. On 14 September 1992, Simo Drljača sent a dispatch to the Chief of the Banja Luka CSB, informing him that the Prijedor SJB was unable to provide the requested statements because the policemen who escorted the convoy had been mobilised into the army and deployed to the frontline on 9 September 1992.<sup>1347</sup> ST023 testified that the PIP was transferred to Han Pijesak from 9 September 1992 on orders from Simo Drljača.<sup>1348</sup> Marinko Kovačević testified that, in view of the fact that the policemen had been mobilised into the army, the police no longer had jurisdiction over the persons concerned.<sup>1349</sup>

477. Marinko Kovačević testified that he, as deputy public prosecutor, attended interviews with five survivors of the killings at Korićanske Stijene conducted by the investigative Judge Jevto Janković, between 16 and 17 September 1992, and that no other interviews were conducted. He stated that, under the applicable law, he had no active role to play in this pre-indictment stage of the

<sup>1342</sup> Marinko Kovačević, 3 September 2010, T. 14169-14170.

<sup>1343</sup> Marinko Kovačević, 3 September 2010, T. 14171-14173; P1567, Amalgamated Vlašić Mountain Exhibits- Report to Banja Luka Public Prosecutor Office, 8 September 1992, pp. 2-4; P1574, Photographs of Logbooks from the Prosecutor's Office in Banja Luka, KTN Series for 1992-1995, 1 January 1992.

<sup>1344</sup> Marinko Kovačević, 3 September 2010, T. 14170 and 6 September 2010, T. 14262; P1567, Amalgamated Vlašić Mountain Exhibit, Criminal Charges Dated 8 September 1992, p. 2.

<sup>1345</sup> P1380, Dispatch No. 11-1/02-2-345 of Stojan Župljanin, Chief of Security Services Center Banja Luka, to the Chief of Public Security Station Prijedor, 11 September 1992.

<sup>1346</sup> ST023, 30 August 2010, T. 13928-13929 (confidential).

<sup>1347</sup> P682, Dispatch 11-12-2267 from Prijedor SJB Chief Drljača to Banja Luka CSB on the Investigation of the Korićanske Stijene killings, 14 September 1992.

<sup>1348</sup> ST023, 30 August 2010, T. 13929 (confidential).

<sup>1349</sup> Marinko Kovačević, 6 September 2010, T. 14269-14270.

proceedings, as any further investigative steps would have had to be approved by the investigative judge.<sup>1350</sup>

478. On 29 September 1992, Župljanin, notwithstanding the information he had on the involvement of the Prijedor police in the killing of prisoners at Korićanske Stijene, ordered the Prijedor SJB to secure buses transporting more than 1,500 persons from Trnopolje to Croatia.<sup>1351</sup>

479. On 7 October 1992, Župljanin sent a follow-up dispatch to the Prijedor SJB whereby he (a) requested a “detailed” incident report on the 21 August 1992 killings of a number of persons in the Prijedor–Travnik convoy, reminding the Prijedor SJB of previous dispatches to this effect; (b) reiterated his previous requests for information on the policemen who escorted the convoy, as well as copies of their patrol orders; (c) reiterated his request for information on whether persons other than the policemen were involved in the escort of the convoy; (d) requested information on what the policemen stated in their service reports; and (e) requested that the Prijedor SJB provide a report on the steps taken during the on-site investigation. Župljanin further requested that the Prijedor SJB act on and reply to his 11 September 1992 request to provide written statements taken from the policemen who had escorted the convoy.<sup>1352</sup>

480. On 13 October 1992, Drljača replied to Župljanin’s dispatch of 7 October 1992, stating that the police officers who had escorted the convoy were on a war mission at Han Pijesak. Drljača also informed Župljanin that he had sent the information requested regarding the policemen escorting the convoy. Finally, Drljača reported that traffic security for the convoy had been provided by officers Vladimir Šobot and Boško Grabež and that they had nothing to do with the events at Korićanske Stijene.<sup>1353</sup>

481. In an *ABC Nightline* interview with Župljanin, which aired in November 1992, Župljanin stated that there were no living witnesses to confirm or deny the killing incident at Korićanske Stijene. The interviewer reported that he was told by Župljanin that the killings at Korićanske Stijene were under investigation.<sup>1354</sup> Nenad Krejić testified that he was unaware of when the *ABC* interview actually took place, but that, having turned over a survivor to Župljanin, he knew that Župljanin was aware that there were survivors.<sup>1355</sup> When asked on cross-examination whether

<sup>1350</sup> Marinko Kovačević, 3 September 2010, T. 14176-14178.

<sup>1351</sup> P1905, Dispatch by Stojan Župljanin Tasking the Prijedor SJB with the Escorting of Buses from Trnopolje to Croatia, 29 September 1992.

<sup>1352</sup> P617, Request of CSB Banja Luka to SJB Prijedor for Delivery of Information on Investigation of the Korićanske Stijene Killings, 7 October 1992, pp. 1-2.

<sup>1353</sup> P618, Dispatch from the Chief of the Prijedor SJB to the Banja Luka CSB Concerning the Events at Korićanske Stijene, 13 October 1992.

<sup>1354</sup> P1359, *ABC Nightline* Video Featuring Stojan Župljanin Airing in November 1992.

<sup>1355</sup> Nenad Krejić, 1 September 2010, T. 14070-14071.

disclosing the identity or number of survivors could have put the survivors at risk, Krejić stated that he thought it would.<sup>1356</sup>

482. Marinko Kovačević testified that, given that the individuals were from the area of responsibility of the Prijedor SJB, it was the duty of the Prijedor SJB to undertake all steps to identify the perpetrators, question them, arrest them, and bring them into custody and before the investigative judge. From that point on, any further steps would have been with the prosecutor.<sup>1357</sup>

(iv) Disciplinary action against members of police

483. In addition to the efforts made to investigate crimes committed against non-Serbs in the ARK, the Trial Chamber has also reviewed actions taken by the Banja Luka CSB with regard to disciplinary violations of policemen, including members of the Banja Luka CSB Special Police Detachment, between April and the end of December 1992.

484. The Banja Luka CSB had a logbook where all disciplinary proceedings against active duty policemen were recorded. For proceedings against reserve policemen, any record of their conduct was transferred to the Ministry of Defence.<sup>1358</sup> If the CSB Chief rejected a disciplinary initiative of the disciplinary prosecutor, the rejection would be noted in this logbook.<sup>1359</sup> Radomir Rodić was not aware of any disciplinary proceedings initiated against members of the Detachment.<sup>1360</sup> Further, none of the members of the Detachment who appeared on the payrolls of June and July appeared in the disciplinary logbook.<sup>1361</sup>

485. Rodić also testified that minor violations that only carried reprimands as sanctions were dealt with at the level of the SJBs, which kept their own records. In order to have a complete picture about the disciplinary situation in the MUP in 1992, not only the logbook, but also these disciplinary files would be needed. These, however, had been destroyed in 2006.<sup>1362</sup>

486. On 30 July 1992, Župljanin formally appointed Drljača as Chief of the Prijedor SJB, with retroactive effect as of 29 April 1992—notwithstanding Radulović's reports in May 1992 on the

<sup>1356</sup> Nenad Krejić, 2 September 2010, T. 14095-14096.

<sup>1357</sup> Marinko Kovačević, 6 September 2010, T. 14299.

<sup>1358</sup> Radomir Rodić, 16 April 2010, T. 8849-8850.

<sup>1359</sup> Radomir Rodić, 19 April 2010, T. 8881.

<sup>1360</sup> Radomir Rodić, 16 April 2010, T. 8835.

<sup>1361</sup> P1289, Portion of Disciplinary Commission Logbook for Banja Luka CSB, 1 October 1991; P2412, Banja Luka CSB Special Police Payroll for June, 3 August 1992; P2413, Banja Luka CSB Special Police Payroll for July, 2 August 1992.

<sup>1362</sup> Radomir Rodić, 16 April 2010, T. 8860-8862.

crimes committed in Prijedor, his warning about Drljača, and the recommendation to remove him from his post.<sup>1363</sup>

487. On 8 October 1992, Župljanin appointed Drago Vujanić, a policeman and warden of the Sanski Most detention facilities, as crime inspector for white collar crimes.<sup>1364</sup> The Trial Chamber has reviewed evidence above showing that Župljanin was informed of the Sanski Most police's role in the unlawful detention of non-Serbs, including the death of 20 detainees while being transported from Sanski Most to the Manjača camp in the municipality of Banja Luka.

488. On 19 July 1992, the Banja Luka SJB arrested two members of the Detachment, Miroslav Dragojević and Ljubomir Jokić, who were suspected of having stolen a car from a man named Amir Durgutović. The SJB filed criminal charges against them.<sup>1365</sup> The day after the arrest, the commander of the Detachment, Lukić, together with another man, went to the SJB Chief's home and asked him to release Dragojević and Jokić, specifying that Župljanin agreed.<sup>1366</sup> Tutuš refused. That night, he received a call from Župljanin, who sought information about the case. Župljanin inquired with Tutuš if it were possible to release the two men in order to prevent unrest in the Detachment, which could cause it to abandon the frontline, thus endangering the security situation in the territory of Banja Luka.<sup>1367</sup> Tutuš requested Župljanin to send him instructions in writing, and a dispatch from the Banja Luka CSB arrived at the SJB that very night.<sup>1368</sup> According to Tutuš, however, the dispatch did not indicate elements justifying the release of Dragojević and Jokić. Consequently, he did not release them and attempted to inform Mićo Stanišić of Župljanin's request. While he did not manage to reach Stanišić, he managed to speak to General Tolimir, whom he apprised of the situation concerning the two members of the Detachment. Tolimir called him back after 10 minutes, informing him that Stanišić agreed with his decision to keep the two men in detention and that a proper court of law should decide upon any further course of action.<sup>1369</sup> Around 2:00 p.m. on 21 July 1992, about 30 armed members of the Detachment arrived at the Tunjice prison in Banja Luka and, after threatening five policemen at gunpoint, freed Dragojević and Jokić.<sup>1370</sup>

<sup>1363</sup> P2463, Decision to Assign Simo Drljača as Chief of Prijedor SJB, 30 July 1992.

<sup>1364</sup> Adil Draganović, 2 December 2009, T. 4062; P2421, Appointment of Drago Vujanić to Work on the Prevention and Uncovering of White Collar Crime, 8 October 1992. See also Sanski Most section.

<sup>1365</sup> Vladimir Tutuš, 16 March 2010, T. 7708-7710; P628, Information on Registered Illegal Activities of the Members of the former Banja Luka CSB Special Police Detachment, 5 May 1993, pp. 12-13; P586, Article Published in the newspaper *Glas* titled "Who Decides on Releases?", 23 July 1992, p. 1.

<sup>1366</sup> Vladimir Tutuš, 16 March 2010, T. 7710.

<sup>1367</sup> Vladimir Tutuš, 16 March 2010, T. 7710-7711.

<sup>1368</sup> Vladimir Tutuš, 16 March 2010, T. 7711; P1091, Dispatch Requesting the Release of Two Members of the Special Police Detachment, 20 July 1992.

<sup>1369</sup> Vladimir Tutuš, 16 March 2010, T. 7711-7712.

<sup>1370</sup> Vladimir Tutuš, 16 March 2010, T. 7712; P628, Information on Registered Illegal Activities of the Members of the former Banja Luka CSB Special Police Detachment, 5 May 1993, p. 13.

## 5. Findings on Stojan Župljanin's membership in JCE

### (a) Findings on Župljanin's duties, authority, and powers

489. As an authorised RS MUP official, pursuant to Article 10 of the RS Constitution and Article 42 of the LIA, Stojan Župljanin had a duty to protect the civilian population regardless of religion, ethnicity, race, or political beliefs, even when the execution of such activities and tasks placed his life in danger. The Banja Luka CSB was responsible for the filing of criminal reports to the public prosecutor for crimes committed in the CSB's area of responsibility. This included crimes committed by his policemen. Župljanin had the duty and the authority to discipline his subordinates who committed crimes and could order that a suspect be placed in custody while being investigated.

490. The Župljanin Defence submits that municipal Crisis Staffs had usurped Župljanin's authority over the police, and that local police were following the orders of municipal authorities. As a consequence, Župljanin did not have effective control over municipal police forces.<sup>1371</sup>

491. The Trial Chamber agrees, based on the testimony of Radulović, Gajić, Kovač, Mačar, and Nielsen, and also on a number of dispatches of Župljanin himself, that certain SJBs, like Prijedor and Sanski Most, received and implemented instructions of municipal Crisis Staffs to guard and transport non-Serb detainees. The Trial Chamber also notes that several exhibits, such as P657, P659, P668, P669, P670, and P671, show that the Prijedor SJB kept the Banja Luka CSB informed of events in the municipality and requested its assistance in a number of matters, including the transport of prisoners from Prijedor to the Manjača camp, throughout the summer of 1992. Exhibits P117, P123, P390, and P391, as well as the testimony of Dragan Majkić and ST161, show that the Sanski Most SJB kept the Banja Luka CSB constantly apprised of the mass arrests of non-Serbs and of its involvement in the guarding and transport of prisoners.

492. The Trial Chamber notes that on 5 May 1992 Župljanin became a member of the ARK Crisis Staff, which shortly after its creation declared itself the highest organ of authority in the region and stated that its decisions were binding on all Crisis Staffs at the municipal level. In the JCE section, the Trial Chamber has found that municipal Crisis Staffs did implement the decisions of the ARK Crisis Staff, which also intervened in the appointment of single members of municipal Crisis Staffs. On 6 May 1992, Župljanin informed the ARK SJBs that the police, in all its activities, was bound to observe the measures and apply procedures ordered by the ARK Crisis Staff. In May 1992, Župljanin continued to order his policemen to perform activities ordered by the ARK Crisis Staff, such as the confiscation of illegally owned weapons, which the Trial Chamber has found

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<sup>1371</sup> Župljanin Final Trial Brief, pp. 70-76.

targeted almost exclusively non-Serbs in the municipalities of Banja Luka, Sanski Most, Kotor Varoš, Prijedor, Ključ, and Teslić. On 1 July 1992, he ordered his SJB chiefs to implement the instructions issued on 22 June 1992 by the ARK Crisis Staff which reserved top positions in the RS MUP for persons of Serb ethnicity. Exhibits P668 and P1682 show that between Župljanin, Drljača, and the Prijedor War Presidency there was a relationship based on cooperation, in which Župljanin played a leadership role, as shown by his 4 August 1992 order whereby he authorised Drljača to postpone the Prijedor War Presidency's decision to reduce the number of reserve policemen guarding the Prijedor prison camps. The Trial Chamber also notes the evidence of ST161 who, with regard to Sanski Most, testified that there was never a conflict between orders coming from the CSB and orders of the municipal Crisis Staff. Thus, the Trial Chamber finds that Župljanin himself had, until at least 30 July 1992, *de facto* legitimised the municipal police to follow the orders of municipal Crisis Staffs.

493. On this basis, and on the basis of his position as Chief of the Banja Luka CSB, the Trial Chamber finds that Stojan Župljanin was the highest police authority in the ARK. While some SJBs in his area of responsibility performed tasks assigned by local Crisis Staffs, the evidence shows that the ARK Crisis Staff, municipal Crisis Staffs, and the Banja Luka CSB were cooperating closely in matters such as the takeover of the ARK Municipalities by Serb Forces, the imprisonment of non-Serbs, and their resettlement in other areas of BiH or in other countries. Župljanin had *de jure* and *de facto* authority over the SJBs of the ARK Municipalities, which included the power to appoint and remove RS MUP staff, including SJB chiefs, and to order the police to perform specific tasks, including, as testified to by ST161, the transport of non-Serb detainees to the Manjača camp. Župljanin could also take disciplinary measures, including termination of employment, against his subordinates.

(b) Findings on Župljanin's contribution to JCE

494. The Trial Chamber recalls its finding that a JCE existed throughout the Indictment period. Its objective was to permanently remove Bosnian Muslims and Bosnian Croats from the territory of the planned Serbian state through the commission of the crimes of deportation as a crime against humanity (count 9); inhumane acts (forcible transfer) as a crime against humanity (count 10); and the crimes of forcible transfer and deportation as underlying acts of persecution, as a crime against humanity (count 1).<sup>1372</sup> The Trial Chamber will now analyse Župljanin's conduct to determine if it amounted to a significant contribution to the realisation of the common plan.

(i) Role in blockade of Banja Luka

495. Stojan Župljanin played a key role in the blockade of Banja Luka by the SOS on 3 April 1992. On 14 February 1992, he attended a meeting of the Main and Executive Boards of the SDS in Sarajevo where Radovan Karadžić called for the formation of municipal executive boards and other municipal organs, followed by mobilisation of Serb Forces to takeover Variant A municipalities and monitor Variant B municipalities. On 2 March 1992, speaking with Stanišić about the blockade of Sarajevo, Župljanin told Stanišić that he was waiting for instructions and that, if a total blockade was needed, it would be done. In light of the events that followed this conversation, the Trial Chamber has no doubt that Župljanin was referring to a possible future blockade of Banja Luka. On 2 April 1992, the deputy-commander of the Banja Luka TO announced to members of the military and of the RS MUP, including Nedeljko Kesić and Đuro Bulić, his intention to blockade Banja Luka on the following day. On 3 April 1992, the SOS carried out an SDS-backed blockade of the town, and Serb municipal authorities, after forming a Crisis Staff of which Župljanin became a member, immediately implemented the demands of the SOS. Not only did Župljanin not take any action against the SOS, but, together with Predrag Radić and other ARK authorities, he contributed to the implementation of the SOS demands. On 7 May 1992, in a phone conversation with Čedo Kljajić, the Chief of the Public Security Administration, Župljanin manifested his satisfaction with the work of the SOS by saying: “They have finally taken over power up here”. He added that Muslims in Banja Luka had realised that they had lost and that it was “about time”. Based on this evidence, the Trial Chamber finds that Stojan Župljanin, in concert with the Banja Luka TO, Predrag Radić, and other SDS ARK officials, was one of the key actors behind the organisation of the blockade of Banja Luka on 3 April 1992 and the takeover of that town, which he had began planning from at least March 1992.

496. The Trial Chamber recalls that after 3 April 1992 various armed groups, including the SOS, a mixed crew of policemen and other people, including a group of people driving in a red van, and the Banja Luka CSB Special Police Detachment (as of May 1992), began terrorising the non-Serb population in Banja Luka by carrying out searches, unlawful arrests, and beating and humiliating non-Serbs both on the street and inside detention centres. In the first half of April 1992, in spite of his duty to protect the population, Župljanin stated that he could not guarantee the physical security and safety of property of Muslim citizens in Banja Luka, making the Muslims realise that their safety was in great jeopardy.

497. The Trial Chamber found in the Banja Luka section that non-Serbs were brought to the Banja Luka CSB for interrogation and frequently beaten. On 11 June 1992, Župljanin was present while non-Serbs were mistreated and obliged to make the three-finger salute in the CSB’s corridors.

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<sup>1372</sup> See JCE section.

The group of people driving the red van launched some of the attacks from the Banja Luka CSB. According to Predrag Radulović, Župljanin had been informed about it and replied that he would look into it. On 16 August 1992, representatives of the Muslim community in Banja Luka informed Župljanin of the murders, attacks against their property and mosques, and other crimes, including crimes of the group of people driving around in a red van, committed against Muslims in Banja Luka.

498. The evidence shows that the Banja Luka CSB, on 25 May 1992, formulated a work plan to tackle the crime wave that had affected Banja Luka starting in April 1992. The work plan included crimes committed by Serbs, including SOS members and two alleged members of the unit with the red van, against non-Serbs. Some of the measures devised in the work plan were implemented. Župljanin filed with the Public Prosecutor's Office in Banja Luka criminal reports against Branko Palačković and other 29 alleged perpetrators for crimes committed against Serbs, Croats, and Muslims. Palačković was arrested in the summer of 1992, but was reportedly committing crimes again in September 1992. The evidence does not establish the circumstances of his release. Župljanin also ordered the arrest of alleged Serb perpetrators for the murder of Smajlagić, a Muslim.

499. However, aside from a few criminal reports, mainly filed against Palačković and his associates, the police in Banja Luka failed to protect the Muslim and Croat population, which as a consequence, after 3 April 1992, began leaving the municipality by the hundreds every week. The people in the red van continued committing crimes in Banja Luka throughout 1992. Based on the testimony of ST223 and ST225, the Trial Chamber finds that, after the 16 August 1992 meeting, abuses against non-Serbs by Serb policemen, including arrests and looting of their property, only increased. Further, Župljanin absorbed some of the SOS's members into the newly created Banja Luka CSB Special Police Detachment, notwithstanding their illegal blockade of Banja Luka and the warnings received from the Chief of the Banja Luka SJB, Vladimir Tutuš, and intelligence officer Predrag Radulović, that they were dangerous criminals. The Trial Chamber has considered that the commission of crimes against non-Serbs by the SOS after 3 April 1992 was widespread and systematic. Based on all the foregoing, it finds that Župljanin, as Chief of the CSB, knew about these crimes. This finding is consistent with 1D198, a work plan of the Banja Luka CSB to tackle crime in Banja Luka dated 25 May 1992, which shows that by that date the Banja Luka CSB had drawn up a plan to investigate some of the SOS crimes. Thus, by enrolling SOS members in the Detachment, including to commanding positions, Župljanin created a unit comprised of Serb nationalists with criminal records. The Trial Chamber has found that this unit committed heinous crimes against Muslims and Croats in both Banja Luka and the other ARK Municipalities where the unit was dispatched.



(ii) Role in takeover of other ARK municipalitiesa. Role in disarming operation

500. The Trial Chamber finds that, in May and June 1992, Stojan Župljanin ordered his police to carry out, in co-operation with other Serb Forces, a disarming operation in the ARK, which the Trial Chamber has found targeted only non-Serbs, was instrumental to their removal from the ARK Municipalities, and was one of the means used by the JCE members to achieve their common objective. In so doing, Župljanin ensured the implementation of orders of the ARK Crisis Staff, whose top leaders included prominent SDS members Radoslav Brđanin and Vojislav Kuprešanić, both found by the Trial Chamber to have been members of the JCE. The ARK policemen under the Banja Luka CSB participated in combat operations in the ARK municipalities both independently and in cooperation with the VRS.

b. Formation of, authority over, and deployment of Banja Luka CSB Special Police Detachment in ARK Municipalities

501. Stojan Župljanin played a key role in the creation of the Detachment within the Banja Luka CSB in May 1992. ST183 and Radulović testified that the Detachment was under the authority of Stojan Župljanin. Their testimony is amply corroborated by other evidence on the record. First, Župljanin himself, on 12 May 1992, stated to the newspaper *Glas* that “the detachment will certainly be under total control and will be ready to carry out the most complex assignments. If it is necessary for the detachment to fight together with the army, it will be made available.” Second, in the spring and summer of 1992, upon request of the ARK municipal authorities, Župljanin dispatched platoons of the Detachment to take part in operations in some of the ARK Municipalities. For an operation conducted in Sanski Most, Župljanin even appointed the Chief of the Sanski Most SJB commander of the Detachment for that operation. Third, whenever there were problems with the conduct of members of the Detachment, their crimes or undisciplined behaviour were reported to Župljanin. Similarly, when members of the Detachment were stopped by the police, they sought Župljanin’s assistance to secure their release. Fourth, on 12 or 13 May 1992 the Detachment paraded in Banja Luka with other police forces, and while Župljanin was present and made speeches, there were no military authorities at the parade. Finally, the Banja Luka CSB paid the salaries of the members of the Detachment. In light of this evidence, the testimony of SZ002 that the Detachment was a military unit under the authority of Colonel Stevilović, is not credible. The Trial Chamber agrees that a number of members of the Detachment had a military background and notes that this is fully consistent with the anti-terrorist and anti-sabotage nature of the unit. However, the background of the members of the Detachment is not determinative of who had authority over them once they became part of the Detachment. The Trial Chamber finds that

Župljanin exercised complete authority over the Detachment and could impose disciplinary sanctions, including permanent removal from service, against its members.

502. The Trial Chamber finds that, during the summer of 1992, upon requests by municipal authorities, Župljanin dispatched platoons of the Detachment to participate in the takeovers, together with other Serb Forces, of various municipalities, including Kotor Varoš, Prijedor, and Ključ. The Trial Chambers recalls its findings in the sections dedicated to the ARK Municipalities that the takeovers preceded the mass arrest campaign, imposition of discriminatory measures, forcible transfer, deportation, and the commission of other crimes against the non-Serb population by Serb Forces.

503. Both Vladimir Tutuš and Predrag Radulović informed Župljanin on numerous occasions that members of the Detachment were committing crimes and disrespecting and undermining the authority of the ordinary police. This information included crimes committed by members of the Detachment in Doboj, while under the command of Ljuban Ečim and Zdravko Samardžija. On 13 June 1992, Simo Drljača reported to Župljanin that members of the Banja Luka CSB “special unit” were carrying out arbitrary arrests and interrogations and were abusing prisoners at the Omarska camp. They were robbing prisoners of their valuables and looting during mop-up operations. At the end of June 1992, Đekanović and Radulović informed Župljanin that members of the Special Police Detachment, during their deployment in Kotor Varoš, had committed serious crimes against the non-Serb population including thefts, beatings, rapes, and murders. Župljanin himself shared this information with Sreto Gajić. On 1 July 1992, the Head of the Banja Luka SJB Crime Section sent a dispatch to Župljanin listing again crimes and undisciplined behaviour of the Detachment. The dispatch contained information on Danko Kajkut, Nenad Kajkut, Ljuban Ečim, and several other members of the Detachment who were suspected of crimes. Finally, the Trial Chamber finds that, by virtue of his position as Chief of the Banja Luka CSB, and considering that his office was located in the same building where non-Serbs were brought after their arrests, the only reasonable inference is that Stojan Župljanin knew that the Detachment carried out indiscriminate arrests in Banja Luka, which targeted almost exclusively the non-Serb population.

504. Notwithstanding his extensive knowledge of the crimes of his Detachment, Župljanin did nothing to rein in their behaviour and to effectively investigate and discipline its members. The only evidence of an investigation against members of the Detachment for a serious crime is an entry in the Kotor Varoš “Open Cases Logbook” for 29 July 1992, which records the filing of a criminal report against Danko Kajkut for a double rape allegedly committed in Kotor Varoš. The evidence does not establish the ethnicity of the alleged victims. However, a criminal report against Kajkut was not submitted to the public prosecutor, and the charges were eventually dropped. Župljanin’s

tolerant attitude towards crimes of the Detachment is exemplified by his attempts on 20 July 1992 to secure the release of two of its members who had been arrested for the theft of a car.

505. Aside from not investigating crimes of the Detachment, based on the logbook for disciplinary proceedings of the Banja Luka CSB and on the testimony of disciplinary prosecutor Radomir Rodić, the Trial Chamber finds that Župljanin, who had ultimate authority in initiating disciplinary proceedings against his subordinates, did not impose disciplinary sanctions against members of the Detachment. In spite of multiple reports of the involvement of Kajkut and Ečim in criminal activities in 1992, Župljanin continued to engage them in actions of the Detachment, and in March 1993 they were still employed at the Banja Luka CSB. By so doing, Župljanin granted members of the Detachment impunity for their crimes and encouraged their criminal behaviour.

(iii) Knowledge of and role of Župljanin in unlawful detention of non-Serbs in ARK Municipalities

506. Župljanin also had ample knowledge of the unlawful detention, mistreatment, and murder of non-Serb detainees in detention facilities and camps in the ARK Municipalities. He was aware that thousands of non-Serbs were detained under harsh conditions at the Manjača camp, a military detention facility in the municipality of Banja Luka, where the police transported prisoners previously detained in police-run detention facilities in other ARK municipalities. For instance, on 2 July 1992 the Chief of the Sanski Most SJB informed Župljanin that they had transported 250 Croats and Muslims to Manjača. At the end of July or beginning of August, Župljanin visited the camp himself, including the stables where the prisoners were housed. In addition, in the Banja Luka section, the Trial Chamber has reviewed evidence showing that convoys of prisoners travelling from Prijedor to Manjača had to pass through Banja Luka. By way of example, P670 shows that on 5 August 1992 Simo Drljača requested Župljanin to ensure safe passage on 6 August 1992 for a convoy of 1,466 prisoners scheduled to travel from Prijedor to Manjača. Župljanin knew of the death of about 20 non-Serb detainees, who suffocated while being transported in a truck between Sanski Most and the Manjača camp by the Sanski Most police.

507. Župljanin's knowledge of crimes against non-Serbs in the ARK went beyond the municipality of Banja Luka and the crimes of the Detachment. A number of reports sent by the Sanski Most SJB to the Banja Luka CSB between 17 June and 18 August 1992 shows that Župljanin knew that a large number of mostly non-Serb detainees was held in detention centres in Sanski Most guarded by the police, that by 18 August 1992 12,000 Muslims and Croats had requested to leave the municipality, and that the Sanski Most police had provided escorts for non-Serbs "resettling" in other areas. In addition, based on the testimony of ST161 and Dragan Majkić,

the Trial Chamber finds that the police in Sanski Most reported to Župljanin, on a daily basis, crimes committed by paramilitaries against non-Serbs.

508. Predrag Radulović informed Župljanin on more than one occasion that Serb Forces in Prijedor razed villages, destroyed mosques, and arrested large numbers of non-Serbs, including women, children, and the elderly, and detained them at Omarska, Keraterm, and Trnopolje. Radulović blamed Simo Drljača for these events. At some point in June 1992, Predrag Radulović and Goran Sajinović visited Keraterm and Omarska camps. On the same day of their visit, they informed Župljanin of the horrible conditions in which the prisoners were held and of the abuses perpetrated against them, including by members of the police. Župljanin responded dismissively by saying that this sort of thing happened in war and left hurriedly to attend a football game. On 17 July 1992, Župljanin visited Omarska with other ARK leaders, where detainees showed signs of mistreatment and were forced to give to the delegation the three fingers salute. According to Nusret Sivac, members of the delegation laughed at the scene.

509. By July 1992, Župljanin knew that in Ključ, during May and June 1992, the police had arrested and interrogated, together with the army, about 2,000 people and sent about 1,200 to detention camps, and that during this process Serb personnel abused detainees. By 5 August 1992, Župljanin knew that there was a prison for Muslims and Croats in Donji Vakuf and that the police had arrested and were responsible for guarding 60 of these prisoners. On this date, international media began reporting about detainees at Omarska and Trnopolje who were held in inhumane conditions and subjected to physical abuse. Župljanin knew that on 29 August 1992 the Ključ SJB had sent all of the persons held in the municipality to the Manjača camp, and in November 1992 he was informed of cases of murder, rape, theft, and arson in which the victims were Muslims. Notably, because of the victims' ethnicity, the Chief of the Ključ SJB Chief requested instructions from the CSB on whether he should make the crimes public by filing reports against unknown perpetrators.

510. Župljanin's knowledge of crimes against non-Serbs, and in particular of their unlawful detention, is demonstrated by a number of orders and dispatches that he sent to his subordinates and superiors in the RS MUP. Exhibits P1002, 1D666, and P1013, for instance, show that by 30 April 1992, and continuing in May 1992, Stojan Župljanin knew that members of the ARK police were involved in criminal activities. Exhibit P160 shows that, by 11 July 1992, he knew of the mass arrest of Muslims by municipal authorities, of their detention and abuse in "undefined camps", and of police involvement in the guarding of these facilities. Exhibit P117 shows that in mid-August Župljanin was informed about "civilian prisoners" held at the sports hall in Sanski Most. Župljanin was the highest RS MUP official in the ARK. His omission to take adequate measures to stop the

mass arrest of non-Serbs and his policemen's involvement therein constituted at least a significant contribution to the unlawful arrests, if not a substantial one. This finding is made notwithstanding that Župljanin issued orders for the protection of the population, upon which he did not follow up.

511. Župljanin also played a proactive role in the mass arrest operation of non-Serbs in the ARK. For instance, ST161 testified that it was the Banja Luka CSB, and not the army, that requested the Sanski Most police to transport detainees to Manjača. On 6 August 1992, Župljanin ensured the safe passage of a convoy of prisoners travelling from Prijedor to Sanski Most. On 29 September 1992, notwithstanding his knowledge of the Prijedor police's involvement in the murder of non-Serbs, Župljanin ordered the Prijedor police to escort buses transporting more than 1,500 from Trnopolje, Prijedor municipality, to Croatia. Župljanin's attitude toward the unlawful detention of non-Serbs is exemplified by Exhibit P583, a letter whereby on 20 July 1992 he informed Mićo Stanišić that between April and July 1992 the army and the police in the ARK had arrested several thousand citizens of Muslim and Croat nationality as a consequence of combat operations, that for some of them there was no information of involvement in combat or combat-related activities, and that they could be treated as "hostages" and exchanged for Serb prisoners. Thus, Župljanin not only failed to stop the unlawful detention of non-Serbs, but also agreed with it, actively participated in it, and even proposed to use unlawfully detained non-Serbs in prisoners exchanges.

512. The Trial Chamber has also considered that between April and September 1992, every week hundreds of non-Serbs fled the municipality of Banja Luka in buses escorted by the civilian police. Considering the frequency and circumstances in which these departures happened, the Trial Chamber finds that Župljanin, as Chief of the Banja Luka CSB, knew about them. In fact, he was fully aware that Muslims and Croats had begun to leave *en masse* not only Banja Luka, but the entire ARK. On 31 July 1992, Župljanin reminded the ARK SJBs that, pursuant to a decision of the ARK Crisis Staff, individuals leaving the ARK could not take with them more than 300 DM, or a corresponding amount in foreign currency and requested the SJB chiefs to implement this decision, to issue certificates of temporary seizure when amounts in excess of 300 DM were taken, and to deposit the seized amounts at the Banja Luka CSB cash office. The Trial Chamber has found in the sections dealing with the crimes committed in the ARK Municipalities that the imposition of these limitations on non-Serbs, who left the municipality out of fear of their lives, constituted persecution, as a crime against humanity, committed through appropriation of property.

(iv) Župljanin's conduct in relation to commission of crimes against non-Serbs in ARK Municipalities

513. Stojan Župljanin, notwithstanding his extensive knowledge of the crimes committed in the ARK by Serb Forces against non-Serbs, including by his own police, and of the mass departures of

non-Serbs from the ARK Municipalities reported by his subordinates and witnessed in Banja Luka, on 25 June 1992 delegated the investigation of serious crimes to the ARK SJBs, in spite of the contrary advice of the Chief of the Banja Luka SJB, who told Župljanin that the SJB did not have the resources to take on this new responsibility. While the Trial Chamber has not received evidence of similar complaints from chiefs of SJBs of other ARK municipalities, it is satisfied, considering on the one hand its findings in the sections dedicated to the ARK Municipalities, and on the other hand the evidence reviewed above on the number of crimes against non-Serbs investigated by the police in these municipalities, that Župljanin failed to ensure that his police duly investigated crimes committed against non-Serbs in the ARK Municipalities, thereby failing to fulfil his obligation under articles 10 of the Constitution and 42 of the LIA to protect the non-Serb population of RS.

514. Furthermore, Župljanin did not do anything to reassure and protect the non-Serb population, aside from issuing ineffective and general orders to the ARK SJBs exhorting them to respect the law. In light of his acts and omissions reviewed above, and of the examples provided below, the Trial Chamber finds that Župljanin's orders were not genuinely meant to be effectuated. For instance, on 15 May 1992, Župljanin forwarded to his SJB chiefs an order of the RS MUP that persons with a criminal record could not be part of the reserve police, with the exception of traffic-related tasks. Only a few days before forwarding these instructions to his subordinates, he had hired criminal members of the SOS in his elite unit, the Banja Luka CSB Special Police Detachment, which he used throughout the summer to perform the most delicate operations. On 14 August 1992, Župljanin decided to form a commission to inspect the condition of detention camps. However, he appointed as commissioners the very people who were in charge of interrogating detainees in these camps, and therefore involved, or however informed of, their mistreatment; he gave them only three days to complete the work; and finally, when the commissioners filed their report, it was simply a collage of previously drafted reports on Omarska, Keraterm, and Trnopolje, which did not shed any light on the abuses suffered by non-Serb detainees and on the people who were responsible. Župljanin did not request further investigation into mistreatments in the detention centres or take any further step to uncover those responsible for the mistreatments of which he knew. On the contrary, there is evidence that on 8 October 1992 Župljanin, notwithstanding his knowledge of the implication of the Sanski Most police in unlawful detentions and in the death of 20 detainees who suffocated while being transported between Sanski Most and Manjača, appointed Drago Vujanić, warden of police-run detention facilities in Sanski Most, as crime inspector for white-collar crimes.

515. Župljanin never attempted to remove Simo Drljača from Prijedor, notwithstanding Župljanin's knowledge of the atrocities committed in the detention camps and Radulović's warnings about Drljača. When pressed by the Serb President of the Teslić municipality to arrest members of the powerful Miće Group, Župljanin promptly assembled a task force and disposed of

the problem. Similarly, his forces successfully prevented an attempt by paramilitary forces to kill between 300 and 600 Muslims and Roma between Doboj and Banja Luka in mid-May 1992. In light of this evidence, and considering that Župljanin was the highest police officer in the ARK, the Trial Chamber is satisfied that, had Župljanin wanted to remove Drljača, he could have done it. The Trial Chamber therefore finds that, while Župljanin and Drljača may have not been on good terms, Župljanin made no effort to remove Drljača from his position in relation to the crimes committed by Serb police in Prijedor against non-Serbs.

516. Stojan Župljanin, at least on two occasions, knowingly misled the public prosecutor in investigations concerning the murder of non-Serbs perpetrated by the Prijedor police. First, he obstructed the investigation on the murder of eight non-Serbs in the night between 6 and 7 August 1992 in front of the Manjača camp.<sup>1373</sup> On 5 August 1992, Simo Drljača had requested from him safe passage for a convoy of detainees to be transported on the following day from Prijedor to the Manjača camp, in Banja Luka. On 7 August 1992, the Banja Luka police had interviewed the drivers of the truck that on that day had disposed of the eight bodies on the bank of the Vrbas River. The drivers were policemen from Prijedor and the official notes compiled on the basis of their interviews contained relevant details on the incident, such as the fact that the victims had died in the night between 6 and 7 August 1992 in front of the Manjača camp. On 8 August 1992, forensic inspectors of the Banja Luka CSB identified two of the victims. However, on 26 August 1992 Župljanin filed a criminal report against unknown perpetrators to the public prosecutor in Banja Luka, stating that all eight victims were still unidentified, without adding any of the other available details on the incident. He only sent additional information to the prosecutor on 14 September 1992.

517. Župljanin behaved similarly in relation to the murder of about 150 to 200 Muslims by the Prijedor police at Korićanske Stijene.<sup>1374</sup> Based on the testimony of Nenad Krejić, the Trial Chamber finds that by 23 or 24 August 1992 Župljanin had received information implicating members of the Prijedor police in the murders. However, on 8 October 1992 Župljanin filed a criminal report to the public prosecutor in Banja Luka against “unknown” perpetrators, without any indication of the possible implication of the Prijedor police in the murders. In addition, on 24 August 1992, Župljanin was informed that there was a survivor of the incident, and a few days later, when the survivor was found by the VRS, he ordered that the survivor be brought to the Banja Luka CSB. However, even as late as November 1992, in an interview with *ABC*, he stated that there were no survivors to shed light on the incident at Korićanske Stijene. While the responsibility for the

<sup>1373</sup> The Trial Chamber has made findings on this incident in the Banja Luka section.

<sup>1374</sup> The Trial Chamber has made findings on this incident in the Kotor Varoš section.

failure of this enquiry did not rest exclusively with Župljanin, he did what he could to ensure impunity for the perpetrators.

(c) Conclusion

518. Based on the foregoing, the Trial Chamber finds that, starting on 1 April 1992 and continuing throughout the rest of the year, Stojan Župljanin ordered and coordinated the disarming of the non-Serb population in the ARK Municipalities. He created a unit, the Banja Luka CSB Special Police Detachment, which he used to assist other Serb Forces in the takeovers of the ARK Municipalities. He was fully aware of and took part in the unlawful arrest of non-Serbs and their forcible removal. He failed to launch criminal investigations and discipline his subordinates who had committed crimes against non-Serbs, thus creating a climate of impunity which only increased the commission of crimes against non-Serbs. He failed to protect the non-Serb population even when they pleaded with him for protection, thereby exacerbating their feeling of insecurity and strongly contributing to their flight out of the ARK Municipalities. Therefore, during the Indictment period, Stojan Župljanin significantly contributed to the common objective to permanently remove Bosnian Muslims and Bosnian Croats from the territory of the planned Serbian state.

519. In determining whether with his acts and omissions Župljanin intended to contribute to the common objective, the Trial Chamber has primarily considered Župljanin's role in the blockade of Banja Luka; his ties to the SDS, demonstrated by the unreserved support given by top SDS leaders in the ARK to his appointment as Chief of the CSB and by his interactions with other SDS members; his attendance at the 14 February 1992 SDS Main Board meeting at the Holiday Inn in Sarajevo; and his contribution to the implementation of SDS policies in Banja Luka and in other ARK municipalities. The Trial Chamber has also considered Župljanin's failure to protect the non-Serb population in conjunction with his enrollment of the SOS in the Detachment, his inaction in relation to the crimes committed by this unit, and his statements and actions taken in response to requests for protection by the Muslims of Banja Luka. In this context, the Trial Chamber has considered that Župljanin issued orders to protect the non-Serb population in the ARK and filed some criminal reports for crimes committed against non-Serbs. However, even though he continued to receive information that crimes, including unlawful detention, were being committed on a large scale, he did not take steps to ensure that these orders were in fact carried out. It has also considered that Župljanin did successfully take action against the Miće Group, the members of which committed crimes against non-Serbs in Teslić, but having considered all the instances in which Župljanin neglected to protect the non-Serb population, the Trial Chamber finds that he did so only because the Miće Group had become a nuisance to Serb municipal authorities. Based on this evidence, the Trial Chamber finds that Župljanin's failure to protect the Muslim and Croatian



population formed part of the decision to discriminate against them and force them to leave the ARK Municipalities, and was not merely the consequence of simple negligence. With regard to the unlawful arrests, the evidence clearly shows that Župljanin was aware of the arrests, of their unlawfulness, and that in spite of this he actively contributed to the operation. Through the formation of a feigned commission and by providing false information to the judicial authorities, he endeavoured, and successfully managed, to shield his subordinates from criminal prosecution for the murder, unlawful arrests, looting, and cruel treatment of non-Serb prisoners, thus creating a climate of impunity that encouraged the perpetration of crimes against non-Serbs and made non-Serbs decide to leave the ARK Municipalities. The Trial Chamber finds that all of Župljanin's actions described above were voluntary.

520. On this basis, the Trial Chamber finds that Župljanin's acts and omissions demonstrate beyond reasonable doubt that he intended, with other members of the JCE, to achieve the permanent removal of Bosnian Muslims and Bosnian Croats from the territory of the planned Serbian state through the commission of the crime of deportation as a crime against humanity, inhumane acts (forcible transfer) as a crime against humanity, and the crimes of forcible transfer and deportation, as persecution, as a crime against humanity against Muslims and Croats in the ARK Municipalities. Thus, the Trial Chamber finds that Stojan Župljanin was a member of the JCE starting at least in April 1992 and throughout the rest of 1992.

521. Since the Chamber has found that the common purpose of the JCE was to be achieved through deportation and the inhumane act of forcible transfer as crimes against humanity and deportation and forcible transfer as persecution as a crime against humanity, it follows that the other charged crimes alleged against Župljanin need to be examined in the context of the third category of joint criminal enterprise.

522. The Trial Chamber recalls its findings that Serb Forces carried out the forcible removal of Bosnian Muslims and Bosnian Croats from the ARK Municipalities by committing crimes against them and by enforcing unbearable living conditions following the takeover of towns and villages. Župljanin was also a member of both the ARK and Banja Luka crisis staffs, which issued orders restricting the rights of Muslims and Croats to perform certain jobs or impacting on their property rights. On this basis, the Trial Chamber finds that the possibility that Serb Forces could impose and maintain restrictive and discriminatory measures against non-Serbs in the ARK Municipalities in the execution of the common plan was sufficiently substantial so as to be foreseeable to Stojan Župljanin and that he willingly took that risk.

523. Having considered the information available to Župljanin during the Indictment period, the Trial Chamber further finds that the possibility that in the execution of the common plan Serb

Forces not only could, but would unlawfully detain large numbers of Bosnian Muslims and Bosnian Croats at SJBs, prisons, and improvised detention centres and camps was sufficiently substantial so as to be foreseeable to Župljanin and that he willingly took that risk. In light of Župljanin's degree of knowledge of and involvement in the transport and guarding of detained Muslims and Croats in the ARK Municipalities, the Trial Chamber has carefully assessed Župljanin's responsibility for unlawful detention under other modes of liability charged against him pursuant to Article 7(1) of the Statute. However, considering all the circumstances of the case, including the manner in which Župljanin's responsibility is charged in the Indictment, the Trial Chamber finds that the third form of joint criminal enterprise is the most appropriate mode of liability to characterise his responsibility for unlawful detentions.

524. The Trial Chamber finds that the possibility that in the execution of the plan Serb Forces, including forces under Župljanin's control, could commit other serious crimes was sufficiently substantial as to be foreseeable to Župljanin. First, Župljanin enrolled in the Detachment seasoned criminals of the SOS who had distinguished themselves for their nationalistic stance and the commission of crimes against non-Serbs, of which he was aware. He dispatched platoons of the Detachment to carry out operations in close contact with non-Serb civilians, notwithstanding frequent reports on the lack of discipline and criminal activities carried out by this special unit. Second, Župljanin was in Banja Luka after the 3 April 1992 blockade of the town, when the non-Serb community began being targeted by the SOS, the group of people in the red van, and the Detachment. In the first half of April 1992, and then again in August and September of the same year, representatives of the non-Serb community informed Župljanin about the crimes committed against non-Serbs in Banja Luka. Exhibit P1002 shows that, already on 30 April 1992, Župljanin knew that members of the ARK police were committing crimes. With regard to police involvement in the arrest and transport of non-Serb prisoners, he knew that on 7 July 1992 20 non-Serb detainees had died in a truck while being transported by the Sanski Most police. Nevertheless, Župljanin left the Sanski Most police in charge of the transport of detainees. Although Župljanin had strong reasons to know that the Prijedor police were involved in the murder of eight non-Serbs at the Manjača camp between 6 and 7 August 1992, he not only misled the investigation into these murders, but also allowed the Prijedor police to continue escorting detainees between detention camps. On 21 August 1992 Prijedor policemen killed about 150 Muslims at Korićanske Stijene. Furthermore, notwithstanding these murders and Župljanin's knowledge of the Prijedor police's involvement, in September 1992 Župljanin tasked the Prijedor police with escorting buses of non-Serb detainees to Croatia. On this basis, the Trial Chamber finds that the possibility that Serb Forces could commit murders and extermination of Muslims and Croats in the execution of the

common plan was sufficiently substantial as to be foreseeable to Župljanin and that he willingly took that risk.

525. Considering the reports that Župljanin received on the conditions of detention camps and his knowledge of ethnic tensions existing in the region, the Trial Chamber finds that the possibility that Serb Forces could establish and perpetuate inhumane living conditions and commit torture, cruel treatment, and inhumane acts against Muslims and Croats in the execution of the common plan was sufficiently substantial as to be foreseeable to Stojan Župljanin and that he willingly took that risk.

526. Further, considering the presence of criminals in the units that Župljanin dispatched in various ARK municipalities, the weak position in which non-Serbs found themselves in relation to Serb Forces arresting them and expelling them from their municipalities, and the strong ethnic tensions and resentments, the Trial Chamber finds that the possibility that Serb Forces could commit plunder and looting of non-Serb property against Muslims and Croats was sufficiently substantial as to be foreseeable to Župljanin and that he willingly took the risk. This finding, however, does not include the removal of currency in excess of 300 DM from non-Serbs leaving the ARK Municipalities, which Župljanin ordered his subordinates to carry out on 31 July 1992. The Župljanin Defence submits that this was a measure necessary to prevent money from being brought out of the country.<sup>1375</sup> However, the Trial Chamber rejects this argument on the basis that the majority of Muslims and Croats leaving the ARK did not do so voluntarily. The Trial Chamber has found in the sections dedicated to the ARK Municipalities that the imposition of this limit on non-Serbs who were being forcibly removed from the ARK Municipalities constituted the crime of appropriation of property, as an underlying act of persecution, as a crime against humanity, against Muslim and Croat citizens of the ARK Municipalities. The Trial Chamber finds that Župljanin was aware that there was a widespread attack against the non-Serb population and that his order to confiscate money from non-Serbs fleeing the ARK formed part of this attack. On this basis, the Trial Chamber finds that Župljanin ordered his subordinates to commit the crime of appropriation of property, as an underlying act of persecution, as a crime against humanity.

527. The Trial Chamber is satisfied that the possibility that Serb Forces could carry out the wanton destruction and damage of religious and cultural property of Muslims and Croats in a concerted effort to eliminate their historical moorings during and following the takeover of the ARK Municipalities was also sufficiently substantial as to be foreseeable to Stojan Župljanin and that he willingly took the risk.

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<sup>1375</sup> Župljanin Closing Arguments, 1 June 2012, T. 27614.

528. The Trial Chamber has found that the imposition and maintenance of discriminatory measures; the unlawful detentions; the killings; the establishment and perpetuation of inhumane living conditions; the torture, cruel treatment, and inhumane acts; the plunder of property; and the wanton destruction and damage of religious and cultural property in the ARK Municipalities were committed with a discriminatory intent. Considering the ethnically charged character of the armed conflict, the existence of a widespread and systematic attack against the Muslim and Croat population, and Župljanin's knowledge of such an attack, the Trial Chamber finds that the possibility that Serb Forces could commit these crimes with a discriminatory intent, thereby committing the crime of persecution as a crime against humanity, was sufficiently substantial as to be foreseeable to Stojan Župljanin and that he willingly took that risk.

529. Having made the above findings, it is not necessary for the Trial Chamber to make findings on the other forms of responsibility alleged in the Indictment.

530. The Trial Chamber will analyse, in the section entitled "Conclusions on Responsibility of Accused for Crimes Committed in Municipalities", whether the crimes found to have been committed in the ARK Municipalities can be imputed to Stojan Župljanin or another member of the JCE acting in furtherance of the common plan and purpose when using the physical perpetrators.

## **B. Responsibility of Mićo Stanišić**

531. The Indictment alleges that Mićo Stanišić was a Minister Without Portfolio in the Council of Ministers elected by the BSA from 21 December 1991, an *ex officio* member of the NSC, and the Minister of Interior in the newly established RS MUP from 1 April 1992, in which capacity he was a member of the Government of the RS.<sup>1376</sup>

### **1. The alleged participation of Mićo Stanišić in JCE**

#### **(a) Charges under Article 7(1) of the Statute**

532. The Indictment charges Mićo Stanišić with individual criminal responsibility under Article 7(1) of the Statute for crimes referred to in Articles 3 and 5 of the Statute committed in the Municipalities, which he is alleged to have committed through his participation in a JCE.<sup>1377</sup> According to the Indictment, Stanišić, acting through the positions he held and their attendant powers, participated in the JCE in concert with other members from no later than 1 April 1992 until at least 31 December 1992 with the intent to commit each of the crimes enumerated in Counts 1

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<sup>1376</sup> Indictment, para. 2.

<sup>1377</sup> Indictment, paras 4, 6, 11.

through 10 and was aware that his conduct occurred in the context of an armed conflict and was part of a widespread or systematic attack directed against a civilian population.<sup>1378</sup>

533. In the alternative, the Indictment charges that, insofar as the crimes enumerated in Counts 1 to 8 were not within the objective of the JCE, these crimes were foreseeable consequences of the execution of the JCE and Mićo Stanišić “willingly took that risk”.<sup>1379</sup>

534. The Indictment further alleges that if Mićo Stanišić was not a member of the JCE, he is individually criminally responsible for instigating or aiding and abetting the crimes set out by his acts, as listed in paragraph 11 of the Indictment. In relation to the charge of instigating, the Indictment alleges that Stanišić directly intended or was aware of the substantial likelihood that the execution of the acts and conduct that he instigated would involve or result in the crimes charged. In relation to the charge of aiding and abetting, the Indictment alleges that Mićo Stanišić was aware that the crimes would probably be committed and that his acts or omissions would contribute to their commission.<sup>1380</sup>

(b) Charges under Article 7(3) of the Statute

535. The Indictment alleges that Mićo Stanišić was the highest authority in the RS MUP and had overall authority and responsibility for its functioning, including the authority and the duty to punish or initiate disciplinary proceedings against subordinate members and agents of the RS MUP for any crimes they committed. Accordingly, the Indictment charges Stanišić with individual criminal responsibility for the acts and omissions of his subordinates under Article 7(3) of the Statute. It alleges that Stanišić, as the Minister of Interior, exercised *de jure* and *de facto* command and control over members and agents of the RS MUP who participated in crimes alleged in the Indictment.<sup>1381</sup> Stanišić allegedly knew or had reason to know that the crimes were about to be or had been committed by his subordinates, and he failed to take necessary and reasonable measures to prevent such acts or to punish the perpetrators thereof. In this context, Stanišić’s duties allegedly included obligations to investigate the crimes, to put an end to the criminal activity, to impose appropriate punitive measures, and to take measures to prevent or deter further criminal acts by members and agents of the RS MUP.<sup>1382</sup>

536. After having been indicted in 2005, Mićo Stanišić agreed to an interview by the Prosecution, which was conducted from 16 to 21 July 2007. Stanišić was represented by legal counsel and

<sup>1378</sup> Indictment, paras 10, 11(a)-(h), 13.

<sup>1379</sup> Indictment, para. 14.

<sup>1380</sup> Indictment, paras 14, 15.

<sup>1381</sup> Indictment, paras 17, 21-22.

<sup>1382</sup> Indictment, para. 23.

assisted by interpreters during the interview. He was read his rights pursuant to the Rules at the start of each interview session and affirmed that he understood them.<sup>1383</sup> The Defence of Stanišić relied upon the contents of the interview for the truth of its content in support of the defence case.<sup>1384</sup> The transcripts of this interview were admitted as exhibits P2300 through P2313. The Chamber has considered them in the course of its analysis of the evidence pertaining to Mićo Stanišić's responsibility.

## 2. Personal and professional background

537. Mićo Stanišić was born on 30 June 1954 in the village of Ponor, Pale municipality, in BiH. He attended high school for internal affairs and obtained his law degree in early 1982 in Sarajevo.<sup>1385</sup> Stanišić commenced work at the SUP of Sarajevo in 1973 and became an inspector for property crime and homicide after obtaining his law degree.<sup>1386</sup> He continued to work for the SUP until 1984.<sup>1387</sup>

538. In 16 May 1991, Stanišić was appointed the Secretary of the Sarajevo SUP by Alija Delimustafić, the then Minister of Interior in SRBiH.<sup>1388</sup> The position of the Secretary of the Sarajevo SUP "belonged" to the Serbs due to an agreed distribution of positions within the MUP between the Muslims, Croats, and Serbs. On the proposal of the SDS, Vitomir Žepinić, the Deputy Minister of Interior of the SRBiH at the time, invited Stanišić to take the position. Stanišić stated that, pursuant to the agreement on the distribution of positions and because of the lack of other experienced candidates for that position, all three sides within the MUP agreed to him becoming the Secretary.<sup>1389</sup>

539. Stanišić's responsibilities and authority as Secretary of the Sarajevo SUP were mostly related to public security affairs, namely "police work and crime". The issuance of personal documents (passports, driving licences, IDs), the registration and unregistration of residents, and fire protection also fell within his competence.<sup>1390</sup>

<sup>1383</sup> P2300, OTP Interview with Mićo Stanišić, 16 July 2007, pp. 1-7.

<sup>1384</sup> Stanišić Final Trial Brief, paras 15-17.

<sup>1385</sup> P2300, OTP Interview with Mićo Stanišić, 16 July 2007, pp. 8-11.

<sup>1386</sup> Dobrislav Planojević, 22 October 2010, T. 16395; Dragomir Andan, 26 May 2011, T. 21385-21387; P2300, OTP Interview with Mićo Stanišić, 16 July 2007, pp. 9, 11.

<sup>1387</sup> Dobrislav Planojević, 22 October 2010, T. 16395; P2300, OTP Interview with Mićo Stanišić, 16 July 2007, p. 16.

<sup>1388</sup> P888, Decision appointing Mićo Stanišić Secretary at Sarajevo SUP, 16 May 1991; P2300, OTP Interview with Mićo Stanišić, 16 July 2007, pp. 21, 44; Dragomir Andan, 26 May 2011, T. 21385-21387; Vitomir Žepinić, 29 January 2010, T. 5774.

<sup>1389</sup> P2300, OTP Interview with Mićo Stanišić, 16 July 2007, pp. 21-23, 44; ST155, 1 July 2010, T. 12493-12494 (confidential).

<sup>1390</sup> P2300, OTP Interview with Mićo Stanišić, 16 July 2007, pp. 23-24; Dragomir Andan, 26 May 2011, T. 21386-21388.

