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NATIONS**



International Residual Mechanism
for Criminal Tribunals

Case No.: MICT-15-96-T

Date: 30 June 2021

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IN THE TRIAL CHAMBER

Before: Judge Burton Hall, Presiding
Judge Joseph E. Chiondo Masanche
Judge Seon Ki Park

Registrar: Mr. Abubacarr Tambadou

Judgement of: 30 June 2021

PROSECUTOR

v.

**JOVICA STANIŠIĆ
FRANKO SIMATOVIĆ**

PUBLIC

JUDGEMENT

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1. The Trial Chamber of the International Residual Mechanism for Criminal Tribunals¹ pronounced its Judgement in the case of *Prosecutor v. Jovica Stanišić and Franko Simatović* on 30 June 2021, pursuant to Rule 122(A) of the Rules,² and hereby provides its written reasons for the Judgement, in accordance with Rule 122(C) of the Rules. These written reasons are now the only authoritative version of the Judgement.³

I. INTRODUCTION

A. Background

2. This case concerns the individual criminal responsibility of Jovica Stanišić, who was Deputy Chief and later Chief of the State Security Service of the Serbian Ministry of Interior, and Franko Simatović, one of the State Security Service's senior intelligence officers.

3. The Prosecution has charged Stanišić and Simatović with murder, as a violation of the laws or customs of war, and murder, deportation, forcible transfer, and persecution, as crimes against humanity, allegedly committed by Serb forces against non-Serb civilians in large areas of Croatia and Bosnia and Herzegovina between April 1991 and December 1995.⁴ In Croatia, these crimes allegedly occurred on the territory of the former Serb Autonomous Regions of Krajina and of Slavonia, Baranja, and Western Srem.⁵ In Bosnia and Herzegovina, the crimes were allegedly committed in, and limited to, the municipalities of Bijeljina, Zvornik, Bosanski Šamac, Doboј, and Sanski Most, and in an area near the village of Trnovo.⁶

4. The Prosecution does not allege that the Accused physically committed any of the crimes charged in the Indictment. Rather, it alleges that they committed the crimes by participating in a joint criminal enterprise with the objective to forcibly and permanently remove, through the commission of the charged crimes, the majority of non-Serbs, principally Croats, Bosnian Muslims

¹ The Mechanism was established pursuant to United Nations Security Council Resolution 1966 (2010) and continues the material, territorial, temporal, and personal jurisdiction of the ICTY and the ICTR. The Trial Chamber is bound to interpret the Statute and the Rules of the Mechanism and instances where the respective Statutes and Rules of the ICTY or the ICTR are at issue in a manner consistent with the jurisprudence of the ICTY and the ICTR. The Trial Chamber is also guided by the principle that, in the interests of legal certainty and predictability, it should follow previous decisions of the ICTY and the ICTR Appeals Chambers and depart from them only for cogent reasons in the interests of justice. *See generally Mladić Appeal Judgement*, paras. 13, 14; *Phénéas Munyarugarama v. Prosecutor*, Case No. MICT-12-09-AR14, Decision on Appeal Against the Referral of Phénéas Munyarugarama's Case to Rwanda and Prosecution Motion to Strike, 5 October 2012, paras. 4-6.

² *See Judgement*, T. 30 June 2021 pp. 1-16.

³ *See Judgement*, T. 30 June 2021 p. 2. This Judgement is dated 30 June 2021 in order to correspond with the date of its pronouncement, the date on which the convictions were entered, and the date from which the sentences imposed by the Trial Chamber began to run. The written reasons were filed on 6 August 2021, following the conclusion of the editorial process.

⁴ Indictment, paras. 22-28, 30-32, 35-39, 42, 46-48, 50-52, 54-66.

⁵ Indictment, paras. 8, 22-25, 27, 28, 30-32, 35-39, 42, 64-66.

⁶ Indictment, paras. 9, 22-25, 46-48, 50-52, 54-66.

and Bosnian Croats, from large areas of Croatia and Bosnia and Herzegovina.⁷ Alternatively, the Prosecution alleges that the Accused planned, ordered, and/or aided and abetted in the commission of the charged crimes.⁸

5. In the course of the trial, the Trial Chamber was presented with extensive evidence on the historical context and political developments forming the backdrop of the conflict that enveloped the former Yugoslavia from 1990 through 1995. While it has thoroughly considered such evidence, the Trial Chamber does not see its task as writing the definitive history of the dissolution of the Socialist Federal Republic of Yugoslavia. Identifying the historical scars, defining the complex political and socio-economic reasons, the turbulent processes of political transformation, the diverging political agendas, and peoples' hopes and aspirations that accompany the dissolution of a State must be left to historians. The task before this Trial Chamber is very specific. It is to ascertain whether the Accused incur individual criminal responsibility for the crimes of murder, deportation, forcible transfer, and persecution, as charged in the Indictment. In its deliberation on the evidence, the Trial Chamber has adhered to this task.

6. This case is a full retrial. The proceedings against the Accused commenced over 18 years ago, with their arrest and initial appearance before a Judge of the ICTY.⁹ On 30 May 2013, Trial Chamber I of the ICTY acquitted the Accused on all counts in the Indictment.¹⁰ On 9 December 2015, the ICTY Appeals Chamber granted, in part, the ICTY Prosecution's appeal and quashed the Accused's acquittals, ordering their retrial on all counts of the Indictment.¹¹

7. The ICTY Appeals Chamber's decision to send this case for a full retrial, requiring this Trial Chamber to conduct a renewed pre-trial process and to hear all evidence anew,¹² contributed to the exceptional length of the proceedings against the Accused. Throughout the conduct of the retrial, the Trial Chamber was mindful of the right of the Accused to be tried without undue delay, enshrined in Article 19(4)(c) of the Statute, and endeavored to bring these proceedings to conclusion as swiftly as possible, with full respect for the fair trial rights of the Accused.

⁷ Indictment, paras. 10, 11, 13. *See also* Indictment, paras. 14, 15, 17; Prosecution Closing Arguments, T. 12 April 2021 p. 16.; Prosecution Rebuttal, T. 14 April 2021 p. 4.

⁸ Indictment, paras. 10, 16. *See also* Indictment, paras. 17, 26; Prosecution Final Trial Brief, paras. 958-966.

⁹ *Prosecutor v. Franko Simatović*, Case No. IT-03-69-I, Initial Appearance, T. 2 June 2003; *Prosecutor v. Jovica Stanišić*, Case No. IT-03-69-I, Initial Appearance, T. 13 June 2003.

¹⁰ ICTY Trial Judgement, paras. 2362, 2363.

¹¹ ICTY Appeal Judgement, paras. 90, 108, 129, 131.

¹² The original pre-trial and trial process lasted nearly 10 years owing, in part, to the health condition of one of the Accused, which necessitated proceedings to assess his fitness, a one-year postponement, and a reduced sitting schedule. The pre-trial phase in the retrial lasted 18 months, and included a new medical assessment of the health condition of one of the Accused, with the trial phase lasting approximately four years. The last fifteen months of the retrial were conducted in the context of a global pandemic, which resulted in movement and travel restrictions and necessitated the imposition of new health and safety protocols. This situation extended through *force majeure* the duration of the retrial proceedings by approximately six months.

B. Evidentiary Principles

8. Article 19(3) of the Statute provides that the Accused shall be presumed innocent until proved guilty. In accordance with Rule 104(A) of the Rules, guilt must be proved beyond reasonable doubt. This standard requires the Prosecution to prove each element of the alleged crimes and of the mode of liability with which an accused is charged, as well as any fact, which is indispensable for a conviction, beyond a reasonable doubt.¹³ The Trial Chamber may draw inferences to establish a fact on which a conviction relies based on circumstantial evidence as long as it is the only reasonable inference that could be drawn from the evidence presented.¹⁴ The standard of proof beyond reasonable doubt requires the Trial Chamber to be satisfied that there is no reasonable explanation of the evidence other than the guilt of the Accused.¹⁵ This is the standard that the Trial Chamber has applied in reaching its findings on the guilt of the Accused.

9. In accordance with Rule 105(C) of the Rules, the Trial Chamber admitted evidence it considered to be relevant and to have probative value. Pursuant to Rule 105(B) of the Rules, where no guidance was given by the Rules, the Trial Chamber has applied rules of evidence that best favour a fair determination of the case and are consonant with the spirit of the Statute and the general principles of law. In this context, and mindful that this is a retrial, the Trial Chamber issued decisions governing the admission of evidence that was not tendered during the original trial.¹⁶ Having balanced the need to ensure the Accused's right to a fair trial, the gravity of the alleged offences, and the interests of the victims, the Trial Chamber considered appropriate to exercise its discretion and limit the Prosecution's evidence primarily to that presented during the original trial.¹⁷ Nonetheless, it allowed the Prosecution to present new evidence in certain limited instances, such as where the tendered evidence: (i) may be necessary, as evidence presented during the original trial has become subsequently unavailable due to circumstances outside the Prosecution's control; or (ii) was unavailable during the original proceedings, could not have been discovered through the exercise of due diligence, and its admission was in the interests of justice.¹⁸

¹³ *Mrkšić and Šljivančanin* Appeal Judgement, para. 220; *Halilović* Appeal Judgement, para. 111. *See also Ntagerura et al.* Appeal Judgement, para. 174, n. 356.

¹⁴ *Prlić et al.* Appeal Judgement, para. 1709; *Stanišić and Župljanin* Appeal Judgement, para. 375; *Popović et al.* Appeal Judgement, para. 1278; *Šainović et al.* Appeal Judgement, para. 995; *Bagosora and Nsengiyumva* Appeal Judgement, para. 515; *Ntagerura et al.* Appeal Judgement, para. 304.

¹⁵ *D. Milošević* Appeal Judgement, para. 20; *Mrkšić and Šljivančanin* Appeal Judgement, para. 220; *Martić* Appeal Judgement, para. 61.

¹⁶ Decision on Stanišić's Request for Stay of Proceedings, 2 February 2017 ("Decision of 2 February 2017"), paras. 18-23; Decision on Prosecution Submission in Relation to the Chamber's Limitation on New Evidence, 31 May 2017 ("Decision of 31 May 2017"), paras. 11-19; Decision on Stanišić Motion for Admission of Evidence of RJS-01 Pursuant to Rule 111, 11 June 2019 (confidential) ("Decision of 11 June 2019"), paras. 9, 10.

¹⁷ Decision of 2 February 2017, para. 23. *See also* Decision on Requests for Certification to Appeal Decision on Stanišić's Request for Stay of Proceedings, 1 March 2017, para. 10; Pre-Trial Conference, T. 17 May 2017 p. 254.

¹⁸ Decision of 2 February 2017, para. 23.

10. During the presentation of the Prosecution case, the Trial Chamber remained vigilant to ensuring that the Prosecution was allowed a fair opportunity to present its case.¹⁹ The Trial Chamber's approach to limiting the admission of new Prosecution evidence was flexible, allowing for the testimony of 18 Prosecution witnesses, who did not testify in the original trial, to be heard, permitting new or updated evidence to be elicited from witnesses who testified in the original trial, and admitting numerous new Prosecution exhibits into evidence.²⁰ At the start of the Defence case, the Trial Chamber made a new assessment, mindful of the fundamental protections afforded to the Accused by the Statute and of its duty to ensure that neither party was put at a disadvantage when presenting its case.²¹ Throughout the proceedings, the Trial Chamber remained alert and made adjustments, on a case-by-case basis, to ensure that there was proper balance between the interests of the Prosecution and the rights of the Defence when presenting testimonial and documentary evidence that was not part of the original trial record.

11. The Trial Chamber received the evidence of 145 witnesses, including the live testimony of 80 witnesses. Testimonial evidence was presented via various means: *viva voce* as well as pursuant to Rules 110, 111, 112, or 116 of the Rules. The Trial Chamber encouraged the parties to reach agreements on the admission in written form of evidence given by witnesses in the original trial.²² The evidence of 25 witnesses was admitted in this way, and the Trial Chamber has treated such witness evidence as if it were provided in the retrial pursuant to the same mode as in the original trial.²³

12. In relation to witnesses whose evidence was tendered pursuant to Rule 112 of the Rules, the Trial Chamber was cognizant that, as a general rule, findings that are indispensable for a conviction must not rest solely or decisively on untested evidence and that such evidence must be sufficiently corroborated.²⁴ However, in circumstances where a witness, whose evidence was tendered in the

¹⁹ See Decision of 11 June 2019, para. 9.

²⁰ See Decision of 11 June 2019, para. 9. See also Decision of 31 May 2017, paras. 13, 14, 16-19.

²¹ Decision of 11 June 2019, paras. 9, 10.

²² Order on the Procedure for the Conduct of Trial, 6 December 2016 ("Order of 6 December 2016"), Annex A, para. 12; Status Conference, T. 14 December 2016 p. 158; Status Conference, T. 7 April 2017 pp. 244, 245, 247; Pre-Trial Conference, T. 17 May 2017 p. 257.

²³ Order of 6 December 2016, Annex A, para. 12; Decision on Joint Motion of All Parties for Admission of Evidence of Agreed Witnesses and Associated Exhibits, 6 September 2017; Decision on Joint Motion of All Parties for Admission of the Evidence of Agreed Witnesses RFJ-052 and Associated Exhibits, 19 September 2017 (confidential); Decision on Joint Motion of All Parties for Admission of Evidence of Agreed Witness Saidin Salkić and Associated Exhibits, 16 May 2018; Decision on Joint Motion of All Parties for Admission of Evidence of Agreed Stanišić Defence Witnesses and Associated Exhibits, 22 April 2020; Decision on Joint Motion of All Parties for Admission of Evidence of Agreed Simatović Defence Witnesses and Associated Exhibits, 21 August 2020; Procedural Matters, T. 22 January 2020 pp. 42-44.

²⁴ *Popović et al.* Appeal Judgement, para. 1222; *Đorđević* Appeal Judgement, para. 807; *Prosecutor v. Vujadin Popović et al.*, Case No. IT-05-88-AR73.1, Decision on Appeals Against Decision Admitting Material Related to Borovčanin's Questioning, 14 December 2007, para. 48; *Prosecutor v. Jadranko Prlić et al.*, Case No. IT-04-74-AR73.6, Decision on Appeals Against Decision Admitting Transcript of Jadranko Prlić's Questioning into Evidence, 23 November 2007, para. 53.

retrial pursuant to Rule 112 of the Rules, testified in the original trial and his or her evidence was tested by the Defence through cross-examination, the Trial Chamber has decided to rely on such evidence even in the absence of corroboration.²⁵

13. In assessing the credibility of witnesses and in determining the weight to be accorded to their testimony, the Trial Chamber has taken into account the witness's demeanour in court, his or her role in the events in question, the plausibility and clarity of the witness's testimony, whether there are contradictions or inconsistencies in his or her successive statements or between his or her testimony and other evidence, any prior examples of false testimony, any motivation to lie or falsely implicate the Accused, and the witness's responses during cross-examination.²⁶ In addition, in deciding on the weight, if any, to be attributed to witness's evidence, the Trial Chamber has taken into consideration, on a case-by-case basis, whether corroboration was necessary,²⁷ and has relied on hearsay evidence, provided that it was reliable and credible.²⁸

14. Where necessary, in making its findings the Trial Chamber discusses its rationale for accepting or rejecting certain aspects of a witness's evidence. The Trial Chamber, however, considers it appropriate to make certain observations on a few key witnesses that it has viewed with particular caution and whose evidence underpins broader aspects of the Prosecution's case: Milan Babić, RFJ-066, and RFJ-037.

15. In relation to Witness Babić, the Trial Chamber has given due consideration to the facts that: the witness was a suspect at the time of his testimony in the *S. Milošević* case in 2002, the transcript of which was admitted in this retrial; in 2004, the witness pleaded guilty as a participant in a joint criminal enterprise, which allegedly involved the Accused, and was sentenced by the ICTY to 13 years of imprisonment; the witness died prior to the completion of his cross-examination in the *Martić* case, the transcript of which was also admitted in this retrial; and the Accused never had an opportunity to cross-examine the witness who, in his prior testimonies, had provided first-hand account of the Accused's alleged acts and conduct during the Indictment period.

16. With respect to Witness RFJ-066, the Trial Chamber has carefully scrutinized his evidence, in view of the fact that the witness sought and received assistance from the Prosecution in relation

²⁵ Decision on Prosecution Motions for Admission of Evidence of RFJ-037 Pursuant to Rule 111 and for Protective Measures, 25 January 2018 (confidential) ("Decision of 25 January 2018"), para. 8.

²⁶ *Prlić et al.* Appeal Judgement, para. 200; *Nyiramasuhuko et al.* Appeal Judgement, para. 692; *Nzabonimana* Appeal Judgement, para. 45; *Kanyarukiga* Appeal Judgement, para. 121; *Nchamihigo* Appeal Judgement, para. 47.

²⁷ *Karadžić* Appeal Judgement, para. 363; *Prlić et al.* Appeal Judgement, para. 201; *Popović et al.* Appeal Judgement, paras. 243, 1009.

²⁸ *Karadžić* Appeal Judgement, para. 598; *Prlić et al.* Appeal Judgement, para. 201; *Stanišić and Župljanin* Appeal Judgement, para. 510; *Popović et al.* Appeal Judgement, paras. 1276, 1307; *Šainović et al.* Appeal Judgement, para. 846.

to his asylum application, admitted to memory lapses, and testified that the nature of most of his evidence going to the alleged acts and conduct of the Accused was hearsay.

17. The Trial Chamber further recalls that it admitted the evidence of Witness RFJ-037 for a limited purpose in relation to a report concerning crimes allegedly committed by the “Red Berets” and the Serbian Volunteer Guard in Bijeljina, Zvornik, and Brčko, and to alleged links between various paramilitary groups and the Serbian Ministry of Interior.²⁹ In doing so, the Trial Chamber stated that it would “either disregard the other aspects of the witness’s evidence or consider it only as background or in the context of assessing the credibility of the witness and the report”.³⁰ The Trial Chamber is also mindful of the fact that, in previous testimony, the witness did not mention the Accused in relation to important aspects of his evidence, as well as the witness’s explanations for not doing so.

18. In accordance with Rule 115(B) of the Rules, the Trial Chamber took judicial notice of 1,313 adjudicated facts.³¹ In its evaluation of the record before it, the Trial Chamber was mindful that judicial notice of adjudicated facts is merely a presumption that may be rebutted by evidence at trial, and that it does not shift the ultimate burden of persuasion, which remains with the Prosecution.³²

19. The Trial Chamber admitted into evidence 6,311 exhibits, including 3,860 for the Prosecution, 1,451 for the Stanišić Defence, and 1,000 for the Simatović Defence, which were tendered by the parties either through witnesses or from the bar table. The Trial Chamber considered that newspaper articles and media reports were often not sufficiently reliable to serve as evidence unless they were commented upon by a witness and, therefore, generally found such documents inappropriate for admission from the bar table.

20. The Trial Chamber has assessed the reliability and credibility, and hence the probative value of the evidence and its weight, in light of the entire trial record and in accordance with the Statute and the Rules.³³ However, for reasons of brevity and clarity, the Trial Chamber has not referred in this Judgement to all of the evidence that it has considered in reaching its findings, but only to the

²⁹ Decision of 25 January 2018, paras. 10, 13.

³⁰ Decision of 25 January 2018, para. 10.

³¹ Order in Relation to Prosecution Request for Clarification of Decision on Adjudicated Facts, 15 January 2019; Decision on Judicial Notice of Adjudicated Facts, 15 October 2018.

³² *Karadžić* Appeal Judgement, para. 120; *Tolimir* Appeal Judgement, para. 24; *Prosecutor v. Dragomir Milošević*, Case No. IT-98-29/1-AR73.1, Decision on Interlocutory Appeals Against Trial Chamber’s Decision on Prosecution’s Motion for Judicial Notice of Adjudicated Facts and Prosecution’s Catalogue of Agreed Facts, 26 June 2007, para. 16.

³³ *Karadžić* Appeal Judgement, para. 128; *Karemera et al. v. The Prosecutor*, Case No. ICTR-98-44-AR73.17, Decision on Joseph Nzirorera’s Appeal of Decision on Admission of Evidence Rebutting Adjudicated Facts, 29 May 2009, para. 15.

most relevant and salient evidence underpinning its conclusions.³⁴ In this respect, the Trial Chamber further notes that the Prosecution presented evidence in relation to various operations or areas that do not directly concern the locations of the crimes charged in the Indictment, including, for example, Operation Pauk, Operation Udar, and the events in Brčko. The Trial Chamber has fully considered this evidence in reaching its findings on the Accused's alleged participation in a joint criminal enterprise, their intent, and relationship with various Serb forces. However, the specific operations or incidents supported by such evidence are principally background and context in support of the charged crimes, and, therefore, also for the sake of brevity and clarity, the Trial Chamber has not discussed such evidence in detail in the Judgement.³⁵

³⁴ See *Hadžihasanović and Kubura* Appeal Judgement, para. 13 (wherein the ICTY Appeals Chamber held that: "With regard to factual findings, a Trial Chamber is required only to make findings on those facts which are essential to the determination of guilt on a particular count. It is not necessary to refer to the testimony of every witness or every piece of evidence on the trial record. In short, a Trial Chamber should limit itself to indicating in a clear and articulate, yet concise manner, which, among the wealth of jurisprudence available on a given issue and the myriad of facts that emerged at trial, are the legal and factual findings on the basis of which it reached the decision either to convict or acquit an individual." (internal reference omitted)).

³⁵ Cf. *Hadžihasanović and Kubura* Appeal Judgement, para. 13. The Trial Chamber is seized of two Prosecution requests to strike references to non-admitted material from the Defence final trial briefs. See Prosecution Motion to Strike Evidence of Witness RJS-01 from Stanišić's Final Trial Brief, 19 March 2021 (confidential); Prosecution Motion to Strike References to Non-Admitted Materials from Defence Final Trial Briefs, 24 March 2021 (confidential with confidential Annexes A and B). See also Stanišić Defence Response to Prosecution Motion to Strike Evidence of Witness RJS-01 from Stanišić's Final Trial Brief, 3 April 2021 (confidential); Stanišić Defence Response to Prosecution Motion to Strike Non-Admitted Evidence from the Defence Final Trial Briefs, 7 April 2021 (confidential); Simatović Defence Response to Prosecution Motion to Strike References to Non-Admitted Material from Defence Final Trial Brief, 31 March 2021 (confidential); Procedural Matters, T. 12 April 2021 pp. 2, 3. Under the circumstances, the Trial Chamber does not consider striking portions of the Defence final trial briefs necessary and, accordingly, denies the Prosecution's requests in this regard. It suffices to note that, in reaching its findings in this Judgement, the Trial Chamber has relied solely and exclusively on the evidentiary record before it. See *Dordević* Appeal Judgement, para. 143; *Popović et al.* Appeal Judgement, para. 661.

II. CRIMES

A. SAO Krajina

1. Armed Clashes in Spring and Summer of 1991

21. In connection with the general allegations in the Indictment related to forcible displacement of non-Serb civilians in SAO Krajina,³⁶ the Prosecution submits that, from June 1991, Simatović, Milan Martić, the SAO Krajina Police and Territorial Defence, the Unit, and later the JNA, conducted joint operations targeting non-Serb civilians across the region, with the aim of forcibly displacing them to expand Serb territorial control.³⁷

22. The Prosecution specifically submits that, from late June 1991, the Unit and the SAO Krajina Police and Territorial Defence, under the command of Simatović, Dragan Vasilković (also known as Captain Dragan or Daniel Snedden), and Martić, forcibly displaced non-Serbs in attacks on Glina, Ljubovo, and Lovinac.³⁸ It further submits that, from late August through December 1991, the JNA abandoned its role as a neutral force in Krajina, joining other Serb forces in coordinated operations to drive non-Serbs out of desired territories through murders and other acts of violence.³⁹ The Prosecution specifically argues that, on 26 August 1991, units of the JNA 9th Corps, the SAO Krajina police and the local Territorial Defence, including Golubić-trained troops, and Unit members, led by Martić and Ratko Mladić, attacked the village of Kijevo to cleanse the area of its non-Serb population.⁴⁰ According to the Prosecution, Serb forces looted and torched private houses, targeted and destroyed the Catholic church in the village, and killed approximately 14 civilians during and in the days following the attack.⁴¹

23. In their final trial briefs, the Accused accept that Serb forces attacked certain areas, including Glina, Ljubovo, Lovinac, and Kijevo, but contest the allegation that the Accused commanded any of the units participating in these attacks.⁴² The Accused further agree that the attack on Kijevo was the turning point for the JNA involvement in the SAO Krajina, as the JNA abandoned its buffer function and took offensive action to liberate its facilities from the Croatian

³⁶ Indictment, para. 65. *See also* Indictment, paras. 22, 23, 24(b), 25, 64, 66.

³⁷ Prosecution Final Trial Brief, paras. 343, 682, 687.

³⁸ Prosecution Final Trial Brief, paras. 688-693. *See also* Prosecution Final Trial Brief, paras. 110, 273, 277, 343-352.

³⁹ Prosecution Final Trial Brief, para. 694.

⁴⁰ Prosecution Final Trial Brief, paras. 695, 696; Prosecution Closing Arguments, T. 12 April 2021 p. 47. *See also* Prosecution Final Trial Brief, paras. 273, 353, 354; Prosecution Pre-Trial Brief, para. 123.

⁴¹ Prosecution Final Trial Brief, paras. 696, 697.

⁴² Stanišić Final Trial Brief, paras. 271-276, 281, 282; Simatović Final Trial Brief, paras. 161, 251-260, 368, 369, 446. *See also* Stanišić Final Trial Brief, paras. 263-267.

blockade.⁴³ Stanišić further submits that the attack on Kijevo was conducted by the JNA and Martić's police.⁴⁴

24. It follows from the evidence that units under Captain Dragan's command attacked the Glina police station, which was held by the Croatian police, for the first time on 26 June 1991,⁴⁵ followed by a second attack on 26 and 27 July 1991.⁴⁶ Future Unit members who took part in the second attack were deployed from the Šamarica training camp⁴⁷ and played a leading role during the attack, as demonstrated by contemporaneous reports, describing how the attack unfolded, and by further reports submitted by Unit members on the capture of Glina.⁴⁸

25. The Trial Chamber received evidence that during the Glina operation there was strong resistance by the Croatian forces.⁴⁹ While the evidence demonstrates that, in the course of the attack, the Serb forces targeted the church and private houses, it also indicates that the church was being used by snipers and that the houses were heavily fortified.⁵⁰ The Trial Chamber has also considered evidence that, following the fighting, Croat civilians were displaced to areas under Croatian control, with many of them leaving Glina in June and July 1991.⁵¹ However, having considered the totality of the evidence before it, the Trial Chamber does not find it proven beyond reasonable doubt that the Serb forces targeted the non-Serb civilians in Glina, forcing them to leave the area. Similarly, the Trial Chamber is not persuaded that there is sufficiently reliable evidence supporting the conclusion that the attack on 2 July 1991 by Serb forces under Captain Dragan's command on the village of Ljubovo, where the Croatian police was stationed following the conflict in Plitvice, targeted the non-Serb population of the area.⁵² As to Simatović's involvement in the

⁴³ Stanišić Final Trial Brief, para. 281; Simatović Final Trial Brief, paras. 444-446.

⁴⁴ Stanišić Final Trial Brief, paras. 282, 363. *See also* Stanišić Final Trial Brief, para. 761; Simatović Final Trial Brief, para. 446.

⁴⁵ Exhibit 2D00915, p. 3; Witness Babić, Exhibit P01246, p. 13907. *See also* Exhibit P03416, p. 2.

⁴⁶ Exhibit 1D00047; Witness Theunens, T. 7 March 2018 pp. 26, 27; Exhibit P01980 (Part II), pp. 105-108; Exhibit P00271; Exhibit P01966; Exhibit P00232, pp. 2, 3; Exhibit 2D00915, p. 3; Witness RFJ-066, Exhibit P00202, paras. 114, 144, 145. *See also* Exhibit P03416, p. 3; Exhibit P03402, pp. 1, 6; Exhibit P03741; Adjudicated Facts 170, 174, 178.

⁴⁷ *See* Exhibit 1D00813; Exhibit P03401; Exhibit P03233. *See also* Witness Babić, Exhibit P01246, pp. 13119, 13121, 13388, Exhibit P01248, p. 1546; Witness RFJ-137, Exhibit P00245, para. 104; Exhibit P00271. According to the evidence, at least the following Golubić-trained future Unit members participated in the second attack on Glina: Ilija Vučković (Rambo) (*see* Witness Theunens, T. 7 March 2018 pp. 26, 27; Exhibit P03237; Exhibit P00253, p. 3), Živojin Ivanović (Žika or Crnogorac) (*see* Witness Theunens, T. 7 March 2018 pp. 26, 27), Saša Medaković (*see* Exhibit P03235; Exhibit P00253, p. 2), Nikola Pupovac (*see* Exhibit 1D00032), Davor Subotić (*see* Exhibit P00267, pp. 5, 6), Nikola Pilipović (*see* Exhibit P00258, p. 15; Exhibit P00253, p. 2), Rade Božić (*see* Exhibit P01985), Dragan Oluić (*see* Exhibit P00844; Exhibit P00261, p. 5), and Borjan Vučković (*see* Exhibit P03234; Exhibit P00260, pp. 1, 3, 5, 29). *See also* Witness RFJ-137, Exhibit P00245, para. 95; Exhibit P03416, p. 3.

⁴⁸ *See, e.g.*, Exhibit 1D00047; Exhibit P01985; Exhibit P01986; Exhibit P00844; Exhibit P03230; Exhibit P03234; Exhibit P03235; Exhibit P03236; Exhibit 1D00032. *See also* Witness Theunens, T. 7 March 2018 pp. 26, 27.

⁴⁹ *See, e.g.*, Exhibit P01966.

⁵⁰ Exhibit P01985, p. 1; Exhibit P01986, p. 1; Exhibit P03230, p. 1; Exhibit P03235, p. 1.

⁵¹ Exhibit P00595, pp. 47, 91; Adjudicated Facts 174, 398.

⁵² Adjudicated Fact 176; Witness RFJ-066, Exhibit P00202, paras. 114, 159, T. 10 July 2017 pp. 38-40, T. 24 August 2017 pp. 9, 10; Exhibit P00261, p. 5; Witness Drača, T. 26 November 2019 p. 28. The record shows that, on 25 July

operations in Glina and Ljubovo, the evidence before the Trial Chamber does not demonstrate beyond reasonable doubt that he had a decisive command role or overall command, as alleged by the Prosecution.⁵³

26. The evidence further demonstrates that, on 5 August 1991, Unit members, and SAO Krajina police and Territorial Defence units attacked the Croat village of Lovinac.⁵⁴ According to Witness RFJ-066, prior to the attack, Simatović attended a meeting with Martić and Dušan Orlović at the Knin fortress, during which the operation was planned, as part of an effort to link up Serb-held territories on the opposite sides of Lovinac.⁵⁵ While Witness RFJ-066 testified that Simatović and Martić were in command of the operation, the witness acknowledged that he did not personally see Simatović participating in the operation and did not have immediate knowledge of the effect of the attack.⁵⁶

27. The Trial Chamber further received evidence that, on the day of the attack on Lovinac, an armoured train, built on Simatović's request⁵⁷ and with Golubić-trained crew,⁵⁸ commanded by Blagoje Guška,⁵⁹ was used.⁶⁰ Some evidence suggests that the armoured train had a psychological effect on the Croat population⁶¹ and its purpose was to intimidate them and drive them out of the

1991, the village of Struga, a few kilometres north of Dvor along the Una river, was also attacked by units under the command of Captain Dragan and the Glina War Staff. *See* Adjudicated Fact 179; Exhibit P03232.

⁵³ Witness RFJ-066 testified that the attack on Ljubovo and the takeover of the Glina police station were the type of special assignments that recruits carried out following the completion of their training at Golubić, and that these Serb forces were under the command of "Frenki" and Captain Dragan. *See* Witness RFJ-066, Exhibit P00202, paras. 114, 141, 142, 144-146, Exhibit 1D00021, p. 7252. While Witness RFJ-066's evidence alone is insufficient to demonstrate beyond reasonable doubt that Simatović commanded the Golubić-trained recruits during the two operations, there is sufficient evidence showing that he received regular reports on the progress of the operations. *See* Exhibit P01966; Exhibit P01967, p. 1; Exhibit P01968; Exhibit P01965; Exhibit P03074; Exhibit P03076; Exhibit P01967; Exhibit P03077; Exhibit P01968; Exhibit P03078; Exhibit P03079; Exhibit P03080; Exhibit P00241; Exhibit P00048; Exhibit P03081; Exhibit P02984; Witness Theunens, T. 7 March 2018 pp. 23, 24. *See also* Exhibit P00843; Witness Nielsen, T. 15 November 2017 pp. 45, 46.

⁵⁴ Exhibit P00048, p. 2; Witness RFJ-066, Exhibit P00202, para. 149; Witness Maksić, Exhibit P00025, para. 81; Witness RFJ-107, Exhibit P00313, para. 89; Exhibit P00328, pp. 4, 5; Exhibit P01154, p. 2; Adjudicated Fact 175.

⁵⁵ Witness RFJ-066, T. 10 July 2017 pp. 38-40, Exhibit P00202, para. 148.

⁵⁶ Witness RFJ-066, T. 24 August 2017 pp. 6, 7, Exhibit P00202, paras. 148, 149. *See also* Witness Babić, Exhibit P01246, p. 13404.

⁵⁷ Witness RFJ-066, Exhibit P00202, para. 147, Exhibit 1D00022, para. 47; Witness Babić, Exhibit P01246, pp. 13403, 13404, 13748, Exhibit P01248, pp. 1544, 1545. *See also* Exhibit P00217; Witness Krstić, Exhibit 2D00469, p. 16.

⁵⁸ Witness RFJ-066, Exhibit P00202, para. 147, Exhibit 1D00022, para. 47; Exhibit P00318; Witness RFJ-107, Exhibit P00313, para. 27, T. 6 September 2017 pp. 9, 10.

⁵⁹ Witness RFJ-066, Exhibit P00202, para. 147; Witness RFJ-107, T. 6 September 2017 pp. 9-13, T. 7 September 2017 pp. 64, 65, Exhibit P00313, para. 27; Exhibit P00380; Exhibit P00317, pp. 1, 5, 6, 11; Witness RFJ-137, T. 20 July 2017 pp. 8, 9; Witness OFS-14, Exhibit 2D00359, pp. 15807, 15808; Witness Bosnić, Exhibit 1D00237, pp. 12730, 12732, 12866, 12867.

⁶⁰ Witness RFJ-066, T. 10 July 2017 pp. 39, 40, Exhibit P00202, paras. 147, 150, Exhibit 1D00021, pp. 7201, 7202, Exhibit 1D00022, para. 47; Witness Babić, Exhibit P01246, pp. 13403, 13404, 13748; Witness RFJ-107, T. 6 September 2017 pp. 13, 14, T. 7 September 2017 p. 60.

⁶¹ Witness RFJ-107, T. 6 September 2017 p. 14, T. 7 September 2017 pp. 61-63.

area.⁶² Other evidence indicates that the armoured train was for propaganda purposes and was never used in any serious military operation as it was impractical.⁶³

28. It follows from the evidence that Lovinac was attacked again in September 1991, in the context of a JNA operation to lift the Croatian blockade on one of its largest military depots at Sveti Rok, in the immediate vicinity of Lovinac.⁶⁴ Witness Aco Drača testified that the operation was conducted under the command of Colonel Trbojević, the commander of the 1st Light Partisan Brigade, and was carried out by units of the Knin Corps.⁶⁵ Witness Babić heard that, before the 1st Light Partisan Brigade went into the operation, Simatović, who at the time was based in Korenica, together with Martić and David Rastović, the President of the municipality of Donji Lapac, carried out target practice against the police station in Lovinac and the village itself.⁶⁶ According to Witness Babić, the village was subsequently looted and set on fire⁶⁷ and the witness later personally heard Simatović bragging how he had “razed” Lovinac.⁶⁸ Witness RFJ-066 testified that, on the basis of conversations that he had with Martić, he was left with the impression that the purpose of the attack on Lovinac was to “cleanse the village and to get the entire population out and to establish a purely Serb territory”.⁶⁹

29. Having considered the entirety of the evidence before it, the Trial Chamber finds that Simatović participated in the planning and carrying out of the attack on Lovinac on 5 August 1991. However, the Trial Chamber does not find that the evidence of Witnesses Babić and RFJ-066 establishes beyond reasonable doubt Simatović’s participation in the second attack on Lovinac in September 1991. Nor is there sufficient evidence to demonstrate beyond reasonable doubt that the actions of the Serb forces in Lovinac targeted the non-Serb population in the area. In this regard, the Trial Chamber is reluctant to rely decisively on the impression of Witness RFJ-066 who was not an eyewitness to the attack, and on the untested evidence of Witness Babić. While the Trial Chamber received evidence that a number of people were displaced from Lovinac in August and September 1991,⁷⁰ this evidence, alone, is insufficient to support a determination on the reasons behind the displacement.

⁶² Witness RFJ-066, Exhibit P00202, para. 149, Exhibit 1D00021, pp. 7201, 7202.

⁶³ Witness RFJ-137, Exhibit P00245, para. 25, T. 20 July 2017 p. 8.

⁶⁴ Witness Drača, T. 26 November 2019 pp. 64, 65, Exhibit 2D00331, p. 16770. *See also* Witness RFJ-137, T. 19 July 2017 pp. 45, 46, Exhibit P00245, para. 66; Witness Babić, Exhibit P01246, p. 13692; Exhibit P01248, pp. 1448, 1930; Exhibit 2D00352, p. 2; Exhibit P00056.

⁶⁵ Witness Drača, Exhibit 2D00331, pp. 16770, 16771. *See also* Witness Babić, Exhibit P01246, pp. 13395, 13396, 14095, 14096.

⁶⁶ Witness Babić, Exhibit P01248, pp. 1432, 1433, 1603, 1604.

⁶⁷ Witness Babić, Exhibit P01246, p. 14096.

⁶⁸ Witness Babić, Exhibit P01248, pp. 1432, 1604.

⁶⁹ Witness RFJ-066, Exhibit P00202, para. 159, T. 10 July 2017 pp. 38, 39.

⁷⁰ Exhibit P00595, pp. 30, 32, 93. *See also* Witness Babić, Exhibit P01246, pp. 13068, 13069.

30. The evidence further shows that, on 26 August 1991, an attack was launched on the Croat village of Kijevo, which was situated 15 kilometres east of Knin, along the Knin-Vrlika-Sinj road, and which consisted of approximately 350 houses.⁷¹ Prior to the attack, Martić issued an ultimatum to the Croatian police stationed in the village to leave, stating that “further co-existence in our Serbian territories of the SAO Krajina is impossible”, advising the civilian population “to find safe shelters on time so there should be no casualties among them”, and stressing that “we want co-existence and understanding between the residents of the Serbian villages and the Croatian population in Kijevo, and we guarantee civil and human rights to everyone.”⁷² Between 23 and 25 August 1991, the commander of the Croatian public security station evacuated almost the entire civilian population of Kijevo, with approximately 20 or 30 Croat civilians remaining in the village.⁷³

31. It follows from the evidence that Kijevo was attacked by units of the JNA 9th Corps, the Milicija Krajina, and local Territorial Defence.⁷⁴ The JNA 9th Corps, with Mladić as its Chief of Staff, was in command of the participating forces.⁷⁵ Martić, Milenko Zelenbaba, who was the Head of the Knin Secretariat of Internal Affairs, and at least one other Golubić-trained Unit member took part in the attack,⁷⁶ which lasted only a few hours.⁷⁷

32. According to Witness RFJ-107, a member of the 75th brigade subordinated to the JNA 9th Corps, in the evening of 26 August 1991, a unit of the 75th brigade received an order to “mop up” the terrain in Kijevo jointly with a police company.⁷⁸ By the time the unit arrived in Kijevo, houses were already being set on fire by members of the SAO Krajina police.⁷⁹ The Catholic church was damaged during the attack, and was later destroyed.⁸⁰ Private houses were looted and Serb forces killed approximately 14 people during and in the days following the attack.⁸¹ Later, Martić stated

⁷¹ Witness RFJ-107, Exhibit P00313, para. 113; Witness Babić, Exhibit P01246, p. 13962; Adjudicated Fact 181.

⁷² Exhibit P01319; Witness Babić, Exhibit P01246, p. 13180, Exhibit P01247, p. 3392, Exhibit P01248, pp. 1554, 1555; Adjudicated Facts 181, 182.

⁷³ Adjudicated Fact 183; Witness RFJ-107, Exhibit P00313, para. 114.

⁷⁴ Witness Babić, Exhibit P01246, pp. 13182, 13183, 13960, 13961, 13979, 13981, 13982, 13984, Exhibit P01247, pp. 3391, 3392, Exhibit P01248, p. 1558; Witness RFJ-107, Exhibit P00313, paras. 89, 113, 116, 117, T. 6 September 2017 pp. 37, 38; Exhibit P00351; Exhibit P00335, pp. 2, 3; Adjudicated Fact 183.

⁷⁵ Witness Babić, Exhibit P01246, pp. 13183, 13960, 13961, Exhibit P01247, p. 3391, Exhibit P01244, para. 15; Witness RFJ-107, Exhibit P00313, paras. 24, 116; Witness Staničić, Exhibit 1D00212, pp. 12434, 12435; Adjudicated Fact 183.

⁷⁶ Witness RFJ-107, Exhibit P00313, paras. 113, 210, Exhibit P00315, para. 2; Exhibit P00260, p. 29; Witness RFJ-137, Exhibit P00245, para. 95; Witness RFJ-066, Exhibit P00202, paras. 153, 156.

⁷⁷ Adjudicated Fact 184.

⁷⁸ Witness RFJ-107, Exhibit P00313, paras. 23, 24, 117.

⁷⁹ Witness RFJ-107, Exhibit P00313, paras. 117, 118.

⁸⁰ Adjudicated Fact 185; Witness RFJ-107, Exhibit P00313, para. 118, T. 6 September 2017 pp. 34, 35, 37; Exhibit P00352; Exhibit P00353; Witness RFJ-066, Exhibit P00202, para. 155.

⁸¹ Adjudicated Fact 185; Witness RFJ-107, T. 6 September 2017 p. 34, Exhibit P00313, para. 117, Exhibit P00315, para. 4; Witness Babić, Exhibit P01248, pp. 1559, 1560; Witness Staničić, T. 18 July 2019 p. 19; Exhibit P01291.

that, during the attack, they “didn’t care about the victims”.⁸² There is evidence that, as a result of the attack, Kijevo was destroyed and “cleansed” of its Croat population.⁸³ This evidence overwhelmingly demonstrates that the Serb forces targeted the Croat population in Kijevo, which caused its departure from the area.

33. It follows from the adjudicated facts and the evidence that, on 28 August 1991, Tactical Group 1 of the JNA 9th Corps attacked the village of Vrlika, which at the time had a mixed population of Croats and Serbs.⁸⁴ Most of the population left the village prior to the attack, but the old and the frail remained.⁸⁵ According to Witness RFJ-107, the Croat population did not leave Vrlika voluntarily, and some of those who had remained were subsequently killed.⁸⁶ After the attack, a SAO Krajina public security station was established in Vrlika, and looting, with the participation of volunteer and paramilitary groups, took place, while the police did nothing to prevent it.⁸⁷ On 16 September 1991, Tactical Group 1 of the JNA 9th Corps attacked the village of Drniš, near Knin, which at the time had a 75% Croat population.⁸⁸ During and following the attack, the centre of Drniš was completely destroyed and large scale looting by members of the JNA and the SAO Krajina Ministry of Interior, as well as local citizens, took place.⁸⁹ After the attack, a public security station of the SAO Krajina Ministry of Interior was set up in Drniš.⁹⁰

2. Events in Hrvatska Kostajnica area

34. The Indictment alleges that, from on or about 7 October 1991, Serb forces, in particular members of Martić’s Police, acting in coordination with the JNA and members of the local Serb Territorial Defence, were in control of the area of Hrvatska Kostajnica.⁹¹ According to the Indictment, most of the Croat civilians fled their homes during an attack in September 1991, with about 120 Croats, mostly women, elderly or the infirm, remaining in the villages of Dubica, Cerovljani, and Baćin.⁹² The Indictment further states that, on the morning of 20 October 1991, Serb forces, in particular members of Martić’s Police, detained 53 civilians in the Dubica fire

⁸² Exhibit 1D00024, p. 12.

⁸³ Witness Babić, Exhibit P01246, pp. 13183, 13984, Exhibit P01248, pp. 1558, 1559, 1565, 1566; Witness RFJ-107, T. 6 September 2017 p. 34; Witness RFJ-066, Exhibit P00202, paras. 151, 153. *See also* Witness Bijak, T. 3 October 2017 p. 42; Exhibit P00595, p. 96.

⁸⁴ Adjudicated Fact 186; Witness RFJ-107, Exhibit P00313, para. 120 (indicating that the village had an 80% Croat and 20% Serb population). *See* Witness Babić, Exhibit P01246, pp. 13977, 13978.

⁸⁵ Witness RFJ-107, Exhibit P00313, para. 120.

⁸⁶ Witness RFJ-107, Exhibit P00313, paras. 124, 127.

⁸⁷ Adjudicated Fact 186; Witness RFJ-107, Exhibit P00313, paras. 121, 122.

⁸⁸ Adjudicated Fact 187; Witness RFJ-107, Exhibit P00313, para. 128. *See* Witness Babić, Exhibit P01246, p. 13986.

⁸⁹ Adjudicated Fact 187; Witness RFJ-107, Exhibit P00313, paras. 128, 129, 131.

⁹⁰ Adjudicated Fact 187.

⁹¹ Indictment, para. 27.

⁹² Indictment, para. 27.

station.⁹³ It further alleges that, on the following day, 43 of the detained Croat civilians were taken to a location near the village of Baćin where they, together with 13 other non-Serb civilians from Baćin and Cerovljani, were executed by members of Martić's Police and other Serb forces.⁹⁴ According to the Indictment, these killings along with other crimes and acts of violence associated with the attacks resulted in the forcible displacement of the non-Serb population in the area,⁹⁵ and the murders and forcible displacement amounted to persecution.⁹⁶

35. In connection with these allegations, the Prosecution submits that, from 25 August 1991, Serb forces, including SAO Krajina police and Territorial Defence, the 7th Banija volunteer division and the JNA, attacked the Hrvatska Kostajnica area, taking it over on 12 and 13 September 1991.⁹⁷ The Prosecution further submits that, from September 1991, Martić coordinated these attacks with the JNA,⁹⁸ and that, during and after these attacks, Serb forces damaged, destroyed, and looted non-Serb property, as well as killed, mistreated, and forcibly displaced local non-Serbs.⁹⁹

36. In their final trial briefs, the Accused do not contest that crimes were committed in the Hrvatska Kostajnica area. However, specifically in relation to the events in Dubica, Simatović argues that the perpetrators were not sufficiently identified, and that there was no organized government in the area, including no subordination or joint action among the various factions.¹⁰⁰ According to Simatović, the events in the area of Dubica, Cerovljani, and Baćin are in no way connected to him.¹⁰¹

37. In assessing the alleged events, the Trial Chamber notes that the fundamental features of the evidence related to the circumstances surrounding the commission of the crimes in the Hrvatska Kostajnica area are not disputed. The Trial Chamber was presented with relevant evidence from several Prosecution witnesses, including Witnesses RFJ-108, RFJ-067, Josip Josipović, and Tomislav Kozarčanin, who were direct witnesses to the events. The Trial Chamber has also considered forensic and documentary evidence and has taken judicial notice of adjudicated facts in relation to the alleged events, where appropriate.

⁹³ Indictment, para. 27.

⁹⁴ Indictment, para. 27.

⁹⁵ Indictment, paras. 64-66.

⁹⁶ Indictment, paras. 22-25.

⁹⁷ Prosecution Final Trial Brief, para. 698.

⁹⁸ Prosecution Final Trial Brief, para. 698.

⁹⁹ Prosecution Final Trial Brief, paras. 698-703; Prosecution Pre-Trial Brief, paras. 126, 127.

¹⁰⁰ Simatović Final Trial Brief, paras. 491-494.

¹⁰¹ Simatović Final Trial Brief, para. 494.

38. In 1990, Hrvatska Dubica, Cerovljani, and Baćin were mixed or predominantly Croat villages in the Hrvatska Kostajnica municipality situated in north-eastern Croatia.¹⁰² In particular, in 1990, Hrvatska Dubica had around 2,000 to 2,500 inhabitants and, in 1991, its population was 50% Croat and 38% Serb.¹⁰³ Cerovljani, which is situated a few kilometres north of Hrvatska Dubica, had a population of 500 people of whom, in 1991, 52.9% were Croat and 39.5% were Serb.¹⁰⁴ In 1991, the population of Baćin, a village to the west of Hrvatska Dubica, was between 200 and 500 inhabitants with 95% Croat and 1.5% Serb population.¹⁰⁵ The Trial Chamber received evidence that, as the tension was escalating in the months preceding the takeover of the area by the Serb forces, the Serbian Democratic Party was supplying weapons to its supporters while the Croatian Democratic Union was arming the local Croat population.¹⁰⁶

39. It follows from the adjudicated facts that, from August until the beginning of October 1991, intensive fighting took place in the area of Hrvatska Kostajnica and, in September 1991, Martić and Colonel Dušan Smiljanić, Chief of Security of the JNA 10th Zagreb Corps, coordinated the combat activities in relation to the “liberation of Kostajnica”.¹⁰⁷ According to Witness Josipović, the JNA supplied the Serb forces with weapons.¹⁰⁸ On 12 or 13 September 1991, Serb forces, including the SAO Krajina special police unit at Dvor na Uni and the SAO Krajina Territorial Defence, took control over Hrvatska Kostajnica.¹⁰⁹ The Trial Chamber received evidence that the 7th Banija volunteer division, which had its headquarters at Šamarica,¹¹⁰ also took part in the takeover of Hrvatska Kostajnica municipality.¹¹¹ Following the takeover, the operation continued in order to seize the rest of the villages along the axis between Kostajnica and Novska, including the villages of Hrvatska Dubica, Cerovljani and Baćin.¹¹² A front line was established from Sunja to Hrvatska Dubica and further towards Novska.¹¹³

40. Following the takeover of Hrvatska Kostajnica, Hrvatska Dubica was shelled from both Hrvatska Kostajnica and Bosanska Dubica.¹¹⁴ Subsequently, the Croatian National Guard and the Croatian police withdrew from Hrvatska Dubica and the surrounding villages, instructing the Croat

¹⁰² Adjudicated Fact 188; Witness RFJ-067, Exhibit P01160, p. 5422, Exhibit P01159, p. 2.

¹⁰³ Adjudicated Facts 189, 190; Witness RFJ-067, Exhibit P01159, p. 2; Witness RFJ-108, Exhibit P00375, para. 5.

¹⁰⁴ Adjudicated Facts 191, 192.

¹⁰⁵ Adjudicated Facts 193, 194.

¹⁰⁶ Witness RFJ-108, T. 5 September 2017 p. 37. *See also* Witness RFJ-108, T. 5 September 2017 pp. 21, 35, 36, 72-75, Exhibit P00375, para. 8.

¹⁰⁷ Adjudicated Fact 198.

¹⁰⁸ Witness Josipović, Exhibit P00403, pp. 3298, 3299, 3341-3346.

¹⁰⁹ Adjudicated Fact 199.

¹¹⁰ Witness Babić, Exhibit P01246, p. 13388.

¹¹¹ Witness Babić, Exhibit P01246, pp. 13383-13385, 13911, 13912, Exhibit P01248, p. 1597. *See also* Witness Babić, Exhibit P01248, pp. 1574-1576.

¹¹² Adjudicated Fact 199.

¹¹³ Adjudicated Fact 199.

¹¹⁴ Adjudicated Fact 200; Witness Kozarčanin, Exhibit P00445, p. 2.

inhabitants to leave as well.¹¹⁵ Most of the Croat civilians left and, after 13 September 1991, only about 60 Croats, mainly elderly and women, remained in Hrvatska Dubica.¹¹⁶ Similarly, following the advice of the Croatian authorities, most of the residents of Cerovljani left in August and early September 1991, with only elderly people remaining in the village.¹¹⁷ In Baćin, all of the inhabitants left, with the exception of around thirty mostly elderly civilians.¹¹⁸

41. The Trial Chamber received evidence that the Serb forces in the area wore olive-grey or camouflage uniforms¹¹⁹ with a variety of insignia, including the JNA red five-pointed star, emblems with the inscription “SAO Krajina”,¹²⁰ as well as “Milicija SAO Krajina” patches.¹²¹ It appears that it was not possible to tell to which unit a person belonged.¹²² In addition, according to Witness RFJ-108, a Serb from Hrvatska Dubica, the reservists and the members of the Milicija Krajina were composed almost entirely of local people.¹²³

42. The evidence and the adjudicated facts reflect that the SAO Krajina Territorial Defence and the police, including a unit of the Milicija Krajina consisting of 30 policemen from the area, were set up in the area of Hrvatska Dubica.¹²⁴ Veljko (Velja) Radunović, his son Stevo Radunović, and Momčilo Kovačević, were in charge of the Milicija Krajina unit, which had a command post at the old school building in Hrvatska Dubica.¹²⁵ Veljko Radunović and Kovačević issued orders and participated in the beating of Croat detainees at the school building.¹²⁶ The detainees were interrogated by members of the Milicija Krajina, severely beaten, mistreated, forced to sleep on a concrete toilet floor, given little food and contaminated water, forced to sing Chetnik songs, to perform forced labour, and to loot Croat houses on behalf of the Serb forces.¹²⁷ Witness Josipović, who was detained initially at Dubicka Brda and later at the old school building in Hrvatska Dubica,

¹¹⁵ Witness Kozarčanin, Exhibit P00445, p. 2; Witness Josipović, Exhibit P00403, p. 3346; Adjudicated Fact 200. *See also* Witness RFJ-108, Exhibit P00375, paras. 10, 12; Adjudicated Facts 196, 197.

¹¹⁶ Witness RFJ-108, Exhibit P00375, para. 12; Witness RFJ-067, Exhibit P01160, pp. 5421, 5422; Witness Josipović, Exhibit P00403, pp. 3306, 3307; Adjudicated Fact 201.

¹¹⁷ Adjudicated Fact 214.

¹¹⁸ Adjudicated Fact 220.

¹¹⁹ Witness RFJ-108, Exhibit P00375, para. 16, T. 5 September 2017 pp. 63, 66.

¹²⁰ Witness Josipović, Exhibit P00403, pp. 3299, 3303; Witness RFJ-108, T. 5 September 2017 pp. 69, 70, Exhibit P00375, para. 14.

¹²¹ Witness RFJ-108, Exhibit P00375, para. 16.

¹²² *See* Adjudicated Fact 203.

¹²³ Witness RFJ-108, T. 5 September 2017 p. 37, Exhibit P00375, para. 4.

¹²⁴ Adjudicated Fact 202; Witness Josipović, Exhibit P00403, pp. 3297, 3298, 3311.

¹²⁵ Adjudicated Fact 202; Witness Josipović, Exhibit P00403, pp. 3311, 3314, 3353, 3373; Witness RFJ-108, Exhibit P00375, paras. 8, 13, T. 5 September 2017 pp. 12, 36, 66, 71.

¹²⁶ Adjudicated Fact 205; Witness Josipović, Exhibit P00403, p. 3314.

¹²⁷ Witness Josipović, Exhibit P00403, pp. 3309, 3310, 3312-3317, 3320, 3322, 3350, 3351, 3375-3378, Exhibit P00406, p. 2; Adjudicated Facts 221, 222.

overheard the Serb guards saying that Veljko Radunović and Kovačević were receiving orders from Martić.¹²⁸

43. It follows from the evidence and the adjudicated facts that, until at least mid-October 1991, houses were torched in Hrvatska Dubica, the majority belonging to Croats or to couples of mixed marriages, and widespread looting by members of the JNA, the Territorial Defence, Milicija Krajina, and local Serbs took place.¹²⁹ In September and October 1991, armed Serbs also torched houses in Cerovljani, fired rocket launchers at the Catholic church, damaging the bell tower, and detained and subsequently killed the remaining civilians in the village.¹³⁰ The killings were committed by members of the Milicija Krajina, the JNA, the Territorial Defence, or a combination of them.¹³¹ The Trial Chamber also received evidence of killings and mistreatment of Croat civilians in other villages in the area,¹³² as well as evidence of civilians being used as human shields.¹³³

44. The evidence further shows that, on 20 October 1991, Witness RFJ-108 and approximately 23 other people from different parts of Hrvatska Dubica were picked up by three men in a truck with “Milicija SAO Krajina” written on it and taken to the Dubica fire station.¹³⁴ In total, 53 civilians were detained at the fire station, nearly all of them elderly, with the majority being Croats, and only a few Serbs and Muslims.¹³⁵ Armed guards wearing olive-grey JNA uniforms, among them Katarina (Kaća) Pekić and Stevo Radunović,¹³⁶ guarded the fire station, not allowing anyone to leave¹³⁷ and reading out the names of the detainees at shift changes to ensure nobody was missing.¹³⁸ Ten of the detainees, who were either Serb or had connections with Serbs, were released.¹³⁹ On the morning of 21 October 1991, the remaining detainees, as well as other civilians from the villages of Baćin and Cerovljani, were taken to Krečane and executed.¹⁴⁰

¹²⁸ Witness Josipović, Exhibit P00403, pp. 3356, 3373; Adjudicated Fact 205.

¹²⁹ Adjudicated Facts 206, 224; Witness RFJ-108, Exhibit P00375, paras. 17, 18, T. 5 September 2017 pp. 38-47.

¹³⁰ Adjudicated Facts 215-218, 225.

¹³¹ Adjudicated Fact 218.

¹³² Witness Josipović, Exhibit P00406, p. 1; Witness Kozarčanin, Exhibit P00445, p. 3; Exhibit P03320, p. 1; Exhibit P03322, pp. 1, 2.

¹³³ Witness Josipović, Exhibit P00403, pp. 3309, 3310, 3350; Adjudicated Fact 204.

¹³⁴ Witness RFJ-108, Exhibit P00375, paras. 19, 20, T. 5 September 2017 pp. 7, 8, 13, 34, 35, 79-81. *See also* Adjudicated Facts 207, 208.

¹³⁵ Witness RFJ-108, Exhibit P00375, para. 21, T. 5 September 2017 pp. 9, 10, 33, 34; Witness Kozarčanin, Exhibit P00445, pp. 2, 3; Adjudicated Fact 209.

¹³⁶ Witness Kozarčanin, Exhibit P00445, p. 3; Adjudicated Fact 210.

¹³⁷ Witness RFJ-108, Exhibit P00375, para. 22, T. 5 September 2017 pp. 10, 11, 18, 19; Witness Kozarčanin, Exhibit P00445, p. 3; Adjudicated Fact 210.

¹³⁸ Witness RFJ-108, T. 5 September 2017 pp. 19-21, Exhibit P00375, para. 22; Adjudicated Fact 210. *See also* Witness RFJ-108, Exhibit P00375, para. 33, T. 5 September 2017 pp. 11, 20, 35; Witness Kozarčanin, Exhibit P00445, pp. 3, 4.

¹³⁹ Witness RFJ-108, Exhibit P00375, paras. 23, 24, T. 5 September 2017 p. 18; Adjudicated Fact 211.

¹⁴⁰ Witness RFJ-108, Exhibit P00375, paras. 28-31, 33, T. 5 September 2017 pp. 23-25; Witness Josipović, Exhibit P00403, pp. 3324, 3325, 3354; Adjudicated Facts 212, 223.

45. According to Witness RFJ-108, no one was investigated or prosecuted by the Serb authorities for the killings at Krečane.¹⁴¹ The witness also heard that, in November 1991, Martić disbanded Veljko Radunović's police unit and that its former members either joined the JNA as reservists or the Territorial Defence stationed at the JNA base in Živaja.¹⁴²

46. It follows from the evidence and the adjudicated facts that the following persons were detained at the Dubica fire station and killed the following day near Bačin: Veronika (Vera) Stanković,¹⁴³ Pavao Kropf,¹⁴⁴ Barbara Kropf,¹⁴⁵ Ruža Dikulić,¹⁴⁶ Sofija Dikulić,¹⁴⁷ Stjepan Dikulić,¹⁴⁸ Ana Dikulić,¹⁴⁹ Anka Piktija,¹⁵⁰ Ivan Trninić,¹⁵¹ Terezija Trninić,¹⁵² Nikola Lončarić,¹⁵³ Marija Đukić,¹⁵⁴ Antun Švračić,¹⁵⁵ Marija Švračić,¹⁵⁶ Josip Antolović,¹⁵⁷ Juraj Ferić,¹⁵⁸ Kata Ferić,¹⁵⁹ Anka (Ana) Ferić,¹⁶⁰ Marija Delić,¹⁶¹ Katarina Vladić,¹⁶² Mara Ćorić,¹⁶³ Mijo Čović,¹⁶⁴

¹⁴¹ Witness RFJ-108, Exhibit P00375, para. 35, T. 5 September 2017 pp. 27, 28, 87, 88.

¹⁴² Witness RFJ-108, Exhibit P00375, para. 35, T. 5 September 2017 pp. 76-78.

¹⁴³ Exhibit P00647; Exhibit P00862, pp. 33, 71; Exhibit P00597, pp. 85, 109; Exhibit P00598, p. 4; Exhibit P00605, p. 1; Adjudicated Fact 212.

¹⁴⁴ Exhibit P0063; Exhibit P00862, pp. 32, 69; Exhibit P00597, pp. 84, 109; Exhibit P00598, p. 3; Exhibit P00605, p. 1; Adjudicated Fact 212.

¹⁴⁵ Exhibit P00633; Exhibit P00862, pp. 32, 69; Exhibit P00597, pp. 84, 109; Exhibit P00598, p. 3; Adjudicated Fact 212.

¹⁴⁶ Exhibit P00873; Exhibit P00874; Exhibit P00620; Exhibit P00862, pp. 30, 68; Exhibit P00597, pp. 83, 108; Exhibit P00598, p. 2; Exhibit P00605, p. 1; Adjudicated Fact 212.

¹⁴⁷ Exhibit P00875; Exhibit P00876; Exhibit P00621; Exhibit P00862, pp. 30, 68; Exhibit P00597, pp. 83, 108; Exhibit P00598, p. 2; Exhibit P00605, p. 1; Adjudicated Fact 212.

¹⁴⁸ Exhibit P00622; Exhibit P00862, pp. 30, 68; Exhibit P00597, p. 84; Exhibit P00598, p. 2; Exhibit P00605, p. 1; Adjudicated Fact 212.

¹⁴⁹ Exhibit P00619; Exhibit P00862, pp. 30, 68; Exhibit P00597, pp. 83, 108; Exhibit P00598, p. 2; Exhibit P00605, p. 1; Adjudicated Fact 212.

¹⁵⁰ Exhibit P00644; Exhibit P00862, pp. 33, 70; Exhibit P00597, pp. 85, 109; Exhibit P00598, p. 4; Exhibit P00605, p. 1; Adjudicated Fact 212.

¹⁵¹ Exhibit P00884; Exhibit P00885; Exhibit P00650; Exhibit P00862, pp. 34, 71; Exhibit P00597, pp. 85, 111; Exhibit P00598, p. 5; Exhibit P00605, p. 2; Adjudicated Fact 212.

¹⁵² Exhibit P00652; Exhibit P00862, pp. 34, 71; Exhibit P00597, p. 85; Exhibit P00598, p. 5; Exhibit P00605, p. 2; Adjudicated Fact 212.

¹⁵³ Exhibit P00640; Exhibit P00862, pp. 32, 70; Exhibit P00597, pp. 85, 109; Exhibit P00598, p. 4; Exhibit P00605, p. 1; Adjudicated Fact 212.

¹⁵⁴ Exhibit P00624; Exhibit P00862, pp. 30, 31, 68; Exhibit P00597, pp. 84, 108; Exhibit P00598, p. 2; Exhibit P00605, p. 1; Adjudicated Fact 212.

¹⁵⁵ Exhibit P00648; Exhibit P00862, pp. 33, 71; Exhibit P00597, pp. 85, 109; Exhibit P00598, p. 4; Exhibit P00605, p. 1; Adjudicated Fact 212.

¹⁵⁶ Exhibit P00649; Exhibit P00862, pp. 33, 34, 71; Exhibit P00597, pp. 85, 109; Exhibit P00598, p. 5; Exhibit P00605, p. 1; Adjudicated Fact 212.

¹⁵⁷ Exhibit P00866; Exhibit P00609; Exhibit P00862, pp. 29, 67; Exhibit P01080, p. 1; Exhibit P00597, pp. 83, 107; Exhibit P00598, p. 1; Exhibit P00605, p. 1; Adjudicated Fact 212.

¹⁵⁸ Exhibit P00627; Exhibit P00862, pp. 31, 68, 69; Exhibit P00597, pp. 84, 108; Exhibit P00598, p. 2; Exhibit P00605, p. 1; Adjudicated Fact 212.

¹⁵⁹ Exhibit P00628; Exhibit P00862, pp. 31, 69; Exhibit P00597, pp. 84, 108; Exhibit P00598, pp. 2, 3; Exhibit P00605, p. 1; Adjudicated Fact 212.

¹⁶⁰ Exhibit P00626; Exhibit P00862, pp. 31, 68; Exhibit P00597, pp. 84, 108; Exhibit P00598, p. 2; Exhibit P00605, p. 1; Adjudicated Fact 212.

¹⁶¹ Exhibit P00618; Exhibit P00862, pp. 30, 68; Exhibit P00597, p. 83; Exhibit P00598, p. 2; Exhibit P00605, p. 1; Adjudicated Fact 212.

¹⁶² Exhibit P00653; Exhibit P00862, pp. 34, 71; Exhibit P00597, p. 85; Exhibit P00598, p. 5; Exhibit P00605, p. 2; Adjudicated Fact 212.

Reza Krivajić,¹⁶⁵ Antun Krivajić,¹⁶⁶ Stjepan (Štefo) Sabljarić,¹⁶⁷ Antun Đurinović,¹⁶⁸ Josip (Jozo) Karanović,¹⁶⁹ Marija Jukić,¹⁷⁰ Ivan Kulišić,¹⁷¹ Terezija (Reza) Alavančić,¹⁷² Katarina Alavančić,¹⁷³ Antun Đukić,¹⁷⁴ Antun Mucavac,¹⁷⁵ Filip Jukić,¹⁷⁶ Ivo Pezo,¹⁷⁷ Sofija Pezo,¹⁷⁸ Ivo Trninić,¹⁷⁹ Kata Trninić,¹⁸⁰ Marija Šestić,¹⁸¹ Ana Tepić,¹⁸² Dušan Tepić,¹⁸³ Marija Batinović,¹⁸⁴ and Mijo Krnić.¹⁸⁵ All of the victims but two were Croats,¹⁸⁶ and the vast majority of them were above 60 years of age.¹⁸⁷ While the perpetrators have not been individually identified, it follows from the adjudicated facts and the evidence that the victims were killed by members of the Serb forces active in the area.

¹⁶³ Exhibit P00616; Exhibit P00862, pp. 29, 30, 68; Exhibit P00597, pp. 83, 108; Exhibit P00598, p. 2; Exhibit P00605, p. 1; Adjudicated Fact 212.

¹⁶⁴ Exhibit P00617; Exhibit P00862, pp. 30, 68; Exhibit P00597, p. 83, 108; Exhibit P00598, p. 2; Exhibit P00605, p. 1; Adjudicated Fact 212.

¹⁶⁵ Witness RFJ-108, Exhibit P00377, p. 1; Exhibit P00862, pp. 32, 69; Exhibit P00597, p. 84; Exhibit P00598, p. 3; Adjudicated Fact 212.

¹⁶⁶ Exhibit P00877, pp. 6-9; Exhibit P00862, pp. 32, 69; Exhibit P00597, p. 84; Exhibit P00598, p. 3; Adjudicated Fact 212.

¹⁶⁷ Exhibit P00645; Exhibit P00862, pp. 33, 70; Exhibit P00597, pp. 85, 109; Exhibit P00598, p. 4; Exhibit P00605, p. 1; Adjudicated Fact 212.

¹⁶⁸ Exhibit P00625; Exhibit P00862, pp. 31, 68; Exhibit P00597, pp. 84, 108; Exhibit P00598, p. 2; Exhibit P00605, p. 1; Adjudicated Fact 212.

¹⁶⁹ Exhibit P00631; Exhibit P00862, pp. 32, 69; Exhibit P00597, p. 84; Exhibit P00598, p. 3; Exhibit P00605, p. 1; Adjudicated Fact 212.

¹⁷⁰ Exhibit P00630; Exhibit P00862, pp. 31, 69; Exhibit P00597, pp. 84, 108; Exhibit P00598, p. 3; Adjudicated Fact 212.

¹⁷¹ Exhibit P00879; Exhibit P00635; Exhibit P00862, pp. 32, 70; Exhibit P00597, pp. 84, 109; Exhibit P00598, p. 3; Adjudicated Fact 212.

¹⁷² Exhibit P00608; Exhibit P00862, pp. 29, 67; Exhibit P00597, pp. 83, 107; Exhibit P00598, p. 1; Adjudicated Fact 212.

¹⁷³ Exhibit P00864; Exhibit P00607; Exhibit P00865, p. 2; Exhibit P00862, pp. 29, 67; Exhibit P00597, pp. 83, 107; Exhibit P00598, p. 1; Exhibit P00605, p. 1; Adjudicated Fact 212.

¹⁷⁴ Exhibit P00623; Exhibit P00862, pp. 30, 68; Exhibit P00597, pp. 84, 108; Exhibit P00598, p. 2; Exhibit P00605, p. 1; Adjudicated Fact 212.

¹⁷⁵ Exhibit P00641; Exhibit P00862, pp. 32, 70; Exhibit P00597, pp. 85, 109; Exhibit P00598, p. 4; Exhibit P00605, p. 1; Adjudicated Fact 212.

¹⁷⁶ Exhibit P00629; Exhibit P00862, pp. 31, 69; Exhibit P00597, pp. 84, 108; Exhibit P00598, p. 3; Exhibit P00605, p. 1; Adjudicated Fact 212.

¹⁷⁷ Exhibit P00880; Exhibit P00642; Exhibit P00862, pp. 33, 70; Exhibit P00597, p. 85; Exhibit P00598, p. 4; Exhibit P00605, p. 1; Adjudicated Fact 212.

¹⁷⁸ Exhibit P00881; Exhibit P00643; Exhibit P00862, pp. 33, 70; Exhibit P01080, p. 1; Exhibit P00597, pp. 85, 109; Exhibit P00598, p. 4; Exhibit P00605, p. 1; Adjudicated Fact 212.

¹⁷⁹ Exhibit P00862, pp. 34, 71; Exhibit P00597, p. 85; Exhibit P00598, p. 5; Adjudicated Fact 212.

¹⁸⁰ Exhibit P00886; Exhibit P00887; Exhibit P00651; Exhibit P00862, pp. 34, 71; Exhibit P00597, p. 85; Exhibit P00598, p. 5; Exhibit P00605, p. 2; Adjudicated Fact 212.

¹⁸¹ Exhibit P00882; Exhibit P00883; Exhibit P00646; Exhibit P00862, pp. 33, 71; Exhibit P01080, p. 4; Exhibit P00597, pp. 85, 109; Exhibit P00598, p. 4.

¹⁸² Exhibit P00862, p. 34; Adjudicated Fact 212. *See also* Adjudicated Fact 213.

¹⁸³ Exhibit P00862, p. 34; Adjudicated Fact 212. *See also* Adjudicated Fact 213.

¹⁸⁴ Exhibit P00611; Exhibit P00862, pp. 29, 67; Exhibit P00597, pp. 83, 107; Exhibit P00598, p. 1; Adjudicated Fact 212.

¹⁸⁵ Exhibit P00878; Exhibit P00632; Exhibit P00862, pp. 32, 69; Exhibit P00597, pp. 84, 108; Exhibit P00598, p. 3.

¹⁸⁶ Adjudicated Fact 213; Witness RFJ-108, T. 5 September 2017 pp. 21-23, Exhibit P00375, para. 28, Exhibit P00376; Exhibit P00377.

¹⁸⁷ Exhibit P00862, pp. 29-34, 67-71, 99; Exhibit P00597, pp. 83-85; Exhibit P00598, pp. 1-5.

47. The Trial Chamber also received expert evidence that a high number of non-Serbs left Dubica, Cerovljani, and Baćin on the day of the takeover of the area by the Serb forces.¹⁸⁸ When Witness RFJ-108 returned to Hrvatska Dubica in October 1991, he saw that 12 houses had been burned down, the majority of which belonged to Croats.¹⁸⁹ The Catholic churches in Hrvatska Dubica, Cerovljani, and Baćin were also destroyed, along with many houses in these villages.¹⁹⁰ In the weeks and months following the takeover, these villages were destroyed and emptied of their Croat inhabitants.¹⁹¹

3. Events in Saborsko Area

48. The Indictment alleges that, from early August until 12 November 1991, the Croatian villages of Saborsko, Poljanak, and Lipovača were attacked by Serb forces, which killed and forcibly displaced all remaining non-Serb inhabitants of the villages.¹⁹² The Indictment states that, on 7 November 1991, Serb forces, specifically a JNA special unit from Niš and local Serb Territorial Defence units entered the hamlet of Vukovići, near Poljanak, and killed nine civilians.¹⁹³ It further alleges that, on 12 November 1991, members of Martić's Police, the JNA, and local Serb Territorial Defence units, entered the village of Saborsko where they killed at least 20 Croat civilians and razed the village to the ground.¹⁹⁴ According to the Indictment, these killings, along with other crimes and acts of violence associated with the attacks, resulted in the forcible displacement of the non-Serb population in the area,¹⁹⁵ and the murders and forcible displacement amounted to persecution.¹⁹⁶

49. In connection with these allegations, the Prosecution submits that the Serb forces, including a Golubić-trained SAO Krajina special police unit under Nikola Medaković, a regular police unit, Territorial Defence and JNA units, and a Plaški State Security Service special sabotage unit, repeatedly attacked the predominantly Croat villages around Saborsko to "cleanse" the area of its Croat population.¹⁹⁷ The Prosecution further submits that the killings, beatings, threats, arbitrary

¹⁸⁸ Exhibit P00595, pp. 98-101. *See also* Exhibit P00595, pp. 30, 32, 53, 102.

¹⁸⁹ Witness RFJ-108, Exhibit P00375, para. 34. *See also* Witness Josipović, Exhibit P00403, pp. 3325, 3326; Witness Kozarčanin, Exhibit P00445, p. 4.

¹⁹⁰ Witness RFJ-108, Exhibit P00375, para. 34; Adjudicated Facts 224-226.

¹⁹¹ Witness Babić, Exhibit P01246, pp. 13385, 13393, Exhibit P01247, p. 3390, Exhibit P01248, pp. 1572, 1573, 1598.

¹⁹² Indictment, para. 28. *See* Prosecution Pre-Trial Brief, Annex A, RP. 6558.

¹⁹³ Indictment, para. 30. *See* Prosecution Pre-Trial Brief, Annex A, RP. 6558.

¹⁹⁴ Indictment, para. 31. *See* Prosecution Pre-Trial Brief, Annex A, RP. 6558, 6557.

¹⁹⁵ Indictment, paras. 64-66.

¹⁹⁶ Indictment, paras. 24, 25. *See* Indictment, paras. 22, 23.

¹⁹⁷ Prosecution Final Trial Brief, para. 704. *See* Prosecution Final Trial Brief, paras. 705-714; Prosecution Pre-Trial Brief, paras. 128-130.

detention, and other mistreatment during the attacks culminated in the final removal and murders of non-Serbs in Saborsko in early November 1991.¹⁹⁸

50. In their final trial briefs, the Accused do not contest that crimes were committed in the Saborsko area.¹⁹⁹ However, Stanišić argues that, specifically in relation to events in Saborsko, in the period from June until August 1991, neither the JNA nor any alleged Belgrade member of the joint criminal enterprise was involved.²⁰⁰ Simatović argues that the responsibility for the events in Saborsko in November 1991 rests entirely with the JNA command, that the training received at Golubić by some police unit members was unrelated to the commission of the crimes, and that Simatović had no link to the events.²⁰¹

51. In assessing the alleged events, the Trial Chamber notes that the fundamental features of the evidence related to the circumstances surrounding the commission of the crimes are not disputed. The Trial Chamber was presented with relevant evidence from several Prosecution witnesses, including Witnesses RFJ-062, RFJ-064, RFJ-072, Vlado Vuković, and Ana Bičanić, who were direct witnesses to the events. The Trial Chamber has also considered forensic and documentary evidence and has taken judicial notice of adjudicated facts in relation to these events, where appropriate.

52. The village of Saborsko is located in north-western Croatia and stretches seven kilometres along the Korenica-Ogulin road, which goes through Plitvice, Poljanak, Saborsko, Lička Jasenica, Plaški, and Josipdol, before reaching Ogulin.²⁰² In 1991, entirely or predominantly Croat villages were located south of Saborsko, near the Plitvice Lakes, while Serb villages were located to the north of Saborsko.²⁰³ In 1991, Saborsko had 852 inhabitants, of whom 93.9% were Croat and 3.3% Serb,²⁰⁴ while Poljanak, which is located about 14 kilometres south-east of Saborsko, had between 30 and 50 predominantly Croat households.²⁰⁵ The Croat hamlet of Vukovići, near Poljanak, consisted of about six or seven houses.²⁰⁶ Another predominantly Croat village, approximately 25 kilometres from Saborsko, was Lipovača, with a total of 267 inhabitants, of whom 83.15% were Croat and 16.48% Serb.²⁰⁷

¹⁹⁸ Prosecution Final Trial Brief, paras. 705, 706.

¹⁹⁹ See Stanišić Final Trial Brief, paras. 242, 243, 278; Simatović Final Trial Brief, paras. 481-489.

²⁰⁰ Stanišić Final Trial Brief, para. 278. See Stanišić Pre-Trial Brief, paras. 89-92.

²⁰¹ Simatović Final Trial Brief, paras. 487-489; Simatović Pre-Trial Brief, para. 145. See Simatović Final Trial Brief, paras. 480-486.

²⁰² Adjudicated Fact 227.

²⁰³ Adjudicated Fact 227. See Witness Vuković, Exhibit P00194, p. 2.

²⁰⁴ Adjudicated Fact 244. See Witness Vuković, Exhibit P00194, p. 2.

²⁰⁵ Adjudicated Fact 250.

²⁰⁶ Witness RFJ-062, Exhibit P01214, pp. 2523, 2561.

²⁰⁷ Adjudicated Facts 228, 229.

53. It follows from the evidence described in more detail below that, in the period from August to November 1991, the village of Poljanak and the adjacent hamlet of Vukovići, and the villages of Lipovača and Saborsko were repeatedly attacked by Serb forces. Poljanak was shelled by the JNA for the first time on 28 August 1991 and was shelled daily after that.²⁰⁸ On 22 October 1991, Serb soldiers from Plitvice, wearing JNA uniforms, arrested several civilians in Poljanak and, on the following day, the soldiers hanged Milan and Ivica Lončar because someone had taken down a Yugoslav flag.²⁰⁹

54. The evidence indicates that Poljanak and the adjacent hamlet of Vukovići were attacked again by Serb forces, including by members of the JNA special unit from Niš, on 7 November 1991.²¹⁰ According to Witness RFJ-062, a Croat from Poljanak who was 16 years old at the time, on the morning of 7 November 1991, a group of soldiers went to the house of Nikola Vuković (Sojka) in Vuković, where Croat men and women were gathered.²¹¹ The soldiers started beating the men as they were coming out of the house and lining them up next to an adjacent house.²¹² The soldiers then started shooting and killed Vjekoslav Vuković, Lucija Vuković, Milka Vuković, Dane Vuković (son of Polda), Dane Vuković (son of Mate), Joso Matovina, and Nikola Matovina.²¹³ One of the soldiers stated that “no Ustashe should stay alive”.²¹⁴ The same soldier broke the window of the house and shot Nikola Vuković who was bedridden and whose gold ring had been cut off by the soldiers.²¹⁵ The soldiers then threw an explosive through the window of the house.²¹⁶ According to Witness RFJ-062, Miloš Cvijetičanin, the commander of the Korenica Territorial Defence, was one of the locals guiding the soldiers and identifying the Croat residents of the hamlet.²¹⁷

55. The soldiers then proceeded towards Poljanak, forcing Witness RFJ-062 to lead the way as they thought that the road might be mined.²¹⁸ In Poljanak, the soldiers went to Nikola Vuković’s

²⁰⁸ Adjudicated Fact 251.

²⁰⁹ Witness RFJ-062, Exhibit P01212, p. 3, Exhibit P01214, pp. 2528-2530, 2564, Exhibit P01216, p. 1; Exhibit P00889, pp. 7-9; Exhibit P00862, p. 73. *See also* Witness Babić, Exhibit P01246, p. 13394.

²¹⁰ Witness RFJ-062, Exhibit P01212, pp. 3-8. Witness RFJ-062 gave evidence that the soldiers who were present in Vukovići were wearing green camouflage uniforms, with their commanders wearing JNA caps with a red star, and that some of the soldiers wore darker green uniforms and identified themselves as belonging to the JNA special unit from Niš. *See* Witness RFJ-062, Exhibit P01212, p. 5, Exhibit P01213, pp. 23732, 23741-23745, 23749, 23750, Exhibit P01214, pp. 2549, 2551, 2560.

²¹¹ Witness RFJ-062, Exhibit P01212, pp. 1, 3, 4, Exhibit P01214, p. 2518, Exhibit P01215, p. 1, Exhibit P01216, pp. 1, 2, Exhibit P01217, p. 1.

²¹² Witness RFJ-062, Exhibit P01212, p. 4, Exhibit P01213, p. 23750; Exhibit P01215, p. 1; Exhibit P01216, p. 2; Exhibit P01217, p. 1.

²¹³ Witness RFJ-062, Exhibit P01212, pp. 3, 4; Exhibit P01215, p. 1; Exhibit P01216, p. 2; Exhibit P01217, pp. 1, 2; Exhibit P00889, p. 5; Exhibit P00862, pp. 73, 74; Exhibit 2D00010, p. 12.

²¹⁴ Witness RFJ-062, Exhibit P01212, p. 4, Exhibit P01213, p. 23733; Exhibit P01215, p. 2.

²¹⁵ Witness RFJ-062, Exhibit P01212, pp. 4, 5; Exhibit P01215, p. 2; Exhibit P01216, p. 2; Exhibit P01217, p. 2; Exhibit 2D00010, pp. 11, 12.

²¹⁶ Witness RFJ-062, Exhibit P01212, p. 4; Exhibit P01215, p. 2; Exhibit P01216, p. 2; Exhibit P01217, p. 2.

²¹⁷ Witness RFJ-062, Exhibit P01212, p. 5, Exhibit P01213, p. 23732; Exhibit P01214, p. 2551; Exhibit P01216, p. 2; Exhibit P01217, p. 3; Witness Babić, Exhibit P01246, p. 13397.

²¹⁸ Witness RFJ-062, Exhibit P01212, p. 5; Exhibit P01217, p. 3.

house, forced the men and women out of the house and killed Nikola and Ivica Vuković.²¹⁹ Several houses, sheds, and cars were burned in Poljanak and private property was looted and destroyed.²²⁰ When torching the houses, some soldiers made comments such as “Milošević built the house and Milošević is going to destroy it” and “what’s Tudman done for you? All you are going to get from him is a bullet in your head.”²²¹ Witness RFJ-062, together with some of his surviving relatives, left Poljanak the same day and, in the following days, the group made its way to Slunj and onwards to Bosnia, finally reaching Rijeka.²²² According to expert evidence, by the end of 1995, 83.9% of the pre-conflict non-Serb population of Poljanak was displaced.²²³

56. It follows from the adjudicated facts that, at the end of September or in early October 1991, JNA forces entered Lipovača and almost all civilian inhabitants of the village fled, with the exception of about 20-50 people.²²⁴ The JNA forces stayed for seven to eight days and fired from tanks at the Croatian police in Drežnik Grad and Rakovica and at a Catholic church in Drežnik Grad.²²⁵ Some JNA soldiers warned a witness that “[w]hen we leave, beware of the reserve forces of those paramilitary units “who would” beat people, set houses on fire, loot “and who would kill” regardless of age.”²²⁶ Following the departure of the JNA troops, sometime in October 1991 armed units from within and outside the region arrived in Lipovača.²²⁷ These forces were called “reserve forces, Martić’s troops or Martić’s army” and wore uniforms “like the ones that the army had”.²²⁸ At the end of October 1991, the bodies of Franjo Brozinčević, Marija Brozinčević, Mira Brozinčević, and Katarina Cindrić were found in Franjo Brozinčević’s house in Lipovača.²²⁹ All four victims were dressed in civilian clothes and had been shot and killed by Serb paramilitary forces.²³⁰ Between 29 and 31 October 1991, the bodies of Mate Brozinčević, his wife Roža, and their son Mirko were also found in their family house in Lipovača.²³¹ All victims had suffered bullet wounds, wore civilian clothes, and were killed by “the Serbs”.²³² The following persons were also killed in Lipovača: Ana Pemper, Barbara Vuković, Juraj Šebalj, Juraj Conjar, and Milan Smolčić.²³³

²¹⁹ Witness RFJ-062, Exhibit P01212, p. 5; Exhibit P01215, p. 2; Exhibit P01216, p. 2; Exhibit P01217, p. 3; Exhibit P00889, pp. 4, 5; Exhibit 2D00010, p. 11.

²²⁰ Adjudicated Fact 252.

²²¹ Adjudicated Fact 252.

²²² Witness RFJ-062, Exhibit P01212, p. 6; Exhibit P01215, p. 2.

²²³ Exhibit P00595, p. 116. *See* Exhibit P00595, pp. 30, 32.

²²⁴ Adjudicated Fact 232.

²²⁵ Adjudicated Fact 232. *See also* Adjudicated Fact 230.

²²⁶ Adjudicated Fact 232.

²²⁷ Adjudicated Fact 233.

²²⁸ Adjudicated Fact 233.

²²⁹ Adjudicated Fact 236; Exhibit P00888, pp. 5-8.

²³⁰ Adjudicated Facts 236, 237; Witness Strinović, Exhibit P01080, pp. 1, 2. *See* Adjudicated Fact 240.

²³¹ Adjudicated Facts 238, 239; Witness Strinović, Exhibit P01080, p. 5; Exhibit P00888, pp. 3, 4. *See* Adjudicated Fact 240.

²³² Adjudicated Facts 238, 239. *See* Adjudicated Fact 240.

²³³ Adjudicated Fact 241; Exhibit P00888, pp. 9, 10.

According to expert evidence, by the end of 1995, 71.3% of the pre-conflict non-Serb population of Lipovača was displaced.²³⁴

57. It follows from the adjudicated facts that, on 27 October 1991, a JNA military police unit led by Milan Popović, together with members of the Territorial Defence and uniformed local Serbs, arrived in the village of Nova Kršlja, adjacent to Lipovača.²³⁵ They arrested all young Croat men, including Ivan Marjanović's son, Marijan, and searched Ivan Marjanović's house for weapons.²³⁶ The following day, the soldiers returned and beat Ivan Marjanović severely, kicking him in the groin and breaking his wrist, after demanding that he surrender his rifle although he did not have one.²³⁷ Marijan was released after 15 days with bruises all over his body.²³⁸

58. It follows from the adjudicated facts and the evidence on the record that, starting on 5 August 1991, the village of Saborsko was shelled almost daily from various directions, including from the direction of the Lička Jasenica JNA barracks.²³⁹ The main attack on Saborsko started on the morning of 12 November 1991 and was carried out by Tactical Group 2, under the command of Colonel Čedomir Bulat, and the 5th Partisan Brigade, both of which were within the structure of the JNA 13th Corps.²⁴⁰ A unit of the Plaški State Security Service, under the command of Đuro Ogrizović (Šnjaka),²⁴¹ the Plaški Territorial Defence brigade, including a battalion under the command of Bogdan Grba, as well as units of Milicija Krajina also participated in the attack.²⁴² The Trial Chamber received evidence that the police forces that took part in the attack consisted of both regular and Golubić-trained special police units, the latter under the command of Nikola Medaković, also a Golubić trainee²⁴³ and president of the Plaški municipality.²⁴⁴

²³⁴ Exhibit P00595, p. 114. *See* Exhibit P00595, pp. 30, 32.

²³⁵ Adjudicated Fact 234.

²³⁶ Adjudicated Fact 234.

²³⁷ Adjudicated Fact 234.

²³⁸ Adjudicated Fact 235.

²³⁹ Adjudicated Facts 247, 249; Witness Vuković, Exhibit P00194, p. 3; Witness Bičanić, Exhibit P00387, p. 3, Exhibit P00388, p. 25526. *See also* Adjudicated Fact 245.

²⁴⁰ Adjudicated Fact 253; Witness RFJ-072, T. 5 July 2017 p. 40, Exhibit P00182, paras. 14, 34-36, Exhibit 1D00018, p. 4. *See* Exhibit P00053; Exhibit P00189; Exhibit P00041; Exhibit P00066.

²⁴¹ Exhibit 2D00010, pp. 7, 13; Exhibit 1D00019; Exhibit P00066. *See* Adjudicated Fact 253; Witness RFJ-072, Exhibit P00182, para. 31. *See also* Adjudicated Fact 261.

²⁴² Adjudicated Fact 253; Exhibit P00190; Witness RFJ-072, T. 5 July 2017 p. 40, Exhibit 1D00018, p. 4; Exhibit P00066; Exhibit P00189. *See* Witness RFJ-072, Exhibit P00182, paras. 14, 33-38; Exhibit 2D00010, p. 7; Exhibit P00188. *See also* Exhibit P00053; Exhibit P00190; Exhibit P03469. According to Witness RFJ-072, the JNA supplied the Plaški Territorial Defence with M48 machine guns. *See* Witness RFJ-072, Exhibit P00182, para. 7, T. 6 July 2017 pp. 33, 34.

²⁴³ *See* Witness Bosnić, Exhibit 1D00236, para 72, Exhibit 1D00241, p. 5.

²⁴⁴ Witness RFJ-072, Exhibit P00182, paras. 18, 23, 27-29, 34, 36, 38, Exhibit P00183, para. 3, Exhibit 1D00018, p. 5, T. 5 July 2017 pp. 40, 50, 51, 54, 59, T. 6 July 2017 pp. 40-43; Exhibit P00193, p. 2; Exhibit P03469; Exhibit 2D00010; Exhibit 1D00019; Exhibit P00188; Exhibit P00190; Exhibit 2D00009. *See* Exhibit P00185.

59. The attack on Saborsko commenced with aerial bombardment, followed by artillery shelling.²⁴⁵ Subsequently, ground units, including tanks, moved towards the village from three axes.²⁴⁶ According to Witness RFJ-072, a Serb who was serving with the Plaški Territorial Defence, there was no resistance and the takeover of Saborsko was swiftly accomplished.²⁴⁷ The witness testified that he saw members of the Serb forces entering the hamlets of Tuk and Dumenčići-Solaje, on the outskirts of Saborsko, and setting the houses on fire, and that later that day nearly the entire Saborsko was ablaze.²⁴⁸ Witness RFJ-072 saw members of the Martić police looting shops and houses in the centre of Saborsko and was told that they had killed local Croats.²⁴⁹ The witness was further told that 10 to 20 people were killed during the attack on Saborsko, although he did not know the circumstances of their death.²⁵⁰

60. The Trial Chamber also received the evidence of Witnesses RFJ-064 and Ana Bičanić who on the morning of the attack were hiding with about 20 other civilians in the basement of Petar Bičanić's house.²⁵¹ According to the witnesses, Serb soldiers ordered the civilians to come out of the basement, separated the men from the women, and threw a grenade in the basement.²⁵² The soldiers swore at the civilians, saying "fuck your Ustaša mother", adding that all should be slaughtered.²⁵³ After confiscating their money and valuables, the soldiers took the men away and killed them using automatic rifles.²⁵⁴ It follows from the evidence that the men who were hiding in the basement of Petar Bičanić's house and were subsequently killed by the Serb forces were: Milan Bičanić, Ivan Vuković, Nikola Bičanić, Juraj Štrk, two men called Jure/Juraj Vuković, and Petar Bičanić.²⁵⁵

²⁴⁵ Witness RFJ-072, Exhibit P00182, paras. 16, 37, T. 6 July 2017 pp. 14, 15; Adjudicated Fact 254. *See* Witness RFJ-072, Exhibit P00182, para. 40, T. 6 July 2017 p. 49; Exhibit P00192; Exhibit P00053.

²⁴⁶ Adjudicated Fact 254. *See* Witness RFJ-072, Exhibit P00182, para. 16.

²⁴⁷ Witness RFJ-072, T. 6 July 2017 p. 14, Exhibit P00182, paras. 19, 34, 37. It follows from the evidence that the JNA had intelligence information about a build-up of Croatian forces in Saborsko in the days prior to the attack. *See* Exhibit P00053, p. 1; Exhibit P00190, p. 1; Exhibit 1D00019, p. 1. *See also* Witness Vuković, T. 6 July 2017 pp. 95, 96, Exhibit P00194, p. 3; Witness Bičanić, Exhibit P00387, p. 3.

²⁴⁸ Witness RFJ-072, T. 5 July 2017 pp. 41, 58, T. 6 July 2017 pp. 26, 60. *See* Witness RFJ-072, Exhibit P00182, paras. 20, 22. *See also* Adjudicated Facts 261; Witness RFJ-072, T. 6 July 2017 p. 58; Exhibit 2D00009; Exhibit 2D00010.

²⁴⁹ Witness RFJ-072, T. 5 July 2017 pp. 43, 44, 58, 59, Exhibit P00182, paras. 21, 23-25, 30, 33, Exhibit P00183. *See* Exhibit P00188; Adjudicated Fact 261.

²⁵⁰ Witness RFJ-072, Exhibit P00182, para. 24. *See* Witness RFJ-072, T. 6 July 2017 pp. 65-68; Adjudicated Fact 259.

²⁵¹ Witness RFJ-064, Exhibit P00310, p. 2, T. 31 August 2017 pp. 34, 35, 37; Witness Bičanić, Exhibit P00387, p. 3, Exhibit P00388, p. 25537.

²⁵² Witness Bičanić, Exhibit P00387, p. 4, Exhibit P00388, p. 25529; Witness RFJ-064, Exhibit P00310, p. 3. *See* Adjudicated Fact 257. Witness Bičanić described the soldiers as dressed in dark grey uniforms, wearing helmets with a five-pointed star, some having white ribbons on their upper arms, and others having camouflage caps with bills. *See* Witness Bičanić, Exhibit P00387, p. 4, Exhibit P00388, p. 25536. Witness RFJ-064 described the soldiers as wearing olive-grey and camouflage uniforms. *See* Witness RFJ-064, Exhibit P00310, p. 3. *See also* Adjudicated Fact 256.

²⁵³ Witness RFJ-064, Exhibit P00310, p. 3; Witness Bičanić, Exhibit P00387, p. 4, Exhibit P00388, p. 25529. *See* Adjudicated Fact 256.

²⁵⁴ Witness Bičanić, Exhibit P00387, p. 4, Exhibit P00388, pp. 25529, 25533; Witness RFJ-064, T. 31 August 2017 p. 37, Exhibit P00310, p. 3. *See* Witness Bičanić, Exhibit P00387, p. 25537; Adjudicated Fact 257.

²⁵⁵ Witness RFJ-064, Exhibit P00310, p. 3; Witness Bičanić, Exhibit P00387, p. 4. *See also infra* para. 66.

61. After killing the men, Serb soldiers pointed a gun at Witness Bičanić and told her and the remaining civilians that they should leave or otherwise would be killed.²⁵⁶ As the civilians were running through a field, the soldiers started shooting at them.²⁵⁷ An elderly woman was killed and another woman was wounded.²⁵⁸ In addition, at least 10 elderly Croats were killed in their houses, which were set ablaze.²⁵⁹ There is evidence that some of the Serb soldiers who participated in the attack on Saborsko boasted about the killings, with one of them saying that he committed them because he “hated all Ustashas”.²⁶⁰

62. After the attack, many Serb soldiers and policemen were present in the centre of Saborsko.²⁶¹ A shop was looted by Zdravko Pejić and individuals with the last names Cekić or Cvekić, and Momčilović, both of whom were members of Đuro (Snjaka) Ogrizović’s company.²⁶² An individual identified as “Peić”, together with Željko (Buba) Mudrić and Nedeljko (Kiča) Trbojević, as well as “other Martić’s men”, engaged in extensive looting of property and in setting houses on fire.²⁶³

63. When leaving Saborsko, Witness RFJ-064 saw houses burning and later witnessed a tank firing at the church tower.²⁶⁴ Having spent the night in a nearby forest, the civilians who fled Saborsko continued walking, joined by others who were fleeing the area, until they reached the Croatian Defence Council barracks in the village of Lipice, where they boarded a bus to Ogulin.²⁶⁵ In the words of Witness Bičanić, “[w]hoever could find a way out of that hell, fled”.²⁶⁶ Following the attack, most of the inhabitants of Saborsko fled to Karlovac, Zagreb, and Ogulin.²⁶⁷ About 30 to 60 elderly villagers, who had remained in the village, were brought to the Lička Jasenica barracks by the Plaški Territorial Defence and, on the following day, were transported by bus towards Ogulin and released in Croatian-controlled territory.²⁶⁸ According to expert evidence, by the end of 1995, 78.9% of the pre-conflict non-Serb population of Saborsko was displaced.²⁶⁹

²⁵⁶ Witness Bičanić, Exhibit P00387, p. 4; Adjudicated Fact 258. *See* Witness RFJ-064, Exhibit P00310, p. 3.

²⁵⁷ Witness RFJ-064, Exhibit P00310, p. 4; Adjudicated Fact 258.

²⁵⁸ Witness RFJ-064, Exhibit P00310, p. 4, T. 31 August 2017 p. 38. *See also* Exhibit P00912; Exhibit P00686; Adjudicated Fact 258.

²⁵⁹ Witness Vuković, T. 6 July 2017 pp. 85, 86, Exhibit P00194, p. 4, Exhibit P00195, Exhibit P00200, Exhibit P00196, pp. 2676, 2677, 2714, 2726. *See also* Witness RFJ-072, Exhibit P00182, paras. 24, 25; Exhibit P00199, p. 3.

²⁶⁰ *See* Exhibit P00193, p. 4.

²⁶¹ Adjudicated Fact 261.

²⁶² Adjudicated Fact 261. *See* Witness RFJ-072, Exhibit P00182, para. 30, Exhibit P00183, para. 3.

²⁶³ *See* Adjudicated Facts 261, 262; Witness RFJ-072, Exhibit 1D00018, p. 5, Exhibit P00182, para. 23.

²⁶⁴ Witness RFJ-064, T. 31 August 2017 p. 38, Exhibit P00310, p. 4.

²⁶⁵ Witness RFJ-064, Exhibit P00310, p. 4; Exhibit P00311; Witness Bičanić, Exhibit P00387, p. 4.

²⁶⁶ Witness Bičanić, Exhibit P00388, p. 25532.

²⁶⁷ Adjudicated Fact 263. *See also* Witness Vuković, Exhibit P00196, pp. 2726, 2727; Witness RFJ-072, T. 5 July 2017 p. 61; Exhibit 2D00010, p. 8.

²⁶⁸ Adjudicated Fact 263.

²⁶⁹ Exhibit P00595, p. 103. *See* Exhibit P00595, pp. 30, 32.

64. According to Witness Babić, who passed through the area in 1993, “villages that used to be populated by Croats and Croat houses were devastated and there were no Croat residents anymore”.²⁷⁰ Witness Bičanić testified that, in Saborsko, the Serb forces “razed everything to the ground”,²⁷¹ which was corroborated by the evidence of Witness RFJ-064 who, upon his return to Saborsko following the retaking of the area by the Croatian forces in 1995, found the village completely burned down, with only two Serb houses left partially standing.²⁷² Witness RFJ-066 also confirmed that Saborsko was “cleansed” and houses were burned down.²⁷³ In addition, one church was completely destroyed and another was heavily damaged.²⁷⁴

65. After the attack on Saborsko, Medaković, in his capacity as president of the Plaški municipality, ordered the burial of bodies and received a report that more than 20 people had been buried, including civilian women and elderly men.²⁷⁵ Witness Vuković testified that, in 1995, he was appointed commander of the Saborsko police outpost and, in this capacity, attended the exhumation of bodies from various sites in Saborsko.²⁷⁶

66. As a result of the attacks charged in the Indictment, the Trial Chamber finds proven beyond reasonable doubt that the following Croat civilians were killed by Serb forces in Poljanak, Vukovići, Lipovača, and Saborsko in the period between August and November 1991: Milan Lončar,²⁷⁷ Ivan (Ivica) Lončar,²⁷⁸ Ivica Vuković,²⁷⁹ Nikola Vuković,²⁸⁰ Vjekoslav Vuković,²⁸¹ Lucija Vuković,²⁸² Milka Vuković,²⁸³ Dane Vuković (son of Polde),²⁸⁴ Dane Vuković (son of Mate),²⁸⁵ Josip (Joso) Matovina,²⁸⁶ Nikola Matovina,²⁸⁷ Nikola Vuković,²⁸⁸ Franjo Brozinčević,²⁸⁹ Marija Brozinčević,²⁹⁰ Katarina Cindrić,²⁹¹ Mate Brozinčević,²⁹² Mirko Brozinčević,²⁹³ Mira

²⁷⁰ Witness Babić, Exhibit P01248, p. 1601. *See* Adjudicated Fact 242.

²⁷¹ Witness Bičanić, Exhibit P00388, p. 25531.

²⁷² Witness RFJ-064, Exhibit P00310, p. 4, T. 31 August 2017 p. 39. *See* Adjudicated Fact 264.

²⁷³ Witness RFJ-066, Exhibit P00202, para. 160.

²⁷⁴ Witness Bičanić, Exhibit P00387, p. 5.

²⁷⁵ Adjudicated Fact 260.

²⁷⁶ Witness Vuković, T. 6 July 2017 pp. 79-81, 85, Exhibit P00194, p. 4. *See* Witness Vuković, Exhibit P00200; Exhibit P00197; Exhibit P00198; Exhibit P00199, p. 3; Exhibit P00862, pp. 74-76.

²⁷⁷ Exhibit P00889, pp. 8, 9; Exhibit P00862, p. 73.

²⁷⁸ Exhibit P00889, pp. 7, 8; Exhibit P00862, p. 73.

²⁷⁹ Exhibit P00889, pp. 2, 3; Exhibit P00862, p. 73.

²⁸⁰ Exhibit P00889, pp. 3-5; Exhibit P00862, p. 73; Exhibit P01080, p. 2.

²⁸¹ Exhibit P00889, p. 5; Exhibit P00862, pp. 66, 74; Exhibit P00597, p. 87; Exhibit P00598, p. 7.

²⁸² Exhibit P00889, p. 5; Exhibit P00862, pp. 65, 73; Exhibit P00597, p. 87; Exhibit P00598, p. 7.

²⁸³ Exhibit P00889, p. 5; Exhibit P00862, pp. 65, 74; Exhibit P00597, p. 87; Exhibit P00598, p. 7.

²⁸⁴ Exhibit P00889, p. 5; Exhibit P00661; Exhibit P00862, pp. 65, 73; Exhibit P00597, p. 87; Exhibit P00598, p. 7.

²⁸⁵ Exhibit P00889, p. 5; Exhibit P00862, pp. 65, 73; Exhibit P00597, p. 87; Exhibit P00598, p. 7.

²⁸⁶ Exhibit P00889, p. 5; Exhibit P00862, pp. 65, 73; Exhibit P00597, p. 87; Exhibit P00598, p. 7.

²⁸⁷ Exhibit P00889, p. 5; Exhibit P00862, pp. 65, 73; Exhibit P00597, p. 87; Exhibit P00598, p. 7.

²⁸⁸ Exhibit P00889, p. 5; Exhibit P00862, pp. 66, 74; Exhibit P00597, p. 87; Exhibit P00598, p. 7.

²⁸⁹ Exhibit P00888, p. 6; Exhibit P00654; Exhibit P00862, p. 71; Exhibit P01080, p. 1; Exhibit P00605, p. 4; Adjudicated Fact 236. *See also* Witness Bilić, T. 5 October 2017 pp. 4-6.

²⁹⁰ Exhibit P00888, p. 8; Exhibit P00655; Exhibit P00862, p. 72; Exhibit P01080, p. 1; Exhibit P00605, p. 4; Adjudicated Fact 236. *See also* Witness Bilić, T. 5 October 2017 pp. 4-6.

Brozinčević,²⁹⁴ Roža Brozinčević,²⁹⁵ Milan Bičanić,²⁹⁶ Ivan Vuković,²⁹⁷ Nikola Bičanić,²⁹⁸ Juraj Štrk,²⁹⁹ Jure Vuković (born in 1929),³⁰⁰ Jure Vuković (born in 1930),³⁰¹ Petar Bičanić,³⁰² Jeka/Jela Vuković,³⁰³ and Ana Bičanić.³⁰⁴ The evidence is insufficient to establish by whom the remaining civilians were killed.³⁰⁵

4. Events in Škabrnja and Surrounding Villages

67. The Indictment alleges that, in November 1991, Serb forces, particularly members of Martić's Police, the JNA and local Serb Territorial Defence units, attacked the village of Škabrnja, near Zadar.³⁰⁶ The Indictment further states that, on 18 November 1991, these forces moved from house to house in Škabrnja and killed at least 38 non-Serb civilians in their homes or in the streets.³⁰⁷ According to the Indictment, these killings along with other crimes and acts of violence

²⁹¹ Exhibit P00888, p. 5; Exhibit P00660; Exhibit P00862, p. 73; Exhibit P01080, p. 2; Exhibit P00605, p. 4; Adjudicated Fact 236. *See also* Witness Bilić, T. 5 October 2017 pp. 4-6.

²⁹² Exhibit P00888, p. 4; Exhibit P00656; Exhibit P00862, p. 72; Exhibit P00605, p. 4; Adjudicated Fact 239. *See also* Witness Bilić, T. 5 October 2017 pp. 4-6.

²⁹³ Exhibit P00888, p. 3; Exhibit P00658; Exhibit P00862, p. 72; Exhibit P00605, p. 4; Adjudicated Fact 239. *See also* Witness Bilić, T. 5 October 2017 pp. 4-6.

²⁹⁴ Exhibit P00888, p. 7; Exhibit P00657; Exhibit P00862, p. 72; Exhibit P01080, p. 1; Exhibit P00605, p. 4; Adjudicated Fact 236.

²⁹⁵ Exhibit P00888, pp. 2, 3; Exhibit P00659; Exhibit P00862, p. 72; Exhibit P01080, p. 5; Exhibit P00605, p. 4; Adjudicated Fact 239.

²⁹⁶ Exhibit P00891; Exhibit P00663; Exhibit P00862, pp. 49, 74; Exhibit P00598, p. 7; Exhibit P00605, p. 4; Adjudicated Fact 259.

²⁹⁷ Exhibit P00911; Exhibit P00685; Exhibit P00862, pp. 53, 76; Exhibit P00598, p. 9; Exhibit P00605, p. 5; Adjudicated Fact 259.

²⁹⁸ Exhibit P00892; Exhibit P00664; Exhibit P00862, pp. 49, 74; Exhibit P00598, p. 8; Exhibit P00605, p. 4; Adjudicated Fact 259.

²⁹⁹ Exhibit P00684; Exhibit P00862, pp. 52, 76; Exhibit P00598, p. 9; Exhibit P00605, p. 5; Adjudicated Fact 259.

³⁰⁰ Exhibit P00913; Exhibit P00687; Exhibit P00862, pp. 53, 76; Exhibit P00598, p. 10; Exhibit P00605, p. 5; Adjudicated Fact 259.

³⁰¹ Exhibit P00914; Exhibit P00688; Exhibit P00862, pp. 53, 76; Exhibit P00598, p. 10; Exhibit P00605, p. 5; Adjudicated Fact 259.

³⁰² Exhibit P00893; Exhibit P00665; Exhibit P00862, pp. 49, 75; Exhibit P00598, p. 8; Exhibit P00605, p. 4; Adjudicated Fact 259.

³⁰³ Exhibit P00912; Exhibit P00686; Exhibit P00862, pp. 53, 76; Exhibit P00598, p. 9; Exhibit P00605, p. 5; Adjudicated Fact 258.

³⁰⁴ Exhibit P00890; Exhibit P00662; Exhibit P00862, pp. 49, 74; Exhibit P00598, p. 7; Exhibit P00605, p. 4; Adjudicated Fact 259.

³⁰⁵ The Trial Chamber received expert and other forensic evidence, and took judicial notice of adjudicated facts that the following 27 persons were killed in Saborsko on 12 November 1991: Ana Bičanić, Milan Bičanić, Nikola Bičanić, Petar Bičanić, Leopold Conjar, Darko Dumenčić, Kata Dumenčić, Nikola Dumenčić, Ivica Dumenčić, Ante Dumenčić, Ivan Matovina, Kata Matovina (born 1920), Kata Matovina (born 1918), Lucija Matovina, Marija Matovina, Marta Matovina, Mate Matovina (born 1895), Milan Matovina, Slavica Matovina, Slavko Sertić, Mate Špehar, Josip Štrk, Juraj Štrk, Ivan Vuković, Jeka/Jela Vuković, Jure Vuković (born in 1929), Jure Vuković (born in 1930), and Petar Vuković. *See* Exhibit P00862, pp. 74-76; Exhibit P00598, pp. 7-10; Adjudicated Fact 259.

³⁰⁶ Indictment, para. 32.

³⁰⁷ Indictment, para. 32.

associated with the attack resulted in the forcible displacement of the non-Serb population from the area,³⁰⁸ and the murders and forcible displacement amounted to persecution.³⁰⁹

68. In connection with these allegations, the Prosecution argues that, from September until November 1991, Serb forces repeatedly attacked the predominantly Croat villages of Škabrnja, Nadin, Polača, and their surrounding hamlets.³¹⁰ According to the Prosecution, the attacks in Škabrnja culminated on 18 and 19 November 1991 with the killing of at least 46 civilians and 11 civilian defenders, who were not taking active part in the hostilities at the time of their death, by Serb forces, including members of a special police unit headed by Goran Opačić, the JNA, the SAO Krajina police and Territorial Defence, and Serb volunteer units.³¹¹ The Prosecution further argues that during and following these attacks, the Serb forces physically expelled the non-Serbs from the region and, through the commission of crimes, forced the remaining non-Serb population to flee.³¹²

69. In their final trial briefs, the Accused do not contest that crimes were committed in the area of Škabrnja and Nadin. However, Simatović argues that the responsibility for the events in the area rests entirely with the JNA and that none of the crimes are attributable to him as he was neither present in the area nor had any involvement with the forces that committed the crimes.³¹³

70. In assessing these events, the Trial Chamber notes that the fundamental features of the evidence related to the crimes and their surrounding circumstances are not disputed. The Trial Chamber was presented with relevant evidence from several Prosecution witnesses, including Witnesses Marko Miljanić, Luka Brkić, Neven Šegarić, and Tomislav Šegarić, who were direct witnesses to the events in Škabrnja, as well as from Defence Witnesses Aco Drača and Goran Opačić. The Trial Chamber has also considered forensic and documentary evidence and has taken judicial notice of adjudicated facts in relation to these events, where appropriate.

71. Škabrnja is located in south-western Croatia and, in 1991, formed part of the municipality of Zadar, which bordered the Benkovac municipality to the south-east. In the beginning of 1991, Škabrnja had approximately 2,000 inhabitants, almost all of them Croat.³¹⁴ The ethnic composition

³⁰⁸ Indictment, paras. 64-66.

³⁰⁹ Indictment, paras. 22-25.

³¹⁰ Prosecution Final Trial Brief, para. 715. *See also* Prosecution Pre-Trial Brief, para. 131; Prosecution Closing Arguments, T. 12 April 2021 p. 5.

³¹¹ Prosecution Final Trial Brief, paras. 682, 716, 719, Annex A, para. 112. *See also* Prosecution Pre-Trial Brief, para. 132; Prosecution Closing Arguments, T. 12 April 2021 pp. 5, 6.

³¹² Prosecution Final Trial Brief, para. 720. *See also* Prosecution Final Trial Brief, para. 717; Prosecution Pre-Trial Brief, para. 131; Prosecution Closing Arguments, T. 12 April 2021 p. 6.

³¹³ Simatović Final Trial Brief, paras. 442, 470, 471; Simatović Pre-Trial Brief, paras. 148-150.

³¹⁴ Adjudicated Facts 265, 266; Witness Miljanić, Exhibit P00288, p. 2, T. 29 August 2017 p. 13, Exhibit P00291, pp. 2862, 2915. *See also* Prosecution Closing Arguments, T. 12 April 2021 p. 5.

of Nadin, a village in the vicinity of Škabrnja, was also predominantly Croat.³¹⁵ There were three churches in and around Škabrnja, the church of the Assumption of the Virgin in the centre of Škabrnja, St. Mary's Church in the hamlet of Ambar, and St. Luke's Church to the west of the centre of Škabrnja.³¹⁶

72. In 1991, units of the JNA 9th Corps of the Benkovac Territorial Defence and of the SAO Krajina police were active in the areas around Škabrnja and Nadin.³¹⁷ The JNA had numerous facilities on the territory of Zadar municipality, and, in particular, in the vicinity of Škabrnja, which was situated near the road connecting Knin, Zadar, and Benkovac and led to the Zemunic air field.³¹⁸ The only railway connecting Zadar, Benkovac, and Knin was also passing through Škabrnja, which, due to its elevation, was of tactical importance.³¹⁹

73. The evidence shows that, in the summer of 1991, JNA barracks across Croatia, including in Zadar and the JNA air force base in Zemunic, were under blockade by Croatian forces.³²⁰ Starting on 16 September 1991, the JNA commenced a military operation to lift the blockade in the area.³²¹ As part of this operation, the JNA shelled Škabrnja for the first time on 25 September 1991, which included the use of incendiary bombs, setting the surrounding forest on fire.³²² Pursuant to an order of the Zadar Municipality Crisis Committee, the civilian population of Škabrnja was evacuated on 1 or 2 October 1991, with only members of the reserve police force and volunteers remaining in the village.³²³ On 2 October 1991, the JNA attacked the nearby villages of Nadin and Zemunik Gornji using infantry and tanks, as well as Škabrnja using cluster bombs and dropping messages such as "greetings from the JNA for Tudman's rats".³²⁴ However, many of the civilians returned to Škabrnja following the signing of a cease-fire agreement on 5 November 1991.³²⁵

74. At a meeting held on 17 November 1991 with the Benkovac War Presidency and attended by Witness Drača, Mladić, who at the time was Chief of Staff and Assistant Commander of the JNA

³¹⁵ Witness Miljanić, T. 29 August 2017 p. 13, Exhibit P00291, p. 2862.

³¹⁶ Adjudicated Fact 268.

³¹⁷ Adjudicated Fact 269.

³¹⁸ Witness Miljanić, T. 30 August 2017 pp. 5, 22, 23, 33; Witness Drača, Exhibit 2D00331, pp. 16728, 16729, 17091, 17092; Exhibit P00305.

³¹⁹ Witness Miljanić, T. 30 August 2017 p. 22, T. 29 August 2017 pp. 51-53.

³²⁰ Witness Babić, Exhibit P01246, pp. 13692, 13988, 13989, 13991, Exhibit P01248, p. 1930; Witness Maksić, Exhibit P00025, para. 82; Witness RFJ-151, T. 21 September 2017 pp. 20, 21; Witness Drača, T. 4 December 2019 p. 17, T. 26 November 2019 pp. 43, 44, Exhibit 2D00331, pp. 16688, 16689; Exhibit P03304, p. 2.

³²¹ Exhibit P00049; Witness Maksić, Exhibit P00025, para. 82.

³²² Witness Miljanić, Exhibit P00288, p. 3. *See also* Witness L. Brkić, Exhibit P00303, p. 3; Adjudicated Fact 270.

³²³ Adjudicated Fact 270; Witness Miljanić, Exhibit P00288, p. 3, Exhibit P00291, pp. 2863, 2865, 2866. *See also* Witness N. Šegarić, Exhibit P00408, p. 2; Witness T. Šegarić, Exhibit P00410, p. 2.

³²⁴ Witness Miljanić, Exhibit P00288, p. 3, Exhibit P00292, pp. 2360-2362, 2377, 2378, Exhibit P00291, p. 2926. *See also* Witness L. Brkić, Exhibit P00303, p. 3, Exhibit P00304, pp. 3392, 3393.

³²⁵ Witness Miljanić, Exhibit P00288, p. 4, Exhibit P00290, pp. 24343, 24354, 2916, Exhibit P00291, p. 2863; Witness L. Brkić, Exhibit P00303, p. 3; Exhibit 1D00028, p. 7.

9th Corps,³²⁶ stated that the blockade of the road leading to Škabrnja prevented the supply of fuel and food to the JNA air force base at Zemunik, and announced that the following morning a military operation to unblock the road would begin.³²⁷ At the meeting, Mladić declared his intention to, in essence, erase the village of Škabrnja.³²⁸

75. The attack against Škabrnja and Nadin commenced in the early hours of 18 November 1991 and was accompanied by intense fighting between the Serb and Croatian forces, until the complete takeover of the area by the Serb forces on 19 November 1991.³²⁹ Both the Croatian and the Serb sides had mortars and artillery.³³⁰ Nadin was shelled from the direction of the Serb villages of Biljane or Lišane, and the shelling continued throughout the day.³³¹ Most of the women and children left Nadin and went to Polača, Zaton, and Zadar, while only men and a few women remained in the village.³³² The JNA shelled Škabrnja from the directions of Polača, Debelo Brdo, Veljane, Biljane, and Zemunik airport.³³³ At the start of the attack, around 100 members of the civilian defence were stationed throughout the village,³³⁴ while the civilian population was instructed to hide in cellars.³³⁵ Two women were killed at the start of the attack,³³⁶ and cluster bombs fell near the school, the church, and the village centre.³³⁷

76. It follows from undisputed evidence on the record and the adjudicated facts that, during and in the immediate aftermath of the attack on Škabrnja, Serb forces dragged Croat civilians from their shelters and beat and killed them on the streets.³³⁸ Among the evidence that the Trial Chamber received was that of Witness Neven Šegarić, a Croat, who on the morning of 18 November 1991 was hiding in the cellar of his uncle's house along with civilian members of his family and

³²⁶ Exhibit P03757; Witness Maksić, Exhibit P00025, para. 29; Witness Babić, Exhibit P01247, p. 3391, Exhibit P01244, para. 15.

³²⁷ Witness Drača, T. 27 November 2019 pp. 91, 101, 102, T. 26 November 2019 p. 51, Exhibit 2D00331, pp. 16732, 16734, 16736, 16936; Exhibit P02886, p. 348. *See also* Exhibit P00064, p. 1.

³²⁸ Witness Drača, T. 27 November 2019 pp. 91, 92, T. 26 November 2019 p. 52, Exhibit 2D00331, p. 16734; Exhibit P02886, pp. 348, 356. *See also* Exhibit P00049, pp. 1, 2, 4.

³²⁹ Witness Drača, T. 26 November 2019 p. 56, Exhibit 2D00331, pp. 16737, 16739, 16741; Witness Miljanić, Exhibit P00291, pp. 2869, 2901, 2902, Exhibit P00288, pp. 4, 5; Witness L. Brkić, Exhibit P00303, p. 3; Exhibit 1D00028, p. 7; Exhibit 2D00354; Adjudicated Facts 275-279, 281. *See also* Exhibit 2D00352, pp. 1, 3.

³³⁰ Adjudicated Fact 275; Witness Miljanić, T. 30 August 2017 pp. 11-14, T. 29 August 2017 pp. 58, 59; Exhibit P00291, pp. 2901, 2902; Exhibit 1D00028, p. 7; Witness L. Brkić, T. 31 August 2017 p. 20, Exhibit P00304, p. 3226.

³³¹ Adjudicated Fact 275.

³³² Adjudicated Fact 275. *See also* Witness Miljanić, Exhibit P00288, p. 5.

³³³ Witness Miljanić, Exhibit P00288, p. 4, T. 30 August 2017 pp. 13, 14, Exhibit P00291, p. 2869, Exhibit P00292, pp. 2367, 2368, Exhibit P00288, p. 4.

³³⁴ Witness Miljanić, Exhibit P00292, pp. 2367, 2368.

³³⁵ Witness Miljanić, Exhibit P00288, p. 4, Exhibit P00291, p. 2869, Exhibit P00292, pp. 2367, 2368. *See also* Witness L. Brkić, Exhibit P00304, pp. 3399-3402; Witness N. Šegarić, Exhibit P00408, pp. 2, 3; Witness T. Šegarić, Exhibit P00410, p. 3.

³³⁶ Witness Miljanić, Exhibit P00291, pp. 2869, 2870, Exhibit P00288, p. 4.

³³⁷ Witness Miljanić, Exhibit P00292, pp. 2377, 2378, Exhibit P00291, p. 2871.

³³⁸ Witness N. Šegarić, Exhibit P00408, pp. 3, 5, Exhibit P00409, pp. 2835, 2836; Witness T. Šegarić, Exhibit P00410, pp. 3-5; Witness Miljanić, Exhibit P00292, p. 2384, Exhibit P00288, pp. 4-6, Exhibit P00290, p. 24355; Exhibit

neighbours.³³⁹ The witness stated that persons in military attire,³⁴⁰ whom he described as “Chetniks”, called everyone out of the cellar, shouting “come out you Ustase, we are going to slaughter you all”.³⁴¹ The “Chetniks” subsequently killed Lucia Šegarić, 62 years old, and beat and shot in the head Krsto Šegarić, who was 60 or 61 years old.³⁴² A Croat woman, who was in her 90s and bedridden, was killed in her bed.³⁴³ A soldier, dressed in a camouflage uniform with SAO Krajina insignia on his shoulder, forced Stana Vicković and Josip Miljanić to kneel, and shot each of them in the head.³⁴⁴

77. The Trial Chamber also received the evidence of Witness Tomislav Šegarić, who on the morning of the attack hid in the cellar of Pešo Pavičić’s house with about 25-30 other civilians, including many women, children, and elderly people.³⁴⁵ Between 12.30 and 1.00 p.m., the witness heard men shouting outside the cellar and telling everyone to come out or they would throw in a grenade.³⁴⁶ As the civilians started leaving the cellar with their hands up, individuals in military attire,³⁴⁷ who the witness described as “Chetniks”, were pulling some of them aside and killing them, including the witness’s grandfather, Vice Šegarić, who was about 65 years old.³⁴⁸ Witness Tomislav Šegarić saw Chetniks beating his uncles, Bude Šegarić and Šime Šegarić, who were later killed, and saw the bodies of 10 more people, including those of Ivica Šegarić, his uncle, and Pešo Pavičić.³⁴⁹ In total, nine members of Witness Tomislav Šegarić’s extended family were killed that day.³⁵⁰

78. The Trial Chamber also received evidence that, in the course of the attack, members of the JNA placed Croat civilians, including women, children, and the elderly, around tanks as human shields.³⁵¹ It further follows from the evidence that members of the Serb forces engaged in extensive looting and destruction of Croat property, with houses and a cemetery razed to the

P00063; Exhibit P00300; Exhibit P00298; Adjudicated Facts 285, 286, 289. *See also* Witness B. Brkić, Exhibit P00442, p. 2.

³³⁹ Witness N. Šegarić, Exhibit P00408, pp. 2, 3, Exhibit P00409, pp. 2835, 2836.

³⁴⁰ Witness N. Šegarić stated that the uniforms were green camouflage with the JNA red star on the buttons and the epaulets and “SAO Krajina” written in Cyrillic on the shoulders. *See* Witness N. Šegarić, Exhibit P00408, p. 3.

³⁴¹ Witness N. Šegarić, Exhibit P00408, pp. 3, 5; Adjudicated Facts 282-287.

³⁴² Witness N. Šegarić, Exhibit P00408, pp. 2, 3, 5.

³⁴³ Witness N. Šegarić, Exhibit P00408, pp. 1, 5; Witness Miljanić, Exhibit P00297, p. 6, Exhibit P00288, p. 4; Adjudicated Fact 291.

³⁴⁴ Witness N. Šegarić, Exhibit P00408, p. 3. *See also* Adjudicated Fact 287.

³⁴⁵ Witness T. Šegarić, Exhibit P00410, pp. 2, 3; Adjudicated Fact 288.

³⁴⁶ Witness T. Šegarić, Exhibit P00410, p. 3; Adjudicated Fact 288.

³⁴⁷ According to Witness T. Šegarić, the uniforms were camouflage and some bore either “SAO Krajina” patches or a Chetnik insignia (*kokarda*). *See* Witness T. Šegarić, Exhibit P00410, p. 3.

³⁴⁸ Witness T. Šegarić, Exhibit P00410, p. 3; Adjudicated Fact 290.

³⁴⁹ Witness T. Šegarić, Exhibit P00410, pp. 3, 4.

³⁵⁰ Witness T. Šegarić, Exhibit P00410, p. 5. *See also* Adjudicated Facts 289, 290.

³⁵¹ Witness Miljanić, Exhibit P00288, p. 5, Exhibit P00291, pp. 2876, 2913, Exhibit P00292, p. 2396, T. 29 August 2017 pp. 25, 37, 38; Exhibit P00300; Witness L. Brkić, Exhibit P00303, p. 5, T. 31 August 2017 pp. 24, 25, Exhibit P00304, pp. 3246, 3402, 3403.

ground, the Catholic church of St. Mary's destroyed, and two other churches seriously damaged.³⁵² The building of the primary school was also damaged during the attack, and "Welcome to a dead village" was written on the wall.³⁵³ Škabrnja and Nadin were almost entirely razed to the ground.³⁵⁴ During the night of 19 September 1991, "everything was burning" in Nadin.³⁵⁵

79. During the first night of the attack, all civilians from the not-yet occupied part of the village left Škabrnja in the direction of Prkos and Vlačine airfield, and travelled onwards to Zadar.³⁵⁶ Civilians were also taken out of Škabrnja by members of the JNA and the Territorial Defence and transported to territory under the control of Croatian forces.³⁵⁷ Following the attack, no Croat civilians remained in Škabrnja and none returned until after the Croatian forces retook the area in 1995.³⁵⁸ Expert evidence demonstrates that the majority of non-Serbs fled Škabrnja on the day of the attack and, by April 1995, about 665 non-Serb civilians from Nadin and about 1,500 non-Serb civilians from Škabrnja were displaced.³⁵⁹

80. On 20 November 1991, the JNA Naval Military District in Split, on the request of the European Community Monitoring Mission, asked the JNA 9th Corps command to provide a report on the killings in Škabrnja and Nadin that were committed on 18 and 19 November 1991.³⁶⁰ In November 1991, the JNA handed over to the Croatian National Guard 38 dead bodies retrieved from Škabrnja and seven bodies retrieved from Nadin.³⁶¹ The security organ of the 180th Motorised Brigade of the JNA 9th Corps, under the command of Major Branislav Ristić, conducted an on-site investigation into the killings in cooperation with the Benkovac Public Security Station.³⁶² According to a JNA report dated 8 March 1992, the killings were committed by members of the Benkovac Territorial Defence Staff special units or units that fought under their command, who were Serbian volunteers, and "Opačić's group composed of combatants from [the] area".³⁶³ It

³⁵² Witness Miljanić, Exhibit P00289, p. 1, Exhibit P00291, pp. 2925, 2926, T. 29 August 2017 pp. 45-47, Exhibit P00292, pp. 2377, 2378; Exhibit P00063, p. 3; Exhibit P00295; Exhibit P00302; Witness L. Brkić, Exhibit P00303, pp. 5, 6, T. 30 August 2017 pp. 44, 45, Exhibit P00304, pp. 3239, 3241, 3242, 3290, 3291, 3430; Witness N. Šegarić, Exhibit P00409, pp. 2847-2851; Witness B. Brkić, Exhibit P00442, pp. 3, 4; Exhibit P00064, p. 3; Adjudicated Facts 277, 278.

³⁵³ Witness Miljanić, T. 29 August 2017 p. 46.

³⁵⁴ Witness Staničić, Exhibit 1D00212, p. 12444; Witness L. Brkić, Exhibit P00304, p. 3290; Witness Drača, T. 27 November 2019 p. 92, T. 26 November 2019 p. 53, Exhibit 2D00331, p. 17021; Exhibit P02886, p. 356.

³⁵⁵ Adjudicated Fact 298.

³⁵⁶ Witness Miljanić, Exhibit P00288, p. 5, Exhibit P00290, p. 24354; Witness B. Brkić, Exhibit P00442, p. 2.

³⁵⁷ Adjudicated Fact 279; Witness N. Šegarić, Exhibit P00408, pp. 4, 5; Witness T. Šegarić, Exhibit P00410, pp. 4, 5; Witness Drača, Exhibit 2D00331, pp. 16775, 16776.

³⁵⁸ Witness Drača, T. 28 November 2019 p. 58; Witness Babić, Exhibit P01246, pp. 13408, 13409. *See also* Exhibit P01320.

³⁵⁹ Exhibit P00595, pp. 30, 32, 87, 138; Adjudicated Fact 280.

³⁶⁰ Adjudicated Fact 300.

³⁶¹ Witness Jelić, Exhibit P00392, pp. 2, 3.

³⁶² Exhibit P03314; Exhibit P03341; Witness Drača, T. 26 November 2019 pp. 57-60, T. 28 November 2019 p. 11, Exhibit 2D00331, pp. 16751, 16752; Exhibit P02887, p. 40; Adjudicated Fact 300.

³⁶³ Exhibit P00301, p. 1; Witness RFJ-107, Exhibit P00313, para. 136; Exhibit P00219.

appears from the evidence that the findings in the report were never forwarded to the military prosecutor.³⁶⁴

81. The Trial Chamber considers that the record shows that the attack on Škabrnja was carried out by the 180th Motorised Brigade of the JNA 9th Corps, composed of regular soldiers and reservists, with the participation of units of the Benkovac Territorial Defence, subordinated to the JNA, and Serb volunteers referred to as “Chetniks”.³⁶⁵ Members of the JNA 63rd Airborne unit from Niš³⁶⁶ and Golubić-trained members of the Benkovac Public Security Station special police unit also took part in the attack.³⁶⁷ The Trial Chamber further finds that Opačić, a member of the Benkovac Public Security Station special police unit, was present in Škabrnja at some point on 18 November 1991.³⁶⁸ In making this finding, the Trial Chamber is mindful of Witness Drača’s testimony that neither Opačić nor the special police unit took part in the attack on Škabrnja.³⁶⁹ The Trial Chamber, however, does not find this aspect of Witness Drača’s evidence, or the evidence of Witness Opačić denying his involvement in the attack,³⁷⁰ convincing when weighed against the evidence underpinning its finding.

82. As a result of the attack charged in the Indictment, the Trial Chamber finds proven beyond reasonable doubt that the following civilians were killed in Škabrnja or Nadin on 18 and 19 November 1991 by members of the Serb forces identified above:³⁷¹ Stana Vicković,³⁷² Josip

³⁶⁴ Witness Drača, T. 26 November 2019 pp. 63, 64, T. 27 November 2019 p. 102; Exhibit 2D00134.

³⁶⁵ Witness Theunens, T. 21 March 2018 pp. 22, 23; Witness Drača, Exhibit 2D00331, p. 16746, T. 28 November 2019 p. 9, T. 26 November 2019 pp. 54, 55; Exhibit 2D00335; Exhibit P03060; Exhibit 2D00352, p. 4; Witness Maksić, Exhibit P00025, paras. 82, 130; Witness N. Šegarić, Exhibit P00408, p. 3; Witness T. Šegarić, Exhibit P00410, p. 3; Witness L. Brkić, T. 30 August 2017 pp. 45, 57, 58, 60, 61, T. 31 August 2017 p. 3, Exhibit P00303, p. 5, Exhibit P00304, pp. 3235-3237; Witness Babić, Exhibit P01246, pp. 13065, 13066, 13405, 13406; Adjudicated Facts 271-273. The Trial Chamber does not find credible the evidence of Witness RFJ-107 that Arkan paid individuals to fight in Škabrnja. *See* Witness RFJ-107, Exhibit P00313, para. 133, T. 6 September 2017 pp. 64-68.

³⁶⁶ Witness Drača, Exhibit 2D00331, pp. 16757, 16758; Witness Miljanić, T. 30 August 2017 p. 15; Witness L. Brkić, T. 31 August 2017 pp. 5, 6; Exhibit 2D00025; Exhibit 2D00335, p. 2.

³⁶⁷ Exhibit P00301; Exhibit P01971; Exhibit P00219. *See also* Witness Drača, T. 28 November 2019 pp. 6, 7, 9, 18, 20.

³⁶⁸ Adjudicated Fact 274; Exhibit P01971, p. 9; Exhibit P00301; Witness Babić, Exhibit P01246, p. 13406, Exhibit P01248, p. 1601; Witness RFJ-066, Exhibit P00202, paras. 163, 164; Witness Miljanić, T. 30 August 2017 pp. 34-39, T. 29 August 2017 pp. 39-43, 60-67, Exhibit P00291, pp. 2879, 2880, 2922, 2923, Exhibit P00292, pp. 2429, 2430; Exhibit 1D00031, p. 2; Witness RFJ-107, Exhibit P00313, para. 136; Exhibit 2D00392; Exhibit 2D00393; Exhibit P00219.

³⁶⁹ Witness Drača, T. 26 November 2019 pp. 61, 62, T. 28 November 2019 pp. 9, 13-15, 19, 20, Exhibit 2D00331, pp. 17019, 17020, 17091, 17092. The Trial Chamber notes that, according to Witness Drača, the special police unit “fell apart” after Opačić left, which the witness stated occurred 20 days before the attack in Škabrnja. However, Witness Drača testified that members of the Benkovac Public Security Station special police unit did take part in the Škabrnja attack. *See* Witness Drača, T. 28 November 2019 pp. 18-20.

³⁷⁰ Witness Opačić, Exhibit 2D00385, pp. 18195, 18196, 18207, 18208-18210, 18228, 18284-18286, 18290, 18297, 18298.

³⁷¹ *See also* Adjudicated Facts 290, 294, 295.

³⁷² Exhibit P00862, pp. 61, 82; Exhibit P00952; Witness N. Šegarić, Exhibit P00408, p. 5; Exhibit P00294, p. 13; Adjudicated Fact 286. *See also* Witness Miljanić, T. 29 August 2017 p. 8; Exhibit P00298.

Miljanić,³⁷³ Krsto Šegarić,³⁷⁴ Vice Šegarić,³⁷⁵ Lucia (Luca) Šegarić,³⁷⁶ Joso Brkić,³⁷⁷ Marija Brkić,³⁷⁸ Marko Brkić,³⁷⁹ Željko Ćurković,³⁸⁰ Mile Pavičić,³⁸¹ Petar (Pešo) Pavičić,³⁸² Ljubo Perica,³⁸³ Ivan Ražov,³⁸⁴ Kata (Soka) Rogić,³⁸⁵ Grgica (Maja) Šegarić,³⁸⁶ Rade Šegarić,³⁸⁷ Jozo Miljanić,³⁸⁸ Slavka Miljanić,³⁸⁹ Ilija Ražov,³⁹⁰ Petar Jurić³⁹¹, Niko Pavičić,³⁹² Josip Perica,³⁹³ Jela Ražov,³⁹⁴ Nikola Rogić,³⁹⁵ Mara Žilić,³⁹⁶ Roko Žilić,³⁹⁷ Grgo Jurić,³⁹⁸ and Tadija Žilić.³⁹⁹ The following members of the civilian defence, who were not taking active part in hostilities at the time

³⁷³ Exhibit P00862, pp. 56, 78; Exhibit P00929; Witness N. Šegarić, Exhibit P00408, p. 5; Witness Miljanić, T. 29 August 2017 p. 15, Exhibit P00297, p. 3; Exhibit P00294, p. 9; Exhibit P00597, p. 91; Exhibit P00598, p. 12; Adjudicated Fact 286.

³⁷⁴ Exhibit P00862, pp. 59, 81; Exhibit P00944; Exhibit P00294, p. 12; Exhibit P00597, p. 92; Exhibit P00598, p. 14; Adjudicated Fact 286.

³⁷⁵ Exhibit P00862, pp. 60, 81; Exhibit P00946; Witness T. Šegarić, Exhibit P00410, p. 6; Exhibit P00294, p. 12; Exhibit P00597, p. 92; Exhibit P00598, p. 15; Adjudicated Fact 290.

³⁷⁶ Exhibit P00862, pp. 60, 81; Exhibit P00916, pp. 22-24; Witness Miljanić, Exhibit P00290, p. 24344; Exhibit P00294, p. 12; Exhibit P00597, p. 92; Exhibit P00598, p. 14; Adjudicated Fact 285.

³⁷⁷ Exhibit P00862, pp. 54, 77; Exhibit P00918; Witness Miljanić, Exhibit P00297, p. 2; Exhibit P00294, p. 6; Exhibit P00597, p. 90; Exhibit P00598, p. 10; Adjudicated Fact 290.

³⁷⁸ Exhibit P00862, pp. 54, 77; Exhibit P00919; Witness Miljanić, Exhibit P00297, p. 2; Witness L. Brkić, T. 30 August 2017 pp. 53, 54; Exhibit P00294, pp. 6, 7; Exhibit P00597, p. 90; Exhibit P00598, p. 10; Adjudicated Fact 294.

³⁷⁹ Exhibit P00862, pp. 54, 55, 77; Exhibit P00920; Witness Miljanić, Exhibit P00297, p. 2; Witness L. Brkić, T. 30 August 2017 pp. 53, 54; Exhibit P00294, p. 7; Exhibit P00597, p. 90, Exhibit P00598, p. 10; Adjudicated Fact 294.

³⁸⁰ Exhibit P00862, pp. 55, 77; Exhibit P00923; Exhibit P00597, p. 90; Exhibit P00598, p. 11; Adjudicated Fact 294.

³⁸¹ Exhibit P00862, pp. 56, 79; Exhibit P00933; Exhibit P00597, p. 91; Exhibit P00598, p. 12; Adjudicated Fact 290.

³⁸² Exhibit P00862, pp. 56, 79; Exhibit P00932; Exhibit P00294, p. 10; Exhibit P00597, p. 91; Exhibit P00598, p. 12; Adjudicated Fact 290.

³⁸³ Exhibit P00862, pp. 57, 79; Exhibit P00936; Exhibit P00294, p. 10; Exhibit P00597, p. 91; Exhibit P00598, p. 13; Adjudicated Fact 294.

³⁸⁴ Exhibit P00862, pp. 58, 80; Exhibit P00938; Exhibit P00294, p. 11; Exhibit P00597, p. 91; Exhibit P00598, p. 13; Adjudicated Fact 294.

³⁸⁵ Exhibit P00862, pp. 58, 81; Exhibit P00941; Exhibit P00294, p. 11; Exhibit P00597, p. 91; Exhibit P00598, p. 13; Adjudicated Fact 290.

³⁸⁶ Exhibit P00862, pp. 59, 81; Exhibit P00943; Exhibit P00294, p. 12; Exhibit P00597, p. 92; Exhibit P00598, p. 14; Adjudicated Fact 291.

³⁸⁷ Exhibit P00862, pp. 60, 81; Exhibit P00945; Exhibit P00294, p. 12; Exhibit P00597, p. 92; Exhibit P00598, p. 14; Adjudicated Fact 290.

³⁸⁸ Exhibit P00862, pp. 56, 78; Exhibit P00597, p. 91; Exhibit P00598, p. 12; Adjudicated Fact 290.

³⁸⁹ Adjudicated Fact 290.

³⁹⁰ Exhibit P00862, pp. 58, 80; Exhibit P00597, p. 91; Exhibit P00598, p. 13; Adjudicated Fact 290.

³⁹¹ Exhibit P00862, pp. 56, 78; Exhibit P00928; Exhibit P00294, p. 9; Exhibit P00597, p. 91; Exhibit P00598, p. 12; Adjudicated Fact 294.

³⁹² Exhibit P00862, pp. 56, 79; Exhibit P00931; Exhibit P00294, p. 9; Exhibit P00597, p. 91; Exhibit P00598, p. 12; Adjudicated Fact 294.

³⁹³ Exhibit P00862, p. 79; Exhibit P00925, pp. 1-3; Exhibit P00294, p. 10; Exhibit P00597, p. 91; Exhibit P00598, p. 13; Adjudicated Fact 294.

³⁹⁴ Exhibit P00862, pp. 58, 80; Exhibit P00939; Exhibit P00294, p. 11; Exhibit P00597, p. 91; Exhibit P00598, p. 13; Adjudicated Fact 294.

³⁹⁵ Exhibit P00862, pp. 59, 81; Exhibit P00942; Exhibit P00294, p. 11; Exhibit P00597, p. 92; Exhibit P00598, p. 14; Adjudicated Fact 294.

³⁹⁶ Exhibit P00862, pp. 61, 82; Exhibit P00954; Exhibit P00294, p. 13; Exhibit P00597, p. 92; Exhibit P00598, p. 16; Adjudicated Fact 294.

³⁹⁷ Exhibit P00862, pp. 61, 82; Exhibit P00956; Exhibit P00294, p. 14; Exhibit P00597, p. 92; Exhibit P00598, p. 16; Adjudicated Fact 294.

³⁹⁸ Exhibit P00862, pp. 55, 56, 78; Exhibit P00927; Exhibit P00294, p.8; Exhibit P00597, p. 91; Exhibit P00598, p. 12; Adjudicated Fact 294.

³⁹⁹ Exhibit P00862, pp. 62, 83; Exhibit P00957; Exhibit P00294, p.14; Exhibit P00597, p. 92; Exhibit P00598, p. 16; Adjudicated Fact 294.

of their death, were also killed: Ante Ražov,⁴⁰⁰ Vladimir Horvat,⁴⁰¹ Gašpar Perica,⁴⁰² Ivica Šegarić,⁴⁰³ and Marko Rogić.⁴⁰⁴

83. While the Trial Chamber received evidence that more people had been killed, it considers that the evidence is insufficient to establish beyond reasonable doubt their status, the circumstances of their death, or the identity of the perpetrators.

5. Events in Bruška and Marinovići

84. The Indictment alleges that, on 21 December 1991, Serb forces, particularly members of Martić's Police, entered the village of Bruška and the hamlet of Marinovići where they killed 10 civilians, including nine Croats.⁴⁰⁵ According to the Indictment, these killings along with other crimes and acts of violence resulted in the forcible displacement of the non-Serb population from the area,⁴⁰⁶ and the murders and forcible displacement amounted to persecution.⁴⁰⁷

85. In connection with these allegations, the Prosecution submits that, from at least September through December 1991, the SAO Krajina police and local armed Serbs stopped, searched, and harassed Croat villagers around Bruška.⁴⁰⁸ The Prosecution further submits that, on 21 December 1991, the Golubić-trained special unit of the Benkovac Public Security Service, commanded by Goran Opačić, attacked several civilian homes in the Croat hamlet of Marinovići in Bruška, murdering nine Croats and one Serb.⁴⁰⁹ According to the Prosecution, through these attacks the Serb forces terrorized the Croat population of Bruška, leaving them no choice but to flee for their lives.⁴¹⁰

86. In their final trial briefs, the Accused do not contest that crimes were committed in Bruška. However, Simatović argues that the perpetrators were neither members of the Milicija Krajina nor

⁴⁰⁰ Exhibit P00862, pp. 57, 80; Exhibit P00299; Witness Miljanić, T. 29 August 2017 pp. 15, 17, 20-22, Exhibit P00292, p. 2388, Exhibit P00297, p. 4; Exhibit P00294, pp. 3, 4; Exhibit P00597, p. 91; Exhibit P00598, p. 14; Adjudicated Facts 292, 297.

⁴⁰¹ Exhibit P00862, pp. 55, 78; Exhibit P00924; Witness Miljanić, Exhibit P00292, p. 2387; Exhibit P00294, p. 2; Exhibit P00597, p. 90; Exhibit P00598, p. 11; Adjudicated Fact 297.

⁴⁰² Exhibit P00862, pp. 57, 79; Exhibit P00935; Exhibit P00294, p. 3; Exhibit P00597, p. 91; Exhibit P00598, p. 13; Adjudicated Fact 297.

⁴⁰³ Exhibit P00862, pp. 59, 81; Exhibit P00949; Witness Miljanić, Exhibit P00297, p. 6; Exhibit P00294, p. 4; Exhibit P00597, p. 92; Exhibit P00598, p. 15; Adjudicated Facts 290.

⁴⁰⁴ Exhibit P00862, pp. 58, 80; Exhibit P00940; Exhibit P00294, p. 4; Exhibit P00597, p. 91; Exhibit P00598, p. 14; Adjudicated Fact 297.

⁴⁰⁵ Indictment, para. 35. See Prosecution Pre-Trial Brief, Annex A, RP. 6556.

⁴⁰⁶ Indictment, paras. 64-66.

⁴⁰⁷ Indictment, paras. 24, 25. See Indictment paras. 22, 23.

⁴⁰⁸ Prosecution Final Trial Brief, paras. 357, 721; Prosecution Pre-Trial Brief, para. 133.

⁴⁰⁹ Prosecution Final Trial Brief, paras. 357, 722-724; Prosecution Pre-Trial Brief, para. 134.

⁴¹⁰ Prosecution Final Trial Brief, para. 725.

trained at Golubić, and that there was a personal motive behind the killings.⁴¹¹ He further submits that the residents of Bruška decided to leave the village despite being given reassurances for their safety by the Serb authorities, and that the crimes committed in Bruška cannot be attributed to him.⁴¹²

87. The Trial Chamber was presented with relevant evidence from several Prosecution witnesses, including Witnesses Ante Marinović and Jasna Denona, who were direct witnesses to the events, and Defence Witness Aco Drača. The Trial Chamber has also considered forensic and documentary evidence and has taken judicial notice of adjudicated facts in relation to the alleged events, where appropriate.

88. The village of Bruška is located about 15 kilometres east of Benkovac and, in 1991, about 400 people lived in the village, nearly 90% of them Croats and 10% Serbs.⁴¹³ Marinovići, a Croat hamlet in Bruška, comprised of eight houses.⁴¹⁴

89. It follows from the evidence that, from February 1991, local armed Serbs, including some wearing olive green-grey and camouflage uniforms, as well as some wearing “Milicija Krajina” insignia, erected barricades at which they regularly stopped, searched, and harassed the Croat residents of Bruška.⁴¹⁵ From September 1991, armed men, dressed in camouflage uniforms, almost daily visited Bruška, shooting in the air, saying that Bruška would be part of Greater Serbia, calling the Croat residents “Ustaša”, urging them to leave, and threatening to kill them.⁴¹⁶ However, as of December 1991, almost all of the inhabitants of Bruška were still living there.⁴¹⁷

90. It follows from the evidence and the adjudicated facts that, on the evening of 21 December 1991, three armed men, wearing camouflage uniforms with “Milicija Krajina” written on the shoulder of their uniforms, barged into a house in the hamlet of Marinovići, where Witness Marinović, a Croat reserve police officer who was not on duty that night, was present together with Roko Marinović, Duško Marinović, Petar Marinović, and Sveto Drača.⁴¹⁸ Witness Marinović identified the armed men as members of the Milicija Krajina and recognized one of them.⁴¹⁹ The men present in the house were all Croats, unarmed, and wearing civilian clothes except for Sveto

⁴¹¹ Simatović Final Trial Brief, paras. 473-478; Simatović Pre-Trial Brief, para. 151.

⁴¹² Simatović Final Trial Brief, paras. 474, 478; Simatović Pre-Trial Brief, para. 151.

⁴¹³ Adjudicated Facts 302, 303; Witness Marinović, Exhibit P01219, p. 2, Exhibit P01220, p. 2472; Witness Denona, Exhibit P00412, p. 2.

⁴¹⁴ Adjudicated Fact 304; Witness Denona, Exhibit P00414, p. 1269.

⁴¹⁵ Witness Marinović, Exhibit P01219, p. 2, Exhibit P01220, pp. 2475, 2476, Exhibit P01221, pp. 5347, 5348, 5356, 5357; Witness Denona, Exhibit P00414, pp. 1271, 1302, 1305; Adjudicated Fact 305.

⁴¹⁶ Witness Marinović, Exhibit P01219, p. 3, Exhibit P01220, pp. 2479, 2480, 2493; Adjudicated Fact 305.

⁴¹⁷ Witness Marinović, Exhibit P01219, p. 3, Exhibit P01220, p. 2480; Adjudicated Fact 305.

⁴¹⁸ Witness Marinović, Exhibit P01219, p. 3, Exhibit P01220, pp. 2480-2483; Adjudicated Fact 306.

⁴¹⁹ Witness Marinović, Exhibit P01220, pp. 2483, 2484, Exhibit P01219, p. 3.

Drača, who was a Serb JNA member in uniform.⁴²⁰ The armed men told them to leave the house, lined them up against a wall and shot them, killing Roko and Duško Marinović, and severely wounding Witness Marinović.⁴²¹ When Petar Marinović and Sveto Drača tried to run away, they were also shot and killed.⁴²² Witness Marinović was later taken to hospital, where an SAO Krajina police officer threatened him by saying “[t]his Ustaša must be slaughtered immediately”.⁴²³

91. At about the same time as the killings at Roko Marinović’s house took place, three men knocked at Bore Marinović’s house, located about 50 meters away, shouting “Milicija Krajina” and “Martić’s men”, and firing with their automatic weapons.⁴²⁴ Present in the house were Dragan Marinović, Marija Marinović, Jeka Marinović, Witness Denona, and Sofija (Soka) Drača, all of them Croat, except for Sofija (Soka) Drača, who was Serb.⁴²⁵ Dragan Marinović opened the door of the house, while the four women ran out into the garden behind the house.⁴²⁶ One of the perpetrators recognized Dragan Marinović and inquired why he was at Bore Marinović’s house.⁴²⁷ Another perpetrator yelled that the women were trying to escape and fired a burst of rounds from his automatic rifle, severely wounding and permanently disabling Witness Denona.⁴²⁸ Dragan Marinović and his mother, Ika Marinović, were later found dead.⁴²⁹ On the following day, the bodies of four more Croats, wearing civilian clothes and killed by gunshots, were found in front of a third family home.⁴³⁰

92. An investigation into the killings committed in Bruška was conducted by the Benkovac Public Security Station, with the participation of an investigative judge.⁴³¹ Witness Drača, who took part in the investigation, testified that three main suspects were identified, one of them a police

⁴²⁰ Witness Marinović, Exhibit P01220, pp. 2481, 2482, 2499, Exhibit P01219, p. 3; Adjudicated Fact 306. *See* Witness Denona, Exhibit P00414, pp. 1276, 1290, Exhibit P00412, p. 2, Exhibit P00413, pp. 28199, 28204, 28214.

⁴²¹ Witness Marinović, Exhibit P01220, pp. 2482-2485, Exhibit P01219, pp. 3, 4; Adjudicated Facts 307, 308. *See* Witness Denona, Exhibit P00411, p. 2028, Exhibit P00412, p. 3, Exhibit P00414, pp. 1274, 1308, 1309; Exhibit P00419, pp. 1, 2; Exhibit P00420, pp. 3, 4; Exhibit P03062, pp. 1-3.

⁴²² Witness Marinović, Exhibit P01220, p. 2484; Adjudicated Fact 307. *See* Witness Denona, Exhibit P00412, p. 3, Exhibit P00414, p. 1274.

⁴²³ Witness Marinović, Exhibit P01220, pp. 2487, 2503, Exhibit P01221, p. 5362, Exhibit P01219, p. 4.

⁴²⁴ Witness Denona, Exhibit P00412, pp. 2, 3, Exhibit P00413, pp. 28204, 28205, 28213-28215, Exhibit P00411, pp. 2025, 2026, Exhibit P00414, pp. 1272, 1276, 1277, 1286, 1287, 1297, 1298; Exhibit P00419, p. 1; Adjudicated Fact 309.

⁴²⁵ Witness Denona, Exhibit P00414, pp. 1270, 1271; Adjudicated Fact 309.

⁴²⁶ Witness Denona, Exhibit P00412, p. 3, Exhibit P00414, pp. 1272, 1287, 1288; Adjudicated Facts 309, 310.

⁴²⁷ Witness Denona, Exhibit P00412, p. 3, Exhibit P00414, p. 1272.

⁴²⁸ Witness Denona, Exhibit P00412, p. 3, Exhibit P00413, p. 28215, Exhibit P00414, pp. 1272, 1273, 1277-1279, 1288; Exhibit P00419, pp. 1, 2; Adjudicated Facts 310, 313. *See* Witness Marinović, Exhibit P01219, p. 4, Exhibit P01220, p. 2488; Exhibit P00420, pp. 3, 4; Adjudicated Facts 310, 313.

⁴²⁹ Witness Denona, Exhibit P00412, p. 4, Exhibit P00413, p. 28201, Exhibit P00414, pp. 1275, 1293; Exhibit P03062, p. 2; Adjudicated Fact 311.

⁴³⁰ Witness Denona, Exhibit P00412, p. 4, Exhibit P00413, p. 28201, Exhibit P00414, pp. 1275, 1276, 1293, 1300; Exhibit P00419, p. 2; Witness Marinović, Exhibit P01220, p. 2488, Exhibit P01219, p. 4; Exhibit P00420, pp. 3, 4; Exhibit P03062; Adjudicated Facts 311, 312.

⁴³¹ Witness Drača, Exhibit 2D00331, pp. 16760-16762, T. 26 November 2019 pp. 67-69, T. 28 November 2019 pp. 26-28; Exhibit P03062; Adjudicated Fact 314.

officer who had not reported for duty for about a month prior to the incident, but were later released due to lack of evidence.⁴³² According to Witness Drača, some of the suspects had criminal records and none of them had received training at Golubić.⁴³³ While the investigation established that some of the suspects had a personal conflict with one of the victims,⁴³⁴ Witness Drača testified that a personal feud could not have been a motive for a crime of this magnitude.⁴³⁵ The Trial Chamber also received evidence suggesting that the Benkovac Public Security Station did not pursue all lines of investigation and did not follow up on available sources and information identifying the perpetrators.⁴³⁶

93. In relation to the identity of the perpetrators, the Trial Chamber also received the evidence of Witness Babić that the special unit of the Benkovac Public Security Service, headed by Opačić, attacked and killed civilians in Bruška.⁴³⁷ However, given that Witness Babić's evidence on the involvement of this specific unit and its leader is hearsay and uncorroborated, the Trial Chamber has decided not to rely on it in this regard. Instead, the Trial Chamber considers that it is only in a position to make a more general finding based primarily on the accounts of Witnesses Marinović and Denona, who were both direct witnesses to the crimes, that the perpetrators were members of the Milicija Krajina. While the personal motive of the perpetrators is irrelevant, the Trial Chamber also takes note of Witness Drača's evidence that a personal feud could not have been a motive for such a crime.

94. Accordingly, the Trial Chamber finds proven beyond reasonable doubt that the following persons were killed in Bruška on 21 December 1991 by members of the Milicija Krajina: Sveto (Svetozar) Drača, Draginja (Draša) Marinović, Dragan (Josip) Marinović, Duško (Dušan) Marinović, Ika Marinović, Krsto (Krst) Marinović, Maša (Manda) Marinović, Petar Marinović, Roko Marinović, and Stana Marinović.⁴³⁸ With the exception of Sveto (Svetozar) Drača, all victims were unarmed Croats who wore civilian clothing at the time of their deaths.⁴³⁹

⁴³² Witness Drača, T. 26 November 2019 pp. 69-71, T. 28 November 2019 pp. 27-36, Exhibit 2D00331, pp. 16765, 16766, 17029-17031.

⁴³³ Witness Drača, T. 26 November 2019 pp. 70, 71, Exhibit 2D00331, p. 16766.

⁴³⁴ Witness Drača, T. 26 November 2019 pp. 69, 70, T. 28 November 2019 p. 27, Exhibit 2D00331, pp. 16764, 16765, 17087; Exhibit P00420, p. 3.

⁴³⁵ Witness Drača, T. 28 November 2019 p. 29. *See also* Witness Denona, Exhibit P00414, pp. 1299, 1300.

⁴³⁶ *See* Exhibit P00421; Witness Drača, T. 28 November 2019 pp. 32-36. *See also* Witness Denona, Exhibit P00414, p. 1281; Witness Marinović, Exhibit P01220, p. 2490; Exhibit P03062, p. 2.

⁴³⁷ Witness Babić, Exhibit P01246, pp. 13407, 13408.

⁴³⁸ Exhibit P00862, pp. 35-37, 83, 84; Exhibit P00959; Exhibit P00958, pp. 3-11; Exhibit P00960, pp. 2-7; Exhibit P00961, pp. 3-7; Exhibit P00962, pp. 2-7. *See* Adjudicated Facts 307, 310, 311, 312, Exhibit P00597, pp. 93, 129; Exhibit P00598, pp. 16-18.

⁴³⁹ Adjudicated Facts 306, 312. *See* Exhibit P00960, pp. 2-7.

95. Witness Drača testified that, following the killings, Martić stated that such incidents should be avoided at all costs and instructed him to secure the village.⁴⁴⁰ He also stated that Zdravko Zečević, the President of the Republic of Serbian Krajina, visited the village, assuring the residents that they will be safe and dissuading them from leaving.⁴⁴¹ However, according to Witness Drača, the civilians were anxious to leave and several days later a bus, arranged by the Red Cross, transported them to Zadar.⁴⁴² It follows from the evidence that all Croat residents left Bruška within 20 days of these murders⁴⁴³ and none returned until 1995, when the Croat forces took over the area.⁴⁴⁴ According to expert evidence, it is estimated that there were 334 Croats in Bruška, but by April 1995, at least 209 Croats, or over 60% of the pre-war Croat population of Bruška, were displaced.⁴⁴⁵

6. Other Acts of Violence

96. In connection with the general allegations in the Indictment related to forcible displacement of non-Serb civilians from the SAO Krajina,⁴⁴⁶ the Prosecution submits that the SAO Krajina police and other authorities terrorized Croats with raids and discriminatory policies as of April 1991.⁴⁴⁷ The Prosecution further argues that the Serb forces continued to persecute and forcibly displace non-Serbs in Krajina throughout the Indictment period.⁴⁴⁸

97. The Trial Chamber received evidence that, in May 1991, the SAO Krajina Police disarmed the predominantly Croat settlements of Potkonje and Vrpolje, in the Knin area.⁴⁴⁹ Although inconclusive, some evidence suggests that this was done as part of a discriminatory practice targeting Croats.⁴⁵⁰ The Trial Chamber also received the evidence of Witness RFJ-153 that, in June 1991, he met with a large number of displaced Croats from the Knin area, who blamed the Martić Police for setting their houses on fire and destroying their livelihood.⁴⁵¹

⁴⁴⁰ Witness Drača, Exhibit 2D00331, p. 16762.

⁴⁴¹ Witness Drača, Exhibit 2D00331, pp. 16762-16764, T. 28 November 2019 pp. 37-40. *See* Witness Drača, T. 4 December 2019 pp. 23, 24.

⁴⁴² Witness Drača, Exhibit 2D00331, pp. 16763, 16764, T. 4 December 2019 pp. 23, 24. *See also* Exhibit P02887, p. 178.

⁴⁴³ Witness Marinović, Exhibit P01219, p. 4, Exhibit P01221, pp. 5348, 5349; Witness Drača, T. 4 December 2019 p. 24, Exhibit 2D00331, p. 16763.

⁴⁴⁴ Witness Babić, Exhibit P01246, p. 13408.

⁴⁴⁵ Exhibit P00595, p. 86.

⁴⁴⁶ Indictment, para. 65. *See also* Indictment, paras. 22, 23, 24(b), 25, 64, 66.

⁴⁴⁷ Prosecution Final Trial Brief, para. 682.

⁴⁴⁸ Prosecution Final Trial Brief, paras. 726-729. *See also* Prosecution Final Trial Brief, para. 355.

⁴⁴⁹ Witness Opačić, Exhibit 2D00385, pp. 18185, 18186; Exhibit P00232, pp. 1, 2; Witness OFS-14, T. 10 December 2019 pp. 28, 29, T. 12 December 2019 pp. 13-17; Exhibit P00328.

⁴⁵⁰ Witness Babić, Exhibit P01246, pp. 13488, 13499, Exhibit P01248, pp. 1418, 1419; Witness RFJ-107, Exhibit P00313, paras. 109, 110.

⁴⁵¹ Witness RFJ-153, Exhibit P00002, paras. 114, 115, 118-123, T. 14 June 2017 p. 45, T. 15 June 2017 pp. 65-72, T. 20 June 2017 pp. 64-73. *See also* Witness RFJ-153, Exhibit P00002, para. 100.

98. The evidence further demonstrates that Croat civilians, who remained in Krajina after the takeover by the Serb authorities were subjected to various discriminatory policies, criminal acts, and acts of violence, aimed at pressuring them to leave the area.⁴⁵² Croat civilians were arbitrarily arrested and detained, subjected to movement restrictions and discriminatory regulations, dismissed from their jobs, their houses were searched, and their private property was damaged.⁴⁵³ Throughout 1992 and 1993, there were numerous acts of killings, harassment, robbery, beatings, burning of houses, theft, and destruction of churches were carried out against the non-Serb population in Krajina.⁴⁵⁴ Serb forces continued to operate detention facilities, including in Knin, where non-Serbs were detained for prolonged periods without charges, and were subjected to severe beatings and mistreatment, including by members of the Krajina police.⁴⁵⁵

99. Several distinct sources depict the Krajina Police as ineffective in ensuring the safety and in preventing and investigating crimes against Croat civilians, with its members often accomplices in their commission.⁴⁵⁶ The Trial Chamber, therefore, does not find credible the evidence of Witness Drača, who was the Head of the Republic of Serbian Krajina State Security Service in Benkovac, and Witness OFS-14, a member of the Republic of Serbian Krajina Ministry of Interior, denying the involvement of members of the Krajina Police in the large scale commission of crimes against non-Serb civilians in Krajina.⁴⁵⁷

100. The evidence further shows that displaced Serbs, who were arriving in Knin, were being accommodated in homes belonging to Croats.⁴⁵⁸ The Krajina Police assisted with the resettlement of Serbs from other areas into the vacant homes of the non-Serbs who had been expelled.⁴⁵⁹ According to Witness RFJ-107, the expulsions in the Knin area continued in 1992 and 1993 with the effect that the non-Serb population near Knin was exchanged with Serb population leaving

⁴⁵² Witness RFJ-107, Exhibit P00313, paras. 149-156, 158, 161, 163, 164; Exhibit P03814; Exhibit P00132, p. 1; Witness Wilson, Exhibit P00067, para. 200; Exhibit P00118, p. 2.

⁴⁵³ Witness RFJ-107, Exhibit P00313, paras. 149-154, 158, T. 6 September 2017 pp. 29, 30; Exhibit P03814, p. 2; Exhibit P00155, p. 58; Witness Wilson, T. 27 June 2017 pp. 19, 20, Exhibit P00067, para. 210; Adjudicated Facts 402, 403.

⁴⁵⁴ Adjudicated Facts 402, 403; Witness RFJ-107, Exhibit P00313, paras. 138, 149, 151, 164; Witness B. Brkić, Exhibit P00442, p. 3; Witness Miljanić, T. 29 August 2017 pp. 46, 47; Exhibit P00385, p. 1; Exhibit P00386, pp. 2-4; Exhibit P00354, p. 2; Exhibit P00118, pp. 2, 3; Witness Wilson, Exhibit D00067, para. 210, T. 27 June 2017 pp. 27-30, 32, 48; Exhibit P00355, p. 2.

⁴⁵⁵ Witness RFJ-107, Exhibit P00313, paras. 157, 158, T. 6 September 2017 pp. 31, 32; Witness Erstić, Exhibit P01750, pp. 19-21, Exhibit P01751, pp. 24972, 24978-24981, 24996, 24997, 24999; Witness L. Brkić, T. 30 August 2017 pp. 45-51, 53, Exhibit P00304, pp. 3264-3269, 3271-3274, 3430, 3431; Exhibit P00308; Witness Babić, Exhibit P01246, p. 13067; Adjudicated Facts 385, 386, 389-396.

⁴⁵⁶ Witness RFJ-107, Exhibit P00313, paras. 141, 149, 155, 163; Witness Wilson, Exhibit P00067, para. 200; Witness Babić, Exhibit P01246, p. 13066, Exhibit P01248, pp. 1573, 1574; Witness Wilson, T. 27 June 2017 p. 48; Exhibit P03814, pp. 2, 3; Adjudicated Facts 399, 401.

⁴⁵⁷ See Witness Drača, T. 26 November 2019 p. 22, T. 28 November 2019 pp. 67-70; Witness OFS-14, T. 10 December 2019 p. 41, T. 12 December 2019 pp. 33, 34.

⁴⁵⁸ Witness RFJ-107, Exhibit P00313, paras. 154, 163.

⁴⁵⁹ Witness RFJ-107, Exhibit P00313, para. 163; Witness Babić, Exhibit P01246, p. 13489.

Croat-held areas.⁴⁶⁰ Witness RFJ-107 further gave evidence that expulsions in the Knin area were carried out by the JNA, armed Serbs, “members of the Captain Dragan’s unit, Vojislav Šešelj’s units and Arkan’s units”.⁴⁶¹ The witness indicated that the pro-Serbian media propaganda was also a major reason for the exodus of Croats from the Knin area.⁴⁶²

101. It follows from the evidence that, after the Croatian forces attacked the Maslenica bridge in January 1993, almost the entire Croat population from the areas of Knin and Benkovac was forced to leave.⁴⁶³ By the end of 1993, nearly 95% of the Croats had left Knin and the surrounding villages.⁴⁶⁴ It is estimated that, in 1991, there were 196,192 Croats in Krajina, but by the end of April 1995, over 96,000 Croats, or nearly half of the pre-war Croat population of Krajina, had been displaced.⁴⁶⁵

7. Conclusion

102. In light of the above, the Trial Chamber finds proven beyond reasonable doubt that, starting with the attack on the Croat village of Kijevo on 26 August 1991 and continuing at least until December 1991, Serb forces, including members of the JNA, the SAO Krajina police and Territorial Defence, launched a series of attacks on Croat villages on the territory of the SAO Krajina, in the course of which they committed various crimes and acts of violence against non-Serb civilians, including killings, arbitrary arrests and detention, beatings, looting of private property, destruction of Catholic churches, and burning of houses. It has been established beyond reasonable doubt that these crimes and acts of violence targeted almost exclusively non-Serb civilians, forcing them to leave the area. Further, the Trial Chamber finds proven beyond reasonable doubt that, throughout 1992 and 1993, non-Serb civilians who remained on the territory of the Republic of Serbian Krajina, continued to be subjected to various discriminatory policies, crimes and acts of violence aimed at pressuring them to leave the area and that, by April 1995, the majority of the pre-war non-Serb population had left Krajina.

B. SAO SBWS

103. According to the Indictment, from no later than April 1991 through the end of 1991, Serb forces, in particular special units of the Serbian State Security Service, in coordination with the JNA, the SAO SBWS Territorial Defence, and paramilitary forces, committed crimes in and

⁴⁶⁰ Witness RFJ-107, Exhibit P00313, para. 161.

⁴⁶¹ Witness RFJ-107, Exhibit P00313, para. 160.

⁴⁶² Witness RFJ-107, Exhibit P00313, para. 176.

⁴⁶³ Witness RFJ-107, T. 6 September 2017 pp. 29-33, Exhibit P00313, paras. 154, 161. *See* Witness RFJ-107, Exhibit P00313, paras. 144-148, 163; Exhibit P00385; Exhibit P00386; Witness OFS-14, T. 12 December 2019 pp. 22-24.

⁴⁶⁴ Witness RFJ-107, Exhibit P00313, para. 161.

attacked and took control of towns and villages in the SAO SBWS.⁴⁶⁶ The killings specifically alleged in the Indictment are: (i) the murder of 11 Croats detained at the Dalj police station on 21 September 1991; (ii) the murder of 26 Croats detained at the Dalj police station on 4 October 1991; (iii) the murder of at least nine non-Serbs detained at the Erdut training camp on 9 November 1991, as well as the subsequent murder of four of their family members several days later and on 3 June 1992; (iv) the murder of five non-Serbs detained at the Erdut training camp on 11 November 1991; and (v) the murder of seven Hungarian and Croat civilians detained at the Erdut training camp on or around 26 December 1991.⁴⁶⁷

104. The Indictment further alleges that, from no later than April 1991 until 31 December 1995, attacks and other acts of violence, as well as the threat of further persecutory acts that targeted non-Serb civilians in the SAO SBWS, caused the non-Serb population to flee from these areas in which they were lawfully present, thereby constituting acts of deportation and forcible transfer,⁴⁶⁸ which, in addition to the murders incidents describe above, amounted to persecution.⁴⁶⁹

105. In connection to these allegations, the Prosecution submits that multiple perpetrator groups, welcomed by the SAO SBWS parallel structures, unleashed a campaign of persecution and intimidation against non-Serbs to ensure their departure from Serb-claimed territories.⁴⁷⁰ According to the Prosecution, the JNA failed to prevent the expulsion of non-Serbs from Baranja in early August 1991 and thereafter supported the Territorial Defence and other units in attacking towns and villages in Eastern Slavonia and Western Srem.⁴⁷¹ The Prosecution further submits that violent crimes were committed with persecutory intent against non-Serbs throughout the Indictment period in joint operations with the participation of the local Territorial Defence, Unit members, the SAO SBWS police, volunteers, paramilitaries, and the JNA.⁴⁷²

106. In their final trial briefs, the Accused do not contest that crimes were committed in the SAO SBWS. However, Stanišić argues that the JNA and the Federal Secretary of National Defence bear the greatest responsibility for crimes committed in the SAO SBWS during operations from August

⁴⁶⁵ Witness Bijak, T. 3 October 2017 p. 30, Exhibit P00595, pp. 10, 21, 28. *See* Exhibit P00595, pp. 30, 32.

⁴⁶⁶ Indictment, para. 8.

⁴⁶⁷ Indictment, paras. 36-39, 42. The Trial Chamber notes that, in relation to the events that allegedly took place on 4 October 1991, on 9 November 1991 and several days thereafter, and on 3 June 1991, there is a discrepancy between the number of victims identified in the Indictment and in the Prosecution's Pre-Trial and Final Trial Briefs. *See* Prosecution Pre-Trial Brief, Annex A, RP. 6555; Prosecution Final Trial Brief, Annex C, pp. 70-80 (wherein the Prosecution lists 28 victims with respect to paragraph 37 of the Indictment); Prosecution Pre-Trial Brief, Annex A, RP. 6554; Prosecution Final Trial Brief, Annex C, pp. 81-88 (wherein the Prosecution lists 16 victims with respect to the events identified in paragraph 38 of the Indictment).

⁴⁶⁸ Indictment, paras. 64-66.

⁴⁶⁹ Indictment, paras. 22-25.

⁴⁷⁰ Prosecution Final Trial Brief, para. 733. *See also* Prosecution Closing Arguments, T. 12 April 2021 pp. 7, 8; Prosecution Final Trial Brief, paras. 360-363.

⁴⁷¹ Prosecution Final Trial Brief, para. 733. *See also* Prosecution Closing Arguments, T. 12 April 2021 pp. 61-63.

to November 1991 and for the subsequent population shifts.⁴⁷³ Simatović likewise places responsibility on the JNA, who he submits acted in coordination with the local Territorial Defence units.⁴⁷⁴

1. Events in Eastern Slavonia

(a) Dalj, Erdut, and Surrounding Area

107. In connection to the crimes allegedly committed in Dalj, Erdut, and the surrounding area in Eastern Slavonia,⁴⁷⁵ the Prosecution submits that tensions escalated in May 1991 and that, in July 1991, Serb forces seized the village of Čelije and the JNA shelled the villages of Dalj and Erdut.⁴⁷⁶ The Prosecution further contends that, on 1 August 1991, JNA tanks entered and took over Dalj and Erdut.⁴⁷⁷ The Prosecution submits that, following the takeover of these two villages, Serb forces killed, arbitrarily arrested and detained non-Serbs, seized non-Serb property, and pursued other restrictive or discriminatory policies, making the Croat population of Dalj, Erdut, and the surrounding villages flee.⁴⁷⁸ According to the Prosecution, these forces included the SAO SBWS Territorial Defence under Ilija Kojić, the SAO SBWS police, a unit established by Goran Hadžić called the Serbian National Security, Arkan's Serbian Volunteer Guard, and the JNA.⁴⁷⁹

108. In their final trial briefs, the Accused do not contest that crimes were committed in the area of Eastern Slavonia. However, Simatović submits that the attack on Dalj and Erdut was conducted by the JNA in coordination with the Territorial Defence from Dalj, Borovo Selo, Trpinja, and Bobota, which was composed of local Serbs and members of the Serbian Democratic Party.⁴⁸⁰

109. In assessing these events, the Trial Chamber notes that the fundamental features of the evidence related to the commission of crimes in Dalj, Erdut, and their surroundings are not disputed. The Trial Chamber was presented with relevant evidence from several Prosecution witnesses, including Witnesses Luka Šutalo, RFJ-038, RFJ-111, and RFJ-113, as well as agreed

⁴⁷² Prosecution Final Trial Brief, para. 733.

⁴⁷³ Stanišić Final Trial Brief, para. 490.

⁴⁷⁴ Simatović Final Trial Brief, paras. 870, 871, 876, 878, 879. *See also* Simatović Closing Arguments, T. 13 April 2021 pp. 109-112.

⁴⁷⁵ *See* Indictment, paras. 22-25, 36-39, 42, 64-66.

⁴⁷⁶ Prosecution Final Trial Brief, paras. 734-736. *See also* Prosecution Pre-Trial Brief, para. 136.

⁴⁷⁷ Prosecution Final Trial Brief, paras. 428, 737.

⁴⁷⁸ Prosecution Final Trial Brief, paras. 428, 429, 737, 738, 762-775. *See also* Prosecution Pre-Trial Brief, paras. 64, 137-144.

⁴⁷⁹ Prosecution Final Trial Brief, paras. 427-429, 737, 738, 762-774. *See also* Prosecution Pre-Trial Brief, paras. 64, 137-144.

⁴⁸⁰ Simatović Final Trial Brief, paras. 870, 871.

Witness Stjepan Dasović.⁴⁸¹ The Trial Chamber has also considered documentary evidence and has taken judicial notice of adjudicated facts in relation to these events, where appropriate.

(i) Deportations and Forcible Transfers

110. The Trial Chamber observes that, already in 1990, local Croats were receiving weapons,⁴⁸² and that, as early as April 1991, several Serbs in Dalj were arrested for alleged illegal possession of weapons and were mistreated, which caused outrage and concern among the Serb population.⁴⁸³ Around the same time, local Serbs erected barricades blocking the entrance to Serb-majority villages.⁴⁸⁴ On 2 May 1991, an armed altercation between Croatian policemen and Serb volunteers occurred in Borovo Selo, resulting in the death of about 12 Croatian policemen and one Serb.⁴⁸⁵ This incident required the intervention of the JNA,⁴⁸⁶ and further increased ethnic tensions in Dalj.⁴⁸⁷

111. The evidence indicates that, in May 1991, JNA tanks started gathering at the bank of the Danube river from the Serbian side.⁴⁸⁸ Between May and August 1991, the JNA shelled several villages in the area, including Borovo Naselje⁴⁸⁹ and Erdut.⁴⁹⁰ According to Witness Šandor, a Croat from Borovo Naselje, from May to July 1991, Serbian paramilitary units were operating in small villages around the city of Vukovar, “cleansing” them of all Croats.⁴⁹¹ On 1 August 1991, the JNA and the local Territorial Defence attacked Dalj⁴⁹² and Erdut, and then moved on to other villages.⁴⁹³ Witness RFJ-113, a high-ranking police official in the Vukovar region at the time, stated that the primary goal of the attack on Dalj was to eliminate the Croatian National Guard and the Croatian police forces, and to force the Croat population to move to territory controlled by Croatian

⁴⁸¹ The Trial Chamber is mindful of the fact that the evidence of Witnesses Zvonimir Svalina, Antun Mijić, and Rozalija Bence has been admitted for the sole purpose of identifying the names of alleged victims under paragraphs 39 and 42 of the Indictment. *See* Decision on Prosecution Motions for Admission of Evidence Pursuant to Rule 112, 22 February 2018, para. 39.

⁴⁸² Witness RFJ-113, Exhibit P00562, para. 22, T. 26 September 2017 p. 62.

⁴⁸³ Witness RFJ-132, Exhibit P01798, p. 2, Exhibit P01799, pp. 25472, 25473.

⁴⁸⁴ Witness Savić, Exhibit P00449, para. 71; Witness RFJ-113, Exhibit P00562, para. 11, T. 26 September 2017 p. 63.

⁴⁸⁵ Witness Savić, Exhibit P00449, para. 76; Witness RFJ-041, Exhibit P01082, para. 16; Witness RFJ-113, Exhibit P00562, para. 26. *See also* Adjudicated Fact 338.

⁴⁸⁶ Witness RFJ-113, Exhibit P00562, para. 24; Witness B. Bogunović, Exhibit P02718, para. 85; Witness RFJ-041, Exhibit P01082, para. 16; Exhibit 1D00225, p. 6; Exhibit 1D00218, p. 2.

⁴⁸⁷ Witness RFJ-132, Exhibit P01798, p. 2, Exhibit P01799, p. 25474; Witness RFJ-054, Exhibit P02665, para. 9; Witness RFJ-025, Exhibit P00423, p. 2.

⁴⁸⁸ Witness Šutalo, Exhibit P01834, p. 2, Exhibit P01836, p. 25554.

⁴⁸⁹ Adjudicated Facts 343, 348.

⁴⁹⁰ Witness Šutalo, Exhibit P01834, p. 2, Exhibit P01836, pp. 25554, 25555, 25561.

⁴⁹¹ Witness Šandor, Exhibit P01223, p. 2. *See also infra* Section II.B.3.

⁴⁹² Witness RFJ-025, Exhibit P00423, p. 2; Witness RFJ-113, Exhibit P00562, paras. 59-61; Witness RFJ-144, Exhibit P01579, p. 3; Witness RFJ-054, Exhibit P02665, paras. 12, 13. *See also* Witness RFJ-111, Exhibit P01174, p. 6, Exhibit P01177, pp. 4063, 4121, 4123; Witness RFJ-113, Exhibit P00562, paras. 59, 60.

⁴⁹³ Witness Šutalo, Exhibit P01834, pp. 2, 3. *See also* Witness RFJ-144, Exhibit P01579, p. 3 (wherein the witness stated that the JNA attacked Dalj, Erdut, and Bijelo Brdo on that day).

authorities.⁴⁹⁴ In early August 1991, the Territorial Defence, JNA, and Arkan's Serbian Volunteer Guard also attacked Tenja.⁴⁹⁵

112. It follows from the evidence that Croats from Dalj fled after the 1 August 1991 attack.⁴⁹⁶ The Dalj Territorial Defence led by Pavle Milovanović (Pajo) raided houses to make sure that Croat civilians had left, while Marko Lončarević and his group killed Croats and destroyed the police building in the village of Dalj.⁴⁹⁷ Following the 1 August 1991 attack on Dalj and Erdut, the exodus of Croats from Erdut also significantly increased, especially after its population learned that Croats had been killed in Dalj.⁴⁹⁸ In some cases, Croats left in buses escorted by the JNA.⁴⁹⁹ The Croatian National Guard also left Erdut.⁵⁰⁰

113. In relation to the aforementioned exodus of Croats, the record indicates that the Territorial Defence, police, and JNA members looted the properties of Croats who had fled.⁵⁰¹ This looting intensified when Arkan arrived in the area of SBWS in August 1991, as several police reports were made regarding robberies, thefts, and mistreatment.⁵⁰² Even efforts made by local police to prevent Arkan's Serbian Volunteer Guard from looting failed, as there was at least one incident where they threatened the local police at gunpoint.⁵⁰³ Around September 1991, Arkan's Serbian Volunteer Guard moved to the training camp in Erdut,⁵⁰⁴ and, in the autumn of 1991, they proceeded to destroy Catholic churches in Dalj⁵⁰⁵ and Erdut.⁵⁰⁶

114. The Trial Chamber also received evidence that non-Serbs were detained in several locations, including in the Mali Dvor, Dalj, and Borovo Selo police stations, as well as the Erdut training camp, where they were interrogated, beaten, and verbally assaulted.⁵⁰⁷ In relation to Borovo

⁴⁹⁴ Witness RFJ-113, Exhibit P00562, paras. 35, 63.

⁴⁹⁵ Witness RFJ-041, Exhibit P01082, paras. 46, 47, T. 5 December 2017 pp. 37, 38.

⁴⁹⁶ Witness RFJ-113, Exhibit P00562, paras. 64, 65, T. 26 September 2017 pp. 56, 57; Witness RFJ-054, Exhibit P02665, para. 26; Exhibit P00592.

⁴⁹⁷ Witness RFJ-113, Exhibit P00562, paras. 64, 65.

⁴⁹⁸ Adjudicated Fact 346; Witness Šutalo, Exhibit P01834, p. 3, Exhibit P01836, pp. 25569, 25571; Witness Antunović, Exhibit P01229, p. 2, Exhibit P01230, p. 168; Witness RFJ-113, Exhibit P00562, para. 66.

⁴⁹⁹ Witness RFJ-038, Exhibit P00760, pp. 1003, 1004, 1024, 1025, T. 18 October 2017 pp. 17, 18; Witness Šutalo, Exhibit P01836, pp. 25562, 25564.

⁵⁰⁰ Witness RFJ-054, Exhibit P02665, para. 9.

⁵⁰¹ Witness RFJ-113, Exhibit P00562, para. 73; Witness Šutalo, Exhibit P01834, p. 5, Exhibit P01836, p. 25544, Exhibit P01837, p. 4003. The Trial Chamber also notes that it received evidence indicating that the SBWS government formed a commission to list all abandoned property in order to protect it from illegal appropriation. *See* Exhibit 1D00297, p. 1.

⁵⁰² Witness RFJ-113, Exhibit P00562, paras. 76, 78, T. 27 September 2017 p. 25; Witness RFJ-038, T. 18 October 2017 p. 52.

⁵⁰³ Witness RFJ-113, Exhibit P00562, para. 79.

⁵⁰⁴ Witness RFJ-144, Exhibit P01579, p. 4. *See also* Witness Šutalo, Exhibit P01837, p. 3984.

⁵⁰⁵ Witness RFJ-113, Exhibit P00562, para. 67.

⁵⁰⁶ Witness RFJ-041, Exhibit P01082, para. 56; Exhibit P00490, p. 1

⁵⁰⁷ Witness Šutalo, Exhibit P01834, pp. 3, 4, 6, 7, Exhibit P01836, pp. 25569, 25571; Witness RFJ-038, Exhibit P00759, pp. 4-6, Exhibit P00760, p. 1000; Witness RFJ-041, Exhibit P01082, paras. 31, 143, 144, 148, 154. *See also* Witness Šutalo, Exhibit P01834, p. 5 (wherein the witness stated that the detainees were questioned on various topics,

Selo, the Trial Chamber received evidence that members of the Croatian Ministry of Interior from the village of Bilje, in Baranja, were brought to Borovo Selo, where they were tortured and beaten by Serb policemen.⁵⁰⁸ The record additionally indicates that, on at least one occasion in September 1991, Croats from various areas of the SAO SBWS were brought to Borovo Selo by the Serbian special police unit referred to as “Plavci”.⁵⁰⁹ It further follows from the evidence that, in the Borovo Selo police station, detainees were kept in a basement with sewage water, where they were verbally abused by policemen, soldiers, and civilians.⁵¹⁰ Witness Šutalo, who was detained in both the Dalj and the Borovo Selo police stations, confirmed that everyone detained was of Croatian, Hungarian, or Muslim ethnicity.⁵¹¹ Some of the detainees in the Dalj police station and the Erdut training camp were killed.⁵¹² With respect to the Erdut training camp, the Trial Chamber also notes the evidence it received that, until at least the end of February 1992, Arkan’s Serbian Volunteer Guard were arresting Croat civilians and taking them to the camp for interrogation.⁵¹³

115. Witnesses Šutalo and RFJ-038 further provided evidence regarding the various ways in which non-Serbs, who did not flee Erdut after its fall in August 1991, were harassed by armed soldiers, including being obliged to report to the police station in Mali Dvor, where they would be questioned by the chief of the local police,⁵¹⁴ being subjected to forced labour, which included working at the Erdut training camp without any food or drink,⁵¹⁵ having a hand grenade thrown in their house yard,⁵¹⁶ and having their houses searched on multiple occasions.⁵¹⁷ Consequently, the witnesses repeatedly tried to receive a permit to leave Erdut, until they eventually succeeded and left in early 1992, after signing a standard form that their property could be used by the local commune.⁵¹⁸ Witness John Wilson, a high ranking officer with UNPROFOR,⁵¹⁹ stated that, in

including who were the Croatian police officers and who voted for which political party). *See infra* Section II.B.1(a)(ii)-(vi).

⁵⁰⁸ Witness Šutalo, Exhibit P01834, p. 6. *See also* Exhibit P00499; *infra* paras. 147, 148.

⁵⁰⁹ Witness RFJ-111, Exhibit P01174, pp. 8, 9, Exhibit P01176, para. 10.

⁵¹⁰ Witness Šutalo, Exhibit P01834, p. 6, Exhibit P01837, pp. 3974, 3975. *See also* Witness RFJ-113, Exhibit P00562, para. 85 (wherein the witness stated that the Borovo Selo detention camp, which was run by the Territorial Defence, was operating as early as May 1991 and was still functioning in October 1991 for Croat civilian detainees).

⁵¹¹ Witness Šutalo, Exhibit P01836, pp. 25543, 25545.

⁵¹² *See infra* Section II.B.1(a)(ii)-(iv).

⁵¹³ Witness RFJ-038, Exhibit P00759, pp. 5, 6, T. 18 October 2017 pp. 16, 17, 20; Witness RFJ-144, Exhibit P01579, p. 5. Interrogations at the Erdut training camp, at the time, were led by Mihajlo Ulemek. *See* Witness RFJ-041, Exhibit P01082, para. 147.

⁵¹⁴ Witness Šutalo, Exhibit P01834, p. 5.

⁵¹⁵ Witness Šutalo, Exhibit P01834, pp. 5, 7, Exhibit P01836, pp. 25544, 25581, 25582, Exhibit P01837, pp. 4004, 4005.

⁵¹⁶ Witness Šutalo, Exhibit P01834, p. 9, Exhibit P01836, pp. 25573, 25574, 25581; Witness RFJ-038, Exhibit P00760, pp. 1000, 1001, 1015, 1016, T. 18 October 2017 p. 14.

⁵¹⁷ Witness Šutalo, Exhibit P01834, pp. 4, 5; Witness RFJ-038, Exhibit P00760, p. 1003, T. 18 October 2017 p. 19.

⁵¹⁸ Witness Šutalo, Exhibit P01834, pp. 9, 10, Exhibit P01836, pp. 25547, 25548, 25582-25584, 25586, Exhibit P01837, p. 4008; Witness RFJ-038, Exhibit P00760, pp. 1001, 1045-1047, T. 18 October 2017 pp. 14, 15, 29; Exhibit P00765. *See also* Witness RFJ-038, Exhibit P00760, p. 1007, T. 18 October 2017 pp. 15, 16 (wherein the witness testified that only Croats had to sign such forms).

⁵¹⁹ Witness Wilson, Exhibit P00067, paras. 3, 6.

January 1992, there were many villages in Sector East, the sector covering the area of the SAO SBWS, showing signs of “ethnic cleansing”.⁵²⁰ By March 1992, almost all Croats had left Erdut.⁵²¹

116. The Trial Chamber further received reports from UNPROFOR, which assumed responsibility in Sector East on 15 May 1992, that non-Serbs were subjected to killings, physical abuse, harassment, and coercion, with the aim to force them to leave, which often occurred by bus in an organized manner.⁵²² UNPROFOR officials considered the local police, “milicija”, and “Chetniks” responsible for these actions.⁵²³ Abandoned houses were occupied immediately in an organized manner, which, according to UNPROFOR, showed involvement, or at least acquiescence, of the local authorities.⁵²⁴

117. Those who moved into the houses abandoned by non-Serbs were predominantly Serb refugees from Western Slavonia.⁵²⁵ On one occasion, the abandoned house of a Croat was allocated to the Serbian National Security.⁵²⁶ The evidence from those witnesses who left the area demonstrates that they did so because they saw it as the only way to survive in light of the mistreatment, blackmailing, and threats they received.⁵²⁷ When they eventually returned to their homes after the conflict, all their movable property had been taken away.⁵²⁸

118. The Trial Chamber also notes the evidence it received regarding the change in the ethnic composition in the area of Dalj and Erdut in Eastern Slavonia. Prior to the conflict, the majority of the population of Dalj was Serbian, corresponding to 52.3% of its inhabitants, while Croats represented 32.7% and Hungarians 5.7% of the population.⁵²⁹ The majority of the population of Erdut prior to the conflict were Croats, corresponding to 54.7% of its inhabitants, while Serbs represented 22.8% and Hungarians 11.1% of the population.⁵³⁰ According to Expert Witness Jakub Bijak, the persons displaced from Dalj between 1 April 1991 and 31 December 1995 correspond to

⁵²⁰ Witness Wilson, Exhibit P00067, para. 60, T. 27 June 2017 p. 56.

⁵²¹ Witness Šutalo, Exhibit P01837, pp. 4008, 4009. *See also* Witness Šutalo, Exhibit P01834, p. 10.

⁵²² Exhibit P00103, paras. 2, 14, 15; Exhibit P00107, paras. 10, 12; Exhibit P00105, pp. 4, 5, 21; Exhibit P00508, p. 2; Exhibit P00096; Exhibit P01238; Exhibit P00527, pp. 2-4.

⁵²³ Exhibit P00103, paras. 14, 15; Exhibit P00105, p. 21; Exhibit P00508, p. 2; Exhibit P00096; Exhibit P00527, pp. 2-4. *See also* Witness Wilson, Exhibit P00067, paras 207, 210, 213 (putting the blame on the “special police and military police”, which he uses as a collective description of individuals who presented themselves as police under different titles). *See also* Witness RFJ-054, Exhibit P02665, para. 83 (wherein the witness heard rumours that the president of the Serbian Democratic Party in Dalj, Đorđe Čalošević, a close friend of Hadžić, was active in such expulsions in the spring of 1992).

⁵²⁴ Exhibit P00103, para. 15.

⁵²⁵ Witness RFJ-038, T. 18 October 2017 pp. 41, 42; Witness RFJ-041, Exhibit P01082, para. 165.

⁵²⁶ Witness RFJ-041, Exhibit P01082, paras. 162-165.

⁵²⁷ Witness Šutalo, Exhibit P01836, p. 25547, Exhibit P01837, pp. 3990, 3991; Witness RFJ-038, T. 18 October 2017 p. 19, Exhibit P00760, pp. 1015, 1016, 1047.

⁵²⁸ Witness Šutalo, Exhibit P01834, p. 10.

⁵²⁹ Exhibit P00595, p. 106. *See also* Witness RFJ-054, Exhibit P02665, para. 7 (wherein the witness estimated that, at the beginning of the conflict, 68% of the 6,000 inhabitants of Dalj were Serbs).

⁵³⁰ Exhibit P00595, p. 107.

92.3% Croats, 4.1% Hungarians, and only 2% Serbs, while the persons displaced from Erdut during the same period correspond to 94.2% Croats, 4.6% Hungarians, and only 0.7% Serbs.⁵³¹ In the summer of 1992, Erdut was predominantly Serb.⁵³²

119. In light of the above, the Trial Chamber finds proven beyond reasonable doubt that, following the attacks in Dalj, Erdut, and their surrounding area, Serb forces, including the SAO SBWS Territorial Defence, the local police, and Arkan's Serbian Volunteer Guard, killed, arbitrarily arrested and detained non-Serbs, looted non-Serb property, burned Catholic churches, and subjected non-Serbs to forced labour and harassment, leaving the local non-Serb population no choice but to flee. The Trial Chamber further finds that the target of these crimes were non-Serbs.

(ii) Murder of 11 Non-Serbs Detained at the Dalj Police Station

120. It follows from Witness Luka Šutalo's evidence that, on the evening of 21 September 1991, Goran Hadžić, Željko Ražnatović (Arkan) and several of his men lined up detainees at the Dalj police station.⁵³³ Hadžić released Witness Šutalo and Slavko Palinkaš,⁵³⁴ and Arkan took away the remaining 11 detainees⁵³⁵ and killed them.⁵³⁶ Witness Šutalo believes that his release was linked to the fact that his daughter-in-law was a Serb.⁵³⁷

121. On the basis of records kept at the Dalj police station, the commander of the station, Željko Čizmić, reported to the SAO SBWS Minister of Interior, Borislav Bogunović, that the men taken away by Arkan were: Zoran Andal, Pavle Beck, Haso Brajić, Željko Filipčić, Ivan Forjan, Darko Kušić, Čedomir Predojević, Dražen Štimatec, Ivan Zelember, Pavo (Pavao) Zemljak, and Vladimir Zemljak.⁵³⁸ The bodies of the victims were later exhumed in Čelije, with the exception of Pavle

⁵³¹ Exhibit P00595, pp. 106, 107.

⁵³² Witness RFJ-038, Exhibit P00760, pp. 1013, 1014.

⁵³³ Witness Šutalo, Exhibit P01834, pp. 8, 9, Exhibit P01837, pp. 3985-3987; Exhibit P00551.

⁵³⁴ Witness Šutalo, Exhibit P01834, pp. 8, 9, Exhibit P01837, pp. 3985-3987; Witness RFJ-111, Exhibit P01174, pp. 10, 11, Exhibit P01177, p. 4033; Witness RFJ-038, Exhibit P00759, p. 5, Exhibit P00760, pp. 1000, 1040-1042; Exhibit P00551. *See also* Witness RFJ-144, Exhibit P01582, p. 1601. When leaving the police station with Witness Šutalo, Hadžić discovered that there was no police file for the witness, other than the registration book with the names of the detainees, and, as such, instructed that the witness's name be removed from the book. *See* Witness Šutalo, Exhibit P01834, pp. 8, 9.

⁵³⁵ Witness RFJ-111, Exhibit P01174, pp. 10-12; Witness RFJ-113, Exhibit P00562, paras. 94, 95, 98. *See also* Exhibit P00593, p. 1 (wherein it is stated that Arkan, his Serbian Volunteer Guard, and Hadžić took 13 people away); Witness RFJ-113, T. 26 September 2017 p. 59.

⁵³⁶ Witness Šutalo, Exhibit P01834, p. 9, Exhibit P01836, p. 25575, Exhibit P01837, p. 3987. *See also* Witness RFJ-111, Exhibit P01177, pp. 4033, 4034.

⁵³⁷ Witness Šutalo, Exhibit P01836, p. 25575, Exhibit P01834, p. 7. *See also* Witness RFJ-113, Exhibit P00562, para. 97 (wherein Witness RFJ-113 stated that Šutalo and Palinkaš were released because they paid large amounts of money to Arkan).

⁵³⁸ *See* Exhibit P00551; Witness RFJ-111, Exhibit P01174, pp. 10, 11; Witness RFJ-113, Exhibit P00562, paras. 94, 95. *See also* Witness Šutalo, Exhibit P01834, pp. 7, 8, Exhibit P01837, p. 3988. While there are some discrepancies concerning the spelling of certain names identified in the aforementioned exhibits, the Trial Chamber is satisfied that this evidence concerns the same victims identified in the Prosecution's victims list. *See* Prosecution Pre-Trial Brief, Annex A, RP. 6555.

Beck, whose body was exhumed in Daljski Atar.⁵³⁹ Aside from Beck, who was partly dressed in military clothes, the victims were wearing civilian clothes.⁵⁴⁰ However, according to information provided by the victims' relatives in the missing person questionnaires, it appears that Andal, Forjan, Predojević, and Štimec were members of the Croatian National Guard, Filipčić belonged to the reserve forces of the Croat army, and Kušić to the Ministry of Interior forces.⁵⁴¹ The Trial Chamber, nevertheless, accepts that none of these victims was taking active part in hostilities at the time of their death. The Trial Chamber further notes that, according to the missing person questionnaire, Beck disappeared on 12 October 1991.⁵⁴² In view of this and the fact that he was exhumed at a different location from the other victims, the Trial Chamber is not in a position to conclude that he was killed in relation to the charged incident.

122. In light of the above, the Trial Chamber finds proven beyond reasonable doubt that, on 21 September 1991, Arkan's Serbian Volunteer Guard, in the presence of both Arkan and Hadžić, took, at least, the following 10 non-Serbs⁵⁴³ away and subsequently killed them: Zoran Andal,⁵⁴⁴ Haso Brajić,⁵⁴⁵ Željko Filipčić,⁵⁴⁶ Ivan Forjan,⁵⁴⁷ Darko Kušić,⁵⁴⁸ Čedomir Predojević,⁵⁴⁹ Dražen Štimec,⁵⁵⁰ Ivan Zelember,⁵⁵¹ Pavo (Pavao) Zemljak,⁵⁵² and Vladimir Zemljak.⁵⁵³

⁵³⁹ Exhibit P00597, pp. 27, 94, 133, 145. *See also* Witness Šutalo, Exhibit P01837, p. 3988.

⁵⁴⁰ Exhibit P00862, pp. 38, 39. The Trial Chamber notes that, while the clothes of Haso Brajić and Ivan Forjan are not described in Witness Davor Strinović's expert report, their clothing is identified in their respective autopsy reports. *See* Exhibit P00862, pp. 38, 39; Exhibit P00967, pp. 1, 2; Exhibit P00972, p. 1.

⁵⁴¹ Exhibit P00605, pp. 2, 5; Exhibit P00695, p. 2; Exhibit P00698, p. 2; Exhibit P00699, p. 2; Exhibit P00700, p. 2; Exhibit P00701, p. 2; Exhibit P00702, p. 2.

⁵⁴² Exhibit P00696, p. 2.

⁵⁴³ The Trial Chamber notes that, while the Indictment alleges that the victims were Croats, Andal appears to be Hungarian (*see* Exhibit P00695, p. 1) and Brajić Muslim (*see* Exhibit P00697, p. 1). However, in view of the absence of any objections from the parties with respect to this discrepancy, the Trial Chamber has considered all the listed victims.

⁵⁴⁴ Exhibit P00862, pp. 38, 84, 85; Exhibit P00597, p. 94; Exhibit P00598, p. 18; Exhibit P00963; Exhibit P00964; Exhibit P00965; Exhibit P00695.

⁵⁴⁵ Exhibit P00862, pp. 38, 85; Exhibit P00597, p. 94; Exhibit P00598, p. 18; Exhibit P00967; Exhibit P00968; Exhibit P00697.

⁵⁴⁶ Exhibit P00862, pp. 38, 85; Exhibit P00597, p. 94; Exhibit P00598, p. 18; Exhibit P00969; Exhibit P00970; Exhibit P00971; Exhibit P00698.

⁵⁴⁷ Exhibit P00862, pp. 38, 85; Exhibit P00597, p. 94; Exhibit P00598, p. 19; Exhibit P00972; Exhibit P00973; Exhibit P00699.

⁵⁴⁸ Exhibit P00862, pp. 39, 85; Exhibit P00597, p. 94; Exhibit P00598, p. 19; Exhibit P00974; Exhibit P00975; Exhibit P00976; Exhibit P00700.

⁵⁴⁹ Exhibit P00862, pp. 39, 86; Exhibit P00597, p. 94; Exhibit P00598, p. 19; Exhibit P00977; Exhibit P00978; Exhibit P00701.

⁵⁵⁰ Exhibit P00862, pp. 39, 86; Exhibit P00597, p. 94; Exhibit P00598, p. 19; Exhibit P00979; Exhibit P00980; Exhibit P00702.

⁵⁵¹ Exhibit P00862, pp. 39, 86; Exhibit P00597, p. 94; Exhibit P00598, pp. 19, 20; Exhibit P00981; Exhibit P00982; Exhibit P00703.

⁵⁵² Exhibit P00862, pp. 39, 86, 87; Exhibit P00597, p. 94; Exhibit P00598, p. 20; Exhibit P00983; Exhibit P00984; Exhibit P00704.

⁵⁵³ Exhibit P00862, pp. 39, 87; Exhibit P00597, p. 94; Exhibit P00598, p. 20; Exhibit P00985; Exhibit P00986; Exhibit P00705.

(iii) Murder of 28 Non-Serbs Detained at the Dalj Police Station⁵⁵⁴

123. It follows from the evidence of Witness RFJ-025, who at the time was a member of the Dalj militia, that, in early October 1991, about 30 men from Baranja were brought to and detained at the Dalj police station.⁵⁵⁵ On the night of 4 to 5 October 1991, Arkan and Milorad Stričević (Puki), the head of security of the Crisis Committee of the Territorial Defence in Dalj,⁵⁵⁶ along with approximately 20 of Arkan's Serbian Volunteer Guard, came to the building and removed all employees of the Dalj police station.⁵⁵⁷ In the early morning hours, after they beat and shot dead the detainees, Arkan and Stričević came out of the building and forced a few prisoners to load the dead bodies onto military trucks and to clean the blood inside the prison.⁵⁵⁸ When the trucks arrived at the "Jama" stream, where it joins the Danube river, approximately 150 meters from the Dalj police building, more gunshots were heard.⁵⁵⁹ Soon thereafter, several people saw bodies floating in the Danube river and reported it to the SAO SBWS police in Dalj.⁵⁶⁰

124. In relation to the above, the Trial Chamber notes that Stričević signed a certificate stating that 26 of the 28 victims listed by the Prosecution,⁵⁶¹ with the exception of Josip Balog and Zlatko Rastija, were taken over "on behalf of the Dalj Defense [Headquarters]" on 5 October 1991.⁵⁶² The details of this event and some of the names of the detainees who disappeared from the Dalj police station, including those of Balog and Rastija, were further provided in a report prepared by the commander of the Dalj police station, Željko Čizmić.⁵⁶³ Although there are some discrepancies between the spelling of certain names identified in the certificate, the police report, and the Prosecution's victims' list,⁵⁶⁴ the Trial Chamber is satisfied, considering the evidence regarding the circumstances of the victims' disappearance and death, that these documents concern the same victims. Despite the police report, Arkan's public admission that he was responsible for the

⁵⁵⁴ See *supra* n. 467 (wherein the Trial Chamber noted the discrepancy between the number of victims identified in paragraph 37 of the Indictment and in the Prosecution's Pre-Trial Brief and Final Trial Brief).

⁵⁵⁵ Witness RFJ-025, Exhibit P00423, p. 3.

⁵⁵⁶ Witness RFJ-111, Exhibit P01174, p. 12, Exhibit P01175, p. 2.

⁵⁵⁷ Witness RFJ-111, Exhibit P01174, pp. 12, 13; Witness RFJ-025, Exhibit P00423, p. 3.

⁵⁵⁸ Witness RFJ-111, Exhibit P01174, p. 13, Exhibit P01176, para. 16; Exhibit P00593, p. 1. See also Witness RFJ-025, Exhibit P00422, p. 4166.

⁵⁵⁹ Witness RFJ-111, Exhibit P01174, p. 13, Exhibit P01175, p. 2, Exhibit P01176, para. 18.

⁵⁶⁰ Witness RFJ-111, Exhibit P01174, pp. 14, 16; Witness RFJ-025, Exhibit P00423, p. 4.

⁵⁶¹ See Prosecution Final Trial Brief, Annex C, pp. 70-80; Prosecution Pre-Trial Brief, Annex A, RP. 6555.

⁵⁶² Exhibit P00550; Witness RFJ-111, Exhibit P01174, pp. 14, 15. Witness RFJ-151 also confirmed that Ernest Bača, Karlo Raić (referred to as Rajić), Mihaljo Šimun (referred to as Šimon), and Rudolf Jukić were taken from Baranja to Dalj and Borovo and went missing and that, to the best of the witness's knowledge, none of these persons were engaged in any activity that would warrant their arrest. See Witness RFJ-151, Exhibit P00495, paras. 100, 104; Exhibit P00504.

⁵⁶³ Exhibit P00578; Witness RFJ-111, Exhibit P01175, pp. 1, 2. See also Witness Knežević, Exhibit 1D00531, pp. 13402-13404.

⁵⁶⁴ See Exhibit P00550; Exhibit P00578; Prosecution Final Trial Brief, Annex C, pp. 70-80; Prosecution Pre-Trial Brief, Annex A, RP. 6555.

killings,⁵⁶⁵ and Goran Hadžić's knowledge of it,⁵⁶⁶ the incident was not investigated by the competent authorities.⁵⁶⁷ In relation to this incident, on 16 October 1991, Arkan and members of his Serbian Volunteer Guard met a member of the police of the Vukovar region and threatened him at gunpoint, accusing him of collecting documents against them and cooperating with "Ustashas".⁵⁶⁸ On the same day, Hadžić signed a decision removing the police chief of the Vukovar region, and, shortly thereafter, replaced him with Dragan Lazić, who, according to Witness RFJ-113, worked for the Serbian State Security Service.⁵⁶⁹

125. The bodies of 23 of the 28 victims alleged in the Indictment were exhumed in Serbia and in the municipality of Vukovar-Srijem in Croatia.⁵⁷⁰ The bodies of Martin Banković, Andrija Maksimović, Đorđe Radaljević, Tibor Šileš, and Mihaljo Šimun have not been exhumed. Considering that the Trial Chamber has also not received a missing person questionnaire that would confirm the circumstances of the disappearance of Banković and Maksimović, it cannot conclude that they were killed during this incident. However, with respect to Radaljević, Tibor Šileš, and Šimun, the Trial Chamber is satisfied, in light of the evidence concerning their arrest, detention, and death, that they were killed as part of this incident. With respect to the remaining victims, the Trial Chamber concludes that, except for Vinko Oroz and Karlo Raić for whom no information is available regarding their status and ethnicity, they were all non-Serbs, which includes 17 Croats,⁵⁷¹ six Hungarians,⁵⁷² and one German.⁵⁷³ Moreover, on the basis of information concerning the victims' clothing, where available, and the information provided by their families in the missing person questionnaires, the majority of the victims, aside from Oroz and Raić as identified above, were civilians with the exception of: Mile Grbešić, who was associated with the Ministry of Interior forces, Zvonko Mlinarević, who was associated with the Croatian army reserve forces, Ranko Soldo, who belonged to the reserve forces of the Ministry of Interior, Zlatko Rastija who was registered with the Ministry of Interior reserve forces, as well as Stanislav Strmečki, Tibor Šileš and

⁵⁶⁵ Witness RFJ-111, Exhibit P01174, pp. 16, 17, Exhibit P01177, pp. 4052, 4110; Witness RFJ-025, Exhibit P00422, pp. 4167, 4176, 4177. *See also* Exhibit P01198, p. 1.

⁵⁶⁶ Witness RFJ-113, Exhibit P00562, paras. 100, 102.

⁵⁶⁷ Witness RFJ-111, Exhibit P01174, p. 16 (wherein Witness RFJ-111 expresses the view that there must have been an order from Belgrade not to investigate), Exhibit P01177, p. 4070; Witness RFJ-025, Exhibit P00423, p. 4. *See also* Witness RFJ-151, Exhibit P00495, para. 106.

⁵⁶⁸ Witness RFJ-113, Exhibit P00562, paras. 101, 102.

⁵⁶⁹ Witness RFJ-113, Exhibit P00562, paras. 102-104; Exhibit P00579.

⁵⁷⁰ Exhibit P00597, pp. 27, 95-97; Exhibit P00862, pp. 40-44, 87-91.

⁵⁷¹ Exhibit P00605, pp. 2, 5, 6; Exhibit P00708, p. 1; Exhibit P00709, p. 1; Exhibit P00548, p. 1; Exhibit P00710, p. 1; Exhibit P00712, p. 1; Exhibit P00713, p. 1; Exhibit P00714, p. 1; Exhibit P00715, p. 1; Exhibit P00716, p. 1; Exhibit P00717, p. 1; Exhibit P00718, p. 1; Exhibit P00719, p. 1; Exhibit P00720, p. 1; Exhibit P00721, p. 1; Exhibit P00725, p. 1; Exhibit P00727, p. 1; Exhibit P00728, p. 1.

⁵⁷² Exhibit P00605, pp. 2, 5, 6; Exhibit P00706, p. 1; Exhibit P00707, p. 1; Exhibit P00711, p. 1; Exhibit P00722, p. 1; Exhibit P00724, p. 1; Exhibit P00726, p. 1.

⁵⁷³ Exhibit P00605, pp. 2, 6; Exhibit P00723, p. 1.

Janoš Šileš, who belonged to the Croatian National Guard.⁵⁷⁴ However, the Trial Chamber accepts that none of these victims was taking active part in hostilities at the time of their death.

126. In light of the above, the Trial Chamber finds proven beyond reasonable doubt that, during the night of 4 to 5 October 1991, Arkan, Stričević and several members of Arkan's Serbian Volunteer Guard killed, at least, the following 26 persons:⁵⁷⁵ Erne (Ernest) Bača,⁵⁷⁶ Josip Balog,⁵⁷⁷ Mile Grbešić,⁵⁷⁸ Elvis Hadžić,⁵⁷⁹ Rudolf Jukić,⁵⁸⁰ Ivica Krkalo,⁵⁸¹ Iles Lukač,⁵⁸² Franjo Mesarić,⁵⁸³ Josip Mikec,⁵⁸⁴ Pero (Petar) Milić,⁵⁸⁵ Zvonko Mlinarević,⁵⁸⁶ Vinko Oroz,⁵⁸⁷ Pero Rašić,⁵⁸⁸ Đorđe Radaljević,⁵⁸⁹ Karlo Raić,⁵⁹⁰ Zlatko Rastija,⁵⁹¹ Ranko Soldo,⁵⁹² Stanislav Strmečki,⁵⁹³ Pavo Šarac,⁵⁹⁴ Tibor Šileš,⁵⁹⁵ Mihaljo Šimun,⁵⁹⁶ Janoš Šileš,⁵⁹⁷ Marinko Šomodvarac,⁵⁹⁸ Mihalj Tolaš,⁵⁹⁹ Danijel Tomičić,⁶⁰⁰ and Ivan Tomičić.⁶⁰¹

⁵⁷⁴ Exhibit P00862, pp. 40-43, 87-90; Exhibit P00605, pp. 2, 5, 6; Exhibit P00708, p. 2; Exhibit P00715, p. 2; Exhibit P00718, p. 2; Exhibit P00719, p. 2; Exhibit P00720, p. 2; Exhibit P00722, p. 2; Exhibit P00724, p. 2. The Trial Chamber considers Pero Rašić, who worked for the civilian protection, a civilian. *See* Exhibit P00716, p. 2; Witness Bilić, T. 5 October 2017 pp. 5, 6.

⁵⁷⁵ The Trial Chamber notes that, while the Indictment alleges that the victims were Croats, Bača, Balog, Lukač, Tibor Šileš, Janos Šileš, and Mihalj Tolaš appear to be Hungarian (*see* Exhibit P00706, p. 1; Exhibit P00707, p. 1; Exhibit P00711, p. 1; Exhibit P00722, p. 1; Exhibit P00724, p. 1; Exhibit P00726, p. 1) and Šimon appears to be German (*see* Exhibit P00723, p. 1). However, in view of the absence of any objections from the parties with respect to this discrepancy, the Trial Chamber considers all the listed victims.

⁵⁷⁶ Exhibit P00862, pp. 40, 87; Exhibit P00597, p. 95; Exhibit P00598, p. 20; Exhibit P00987; Exhibit P00706.

⁵⁷⁷ Exhibit P00862, pp. 40, 87; Exhibit P00597, p. 95; Exhibit P00598, p. 20; Exhibit P00988; Exhibit P00707.

⁵⁷⁸ Exhibit P00862, pp. 40, 87; Exhibit P00597, p. 95; Exhibit P00598, p. 40; Exhibit P00989; Exhibit P00708.

⁵⁷⁹ Exhibit P00862, pp. 40, 87; Exhibit P00597, p. 95; Exhibit P00598, p. 21; Exhibit P00990; Exhibit P00709.

⁵⁸⁰ Exhibit P00862, pp. 41, 87; Exhibit P00597, p. 95; Exhibit P00598, p. 21; Exhibit P00991; Exhibit P00992; Exhibit P00548.

⁵⁸¹ Exhibit P00862, pp. 41, 88; Exhibit P00597, p. 95; Exhibit P00598, p. 21; Exhibit P00993; Exhibit P00710.

⁵⁸² Exhibit P00862, pp. 41, 88; Exhibit P00597, p. 95; Exhibit P00598, p. 21; Exhibit P00994; Exhibit P00711.

⁵⁸³ Exhibit P00862, pp. 41, 88; Exhibit P00597, p. 95; Exhibit P00598, p. 21; Exhibit P00995; Exhibit P00712.

⁵⁸⁴ Exhibit P00862, pp. 41, 88; Exhibit P00597, p. 95; Exhibit P00598, p. 21; Exhibit P00996; Exhibit P00997; Exhibit P00713.

⁵⁸⁵ Exhibit P00862, pp. 41, 88; Exhibit P00597, p. 95; Exhibit P00598, pp. 21, 22; Exhibit P00998; Exhibit P00999; Exhibit P00714.

⁵⁸⁶ Exhibit P00862, pp. 41, 88; Exhibit P00597, p. 95; Exhibit P00598, p. 22; Exhibit P01000; Exhibit P00715.

⁵⁸⁷ Exhibit P00862, pp. 41, 42, 88, 89; Exhibit P00597, p. 96; Exhibit P00598, p. 22; Exhibit P01001; Exhibit P01002; Exhibit P01003; Exhibit P01004.

⁵⁸⁸ Exhibit P00862, pp. 42, 89; Exhibit P00597, p. 96; Exhibit P00598, p. 22; Exhibit P01005; Exhibit P00716.

⁵⁸⁹ Exhibit P00862, pp. 42, 89; Exhibit P00597, p. 96; Exhibit P00598, p. 22; Exhibit P00717.

⁵⁹⁰ Exhibit P00862, pp. 42, 89; Exhibit P00597, p. 96; Exhibit P00598, pp. 22, 23; Exhibit P01006; Exhibit P01007; Exhibit P01008; Exhibit P01009.

⁵⁹¹ Exhibit P00862, pp. 42, 89; Exhibit P00597, p. 96; Exhibit P00598, p. 23; Exhibit P01010; Exhibit P00718.

⁵⁹² Exhibit P00862, pp. 42, 90; Exhibit P00597, p. 96; Exhibit P00598, p. 23; Exhibit P01011; Exhibit P00719.

⁵⁹³ Exhibit P00862, pp. 42, 43, 90; Exhibit P00597, p. 96; Exhibit P00598, p. 23; Exhibit P01012; Exhibit P00720.

⁵⁹⁴ Exhibit P00862, pp. 43, 90; Exhibit P00597, p. 96; Exhibit P00598, p. 23; Exhibit P01013; Exhibit P01014; Exhibit P01015; Exhibit P00721.

⁵⁹⁵ Exhibit P00862, pp. 43, 90; Exhibit P00597, p. 96; Exhibit P00598, p. 23; Exhibit P00502; Exhibit P00722.

⁵⁹⁶ Exhibit P00862, pp. 43, 90; Exhibit P00597, p. 96; Exhibit P00598, p. 23; Exhibit P00723.

⁵⁹⁷ Exhibit P00862, pp. 43, 90; Exhibit P00597, p. 96; Exhibit P00598, p. 24; Exhibit P01016; Exhibit P00724.

⁵⁹⁸ Exhibit P00862, pp. 43, 90, 91; Exhibit P00597, p. 96; Exhibit P00598, p. 24; Exhibit P01017; Exhibit P00725.

⁵⁹⁹ Exhibit P00862, pp. 43, 44, 91; Exhibit P00597, p. 96; Exhibit P00598, p. 24; Exhibit P01018 (BCS); Exhibit P00726.

⁶⁰⁰ Exhibit P00862, pp. 44, 91; Exhibit P00597, p. 96; Exhibit P00598, p. 24; Exhibit P01019; Exhibit P00727.

(iv) Murder of 16 Non-Serbs Detained at the Erdut Training Camp and its Surroundings⁶⁰²

127. It follows from the evidence that, on 9 November 1991, soldiers in JNA uniforms, the Serbian Volunteer Guard, and the local police arrested the following persons: Nikola Kalozi (born in 1922), Nikola Kalozi (born in 1952), Antun Kalozi, Ivan Mihaljev, Josip Bence, Josip Senaši, Stjepan Senaši, Pavao (Pavo) Bereš, Franjo Pap (born in 1934), and Mihaljo Pap.⁶⁰³ The men were taken to the Erdut training camp,⁶⁰⁴ where they were interrogated and severely beaten by Stričević, as well as Arkan and his men,⁶⁰⁵ and then killed.⁶⁰⁶

128. Some days after 9 November 1991, Julijana Pap, a woman of Hungarian ethnicity, who was inquiring about the fate of her husband, Franjo, and who had contacted international organizations for this purpose, was brought into the police station in Erdut for interrogation, and was warned to stop making inquiries.⁶⁰⁷ It follows from the evidence that the Chief of the Serbian National Security, Stevo Bogić (Jajo),⁶⁰⁸ and Mihaljo (Mile) Ulemek, a member of Arkan's Serbian Volunteer Guard,⁶⁰⁹ ordered members of the Serbian National Security to take Julijana Pap and whoever was in her house away, to confiscate her money, and to kill them.⁶¹⁰ Witness RFJ-041, who worked for the Serbian National Security, stated that Serbian National Security members took a significant amount of money from Julijana Pap, pretending it would be in exchange for seeing her husband, and then killed her, as well as her son, Franjo Pap (born in 1960), and her daughter-in-law, Natalija Rakin, and threw their bodies into a well.⁶¹¹ The witness further stated that, after the

⁶⁰¹ Exhibit P00862, pp. 44, 91; Exhibit P00597, p. 96; Exhibit P00598, p. 24; Exhibit P01020; Exhibit P01021; Exhibit P00728.

⁶⁰² See *supra* n. 467 (wherein the Trial Chamber noted the discrepancy between the number of victims identified in paragraph 38 of the Indictment and in the Prosecution's Pre-Trial Brief and Final Trial Brief).

⁶⁰³ Witness RFJ-052, Exhibit P00556, pp. 1, 4, Exhibit P00557, pp. 3850-3853; Witness Bence, Exhibit P01715, pp. 2, 3; Witness Filković, Exhibit P01754, para. 78. See also Witness RFJ-041, Exhibit P01082, para. 113, T. 5 December 2017 p. 16 (wherein Witness RFJ-041 stated that, based on their names, the detainees were Croats or Hungarians). The Trial Chamber notes that there are some discrepancies between the spelling of certain names mentioned by the witnesses and those provided in the victims' list submitted by the Prosecution (see Prosecution Pre-Trial Brief, Annex A, RP. 6554). However, considering the totality of the evidence regarding the circumstances of their disappearance and death, the Trial Chamber is satisfied that the evidence concerns the same victims. See Prosecution Final Trial Brief, Annex C, pp. 70-80; Prosecution Pre-Trial Brief, Annex A, RP. 6555.

⁶⁰⁴ Witness RFJ-052, Exhibit P00556, p. 4; Witness Bence, Exhibit P01715, p. 3; Witness RFJ-041, Exhibit P01082, para. 107.

⁶⁰⁵ Witness RFJ-041, Exhibit P01082, paras. 108-113, T. 5 December 2017 pp. 14-16. The Trial Chamber also notes that members of the Serbian National Security were invited by Arkan to watch the interrogations. See Witness RFJ-041, Exhibit P01082, para. 116.

⁶⁰⁶ Witness RFJ-041, Exhibit P01082, paras. 113-115, T. 5 December 2017 p. 16.

⁶⁰⁷ Witness RFJ-041, Exhibit P01082, paras. 117, 118, 121.

⁶⁰⁸ Witness Savić, Exhibit P00449, para. 80; Witness RFJ-113, Exhibit P00562, para. 106; Witness RFJ-111, Exhibit P01174, p. 17; Witness B. Bogunović, Exhibit P02718, para. 34.

⁶⁰⁹ Witness RFJ-041, Exhibit P01082, para. 170.

⁶¹⁰ Witness RFJ-041, Exhibit P01082, paras. 120-129.

⁶¹¹ Witness RFJ-041, Exhibit P01082, paras. 123-126, 130, 132-138. See also, Witness Filković, Exhibit P01754, para. 79. While Witnesses RFJ-041 and Aleksander Filković do not provide Natalija's last name, the Trial Chamber considers

disappearance of this family, many persons, primarily Hungarians, were inquiring into what happened, which led Hadžić, a few days later, to warn members of the Serbian National Security to be “very careful and act smartly not to get into trouble”.⁶¹²

129. The Trial Chamber also received evidence that, on 3 June 1992, Marija Senaši, of Hungarian ethnicity, disappeared in the area of Daljska Planina.⁶¹³ According to Witness RFJ-041, upon Ulemek’s orders, members of the Serbian National Security took Senaši to the basement of a house, on the road between Erdut and Aljmaš, that had been turned into a prison and used for interrogations.⁶¹⁴ Several days later, following an order from Bogić to check if Ulemek “messed something up or left traces which might compromise the [Serbian National Security]”, members of the Serbian National Security went to check the area, but stated that “everything was fine”.⁶¹⁵ Prior to her death, Senaši told Witness RFJ-052, who saw her with visible physical injuries between 9 November 1991 and 3 June 1992, that she had been badly beaten on two occasions, and that her house had been looted several times by Arkan’s Serbian Volunteer Guard and men in camouflage uniforms.⁶¹⁶

130. The bodies of 13 of the 16 victims alleged in the Indictment were exhumed in Čelije, Dalj Planina, Daljski Atar, and Borovo Selo.⁶¹⁷ As confirmed by Expert Witness Bilić, chief of sector of missing or imprisoned persons of the Croatian Ministry of Veterans, although the body of Nikola Kalozi (born in 1922) has not been found, a missing person questionnaire has been filed for him.⁶¹⁸ In light of the evidence concerning his arrest, detention, and death, the Trial Chamber is satisfied that Nikola Kalozi (born in 1922) was killed as part of the incident of 9 November 1991. With respect to Ivica Astaloš and Atika Paloš, the search for their remains is ongoing⁶¹⁹ and the Trial Chamber has not received any information regarding the circumstances of their disappearance. Accordingly, the Trial Chamber is not in a position to make findings about the killings of these two individuals. The Trial Chamber further notes that, although no information is provided in the

that their testimony concerns Natalija Rakin, having taken into account the information provided in the missing person questionnaire that she disappeared together with Julijana Pap and Franjo Pap (born in 1960). *See* Exhibit P00739, p. 4.

⁶¹² Witness RFJ-041, Exhibit P01082, paras. 139-141.

⁶¹³ Witness RFJ-052, Exhibit P00556, pp. 1, 5, Exhibit P00557, p. 3855. *See also* Witness RFJ-041, Exhibit P01082, paras. 172, 174 (wherein, from the specific circumstances surrounding her arrest, the Trial Chamber considers that the witness referred to Marija Senaši).

⁶¹⁴ Witness RFJ-041, Exhibit P01082, paras. 170-173; Exhibit P01109. *See also* Exhibit P00740.

⁶¹⁵ Witness RFJ-041, Exhibit P01082, paras. 174-176.

⁶¹⁶ Witness RFJ-052, Exhibit P00556, p. 5; Exhibit P00740, pp. 12, 13.

⁶¹⁷ Exhibit P00597, pp. 27, 28, 98, 99, 134, 146; Exhibit P00862, pp. 63, 64, 91-94. *See also* Witness RFJ-041, Exhibit P01082, para. 134.

⁶¹⁸ Exhibit P00597, p. 139; Exhibit P00862, pp. 63, 92; Exhibit P00734.

⁶¹⁹ Exhibit P00597, pp. 98, 99. According to Witness Bilić, the International Committee of the Red Cross makes a distinction between a missing person and searching for remains. More specifically, the witness stated that, in the first case, the fate of the person is unknown, but the person is registered as a missing person. In the second case, families have knowledge that their family members lost their lives, but not where the remains are located. *See* Witness Bilić, T. 4 October 2017 p. 58.

missing person questionnaires regarding the ethnicity of Franjo Pap (born in 1934), Franjo Pap (born in 1960), Julijana Pap, and Rakin, it is satisfied, in view of the evidence, that, aside from Rakin, these victims were Hungarians.⁶²⁰ The Trial Chamber also notes that, with the exception of Mihaljev, Franjo Pap (born in 1934), Franjo Pap (born in 1960), Julijana Pap, and Rakin, for whom insufficient information on their status is provided, the evidence demonstrates that the remaining victims were civilians.⁶²¹ However, the Trial Chamber accepts that none of these victims was taking active part in hostilities at the time of their death.

131. In light of the above, the Trial Chamber finds proven beyond reasonable doubt that, on three separate occasions in November 1991 and June 1992, Arkan's Serbian Volunteer Guard and the Serbian National Security killed at least the following 14 persons:⁶²² Josip Bence,⁶²³ Pavao (Pavo) Bereš,⁶²⁴ Antun Kalozi,⁶²⁵ Nikola Kalozi (born in 1952),⁶²⁶ Nikola Kalozi (born in 1922),⁶²⁷ Ivan Mihaljev,⁶²⁸ Franjo Pap (born in 1960),⁶²⁹ Mihajlo Pap,⁶³⁰ Josip Senaši,⁶³¹ Stjepan Senaši,⁶³² Franjo Pap (born in 1934),⁶³³ Julijana Pap,⁶³⁴ Natalija Rakin,⁶³⁵ and Marija Senaši.⁶³⁶

(v) Murder of 5 Non-Serbs Detained at the Erdut Training Camp

⁶²⁰ See Exhibit P00605, pp. 2, 6; Exhibit P00730, p. 1; Exhibit P00731, p. 1; Exhibit P00732, p. 1; Exhibit P00733, p. 1; Exhibit P00734, p. 1; Exhibit P01030, p. 1; Exhibit P01033, p. 1; Exhibit P00738, p. 1; Exhibit P00560, p. 1; Exhibit P00740, p. 1; Exhibit P00559, p. 1. See also *supra* nn. 603, 607.

⁶²¹ See Exhibit P00605, pp. 2, 6; Exhibit P00730, p. 2; Exhibit P00731, p. 2; Exhibit P00732, p. 2; Exhibit P00733, p. 2; Exhibit P00734, p. 2; Exhibit P00738, p. 2; Exhibit P00560, p. 2; Exhibit P00740, p. 2; Exhibit P00559, p. 2.

⁶²² The Trial Chamber is satisfied that the allegation that "at least" nine Hungarian and Croat civilians were arrested as part of this incident does not prevent a finding on more victims than the number explicitly mentioned in the Indictment.

⁶²³ Exhibit P00862, pp. 63, 91; Exhibit P00597, p. 98; Exhibit P00598, pp. 24, 25; Exhibit P01023; Exhibit P01024, p. 2; Exhibit P00730.

⁶²⁴ Exhibit P00862, pp. 63, 91, 92; Exhibit P00597, p. 98; Exhibit P00598, p. 25; Exhibit P01025; Exhibit P00731.

⁶²⁵ Exhibit P00862, pp. 63, 92; Exhibit P00597, p. 98; Exhibit P00598, p. 25; Exhibit P01026; Exhibit P00733.

⁶²⁶ Exhibit P00862, pp. 63, 92; Exhibit P00597, p. 98; Exhibit P00598, p. 25; Exhibit P01027; Exhibit P00732.

⁶²⁷ Exhibit P00862, pp. 63, 92; Exhibit P00597, p. 98; Exhibit P00598, p. 25; Exhibit P00734.

⁶²⁸ Exhibit P00862, pp. 64, 92; Exhibit P00597, p. 98; Exhibit P00598, p. 25; Exhibit P01024, p. 1; Exhibit P01029; Exhibit P01030.

⁶²⁹ Exhibit P00862, pp. 64, 92; Exhibit P00597, p. 98; Exhibit P00598, pp. 26, 27; Exhibit P01038; Exhibit P01039; Exhibit P01040; Exhibit P01042, p. 1.

⁶³⁰ Exhibit P00862, pp. 64, 92, 93; Exhibit P00597, p. 98; Exhibit P00598, p. 26; Exhibit P01033; Exhibit P00737.

⁶³¹ Exhibit P00862, pp. 64, 93; Exhibit P00597, p. 98; Exhibit P00598, p. 26; Exhibit P01034; Exhibit P01035; Exhibit P00738; Exhibit P00560.

⁶³² Exhibit P00862, pp. 64, 93; Exhibit P00597, p. 98; Exhibit P00598, p. 26; Exhibit P01036; Exhibit P01037; Exhibit P00559.

⁶³³ Exhibit P00862, pp. 64, 93; Exhibit P00597, p. 98; Exhibit P00598, p. 26; Exhibit P01031; Exhibit P01032; Exhibit P00736.

⁶³⁴ Exhibit P00862, pp. 64, 93, 94; Exhibit P00597, p. 98; Exhibit P00598, p. 27; Exhibit P01041; Exhibit P01042, p. 2; Exhibit P01043; Exhibit P01044.

⁶³⁵ Exhibit P00862, pp. 64, 94; Exhibit P00597, p. 98; Exhibit P00598, p. 27; Exhibit P01042, p. 1; Exhibit P01045; Exhibit P01046; Exhibit P00739.

⁶³⁶ Exhibit P00862, pp. 64, 94; Exhibit P00597, p. 99; Exhibit P00598, p. 27; Exhibit P01042, p. 2; Exhibit P01047; Exhibit P01048; Exhibit P00740.

132. On the morning of 11 November 1991, a group of men went to a farm in the village of Klisa to collect coupons for their work.⁶³⁷ Shortly thereafter, eyewitnesses saw a white mini-van, with Novi Sad plates, coming from the direction of Vukovar, entering the farm and approximately six members of Arkan's Serbian Volunteer Guard taking away, amongst others, Tomo Curić, Ivan Kučan, Josip Vaniček, Stjepan Dasović, and Franjo Dasović.⁶³⁸ According to Witness Dasović, who was among those taken, the men were initially taken to a house in Erdut,⁶³⁹ where they saw Jakov Barbarić and Josip Debić, who had been arrested earlier in Dalj and Bijelo Brdo.⁶⁴⁰ All seven men were Croats,⁶⁴¹ and, according to Witness RFJ-157, who was a family member of one of the arrested persons,⁶⁴² none of them was known for having any involvement in the military, paramilitary, or local volunteers in 1991.⁶⁴³ The men were interrogated about their families and their role in the Second World War and were beaten.⁶⁴⁴ Subsequently, they were taken to the Erdut training camp, where they were interrogated about the same issues and their role in the ongoing conflict.⁶⁴⁵ On 14 November 1991, Witness Dasović and his brother Franjo Dasović were released,⁶⁴⁶ presumably because they had Serb relatives.⁶⁴⁷ Stričević confirmed that the other men detained in the Erdut training camp were killed, but claimed that he had nothing to do with their deaths as he returned them to the "militia" who originally arrested them.⁶⁴⁸ The Trial Chamber considers, however, that the evidence demonstrates that the victims of this incident were arrested by members of Arkan's Serbian Volunteer Guard, were last seen being mistreated at the Erdut training camp, which was run by Arkan's Serbian Volunteer Guard,⁶⁴⁹ and their remains were found in a

⁶³⁷ Witness Dasović, Exhibit P00389, p. 2; Witness RFJ-157, Exhibit P00754, p. 2, T. 17 October 2017 pp. 8, 9; Witness RFJ-054, Exhibit P02665, para. 72; Witness RFJ-138, Exhibit P01773, para. 5, Exhibit P01775, pp. 1969, 1970, Exhibit P01771, p. 3.

⁶³⁸ Witness RFJ-157, Exhibit P00754, pp. 2, 3, Exhibit P00755, pp. 2750, 2751, T. 17 October 2017 pp. 8, 9, 13; Witness Dasović, Exhibit P00389, p. 3. *See also* Witness RFJ-138, Exhibit P01771, p. 3, Exhibit P01773, para. 5, Exhibit P01774, paras. 10, 11, Exhibit P01775, pp. 1969, 1970, Exhibit P01776, pp. 2227, 2228 (wherein Witness RFJ-138, who was, however, not an eyewitness to this aspect of the event, testified that Jakov Barbarić, Tomo Curić, Josip (listed as "Ivan") Debić, Ivan Kučan, Josip Vaniček, and Stevo and Franjo Dasović had all been arrested together). The Trial Chamber also notes that, according to Witness RFJ-138, Stevo is a short-form of the name Stepjan. *See* Witness RFJ-138, Exhibit P01176, p. 1972.

⁶³⁹ Witness Dasović, Exhibit P00389, p. 3. *See also* Witness RFJ-138, Exhibit P01775, p. 1970; Witness RFJ-144, Exhibit P01579, p. 5.

⁶⁴⁰ Witness Dasović, Exhibit P00389, p. 3.

⁶⁴¹ Witness Dasović, Exhibit P00389, p. 3; Witness RFJ-157, T. 17 October 2017 pp. 9, 10.

⁶⁴² Witness RFJ-157, Exhibit P00754, p. 2.

⁶⁴³ Witness RFJ-157, T. 17 October 2017 pp. 10, 11.

⁶⁴⁴ Witness Dasović, Exhibit P00389, pp. 3, 4.

⁶⁴⁵ Witness Dasović, Exhibit P00389, p. 4. *See also* Witness RFJ-157, Exhibit P00754, p. 3, Exhibit P00755, p. 2751, T. 17 October 2017 p. 9; Witness RFJ-144, Exhibit P01579, p. 5.

⁶⁴⁶ Witness Dasović, Exhibit P00389, pp. 3, 5; Witness RFJ-138, Exhibit P01773, para. 5, Exhibit P01774, para. 12.

⁶⁴⁷ Witness Dasović, Exhibit P00389, p. 5; Witness RFJ-138, Exhibit P00755, p. 2751; Witness RFJ-157, T. 17 October 2017 pp. 9, 10.

⁶⁴⁸ Witness RFJ-138, Exhibit P01771, p. 4, Exhibit P01774, paras. 12, 20, 21.

⁶⁴⁹ *See* Witness Dasović, Exhibit P00389, pp. 3-5. *See also* Exhibit 2D00049.

mass grave in the village of Čelije,⁶⁵⁰ where Arkan's Serbian Volunteer Guard were stationed controlling who entered the village.⁶⁵¹

133. On the basis of information concerning the victims' clothing, where available, and the information provided by their families in the missing person questionnaires, the Trial Chamber concludes that the victims were all Croat civilians.⁶⁵² In light of the above, the Trial Chamber finds proven beyond reasonable doubt that, on 11 November 1991, Arkan's Serbian Volunteer Guard detained and later killed the following five Croat civilians: Jakov (Jakob) Barbarić,⁶⁵³ Tomo Curić,⁶⁵⁴ Josip Debić,⁶⁵⁵ Ivan Kučan,⁶⁵⁶ and Josip Vaniček.⁶⁵⁷

(vi) Murder of 7 Non-Serbs Detained at the Erdut Training Camp

134. Before Christmas 1991, Witness Stana Albert saw Franjo Pittl being taken from his home into a military jeep by people both in military uniforms and in civilian clothes, some of whom she recognized as being local Serbs.⁶⁵⁸ On the afternoon of 24 December 1991, Witness Albert saw Stjepan Tešanac being taken in a civilian car by three men in civilian clothes, and almost immediately thereafter the family of Bozo Bolić, the local police chief, moved into Tešanac's house.⁶⁵⁹ Tešanac was never seen again.⁶⁶⁰ Andrija Matin was also sitting in the jeep having been arrested.⁶⁶¹ On 25 December 1991, Witnesses Zlatko Antunović and RFJ-102⁶⁶² saw Manda Maj

⁶⁵⁰ Exhibit P00597, pp. 28, 100, 146; Exhibit P00862, pp. 45, 46. *See also* Witness RFJ-157, T. 17 October 2017 p. 10; Witness RFJ-138, Exhibit P01773, para. 5; Witness RFJ-144, Exhibit P01582, pp. 1596, 1597.

⁶⁵¹ Witness RFJ-144, Exhibit P01579, p. 8, Exhibit P01582, p. 1597.

⁶⁵² Exhibit P00741, pp. 1, 2; Exhibit P00742, pp. 1, 2; Exhibit P00743, pp. 1, 2; Exhibit P00744, pp. 1, 2; Exhibit P00745, pp. 1, 2; Exhibit P00862, pp. 45, 46. *See* Witness RFJ-157, Exhibit P00754, p. 3; Exhibit P01059, p. 1.

⁶⁵³ Exhibit P00862, pp. 45, 94, 95; Exhibit P00597, p. 100; Exhibit P00598, pp. 27, 28; Exhibit P00605, pp. 2, 6; Exhibit P01049; Exhibit P01050; Exhibit P01051; Exhibit P00741.

⁶⁵⁴ Exhibit P00862, pp. 45, 95; Exhibit P00597, p. 100; Exhibit P00598, p. 28; Exhibit P00605, pp. 2, 6; Exhibit P01052; Exhibit P01053, p. 2; Exhibit P01054; Exhibit P00742.

⁶⁵⁵ Exhibit P00862, pp. 45, 95; Exhibit P00597, p. 100; Exhibit P00598, p. 28; Exhibit P00605, pp. 2, 6; Exhibit P01055; Exhibit P01056; Exhibit P00743.

⁶⁵⁶ Exhibit P00862, pp. 45, 95; Exhibit P00597, p. 100; Exhibit P00598, p. 28; Exhibit P00605, pp. 2, 6; Exhibit P01057; Exhibit P01053, p. 3; Exhibit P01058; Exhibit P00744.

⁶⁵⁷ Exhibit P00862, pp. 46, 95, 96; Exhibit P00597, p. 100; Exhibit P00598, p. 29; Exhibit P00605, pp. 2, 6; Exhibit P01059; Exhibit 2D00048; Exhibit P00745.

⁶⁵⁸ Witness Albert, Exhibit P00440, pp. 2, 3. *See also* Witness RFJ-102, Exhibit P00772, p. 4, T. 18 October 2017 pp. 58, 59 (wherein Witness RFJ-102 stated that she heard that Pittl and Andrija, whose last name she did not know, were killed by Arkan's Serbian Volunteer Guard, which she believed took place in November 1991); Exhibit P01073.

⁶⁵⁹ Witness Albert, Exhibit P00440, p. 3. According to the witness, Tešanac had also been detained on two earlier occasions in the Dalj prison and, following his release, he was convinced that he would be killed. *See* Witness Albert, Exhibit P00440, p. 3. *See also* Exhibit P01073.

⁶⁶⁰ Witness Mijić, Exhibit P01796, p. 5; Witness Albert, Exhibit P00440, p. 3.

⁶⁶¹ Witness Albert, Exhibit P00440, pp. 2, 3. The Trial Chamber notes that, in the missing person questionnaire and the expert report of Witness Bilić, Andrija Matin appears to have disappeared in the middle of August 1991. *See* Exhibit P00747, p. 4; Exhibit P00597, p. 133. However, the Trial Chamber accepts the accuracy of Witness Albert's eyewitness statement, also considering that Matin's family left Erdut in August 1991. *See* Witness Albert, Exhibit P00440, p. 3. *See also* Exhibit P01073.

⁶⁶² The Trial Chamber notes that, during the proceedings, certain inconsistencies were pointed out between the testimony of Witness RFJ-102 in the original trial and in the current proceedings (*see* Witness RFJ-102, T. 18 October 2017 pp. 60-66; Exhibit 2D00050, pp. 3, 5), compared to a statement she gave during national proceedings in Croatia in

and Josip Zoretić at the Erdut training camp being physically abused.⁶⁶³ At the training camp, interrogations were carried out by Stričević.⁶⁶⁴

135. The bodies of all seven victims alleged in the Indictment were exhumed in a mass grave in Daljski Atar.⁶⁶⁵ The Trial Chamber notes that it has not received any evidence about the circumstances surrounding the disappearance and/or death of Nikola Matošević, with the exception of the missing person questionnaire, which states that he was forcibly taken from his house by “paramilitary units or police” on 24 December 1991 to an unknown destination.⁶⁶⁶ The Trial Chamber further notes that, with respect to Andrija Šimek, his family stated in the missing person questionnaire that, on 24 December 1991, he, along with Maj, were arrested by the local police, and thereafter disappeared.⁶⁶⁷ In addition, Witness Antunović stated that, during his detention at the Erdut training camp on 25 December 1991, he saw a man with the last name Šimak, but he could not recall his first name.⁶⁶⁸ The Trial Chamber is unable, based on this evidence, to draw any conclusion on the circumstances of Šimek’s detention and death. Further, the Trial Chamber has not received any evidence regarding the fate of Matin, Pittl, and Tešanac following their arrests and, therefore, cannot reach a conclusion about the perpetrators of their killing. The Trial Chamber further concludes that, given that the evidence demonstrates that Maj and Zoretić were last seen at the Erdut training camp being mistreated and that their bodies were found in the same mass grave, Arkan’s Serbian Volunteer Guard are responsible for their death.

136. In light of the above, the Trial Chamber finds proven beyond reasonable doubt that, on or shortly after 26 December 1991, Arkan’s Serbian Volunteer Guard killed the following two Croat civilians: Manda Maj⁶⁶⁹ and Josip Zoretić.⁶⁷⁰

2010, including about the date of her arrest and the exact sequence of certain events (*see* Witness RFJ-102, Exhibit P00772, pp. 2, 3). The Trial Chamber does not, however, consider that these inconsistencies impact the reliability of the witness’s testimony, especially since she provided clarifications on some of these points and her evidence is generally consistent with the evidence of other witnesses about the same events.

⁶⁶³ Witness Antunović, Exhibit P01229, p. 4, Exhibit P01230, pp. 207-209; Witness RFJ-102, Exhibit P00772, pp. 2, 3, T. 18 October 2017 p. 55; Exhibit 2D00050, pp. 3, 4. *See also* Witness Albert, Exhibit P00440, p. 2; Witness Svalina, Exhibit P01841, p. 4. According to Witness Albert, at the end of August 1991, Maj was arrested by a local Serb police officer who worked for Arkan, was taken to the Erdut training camp where she was questioned, during which she believed she would be killed, but was released. *See* Witness Albert, Exhibit P00440, p. 2.

⁶⁶⁴ Witness Antunović, Exhibit P01229, p. 4, Exhibit P01230, pp. 208, 209. *See also* Exhibit 2D00050, pp. 4, 6 (wherein Witness RFJ-052 also stated that Ulemek was among those conducting the interrogation).

⁶⁶⁵ Exhibit P00597, pp. 28, 101, 133, 134; Exhibit P00862, pp. 47, 48, 96-98.

⁶⁶⁶ Exhibit P00748, pp. 3, 4.

⁶⁶⁷ Exhibit P00750, pp. 2, 3. *See also* Exhibit P01073.

⁶⁶⁸ Witness Antunović, Exhibit P01230, p. 207. *See also* Witness Svalina, Exhibit P01841, pp. 2, 3 (wherein the witness stated that he was detained with Šimek in Mali Dvor and Dalj on an earlier occasion in the second half of August 1991, but they were released on 5 September 1991).

⁶⁶⁹ Exhibit P00862, pp. 47, 96; Exhibit P00597, p. 101; Exhibit P00598, p. 29; Exhibit P00605, pp. 2, 7; Exhibit P01060; Exhibit P01061; Exhibit P01062; Exhibit P00746; Exhibit P01053, pp. 19, 20. The Trial Chamber notes that no information regarding the status of the victim is provided in the missing person questionnaire. *See* Exhibit P00746, p. 2.

(b) City of Vukovar

137. As a preliminary issue, the Trial Chamber will first address Stanišić's submissions that he was given insufficient notice with respect to the Ovčara farm murders, since this allegation was not made in the first trial, is not in the Indictment, and appears only fleetingly in the Prosecution's Pre-Trial Brief.⁶⁷¹ The Trial Chamber recalls its decision of 26 September 2018, wherein it, *inter alia*, considered that: (i) Stanišić was put on notice as early as March 2017 that the Prosecution would be leading evidence related to Vukovar to support the charges in the Indictment; (ii) during the original trial, the Prosecution led evidence related to Vukovar, including the evidence of several witnesses whose evidence has been admitted in the retrial; and (iii) the admission of any new evidence on the issue would depend, in part, on the prejudice that it may cause to the Defence.⁶⁷² In this regard, the Trial Chamber notes that, with respect to the alleged murders in the Ovčara farm, it has not heard evidence from Prosecution witnesses who did not testify in the original trial.⁶⁷³ The Trial Chamber is, therefore, of the view that Stanišić has been given adequate notice with respect to this event for the purpose of its consideration within the context of the crimes of deportation, forcible transfer, and persecution.

138. In connection to the allegations of deportation, forcible transfer, and persecution⁶⁷⁴ with respect to the city of Vukovar, the Prosecution submits that, by August 1991, Serb forces, including the SAO SBWS Territorial Defence, Arkan's Serbian Volunteer Guard and volunteers from Vojislav Šešelj's Serbian Radical Party, all subordinated to the JNA, commenced a prolonged military attack on Vukovar and its surroundings.⁶⁷⁵ The Prosecution further submits that, after the fall of Vukovar on 18 November 1991, Arkan's Serbian Volunteer Guard in cooperation with the SAO SBWS Territorial Defence and the JNA continued mopping up non-Serb villages, killing non-Serbs, and expelling a large number of Croats.⁶⁷⁶

139. In their final trial briefs, the Accused do not contest that crimes were committed before, during and after the fall of the city of Vukovar. However, Stanišić submits that the Vukovar operation, at least between 2 October and 18 November 1991, was completely under the control of

⁶⁷⁰ Exhibit P00862, pp. 48, 98; Exhibit P00597, p. 101; Exhibit P00598, p. 31; Exhibit P00605, pp. 2, 7; Exhibit P01076, p. 2; Exhibit P01077; Exhibit P01078; Exhibit P01053, p. 17; Exhibit P01079; Exhibit P00752. On the basis of information provided in Zoretić's missing person questionnaire, he was a member of the "civilian protection" at the time of his arrest and, as such, the Trial Chamber considers him a civilian. *See* Exhibit P00752, p. 2. *See also* Witness Bilić, T. 5 October 2017 pp. 5, 6.

⁶⁷¹ *See* Stanišić Final Trial Brief, paras. 623, 624.

⁶⁷² Decision on Stanišić's Motion in Relation to Witness RFJ-022, 26 September 2018, paras. 13, 14.

⁶⁷³ *See* Prosecution Final Trial Brief, nn. 1841, 3172.

⁶⁷⁴ *See* Indictment, paras. 22-25, 64-66.

⁶⁷⁵ Prosecution Final Trial Brief, paras. 745-748; Prosecution Closing Arguments, T. 12 April 2021 p. 6. *See also* Prosecution Final Trial Brief, paras. 397, 398, 428, 430, 431, 716.

the JNA, which also conducted the subsequent mopping up operation.⁶⁷⁷ In addition, he submits that he did not permit the nascent Unit to operate in Vukovar and did not play any role in these operations.⁶⁷⁸ Simatović submits that Arkan's Serbian Volunteer Guard were under the JNA command during the Vukovar operations and, in 1993, under the command of the Vukovar Corps of the Serbian Army of Krajina.⁶⁷⁹

140. In assessing these events, the Trial Chamber notes that the fundamental features of the evidence related to the circumstances surrounding the commission of crimes in the city of Vukovar and its nearby area are not disputed. The Trial Chamber was presented with relevant evidence from a number of Prosecution witnesses, including Witnesses Borislav Bogunović and Dejan Anastasijević. The Trial Chamber has also considered documentary evidence and has taken judicial notice of adjudicated facts in relation to these events, where appropriate.

141. Vukovar municipality includes the city of Vukovar and other settlements, such as Bapska, Bobota, Borovo, Čelije, Ilok, Klisa, Lovaš, Šarengrad, and Tovarnik.⁶⁸⁰ Prior to the conflict, the area around the Vukovar municipality was ethnically mixed: 43.8% were Croats, 37.4% Serbs, and 1.4% Hungarians.⁶⁸¹ The pre-war ethnic composition of the city of Vukovar and its adjacent settlement of Borovo was: 42.4% Croats, 38.3% Serbs, and 1.4% Hungarians.⁶⁸²

142. Since May 1991, the JNA was taking strategic positions around Vukovar.⁶⁸³ Between June and August 1991, the JNA was sporadically shelling parts of Vukovar with growing intensity, resulting in civilian injuries and damage to the houses in the city centre and the Vukovar hospital.⁶⁸⁴ On 24 and 25 August 1991, Vukovar municipality was subject to a heavy aerial attack by the JNA, causing extensive damage to the city of Vukovar and the death of many civilians.⁶⁸⁵ On 25 August 1991, the siege of the city of Vukovar commenced and by late summer or early autumn of 1991, it was effectively surrounded and besieged by the JNA and other Serb forces.⁶⁸⁶ In September 1991, many civilians were detained on the basis of their ethnicity, whereas Serbs were allowed to leave.⁶⁸⁷

⁶⁷⁶ Prosecution Final Trial Brief, paras. 431-433, 749-751, 753, 754; Prosecution Closing Arguments, T. 12 April 2021 pp. 6, 7. *See also* Prosecution Final Trial Brief, paras. 360, 405, 776, 909; Prosecution Pre-Trial Brief, paras. 64, 137.

⁶⁷⁷ Stanišić Final Trial Brief, paras. 620, 622, 625-627, 700, 710.

⁶⁷⁸ Stanišić Final Trial Brief, paras. 57, 757-759; Stanišić Rejoinder, T. 14 April 2021 p. 23.

⁶⁷⁹ Simatović Final Trial Brief, paras. 850, 877, 998.

⁶⁸⁰ Witness Bijak, Exhibit P00595, p. 74. *See* Adjudicated Facts 333, 334. *See also infra* Section II.B.3.

⁶⁸¹ Witness Bijak, Exhibit P00595, p. 74. *See* Adjudicated Fact 335.

⁶⁸² Witness Bijak, Exhibit P00595, p. 137. *See also* Witness RFJ-113, Exhibit P00562, para. 7 (indicating that Vukovar municipality was 2/3 Serbs, while the city was predominantly Croat).

⁶⁸³ Witness Šandor, Exhibit P01223, p. 2. *See* Witness RFJ-022, T. 1 November 2017 p. 7.

⁶⁸⁴ *See* Adjudicated Facts 341, 342; Witness Kraljević, T. 23 August 2018 p. 4. *See also* Witness RFJ-113, Exhibit P00562, para. 87.

⁶⁸⁵ Adjudicated Fact 349; Witness Kraljević, Exhibit P02603, p. 5320. *See* Witness Kraljević, T. 23 August 2018 p. 4; Witness RFJ-022, T. 1 November 2017 p. 7; Witness RFJ-113, Exhibit P00562, para. 87.

⁶⁸⁶ Adjudicated Fact 350. *See* Witness RFJ-041, T. 6 December 2017 pp. 36, 37.

⁶⁸⁷ *See* Witness Stoparić, Exhibit P00796, para. 29.

By the end of September, the number of JNA troops had increased considerably⁶⁸⁸ and there were dramatic differences between the military capabilities of the opposing forces.⁶⁸⁹ From 2 October until 18 November 1991, the JNA was constantly engaging in offensive operations in and around the city of Vukovar.⁶⁹⁰ Fighting in the Vukovar area between late August and November 1991 had devastating consequences for the city and the surrounding towns.⁶⁹¹ By mid-November 1991, there were negotiations to evacuate civilians and wounded, but they failed.⁶⁹²

143. On 18 November 1991, the city of Vukovar fell.⁶⁹³ The Trial Chamber accepts evidence that the attack was carried out by the JNA, some units of the Territorial Defence consisting of reservists and volunteers, police units, and Arkan's Serbian Volunteer Guard.⁶⁹⁴ JNA command was established in the city.⁶⁹⁵ Following the takeover of the city of Vukovar, anarchy reigned and, according to the evidence, Serb forces, including JNA reservists and paramilitary units, were committing killings.⁶⁹⁶ Throughout 18 to 20 November 1991, civilians started fleeing the city,⁶⁹⁷ assisted by the JNA,⁶⁹⁸ and were transported in buses to Serbia or Croatia.⁶⁹⁹

144. Some of the non-Serb men were captured and later exchanged⁷⁰⁰ or killed.⁷⁰¹ The Trial Chamber received extensive evidence concerning the fate of those captured. Some were handed over to the Territorial Defence⁷⁰² and ended up in very crowded cells in the Sremska Mitrovica prison camp, where they were badly beaten by, among others, men dressed in JNA uniforms.⁷⁰³ Others were transferred to Dalj, where they were interrogated by Milorad Stričević (Puki), a member of Arkan's Serbian Volunteer Guard, and some of them were killed,⁷⁰⁴ while others were

⁶⁸⁸ Adjudicated Fact 351. *See also* Witness RFJ-022, T. 1 November 2017 pp. 7, 8.

⁶⁸⁹ Adjudicated Fact 353. *See also* Adjudicated Fact 354.

⁶⁹⁰ Adjudicated Fact 357. *See also* Witness B. Bogunović, Exhibit P02720 p. 6070.

⁶⁹¹ Adjudicated Fact 359. *See also infra* Section II.B.3.

⁶⁹² Witness Šandor, Exhibit P01223, p. 3, Exhibit P01224, pp. 2252, 2253. *See* Witness RFJ-022, T. 1 November 2017 p. 8.

⁶⁹³ Adjudicated Fact 358; Witness RFJ-022, T. 1 November 2017 p. 8.

⁶⁹⁴ Witness RFJ-022, Exhibit P00778, pp. 25913, 25914; Witness RFJ-113, Exhibit P00562, para. 87; Witness Karan, T. 28 January 2020 p. 26, T. 29 January 2020 pp. 43, 46; Witness Anastasijević, Exhibit P02423, para. 107. *See also* Adjudicated Fact 351; Witness RFJ-111, Exhibit P01177, p. 4127; Witness Gagić, Exhibit 2D00494, pp. 17142, 17145, 17146; Exhibit P03098. *Cf.* Witness Novaković, T. 8 October 2020 p. 50.

⁶⁹⁵ Witness B. Bogunović, Exhibit P02718, paras. 42, 43. *See also* Adjudicated Fact 360.

⁶⁹⁶ Witness Anastasijević, Exhibit P02423, para. 114, T. 20 June 2018 p. 46; Witness RFJ-144, Exhibit P01579, p. 9; Exhibit P03862.

⁶⁹⁷ Adjudicated Fact 406; Witness RFJ-041, Exhibit P01082, para. 105, T. 5 December 2017 pp. 26, 27; Exhibit P01153. *See* Adjudicated Facts 404, 406; Witness Šandor, Exhibit P01223, p. 3.

⁶⁹⁸ Adjudicated Fact 404; Witness RFJ-041, Exhibit P01082, para. 105.

⁶⁹⁹ Witness RFJ-041, Exhibit P01082, para. 105, T. 5 December 2017 p. 26; Witness RFJ-144, Exhibit P01579, p. 7; Adjudicated Fact 405; Witness Filković, Exhibit P01754, para. 67.

⁷⁰⁰ *See* Exhibit 2D00030, p. 7.

⁷⁰¹ *See, e.g.*, Witness RFJ-151, Exhibit P00495, para. 178; Witness RFJ-129, T. 3 July 2018 pp. 19, 20.

⁷⁰² Witness RFJ-022, T. 31 October 2017 pp. 24, 25, 29. *See* Witness RFJ-132, Exhibit P01798, p. 4.

⁷⁰³ Witness Šandor, Exhibit P01223, pp. 5, 7-14, Exhibit P01224, pp. 2257-2261; Witness B. Bogunović, Exhibit P02718, para. 54. *See* Witness B. Bogunović, Exhibit P02718, para. 48.

⁷⁰⁴ Witness RFJ-144, Exhibit P01579, p. 7; Witness RFJ-132, Exhibit P01798, p. 4, Exhibit P01799, p. 25486. *Cf.* Witness RFJ-054, Exhibit P02665, paras. 80, 81.

detained in the Velepromet warehouses, where some would not survive after being identified as Croatian Democratic Union members.⁷⁰⁵ The Trial Chamber also heard evidence that men taken from the hospital in Ovčara were subsequently killed.⁷⁰⁶ Others were detained in Lovaš, where at least ten civilians were killed.⁷⁰⁷

145. After the JNA left Vukovar towards the end of 1991 or the beginning of 1992,⁷⁰⁸ the killings, irrespective of the victims' ethnicity or religion, intensified, as long as they had property.⁷⁰⁹ In 1992, civilians were still being removed with buses from SBWS.⁷¹⁰ According to Witness Borivoje Savić, the Serbian National Security prepared lists, on the basis of which the Territorial Defence would move into houses, round up the inhabitants and put them on buses.⁷¹¹ The Trial Chamber also received the evidence of expert Witness Bijak that the persons displaced from the Vukovar municipality, between 1 April 1991 and 31 December 1995, correspond to 92.1% Croats, 1.4 % Hungarians, and 1.6% Serbs,⁷¹² while the persons displaced from the city of Vukovar and its adjacent settlement of Borovo correspond to 92% Croats, 1.3% Hungarians, and 2.1% Serbs.⁷¹³

146. The Trial Chamber finds proven beyond reasonable doubt that, following the attack on the city of Vukovar, Serb forces, including the JNA, the SAO SBWS Territorial Defence, and Arkan's Serbian Volunteer Guard, killed, expelled, arbitrarily arrested and detained non-Serbs, and looted their property. Although the Trial Chamber received evidence that some isolated incidents targeted Serb civilians as well in 1992, it finds that these were opportunistic incidents, as it is clear from the rest of the evidence that the primary target of crimes committed following the attack on the city of Vukovar, were non-Serbs.