540. After October 1991, open disagreement on the functioning of the SUP existed within the SUP between Žepinić and Stanišić, who, according to Žepinić, felt that the Serbs were being sidelined by the Muslims and Croats in the SRBiH MUP and other institutions.<sup>1391</sup> Stanišić accepted that their differences were insurmountable and agreed to being appointed advisor to Alija Delimustafić on 14 February 1992, at the behest of Radovan Karadžić.<sup>1392</sup> Stanišić was replaced in the SUP secretariat by Dragan Kijac.<sup>1393</sup>

541. In this new role, Stanišić was supposed to advise Delimustafić on matters of state security, but he “never really advised anyone”.<sup>1394</sup> Stanišić stated that he was asked to take sick leave soon after taking up his position as advisor, which he did, for 20 days.<sup>1395</sup> Stanišić stated that no one from the SDS told him what he was expected to accomplish as advisor to Delimustafić, but “it could be felt that all three sides were doing something for themselves.”<sup>1396</sup> Not long after he returned to office, the SRBiH MUP stopped functioning as a joint ministry.<sup>1397</sup>

542. On 24 March 1992, Mićo Stanišić was elected the first Minister of Interior and officially appointed to the position on 31 March 1992, in accordance with the LIA.<sup>1398</sup> The acts and conduct of Mićo Stanišić during the tenure of this office are the subject of this case.

543. Stanišić resigned from the RS Government at the end of 1992.<sup>1399</sup> He was once again appointed Minister of Interior in December 1993 at the behest of Karadžić,<sup>1400</sup> a position he said he accepted on the condition that most of the chiefs of CSBs and SJBs, who had been appointed by the Crisis Staff instead of the MUP, were removed.<sup>1401</sup>

<sup>1391</sup> Vitomir Žepinić, 28 January 2010, T. 5707-5708 and 29 January 2010, T. 5808; P2301, Second Session of OTP Interview with Mićo Stanišić, 16-17 July 2007, pp. 12-13. See also RS MUP and JCE sections.

<sup>1392</sup> Vitomir Žepinić, 29 January 2010, T. 5774, 5805-5806, 5808; ST155, 5 July 2010, T. 12586 (confidential); Dragomir Andan, 26 May 2011, T. 21387-21389; P906, Decision of the RS MUP, 14 February 1992; P2300, OTP Interview with Mićo Stanišić, 16 July 2007, pp. 28-30, 44-45.

<sup>1393</sup> P2300, OTP Interview with Mićo Stanišić, 16 July 2007, pp. 31-33, 41-43.

<sup>1394</sup> P2300, OTP Interview with Mićo Stanišić, 16 July 2007, pp. 28-29, 37.

<sup>1395</sup> P2300, OTP Interview with Mićo Stanišić, 16 July 2007, pp. 37-39.

<sup>1396</sup> P2300, OTP Interview with Mićo Stanišić, 16 July 2007, pp. 33-34.

<sup>1397</sup> P2300, OTP Interview with Mićo Stanišić, 16 July 2007, pp. 38-39.

<sup>1398</sup> Branko Đerić, 29 October 2009, T. 2281-2282; Christian Nielsen, 16 December 2009, T. 4890; P198, Minutes of the 13<sup>th</sup> Session of the BSA, 24 March 1992, pp. 6-9; P353, Telex Message by Mandić Referring to Conclusions of the 14<sup>th</sup> Session of the BSA, 31 March 1992; P508, Nielsen Expert Report, para. 83; P2301, Second Session of OTP Interview with Mićo Stanišić, 16-17 July 2007, pp. 30-35; P2307, OTP Interview with Mićo Stanišić, 19 July 2007, pp. 9-11, 15.

<sup>1399</sup> P1999, Transcript of the 36<sup>th</sup> Assembly Session of the BSA, 31 December 1993, pp. 30-31; L328, Decision Electing Ratko Adžić as the New Minister of Interior of the RS MUP, 20 January 1993.

<sup>1400</sup> Dragomir Andan, 31 May 2011, T. 21566; P1999, Transcript of the 36<sup>th</sup> Assembly Session of the BSA, 31 December 1993, pp. 51, 59; P2040, Decision on Election of Member of Government, 30 December 1993.

<sup>1401</sup> P2302, OTP Interview with Mićo Stanišić, 17 July 2007, pp. 37-38, 41-43, 48-50.

### 3. Miće Stanišić's acts prior to and following his appointment as Minister of Interior

#### (a) Participation in formation of Bosnian Serb organs and policy

544. The Trial Chamber recalls that the process of regionalisation in BiH through the establishment of SAOs was contemplated by Serbs as early as January 1991 and that the SAOs, including the ARK, acted as an intermediate level of authority between the RS and the municipalities.<sup>1402</sup> The SAOs, including the ARK, were established as autonomous regions as part of both the SFRY and the SRBiH, provided BiH remained a part of the SFRY.<sup>1403</sup> By April 1991, a Krajina regional organisation was constituted by an agreement between the Serb members of 20 municipalities.<sup>1404</sup>

545. In his interview with the Prosecution, Stanišić stated that, after the multi-party system was introduced in November 1991, the SDA and HDZ were established as national parties, and the Serbs followed suit by setting up a party modelled after the Democratic Party in Serbia to protect the interests of the Serb people.<sup>1405</sup> Stanišić was involved in early activities of Serb intellectuals concerning the establishment of a Serb political party, was a member of the Preparatory Committee for establishing the SDS, and explained how the party name "SDS" was adopted and how Radovan Karadžić became its President.<sup>1406</sup>

546. Stanišić stated that the SRBiH MUP had started "working for the purposes of SDA" because the majority of the leadership was from the SDA.<sup>1407</sup> Vitomir Žepinić believed that Stanišić was of the view that the Serbs were being sidelined in the SUP and other institutions.<sup>1408</sup> Žepinić discussed personnel issues with all chiefs, including Stanišić.<sup>1409</sup> ST155, a policeman of Muslim ethnicity, testified that when Stanišić was the Secretary of the Sarajevo SUP, it was composed of five specialised police departments in addition to the CSB Sarajevo, which had 21 SJBs under its jurisdiction.<sup>1410</sup> Despite the fact that Stanišić's position did not give him authority to weigh in on personnel matters at SJBs in Sarajevo, he and Jovan Tintor opposed the appointment of a Croat in

<sup>1402</sup> See JCE section.

<sup>1403</sup> P2301, Second Session of OTP Interview with Miće Stanišić, 16-17 July 2007, pp. 8-9.

<sup>1404</sup> See JCE section.

<sup>1405</sup> P2300, OTP Interview with Miće Stanišić, 16 July 2007, pp. 48-52, 54; P10, Minutes of 4<sup>th</sup> Session of the BSA, 21 December 1991, p. 40.

<sup>1406</sup> P2300, OTP Interview with Miće Stanišić, 16 July 2007, pp. 53-54, 58; P1999, Transcript of the 36<sup>th</sup> Assembly Session of the BSA, 31 December 1993, p. 57; P883, List of Invitees to an SDS Deputies Meeting, undated.

<sup>1407</sup> P2301, Second Session of OTP Interview with Miće Stanišić, 16-17 July 2007, pp. 12-13.

<sup>1408</sup> Vitomir Žepinić, 28 January 2010, T. 5707-5708.

<sup>1409</sup> Vitomir Žepinić, 29 January 2010, T. 5774.

<sup>1410</sup> ST155, P1500.01, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 14 April 2005, T. 12101-12102 (confidential).



place of a Serb as the deputy commander at one of the police stations in Sarajevo. Kemo Sabović, the Chief of CSB Sarajevo, nevertheless appointed the Croat.<sup>1411</sup>

547. The Serbs opposed the declaration of independence of BiH on 15 October 1991 by the SDA and HDZ members of the SRBiH Assembly. After the session was adjourned by Krajišnik, the SDS delegates walked out.<sup>1412</sup> The Chamber recalls that the BSA was established on 24 October 1991 by SDS deputies of the BiH parliament, which adopted a decision to conduct a plebiscite of the Serb people in SRBiH on 9 and 10 November 1991.<sup>1413</sup>

548. The Trial Chamber recalls that the SDS Main Board issued the Variant A and B Instructions on 19 December 1991. These Instructions were to be implemented in “all municipalities where the Serb people live”, completely in municipalities where Serbs were in the majority (Variant A) and partially in municipalities where Serbs were not a majority (Variant B).<sup>1414</sup> The Trial Chamber notes that the police were assigned a central role in the implementation of the Variant A and B Instructions.<sup>1415</sup> However, in his interview, Stanišić asserted that he had never in fact seen these Instructions nor was he ever informed of them.<sup>1416</sup>

549. On 21 December 1991, at the 4<sup>th</sup> session of the BSA in Sarajevo, Stanišić was proposed and appointed as a Minister Without Portfolio in the Council of Ministers, which was composed of Serb members of the SRBiH government.<sup>1417</sup>

550. Present and speaking during the 4<sup>th</sup> session of the BSA were Momčilo Krajišnik, appointed as President of the BSA, Radovan Karadžić, Biljana Plavšić, Nikola Koljević, and Velibor Ostojić,

<sup>1411</sup> ST155, 1 July 2010, T. 12496-12497, 12546-12547 (confidential); ST155, P1500.01, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 14 April 2005, T. 12105-12107, 12122 (confidential).

<sup>1412</sup> Robert Donia, 16 September 2009, T. 380-383; Dragan Đokanović, P397.01, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 14 March 2005, T. 10496-10499, 10500-10501; P31, Donia Expert Report: Bosnian Krajina in the History of BiH, p. 59; P13, Speech of Radovan Karadžić in the SRBiH Assembly, 15 October 1991, p. 3; P14, Minutes of the SDS Party Council Meeting, 15 October 1991, p. 2; P30, Donia Expert Report: Origins of RS, pp. 33-34; Agreed Fact 62; Adjudicated Fact 748.

<sup>1413</sup> Milan Babić, P2119, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 4 June 2004, T. 3512-3513 (confidential); P1931, Transcript of the 1<sup>st</sup> BSA Session, 24 October 1991, pp. 8, 12, 17; P2067, Minutes of the 1<sup>st</sup> Session of the BSA, 24 October 1991, pp. 4, 6; Agreed Fact 90; Adjudicated Fact 746. *See also* P1130, Transcript of Telephone Conversation between Karadžić and Milošević, 24 October 1991, pp. 1-2, 5, 7-8. *See section on JCE for a more detailed discussion.*

<sup>1414</sup> Adjudicated Fact 100; P15, Variant A and B Instructions by the SDS Main Committee, 19 December 1991, para. I.3, p. 2. *See also* P434, Expert Report by Dorothea Hanson, Bosnian Serb Crisis Staffs, 15 February 2008, paras 13-23. *See section on JCE for a more detailed discussion.*

<sup>1415</sup> P15, Variant A and B Instructions by the SDS Main Committee, 19 December 1991, para. II.5, p. 3 (under first level for Variant A); paras II.2 and II.6, p. 4 (under second level for Variant A); para. II.5, p. 5 (under first level for Variant B); and II.2, p. 6 (under second level for Variant B).

<sup>1416</sup> P2306, OTP interview with Mićo Stanišić, 19 July 2007, pp. 1-7, 13-14.

<sup>1417</sup> Christian Nielsen, 27 January 2010, T. 5593-5595; P2301, Second Session of OTP Interview with Mićo Stanišić, 16-17 July 2007, p. 17; P10, Minutes of 4<sup>th</sup> Session of the BSA, 21 December 1991, pp. 35-37; P180, Decision on the Establishment and Election of the Ministerial Council of the BSA, 21 December 1991, p. 2.

among others.<sup>1418</sup> Radovan Karadžić outlined the work of the conference for the democratic transition of BiH and stated that “we have the right and the ability to prevent anybody on the territories where we conducted our referendum to secede from Yugoslavia [...]. All territories where we voted in our referendum to remain within Yugoslavia must stay within Yugoslavia if we decide so”, regardless of whether the Serbs made up 5% or 55% of the population in those towns.<sup>1419</sup> Karadžić recommended the establishment of three ethnic entities in BiH to complement each other in order to form common institutions at the level of BiH as a better alternative to civil war.<sup>1420</sup> The attendees were informed that the Serb representatives, Biljana Plavšić and Nikola Koljević, had opposed the SRBiH Government proposal for recognition of its independence at the EC meeting in Brussels on 17 December 1991, which adopted the “Declaration on Yugoslavia” on the basis that the Serbs had a right to remain in Yugoslavia.<sup>1421</sup>

551. On 11 January 1992, Stanišić attended the first meeting of the Council of Ministers of the BSA, where it was decided that the “defining of ethnic territory” and the “establishment of government organs in the territory” were priorities emanating from the Declaration of the RS on 9 January.<sup>1422</sup> At this meeting, Stanišić was appointed to a working group to deal with issues “regarding the organisation and scope of national security” and was given responsibility for the work of this group.<sup>1423</sup> The members of the Council decided, during their first two meetings, to establish new ethnically divided government organs.<sup>1424</sup> Stanišić stated that he refused to take part in or contribute to the work of the Council, which only met a few times, because it was incompatible with his work as a Secretary of the Sarajevo SUP.<sup>1425</sup> The Council was dissolved by a decision of the BSA on 24 March 1992, when the RS Government started functioning.<sup>1426</sup>

(i) The Cutileiro Plan and creation of RS MUP

552. Stanišić was of the view that, having created the Council of Ministers as a centrally organised authority for the RS, the Serbs had met the conditions for the International Commission in Lisbon to consider a solution to the problem in BiH.<sup>1427</sup>

<sup>1418</sup> P10, Minutes of 4<sup>th</sup> Session of the BSA, pp. 2-3, 7-8, 19-21, 23, 37-44, 47-49.

<sup>1419</sup> P10, Minutes of 4<sup>th</sup> Session of the BSA, pp. 37-39.

<sup>1420</sup> P10, Minutes of 4<sup>th</sup> Session of the BSA, pp. 39-40, 48.

<sup>1421</sup> P10, Minutes of 4<sup>th</sup> Session of the BSA, pp. 7-9.

<sup>1422</sup> P268, Minutes of the 1<sup>st</sup> Meeting of the Council of Ministers held on 11 January 1992, 13 January 1992, pp. 1-2; L29, Declaration on Proclaiming Republic of Serbian People of BiH, 9 January 1992; P180, Decision on the Establishment and Election of the Ministerial Council a.k.a. Council of Ministers of the BSA, 21 December 1991.

<sup>1423</sup> P268, Minutes of the 1<sup>st</sup> Meeting of the Council of Ministers held on 11 January 1992, 13 January 1992, p. 3.

<sup>1424</sup> P267, Minutes of the 2<sup>nd</sup> Meeting of the Council of Ministers held on 17 January 1992, 22 January 1992, pp. 4-5; P268, Minutes of the 1<sup>st</sup> Meeting of the Council of Ministers held on 11 January 1992, 13 January 1992, p. 2.

<sup>1425</sup> P2301, Second Session of OTP Interview with Mićo Stanišić, 16-17 July 2007, pp. 17-20.

<sup>1426</sup> P198, Minutes of the 13<sup>th</sup> session of the BSA, 24 March 1992, p. 2.

<sup>1427</sup> P2301, Second Session of OTP Interview with Mićo Stanišić, 16-17 July 2007, pp. 5-6; P10, Minutes of 4<sup>th</sup> Session of the BSA, p. 36. The Chamber notes that the Cutileiro Plan is also referred to as the Lisbon Agreement, Nedeljko

553. The International Commission convened in Lisbon from February 1992 and concluded with the enunciation of the Cutileiro Plan around late February 1992, which envisaged that BiH, following its independence, would be composed of three constituent units, each of which would “realise their sovereign rights” through BiH and the constituent units.<sup>1428</sup>

554. During the negotiations of the Cutileiro Plan, Stanišić, as a member of the Council of Ministers, attended a meeting in Banja Luka on 11 February 1992 organised by Momčilo Mandić and attended by Serbs working in the SRBiH MUP, including Stojan Župljanin. The meeting discussed the Serb personnel within the SRBiH MUP, its division, the forming of entity MUPs—which were to be organisational units of the joint MUP—and the level to which the negotiations on these issues had developed.<sup>1429</sup> One of the conclusions reached at the meeting was to “carry out all preparations necessary for the functioning of a Serbian MUP”.<sup>1430</sup> Following the conclusions reached at this meeting, Mandić requested Stanišić and future CSB chiefs of the RS MUP to arrange a meeting with senior executives of the MUP in their respective areas.<sup>1431</sup>

555. Stanišić, challenging the accuracy of the minutes of this meeting,<sup>1432</sup> denied having said that “[t]he position of the Council of Ministers at the last session was that in the territories in [SRBiH] which are under Serbian control, that control must be felt”; that the joint MUP was “being divided by the Muslims”; and that Serbian personnel in the MUP “must provide the means to strengthen and supply the Serbian MUP, ensuring that resources will be distributed equally”.<sup>1433</sup> Considering the circumstances under which the minutes were prepared and that Stanišić’s challenge is limited to the record of his statements, the Trial Chamber does not find the challenge credible and finds the minutes reliable.

556. ST215 attended a meeting in Šekovići a few months before the breakout of the war, where Stanišić and Momčilo Mandić, as representatives of the RS, informed all present—which included presidents of municipalities, members of municipal boards of the SDS, and members of the Executive Board—that a RS Government was being established and that, on behalf of their respective ministries, the Ministers were to keep the RS Government informed about the situation on the

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Dekanović, 14 October 2009, T. 1405-1406; Nedo Vlaški, 16 February 2010, T. 6429-6430; Stevan Todorović, P2131, *Prosecutor v. Simić et al.*, Case No. IT-95-9-T, 19 June 2002, T. 9659; Momčilo Mandić, P1318.06, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 30 November 2004, T. 9064.

<sup>1428</sup> Herbert Okun, P2194, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 24 June 2004, T. 4320-4323; P2200, Lisbon Agreement, sections A and D.

<sup>1429</sup> P2301, Second Session of OTP Interview with Mićo Stanišić, 16-17 July 2007, pp. 20-21; 1D135, Minutes of a Meeting of the Serbian Representatives of the MUP in Banja Luka, 11 February 1992.

<sup>1430</sup> 1D135, Minutes of a Meeting of the Serbian Representatives of the MUP in Banja Luka, 11 February 1992, p. 4, para. 3.

<sup>1431</sup> P527, Dispatch to the Chiefs of CSBs and SJBs in the RS MUP from Momčilo Mandić, 13 February 1992.

<sup>1432</sup> P2306, OTP interview with Mićo Stanišić, 19 July 2007, pp. 32-33.

<sup>1433</sup> 1D135, Minutes of a Meeting of the Serbian Representatives of the MUP in Banja Luka, 11 February 1992, p. 1.

ground and the plans for the future.<sup>1434</sup> In a conversation on 2 March 1992, Stanišić agreed with Miroslav Toholj that the Serbs should “establish their own police force”.<sup>1435</sup>

557. According to Stanišić, on 18 March 1992, all three communities—represented by Alija Izetbegović, Mate Boban, and Radovan Karadžić—agreed upon constitutional principles for BiH to become independent and sovereign, which included the organisational composition of three entities with a joint state authority at the republic level.<sup>1436</sup> At a BSA meeting on 18 March 1992, Krajišnik stated that, in response to the possible international recognition of BiH, Serbs should begin defining territory and should commence the process of ethnic division on the ground.<sup>1437</sup> Krajišnik and Karadžić also spoke about the Cutileiro Plan.<sup>1438</sup> Karadžić stated, “We shall have to establish a full structure of government on the ground because this is our duty to the people who live there: Serbs, Muslims or Croats, so that we can have peace.”<sup>1439</sup> On or about 20 March 1992, Stanišić told Slobodan Škipina that the BSA had adopted a decision to split from the joint Assembly “in accordance with the Cutileiro Plan”, which envisaged the cantonisation of BiH.<sup>1440</sup>

558. On 24 March 1992, the BSA elected ministers of the RS Government, including Mićo Stanišić as the Minister of Interior.<sup>1441</sup> In accepting the position, Stanišić remarked that the SRBiH MUP had been used as an instrument of the SDA and the HDZ for achieving their political goals, including the creation of an army from the reserve forces comprised of only one ethnicity and the dismissal of Serbs from their positions. He continued to say that:

The term itself, a unitary MUP, was also part of the manipulation. I have said again and again, always quite bluntly, that this was purely a political term and that MUP was being made a currency in a political game. This kind of terminology is inappropriate for a MUP, for an organ of state administration like the [MUP], whose purpose is to realize executive power by strictly professional methods... [L]et me establish this here, that the professional aspect has been marginalised by the political one. I hope that in the future, the Serbian MUP will become a professional organisation, an organ of state administration which will actually protect property, life, body and other values which must be protected.<sup>1442</sup>

<sup>1434</sup> ST215, 27 September 2010, T. 14885-14889.

<sup>1435</sup> P1112, Transcript of Intercepted Conversation Between Mićo Stanišić and Miroslav Toholj, 2 March 1992, p. 3.

<sup>1436</sup> P2301, Second Session of OTP Interview with Mićo Stanišić, 16-17 July 2007, pp. 6-7.

<sup>1437</sup> Dragan Đokanović, P397.02, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 15 March 2005, T. 10543, 10550-10551 and P397.03, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 17 March 2005, T. 10657; P708, Minutes of the 11<sup>th</sup> Session of the BSA held on 18 March 1992 in Sarajevo, 18 March 1992, pp. 11-12.

<sup>1438</sup> Dragan Đokanović, P397.03, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 17 March 2005, T. 10649-10650, 10653, 10656-10658.

<sup>1439</sup> Dragan Đokanović, P397.03, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 17 March 2005, T. 10661-10662; P708, Minutes of the 11<sup>th</sup> Session of the BSA held on 18 March 1992 in Sarajevo, 18 March 1992, p. 15.

<sup>1440</sup> Slobodan Škipina, 30 March 2010, T. 8290-8291, 8294-8295.

<sup>1441</sup> Branko Đerić, 29 October 2009, T. 2281-2282; Christian Nielsen, 16 December 2009, T. 4890; P198, Minutes of the 13<sup>th</sup> Session of the BSA, 24 March 1992, pp. 6-9; P508, Nielsen Expert Report, para. 83; P2307, OTP Interview with Mićo Stanišić, 19 July 2007, p. 15.

<sup>1442</sup> P198, Minutes of the 13<sup>th</sup> Session of the BSA, 24 March 1992, pp. 7-8.

The BSA also unanimously verified decisions made by municipal assemblies on the proclamation of newly-established Serbian municipalities and instructed the RS Government to “draw up a plan of assuming power and rendering operational the authorities in [its] territory”.<sup>1443</sup>

559. The Chamber recalls that the RS MUP was established after the ceremonial promulgation of the RS Constitution and the adoption of the LIA on 27 March 1992.<sup>1444</sup> According to Stanišić, the RS Constitution was written along the lines of the Cutileiro Plan, with an option for the adoption of the Constitution of SRBiH, provided it remained a part of SFRY.<sup>1445</sup>

560. On 30 March 1992, Mićo Stanišić performed a review of the police force of SAO Romanija in Sokolac, during which he announced that:

As of today the [RS] has its own police force, the legality of our existence is provided by the Constitution of the [RS] and the Law on Internal Affairs recently adopted by the Assembly at its session. Moreover, the legality of our existence is based on the result of negotiations of the three ethnic communities under the auspices of the European Community. As of today we will act as the police of the [RS] which will carry out its tasks and assignments professionally, and not politically, as the MUP of the old [BiH] has done so far, in order to protect property, life, body and other securities of all citizens in the [RS] equally. Members of the police, we are not involved in politics. We must carry out our tasks professionally. For these reasons, long speeches do not belong to us, but as of today, good luck, get to work, in the interest of all who live in [RS].<sup>1446</sup>

561. On the same day, Stanišić attended a meeting convened by Vitomir Žepinić to discuss the implementation of the Cutileiro Plan and to commence the reorganisation of the SRBiH MUP. This meeting was attended by deputies of all ethnicities in the SRBiH MUP, including: Jusuf Pušina, a Muslim and Chief of Public Security; Branko Kresić, a Croat and Chief of State Security; Avdo Hebib, a Muslim and Assistant Minister in charge of Public Security; Sabić, a Serb and Assistant Minister in charge of Communications; Bruno Stojić, a Croat and Assistant Minister for Material and Technical Affairs; and Momčilo Mandić, a Serb and Assistant Minister for Crime Administration.<sup>1447</sup> It was decided that the ratio of positions within the joint MUP should reflect the ratio of the population of each nationality and that the ministers of interior of each entity would be joined at the republic level through the BiH MUP.<sup>1448</sup> The meeting also concluded that the joint MUP would influence appointments, determine salaries, and adopt a book of rules on uniforms and

<sup>1443</sup> P439, Minutes of the 12<sup>th</sup> Session of the BSA, 24 March 1992, p. 24; P198, Minutes of the 13<sup>th</sup> Session of the BSA, 24 March 1992, p. 13.

<sup>1444</sup> Christian Nielsen, 14 December 2009, T. 4722 and 17 December 2009, T. 4928; P29, Division in BiH MUP—April Fool Reality, Article in *Oslobodjenje* Newspaper, 1 April 1992, p. 4; P353, Telex Message by Mandić Referring to Conclusions of the 14<sup>th</sup> Session of the BSA, 31 March 1992; P2308, OTP interview with Mićo Stanišić, 19-20 July 2007, pp. 7-8; P508, Nielsen Expert Report, para. 84; Adjudicated Fact 132. See section on RS MUP.

<sup>1445</sup> P2301, Second Session of OTP Interview with Mićo Stanišić, 16-17 July 2007, p. 7.

<sup>1446</sup> Goran Mačar, 5 July 2011, T. 22838-22845 and 12 July 2011, T. 23163; 1D633, Transcript of Video of the CSB Sarajevo Police Line-up Review Attended by Mićo Stanišić, 30 March 1992, p. 1.

<sup>1447</sup> P2301, Second Session of OTP Interview with Mićo Stanišić, 16-17 July 2007, pp. 29-31, 34; P2307, OTP interview with Mićo Stanišić, 19 July 2007, pp. 14-15.

<sup>1448</sup> P2301, Second Session of OTP Interview with Mićo Stanišić, 16-17 July 2007, pp. 29-31, 37.

insignia within the entity ministries, which would all be equal to one another and controlled by the joint MUP.<sup>1449</sup> The minutes of this meeting were sent to the RS MUP, Delimustafić, chiefs of the SNB, Public Security Sector, all CSBs and SJBs, and others.<sup>1450</sup>

562. Herbert Okun, a diplomat involved in the peace negotiations for the former Yugoslavia in 1992 and 1993, testified that the Cutileiro Plan was signed by all parties on 18 March 1992 but failed after Alija Izetbegović withdrew his signature on 28 March 1992.<sup>1451</sup> BiH was recognised as an independent state on 6 April 1992 by the member states of the EC. Stanišić recalled that Izetbegović introduced a state of emergency and withdrew his signature from the Cutileiro Plan in favour of a centralised BiH. In Stanišić's view, war would not have broken out had the Cutileiro Plan not been abandoned.<sup>1452</sup> Okun testified that while the parties were "still discussing" the Cutileiro Plan, Karadžić had made statements to the effect that the Serb side would not fight if a Bosnian Serb state was realised.<sup>1453</sup>

563. The Trial Chamber accepts the evidence that the withdrawal of assent by Alija Izetbegović was one of the reasons for the failure of the Cutileiro Plan. Nevertheless, in light of the evidence concerning the events of 1991, it finds that, prior to the negotiations in Lisbon, the Serbs had already coalesced around the idea of a separate Serb entity carved out of the territory of SRBiH in order to remain within a rump state of Yugoslavia—an agenda that came to coincide with the proposals of the Cutileiro Plan—and eventually in a greater Serbian state.

(ii) Interactions with Bosnian Serb leadership

564. The Chamber has already considered evidence that SDS policy was created primarily by Radovan Karadžić and Momčilo Krajišnik. Stanišić stated that Karadžić and Krajišnik could not be influenced by anyone and that Nikola Koljević and Biljana Plavšić were hierarchically below them, followed by Stanišić and others.<sup>1454</sup> While Stanišić stated that he was neither an important figure in

<sup>1449</sup> P2301, Second Session of OTP Interview with Mićo Stanišić, 16-17 July 2007, pp. 34-38.

<sup>1450</sup> P2307, OTP interview with Mićo Stanišić, 19 July 2007, pp. 4-8.

<sup>1451</sup> Herbert Okun, P2192, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 22 June 2004, T. 4167-4177 and P2193, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 23 June 2004, T. 4196 and P2194, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 24 June 2004, T. 4320, 4324-4325; Dorothea Hanson, 14 December 2009, T. 4779.

<sup>1452</sup> P2301, OTP Interview with Mićo Stanišić, 16 July 2007, pp. 26-27, 28-29; Herbert Okun, P2194, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 24 June 2004, T. 4328.

<sup>1453</sup> Herbert Okun, P2192, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 22 June 2004, T. 4167-4178 and P2195, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 25 June 2004, T. 4405.

<sup>1454</sup> P2301, Second Session of OTP Interview with Mićo Stanišić, 16-17 July 2007, pp. 7-8. See also Dragan Đokanović, P397.02, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 15 March 2005, T. 10564-10567; Herbert Okun, P2192, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 22 June 2004, T. 4154-4155 and P2193, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 23 June 2004, T. 4239 and P2194, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 24 June 2004, T. 4277, 4333-4334, 4338, 4342; Dragan Đokanović, P397.01, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 14 March 2005, T. 10496-10497; Sulejman Tihić, P1556.09, *Prosecutor v. Simić et al.*, Case No. IT-95-9-T, 8 November 2001, T. 3790-3791; Milan Babić, P2117, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 3 June 2004, T. 3395-3397 (confidential); Milan Trbojević, P427.01, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 4 April 2005, T. 11433.

the SDS, nor was he interested in politics,<sup>1455</sup> the Chamber notes that he was a member of the Preparatory Committee for establishing the party.<sup>1456</sup>

565. Stanišić shared a close relationship with Karadžić, who was the leading member of the Bosnian Serb leadership and whom the Chamber has found to be a member of the JCE, since early 1991. The two spoke frequently, at times calling each other at home.<sup>1457</sup> Mandić and Žepinić confirmed that Stanišić was among the people close to Karadžić.<sup>1458</sup> An example is a conversation they had in August 1991, when Karadžić called Stanišić to complain angrily about Serbs in the SRBiH government being followed and tracked by the SUP and the ransacking of a warehouse in search of hidden weapons where the Serbs were stocking food. Stanišić offered to assign Mandić to look into the issue, while Karadžić threatened to “give hell” to Delimustafić, Hilmo Selimović, a Muslim who was the Deputy Minister in charge of Administration, and Avdo Hebib. Karadžić said the SDA had “completely usurped power” and, that as a result, “the Serbs have nothing” in the Sarajevo SUP.<sup>1459</sup> Stanišić spoke to Karadžić on 31 August 1991 from Bileća to inform him that “nothing [had] been done” yet and promised to take the matter up with Mandić and another person.<sup>1460</sup>

566. Another instance of the direct communication between Karadžić and Stanišić was following the negotiations between the Muslims and Serbs on the removal of the barricades in Sarajevo.<sup>1461</sup> On 2 March 1992, Stanišić spoke with Karadžić about making a public statement that the conditions for both parties to withdraw from the barricades had been agreed.<sup>1462</sup> Karadžić told Stanišić to “check if the Army can assign several inspectors who will make sure the barricades on both sides

<sup>1455</sup> P2300, OTP interview with Mićo Stanišić, 16 July 2007, pp. 54-58; Radomir Kezunović, 22 June 2010, T. 12096-12097; Vitomir Žepinić, 28 January 2010, T. 5707, 5721-5722; Slobodan Škipina, 30 March 2010, T. 8289-8295 and 1 April 2010, 8452-8453; Radomir Njeguš, 7 June 2010, T. 11308.

<sup>1456</sup> P1999, Transcript of the 36<sup>th</sup> Session of the BSA, 31 December 1993, pp. 56-57.

<sup>1457</sup> P1135, Transcript of Intercepted Conversation between Radovan Karadžić and Mićo Stanišić, 20 July 1991; P1149, Transcript of Intercepted Conversation between Radovan Karadžić and Mićo Stanišić, 12 June 1991. The Chamber refers to and relies upon the transcripts of several intercept conversations between Stanišić and Karadžić throughout this and other sections of this Judgement.

<sup>1458</sup> Momčilo Mandić, P1318.01, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 23 November 2004, T. 8634; Vitomir Žepinić, 29 January 2010, T. 5774-5775.

<sup>1459</sup> P1108, Transcript of Intercepted Conversation between Radovan Karadžić and Mićo Stanišić, 9 August 1991, pp. 2-3.

<sup>1460</sup> P1152, Transcript of Intercepted Conversation between Radovan Karadžić and Mićo Stanišić, 31 August 1991, pp. 1-2.

<sup>1461</sup> Nedo Vlaški, 15 February 2010, T. 6352-6353, 6358-6359; P643, Dispatch of NNB to RS MUP forwarding a List of Employees of the MUP who Took Part in the Activities Related to the Setting of Barricades in Sarajevo, 13 March 1992, p. 4; P910, Transcript of Intercepted Conversation between Mićo Stanišić and Rajko Đukić, 2 March 1992, p. 3.

<sup>1462</sup> P1110, Transcript of Intercepted Conversation between Radovan Karadžić and (a) Jovo Jovanović and (b) Mićo Stanišić, 2 March 1992, p. 7.

are removed at midnight”.<sup>1463</sup> Later that day, Rajko Đukić reported to Karadžić that the situation was under control and that Stanišić and others were with him.<sup>1464</sup>

567. Stanišić was in regular contact with other members of the Bosnian Serb leadership, including Koljević, Plavšić, Đerić, and Subotić.<sup>1465</sup> Stanišić participated in conversations with several leading persons on matters of security interest, including negotiations with UNPROFOR.<sup>1466</sup> Stanišić discussed attacks, manpower, and *materiel* for combat activities with Karadžić and noted that they should be careful in what they said since they were being tapped.<sup>1467</sup>

568. Trbojević and Žepinić testified that, although Stanišić was answerable to Branko Đerić, the Prime Minister, he had direct ties with Karadžić and often bypassed the Government.<sup>1468</sup> According to Trbojević, the Government was “totally uninformed” about the activities of the police, while neither Karadžić nor Krajišnik ever remarked to him that Stanišić had failed to inform them on any matter.<sup>1469</sup> Contrary to the assertions of Trbojević and Đerić, the RS MUP informed the President and the Prime Minister of its activities through the 150 daily bulletins that it sent in the course of 1992.<sup>1470</sup> Trbojević was present at one meeting in which Đerić attempted to speak with Krajišnik and Karadžić about removing Stanišić and Mandić—a move favoured by Plavšić and Koljević. Both Krajišnik and Karadžić, however, were opposed to their removal.<sup>1471</sup>

569. Goran Mačar testified that throughout 1992 Stanišić was under pressure from Đerić, which originated from their differences over the organisation of the government. It culminated in Stanišić delegating some of his authority to Tomislav Kovač on 21 October 1992. Around this time, Biljana Plavšić also exercised pressure on Stanišić, because she opposed RS MUP’s attempts to prevent

<sup>1463</sup> P1110, Transcript of Intercepted Conversation between Radovan Karadžić and (a) Jovo Jovanović and (b) Mićo Stanišić, 2 March 1992, p. 8.

<sup>1464</sup> P1195, Transcript of Intercepted Conversation between Rajko Đukić and Radovan Karadžić, 2 March 1992, p. 2.

<sup>1465</sup> P1162, Transcript of Intercepted Conversation between Radovan Karadžić and Mićo Stanišić, 18 April 1992, pp. 9-10; P1156, Transcript of Intercepted Conversation between Nikola Koljević and Mićo Stanišić, 18 April 1992; P1133, Transcript of Intercepted Conversation between Biljana Plavšić and Mićo Stanišić, 14 May 1992; P202, Transcript of Intercepted Conversation between Branko Đerić and Mićo Stanišić, 18 April 1992; P203, Transcript of Intercepted Conversation between Branko Đerić and Mićo Stanišić, 18 April 1992; P1114, Transcript of Intercepted Conversation between Bogdan Subotić and Mićo Stanišić, 18 May 1992.

<sup>1466</sup> See, e.g., P1133, Transcript of Intercepted Conversation between Biljana Plavšić and Mićo Stanišić, 14 May 1992.

<sup>1467</sup> P2300, OTP interview with Mićo Stanišić, 16 July 2007, p. 32; P1120, Transcript of Intercepted Conversation between Radovan Karadžić and Mićo Stanišić, May 1992, pp. 2, 3; P1147, Transcript of Intercepted Conversation between Radovan Karadžić and Mićo Stanišić, 21 June 1992, pp. 2-3; P1155, Transcript of Intercepted Conversation between Radovan Karadžić and Mićo Stanišić, 18 April 1992, pp. 1-3.

<sup>1468</sup> Milan Trbojević, 3 December 2009, T. 4145; Vitomir Žepinić, 29 January 2010, T. 5775; Milan Trbojević, P427.02, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 5 April 2005, T. 11498; Milan Trbojević, P427.04, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 8 April 2005, T. 11689.

<sup>1469</sup> Milan Trbojević, P427.01, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 4 April 2005, T. 11455 and P427.04, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 7 April 2005, T. 11690-11693.

<sup>1470</sup> P625, RS MUP Annual Report on the Work in the period April–December 1992, January 1993, p. 23.

<sup>1471</sup> Milan Trbojević, P427.01, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 4 April 2005, T. 11456-11459; Milan Trbojević, P427.02, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 5 April 2005, T. 11498.



theft.<sup>1472</sup> The conflict between Stanišić and Plavšić was rooted in the fact that Plavšić had organised for volunteers from Serbia to come to the RS, who had caused security problems and were resistant to being placed under the control of the MOD.<sup>1473</sup>

570. When Branko Đerić tendered his resignation, as the Prime Minister, at the 22<sup>nd</sup> Session of the BSA on 23 and 24 November 1992, he said: “[T]he Minister of Justice [and] the Minister of the Interior, they are not even members of the Government, they don’t attend government meetings, they meet with the President of the Republic and the Chairman of the Assembly.”<sup>1474</sup> Stanišić responded to Đerić’s comments as follows:

I as a man have followed policies of the SDS Presidency and our Deputies in the former state, I have always followed these policies. Those who want to separate me from them, I will always be with them until it is shown that their wishes and intentions differ from those of their people, those who want to separate me from that are making a big mistake, I will not allow that even if it costs me my life, let alone a ministerial post.<sup>1475</sup>

Stanišić added that, “not everyone can just decide to tell you that you’re no good, just because I happen to believe you are Radovan’s man. That is not an argument.”<sup>1476</sup>

571. Following the creation of the VRS on 19 May 1992, Stanišić met with Ratko Mladić, along with other members of the Bosnian Serb leadership.<sup>1477</sup> Mladić acknowledged that the MUP had to turn “a mass into a police force”.<sup>1478</sup> In September 1992, in reference to Doboj, Mladić noted that the cooperation with the RS MUP was “quite good but they are not brave fighters”.<sup>1479</sup> In November 1992, the RS MUP Minister was designated as an *ex officio* member of the Supreme Command of the VRS.<sup>1480</sup>

(iii) Attendance at sessions of RS Government, NSC, and BSA

572. After his appointment as Minister of Interior on 31 March 1992, Stanišić attended a majority of the sessions of RS Government along with the Prime Minister, Deputy Prime Minister, other

<sup>1472</sup> Goran Mačar, 11 July 2011, T. 23081-23083.

<sup>1473</sup> Goran Mačar, 11 July 2011, T. 23084 and 18 July 2011, T. 23468-23469.

<sup>1474</sup> Dragan Đokanović, 23 November 2009, T. 3594-3597; P400, Minutes of the 22<sup>nd</sup> Session of the BSA, 23-24 November 1992, pp. 10-12, 15.

<sup>1475</sup> Branko Đerić, 30 October 2009, T. 2373-2374; Dragan Đokanović, 23 November 2009, T. 3595-3597; P400, Minutes of 22<sup>nd</sup> Session of the BSA, 23 November 1992, p. 15.

<sup>1476</sup> Dragan Đokanović, 23 November 2009, T. 3596-3597; P400, Minutes of the 22<sup>nd</sup> Session of the BSA, 23-24 November 1992, p. 17.

<sup>1477</sup> P1755, Mladić Diary, 27 May 1992–31 July 1992, pp. 238-239 (under entry dated 27 June 1992), p. 373 (under entry dated 27 July 1992).

<sup>1478</sup> P1751, Mladić Diary, 31 December 1991 to 14 February 1992, pp. 100, 105-106 (under an entry dated 22 January 1992).

<sup>1479</sup> P1759, Mladić Diary, 10 September 1992–30 September 1992, pp. 7, 48.

<sup>1480</sup> 1D172, Decision on the Establishment of the Supreme Command of the VRS, 30 November 1992.

ministers, and at times their delegated representatives.<sup>1481</sup> For example, Tomislav Kovač, a Serb who was appointed Assistant Minister of Interior in charge of police in August 1992,<sup>1482</sup> and Petar Bujičić attended some sessions instead of Stanišić.<sup>1483</sup>

573. On 27 March 1992, the NSC was established to handle security matters in the RS, with the Minister of Interior as member.<sup>1484</sup> Stanišić was in attendance at the 1<sup>st</sup> joint session of the NSC and RS Government on 15 April 1992 where it was decided that such meetings would be organised on a daily basis at the Kikinda building in Pale.<sup>1485</sup> Stanišić participated in these joint meetings from April through May 1992, where decisions pertaining to military and security activities were taken and reports of the combat and political situation were presented.<sup>1486</sup>

574. At the 5<sup>th</sup> joint session of the NSC and the RS Government on 24 April 1992, Stanišić was instructed to travel to the ARK with Miodrag Simović, Vice-President of the Government, “once the instructions on establishing the Government were completed”.<sup>1487</sup> The Trial Chamber considers this as evidence of attempts made by the RS Government to establish authority over the ARK.

575. At the 7<sup>th</sup> joint session of the NSC and the RS Government, held on 28 April 1992, the continued opposition of Alija Izetbegović to the negotiations in Lisbon was “fiercely condemned”,

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<sup>1481</sup> P237, Minutes of the 37<sup>th</sup> Session of the RS Government, 11 July 1992; P240, Minutes of the 40<sup>th</sup> Session of the RS Government, 27 July 1992; P241, Minutes of the 42<sup>th</sup> Session of the RS Government, 24 July 1992; P247, Minutes of the 48<sup>th</sup> Session of the RS Government, 28 July 1992; P200, Minutes of the 41<sup>th</sup> Session of the RS Government, 29 July 1992; P242, Minutes of the 43<sup>rd</sup> Session of the RS Government, 1 August 1992; P244, Minutes of the 45<sup>th</sup> Session of the RS Government, 8 August 1992; P248, Minutes of the 48<sup>th</sup> Session of the RS Government, 7 September 1992; P254, Minutes of the 58<sup>th</sup> Session of the RS Government, 13 November 1992; P253, Minutes of the 57<sup>th</sup> Session of the RS Government, 17 November 1992; P256, Minutes of the 60<sup>th</sup> Session of the RS Government, 16 December 1992; P429, Minutes of the 61<sup>st</sup> Session of the RS Government, 21 December 1992.

<sup>1482</sup> Tomislav Kovač, 7 March 2012, T. 27031, 27033-27034.

<sup>1483</sup> Tomislav Kovač, 7 March 2012, T. 27035. For example, Kovač attended the 46<sup>th</sup> Session of the RS Government instead of Mićo Stanišić (P427.13, Minutes of the 46<sup>th</sup> Session of the RS Government, 9 August 1992, p. 1) and Petar Bujičić attended the 47<sup>th</sup> Session on 19 August 1992 (P245, Minutes of the 47<sup>th</sup> Session of the RS Government, 20 August 1992, p. 1).

<sup>1484</sup> Branko Đerić, 29 October 2009, T. 2312; P1838, Minutes of the 14<sup>th</sup> Session of the BSA held on 27 March 1992 in Sarajevo, p. 14; L327, Decision to Establish the NSC, 27 March 1992, Article III; Adjudicated Fact 758; P2307, OTP Interview with Mićo Stanišić, 19 July 2007, pp. 32-33.

<sup>1485</sup> P204, Minutes of 1<sup>st</sup> joint session of NSC and RS Government, 15 April 1992, p. 1; P2307, OTP Interview with Mićo Stanišić, 19 July 2007, pp. 32, 35-36. *See also* P206, Minutes of 3<sup>rd</sup> Joint Session of NSC and RS Government, 20 April 1992.

<sup>1486</sup> Momčilo Mandić, P1318.03, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 25 November 2004, T. 8743; Momčilo Mandić, P1318.07, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 1 December 2004, T. 9124-9125; P204, Minutes of 1<sup>st</sup> Joint Session of NSC and RS Government, 15 April 1992; P205, Minutes of Extended Session of NSC, 18 April 1992; P206, Minutes of 3<sup>rd</sup> Joint Session of NSC and RS Government, 20 April 1992; P711, Minutes of the 4<sup>th</sup> Joint Meeting of the NSC and the Government of the RS, 22 April 1992; P207, Minutes of NSC and Government Meeting, 24 April 1992; P208, Minutes of the 6<sup>th</sup> Joint Session of the NSC and the RS Government, 27 April 1992; P209, Minutes of the 7<sup>th</sup> Joint Session of the NSC and the RS Government, 28 April 1992; P210, Minutes of the 8<sup>th</sup> Joint Session of the NSC and the RS Government, 1 May 1992; P211, Minutes of the 10<sup>th</sup> Joint Session of the NSC and the RS Government, 8 May 1992; P212, Record of the 10<sup>th</sup> Joint Session of the NSC and the Government of the RS, 10 May 1992; P213, Minutes of the 11<sup>th</sup> Joint Session of the NSC and the RS Government, 14 May 1992; P214, Minutes of the Joint Session of the NSC and the Government of the RS, 15 May 1992.

<sup>1487</sup> P207, Minutes of NSC and the RS Government Meeting, 24 April 1992, p. 2; Vitomir Žepinić, 29 January 2010, T. 5766.

and reports presented by the Crisis Staffs and municipal organs were adopted along with other opinions and proposals.<sup>1488</sup> The 10<sup>th</sup> joint session of the NSC and Government on 10 May 1992 proposed that, for the following BSA session, the takeover of soldiers and *materiel* of the JNA to create the VRS and nomination of its commander be placed on the agenda.<sup>1489</sup>

(b) Participation in formation and deployment of RS MUP Forces

(i) Appointment of RS MUP personnel

576. The Trial Chamber recalls that on 31 March 1992, Momčilo Mandić sent a dispatch which called upon Serb employees to leave the joint MUP and organise themselves into SAOs, which, according to him, was in line with the Cutileiro Plan.<sup>1490</sup> Mandić informed all CSBs and SJBs about the changes in the new RS MUP upon adoption of the RS Constitution and LIA.<sup>1491</sup> Article 41 of the LIA prescribed that “[a]uthorised officials shall make a solemn declaration before the Minister or an official authorised by the Minister.”<sup>1492</sup> Stanišić stated that this dispatch was meant to start the transformation of the existing MUP, both in the headquarters and on the ground, peacefully and without incident.<sup>1493</sup> This dispatch was followed by an urgent letter from Delimsutafić, signed by all assistant ministers except Stanišić, asking all employees to report to work and to stay out of the deteriorating security situation.<sup>1494</sup>

577. In order to clarify the conflicting messages received by his subordinates, Stanišić sent a dispatch to all CSBs and SJBs advising that a fraudulent letter had been sent requiring employees to return to their regular tasks. This dispatch stated, “We once again warn to adhere to the Serb Republic of BiH Constitution and Law on Internal Affairs, as well as the orders issued by Mićo Stanišić, Minister of Interior.”<sup>1495</sup> Milan Šćekić, Chief of the Security Section in the SNB, testified that he attended a meeting in Pale in late March or early April 1992 at which Stanišić told MUP

<sup>1488</sup> P209, Minutes of the 7<sup>th</sup> Joint Session of the NSC and the RS Government, 28 April 1992, p. 1.

<sup>1489</sup> P212, Record of the 10<sup>th</sup> Joint Session of the NSC and the RS Government, 10 May 1992, p. 1.

<sup>1490</sup> P353, Telex Message from Momčilo Mandić to the Minister of MUP, all CSBs and SJBs and SUP Secretariat, 31 March 1992; P29, Article in *Oslobodenje* Newspaper titled “April Fool Reality”, 1 April 1992, p. 1; Momčilo Mandić, 6 May 2010, T. 9675-9677; Christian Nielsen, 16 December 2009, T. 4911-4914; ST155, P1500.02, *Prosecutor v. Momčilo Krajišnik*, Case No. IT-00-39-T, 18 April 2005, T. 12236-12237 (confidential); P2307, OTP Interview with Mićo Stanišić, 19 July 2007, pp. 4-5, p. 25. *See also* P1126, Transcript of Intercepted Conversation between Mićo Stanišić and (Pero) Simović, 18 May 1992, p. 10.

<sup>1491</sup> P353, Telex Message from Momčilo Mandić, Assistant Minister of Internal Affairs of the RS, 31 March 1992, p. 1

<sup>1492</sup> P530, LIA, 23 March 1992, Article 41.

<sup>1493</sup> P2307, OTP interview with Mićo Stanišić, 19 July 2007, pp. 10-12.

<sup>1494</sup> Christian Nielsen, 16 December 2009, T. 4911-4914; Vitomir Žepinić, 29 January 2010, T. 5825-5826; Vladimir Tutuš, 15 March 2010, T. 7596-7597; Momčilo Mandić, 6 May 2010, T. 9684-9686; Goran Mačar, 12 July 2011, T. 23160-23162; 1D136, Letter from SRBiH MUP to all CSBs and SJBs to Maintain Unity and Coordination, 31 March 1992; P2320, Order from SRBiH MUP to CSBs, SUP Secretary and SJBs, 1 April 1992, pp. 1-2.

<sup>1495</sup> P534, Dispatch to all CSBs and SJBs Warning Employees of a Fraudulent Dispatch, 3 April 1992.

personnel that their Muslim superiors could no longer issue orders that were contrary to the interests of the Serb people.<sup>1496</sup>

578. The RS MUP started functioning on 1 April 1992.<sup>1497</sup> Stanišić stated that the Bosnian Serb leadership sought to create a structure from personnel available largely from the Sarajevo area at the MUP headquarters.<sup>1498</sup> During an informal meeting on or about 15 April 1992, Stanišić said that all officials in leading positions of the RS MUP were required to be members of the SDS but did not insist upon it being so.<sup>1499</sup> In exercise of his powers as the Minister of Interior, Stanišić issued a series of decisions appointing Serbs to key positions in the municipalities within RS upon the proposal of the SDS and the Crisis Staffs.<sup>1500</sup>

579. On 1 April 1992, Stanišić issued decisions temporarily appointing Borislav Maksimović to the position of commander of the RS MUP,<sup>1501</sup> Nedeljko Kesić as Chief of the SNB,<sup>1502</sup> Predrag Ješurić as the Chief of the Bijeljina CSB,<sup>1503</sup> Malko Koroman as Inspector at the Sarajevo CSB,<sup>1504</sup> Krsto Savić as Chief of the Trebinje CSB,<sup>1505</sup> Milenko Karišik as Commander of MUP Special Police Detachment,<sup>1506</sup> Andrija Bjelošević as Chief of the Doboj CSB,<sup>1507</sup> Stojan Župljanin as Chief of the Banja Luka CSB,<sup>1508</sup> and Vojin Popović as Chief of the Gacko SJB.<sup>1509</sup> On 19 April 1992, Predrag Ješurić was temporarily appointed as head of the personnel section.<sup>1510</sup> By a decision on 4 May 1992, Stanišić temporarily appointed Branko Stanković to cryptographic data protection in Ilijaš.<sup>1511</sup> Stanišić issued a series of orders confirming the appointments of the following chiefs of CSBs on 15 May 1992: Stojan Župljanin in Banja Luka, Predrag Ješurić in Bijeljina, Andrija Bjelošević in Doboj, Krsto Savić in Trebinje,<sup>1512</sup> and Milenko Karišik as Commander of the MUP

<sup>1496</sup> Milan Šćekić, 18 February 2010, T. 6528-6529.

<sup>1497</sup> Christian Nielsen, 14 December 2009, T. 4725, 16 December 2009, T. 4914-4916; P508, Nielsen Expert Report, para. 88; P353, Telex Message from Momčilo Mandić to the Minister of MUP, all CSBs and SJBs and SUP Secretariat, 31 March 1992. See section on RS MUP.

<sup>1498</sup> P2312, Second Session of OTP Interview with Mićo Stanišić, 21 July 2007, p. 1.

<sup>1499</sup> Slobodan Škipina, 30 March 2010, T. 8294-8295.

<sup>1500</sup> ST121, 24 November 2009, T. 3723-3724 (confidential).

<sup>1501</sup> P1000, Appointment of Borislav Maksimović by Mićo Stanišić, 1 April 1992.

<sup>1502</sup> P1411, Decision on Temporary Appointment of Nedeljko Kesić as Chief of SNB, 1 April 1992.

<sup>1503</sup> P1409, Decision on Temporary Appointment of Predrag Ješurić, 1 April 1992.

<sup>1504</sup> P1416, Decision on Temporary Appointment of Malko Koroman, 1 April 1992.

<sup>1505</sup> P1414, Decision on Temporary Appointment of Krsto Savić, 1 April 1992.

<sup>1506</sup> P1413, Decision on Temporary Appointment of Milenko Karišik, 1 April 1992.

<sup>1507</sup> P1410, Decision on the Temporary Appointment of Andrija Bjelošević as Chief of Doboj CSB, 1 April 1992.

<sup>1508</sup> P1408, Decision on Temporary Appointment of Stojan Župljanin, 1 April 1992.

<sup>1509</sup> P2016, Decision on Temporary Appointment of Vojin Popović, 1 April 1992.

<sup>1510</sup> P2017, Decision on Temporary Appointment of Predrag Ješurić, 19 April 1992.

<sup>1511</sup> P2037, Decision by Mićo Stanišić Temporarily Appointing Branko Stanković, 4 May 1992.

<sup>1512</sup> Christian Nielsen, 14 December 2009, T. 4752; Andrija Bjelošević, 20 May 2011, T. 21072-21073; P455, Decision Appointing Andrija Bjelošević as Chief of Doboj CSB by Mićo Stanišić, 15 May 1992; P456, Decision Appointing Predrag Ješurić as Chief of Bijeljina CSB by Mićo Stanišić, 15 May 1992; P458, Decision Appointing Stojan Župljanin as Chief of Banja Luka CSB by Mićo Stanišić, 15 May 1992; P170, Decision Appointing Krsto Savić as Chief of Trebinje CSB by Mićo Stanišić, 15 May 1992.

Special Police Detachment.<sup>1513</sup> On 6 August 1992, Stanišić appointed Dragiša Mihić as Deputy Under-Secretary of the SNB of the MUP.<sup>1514</sup> On the same day, Stanišić appointed Vlastimir Kušmuk to the position of Advisor on duties and tasks at the Public Security Service at the MUP.<sup>1515</sup>

580. On 25 April 1992, Stanišić issued a decision authorising the chiefs of CSBs to take over the former SRBiH MUP staff and immediately inform the Minister when distributing former employees in their CSBs and SJBs.<sup>1516</sup> However, to redistribute former SRBiH MUP employees at high levels such as head of SNB, Public Security, SJB, and commander of police stations, the chiefs of CSBs were obliged to obtain the prior agreement of the Minister, *i.e.*, Stanišić, and inform him of decisions issued on redistribution.<sup>1517</sup> Pursuant to this decision, Andrija Bjelošević consulted the Doboj Crisis Staff, which asked him to appoint Milan Savić as Assistant Chief in the Doboj CSB.<sup>1518</sup> According to ST214, a Serb policeman, it was only when the RS MUP received a list of employees, including those who had been incorporated from the SRBiH MUP at different locations, that the Ministry learned who was working in the SJBs and authorised their salaries as from the date that they were transferred from the SRBiH MUP as of 1 April 1992.<sup>1519</sup>

581. On 15 May 1992, based on his authority as Minister of Interior under the LIA, Stanišić appointed himself as the commander of the RS MUP Staff, that had been created to command and control the RS MUP forces.<sup>1520</sup> However, Stanišić as well as other witnesses stated that, while he ensured the implementation of the decisions of the Presidency, he exerted little influence or control over the SAOs and their Crisis Staffs.<sup>1521</sup> According to Stanišić, only after the SAO Crisis Staffs had been disbanded could the RS MUP start establishing itself in the entire area of the RS.<sup>1522</sup> Drago Borovčanin, a Serb who was the Chief of CSB Sarajevo in 1992,<sup>1523</sup> testified that certain

<sup>1513</sup> P457, Decision Appointing Milenko Karišik as Police Detachment Chief by Mićo Stanišić, 15 May 1992.

<sup>1514</sup> P2022, Decision to Appoint Dragiša Mihić, signed by Mićo Stanišić, 6 August 1992.

<sup>1515</sup> P2021, Decision to Appoint Vlastimir Kušmuk, signed by Mićo Stanišić, 6 August 1992.