2. Events in Baranja

147. In connection to the allegations of deportation, forcible transfer, and persecution,⁷¹⁴ with respect to Baranja, the Prosecution submits that, around August 1991, the SAO SBWS Territorial

⁷⁰⁵ See Witness Stoparić, Exhibit P00796, para. 30. See also Witness Savić, Exhibit P00449, paras. 144-146; Witness B. Bogunović, Exhibit P02718, para. 51.

⁷⁰⁶ See Witness B. Bogunović, Exhibit P02718, para. 52, Exhibit P02720, pp. 6033, 6034; Witness RFJ-151, Exhibit P00495, para. 178; Witness Anastasijević, T. 20 June 2018 pp. 49, 50; Witness Vasiljević, T. 5 February 2019 p. 34. See also Witness RFJ-144, Exhibit P01579, p. 9.

⁷⁰⁷ Witness RFJ-132, Exhibit P01798, p. 5, Exhibit P01799, pp. 25467, 25468, 25483, 25485. See also Witness Savić, Exhibit P00449, paras. 153, 154; Witness RFJ-041, Exhibit P01082, para. 32. See also *infra* paras. 162, 163, 167.

⁷⁰⁸ Witness B. Bogunović, Exhibit P02720, p. 6013 (indicating that, until the JNA left the area, it was in command of taking over the villages). See also Witness RFJ-144, T. 23 January 2018 p. 26.

⁷⁰⁹ Witness B. Bogunović, Exhibit P02720, p. 6038.

⁷¹⁰ Witness Savić, Exhibit P00449, paras. 183, 184. See also Exhibit P00124, para. 86.

⁷¹¹ Witness Savić, Exhibit P00449, paras. 183, 185.

⁷¹² Witness Bijak, Exhibit P00595, p. 74.

⁷¹³ Witness Bijak, Exhibit P00595, p. 137.

⁷¹⁴ See Indictment, paras. 22-25, 64-66.

Defence and police forces seized control of all of Baranja's towns and villages.⁷¹⁵ According to the Prosecution, by the second half of August 1991, the JNA controlled Baranja's largest town, Beli Manastir, and, by the end of the month, Serb forces controlled approximately 80% of Baranja.⁷¹⁶ The Prosecution also submits that, in early September 1991, Serb forces took control of Bilje, which was the only village not yet under Serbian control, resulting in most non-Serbs fleeing and members of the Croatian Ministry of Interior being captured and subsequently taken to Borovo Selo.⁷¹⁷

148. Following these events, the Prosecution argues that Serb forces mistreated and expelled or murdered non-Serbs during "mopping up" operations, while the Executive Council of Beli Manastir issued discriminatory decisions, including decisions permanently expelling non-Serbs from Baranja and providing the local Serb Territorial Defence and police with control over the movement of goods from Baranja, effectively allowing the looting of non-Serb property.⁷¹⁸ The Prosecution further submits that the SAO SBWS police and Territorial Defence detained many non-Serbs at the Beli Manastir Secretariat of Internal Affairs and Territorial Defence facilities, instilling fear in the remaining non-Serb population of Baranja and convincing many to flee, and that, in September and October 1991, 50 to 80 of these non-Serb detainees were transferred from the Secretariat of Internal Affairs prison to Dalj, with many of them eventually being killed.⁷¹⁹ The Prosecution also contends that, in early May 1992, Unit members killed five non-Serbs from the village of Grabovac.⁷²⁰ According to the Prosecution, the direct consequence of these crimes was that the non-Serb population had no choice but to flee the area, and that, by 1992, the Serb population significantly increased in comparison to before the conflict.⁷²¹ In their final trial briefs, the Accused do not contest that crimes were committed in the area of Baranja.

149. In assessing these events, the Trial Chamber notes that the fundamental features of the evidence related to the circumstances surrounding the commission of crimes in towns and villages in Baranja are not disputed. The Trial Chamber was presented with relevant evidence from a number of Prosecution witnesses, including Witnesses RFJ-138, RFJ-151, and RFJ-157, who were direct witnesses to the events in Baranja. The Trial Chamber has also considered documentary

⁷¹⁵ Prosecution Final Trial Brief, paras. 434, 739. *See also* Prosecution Pre-Trial Brief, paras. 42, 64, 145, 146.

⁷¹⁶ Prosecution Final Trial Brief, paras. 434, 739.

⁷¹⁷ Prosecution Final Trial Brief, paras. 421, 435, 740. *See supra* para. 114.

⁷¹⁸ Prosecution Final Trial Brief, para. 741. *See also* Prosecution Pre-Trial Brief, para. 146.

⁷¹⁹ Prosecution Final Trial Brief, paras. 407, 742, 743. *See also* Prosecution Pre-Trial Brief, paras. 64, 146. In relation to the transfer of the 50 to 80 non-Serb detainees to Borovo Selo, and then to Dalj, the Prosecution alleges that this was done in coordination with Hadžić and Radovan Stojičić (Badža)'s Serbian Ministry of Interior unit "Plavci". *See* Prosecution Final Trial Brief, paras. 407, 742.

⁷²⁰ Prosecution Final Trial Brief, para. 424. *See also* Prosecution Pre-Trial Brief, para. 64.

⁷²¹ Prosecution Final Trial Brief, para. 744. *See also* Prosecution Pre-Trial Brief, paras. 145-147.

evidence and has taken judicial notice of adjudicated facts in relation to these events, where appropriate.

150. Until mid-1991, Baranja was a multi-ethnic region comprised of three main ethnicities, with Croats, Serbs, and Hungarians represented almost equally.⁷²² As in Eastern Slavonia,⁷²³ tensions between Croats and Serbs in Baranja started after the 1990 elections,⁷²⁴ when the Serbian Democratic Party and the Croatian Democratic Union attracted increasingly more Serbs and Croats, respectively.⁷²⁵ The conflict in Baranja started in July 1991 and, between July and August 1991, all of Baranja, with the exception of the Croat-majority Bilje, a suburb of Osijek, was controlled by the Serbs.⁷²⁶ At some point after July 1991, troops, including Arkan's Serbian Volunteer Guard, Šešelj's men, and the JNA, started arriving from Serbia to Klisa, which had a majority Serb population,⁷²⁷ causing fear among the non-Serb population.⁷²⁸ In early September 1991, the Beli Manastir Territorial Defence, special police units from the Beli Manastir Secretariat of Internal Affairs, and the "Kninjas" attacked Bilje, with the Territorial Defence overseeing the operation and receiving support from the JNA.⁷²⁹ During the attack, most non-Serbs left Bilje.⁷³⁰

151. The evidence also shows that, once Territorial Defence units took over a village in Baranja, pressure, including mistreatment and looting of private property, was exerted against non-Serbs to force them to leave, especially against those whose relatives had already left Baranja.⁷³¹ Witness RFJ-151, who was affiliated with the SAO SBWS State Security Service,⁷³² provided evidence that, during the second half of July 1991, members of the Beli Manastir Secretariat of Internal Affairs started arresting and arbitrarily detaining non-Serbs due to, for example, their ethnicity or affiliation with the Croatian Democratic Union.⁷³³ The witness also saw detainees performing forced labour

⁷²² Witness RFJ-151, Exhibit P00495, para. 12, T. 21 September 2017 p. 17. *See also* Adjudicated Fact 347; Exhibit P00595, p. 39 (indicating that the Serbs accounted for approximately 25% of the total population of Beli Manastir municipality).

⁷²³ *See supra* para. 110. *See also infra* para. 471.

⁷²⁴ Witness RFJ-151, T. 21 September 2017 pp. 17, 18, Exhibit P00495, para. 19.

⁷²⁵ Witness RFJ-151, Exhibit P00495, para. 19.

⁷²⁶ Witness RFJ-151, Exhibit P00495, paras. 13, 67, 69, T. 19 September 2017 pp. 6, 7; Adjudicated Fact 347.

⁷²⁷ Witness RFJ-157, Exhibit P00755, pp. 2740-2742, 2754, T. 17 October 2017 pp. 6, 7, 21, 22. *See also* Witness RFJ-153, Exhibit P00002, paras. 147-149, T. 15 June 2017 pp. 46-48 (wherein the witness stated that people from the region complained about the presence in the area of various units, including Badža's men and Frenki's men, along with the White Eagles).

⁷²⁸ Witness RFJ-157, T. 17 October 2017 p. 7.

⁷²⁹ Witness RFJ-151, Exhibit P00495, paras. 67-73, T. 19 September 2017 pp. 14, 15, T. 20 September 2017 pp. 63, 64. *See also* Exhibit P00264, pp. 7, 13; Exhibit P01980 (Part II), pp. 144, 145 (indicating that, as of 11 September 1991, Bilje was under the control of the SAO SBWS Territorial Defence and police, and that the Territorial Defence commander declared that "Baranja is free").

⁷³⁰ Witness RFJ-151, Exhibit P00495, para. 71, T. 20 September 2017 pp. 62, 63.

⁷³¹ Witness RFJ-151, Exhibit P00495, paras. 16, 64-66, T. 19 September 2017 p. 7, T. 20 September 2017 pp. 29, 30. *See also* Witness RFJ-151, Exhibit P00495, para. 117.

⁷³² Witness RFJ-151, Exhibit P00495, para. 9.

⁷³³ Witness RFJ-151, Exhibit P00495, paras. 81-83, 87, 90.

and could tell from their appearance that they had been subjected to physical torture.⁷³⁴ According to the witness, these arrests, as well as other crimes that took place following the takeover of Baranja, including murder and looting, instilled fear in the non-Serb population, which ultimately led many to take the decision to leave.⁷³⁵ The witness also stated that the detention centres in the region were full of non-Serb detainees, and that a number of these detainees were transported for exchange by the Beli Manastir Secretariat for Internal Affairs to Eastern Slavonia at the end of August 1991 and continuing into the autumn of 1991, with some of them killed or gone missing.⁷³⁶ Witness RFJ-151 further stated that the Catholic church in Beli Manastir was blown up.⁷³⁷

152. In September and early October 1991, the JNA attacks in eastern Baranja intensified, causing extensive damage to the villages and civilians to flee.⁷³⁸ At the same time, the Executive Council of Beli Manastir took a number of discriminatory decisions against non-Serbs, removing them from jobs, requisitioning their property, removing their tenancy rights, and renaming streets.⁷³⁹ Moreover, on 18 October 1991, the Executive Council issued a retroactive decision banning all persons who left Baranja before 25 September 1991 from returning.⁷⁴⁰ In Witness RFJ-151's view, such decisions prompted the commission of crimes against non-Serbs in Baranja.⁷⁴¹

153. The Trial Chamber further received evidence that, due to mistreatment and killings, non-Serbs continued leaving Baranja in early 1992.⁷⁴² Witness RFJ-151 also provided hearsay evidence regarding an incident in May 1992, when five non-Serbs were taken from the village of Grabovac by men in a van, which the witness stated belonged to the "Red Berets", and were later found dead.⁷⁴³ The witness more generally asserted that, from mid-1991 until 1993, killings were perpetrated by different local police forces in several villages of Baranja, with the highest frequency

⁷³⁴ Witness RFJ-151, Exhibit P00495, paras. 83-85, 88, 89.

⁷³⁵ Witness RFJ-151, Exhibit P00495, para. 91, T. 19 September 2017 pp. 7, 8. *See also* Witness RFJ-153, Exhibit P00002, para. 141.

⁷³⁶ Witness RFJ-151, Exhibit P00495, paras. 92-94, 96, 98-105. *See also supra* Section II.B.1.

⁷³⁷ Witness RFJ-151, T. 19 September 2017 p. 11; Exhibit P00547, pp. 2, 11. According to Witness RFJ-151, he unofficially later learned that Zoran Vuksić, who for a while worked in the Beli Manastir State Security centre, was responsible for setting the church on fire. *See* Witness RFJ-151, T. 19 September 2017 p. 11.

⁷³⁸ Adjudicated Fact 345. *See also* Witness RFJ-151, Exhibit P00495, para. 17.

⁷³⁹ Witness RFJ-151, Exhibit P00495, paras. 107-114, 117; Exhibit P00505; Exhibit P00506; Exhibit P00466; Exhibit P00509, p. 1; Exhibit P00510. *See also* Exhibit P00547, p. 2.

⁷⁴⁰ Witness RFJ-151, Exhibit P00495, para. 117; Exhibit P00509. *See also* Exhibit P00507; Witness RFJ-151, Exhibit P00495, paras. 121, 170-172 (wherein the witness refers to two other decisions, which took place in September 1991 and in the spring of 1992, whereby those leaving Baranja were required to obtain a permit); Witness RFJ-138, Exhibit P01774, para. 8, Exhibit P01775, pp. 2008, 2009.

⁷⁴¹ Witness RFJ-151, T. 21 September 2017 p. 100.

⁷⁴² *See* Witness RFJ-157, Exhibit P00754, p. 3, T. 17 October 2017 pp. 11, 12; Witness RFJ-138, Exhibit P01774, para. 47, Exhibit P01775, p. 1969.

⁷⁴³ Witness RFJ-151, T. 19 September 2017 pp. 42-44, Exhibit P00495, paras. 208-214.

occurring in the area of Darda, the second largest settlement of Baranja.⁷⁴⁴ Such crimes were not investigated by the police until the end of the conflict.⁷⁴⁵

154. In relation to the departure of non-Serbs from Baranja, Witness RFJ-138, a local resident, stated that, before leaving, non-Serbs had to sign a declaration that they were handing over their property to the “SAO Krajina” without any compensation.⁷⁴⁶ In this regard, between the end of 1991 and March 1992, a large influx of Serb refugees from Western Slavonia received, free of charge, the houses of those non-Serbs who left Baranja.⁷⁴⁷ By April 1992, most of the non-Serbs had left the area.⁷⁴⁸ The same month, a commission was created to take inventory and distribute the abandoned property, with Ilija Kojić being one of the commission members.⁷⁴⁹

155. The Trial Chamber also notes the evidence it received indicating a change in the ethnic composition of Baranja during the Indictment period. More specifically, the Trial Chamber notes that, prior to the conflict, Serbs constituted approximately 20 to 25% of the total population of Baranja,⁷⁵⁰ whereas, in the beginning of 1992, they accounted for approximately 60 to 70% of the population.⁷⁵¹ In addition, the Trial Chamber received the evidence of Expert Witness Bijak that, between 1 April 1991 and 31 December 1995, the percentage of persons displaced from the Beli Manastir municipality was 86.2% Croats, 9.9% Hungarians, and only 1.4% Serbs.⁷⁵² As another example, by 1992, only 5 to 10% of the non-Serb population of the village of Grabovac remained.⁷⁵³

156. The Trial Chamber finds proven beyond reasonable doubt that Serb forces, including the local police, such as the Beli Manastir’s Secretariat of Internal Affairs, and the SAO SBWS Territorial Defence killed, expelled, arrested, and arbitrarily detained non-Serbs, as well as subjected them to mistreatment and looted their property.

⁷⁴⁴ Witness RFJ-151, Exhibit P00495, paras. 185-193. *See also* Exhibit P00164, p. 5; Witness Wilson, T. 27 June 2017 pp. 59, 60, Exhibit P00067, para. 174 (wherein the witness stated that he heard that the Red Berets and the White Eagles were involved in ethnic cleansing in Baranja, but did not see them himself commit any crimes).

⁷⁴⁵ Witness RFJ-151, Exhibit P00495, paras. 86, 190, 191.

⁷⁴⁶ Witness RFJ-138, Exhibit P01774, paras. 4, 48, 49, Exhibit P01775, pp. 1983, 1984. *See also* Exhibit P00022, p. 1 (wherein Hadžić invited Serbs to come to Baranja and occupy the abandoned houses of Croats). *See also* Witness RFJ-138, Exhibit P01774, para. 51 (wherein the witness stated that, when he returned to Baranja, he received his house back, but he did not find any of his other belongings).

⁷⁴⁷ Witness RFJ-151, Exhibit P00495, paras. 17, 118-120, 207, T. 19 September 2017 pp. 9, 10, T. 20 September 2017 pp. 29, 30; Exhibit P00513. *See also* Exhibit P00547, p. 2.

⁷⁴⁸ Witness RFJ-151, Exhibit P00495, para. 122.

⁷⁴⁹ Exhibit P00515; Witness RFJ-151, Exhibit P00495, para. 122.

⁷⁵⁰ *See supra* n. 722.

⁷⁵¹ Witness RFJ-151, Exhibit P00495, para. 18.

⁷⁵² Exhibit P00595, p. 39. *See also* Exhibit P00595, pp. 81-84 (indicating that 85.7% of those displaced between the same period from Beli Manastir were Croats and 8.2% Hungarians, 83.5% from Bilje were Croats and 11.5% Hungarians, 87.2% from Darda were Croats and 8.5% Hungarians, and 94.4% from Grabovac were Croats and 3% Hungarians).

⁷⁵³ Witness RFJ-151, Exhibit P00495, para. 207.

3. Events in Western Srem

157. In connection to the allegations of deportation, forcible transfer, and persecution with respect to Western Srem,⁷⁵⁴ the Prosecution submits that, by August 1991, the JNA launched successive attacks on Croat villages and that, in cooperation with other Serb forces, including volunteers of the Serbian Radical Party, the SAO SBWS Territorial Defence, and the SAO SBWS police, took over non-Serb villages during the autumn of 1991, which was followed by expulsions, killings, and looting of houses of non-Serbs.⁷⁵⁵ The Prosecution also submits that, in the beginning of October 1991, the Unit with Simatović's consent, deployed to the village of Bapska, where houses of Croats were burned.⁷⁵⁶ In the same month, according to the Prosecution, the JNA presented the residents of Ilok with the dilemma of leaving their town or receiving retaliatory measures and, by referendum, the majority of the town announced that they had no choice but to leave.⁷⁵⁷ The Prosecution submits that some of those leaving Ilok were sent to prison camps, while the SAO SBWS authorities gave Serbs from Eastern and Western Slavonia permission to move into the abandoned houses.⁷⁵⁸

158. In their final trial briefs, the Accused do not contest that crimes were committed in the area of Western Srem. However, the Accused argue that, during the relevant period, Ilok was under the authority of the JNA and that they did not play any role in the commission of the crimes.⁷⁵⁹

159. In assessing these events, the Trial Chamber notes that the fundamental features of the evidence related to the circumstances surrounding the commission of the crimes in Western Srem are not disputed. The Trial Chamber was presented with relevant evidence from several Prosecution witnesses, including Witnesses Stipan Kraljević⁷⁶⁰ and Borislav Bogunović, as well as Defence Witness Dušan Knežević, who were direct witnesses to the events in Western Srem. The Trial Chamber has also considered documentary evidence and has taken judicial notice of adjudicated facts in relation to these events, where appropriate.

⁷⁵⁴ See Indictment, paras. 22-25, 64-66.

⁷⁵⁵ Prosecution Final Trial Brief, paras. 755-758. See Prosecution Pre-Trial Brief, paras. 42, 64, 69, 135, 148-150; Prosecution Closing Arguments, T. 12 April 2021 pp. 62, 63.

⁷⁵⁶ Prosecution Final Trial Brief, para. 758. See Prosecution Pre-Trial Brief, paras. 64, 148; Prosecution Closing Arguments, T. 12 April 2021 pp. 62, 63; Prosecution Rebuttal, T. 14 April 2021 p. 17.

⁷⁵⁷ Prosecution Final Trial Brief, paras. 759, 760. See Prosecution Pre-Trial Brief, paras. 64, 151.

⁷⁵⁸ Prosecution Final Trial Brief, para. 761. See Prosecution Pre-Trial Brief, paras. 64, 151.

⁷⁵⁹ Stanišić Final Trial Brief, paras. 701, 710; Simatović Final Trial Brief, para. 513. See Stanišić Final Trial Brief, paras. 702-709; Simatović Final Trial Brief, paras. 514-523.

⁷⁶⁰ The Trial Chamber is mindful of the fact that the evidence of Witness Kraljević was admitted for the sole purpose of providing information on the context and circumstances related to the negotiation of the Ilok Agreement and the departure of non-Serbs from the area. See Decision on Prosecution Motions for Admission of Evidence of Stipan Kraljević Pursuant to Rule 111 and for Video-Conference Link, 27 July 2018 (confidential), p. 4; Witness Kraljević, T. 22 August 2018 pp. 7, 8.

160. Ilok is located in Western Srem within the Vukovar municipality, and before the conflict was a mixed settlement with a majority Croat population.⁷⁶¹ According to the 1991 population census, Ilok had a population of over 6,700 inhabitants, with over 60% Croats and 7% Serbs.⁷⁶² In the beginning of May 1991, JNA tanks blocked the bridge connecting Ilok to Bačka Palanka in Serbia and established a checkpoint at the entrance of Ilok.⁷⁶³ The Belgrade brigade, commanded by General Dragoljub Arandelović, covered the south of Ilok and the Novi Sad Corps its north,⁷⁶⁴ while Colonel Petar Grahovac was the commander of the units covering the two sides of the Ilok-Bačka Palanka bridge.⁷⁶⁵ The Trial Chamber accepts that, in July 1991, Čelije,⁷⁶⁶ Ilok⁷⁶⁷ and Osijek⁷⁶⁸ were attacked by Serb forces and that, in August 1991, Ilok was shelled and experienced daily shooting,⁷⁶⁹ resulting in women and children leaving the town.⁷⁷⁰ Great fear was brought to Croats in the region, as many non-Serb inhabitants were killed, while others managed to escape.⁷⁷¹

161. In September 1991, the JNA issued an ultimatum to villages around Vukovar city to surrender their weapons and, subsequently, the JNA and paramilitary units attacked.⁷⁷² In the same month and in early October, the SAO SBWS Territorial Defence and volunteers of the Serbian Radical Party, who were subordinated to the 1st Guards Brigade of the JNA, attacked Tovarnik,⁷⁷³ which had over 3,000 inhabitants, with over 70% Croats and about 22% Serbs.⁷⁷⁴ Locals, the JNA, and volunteers killed inhabitants, burned Croat houses, and looted houses of elderly Croats who had not left the village.⁷⁷⁵

⁷⁶¹ Witness Kraljević, Exhibit P02601, p. 2, Exhibit P02603, p. 5313.

⁷⁶² Witness Kraljević, Exhibit P02602, p. 2, Exhibit P02603, p. 5313; Exhibit P00595, p. 129.

⁷⁶³ Witness Kraljević, Exhibit P02603, pp. 5317, 5318; Witness B. Bogunović, Exhibit P02720, p. 6070. *See* Witness Kraljević, Exhibit P02601, p. 2.

⁷⁶⁴ Witness Kraljević, Exhibit P02601, p. 3, Exhibit P02602, p. 1.

⁷⁶⁵ Witness Kraljević, Exhibit P02601, p. 3, Exhibit P02602, p. 2.

⁷⁶⁶ Witness RFJ-113, Exhibit P00562, para. 52, Exhibit P00563, para. 13; Witness RFJ-144, T. 24 January 2018 p. 62. The evidence indicates that, in 1991, Čelije had about 164 inhabitants with almost 91% Croats and about 1% Serbs. *See* Exhibit P00595, p. 128. *See also* Witness RFJ-157, Exhibit P00755, p. 2741.

⁷⁶⁷ Witness Kraljević, Exhibit P02601, p. 3, Exhibit P02603, p. 5322, T. 23 August 2018 p. 34. *See also* Exhibit 2D00140.

⁷⁶⁸ Adjudicated Fact 343; Witness Kraljević, Exhibit P02601, p. 3.

⁷⁶⁹ Adjudicated Fact 343.

⁷⁷⁰ *See* Exhibit 2D00140.

⁷⁷¹ *See* Witness RFJ-157, Exhibit P00755, p. 2741; Witness RFJ-113, Exhibit P00562, para. 53; Witness RFJ-138, Exhibit P01776, pp. 2214, 2215; Exhibit P00590.

⁷⁷² Witness Kraljević, Exhibit P02603, pp. 5324, 5325, T. 22 August 2018 pp. 14, 15. *See* Exhibit P00487, pp. 11-13; Exhibit P00488.

⁷⁷³ Witness Kraljević, Exhibit P02601, p. 3, Exhibit P02603, p. 5324, T. 22 August 2018 pp. 14, 15; Witness Stoparić, Exhibit P00796, paras. 8-13; Witness B. Bogunović, Exhibit P02718, paras. 85, 86.

⁷⁷⁴ Exhibit P00595, p. 136. *See* Witness Kraljević, Exhibit P02603, p. 5325.

⁷⁷⁵ Witness RFJ-036, Exhibit P02392, para. 22. *See* Witness Anastasijević, Exhibit P02423, para. 108. *See also* Witness Kraljević, T. 22 August 2018 pp. 15-17; Exhibit P02624. Arkan's Serbian Volunteer Guard also cooperated with the JNA in attacking the settlement of Luzac, which connected Vukovar city with Borovo Naselje, in the autumn of 1991. *See* Witness Filković, Exhibit P01754, paras. 42-51, 55, Exhibit P01755, p. 4, Exhibit P01756, pp. 29821-29824; Witness RFJ-041, T. 5 December 2017 p. 38; Exhibit P01980 (Part II), pp. 139, 140; Witness Karan, T. 28 January 2020 pp. 19-23.

162. On 4 October 1991, the JNA also attacked Bapska and Šarengrad, resulting in civilian casualties and property damage,⁷⁷⁶ and, about six days later, the JNA, local police, and the paramilitary unit “Dusan Silni”, which was affiliated to Mirko Jović’s political party, attacked Lovaš.⁷⁷⁷ The Trial Chamber notes that the United Nations and the European Community Monitoring Missions’ reports identified a pattern in the JNA’s involvement in these attacks trying “to displace as many Croats as possible”: first, tension, confusion, and fear would build up by military presence and provocative behavior, followed by artillery or mortar shelling for days, then JNA ultimata for the collection and delivery of weapons would be issued, thereafter military attacks would be carried out, and finally, at the time of the attack or shortly thereafter, “Chetniks” would “finish the job” by burning, looting, and killing.⁷⁷⁸ Although the Trial Chamber has received some evidence that the Unit participated in combat operations in Western Srem,⁷⁷⁹ it is insufficient to conclude that Unit members were involved in the commission of the charged crimes.

163. The evidence indicates that, prior to the conflict, Bapska had about 1,600 inhabitants, with over 90% Croats and about 2% Serbs, Šarengrad about 1,000 inhabitants, with over 90% Croats and almost 5% Serbs, and Lovaš about 1,680, with about 86% Croats and about 8% Serbs.⁷⁸⁰ According to Witness Savić, secretary of the Serbian Democratic Party in Vukovar,⁷⁸¹ who was occasionally visiting Lovaš in 1991, the non-Serbs were forced by the Serb forces to leave Lovaš during these operations,⁷⁸² while Witness Kraljević, a member of the Executive Council of Ilok Assembly,⁷⁸³ indicated that houses were raided and non-Serbs who did not leave were killed or wounded.⁷⁸⁴ For these inhabitants, the only possibility was to flee to Ilok.⁷⁸⁵ By the beginning of October 1991, the

⁷⁷⁶ Witness Kraljević, Exhibit P02601, p. 3, Exhibit P02603, pp. 5326, 5327, T. 22 August 2018 p. 19. *See also* Exhibit P03286, p. 3.

⁷⁷⁷ Witness Kraljević, Exhibit P02603, pp. 5326, 5327; Witness Savić, Exhibit P00449, para. 157; Witness RFJ-036, Exhibit P02392, para. 21. *See* Witness B. Bogunović, Exhibit P02720, p. 6071; Witness Kraljević, Exhibit P02603, pp. 5327, 5345, 5381, 5382, T. 22 August 2018 p. 21; Exhibit P02626, p. 3; Witness Savić, Exhibit P00449, para. 152; Witness RFJ-041, Exhibit P01082, para. 102; Witness Anastasijevic, Exhibit P02423, para. 88; Exhibit P03197; Exhibit P00517, pp. 2, 3; Exhibit 2D00103, pp. 1, 2.

⁷⁷⁸ Exhibit P00487, pp. 3, 4; Exhibit P02627, p. 2. *See* Witness Kraljević, T. 22 August 2018 pp. 22-25; Witness Savić, T. 13 September 2017 p. 6; Exhibit P00488.

⁷⁷⁹ *See, e.g.*, Witness RFJ-137, Exhibit P00245, paras. 8, 68-70 (wherein the witness stated that the operation that he participated in was to push Croat forces from their stronghold located in the local church and that it took place only after they were reassured that the civilians had left the area); Exhibit P00500, p. 16; Exhibit P00261, p. 5; Exhibit P00267, p. 6.

⁷⁸⁰ Witness Kraljević, Exhibit P02602, p. 2, Exhibit P02603, p. 5314; Exhibit P00595, pp. 125, 130, 135. *See* Witness Kraljević, Exhibit P02603, p. 5325; Witness Savić, Exhibit P00449, para. 157.

⁷⁸¹ Witness Savić, Exhibit P00449, para. 7.

⁷⁸² Witness Savić, Exhibit P00449, para. 157.

⁷⁸³ Witness Kraljević, Exhibit P02601, p. 2.

⁷⁸⁴ Witness Kraljević, T. 22 August 2018 p. 20.

⁷⁸⁵ Witness Kraljević, Exhibit P02603, p. 5328. *See* Witness Kraljević, Exhibit P02601, p. 3, Exhibit P02603, pp. 5331, 5332; Exhibit P00487, pp. 11-13.

population of Ilok increased more than twofolds due to the influx of people from the surrounding villages.⁷⁸⁶

164. Around that time, the electricity supply from Bačka Palanka was cut off, which, in turn, cut off the electric pump for the water supply in Ilok.⁷⁸⁷ On 7 October 1991, a commission comprised of representatives of Bapska, Šarengrad, Lovaš, and Ilok negotiated with JNA Colonel Grahovac and representatives of Bačka Palanka, Šid, and Vukovar municipalities, regarding the JNA's ultimatum that included the surrender of all weapons, letting the JNA enter the town and search all houses, and handing over control of the town to military authorities.⁷⁸⁸ The JNA threatened "measures of revenge" in case of weapons use or if any JNA members were put in danger.⁷⁸⁹ Knowing that there were many paramilitary units in Bačka Palanka and that they would not be safe, especially if their police were to be disarmed, the commission hesitated to comply with the JNA demand to handover their weapons.⁷⁹⁰ On 12 October 1991, a referendum was held, in which the majority decided to leave Ilok.⁷⁹¹ The Trial Chamber accepts, however, that the non-Serbs of Ilok felt that ultimately there was no way to save their lives except to leave the town, particularly in view of the fear instilled in them, including from their knowledge of crimes committed in the nearby villages, the ongoing heavy shelling of Vukovar nearby, and JNA playing nationalistic Serbian music on loudspeakers in their vicinity.⁷⁹²

165. On 17 October 1991, a convoy of approximately 8,000 persons, mainly Croats, was formed and left the town of Ilok towards Croatia.⁷⁹³ The JNA checked the documentation of everyone in the convoy and, according to Witness Kraljević, arrested 17 persons, some of whom were affiliated with the Croatian Democratic Union.⁷⁹⁴ Members of the Serbian National Security were sent to Bačka Palanka to make sure that Croatian National Guard members were not leaving Ilok with the civilians.⁷⁹⁵ The JNA took control of the area under the command of Colonel Grahovac until 31 January 1992, when they handed over their authority to the Serb civilian government, but their

⁷⁸⁶ See Adjudicated Fact 356. See also Witness Kraljević, Exhibit P02601, p. 3.

⁷⁸⁷ Witness Kraljević, Exhibit P02601, p. 3, Exhibit P02603, p. 5332, T. 23 August 2018 pp. 66, 67.

⁷⁸⁸ Witness Kraljević, Exhibit P02601, pp. 3, 4, Exhibit P02603, pp. 5335, 5336, 5339; Witness B. Bogunović, Exhibit P02720, pp. 6071, 6072. See also Witness B. Bogunović, Exhibit P02718, para. 11.

⁷⁸⁹ Witness Kraljević, Exhibit P02601, p. 4, Exhibit P02603, p. 5344.

⁷⁹⁰ Witness Kraljević, Exhibit P02601, p. 4.

⁷⁹¹ Witness Kraljević, Exhibit P02601, p. 5, Exhibit P02603, p. 5349, T. 23 August 2018 pp. 45, 46; Exhibit P02610; Exhibit P02611.

⁷⁹² Witness Kraljević, Exhibit P02601, pp. 3, 5, 6, Exhibit P02603, pp. 5320, 5354, 5358, 5360, 5361, T. 22 August 2018 pp. 13, 30, 31, 33, 34, T. 23 August 2018 pp. 45-49, 63; Witness B. Bogunović, Exhibit P02718, para. 9.

⁷⁹³ Adjudicated Fact 356; Witness Kraljević, Exhibit P02601, p. 6, Exhibit P02603, p. 5361; Witness B. Bogunović, Exhibit P02720, pp. 6072, 6073; Witness Knežević, Exhibit 1D00531, pp. 13434, 13435. See Witness RFJ-041, Exhibit P01082, para. 101; Exhibit P01153. See also Exhibit P02623, pp. 1, 2.

⁷⁹⁴ See Witness Kraljević, Exhibit P02601, p. 6, Exhibit P02603, pp. 5363, 5365, 5366. See also Witness Kraljević, T. 22 August 2018 p. 37, T. 23 August 2018 pp. 20, 56, 57, 64; Exhibit 1D00129; Exhibit 2D00099; Exhibit P03289; Exhibit P02614.

⁷⁹⁵ Witness RFJ-041, Exhibit P01082, para. 101, T. 5 December 2017 pp. 25, 26.

military presence in the area remained for over a year.⁷⁹⁶ By late December 1991, most non-Serbs had moved out and Serb refugees from other areas of the SAO SBWS had moved in.⁷⁹⁷

166. The Trial Chamber received evidence that, when the JNA transferred its powers to the civilian authorities in January 1992, the situation became more difficult for the non-Serbs who had stayed in the region, as some of them were brought by the local police to the police premises, where they were interrogated and severely mistreated, and a large number of people were expelled and their houses were plundered.⁷⁹⁸ Although the Trial Chamber has also received some evidence regarding the presence of the “Red Berets” in the Ilok area in 1992,⁷⁹⁹ it notes that they lack supporting details that would demonstrate any connections between them and the charged crimes. Because of the mistreatment, which sometimes resulted in deaths, the robberies and the expulsions of non-Serb citizens from the Ilok area, often perpetrated by local policemen and Territorial Defence members, non-Serbs continued leaving throughout the Indictment period.⁸⁰⁰

167. The Trial Chamber has received evidence indicating a change to the ethnic composition of Western Srem during the Indictment period. Whereas prior to the conflict, Croats constituted over 60% of the population of Ilok,⁸⁰¹ according to Witness Knežević, already at the end of 1991, the population of Ilok was approximately 70% Serbs, 20% Slovaks, and 10% Croats.⁸⁰² In addition, the Trial Chamber received the evidence of Prosecution Expert Witness Bijak that, between 94% and 99% of the persons displaced in the period between 1 April 1991 and 31 December 1995 from Bapska, Čelije, Ilok, Lovaš, Šarengrad, and Tovarnik were Croats.⁸⁰³

168. The Trial Chamber finds proven beyond reasonable doubt that Serb forces, including the JNA, Arkan’s Serbian Volunteer Guard, the SAO SBWS Territorial Defence, and the SAO SBWS police, expelled, killed, and arbitrarily arrested and detained non-Serbs, and looted their property, forcing the non-Serb population of Western Srem to leave the area. The evidence before the Trial

⁷⁹⁶ Witness Kraljević, Exhibit P02601, p. 6, Exhibit P02603, pp. 5376, 5377. *See* Witness Kraljević, Exhibit P02601, p. 5368; Exhibit 2D00101.

⁷⁹⁷ Witness RFJ-041, T. 6 December 2017 p. 64; Witness Kraljević, Exhibit P02601, p. 6; Witness B. Bogunović, Exhibit P02718, para. 11. *See* Witness B. Bogunović, Exhibit P02719, para. 12; Exhibit 2D00005; Exhibit 2D00101, pp. 3, 4; Exhibit 2D00102, pp. 1, 2. When the lawful owners returned to their houses after the end of the conflict, their belongings had been removed. *See* Witness Kraljević, T. 23 August 2018 p. 58.

⁷⁹⁸ Witness Kraljević, Exhibit P02601, p. 6, Exhibit P02603, pp. 5368-5372.

⁷⁹⁹ *See, e.g.*, Witness RFJ-041, Exhibit P01082, para. 166, T. 6 December 2017 pp. 6-9, T. 7 December 2017 p. 49; Exhibit P00127; Exhibit 1D00017, p. 1; Exhibit P00816, p. 3.

⁸⁰⁰ Witness Kraljević, Exhibit P02601, p. 6; Witness RFJ-036, Exhibit P02392, para. 31, T. 5 June 2018 pp. 11-14; Exhibit P02414. *See also* Exhibit P03394, pp. 65, 66, 68, 71; Exhibit P00014; Exhibit P03357, p. 1; Exhibit P02615, p. 5; Exhibit P00175; Exhibit P02621; Exhibit P02617; Exhibit P02616; Exhibit P02620.

⁸⁰¹ *See supra* n. 762.

⁸⁰² Witness Knežević, Exhibit 1D00530, paras. 28-30.

⁸⁰³ Exhibit P00595, pp. 125, 128-130, 135, 136. The Trial Chamber notes that Hungarians, which was the second largest non-Serb ethnic group after the Croats, were also among those displaced from Bapska, Čelije, Ilok, Lovaš, Šarengrad, and Tovarnik during this period.

Chamber shows that these crimes specifically targeted non-Serbs. The Trial Chamber finds, however, that it has not received sufficient evidence proving beyond reasonable doubt that the Unit was involved in crimes committed in Western Srem.

4. Conclusion

169. In light of the above, the Trial Chamber finds proven beyond reasonable doubt that, following the attack and the takeover of towns and villages in SAO SBWS, Serb forces, including the SAO SBWS Territorial Defence, local police, Arkan's Serbian Volunteer Guard, Serbian National Security, and the JNA, killed, arbitrarily arrested and detained non-Serbs, looted non-Serb property, burned Catholic churches, and subjected non-Serbs to forced labour, harassment, and other forms of discrimination, which forced the non-Serb population to flee. The Trial Chamber also finds proven beyond reasonable doubt that non-Serbs detained at the Dalj police station and the Erdut training camp, as well as family members of those detained, were killed.

170. The Trial Chamber notes that expert evidence indicates that, prior to the conflict, SAO SBWS consisted of 46% Croats, 33.9% Serbs and 6.5% Hungarians.⁸⁰⁴ However, after the takeover of its towns and villages by Serb forces, the ethnic composition changed significantly with Serbs constituting a significant majority of the population, since, as the evidence above shows, the vast majority of those displaced from SAO SBWS between April 1991 and December 1995 were non-Serbs, while Serbs from other parts of Croatia moved to the area.

C. Bosnia and Herzegovina

1. Events in Bijeljina

171. According to the Indictment, the non-Serb population of Bijeljina in Bosnia and Herzegovina were forcibly displaced through acts of violence, which also amounted to acts of persecution.⁸⁰⁵

172. In connection with these allegations, the Prosecution argues that, on 31 March 1992, Serb forces, including Arkan's Serbian Volunteer Guard, Serbian Radical Party members, and other Serbian paramilitaries crossed over from Serbia to join locals commanded by Ljubiša Savić, (Mauzer), a member of the Serbian Democratic Party in Bijeljina,⁸⁰⁶ as well as the newly established Serb Territorial Defence and police.⁸⁰⁷ In this regard, the Prosecution argues that these

⁸⁰⁴ Exhibit P00595, pp. 10, 11; Witness Bijak, T. 3 October 2017 pp. 20, 21.

⁸⁰⁵ Indictment, paras. 22-25, 64-66.

⁸⁰⁶ Prosecution Final Trial Brief, paras. 789-792.

⁸⁰⁷ Prosecution Final Trial Brief, para. 789. See Prosecution Final Trial Brief, paras. 506-509.

groups forcibly took control of Bijeljina, expelling the vast majority of the Muslim population and violently implementing the common criminal purpose in Bosnia and Herzegovina.⁸⁰⁸ According to the Prosecution, the evidence shows that the attacks, murders, and other crimes in the Bijeljina municipality were committed with persecutory intent and had the intended effect of driving large numbers of non-Serbs from Bijeljina.⁸⁰⁹ In their final trial briefs, the Accused do not contest that crimes were committed by Serb forces in Bijeljina.⁸¹⁰

173. In assessing these events, the Trial Chamber notes that the fundamental features of the evidence related to the takeover of Bijeljina and the events thereafter are not disputed. The Trial Chamber was presented with relevant evidence from several Prosecution witnesses, including Witnesses RFJ-037, RFJ-034, Sulejman Tihić, and Dragan Lukač, who were direct witnesses to the events in Bijeljina, as well as Defence Witnesses Borislav Pelević and Jovan Dimitrijević. The Trial Chamber has also considered forensic and documentary evidence and has taken judicial notice of adjudicated facts in relation to the alleged events, where appropriate.

174. The municipality of Bijeljina is located in northeast Bosnia and Herzegovina in the Semberija region, with approximately two-thirds of its boundaries forming part of the border between Bosnia and Herzegovina and Serbia.⁸¹¹ The municipalities of Brčko, Ugljevik, and Zvornik lie to its west.⁸¹² According to a 1991 census, approximately 59% of the population in Bijeljina municipality were Serbs, about 31% were Muslims, and 10% were Croats and other non-Serbs.⁸¹³ Prior to the conflict, Bijeljina had 54 settlements, all with a Serb majority and plenty of support for the Serbian Democratic Party.⁸¹⁴

175. It follows from the adjudicated facts and the undisputed evidence that Bijeljina was the first municipality in Bosnia and Herzegovina to be taken over when Serb forces, including volunteers under the command of Mauzer and Arkan's Serbian Volunteer Guard, attacked Bijeljina town after Arkan's forces crossed over from Serbia on 31 March 1992.⁸¹⁵ According to Witness RFJ-034, who

⁸⁰⁸ Prosecution Final Trial Brief, paras. 789-791. *See* Prosecution Pre-Trial Brief, paras. 80, 153-155; Prosecution Closing Arguments, T. 12 April 2021 pp. 7, 69, 70.

⁸⁰⁹ Prosecution Final Trial Brief, paras. 789, 793-797. *See* Prosecution Final Trial Brief, paras. 506-509.

⁸¹⁰ The Accused contest that they had any role in the takeover of Bijeljina and the crimes committed during and after the events. *See* Stanišić Final Trial Brief, paras. 1277-1281; Simatović Final Trial Brief, paras. 711, 956-963, 976. *See also* Stanišić Closing Arguments, T. 13 April 2021 pp. 7, 8; Simatović Closing Arguments, T. 13 April 2021 pp. 112-114, 116.

⁸¹¹ Adjudicated Fact 930; Exhibit P01980 (Part III), p. 98.

⁸¹² Exhibit P01728.

⁸¹³ Exhibit P01980 (Part III), p. 98; Exhibit P02069, p. 21.

⁸¹⁴ Witness RFJ-037, Exhibit P01616, paras. 63, 89.

⁸¹⁵ Witness RFJ-034, Exhibit P00435, pp. 18029-18031, 18033, 18074, Exhibit P00425, pp. 6268-6270; Witness Pelević, Exhibit 2D00477, pp. 16347, 16348, 16481, 16482; Adjudicated Fact 931. *See* Witness Dimitrijević, T. 11 February 2020 p. 49; Witness RFJ-037, Exhibit P01616, para. 89, T. 6 February 2018 pp. 28-30, T. 7 February 2018 p. 55; Exhibit P00426; Exhibit P00811, p. 1. *See also* Witness RFJ-037, T. 6 February 2018 p. 33, Exhibit P01616, paras. 63, 108, 111; Adjudicated Facts 963, 964.

participated in the takeover as a member of the Serbian Volunteer Guard, his superior, “Sale”, told the men “to find and possibly liquidate terrorists in Bijeljina who were ethnic Muslims”.⁸¹⁶

176. The evidence before the Trial Chamber indicates that the Serb forces were not met with strong resistance and that it took them approximately six to eight hours to secure the town.⁸¹⁷ While proceeding to take control of the town’s structures, including the bus station and the hospital, Arkan’s Serbian Volunteer Guard took possession of about 40 vehicles, taken largely from a wealthy Bosnian Muslim;⁸¹⁸ fired rockets into a Muslim café, and killed some town inhabitants, including a Serb civilian with a mental disability.⁸¹⁹ At least 48 civilians, mostly non-Serbs, were killed by the Serb forces during the takeover.⁸²⁰ None of the bodies collected from the streets and houses, which included those of women and children, wore uniforms and the majority of them were shot in the chest, mouth, temple, or back of the head, some at close range.⁸²¹ The situation in the town was described in a military report, dated 3 April 1992, from Colonel Milenko Filipović to the General Staff of the SFRY Armed Forces, as “calmed down somewhat, but absolute chaos, anarchy and panic still reign in the town”.⁸²² By 4 April 1992, Serb flags had been hoisted on the two town mosques.⁸²³

177. On 4 April 1992, Biljana Plavšić met with Željko Ražnatović (Arkan) in Bijeljina and asked him to hand over control of Bijeljina to the JNA.⁸²⁴ Arkan replied that he had not yet finished his “business” there, and that he would settle the situation in Bosanski Brod next.⁸²⁵ 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.⁸²⁶

⁸¹⁶ Witness RFJ-034, Exhibit P00435, pp. 18033, 18034, Exhibit P00425, pp. 6244, 6259. *See* Exhibit P00431, p. 2; Witness Pelević, Exhibit 2D00477, p. 16347.

⁸¹⁷ *See* Witness RFJ-034, Exhibit P00435, pp. 18035, 18041, Exhibit P00425, p. 6247; Adjudicated Fact 935. *See also* Exhibit P03352, p. 1.

⁸¹⁸ Witness RFJ-034, Exhibit P00435, pp. 18038-18041, Exhibit P00425, pp. 6280, 6281.

⁸¹⁹ Witness RFJ-034, Exhibit P00435, pp. 18035-18038, 18050, 18075-18079, Exhibit P00425, pp. 6262, 6300, 6301; Witness Milovanović, Exhibit P02934, p. 4372. *See* Adjudicated Fact 933.

⁸²⁰ Adjudicated Fact 938. *See* Witness RFJ-034, Exhibit P00435, pp. 18040, 18041, Exhibit P00425, pp. 6247, 6263. *See also* Witness RFJ-037, Exhibit P01616, para. 77; Witness Dimitrijević, Exhibit 2D00429, pp. 16209, 16210; Witness RFJ-034, Exhibit P00435, pp. 18045, 18046, Exhibit P00425, p. 6246; Exhibit P03177.

⁸²¹ Adjudicated Fact 940. The bodies were collected upon the orders of the Serb forces in anticipation of a meeting on 4 April 1992 in Bijeljina of high-ranking Bosnia and Herzegovina officials, including Biljana Plavšić, Fikret Abdić, Jerko Doko, and General Plašćević. *See* Exhibit P03352, p. 1; Adjudicated Fact 941.

⁸²² Exhibit P03350, pp. 2, 3.

⁸²³ Adjudicated Fact 935.

⁸²⁴ Adjudicated Facts 936, 947. *See* Adjudicated Fact 948; Witness RFJ-034, Exhibit P00425, pp. 6284, 6285. *See also* Exhibit P03352, p. 1; Adjudicated Fact 941.

⁸²⁵ Adjudicated Fact 947.

⁸²⁶ Adjudicated Fact 947.

178. In the months following the takeover, paramilitary groups such as Arkan's Serbian Volunteer Guard, the White Eagles, and Mauzer's Serbian National Guard⁸²⁷ together with members of the local police, engaged in criminal activities on a massive scale, terrorizing the Bosnian Muslim residents, as well as Serbs considered "disloyal", by committing rapes, lootings, and murders.⁸²⁸ From at least June 1992, Serb forces detained at Batković camp Muslims and Croats from different municipalities, including from other detention facilities.⁸²⁹ The detainees were given little food and water, beaten, killed, and forced to engage in sexual acts with each other and to perform manual labour.⁸³⁰ In addition to the Batković camp, there were six other detention centres in the municipality, including at the JNA barracks, where mostly Bosnian Croat and Bosnian Muslim civilians were detained by Serb forces in horrific conditions and subjected to abuse.⁸³¹ In one instance, a Muslim civilian was found hanging from a hook barely alive in a detention centre run by Mauzer and his men.⁸³² Between April and September 1992, at least 52 persons, mainly Muslims, were killed by Serb forces in the municipality.⁸³³

179. According to the evidence and the adjudicated facts, the Bijeljina Serbian Democratic Party members, determined to rid the municipality of its remaining Muslims, compiled a list of names of Muslims whose houses were to be looted and who were to be expelled.⁸³⁴ Arkan's Serbian Volunteer Guards went to the homes of wealthy Muslims to demand money and, if refused, to kill a family member.⁸³⁵ By late June 1992, there were already mass movements of Muslims leaving the municipality due to the killings and mistreatment.⁸³⁶

180. Prior to the conflict, there were about 30,000 Muslims in Bijeljina municipality with still some 17,000 Muslims remaining after August 1992.⁸³⁷ However, the evidence indicates that by 1997, it was estimated that there were less than 1,500 Muslims, comprising 2.6% of the entire

⁸²⁷ The Trial Chamber has evidence that Mauzer created a group called the Serbian National Guard after the attack on Bijeljina town. *See* Witness RFJ-037, T. 7 February 2018 pp. 54, 56, Exhibit P01616, para. 111; Witness RFJ-034, Exhibit P00435, p. 18051.

⁸²⁸ Adjudicated Facts 952, 972; Exhibit P01634, pp. 1, 2; Exhibit 1D00067, pp. 1, 2; Exhibit P03141. *See* Witness RFJ-037, Exhibit P01616, paras. 101, 104, 107.

⁸²⁹ Adjudicated Fact 953. *See* Exhibit 1D00856, pp. 1-3, 11, 18, 20, 23; Witness RFJ-109, Exhibit P01782, p. 21058; Adjudicated Fact 955 (indicating that, in August 1992, around 1,280 Muslim men were detained in the camp in a single warehouse, while women, children and elderly persons were detained in a separate area).

⁸³⁰ Adjudicated Fact 957; Exhibit 1D00856, pp. 2, 3, 11, 18, 23.

⁸³¹ Witness Tihic, Exhibit P01865, pp. 15, 16; Witness Lukač, Exhibit P02731, p. 27, Exhibit P02732, pp. 1706, 1707; Adjudicated Fact 960.

⁸³² Witness RFJ-037, Exhibit P01616, para. 113, T. 6 February 2018 pp. 39, 40.

⁸³³ Adjudicated Fact 971. *See* Witness RFJ-037, Exhibit P01616, paras. 107, 120.

⁸³⁴ Adjudicated Facts 968, 970; Witness RFJ-037, Exhibit P01616, paras. 212, 228. *See* Witness RFJ-037, Exhibit P01616, para. 110; Adjudicated Fact 969.

⁸³⁵ *See* Witness RFJ-037, Exhibit P01616, para. 63.

⁸³⁶ Witness RFJ-037, Exhibit P01616, para. 89. *See* Witness RFJ-109, Exhibit P01782, pp. 21014, 21015. *See also* Adjudicated Facts 966, 969, 973.

⁸³⁷ Exhibit P02069, p. 21; Witness RFJ-037, Exhibit P01616, paras. 212, 228.

population, in Bijeljina and that, as of 1997-1998, nearly 22,000 of about 25,000 internally displaced people and refugees from Bijeljina were Muslims.⁸³⁸

181. Based on the above, the Trial Chamber finds proven beyond a reasonable doubt that Arkan's Serbian Volunteer Guard crossed into Bosnia and Herzegovina from Serbia on 31 March 1992 and joined certain local Serbs in Bijeljina to forcibly take control over the town and, in the process, killed at least 48 civilians, mostly non-Serbs. Thereafter, the Serb forces, which included the Serbian Volunteer Guard, as well as the Whites Eagles, Serbian National Guard, and local police, continued to engage in criminal activities, such as lootings, rapes, mistreatment, and killings of non-Serbs in the municipality, causing many non-Serbs to flee. Having considered the evidence and the circumstances in which the departures occurred, the Trial Chamber finds proven beyond a reasonable doubt that the acts of violence committed by the Serb forces during and after the takeover forced the non-Serbs to leave Bijeljina.

2. Events in Zvornik

182. The Indictment alleges that, on or about 8 April 1992, Serb Forces, in particular Željko Ražnatović (Arkan), and members of his Serbian Volunteer Guard, attacked and took control of Zvornik and that, during the attack, they killed approximately 20 non-Serb civilians.⁸³⁹ The Indictment alleges that the murders during the attack and takeover, along with other crimes and acts of violence associated with the attack and the events thereafter in other areas of the Zvornik municipality, resulted in the forcible displacement of the non-Serb population from the area,⁸⁴⁰ and that the murders and forcible displacement amounted to persecution.⁸⁴¹

183. In connection with these allegations, the Prosecution argues that, in early April 1992, Arkan and Marko Pavlović coordinated with other Serb forces, including the JNA, local Territorial Defence, and Serb paramilitaries, to implement the common criminal purpose by murdering, forcibly displacing and persecuting Muslim civilians during and following the takeover of Zvornik and its surrounding villages.⁸⁴² According to the Prosecution, the evidence demonstrates that Serb forces expelled Muslims from Zvornik municipality through attacks, murders, and other crimes that were committed with persecutory intent.⁸⁴³

⁸³⁸ Exhibit P02069, pp. 23, 28. *See* Witness RFJ-037, Exhibit P01616, para. 228.

⁸³⁹ Indictment, paras. 62. *See* Prosecution Pre-Trial Brief, paras. 81, 95, 156-159, 161. *See also* Prosecution Closing Arguments, T. 12 April 2021 pp. 7, 8, 69, 70.

⁸⁴⁰ Indictment, paras. 64-66.

⁸⁴¹ Indictment, paras. 22-25.

⁸⁴² Prosecution Final Trial Brief, para. 799. *See* Prosecution Final Trial Brief, paras. 511-513; Prosecution Pre-Trial Brief, paras. 81, 156-161. *See also* Prosecution Final Trial Brief, paras. 514-530.

⁸⁴³ Prosecution Final Trial Brief, paras. 799, 817.

184. In their final trial briefs, the Accused do not contest the murder of approximately 20 non-Serb civilians during the attack and takeover of Zvornik by Serb forces, including Arkan's Serbian Volunteer Guard, and the persecution, forcible transfer and deportation of non-Serbs thereafter in the surrounding villages. However, the Accused contest that they had any role in the takeover, including through individuals such as Arkan and Pavlović.⁸⁴⁴

185. In assessing these events, the Trial Chamber notes that the fundamental features of the evidence related to the attack and takeover of Zvornik and the events thereafter are not disputed. The Trial Chamber was presented with relevant evidence from several Prosecution witnesses, including Witnesses RFJ-019, RFJ-002, RFJ-109, RFJ-139, and Fadil Mujić who were direct witnesses to the events, as well as Defence Witnesses OFS-23, Borislav Pelević, and Jovan Dimitrijević. The Trial Chamber has also considered forensic and documentary evidence and has taken judicial notice of adjudicated facts, where appropriate.⁸⁴⁵

186. The municipality of Zvornik is located in the north-eastern part of Bosnia and Herzegovina, bordering: Serbia to the east; Bijeljina, Ugljevik, and Lopare municipalities to the north; Tuzla, Kalesija, and Šekovići municipalities to the west; and Vlasenica and Bratunac municipalities to the south.⁸⁴⁶ According to the 1991 census, the population consisted of 38% Serbs, approximately 59% Muslims, and 3% Croats and other non-Serbs.⁸⁴⁷

187. The town of Zvornik is situated on the Drina river, which forms the boundary between Serbia and Bosnia and Herzegovina, with Mali Zvornik situated on the Serbian side.⁸⁴⁸ The evidence shows that by the early months of 1992, tensions in and around Zvornik town were already present – separate Serb and Muslim police forces were created, checkpoints were established, and discussions on how to divide the municipality between Bosnian Serbs and Bosnian Muslims were held.⁸⁴⁹ There was also military build-up across the Drina river in Serbia, mostly JNA units, and the appearance of paramilitaries, namely Arkan's Serbian Volunteer Guard that took over the Alhos factory in Karakaj, located not far from the town.⁸⁵⁰

⁸⁴⁴ See Stanišić Final Trial Brief, paras. 1271-1323; Simatović Final Trial Brief, paras. 704-727, 956-980. See also Stanišić Closing Arguments, T. 13 April 2021 pp. 5-9; Simatović Closing Arguments, T. 13 April 2021 pp. 112-116.

⁸⁴⁵ See Order in Relation to Prosecution Request for Clarification of Decision on Adjudicated Facts, January 2019, pp. 86-90.

⁸⁴⁶ Adjudicated Fact 974; Exhibit P01728.

⁸⁴⁷ Exhibit P01980 (Part III), p. 105; Exhibit P02069, p. 21; Witness OFS-23, Exhibit 2D00506, para. 4.

⁸⁴⁸ Witness RFJ-019, Exhibit P01655, p. 2.

⁸⁴⁹ Witness Mujić, Exhibit P01683, paras. 4, 13; Witness OFS-23, Exhibit 2D00506, para. 49; Witness RFJ-002, Exhibit P01670, p. 3; Adjudicated Facts 982, 988.

⁸⁵⁰ Witness Mujić, Exhibit P01683, paras. 5, 24. See also Witness RFJ-019, Exhibit P01655, pp. 2, 3; Witness OFS-23, Exhibit 2D00507, p. 2, T. 15 September 2020 pp. 28, 29.

188. On 5 and 6 April 1992, Serb police and paramilitary forces, mainly Arkan's Serbian Volunteer Guard, erected barricades throughout the municipality.⁸⁵¹ On 7 April 1992, Arkan issued an ultimatum that the Muslims should unconditionally surrender all their weapons within one hour or else Zvornik town would be attacked, stating to the head of the Muslim police force that anyone who resisted would be killed.⁸⁵² The ultimatum was not complied with.⁸⁵³

189. On or about 8 April 1992, Serb forces attacked Zvornik town pursuant to Arkan's order.⁸⁵⁴ It follows from the evidence and the adjudicated facts that the Serb forces participating in the attack were not limited to Arkan's Serbian Volunteer Guard and those under the command of Ljubiša Savić (Mauzer)⁸⁵⁵ that had participated in the attack on Bijeljina a week earlier.⁸⁵⁶ Witness OFS-23, who was involved with the Serbian Democratic Party in Zvornik, gave evidence that JNA units⁸⁵⁷ participated as well, together with the Zvornik Territorial Defence units and volunteers identified as the White Eagles and Šešelj's men, among others.⁸⁵⁸ The Trial Chamber has also received evidence that Pavlović took part in the preparation and command of the attack.⁸⁵⁹

190. Witness RFJ-019, a Bosnian Muslim woman from Zvornik, testified that when the attack on Zvornik town began, approximately 32 unarmed men, women, and children hid in the basement of their apartment block.⁸⁶⁰ The next morning, a group of Arkan's Serbian Volunteer Guard detonated the door and came into the basement, ordering all the men to come out.⁸⁶¹ Shortly thereafter, another group of soldiers wearing green uniforms and identifying themselves as Šešelj's men ordered the women and children to leave the basement and go to the Secretariat of Internal Affairs building, which was located in the centre of town.⁸⁶² As the women and children were being led away, they heard simultaneous gun shots after passing the men lined up against the wall.⁸⁶³ Further,

⁸⁵¹ Adjudicated Fact 986; Witness RFJ-002, Exhibit P01670, p. 4. *See* Witness Mujić, Exhibit P01683, paras. 13-23.

⁸⁵² Witness Mujić, Exhibit P01683, paras. 27-29. *See* Witness RFJ-019, Exhibit P01655, p. 3; Witness OFS-23, Exhibit 2D00506, para. 57. *See also* Exhibit P01689.

⁸⁵³ Witness Mujić, Exhibit P01683, para. 30.

⁸⁵⁴ Witness OFS-23, Exhibit 2D00506, paras. 57-59, T. 15 September 2020 p. 32; Witness RFJ-019, Exhibit P01655, p. 3; Witness RFJ-002, Exhibit P01670, p. 2; Adjudicated Fact 990.

⁸⁵⁵ Adjudicated Fact 990; Witness OFS-23, Exhibit 2D00506, paras. 8, 59, 69, T. 15 September 2020 pp. 32, 33; Witness Mujić, T. 27 February 2018 pp. 16, 17; Witness Pelević, Exhibit 2D00477, p. 16351; Witness RFJ-019, Exhibit P01658, pp. 2588-2590.

⁸⁵⁶ *See* Witness RFJ-034, Exhibit P00425, pp. 6247, 6248; Witness Pelević, Exhibit 2D00477, p. 16351. *See supra* paras. 171-181.

⁸⁵⁷ The JNA's participation in the Zvornik attack is supported by the evidence of Witness Pelević, who was a member of Arkan's Serbian Volunteer Guard. *See* Witness Pelević, Exhibit 2D00477, p. 16351.

⁸⁵⁸ Witness OFS-23, Exhibit 2D00506, paras. 8, 59, 69, T. 15 September 2020 pp. 32, 33. *See* Witness Mujić, T. 27 February 2018 pp. 16, 17; Witness Pelević, Exhibit 2D00477, p. 16351; Witness RFJ-019, Exhibit P01658, pp. 2588-2590.

⁸⁵⁹ Witness RFJ-002, Exhibit P01681, pp. 2-4; Witness OFS-23, Exhibit 2D00506, paras. 28, 41, 43-48.

⁸⁶⁰ Witness RFJ-019, Exhibit P01655, p. 3, Exhibit P01657, p. 5954, T. 15 February 2018 pp. 9, 11.

⁸⁶¹ Witness RFJ-019, Exhibit P01655, p. 3, Exhibit P01657, pp. 5954-5956, T. 15 February 2018 pp. 9, 11, 12, 22-24.

⁸⁶² Witness RFJ-019, Exhibit P01655, p. 3, Exhibit P01657, pp. 5955-5957, T. 15 February 2018 pp. 11, 12, Exhibit P01656, p. 1.

⁸⁶³ Witness RFJ-019, Exhibit P01655, p. 3; Exhibit P01657, pp. 5957, 5958, T. 15 February 2018 pp. 9, 10.

the women and children saw dead bodies in the streets while being taken to the town centre,⁸⁶⁴ including the bodies of Hakija Šehić,⁸⁶⁵ Fehim Kujundžić, and Izet.⁸⁶⁶ As they were going towards the Secretariat of Internal Affairs building, they were told to go to the library, where Arkan told the women and children that buses would arrive to pick them up.⁸⁶⁷ Arkan boarded a bus with them and, before crossing into Serbia, got off at Karakaj bridge where some of the men who were also on these buses were removed and taken away.⁸⁶⁸ When the driver asked Arkan what to do with the rest of the people on the bus, Arkan responded: “Well, just let them go. They’ll die on their own accord. We don’t have to kill them [...] We’ve killed all their children, so they won’t last long”⁸⁶⁹ Thereafter, those remaining on the bus were taken to Banja Koviljača in Serbia.⁸⁷⁰

191. Zvornik town was taken over by Serb forces within a day, and the Serbian flag was hoisted on the main town mosque.⁸⁷¹ Witness RFJ-109 gave evidence that, several days after the attack, Major Marko Pejić reported to JNA Colonel Milošević, in the presence of others, including Pavlović, that Zvornik “had been liberated”.⁸⁷² On 10 April 1992, Arkan’s Serbian Volunteer Guard piled dozens of dead bodies, including those of women, children, and the elderly, onto trucks.⁸⁷³ Witness RFJ-139 gave evidence that many more corpses were collected in the following days and that the corpses were mostly those of Muslims, with half of the male bodies in civilian clothes and the other half in military uniform.⁸⁷⁴ After the attack on Zvornik town, many civilians left in the direction of Tuzla,⁸⁷⁵ where, by 12 April 1992, 4,000 refugees from Zvornik town and surroundings were reported to be present.⁸⁷⁶ According to Witness OFS-23, on 16 or 20 April 1992, the Zvornik Crisis Staff was replaced with an interim government at the suggestion of “Mr. Djokanović” who was sent by the Serbian Democratic Party leadership.⁸⁷⁷

192. After the takeover of Zvornik town, the Serb forces continued to take control over other villages in the municipality.⁸⁷⁸ Serb forces, including the Serbian Volunteer Guard, White Eagles, and reserve police force attacked the Muslim village of Divič after its inhabitants were repeatedly

⁸⁶⁴ Witness RFJ-019, Exhibit P01657, pp. 5966, 5967, Exhibit P01655, p. 4, Exhibit P01656, p. 1.

⁸⁶⁵ Witness RFJ-019, Exhibit P01655, p. 4, Exhibit P01656, p. 1.

⁸⁶⁶ Witness RFJ-019, Exhibit P01655, p. 4, Exhibit P01656, p. 1, Exhibit P01657, pp. 5966, 5967.

⁸⁶⁷ Witness RFJ-019, Exhibit P01657, p. 5962, Exhibit P01655, p. 4, Exhibit P01656, p. 1.

⁸⁶⁸ Witness RFJ-019, Exhibit P01655, p. 4, Exhibit P01657, pp. 5963, 5964, Exhibit P01658, p. 2599.

⁸⁶⁹ Witness RFJ-019, Exhibit P01658, p. 2599. *See* Witness RFJ-019, Exhibit P01657, pp. 5962, 5963.

⁸⁷⁰ Witness RFJ-019, Exhibit P01655, p. 4, T. 15 February 2018 pp. 13, 15.

⁸⁷¹ *See* Adjudicated Facts 990, 992, 1034.

⁸⁷² Witness RFJ-109, Exhibit P01782, pp. 21029-21031.

⁸⁷³ Adjudicated Fact 993.

⁸⁷⁴ *See* Witness RFJ-139, Exhibit P01818, p. 3, Exhibit P01819, pp. 21321, 21322, 21344.

⁸⁷⁵ Adjudicated Facts 990, 1034.

⁸⁷⁶ Exhibit P03364, p. 1.

⁸⁷⁷ Witness OFS-23, T. 16 September 2020 pp. 40, 41, Exhibit 2D00506, paras. 63, 64. *See* Exhibit P03564, p. 1; Exhibit P03565, p. 2. *See also* Witness OFS-23, Exhibit 2D00506, para. 66.

⁸⁷⁸ *See* Adjudicated Facts 995, 1004, 1010-1012, 1035.

told to surrender their weapons and leave.⁸⁷⁹ Around 28 May 1992, between 400 and 500 inhabitants of Divič, including women, children, and elderly persons, were forced onto buses by Yellow Wasps members, told that they would be taken to Muslim territory, and brought to Crni Vrh.⁸⁸⁰ Further, 4,000 to 5,000 Muslim inhabitants were transferred out of the Đulići village area in June 1992 at their request “because they thought that they could save themselves that way.”⁸⁸¹ When the trucks arrived, the Territorial Defence members and police separated the men from the women and children.⁸⁸² The men were taken to the Karakaj technical school, while the women and children were taken to Muslim-held territory.⁸⁸³ According to Witness OFS-23, Pavlović explained that the men were detained because “he wanted to exchange them”.⁸⁸⁴

193. It follows from the evidence and the adjudicated facts that Serb forces detained, severely mistreated, and/or killed many non-Serbs in various facilities, including in the above mentioned Karakaj technical school, as well as at the Alhos, Standard, Ekonomija and Novi Izvor factories, and at the Dom Kulture building in Čelopek.⁸⁸⁵ For instance, in the Karakaj technical school, the conditions were terrible as a couple of hundred people were kept in a small room that was stiflingly hot, with steam coming out due to the extreme heat,⁸⁸⁶ and with some of the non-Serbs detained there beaten and/or killed, including by members of the Yellow Wasps.⁸⁸⁷ When Branko Grujić, who was the head of the interim government and president of the Zvornik Serbian Democratic Party and Crisis Staff,⁸⁸⁸ asked during the interim government session whether the detainees at the school were being given food and water, some of the members of the government, including Pavlović laughed and responded that they had taken the detainees “off food and water”.⁸⁸⁹ From April to June 1992, approximately 507 Muslim civilians were killed by Serb forces in Zvornik

⁸⁷⁹ See Adjudicated Facts 1003, 1004; Witness Mujić, T. 27 February 2018 p. 26.

⁸⁸⁰ Adjudicated Fact 1006. The same day, Major Svetozar Andrić, commander of the *Republika Srpska* Army 1st Birač Brigade, ordered the Zvornik Territorial Defence to organize and co-ordinate the moving out of the Muslim population with municipalities through which they would pass. See Adjudicated Fact 1007.

⁸⁸¹ Witness OFS-23, Exhibit 2D00506, para. 95, T. 17 September 2020 p. 25.

⁸⁸² Witness OFS-23, Exhibit 2D00506, para. 95, T. 17 September 2020 p. 26.

⁸⁸³ Witness OFS-23, Exhibit 2D00506, para. 95, T. 17 September 2020 p. 27. See Adjudicated Fact 991 (indicating that Pavlović arrested a number of Muslim men in the village of Đulići and took them to the Karakaj technical school).

⁸⁸⁴ Witness OFS-23, Exhibit 2D00506, para. 96.

⁸⁸⁵ See Witness RFJ-109, Exhibit P01782, pp. 21036, 21037, 21087, 21088; Witness OFS-23, Exhibit 2D00506, paras. 95-100, T. 17 September 2020 pp. 22, 27; Exhibit 2D00122, pp. 2, 3; Exhibit P01688, pp. 2-4; Exhibit P03281, p. 2; Exhibit P03215, pp. 2, 4; Adjudicated Facts 991, 1016, 1018, 1024-1029. The Trial Chamber notes that Witness OFS-23 refers to the detention centre as Ekonomija farm, while the adjudicated fact refers to Ekonomija factory. See Witness OFS-23, T. 17 September 2020 p. 22; Adjudicated Fact 1018.

⁸⁸⁶ Witness OFS-23, Exhibit 2D00506, paras. 97, 99, T. 17 September 2020 pp. 27, 28.

⁸⁸⁷ Witness RFJ-109, Exhibit P01782, pp. 21036, 21037.

⁸⁸⁸ See Exhibit P03564; Exhibit P03550; Witness OFS-23, Exhibit 2D00506, para. 16.

⁸⁸⁹ Witness OFS-23, Exhibit 2D00506, para. 98. See Witness RFJ-109, Exhibit P01782, pp. 21087, 21088.

municipality,⁸⁹⁰ with about 350 detainees in Karakaj technical school killed either at the school premises or in Gero's slaughterhouse in the beginning of June 1992.⁸⁹¹

194. With respect to the Yellow Wasps, the Trial Chamber has received evidence of the crimes committed by its members, including Dušan/Duško Vučković (Repić),⁸⁹² against non-Serbs in various other detention centres.⁸⁹³ This includes events in the Dom Kulture building in Čelopek where Repić killed Muslim detainees and ordered the wounded survivors to sing "Chetnik songs" and beat and kick each other.⁸⁹⁴ The Trial Chamber has taken judicial notice that Repić also forced the prisoners to perform sexual acts on family members, including intercourse and penetration by a broom handle.⁸⁹⁵

195. The Trial Chamber has also received evidence in relation to the events in Kozluk village where the inhabitants were of mixed ethnicity, with about 90% Muslim majority, trying to preserve peaceful co-existence despite the conflict in the surrounding villages.⁸⁹⁶ By the end of May 1992, there were a large number of Muslims in Kozluk from Šepak and Skočić villages, who had fled out of fear of the Serb paramilitaries that demanded the surrender of weapons.⁸⁹⁷ It follows from the evidence that, when the people in Kozluk formed a column to leave the area, the local Bosnian Serb authorities prevented them from doing so, stating that it was dangerous for them due to the tensions in the area and the need to have to pass through Serb villages.⁸⁹⁸ The local Bosnian Serb authorities, including Grujić, assured them of their safety.⁸⁹⁹

196. In the evening between 20 and 21 June 1992, Serb forces under the command of Pavlović attacked Kozluk.⁹⁰⁰ According to Witness RFJ-002, a Muslim from Kozluk, on the day before the

⁸⁹⁰ Adjudicated Fact 1033.

⁸⁹¹ Adjudicated Fact 1039. *See* Witness RFJ-109, Exhibit P01782, p. 21037.

⁸⁹² *See also* Witness RFJ-109, Exhibit P01782, pp. 21006, 21007, 23634, 23635; Adjudicated Fact 1026.

⁸⁹³ The Trial Chamber received evidence that Yellow Wasps members also set up checkpoints and that vehicles, alcohol, and other goods were confiscated and taken to Serbia. *See* Witness RFJ-109, Exhibit P01782, pp. 23634, 23635; Exhibit P01640, pp. 1, 2; Exhibit P01648, pp. 1, 2; Exhibit P01642, p. 1; Exhibit P01643, p. 1.

⁸⁹⁴ Exhibit P01688, pp. 3, 4; Exhibit 2D00122, p. 2; Exhibit P03281, pp. 2, 3; Exhibit P03215, pp. 2, 4. *See* Adjudicated Facts 1026-1029.

⁸⁹⁵ Adjudicated Fact 1027.

⁸⁹⁶ Witness RFJ-002, Exhibit P01668, p. 20616; Witness Mujić, T. 27 February 2018 p. 26; Witness OFS-23, Exhibit 2D00506, para. 101.

⁸⁹⁷ Witness RFJ-002, Exhibit P01670, p. 4; Adjudicated Fact 1010. *See* Witness RFJ-002, Exhibit P01670, p. 4 (stating that the villagers had already surrendered their weapons before coming to Kozluk); Witness RFJ-109, Exhibit P01782, pp. 21021, 21022, 21073-21075 (indicating that Šepak is a Muslim village located about 20 kilometers from Zvornik town and that its inhabitants surrendered their weapons upon the orders of Fadil Mujić, a policeman in the Zvornik Secretariat of Internal Affairs, and Pavlović, commander of the Zvornik Territorial Defence before leaving Šepak, so that conflict was avoided).

⁸⁹⁸ Witness RFJ-002, Exhibit P01670, pp. 4, 5; Witness OFS-23, Exhibit 2D00506, paras. 102, 106. *See* Witness RFJ-002, Exhibit P01668, p. 20619.

⁸⁹⁹ *See* Witness RFJ-002, Exhibit P01668, pp. 20676, 20677, Exhibit P01670, p. 5.

⁹⁰⁰ Witness RFJ-002, Exhibit P01681, p. 5, Exhibit P01668, p. 20618; Adjudicated Fact 1011.

attack, Pavlović told the Serbs in Kozluk to mark the Serb houses so that they would not be targeted.⁹⁰¹

197. On 26 June 1992, Serb forces entered Kozluk, and the Bosnian Serb authorities, including Grujić and Pavlović, informed the Bosnian Muslims that they had one hour to leave or that they would be killed.⁹⁰² When Grujić was asked where the Muslims were to go and how they would leave, he responded that they would be going towards Serbia, everything was ready, and the busses and trucks would be in the centre.⁹⁰³ The Bosnian Muslims were told that they could not take personal belongings with them and were pushed towards the centre by the Serb forces, who were shooting into the air and setting fire to houses and facilities, with several people wounded in the process.⁹⁰⁴ Witness RFJ-002 gave evidence that the operation to move out the Bosnian Muslims from Kozluk was organized by Pavlović and Grujić.⁹⁰⁵ Before departing, the Muslims were forced to sign statements that they were giving up their property.⁹⁰⁶ In total, around 1,822 persons left Kozluk and were taken by buses and trucks to Serbia and transferred by trains to the Serbian Hungarian border.⁹⁰⁷

198. Prior to the conflict, there were approximately 48,000 Muslims comprising around 59% of the population in Zvornik municipality.⁹⁰⁸ However, the evidence indicates that by 1997, there were less than 3,500 Muslims or around 13% of the population⁹⁰⁹ and that, as of 1997-1998, nearly 32,000 of about 37,000 internally displaced people and refugees from Zvornik were Muslims.⁹¹⁰

199. Based on the above, the Trial Chamber finds proven beyond a reasonable doubt that Serb forces, including Arkan's Serbian Volunteer Guard, volunteers under Mauzer, Šešelj's men, and JNA units, attacked Zvornik town on or about 8 April 1992 and that, during the attack, Arkan's Serbian Volunteer Guard and/or Šešelj's men killed the following civilians: Hajrudin Delić,⁹¹¹ Sead Hidić,⁹¹² Senad Hidić,⁹¹³ Mevludin (Šemsudin) Ahmetović,⁹¹⁴ Nusret Ahmetović,⁹¹⁵ Samir

⁹⁰¹ Witness RFJ-002, Exhibit P01681, pp. 5, 6.

⁹⁰² Witness RFJ-002, Exhibit P01670, pp. 7, 8, Exhibit P01668, pp. 20620-20622, 20627, 20628, 20655, 20696; Adjudicated Fact 1012.

⁹⁰³ Witness RFJ-002, Exhibit P01670, p. 7, Exhibit P01668, p. 20622, Exhibit P01681, p. 8.

⁹⁰⁴ Witness RFJ-002, Exhibit P01670, p. 8, Exhibit P01668, pp. 20624, 20629, 20655, 20666, 20700.

⁹⁰⁵ See Witness RFJ-002, Exhibit P01681, p. 14.

⁹⁰⁶ See Witness RFJ-002, Exhibit P01670, p. 8, Exhibit P01667, p. 10930; Adjudicated Fact 1012.

⁹⁰⁷ Witness RFJ-002, Exhibit P01670, p. 8. See Adjudicated Fact 1013; Witness RFJ-002, Exhibit P01668, pp. 20633-20641, Exhibit P01667, pp. 10927, 10932-10936. See also Exhibit P01646.

⁹⁰⁸ Exhibit P01980 (Part III), p. 105; Exhibit P02069, p. 21.

⁹⁰⁹ Exhibit P02069, p. 23 (in relation to population born before 1980).

⁹¹⁰ Exhibit P02069, p. 28.

⁹¹¹ Exhibit P02068, Annex 5, p. 41; Exhibit P02257; Witness RFJ-019, Exhibit P01655, p. 3.

⁹¹² Exhibit P02068, Annex 5, p. 41; Exhibit P02222; Exhibit P02246, p.1.

⁹¹³ Exhibit P02068, Annex 5, p. 41; Exhibit P02223; Exhibit P02247, p.1.

⁹¹⁴ Exhibit P02068, Annex 5, p. 40; Exhibit P02214; Exhibit P02238, p.1.

⁹¹⁵ Exhibit P02068, Annex 5, p. 40; Exhibit P02215; Exhibit P02239, p.1.

Bilalić,⁹¹⁶ Senad Bilalić,⁹¹⁷ Sabit Bilalić,⁹¹⁸ Ivo Kojić,⁹¹⁹ Dedo Krčić,⁹²⁰ Fahrudin Alajbegović,⁹²¹ and Edhem Hadžić.⁹²²

200. The Trial Chamber also finds proven beyond reasonable doubt that, following the takeover of Zvornik town, Serb forces attacked the villages of Divič and Kozluk, expelling its non-Serb inhabitants. In addition, it is proven beyond reasonable doubt that the Serb forces, which included those under the command of Pavlović and members of the Yellow Wasps, detained non-Serb men in various detention centres and engaged in criminal activities, such as inflicting severe abuse and killings.

201. Having considered the evidence and the circumstances in which the departures occurred, including the murders that were committed in Zvornik town on or about 8 April 1992, as found above, the Trial Chamber finds proven beyond reasonable doubt that the acts of violence committed by the Serb forces during and after the takeover forced the non-Serbs to leave Zvornik municipality.

3. Events in Bosanski Šamac

202. The Indictment alleges that, on or about 11 April 1992, Serb forces, particularly special units of the Serbian State Security Service that included Dragan Đorđević (Crni), Srećko Radovanović (Debeli) and Slobodan Miljković (Lugar), arrived in Bosanski Šamac at the request of local Bosnian Serb leaders.⁹²³ The Indictment specifically states that, on 17 April 1992, those forces as well as local forces who had been trained by members of the special units, attacked and took control over the town of Bosanski Šamac.⁹²⁴ According to the Indictment, following this attack, Serb forces, in particular Serbian State Security Service special units, detained non-Serb civilians at or near the Bosanski Šamac police headquarters and the Territorial Defence buildings and, on several occasions between 17 April 1992 and 31 July 1992, beat and/or otherwise mistreated the non-Serb detainees.⁹²⁵

203. The Indictment further states that, on or about 6 May 1992, 50 Bosnian Croat and Bosnian Muslim detainees at the Bosanski Šamac Territorial Defence building were moved by Serb authorities to an agricultural building in the nearby village of Crkvina, where, on or about 7 May

⁹¹⁶ Exhibit P02068, Annex 5, p. 40; Exhibit P02218; Exhibit P02242, p.1.

⁹¹⁷ Exhibit P02068, Annex 5, p. 40; Exhibit P02219; Exhibit P02243, p.1.

⁹¹⁸ Exhibit P02068, Annex 5, p. 40; Exhibit P02217; Exhibit P02241, p.1.

⁹¹⁹ Exhibit P02068, Annex 5, p. 42; Exhibit P02226; Exhibit P02250, p. 1.

⁹²⁰ Exhibit P02068, Annex 5, p. 42; Exhibit P02220; Exhibit P02244, p.1.

⁹²¹ Exhibit P02068, Annex 5, p. 40; Exhibit P02216; Exhibit P02240, p.1.

⁹²² Exhibit P02068, Annex 5, p. 41; Exhibit P02221; Exhibit P02245, p.1.

⁹²³ Indictment, para. 46.

⁹²⁴ Indictment, para. 47.

⁹²⁵ Indictment, para. 48.

1992, Lugar, Crni, and other members of the Serb forces, including special units of the Serbian State Security Service, beat the non-Serb detainees, and shot and killed at least 16 of them.⁹²⁶ According to the Indictment, these killings along with other crimes and acts of violence associated with the attack resulted in the forcible displacement of the non-Serb population in the area,⁹²⁷ and the murders and forcible displacement amounted to persecution.⁹²⁸

204. In connection with these allegations, the Prosecution submits that Simatović deployed the special unit of the Serbian State Security Service and Bosanski Šamac locals trained at Pajzoš to take over the municipality in furtherance of the common criminal purpose, and, to this end, veteran members of the special unit leading the Pajzoš-trained Red Berets and coordinating with the JNA, local Territorial Defence, and police forcibly transferred, deported, and murdered the non-Serb population with persecutory intent.⁹²⁹ According to the Prosecution, through these attacks, murders, and other crimes, Serb forces expelled Bosnian Muslims and Croats from Bosanski Šamac, and that the crimes of murder, persecution, forcible transfer, and deportation are attributable to the Accused.⁹³⁰

205. In their final trial briefs, the Accused do not contest that crimes were committed in Bosanski Šamac or that it was subject to a takeover in April 1992.⁹³¹ However, Stanišić argues that Crni and his unit were not commanded, controlled, or supplied by Stanišić during the Bosanski Šamac operation.⁹³² Simatović argues that Bosanski Šamac was occupied prior to the arrival of a volunteer group in Batkuša, that their arrival did not affect the takeover, and that this group, which he did not control or influence, was not a special unit of the Serbian State Security Service.⁹³³ In connection with these arguments, the Accused also challenge the credibility and reliability of Prosecution Witnesses Stevan Todorović and RFJ-035.⁹³⁴

206. The Trial Chamber considered evidence from several Prosecution witnesses, including Witnesses Todorović, Sulejman Tihčić, Dragan Lukač, RFJ-035, RFJ-075, and RFJ-125, who were

⁹²⁶ Indictment, para. 50. *See also* Prosecution Pre-Trial Brief, Annex A, RP. 6553.

⁹²⁷ Indictment, paras. 64-66.

⁹²⁸ Indictment, paras. 22-25.

⁹²⁹ Prosecution Final Trial Brief, paras. 534, 819; Prosecution Closing Arguments, T. 12 April 2021 pp. 7, 8, 75-78. *See also* Prosecution Final Trial Brief, paras. 535, 536, 540-544, 820-831; Prosecution Closing Arguments, T. 12 April 2021 pp. 33, 46; Prosecution Pre-Trial Brief, paras. 75, 82, 163, 165-167.

⁹³⁰ Prosecution Final Trial Brief, paras. 832, 833. *See also* Prosecution Final Trial Brief, paras. 542-544, 820-822; Prosecution Pre-Trial Brief, paras. 95, 111, 124-126, 162.

⁹³¹ *See* Stanišić Final Trial Brief, paras. 1019-1024, 1060; Simatović Final Trial Brief, paras. 663-667, 669, 692.

⁹³² Stanišić Final Trial Brief, para. 1015; Stanišić Closing Arguments, T. 13 April 2019 pp. 58-63. *See also* Stanišić Final Trial Brief, paras. 1009, 1010, 1021, 1027, 1031, 1032, 1059, 1060, Annex X; Stanišić Pre-Trial Brief, paras. 61-69, 203, 206, 207.

⁹³³ Simatović Final Trial Brief, paras. 669-677, 681-683, 686, 690, 693, 694. *See also* Simatović Pre-Trial Brief, paras. 165, 180-184.

⁹³⁴ *See* Stanišić Final Trial Brief, paras. 1033-1045, Annex XV; Simatović Final Trial Brief, paras. 678, 685, 692, 695-703.

direct witnesses to the events in the municipality of Bosanski Šamac, as well as from Defence Witness Petar Djukić. The Trial Chamber has also considered forensic and documentary evidence and has taken judicial notice of adjudicated facts in relation to these events, where appropriate. Further, while the Trial Chamber views the evidence of Witnesses Todorović and RFJ-035 with appropriate caution, it is nonetheless satisfied that it may rely on the fundamental features of their accounts of the events that transpired prior to and after the takeover of the town of Bosanski Šamac.

207. The municipality of Bosanski Šamac is located in the north-eastern part of Bosnia and Herzegovina along the Sava River on the border with Croatia.⁹³⁵ The town of Bosanski Šamac was of strategic importance for the conduct of military operations, especially as the municipality formed part of the so-called Posavina Corridor, a region that connected the Serb-controlled areas within Croatia to the Bosnian Serb territories and Serbia.⁹³⁶ According to the 1991 census, Bosanski Šamac had an ethnically diverse population of 32,960 people, which comprised of 44.7% Croats, 41.3% Serbs, 6.8% Muslims, and 7.2% others.⁹³⁷ The town of Bosanski Šamac was also inhabited by a population of mixed ethnic background, with Muslims forming the majority, followed by the Serbs, and then the Croats.⁹³⁸

208. The evidence shows that there was an increase of ethnic tensions in Bosanski Šamac starting in 1991 and leading up to its takeover in April 1992, including the passing of laws and the creation of separate police forces that divided the municipality across ethnic lines, the positioning of military equipment and soldiers by the JNA on roads, at checkpoints, and in Serb villages, and with the JNA and others carrying out a series of activities to create an atmosphere of fear and panic among non-Serbs within the municipality.⁹³⁹ These tensions were exacerbated by the conflict underway in Croatia, and many Serb and Croat families left the town of Bosanski Šamac upon hearing rumors

⁹³⁵ Adjudicated Fact 1040; Witness Tihic, Exhibit P01869, pp. 3115, 3116, Exhibit P01866, p. 2; Exhibit P01980 (Part III), p. 122.

⁹³⁶ Witness Todorović, Exhibit P01916, pp. 23429, 23430; Witness Djukić, Exhibit 2D00373, pp. 18056, 18057; Exhibit P01980 (Part III), p. 122; Adjudicated Facts 1040, 1041. *See also* Witness Tihic, Exhibit P01869, pp. 3115, 3116; Witness Lukač, Exhibit P02731, p. 3.

⁹³⁷ Exhibit P01980 (Part III), pp. 122, 123; Exhibit P02069, p. 21; Adjudicated Fact 1042. *See also* Witness Tihic, Exhibit P01870, p. 1245; Witness Lukač, Exhibit P02731, p. 5, Exhibit P02732, pp. 1533, 1534. According to Witness Tihic, there was also a significant number of citizens who declared themselves as Yugoslavs, mostly from mixed marriages. *See* Witness Tihic, Exhibit P01870, p. 1246, Exhibit P01866, p. 2.

⁹³⁸ Witness Tihic, Exhibit P01870, p. 1245; Exhibit P01866, p. 2. *See also* Witness Djukić, T. 17 December 2019 p. 39. Witnesses Lukač and Tihic also stated that there were no Muslim villages within the municipality of Bosanski Šamac. *See* Witness Lukač, Exhibit P02732, pp. 1533, 1534, Exhibit P02731, p. 5; Witness Tihic, Exhibit P01870, p. 1247. *See also* Witness RFJ-125, Exhibit P01846, para. 5.

⁹³⁹ Witness Lukač, Exhibit P02732, pp. 1566-1569, 1584-1587, Exhibit P02731, pp. 7-14; Witness RFJ-125, Exhibit P01848, pp. 11684-11689, Exhibit P01846, paras. 4-11; Witness Tihic, Exhibit P01869, pp. 3106, 3107, 3110-3113, Exhibit P01870, pp. 1307, 1308, 1338, 1340, 3874, Exhibit P01865, pp. 4, 5; Witness RFJ-075, Exhibit P01692, pp. 2, 3; Exhibit 1D00084, p. 1; Witness Djukić, T. 17 December 2019 pp. 3-6; Witness Todorović, Exhibit P01916, p. 23501; Exhibit P01873; Exhibit P01874, pp. 2, 4; Adjudicated Facts 1044, 1046, 1047, 1050, 1051, 1066-1068, 1070.

regarding an impending attack by Serb forces.⁹⁴⁰ On 5 January 1992, Lieutenant Colonel Stevan Nikolić (Kriger), Commander of the JNA's 17th Tactical Group, issued an order establishing the 4th Detachment, whose area of responsibility was exclusively the town of Bosanski Šamac and whose stated purpose was to prevent inter-ethnic conflicts and the spread of war from Croatia.⁹⁴¹ Although the 4th Detachment was not entirely ethnically Serb, it consisted of 70% to 80% Serbs.⁹⁴²

209. On or around 11 April 1992, after being briefed by Simatović at Pajzoš, paramilitaries flew in JNA helicopters from an airstrip at Ležimir and arrived in Batkuša, a Serbian village near Bosanski Šamac, and that, among the group of around 50 men, 30 came from Serbia while the remaining 18 to 20 were from Bosanski Šamac.⁹⁴³ Crni, Debeli, and Lugar were part of this group, with Crni in charge of the men from Serbia,⁹⁴⁴ which, according to documentary evidence, had been legalized "at the level of Šamac Municipality and at the highest level in Serbia and Yugoslavia".⁹⁴⁵ Aleksandar Vuković (Vuk), Predrag Lazarević (Laki), Goran Simović (Tralja), and Zivomir Avramović (Avram) arrived with this group as well.⁹⁴⁶

210. This group of 30 men from Serbia were referred to by different names by the local population, including as the "Šareni", specials or specialists, elite or special forces, "Grey Wolves", or "Red Berets".⁹⁴⁷ They were also recognizable by their clothing, including camouflage uniforms, red berets, black knitted hats, patches and insignia, such as insignia depicting a grey wolf, and by

⁹⁴⁰ Witness Tihic, Exhibit P01868, pp. 29933, 29934, Exhibit P01870, pp. 1341, 1342, Exhibit P01865, p. 4; Witness Lukač, Exhibit P02732, p. 1932, Exhibit P02731, pp. 3, 14; Adjudicated Fact 1052.

⁹⁴¹ Witness Tihic, Exhibit P01869, pp. 3116, 3117, 3127, 3210, Exhibit P01868, pp. 29926-29928, 29980, Exhibit P01870, pp. 1328-1330, 1332-1335, 1340, 3676, 3677, 3679, 3680, 3712, 3901, Exhibit P01865, pp. 2, 3; Witness Lukač, Exhibit P02732, pp. 1555-1557, 1566, 1676, 1890, 1892-1894, 2066, Exhibit P02731, pp. 9, 10, 39; Witness Todorović, Exhibit P01916, p. 23430; Witness Djukić, T. 16 December 2019 pp. 12, 13, 19; Adjudicated Facts 1053-1056.

⁹⁴² See Witness Tihic, Exhibit P01869, p. 3117, Exhibit P01870, p. 3679, Exhibit P01865, p. 2; Witness Lukač, Exhibit P02732, pp. 1559-1561, 1893, 2094, Exhibit P02731, p. 10; Witness Djukić, T. 16 December 2019 pp. 12, 13.

⁹⁴³ Witness Todorović, Exhibit P01916, pp. 23441, 23442, 23454, 23466, 23520; Witness RFJ-035, T. 19 April 2018 pp. 14, 15, 32, 33, T. 18 April 2018 p. 29, T. 17 April 2018 pp. 6, 13-16, Exhibit P02028, pp. 7628, 7792, Exhibit P02026, paras. 35-37; Exhibit P02042, p. 3; Witness Lukač, Exhibit P02732, pp. 1612, 1614-1616, Exhibit P02731, p. 14; Witness Djukić, T. 22 January 2020 p. 22, T. 21 January 2020 p. 3, T. 17 December 2019 pp. 12, 13, 22; Witness Tihic, Exhibit P01869, pp. 3134, 3199, 3213, 3214, Exhibit P01868, pp. 29883, 29884, 29946, 29951, Exhibit P01870, pp. 1343, 1344, Exhibit P01865, p. 5; Exhibit P01938, pp. 256, 257; Exhibit P00846, p. 3; Exhibit P01953, p. 2; Exhibit P02048, p. 1; Adjudicated Facts 1059-1063. See also Witness RFJ-035, Exhibit P02026, para. 40; Witness Djukić, T. 17 December 2019 p. 13.

⁹⁴⁴ Witness Todorović, Exhibit P01916, pp. 23442, 23443, 23517; Exhibit P01922; Witness RFJ-035, T. 17 April 2018 pp. 16, 29, Exhibit P02028, p. 7792, Exhibit P02026, paras. 36, 37; Exhibit P02042, p. 3; Witness Djukić, T. 17 December 2019 p. 12, Exhibit 2D00373, pp. 18080, 18081; Witness Tihic, Exhibit P01868, p. 29889, Exhibit P01865, p. 7; Exhibit P01980 (Part III), pp. 127, 128, 133; Exhibit P01938, p. 257; Exhibit P01924, p. 1; Exhibit P02040, p. 1; Exhibit P01953, p. 2; Adjudicated Facts 1053, 1062. See also Witness RFJ-035, Exhibit P02026, paras. 34, 36.

⁹⁴⁵ Exhibit P01924, p. 1.

⁹⁴⁶ See Witness RFJ-035, Exhibit P02026, paras. 35-37; Witness Todorović, Exhibit P01916, p. 23443; Exhibit P02048, p. 1. See also Exhibit P01938, p. 257. The Trial Chamber also received evidence that those who arrived with this group included persons with the nicknames of Student, Mali Nesa, Zlaja, and Musa. See Witness Todorović, Exhibit P01916, p. 23443; Witness RFJ-035, Exhibit P02026, para. 36.

⁹⁴⁷ Witness Todorović, Exhibit P01916, p. 23466; Witness Tihic, Exhibit P01869, pp. 3119, 3120, 3134, 3198, 3199, Exhibit P01868, pp. 29883, 29884, 29886, 29945, 29946, Exhibit P01865, p. 5; Witness RFJ-035, T. 18 April 2018 p. 53.

their accents, speaking in the Ekavski dialect.⁹⁴⁸ In this regard, the Trial Chamber received evidence that the men who arrived in Batkuša were Serbs from Serbia and that these special units, or “specials”, were skilled and trained members of the armed forces, that they “were masters of life and death” in Bosanski Šamac, and that even the local Serbs and troops were afraid of them.⁹⁴⁹

211. Among the evidence that the Trial Chamber received was that of Witness Todorović, chief of police of Bosanski Šamac after its takeover,⁹⁵⁰ and Witness RFJ-035, a Serb who attested to being a member of the “Red Berets”.⁹⁵¹ Witness Todorović, who along with JNA officers was present for the arrival of the paramilitaries and was informed that members of the special unit of the Serbian State Security Service would be arriving in the municipality, stated that Crni and Lugar were members of the Serbian Radical Party and of the special unit of the Serbian State Security Service.⁹⁵² Witness RFJ-035, who testified to being part of the unit commanded by Crni that arrived in Batkuša, stated that Crni was Debeli’s superior, and Simatović was Crni’s superior.⁹⁵³ The Trial Chamber also received evidence that, upon their arrival, the paramilitaries were re-subordinated to the JNA’s 17th Tactical Group under Nikolić.⁹⁵⁴

212. On 12 April 1992, Witness Petar Djukić, who worked in the security and intelligence organ of the JNA,⁹⁵⁵ attended a meeting with Todorović and Crni, who the witness described as a member of the Serbian Radical Party, on the organization of the public security station in Bosanski

⁹⁴⁸ Witness Todorović, Exhibit P01916, pp. 23439, 23442, 23444, 23466; Witness Tihić, Exhibit P01869, pp. 3118, 3134, 3135, 3199, Exhibit P01868, pp. 29884, 29951, Exhibit P01870, p. 1344; Witness RFJ-035, Exhibit P02026, para. 36; Witness Lukač, Exhibit P02732, pp. 1655, 1656; Adjudicated Fact 1064.

⁹⁴⁹ Witness Tihić, Exhibit P01869, pp. 3119, 3120, 3198-3200, 3213, 3214, Exhibit P01868, p. 29886, Exhibit P01870, p. 1344.

⁹⁵⁰ See Witness Todorović, Exhibit P01916, pp. 23499, 23500; Exhibit P01920; Exhibit P01923, Annex A, p. 2; Exhibit P01953, pp. 1, 2, 6, 7. See also Adjudicated Fact 1072.

⁹⁵¹ Witness RFJ-035, T. 19 April 2018 pp. 43-49, 56, 66, 67, T. 18 April 2018 pp. 12, 21, T. 17 April 2018 pp. 6, 29-31, 36-38, 49, 50, Exhibit P02029, para. 11; Exhibit P02027, para. 8, Exhibit P02026, p. 1, paras. 31, 43-45, 48, 51; Witness RFJ-035, Exhibit P02028, p. 7615. According to Witness RFJ-035, he was also member of the Serbian Radical Party as well as member of Serbian Radical Party volunteer units in 1991 and 1992. See Witness RFJ-035, Exhibit P02026, paras. 7, 9-28, 52, 53, 61.

⁹⁵² Witness Todorović, Exhibit P01916, pp. 23425, 23426, 23441, 23442, 23454; Adjudicated Fact 1060. With respect to Debeli, Witnesses Todorović and Djukić stated that he was also member of the Serbian Radical Party and part of the group that arrived in the area of Bosanski Šamac from Serbia. See Witness Todorović, Exhibit P01916, p. 23425; Witness Djukić, T. 17 December 2019 p. 17, T. 16 December 2019 p. 25, Exhibit 2D00373, pp. 17955, 17956. See also Witness Todorović, Exhibit P01916, pp. 23515, 23517 (wherein the witness stated that, while they were in the municipality of Bosanski Šamac, they were not a special unit of the Serbian State Security Service).

⁹⁵³ Witness, RFJ-035, T. 18 April 2018 pp. 8, 9, 47, 48, T. 17 April 2018 pp. 14, 16, Exhibit P02028, pp. 7612, 7627, 7628, 7719, 7743, 10892, Exhibit P02027, para. 8, Exhibit P02026, paras. 32, 34. The witness also stated that he heard that Simatović was the commander of the units, which included his unit, from Crni and Debeli. See Witness RFJ-035, T. 19 April 2018 pp. 53, 55, T. 18 April 2018 p. 9. See also Exhibit P02048, p. 1; Exhibit P02042, p. 3.

⁹⁵⁴ Witness Djukić, T. 17 December 2019 p. 13, Exhibit 2D00373, pp. 17943, 18080, 18081, 18090, 18091; Witness RFJ-035, T. 18 April 2018 pp. 29, 31, Exhibit P02028, pp. 7632, 7792; Exhibit P02042, p. 3; Exhibit P01953, p. 2; Exhibit P01980 (Part III), p. 127; Exhibit P00846, p. 3.

⁹⁵⁵ Witness Djukić, T. 21 January 2020 pp. 2-4, 6, Exhibit 2D00373, pp. 17913, 17919, 17970, 17971, 18003, 18004, 18059, 18060. The witness also worked as chief inspector of the police in the Republic of Serbian Krajina since March 1993 and, after the Erdut Agreement, was appointed as chief of the interim police. See Witness Djukić, T. 21 January 2020 p. 6.

Šamac.⁹⁵⁶ During the meeting, the witness was also informed about the arrival of a group of men, including Crni and Debeli, in Batkuša, with Crni himself telling Witness Djukić that he brought in “ten Chetniks and one officer as well as some other individuals”.⁹⁵⁷

213. On 13 April 1992, Blagoje Simić, the President of the Serbian Democratic Party in Bosanski Šamac, convened a meeting of municipality representatives from the area of Posavina, during which he proposed that, while Odžak and Orašje were going to be Croat municipalities, and Gradačac would be Muslim, Bosanski Šamac was to be Serb, and gave the municipality representatives seven days to accept the proposal.⁹⁵⁸ While the other political parties did not agree with this proposal, as it would mean the displacement of 9,500 Croats and 2,500 Muslims from Serb villages, and viewed the deadline as an implicit threat, it was clear that armed aggression was imminent.⁹⁵⁹ Around this time, wire for communications, tanks, heavy artillery, as well as JNA troops could be seen in the surrounding Serb villages and in locations not far from Bosanski Šamac.⁹⁶⁰

214. On 15 April 1992, a Crisis Staff was appointed in Bosanski Šamac, and Blagoje Simić became its President.⁹⁶¹ On that same day, Simić met with Todorović, Crni, and others and discussed the plan for the takeover of Bosanski Šamac as well as the inclusion of the 50 men, 30 from Serbia and approximately 20 locals from Bosanski Šamac, who had undergone special training in Pajzoš, within the existing local JNA brigade.⁹⁶²

215. In the early morning of 17 April 1992, the town of Bosanski Šamac was subject to a forcible takeover by Serb forces, including members of the paramilitaries that arrived in Batkuša on 11 April 1992, Serb police, and the Territorial Defence, which occurred without significant resistance and led to the seizure of key facilities within the town.⁹⁶³ The evidence also shows the presence and

⁹⁵⁶ Witness Djukić, T. 22 January 2020 pp. 17, 18, T. 17 December 2019 pp. 11, 12, 14, 17, Exhibit 2D00373, pp. 17941, 17942, 17956-17958, 18061, 18062. According to Witness Djukić, Debeli was also a member of the Serbian Radical Party. *See* Witness Djukić, T. 17 December 2019 p. 17, T. 16 December 2019 p. 25, Exhibit 2D00373, p. 17956. *See also* Adjudicated Fact 1062.

⁹⁵⁷ Witness Djukić, T. 17 December 2019 p. 12. *See also* Witness Djukić, T. 21 January 2020 p. 3, Exhibit 2D00373, p. 17942.

⁹⁵⁸ Witness Tihić, Exhibit P01866, p. 2, Exhibit P01869, pp. 3107-3109, Exhibit P01870, pp. 1301, 1303, 1305, 1344-1348; Witness Lukač, Exhibit P02732, pp. 1635-1638, Exhibit P02731, pp. 2, 3, Exhibit P02731, pp. 13, 14.

⁹⁵⁹ Witness Tihić, Exhibit P01869, pp. 3107-3110, Exhibit P01870, pp. 1304, 1347, Exhibit P01866, p. 2; Witness Lukač, Exhibit P02732, p. 1637, Exhibit P02731, pp. 13, 14. According to Witness Tihić, a representative of the JNA attended the meeting, which created a certain atmosphere that they had the support of the JNA. *See* Witness Tihić, Exhibit P01869, pp. 3168, 3169, Exhibit P01870, pp. 1344-1347, Exhibit P01866, p. 2.

⁹⁶⁰ Witness RFJ-075, T. 28 February 2018 pp. 41-43, Exhibit P01694, pp. 2728, 2729, Exhibit P01692, pp. 2, 3; Witness RFJ-125, T. 1 March 2018 pp. 43, 44.

⁹⁶¹ Adjudicated Fact 1074.

⁹⁶² Witness Todorović, Exhibit P01916, pp. 23452, 23454, 23455, Exhibit P01922; Exhibit P00846, p. 3. *See also* Witness Todorović, Exhibit P01916, pp. 23431-23433, 23558 (wherein the witness said that he was informed by Miloš Bogdanović, head of the municipal Secretariat of the National Defence, that a decision had been taken to send some 20 men from Bosanski Šamac to receive military training, which took place in the surroundings of Ilok).

⁹⁶³ Witness RFJ-035, T. 17 April 2018 pp. 16-19, Exhibit P02028, pp. 7630, 7631, 7730, Exhibit P02026, para. 41; Witness Todorović, Exhibit P01916, pp. 23456, 23457; Witness RFJ-075, Exhibit P01692, pp. 2-4; Witness Tihić,

participation of the JNA's 17th Tactical Group in the takeover,⁹⁶⁴ as well as the arrival of JNA military equipment, including tanks and armored personnel carriers shortly after the takeover.⁹⁶⁵

216. The Trial Chamber also received evidence from Witness RFJ-035, who testified that his Red Berets unit, which included several squads under the command of Debeli, participated in the attack as part of the JNA's 17th Tactical Group as well as evidence in relation to Lugar's involvement in the takeover.⁹⁶⁶ His evidence further shows that, one day before the takeover, Debeli and Lieutenant Colonel Nikolić provided a briefing, during which his group was tasked to capture the "Dom Culture" building in the town of Bosanski Šamac.⁹⁶⁷ According to Witness Todorović, the 30 men from Serbia played a "significant role" in the takeover, under JNA command during this period of time.⁹⁶⁸

217. The Trial Chamber further received documentary evidence in relation to events that took place during the night of 16 to 17 April 1992,⁹⁶⁹ including reports that Croatian forces along with paramilitary formations from Bosanski Šamac attempted to launch attacks on 17 and 18 April that were successfully repelled by Serb forces, such as the JNA's 17th Tactical Group, the Territorial Defence, and police, who subsequently participated in the takeover of vital facilities in Bosanski Šamac.⁹⁷⁰ Other documentary evidence received by the Trial Chamber also indicates that Simić and Todorović met with Crni and Lugar on a regular basis.⁹⁷¹

Exhibit P01869, pp. 3119, 3120, 3126, 3127, Exhibit P01868, pp. 29883, 29884, 29945, Exhibit P01870, pp. 1301, 1354, 1358, 1360, 1362, 1364, 1365, Exhibit P01867, p. 2, Exhibit P01865, p. 6; Witness Lukač, Exhibit P02732, pp. 1653, 1654, Exhibit P02731, p. 17; Witness RFJ-125, T. 1 March 2018 p. 8, Exhibit P01848, pp. 11695, 11696; Witness Djukić, T. 16 December 2019 pp. 16, 19; Exhibit P01980 (Part III), pp. 128, 133; Exhibit P01878, p. 2; Exhibit P02048, p. 1; Exhibit P01879, p. 1; Exhibit P03368; Adjudicated Facts 911, 1084, 1087-1089. *See also* Exhibit P02040; Exhibit P01927, p. 4.

⁹⁶⁴ Witness Todorović, Exhibit P01916, pp. 23457, 23513-23515; Witness RFJ-035, T. 19 April 2018 pp. 68, 69; Witness Tihić, Exhibit P01870, pp. 1328, 1329, 1358-1360, 1365, 1366, Exhibit P01865, p. 6; Exhibit P01924, p. 1; Adjudicated Fact 1086. *See also* Witness Djukić, Exhibit 2D00373, p. 17945; Exhibit P00846, p. 3; Exhibit P01980 (Part III), p. 128; Exhibit P01878, p. 2. The Trial Chamber also notes the evidence it received in relation to the general involvement of the JNA in and directly following the takeover. *See, e.g.*, Witness RFJ-075, Exhibit P01692, p. 2; Witness Tihić, Exhibit P01869, p. 3119, Exhibit P01868, p. 29945, Exhibit P01870, p. 1359, Exhibit P01865, p. 6; Witness Lukač, Exhibit P02732, pp. 1658, 1659, Exhibit P02731, p. 18; Exhibit P01980 (Part III), p. 128.

⁹⁶⁵ *See* Witness RFJ-035, T. 17 April 2018 p. 18; Witness Tihić, Exhibit P01868, pp. 3228, 3229, Exhibit P01870, pp. 1365-1367, Exhibit P01865, p. 6; Witness Lukač, Exhibit P02732, pp. 1675, 1676, 1996.

⁹⁶⁶ Witness RFJ-035, T. 19 April 2018 pp. 68, 69, T. 17 April 2018 pp. 17, 18, Exhibit P02028, pp. 7630-7632, Exhibit P02026, paras. 41-43.

⁹⁶⁷ Witness RFJ-035, Exhibit P02028, pp. 7631, 7632, 7756, Exhibit P02026, paras. 39-41, 43. *See also* Witness Lukač, Exhibit P02731, p. 21. According to Witness RFJ-035, Kriger addressed the Red Berets as a separate group. *See* Witness RFJ-035, Exhibit P02028, p. 7756.

⁹⁶⁸ Witness Todorović, Exhibit P01916, pp. 23456, 23457, 23514, 23515. According to Witness Todorović, the group from Serbia reported to the JNA right after their arrival to Batkuša, and, thereafter, to the Army of *Republika Srpska* when the JNA withdrew from the area. *See* Witness Todorović, Exhibit P01916, pp. 23457, 23514, 23515; Exhibit P01922. *See also* Witness Djukić, Exhibit 2D00373, pp. 18090, 18091.

⁹⁶⁹ *See* Exhibit P01879; Exhibit P03368; Exhibit P02037; Exhibit P02736; Exhibit P01878; Exhibit P02738, p. 2.

⁹⁷⁰ *See* Exhibit P01879; Exhibit P03368; Exhibit P01878, p. 2; Exhibit P02738, p. 2.

⁹⁷¹ Exhibit P01953, p. 6.

218. Based on the above, the Trial Chamber finds that the town of Bosanski Šamac was attacked and subject to a takeover on 17 April 1992 by the Serb police and the Territorial Defence and that, during the takeover, the paramilitaries that arrived in Batkuša, which included the group of 30 men from Serbia, who were under the command of Crni, and approximately 20 locals from Bosanski Šamac participated in the attack while subordinated to the JNA's 17th Tactical Group.⁹⁷² The Trial Chamber further finds that Debeli and Lugar also participated in the attack under Crni's command.

219. In making the above finding, the Trial Chamber is mindful of the challenges raised by the Accused in relation to the reliability of Witnesses Todorović and RFJ-035.⁹⁷³ Simatović argues that a significant number of Witness Todorović's allegations are not corroborated by other evidence and that his testimony was "strongly influenced" by the fact that he entered into a plea agreement with the Prosecution.⁹⁷⁴ In its decision admitting Witness Todorović's evidence, the Trial Chamber considered that the existence of a plea agreement, in itself, did not warrant the exclusion of his evidence, and that his evidence is sufficiently reliable for admission given that he testified under oath in another proceeding before the ICTY, in which he was cross-examined.⁹⁷⁵ While the Trial Chamber received evidence regarding Todorović's actions prior to and after the takeover of Bosanski Šamac and is cognizant that he has been convicted by the ICTY for those actions,⁹⁷⁶ it does not consider that this fact or the fact that he entered into a plea agreement renders his testimony wholly unreliable. After reviewing the totality of Witness Todorović's evidence with appropriate caution, the Trial Chamber finds it internally consistent as well as consistent with the evidence received from other witnesses and documentary evidence on the record in terms of how the attack unfolded.

220. Simatović further states that nothing can be concluded regarding the events in Bosanski Šamac on the basis of Witness RFJ-035's evidence due to his contradictory testimony, his lack of direct knowledge of the events, his criminal record, and his complicity in the crime that took place

⁹⁷² The Trial Chamber also received evidence that, in May 1992 and following the JNA's departure from the area, the JNA's 17th Tactical Group became part of the Second Posavina Brigade and Crni was appointed as commander of this unit of the Army of *Republika Srpska*. See Witness Djukić, T. 22 January 2020 p. 40, T. 16 December 2019 pp. 23, 24, 27, Exhibit 2D00373, pp. 17958, 17959; Exhibit P01953, p. 2; Exhibit P03612, p. 3. However, this unit came into existence after the takeover of Bosanski Šamac, and, as such, the JNA's 17th Tactical Group was still exercising authority at the time of the takeover. The Trial Chamber also finds, contrary to Simatović's submission (*see* Simatović Final Trial Brief, paras. 667, 669), that the record does not reflect the "insignificance" of the role played by the paramilitaries that arrived on 11 April 1992 during the takeover of Bosanski Šamac or that the takeover took place prior to their arrival. *See* Simatović Final Trial Brief, paras. 667, 669.

⁹⁷³ *See* Simatović Final Trial Brief, paras. 678, 685, 695-703; Stanišić Final Trial Brief, paras. 1033-1045, Annex XV.

⁹⁷⁴ Simatović Final Trial Brief, para. 678. *See also* Simatović Final Trial Brief, para. 685.

⁹⁷⁵ Decision on Prosecution Motions for Admission of Evidence Pursuant to Rule 112, 22 February 2018, paras. 12, 13 (wherein the Trial Chamber, *inter alia*, stated that there appear to be no such inconsistencies in the proposed evidence and that the concerns raised by the Accused, including the extent of previous cross-examinations and corroborating evidence presented by the Prosecution, would be taken into account when assessing the weight to be given to the evidence in light of the entire trial record).

in Crkvina on 7 May 1992.⁹⁷⁷ Stanišić similarly argues that Witness RFJ-035 is unreliable and provided inconsistent evidence, including in relation to his membership in the Red Berets, his affiliation with the Ministry of Interior of the Republic of Serbian Krajina and the Posavina Brigade, the command by Kriger, Crni, and Simatović, orders from Belgrade, Tito's villa, insignia, uniforms, and identification cards.⁹⁷⁸ Bearing these issues in mind, the Trial Chamber has viewed Witness RFJ-035's evidence with appropriate caution and considers that, notwithstanding the issues raised by the Accused, the fundamental features of his evidence may be relied on in relation to how the events in Bosanski Šamac unfolded.

221. The Trial Chamber received evidence that Serb forces involved in the takeover of the town of Bosanski Šamac controlled most of the municipality within a few days of the attack,⁹⁷⁹ and that, following the takeover, civilians, including elderly people, women, and children, departed Bosanski Šamac because they felt afraid and unsafe.⁹⁸⁰ The Trial Chamber also received evidence that Serb forces subsequently engaged in criminal activity against the non-Serb population throughout the municipality, such as arbitrary arrests, looting, raping, and the destruction of religious buildings and cultural artifacts.⁹⁸¹ After the takeover, Serb forces, including paramilitaries and the police, collected weapons from the non-Serb population, including through the use of force.⁹⁸²

222. The evidence further shows that, starting on 17 April 1992, Serb forces, including paramilitaries, the police, and members of the 4th Detachment, arbitrarily detained Muslims and Croats in at least six detention facilities throughout Bosanski Šamac, including in the Territorial Defence and Public Security Service buildings, in schools, and in camps in Zasavića and Crkvina.⁹⁸³ The detainees were held in poor and unhygienic conditions⁹⁸⁴ and, during their

⁹⁷⁶ See *Prosecutor v. Stevan Todorović*, Case No. IT-95-9/1-S, Sentencing Judgement, 31 July 2001, paras. 9, 35-39, 117. See also *supra* paras. 211, 212, 214, 217; *infra* para. 223.

⁹⁷⁷ Simatović Final Trial Brief, paras. 695-703. The Trial Chamber notes that Witness RFJ-035's reliability as it relates to the events that took place in Crkvina is addressed separately below. See *infra* para. 229.

⁹⁷⁸ Stanišić Final Trial Brief, paras. 1033-1045, Annex XV.

⁹⁷⁹ Adjudicated Fact 1095. See also Exhibit P02739.

⁹⁸⁰ Witness RFJ-125, T. 1 March 2018 pp. 7, 8, Exhibit P01848, pp. 11835, 11836, 11843, 11844, Exhibit 1D00856, p. 4. See also Witness RFJ-075, Exhibit P01692, pp. 3, 4. While Witness Djukić stated that the people fleeing were not forced to do so and that there was no organized expulsion of non-Serbs, he stated that there was fear in all ethnic communities and that there was good reason for people to move out. See Witness Djukić, T. 17 December 2019 pp. 7, 8, 40.

⁹⁸¹ Witness Tihić, Exhibit P01867, pp. 3, 4; Witness RFJ-075, T. 28 February 2018 pp. 18, 19, Exhibit P01692, p. 4; Exhibit 1D00084, pp. 2, 3; Witness Lukač, Exhibit P02732, pp. 1739, 1740, Exhibit P02731, pp. 36, 38; Witness RFJ-125, Exhibit P01848, pp. 11720-11722, Exhibit P01846, paras. 28-33, 35, 38, 43, 103; Exhibit P01924, p. 2; Exhibit 1D00856, p. 4; Exhibit 1D01435, p. 2; Adjudicated Facts 1097, 1098.

⁹⁸² Adjudicated Facts 1090-1094. See also Witness RFJ-035, Exhibit P02028, p. 7632, Exhibit P02026, para. 42.

⁹⁸³ Witness Tihić, Exhibit P01867, pp. 2, 3, Exhibit P01865, pp. 9, 10; Witness Lukač, Exhibit P02732, p. 1735, Exhibit P02731, pp. 19-21, 32, 34, 37; Witness Todorović, Exhibit P01916, pp. 23457, 23458; Witness RFJ-035, T. 17 April 2018 pp. 19, 20; Witness RFJ-125, T. 1 March 2018 p. 13, Exhibit P01846, paras. 45, 51, 55, 65, 68; Witness RFJ-075, T. 28 February 2018 pp. 15, 17, Exhibit P01692, p. 11; Witness Djukić, T. 22 January 2020 p. 22, T. 17 December 2019 p. 38; Adjudicated Facts 1085, 1106-1121, 1125. See also Exhibit P01924, p. 2; Exhibit 1D01435, p. 2.

imprisonment, were murdered,⁹⁸⁵ repeatedly beaten and tortured,⁹⁸⁶ forced to sing “Chetnik” songs,⁹⁸⁷ to engage in sexual acts,⁹⁸⁸ and perform manual labour, sometimes in dangerous conditions.⁹⁸⁹ The Trial Chamber also received evidence in relation to the beating of a Catholic priest who was made to pray in the Orthodox fashion,⁹⁹⁰ and evidence of discriminatory measures enacted by the local Serb leadership that specifically targeted non-Serbs in Bosanski Šamac.⁹⁹¹

223. Among the evidence that the Trial Chamber received on this issue were firsthand accounts from detainees, including Witness Sulejman Tihić, a Bosnian Muslim and former President of the Party for Democratic Action in Bosanski Šamac,⁹⁹² Witness Dragan Lukač, a Croat and the acting chief of police in Bosanski Šamac at the time of its takeover,⁹⁹³ and Witness RFJ-125, a Croat who worked in Bosnia and Herzegovina.⁹⁹⁴ It also follows from the adjudicated facts and the evidence of these witnesses that Crni, Lugar, Laki, Avram, Todorović, Musa, Beli, Lucky, “Major Bokan”, Zvezdan Jovanović, and Nebojsa Stanković (Cera), were amongst those who administered beatings to detainees in Bosanski Šamac, which, in some cases, resulted in death.⁹⁹⁵ The witnesses further

⁹⁸⁴ Witness Tihić, Exhibit P01867, pp. 2, 3, Exhibit P01865, p. 9; Witness RFJ-075, T. 28 February 2018 p. 17, Exhibit P01692, pp. 6, 11, 12; Witness Lukač, Exhibit P02732, p. 1806; Witness Todorović, Exhibit P01916, pp. 23458, 23459; Witness RFJ-125, Exhibit P01846, para. 55; Witness Djukić, T. 17 December 2019 pp. 42, 43; Adjudicated Fact 1136.

⁹⁸⁵ See, e.g., Witness RFJ-075, Exhibit P01693, Exhibit P01692, p. 4; Witness Lukač, Exhibit P02731, pp. 24, 25, 35, Exhibit P02732, pp. 1687, 1690, 1697, 1698; Witness Tihić, Exhibit P01869, pp. 3126, 3127, Exhibit P01870, pp. 1441, 1442, 1447, Exhibit P01865, p. 12; Witness RFJ-125, Exhibit P01848, p. 11763, Exhibit P01846, paras. 81-87, 94; Witness Todorović, Exhibit P01916, p. 23492; Exhibit P01923, Annex A, pp. 2, 8; Exhibit 1D00856, pp. 20, 21; Adjudicated Fact 1137. See also Witness Todorović, Exhibit P01916, p. 23459; Witness RFJ-075, T. 28 February 2018 p. 16; Witness Tihić, Exhibit P01867, p. 3; Adjudicated Facts 1138, 1139.

⁹⁸⁶ Witness Tihić, Exhibit P01869, pp. 3121, 3123, Exhibit P01870, pp. 1384-1386, 1393-1395, 1437, 1438, Exhibit P01866, p. 4, Exhibit P01865, pp. 8-11; Witness Lukač, Exhibit P02732, pp. 1678, 1686, 1687, 1689, 1690, 1698, 1764, 1765, Exhibit P02731, pp. 32, 33, 35, 36; Witness RFJ-075, Exhibit P01695, para. 8, Exhibit P01692, pp. 5, 6, 10-13; Witness RFJ-125, T. 1 March 2018 pp. 15, 16, Exhibit P01848, pp. 11762, 11779, 11781, 11782, Exhibit P01846, paras. 47, 49-51, 54, 66, 67, 71-76, 79-86, 92, 93; Witness Todorović, Exhibit P01916, pp. 23459, 23492; Witness RFJ-035, T. 19 April 2018 pp. 57, 58, T. 17 April 2018 pp. 20-22, Exhibit P02028, pp. 7641, 7642, Exhibit P02026, para. 44; Adjudicated Facts 1085, 1122, 1123, 1126-1130, 1133-1135. See also Witness Djukić, T. 17 December 2019 p. 38.

⁹⁸⁷ Witness Lukač, Exhibit P02732, p. 1686, Exhibit P02731, p. 22; Witness Tihić, Exhibit P01869, pp. 3136, 3137, Exhibit P01869, p. 1395, Exhibit P01867, p. 3, Exhibit P01865, p. 9; Witness RFJ-075, Exhibit P01692, p. 11; Witness RFJ-125, Exhibit P01848, pp. 11785, 11786, Exhibit P01846, para. 70; Adjudicated Fact 1136.

⁹⁸⁸ Witness Todorović, Exhibit P01916, p. 23459; Exhibit P01923, Annex A, pp. 2, 3; Witness RFJ-125, T. 1 March 2018 pp. 14, 16, Exhibit P01848, pp. 11779, 11781, Exhibit P01846, para. 91.

⁹⁸⁹ Witness RFJ-075, T. 28 February 2018 p. 15, Exhibit P01692, p. 11; Witness Tihić, Exhibit P01867, p. 3; Witness Lukač, Exhibit P02731, pp. 35, 36; Witness Djukić, T. 17 December 2019 p. 42; Adjudicated Facts 1140, 1141, 1143.

⁹⁹⁰ Witness RFJ-075, Exhibit P01692, p. 13. See also Witness RFJ-125, T. 1 March 2018 pp. 8, 10; Exhibit P01846, pp. 9-12.

⁹⁹¹ See Exhibit P01594; Exhibit P01912; Exhibit P03115; Witness Todorović, Exhibit P01923, Annex A, p. 4; Witness Djukić, T. 22 January 2020 pp. 21, 22; Adjudicated Facts 1104, 1105. See also Exhibit 1D00507; Witness Djukić, T. 17 December 2019 p. 9 (wherein the witness stated that the police would inspect the identification cards of everyone entering or exiting the area).

⁹⁹² Witness Tihić, Exhibit P01869, p. 3096, Exhibit P01868, p. 29895, Exhibit P01870, pp. 1242, 1244, 3625, Exhibit P01866, p. 1, Exhibit P01865, pp. 1, 2.

⁹⁹³ Witness Lukač, Exhibit P02732, pp. 1524, 1525, 1614, 1638, 1641, 1866, 1868, 1869, 1906, 1907, 1932, Exhibit P02731, pp. 1, 2, 17.

⁹⁹⁴ Witness RFJ-125, Exhibit P01846, pp. 1, 2.

⁹⁹⁵ Witness Tihić, Exhibit P01869, pp. 3122, 3151-3154, Exhibit P01868, p. 29887, Exhibit P01870, pp. 1378-1380, 1406, 1422, 1435, 1436, Exhibit P01867, p. 3, Exhibit P01865, pp. 7, 9-12; Witness Lukač, Exhibit P02731, pp. 21-24, 32, 33, Exhibit P02732, pp. 1688, 2064; Witness RFJ-125, Exhibit P01846, paras. 47, 49, 61, 66, 73; Adjudicated Facts 1130, 1131-1139. See also Adjudicated Fact 1132 (wherein it is stated that other assailants were local Serb policemen

provided evidence that the “specials”, which is how the detainees referred to the men from Serbia, included Crni, Lugar, Avram and Beli, and that it appeared that Crni was the man in charge, issuing orders to his own men, to other men in uniform, to policemen, and to members of the JNA, as well as having authority over the release of detainees.⁹⁹⁶

224. The Trial Chamber also notes that the record reflects that beatings were applied by paramilitary forces from Serbia and that those who abused detainees included the group from Serbia who had come from Batkuša, as well as local men from Bosanski Šamac.⁹⁹⁷ In this regard, the Trial Chambers notes Witness Todorović’s evidence that detainees in Bosanski Šamac were mostly mistreated “by the special forces men wearing camouflage uniforms, the 30-odd men who had come in from Serbia” and from local soldiers.⁹⁹⁸

225. As identified above, a warehouse facility located in the village of Crkvina was used to detain prisoners following the takeover of Bosanski Šamac.⁹⁹⁹ On or about 7 May 1992, non-Serb detainees were transferred from the Territorial Defence building in Bosanski Šamac to the Crkvina detention facility.¹⁰⁰⁰ It follows from the adjudicated facts and the evidence that, on or about 7 May 1992, between 30 and 40 prisoners were detained in that detention facility and, in the evening, non-Serb civilians of Croat and Muslim ethnicity were beaten and killed by Lugar and two other perpetrators.¹⁰⁰¹

226. Among the evidence that the Trial Chamber received was Witness RFJ-075’s eyewitness account that Lugar and a person nicknamed Tralja entered the warehouse accompanied by two guards,¹⁰⁰² and that, although the prisoners were not allowed to look at Lugar and Tralja, he could

from two villages within the municipality of Bosanski Šamac, including Slobodan Jačimovic, “Zvaka” Rakić, Spasoje Bogdanović, Slavko Trivunović, and “Bobo” Radulović).

⁹⁹⁶ Witness Tihić, Exhibit P01869, pp. 3120-3122, 3125, 3135, 3136, 3139, 3236-3238, Exhibit P01868, p. 29889, Exhibit P01865, p. 7; Witness RFJ-125, T. 1 March 2018 pp. 8, 9.

⁹⁹⁷ See Witness Lukač, Exhibit P02732, pp. 1678, 1687; Adjudicated Fact 1127. According to Witness Lukač, Cera was a local from Bosanski Šamac and was on this “special police force”. See Witness Lukač, Exhibit P02732, p. 1688.

⁹⁹⁸ Witness Todorović, Exhibit P01916, pp. 23459, 23464, 23465.

⁹⁹⁹ Witness Tihić, Exhibit P01867, p. 3; Witness Todorović, Exhibit P01916, p. 23464, Exhibit P01922; Witness RFJ-035, T. 17 April 2018 pp. 23, 24, Exhibit P02028, p. 7643; Witness RFJ-075, Exhibit P01694, pp. 2660, 2661, Exhibit P01692, pp. 2, 7; Witness Djukić, T. 17 December 2019 p. 38; Adjudicated Facts 1118, 1119, 1126.

¹⁰⁰⁰ Witness RFJ-075, Exhibit P01692, p. 7; Exhibit 1D00084, p. 4.

¹⁰⁰¹ Witness Todorović, Exhibit P01916, p. 23464, Exhibit P01922; Witness RFJ-075, T. 28 February 2018 pp. 13, 14, 17, Exhibit P01694, pp. 2666, 2667, Exhibit P01692, pp. 7, 8; Witness RFJ-035, T. 19 April 2018 pp. 59, 60, T. 17 April 2018 pp. 23-26, Exhibit P02028, pp. 7645, 7646, Exhibit P02026, para. 46; Witness Djukić, T. 22 January 2020 p. 23, Exhibit 2D00373, p. 18106; Witness RFJ-125, T. 1 March 2018 pp. 17, 18, Exhibit P01846, para. 98; Exhibit P01953, p. 2; Exhibit P01924, p. 2; Exhibit 1D00856, p. 16; Exhibit 1D00856, p. 22; Adjudicated Facts 1082, 1138, 1139.

¹⁰⁰² See Witness RFJ-075, T. 28 February 2018 pp. 22, 48-50, Exhibit P01694, pp. 2664, 2665, 2696, Exhibit P01695, para. 10, Exhibit P01692, pp. 7, 8; Exhibit 1D00084, pp. 4, 5. In the first trial, Witness RFJ-075 stated that the two persons who entered the warehouse had the nicknames of “Lugar” and “Debeli”, and that he did not know the real name of “Debeli”. See Witness RFJ-035, Exhibit P01694, pp. 2664, 2665, 2696-2699, 2703, 2704, Exhibit P01692, p. 7. However, during his testimony in the present proceedings, Witness RFJ-075 testified that the two persons who entered the warehouse had the nicknames of “Lugar” and “Tralja” with a “T”, whose real name was Goran Simić, and the

tell that they were not local Serbs by the way they spoke and that they wore camouflage military uniforms with patches and insignia on them.¹⁰⁰³ According to the witness, Lugar and Tralja beat and killed Jozo Antunović,¹⁰⁰⁴ and proceeded to beat and kill others who were lined up against a wall, among them Luka Blazanović, Josip Oršolić, Ivo Tuzlak, Ilija Matić, Niko Brandić, and Luka Gregurević.¹⁰⁰⁵ In addition, the witness stated that Ivan Agatić and Sead Hurtić were also killed,¹⁰⁰⁶ and that once the killings stopped he counted 16-18 bodies.¹⁰⁰⁷

227. Witness RFJ-035 provided a generally similar account of the events at Crkvina and testified that Lugar told him that he had been ordered to do a job and, thereafter, the witness, along with Lugar, Tralja, who he identified as Goran Simović,¹⁰⁰⁸ and Debeli Musa, went to Crkvina.¹⁰⁰⁹ He also stated that Lugar, Tralja, and Debeli Musa were members of the Red Berets at this time,¹⁰¹⁰ and that they, along with members of the Territorial Defence, who were all armed, entered the warehouse.¹⁰¹¹ Once inside, the witness saw 30 or 40 Croat or Muslim men dressed in civilian clothes and, after they were ordered to line up against the wall, he left as he thought the prisoners

witness gave this person his own nickname of “Debeli”. According to Witness RFJ-075, the person that he referred to therein as “Debeli” was actually known by the nickname “Tralja”. See Witness RFJ-075, T. 28 February 2018 pp. 14, 22-24. The Trial Chamber further notes that, after reviewing the witness statement he provided in 1994 as well as his testimony in the first trial, Witness RFJ-075 explained that the person referred to in his witness statement as “Debeli” was called “Tralja” by everyone except the witness and that, while others used the nickname “Pralja”, his nickname was, in fact, “Tralja”, which is something he realized when he started thinking about his testimony in the first trial. Consequently, every time he mentioned “Debeli”, Witness RFJ-075 states that he was referring to Tralja”. See Witness RFJ-075, Exhibit P01695, para. 10. See also Witness RFJ-075, Exhibit P01694, p. 2665.

¹⁰⁰³ Witness RFJ-075, Exhibit P01694, pp. 2664-2666, 2695-2697; Exhibit 1D00084, p. 4.

¹⁰⁰⁴ Witness RFJ-075, Exhibit P01692, p. 7; Exhibit 1D00084, p. 4; Exhibit P01702; Adjudicated Fact 1138.

¹⁰⁰⁵ See Witness RFJ-075, Exhibit P01694, pp. 2658, 2659, Exhibit P01695, paras. 10-13, Exhibit P01692, pp. 7, 8; Exhibit 1D00084, pp. 4-6; Exhibit P01702; Adjudicated Facts 1082, 1139. See also Witness RFJ-075, Exhibit P01695, para. 10 (wherein the witness explains that every time he mentioned “Debeli”, he was referring to “Tralja”). Witness RFJ-075 testified that Gregurević was a police officer before the war and the only person detained at Crkvina who was not a civilian. According to the witness, he saw his remains when he was exhumed and recognized that it was him because he was the only policeman on duty when Bosanski Šamac fell, and that he remained in his uniform until they killed him. See Witness RFJ-075, T. 28 February 2018 p. 14.

¹⁰⁰⁶ See Witness RFJ-075, Exhibit P01694, p. 2667; Exhibit P01702. Witness RFJ-075 stated that those persons he identified in Exhibit P01702 as being killed at the Crkvina warehouse in his presence, which included Ivan Agatić, Jozo Antunović, Luka Blazanović, Niko Brandić, Luka Gregurević, Sead Hurtić, Josip Oršolić, and Ivo Tuzlak, were from the Bosanski Šamac municipality, but from different villages. He was not sure where all of the other victims were from. See Witness RFJ-075, Exhibit P01694, p. 2667; Exhibit P01702.

¹⁰⁰⁷ Witness RFJ-075, Exhibit P01692, pp. 8, 9. Witness RFJ-075 stated that he was present when 16 bodies of the victims killed at Crkvina were found and exhumed. See Witness RFJ-075, Exhibit P01694, p. 2668.

¹⁰⁰⁸ Witness RFJ-035, T. 17 April 2018 p. 33 (wherein Witness RFJ-035 stated that Goran Simović is the same person he identified as one of the Red Berets at Crkvina in early May 1992), referring to Exhibit P02049, p. 3.

¹⁰⁰⁹ Witness RFJ-035, T. 17 April 2018 p. 23, Exhibit P02028, pp. 7642-7645. See also Witness RFJ-035, Exhibit P02026, para. 46. Witness RFJ-035 further clarified in his testimony that Debeli Musa and Srećko Radovanović, who was also referred to as Debeli and who the witness stated was his commander, are two different people. See Witness RFJ-035, T. 17 April 2018 p. 23, Exhibit P02028, pp. 7644, 7645.

¹⁰¹⁰ Witness RFJ-035, T. 17 April 2018 p. 26, Exhibit P02028, pp. 7643-7645.

¹⁰¹¹ Witness RFJ-035, T. 19 April 2018 p. 59, T. 17 April 2018 p. 24. See also Witness RFJ-035, Exhibit P02028, pp. 7644, 7645; Exhibit P02027, para. 9.

were about to be beaten.¹⁰¹² While the witness did not see the shooting, he heard shots fired,¹⁰¹³ which included shots from weapons he attributed to Lugar, Tralja, and Debeli Musa.¹⁰¹⁴

228. The Trial Chamber has received additional evidence in relation to the number of persons killed at Crkvina,¹⁰¹⁵ and on 6 December 2008, an exhumation was conducted in Crkvina, during which 16 complete skeletons were found.¹⁰¹⁶ These 16 individuals were identified as: Ivan Agatić,¹⁰¹⁷ Jozo Antunović,¹⁰¹⁸ Džemal Balić,¹⁰¹⁹ Luka Blažanović,¹⁰²⁰ Niko Brandić,¹⁰²¹ Miro Ćorković,¹⁰²² Luka Gregurević,¹⁰²³ Husein Hrnić,¹⁰²⁴ Sead Hurtić,¹⁰²⁵ Izet Kahrimanović,¹⁰²⁶ Franjo Mandić,¹⁰²⁷ Ilija Matić,¹⁰²⁸ Nezir Nadžak,¹⁰²⁹ Josip Oršolić,¹⁰³⁰ Selim Purak,¹⁰³¹ and Ivo Tuzlak.¹⁰³² According to expert and other supporting evidence, victims of the attack at Crkvina were Bosnian Muslims and Croats.¹⁰³³

229. The Trial Chamber, therefore, finds that Lugar and Tralja, who the Trial Chamber considers to be Goran Simović,¹⁰³⁴ participated in the beating of non-Serb detainees as well as the killings of 16 Muslim or Croat men at the Crkvina detention facility, and that, aside from Luka Gregurević, who was wearing a police uniform, all other victims were wearing civilian clothing at the time of the massacre.¹⁰³⁵ While the evidence of Witnesses RFJ-075 and RFJ-035 differs in certain respects, such as the numbers of perpetrators that took part in the attack, the Trial Chamber finds that the

¹⁰¹² Witness RFJ-035, T. 19 April 2018 pp. 59, 60, T. 17 April 2018 pp. 24-26, Exhibit P02028, pp. 7645-7647, Exhibit P02026, para. 46.

¹⁰¹³ Witness RFJ-035, T. 19 April 2018 pp. 59, 60, T. 17 April 2018 p. 25, Exhibit P02028, p. 7613.

¹⁰¹⁴ Witness RFJ-035, T. 17 April 2018 pp. 25, 26, Exhibit P02028, pp. 7646, 7647.

¹⁰¹⁵ See Witness RFJ-035, T. 17 April 2018 p. 26, Exhibit P02028, p. 7648; Witness RFJ-125, Exhibit P01848, pp. 11722, 11747, Exhibit P01846, para. 98; Witness Tihčić, Exhibit P01867, p. 3; Exhibit P01953, p. 2.

¹⁰¹⁶ See Witness Tabeau, T. 1 May 2018 pp. 23, 24, referring to Exhibit P02065, p. 2. See also Exhibit P02068, Annex 5, pp. 7-9.

¹⁰¹⁷ See Exhibit P02068, Annex 5, p. 7; Exhibit P02071, p. 2; Exhibit P02065, p. 2; Exhibit P02181. See also Exhibit P02197, p. 3.

¹⁰¹⁸ See Exhibit P02068, Annex 5, p. 7; Exhibit P02065, p. 2; Exhibit P02182. See also Exhibit P02198, p. 3.

¹⁰¹⁹ See Exhibit P02068, Annex 5, p. 7; Exhibit P02065, p. 2; Exhibit P02183. See also Exhibit P02199, p. 3.

¹⁰²⁰ See Exhibit P02068, Annex 5, p. 7; Exhibit P02065, p. 2; Exhibit P02184. See also Exhibit P02200, p. 3.

¹⁰²¹ See Exhibit P02068, Annex 5, p. 7; Exhibit P02065, p. 2; Exhibit P02185. See also Exhibit P02201, p. 3.

¹⁰²² See Exhibit P02068, Annex 5, p. 7; Exhibit P02065, p. 2; Exhibit P02186. See also Exhibit P02202, p. 3.

¹⁰²³ See Exhibit P02068, Annex 5, p. 8; Exhibit P02065, p. 2; Exhibit P02187. See also Witness Tabeau, T. 1 May 2018 pp. 19, 20, 22; Exhibit P02203, pp. 1, 3.

¹⁰²⁴ See Exhibit P02068, Annex 5, p. 8; Exhibit P02065, p. 2; Exhibit P02188. See also Exhibit P02204, p. 3.

¹⁰²⁵ See Exhibit P02068, Annex 5, p. 8; Exhibit P02065, p. 2; Exhibit P02189. See also Exhibit P02205, p. 3.

¹⁰²⁶ See Exhibit P02068, Annex 5, p. 8; Exhibit P02065, p. 2; Exhibit P02190. See also Exhibit P02206, p. 3.

¹⁰²⁷ See Exhibit P02068, Annex 5, p. 8; Exhibit P02065, p. 2; Exhibit P02191. See also Exhibit P02207, p. 3.

¹⁰²⁸ See Exhibit P02068, Annex 5, p. 8; Exhibit P02065, p. 2; Exhibit P02192. See also Witness Tabeau, T. 1 May 2018 p. 23; Exhibit P02208, p. 3.

¹⁰²⁹ See Exhibit P02068, Annex 5, p. 9; Exhibit P02065, p. 2; Exhibit P02193. See also Exhibit P02209, p. 3.

¹⁰³⁰ See Exhibit P02068, Annex 5, p. 9; Exhibit P02065, p. 2; Exhibit P02194. See also Exhibit P02210, p. 3.

¹⁰³¹ See Exhibit P02068, Annex 5, p. 9; Exhibit P02065, p. 2; Exhibit P02195. See also Exhibit P02211, p. 3.

¹⁰³² See Exhibit P02068, Annex 5, p. 9; Exhibit P02065, p. 2; Exhibit P02196. See also Exhibit P02212, p. 3.

¹⁰³³ Witness Tabeau, T. 1 May 2018 p. 25; Exhibit P02070, p. 2; Witness RFJ-075, T. 28 February 2018 p. 17, Exhibit P01694, p. 2667; Witness RFJ-035, Exhibit P02028, pp. 7645-7647; Exhibit P01953, p. 2; Exhibit 1D00856, p. 8.

¹⁰³⁴ See Witness Stoparić, Exhibit P00800, p. 10356; Exhibit P02049, pp. 1-3.

¹⁰³⁵ Exhibit P02203, pp. 1, 3.

record reflects that a person by the name of Debeli Musa also participated in the events that took place in Crkvina. The Trial Chamber does not, however, consider that the Prosecution has supported its claim that Laki and Avram participated in the massacre.¹⁰³⁶ In making this finding, the Trial Chamber is mindful that Simatović contends that Witness RFJ-035's evidence should not be relied upon due to his complicity in the crimes at Crkvina.¹⁰³⁷ While the Trial Chamber has considered that he did not report the crimes to his superiors as well as the possibility that he provided evidence in an attempt to minimize his own involvement in the events at Crkvina,¹⁰³⁸ Witness RFJ-035's account of what transpired is generally consistent and supported by other evidence on the record. The Trial Chamber, therefore, finds his evidence reliable in this regard.¹⁰³⁹

230. The Trial Chamber also received evidence in relation to the transfer of prisoners to other facilities outside of Bosanski Šamac, including Serbia,¹⁰⁴⁰ and evidence regarding Croat and Muslim prisoners being exchanged from Bosanski Šamac to Croatia.¹⁰⁴¹ According to Witness Lukač, an Exchange Committee was established in Bosanski Šamac following its takeover,¹⁰⁴² which subsequently exchanged 2,000 civilians of Muslim and Croat ethnicity in the area.¹⁰⁴³ He claimed that the committee carried out the ethnic cleansing of Muslims and Croats in Bosanski Šamac since it was mostly civilians from that area who were taken out of their homes and exchanged, which is why he called it the "Ethnic Cleansing Committee".¹⁰⁴⁴

231. Further, while Witness Djukić stated that a large number of Muslims remained in Bosanski Šamac after its takeover,¹⁰⁴⁵ expert evidence demonstrates that there were around 2,333 Muslims, comprising about 6.8% of the total population, in the municipality in 1991 and that, by 1997, only

¹⁰³⁶ The Trial Chamber notes that the only support provided by the Prosecution in relation to the involvement of Laki and Avram in the events at Crkvina is from one witness statement given to the State Security Service of the Republic of Bosnia and Herzegovina. See Prosecution Final Trial Brief, para. 831, n. 3539, referring to Exhibit 1D00856, p. 22. The Trial Chamber notes, however, that none of the eyewitness testimonies or other supporting documents received by the Trial Chamber mention Laki or Avram.

¹⁰³⁷ Simatović Final Trial Brief, paras. 695, 702, 703.

¹⁰³⁸ See Witness RFJ-035, T. 19 April 2018 p. 60 (wherein the witness stated that he did give a statement to a military court but did not tell them "everything").

¹⁰³⁹ See *supra* para. 220.

¹⁰⁴⁰ Witness Lukač, Exhibit P02732, pp. 1699, 1706-1710, 1712-1716, 1721, 1734, Exhibit P02731, pp. 27, 31; Witness Tihic, Exhibit P01869, pp. 3123, 3124, Exhibit P01870, pp. 1376, 1377; Adjudicated Facts 1121, 1126.

¹⁰⁴¹ Witness RFJ-125, T. 1 March 2018 p. 24, Exhibit P01848, pp. 11771-11773; Witness Lukač, Exhibit P02732, pp. 1791-1796, 1799, 1800, 1814, Exhibit P02731, pp. 36, 37; Witness Tihic, Exhibit P01869, p. 3124, Exhibit P01870, pp. 1511-1513, Exhibit P01865, pp. 19, 20, 24, 25; Witness RFJ-075, Exhibit P01694, pp. 2668, 2669, Exhibit P01692, pp. 13, 14; Exhibit P01859; Exhibit P02752; Exhibit P02751; Exhibit P01703; Exhibit P03124; Adjudicated Facts 1144-1146.

¹⁰⁴² Witness Lukač, Exhibit P02731, pp. 36, 38. See also Witness Lukač, Exhibit P02732, pp. 1792, 1793. According to Witness Lukač, the name of this commission was the Commission for the Exchange of Prisoners and Arrested Civilians. See Witness Lukač, Exhibit P02732, p. 1958.

¹⁰⁴³ Witness Lukač, Exhibit P02731, p. 36.

¹⁰⁴⁴ Witness Lukač, Exhibit P02732, p. 1793, Exhibit P02731, p. 36.

¹⁰⁴⁵ See Witness Djukić, T. 22 January 2020 p. 31, T. 17 December 2019 p. 39.

266 Muslims, comprising 1.9% of the entire population, remained.¹⁰⁴⁶ The expert evidence also demonstrates that there were 14,731 Croats, comprising 44.7% of the total population, in the municipality in 1991 and that, by 1997, 2,047 Croats, comprising 15% of the entire population remained.¹⁰⁴⁷ Moreover, between 1992 and 1995, 279 persons died or went missing in Bosanski Šamac, with 1992 alone seeing 208 people missing or dead.¹⁰⁴⁸

232. Based on the above, the Trial Chamber finds proven beyond reasonable doubt that the following persons were killed at the Crkvina detention facility in Bosanski Šamac: Ivan Agatić,¹⁰⁴⁹ Jozo Antunović,¹⁰⁵⁰ Džemal Balić,¹⁰⁵¹ Luka Blažanović,¹⁰⁵² Niko Brandić,¹⁰⁵³ Miro Ćorković,¹⁰⁵⁴ Luka Gregurević,¹⁰⁵⁵ Husein Hrnić,¹⁰⁵⁶ Sead Hurtić,¹⁰⁵⁷ Izet Kahrmanović,¹⁰⁵⁸ Franjo Mandić,¹⁰⁵⁹ Ilija Matic,¹⁰⁶⁰ Nezir Nadžak,¹⁰⁶¹ Josip Oršolić,¹⁰⁶² Selim Purak,¹⁰⁶³ and Ivo Tuzlak.¹⁰⁶⁴ Although there is an indication that some of these individuals may have been either police or military,¹⁰⁶⁵ there can be no doubt, in view of the surrounding circumstances and nature of the attack, that at the time of the mistreatment and killings, these individuals were taking no active part in the hostilities.¹⁰⁶⁶

233. The Trial Chamber also finds proven beyond reasonable doubt that Serb forces detained non-Serb men and that those forces, including members of the paramilitaries that arrived in Batkuša and others under their command, engaged in criminal activities, such as subjecting detainees to severe abuse and killings in various detention facilities throughout Bosanski Šamac.

234. In addition, having considered the evidence and the circumstances in which departures of the local population occurred in Bosanski Šamac, including the murders that were committed in Crkvina and in other detention facilities throughout the municipality, the Trial Chamber finds

¹⁰⁴⁶ Exhibit P02069, pp. 21, 23.

¹⁰⁴⁷ Exhibit P02069, pp. 21, 23.

¹⁰⁴⁸ Exhibit P02068, pp. 20, 40, 43.

¹⁰⁴⁹ Exhibit P02068, Annex 5, p. 7; Exhibit P02181; Exhibit P02197.

¹⁰⁵⁰ Exhibit P02068, Annex 5, p. 7; Exhibit P02182; Exhibit P02198.

¹⁰⁵¹ Exhibit P02068, Annex 5, p. 7; Exhibit P02183; Exhibit P02199.

¹⁰⁵² Exhibit P02068, Annex 5, p. 7; Exhibit P02184; Exhibit P02200.

¹⁰⁵³ Exhibit P02068, Annex 5, p. 7; Exhibit P02185; Exhibit P02201.

¹⁰⁵⁴ Exhibit P02068, Annex 5, p. 7; Exhibit P02186; Exhibit P02202.

¹⁰⁵⁵ Exhibit P02068, Annex 5, p. 8; Exhibit P02187; Exhibit P02203.

¹⁰⁵⁶ Exhibit P02068, Annex 5, p. 8; Exhibit P02188; Exhibit P02204.

¹⁰⁵⁷ Exhibit P02068, Annex 5, p. 8; Exhibit P02189; Exhibit P02205.

¹⁰⁵⁸ Exhibit P02068, Annex 5, p. 8; Exhibit P02190; Exhibit P02206.

¹⁰⁵⁹ Exhibit P02068, Annex 5, p. 8; Exhibit P02191; Exhibit P02207.

¹⁰⁶⁰ Exhibit P02068, Annex 5, p. 8; Exhibit P02192; Exhibit P02208.

¹⁰⁶¹ Exhibit P02068, Annex 5, p. 9; Exhibit P02193; Exhibit P02209.

¹⁰⁶² Exhibit P02068, Annex 5, p. 9; Exhibit P02194; Exhibit P02210.

¹⁰⁶³ Exhibit P02068, Annex 5, p. 9; Exhibit P02195; Exhibit P02211.

¹⁰⁶⁴ Exhibit P02068, Annex 5, p. 9; Exhibit P02196; Exhibit P02212.

¹⁰⁶⁵ See Exhibit P02070, p. 3. See also *supra* para. 229, nn. 1005, 1023.

proven beyond reasonable doubt that that the acts of violence committed by Serb forces during and after the takeover forced a significant number of non-Serbs to leave the municipality of Bosanski Šamac.

4. Events in Doboj

235. The Indictment alleges that Serbian State Security Service special units, acting alone or in conjunction with other Serb forces, attacked and took control of Doboj town around 2 May 1992 and of other towns and villages in the municipality in the following weeks.¹⁰⁶⁷ According to the Indictment, on 12 July 1992, Serb forces, in particular Serbian State Security Service special units, used non-Serb detainees as human shields and approximately 27 of them were killed.¹⁰⁶⁸ It is alleged that these killings, along with other crimes and acts of violence in the area, resulted in the forcible displacement of the non-Serb population from the area, and that the murders and forcible displacement amounted to persecution.¹⁰⁶⁹

236. In connection with these allegations, the Prosecution submits that, on 3 May 1992, Radojica Božović, who was subordinated to the Accused, ordered Serb forces, including Unit members and others trained at Mt. Ozren, to attack Doboj town, which was swiftly taken over.¹⁰⁷⁰ Following the takeover, Serb forces committed various crimes, including killing, expelling, arbitrarily detaining, and torturing non-Serbs in the municipality, looting their homes, and destroying Muslim and Catholic cultural and religious buildings, ultimately forcing the non-Serb residents to flee.¹⁰⁷¹ According to the Prosecution, prior to the attack, the local Serbian Democratic Party prepared for ethnic separation throughout 1991 and had begun arming the Serb population and creating a separate police force by October 1991.¹⁰⁷²

237. In their final trial briefs, the Accused do not dispute that crimes were committed in the region. However, the Accused argue that the evidence is insufficient to demonstrate that they were connected in any way to the commission of the crimes, including through perpetrators such as

¹⁰⁶⁶ See *Popović et al.* Appeal Judgement, para. 794; *Đorđević* Appeal Judgement, para. 747; *Martić* Appeal Judgement, para. 313. See also *Martić* Appeal Judgement, paras. 303-312.

¹⁰⁶⁷ Indictment, paras. 23, 52. See also Prosecution Pre-Trial Brief, para. 170.

¹⁰⁶⁸ Indictment, para. 54.

¹⁰⁶⁹ Indictment, paras. 23, 24, 64, 65. See also Indictment, paras. 25, 63, 66; Prosecution Pre-Trial Brief, Annex A, RP. 6553 (wherein 21 victims are listed).

¹⁰⁷⁰ Prosecution Final Trial Brief, paras. 550, 553, 834, 836; Prosecution Pre-Trial Brief, paras. 168, 170. See Prosecution Final Trial Brief, paras. 12-20, 289, 552; Prosecution Closing Arguments, T. 12 April 2021 pp. 46, 75, 78, 80; Prosecution Rebuttal, T. 14 April 2021 pp. 6, 55, 56. See also Prosecution Final Trial Brief, paras. 129, 130, 290, 551.

¹⁰⁷¹ Prosecution Final Trial Brief, paras. 550, 553-555, 834-855; Prosecution Pre-Trial Brief, paras. 168-172. See also Prosecution Final Trial Brief, Annex C, pp. 100-105. See also Prosecution Closing Arguments, T. 12 April 2021 pp. 7, 8, 33.

¹⁰⁷² Prosecution Final Trial Brief, para. 551.

Božović.¹⁰⁷³ Further, Stanišić argues that what began as a legitimate JNA military operation descended into criminality because local officials could not control the area,¹⁰⁷⁴ while Simatović challenges the direct participation of Božović in the incident where detainees were used as human shields.¹⁰⁷⁵ In particular, the Trial Chamber notes that the Accused contest Witness RFJ-165's credibility, specifically in relation to his evidence regarding the alleged connection between Božović, the Unit in Doboj, and the Accused.¹⁰⁷⁶

238. In assessing these alleged events, the Trial Chamber has considered the record as a whole, and, in particular, the evidence of Prosecution Witnesses Edin Hadžović, RFJ-004, RFJ-092, RFJ-164, and Husein Ahmetović, non-Serb inhabitants of Doboj municipality who were direct witnesses to the events, as well as the evidence of Witness RFJ-165, a local member of the Serb forces trained at Mt. Ozren. Although the Trial Chamber views Witness RFJ-165's evidence with caution, in particular with respect to the witness's evidence concerning the role of the Accused in these events and the witness's own affiliation with the Unit and its activities,¹⁰⁷⁷ it is satisfied that it may rely on the fundamental features of the witness's account of how the attack on Doboj unfolded.¹⁰⁷⁸ The Trial Chamber has also considered forensic and documentary evidence and has taken judicial notice of adjudicated facts in relation to these events, where appropriate.

239. The municipality of Doboj is located in northern Bosnia and Herzegovina, at the western end of the Posavina Corridor, and borders the municipalities of Derвента, Modriča, Gradačac, Gračanica, Maglji, Tešanj, Teslić, and Prnjavor.¹⁰⁷⁹ The municipality includes the towns and villages of Doboj, Dragalovci, Grapska Gornja, Čivčije Bukovičke (also identified as Bukovačke Čivčije), Johovac, and Kotorsko, as discussed below.

240. According to the 1991 census, Doboj municipality had a population of nearly 102,550 persons, with about 39% Serbs and 61% non-Serbs (40% Muslims, 13% Croats, and 8% others).¹⁰⁸⁰

¹⁰⁷³ Stanišić Final Trial Brief, paras. 1099-1104, 1106, 1124-1168; Simatović Final Trial Brief, paras. 626-643; Stanišić Rejoinder, T. 14 April 1992 pp. 24, 25.

¹⁰⁷⁴ Stanišić Final Trial Brief, paras. 1106-1111.

¹⁰⁷⁵ Simatović Final Trial Brief, paras. 631-640. *See* Indictment, para. 54.

¹⁰⁷⁶ *See* Stanišić Final Trial Brief, paras. 1104, 1116-1123, Annex XVII; Simatović Final Trial Brief, paras. 644-655.

¹⁰⁷⁷ *See infra* para. 430.

¹⁰⁷⁸ The Trial Chamber notes that Stanišić does not appear to dispute that Witness RFJ-165 received training at Mt. Ozren, which was cut short, that he participated in the attack on Doboj, and that he may have trained under Božović. *See* Stanišić Final Trial Brief, paras. 1110, 1121.

¹⁰⁷⁹ Adjudicated Fact 1147; Exhibit P01980 (Part III), p. 145.

¹⁰⁸⁰ Exhibit P02069, p. 21; Exhibit P01980 (Part III), p. 145.

Doboj town had a non-Serb majority,¹⁰⁸¹ while the surrounding villages were mainly Muslims or Serbs, and some were mixed.¹⁰⁸²

241. It follows from the evidence that inter-ethnic tensions in Doboj started building in 1991 as, among other factors, the Serbian Democratic Party held rallies calling for ethnic separation, and the Serbs in Doboj announced that their territory formed an inseparable part of the Federal State of Yugoslavia.¹⁰⁸³ Further, prior to May 1992, convoys of military equipment, JNA soldiers, and various Serb paramilitary units arrived in the region,¹⁰⁸⁴ with Serbs arming themselves through the JNA and the Serbian Democratic Party.¹⁰⁸⁵ Non-Serbs were harassed at checkpoints, fired from their jobs, and their properties were destroyed.¹⁰⁸⁶ According to Witness Hadžović, under such conditions, it was “natural” for the non-Serbs to begin to leave.¹⁰⁸⁷

242. On 3 May 1992, Serb forces, including the JNA, Serb paramilitaries, forces commanded by Milovan Stanković, and those trained at Mt. Ozren and under Božović’s command,¹⁰⁸⁸ attacked Doboj and, in coordination with the local Serb police, took over the town.¹⁰⁸⁹ Witness RFJ-165, who participated in the takeover, gave evidence that it took no longer than five hours.¹⁰⁹⁰ In the following period, the local Serb Crisis Staff took control of the municipality, remaining Muslim police officers were arrested, and all Muslims and Croats were ordered to surrender their weapons.¹⁰⁹¹ The Serb authorities instituted a curfew for non-Serbs, the Serb forces established

¹⁰⁸¹ See Witness Hadžović, Exhibit P02008, para. 2, Exhibit P02011, p. 2210; Witness RFJ-092, Exhibit P01164, pp. 3561, 3562; Witness RFJ-164, Exhibit P02815, p. 2.

¹⁰⁸² See Witness RFJ-004, Exhibit P01202, p. 2, Exhibit P01203, p. 3501; Witness RFJ-164, Exhibit P02815, p. 2.

¹⁰⁸³ Witness Hadžović, Exhibit P02011, pp. 2210-2213, 2218; Exhibit P02012; Exhibit P02013. See Witness Hadžović, Exhibit P02008, para. 4; Exhibit P03108. See also Adjudicated Facts 443-470.

¹⁰⁸⁴ See Witness Hadžović, Exhibit P02011, pp. 2271, 2306-2310; Exhibit P02009, para. 3; Exhibit P02024, pp. 5, 6; Witness RFJ-164, Exhibit P02815, p. 3; Witness RFJ-092, Exhibit P01163, para. 5; Witness RFJ-004, Exhibit P01202, p. 3; Adjudicated Fact 1150. See also Witness Hadžović, Exhibit P02011, pp. 2272-2274.

¹⁰⁸⁵ See Witness Hadžović, Exhibit P02008, para. 7, Exhibit P02011, p. 2274, T. 28 March 2018 p. 32; Exhibit P02009, para. 1; Adjudicated Fact 741. See also Witness RFJ-004, Exhibit P01202, p. 3; Witness Hadžović, Exhibit P02008, para. 6, T. 28 March 2018 pp. 6, 31, 32; Adjudicated Fact 1155.

¹⁰⁸⁶ See Witness Hadžović, Exhibit P02008, paras. 8, 9, Exhibit P02010, p. 1, Exhibit P02011, p. 2232, T. 28 March 2018 pp. 6, 7, 30; Exhibit P02009, para. 1; Witness RFJ-164, Exhibit P02815, pp. 3, 4; Witness RFJ-004, Exhibit P01202, p. 2; Adjudicated Fact 1149; Exhibit P03173. See also Adjudicated Fact 1157.

¹⁰⁸⁷ Witness Hadžović, T. 28 March 2018 p. 7. See Witness Hadžović, Exhibit P02011, p. 2232.

¹⁰⁸⁸ Witness RFJ-165, Exhibit P02366, paras. 5, 11, 14-20, 27, Exhibit 1D00118, pp. 2778-2780, 2849, 2934, 2935, 2937, 2938, T. 29 May 2018 pp. 11-13, 18, 19, T. 30 May 2018 pp. 15, 16, 71; Exhibit P02369. See Witness RFJ-165, Exhibit P02366, para. 9; Witness Theunens, T. 6 March 2018 p. 61; Exhibit P03543, pp. 2, 3. The Trial Chamber notes that Witness RFJ-165 testified that the local civilians called the unit under Božović’s command the “Red Berets”. See Witness RFJ-165, T. 31 May 2018 p. 25.

¹⁰⁸⁹ Adjudicated Facts 1152, 1153; Witness Hadžović, Exhibit P02008, paras. 13, 14, T. 28 March 2018 pp. 30, 31; Exhibit P02024, p. 6; Exhibit P02009, para. 4; Witness RFJ-165, Exhibit P02366, paras. 27-29, 39, Exhibit 1D00118, p. 2852, T. 29 May 2018 pp. 18-20; Witness RFJ-004, Exhibit P01202, p. 2. See Adjudicated Fact 911; Exhibit P00500, p. 16. There is evidence that Stanković was the Commander of the Doboj Territorial Defence (see Exhibit P03163, p. 2) and a JNA/Republika Srpska Army commander (see Witness RFJ-165, Exhibit P02366, paras. 7, 32, Exhibit 1D00118, p. 2868).

¹⁰⁹⁰ Witness RFJ-165, Exhibit P02366, para. 39. See Witness RFJ-165, T. 29 May 2018 pp. 19, 20.

¹⁰⁹¹ Adjudicated Fact 1155. See Witness RFJ-165, Exhibit P02366, paras. 27, 28, T. 29 May 2018 p. 20.

checkpoints all over the town,¹⁰⁹² and many non-Serbs in the area were taken to the police station and/or detention centres.¹⁰⁹³ As a result of the takeover of Doboj town, the threats and intimidation of non-Serbs, and the rumours of incidents occurring in Bratunac and Bijeljina, many thousands of non-Serbs left the town for the Tešanj municipality.¹⁰⁹⁴ According to Witness RFJ-165, Doboj town was “completely cleansed” of non-Serbs on 7 May 1992.¹⁰⁹⁵

243. The Trial Chamber has received evidence that after the takeover of Doboj town, Serb forces proceeded to attack and/or take over non-Serb villages in Doboj municipality, such as Grapska Gornja,¹⁰⁹⁶ Čivčije Bukovičke,¹⁰⁹⁷ Dragalovci,¹⁰⁹⁸ Johovac,¹⁰⁹⁹ and Kotorako¹¹⁰⁰ in the months of May and June 1992. The record demonstrates that non-Serb civilians in these villages were killed, expelled, arrested, and taken to police stations and various detention centres by Serb forces, including by Predrag Kujundžić and men under his command.¹¹⁰¹ During this period, 21 Muslim and Catholic monuments in the municipality, including the mosques and the Catholic church in Doboj town, were deliberately damaged or destroyed,¹¹⁰² while the homes of non-Serbs were looted, damaged, or destroyed,¹¹⁰³ and their cars stolen and taken to Serbia.¹¹⁰⁴

244. The evidence and adjudicated facts indicate that there were 33 detention centres in Doboj municipality in 1992, which included Spreča central prison, Usora military warehouse, and Perčin’s disco, where non-Serb civilians were kept in cramped and inhumane conditions.¹¹⁰⁵ The detainees

¹⁰⁹² Adjudicated Fact 1156; Witness RFJ-165, Exhibit P02366, para. 30, T. 29 May 2018 p. 19; Witness Hadžović, Exhibit P02008, para. 10. *See* Witness Hadžović, Exhibit P02008, para. 23, T. 28 March 2018 p. 26; Adjudicated Fact 1166; Witness RFJ-165, Exhibit 1D00118, p. 2869.

¹⁰⁹³ *See, e.g.*, Witness Hadžović, Exhibit P02008, para. 18; Exhibit P02021; Witness RFJ-092, Exhibit P01163, para. 8; Witness RFJ-165, Exhibit P02366, para. 39.

¹⁰⁹⁴ *See* Adjudicated Facts 1154, 1158, 1166. *See also* Witness Hadžović, Exhibit P02008, para. 15; Witness RFJ-165, Exhibit P02366, para. 39.

¹⁰⁹⁵ Witness RFJ-165, Exhibit P02366, para. 30. *See* Witness RFJ-165, T. 29 May 2018 pp. 20, 21.

¹⁰⁹⁶ Witness RFJ-164, Exhibit P02815, pp. 2, 4; Witness RFJ-092, Exhibit P01163, para. 8; Witness RFJ-165, Exhibit P02366, para. 53. *See* Exhibit P02375, p. 2.

¹⁰⁹⁷ Witness RFJ-004, Exhibit P01202, p. 3, Exhibit P01203, pp. 3532-3534; Witness RFJ-165, Exhibit P02366, para. 53.

¹⁰⁹⁸ Witness RFJ-092, Exhibit P01163, paras. 10-13. *See* Adjudicated Facts 1161, 1162.

¹⁰⁹⁹ Witness RFJ-165, Exhibit P02366, paras. 54-57, T. 29 May 2018 pp. 26, 27; Witness RFJ-092, Exhibit P01163, para. 8. *See* Exhibit P02375, p. 2.

¹¹⁰⁰ Witness RFJ-165, Exhibit P02366, paras. 54, 57, 58, T. 29 May 2018 p. 27; Witness RFJ-092, Exhibit P01163, para. 8. *See* Witness RFJ-164, Exhibit P02815, p. 5; Exhibit P02375, p. 2.

¹¹⁰¹ *See* Witness RFJ-164, Exhibit P02815, pp. 2, 4; Witness RFJ-092, Exhibit P01163, paras. 8, 12; Witness RFJ-165, Exhibit P02366, para. 55, T. 29 May 2018 pp. 26, 27; Witness RFJ-092, Exhibit P01163, paras. 11-15; Witness RFJ-004, Exhibit P01202, pp. 3, 4, Exhibit P01203, pp. 3532-3534. *See also* Adjudicated Fact 1162; Witness RFJ-164, Exhibit P02815, p. 5; Witness RFJ-165, Exhibit P02366, paras. 56-58; Exhibit P01713, p. 1.

¹¹⁰² *See* Adjudicated Facts 1160, 1167; Witness Hadžović, Exhibit P02008, paras. 14, 47, T. 28 March 2018 p. 31; Witness RFJ-004, Exhibit P01202, p. 7, Exhibit P01203, p. 3502. *See also* Exhibit P01713, p. 1.

¹¹⁰³ *See* Witness Hadžović, Exhibit P02008, paras. 16, 23; Witness RFJ-164, Exhibit P02815, p. 5; Witness Ahmetović, Exhibit P01711, para. 23; Witness RFJ-165, Exhibit P02366, paras. 50, 56; Witness RFJ-004, Exhibit P01202, p. 7, Exhibit P01203, p. 3517; Exhibit P01713, p. 1.

¹¹⁰⁴ *See* Witness Hadžović, T. 28 March 2018 pp. 7, 8; Witness RFJ-165, Exhibit P02366, para. 51 (indicating that “Red Berets” members called “Riki” and “Njekoš” stole the cars). *See also* Exhibit P02023.

¹¹⁰⁵ *See* Adjudicated Facts 1153, 1162, 1163, 1164, 1165, 1166; Witness Hadžović, Exhibit P02008, paras. 17-21, 26-36, Exhibit P02010, para. 4, T. 28 March 2018 pp. 12, 13, 40; Witness RFJ-092, Exhibit P01163, paras. 12-18, Exhibit

were threatened, insulted, and subjected to torture and beatings with police truncheons, baseball bats, and rifle butts that, at times, resulted in death.¹¹⁰⁶ For instance, in Perčin's Disco, which held up to 300 non-Serbs, detainees were ordered to jump on each other's head from the balcony of the building,¹¹⁰⁷ while in the Spreča central prison some detainees fell unconscious or died from the beatings.¹¹⁰⁸ On entering the cell in the Spreča central prison, Witness RFJ-164 was told by a Serb soldier "May God be with you, brave men, this is a Serbian state, you are in our hands now, and we can treat you as we please" before being beaten by him, while the other soldiers beat the other detainees.¹¹⁰⁹ The evidence further demonstrates that the detainees performed forced labour,¹¹¹⁰ digging trenches, looting empty houses, and burning or burying bodies in non-Serb villages that had been taken over by the Serb forces.¹¹¹¹

245. With respect to alleged incident of detainees being used as human shields,¹¹¹² it follows from the evidence that, on 12 July 1992, Serb soldiers wearing camouflage uniforms and red berets took 50 detainees from Perčin's disco, which was near the combat line with the Army of Bosnia and Herzegovina.¹¹¹³ There is evidence that one of these soldiers was nicknamed "Crnogorac" (Montenegrin) because of his accent, and that the soldiers spoke using the word "bre", a term not used by locals.¹¹¹⁴ According to Witness Hadžović, who was one of the detainees taken out from

P01164, p. 3565; Witness RFJ-164, Exhibit P02815, pp. 5, 6; Witness Ahmetović, Exhibit P01711, paras. 6-29; Witness RFJ-165, Exhibit P02366, para. 39; Witness RFJ-004, Exhibit P01202, pp. 4-6, Exhibit P01203, pp. 3502, 3503. *See also* Exhibit P02015, pp. 14, 11, 19-50; Exhibit P01714. While the witnesses identified the location of the Doboj town detention centre by different names, the Trial Chamber is convinced, having reviewed the entirety of their evidence, that they all refer to the same detention centre, herein identified as "Spreča central prison".

¹¹⁰⁶ *See* Adjudicated Facts 1163, 1164, 1166; Witness Hadžović, Exhibit P02008, paras. 19, 20, 34, 35; Exhibit P02024, pp. 8, 9; Witness RFJ-004, Exhibit P01202, pp. 4, 6; Witness RFJ-092, Exhibit P01163, para. 14; Witness RFJ-164, Exhibit P02815, pp. 5, 6; Witness Ahmetović, Exhibit P01711, paras. 7-9, 19-21; Witness RFJ-165, Exhibit P02366, para. 41, T. 29 May 2018 p. 24. *See also* Witness RFJ-004, Exhibit P01203, pp. 3546, 3547.

¹¹⁰⁷ Witness RFJ-004, Exhibit P01202, pp. 4, 5.

¹¹⁰⁸ *See* Adjudicated Fact 1166; Witness Ahmetović, Exhibit P01711, paras. 20, 21; Witness RFJ-004, Exhibit P01202, pp. 5, 6; Witness RFJ-164, Exhibit P02815, p. 6. *See also* Witness Hadžović, Exhibit P02008, para. 19.

¹¹⁰⁹ Witness RFJ-164, Exhibit P02815, pp. 12, 13. *See also* Witness Ahmetović, Exhibit P01711, paras. 9, 26, 28.

¹¹¹⁰ *See* Witness Ahmetović, Exhibit P01711, paras. 22, 36; Witness RFJ-164, Exhibit P02815, pp. 5, 6; Witness RFJ-165, Exhibit P02366, para. 18; Witness Hadžović, Exhibit P02008, para. 31, T. 28 March 2018 p. 38; Witness RFJ-004, Exhibit P01202, p. 4.

¹¹¹¹ Witness Ahmetović, Exhibit P01711, paras. 22-25; Witness RFJ-165, Exhibit P02366, para. 18; Witness RFJ-164, Exhibit P02815, p. 5; Witness Hadžović, Exhibit P02008, para. 36; Witness RFJ-004, Exhibit P01202, p. 4.

¹¹¹² Indictment, para. 54.

¹¹¹³ Witness RFJ-092, Exhibit P01163, para. 17, Exhibit P01164, pp. 3565, 3566, 3578, 3606-3608; Witness Hadžović, Exhibit P02008, para. 37, Exhibit P02011, pp. 2302, 2303, T. 28 March 2018 pp. 15, 16; Witness RFJ-004, Exhibit P01202, p. 4, Exhibit P01203, pp. 3506, 3507, 3536. The Trial Chamber recalls that it found that the detainees in Perčin's disco were non-Serb civilians from Doboj and the surrounding villages. *See supra* paras. 243, 244.

¹¹¹⁴ *See* Witness Hadžović, Exhibit P02011, p. 2302, T. 28 March 2018 p. 13; Witness RFJ-092, Exhibit P01163, para. 17, Exhibit P01164, pp. 3566, 3578, 3608, 3618; Exhibit P02009, para. 7. *See also* Witness Hadžović, T. 28 March 2018 pp. 14, 22; Witness RFJ-092, Exhibit P01164, p. 3618; Witness Hadžović, T. 28 March 2018 pp. 15-17, Exhibit P02011, pp. 2311, 2312 (indicating that the other soldiers who took the detainees out were locals, including Nenad Markočević).

the disco, the army, police, Predrag Kujundžić's men (Predo's Wolves), and local members of Slobodan Karagić (Karaga)'s unit were already outside.¹¹¹⁵

246. The 50 detainees were then ordered to take off their shirts, form five rows of 10 men each, and to walk towards the battlefield.¹¹¹⁶ A soldier wearing a camouflage uniform and a red beret, whom Witness Hadžović identified as "Golub, also known as Crnogorac" and the same soldier that had ordered the detainees out, shot and killed a Croat detainee from Dragalovci named Anto Kalem,¹¹¹⁷ threatening the others of the same fate if the detainees stopped walking or tried to escape.¹¹¹⁸ In this regard, the Trial Chamber notes that it has received evidence that a "Golub Maksimović" was a member of Predo's Wolves.¹¹¹⁹ As the detainees marched towards the Army of Bosnia and Herzegovina, chaos ensued with shootings from the direction ahead and from the Serb forces standing behind the detainees.¹¹²⁰ According to Witness Hadžović, the detainees started jumping over the barbed wire on the side of the road and the Serb forces shot after them, killing some of the detainees.¹¹²¹ Witness Hadžović and another detainee hid under the dead bodies and managed to escape.¹¹²²

247. The evidence demonstrates that, after the shootings had stopped, the remaining detainees were ordered to return to Perčin's disco.¹¹²³ Witness RFJ-004 indicated that one of the soldiers, whom the witness identified as a member of the "Red Berets", shot and killed Safet Hamidović on their way back, and ordered the other detainees to throw his body in the Bosna river.¹¹²⁴ It was reported that 25 detainees were killed as human shields¹¹²⁵ and an exhumation of a mass grave

¹¹¹⁵ Witness Hadžović, T. 28 March 2018, pp. 15-17, 39. *See* Witness Hadžović, Exhibit P02011, pp. 2302, 2311-2313, T. 28 March 2018, pp. 34, 35, 40, 41, Exhibit P02008, para. 37; Exhibit P02009, para. 7; Exhibit P02024, pp. 10, 12; Witness RFJ-092, Exhibit P01163, para. 18, Exhibit P01164, pp. 3617, 3644. *See also* Exhibit P02016, p. 9; Witness RFJ-165, Exhibit P02366, para. 20; Exhibit P02371, pp. 1, 3. According to the evidence, Major Milovan Stanković was the "commander on the Serbian side". *See* Exhibit P02141, p. 5.

¹¹¹⁶ Witness Hadžović, Exhibit P02008, paras. 37, 38, Exhibit P02011, p. 2302; Exhibit P02022, p. 2; Witness RFJ-004, Exhibit P01202, p. 4. *See* Witness RFJ-092, Exhibit P01163, para. 18; Exhibit P02141, p. 5.

¹¹¹⁷ Although Witness Hadžović names the victim "Kalem Drago" on several occasions, the Trial Chamber is convinced, in light of the entirety of the evidence, that the witness is referring to Anto Kalem.

¹¹¹⁸ Witness Hadžović, Exhibit P02008, para. 38, Exhibit P02011, pp. 2242, 2302, 2350, 2351, T. 28 March 2018 p. 17; Witness RFJ-004, Exhibit P01203, pp. 3507, 3508, 3535, 3536; Witness RFJ-092, Exhibit P01163, para. 18. *See* Witness RFJ-004, Exhibit P01203, pp. 3545, 3546; Witness Hadžović, T. 28 March 2018 pp. 13, 14, 22.

¹¹¹⁹ Witness RFJ-092, Exhibit P01163, para. 23, Exhibit P01164, p. 3620. *Cf.* Witness Hadžović, T. 28 March 2018 p. 38.

¹¹²⁰ *See* Witness Hadžović, Exhibit P02008, paras. 38, 39; Witness RFJ-004, Exhibit P01202, p. 4; Witness RFJ-092, Exhibit P01163, para. 18. *See also* Exhibit P02022, p. 3; Exhibit P02009, para. 7.

¹¹²¹ Witness Hadžović, Exhibit P02008, paras. 38, 39. *See* Exhibit P02009, para. 7; Exhibit P02024, pp. 11, 12.

¹¹²² Witness Hadžović, Exhibit P02008, paras. 39, 41-43; Exhibit P02022, p. 3; Exhibit P02024, pp. 12, 13.

¹¹²³ Witness RFJ-004, Exhibit P01202, p. 5.

¹¹²⁴ Witness RFJ-004, Exhibit P01202, p. 5, Exhibit P01203, p. 3508. *See also* Exhibit P02141, pp. 6, 9.

¹¹²⁵ Witness RFJ-004, Exhibit P01202, p. 5. *See* Witness RFJ-092, Exhibit P01163, para. 18.

conducted in the village of Makljenovac in 2000 revealed 27 bodies, which included a number of the detainees.¹¹²⁶

248. In light of the evidence on the record, the Trial Chamber finds proven beyond reasonable doubt that, on 12 July 1992, members of the Serb forces, which included Predrag Kujundžić's unit and Slobodan Karagić's unit, killed the following 16 non-Serbs in the aforementioned human shields incident: Ešref (Ešef) Ahmić,¹¹²⁷ Hasan Ahmić,¹¹²⁸ Senad Ahmić,¹¹²⁹ Zijad Ahmić,¹¹³⁰ Ramiz Hamidović,¹¹³¹ Safet Hamidović,¹¹³² Muhamed Husanović,¹¹³³ Hasib Kadić,¹¹³⁴ Ante Kalem,¹¹³⁵ Halid Mujanović,¹¹³⁶ Meho Mujanović,¹¹³⁷ Arif Omerčić,¹¹³⁸ Hasib Omerčić,¹¹³⁹ Mehmed Omerčić,¹¹⁴⁰ Bećir Ščić,¹¹⁴¹ and Muhamed Zečević.¹¹⁴² Although there is an indication

¹¹²⁶ Witness Hadžović, Exhibit P02008, para. 40. *See* Witness Hadžović, Exhibit P02011, p. 2251; Exhibit P02018; Exhibit P02141.

¹¹²⁷ Exhibit P02068, Annex 5, p. 10; Exhibit P02147, p. 6; Exhibit P02146; Exhibit P02142, p. 2; Exhibit P02140, p. 1; Witness Hadžović, Exhibit P02008, para. 40. *See* Witness Hadžović, Exhibit P02011, pp. 2251-2253; Exhibit P02019; Witness RFJ-004, Exhibit P01203, p. 3515; Exhibit P01206.

¹¹²⁸ Exhibit P02068, Annex 5, p. 10; Exhibit P02149; Exhibit P02258; Exhibit P02254; Exhibit P02140, p. 1; Exhibit P02148; Exhibit P02143, p. 6. *See* Witness Hadžović, Exhibit P02011, pp. 2251-2253; Exhibit P02019; Witness RFJ-004, Exhibit P01203, p. 3515; Exhibit P01206.

¹¹²⁹ Exhibit P02068, Annex 5, p. 10; Exhibit P02172; Witness Hadžović, Exhibit P02008, para. 40; Exhibit P02140, p. 2. *See* Witness Hadžović, Exhibit P02011, pp. 2251-2253; Exhibit P02019; Witness RFJ-004, Exhibit P01203, p. 3515; Exhibit P01206.

¹¹³⁰ Exhibit P02068, Annex 5, p. 11; Exhibit P02151; Exhibit P02140, p. 1; Exhibit P02143, p. 6; Exhibit P02150. *See* Witness Hadžović, Exhibit P02011, pp. 2251-2253; Exhibit P02019; Witness RFJ-004, Exhibit P01203, p. 3515; Exhibit P01206.

¹¹³¹ Exhibit P02068, Annex 5, p. 11; Exhibit P02153; Exhibit P02152; Exhibit P02143, pp. 5, 6; Exhibit P02140, p. 1. *See* Witness Hadžović, Exhibit P02011, pp. 2251-2253; Exhibit P02019.

¹¹³² Exhibit P02068, Annex 5, p. 11; Exhibit P02173; Exhibit P02140, p. 2; Witness RFJ-004, Exhibit P01202, p. 5. *See* Witness Hadžović, Exhibit P02011, pp. 2251-2253; Exhibit P02019; Witness RFJ-004, Exhibit P01203, p. 3515; Exhibit P01206; Exhibit P02141, p. 9.

¹¹³³ Exhibit P02068, Annex 5, p. 12; Exhibit P02171; Exhibit P02143, p. 5; Exhibit P02140, p. 1; Exhibit P02170. *See* Witness Hadžović, Exhibit P02011, pp. 2251-2253; Exhibit P02019.

¹¹³⁴ Exhibit P02068, Annex 5, p. 12; Exhibit P02155; Exhibit P02140, p. 1; Exhibit P02154; Exhibit P02143, p. 5. *See* Witness Hadžović, Exhibit P02011, pp. 2251-2253; Exhibit P02019; Witness RFJ-004, Exhibit P01203, p. 3515; Exhibit P01206.

¹¹³⁵ Exhibit P02068, Annex 5, p. 12; Exhibit P02156; Exhibit P02143, p. 4; Exhibit P02140, p. 1; Exhibit P02141, p. 5; Witness Hadžović, Exhibit P02008, paras. 38, 40; Exhibit P02009, para. 7. *See* Witness RFJ-092, Exhibit P01163, para. 18, Exhibit P01164, p. 3567; Witness Hadžović, Exhibit P02011, pp. 2251-2253; Exhibit P02019.

¹¹³⁶ Exhibit P02068, Annex 5, p. 13; Exhibit P02158; Exhibit P02144, pp. 12, 13; Exhibit P02140, p. 1; Exhibit P02157; Exhibit P02141, pp. 8-9. *See* Witness RFJ-004, Exhibit P01203, p. 3515; Exhibit P01206.

¹¹³⁷ Exhibit P02068, Annex 5, p. 14; Exhibit P02160; Exhibit P02140, p. 1; Exhibit P02159; Exhibit P02143, p. 3. *See* Witness RFJ-004, Exhibit P01203, p. 3515; Exhibit P01206.

¹¹³⁸ Exhibit P02068, Annex 5, p. 14; Exhibit P02162; Exhibit P02140, p. 1; Exhibit P02143, p. 5; Exhibit P02161. *See* Witness Hadžović, Exhibit P02011, pp. 2251-2253; Exhibit P02019; Witness RFJ-004, Exhibit P01203, p. 3515; Exhibit P01206.

¹¹³⁹ Exhibit P02068, Annex 5, p. 14; Exhibit P02144, pp. 13, 14; Exhibit P02141, pp. 3, 4; Exhibit P02163; Exhibit P02164. *See* Witness Hadžović, Exhibit P02011, pp. 2251-2253; Exhibit P02019; Witness RFJ-004, Exhibit P01203, p. 3515; Exhibit P01206.

¹¹⁴⁰ Exhibit P02068, Annex 5, p. 15; Exhibit P02166; Exhibit P02165; Exhibit P02140, p. 1; Exhibit P02259; Exhibit P02255; Exhibit P02143, p. 4. *See* Witness Hadžović, Exhibit P02011, pp. 2251-2253; Exhibit P02019; Witness RFJ-004, Exhibit P01203, p. 3515; Exhibit P01206.

¹¹⁴¹ Exhibit P02068, Annex 5, p. 15; Exhibit P02168; Exhibit P02140, p. 1; Exhibit P02143, p. 4; Exhibit P02167. *See* Witness RFJ-004, Exhibit P01203, p. 3515; Exhibit P01206.

¹¹⁴² Exhibit P02068, Annex 5, p. 15; Exhibit P02169; Exhibit P02140, p. 1; Exhibit P02143, p. 6. *See* Witness Hadžović, Exhibit P02011, pp. 2251-2253; Exhibit P02019; Witness RFJ-004, Exhibit P01203, p. 3515; Exhibit P01206.

that some of these individuals may have been members of militaries,¹¹⁴³ there can be no doubt, in view of the surrounding circumstances, that at the time of the killings these individuals were taking no active part in the hostilities.¹¹⁴⁴

249. With regard to the other non-Serbs who, according to the Prosecution, were killed during this incident, namely Omer Delić, Nurudin Hadžikadunić, Jasmin Makarević, Nedžad Makarević, and Salih (Salko) Makarević,¹¹⁴⁵ the Trial Chamber received evidence that they were not detained at Perčin's disco¹¹⁴⁶ and/or may have been killed in battle as members of the Army of Bosnia and Herzegovina on 12 July 1992 in Makljenovac.¹¹⁴⁷ Therefore, the Trial Chamber cannot conclude beyond reasonable doubt that they were detainees at Perčin's disco who were killed during the human shields incident identified above.

250. It further follows from the evidence that the non-Serb population that had remained in the municipality after the 1992 attacks and takeovers lived under enormous pressure and terror, and that many were forced to leave their homes and to abandon their belongings in order to save their lives.¹¹⁴⁸ According to Witness RFJ-004, who left Doboј municipality in July 1993 together with all the inhabitants of his village, "[n]obody would have remained there alive. Even if you had been insane, you would not have stayed."¹¹⁴⁹ Further, the Trial Chamber has evidence that the exchanges of detainees were mainly happening between 1993 and 1995 and that the mass expulsion of non-Serbs took place in August and September 1995.¹¹⁵⁰ Notably, about twelve buses with 50 to 60 persons on board each transported inhabitants of Dragalovci to Croatia in September 1995.¹¹⁵¹

251. The Serb population of Doboј municipality, which constituted less than 40% of the population prior to the conflict, increased to 75.5%, while the non-Serb population decreased from about 61% to less than 25% in 1997-1998.¹¹⁵² Further, it is estimated that, as of 1997-1998, there

¹¹⁴³ See Exhibit P02070, pp. 3, 4.

¹¹⁴⁴ See *Popović et al.* Appeal Judgement, para. 794; *Đorđević* Appeal Judgement, para. 747; *Martić* Appeal Judgement, para. 313. See also *Martić* Appeal Judgement, paras. 303-312.

¹¹⁴⁵ See Prosecution Final Trial Brief, Annex C, pp. 101, 103.

¹¹⁴⁶ Exhibit P02140, p. 2. See Exhibit P02009, para. 7; Exhibit P02022, p. 3; Exhibit P02024, p. 11.

¹¹⁴⁷ Exhibit P02140, p. 2. Cf. Exhibit P02009, para. 7; Witness Hadžović, Exhibit P02011, pp. 2251-2253; Exhibit P02019.

¹¹⁴⁸ Exhibit P00168, para. 6. See Witness Wilson, T. 27 June 2017 pp. 68-70; Witness RFJ-004, Exhibit P01203, p. 3520; Witness Hadžović, Exhibit P02011, p. 2263. See also Witness Hadžović, Exhibit P02011, pp. 2261-2264; Exhibit P02020; Exhibit P02021.

¹¹⁴⁹ Witness RFJ-004, Exhibit P01203, p. 3520. See Witness RFJ-004, Exhibit P01202, p. 6, Exhibit P01203, pp. 3516-3520. Cf. Witness RFJ-165, Exhibit P02366, para. 46, Exhibit 1D00118, pp. 2905-2908, 2962, T. 29 May 2018 p. 24.

¹¹⁵⁰ Witness RFJ-092, Exhibit P01163, paras. 25, 30, 31, Exhibit P01164, pp. 3596-3600; Witness Ahmetović, Exhibit P01711, para. 37; Witness Hadžović, T. 28 March 2018 p. 7. See also Exhibit P01165, p. 13.

¹¹⁵¹ Witness RFJ-092, Exhibit P01163, paras. 25, 31, Exhibit P01164, pp. 3596, 3598-3600.

¹¹⁵² See Exhibit P02069, pp. 21, 23, 24. See *supra* para. 240. The Trial Chamber notes that the population estimates for 1997-1998 concern the 1997 sample population born before 1980.

were almost 39,000 internally displaced persons and refugees from Doboj municipality and that over 37,000 of them were non-Serbs.¹¹⁵³

252. Based on the above, the Trial Chamber finds proven beyond reasonable doubt that Serb forces, including Serb paramilitaries, the JNA, forces under Milovan Stanković's command, the Serb police, as well as forces under Radojica Božović's command, including those trained at Mt. Ozren, attacked and took control of Doboj town on 3 May 1992. It also finds proven beyond reasonable doubt that, in the following weeks, these Serb forces took over other non-Serb villages in the municipality, including Grapska Gornja, Čivčije Bukovičke, Dragalovci, Johovac, and Kotorsko. The Trial Chamber also finds proven beyond reasonable doubt that, during these attacks and following the takeovers, Serb forces destroyed mosques and at least one Catholic church, looted and stole property of non-Serbs, forcibly expelled, arbitrarily arrested and detained, mistreated, and killed non-Serb civilians, including in various detention centres. It is further proven beyond reasonable doubt that in these detention centres, the non-Serb detainees were kept in horrendous conditions, tortured, beaten, forced to perform labour, and killed, including while being used as human shields, by members of the Serb forces.

253. Having considered the evidence and the circumstances in which the departures occurred, including the murders of non-Serbs used as human shields on 12 July 1992 as found above, the Trial Chamber finds proven beyond a reasonable doubt that the acts of violence committed by the Serb forces during and after the takeovers forced the non-Serbs to leave the Doboj municipality.

5. Events in Trnovo

254. The Indictment alleges that the Scorpions arrived in Bosnia and Herzegovina, pursuant to the orders of the Accused, in early July 1995,¹¹⁵⁴ and that, in the same month, certain Muslim men and boys, who were captured after the fall of the Srebrenica enclave, were taken to the Scorpion's base in Trnovo, where, acting on the orders of Slobodan Medić (Boca), members of the Scorpions shot and killed six of these detainees in a secluded rural area at Godinjske Bare, and videotaped the killings.¹¹⁵⁵ According to the Indictment, these murders were committed with discriminatory intent and amounted to persecution.¹¹⁵⁶

¹¹⁵³ Exhibit P02069, p. 28.

¹¹⁵⁴ Indictment, para. 60. *See* Prosecution Final Trial Brief, para. 857; Prosecution Pre-Trial Brief, para. 176. *See also* Prosecution Final Trial Brief, paras. 643-653.

¹¹⁵⁵ Indictment, para. 61. *See* Prosecution Final Trial Brief, paras. 856, 859-861; Prosecution Pre-Trial Brief, paras. 174-176; Prosecution Closing Arguments, T. 12 April 2021 p. 79. *See also* Indictment, paras. 58, 59; Prosecution Final Trial Brief, paras. 858, 862.

¹¹⁵⁶ Indictment, paras. 22, 24, 25. *See* Prosecution Final Trial Brief, para. 856.

255. In their final trial briefs, the Accused accept that the Scorpions committed these murders, but contest that they had any role in the deployment of the Scorpions to Trnovo or in the unit's command, financing, training, or logistical support.¹¹⁵⁷

256. In assessing these events, the Trial Chamber notes that the fundamental features of the evidence related to the commission of these murders are not disputed. The Trial Chamber has considered relevant evidence from several Prosecution witnesses, including Witnesses RFJ-036 and Goran Stoparić. The Trial Chamber has also considered forensic and documentary evidence, and has taken judicial notice of adjudicated facts in relation to these events, where appropriate.

257. It follows from the evidence and adjudicated facts that, on or about 27 June 1995, the Scorpions, under the command of Boca, were deployed from Đeletovci in the Republic of Serbian Krajina to the Trnovo/Treskavica front in Bosnia and Herzegovina.¹¹⁵⁸ After the fall of Srebrenica in July 1995, Boca was ordered to transport Muslims from Srebrenica to various locations.¹¹⁵⁹

258. According to Witness Stoparić, civilians from Srebrenica were brought in a bus to Boca's makeshift base and Boca was told that they were being distributed for killing in different locations.¹¹⁶⁰ Witness RFJ-036 gave evidence that he heard that Boca ordered members of the Scorpions to kill the men.¹¹⁶¹ Subsequently, the six unarmed Muslim men and boys, who were all in civilian clothing, were transported by the Scorpions to an isolated location near two abandoned buildings in Godinjske Bare, near Trnovo.¹¹⁶² The Scorpions ordered the men and boys, whose hands were bound, to get out of the truck and lie face down on the ground.¹¹⁶³ Then, the Scorpions took the detainees to a grassy area behind one of the abandoned houses and shot and killed four of them.¹¹⁶⁴ They then forced the two surviving detainees to carry the four bodies into the woods before shooting them dead inside one of the houses.¹¹⁶⁵ Following Boca's order, Slobodan Stojković (Bugar) filmed the killings.¹¹⁶⁶ In the taped video, members of the Scorpions can be heard insulting the victims, referring to their Muslim faith, and mocking their leaders, before killing

¹¹⁵⁷ Stanišić Final Trial Brief, paras. 1572-1606; Simatović Final Trial Brief, paras. 1311, 1312, 1330-1346, 1357-1419. *See also* Stanišić Final Trial Brief, paras. 1564-1571; Simatović Final Trial Brief, paras. 1313-1329, 1347-1356.

¹¹⁵⁸ Adjudicated Facts 1234-1236; Witness RFJ-036, Exhibit P02392, paras. 50, 65, 69, Exhibit P02397, pp. 11191, 11192; Witness Stoparić, T. 8 November 2017 p. 8, T. 30 November 2017 p. 69, Exhibit P00796, paras. 97, 99, 100; Exhibit P02333; Exhibit P03525, p. 2. *See also* Exhibit P00821, p. 2.

¹¹⁵⁹ *See* Adjudicated Fact 1238; Witness RFJ-036, Exhibit P02392, para. 76, Exhibit P02397, p. 11139. *See generally* Adjudicated Facts 1168-1233.

¹¹⁶⁰ Witness Stoparić, Exhibit P00796, para. 105, T. 8 November 2017 p. 27. *See also* Witness Stoparić, Exhibit P00798, paras. 8, 7, 12, Exhibit P00800, pp. 10478, 10479.

¹¹⁶¹ Witness RFJ-036, T. 5 June 2018 pp. 28, 29, Exhibit P02397, pp. 11137, 11138, Exhibit P02392, para. 78. *See* Witness Stoparić, Exhibit P00796, para. 105; Witness RFJ-036, Exhibit P02392, para. 77.

¹¹⁶² Adjudicated Facts 1237, 1238; Witness RFJ-036, Exhibit P02392, p. 19, Exhibit P02397, pp. 11138, 11139. *See* Witness Stoparić, Exhibit P00796, para. 105.

¹¹⁶³ Exhibit P00802, pp. 90-92.

¹¹⁶⁴ Exhibit P00802, pp. 99-102. *See* Witness RFJ-036, Exhibit P02397, pp. 11042-11047.

¹¹⁶⁵ Exhibit P00802, pp. 102-112.

¹¹⁶⁶ Adjudicated Fact 1239. *See* Exhibit P00802, pp. 88-112; Witness RFJ-036, Exhibit P02393, para. 7, Exhibit P02397, p. 11028, T. 5 June 2018 p. 27.

them.¹¹⁶⁷ The remains of the six Bosnian Muslim men were later discovered in and around the abandoned buildings at Godinjske Bare, and autopsy reports concluded that each victim died from gunshot wounds.¹¹⁶⁸ The members of the Scorpions identified to have participated in the killings include Pero Petrašević, Branislav Medić, Milorad Momić, and Slobodan Davidović,¹¹⁶⁹ and those killed were Safet Fejzić, Azmir Alispahić, Smajil Ibrahimović, Sidik Salkić, Juso Delić, and Dino Salihović.¹¹⁷⁰

259. In light of the above, the Trial Chamber finds proven beyond reasonable doubt that, in July 1995, members of the Scorpions, acting on Boca's orders, killed the following six Muslim men: Safet Fejzić,¹¹⁷¹ Azmir Alispahić,¹¹⁷² Smajil Ibrahimović,¹¹⁷³ Sidik Salkić,¹¹⁷⁴ Juso Delić,¹¹⁷⁵ and Dino Salihović.¹¹⁷⁶

6. Events in Sanski Most

260. The Indictment alleges that, from March 1992 and continuing through 1995, Serb forces, in particular special units of the Serbian State Security Service, committed crimes in and attacked and took control of towns and villages in Sanski Most municipality.¹¹⁷⁷ The Indictment further alleges that, in September 1995, Željko Ražnatović (Arkan) and his Serbian Volunteer Guard arrived in Sanski Most at the request of Bosnian Serb leaders.¹¹⁷⁸ The killings specified in the Indictment are: (i) the killing of 11 non-Serb men and seriously wounding a twelfth non-Serb man, who had all been taken from various locations in Sanski Most by Serbian Volunteer Guard members, in a site in Trnova village on or about 20 September 1995;¹¹⁷⁹ and (ii) the killing of approximately 65 non-Serb civilians, who had been abducted and detained by Serbian Volunteer Guard members, in Sasina on

¹¹⁶⁷ Adjudicated Fact 1240; Exhibit P00802, pp. 91, 94, 96.

¹¹⁶⁸ Adjudicated Fact 1241. *See* Adjudicated Facts 1242-1244; Exhibit P02068, p. 99; Exhibit P02077; Exhibit P02262; Exhibit P02078; Exhibit P03135.

¹¹⁶⁹ *See* Witness RFJ-036, Exhibit P02392, paras. 86, 88, Exhibit P02394, pp. 2, 3, Exhibit P02401, pp. 10-14; Witness Stoparić, Exhibit P00796, para. 105, Exhibit P00798, para. 13, Exhibit P00800, pp. 10462, 10463, T. 8 November 2017 pp. 27-30. *See also* Witness RJF-036, Exhibit P02397, pp. 11042-11047.

¹¹⁷⁰ Adjudicated Fact 1242. *See* Witness RFJ-068, Exhibit P02419, p. 3, T. 12 June 2018 p. 21; Exhibit P02421; Witness S. Salkić, Exhibit P02300, para. 12, Exhibit P02299, pp. 11211, 11212; Exhibit P02301; Exhibit P02302; Witness Ibrahimović, Exhibit P00390, para. 9; Exhibit P00391; Witness O. Salkić, Exhibit P01239, p. 8, Exhibit P01240, p. 2, Exhibit P01241, pp. 7869, 7871-7874.

¹¹⁷¹ Exhibit P02068, Annex 5, p. 39; Exhibit P02078; Exhibit P02077; Exhibit P03135.

¹¹⁷² Exhibit P02068, Annex 5, p. 39; Exhibit P02078; Exhibit P02077; Exhibit P03135.

¹¹⁷³ Exhibit P02068, Annex 5, p. 39; Exhibit P02262; Exhibit P02077.

¹¹⁷⁴ Exhibit P02068, Annex 5, p. 39; Exhibit P02262; Exhibit P02077.

¹¹⁷⁵ Exhibit P02068, Annex 5, p. 39; Exhibit P02078; Exhibit P02262; Exhibit P02077.

¹¹⁷⁶ Exhibit P02068, Annex 5, p. 39; Exhibit P02262; Exhibit P02077.

¹¹⁷⁷ Indictment, para. 9. *See* Indictment, paras. 22, 23, 65.

¹¹⁷⁸ Indictment, para. 55. *See also* Prosecution Pre-Trial Brief, para. 181; Prosecution Final Trial Brief, para. 882.

¹¹⁷⁹ Indictment, para. 56. *See also* Prosecution Pre-Trial Brief, para. 182; Prosecution Final Trial Brief, paras. 884-886. *See also* Prosecution Closing Arguments, T. 12 April 2021 p. 89.

or about 21 September 1995.¹¹⁸⁰ The Indictment alleges that these murders, along with other crimes and acts of violence associated with the attack and takeover of Sanski Most municipality, resulted in the forcible displacement of the non-Serb population from the area,¹¹⁸¹ and that the murders and forcible displacement amounted to persecution.¹¹⁸²

261. In connection with these allegations, the Prosecution argues that the Serb forces took control over Sanski Most municipality in April and May 1992, and that, during and after the takeover, these forces followed a pattern repeated in the other municipalities targeted by the joint criminal enterprise: the murder, forcible displacement, and persecution of non-Serbs.¹¹⁸³ The Prosecution further argues that, in September 1995, Arkan and his Serbian Volunteer Guard were deployed to Sanski Most to defend previously cleansed Serb territory and purge the few remaining non-Serbs.¹¹⁸⁴ According to the Prosecution, the evidence demonstrates that Serb forces expelled non-Serbs from Sanski Most through attacks, murders, and other crimes,¹¹⁸⁵ and that the crimes committed during and following the attack on the municipality of Sanski Most, including the killings in Trnova and Sasina by the Serbian Volunteer Guard, were committed with persecutory intent.¹¹⁸⁶

262. In their final trial briefs, the Accused do not contest that crimes were committed during and following the attack on Sanski Most municipality in April and May 1992, including the murder of 11 non-Serb men in the village of Trnova and the murder of approximately 65 non-Serb civilians in Sasina in September 1995. However, the Accused contest that they or Dragan Filipović, the deputy head of the Second Administration of the Serbian State Security Service, had any role in the deployment, command or financing of Arkan and the Serbian Volunteer Guard or any other Serb forces involved in the area.¹¹⁸⁷

263. In assessing these events, the Trial Chamber notes that the fundamental features of the evidence related to the crimes that were committed during and following the attack on Sanski Most municipality in April and May 1992, as well as the events in Trnova and Sasina in September 1995, are not disputed. The Trial Chamber considered relevant evidence from several witnesses, including Witnesses RFJ-110, RFJ-073, RFJ-065, and RFJ-055, who were direct witnesses to the events in the

¹¹⁸⁰ Indictment, para. 57. *See also* Prosecution Pre-Trial Brief, para. 182; Prosecution Final Trial Brief, paras. 887-890. *See also* Prosecution Closing Arguments, T. 12 April 2021 p. 89.

¹¹⁸¹ Indictment, paras. 64-66; *See also* Prosecution Pre-Trial Brief, para. 181; Prosecution Final Trial Brief, para. 863.

¹¹⁸² Indictment, paras. 22-25. *See also* Prosecution Closing Arguments, T. 12 April 2021 pp. 7, 8, 92.

¹¹⁸³ Prosecution Final Trial Brief, paras. 863-881. *See also* Prosecution Final Trial Brief, paras. 565-571; Prosecution Pre-Trial Brief, paras. 177-180.

¹¹⁸⁴ Prosecution Final Trial Brief, para. 863. *See also* Prosecution Pre-Trial Brief, paras. 181, 182.

¹¹⁸⁵ Prosecution Final Trial Brief, para. 881.

¹¹⁸⁶ Prosecution Final Trial Brief, para. 863.

municipality. The Trial Chamber has also considered forensic and documentary evidence, and has taken judicial notice of adjudicated facts in relation to these events, where appropriate.

264. The municipality of Sanski Most is located in the north-western part of Bosnia and Herzegovina, bordering: Bosanski Novi and Prijedor municipalities to the north; Banja Luka municipality to the east; Ključ municipality to the south; and Bosanski Petrovac and Bosanska Krupa municipalities to the west.¹¹⁸⁸ According to the 1991 census, the population of Sanski Most municipality consisted approximately of 42% Serbs, 47% Muslims, and 11% Croats and other non-Serbs.¹¹⁸⁹

265. By the end of 1991, inter-ethnic tensions were rising in Sanski Most and members of each ethnic group began to arm themselves.¹¹⁹⁰ This included the formation of the Serb Defence Force, which was a paramilitary unit of 30 to 50 men that was tasked by the Serbian Democratic Party to carry out actions against the non-Serb population.¹¹⁹¹ It follows from the evidence on the record and the adjudicated facts that tensions were exacerbated in early 1992 when, amongst other measures, checkpoints were erected by Serb forces in Sanski Most town and around non-Serb villages; discussions were held on the division of the municipality along ethnic lines; the Sanski Most Serb Assembly decided that the municipality would become part of the Autonomous Region of Krajina; and acts of violence and intimidation, including the destruction of mosques and attacks on non-Serb properties, took place.¹¹⁹² On 19 April 1992, the Serbian Democratic Party took control of the municipality through an armed attack on the municipality building conducted by the JNA's 6th Light Partisan Brigade, Territorial Defence forces and members of a Bosnian Serb paramilitary group known as the Red Berets.¹¹⁹³ As a result of these attacks and other acts of intimidation in March and April 1992, many Muslim and Croat inhabitants left the municipality.¹¹⁹⁴

266. Witness RFJ-110, a Bosnian Serb from Sanski Most municipality, gave evidence that, on 25 May 1992, radio broadcasts called on Bosnian Muslim inhabitants to surrender their weapons and to

¹¹⁸⁷ Stanišić Final Trial Brief, paras. 1671-1712; Simatović Final Trial Brief, paras. 1042-1061, 1129, 1130, 1420-1432. *See also* Stanišić Closing Arguments, T. 13 April 2021 pp. 31, 32.

¹¹⁸⁸ Adjudicated Fact 1245; Exhibit P02664.

¹¹⁸⁹ Exhibit P02069, p. 21. *See also* Witness RFJ-110, T. 27 June 2018 p. 6; Witness RFJ-065, Exhibit P00407, p. 2.

¹¹⁹⁰ Adjudicated Facts 1247, 1257; Witness RFJ-110, Exhibit P02474, pp. 19834, 19835, 19842, 19843, 19848, 19992, 19993; Exhibit P02481, p. 3.

¹¹⁹¹ Adjudicated Facts 838, 1248, 1258-1261; Witness RFJ-110, T. 27 June 2018 p. 19, T. 28 June 2018 pp. 46-48, Exhibit P02475, pp. 3802, 3803, 3806-3809, Exhibit P02474, pp. 19845, 19846, 19996, 19997. The Trial Chamber notes that witness RFJ-110 indicated that the Serb Defence Force was established in the summer of 1991, while, according to Adjudicated Fact 1258, the Serb Defence Force was established at the end of 1991.

¹¹⁹² Adjudicated Facts 1250-1252, 1260-1262, 1266, 1267, 1269; Witness RFJ-055, Exhibit P02657, pp. 3060, 3061; Witness RFJ-110, Exhibit P02474, pp. 19846, 19852, 19875, 19989; Witness RFJ-065, Exhibit P00407, p. 2; Exhibit P03484. *See also* Adjudicated Facts 1247, 1248, 1261, 1263-1265, 1268, 1271, 1273-1275, 1279, 1313.

¹¹⁹³ Adjudicated Fact 1270. *See* Adjudicated Facts 1272-1274; Witness RFJ-110, Exhibit P02474, p. 19880, Exhibit P02475, p. 3797. *See also* Adjudicated Facts 1276, 1277; Exhibit P03562.

¹¹⁹⁴ Adjudicated Facts 1275, 1312.

identify their houses with a white flag.¹¹⁹⁵ Broadcasts also called on certain wealthy Muslims and intellectuals to surrender.¹¹⁹⁶ On 26 May 1992, Serb forces, which included the JNA 6th Light Partisan Brigade, the Army of the Serbian Republic of Bosnia and Herzegovina, and paramilitary units, attacked Sanski Most town, pursuant to the order of Nedeljko Aničić, commander of the Sanski Most Territorial Defence.¹¹⁹⁷ According to Witness RFJ-110, the attack was well-organized, the participating units were perfectly coordinated,¹¹⁹⁸ and, within three days, almost the entire municipality was under the control of the Serb forces.¹¹⁹⁹

267. The evidence and adjudicated facts demonstrate that, after the takeover of Sanski Most town, the Serb forces continued to attack in a similar pattern other non-Serb hamlets and villages in the municipality, including Mahala, Muhići, Hrustovo, Begići, and Vrhpolje, amongst others.¹²⁰⁰ The Serb forces shelled the non-Serb settlements, destroyed non-Serb homes and mosques, arrested non-Serb leaders, killing them in some instances, and forced non-Serb women and children to leave.¹²⁰¹ In one incident, between 19 and 30 Muslim men from Begići hamlet were killed when Bosnian Serb soldiers took them to Vrhpolje bridge and ordered them to jump off into the shallow waters of the river Sana, and then proceeded to fire at them.¹²⁰² Further, about 19 Bosnian Muslims were killed in Kenjari, as well as 16 women and children who were trying to run away from Serb forces in the area of Hrustovo.¹²⁰³

268. The evidence and adjudicated facts further indicate that, starting on 26 May 1992 and continuing throughout 1992, after the military operations against non-Serb villages and settlements, Serb forces arrested about 1,600 able-bodied Bosnian Muslims and Bosnian Croats.¹²⁰⁴ They were detained in horrendous conditions in “collection centres”, including a remand facility attached to the Sanski Most Public Security Station complex, the Betonikra factory facilities, Krings factory

¹¹⁹⁵ Adjudicated Fact 1282; Witness RFJ-110, Exhibit P02474, pp. 19881, 19882, T. 27 June 2018 p. 15. *See also* Exhibit P02481, p. 3; Exhibit P03563.

¹¹⁹⁶ Adjudicated Fact 1283.

¹¹⁹⁷ Adjudicated Facts 911, 1284; Witness RFJ-110, Exhibit P02474, pp. 19844, 19880-19885, Exhibit P02475, pp. 3797, 3813, 3817, T. 27 June 2018 p. 15, T. 28 June 2018 pp. 27-34; Witness RFJ-065, Exhibit P00407, pp. 2, 3; Exhibit P02484, para. 4. *See also* Exhibit 2D00214, p. 1.

¹¹⁹⁸ Witness RFJ-110, T. 27 June 2018 p. 20; T. 28 June 2018 pp. 34, 35. *See also* Exhibit 2D00214, para. 2.

¹¹⁹⁹ Witness RFJ-110, T. 28 June 2018 p. 33, Exhibit P02475, p. 3797; Exhibit 2D00214, para. 1.

¹²⁰⁰ Adjudicated Facts 1285-1289, 1292, 1293, 1296; Witness RFJ-110, Exhibit P02475, pp. 3790, 3791; Witness RFJ-055, Exhibit P02657, p. 3023. *See also* Adjudicated Fact 1284.

¹²⁰¹ Adjudicated Facts 1284-1286, 1288-1290, 1294, 1295, 1298, 1300, 1309-1311, 1313; Witness RFJ-110, Exhibit P02474, pp. 20081, 20082, Exhibit P02475, pp. 3790, 3801, T. 27 June 2018 pp. 20, 21, 31-36; Exhibit P02499; Witness RFJ-065, Exhibit P00407, p. 3; Witness RFJ-055, Exhibit P02657, pp. 3023, 3024; Exhibit P02478, pp. 38, 39. *See also* Adjudicated Fact 1292; Witness RFJ-110, Exhibit P02474, p. 19876, T. 27 June 2018 pp. 31-36; Exhibit P02499; Exhibit P02659, p. 1.

¹²⁰² Adjudicated Facts 1286, 1297; Witness RFJ-110, Exhibit P02474, pp. 19885-19887, T. 27 June 2018 p. 21.

¹²⁰³ Adjudicated Fact 1294; Witness RFJ-110, Exhibit P02474, pp. 19885, 19887. *See also* Exhibit P02481, para. 6; Exhibit P03569; Adjudicated Facts 1293, 1296, 1311.

¹²⁰⁴ Adjudicated Fact 1290. *See* Adjudicated Fact 1312; Exhibit P03499, p. 1. *See also* Adjudicated Facts 1298, 1291, 1300.

hall, and Hasan Kikić's school gym,¹²⁰⁵ where they were subjected to abuse, mistreatment, and killings.¹²⁰⁶ For example, in the Hasan Kikić's school gym, many Bosnian Muslims were held in "absolutely inhumane conditions",¹²⁰⁷ while in Betonirka in the summer of 1992, about 75 non-Serbs were detained in inhumane conditions and subjected to beatings and other abuse.¹²⁰⁸ In June 1992, the Crisis Staff of the Serbian Municipality of Sanski Most decided that 150 detainees categorized as "politicians", "extreme nationalists", or "undesirable" people, should be deported to the Manjača camp in Prijedor.¹²⁰⁹

269. In addition to the above crimes committed against non-Serbs in Sanski Most, the Trial Chamber has also received evidence that non-Serbs were permitted to leave the municipality only after they had collected 12 different documents from various municipal institutions at high costs, and signed a document stating that their property is placed at the disposal of the Bosnian Serb authorities.¹²¹⁰ According to Witness RFJ-055, a Muslim from Kijevo village, after the Serb authorities took control of the municipality, Bosnian Muslims and Bosnian Croats were no longer allowed to be employed, and non-Serbs were asked to give an oath of loyalty to the new Serb government.¹²¹¹ Further, non-Serbs who remained in the Sanski Most municipality were forced to perform manual labour, including on the frontlines.¹²¹² According to Witness RFJ-110, from 26 May 1992 until 10 October 1995, Sanski Most was "hell" for all non-Serbs.¹²¹³

270. Prior to the conflict, there were over 32,000 Bosnian Muslims and Bosnian Croats comprising around 54% of the population in Sanski Most municipality.¹²¹⁴ However, by October 1992, the Banja Luka Security Services Centre reported that "around 20,000 Muslims have moved out of this region, and the remaining 10,000 or so wished to do the same. Muslims have been moving out of this region mostly because of its uncertain future and lack of safety", arising from "abuse" of "citizens of Muslim background" and "pressure" exerted on them.¹²¹⁵ By the fall of

¹²⁰⁵ Adjudicated Fact 1290; Exhibit P03499, pp. 1, 2; Witness RFJ-110, Exhibit P02474, pp. 19888, 19889; Witness RFJ-065, Exhibit P00407, p. 3; Exhibit P03499, pp. 1, 2; Exhibit P02484, p. 3.

¹²⁰⁶ Adjudicated Facts 1299-1303, 1312; Witness RFJ-110, Exhibit P02474, pp. 19888, 19889.

¹²⁰⁷ Witness RFJ-110, Exhibit P02474, p. 19889. *See also* Adjudicated Fact 1290.

¹²⁰⁸ Adjudicated Facts 1300-1302; Witness RFJ-110, Exhibit P02474, pp. 20011, 20012; Exhibit P03499, pp. 1, 2.

¹²⁰⁹ Witness RFJ-110, Exhibit P02474, pp. 19890, 19891, 20013, 20014; Witness RFJ-065, Exhibit P00407, p. 3; Exhibit P01595; Exhibit P02485. *See also* Adjudicated Facts 904, 1265; Exhibit P03590.

¹²¹⁰ Adjudicated Fact 1304; Witness RFJ-110, Exhibit P02474, pp. 19891, 19892; Exhibit P02486. *See also* Exhibit P03496.

¹²¹¹ Witness RFJ-055, Exhibit P02657, pp. 3028, 3066; Exhibit P03497. *See also* Adjudicated Facts 1269, 1271, 1273, 1278.

¹²¹² Witness RFJ-055, Exhibit P02657, pp. 3028-3030, 3066, 3067; Exhibit P02663, p. 1; Witness RFJ-110, T. 27 June 2018 p. 22; Witness RFJ-065, Exhibit P00407, p. 3; Witness RFJ-073, Exhibit P02455, pp. 2, 3; Witness RFJ-073, Exhibit P02458, pp. 10845-10847, Exhibit P02457, pp. 22481-22484, 22512-22517.

¹²¹³ Witness RFJ-110, T. 27 June 2018 p. 15.

¹²¹⁴ Exhibit P02069, p. 21; Exhibit P02074.

¹²¹⁵ Exhibit P02499, pp. 1, 2. *See* Witness RFJ-110, T. 27 June 2018 pp. 23, 31-36; Witness RFJ-065, Exhibit P00407, p. 3.

1995, only Šehovci remained a Muslim village.¹²¹⁶ By February 1995, 88.4% of the population of the Sanski Most municipality were Serbs.¹²¹⁷

271. With respect to the murders alleged in the Indictment, the evidence shows that, in September 1995, Arkan and his Serbian Volunteer Guard arrived in Sanski Most.¹²¹⁸ Together with other Serb forces, they set up checkpoints and arbitrarily arrested some of the remaining non-Serb men in the area and detained them in their base in Hotel Sanus, which was located in the Sanski Most town centre.¹²¹⁹ The detainees brought to Hotel Sanus were beaten and kept in inhumane conditions without any food or water for several days.¹²²⁰ Witness RFJ-055 gave evidence that, at least two detainees died as a result of the beatings and their bodies were left in the same room, where the witness was detained with 35 other men.¹²²¹

272. It follows from the evidence that, early in the morning of 20 September 1995, Arkan's Serbian Volunteer Guard took 12 civilian detainees from Hotel Sanus, handcuffed them in pairs, and transported them in a truck to a site in the village of Trnova, in Sanski Most municipality.¹²²² Upon arrival, members of Arkan's Serbian Volunteer Guard took the 12 detainees, two at a time, to a half enclosed garage.¹²²³ Witness RFJ-073, a Muslim from Ključ and the sole survivor of the incident, saw pools of blood in the garage and the bodies of other detainees who had been taken there before him, and as the witness walked into the garage, he was shot from behind.¹²²⁴ While lying on the ground, the witness heard two detainees being shot and a knife being pulled out of a metal sheath to slit the throat of two other detainees.¹²²⁵ A member of Arkan's Serbian Volunteer

¹²¹⁶ Witness RFJ-110, T. 27 June 2018 p. 28.

¹²¹⁷ Witness Tabeau, T. 1 May 2018 pp. 40, 41; Exhibit P02069, p. 55; Exhibit P02074; Exhibit P02261, p. 8. *See also* Witness Tabeau, T. 1 May 2018 pp. 35, 36.

¹²¹⁸ Witness RFJ-055, Exhibit P02657, pp. 3036-3037; Witness RFJ-065, Exhibit P00407, p. 3; Witness RFJ-110, T. 27 June 2018 pp. 24-26, Exhibit P02474, p. 19914; Exhibit P01960, pp. 49, 53; Witness RFJ-073, Exhibit P02455, pp. 2, 3, T. 26 June 2018 pp. 6, 9; Exhibit P00438; Exhibit P02492.

¹²¹⁹ Witness RFJ-073, Exhibit P02455, pp. 3-6, T. 26 June 2018 pp. 9, 10, Exhibit P02457, pp. 22484-22500; Exhibit P02460; Witness RFJ-065, Exhibit P00407, pp. 3, 4; Witness RFJ-055, Exhibit P02657, pp. 3040-3043; Witness RFJ-110, T. 27 June 2018 pp. 26, 27, Exhibit P02475, pp. 3757-3760, Exhibit P02474, pp. 19916, 19917.

¹²²⁰ Witness RFJ-065, Exhibit P00407, pp. 4, 5; Witness RFJ-055, Exhibit P02657, pp. 3055-3057; Exhibit P02663, p. 3; Exhibit P02662, pp. 6, 7; Witness RFJ-073, Exhibit P02455, p. 5.

¹²²¹ Witness RFJ-055, Exhibit P02657, p. 3056; Exhibit P02663, p. 3; Exhibit P02662, pp. 6, 7.

¹²²² Witness RFJ-073, Exhibit P02455, p. 6, Exhibit P02457, pp. 22502, 22506, 22507, Exhibit P02458, pp. 10846, 10863, 10864, T. 26 June 2018 pp. 6, 11.

¹²²³ Witness RFJ-073, Exhibit P02455, pp. 6, 7, Exhibit P02457, pp. 22502, 22503, 22505, Exhibit P02458, p. 10846, T. 26 June 2018 pp. 6, 7, 11, 12; Exhibit P02461; Exhibit P02462; Exhibit P02466; Exhibit P02472.

¹²²⁴ Witness RFJ-073, Exhibit P02455, p. 7, Exhibit P02457, p. 22503, Exhibit P02458, pp. 10846, 10847, T. 26 June 2018 pp. 7, 12, 13.

¹²²⁵ Witness RFJ-073, Exhibit P02455, p. 7, Exhibit P02457, pp. 22503, 22504, Exhibit P02458, pp. 10846, 10847, T. 26 June 2018 pp. 7, 12, 13.

Guard ordered that each detainee be shot in the head.¹²²⁶ In October 1995, 11 bodies were found in Trnova.¹²²⁷

273. In addition, Witness RFJ-055 gave evidence that, on or around 21 September 1995, in Šehovci, Arkan's Serbian Volunteer Guard forced onto a bus a group of about 25 non-Serb civilian men, including the witness and other Bosnian Muslim men who were expelled from Kijevo, and took them in front of Hotel Sanus.¹²²⁸ While these detainees were waiting in the bus, other non-Serb civilians were beaten up and loaded onto the bus, including Witness RFJ-065, a Bosnian Muslim from Sanski Most, and one Bosnian Muslim woman.¹²²⁹ In the bus, Arkan's Serbian Volunteer Guard raped the woman, while the rest of the detainees were forced to sing "Chetnik songs".¹²³⁰

274. The detainees were taken to Sasina and ordered to disembark the bus.¹²³¹ Before being shot, Witness RFJ-065 saw members of Arkan's Serbian Volunteer Guard slitting the throat of one of the detainees, and ordering another detainee to kneel down before shooting him in the back of his head.¹²³² According to Witness RFJ-055, members of Arkan's Serbian Volunteer Guard were swearing at the detainees, referring to their "balija" mothers, and looking for survivors and killing them.¹²³³ The witness could hear continuous shooting and detainees crying as he lay on the ground after being shot three times, and when the witness managed to leave the killing site, he saw another truck stopping at the same site and heard gunshots and screaming.¹²³⁴ In 1996, 65 bodies, one of them female, wearing civilian clothes were exhumed from two sites at Sasina.¹²³⁵

275. Based on the above, the Trial Chamber finds proven beyond a reasonable doubt that, on or about 20 September 1995, Arkan's Serbian Volunteer Guard took 12 detainees from Hotel Sanus to

¹²²⁶ Witness RFJ-073, Exhibit P02455, p. 7, Exhibit P02457, p. 22504, Exhibit P02458, pp. 10846, 10847, T. 26 June 2018 pp. 7, 13. *See also* Exhibit 2D00160, p. 2.

¹²²⁷ Exhibit P02076; Exhibit P02174; Exhibit P02466; Exhibit P02472. *See also* Witness RFJ-073, T. 26 June 2018 p. 24.

¹²²⁸ Witness RFJ-055, Exhibit P02657I, pp. 3038-3043; Exhibit P02663, pp. 1, 2; Exhibit P02662, p. 2. *See also* Witness RFJ-065, Exhibit P00407, p. 6; Witness RFJ-110, Exhibit P02475, pp. 3785-3787.

¹²²⁹ Witness RFJ-055, Exhibit P02657, pp. 3043, 3044; Exhibit P02663, p. 2; Exhibit P02662, p. 2; Witness RFJ-065, Exhibit P00407, p. 6.

¹²³⁰ Witness RFJ-055, Exhibit P02657, p. 3044; Exhibit P02662, pp. 2, 3; Witness RFJ-065, Exhibit P00407, p. 6.

¹²³¹ Witness RFJ-055, Exhibit P02657, pp. 3044, 3045, 3048; Exhibit P02663, p. 2; Exhibit P02662, p. 3; Witness RFJ-065, Exhibit P00407, pp. 6, 7.

¹²³² Witness RFJ-065, Exhibit P00407, pp. 6, 7. *See also* Exhibit 2D00160, p. 2.

¹²³³ Witness RFJ-055, Exhibit P02657, pp. 3045, 3046; Exhibit P02663, p. 2; Exhibit P02662, p. 3. *See also* Witness RFJ-065, Exhibit P00407, p. 7.

¹²³⁴ Witness RFJ-055, Exhibit P02657, pp. 3045-3047; Exhibit P02663, pp. 2, 3; Exhibit P02662, pp. 3, 4. *See also* Witness RFJ-065, Exhibit P00407, p. 7. The Trial Chamber notes that Serb forces subsequently detained Witnesses RFJ-065 and RFJ-055 in Sanakeram, along with about 350 other non-Serbs, and that Witness RFJ-055 gave evidence that the detainees were beaten, forced to sing "Chetnik" songs, and some of them were killed. *See* Witness RFJ-065, Exhibit P00407, p. 11; Witness RFJ-055, Exhibit P02657, pp. 3057-3060; Exhibit P02662, pp. 7, 8; Exhibit P02663, p. 3. *See also* Exhibit P02661.

¹²³⁵ Exhibit P02079; Exhibit P02080; Exhibit P02081; Witness RFJ-055, Exhibit P02657, pp. 3064, 3065; Exhibit P02660; Witness RFJ-065, Exhibit P00407, p. 8. *See also* Witness RFJ-110, Exhibit P02475, pp. 3785, 3786, Exhibit P02474, p. 19916.

a site in the village of Trnova, where they shot and killed 11 non-Serb men, namely Hasan Topić, Mesud Smailagić, Osman Muratović, Safet Šehić, Mehmed Šehić, Midhad Šabić, Idriz Omerspahić, Mehmed Tahudžić, Dervić Šehić,¹²³⁶ Abdulah Behremović,¹²³⁷ and Nijaz Topalović,¹²³⁸ and seriously wounded a twelfth Bosnian Muslim man.

276. The Trial Chamber also finds proven beyond reasonable doubt that, on or about 21 September 1995, Arkan's Serbian Volunteer Guard, transported a group of non-Serb civilians to Sasina, where they killed the following persons: Senad Aganović,¹²³⁹ Fevzija Alagić,¹²⁴⁰ Munevera Alagić (Rešić),¹²⁴¹ Remzija Alagić,¹²⁴² Kadir Alibabić,¹²⁴³ Osman Arapović,¹²⁴⁴ Mehmedalija Bajrić,¹²⁴⁵ Senad Bajrić,¹²⁴⁶ Meho Bajrović (Hajrović),¹²⁴⁷ Hajrudin Behar,¹²⁴⁸ Elvir Behremović,¹²⁴⁹ Ibrahim Behremović,¹²⁵⁰ Jahija Bešić,¹²⁵¹ Muharem Botonjić,¹²⁵² Drago Buha,¹²⁵³ Irfan Čekić,¹²⁵⁴ Derviš Cerić,¹²⁵⁵ Eniz Cerić,¹²⁵⁶ Aziz Dautović,¹²⁵⁷ Ermin Drobić,¹²⁵⁸ Ibrahim Drobić,¹²⁵⁹ Muharem Drobić,¹²⁶⁰ Ekrem Džafić,¹²⁶¹ Šefko Džananović,¹²⁶² Enes Džinić,¹²⁶³ Ernes

¹²³⁶ Exhibit P02068, Annex 5, pp. 16-18; Exhibit P02076; Exhibit P02174.

¹²³⁷ Exhibit P02068, Annex 5, p. 16; Exhibit P02177; Exhibit P02179; Exhibit P02178. *See also* Exhibit P02076; Exhibit P02174.

¹²³⁸ Exhibit P02068, Annex 5, p. 18; Exhibit P02180; Exhibit P02175; Exhibit P02176. *See also* Exhibit P02076; Exhibit P02174.

¹²³⁹ Exhibit P02068, Annex 5, p. 19; Exhibit P02079, p. 28; Exhibit P02080, pp. 31, 32; Exhibit P02081, p. 59; Exhibit P02083.

¹²⁴⁰ Exhibit P02068, Annex 5, p. 19; Exhibit P02079, pp. 9, 10; Exhibit P02081, p. 60; Exhibit P02084.

¹²⁴¹ Exhibit P02068, Annex 5, p. 19; Exhibit P02079, p. 8; Exhibit P02080, pp. 95, 96; Exhibit P02081, p. 60; Exhibit P02137; Exhibit P02136.

¹²⁴² Exhibit P02068, Annex 5, p. 20; Exhibit P02079, pp. 4, 5; Exhibit P02080, pp. 21, 22; Exhibit P02081, p. 59; Exhibit P02085; Exhibit P02086.

¹²⁴³ Exhibit P02068, Annex 5, p. 20; Exhibit P02079, pp. 15, 16; Exhibit P02080, pp. 35, 36; Exhibit P02081, p. 59.

¹²⁴⁴ Exhibit P02068, Annex 5, p. 20; Exhibit P02079, pp. 11, 12; Exhibit P02080, pp. 97, 98; Exhibit P02081, p. 60; Exhibit P02087.

¹²⁴⁵ Exhibit P02068, Annex 5, p. 21; Exhibit P02079, p. 32; Exhibit P02080, p. 127; Exhibit P02081, p. 60.

¹²⁴⁶ Exhibit P02068, Annex 5, p. 21; Exhibit P02079, p. 10; Exhibit P02080, pp. 107, 108; Exhibit P02081, p. 60.

¹²⁴⁷ Exhibit P02068, Annex 5, p. 21; Exhibit P02079, pp. 36, 37; Exhibit P02080, pp. 88, 89; Exhibit P02081, p. 60.

¹²⁴⁸ Exhibit P02068, Annex 5, p. 21; Exhibit P02079, pp. 29, 30; Exhibit P02080, pp. 113, 114; Exhibit P02081, p. 60.

¹²⁴⁹ Exhibit P02068, Annex 5, p. 22; Exhibit P02079, pp. 8, 9; Exhibit P02080, pp. 99, 100; Exhibit P02081, p. 60; Exhibit P02088.

¹²⁵⁰ Exhibit P02068, Annex 5, p. 22; Exhibit P02079, pp. 7, 8; Exhibit P02080, pp. 92, 93; Exhibit P02081, p. 60; Exhibit P02089.

¹²⁵¹ Exhibit P02068, Annex 5, p. 22; Exhibit P02079, pp. 18, 19; Exhibit P02080, pp. 68, 69; Exhibit P02081, p. 59; Exhibit P02117; Exhibit P02118; Exhibit P02119.

¹²⁵² Exhibit P02068, Annex 5, p. 23; Exhibit P02079, p. 17; Exhibit P02080, pp. 103, 104; Exhibit P02081, p. 60.

¹²⁵³ Exhibit P02068, Annex 5, p. 23; Exhibit P02079, pp. 32, 33; Exhibit P02080, pp. 125, 126; Exhibit P02081, p. 60; Exhibit P02113.

¹²⁵⁴ Exhibit P02068, Annex 5, p. 23; Exhibit P02079, p. 12; Exhibit P02080, pp. 15, 16; Exhibit P02081, p. 59; Exhibit P02116.

¹²⁵⁵ Exhibit P02068, Annex 5, p. 24; Exhibit P02079, p. 30; Exhibit P02080, pp. 117, 118; Exhibit P02081, p. 60.

¹²⁵⁶ Exhibit P02068, Annex 5, p. 24; Exhibit P02079, p. 20; Exhibit P02080, pp. 59, 60; Exhibit P02081, p. 59; Exhibit P02091.

¹²⁵⁷ Exhibit P02068, Annex 5, p. 24; Exhibit P02079, p. 5; Exhibit P02080, pp. 25, 26; Exhibit P02081, p. 59; Exhibit P02120; Exhibit P02121.

¹²⁵⁸ Exhibit P02068, Annex 5, p. 25; Exhibit P02079, p. 26; Exhibit P02080, pp. 41, 42; Exhibit P02081, p. 59; Exhibit P02128; Exhibit P02129.

¹²⁵⁹ Exhibit P02068, Annex 5, p. 25; Exhibit P02079, p. 27; Exhibit P02080, pp. 72, 73; Exhibit P02081, p. 59; Exhibit P02130; Exhibit P02131.

Hajrić,¹²⁶⁴ Avdo Halimović,¹²⁶⁵ Mehmed Hasanović,¹²⁶⁶ Osman Hasić,¹²⁶⁷ Vedad Hromalić (Romalić),¹²⁶⁸ Ago Jakupović,¹²⁶⁹ Fadil Jakupović,¹²⁷⁰ Fehim Jakupović,¹²⁷¹ Idriz Jakupović,¹²⁷² Muharem Jakupović,¹²⁷³ Safet Jakupović,¹²⁷⁴ Muharem Kamber,¹²⁷⁵ Osman Kamber,¹²⁷⁶ Zijad Kamber,¹²⁷⁷ Ismet Karabeg,¹²⁷⁸ Hakija Kasumović,¹²⁷⁹ Bećo Kumalić,¹²⁸⁰ Husein Kurbegović,¹²⁸¹ Rifet Kursumović,¹²⁸² Mehmed Kurtović,¹²⁸³ Adem Lasić,¹²⁸⁴ Muharem Mahić,¹²⁸⁵ Karanfil Mušić,¹²⁸⁶ Arif Omić,¹²⁸⁷ Taib Omić,¹²⁸⁸ Ibrahim Pašagić,¹²⁸⁹ Avdo Pašalić,¹²⁹⁰ Muharem Šekić,¹²⁹¹ Ibrahim Sinanović,¹²⁹² Adnan Talić,¹²⁹³ Besim Talić,¹²⁹⁴ Djemal Talić,¹²⁹⁵ Haris Talić,¹²⁹⁶ Husein

¹²⁶⁰ Exhibit P02068, Annex 5, p. 25; Exhibit P02079, pp. 25, 26; Exhibit P02080, pp. 61, 62; Exhibit P02081, p. 59; Exhibit P02132; Exhibit P02133.

¹²⁶¹ Exhibit P02068, Annex 5, p. 26; Exhibit P02079, p. 13; Exhibit P02080, pp. 109, 110; Exhibit P02081, p. 60; Exhibit P02093.

¹²⁶² Exhibit P02068, Annex 5, p. 26; Exhibit P02079, p. 25; Exhibit P02080, pp. 13, 14; Exhibit P02081, p. 59; Exhibit P02094.

¹²⁶³ Exhibit P02068, Annex 5, p. 26; Exhibit P02079, p. 11; Exhibit P02080, pp. 9, 10; Exhibit P02081, p. 59; Exhibit P02095; Exhibit P02096.

¹²⁶⁴ Exhibit P02068, Annex 5, p. 27; Exhibit P02079, p. 15; Exhibit P02080, pp. 29, 30; Exhibit P02081, p. 59.

¹²⁶⁵ Exhibit P02068, Annex 5, p. 27; Exhibit P02079, p. 23; Exhibit P02080, pp. 57, 58; Exhibit P02081, p. 59.

¹²⁶⁶ Exhibit P02068, Annex 5, p. 27; Exhibit P02079, p. 37; Exhibit P02081, p. 59; Exhibit P02082.

¹²⁶⁷ Exhibit P02068, Annex 5, p. 27; Exhibit P02079, p. 4; Exhibit P02080, pp. 63, 64; Exhibit P02081, p. 59.

¹²⁶⁸ Exhibit P02068, Annex 5, p. 28; Exhibit P02079, p. 11; Exhibit P02080, pp. 105, 106; Exhibit P02081, p. 60.

¹²⁶⁹ Exhibit P02068, Annex 5, p. 28; Exhibit P02079, p. 18; Exhibit P02080, pp. 43, 44; Exhibit P02081, p. 59; Exhibit P02097; Exhibit P02098.

¹²⁷⁰ Exhibit P02068, Annex 5, p. 28; Exhibit P02079, pp. 26, 27; Exhibit P02080, pp. 76, 77; Exhibit P02081, p. 59; Exhibit P02099.

¹²⁷¹ Exhibit P02068, Annex 5, p. 29; Exhibit P02079, pp. 35, 36; Exhibit P02080, pp. 86, 87; Exhibit P02081, p. 60.

¹²⁷² Exhibit P02068, Annex 5, p. 29; Exhibit P02079, p. 22; Exhibit P02080, pp. 51, 52; Exhibit P02081, p. 59; Exhibit P02100.

¹²⁷³ Exhibit P02068, Annex 5, p. 29; Exhibit P02079, pp. 28, 29; Exhibit P02080, pp. 53, 54; Exhibit P02081, p. 59; Exhibit P02122; Exhibit P02123; Exhibit P02134; Exhibit P02135.

¹²⁷⁴ Exhibit P02068, Annex 5, p. 30; Exhibit P02079, pp. 27, 28; Exhibit P02080, pp. 19, 20; Exhibit P02081, p. 59.

¹²⁷⁵ Exhibit P02068, Annex 5, p. 30; Exhibit P02079, pp. 20, 21; Exhibit P02080, pp. 65, 66; Exhibit P02081, p. 59; Exhibit P02114.

¹²⁷⁶ Exhibit P02068, Annex 5, p. 30; Exhibit P02079, pp. 21, 22; Exhibit P02080, pp. 49, 50; Exhibit P02081, p. 59.

¹²⁷⁷ Exhibit P02068, Annex 5, p. 30; Exhibit P02079, pp. 22, 23; Exhibit P02080, pp. 7, 8; Exhibit P02081, p. 59.

¹²⁷⁸ Exhibit P02068, Annex 5, p. 31; Exhibit P02079, p. 35; Exhibit P02080 (BCS), pp. 67, 68; Exhibit P02081, p. 59.

¹²⁷⁹ Exhibit P02068, Annex 5, p. 31; Exhibit P02079, p. 19; Exhibit P02080, pp. 74, 75; Exhibit P02081, p. 59; Exhibit P02115.

¹²⁸⁰ Exhibit P02068, Annex 5, p. 31; Exhibit P02079, p. 21; Exhibit P02080, pp. 80, 81; Exhibit P02081, p. 60; Exhibit P02101.

¹²⁸¹ Exhibit P02068, Annex 5, p. 32; Exhibit P02079, pp. 33, 34; Exhibit P02080, pp. 37, 38; Exhibit P02081, p. 59.

¹²⁸² Exhibit P02068, Annex 5, p. 32; Exhibit P02079, pp. 5, 6; Exhibit P02080, pp. 55, 56; Exhibit P02081, p. 59.

¹²⁸³ Exhibit P02068, Annex 5, p. 32; Exhibit P02079, pp. 30, 31; Exhibit P02080, pp. 90, 91; Exhibit P02081, p. 60.

¹²⁸⁴ Exhibit P02068, Annex 5, p. 32; Exhibit P02079, p. 34; Exhibit P02080, pp. 82, 83; Exhibit P02081, p. 60.

¹²⁸⁵ Exhibit P02068, Annex 5, p. 33; Exhibit P02079, pp. 19, 20; Exhibit P02080, pp. 33, 34; Exhibit P02081, p. 59.

¹²⁸⁶ Exhibit P02068, Annex 5, p. 33; Exhibit P02079, pp. 23, 24; Exhibit P02080, pp. 17, 18; Exhibit P02081, p. 59.

¹²⁸⁷ Exhibit P02068, Annex 5, p. 33; Exhibit P02079, p. 29; Exhibit P02080, pp. 27, 28; Exhibit P02081, p. 59.

¹²⁸⁸ Exhibit P02068, Annex 5, p. 33; Exhibit P02079, pp. 14, 15; Exhibit P02080, pp. 1, 2; Exhibit P02081, p. 59; Exhibit P02103; Exhibit P02104.

¹²⁸⁹ Exhibit P02068, Annex 5, p. 34; Exhibit P02079, p. 17; Exhibit P02080, pp. 3, 4; Exhibit P02081, p. 59; Exhibit P02105.

¹²⁹⁰ Exhibit P02068, Annex 5, p. 34; Exhibit P02079, pp. 24, 25; Exhibit P02080, pp. 23, 24; Exhibit P02081, p. 59.

¹²⁹¹ Exhibit P02068, Annex 5, p. 34; Exhibit P02079, p. 31; Exhibit P02080, pp. 115, 116; Exhibit P02081, p. 60.

¹²⁹² Exhibit P02068, Annex 5, p. 35; Exhibit P02079, p. 37; Exhibit P02081, p. 60; Exhibit P02107.

¹²⁹³ Exhibit P02068, Annex 5, p. 35; Exhibit P02079, pp. 6, 7; Exhibit P02080, pp. 78, 79; Exhibit P02081, p. 60; Exhibit P02124; Exhibit P02125.

¹²⁹⁴ Exhibit P02068, Annex 5, p. 35; Exhibit P02079, p. 18; Exhibit P02080, pp. 39, 40; Exhibit P02081, p. 59; Exhibit P02108; Exhibit P02109.

Talić,¹²⁹⁷ Ibraga Talić,¹²⁹⁸ Muhamed Talić,¹²⁹⁹ Rasim Talić,¹³⁰⁰ Šefko Talić,¹³⁰¹ and Sulejman Talić.¹³⁰²

277. Having considered the evidence and the circumstances in which the departures occurred, during and following the attack on Sanski Most municipality in April and May 1992 as found above, the Trial Chamber finds proven beyond a reasonable doubt that the acts of violence committed by the Serb forces during and after the takeover forced non-Serbs to leave Sanski Most municipality.

7. Conclusion

278. In light of the above, the Trial Chamber finds proven beyond reasonable doubt that, starting with the attack on Bijeljina on 31 March 1992 and continuing until at least September 1995, Serb forces, including members of paramilitary groups, such as Arkan's Serbian Volunteer Guard, the White Eagles, Mauzer's Serbian National Guard, and local police and Territorial Defence units, launched attacks on towns and villages in the municipalities of Bijeljina, Zvornik, Bosanski Šamac, Doboj, and Sanski Most, in the course of which they committed numerous crimes and acts of violence against non-Serb civilians, including: killings, arbitrary arrests and detention, beatings, torture, sexual abuse, forced labour, use of human shields, looting, and burning of houses and destruction of mosques and Catholic churches. Members of the Scorpions also killed six non-Serb detainees in Trnovo. It has been established beyond reasonable doubt that these crimes and acts of violence targeted almost exclusively non-Serb civilians, forcing them to leave the areas.

¹²⁹⁵ Exhibit P02068, Annex 5, p. 36; Exhibit P02079, pp. 13, 14; Exhibit P02080, pp. 45, 46; Exhibit P02081, p. 59.

¹²⁹⁶ Exhibit P02068, Annex 5, p. 36; Exhibit P02079, p. 7; Exhibit P02080, pp. 123, 124; Exhibit P02081, p. 60.

¹²⁹⁷ Exhibit P02068, Annex 5, p. 36; Exhibit P02079, p. 6; Exhibit P02080, pp. 70, 71; Exhibit P02081, p. 59; Exhibit P02139; Exhibit P02127; Exhibit P02126; Exhibit P02138.

¹²⁹⁸ Exhibit P02068, Annex 5, p. 37; Exhibit P02079, p. 15; Exhibit P02080, pp. 111, 112; Exhibit P02081, p. 60; Exhibit P02110; Exhibit P02111.

¹²⁹⁹ Exhibit P02068, Annex 5, p. 37; Exhibit P02079, p. 14; Exhibit P02080, pp. 47, 48; Exhibit P02081, p. 59.

¹³⁰⁰ Exhibit P02068, Annex 5, p. 37; Exhibit P02079, p. 9; Exhibit P02080, pp. 101, 102; Exhibit P02081, p. 60; Exhibit P02112.

¹³⁰¹ Exhibit P02068, Annex 5, p. 38; Exhibit P02079, p. 16; Exhibit P02080, pp. 119, 120; Exhibit P02081, p. 60.

¹³⁰² Exhibit P02068, Annex 5, p. 38; Exhibit P02079, pp. 3, 4; Exhibit P02080, pp. 5, 6; Exhibit P02081, p. 59.

III. LEGAL FINDINGS ON THE CRIMES

279. Pursuant to Article 1 of the Statute, the Mechanism has the power to prosecute persons indicted by the ICTY who are among the most senior leaders suspected of being most responsible for crimes set out in Articles 2 to 5 of the ICTY Statute, considering the gravity of the crimes charged and the level of responsibility of the accused.

280. Under Counts 2 and 3 of the Indictment, the Accused are charged with murder as a crime against humanity, punishable under Article 5 of the ICTY Statute, and as a violation of the laws or customs of war, punishable under Article 3 of the ICTY Statute.¹³⁰³ Counts 1, 4, and 5 of the Indictment charge the Accused with persecution, through murder and forcible displacement, and deportation and other inhumane acts (forcible transfer) as crimes against humanity, punishable under Article 5 of the ICTY Statute.¹³⁰⁴

A. General Requirements for Violations of the Laws or Customs of War

1. Applicable Law

281. Violations of the laws or customs of war are punishable under Article 3 of the ICTY Statute, which is a “residual clause” conferring jurisdiction not only over those violations expressly listed under Article 3, but also over any serious violation of international humanitarian law not covered by Articles 2, 4, or 5 of the ICTY Statute.¹³⁰⁵ For an offence to fall within Article 3 of the ICTY Statute: (i) it must infringe a rule of international humanitarian law; (ii) the rule must be customary in nature, or if it belongs to treaty law, the required conditions must be met; (iii) the rule must protect important values and its violation must have grave consequences for the victim; and (iv) such a violation must entail, under customary or conventional law, the individual criminal responsibility of the perpetrator.¹³⁰⁶ Violations of Common Article 3 to the four Geneva Conventions of 1949 satisfy these four conditions and fall within the ambit of Article 3 of the ICTY Statute.¹³⁰⁷

282. Where a crime punishable under Article 3 of the ICTY Statute derives from protections found in Common Article 3 of the Geneva Conventions of 1949, the victims of the alleged violation

¹³⁰³ Indictment, paras. 26-63.

¹³⁰⁴ Indictment, paras. 22-66.

¹³⁰⁵ *Boškoski and Tarčulovski* Appeal Judgement, para. 47; *Čelebići* Appeal Judgement, paras. 125, 131, 133; *Prosecution v. Dusko Tadić*, Decision on the Defence Motion for Interlocutory Appeal on Jurisdiction, 2 October 1995, (“*Tadić* Appeal Decision on Jurisdiction”), paras. 89, 91.

¹³⁰⁶ *Tadić* Appeal Decision on Jurisdiction, paras. 94, 143.

¹³⁰⁷ *Boškoski and Tarčulovski* Appeal Judgement, para. 47; *Kunarac et al.* Appeal Judgement, para. 68, *Čelebići* Appeal Judgment, paras. 125, 133-136; *Tadić* Appeal Decision on Jurisdiction, paras. 89, 134.

must have taken no active part in the hostilities at the time the crime was committed.¹³⁰⁸ Active participation in hostilities means participating in acts of war intended by their nature or purpose to cause actual harm to the personnel or equipment of enemy armed forces.¹³⁰⁹ Protected victims include members of armed forces who have laid down their arms and those placed *hors de combat* by sickness, wounds, detention, or any other cause.¹³¹⁰ In addition, the perpetrator must know or should have been aware that the victim was taking no active part in the hostilities when the crime was committed.¹³¹¹

283. For Article 3 of the ICTY Statute to apply, two general requirements must be met: there must be an armed conflict and there must be a nexus between the crime and the armed conflict.¹³¹² In relation to the first requirement, an armed conflict exists whenever there is a resort to armed force between States or protracted armed violence between governmental authorities and organized armed groups or between such groups within a State.¹³¹³ An armed conflict is not limited to the specific geographical municipalities where acts of violence and actual fighting occur, or to the specific periods of actual combat.¹³¹⁴ It is immaterial whether the armed conflict was internal or international in character.¹³¹⁵

284. In relation to the second requirement, while the nexus need not be a causal link, it must be established that the existence of the armed conflict played a substantial part in the perpetrator's ability to commit the crime, his decision to commit it, the manner in which it was committed, or the purpose for which it was committed.¹³¹⁶ To find a nexus, it is sufficient that the alleged crimes be closely related to hostilities occurring in other parts of the territories controlled by the parties to the conflict.¹³¹⁷

¹³⁰⁸ Common Article 3(1); *Boškoski and Tarčulovski* Appeal Judgment, para. 66; *Strugar* Appeal Judgment, para. 172; *Čelebići* Appeal Judgment, para. 420.

¹³⁰⁹ Common Article 3(1); *Strugar* Appeal Judgment, para. 178.

¹³¹⁰ Common Article 3(1). *See also* *Čelebići* Appeal Judgment, para. 420.

¹³¹¹ *Boškoski and Tarčulovski* Appeal Judgment, para. 66.

¹³¹² *Kunarac et al.* Appeal Judgment, para. 55; *Stakić* Appeal Judgment, para. 342; *Tadić* Appeal Decision on Jurisdiction, paras. 67, 70.

¹³¹³ *Tadić* Appeal Decision on Jurisdiction, para. 70.

¹³¹⁴ *Prlić et al.* Appeal Judgment, para. 230; *Kunarac et al.* Appeal Judgment, para. 57; *Tadić* Appeal Decision on Jurisdiction, paras. 67, 70.

¹³¹⁵ *Galić* Appeal Judgment, para. 120; *Kunarac et al.* Appeal Judgment, para. 55; *Stakić* Appeal Judgment, para. 342; *Tadić* Appeal Decision on Jurisdiction, paras. 67, 70, 137.

¹³¹⁶ *Stakić* Appeal Judgment, para. 342 (wherein the ICTY Appeals Chamber held that the existence of a geographical and temporal linkage between the crimes and the armed conflict is essential); *Kunarac et al.* Appeal Judgment, para. 58.

¹³¹⁷ *Stakić* Appeal Judgment, para. 342; *Kunarac et al.* Appeal Judgment, para. 57; *Tadić* Appeal Decision on Jurisdiction, para. 70.

2. Legal Findings

285. It follows from the evidence and the adjudicated facts that a state of armed conflict existed on the territory of Croatia and Bosnia and Herzegovina during the time relevant to the crimes charged in the Indictment.¹³¹⁸ The Trial Chamber further finds that there is a nexus between the crimes, which the Accused are charged with, and the armed conflict. In this regard, the Trial Chamber notes that the perpetrators of the crimes either belonged to the Serb forces taking part in the armed conflict or closely cooperated with them. In addition, the crimes were committed during or in the immediate aftermath of attacks on towns and villages aimed at establishing Serb control in the respective areas of Croatia and Bosnia and Herzegovina, and were often substantially enabled by the chaos caused by these attacks.¹³¹⁹

B. Jurisdictional and General Requirements for Crimes Against Humanity

1. Applicable Law

286. Crimes against humanity are punishable under Article 5 of the ICTY Statute, which lists various offences “when committed in armed conflict, whether international or internal in character, and directed against any civilian population”. The requirement that the crimes be committed in an armed conflict is a jurisdictional prerequisite,¹³²⁰ which is satisfied by proof that there was an armed conflict at the time and place relevant to the indictment, but it does not mandate any material nexus between the acts of the accused and the armed conflict.¹³²¹

287. For Article 5 of the ICTY Statute to apply, five general requirements must be met: (i) there must be an attack; (ii) the attack must be directed against any civilian population; (iii) the attack must be widespread or systematic; (iv) the acts of the perpetrator must be part of the attack; and (v) the perpetrator¹³²² must know that there is a widespread or systematic attack directed against a civilian population and that his acts constitute part thereof.¹³²³

¹³¹⁸ See Adjudicated Facts 166, 717, 765, 832. See also *supra* Sections II.A, II.B, II.C.

¹³¹⁹ See *supra* Sections II.A, II.B, II.C.

¹³²⁰ *Šešelj* Appeal Judgement, para. 75; *Kunarac et al.* Appeal Judgement, paras. 82, 83; *Tadić* Appeal Judgement, para. 249.

¹³²¹ *Šešelj* Appeal Judgement, para. 75; *Prosecutor v. Vojislav Šešelj*, Case No. IT-03-67-AR72.1, Decision on the Interlocutory Appeal Concerning Jurisdiction, 2 September 2004 (“*Šešelj* Appeal Decision on Jurisdiction”), para. 13. See also *Kunarac et al.* Appeal Judgement, para. 83. In addition, it is not required that an armed conflict existed within the region of the former Yugoslavia in which crimes against humanity were allegedly committed, but rather that there is a link to an armed conflict. See *Šešelj* Appeal Judgement, para. 75; *Šešelj* Appeal Decision on Jurisdiction, para. 14.

¹³²² The use of the term “perpetrator” by the Trial Chamber in this context includes the direct perpetrator as well as any indirect perpetrator or individual at whose behest the perpetrator is operating. See *Šainović et al.* Appeal Judgement, paras. 280, 281; *Karadžić* Trial Judgement, para. 472.

¹³²³ *Šainović et al.* Appeal Judgement, para. 271; *Blaškić* Appeal Judgement, para. 126; *Kunarac et al.* Appeal Judgement, paras. 85, 86.

288. An attack is not limited to the use of armed force, but encompasses any mistreatment of the civilian population, and could precede, outlast, or continue during the armed conflict, but need not be part of it.¹³²⁴ When determining whether there has been an attack upon a particular civilian population, any similar attack by an opponent in the conflict will be irrelevant.¹³²⁵ An attack may be considered to have been directed against a civilian population if the civilian population was the “primary rather than an incidental target of the attack”.¹³²⁶

289. While the civilian status of the victims, the number of civilians, and the proportion of civilians within a civilian population are factors relevant to the determination as to whether an attack is directed against a “civilian population”, there is no requirement that individual victims of crimes against humanity be civilians.¹³²⁷ Persons *hors de combat* can also be victims of crimes against humanity, provided that all the necessary conditions are met.¹³²⁸

290. The attack must be widespread or, in the alternative, systematic.¹³²⁹ The term “widespread” refers to the large-scale character of the attack and the number of victims, whereas the term “systematic” refers to the organized nature of the acts of violence and the improbability of their random occurrence.¹³³⁰

¹³²⁴ *Šešelj* Appeal Judgement, para. 69; *Kunarac et al.* Appeal Judgement, para. 86; *Tadić* Appeal Judgement, para. 251.

¹³²⁵ *Kunarac et al.* Appeal Judgement, para. 87.

¹³²⁶ *Kunarac et al.* Appeal Judgement, paras. 91, 92. Although it is not required that the entire population of the geographical entity in which the attack has occurred was subjected to the attack, the attack must have, nevertheless, targeted more than “a limited and randomly selected number of individuals” within the population (*see Kunarac et al.* Appeal Judgement, para. 90). In addition, the civilian population need only be predominantly civilian (*see Šešelj* Appeal Judgement, para. 69; *Popović et al.* Appeal Judgement, para. 567; *Mrkšić and Šljivančanin* Appeal Judgement, paras. 25, 31) and the presence within it of persons who do not come within the definition of civilians does not deprive the population of its civilian character (*see* Article 50(1) of Additional Protocol I; *Blaškić* Appeal Judgement, paras. 110, 111; *Šešelj* Appeal Judgement, para. 69; *Popović et al.* Appeal Judgement, para. 567; *Šainović et al.* Appeal Judgement, para. 549; *Mrkšić and Šljivančanin* Appeal Judgement, para. 31; *Kordić and Čerkez* Appeal Judgement, para. 50; *Blaškić* Appeal Judgement, para. 115). Among the factors to be considered in order to determine whether the attack was directed against a civilian population are the following: the means and method used in the course of the attack, the status of the victims, their number, the discriminatory nature of the attack, the nature of the crimes committed in the course of the attack, the resistance to the assailants at the time of the attack, and the extent to which the attacking force may be said to have complied or attempted to comply with the precautionary requirements of the laws of war (*see Šešelj* Appeal Judgement, para. 69; *Kunarac et al.* Appeal Judgement, para. 91).

¹³²⁷ *Mrkšić and Šljivančanin* Appeal Judgement, paras. 29, 32; *Martić* Appeal Judgement, para. 307.

¹³²⁸ *Mrkšić and Šljivančanin* Appeal Judgement, para. 29; *Martić* Appeal Judgement, paras. 313, 314.

¹³²⁹ *Kunarac et al.* Appeal Judgement, para. 93; *Tadić* Appeal Judgement, para. 248.

¹³³⁰ *Šešelj* Appeal Judgement, para. 57; *Kunarac et al.* Appeal Judgement, para. 94. The assessment of what constitutes “widespread” or “systematic” is to be conducted on a case-by-case basis and may take into account the consequences of the attack upon the targeted population, the number of victims, the nature of the acts, the possible participation of officials or authorities, and any identifiable patterns of crimes. *See Kunarac et al.* Appeal Judgement, para. 95. While the existence of a plan or policy may be used to demonstrate the existence of a widespread or systematic attack directed against a civilian population, it is not a distinct legal element. *See Blaškić* Appeal Judgement, para. 120; *Kunarac et al.* Appeal Judgement, para. 98.

291. The acts of the perpetrators must be part of the attack on the civilian population although they need not be committed in the midst of the attack.¹³³¹ In addition, the perpetrator must know that there is a widespread or systematic attack on the civilian population and that his acts are part of that attack, or at least must have taken the risk that his acts were part thereof.¹³³² The perpetrator need not have knowledge of the details of the attack or share its purpose, and his motives are irrelevant.¹³³³

2. Legal Findings

292. The Trial Chamber recalls its finding that a state of armed conflict existed on the territory of Croatia and Bosnia and Herzegovina during the time relevant to the crimes charged in the Indictment. Accordingly, the Trial Chamber is satisfied that the jurisdictional prerequisite for crimes against humanity has been met.

293. The Trial Chamber further finds that there was a widespread and systematic attack directed against the non-Serb civilian population in the SAO Krajina, the SAO SBWS and the municipalities of Bijeljina, Zvornik, Bosanski Šamać, Doboј, and Sanski Most in Bosnia and Herzegovina during the Indictment period. Principally, from around the end of August 1991, Serb forces attacked towns and villages with majority Croat population on the territory of the SAO Krajina. During and in the immediate aftermath of these attacks, property was looted, houses were torched, churches and schools were destroyed, and Croat civilians were detained, beaten, expelled or killed. These attacks caused the majority of the non-Serb population to flee the areas taken over by the Serb forces.

294. Similarly, on the territory of the SAO SBWS discriminatory policies were instituted against non-Serbs, who were removed from their jobs and were subjected to frequent harassment, arbitrary arrests and detentions. Property of non-Serbs was requisitioned or looted, Catholic churches were burned, and non-Serbs were subjected to mistreatment and physical abuse. Many non-Serbs who found themselves in detention were beaten and subsequently killed. Following the violent takeovers of towns and villages by Serb forces, which began in early August 1991, local non-Serbs were left with no choice but to flee.