<sup>1516</sup> Petko Panić, 12 November 2009, T. 3001-3002; 1D73, Decision Concerning the Redistribution of former MUP Employees, 25 April 1992, para. 1.

<sup>1517</sup> Petko Panić, 12 November 2009, T. 3001-3002; 1D73, Decision Concerning the Redistribution of former MUP Employees, 25 April 1992, paras 2-3.

<sup>1518</sup> Andrija Bjelošević, 14 April 2011, T. 19619-19621; 1D464, Decision on Temporary Appointment of Milan Savić as Assistant Chief in Doboj CSB, 23 June 1992; 1D73, Decision on Proceedings Relating to the Distribution of MUP Employees, signed by Mićo Stanišić, 25 April 1992.

<sup>1519</sup> ST214, 20 July 2010, T. 13055 (confidential), P1505 Official Dispatch Sent to Ministry of the Interior in Sarajevo re: List of Employees of Police Station Vogošća who Worked in MUP Sarajevo and who Joined to Serbian MUP on 1 April 1992, 29 April 1992.

<sup>1520</sup> Christian Nielsen, 14 December 2009, T. 4751-4752; P741, Decision to Appoint Mićo Stanišić Commander of RS MUP Forces, 15 May 1992.

<sup>1521</sup> Drago Borovčanin, 24 February 2010, T. 6783, 6837, 6839-6840; Andrija Bjelošević, 20 April 2011, T. 19890; Goran Mačar, 7 July 2011, T. 22964 and 14 July 2011, T. 23342-23343; P2312, Second Session of OTP Interview with Mićo Stanišić, 21 July 2007, pp. 2-4; 1D522, Instructions Regarding Proposals for Appointments of Persons to Leading Positions in CSBs and SJBs, 20 November 1992.

<sup>1522</sup> P2312, Second Session of OTP Interview with Mićo Stanišić, 21 July 2007, pp. 4-5.

<sup>1523</sup> Drago Borovčanin, 22 February 2010, T. 6618, 6623-6629.

municipalities were effectively “states within a state”, where the RS MUP was marginalised and Stanišić did not receive local support.<sup>1524</sup>

582. Drago Borovčanin testified that Stanišić inherited a ministry with problems, which he had to clean up.<sup>1525</sup> Tomislav Kovač, as he rose through the ranks, found that the Ministry was aware of the existence of individuals who were unfit for their tasks or engaging in misconduct. The RS MUP had initiated the process to eradicate the flaws within the Ministry as well as in other institutions.<sup>1526</sup> In this context, Kovač suggested to Stanišić that the MUP needed more efficient and decisive people from the level of the ministry all the way down to police stations.<sup>1527</sup>

583. Kovač testified that inappropriate and professionally unqualified persons were appointed to positions in the MUP at the municipality level from the ranks of local political parties.<sup>1528</sup> Some SJBs were not *de facto* subordinated to RS MUP because top personnel there had been appointed by local authorities.<sup>1529</sup> The problem of local authorities disregarding the MUP was particularly pronounced in Vogošća and Zvornik.<sup>1530</sup> In May and June 1992, the MUP was “on the margins” and had “no idea” who had setup certain checkpoints: “[s]ome were set up by Crisis Staffs, others by military security, some by paramilitaries”.<sup>1531</sup> Tomislav Kovač testified that some CSB chiefs, including Župljanin, were unable to control the situation and cope with the SJB chiefs in their areas.<sup>1532</sup>

#### a. Mobilisation and equipping of Serb Forces

584. On 15 April 1992, the RS Presidency declared a state of “imminent threat of war” and called for the mobilisation of the TO and all individuals liable for military service.<sup>1533</sup> The Trial Chamber recalls that on 16 April 1992, Bogdan Subotić decided that the TO would be the armed forces of the RS and called for the mobilisation of the TO and military conscripts throughout the territory of the RS.<sup>1534</sup>

<sup>1524</sup> Drago Borovčanin, 23 February 2010, T. 6743-6744.

<sup>1525</sup> Drago Borovčanin, 23 February 2010, T. 6743-6744.

<sup>1526</sup> Tomislav Kovač, 7 March 2012, T. 27048.

<sup>1527</sup> Tomislav Kovač, 7 March 2012, T. 27049.

<sup>1528</sup> Tomislav Kovač, 7 March 2012, T. 27041-27042.

<sup>1529</sup> Drago Borovčanin, 24 February 2010, T. 6783, 6837, 6839-6840; Andrija Bjelošević, 20 April 2011, T. 19890-19891; Goran Mačar, 7 July 2011, 22964.

<sup>1530</sup> Drago Borovčanin, 24 February 2010, T. 6772.

<sup>1531</sup> Drago Borovčanin, 23 February 2010, T. 6748-6749.

<sup>1532</sup> Tomislav Kovač, 7 March 2012, T. 27043-27044.

<sup>1533</sup> Christian Nielsen, 25 January 2010, T. 5466; ST139, 14 April 2010, T. 8672 (confidential); P183, MOD Decision to Declare a State of Imminent Threat of War, 15 April 1992.

<sup>1534</sup> Branko Perić, 20 May 2010, T. 10563-10564; ST219, 22 November 2010, T. 17627-17630; Mladen Bajagić, 2 May 2011, T. 20065-20066; 1D170, RS National Defence Decision on Mobilisation following the Declaration of State of Imminent Threat of War, 16 April 1992. The Chamber notes that a decision on other components of the armed forces was to be adopted later.

585. Momčilo Mandić stated that he and Stanišić had removed 560 “Heckler” arms from the SRBiH MUP and distributed them to Serbs in Sokolac, Rogatica, Han Pijesak, and Pale.<sup>1535</sup> On 20 April 1992, Stanišić asked all SJBs in the Sarajevo area to report on the nature and quantity of *materiel* and equipment at their disposal, including communication equipment and issued an order restricting the movement of conscripts so as to ensure enlistment.<sup>1536</sup>

586. On 20 May 1992, Karadžić ordered the mobilisation of military conscripts to report to the nearest “commands of the Army”, the process for which was to commence from 21 May 1992. The Administration for National Defence, the MUP, and the military police were responsible for implementing the order.<sup>1537</sup>

587. According to an agreement on the provision of equipment between the Federal SUP and the RS MUP, the RS MUP was to request the equipment it needed.<sup>1538</sup> Milorad Davidović, a Serb and a former inspector of the Federal SUP, stated that the Federal SUP had a surplus of uniforms and “high quality weapons” for approximately 500 men, which it shipped to the RS MUP in Pale to be put under the control of Mićo Stanišić and Momčilo Mandić.<sup>1539</sup> Around June 1992, Davidović spent about 10 days in Jahorina providing security for the RS Government. Davidović testified that, before returning to Belgrade, Petar Gračanin, from the Federal SUP in Belgrade, ordered his unit to leave all of their weapons, ammunition, equipment, and vehicles with the new RS MUP special unit headed by Milenko Karišik.<sup>1540</sup>

#### b. Assignment of RS MUP Forces to combat activities

588. On 15 May 1992, Stanišić organised the RS MUP forces into war units “for the purposes of defending the territory of the Serbian Republic of BH” and authorised CSB chiefs to organise personnel in their territories into squads, platoons, companies, and battalions, while the SNB, Administration for Crime Prevention and Investigation, and other services were to have both war units and peace time duties and tasks.<sup>1541</sup> Stanišić ordered that the participation of the RS MUP forces in “coordinated action with the armed forces” was to be authorised by the Minister, Commander of the Police Detachment of the Ministry, or chiefs of CSBs for forces under their

<sup>1535</sup> P1999, Transcript of the 36<sup>th</sup> Assembly Session of the RS National Assembly, 31 December 1993, p. 164.

<sup>1536</sup> Mladen Bajagić, 4 May 2011, T. 20213-20214; 1D537, RS MUP Request to all SJBs in the Sarajevo Area, 20 April 1992; P262, Order Restricting the Movement of Conscripts, 20 May 1992.

<sup>1537</sup> 1D171, Decision by Radovan Karadžić as President of the RS on Public Mobilisation of Force and Resources, 20 May 1992.

<sup>1538</sup> P541, Record from the Session of the RS MUP Expert Board of Directors, 14 April 1992, p. 2.

<sup>1539</sup> Milorad Davidović, P1557.01, Witness Statement, 29 January 2005, p. 11.

<sup>1540</sup> Milorad Davidović, 23 August 2010, T. 13538-13539; Milorad Davidović, P1557.01, Witness Statement, 29 January 2005, pp. 15-16.

<sup>1541</sup> 1D46, Order by Mićo Stanišić Organising RS MUP Forces into War Units, 15 May 1992, p. 1.

jurisdiction.<sup>1542</sup> The order directed them to keep the Ministry informed of all deployments and stated that, during combat operations, MUP units would be re-subordinated to the armed forces and were to act in compliance with military regulations, but would remain “under the command” of designated Ministry officials.<sup>1543</sup> However, Stanišić stated that the President did not consult with the MUP but rather with the MOD and army in taking a decision to reassign police forces to combat tasks.<sup>1544</sup>

589. Borovčanin and Stanišić stated that entire police stations were subordinated to the army and that police stations were consequently depleted of personnel.<sup>1545</sup> According to Borovčanin, military commands requested assistance in manning the demarcation lines and that, following approval of the Ministry and chief of the CSB, dispatches were prepared that requested a few policemen from “all the SJBs”, depending on their manpower levels. Units were prepared with these policemen, which were commanded by a local company leader, who reported to the military command in the relevant combat zone.<sup>1546</sup> Although the men were police officers even at the demarcation line, the MUP “didn’t have contact with them”, military security dealt with any “dishonourable” conduct, and criminal prosecutions fell within the purview of the military court.<sup>1547</sup>

590. Sometime after 1 June 1992, as the President of the RS, Radovan Karadžić, on the basis of a proposal of the Government, adopted “[g]uidelines on tasks, modes of action, and functioning of defence forces of state organs [...] in the state of war”.<sup>1548</sup> These guidelines stated that the RS MUP was to adopt a specific enactment for its tasks in war time conditions and all regular or reserve police not required by the MUP were to be placed at the disposal of the army units. It also specifically required the MUP, in coordination with the state organs, military judiciary, and military police, to intensify activity on the detection and arrest of perpetrators of thefts, war profiteering, misdemeanours and other criminal acts, while collecting and processing data on genocide and crimes committed against the civilian population.<sup>1549</sup>

<sup>1542</sup> Andrija Bjelošević, 15 April 2011, T. 19651; 1D46, Order by Mićo Stanišić Organising RS MUP Forces into War Units, 15 May 1992.

<sup>1543</sup> Aleksandar Krulj, 27 October 2009, T. 2079-2082; Sreto Gajić, 15 July 2010, T. 12856-12858; Drago Borovčanin, 23 February 2010, T. 6678-6679; Andrija Bjelošević, 15 April 2011, T. 19651-19652; Vidosav Kovačević, 8 September 2011, T. 23809-23811; 1D46, Order by Mićo Stanišić Organising RS MUP Forces into War Units, 15 May 1992, pp. 1-2.

<sup>1544</sup> P2302, OTP Interview with Mićo Stanišić, 17 July 2007, p. 30.

<sup>1545</sup> Drago Borovčanin, 23 February 2010, T. 6678-6679 and 24 February 2010, T. 6822; P2302, OTP Interview with Mićo Stanišić, 17 July 2007, p. 31.

<sup>1546</sup> Drago Borovčanin, 23 February 2010, T. 6679.

<sup>1547</sup> Drago Borovčanin, 23 February 2010, T. 6680; P2302, OTP Interview with Mićo Stanišić, 17 July 2007, pp. 28-29.

<sup>1548</sup> Goran Mačar, 19 July 2011, T. 23530-23534; P1977, Instructions by Karadžić Regarding the Functioning of the RS Defence Forces in the State of War. The Trial Chamber notes that P1977 was issued pursuant to the adoption of the Law on Defence published in the official gazette of 1 June 1992.

<sup>1549</sup> P1977, Instructions by Karadžić Regarding the Functioning of the RS Defence Forces in the State of War, pp. 3-4.



591. On 15 June 1992, Stanišić directly ordered the Special Police Unit of Duško Malović to implement the mobilisation order in the area of Novo Sarajevo by handing over conscripts to the Lukavica barracks.<sup>1550</sup> On 1 July 1992, Karadžić ordered Stanišić to transfer 60 specially trained policemen who were deployed in Crepoljsko and place them under the military command of the SRK.<sup>1551</sup> On 6 July 1992, Stanišić informed Karadžić that 60 members of the MUP had been provided to the military in pursuance of his order and asked that the 60 police officers be replaced by members of the army due to operational needs.<sup>1552</sup>

592. On 27 July 1992, Stanišić met with Ratko Mladić, Manojlo Milovanović and Zdravko Tolimir, the latter two also Bosnian Serb Generals in the VRS, along with Milan Trbojević to discuss joint RSMUP—VRS patrols, checkpoints, and increased cooperation between their forces.<sup>1553</sup> According to an entry made by Mladić in his diary in relation to this meeting, Stanišić stated:

- According to the structure, 80% are now in the army, so we should clarify our responsibilities.
- We should be linked up, cooperate more and link up.
- Cooperation was insufficient.
- I sent an order this morning that within 5 days, on placing a whole section of the forces within the competence of the army.
- We will have regular forces, and a special detachment at the level of the republic.
- Strengthening of the detachment will be to the detriment of certain [SAOs] and certain leaders
- [...]
- The [RSMUP] has sole jurisdiction in its territory.<sup>1554</sup>

593. At the 41<sup>st</sup> session of the Government held on 29 July 1992, no decision could be adopted on the placement of “police forces reserves under the *unitary command* of the army” since “a state of war” had to be announced prior to the adoption of this decision.<sup>1555</sup>

594. On 23 October 1992, Stanišić ordered all CSBs and SJBs that all SJBs in municipalities not directly affected by combat activities were to withdraw their active police from the frontlines and make the reserve police available for the wartime assignment to the VRS. Stanišić also ordered

<sup>1550</sup> P1422, Order by Mićo Stanišić to Special Police Unit of Sokolac to Carry Out Mobilisation, 15 June 1992.

<sup>1551</sup> 1D99, Order of the RS Supreme Command, Radovan Karadžić, to the Police to be Resubordinated to the Military, 2 June 1992.

<sup>1552</sup> Drago Borovčanin, 24 February 2010, T. 6757-6758; 1D100, Dispatch from Mićo Stanišić to Radovan Karadžić, 6 July 1992.

<sup>1553</sup> Manojlo Milovanović, 7 December 2010, T. 18266-18267; P1755, Mladić Diary, 27 May 1992–31 July 1992, pp. 373-375.

<sup>1554</sup> P1755, Mladić Diary, 27 May 1992–31 July 1992, pp. 373-375.

<sup>1555</sup> P200, Minutes of the 41<sup>st</sup> Session of the RS Government held on 22 July 1992, 29 July 1992, p. 6 (emphasis added).

chiefs of CSBs and SJBs to inform military commands that it was not the duty of the CSBs and SJBs to send policemen to the frontline.<sup>1556</sup>

595. At the BSA session of 23 November 1992, Stanišić noted that “50% of the daily number of police officers” took part in combat and “fought and defended” the territories “to create a legal state to at least some degree”.<sup>1557</sup> In his interview, Stanišić said that at one point 10,000 RS MUP members were enlisted under “the command structure of the military by the President’s order.”<sup>1558</sup>

596. At the 36<sup>th</sup> session of the BSA held in December 1993, Karadžić commended Stanišić while conferring him with decorations for his work in the RS MUP in 1992 and stated that “it was demonstrated that [Stanišić] wielded authority in the police.”<sup>1559</sup> It was noted by another speaker at the session that, when Stanišić was at the head of the RS MUP, it functioned “to an extent as a real MUP”, far better than in 1993.<sup>1560</sup> Karadžić praised Stanišić as having “fought to prevail” in the RS MUP for a balance of Serbian cadres in the SRBiH MUP and then “did the best he could for establishing and separating the MUP at the beginning of April 1992, by establishing the checkpoint at Vrace, thanks to which we have Grbavica.”<sup>1561</sup>

### c. Reserve Police Forces

597. The Chamber recalls the evidence on the existence of a reserve police force composed of civilian members, who were activated and armed by the RS MUP upon the instruction of the Presidency and could be employed by the CSB or SJB chiefs, with the consent of the Minister, to provide “special security” and assist in the event of natural disasters.<sup>1562</sup> According to the LIA, the Minister determined the total number of policemen, including reserve forces, their organisation, and the criteria for filling posts in the reserve police force.<sup>1563</sup>

598. After the multi-party elections in November 1990, the SDS, SDA, and HDZ began filling positions with their own people at all levels, resulting in a sudden increase in the number of reserve police.<sup>1564</sup> People who were not of the “appropriate” ethnicity were replaced.<sup>1565</sup> ST027 testified

<sup>1556</sup> 1D49, Order of RS MUP Requesting Withdrawal of Active-Duty Police Force Members from the Frontline, 23 October 1992, p. 1.

<sup>1557</sup> P400, Minutes of the 22<sup>nd</sup> Session of the BSA held on 23 and 24 November 1992, pp. 16-17.

<sup>1558</sup> P2302, OTP Interview with Mićo Stanišić, 17 July 2007, p. 31.

<sup>1559</sup> P1999, Transcript of the 36<sup>th</sup> Session of the BSA, 31 December 1993, p. 57.

<sup>1560</sup> P1999, Transcript of the 36<sup>th</sup> Session of the BSA, 31 December 1993, p. 58.

<sup>1561</sup> P1999, Transcript of the 36<sup>th</sup> Session of the BSA, 31 December 1993, p. 57; P1123, Transcript of Intercepted Conversation between (a) Momčilo Mandić, (b) Branko Kvesić, (c) Bruno Stojić, and (d) Mićo Stanišić, 5 May 1992, pp. 14-17.

<sup>1562</sup> ST027, 2 October 2009, T. 729; P508, Nielsen Expert Report, para. 138; P530, LIA, Articles 33, 62.

<sup>1563</sup> P508, Nielsen Expert Report, para. 111; P530, LIA, Article 33. See also section on RS MUP.

<sup>1564</sup> ST027, 2 October 2009, T. 777-778.

<sup>1565</sup> ST027, 2 October 2009, T. 724.

that, as a result, it was possible that reserve police positions were filled by people who could not meet even the minimum set of requirements for such positions. Among those recruited in the expanded reserve police forces were people who had prior criminal records.<sup>1566</sup>

599. The Trial Chamber recalls that one of the conclusions of the meeting on 11 February 1992 in Banja Luka, which was attended by Mićo Stanišić, was for reserve police of Serb ethnicity to be trained and armed, a task which fell to the RS MUP under Article 33 of the LIA.<sup>1567</sup>

600. At the 22<sup>nd</sup> session of the BSA in November 1992, Stanišić complained that the infiltration of criminal reserve police hindered “the cooperation of the army, the police and the civilian authorities.”<sup>1568</sup> Stanišić acknowledged in his speech to the BSA that “in the beginning”, “thieves and criminals” were accepted into the reserve police forces because “we wanted the country defended” and stated that “[o]ur priority, our intentions were good and maybe that is where we went wrong, maybe that is where I went wrong, agreed.”<sup>1569</sup>

#### d. Special Police Units

##### i. Special Units under Mićo Stanišić

601. Milorad Davidović testified that at the beginning of April 1992, as a member of the Federal SUP, he assisted Stanišić in forming and training his own special unit in RS MUP at Vrace.<sup>1570</sup> This Special Police Unit, composed of approximately 170 members, was led by Milenko Karišik.<sup>1571</sup> Stanišić also had a Special Police Platoon under Duško Malović with 25–30 members.<sup>1572</sup> Stanišić gave direct orders to Milenko Karišik during the fight over the School of Interior in Vrace.<sup>1573</sup>

<sup>1566</sup> ST027, 2 October 2009, T. 778; P508, Nielsen Expert Report, para. 213.

<sup>1567</sup> Nedo Vlaški, 15 February 2010, T. 6349-6351; 1D135, Minutes of a Meeting in Banja Luka, 11 February 1992, p. 5; P530, LIA, Article 33. See also section on RS MUP.

<sup>1568</sup> P400, Minutes of the 22<sup>nd</sup> Session of the BSA held on 23 and 24 November 1992, pp. 16-17.

<sup>1569</sup> Dragan Đokanović, 23 November 2009, T. 3595-3598; Momčilo Mandić, 4 May 2010, T. 9561-9564; P400, Minutes of the 22<sup>nd</sup> Session of the BSA held on 23 and 24 November 1992, p. 17; P508, Nielsen Expert Report, para. 213.

<sup>1570</sup> Milorad Davidović, 23 August 2010, T. 13532-13533 and P1557.01, Witness Statement of Milorad Davidović, 29 January 2005, p. 12; P1127, Transcript of an Intercepted Phone Conversation Between Petar Gračanin and Mićo Stanišić, May 1992, p. 4.

<sup>1571</sup> Milorad Davidović, 23 August 2010, T. 13533; Tomislav Kovač, 8 March 2012, T. 27169-27170; P795, Payroll of May 1992 for Special Police Detachment, 15 June 1992; P1165, Intercepted Conversation between Mićo Stanišić and Milenko Karišik, 1 May 1992; P1148, Intercepted Conversation between Mićo Stanišić and Milenko Karišik with Radovan Pejić, 2 May 1992; P1166, Intercepted Conversation between Mićo Stanišić and Milenko Karišik, 2 May 1992; P2312, Second Session of OTP Interview with Mićo Stanišić, 21 July 2007, p. 2.

<sup>1572</sup> Dobrislav Planojević, 22 October 2010, T. 16404; Milorad Davidović, 24 August 2010, T. 13605-13607; Radomir Njeguš, 7 June 2010, T. 11307-11309; P1418, Payroll of May 1992 for Special Platoon of Sokolac, May 1992; P1422, Order by Mićo Stanišić to Special Police Unit of Sokolac to Carry Out Mobilisation, 15 June 1992; P2460, Record of Statement by Tomislav Kovač Regarding the Killings in Bijeljina, 13 April 2005, pp. 5-6; P530, LIA, Article 36.

<sup>1573</sup> P1165, Intercepted Conversation between Mićo Stanišić and Milenko Karišik, 1 May 1992; P1148, Intercepted Conversation between Mićo Stanišić and Milenko Karišik with Radovan Pejić, 2 May 1992; P1166, Intercepted Conversation between Mićo Stanišić and Milenko Karišik, 2 May 1992; P1169, Intercepted Conversation between Mićo Stanišić and Miroslav Gagović, 14 May 1992; P1168, Intercepted Conversation between Mićo Stanišić and “Vesko”, 2

602. Dobrislav Planojević testified that Stanišić had the authority to decide when and how these special units could be used. Planojević, as Assistant Minister, had to request Stanišić for Karišik's Special Unit to be engaged in crime prevention and detection—a request Stanišić approved without further query.<sup>1574</sup> Similarly, Andrija Bjelošević had to obtain the assent of Stanišić for reinforcements from the Special Police Unit attached to the RS MUP to deal with the situation in Bosanski Šamac.<sup>1575</sup>

603. Milorad Davidović testified that, in late April, after he met with Mladić and Karadžić at the Lukavica Barracks, Stanišić called him into his office at Hotel Kikinkda in Pale. Davidović informed Stanišić about the looting of Muslim property by reserve police in Vrace in April and about Duško Malović and his men stealing Golf cars from the TAS factory in Vogošća. Stanišić responded that the former was “normal” in times of war while for the latter, he stated that “we” should work on preventing such issues.<sup>1576</sup> Milorad Davidović could not confirm whether Stanišić was informed of the killings of the Sejmanović, the Sarajlić, and the Malagić families on 24 and 25 September 1992 in Bijeljina by Duško Malović and his unit. However, Davidović testified that the killings and the fact that they had been committed by Malović's Unit were a “generally known thing”, also reported by the media. Davidović added that “he understood that the leading structures of the MUP wanted to cover the murder, and at least in the beginning they were successful in doing so”.<sup>1577</sup>

#### ii. Special Units and Detachments in Municipalities

604. Obren Petrović, Chief of the Doboj SJB, testified that under the law, only the Minister, Mićo Stanišić, had the power to establish special police units.<sup>1578</sup> However, during the initial period when the RS MUP was still organising itself, local active and reserve policemen had organised themselves into special units to defend their towns.<sup>1579</sup> For instance, Borovčanin testified that prior to his inspection of the SJB in Ilijaš, on 27 or 28 May 1992, neither he nor the RS MUP knew that a

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May 1992; P1121, Transcript of Intercepted Conversation between Mićo Stanišić and Milanko Borovčanin, 3 May 1992, p. 3; P1170, Intercepted Conversation between Mićo Stanišić and Tomislav Kovač, 15 May 1992; Vitomir Žepinić, 29 January 2010, T. 5832-5823; Slobodan Škipina, 30 March 2010, T. 8300-8304; Branko Đerić, 30 October 2009, T. 2345-2346; P735, Article by Jelena Stamenković entitled “Momeilo Mandić” in *Slobodna Bosna* Issue 74, 10 April 1998, pp. 5-6; P290, Transcript of Intercepted Conversation between Branko Đerić and Milenko Karišik, 7 May 1992, pp. 3-4; P288, Intercepted Telephone Conversation between Momčilo Mandić and Branko Đerić, 20 April 1992; P289, Intercepted Telephone Conversation between Branko Đerić and Milenko Karišik, 2 May 1992, pp. 3-4 cf. P2301, Second Session of OTP Interview with Mićo Stanišić, 16-17 July 2007, pp. 49-51.

<sup>1574</sup> Dobrislav Planojević, 22 October 2010, T. 16404.

<sup>1575</sup> Andrija Bjelošević, 20 April 2011, T. 19883-19884; 1D520, Doboj CSB Request to MUP to Send Special Police Unit to Bosanski Šamac Due to Security Problems, 27 November 1992.

<sup>1576</sup> Milorad Davidović, 23 August 2010, T. 13536-13537; Milorad Davidović, P1557.01, Witness Statement, 29 January 2005, pp. 14-15.

<sup>1577</sup> Milorad Davidović, 24 August 2010, T. 13604-13606, 13621-13623.

<sup>1578</sup> Obren Petrović, 12 May 2010, T. 10005-10006.

<sup>1579</sup> Drago Borovčanin, 22 February 2010, T. 6653-6655.

special police unit had been set up there.<sup>1580</sup> The Trial Chamber recalls that special units had also been formed in a number of other municipalities, such as Banja Luka, Pale, Doboj, Vlasenica, and Prijedor.<sup>1581</sup>

605. On 27 July 1992, Stanišić ordered the immediate disbandment and the placement of all special units formed during the war in the areas of the CSBs under the command of the VRS. Members of units so disbanded were at leave to report, through the CSBs, to the RS MUP to staff the Special Purposes Police Detachment being formed at the time, and would be considered provided they met the specified requirements.<sup>1582</sup>

606. Pursuant to Stanišić's order of 27 July, Sreto Gajić, an RS MUP official directly subordinated to Čedo Kljajić, Chief of the Public Security Administration,<sup>1583</sup> met ARK officials, including Stojan Župljanin on 2 and 4 August 1992. As there was some reluctance by the Banja Luka CSB officials to disband the Banja Luka CSB Special Police Detachment, Župljanin proposed that a unit of 150 men of the RS MUP Special Purposes Police Detachment be placed in the Banja Luka CSB under his sole direction as the CSB Chief, who was to obtain the Minister's authorisation prior to their engagement in any operation. The Banja Luka CSB Special Police Detachment would remain stationed in Banja Luka until Stanišić decided on the proposal.<sup>1584</sup> Gajić conveyed the details of this meeting to the RS MUP in a report, which also contained information about the Banja Luka SJB having decided to place its Muslim employees on annual leave.<sup>1585</sup>

607. On 6 August 1992, Gajić was at a meeting with Stanišić in Jahorina in which they discussed the disbanding of special police units. After this meeting, Gajić was sent back to the field.<sup>1586</sup> The Chamber recalls that Gajić and ARK RS MUP officials met again on 7–8 August 1992, when, after a lengthy discussion, a conclusion was reached that the Banja Luka CSB Special Police Detachment would be placed at the disposal of the 1<sup>st</sup> KK under the command of General Talić. The report on this meeting prepared by Gajić stated that, according to Župljanin, there were no other special units in the SJBs in his area.<sup>1587</sup>

<sup>1580</sup> Drago Borovčanin, 22 February 2010, T. 6651-6655; P989, Report of the MUP on the Work of Vogošća and Ilijaš SJBs, 30 May 1992, p. 4.

<sup>1581</sup> See Banja Luka, Doboj, Kotor Varoš, Pale, Tešlić, Vlasenica, and Prijedor sections.

<sup>1582</sup> 1D176, Order Issued by Mićo Stanišić Based on Request by the BSA held on 25 and 26 July 1992, 27 July 1992, p. 1.

<sup>1583</sup> Sreto Gajić, 15 July 2010, T. 12800.

<sup>1584</sup> P631, Report on Performed Inspection of the CSB and SJBs on the territory of the ARK, 5 August 1992, p. 2.

<sup>1585</sup> P631, Report on Performed Inspection of the CSB and SJBs on the territory of the ARK, 5 August 1992, p. 3.

<sup>1586</sup> Sreto Gajić, 15 July 2010, T. 12845-12846, 12873-12874.

<sup>1587</sup> P1502, Report on the Visit to the CSB and SJBs in the ARK signed by Sreto Gajić, 10 August 1992, pp. 1-2. See sub-section on "Disbandment of Banja Luka Special Police Detachment" in the section on Stojan Župljanin's Individual Criminal Responsibility.

608. On 12 August 1992, Stanišić received a report on the implementation of his 27 July order in Doboj. According to this report, the activities of special units in the Doboj SJB had been interrupted and the members of these units were to be recommended for the Special Purposes Police Detachment.<sup>1588</sup> However, according to this report, Doboj SJB retained an Intervention Platoon of 60 as the Doboj SJB Battalion.<sup>1589</sup>

609. At the MUP management meeting held on 20 August 1992, in his opening remarks, Stanišić pointed out “the need to implement, without delay and without exception, the order to remove from the MUP those individuals who, by their professional and moral qualities, are not worthy of belonging to the service.” He also noted that the order to disband “the so-called special units” established in CSBs and SJBs had been issued “due to certain abuses” and that parts of the enlarged MUP Special Police Detachment would be relocated to all CSBs under a unified command. He added that “[i]n [the] future” a more professional and lawful approach must be adopted and that “[i]ndividuals and groups in our ranks shall bear full responsibility under the law for any contrary behaviour (genocide, creation of camps, etc.).”<sup>1590</sup> Stanišić stated that only after the disbandment of the SAOs, including the ARK, did he order that a Special Detachment be attached to the RS MUP and each CSB, with the command resting with the Ministry, in order to provide logistical support to inspectors in relation to arresting “individuals or paramilitaries”.<sup>1591</sup> In this context, the Trial Chamber recalls that the BSA revoked the constitutional reference to SAOs on 14 September 1992, which marked their abolition.<sup>1592</sup>

(c) Mičo Stanišić’s acts and conduct in relation to crimes

(i) April–May 1992

610. On 15 April 1992, Stanišić ordered his subordinates to sanction persons seising, looting, and appropriating property and carrying out other unauthorised acts for personal gain with the “most rigorous responsibility measures, including arrest and detention”. Aleksandar Krulj, Chief of the Ljubinje SJB, testified that in his SJB this order was implemented to the extent possible.<sup>1593</sup> ST161, an employee of the RS MUP in Banja Luka, testified that there were “hundreds and hundreds” of people engaged in such criminal activities but during that time it was impossible to implement the

<sup>1588</sup> P1341, Annex Report on the Realisation of the Order of 27 July 1992, 12 August 1992.

<sup>1589</sup> P1341, Annex Report on the Realisation of the Order of 27 July 1992, 12 August 1992, p. 2.

<sup>1590</sup> P163, RS MUP Summary of the MUP Management Working Group Meeting in Trebinje, 20 August 1992, pp. 3, 8-9.

<sup>1591</sup> P2312, Second Session of OTP Interview with Mičo Stanišić, 21 July 2007, p. 5.

<sup>1592</sup> See JCE section.

<sup>1593</sup> Aleksandar Krulj, 28 October 2009, T. 2163-2165; 1D61, RS MUP Order Requiring Identification of Persons who Committed Crimes, 15 April 1992. The Trial Chamber notes that 1D61 was also admitted as exhibit P802.

order.<sup>1594</sup> On 16 April 1992, due to the declaration of the imminent threat of war and the ensuing increase in criminal activities, Stanišić ordered all CSB chiefs to step up measures for the protection of the population, the prevention of crimes, and the apprehension of the perpetrators.<sup>1595</sup>

611. On 18 April 1992, Stanišić ordered CSB chiefs to send daily incident bulletins and significant information with a security interest to the RS MUP headquarters by fax.<sup>1596</sup> According to the MUP Draft Annual Report, 150 daily bulletins were compiled in 1992. In addition, 90 reports were sent to the Prime Minister and the President by the RS MUP.<sup>1597</sup>

612. Also on 18 April 1992, Radomir Kojić informed Stanišić that a certain “Zoka” had arrested Muslims in Sokolac for “messing up with the weapons”. Kojić agreed with “Zoka” that the arrested people would be brought to Vrace, telling Stanišić that there “[t]hey can beat them, they can do whatever they fucking want”, to which Stanišić responded: “[f]ine”.<sup>1598</sup>

613. Pursuant to instructions of 11 May 1992 from the RS MUP, which stated that “following the hostilities [...], in some [SJBs] there were individual cases and instances of unprincipled conduct by the reserve police force”, Župljanin, on 15 May 1992, directed all SJBs in the ARK to remove from the reserve police force persons who were convicted of crimes or had misdemeanour convictions for violating law and order, fighting, violent behaviour and assault on authorised officials.<sup>1599</sup> Such persons did not meet the requirements for the reserve police force and were to be made available to the TO.<sup>1600</sup>

614. On 22 May 1992, representatives of all three warring sides met in Geneva under the auspices of the ICRC and agreed to abide by the Geneva Conventions, particularly the provisions pertaining to the treatment of interned civilians.<sup>1601</sup> On 24 May 1992, Đerić wrote a letter to the US Secretary of State insisting that media reports of Serb Forces holding hostages and operating

<sup>1594</sup> ST161, 19 November 2009, T. 3469-3470 (confidential); 1D61, RS MUP Order Requiring Identification of Persons who Committed Crimes, 15 April 1992.

<sup>1595</sup> 1D634, RS MUP Order to all CSBs to Increase Measures of Protection Due to Declaration of Immediate Threat of War, 16 April 1992, p. 1.

<sup>1596</sup> Goran Mačar, 5 July 2011, T. 22866; Radovan Pejić, 24 June 2010, T. 12176 and 25 June 2010, T. 12237; Petko Panić, 12 November 2009, T. 2997-2998; P573, Performance Report of RS MUP for period from April to June 1992, 29 June 1992, p. 8; 1D72, Order of Minister Mićo Stanišić to all CSBs to Submit Daily Reports by Fax, 18 April 1992. See Communication sub-section in RS MUP section.

<sup>1597</sup> P625, Annual Report on the Work in the period April–December 1992, January 1993, p. 23.

<sup>1598</sup> P1115, Transcript of Intercepted Conversation between Mićo Stanišić and (a) Radomir Kojić and (b) Ilić, 18 April 1992, pp. 1-2.

<sup>1599</sup> 1D666, Banja Luka CSB Dispatch forwarding MUP Dispatch Regarding Behaviour of Members of Reserve MUP Forces, 15 May 1992.

<sup>1600</sup> 1D666, Banja Luka CSB Dispatch forwarding MUP Dispatch Regarding Behaviour of Members of Reserve MUP Forces, 15 May 1992.

<sup>1601</sup> 1D791, Agreement between Izetbegović, Karadžić, and Čorić upon Invitation of the ICRC, 22 May 1992, pp. 3, 6.

concentration camps were false.<sup>1602</sup> Herbert Okun, however, testified that he received information from various organisations, including the ICRC, UNHCR, and UNPROFOR, that by June 1992 detention centres had been established in Trnopolje and Omarska and thousands of Muslim and Croat civilians were detained in these centres.<sup>1603</sup> At the 24 May 1992 session of the RS Government, it was concluded that the MUP would prepare “complete and scrupulous information” on the security situation, with particular “attention to the issues of crime, protection of state and personal property of Serb people”.<sup>1604</sup>

(ii) Central Commission for Exchange of Prisoners

615. On 24 April 1992, at their 5<sup>th</sup> joint meeting, the NSC and the RS Government adopted a decision to set up a state commission for war crimes and for the MOJ to take over prisoner exchange “once the organs of the interior have completed their work.”<sup>1605</sup> On 28 April 1992, Prime Minister Đerić informed the TO headquarters and the RS MUP that, through the Ministry of Health, he had ordered all Crisis Staffs to ensure that medical aid be provided to everybody regardless of their ethnic background, and that international standards be observed in the treatment of prisoners.<sup>1606</sup> On 1 May 1992, the Presidency passed a decision that the staff of the “penitentiary re-education institutions” in RS, under the MOJ, would “continue to be in charge of security, with the assistance of MUP police forces as needed.”<sup>1607</sup>

616. On 8 May 1992, Branko Đerić issued a decision establishing the Central Commission for Exchange of Prisoners (“Commission”) as an inter-ministerial organ with Rajko Colović, from the MOJ, as its President from its inception until 6 June 1992, Lieutenant Colonel Mihajlović from the MOD, and Slobodan Marković as a member on behalf of the RS MUP.<sup>1608</sup> Stanišić described the Commission as an “independent” or “neutral” commission formed by the RS Government to conduct exchanges under the responsibility of the Prime Minister. Stanišić added that the formation of commissions for the exchange of prisoners was the result of an agreement reached between the ICRC and the warring parties.<sup>1609</sup>

<sup>1602</sup> P179.16, Letter by Branko Đerić to James Baker, US Secretary of State, 24 May 1992.

<sup>1603</sup> Herbert Okun, P2193, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 23 June 2004, T. 4189-4190.

<sup>1604</sup> P179.06, Minutes of the 14<sup>th</sup> Session of the RS Government, 24 May 1992, p. 1.

<sup>1605</sup> P207, Minutes of NSC and RS Government Meeting, 24 April 1992, p. 1.

<sup>1606</sup> P185, Fax from Branko Đerić to TO and RS MUP, 28 April 1992.

<sup>1607</sup> Slobodan Marković, 12 July 2010, T. 12697-12699; 1D164, Decision on Establishing Correction Institutions on the Serbian Territory of BH, 1 May 1992, Article 5. See also Miroslav Vidić, 28 April 2010, T. 9364-9366 and the Doboj municipality section.

<sup>1608</sup> Slobodan Marković, 12 July 2010, T. 12640, 12642-12643; P179.18, Decision on the Forming of a Central Commission for Exchange of Prisoners of War issued by Prime Minister Đerić, 8 May 1992; P2308, OTP Interview with Mićo Stanišić, 19-20 July 2007, pp. 18-20 cf. P2308, OTP Interview with Mićo Stanišić, 19-20 July 2007, p. 27; P2310, OTP Interview with Mićo Stanišić, 20 July 2007, p. 9.

<sup>1609</sup> P2308, OTP Interview with Mićo Stanišić, 19-20 July 2007, pp. 19-20.



617. Slobodan Marković testified that the Commission officially reported solely to the Prime Minister on its work on prisoners exchanges and was not obliged to file reports with the MUP.<sup>1610</sup> While he reported in writing, he also informally described to Đerić what was going on in the Commission when they met.<sup>1611</sup> While working in Pale, Marković ran into Stanišić twice and talked to him about the Commission.<sup>1612</sup> Marković testified that Stanišić told him that “the prisoners should be treated in line with the Geneva Conventions, that especially women and young children were not to be maltreated, and that exchanges should be carried out in accordance with the Geneva Conventions, and that their accommodation should be in compliance wherever possible, even though it all came under the Ministry of Justice and the VRS.”<sup>1613</sup> In Marković’s view, Stanišić was not in a position to order the release of persons from prisons, and had to request the MOJ to allow their release for prisoner exchanges to take place.<sup>1614</sup>

618. At the municipal level, War Staffs established other commissions for the exchange of detained Muslims for Serb prisoners, which were not operated by the RS Government.<sup>1615</sup> The formation of commissions at local level had been encouraged in an agreement signed by Karadžić and Izetbegović on 5 July 1992. Marković explained that this was necessary because it was impossible for the Commission to cover the entire territory of RS. The agreement prescribed that local commissions had to give government bodies notice of planned exchanges, which the Government needed to approve. Marković, however, testified that in practice this did not happen, as local commissions could not send prisoners’ lists due to disruptions in the communication system.<sup>1616</sup> He also testified that local Crisis Staffs infringed on the work of the Commission by effecting exchanges themselves.<sup>1617</sup> On 6 June 1992, the Commission ordered all SJBs “whose employees are engaged in safeguarding of facilities” where POWs or detainees were located to keep evidence of all persons who have been detained and to submit lists of prisoners to the municipal commissions for exchange on a regular basis. The municipal exchange commissions were to submit the lists of persons released or exchanged to regional commissions or to the Commission. The

<sup>1610</sup> Slobodan Marković, 12 July 2010, T. 12689-12690; P2310, OTP Interview with Mićo Stanišić, 20 July 2007, p. 10.

<sup>1611</sup> Slobodan Marković, 13 July 2010, T. 12775-12776.

<sup>1612</sup> Slobodan Marković, 12 July 2010, T. 12640-12641, 12643, 12674, 12764.

<sup>1613</sup> Slobodan Marković, 12 July 2010, T. 12674-12675, 12690.

<sup>1614</sup> Slobodan Marković, 12 July 2010, T. 12674-12675, 13 July 2010, T. 12730; P1475, Request from Mićo Stanišić to Kula Administration for Release of Prisoners, 30 August 1992.

<sup>1615</sup> Slobodan Marković, 12 July 2010, T. 12667, 13 July 2010, T. 12724-12725; P1318.26, Agreement on Exchange of Prisoners, 5 July 1992. *See also* P590, Report of Doboj CSB on Problems Arising from the Activities of Paramilitary Formations in Doboj, 27 July 1992, in which Bjelošević notes that a Commission had been Established in Doboj to Determine the Conditions and Reasons for Detention.

<sup>1616</sup> Slobodan Marković, 13 July 2010, T. 12724; P1318.26, Agreement on the Exchange of Prisoners between Radovan Karadžić and Alija Izetbegović, 5 July 1992, p. 3.

<sup>1617</sup> Slobodan Marković, 12 July 2010, T. 12703-12704; P2309, OTP Interview with Mićo Stanišić, 20 July 2007, p. 15.

Commission forbade any exchange without its prior approval.<sup>1618</sup> It ordered the respect of minimum hygiene standards, to ensure sustainable detention conditions, and the provision of medical care to all sick detainees. It also limited the access to detainees to government officials, members of the judiciary, representatives of humanitarian organisations, and medical teams, but the latter only with a prior authorisation.<sup>1619</sup> Marković stated that he and Colović drafted an order on the way prisoners were to be treated, which mandated that all SJBs keep records of persons detained, which was to be submitted to the municipal commissions for exchange.<sup>1620</sup> Marković testified that he organised prisoner exchanges in the presence of UNPROFOR.<sup>1621</sup>

619. Marković testified that on 14 May 1992 approximately 400 Muslim men who had been detained in Bratunac arrived in Pale and that he drew up a list to facilitate an exchange in which the detainees were taken to Visoko in non-Serb territory.<sup>1622</sup> Škipina testified that he informed Stanišić about this the following day.<sup>1623</sup>

620. Slobodan Marković testified that the MOJ would have known if illegal camps existed because “all the prisons were under the control and within the remit of the justice ministry”.<sup>1624</sup> Stanišić stated that the Government was aware of reports on prisoner exchanges and that the Government tasked the MOJ with preparing a report on this issue as the commissions for exchange fell within the MOJ’s jurisdiction.<sup>1625</sup> Stanišić stated that his personal knowledge of conditions of detention and the treatment of prisoners came from the reports of the Commission that were discussed at sessions of the Government, which were prepared on the basis of information gathered by the RS MUP and provided to the MOJ.<sup>1626</sup>

(iii) June–Early July 1992

621. On 5 June 1992, the Assistant Minister for Crime Prevention and Detection, Dobrislav Planojević, informed all CSBs that police must follow humanitarian law in their treatment of civilians and POWs.<sup>1627</sup> In the same order, he noted that due to the conflict, in April and May there

<sup>1618</sup> P427.07, Order by the President of the RS Central Commission for Exchange of Prisoners of War Providing Rules on the Treatment of Prisoners, 6 June 1992, p. 1.

<sup>1619</sup> P427.07, Order by the President of the RS Central Commission for Exchange of Prisoners of War Providing Rules on the Treatment of Prisoners, 6 June 1992, p. 2.

<sup>1620</sup> Slobodan Marković, 12 July 2010, T. 12645-12647; P427.07, Order by the President of the RS Central Commission for Exchange of Prisoners of War Providing Rules on the Treatment of Prisoners, 6 June 1992.

<sup>1621</sup> Slobodan Marković, 12 July 2010, T. 12660-12662 and 13 July 2010, T. 12722, 12724.

<sup>1622</sup> Slobodan Marković, 12 July 2010, T. 12655-12656.

<sup>1623</sup> Slobodan Škipina, 30 March 2010, T. 8311-8312.

<sup>1624</sup> Slobodan Marković, 12 July 2010, T. 12682-12683; P235, Minutes of the 57<sup>th</sup> Session of the RS Government, 4 July 1992, p. 6.

<sup>1625</sup> P2310, OTP Interview with Mićo Stanišić, 20 July 2007, pp. 3-4.

<sup>1626</sup> P2308, OTP Interview with Mićo Stanišić, 19-20 July 2007, pp. 36-38.

<sup>1627</sup> P568, Order by Dobrislav Planojević to all CSBs Regarding the Documentation of War Crimes, the Proper Treatment of POWs and Mentioning Crimes Committed by MUP Employees, 5 June 1992, p. 2.

was a sharp increase in the rate of property crime, war profiteering, and especially war crimes. He ordered that investigations and vigorous measures be pursued in respect of perpetrators of all crimes, and arrests be carried out in “more extreme cases”, for which “maximum cooperation with judicial organs and the Military Police” was to be established.<sup>1628</sup>

622. On 5 June 1992, the RS Government issued a decree establishing procedures for surrendering war and other booty to the Government reserves.<sup>1629</sup> The decree was followed by an instruction on its implementation on 31 July 1992.<sup>1630</sup>

623. At a Presidency meeting on 10 June 1992, it was agreed that Branko Đerić would report to the RS Government “on detainees and propose measures”.<sup>1631</sup> At a Government meeting on the same day, attended by Stanišić, it was decided that the MOJ would prepare this report, focusing on matters such as the treatment of the civilian population, POWs, accommodation, and food.<sup>1632</sup> Mandić testified that this decision was prompted by complaints from the “police or the municipal authorities” about the mistreatment of the civilian population.<sup>1633</sup> Mandić further testified that “all the municipalities started acting like mini states, and they established their mini prisons” and that an attempt was therefore made to “centralise” the prisons and make sure that they be governed by the law, including international humanitarian law.<sup>1634</sup>

624. Stanišić stated that in June 1992 the RS Government had decided to adopt a set of rules dealing with the treatment of detainees situation but Karadžić instead ordered Subotić to issue guidelines on the standards for treatment of captured persons in compliance with international law, which Stanišić said covered “everything”.<sup>1635</sup> On 13 June 1992, the MOD issued an instruction on the treatment of captured persons signed by Minister Subotić.<sup>1636</sup>

625. At the 15 June 1992 session of the RS Government a working group was established with Đerić, Trbojević, Kalinić, Stanišić, Subotić, and Mandić as members, to consider all aspects of the “prisoner exchange problem” and propose “systematic and other solutions taking into account our

<sup>1628</sup> P568, Order by Dobrislav Planojević to all CSBs Regarding the Documentation of War Crimes, the Proper Treatment of POWs and Mentioning Crimes Committed by MUP Employees, 5 June 1992.

<sup>1629</sup> P196, Decree on the Obligatory Hand-over of War Booty and Other Booty to the Republican Commodity Reserves, 5 June 1992, pp. 1-2.

<sup>1630</sup> P197, Instruction of the Government of the Serbian Republic of BiH on the Implementation of the Decree on the Mandatory Delivery of War Booty, 15 July 1992.

<sup>1631</sup> P261, Minutes of the 5<sup>th</sup> Session of the RS Presidency, 10 June 1992.

<sup>1632</sup> P179.07, Minutes of the 25<sup>th</sup> Meeting of the RS Government, 10 June 1992, p. 3.

<sup>1633</sup> Momčilo Mandić, 4 May 2010, T. 9492.

<sup>1634</sup> Momčilo Mandić, 4 May 2010, T. 9492-9493.

<sup>1635</sup> P2310, OTP Interview with Mićo Stanišić, 20 July 2007, pp. 4-5.

<sup>1636</sup> P189, Instructions on the Treatment of Captured Persons, 13 June 1992.

and international regulations”.<sup>1637</sup> Milan Trbojević testified that, however, the working group never met.<sup>1638</sup>

626. Milan Trbojević testified that, in June 1992, the issues of the treatment and exchange of prisoners were not something being discussed among Bosnian Serb officials and authorities. Trbojević considered it anomalous for the MOJ to be tasked with preparing a report about prisoners, as it did not have the “functional ability” to deal with the issue.<sup>1639</sup> When shown a report by Slobodan Avlijaš, inspector for penitentiary institutions under the MOJ, on the detention conditions at the Omarska camp, Trbojević stated that he had never received the report nor was such a report handed over to the RS Government and was instead provided to Karadžić.<sup>1640</sup> When confronted with the minutes of the 15 June 1992 session of the RS Government chaired by him, where a report on the importance of the issue of prisoner exchange had been considered, Trbojević stated that he could not say whether this was a reference to a report by Mandić or Stanišić.<sup>1641</sup> Trbojević testified that, as far as he was aware, the RS Government, the Presidency, and President of the BSA “did nothing” about the report submitted by Slobodan Avlijaš on behalf of the MOJ.<sup>1642</sup> Trbojević further denied knowledge of the Commission, its work, composition, and function, since he was not appointed Deputy Prime Minister, or based in Pale, until 8 May 1992.<sup>1643</sup> Trbojević responded evasively to the questions put by the Prosecution and the Judges on this issue. The Chamber will disregard this part of the evidence of Milan Trbojević, who as a member of the RS Government at the relevant time may have been at the risk of self-incrimination, as being unreliable and lacking credibility.

627. At the 36<sup>th</sup> session of the RS Government on 4 July 1992, which Stanišić attended, the issue of Muslims moving out of RS was raised, on which the Government decided it had no “point of view” and asked the MUP to present information that could be considered before taking an appropriate position.<sup>1644</sup> Branko Đerić testified that this issue related to “some kind of moving out voluntarily” for security reasons or “forced ones due to fear” and that the RS MUP was assigned the

<sup>1637</sup> P427.11, Minutes of the 28<sup>th</sup> Session of the RS Government, 15 June 1992, pp. 2, 4; Milan Trbojević, P427.02, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 5 April 2005, T. 11490; P2308, OTP Interview with Mićo Stanišić, 19-20 July 2007, pp. 18-19.

<sup>1638</sup> Milan Trbojević, P427.02, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 5 April 2005, T. 11501-11502.

<sup>1639</sup> Milan Trbojević, P427.02, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 5 April 2005, T. 11464, 11468-11469, 11488-11489.

<sup>1640</sup> Milan Trbojević, P427.02, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 5 April 2005, T. 11506-11510.

<sup>1641</sup> Milan Trbojević, P427.02, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 5 April 2005, T. 11489-11494, 11499-11500; P427.11, Minutes of the 28<sup>th</sup> Session of the RS Government, 15 June 1992, pp. 2, 4.

<sup>1642</sup> Milan Trbojević, P427.03, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 6 April 2005, T. 11551-11553.

<sup>1643</sup> Milan Trbojević, P427.02, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 5 April 2005, T. 11481-11482, 11484.

<sup>1644</sup> P236, Minutes of the 36<sup>th</sup> Session of the RS Government held on 4 July 1992, 9 July 1992, pp. 4-5; P237, Minutes of the 37<sup>th</sup> Session of the RS Government held on 8 July 1992, 11 July 1992, pp. 1, 3.

task simply because it had the power as an operative ministry and sufficient personnel to carry out the task of informing the RS Government of “what was going on in the field”.<sup>1645</sup>

628. In the “basic principles on the functioning of the MUP when applying wartime procedures”, issued on 6 July 1992, Stanišić explained that war time procedures were introduced to counter the appearance of war crimes, aggravated thefts, war profiteering, and other such “new crimes”, as well as to deal with “population movement”, possession of weapons by “numerous paramilitary formations, groups and individuals”, increased pressure on communication systems, and difficulties in funding.<sup>1646</sup>

(iv) 11 July 1992 Collegium Meeting

629. The meeting on 11 July 1992 in Belgrade was the first collegium meeting of senior officials of the RS MUP after the war began (“11 July Collegium”).<sup>1647</sup> ST121 testified that, at collegium meetings, the Minister of Interior met with the chiefs of the CSBs who informed him of the problems faced by the CSBs, following which he would send dispatches to the police administrations.<sup>1648</sup> According to Borovčanin, Stanišić met some of his subordinates for the first time at this meeting and for the first time heard about problems that police stations and CSBs encountered on the ground and began to respond to these problems.<sup>1649</sup>

630. The meeting commenced with Stanišić’s opening remarks concerning the political and security situation in RS, after which there was a discussion and guidelines and conclusions were adopted.<sup>1650</sup> Stanišić stated that the RS MUP forces had provided “immediate cooperation” to the army. He added that, in order to establish “full constitutionality and legality [...], we have decided to prevent criminal activities committed not only by citizens but also soldiers and [a]rmy officers, active duty and reserve police and members of the internal affairs organs and their officers who are found to have committed crimes of any kind.”<sup>1651</sup>

631. With regard to the ARK, Župljanin reportedly stated that “the War Presidency is adopting decisions and the burden of implementing them falls on MUP organs”. Župljanin added that the

<sup>1645</sup> Branko Đerić, 30 October 2009, T. 2361-2363.

<sup>1646</sup> P853, RS MUP Document entitled “Some Basic Principles on the Functioning of the MUP When Applying Wartime Procedures”, 6 July 1992.

<sup>1647</sup> Andrija Bjelošević, 15 April 2011, T. 19704-19705; 1D476, RS MUP Invitation to All CSBs to Collegium Meeting in Belgrade, 6 July 1992; Drago Borovčanin, 23 February 2010, T. 6737; P2312, Second Session of OTP Interview with Mićo Stanišić, 21 July 2007, pp. 32-33.

<sup>1648</sup> ST121, 24 November 2009, T. 3694 and 25 November 2009, T. 3786-3787.

<sup>1649</sup> Drago Borovčanin, 23 February 2010, T. 6738. *See also* Dragan Kezunović, 11 June 2010, T. 11638.

<sup>1650</sup> Andrija Bjelošević, 15 April 2011, T. 19703-19705; 1D476, RS MUP Dispatch to All CSBs Scheduling Collegium Meeting in Belgrade, 6 July 1992; P160, Minutes of the RS MUP Meeting held on 11 July 1992, pp. 15-16.

<sup>1651</sup> P160, Minutes of the RS MUP Meeting held on 11 July 1992, pp. 14-15.

army and Crisis Staffs, or War Presidencies, were requesting that as many Muslims as possible be “gathered”, and were leaving to the MUP organs the task to secure “undefined camps” where conditions were bad and international norms were not observed.<sup>1652</sup> Bjelošević, Chief of the Doboj CSB, complained that the army was not allowing the police to return to their duty stations after combat operations had concluded; that the MUP should pay its own employees or it would continue to suffer influence and interference from the ARK; that POWs, who should be under the jurisdiction of the army, were brought in by the army in groups and left without any accompanying documents for the reasons of their arrest; and that there were mass-scale looting and other crimes on the part of Muslim and Serb forces alike. Other CSB chiefs complained about the commission of crimes, including the issue of prisoners, and about the operations of paramilitary units in their respective municipalities. Borovčanin asked that a policy on refugees be adopted.<sup>1653</sup>

632. During the 11 July 1992 meeting, looting, mainly perpetrated during “mopping-up operations”, was considered to be a serious problem. The detection and documentation of war crimes, including those committed by Serbs, was listed as a priority for both the SNB and the Crime Investigation Service. It was also discussed that, for more effective cooperation and coordinated action between the RS MUP and the VRS, a joint meeting would be prepared and in the meantime special emphasis should be placed on the activities of the paramilitary formations; police engagement in combat when not necessary; prevention of crimes, “especially those committed by military personnel”; and procedure and jurisdiction with regard to holding and treatment of prisoners. The discussion also focused on problems existing with the MOJ and the participants decided to call a joint meeting to reach an agreement to extend the period of pre-trial detention in view of the shortage of judges. It was also emphasised that it was not the task of the MUP to “relocate certain citizens, villages, etc.”, despite efforts to assign it to the MUP. Finally, senior officers were asked to take legal and other measures to remove employees who had committed crimes.<sup>1654</sup> The Trial Chamber notes that the joint meeting with the VRS took place on 27 July 1992, as discussed below, while there is no evidence of the meeting with the MOJ being organised.