¹³³¹ *Mrkšić and Šljivančanin* Appeal Judgement, para. 41; *Kunarac et al.* Appeal Judgement, para. 100. An offence, which is committed before or after the main attack against the civilian population, or away from it, could still, if sufficiently connected, be part of that attack. Having considered the context and circumstances in which an act was committed, an act may be so far removed from the attack so as to constitute an isolated act void of any nexus to the attack. See *Mrkšić and Šljivančanin* Appeal Judgement, para. 41; *Kunarac et al.* Appeal Judgement, para. 100. In addition, it is the attack, not the acts of the perpetrator, which must be directed against the targeted population. See *Kunarac et al.* Appeal Judgement, para. 103.

¹³³² *Šainović et al.* Appeal Judgement, paras. 270, 271; *Blaskić* Appeal Judgement, para. 124; *Kunarac et al.* Appeal Judgement, para. 102; *Kordić and Čerkez* Appeal Judgement, para. 99.

¹³³³ *Kunarac et al.* Appeal Judgement, paras. 102, 103.

295. The violence against the non-Serb civilian population in the municipalities of Bijeljina, Zvornik, Bosanski Šamać, Doboj, and Sanski Most in Bosnia and Herzegovina followed a similar pattern. During and in the immediate aftermath of the violent takeovers of towns and villages by the Serb forces, non-Serb civilians were arbitrarily arrested and detained, subjected to sexual assault, forced labour, severely mistreated, tortured, and killed. Non-Serb civilians were left with no choice but to flee and before leaving the areas, many were forced to sign statements giving up their property. Property that was left behind was looted and torched and religious and cultural buildings were damaged or destroyed.

296. The evidence before the Trial Chamber demonstrates that the violence against the non-Serb civilian population spread across large swaths of Croatia and Bosnia and Herzegovina and targeted a high number of victims, which in some instances represented almost the entire non-Serb population of a given area. The evidence on the record also demonstrates that the violence against the non-Serb civilians generally followed a repeated and organized pattern, whereby during and in the aftermath of the takeover of towns and villages, armed groups would engage in killings, mistreatment, arbitrary arrests and detentions, looting and destruction of private property, and burning of religious buildings. In view of this evidence, the Trial Chamber finds proven beyond reasonable doubt that the perpetrators of the crimes charged in the Indictment knew about the attack on the non-Serb civilian population and that their acts formed part of the attack.

3. Murder as a Crime Against Humanity (Count 2) and as a Violation of the Laws or Customs of War (Count 3)

297. Under Count 2 of the Indictment, the Accused are charged with murder as a crime against humanity, punishable under Article 5(a) of the ICTY Statute.¹³³⁴ Under Count 3 of the Indictment, the Accused are charged with murder as a violation of the laws or customs of war, as recognized by Common Article 3(1)(a) of the Geneva Conventions of 1949, punishable under Article 3 of the ICTY Statute.¹³³⁵ Murder is not explicitly listed in Article 3 of the ICTY Statute, but stems from the prohibition in Common Article 3(1)(a) of the Geneva Conventions of 1949 against “violence to life and person, in particular murder of all kinds”.

(a) Applicable law

298. The elements of murder as a violation of the laws or customs of war under Article 3 of the ICTY Statute are identical to those required for murder as a crime against humanity under Article 5(a) of the ICTY Statute, with the exception that the general *chapeau* requirements must be met for

¹³³⁴ Indictment, paras. 26-28, 30-32, 35-39, 42, 46-48, 50-52, 54-63.

murder as a crime against humanity.¹³³⁶ The *actus reus* of the crime of murder is an act or omission resulting in the death of an individual not taking active part in hostilities.¹³³⁷ Proof that the dead body of the victim has been recovered is not necessarily required, as the fact of the victim's death may be inferred circumstantially from other evidence.¹³³⁸ In order to satisfy the *mens rea* of the crime of murder, the Prosecution must prove that the act was committed, or the omission was made, with an intention to kill or to wilfully harm or inflict serious injury with reasonable knowledge that the attack was likely to result in death.¹³³⁹ Premeditation is not required in order to satisfy the *mens rea* of murder.¹³⁴⁰

(b) Legal Findings

299. In relation to the allegations of murder committed on the territory of the SAO Krajina, the Trial Chamber finds proven beyond reasonable doubt that: (i) on 21 October 1991, at least 41 non-Serbs were intentionally killed by Serb forces at Krečane, near Baćin; (ii) in the period between August and November 1991, 28 non-Serbs were intentionally killed by Serb forces in the villages of Poljanak, Vukovići, Lipovača, and Saborsko; (iii) on 18 and 19 November 1991, at least 33 non-Serbs were intentionally killed by Serb forces in the village of Škabrnja; and (iv) on 21 December 1991, 10 non-Serbs were intentionally killed by Milicija Krajina in the village of Bruška.

300. In relation to the allegations of murder committed on the territory of the SAO SBWS, the Trial Chamber finds proven beyond reasonable doubt that: (i) on 21 September 1991, 10 non-Serbs, detained at the Dalj police station, were intentionally killed by Arkan's Serbian Volunteer Guard; (ii) during the night of 4 to 5 October 1991, at least 24 non-Serbs, detained at the Dalj police station, were intentionally killed by Arkan, Stričević, and several of Arkan's Serbian Volunteer Guard; (iii) on three separate occasions in November 1991 and June 1992, 10 non-Serbs, detained at the Erdut training camp and four of their family members who were inquiring about their fate were

¹³³⁵ Indictment, paras. 26-28, 30-32, 35-39, 42, 46-48, 50-52, 54-63.

¹³³⁶ *Đorđević* Appeal Judgement, para. 548; *Kordić and Čerkez* Appeal Judgement, para. 113.

¹³³⁷ *Đorđević* Appeal Judgement, para. 548; *Kvočka et al.* Appeal Judgement, para. 261; *Kordić and Čerkez* Appeal Judgement, para. 37; *Čelebići* Appeal Judgment, para. 423.

¹³³⁸ *Kvočka et al.* Appeal Judgement, para. 260. Relevant factors to be considered when assessing whether a victim died include but are not limited to proof of: incidents of mistreatment directed against the victim; patterns of mistreatment and disappearances of other victims; the coincident or near-coincident time of death of other victims; the fact that the victims were present in an area where an armed attack was carried out; the time, location, and circumstances in which the victim was last seen; the behaviour of soldiers in the vicinity, as well as towards other civilians, at the relevant time; and the lack of contact by the victim with others whom he/she would have been expected to contact, such as his/her family. See *Karadžić* Trial Judgement, para. 446, n. 1476. With regard to the requisite causal nexus, see *Karadžić* Trial Judgement, para. 446; *Orić* Trial Judgement, para. 347. See also *Đorđević* Trial Judgement, para. 1708; *Popović et al.* Trial Judgement, para. 788; *Milutinović et al.* Trial Judgement, Vol. I, para. 137; *Lukić and Lukić* Trial Judgement, para. 899.

¹³³⁹ *Đorđević* Appeal Judgement, para. 548; *Kvočka et al.* Appeal Judgement, para. 261; *D. Milošević* Appeal Judgement, para. 108; *Kordić and Čerkez* Appeal Judgement, para. 37; *Čelebići* Appeal Judgment, para. 423.

¹³⁴⁰ *Đorđević* Appeal Judgement, paras. 551, 552.

intentionally killed by members of Arkan's Serbian Volunteer Guard and the Serbian National Security; (iv) on 11 November 1991, five Croat civilians, detained at the Erdut training camp, were intentionally killed by Arkan's Serbian Volunteer Guard; and (v) on or shortly after 26 December 1991, two Croat civilians, detained at the Erdut training camp, were intentionally killed by Arkan's Serbian Volunteer Guard.

301. In relation to the allegations of murder committed on the territory of Bosnia and Herzegovina, the Trial Chamber finds proven beyond reasonable doubt that: (i) on or about 8 April 1992, 12 non-Serbs were intentionally killed in Zvornik by Arkan's Serbian Volunteer Guard and/or Šešelj's men; (ii) on or about 7 May 1992, 16 non-Serbs were intentionally killed at the Crkvina detention facility, in Bosanski Šamac, by members of the Serb forces; (iii) on 12 July 1992, 16 non-Serbs were killed in Doboј while being used as human shields by Serb forces, including the Army of *Republika Srpska*, the Serb police, Predrag Kujundžić's unit and Slobodan Karagić's unit; (iv) in July 1995, six non-Serbs were intentionally killed in Trnovo by members of the Scorpions; (v) on or about 20 September 1995, 11 non-Serbs were intentionally killed in the village of Trnova, in Sanski Most municipality, by Arkan's Serbian Volunteer Guard; and (vi) on or around 21 September 1995, 64 non-Serbs were killed in Sasinsa, Sanski Most municipality, by Arkan's Serbian Volunteer Guard.

302. It has been proven beyond reasonable doubt that all of the victims of the above murder incidents were either civilians or members of the armed forces, who were not taking active part in hostilities at the time of their deaths. The Trial Chamber finds that all of the elements of murder as a crime against humanity (Count 2) and as a violation of the laws or customs of war (Count 3) have been established.

4. Deportation and Other Inhumane Acts (Forcible Transfer) as Crimes Against Humanity (Counts 4 and 5)

303. Counts 4 and 5 of the Indictment charge the Accused with deportation and inhumane acts (forcible transfer) as crimes against humanity, punishable under Articles 5(d) and (i) of the ICTY Statute.¹³⁴¹

(a) Applicable Law

304. The elements of the crimes of deportation and forcible transfer are substantially similar. Both crimes entail the forcible displacement of persons from the area in which they are lawfully

¹³⁴¹ Indictment, paras. 64-66.

present, without grounds permitted under international law.¹³⁴² The crime of deportation requires that the victims be displaced across a *de jure* state border, or, in certain circumstances, a *de facto* border.¹³⁴³ Forcible transfer, which must be sufficiently serious as to amount to other inhumane acts under Article 5(i) of the ICTY Statute,¹³⁴⁴ may involve displacement of persons within national boundaries.¹³⁴⁵

305. The category of “other inhumane acts” contained in Article 5(i) of the ICTY Statute is a residual category, which includes serious criminal acts that are not exhaustively enumerated under the Article.¹³⁴⁶ For an act or omission to constitute an inhumane act under Article 5(i) of the ICTY Statute, it must: (i) be of similar seriousness to the other enumerated acts under Article 5 of the ICTY Statute; (ii) have caused serious mental or physical suffering or injury or constituted a serious attack on human dignity; and (iii) have been committed with the intent to inflict serious physical or mental suffering or to commit a serious attack on the human dignity of the victim(s), or with the knowledge that this act or omission was likely to cause such suffering or a serious attack upon human dignity.¹³⁴⁷

306. In order to establish the crimes of deportation and forcible transfer, the Trial Chamber is required to find that the displacement of persons was forced.¹³⁴⁸ The forced nature of the displacement is determined by the absence of genuine choice of the persons in their displacement.¹³⁴⁹ The requirement that the displacement be forced is not limited to physical force but can be met through the threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, or taking advantage of a coercive environment.¹³⁵⁰ Therefore, while persons may consent to, or even request, their removal, whether such consent is given voluntarily and as a result of the individual’s free will must be assessed in the light of the surrounding circumstances of the particular case.¹³⁵¹ Furthermore, the participation of a non-governmental organization in facilitating displacements does not in and of itself render an otherwise unlawful transfer lawful.¹³⁵²

¹³⁴² *Dordević* Appeal Judgement, para. 705; *Krajišnik* Appeal Judgement, para. 308.

¹³⁴³ *Dordević* Appeal Judgement, para. 532; *Krajišnik* Appeal Judgement, para. 304; *Stakić* Appeal Judgment, para. 278.

¹³⁴⁴ *Krajišnik* Appeal Judgement, paras. 330, 331; *Stakić* Appeal Judgement, para. 317.

¹³⁴⁵ *Šešelj* Appeal Judgement, n. 538; *Dordević* Appeal Judgement, n. 2159; *Stakić* Appeal Judgement, para. 317.

¹³⁴⁶ *Stakić* Appeal Judgement, paras. 315, 316; *Kordić and Čerkez* Appeal Judgement, para. 117.

¹³⁴⁷ *Kordić and Čerkez* Appeal Judgement, para. 117. *See also Karadžić* Trial Judgement, para. 494 and references cited therein.

¹³⁴⁸ *Stanišić and Župljanin* Appeal Judgement, para. 918; *Dordević* Appeal Judgement, para. 705.

¹³⁴⁹ *Stanišić and Župljanin* Appeal Judgement, para. 918; *Stakić* Appeal Judgement, para. 279.

¹³⁵⁰ *Stanišić and Župljanin* Appeal Judgement, para. 918; *Dordević* Appeal Judgement, para. 727; *Šainović et al.* Appeal Judgement, para. 366; *Krajišnik* Appeal Judgement, para. 319; *Stakić* Appeal Judgement, paras. 281-283.

¹³⁵¹ *Stakić* Appeal Judgement, paras. 279, 282. *See also Stanišić and Župljanin* Appeal Judgement, para. 918.

¹³⁵² *Stakić* Appeal Judgement, para. 286.

307. International law recognizes limited circumstances under which forced removal is allowed, namely if it is carried out for the security of the population or for imperative military reasons, or for the evacuation of prisoners of war out of the combat zone and into internment facilities, subject to numerous conditions.¹³⁵³ In such cases, the displaced persons shall be returned to their homes as soon as the hostilities in the area in question have ceased.¹³⁵⁴ Although forced removal for humanitarian reasons is justifiable in certain situations, it is not justified where the humanitarian crisis that caused the displacement is itself the result of the perpetrator's own unlawful activity.¹³⁵⁵

308. While deportation and forcible transfer must have been carried out intentionally,¹³⁵⁶ they do not require intent that the victims be displaced permanently.¹³⁵⁷

(b) Legal Findings

309. As discussed in detail above, the Trial Chamber received extensive evidence showing that prior to, during, and after the attacks resulting in the takeover of towns and villages in the SAO Krajina, the SAO SBWS and the municipalities of Bijeljina, Bosanski Šamac, Dobojo, Sanski Most, and Zvornik in Bosnia and Herzegovina, a significant number of civilians, primarily non-Serbs, fled the areas where they lived.¹³⁵⁸

310. As ethnic tensions were growing in Croatia in 1990 and 1991, local Serb authorities in the SAO Krajina and the SAO SBWS started setting up new political and security structures and instituting discriminatory policies against non-Serbs living in the area. With increased frequency, non-Serb civilians were arbitrarily arrested and detained, subjected to movement restrictions and harassment, dismissed from their jobs, and their property was damaged or stolen, with no redress from the local Serb authorities who were often accomplices in the commission of these early crimes and acts of violence.

311. The attack on the village of Kijevo, in August 1991, marked the sharp escalation of the conflict in the SAO Krajina, and the commencement of what constituted a pattern of attacks by Serb forces in the area, including the JNA and units of the Milicija Krajina and local Territorial Defence, on Croat-majority villages in the SAO Krajina, resulting in the massive exodus of the non-Serb population from the area. During and in the immediate aftermath of these attacks, Croat property

¹³⁵³ *Stakić* Appeal Judgement, paras. 284, 285, referring to Geneva Convention III of 1949, Article 19, Geneva Convention IV of 1949, Article 49, Additional Protocol II to Geneva Conventions of 1949, Article 17.

¹³⁵⁴ *Stakić* Appeal Judgement, para. 284, referring to Geneva Convention III of 1949, Article 49.

¹³⁵⁵ *Stakić* Appeal Judgement, para. 287.

¹³⁵⁶ *Đorđević* Appeal Judgement, para. 705.

¹³⁵⁷ *Šešeljić* Appeal Judgement, n. 538; *Krajišnik* Appeal Judgement, para. 304; *Brdanin* Appeal Judgement, para. 206; *Stakić* Appeal Judgement, paras. 278, 317.

¹³⁵⁸ See *supra* Sections II.A, II.B, II.C.

was looted, houses were torched, churches and schools were destroyed, and Croat civilians were mistreated, detained, beaten, physically expelled or killed. Villages were razed to the ground and emptied of their Croat residents. The Trial Chamber recalls the extensive evidence on the various crimes and acts of violence committed against the Croat inhabitants of villages in the Hrvatska Kostajnica area, in Poljanak, Vukovici, Lipovača, and Saborsko between August and November 1991. Armed men dressed in camouflaged uniforms would visit local villages, urging the Croat residents to leave and threatening to kill them. Almost the entire villages of Škabrnja and Nadin were razed to the ground, and “Welcome to a dead village” was written on the wall of the school building in Škabrnja. Those who escaped the violence in the SAO Krajina left the area and did not return until the retake of the territory by the Croatian forces in 1995.

312. Similarly, attacks on Croat-majority villages in the SAO SBWS started in late spring 1991, but intensified from early August 1991 with the takeover by Serb forces, including the JNA, the local Territorial Defence and paramilitary groups, of towns and villages, including the villages of Dalj and Erdut and their surroundings in Eastern Slavonia, and almost the entirety of Baranja. Shelling of towns and villages around the city of Vukovar in Western Srem also started in August 1991 and intensified further in the fall of 1991. Out of fear, the local non-Serb residents would start leaving their homes once they saw the JNA and paramilitary and volunteer units gathering in the vicinity. In the aftermath of these attacks, property was looted, Catholic churches were burned, and non-Serbs were subjected to mistreatment, physical abuse, detention, beatings and killings. Following the violent takeovers of towns and villages by Serb forces in SAO SBWS, local non-Serbs were left with no choice but to flee from the ensuing violence.

313. Towards the end of 1991, inter-ethnic tensions also sharply increased in Bosnia and Herzegovina. Local civilian authorities adopted discriminatory measures that made the stay of non-Serbs in certain areas unbearable even before the takeover of these areas by Serb forces. For example, in April 1992, measures targeting non-Serbs were adopted in Bosanski Šamac including the passing of discriminatory legislation and the creation of separate police forces across ethnic lines. In Sanski Most town and its surrounding non-Serb villages, mosques were destroyed and non-Serb owned properties were attacked. Due to fear, many non-Serbs, including Bosnian Croats and Bosnian Muslims, took the decision to leave their homes.

314. The spring of 1992 saw the swift takeover by Serb forces, including the JNA and paramilitary units, of towns and villages in the municipalities of Bijeljina, Zvornik, Bosanski Šamac, Doboj, and Sanski Most in Bosnia and Herzegovina. During and in the aftermath of these attacks, civilians, primarily non-Serbs, were killed, beaten and otherwise mistreated, arbitrarily arrested and detained, subjected to forced labour, their property was looted and torched and their

religious monuments were burned. Detention facilities sprang across these areas, where Bosnian Muslim and Bosnian Croat inmates were kept in inhumane conditions, with poor hygiene, insufficient food and water, subjected to mistreatment, beatings, torture, forced to engage in sexual acts and to perform manual labour, and killed. The campaign of violence that surrounded the takeover by Serb forces of towns and villages in the municipalities of Bijeljina, Zvornik, Bosanski Šamac, Doboj, and Sanski Most forced the majority of the non-Serb population to leave.

315. Non-Serbs who remained in areas under Serb control continued to be targeted by crimes and acts of violence, leading many of them to decide to leave, until the inhabitants of some areas became almost exclusively Serb. Evidence on the record shows that civilians from Saborsko, Škabrnja, Dalj, Erdut, Vukovar, Doboj, and Zvornik were in certain cases transferred by buses organized by Serb forces to other parts of Croatia, Bosnia and Herzegovina, or Serbia, often taken violently out of their homes for this purpose. The JNA, the local Territorial Defence, or paramilitary groups would engage in this removal and often oversee the transfer. The Trial Chamber considers that such expulsions undoubtedly satisfy the requirement that the displacement of the civilian population be forced.

316. Having considered the circumstances surrounding the departure of non-Serb civilians from the areas relevant to the Indictment, the Trial Chamber finds that the coercive atmosphere, the widespread crimes and acts of violence, and the psychological oppression created by the Serb forces, as described above, demonstrate that the non-Serb civilians were forcibly displaced from areas in which they were lawfully present to other parts of Croatia, Bosnia and Herzegovina, and Serbia, without grounds permitted under international law. With respect to the few instances where the evidence shows that non-Serb civilians consented to or requested to leave the area and their departure was facilitated by Serb forces or other entities, the Trial Chamber considers that, in light of the circumstances prevailing at the time and surrounding these departures, in the majority of cases the civilians did not have a genuine choice and their consent was not voluntary. In this regard, the Trial Chamber notes that non-Serbs, who left their homes at their own request, provided evidence that their departure was caused by the fear of violence and that they saw this as the only way to save their lives. This conclusion is further reinforced by evidence of instances where, in order to secure their departure, non-Serbs had to sign a declaration that they were handing over their property to local Serb authorities without any compensation.

317. With respect to the perpetrators' intent, the Trial Chamber finds that the forcible displacement of the non-Serb civilians was carried out intentionally, given the pattern of the attacks and that they were often carried out by the same armed groups. In addition, statements made by the

perpetrators that they intended to cleanse the area of non-Serbs are also indicative of their intent to forcibly displace the non-Serb civilians from the areas relevant to the Indictment.

318. Accordingly, the Trial Chamber finds that all of the elements of deportation as a crime against humanity, punishable under Article 5(d) of the ICTY Statute, are satisfied. Similarly, and in light of the evidence of the violence, fear, and intimidation that the Serb forces systematically inflicted upon the non-Serb population in the areas and during the period relevant to the Indictment, the Trial Chamber finds proven beyond reasonable doubt that the elements of the crime of other inhumane acts (forcible transfer), punishable under Article 5(i) of the ICTY Statute, are also met.

5. Persecutions as a Crimes Against Humanity (Count 1)

319. Count 1 of the Indictment charges the Accused with persecution on political, racial or religious grounds as a crime against humanity, punishable under Article 5(h) of the ICTY Statute.¹³⁵⁹ According to the Indictment, the acts of persecution included: the murder of Croat, Bosnian Muslim, Bosnian Croat, and other non-Serb civilians;¹³⁶⁰ and the forcible transfer and deportation of Croat, Bosnian Muslim, Bosnian Croat, and other non-Serb civilians.¹³⁶¹

(a) Applicable law

320. The *actus reus* of the crime of persecution is an act or omission, which discriminates in fact and denies or infringes upon a fundamental right laid down in international customary or treaty law.¹³⁶² The crime of persecution may take various forms and may be committed through acts or omissions, some of which are listed in the ICTY Statute.¹³⁶³ For example, an act of murder carried out on discriminatory grounds, and for which the general elements of crimes against humanity are fulfilled, may constitute the crime of persecution.¹³⁶⁴ While the underlying act itself need not constitute a crime in international law,¹³⁶⁵ for acts not enumerated as a crime in the ICTY Statute to amount to the crime of persecution pursuant to Article 5(h) of the ICTY Statute, they must be of equal gravity to the other crimes listed under Article 5 of the ICTY Statute, whether considered in isolation or in conjunction with other underlying acts.¹³⁶⁶ In this regard, acts of forcible

¹³⁵⁹ Indictment, paras. 22-25.

¹³⁶⁰ Indictment, para. 24(a). *See also* Indictment, paras. 26-28, 30-32, 35-39, 42, 46-48, 50-52, 54-63.

¹³⁶¹ Indictment, para. 24(b). *See also* Indictment, paras. 64, 65.

¹³⁶² *Šešelj* Appeal Judgement, para. 159; *Stanišić and Župljanin* Appeal Judgement, para. 594; *Stakić* Appeal Judgement, para. 327; *Kordić and Čerkez* Appeal Judgement, para. 101; *Krnjelac* Appeal Judgement, para. 185.

¹³⁶³ *Brdanin* Appeal Judgement, para. 296; *Kvočka et al.* Appeal Judgement, paras. 321-323.

¹³⁶⁴ *Blaškić* Appeal Judgement, para. 143.

¹³⁶⁵ *Popović et al.* Appeal Judgement, para. 738; *Brdanin* Appeal Judgement, para. 296; *Kvočka et al.* Appeal Judgement, para. 323.

¹³⁶⁶ *Brdanin* Appeal Judgement, para. 296; *Simić* Appeal Judgement, para. 177; *Naletilić and Martinović* Appeal Judgement, para. 574; *Kvočka et al.* Appeal Judgement, paras. 321, 323; *Kordić and Čerkez* Appeal Judgement, paras. 102, 103, 672; *Blaškić* Appeal Judgement, paras. 135, 139; *Krnjelac* Appeal Judgment, para. 199.

displacement, taken separately or cumulatively, have been recognized as having equal gravity to other crimes against humanity.¹³⁶⁷ For the purposes of a conviction for the crime of persecution, it is not necessary to distinguish between the underlying acts of deportation and forcible transfer, as the criminal responsibility of the accused is sufficiently captured by the general concept of forcible displacement.¹³⁶⁸

321. To satisfy the *mens rea* of the crime of persecution, the act or omission must have been carried out deliberately (general intent) and with the intent to discriminate on political, racial or religious grounds (discriminatory or specific intent).¹³⁶⁹ While the requisite discriminatory intent may not be inferred directly from the general discriminatory nature of an attack characterised as a crime against humanity, the “discriminatory intent may be inferred from such a context as long as, in view of the facts of the case, circumstances surrounding the commission of the alleged acts substantiate the existence of such intent”.¹³⁷⁰ Circumstances, which may be taken into account, include the systematic nature of the crimes committed against a racial or religious group and the general attitude of the alleged perpetrator as demonstrated by his behaviour.¹³⁷¹

(b) Legal Findings

322. The Trial Chamber considers that the charged killings and acts of forcible displacement, which it has found proven beyond reasonable doubt,¹³⁷² were carried out with the intent to discriminate on the basis of the ethnicity of the victims. In reaching this conclusion, the Trial Chamber considers a number of factors, which it finds conclusive in relation to the perpetrators’ specific discriminatory intent.

323. The crimes and acts of violence were committed during and in the aftermath of attacks on towns and villages aimed at establishing Serb control in areas where a majority, or a significant

¹³⁶⁷ *Šešelj* Appeal Judgement, n. 541; *Simić* Appeal Judgement, para. 174; *Naletilić and Martinović* Appeal Judgement, paras. 153, 154; *Blaškić* Appeal Judgement, paras. 151-153; *Krnjelac* Appeal Judgement, paras. 218, 221-224. Forcible displacement underlying persecution is not limited to displacement across a national border, as it is the forced character of displacement and the forced uprooting of the inhabitants of a territory that entail the criminal responsibility of the perpetrator, not the destination to which these inhabitants were sent. See *Šešelj* Appeal Judgement, n. 541.

¹³⁶⁸ *Naletilić and Martinović* Appeal Judgement, para. 154.

¹³⁶⁹ *Šešelj* Appeal Judgement, para. 159; *Stanišić and Župljanin* Appeal Judgement, para. 594; *Šainović et al.* Appeal Judgement, para. 579; *Popović et al.* Appeal Judgement, para. 738; *Stakić* Appeal Judgement, paras. 327, 328; *Kordić and Čerkez* Appeal Judgement, para. 101; *Krnjelac* Appeal Judgement, para. 185; *Kvočka et al.* Appeal Judgement, para. 460. See also *Blaškić* Appeal Judgement, para. 165 (wherein the Appeals Chamber held that the *mens rea* of persecution is the specific intent to cause injury to a person because he or she belongs to a particular community or group). The Trial Chamber does not need to establish the elements of the underlying acts, including the *mens rea*, even when the underlying act constitutes a crime under international law as well. See *Popović et al.* Appeal Judgement, para. 738.

¹³⁷⁰ *Šainović et al.* Appeal Judgement, para. 579, referring to *Blaškić* Appeal Judgement, para. 164; *Krnjelac* Appeal Judgement, para. 184.

¹³⁷¹ *Kvočka et al.* Appeal Judgement, para. 460; *Krnjelac* Appeal Judgement, para. 184; *Blaškić* Appeal Judgement, para. 164.

proportion of the population, were Croats, Bosnian Muslim, Bosnian Croat or other non-Serb residents. The pattern of crimes in the SAO Krajina, the SAO SBWS, and the relevant municipalities of Bosnia and Herzegovina, their occurrence over a prolonged period of time and their commission by perpetrators belonging largely to the same armed groups, as well as the vast numbers of non-Serb victims of such crimes, are further indicative of the systematic targeting of the victims on the basis of their ethnicity. The Trial Chamber has also considered, in relation to each individual murder incident, the identity of the victims and the perpetrators, the way in which individual victims were selected or targeted, the circumstances in which they were detained, if applicable, and the manner in which they were killed. In addition, the Trial Chamber has taken into account derogatory statements, referring to the victims' ethnic or religious background, made by the perpetrators prior to, during, or after the commission of the crimes, when found in the evidence.

324. The Trial Chamber also notes other evidence on the record demonstrating that the crimes and acts of violence were targeting specifically non-Serbs. For example, Bosnian Muslim inhabitants of Sanski Most municipality were requested to identify their houses with a white flag and Serb inhabitants of Kozluk, near Zvornik, to mark their houses so that they would not be targeted. In several instances, including in Erdut and Vukovar in the SAO SBWS, in Vukovići in the SAO Krajina, and in Bijeljina in Bosnia and Herzegovina, Serb authorities prepared lists identifying the houses of non-Serbs or of persons in mixed marriages, following which harassment, arbitrary arrests, beatings, looting, and forced displacement took place. Evidence showing isolated incidents where Serb civilians were targeted, does not alter the conclusion that, on the basis of the totality of the evidence, the primary target of the crimes committed by Serb forces during the Indictment period were Croats, Bosnian Muslims, and Bosnian Croats.

325. The Trial Chamber finds, therefore, that all of the elements of persecution as a crime against humanity, punishable under Article 5(h) of the ICTY Statute, are satisfied.

¹³⁷² See *supra* Sections II.A, II.B, II.C, III.A.2, III.B.3(b), III.B.4(b).

IV. POSITIONS AND POWERS OF THE ACCUSED

A. Ministry of Interior of Serbia

326. Prior to the Indictment period, the internal affairs and state security in the Socialist Federal Republic of Yugoslavia were regulated by the Federal Secretariat of Internal Affairs at the federal level, along with the republican secretariats of internal affairs for each of the six republics, and two provincial secretariats of Vojvodina and Kosovo.¹³⁷³ However, on 28 September 1990, the Republic of Serbia promulgated a new constitution, which marked a shift in terminology from “secretariats” to “ministries” and led to the Republican Secretariat for Internal Affairs of Serbia becoming known as the Ministry of Interior of Serbia.¹³⁷⁴ During the period relevant to the Indictment, the Ministry of Interior functioned under the Law on Ministries, and its mandate was to perform duties related to state administration, including the two main areas of public security and state security.¹³⁷⁵ In this regard, the Ministry of Interior consisted of two services,¹³⁷⁶ the Public Security Service, responsible for the protection of life, safety of people and property, prevention and detection of crimes, and maintenance of public law and order,¹³⁷⁷ and the State Security Service, responsible for discovering and preventing activities aimed at undermining or bringing down the constitutional order, doing intelligence work, and protecting the security of Serbia against internal or external enemies, including terrorism and extremism.¹³⁷⁸ The Trial Chamber also received evidence that the State Security Service, also known as the “secret police”, and the Public Security Service were equal and were required by law to cooperate.¹³⁷⁹

327. On 5 December 1989, Radmilo Bogdanović was appointed as the Republican Secretary for Internal Affairs, which later became known as the Minister of Interior, a post he maintained until 30 May 1991.¹³⁸⁰ Bogdanović was succeeded by Zoran Sokolović as Minister of Interior and

¹³⁷³ See Exhibit P00850, para. 9, p. 272. See also Exhibit P00005, p. 4; Witness RFJ-153, Exhibit P00002, para. 21.

¹³⁷⁴ Witness Nielsen, T. 14 November 2017 pp. 16, 19, 26; Exhibit P00850, para. 20; Witness Milošević, T. 18 February 2020 pp. 32, 33; Exhibit 2D00451, paras. 72, 144; Witness Teodorović, T. 3 July 2019 p. 14, Exhibit 1D00174, para. 14; Exhibit 2D00063; Exhibit 1D00141 (“Law on Ministries”), pp. 1, 2, 7.

¹³⁷⁵ Witness Nielsen, T. 14 November 2017 pp. 16, 17; Exhibit P00850, paras. 21, 25; Exhibit 2D00451, para. 85; Exhibit 1D00141, pp. 1, 3, 7.

¹³⁷⁶ Witness Nielsen, T. 14 November 2017 pp. 17, 30; Exhibit P00850, paras. 39, 104; Exhibit 2D00451, paras. 85, 95; Exhibit P03274, pp. 1, 18. See also Witness Ristić, T. 27 June 2019 pp. 64, 65; Witness RFJ-153, Exhibit P00002, para. 21; Witness Anastasijević, Exhibit P02423, para. 70.

¹³⁷⁷ Witness Nielsen, T. 14 November 2017 p. 17; Exhibit 2D00451, paras. 82, 86; Exhibit P03274, pp. 1, 18. See also Witness RFJ-153, Exhibit P00002, para. 21; Adjudicated Fact 653.

¹³⁷⁸ Witness Nielsen, T. 14 November 2017 pp. 17, 19; Exhibit P00850, para. 32; Witness Milošević, T. 25 February 2020 pp. 79-84, 86-88; Exhibit 2D00451, paras. 82, 83, 85, 96; Witness RFJ-153, Exhibit P00002, para. 21; Exhibit P03274, pp. 1, 4, 18.

¹³⁷⁹ See Witness Nielsen, T. 23 November 2017 p. 107, T. 14 November 2017 pp. 18, 50; Exhibit P00850, para. 104; Exhibit 2D00451, para. 102.

¹³⁸⁰ Exhibit P00850, para. 18; Exhibit 2D00451, paras. 94, 381. See also Witness Teodorović, T. 2 July 2019 p. 29.

Sokolović served in this post from 30 May 1991 until 15 April 1997.¹³⁸¹ The Minister of Interior, as head of the Ministry of Interior, was accountable for the work and functioning of the Ministry and represented the Ministry before all other state organs.¹³⁸² The Minister of Interior was assisted by Assistant Ministers of Interior,¹³⁸³ who were in charge of specific departments and discharged duties assigned to them by the Minister.¹³⁸⁴

328. On 18 October 1992, the Ministry of Interior took over the headquarters of the Federal Secretariat of Internal Affairs in Belgrade and became the dominant organ of internal affairs in Serbia throughout the Indictment period.¹³⁸⁵

1. State Security Service/State Security Department

329. The State Security Service was governed by the Constitution and, thereafter, by the relevant laws on internal affairs, the work of ministries, and the work of the government, and, within the organs of internal affairs, the work of the State Security Service was regulated by rulebooks, which were issued internally within the Service and classified as state secrets.¹³⁸⁶ The State Security Service was administered by a Chief of Service and, in his absence, by a Deputy Chief of Service.¹³⁸⁷ The Chief of Service also simultaneously served as the Assistant Minister in the Ministry of Interior.¹³⁸⁸ In the period relevant to the Indictment, the State Security Service was headed by Zoran Janačković, from 31 October 1990 until 31 December 1991,¹³⁸⁹ who was succeeded by Stanišić as Chief of Service, who served in this post from 31 December 1991 until 27 October 1998.¹³⁹⁰ Stanišić also held the post of Deputy Chief of Service prior to his appointment as

¹³⁸¹ Exhibit P00850, para. 18; Exhibit 2D00451, paras. 78, 94; Witness RFJ-150, Exhibit P02276, p. 5. *See also* Witness Teodorović, T. 2 July 2019 p. 35.

¹³⁸² Witness Milošević, T. 18 February 2020 p. 42; Exhibit 2D00451, para. 92. *See also* Exhibit 1D00141, p. 7; Exhibit P01550, p. 2.

¹³⁸³ Exhibit P00850, p. 275. *See also* Witness Milošević, T. 18 February 2020 pp. 42, 43, 47.

¹³⁸⁴ Exhibit 2D00451, paras. 104, 105.

¹³⁸⁵ Witness Nielsen, T. 14 November 2017 pp. 27, 28; Exhibit P00850, paras. 58, 62-66; Witness RFJ-153, T. 20 June 2017 pp. 57, 58, 64, T. 14 June 2017 pp. 54, 55, 58, Exhibit P00002, paras. 41, 172-182; Witness Milošević, T. 18 February 2020 pp. 23, 24; Exhibit 2D00451, paras. 51, 52; Witness Teodorović, Exhibit 1D00174, para. 83. The Trial Chamber also notes the evidence it received indicating that, after 18 October 1992, the Federal Secretariat of Internal Affairs ceased to exist for all intents and purposes as its authority was significantly weakened. *See* Witness Nielsen, T. 21 November 2017 p. 34, T. 14 November 2017 p. 28; Exhibit P00850, paras. 67, 69.

¹³⁸⁶ *See* Witness Nielsen, T. 14 November 2017 pp. 40, 41; Exhibit P00850, paras. 20, 21, 25, 27, 32-34, 40. *See also* Exhibit 2D00119; Exhibit 1D00138.

¹³⁸⁷ Exhibit 2D00451, paras. 137, 219; Exhibit P03179, *referring to* Article 45.

¹³⁸⁸ Witness Nielsen, T. 14 November 2017 pp. 31, 50; Exhibit P00850, p. 275; Exhibit 2D00451, paras. 98, 103, 246, 248.

¹³⁸⁹ Exhibit P00850, paras. 30, 31.

¹³⁹⁰ Exhibit P00850, paras. 30, 77, 79; Witness RFJ-150, Exhibit P02276, p. 5.

Chief of Service.¹³⁹¹ The Chief of Service was also assisted by the Assistant Chiefs of Service and the Chief of State Security Service Administration in Belgrade.¹³⁹²

330. The Chief of Service was in charge of the State Security Service and was responsible for, *inter alia*, organizing the performance of tasks and duties of the Service, directing and coordinating the work of all organizational units of the Service, deciding on the application of equipment and methods, and coordinating the work of the Service in performing state security tasks.¹³⁹³ The responsibilities of the Deputy Chief of Service included standing in for the Chief of Service when the latter was unavailable, preparing and implementing operative service work plans, performing tasks and duties of the Service relating to the implementation of special operations in times of imminent threat of war and other emergencies or temporary occupation, and directing and coordinating the implementation of self-protection measures in the Service.¹³⁹⁴ The Deputy Chief of Service also played a role in coordinating the activities of the State Security Service in times of war.¹³⁹⁵

331. In order to perform its functions, the State Security Service was divided into organizational units known as administrations, based on functional lines of work and territory,¹³⁹⁶ which, prior to 1992, included the: (i) First Administration responsible for preventing activities of intelligence services of the countries of the Warsaw Pact, other socialist countries, and activities of the pro-Soviet émigrés and ethnic Albanian émigrés; (ii) Second Administration responsible for preventing activities of intelligence services of North Atlantic Treaty Organization countries, other capitalist countries, and Yugoslav enemy émigrés; (iii) Third Administration responsible for preventing activities of internal enemies of the Yugoslav State; (iv) Fourth Administration responsible for functional cooperation with other organizational units of the State Security Service and the Public Security Service and control of the defence preparations of the State Security Service and Public Security Service; (v) Fifth Administration responsible for analysis and documentation of the work of the State Security Service and dissemination of information; (vi) Sixth Administration responsible for providing security to persons, delegations, and buildings; and (vii) Seventh Administration responsible for uncovering enemy activity and providing security to persons, tasks,

¹³⁹¹ Witness Nielsen, T. 21 November 2017 p. 36, T. 16 November 2017 pp. 26, 50; Witness Ristić, Exhibit 1D00134, para. 35. *See also* Witness Teodorović, T. 2 July 2019 p. 36.

¹³⁹² Exhibit P00850, p. 274; Exhibit 2D00451, paras. 137, 252.

¹³⁹³ Exhibit P00850, para. 35; Witness Milošević, T. 19 February 2020 pp. 18, 19; Exhibit 2D00451, paras. 219, 243, 244; Exhibit 1D00138, pp. 19, 20, *referring to* Article 27.

¹³⁹⁴ Exhibit P00850, para. 36; Witness Milošević, T. 25 February 2020 pp. 4, 5, T. 20 February 2020 pp. 50, 51, T. 19 February 2020 p. 19; Exhibit 2D00451, paras. 219, 250, 251, 260; Witness Ristić, T. 25 June 2019 pp. 15, 16; Witness Teodorović, Exhibit 1D00174, para. 59; Exhibit 1D00138, pp. 20, 21, *referring to* Article 28.

¹³⁹⁵ Witness Nielsen, T. 21 November 2017 pp. 110, 111.

¹³⁹⁶ Witness Nielsen, T. 14 November 2017 p. 22; Exhibit P00850, para. 44; Exhibit 2D00451, paras. 138, 141; Exhibit P03179, *referring to* Article 6.

duties, and buildings.¹³⁹⁷ Each administration was headed by a Chief of Administration and, in his absence, a Deputy Chief of Administration.¹³⁹⁸ The Chief and Deputy Chief of Administration were required, amongst others, to organize the execution of tasks and work within their administration and coordinate with other organizational units.¹³⁹⁹ The Chiefs of Administrations were directly accountable to the Chief of Service.¹⁴⁰⁰

332. With the formation of the Federal Republic of Yugoslavia in 1992, the State Security Service was renamed as the State Security Department,¹⁴⁰¹ which became responsible for state administration tasks relating to protecting the security of Serbia and for the prevention of activities directed at undermining the constitutional order.¹⁴⁰² The geographical ambit of the State Security Department was also broadened to include the protection of security of the Federal Republic of Yugoslavia and the prevention of activities directed at undermining the constitutional order of the Federal Republic of Yugoslavia on the territory of Serbia.¹⁴⁰³ The tasks of the State Security Department were counter-intelligence, intelligence, countering extremism and terrorism, and other security tasks, including preparations for defence and work in case of war or imminent threat of war.¹⁴⁰⁴

333. Another addition to the tasks of the State Security Department was to collect intelligence about all forms of threat to the national and cultural-historical identity of Serbs living outside Serbia.¹⁴⁰⁵ This amendment was in furtherance of Article 72 of the Constitution of Serbia of 1990, which stipulated that Serbia would maintain ties with Serbs living outside Serbia to preserve their national, cultural, and historic identity.¹⁴⁰⁶ This amendment allowed the State Security Department to work outside Serbia and offer protection to Serbs in Croatia and Bosnia and Herzegovina.¹⁴⁰⁷

¹³⁹⁷ Witness Nielsen, T. 14 November 2017 pp. 23, 24; Exhibit P00850, para. 44; Exhibit 2D00451, paras. 212, 213; Exhibit P03179, *referring to* Articles 16-22.

¹³⁹⁸ Exhibit P03179, *referring to* Article 48.

¹³⁹⁹ Exhibit P03179, *referring to* Article 48.

¹⁴⁰⁰ Exhibit P03179, *referring to* Article 48.

¹⁴⁰¹ Witness Nielsen, T. 14 November 2017 pp. 26, 31, 41; Exhibit P00850, para. 110. Due to the change, there was a need to revise the rulebook pertaining to the State Security Service, which was further amended in November 1992. *See* Witness Nielsen, T. 14 November 2017 pp. 19, 20, 26, 41; Exhibit P00850, para. 110; Exhibit P03193; Exhibit P00024. For ease of reference, the Trial Chamber has used the designation Serbian State Security Service throughout the Judgement, unless a differentiation was necessary.

¹⁴⁰² Exhibit 2D00451, paras. 145, 182; Exhibit P03193, p. 3, *referring to* Article 2. *See also* Witness Teodorović, T. 3 July 2019 p. 37.

¹⁴⁰³ Exhibit P00850, paras. 67, 68; Witness RFJ-153, T. 14 June 2017 p. 56; Exhibit 2D00451, paras. 53, 217; Witness Ristić, T. 25 June 2019 p. 16, Exhibit 1D00134, para. 19; Witness Teodorović, Exhibit 1D00174, paras. 17, 84; Exhibit P00024, pp. 2, 3, *referring to* Article 1.

¹⁴⁰⁴ Exhibit P00850, para. 112; Witness Milošević, T. 25 February 2020 p. 81; Exhibit 2D00451, paras. 97, 184, 185; Exhibit P03193, pp. 3, 4, *referring to* Article 3; Exhibit P00024, p. 3, *referring to* Article 2.

¹⁴⁰⁵ Witness Nielsen, T. 14 November 2017 pp. 19, 20; Exhibit P00850, paras. 112, 113; Witness Milošević, T. 25 February 2020 pp. 78, 79, 89; Exhibit 2D00451, paras. 147, 352; Exhibit P03193, p. 4, *referring to* Article 3.

¹⁴⁰⁶ Witness Milošević, T. 19 February 2020 p. 33; Exhibit 2D00451, paras. 368, 369.

¹⁴⁰⁷ Witness Nielsen, T. 22 November 2017 p. 64; Exhibit P00850, para. 113; Witness Milošević, T. 19 February 2020 p. 33; Exhibit 2D00451, paras. 369, 375, 377; Witness Ristić, T. 26 June 2019 p. 19.

Prior to 1992, the State Security Service could engage in gathering intelligence of subversive activities against groups of Socialist Federal Republic of Yugoslavia nations living outside the Socialist Federal Republic of Yugoslavia.¹⁴⁰⁸ However, operations of the State Security Service outside Serbia and the Socialist Federal Republic of Yugoslavia could only take place in coordination with other republican secretariats of internal affairs, provincial secretariats, or with the approval of the Federal Secretariat of Internal Affairs.¹⁴⁰⁹

334. The rules governing the State Security Department further emphasised the covert nature of its work and provided that the State Security Department was required to perform its tasks while adhering to the guiding principles of secrecy, subordination, professionalism, and rationality.¹⁴¹⁰ The principle of subordination implied a hierarchy within the State Security Department starting from the Chief of the State Security Department, Deputy Chief, Assistant Chiefs, Chiefs of Administrations, and to regional offices of the State Security Department.¹⁴¹¹ According to this principle, the subordinates in the State Security Department were bound to act as per the orders and instructions of the Chief of the State Security Department or other superior officers,¹⁴¹² and any violation of this principle would entail disciplinary action.¹⁴¹³

335. The administrations of the State Security Department were also reorganized in 1992 from seven to eight administrations,¹⁴¹⁴ with the: (i) First Administration responsible for counter-intelligence matters; (ii) Second Administration responsible for intelligence work; (iii) Third Administration responsible for countering extremism and terrorism; (iv) Fourth Administration responsible for preparing for the defence and the work of the State Security Department in case of an imminent threat of war and in war, coordinating tasks for the protection of facilities, areas, and work places for the defence of Serbia, and organizing data protection; (v) Fifth Administration responsible for analyzing, reporting, recording, and archiving of information; (vi) Sixth Administration responsible for providing counter-intelligence protection to the organs of Serbia and for the protection of persons of interest to Serbia; (vii) Seventh Administration responsible for

¹⁴⁰⁸ Exhibit 2D00451, para. 350; Exhibit P03179, p. 5, *referring to* Article 42.

¹⁴⁰⁹ Witness Nielsen, T. 14 November 2017 p. 21; Witness Teodorović, T. 4 July 2019 p. 4.

¹⁴¹⁰ Witness Nielsen, T. 22 November 2017 pp. 40, 61, T. 21 November 2017 pp. 35, 36, 41; Witness Milošević, T. 25 February 2020 pp. 33, 34, 81; Exhibit 2D00451, paras. 146, 228, 415; Witness Ristić, T. 26 June 2019 pp. 25, 26; Witness Cvetković, T. 2 September 2020 p. 29, T. 1 September 2020 pp. 17, 18; Witness Stevanović, T. 29 September 2020 p. 68; Witness Dragičević, Exhibit 1D00441, p. 14813; Exhibit P03193, p. 3, *referring to* Article 2. *See also* Witness Teodorović, T. 14 June 2017 p. 31; Witness Leković, Exhibit 1D00545, p. 14329.

¹⁴¹¹ Witness Nielsen, T. 22 November 2017 pp. 40, 41; Exhibit P00850, p. 276. *See also* Witness Teodorović, T. 3 July 2019 p. 26, T. 2 July 2019 pp. 16, 43.

¹⁴¹² Witness Nielsen, T. 22 November 2017 p. 41; Witness Milošević, T. 18 February 2020 pp. 47, 48; Exhibit 2D00451, paras. 229, 230, 414.

¹⁴¹³ Witness Teodorović, T. 3 July 2019 p. 26.

¹⁴¹⁴ Witness Nielsen, T. 14 November 2017 pp. 26, 41; Exhibit P00850, paras. 110, 114; Exhibit 2D00451, para. 214; Witness Ristić, T. 25 June 2019 p. 12.

development and use of surveillance equipment, and (viii) Eighth Administration responsible for tasks relating to the organizational setup, personnel, logistics, and other administrative tasks.¹⁴¹⁵

336. In relation to the Second Administration, the Trial Chamber received evidence regarding the change in its mandate from counter-intelligence to intelligence and that, from 1992, it was tasked with intelligence operations or gathering information outside Serbia.¹⁴¹⁶ For this purpose, the Second Administration was located in a separate building, with its own communication and analytical section.¹⁴¹⁷ The information from this Administration would only be shared with its own internal analytics administration and remained within the Second Administration.¹⁴¹⁸ While it was described as a service within a service, the head of the Second Administration still reported to the head of the State Security Department, who also had information about its work.¹⁴¹⁹

337. Among the evidence that the Trial Chamber received was that of Witness Ljubomir Ristić, a Serbian employee of the State Security Service since 1972 and Assistant Chief of the State Security Service from 1990 until 1996,¹⁴²⁰ who stated that, as a result of the structure of the State Security Department, the most knowledgeable persons were the Heads of the First, Second, Third, and Fifth Administration, and that how much the Assistants, the Deputy or the Chief of the State Security Department knew depended on the assessment of these Heads, especially as the information would go upwards to the Assistants, the Deputy, or the Chief.¹⁴²¹ A similar account of the upwards reporting system was provided by Witness Miloš Teodorović, an advisor to the Chief of the State Security Department from May 1992 until December 1999, and Witness RJS-04, a long serving employee of the State Security Service.¹⁴²² According to Witness Teodorović, the Head of an Administration would receive documents from State Security Service centres, carry out an

¹⁴¹⁵ Witness Nielsen, T. 15 November 2017 p. 11, T. 14 November 2017 pp. 26, 27, 68; Exhibit P00850, para. 114; Exhibit 2D00451, para. 476; Exhibit P03193, pp. 6, 7, *referring to* Articles 13-20; Exhibit P00024, pp. 4, 5, *referring to* Article 6. The Rulebook on the Internal Organization of the State Security Department in the Ministry of Interior of January 1992 also renamed the territorial divisions of the State Security Service from State Security Service Sectors to State Security Department Centres. These sectors were geographically reorganized throughout Serbia, including Kosovo and Vojvodina, to ensure centralisation of internal affairs within the State Security Department. *See* Witness Nielsen, T. 14 November 2017 p. 27; Exhibit P00850, para. 116, p. 276; Exhibit 2D00451, paras. 78, 217; Witness Ristić, T. 25 June 2019 p. 16, Exhibit 1D00134, para. 19; Witness Teodorović, Exhibit 1D00174, para. 15.

¹⁴¹⁶ Witness Nielsen, T. 14 November 2017 pp. 68, 69; Witness Milošević, T. 25 February 2020 pp. 52, 56, 57, 79, T. 19 February 2020 p. 31, T. 18 February 2020 p. 31; Exhibit 2D00451, paras. 351, 371-377; Witness Ristić, T. 26 June 2019 p. 31, T. 25 June 2019 p. 12, Exhibit 1D00135, p. 11732, Exhibit 1D00134, para. 5; Witness Teodorović, T. 4 July 2019 pp. 3, 4; Witness Novaković, T. 18 September 2019 p. 43.

¹⁴¹⁷ Witness Teodorović, T. 3 July 2019 p. 25, Exhibit 1D00174, para. 75; Witness Ristić, T. 26 June 2019 pp. 27, 32, T. 25 June 2019 p. 17, Exhibit 1D00134, para. 5.

¹⁴¹⁸ Witness Ristić, T. 26 June 2019 p. 27, T. 25 June 2019 pp. 18-20, 58, Exhibit 1D00134, paras. 5, 10; Witness Teodorović, Exhibit 1D00174, para. 74; Witness Milošević, T. 25 February 2020 pp. 55, 56, T. 20 February 2020 p. 42.

¹⁴¹⁹ Witness Ristić, T. 25 June 2019 pp. 18, 19, 57, 59, Exhibit 1D00135, p. 11736, Exhibit 1D00134, para. 6.

¹⁴²⁰ Exhibit P00850, para. 99; Witness Ristić, Exhibit 1D00134, paras. 1, 6.

¹⁴²¹ Witness Ristić, Exhibit 1D00134, para. 11.

¹⁴²² Witness Teodorović, T. 3 July 2019 p. 20, T. 2 July 2019 pp. 5, 6, 16, 20, Exhibit 1D00174, paras. 2, 9, 50-53; Witness RJS-04, Exhibit 1D00196, paras. 1-5, 13, 16. Witness RJS-04 stated that sending information to the Deputy or

assessment and select documents to be sent to the relevant Assistant Chief, who would then decide on which documents should be presented to the Deputy Chief of the State Security Department.¹⁴²³ He stated that, while there were exceptions to the regular reporting chain,¹⁴²⁴ only a small number of important documents reached the Chief.¹⁴²⁵ Further, in relation to requests to the newly formed Eighth Administration, Witness Ristić stated that, in 1992 and later, they came from the Heads of the Administrations, were approved by the Deputy Chief of the State Security Department, and that such requests did not reach the Chief of the State Security Department.¹⁴²⁶

338. Despite the change from the State Security Service to the State Security Department, the responsibilities of the Chief and Deputy Chief of the State Security Department remained largely the same.¹⁴²⁷ In addition to the Deputy Chief and the Assistant Chiefs of the State Security Department, the Chief of Service was also assisted by a cabinet, special advisors, and advisors.¹⁴²⁸ However, while earlier the Chief of the State Security Service Administration in Belgrade reported directly to the Chief of Service, after 1992, the Chief of the State Security Department Centre in Belgrade reported to both the Chief and Deputy Chief of the State Security Department.¹⁴²⁹

2. Public Security Service/Public Security Department

339. As indicated above, the Ministry of Interior also consisted of the Public Security Service, which, broadly speaking, could be defined as policing and ensuring the public security of the citizens of Serbia.¹⁴³⁰ Like the transformation that took place with the State Security Service becoming the State Security Department, the Public Security Service became the Public Security Department in 1992.¹⁴³¹ The Public Security Department comprised of ten administrations, which included the Police Administration, the Crime Police Administration, the Traffic Police

the Assistant would be like sending it to the Chief and that, therefore, the process of informing would be completed. *See* Witness RJS-04, Exhibit 1D00196, para. 16.

¹⁴²³ Witness Teodorović, T. 2 July 2019 p. 18, Exhibit 1D00175, p. 11979, Exhibit 1D00174, paras. 50-52.

¹⁴²⁴ According to Witness Teodorović, a Head of Administration could bypass the Deputy Chief and send a document directly to the Chief if he/she thought the document was sufficiently important, when there were urgent dispatches, and when the Chief ordered a Head of Administration to do something and, thereafter, required direct reporting on the completion of such tasks, but this did not occur regularly. *See* Witness Teodorović, T. 3 July 2019 pp. 38, 39, T. 2 July 2019 pp. 14-16, Exhibit 1D00175, pp. 11983, 11986-11989, Exhibit 1D00174, paras. 53, 55. *See also* Witness Milošević, T. 19 February 2020 pp. 14, 15.

¹⁴²⁵ Witness Teodorović, T. 3 July 2019 p. 24, T. 2 July 2019 pp. 16, 18, 21, 22, 48, Exhibit 1D00175, pp. 11979-11982, Exhibit 1D00174, paras. 50-58. *See also* Witness Milošević, T. 20 February 2020 p. 41, T. 19 February 2020 pp. 13, 14.

¹⁴²⁶ Witness Ristić, T. 25 June 2019 pp. 21, 22, 24, 25, 63, Exhibit 1D00134, paras. 24, 25.

¹⁴²⁷ Witness Nielsen, T. 21 November 2017 p. 109; Exhibit 2D00451, paras. 245, 254; Witness Teodorović, Exhibit 1D00175, p. 12007; Exhibit P02635, pp. 2, 3; Exhibit P03193, pp. 13, 14, *referring to* Articles 39, 41.

¹⁴²⁸ Witness Nielsen, T. 22 November 2017 pp. 42, 43; Exhibit P00850, p. 276, para. 115; Exhibit 2D00451, para. 224; Exhibit P03193, p. 13, *referring to* Article 39.

¹⁴²⁹ Exhibit P00850, p. 276; Witness Ristić, T. 25 June 2019 p. 11.

¹⁴³⁰ Witness Nielsen, T. 14 November 2017 p. 27; Witness Milošević, T. 18 February 2020 pp. 43, 44; Exhibit 2D00451, paras. 95, 100, 107. *See also supra* para. 326.

¹⁴³¹ Exhibit P00850, para. 104; Exhibit 2D00451, para. 95.

Administration, the Border Police Administration, the Fire Prevention Police Administration, the Analysis Administration, the Information Technology Administration, the Communications Administration, the Administration for Joint Affairs, the Board and Lodging Administration, and the Operations Centre.¹⁴³²

340. The Chief of the Public Security Service/Public Security Department was responsible for the work of the service/department.¹⁴³³ Radovan Stojičić (Badža) was appointed as Assistant Minister of Internal Affairs for Public Security of Serbia on 31 December 1991, the same day that Stanišić was appointed Assistant Minister of Internal Affairs for State Security.¹⁴³⁴ As Assistant Minister of Internal Affairs for Public Security, Badža was also the Chief of the Public Security Service or Public Security Department, respectively, during the period from 31 December 1991 to 1995.¹⁴³⁵ Badža was promoted Deputy Minister of Internal Affairs on 12 August 1993.¹⁴³⁶

341. While the Trial Chamber heard differing accounts as to whether the State Security Service/State Security Department and Public Security Service/Public Security Department were, in fact, equal,¹⁴³⁷ they were required by law to cooperate.¹⁴³⁸ The Trial Chamber also received evidence regarding the establishment, on 1 August 1993, of special police units of the Ministry of Interior by Sokolović, the Minister of Interior at the time, which were placed within the Public Security Department under Badža.¹⁴³⁹ In relation to these special police units, also known as PJM, the Trial Chamber notes the Prosecution's contention regarding their activities during the Indictment period, including in the SBWS,¹⁴⁴⁰ the Autonomous Region of Krajina,¹⁴⁴¹ and during

¹⁴³² Exhibit 2D00451, para. 95.

¹⁴³³ Exhibit 2D00451, para. 100.

¹⁴³⁴ Exhibit P00850, pp. 8, 12, para. 105; Exhibit 2D00451, para. 106; Witness Vasiljević, T. 6 February 2019 p. 30, T. 31 January 2019 p. 7; Witness RFJ-109, Exhibit P01782, pp. 23621, 23623, 23624; Exhibit P03249, pp. 4, 5.

¹⁴³⁵ Witness Nielsen, T. 23 November 2017 p. 15, T. 14 November 2017 pp. 49, 50; Exhibit P00850, pp. 8, 12, para. 105; Exhibit 2D00451, paras. 103, 104, 106, 107; Witness Vasiljević, T. 30 January 2019 p. 57; Witness RFJ-109, Exhibit P01782, pp. 23623-23625; Witness Gagić, Exhibit 2D00494, p. 17159; Witness Anastasijević, Exhibit P02423, para. 76; Exhibit P01787; Witness RJS-04, Exhibit 1D00196, paras. 45, 46; Exhibit P02434, p. 1. Prosecution Expert Witness Christian Nielsen stated that, while he lacked any specific document listing Badža's function prior to 31 December 1991, he agreed that, in any case, he was a high-ranking official of the Public Security Service of the Ministry of Interior. See Witness Nielsen, T. 23 November 2017 p. 15. See also Witness Vasiljević, T. 30 January 2019 p. 57.

¹⁴³⁶ Exhibit P00850, para. 108; Witness RFJ-109, Exhibit P01782, p. 23621; Witness RJS-04, Exhibit 1D00196, para. 45; Witness Milovanović, Exhibit P02934, p. 4532; Witness RFJ-150, Exhibit P02276, para. 23; Exhibit P03255; Exhibit P02434.

¹⁴³⁷ Witness Nielsen, T. 14 November 2017 pp. 17, 18, 50; Exhibit 2D00451, para. 102. See also Witness RFJ-037, T. 7 February 2018 pp. 10, 11; Witness Vasiljević, T. 28 January 2018 p. 27; Witness RFJ-153, Exhibit P00002, para. 152.

¹⁴³⁸ See *supra* para. 326.

¹⁴³⁹ Witness Milošević, T. 27 February 2020 pp. 15, 16; Exhibit 2D00451, para. 419; Witness Anastasijević, Exhibit P02423, para. 76; Witness RJS-04, Exhibit 1D00196, para. 46; Exhibit 2D00159; Exhibit 1D00113; Exhibit 2D00081. See also Exhibit P00850, paras. 106, 107.

¹⁴⁴⁰ See Prosecution Final Trial Brief, paras. 392 (wherein the Prosecution states that, shortly after Serb forces took over Dalj and Erdut in the 1 August 1991 attacks, Badža, "a senior SMUP official from the SAJ" was dispatched from Belgrade to SBWS along with "SMUP SAJ and SerbianJB-PJM personnel to assume responsibility for the SAO-SBWS TO and police"), 393 (wherein the Prosecution states that, arriving with Badža were, *inter alia*, "SerbianJB-PJM

operations in the Podrinje region,¹⁴⁴² as well as the training of members of the special police units at Mt. Tara in 1993.¹⁴⁴³ Having reviewed the Prosecution’s submissions, the Trial Chamber observes that there is evidence regarding the actions of these special police units of the Ministry of Interior in both Croatia and Bosnia and Herzegovina during the conflict, which the Trial Chamber discusses, where necessary, in the context of the crimes charged in the Indictment.

B. The Accused

1. Jovica Stanišić

342. Stanišić was born on 30 July 1950 in Ratkovo in the Autonomous Province of Vojvodina, Republic of Serbia.¹⁴⁴⁴ He started his employment at the State Security Service in 1975 and attained the ranks of Inspector and Independent Inspector, while working for the State Security Service Administration in Belgrade, and Senior Inspector and Advisor to the State Security Service in 1985

commander Miodrag Žavisić”, who “became Badža’s police deputy as the commander of all SAO-SBWS police stations”). *See also* Prosecution Final Trial Brief, paras. 377, 671.

¹⁴⁴¹ *See* Prosecution Final Trial Brief, paras. 654 (wherein the Prosecution states that, six weeks after the Trnovo/Treskavica operation, in September 1995, the Accused and other members of the joint criminal enterprise deployed Serb forces, including, *inter alia*, “SerbianJB-PJMs” into the Autonomous Region of Krajina to defend previously cleansed territory and drive out the remaining non-Serbs, *referring to, inter alia*, Witness Milovanović, Exhibit P02935, pp. 15522, 15527 (wherein the witness states that Radovan Karadžić told him that he should receive “Special Police Units” to help them defend Banja Luka and, thereafter, a meeting was held in his office and the “Special Police Units” were discussed)), 657 (wherein the Prosecution states that Badža ordered the deployment of the “SerbianJB-PJMs in the field” in late August 1995 and their tasks was to assume regular police duties, *referring to, inter alia*, Witness Grekulović, T. 9 October 2019 pp. 50, 51 (wherein the witness states that his “PJP forces” were deployed to several towns in the area, including Sanski Most, Doboj, Banja Luka, Prijedor, Mrkonjic Grad, and Teslić, that his responsibilities included police duties, and that they carried out these duties together with regular police forces of the Ministry of Interior of *Republika Srpska*), Exhibit 1D00409, para. 10). *See also* Prosecution Final Trial Brief, paras. 655, 667. According to the Prosecution, “the terms “PJP” and “PJM” refer to the same Serbian Ministry of Interior public security units. *See* Prosecution Final Trial Brief, n. 1313.

¹⁴⁴² *See* Prosecution Final Trial Brief, paras. 136 (wherein the Prosecution states that, in March 1993, under Simatović’s overall command, Radojica Božović led “the Unit, SerbianJB-PJM units, and other SerbianDB-trained forces in Operation Udar”), 572 (*referring to, inter alia*, Witness RFJ-083, Exhibit P02264, para. 25 (wherein the witness states that, in March 1993, both the PJM and the Red Berets were burning down civilians houses in Muslim villages, including Osmaća and Karačići)), 580 (wherein the Prosecution states that, south of Srebrenica, the Accused deployed, *inter alia*, “SerbianJB-PJM units”, that, once deployed, the “SerbianJB-PJM members received training from the Unit and knew that Simatović was their main commander”, and that “Frenki’s men and the SerbianJB-PJM units swept through the area south of Srebrenica” looting and committing other crimes, *referring to, inter alia*, Witness RFJ-083, T. 10 May 2018 pp. 29-31, T. 9 May 2018 p. 6, T. 8 May 2018 pp. 8-10 (wherein the witness discusses the arrival of his PJM unit in Bajina Bašta, that, shortly thereafter, Obrad Stevanović and Branko Prljević, who was the detachment commander of the PJM, conducted a meeting with the PJM, that he heard about another meeting attended by Stevanović, Prljević, Simatović, and platoon and company commanders, and that, in relation to the taking of certain local villages, “it was a synchronized operation of several Red Berets units and several PJM units”), Exhibit P02264, paras. 18 (wherein the witness states that “his PJM unit of 30 was added to 10-15 Red Berets” for actions taking place in eastern Bosnia), 23 (wherein the witness states that the Red Berets and his PJM unit both had Motorola’s for communication)). *See also* Prosecution Final Trial Brief, para. 590.

¹⁴⁴³ *See* Prosecution Final Trial Brief, para. 299 (wherein the Prosecution alleges that “Frenki’s men” provided intensive combat training to “up to 200 PJM members sent to Tara by Stevanović from February to March 1993”, *referring to* Witness RFJ-083, T. 8 May 2018 pp. 4, 30, 31, 45, 49, Exhibit P02264, paras. 8, 9, 11; Witness Stevanović, T. 22 September 2020 pp. 64, 65; Witness Novaković, T. 17 September 2019 pp. 45, 46; Exhibit 1D00068; Exhibit 2D00081; Exhibit 1D00115). *See also* Prosecution Final Trial Brief, para. 92.

¹⁴⁴⁴ *See* Exhibit P02840; ICTY Appeal Judgement, para. 2.

and 1990, respectively.¹⁴⁴⁵ Stanišić was, thereafter, appointed as Deputy Chief of the State Security Service, a position he held in 1991¹⁴⁴⁶ and, on 31 December 1991, he was promoted to Chief of the State Security Service.¹⁴⁴⁷ Stanišić served in this position until 27 October 1998.¹⁴⁴⁸ His employment was officially terminated on 20 June 2000.¹⁴⁴⁹ As outlined above, The Trial Chamber notes that, as Chief of Service, Stanišić was responsible for the administration of the State Security Service, which included, *inter alia*, organizing the tasks of the Service, coordinating the work of organizational units, and implementing a work plan for the Service.¹⁴⁵⁰

343. In 1991, Stanišić served as Deputy Chief of the State Security Service under Janačković, the Chief of the Service at the time.¹⁴⁵¹ Witness Milorad Leković, who was the Chief of the State Security Service Administration in Belgrade from November 1988 until August 1992 and an Assistant Minister of the Ministry of Interior of Serbia from August 1992 until July 1994,¹⁴⁵² testified that Janačković avoided Stanišić whenever possible and requested information to be sent directly to him.¹⁴⁵³ Witness Ristić also testified that Janačković and Stanišić did not have a professional relationship, with Janačković distancing himself from Stanišić by establishing direct lines of communication with all sectoral offices of the State Security Service.¹⁴⁵⁴ As a result, information, rather than being reported from sectoral offices to the relevant administrations in the State Security Service, was sent directly to Janačković.¹⁴⁵⁵

344. On 2 April 1991, a commission was established by Bogdanović, the Minister of Interior at that time, to investigate the leaking of state secrets from the Ministry of Interior to the Serbian press, and Stanišić, then Deputy Chief of the State Security Service, was identified as one of the possible leakers of the information.¹⁴⁵⁶ Witness Leković testified that Bogdanović approached him regarding the setting up of the commission in mid-March 1991 and informed him that Janačković

¹⁴⁴⁵ Exhibit P00850, paras. 71-75.

¹⁴⁴⁶ Witness Nielsen, T. 16 November 2017 pp. 26, 28, *referring to* Exhibit P00242; Witness Teodorović, T. 2 July 2019 p. 36. *See also* Exhibit 2D00019; Exhibit 1D00043, pp. 30, 32, 33.

¹⁴⁴⁷ Witness Nielsen, T. 16 November 2017 p. 40, T. 14 November 2017 pp. 31, 32; Exhibit P00850, para. 77; Exhibit 2D00451, para. 106, n. 124; Witness Teodorović, T. 3 July 2019 p. 37; Witness RFJ-109, Exhibit P01782, pp. 23645, 23646; Exhibit P03249, p. 4.

¹⁴⁴⁸ Witness Nielsen, T. 14 November 2017 p. 31; Exhibit P00850, paras. 77, 79; Witness Ristić, T. 27 June 2019 pp. 48, 54.

¹⁴⁴⁹ Exhibit P00850, para. 80.

¹⁴⁵⁰ *See supra* para. 330.

¹⁴⁵¹ Witness Nielsen, T. 16 November 2017 pp. 26, 28, 50; Exhibit P00850, paras. 30, 77, 79; Witness Teodorović, T. 2 July 2019 p. 36; Witness Leković, Exhibit 1D00545, p. 14291, Exhibit 1D00544, para. 19.

¹⁴⁵² Witness Leković, Exhibit 1D00545, pp. 14243, 14261, Exhibit 1D00544, paras. 5, 11, 19.

¹⁴⁵³ Witness Leković, Exhibit 1D00545, pp. 14265, 14327, 14352, Exhibit 1D00544, para. 12.

¹⁴⁵⁴ Witness Ristić, Exhibit 1D00134, paras. 36, 42, Exhibit 1D00135, p. 11678.

¹⁴⁵⁵ Witness Ristić, Exhibit 1D00134, para. 36. *See also* Witness Teodorović, T. 2 July 2019 p. 34.

¹⁴⁵⁶ Witness Nielsen, T. 16 November 2017 pp. 34, 35, 37; Witness Ristić, T. 27 June 2019 p. 20, T. 25 June 2019 p. 47, Exhibit 1D00135, pp. 11687, 11707, 11884, 11885, Exhibit 1D00134, para. 37; Witness Miljković, Exhibit 1D00381, p. 1; Exhibit 1D00158; Witness Leković, Exhibit 1D00544, para. 21. *See also* Exhibit 1D00052, pp. 1, 4; Exhibit 1D00043, pp. 27, 33. The information alleged to have been leaked was related to details of agents and the methods and operations of the State Security Service. *See* Witness Nielsen, T. 16 November 2017 p. 35.

was insistent on establishing this commission.¹⁴⁵⁷ Bogdanović also believed that Slobodan Milošević agreed with Janačković about the establishment of the commission at the level of the Ministry of Interior, rather than internally within the State Security Service.¹⁴⁵⁸ Once the commission was established, Witness Leković was appointed as the president of the commission,¹⁴⁵⁹ and Janačković specified that the commission's work should be completed swiftly, that it was strictly confidential, and that the commission would report to him and Bogdanović.¹⁴⁶⁰ The Trial Chamber also received evidence that Janačković proposed to form the commission in order to discredit and have Stanišić removed from the State Security Service.¹⁴⁶¹

345. While the commission was operating, although not officially suspended, Stanišić requested a voluntary leave of absence, on the insistence of Janačković.¹⁴⁶² Witness Leković stated that, as no written decision was issued on this matter, Stanišić continued to come to work from time to time.¹⁴⁶³ Witness Leković further stated that, from April 1991 until early October 1991, Janačković marginalized Stanišić and would not give him any tasks, allow him to issue assignments to operatives, or engage with the chiefs of other administrations.¹⁴⁶⁴ This is further corroborated by Witness Ristić, who testified that, during the whole of 1991, Stanišić was not operationally active and would only come to the State Security Service to collect his salary and meet with people,¹⁴⁶⁵ as well as by Witness Milun Miljković, an employee of the State Security Service, who stated that any State Security Service officer under investigation by a commission is treated, for all practical purposes, as if he were suspended from his duties.¹⁴⁶⁶ According to Witness Ristić, Stanišić was placed under surveillance even before March 1991 and was not authorized to carry out any tasks,

¹⁴⁵⁷ Witness Leković, Exhibit 1D00545, pp. 14305, 14306, 14349, Exhibit 1D00544, para. 13.

¹⁴⁵⁸ Witness Leković, Exhibit 1D00544, para. 14. According to Witness Leković, Janačković insisted on establishing the commission at the level of the Ministry of Interior, instead of the State Security Service, to ensure that those who leaked the secret information faced serious consequences such as removal from the State Security Service. *See* Witness Leković, Exhibit 1D00544, paras. 14, 16.

¹⁴⁵⁹ Witness Leković, Exhibit 1D00545, p. 14306, Exhibit 1D00544, paras. 17-19; Witness Miljković, Exhibit 1D00381, p. 2; Exhibit 1D00158, p. 1. *See* Witness Ristić, T. 25 June 2019 p. 52.

¹⁴⁶⁰ Witness Leković, Exhibit 1D00544, para. 25.

¹⁴⁶¹ Witness Ristić, T. 27 June 2019 pp. 20, 21, T. 25 June 2019 pp. 50, 51, Exhibit 1D00134, para. 37. *See also* Witness Leković, Exhibit 1D00545, pp. 14266, 14287, 14288, Exhibit 1D00544, paras. 19, 44.

¹⁴⁶² Witness Nielsen, T. 23 November 2017 p. 104 (wherein Prosecution Expert Witness Nielsen states that Stanišić's personnel file from the State Security Service indicates that he was not suspended and was paid for every day that he worked for the State Security Service), T. 16 November 2017 pp. 37, 39, 40; Witness Leković, Exhibit 1D00545, pp. 14275-14277, Exhibit 1D00544, para. 28; Exhibit 1D00043, p. 33. *See also* Witness Ristić, Exhibit 1D00134, para. 40.

¹⁴⁶³ Witness Leković, Exhibit 1D00545, p. 14277, Exhibit 1D00544, paras. 28, 33.

¹⁴⁶⁴ Witness Leković, Exhibit 1D00545, pp. 14271-14275, 14352, 14363, Exhibit 1D00544, paras. 28, 33.

¹⁴⁶⁵ Witness Ristić, T. 26 June 2019 pp. 47, 48, 58, 59, T. 25 June 2019 p. 6, Exhibit 1D00135, pp. 11683, 11708, 11709, Exhibit 1D00134, paras. 42, 43. *See also* Witness Teodorović, T. 2 July 2019 pp. 38-40 (wherein the witness states that Stanišić was not carrying out part of his mandate due to the fact that he was under investigation for almost the entirety of 1991, and that he also did not see him at the building in which they both worked from January to May 1991).

¹⁴⁶⁶ Witness Miljković, Exhibit 1D00381, pp. 1, 3. *See also* Witness Miljković, Exhibit 1D00381, pp. 3, 4.

attend meetings, or review activities relating to counterintelligence work of the State Security Service.¹⁴⁶⁷

346. The commission stopped functioning on 23 May 1991, without concluding its work, and did not bring any charges against Stanišić.¹⁴⁶⁸ Witness Leković testified that he submitted the commission's report, dated 22 May 1991, to Bogdanović and Janačković, recording that no person from the Ministry of Interior had disclosed state secrets or official secret information.¹⁴⁶⁹ Subsequently, Witness Leković, on orders from Janačković, submitted an official note on the work of the commission on 19 July 1991 and recommended that, since no official decision had been taken to end the commission's existence, a new commission should be established to prepare a new report.¹⁴⁷⁰ The Trial Chamber also received evidence that, on 19 July 1991, after Bogdanović had been removed as Minister of Interior, he visited Witness Leković and asked him whether there had been any new developments in relation to the commission's work and suggested the continuation of its work.¹⁴⁷¹

347. Stanišić points to evidence alluding to the fact that the establishment of the commission restricted his ability to act and showed that he was not Milošević's right hand man or the *de facto* Chief of the State Security Service in 1991.¹⁴⁷² The Trial Chamber also received evidence indicating that Stanišić was, in fact, active and working during this period of time,¹⁴⁷³ as well as evidence that he maintained a measure of clear authority within the State Security Service and Ministry of Interior in 1991.¹⁴⁷⁴ Prosecution Expert Witness Nielsen also noted that, even if Stanišić

¹⁴⁶⁷ Witness Ristić, T. 27 June 2019 pp. 26, 55-57, 63, Exhibit 1D00135, p. 11870; Exhibit 1D00134, para. 43. *See also* Witness Leković, Exhibit 1D00545, pp. 14283, 14284.

¹⁴⁶⁸ Witness Nielsen, T. 16 November 2017 pp. 40, 44; Witness Leković, Exhibit 1D00545, pp. 14320, 14321, 14323, 14324; Witness Ristić, T. 27 June 2019 p. 23, Exhibit 1D00135, p. 11688; Witness Miljković, Exhibit 1D00381, p. 3.

¹⁴⁶⁹ Witness Leković, Exhibit 1D00545, pp. 14320-14322, Exhibit 1D00544, para. 35; Exhibit 1D00162, p. 3.

¹⁴⁷⁰ Witness Leković, Exhibit 1D00545, pp. 14288, 14322, 14323, Exhibit 1D00544, para. 39; Witness Nielsen, T. 16 November 2017 pp. 38, 43, 44; Exhibit 1D00043, p. 34.

¹⁴⁷¹ Witness Leković, Exhibit 1D00545, pp. 14358, 14361, 14369, Exhibit 1D00544, para. 41; Witness Ristić, T. 27 June 2019 pp. 52, 53, Exhibit 1D00135, p. 11894; Exhibit 1D00121. *See also* Witness Nielsen, T. 16 November 2017 p. 38.

¹⁴⁷² Stanišić Final Trial Brief, para. 162 and references cited therein. *See also* Stanišić Final Trial Brief, paras. 547, 548; Stanišić Closing Arguments, T. 13 April 2021 pp. 19, 20, 41-43; Witness Nielsen, T. 16 November 2017 pp. 37-48; Witness Ristić, Exhibit 1D00134, paras. 37, 42.

¹⁴⁷³ Witness Nielsen, T. 23 November 2017 pp. 104-107; Witness RFJ-153, T. 15 June 2017 pp. 24, 28, 29, 32, 33, 43-45, Exhibit P00002, paras. 87, 88; Witness N. Bogunović, T. 4 September 2019 pp. 26, 27, Exhibit 1D00275, p. 13236, Exhibit 1D00274, para. 67. *See* Exhibit P00242, pp. 1, 5 (BCS); Exhibit P00857, p. 3; Exhibit 2D00064, p. 1 (BCS); Exhibit 1D00042; Exhibit P00522, p. 21 (BCS). The Trial Chamber notes that, in relation to both Exhibits 2D00064 and P00242, Prosecution Expert Witness Nielsen testified that the documents contained Stanišić's initials and signature. *See* Witness Nielsen, T. 22 November 2017 p. 67, T. 14 November 2017 p. 67. The Trial Chamber further notes that, while Witness Ristić testified that Stanišić was not "operationally active" in 1991, he was referring to the "collegium meetings, the working meetings, and the drawing up of annual reports" and, in that sense, he was not active during the year. However, the witness stated that, apart from the above, whether Stanišić was doing anything or not was something he did not know. *See* Witness Ristić, T. 26 June 2019 p. 47. *See also* Witness Ristić, T. 26 June 2019 pp. 48-50 (wherein the witness is notably commenting on page 21 of the BCS version of Exhibit P00522).

¹⁴⁷⁴ *See, e.g.,* Witness Vasiljević, T. 28 January 2019 pp. 45, 46 (wherein the witness stated that, when Janačković was the Chief of the State Security Service, Stanišić was professionally a dominant figure over Janačković and his authority

was absent during portions of March and April 1991, the entire matter did not have any detrimental effect on his career as he was subsequently promoted to Chief of the State Security Service by the end of 1991.¹⁴⁷⁵ The Trial Chamber, therefore, finds that, while Janačković's efforts may have had some impact on Stanišić's authority within the State Security Service, it was only for a short period of time and, as such, any doubt arising from Stanišić's contention that his ability to act was restricted will be examined in light of the evidence regarding his activities at the time the commission was operating.

348. In relation to the various Administrations of the State Security Department, the Trial Chamber notes that, according to Witness Ristić, there were only a few people who had knowledge of the activities of the Second Administration, which, outside of the operatives themselves, included Stanišić.¹⁴⁷⁶ In addition, the Trial Chamber notes that the Eighth Administration dealt with logistics, which included, *inter alia*, salaries and personnel, but that it also received evidence suggesting that requests to the Eighth Administration did not reach the Chief of the State Security Department.¹⁴⁷⁷ In this regard, Stanišić argues that, within the purview of the Eighth Administration, supplies could be accessed without his approval or knowledge and that it was not his role or within the remit of the Chief of the State Security Service/State Security Department to decide who received per diems, and that his only role was to authorize the head of the JATD to approve payments for special expenditures up to 50,000 Dinars.¹⁴⁷⁸ However, having duly considered Stanišić's arguments, the

was "unquestionable"), Exhibit P02694, pp. 15862, 15863 (wherein the witness stated that, even when he was the Deputy of the State Security Service, Stanišić was the dominant figure not only in the State Security Service, but also in the Ministry of Interior); Witness Babić, Exhibit P01246, pp. 13175, 13176 (wherein the witness stated that Stanišić was the "Number Two man in Milošević's regime"), 13503 (wherein the witness stated that Stanišić was the head of the State Security Service in 1991), Exhibit P01248, p. 1392 (wherein the witness stated that, by the spring of 1991, Stanišić became the head of the State Security Service within the Ministry of Interior); Witness RFJ-113, Exhibit P02701, p. 15141 (wherein the witness stated that Stanišić introduced himself as Chief of the State Security Service), Exhibit P00562, para. 41 (wherein the witness states that Bogdanović introduced Stanišić as the head of the State Security Service); Witness B. Bogunović, Exhibit P02719, para. 14 (wherein the witness stated that he was aware, as of late August 1991, that Stanišić was the Head of the Serbian State Security Service); Witness Anastasijević, Exhibit P02423, para. 41 (wherein the witness stated that Stanišić headed the State Security Department from the early 1990's until autumn of 1998); Exhibit P02433, p. 1 (wherein a statement allegedly from Stanišić indicates that he spent seven years, 1991 to 1998, in the position of Chief of the State Security Service). The Trial Chamber also notes that, while Witness Leković stated that, from April 1991 until early October 1991, Janačković marginalized Stanišić, he also stated that, from October 1991 until late 1991, his popularity among operatives grew and that his work was given "even much more weight". See Witness Leković, Exhibit 1D00545, p. 14291.

¹⁴⁷⁵ Witness Nielsen, T. 16 November 2017 pp. 40, 41.

¹⁴⁷⁶ Witness Ristić, T. 26 June 2019 pp. 27, 28, Exhibit 1D00134, para. 6.

¹⁴⁷⁷ See Witness RFJ-016, T. 5 September 2018 pp. 44, 45.

¹⁴⁷⁸ See Stanišić Final Trial Brief, paras. 83, 121-132, Annex IX. See also Stanišić Closing Arguments, T. 13 April 2021 p. 14; Exhibit 1D00072, p. 4. Stanišić contends that his role, commensurate with the head of a sizable organization, was to authorize only the overall budget, leaving the head of the basic organizational unit to determine monthly spending, including in relation to special purposes, such as the JATD. See Stanišić Final Trial Brief, para. 122, referring to Exhibit 2D00451, paras. 234-236, 238, 239, 340, 342, 346, 429; Exhibit 1D00072, pp. 2, 3. In relation to Stanišić's argument that his only role was to authorize the head of the JATD to approve payments for special expenditures up to 50,000 dinars, the Trial Chamber notes that the actual wording of the instruction states that the "Chief of the State Security Service may authorize managers of the basic organizational units to approve the payment of funds for special expenditures", which includes payments up to 50,000 dinars. See Exhibit 1D00072, p. 4. See also Stanišić Final Trial Brief, para. 125.

Trial Chamber recalls that, as Chief, Stanišić's duties included deciding on the application of equipment and methods within the State Security Service/State Security Department.¹⁴⁷⁹

349. The Trial Chamber also received evidence in relation to Stanišić's interactions with the United States intelligence community, particularly the Central Intelligence Agency, and involvement in events during the Indictment period, including his assistance in the release of 300 UNPROFOR hostages, captured French pilots, and an American journalist in Bijeljina, as well as his role at the Dayton Peace Conference in November 1995.¹⁴⁸⁰ According to Stanišić, the United States government attested to his role as a key peacemaker during the crisis in Bosnia and Herzegovina, and recognized the various ways in which his actions ultimately contributed to resolving the crisis.¹⁴⁸¹ Stanišić further contends that he was the director/coordinator of a civilian institution, not the commander of an army, and that, as professional civil servant, his principal objective and that of the State Security Service/State Security Department was to maintain the security of Serbia, which included combating extremism, protecting ethnic minorities, and working for peace throughout 1991 to 1995.¹⁴⁸² In this regard, Stanišić also states that the State Security Service policy from 1992 onwards placed an emphasis on providing support to peace efforts and negotiations.¹⁴⁸³ Having reviewed the evidence, the Trial Chamber accepts that Stanišić did on occasion demonstrate a willingness to resolve the conflict, work towards peace, and provide humanitarian assistance during the relevant period. This evidence, however, equally illustrates the power of his position and personality, as well as his ability to influence or play a major role in important events and with respect to key figures in the Serb leadership.

350. Considering the above, the Trial Chamber finds that Stanišić served as Deputy Chief of the State Security Service in 1991 and, was, thereafter, promoted to Chief of the State Security Service on 31 December 1991, a position he maintained until October 1998. The Trial Chamber does not find convincing Stanišić's arguments that various features of the State Security Service and later State Security Department's structural system made it possible to bypass him and were open to abuse, including in relation to the role of the Deputy Chief and Heads of Administrations.¹⁴⁸⁴ The Trial Chamber considers that, during the period relevant to the Indictment, Stanišić held high-level positions with significant powers and authority within the State Security Service, State Security Department, and Ministry of Interior. The Trial Chamber will, however, continue to examine how

¹⁴⁷⁹ See *supra* para. 330.

¹⁴⁸⁰ Stanišić Final Trial Brief, paras. 166-179, 1626; Witness Nielsen, T. 16 November 2017 pp. 56-60; Exhibit 1D00055, pp. 4-6. See also Stanišić Rejoinder, T. 14 April 2021 pp. 35, 36.

¹⁴⁸¹ Stanišić Final Trial Brief, para. 166, referring to Exhibit 1D00055, pp. 4-6.

¹⁴⁸² See Stanišić Final Trial Brief, paras. 85, 134, 136-138, 140-142, 144-150, 155, 160, 163-179, Annex I, pp. 7-62. See also Stanišić Rejoinder, T. 14 April 2021 pp. 33-35.

¹⁴⁸³ Stanišić Final Trial Brief, para. 167, referring to Witness Dragičević, Exhibit 1D00440, para. 23.

¹⁴⁸⁴ See, e.g., Stanišić Final Trial Brief, paras. 82, 83, 90, 91, 93-101, 106, 107, 110, 116, 118-123, 126-132.

that power and authority manifested themselves in relation to the specific events charged in the Indictment.

2. Franko Simatović

351. Franko Simatović was born on 1 April 1950 in Belgrade, Republic of Serbia.¹⁴⁸⁵ He started working for the State Security Service in 1978 at the State Security Service Administration in Belgrade.¹⁴⁸⁶ On completing his probationary employment of one year, Simatović attained the rank of a Junior Inspector on 1 July 1979 and was later promoted to Inspector.¹⁴⁸⁷ Simatović's work evaluation from the 1980's show that he was employed in the Second Administration of the State Security Service in Belgrade, which was responsible for monitoring the activities of enemy émigrés and intelligence services from North Atlantic Treaty Organization countries.¹⁴⁸⁸ On 18 December 1989, Simatović was temporarily dispatched to the Socialist Autonomous Province of Kosovo to assist with state security duties,¹⁴⁸⁹ and, in 1990, he was deployed to Peć, while working as an operative for the State Security Service.¹⁴⁹⁰ On 8 January 1991, Simatović was formally appointed, effective 15 December 1990, to the rank of a Senior Inspector in the State Security Service's Second Administration in Belgrade.¹⁴⁹¹ As a Senior Inspector, Simatović was Chief of the section responsible for monitoring and preventing intelligence activities of the United States of America, where he had approximately eight subordinates.¹⁴⁹² The Trial Chamber also received evidence that, on 18 March 1992, Stanišić issued a backdated decision seconding Simatović to the State Security Service of the Provincial Secretariat of the Interior of Kosovo during the period of 12 April to 17 October 1991.¹⁴⁹³ According to Prosecution Expert Witness Nielsen, this was done to conceal

¹⁴⁸⁵ See Exhibit P00831. See also Exhibit 2D00451, para. 378; ICTY Appeal Judgement, para. 3.

¹⁴⁸⁶ Exhibit P00850, para. 81; Exhibit 2D00451, paras. 378, 395.

¹⁴⁸⁷ See Exhibit P00850, paras. 81, 82 (wherein Prosecution Expert Witness Nielsen states that Simatović was promoted to the rank of Inspector as of 1 July 1984); Exhibit 2D00451, paras. 379, 380, 395 (wherein Defence Expert Witness Milošević states that, as of 1 March 1986, Simatović held the title of Inspector).

¹⁴⁸⁸ Witness Nielsen, T. 22 November 2017 pp. 46, 47; Exhibit P00850, para. 83.

¹⁴⁸⁹ Exhibit P00850, para. 84; Exhibit 2D00451, para. 381.

¹⁴⁹⁰ Exhibit P00850, para. 84.

¹⁴⁹¹ Witness Nielsen, T. 14 November 2017 pp. 32, 33; Exhibit P00850, para. 85; Exhibit 2D00451, para. 382; Exhibit P00831, p. 47.

¹⁴⁹² Witness Nielsen, T. 14 November 2017 pp. 32-35; Exhibit P00850, para. 85; Exhibit 2D00451, paras. 382, 395; Witness Mičić, T. 3 March 2020 pp. 7, 9, Exhibit 2D00454, pp. 19774-19777, 19864; Witness Ristić, Exhibit 1D00135, p. 11739. See also Exhibit 2D00119, pp. 104, 105, referring to Article 42(18).

¹⁴⁹³ See Exhibit P00831, p. 50. See also Witness Nielsen, T. 14 November 2017 pp. 47, 48; Exhibit P00850, para. 86; Exhibit 2D00451, para. 383. According to Witness Mičić, one of Simatović's subordinates in 1991, although a backdated decision was a deviation from the normal procedure, there had been instances where such decisions were issued. See Witness Mičić, T. 4 March 2020 pp. 27, 28, T. 3 March 2020 pp. 5, 6, 9, Exhibit 2D00454, pp. 19774, 19775, 19782, 19783.

covert activities,¹⁴⁹⁴ which the Trial Chamber accepts bearing in mind the evidence of Simatović's activities in the area of SAO Krajina during the relevant period.¹⁴⁹⁵

352. On 29 April 1992, Simatović, under the title of a Senior Inspector, was appointed to the post of Deputy Chief of the Second Administration of the State Security Department by Stanišić, which was effective as of 1 May 1992 and increased the number of employees directly subordinated to him to a maximum of 94 employees.¹⁴⁹⁶ On 12 May 1993, Stanišić further appointed Simatović, under the title of Senior Inspector of the State Security Department, to the position of Special Advisor to the Chief of the State Security Department, which was effective as of 1 May 1993.¹⁴⁹⁷ According to Simatović, he remained in this position until 5 April 1996.¹⁴⁹⁸ Simatović's employment in the State Security Department of the Ministry of Interior was terminated in December 2001.¹⁴⁹⁹

353. The Trial Chamber also notes the evidence it received in relation to the Prosecution's contention that Simatović, while acting as Special Advisor, was elevated by Stanišić to Chief of the Second Administration in 1993, and that employees of the State Security Service "could concurrently hold the positions of Special Advisor and Administration Chief".¹⁵⁰⁰ Simatović,

¹⁴⁹⁴ See Exhibit P00850, para. 86 (wherein Prosecution Expert Witness Nielsen states that Simatović was at this time active in operations concerning Serb-controlled areas of Croatia and in meetings with relevant persons in Belgrade. A backdated decision was also issued, on the same day, for Dragan Filipović and for Milan Radonjić). See also Witness Nielsen, T. 14 November 2017 p. 48; Witness Milošević, T. 26 February 2020 pp. 30, 31, 33-35. The Trial Chamber also notes that Witness Mičić testified that, from spring of 1991, Simatović spent time in Kosovo, after which he returned to Belgrade for a few days and then was transferred to Knin in the summer of 1991. Witness Mičić further stated that, after spending a few months in Knin, Simatović returned to Belgrade and was dispatched to Kosovo again. Witness Mičić, T. 3 March 2020 pp. 11, 12, Exhibit 2D00454, p. 19781.

¹⁴⁹⁵ See Section II.A.1.

¹⁴⁹⁶ Witness Nielsen, T. 22 November 2017 pp. 50, 56, T. 14 November 2017 pp. 35, 36 (wherein Prosecution Expert Witness Nielsen states that, according to the State Security Department's plan, Simatović had a maximum of 95 employees or 94, including himself, subordinate to him); Exhibit P00850, paras. 87, 90; Witness Milošević, T. 25 February 2020 p. 59; Exhibit 2D00451, paras. 384, 395; Witness Mičić, T. 4 March 2020 p. 40, T. 3 March 2020 p. 9, Exhibit 2D00454, p. 19797; Exhibit P00831, pp. 51, 125. According to Prosecution Expert Witness Nielsen, the position of Deputy Chief of the Second Administration of the State Security Department was a senior position within the State Security Department. See Witness Nielsen, T. 14 November 2017 p. 36.

¹⁴⁹⁷ See Simatović Final Trial Brief, para. 98, referring to Exhibit P00831, p. 53; Exhibit P00850, para. 88; Witness Milošević, T. 25 February 2020 p. 59; Exhibit 2D00451, paras. 385, 395.

¹⁴⁹⁸ See Simatović Final Trial Brief, para. 98, referring to Exhibit P00831, p. 56. See also Exhibit 2D00451, para. 395. The Trial Chamber received evidence that the rules governing the State Security Department only foresaw six such Special Advisor positions in the entire Department. See Exhibit P00850, para. 88, referring to Exhibit P03195.

¹⁴⁹⁹ Exhibit P00850, para. 95; Exhibit 2D00451, paras. 391, 395.

¹⁵⁰⁰ Prosecution Final Trial Brief, para. 43 and references cited therein. See also Prosecution Closing Arguments, T. 12 April 2021 p. 11. According to the Prosecution, holding concurrent positions in the State Security Service is evident by the fact that Vlado Dragičević was simultaneously a special advisor and head of an administration. See Prosecution Final Trial Brief, n. 91, referring to Witness Dragičević, T. 17 October 2019 pp. 44-46, Exhibit 1D00441, pp. 14790, 14791, Exhibit 1D00440, paras. 4, 5, 10; Exhibit P03805, p. 1. The Trial Chamber also notes that, in his expert report, Witness Nielsen states that Simatović held the position of Deputy Chief of the Second Administration until January 1996, and later states that he was appointed as Chief of the Second Administration by June 1994. See Exhibit P00850, paras. 89, 90. However, during his testimony, Prosecution Expert Witness Nielsen clarified this aspect of his report and explained that Simatović became or was promoted to Chief of the Second Administration by June 1994 and Dragan Filipović then became Deputy Chief of the Second Administration. See Witness Nielsen, T. 14 November 2017 pp. 36, 37.

however, submits that he was never appointed Chief of the Second Administration, and that he could not have served in two positions at the same period of time.¹⁵⁰¹ He contends that he held the position of Deputy Chief of the Second Administration from 1 May 1992 until his appointment as Special Advisor on 1 May 1993.¹⁵⁰²

354. Having considered the evidence before it, the Trial Chamber finds that, while working in the Second Administration of the State Security Service, Simatović was appointed to the position of Deputy Chief of the State Security Department by Stanišić on 1 May 1992, a position he maintained until he was appointed, again by Stanišić, to the position of Special Advisor in the State Security Department on 1 May 1993. Having examined the evidence in relation to whether Simatović simultaneously held the position of Special Advisor to the Chief of the State Security Department and Chief of the Second Administration, the Trial Chamber considers that the evidence does not definitively show that he did, in fact, hold both positions concurrently.¹⁵⁰³ Irrespective of this fact and Simatović's submissions that he was limited in his work and influence by different management levels within the Ministry of Interior and by the decisions of his superiors,¹⁵⁰⁴ the Trial Chamber considers that, during the period relevant to the Indictment, Simatović held high-level positions with significant powers and authority within the State Security Service and later the State Security Department. However, like with Stanišić, the Trial Chamber will examine how that power and authority manifested itself in relation to the specific events charged in the Indictment.

¹⁵⁰¹ Simatović Final Trial Brief, paras. 99, 104; Simatović Closing Arguments, T. 13 April 2021 pp. 77-79. *See also* Witness Nielsen, T. 22 November 2017 pp. 55-57; Witness Milošević, T. 25 February 2020 p. 60, T. 19 February 2020 pp. 41-43; Witness Mičić, Exhibit 2D00454, pp. 19943, 19947, 19948. Simatović also submits that the allegation that he was Chief of the Second Administration is not mentioned in the Indictment or in the Prosecution's Pre-Trial Brief. *See* Simatović Closing Arguments, T. 13 April 2021 p. 78.

¹⁵⁰² Simatović Final Trial Brief, paras. 90, 98, 104; Simatović Closing Arguments, T. 13 April 2021 p. 77. *See also* Witness Nielsen, T. 22 November 2017 p. 59; Exhibit 2D00451, paras. 385, 386, 395, 403.

¹⁵⁰³ The Trial Chamber considered evidence suggesting that Simatović only served as Special Advisor and not also as the Chief of the Second Administration of the State Security Department from May 1993 until the end of the Indictment period. *See* Witness Cvetković, T. 3 September 2020 pp. 4, 6, 7, 9, 10; Witness Milošević, T. 19 February 2020 pp. 42, 43; Exhibit 2D00451, paras. 385, 386, 403; Witness Mičić, Exhibit 2D00454, p. 19869; Exhibit 2D00062, pp. 2, 3. The Trial Chamber notes that Witness Cvetković provided testimony in relation to a letter sent from him as Assistant Chief of the State Security Department to Simatović as "Chief" of the Second Administration. *See* Exhibit P00858, pp. 1, 2. However, Witness Cvetković testified that Simatović was not Chief of the Second Administration and that this was either his mistake or, rather, the mistake of his secretary. *See* Witness Cvetković, T. 3 September 2020 pp. 4, 9, 10. In contrast, the Trial Chamber also considered evidence identifying Simatović as the head or Chief of the Second Administration. *See* Witness Dragičević, T. 17 October 2019 pp. 34 (wherein the witness stated that Dragan Filipović was Simatović's deputy, once "Simatović was made chief"), 44-46, Exhibit 1D00441, p. 14812 (wherein the witness stated that he "simultaneously discharged two duties, the special advisor and the chief of administration"); Exhibit P03795, p. 7 (wherein a letter is addressed to the Second Administration of the Ministry of Interior and "To the Chief – Frenki"); Exhibit P00849, p. 1 (wherein Simatović is addressed as "the Chief of Intelligence Administration of the State Security Department of the Republic of Serbia). The Trial Chamber notes that the Prosecution also refers to documents that it alleges were signed by Simatović as "head of the 2nd Administration organizational unit". *See* Prosecution Final Trial Brief, n. 92, referring to Exhibit P00269, pp. 38, 40 (BCS); Exhibit 2D00459, p. 3 (BCS).

¹⁵⁰⁴ Simatović Final Trial Brief, paras. 88-90, 92-94, 97, 98, 101-103, 107, 110. *See also* Simatović Closing Arguments, T. 13 April 2021 pp. 72-74, 77, 78.

V. JOINT CRIMINAL ENTERPRISE

355. The Indictment alleges that the Accused committed the charged crimes through participating in a joint criminal enterprise, which existed from no later than April 1991 until at least 31 December 1995, with the objective to forcibly and permanently remove, through the commission of the crimes of persecution, murder, deportation and inhumane acts (forcible transfers), the majority of non-Serbs, principally Croats, Bosnian Muslim and Bosnian Croats, from large areas of Croatia and Bosnia and Herzegovina.¹⁵⁰⁵ According to the Indictment, in addition to the Accused, other individuals participated in the joint criminal enterprise, including Slobodan Milošević, Veljko Kadijević, Blagoje Adžić, Ratko Mladić, Radmilo Bogdanović, Radovan Stojičić (Badža), Mihalj Kertes, Milan Martić, Goran Hadžić, Milan Babić, Radovan Karadžić, Momčilo Krajišnik, Biljana Plavšić, Mićo Stanišić, Željko Ražnatović (Arkan), Vojislav Šešelj, and other members of the Serb forces.¹⁵⁰⁶ The Indictment further alleges that, each participant, by acts or omissions, contributed to achieving the common criminal purpose or, alternatively, implemented its objective through the use of members or groups of the Serb forces.¹⁵⁰⁷

356. The Indictment further alleges that the charged crimes were within the objective of the joint criminal enterprise and that the Accused shared the intent to further the common criminal purpose of forcibly and permanently removing the majority of non-Serbs from large areas of Croatia and Bosnia and Herzegovina, through the commission of each of these crimes.¹⁵⁰⁸ In the alternative, the Indictment alleges that the common criminal purpose was to forcibly and permanently remove, through deportation and forcible transfer, the majority of the Croats, Muslims and other non-Serbs from large areas of Croatia and Bosnia and Herzegovina, and the crimes of persecution and murder were reasonably foreseeable to the Accused as a possible consequence of the execution of the joint criminal enterprise.¹⁵⁰⁹

A. Applicable Law

357. Three categories of joint criminal enterprise existed in customary international law at the time of the events in the former Yugoslavia.¹⁵¹⁰ The *actus reus* of the first and the third categories of joint criminal enterprise, which are the categories relevant to this case, consist of: (i) a plurality of persons; (ii) the existence of a common plan, design, or purpose, which amounts to or involves

¹⁵⁰⁵ Indictment, paras. 6, 10-13, 15-17. *See also* Indictment, paras. 22, 25, 26, 63, 64, 66.

¹⁵⁰⁶ Indictment, para. 12.

¹⁵⁰⁷ Indictment, para. 12.

¹⁵⁰⁸ Indictment, paras. 14, 17.

¹⁵⁰⁹ Indictment, paras. 14, 17.

the commission of a crime provided for in the Statute; and (iii) the participation of the accused in the common design involving the perpetration of one of the crimes provided for in the Statute.¹⁵¹¹

358. A trial chamber is required to identify the plurality of persons belonging to the joint criminal enterprise and establish that they shared a common criminal purpose.¹⁵¹² The plurality of persons can be sufficiently identified by referring to “categories or groups of persons”, and it is not necessary to name each of the individuals involved.¹⁵¹³ Furthermore, the common purpose can be inferred from the fact that a plurality of persons acts in unison to put into effect a joint criminal enterprise.¹⁵¹⁴ It is, therefore, not required, as a matter of law, that a trial chamber make a separate finding on the individual actions and the intent of each member of a joint criminal enterprise to establish that a plurality of persons acted together in implementing the common criminal purpose.¹⁵¹⁵

359. In addition, what matters for the first category of joint criminal enterprise is not whether the person who carried out the *actus reus* of a particular crime is a member of the joint criminal enterprise, but whether the crime in question forms part of the common purpose.¹⁵¹⁶ In cases where the principal perpetrator of a particular crime is not a member of the joint criminal enterprise, this requirement may be inferred from the fact that the accused or any other member of the joint criminal enterprise closely cooperated with the principal perpetrator in order to further the common criminal purpose.¹⁵¹⁷ To hold a member of a joint criminal enterprise responsible for crimes committed by non-members of the enterprise, it has to be shown that the crime can be imputed to one member of the joint criminal enterprise, and that this member – when using a principal perpetrator – acted in accordance with the common plan.¹⁵¹⁸ As a matter of law, there is no requirement that a trial chamber demonstrate how each physical perpetrator was used to commit the crimes in order to establish such link, provided that the trial chamber identifies how one or more

¹⁵¹⁰ *Prlić et al.* Appeal Judgement, paras. 587, 591; *Tolimir* Appeal Judgement, para. 281; *Popović et al.* Appeal Judgement, para. 1672; *Dordević* Appeal Judgement, para. 58; *Brdanin* Appeal Judgement, paras. 363, 405; *Tadić* Appeal Judgement, paras. 195-226.

¹⁵¹¹ ICTY Appeal Judgement, para. 77; *Tadić* Appeal Judgement, para. 227; *Stakić* Appeal Judgement, para. 64; *Brdanin* Appeal Judgement, para. 364.

¹⁵¹² *Dordević* Appeal Judgement, paras. 138, 141; *Brdanin* Appeal Judgement, para. 430.

¹⁵¹³ *Dordević* Appeal Judgement, para. 141. *See also* *Krajišnik* Appeal Judgement, para. 156; *Brdanin* Appeal Judgement, para. 430.

¹⁵¹⁴ *Dordević* Appeal Judgement, para. 141, *referring to* *Krajišnik* Appeal Judgement, n. 418; *Brdanin* Appeal Judgement, para. 430.

¹⁵¹⁵ *Dordević* Appeal Judgement, para. 141.

¹⁵¹⁶ *Brdanin* Appeal Judgement, para. 410. *See also* *Brdanin* Appeal Judgement, paras. 418, 419.

¹⁵¹⁷ *Brdanin* Appeal Judgement, para. 410.

¹⁵¹⁸ *Martić* Appeal Judgement, para. 168; *Brdanin* Appeal Judgement, para. 413.

members of the joint criminal enterprise used the forces to which these physical perpetrators belonged in furtherance of the common plan.¹⁵¹⁹

360. The common purpose need not be previously arranged or formulated, but may materialize extemporaneously and be inferred from the facts.¹⁵²⁰ While the existence of a common purpose at the time of the commission of the crimes is one of the elements of joint criminal enterprise liability, the date of its formation is not.¹⁵²¹

361. Further, for joint criminal enterprise liability to arise, an accused must have acted in furtherance of the common criminal purpose by making a significant contribution to the commission of the crimes encompassed by the common purpose.¹⁵²² An accused's contribution need not be necessary or substantial and need not be in and of itself criminal, as long as the accused performs (or fails to perform) acts that in some way contribute significantly to the furtherance of the common purpose.¹⁵²³ Not every type of conduct would amount to a significant enough contribution to the crimes encompassed by the common purpose, thus giving rise to joint criminal enterprise liability.¹⁵²⁴

362. The *mens rea* element for the first category of joint criminal enterprise liability is the intent to perpetrate a certain crime (this being the shared intent on the part of all co-perpetrators).¹⁵²⁵ For liability under the third category of joint criminal enterprise, it is required that the accused had the intent to commit the crimes that form part of the common purpose of the joint criminal enterprise and to participate in a common plan aimed at their commission.¹⁵²⁶ In addition, responsibility for a crime other than the one agreed upon in the common plan arises only if, under the circumstances of the case: (i) it was foreseeable that such a crime might be committed by a member of the joint criminal enterprise or one or more of the persons used by the accused or by any other member of

¹⁵¹⁹ *Đorđević* Appeal Judgement, para. 165; *Krajišnik* Appeal Judgement, paras. 235-237.

¹⁵²⁰ *Šainović et al.* Appeal Judgement, para. 609; *Brdanin* Appeal Judgement, para. 418; *Vasiljević* Appeal Judgement, para. 100.

¹⁵²¹ *Šainović et al.* Appeal Judgement, para. 609, referring to *Brdanin* Appeal Judgement, paras. 364, 418; *Stakić* Appeal Judgement, para. 64; *Kvočka et al.* Appeal Judgement, para. 81; *Vasiljević* Appeal Judgement, para. 100; *Tadić* Appeal Judgement, para. 227.

¹⁵²² *Mladić* Appeal Judgement, paras. 186, 228; *Stanišić and Župljanin* Appeal Judgement, paras. 110, 136; *Popović et al.* Appeal Judgement, para. 1378; *Šainović et al.* Appeal Judgement, para. 987; *Brdanin* Appeal Judgement, para. 430.

¹⁵²³ *Mladić* Appeal Judgement, para. 228; *Stanišić and Župljanin* Appeal Judgement, para. 110; *Popović et al.* Appeal Judgement, para. 1653; *Šainović et al.* Appeal Judgement, para. 985.

¹⁵²⁴ *Stanišić and Župljanin* Appeal Judgement, para. 136; *Šainović et al.* Appeal Judgement, para. 988; *Brdanin* Appeal Judgement, para. 427.

¹⁵²⁵ ICTY Appeal Judgement, para. 77; *Tadić* Appeal Judgement, para. 228. See also *Stakić* Appeal Judgement, para. 65; *Brdanin* Appeal Judgement, para. 365; *Krajišnik* Appeal Judgement, paras. 200, 707.

¹⁵²⁶ *Karadžić* Appeal Judgement, para. 433; *Stakić* Appeal Judgement, para. 65; *Brdanin* Appeal Judgement, para. 365; *Tadić* Appeal Judgement, para. 228.

the joint criminal enterprise to further the common purpose; and (ii) the accused willingly took that risk by joining or continuing to participate in the enterprise.¹⁵²⁷

B. Existence of a Common Plan, Design, or Purpose

363. The Prosecution argues that the conduct and words of the Accused and their fellow members of the joint criminal enterprise demonstrate that, by at least April 1991, they shared the common criminal purpose to forcibly and permanently remove non-Serbs from claimed territories in Croatia and Bosnia and Herzegovina.¹⁵²⁸ It further argues that the members of the joint criminal enterprise, who openly pursued a policy of ethnic separation, were aware that, due to the realities on the ground in Croatia and Bosnia and Herzegovina, such ethnic separation would entail violently removing non-Serbs through the charged crimes.¹⁵²⁹ The Prosecution further submits that the illicit, extra-legal, and surreptitious manner in which the Accused and members of the joint criminal enterprise set the stage for and executed the common criminal purpose, including their cooperation with a known criminal like Željko Ražnatović (Arkan), is another indicator that they were not just pursuing and contributing to legitimate political or military goals.¹⁵³⁰

364. According to the Prosecution, the pattern of crimes that accompanied each successful takeover of territory by Serb forces also confirms that the goal was not just to take territory, but to change the demographic composition of the area by violently removing non-Serbs.¹⁵³¹ The Prosecution argues that the scale and duration of the campaign of violent displacement of non-Serb populations across Croatia and Bosnia and Herzegovina make it clear that the displacement was the design and an intended consequence, not a by-product of the war.¹⁵³²

365. Stanišić accepts that Slobodan Milošević fanned the flames of extremism in the early stages of the conflict, but argues that this should be viewed against the rising Croat extremism at the time and the entirely plausible self-determination and defensive purposes underlying the establishment of separate Serb structures in Croatia, at least until September 1991.¹⁵³³ In relation to Bosnia and

¹⁵²⁷ *Karadžić* Appeal Judgement, para. 433; ICTY Appeal Judgement, para. 77; *Šainović et al.* Appeal Judgement, para. 1557; *Tadić* Appeal Judgement, para. 228; *Stakić* Appeal Judgement, para. 65; *Brdanin* Appeal Judgement, paras. 365, 411.

¹⁵²⁸ Prosecution Final Trial Brief, paras. 16-23. *See also* Prosecution Closing Arguments, T. 12 April 2021 pp. 8, 10, 16, 17; Prosecution Pre-Trial Brief, paras. 7-11.

¹⁵²⁹ Prosecution Final Trial Brief, paras. 24-29. *See also* Prosecution Closing Arguments, T. 12 April 2021 pp. 16, 17; Prosecution Pre-Trial Brief, paras. 1, 8.

¹⁵³⁰ Prosecution Final Trial Brief, paras. 31-34. *See also* Prosecution Final Trial Brief, paras. 916-922; Prosecution Closing Arguments, T. 12 April 2021 pp. 14, 24-26, 42; Prosecution Pre-Trial Brief, paras. 20, 40.

¹⁵³¹ Prosecution Final Trial Brief, paras. 27-29; Prosecution Opening Statement, T. 13 June 2017 pp. 10, 11, 46, 47, 60, 69; Prosecution Closing Arguments, T. 12 April 2021 pp. 7-9, 16, 17; Prosecution Rebuttal, T. 14 April 2021 pp. 3, 4.

¹⁵³² Prosecution Final Trial Brief, paras. 29, 30. *See also* Prosecution Closing Arguments, T. 12 April 2021 pp. 16, 17; Prosecution Pre-Trial Brief, para. 10.

¹⁵³³ Stanišić Final Trial Brief, paras. 182, 188. *See also* Stanišić Final Trial Brief, paras. 189-221; Stanišić Closing Arguments, T. 13 April 2021 pp. 3-5. The Trial Chamber further notes Stanišić's arguments that the Prosecution case in

Herzegovina, Stanišić argues that Milošević and the Socialist Federal Republic of Yugoslavia, later the Federal Republic of Yugoslavia, never shared the Bosnian Serb ambition for a Greater Serbia comprised of a single territory and that, while they provided political and military support to the Bosnian Serbs, they did so without sharing or supporting their common criminal purpose, which was formed in late March or April 1992.¹⁵³⁴

366. Simatović submits that there is no evidence of an agreement in relation to a common criminal purpose among the alleged members of the joint criminal enterprise, with his participation.¹⁵³⁵ He further argues that the existence of a certain level of coordination on the ground among various factions and the commission of crimes by some of these factions, if this were to be the case, may not necessarily suffice to show beyond reasonable doubt that such cooperation was in pursuit of a common criminal purpose.¹⁵³⁶ According to Simatović, if the crimes charged in the Indictment did, in fact, occur, there are many plausible explanations, other than the existence of a common criminal plan, such as local feuds, necessities of the war effort, and direct perpetrators acting on their own volition.¹⁵³⁷

367. At the outset, the Trial Chamber notes that it was presented with extensive evidence on the political processes that dominated in the regions of the former Yugoslavia relevant to the Indictment. While it has thoroughly considered such evidence, the Trial Chamber does not see this facet of the record as the most salient to its determination of whether a common criminal plan existed, as alleged in the Indictment. While the broader context in which the crimes were committed constitutes relevant background to the Trial Chamber's assessment, the Trial Chamber has focused primarily on the factors identified by the Prosecution as directly relevant to proving the existence of a common criminal purpose, notably: the conduct and words of the members of the joint criminal enterprise, the pursuit of a policy of ethnic separation, the manner in which the members of the joint criminal enterprise set the stage for and executed the common criminal purpose, and the pattern of crimes that accompanied each successful takeover of territory by Serb forces.¹⁵³⁸

relation to the common criminal purpose has changed from what is pleaded in the Indictment. *See* Stanišić Closing Arguments T. 13 April 2021 pp. 2-5; Stanišić Rejoinder, T. 14 April 2021 pp. 26, 36-44. The Trial Chamber finds no merit in Stanišić's arguments as neither the Prosecution's Final Trial Brief, nor the Prosecution's Closing Arguments, indicates a shift in the pleading of the common criminal purpose. *See* Prosecution Rebuttal, T. 14 April 2021 pp. 3-5; Prosecution Final Trial Brief, para. 15. *See also* Prosecution Pre-Trial Brief, para. 9.

¹⁵³⁴ Stanišić Final Trial Brief, paras. 816, 824, 825, 847-850. *See also* Stanišić Final Trial Brief, paras. 823-846, 851-967.

¹⁵³⁵ Simatović Final Trial Brief, paras. 52, 67.

¹⁵³⁶ Simatović Final Trial Brief, para. 52.

¹⁵³⁷ Simatović Final Trial Brief, para. 55.

¹⁵³⁸ *See* Prosecution Final Trial Brief, paras. 16-34.

368. Expert evidence demonstrates that the Socialist Federal Republic of Yugoslavia was beset by crises in the beginning of 1990.¹⁵³⁹ According to Witness Milan Babić, two approaches to resolving the political crisis emerged at the time, which included Serbia's approach that Yugoslavia should be set up as a strong federation and the approach of Croatia and Slovenia that they should either become independent states or remain in a confederation.¹⁵⁴⁰ In the event of a full disintegration of Yugoslavia, Milošević advocated the principle that all Serbs had the right to remain in one state with Serbia, a notion that, according to Witness Babić, came into existence in January 1991.¹⁵⁴¹ The Trial Chamber received evidence that Milošević was the most powerful individual in Serbia who, by virtue of his authority, could appoint, support, or remove individuals at high level positions in the military, police, and civilian government structures of Serbia and the Federal Republic of Yugoslavia, and who exercised significant control over the media.¹⁵⁴²

369. The Trial Chamber notes its findings on the political processes that led to the creation of the SAO Krajina Government on 29 May 1991 and, subsequently, the establishment of the unified Republic of Serbian Krajina on 26 February 1992, as well as the support provided by high level political, military, and police leaders in Serbia to the establishment of local political and security structures.¹⁵⁴³ The SAO Krajina and subsequently the Republic of Serbian Krajina leadership endorsed Milošević's vision to create a Serb-dominated state.¹⁵⁴⁴ In early July 1991, Milan Martić stated that the Milicija Krajina were "defending Serbian land and the Serbs' ethnic area."¹⁵⁴⁵ Similarly, on 19 August 1991, Martić stated that he would accept no autonomy and that "the territories controlled by the police and the Territorial Defence of the Serbian Autonomous Region of Krajina will forever remain Serbian".¹⁵⁴⁶ Babić embraced the same view stating, on 5 September 1991, that "the Serbs are recognised in every part of Yugoslav State territory as a nation, which they will continue to be [w]ithin the part of the state that remains as a whole following the secession of the former Socialist Republic of Croatia's real territory and all Slovenia."¹⁵⁴⁷ On 12 December

¹⁵³⁹ Exhibit P01600, p. 9.

¹⁵⁴⁰ Witness Babić, Exhibit P01246, p. 13011.

¹⁵⁴¹ Witness Babić, Exhibit P01246, pp. 13011-13014, 13017, 13094. *See also* Witness Roberts, T. 15 October 2019 pp. 11, 12.

¹⁵⁴² Witness Roberts, T. 15 October 2019 pp. 11-14, 39, 40, 45-47, 71, Exhibit 1D00430, para. 60; Witness Anastasijević, Exhibit P02423, paras. 30, 64, T. 20 June 2018 pp. 39-41; Witness Babić, Exhibit P01246, pp. 13004-13007, 13009, 13010, 13130-13132, 13702, Exhibit P01248, pp. 1462, 1470-1472, 1501-1504.

¹⁵⁴³ *See infra* Sections V.G.1, V.G.2, V.G.4, V.G.5, V.H.1, V.H.2., V.H.3, V.H.6.

¹⁵⁴⁴ Adjudicated Facts 77-79, 158. *See also* Witness RFJ-153, Exhibit P00002, para. 72; Exhibit P00484, pp. 5, 6; Exhibit P00485, p. 6; Exhibit P00456; *infra* Sections V.G.1, V.H.1.

¹⁵⁴⁵ Adjudicated Fact 77.

¹⁵⁴⁶ Adjudicated Fact 77.

¹⁵⁴⁷ Adjudicated Fact 77.

1991, Martić stated that “nobody [...] has the right to deny the Serbian people the right to live in their own country”.¹⁵⁴⁸

370. On 31 October 1992, the assemblies of the Republic of Serbian Krajina and of *Republika Srpska* adopted a joint declaration, which Goran Hadžić characterized as a “great step” towards the unity of the Serbian people, saying that Serbs out of Serbia wish not only for their unification, but also that they “have to influence Serbs in Serbia and in that Yugoslavia to unite”.¹⁵⁴⁹ Hadžić expressed the view that “[n]o common state of Serbs and Croats can survive”.¹⁵⁵⁰

371. The conflict between Serbia and Croatia, following the declaration of independence by Croatia in June 1991, served to greatly exacerbate the tensions between Bosnia and Herzegovina’s three separate ethnic groups.¹⁵⁵¹ The process of regionalization, spearheaded in April 1991 by the Serbian Democratic Party and its leader Radovan Karadžić and the subsequent delineation of Serb autonomous district and regions in the fall of 1991,¹⁵⁵² culminated with the establishment of the Assembly of the Serbian People of Bosnia and Herzegovina on 24 October 1991, and the issuance of the Variant A and Variant B Instructions in December 1991.¹⁵⁵³ Beginning in January 1992, and following calls for the creation of a Serb dominated state in Bosnia and Herzegovina, the Serbian Republic of Bosnia and Herzegovina was proclaimed, later to be renamed *Republika Srpska*.¹⁵⁵⁴ In May 1992, Karadžić and Momčilo Krajišnik publicly affirmed ethnic separation as their priority and overarching goal in Bosnia and Herzegovina,¹⁵⁵⁵ and, in July 1992, Biljana Plavšić announced that the Serbs must be prepared to “move large masses of people” and “create conditions for [...] forced emigration”.¹⁵⁵⁶

372. Elsewhere in this judgement, the Trial Chamber has made findings on the numerous crimes that were committed by Serb forces in the areas of the SAO Krajina, the SAO SBWS, and the municipalities of Bijeljina, Zvornik, Bosanski Šamac, Doboj, and Sanski Most during the Indictment period.¹⁵⁵⁷ The Trial Chamber finds that, starting with the attack on the village of Kijevo in August 1991, a clear pattern emerges of crimes and acts of violence committed by Serb forces, including the JNA and units of the Milicija Krajina and local Territorial Defence, on Croat-majority

¹⁵⁴⁸ Adjudicated Fact 77.

¹⁵⁴⁹ Exhibit P00134, pp. 6, 12-15.

¹⁵⁵⁰ Exhibit P00361, p. 4. *See also* Exhibit P00365, p. 3.

¹⁵⁵¹ *See infra* Section V.I.1.

¹⁵⁵² Witness Donia, T. 30 January 2018 pp. 15-18, T. 31 January 2018 pp. 31, 32, 35, T. 2 February 2018, p. 39; Exhibit P01600, pp. 30-34; Exhibit P01597, pp. 66-79. *See also* Exhibit P01980 (Part III), pp. 28, 29. *See infra* Section V.I.1.

¹⁵⁵³ *See infra* Section V.I.1.

¹⁵⁵⁴ *See infra* Section V.I.1.

¹⁵⁵⁵ Exhibit P01598, pp. 10, 11; Exhibit P01597, pp. 22, 24; Witness Donia, T. 30 January 2018 pp. 36-38, 42-46. *See also* Adjudicated Fact 854.

¹⁵⁵⁶ Exhibit 1D01310, pp. 38, 39.

¹⁵⁵⁷ *See supra* Sections II.A, II.B, II.C.

villages in the SAO Krajina, resulting in the mass exodus of the non-Serb population from the area. During and in the immediate aftermath of these attacks, Croat property was looted, houses were torched, churches and schools were destroyed, and Croat civilians were mistreated, detained, beaten, expelled, or killed. Villages were razed to the ground and emptied of their Croat residents.

373. The Trial Chamber specifically notes that, on 18 August 1991, prior to the attack on Kijevo, Martić declared that “further co-existence [of Serbian and Croatian populations] in our Serbian territories of the SAO Krajina is impossible”.¹⁵⁵⁸ According to Witness RFJ-066, Martić openly stated that he had to drive the non-Serbs away from Kijevo and congratulated the SAO Krajina police on work well done in the villages of Kijevo and Škabrnja.¹⁵⁵⁹ Witness RFJ-066 similarly stated that, following the attack on Saborsko, Martić expressed pride in his achievement, using derogatory language in relation to the expelled Croat population and declaring that the village was now “pure Serbian land”.¹⁵⁶⁰ He openly admitted that, during these operations, “we didn’t care about the victims”.¹⁵⁶¹ According to Witness Staničić, Babić insisted that “Croats had nothing to do in that area and that all the Croats in the territory of Krajina should move out”.¹⁵⁶² Consistent evidence demonstrates that military operations were conducted with the objectives of establishing Serb control, cleansing villages of their Croat inhabitants, and intimidating any remaining non-Serb population in the area.¹⁵⁶³

374. Similarly, attacks on Croat-majority villages in the SAO SBWS intensified from early August 1991 with the takeover by Serb forces, including the JNA, the local Territorial Defence and paramilitary groups, such as Arkan’s Serbian Volunteer Guard, of towns and villages in the area. An atmosphere of terror reined through Croat-majority settlements, leading to people fleeing once they saw the JNA, as well as paramilitary and volunteer units, gathering in the vicinity. Following the violent takeovers of towns and villages by Serb forces, local non-Serbs were left with no choice but to flee from the ensuing violence.¹⁵⁶⁴

375. This pattern of crimes continued following the violent takeover by Serb forces, including the JNA, the Territorial Defence, and paramilitary groups, such as Arkan’s Serbian Volunteer Guard,

¹⁵⁵⁸ Exhibit P01319, p. 1. Martić further addressed the Croat police by declaring that: “We would like to stress that we want co-existence and understanding between the residents of the Serbian villages and the Croatian population in Kijevo, and we guarantee civil and human rights to everyone”, followed by “[y]ou will bear full responsibility before your own people for all the consequences that may result from your failure to honour this ultimatum”. See Exhibit P01319, pp. 1, 2; Adjudicated Fact 181.

¹⁵⁵⁹ Witness RFJ-066, T. 10 July 2017 pp. 38, 39, Exhibit P00202, paras. 154, 159, 164, 166.

¹⁵⁶⁰ Witness RFJ-066, Exhibit P00202, paras. 160, 166, Exhibit 1D00022, para. 61.

¹⁵⁶¹ Exhibit 1D00024, pp. 11, 12.

¹⁵⁶² Witness Staničić, T. 17 July 2019 pp. 10, 11, Exhibit 1D00212, p. 12442. See also Witness Babić, Exhibit P01246, pp. 13419, 13556, 13557, 13631.

¹⁵⁶³ See, e.g., Witness Babić, Exhibit P01246, p. 13064; Witness RFJ-066, Exhibit P00202, paras. 151, 154, 158-160, 162; Witness Miljanić, Exhibit P00292, pp. 2384, 2385, 2399, Exhibit P00291, pp. 2873, 2875. See *supra* Section II.A.

the Yellow Wasps, Crni's unit, and others, of towns and villages from the end of March 1992 in the municipalities of Bijeljina, Zvornik, Bosanski Šamac, Doboj, and Sanski Most in Bosnia and Herzegovina. During and in the aftermath of these attacks, civilians, primarily non-Serbs, were killed, beaten and otherwise mistreated, arbitrarily arrested and detained, tortured, subjected to forced labour and sexual violence, their property was looted and torched, and their religious monuments were burned. The campaign of violence and terror perpetuated by the Serb forces and local Serb authorities left the non-Serb residents of these areas no choice but to leave. As identified previously in this Judgement, the Trial Chamber has considered extensive evidence of civilians, including the elderly, women, and children, fleeing "en masse", as well as first-hand accounts from detainees regarding the conditions of their detention and the suffering they had endured.¹⁵⁶⁵

376. The Trial Chamber notes that, a few days after the attack on Bijeljina, Plavšić met with Arkan, publicly thanking him and repeatedly praising the good job that he had done in saving the local Serbs from the threat of Muslims.¹⁵⁶⁶ Thereafter, Serb forces proceeded to Zvornik, with attacks following in other parts of Bosnia and Herzegovina, including Bosanski Šamac, Doboj, and Sanski Most, accompanied by the forcible displacement of non-Serbs from these areas.¹⁵⁶⁷

377. As discussed in its findings on the underlying crimes, expert evidence indicates that, prior to the start of the conflict, the regions in Croatia and Bosnia and Herzegovina, which are subject to the Indictment, were ethnically mixed, with some areas predominantly non-Serb.¹⁵⁶⁸ Further evidence indicates that, particularly in relation to Bosnia and Herzegovina, due to the mixed demographics of the region, carving out a Serb statelet was necessarily going to involve violence, and that operations were conducted not only for the purpose of taking over territory, but also for the purpose of changing, through violence, the demographic character of the areas.¹⁵⁶⁹ Following the takeovers of the municipalities of Bijeljina, Zvornik, Bosanski Šamac, Doboj, and Sanski Most, the demographic composition of the areas drastically changed, with the remaining non-Serbs, if any, being reduced in great proportion.¹⁵⁷⁰

378. The Trial Chamber finds that the evidence demonstrates a clearly discernible pattern of numerous crimes committed by Serb forces in the areas of the SAO Krajina, the SAO SBWS, and the municipalities of Bijeljina, Zvornik, Bosanski Šamac, Doboj, and Sanski Most during the

¹⁵⁶⁴ See *supra* Section II.B.

¹⁵⁶⁵ See *supra* Section II.C.

¹⁵⁶⁶ See *supra* Section II.C.1.

¹⁵⁶⁷ See *supra* Sections II.C.2, II.C.3, II.C.4, II.C.6.