633. In his interview, Stanišić stated that the meeting on 11 July 1992 was the first time he heard of the conditions in camps and the fact that the army was bringing in captives, including to police stations, “without undertaking any further measures”. The conditions in these camps were described to him as being “poor”, with no food and with the individuals in charge not following international

<sup>1652</sup> P160, Minutes of the RS MUP Meeting held on 11 July 1992, pp. 7-8. *See also* Aleksandar Krulj, 28 October 2009, T. 2186-2190; Drago Raković, 26 February 2010, T. 6970; Vidosav Kovačević, 7 September 2011, T. 23756.

<sup>1653</sup> P160, Minutes of the RS MUP Meeting held on 11 July 1992, pp. 8-9, 12, 15-17.

<sup>1654</sup> P427.08, Report of RS MUP on Some Aspects of the Work Done to Date and the Tasks Ahead, 17 July 1992, pp. 5-7.

norms.<sup>1655</sup> He added that he instructed all MUP members to collect any relevant information on the issue of camps and provide it to his office so that it could be forwarded to the Presidency to follow up with the VRS. Stanišić was of the view that, while the police may have been involved in guarding prisoners, this was done solely under orders of the VRS corps commander or TO Staff in charge, which was the Crisis Staff. Stanišić stated that such police officers would be responsible to the military courts. Stanišić added that he had ordered his police, even when involved in the guarding of prisoners by the army or Crisis Staffs, to respect the Geneva Conventions and the other applicable laws. He stated that there was nothing more that he could have done.<sup>1656</sup>

(v) Stanišić's orders in second half of July 1992

634. On 13 July 1992, the Višegrad SJB Chief Risto Perišić reported to the RS MUP that certain police officers were exhibiting a lack of professionalism, “an inclination to various abuses, acquiring material gain and other deficiencies”, while “over 2,000 Muslims moved out of the municipality in an organised manner”.<sup>1657</sup>

635. On 17 July 1992, Stanišić instructed the CSBs to send all significant information of security interest, including incidents of looting and other severe crimes, to the leadership and authorised organs.<sup>1658</sup>

636. On 18 July 1992, Stanišić sent a letter to Branko Đerić, Prime Minister of RS, in which he stated that he had repeatedly requested a “law or the like” to be issued to direct the activities of the army, groups, and individuals “in order to prevent breaches of approved provisions of international law which may result in consequences resembling genocide or war crimes”.<sup>1659</sup> Stating that nothing had been done to date even though the topic was discussed at the very first session of the RS Government, the letter went on to quote the definition of genocide and list crimes against humanity. Stanišić stated that “in order to negate the existence of the above intent and activity”, Đerić should have initiated a way for the “civilised implementation of, what I believe are, just political goals of the Serbian people”.<sup>1660</sup> He informed Đerić that the MUP was following the law regulating conduct in war and “working on the collection and documentation of war crimes, *i.e.*, genocide, regardless of the perpetrators and their ethnicity.” Stanišić concluded the letter by informing Đerić that, “due

<sup>1655</sup> P427.08, Report of RS MUP on Some Aspects of the Work Done to Date and the Tasks Ahead, 17 July 1992, p. 3.

<sup>1656</sup> P2309, OTP Interview with Mićo Stanišić, 20 July 2007, pp. 18-19, 23-24.

<sup>1657</sup> P633, Dispatch from SJB Višegrad Providing a Brief Overview of the Military and Security Situation in Višegrad, 13 July 1992, pp. 2-3.

<sup>1658</sup> Milan Trbojević, 3 December 2009, T. 4166-4167; 1D91, Dispatch of RS MUP to all CSBs Requesting All Relevant Information, 17 July 1992, p. 1.

<sup>1659</sup> P190, Letter from Mićo Stanišić to Branko Đerić, 18 July 1992. *See also* Dragan Đokanović, 23 November 2009, T. 3622.

to the potential responsibility that may emerge” as a result of his insufficient involvement in the issue, he would send the letter not only to him personally, but also to Karadžić and the Federal SUP.<sup>1661</sup>

637. Following the 11 July Collegium, Stanišić sent an order on 19 July 1992 to the chiefs of all CSBs requesting information on police involvement in combat activities, as well as problems related to paramilitary units, procedures in taking custody, the treatment of prisoners, conditions of collection camps, and prisoners of Muslim ethnicity who were deposited without papers by the army at “undefined camps”. This information was to be sent to Stanišić by 25 July 1992.<sup>1662</sup> Radovan Pejić forwarded this order of the Minister to the police stations under the Sarajevo CSB on 25 July 1992, due to problems in communication.<sup>1663</sup> A response dated 5 August 1992 from SJB Ilijaš was received on 11 August 1992, stating that no problems were encountered with “certain paramilitary formations under the joint command”; the police were not “unnecessarily involved in combat operations”; no problems were faced in “prevention and detection of criminal acts and perpetrators”; and the military judiciary organs were functioning normally.<sup>1664</sup> Consequently, the CSB Chief sent an incomplete report to the MUP by the deadline stating that the report was based on available information.<sup>1665</sup>

638. On 20 July 1992, Stojan Župljanin informed Mićo Stanišić that, in the ongoing conflicts in the ARK in the months of April until July 1992, the VRS and police had arrested and detained “several thousands” of Muslims and Croats, mostly of military age, at schools, centres, factories, and other locations. These persons had been processed by the military, the SNB, and SJB into three categories. The first two categories concerned persons of security interest due to their ostensible engagement in armed resistance, and the third category comprised persons of no security interest made up of those above 60 years of age, minors, sick, and disabled persons, who were thereby treated as “hostages”. Župljanin informed the Minister that numerous active and reserve policemen were involved in providing security at the facilities. He recommended that, in conjunction with the VRS, a decisive position be taken as to (a) the status and treatment of the detainees, (b) the use of

<sup>1660</sup> Dragan Đokanović, 23 November 2009, T. 3622; Momčilo Mandić, 6 May 2010, T. 9724-9727; P190, Letter from Mićo Stanišić to Branko Đerić, 18 July 1992.

<sup>1661</sup> P190, Letter from Mićo Stanišić to Branko Đerić, 18 July 1992. *See also* Dragan Đokanović, 23 November 2009, T. 3622.

<sup>1662</sup> Andrija Bjelošević, 15 April 2011, T. 19711-19712; ST161, 19 November 2009, T. 3456 (confidential); 1D76, Dispatch of the RS MUP to all Chiefs of CSBs, 19 July 1992. *See also* P2309, OTP Interview with Mićo Stanišić, 20 July 2007, pp. 18-19, 24.

<sup>1663</sup> 1D76, Dispatch of the RS MUP to All Chiefs of CSBs, 19 July 1992; P1073, Dispatch from CSB Romanija–Birač to the Chief of SJBs under Sarajevo Pursuant to Order of 19 July, 25 July 1992. *See also* Radovan Pejić, 25 June 2010, T. 12199-12200.

<sup>1664</sup> P1476, Report from Ilijaš SJB signed by Milorad Marić, 5 August 1992. *See also* Radovan Pejić, 25 June 2010, T. 12202-12204.

<sup>1665</sup> Radovan Pejić, 25 June 2010, T. 12204-12206.



the third category of persons for prisoner exchange, and (c) the duty of securing the facilities being assigned to the army.<sup>1666</sup>

639. Stanišić was present during the 41<sup>st</sup> Government session, held on 22 July 1992, where the conduct of the military police in limiting the freedom of citizens, introducing curfews, and conducting unauthorised home searches was noted. A decision was taken to inform the VRS Main Staff of the conduct in order for it to take the necessary measures to avoid such behaviour. At the same session, the Government noted the information it had received on “some occurrences of unlawful treatment of war prisoners” and decided to take all measures to ensure the consistent implementation of an order of the RS Presidency on the treatment of war prisoners.<sup>1667</sup>

640. Referring to the conclusions of 11 July Collegium, on 23 July 1992, Stanišić ordered that legal measures be taken against all members of the MUP who committed crimes, except “political and verbal offences”, since the establishment of the RS MUP. The aim of this order was to have such employees removed from the RS MUP and placed at the disposal of the VRS. Administration Chiefs, the commander of the Special Police Detachment, and Chiefs of CSBs were responsible for the implementation of the order and required to submit a report of measures taken by 31 July 1992.<sup>1668</sup>

641. On 24 July 1992, Stanišić sent another order to the Chiefs of CSBs to dismiss from duty and place at the disposal of the VRS all members of the RS MUP who had been criminally prosecuted or against whom criminal proceedings were being conducted in competent courts.<sup>1669</sup> On 25 July 1992, Zoran Cvijetić, Chief of the Sarajevo CSB, sent a memo to the chiefs of the SJBs forwarding the order issued by Stanišić on 24 July and asked them to inform the Sarajevo CSB by 10 August 1992 of all measures taken to implement the order.<sup>1670</sup> As a result, for example, the Chief of the Vlasenica SJB informed the Romanija–Birač CSB that, in implementing the Minister’s orders, the SJB had taken legal measures against its employees in instances of breach of responsibility, filed criminal reports on the basis of documented criminal activities, and instituted disciplinary measures against 35 members of the reserve force.<sup>1671</sup>

<sup>1666</sup> P583, Dispatch by Stojan Župljanin to Mićo Stanišić About Activities in the ARK, 20 July 1992, pp. 1-2.

<sup>1667</sup> P200, Minutes of the 41<sup>st</sup> Session of the RS Government held on 22 July 1992, 29 July 1992, p. 7.

<sup>1668</sup> ID58, Order of Mićo Stanišić to Take All Legal Measures Against Members of the MUP Who Have Committed Criminal Acts, 23 July 1992.

<sup>1669</sup> ID59, Order of Mićo Stanišić to SJBs to Take All Legal Actions Against Members of the MUP Who Have Committed Criminal Acts, 24 July 1992.

<sup>1670</sup> P2060, Memo from Sarajevo CSB Forwarding Order of the Minister of Interior, 25 July 1992.

<sup>1671</sup> ID190, Memo from SJB Vlasenica to Sarajevo CSB Regarding Disciplinary Measures against Reserve Police and Active Police Members, 6 August 1992; ID191, Vlasenica SJB Report to the Romanija–Birač CSB, 15 September 1992; Drago Borovčanin, 24 February 2010, T. 6806-6807.

642. At a meeting of the RS Government on 27 July 1992, Stanišić followed up on the problems raised by his subordinates at the 11 July Collegium meeting and introduced the issue of “the authority and co-operation of the organs of the interior affairs and the army”. It was agreed that the RS MUP, the MOD, and the Main Staff of the VRS would meet under the auspices of the Prime Minister’s office as soon as possible to reach an agreement on these “open questions”.<sup>1672</sup>

643. Pursuant to the assurance he gave his subordinates at the 11 July meeting, Stanišić, together with Milan Trbojević, met with Ratko Mladić and Zdravko Tolimir on 27 July 1992 to improve cooperation between the RS MUP forces and the army. During this meeting, Stanišić stated that at the start of the conflict, he had had to accept everyone into the police, including those not professionally trained or qualified, but since the army had taken over the front lines, he was now in a position to choose policemen.<sup>1673</sup>

644. On 27 July 1992, Stanišić ordered, that in accordance with his order of 23 July 1992, the immediate removal of individuals found criminally responsible for crimes that are officially prosecuted and those who committed crimes during the war in BiH, but who had not yet been prosecuted “for known reasons”. The persons so removed were to be placed at the disposal of the VRS. Stanišić further ordered the removal of all groups and individuals that are not under the control of the VRS, and the collection of information about anyone committing crimes and handing over of such persons to the competent institutions which were to take measures in accordance with the law on criminal procedure. Stanišić once again stated the need for professional conduct of RS MUP employees in accordance with LIA.<sup>1674</sup>

645. While ST161 testified that the order of 27 July was not received in Sanski Most.<sup>1675</sup> Obren Petrović, Chief of the Doboj SJB, testified that it was received in Doboj through Andrija Bjelošević.<sup>1676</sup> According to a report of 12 August 1992, in response to the 27 July order, Petrović reduced the number of reserve policemen and transferred “surplus of manpower” to the VRS.<sup>1677</sup> Andrija Bjelošević testified that he did “precisely” as he was asked, which was “to clean up our own ranks”. However, he added, this process did not happen overnight.<sup>1678</sup> According to the report of 5 August 1992, prepared by Sreto Gajić and Tomislav Mirosavić, local officials in the ARK

<sup>1672</sup> P240, Minutes of the 40<sup>th</sup> Session of the RS Government, 27 July 1992, pp. 4-5.

<sup>1673</sup> P427.08, Report of RS MUP on Some Aspects of the Work Done and Tasks Ahead, 17 July 1992, p. 6; P1755, Mladić Diary, 27 May 1992–31 July 1992, pp. 373-375; Manojlo Milovanović, 7 December 2010, T. 18266-18267.

<sup>1674</sup> ID176, Order Issued by Mićo Stanišić Based on Request by the BSA held on 25 and 26 July 1992, 27 July 1992, pp. 1-2.

<sup>1675</sup> ST161, 19 November 2009, T. 3455-3456, 3462 (confidential); ID176, Order Issued by Mićo Stanišić Based on Request by the BSA Held on 25 and 26 July 1992, 27 July 1992.

<sup>1676</sup> Obren Petrović, 11 May 2010, T. 9975-9977; Andrija Bjelošević, 15 April 2011, T. 19721-19723; ID176, Order Issued by Mićo Stanišić Based on Request by the BSA Held on 25 and 26 July 1992, 27 July 1992.

<sup>1677</sup> P1341, Annex Report on the Realisation of the Order of 27 July 1992, 12 August 1992, p. 2.

stated that several employees had been suspended and a number of them were transferred to the army.<sup>1679</sup>

646. In response to the 27 July Order, Sreto Gajić testified that both his reports of 5 and 10 August 1992 on visits to the CSB and SJBs in the territory of the ARK, organised by the MUP, referred to several detention camps. As discussed above, between the issuance of the first and second report, he met Stanišić in Jahorina on 6 August 1992. While the report of 5 August 1992 contained information about prisoner camps in Prijedor (Keraterm, Omarska, Trnopolje), and of the involvement of 300 policemen in guarding them, there was no mention of them at the meeting, which focused on the quality of the reports and on the disbandment of the Banja Luka CSB Special Police Detachment.<sup>1680</sup> The second report, of 10 August 1992, stated that the police of Banja Luka and Prijedor exclusively ran an “Investigation Centre” in Omarska, established for the first and second category of prisoners. The inmates were being interrogated and 175 of them were scheduled to be transferred to the Manjača camp at the end of the investigation process.<sup>1681</sup> The report also mentioned a “Reception Centre” in Trnopolje, established by Muslims who did not want to place themselves at the disposal of “Muslim fundamentalists”. The report specified that the Muslims accommodated in Trnopolje could “move around freely” until their departure was arranged “in the direction of their choice”.<sup>1682</sup>

647. Tomislav Kovač testified that Stanišić’s orders of 19, 23, 24, and 27 July 1992 were based on the request of the BSA and the Presidency to regulate the number of employees in the interior services and to remove from the RS MUP those who had been criminally prosecuted.<sup>1683</sup> According to Kovač, the RS MUP had to go to “great lengths” to remove individuals who were unfit for service from the reserve and active police force.<sup>1684</sup> Borovčanin testified that Stanišić’s overall efforts were aimed at creating a professional MUP “as soon as possible composed of professional experienced police officers” but this was a “drawn-out process”.<sup>1685</sup>

648. Borovčanin testified that the reason Stanišić had to send out the order to remove undesirables from among the RS MUP forces several times was because the commission of crimes

<sup>1678</sup> Andrija Bjelošević, 15 April 2011, T. 19721-19722.

<sup>1679</sup> P631, Report on Inspection Performed of the CSB and SJBs in the ARK, 5 August 1992, p. 2.

<sup>1680</sup> Sreto Gajić, 15 July 2010, T. 12840, 12844-12847; P631, Report on Inspection Performed of the CSB and SJBs in the ARK, 5 August 1992.

<sup>1681</sup> P1502, Report on the Visit to the CSB and SJBs in the ARK by Sreto Gajić, 10 August 1992, p. 3.

<sup>1682</sup> P1502, Report on the Visit to the CSB and SJBs in the ARK signed by Sreto Gajić, 10 August 1992, pp. 3-4.

<sup>1683</sup> Tomislav Kovač, 8 March 2012, T. 27147-27148; 1D176, MUP Orders Issued by Mićo Stanišić Based on the Request of the BSA held on 25 and 26 July 1992, 27 July 1992, p. 2; P530, LIA, Articles 17, 33.

<sup>1684</sup> Tomislav Kovač, 9 March 2012, T. 27237-27238.

<sup>1685</sup> Drago Borovčanin, 23 February 2010, T. 6745, 6748.

continued unabated.<sup>1686</sup> Dragomir Andan testified that implementing an order from the MUP to decrease the number of reserve policemen, which they did by first removing all persons with criminal files, proved to be “very difficult” in Bijeljina.<sup>1687</sup> Mladen Bajagić testified that these orders were an attempt by the Ministry to enhance the work of all units from the CSBs down to the SJBs in that period.<sup>1688</sup>

649. According to Mačar, in response to a 27 July 1992 report from the Banja Luka CSB that “criminal gangs” (often wearing RS MUP and army uniforms) were committing serious crimes against all citizens, Stanišić demanded vigorous action by the SJBs and the CSBs to fight these kinds of activities, jointly with the military.<sup>1689</sup>

650. At the 43<sup>rd</sup> session of RS Government on 29 July 1992, which was attended by Mićo Stanišić, the RS MUP and MOJ were designated to assess the needs of refugees, displaced persons, and large numbers of socially deprived persons by gathering “true information”.<sup>1690</sup>

(vi) Response to international outcry

651. On 7 August 1992, in a letter to the ICRC responding to their 25 July report that criticised the conditions at the Manjača and Bileća camps, Karadžić “accept[ed] the majority of [the ICRC’s] remarks and recommendations for improvement of living conditions”, but highlighted crimes committed against Serbs in BiH detention facilities.<sup>1691</sup> Soon after the ICRC report, on 26 July 1992, BiH President Alija Izetbegović, informed Lord Carrington, Chairman of the EC Conference on Yugoslavia, that at least 57 “concentration camps” holding an estimated 95,000 detainees existed on the territory of the RS.<sup>1692</sup>

652. At the RS Government session on 28 July 1992, attended by Stanišić, it was decided that the MOJ would “immediately” prepare a report on living conditions in penal and correctional centres as well as “concentration centres” and to propose necessary steps to secure conditions and treatment of prisoners according to domestic and international standards.<sup>1693</sup> The Trial Chamber notes that a report pursuant to the RS Government session of 28 July 1992 was presented by the MOJ on 22

<sup>1686</sup> Drago Borovčanin, 24 February 2010, T. 6841.

<sup>1687</sup> Dragomir Andan, 27 May 2011, T. 21454-21455.

<sup>1688</sup> Mladen Bajagić, 5 May 2011, T. 20231-20232; 1D662, Bajagić Expert Report, n. 186-192, paras 186-192; P1341, Annex Report on the Realisation of the Order of 27 July 1992, 12 August 1992.

<sup>1689</sup> Goran Mačar, 11 July 2011, T. 23109; P595, Report of the Banja Luka CSB from 1 January-30 June 1992, dated July 1992, pp. 7-8.

<sup>1690</sup> P242, Minutes of the 43<sup>rd</sup> Session of the RS Government Held on 29 July 1992, 1 August 1992, pp. 2, 6-7.

<sup>1691</sup> P179.13, Letter from Radovan Karadžić Regarding the Report of the ICRC on the Manjača and Bileća camps, 7 August 1992, pp. 2-3.

<sup>1692</sup> P1318.35, Facsimile from UNPROFOR Belgrade to ECMM Belgrade Forwarding a Letter from Izetbegović to Lord Carrington with List of Serb Controlled Prisons and Concentration Camps, 24 July 1992, pp. 3, 7-8.

<sup>1693</sup> P247, Minutes of the 48<sup>th</sup> Session of the RS Government, 28 July 1992, p. 10.

October 1992. The Government also decided to meet with Trbojević, Subotić, General Milan Gvero, Slobodan Avlijaš, Stojan Župljanin, and other ARK representatives in Banja Luka on 29 August to discuss the disbanding of such camps. The Ministry of Information was tasked to inform the public about this meeting and use it for propaganda purposes.<sup>1694</sup>

653. On 3 August 1992, Ratko Mladić issued an order to the VRS Main Staff to prepare Omarska, Trnopolje, and Manjača camps, which were under the responsibility of the 1<sup>st</sup> KK, the Lukavica prison, under the SRK, and any other POW camps in their zone of responsibility for a visit of foreign journalists and the ICRC, who were to be accommodated in cooperation with the MUP.<sup>1695</sup> A similar order was issued on 4 August 1992 by Colonel Ilić, Commander of the Eastern Bosnia Corps, for steps to be taken to “adapt” and “prepare” Batković camp for a visit by foreign journalists and the ICRC.<sup>1696</sup> ST245, a reserve police officer in Prijedor, testified that they received information of the ICRC visit to Omarska one day in advance, and they cleaned the areas where the detainees were held and added additional beds.<sup>1697</sup>

654. On 5 August 1992, an international delegation visited the camps, and the media reported that detainees at Omarska and Trnopolje were held in inhumane conditions and subject to physical abuse.<sup>1698</sup> Stanišić recalled having seen the video footage of the Trnopolje and Omarska camp taken by the international press in the latter half of 1992.<sup>1699</sup>

655. On 6 August 1992, the RS Presidency took the decision to order the RS MUP to examine the behaviour of all civilian authorities and individuals guarding POWs through its municipal branches and to inform the Presidency of its findings.<sup>1700</sup> On the same day, Karadžić tasked the RS MUP and MOJ with preparing official joint “reports on the treatment and behaviour by Serbian authorities of prisoners of war and the living conditions of prisoners held in prisons in municipalities where such cases exist” for submission to the Presidency within 10 days.<sup>1701</sup>

656. On 7 August 1992, Karadžić wrote to Branko Đerić, attaching copies of the ICRC report and his response to it, stating: “Based on these reports, I expect for the Government to take prompt action, through the Ministries of Justice and Interior, to improve the living conditions of the

<sup>1694</sup> P247, Minutes of the 48<sup>th</sup> Session of the RS Government, 28 July 1992, p. 11.

<sup>1695</sup> P1683, Order from Ratko Mladić to VRS Main Staff, 3 August 1992.

<sup>1696</sup> 1D770, VRS Eastern Bosnia Corps Order on the Adaptation of the Camp, 4 August 1992.

<sup>1697</sup> ST245, 3 November 2010, T. 16791.

<sup>1698</sup> P427.20, Article by Jonathan Miller in the Sunday Times, 9 August 1992, pp. 2-3; P1357, Video Excerpts from Omarska and Trnopolje, undated; Ian Traynor, 17 May 2010, T. 10341-10342.

<sup>1699</sup> P2309, OTP Interview with Mićo Stanišić, 20 July 2007, pp. 2, 14-15, 22-23; P1357, Video Excerpts from Omarska and Trnopolje, undated.

<sup>1700</sup> P427.18, Minutes of the 24<sup>th</sup> Session of the RS Presidency, 6 August 1992, p. 2.

<sup>1701</sup> P191, Conclusion of the RS Presidency, 6 August 1992.

prisoners on our territories that are being held by civil authorities.”<sup>1702</sup> Branko Đerić testified that the RS Government was informed about the collection centres and camps by the RS MUP and MOJ, as well as through international journalists who started discussing the matter keenly.<sup>1703</sup> Stanišić said that, at the time of the international outcry concerning the camps, only the Presidency had information about the “real state of affairs” through the military chain of command and that such information was not even available to the Prime Minister. He added that the detainees were mainly people captured in the context of military operations and that their arrest and detention was all within the jurisdiction of the Crisis Staffs.<sup>1704</sup>

657. On 8 August 1992, Tomislav Kovač sent a letter to the President and Prime Minister of RS proposing to categorise prisoners “of other ethnicities in the facilities and collection centres located in war zones” in accordance with international conventions on refugees and POWs. In his letter, he stressed that the detained civilians who were not involved in crimes, “despite belonging to another ethnic group whose extremists are at war with the Serbian Republic of BiH, only be considered refugees under the somewhat stricter control of the [RS MUP].”<sup>1705</sup> Kovač testified that, following his letter, the RS Government acted quickly and adopted a series of very specific measures aimed at eradicating inappropriate behaviour and ensuring that institutions, such as the judiciary and correctional and prisoner facilities, had a clear vision of how to act in accordance with the proffered prisoner guidelines. According to Kovač, civilians and POWs were detained together because there was no fast or adequate separation between the civilian population and members of fighting units.<sup>1706</sup>

658. Following the visit by international groups and media, on 22 August 1992 the 1<sup>st</sup> KK Command informed the Prijedor Operative Group as follows:

[A]ll are now washing their hands regarding camps and reception centres, attempting to pass responsibility for issuing orders for mass execution of civilians in the camps and centres onto someone else. This has become particularly noticeable since the visit of foreign reporters to Prijedor, more precisely to Omarska and Trnopolje. Forged (antedated) documents about all this are even appearing.<sup>1707</sup>

659. Reports prepared between 29 August and 3 September 1992 by the CSCE Mission and other international organisations, and based on visits to Manjača, Trnopolje, and other camps in the ARK, stated that, in light of the conditions in the camps, it was “impossible to escape the conclusion that

<sup>1702</sup> P179.13, Letter from Radovan Karadžić Regarding the Report of the ICRC, 7 August 1992, p. 1.

<sup>1703</sup> Branko Đerić, P179.02, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 12 July 2006, T. 27111.

<sup>1704</sup> P2309, OTP Interview with Mićo Stanišić, 20 July 2007, pp. 2-4, 15.

<sup>1705</sup> Tomislav Kovač, 7 March 2012, T. 27049, 27057-27060; P192, Letter to RS President and Prime Minister suggesting a categorisation of prisoners, 8 August 1992.

<sup>1706</sup> Tomislav Kovač, 7 March 2012, T. 27054-27055; 27057; P192, Letter to RS President and Prime Minister suggesting a categorisation of prisoners, 8 August 1992.

<sup>1707</sup> P1791, 1<sup>st</sup> KK Command Information Provided to the Prijedor Operative Group, 22 August 1992, p. 2.

most prisoners are innocent people who have been seized as hostages to promote ethnic cleansing [and] pawns in vicious games played by nationalist politicians”.<sup>1708</sup> Following a meeting with Milomir Stakić and Simo Drljača, McLeod concluded:

The authorities insist that they are acting in the best interests of all the people in their area, that they have no desire to get rid of the Muslim population. However, this just does not match what they are actually doing. And against this background, it is very hard to draw conclusions based on what is said. The conclusion to be drawn from what we have seen is that the Muslim population is not wanted and is being systemically kicked out by whatever method is available.<sup>1709</sup>

660. On 22 October 1992, Momčilo Mandić forwarded a report on the situation in prisons and collection camps for POWs in RS to the President of RS, the Prime Minister, and the Chairman of the BSA. In the cover letter of the report to the highest RS authorities, Mandić wrote that the MOJ would “take all appropriate measures stipulated by law to remove all the shortcomings that have been noticed”. The report was prepared by Slobodan Avlijaš on behalf of the MOJ and on the 28 July 1992 order of the RS Government as a result of a list of prisons and camps for POWs submitted by the ICRC. Avlijaš visited the camps in Vlasenica, Zvornik, Brčko, Prijedor, Sanski Most, Doboj, Banja Luka, Ilidža, and Hadžići between 10 and 17 October 1992. According to this report, there were officially no camps in Vlasenica, Brčko, Prijedor (even though people were still gathering in Trnopolje), Sanski Most, while there were prisons in Zvornik, Doboj, and Banja Luka.<sup>1710</sup>

661. In Vlasenica municipality, there was a camp in Luka which was used for isolating Muslims in the early months of the conflict. However, on the date of the inspection the camp was empty. According to the local SJB commander, the prisoners had been transferred to other places or exchanged. In Zvornik, 64 Muslim were detained in the town prison, under the supervision of the SJB, because “the other side” refused to conduct an exchange. Upon inspection of a location in Brčko, where, according to an ICRC report 2,500 Muslims had been reportedly liquidated, Avlijaš ascertained that “five mass graves where a total of 226 people are buried” existed, all of whom had died in combat activities, barring 17, who had died of natural causes. The report noted that the MUP and other services had carried out the identification of the dead on several occasions, but recommended that internationally supervised exhumations should be conducted.<sup>1711</sup>

<sup>1708</sup> Charles McLeod, 24 November 2010, T. 17714-17721; P1599, Report of CSCE Mission to Inspect Places of Detention in BiH, 29 August-4 September 1992, p. 10; P1727.03, Report by Charles McLeod of his Meetings with RS Authorities in August 1992, pp. 50-54; P1727.04, Excerpt of Letter from Charles McLeod to his Father with Impressions of Trnopolje Camp, undated.

<sup>1709</sup> Charles McLeod, 24 November 2010, T. 17720-17722; P1727.16, Memo from Charles McLeod to Political Advisor on CSCE Rapporteur Mission to Banja Luka, 30-31 August 1992, p. 5.

<sup>1710</sup> P393, Report of the MOJ on the Situation in Prisons and Collection Camps for POWs, 22 October 1992. *See also* P247, Minutes of the 48<sup>th</sup> session of the RS Government, 28 July 1992, p. 10.

<sup>1711</sup> P393, Report of the MOJ on the Situation in Prisons and Collection Camps for POWs, 22 October 1992, pp. 1-4.

662. In relation to Prijedor, Avlijaš reported that, due to rumours among the Muslims that “the only way to leave this town [was] to gather at the Trnopolje collection centre”, 3,000 people had gathered there over a short period of time. In Doboj detainees were held at the District Prison on the orders of both the civilian and military authorities, although it was the army that secured the detainees. Reportedly, the ICRC found the conditions of the Doboj District Prison to be satisfactory. Moving to Banja Luka, the report noted that the ICRC possessed all information about Manjača. An agreed exchange on an “all-for-all basis” was under way at Manjača, but it had not yet been completed for “practical reasons”. Teslić was reportedly still difficult to access due to ongoing combat, but Avlijaš had reportedly learnt that there was a POW camp organised and supervised by the VRS. Avlijaš further reported on the existence of two detention centers in Ilidža and Hadžići, both run by the police. Avlijaš reported that he proposed that the prisoners in Ilidža and Hadžići be transferred to Butmir Correction House in Vogošća. Avlijaš concluded the report by stating that, as late as October 1992, in Zvornik, Ilidža, and Hadžići the police kept people in custody without any authorisation or justification in law.<sup>1712</sup>

663. According to Trbojević, none of the camps listed in the MOJ report, with the exception of Doboj and Banja Luka, “could have been legal”. He had not seen a single decision on the establishment of these centres.<sup>1713</sup> On 27 October 1992, at a session attended by Stanišić, the RS Government concluded that existing illegal camps and assembly centers were to be dissolved as soon as possible and that existing penal institutions formed legally were to be used because they were more suitable to ensure legal treatment of “prisoners and inmates”.<sup>1714</sup>

(vii) Stanišić’s orders in early August 1992

664. Following up on the request from the RS Presidency to the RS MUP and MOJ on 6 August 1992, Stanišić ordered all CSB and SJB chiefs to obtain information concerning the treatment of POWs and the conditions of life of detainees on 8 August 1992. He further ordered that “all leading staff” in SJBs immediately release and allow the free movement of the civilian population.<sup>1715</sup>

665. The order of 8 August 1992 was passed down by the CSB chiefs to all SJBs and from there to the police sub-stations in each jurisdiction, such as Prijedor, Doboj, Sarajevo, Banja Luka, and Bijeljina.<sup>1716</sup> Dragomir Andan, Acting Chief of the Bijeljina CSB, testified that they acted in

<sup>1712</sup> P393, Report of the MOJ on the Situation in Prisons and Collection Camps for POWs, 22 October 1992, pp. 5-7.

<sup>1713</sup> Milan Trbojević, P427.03, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 6 April 2005, T. 11548.

<sup>1714</sup> P253, Minutes of the 57<sup>th</sup> Session of the RS Government, 17 November 1992, p. 6.

<sup>1715</sup> 1D563, RS MUP Order to all CSBs to Obtain Information about Conditions of Detainees, 8 August 1992, p. 1.

<sup>1716</sup> 1D83, Memorandum of Prijedor SJB Documenting the Contents of Dispatch from Banja Luka CSB Concerning Responsibility for Application of Powers regarding Detention, 20 August 1992. *See also* ST161, 19 November 2009, T. 3462-3463 (confidential).



accordance with the order from Stanišić, although there were no detention camps or centres that were held by the MUP in the area of Bijeljina.<sup>1717</sup> Zoran Cvijetić, Chief of Romanija–Birač CSB, forwarded the order to the all SJB Chiefs in his jurisdiction.<sup>1718</sup> According to Borovčanin, Cvijetić's order referred to people detained in Pale gymnasium.<sup>1719</sup> Borovčanin specified that, although Stanišić's order spoke about "freedom of movement" for these people, they were escorted, for their own security, to the demarcation line.<sup>1720</sup>

666. Kovač testified that following the order of 8 August 1992, chiefs of CSBs formed commissions with regard to the treatment of civilians and prisoners.<sup>1721</sup> In this regard, the Trial Chamber recalls that another commission was formed by Stojan Župljanin on 14 August 1992 which was tasked with preparing a report on prisoners, detention centres, resettlement, and the role of SJB in relation to Prijedor, Bosanski Novi, and Sanski Most.<sup>1722</sup> As narrated in the section on Stojan Župljanin's Individual Criminal Responsibility, the report of this commission focussed on the number of detainees in each camp and their categorisation but it did not contain information on the mistreatment of prisoners or the inadequacy of the conditions in the detention facilities.<sup>1723</sup>

667. In a subsequent order of 10 August 1992 to the chiefs of the Sarajevo, Doboj, Trebinje, Bijeljina, and Banja Luka CSBs, Stanišić stressed that detention should be carried out "exclusively within existing regulations" and that the security of collection centres was the direct responsibility of the army, who could be assisted by reserve police, if needed. The order stated that Stanišić would hold SJB personnel personally responsible for the lives of the people in detention, prevention of any form of abuse, and health and hygiene conditions. Stanišić also ordered that disciplinary and other measures be taken against those who did not follow this order.<sup>1724</sup>

668. On 17 August 1992 Stanišić sent another order to the CSB chiefs ordering once again to abide by the laws of war and international conventions in the treatment of POWs and "civilian

<sup>1717</sup> Dragomir Andan, 30 May 2011, T. 21528-21529.

<sup>1718</sup> P999, Order Issued by the RS MUP on the Treatment of POWs, 14 August 1992, pp. 1-2.

<sup>1719</sup> See Pale section.

<sup>1720</sup> Drago Borovčanin, 23 February 2010, T. 6724-6725; P999, Order Issued by the RS MUP on the Treatment of POWs, 14 August 1992.

<sup>1721</sup> Tomislav Kovač, 7 March 1012, T. 27062-27063.

<sup>1722</sup> 2D26, Župljanin's Decision to Form a Commission to Investigate the Existence and Conditions of Detention Centres in Prijedor, Bosanski Novi, and Banja Luka, 14 August 1992; 2D90, Report on Prisoners, Centres, Resettlement and Role of SJB Relating to Prijedor, Bosanski Novi, and Sanski Most, 19 August 1992, p. 32. The Trial Chamber notes that a part of this document was admitted as P602.

<sup>1723</sup> See section on Stojan Župljanin's Individual Criminal Responsibility.

<sup>1724</sup> 1D55, RS MUP Order on Treatment of Detained Persons, 10 August 1992; 1D479, Doboj CSB Forwarding RS MUP Dispatch Dated 10 August from Stanišić, 12 August 1992; P2049, Dispatch of Doboj CSB Forwarding Order by Mićo Stanišić, 12 August 1991, pp. 2-3. The SJBs under Doboj CSB in this order are Doboj, Magalj, Teslić, Derventa, Modriča, Bosanski Šamac, and Petrovo.

population-refugees”.<sup>1725</sup> Stanišić requested that the Ministry be immediately informed about the existence of possible “[w]ild prisons” and other camps where the treatment of the prisoners violated international or internal regulations and ordered that criminal reports be filed against the perpetrators of such crimes.<sup>1726</sup>

669. Andrija Bjelošević, Chief of the Doboj CSB, forwarded the order he received from Stanišić on 10 August 1992 to all the SJBs in the territory of his CSB.<sup>1727</sup> Stojan Župljanin forwarded Stanišić’s orders of 10 and 17 August 1992 to all SJBs within CSB Banja Luka,<sup>1728</sup> and Simo Drljača, in turn, forwarded them to the Prijedor SJB substations.<sup>1729</sup>

670. According to Goran Mačar, Mićo Stanišić was consistent in insisting that MUP personnel act in accordance with the law.<sup>1730</sup> For example, with regard to Stanišić’s orders of 10 and 17 August 1992 forwarded by Župljanin on 19 August 1992 regarding the police involvement in securing detention facilities, police members were threatened with disciplinary measures such as withholding of salaries.<sup>1731</sup> This information was passed down the chain of command to subordinate units where the Ministry could “directly affect” and ensure discipline.<sup>1732</sup>

(viii) Government commissions for detention facilities

671. On 9 August 1992, the RS Government formed two commissions, consisting of representatives from the MUP and the MOJ, to gain insight, through the competent state organs about the status of people in “collective centres and other facilities for prisoners” in RS. The commissions were further tasked to speed up the process of categorising these people, “determining their guilt and uttering the penalties”. The first commission consisted of Vojin Lale, the Assistant Minister of Justice, and Mirko Erkić, an inspector in the MUP, while the second commission comprised of Slobodan Avlijaš, Deputy Minister of Justice, and Goran Sarić, an inspector in the

<sup>1725</sup> 1D56, RS MUP Order that Employees of CSBs and SJBs Follow Law and International Conventions in their Treatment of Prisoners and Refugees, 17 August 1992. The Chamber notes that 1D77, Order to Treat POW and Refugees in Accordance with International Law, 17 August 1992, is duplicative of 1D56.

<sup>1726</sup> 1D56, RS MUP Order that Employees of the CSBs and SJBs Follow Law and International Conventions in Their Treatment of Prisoners and Refugees, 17 August 1992, pp. 1-2.

<sup>1727</sup> Andrija Bjelošević, 15 April 2011, T. 19719; P2049, Dispatch of Doboj CSB Forwarding Order by Mićo Stanišić, 12 August 1991, pp. 2-3; 1D479, Doboj CSB Forwarding MUP Dispatch dated 10 August from Stanišić, 12 August 1992.

<sup>1728</sup> P605, Order from Chief of Banja Luka CSB to all Chiefs of SJBs Regarding Orders of 10 and 17 August 1992, 19 August 1992.

<sup>1729</sup> 1D83, Memorandum of Prijedor SJB Documenting the Contents of Dispatch from Banja Luka CSB, 20 August 1992; P1903, Memorandum of Prijedor SJB Forwarding Dispatch from Banja Luka CSB, 21 August 1992.

<sup>1730</sup> Goran Mačar, 7 July 2011, T. 22963-22964; P605, Župljanin Order to all SJB Personnel Regarding Orders of 10 and 17 August 1992 from Minister Stanišić, 19 August 1992; 1D55, RS MUP Order on Treatment of Detained Persons, 10 August 1992; 1D56, RS MUP Order that Employees of CSBs and SJBs Follow the Law and International Conventions in their Treatment of Prisoners and Refugees, 17 August 1992.

<sup>1731</sup> P605, Župljanin Order to all SJB Personnel Regarding Order from Minister Stanišić, 19 August 1992, p. 1; 1D48, RS MUP Dispatch on Background Checks of All Employees, 17 December 1992.

MUP. Both commissions were to submit reports to the RS Government after visiting the relevant facilities.<sup>1733</sup>

672. On 17 August 1992, the commission consisting of Vojin Lale and Mirko Erkić filed its report with the RS Government based on inspections of a number of detention facilities which included Omarska, Trnopolje, and Keraterm in Prijedor and Manjača in Banja Luka. They concluded that the accommodation of prisoners was unsatisfactory and that there were problems with food and a lack of suitable regulations regarding “the treatment of civilian refugees”.<sup>1734</sup>

673. The other commission, consisting of Slobodan Avlijaš and Goran Sarić carried out inspections in the territories of Trebinje, Gacko, and Bileća between 18 and 20 August 1992. They found that there were no camps in Trebinje and no prisoners in the Bileća barracks since all of them had been exchanged the day before the visit. Goran Vujović, Head of Bileća SJB informed them, however, that 140 Muslims, ten of whom were above the age of 60, were “isolated for safety reasons, to prevent retribution” and “accommodated in reasonably good conditions” in the police premises. These prisoners did not complain about their treatment and were visited daily by their families who brought them food. The commission suggested to Vujović that the prisoners be released to which he responded that he had already been so informed by the “ministry in charge”. In Gacko, the SJB Chief Popović informed the commission that there were no prisoners in his area.<sup>1735</sup>

(ix) Late August–end of 1992

674. At a meeting of supervisory and managerial employees of the RS MUP attended by Stanišić on 20 August 1992, it was reported that “a general problem in the Semberija SAO is the high rate of criminal conduct by members of the Serbian people”, including looting.<sup>1736</sup> During the meeting, Rade Radović, section chief from the Police Administration, highlighted the problem of “illegally occupied housing and suggested this problem be analysed from the point of view of police officers’ actions”. He also raised the issue of the lack of updated records on confiscated goods and stressed the need for stricter adherence to regulations in this matter.<sup>1737</sup> In summarising the discussion, Stanišić noted that the “internal affairs organs have been infiltrated by individuals whose criminal

<sup>1732</sup> Goran Mačar, 7 July 2011, T. 22964.

<sup>1733</sup> P193, Decision of the RS Government on Forming Commissions for Visits to Collective Centers and Other Facilities for Prisoners in the Republika Srpska, 9 August 1992. The Trial Chamber notes that the same exhibit was also admitted as 1D254. *See also* P427.13, Minutes of the 46<sup>th</sup> Session of the Government of the Serb Republic of the BiH, No. 46, 9 August 1992, p. 4.

<sup>1734</sup> Momčilo Mandić, 5 May 2010, T. 9595; Christian Nielsen, 27 January 2010, T. 5621; P194, Report of RS Government Commission on the Inspection of Collection Centres and Other Facilities for Captives in the Autonomous Region of Krajina, 17 August 1992.

<sup>1735</sup> P165, Report on Detention Facilities in Trebinje, Gacko, and Bileća.

<sup>1736</sup> P163, RS MUP Summary of the MUP Management Working Group Meeting in Trebinje, 20 August 1992, pp. 2, 7.

<sup>1737</sup> P163, RS MUP Summary of the MUP Management Working Group Meeting in Trebinje, 20 August 1992, p. 11.

and other anti-social behaviour sullies the reputation of the MUP as a whole, and we must immediately rid ourselves of such individuals”.<sup>1738</sup>

675. On 24 August 1992, Stanišić forwarded to all CSBs and SJBs a request from the Ministry of Health, Work, and Social Security concerning the collection of data on detention camps. Stanišić ordered the provision of information about the names and locations of prison camps, the identity of detainees, authorities who had set them up, and who had ordered the arrests of the people detained therein. The information was to be provided by 30 August 1992. CSBs were to compile information received by SJBs in their respective areas of responsibility.<sup>1739</sup>

676. In response, on 28 August, Simo Drljača, Chief of the Prijedor SJB, reported to the RS MUP that there were no camps, prisons, or collection centres on the territory of the Prijedor Municipality, but that there were 1,335 POWs in Manjača.<sup>1740</sup> Similarly, on 29 August 1992, the Ključ SJB Chief Vinko Kondić reported to the Banja Luka CSB that there “are no camps, prisons or collection centres in our municipality” and that they sent all the prisoners to Manjača.<sup>1741</sup> Bjelošević testified that the Doboj CSB acted in accordance with the request and provided all required information.<sup>1742</sup>

677. According to Stanišić, he first learned of the incident at Koričanske Stijene two or three days after the incident from Živko Bojić, a member of the crime section in the Banja Luka CSB. Bojić informed Stanišić that the crime section of the Banja Luka CSB was conducting an onsite investigation and the area of Koričani was under the area of responsibility of Colonel Peulić.<sup>1743</sup> Nevertheless, on 31 August 1992, 10 days after the events at Koričanske Stijene took place, Mićo Stanišić reinforced the obligation on part of the crime service to undertake everything that was necessary and ordered investigations into the deaths of 150 Muslims.<sup>1744</sup> He believed he did whatever he could to ensure that an investigation was carried out in accordance with law and all efforts were made to solve the case.<sup>1745</sup> Stanišić trusted that Bojić would do his utmost to carry out his order owing to the seriousness of the incident.<sup>1746</sup> He was aware that the police had undertaken on-site investigations even before his order, as part of their regular work and obligations under the

<sup>1738</sup> P163, RS MUP Summary of the MUP Management Working Group Meeting in Trebinje, 20 August 1992, p. 8.

<sup>1739</sup> Slobodan Marković, 13 July 2010, T. 12763-12764; Aleksandar Krulj, 28 October 2009, T. 2152-2154; Andrija Bjelošević, 19 April 2011, T. 19809-19810; 1D57, Dispatch for Collecting Data about Prisons, Collection Centers, and Detention Camps, signed by Stanišić, 24 August 1992.

<sup>1740</sup> Tomislav Kovač, 7 March 2012, T. 27067-27068; 2D95, Dispatch from Simo Drljača to Banja Luka CSB Reporting on Collection Centres in Prijedor, 28 August 1992.

<sup>1741</sup> P972, Dispatch of SJB Ključ to Banja Luka CSB Providing Information in Connection with Earlier Dispatch, 29 August 1992.

<sup>1742</sup> Andrija Bjelošević, 19 April 2011, T. 19809-19810.

<sup>1743</sup> P2303, Second Session of OTP Interview with Mićo Stanišić, 17-18 July 2007, pp. 28-31.

<sup>1744</sup> P847, Order from Mićo Stanišić to Investigate and Report about the Killing of 150 Muslims in Koričanske Stijene/Vlasić Mountain, 31 August 1992.

<sup>1745</sup> P2303, Second Session of OTP Interview with Mićo Stanišić, 17-18 July 2007, pp. 2, 5, 28-31; P1379, Report of Miloš Group Regarding the Killing of a Large Number of Muslim Civilians in Koričanske Stijene, Prijedor.

LIA, and his order was meant more to emphasise the importance of the event and to prevent any omission.<sup>1747</sup>

678. Stanišić was also told that the basic investigative judge and the prosecutor, who were being assisted by the crime section of CSB Banja Luka, had assumed jurisdiction over the case, but he thought at the time that since the victims were POWs, the incident should have been investigated by the military prosecutor or at least by the district prosecutor at a higher level than by the basic court. He stated that all investigations were terminated in 1993.<sup>1748</sup> Stanišić did not relay the information he received from Bojić further because the incident had occurred within the area of responsibility of the army, which had already informed the Supreme Commander of the VRS and the Presidency of the RS, who had dispatched the Minister of Defence to Banja Luka.<sup>1749</sup> He disagreed with the decision to terminate the investigations.<sup>1750</sup> Based on the information available to him in 1994, Stanišić suspected that there had been an attempt by Subotić to cover-up the involvement of the PIP since the “military police would not allow the civilian police to make any arrests [...] and to conduct investigations.” He then tasked Bjelošević, Mačar, and Bojić to investigate and solve the case, arrest members of the military police, and to turn over the gathered evidence to the prosecutor.<sup>1751</sup>

679. On 6 September 1992, in response to reports of senior employees not following procedure—which Stanišić believed were creating a “negative attitude towards MUP” and belittling the results “achieved so far”—Stanišić ordered all CSBs and SJBs to act in compliance with the regulations of the LIA when confiscating items and to hand over such property to the MUP.<sup>1752</sup>

680. Mićo Stanišić chaired a meeting of RS MUP officials held in Jahorina on 9 September 1992, which was attended by all the assistant and deputy ministers, representatives of the administrations, and representatives of the CSBs. At the meeting, Stanišić stressed the need to fully implement his order of 6 September 1992 and to release from service all persons who fail to meet the criteria for employment in the MUP. He asked that the Ministry be informed in a timely and accurate manner of the security concerns and measures taken in the territory of the RS.<sup>1753</sup>

<sup>1746</sup> P2303, Second Session of OTP Interview with Mićo Stanišić, 17-18 July 2007, p. 30.

<sup>1747</sup> P2303, Second Session of OTP Interview with Mićo Stanišić, 17-18 July 2007, p. 32.

<sup>1748</sup> P2303, Second Session of OTP Interview with Mićo Stanišić, 17-18 July 2007, pp. 2-4, 35-36.

<sup>1749</sup> P2303, Second Session of OTP Interview with Mićo Stanišić, 17-18 July 2007, pp. 33-34.

<sup>1750</sup> P2303, Second Session of OTP Interview with Mićo Stanišić, 17-18 July 2007, pp. 3-4.

<sup>1751</sup> P2303, Second Session of OTP Interview with Mićo Stanišić, 17-18 July 2007, pp. 38-40.

<sup>1752</sup> Aleksandar Krulj, 28 October 2009, T. 2175-2176; Andrija Bjelošević, 19 April 2011, T. 19810-19811; 1D64, Order of the RS MUP on Performing Tasks by Measure of Confiscating Items, 6 September 1992.

<sup>1753</sup> P1269, Minutes of an Expanded Session of the Council of the RS MUP, 9 September 1992, pp. 1, 3.

681. A report of 24 September 1992, prepared by the RS MUP Administration for Legal, Administrative, Personnel, and Alien Affairs, confirmed that “[v]arious nominating bodies appear in the selection and nomination of staff”, including the municipal assemblies and Crisis Staffs. Background checks were not conducted, allowing for the employment of persons with “criminal or disciplinary records”. Despite direct orders from Stanišić forbidding appointments locally, organisational units continued to issue decisions without the knowledge or approval of the Minister. The report recommended that the Minister issue a special instructional dispatch stressing the responsibility of the managerial staff for implementing the procedure for the proposal and appointment of staff.<sup>1754</sup>

682. On 5 October 1992, Stanišić reiterated a request to the CSBs to submit completed questionnaires on any criminal reports filed against persons suspected of having committed war crimes. This was necessary to enable the RS MUP to keep the RS Presidency and Government informed of statistics concerning the commission of crimes. The questionnaires were to include information on the nationality, age, and occupation of both the perpetrators and victims of war crimes, aside from details on the conduct integrating the alleged crime. The CSBs were directed to submit the questionnaires by 10 October 1992, failing which the respective chiefs were to send written reasons for not doing so.<sup>1755</sup> According to Orašanin, an investigator of the MUP, this information was to be processed irrespective of ethnicity.<sup>1756</sup>

683. In a report on the work of the Banja Luka CSB covering the period of 1 July to 30 September 1992, prepared by Župljanin in October 1992, it is stated that during that period 239 policemen in the CSB Banja Luka participated in “securing reception and collection centres”, but no further detail about the nature of the work of police officers at the collection centres was provided in the report.<sup>1757</sup> The report stated that police members filed 126 criminal reports and 116 requests for initiation of disciplinary proceedings against perpetrators of criminal acts and offences, but did not indicate the nature of the crimes or the identity of the victims.<sup>1758</sup>

684. In November 1992, in a dispatch sent to all MUP Administrations, the SNB, and all CSB and SJB chiefs, Stanišić laid down the manner for hiring new employees in the MUP in accordance with a proposed statute on the internal organisation of the Ministry pursuant to a decision taken at

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<sup>1754</sup> 1D665, Report on Certain Personnel Problems and the Nomination and Appointment Procedure with Proposed Measures, 24 September 1992, pp. 2-3.

<sup>1755</sup> 1D572, RS MUP Letter to all CSBs Repeating Instruction to Report on War Crimes, 5 October 1992.

<sup>1756</sup> Milomir Orašanin, 7 June 2011, T. 21962, 21964.

<sup>1757</sup> ST213, 5 March 2010, T. 7276-7277 (confidential); P621, Report of Banja Luka CSB on the Work of the SJB Banja Luka for the Period from 1 July to 30 September 1992, October 1992, pp. 5, 7.

<sup>1758</sup> P621, Report of Banja Luka CSB on the Work of the Banja Luka SJB for the Period from 1 July to 30 September 1992, October 1992, p. 6.

the 11 July Collegium of the MUP. He noted that, due to the interference of the organs of the RS Government and individuals in municipal assemblies in the administrative policies at SJBs and CSBs “in an unacceptable manner”, the municipal assemblies and their executive boards would be apprised of the decision separately.<sup>1759</sup> This instruction reiterated the order of 23 July 1992 from Stanišić for the removal of persons found responsible for crimes before or during the war from the ranks of the RS MUP.<sup>1760</sup> A separate note to all municipal assemblies was sent out on 20 November 1992 and emphasised the legal responsibility of the chiefs of CSBs for the security situation in their areas and requested their cooperation in following the proper procedure for nominating candidates.<sup>1761</sup>

685. On 15 December 1992, Stanišić requested a detailed report from the SNB, all CSBs, SJBs, and Administrations on their activities over the previous nine-month period and possible future developments in their respective areas, including all action they had taken in reporting and investigating the commission of crimes, with numerical indicators focused on the “period leading up to and during the April events which saw the separation of the Serb MUP”, which is “significant for the overall effort to set up and consolidate the authority of the [RS], liberate Serb territories and create the [RS].”<sup>1762</sup>

686. The Administration for Analysis and Data compiled the reports it received from CSBs and SJBs into an annual report on the working of the MUP from April through December 1992.<sup>1763</sup> The report canvassed the efforts of the MUP services in preventing and detecting crimes during war operations and stated that there was a sharp increase in crimes, particularly as a result of the activities of armed paramilitary groups as well as the army, reserve police, and others in uniforms. It was reported that “the most severe forms of crime which appeared in this war period for brutality, ruthlessness and other elements comprising it, are crimes against humanity and international law.”

<sup>1759</sup> ST121, 25 November 2009, T. 3786-3787 (confidential); 1D60, Dispatch on Discussions During the Steering Committee, 16 November 1992. *See also* the forwarding of this instruction by Prijedor SJB, 1D671, SJB Prijedor forwarding RS MUP Dispatch dated 16 November 1992 Regarding Conclusions on Appointments within the RS MUP, 29 November 1992, pp. 1-2.

<sup>1760</sup> Aleksandar Krulj, 28 October 2009, T. 2162; 1D60, Disptach on Discussions During the Steering Committee, 16 November 1992, p. 4; 1D58, Order of Mićo Stanišić to Take Legal Measures Against Members of the MUP Who Have Committed Criminal Acts, 23 July 1992.

<sup>1761</sup> Andrija Bjelošević, 20 April 2011, T. 19890-19891; 1D522, RS MUP dispatch to all Municipality Assemblies Regarding Proposals for Appointments of Persons to Leading Positions in CSBs and SJBs, 20 November 1992.

<sup>1762</sup> Drago Raković, 25 February 2010, T. 6936; P1011, Order to CSBs and SJBs Heads in the RS MUP to Forward Report of their Area of Responsibility to Enable the to Minister Write an Annual Report of the Work of the MUP, 15 December 1992, pp. 1-2, 7-10.

<sup>1763</sup> Dragan Kezunović, 10 June 2010, T. 11556-11557; Drago Raković, 26 February 2010, T. 6989; Goran Mačar, 13 July 2011, T. 23246-23248; Simo Tuševljak, 23 June 2011, T. 22732-22733; Milomir Orašanin, 9 June 2011, T. 22139-22140, 22142-22144; P625, Annual Report of the RS MUP for the period April-December 1992, January 1993. *See, e.g.,* component report from municipalities that form the basis of the Draft Annual Report, P1456, Report on the Activities of Criminal Investigations Department of SJB Pale in the Period between 1 April and 31 December 1992, 31 December 1992 (confidential), pp. 4-5.

The report went on to state that the number of these crimes, with 101 registered cases, was greater than others, and the collection of information on it was a “difficult and long-term task”.<sup>1764</sup>

687. On 16 December 1992, Stanišić sent a dispatch to all CSBs and MUP Administrations that employees under suspension or temporarily removed from their tasks were to be placed under the VRS without awaiting final outcome of the disciplinary proceedings.<sup>1765</sup>

688. On 17 December 1992, in accordance with the conclusions adopted in the collegium of 12 December 1992, Stanišić requested that background checks be conducted for all MUP personnel and that employees with criminal records should immediately be relieved from duty.<sup>1766</sup>

(x) General sources of information

689. Slobodan Škipina, who was appointed Advisor on matters relating to the SNB on 6 August 1992 after having served as Head of the SNB until 3 July 1992, reported directly to the Minister of the RS MUP on events that were brought to his attention, some of which were included in daily bulletin reports for other leading members of the RS.<sup>1767</sup> Members of the SNB visited various locations from the outbreak of the conflict, and kept the RS MUP, along with the SUP in Serbia, abreast of developments in the municipalities. Reports prepared by members of the secret service branch of the MUP incorporated information on rising ethnic tensions, the outbreak of hostilities, the death toll on both sides following the takeovers of towns and municipalities, crimes against Muslim and Croat civilians, and the arrest and detention of civilians by the army and SJBs.<sup>1768</sup> While not every report prepared by the “Miloš Group” intelligence team, headed by Predrag Radulović, was directly submitted to the RS MUP, the information in these reports was relayed through the leadership of Banja Luka to the upper echelons of decision makers.<sup>1769</sup>

<sup>1764</sup> P625, Annual Report of the RS MUP for the period April-December 1992, January 1993, pp. 12-14 (emphasis removed).

<sup>1765</sup> P855, Dispatch from Mićo Stanišić to all CSBs and MUP Administrations, 16 December 1992.

<sup>1766</sup> 1D48, RS MUP Dispatch on Background Checks of All Employees, 17 December 1992; P855, Dispatch from Mićo Stanišić to all CSBs and MUP Administrations, 16 December 1992.

<sup>1767</sup> Slobodan Škipina, 30 March 2010, T. 8308-8312, 8316-8317, 8323; P1267, Appointment of Slobodan Škipina as Advisor on Duties and Tasks of the SNB at the RS MUP, 6 August 1992; P1268, Letter Addressed to Mićo Stanišić by Slobodan Škipina Requesting his Release from Duty of the Under-Secretary for SNB, 3 July 1992; P1254, RS MUP Security Situation Daily Bulletin no. 8, 30 April 1992.

<sup>1768</sup> Predrag Radulović, 25 May 2010, T. 10721-10734 (confidential), 1 June 2010, 11121-11130, 2 June 2010, 11199-11201, 11206-11210; Goran Sajinović, 17 October 2011, T. 25115, 25120-25122, 18 October 2011, T. 25217-25218, 25293-25298 (confidential); P1368, Report of Miloš Group Regarding the Inter-Ethnic Division in the SJBs in Prijedor, Sanski Most, Kotor Varoš, Bosanski Novi, and Ključ, 9 April 1992; P1375, Report of Miloš Group Regarding Prijedor Takeover, 30 April 1992; P1376, Miloš Group Report, 28 May 1992; P1377, Miloš Group Report, 30 May 1992; P1387, Miloš Group Report, 3 June 1992.

<sup>1769</sup> Predrag Radulović, 25 May 2010, T. 10720-10723 (confidential), 10728-10731, 27 May 2010, T. 10894-10898, 10950-10951, 28 May 2010, T. 10997, 1 June 2010, T. 11119-11121, 2 June 2010, T. 11206-11209, 11213-11214.



690. The Trial Chamber recalls its findings that, despite many difficulties in the communications within the RS MUP, especially during the period from April to the summer of 1992, the system of communications did function—albeit with disruptions—and that, in the second half of 1992, communication was well established.<sup>1770</sup> According to the communications logbook of the RS MUP headquarters, Stanišić was regularly informed throughout 1992 about crimes and action being taken to investigate them.<sup>1771</sup> Daily, weekly, and quarterly reports were compiled, in addition to security situation reports on a periodic basis.<sup>1772</sup> Aleksander Krulj testified that these reports were prepared in order for the Minister to “know what happened in the territory of the republic”.<sup>1773</sup>

691. ST121, a Serb crime inspector, testified that the RS MUP was informed about abuses committed by MUP officers against civilians. The abuses included unauthorised seizure of items belonging to Serbs and non-Serbs and the forcible transfer of non-Serbs across the border with Yugoslavia. ST121 further elaborated on an entry in his notebook from a meeting on 15 August 1992 held in Doboj, which read “persons in the camps not to be taken out and no decisions to be made on their killing” and stated that the RS MUP, including the Minister, took the positions that the RS MUP had nothing to do with camps and prisons that had been taken over by the VRS. He added that after a decision of 9–10 June 1992, policemen who individually gained access to prisons and camps and “did something there” would be held answerable.<sup>1774</sup>

692. In addition to RS MUP reports, reports made public by the ICRC, ECMM, and CSCE, as well as open media reports, were the subject of discussion and negotiation with the RS Presidency and Government.<sup>1775</sup>

<sup>1770</sup> See Findings in RS MUP section.

<sup>1771</sup> P1428, Communications Logbook of RS MUP Headquarters and CSB Sarajevo. The relevant entries are: log 76, p. 5; log 241-252, pp. 33-34; log 301-303, p. 43; log 311 “gathering data on camps”, p. 44; log 342, p. 49; log 362 “treatment of war prisoners”, p. 53; log 421 “disciplinary proceedings”, p. 63; log 477-478 “taking measures following Minister’s order regarding perpetrators of criminal acts”, p. 74; log 719 “reports on crimes committed”, p. 114; log 798 “on violation of war law”, p. 143; log 799 “investigation of criminal activities”, p. 129; log 819 “note of war crime”, p. 132; log 894 “search for people who committed war crimes”, p. 144; log 1143 “information on take over”, p. 218; log 1187 “duties regarding the uncovering and documenting of criminal and inhumane acts”, p. 231; log 1194 “Request to find about criminal activities of individual Pale SJB employees”, p. 235; log 1231-1232, p. 247; and log 1383, p. 294.

<sup>1772</sup> P155, RS MUP Daily Report, 22 and 23 April 1992; P432.12, Weekly Status Report by Stojan Župljanin to RS MUP from 8 May 1992 to 25 May 1992, 26 May 1992; P595, Banja Luka CSB Report covering 1 January–30 June 1992, July 1992; P427.08, Report of the RS MUP on Some Aspects of the Work Done to Date and the Tasks Ahead, 17 July 1992, p. 3; P432.12, Weekly Report by Stojan Župljanin Regarding the Situation in the Area Covered by Banja Luka CSB from 18-25 May 1992, 26 May 1992, p. 3; P633, Dispatch from SJB Višegrad Providing a Brief Overview of the Military and Security Situation in Višegrad, 13 July 1992, p. 3 (stated that “over 2,000 Muslims moved out the municipality in an organised manner”); 2D25, Banja Luka CSB to all SJBs Providing Information on the Security Situation, 30 July 1992; P866, Report from Milići SJB to CSB Sarajevo, 3 August 1992; P748, RS MUP Report on Certain Political-Security Aspects in the Area of the Romanija–Birač CSB, 15 November 1992, p. 2; Goran Mačar, 15 July 2011, T. 23415-23418; 1D334, Višegrad SJB Information on Kidnapping of 18 Muslims on the Rudo–Priboj Road, 25 October 1992.

<sup>1773</sup> Aleksander Krulj, 26 October 2009, T. 1983-1987.

<sup>1774</sup> ST121, 24 November 2009, T. 3703-3704; P403, Handwritten Notebook Belonging to ST121 (confidential), p. 20.

<sup>1775</sup> Drago Borovčanin, 23 February 2010, T. 6672; Ian Traynor, 17 May 2010, T. 10374-10378; Herbert Okun, P2193, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 23 June 2004, T. 4189-4190; P261, Minutes of the 5<sup>th</sup> Session of the RS

693. While not disputing the existence of detention camps and prisons during his interview, Stanišić stated that detention camps were established by the army or Crisis Staffs, as the command of the TO, and that they informed the Presidency of the RS of their activities through the military. Stanišić underscored that camps and prisons did not fall within the scope of the work of his Ministry and that he was not involved in this matter.<sup>1776</sup> Stanišić also stated that he did not know how many prisoners were detained by Bosnian Serb authorities in 1992.<sup>1777</sup> He said that the Presidency had tasked Biljana Plavšić with collecting information relating to the number of prisoners. Plavšić was also tasked with collecting information on crimes committed by Muslims, Croats, and Serbs and on the number of prisoners for each of these ethnicities through all sources available to her, including the army, the Red Cross, SJBs, and regional authorities. This was done to allow the Presidency to check the reliability of information conveyed by the other parties during negotiations.<sup>1778</sup> While this did not fall within the jurisdiction of the RS MUP, Stanišić assisted by issuing an order stating that all information should be provided upon request.<sup>1779</sup> Mićo Stanišić asserted that he only learned that crimes had been committed from the media after he left the RS MUP in 1993.<sup>1780</sup>

694. Dragan Đokanović testified that he and Stanišić were the only people in the RS Government who were interested in addressing the issue of war crimes since the RS Government was “completely under the influence of the SDS, and there was no justice and no desire to fight crime any longer”. Many people could not wait to see Stanišić step down as minister.<sup>1781</sup>

(xi) Disciplinary Measures

695. The Trial Chamber recalls that the evidence on the procedure for disciplinary measures in the RS MUP demonstrated that recommendations to launch disciplinary proceedings against a MUP officer could come from any employee. The statutory duty to initiate proceedings, however, lay

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Presidency, 10 June 1992; Ian Traynor, P1356.01, Witness Statement, 26 March 1999; P1356.02, ICTY Statement of Ian Traynor, 9 March 2010, p. 7; P1356.17, Article by Ian Traynor: “How They Wiped Out Kozarac” in *The Guardian*, 17 October 1992; P393, Report of the MOJ on the Situation in Prisons and Collection Camps for Prisoners of War, 22 October 1992, p. 2; P1357, Video Excerpts from Omarska and Trnopolje, undated; P1356.14, Article by Ian Traynor: “Inside Bosnia’s Horror Camps: Muslim Slav Inmates Tell of Torture Killing” in *The Guardian*, 6 October 1992; P179.13, Letter from Radovan Karadžić Regarding the Report of the ICRC on the Manjača and Bileća Camps, 7 August 1992; P1599, Report of CSCE Mission to Inspect Places of Detention in BiH, 29 August to 4 September 1992; P1318.35, Facsimile from UNPROFOR Belgrade to ECMM Belgrade Forwarding a Letter from Izetbegović to Lord Carrington with attached list dated 24 July 1992 of Serb-controlled Prisons and Concentration Camps, 24 July 1992 (noting crimes committed against civilians, “particularly in the Prijedor region”, reports 57 “concentration camps” had been established in BiH and appends a list of camps).

<sup>1776</sup> P2308, OTP Interview with Mićo Stanišić, 19-20 July 2007, pp. 28-29, 30-32.

<sup>1777</sup> P2308, OTP Interview with Mićo Stanišić, 19-20 July 2007, p. 28.

<sup>1778</sup> P2308, OTP Interview with Mićo Stanišić, 19-20 July 2007, pp. 33-35.

<sup>1779</sup> P2308, OTP Interview with Mićo Stanišić, 19-20 July 2007, pp. 35-36.

<sup>1780</sup> P2302, OTP Interview with Mićo Stanišić, 17 July 2007, pp. 52-54.

<sup>1781</sup> Dragan Đokanović, 23 November 2009, T. 3643-3644.

with the SJB or CSB chief in the first instance and the Minister of Interior was vested with the final appellate authority over sanctions imposed. In the case of a SJB or CSB chief being the subject of misconduct or violations of the LIA, the Minister was directly responsible for his discipline and dismissal.<sup>1782</sup> The Trial Chamber further recalls that amended Rules on Disciplinary Responsibility of Employees within the RS MUP were adopted in September 1992, under which the function of the first instance disciplinary organ was expanded to heads of departments within the MUP, commanders of police detachments, and CSB chiefs. In the second instance, the appeal was dealt with by the Minister of Interior, whose ruling was final.<sup>1783</sup>

696. The Trial Chamber further recalls the evidence of Vladimir Tutuš, the Chief of the Banja Luka SJB in 1992,<sup>1784</sup> who testified that the rules governing the dismissal of a police officer involved in criminal activities depended on whether the perpetrator was a reserve or an active policeman. For reserve officers, the procedure was short: he could have been taken off the duty roster immediately, stripped of his weapons, and placed at the disposal of the MOD, which would then decide what to do with the individual. For active duty officers, disciplinary proceedings needed to be initiated and the disciplinary court decided on the measures to be taken, pending which the officer could be temporarily suspended.<sup>1785</sup> Drago Borovčanin and Radomir Rodić corroborated the evidence of Tutuš.<sup>1786</sup>

697. Goran Mačar testified that Stanišić, as Minister, initiated internal disciplinary proceedings, including an investigative commission established to look into allegations of corruption at the Bijeljina SJB in August 1992.<sup>1787</sup> The commission concluded that confiscated funds and equipment had not been handled in accordance with the law and that some had been unlawfully requisitioned by RS MUP personnel.<sup>1788</sup> Disciplinary measures were ordered against the offending RS MUP personnel.<sup>1789</sup> According to Mačar, the Minister often took disciplinary measures, rather than just threatening to institute them. However, in those SJBs where the Ministry did not have influence, it was not in a position to initiate disciplinary proceedings.<sup>1790</sup>

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<sup>1782</sup> See RS MUP section.

<sup>1783</sup> ST161, 19 November 2009, T. 3477-3478 (confidential); Vladimir Tutuš, 19 March 2010, T. 7876-7877; Radomir Rodić, 16 April 2010, T. 8806; Mladen Bajagić, 4 May 2011, T. 20221-20223; 1D54, Rules on the Disciplinary Responsibility of MUP Employees Under Wartime Regime, 19 September 1992. See also RS MUP section.

<sup>1784</sup> ST174, P1098.02, *Prosecutor v. Brdanin*, Case No. IT-99-36, 9 April 2002, T. 4007 (confidential); Vladimir Tutuš, 15 March 2010, T. 7573.

<sup>1785</sup> Vladimir Tutuš, 18 March 2010, T. 7749-7751 and 22 March 2010, T. 7962-7963.

<sup>1786</sup> Drago Borovčanin, 24 February 2010, T. 6814-6816; Radomir Rodić, 16 April 2010, T. 8805, 19 April 2010, T. 8898-8900.

<sup>1787</sup> Goran Mačar, 8 July 2011, T. 23045-23046; 1D348, RS MUP Report of the Commission Investigating Allegations Related to RS MUP Personnel at Bijeljina SJB, 31 August 1992.

<sup>1788</sup> Goran Mačar, 8 July 2011, T. 23046-23047.

<sup>1789</sup> Goran Mačar, 8 July 2011, T. 23049-23050.

<sup>1790</sup> Goran Mačar, 14 July 2011, T. 23330.

a. Action against RS MUP officials

698. According to Kovač, Stanišić had the authority and the responsibility to initiate appropriate proceedings against, and to remove from service, chiefs of CSBs and SJBs. On 21 October 1992, Stanišić tasked Kovač and others to get rid of errant staff, as well as those who did not act in accordance with the police codes. Kovač stated that he used this authority to, *inter alia*, intervene in certain personnel affairs, such as against: Stevan Todorović, Chief of the Bosanski Šamac SJB; Simo Drljača, Chief of the Prijedor SJB; Malko Koroman, Chief of the Pale SJB; and Dragomir Andan, Chief of the Bijeljina CSB. Stanišić, as the Minister, was directly involved in some proceedings, except for those against Todorović. Kovač added that he also wanted to replace Župljanin and a man in Bijeljina and the Chief of the CSB in Sarajevo.<sup>1791</sup>

699. Following an investigation of Bosanski Šamac by inspectors, Andrija Bjelošević, Chief of the Doboj CSB, sent a letter to Stanišić on 25 November 1992 proposing to replace Stevan Todorović, Chief of the Bosanski Šamac SJB, due to “frequent and grave violations of duty”.<sup>1792</sup> Bjelošević noted, however, that Todorović never received an official letter of appointment to his post, which is why no disciplinary proceedings could be launched against him.<sup>1793</sup>

700. Malko Koroman was appointed as the Chief of the Pale SJB by Stanišić on 1 April 1992.<sup>1794</sup> ST127 thought that Stanišić knew what was going on at the Pale SJB, since Stanišić and Zoran Cvijetić, Chief of the Sarajevo CSB, knew each other well and Cvijetić, as his subordinate, was obliged to report to Stanišić as his subordinate.<sup>1795</sup> ST127 met Stanišić in late 1992, when he was at a meeting on Mount Jahorina, and personally informed him about the problems at the SJB Pale,

<sup>1791</sup> Tomislav Kovač, 7 March 2012, T. 27035-27037, 27042-27044 and 8 March 2012, T. 27091-27092; P2462, Extracts from Simo Drljača’s Personnel File from the RS MUP; P2461, Extracts from Malko Koroman’s Personnel File from the RS MUP; 1D516, Information on Arrest of Stevan Todorović and Milan Simić from Doboj CSB to RS MUP, 15 November 1992 (which, the Trial Chamber notes, states that the RS MUP had no information about the arrest of Stevan Todorović and Milan Simić); 1D518, Proposal by Doboj CSB to Relieve Stevan Todorović from Duty as Chief of Bosanski Šamac SJB, 25 November 1992 (which states that Todorović be relieved due to “gross violations” of his duties and since he received no formal decision on his appointment, no disciplinary action was initiated against him); P2438, Decision Temporarily Appointing Stevan Todorović as Chief of Bosanski Šamac retroactively from 28 March 1992, 3 June 1993; P2443, Decision on Consensual Termination of Employment of Stevan Todorović signed by Dragan Kijac, 10 December 1996; P2348, Decision by Mićo Stanišić to Temporarily Suspend Dragan Andan, 11 September 1992; P2349, Request by Mićo Stanišić to Initiate Disciplinary Proceedings Against Dragan Andan for Smuggling Gambling Machines, 11 September 1992. Exhibits P2348, P2349, and 1D557 name a “Dragan” Andan; however, based on the totality of evidence, the Trial Chamber considers that these documents refer to or are associated with Dragomir Andan.

<sup>1792</sup> Tomislav Kovač, 9 March 2012, T. 27220; P2086, Letter from Chief of Doboj CSB to the Minister of Interior, 25 November 1992.

<sup>1793</sup> P2086, Letter from Chief of Doboj CSB to the Minister of Interior, 25 November 1992.

<sup>1794</sup> Tomislav Kovač, 9 March 2012, T. 27224; P1416, Temporary appointment of Malko Koroman as Inspector at Sarajevo CSB until the Rules and Regulations on Internal Organization of the RS MUP are adopted, signed by Mićo Stanišić, 1 April 1992.

<sup>1795</sup> ST127, 17 June 2010, T. 11906-11908.

especially regarding Koroman and Jovan Škobo, commander of SJB Pale.<sup>1796</sup> When Stanišić attempted, unsuccessfully, to remove Koroman from his position, a protest was organised in Pale by Škobo, Jovičić, and a few others in support of Koroman.<sup>1797</sup>

701. With regard to criminal activities of MUP employees in Teslić, Čedo Tošić, a senior inspector, was tasked along with an operative of the Crime Administration to investigate certain employees on the suggestion of Andrija Bjelošević, the Chief of the Doboj CSB, under whose jurisdiction Teslić fell. The report of the investigation was to be sent directly to the Minister of Interior and to the Assistant Minister for Police Issues.<sup>1798</sup> Veljko Šolaja, an employee of CSB Doboj, was disciplined on 25 November 1992 for illegally transporting persons to Serbia under false identities. His appeal was rejected by Mićo Stanišić as “unfounded” on 21 December 1992 and his employment was terminated.<sup>1799</sup>

702. As a result of an investigation conducted by Dragomir Andan and others in Bijeljina, Brčko, and Zvornik, Stanišić stated that a decision would be issued for the dismissal of officers for their reported involvement in criminal activities.<sup>1800</sup> On 29 July 1992, the Bijeljina SJB issued a ruling on the detention of Nenad Simić on the “suspicion” that he was illegally commandeering vehicles and goods and using weapons to check drivers and vehicles at illegal checkpoints in Zvornik between 28 June and 29 July 1992.<sup>1801</sup>

703. On 11 September 1992, Stanišić initiated disciplinary proceedings against Dragomir Andan for illegally confiscating a gambling machine for private purposes.<sup>1802</sup> Andan believed that Kovač, under pressure from Mauzer and others, misinformed Stanišić about Andan’s professionalism. Consequently, Andan testified, Stanišić denied him the opportunity to be heard on this matter. Andan believed he was removed from the MUP because of a backlash against him and Davidović, largely caused by the negative reaction of Mauzer to Andan and Davidović arresting Serbs for crimes in Bijeljina.<sup>1803</sup>

704. Stanišić signed the initial remand order in August 1992 to detain Vladimir Srebrov, a Serb who was charged with persuading people to join the “enemy army”.<sup>1804</sup>

<sup>1796</sup> ST127, 17 June 2010, T. 11905-11906.

<sup>1797</sup> ST127, 17 June 2010, T. 11924-11925; Tomislav Kovač, 9 March 2012, T. 27226-27227.

<sup>1798</sup> P1341, Annex Report on the Realisation of the Order of 27 July 1992, 12 August 1992, pp. 2-3.

<sup>1799</sup> 1D796, Appellate Decision in the Disciplinary Proceeding Against Veljko Šolaja by Mićo Stanišić, 21 December 1992.

<sup>1800</sup> Dragomir Andan, 30 May 2011, T. 21493-21496; 1D557, Handwritten Diary of Dragan [“Dragomir”] Andan from July/August 1992, p. 8.

<sup>1801</sup> P2066, Ruling on Detention of Nenad Simić, 8 August 1992, pp. 1-2.

<sup>1802</sup> P2349, Request to Initiate Disciplinary Proceeding against Dragan Andan, 11 September 1992.

<sup>1803</sup> Dragomir Andan, 1 June 2011, T. 21703-21706.

<sup>1804</sup> Staka Gojković, 15 June 2010, T. 11746-11748.

705. Predrag Radić testified that Vladimir Tutuš was removed with the knowledge of the MUP, as he was assisting Radić in his efforts to minimise the evictions or expulsions of non-Serbs in Pale.<sup>1805</sup> The Trial Chamber does not find credible this evidence of Predrag Radić, whom it found to be a member of the JCE, which entailed, *inter alia*, the forcible transfer and deportation of non-Serbs from the RS territory.

706. Obren Petrović testified that he was dismissed from the RS MUP as a result of mistrust towards persons who had helped Muslims.<sup>1806</sup> Petrović testified that he was summarily dismissed, based upon a proposal of Andrija Bjelošević, in January 1993 pursuant to a dispatch directly from Mićo Stanišić, which contained no reasons.<sup>1807</sup> Despite the adoption of the Rules on Disciplinary Action in September 1992, he was neither questioned, nor did he receive a warning, written or oral, about his performance as the chief of the Doboj SJB.<sup>1808</sup> The proposal by Bjelošević to the MUP stated two reasons for the removal of Petrović: the first, failure to enforce law and order; and the second, providing “protection for Muslims which led to a decline in the morale of the police and the army.”<sup>1809</sup>

707. Borislav Maksimović, Chief of the Vogošća SJB, was found guilty of dereliction of duty and commission of crimes of official misconduct by permitting people to illegally retain cars. He was therefore temporarily relieved of his duties as a disciplinary measure and ordered to report for duty to the army on 16 October 1992, but he never did.<sup>1810</sup> Consequently, on 31 October 1992, all the police at the Vogošća SJB threatened to abandon the SJB in opposition to Maksimović’s removal, protesting that since he was appointed by the Municipal Assembly, only the Assembly could remove him.<sup>1811</sup> Disciplinary proceedings against Maksimović were then only initiated on 16 August 1993 and his employment was finally terminated on 18 September 1995.<sup>1812</sup>

708. The protection of “the large inventory of *Golf* vehicles at the TAS factory” was addressed by both the Government and the BSA from late July until the end of 1992.<sup>1813</sup> On 6 August 1992,

<sup>1805</sup> Predrag Radić, P2097, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 27 October 2004, T. 7468 (confidential).

<sup>1806</sup> Obren Petrović, 12 May 2010, T. 10037-10039.

<sup>1807</sup> Obren Petrović, 10 May 2010, 9896-9897, 11 May 2010, T. 9914-9916; 1D258, Dispatch from Mićo Stanišić to Doboj CSB Chief, 18 January 1993.

<sup>1808</sup> Obren Petrović, 11 May 2010, T. 9911-9914, 12 May 2010, T. 10035-10036; 1D54, Rules on the Disciplinary Responsibility of MUP Employees Under Wartime Regime, 19 September 1992.

<sup>1809</sup> Obren Petrović, 10 May 2010, T. 9897.

<sup>1810</sup> Drago Borovčanin, 24 February 2010, T. 6784-6786; 1D186, Disciplinary Proceeding against Borislav Maksimović, 18 September 1995, p. 4; 1D184, Sarajevo CSB Ruling on Measures of Temporary Removal from Tasks and Assignments, 15 October 1992.

<sup>1811</sup> 1D185, Report to the MUP from SJB Vogošća on Ultimatum re: Chief Borislav Maksimović, 31 October 1992.

<sup>1812</sup> 1D186, Disciplinary Proceeding Against Borislav Maksimović, 18 September 1995, p. 4.

<sup>1813</sup> Dobrislav Planojević, 22 October 2010, T. 16432; P245, Minutes of the 47<sup>th</sup> Session of the RS Government, 20 August 1992, p. 6; P428, Minutes of the 52<sup>nd</sup> Session of the RS Government, 10 October 1992, p. 9; P400, Transcript of the 22<sup>nd</sup> Session of the BSA held on 23-24 November 1992, 23 November 1992, pp. 48-49; 1D93, RS MUP information of the Theft of Vehicles from TAS Vogošća, 29 July 1992; 1D183, RS MUP Crime Prevention Administration

Goran Mačar, Assistant Minister for Crime Prevention Administration, sent a reminder to the SJBs in Sarajevo to take action in relation to a prior request for the submission of information about stolen vehicles.<sup>1814</sup> According to Goran Mačar, Stanišić organised a “small military unit” to secure the TAS factory facilities to prevent further theft.<sup>1815</sup> On 13 November 1992, the Chief of CSB Romanija–Birač reported that “44 members of active and reserve police formations of the SJB Vogošća, including leading officials, had stolen or seized at least 73 *Golf* vehicles”. As a consequence, the SJB Chief and other employees were released from their duties.<sup>1816</sup> On 20 December 1992, Stanišić once again raised the issue of missing vehicles at an expanded meeting of the Supreme Command alongside the problems with paramilitary groups.<sup>1817</sup> Borovčanin said that he believed Stanišić was “beginning to irritate some people with his insistence” in relation to resolving this issue.<sup>1818</sup> In his interview with the Prosecution, Stanišić confirmed that the police “actually worked as ordered by me” “on discovering this *Golf* scandal”, but that investigations were stopped after he left at the end of 1992.<sup>1819</sup>

## b. Action against paramilitaries

### i. Arkan’s Men

709. Milorad Davidović testified that, at some point in 1992, Stanišić went to Erdut, in Croatia, to visit Arkan’s training camp. When Davidović saw Stanišić the day following his return, Stanišić told him he was pleased with the way the camp was run and with the respect that Arkan received from his men.<sup>1820</sup>

710. Davidović testified that Arkan’s forces participated in “liberating” territories in Zvornik and Bijeljina with Stanišić’s knowledge and approval. Stanišić, who had met with Arkan in Bijeljina on several occasions, had agreed that, in exchange for their engagement in the area, Arkan’s forces could take any property they wanted from the territories they liberated. Stanišić told Davidović that

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Reminder for Acting in Accordance with Authority, 6 August 1992; 1D94, Request of the RS MUP to CSB Sarajevo for a Report on the Theft of Golf Cars and on the Work of the CSB, 23 August 1992; P627, Information on the Status and Work of the SJB Vogošća, 12 November 1992, pp. 2-3.

<sup>1814</sup> 1D183, RS MUP Crime Prevention Administration, Sarajevo Reminder for Acting in Accordance with your Authority as Soon as Possible, 6 August 1992.

<sup>1815</sup> Goran Mačar, 14 July 2011, T. 23287-23289. *See also* Simo Tuševljak, 16 June 2011, T. 22257-22258.

<sup>1816</sup> 1D579, CSB Sarajevo Report about Vehicles Stolen from TAS, 13 November 1992, p. 3; 1D184, CSB Sarajevo Ruling on Measures of Temporary Removal from Tasks and Assignments, 15 October 1992; 1D187, Disciplinary Proceeding Against Vlado Kelović with Cover Letter and Decision, 18 September 1995.

<sup>1817</sup> 1D173, Minutes of Supreme Command of VRS Meeting, signed by Radovan Karadžić, 20 December 1992, p. 3.

<sup>1818</sup> Drago Borovčanin, 24 February 2010, T. 6793.

<sup>1819</sup> P2305, Second Session of OTP Interview with Mićo Stanišić, 18 July 2007, p. 11.

<sup>1820</sup> Milorad Davidović, 23 August 2010, T. 13544-13545; Milorad Davidović, P1557.01, Witness Statement, 15 March 2005, p. 31.

Karadžić, too, was aware of Arkan's engagement in the area.<sup>1821</sup> Davidović assumed that Stanišić was aware of the crimes of Arkan's men in Bijeljina, Brčko, and other territories, because these crimes were well-known and Stanišić received information from a number of different sources. According to Davidović, Arkan acted with full freedom and consent of the MUP of Serbia, primarily Frenki Simatović and Jovica Stanišić.<sup>1822</sup>

711. Davidović also testified that, in April or May of 1992, after Arkan's Men had entered Bijeljina, he attended a meeting at Bosanska Vila with Radovan Karadžić, Momčilo Krajišnik, Mićo Stanišić, Pero Mihajlović, Frenki Simatović, and Arkan. Davidović attended at the invitation of Stanišić to discuss the transport of ammunition. At this meeting, certain tasks were distributed to the units of the Federal SUP. Arkan was told to stay out of certain matters, while permitted to participate in other tasks as assigned by Karadžić, Krajišnik, and Stanišić.<sup>1823</sup>

712. Davidović testified that Stanišić neither ordered nor prohibited him to arrest Arkan or members of his forces.<sup>1824</sup>

#### ii. Yellow Wasps

713. Between June and the beginning of July 1992, Mićo Stanišić was informed by several sources of the activities of the paramilitary groups in Zvornik, including war crimes.<sup>1825</sup> In acknowledging the issue, Stanišić indicated that the RS MUP did not yet have the resources to deal with this because of the heavy involvement of the police in combat activities and said that he had sent a dispatch to Petar Gračanin in the Federal SUP about it since Belgrade was the point of origin of these groups.<sup>1826</sup>

714. Stanišić specifically gave Milorad Davidović and Dragomir Andan full authority to deal with the paramilitaries in Zvornik and, more generally with criminals in the MUP throughout the RS.<sup>1827</sup> Davidović met with Stanišić in Vrace to discuss his role in arresting paramilitary formations,

<sup>1821</sup> Milorad Davidović, P1557.04, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 10 June 2005, T. 14251-14254; Milorad Davidović, P1557.01, Witness Statement, 15 March 2005, p. 31. *See also* Milorad Davidović, P1557.03, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 9 June 2005, T. 14220-14221.

<sup>1822</sup> Milorad Davidović, 23 August 2010, T. 13544-13545.

<sup>1823</sup> Milorad Davidović, P1557.04, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 10 June 2005, T. 14255-14258 and P1557.05, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 13 June 2005, T. 14362-14363 and P1557.07, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 27 June 2005, T. 15280-15281.

<sup>1824</sup> Milorad Davidović, 24 August 2010, T. 13625-13626.

<sup>1825</sup> Dragan Đokanović, 20 November 2009, T. 3586-3588; ST222, 9 November 2010, T. 17101-17104 (confidential).

<sup>1826</sup> Dragan Đokanović, 20 November 2009, T. 3588, 23 November 2009, T. 3655; Milorad Davidović, P1557.04, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 10 June 2005, T. 14293.

<sup>1827</sup> Dragomir Andan, 1 June 2011, T. 21701-21702; Milorad Davidović, 23 August 2010, T. 13590, 24 August 2010, T. 13613-13615, 13623-13624; Milorad Davidović, P1557.04, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 10 June 2005, T. 14292-14293.



in particular the Yellow Wasps.<sup>1828</sup> In this regard, Davidović received instructions from Stanišić and Čedo Kljajić to do whatever was necessary, as even Karadžić and Krajišnik insisted that this paramilitary formation needed to be disarmed.<sup>1829</sup> The Special Unit commanded by Milenko Karišik joined the unit of Milorad Davidović to arrest the Yellow Wasps in a well-prepared and planned operation in late July 1992.<sup>1830</sup> According to an RS MUP report, on 29 and 30 July 1992 the RS MUP, in cooperation with the army, “disarmed and arrested 100 members of paramilitary formations” in Zvornik.<sup>1831</sup> According to Davidović, Stanišić arrived in Zvornik the day after the operation to receive a briefing.<sup>1832</sup> ST215 testified that the situation in Zvornik improved after the arrest of the Yellow Wasps.<sup>1833</sup>

715. The police questioning of the Yellow Wasps, however, focused primarily on their involvement in thefts, and on 8 August 1992, the chief of the Bijeljina SJB filed a criminal report against 11 members of the Yellow Wasps charging them with aggravated theft, principally of Golf vehicles.<sup>1834</sup> Members of the Yellow Wasps were released from detention on 28 August 1992 and an indictment against them was only issued in 1999.<sup>1835</sup> Đokanović, Davidović, and others testified that Stanišić only intervened in Zvornik after Velibor Ostojić, Minister for Information and pre-war President of the SDS Executive Board, was stopped and forced to eat grass at a checkpoint by the Yellow Wasps.<sup>1836</sup>

716. Andan testified that he understood from conversations he had with Stanišić after the Yellow Wasp operation in Zvornik that he would be involved in similar operations to deal with

<sup>1828</sup> Milorad Davidović, 23 August 2010, T. 13531-13533, 13564-13566.

<sup>1829</sup> Milorad Davidović, 24 August 2010, T. 13615-13616.

<sup>1830</sup> ST215, 28 September 2010, T. 14968-14969 (confidential), 14980.

<sup>1831</sup> 1D558, Report on Arrest of 100 Members of Yellow Wasps, 31 July 1992. *See also* ST121, 23 November 2009, T. 3678.

<sup>1832</sup> Milorad Davidović, P1557.01, Witness Statement, 15 March 2005, pp. 35-36.

<sup>1833</sup> ST215, 28 September 2010, T. 15002-15003.

<sup>1834</sup> P403, Notebook Belonging to ST121, 3 August 1992 (confidential); 1D75, Report of the Crime Police Directorate on Disarmament of Yellow Wasps Paramilitary Group Operating in Zvornik, 4 August 1992; P1533, Statement of Vojin Vučković to Bijeljina SJB, 6 August 1992; P2002, Statement of Goran Stefanović to Bijeljina SJB, 2 August 1992; P2003, Statement of Ilija Vasić to Bijeljina SJB, 3 August 1992; P2004, Statement of Dragan Pisić to Bijeljina SJB, 3 August 1992; P322, Crime report against Vojin Vučković and Others, 8 August 1992. *See also* P317.07, Statement of Rade Tanacković to Bijeljina SJB regarding Zvornik, undated; P317.16, Statement to Bijeljina SJB, undated (confidential); P320, Statement to Bijeljina SJB on Checkpoint Incidents, 6 August 1992 (confidential); P825, Statement of Dragan Kerkez to Bijeljina SJB, 2 August 1992; P826, Statement of Saniša Kovačević to Bijeljina SJB, 2 August 1992; P827, Statement of Đino Zeljak to Bijeljina SJB, 3 August 1992; P828, Statement of Milan Stojanović to Bijeljina SJB, 3 August 1992; P829, Statement of Ivan Dičerdi to Bijeljina SJB, 3 August 1992; P830, Statement of Darko Miletić to Bijeljina CSB, 3 August 1992; P831, Statement of Milorad Ristić to Bijeljina SJB, 3 August 1992; P832, Statement of Dobrivoje Ikonić to Bijeljina SJB, 3 August 1992; P833, Statement of Miorad Pavlović to Bijeljina SJB, 3 August 1992; P834, Statement of Slobodan Milivojević to Bijeljina SJB, 3 August 1992; P844, Statement of Siniša Filipović to Bijeljina SJB, 3 August 1992.

<sup>1835</sup> ST215, 28 September 2010, T. 15003; P317.21, Decision to Release from Detention Vojin Vučković *et al.*, 28 August 1992; P317.19, Indictment Against Vojin Vučković and Others, 13 September 1999.

<sup>1836</sup> Dragan Đokanović, 20 November 2009, T. 3589; Milan Trbojević, 4 December 2009, T. 4231-4322; Milorad Davidović, P1557.04, *Prosecutor v. Krajišnik*, Case No. IT-00-39-T, 10 June 2005, T. 14293-14294; Milorad

paramilitaries who were causing problems in other municipalities. However, this never occurred because Davidović “returned to Serbia” and Andan was removed from the RS MUP.<sup>1837</sup>

iii. Other paramilitary groups

717. Stanišić and Dobrislav Planojević authorised operations against the paramilitaries in all municipalities, since the “top of the pyramid observed the existence of problems in public security centres”.<sup>1838</sup> Dragomir Andan and Milorad Davidović led actions against the paramilitary groups in Bijeljina and against the Red Berets in Brčko with assistance from Malović’s Unit. These paramilitary groups resisted the action by Andan and Davidović and refused to fall under the command of the army.<sup>1839</sup> Andan testified that the paramilitaries who had come from Serbia were arrested and sent back to Serbia and that the paramilitaries arrested from Bijeljina, Brčko, and Zvornik went to different theatres of war.<sup>1840</sup>

718. At a meeting on 18 August 1992 at Bosanska Vila in Belgrade, Stanišić told Dragomir Andan about the critical security and political situation in Foča and shared additional information based on intelligence he had received from security organs. An operation was planned to deploy the RS MUP Special Unit to Foča to arrest criminals and process members of paramilitary units who were disrupting the functioning of the government and opposing decisions taken by the legal authorities.<sup>1841</sup> The operation was eventually cancelled because the request for authorisation from the MUP of Serbia and Montenegro for the necessary passage through their territory to reach Foča was denied.<sup>1842</sup>

719. The Trial Chamber has also received evidence showing division within the Bosnian Serb leadership with regard to the arrival of paramilitaries from Serbia. According to Mandić, at the 22<sup>nd</sup> Session of the BSA, Biljana Plavšić claimed that she had invited Arkan and his Tigers, the White

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Davidović, 24 August 2010, T. 13616; ST179, 11 March 2010, T. 7520-7523 (confidential); P591, Report on Paramilitary Formation in the Territory of the RS, 28 July 1992.

<sup>1837</sup> Dragomir Andan, 1 June 2011, T. 21700-21702; 1D557, Handwritten Diary of Dragan [“Dragomir”] Andan from July/August 1992, p. 14.

<sup>1838</sup> Dragomir Andan, 1 June 2011, T. 21701.

<sup>1839</sup> Dragomir Andan, 27 May 2011, T. 21421, 21460-21464, 30 May 2011, 21538-21541; Milorad Davidović, 24 August 2010, T. 13623-13630; Milorad Davidović, P1557.01, Witness Statement, 15 March 2005, pp. 26-27; 1D646, Report on the Engagement of the Serbian MUP Police Brigade to Assist the RS MUP, 8 August 1992, pp. 6-12; 1D97, Dispatch of Bijeljina CSB with Information About the Involvement and Activities of the RS MUP in Establishing Authority Over Bijeljina, 29 July 1992, pp. 2-5; 1D554, Daily Report of Bijeljina CSB, 20 July 1992; P591, Report on Paramilitary Formation in the Territory of the RS, 28 July 1992.

<sup>1840</sup> Dragomir Andan, 1 June 2011, T. 21699-21701; P2053, Dispatch by Bijeljina CSB to the RS MUP, 29 July 1992; 1D557, Handwritten Diary of Dragan [“Dragomir”] Andan from July/August 1992, p. 14; ST222, 9 November 2010, T. 17101-17103, 17147-17148 (confidential).

<sup>1841</sup> Dragomir Andan, 30 May 2011, T. 21503-21505, 21545-21546, 1 June 2011, T. 21697-21698; 1D567, RS MUP Order to Deploy RS MUP Special Unit to Foča, 19 August 1992; 1D557, Handwritten Diary of Dragan [“Dragomir”] Andan from July/August 1992, p. 14.

<sup>1842</sup> Dragomir Andan, 30 May 2011, T. 21548.

Eagles, and other “animals and beasts” from Serbia, while, in her view, Stanišić “was detaining them, preventing our brothers from abroad to help with the Serb cause.”<sup>1843</sup> Momčilo Mandić testified that Stanišić raised with Đerić “a number of times” the issue of these groups from outside RS, who “kill children, [...] torch, rob, kill, and go back”, and were supported by Biljana Plavšić.<sup>1844</sup> According to Mačar, Plavšić’s recruitment of paramilitaries from Serbia had caused a conflict between Plavšić and Stanišić. The position of the RS MUP was that, once the VRS had been established, all armed forces ought to be under the control of the MOD. However, the paramilitaries did not come under the command of the MOD and continued to cause security problems.<sup>1845</sup>

720. At an expanded meeting of the Supreme Command of the VRS on 20 December 1992, attended by Karadžić, Mladić, Subotić, Koljević, Krajišnik, and Milovanović, Stanišić raised the issue of paramilitary groups that needed to be resolved and that these groups had to be placed under one command. He added that the military judiciary needed to be strengthened.<sup>1846</sup> At this meeting, Subotić requested an analysis of “who could be considered a member of the volunteer units.”<sup>1847</sup>

(xii) Investigation of war crimes against Serbs

721. On 18 April 1992, the NSC decided to set up a “war crimes commission”.<sup>1848</sup> On 24 April 1992, at the 5<sup>th</sup> joint meeting, the NSC and the RS Government established a state commission for war crimes.<sup>1849</sup>

722. On 22 April 1992, the SFRY Federal SUP informed the RS MUP about the formation of a “State Commission” in Serbia for the collection of data for the verification of war crimes, genocide, and crimes against humanity in Croatia as well as other parts of the country. It stated that the organs of the interior were particularly important to documenting the genocide to which “the whole of the Serbian people [...] have been exposed”, which had to be revealed to the global public, the UN, and other relevant institutions.<sup>1850</sup> The State Commission insisted that the local organs of the MUP be trained and organised for these tasks, enabling them to send the information in accordance with the

<sup>1843</sup> Momčilo Mandić, 6 May 2010, T. 9723-9726; Goran Mačar, 11 July 2011, T. 23084; P400, Transcript of the 22<sup>nd</sup> Session of the BSA, 23-24 November 1992, p. 20.

<sup>1844</sup> Momčilo Mandić, 6 May 2010, T. 9726.

<sup>1845</sup> Goran Mačar, 11 July 2011, T. 23084 and 18 July 2011, T. 23468-23469; P591, on Paramilitary Formation in the Territory of the RS 28 July 1992.

<sup>1846</sup> 1D173, Minutes of Supreme Command of VRS Meeting, signed by Radovan Karadžić, 20 December 1992, pp. 1, 3.

<sup>1847</sup> 1D173, Minutes of Supreme Command of VRS Meeting, signed by Radovan Karadžić, 20 December 1992, p. 1.

<sup>1848</sup> P205, Minutes of Extended Session of NSC held on 16 April 1992, 18 April 1992, p. 2.

<sup>1849</sup> P207, Minutes of NSC and RS Government Meeting, 24 April 1992, p. 1.

<sup>1850</sup> Goran Mačar, 12 July 2011, T. 23190-23192, 13 July 2011, T. 23244-23245, 19 July 2011, T. 23527-23528; 1D635, Federal MUP Information on the State Commission for Genocide established on 18 March 1992, 22 April 1992, p. 1. *See also* P181, Constitution of the RS, 16 March 1992, p. 2.

relevant methodology and procedure, in order to rectify the “unilateral portrayal of [the] current situation.”<sup>1851</sup>

723. On 15 May 1992, Stanišić ordered the Banja Luka, Bijeljina, Sarajevo, Dobož, and Trebinje CSBs to collect detailed information on war crimes against Serbs, which was to be sent to the Federal SUP in Serbia.<sup>1852</sup> On 16 May 1992, Stanišić directed all five CSBs to send daily fax reports on combat activities, terrorist activities, implementation of tasks under the LIA, and war crimes and other serious crimes committed against Serbs. This part of the report had to be as broad and detailed as possible, allowing it to be submitted to the SFRY Federal SUP.<sup>1853</sup>

724. On 26 May 1992, Stanišić ordered chiefs of all CSBs to provide a detailed report for the period of 1 April to 25 May 1992 for use in compiling a report for the RS Government about crimes against people and property, including information about any action taken to investigate such crimes, assessment of cooperation with the VRS and TO, and a list of cases of serious crimes committed against the Serbs living in the territory of RS.<sup>1854</sup> On 21 June 1992, Stanišić instructed Tomislav Kovač to prepare an activity report of hostilities. He specifically directed that numbers on losses suffered by the Serb side be inflated in order to create a record.<sup>1855</sup>

725. On 17 June 1992, the RS Presidency directed the Government to draft a decision on the establishment of a “State Documentation Centre which will gather all genuine documents on crimes committed against the Serbian people during this war”.<sup>1856</sup> Staka Gojković testified that the police played a role in collecting documents for this centre.<sup>1857</sup>

726. On 11 July 1992, the Presidency appointed members of the “Commission for Investigating War Crimes Committed against the Serbian People in BiH” and concluded that the commission should start its work as soon as possible.<sup>1858</sup> Goran Mačar learned of the existence of the

<sup>1851</sup> 1D635, Federal MUP Information on the State Commission for Genocide established on 18 March 1992, 22 April 1992, pp. 1-2.

<sup>1852</sup> Goran Mačar, 13 July 2011, T. 23236-23237 and 19 July 2011, T. 23529-23530; P173, Order from Mićo Stanišić to CSB Chiefs, 16 May 1992, p. 2.

<sup>1853</sup> Aleksandar Krulj, 28 October 2009, T. 2226-2227; P173, Order from Mićo Stanišić to all CSB Chiefs Requiring Submission of Daily Reports, 16 May 1992, pp. 1-2.

<sup>1854</sup> Aleksandar Krulj, 28 October 2009, T. 2165-2166; ST161, 19 November 2009, T. 3447-3448; 1D62, Dispatch from RS MUP to all CSBs, 26 May 1992.

<sup>1855</sup> P1171, Transcript of Intercepted Conversation between Mićo Stanišić and “Tomo”, 21 June 1992, pp. 3-4. The Chamber understands the reference to “Tomo” in this intercept to mean Tomislav Kovač, who was referred to as such both in documents and by witnesses.

<sup>1856</sup> P275, Minutes of the 8<sup>th</sup> Session of the Presidency of RS, 17 June 1992, p. 1.

<sup>1857</sup> Staka Gojković, 15 June 2010, T. 11771-11772.

<sup>1858</sup> P1975, Minutes of the 17<sup>th</sup> Session of the Presidency of RS, 11 July 1992. *See also* P427.18, Minutes of the 24<sup>th</sup> Session of the Presidency of the RS held on 6 August 1992, 6 August 1992, p. 2; P205, Minutes of Extended Session of NSC, 18 April 1992, p. 2.

commission in late 1992.<sup>1859</sup> He understood that it had a documentation role rather than an investigative one. Mačar had problems with the commission because it did not pass on information to the MUP.<sup>1860</sup> Trbojević stated that he does not know who was on the committee for war crimes which the MUP was responsible for designing and as far as he knows it was never actually established. Trbojević stated that another commission, for war crimes against Serbs, of which he was to be president, was also never constituted and believes “the intention was not for it to work”.<sup>1861</sup>

727. On 17 July 1992, Stanišić ordered all CSBs to forward all documents relating to “mass atrocities against Serbs” by Croatian forces for military, intelligence, and political purposes.<sup>1862</sup> The 1992 Annual Report on the work of the RS Military Prosecutor’s Office records that the organs of the RS MUP were working to gather evidence of “genocide and war crimes committed against the Serbian population, with the aim of presenting the information to the state commission and the world public”.<sup>1863</sup> Throughout 1992, SJBs documented and submitted reports on war crimes committed against Serbs as instructed.<sup>1864</sup> Goran Mačar stated that the focus on crimes against Serbs was part of an effort to counter the “propaganda of the other side” and a “rampant campaign against the Serbs in the media”, which was not founded on facts.<sup>1865</sup> ST174, a Muslim, testified that the police did nothing to stop crimes, which, in 1992 in the ARK, mostly targeted Croats and Muslims.<sup>1866</sup>

728. With regard to Stanišić’s order of 15 May 1992 to collect detailed information on war crimes against Serbs, Simo Tuševljak, Goran Mačar, Milorad Orašanin, and Radomir Njeguš testified that the policy at the time was to investigate all crimes equally.<sup>1867</sup> The Trial Chamber

<sup>1859</sup> Goran Mačar, 18 July 2011, T. 23454.

<sup>1860</sup> Goran Mačar, 18 July 2011, T. 23454, 23457.

<sup>1861</sup> Milan Trbojević, 2 December 2009, T. 4085, 3 December 2009, T. 4164.

<sup>1862</sup> P856, Order by Mićo Stanišić to all Chiefs of CSBs to Collect Information Committed by Croatian Military and Paramilitary Forces, 17 July 1992.

<sup>1863</sup> P1284.55, Annual Report on the Work of the VRS Military Prosecutor’s Office for 1992, 10 February 1993, p. 28.

<sup>1864</sup> P1441, RS MUP Security Situation Bulletin No. 101, 15 May 1992, p. 2; P2064, Report on Genocide Committed Against the Serbian People in Zvornik, 26 June 1992; P2362, Report on the Killing of Miloš Minić, 31 July 1992; P1945, RS MUP Security Situation Bulletin No. 65, 10 July 1992; 1D571, RS MUP Report on Inspection of SJB Foča, Čajniče, Rudo, and Višegrad, 14 September 1992; 1D594, SJB Zvornik Response to CSB Sarajevo Dispatch to Report on Genocide Committed Against Serbs, 22 September 1992; P1072, Memorandum from SJB Vlasenica to CSB Sarajevo Forwarding Data on War Crimes Committed Against the Serb Population (confidential); P1424, Official Note from Operative Dragan Vukašinić of SNB Višegrad, 2 October 1992; P793, CSB Sarajevo Report on the Work for the period July to September 1992, October 1992, p. 6; P2375, Report on the Work of the Department for Prevention of Crime in CSB Sarajevo, signed by Simo Tuševljak, 6 October 1992; P405, Report of the RS MUP on the Visit to Doboj CSB and SJBs, 22 October 1992, pp. 6-7; P1098.18, Report by Zoran Jošić, Head of SJB Banja Luka Regarding War Crimes in Banja Luka in 1992, 15 December 1992.

<sup>1865</sup> Goran Mačar, 19 July 2011, T. 23529-23530.

<sup>1866</sup> ST174, 24 March 2010, T. 8147-8148 (confidential).

<sup>1867</sup> Simo Tuševljak, 23 June 2011, T. 22694-22696; Goran Mačar, 13 July 2011, T. 23234-23241, 19 July 2011, T. 23528-23530; Radomir Njeguš, 9 June 2010, T. 11477-11479. *See also* Milomir Orašanin, 9 June 2011, T. 22136-2213;

recalls its finding that the civilian law enforcement apparatus did not function in an impartial manner. Further, in light of the orders directly issued by Stanišić on 15 May, 16 May, 26 May, 21 June, and 17 July 1992; and the reports submitted by the RS MUP in 1992,<sup>1868</sup> including that of the Military Prosecutor's Office,<sup>1869</sup> the Trial Chamber does not find the evidence of Tuševljak, Mačar, and Njeguš that the policy was to investigate all crimes equally represents a true reflection of the practice of investigation and prosecution followed by the RS authorities in 1992.

#### 4. Findings on Mićo Stanišić's membership in JCE

##### (a) Stanišić's contribution to JCE

##### (i) Role in creation of Bosnian Serb bodies and policies

729. Mićo Stanišić was involved in the establishment of the SDS. It is uncontested that, at the time of the creation of the SDS, Stanišić was an employee of the SRBiH government as Secretary of the SUP in Sarajevo. The Trial Chamber finds that, during this time, Stanišić displayed discontentment with the representation of Serbs within the SRBiH MUP and attempted to intervene to retain and recruit Serbs within the Ministry.

730. The Trial Chamber considers that Mićo Stanišić and Radovan Karadžić, a leading member of the JCE, shared a close relationship from at least June 1991 and in the months preceding the establishment of RS. As a result of his relationship with Karadžić, he often did not report through the designated channels of the RS Government but communicated directly with the Presidency.

731. The Trial Chamber recalls that the SDS Main Board adopted the Variant A and B Instructions on 19 December 1991, the purpose of which was to establish local Serb organs. Although Stanišić claimed he was never informed of the Variant A and B Instructions, the Trial

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1D637, CSB Trebinje forwarding RS MUP's Dispatch Requesting all SJBs to Fight all Types of Crime, 24 June 1992, pp. 1-2.

<sup>1868</sup> P625, Annual Report of the RS MUP for the period April-December 1992, January 1993; P1441, RS MUP Security Situation Bulletin No. 101, 15 May 1992, p. 2; P2064, Report on Genocide Committed Against the Serbian People in Zvornik, 26 June 1992; P2362, Report on the Killing of Miloš Minić, 31 July 1992; P1945, RS MUP Security Situation Bulletin No. 65, 10 July 1992; 1D571, RS MUP Report on Inspection of SJB Foča, Čajniče, Rudo, and Višegrad, 14 September 1992; 1D594, SJB Zvornik Response to CSB Sarajevo Dispatch to Report on Genocide Committed Against Serbs, 22 September 1992; P1072, Memorandum from SJB Vlasenica to CSB Sarajevo forwarding Data on War Crimes Committed Against the Serb Population (confidential); P1424, Official Note from Operative Dragan Vukašinić of SNB Višegrad, 2 October 1992; P793, CSB Sarajevo Report on the Work for the period July to September 1992, October 1992, p. 6; P2375, Report on the Work of the Department for Prevention of Crime in CSB Sarajevo, signed by Simo Tuševljak, 6 October 1992; P405, Report of the RS MUP on the Visit to Doboj CSB and SJBs, 22 October 1992, pp. 6-7; P1098.18, Report by Zoran Jošić, Head of SJB Banja Luka Regarding War Crimes in Banja Luka in 1992, 15 December 1992.

<sup>1869</sup> Staka Gojković, 15 June 2010, T. 11738, 11740-11741, 11572-11753, 11769; Slobodanka Gaćinović, P1609.01, Witness Statement, 2 June 2010, p. 5; P1284.55, Annual Report on the Work of the VRS Military Prosecutor's Office for 1992, 10 February 1993, p. 28.

Chamber finds that Mićo Stanišić was aware of these Instructions since the police were assigned, and did in fact play, a central role in the implementation of the Variant A and B Instructions.

732. Stanišić attended the 11 February meeting in Banja Luka, where a Serb collegium was created to prepare for the establishment of a Serb MUP. On 24 March 1992, he was elected as the first Minister of Internal Affairs in the Serb entity, RS, of the disintegrating SRBiH MUP, shortly after having accepted the position of advisor on state security matters to the Minister of Internal Affairs of SRBiH in February 1992. Stanišić attended a Serb police unit inspection on 30 March 1992, where he proclaimed that from that day the RS had its own police force. In his capacity as the Minister of Interior, Stanišić attended joint sessions of the NSC and the RS Government in the early months of the conflict, regular sessions of the RS Government throughout 1992, and sessions of the BSA, when matters and tasks pertaining to his Ministry were discussed. Based on the minutes and agenda of the meetings of these entities, the Trial Chamber finds that Mićo Stanišić was a key member of the decision-making authorities from early 1992 onwards.

733. From 1 April 1992, Stanišić made a majority of key appointments in the RS MUP. These positions ranged from the chief of the SNB, commanders of police, chiefs of the CSBs and SJBs, and the heads of the various administrations, including personnel, legal, crime prevention, and analysis. Stanišić had the sole authority to appoint, discipline, and dismiss the chiefs of CSBs and SJBs. Under the law, he also had the sole authority for establishing special police units and the authority to decide when and how a special unit could be used. However, the Chamber notes that police chiefs in several municipalities were appointed by local Crisis Staffs and that the RS MUP was not informed of the establishment of some special police units by local organs.

734. The Trial Chamber finds that Stanišić worked to promote the interests, and implement the decisions, of the SDS in the SRBiH MUP and was involved in all the stages of the creation of the Bosnian Serb institutions in BiH, in particular the MUP. By his participation in these institutions, he participated in the enunciation and implementation of the Bosnian Serb policy, as it evolved. His conduct, presence at key meetings, attendance at sessions of the BSA, acceptance of the position of Minister of Interior—all indicate his voluntary participation in the creation of a separate Serb entity within BiH by the ethnic division of the territory.

735. With regard to the evidence adduced by the Defence to show that the local municipal bodies, particularly the local Crisis Staffs, interfered with the appointments of police at the SJB level, the Chamber considers that the Variant A and B Instructions envisaged the creation and involvement of local bodies, including the local Crisis Staffs, at the municipal level. To this end, the municipal executive bodies were established with the local SDS representative as its president. The Crisis Staffs were composed of the local Bosnian Serb leaders, including the chief of the relevant

SJB or CSB. The Chamber recalls its finding that, throughout the Indictment period, the Bosnian Serb leadership was in charge of the events taking place in the municipalities through its control over the Serb Forces, SDS party structure, Crisis Staffs, and the RS Government, and that even though at times there were conflicts between these various entities, they all shared and worked towards the same goal under the Bosnian Serb leadership. Considering this, together with the evidence that the local SDS largely retained control over the Crisis Staffs in municipalities, the Chamber is satisfied that the local police leadership was in fact part of the formulation and implementation of the decisions taken by the Crisis Staffs, which were in accordance with instruction from the RS Presidency, MUP, and the SDS.