¹⁵⁶⁸ Exhibit P00595, pp. 9, 10, 77-79, 81-139; Witness Bijak, T. 3 October 2017 pp. 42, 43; Exhibit P02069, p. 21; Adjudicated Fact 1042.

¹⁵⁶⁹ Witness Roberts, T. 15 October 2019 pp. 12, 25, Exhibit 1D00431, pp. 18592, 18593.

¹⁵⁷⁰ See *supra* Sections II.C.1, II.C.2, II.C.3, II.C.4, II.C.6.

Indictment period. Having examined the totality of the circumstances surrounding the commission of the crimes, the Trial Chamber finds that they were not committed in a random or disorganized manner, but rather during the course of well-planned and coordinated operations, demonstrating the existence of a common criminal purpose.

379. As discussed in this section and elsewhere in this Judgement, the Trial Chamber has considered the conduct and words of the alleged members of the joint criminal enterprise, the enunciated policy of ethnic separation, as well as the steps taken towards its implementation, in the SAO Krajina, the SAO SBWS, and Bosnia and Herzegovina. The Trial Chamber considers, however, that the most compelling evidence demonstrating the existence of a common criminal purpose pertains to the systematic pattern of crimes committed against non-Serb civilians in all regions covered by the Indictment. The Trial Chamber, therefore, finds proven beyond reasonable doubt that, from at least August 1991, and at all times relevant to the crimes charged in the Indictment, a common criminal purpose existed to forcibly and permanently remove, through the commission of the crimes of persecution, murder, deportation and inhumane acts (forcible transfers), the majority of non-Serbs, principally Croats, Bosnian Muslim and Bosnian Croats, from large areas of Croatia and Bosnia and Herzegovina.

C. Plurality of Persons

380. The Trial Chamber finds that the common criminal purpose, as defined above, was shared by senior political, military, and police leadership in Serbia, the SAO Krajina, the SAO SBWS, and *Republika Srpska*, with the core members, among others and varying depending on the area and timing of the commission of the crimes, being Slobodan Milošević, Radmilo Bogdanović, Radovan Stojičić (Badža), Mihalj Kertes, Milan Martić, Milan Babić, Goran Hadžić, Radovan Karadžić, Ratko Mladić, Momčilo Krajišnik, Biljana Plavšić, and Željko Ražnatović (Arkan).

381. The key remaining question for the Trial Chamber is whether Stanišić and Simatović were also members of this joint criminal enterprise. In answering this question, the Trial Chamber will examine evidence of their alleged contributions to the common criminal purpose and determine whether they made a significant contribution to the commission of the charged crimes and shared the intent for their commission.

D. Contribution through the “Unit”

382. The Indictment alleges that, in or about April 1991, Stanišić and Simatović assisted in the establishment of a training centre in Golubić, near Knin, where they organized, supplied, financed, supported and directed the training of Serb forces by members of the Serbian State Security

Service.¹⁵⁷¹ Additional training centres, financed by the Serbian State Security Service, were subsequently established in Serb-held parts of Croatia and Bosnia and Herzegovina.¹⁵⁷² According to the Indictment, some of the volunteers and conscripts who were trained at these centres were subsequently deployed to special units of the Serbian State Security Service or became instructors in other units affiliated with the Service.¹⁵⁷³ The Indictment alleges that these special units, which were secretly established by or with the assistance of the Serbian State Security Service from no later than April 1991 and continued to exist throughout the Indictment period, were established for the purpose of undertaking special military actions in Croatia and Bosnia and Herzegovina and included groups or members of groups known by the following names: Special Purpose Unit of the Serbian Ministry of the Interior (“JPN”), Unit for Anti-Terrorist Activities (“JATD”), and Unit for Special Operations (“JSO”).¹⁵⁷⁴

383. The Indictment specifically alleges that the Accused had responsibility for the Serbian State Security Service special units and contributed to the common criminal purpose through, *inter alia*, directing and organizing the formation, financing, training, logistical support and other substantial assistance or support to these special units, and directing their involvement in particular operations in Croatia and Bosnia and Herzegovina, where they participated in the commission of crimes.¹⁵⁷⁵ The Indictment further alleges that the Accused continued to send forces and provide support over an extended period of time, failed to instruct them to refrain from committing unlawful acts, and failed to stop replenishing the forces on the ground who were committing unlawful acts.¹⁵⁷⁶

384. The Prosecution argues that the Accused had authority over Serbian State Security Service special units, commonly known as “Frenki’s Men” or “Red Berets” (“Unit”), and used them to commit crimes that advanced the common criminal purpose.¹⁵⁷⁷ The Prosecution specifically submits that the Accused established the Unit on 4 May 1991 and that, under both Accused’s control with Simatović as its Commander, the Unit existed continuously throughout the Indictment

¹⁵⁷¹ Indictment, para. 3. *See also* Indictment, paras. 6, 15(c).

¹⁵⁷² Indictment, para. 3.

¹⁵⁷³ Indictment, para. 4. *See also* Indictment, para. 5.

¹⁵⁷⁴ Indictment, paras. 4, 6.

¹⁵⁷⁵ Indictment, paras. 5, 7-9, 15(b), (c). *See* Indictment, paras. 10-14, 16, 17, 22-25, 46-48, 50-52, 54, 64-66.

¹⁵⁷⁶ Indictment, para. 15(c).

¹⁵⁷⁷ Prosecution Final Trial Brief, para. 103; Prosecution Closing Arguments, T. 12 April 2021 p. 29. *See also* Prosecution Final Trial Brief, paras. 89, 104, 110-117, 123-142, 146-150, 266-303, 343, 345, 349, 350, 352, 353, 357, 363, 409, 417-424, 466, 494, 534, 536, 540-550, 552-558, 560, 579-583, 623, 633-636, 638, 642, 653-658, 675; Prosecution Closing Arguments, T. 12 April 2021 pp. 7-10, 17, 29-38, 45-52, 55, 75-78; Prosecution Rebuttal, T. 14 April 2021 pp. 3, 6, 7, 14, 15, 17, 18. *See generally* Prosecution Final Trial Brief, paras. 682-957.

period: from its formation in May 1991 at Golubić, when it was known as the JPN, through its formalization as the JATD in August 1993, and its reconfiguration as the JSO in 1996.¹⁵⁷⁸

385. Stanišić contests the Prosecution’s allegation about the continuity of the Unit and his uninterrupted authority over it, and states that the Prosecution’s case is a “ruse” built on subterfuge and guilt by association.¹⁵⁷⁹ According to Stanišić, the evidence demonstrates that he took temporary command of around 28 men, selected by Simatović, in September 1991 to create the nascent anti-terrorist unit, which was based in Ležimir (Fruška Gora, Serbia) and Pajzoš (Ilok, Croatia) and was disbanded in spring 1992.¹⁵⁸⁰ Stanišić submits that the nascent unit did not operate training bases from which recruits would be sent for combat, participated almost exclusively in recruiting and training prospective nascent unit members and, with few exceptions, patrolled certain areas to assist with general security.¹⁵⁸¹ Stanišić further submits that, following the disbandment of the nascent unit, prospective members became independent mercenaries, joined groups styled in the image of the “Red Berets” under different command, and were preoccupied with criminality, theft, and personal enrichment.¹⁵⁸² He concedes that, in August 1993, he tried to set up a new, legitimate anti-terrorist unit - the JATD.¹⁵⁸³ However, Stanišić submits that flaws in the Serbian State Security Service recruitment, reporting, and resourcing system allowed for equipping and paying JATD units without his approval or knowledge.¹⁵⁸⁴

386. Simatović submits that he had no “significant relation” with the alleged Serbian State Security Service special units as he was “a minor cog in the wheel of the [State Security Service]”.¹⁵⁸⁵ He further submits that, while there was a special unit of the Serbian Public Security Service in Pajzoš, as well as a unit presenting itself as “Red Berets”, there is no evidence showing any relationship between these and other units and Simatović.¹⁵⁸⁶ He further submits that the way in

¹⁵⁷⁸ Prosecution Final Trial Brief, para. 105. *See also* Prosecution Final Trial Brief, paras. 104, 106-109, 121-122, 140, 143-145, 151-161; Prosecution Closing Arguments, T. 12 April 2021 pp. 12, 19.

¹⁵⁷⁹ *See, e.g.*, Stanišić Final Trial Brief, paras. 17-29, 54, 59, 62, 762; Stanišić Closing Arguments, T. 13 April 2021 pp. 10-13, 62, 63; Stanišić Rejoinder, T. 14 April 2021 pp. 26-28.

¹⁵⁸⁰ Stanišić Final Trial Brief, paras. 54-64, 735, 762-764, 766, 1011, 1054. *See also* Stanišić Closing Arguments, T. 13 April 2021 pp. 12, 13, 46, 47; Stanišić Rejoinder, T. 14 April 2021 pp. 21, 23-25.

¹⁵⁸¹ Stanišić Final Trial Brief, paras. 738, 746. *See also* Stanišić Closing Arguments, T. 13 April 2021 pp. 46-48; Stanišić Rejoinder, T. 14 April 2021 pp. 21, 22, 60.

¹⁵⁸² Stanišić Final Trial Brief, paras. 762, 763, 1011. *See also* Stanišić Final Trial Brief, paras. 1059, 1128; Stanišić Closing Arguments, T. 13 April 2021 pp. 11, 12; Stanišić Rejoinder, T. 14 April 2021 pp. 26-28.

¹⁵⁸³ Stanišić Final Trial Brief, paras. 72, 78. *See also* Stanišić Final Trial Brief, paras. 63, 75, 1129, 1144, 1381, 1385; Stanišić Closing Arguments, T. 13 April 2021 p. 14.

¹⁵⁸⁴ Stanišić Final Trial Brief, paras. 80-83. *See also* Stanišić Final Trial Brief, paras. 108-110, 121-125; Stanišić Closing Arguments, T. 13 April 2021 p. 14.

¹⁵⁸⁵ Simatović Final Trial Brief, paras. 61, 62. *See also* Simatović Final Trial Brief, paras. 88, 89, 97, 107; Simatović Closing Arguments, T. 13 April 2021 pp. 71-73.

¹⁵⁸⁶ Simatović Final Trial Brief, paras. 515, 516, 523. *See also* Simatović Final Trial Brief, paras. 495-514, 517-522, 686, 695-703.

which the JATD was created, its organization, and use, were in accordance with the relevant legal provisions that were in force at the time.¹⁵⁸⁷

387. The Trial Chamber has considered the relevant evidence and arguments of the parties related to Stanišić's and Simatović's relationship and contribution to what it will refer generally and collectively to as the "Unit". This force, according to the Prosecution, was formed clandestinely at Golubić in May 1991 and continued to secretly operate in Croatia and Bosnia and Herzegovina until it was formerly incorporated within the Serbian State Security Service as the JATD in August 1993.¹⁵⁸⁸

388. As discussed in greater detail below, the Trial Chamber is convinced that, at least by August or September 1991, Stanišić and Simatović formed the Unit from amongst the most promising recruits trained at Golubić between May and the end of July/early August 1991. The Trial Chamber is also satisfied that the Accused had authority over this force and determined its use and deployment until at least mid-April 1992. There is also no doubt that, as a general matter, the Accused had authority over the use and deployment of JATD from its creation in August 1993 until the end of the period covered by the Indictment. The Prosecution, however, has not proven beyond reasonable doubt that the Unit or the JATD perpetrated crimes charged in the Indictment in the periods from August 1991 until mid-April 1992, and from August 1993 until December 1995. The evidence in relation to the Accused's authority over the Unit and the JATD during these periods is discussed in the first and third parts of this section below.

389. The evidentiary situation concerning the existence of the Unit and the Accused's authority over its original members and responsibility for their actions in relation to the period from April 1992 until the creation of the JATD in August 1993 is heavily disputed. During this period, alleged Unit members committed or contributed to the commission of charged crimes in the municipalities of Bosanski Šamac and Doboj. In its assessment of the Accused's criminal responsibility, the Trial Chamber does not consider it necessary to determine whether the original Unit existed as a single, continuously operating force during the entire Indictment period. Instead, it examines in part two of this section the evidence related to the events in Bosanski Šamac and Doboj in order to determine whether there is a sufficient basis to hold the Accused responsible for the crimes committed by Unit members in these municipalities.

390. Other evidence, including in relation to the events in Brčko and the joint Podrinje operations and related training activities, cited by the Prosecution for the purpose of showing the continuity of

¹⁵⁸⁷ Simatović Final Trial Brief, para. 799. *See also* Simatović Final Trial Brief, paras. 787-798.

the Unit, the Accused's intent, and the activity of the Accused and other alleged members of the joint criminal enterprise during this period, has also been taken into account.¹⁵⁸⁹ However, the Trial Chamber does not find it necessary to discuss this evidence in detail since it serves as background and concerns events and operations that are not directly related to the charged crimes in the two territories in Croatia and the five municipalities in Bosnia and Herzegovina that necessarily form the contours of the forcible displacement campaign pleaded in the Indictment.

1. The Unit: 1991 to Mid-April 1992 (Golubić to Ležimir and Pajzoš)

391. The Prosecution submits that the Accused created the Unit at their flagship training camp in Golubić.¹⁵⁹⁰ According to the Prosecution, beginning in April 1991, the Accused established, financed, supplied, and managed the Golubić training camp.¹⁵⁹¹ The Prosecution further submits that, at Stanišić's behest, Simatović brought Dragan Vasilković (also known as Captain Dragan or Daniel Snedden) to the SAO Krajina to lead the training at Golubić, and engaged Mark the Irishman and Serbian State Security Service operatives Milan Radonjić and Dragan Filipović (Fićo or Major Fića) to assist him.¹⁵⁹² It further alleges that Simatović selected the "smartest and most disciplined" Golubić trainees to form the nucleus of the Unit, which the Accused and some of the original Unit members considered to have been founded on 4 May 1991.¹⁵⁹³

392. The Prosecution further submits that, following selection, Simatović brought the new members of the Unit to the Serbian State Security Service's headquarters in Belgrade in September 1991, before moving them to its newly established camp in Ležimir.¹⁵⁹⁴ It is further alleged that, by November 1991, the Unit established its Pajzoš camp, just across the border from Ležimir.¹⁵⁹⁵ According to the Prosecution, the Unit continued training recruits from Serbia, Croatia, and Bosnia and Herzegovina who went on to participate in the commission of crimes.¹⁵⁹⁶

393. In addition, the Prosecution contends that Simatović deployed Unit members in early operations in mid-1991 from the Šamarica camp, which was established to facilitate these

¹⁵⁸⁸ See Prosecution Final Trial Brief, paras. 104, 105. See also Prosecution Final Trial Brief, paras. 107-161; Prosecution Closing Arguments, T. 12 April 2021 pp. 19, 30-38; Prosecution Rebuttal, T. 14 April 2021 pp. 9-11.

¹⁵⁸⁹ See, e.g., Prosecution Final Trial Brief, paras. 127, 128, 131-139, 288, 291-303, 572-582, 624-642.

¹⁵⁹⁰ Prosecution Final Trial Brief, para. 108.

¹⁵⁹¹ Prosecution Final Trial Brief, paras. 268, 335.

¹⁵⁹² Prosecution Final Trial Brief, paras. 92, 108, 269, 335.

¹⁵⁹³ Prosecution Final Trial Brief, paras. 108, 109, 271, 336; Prosecution Closing Arguments, T. 12 April 2021 pp. 31, 32, 36, 47; Prosecution Rebuttal, T. 14 April 2021 p. 7.

¹⁵⁹⁴ Prosecution Final Trial Brief, paras. 113, 114, 116, 117, 280-282; Prosecution Closing Arguments, T. 12 April 2021 p. 46.

¹⁵⁹⁵ Prosecution Final Trial Brief, paras. 115-122, 283-286; Prosecution Closing Arguments, T. 12 April 2021 p. 63.

¹⁵⁹⁶ Prosecution Final Trial Brief, paras. 280-286; Prosecution Closing Arguments, T. 12 April 2021 pp. 35-37, 46, 75, 76.

operations.¹⁵⁹⁷ It further alleges that, in the summer of 1991, Filipović established a command centre and training camp at Korenica, which was used as a base in connection with other early operations and to train other local Serb forces.¹⁵⁹⁸ The Prosecution submits that, in June or July 1991, a training centre was also established at the Knin fortress, where Simatović and Captain Dragan trained the best Unit recruits as instructors and trained, among others, members of the local police command structure.¹⁵⁹⁹ The Prosecution highlights evidence as well that, in August 1991, Captain Dragan established a training camp in Tikveš in the SAO SBWS, where, together with Unit members under his command, he trained members of local Serb forces who committed crimes in furtherance of the common criminal purpose.¹⁶⁰⁰

394. Stanišić and Simatović submit that they had no involvement in the establishment, operation, or command of the Golubić training camp, and that Simatović's presence in the SAO Krajina at the time was related entirely to his intelligence work and to monitoring Captain Dragan.¹⁶⁰¹ They further submit that Captain Dragan was neither an employee nor a collaborator of the Serbian State Security Service, but was rather the subject of intelligence processing by it, including by Simatović directly, due to Captain Dragan's possible connections with foreign intelligence services.¹⁶⁰²

395. In relation to the establishment of the Unit, Stanišić submits that the nascent unit, over which he had temporary command, did not come into existence until September 1991.¹⁶⁰³ Simatović submits that Dragan Karna commanded a special unit of the SAO Krajina Ministry of Interior that was stationed at Golubić, which was under the direct command of Milan Martić and had no connection to Simatović.¹⁶⁰⁴ Stanišić and Simatović contest the credibility of one of the main witnesses relied upon by the Prosecution, Witness RFJ-066, pointing to inconsistencies in his evidence,¹⁶⁰⁵ as well as the reliability of certain documentary evidence.¹⁶⁰⁶

396. The Trial Chamber's assessment of Stanišić's and Simatović's role in establishing the Unit and their authority over it necessarily requires some consideration of the evidence related to the training camp at Golubić. From May to the end of July or early August 1991, Golubić, which was approximately seven kilometres from Knin, served as a training base for several hundred members

¹⁵⁹⁷ Prosecution Final Trial Brief, paras. 110, 277; Prosecution Closing Arguments, T. 12 April 2021 p. 51.

¹⁵⁹⁸ Prosecution Final Trial Brief, paras. 112, 278; Prosecution Closing Arguments, T. 12 April 2021 pp. 54, 55.

¹⁵⁹⁹ Prosecution Final Trial Brief, para. 276.

¹⁶⁰⁰ Prosecution Final Trial Brief, paras. 111, 279.

¹⁶⁰¹ Stanišić Final Trial Brief, paras. 287-303, 326-350; Stanišić Closing Arguments, T. 13 April 2021 p. 43; Simatović Final Trial Brief, paras. 331-376; Simatović Closing Arguments, T. 13 April 2021 pp. 79-82.

¹⁶⁰² Stanišić Final Trial Brief, paras. 304-325; Simatović Final Trial Brief, paras. 283-330.

¹⁶⁰³ Stanišić Final Trial Brief, paras. 54, 55.

¹⁶⁰⁴ Simatović Final Trial Brief, paras. 335-337, 371-376; Simatović Closing Arguments, T. 13 April 2021 pp. 80, 81.

¹⁶⁰⁵ Stanišić Final Trial Brief, paras. 305, 332-342, Annex XVIII; Simatović Final Trial Brief, para. 250.

¹⁶⁰⁶ See, e.g., Stanišić Final Trial Brief, paras. 307, 308, 323, 324; Simatović Final Trial Brief, paras. 232-238.

of the SAO Krajina Police, the SAO Krajina Territorial Defence, and other volunteers.¹⁶⁰⁷ The training at the camp lasted, on average, 20 days and included combat training, as well as training on the treatment of civilians and prisoners of war.¹⁶⁰⁸ According to Witness RFJ-137, who was an instructor at Golubić between April/May and August 1991,¹⁶⁰⁹ the purpose of the training was to provide reserve police officers with some additional basic skills to be able to defend their towns, and those trained largely returned to defend their localities and to train others.¹⁶¹⁰ The witness further stated that the weapons at the camp were provided by the Territorial Defence and the police, and later by the JNA.¹⁶¹¹

397. The Trial Chamber considers that the evidence discussed below, when viewed collectively, indicates that Stanišić and Simatović did play a role in organizing the training at the camp, including through facilitating instruction. The Trial Chamber is mindful though that this took place prior to the time frame when it was proven that the common criminal purpose came into existence.¹⁶¹²

398. The evidence shows that, in March 1991, Slobodan Milošević told local politicians in Serbia that he had ordered the mobilization of the reserve police force and that new police forces would soon be formed and deployed to defend Serb interests outside Serbia.¹⁶¹³ At a meeting held in Belgrade around the same time, Milošević assured Witness Babić, in the presence of Radmilo Bogdanović and Stanišić, that the Serbian Ministry of Interior would provide technical and personnel support to the SAO Krajina Ministry of Interior.¹⁶¹⁴ According to Witness Babić, this support was manifested in the establishment of the Golubić training camp.¹⁶¹⁵

¹⁶⁰⁷ Witness RFJ-137, T. 18 July 2017 p. 17, T. 19 July 2017 p. 32, Exhibit P00245, paras. 8, 9; Exhibit P00278; Witness RFJ-066, Exhibit P00202, paras. 94, 101, 104-106, Exhibit 1D00021, pp. 7327, 7328, T. 23 August 2017 pp. 29-31; Witness Babić, Exhibit P01246, pp. 13119, 13122, Exhibit P01247, pp. 3377, 3378, 3380, 3381, Exhibit P01248, pp. 1539, 1541, 1546. *See also* Witness Stanišić, Exhibit 1D00231, pp. 7, 8. Witness RFJ-137 estimated that there were between 100 and 300 men at any given time at the camp, and between 3,000 to 5,000 men were trained at the camp in total. *See* Witness RFJ-137, Exhibit P00245, para. 9. In view of the duration and frequency of the training, and the number of those trained at a given time, the Trial Chamber considers the estimate of the number of individuals trained to be much lower and more likely in the hundreds.

¹⁶⁰⁸ Witness RFJ-066, Exhibit P00202, paras. 106, 108, Exhibit 1D00021, pp. 7248-7250; Witness RFJ-137, T. 18 July 2017 pp. 19-21, T. 19 July 2017 pp. 32, 33, 36, Exhibit 2D00012, pp. 7436, 7437; Witness Opačić, Exhibit 2D00385, p. 18187; Exhibit P00248.

¹⁶⁰⁹ Witness RFJ-137, Exhibit P00245, para. 9, T. 18 July 2017 p. 18; Exhibit P00279. *See also* Witness Babić, Exhibit P01248, p. 1546, Exhibit P01247, pp. 3377-3380.

¹⁶¹⁰ Witness RFJ-137, T. 19 July 2017 pp. 32, 33, Exhibit P00245, para. 55.

¹⁶¹¹ Witness RFJ-137, Exhibit P00245, para. 10.

¹⁶¹² *See supra* para. 379.

¹⁶¹³ Exhibit P00850, para. 436; Witness Nielsen, T. 14 November 2017 pp. 21, 22; Exhibit P02439, p. 1.

¹⁶¹⁴ Witness Babić, Exhibit P01248, pp. 1526, 1527, 1538, 1539, 1821. *See also* Exhibit P01277.

¹⁶¹⁵ Witness Babić, Exhibit P01248, pp. 1538, 1539, 1821.

399. The evidence demonstrates that Captain Dragan was the main instructor at Golubić.¹⁶¹⁶ The Trial Chamber notes that other instructors at the camp included Filipović, who was an operative of the Serbian State Security Service and Simatović's subordinate, Mark the Irishman, and Radonjić, a Serbian State Security Service employee.¹⁶¹⁷ The Trial Chamber received evidence showing that Captain Dragan was associated with the Serbian State Security Service during this period and suggesting that Simatović personally brought him to the SAO Krajina to lead the training at Golubić.¹⁶¹⁸ While the evidence is inconclusive in relation to the extent of Simatović's personal involvement with Captain Dragan's arrival in the SAO Krajina,¹⁶¹⁹ the Trial Chamber finds it established beyond reasonable doubt that Captain Dragan cooperated with the Serbian State Security Service in relation to the organization and conduct of the training at Golubić. The evidence further indicates that Captain Dragan reported to the Service on the conduct of the training and suggested improvements to the training program.¹⁶²⁰ Captain Dragan's cooperation with the Serbian State Security Service is also confirmed by documentary evidence, as well as by Witness Babić's evidence that, in August 1991, Stanišić informed him that Captain Dragan was "in the service" of the Serbian State Security Service.¹⁶²¹

400. The Trial Chamber considers that the evidence indicating that Captain Dragan was subject of intelligence processing by the Serbian State Security Service during this period¹⁶²² does not undermine the conclusion on his cooperation with the Service in relation to the training at Golubić. The Trial Chamber sees no contradiction in the Serbian State Security Service both using and simultaneously monitoring an asset, in particular where it concerned a matter in relation to which it wished to conceal its overt involvement. Likewise, the fact that other SAO Krajina officials may have been involved in bringing Captain Dragan to the area to oversee training also does not run

¹⁶¹⁶ Witness RFJ-137, T. 18 July 2017 p. 21, T. 20 July 2017 p. 13, Exhibit P00245, para. 16. *See also* Witness Babić, Exhibit P01247, pp. 3378, 3380, Exhibit P01248, pp. 1540, 1541; Witness RFJ-066, Exhibit P00202, para. 102; Witness RJS-07, Exhibit 1D00257, para. 50.

¹⁶¹⁷ Witness RFJ-066, Exhibit P00202, paras. 101, 102, T. 10 July 2017 p. 26, T. 11 July 2017 p. 2; Witness Babić, Exhibit P01246, p. 13127; RFJ-137, Exhibit P00245, paras. 23, 95; Exhibit P00269, pp. 11, 13, 29, 30, 34, 66, 70; Witness Nielsen, T. 14 November 2017 pp. 34, 35, 37, 38; Exhibit P00850, para. 85; Exhibit P02297, pp. 7, 8, 20-23.

¹⁶¹⁸ Witness RFJ-066, Exhibit P00202, para. 97; Exhibit 1D00021, p. 7327, T. 23 August 2017 pp. 31-36; Witness Babić, Exhibit P01247, pp. 3377, 3378, 3380, Exhibit P01248, pp. 1392, 1459, 1545, 1546; Witness Maksić, Exhibit P00025, para. 105, T. 22 June 2017 pp. 74, 75; Exhibit P01962, p. 2; Witness RFJ-137, Exhibit P00245, para. 21; Exhibit P00250. *See also* Exhibit P01961; Exhibit P00247; Exhibit P00248.

¹⁶¹⁹ *See, e.g.*, Witness RFJ-066, T. 23 August 2017 pp. 31, 32, 36; Witness RFJ-137, T. 18 July 2017 pp. 23, 24, T. 20 July 2017 pp. 21-23, 25, 26, Exhibit P00245, para. 22. *See also* Witness RFJ-066, Exhibit P00202, para. 97, Exhibit 1D00021, p. 7327.

¹⁶²⁰ Exhibit P00248; Witness RFJ-137, Exhibit P00245, para. 19.

¹⁶²¹ Witness Babić, P01246, pp. 13528, 13529, 13877; Exhibit P00250.

¹⁶²² *See, e.g.*, Exhibit P03181; Exhibit 2D00273; Exhibit 2D00308; Exhibit 2D00020; Exhibit 2D00276; Exhibit 2D00277; Exhibit 1D00706; Exhibit 2D00278; Exhibit 1D00707; Exhibit 2D00135; Exhibit 1D00708; Exhibit P03035; Exhibit 1D00709; Exhibit P03184; Exhibit 1D00710; Exhibit 1D00711; Exhibit 2D00137; Exhibit 2D00281; Exhibit 2D00962; Exhibit 2D00288; Exhibit 2D00289; Exhibit 2D00290; Exhibit 2D00963; Exhibit 2D00291; Exhibit 2D00260; Exhibit 2D00292; Exhibit 1D00087; Exhibit 2D00022; Exhibit 2D00014; Exhibit 2D00021; Exhibit 2D00309; Exhibit 2D00311; Exhibit 2D00274; Exhibit 1D00088; Exhibit 2D00015; Exhibit 1D00710. *See also* Witness Lučić, T. 12 November 2019 pp. 12, 13, Exhibit 2D00255, pp. 15612, 15618, 15644, 15713.

counter to or alter the fact that the Accused played a role in this process. This evidence does, however, raise questions about the nature of Captain Dragan's affiliation with the Accused and the Unit following this period and further suggests that Captain Dragan operated somewhat independently and not under the authority of the Accused.

401. The main evidence that Stanišić and Simatović oversaw the training and other logistical and financial support at Golubić and were the main driving force behind the camp comes from Witness Babić and Witness RFJ-066.¹⁶²³ Although their evidence may lend support to the proposition that Stanišić and Simatović played a significant role in relation to Golubić, the Trial Chamber is not satisfied that it proves beyond reasonable doubt that the Accused established the camp and were entirely responsible for its operation between May and the end of July/early August 1991.

402. In this respect, the Trial Chamber notes the testimony of Witness RFJ-137, which indicates that orders at the camp on early operations were principally issued by Captain Dragan, as the main instructor, Karna, and Martić.¹⁶²⁴ The witness also stated that Karna was the official commander of the camp, Ilija Prijić was his superior, both were subordinated to Martić, who came frequently to the camp to monitor and supervise, and Captain Dragan "was actually the one with authority over the activities".¹⁶²⁵ The witness also did not testify meeting Simatović until August 1991.¹⁶²⁶ Although this evidence does not exclude that Stanišić and Simatović played a more meaningful and active role in the operation of the camp, as attested to by Witnesses Babić and RFJ-066, it does raise sufficient questions, in particular given the caution with which the Trial Chamber views the evidence of these two witnesses.

403. Moreover, the Trial Chamber is mindful that Golubić operated, in varying degrees, as a training camp or base for local police officers under Martić or Karna and for the distribution of weapons from as early as August 1990, and that it received at least some financing from local sources.¹⁶²⁷ Therefore, local authorities also played a role in its establishment and operation. Such evidence, however, does not detract from the role that Stanišić and Simatović may have played in contributing to the training there between May and July/August 1991, for example, by facilitating the provision of instructors affiliated with the Serbian State Security Service. This and any other

¹⁶²³ See, e.g., Prosecution Final Trial Brief, para. 268. See also Witness Babić, Exhibit P01246, pp. 13121, 13134, 13877, 13878, Exhibit P01248, pp. 1459, 1541, 1544-1546, 1822; Witness RFJ-066, Exhibit P00202, paras. 96-98, 102, T. 11 July 2017 pp. 9-11, T. 10 July 2017 pp. 28, 29.

¹⁶²⁴ Witness RFJ-137, T. 18 July 2017 pp. 37, 38. See also Witness RFJ-137, T. 18 July 2017 pp. 16, 18, 21, 55, T. 20 July 2017 pp. 12, 13.

¹⁶²⁵ Witness RFJ-137, Exhibit P00245, para. 13, T. 18 July 2017 pp. 16, 18, 19.

¹⁶²⁶ Witness RFJ-137, T. 18 July 2017 p. 26.

¹⁶²⁷ See Witness OFS-014, Exhibit 2D00359, p. 15771; Witness RJS-07, Exhibit 1D00258, pp. 12938, 12939, 12956-12962, Exhibit 1D00257, paras. 20, 47-49, T. 27 August 2019 pp. 21, 26; Witness Drača, Exhibit 2D00331, pp. 16694, 16695; Witness RFJ-137, Exhibit 2D00012, pp. 7438-7440.

support to security structures in the SAO Krajina in relation to training, however, came before the common criminal purpose came into existence.

404. The Trial Chamber received evidence that, in parallel with the operation of the Golubić camp, Captain Dragan sent a proposal for the establishment of a new training facility at the Knin fortress in May 1991.¹⁶²⁸ Following its establishment, a command centre was set up, some support staff was relocated from Golubić to the fortress, and new members were recruited.¹⁶²⁹ Some evidence indicates that the men trained at the Knin fortress were known as “*Knindžas*” and were under the command of Captain Dragan.¹⁶³⁰

405. Turning to the establishment of the Unit, it follows from Witness RFJ-137’s evidence that Simatović formed the Unit in late August 1991 when he selected 28 men from various formations who had passed through Golubić.¹⁶³¹ Bearing this testimony in mind, the Trial Chamber is satisfied that, from at least August or September 1991, the Unit operated under the command and control of Stanisić and Simatović. The Unit was established to serve as the Serbian State Security Service combat unit.¹⁶³² The Accused were ultimately in charge of this Unit, and only they were able to give orders to its members.¹⁶³³ Živojin Ivanović (Crnogorac) acted as the Unit’s “local commander” and Radojica Božović as his deputy.¹⁶³⁴

406. Once selected, the Unit members were taken first to Korenica and then to Belgrade in September 1991, before establishing their camp, known as Ležimir.¹⁶³⁵ Three to four days after the men arrived at Ležimir, Simatović introduced Stanišić,¹⁶³⁶ who gave a speech saying that they would be an anti-terrorist unit protecting important buildings and high-ranking politicians and would not be used for combat operations.¹⁶³⁷ While the witness was at Ležimir, only the Accused came to visit.¹⁶³⁸ According to Witness RFJ-137, Captain Dragan attempted to come to Ležimir twice, but was refused access on the orders of Simatović.¹⁶³⁹ In view of this evidence, the Trial Chamber has some doubt that Captain Dragan remained closely affiliated with the Unit or Stanišić

¹⁶²⁸ Exhibit P00011; Witness RFJ-153, Exhibit P00002, para. 95.

¹⁶²⁹ Witness RFJ-137, Exhibit P00245, paras. 17, 22; Exhibit P00059, p. 8; Exhibit P00271, p. 1; Exhibit P01970; Exhibit P02708, p. 1; Exhibit P00264, pp. 13, 20; Exhibit P00500, p. 16; Exhibit P02854, pp. 19, 20; Witness RFJ-066, Exhibit P00202, paras. 121-123, 127, Exhibit 1D00021, pp. 7200, 7201, 7246, 7258, 7259.

¹⁶³⁰ Witness RFJ-066, Exhibit P00202, para. 138; Witness Babić, Exhibit P01248, pp. 1426, 1427; Witness RFJ-153, Exhibit P00002, paras. 92, 93-95, T. 14 June 2017 p. 43. *See also* Witness RFJ-153, T. 15 June 2017 pp. 37-40, T. 20 June 2017 pp. 22-26.

¹⁶³¹ *See* Witness RFJ-137, Exhibit P00245, paras. 13, 22, 29, 30, T. 18 July 2017 pp. 24, 25, 53, 56.

¹⁶³² Witness RFJ-137, Exhibit P00245, paras. 30, 31.

¹⁶³³ Witness RFJ-137, Exhibit P00245, para. 50, T. 18 July 2017 pp. 28, 29.

¹⁶³⁴ Witness RFJ-137, T. 18 July 2017 pp.46, 47, T. 20 July 2017 p. 39, Exhibit P00245, para. 95.

¹⁶³⁵ Witness RFJ-137, Exhibit P00245, paras. 22, 32, 34, 36, T. 18 July 2017 pp. 25, 26.

¹⁶³⁶ Witness RFJ-137, Exhibit P00245, para. 37.

¹⁶³⁷ Witness RFJ-137, Exhibit P00245, para. 37, T. 18 July 2017 p. 29.

¹⁶³⁸ Witness RFJ-137, Exhibit P00245, para. 41, T. 20 July 2017 p. 30.

¹⁶³⁹ Witness RFJ-137, T. 18 July 2017 pp. 22, 23, T. 19 July 2017 pp. 53, 54.

and Simatović after his departure from the SAO Krajina in the summer of 1991 and that his subsequent actions, including in relation to training allegedly conducted at Tikveš, can be attributable to the Accused.

407. At Ležimir, the Unit members received further training.¹⁶⁴⁰ The Unit was joined by Filipović, Ilija Vučković, and Savica (Saša) Medaković, who arrived at Ležimir in December 1991 or January 1992 from Korenica.¹⁶⁴¹ Like the rest of the Unit members, they also became instructors at Ležimir,¹⁶⁴² and participated in the training of other men who came from Serbia and Bosnia and Herzegovina.¹⁶⁴³ Around the same time, a camp was established across the Serbian border of the SAO SBWS at Pajzoš.¹⁶⁴⁴ Among the individuals trained at Ležimir and Pajzoš by members of the Unit were a group of approximately 20 local men from Bosanski Šamac, who received training at the end of March 1992.¹⁶⁴⁵ In addition, around the same time the Unit trained a group of volunteers led by Srećko Radovanović (Debeli), which included Slobodan Miljković (Lugar) and Witness RFJ-035, who had previously served in special police units in the area of the SAO SBWS.¹⁶⁴⁶

408. Although there is some evidence that the Šamarica and Korenica camps were used in connection with early operations in the SAO Krajina, as discussed elsewhere, the Prosecution did not prove that these operations resulted in the commission of crimes attributable to the Accused.¹⁶⁴⁷ Moreover, the Trial Chamber views the evidence underpinning the allegations of the extensive training of Serb forces at Korenica with caution.¹⁶⁴⁸

409. The Trial Chamber is satisfied that the Accused contributed to the training of members of the SAO Krajina police, the SAO Krajina Territorial Defence, and other volunteers at the Golubić camp until around the end of July 1991 through the use of Serbian State Security Service affiliated trainers. The Trial Chamber is further satisfied that the evidence shows that both Ležimir and Pajzoš operated as camps under the Accused's authority and control at least in the first part of 1992, until at least March or April. The training that was conducted there was, accordingly, done at the Accused's direction, with their authorization, as well as their financial and logistical support.

¹⁶⁴⁰ Witness RFJ-137, Exhibit P00246, para. 5.

¹⁶⁴¹ Witness RFJ-137, Exhibit P00245, paras. 33, 42, T. 19 July 2017 p. 36.

¹⁶⁴² Witness RFJ-137, Exhibit P00245, para. 42.

¹⁶⁴³ Witness RFJ-137, Exhibit P00246, para. 5.

¹⁶⁴⁴ *See, e.g.*, Witness Knežević, Exhibit ID00530, paras. 56, 67, 62; Witness B. Bogunović, Exhibit P02718, para. 24.

¹⁶⁴⁵ Witness Todorović, Exhibit P01916, pp. 23426, 23432, 23433, 23436, 23437, 23519, 23520, 23558. *See also* Witness RFJ-035, T. 17 April 2018 pp. 12, 13.

¹⁶⁴⁶ Witness RFJ-035, T. 17 April 2018 pp. 7-11, 46, 47, Exhibit P02026, paras. 29, 30.

¹⁶⁴⁷ *See supra* Section II.A.1.

¹⁶⁴⁸ Prosecution Final Trial Brief, para. 278 (where the Prosecution relies primarily on the evidence of Witnesses RFJ-066 and Babić).

2. The Unit: Bosanski Šamac and Doboj

410. The Prosecution argues that, from April 1992, the Accused delegated operational command of the Unit to trusted Unit members to participate in significant takeover operations in the Posavina Corridor to expel non-Serbs, including in Bosanski Šamac and Doboj.¹⁶⁴⁹ With respect to these operations, the Trial Chamber recalls that it has found that alleged Unit members and individuals trained by them participated in the attacks and in the commission of crimes.¹⁶⁵⁰

(a) Bosanski Šamac

411. The Prosecution contends that, on 11 April 1992, Simatović personally deployed from Pajzoš to Bosanski Šamac a mixed group of Unit members and Bosanski Šamac locals, who had undergone training by Unit members at Pajzoš in March 1992.¹⁶⁵¹ According to the Prosecution, this group was commanded by Unit member Dragan Đorđević (Crni), who met with Simatović in Belgrade after the takeover and who was instructed by Simatović to write a report on the events in Bosanski Šamac.¹⁶⁵² The Prosecution points to evidence that, between 16 and 17 April 1992, this group, along with other Serb forces, played a significant role in the takeover of the town of Bosanski Šamac, and that, during and following the takeover, participated in the commission of crimes throughout the municipality.¹⁶⁵³ The Prosecution contends that, following these crimes and Crni's deployment to other areas along the Posavina Corridor, Crni was subsequently arrested by the Army of *Republika Srpska* in August 1992, but the Accused intervened to secure his release and later sent him back to Bosanski Šamac in the fall of 1992, which allegedly further underscores their continued authority over him, as well as their support of his crimes, during this period.¹⁶⁵⁴

412. Stanišić accepts that he attempted to create a nascent Unit at Ležimir and Pajzoš between September 1991 and March 1992, but submits that the evidence demonstrates that he ordered this unit to avoid military and training operations, limiting its activity to, *inter alia*, protecting VIP's.¹⁶⁵⁵ According to Stanišić, he ordered this nascent Unit to be disbanded in March 1992 and its prospective members, including Crni, became independent mercenaries, maintaining relationships

¹⁶⁴⁹ Prosecution Final Trial Brief, paras. 123-125, 129, 289, 466, 494, 533, 534, 540, 542, 550, 552, 819, 833, 834, 855, 897, 898, 925, 930. *See also* Prosecution Closing Arguments, T. 12 April 2021 pp. 37, 46, 75-78; Prosecution Rebuttal, T. 14 April 2021 pp. 7, 8; Prosecution Pre-Trial Brief, paras. 78, 82, 95, 111, 162.

¹⁶⁵⁰ *See supra* paras. 218, 229, 232-234, 252, 253.

¹⁶⁵¹ Prosecution Final Trial Brief, paras. 124, 536, 540, 819, 821, 927. *See also* Prosecution Pre-Trial Brief, paras. 95, 111, 163; Prosecution Closing Arguments, T. 12 April 2021 pp. 75, 76.

¹⁶⁵² Prosecution Final Trial Brief, paras. 124, 540, 821, 833, 898, Annex A, para. 28. *See also* Prosecution Pre-Trial Brief, paras. 95, 163; Prosecution Closing Arguments, T. 12 April 2021 p. 75.

¹⁶⁵³ Prosecution Final Trial Brief, paras. 542, 543, 821-833. *See also* Prosecution Pre-Trial Brief, paras. 82, 95, 162, 165-167; Prosecution Closing Arguments, T. 12 April 2021 pp. 7, 8, 33, 76.

¹⁶⁵⁴ Prosecution Final Trial Brief, paras. 126, 127, 544, 560, 898, 928, 929, Annex A, paras. 29, 30; Prosecution Closing Arguments, T. 12 April 2021 p. 78. *See also* Prosecution Pre-Trial Brief, paras. 111-113.

with members of the Serbian military, police, and Serbian State Security Service, including, amongst others, Simatović.¹⁶⁵⁶ He further argues that none of these former members, including Crni, were deployed from Pajzoš as members of an elite Serbian State Security Service unit under his command.¹⁶⁵⁷

413. Simatović submits that preparations for conflict and plans for the formation of the “Serbian Municipality of Šamac” began months before 17 April 1992 and the eventual takeover of the Bosanski Šamac municipality by Serb forces.¹⁶⁵⁸ According to Simatović, the responsibility for the military action fell to the JNA’s 17th Tactical Group, under the overall command of Lieutenant Colonel Stevan Nikolić, and that Serb forces in Bosanski Šamac amounted to 6,700 members.¹⁶⁵⁹ Simatović acknowledges that, prior to the takeover, a group of about 30 volunteers arrived by JNA helicopter and, by order of Nikolić, were re-subordinated to detachments within the JNA’s 17th Tactical Group.¹⁶⁶⁰ In relation to the group of volunteers, which includes Crni, Debeli, and Witness RFJ-035, Simatović submits that they were members of the Serbian Radical Party and that they were under the control of the Serbian Radical Party War Staff, which he contends was part of and under the command of the JNA’s 17th Tactical Group and in no way a special unit of the Serbian State Security Service.¹⁶⁶¹ Simatović further points to evidence of Nikolić issuing orders directly to members of these volunteer groups in relation to military operations.¹⁶⁶² Simatović also highlights evidence, including reference to Ratko Mladić’s diaries, indicating that senior JNA officers took part in coordinating the arrival of volunteers from Serbia in Bosanski Šamac in April 1992.¹⁶⁶³

414. Simatović notes that, following the withdrawal of the JNA from the area, the Commander of the East Bosnian Corps with the involvement of Blagoje Simić, President of the Bosanski Šamac Crisis Staff, appointed Crni as commander of the Posavina Brigade, and Debeli as its chief of staff.¹⁶⁶⁴ Simatović highlights evidence that, as chief of staff, Debeli submitted daily combat reports

¹⁶⁵⁵ Stanišić Final Trial Brief, paras. 735, 1011. *See also* Stanišić Final Trial Brief, paras. 54, 55, 57; Stanišić Closing Arguments, T. 13 April 2021 pp. 46-48; Stanišić Rejoinder, T. 14 April 2021 pp. 21-23, 59, 60.

¹⁶⁵⁶ Stanišić Final Trial Brief, paras. 762, 766, 1011, 1054. *See also* Stanišić Closing Arguments, T. 13 April 2021 pp. 13, 58; Stanišić Rejoinder, T. 14 April 2021 pp. 24, 25.

¹⁶⁵⁷ Stanišić Final Trial Brief, para. 1011. *See also* Stanišić Final Trial Brief, paras. 1014, 1015, 1032; Stanišić Closing Arguments, T. 13 April 2021 pp. 60-63.

¹⁶⁵⁸ Simatović Final Trial Brief, para. 669.

¹⁶⁵⁹ Simatović Final Trial Brief, paras. 656-670.

¹⁶⁶⁰ Simatović Final Trial Brief, para. 671.

¹⁶⁶¹ Simatović Final Trial Brief, paras. 687-690, 694.

¹⁶⁶² Simatović Final Trial Brief, para. 672.

¹⁶⁶³ Simatović Final Trial Brief, paras. 676, 677, 683.

¹⁶⁶⁴ Simatović Final Trial Brief, para. 673.

to the East Bosnian Corps command.¹⁶⁶⁵ According to Simatović, there is no evidence that the Serbian State Security Service in any way influenced the activities of the Posavina Brigade.¹⁶⁶⁶

415. Simatović further argues that he played no role in bringing the individuals who arrived from Bosanski Šamac for training at Ležimir and Pajzoš and in no way controlled their actions upon their return.¹⁶⁶⁷ Simatović also argues that the evidence of Witness Stevan Todorović, which was admitted pursuant to Rule 112 of the Rules, is neither credible nor sufficiently corroborated by other evidence.¹⁶⁶⁸

416. As mentioned above, at the end of March 1992, a group of around 20 men from Bosanski Šamac were trained by members of the Unit at Ležimir and Pajzoš. These men were not formally incorporated into the Unit.¹⁶⁶⁹ Also around this time, a group of former police from the SAO SBWS, including Lugar, Debeli, and Witness RFJ-035, received similar training by Unit members.¹⁶⁷⁰ According to Witness RFJ-035, his group, including Lugar and Debeli, became Unit members and received uniforms with similar insignia to the military uniform worn by Simatović at the camp.¹⁶⁷¹

417. Around 10 April 1992, Simatović addressed the Unit members, including Debeli, Lugar, and Witness RFJ-035, and the trainees from Bosanski Šamac at Pajzoš and informed them of their deployment to the Bosanski Šamac municipality in Bosnia and Herzegovina.¹⁶⁷² On 11 April 1992, a group of around 50 men, 30 coming from Serbia while the rest were from Bosanski Šamac, arrived in Batkuša, a Serbian village near Bosanski Šamac, in JNA helicopters from a site near Ležimir.¹⁶⁷³ Crni, Debeli, and Lugar were a part of this group.¹⁶⁷⁴ Other Unit members included Aleksandar Vuković (Vuk), Predrag Lazarević (Laki), Goran Simović (Tralja), and Zivomir Avramović (Avram).¹⁶⁷⁵

418. The Trial Chamber finds on the basis of this evidence that members of the Unit trained locals from Bosanski Šamac at Ležimir and Pajzoš. The organization of this training occurred at

¹⁶⁶⁵ Simatović Final Trial Brief, para. 674.

¹⁶⁶⁶ Simatović Final Trial Brief, para. 674,

¹⁶⁶⁷ Simatović Final Trial Brief, para. 686. *See also* Simatović Final Trial Brief, paras. 679-684.

¹⁶⁶⁸ Simatović Final Trial Brief, paras. 678, 685.

¹⁶⁶⁹ Witness Todorović, Exhibit P01916, pp. 23520, 23521.

¹⁶⁷⁰ Witness RFJ-035, T. 17 April 2018 pp. 7-11, 46, 47, Exhibit P02026, paras. 27, 29, 30, 31, Exhibit P02028, p. 7630; Exhibit P02045, p. 3.

¹⁶⁷¹ Witness RFJ-035, T. 17 April 2018 pp. 10-13, 59-61, T. 19 April 2018 pp. 52, 53, 60, 61, 65, Exhibit P02028, pp. 7623-7625, 7671, 7672, Exhibit P02026, para. 30.

¹⁶⁷² Witness RFJ-035, T. 17 April 2018 pp. 14, 15, Exhibit P02026, paras. 32-34, Exhibit P02028, pp. 7623, 7624.

¹⁶⁷³ *See supra* para. 209.

¹⁶⁷⁴ *See supra* para. 209.

¹⁶⁷⁵ *See supra* para. 209.

various levels of the JNA area command and officials in Belgrade¹⁶⁷⁶ and included transport provided by the JNA.¹⁶⁷⁷ In view of Stanisić's and Simatović's authority over the Unit and the Ležimir and Pajzoš camps, the Trial Chamber can only conclude that they were aware and consented to this arrangement. The Accused would have been aware in allowing the use of their facilities and trainers that they would be supporting military action and, in the context of the conflict at the time, the commission of crimes by these forces.

419. The Trial Chamber is also satisfied that, in March 1992, following their training at the camps by the Unit, Debeli, Lugar, and Witness RFJ-035 were incorporated into the Unit, and that they were under the authority of the Accused prior to their deployment. The Trial Chamber is mindful of the evidence that indicates that these individuals and Crni had close affiliations with the Serbian Radical Party and its War Staff.¹⁶⁷⁸ However, the Trial Chamber is not convinced that this calls into question their affiliation with the Unit at the time. The Trial Chamber is further mindful that the JNA played a large role in their transport and, as discussed below, their participation in the attack. However, the Trial Chamber recalls the evidence that members of the Unit could not participate in combat operations without the approval of the Accused.¹⁶⁷⁹ Given that this was a significant contingent, that they were briefed by Simatović personally prior to departure, and that they departed from Pajzoš, the Trial Chamber is convinced that this deployment was authorized by the Accused. Accordingly, the Trial Chamber finds that the Accused trained and deployed Unit members and locals from Bosanski Šamac to assist in the takeover operation of Bosanski Šamac and that, given the context of the conflict at the time, they would have been aware of the commission of crimes during the operation.

420. While Witness RFJ-035 testified that, even after deployment, the group continued to be under Simatović's authority and receive orders from Belgrade,¹⁶⁸⁰ the Trial Chamber notes that the witness did not have direct knowledge of this and did not give any concrete examples,¹⁶⁸¹ and that

¹⁶⁷⁶ See, e.g., Exhibit P01938, pp. 256, 257.

¹⁶⁷⁷ See *supra* para. 209.

¹⁶⁷⁸ See, e.g., Exhibit P02044; Witness RFJ-075, Exhibit P01694, pp. 2696, 2697; Exhibit P02043, p. 11; Exhibit 1D00862; Witness Djukić, Exhibit 2D00373, pp. 17956-17958. See also *supra* nn. 951, 952, 956.

¹⁶⁷⁹ Witness RFJ-137, T. 18 July 2017 pp. 29 (wherein the witness states that: (i) "I mentioned an incident when the army called us to Fruška Gora when some Croatian forces were involved. At the time, Jovica and Frenki arrived from Belgrade and they were very angry that we were made part of that operation. They said that from that day on we were not to go to any operation without their prior approval"; and (ii) only "Frenki" and "Jovica" could decide which operations the Unit would take part in), 30 (wherein the witness states that his unit always followed the orders of the Accused), 31 (wherein the witness states that "we never went into any action or operations without Frenki's approval"), 32 (wherein the witness states that, while he was there, members of the Unit all obeyed the orders of the Accused).

¹⁶⁸⁰ Witness RFJ-035, T. 18 April 2018 pp. 9, 10-12.

¹⁶⁸¹ See, e.g., Witness RFJ-035, T. 18 April 2018 p. 12 (wherein the witness states: "Typically up to the capture of Bosanski Šamac and for a while after that, we received from Belgrade two or three orders perhaps. They all boiled down to the same: Co-operating with the JNA, with the 17th Tactical Group. At one point, we were told that a part of one unit from Brčko would be arriving, about ten men, as assistance, to lend us a hand. That's all I know. At that time I

there is no direct evidence corroborating his general claim. The Trial Chamber also notes that some circumstantial support can be found in the evidence that Crni had a communications centre where, according to Witness RFJ-035, he communicated with Belgrade,¹⁶⁸² and that Witness RFJ-035, while being trained in communications at the communications centre in nearby Brčko shortly after the events in Bosanski Šamac, stated that encrypted messages were regularly sent to Simatović from Crnogorac.¹⁶⁸³ The Trial Chamber observes, however, that the witness did not elaborate on Crni's communication with Belgrade and was not familiar with the content of the encrypted messages.¹⁶⁸⁴

421. The Trial Chamber is also mindful of other evidence regarding the Accused's role in the events in Bosanski Šamac, including evidence that Simatović requested a written report from Crni following the Bosanski Šamac operation,¹⁶⁸⁵ as well as an interview report from July 1993 by Serbian State Security Service officials, in which Lugar stated that he had been paid by the Serbian Ministry of Interior for a certain time during his deployment.¹⁶⁸⁶ There is also evidence that Stanisić and Simatović may have been involved in securing Crni's release from prison after his arrest in August 1992 and in authorizing him to return to the region in October 1992.¹⁶⁸⁷ The Trial Chamber further notes that a crime report, concerning separate events in neighbouring municipalities, indicates that Crnogorac's group had links to the Serbian State Security Service and showed a Serbian Ministry of Interior identification card when questioned.¹⁶⁸⁸

422. The Trial Chamber has further taken note of the evidence that, after the Unit's arrival, Blagoje Simić met with Todorović, Crni, and others on 15 April 1992 and discussed the plan for the takeover of Bosanski Šamac, as well as the inclusion of the 50 men who had undergone special training within the existing local JNA brigade.¹⁶⁸⁹ In this regard, the Trial Chamber received evidence that, upon their arrival, the paramilitaries, including members of the Unit, were re-subordinated to the JNA's 17th Tactical Group,¹⁶⁹⁰ which issued orders directly to them during their deployment.¹⁶⁹¹ In addition, following the withdrawal of the JNA from the area, Crni was appointed

wasn't in contact with Belgrade, so I don't know what else there was. When Debeli tells me something, I don't know whether he made it up or it came from Belgrade"). *See also* Witness RFJ-035, T. 18 April 2018 p. 43.

¹⁶⁸² Witness RFJ-035, T. 18 April 2018 p. 17.

¹⁶⁸³ Witness RFJ-035, T. 17 April 2018 p. 30, T. 18 April 2018 pp. 15, 16.

¹⁶⁸⁴ Witness RFJ-035, T. 18 April 2018 pp. 15, 16 (wherein the witness states: "Well, do you know what it means to have an encrypted message? I would be writing down numbers in series of four, and I would hand that to the person in charge for them to decrypt it. And the same thing would be when I was sending a message. I didn't learn encryption. I learned that later. They showed me how to do that. But in any case, encryption and decoding messages was not something that was part of my job in the beginning").

¹⁶⁸⁵ Witness Todorović, Exhibit P01916, pp. 23461, 23462, Exhibit P01922.

¹⁶⁸⁶ Exhibit P00847, p. 1.

¹⁶⁸⁷ Witness Todorović, Exhibit P01916, pp. 23475-23477, 23479-23482, 23530-23532, 23548, 23549, 23555, 23556, Exhibit P01922. *See also* Exhibit P00846, p. 3.

¹⁶⁸⁸ Exhibit 1D00067, pp. 7, 10. *See also* Witness RFJ-037, Exhibit P01616, para. 128, T. 8 February 2018 pp. 24, 25.

¹⁶⁸⁹ *See supra* para. 214.

¹⁶⁹⁰ *See supra* para. 211.

¹⁶⁹¹ Exhibit 2D00380, pp. 1, 4. *See also* Witness Djukić, Exhibit 2D00373, pp. 17949, 17950.

commander of the Posavina Brigade, and Debeli served as its chief of staff, reporting to the military command.¹⁶⁹²

423. Such evidence raises questions about whether the Accused actively directed or controlled the deployed members of the Unit at the time and the extent to which these individuals in fact remained part of the Unit. The Trial Chamber notes that the evidence related to the Accused's connection to Crni's release after his arrest and return to Bosanski Šamac, as well as Simatović requesting a report on the events there, flows in large part from Witness Todorović and that his evidence against the Accused on these points must be viewed with caution both in view of his guilty plea and since he was not cross-examined by the Accused. There is also some indication that Crni's release may have been facilitated by military officers and his return to Bosanski Šamac was requested by local authorities.¹⁶⁹³

424. Accordingly, the Trial Chamber is not convinced that the Accused directed or had command and control over the members of the Unit in the course of the operations or the commission of crimes in Bosanski Šamac. Nonetheless, the training provided to the new members of the Unit, the approximately 20 locals from Bosanski Šamac, and their deployment to Bosanski Šamac provided practical assistance that had a substantial effect on the commission of crimes there.

(b) Doboj

425. In connection with Doboj, the Prosecution submits that, by April 1992, the Accused deployed Radojica Božović from Pajžos with a group of Unit members to train Serbs from surrounding areas at the Mt. Ozren camp.¹⁶⁹⁴ According to the Prosecution, on 3 May 1992, on Božović's order, the Unit forces trained at Mt. Ozren, the local Territorial Defence, *Republika Srpska* security forces, and Serb paramilitaries attacked Doboj and, in the ensuing days, these forces

¹⁶⁹² See, e.g., Exhibit P03140; Exhibit P02033; Exhibit P02034; Exhibit P02035; Exhibit P02036; Witness Djukić, Exhibit 2D00373, pp. 17958, 17959; Witness Todorović, Exhibit P01916, pp. 23467, 23468; Exhibit P01922; Exhibit P00846, p. 3; Exhibit P02048, p. 1; Exhibit P01924, p. 2; Exhibit P01953, p. 2; Adjudicated Fact 1081. See also *supra* n. 972.

¹⁶⁹³ See Exhibit P01924, p. 9; Exhibit P03166, p. 7. The Trial Chamber is mindful that these exhibits indicate some possible involvement by the Serbian State Security Service in Crni's return. However, they do not compel the conclusion that the Accused had authority over or gave instructions to Crni or those accompanying him at the time of his deployment in Bosanski Šamac.

¹⁶⁹⁴ Prosecution Final Trial Brief, para. 552. See Prosecution Final Trial Brief, paras. 289, 494, 550, 897, 898, 930; Prosecution Closing Arguments, T. 12 April 2021 p. 75; Prosecution Rebuttal, T. 14 April 2021 pp. 55, 56. See also Prosecution Final Trial Brief, paras. 9, 123, 951.

committed crimes.¹⁶⁹⁵ The Prosecution further submits that Božović reported directly to the Accused during his deployment to Doboј.¹⁶⁹⁶

426. Stanišić submits that the evidence is insufficient to demonstrate that he deployed Božović and other original Unit members to Doboј in April 1992 and that these individuals, or anyone they trained or commanded, had any affiliation with or support or direction from the Serbian State Security Service during the relevant events.¹⁶⁹⁷ Stanišić notes that the main evidence of his connection to the events follows from Witness RFJ-165 whose credibility he strongly contests.¹⁶⁹⁸ Stanišić further contends that the other indicia of their affiliation with the Serbian State Security Service is limited and, in some cases, contradictory, and that the overwhelming evidence rather indicates that they operated under the JNA, *Republika Srpska* Army, and *Republika Srpska* Ministry of Interior.¹⁶⁹⁹

427. Simatović submits that, at the time of the events in Doboј, Božović was working with the *Republika Srpska* Ministry of the Interior and operated as part of the Ozren Light Infantry Brigade, which was subordinated to the Ozren Tactical Group.¹⁷⁰⁰ According to Simatović, there is no evidence of contacts between Božović and the Serbian State Security Service during the period he operated in Doboј.¹⁷⁰¹ Simatović further argues that, other than Witness RFJ-165, whose credibility he strongly contests,¹⁷⁰² the witnesses do not describe the perpetrators as being affiliated with the Serbian State Security Service.¹⁷⁰³ In any case, Simatović notes that, between 26 June and 23 July 1992, Božović was hospitalized and therefore could not have participated in the incident involving the use of detainees as human shields on 12 July 1992.¹⁷⁰⁴

428. It follows from the evidence that, in April 1994, a number of original Unit members under the command of Božović established a training camp at Mt. Ozren near Doboј, where they trained several hundred local recruits from the area, including Witness RFJ-165.¹⁷⁰⁵ According to Witness

¹⁶⁹⁵ Prosecution Final Trial Brief, paras. 553-557. See Prosecution Final Trial Brief, paras. 289, 558, 930; Prosecution Closing Arguments, T. 12 April 2021 pp. 7, 8, 33. See also Prosecution Closing Arguments, T. 12 April 2021 p. 46; Prosecution Final Trial Brief, paras. 290, 466, 504, 533, 498, 897, 898.

¹⁶⁹⁶ Prosecution Final Trial Brief, para. 129. See Prosecution Closing Arguments, T. 12 April 2021 p. 78. See also Prosecution Final Trial Brief, para. 130.

¹⁶⁹⁷ Stanišić Final Trial Brief, paras. 1102-1106, 1116-1168. See Stanišić Final Trial Brief, paras. 1124-1128, 1129, 1130, 1135-1138, 1141-1146, 1148, 1150, 1151, 1164-1167. See also Stanišić Closing Arguments, T. 13 April 2021 p. 59; Stanišić Rejoinder, T. 14 April 2021 pp. 25-27.

¹⁶⁹⁸ Stanišić Final Trial Brief, paras. 1116-1123, Annex XVII. See Stanišić Final Trial Brief, paras. 1103, 1104, 1114. See also Stanišić Final Trial Brief, paras. 1110, 1112, 1113, 1152.

¹⁶⁹⁹ Stanišić Final Trial Brief, paras. 1129-1168. See also Stanišić Closing Arguments, T. 13 April 2021 p. 59.

¹⁷⁰⁰ Simatović Final Trial Brief, paras. 626-628. See also Simatović Final Trial Brief, paras. 779, 1422.

¹⁷⁰¹ Simatović Final Trial Brief, para. 630. See also Simatović Final Trial Brief, para. 753.

¹⁷⁰² Simatović Final Trial Brief, paras. 644-655.

¹⁷⁰³ Simatović Final Trial Brief, paras. 643. See Simatović Final Trial Brief, paras. 633-642.

¹⁷⁰⁴ Simatović Final Trial Brief, para. 629. See Simatović Final Trial Brief, paras. 631-640. See also Simatović Final Trial Brief, para. 632.

¹⁷⁰⁵ See, e.g., Witness RFJ-165, Exhibit P02366, paras. 5, 11, 19. See Witness RFJ-165, T. 29 May 2018 p. 10.

RFJ-165, the training was rudimentary and cut short after information was received that Muslim forces were about to take over Doboj.¹⁷⁰⁶ The Trial Chamber has found that Serb forces, including forces under the command of Božović, attacked and took control over Doboj on 3 May 1992.¹⁷⁰⁷ Thereafter, these forces descended into criminality, ethnic cleansing, murder, torture, and arbitrary arrests and detentions, which resulted in forcible displacement and persecution.¹⁷⁰⁸

429. The main question for the Trial Chamber is whether Božović and any other original Unit members in Doboj¹⁷⁰⁹ were deployed by the Accused and whether their actions and those of the local recruits, who were trained at Mt. Ozren and acted under their authority can be attributed to the Accused. The Trial Chamber accepts that there are strong indicia that Božović and the other individuals from Pajzoš remained members of the Unit, including the close proximity to their time in Ležimir and Pajzoš, Božović's role in the Unit after its formation and incorporation in the JATD,¹⁷¹⁰ and Simatović's reference to the Mt. Ozren camp in his speech at the 1997 Kula ceremony.¹⁷¹¹ The Trial Chamber is also mindful that Witness RFJ-165 attested to receiving a uniform upon the completion of his training with a wolf patch and JSO insignia, seeing written orders issued by Stanišić in relation to weapon transfers from Serbia to Mt. Ozren, and learning from local authorities at the time and receiving confirmation in 1995 that the unit he joined at Doboj was affiliated with the Serbian State Security Service.¹⁷¹²

430. Having considered the evidence, however, the Trial Chamber is not satisfied that it has been proven beyond reasonable doubt that Božović acted as a member of the Unit under the authority of the Accused during his time at Mt. Ozren and in the conduct of operations in Doboj. Furthermore, the Trial Chamber does not have a sufficient evidentiary basis concerning the circumstances of their arrival in Doboj to determine whether the Accused deployed or made these forces available. At the outset, the Trial Chamber has some concerns related to the credibility of Witness RFJ-165 as it relates to his testimony in relation to his affiliation with the Unit and the Serbian State Security Service and, as such, views his evidence with caution. The Trial Chamber notes that, when asked

¹⁷⁰⁶ Witness RFJ-165, T. 30 May 2018 p. 15, Exhibit P02366, para. 27.

¹⁷⁰⁷ *See supra* paras. 242, 252.

¹⁷⁰⁸ *See supra* Section II.C.4.

¹⁷⁰⁹ It follows from payroll records that, at least in April or May 1992, Božović was in a unit along with, among others, Davor Subotić, Nedeljko Kovač, Nedeljko Drača, Njegoš Kušić, Đurica Banjac, Miodrag Lazić, Milenko Popović, Nikola Lončar, Nenad Kujundžić, Milan Dimić, and Dragan Marković. *See* Exhibit P01171; Exhibit P01173. *See also* Exhibit P01950; Exhibit P02374, pp. 3, 4. Further, it appears from the personnel files of these men that the following were original members of the Unit: Davor Subotić (*see* Exhibit P00267, p. 8), Nedeljko Kovač (*see* Exhibit P02708, pp. 13, 15), Nedeljko Drača (*see* Exhibit P02708, pp. 13, 15), Đurica Banjac (*see* Exhibit P00553, p. 16), Miodrag Lazić (*see* Exhibit P02708, p. 13), Milenko Popović (*see* Exhibit P00500, pp. 1, 3, 4; Exhibit P00260, p. 23), Nikola Lončar (*see* Exhibit P00260, p. 23; Exhibit P00500, p. 1), and Milan Dimić (*see* Exhibit P02706, pp. 1, 10).

¹⁷¹⁰ Notably, Božović was introduced to Milošević at the Kula ceremony as a veteran Unit member. *See* Exhibit P00256, p. 4. *See also* Exhibit P00500, p. 16; Exhibit P00268, pp. 8, 73.

¹⁷¹¹ Exhibit P00256, p. 11.

¹⁷¹² Witness RFJ-165, Exhibit P02366, paras. 24, 77, 78, 81, T. 29 May 2018 p. 12.

about seeing orders signed by Stanišić, the witness acknowledged that he could not recall seeing them.¹⁷¹³ The Trial Chamber also notes that the witness claimed to have been an employee of the Serbian State Security Service for several years, trained at Mt. Tara, been to Kula camp, and attended the 1997 Kula awards ceremony.¹⁷¹⁴ However, there is no other documentary evidence reflecting his employment or affiliation with the Serbian State Security Service.¹⁷¹⁵ Moreover, among other issues, the Trial Chamber notes that the witness appears to have presented himself as an investigator working for the Prosecution of the Mechanism in relation to personal disputes and with state authorities.¹⁷¹⁶ As a result, the Trial Chamber has a number of concerns regarding his credibility. The Trial Chamber also notes that there is evidence that Božović and the group of original Unit members at Mt. Ozren were affiliated with and paid by the *Republika Srpska* Ministry of Interior at the relevant time,¹⁷¹⁷ which raises a reasonable question of whether this group acted under the authority of the Accused at the relevant time.

431. The Trial Chamber cannot exclude that Božović and the others may have been trying to conceal their true affiliation and that there may indeed have been a parallel chain of command. However, in the absence of any reliable evidence in connection with how Božović came to Mt. Ozren and that he was, in fact, in contact with the Accused in relation to operations during this period, it remains a reasonable possibility that he was operating under the chain of command of the *Republika Srpska* Ministry of Interior. Bearing this in mind, there is reasonable doubt as to whether Božović and the group that came with him from Pajzoš were deployed by the Accused to Doboј, and whether the Accused directed and supported their activities there, including the training conducted at Mt. Tara.

3. Forming of the JATD in August 1993

432. It follows from the evidence that the JATD was established in early August 1993,¹⁷¹⁸ as an independent organizational unit within the Serbian State Security Service,¹⁷¹⁹ and that it was under the authority of Stanišić.¹⁷²⁰ As the head of the Serbian State Security Service, Stanišić signed all employment decisions, including those for JATD employment, while salary decisions were signed

¹⁷¹³ Witness RFJ-165, T. 30 May 2018 pp. 41, 42.

¹⁷¹⁴ Witness RFJ-165, Exhibit P02366, paras. 73, 90-92, 95.

¹⁷¹⁵ Witness RFJ-165, T. 31 May 2018 pp. 54, 55; Exhibit 2D00195.

¹⁷¹⁶ Witness RFJ-165, T. 30 May 2018 pp. 42-57; Exhibit 1D00119; Exhibit 1D00120.

¹⁷¹⁷ See, e.g., Exhibit P01171; Exhibit P01172; Exhibit P01173; Exhibit P01950.

¹⁷¹⁸ See Witness Cvetković, T. 1 September 2020 p. 12; Witness Milošević, T. 19 February 2020 pp. 44-46; Exhibit 2D00451, para. 420; Exhibit P02567, p. 1; Exhibit P00832. See also Exhibit 1D00066, pp. 24, 25, 31.

¹⁷¹⁹ Witness Krsmanović, Exhibit 1D00384, para. 26. See also Witness Cvetković, T. 1 September 2020 p. 12; Exhibit 1D00150.

¹⁷²⁰ Witness Slišković, Exhibit P02539, paras. 40, 41, Exhibit P02540, p. 5109. See Witness Krsmanović, T. 1 October 2019 pp. 8, 9. See also Witness Slišković, Exhibit P02539, para. 8, T. 12 July 2018 pp. 31-33 (stating that when the

by the head of the 8th Administration of the Serbian State Security Service.¹⁷²¹ On 12 January 1994, Stanišić appointed Milan Radonjić as the Deputy Commander of the JATD.¹⁷²² The JATD was responsible to the Assistant Chief of the Serbian State Security Service, Simatović, and reports were submitted to the Assistant and Deputy Chief of the Serbian State Security Service.¹⁷²³ According to Witness Dragoslav Krsmanović, who was involved in the recruitment of JATD members,¹⁷²⁴ the JATD unit was supposed to consist of around 40 people,¹⁷²⁵ and some members were recruited from the ranks of the Serbian Public Security Service.¹⁷²⁶

433. The JATD had an active force and a reserve force.¹⁷²⁷ Witness Krsmanović gave evidence that the training of active and reserve JATD forces was held at Mt. Tara,¹⁷²⁸ and that the reserve force members, who were engaged occasionally and for limited periods,¹⁷²⁹ were selected based on an expressed individual interest or instructor's proposal.¹⁷³⁰

434. With respect to the Pajzoš camp, there is evidence that Radonjić sent JATD reserve forces to the camp in late 1993 or 1994, and that these forces remained there until 1995 or 1996.¹⁷³¹ There is also evidence that JATD forces were trained at the camp, at least from June until the fall of 1995.¹⁷³² However, the Trial Chamber is not satisfied that the Prosecution has convincingly shown that these trainings, or others imputed to the JATD, including at Petrova Gora, are linked to crimes charged in the Indictment.¹⁷³³ With respect to the operations that the JATD or some of its members were involved in during the relevant period, there is evidence that it took part in the 1994 Operation Pauk¹⁷³⁴ and in the 1995 Treskavica/Trnovo,¹⁷³⁵ Autonomous Region of Krajina,¹⁷³⁶ and SBWS

witness joined the JATD in spring 1994 he was told by the head of the Serbian State Security Service centre in Pancevo that a unit was being re-established).

¹⁷²¹ Witness Krsmanović, Exhibit 1D00384, para. 44. *See, e.g.*, Exhibit P00233, pp. 32, 33; Exhibit P02590, pp. 6, 7. *See also* Witness Krsmanović, Exhibit 1D00384, para. 32.

¹⁷²² Exhibit P02645, p. 1; Exhibit P00832, p. 1. *See* Witness Krsmanović, Exhibit 1D00384, para. 24. The Trial Chamber notes that Radonjić's title was that of "Inspector" upon his appointment on 12 January 1994. *See* Exhibit P02297, p. 3.

¹⁷²³ Witness Krsmanović, Exhibit 1D00384, para. 26. *See* Witness Krsmanović, T. 1 October 2019 pp. 48-50.

¹⁷²⁴ Witness Krsmanović, T. 24 September 2019 pp. 43, 44. *See also* Exhibit P00265, p. 10; Exhibit P00832, p. 1; Witness Slišković, Exhibit P02539, para. 41.

¹⁷²⁵ Witness Krsmanović, Exhibit 1D00384, para. 32. *See also* Witness Slišković, Exhibit P02540, p. 5112.

¹⁷²⁶ Witness Krsmanović, T. 24 September 2019 pp. 42, 43, Exhibit 1D00384, para. 35.

¹⁷²⁷ Witness Krsmanović, Exhibit 1D00385, p. 14502, Exhibit 1D00384, para. 45. *See* Witness Krsmanović, Exhibit 1D00384, para. 38; Witness Slišković, Exhibit P02539, para. 41.

¹⁷²⁸ Witness Krsmanović, Exhibit 1D00384, para. 46.

¹⁷²⁹ Witness Krsmanović, Exhibit 1D00385, pp. 14501-14503.

¹⁷³⁰ Witness Krsmanović, Exhibit 1D00384, para. 38. *See* Witness Krsmanović, Exhibit 1D00406, pp. 5, 6.

¹⁷³¹ Witness Krsmanović, T. 2 October 2019 pp. 11-13, Exhibit 1D00406, p. 2; Exhibit 2D00143, p. 2.

¹⁷³² *See, e.g.*, Witness RFJ-150, Exhibit P02276, paras. 35-51, Exhibit P02277, pp. 14581-14583, 14585, 14618, 14619. *See* Exhibit P00258, p. 11.

¹⁷³³ *See* Prosecution Final Trial Brief, paras. 124, 286, 301-303.

¹⁷³⁴ *See, e.g.*, Witness Slišković, Exhibit P02540, pp. 5101-5112; Witness RFJ-041, Exhibit P01082, paras. 234-248; Witness Krsmanović, Exhibit 1D00384, paras. 58-66. *See also* Witness Slišković, Exhibit P02539, paras. 30-50.

¹⁷³⁵ *See, e.g.*, Exhibit P03690; Witness OFS-24, Exhibit 2D00520, pp. 10182-10184.

¹⁷³⁶ *See, e.g.*, Exhibit P03541; Witness Grekulović, T. 9 October 2019 p. 69, T. 10 October 2019 pp. 5, 6, Exhibit 1D00409, para. 18; Witness Milovanović, Exhibit P02935, pp. 15522, 15527, 15528.

operations.¹⁷³⁷ Notably, however, these military operations do not relate, except as otherwise discussed in the Judgement, to the crimes charged in the Indictment.

4. Conclusion

435. The Trial Chamber is convinced that the Accused founded the Unit at least by late August or September 1991. The Accused also contributed to the training at Golubić camp at least until around the end of July 1991 through the use of Serbian State Security Service affiliated trainers. However, the Trial Chamber recalls its finding that the common plan came into existence only in August 1991. Accordingly, any training or support that the Accused provided to Serb forces prior to this date, may not constitute a contribution to the joint criminal enterprise.

436. The Trial Chamber is also satisfied that members of the Unit and others trained by them at the end of March 1992 were deployed by the Accused and participated in the crimes committed in Bosanski Šamac. The Trial Chamber, however, does not find it proven beyond reasonable doubt that the Accused had authority over or instructed these Serb forces during the operation in Bosanski Šamac.

E. Contribution through the Serbian Volunteer Guard

437. The Indictment alleges that the Serbian Volunteer Guard was one of the special units of the Serbian State Security Service involved in the commission of crimes in Croatia and Bosnia and Herzegovina during the Indictment period.¹⁷³⁸ The Indictment further alleges that the Accused: (i) directed and organized the formation,¹⁷³⁹ financing, training, logistical support, and other substantial assistance or support to the Serbian Volunteer Guard;¹⁷⁴⁰ and (ii) had responsibility for the Serbian Volunteer Guard and organized, supplied, financed, supported and directed its involvement in certain operations in Croatia and Bosnia and Herzegovina.¹⁷⁴¹ According to the Indictment, the Accused: (i) continued to send the Serbian Volunteer Guard and provide support over an extended period of time; (ii) failed to instruct its members to refrain from committing unlawful acts; and (iii) failed to stop replenishing the forces on the ground that were committing unlawful acts.¹⁷⁴²

¹⁷³⁷ See, e.g., Exhibit P00553, pp. 13, 14; Witness RFJ-151, Exhibit P00495, para. 225.

¹⁷³⁸ Indictment, paras. 4, 8, 9, 23, 24, 36-39, 42, 55-57, 62, 64, 65.

¹⁷³⁹ Indictment, paras. 4, 15(b).

¹⁷⁴⁰ Indictment, paras. 5, 15(c).

¹⁷⁴¹ Indictment, para. 7.

¹⁷⁴² Indictment, paras. 5, 15(c).

438. In connection with these allegations, the Prosecution submits that the Accused exercised authority over Željko Ražnatović (Arkan)¹⁷⁴³ and his Serbian Volunteer Guard throughout the Indictment period, and provided them the full protection and support of the Serbian Ministry of Interior.¹⁷⁴⁴ It further submits that the Accused made significant contributions to the advancement of the common criminal purpose from 1991 to 1995 by: (i) deploying Arkan and the Serbian Volunteer Guard, which was a unit of the Serbian Ministry of Interior,¹⁷⁴⁵ into operations in Croatia and Bosnia and Herzegovina, where they committed crimes in furtherance of the common criminal purpose;¹⁷⁴⁶ (ii) financing and providing logistical support and other substantial assistance to Arkan and the Serbian Volunteer Guard;¹⁷⁴⁷ (iii) failing to instruct them to refrain from committing crimes and intervening to ensure their impunity;¹⁷⁴⁸ and (iv) acting as channels of communication between Slobodan Milošević and other members of the joint criminal enterprise, which included Arkan.¹⁷⁴⁹

439. The Prosecution argues that the fact that Arkan and the Serbian Volunteer Guard received arms and other assistance from multiple sources, including from individuals other than the Accused, does not alter the Accused's responsibility for having deployed, enabled, and protected them.¹⁷⁵⁰ According to the Prosecution, the commonalities, including the insignia worn by the Serbian Volunteer Guard and other units of the Serbian Ministry of Interior,¹⁷⁵¹ and the close cooperation in 1994 and 1995 between the Serbian Volunteer Guard and the Unit, are evidence of the Accused's overall authority over Arkan and the activities of the Serbian Volunteer Guard in Croatia and

¹⁷⁴³ Prosecution Final Trial Brief, para. 4. *See also* Prosecution Final Trial Brief, para. 73.

¹⁷⁴⁴ Prosecution Final Trial Brief, paras. 73, 162, 164, 169-171; Prosecution Closing Arguments, T. 12 April 2021 pp. 24-26. *See also* Prosecution Final Trial Brief, paras. 408, 458, 528, 919.

¹⁷⁴⁵ The Trial Chamber notes that the Prosecution has not been consistent, at times referring to the Serbian Volunteer Guard as a unit of the Serbian Ministry of Interior generally (*see* Prosecution Closing Arguments, T. 12 April 2021 p. 25; Prosecution Final Trial Brief, para. 167) and sometimes referring to it as a special unit of the Serbian State Security Service (*see* Prosecution Opening Statement, T. 13 June 2017 pp. 22, 30, 31; Indictment, paras. 4, 5). The Prosecution also submits that the Serbian Volunteer Guard was "[e]stablished in late 1990 by Arkan to be a Serb Army". *See* Prosecution Final Trial Brief, para. 163. *See also* Prosecution Final Trial Brief, para. 89.

¹⁷⁴⁶ Prosecution Final Trial Brief, paras. 897, 898; Prosecution Closing Arguments, T. 12 April 2021 pp. 9, 10, 38; T. 14 April 2021 p. 19. *See also* Prosecution Final Trial Brief, paras. 11, 63, 69, 89, 162, 163, 623, 919, 952; Prosecution Pre-Trial Brief, para. 95.

¹⁷⁴⁷ Prosecution Final Trial Brief, paras. 183, 897. *See* Prosecution Final Trial Brief, paras. 300, 412; Prosecution Opening Statement, T. 13 June 2017 pp. 9, 31-33. *See also* Prosecution Final Trial Brief, para. 921; Prosecution Closing Arguments, T. 12 April 2021 p. 39; Prosecution Final Trial Brief, para. 11; Prosecution Pre-Trial Brief, para. 93.

¹⁷⁴⁸ Prosecution Final Trial Brief, paras. 900, 901; Prosecution Pre-Trial Brief, para. 98. *See also* Prosecution Final Trial Brief, paras. 408, 528. The Prosecution submits that crimes committed by Arkan and his Serbian Volunteer Guard are attributable to the Accused in the following ways: (i) through Arkan himself who was a member of the joint criminal enterprise; (ii) through fellow joint criminal enterprise member Badža, who had field command over Arkan in SAO SBWS; and (iii) directly based on their and the Serbian State Security Service's own links to and use of Arkan. *See* Prosecution Closing Arguments, T. 12 April 2021 p. 14.

¹⁷⁴⁹ Prosecution Final Trial Brief, paras. 7, 193, 221, 896, 899; Indictment, para. 12. *See also* Prosecution Closing Arguments, T. 12 April 2021 p. 10.

¹⁷⁵⁰ Prosecution Rebuttal, T. 14 April 2021 p. 19. *See also* Prosecution Closing Arguments, T. 12 April 2021 pp. 61, 62; Prosecution Final Trial Brief, paras. 34, 174, 941.

¹⁷⁵¹ Prosecution Closing Arguments, T. 12 April 2021 pp. 29, 30, 43, 44; Prosecution Opening Statement, T. 13 June 2017 pp. 30-32. The Trial Chamber notes that the Prosecution points out that an upward pointing sword and the four letters S in the Cyrillic alphabet were common among the Unit, the Serbian Volunteer Guard, and the Scorpions.

Bosnia and Herzegovina.¹⁷⁵² The Prosecution further submits that the Accused's control was not undermined by the relationship of the Serbian Volunteer Guard with other members of the joint criminal enterprise, which included Radmilo Bogdanović¹⁷⁵³ and Radovan Stojičić (Badža),¹⁷⁵⁴ and the organs that they controlled.¹⁷⁵⁵ Specifically with respect to Simatović, the Prosecution alleges that, in 1994, he instructed Arkan to reassemble the Serbian Volunteer Guard, which had been dormant during Arkan's political campaign, for deployment.¹⁷⁵⁶

440. The Accused challenge the evidence that allegedly demonstrates a connection between them, on the one hand, and Arkan and his Serbian Volunteer Guard, on the other.¹⁷⁵⁷ They argue that the Prosecution has failed to show that the Accused were involved in the formation of the Serbian Volunteer Guard; exercised overall control over Arkan and the Serbian Volunteer Guard during the relevant period; or contributed to their criminal activities in any form, such as through financing, arming, training or otherwise supporting them.¹⁷⁵⁸ They submit that Arkan's patronage was rather to others, including Bogdanović and Badža from the Serbian Ministry of Interior, and Tomislav Simović, the Serbian Minister of Defence.¹⁷⁵⁹ Further, the Accused submit that the Serbian State Security Service, namely its Fourth Administration, monitored Arkan throughout the Indictment period and that the Accused did not have the power to take any action against Arkan in view of the powerful influence of Serbian authorities protecting him.¹⁷⁶⁰ Simatović also submits that Arkan and the Serbian Volunteer Guard were not subject to monitoring and processing by him.¹⁷⁶¹ Finally, the Accused argue that the Serbian Volunteer Guard was not under their command but under the command of other organs, including the JNA, Territorial Defence, or *Republika Srpska* Ministry of Interior during the relevant period.¹⁷⁶²

¹⁷⁵² Prosecution Final Trial Brief, paras. 180-185. *See also* Prosecution Final Trial Brief, paras. 103, 157, 922; Prosecution Closing Arguments, T. 12 April 2021 p. 29.

¹⁷⁵³ Prosecution Final Trial Brief, para. 69; Indictment, para. 12.

¹⁷⁵⁴ Prosecution Final Trial Brief, para. 71; Indictment, para. 12.

¹⁷⁵⁵ Prosecution Final Trial Brief, paras. 172-174.

¹⁷⁵⁶ Prosecution Final Trial Brief, paras. 179, 920.

¹⁷⁵⁷ *See generally* Stanišić Closing Arguments, T. 13 April 2021 pp. 7-33; Simatović Closing Arguments, T. 13 April 2021 pp. 106-117.

¹⁷⁵⁸ Stanišić Final Trial Brief, paras. 535, 575, 616, 636-647, 1274-1281, 1306, 1307, 1505, 1523-1532, 1651-1654, 1683-1711; Simatović Final Trial Brief, paras. 819-1172; Stanišić Closing Arguments, T. 13 April 2021 pp. 10-12, 16-20, 30-33, 52, 53; Simatović Closing Arguments, T. 13 April 2021 pp. 106-117.

¹⁷⁵⁹ Stanišić Final Trial Brief, paras. 535, 575, 616, 636, 638-647, 1653, 1654, 1274-1280, 1505, 1576, 1654, 1685-1688, 1700, 1705, 1706; Simatović Final Trial Brief, paras. 827-868; Stanišić Closing Arguments, T. 13 April 2021 pp. 13, 30-33; Simatović Closing Arguments, T. 13 April 2021 pp. 111, 112.

¹⁷⁶⁰ Stanišić Final Trial Brief, paras. 152, 637-642; Simatović Final Trial Brief, paras. 1067-1085; Stanišić Closing Arguments, T. 13 April 2021 pp. 31, 32.

¹⁷⁶¹ Simatović Final Trial Brief, para. 1085.

¹⁷⁶² Stanišić Final Trial Brief, paras. 616, 643, 1521, 1576, 1654, 1687, 1697, 1699, 1700, 1705; Simatović Final Trial Brief, paras. 876, 877, 879, 883, 884, 887, 891, 892, 894, 897, 907, 908, 936, 977, 979, 997, 998, 1011, 1013, 1042, 1051.

441. Having reviewed the record, the Trial Chamber is not convinced that the evidence demonstrates beyond reasonable doubt that the Accused directed and organized, as alleged in the Indictment,¹⁷⁶³ the formation of the Serbian Volunteer Guard, also known as Arkan's Men or *Arkanovci*, and its elite unit known as the Arkan's Tigers.¹⁷⁶⁴ It follows from the evidence that, on 11 October 1990, Arkan founded the Serbian Volunteer Guard with its core membership comprised of the Belgrade Red Star football club supporters (the *Delijes*).¹⁷⁶⁵ The evidence indicates that, prior to the conflict, Arkan was a notorious criminal with connections to the Federal Ministry of Interior, in particular to its Minister, Stane Dolanc.¹⁷⁶⁶ The evidence further shows that, thereafter, Arkan, was closely linked to, amongst others, Bogdanović, who was the Serbian Minister of Interior until May 1991 while also serving on the board of the Red Star football club.¹⁷⁶⁷ These connections with the Federal Ministry of Interior and Bogdanović, however, do not provide a basis for concluding that the Accused were involved in the formation of the Serbian Volunteer Guard.

442. The Trial Chamber will examine next the alleged specific connections between the Accused and Arkan and his Serbian Volunteer Guard in relation to charged crimes. In proceeding, the Trial Chamber recalls its findings that Arkan and the Serbian Volunteer Guard participated in the murders, persecution, and forcible displacement committed in the SAO SBWS in 1991 and 1992, persecution and forcible displacement committed in Bijeljina in 1992, murders, persecution, and forcible displacement committed in Zvornik in 1992, and murders and persecution committed in Sanski Most in 1995.¹⁷⁶⁸

443. With respect to the events in Croatia, the Prosecution argues that, through the *vojna linija*, Stanišić, along with other members of the joint criminal enterprise, exercised overall authority over Arkan and the Serbian Volunteer Guard, while Badža directed their activities on the ground with the support of the Serbian Ministry of Interior.¹⁷⁶⁹ The Prosecution points to the testimony of

¹⁷⁶³ Indictment, paras. 4, 15(b).

¹⁷⁶⁴ The Trial Chamber received evidence that the Serbian Volunteer Guard was also known as "Arkan's Tigers" (see Witness Slišković, Exhibit P02539, para. 45) and that its elite unit were referred to as the "Super Tigers" or "Special Tigers" (see, e.g., Witness RFJ-041, Exhibit P01082, para. 202; Witness RFJ-088, Exhibit P02310, pp. 19438, 19439).

¹⁷⁶⁵ Witness Novaković, T. 6 October 2020 pp. 4, 5, 11, 12; Witness RFJ-107, T. 6 September 2017 p. 19; Witness RJS-04, T. 9 July 2019 pp. 18, 19.

¹⁷⁶⁶ See Witness Savić, T. 12 September 2017 p. 68; Witness Grekulović, Exhibit 1D00410, p. 15275; Witness OFS-24, Exhibit 2D00520, pp. 10225, 10226; Exhibit P00020, pp. 2-6; Witness Anastasijević, T. 14 June 2018 p. 12; Exhibit P00382, p. 2. See Witness OFS-23, Exhibit 2D00507, p. 2; Witness Novaković, T. 6 October 2020 pp. 5, 6; Witness RJS-04, Exhibit 1D00196, paras. 73, 74.

¹⁷⁶⁷ See Witness Dimitrijević, Exhibit 2D00429, pp. 16167, 16168; Witness RJS-04, Exhibit 1D00196, paras. 73, 74, 78, 79, 81, 85, T. 9 July 2019 pp. 18, 19. See also Witness Ristić, T. 27 June 2019 pp. 5, 10, 11; Witness RJS-04, Exhibit 1D00196, paras. 81, 85, T. 10 July 2019 pp. 50, 51, T. 11 July 2019 pp. 30-32; Exhibit P02975, p. 4; Exhibit 2D00738.

¹⁷⁶⁸ See *supra* paras. Sections II.B, II.C.1, II.C.2, II.C.6. See also Indictment, paras. 23, 24, 36-39, 42, 55-57, 62, 64, 65. See *infra* n. 1827.

¹⁷⁶⁹ Prosecution Final Trial Brief, paras. 165, 413. See also Prosecution Closing Arguments, T. 12 April 2021 pp. 22, 23, 41, 62; Prosecution Final Trial Brief, paras. 18, 51, 59, 70, 71, 162-164, 166-168, 171, 174, 201, 210, 362, 400, 410-416, 431, 897, 898.

Witness Vasiljević, a high-ranking security and intelligence officer in the JNA,¹⁷⁷⁰ who defined the *vojna linija* as “the activities of some leading personages from the [Ministry of Interior] and State Security Service of Serbia [including Bogdanović, Badža and the Accused] and others who, outside the duties provided for by law pertaining to their office, engaged in activities which did not come under their competence and related to the formation of paramilitary units and their deployment to certain parts of the theatre of war”.¹⁷⁷¹ The Trial Chamber considers that, irrespective of whether indeed a *vojna linija* existed and the Accused were involved with or part of it, in order to engage their responsibility there still must be sufficiently clear and reliable evidence of the Accused’s specific use of this alleged parallel channel to contribute to the commission of the crimes alleged in the Indictment.

444. Having considered the evidence and the allegations against the Accused, the Trial Chamber is not persuaded that the Prosecution has proven beyond reasonable doubt Stanišić and Simatović deployed,¹⁷⁷² enabled and protected,¹⁷⁷³ or otherwise facilitated¹⁷⁷⁴ the activities of Arkan and members of his Serbian Volunteer Guard, who were involved in the commission of murders, persecution, and forcible displacement of non-Serbs in SBWS.¹⁷⁷⁵ In this respect, the Prosecution has not identified actual instances, supported by sufficiently credible and reliable evidence, of the Accused providing specific logistical or financial support to, or being involved in the operations of, Arkan and his Serbian Volunteer Guard in their commission of crimes charged in the Indictment. Further, evidence of the Accused’s support and coordination in later military actions, which are discussed below and which do not involve the commission of crimes charged in the Indictment, provides only limited circumstantial support.¹⁷⁷⁶ Such evidence does not lead to the only reasonable conclusion that the Accused provided the same or similar support in relation to the commission of the crimes charged in the Indictment.

445. The Trial Chamber also considers that other evidence implicating the Accused is either remote or conclusory and lacking in supporting detail.¹⁷⁷⁷ For instance, the Trial Chamber notes that

¹⁷⁷⁰ Witness Vasiljević, T. 28 January 2019 pp. 4, 5.

¹⁷⁷¹ Witness Vasiljević, T. 28 January 2019 pp. 18, 21, Exhibit P02685, Exhibit P02686. The Trial Chamber notes that the term *vojna linija* was also used by Witness Anastasijević, a Serbian journalist who indicated that he first heard of the term from Witness Vasiljević. See Witness Anastasijević, Exhibit P02423, paras. 6, 36. See also Prosecution Closing Arguments, T. 12 April 2021 pp. 22, 23

¹⁷⁷² Prosecution Final Trial Brief, paras. 163, 409-416, 897, 898.

¹⁷⁷³ Prosecution Final Trial Brief, paras. 164, 169-171, 897.

¹⁷⁷⁴ Prosecution Final Trial Brief, paras. 165-167, 897.

¹⁷⁷⁵ Prosecution Final Trial Brief, paras. 165, 429-442, 733-788; Indictment paras. 23, 24, 36-39, 42, 64, 65. See *supra* Section II.B.

¹⁷⁷⁶ See generally Prosecution Final Trial Brief, paras. 623-650, 654-675 and evidence cited therein.

¹⁷⁷⁷ The Trial Chamber notes that the Prosecution, in submitting that the Accused enabled and protected Arkan and his unit, points to evidence that Arkan was arrested while transporting weapons to Krajina, that Stanišić was informed, and that Bogdanović arranged for Arkan’s release. See Prosecution Final Trial Brief, para. 164, item 3. The Trial Chamber considers that it would be engaging in *post hoc ergo propter hoc* if it were to deduce from the evidence presented that

Witness Borivoje Savić's hearsay evidence that, in May 1991, Arkan told him that Stanišić was his "boss" is a general statement without supporting details.¹⁷⁷⁸ Similarly, Witness Borislav Bogunović's hearsay evidence, indicating that Goran Hadžić stated Stanišić was the "link between Milošević and Arkan and Badža" and that Arkan was "under the control of [the Ministry of Interior] and Stanišić" contains no concrete basis for the information.¹⁷⁷⁹ In addition, evidence that both Arkan and Radoslav Kostić, a Serbian State Security Service operative¹⁷⁸⁰ and Assistant Minister of Interior of the Republic of Serbian Krajina,¹⁷⁸¹ may have had the same permit, signed by Bogdanović, to cross from Serbia into SBWS armed with weapons, does not convincingly lead to the conclusion that Arkan, like Kostić, had Stanišić's backing, as argued by the Prosecution.¹⁷⁸² Further, the Trial Chamber considers that other circumstantial evidence, which refers to the Serbian Ministry of Interior, the Serbian State Security Service, or certain individual members thereof, does not necessarily implicate the Accused.¹⁷⁸³

446. In reaching the above conclusion, the Trial Chamber is also mindful of the evidence of the involvement and significant support provided to Arkan by influential individuals in Serbia, including Bogdanović and General Tomislav Simović, the Serbian Minister of Defence from July until December 1991, and JNA General Andrija Biorčević.¹⁷⁸⁴ In this regard, the Trial Chamber recalls that it took judicial notice that the JNA, in particular its air force arm, actively cooperated with and assisted paramilitary units, which included the Serbian Volunteer Guard, during 1991 and 1992 operations in Croatia and liberally supplied them with arms and equipment,¹⁷⁸⁵ and, prior to May 1992, played a role in their training.¹⁷⁸⁶ Additionally, the Trial Chamber received evidence that Arkan and the Serbian Volunteer Guard were under the command of the SAO SBWS Territorial Defence and/or the JNA during 1991¹⁷⁸⁷ and under the command, or part, of the special police of

since Arkan was released after Stanišić was informed of the arrest, then Stanišić must have been involved in Arkan's release.

¹⁷⁷⁸ Witness Savić, Exhibit P00449, para. 166, T. 13 September 2017 p. 3.

¹⁷⁷⁹ Witness B. Bogunović, Exhibit P02720, pp. 6061-6063; Exhibit P02719, paras 18, 22. *See also* Exhibit 2D00144.

¹⁷⁸⁰ *See* Exhibit P00522, p. 21.

¹⁷⁸¹ Exhibit P00522, p. 21; Witness OFS-23, T. 15 September 2020 pp. 31, 32; OFS-24, Exhibit 2D00520, p. 10089; Witness RFJ-113, T. 27 Sept 2017 pp. 50, 51. *See infra* paras. 524, 530.

¹⁷⁸² Prosecution Final Trial Brief, para. 165, item 2. *See* Witness N. Bogunović, T. 3 September 2019 p. 23; T. 4 September 2019 pp. 30, 31; Exhibit 1D00275, pp. 13252, 13254; Exhibit 1D00274, para. 37.

¹⁷⁸³ *See, e.g.*, Exhibit P00491, p. 1; Exhibit P00486, p. 4; Exhibit P00490, p. 2; Exhibit P00852, pp. 11, 13.

¹⁷⁸⁴ Witness Vasiljević, T. 30 January 2019 pp. 6, 7, 13; Witness Novaković, T. 6 October 2020 pp. 18-22, 34, 35, 61, 62; T. 7 October 2020 pp. 2, 3; Witness Pelević, Exhibit 2D00477, pp. 16330, 16331; Witness Dimitrijević, T. 11 February 2020 pp. 24, 25, 27-29, 39, T. 13 February 2020 pp. 10-12; Exhibit 2D00429, pp. 16171, 16172; Witness RJS-04, Exhibit 1D00196, paras. 78, 84, 85; Witness N. Bogunović, Exhibit 1D00274, para. 34. *See* Exhibit P01973, p. 2; Witness Ristić, T. 27 June 2019 pp. 44, 45; Exhibit P02975, p. 4. *See also* Exhibit 2D00049; Witness Novaković, T. 6 October 2020 pp. 26-34.

¹⁷⁸⁵ Adjudicated Facts 98, 99. *See also* Witness RFJ-044, Exhibit P01582, pp. 1658, 1659.

¹⁷⁸⁶ Adjudicated Fact 829.

¹⁷⁸⁷ Witness RFJ-044, Exhibit P01582, pp. 1656, 1663, 1664; Witness Knežević, Exhibit 1D00531 p. 13490; Witness RFJ-041, Exhibit P01082, paras. 51, 59; Exhibit 2D00145; Witness OFS-24, Exhibit 2D00520, p. 10034. *See also* Exhibit 2D00049; Exhibit 2D00069; Witness Dimitrijević, T. 11 February 2020 pp. 27, 28. The Trial Chamber understands that, during combat, the Territorial Defence was subordinated to the JNA. *See* Witness RFJ-044, Exhibit

the Republic of Serbian Krajina following the adoption of the Vance Plan.¹⁷⁸⁸ The evidence of the key involvement of other important individuals and institutions in providing support and patronage to Arkan and the Serbian Volunteer Guard, in particular when coupled with the lack of specific evidence of the Accused's direct involvement, raises additional concerns.

447. As to the allegations in the Indictment that the Accused failed to instruct Arkan and the Serbian Volunteer Guard to refrain from committing unlawful acts and failed to stop replenishing the forces on the ground who were committing unlawful acts,¹⁷⁸⁹ the Trial Chamber notes that the Prosecution submits that Stanišić had the authority and legal responsibility to prevent Arkan from operating, particularly in light of Operation Tomson.¹⁷⁹⁰ The Trial Chamber notes that this operation was launched in July 1991 by Zoran Sokolović, the then Serbian Minister of Interior, in order to prevent the formation and to disarm paramilitary groups in Serbia.¹⁷⁹¹ While there is evidence that the Serbian State Security Service had Arkan under surveillance and was aware of Arkan's illegal activities¹⁷⁹² and that, nonetheless, actions against him were not taken, the Trial Chamber is not persuaded, in light of the evidence of the influence of other individuals in high positions in Serbia, that the Accused can be held criminally responsible for the activities of Arkan and the Serbian Volunteer Guard for not having taken action against them in Serbia.¹⁷⁹³ Finally, having found that the Accused did not exercise authority over Arkan and his Serbian Volunteer Guard during the relevant period, the Trial Chamber does not consider it necessary to determine whether the Accused failed to instruct them to refrain from committing unlawful acts or to stop replenishing their forces, as alleged in the Indictment.

448. With respect to the 1992 events in Bosnia and Herzegovina, having reviewed the record, the Trial Chamber finds that the evidence is insufficient to conclude beyond reasonable doubt that the Accused armed, trained, financed or otherwise supported or exercised authority over Arkan and the Serbian Voluntary Guard in relation to the operations in Bijeljina and Zvornik municipalities,¹⁷⁹⁴ during which Arkan and the Serbian Voluntary Guard committed the crimes of persecution and forcible displacement in Bijeljina, and the crimes of murder, persecution, and forcible displacement

P01582, p. 1656; Witness RFJ-025, Exhibit P00422, p. 4175; Exhibit 2D00208, p. 1. *See also* Exhibit 2D00068; Exhibit P00476, p. 1; Exhibit P01980 (Part II) p. 155. *Cf.* Witness RFJ-111, Exhibit P01177, pp. 4127, 4134, 4135.

¹⁷⁸⁸ Witness OFS-24, Exhibit 2D00520, p. 10034; Witness Novaković, T. 6 October 2020 pp. 48, 49; Witness RFJ-041, Exhibit P01082, paras. 51, 59.

¹⁷⁸⁹ *See* Indictment, para. 5.

¹⁷⁹⁰ Prosecution Closing Arguments, T. 12 April 2021 pp. 23-26. *See* Prosecution Closing Arguments, T. 12 April 2021 p. 43.

¹⁷⁹¹ *See* Witness Ristić, T. 25 June 2019 pp. 27, 28; Exhibit 1D00085, pp. 2, 3.

¹⁷⁹² *See, e.g.*, Exhibit P00850, para. 251; Exhibit 1D00730, pp. 3-5; Exhibit P00383; Exhibit 1D00180; Exhibit 1D00184.

¹⁷⁹³ Exhibit P01973, p. 2 (stating that Arkan has "special attention and privileged treatment by numerous Ministers and other officials of the Serbian Government every day"); Witness Ristić, T. 27 June 2019 pp. 44, 45.

¹⁷⁹⁴ *See* Prosecution Final Trial Brief, paras. 73, 89, 103, 175-178, 509, 623.

in Zvornik.¹⁷⁹⁵ The Trial Chamber considers that the evidence that the Prosecution points to as examples, demonstrating that Arkan and the Serbian Volunteer Guard were acting under the Accused's authority, is tenuous. For instance, evidence of the establishment and operation of a training camp by Arkan on Serbian territory; the transport of fighters, weapons, and equipment of the Serbian Volunteer Guard through Serbia to Bosnia and Herzegovina; or the training by Arkan of Ljubiša Savić (Mauzer) who was "known to be affiliated" with the Serbian State Security Service¹⁷⁹⁶ is speculative and does not compel the conclusion beyond reasonable doubt that the Accused had authority over Arkan and the Serbian Volunteer Guard. In this respect, the Trial Chamber is mindful that it took judicial notice that, approximately one month after the Serbian volunteers, including Arkan's men, helped seize Bijeljina, in a telephone conversation on 13 May 1992, Ratko Mladić indicated to a certain person named Unković that Arkan's men were under their command.¹⁷⁹⁷ Moreover, evidence of Biljana Plavšić's involvement, including her request to Arkan and the Serbian Volunteer Guard to go to Bijeljina to "protect" the Serbs,¹⁷⁹⁸ her instructions to proceed to Zvornik,¹⁷⁹⁹ and her subsequent meetings with Arkan after the attacks on Bijeljina and Zvornik,¹⁸⁰⁰ cast additional doubt. Regarding the allegations that the Accused were involved in arming, training, and otherwise supporting the Serbian Volunteer Guard, the Trial Chamber notes that the JNA actively cooperated with and assisted paramilitary units, which included the Serbian Volunteer Guard, during 1992 operations in Bosnia and Herzegovina, supplying them with arms and equipment¹⁸⁰¹ and, prior to May 1992, played a role in their training.¹⁸⁰²

449. The Trial Chamber notes that Witness RFJ-037 provided evidence of Stanišić's alleged involvement in the planning of the 1992 operations in Bosnia and Herzegovina, the related deployment of Arkan and his men, and of Simatović's involvement in these operations. However, the Trial Chamber places limited weight on this aspect of Witness RFJ-037's evidence given the

¹⁷⁹⁵ See Indictment paras. 23, 24, 62-66; Prosecution Final Trial Brief, paras. 789-818.

¹⁷⁹⁶ Prosecution Final Trial Brief, para. 177 and evidence cited therein.

¹⁷⁹⁷ See Adjudicated Fact 865. The Trial Chamber also took judicial notice that the Bosnian Serb leadership vacillated in its relationship with paramilitary groups, using them opportunistically to terrorize Muslims and Croats, or at other times complaining about them. From July 1992 onwards, when most of the territories had already been seized, the Bosnian Serb leadership generally regarded the paramilitaries as a nuisance. See Adjudicated Fact 864.

¹⁷⁹⁸ Exhibit 2D00072, p. 20; Witness Dimitrijević, T. 11 February 2020 pp. 40, 41, 43; Exhibit 2D00236; Witness Dimitrijević, Exhibit 2D00429, pp. 16099, 16100; Witness Pelević, Exhibit 2D00477, p. 16347.

¹⁷⁹⁹ Witness Pelević, Exhibit 2D00477, p. 16479; Witness Dimitrijević, Exhibit 2D00429, pp. 16109, 16110; Witness OFS-23, T. 15 Sept 2020 pp. 23, 24, Exhibit 2D00506, paras. 50, 51.

¹⁸⁰⁰ Witness Dimitrijević, T. 11 February 2020 pp. 45, 47, 48; Exhibit 2D00441; Witness OFS-23, T. 15 September 2020 p. 27; Exhibit 2D00504, pp. 9681, 9746; Exhibit 2D00506, paras. 60, 61; Witness RFJ-034, Exhibit P00425, pp. 6284-6287. The Trial Chamber has taken judicial notice that Plavšić met with Arkan in Bijeljina on 4 April 1992 and again on 20 April 1992, referring to Bijeljina and Zvornik as "liberated" towns (see Adjudicated Fact 936) and that, in the course of the 4 April visit, Arkan refused Plavšić's request to hand over control of Bijeljina to the Yugoslav People's Army. 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. See Adjudicated Fact 947. See also Exhibit 2D00236.

¹⁸⁰¹ See Adjudicated Facts 98, 99.

¹⁸⁰² See Adjudicated Fact 829.

purpose for which his evidence was admitted,¹⁸⁰³ the need for greater detail regarding the basis of his knowledge on certain issues,¹⁸⁰⁴ and that some of his conclusions are based on broad generalizations.¹⁸⁰⁵ With respect to Witness RFJ-088, aside from certain credibility issues,¹⁸⁰⁶ the Trial Chamber notes that the witness's evidence, including that "Arkan would always say that without orders from the [Serbian State Security Service] the Tigers were not deployed anywhere" is insufficient to make a finding, particularly given that the witness was not associated with Arkan until October/November 1993, well after the attacks on Bijeljina and Zvornik took place.¹⁸⁰⁷ Moreover, the Trial Chamber is not persuaded by the Prosecution's submission that the affiliation of certain members of the Serbian Volunteer Guard with the Serbian State Security Service at a later period can be a basis for a finding beyond reasonable doubt that the Accused exercised authority over the Serbian Volunteer Guard during the 1992 operations in Bijeljina and Zvornik¹⁸⁰⁸ and contributed to the commission of the crimes pleaded in the Indictment. Having found that the Accused did not exercise authority over Arkan and the Serbian Volunteer Guard during the relevant period, the Trial Chamber will not consider whether the Accused failed to instruct them to refrain from committing unlawful acts or to replenish their forces, as alleged in the Indictment.

450. Turning to the 1995 operation in the Autonomous Region of Krajina,¹⁸⁰⁹ having reviewed the record, the Trial Chamber is not persuaded beyond reasonable doubt that the Accused directed,

¹⁸⁰³ See *supra* paras. 14, 17. See *infra* para. 454.

¹⁸⁰⁴ See, e.g., Witness RFJ-037, T. 7 February 2018 pp. 50 (indicating that Arkan had the first paramilitary formation and was the first unit controlled by the Serbian Ministry of Interior and that it was from their ranks that men were later recruited for new Red Berets units, whereas Arkan remained independent), 64 (where the witness states that: "When Arkan's engagement and that of his forces was talked about, people always said that the [Ministry of Interior] of the Republic of Serbia was behind Arkan [...]"), 65, T. 14 February 2018 pp. 57, 62, 63 (wherein the witness repeats that he had knowledge that key people in the Serbian State Security Service, including Simatović, were behind the operations but does not indicate the basis for his knowledge and where he states "it would be too much to say that I knew it was Frenki, but I did know that there was an operation under way[...]") "[...] I heard information in principle that the [Serbian State Security Service] would be questioned [...] But the [Serbian State Security Service] is Frenki. [...]"), T. 13 February 2018 pp. 42, 43 (where the witness states that: "But for Arkan to enter, to come with men and weapons, he had to have the approval of the [Ministry of Interior] of Serbia. Undisputedly. He couldn't enter without receiving an order that said, Yes, Arkan, you may go"), Exhibit P01616, paras. 69, 70 (indicating that Arkan was controlled by the Serbian Ministry of Interior). The witness also agreed that all sorts of local units, calling themselves "Red Berets" and with no affiliation to the Serbian Ministry of Interior, appeared in Bosnia and Herzegovina. See Witness RFJ-037, T. 13 February 2018 p. 44.

¹⁸⁰⁵ See, e.g., Witness RFJ-037, T. 7 February 2018 pp. 29 (stating that the witness refers to "Čarli" and his unit as the "Red Berets" on the basis that they were wearing red berets), 52 (stating that "[t]he first Red Berets were Arkan's Men. They first started wearing red berets" and that the witness does not "see the difference" between the "Red Berets" of the Serbian State Security Service and the "Red Berets led by Arkan").

¹⁸⁰⁶ See *infra* para. 454, n. 1815.

¹⁸⁰⁷ Witness RFJ-088, Exhibit P02310, pp. 19425, 19426. The Trial Chamber notes Witness RFJ-088's statement that, other than hearing from Arkan that he was invited to Bijeljina by Plavšić, the witness could not provide details about the Bijeljina operation because the witness was not at the headquarters at the time and the witness' knowledge about the operation was based on media reports. See Witness RFJ-088, Exhibit P02304, p. 9414, Exhibit P02310, pp. 19424, 19425.

¹⁸⁰⁸ See Prosecution Final Trial Brief, para. 178, and evidence cited therein.

¹⁸⁰⁹ According to the Prosecution, the Serbian State Security Service coordinated various Serbian forces of the Ministry of Interior as the Muslim and Croat forces were advancing on the Autonomous Region of Krajina by September 1995. See Prosecution Final Trial Brief, para. 655, and evidence cited therein.

deployed, enabled, sustained, protected, or otherwise facilitated the Serbian Volunteer Guard who were present in the Autonomous Region of Krajina in September 1995 and whose members committed murder and persecution in Sanski Most, as charged in the Indictment.¹⁸¹⁰

451. The Trial Chamber considers that the evidence is insufficient to find that the Accused deployed the Serbian Volunteer Guard. For instance, the entries from the Mladić's diary that the Prosecution relies on for support are ambiguous. The entry dated 29 September 1995 that "[Stanišić] gave 300 of his men and the US is begrudging us for having advertised Arkan" does not necessarily demonstrate that the 300 men are related to Arkan, while the entry dated 30 September 1995, where Stanišić is recorded by Mladić as having said that "Arkan has embedded himself there, we sent 400 people", can be read to indicate that the men sent by Stanišić were separate from Arkan's group.¹⁸¹¹ With respect to the evidence that, seemingly on one occasion between July and August 1995, Serbian Volunteer Guard members came to Pajzoš camp and took several crates of weapons and ammunition, the Trial Chamber considers that the evidence lacks necessary details and does not point to the conclusion that this event was related to the operation taking place in the Autonomous Region in Krajina and, in particular the commission of crimes pleaded in the Indictment.¹⁸¹² In this regard, the Trial Chamber notes that, on another occasion during the same time period, Arkan tried to enter the Pajzoš camp but was turned away.¹⁸¹³ Moreover, the Trial Chamber considers that Witness RFJ-088's evidence, which the Prosecution largely relies on for support of Simatović's alleged involvement in the crimes committed in Sanski Most,¹⁸¹⁴ must be treated with caution.¹⁸¹⁵

452. Finally, Trial Chamber does not consider the similarity in uniform, including red berets¹⁸¹⁶ and insignias, as necessarily indicative of close coordination between the various forces and therefore being under the same authority, or the alleged nexus between the Serbian Volunteer Guard and the Unit as demonstrating beyond reasonable doubt that the Accused exercised authority over the Serbian Volunteer Guard.¹⁸¹⁷ The Trial Chamber considers that there is reasonable doubt that the Accused deployed or directed the Serbian Volunteer Guard, who were involved in the

¹⁸¹⁰ See Indictment paras. 22-24, 55-57; Prosecution Final Trial Brief, paras. 72, 162, 590, 620, 623, 654, 655, 659-670, 863-892, 930.

¹⁸¹¹ Exhibit P01960, pp. 72, 73. See also Exhibit 2D00160, pp. 2, 3.

¹⁸¹² Witness RFJ-150, T. 22 May 2018 pp. 19, 20, T. 24 May 2018 pp. 22, 23, Exhibit P02278, pp. 5722-5724, 5805-5807, Exhibit P02276, paras. 57-59, Exhibit P02277, pp. 14585-14587.

¹⁸¹³ Witness RFJ-150, Exhibit P02276, para. 58, T. 24 May 2018 pp. 18-20, Exhibit P02277, p. 14587.

¹⁸¹⁴ See Prosecution Final Trial Brief, para. 179 and references cited therein.

¹⁸¹⁵ The Trial Chamber notes the issues impacting Witness RFJ-088's credibility, including the witness's request for payment from both the Prosecution and Defence teams in exchange for testimony. See Exhibit 2D01010; Exhibit 2D01009; Exhibit 2D00623; Exhibit 2D00624; Exhibit 2D00625. See *infra* para. 454.

¹⁸¹⁶ The Trial Chamber received evidence that the red berets were not exclusively used by the Serbian Volunteer Guard or the Unit. For instance, Witness Milovanović gave evidence that the special forces of the JNA 72nd Brigade Corps also wore red berets. See Witness Milovanović, Exhibit P02935, p. 15449.

commission of crimes in Sanski Most in September 1995, in view of evidence that: Arkan came pursuant to an invitation of the *Republika Srpska* leadership;¹⁸¹⁸ on 26 September 1995, Tomislav Kovač, the *Republika Srpska* Deputy Minister of Interior, ordered the Serbian Volunteer Guard, which was considered a special police unit of the *Republika Srpska* Ministry of Interior, to relocate from Sanski Most to Mrkonjić Grad;¹⁸¹⁹ and Arkan was part of a Joint Staff, comprised of representatives of the Main Staff of the *Republika Srpska* Army, 1st and 2nd Krajina Corps, and the *Republika Srpska* Ministry of Interior, and was receiving orders from Momir Talić, the commander of the 1st Krajina Corps of the *Republika Srpska* Army, and Kovač.¹⁸²⁰ Having found that the Accused did not exercise authority over Arkan and his Serbian Volunteer Guard during the relevant period, the Trial Chamber does not consider it necessary to determine whether the Accused failed to instruct them to refrain from committing unlawful acts, as alleged in the Indictment.

453. With respect to whether the Accused financed the Serbian Volunteer Guard, the Trial Chamber has considered evidence of Serbian State Security Service payments to the Serbian Volunteer Guard, including payments to a number of members covering the period of the 1995 operations in the Autonomous Region of Krajina.¹⁸²¹ The Trial Chamber is mindful that there is evidence that several hundred members of the Serbian Volunteer Guard were deployed throughout the region in these operations.¹⁸²² However, the evidence is, for the most part, limited with respect to what extent the individuals on the payment lists, in fact, participated in this operation, and more specifically in the crimes charged in relation to Sanski Most.¹⁸²³ In this respect, there is some evidence indicating that certain Serbian Volunteer Guard members on these payment lists, including Milorad Ulemek, Mihajlo Ulemek, Nenad Bujošević, Rade Rakonjac, Momir Ristić, Mladen Šarac, and Boris Batez, were in Sanski Most during the 1995 operation.¹⁸²⁴ However, the Trial Chamber considers that the evidence is insufficient to find beyond reasonable doubt that these specific individuals or others on the payment lists, participated in the commission of the 1995 killings in

¹⁸¹⁷ See Prosecution Final Trial Brief, paras. 180-185, 667.

¹⁸¹⁸ Witness RFJ-110, T. 28 June 2018 pp. 58, 59. See also Witness Milovanović, Exhibit P02935, pp. 15559, 15560, Exhibit P02934, pp. 4497, 4498.

¹⁸¹⁹ Exhibit 1D00125, p. 1; Exhibit 1D00124.

¹⁸²⁰ Witness RFJ-110, T. 27 June 2018 pp. 51, 52; Exhibit 2D00075; Witness Pelević, Exhibit 2D00477, pp. 16433-16435; Exhibit 1D00124; Exhibit 2D00078; Exhibit 2D00076.

¹⁸²¹ See Exhibit P00826; Exhibit P00541; Exhibit P00543; Witness Slišković, Exhibit P02539, paras. 24, 68, Exhibit P02538, para. 22; T. 18 July 2018 pp. 10, 11; RFJ-088, Exhibit P02304, pp. 9468, 9594; Exhibit P02306, p. 4; Exhibit P02307, p. 11; Exhibit P02310, pp. 19454, 19455. See also Witness Dimitrijević, T. 12 February 2020 pp. 18-25, T. 13 February 2020 pp. 26, 27. The Trial Chamber notes that Witness RFJ-088 also gave evidence that sometimes, not regularly, the Serbian Volunteer Guard received salaries from General Lončar, who was a general of the Army of the Republic of Serbian Krajina. The Trial Chambers notes, however, that the time period is not clear as the only indication is that the salaries, which appear to have been delivered to Erdut, were delayed as of 5 December 1995. See Witness RFJ-088, Exhibit P02304, pp. 9474, 9590, 9591, Exhibit P02310, p. 19472; Exhibit P02331.

¹⁸²² Witness Milovanović, Exhibit P02935, p. 15523; Witness RFJ-129, T. 3 July 2018 pp. 15-17, Exhibit P02505, p. 18460. Cf. Witness RFJ-088, Exhibit P02306, p. 5 (indicating that about 100 went from Erdut to Banja Luka).

¹⁸²³ See Indictment, paras. 56, 57.

Sanski Most, charged in the Indictment.¹⁸²⁵ The Trial Chamber is mindful that there is evidence that some of these individuals may have been involved in other acts of violence in the area.¹⁸²⁶ These acts, however, are not charged as murders, and a review of the Prosecution Final Trial Brief indicates that the Prosecution is not pursuing the charges of forcible displacement based on the occurrence of these events.¹⁸²⁷

454. In making the above findings, the Trial Chamber is mindful of the issues raised by the parties in relation to Witnesses RFJ-037 and RFJ-088. Stanišić alleges material inconsistencies and contradictions in Witness RFJ-037's evidence¹⁸²⁸ and lack of credibility of Witness RFJ-088,¹⁸²⁹ while Simatović argues that Witness RFJ-037 testimony is unreliable and inconsistent¹⁸³⁰ and that Witness RFJ-088's testimony is unreliable, as it is motivated by desire to benefit oneself and family, and thus of no probative value.¹⁸³¹ Taking into consideration the issues raised by the Accused and the Prosecution's position,¹⁸³² the Trial Chamber does not deem the witnesses' evidence to lack probative value in its entirety, but there are nonetheless sufficient concerns to view it with appropriate caution.

455. With respect to the alleged activities of the Serbian Volunteer Guard during other operations,¹⁸³³ the Trial Chamber notes that there is evidence in support of the Accused's involvement in relation to Operation Pauk in 1994, and operations in Treskavica/Trnovo and the SAO SBWS in 1995. Notably, these military operations do not, for the most part, directly relate to

¹⁸²⁴ See Witness RFJ-011, Exhibit P02647, paras. 31-34; Witness RFJ-088, Exhibit P02306, p. 4, Exhibit P02307, pp. 5, 9, Exhibit P02310, p. 19489; Exhibit P00826, p. 8; Exhibit P00541, pp. 52, 55; Exhibit P00543, pp. 54, 56.

¹⁸²⁵ The Trial Chamber notes that Witness RFJ-088 gave hearsay evidence that Serbian Volunteer Guard members Ristić and Šarac were involved in murders committed in homes and mosques during the operation, which does not match the description of the murder incidents alleged in the Indictment. See Indictment, paras. 56, 57; Witness RFJ-088, Exhibit P02306, p. 5, Exhibit P02307, p. 9, Exhibit P02310, p. 19489.

¹⁸²⁶ See Witness RFJ-011, Exhibit P02647, para. 34; Witness RFJ-088, Exhibit P02306, p. 5; Exhibit P02307, p. 9, Exhibit P02310, p. 19489.

¹⁸²⁷ The Trial Chamber is mindful that the language of paragraphs 64 and 65 of the Indictment is broad and could encompass these acts as underlying acts of forcible displacement. However, the Prosecution Final Trial Brief refers to acts of violence principally in 1992 as the underlying criminal conduct leading to the forcible displacement of the non-Serb population in Sanski Most. See Prosecution Final Trial Brief, para. 881 (indicating that “[t]hrough the attacks, murders, and other crimes outlined above, Serb Forces expelled non-Serbs from Sanski Most”) (emphasis added). See also Prosecution Final Trial Brief, paras. 863-880 (referring to the initial takeover and subsequent acts of violence committed in 1992). Following its submissions on the charges of forcible displacement, the Trial Chamber notes that the Prosecution does not indicate that the 1995 events in Sanski Most to be in furtherance of forcible displacement but goes on to describe Arkan's deployment at the time for the purpose of “maintain[ing] Serb control over ethnically cleansed territory”. See Prosecution Final Trial Brief, para. 882. Cf. *Ntagerura et al.* Appeal Judgement, paras. 149, 150, 164.

¹⁸²⁸ Stanišić Final Trial Brief, paras. 1175-1188; Stanišić Closing Arguments, T. 13 April 2021 pp. 7, 8, 53. See Stanišić Final Trial Brief, Annex XVI.

¹⁸²⁹ Stanišić Final Trial Brief, paras. 1582, 1699, 1708; Stanišić Closing Arguments, T. 13 April 2021 p. 8. See Stanišić Final Trial Brief, para. 1525; Stanišić Final Trial Brief, Annex XXI.

¹⁸³⁰ Simatović Final Trial Brief, paras. 719-721, 745.

¹⁸³¹ Simatović Final Trial Brief, paras. 1086-1157; Simatović Closing Arguments, T. 13 April 2021 pp. 116, 117.

¹⁸³² See Prosecution Final Trial Brief, n. 781; Prosecution Closing Arguments, T. 12 April 2021 pp. 65-68, 72, 73.

¹⁸³³ See, e.g., Prosecution Final Trial Brief, paras. 300, 607, 618, 619.

the crimes charged in the Indictment.¹⁸³⁴ Further, the Trial Chamber finds that, while evidence of the Accused's contribution to these operations vis-à-vis Arkan and his Serbian Volunteer Guard may have relevance, it does not compel the conclusion that the Accused made a significant contribution to the commission of the crimes charged in the Indictment and for which the Accused are alleged to be responsible.

456. In conclusion, the Trial Chamber is not satisfied beyond reasonable doubt that the Accused directed and organized the forming, financing, training, logistical support, and other substantial assistance or support to the Serbian Volunteer Guard that was involved in the commission of crimes in Croatia and Bosnia and Herzegovina as charged in the Indictment, and for which the Accused are alleged to be responsible. The Trial Chamber is further not satisfied beyond reasonable doubt that the Accused continued to send the Serbian Volunteer Guard and provided support over an extended period of time; failed to instruct them to refrain from committing unlawful acts; and failed to stop replenishing them on the ground. Accordingly, the Trial Chamber does not find beyond reasonable doubt that the Accused, in relation to Arkan and the Serbian Volunteer Guard, made a significant contribution to the commission of the crimes charged in the Indictment.

F. Contribution through the Scorpions

457. The Indictment alleges that the Scorpions was one of the special units of the Serbian State Security Service involved in the commission of crimes in Croatia and Bosnia and Herzegovina during the relevant period.¹⁸³⁵ The Indictment further alleges that the Accused: (i) directed and organized the formation,¹⁸³⁶ financing, training, logistical support, and other substantial assistance or support to the Scorpions;¹⁸³⁷ (ii) had responsibility for the Scorpions; and (iii) organized, supplied, financed, supported and directed its involvement in certain operations in Croatia and Bosnia and Herzegovina.¹⁸³⁸ According to the Indictment, the Accused: (i) continued to send the Scorpions and provide support over an extended period of time; (ii) failed to instruct them to refrain from committing unlawful acts; and (iii) failed to stop replenishing the forces on the ground who were committing unlawful acts.¹⁸³⁹

458. In connection with these allegations, the Prosecution argues that a group under Slobodan Medić's (Boca) command, which was founded in 1991 or 1992 to protect the Đeletovci oil fields,

¹⁸³⁴ In relation to the Accused' responsibility for the murders committed by the Scorpions during the Treskavica/Trnovo operations, *see infra* Section V.F. *See also supra* Section II.C.5.

¹⁸³⁵ Indictment, paras. 4, 9, 22-24, 58-61.

¹⁸³⁶ Indictment, paras. 4, 15(b).

¹⁸³⁷ Indictment, paras. 4, 5, 15(c).

¹⁸³⁸ Indictment, para. 7.

¹⁸³⁹ Indictment, paras. 5, 15(c).

became known as the Scorpions when it was brought under the Serbian State Security Service's patronage in 1993.¹⁸⁴⁰ The Prosecution submits that the Scorpions acted directly at the behest of the Accused, or their subordinates, and in coordination with Radovan Stojičić (Badža) from the Public Security Service of the Serbian Ministry of Interior.¹⁸⁴¹ It also submits that the Accused continued to support and deploy the Scorpions despite knowing of their crimes,¹⁸⁴² intervening to ensure impunity when others attempted to prevent or punish these crimes.¹⁸⁴³ According to the Prosecution, although the Scorpions were designated as part of the Serbian Krajina Army, General Dušan Lončar of the 11th Corps of the Serbian Krajina Army did not have actual authority over them.¹⁸⁴⁴ The Prosecution further argues that the Accused's authority is demonstrated by the nearly identical insignias of the Scorpions and the Unit,¹⁸⁴⁵ the Scorpions' deployment to various 1994-1995 operations under the command of the Serbian Volunteer Guard or Unit members,¹⁸⁴⁶ and the instances of Scorpions' members joining the Unit after the Scorpions' disbandment.¹⁸⁴⁷

459. The Accused submit that there is no relationship between them and the Scorpions, arguing that there is no reliable evidence showing their or the Serbian State Security Service's involvement in the formation, arming, training, financing, directing, and deployment of the Scorpions at any time during the Indictment period.¹⁸⁴⁸ The Accused submit that the SAO SBWS government, at the request of the then-director of the Krajina oil industry, established the Scorpions at the end of 1991 or the beginning of 1992 to secure strategic facilities in the Đeletovci electricity and oil industries, and that the Scorpions were under the command of the SAO SBWS Territorial Defence, until it became part of the Serbian Krajina Army in 1993.¹⁸⁴⁹ The Accused argue that they did not exercise

¹⁸⁴⁰ Prosecution Closing Arguments, T. 12 April 2021 p. 43. The Trial Chamber notes that the Prosecution has not been consistent indicating, at times, that the Scorpions were under the control of the Serbian Ministry of Interior. *See* Prosecution Final Trial Brief, para. 186.

¹⁸⁴¹ Prosecution Final Trial Brief, paras. 71, 186. *See also* Prosecution Final Trial Brief, paras. 11, 44, 89, 103, 187, 189, 190-192, 372, 623, 640, 897, 898, 934-936; Prosecution Pre-Trial Brief, paras. 3, 21, 41, 54, 93, 95, 115, 176; Prosecution Closing Arguments, T. 12 April 2021 pp. 4, 43-45.