736. The Trial Chamber finds that, taking into account the role played by municipal bodies, Stanišić had overall command and control over the RS MUP police forces and of all other internal affairs organs in accordance with the policies and decisions adopted by the Presidency, NSC, and the BSA. This is borne out by the assignment of trusted members of the SRBiH MUP to important positions, appointment of SJB chiefs upon the recommendation of the regional authorities, assignment of SJBs to newly established CSBs, the ordering of personnel from headquarters to conduct inspections and visits of municipalities, his orders to investigate crimes allegedly committed by members of the RS MUP, and the reassignment of criminal elements from the police to the army.

(ii) Role of RS MUP Forces in combat activities and takeovers of Municipalities

737. The Chamber has found that the Municipalities of Banja Luka, Bijeljina, Bileća, Bosanski Šamac, Brčko, Doboј, Donji Vakuf, Gacko, Ilijaš, Ključ, Kotor Varoš, Pale, Prijedor, Sanski Most, Teslić, Vlasenica, Višegrad, Vogošća, and Zvornik were taken over in the months of April and June 1992, in accordance with the Variant A and B Instructions through the joint action of the RS MUP and other Serb forces, sometimes by advance hostile occupation of the main features in town by police forces. What followed was the mass exodus of Muslims, Croats, and other non-Serbs from their homes, communities, villages, and towns either provoked by violent means that entailed unlawful detention at the local SJBs and improvised camps and centres created out of local schools, gymnasia, cinema halls, cultural “doms”, and factories or by the imposition of harsh, unliveable conditions and discriminatory measures by Serb Forces, including members of the RS MUP, which led to the involuntary departure of the non-Serb population.

738. The Trial Chamber recalls its findings that Muslims, Croats, and other non-Serbs were dismissed from their places of employment and disarmed across the territory of RS. The Trial Chamber has found that the RS MUP also required all of its employees to sign solemn declarations, with the sanction of dismissal on failure or refusal to do so. In this context, the Trial Chamber notes



that ordinarily requiring persons in governmental employment to sign solemn declarations would not merit consideration. However, within the context of an ethnically motivated armed conflict, it finds that the intent behind the ostensibly legitimate requirement was to provide a pretext to dismiss and disarm non-Serbs from the RS MUP.

739. Following the call for mobilisation of all reserves in the declaration of the state of imminent threat of war on 15 May 1992, Stanišić—on the same day—ordered RS MUP forces to be organised into “wartime units” by the chiefs of the CSBs and SJBs. In light of this order and Karadžić’s request of 1 July 1992, the Trial Chamber attaches little weight to Stanišić’s statement that the RS MUP was not consulted with regard to the reassignment of RS MUP forces to the army for combat tasks.

740. The RS Government, and eventually the VRS, relied to a large extent on the RS MUP forces for combat activities, along with other armed forces of the territory. Consistent with the policies espoused by Radovan Karadžić and Momčilo Krajišnik, Stanišić issued orders for police forces, both regular and reserve units, to participate in “coordinated action with the armed forces”. Stanišić facilitated the arming of the RS MUP forces by seeking—and receiving—the assistance of the Federal SUP of Serbia for supplying equipment, weapons, and training for a special unit under his direct control at the Ministry level.

741. The Trial Chamber recalls that the large parts of JNA in SRBiH, with which the SDS had a close relationship, were transformed into the VRS on 19 May 1992 with Ratko Mladić as its first commander, which was made possible through the dismissal of a majority of non-Serbs. The Trial Chamber notes that Pale, Bijeljina, Banja Luka, Prijedor, Zvornik, Sanski Most, Vlasenica, Višegrad, Vogošća, Gacko, Ključ, Bosanski Šamac, Brčko, and Doboј were taken over by Serb Forces, including members of the police force, before the formal establishment of the VRS, while the municipalities of Bileća, Ilijaš, Donji Vakuf, Kotor Varoš, and Teslić were taken over after. Mladić and the VRS worked in coordination with, and under the control of, the Bosnian Serb leadership, significantly the Presidency of RS. As the highest commander of the RS MUP forces and the administrative head of the organs of the RS MUP, Stanišić received reports of the involvement of the police forces in combat activities.

742. The Chamber considers that the evidence of Stanišić seeking recognition from other Bosnian Serb leaders for the contributions and achievements of the RS MUP in combat activities supports a finding that Stanišić deployed the police in furtherance of the decisions of the Bosnian Serb authorities, of which his Ministry was considered an instrumental organ.

743. Despite being aware of the commission of crimes by the joint Serb Forces in the Municipalities, as the Trial Chamber finds in the sub-section on Mićo Stanišić's *mens rea* below, Stanišić consistently approved the deployment of the RS MUP forces to combat activities along with the other Serb Forces. Stanišić only sought to withdraw regular policemen from combat activities towards the end of 1992, when most of the territory of RS had been consolidated, while permitting the continued use of reserve forces by the army, primarily for the purpose of guarding prisons and detention camps. Stanišić acknowledged that "thieves and criminals" had been accepted into the reserve police force in a speech to the BSA in November 1992, when he said: "Maybe ... we went wrong ... I went wrong."

744. The Trial Chamber has found that the following JCE members, who were part of the police hierarchy and their subordinate forces, including reserve police and special police units, were involved in the widespread and systematic takeovers of municipalities: Stevan Todorović, Chief of Bosanski Šamac SJB; Malko Koroman, Chief of Pale SJB; Simo Drjlača, Chief of Prijedor SJB; Andrija Bjelošević, Chief of Doboj CSB; Krsto Savić, Chief of Trebinje CSB; and Stojan Župljanin, Chief of Banja Luka CSB. All these persons were directly appointed by Stanišić and they used the police force as physical perpetrators to implement the common plan.

(iii) Role in prevention, investigation, and documentation of crimes

745. The Trial Chamber recalls its finding that the civilian law enforcement apparatus failed to function in an impartial manner and that the police and civilian prosecutors failed to report or under-reported the vast number of serious crimes committed by Serb perpetrators against non-Serbs. When such reports were filed with the civilian criminal courts, prosecution rarely ensued. Instead, substantial police resources were directed towards the arrest, detention, and interrogation of thousands of non-Serbs, as was analysed in the sections of the Judgement devoted to crimes committed in the separate municipalities at issue in the Indictment. The Trial Chamber finds that the discriminatory failure to properly investigate crimes against non-Serbs contributed to the prevailing culture of impunity and thereby facilitated the perpetration of further crimes committed in furtherance of the common objective.

746. As early as 15 April 1992, Stanišić issued an order to curb looting and misappropriation of property by his subordinates by requiring that the "unauthorised acts for personal gain" be dealt with through the "most rigorous measures, including arrest and detention." The problem of "unprincipled conduct" was most pronounced among the reserve police force, pertaining to whom Stanišić issued several orders and instructions in the course of 1992, starting with 11 May 1992 for them to be arrested and prosecuted or dismissed and handed over to the VRS in case of criminal conduct. These orders were passed down the chain of command by the chief of CSBs to the relevant

SJBs. Although the Trial Chamber has received evidence that shows that these orders were acted upon in some instances, it finds that the implementation of the orders to deal with the reserve police force were not carried out to the extent possible since the reserve police continued to serve within the RS MUP until the end of 1992.

747. On 18 July 1992, Stanišić sent a letter to Branko Đerić requesting that regulations be issued directing the activities of the army, groups, and individuals in order to prevent breaches of international law that could have led to “genocide or war crimes”. The letter was also sent to Karadžić and the Federal SUP.

748. The Trial Chamber notes that Stanišić issued a number of orders in the course of July and August 1992 concerning detention camps and criminal elements in the police. On 19 July 1992, for instance, he requested information on procedures for arrest, treatment of prisoners, conditions of collection camps, and Muslim prisoners detained by the army at “undefined camps” without the proper documentation.

749. On 23, 24, and 27 July 1992, Stanišić ordered that all members of the MUP who had committed crimes or against whom official criminal proceedings had been launched should be relieved of duty and placed at the disposal of the VRS. The Chamber notes, that in response to these orders, Stanišić received information that disciplinary measures were instituted against 35 policemen at the Vlasenica SJB and that a number of policemen in Doboj and in the ARK were transferred to the VRS.

750. Pursuant to Stanišić’s order of 27 July 1992, Sreto Gajić and Tomislav Mirosavić presented two reports, one on 5 August and the other on 10 August, that contained information about the camps in Prijedor and the involvement of police in guarding them. The report described Omarska as an investigation centre for the first and second category of prisoners, who were transferred to Manjača, a camp run by the army, at the end of the investigation process. It described Trnopolje as a “reception centre” for the Muslims, where they could move freely and waited until their departure to a destination of their choice could be organised.

751. The Trial Chamber finds that, even though the placing of errant reserve policemen at the disposal of the army was in accordance with the applicable disciplinary procedures, it was not sufficient to fulfil his duty to protect the Muslim and Croat population, considering the fact that transferring known offenders in the reserve police to the army in fact further facilitated their continued interaction with civilians.

752. In his further orders of 8, 10, 17, and 24 August 1992, Stanišić ordered all CSB and SJB chiefs to obtain information concerning the treatment of war prisoners and the conditions of life of detainees and requiring Chiefs of CSBs to initiate criminal reports against perpetrators of crimes such as mistreatment of detainees. These orders were transmitted down the chain within the RS MUP, from the CSBs to the SJBs in their jurisdiction. In response to these orders, commissions were set up to look into the issue. Stanišić was notified that no camps under the RS MUP jurisdiction existed in Bijeljina, which was the only CSB to reply to Stanišić's orders within the prescribed timeframe. As a result of his order of 8 August, however, detainees at the Pale gymnasium were escorted, "for their own security", to the demarcation line.

753. The Trial Chamber finds that these orders were prompted by the international attention given to the detention camps in BiH by June 1992. These orders were a result of an instruction of 6 August by the RS Presidency, which was concerned about its image in the eyes of the world. Moreover, the Trial Chamber notes that the condition and mistreatment at these camps continued. In any event, Stanišić failed to use the powers available to him under the law to ensure the full implementation of these orders despite being aware of the limited action taken subsequent to his orders.

754. As the Minister, Stanišić was under a duty, both under the law applicable in the RS at the relevant time and under international law, to discipline and dismiss the personnel of his Ministry who had committed crimes. In the exercise of these powers, Stanišić, through Kovač, initiated action against Malko Koroman, Stevan Todorović, Obren Petrović, Borislav Maksimović, and Simo Drljača. However, none of these persons were successfully removed from the Ministry in the course of 1992. Moreover, the proceedings launched against these persons did not pertain to the crimes charged in the Indictment but instead concerned crimes such as theft and professional misconduct. The Trial Chamber finds that, given the above, Stanišić violated his professional obligation to protect and safeguard the civilian population in the territories under their control.

755. Actions by Mićo Stanišić against Dragomir Andan, Nenad Simić, Obren Petrović, Vladimir Petrov, and Veljko Šolaja resulted in dismissals. But these persons were only pursued for their involvement in the theft and smuggling of vehicles or persons. The Trial Chamber finds that the evidence on the efforts made by Stanišić to quell the theft of vehicles—by issuing orders to monitor and protect the facilities, requiring immediate inspection and reporting by chiefs of CSBs, instituting disciplinary action leading to dismissal from service of police officers involved in the crime, and his relentless airing of the issue as a matter of personal concern—demonstrates his ability as the highest authority to investigate and punish those found to be involved, even when faced by opposition from others in the Bosnian Serb leadership.

756. The Trial Chamber has heard evidence of Mićo Stanišić being opposed to the use of paramilitaries from outside BiH to forward the Serb cause, primarily at the behest of Biljana Plavšić, and that he raised the issue of the problems these forces caused with the Prime Minister Branko Đerić. The Trial Chamber finds that the action against the Yellow Wasps in Zvornik and other paramilitaries in Bijeljina, Brčko, and other municipalities was only pursued by Stanišić following their refusal to submit to the command of the army and their continued commission of acts of theft, looting, and trespasses against the local RS leaders. The primary motivation for these actions was the theft of Golf vehicles and harassment of the Serbs, an issue that concerned the RS authorities since the start of hostilities.

757. The Trial Chamber finds that Mićo Stanišić failed to act in the same decisive manner with regard to the other crimes, such as unlawful detention and displacement and removal of Muslims, Croats, and other non-Serb civilians—and ensuing crimes of killing and inhumane treatment of detainees, which were brought to his attention not only by various means and sources of information within the RS MUP and from the RS Presidency and the RS Government, but also from the other sources including the ICRC, ECMM, CSCE, and the international press.

758. In this context, the Trial Chamber notes that, when dealing with war crimes, Mićo Stanišić focused primarily on crimes committed against Serbs. Following the 22 April 1992 instruction from the Federal SUP in Belgrade, Stanišić directed the chiefs of the CSBs to forward detailed documentation and investigation of war crimes and other serious crimes committed against Serbs for its use by the “war crimes commission”. The Trial Chamber finds that the instruction did not include the investigation of all crimes irrespective of the ethnicity of the victims. In view of the language of the orders of 16 May, 26 May, 17 June, 11 July, and 17 July 1992—when read in the light of the testimony of ST174, Goran Mačar, and Staka Gojković, together with the 22 April instruction from SFRY—the Trial Chamber finds that the instruction from Stanišić to the CSBs on documenting war crimes and other mass atrocities was specifically limited to where Serbs were the victims, and not all civilians.

759. Evidence on the various channels of reporting and information demonstrate Stanišić’s knowledge of the crimes that were being committed. However, he took insufficient action to put an end to them and instead permitted RS MUP forces under his overall control to continue to participate in joint operations in the Municipalities with other Serb Forces involved in the commission of crimes, particularly the JNA/VRS and the TO.

(iv) Role in unlawful arrest and detentions

760. The Trial Chamber recalls its findings that, in addition to detention centres at the SJBs or attached to the police stations, members of the police guarded the following detention centres at which crimes have been found to be committed: Bileća; Brčko (Luka camp was controlled by either the SDS in Bijeljina or Brčko police); Gacko (the Power Station Hotel was controlled by the police under the orders of Popović and Božidar Vučurević, the President of SAO Herzegovina); Ključ (the Nikola Mačkić School was guarded by the police); Pale (the Gymnasium was guarded by the police); Prijedor (Omarska was jointly operated by police and military, while Keraterm was commanded and guarded by the police); Teslić (reserve police together with the military were in charge of the TO building); Vlasenica (Sušica camp was under the joint authority of the Crisis Staff and MUP); and Vogošća (the Bunker, created by the Crisis Staff, was guarded by the police).

761. The Trial Chamber is satisfied that the RS MUP shared, with the MOJ and the VRS, responsibility for the detention and penitentiary facilities during the time relevant to the Indictment, either by establishing, managing, or guarding these camps, or otherwise assisting in their functioning, and that Stanišić contributed to their continued existence and operation by failing to take decisive action to close these facilities or, at the very least, by failing to withdraw the RS MUP forces from their involvement in these detention centres.

762. Stanišić, in his interview with the OTP, gave different accounts of when he learned of the existence of and the conditions existing in the detention centres where Muslims and Croats were unlawfully detained during the Indictment period. Stanišić stated that he found out about the crimes in 1993, or at the 11 July Collegium in 1992, or through reports of the Commission. The evidence, however, shows that Stanišić learned of the unlawful detention of Muslims as Croats, at the latest, by the beginning of June 1992.

763. By the end of May 1992, media reports on Serb Forces holding hostages had already prompted Đerić to write a letter to the US Secretary of State to deny those allegations. On 5 June 1992, the Assistant Minister for Crime Prevention and Detection, Dobrislav Planojević, informed all CSBs that police must follow humanitarian law in their treatment of civilians and POWs. On 10 June 1992, Stanišić attended a RS Government meeting where issues relating to the treatment of civilians, POWs, accommodation, and food were discussed. By this date, the mass arrest of thousands of Muslims and Croats had already begun in the majority of the Municipalities. According to Okun, the existence of detention centres in Prijedor where thousands of Muslims and Croats were detained in June 1992 was known to the main international organisations operating on the ground, including the ICRC and UNPROFOR. By this time, therefore, the existence of the camps was known to the major international actors operating in BiH.

764. As conceded by Stanišić, a further source of knowledge of the unlawful detention of Muslims was the Commission for the exchange of prisoners, which was established by Đerić on 8 May 1992. While the Commission did not report directly to Stanišić, Marković, when in Pale, spoke with Stanišić about its work, and from the information that was conveyed, the Trial Chamber considers that Stanišić discussed the treatment of women and children in the context of prisoner exchanges. In addition, the Trial Chamber recalls that SNB inspectors played a significant role in the interrogation of Muslims and Croats in detention camps, such as those in Prijedor or Manjača. Based on the evidence of Radulović, the Trial Chamber finds that information gathered by the SNB was available to the decision makers of the RS, which included Stanišić.

765. At the 11 July 1992 Collegium, attended by Stanišić, Župljanin stated that the army and Crisis Staffs were requesting that as many Muslims as possible be “gathered” and that the security of “undefined camps”, where international norms were not respected, was left to RS MUP organs. On 20 July 1992, Župljanin informed Stanišić that the VRS and the police had arrested “several thousands” of Muslims and Croats, including persons of no security interest, whom Župljanin proposed to use as hostages for prisoner exchanges. During a RS Government session on 22 July 1992, attended by Stanišić, instances of unlawful treatment of war prisoners were discussed. On 5 August 1992, Gajić reported to Stanišić that camps still existed in Prijedor and that 300 policemen were engaged in securing them. Still in October 1992, Avlijaš reported to Stanišić that the police in Zvornik were detaining people without any justification in law.

(b) Stanišić’s *Mens Rea*

766. To assess Stanišić’s state of mind in relation to the conduct examined above, the Trial Chamber first considered evidence on Stanišić’s knowledge of the commission of crimes against Muslims and Croats in the geographic area and during the time period covered by the Indictment.

767. Aside from evidence on Mićo Stanišić’s knowledge, the Trial Chamber, in assessing Stanišić’s alleged *mens rea*, also reviewed evidence on the political stances of the SDS and the BSA in the period preceding the Indictment and Stanišić’s conduct and statements in relation to these policies. The Trial Chamber recalls that the views of the Bosnian Serb leadership—that there be an ethnic division of the territory, that “a war would lead to a forcible and bloody transfer of minorities” from one region to another, and that joint life with Muslims and Croats was impossible—were expressed during the sessions of the BSA of which Stanišić was a member and during the meetings of the SDS in late 1991 and early 1992. The Trial Chamber further recalls that the six strategic objectives, which had been set by, among others, the RS Government, were issued

on 12 May 1992 and presented to the BSA. The first goal called for the separation of Serb people from Muslims and Croats.<sup>1870</sup> Stanišić also attended the first meeting of the Council of Ministers of the BSA, where the boundaries of ethnic territory and the establishment of government organs in the territory were determined to be priorities.

768. In this regard, the Trial Chamber has considered the evidence that Stanišić, albeit opposed to the presence of some paramilitary groups in BiH, approved of the operation of Arkan's Men in Bijeljina and Zvornik and allowed Arkan to remove whatever property in exchange for "liberating" the territories. Moreover, Stanišić was present at sessions of the RS Government where the RS MUP was tasked with gathering information about Muslims moving out of the RS and the needs of refugees and displaced persons. He was also present at the 11 July Collegium meeting, where the relocation of citizens and entire villages was discussed. Finally, on 13 July 1992, the Višegrad SJB Chief Risto Perišić reported to the RS MUP that certain police officers were exhibiting a lack of professionalism while over 2,000 Muslims moved out of the municipality in an organised manner.

769. Considering his position at the time, his close relationship with Radovan Karadžić, and his continued support of and participation in the implementation of the policies of the Bosnian Serb leadership and the SDS, the Trial Chamber finds that the only reasonable inference is that Stanišić was aware of the persecutorial intentions of the Bosnian Serb leadership to forcibly transfer and deport Muslims and Croats from territories of BiH and that Stanišić shared the same intent.

(i) Stanišić's responsibility for crimes outside scope of JCE

770. Since the Chamber has found that the common purpose of the JCE was to be achieved through deportation and the inhumane act of forcible transfer as crimes against humanity and deportation and forcible transfer as underlying acts of persecution as a crime against humanity, it follows that the other charged crimes alleged against Stanišić need to be examined in the context of the third category of JCE.

771. As described above, Stanišić intended to permanently remove Bosnian Muslims and Bosnian Croats from the territory of the planned Serbian state through the commission of certain crimes. Further, Stanišić was aware of the criminal background and propensity of members of the Bosnian Serb Forces to commit crimes, and particularly the RS reserve police force, which were mobilised in the early months of the conflict to effect this removal.

772. The Trial Chamber finds that the forcible removal of Bosnian Muslims and Bosnian Croats from BiH was engineered by enforcing unbearable living conditions following the takeover of

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<sup>1870</sup> See JCE section.



identified towns and villages. The possibility of the imposition and maintenance of restrictive and discriminatory measures against the non-Serbs in these towns and villages, with a discriminatory intent, in the execution of the common plan was sufficiently substantial so as to be foreseeable to Mićo Stanišić and that he willingly took that risk.

773. The Trial Chamber finds that, in the execution of the common plan, the possibility of the unlawful detention of Bosnian Muslims and Bosnian Croats at SJBs, prisons, and improvised detention centres and camps, with a discriminatory intent, was sufficiently substantial so as to be foreseeable to Mićo Stanišić and that he willingly took that risk.

774. The Trial Chamber finds that, in the ethnically charged atmosphere during the “reorganisation” of the internal organs of the municipalities, the possibility that killings, both during the attacks and takeover of municipalities and in the prisons, detention centres, and camps, could be committed with a discriminatory intent in the execution of the common plan, was sufficiently substantial as to be foreseeable to Mićo Stanišić and that he willingly took that risk.

775. Although the Chamber has found that extermination did occur in the municipalities of Ključ, Kotor Varoš, Brčko, Višegrad, Vlasenica, Zvornik, Banja Luka, and Prijedor, it is not satisfied that the possibility that these killings at a mass scale could be committed in execution of the common plan was sufficiently substantial so as to be foreseeable to Mićo Stanišić. In this regard, the Chamber notes that it has found that Stojan Župljanin is responsible for extermination pursuant to the third category of JCE. The Chamber stresses that the evidence concerning Župljanin was different. Župljanin had knowledge of the murders committed by some of his subordinate forces against the non-Serb civilian population and nevertheless continued to task these forces for operations involving the non-Serb population. The evidence presented by the Prosecution in relation to Mićo Stanišić is not sufficient for the Chamber to come to the same conclusion with regard to the crime of extermination. Therefore, the Chamber will analyse the evidence in relation to the incidents of extermination that it has found were committed under alternative modes of liability, as charged in the Indictment, in the following sub-section.

776. Given the knowledge of Mićo Stanišić of the large-scale detention of the non-Serb civilians in prisons, SJBs, detention centres, and camps, which were guarded by the armed forces of the RS with the support by both active and reserve forces of the SJBs in individual municipalities approved by his direct orders, the Trial Chamber finds that the subsequent torture, cruel treatment, and other inhumane acts, including beatings and rape, and inhumane conditions of detention, such as provision of starvation rations, and unhygienic and insufficient amenities, were foreseeable to Mićo Stanišić in the course of unlawful detentions. The Trial Chamber finds that the possibility that these

crimes could be committed with a discriminatory intent in the execution of the common plan was sufficiently substantial as to be foreseeable to Mićo Stanišić and that he willingly took that risk.

777. Considering the evidence on the numerous reports and meetings that addressed the increased level of looting, search and seizure, appropriation, and plunder of the moveable and immovable property of the Bosnian Muslims, Bosnian Croats, and other non-Serbs in the Municipalities—during the takeover of Municipalities, in the course of transporting them to detention centres and camps, while in detention, and in the course of their escorted removal from Serb-held territory—the Trial Chamber is satisfied that the possibility that these crimes could be committed with a discriminatory intent in the execution of the common plan was sufficiently substantial as to be foreseeable to Mićo Stanišić and that he willingly took that risk.

778. Finally, the Trial Chamber finds that the wanton destruction and damage of religious and cultural property found to be carried out in a concerted effort to eliminate the historical moorings of the Bosnian Muslims and Bosnian Croats during and following the takeover of the Municipalities was foreseeable to Mićo Stanišić in the course of the execution of the common plan. The Trial Chamber is satisfied that the possibility that these crimes could be committed with a discriminatory intent in the execution of the common plan was sufficiently substantial as to be foreseeable to Mićo Stanišić and that he willingly took that risk.

779. Considering that the Trial Chamber has found that the crimes of unlawful detention; imposition and maintenance of restrictive and discriminatory measures; killings; torture, cruel treatment, and inhumane acts; establishment and perpetuation of inhumane living conditions in the detention facilities; appropriation of property and plunder; and wanton destruction and damage of religious and cultural property were all committed with a discriminatory intent, the Chamber further is satisfied that they comprise underlying acts of persecution, the possibility of which was sufficiently substantial as to be foreseeable to Mićo Stanišić and that he willingly took that risk.

780. Having made the above findings, it is not necessary for the Trial Chamber to make findings on the other forms of responsibility alleged in the Indictment, save for extermination, which is dealt with in the next sub-section.

781. The Trial Chamber will analyse in the section entitled “Conclusions on Responsibility of Accused for Crimes Committed in Municipalities” whether the foregoing crimes found to have been committed in the Municipalities can be imputed to Mićo Stanišić or another member of the JCE acting in furtherance of the common plan and purpose when using the physical perpetrators.

5. Stanišić's responsibility for extermination pursuant to other modes of liability charged in Indictment

782. Having found that the possibility that extermination could be committed in the execution of the common plan was not sufficiently substantial so as to be foreseeable to Mićo Stanišić, the Trial Chamber found that Stanišić is not responsible, as a member of the JCE, for the crimes of extermination that were committed in the Municipalities. The Trial Chamber will now examine his responsibility for extermination pursuant to other modes of liability charged in the Indictment.

783. The Trial Chamber recalls that it has found that extermination was committed at the following locations:

- (a) Ključ: The killing of at least 144 victims in Biljani on 10 July 1992 by Serb Police, specifically police from the Sanica sub-station in Ključ, and members of the VRS; and the killing of approximately 76 victims on 1 June 1992 outside Velagići school by members of the VRS;
- (b) Kotor Varoš: the killing of approximately 26 men on the way to and in front of the Kotor Varoš medical centre on 25 June 1992, of which 18 were killed by Serb Forces, five by the Banja Luka CSB Special Police Detachment, two by Serb soldiers, and one by a member of the regular police;
- (c) Prijedor: the killing of approximately 800 people during the attack on Kozarac by Bosnian Serb Forces between 24 May and August 1992; the killing of 68 persons in Briševo by Bosnian Serb soldiers of the 5<sup>th</sup> Kozara Brigade on 27 May 1992; the killing of 74 persons in Biščani and Čarakovo by Bosnian Serb soldiers in July 1992; the killing of at least 60 persons at the Ljubija football stadium and the Kipe mine by Bosnian Serb soldiers around 25 July 1992; the killing of approximately 128 detainees by Bosnian Serb army personnel in Room 3 at Keraterm camp, which was established, guarded, and run by Serb police; the killing of 95 detainees at Omarska camp between late June and end July of 1992, which was jointly run by Serb police and the army; and the killing of approximately 150–200 Muslim men at Korićanske Stijene by members of the PIP on 21 August 1992;
- (d) Brčko: the killing of approximately 250 victims in May 1992 in Brčko by Serb Forces, including members of the police who killed four persons;
- (e) Višegrad: the killing of 66 individuals at a house on Pionirska Street on or about 14 June 1992 and on the bank of the Drina river on or about 7 June 1992 by, among others, Milan

Lukić, a member of the Serb reserve police force of Višegrad and leader of a paramilitary group, and Sredoje Lukić, a member of the Serb regular police force of Višegrad;

- (f) Vlasenica: the killing of more than 20 persons on 2 June 1992 in Drum by members of the TO and the Vlasenica Special Police Unit; and the killing of at least 28 persons on 21 May 1992 at Nova Kasaba by Serb soldiers;
- (g) Zvornik: the killing of approximately 85 persons on 30 May 1992 at the Drinjača school by members of the White Eagles and Arkan's Men; the killing of about 352 persons between 1 and 8 June 1992 at Gero's Slaughterhouse and Karakaj Technical School by members of Karakaj TO company and other uniformed Serbs, including men in olive-grey uniforms worn by the JNA; the killing of 20 persons in early June 1992 at the Karakaj Technical School by the Serbian TO; and the killing of 34 men at Čelopek Dom in June 1992 by paramilitaries belonging to Toro's Group, by Dušan Repić and a member of his paramilitary group, and by members of the Yellow Wasps;
- (h) Banja Luka: the killing of 20 persons on 7 July 1992 by Sanski Most police officers during the transfer of prisoners from Betonirka in Sanski Most to Manjača.

(a) Stanišić's responsibility pursuant to other modes of liability under Article 7(1) of the Statute

784. As noted above, the Indictment alternatively alleges that Stanišić is individually criminally responsible for instigating or aiding and abetting the crime of extermination. In relation to the charge of instigating, the Indictment alleges that Stanišić directly intended or was aware of the substantial likelihood that the execution of the acts and conduct that he instigated would involve or result in extermination. In relation to the charge of aiding and abetting, the Indictment alleges that Mićo Stanišić was aware that extermination would probably be committed and that his acts or omissions would contribute to its commission.<sup>1871</sup>

785. The Trial Chamber finds that there is no evidence to show that Stanišić prompted the perpetrators to commit the crime of extermination, in the incidents listed above, with direct intent in relation to his instigating. Therefore, the Trial Chamber finds that Stanišić is not criminally responsible for instigating the crime of extermination.

786. The Trial Chamber finds that, despite the involvement of the police in the commission of extermination in some instances, there is no evidence that Stanišić's acts or omissions were specifically directed to assist, encourage, or lend moral support to the perpetration of extermination

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<sup>1871</sup> Indictment, paras 14-15.

nor was he aware of the perpetrators intent to commit the crime. Therefore, the Trial Chamber finds that Stanišić is not criminally responsible for aiding and abetting the crime of extermination.

(b) Stanišić's Responsibility Pursuant to Article 7(3) of the Statute

787. The Trial Chamber recalls that, under Article 7(3) of the Statute, a superior may incur individual criminal responsibility for failing to take the necessary and reasonable measures either to prevent a subordinate from committing a crime within the jurisdiction of the Tribunal or to punish a subordinate for having committed a crime, if the following elements exist: (a) a superior-subordinate relationship; (b) the superior knew or had reason to know that a criminal act was about to be, was being, or had been committed; and (c) failure to take necessary and reasonable measures to prevent or punish the conduct in question.

788. The Trial Chamber finds that there is no evidence to show that Stanišić knew or had reason to know that the crime of extermination was about to be, was being, or had been committed in relation to the municipalities of Ključ, Kotor Varoš, Brčko, Višegrad, Vlasenica, Zvornik, Banja Luka, or Prijedor, except with regard to the incident at Korićanske Stijene. Therefore, the second requirement necessary for superior responsibility, as set out above, has not been satisfied for any of the incidents barring the one at Korićanske Stijene. This being the case, the Trial Chamber does not consider it necessary to address the remaining requirements in relation to the other incidents. The Trial Chamber will proceed to analyse further Stanišić's responsibility with regard to Korićanske Stijene.

789. The Trial Chamber recalls its finding that approximately 150–200 men were killed at Korićanske Stijene by Prijedor policemen, particularly members of the PIP on 21 August 1992.<sup>1872</sup>

790. The Trial Chamber recalls Dušan "Dule" Janković and Milutin Čadjo were the immediate subordinates of Simo Drljača. Čadjo established the PIP, a civilian police unit in the Prijedor SJB, around June 1992. The two squads of the PIP, under the overall command of Miroslav Paraš, were headed by Pero Čivčić and Dragoljub Gligić. It was a well-disciplined unit that obeyed its commanders and was briefed every morning in front of the Prijedor SJB building. The unit was attached to the military when required.<sup>1873</sup>

791. The Trial Chamber finds that the PIP was under the command of Simo Drljača as the Chief of the Prijedor SJB and was part of the regular chain of command of the RS MUP. Simo Drljača's official appointment was made by Stojan Župljanin on 30 July 1992, with retrospective effect as of

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<sup>1872</sup> See Prijedor section.

<sup>1873</sup> See Prijedor section.

29 April 1992, in accordance with a decision of Stanišić dated 25 April 1992.<sup>1874</sup> Simo Drljača was directly subordinated to Stojan Župljanin, the Chief of the Banja Luka CSB, who in turn was directly subordinated to Stanišić as the Minister of RS MUP who exercised overall command and control of the Ministry.

792. The Trial Chamber recalls that Stanišić, as Minister, had and effectively used the power to appoint, discipline, and dismiss chiefs of CSBs and SJBs; to assign police units for combat operations; and to order investigations into crimes committed by RS MUP. Moreover, the Trial Chamber recalls that the Ministry was, among other tasks, to directly conduct national security related activities and monitor, direct, and co-ordinate the activities of the CSBs and the SJBs of the RS MUP.

793. On the basis of the foregoing, the Trial Chamber finds that Stanišić exercised effective control over the members of the Prijedor SJB, including the PIP. Hence, there existed a superior-subordinate relationship, within the meaning of Article 7(3) of the Statute, between Stanišić and the Prijedor police, including the PIP, at the time they committed extermination at Korićanske Stijene. The Trial Chamber will next turn to the second and third requirements under Article 7(3) of the Statute.

794. The Trial Chamber recalls that, according to Stanišić, he first learned of the incident at Korićanske Stijene two or three days after it had happened from Živko Bojić, a member of the crime section in the Banja Luka CSB. Thereafter, Stanišić issued an order to investigate the killings on 31 August 1992. At this time, he already knew from his conversation with Bojić that an on-site investigation had taken place, in which an investigative judge had been involved. This is consistent with other evidence that there were two visits by MUP and other officials to the crime scene on 23 and 30 August 1992. The Trial Chamber further recalls that Marinko Kovačević, the Deputy Basic Prosecutor in Banja Luka, testified that he worked on the case after receiving the criminal report from Župljanin on 8 September 1992.<sup>1875</sup> As late as November 1992, Župljanin claimed that the investigation was ongoing, as exemplified by his interview with *ABC Nightline*.

795. At the time, Mićo Stanišić was aware that, in addition to the local police and an investigative judge pursuing the matter, the army was also following up on the crime and the Presidency had dispatched the Minister of Defence to the area shortly after the crime was reported. Although the investigation into the crime at Korićanske Stijene in 1992 was conducted with the aim of shielding the perpetrators, as discussed in the section on Stojan Župljanin's individual criminal

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<sup>1874</sup> See Prijedor section.

responsibility, the Trial Chamber finds that, on the basis of the information available to him at the time, Stanišić had no reason to suspect that the investigation was not genuine.

796. With regard to Stanišić's alleged failure to prevent, the Trial Chamber finds that the Prosecution has failed to prove that Stanišić knew or had reason to know that extermination was about to be or was being committed at Korićanske Stijene. Nor has it proved that he failed to take necessary and reasonable measures to prevent the crime.

797. With regard to Stanišić's alleged failure to punish, the Trial Chamber finds that Stanišić ordered an investigation into the crime at Korićanske Stijene shortly after having learned of the crime. By issuing this order, with knowledge that an investigative judge was involved in the investigation, Stanišić had undertaken all that was within the material possibility of his authority to identify and punish the perpetrators. Considering the scale of the crime and the fact that Župljanin was publicly claiming that the investigation was ongoing in November 1992, it was reasonable for Stanišić to expect that the investigation into the crime at Korićanske Stijene was being conducted in accordance with the relevant law from the time of his order of 31 August until the time of his resignation at the end of 1992. Moreover, the Trial Chamber takes into account that, during his second term as the Minister of RS MUP in 1994, Stanišić suspected that there had been an attempt to cover-up the incident and that he tasked Bjelošević, Mačar, and Bojić to adequately investigate the crime. The Trial Chamber therefore concludes that Stanišić knew that the crime of extermination had been committed at Korićanske Stijene; however, the Prosecution has not proved that Stanišić failed to take necessary and reasonable measures to punish the perpetrators of the extermination committed at Korićanske Stijene.

798. The Trial Chamber therefore finds that Stanišić does not bear criminal responsibility for this crime pursuant to Article 7(3) of the Statute. The Trial Chamber will therefore acquit Mićo Stanišić of Count 2 of the Indictment.

### **C. Conclusions on Responsibility of Accused for Crimes Committed in Municipalities**

799. The Trial Chamber will now assess whether the crimes committed in the Municipalities can be imputed to Mićo Stanišić, Stojan Župljanin, or any other members of the JCE.

800. The Trial Chamber sets forth below its findings regarding the crimes for which the accused are responsible. However, where these crimes are impermissibly cumulative, the Trial Chamber will not enter convictions in the Disposition of the Judgement.

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<sup>1875</sup> See also sub-section on "Župljanin's role in investigation of the Korićanske Stijene massacre in Skender Vakuf" in the section on Stojan Župljanin's Individual Criminal Responsibility.

## 1. Banja Luka

801. The Trial Chamber has found that, from 3 April 1992 until December 1992, Serb Forces committed the crimes charged under counts 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10 of the Indictment in the municipality of Banja Luka. The Trial Chamber has found that the perpetrators in Banja Luka included the following: (a) members of the 1<sup>st</sup> KK under the command of Božidar Popović and members of the 1<sup>st</sup> KK military police; (b) the local Crisis Staff; (c) the ARK Crisis Staff; (d) the SOS; and (e) members of the police force, including from the Banja Luka Special Police Detachment, Banja Luka CSB, SNB, Prijedor, Sanski Most, Ključ, and other ARK Municipalities.

802. The Trial Chamber has found that the Serb municipal authorities in Banja Luka formed a Crisis Staff, which implemented the demands of the SOS. The SOS demands coincided with the demands of the SDS leadership in Pale, which included JCE members Biljana Plavšić, Momčilo Krajišnik, and Radovan Karadžić. Leading members of the ARK Crisis Staff and prominent SDS members Vojislav Kuprešanin, Radoslav Brđanin, and ARK politician Predrag Radić, have also been found to be members of the JCE. With regard to the crimes committed in Manjača, the Trial Chamber recalls that the camp was under the authority of the 1<sup>st</sup> KK, with Božidar Popović acting as the camp warden. The 1<sup>st</sup> KK was under the overall command and control of General Momir Talić, a member of the JCE, and the Chamber has found that by June 1992 Talić had been informed of conditions in the camp. The Trial Chamber further recalls that the RS MUP state security and public security officers from ARK Municipalities transported people to Manjača, assisted the army in providing security, and participated in the interrogation of detainees. Stojan Župljanin, who was aware of police involvement in the operation of Manjača, had *de jure* and *de facto* control over these RS MUP forces. Finally, the Trial Chamber finds that members of the Banja Luka Special Police Detachment and that members of the crew of the red van that committed crimes against non-Serbs in Banja Luka were police under the authority of Stojan Župljanin, the highest police authority in the ARK. The police in Banja Luka, through Župljanin, were within the RS MUP, which was under the overall control of Mićo Stanišić. The Trial Chamber finds that the aforementioned JCE members, when using these Serb Forces in Banja Luka to commit crimes, acted in accordance with the common plan.

803. The Trial Chamber has found that these Serb Forces in Banja Luka, acting in concert with one another, committed the crimes of deportation (count 9), forcible transfer as an inhumane act (count 10), and deportation and forcible transfer as underlying acts of persecution (count 1), in furtherance of the JCE's common plan.

804. The Trial Chamber recalls that Mićo Stanišić was a member of the JCE and finds him responsible for the crimes of deportation (count 9), forcible transfer as an inhumane act (count 10),



and deportation and forcible transfer as underlying acts of persecution (count 1) in Banja Luka under the first category of JCE. The Trial Chamber recalls its finding that all of the remaining crimes (except extermination) were foreseeable consequences of the execution of the common plan and that Mićo Stanišić willingly took the risk that these crimes might be committed by participating in the enterprise. The Trial Chamber finds Mićo Stanišić responsible for the crimes of murder (counts 3 and 4), torture (counts 5 and 6), cruel treatment (count 7), inhumane acts (count 8), and the remaining underlying acts of persecution (count 1) that the Trial Chamber found were committed in the municipality of Banja Luka under the third category of JCE.<sup>1876</sup> The Chamber recalls its finding that Mićo Stanišić does not bear criminal responsibility for the crime of extermination (count 2).

805. The Trial Chamber recalls that Stojan Župljanin was a member of the JCE and finds him responsible for the crimes of deportation (count 9), forcible transfer as an inhumane act (count 10), and deportation and forcible transfer as underlying acts of persecution (count 1) in Banja Luka under the first category of JCE. The Trial Chamber recalls its finding that all of the remaining crimes were foreseeable consequences of the execution of the common plan and that Stojan Župljanin willingly took the risk that these crimes might be committed by participating in the enterprise. The Trial Chamber finds Stojan Župljanin responsible for the crimes of extermination (count 2), murder (counts 3 and 4), torture (counts 5 and 6), cruel treatment (count 7), inhumane acts (count 8), and the remaining underlying acts of persecution (count 1) that the Trial Chamber found were committed in the municipality of Banja Luka under the third category of JCE.<sup>1877</sup> The Chamber recalls that this finding does not include the removal of currency in excess of 300 DM from non-Serbs leaving the ARK Municipalities, for which the Chamber has found Župljanin responsible through the mode of liability of ordering.

## 2. Bijeljina

806. The Trial Chamber has found that, from April 1992 and continuing throughout 1992, Serb Forces committed the crimes charged under counts 1, 9, and 10 of the Indictment in the municipality of Bijeljina. The Trial Chamber has found that the perpetrators in Bijeljina included the local Crisis Staff; members of the VRS including the VRS Eastern Bosnian Corps; members of the local police under Predrag Ješurić, who was CSB Chief until July 1992 and a member of the RS MUP in Bijeljina during the rest of the Indictment period; Duško Malović's Special Unit; men led

<sup>1876</sup> Unlawful detention; establishment and perpetuation of inhumane living conditions; plunder of property; killings; torture, cruel treatment, and inhumane acts.

<sup>1877</sup> Unlawful detention; establishment and perpetuation of inhumane living conditions; plunder of property; killings; torture, cruel treatment, and inhumane acts.

by Vojkan Đurković, at times including local policemen; and paramilitary forces, including Arkan's Tigers, Mauzer's Panthers, and the White Eagles.

807. The Trial Chamber recalls that a close relationship existed between the SDS, the Crisis Staff, and Mauzer's Panthers in Bijeljina. The local Crisis Staff included SNB Chief Drago Vuković; CSB Chief Predrag Ješurić; local SDS President Moćo Stanković; and Ljubiša Savić, a.k.a. "Mauzer", who was President of the Crisis Staff from June 1992. While presiding over the Bijeljina Crisis Staff, Mauzer, a JCE member, remained the commander of the Panthers. The Trial Chamber recalls that the local Crisis Staff adopted policies pursuant to which the SDS used local police, Vojkan Đurković's men, and Duško Malović's Special Unit to commit crimes in Bijeljina. Some of these crimes were organised by Đurković, Ješurić, and Puzović from the MUP of Serbia, and some were committed at the behest of Drago Vuković, who was in charge of implementing the Crisis Staff's plan of creating a climate of fear among Muslims to coerce them to leave the municipality. The Trial Chamber recalls that members of the RS MUP under the command of Predrag Ješurić, whom the Trial Chamber has found to be a JCE member and to be under the overall control of Mićo Stanišić, acted in concert with paramilitary groups to commit crimes in Bijeljina. Mićo Stanišić also directly ordered the Special Police Unit of Duško Malović to carry out the mobilisation of conscripts. The Trial Chamber further recalls that the Batković camp was operated by and under the jurisdiction of the VRS. The camp's first commander was Lieutenant-Colonel Momčilo Despot and later Commander Velibor Stojanović, who were under the overall command and control of JCE member Ratko Mladić. The VRS acted in concert with local police, Vojkan Đurković's men, and Mauzer's Panthers to commit crimes at the Batković camp. The Chamber recalls its finding that the members of the VRS were "fully aware" of the conditions at the camp. Finally, the Chamber recalls that Biljana Plavšić publicly praised Arkan for the "good job" he had done in "saving" the local Serb population from the threat of the Muslims in Bijeljina. The Trial Chamber finds that the aforementioned JCE members, when using the Serb Forces in Bijeljina to commit crimes, acted in accordance with the common plan.

808. The Trial Chamber has found that these Serb Forces in Bijeljina, acting in concert with one another, committed the crimes of deportation (count 9), forcible transfer as an inhumane act (count 10), and deportation and forcible transfer as underlying acts of persecution (count 1) in furtherance of the JCE's common plan.

809. The Trial Chamber recalls that Mićo Stanišić was a member of the JCE and finds him responsible for the crimes of deportation (count 9), forcible transfer as an inhumane act (count 10), and deportation and forcible transfer as underlying acts of persecution (count 1), in Bijeljina under the first category of JCE. The Trial Chamber recalls its finding that all of the remaining crimes were

foreseeable consequences of the execution of the common plan and that Mićo Stanišić willingly took the risk that these crimes might be committed by participating in the enterprise. The Trial Chamber finds Mićo Stanišić responsible for the remaining underlying acts of persecution (count 1) that the Trial Chamber found were committed in the municipality of Bijeljina under the third category of JCE.<sup>1878</sup>

### 3. Bileća

810. The Trial Chamber has found that, from 10 June 1992 until December 1992, Serb Forces committed the crimes charged under counts 1, 3, 4, 5, 6, 7, 8, 9, and 10 of the Indictment in the municipality of Bileća. The Trial Chamber found that the perpetrators in Bileća included members of the police force from the Bileća SJB under Chief Miroslav Duka and paramilitary forces, including members of the White Eagles and paramilitaries led by JNA officer Jorgić.

811. The Trial Chamber has found that police cooperated with paramilitaries in the commission of crimes against Muslims in Bileća. The police and the White Eagles led by or with the approval of Miroslav Duka, arrested Muslims and beat prisoners at the Đački Dom. The Trial Chamber has further found that the Bileća police were in charge of detention centres in Bileća. The police in Bileća under the command of Miroslav Duka were within the RS MUP structure, which was under the control of Mićo Stanišić. The Trial Chamber finds that Mićo Stanišić, a JCE member, when using these Serb Forces in Bileća to commit crimes, acted in accordance with the common plan.

812. The Trial Chamber has found that these Serb Forces, acting in concert with one another, committed the crimes of deportation (count 9), forcible transfer (count 10), and deportation and forcible transfer as underlying acts of persecution (count 1), in furtherance of the JCE's common plan.

813. The Trial Chamber recalls that Mićo Stanišić was a member of the JCE and finds him responsible for the crimes of deportation (count 9), forcible transfer as an inhumane act (count 10), and deportation and forcible transfer as underlying acts of persecution (count 1) in Bileća under the first category of JCE. The Trial Chamber recalls its finding that all of the remaining crimes were foreseeable consequences of the execution of the common plan and that Mićo Stanišić willingly took the risk that these crimes might be committed by participating in the enterprise. The Trial Chamber finds Mićo Stanišić responsible for the crimes of murder (counts 3 and 4), torture (counts 5 and 6), cruel treatment (count 7), inhumane acts (count 8), and the remaining underlying acts of

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<sup>1878</sup> Unlawful detention; establishment and perpetuation of inhumane living conditions.

persecution (count 1) (except as specified in the following paragraph) that the Trial Chamber found were committed in the municipality of Bileća under the third category of JCE.<sup>1879</sup>

814. While the Trial Chamber has found that Serb Forces plundered and destroyed Muslim property and destroyed mosques in Bileća, on the basis of the limited evidence establishing precisely by whom these acts were committed, the Trial Chamber finds that the Prosecution has not proved that these crimes are imputable to Mićo Stanišić or any other member of the JCE. Therefore, the Trial Chamber finds that Mićo Stanišić is not responsible for the charges of appropriation or plunder of property and wanton destruction under count 1 for Bileća.

#### 4. Bosanski Šamac

815. The Trial Chamber has found that, between April 1992 and December 1992, Serb Forces committed the crimes charged under counts 1, 3, 4, 5, 6, 7, 8, 9, and 10 of the Indictment in the municipality of Bosanski Šamac. The Trial Chamber found that the perpetrators in Bosanski Šamac included members of the 17<sup>th</sup> Tactical Group of the JNA under the command of Stevan Nikolić (of which the 4<sup>th</sup> Detachment under the command of Radovan Antić was a part); military police; members of the local police force under the command of SJB Chief Stevan Todorović; members of the Bosanski Šamac Crisis Staff headed by Blagoje Simić; and members of the Red Berets and the Grey Wolves under Dragan “Crni” Đorđević.

816. The Trial Chamber has found that Stevan Todorović and Blagoje Simić were members of the JCE. Todorović and Simić met on a daily basis with Slobodan Miljković, a.k.a. Lugar, and Dragan Đorđević, a.k.a. Crni. Members of the Red Beret and Grey Wolves units in Bosanski Šamac acted on the instructions of Simić and Todorović. The 17<sup>th</sup> Tactical Group acted in concert with other Serb Forces in Bosanski Šamac to commit crimes, with the knowledge and cooperation of Blagoje Simić and the Crisis Staff. The local police, through Todorović, were directly subordinated to the RS MUP, which was under the control of Mićo Stanišić, a JCE member. The Trial Chamber finds that the aforementioned JCE members, when using these Serb Forces in Bosanski Šamac to commit crimes, acted in accordance with the common plan.

817. The Trial Chamber has found that these Serb Forces in Bosanski Šamac, acting in concert with one another, committed the crimes of deportation (count 9), forcible transfer as an inhumane act (count 10), and deportation and forcible transfer as underlying acts of persecution (count 1), in furtherance of the JCE’s common plan.

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<sup>1879</sup> Unlawful detention; establishment and perpetuation of inhumane living conditions; plunder of property; imposition and maintenance of restrictive and discriminatory measures; killings; torture, cruel treatment, and inhumane acts.

818. The Trial Chamber recalls that Mićo Stanišić was a member of the JCE and finds him responsible for the crimes of deportation (count 9), forcible transfer as an inhumane act (count 10), and deportation and forcible transfer as underlying acts of persecution (count 1) in Bosanski Šamac under the first category of JCE. The Trial Chamber recalls its finding that all of the remaining crimes were foreseeable consequences of the execution of the common plan and that Mićo Stanišić willingly took the risk that these crimes might be committed by participating in the enterprise. The Trial Chamber finds Mićo Stanišić responsible for the crimes of murder (counts 3 and 4), torture (counts 5 and 6), cruel treatment (count 7), inhumane acts (count 8), and the remaining underlying acts of persecution (count 1) that the Trial Chamber has found were committed in the municipality of Bosanski Šamac under the third category of JCE.<sup>1880</sup>

### 5. Brčko

819. The Trial Chamber has found that, from 1 May 1992 until December 1992, Serb Forces committed the crimes charged under counts 1, 2, 3, 4, 5, 6, 7, 8, and 10 of the Indictment in the municipality of Brčko. The Trial Chamber found that the perpetrators in Brčko included members of the local police force; members of the JNA and VRS; and members of Serb paramilitary organisations, including the Red Berets led by Dragan Vasiljković a.k.a. “Captain Dragan”.

820. The Trial Chamber has found that Đorđe Ristanić, an SDS member and President of the Municipal Assembly, was a member of the JCE. The Luka Camp was controlled by either the SDS in Bijeljina or Brčko police. Goran Jelisić was acting under the instruction of the Bijeljina SDS or the Brčko police. The Chamber recalls that members of the Brčko police, members of Serb paramilitary organisations, and members of the JNA and VRS arrested and detained Muslims and Croats. The Chamber further recalls that Goran Jelisić, Ranko Češić of the Red Berets, members of the Brčko police, members of the JNA and VRS, and members of Serb paramilitary organisations “regularly beat detainees” at detention centres in Brčko. The police in Brčko were under the command of SJB Chief Dragan Veselić, who was in turn under the RS MUP, which was under the control of Mićo Stanišić. The Trial Chamber finds that the aforementioned JCE members, when using these Serb Forces in Brčko to commit crimes, acted in accordance with the common plan.

821. The Trial Chamber has found that these Serb Forces in Brčko, acting in concert with one another, committed the crimes of forcible transfer as an inhumane act (count 10) and forcible transfer as an underlying act of persecution (count 1), in furtherance of the JCE’s common plan.

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<sup>1880</sup> Unlawful detention; establishment and perpetuation of inhumane living conditions; plunder of property; wanton destruction of towns and villages; imposition and maintenance of restrictive and discriminatory measures; killings; torture, cruel treatment, and inhumane acts.

822. The Trial Chamber recalls that Mićo Stanišić was a member of the JCE and finds him responsible for the crimes of forcible transfer as an inhumane act (count 10) and forcible transfer as an underlying act of persecution (count 1) in Brčko under the first category of JCE. The Trial Chamber recalls its finding that all of the remaining crimes (except extermination) were foreseeable consequences of the execution of the common plan and that Mićo Stanišić willingly took the risk that these crimes might be committed by participating in the enterprise. The Trial Chamber finds Mićo Stanišić responsible for the crimes of murder (counts 3 and 4), torture (counts 5 and 6), cruel treatment (count 7), other inhumane acts (count 8), and the remaining underlying acts of persecution (count 1) (except as specified in the following paragraph) that the Trial Chamber found were committed in the municipality of Brčko under the third category of JCE.<sup>1881</sup> The Chamber recalls its finding that Mićo Stanišić does not bear criminal responsibility for the crime of extermination (count 2).

823. While the Trial Chamber has found that Serb Forces and “members of Serb paramilitary organisations” plundered and destroyed Muslim property and destroyed mosques in Brčko, on the basis of the limited evidence establishing precisely by whom these acts were committed, the Trial Chamber finds that the Prosecution has not proved that these crimes are imputable to Mićo Stanišić or any other member of the JCE. Therefore, the Trial Chamber finds that Mićo Stanišić is not responsible for the charge of wanton destruction under count 1 for the municipality of Brčko.

## 6. Doboj

824. The Trial Chamber has found that, from on or about 2 May 1992 until December 1992, Serb Forces committed the crimes charged under counts 1, 5, 6, 7, 8, 9, and 10 of the Indictment in the municipality of Doboj. The Trial Chamber has found that the perpetrators in Doboj included the JNA; the local Serb police, including the reserve police; members of the Banja Luka Special Police Detachment; members of paramilitary organisations, including the Red Berets, Martić’s men, and Predo’s Wolves; the local Crisis Staff; members of the MOJ; and members of the military, including reserve soldiers.

825. The Trial Chamber has found that members of the local police, JNA, the Red Berets (who were paid by the Doboj CSB), and other Serb paramilitaries took over Doboj. Following the takeover, the Serb Crisis Staff took control of the municipality. Members of paramilitary organisations, including the Red Berets and Martić’s men, arrested Muslims and Croats and took them to the Doboj CSB building and then the Doboj Central Prison. Although Doboj Central Prison

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<sup>1881</sup> Unlawful detention; establishment and perpetuation of inhumane living conditions; plunder of property; imposition and maintenance of restrictive and discriminatory measures; killings; torture, cruel treatment, and inhumane acts.

and all its guards, including the warden, Miroslav Vidić, were under the RS MOJ, the local Crisis Staff in fact controlled its operations. The Chamber has found that the Doboj CSB Chief, Andrija Bjelošević, was a member of the JCE. Bjelošević acquiesced to the brutalisation of Muslim and Croat detainees by paramilitary organisations. Bjelošević was informed of crimes committed by members of the Red Berets, members of the Banja Luka Special Police Detachment, and various paramilitary groups, including Predo's Wolves and Martić's men. The police in Doboj under Chief Bjelošević's command and the Banja Luka Special Police Detachment under the authority of Stojan Župljanin were subordinated to the RS MUP, which was under the control of Mićo Stanišić. The Trial Chamber finds that the aforementioned JCE members, when using these Serb Forces in Doboj to commit crimes, acted in accordance with the common plan.

826. The Trial Chamber has found that these Serb Forces in Doboj, acting in concert with one another, committed the crimes of deportation (count 9), forcible transfer as an inhumane act (count 10), and deportation and forcible transfer as underlying acts of persecution (count 1), in furtherance of the JCE's common plan.

827. The Trial Chamber recalls that Mićo Stanišić was a member of the JCE and finds him responsible for the crimes of deportation (count 9), forcible transfer as an inhumane act (count 10), and deportation and forcible transfer as underlying acts of persecution (count 1) in Doboj under the first category of JCE. The Trial Chamber recalls its finding that all of the remaining crimes were foreseeable consequences of the execution of the common plan and that Mićo Stanišić willingly took the risk that these crimes might be committed by participating in the enterprise. The Trial Chamber finds Mićo Stanišić responsible for the crimes of torture (counts 5 and 6), cruel treatment (count 7), other inhumane acts (count 8), and the remaining underlying acts of persecution (count 1) that the Trial Chamber found were committed in the municipality of Doboj under the third category of JCE.<sup>1882</sup>

## 7. Donji Vakuf

828. The Trial Chamber has found that, from about May 1992 to September 1992, Serb Forces committed the crimes charged under counts 1, 3, 4, 5, 6, 7, 8, and 10 of the Indictment in the municipality of Donji Vakuf. The Trial Chamber has found that the perpetrators in Donji Vakuf included members of the 19<sup>th</sup> Partisan Division of the JNA and the 19<sup>th</sup> Infantry Brigade of the

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<sup>1882</sup> Unlawful detention; establishment and perpetuation of inhumane living conditions; plunder of property; wanton destruction of towns and villages, including destruction or wilful damage done to institutions dedicated to religion and other cultural buildings; imposition and maintenance of restrictive and discriminatory measures; torture, cruel treatment, and inhumane acts.

VRS; military police; members of the police force, including personnel from the Donji Vakuf SJB under Chief Rajko Kisin and, from 13 June 1992, under Chief Boško Savković.

829. The local police commander in Donji Vakuf established a separate Serb SJB in January 1992 with the assistance of the Banja Luka CSB. The President of the SDS Municipal Board, Nedeljko Ninković, joined the ARK in February 1992 and established the Serb Municipal Assembly. The regular and reserve police in Donji Vakuf reported through the Banja Luka CSB, which was under the command of Stojan Župljanin, to the RS MUP under the control of Mićo Stanišić. From at least 13 June 1992, the soldiers in Donji Vakuf were under the command of Lieutenant Colonel Branislav Grujić of the 19<sup>th</sup> Partisan Division, who took orders from Colonel Stanislav Galić, the commander of the 30<sup>th</sup> Partisan Division of the JNA, which in turn was under the overall command and control of General Momir Talić, a member of the JCE. The 19<sup>th</sup> Partisan Division appointed Savković as the Chief of the Donji Vakuf SJB and Sufulo Šišić, an army captain, as the commander of the police at the SJB. In relation to the destruction of Muslim structures and property in Donji Vakuf by men wearing JNA uniforms and an armed Bosnian Serb formation, the Trial Chamber finds that the only reasonable inference available on the evidence is that these crimes were committed by Serb military personnel under local VRS command. From mid-June 1992, Serb soldiers, military police, and regular police arrested and detained Muslims and Croats at various locations in the municipality. The Trial Chamber has found that the TO warehouse and Vrbas Promet factory were both commanded by Miodrag Đurkić, that the TO warehouse was staffed by VRS military personnel, and that the crimes in each location were perpetrated by members of the VRS. The overall command and control of the VRS lay with Ratko Mladić—a member of the JCE. The Trial Chamber finds that the aforementioned JCE members, when using these Serb Forces in Donji Vakuf to commit crimes, acted in accordance with the common plan.

830. The Trial Chamber has found that these Serb Forces in Donji Vakuf, acting in concert with one another, committed the crimes of forcible transfer as an inhumane act (count 10) and forcible transfer as an underlying act of persecution (count 1), in furtherance of the JCE's common plan.

831. The Trial Chamber recalls that Mićo Stanišić was a member of the JCE and finds him responsible for the crimes of forcible transfer as an inhumane act (count 10) and forcible transfer as an underlying act of persecution (count 1) in Donji Vakuf under the first category of JCE. The Trial Chamber recalls its finding that all of the remaining crimes were foreseeable consequences of the execution of the common plan and that Mićo Stanišić willingly took the risk that these crimes might be committed by participating in the enterprise. The Trial Chamber finds Mićo Stanišić responsible for the crimes of murder (counts 3 and 4), torture (counts 5 and 6), cruel treatment (count 7), inhumane acts (count 8), and the remaining underlying acts of persecution (count 1) that the Trial



Chamber found were committed in the municipality of Donji Vakuf under the third category of JCE.<sup>1883</sup>

832. The Trial Chamber recalls that Stojan Župljanin was a member of the JCE and finds him responsible for the crimes of forcible transfer as an inhumane act (count 10) and forcible transfer as an underlying act of persecution (count 1) in Donji Vakuf under the first category of JCE. The Trial Chamber recalls its finding that all of the remaining crimes were foreseeable consequences of the execution of the common plan and that Stojan Župljanin willingly took the risk that these crimes might be committed by participating in the enterprise. The Trial Chamber finds Stojan Župljanin responsible for the crimes of murder (counts 3 and 4), torture (counts 5 and 6), cruel treatment (count 7), inhumane acts (count 8), and the remaining underlying acts of persecution (count 1) that the Trial Chamber found were committed in the municipality of Donji Vakuf under the third category of JCE.<sup>1884</sup>

#### 8. Gacko

833. The Trial Chamber has found that, from the beginning of 1992 until December 1992, Serb Forces committed the crimes charged under counts 1, 3, 4, 5, 6, 7, 8, 9, and 10 of the Indictment in the municipality of Gacko. The Trial Chamber has found that the perpetrators in Gacko included the Užice Corps of the JNA; regular and reserve police from the Gacko SJB; members of the TO; and members of paramilitary formations, including the Red Berets and White Eagles.

834. The Gacko Crisis Staff was led by Zdravko Zirojević and also included Vojin Popović, the Chief of the Gacko SJB; Šarović, leader of a paramilitary organisation; and Lučić, commander of the TO. Popović and Captain Ljubo Jorgić, commander of the White Eagles, coordinated the arrests of Muslims. The detention centre at the Power Station Hotel was commanded by Radinko Ćorić and subsequently by Ranko Ignjatović, both members of the police, who followed the orders of Popović and Božidar Vučurević, the President of SAO Herzegovina. Members of the Gacko police, paramilitary organisations, and Serb soldiers brutalised Muslim and Croat detainees at the Power Station Hotel. Members of the police and the JNA forcibly removed Muslims from Gacko, and they were transported pursuant to the orders of the War Presidency. The Chamber recalls that General Momčilo Perišić was the overall commander of the JNA forces in the area. The Chamber further recalls that the police in Gacko were within the RS MUP, which was under the control of Mićo

<sup>1883</sup> Unlawful detention; plunder of property; wanton destruction of towns and villages, including destruction or wilful damage done to institutions dedicated to religion and other cultural buildings; imposition and maintenance of restrictive and discriminatory measures; killings; torture, cruel treatment, and inhumane acts.

<sup>1884</sup> Unlawful detention; plunder of property; wanton destruction of towns and villages, including destruction or wilful damage done to institutions dedicated to religion and other cultural buildings; imposition and maintenance of restrictive and discriminatory measures; killings; torture, cruel treatment, and inhumane acts.

Stanišić. The Trial Chamber finds that Mićo Stanišić, a JCE member, when using these Serb Forces in Gacko to commit crimes, acted in accordance with the common plan.

835. The Trial Chamber has found that these Serb Forces in Gacko, acting in concert with one another, committed the crimes of deportation (count 9), forcible transfer as an inhumane act (count 10), and deportation and forcible transfer as underlying acts of persecution (count 1), in furtherance of the JCE's common plan.

836. The Trial Chamber recalls that Mićo Stanišić was a member of the JCE and finds him responsible for the crimes of deportation (count 9), forcible transfer as an inhumane act (count 10), and deportation and forcible transfer as underlying acts of persecution (count 1) in Gacko under the first category of JCE. The Trial Chamber recalls its finding that all of the remaining crimes were foreseeable consequences of the execution of the common plan and that Mićo Stanišić willingly took the risk that these crimes might be committed by participating in the enterprise. The Trial Chamber finds Mićo Stanišić responsible for the crimes of murder (counts 3 and 4), torture (counts 5 and 6), cruel treatment (count 7), inhumane acts (count 8), and the remaining underlying acts of persecution (count 1) that the Trial Chamber found were committed in the municipality of Gacko under the third category of JCE.<sup>1885</sup>

## 9. Ilijaš

837. The Trial Chamber has found that, from mid-March 1992 until mid-August 1992, Serb Forces committed the crimes charged under counts 1, 5, 6, 7, 8, and 10 of the Indictment in the municipality of Ilijaš. The Trial Chamber has found that the perpetrators in Ilijaš included the local Crisis Staff; Serb soldiers and military police; and members of the Ilijaš SJB, under the command of Chief Milorad Marić.

838. The Chamber recalls that Ratko Adžić, the President of the local Crisis Staff and the commander of the Serb security forces, invited Arkan's Men to assist the Crisis Staff in Ilijaš. The Chamber also recalls that, following the police order to surrender their weapons, a majority of the Muslims in Lješevo left the village. Momčilo Mandić, a JCE member, discussed the attack on Gornja Bioča a day in advance of the attack and stated that the people of the village would be expelled. Along with Serb soldiers and military police, the police of Ilijaš participated in the attack and takeover of Lješevo, as well as in the detention, interrogation, and ill-treatment of Muslims at the SJB Building, the Gornja Bioča school, the Podlugovi railway station, and the Iskra warehouse.

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<sup>1885</sup> Unlawful detention; establishment and perpetuation of inhumane living conditions; plunder of property; wanton destruction of towns and villages, including destruction or wilful damage done to institutions dedicated to religion and

The police of Ilijaš were under the RS MUP, which was under the control of Mićo Stanišić. The Trial Chamber finds that the aforementioned JCE members, when using these Serb Forces in Ilijaš to commit crimes, acted in accordance with the common plan.

839. The Trial Chamber has found that these Serb Forces, acting in concert with one another, committed the crimes of forcible transfer as an inhumane act (count 10) and forcible transfer as an underlying act of persecution (count 1), in furtherance of the JCE's common plan.

840. The Trial Chamber recalls that Mićo Stanišić was a member of the JCE and finds him responsible for the crimes of forcible transfer as an inhumane act (count 10) and forcible transfer as an underlying act of persecution (count 1) in Ilijaš under the first category of JCE. The Trial Chamber recalls its finding that all of the remaining crimes were foreseeable consequences of the execution of the common plan and that Mićo Stanišić willingly took the risk that these crimes might be committed by participating in the enterprise. The Trial Chamber finds Mićo Stanišić responsible for the crimes of torture (counts 5 and 6), cruel treatment (count 7), inhumane acts (count 8), and the remaining underlying acts of persecution (count 1) that the Trial Chamber found were committed in the municipality of Ilijaš under the third category of JCE.<sup>1886</sup>

#### 10. Ključ

841. The Trial Chamber has found that, between April and December 1992, Serb Forces committed the crimes charged under counts 1, 2, 3, 4, 5, 6, 7, 8, and 10 of the Indictment in the municipality of Ključ. The Trial Chamber has found that the perpetrators in Ključ included the 6<sup>th</sup> Krajina Brigade of the JNA, which became part of the 1<sup>st</sup> KK of the VRS, the 30<sup>th</sup> Partisan Brigade, and members of the VRS under the command of Jovan Kevac; members of the Ključ SJB and the Sanica sub-station, under Chief Vinko Kondić; the local Crisis Staff; and members of the White Eagles.

842. The Trial Chamber recalls that the 6<sup>th</sup> Krajina Brigade, Serb paramilitary forces, and members of the police carried out the forcible takeover of Ključ. The VRS shelled villages in the municipality of Ključ following a warning issued by the local Crisis Staff, while both the police and army were involved in the ensuing arrest and removal of Muslims and Croats from Ključ. Police personnel guarded the detention centre at the Nikola Mačkić school, while members of the police from the Sanica sub-station and VRS soldiers carried out "mopping up" operations. Persons were

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other cultural buildings; imposition and maintenance of restrictive and discriminatory measures; killings; torture, cruel treatment, and inhumane acts.

<sup>1886</sup> Unlawful detention; establishment and perpetuation of inhumane living conditions; wanton destruction of towns and villages; imposition and maintenance of restrictive and discriminatory measures; torture, cruel treatment, and inhumane acts.

brought by reserve police, members of the White Eagles, and soldiers to the Ključ SJB building, where they were beaten during interrogations. SJB Chief Vinko Kondić, a member of the JCE who was also a member of the Crisis Staff, was aware of unlawful detentions and beatings taking place at the SJB building. Kondić was in frequent contact with Stojan Župljanin in the period that led to the takeover of Ključ. On 7 May 1992, Kondić informed Župljanin that the takeover had been completed. Stojan Župljanin was the highest police authority in the ARK and the police in Ključ, under Kondić's command, were under the RS MUP, which was under the control of Mićo Stanišić. The Trial Chamber recalls that the 1<sup>st</sup> KK of the VRS was under the command of Momir Talić, a JCE member and a subordinate of Ratko Mladić, also a JCE member. Moreover, military personnel in Ključ under Jovan Kevac, took directions from the 17<sup>th</sup> Light Infantry Brigade, which belonged to the 2<sup>nd</sup> Krajina Corps of the VRS, also under the overall command and control of Ratko Mladić. The police and army together oversaw the removal of the non-Serb civilians from Ključ. The Trial Chamber finds that the aforementioned JCE members, when using these Serb Forces in Ključ to commit crimes, acted in accordance with the common plan.

843. The Trial Chamber has found that these Serb Forces, acting in concert with one another, committed the crimes of forcible transfer as an inhumane act (count 10) and forcible transfer as an underlying act of persecution (count 1), in furtherance of the JCE's common plan.

844. The Trial Chamber recalls that Mićo Stanišić is a member of the JCE and finds him responsible for the crimes of forcible transfer as an inhumane act (count 10) and forcible transfer as an underlying act of persecution (count 1) in Ključ under the first category of JCE. The Trial Chamber recalls its finding that all of the remaining crimes (except extermination) were foreseeable consequences of the execution of the common plan and that Mićo Stanišić willingly took the risk that these crimes might be committed by participating in the enterprise. The Trial Chamber finds Mićo Stanišić responsible for the crimes of murder (counts 3 and 4), torture (counts 5 and 6), cruel treatment (count 7), other inhumane acts (count 8), and the remaining underlying acts of persecution (count 1) that the Trial Chamber found were committed in the municipality of Ključ under the third category of JCE.<sup>1887</sup> The Chamber recalls its finding that Mićo Stanišić does not bear criminal responsibility for the crime of extermination (count 2).

845. The Trial Chamber recalls that Stojan Župljanin is a member of the JCE and finds him responsible for the crimes of forcible transfer as an inhumane act (count 10) and forcible transfer as an underlying act of persecution (count 1) in Ključ under the first category of JCE. The Trial

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<sup>1887</sup> Unlawful detention; establishment and perpetuation of inhumane living conditions; plunder of property; wanton destruction of towns and villages, including destruction or wilful damage done to institutions dedicated to religion and

Chamber recalls its finding that all of the remaining crimes were foreseeable consequences of the execution of the common plan and that Stojan Župljanin willingly took the risk that these crimes might be committed by participating in the enterprise. The Trial Chamber finds Stojan Župljanin responsible for the crimes of extermination (count 2), murder (counts 3 and 4), torture (counts 5 and 6), cruel treatment (count 7), other inhumane acts (count 8), and the remaining underlying acts of persecution (count 1) that the Trial Chamber found were committed in the municipality of Ključ under the third category of JCE.<sup>1888</sup>

#### 11. Kotor Varoš

846. The Trial Chamber has found that, from June 1992 until December 1992, Serb Forces committed the crimes charged under counts 1, 2, 3, 4, 5, 6, 7, 8, and 10 of the Indictment in the municipality of Kotor Varoš. The Trial Chamber found that the perpetrators in Kotor Varoš included Serb soldiers; members of the Kotor Varoš SJB under the command of Savo Tepić; the Banja Luka Special Police Detachment; the local Crisis Staff; and members of paramilitary groups, including the White Eagles.

847. Members of the police force under the command of Savo Tepić, a member of the JCE, worked in concert with other forces present at the SJB, including Slobodan Dubočanin and members of the Banja Luka Special Police Detachment, which was under the authority of Stojan Župljanin. As part of the ARK, the SJB in Kotor Varoš came under the Banja Luka CSB, with Stojan Župljanin as the Chief of CSB Banja Luka and the highest police authority in the ARK. Both the Special Police Detachment and local police were under the RS MUP, which was under the control of Mićo Stanišić. Goran Zarić a.k.a. “Điba” a policeman from Kotor Varoš, was the commander of the Kotor Varoš prison until he was replaced by Zdravko Žutić, a reserve policeman, around August or September 1992. The head of the SDS in Kotor Varoš and President of the local Crisis Staff was Nedeljko Đekanović, whom the Chamber has found to be a member of the JCE. The Trial Chamber finds that the aforementioned JCE members, when using these Serb Forces in Kotor Varoš, to commit crimes, acted in accordance with the common plan.

848. The Trial Chamber has found that these Serb Forces, acting in concert with one another, committed the crimes of forcible transfer as an inhumane act (count 10) and forcible transfer as an underlying act of persecution (count 1), in furtherance of the JCE’s common plan.

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other cultural buildings; imposition and maintenance of restrictive and discriminatory measures; killings; torture, cruel treatment, and inhumane acts.

<sup>1888</sup> Unlawful detention; establishment and perpetuation of inhumane living conditions; plunder of property; wanton destruction of towns and villages, including destruction or wilful damage done to institutions dedicated to religion and other cultural buildings; imposition and maintenance of restrictive and discriminatory measures; killings; torture, cruel treatment, and inhumane acts.

849. The Trial Chamber recalls that Mićo Stanišić was a member of the JCE and finds him responsible for the crimes of forcible transfer as an inhumane act (count 10) and forcible transfer as an underlying act of persecution (count 1) in Kotor Varoš under the first category of JCE. The Trial Chamber recalls its finding that all of the remaining crimes (except extermination) were foreseeable consequences of the execution of the common plan and that Mićo Stanišić willingly took the risk that these crimes might be committed by participating in the enterprise. The Trial Chamber finds Mićo Stanišić responsible for the crimes of murder (counts 3 and 4), torture (counts 5 and 6), cruel treatment (count 7), other inhumane acts (count 8), and the remaining underlying acts of persecution (count 1) that the Trial Chamber found were committed in the municipality of Kotor Varoš under the third category of JCE.<sup>1889</sup> The Chamber recalls its finding that Mićo Stanišić does not bear criminal responsibility for the crime of extermination (count 2).

850. The Trial Chamber recalls that Stojan Župljanin was a member of the JCE and finds him responsible for the crimes of forcible transfer as an inhumane act (count 10) and forcible transfer as an underlying act of persecution (count 1) in Kotor Varoš under the first category of JCE. The Trial Chamber recalls its finding that all of the remaining crimes were foreseeable consequences of the execution of the common plan and that Stojan Župljanin willingly took the risk that these crimes might be committed by participating in the enterprise. The Trial Chamber finds Stojan Župljanin responsible for the crimes of extermination (count 2), murder (counts 3 and 4), torture (counts 5 and 6), cruel treatment (count 7), other inhumane acts (count 8), and the remaining underlying acts of persecution (count 1) that the Trial Chamber found were committed in the municipality of Kotor Varoš under the third category of JCE.<sup>1890</sup>

## 12. Pale

851. The Trial Chamber has found that, from the end of March 1992 until December 1992, Serb Forces committed the crimes charged under counts 1, 3, 4, 5, 6, 7, 8, and 10 of the Indictment in the municipality of Pale. The Trial Chamber found that the perpetrators in Pale included members of the SJB Pale (under Chief Malko Koroman), reserve police, and a special police unit (under the command of Pale police official Rajko Kušić); the local Crisis Staff; members of the VRS and JNA, including reserve soldiers; and members of Serb paramilitary organisations.

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<sup>1889</sup> Unlawful detention; establishment and perpetuation of inhumane living conditions; plunder of property; wanton destruction of towns and villages, including destruction or wilful damage done to institutions dedicated to religion and other cultural buildings; imposition and maintenance of restrictive and discriminatory measures; killings; torture, cruel treatment, and inhumane acts.

<sup>1890</sup> Unlawful detention; establishment and perpetuation of inhumane living conditions; plunder of property; wanton destruction of towns and villages, including destruction or wilful damage done to institutions dedicated to religion and other cultural buildings; imposition and maintenance of restrictive and discriminatory measures; killings; torture, cruel treatment, and inhumane acts.

852. The Trial Chamber has found that paramilitaries, police, soldiers, and local armed Serbs established and manned checkpoints in Pale. The Chamber recalls that the Pale Crisis Staff, of which Zdravko Čvoro was President, was controlled by the SDS. The local Crisis Staff and Municipal Assembly ordered the Pale SJB to organise the transfer of Muslims and Croats out of the municipality. The Pale police and VRS cooperated to bring about this transfer. The Pale Gymnasium was guarded by the police, who permitted soldiers, members of Kušić's special police unit, and others to enter the detention facility to beat detainees. The Trial Chamber has found that the Chief of the SJB Pale, Malko Koroman, was a member of the JCE. The local police, through Koroman, were subordinated to the RS MUP, which was under the control of Mićo Stanišić. The Sarajevo-Romanija Corps of the VRS was headquartered in Pale and, at least from 18 June 1992, was commanded by Radislav Krstić, who was under the overall command and control of Ratko Mladić, a member of the JCE. The Trial Chamber finds that the aforementioned JCE members, when using these Serb Forces in Pale to commit crimes, acted in accordance with the common plan.

853. The Trial Chamber has found that these Serb Forces, acting in concert with one another, committed the crimes of forcible transfer as an inhumane act (count 10) and forcible transfer as an underlying act of persecution (count 1), in furtherance of the JCE's common plan.

854. The Trial Chamber recalls that Mićo Stanišić was a member of the JCE and finds him responsible for the crimes of forcible transfer as an inhumane act (count 10) and forcible transfer as an underlying act of persecution (count 1) in Pale under the first category of JCE. The Trial Chamber recalls its finding that all of the remaining crimes were foreseeable consequences of the execution of the common plan and that Mićo Stanišić willingly took the risk that these crimes might be committed by participating in the enterprise. The Trial Chamber finds Mićo Stanišić responsible for the crimes of murder (counts 3 and 4), torture (counts 5 and 6), cruel treatment (count 7), other inhumane acts (count 8), and the remaining underlying acts of persecution (count 1) that the Trial Chamber found were committed in the municipality of Pale under the third category of JCE.<sup>1891</sup>

### 13. Prijedor and Skender Vakuf

855. The Trial Chamber has found that, from on or about 29 April 1992 until December 1992, Serb Forces committed the crimes charged under counts 1, 2, 3, 4, 5, 6, 7, 8, and 10 of the Indictment in the municipalities of Prijedor and Skender Vakuf. The Trial Chamber found that the perpetrators in Prijedor included the local Crisis Staff; members of the Prijedor SJB; the Prijedor Intervention Platoon; the 5<sup>th</sup> Kozara Brigade of the TO; and the 343<sup>rd</sup> Motorised Brigade of the

Banja Luka Corps of the JNA, which later became the 43<sup>rd</sup> Brigade of the VRS, under the command of Major Radmilo Zeljaja. The perpetrators in Skender Vakuf were Prijedor policemen, including members of the Prijedor Intervention Platoon.

856. The Trial Chamber recalls that soldiers of the Prijedor Crisis Staff, 43<sup>rd</sup> Motorised Brigade, 5<sup>th</sup> Kozara Brigade, the Banja Luka Corps, the Prijedor Intervention Platoon, and policemen from the SJB under Chief Simo Drljača, acted jointly in the takeover, arrests, detention, and commission of crimes in Prijedor. Simo Drljača was originally appointed as the SJB Chief by the Prijedor Crisis Staff, and his appointment was officially confirmed by Stojan Župljanin retroactively. The Chamber further recalls that the Trnopolje camp was under the charge of the TO and guarded by Serb soldiers and that the camp commander was Slobodan Kurzunović. The Omarska camp was established by an order of Simo Drljača and operated jointly by police and military personnel, including members of the Banja Luka Corps who acted as interrogators, and was commanded by Željko Mejakić, commander of the police sub-station in Omarska. The Keraterm camp was commanded by Duško Sikirica, a police officer, and guarded by the police under orders from Simo Drljača. The Chamber recalls that Simo Drljača, who was also a member of the Crisis Staff; Milomir Stakić, President of the local Crisis Staff; General Momir Talić, commander of the 5<sup>th</sup> Corps of the JNA, later the 1<sup>st</sup> KK of the VRS and a member of the ARK Crisis Staff, were all members of the JCE. Stojan Župljanin was the highest police authority in the ARK, and the police in Prijedor and Skender Vakuf were under the RS MUP, which was under the overall control of Mićo Stanišić. The Trial Chamber finds that the aforementioned JCE members, when using these Serb Forces in Prijedor and Skender Vakuf to commit crimes, acted in accordance with the common plan.

857. The Trial Chamber has found that these Serb Forces in Prijedor and Skender Vakuf, acting in concert with one another, committed the crimes of forcible transfer as an inhumane act (count 10) and forcible transfer as an underlying act of persecution (count 1), in furtherance of the JCE's common plan.

858. The Trial Chamber recalls that Mićo Stanišić was a member of the JCE and finds him responsible for the crimes of forcible transfer as an inhumane act (count 10) and forcible transfer as an underlying act of persecution (count 1) in Prijedor and Skender Vakuf under the first category of JCE. The Trial Chamber recalls its finding that all of the remaining crimes (except extermination) were foreseeable consequences of the execution of the common plan and that Mićo Stanišić willingly took the risk that these crimes might be committed by participating in the enterprise. The

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<sup>1891</sup> Unlawful detention; establishment and perpetuation of inhumane living conditions; plunder of property; wanton destruction of towns and villages; imposition and maintenance of restrictive and discriminatory measures; killings; torture, cruel treatment, and inhumane acts.



Trial Chamber finds Mićo Stanišić responsible for the crimes of murder (counts 3 and 4), torture (counts 5 and 6), cruel treatment (count 7), other inhumane acts (count 8), and the remaining underlying acts of persecution (count 1) that the Trial Chamber found were committed in the municipalities of Prijedor and Skender Vakuf under the third category of JCE.<sup>1892</sup> The Chamber recalls its finding that Mićo Stanišić does not bear criminal responsibility for the crime of extermination (count 2).

859. The Trial Chamber recalls that Stojan Župljanin was a member of the JCE and finds him responsible for the crimes of forcible transfer as an inhumane act (count 10) and forcible transfer as an underlying act of persecution (count 1) in Prijedor and Skender Vakuf under the first category of JCE. The Trial Chamber recalls its finding that all of the remaining crimes were foreseeable consequences of the execution of the common plan and that Stojan Župljanin willingly took the risk that these crimes might be committed by participating in the enterprise. The Trial Chamber finds Stojan Župljanin responsible for the crimes of extermination (count 2), murder (counts 3 and 4), torture (counts 5 and 6), cruel treatment (count 7), other inhumane acts (count 8), and the remaining underlying acts of persecution (count 1) that the Trial Chamber found were committed in the municipalities of Prijedor and Skender Vakuf under the third category of JCE.<sup>1893</sup>

#### 14. Sanski Most

860. The Trial Chamber has found that Serb Forces, starting in April 1992 and continuing throughout 1992, committed the crimes charged under count 1 and, from 10 June 1992 until December 1992, committed the crimes charged under counts 1, 5, 6, 7, 8, 9, and 10 of the Indictment in the municipality of Sanski Most. The Trial Chamber has found that the perpetrators in Sanski Most included the SOS; the 6<sup>th</sup> Krajina Brigade of the JNA that later became part of the VRS; members of the TO; the Sanski Most SJB, under Chief Mirko Vručinić; and the local Crisis Staff, over which the SDS exercised *de facto* control.

861. The Trial Chamber recalls that the local SDS exerted control over the Crisis Staff through its members, including President Nedeljko Rašula, Vlado Vrkeš, and Branko Basara. Vrkeš, as the President of the Sanski Most SDS and Deputy President of the Crisis Staff, implemented the instructions of the SDS leadership. The Chamber has found Vrkeš to be a member of the JCE. The

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<sup>1892</sup> Unlawful detention; establishment and perpetuation of inhumane living conditions; plunder of property; wanton destruction of towns and villages, including destruction or wilful damage done to institutions dedicated to religion and other cultural buildings; imposition and maintenance of restrictive and discriminatory measures; killings; torture, cruel treatment, and inhumane acts.

<sup>1893</sup> Unlawful detention; establishment and perpetuation of inhumane living conditions; plunder of property; wanton destruction of towns and villages, including destruction or wilful damage done to institutions dedicated to religion and other cultural buildings; imposition and maintenance of restrictive and discriminatory measures; killings; torture, cruel treatment, and inhumane acts.

6<sup>th</sup> Krajina Brigade, with the SOS subordinated to it, was under the command of Branko Basara, who received orders from General Momir Talić, who was a JCE member. Upon becoming part of the VRS, the army in Sanski Most was under the overall command and control of Ratko Mladić, also a member of the JCE. Collectively, the local Bosnian Serb leadership used the SOS to carry out crimes. The Trial Chamber recalls that the local police, under JCE member Mirko Vručinić, the 6<sup>th</sup> Krajina Brigade, the TO, and the SOS acted together in pursuance of the orders of local Bosnian Serb leadership. Stojan Župljanin was the highest police authority in the ARK, and the police in Sanski Most, through Vručinić, were directly subordinated to the RS MUP, which was under the control of Mićo Stanišić. The Trial Chamber finds that the aforementioned JCE members, when using these Serb Forces in Sanski Most to commit crimes, acted in accordance with the common plan.

862. The Trial Chamber has found that these Serb Forces in Sanski Most, acting in concert with one another, committed the crimes of deportation (count 9), forcible transfer as an inhumane act (count 10), and deportation and forcible transfer as underlying acts of persecution (count 1), in furtherance of the JCE's common plan.

863. The Trial Chamber recalls that Mićo Stanišić was a member of the JCE and finds him responsible for the crimes of deportation (count 9), forcible transfer as an inhumane act (count 10), and deportation and forcible transfer as underlying acts of persecution (count 1) in Sanski Most under the first category of JCE. The Trial Chamber recalls its finding that all of the remaining crimes were foreseeable consequences of the execution of the common plan and that Mićo Stanišić willingly took the risk that these crimes might be committed by participating in the enterprise. The Trial Chamber further finds Mićo Stanišić responsible for the crimes of torture (counts 5 and 6), cruel treatment (count 7), other inhumane acts (count 8), and the remaining underlying acts of persecution (count 1) that the Trial Chamber found were committed in the municipality of Sanski Most under the third category of JCE.<sup>1894</sup>

864. The Trial Chamber recalls that Stojan Župljanin was a member of the JCE and finds him responsible for the crimes of deportation (count 9), forcible transfer as an inhumane act (count 10), and deportation and forcible transfer as underlying acts of persecution (count 1) in Sanski Most under the first category of JCE. The Trial Chamber recalls its finding that all of the remaining crimes were foreseeable consequences of the execution of the common plan and that Stojan Župljanin willingly took the risk that these crimes might be committed by participating in the

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<sup>1894</sup> Unlawful detention; establishment and perpetuation of inhumane living conditions; plunder of property; wanton destruction of towns and villages, including destruction or wilful damage done to institutions dedicated to religion and

enterprise. The Trial Chamber further finds Stojan Župljanin responsible for the crimes of torture (counts 5 and 6), cruel treatment (count 7), other inhumane acts (count 8), and the remaining underlying acts of persecution (count 1) that the Trial Chamber found were committed in the municipality of Sanski Most under the third category of JCE.<sup>1895</sup>

#### 15. Teslić

865. The Trial Chamber has found that, from early April 1992 to September 1992, Serb Forces committed the crimes charged under counts 1, 3, 4, 5, 6, 7, 8, and 10 of the Indictment in the municipality of Teslić. The Trial Chamber has found that the perpetrators in Teslić included members of the VRS, including military police; members of the police, including personnel from the Doboj CSB, the Teslić SJB, reserve police officers, and members of the Banja Luka Special Police Detachment; the local Crisis Staff; a group known as the Red Berets or the Miće Group, which was led by VRS Captain Ljubiša Petričević and CSB Doboj's deputy chief Milan Savić and which was composed of both police and VRS personnel.

866. The Trial Chamber recalls that Teslić joined the ARK following a decision of the local Municipal Assembly, of which Nikola Perišić was President. Nikola Perišić was also President of the local Crisis Staff. Members of the reserve police and persons in military uniform were in charge of the detention facilities at the TO warehouse and SJB building, and police and members of the Red Berets or the Miće Group committed crimes in the TO warehouse. The Trial Chamber has found that the military personnel operating in Teslić were members of the VRS, which was under the overall command and control of Ratko Mladić, a member of the JCE. The local police in Teslić, under the command of SJB Chief Kuzmanović and commander Predrag Markočević, and members of the Banja Luka Special Police Detachment, under the authority of Stojan Župljanin, were within the RS MUP, which was under the control of Mićo Stanišić. The Trial Chamber finds that the aforementioned JCE members, when using these Serb Forces in Teslić to commit crimes, acted in accordance with the common plan.

867. The Trial Chamber recalls that these Serb Forces in Teslić, acting in concert with one another, committed the crimes of forcible transfer as an inhumane act (count 10) and forcible transfer as an underlying act of persecution (count 1), in furtherance of the JCE's common plan.

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other cultural buildings; imposition and maintenance of restrictive and discriminatory measures; torture, cruel treatment, and inhumane acts.

<sup>1895</sup> Unlawful detention; establishment and perpetuation of inhumane living conditions; plunder of property; wanton destruction of towns and villages, including destruction or wilful damage done to institutions dedicated to religion and other cultural buildings; imposition and maintenance of restrictive and discriminatory measures; torture, cruel treatment, and inhumane acts.

868. The Trial Chamber recalls that Mićo Stanišić was a member of the JCE and finds him responsible for the crimes of forcible transfer as an inhumane act (count 10) and forcible transfer as an underlying act of persecution (count 1) in Teslić under the first category of JCE. The Trial Chamber recalls its finding that all of the remaining crimes were foreseeable consequences of the execution of the common plan and that Mićo Stanišić willingly took the risk that these crimes might be committed by participating in the enterprise. The Trial Chamber further finds Mićo Stanišić responsible for the crimes of murder (counts 3 and 4), torture (counts 5 and 6), cruel treatment (count 7), other inhumane acts (count 8), and the remaining underlying acts of persecution (count 1) that the Trial Chamber found were committed in the municipality of Teslić under the third category of JCE.<sup>1896</sup>

869. The Trial Chamber recalls that Stojan Župljanin was a member of the JCE and finds him responsible for the crimes of forcible transfer as an inhumane act (count 10) and forcible transfer as an underlying act of persecution (count 1) in Teslić under the first category of JCE. The Trial Chamber recalls its finding that all of the remaining crimes were foreseeable consequences of the execution of the common plan and that Stojan Župljanin willingly took the risk that these crimes might be committed by participating in the enterprise. The Trial Chamber further finds Stojan Župljanin responsible for the crimes of murder (counts 3 and 4), torture (counts 5 and 6), cruel treatment (count 7), other inhumane acts (count 8), and the remaining underlying acts of persecution (count 1) that the Trial Chamber found were committed in the municipality of Teslić under the third category of JCE.<sup>1897</sup>

## 16. Višegrad

870. The Trial Chamber has found that, from mid-April 1992 until December 1992, Serb Forces committed the crimes charged under counts 1, 2, 3, 4, and 10 of the Indictment in the municipality of Višegrad. The Trial Chamber has found that the perpetrators in Višegrad included members of the Višegrad SJB under Chief Risto Perišić and Commander Dragan Tomić; Milan Lukić and his men; members of the Užice Corps of the JNA; and members of paramilitary organisations, including the White Eagles.

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<sup>1896</sup> Unlawful detention; establishment and perpetuation of inhumane living conditions; plunder of property; wanton destruction of towns and villages, including destruction or wilful damage done to institutions dedicated to religion and other cultural buildings; imposition and maintenance of restrictive and discriminatory measures; killings; torture, cruel treatment, and inhumane acts.

<sup>1897</sup> Unlawful detention; establishment and perpetuation of inhumane living conditions; plunder of property; wanton destruction of towns and villages, including destruction or wilful damage done to institutions dedicated to religion and other cultural buildings; imposition and maintenance of restrictive and discriminatory measures; killings; torture, cruel treatment, and inhumane acts.

871. The Chamber recalls that, after the Užice Corps of the JNA took over Višegrad, members of the army, the police, and the White Eagles jointly committed crimes in the municipality. Milan Lukić, a reserve policeman, was the leader of a paramilitary organisation. Along with Sredoje Lukić, an active policeman, Milan Šušnjar, and other reserve policemen, Milan Lukić committed crimes in Višegrad together with and in the presence of local police. Members of Serb paramilitary organisations committed crimes with the acquiescence of the police. The police in Višegrad, under the command of Risto Perišić, were under the RS MUP, which was under the control of Mićo Stanišić. The Trial Chamber finds that Mićo Stanišić, a JCE member, when using these Serb Forces in Višegrad to commit crimes, acted in accordance with the common plan.

872. The Trial Chamber has found that these Serb Forces in Višegrad, acting in concert with one another, committed the crimes of forcible transfer as an inhumane act (count 10) and forcible transfer as an underlying act of persecution (count 1), in furtherance of the JCE's common plan.

873. The Trial Chamber recalls that Mićo Stanišić was a member of the JCE and finds him responsible for the crimes of forcible transfer as an inhumane act (count 10) and forcible transfer as an underlying act of persecution (count 1) in Višegrad under the first category of JCE. The Trial Chamber recalls its finding that all of the remaining crimes (except extermination) were foreseeable consequences of the execution of the common plan and that Mićo Stanišić willingly took the risk that these crimes might be committed by participating in the enterprise. The Trial Chamber finds Mićo Stanišić responsible for the crimes of murder (counts 3 and 4) and the remaining underlying acts of persecution (count 1) that the Trial Chamber found were committed in the municipality of Višegrad under the third category of JCE.<sup>1898</sup> The Chamber recalls its finding that Mićo Stanišić does not bear criminal responsibility for the crime of extermination (count 2).

## 17. Vlasenica

874. The Trial Chamber has found that, from on or about 21 April 1992 until December 1992, Serb Forces committed the crimes charged under counts 1, 2, 3, 4, 5, 6, 7, 8, and 10 of the Indictment in the municipality of Vlasenica. The Trial Chamber has found that the perpetrators in Vlasenica included members of the military, including the VRS and the Novi Sad Corps of the JNA; members of the police, including the Vlasenica SJB under Chief Radomir Bjelanović and later Mane Đurić, and the Vlasenica Special Police Unit; the local Crisis Staff with Milenko Stakić as its President; the TO commanded by Božo Stanimirović; and paramilitary forces, including Arkan's Tigers and the "Vukovar Detachment" of the Yellow Wasps.

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<sup>1898</sup> Plunder of property; imposition and maintenance of restrictive and discriminatory measures; killings.

875. The Trial Chamber recalls that the TO and Vlasenica Special Police Unit established control over the villages in Vlasenica under the instruction of the local Crisis Staff, while the police and TO forces arrested Muslims. The Chamber recalls that the police, including reserves and the Vlasenica Special Police Unit, and the VRS systematically beat detainees in the detention facilities in Vlasenica. The Vlasenica Municipal Prison was under the control of the police with Sukanović, a policeman, as its commander. The Sušica camp was under the authority of the local Crisis Staff and RS MUP, with Dragan Nikolić, a member of the Special Police Unit, as its commander from June 1992. Members of the police from the Vlasenica SJB and Special Police Unit, the VRS, and the TO, along with members of Arkan's Tigers and Yellow Wasps, committed crimes during and after the takeover of Vlasenica and in the detention centres in the municipality. The police in Vlasenica were under the RS MUP, which was under the control of Mićo Stanišić. The Trial Chamber finds that Mićo Stanišić, a JCE member, when using these Serb Forces in Vlasenica to commit crimes, acted in accordance with the common plan.

876. The Trial Chamber has found that these Serb Forces in Vlasenica, acting in concert with one another, committed the crimes of forcible transfer as an inhumane act (count 10) and forcible transfer as an underlying act of persecution (count 1), in furtherance of the JCE's common plan.

877. The Trial Chamber recalls that Mićo Stanišić was a member of the JCE and finds him responsible for the crimes of forcible transfer as an inhumane act (count 10) and forcible transfer as an underlying act of persecution (count 1) in Vlasenica under the first category of JCE. The Trial Chamber recalls its finding that all of the remaining crimes (except extermination) were foreseeable consequences of the execution of the common plan and that Mićo Stanišić willingly took the risk that these crimes might be committed by participating in the enterprise. The Trial Chamber finds Mićo Stanišić responsible for the crimes of murder (counts 3 and 4), torture (counts 5 and 6), cruel treatment (count 7), other inhumane acts (count 8), and the remaining underlying acts of persecution (count 1) that the Trial Chamber found were committed in the municipality of Vlasenica under the third category of JCE.<sup>1899</sup> The Chamber recalls its finding that Mićo Stanišić does not bear criminal responsibility for the crime of extermination (count 2).

#### 18. Vogošća

878. The Trial Chamber has found that, from April 1992 and throughout 1992, Serb Forces committed the crimes alleged in counts 1, 5, 6, 7, 8, and 10 of the Indictment in the municipality of

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<sup>1899</sup> Unlawful detention; establishment and perpetuation of inhumane living conditions; plunder of property; wanton destruction of towns and villages, including destruction or wilful damage done to institutions dedicated to religion and other cultural buildings; imposition and maintenance of restrictive and discriminatory measures; killings; torture, cruel treatment, and inhumane acts.

Vogošća. The Trial Chamber has found that the perpetrators in Vogošća comprised the local Crisis Staff; members of the Vogošća SJB and SUP; members of the JNA; and paramilitary forces, including Tintor's Men, the Rajlovac Battalion, Arkan's Men, Šešelj's Men, and Boro's Unit.

879. The Trial Chamber recalls that the army units and the police, organised by the Crisis Staff, with Jovan Tintor as its President, took over the municipality of Vogošća. The Trial Chamber found that Jovan Tintor, a member of the JCE, acted in concert with the local SDS President, Rajko Koprivica, and other Serb leaders to organise the takeover of Svrače. Tintor ordered the detention of Muslims in a hangar at the Semizovac barracks, which was guarded by paramilitaries from Pale. Paramilitaries, who appeared in Vogošća from April to August 1992, acted in concert with members of Vogošća's military command, police force, and municipal authorities. The detention facility called the "Bunker" was established by the Vogošća Crisis Staff, while the detention facility called "Planjo's House" was established by the Serb Municipality of Vogošća. Branko Vlačo, who was either a member of the police or an official of the RS MOJ, was the warden of the Bunker and Planjo's House, and the guards of the Bunker were members of the Vogošća police. The guards of the detention facilities in Vogošća allowed police, members of the military, Tintor's Men, and members of the Rajlovac Battalion, Arkan's Men, or Šešelj's Men to enter the detention facilities to interrogate, beat, and remove prisoners for work. Nebojša Lazić, a member of the Vogošća SUP, Vlačo, and other policemen committed crimes at the detention centres in Vogošća. The police in Vogošća, under the command of SJB Chief Boro Maksimović, were under the RS MUP, which was under the control of Mićo Stanišić. The Trial Chamber finds that the aforementioned JCE members, when using these Serb Forces in Vogošća to commit crimes, acted in accordance with the common plan.

880. The Trial Chamber has found that these Serb Forces, acting in concert with one another, committed the crimes of forcible transfer as an inhumane act (count 10) and forcible transfer as an underlying act of persecution (count 1), in furtherance of the JCE's common plan.

881. The Trial Chamber recalls that Mićo Stanišić was a member of the JCE and finds him responsible for the crimes of forcible transfer as an inhumane act (count 10) and forcible transfer as an underlying act of persecution (count 1) in Vogošća under the first category of JCE. The Trial Chamber recalls its finding that all of the remaining crimes were foreseeable consequences of the execution of the common plan and that Mićo Stanišić willingly took the risk that these crimes might be committed by participating in the enterprise. The Trial Chamber finds Mićo Stanišić responsible for the crimes of torture (counts 5 and 6), cruel treatment (count 7), other inhumane acts (count 8),

and the remaining underlying acts of persecution (count 1) that the Trial Chamber found were committed in the municipality of Vogošća under the third category of JCE.<sup>1900</sup>

#### 19. Zvornik

882. The Trial Chamber has found that, from 8 April 1992 until at least September 1992, Serb Forces committed the crimes charged under counts 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10 of the Indictment in the municipality of Zvornik. The Trial Chamber found that the perpetrators in Zvornik comprised the local Crisis Staff under its President Branko Grujić; members of the JNA; members of the Zvornik SJB, of which Miloš Pantelić was Chief from 21 April 1992; members of the Zvornik SUP; members of the TO, under the command of Marko Pavlović; and paramilitary groups, including the Yellow Wasps, the White Eagles, Toro's Group, Pivarski's Group, Gogić's Group, the Red Berets, Arkan's Tigers, and Šešelj's Men.

883. The Trial Chamber recalls that Branko Grujić, President of the Crisis Staff and President of the interim government of the municipality of Zvornik, was a member of the JCE. Together with the SDS and Dragan Spasojević, the police commander in April 1992, Grujić invited paramilitary groups, including the White Eagles, the Yellow Wasps, and the Red Berets to Zvornik. They coordinated the Serb Forces, including paramilitaries, to take over Zvornik and its neighbouring villages. The Chamber further recalls that the police guarding the detention centre in the Novi Izvor administration building received orders and directions from Marko Pavlović, commander of the TO. Gogić's Men, a paramilitary group, was eventually integrated into the police. Members of the Zvornik SUP, the JNA, and reserve police officers participated in the arrest, detention, interrogation, and ill-treatment of prisoners, including by permitting paramilitary groups access to the detainees, in detention centres in the municipality of Zvornik. The police in Zvornik, under the command of SJB Chief Miloš Pantelić, was under the RS MUP, which was under the control of Mićo Stanišić. The Trial Chamber finds that the aforementioned JCE members, when using these Serb Forces in Zvornik to commit crimes, acted in accordance with the common plan.

884. The Trial Chamber has found that these Serb Forces in Zvornik, acting in concert with one another, committed the crimes of deportation (count 9), forcible transfer as an inhumane act (count 10), and deportation and forcible transfer as underlying acts of persecution (count 1), in furtherance of the JCE's common plan.

885. The Trial Chamber recalls that Mićo Stanišić was a member of the JCE and finds him responsible for the crimes of deportation (count 9), forcible transfer as an inhumane act (count 10),

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<sup>1900</sup> Unlawful detention; establishment and perpetuation of inhumane living conditions; imposition and maintenance of



and deportation and forcible transfer as underlying acts of persecution (count 1) in Zvornik under the first category of JCE. The Trial Chamber recalls its finding that all of the remaining crimes (except extermination) were foreseeable consequences of the execution of the common plan and that Mićo Stanišić willingly took the risk that these crimes might be committed by participating in the enterprise. The Trial Chamber finds Mićo Stanišić responsible for the crimes of murder (counts 3 and 4), torture (counts 5 and 6), cruel treatment (count 7), inhumane acts (count 8), and the remaining underlying acts of persecution (count 1) that the Trial Chamber found were committed in the municipality of Zvornik under the third category of JCE.<sup>1901</sup> The Chamber recalls its finding that Mićo Stanišić does not bear criminal responsibility for the crime of extermination (count 2).

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restrictive and discriminatory measures; torture, cruel treatment, and inhumane acts.

<sup>1901</sup> Unlawful detention; establishment and perpetuation of inhumane living conditions; plunder of property; wanton destruction of towns and villages, including destruction or wilful damage done to institutions dedicated to religion and other cultural buildings; imposition and maintenance of restrictive and discriminatory measures; killings; torture, cruel treatment, and inhumane acts.

## VI. SENTENCING

### A. Law on sentencing

886. A sentence must be determined with reference to the provisions of Article 24 of the Statute, and to Rules 87(C) and 101 of the Rules of Procedure and Evidence. Article 24(2) provides that “Trial Chambers should take into account such factors as the gravity of the offence and the individual circumstances of the convicted person.” In addition to these individual circumstances, Rule 101 obliges Trial Chambers to take into account, in determining the sentence, aggravating and mitigating circumstances,<sup>1902</sup> the general practice regarding prison sentences in the courts of the former Yugoslavia,<sup>1903</sup> and the extent to which any penalty imposed by a court of any state upon the convicted person for the same act has already been served.<sup>1904</sup>

887. Rule 87(C) provides that, if the Trial Chamber finds the accused guilty on one or more of the charges contained in the indictment, it shall impose a sentence in respect of each finding of guilt. The Trial Chamber shall also indicate whether such sentences shall be served consecutively or concurrently, unless it decides to exercise its power to impose a single sentence reflecting the totality of the criminal conduct of the accused.<sup>1905</sup> A convicted person may be sentenced to imprisonment for a term up to and including the remainder of his life.<sup>1906</sup> The Appeals Chamber has stated that Trial Chambers are vested with broad discretion in determining an appropriate sentence, within their obligation to individualise the penalties to fit the circumstances of the accused and the gravity of the crime.<sup>1907</sup> This discretion, although considerable, is not unlimited.<sup>1908</sup>

888. Decisions on sentences in other cases of the Tribunal may provide some guidance if they relate to the same type of offences committed in substantially similar circumstances.<sup>1909</sup> As a result, previous sentencing practice is but one factor that must be taken into account when determining the

<sup>1902</sup> Rule 101(B)(i)-(ii) of the Rules.

<sup>1903</sup> Article 24(1) of the Statute; Rule 101(B)(iii) of the Rules; *Strugar* Appeal Judgement, para. 335; *Hadžihasanović and Kubura* Appeal Judgement, para. 301; *Limaj et al.* Appeal Judgement, para. 126; *Blaškić* Appeal Judgement, para. 679.

<sup>1904</sup> Rule 101(B)(iv) of the Rules.

<sup>1905</sup> Rule 87(C) of the Rules.

<sup>1906</sup> Article 24(1) of the Statute; Rule 101(A) of the Rules. In addition to imprisonment, the Trial Chambers may order the return of any property and proceeds acquired by criminal conduct, including by means of duress, to their rightful owners. Article 24(3) of the Statute.

<sup>1907</sup> *Strugar* Appeal Judgement, paras 336, 348; *Hadžihasanović and Kubura* Appeal Judgement, para. 302; *Limaj et al.* Appeal Judgement, paras 127, 135; *Blagojević and Jokić* Appeal Judgement, 137; *Zelenović* Sentencing Appeal Judgement, para. 11; *Galić* Appeal Judgement, para. 393; *D. Nikolić* Sentencing Appeal Judgement, para. 19; *Čelebići* Appeal Judgement, para. 717. *See also Nahimana et al.* Appeal Judgement, para. 1037.

<sup>1908</sup> *Vasiljević* Appeal Judgment, para. 9; *Čelebići* Appeal Judgment, para. 717. *See also Kajelijeli* Appeal Judgment, para. 291.

<sup>1909</sup> *Furundžija* Appeal Judgement, para. 250; *Čelebići* Appeal Judgement, paras 719-721; *Stakić* Appeal Judgement, para. 381; *Jelisić* Appeal Judgement, para. 101.

sentence.<sup>1910</sup> The Trial Chamber has been guided by the principle that the sentence should reflect the gravity of the offences and the individual circumstances of the accused.<sup>1911</sup>

### 1. Purposes of sentencing

889. The jurisprudence of the Tribunal has consistently held that the main purposes of sentencing for crimes within the jurisdiction of the Tribunal are retribution and deterrence.<sup>1912</sup>

890. As a form of retribution, the sentence serves as condemnation by the international community of the crimes committed and should not be misunderstood as a means of expressing revenge or vengeance.<sup>1913</sup>

891. Deterrence as a sentencing purpose encompasses two forms: individual and general. Accordingly, the penalties imposed by the Tribunal must have sufficient deterrent value both to dissuade the wrongdoer from repeating the offences in the future and to discourage others from committing similar crimes.<sup>1914</sup> However, deterrence “must not be accorded undue prominence in the overall assessment of the sentences to be imposed on persons convicted by the International Tribunal”.<sup>1915</sup>

### 2. Determination of sentences

#### (a) Gravity of offence

892. The inherent gravity of an offence is the primary consideration in determining a sentence.<sup>1916</sup> When assessing the gravity of the offence, a Trial Chamber must take into account the totality of the criminal conduct of the convicted person.<sup>1917</sup> In doing so, the Chamber must consider the cruelty, the nature and circumstances of the crimes, the position of authority<sup>1918</sup> and degree of participation of the convicted person in the perpetration of those crimes,<sup>1919</sup> the number of victims,

<sup>1910</sup> *Strugar* Appeal Judgement, para. 349; *Krstić* Appeal Judgement, para. 248.

<sup>1911</sup> *See Galić* Appeal Judgement, para. 442; *Čelebići* Appeal Judgement, paras 429, 717.

<sup>1912</sup> *Stakić* Appeal Judgement, para. 402; *Čelebići* Appeal Judgement, para. 806; *Aleksovski* Appeal Judgement, para. 185. *See also Čelebići* Appeal Judgement, para. 800, *citing Tadić* Jurisdiction Decision on Interlocutory Appeal, para. 72.

<sup>1913</sup> *Kordić and Čerkez* Appeal Judgement, para. 1075; *Aleksovski* Appeal Judgement, para. 185.

<sup>1914</sup> *Kordić and Čerkez* Appeal Judgement, paras 1076-1078.

<sup>1915</sup> *D. Nikolić* Sentencing Appeal Judgement, para. 46; *Kordić and Čerkez* Appeal Judgement, para. 1078; *Čelebići* Appeal Judgement, para. 801; *Tadić* Sentencing Appeal Judgement, para. 48.

<sup>1916</sup> *Galić* Appeal Judgement, para. 442; *Blaškić* Appeal Judgement, para. 683; *Kupreškić et al.* Appeal Judgement, para. 442; *Čelebići* Appeal Judgement, para. 731; *Aleksovski* Appeal Judgement, para. 182.

<sup>1917</sup> *Blagojević and Jokić* Appeal Judgement, para. 339; *Čelebići* Appeal Judgement, para. 769; *Kupreškić et al.* Appeal Judgement, para. 451.

<sup>1918</sup> *Strugar* Appeal Judgement, paras 353-354; *Naletilić and Martinović* Appeal Judgement, paras 609, 613, 626; *Musema* Appeal Judgement, paras 382-383.

<sup>1919</sup> *Stakić* Appeal Judgement, para. 380.

and the effect of the crimes upon the broader targeted group.<sup>1920</sup> The Appeals Chamber has also held that the consequences of the crime upon the victims directly injured, namely the extent of the long-term physical, psychological, and emotional suffering of the victim, is always relevant to sentencing.<sup>1921</sup> Further factors, such as the effects of the crime on relatives of the immediate victims, may also be considered.<sup>1922</sup>

(b) Aggravating and mitigating circumstances

893. In determining a sentence, the Trial Chamber must also take into consideration any mitigating or aggravating circumstances. Neither the Statute nor the Rules stipulate which factors are to be considered as aggravating or mitigating circumstances, except that Rule 101(B)(ii) requires the Trial Chamber to take into account any “significant cooperation” with the Prosecutor as a mitigating factor. Whether certain aspects of a convicted person’s character constitute mitigating or aggravating factors depends largely upon the particular circumstances of each case.<sup>1923</sup>

894. Only those circumstances directly related to the commission of the offence and to the offender himself when he committed the offence, such as the manner in which the offence was committed, may be considered in aggravation.<sup>1924</sup> Further, only those matters which are proved beyond reasonable doubt against a convicted person may be the subject of his sentence or taken into account in aggravation of that sentence.<sup>1925</sup> Factors taken into consideration as aspects of the gravity of the crime cannot additionally be taken into account as separate aggravating circumstances, and *vice versa*.<sup>1926</sup> Likewise, elements of a crime should not be reviewed a first time as a constitutive element and a second time as an aggravating circumstance.<sup>1927</sup>

895. In contrast to aggravating circumstances, mitigating circumstances must be proved on a balance of probabilities.<sup>1928</sup> It lies within the discretion of the Trial Chamber whether or not to accept a factor as a mitigating circumstance and what weight to give to mitigating factors.<sup>1929</sup>

<sup>1920</sup> *Galić* Appeal Judgement, paras 409-410. See also *Galić* Trial Judgement, para. 758.

<sup>1921</sup> *Blaškić* Appeal Judgement, para. 683; *Krnjelac* Trial Judgement, para. 512. See also *Zelenović* Sentencing Judgement, para. 40; *Babić* Sentencing Judgement, para. 47.

<sup>1922</sup> *Blaškić* Appeal Judgement, para. 683; *Krnjelac* Appeal Judgement, para. 260.

<sup>1923</sup> *Hadžihasanović and Kubura* Appeal Judgement, para. 328; *Babić* Sentencing Appeal Judgement, para. 49.

<sup>1924</sup> *Simba* Appeal Judgement, para. 82; *Stakić* Trial Judgement, para. 911; *Kunarac et al.* Trial Judgement, para. 850.

<sup>1925</sup> *Blaškić* Appeal Judgement, para. 686; *Čelebići* Appeal Judgement, para. 763; *Kunarac et al.* Trial Judgement, para. 850.

<sup>1926</sup> *Limaj et al.* Appeal Judgement, para. 143; *M. Nikolić* Sentencing Appeal Judgement, para. 58; *Deronjić* Sentencing Appeal Judgement, paras 106-107.