¹⁸⁴² Prosecution Final Trial Brief, para. 900; Prosecution Pre-Trial Brief, para. 98. *See also* Prosecution Pre-Trial Brief, paras. 54, 87, 93.

¹⁸⁴³ Prosecution Final Trial Brief, para. 901; Prosecution Pre-Trial Brief, para. 98.

¹⁸⁴⁴ Prosecution Final Trial Brief, para. 188; Prosecution Closing Arguments, T. 12 April 2021 p. 44. *See also* Prosecution Rebuttal, T. 14 April 2021 pp. 11-13.

¹⁸⁴⁵ Prosecution Final Trial Brief, para. 186; Prosecution Closing Arguments, T. 12 April 2021 pp. 30, 43, 44.

¹⁸⁴⁶ Prosecution Final Trial Brief, paras. 191, 590, 618, 619. *See* Prosecution Final Trial Brief, paras. 623, 626, 633, 635, 637, 638, 641-653, 671-674, 856-862; Prosecution Pre-Trial Brief, paras. 88, 95, 174-176; Prosecution Closing Arguments, T. 12 April 2021 pp. 87-89.

¹⁸⁴⁷ Prosecution Final Trial Brief, para. 192; Prosecution Closing Arguments, T. 12 April 2021 p. 45.

¹⁸⁴⁸ Stanišić Final Trial Brief, paras. 1533-1544, 1569-1577, 1584-1606; Simatović Final Trial Brief, paras. 1310-1317, 1330-1345, 1357-1366, 1381-1403; Stanišić Closing Arguments, T. 13 April 2021 pp. 10, 11, 17, 65-67; Simatović Closing Arguments, T. 13 April 2021 pp. 97, 98, 105, 117-123. *See also* Simatović Final Trial Brief, paras. 503, 1037-1039, 1324-1327. In this regard, the Trial Chamber notes Stanišić's submission that the Prosecution case regarding the Scorpions is unclear. *See* Stanišić Final Trial Brief, paras. 1564-1569, Stanišić Closing Arguments, T. 13 April 2021 pp. 65, 66.

¹⁸⁴⁹ Stanišić Final Trial Brief, paras. 1535-1537, 1545-1550; Simatović Final Trial Brief, paras. 1313-1320, 1028, 1038, 1410-1419; Simatović Closing Arguments, T. 13 April 2021 pp. 117-121. *See also* Stanišić Final Trial Brief, paras. 1589, 1590, 1635-1646; Simatović Final Trial Brief, paras. 1189-1194, 1243-1254, 1347-1356, 1367-1380.

authority over the Scorpions during the relevant period and that those who did included General Lončar and the Assistant Minister of Defence of the Republic of Serbian Krajina, Milan Milanović (Mrgud).¹⁸⁵⁰ According to the Accused, entities, which armed, supplied, financed, and/or deployed the Scorpions included the Krajina oil industry, the Serbian Krajina Army, and the *Republika Srpska* Army.¹⁸⁵¹

460. Having reviewed the record, the Trial Chamber is not convinced that the evidence demonstrates beyond reasonable doubt that the Accused directed and organized the formation of the Scorpions, as alleged in the Indictment.¹⁸⁵² It is not in dispute that a unit, which came to be known as the Scorpions, was created in late 1991, or early 1992, to secure the Đeletovci oil fields.¹⁸⁵³ There is also evidence that this unit then came under the command of the SAO SBWS Territorial Defence, and, once the Vance Plan came into force, it was attached to the Special Police Unit (PJM or Blue Brigade) of the Republic of Serbian Krajina Ministry of Interior in 1992 and, in 1993, became subordinated to the newly created Serbian Krajina Army.¹⁸⁵⁴ However, there is no clear and reliable evidence to compel the conclusion that the Accused were involved in the formation of the Scorpions.

461. With respect to the Prosecution's allegation that the Scorpions was established as a Serbian State Security Service satellite unit of the Unit during a meeting in Novi Sad in 1993,¹⁸⁵⁵ the Trial Chambers notes that this contention is based solely on what Witness Goran Stoparić, a member of the Scorpions, heard from Medić.¹⁸⁵⁶ With respect to the challenges raised by the Accused regarding the credibility of Witness Stoparić and their submissions that his evidence is inconsistent and contradictory,¹⁸⁵⁷ the Trial Chamber does not deem his evidence to lack probative value in its entirety, although there are sufficient concerns to view it with appropriate caution. Notwithstanding,

¹⁸⁵⁰ Stanišić Final Trial Brief, paras. 1535-1550; Stanišić Closing Arguments, T. 13 April 2021 pp. 52, 53; Simatović Final Trial Brief, paras. 1313-1320, 1323, 1327-1329, 1333-1336; Simatović Closing Arguments, T. 13 April 2021 pp. 117-121. *See also* Stanišić Final Trial Brief, paras. 1551-1558, 1593-1606, 1622-1634, 1655, 1656; Simatović Final Trial Brief, paras. 1381-1409; Simatović Closing Arguments, T. 13 April 2021 pp. 121, 122; Simatović Rejoinder, T. 14 April 2021 pp. 49-51.

¹⁸⁵¹ Stanišić Final Trial Brief, paras. 1587, 1589, 1590; Simatović Final Trial Brief, paras. 1329, 1338, 1340-1343. *See also* Stanišić Final Trial Brief, paras. 1657, 1659.

¹⁸⁵² *See* Indictment, paras. 4, 15(b).

¹⁸⁵³ Prosecution Closing Arguments, T. 12 April 2021 pp. 43, 44; Stanišić Final Trial Brief, paras. 1535-1537; Simatović Final Trial Brief, paras. 1313-1316; Simatović Closing Arguments, T. 13 April 2021 pp. 117, 118. *See* Stanišić Final Trial Brief, para. 600.

¹⁸⁵⁴ Witness OFS-24, Exhibit 2D00520, pp. 10049, 10123, 10124; Exhibit 2D00537, p. 16. *See* Exhibit 2D00537, pp. 7-11; Witness OFS-24, Exhibit 2D00520, pp. 10050, 10125, 10126, 10171, 10172. *See also* Witness Stoparić, T. 30 November 2017 pp. 29, 30; Witness RFJ-036, Exhibit P02392, para. 42.

¹⁸⁵⁵ *See* Prosecution Final Trial Brief, para. 186.

¹⁸⁵⁶ Witness Stoparić, T. 7 November 2017 pp. 41, 42, 62, T. 30 November 2017 pp. 25, 28, Exhibit P00796, paras. 68-70, Exhibit P00800, pp. 10419, 10455-10462.

¹⁸⁵⁷ Stanišić Final Trial Brief, paras. 1584, 1586, 1594, Annex XXIII; Simatović Final Trial Brief, paras. 1386-1391; Simatović Closing Arguments, T. 13 April 2021 p. 122; Simatović Rejoinder, T. 14 April 2021 pp. 49-51. *See* Prosecution Rebuttal, T. 14 April 2021 p. 13.

the Trial Chamber considers that, on this matter, the witness's hearsay evidence, which is general in nature, is insufficient to conclude beyond reasonable doubt that, in 1993, the Scorpions were under the Serbian State Security Service, let alone under the authority of the Accused.

462. The Trial Chamber has, nonetheless, examined the existence of any specific connections between the Accused and the Scorpions in relation to its members' participation in the killing of six Muslim men and boys at Godinjske Bare in July 1995 during the Treskavica/Trnovo operations.¹⁸⁵⁸ Having considered the record, the Trial Chamber is not satisfied that the evidence proves beyond reasonable doubt that the Accused directed, deployed, supplied, trained, financed, or otherwise supported the Scorpions in the operations, during which the charged crimes occurred. In reaching this conclusion, the Trial Chamber is mindful of the evidence indicating that the Scorpions received arms and uniforms from the SAO SBWS Territorial Defence and the Serbian Krajina Army,¹⁸⁵⁹ and payments from the Krajina oil industry.¹⁸⁶⁰ In this regard, the Trial Chamber has also considered evidence that the Scorpions may have gotten, at least on one occasion in the summer of 1995, ammunition from the Pajzoš camp.¹⁸⁶¹ However, in view of the lack of credible and reliable evidence providing further details, the Trial Chamber is not persuaded beyond reasonable doubt that the Accused supplied the ammunition in relation to the commission of the murders charged in the Indictment.

463. With respect to the Scorpions' deployment in the framework of the Treskavica/Trnovo operations, the Trial Chamber notes that the parties do not dispute that, during a meeting in May 1995, Badža proposed their deployment to the area to assist the *Republika Srpska* Army.¹⁸⁶² While there is evidence that Mrgud and/or General Lončar subsequently ordered the deployment of the Scorpions to Treskavica/Trnovo in June 1995,¹⁸⁶³ there is insufficient evidence to convincingly demonstrate that the Accused were involved in this deployment. In the Trial Chamber's view, the evidence of Witness Stoparić highlighted by the Prosecution to demonstrate that the deployment order was just a formality and that the Serbian State Security Service in fact made the deployment decision is conclusory and without basis, in particular as the witness acknowledges that he was

¹⁸⁵⁸ See *supra* Section II.C.5.

¹⁸⁵⁹ See Witness OFS-24, Exhibit 2D00520, p. 10124; Witness RFJ-036, Exhibit P02392, para. 45, Exhibit P02397, pp. 11098, 11099; Exhibit 2D00537, pp. 27, 51.

¹⁸⁶⁰ See Witness RFJ-036, Exhibit P02397, pp. 11108, 11109, Exhibit P02392, para. 44; Exhibit 2D00537, pp. 8, 27.

¹⁸⁶¹ See Witness RFJ-150, T. 22 May 2018 pp. 19, 20, T. 24 May 2018 pp. 23-25, Exhibit P02278, pp. 5723, 5724, 5805-5807, Exhibit P02277, pp. 14586, 14587, Exhibit P02276, paras. 57, 59; Exhibit P02281. See also Witness Krsmanović, Exhibit 1D00384, paras. 55, 56, Exhibit 1D00385, pp. 14508, 14509, 14521.

¹⁸⁶² See Prosecution Final Trial Brief, para. 645; Stanišić Final Trial Brief, para. 1574; Simatović Final Trial Brief, para. 1357.

¹⁸⁶³ See Witness OFS-24, Exhibit 2D00520, pp. 10193-10195; Witness Stoparić, Exhibit P00800, pp. 10358-10360, 10508, 10509, T. 30 November 2017 p. 51, Exhibit P00797, p. 3; Witness RFJ-036, Exhibit P02392, para. 65, Exhibit P02397, pp. 11191, 11192, T. 5 June 2018 p. 24; Exhibit 2D00537, pp. 18, 19; Exhibit 2D00093, pp. 11, 12. See also

never at the alleged meetings in Belgrade where the decisions were made and does not know who was present.¹⁸⁶⁴

464. The Trial Chamber also considers that there is no reliable and credible evidence demonstrating that the Accused deployed Vasilije Mijović to command the Scorpions in the Treskavica/Trnovo operations, as argued by the Prosecution.¹⁸⁶⁵ Although the evidence indicates that Mijović was a member of JATD and that he was involved in these operations,¹⁸⁶⁶ the Trial Chamber notes, in particular, that the evidence regarding Mijović's role in relation to the Scorpions during these operations is insufficient, lacking credible and reliable support, and, thus, does not demonstrate that Mijović was commanding the Scorpions. For instance, Witnesses OFS-024 and RFJ-088 provide hearsay evidence indicating that Mijović was commanding the Scorpions,¹⁸⁶⁷ while Scorpions' members themselves, who were participating in the operations, give evidence that raises doubt to this contention.¹⁸⁶⁸ The Trial Chamber also considers hearsay evidence that Medić stated to other Scorpions' members that he was receiving orders from the Serbian State Security Service, including the Accused,¹⁸⁶⁹ to be vague.¹⁸⁷⁰ Further, evidence of the Accused's mere presence at Đeletovci is inadequate, given that there is an absence of necessary support showing that their presence was somehow related to crimes charged in the Indictment.¹⁸⁷¹ Finally the Trial

Prosecution Final Trial Brief, paras. 645, 646; Stanišić Final Trial Brief, para. 1577; Simatović Final Trial Brief, paras. 1358-1360; Simatović Closing Arguments, T. 13 April 2021 pp. 119-121.

¹⁸⁶⁴ Witness Stoparić, T. 30 November 2017 p. 67. See Prosecution Final Trial Brief, para. 646.

¹⁸⁶⁵ See Prosecution Final Trial Brief, paras. 140, 182, 643, Annex A, paras. 93, 95.

¹⁸⁶⁶ See, e.g., Exhibit P02356; Witness OFS-24, Exhibit 2D00520, pp. 10053, 10182-10184; Exhibit P01980 (Part II), pp. 70, 71, (Part III), p. 209.

¹⁸⁶⁷ See Witness OFS-24, Exhibit 2D00520, pp. 10053, 10182-10184; Witness RFJ-088, Exhibit P02310, p. 19477. The Trial Chamber notes that the evidence of Witness RFJ-088 appears consistent when indicating that members of Arkan's Serbian Volunteer Guard, Svetozar Pejović and Mladen Šarac, were "sharing the command post" with Mijović. See Witness RFJ-088, Exhibit P02306, p. 5. See also Exhibit P01081, pp. 8, 22-24, 46, 47, 102-104 (wherein Tomislav Kovač, the *Republika Srpska* Deputy Minister of Interior, and in the second half of 1995, Minister of Interior, gives evidence that Mijović was the Scorpions' commander and that he was not aware of Medić as the Scorpions' commander, while Medić gives evidence that he had contacts with Mrgud and denied that Mijović was his commander).

¹⁸⁶⁸ See Witness Stoparić, T. 8 November 2017 p. 11 (indicating that the witness did not know who was coordinating the units involved in the Trnovo operations and speculating that it was "maybe a man called Mijović"); Witness RFJ-036, Exhibit P02397, p. 11140 (indicating that the witness did not know Mijović).

¹⁸⁶⁹ See Witness RFJ-036, T. 5 June 2018 pp. 16-18, Exhibit P02397, pp. 11013, 11014, 11120-11124, Exhibit P02392, paras. 42, 43; Witness Stoparić, Exhibit P00800, pp. 10460, 10461, 10498, 10499, Exhibit P00796, para. 77.

¹⁸⁷⁰ With respect to Witness RFJ-036, the Trial Chamber notes that the witness gave evidence that, during the Trnovo operations, the Scorpions had communication with the *Republika Srpska* Army and the Serbian Volunteer Guard and that Medić was receiving orders from Mrgud, who was receiving orders from the Serbian State Security Service. See Witness RFJ-036, Exhibit P02392, para. 73. The Trial Chamber further notes that Witness RFJ-036, however, also gave evidence that the witness does not know if there was a joint operation between the Serbian Volunteer Guard and the Scorpions during the Trnovo operations and who was superior to Medić. See Witness RFJ-036, Exhibit P02397, pp. 11139, 11140.

¹⁸⁷¹ The Trial Chamber notes that Witness RFJ-144 gave evidence of seeing Stanišić on one occasion in Đeletovci at a far distance (see Witness RFJ-144, T. 23 January 2018 pp. 9-12, 50-55, T. 24 January 2018 p. 22), while Witness RFJ-036 gave evidence of seeing Simatović on one occasion in Đeletovci after August 1995 (see Witness RFJ-036, Exhibit P02397, pp. 11049, 11050, 11059, Exhibit P02392, para. 43). The Trial Chamber notes that it also received hearsay evidence from Witness RFJ-036 that Stanišić met with Medić twice in Ilok. See Witness RFJ-036, Exhibit P02397, pp. 11120, 11121. See also Exhibit P00818, p. 4 (wherein a Novi Sad State Security Service report, dated 2 October 2001, indicates that Simatović was frequently visiting Đeletovci without providing further details).

Chamber does not consider the similarity in insignias between the Scorpions and the Unit,¹⁸⁷² evidence that certain Scorpions' members, after its disbandment, may have joined the Unit,¹⁸⁷³ and other circumstantial evidence referring to the Serbian Ministry of Interior in reference to the Scorpions,¹⁸⁷⁴ sufficient to implicate the Accused beyond reasonable doubt. As it has not been established that the Accused exercised authority over the Scorpions, the Trial Chamber will not consider whether the Accused failed to instruct them to refrain from committing unlawful acts or replenish their forces, as alleged in the Indictment.

465. In relation to the alleged activities of the Scorpions during operations other than the Treskavica/Trnovo operations discussed above,¹⁸⁷⁵ the Trial Chamber notes that there is evidence in support of the Accused's involvement in relation to Operation Pauk in 1994 and the SAO SBWS operations in 1995. However, these military operations do not, for the most part, directly relate to the crimes charged in the Indictment. Further, the Trial Chamber finds that, while evidence of the Accused's contribution to these operations vis-à-vis the Scorpions may have relevance as circumstantial evidence, it does not compel the only reasonable conclusion that the Accused made a significant contribution to the commission of the crimes by the Scorpions that are charged in the Indictment.

466. In conclusion, the Trial Chamber is not satisfied beyond reasonable doubt that the Accused made a significant contribution to advance the common criminal purpose, by directing and organizing the formation, financing, training, logistical support, or other substantial assistance or support to the Scorpions in relation to crimes charged in the Indictment.

G. Contribution in Relation to SAO Krajina

467. The Indictment alleges that the Accused contributed to the furtherance of the common criminal purpose by, *inter alia*, providing channels of communication between and among the core members of the joint criminal enterprise in Belgrade and locally, and by directing and organizing the formation of and the financing, training, logistical support and other substantial assistance or support to various Serb forces, which were involved in the commission of crimes in Croatia during the Indictment period.¹⁸⁷⁶ The Indictment further alleges that the Accused failed to instruct these

¹⁸⁷² See, e.g., Exhibit P02413; Exhibit P00812; Exhibit P00813; Exhibit P00814. The Trial Chamber notes evidence that the Scorpions also wore the insignia of the Serbian Krajina Army. See also Exhibit 2D00537, p. 26.

¹⁸⁷³ See, e.g., Witness RFJ-036, Exhibit P02392, para. 47.

¹⁸⁷⁴ See, e.g., Exhibit P02317; Exhibit P02333; Exhibit P03525, p. 2; Exhibit P00823, p. 1.

¹⁸⁷⁵ See *supra* Section II.C.5.

¹⁸⁷⁶ Indictment, paras. 3, 5, 15.

Serb forces to refrain from committing unlawful acts, and failed to stop replenishing the forces on the ground who were committing unlawful acts.¹⁸⁷⁷

468. The Prosecution submits that, in 1990, the Accused and the Krajina Serb leadership began preparing the structures and forces necessary to implement what would crystalize as the common criminal purpose by no later than April 1991.¹⁸⁷⁸ In particular, the Prosecution alleges that the Accused: (i) together with Milošević, supported the Krajina Serbs in establishing separate government structures in the lead-up to the conflict;¹⁸⁷⁹ (ii) in late 1990 and early 1991, covertly armed Serbs in Croatia for the purposes of subsequently achieving the forcible removal of non-Serbs from Serb-held areas;¹⁸⁸⁰ and (iii) in pursuit of the common criminal purpose, the Accused instructed, financed, armed and supplied Martić as he established Serb police stations to claim Serb control over territory, and police units to use in operations expelling non-Serbs.¹⁸⁸¹ The Prosecution argues that Stanišić exercised authority over Martić and Babić, which he used to direct the development and use of Serb structures and forces in Krajina to further the common criminal purpose.¹⁸⁸² It further submits that, beginning in August 1990 and continuing throughout the Indictment period, Stanišić was essentially Martić's direct superior and that, as Stanišić's man on the ground in the SAO Krajina in 1991, Simatović also exercised authority over Martić.¹⁸⁸³

469. Stanišić argues that the Prosecution case is incoherent in alleging that the setting up of structures and arming in the SAO Krajina took place prior to April 1991, when the joint criminal enterprise purportedly came into existence, and thus, as a matter of law, any such actions cannot constitute contribution to the furtherance of the common criminal purpose.¹⁸⁸⁴ In addition, he submits that there is no reliable evidence demonstrating that Stanišić was in any way involved in the establishment and control over the alleged parallel structure in SAO Krajina or provided logistical, financial, or any other type of support to the SAO Krajina police in the period between 1990 and 1995 and, crucially, after mid-1991 when the joint criminal enterprise allegedly came into existence.¹⁸⁸⁵

¹⁸⁷⁷ Indictment, paras. 5, 15.

¹⁸⁷⁸ Prosecution Final Trial Brief, para. 305. *See* Prosecution Final Trial Brief, para. 304; Prosecution Pre-Trial Brief, para. 42.

¹⁸⁷⁹ Prosecution Final Trial Brief, paras. 308-315, 323-325. *See* Prosecution Final Trial Brief, paras. 197, 203-208, 305, 316-322; Prosecution Pre-Trial Brief, paras. 42, 45, 46.

¹⁸⁸⁰ Prosecution Final Trial Brief, paras. 230-245. *See* Prosecution Final Trial Brief, paras. 246-249, 306, 307; Prosecution Pre-Trial Brief, paras. 42, 46, 47, 94.

¹⁸⁸¹ Prosecution Final Trial Brief, paras. 326-334. *See* Prosecution Final Trial Brief, para. 197; Prosecution Pre-Trial Brief, paras. 42, 46, 47. *See also* Prosecution Final Trial Brief, paras. 308-325.

¹⁸⁸² Prosecution Final Trial Brief, paras. 222, 224, 226.

¹⁸⁸³ Prosecution Final Trial Brief, paras. 223, 225.

¹⁸⁸⁴ Stanišić Final Trial Brief, para. 184. *See* Stanišić Closing Arguments, T. 13 April 2021 p. 26.

¹⁸⁸⁵ Stanišić Final Trial Brief, paras. 354-420. *See* Stanišić Closing Arguments, T. 13 April 2021 pp. 18, 22, 29.

470. Simatović submits that, in the area of Northern Dalmatia and Lika, all parties to the conflict had access to significant quantities of weapons from various sources, that the amount of weapons and equipment associated with the Serbian State Security Service, if such was provided at all, was negligent, and that Simatović did not participate in its provision.¹⁸⁸⁶ He further submits that he had no involvement in the provision of financial assistance to the SAO Krajina and later to the Republic of Serbian Krajina,¹⁸⁸⁷ and maintains that the purpose of his presence in the Knin area in 1991 was to perform intelligence tasks, in accordance with the legal provisions applicable at the time.¹⁸⁸⁸ Simatović further argues that the Serbian State Security Service did not participate in any way in the formation of the SAO Krajina State Security Service and that the two services maintained a relationship of cooperation.¹⁸⁸⁹

1. Background

471. In April and May 1990, multi-party elections were held in the Socialist Republic of Croatia.¹⁸⁹⁰ The Croatian Democratic Union won 41.5% of the votes and two-thirds of the seats in the Parliament and, on 30 May 1990, Franjo Tuđman was elected President of the Presidency of the Socialist Republic of Croatia.¹⁸⁹¹ In local elections, the Serbian Democratic Party won control in three municipalities with majority Serb populations: Knin, Gračac, and Donji Lapac.¹⁸⁹² On 25 July 1990, a Serbian Assembly, established in Srb, north of Knin, declared the sovereignty and autonomy of the Serb people in Croatia.¹⁸⁹³ On 31 July 1990, Milan Babić was elected president of the Serbian National Council, the executive body of the Serbian Assembly.¹⁸⁹⁴

472. On 16 August 1990, the Serbian National Council called for a referendum on the autonomy of the Serbs in Croatia.¹⁸⁹⁵ On 17 August 1990, the Croatian Government declared the referendum illegal,¹⁸⁹⁶ and, on the same date, Babić declared a state of war.¹⁸⁹⁷ The Croatian police moved towards several Serb-majority towns in the Krajina region and removed weaponry from the public

¹⁸⁸⁶ Simatović Final Trial Brief, paras. 132-153, 239-246, 250.

¹⁸⁸⁷ Simatović Final Trial Brief, paras. 167-179, 247-249.

¹⁸⁸⁸ Simatović Final Trial Brief, paras. 180-187, 192, 216-223, 226-231. *See* Simatović Final Trial Brief, paras. 224, 225; Simatović Closing Arguments, T. 13 April 2021 p. 75.

¹⁸⁸⁹ Simatović Final Trial Brief, paras. 188-200.

¹⁸⁹⁰ Adjudicated Fact 145. *See* Exhibit P01600, p. 10.

¹⁸⁹¹ Adjudicated Fact 145. *See* Exhibit P01600, p. 10.

¹⁸⁹² Exhibit P01600, p. 10. *Cf.* Adjudicated Fact 146; Witness Babić, Exhibit P01246, p. 12893.

¹⁸⁹³ Adjudicated Fact 147; Exhibit P01269. *See* Witness Babić, Exhibit P01246, pp. 12902, 12904-12907, Exhibit P01248, p. 1852.

¹⁸⁹⁴ Adjudicated Fact 147. *See* Witness Babić, Exhibit P01246, p. 12864, Exhibit P01248, p. 1327.

¹⁸⁹⁵ Adjudicated Fact 148. *See* Witness Babić, Exhibit P01248, pp. 1371, 1372, 1746; Exhibit P01323. *See also* Witness RJS-07, T. 28 August 2019 pp. 31, 32.

¹⁸⁹⁶ Adjudicated Fact 148. *See also* Witness Babić, Exhibit P01246, p. 12910, Exhibit P01247, p. 3343.

¹⁸⁹⁷ *See* Witness Babić, Exhibit P01246, p. 13826, Exhibit P01248, p. 1377; Witness RFJ-07, Exhibit P00313, para. 54. *See also* Witness Babić, Exhibit P01248, p. 1378.

security stations.¹⁸⁹⁸ Serbs responded by putting up barricades in Knin and its surroundings, in what became known as the “Log Revolution”.¹⁸⁹⁹ The Prosecution presented evidence that barricades were erected for the purpose of cutting-off predominantly Croat villages from main towns and roads and intimidating the Croat population, and that Stanišić provided material support to Martić to secure the operation of the barricades.¹⁹⁰⁰ The Accused point to evidence that the barricades were erected spontaneously, without any involvement from Serbia or the Accused, and were a defensive action resulting from the Serb population’s objective fear for their safety.¹⁹⁰¹

473. The Trial Chamber finds that the evidence clearly demonstrates the existence of growing ethnic tensions in an uncertain and escalating political environment in Krajina in August 1990 where, to varying degrees, both Serbs and Croats feared for their safety. The evidence also indicates that Martić, at the time a police inspector at the Knin police station, was in command of the Serb barricades and, on 17 August 1990, led from Golubić the distribution of weapons to local Serbs, including Serb members of the police, who were manning them.¹⁹⁰² However, given its hearsay nature, the Trial Chamber does not find the evidence presented by the Prosecution sufficiently

¹⁸⁹⁸ Adjudicated Fact 148. *See* Witness OFS-14, Exhibit 2D00359, pp. 15766-15769; Witness Drača, Exhibit 2D00331, p. 16682, T. 26 November 2019 p. 9. The Trial Chamber received evidence on the formation of Croatian special units/police forces and the removal of weapons from Krajina police stations in 1990 and 1991. *See, e.g.*, Exhibit 1D00763; Witness Bosnić, Exhibit 1D00236, para. 4, T. 21 August 2019 pp. 2-5; Witness Drača, T. 26 November 2019 pp. 6-8.

¹⁸⁹⁹ Adjudicated Fact 148; Witness Babić, Exhibit P01246, pp. 12924, 12931, 12932, Exhibit P01248, pp. 1378, 1381, 1389; Witness RFJ-066, Exhibit P00202, paras. 17-19, 22; Witness RFJ-107, paras. 54-56. Evidence on the record indicates that Croat residents also started putting up barricades, some of which were manned by members of the Croatian National Guard Corps. *See* Witness Babić, Exhibit P01248, p. 1552; Exhibit P01559; Witness RFJ-153, Exhibit P00002, paras. 75, 98, 99, 103; Witness RFJ-066, Exhibit 1D00022, para. 31.

¹⁹⁰⁰ *See* Prosecution Final Trial Brief, paras. 316-319, *referring, inter alia, to* Witness RFJ-066, Exhibit P00202, paras. 20, 48; Witness RFJ-107, Exhibit P00313, paras. 58, 59; Witness Bićanić, Exhibit P00388, pp. 25521, 25552, Exhibit P00387, p. 2. *See also* Witness RFJ-066, Exhibit P00202, para. 21.

¹⁹⁰¹ *See* Stanišić Final Trial Brief, paras. 226-235; Simatović Final Trial Brief, para. 130, collectively *referring, inter alia, to* Witness RFJ-137, T. 19 July 2017 pp. 75, 76; Witness Babić, Exhibit P01246, p. 12924; Witness RJS-07, T. 27 August 2019 pp. 15-17, 42, Exhibit 1D00257, paras. 18, 19; Witness Drača, T. 26 November 2019 pp. 8-10, Exhibit 2D00331, p. 16685.

¹⁹⁰² Witness RFJ-066, Exhibit P00202 paras. 9-11, 22-24, 31, 32; Witness Babić, Exhibit P01248, pp. 1378, 1381, Exhibit P01246, pp. 12912, 12925; Witness RFJ-137, T. 19 July 2017 pp. 78, 79. *See also* Witness RFJ-107, Exhibit P00313, paras. 64-66. *See also* Witness RFJ-066, Exhibit P00202, para. 16. The Trial Chamber received evidence that, with the “Log Revolution” under way, Martić became the commander of the Council of the Serb National Resistance, which was based initially at Golubić and was tasked with coordinating the barricades. *See* Witness Babić, Exhibit P01248, pp. 1378, 1381; Witness RFJ-066, Exhibit P00202, paras. 31, 32, 35. Further, there is evidence that Nebojša Mandinić, Zoran Rajić, and Dušan Orlović were among the members of the Council, with Babić attending the meetings. *See* Witness Babić, Exhibit P01246, pp. 12929, 13492; Witness RFJ-066, Exhibit P00202, paras. 26, 35, 36, 38; Exhibit P03052, pp. 1, 2; Exhibit P00233, pp. 8-10. The Trial Chamber received evidence that, from the fall of 1990, the Council of the Serb National Resistance stoked ethnic tensions, including by issuing provocative statements, blowing up Croat-owned businesses, and disrupting rail traffic and power supply, so that Yugoslavia could declare a state of emergency in Croatia, which would allow for JNA intervention. *See* Witness Babić, Exhibit P01246, pp. 12936-12938, Exhibit P001247, p. 3350, Exhibit P01248, pp. 1383, 1384. *See also* Exhibit P02443, pp. 4, 5.

reliable to conclude beyond reasonable doubt that, in August 1990, Stanišić provided material support to Martić to secure the operation of the barricades.¹⁹⁰³

474. The referendum on the autonomy of the Serbs in Croatia was held between 19 August and 2 September 1990, with 97.7% of the votes cast in favour of autonomy.¹⁹⁰⁴ On 21 December 1990, the SAO Krajina was proclaimed by the municipalities of the regions of Northern Dalmatia and Lika, in south-western Croatia.¹⁹⁰⁵ Article 1 of the Statute of the SAO Krajina defined the SAO Krajina as “a form of territorial autonomy within the Republic of Croatia” on which the Constitution of the Republic of Croatia, state laws and the Statute of the SAO Krajina were applied.¹⁹⁰⁶ The following day, the Croatian Parliament adopted a new constitution, wherein Croatia was defined as “the national state of the Croatian nation and a state of members of other nations and minorities who are citizens: Serbs [...] who are guaranteed equality with citizens of Croatian nationality [...]”.¹⁹⁰⁷ The Serb population in the Krajina region considered that, by the adoption of the new constitution, they had been deprived of the right to be a constituent nation in Croatia, which would include the right to self-determination.¹⁹⁰⁸

475. On 28 February 1991, the Serbian National Council and the Executive Council of the SAO Krajina adopted a resolution on the separation of the SAO Krajina from the Republic of Croatia, which was in response to an earlier decision of 20 February 1991 by the Republic of Croatia on its separation from the Socialist Federal Republic of Yugoslavia.¹⁹⁰⁹ This resolution was sent to the municipal assemblies and, on 18 March 1991, the Knin Municipal Assembly seceded from the Republic of Croatia and declared itself a constituent part of the Socialist Federal Republic of

¹⁹⁰³ See Witness RFJ-066, Exhibit P00202, para. 48. See also Witness RFJ-066, Exhibit P00202, para. 50, Exhibit 1D00021, p. 7372, T. 12 July 2017 pp. 18, 19; Exhibit 1D00024, pp. 6, 7; Witness RJS-07, T. 27 August 2019 p. 18.

¹⁹⁰⁴ Adjudicated Fact 148. See Witness Babić, Exhibit P01246, p. 12909, Exhibit P01248, pp. 1747, 1771; Exhibit P01270.

¹⁹⁰⁵ Adjudicated Fact 149. See Witness Babić, Exhibit P01246, p. 12940, Exhibit P01248, p. 1747, Exhibit P01247, p. 3347; Witness RJS-07, Exhibit 1D00257, para. 25. See also Witness Babić, Exhibit P01246, p. 13063, Exhibit P01248, pp. 1477, 1866, 1867; Exhibit P01286. The Trial Chamber received evidence that, in addition to six municipalities of Northern Dalmatia and Lika, the municipalities of Dvor na Uni, Glina, Kostajnica, Vrginmost, Vojnić, and Pakrac, as well as local communes in neighbouring municipalities, subsequently joined. See Witness Babić, Exhibit P01246, pp. 12941, 12945.

¹⁹⁰⁶ Adjudicated Fact 149; Exhibit P01264, p. 1; Witness Babić, Exhibit P01246, p. 12940, Exhibit P01248, p. 1867.

¹⁹⁰⁷ Adjudicated Fact 150.

¹⁹⁰⁸ Adjudicated Fact 150. See Witness RFJ-107, Exhibit P00313, para. 39, T. 6 September 2017 pp. 51, 52; Witness RJS-07, T. 28 August 2019 p. 17; Witness RFJ-151, T. 21 September 2017 p. 18; Witness OFS-14, Exhibit 2D00359, p. 15763.

¹⁹⁰⁹ Witness Babić, Exhibit P01246, pp. 13110, 13799.

Yugoslavia.¹⁹¹⁰ On 30 April 1991, Milan Babić was elected President of the Executive Council of SAO Krajina.¹⁹¹¹

476. On 29 May 1991, the SAO Krajina Assembly proclaimed the SAO Krajina Statute as its Constitution, which declared the SAO Krajina as a form of political and territorial autonomy within the Socialist Federal Republic of Yugoslavia and, pursuant to a subsequent amendment to the Constitution, the Executive Council became the SAO Krajina government, while the President of the Executive Council became the Prime Minister.¹⁹¹² The SAO Krajina Assembly passed legislation with reference to the implementation of Republic of Serbia law on the territory of the SAO Krajina, including the Law on Defence.¹⁹¹³

477. On 19 December 1991, while the Vance Plan negotiations were ongoing,¹⁹¹⁴ the SAO Krajina Assembly proclaimed the Republic of Serbian Krajina.¹⁹¹⁵ On 26 February 1992, SAO Western Slavonia and SAO SBWS joined the Republic of Serbian Krajina, and the unified Republic of Serbian Krajina was constituted.¹⁹¹⁶

478. On 16 February 1992, at an Assembly session in Glina, Babić was dismissed as President of the Republic of Serbian Krajina due to his opposition to Slobodan Milošević in respect of the Vance Plan and, on 26 February 1992, Goran Hadžić was elected the next President.¹⁹¹⁷ On 25 February 1992, Milan Martić was elected Minister of Interior of the Republic of Serbian Krajina and he remained in this position until 1994, when he was elected President.¹⁹¹⁸

479. The Trial Chamber received evidence from Witness Babić that, in addition to the above described institutions, a “parallel structure” existed in the SAO Krajina, headed by Milošević and the Serbian State Security Service, in which Stanišić was a central figure, followed by

¹⁹¹⁰ Witness Babić, Exhibit P01246, pp. 13110, 13111; Exhibit P01346; Exhibit P01377; Exhibit P01327.

¹⁹¹¹ Witness Babić, Exhibit P01246, p. 12985; Exhibit P01280. The evidence indicates that Babić was provisionally the president of the SAO Krajina Executive Council from 21 December 1990 until 30 April 1991. *See* Witness Babić, Exhibit P01246, p. 12865.

¹⁹¹² Witness Babić, Exhibit P01246, pp. 12985, 12986, 13483, 13484; Exhibit P01264; Exhibit P01266; Exhibit P01576; Exhibit P01577.

¹⁹¹³ Witness Babić, Exhibit P01246, pp. 12986-12988; Exhibit P01268; Exhibit P01336; Exhibit P01312; Exhibit P01389. *See* Exhibit P01329; Exhibit P01522; Exhibit P01330.

¹⁹¹⁴ The Vance Plan required, *inter alia*, the demilitarisation of UN Protected Areas, namely Eastern Slavonia, Western Slavonia, and Krajina - which would require the withdrawal of the JNA, the Croatian National Guard, and any Territorial Defence and paramilitary units - the deployment of UN forces in the UN Protected Areas, and the return of displaced persons. *See* Exhibit P01318; Exhibit P01980 (Part II), pp. 181-183; Adjudicated Facts 163, 164.

¹⁹¹⁵ Adjudicated Fact 361. *See* Witness Babić, Exhibit P01246, pp. 13210, 13211. *See also* Exhibit P01321; Exhibit P01281; Exhibit P01360.

¹⁹¹⁶ Witness Babić, Exhibit P01246, pp. 13212, 13227; Exhibit P01275.

¹⁹¹⁷ Witness Babić, Exhibit P01246, pp. 13226, 13227, Exhibit P01248, p. 1644; Adjudicated Fact 361.

¹⁹¹⁸ Witness Babić, Exhibit P01248, pp. 1410, 1451, 1452; Exhibit P01551; Exhibit P01980 (Part II), p. 183; Exhibit P00850, paras. E32, 317; Adjudicated Facts 363, 364. *See also* Exhibit 1D01414; Exhibit P00222; Exhibit P01420; Exhibit P03421.

Simatović,¹⁹¹⁹ with Martić being the most powerful man within this structure in the SAO Krajina.¹⁹²⁰ Its formation commenced in August 1990 and the structure was “parallel” in the sense that it was not subordinated to the SAO Krajina authorities, though they took part in the nomination of certain individuals therein.¹⁹²¹ According to Witness Babić, other members of the “parallel structure” included Radmilo Bogdanović, Captain Dragan, Dragan Filipović, Jovo Vitaš, Nebojša Mandinić, Dušan Orlović, other members of the Serbian Ministry of Interior, Serbian State Security Service, Serbian Public Security Service, and the SAO Krajina State Security Service, as well as members of the SAO Krajina Police, members of the Serbian Democratic Party, the presidents of some Serb municipalities in the SAO Krajina, and others who collaborated with the Serbian State Security Service.¹⁹²²

480. The Trial Chamber considers that Witness Babić’s evidence regarding the existence of a “parallel structure” with the participation of the Accused is generally consistent with other evidence discussed in this Judgement, suggesting that Stanišić exercised a degree of influence over Martić, and that both Accused were involved in the provision of funding, arming, and training of members of the SAO Krajina police in the end of 1990 and in the first half of 1991.¹⁹²³ The Trial Chamber considers, however, that the existence of such a structure and the Accused’s possible participation therein at given times do not, in and of themselves, compel the conclusion that they are responsible for the conduct of government and security structures in SAO Krajina, in particular in relation to the commission of crimes charged in the Indictment. The regular operation of the SAO Krajina government and security structures also remains a reasonable inference in the absence of additional direct or circumstantial evidence of the Accused’s use of a “parallel structure” for furthering the

¹⁹¹⁹ Witness Babić, Exhibit P01246, pp. 12918, 12920, 13736, 13927, Exhibit P01247, p. 3341, Exhibit P01248, pp. 1390, 1391, 1567, 1568. According to Witness Babić, there were two lines of command, both answerable to Milošević, which, for the most part, engaged in joint operations in Krajina. *See* Witness Babić, Exhibit P01246, pp. 13129-13132, 13702, Exhibit P01248, pp. 1501, 1502, 1504, 1567. One line of command went through the Socialist Federal Republic of Yugoslavia Presidency, the JNA, and the Territorial Defence units directly under JNA command, while the other, the so-called “parallel structure”, went through the Serbian State Security Service, the Milicija Krajina, special volunteer units, regular police, and the groups belonging to the Serbian State Security Service. *See* Witness Babić, Exhibit P01246, p. 13129, Exhibit P01248, p. 1567. Further, according to Witness Babić, the 7th Banija Division was a volunteer unit that was established by the “parallel structures” in the beginning of the summer of 1991, operating in Dvor na Uni and Kostajnica municipalities and parts of Glina and Petrinja, and later on exclusively in the Dvor na Uni and the Kostajnica areas. *See* Witness Babić, Exhibit P01246, pp. 13383, 13391, Exhibit P01248, p. 1595. *See also* Exhibit P01964; Exhibit P03722, p. 3; Exhibit P03082.

¹⁹²⁰ Witness Babić, Exhibit P01248, p. 1391. According to Witness Babić, the parallel structure shared the political goal of the SAO Krajina government and Assembly - to defend and preserve the SAO Krajina. *See* Witness Babić, Exhibit P01246, p. 13501. However, the policy of the “parallel structure” differed to the extent that its paramilitary units and police did not only protect and defend the inhabitants of the SAO Krajina, but caused provocations in order to prompt a state of emergency and to trigger the JNA involvement in the conflict, and opposed attempts in September 1990 to negotiate a peaceful solution with the Croatian government. *See* Witness Babić, Exhibit P01246, pp. 12934-12936, 13501, 13545, Exhibit P01247, pp. 3349, 3350, Exhibit P01248, pp. 1387, 1388. *See also* Exhibit P01383.

¹⁹²¹ Witness Babić, Exhibit P01246, pp. 13492, 13499, 13536, Exhibit P01247, p. 3341, Exhibit P01248, pp. 1390, 1391.

¹⁹²² Witness Babić, Exhibit P01246, pp. 12918, 12920, 13401, 13492, 13493, 13527, Exhibit P01247, p. 3341, Exhibit P01248, pp. 1390-1392.

common criminal purpose. The Trial Chamber also finds the evidence insufficient to conclude that Stanišić exercised authority over Babić, as alleged by the Prosecution.

2. SAO Krajina Police

481. On 4 January 1991, the Secretariat of Internal Affairs of SAO Krajina was established with its seat in Knin, and Martić was appointed Secretary for Internal Affairs.¹⁹²⁴ The following day, the SAO Krajina authorities informed the Croatian Ministry of Interior that, with the establishment of the SAO Krajina Secretariat of Internal Affairs, the authority of the Ministry was revoked in the territory of the SAO Krajina.¹⁹²⁵ The Secretariat carried out tasks in relation to state security, public security, and other internal affairs and, as early as February 1991, the SAO Krajina was operating its own State Security Service.¹⁹²⁶ On 29 May 1991, the Secretariat of Internal Affairs became the Ministry of Interior.¹⁹²⁷ Martić was initially appointed Minister of Defence in the new government but, on 27 June 1991, he became the SAO Krajina Minister of Interior¹⁹²⁸ and remained in this position until early 1994, when he was elected President of the Republic of Serbian Krajina.¹⁹²⁹ The evidence demonstrates that, despite his change in position, between 29 May and 27 June 1991, Martić remained in control of the SAO Krajina Police.¹⁹³⁰ In addition, on 8 August 1991, Babić, who at the time, as the President of the SAO Krajina government, was the Commander of the SAO Krajina Territorial Defence, nominated Martić as its Deputy Commander, in which position Martić remained until 30 September 1991.¹⁹³¹

482. On 29 May 1991, the SAO Krajina Assembly adopted a decision on the formation of special purpose police units, to be called “Milicija Krajine” or “Krajina Police”, tasked with defending the territorial integrity of the SAO Krajina, securing vital facilities and institutions, and performing other assignments within the domain of internal affairs.¹⁹³² These special purpose units were

¹⁹²³ See *infra* Sections V.G.4, V.G.5.

¹⁹²⁴ Adjudicated Fact 151; Exhibit P00850, paras. 325, 326, 328; Witness Babić, Exhibit P01248, pp. 1390, 1397, 1400-1404, 1407, 1800; Exhibit P01308; Exhibit P01309. See Exhibit P01310; Exhibit P01549, pp. 1, 2; Exhibit P01980 (Part II), p. 84; Exhibit P01311.

¹⁹²⁵ Adjudicated Fact 151; Witness Babić, Exhibit P01246, p. 13319.

¹⁹²⁶ Exhibit P00850, paras. 327, 331; Exhibit P01311.

¹⁹²⁷ Witness Babić, Exhibit P01248, pp. 1406, 1407. See Exhibit P00850, para. 339.

¹⁹²⁸ Witness Babić, Exhibit P01246, pp. 13156-13158, 13499, 13507; Witness Babić, Exhibit P01248, pp. 1405-1409; Exhibit P01305; Exhibit P01303, Exhibit P01980 (Part II), p. 87; Exhibit P00850, para. 269; Adjudicated Fact 159. See Exhibit P01306.

¹⁹²⁹ See *supra* n. 1918.

¹⁹³⁰ Witness Babić, Exhibit P01248, p. 1410; Witness RFJ-066, Exhibit P00202, para. 139.

¹⁹³¹ Exhibit P00850, para. 269; Adjudicated Fact 162.

¹⁹³² Exhibit P00045; Exhibit P00850, para. 341; Witness Babić, Exhibit P01246, pp. 13156, 13157, Exhibit P01248, pp. 1409, 1410; Adjudicated Fact 160. According to Witness Maksić, a JNA officer tasked to organize the Staff of the SAO Krajina Territorial Defence, the special purpose units did not have a fixed organization and consisted of a core group of 30 to 50 members, who were directly subordinated to Martić and were able to participate in military operations alongside the JNA 9th Corps, albeit not in the frontline as a combat unit but in the rear zone having combat-related tasks, such as “mopping up” the terrain, conducting reconnaissance activities, neutralizing resistance pockets, and

separate from both the public and state security services of the Ministry of Interior and were placed under the authority of the Ministry of Defence, which at the time was headed by Martić.¹⁹³³ Pursuant to a SAO Krajina government decision on the application of the Law on Defence of the Republic of Serbia on the territory of the SAO Krajina, the SAO Krajina armed forces, under the command of Babić as the President of the SAO Krajina government, consisted of the Territorial Defence and the special purpose units.¹⁹³⁴ The evidence indicates that members of the SAO Krajina Police, including the regular and special police, were also referred to as “Martić’s men”, or “*Martićevci*”, and some of them were trained at Golubić.¹⁹³⁵ The Krajina Police units wore patches on the sleeves of their uniforms reading in Cyrillic “*Milicija Krajine*”.¹⁹³⁶

483. The evidence on the record indicates that the Serbian State Security Service may have exercised a measure of influence over the SAO Krajina State Security Service in the first half of 1991. Specifically, in January 1991, Martić appointed Dušan Orlović as head of the SAO Krajina State Security Service,¹⁹³⁷ who was also sending his reports directly to the Serbian State Security Service in Belgrade.¹⁹³⁸ The Trial Chamber received evidence that several employees of the SAO Krajina State Security Service, and later of the Republic of Serbian Krajina State Security Service, had close links to the Serbian State Security Service and to Stanišić and Simatović.¹⁹³⁹ Witness RFJ-153, who from 19 May until the end of June 1991 took part in a mission to the SAO Krajina organized by the Federal Secretariat of Internal Affairs, gave evidence that he heard from various sources that the Serbian State Security Service, including Stanišić, were involved in organizing the SAO Krajina State Security Service and in arranging training at Golubić, including for police officers, some of whom became members of the SAO Krajina State Security Service.¹⁹⁴⁰ In view of

carrying out operations against infiltrators/terrorists. *See* Witness Maksić, Exhibit P00025, paras. 5, 15, 48, 66, 67, T. 22 June 2017 pp. 42, 63, 64, 77. *See also* Witness Maksić, T. 22 June 2017 pp. 5, 67-71; Exhibit P00066.

¹⁹³³ Exhibit P00045; Exhibit P01303; Exhibit P00850, para. 341. *See* Adjudicated Fact 160.

¹⁹³⁴ Exhibit P01337, Articles 5, 6; Exhibit P00850, paras. 341, 342; Witness Babić, Exhibit P01248, pp. 1433, 1434; Exhibit P01389. *See also* Exhibit P00320; Witness Maksić, Exhibit P00025, para. 68.

¹⁹³⁵ Witness RFJ-066, Exhibit P00202, paras. 138, 142; Witness RFJ-107, T. 7 September 2017 pp. 44-47; Witness Maksić, Exhibit P00025, para. 68; Exhibit P00850, para. 341. The Trial Chamber received evidence that personnel data on the members of the special purpose units indicates that similar units, or a previous version of the same unit, existed before 29 May 1991. *See* Exhibit P00338; Exhibit P00850, para. 341.

¹⁹³⁶ Adjudicated Fact 160.

¹⁹³⁷ Witness RFJ-066, Exhibit P00202, para. 88; Witness Babić, Exhibit P01246, p. 13497, Exhibit P01248, pp. 1379, 1380, 1417; Exhibit P00850, para. 346.

¹⁹³⁸ Witness RFJ-066, Exhibit P00202, paras. 88, 178, T. 13 July 2017 p. 23.

¹⁹³⁹ *See, e.g.*, Witness Babić, Exhibit P01246, pp. 12926, 12928, Exhibit P01248, pp. 1417, 1418; Witness RFJ-137, Exhibit P00245, paras. 12, 97, 98, Exhibit P00246, para. 9; Witness RFJ-066, Exhibit P00202, para. 88, T. 10 July 2017 p. 32; Witness RFJ-137, Exhibit P00245, paras. 12, 98, Exhibit P00246, para. 10; Witness RFJ-066, Exhibit P00202, para. 38, T. 10 July 2017 pp. 29, 30; Witness Drača, Exhibit 2D00331, pp. 16691, 16692, T. 27 November 2019 pp. 64, 65; Witness RFJ-137, Exhibit P00245, paras. 12, 98; Witness RFJ-113, T. 26 September 2017 pp. 43, 44, 50, T. 28 September 2017 pp. 25, 26; Exhibit 2D00403. *Cf.* Witness Drača, T. 27 November 2019 p. 61; Witness RFJ-113, T. 26 September 2017 pp. 43, 44, 50, T. 28 September 2017 pp. 25, 26; Exhibit 2D00403; Witness RFJ-066, Exhibit P00202, para. 177. *Cf.* Witness Drača, T. 27 November 2019 p. 62.

¹⁹⁴⁰ Witness RFJ-153, Exhibit P00002, paras. 44, 45, 50, 85-87, 133, Exhibit P00017, para. 14, T. 15 June 2017 pp. 22-29. *See* Witness RFJ-153, Exhibit P00002, paras. 90-95, T. 15 June 2017 pp. 32-36.

the above evidence, the Trial Chamber does not find entirely convincing Witness Aco Drača's testimony that the Serbian State Security Service did not provide any assistance to the SAO Krajina State Security Service.¹⁹⁴¹

484. The Trial Chamber received evidence of a power struggle between Martić and Babić for control over the SAO Krajina armed forces.¹⁹⁴² On 1 August 1991, the SAO Krajina government, with Babić as its President, adopted a decision disbanding the SAO Krajina State Security Service and replacing it with an agency for national security that would be under the control of the government.¹⁹⁴³ According to Witness Babić, this was done in order to eliminate the influence of the Serbian State Security Service in SAO Krajina, including that of the Accused, and to gain control over the police force, placing it under the authority of the government.¹⁹⁴⁴ Witness Babić stated that, immediately after the adoption of the decision, he met Stanišić by chance in Knin, and Stanišić asked for an explanation of this situation, responding with sarcasm to Babić's statement that the government intended to set up its own national security agency.¹⁹⁴⁵ According to Witness Drača, following the disbandment of the SAO Krajina State Security Service, the Republic of Serbian Krajina State Security Service was re-established in August 1992.¹⁹⁴⁶ Irrespective of whether the SAO Krajina State Security Service ceased to exist between August 1991 and August 1992, the Trial Chamber does not find the evidence sufficient to conclude beyond reasonable doubt that Stanišić and Simatović used the SAO Krajina State Security Service to manage the SAO Krajina police and any associated units, as argued by the Prosecution.¹⁹⁴⁷

3. Relationship between the Accused and Milan Martić

485. The evidence on the record demonstrates that Stanišić exerted influence over Martić, notwithstanding the absence of a *de jure* or *de facto* relationship of subordination. According to Witness RFJ-066, Martić trusted Stanišić entirely,¹⁹⁴⁸ he often met with him in Belgrade,¹⁹⁴⁹ and received instructions and assistance from him in relation to the establishment of the SAO Krajina

¹⁹⁴¹ See Witness Drača, T. 26 November 2019 pp. 19, 32, Exhibit 2D00331, p. 16709. See also Witness Drača, Exhibit 2D00331, pp. 16778, 16779.

¹⁹⁴² Witness RFJ-066, Exhibit P00202, para. 139; Witness Maksić, Exhibit P00025, paras. 88-98.

¹⁹⁴³ Exhibit P01307; Witness Babić, Exhibit P01248, pp. 1417, 1418, 1807, 1808; Exhibit P00850, para. 346.

¹⁹⁴⁴ Witness Babić, Exhibit P01246, p. 13159, Exhibit P01248, pp. 1417, 1418, 1807, 1808. See also Witness Babić, Exhibit P01248, pp. 1421, 1422; Exhibit P01338; Witness RFJ-137, Exhibit P00245, paras. 12, 98. According to Witness Babić, the SAO Krajina State Security Service "managed the Krajina Police, the volunteer units, and units that were directly under their command". See Witness Babić, Exhibit P01248, p. 1418.

¹⁹⁴⁵ Witness Babić, Exhibit P01246, p. 13159, Exhibit P01248, pp. 1420, 1524, 1525. See also Exhibit P02771, pp. 3, 4.

¹⁹⁴⁶ Witness Drača, T. 27 November 2019 p. 2.

¹⁹⁴⁷ See Prosecution Final Trial Brief, para. 331. See also Prosecution Final Trial Brief, paras. 332, 333.

¹⁹⁴⁸ Witness RFJ-066, Exhibit P00202, para. 50.

¹⁹⁴⁹ Witness RFJ-066, Exhibit P00202, paras. 71, 75, 194, 201, 202, 205. See also Witness Vasiljević, Exhibit P02695, p. 15868, T. 28 January 2019 pp. 46, 47.

police.¹⁹⁵⁰ The witness also indicated that Stanišić would frequently convey to Martić Milošević's decisions.¹⁹⁵¹

486. Witness RFJ-144 testified that, in early 1992 at Golubić, Martić, who at the time was Minister of Interior of the Republic of Serbian Krajina, referred to Stanišić as “Ledeni” and as his “only and first commander” in Stanišić's presence.¹⁹⁵² Having observed Stanišić and Martić during two meetings, one in February and one in April 1992, Witness Vasiljević concluded that the relationship between the two men was that “of a superior dominating over a subordinate”, with Stanišić correcting demands for resources that Martić would make.¹⁹⁵³ The witness also observed that, prior to and after meetings with the President of Serbia, Martić would always stop by Stanišić's office.¹⁹⁵⁴

487. When asked to describe the nature of the relationship between Martić and Stanišić, Witness Babić stated that the two were “[q]uite friendly, they cooperated closely, and Martić listened carefully to what Stanišić had to say. It wasn't any sort of formal subordination but rather taking advice from a senior colleague. It didn't involve any sort of obedience”.¹⁹⁵⁵ In relation to Martić's brief appointment as Minister of Defence following the establishment of the SAO Krajina government in May 1991, Witness Babić was told by people at the Knin police station that Stanišić and Simatović had advised Martić to relieve his position as Minister of Defence and become instead Minister of Interior.¹⁹⁵⁶ According to Witness Babić, this information was confirmed in 1993, when he was told by Stanišić himself that they had made a mistake for not leaving Martić as Minister of Defence.¹⁹⁵⁷ In addition, the Trial Chamber received evidence that, in April 1994, during talks about the composition of the Republic of Serbian Krajina government, Martić, who initially opposed the nomination of Borivoje Rasuo as Minister of Information, later acceded to Rasuo's appointment following Stanišić's endorsement.¹⁹⁵⁸ In view of this evidence, the Trial Chamber does not accept Witness RJS-07's account that neither Martić nor anyone else spoke of Martić having a close relationship with Stanišić.¹⁹⁵⁹ In sum, the evidence generally indicates that Stanišić exerted a

¹⁹⁵⁰ Witness RFJ-066, Exhibit P00202, paras. 72, 73, 77, Exhibit 1D00021, p. 7360, T. 13 July 2017 p. 11.

¹⁹⁵¹ Witness RFJ-066, Exhibit P00202, paras. 60, 194. *See also* Witness RFJ-066, Exhibit P00202, para. 201; Exhibit P01463, p. 1.

¹⁹⁵² Witness RFJ-144, Exhibit P01582, pp. 1623, 1624, T. 23 January 2018 pp. 42, 43. *See* Witness RFJ-144, T. 23 January 2018 pp. 45-47.

¹⁹⁵³ Witness Vasiljević, Exhibit P02695, pp. 15867, 15868.

¹⁹⁵⁴ Witness Vasiljević, Exhibit P02695, p. 15868, T. 28 January 2019 pp. 46, 47.

¹⁹⁵⁵ Witness Babić, Exhibit P01248, p. 1525. *See also* Witness Babić, Exhibit P01246, pp. 13123-13125 (stating that Martić was “actually subordinate, or under the influence of people from the State Security Service of Serbia, and Slobodan Milošević personally”).

¹⁹⁵⁶ Witness Babić, Exhibit P01246, pp. 13156-13158, 13499, 13507, Exhibit P01248, pp. 1405-1409.

¹⁹⁵⁷ Witness Babić, Exhibit P01248, p. 1408.

¹⁹⁵⁸ Witness Babić, Exhibit P01246, pp. 13097, 13605. *See also* Witness Babić, Exhibit P01246, pp. 13249-13251; Exhibit P01293, p. 2.

¹⁹⁵⁹ Witness RJS-07, T. 29 August 2019 pp. 49-51.

degree of influence over Martić, but their relationship, in the words of Babić, “didn’t involve any sort of obedience”.¹⁹⁶⁰

488. As to the relationship between Martić and Simatović, the evidence is insufficient to conclude that Simatović exercised any degree of authority over Martić. In addition, there is evidence that, in June or July 1991, Martić asked Stanišić to remove Simatović from Krajina.¹⁹⁶¹ According to Witness RFJ-066, the relationship between Martić and Simatović deteriorated as Martić felt that Simatović was gaining too much control over the recruits at Golubić, including over the SAO Krajina Territorial Defence.¹⁹⁶²

4. Financial and Other Support Provided to the SAO Krajina Police

489. Following the “Log Revolution”, the Croatian government halted payments to the Serb municipalities in Krajina, which, in turn, suspended their contributions to the republican budget and sought financial assistance from Serbia and elsewhere.¹⁹⁶³ The evidence demonstrates that, starting in October 1990, Milošević met frequently with Babić, expressing his support to the SAO Krajina Serbs,¹⁹⁶⁴ and assuring Babić provision of financial and logistical assistance by Serbia, as well as military protection by the JNA.¹⁹⁶⁵ The evidence further shows that, with the setting up of the SAO Krajina government in May 1991, its budget was funded, in small part, by taxes collected on the territory of the SAO Krajina and, to a large extent, by assistance from Serbia,¹⁹⁶⁶ making the SAO Krajina, and later the Republic of Serbian Krajina, economically and financially dependent on Serbia.¹⁹⁶⁷

¹⁹⁶⁰ See *supra* n. 1955.

¹⁹⁶¹ Witness RFJ-066, Exhibit P00202, paras. 121, 124, T. 24 August 2017 p. 9, Exhibit 1D00021, pp. 7275, 7278-7280, 7328. See Witness RFJ-066, Exhibit P00202, paras. 117-120, Exhibit 1D00021, p. 7254.

¹⁹⁶² Witness RFJ-066, Exhibit P00202, paras. 117, 120, Exhibit 1D00021, pp. 7257, 7265, 7266. See Witness RFJ-066, Exhibit P00202, paras. 118, 119, T. 10 July 2017 pp. 34, 35. See also Witness Babić, Exhibit P01246, pp. 13162-13164, 13748, 13750, Exhibit P01248, pp. 1427, 1428, 1430, 1431.

¹⁹⁶³ Witness Babić, Exhibit P01246, pp. 12946-12953, 12955, Exhibit P01248, pp. 1454, 1457; Witness RFJ-066, Exhibit P00202, para. 83, T. 23 August 2017 pp. 3-5; Exhibit P01573; Witness Bosnić, Exhibit 1D00236, paras. 54, 55. See Exhibit P01406; Witness Bosnić, Exhibit 1D00236, paras. 47, 49, 51-53, T. 21 August 2019 pp. 28, 29.

¹⁹⁶⁴ Witness Babić, Exhibit P01246, pp. 13092-13094, 13985, Exhibit P01247, p. 3344. See Witness Babić, Exhibit P01246, pp. 13041, 13042, 13044, 13055, 13056, 13103, 13104, 13107, 13111, 13164, 13177, 13179, 13184, 13193-13195, 13197, 13236, 13237, 13249, 13250, 13650, 13651, 13767, 13811, Exhibit P01248, pp. 1526, 1527, 1794, Exhibit P01247, pp. 3350, 3351, 3389, 3401, 3402, 3508. See also Witness RJS-07, Exhibit 1D00257, paras. 24, 26, 30, 76, T. 28 August 2019 pp. 16, 17, 40, 41, Exhibit 1D00266, p. 3.

¹⁹⁶⁵ Witness Babić, Exhibit P01246, pp. 12972-12976, 13094, 13108, Exhibit P01248, pp. 1367, 1368, 1456, 1505, 1506. See Witness Babić, Exhibit P01246, pp. 14044, 14045. See also Witness Babić, Exhibit P01246, pp. 13608, 13932.

¹⁹⁶⁶ Witness Babić, Exhibit P01246, p. 12955, Exhibit P01248, pp. 1458, 1459. See also Exhibit P01252.

¹⁹⁶⁷ See Witness Babić, Exhibit P01246, pp. 12969-12971, 13758, Exhibit P01248, p. 1455. See also Exhibit P01374; Witness Babić, Exhibit P01246, pp. 12978-12984; Exhibit P00163; Exhibit P01256; Exhibit P01255; Exhibit P01257; Exhibit P00323; Exhibit 1D00247. In 1991, the SAO Krajina Territorial Defence was financed by the Serbian Ministry of Defence/JNA. See Witness Babić, Exhibit P01246, p. 12956, Exhibit P01248, p. 1460; Witness Maksić, Exhibit P00025, paras. 57, 132, 133. As of September 1991, assistance, including ammunition and weapons, was sought from the Serbian Ministry of Defence (see Witness Babić, Exhibit P01246, pp. 12956, 12957, 12961-12965, Exhibit P01248,

490. The Prosecution relies primarily on the evidence of Witness RFJ-066 to support the allegation that, until about mid-1991, Simatović was regularly delivering cash to Martić for the payment of police salaries and that, after that date, Martić would pick up cash himself from Stanišić in his office in Belgrade.¹⁹⁶⁸ The Accused strongly contest the credibility of Witness RFJ-066 and the reliability of his evidence, pointing to inconsistencies and to a lack of corroboration of key aspects of his testimony.¹⁹⁶⁹

491. The Trial Chamber received evidence that the SAO Krajina Police, and later the Republic of Serbian Krajina Police, received private donations, including cash and food,¹⁹⁷⁰ and funding, including payments in cash and through the Public Accountancy System, from the Serbian Ministry of Interior.¹⁹⁷¹ As described below, the Trial Chamber also heard the evidence of Witness RFJ-066 that Martić received financial assistance directly from the Accused for the needs of the SAO Krajina police. The Trial Chamber finds the evidence sufficient to conclude that Stanišić and Simatović were involved in the provision of financial assistance to the SAO Krajina police, as well as in the delivery of communication equipment and some limited technical support, until mid-1991.

492. Witness RFJ-066 gave evidence that, in January 1991, following a meeting with Stanišić and Bogdanović in Belgrade, he was told by Martić that Stanišić had assured him that he would receive all the necessary assistance for setting up the police stations in Krajina, including funding, technical equipment, and manpower.¹⁹⁷² According to Witness RFJ-066, after Stanišić gave Martić the green light, police stations were set up all over the SAO Krajina with funding, which Martić told Witness RFJ-066, was provided by Stanišić.¹⁹⁷³ New police stations were established in villages

pp. 1460-1465; Exhibit P00055; Exhibit P01258; Exhibit P00043), which also funded the Serbian Krajina Army, as it was called after 18 May 1992. *See* Witness Babić, Exhibit P01248, pp. 1466, 1467; Witness Nielsen, T. 23 November 2017 p. 13.

¹⁹⁶⁸ Prosecution Final Trial Brief, para. 329, nn. 1447-1451.

¹⁹⁶⁹ Stanišić Final Trial Brief, paras. 368-370, 398-406, Annex XVIII; Simatović Final Trial Brief, paras. 240-250.

¹⁹⁷⁰ Witness Drača, Exhibit 2D00331, p. 16692; Witness RJS-07, Exhibit 1D00257, paras. 54, 56, Exhibit 1D00258, pp. 12965-12972, 12987, T. 27 August 2019 p. 33; Witness OFS-14, T. 10 December 2019 p. 23, Exhibit 2D00359, pp. 15865-15868; Witness Bosnić, T. 21 August 2019 p. 29, Exhibit 1D00236, paras. 54, 55; Exhibit 1D00261; Exhibit 1D00262; Witness RFJ-066, Exhibit P00202, para. 82.

¹⁹⁷¹ Witness Babić, Exhibit P01246, p. 12955, Exhibit P01248, pp. 1458, 1459, 1465, 1466. *See* Exhibit P01253; Witness Maksić, Exhibit P00025, paras. 133, 134; Witness Babić, Exhibit P01246, p. 12968. *See also* Witness Bosnić, T. 21 August 2019 pp. 27, 28. The Trial Chamber notes that, according to a Serbian State Security Service report, dated 12 October 1992, Martić expressed dissatisfaction with the way that the Republic of Serbian Krajina was treated by the Serbian Ministry of Interior as, in his opinion, he had not received the assistance that he had expected. *See* Exhibit P03202, p. 3. *See also* Witness RJS-07, Exhibit 1D00270, p. 5; Exhibit 2D00529; Exhibit P00850, para. 458.

¹⁹⁷² Witness RFJ-066, Exhibit P00202, paras. 71-73, Exhibit 1D00021, pp. 7281, 7307, 7309, 7360. *See* Witness RFJ-066, Exhibit 1D00021, pp. 7280, 7356-7358.

¹⁹⁷³ Witness RFJ-066, Exhibit P00202, para. 77.

where the majority of the population were Serbs and had no direct contact with Knin, and Serbs were placed in charge of police stations that already existed.¹⁹⁷⁴

493. Witness RFJ-066 further testified that he often saw Simatović delivering bags to Knin, including between late 1990 and the first half of 1991 and, although the witness did not personally see their content, he was told by Martić that the bags contained cash, which was used for the payment of salaries.¹⁹⁷⁵ According to the witness, Simatović stopped delivering money to the SAO Krajina around June 1991, when he had a conflict with Martić and had to leave the region.¹⁹⁷⁶ Witness RFJ-066 further testified that, between January and June 1991, Martić would visit Stanišić's office in Belgrade at least once or twice a week, returning with cash and technical equipment.¹⁹⁷⁷ The witness stated that, in September 1991, he personally picked up a bag with money from Stanišić's office for the police in Knin.¹⁹⁷⁸ According to the witness, Nikola Rastović, who Martić put in charge of finances, also visited Stanišić's office in Belgrade to collect money.¹⁹⁷⁹

494. For reasons explained elsewhere in this Judgement, the Trial Chamber treats the evidence of Witness RFJ-066 with caution.¹⁹⁸⁰ While the Trial Chamber notes that the witness provided a reasonable explanation for what appeared to be inconsistencies with some of his prior evidence,¹⁹⁸¹ the witness acknowledged that he did not personally see the content of the bags delivered by Simatović.¹⁹⁸² In addition, the Trial Chamber does not find convincing the witness's description of the frequency with which Martić purportedly visited Stanišić's office in Belgrade to collect money.¹⁹⁸³ In view of these considerations and its general reservations in relation to this witness's evidence, the Trial Chamber has decided to rely on Witness RFJ-066's account only to the extent that it demonstrates that Stanišić and Simatović were involved in the provision of some financial support to the SAO Krajina police between late 1990 and the first half of 1991, but not in relation to the specific details of such support.

¹⁹⁷⁴ Witness RFJ-066, Exhibit P00202, paras. 73, 77, 79, Exhibit 1D00021, p. 7309, T. 13 July 2017 p. 11. *See* Witness RFJ-066, Exhibit P00202, para. 76; Exhibit P01549. *See also* Witness RFJ-153, Exhibit P00002, para. 43; Witness OFS-14, T. 10 December 2019 pp. 20, 21.

¹⁹⁷⁵ Witness RFJ-066, Exhibit P00202, paras. 56, 69, 80, T. 22 August 2017 pp. 40-42, 44-46, 48, 49, Exhibit 1D00021, p. 7366, Exhibit 1D00022, para. 66.

¹⁹⁷⁶ Witness RFJ-066, Exhibit 1D00021, p. 7365, T. 22 August 2017 p. 42, Exhibit P00202, para. 80.

¹⁹⁷⁷ Witness RFJ-066, T. 12 July 2017 pp. 38-40, T. 13 July 2017 pp. 16-21, Exhibit P00202, para. 81.

¹⁹⁷⁸ Witness RFJ-066, Exhibit P00202, para. 84, Exhibit 1D00022, para. 68.

¹⁹⁷⁹ Witness RFJ-066, Exhibit P00202, para. 86, Exhibit 1D00022, para. 69.

¹⁹⁸⁰ *See supra* para. 16.

¹⁹⁸¹ *See* Witness RFJ-066, T. 22 August 2017 pp. 45, 46, 48, 49, T. 24 August 2017 pp. 29-32. *See also* Witness RFJ-066, Exhibit P00202, paras. 77, 96, 99, Exhibit 1D00022, paras. 26, 42, Exhibit 1D00021, pp. 7361-7363.

¹⁹⁸² Witness RFJ-066, T. 22 August 2017 pp. 41, 49, T. 24 August 2017 p. 32.

¹⁹⁸³ *See* Witness RFJ-066, T. 12 July 2017 pp. 37-39, T. 13 July 2017 pp. 19-22. *Cf.* Witness RFJ-066, Exhibit 1D00021, pp. 7310, 7311.

495. The Trial Chamber also notes the evidence that the Serbian State Security Service and the Accused were involved in providing the SAO Krajina police with communication equipment,¹⁹⁸⁴ some limited technical assistance,¹⁹⁸⁵ and funding for training special police units at Golubić in the first half of 1991.¹⁹⁸⁶

5. Arming of Serbs in SAO Krajina

496. The Prosecution submits that the Accused, Milošević, Radmilo Bogdanović, and Kertes initiated what became a massive, covert, and long-term campaign from 1991 to 1995 to arm the Croatian and Bosnian Serbs, and that, by late 1990, the Accused had delivered their first arm shipments in Croatia.¹⁹⁸⁷ According to the Prosecution, the arms were not supplied for defensive purposes, but rather for achieving the forcible removal of non-Serbs.¹⁹⁸⁸ The Prosecution further submits that the Accused played a particularly important role in organising arms from Belgrade until August 1991, while the JNA was ostensibly neutral, and that once the JNA and the Territorial Defence depots in SAO Krajina and SBWS made weapons available to the Serb population and forces, the convoys organized by the Accused from Serbia became less critical.¹⁹⁸⁹

497. The Accused submit that, starting in 1990, the increased militarization of the Croatian forces, intensifying anti-Serb rhetoric, and actions taken against Serbs, posed a real threat to the Serb population in the SAO Krajina, which in turn started arming itself for defensive purposes in a decentralized and disorganized manner until mid-1991, when the JNA and the Serbian Ministry of Defence became the dominant source of arms supply.¹⁹⁹⁰ Both Accused deny any involvement in the supply of arms to the SAO Krajina Serbs.¹⁹⁹¹ In addition, Simatović submits that, even if the

¹⁹⁸⁴ See Exhibit P00242, p. 1; Witness Mičić, T. 3 March 2020 p. 22; Witness Nielsen, T. 14 November 2017 pp. 66, 67, T. 21 November 2017 pp. 10-13; Witness RFJ-066, T. 11 July 2017 pp. 10, 11; Exhibit P00218; Witness RJS-07, Exhibit 1D00270, p. 5; Witness Maksić, Exhibit P00025, paras. 78, 79, 94, T. 22 June 2017 pp. 19, 43; Exhibit P00047. See also Witness RFJ-107, Exhibit P00313, para. 95.

¹⁹⁸⁵ See Witness RFJ-066, Exhibit P00202, para. 59, T. 23 August 2017 pp. 6, 7; Witness Babić, Exhibit P01246, pp. 13118, 13119, Exhibit P01248, pp. 1523, 1524. See also Witness RFJ-066, Exhibit 1D00021, p. 7216, T. 23 August 2017 pp. 8, 9; Exhibit 1D00826; Witness Staničić, Exhibit 1D00212, pp. 12418-12422, 12478, T. 17 July 2019 pp. 12, 13, Exhibit 1D00213, p. 5; Exhibit P03054.

¹⁹⁸⁶ Witness RFJ-066, Exhibit P00202, paras. 96, 107, T. 10 July 2017 p. 28, T. 23 August 2017 p. 16; Witness Babić, Exhibit P01246, p. 13134, Exhibit P01247, p. 3380, Exhibit P01248, pp. 1545, 1546. See Witness RFJ-066, T. 23 August 2017 pp. 17-19.

¹⁹⁸⁷ Prosecution Final Trial Brief, para. 230.

¹⁹⁸⁸ Prosecution Final Trial Brief, para. 231.

¹⁹⁸⁹ Prosecution Final Trial Brief, para. 232. See Prosecution Closing Arguments, T. 12 April 2021 pp. 4, 9, 56, 72.

¹⁹⁹⁰ See Staničić Final Trial Brief, paras. 200-209, 359-365, 384-391; Simatović Final Trial Brief, paras. 123-129, 132-144, 147, 153. See also Staničić Final Trial Brief, paras. 210-221.

¹⁹⁹¹ Staničić Final Trial Brief, para. 384; Simatović Final Trial Brief, paras. 132, 145, 150, 152. See also Staničić Closing Arguments, T. 13 April 2021 pp. 29, 42, 43, 54; Simatović Closing Arguments, T. 13 April 2021 p. 98.

testimony of Witness RFJ-066 about Simatović's involvement in such activity were to be accepted, the purported weapons delivery was insignificant in the context of the conflict.¹⁹⁹²

498. The evidence shows that, starting in 1990 and continuing into 1991, both the Croatian forces and the SAO Krajina Serbs engaged in extensive efforts to acquire arms from various sources in preparation for an impending conflict.¹⁹⁹³ The Trial Chamber also finds that the evidence described below demonstrates the involvement of the Serbian State Security Service and the Accused in the supply of weapons to SAO Krajina in the period from late 1990 until mid-1991.

499. According to Witness RFJ-066, upon Martić's request to Stanišić for weapons, in late November or early December 1990, Simatović and Radoslav Kostić, an operative of the Serbian State Security Service,¹⁹⁹⁴ delivered two blue police "PUCH" vehicles loaded with infantry weapons – automatic and semiautomatic rifles, rifle-launched grenades, and a couple of Thompsons, to the Knin police station.¹⁹⁹⁵ According to Witness RFJ-066, upon Martić's instructions, the weapons were subsequently distributed to various locations, including Korenica.¹⁹⁹⁶ Witness RFJ-066 further testified that he saw Simatović and Kostić delivering weapons from Serbia also on other occasions and was told by Martić that the weapons were intended for arming as many Serbs as possible.¹⁹⁹⁷ In particular, according to Witness RFJ-066,

¹⁹⁹² Simatović Final Trial Brief, paras. 145, 153.

¹⁹⁹³ See, e.g., Witness RFJ-113, 26 September 2017 pp. 62, 63; Exhibit 1D00273, pp. 2-8; Exhibit P02905; Exhibit 1D01389; Exhibit 1D00227; Exhibit 1D00763, p. 1; Exhibit 1D01384; Exhibit 1D00816, pp. 1-5; Exhibit 1D00761; Exhibit 1D00762, p. 2; Exhibit 1D01392, pp. 40-42; Witness Vasiljević, T. 31 January 2019 pp. 53-55; Exhibit 1D00226; Witness RJS-07, T. 27 August 2019 pp. 37-42, Exhibit 1D00257, paras. 19, 20, 42; Witness Drača, T. 26 November 2019 p. 10, Exhibit 2D00331, pp. 16694, 16695; Exhibit 1D00794; Exhibit P03052; Witness RFJ-107, T. 6 September 2017 pp. 17, 18, 26-29; Exhibit P00384; Witness Novaković, T. 8 October 2020 pp. 9-11; Exhibit P00383; Witness RFJ-066, T. 12 July 2017 p. 28; Witness Maksić, T. 22 June 2017 pp. 61, 62; Witness OFS-14, Exhibit 2D00359, pp. 15774-15776, 15797; Exhibit P01432, pp. 2, 3. See also Witness Theunens, T. 20 March 2018 p. 56. The Trial Chamber received evidence of increasing ethnic tensions fanned by the media (see, e.g., Witness Babić, Exhibit P01246, pp. 12995-13000, Exhibit P01248, pp. 1467-1470; Exhibit P01526; Witness RFJ-107, Exhibit P00313, paras. 168, 169; Witness RFJ-151, T. 21 September 2017 p. 18), including a broadcast by the Serb media in early 1991, purportedly showing the Croatian Minister of Defence, Martin Špegelj, procuring arms, threatening to "resolve Knin by means of slaughter", and discussing the liquidation of JNA officers (see Witness RFJ-113, T. 26 September 2017 pp. 62, 63, Exhibit P00562, para. 9; Exhibit 1D00001; Exhibit 2D00035; Exhibit P01526; Witness Bosnić, T. 21 August 2019 pp. 7, 8; Witness RFJ-153, T. 15 June 2017 pp. 52, 53; Witness Savić, T. 14 September 2017 p. 36. The Trial Chamber also received evidence that, in June and July 1991, Arkan and a group associated with him known as *Delijes*, were involved in securing the transport and distribution of weapons on the territory of Northern Dalmatia, along with the Zukanović brothers and Nebojša Mandinić. See Witness RFJ-107, T. 6 September 2017 pp. 23-28; Exhibit P00383, pp. 2, 3; Exhibit P00384, p. 1. See also Witness RFJ-107, T. 6 September 2017 pp. 40-47; Witness RJS-04, T. 10 July 2019 p. 27; Witness Novaković, T. 8 October 2020 pp. 9-11; Exhibit 2D00071. The evidence indicates that both Babić and Martić were aware of these weapon deliveries as well as the Serbian State Security Service, which received reports about this supply network. See Exhibit P00383, p. 2; Exhibit P00384; Witness RFJ-107, T. 6 September 2017 pp. 28, 29. See also Exhibit P00857; Witness Theunens, T. 22 March 2018 pp. 97-99; Exhibit P00843.

¹⁹⁹⁴ See Exhibit P00522, pp. 21, 22.

¹⁹⁹⁵ Witness RFJ-066, Exhibit P00202, paras. 51-54, T. 11 July 2017 pp. 21, 22, 24, T. 12 July 2017 pp. 28, 29, 32-35, Exhibit 1D00021, pp. 7292-7299.

¹⁹⁹⁶ Witness RFJ-066, T. 11 July 2017 pp. 5, 6.

¹⁹⁹⁷ Witness RFJ-066, Exhibit P00202, paras. 53, 58, T. 11 July 2017 pp. 6-8, 22. According to Witness RFJ-066, the weapons were later used by Serb forces in Krajina during the fighting in the summer and fall of 1991. See Witness RFJ-066, Exhibit P00202, para. 58.

Simatović delivered weapons in trucks from 1990 until the first half of 1991¹⁹⁹⁸ and, as of January 1991, weapons started arriving in trucks with licence plates belonging to the Serbian Ministry of Interior.¹⁹⁹⁹

500. Witness RFJ-066 further gave evidence that, in May or June 1991, the weapon deliveries involving the Accused ended as weapons stored in the JNA and Territorial Defence depots became available.²⁰⁰⁰ Other evidence also indicates that, as of August or September 1991, the SAO Krajina Territorial Defence sent requests to the Serbian Ministry of Defence for ammunition and other military equipment and that the Serbian Ministry of Defence supplied weapons and equipment.²⁰⁰¹

501. The Trial Chamber recalls that it has decided to treat the evidence of Witness RFJ-066 with caution.²⁰⁰² Having carefully considered the totality of the witness's evidence, including alleged inconsistencies in his testimony,²⁰⁰³ the Trial Chamber decides to rely on Witness RFJ-066's account only to the extent that it demonstrates that Stanišić and Simatović were involved in the provision of weapons to the SAO Krajina police in late 1990 and early 1991, but not in relation to the specific details of such support.

502. The Trial Chamber further received the evidence of Witness Babić that, at a meeting in Belgrade around 20 March 1991, Milošević informed Babić and David Rastović, vice-president of the SAO Krajina Executive Council, that he had purchased 20,000 weapons for the SAO Krajina Serbs.²⁰⁰⁴ Since Babić and Rastović were unaware of this procurement, Milošević summoned Bogdanović and Stanišić to his office and Bogdanović confirmed that 500 pieces had already been sent to Banija.²⁰⁰⁵ On 4 and 7 April 1991, on Bogdanović's order, the Serbian State Security Service

¹⁹⁹⁸ Witness RFJ-066, Exhibit P00202, paras. 61-64, T. 11 July 2017 pp. 3-5.

¹⁹⁹⁹ Witness RFJ-066, Exhibit P00202, para. 62. *See also* Witness OFS-24, Exhibit 2D00520, pp. 10023, 10024.

²⁰⁰⁰ Witness RFJ-066, Exhibit P00202, para. 64, Exhibit 1D00021, pp. 7286-7288. *See also* Witness RFJ-066, T. 12 July 2017 p. 28.

²⁰⁰¹ Exhibit P00055; Exhibit P00043; Witness Babić, Exhibit P01248, pp. 1460-1465, Exhibit P01246, pp. 12956, 12957, 12961-12964; Exhibit P01258; Exhibit 2D00773. *See* Witness Maksić, Exhibit P00025, para. 57. In 1992, the JNA supplied the Ministry of Interior of the Republic of Serbian Krajina with ammunition, pursuant to an order by the Federal Secretary for National Defence. *See* Exhibit 2D00210.

²⁰⁰² *See supra* para. 16.

²⁰⁰³ *See, e.g.*, Witness RFJ-066, T. 11 July 2017 pp. 25, 26, T. 22 August 2017 pp. 14-20, 22-35, T. 23 August 2017 pp. 7-13. *See also* Exhibit 2D00017; Exhibit 2D00018; Witness RJS-07, Exhibit 1D00257, para. 45. According to Witness RFJ-066, only Martić, Dušan Orlović, Milenko Zelenbaba, and Uroš Pokrajac, who was storing weapons at his home in Crni Lug, near Bosanska Grahovo, that were later distributed by smaller vehicles through Krajina, knew about the weapons arriving from Serbia. *See* Witness RFJ-066, Exhibit P00202, paras. 55, 61, T. 22 August 2017 p. 40. *See also* Witness Babić, Exhibit P01246, pp. 13270, 13680; Exhibit P00834, p. 3. In relation to Pokrajac, the witness stated that he was "Stanišić's man", taking instructions from him even at the time when Pokrajac was Martić's special advisor. *See* Witness RFJ-066, Exhibit P00202, para. 180. *See also* Witness RFJ-066, Exhibit P00202, para. 59, T. 13 July 2017 pp. 28-33, T. 23 August 2017 pp. 5-9; Exhibit P00242; Exhibit P00218; Exhibit P00221; Witness RFJ-107, Exhibit P00313, paras. 94, 97.

²⁰⁰⁴ Witness Babić, Exhibit P01246, p. 13103, Exhibit P01247, pp. 3350, 3351, Exhibit P01248, p. 1526.

²⁰⁰⁵ Witness Babić, Exhibit P01246, pp. 13104, 13654; Exhibit P01247, p. 3351, Exhibit P01248, pp. 1526, 1527. *See also* Witness Ristić, T. 27 June 2019 pp. 63, 64.

sent two convoys with weapons and ammunition to Knin.²⁰⁰⁶ According to Witness Staničić, the weapons, for the most part, came from the JNA arsenal.²⁰⁰⁷ Witness Babić was later told by Milenko Zelenbaba, the commander of the Knin police station, that the weapons arrived from the Territorial Defence warehouse in Serbia and were procured by Mihalj Kertes.²⁰⁰⁸

503. The Trial Chamber also received the evidence of Witness RFJ-095 indicating that Staničić may have been involved in the arrangement of covert weapon and ammunition shipments from the JNA military base in Bubanj Potok, outside Belgrade, to the SAO Krajina, through the Association of Serbian Émigrés.²⁰⁰⁹ However, given that the Accused did not have an opportunity to cross-examine Witness RFJ-095 and that the nature of his evidence, specifically with regard to Staničić's involvement, is hearsay,²⁰¹⁰ the Trial Chamber relies on it solely to the extent that it provides some further corroboration of the involvement of the Serbian State Security Service in facilitating weapons and ammunition distribution to the SAO Krajina, but not in relation to Staničić's specific actions.²⁰¹¹

504. The Trial Chamber considers that the above discussed evidence demonstrates that the Accused participated in, or facilitated, the shipment of arms to SAO Krajina in late 1990 and the first half of 1991. However, there is not sufficient reliable evidence of their continued involvement in sending arms beyond this period, and it appears instead that the JNA was likely the main source, in particular during the period when the crimes charged in the Indictment were committed.

6. Conclusion

505. The Trial Chamber has found that Staničić exerted influence over Martić, and that both Accused were involved in providing the SAO Krajina police with weapons, communication equipment, and some limited technical assistance in late 1990 and early 1991, as well as financial support between late 1990 and first half of 1991. The Trial Chamber recalls, however, its earlier finding that the common plan did not come into existence until at least August 1991. In these

²⁰⁰⁶ Exhibit P02453. See Witness Staničić, Exhibit 1D00212, pp. 12499-12501.

²⁰⁰⁷ Witness Staničić, Exhibit 1D00212, p. 12499.

²⁰⁰⁸ Witness Babić, Exhibit P01246, pp. 13104, 13106, Exhibit P01247, p. 3351, Exhibit P01248, pp. 1527, 1528.

²⁰⁰⁹ See Witness RFJ-095, Exhibit P01802, pp. 26606-26609, 26618, 26619, 26658, 26659, 26685, Exhibit P01801, paras. 7, 8, 11, 18. See also Witness RFJ-095, Exhibit P01801, paras. 12-14, 17. The name of the association was later changed to "Association of Serbs and Emigrants of Serbia", also known as Matica. See Witness RFJ-095, Exhibit P01802, p. 26590.

²⁰¹⁰ Witness RFJ-095 learned from Milan Prodanić, a senior official of the Serbian State Security Service, that Prodanić, Staničić, Milan Tepavčević, Mihalj Kertes and occasionally Branislav Crnčević, the Head of Matica, attended daily meetings at the premises of the Serbian State Security Service to discuss the deliveries to the SAO Krajina and the *Republika Srpska*. See Witness RFJ-095, Exhibit P01802, pp. 26606-26609, 26618, 26619, 26658, 26659, 26685, Exhibit P01801, paras. 3, 10, 11.

²⁰¹¹ Witness RFJ-095, Exhibit P01802, pp. 26590, 26591, 26594, 26595, 26597, 26607, 26609, 26611, Exhibit P01801, paras. 10, 11.

circumstances, the Trial Chamber does not consider the above described conduct of the Accused to constitute a contribution to the furtherance of the common criminal purpose.

H. Contribution in Relation to SAO SBWS

506. The Indictment alleges that the Accused contributed to the furtherance of the common criminal purpose by, *inter alia*, providing channels of communication between and among the core members of the joint criminal enterprise in Belgrade and locally, and by directing and organizing the formation of and the financing, training, logistical support, and other substantial assistance or support to various Serb forces, which were involved in the commission of crimes in Croatia during the Indictment period.²⁰¹² The Indictment further alleges that the Accused failed to instruct these Serb forces to refrain from committing unlawful acts, and failed to stop replenishing the forces on the ground who were committing unlawful acts.²⁰¹³

507. In connection with these allegations regarding the SAO SBWS, the Prosecution argues that: (i) Stanišić, together with Slobodan Milošević, coordinated with Goran Hadžić to establish separate Serb government structures, as well as to restructure them at the time of the Vance Plan;²⁰¹⁴ (ii) Stanišić established and supported separate Serb territorial defence, police, and state security structures through Hadžić and Serbian State Security Service operatives and associates, including Ilija Kojić and Radoslav Kostić, and Serbian Ministry of Interior employees, including Radovan Stojičić (Badža);²⁰¹⁵ and (iii) both Accused exercised authority and influence over Serb structures in the SAO SBWS through Serbian State Security Service operatives and associates embedded in positions of authority, including Kojić and Kostić, who armed, equipped, and financed the local structures.²⁰¹⁶

508. With respect to these allegations, Stanišić submits that Kojić, Kostić, and Badža may have been involved in the establishment and operations of local security structures in the SAO SBWS,²⁰¹⁷ but argues, *inter alia*, that they were set up for defensive purposes and/or contributed to the restoration of law and order in the area,²⁰¹⁸ and that the evidence does not show a sufficient link

²⁰¹² Indictment, paras. 3, 5, 15.

²⁰¹³ Indictment, paras. 5, 15.

²⁰¹⁴ Prosecution Final Trial Brief, paras. 81, 82, 227, 228, 364-370, 425, 429, 430, 443-463; Prosecution Pre-Trial Brief, paras. 12(c), 25, 35, 42, 45, 52.

²⁰¹⁵ Prosecution Final Trial Brief, paras. 71, 72, 96-99, 371-373, 378-408, 426-442; Prosecution Closing Arguments, T. 12 April 2021 pp. 56-64; Prosecution Rebuttal, T. 14 April 2021 pp. 5, 6, 12; Prosecution Pre-Trial Brief, paras. 12(c), 21, 35, 42, 45, 55-58, 92.

²⁰¹⁶ Prosecution Final Trial Brief, paras. 96-99, 250-253, 368-377; Prosecution Closing Arguments, T. 12 April 2021 pp. 56-59; Prosecution Pre-Trial Brief, paras. 32, 33, 42, 53, 57, 92.

²⁰¹⁷ Stanišić Final Trial Brief, paras. 572-584, 594, 629, 634.

²⁰¹⁸ Stanišić Final Trial Brief, paras. 421-453, 465-476, 478-480, 518-546, 648-652, 705-727, 1663-1668.

between these individuals and Stanišić for him to incur criminal responsibility for their actions.²⁰¹⁹ In this regard, Stanišić accepts that Kostić was a Serbian State Security Service operative from December 1990.²⁰²⁰ Moreover, Stanišić argues that there is no reliable evidence demonstrating that he acted as a coordinator between the Serbian government and the SBWS leadership, including Hadžić.²⁰²¹

509. Simatović, similarly, argues that there is no evidence proving beyond reasonable doubt that he had any contacts with members of the joint criminal enterprise, including Hadžić and Badža.²⁰²² Simatović further submits that Badža's tasks in the SAO SBWS were in response to the unstable security situation,²⁰²³ and that, given Simatović's position in 1990 and 1991, he could not have exercised any power and influence over the security structures in SAO SBWS.²⁰²⁴

1. Background

510. On 7 January 1991, the Serbian National Council was set up with Goran Hadžić as its president,²⁰²⁵ with the power to, *inter alia*, declare null and void all documents violating the Constitution of Yugoslavia and the sovereign autonomy of the Serbs in the SBWS.²⁰²⁶ In August 1991, local Serb communities declared their autonomy and established the SAO SBWS.²⁰²⁷ The seat of the government was in Dalj,²⁰²⁸ but moved to Erdut in the first half of September 1991, where Željko Ražnatović (Arkan) and his Serbian Volunteer Guard were stationed.²⁰²⁹ On 25 September 1991, Hadžić was officially appointed as President of the SAO SBWS government.²⁰³⁰ On 26 February 1992, SAO Western Slavonia and the SAO SBWS joined the Republic of Serbian Krajina and Hadžić was elected as its President.²⁰³¹

511. There is some evidence, as described below, indicating that Stanišić was meeting with Hadžić prior to, and following, the official establishment of the SAO SBWS government and that he might have provided Hadžić with some advice, either directly or through others. However, such

²⁰¹⁹ Stanišić Final Trial Brief, paras. 454-464, 482-510, 547-598, 628, 631-635, 1622-1650; Stanišić Closing Arguments, T. 13 April 2021 pp. 16-30, 33-38.

²⁰²⁰ Stanišić Final Trial Brief, para. 586. *See also* Stanišić Final Trial Brief, Annex XI.

²⁰²¹ Stanišić Final Trial Brief, paras. 511-515.

²⁰²² Simatović Final Trial Brief, para. 28.

²⁰²³ Simatović Final Trial Brief, paras. 1173-1188.

²⁰²⁴ Simatović Closing Arguments, T. 13 April 2021 p. 105.

²⁰²⁵ Witness B. Bogunović, Exhibit P02718, para. 7.

²⁰²⁶ Exhibit P00453. *See* Adjudicated Fact 360.

²⁰²⁷ *See* Adjudicated Fact 340.

²⁰²⁸ Witness B. Bogunović, Exhibit P02718, para. 6; Witness RFJ-054, Exhibit P02665, para. 23. *See* Adjudicated Facts 340, 360.

²⁰²⁹ Witness RFJ-054, Exhibit P02665, para. 23; Witness Savić, Exhibit P00449, para. 172. *See* Witness RFJ-111, Exhibit P01174, pp. 9, 10.

²⁰³⁰ Witness RFJ-054, Exhibit P02665, para. 23; Exhibit P00454; Witness Babić, Exhibit P01246, p. 13227. *See also* Exhibit 2D00224.

²⁰³¹ Adjudicated Fact 363; Exhibit P01275.

evidence does not demonstrate beyond reasonable doubt that he coordinated with Hadžić in the organization or formation of the government structures in SAO SBWS or exercised authority over Hadžić.

512. Witness Borislav Bogunović, vice-president of the Serbian National Council at the time,²⁰³² gave evidence that, between January and August 1991, Hadžić visited Belgrade a number of times to meet with Milošević and Stanišić and would return with various instructions on topics ranging from setting up a government to what to do with produce from the area and the provision of security for a corridor to allow people to get supplies, work, live, and move about without any problems.²⁰³³ However, the witness confirmed that the Serbian National Council and the SAO SBWS government never had contact with the Serbian State Security Service.²⁰³⁴

513. Witness Borivoje Savić, secretary of the Serbian Democratic Party in Vukovar at the time,²⁰³⁵ expressed the view that, until May of 1991, the “service was involved at all levels” in the political affairs of the SAO SBWS.²⁰³⁶ However, the witness did not substantiate this statement further and acknowledged that no one interfered with his job of setting up the regional board of the Serbian Democratic Party.²⁰³⁷ Moreover, throughout his evidence, he demonstrated a lack of appreciation about the difference between state and military security.²⁰³⁸ According to Witness Savić, from May 1991, Mihalj Kertes provided Hadžić with Serbian State Security Service operative Lazar Šarac as his bodyguard in order to make sure that Hadžić followed the instructions of the Service.²⁰³⁹ There is, however, conflicting evidence as to whether Šarac was ever Hadžić’s bodyguard.²⁰⁴⁰ In any event, the content of reports sent by Šarac to his official superiors at different times in 1991 and 1992 does not suggest that his role was necessarily focused on Hadžić or might have gone beyond regular monitoring of the security situation in the SBWS.²⁰⁴¹ There is, therefore, insufficient evidence to show beyond reasonable doubt a link between Stanišić and Hadžić, demonstrating that Stanišić exercised control over Hadžić, other than that the developments in the SAO SBWS were monitored by the Serbian State Security Service.

²⁰³² Witness B. Bogunović, Exhibit P02718, para. 7.

²⁰³³ Witness B. Bogunović, Exhibit P02719, para. 15, Exhibit P02720, pp. 5972-5974, 6042, 6043. After one of these meetings, in May 1991, Hadžić returned from Belgrade telling the witness that the proposal to form a new government had been accepted and, although Hadžić did not specify who gave him this approval, the witness knew that he had visited Milošević. *See* Witness B. Bogunović, Exhibit P02718, para. 6. *See also* Witness B. Bogunović, Exhibit P02718, paras. 82, 83; Witness RFJ-054, Exhibit P02665, para. 39.

²⁰³⁴ Witness B. Bogunović, Exhibit P02720, pp. 6008, 6009. *Cf.* Witness Savić, T. 12 September 2017 pp. 57, 58; Exhibit P00484, pp. 5-8; Exhibit P00485. *See also* Exhibit 1D00819.

²⁰³⁵ Witness Savić, Exhibit P00449, para. 7.

²⁰³⁶ Witness Savić, T. 13 September 2017 pp. 19-23.

²⁰³⁷ Witness Savić, T. 13 September 2017 pp. 14, 23, 24.

²⁰³⁸ Witness Savić, Exhibit P00449, para. 30, T. 13 September 2017 pp. 25-33.

²⁰³⁹ Witness Savić, Exhibit P00449, paras. 78, 209, T. 13 September 2017 pp. 50-52.

²⁰⁴⁰ Witness N. Bogunović, Exhibit 1D00274, para. 41.

²⁰⁴¹ *See, e.g.*, Exhibit P00484; Exhibit P00485; Exhibit 1D00819; Exhibit P00460.

514. Evidence shows that, after the official establishment of the SAO SBWS government, Hadžić spent almost every night in Novi Sad, Serbia, and visited Belgrade frequently.²⁰⁴² The evidence further indicates that Hadžić's decisions appeared to have been influenced by his visits to Serbia.²⁰⁴³ There is also evidence that Hadžić was meeting with Stanišić at that time, whether in the SAO SBWS²⁰⁴⁴ or in Belgrade.²⁰⁴⁵ According to Witness Babić, when in Belgrade, Hadžić was under Stanišić's "complete control".²⁰⁴⁶ Similarly, Witness Borislav Bogunović expressed the view that Milošević controlled Hadžić through Arkan and Badža, and added that Stanišić was the link between Milošević, on the one side, and Arkan and Badža, on the other.²⁰⁴⁷ However, in the Trial Chamber's view, this evidence is speculative of Stanišić's role, as no witness could provide direct knowledge of Stanišić exercising authority or even influence over Hadžić, either directly or through others, about the appointments to and the policies of the SAO SBWS government.

515. In violation of the Vance Plan, Hadžić signed legislation in March 1992 taking steps towards forming an army in the Republic of Serbian Krajina,²⁰⁴⁸ which was officially formed in the spring of 1993.²⁰⁴⁹ In this regard, the Trial Chamber notes that a JNA security report refers to the preparation for the formation of a "Serbian Army" with the participation of the Serbian Ministry of Interior, and that among its leaders are "Frenki" and "a few other criminals who are closely related to Stanišić".²⁰⁵⁰ The report, however, relies on a single source and does not contain sufficient information or detail to allow the Trial Chamber to assess the credibility of its claim. Witness OFS-24, a member of the government of the Serbian Krajina, also provided evidence of a number of meetings with Stanišić in 1994 and 1995 wherein they exchanged information on political developments and the security situation in the SAO SBWS, as well as on the presence of United Nations peacekeepers and the negotiations of the Dayton and Erdut Agreements.²⁰⁵¹

516. The Trial Chamber notes that, although the evidence before it indicates that Stanišić met with Hadžić after the official establishment of the SAO SBWS government, as well as with other government officials at the time the Republic of Serbian Krajina was established, it does not show

²⁰⁴² Witness RFJ-041, Exhibit P01082, para. 99; Witness B. Bogunović, Exhibit P02720, pp. 5974, 5975. *See also* Witness Babić, Exhibit P01246, p. 13229.

²⁰⁴³ *See* Witness RFJ-113, Exhibit P00562, para. 108; Witness B. Bogunović, Exhibit P02720, pp. 5977, 5978, 5982, 5983; Witness Savić, T. 12 September 2017 pp. 62, 63.

²⁰⁴⁴ *See* Witness B. Bogunović, Exhibit P02718, para. 26; Witness RFJ-113, Exhibit P00562, para. 89, T. 26 September 2017 p. 58. *See also* Witness B. Bogunović, Exhibit P02719, para. 11.

²⁰⁴⁵ *See* Witness Babić, Exhibit P01246, p. 13230.

²⁰⁴⁶ Witness Babić, Exhibit P01246, p. 13230.

²⁰⁴⁷ Witness B. Bogunović, Exhibit P02719, para. 18. *See* Witness B. Bogunović, Exhibit P02720, p. 6061.

²⁰⁴⁸ *See* Exhibit P03435; Exhibit P01363; Exhibit P03412; Exhibit P01980 (Part II), p. 184; Exhibit P01318.

²⁰⁴⁹ Exhibit P01434. *See* Exhibit P03445; Exhibit P01980 (Part II), p. 180.

²⁰⁵⁰ Exhibit 2D00144.

²⁰⁵¹ Witness OFS-24, Exhibit 2D00520, pp. 10044, 10045, 10066-10072. *See* Witness OFS-24, Exhibit 2D00520, pp. 10047, 10048, 10116, 10117, 10120, 10121.

beyond reasonable doubt that Stanišić coordinated with Hadžić for the establishment of the Serbian government structures in the SAO SBWS or that he influenced the governmental policies.

2. Formation of SAO SBWS Territorial Defence

517. On 14 July 1991, Ilija Kojić was appointed commander of the SAO SBWS Territorial Defence, with its seat in Borovo Selo,²⁰⁵² and was in charge of transferring and receiving volunteers.²⁰⁵³ In the view of Witness RFJ-113, a high-ranking police official in Vukovar region at the time,²⁰⁵⁴ the Territorial Defence and the police, which were both under Kojić's authority, could not take any action without Kojić's approval.²⁰⁵⁵ In August 1991, Badža arrived in SAO SBWS as a representative of the Serbian Public Security Service.²⁰⁵⁶ Hadžić appointed Badža as the commander of the SAO SBWS Territorial Defence²⁰⁵⁷ either in August²⁰⁵⁸ or September 1991,²⁰⁵⁹ and he served in that role until the end of 1991, when he returned to Belgrade as the head of the Serbian Public Security Service.²⁰⁶⁰

518. The Trial Chamber received evidence that Badža arrived in the SAO SBWS with members of the special anti-terrorist unit of the Serbian Public Security Service,²⁰⁶¹ who were under his command and stationed at Erdut.²⁰⁶² There is also evidence that members of Badža's unit commanded each of the Territorial Defence units in the area when they engaged in operations.²⁰⁶³ Badža may also have maintained contact with authorities in Belgrade and received operational instructions from them.²⁰⁶⁴ Notwithstanding, there are also indications that the Territorial Defence

²⁰⁵² Witness Savić, T. 12 September 2017 p. 41; Witness OFS-24, Exhibit 2D00520, p. 10027; Witness RFJ-113, Exhibit P00562, para. 58; Exhibit P00572. *See* Witness N. Bogunović, T. 3 September 2019 pp. 20, 28. *See also* Exhibit 1D00295, p. 1; Exhibit P00850, paras. 281, 365.

²⁰⁵³ Exhibit 1D00833, p. 2.

²⁰⁵⁴ Witness RFJ-113, Exhibit P00562, para. 35.

²⁰⁵⁵ Witness RFJ-113, T. 26 September 2017 p. 20.

²⁰⁵⁶ Witness B. Bogunović, Exhibit P02720, pp. 6013, 6014; Witness RFJ-041, Exhibit P01082, para. 41; Witness RFJ-111, Exhibit P01177, pp. 4092-4094. *See also* Witness Nielsen, T. 23 November 2017 p. 15.

²⁰⁵⁷ Witness N. Bogunović, T. 3 September 2019 p. 38, T. 4 September 2019 pp. 57, 58. *Cf.* Witness N. Bogunović, T. 5 September 2019 pp. 3, 4; Exhibit P00022, p. 1; Exhibit P00582. *See also* Witness RFJ-144, Exhibit P01582, pp. 1657, 1658; Exhibit 2D00068; Exhibit P02047.

²⁰⁵⁸ Witness RFJ-111, Exhibit P01174, p. 7, Exhibit P01177, pp. 4028, 4029, 4092.

²⁰⁵⁹ Witness OFS-24, Exhibit 2D00520, p. 10031; Witness RFJ-113, Exhibit P00562, para. 90. *See* Witness N. Bogunović, T. 5 September 2019 pp. 2-5, Exhibit 1D00275, p. 13286. *See also* Witness Knežević, Exhibit 1D00530, para. 19; Witness RFJ-111, Exhibit P01174, p. 7.

²⁰⁶⁰ Witness OFS-24, Exhibit 2D00520, p. 10031; Witness Gagić, Exhibit 2D00494, p. 17159.

²⁰⁶¹ Witness OFS-24, Exhibit 2D00520, p. 10145; Witness Gagić, Exhibit 2D00494, pp. 17123, 17124. *See* Witness RFJ-054, Exhibit P02665, para. 44. *See also* Witness RFJ-144, Exhibit P01579, p. 3; Witness RFJ-041, Exhibit P01082, para. 41.

²⁰⁶² Witness RFJ-041, Exhibit P01082, para. 41; Witness RFJ-054, Exhibit P02665, para. 44.

²⁰⁶³ Witness RFJ-144, Exhibit P01579, p. 3 (indicating that, in the witness's view, the reason for this command structure was that they were professional police officers, while the local Territorial Defence commanders were inexperienced).

²⁰⁶⁴ Witness B. Bogunović, Exhibit P02719, para. 15.

remained subordinated to the JNA until the end of 1991²⁰⁶⁵ and that Badža could not issue orders to the SAO SBWS government officials or *vice versa*.²⁰⁶⁶

519. After leaving the command of the SAO SBWS Territorial Defence, Kojić assumed the position of SAO SBWS Minister of Defence in the second half of 1991.²⁰⁶⁷ Evidence shows that, in December 1991, Kojić appointed, in his capacity as SAO SBWS Minister of Defence, a member of the special anti-terrorist police unit of the Serbian Public Security Service, who had arrived with Badža, as commander of the SAO SBWS Territorial Defence.²⁰⁶⁸ Badža took up the position of Assistant Minister in charge of the Serbian Public Security Service on 31 December 1991,²⁰⁶⁹ and continued being involved, at least to some extent, in SAO SBWS matters.²⁰⁷⁰ In order to comply with the requirements of the Vance Plan, by May 1992, the Territorial Defence had become special police units,²⁰⁷¹ also known as the Blue Brigades.²⁰⁷²

520. The evidence indicates that the driving force behind the formation of the SAO SBWS Territorial Defence was Badža,²⁰⁷³ who, throughout the period of 1991 to 1995, belonged to the Serbian Public Security Service.²⁰⁷⁴ The Trial Chamber notes in this regard that the Public Security Service maintained a separate command structure from the State Security Service.²⁰⁷⁵ The Trial Chamber is not satisfied beyond reasonable doubt that there is sufficient evidence to suggest that Stanišić was Badža's superior²⁰⁷⁶ or had the authority to issue orders to him.²⁰⁷⁷ While Witness

²⁰⁶⁵ Witness RFJ-022, T. 31 October 2017 p. 68, T. 1 November 2017 pp. 5-8, T. 2 November 2017 pp. 15-17; Witness RFJ-144, Exhibit P01582, pp. 1656, 1661; Witness RFJ-041, T. 6 December 2017 pp. 37, 38; Witness B. Bogunović, Exhibit P02718, para. 56, Exhibit P02720, p. 6025; Witness OFS-24, Exhibit 2D00520, p. 10094; Exhibit 2D00055. See Witness Knežević, Exhibit 1D00530, para. 19.

²⁰⁶⁶ Witness OFS-24, Exhibit 2D00520, p. 10186.

²⁰⁶⁷ Exhibit P00850, para. 473; Witness RFJ-113, Exhibit P00562, para. 106, T. 26 September 2017 p. 23; Exhibit P00454. See Witness B. Bogunović, Exhibit P02718, para. 33; Witness Savić, T. 12 September 2017 p. 43; Witness N. Bogunović, Exhibit 1D00275, p. 13333, T. 5 September 2019 p. 6. See also Exhibit P00583; Witness RFJ-113, T. 26 September 2017 pp. 26, 29, 30.

²⁰⁶⁸ Exhibit P00584; Witness RFJ-113, T. 26 September 2017 pp. 30, 31; Witness OFS-24, Exhibit 2D00520, p. 10032.

²⁰⁶⁹ Witness OFS-24, Exhibit 2D00520, p. 10031; Exhibit P03249, p. 5; Witness RFJ-113, Exhibit P00562, para. 92; Witness Vasiljević, T. 30 January 2019 pp. 56, 57. In this capacity, he had command over the special anti-terrorist units (SAJ) and the special police units (PJPs) of the Serbian Public Security Service. See Witness Anastasijević, Exhibit P02423, para. 76.

²⁰⁷⁰ Witness RFJ-113, Exhibit P00562, para. 92. According to Witness Vasiljević, Stanišić was also present at the meeting when the Territorial Defence commander was selected and could express his opinion, but it was Badža who was in charge of the selection, not Stanišić. See Witness Vasiljević, T. 30 January 2019 pp. 50-54, T. 6 February 2019 p. 7. See also *supra* n. 2105.

²⁰⁷¹ See Witness OFS-24, Exhibit 2D00520, p. 10228.

²⁰⁷² Witness OFS-24, Exhibit 2D00520, p. 10035; Witness RFJ-151, Exhibit P00495, para. 41. The Plavi Brigades are distinguished from the Plavi (Blues), which was a unit of the Vukovar Secretariat of Internal Affairs sent to *Republika Sprska*. See Witness OFS-24, Exhibit 2D00520, p. 10219.

²⁰⁷³ See *supra* paras. 517-519.

²⁰⁷⁴ Witness RFJ-022, Exhibit P00779, p. 5069, Exhibit P00778, p. 25909, T. 31 October 2017 p. 64; Witness OFS-24, Exhibit 2D00520, p. 10031; Witness Anastasijević, Exhibit P02423, para. 84; Witness Nielsen, T. 14 November 2017 pp. 49, 50. See also Witness RFJ-144, Exhibit P01579, p. 4, Exhibit P01582, p. 1661.

²⁰⁷⁵ See para. 326. See also Witness RFJ-111, Exhibit P01177, pp. 4083-4085.

²⁰⁷⁶ See Witness Vasiljević, T. 28 January 2019 pp. 26, 27, T. 31 January 2019 p. 10; Witness Anastasijević, Exhibit P02423, para. 164.

²⁰⁷⁷ See Witness Vasiljević, T. 31 January 2019 pp. 13, 14.

Borislav Bogunović indicated that Hadžić told him that Stanišić served as the link between Badža and Milošević,²⁰⁷⁸ evidence shows that Badža had direct contact with Milošević.²⁰⁷⁹ Considering the above, the Trial Chamber is not satisfied beyond reasonable doubt that Stanišić contributed to the formation of the SAO SBWS Territorial Defence. As for Kojić, there is evidence suggesting that, in 1991, Kojić was not influential in the matters of the SAO SBWS Territorial Defence at the time when Badža was its commander.²⁰⁸⁰ The Trial Chamber will discuss below Stanišić's relationship with Kojić.²⁰⁸¹

3. Formation of SAO SBWS Police

521. In late June 1991, the local commune of Borovo Selo, at a meeting chaired by Ilija Kojić and Goran Hadžić, agreed to organize the "Vukovar police in exile", which would effectively be a civilian police force in Borovo Selo.²⁰⁸² On 14 July 1991, Hadžić, as chairman of the Serbian National Council, signed the decision officially establishing police stations in SAO SBWS.²⁰⁸³ From late July 1991, special police forces from the Serbian Ministry of Interior, composed of Serbs who were police officers previously working in Croatia,²⁰⁸⁴ were deployed under Badža's and Zavišić's command²⁰⁸⁵ and worked towards preventing looting,²⁰⁸⁶ helped establish police stations,²⁰⁸⁷ and trained Territorial Defence members and volunteers.²⁰⁸⁸ The evidence indicates that employees of the Serbian Ministry of Interior who volunteered as police officers in SAO SBWS continued receiving their salaries from the Serbian Ministry of Interior.²⁰⁸⁹ Hadžić, Kostić, and Kojić appointed persons to command positions in the local police with the aim to form a police

²⁰⁷⁸ Witness B. Bogunović, Exhibit P02720, p. 6061.

²⁰⁷⁹ Witness Savić, Exhibit P00449, para. 175; Witness OFS-24, Exhibit 2D00520, pp. 10076, 10077. *See* Witness Savić, T. 13 September 2017 p. 65; Witness OFS-24, Exhibit 2D00520, pp. 10144, 10145. *See also* Witness OFS-24, Exhibit 2D00520, p. 10152.

²⁰⁸⁰ Witness N. Bogunović, T. 3 September 2019 pp. 38, 39.

²⁰⁸¹ *See infra* Section V.H.5.

²⁰⁸² Witness RFJ-113, Exhibit P00562, paras. 33, 34 (indicating that, during this meeting, Kojić introduced Radoslav Kostić as a Serbian State Security Service official). *See* Witness Lemić, T. 11 September 2019 pp. 4, 5.

²⁰⁸³ Exhibit 2D00037.

²⁰⁸⁴ Witness RFJ-113, Exhibit P00562, paras. 69, 70. *See* Witness Knežević, Exhibit 1D00531, pp. 13384, 13385.

²⁰⁸⁵ Witness RFJ-113, Exhibit P00562, para. 70; Witness Knežević, Exhibit 1D00531, pp. 13479, 13480. *See* Witness Gagić, Exhibit 2D00494, pp. 17124-17126, 17192, 17193. *See also* Witness OFS-24, Exhibit 2D00520, pp. 10032, 10100.

²⁰⁸⁶ Witness RFJ-113, Exhibit P00562, para. 73; Witness Knežević, Exhibit 1D00531, p. 13385. *See* Witness Gagić, Exhibit 2D00494, pp. 17194, 17233; Witness OFS-24, Exhibit 2D00520, pp. 10032, 10099, 10100.

²⁰⁸⁷ Witness Knežević, Exhibit 1D00530, para. 11, Exhibit 1D00531, p. 13384. *Cf.* Kojić appears to have had the power to assign persons to certain positions in the special police unit based in the Erdut training camp. *See* Witness RFJ-113, T. 26 September 2017 pp. 35, 36; Exhibit P00586.

²⁰⁸⁸ Witness N. Bogunović, Exhibit 1D00274, paras. 50, 51, 53, 54, T. 3 September 2019 pp. 41, 44. *See* Witness N. Bogunović, T. 3 September 2019 pp. 44, 45.

²⁰⁸⁹ Witness N. Bogunović, Exhibit 1D00274, paras. 47-49. *See* Witness Knežević, Exhibit 1D00531, pp. 13385, 13386, 13467. The evidence indicates that reserve police forces in the SAO SBWS received their salaries from other sources, including private ones, and, as of February 1992, the government of the Republic of Serbian Krajina. *See* Witness Knežević, Exhibit 1D00530, para. 34. *Cf.* Witness RFJ-113, Exhibit P00562, paras. 37, 40 (indicating that local Serb police forces in the SAO SBWS were promised salaries from "Belgrade through the Serbian [State Security Service]", but the witness only received one salary in March 1992).

force in Vukovar and Dalj.²⁰⁹⁰ In mid-August, the new Dalj police station under the SAO SBWS government was established²⁰⁹¹ dealing with common crimes.²⁰⁹² According to Witness Petar Djukić, who, in 1991 and 1992, worked for the security and intelligence organ of the JNA,²⁰⁹³ Kojić was responsible for all the issues relating to the police, including material, security, uniforms, and medical treatment.²⁰⁹⁴ In the beginning of August 1991, Witness RFJ-113 was told that Kostić went to Baranja to set up police stations there.²⁰⁹⁵

522. Witness Borislav Bogunović offered somewhat inconsistent evidence about the influence of Serbia in the organization of the SAO SBWS police, indicating that the support of Serbia left no room for independent decisions to the SAO SBWS government when it came to important issues, including the police,²⁰⁹⁶ while also indicating that decisions concerning the setting up of police stations and protecting civilians in SAO SBWS were exclusively taken by the SAO SBWS government as opposed to having anything to do with Milošević.²⁰⁹⁷ From August 1991, Hadžić and representatives of the local police, sometimes in coordination with Badža, went to the Novi Sad police building, which belonged to the regional secretariat of the Serbian Ministry of Interior in Vojvodina, to pick up uniforms, weapons, communications means, and vehicles for the SAO SBWS police.²⁰⁹⁸ Witness Borislav Bogunović gave evidence that, although Stanišić happened to be present in some meetings in Bačka Palanka and Vojvodina, they were not planned official meetings.²⁰⁹⁹

523. Witness Borislav Bogunović indicated that Badža always attended the SAO SBWS government meetings in the second half of 1991.²¹⁰⁰ There is evidence that, during this period, Badža contributed to bringing order to the SAO SBWS police structures,²¹⁰¹ appointed Kojić as head of the police administration in Eastern Slavonia and Miodrag Zavišić in Baranja,²¹⁰² and

²⁰⁹⁰ Witness RFJ-113, Exhibit P00562, paras. 35, 36, 68.

²⁰⁹¹ Witness RFJ-054, Exhibit P02665, para. 18. *See* Witness RFJ-111, Exhibit P01174, p. 6, Exhibit P01176, para. 4; Witness RFJ-113, Exhibit P00562, para. 68.

²⁰⁹² Witness RFJ-025, Exhibit P00423, p. 3. *See* Witness RFJ-111, Exhibit P01177, p. 4032.

²⁰⁹³ Witness Djukić, T. 21 January 2020 pp. 2, 3.

²⁰⁹⁴ Witness Djukić, T. 21 January 2020 p. 13.

²⁰⁹⁵ Witness RFJ-113, Exhibit P00562, para. 69.

²⁰⁹⁶ Witness B. Bogunović, Exhibit P02720, pp. 5990, 5991, 6047.

²⁰⁹⁷ Witness B. Bogunović, Exhibit P02720, p. 6059.

²⁰⁹⁸ Witness B. Bogunović, Exhibit P02719, para. 14, Exhibit P02718, para. 13, Exhibit P02720, pp. 5995-5997, 6009-6011; Witness RFJ-111, Exhibit P01174, pp. 7, 8; Witness RFJ-113, T. 28 September 2017 pp. 32-34. *See* Witness RFJ-113, Exhibit P00562, para. 84; Witness B. Bogunović, Exhibit P02719, para. 19. *See also* Witness B. Bogunović, Exhibit P02720, p. 6069 (indicating that the Vojvodina Secretariat of Internal Affairs was autonomous with regard to the Serbian Ministry of Interior).

²⁰⁹⁹ Witness B. Bogunović, Exhibit P02718, para. 26, Exhibit P02719, para. 14, Exhibit P02720, pp. 5995-5998.

²¹⁰⁰ Witness B. Bogunović, Exhibit P02718, para. 73. *Cf.* Witness RFJ-041, Exhibit P01082, para. 95 (indicating that Badža was attending the SAO SBWS government meetings occasionally).

²¹⁰¹ Witness RFJ-041, Exhibit P01082, paras. 44, 45, T. 5 December 2017 pp. 56-59, T. 6 December 2017 pp. 44, 45.

²¹⁰² Witness RFJ-144, T. 23 January 2018 pp. 20, 21, T. 24 January 2018 p. 11, Exhibit P01580, p. 2; Witness Knežević, Exhibit 1D00530, para. 28, Exhibit 1D00531, p. 13387. Zavišić worked for the Serbian Public Security Service. *See* Witness OFS-24, Exhibit 2D00520, pp. 10032, 10097; Witness Knežević, Exhibit 1D00530, para. 17. *Cf.*

visited police stations, providing expert advice.²¹⁰³ Evidence shows that, although he was appointed as Assistant Minister in charge of the Serbian Public Security Service at the end of 1991,²¹⁰⁴ Badža remained influential in SAO SBWS thereafter, as he continued to coordinate the SAO SBWS police and the Territorial Defence in 1992.²¹⁰⁵

524. Around the end of 1992 or early 1993, Kostić and Kojić were appointed Assistant Ministers of Interior of the Republic of Serbian Krajina,²¹⁰⁶ with Kostić responsible for Baranja and Kojić for Eastern Slavonia.²¹⁰⁷ According to Witness RFJ-113, the Serbian State Security Service and Belgrade authorities controlled everything that happened in Serbian Krajina through Kojić,²¹⁰⁸ and even the establishment of police stations was an idea of the Serbian State Security Service.²¹⁰⁹ However, these views of the witness are not further substantiated.

525. The evidence discussed above demonstrates that Hadžić, in late June and July 1991, and Badža, from August 1991 onwards, had leading roles in the formation of the SAO SBWS police. As such, the Trial Chamber is not convinced that Stanišić played a role in this regard. The relationship between the Accused and Kojić and Kostić, who were also among the key individuals involved in the formation and operations of the local police, will be discussed below in more detail.²¹¹⁰ The Trial Chamber notes that evidence concerning their relationship to the Accused, in any event, does not compel the conclusion beyond reasonable doubt that the Accused had a role in the formation of the SAO SBWS police.

Witness RFJ-132, Exhibit P01798, p. 3. *See also* Witness RFJ-113, Exhibit P00562, para. 69, Exhibit P00563, para. 15; Witness B. Bogunović, Exhibit P02720, pp. 6004, 6005, 6047, Exhibit P02718, para. 73.

²¹⁰³ Witness B. Bogunović, Exhibit P02720, pp. 6014, 6015. *See also* Witness RFJ-041, Exhibit P01082, paras. 44, 45.

²¹⁰⁴ *See supra* para. 519, n. 2069.

²¹⁰⁵ Witness RFJ-113, Exhibit P00562, para. 92. *See also* Witness OFS-24, Exhibit 2D00520, pp. 10023, 10072, 10073; Witness Vasiljević, T. 30 January 2019 pp. 56, 57. *Cf.* Witness Stefanović, T. 30 September 2020 p. 4 (indicating that after his appointment as Assistant Minister of the Serbian Ministry of Interior, Badža did not go to the SAO SBWS again).

²¹⁰⁶ Witness RFJ-113, T. 27 September 2017 pp. 50, 51. *See* Witness Djukić, T. 21 January 2020 pp. 10, 11; Exhibit P00162, p. 3; Witness RJS-07, Exhibit 1D00316, p. 13620; Exhibit P00588, p. 1; Witness RFJ-113, Exhibit P00562, para. 120; Witness RFJ-111, Exhibit P01177, pp. 4037, 4038, Exhibit P01174, p. 7; Witness Nielsen, T. 14 November 2017 pp. 59, 60; Exhibit P00850, para. 473; Witness RFJ-144, T. 23 January 2018 p. 26; Witness OFS-24, Exhibit 2D00520, pp. 10027, 10089; Exhibit 1D00039; Witness Drača, T. 27 November 2019 p. 59. *See also* Exhibit 1D00837, p. 2; Exhibit 1D00041; Exhibit 1D00723; Exhibit 1D00312, p. 2; Witness OFS-24, Exhibit 2D00520, p. 10094; Witness B. Bogunović, Exhibit P02718, para. 58.

²¹⁰⁷ Witness RFJ-113, T. 26 September 2017 p. 41, T. 27 September 2017 p. 51; Witness OFS-24, Exhibit 2D00520, p. 10089; Witness Drača, T. 27 November 2019 p. 32. *Cf.* Witness Djukić, T. 21 January 2020 pp. 10, 11.

²¹⁰⁸ Witness RFJ-113, Exhibit P00562, para. 120.

²¹⁰⁹ Witness RFJ-113, T. 28 September 2017 p. 5.

²¹¹⁰ *See infra* Section V.H.5.

4. Serbian National Security

526. In early May 1991, Hadžić established the so-called “Sekuritet”, or Serbian National Security, which had broad authority in the area of the SAO SBWS.²¹¹¹ Hadžić had personal control over this unit and all orders were coming directly from him.²¹¹² There is evidence that Badža and his special police unit provided the Serbian National Security with some logistical support, including communications equipment and advice.²¹¹³ Although, officially, the purpose of the Serbian National Security was to provide security against internal and external state enemies and to provide security to Hadžić and the SAO SBWS government building in Erdut,²¹¹⁴ the Trial Chamber heard evidence that it closely collaborated with Arkan’s Serbian Volunteer Guard and that it was involved in many incidents, including arrests and killings of non-Serb civilians and lootings.²¹¹⁵ It appears that, in early 1992, the group was dismantled either by Badža,²¹¹⁶ or by the SAO SBWS State Security Service unit under Zdravko Vučenović, who also opened an investigation into their activities.²¹¹⁷ The Trial Chamber, however, is not satisfied that there is sufficient reliable and credible evidence indicating beyond reasonable doubt that the Accused were directly or indirectly involved in the formation, supply, financing, and operation of the Serbian National Security.

5. Relationship of the Accused with Serbian State Security Service Operatives

527. The evidence indicates that a number of staff of the Serbian Krajina Ministry of Interior were simultaneously staff of the Serbian Ministry of Interior,²¹¹⁸ and that the Serbian State Security

²¹¹¹ Witness RFJ-144, Exhibit P01580, pp. 1, 2, T. 23 January 2018 pp. 29, 30. *See* Witness RFJ-041, Exhibit P01082, paras. 70, 76; Witness RFJ-111, Exhibit P01177 pp. 4059, 4060. Stevo Bojić (Jajo), who in 1990 was a member of the Borovo Selo branch of the Serbian Democratic Party, was appointed as the chief of the Serbian National Security. *See* Witness Savić, Exhibit P00449, paras. 80, 200; Exhibit P00472; Witness RFJ-113, Exhibit P00562, para. 106; Witness RFJ-111, Exhibit P01174, p. 17; Witness B. Bogunović, Exhibit P02718, para. 34; Witness RFJ-041, Exhibit P01082, para. 69.

²¹¹² Witness RFJ-144, Exhibit P01580, pp. 1, 2, T. 24 January 2018 p. 19. *See* Witness RFJ-041, Exhibit P01082, para. 68; Witness RFJ-111, Exhibit P01174, p. 17, Exhibit P01177, pp. 4113, 4114; Witness B. Bogunović, Exhibit P02720, p. 6039. *See also* Witness RFJ-041, Exhibit P01082, para. 140.

²¹¹³ Witness RFJ-041, Exhibit P01082, para. 75, T. 6 December 2017 p. 58.

²¹¹⁴ Witness RFJ-041, Exhibit P01082, para. 71, T. 5 December 2017 p. 62. *See* Witness B. Bogunović, Exhibit P02718, para. 34.

²¹¹⁵ Witness RFJ-144, Exhibit P01580, p. 2; Witness RFJ-041, Exhibit P01082, para. 86. *See* Witness RFJ-041, Exhibit P01082, paras. 94, 107; Witness RFJ-111, Exhibit P01174, p. 17, Exhibit P01177, pp. 4059, 4060, 4113, 4114; *supra* Section II.B.1(a)(iv). *See also supra* paras. 117, 145.

²¹¹⁶ Witness OFS-24, Exhibit 2D00520, pp. 10098, 10099.

²¹¹⁷ Witness RFJ-144, Exhibit P01580, pp. 2, 3. *See* Witness RFJ-144, Exhibit P01582, p. 1682, T. 24 January 2018 pp. 10, 11.

²¹¹⁸ Exhibit P00850, para. 466. *See* Witness Vasiljević, Exhibit P02685, pp. 15884-15885, T. 28 January 2019 pp. 18-19, T. 30 January 2019 pp. 50, 51, T. 6 February 2019 p. 7; Witness Anastasijević, Exhibit P02423, paras. 35, 36. Witnesses Vasiljević and Anastasijević refer to this as “vojna linija”. *See also* Witness OFS-24, Exhibit 2D00520, pp. 10027-10029. The Trial Chamber considers that, even if a “vojna linija” existed, it must still examine the Accused’s specific use of this alleged parallel channel to contribute to the commission of crimes. *See supra* para. 443.