<sup>1927</sup> *Krstić* Trial Judgement, para. 707.

<sup>1928</sup> *Babić* Sentencing Appeal Judgement, para. 43.

<sup>1929</sup> *Galić* Appeal Judgement, para. 419; *Babić* Sentencing Appeal Judgement, para. 43; *Blaškić* Appeal Judgement, para. 696; *Čelebići* Appeal Judgement, para. 780.

Mitigating factors include those not directly related to the offence.<sup>1930</sup> The absence of a mitigating factor can never serve as an aggravating factor.<sup>1931</sup>

(i) Aggravating circumstances

896. The jurisprudence of the Tribunal has identified potentially aggravating factors, such as the accused's abuse of his superior position;<sup>1932</sup> the length of time during which the crime continued;<sup>1933</sup> active and direct criminal participation if linked to a high-ranking position of command;<sup>1934</sup> premeditation and motive;<sup>1935</sup> the zealousness with which a crime was committed;<sup>1936</sup> a discriminatory state of mind where discrimination is not an element of the offence;<sup>1937</sup> the violent and humiliating nature of the acts and the vulnerability of the victims;<sup>1938</sup> the status of the victims, their age and number, and the effect of the crimes upon them;<sup>1939</sup> the character of the convicted person;<sup>1940</sup> and the circumstances of the offences generally.<sup>1941</sup> Intelligence and good education have been considered to be possible aggravating factors because such persons should have been able to understand the circumstances and foresee the consequences of their conduct.<sup>1942</sup>

(ii) Mitigating circumstances

897. Mitigating factors include co-operation with the Prosecution;<sup>1943</sup> the admission of guilt or a guilty plea;<sup>1944</sup> the expression of remorse;<sup>1945</sup> sympathy, compassion, or sorrow for the victims of the crimes;<sup>1946</sup> voluntary surrender;<sup>1947</sup> good character with no prior criminal convictions;<sup>1948</sup>

<sup>1930</sup> *Stakić* Trial Judgement, para. 920; *Kunarac et al.* Trial Judgement, para. 850.

<sup>1931</sup> *Blaškić* Appeal Judgement, para. 687. *See also* *Plavšić* Sentencing Judgement, para. 64.

<sup>1932</sup> *Blagojević* Appeal Judgement, para. 324; *Galić* Appeal Judgement, para. 412; *Blaškić* Appeal Judgement, para. 686, *citing* *Jokić* Sentencing Judgement, paras 61-62; *Stakić* Appeal Judgement, para. 411; *Babić* Sentencing Appeal Judgement, para. 80.

<sup>1933</sup> *Blaškić* Appeal Judgement, para. 686, *citing* *Kunarac et al.* Appeal Judgement, para. 356.

<sup>1934</sup> *Blaškić* Appeal Judgement, para. 686, *citing* *Krstić* Trial Judgement, para. 708.

<sup>1935</sup> *Blaškić* Appeal Judgement, para. 686, *citing* *Krstić* Trial Judgement, paras 711-712. *See also* *Krstić* Appeal Judgement, paras 258-259.

<sup>1936</sup> *Simba* Appeal Judgement, para. 320; *Kvočka et al.* Trial Judgement, para. 705.

<sup>1937</sup> *Vasiljević* Trial Judgement, para. 278.

<sup>1938</sup> *Blaškić* Appeal Judgement, para. 686, *citing* *Kunarac et al.* Trial Judgement, para. 867; *Kunarac et al.* Appeal Judgement, para. 352.

<sup>1939</sup> *Blaškić* Appeal Judgement, para. 686, *citing* *Kunarac et al.* Trial Judgement, paras 864, 866; *Kunarac et al.* Appeal Judgement, para. 355.

<sup>1940</sup> *Blaškić* Appeal Judgement, para. 686, *citing* *Čelebići* Appeal Judgement, para. 788.

<sup>1941</sup> *Blaškić* Appeal Judgement, para. 686.

<sup>1942</sup> *Brdanin* Trial Judgement, para. 1114 *cf.* *Hadžihasanović* Appeal Judgement, para. 328 (“This does not mean, however, that these factors should *only* be considered aggravating factors.”).

<sup>1943</sup> Rule 101(B)(ii) of the Rules; *Blagojević* Appeal Judgement, para. 344; *Vasiljević* Appeal Judgement, para. 180; *Jokić* Sentencing Judgement, paras 95-96.

<sup>1944</sup> *Jelisić* Appeal Judgement, para. 122; *Jokić* Sentencing Judgement, para. 76.

<sup>1945</sup> *Strugar* Appeal Judgement, para. 365; *Jokić* Sentencing Judgement, para. 89; *Kunarac et al.* Trial Judgement, para. 869; *Erdemović* Sentencing Judgement, para. 16(iii).

<sup>1946</sup> *Strugar* Appeal Judgement, para. 366.

<sup>1947</sup> *Jokić* Sentencing Judgement, para. 73; *Plavšić* Sentencing Judgment, para. 84; *Kupreškić et al.* Appeal Judgement, para. 430.

comportment while in detention;<sup>1949</sup> personal and family circumstances;<sup>1950</sup> the character of the convicted person subsequent to the conflict;<sup>1951</sup> duress;<sup>1952</sup> indirect participation;<sup>1953</sup> diminished mental responsibility;<sup>1954</sup> age;<sup>1955</sup> and assistance to detainees or victims.<sup>1956</sup> Poor health is to be considered only in exceptional or rare cases.<sup>1957</sup> Further, the Trial Chamber may credit a convicted person for fully complying with certain obligations, such as the terms and conditions of his provisional release,<sup>1958</sup> or may permissibly credit him for preventing the commission of crimes.<sup>1959</sup>

(iii) General practice regarding prison sentences in courts of the former Yugoslavia

898. The Trial Chamber must take into account the sentencing practices of the former Yugoslavia when determining the appropriate sentence to be imposed, but is not bound by such practices.<sup>1960</sup> The Chamber may, at its discretion, diverge from the sentencing practices of the former Yugoslavia, particularly where they would be inadequate in light of international law<sup>1961</sup> and may impose a sentence in excess of that which would be applicable under the relevant law in the former Yugoslavia.<sup>1962</sup>

899. While Article 24(1) of the Statute and Rule 101(B)(iii) of the Rules refer to case law from the courts of the former Yugoslavia, the jurisprudence of the Tribunal has established that statutory provisions in force in the former Yugoslavia at the time of the commission of the crimes should also be consulted.<sup>1963</sup>

900. In 1991 and 1992, the sentencing law in BiH was regulated by the Criminal Code of the SFRY (“SFRY Criminal Code”), which was adopted by the Federal Assembly on 28 September 1976 and in force from 1 July 1977. It was also regulated by the Criminal Code of the SRBiH of 10

<sup>1948</sup> *Kupreškić et al.* Appeal Judgement, para. 459; *Erdemović* Sentencing Judgement, para. 16(i).

<sup>1949</sup> *Jokić* Sentencing Judgement, para. 100; *D. Nikolić* Sentencing Judgement, para. 268.

<sup>1950</sup> *Kunarac et al.* Appeal Judgement, paras 362, 408. *See also Simić et al.* Trial Judgement, para. 1088; *Erdemović* Sentencing Judgement, para. 16(i).

<sup>1951</sup> *Jokić* Sentencing Judgement, paras 90-91, 103; *Plavšić* Sentencing Judgment, paras 85-95.

<sup>1952</sup> *Erdemović* Sentencing Judgement, para. 17 (stating that duress “may be taken into account only by way of mitigation”).

<sup>1953</sup> *Krstić* Appeal Judgement, para. 273.

<sup>1954</sup> *Čelebići* Appeal Judgement, para. 590.

<sup>1955</sup> *Jokić* Sentencing Judgement, para. 100; *Plavšić* Sentencing Judgment, para. 106.

<sup>1956</sup> *Sikirica et al.* Sentencing Judgement, paras 195, 229.

<sup>1957</sup> *Babić* Sentencing Appeal Judgement, para. 43; *Blaškić* Appeal Judgement, para. 686.

<sup>1958</sup> *Blagojević* Appeal Judgement, para. 342. *See also Jokić* Sentencing Appeal Judgement, para. 82.

<sup>1959</sup> *Blagojević* Appeal Judgement, para. 342. *See also Kupreškić et al.* Appeal Judgement, para. 430.

<sup>1960</sup> Article 24(1); Rule 101(B)(iii). *See Krstić* Appeal Judgement, para. 260; *Kunarac et al.* Appeal Judgement, paras 348-349; *Čelebići* Appeal Judgement, para. 813.

<sup>1961</sup> *Kunarac et al.* Appeal Judgement, para. 377.

<sup>1962</sup> *M. Nikolić* Sentencing Judgement, paras 97-100; *D. Nikolić* Sentencing Judgement, paras 157-165. The Appeals Chamber has held that this sentencing practice does not violate the principle of *nulla poena sine lege* since an accused would have been aware that the crimes for which he is indicted constitute serious violations of international humanitarian law, punishable by the most severe of penalties. *Čelebići* Appeal Judgement, paras 816-817.

<sup>1963</sup> *D. Nikolić* Sentencing Appeal Judgement, para. 85.

June 1977 (“BiH Criminal Code”). The SFRY Criminal Code regulated the general aspects of criminal law and a few specific offences, such as crimes against the security of the SFRY, genocide, and war crimes, while the BiH Criminal Code primarily regulated the specific offences and some general matters not addressed in the SFRY Criminal Code. Both criminal codes remained in force after BiH declared independence in 1992.<sup>1964</sup>

901. Article 142(1) of the SFRY Criminal Code, entitled “War Crimes against the Civilian Population”, provided as follows:

Whoever, in violation of international law in time of war, armed conflict or occupation, orders an attack on the civilian population, settlement, individual civilians or persons *hors de combat*, which results in death or serious injury to body or health; indiscriminate attack affecting civilian population; the killing, torture or inhumane treatment of the civilian population [...] causing great suffering or serious injury to body or health; unlawful deportation, transfers, [...] use of measures of intimidation and terror [...] or whoever commits any of the aforementioned offences, shall be punished by no less than five years in prison, or by the death penalty.<sup>1965</sup>

902. Article 38(1) and (2) of the SFRY Criminal Code provided that no sentence of imprisonment could exceed 15 years, but that a twenty-year term could alternatively be imposed for criminal offences punishable by the death penalty.<sup>1966</sup>

903. The Trial Chamber has taken the above into consideration in determining the sentences in this case.

(iv) Credit for time served in custody

904. Pursuant to Rule 101(C), credit shall be given to the convicted person for the period during which the convicted person was detained pending surrender to the Tribunal or pending trial.

**B. Law on cumulative convictions and specific charges in this case**

905. Where a Chamber has made findings of guilt on more than one statutory crime arising out of the same acts or omissions on the part of the accused, a conviction for each crime is permissible only if each has a materially distinct element that the other crimes in question do not contain.<sup>1967</sup> If two crimes charged in respect of the same conduct do not each contain at least one element which the other crime does not contain, a Chamber may only convict the accused of the crime with the

<sup>1964</sup> *Krajišnik* Trial Judgement, para. 1172; *Brdanin* Trial Judgement, para. 1145; Presidential Decree on the State of War of 8 April 1992, Presidential Decree on the Application of Traditional Laws of 11 August 1992, and Law on the Retroactive Confirmation of the Later Presidential Decree, 1 June 1994.

<sup>1965</sup> L11, SFRY Criminal Code, Article 142(1).

<sup>1966</sup> L11, SFRY Criminal Code, Articles 38(1)-(2).

<sup>1967</sup> *Semanza* Appeal Judgement, para. 315; *Kordić and Čerkez* Appeal Judgement, paras 1032-1033; *Krstić* Appeal Judgement, para. 218; *Kunarac et al.* Appeal Judgement, para. 173; *Čelebići* Appeal Judgement, para. 412; *Limaj et al.* Trial Judgement, para. 717; *Strugar* Trial Judgement, para. 447; *Blagojević* Trial Judgement, para. 799.

more specific element or elements.<sup>1968</sup> As the Appeals Chamber has held, “[t]he cumulative convictions test serves twin aims: ensuring that the accused is convicted only for distinct offences, and at the same time, ensuring that the convictions entered fully reflect his criminality”.<sup>1969</sup>

906. In applying the cumulative convictions test, therefore, a Chamber must compare in the abstract all the general requirements of the statutory crimes in question, as well as the elements of the charged underlying offences, to determine whether *each* crime requires, as a matter of law, proof of an element that the others do not.<sup>1970</sup> For example, since Article 3 and Article 5 of the Statute have at least one mutually distinct general requirement—that is, Article 3 requires proof of a close link between the acts of the accused and the armed conflict,<sup>1971</sup> while Article 5 requires a widespread or systematic attack against a civilian population<sup>1972</sup>—an accused may be convicted of statutory crimes under both Articles even though the facts supporting each underlying offence are the same.<sup>1973</sup>

907. As long as each of the statutory crimes in question has at least one distinct general requirement which the other crime has not, it is immaterial that the underlying offences charged—for instance, murder, which may be charged either as a violation of the laws or customs of war or as a crime against humanity—have also mutually identical elements.<sup>1974</sup> As a result, a Chamber may enter cumulative convictions under Articles 3 and 5.<sup>1975</sup>

908. Moreover, the Trial Chamber notes that several crimes alleged in the Indictment are charged both as “stand alone” crimes against humanity under Article 5 and as underlying acts of persecution as a crime against humanity under Article 5, which raises the issue of the permissibility of cumulative *intra*-Article 5 convictions.

909. In *Kordić and Čerkez*, the Appeals Chamber held, by majority, that *intra*-Article 5 convictions for persecutions as a crime against humanity are permissibly cumulative with other

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<sup>1968</sup> *Semanza* Appeal Judgement, para. 315; *Kordić and Čerkez* Appeal Judgement, para. 1032; *Krstić* Appeal Judgement, para. 218; *Čelebići* Appeal Judgement, para. 413; *Limaj et al.* Trial Judgement, para. 717; *Strugar* Trial Judgement, para. 447; *Blagojević* Trial Judgement, para. 799. In the post-*Čelebići* jurisprudence of the Tribunal, this cumulative conviction test is referred to as the “*Čelebići* test”.

<sup>1969</sup> *Kordić and Čerkez* Appeal Judgement, para. 1033.

<sup>1970</sup> *Kordić and Čerkez* Appeal Judgement, paras 1033, 1039-1040 (overruling *Krstić* Appeal Judgement, paras 231-232; *Vasiljević* Appeal Judgement, para. 146; *Krnjelac* Appeal Judgement, para. 188).

<sup>1971</sup> *Galić* Appeal Judgement, para. 165; *Jelisić* Appeal Judgement, para. 82; *Tadić* Appeal Jurisdiction Decision, para. 94(i)-(ii).

<sup>1972</sup> *Blaškić* Appeal Judgement, para. 98; *Kunarac et al.* Appeal Judgement, para. 85; *Tadić* Appeal Judgement, para. 248.

<sup>1973</sup> *Kordić and Čerkez* Appeal Judgement, para. 1036; *Kunarac et al.* Appeal Judgement, para. 176; *Kupreškić et al.* Appeal Judgement, para. 387.

<sup>1974</sup> See *Kordić and Čerkez* Appeal Judgement, para. 1038.



crimes against humanity because they each have a materially distinct element not contained in the other. The Appeals Chamber found that, “[w]hen applying to the *Čelebići* test, what must be considered are the legal elements of each offence, not the acts or omissions giving rise to the offence.”<sup>1976</sup> The Appeals Chamber also held that:

what is required is an examination, as a matter of law, of the elements of each offence in the Statute that pertain to that conduct for which the accused has been convicted. It must be considered whether each offence has a materially distinct element not contained in the other; that is, whether each offence has an element that requires proof of a fact not required by the other offence.<sup>1977</sup>

In applying this test, the Appeals Chamber found that:

the definition of persecutions contains materially distinct elements not present in the definition of murder under Article 5 of the Statute: the requirement of proof that an act or omission discriminates in fact *and* proof that the act or omission was committed with the specific intent to discriminate. Murder, by contrast, requires proof that the accused caused the death of one or more persons, regardless of whether the act or omission causing the death discriminates in fact or was specifically intended as discriminatory, which is not required by persecutions.<sup>1978</sup>

This approach was followed in the *Krajišnik* Appeal Judgement.<sup>1979</sup>

910. The Trial Chamber considers that the Appeals Chamber has identified (a) the materially distinct element of murder as a crime against humanity as “proof that the accused caused the death of one or more persons, [...] which is not required by persecutions” and (b) the materially distinct element of persecution as a crime against humanity as “proof that an act or omission discriminates in fact *and* proof that the act or omission was committed with the specific intent to discriminate”. In doing so, the Appeals Chamber has looked at the elements of persecution in the abstract and divorced its analysis from persecution’s nature as an “empty hull”<sup>1980</sup> that must be filled with the additional elements of an underlying act, such as killing. This gives rise to difficulty because the *Čelebići* test provides that the issue of cumulative convictions only arises in relation to crimes which are based on the same conduct; and, in the view of the Trial Chamber, the *Kordić and Čerkez* majority failed to do this when it treated persecution in isolation from the underlying act of murder. In the Trial Chamber’s view, it would appear that the Appeals Chamber did not fully appreciate the fact that persecution is always committed *through* some other crime, such as murder, whose

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<sup>1975</sup> *Kordić and Čerkez* Appeal Judgement, para. 1036; *Kunarac et al.* Appeal Judgement, para. 176; *Kupreškić et al.* Appeal Judgement, para. 387; *Jelisić* Appeal Judgement, para. 82; *Blagojević* Trial Judgement, para. 800; *Krnjelac* Trial Judgement, para. 503; *Kunarac et al.* Trial Judgement, paras 556-557.

<sup>1976</sup> *Kordić and Čerkez* Appeal Judgement, para. 1033.

<sup>1977</sup> *Kordić and Čerkez* Appeal Judgement, para. 1040.

<sup>1978</sup> *Kordić and Čerkez* Appeal Judgement, para. 1041.

<sup>1979</sup> *Krajišnik* Appeal Judgement, paras 390-391.

<sup>1980</sup> *Kordić and Čerkez* Appeal Judgement, Joint Dissenting Opinion of Judge Schomburg and Judge Güney on Cumulative Convictions, para. 6.

elements must still be proved in addition to the discriminatory element required for persecution. To classify a crime as “persecution” is to add a discriminatory intent to that crime.

911. Therefore, in order for the Prosecution to prove that the Accused are responsible for murder as a crime against humanity, it must prove the *actus reus* and *mens rea* of murder. Similarly, in order for the Prosecution to prove the underlying act of killing as persecution as a crime against humanity, it must also prove the *actus reus* and *mens rea* of murder, *as well as* the constitutive elements of persecution. Therefore, all the elements of murder as a crime against humanity are subsumed within killing as persecution as a crime against humanity. Thus, the former has no element that is materially distinct from the latter.

912. Based on the foregoing, in the view of the Trial Chamber, the *Čelebići* test does not allow a Chamber to analyse the crime of persecution in the abstract and detached from the underlying offence of murder, when the same conduct is charged as two crimes. To do so would lead to the result of convicting the accused twice for the same crime. The Trial Chamber therefore does not consider that murder as a crime against humanity and killing as persecution as a crime against humanity are permissibly cumulative.

913. The killings in the Indictment are charged as murder as a crime against humanity, murder as a violation of the laws or customs of war, extermination as a crime against humanity, and killings as underlying acts of persecution as a crime against humanity. Murder as a crime against humanity is permissibly cumulative with murder as a violation of the laws or customs of war.<sup>1981</sup> Murder as a crime against humanity and extermination as a crime against humanity, when based on the same set of facts, are not permissibly cumulative.<sup>1982</sup> Extermination as a crime against humanity is permissibly cumulative with killings as underlying acts of persecution as a crime against humanity. Murder as a crime against humanity is not permissibly cumulative with killings as underlying acts of persecution as a crime against humanity.

914. Cruel treatment as a violation of the laws or customs of war is not permissibly cumulative with torture as a violation of the laws or customs of war.<sup>1983</sup>

915. Other inhumane acts as a crime against humanity are not permissibly cumulative with torture as a crime against humanity.<sup>1984</sup>

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<sup>1981</sup> *Milutinović et al.*, Trial Judgement, vol. 3, para. 1165.

<sup>1982</sup> *Stakić* Appeal Judgement, para. 366; *Ntakirutimana* Appeal Judgement, para. 542.

<sup>1983</sup> *Krnjelac* Appeal Judgement, para. 172.

<sup>1984</sup> *Krnjelac* Appeal Judgement, para. 172.

916. The Trial Chamber notes that torture, cruel treatment, and inhumane acts are charged both as “stand alone” crimes against humanity under Article 5 and as underlying acts of persecution as a crime against humanity under Article 5. The Trial Chamber has already observed above that other inhumane acts are not permissibly cumulative with torture and considers that this also applies to these crimes as underlying acts of persecution. Consistent with the Chamber’s view as expressed above in relation to *intra*-Article 5 crimes, torture as a crime against humanity is not permissibly cumulative with torture as an underlying act of persecution as a crime against humanity.

917. The establishment and perpetuation of inhumane living conditions in detention facilities through a failure to provide adequate (a) accommodation or shelter, (b) food or water, (c) medical care, or (d) hygienic sanitation facilities have been considered a subcategory of cruel treatment and other inhumane acts, which can rise to the level of gravity of the other crimes enumerated in Article 5, and therefore may constitute persecution. The Trial Chamber recalls that, where torture, cruel treatment, and other inhumane acts as persecution have been charged, it has found that torture was committed and therefore that cruel treatment and other inhumane acts were also proved because the former subsumes the latter. Because torture is impermissibly cumulative with cruel treatment and inhumane acts, the Trial Chamber will not enter a conviction of the Accused for the latter. However, the Trial Chamber finds that a conviction for torture as persecution is permissibly cumulative with a conviction for the establishment and perpetuation of inhumane living conditions in detention facilities as persecution because each crime requires proof of an element that the other does not.

918. Consistent with the Chamber’s view as expressed above in relation to *intra*-Article 5 crimes, deportation and forcible transfer (other inhumane acts) as crimes against humanity are not permissibly cumulative with deportation and forcible transfer as underlying acts of persecution as a crime against humanity.

### C. Mičo Stanišić

#### 1. Arguments of parties

919. The Prosecution submits that Mičo Stanišić was an integral member of the JCE aimed at removing, through a criminal persecutory campaign, all traces of non-Serbs from the RS.<sup>1985</sup> The Prosecution further submits that Stanišić, as RS Minister of the Interior, was among the architects of this criminal plan, which targeted non-Serbs in 20 municipalities in BiH, including eight ARK

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<sup>1985</sup> Prosecution Final Trial Brief, para. 997.

Municipalities.<sup>1986</sup> According to the Prosecution, Stanišić was instrumental in seeing that the violent persecutory campaign was carried out in the ARK Municipalities and, as a high-level commander, played a crucial role in the crimes for which he is responsible.<sup>1987</sup>

920. The Prosecution submits that the following factors should aggravate Stanišić's sentence: the vulnerability of the victims, the fact that Stanišić abused his authority, the ongoing and persistent nature of his crimes, and the persecutory nature of the crimes.<sup>1988</sup> The Prosecution also submits that Stanišić, an intelligent, well-educated individual with experience in politics prior to the Indictment period, knew what he was doing.<sup>1989</sup>

921. According to the Prosecution, no mitigating circumstances exist to substantially reduce Stanišić's sentence since he has neither shown remorse for his crimes, nor substantially cooperated with the Prosecution.<sup>1990</sup> Stanišić did agree to be interviewed by the Prosecution but this interview was, in the Prosecution's view, largely self-serving and at times evasive.<sup>1991</sup> Furthermore, although Stanišić surrendered shortly after his Indictment was made public, this should not be given significant weight as a mitigating factor as it was merely the fulfilment of a legal obligation.<sup>1992</sup>

922. Consequently, the Prosecution argues that the only reasonable sentence to be imposed, considering the gravity of the crimes, is life in prison.<sup>1993</sup>

923. Stanišić claims that the evidence shows that he never failed to fulfil his duties and responsibilities as Minister of the Interior,<sup>1994</sup> never manifested any criminal intent,<sup>1995</sup> and never failed to act when he had the ability to do so or when he was obliged to act by law.<sup>1996</sup> In fact, Stanišić argues, he always acted in full compliance with the law,<sup>1997</sup> always conducted himself responsibly, and did his utmost, within his ability and legal position, to prevent the occurrence of crimes.<sup>1998</sup>

924. Stanišić further submits that he continuously took reasonable and necessary measures to ensure that the RS MUP functioned in accordance with the Constitution and all relevant laws and

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<sup>1986</sup> Prosecution Final Trial Brief, paras 998, 1006.

<sup>1987</sup> Prosecution Final Trial Brief, paras 998-999, 1002.

<sup>1988</sup> Prosecution Final Trial Brief, para. 1007.

<sup>1989</sup> Prosecution Final Trial Brief, para. 1012.

<sup>1990</sup> Prosecution Final Trial Brief, para. 1014.

<sup>1991</sup> Prosecution Final Trial Brief, para. 1014. *See also* Prosecution Closing Arguments, 30 May 2012, T. 27383-27384.

<sup>1992</sup> Prosecution Final Trial Brief, para. 1014.

<sup>1993</sup> Prosecution Final Trial Brief, paras 999, 1017; Prosecution Closing Arguments, 30 May 2012, T. 27462.

<sup>1994</sup> Stanišić Final Trial Brief, para. 636.

<sup>1995</sup> Stanišić Final Trial Brief, para. 643.

<sup>1996</sup> Stanišić Final Trial Brief, para. 661.

<sup>1997</sup> Stanišić Final Trial Brief, para. 636.

<sup>1998</sup> Stanišić Final Trial Brief, para. 661.

regulations,<sup>1999</sup> and that in 1992 all his orders emphasised the need for strict legal compliance with pre-existing duties and obligations by all members of the RS MUP.<sup>2000</sup>

925. According to Stanišić, he took swift and immediate action whenever he received information that a crime had been committed;<sup>2001</sup> issued orders within this purview to prevent and investigate crimes against all citizens, whether “regular” crimes or war crimes, regardless of the ethnicity of the perpetrators or the victims,<sup>2002</sup> and issued orders to remove and arrest irregular members of the police force.<sup>2003</sup> Stanišić argues that he had no reason to believe that the competent authorities within the VRS and RS MUP were not complying with their obligations to prevent and punish crimes and to discipline their members.<sup>2004</sup> Stanišić claims that he was not properly or adequately informed about security problems, lawlessness, and the commission of crimes.<sup>2005</sup>

926. Finally, Stanišić submits that he opposed political influence in the work of the MUP and insisted on the strict application of the law.<sup>2006</sup>

## 2. Determination of sentence

### (a) Gravity of offences

927. The Trial Chamber has found Stanišić to be responsible for massive crimes in all of the 20 municipalities alleged in the Indictment, including murder, torture, forcible displacement, and persecution. The victims number in the thousands. The effect of the crimes upon these victims and the fact that many of them were particularly vulnerable persons—such as children, women, the elderly, and persons who had been deprived of their liberty in detention centres—has also been taken into account. These crimes were not isolated instances, but rather part of a widespread and systematic campaign of terror and violence. Stanišić was a high level police official at the time of the commission of the crimes. The Trial Chamber therefore finds that the crimes for which Stanišić has been found to incur criminal liability are of a high level of gravity.

928. The fact that Stanišić has been found to have committed these crimes through his participation in a JCE has been taken into account in the determination of his sentence.

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<sup>1999</sup> Stanišić Final Trial Brief, para. 643.

<sup>2000</sup> Stanišić Final Trial Brief, para. 638; Stanišić Closing Arguments, 31 May 2012, T. 27538.

<sup>2001</sup> Stanišić Final Trial Brief, para. 644.

<sup>2002</sup> Stanišić Final Trial Brief, para. 639. *See also* Stanišić Closing Arguments, 31 May 2012, T. 27538.

<sup>2003</sup> Stanišić Final Trial Brief, para. 639; Stanišić Closing Arguments, 31 May 2012, T. 27538.

<sup>2004</sup> Stanišić Final Trial Brief, para. 685.

<sup>2005</sup> Stanišić Final Trial Brief, para. 644.

<sup>2006</sup> Stanišić Final Trial Brief, para. 650. *See also* para. 41; Stanišić Closing Arguments, 31 May 2012, T. 27537.

(b) Aggravating and mitigating circumstances

929. The Trial Chamber has found that Stanišić participated in a JCE, the objective of which was to permanently remove Bosnian Muslims and Bosnian Croats from the territory of the planned Serbian state through the commission of crimes on a massive scale. Stanišić's participation in the JCE was undertaken in his official capacity as Minister of the Interior. This constitutes an abuse of his superior position and thus aggravates his culpability.

930. The Trial Chamber has considered the length of time during which the crimes for which Stanišić has been found guilty were committed. The Chamber notes that the crimes were committed during nine months and is of the view that this constitutes an aggravating factor.

931. Intelligence and good education have in previous cases been considered possible aggravating factors by this Tribunal,<sup>2007</sup> although this does not mean that these factors should only be considered as aggravating.<sup>2008</sup> The Chamber finds that Stanišić is a well-educated individual, with a university degree in law, and with experience in politics prior to the Indictment period. In the Trial Chamber's view, this constitutes an aggravating factor because Stanišić had full insight into the context in which the crimes were committed and a thorough legal understanding of the nature of the crimes. However, given the circumstances of the present case, where Stanišić's position of power and authority and his abuse thereof are of more importance to the issue of sentencing, this aggravating factor has not been given undue weight.

932. Stanišić has not made any direct submissions in relation to mitigating circumstances. The Trial Chamber will therefore consider the possible mitigating factors previously mentioned. The Trial Chamber recalls that it may decide, at its discretion, whether or not to accept a factor as a mitigating circumstance and what weight to give to such a factor.

933. As noted above, voluntary surrender to the Tribunal may constitute a mitigating factor.<sup>2009</sup> The Trial Chamber has previously found that Stanišić did voluntarily surrender soon after his Indictment was made public.<sup>2010</sup> The Trial Chamber notes the Prosecution's submission that, although Stanišić surrendered to the Tribunal shortly after his indictment was made public, this surrender should not be given significant weight as a mitigating factor because it was merely the fulfilment of a legal obligation.<sup>2011</sup> The Trial Chamber agrees that voluntary surrender to the

<sup>2007</sup> *Hadžihasanović and Kubura* Appeal Judgement, para. 328; *Brdanin* Trial Judgement, para. 1114.

<sup>2008</sup> *Hadžihasanović and Kubura* Appeal Judgement, para. 328.

<sup>2009</sup> *Jokić* Sentencing Judgement, para. 73; *Plavšić* Sentencing Judgement, para. 84; *Kupreškić et al.* Appeal Judgement, para. 430.

<sup>2010</sup> See *Prosecutor v. Mićo Stanišić*, Case No. IT-04-79-PT, Decision on Mićo Stanišić's Motion for Provisional Release, 19 July 2005, paras 10-11.

<sup>2011</sup> Prosecution Final Trial Brief, para. 1014.

Tribunal is the fulfilment of a legal obligation, but does not agree that this circumstance prevents a surrender from being considered as a mitigating factor. Consequently, the Trial Chamber will take Stanišić's voluntarily surrender into consideration when determining the sentence.

934. A convicted person may receive credit for fully complying with certain obligations, such as the terms and conditions of provisional release.<sup>2012</sup> Stanišić was provisionally released on eleven occasions,<sup>2013</sup> during which he fully complied with the terms and conditions of his release.<sup>2014</sup> The Trial Chamber acknowledges Stanišić's cooperation in relation to his provisional release and has taken this into consideration in determining his sentence.

935. The Trial Chamber has considered whether the interviews that Stanišić gave to the Prosecution constitute "substantial cooperation", which could serve as a mitigating factor.<sup>2015</sup> Whether the co-operation by an accused qualifies as "substantial" depends on the quality and quantity of the information given.<sup>2016</sup> The Chamber's review of Stanišić's interview does not reveal any substantial co-operation with the Prosecution.

936. Finally, the Trial Chamber has considered Stanišić's assertion that he was perceived by his colleagues as a conscientious professional and someone who insisted on the application of the law, and whether this can be considered to be proof of good character and, as such, a mitigating factor.<sup>2017</sup> According to witnesses, Mićo Stanišić had the requisite professional background for positions within the MUP: he obtained a degree in law, completed the course on internal affairs, and worked in the city secretariat.<sup>2018</sup> Radomir Njeguš, a former policeman of Serb ethnicity who lost his position as Chief of Police in the Sarajevo SUP after the multi-party elections, attended the same police school in Vrace as Stanišić and described him as a hard-working professional who demanded a lot from those who worked with him.<sup>2019</sup> Goran Mačar stated that Stanišić was held in high esteem

<sup>2012</sup> *Blagojević and Jokić* Appeal Judgement, para. 342. See also *Jokić* Sentencing Appeal Judgement, para. 82.

<sup>2013</sup> Decision Granting Mićo Stanišić's Third Motion for an Extension of Provisional Release, 21 February 2013; Decision Granting Mićo Stanišić's Second Motion for an Extension of Provisional Release, 19 November 2012; Decision Granting Mićo Stanišić's Motion for an Extension of Provisional Release, 27 August 2012; Decision Granting Mićo Stanišić's Request for Provisional Release, 6 June 2012; Decision Granting Mićo Stanišić's Request for Provisional Release, 18 November 2011; Decision Granting Mićo Stanišić's Motion for Provisional Release During Court Winter Recess, 3 December 2010; Decision Granting Mićo Stanišić's Motion for Provisional Release During the Summer Recess, 16 July 2010; Decision Granting Mićo Stanišić's Motion for Provisional Release During the Winter Recess, 11 December 2009; Order Reinstating Provisional Release, 12 June 2009; Order Reinstating Provisional Release, 10 July 2008; *Prosecutor v. Mićo Stanišić*, Case No. IT-04-79-PT, Decision on Mićo Stanišić's Motion for Provisional Release, 19 July 2005.

<sup>2014</sup> Decision Granting Mićo Stanišić's Third Motion for an Extension of Provisional Release, 21 February 2013.

<sup>2015</sup> Rule 101(B)(ii) of the Rules; *Blagojević and Jokić* Appeal Judgement, para. 344; *Vasiljević* Appeal Judgement, para. 180; *Jokić* Sentencing Judgement, paras 95-96.

<sup>2016</sup> *Bralo* Sentencing Appeal Judgement, para. 51; *Blaškić* Trial Judgement, para. 774.

<sup>2017</sup> *Kupreškić et al.* Appeal Judgement, para. 459; *Erdemović* Sentencing Judgement, para. 16(i)

<sup>2018</sup> Dragomir Andan, 26 May 2011, T. 21387-21388; ST121, 24 November 2009, T. 3695-3696.

<sup>2019</sup> Radomir Njeguš, 7 June 2010, T. 11306-11307.

in police circles as a good professional and a disciplined and model officer.<sup>2020</sup> Dragan Đokanović stated that, up until the beginning of the war, Stanišić was a professional policeman who applied police standards to his work.<sup>2021</sup> Đokanović also described Stanišić as a well-known, well-regarded, and honest citizen.<sup>2022</sup> Milomir Orašanin testified that Stanišić was a professional Minister of the Interior.<sup>2023</sup> The Trial Chamber considers that, in light of the crimes for which Stanišić has been found guilty, this evidence has little weight as a mitigating factor. The Trial Chamber also recalls its finding that, in respect of orders issued for the protection of the civilian population, Stanišić failed to use the powers available to him under the law to ensure the full implementation of these orders, despite being aware of the limited action taken in relation to them.

#### **D. Stojan Župljanin**

##### **1. Arguments of parties**

937. The Prosecution submits that Stojan Župljanin was an integral member of the JCE aimed at removing, through a criminal persecutory campaign, all traces of non-Serbs from the RS.<sup>2024</sup> The Prosecution further submits that Župljanin enjoyed operational control over the municipal and regional members and agents of the RS MUP and played a crucial role in the crimes for which he is responsible.<sup>2025</sup>

938. The Prosecution submits that the following factors should aggravate Župljanin's sentence: the vulnerability of the victims, the fact that Župljanin abused his authority, the ongoing and persistent nature of his crimes, and the persecutory nature of the crimes.<sup>2026</sup> The Prosecution argues that Župljanin was university-educated and had a long career in the police prior to the Indictment period. For these reasons, this educational and professional background demonstrate that he knew what he was doing and should be taken into account in determining his sentence.<sup>2027</sup>

939. The Prosecution submits that there are no mitigating factors that should substantially reduce the sentence of Župljanin, since he has neither shown remorse for his crimes nor substantially cooperated with the Prosecution.<sup>2028</sup> Župljanin did not willingly surrender to the Tribunal, but evaded justice for seven years following the issuance of his Indictment, and the Prosecution argues

<sup>2020</sup> Goran Mačar, 11 July 2011, T. 23089.

<sup>2021</sup> Dragan Đokanović, 23 November 2009, T. 3644, 3663-3665.

<sup>2022</sup> Dragan Đokanović, 23 November 2009, T. 3646.

<sup>2023</sup> Milomir Orašanin, 8 June 2011, T. 21998-21999.

<sup>2024</sup> Prosecution Final Trial Brief, para. 997. *See also* Prosecution Closing Arguments, 29 May 2012, T. 27342.

<sup>2025</sup> Prosecution Final Trial Brief, paras 998-999. *See also* Prosecution Closing Arguments, 29 May 2012, T. 27361-27362.

<sup>2026</sup> Prosecution Final Trial Brief, para. 1007.

<sup>2027</sup> Prosecution Final Trial Brief, para. 1012.

<sup>2028</sup> Prosecution Final Trial Brief, para. 1014.



that the Chamber should take this into account when assessing the weight to be attributed to any mitigating factors it does find.<sup>2029</sup>

940. According to the Prosecution, the only reasonable sentence to be imposed, considering the gravity of the crimes for which Župljanin is responsible, is life in prison.<sup>2030</sup>

941. Župljanin submits that he did not exercise effective control over ARK police forces during the Indictment period,<sup>2031</sup> primarily because of a systemic breakdown in communication infrastructure between the CSB Banja Luka and its subordinate SJBs, which made it impossible for him to know what was happening in the ARK Municipalities or to issue orders.<sup>2032</sup> According to Župljanin, he expressly forbade his police chiefs from implementing any of the orders of the ARK Crisis Staff that were in conflict with the law,<sup>2033</sup> but due to the influence of local Crisis Staffs over the police force, the SJBs often followed orders of the Crisis Staffs instead.<sup>2034</sup> Furthermore, it is argued that, because more than 80% of the ARK police officers in 1992 were re-subordinated to the army and thus no longer under the *de jure* authority of the police, orders that Župljanin was able to issue were automatically inapplicable to most of his purported subordinates.<sup>2035</sup> Župljanin further submits that his membership in the ARK Crisis Staff was *ex officio* and an automatic result of his position as Chief of the CSB Banja Luka and that, in any case, he was only a member of the Crisis Staff for a few weeks in May 1992, during which time he did not play an active role in its activities.<sup>2036</sup>

942. Župljanin claims that he never discriminated, personally or professionally, against non-Serbs and wanted a multi-ethnic police force.<sup>2037</sup> Župljanin argues that he consistently acted in a non-discriminatory manner towards non-Serbs and advocated their representation within the RS MUP and political leadership.<sup>2038</sup> Župljanin further claims that he did everything he possibly could to fulfil his professional duties fairly<sup>2039</sup> and to ensure equal application of the law regardless of religious or ethnic background.<sup>2040</sup>

<sup>2029</sup> Prosecution Final Trial Brief, para. 1015.

<sup>2030</sup> Prosecution Final Trial Brief, paras 999, 1017; Prosecution Closing Arguments, 30 May 2012, T. 27462.

<sup>2031</sup> Župljanin Final Trial Brief, para. 50, *see also* paras 6, 10.

<sup>2032</sup> Župljanin Final Trial Brief, para. 50.

<sup>2033</sup> Župljanin Final Trial Brief, para. 15(a).

<sup>2034</sup> Župljanin Final Trial Brief, para. 50(b).

<sup>2035</sup> Župljanin Final Trial Brief, para. 50(c), *see also* para. 39.

<sup>2036</sup> Župljanin Final Trial Brief, para. 53, *see also* para. 15(a).

<sup>2037</sup> Župljanin Final Trial Brief, para. 15(d).

<sup>2038</sup> Župljanin Final Trial Brief, paras 19, 64.

<sup>2039</sup> Župljanin Final Trial Brief, para. 15(g).

<sup>2040</sup> Župljanin Final Trial Brief, para. 19.

943. According to Župljanin, he took prompt and effective action whenever he was made aware of crimes taking place<sup>2041</sup> and was constantly seeking reports from local SJBs as to whether any crimes had been committed in their municipalities.<sup>2042</sup> Župljanin submits that he did everything in his power to ensure that all crimes within his jurisdiction were investigated, regardless of the ethnicity or religion of victims or perpetrators, and that the perpetrators were punished.<sup>2043</sup> Župljanin claims that, if he was unable to take action, it was because he did not know of the crimes, was unable to act due to military jurisdiction, or lacked effective control.<sup>2044</sup>

944. There are 10 witnesses who testified to the character of Stojan Župljanin. First, the witnesses stated that they never heard Župljanin say anything negative, disrespectful, or derogatory about people of different ethnicities, nationalities, or religions—in particular, against Croats and Muslims.<sup>2045</sup> They also never heard or witnessed Župljanin express any nationalistic attitudes.<sup>2046</sup> Second, according to the witnesses, Župljanin never differentiated between people on the basis of their ethnicity, nationality, or religion.<sup>2047</sup> The witnesses stated that Župljanin always wanted and tried to help people in trouble regardless of their backgrounds,<sup>2048</sup> especially Muslims and Croats.<sup>2049</sup> Ivica Kaurin stated that during the war Župljanin helped his family and other Croat and Muslim families.<sup>2050</sup> Finally, witnesses who previously worked with Župljanin testified that he was well-regarded by colleagues and employees due to his appropriate manner and good interpersonal relations.<sup>2051</sup>

<sup>2041</sup> Župljanin Final Trial Brief, para. 15(g).

<sup>2042</sup> Župljanin Final Trial Brief, para. 66.

<sup>2043</sup> Župljanin Final Trial Brief, paras 22, 65.

<sup>2044</sup> Župljanin Final Trial Brief, para. 15, *see also* para. 51.

<sup>2045</sup> Suada Banjac, 2D140, Witness Statement, 22 March 2011, para. 3; Emir Zahirović, 2D142, Witness Statement, 22 March 2011, para. 3; Josip Dizdar, 2D144, Witness Statement, 22 March 2011, para. 2; SZ022, 2D145, Witness Statement, 22 March 2011, para. 2 (confidential); Nail Hotilović, 2D146, Witness Statement, 22 March 2011, para. 3; Stjepan Čemežar, 2D147, Witness Statement, 22 March 2011, para. 4; SZ023, 2D156, Witness Statement, 22 March 2011, para. 2 (confidential); Nijaz Smajlović, 2D187, Witness Statement, 22 March 2011, para. 4; Nijaz Smajlović, 18 November 2011, T. 26067-26068.

<sup>2046</sup> Anto Đebro, 2D141, Witness Statement, 22 March 2011, para. 2; Emir Zahirović, 2D142, Witness Statement, 22 March 2011, para. 3; Ivica Kaurin, 2D143, Witness Statement, 22 March 2011, para. 3; Josip Dizdar, 2D144, Witness Statement, 22 March 2011, para. 2; SZ022, 2D145, Witness Statement, 22 March 2011, para. 2 (confidential); Nail Hotilović, 2D146, Witness Statement, 22 March 2011, para. 3; Stjepan Čemežar, 2D147, Witness Statement, 22 March 2011, para. 4; SZ022, 8 December 2011, T. 26364.

<sup>2047</sup> Anto Đebro, 2D141, Witness Statement, 22 March 2011, para. 2; Emir Zahirović, 2D142, Witness Statement, 22 March 2011, para. 2; Ivica Kaurin, 2D143, Witness Statement, 22 March 2011, para. 3; Josip Dizdar, 2D144, Witness Statement, 22 March 2011, para. 2; Stjepan Čemežar, 2D147, Witness Statement, 22 March 2011, para. 3; SZ023, 7 October 2011, T. 24677.

<sup>2048</sup> Anto Đebro, 2D141, Witness Statement, 22 March 2011, para. 2; Josip Dizdar, 2D144, Witness Statement, 22 March 2011, para. 2; SZ022, 2D145, Witness Statement, 22 March 2011, para. 3 (confidential); Nail Hotilović, 2D146, Witness Statement, 22 March 2011, para. 3; Stjepan Čemežar, 2D147, Witness Statement, 22 March 2011, para. 3; SZ023, 2D156, Witness Statement, 22 March 2011, para. 2 (confidential).

<sup>2049</sup> Anto Đebro, 2D141, Witness Statement, 22 March 2011, para. 3; Ivica Kaurin, 2D143, Witness Statement, 22 March 2011, para. 3; SZ022, 2D145, Witness Statement, 22 March 2011, para. 3 (confidential); Nijaz Smajlović, 2D187, Witness Statement, 22 March 2011, para. 4.

<sup>2050</sup> Ivica Kaurin, 2D143, Witness Statement, 22 March 2011, para. 3.

<sup>2051</sup> Anto Đebro, 2D141, Witness Statement, 22 March 2011, para. 2; Emir Zahirović, 2D142, Witness Statement, 22 March 2011, para. 2; Stjepan Čemežar, 2D147, Witness Statement, 22 March 2011, para. 3.

945. Župljanin submits that his actions to prevent and punish crimes, coupled with the “glowing endorsements” as to his good character—many from non-Serb Prosecution witnesses—demonstrate his personal integrity, professional conduct, and non-discriminatory attitude towards non-Serbs.<sup>2052</sup>

## 2. Determination of sentence

### (a) Gravity of offences

946. The Trial Chamber has found Župljanin to be responsible for massive crimes throughout the ARK, including murder, extermination, torture, forcible displacement, and persecution. The victims number in the thousands. The effect of the crimes upon these victims and the fact that many of them were particularly vulnerable persons—such as children, women, the elderly, and persons who had been deprived of their liberty in detention centres—has also been taken into account. These crimes were not isolated instances, but rather part of a widespread and systematic campaign of terror and violence. Župljanin was a high-level police official at the time of the commission of the crimes. The Trial Chamber therefore finds that the crimes for which Župljanin has been found to incur criminal liability are of a high level of gravity.

947. The fact that Župljanin has been found to have committed the majority of these crimes through his participation in a JCE has been taken into account in the determination of his sentence.

### (b) Aggravating and mitigating circumstances

948. The Trial Chamber has found that Župljanin participated in a JCE, the objective of which was to permanently remove Bosnian Muslims and Bosnian Croats from the territory of the planned Serbian state through the commission of crimes on a massive scale. Župljanin’s active and direct participation in the JCE was undertaken in his official capacity as Chief of the CSB Banja Luka. This constitutes an abuse of his superior position and thus aggravates his culpability.

949. The Trial Chamber has considered the length of time during which the crimes for which Župljanin has been found guilty were committed. The Chamber notes that the crimes were committed during nine months and is of the view that this constitutes an aggravating factor.

950. Intelligence and good education have in previous cases been considered possible aggravating factors by this Tribunal,<sup>2053</sup> although this does not mean that these factors should only be considered aggravating.<sup>2054</sup> The Chamber finds that Župljanin was a well-educated individual,

<sup>2052</sup> Župljanin Final Trial Brief, para. 11.

<sup>2053</sup> *Hadžihasanović and Kubura* Appeal Judgement, para. 328; *Brdanin* Trial Judgement, para. 1114.

<sup>2054</sup> *Hadžihasanović and Kubura* Appeal Judgement, para. 328.

with a university degree in law and with a long career in the police force prior to the Indictment period. In the Trial Chamber's view, this constitutes an aggravating factor because he, too, had full insight into the context in which the crimes were committed under his jurisdiction and a legal understanding of the nature of the crimes. However, given the circumstances of the present case, where Župljanin's position of power and authority and his abuse thereof are of more importance, this aggravating factor will not be given undue weight.

951. In regard to mitigating factors, the Trial Chamber recalls that it may decide, at its discretion, whether or not to accept a factor as a mitigating circumstance, as well as the weight to be given to such factors.

952. The Trial Chamber notes that Župljanin called a number of witnesses who testified to his good character, which may constitute a mitigating factor.<sup>2055</sup> These witnesses testified that Župljanin never differentiated between people on the basis of their ethnicity, nationality, or religion<sup>2056</sup> and that he always tried to help people in trouble regardless of their backgrounds,<sup>2057</sup> especially Muslims and Croats.<sup>2058</sup> The Trial Chamber accepts that this may have been the case in specific and isolated instances, but finds that, in light of the crimes for which Župljanin has been found guilty, such testimony has little weight as a mitigating factor and thus little impact on the severity of his sentence.

953. During closing statements, Župljanin expressed regret and sympathy for the victims and their suffering,<sup>2059</sup> which may constitute a mitigating factor.<sup>2060</sup> However, in view of the fact that Župljanin played a crucial role in the commission of crimes for which he has been found guilty, the Trial Chamber finds that his statement carries little weight as a mitigating factor. The Trial Chamber also recalls its finding that Župljanin did not do anything to reassure and protect the non-Serb population, aside from issuing ineffective and general orders, which were not genuinely meant to be effectuated. Nor did he take steps to ensure that these orders were in fact carried out.

<sup>2055</sup> *Kupreškić et al.* Appeal Judgement, para. 459; *Erdemović* Sentencing Judgement, para. 16(i).

<sup>2056</sup> Suada Banjac, 2D140, Witness Statement, 22 March 2011, para. 3; Anto Đebro, 2D141, Witness Statement, 22 March 2011, para. 2; Emir Zahirolvić, 2D142, Witness Statement, 22 March 2011, para. 3; Ivica Kaurin, 2D143, Witness Statement, 22 March 2011, para. 3; Josip Dizdar, 2D144, Witness Statement, 22 March 2011, para. 2; Stjepan Čemežar, 2D147, Witness Statement, 22 March 2011, para. 4; SZ023, 7 October 2011, T. 24677; SZ022, 8 December 2011, T. 26364.

<sup>2057</sup> Anto Đebro, 2D141, Witness Statement, 22 March 2011, para. 2; Ivica Kaurin, 2D143, Witness Statement, 22 March 2011, para. 3; Josip Dizdar, 2D144, Witness Statement, 22 March 2011, para. 2; SZ022, 2D145, Witness Statement, 22 March 2011, para. 3 (confidential); Nail Hotilović, 2D146, Witness Statement, 22 March 2011, para. 3; Stjepan Čemežar, 2D147, Witness Statement, 22 March 2011, para. 3; SZ023, 2D156, Witness Statement, 22 March 2011, para. 2 (confidential).

<sup>2058</sup> Anto Đebro, 2D141, Witness Statement, 22 March 2011, para. 3; Ivica Kaurin, 2D143, Witness Statement, 22 March 2011, para. 3; SZ022, 2D145, Witness Statement, 22 March 2011, para. 3 (confidential); Nijaz Smajlović, 2D187, Witness Statement, 22 March 2011, para. 4.

<sup>2059</sup> Župljanin Closing Arguments, 1 June 2012, T. 27667.

<sup>2060</sup> *Strugar* Appeal Judgement, para. 366.

## VII. DISPOSITION

954. For all the foregoing reasons and pursuant to Articles 23, 24, and 27 of the Statute of the Tribunal and Rules 98 *ter*, 101, 102, and 103 of the Rules of Procedure and Evidence of the Tribunal, the Trial Chamber hereby **DECIDES** as follows:

955. The Trial Chamber finds Mićo Stanišić to be **GUILTY**, pursuant to Article 7(1) of the Statute, of the following counts:

Count 1: **Persecution**, as a crime against humanity, through the following underlying acts:

**Killings;**

**Torture, cruel treatment, and inhumane acts;**

**Unlawful detention;**

**Establishment and perpetuation of inhumane living conditions;**

**Forcible transfer and deportation;**

**Plunder of property;**

**Wanton destruction of towns and villages, including destruction or wilful damage done to institutions dedicated to religion and other cultural buildings;**

**Imposition and maintenance of restrictive and discriminatory measures;**

Count 4: **Murder**, as a violation of the laws or customs of war;

Count 6: **Torture**, as a violation of the laws or customs of war.

In relation to the following counts, on the basis of the principles relating to cumulative convictions, the Trial Chamber **DOES NOT** enter convictions:

Count 3: **Murder**, as a crime against humanity;

Count 5: **Torture**, as a crime against humanity;

Count 7: **Cruel treatment**, as a violation of the laws or customs of war;

Count 8: **Inhumane acts**, as a crime against humanity;

Count 9: **Deportation**, as a crime against humanity;

Count 10: **Inhumane acts (forcible transfer)**, as a crime against humanity.

The Trial Chamber finds Mićo Stanišić to be **NOT GUILTY**, pursuant to Articles 7(1) and 7(3) of the Statute, of the following count:

Count 2: **Extermination**, as a crime against humanity.

The Trial Chamber hereby sentences Mićo Stanišić to a single sentence of 22 years of imprisonment. Mićo Stanišić has been in custody since 11 March 2005; and, pursuant to Rule 101(C) of the Rules, he is entitled to credit for time spent in detention thus far. Pursuant to Rule 103(C) of the Rules, Mićo Stanišić shall remain in the custody of the Tribunal pending the finalisation of arrangements for his transfer to the state where he shall serve his sentence.

956. The Trial Chamber finds Stojan Župljanin to be **GUILTY**, pursuant to Article 7(1) of the Statute, of the following counts:

Count 1: **Persecution**, as a crime against humanity, through the following underlying acts:

**Killings;**

**Torture, cruel treatment, and inhumane acts;**

**Unlawful detention;**

**Establishment and perpetuation of inhumane living conditions;**

**Forcible transfer and deportation;**

**Plunder of property;**

**Wanton destruction of towns and villages, including destruction or wilful damage done to institutions dedicated to religion and other cultural buildings;**

**Imposition and maintenance of restrictive and discriminatory measures;**

Count 2: **Extermination**, as a crime against humanity;

Count 4: **Murder**, as a violation of the laws or customs of war;

Count 6: **Torture**, as a violation of the laws or customs of war.

In relation to the following counts, on the basis of the principles relating to cumulative convictions, the Trial Chamber **DOES NOT** enter convictions:

Count 3: **Murder**, as a crime against humanity;

Count 5: **Torture**, as a crime against humanity;

Count 7: **Cruel treatment**, as a violation of the laws or customs of war;

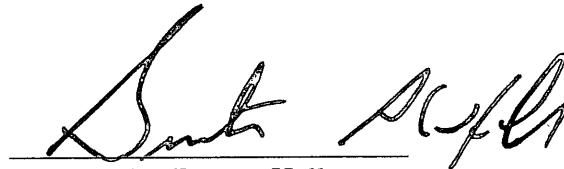
Count 8: **Inhumane acts**, as a crime against humanity;

Count 9: **Deportation**, as a crime against humanity;

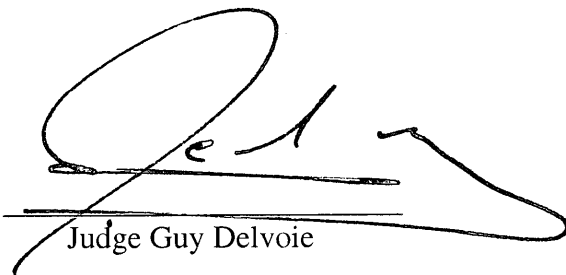
Count 10: **Inhumane acts (forcible transfer)**, as a crime against humanity.

The Trial Chamber hereby sentences Stojan Župljanin to a single sentence of 22 years of imprisonment. Stojan Župljanin has been in custody since 11 June 2008; and, pursuant to Rule 101(C) of the Rules, he is entitled to credit for time spent in detention thus far. Pursuant to Rule 103(C) of the Rules, Stojan Župljanin shall remain in the custody of the Tribunal pending the finalisation of arrangements for his transfer to the state where he shall serve his sentence.

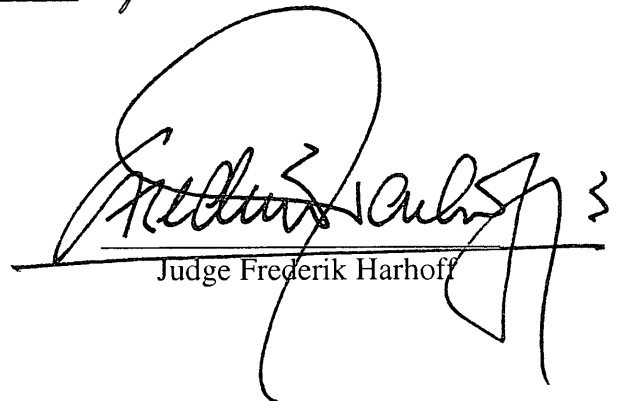
Done in three volumes in English and French, the English text being authoritative.



Judge Burton Hall  
Presiding



Judge Guy Delvoie



Judge Frederik Harhoff

Dated this twenty-seventh day of March 2013,  
At The Hague,  
The Netherlands.

[Seal of the Tribunal]