Service had its own network of intelligence gathering in Serb-controlled areas of Croatia,²¹¹⁹ where double-hatted individuals also supplied information to the Serbian State Security Service about political, economic and social development, and allegations of criminal conduct.²¹²⁰

528. According to Witness RFJ-151, who was affiliated with the SAO SBWS State Security Service, already in August and September 1991, Serbian State Security Service operatives from a local office in Sombor, Serbia, were in Baranja, working independently on collecting intelligence.²¹²¹ By the end of 1991 and in 1992, operatives and the chief of the Sombor State Security Centre were providing advice to the employees of the Beli Manastir State Security Centre and the two centres were exchanging reports and information at the level of center chiefs.²¹²² Some reports were carried by Kostić to Sombor and to Belgrade.²¹²³ Witness RFJ-151 gave evidence that the Serbian State Security Service appeared especially interested in information on the movement of civilians to Serbia and the transfer of weapons to Vojvodina.²¹²⁴ In 1995, the Sombor State Security Service took over the Beli Manastir State Security Service, and Stevan Opačić became its head.²¹²⁵

529. With respect to Kojić, the evidence is not conclusive as to his employment with the Serbian State Security Service prior to April 1993. There is evidence that indicates that he may have been a Serbian State Security Service employee from late 1991.²¹²⁶ However, there is also other evidence, including his personnel file, which reflects that he was an employee of the Serbian Public Security Service at the Secretariat of the Ministry of Interior in Belgrade from November 1991,²¹²⁷ and, only after 1 April 1993, a Serbian State Security Service employee until 30 December 2001.²¹²⁸

530. As for Kostić's employment relationship with the Serbian State Security Service, it appears that the parties do not contest that he was an operative from December 1990 until his death on 21

²¹¹⁹ Exhibit P00850, para. 467.

²¹²⁰ Witness Nielsen, T. 14 November 2017 p. 66. *See* Witness Vasiljević, T. 30 January 2019 pp. 50, 51, T. 6 February 2019 pp. 7, 8. *See also* Witness RFJ-144, Exhibit P01582, p. 1624, T. 23 January 2018 pp. 45, 46, T. 24 January 2018 p. 5; Exhibit P02787, pp. 1-4; Witness B. Bogunović, Exhibit P02720, pp. 5997, 5998; Witness Knežević, Exhibit 1D00531, pp. 13405, 13463-13465, 13509-13516, 13540-13544, Exhibit 1D00530, paras. 5, 48-50.

²¹²¹ Witness RFJ-151, Exhibit P00495, paras. 9, 142. *See* Witness RFJ-151, Exhibit P00495, para. 56.

²¹²² Witness RFJ-151, Exhibit P00495, paras. 142, 146, 168, Exhibit P00496, para. 12, T. 20 September 2017 p. 33.

²¹²³ Witness RFJ-151, Exhibit P00495, paras. 143, 150.

²¹²⁴ Witness RFJ-151, T. 20 September 2017 p. 37.

²¹²⁵ Witness RFJ-151, Exhibit P00495, para. 159.

²¹²⁶ Witness RFJ-113, Exhibit P00562, para. 120, T. 26 September 2017 pp. 15-19, 48, T. 28 September 2017 pp. 21-23; Witness RFJ-066, Exhibit P00202, paras. 174, 176; Witness Savić, T. 12 September 2017 pp. 39, 40, T. 13 September 2017 pp. 65, 66; Exhibit P00850, para. 473; Exhibit P00481, p. 3; Witness OFS-24, Exhibit 2D00520, pp. 10222, 10223; Witness Drača, T. 3 December 2019 pp. 29, 30; Exhibit P00519. *See also* Witness RFJ-066, Exhibit P00202, para. 78; Exhibit P00207. *Cf.* Witness N. Bogunović, T. 3 September 2019 pp. 47, 48, T. 5 September 2019 p. 12; Witness Drača, T. 27 November 2019 p. 62, T. 3 December 2019 pp. 13, 14, 23; Witness Lemić, Exhibit 1D00316, p. 13680, T. 10 September 2019 pp. 17, 43; Witness Novaković, T. 8 October 2020 pp. 20, 21; Witness OFS-24, Exhibit 2D00520, p. 10027. *See also* Witness OFS-24, Exhibit 2D00520, p. 10095.

²¹²⁷ Exhibit P00569, pp. 3, 5, 12, 13.

²¹²⁸ Exhibit P00569, pp. 6-8, 14, 15. *See* Witness RFJ-066, Exhibit P00202, para. 196; Witness RFJ-113, T. 27 September 2017 pp. 39, 40; Exhibit P00585. *See also* Exhibit P02350, p. 1.

November 1994, including with its Second Administration from May 1992.²¹²⁹ During Kostić's presence in the area of the SAO SBWS, there is evidence that he was tasked with certain intelligence gathering activities.²¹³⁰ In addition, the Trial Chamber notes that the fact that the training camp of the Serbian State Security Service in Kula was named after Kostić may imply that he played a larger role in the Serbian State Security Service.²¹³¹ However, the Trial Chamber observes that there is not sufficient reliable and credible evidence showing beyond reasonable doubt that Stanišić otherwise provided instructions to Kostić or influenced the manner of the conduct of his functions within the local security structures in the SAO SBWS. In addition, Kostić's affiliation with the Second Administration of the Serbian State Security Service from May 1992 until his death in November 1994, in and of itself, is not sufficient to link any acts in which he might have been involved to Simatović, in the absence of any reliable and credible evidence demonstrating contacts between the two in Kostić's exercise of his duties as Assistant Minister of the Republic of Serbian Krajina.

531. The Trial Chamber is satisfied that the evidence shows that Serbian State Security Service operatives were working within local security structures in the SAO SBWS, most prominently Kostić, throughout the Indictment period until his death, and Kojić, at least from April 1993. This alone suggests that Stanišić and Simatović may have exercised authority over them and directed them in their activities. However, reliable evidence of the Accused's interactions with these operatives, which principally consists of providing intelligence reports, and the inferences that can be drawn from them are limited. Indeed, bearing in mind the main role that the Serbian Public Security Service appears to have played through Badža in organizing and directing the local security structures, the deployment of the special anti-terrorist police unit of the Serbian Public Security Service, as well as the possibility that they operated under the instructions of other local leaders and the military command, there is doubt that these operatives' employment and periodic cooperation with the Serbian State Security Service implicates the criminal responsibility of the Accused.

²¹²⁹ See Prosecution Final Trial Brief, paras. 97-99, 117, 253, 372, 382, 449, 450, Annex A, RP. 38971, 38970; Stanišić Final Trial Brief, para. 587; Simatović Final Trial Brief, para. 517. See also Exhibit P00522; Witness OFS-24, Exhibit 2D00520, pp. 10024, 10090, 10091; Witness RFJ-151, Exhibit P00495, paras. 143, 155-157; Exhibit P00523; Exhibit P00524; Exhibit P00850, para. 466; Witness RFJ-113, Exhibit P00562, paras. 33, 34; Prosecution Closing Arguments, T. 12 April 2021 pp. 56, 57, 71.

²¹³⁰ Witness Krsmanović, T. 1 October 2019 pp. 8, 9, T. 24 September 2019 pp. 11, 12. See also Exhibit 1D00535; Exhibit 1D00825.

²¹³¹ See, e.g., Witness OFS-23, Exhibit 2D00506, para. 37.

6. Arming, Financing, and Providing Logistical and Other Support to Local Security Structures in SAO SBWS

532. Witnesses RFJ-113 and Savić expressed the view that weapons to arm Serbs in SAO SBWS started arriving already in 1990 through Kojić,²¹³² who was selected for this role by Kertes.²¹³³ According to Witness RFJ-113, the weapons distributed at that time were not appropriate for combat and could only serve in self-defence.²¹³⁴ In April or May 1991, Witness RFJ-113 heard that Kostić²¹³⁵ and Šarac were in charge of weapons transport²¹³⁶ and that, in May 1991, the distribution of weapons coming from Serbia to Borovo Selo occurred almost daily and was overseen by Kojić.²¹³⁷ In the same month, Witness RFJ-036, who worked for the police in Western Srem, heard that they received the weapons from the Serbian State Security Service and that Kertes was behind the arming.²¹³⁸

533. The Trial Chamber further observes that witnesses saw weapons arrive in SAO SBWS in the first half of 1991 and be distributed to locals through the Territorial Defence.²¹³⁹ The Trial Chamber notes, however, that these witnesses did not provide concrete details about the Serbian State Security Service being the source of the weapons.²¹⁴⁰ In May or June 1991, Kertes provided reassurances that arming would continue and that Milošević was aware of it.²¹⁴¹ Moreover, Kertes stated, at the time, that he and Stanišić were given *carte blanche* in the distribution of weapons.²¹⁴² In the Trial Chamber's view, this statement provides some indication that Stanišić was involved in the distribution of weapons in the first half of 1991, however, it does not clarify how and to what extent.

534. In addition, at a meeting in late June 1991 between SAO SBWS police representatives and the Minister of Interior of Serbia, Radmilo Bogdanović, regarding the provision of assistance for

²¹³² Witness RFJ-113, Exhibit P00562, para. 12, T. 27 September 2017 pp. 2, 3; Witness Savić, Exhibit P00449, para. 44. See Witness Savić, T. 13 September 2017 p. 74; Witness RFJ-113, Exhibit P00562, para. 13, T. 27 September 2017 p. 7. See also Witness Savić, T. 13 September 2017 pp. 63, 91-96.

²¹³³ Witness RFJ-113, Exhibit P00562, para. 18, T. 27 September 2017 p. 8.

²¹³⁴ Witness RFJ-113, T. 26 September 2017 p. 67, T. 27 September 2017 p. 7.

²¹³⁵ Witness RFJ-113, Exhibit P00562, paras. 15, 34, T. 28 September 2017 p. 74, Exhibit 2D00041, p. 4764.

²¹³⁶ Witness RFJ-113, Exhibit 2D00041, pp. 4762-4764.

²¹³⁷ Witness RFJ-113, T. 26 September 2017 pp. 44, 45. Cf. Witness N. Bogunović, Exhibit 1D00274, para. 21, T. 3 September 2019 p. 21.

²¹³⁸ Witness RFJ-036, Exhibit P02392, paras. 11, 13, T. 5 June 2018 p. 36. See also Witness RFJ-041, Exhibit P01082, paras. 13, 14, T. 5 December 2017 pp. 44-47.

²¹³⁹ Witness RFJ-113, T. 28 September 2017 pp. 76-78; Witness B. Bogunović, Exhibit P02720, pp. 6018, 6019. See also Witness RFJ-041, Exhibit P01082, para. 14.

²¹⁴⁰ See Witness RFJ-113, Exhibit P00562, para. 14; Witness RFJ-041, Exhibit P01082, para. 14; Witness B. Bogunović, Exhibit P02720, pp. 6018, 6019. See also Witness OFS-24, Exhibit 2D00520, p. 10093; Witness Savić, Exhibit P00449, paras. 121, 128, T. 13 September 2017 p. 79.

²¹⁴¹ Witness RFJ-113, Exhibit P00562, para. 18, T. 27 September 2017 p. 11. See also Witness RFJ-113, T. 27 September 2017 pp. 8, 9, 14, 15.

²¹⁴² Exhibit 1D00042, p. 3. See also Witness RFJ-113, T. 28 September 2017 pp. 80-82.

the setup of the local police,²¹⁴³ Stanišić came into the room and commented that it was inappropriate for the SAO SBWS representatives to meet the Minister of Interior directly and that they should go through “secret structures”, which the witness understood to mean Kojić and Kostić.²¹⁴⁴ The SAO SBWS police representatives were then taken to another room within the Ministry of Interior building where they met Kostić and Kojić, who criticised the representatives for having overstepped their authority and advised them to go through them in the future and not directly to the Minister of Interior and the Chief of the State Security Service in Belgrade.²¹⁴⁵ A few days later, Kostić invited the police representatives to collect weapons.²¹⁴⁶ This evidence, while not definitive, also suggests the involvement of Stanišić in the distribution of weapons. The Trial Chamber is mindful that Stanišić played a similar role in the first half of 1991 in relation to the provision of weapons to the SAO Krajina. Witness RFJ-113 also testified that, in July 1991, he often collected weapons from various locations, including the Serbian Ministry of Interior office in Novi Sad, Bačka Palanka, and Kula, following instructions from Kojić or Kostić, and then distributed them to different police stations in the SAO SBWS.²¹⁴⁷

535. Witness Savić testified that, in his view, the distribution of weapons must have been under the Serbian State Security Service, because there had to be coordination with an institution to buy weapons and no one but the Service could provide transport across borders without controls.²¹⁴⁸ However, the Trial Chamber is mindful that border control fell under the authority of the Public Security Service,²¹⁴⁹ and that Witness Savić could not sufficiently differentiate between the separate institutions of the Serbian Ministry of Interior, or between them and the JNA.²¹⁵⁰ Witness Savić also expressed the view that the Association of Serbian Émigrés which, in his view, was controlled by the Serbian State Security Service, sent weapons to Serbs in the SAO SBWS.²¹⁵¹ The witness also agreed with the information that the SAO SBWS government sent a request to the head of the association, Brane Crncević, for weapons and that he sent them to Kertes and Stanišić, but the witness could not independently verify this information.²¹⁵²

²¹⁴³ Witness RFJ-113, Exhibit P00562, para. 40. *See* Witness RFJ-113, Exhibit P00562, para. 33.

²¹⁴⁴ Witness RFJ-113, Exhibit P00562, para. 41, T. 26 September 2017 p. 47.

²¹⁴⁵ Witness RFJ-113, Exhibit P00562, para. 42.

²¹⁴⁶ Witness RFJ-113, Exhibit P00562, para. 43. *See also* Witness RFJ-151, Exhibit P00495, paras. 63, 154, Exhibit P00496, para. 8.

²¹⁴⁷ Witness RFJ-113, Exhibit P00562, para. 47.

²¹⁴⁸ Witness Savić, T. 13 September 2017 pp. 87, 90.

²¹⁴⁹ *See supra* para. 339; Witness RFJ-111, Exhibit P01177, pp. 4083-4085. *See also* Witness N. Bogunović, Exhibit 1D00275, pp. 13252, 13253, Exhibit 1D00274, para. 32, T. 3 September 2019 p. 23, T. 4 September 2019 pp. 30, 31.

²¹⁵⁰ Witness Savić, Exhibit P00449, para. 30, T. 13 September 2017 pp. 25-33.

²¹⁵¹ Witness Savić, T. 12 September 2017 pp. 45-47, T. 14 September 2017 pp. 20, 21. *Cf.* Witness Savić, T. 14 September 2017 p. 17.

²¹⁵² Witness Savić, T. 12 September 2017 p. 48, T. 14 September 2017 pp. 18, 19; Exhibit P00482, p. 1. *See* Witness Savić, T. 14 September 2017 pp. 20-25. *See also* Witness Anastasijević, Exhibit P02423, para. 81.

536. The Trial Chamber considers that there are clear indications in the evidence that the Serbian State Security Service provided some assistance in connection with the arming of SAO SBWS security forces in the first half of 1991 through secret channels, which involved Kertes, Kojić, and Kostić, and that Stanišić was likely involved to some degree. However, the Trial Chamber observes that, as the armed conflict escalated between July and August 1991, the relevant evidence largely reflects that the arming was supervised by the JNA.²¹⁵³ The Trial Chamber is mindful of Witness RFJ-113's evidence that Stanišić arrived at the SAO SBWS government building in Dalj on 19 or 20 September 1991, shouting at the police for the failure to takeover Vukovar despite having all the equipment they needed.²¹⁵⁴ The witness believes that information on what equipment they had was provided to Stanišić by Kojić and Kostić, as they were in charge of the weapon distribution in the area.²¹⁵⁵ This evidence, however, is not sufficient to demonstrate beyond reasonable doubt that Stanišić was involved in the weapon distribution during the relevant period. With respect to Simatović, the Trial Chamber is also not convinced beyond reasonable doubt that the evidence indicates that he played a role in the provision of arms to SAO SBWS security forces.

7. Conclusion

537. The Trial Chamber considers that Stanišić met with Hadžić before and after the formation of the government in the SAO SBWS and provided advice to him. However, there is not sufficient credible and reliable evidence demonstrating beyond reasonable doubt that Stanišić or Simatović exercised any authority over him in relation to the formation or operations of the SAO SBWS government or security structures, notwithstanding the presence of Serbian State Security Service operatives within the SAO SBWS local security organs. In addition, Stanišić may have been involved in providing weapons to the SAO SBWS in the first half of 1991. However, even if this were the case, the Trial Chamber recalls its earlier finding that the common plan did not come into existence until at least August 1991.²¹⁵⁶ In these circumstances, the Trial Chamber does not consider the above described conduct of the Accused to constitute a contribution to the furtherance of the common criminal purpose.

²¹⁵³ Witness RFJ-151, Exhibit P00495, paras. 57, 62, 63, T. 20 September 2017 pp. 3-6; Witness RFJ-113, Exhibit P00562, para. 54, T. 27 September 2017 p. 33; Witness RFJ-111, Exhibit P01177, pp. 4064, 4065; Witness RFJ-041, Exhibit P01082, para. 15; Witness RFJ-138, Exhibit P01771, p. 2, Exhibit P01774, para. 6, Exhibit P01775, p. 1987; Witness B. Bogunović, Exhibit P02720, p. 6021, Exhibit P02718, para. 72. *See also* Witness RFJ-151, T. 20 September 2017 pp. 22, 23, T. 21 September 2017 pp. 35, 36; Witness B. Bogunović, Exhibit P02720, pp. 6022, 6023, 6025, Witness RFJ-113, T. 27 September 2017 pp. 34, 35; Witness RFJ-138, Exhibit P01775, p. 1988; Witness Anastasijević, T. 19 June 2018 pp. 31, 32.

²¹⁵⁴ Witness RFJ-113, Exhibit P00562, para. 88, T. 26 September 2017 p. 57. *Cf.* Witness B. Bogunović, Exhibit P02720, p. 6044.

²¹⁵⁵ Witness RFJ-113, T. 26 September 2017 pp. 57, 58.

²¹⁵⁶ *See supra* para. 379.

I. Contribution in Relation to Bosnia and Herzegovina

538. The Indictment alleges that the Accused participated in a joint criminal enterprise by, *inter alia*, providing channels of communication between and among the core members of the joint criminal enterprise in Belgrade and locally, and by directing and organizing the formation of, and the financing, training, logistical support and other substantial assistance or support to various Serb forces, which were involved in the commission of crimes in Bosnia and Herzegovina during the Indictment period.²¹⁵⁷ The Indictment further alleges that the Accused failed to instruct these Serb forces to refrain from committing unlawful acts, and failed to stop replenishing the forces on the ground who were committing such acts.²¹⁵⁸

539. In connection with these allegations, the Prosecution argues that: (i) the Accused, primarily Stanišić, along with members of the joint criminal enterprise, including Slobodan Milošević, Radovan Karadžić, Momčilo Krajišnik, and Biljana Plavšić, collaborated to create separate Serb political, police, and military structures, as well as parallel lines of reporting, which would also later comprise *Republika Srpska* and the *Republika Srpska* Ministry of Interior;²¹⁵⁹ and (ii) the Accused and members of the joint criminal enterprise used Serbian State Security Service operatives and associates, including Radoslav Kostić, Predrag Radulović, and Branko Popović (also known as Marko Pavlović), as well as Serb forces they established, to provide arms and material support to the local structures to remove non-Serbs from Serb claimed municipalities through a pattern of takeovers.²¹⁶⁰

540. Stanišić denies that, from May 1991 onwards, he asserted authority over members of the joint criminal enterprise in Bosnia and Herzegovina in developing Serb political, police, and government structures.²¹⁶¹ He further submits that there is no evidence demonstrating that he provided intelligence and arms shipments to support the Bosnian Serbs in furtherance of a common criminal purpose,²¹⁶² or that he used Serbian State Security Service associates and operatives to that end.²¹⁶³

²¹⁵⁷ Indictment, paras. 3, 5, 15.

²¹⁵⁸ Indictment, paras. 5, 15.

²¹⁵⁹ Prosecution Final Trial Brief, paras. 58, 61, 84-88, 229, 464, 465, 467-504. *See also* Prosecution Pre-Trial Brief, paras. 12 (c), 26, 28, 35, 43, 44, 66-70, 74, 96; Prosecution Rebuttal, T. 14 April 2021 pp. 16, 57-59; Prosecution Closing Arguments, T. 12 April 2021 p. 12.

²¹⁶⁰ Prosecution Final Trial Brief, paras. 89-91, 100-102, 254-265, 466, 505-587. *See also* Prosecution Closing Arguments, T. 12 April 2021 pp. 9, 10, 69-76, 79, 80, 89, 90; Prosecution Pre-Trial Brief, paras. 12(d), 71-74, 79-90, 96.

²¹⁶¹ Stanišić Final Trial Brief, paras. 969-982.

²¹⁶² Stanišić Final Trial Brief, paras. 983-1007; Stanišić Closing Arguments, T. 13 April 2021 pp. 51-57.

²¹⁶³ Stanišić Final Trial Brief, paras. 1282-1318.

541. Simatović, similarly, argues that he did not occupy a prominent role in the political, military, police, or paramilitary structures in Bosnia and Herzegovina and, as such, was not in a position to establish and maintain channels of communication to further the common criminal purpose.²¹⁶⁴ According to Simatović, he had no significant involvement in the organizing, training, financing, arming, or directing of Serb forces that were involved in the commission of crimes in Bosnia and Herzegovina.²¹⁶⁵

1. Background

542. In February 1990, a law was passed in Bosnia and Herzegovina allowing the formation of non-Communist parties, which led to the forming of the Party of Democratic Action on 26 May 1990, the Serbian Democratic Party on 12 July 1990, and the Croatian Democratic Union on 18 August 1990.²¹⁶⁶ Radovan Karadžić was the President of the Serbian Democratic Party and its most visible spokesman,²¹⁶⁷ and, from inception, its political platform included an emphasis on the protection of the Serb nation.²¹⁶⁸ In spring 1991, the Serbian Democratic Party launched a “regionalisation” campaign, with the primary objective of insulating areas in which Serbs lived in substantial numbers, particularly Serb-majority areas, from the jurisdiction of the government of Bosnia and Herzegovina through the formation of regional associations of municipalities, which later led to the creation of autonomous district and regions.²¹⁶⁹ Following the declaration of independence by Croatia in June 1991, tensions between Bosnia and Herzegovina’s three ethnic groups intensified and, by October 1991, the three-party coalition was crumbling.²¹⁷⁰ On 14 and 15 October 1991, during the course of a debate on whether to vote on a declaration of sovereignty of Bosnia and Herzegovina, Karadžić expressed strong opposition to the vote - the vote occurred and the declaration passed on 15 October 1991.²¹⁷¹

543. Following the “Declaration of Sovereignty”, the Serbian Democratic Party deputies established the Assembly of the Serbian People of Bosnia and Herzegovina on 24 October 1991,²¹⁷²

²¹⁶⁴ Simatović Final Trial Brief, paras. 58, 59, 210, 215, 704-727. *See also* Simatović Closing Arguments, T. 13 April 2021 p. 74.

²¹⁶⁵ Simatović Final Trial Brief, paras. 60-63. *See also* Simatović Final Trial Brief, paras. 26-28, 32-35, 575, 576, 599, 600; Simatović Closing Arguments, T. 13 April 2021 pp. 93, 94, 97, 98.

²¹⁶⁶ Exhibit P01600, pp. 23, 26; Adjudicated Fact 416.

²¹⁶⁷ Exhibit P01600, p. 26; Witness Babić, Exhibit P01246, p. 12896, Exhibit P01247, p. 3329, Exhibit P01560, para. 5; Witness Wilson, Exhibit P00067, para. 33; Adjudicated Facts 417, 485.

²¹⁶⁸ Adjudicated Fact 418. *See also* Adjudicated Fact 422.

²¹⁶⁹ Witness Donia, T. 30 January 2018 pp. 15-18, T. 31 January 2018 pp. 31, 32, 35, T. 2 February, p. 39; Exhibit P01600, pp. 30-34; Exhibit P01597, pp. 66-79. *See also* Exhibit P01980 (Part III), pp. 28, 29.

²¹⁷⁰ *See* Adjudicated Facts 446, 449; Exhibit P01600, pp. 27, 28. A census in April 1991 recorded that 43.7% of the residents of Bosnia and Herzegovina were ethnic Muslims, 32.4% were Serbs, and 17.3% were Croats. *See* Adjudicated Fact 408.

²¹⁷¹ Adjudicated Facts 449-452; Exhibit P01600, p. 45. *See also* Exhibit P01726, p. 20.

²¹⁷² Adjudicated Fact 472; Exhibit P01980 (Part III), p. 27; Exhibit P01600, p. 45; Exhibit P03553, pp. 1, 2; Exhibit 1D01297, pp. 10, 11. *See also* Adjudicated Fact 451.

with Momčilo Krajišnik being elected President of the Assembly.²¹⁷³ On 21 November 1991, the Bosnian Serb Assembly adopted a resolution declaring full support for the JNA in defence of the common state of Yugoslavia and in conducting mobilization of the Serb people in Bosnia and Herzegovina, in order to reinforce military units.²¹⁷⁴ On 11 December 1991, the Bosnian Serb Assembly voted to recommend the establishment of separate Serbian municipalities, with the stated aim to “break up the existing municipalities where Serbs are not in the majority”.²¹⁷⁵

544. On 19 December 1991, the Main Board of the Serbian Democratic Party issued the “Instructions for the Organisation and Activities of the Organs of the Serb People in Bosnia and Herzegovina in a State of Emergency”, which provided for the conduct of specified activities in all municipalities in which Serbs lived, and essentially mapped out the takeover of power by Bosnian Serbs in municipalities where they constituted a majority of the population (Variant A) and where they were in the minority (Variant B).²¹⁷⁶ The instructions contemplated, in the first phase, the formation of Crisis Staffs, the establishment of Serb municipal assemblies, and carrying out preparations for taking over the security organs.²¹⁷⁷ The second phase called for, *inter alia*, the mobilization of Serb police and their subordination to the JNA, the mobilization of the Territorial Defence and JNA reserve forces, and the takeover of the security and municipal organs.²¹⁷⁸ The “tasks, measures and other activities” referred to in the Instructions were to be carried out exclusively at the order of the President of the Serbian Democratic Party.²¹⁷⁹ Karadžić referred to the implementation of the Variant A and Variant B Instructions in the weeks following 20 December 1991,²¹⁸⁰ and they were implemented, fully or partially, in several municipalities of Bosnia and Herzegovina.²¹⁸¹

545. Preparations for takeovers in municipalities started immediately after the Variant A and Variant B Instructions were issued,²¹⁸² with calls to create a Serb-dominated state in Bosnia and Herzegovina becoming distinct in the Bosnian Serb Assembly beginning in January 1992.²¹⁸³ On

²¹⁷³ Adjudicated Facts 472, 482; Exhibit P01980 (Part III), p. 27. *See also* Adjudicated Fact 483.

²¹⁷⁴ Adjudicated Fact 486.

²¹⁷⁵ Adjudicated Fact 460.

²¹⁷⁶ Adjudicated Facts 497, 499, 502; Exhibit P01589; Witness Donia, T. 30 January 2018 pp. 26-30; Witness Deronjić, Exhibit P01717, para. 45, Exhibit P01718, pp. 931-934, 939, Exhibit P01719, pp. 29624, 29626. *See also* Adjudicated Facts 503, 508.

²¹⁷⁷ Adjudicated Facts 498, 500, 501, 506, 507; Exhibit P01589; Witness Donia, T. 30 January 2018 p. 27.

²¹⁷⁸ Adjudicated Facts 498, 504, 505; Exhibit P01589.

²¹⁷⁹ Adjudicated Fact 500.

²¹⁸⁰ Adjudicated Fact 512.

²¹⁸¹ Adjudicated Fact 511; Witness Donia, T. 30 January 2018 pp. 29, 30; Exhibit P01732, p. 12; Witness Deronjić, Exhibit P01719, pp. 29624, 29626.

²¹⁸² Adjudicated Fact 513; Witness Deronjić, Exhibit P01718, pp. 932, 933, 940, Exhibit P01719, pp. 29624-29626.

²¹⁸³ Adjudicated Fact 514; Witness Donia, T. 31 January 2018 pp. 62-67.

9 January 1992, the Bosnian Serb Assembly proclaimed the Serbian Republic of Bosnia and Herzegovina, which on 12 August 1992 was renamed *Republika Srpska*.²¹⁸⁴

546. On 27 March 1992, the Bosnian Serb Assembly established the National Security Council, with Karadžić performing the role of President of the Council between 27 March and early May 1992, even though he was not the President of the Bosnian Serb Republic at the time.²¹⁸⁵ During that same Assembly session, Karadžić recommended that Territorial Defence units formed by the Crisis Staffs should, where possible, be placed under the command of the JNA.²¹⁸⁶ By the end of March 1992, a Bosnian Serb Ministry of Interior was established.²¹⁸⁷

547. On 6 April 1992, the independence of Bosnia and Herzegovina was recognized by the European Community and, on the following day, the Bosnian Serb Assembly declared the independence of Bosnian Serb Republic.²¹⁸⁸ On 17 April 1992, Karadžić called upon employees of Serb ethnicity, appointed by the Serbian Democratic Party to serve in institutions of Bosnia and Herzegovina, to withdraw from their positions and to be reappointed in the corresponding Bosnian Serb institutions.²¹⁸⁹ On 12 May 1992, the Bosnian Serb Assembly instituted a three-member Presidency, which included Karadžić, Nikola Koljević, and Biljana Plavšić.²¹⁹⁰ On that same day, Karadžić articulated the six strategic goals of the Serbian people of Bosnia and Herzegovina, with the first of the goals being the “separation from the other two national communities – separation of states”.²¹⁹¹ On 17 December 1992 Karadžić became the sole President.²¹⁹²

2. The Accused and Radovan Karadžić

548. The Prosecution contends that Stanišić and Milošević “collaborated” with Karadžić from an early stage to prepare separate Serb governing, police, and military structures in Bosnia and Herzegovina, and ensure that the Bosnian Serbs’ political actions advanced the common criminal purpose.²¹⁹³ The Trial Chamber considers that, although there is ample evidence, as described below, demonstrating Stanišić’s contacts with Karadžić prior to and following the establishment of

²¹⁸⁴ Witness Donia, T. 30 January 2018 p. 25; Exhibit P01600, pp. 1, 47; Exhibit P01597, pp. 8, 9; Exhibit P03551; Exhibit P00850, para. 554; Exhibit P01980 (Part III), pp. 29, 30; Adjudicated Facts 66, 495, 517, 531. *See also* Witness Donia, T. 1 February 2018 p. 88.

²¹⁸⁵ Adjudicated Fact 597; Exhibit P03560, p. 3; Exhibit P00850, para. 590.

²¹⁸⁶ Adjudicated Fact 577.

²¹⁸⁷ Adjudicated Facts 688, 689; Exhibit P03474, p. 1; Exhibit P00850, paras. 582-586.

²¹⁸⁸ Adjudicated Fact 531; Witness Donia, T. 30 January 2018 pp. 25, 26.

²¹⁸⁹ Adjudicated Fact 531.

²¹⁹⁰ Adjudicated Facts 431, 609, 612; Exhibit P01575, p. 2; Exhibit P01249, p. 58. Following the establishment of the Presidency, the last reported meeting of the National Security Council took place on 15 May 1992. The National Security Council was effectively replaced by the Presidency. *See* Adjudicated Fact 611.

²¹⁹¹ Adjudicated Facts 854-856; Witness Donia, T. 30 January 2018 pp. 36-38; Exhibit P01598, pp.10-12; Exhibit P01597, p. 24; Exhibit P01591; Exhibit P01249, pp. 13, 14.

²¹⁹² Adjudicated Fact 619.

²¹⁹³ *See* Prosecution Final Trial Brief, para. 464.

Bosnian Serb Republic and that Milošević was also in contact with Karadžić directly, as well as sometimes through Stanišić,²¹⁹⁴ such evidence does not demonstrate beyond reasonable doubt that Stanišić “collaborated” with Karadžić to organize separate Serb structures in Bosnia and Herzegovina.

549. Relying primarily on the evidence of Witness Milan Babić, the Prosecution alleges that, in May 1991, Stanišić and Karadžić planned to transform the existing Serb associations of municipalities and establish others to ultimately unite different areas of Bosnia and Herzegovina under Serb control.²¹⁹⁵ Witness Babić stated that, in May 1991, he met with Karadžić, another member of the Serbian Democratic Party, Stanišić, and Martić at Karadžić’s apartment.²¹⁹⁶ In his testimony in the *S. Milošević* case, Witness Babić stated that, when he arrived at the apartment, Karadžić and Stanišić were looking at maps and discussing where the Serbs were in control and areas where the Serbian Democratic Party should establish control.²¹⁹⁷ However, in his subsequent testimony in the *Krajišnik* case, Witness Babić stated that the conversation that was taking place between Stanišić and Karadžić “was not intelligible” to him and that he could not see exactly what was depicted on the maps.²¹⁹⁸ Witness Babić further stated that he understood that the conversation had to do with the police.²¹⁹⁹ While mindful of subsequent events that unfolded in June and July 1991,²²⁰⁰ the Trial Chamber is not convinced that Witness Babić’s evidence shows, as the Prosecution submits, that in May 1991 Stanišić and Karadžić planned to transform the existing associations of municipalities and establish others to ultimately unite different areas of Bosnia and Herzegovina under Serb control.

²¹⁹⁴ See, e.g., Witness Babić, Exhibit P01247, p. 3397; Exhibit P01437; Exhibit P03702; Exhibit P03703; Exhibit P03704; Exhibit P03705; Exhibit P01440; Exhibit P01447; Exhibit P01448; Exhibit P01449; Exhibit P03706; Exhibit P03707; Exhibit P01450; Exhibit P01451; Exhibit P03708; Exhibit P03709; Exhibit P03710; Exhibit P01452; Exhibit P03722; Exhibit P01463; Exhibit P01506; Exhibit P01471; Exhibit P03711; Exhibit P01472; Exhibit P02778; Exhibit P02880; Exhibit P03712; Exhibit P03713; Exhibit P03714; Exhibit P03715; Exhibit P03716; Exhibit P03717; Exhibit P03718; Exhibit P03720; Exhibit P03721; Exhibit P01473; Exhibit P01475; Exhibit P02783; Exhibit P03723; Exhibit P01491; Exhibit 1D00075; Exhibit P02779; Exhibit P02780; Exhibit P01505; Exhibit P01590; Exhibit P02785; Exhibit P02786; Exhibit 1D00060; Exhibit 1D00059; Exhibit P02811; Exhibit 1D01361; Exhibit P02787; Exhibit P01512; Exhibit P02789; Exhibit P02790; Exhibit P02791; Exhibit P02792. See also Witness Nielsen, T. 15 November 2017 pp. 6, 7, T. 21 November 2017 pp. 20, 21; Exhibit P00850, para. 859; Witness Deronjić, Exhibit P01717, paras. 8, 172-175.

²¹⁹⁵ See Prosecution Final Trial Brief, paras. 465, 470.

²¹⁹⁶ Witness Babić, Exhibit P01247, pp. 3406, 3407, Exhibit P01246, pp. 13082, 13083.

²¹⁹⁷ Witness Babić, Exhibit P01246, p. 13082.

²¹⁹⁸ See Witness Babić, Exhibit P01247, p. 3408. Witness Babić further stated that it was Karadžić who was considering the establishment of control or authority but “[could] not really say exactly in what way”. See Witness Babić, Exhibit P01247, p. 3406.

²¹⁹⁹ See Witness Babić, Exhibit P01247, p. 3407.

²²⁰⁰ By June 1991, the Serbian Democratic Party leadership ordered the party organs in the municipalities to prepare maps of the municipalities showing the ethnic composition of each territory and, in July 1991, Karadžić expressed the view that the Serbian Democratic Party, if needed, was able to create parallel state structures in a very short time. See Adjudicated Facts 715, 719; Exhibit P01600, p. 33. See also Adjudicated Fact 710.

550. Prosecution Expert Witness Nielsen points to an intercepted conversation from mid-August 1991 between Karadžić and Nenad Stevandić, a Serbian Democratic Party member,²²⁰¹ with Stevandić stating “it would be good if you came over, because we did a few great things” and “[i]t’s like Golubić”.²²⁰² According to Witness Nielsen, Stevandić was also in contact with Stanišić in the second half of 1991 and, at some points, acted as an intermediary between Stanišić and Karadžić.²²⁰³ Witness Nielsen further highlights an intercepted conversation between Stanišić and Karadžić from November 1991 wherein Stanišić stated that “[m]y colleagues send you special regards, Frenki and Captain are here” and that he “hope[d] we’ll also have a chance to work with you a little”.²²⁰⁴ The Trial Chamber, however, considers that the meaning of these exchanges is ambiguous and is not satisfied that they show that the Accused contributed to setting up training facilities in Bosnia and Herzegovina, in particular given that the first intercept does not involve either Accused and in view of the reliability concerns raised by Stanišić with respect to the second intercept.²²⁰⁵ Having reviewed these as well as other intercepts of conversations between Karadžić and Stanišić,²²⁰⁶ the Trial Chamber is not convinced beyond reasonable doubt that these exchanges, even if some indicate actions on Stanišić’s part,²²⁰⁷ demonstrate any specific or meaningful contribution to the creation of separate Serb structures in Bosnia and Herzegovina related to the commission of crimes charged in the Indictment. In the Trial Chamber’s view, the vast majority of the evidence cited by the Prosecution focuses principally on the role and actions of Karadžić in the events, without satisfactorily demonstrating the concrete nature of Stanišić’s involvement in them.

551. The Trial Chamber notes the evidence it received in relation to Karadžić’s rhetoric in October 1991 leading up to the establishment of *Republika Srpska*, including his comments regarding the “Declaration of Sovereignty” vote at the Bosnia and Herzegovina Assembly on 14 and 15 October 1991 wherein he stated “[d]on’t think you won’t take Bosnia and Herzegovina to hell and bring Muslim people to a possible extinction” because “Muslim people will not be able to

²²⁰¹ See Witness Nielsen, T. 15 November 2017 p. 5; Exhibit P00850, para. 515.

²²⁰² Exhibit P00850, para. 515; Exhibit P02772, pp. 3, 4.

²²⁰³ Witness Nielsen, T. 15 November 2017 pp. 6, 7; Exhibit P00836. In relation to Stanišić’s specific support to the Serbian Democratic Party and Karadžić, the Trial Chamber received evidence from Witness Nielsen that, based on various intercepts and other documentation, the leadership of the Serbian Democratic Party was in contact with Stanišić in the second half of 1991 and that they were involved in joint affairs that included practical preparations, such as the establishment of a Bosnian Serb Ministry of Interior, which is addressed in more detail below. See Witness Nielsen, T. 15 November 2017 pp. 6, 7.

²²⁰⁴ Exhibit P00850, para. 859; Exhibit P02780, pp. 1, 2. See also Witness Nielsen, T. 21 November 2017 pp. 62, 63, 97, 98.

²²⁰⁵ See Stanišić Final Trial Brief, para. 308; Witness RFJ-146, Exhibit P02764, pp. 6463-6471.

²²⁰⁶ See, e.g., Exhibit P02779; Exhibit P01505; Exhibit P01590; Exhibit P02785; Exhibit P02786; Exhibit P02787; Exhibit 1D00060; Exhibit 1D00059; Exhibit P02811; Exhibit 1D01361; Exhibit P02787; Exhibit P01512; Exhibit P02789; Exhibit P02790; Exhibit P02791; Exhibit P02792. See also Witness Nielsen, T. 15 November 2017 pp. 6, 7, T. 21 November 2017 pp. 20, 21; Exhibit P00850, para. 859.

²²⁰⁷ See, e.g., Exhibit P01590, p. 2; Exhibit P01505, p. 2; Exhibit 1D00059, p. 1.

defend itself if there is war here”.²²⁰⁸ On 18 October 1991, at an extraordinary meeting of the Main Board of the Serbian Democratic Party, chaired by Karadžić, guidelines were given to urgently form Crisis Staffs of the Serbian people.²²⁰⁹ While the Prosecution contends that Belgrade members of the joint criminal enterprise worked behind the scenes with the Bosnian Serb leadership to establish these separate structures,²²¹⁰ the evidence it relies on to support this assertion, which will be examined below, is vague and speculative in relation to the details of Stanišić’s involvement.

552. The Trial Chamber received evidence that, on 29 October 1991, Milošević told Karadžić that he will send him “one number in an envelope” and that Stanišić “should only come to see you”.²²¹¹ In a later conversation between Stanišić and Karadžić, Stanišić asked Karadžić whether he liked “that little device”,²²¹² which appears to be a reference to Karadžić obtaining the ability to have secure communications.²²¹³ The Trial Chamber has further considered the frequency of communications between Stanišić and Karadžić that took place in November and December 1991,²²¹⁴ including a conversation on 14 December 1991, in which Stanišić asked Karadžić when he could “send the men”, which he said was “all sorted out” and that he would send “the men on Monday”.²²¹⁵

553. The Trial Chamber further notes the evidence it received regarding other communications between Stanišić and Karadžić that took place between 29 December and 6 January 1991, directly prior to the proclamation of the Bosnian Serb Republic on 9 January 1992.²²¹⁶ The Trial Chamber considers that, while they again support the fact that Stanišić and Karadžić communicated during this period of time, they are not sufficiently conclusive to make the determination that Stanišić worked closely with Karadžić to “shape”, as alleged by the Prosecution, the Bosnian Serb strategy prior to the establishment of the Bosnian Serb Republic.²²¹⁷ In relation to one of these communications, the Prosecution submits that Karadžić sought “Stanišić’s advice” and that, in that same call the Serbian Minister of Interior Zoran Sokolović stated that “we’ll do everything Jovica said we would do”.²²¹⁸ While Karadžić does call Stanišić on 6 January 1992 and asks “what should

²²⁰⁸ Exhibit P01588, p. 1; Witness Donia, T. 30 January 2018 pp. 20-23; Exhibit P01600, p. 45.

²²⁰⁹ Witness Deronjić, Exhibit P01718, pp. 910-913.

²²¹⁰ See Prosecution Final Trial Brief, para. 476.

²²¹¹ Exhibit P01491, p. 4.

²²¹² See Exhibit P01590, p. 6.

²²¹³ According to Witness RFJ-146, sending a number in an envelope was a way to ensure that communication was secure. See Witness RFJ-146, Exhibit P02764, pp. 6362, 6363.

²²¹⁴ See e.g., Exhibit P02779; Exhibit P02780; Exhibit P01505; Exhibit P01590; Exhibit P02785.

²²¹⁵ Exhibit P01505, p. 3.

²²¹⁶ See Exhibit P02785; Exhibit P02786; Exhibit 1D00060; Exhibit P02811.

²²¹⁷ See Prosecution Final Trial Brief, para. 480. While Stanišić and Karadžić were in contact in 1991, the Trial Chamber notes that Witness Nielsen’s expert report states that, during these conversations between Stanišić and Karadžić, “Karadžić briefed Stanišić on the political situation and developments in Bosnia and Herzegovina, and also solicited advice from Stanišić”. See Exhibit P00850, para. 859.

²²¹⁸ Prosecution Final Trial Brief, para. 480, referring to Exhibit 1D00059, pp. 1, 2.

we do”, he also asks “[c]an we go where he is”, referring to Minister Sokolović, with Stanišić informing Karadžić that the Minister is there and that he should consult with him about the matter.²²¹⁹ While Stanišić states that he is doing what he can to help, he also says that the Minister is the one who made the decision and he did not think the Minister would change it.²²²⁰ Without additional evidence as to what Minister Sokolović intended when he said, “we’ll do everything Jovica said we would do”, it is unclear exactly what is meant by this statement.

554. The Trial Chamber notes, however, the evidence it received in relation to intercepted conversations that took place following the establishment of *Republika Srpska*, including conversations between Stanišić and Karadžić on 12 and 22 January 1992. In the 12 January 1992 conversation between Stanišić and Karadžić, Stanišić makes it clear that it was very important to meet with Karadžić, but that “things got very complicated” for him to come to Karadžić.²²²¹ Once a meeting is agreed, Stanišić requests that Karadžić do it in a way that Stanišić is not shown “as part of the initiative”, which he stated he could not afford.²²²² While it transpires from the conversation that Stanišić insists on concealing his role, the exact nature of the “initiative” that Stanišić refers to is unknown and, in this same conversation, Stanišić also appears to express fear of “a total war”.²²²³

555. On 20 January 1992, following the recommendation from the Badinter Arbitration Commission that Bosnia and Herzegovina hold a referendum on independence, the Bosnia and Herzegovina Assembly voted to hold such a referendum, over the objections of the Serbian Democratic Party delegates.²²²⁴ In their 22 January 1992 conversation, Karadžić informs Stanišić that the Croats are also worried about an independent Bosnia and Herzegovina and that, unless the Serbs and Croats resolve their contentions, “they are in for thirty years of torture”, with Stanišić responding by saying, “with killings”.²²²⁵ In the same conversation, Stanišić states that “[w]e’ll then have to push them back to Belgrade” as “[t]here’s nothing else left for us to do” and, after Karadžić agrees, Stanišić adds “[o]r we’ll exterminate them completely so let’s see where we’ll end up”.²²²⁶ While Stanišić’s comments are disconcerting, the Trial Chamber is not convinced that their content supports the conclusion that he closely cooperated with Karadžić to shape the Bosnian Serb strategy

²²¹⁹ Exhibit 1D00059, p. 1.

²²²⁰ Exhibit 1D00059, p. 1.

²²²¹ Exhibit P01512, p. 3.

²²²² Exhibit P01512, pp. 7, 8. In that same conversation, Karadžić also states that “we are only a step away from the favourable ending”. See Exhibit P01512, p. 6.

²²²³ See Exhibit P01512, pp. 6, 7.

²²²⁴ Exhibit P01600, p. 47; Witness Donia, T. 1 February 2018 pp. 85-87, T. 30 January 2018 pp. 25, 26.

²²²⁵ Exhibit P02790, p. 6.

²²²⁶ Exhibit P02790, p. 7.

following the European Commission's recommendation for a referendum, as claimed by the Prosecution.²²²⁷

556. In sum, the evidence generally demonstrates that Stanišić and Karadžić were in direct and frequent contact in 1991 in the lead up to and after the establishment of *Republika Srpska*, and that, in some instances, Stanišić facilitated contact between Karadžić and Milošević. However, the content of these communications is insufficient to conclude beyond reasonable doubt that Stanišić, or Simatović, exercised any degree of authority over Karadžić or “collaborated” with him from an early stage to organize separate Serb government structures in Bosnia and Herzegovina.

3. Republika Srpska Ministry of Interior

557. The Law on Internal Affairs was passed on 28 February 1992, formally establishing the *Republika Srpska* Ministry of Interior, with elements of a Bosnian Serb police force already in place by 18 March 1992.²²²⁸ At a session of the Bosnian Serb Assembly held on 24 March 1992, Karadžić made a number of statements regarding the importance of establishing the police force and that, once it was established, “all the Serbian municipalities, both the old ones and the newly established ones, would literally assume control over the entire territory of the municipality concerned”.²²²⁹ On that same day, Mićo Stanišić was appointed *Republika Srpska* Minister of Interior.²²³⁰ In relation to the *Republika Srpska* Ministry of Interior, the Prosecution contends that it was crucial in advancing the common criminal purpose in Bosnia and Herzegovina, which, along with separate Serb police stations and units, was established by members of the joint criminal enterprise, with support from Stanišić and the Serbian Ministry of Interior.²²³¹

558. Having reviewed the evidence, the Trial Chamber notes that the Prosecution relies primarily on Witness RFJ-037 to support the allegation that Stanišić was providing material support to the *Republika Srpska* Ministry of Interior, including the allegation that Mićo Stanišić was “responsible” to Stanišić and that Stanišić approved the transport of weapons and other support to Bosnian Serb individuals and entities in *Republika Srpska* since late 1991.²²³² The Trial Chamber recalls, however, its previous determination that, while it does not deem Witness RFJ-037's evidence to

²²²⁷ See Prosecution Final Trial Brief, paras. 480, 481. The Trial Chamber also notes that, while Stanišić states that, if they want it, then they'll have “an all-out war”, this part of the exchange ends with Stanišić saying “[b]etter do it like decent people”. See Exhibit P02790, p. 7.

²²²⁸ Exhibit P00850, para. 600; Adjudicated Facts 524, 625, 626, 643, 655, 689. See also Exhibit P00850, paras. 556-559; Exhibit P03472, p. 4.

²²²⁹ Exhibit P00850, para. 582. See also Exhibit P00850, para. 579; Exhibit P01597, p. 81; Exhibit P01598, p. 8.

²²³⁰ Exhibit P00850, para. 585; Adjudicated Facts 646, 655.

²²³¹ See Prosecution Final Trial Brief, paras. 483-489.

²²³² See Prosecution Final Trial Brief, paras. 486, 488. While Witness RFJ-037's evidence in relation to the allegation that Stanišić approved the transport of weapons and material support to the *Republika Srpska* Ministry of Interior is

lack probative value in its entirety, there are sufficient concerns to view his evidence with appropriate caution.²²³³ Considering the above and noting Witness RFJ-037's evidence, including the allegations he makes surrounding the relationship between Stanišić and the Serbian State Security Service with Mićo Stanišić and the *Republika Srpska* Ministry of Interior,²²³⁴ the Trial Chamber declines to rely on this witness's evidence in the absence of other concrete or direct evidence demonstrating support or contributions from Stanišić.²²³⁵

559. Conversely, while the Trial Chamber received evidence regarding a "Letter of Thanks" from the *Republika Srpska* Ministry of Interior, which was sent to 40 persons and included the names of the Accused, there is no further information as to why these individuals are being officially thanked.²²³⁶ The Trial Chamber also notes the Prosecution's contention that Stanišić stayed connected to a "special unit" of the *Republika Srpska* Ministry of Interior in subsequent years, proposing to send 100-200 members of the Serbian Ministry of Interior to assist in late 1993.²²³⁷ However, while the Mladić diary identifies Stanišić as saying "we can spare 100-120 men and Karišik", Witness Milovanović stated that this never materialized²²³⁸ and the Prosecution has not provided any further evidence showing that, if such a deployment did occur, it was in relation to a crime charged in the Indictment or that it compels the conclusion that Stanišić deployed other forces in furtherance of the common criminal purpose. Last, while Prosecution Expert Witness Nielsen discussed the deployment of personnel from both the Federal Secretariat of Internal Affairs and the

addressed below, the Trial Chamber notes that the other evidence relied upon by the Prosecution to support its claim does not identify Stanišić and is speculative. *See* Exhibit P01628, p. 1; Exhibit P03481; Exhibit P03207, p. 14.

²²³³ *See supra* paras. 14, 17, 454.

²²³⁴ *See* Witness RFJ-037, T. 6 February 2018 p. 55, T. 7 February 2018 pp. 10, 18-20, 67, Exhibit P01616, paras. 38, 40-42.

²²³⁵ The Trial Chamber also notes the Prosecution's allegation that, by February 1992, the Serbian Ministry of Interior coordinated with municipal authorities in Bijeljina through Predrag Ješurić, Bijeljina police chief, who was illegally arming Serbs and who allegedly had "links" with Stanišić. *See* Prosecution Final Trial Brief, paras. 484, 507. At the outset, the Trial Chamber notes that the allegation that Ješurić had "links" with Stanišić is supported only by Witness RFJ-037 (*see* Witness RFJ-037, T. 6 February 2018 pp. 33-35), whose evidence is viewed with caution, and by an entry from Mladić's diary, which only contains a vague reference to the Serbian State Security Service (*see* Exhibit 1D00036, p. 76). Further, the evidence supporting any alleged coordination between the Serbian Ministry of Interior and Ješurić arises primarily from Ješurić himself, who does not refer to Stanišić specifically, but rather more generally to the Serbian Ministry of Interior, which could include the Public Security Service. *See supra* paras. 326, 520; Exhibit P03472, p. 2; Exhibit P03476, p. 2. *See also* Exhibit P03491, p. 14 (wherein Ješurić says that "he himself had illegally armed Serbs"). The other support provided by the Prosecution in relation to any alleged cooperation between Ješurić and the Serbian State Security Service, including Stanišić specifically, in events that took place in Bijeljina is mainly supported by the evidence of Witness RFJ-037, which is again viewed with caution. *See* Witness RFJ-037, T. 14 February 2018 p. 63, T. 8 February 2018 pp. 20, 22, T. 7 February 2018 p. 55, Exhibit P01616, paras. 41, 42, 231.

²²³⁶ Exhibit P01789.

²²³⁷ *See* Prosecution Final Trial Brief, para. 489, *referring to* Exhibit 1D00036, p. 60; Witness Milovanović, Exhibit P02935, pp. 15446-15448.

²²³⁸ Witness Milovanović, Exhibit P02935, p. 15448.

Serbian Ministry of Interior to support the *Republika Srpska* Ministry of Interior, any links to Stanišić, aside from the allegations made by Witness RFJ-037, are speculative.²²³⁹

4. Republika Srpska National Security Service and Other Intelligence Groups

560. In relation to the contention that the Accused established parallel lines of reporting and authority, the Prosecution asserts that the Accused exercised control over the *Republika Srpska* National Security Service, Predrag Radulović and his Miloš group,²²⁴⁰ and the Tajfun/Sigma intelligence group.²²⁴¹ According to the Prosecution, Simatović incorporated Tajfun, which later became Sigma, into the Serbian State Security Service in 1994, with the group reporting directly to him.²²⁴² While Simatović does not address these allegations in his Final Trial Brief, Stanišić denies that the Tajfun/Sigma or Miloš intelligence groups were used in furtherance of a common criminal purpose, and maintains that their collaboration with the Serbian State Security Service was regarded by *Republika Srpska* as hostile acts.²²⁴³

561. The Trial Chamber received evidence that Radulović, an employee of the *Republika Srpska* National Security Service,²²⁴⁴ assisted, in cooperation with the Serbian Ministry of Interior, in “arming the Serb people in the broader region of the then [Bosnia and Herzegovina] and Slavonia”,²²⁴⁵ with Prosecution Expert Witness Nielsen stating that, more specifically, he believed that Radulović cooperated with the Serbian State Security Department.²²⁴⁶ The Trial Chamber also examined a note of an official interview that was conducted with Radulović, who is identified as an operative from the Banja Luka centre and is signed by the chief of the Serbian State Security Department Eighth Administration, Milan Prodanić, in which Radulović discusses various contacts with the State Security Service and the State Security Department of the Serbian Ministry of Interior.²²⁴⁷ With respect to handwritten markings on the aforementioned interview with Radulović, Prosecution expert Witness Nielsen testified that he recognized “the initials of what [he took] to be Jovica Stanišić”.²²⁴⁸

²²³⁹ Exhibit P00850, para. 863; Exhibit P03479, p. 1 (wherein it is stated that contact should be established with the “SSUP/Federal Secretariat of the Interior and the Serbian MUP who promised to help” with “the equipment”). See Witness RFJ-037, T. 6 February 2018 p. 55, Exhibit P01616, paras. 38, 40.

²²⁴⁰ It appears from the evidence that Predrag Radulović acted under the code-name “Miloš”. See Exhibit P03832; Exhibit P03831; Exhibit P03833, pp. 2, 3.

²²⁴¹ Prosecution Final Trial Brief, paras. 490-493. The Trial Chamber notes that the Tajfun intelligence group would later become the Sigma intelligence group. See Exhibit P00860.

²²⁴² Prosecution Final Trial Brief, para. 493.

²²⁴³ Stanišić Final Trial Brief, paras. 983, 985, 989-993; Stanišić Closing Arguments, T. 13 April 2021 p. 52.

²²⁴⁴ See Witness Nielsen, T. 15 November 2017 p. 2.

²²⁴⁵ Exhibit P00854, p. 1. See also Exhibit P00850, para. 858.

²²⁴⁶ Witness Nielsen, T. 23 November 2017 pp. 99, 100.

²²⁴⁷ Exhibit P00835, pp. 1, 2.

²²⁴⁸ Witness Nielsen, T. 15 November 2017 pp. 2, 3, referring to Exhibit P00835 (BCS), p. 1.

562. The Trial Chamber has considered documentary evidence of: (i) reports from the Miloš and Tajfun/Sigma intelligence groups being sent to the Serbian State Security Department, including to its Second Administration,²²⁴⁹ (ii) Miloš reports discussing the transport and purchasing of weapons from the Serbian Ministry of Interior;²²⁵⁰ (iii) a report on the provision of equipment to the Tajfun group by the Serbian State Security Service and the setting up of “an operational system of informing with the Serbian [State Security Service]”, “within the concept of unification into Serbian states”;²²⁵¹ and (iv) a report on preliminary discussions on Sigma’s incorporation into the intelligence system of the Serbian State Security Department held by Simatović in 1994.²²⁵²

563. The Trial Chamber also notes that, with respect to the relationship between the Serbian State Security Service and the *Republika Srpska* National Security Service, the Prosecution relies to a great extent on Witness RFJ-037.²²⁵³ In Witness RFJ-037’s opinion, the relationship between the *Republika Srpska* National Security Service and the Serbian State Security Service “was absolute and full co-operation”, members of the *Republika Srpska* National Security Service believed themselves to be staff of the Serbian State Security Service, and the *Republika Srpska* National Security Service was “completely irrelevant without Serbia’s [State Security Service].”²²⁵⁴ Witness RFJ-037’s views, however, are not clearly supported by concrete details or examples, and the Trial Chamber is also mindful of the limited purpose for which it admitted his testimony. The Trial Chamber is equally unconvinced by the Prosecution’s contention that Stanišić specifically retained control over Radulović and the Miloš group once they came under the *Republika Srpska* National Security Service and as the conflict unfolded.²²⁵⁵ The Trial Chamber has, however, further considered evidence that reports from the Sigma group were sent to the Accused,²²⁵⁶ and that, according to Witness Nielsen, a number of reports, containing detailed intelligence on the political and security situation in *Republika Srpska* and in other areas of the former Yugoslavia, were to be

²²⁴⁹ See Exhibit P03211; Exhibit P03513. See also Exhibit P00860; Exhibit P00850, para. 872; Exhibit 1D00037, pp. 124, 136; Exhibit P01597, p. 84; Exhibit P03506, p. 8.

²²⁵⁰ Exhibit P03481; Exhibit P03473.

²²⁵¹ Exhibit P00853.

²²⁵² Exhibit P00860. See also Exhibit 1D00037, p. 136.

²²⁵³ Prosecution Final Trial Brief, para. 492, nn. 2096-2099.

²²⁵⁴ See Witness RFJ-037, T. 7 February 2018 pp. 4, 5, 18-20.

²²⁵⁵ See Prosecution Final Trial Brief, para. 492, n. 2099, referring to Exhibit P00835, p. 1; Exhibit P03473; Exhibit P03481; Exhibit P03482; Exhibit P01713; Exhibit P03178 (which only make reference to the Serbian Ministry of the Interior and/or to the Serbian State Security Service and not to Stanišić specifically).

²²⁵⁶ Exhibit P03509, p. 1 (wherein the report is to the Serbian State Security Service and addressed to “Frenki”); Exhibit P03510, p. 1 (wherein the report is to the Serbian State Security Service and addressed to “Frenki”); Exhibit P03514, p. 1 (wherein the report is addressed to “Mr. Frenki personally”); Exhibit P03515 (wherein the report is to the Serbian State Security Service and addressed to “Frenki”); Exhibit P03516, p. 1 (wherein the top of the report indicates the “Chief of State Security Department”); Exhibit P03517, p. 1 (wherein the report is addressed to “Frenki”); Exhibit P03518, p. 1 (wherein the report is addressed to “Frenki”); Exhibit P03519 (wherein the report states “Forward to Frenki”). See also Exhibit P00850, para. 916, n. 1566.

provided personally to Simatović in the period from June to September 1994 and likely thereafter.²²⁵⁷

564. Having reviewed the evidence as a whole, the Trial Chamber finds that the Serbian State Security Service had contact with the Miloš and Tajfun/Sigma intelligence groups and that, through these groups, the Accused received information on the political and security situation in *Republika Srpska* and in other areas of the former Yugoslavia. However, the Trial Chamber is unable to determine from the evidence before it whether the use of these intelligence groups contributed to or was done in furtherance of crimes committed in Bosnia and Herzegovina that may be attributed to the Accused.

5. Accused's Authority over Marko Pavlović

565. On 6 April 1992, the Zvornik Crisis Staff declared a state of war, tasking the Territorial Defence and the reserve police with taking over defence operations.²²⁵⁸ Following the takeover of Zvornik town by Serb forces, the Zvornik Crisis Staff was replaced with an interim local government,²²⁵⁹ which appointed Branko Popović (also known as Marko Pavlović)²²⁶⁰ as commander of the Zvornik Territorial Defence on 28 April 1992.²²⁶¹ According to the Prosecution, the Accused exercised authority over Pavlović, who was allegedly acting as a Serbian State Security Service “asset” and as a subordinate to Kostić, another Serbian State Security Service operative, to further the common criminal purpose.²²⁶²

566. The Trial Chamber recalls that it has already addressed Kostić's employment with the Serbian State Security Service, as well as his relationship to Stanišić, especially in connection to the local security structures and the arming of local security forces in the first half of 1991 in SAO SBWS.²²⁶³ The Trial Chamber further notes that, according to Witness OFS-23, Kostić “brought” Pavlović to Mali Zvornik, which is situated on the Serbian side of the Drina river,²²⁶⁴ at the end of 1991, with Pavlović explaining that his task was to distribute weapons for the protection of the Serbs in case of war.²²⁶⁵ Witness OFS-23 further stated that, during their first meeting, he thought

²²⁵⁷ Exhibit P00850, para. 916.

²²⁵⁸ Adjudicated Fact 987; Exhibit P03558.

²²⁵⁹ *See supra* para. 191.

²²⁶⁰ The Trial Chamber notes the evidence it received in relation to Branko Popović also being referred to as “Marko Pavlović”. *See, e.g.*, Witness RFJ-109, Exhibit P01782, p. 21004; Witness OFS-23, Exhibit 2D00506, para. 42; Exhibit P00837, p. 2.

²²⁶¹ *See* Exhibit P03564, p. 1; Exhibit P03565. *See alsosupra* para. 191, n. 877.

²²⁶² *See* Prosecution Final Trial Brief, paras. 89, 91, 100-102, 511-513, 518-530, 818; Prosecution Final Trial Brief, Annex A, paras. 65, 131. *See also* Prosecution Pre-Trial Brief, paras. 72, 93.

²²⁶³ *See supra* paras. 530, 531, 536.

²²⁶⁴ Witness RFJ-019, Exhibit P01655, p. 2.

²²⁶⁵ Witness OFS-23, Exhibit 2D00506, para. 41. Witness OFS-23 understood that Pavlović came to Zvornik to coordinate Serbs in key positions in the region of eastern Bosnia. *See* Witness OFS-23, Exhibit 2D00506, para. 46.

Pavlović was “Serbian [Ministry of Interior] intelligence”,²²⁶⁶ and that he sometimes referred to Kostić as “boss”.²²⁶⁷ The evidence of this witness also indicates that Pavlović arrived in Zvornik at the beginning of March 1992,²²⁶⁸ and that, while Witness OFS-23 did not know whether Pavlović ever called anyone from the Serbian Ministry of Interior or from the Serbian State Security Service,²²⁶⁹ he claimed that Pavlović was in contact with Ratko Vidović, who was the commander of the police station in Zvornik and who, according to the witness, had close ties with the Serbian State Security Service.²²⁷⁰

567. Witness RFJ-002 similarly stated that Pavlović claimed that the Serbian State Security Service had appointed him to Zvornik, and that he had been sent by Belgrade to “fix the situation in Zvornik”.²²⁷¹ According to the witness, Pavlović, whom he met seven or eight times, claimed that he had files from the Serbian State Security Service, which the witness never saw, and that, while he said he was a member of the Service, he never showed the witness any identification.²²⁷² The witness also stated that, as he was not a member of any body of authority in Zvornik, he could not go into details about who appointed Pavlović and from where.²²⁷³ However, the witness stated that “everybody was subordinated to [Pavlović], all the other units, the military, [and] the police”.²²⁷⁴

568. In addition, the Trial Chamber received evidence regarding the arming and distribution of weapons in Zvornik, with Witness RFJ-002 stating that Pavlović “had one of the greatest roles concerning arming of Serb paramilitaries” and that, overnight, he “would get trucks of weapons and

²²⁶⁶ Witness OFS-23, Exhibit 2D00506, para. 42.

²²⁶⁷ Witness OFS-23, Exhibit 2D00506, para. 41.

²²⁶⁸ Witness OFS-23, Exhibit 2D00506, para. 28.

²²⁶⁹ Witness OFS-23, Exhibit 2D00504, pp. 9738, 9739.

²²⁷⁰ Witness OFS-23, Exhibit 2D00506, para. 44, Exhibit 2D00507, p. 2, T. 16 September 2020 pp. 61-64. The Prosecution also asserts that Pavlović was in frequent contact with State Security Service affiliates, including Vojislav Jekić (*see* Prosecution Final Trial Brief, para. 513). However, Witness OFS-23 testified that Jekić falsely represented himself as a member of the Serbian State Security Service and harboured hostile feelings towards them when he could not become a member. *See* Witness OFS-23, T. 15 September 2020 pp. 60-63, Exhibit 2D00504, pp. 9876, 9877. *See also* Prosecution Final Trial Brief, Annex A, para. 52, in which the Trial Chamber notes that, aside from identifying Jekić as an employee of the Serbian Ministry of Interior and an “associate” of the Serbian State Security Service, the only other evidence indicating that he belonged to the Serbian State Security Service comes from a single report from the *Republika Srpska* Ministry of Interior. *See* Exhibit P01623, p. 1 (wherein Jekić is identified as a “former member of the [Serbian State Security Service] of Serbia”, but no other details are provided). *See also* Witness RFJ-037, T. 8 February 2018 pp. 59, 62, Exhibit P01616, paras. 160-162; Witness Mujić, T. 27 February 2018 pp. 35, 36. Even if Jekić belonged to the Serbian State Security Service, this evidence of frequent contact still provides only circumstantial support for the proposition that Pavlović was taking instructions from the Accused and does not compel such a conclusion.

²²⁷¹ Witness RFJ-002, Exhibit P01667, pp. 10924, 10925, 10938-10940, 10960, 10961, 10963.

²²⁷² Witness RFJ-002, Exhibit P01667, pp. 10939, 10940, 10960. When asked whether he saw any identification or document corroborating Pavlović’s membership in the Serbian State Security Service, the witness said that Pavlović never showed such identification, but that he “produced something” from his pocket and said that he was appointed from Belgrade. The witness also stated that Pavlović showed them “some booklets”, but they never inspected the booklets to know what they were. *See* Witness RFJ-002, Exhibit P01667, pp. 10940, 10959, 10961.

²²⁷³ Witness RFJ-002, Exhibit P01667, p. 10940. *See also* Witness RFJ-002, Exhibit P01667, p. 10962.

²²⁷⁴ Witness RFJ-002, Exhibit P01667, p. 10960.

different ammunitions from officers he contacted”.²²⁷⁵ According to Witnesses OFS-23, the distribution of weapons in Zvornik began in 1991, with weapons from Serbia coming from the JNA and the State Security Service.²²⁷⁶ However, when asked about the overall quantity of weapons that reached Zvornik, Witness OFS-23 explained that “roughly 90 percent came from the JNA and 10 percent from Baranja”, with the 90% distributed mostly by the JNA.²²⁷⁷ In relation to the first distribution of weapons, Branko Grujić told Witness OFS-23 that he agreed, along “with some people from the state security”, to transfer weapons by boat over the Drina river, but the witness did not know whether it was true.²²⁷⁸ He also stated that, in 1991, he met with Radmilo Bogdanović in Belgrade, who told him that he could obtain weapons from the Territorial Defence of Serbia, and that Kostić would get in touch with him to organize the transport.²²⁷⁹ Kostić called the witness about five to six days later and provided him with instructions on how to receive the weapons, which included 200-300 guns and ammunition that were distributed to Serbs in villages in Zvornik.²²⁸⁰ Witness OFS-23 testified that two shipments of weapons took place in the same manner as instructed by Kostić.²²⁸¹ Having reviewed this evidence, the Trial Chamber considers that the JNA distributed the majority of weapons that reached Zvornik and that, while there is some indication that weapons may have come from the Serbian State Security Service, the record does not provide sufficient links or clarity to demonstrate beyond reasonable doubt that the Accused played a role in such weapons distributions in Zvornik.²²⁸²

569. Having reviewed the evidence of Witnesses OFS-23 and RFJ-002, as well as other documentary evidence,²²⁸³ the Trial Chamber considers that, even if Pavlović worked for the State

²²⁷⁵ Witness RFJ-002, Exhibit P01681, p. 8. *See also* Exhibit P00838, p. 2.

²²⁷⁶ Witness OFS-23, T. 16 September 2020 p. 27, Exhibit 2D00506, paras. 31-33. The Trial Chamber also notes that, during his testimony in the retrial, the witness appeared to be confused as to whether the specific date of the first shipments of weapons to Zvornik took place in October, early November, or December 1991. *See* Witness OFS-23, Exhibit 2D00506, para. 32, T. 17 September 2020 p. 50, T. 16 September 2020 pp. 4-6, 28. The witness also stated that he did not take part in organizing the transport of the weapons, but that some weapons were distributed from his house. *See* Witness OFS-23, Exhibit 2D00506, para. 32. According to Witness OFS-23, there were other channels of weapons transports as well. *See* Exhibit 2D00506, paras. 33-35, 48.

²²⁷⁷ *See* Witness OFS-23, Exhibit 2D00504, pp. 9719-9721, 9789, Exhibit 2D00506, para. 34 (wherein the witness stated that “at least two-thirds of the weapons were from the depots and warehouses of the JNA located in the ethnically pure Serb local communes” and that this occurred in the autumn of 1991). *See also* Witness OFS-23, Exhibit 2D00506, paras. 31-33.

²²⁷⁸ Witness OFS-23, T. 16 September 2020 pp. 28, 31, 32, Exhibit 2D00506, para. 32.

²²⁷⁹ Witness OFS-23, T. 15 September 2020 p. 15, Exhibit 2D00506, paras. 39, 40, Exhibit 2D00507, p. 1.

²²⁸⁰ Witness OFS-23, T. 15 September 2020 p. 15, Exhibit 2D00504, pp. 9731, 9732, Exhibit 2D00506, paras. 36, 40, Exhibit 2D00507, p. 1.

²²⁸¹ Witness OFS-23, T. 16 September 2020 p. 16, T. 15 September 2020 p. 15.

²²⁸² The Trial Chamber further notes the evidence cited by the Prosecution of Stanišić, Simatović, or the Serbian Ministry of Interior’s involvement in the transfer of weapons to Bosnia and Herzegovina. *See* Prosecution Final Trial Brief, paras. 255, 259, 261, 263-265. The Trial Chamber considers, however, that the cited evidence does not reliably and with sufficient clarity demonstrate the role played by the Accused in the distribution of weapons or, if established, that they are sufficiently connected with a charged crime.

²²⁸³ The Trial Chamber also considered other documentary evidence indicating that Pavlović was a member of the Serbian Ministry of Interior. *See* Exhibit P00837, p. 2. *See also* Exhibit P01649, pp. 1, 2; Exhibit P00838, p. 14. The Trial Chamber notes that the report referred to by the Prosecution, which it asserts was sent to the Second

Security Service, which remains unclear,²²⁸⁴ or was in contact with other members of the Serbian State Security Service, there is not sufficient reliable and credible evidence showing that Stanišić provided instructions to him or influenced the manner of his conduct prior to and after he took over as commander of the Zvornik Territorial Defence. In this regard, while the Trial Chamber considered evidence that, in his capacity as commander of the Zvornik Territorial Defence, Pavlović “often” visited Stanišić’s deputy Tepavčević at the State Security Service in Belgrade,²²⁸⁵ it finds this uncorroborated evidence, which again does not mention Stanišić’s involvement in these meetings, speculative. The Trial Chamber is equally unconvinced that any assistance Pavlović provided to secure the release of Milorad Ulemek (Legija)²²⁸⁶ can be attributed to Stanišić.²²⁸⁷ In making this finding, the Trial Chamber is mindful of the evidence it received from Witness RFJ-037²²⁸⁸ as well as the issues raised by the parties in relation to his testimony.²²⁸⁹ The Trial Chamber recalls, however, that this evidence is limited given the scope for which it was admitted and is viewed with appropriate caution. Considering that the Trial Chamber does not find other clear or direct evidence in relation to Stanišić’s contributions, the Trial Chamber declines to rely on this aspect of the witness’s evidence.

570. Finally, the Trial Chamber considered evidence arising from the Prosecution’s contentions that, following the takeover of Zvornik, Pavlović and other Bosnian Serb municipal representatives met with Simatović in June or July 1992 to organize training activities that would be carried out in

Administration, identifies Pavlović as a “JNA Army/Major and commander of the troops in Zvornik”, that he “supposedly came to Zvornik and proposed himself as the commander of the Serbian army in Zvornik”, and that he “spread stories that he had been sent by the Counter-Intelligence Service and State Security Service of Serbia to settle the situation in Zvornik, and the population accepted him as such”. See Exhibit P01649. The Trial Chamber recalls that, in a different report, when asked by a State Security operative to discuss acts of the Serbian Volunteer Guard in the Zvornik region, Pavlović “refused to give concrete information saying that he would send it through another line of communication, i.e. through Jekić from the [Republika Srpska Ministry of Interior]”. See Exhibit P00838, pp. 1, 14, 15.
²²⁸⁴ The Trial Chamber does not consider that the evidence that Kostić “brought” Pavlović to Mali Zvornik or that he sometimes referred to Kostić as “boss” definitively demonstrates that he was affiliated with the Serbian State Security Service.

²²⁸⁵ See Prosecution Final Trial Brief, para. 524, referring to Witness RFJ-109, Exhibit P01782, pp. 23626, 23634.

²²⁸⁶ See Prosecution Final Trial Brief, paras. 177, 521; Exhibit P02847, p. 1. See also Prosecution Final Trial Brief, Annex A, paras. 188-191.

²²⁸⁷ See Prosecution Final Trial Brief, paras. 177, 521. The Trial Chamber also does not find the evidence sufficient to support the conclusion that General Bošković “owed his position to Stanišić” (see Prosecution Final Trial Brief, paras. 177, 218, 521). See Witness Vasiljević, T. 30 January 2019 pp. 49, 50, T. 14 June 2018 pp. 6-9, Exhibit P02423, para. 38.

²²⁸⁸ The Trial Chamber notes that it received evidence from Witness RFJ-037 in relation to: (i) the Serbian State Security Service and Stanišić’s alleged relationship with Pavlović (see Witness RFJ-037, T. 14 February 2018 pp. 39-41, T. 8. February 2018 pp. 63, 66, 68, T. 7 February 2018 pp. 6, 7, 12, Exhibit P01616, para. 165); (ii) the distribution of weapons that Jekić received from the Serbian Ministry of Interior to Serbian Democratic Party members from November 1991 until the Zvornik operation in April 1992 (see Witness RFJ-037, Exhibit P01616, para. 161, T. 6 February 2018 pp. 52-57); (iii) the transport of weapons from the Federal Secretariat of Internal Affairs into Bosnia and Herzegovina in late 1991, early 1992 (see Witness RFJ-037, T. 6 February 2018 p. 55, Exhibit P01616, paras. 37-39); and (iv) the transport of weapons from the Republika Srpska Ministry of Interior, through the Serbian Ministry of Interior, which he stated took place with Stanišić’s knowledge (see Witness RFJ-037, Exhibit P01616, paras. 38, 40-42, T. 6 February 2018 p. 55).

²²⁸⁹ See *supra* para. 454, nn. 1828, 1830.

their municipalities,²²⁹⁰ and that the Serbian State Security Service was well aware of the crimes and who committed them during and after the attack on Zvornik.²²⁹¹ The Trial Chamber accepts that there is evidence that reports regarding crimes committed in Zvornik reached the Serbian State Security Service, including the Second Administration. Nonetheless, the Trial Chamber is mindful that Pavlović's relationship with the State Security Service remains unclear.²²⁹² As such, even if the Accused had specific knowledge concerning his conduct, the Trial Chamber is not convinced that his actions can be attributable to them. The Trial Chamber also notes that Witness Deronjić's account of Simatović meeting with local authorities, including Pavlović in June or July 1992 is not sufficiently corroborated, and therefore it declines to rely on it.

571. Further, while it has assessed the Accused's alleged involvement with Arkan and the Serbian Volunteer Guard,²²⁹³ the Trial Chamber received evidence from Witness RFJ-037 that he had knowledge that Stanišić was involved in the planning of the Zvornik operation,²²⁹⁴ and that Pavlović met with Vojin Vučković (Žuća), the commander of the Yellow Wasps paramilitary group, who he asserts was sent by the Serbian State Security Service, and that this was known to Stanišić.²²⁹⁵ Aside from viewing Witness RFJ-037's evidence with appropriate caution, this evidence is hearsay and speculative, and the Trial Chamber will not rely on it.²²⁹⁶

6. Conclusion

572. The Trial Chamber considers that channels of communication did exist between Stanišić and Karadžić before and after the formation of *Republika Srpska* and that, in some instances, Stanišić facilitated contact between Karadžić and Milošević. However, the content of these communications

²²⁹⁰ See Prosecution Final Trial Brief, para. 525, referring to Witness Deronjić, Exhibit P01717, paras. 134-138.

²²⁹¹ See Prosecution Final Trial Brief, para. 528, referring, *inter alia*, to Witness RFJ-037, Exhibit P01616, paras. 197, 198; Witness RJS-04, 11 July 2019 p. 23; Exhibit P01620, p. 3; Exhibit P00838, pp. 2-4, 14; Exhibit P01649.

²²⁹² See *supra* para. 569, nn. 2272, 2283.

²²⁹³ See *supra* Section V.E.

²²⁹⁴ Witness RFJ-037, T. 14 February 2018 p. 63.

²²⁹⁵ Witness RFJ-037, T. 8 February 2018 pp. 57, 58, T. 6 February 2018 p. 46. See also Witness RFJ-037, Exhibit P01616, para. 171.

²²⁹⁶ In relation to Vučković, Witness RFJ-037 merely states that he had been sent by the Serbian State Security Service and "if he was sent by Čarli and Tepa it's impossible that it was unknown to Stanišić". See Witness RFJ-037, T. 8 February 2018 p. 57. Further, regarding Stanišić's involvement in planning the Zvornik operations, Witness RFJ-037's "knowledge was just that there would be serious things happening in Bijeljina and in Zvornik." See Witness RFJ-037, T. 14 February 2018 p. 63. The witness also makes statements in relation to Simatović's involvement and agrees with comments made by Vojislav Šešelj during an interview that the "mastermind" of the Zvornik attack were "the key people of the State Security Service who thought it up, among them Franko 'Frenki' Simatović". See Witness RFJ-037, T. 14 February 2018 pp. 56, 57, referring to Exhibit P00004, p. 29. However, when asked whether it would be unfair for him to say that he had any knowledge about any specific involvement of "Frenki", Witness RFJ-037 responds, "no, no, I can't say that". See Witness RFJ-037, T. 14 February 2018 p. 63. Considering the above, the Trial Chamber finds the Prosecution's contention that the Serbian State Security Service orchestrated the attack on Zvornik, and that Stanišić was involved in planning it, speculative, especially since, aside from Šešelj's interview noted above, the only support provided by the Prosecution is the evidence of Witnesses RFJ-088, whose credibility issues have already been addressed elsewhere in this Judgement, and Witness RFJ-037 whose evidence is viewed with caution. See *supra* paras. 14, 17, 454, n. 1815. See also Witness RFJ-088, Exhibit P02310, p. 19426, Exhibit P02307, p. 9.

is insufficient to conclude beyond reasonable doubt that Stanišić, or Simatović, provided support to the organization of separate Serb government structures in Bosnia and Herzegovina. Similarly, there is not sufficient reliable evidence demonstrating that the Accused directed and organized the formation of, and the financing, training, logistical support and other substantial assistance or support to various Serb forces in Bosnia and Herzegovina. The Trial Chamber is also not satisfied that it has been proven beyond reasonable doubt that the Accused provided other assistance or contributed to the commission of the crimes charged in the Indictment through the acts of purported Serbian State Security Service operatives or individuals with connections to them, such as Marko Pavlović.

J. Intent

573. The Indictment alleges that the Accused shared the intent to further the common criminal purpose of forcibly and permanently removing the majority of non-Serbs from large areas of Croatia and Bosnia and Herzegovina, through the commission of the crimes of persecution, murder, deportation and inhumane acts (forcible transfers), as charged in the Indictment.²²⁹⁷ In the alternative, it alleges that the common criminal purpose was to forcibly and permanently remove, through deportation and forcible transfer, the majority of the Croats, Muslims and other non-Serbs from large areas of Croatia and Bosnia and Herzegovina, and the crimes of persecution and murder were reasonably foreseeable to the Accused as a possible consequence of the execution of the joint criminal enterprise and with that awareness, they participated in the enterprise.²²⁹⁸

574. In its Final Trial Brief, the Prosecution argues that the Accused intended the crimes that formed part of the common criminal purpose, which is demonstrated by: (i) their support for Milan Martić and Milan Babić in the SAO Krajina, and Goran Hadžić in the SAO SBWS before the common criminal plan crystallized;²²⁹⁹ (ii) statements of the Accused, including the context in which they were made;²³⁰⁰ (iii) the Accused's knowledge that crimes were being committed coupled with their personal involvement in planning and executing expulsion operations, continuous support for Željko Ražnatović (Arkan) and the Serbian Volunteer Guard, and repeated deployment of the Unit and the Scorpions;²³⁰¹ (iv) the Accused's failure to prevent the crimes or punish the perpetrators;²³⁰²

²²⁹⁷ Indictment, paras. 14, 17. *See also* Indictment, paras. 22, 25, 26, 63, 64, 66; Prosecution Closing Arguments, T. 12 April 2021 pp. 24, 75, 93-105.

²²⁹⁸ Indictment, paras. 14, 17.

²²⁹⁹ Prosecution Final Trial Brief, paras. 902-904.

²³⁰⁰ Prosecution Final Trial Brief, paras. 903, 913-915, 953.

²³⁰¹ Prosecution Final Trial Brief, paras. 903, 905-912, 916-936.

²³⁰² Prosecution Final Trial Brief, paras. 903, 928, 954-957.

and (v) the Accused's continuous cooperation with and support to other members of the joint criminal enterprise, despite knowledge of their criminal intent.²³⁰³

575. Stanišić submits that he did not share the intent to further the common criminal purpose as he was an apolitical professional, demonstrated by the fact that he was under investigation by a treason commission in 1991, acted to secure ethnic minorities and protect them from crime, and supported the peace efforts in Bosnia and Herzegovina between 1992 and 1995.²³⁰⁴ Similarly, Simatović submits that the evidence does not demonstrate that he shared the common criminal purpose and that his attendance at meetings and his alleged display of approval of certain units during the Kula ceremony are not conclusive of his intent.²³⁰⁵

576. The Trial Chamber turns first to the Prosecution's argument that the Accused's intent may be inferred from their acts and conduct prior to the formation of the common criminal purpose.²³⁰⁶ In this regard, the Trial Chamber is mindful that, as a matter of law, it may rely on evidence of the Accused's actions prior to the formation of the common criminal purpose to infer their *mens rea* for the crimes charged.²³⁰⁷

577. The Trial Chamber recalls its findings that, while Stanišić did not exercise authority over Babić, he did exert influence over Martić, and that both Accused were involved in providing the SAO Krajina police with weapons, communication equipment, technical assistance, financial support, and assistance in relation to the training of members of the SAO Krajina police, the SAO Krajina Territorial Defence, and other volunteers at the Golubić camp.²³⁰⁸ The Trial Chamber will consider whether these acts of the Accused, which predate the formation of the common criminal purpose,²³⁰⁹ support the inference that they shared the intent to further the commission of the charged crimes, once the common criminal purpose came into existence. In relation to the allegation that support provided by the Accused to Hadžić is indicative of the Accused's intent, the Trial Chamber recalls its finding that the evidence demonstrating that the Accused exercised authority over Hadžić with respect to the formation or operation of the SAO SBWS government and

²³⁰³ Prosecution Final Trial Brief, paras. 903, 937-952.

²³⁰⁴ Stanišić Final Trial Brief, paras. 160-179, Annex I. *See also* Stanišić Rejoinder, T. 14 April 2021 pp. 35, 36.

²³⁰⁵ Simatović Final Trial Brief, paras. 64-70. *See also* Simatović Closing Arguments, T. 13 April 2021 pp. 71, 95-97.

²³⁰⁶ *See* Prosecution Final Trial Brief, para. 904.

²³⁰⁷ *See* Đorđević Appeal Judgement, paras. 295, 297; *Tolimir* Appeal Judgement, para. 565. *See also* Šainović *et al.* Appeal Judgement, paras. 1019, 1470.

²³⁰⁸ *See supra* paras. 480, 537.

²³⁰⁹ The Trial Chamber has found that, from at least August 1991, and at all times relevant to the crimes charged in the Indictment, a common criminal purpose existed to forcibly and permanently remove, through the commission of the crimes of persecution, murder, deportation and inhumane acts (forcible transfers), the majority of non-Serbs, principally Croats, Bosnian Muslim and Bosnian Croats, from large areas of Croatia and Bosnia and Herzegovina. *See supra* para. 379.

local security structures is insufficient.²³¹⁰ Accordingly, the Trial Chamber will not consider this allegation any further.

578. The Trial Chamber has considered the evidence regarding the Accused's actions in support of the SAO Krajina police against the background of the political turmoil that ensued in Krajina in mid-1990, following the multi-party election results in the Socialist Republic of Croatia, as well as the civil upheaval that took place after the Croatian Government declared the referendum on the autonomy of Serbs in Croatia illegal.²³¹¹ The Accused, on account of their unfettered access to intelligence information through various channels, and their attendance at meetings or presence on the ground, were undoubtedly aware of the sentiment of local leaders for the Serbs in Krajina to remain in Yugoslavia and defend what they considered to be Serbian land.²³¹² However, it was not until Martić's ultimatum prior to the attack on the village of Kijevo in August 1991, in which he declared that "further co-existence in our Serbian territories of the SAO Krajina is impossible" and the subsequent destruction of the village and expulsion of its Croat population,²³¹³ that his intent to achieve his goals through the commission of crimes unequivocally manifested. Any assistance provided by the Accused to Martić and the Milicija Krajina up to this point, could have reasonably been provided with the intent to assist the Krajina Serbs' efforts in setting up structures to ensure their security in a rapidly escalating situation of fear and general uncertainty, and in the context of their political strive for independence from Croatia.

579. In view of the above considerations, the Trial Chamber finds that the support that the Accused provided to Martić and the SAO Krajina forces, prior to the formation of the common criminal purpose, is not conclusive of their shared intent to further the common criminal purpose of the joint criminal enterprise, once the latter came into existence. As described above, while this remains a possible inference, it is not the only reasonable inference from the evidence.

580. The Trial Chamber turns next to the Prosecution's contention that the Accused's intent may be inferred from statements that either they made or that others addressed to them. The Prosecution submits that an intercepted conversation between Radovan Karadžić and Stanišić, which took place on 22 January 1992, demonstrates Stanišić's readiness to use extreme violence against non-Serbs to achieve the shared goal for Serb-controlled territory.²³¹⁴ The Prosecution submits that, when viewed in the context of the campaign of violence that resulted in massive population displacements in the SAO Krajina and the SAO SBWS in 1991, and Arkan's arrival in Bijeljina at Stanišić's behest in

²³¹⁰ See *supra* para. 537.

²³¹¹ See *supra* Section V.G.1.

²³¹² See *supra* para. 369.

²³¹³ See *supra* paras. 30, 373.

²³¹⁴ Prosecution Final Trial Brief, para. 914, referring to Exhibit P02790, pp. 6, 7.

March 1992, the intercept demonstrates Stanišić's intent to further the common criminal purpose.²³¹⁵

581. The Trial Chamber notes that, in their 22 January 1992 conversation, Karadžić informs Stanišić that, unless the Serbs and Croats resolve their contentions, "they are in for thirty years of torture", with Stanišić responding by saying, "with killings".²³¹⁶ In the same conversation, Stanišić states that "we'll have to push them back to Belgrade" as "there's nothing else left for us to do" and, after Karadžić agrees, he adds "or we'll exterminate them completely so let's see where we'll end up".²³¹⁷ Having examined the arguments in relation to this conversation and bearing in mind the takeover operations that occurred prior to this exchange in the SAO Krajina and SAO SBWS,²³¹⁸ the Trial Chamber is not convinced that Stanišić's comments, albeit disconcerting, demonstrate, in and of themselves, intent to further the common criminal purpose. The language is extreme, but there is no other example of the use of similar language in other private or public conversations throughout the Indictment period. The Trial Chamber cannot, therefore, exclude the possibility that this is an unfortunate choice of words used in connection with possible military action between Serbs and Croats or other forces, and not necessarily a literal expression of Stanišić's intent.²³¹⁹ In any case, these comments reflect Stanišić's knowledge that military operations may result in killings.

582. The Prosecution also relies on an entry in Ratko Mladić's diary that Stanišić attended a two-day meeting in Belgrade, on 13 and 14 December 1993, with, among others, Slobodan Milošević, Karadžić, Radovan Stojičić (Badža), Momčilo Krajišnik, and Mladić.²³²⁰ According to Witness Manojlo Milovanović, who was also present at the meeting, the meeting was held in the building of the Serbian State Security Service, it was called by Karadžić, and was chaired by Milošević.²³²¹ According to Mladić's diary, Stanišić, who opened the meeting, stated "it is because of your initiative that we are meeting in order to improve /your/ operational and tactical position and see about help from Serbia."²³²² The entry in Mladić's diary identifies Karadžić as later stating that "[u]nification with Serbia is smiling upon us".²³²³ The Trial Chamber considers that the remark attributed by Mladić to Stanišić and Mladić's notes on the subsequent discussions indicate that the

²³¹⁵ Prosecution Final Trial Brief, para. 915.

²³¹⁶ Exhibit P02790, p. 6.

²³¹⁷ Exhibit P02790, p. 7.

²³¹⁸ See Prosecution Final Trial Brief, paras. 481, 914, 915; Stanišić Final Trial Brief, paras. 696, 980. See also Prosecution Rebuttal, T. 14 April 2021 p. 58; Stanišić Rejoinder, T. 14 April 2021 p. 61.

²³¹⁹ The Trial Chamber also notes that, while Stanišić states that, if they want it, then they'll have "an all-out war", this part of the exchange ends with Stanišić saying "[b]etter do it like decent people". See Exhibit P02790, p. 7.

²³²⁰ Prosecution Final Trial Brief, para. 953, referring to Exhibit 1D00036, p. 53.

²³²¹ Witness Milovanović, Exhibit P02935, pp. 15445, 15446.

²³²² Exhibit 1D00036, p. 53. See also Witness Milovanović, Exhibit P02935, p. 15446.

²³²³ Exhibit 1D00036, p. 53.

meeting was about the possibility of Serbia providing military and logistical assistance to the Bosnian Serb Republic. However, Stanišić's presence and limited intervention at the meeting²³²⁴ do not demonstrate, beyond reasonable doubt, that he shared the intent to further the common criminal purpose.

583. The Prosecution further relies on a letter that Stanišić sent to the Republic of Serbian Krajina police on 5 July 1994, in which he praised them as “among the main establishers of Krajina’s statehood and the guarantee of its independence”, acknowledged their contribution to the maintenance of law and order and the protection of citizens, and foreshadowed that “[w]e are now entering the decisive phase of the fight to achieve the common goals of all the Serbian lands, more determined and prepared than ever before”.²³²⁵ When viewed in the context of the widespread crimes and acts of violence committed against non-Serbs in Krajina in the preceding years, with the direct participation of members of the local police, Stanišić’s words of praise appear not only misguided, but also imply his endorsement and moral support for the acts of the Republic of Serbian Krajina police. However, these comments, even when taken together with his remark about achieving “the common goals of all the Serbian lands”, do not lead to the only reasonable inference that he shared the intent to further the common criminal purpose. In fact, these comments allow for the reasonable possibility that Stanišić provided encouragement and moral support to the Republic of Serbian Krajina police, in the context of the political and military agenda that was being pursued at the time.

584. Last, the Prosecution points to a New Year’s greeting card that Martić sent to Stanišić, in which Martić states that the previous year “was marked by the effort to attain a common stance in our joint effort – the creation of a unified Serbian state” and “[h]oping that in the new year, 1995, we will be striving for the same aims.”²³²⁶ The Trial Chamber, however declines to rely on this evidence as decisive of Stanišić’s intent, given the purpose of the communication and that he is not its author.

585. The Trial Chamber turns next to the Prosecution’s argument that the Accused’s intent may be inferred from their knowledge that crimes were being committed, combined with their continuous support for Arkan and the Serbian Volunteer Guard, and repeated deployment of the

²³²⁴ In relation to the entry in Mladić’s diary that, at the meeting, Stanišić stated that “[w]e can spare 100-120 men and Karišik” (see Exhibit 1D00036, p. 60), according to Witness Milovanović, this never materialized and, instead, the same number of men arrived from the 72nd Brigade Corps of the special forces of the JNA. See Witness Milovanović, Exhibit P02935, p. 15448.

²³²⁵ Prosecution Final Trial Brief, para. 953, referring to Exhibit P03726.

²³²⁶ Prosecution Final Trial Brief, para. 953, referring to Exhibit P00228; Witness RFJ-066, Exhibit P00202, para. 206.

Unit and the Scorpions.²³²⁷ The Trial Chamber is mindful that the *mens rea* for joint criminal enterprise liability may be inferred from knowledge about the commission of crimes, combined with the accused's continuing participation in the joint criminal enterprise.²³²⁸ The significance of the accused's contribution is also relevant to demonstrating whether the accused shared the intent to pursue the common criminal purpose.²³²⁹

586. The Trial Chamber considers that the Serbian State Security Service, through its various networks and channels of reporting, had access to a vast amount of information about events on the ground in Croatia and Bosnia and Herzegovina, including on the commission of crimes during the Indictment period. As to Stanišić's specific knowledge, in an intercepted conversation on 28 January 1992, Stanišić is recorded as telling Karadžić "I don't know how much you know, but we know everything".²³³⁰ In addition, the Trial Chamber has discussed evidence of Stanišić attending meetings with Milošević, Babić, and Martić, pertaining to events in the SAO Krajina in mid-1990 and 1991, and, in relation to the events in the SAO SBWS, with Hadžić, police officials, and other Serb forces throughout 1991. In the end of 1991, Stanišić also received reports directly from Radoslav Kostić, who subsequently became Assistant Minister of the Interior of the Republic of Serbian Krajina, about the security situation in the region.

587. As discussed elsewhere in this Judgement, Stanišić was also in frequent contact with Karadžić and, in 1992, met and communicated with other Bosnian Serb leaders.²³³¹ Other evidence on the record further demonstrates that Stanišić had a comprehensive knowledge of the events on the ground in Croatia and Bosnia and Herzegovina during the Indictment period, including detailed information of the strength, composition, and deployment of Serb forces in various regions of the conflict.²³³²

588. In relation to Simatović's knowledge, the Trial Chamber notes that Simatović was an intelligence officer and would have had unimpeded access to information about events on the

²³²⁷ See Prosecution Final Trial Brief, paras. 903, 905-912, 916-936.

²³²⁸ *Prlić et al.* Appeal Judgement, para. 2590; *Đorđević* Appeal Judgement, paras. 512, 513; *Krajišnik* Appeal Judgement, para. 697.

²³²⁹ *Kvočka et al.* Appeal Judgement, para. 97.

²³³⁰ Exhibit P02792, p. 7.

²³³¹ See *supra* Section V.I.2.

²³³² See, e.g., Witness RFJ-066, Exhibit P00202, para. 178; Witness RFJ-113, Exhibit P00562, para. 88, T. 26 September 2017 pp. 57, 58; Witness Vasiljević, T. 31 January 2019 pp. 16, 17; Exhibit P02787, pp. 1-3; Witness RFJ-144, T. 23 January 2018 pp. 45, 46; Witness Milovanović, Exhibit P02934, pp. 4383-4385, 4505; Exhibit P00059, p. 24.

ground and that, as Simatović acknowledges, his primary task in the regions of Croatia and Bosnia and Herzegovina was collecting intelligence.²³³³

589. Having considered the totality of the evidence before it, and in view of the scale and pattern of crimes that occurred during and in the aftermath of Serb military operations in the areas charged in the Indictment, the Trial Chamber finds it proven beyond reasonable doubt that the Accused were aware of the campaign of forcible displacement targeting non-Serbs in Croatia and Bosnia and Herzegovina during the Indictment period.

590. In relation to the Unit, the Prosecution has proven beyond reasonable doubt that, on one occasion, in the context of the takeover operation of the Bosanski Šamac municipality in April 1992, the Accused deployed members of the Unit along with approximately 20 Bosanski Šamac locals trained by Unit members from its camp at Pajzoš, near Ilok, Croatia. During and in the aftermath of the operation, this group, led by Dragan Đorđević (Crni), a Unit member, committed the crimes of persecution, murder, deportation, and forcible transfer, as charged in the Indictment.²³³⁴ The Trial Chamber recalls, however, that, during the operation, this group was re-subordinated to the JNA's 17th Tactical Group and that there is insufficient evidence of the Accused issuing orders, instructions, or influencing, in any manner, the conduct of Unit members during and following the takeover of the municipality of Bosanski Šamac.

591. Moreover, the Trial Chamber has not otherwise found proven beyond reasonable doubt that the Accused deployed and/or provided assistance to Serb forces under their control in connection with any other crimes charged in the Indictment. In this respect, the Trial Chamber recalls its finding that it has not been proven beyond reasonable doubt that the Accused deployed and/or otherwise supported Arkan, the Serbian Volunteer Guard, or the Scorpions.²³³⁵ The Trial Chamber has also not found that the Accused were personally involved in the planning or execution of operations that led to the forcible displacement of the non-Serb population from the specific areas charged in the Indictment.

592. The Prosecution has presented extensive evidence on the alleged involvement of the Accused and on the participation of the Unit in other operations, including along the Posavina Corridor, in Eastern Bosnia and Herzegovina, in Operation Udar, in operations in the Podrinje

²³³³ See Simatović Final Trial Brief, paras. 217-223, 511. See also Simatović Closing Arguments, T. 13 April 2021 p. 123. In relation to Simatović's submission that "he was never in a sufficiently powerful position" (see Simatović Final Trial Brief, para. 67), the Trial Chamber has found that, during the Indictment period, Simatović held high-level positions with significant powers and authority within the Serbian State Security Service. See *supra* Section IV.B.2.

²³³⁴ See *supra* Sections II.C.3, V.D.2(a).

²³³⁵ See *supra* paras. 456, 466.

region, and in Operation Pauk.²³³⁶ The Trial Chamber notes, however, that none of the crimes allegedly committed during these operations, which span from 1992 until 1995, are charged in the Indictment. While the Trial Chamber has thoroughly considered the evidence presented by the Prosecution in this regard, it has found such evidence generally insufficient to conclude beyond reasonable doubt that the Accused shared the common criminal purpose through the commission of the crimes charged in the Indictment. In these circumstances, the Trial Chamber is similarly not convinced that such evidence demonstrates the Accused's continuing participation in the joint criminal enterprise, and thus their intent to further the common criminal purpose.

593. In relation to the Prosecution's allegation that the Accused failed to prevent or punish Unit members who committed crimes, particularly in relation to the operation in Bosanski Šamac,²³³⁷ the Trial Chamber considers that, even if the Accused had the ability to take such measures,²³³⁸ this failure alone would not lead to the only reasonable inference that the Accused shared the intent to further the common criminal purpose. The Prosecution also seeks to rely on the evidence of Witness Todorović in support of the allegation that the Accused, knowing of the Unit's crimes in Bosanski Šamac, intervened to ensure that Unit members avoided punishment.²³³⁹ The Trial Chamber, however, declines to rely on this uncorroborated aspect of Witness Todorović's evidence, given that it goes directly to the acts and conduct of the Accused and the Accused did not have an opportunity, either in the original trial or in the retrial, to cross-examine the witness.

594. Finally, the Trial Chamber turns to the Prosecution's contention that the Accused's intent may be inferred from their continuous cooperation with and support to other members of the joint criminal enterprise, despite knowledge of their criminal intent.²³⁴⁰ It transpires from the evidence that, to varying degrees throughout the Indictment period, Stanišić and Simatović communicated and/or cooperated with senior members of the political, military, and police leadership in Serbia, the SAO Krajina, the SAO SBWS, and the Bosnian Serb Republic, who were found to be also members of the joint criminal enterprise.²³⁴¹ In addition, the Trial Chamber recalls its findings on the numerous crimes and acts of violence committed in furtherance of the common criminal purpose.²³⁴² When considered in the context of the Accused's extensive and detailed knowledge of

²³³⁶ See, e.g., Prosecution Final Trial Brief, paras. 123, 127, 131-139, 466, 559, 560, 572-587, 607, 612, 624-642, 931, 932 and references cited therein.

²³³⁷ See Prosecution Final Trial Brief, paras. 544, 928, 956. The Trial Chamber recalls its previous findings that the Accused did not exercise authority over the Serbian Volunteer Guard and the Scorpions (see *supra* paras. 456, 466.), and that, other than in relation to Bosanski Šamac, it has not been proven beyond reasonable doubt that the Unit was involved in the commission of crimes charged in the Indictment. See Section V.D.

²³³⁸ See, e.g., Witness Milošević, T. 20 February 2020 pp. 18-20, T. 25 February 2020, pp. 42-44.

²³³⁹ See Prosecution Final Trial Brief, para. 928.

²³⁴⁰ See Prosecution Final Trial Brief, paras. 903, 937-952.

²³⁴¹ See *supra* Sections V.C, V.G, V.H.

²³⁴² See *supra* paras. 372-379.

the events unfolding on the ground during the Indictment period, the only reasonable inference from the evidence is that the Accused were aware of the shared intent of the members of the joint criminal enterprise to forcibly and permanently remove the majority of non-Serbs from large areas of Croatia and Bosnia and Herzegovina, through the commission of the crimes charged in Indictment.

595. It is well established that a trial chamber may infer the existence of a particular fact upon which the guilt of the accused depends from circumstantial evidence if it is the only reasonable conclusion that could be drawn from the evidence presented.²³⁴³ If there is another conclusion, which is also reasonably open from the evidence, and which is consistent with the non-existence of the fact, the conclusion of guilt beyond reasonable doubt cannot be drawn.²³⁴⁴ Accordingly, in reaching its conclusion on whether the Accused shared the intent to further the common criminal purpose, the Trial Chamber is cognizant of this stringent standard for basing conclusions on circumstantial evidence and the burden that it carries for the Trial Chambers' deliberations.

596. In view of all the factors discussed above and the entirety of the relevant evidence on the record, the Trial Chamber does not find the only reasonable inference from the evidence to be that Stanišić and Simatović shared the intent to further the common criminal purpose. In this regard, the Trial Chamber recalls its earlier finding that Stanišić did, on occasion, demonstrate a willingness to resolve the conflict, worked towards peace, and facilitated the provision of humanitarian assistance during the relevant period.²³⁴⁵ The Trial Chamber is also mindful that, despite the fact that the Indictment identifies numerous crimes and crime sites spanning across a wide range of locations and over a period of nearly five years, there is limited evidence of crimes being committed by Serb forces that have been proven beyond reasonable doubt to be under the Accused's authority. In the Trial Chamber's opinion, this raises further doubt. Accordingly, another reasonable inference remains open on the evidence, namely that, in relation to the Bosanski Šamac operation, the Accused knew that their acts provided practical assistance in the commission of the crimes by Serb forces, without sharing the intent for their commission.

²³⁴³ *Šešelj* Appeal Judgement, para. 118, referring to *Nyiramasuhuko et al.* Appeal Judgement, para. 1509; *Karemera and Ngirumpatse* Appeal Judgement, para. 146; *Bagosora and Nsengiyumva* Appeal Judgement, para. 515; *Nchamihigo* Appeal Judgement, para. 80; *Stakić* Appeal Judgement, para. 219; *Karera* Appeal Judgement, para. 34; *Ntagerura et al.* Appeal Judgement, para. 306.

²³⁴⁴ *Šešelj* Appeal Judgement, para. 118, referring to *Nyiramasuhuko et al.* Appeal Judgement, para. 1509; *Karemera and Ngirumpatse* Appeal Judgement, paras. 535, 553; *Bagosora and Nsengiyumva* Appeal Judgement, para. 515; *Ntagerura et al.* Appeal Judgement, para. 306; *Čelebići et al.* Appeal Judgement, para. 458.

²³⁴⁵ See *supra* para. 349.

K. Conclusion

597. The Trial Chamber has found that, from at least August 1991, and at all times relevant to the crimes charged in the Indictment, a plurality of persons shared the common criminal purpose to forcibly and permanently remove, through the commission of the crimes charged in the Indictment, the majority of non-Serbs from large areas of Croatia and Bosnia and Herzegovina.²³⁴⁶ It has further found that the Accused contributed to the furtherance of the common criminal purpose through organizing the training of Unit members and local Serb forces at the Pajzoš camp and through their subsequent deployment during the takeover of Bosanski Šamac municipality in April 1992. The Trial Chamber has found, however, that it has not been proven beyond reasonable doubt that the Accused shared the intent to further the common criminal purpose.

598. Accordingly, the Trial Chamber finds that the Accused may not be held responsible for committing, through participation in a joint criminal enterprise, the crimes alleged in the Indictment. The Trial Chamber will, therefore, proceed to examine whether the Accused are responsible pursuant to one of the alternative modes of liability pleaded in the Indictment.

²³⁴⁶See *supra* paras. 379, 380.

VI. AIDING AND ABETTING

599. The Indictment alleges that the Accused had the required knowledge and provided practical assistance, encouragement or moral support to the persons who carried out the crimes of persecution, deportation, forcible transfer, and murder, which had a substantial effect on the commission of the crimes.²³⁴⁷ It is, therefore, alleged that the acts described in the Indictment as contribution to the joint criminal enterprise also amount to acts of aiding and abetting, and that the Accused are also criminally responsible for having aided and abetted in the planning, preparation and/or execution of the crimes charged.²³⁴⁸

600. In its Final Trial Brief, the Prosecution argues that, through their acts, the Accused provided practical assistance, encouragement, or moral support that had a substantial effect on the commission of the crimes charged.²³⁴⁹ It further alleges that the Accused either intended these crimes or acted in the awareness of the probability that the crimes would be committed and that their acts and omissions would assist in their commission.²³⁵⁰

1. Applicable Law

601. The *actus reus* of aiding and abetting consists of practical assistance, encouragement, or moral support, which has a substantial effect on the perpetration of the crime.²³⁵¹ Specific direction is not an element of aiding and abetting liability under customary international law.²³⁵²

602. To satisfy the *mens rea* element for aiding and abetting liability, it must be shown that the aider and abettor knew that his acts or omissions assisted the commission of the specific crime by the principal, and that the aider and abettor was aware of the essential elements of the crime, which was ultimately committed, including the intent of the principal perpetrator.²³⁵³ It is not necessary that the aider and abettor know the precise crime that was intended and was in fact committed – if he is aware that one of a number of crimes will probably be committed, and one of those crimes is committed, he has intended to facilitate the commission of that crime, and is guilty as an aider and abettor.²³⁵⁴ There is no legal requirement that the aider and abettor know every detail of the crime

²³⁴⁷ Indictment, para. 16.

²³⁴⁸ Indictment, paras. 16, 17.

²³⁴⁹ Prosecution Final Trial Brief, para. 962.

²³⁵⁰ Prosecution Final Trial Brief, para. 963.

²³⁵¹ *Popović et al.* Appeal Judgement, para. 1758; *Šainović et al.* Appeal Judgement, para. 1649.

²³⁵² *Popović et al.* Appeal Judgement, para. 1758; *Šainović et al.* Appeal Judgement, para. 1649. The Trial Chamber considers that the principle of *lex mitior*, as argued by Simatović (*see* Simatović Final Trial Brief, paras. 72-81) is not applicable and dismisses his argument in this respect. *See also* ICTY Appeal Judgement, para. 128.

²³⁵³ *Šainović et al.* Appeal Judgement, para. 1772; *Haradinaj et al.* Appeal Judgement, para. 58; *Aleksovski* Appeal Judgement, para. 163; *Orić* Appeal Judgement, para. 43; *Simić* Appeal Judgement, para. 86.

²³⁵⁴ *Šainović et al.* Appeal Judgement, para. 1772; *Haradinaj et al.* Appeal Judgement, para. 58; *Blaškić* Appeal Judgement, para. 50.

that was eventually committed.²³⁵⁵ Nonetheless, the degree of knowledge pertaining to the details of the crime required to satisfy the *mens rea* of aiding and abetting will depend on the circumstances of the case, including the scale of the crimes and the type of assistance provided.²³⁵⁶

603. Whether an aider and abettor is held responsible for assisting an individual crime committed by a single perpetrator or for assisting in all the crimes committed by the plurality of persons involved in a joint criminal enterprise, depends on the effect of the assistance and on the knowledge of the accused.²³⁵⁷

2. Legal Findings

604. The Trial Chamber recalls its finding that the town of Bosanski Šamac was subject to a forcible takeover in the early morning of 17 April 1992 by Serb forces, which included a group under the command of Unit member Dragan Đorđević (Crni). This group also included, among others, Unit members Srećko Radovanović (Debeli) and Slobodan Miljković (Lugar), and approximately 20 local Serbs from Bosanski Šamac. Following the takeover of Bosanski Šamac, Crni, Debeli, and Lugar, as well as other Unit members, committed crimes against non-Serb civilians, which, among others, included the massacre of 16 Muslim or Croat men by Lugar and others at the Crkvina detention facility on or about 7 May 1992.²³⁵⁸

605. The Trial Chamber finds that, through organizing the training of Unit members and local Serb forces at the Pajzoš camp, near Ilok, Croatia, and through their subsequent deployment during the takeover of the Bosanski Šamac municipality in April 1992, Sanišić and Simatović provided practical assistance, which had a substantial effect on the perpetration of the crimes of persecution, murder, and forcible displacement by Unit members and local Serb forces. The fact that, once deployed, the Unit members were re-subordinated to the JNA is immaterial, as the Accused's contribution consisted of training and making those forces available during the takeover, and not in directing them during the operation.²³⁵⁹

606. The Trial Chamber is further satisfied that the Accused knew that their acts assisted the commission of the crimes of persecution, murder, and forcible displacement and were aware of the essential elements of the crimes, including the intent of the perpetrators. In this regard, the Trial Chamber notes that the crimes committed during and following the takeover of Bosanski Šamac did not occur as an isolated incident, but formed part of a pattern of crimes accompanying the takeover

²³⁵⁵ *Šainović et al.* Appeal Judgement, para. 1773.

²³⁵⁶ *Šainović et al.* Appeal Judgement, para. 1773.

²³⁵⁷ *Kvočka et al.* Appeal Judgement, para. 90.

²³⁵⁸ See Section II.C.3..

²³⁵⁹ See Sections II.C.3, V.D.2(a).

of territory by Serb forces in Bosnia and Herzegovina. Consistent evidence demonstrates that military operations were conducted with the objective of establishing Serb control, expelling the non-Serb inhabitants of towns and villages, and intimidating, arbitrarily detaining, and subjecting any remaining non-Serb civilians in the area to various crimes and acts of violence.²³⁶⁰

607. The Trial Chamber further notes that, nearly a year before the takeover of Bosanski Šamac, the Serb forces systematically committed persecution, murder, and forcible displacement against the non-Serb inhabitants of the SAO Krajina and the SAO SBWS.²³⁶¹ Shortly before the attack on Bosanski Šamac, Serb forces attacked Bijeljina and Zvornik and widespread looting, destruction of property, sexual assaults, and killings of non-Serbs, in particular Bosnian Muslim civilians, took place.²³⁶² The Trial Chamber further recalls its findings that the Accused were undoubtedly aware of the campaign of forcible displacement targeting non-Serbs in Croatia and Bosnia and Herzegovina and of the shared intent of the members of the joint criminal enterprise. When all these factors are considered together, the Trial Chamber finds that, in relation to the crimes committed in Bosanski Šamac, the only reasonable inference from the evidence is that Stanišić and Simatović knew that their acts assisted in the commission of murder, deportation, forcible transfer, and persecution, and were aware of the essential elements of the crimes, including of the intent of the perpetrators.

608. For the foregoing reasons, the Trial Chamber finds proven beyond reasonable doubt that Stanišić and Simatović are responsible for aiding and abetting the crimes of persecution, murder, deportation, and forcible transfer committed by Serb forces in Bosanski Šamac. Accordingly, the Trial Chamber finds Stanišić and Simatović guilty of Counts 1 to 5 of the Indictment in relation to these crimes. The Prosecution has not proven beyond reasonable doubt that the Accused are responsible for planning, ordering, or aiding and abetting any other crime charged in the Indictment.

²³⁶⁰ See *supra* Sections II.A, II.B, II.C.

²³⁶¹ See *supra* Sections II.A, II.B, III.A, III.B.

²³⁶² See *supra* Sections II.C.1, II.C.2.

VII. SENTENCING

609. Having found Stanišić and Simatović guilty under Counts 1 to 5 of the Indictment for aiding and abetting the crimes of murder, deportation, forcible transfer, and persecution committed in Bosanski Šamac, the Trial Chamber must determine an appropriate sentence.

610. In determining a sentence, Article 22 of the Statute and Rule 125 of the Rules require the Trial Chamber to have recourse to the general practice regarding prison sentences in the courts of the former Yugoslavia, to take into account factors such as the gravity of the offence and the individual circumstances of the convicted person, including aggravating and mitigating circumstances, and to give credit to the convicted person for any period of detention pending surrender to the ICTY or the Mechanism or pending trial or appeal.²³⁶³

611. The purposes of sentencing for crimes within the Mechanism's jurisdiction include retribution and deterrence.²³⁶⁴ The Trial Chamber, however, is mindful that the primary goal of sentencing is to ensure that the final or aggregate sentence reflects the totality of the criminal conduct and the overall culpability of the offender.²³⁶⁵ As the analysis below demonstrates, the Trial Chamber has considered the circumstances of each Accused separately, and has tailored the penalty to fit the individual circumstances of each Accused and the gravity of the offences.

A. Submissions

612. The Prosecution submits that, should Stanišić and Simatović be found responsible for a "substantial portion of the crimes" charged in the Indictment, under any form of liability, life imprisonment for each of them is the only sentence that would fully reflect the gravity of the offences and the Accused's individual circumstances.²³⁶⁶ The Prosecution further submits that the

²³⁶³ This list is not exhaustive and the Trial Chamber is vested with broad discretion in determining the appropriate sentence, due to its obligation to individualize the penalty to fit the circumstances of the accused and the gravity of the crime. See, e.g., *Mladić* Appeal Judgement, para. 539; *Karadžić* Appeal Judgement, para. 749; *Prlić et al.* Appeal Judgement, para. 3204; *Stanišić and Župljanin* Appeal Judgement, para. 1100; *Nyiramasuhuko et al.* Appeal Judgement, para. 3349; *Tolimir* Appeal Judgement, para. 626; *Popović et al.* Appeal Judgement, para. 1961; *Ngirabatware* Appeal Judgement, para. 255; *Đorđević* Appeal Judgement, para. 931; *Šainović et al.* Appeal Judgement, para. 1798.

²³⁶⁴ See *Mrkšić and Šljivančanin* Appeal Judgement, para. 415; *Krajišnik* Appeal Judgement, para. 775; *Stakić* Appeal Judgement, para. 402; *Nahimana et al.* Appeal Judgement, para. 1057; *Čelebići* Appeal Judgement, para. 806. Although these purposes play a role and must be considered, the Trial Chamber's duty remains to tailor the penalty to fit the individual circumstances of the accused and the gravity of the offence. See *Popović et al.* Appeal Judgement, paras. 1966-1968. A sentence proportional to the gravity of the criminal conduct will necessarily provide sufficient retribution and deterrence. See *Krajišnik* Appeal Judgement, para. 777.

²³⁶⁵ *Mladić* Appeal Judgement, para. 545; *Martić* Appeal Judgement, para. 350; *Čelebići* Appeal Judgement, para. 430.

²³⁶⁶ Prosecution Final Trial Brief, paras. 967, 971, 973, 981; Prosecution Closing Arguments, T. 12 April 2021 pp. 104-106.

positions of authority held by the Accused constitute an aggravating factor, and argues that there are no mitigating circumstances that merit consideration.²³⁶⁷

613. The Trial Chamber notes that Stanišić did not make any submissions related to sentencing.

614. Simatović submits that the following factors should be considered in mitigation in determining his sentence: his: “relatively low rank” within the Serbian State Security Service, compliance with the Serbian Constitution and the Service’s internal regulations, cooperation with the Prosecution, acceptance of the ICTY’s jurisdiction, voluntary surrender, correct conduct in detention, regular court attendance, and full compliance with provisional release conditions.²³⁶⁸ In relation to the latter, Simatović submits that the time spent on provisional release should be characterised as “limited freedom”.²³⁶⁹ He further submits that the length of the proceedings against him, as well as his age, health condition, lack of prior criminal record and of risk of re-offending constitute additional mitigating factors.²³⁷⁰

B. General Practice Regarding Prison Sentences in the Courts of the Former Yugoslavia

615. The Trial Chamber is not bound by the sentencing practices in the former Yugoslavia, although such practice must be taken into account when determining the appropriate sentence to be given.²³⁷¹ The Trial Chamber is not prevented from imposing a greater or lesser sentence than what would have been imposed under the legal regime of the former Yugoslavia.²³⁷²

616. Article 41 of the Socialist Federal Republic of Yugoslavia Criminal code (“SFRY Criminal Code”)²³⁷³ stipulated the general principles that should be taken into account in determining the sentence, including extenuating and aggravating factors, the circumstances of the offence, and the degree of criminal responsibility of the accused. Article 38(1) and (2) of the SFRY Criminal Code provided for a maximum sentence of imprisonment of 15 years, except for offences punishable by the death penalty, in which case the maximum term of imprisonment was set at 20 years. Chapter XVI of the SFRY Criminal Code outlined criminal acts against humanity and international law,

²³⁶⁷ Prosecution Final Trial Brief, paras. 974-980.

²³⁶⁸ Simatović Final Trial Brief, paras. 1437, 1445-1455, 1461.

²³⁶⁹ Simatović Final Trial Brief, para. 1456; Simatović Closing Arguments, T. 13 April 2021 p. 123.

²³⁷⁰ Simatović Final Trial Brief, paras. 1437-1444, 1458-1462.

²³⁷¹ Article 22(2) of the Statute; Rule 125(B)(iii) of the Rules; *Prlić et al.* Appeal Judgement, para. 3354; *Popović et al.* Appeal Judgement, para. 2087; *Šainović et al.* Appeal Judgement, para. 1830; *Krajišnik* Appeal Judgement, paras. 749, 811; *Hadžihasanović and Kubura* Appeal Judgement, paras. 335, 346; *Galić* Appeal Judgement, para. 398; *Krstić* Appeal Judgement, para. 262; *Kunarac et al.* Appeal Judgement, paras. 348, 349; *Čelebići* Appeal Judgement, para. 813.

²³⁷² *Prlić et al.* Appeal Judgement, para. 3354; *Popović et al.* Appeal Judgement, para. 2087; *Krstić* Appeal Judgement, para. 262.

²³⁷³ The SFRY Criminal Code was adopted by the Federal Assembly on 28 September 1976, and entered into force on 1 July 1977. After the dissolution of the SFRY in 1992, the Code remained in force, with some modifications and was renamed the Criminal Code of the Federal Republic of Yugoslavia.

criminalizing war crimes against the civilian population, the wounded and sick, and prisoners of war.²³⁷⁴ These offences were punishable by imprisonment for not less than five years or by the death penalty.²³⁷⁵ The 1992 Constitution of the Federal Republic of Yugoslavia abolished the death penalty on its territory.

C. Gravity of the Offences

617. The primary consideration in determining the appropriate sentence is the gravity of the offence.²³⁷⁶ In its assessment, the Trial Chamber must take into consideration the particular circumstances of the case and the form and degree of the accused's participation in the crime.²³⁷⁷ While aiding and abetting is a lower form of liability than committing through participation in a joint criminal enterprise, and may as such attract a lesser sentence, the gravity of the underlying crimes remains an important consideration in order to reflect the totality of the criminal conduct.²³⁷⁸

618. Other relevant factors to consider in assessing the gravity of the offences include the cruelty, nature, and circumstances of the offences,²³⁷⁹ the vulnerability of the victims,²³⁸⁰ the consequences and the impact of the crime, including the long-term physical, psychological, and emotional suffering, upon the victims and the broader targeted group²³⁸¹ and the convicted person's position of authority.²³⁸² There is no hierarchy of crimes and, therefore, there is no requirement that, in respect of the same acts, crimes against humanity be punished more harshly than violations of the laws or customs of war.²³⁸³

619. The Accused have been found responsible for having aided and abetted the crimes of persecution, murder, deportation, and forcible transfer, committed by Serb forces in Bosanski Šamac in connection with and following the takeover of Bosanski Šamac in April 1992.²³⁸⁴ The Trial Chamber recalls that the non-Serb population of Bosanski Šamac was subjected to murders

²³⁷⁴ Articles 142-144 of the SFRY Criminal Code.

²³⁷⁵ Articles 142-144 of the SFRY Criminal Code.

²³⁷⁶ See *Mrkšić and Šljivančanin* Appeal Judgement, para. 375; *Galić* Appeal Judgement, para. 442; *Stakić* Appeal Judgement, para. 375; *M. Nikolić* Judgement on Sentencing Appeal, para. 11; *Blaškić* Appeal Judgement, para. 683; *Kupreškić et al.* Appeal Judgement, para. 442; *Čelebići* Appeal Judgement, para. 731; *Aleksovski* Appeal Judgement, para. 182.

²³⁷⁷ *Mladić* Appeal Judgement, para. 545; *Prlić et al.* Appeal Judgement, para. 3251; *Stanišić and Župljanin* Appeal Judgement, para. 1106; *Nyiramasuhuko* Appeal Judgement, para. 3431; *Tolimir* Appeal Judgement, para. 633; *Mrkšić and Šljivančanin* Appeal Judgement, paras. 375, 407.

²³⁷⁸ *Mrkšić and Šljivančanin* Appeal Judgement, para. 407.

²³⁷⁹ *Stanišić and Župljanin* Appeal Judgement, para. 1106.

²³⁸⁰ *Stanišić and Župljanin* Appeal Judgement, para. 1106; *Mrkšić and Šljivančanin* Appeal Judgement, para. 400; *Blaškić* Appeal Judgement, para. 683; *Kunarac et al.* Appeal Judgement, para. 352.

²³⁸¹ See *Stanišić and Župljanin* Appeal Judgement, para. 1106; *Mrkšić and Šljivančanin* Appeal Judgement, paras. 400, 411; *Blaškić* Appeal Judgement, para. 683; *Krnjelac* Appeal Judgement, para. 260.

²³⁸² *Stanišić and Župljanin* Appeal Judgement, para. 1106; *Strugar* Appeal Judgement, para. 353.

²³⁸³ See *Kunarac et al.* Appeal Judgement, para. 171; *Furundžija* Appeal Judgement, para. 247; *Tadić* Sentencing Appeal Judgement, para. 69.

and numerous other acts of violence, their property was looted, and their religious buildings and cultural sites were destroyed. Victims were forced to endure dire and inhumane conditions while in detention, where they were repeatedly beaten, tortured, forced to engage in sexual acts, and killed.

620. The Crkvina massacre, involving the murder of 16 detainees, stands out with its brutality. The Trial Chamber notes that the majority of the victims of the crimes committed in Bosanski Šamac were particularly vulnerable, including civilians in detention, who were left at the whim of merciless perpetrators. Following the takeover of Bosanski Šamac, a significant number of non-Serbs were forcibly displaced which, along with other crimes and acts of violence inflicted upon them, had a long-lasting effect on their livelihood and caused physical and psychological suffering. These crimes were particularly grave.

621. In assessing the gravity of the offences, the Trial Chamber has taken into account that the Accused did not commit these crimes, but are criminally responsible for aiding and abetting their commission by organizing the training of Unit members and local Serb forces at the Pajzoš camp, and through their subsequent deployment during the takeover of the Bosanski Šamac municipality. The Trial Chamber is mindful however that it was not proven that the Accused exercised control over the perpetrators or directed them during the commission of the crimes.

D. Individual (Aggravating and Mitigating) Circumstances

622. Neither the Statute nor the Rules exhaustively define the factors, which may constitute aggravating or mitigating circumstances, although any substantial cooperation of the convicted person with the Prosecution is to be considered as a mitigating factor.²³⁸⁵ The Trial Chamber enjoys considerable discretion in determining what constitutes mitigating circumstances and the weight, if any, to be accorded to them.²³⁸⁶

623. Aggravating circumstances must be proven beyond reasonable doubt.²³⁸⁷ Factors taken into consideration in assessing the gravity of an offence must not additionally be taken into account as separate aggravating or mitigating circumstances, and *vice versa*.²³⁸⁸ Similarly, a factor, which is an element of the offence, cannot also be considered as an aggravating circumstance, as this would

²³⁸⁴ See *supra* para. 608.

²³⁸⁵ Rule 125(B)(i)-(ii) of the Rules; *Stanišić and Župljanin* Appeal Judgement, paras. 1130, 1131.

²³⁸⁶ *Mladić* Appeal Judgement, para. 553; *Karadžić* Appeal Judgement, para. 753; *Stanišić and Župljanin* Appeal Judgement, para. 1130; *Nyiramasuhuko et al.* Appeal Judgement, para. 3394; *Ngirabatware* Appeal Judgement, para. 265; *Čelebići* Appeal Judgement, paras. 777, 780.

²³⁸⁷ *Blaškić* Appeal Judgement, para. 686; *Čelebići* Appeal Judgement, para. 763.

²³⁸⁸ *Prlić et al.* Appeal Judgement, para. 3251; *Stanišić and Župljanin* Appeal Judgement, para. 1138; *Đorđević* Appeal Judgement, para. 936; *D. Milošević* Appeal Judgement, paras. 306, 309; *Limaj et al.* Appeal Judgement, para. 143.

amount to impermissible double-counting.²³⁸⁹ Among the aggravating circumstances identified in the jurisprudence are: (i) an accused's abuse of his position of authority;²³⁹⁰ (ii) the duration of the criminal conduct;²³⁹¹ (iii) premeditation and motive;²³⁹² (iv) the sexual, violent, and humiliating nature of the acts and the vulnerability of the victims;²³⁹³ and (v) the status of the victims, their age and number, and the effect of the crimes upon them.²³⁹⁴ The accused's decision to remain silent and not to testify, or the absence of a mitigating factor, does not constitute aggravating circumstances.²³⁹⁵

624. In contrast to aggravating factors, mitigating circumstances only need to be proven on a balance of probabilities.²³⁹⁶ The following circumstances have been identified as mitigating factors in the jurisprudence: (i) cooperation with the Prosecution;²³⁹⁷ (ii) an expression of remorse, sympathy, compassion, or sorrow for the victims of the crimes;²³⁹⁸ (iii) limited participation in the commission of the crime;²³⁹⁹ (iv) no prior criminal record;²⁴⁰⁰ (v) voluntary surrender;²⁴⁰¹ (vi) good conduct in detention;²⁴⁰² (vii) full compliance with the terms and conditions of provisional release;²⁴⁰³ (viii) the character of the convicted person subsequent to the conflict;²⁴⁰⁴ (ix) preventing the commission of crimes;²⁴⁰⁵ and (x) age.²⁴⁰⁶

²³⁸⁹ *Prlić et al.* Appeal Judgement, para. 3251; *Dordević* Appeal Judgement, para. 936; *Blaškić* Appeal Judgement, para. 693; *Vasiljević* Appeal Judgement, paras. 172, 173.

²³⁹⁰ *Mladić* Appeal Judgement, para. 545; *Prlić et al.* Appeal Judgement, paras. 3264, 3270; *Stanišić and Župljanin* Appeal Judgement, para. 1139; *Šainović et al.* Appeal Judgement, para. 1812. *See also* *Hadžihasanović and Kubura* Appeal Judgement, para. 320; *Galić* Appeal Judgement, para. 412; *Stakić* Appeal Judgement, para. 411.

²³⁹¹ *See* *Stanišić and Župljanin* Appeal Judgement, para. 1119; *D. Milošević* Appeal Judgement, para. 304; *Martić* Appeal Judgement, para. 340; *Krajišnik* Appeal Judgement, para. 814; *Blaškić* Appeal Judgement, para. 686; *Kunarac et al.* Appeal Judgement, para. 356.

²³⁹² *Blaškić* Appeal Judgement, paras. 686, 694. *See also* *Krstić* Appeal Judgement, para. 258; *Čelebići* Appeal Judgement, paras. 825, 833.

²³⁹³ *Blaškić* Appeal Judgement, para. 686; *Kunarac et al.* Appeal Judgement, para. 352.

²³⁹⁴ *Blaškić* Appeal Judgement, para. 686. *See also* *Kunarac et al.* Appeal Judgement, para. 355.

²³⁹⁵ *Blaškić* Appeal Judgement, para. 687. *See also* *Čelebići* Appeal Judgement, para. 783.

²³⁹⁶ *Mrkšić and Šljivančanin* Appeal Judgement, para. 352; *Hadžihasanović and Kubura* Appeal Judgement, para. 302; *Blaškić* Appeal Judgement, para. 697.

²³⁹⁷ Rule 125(B)(ii) of the Rules; *Babić* Sentencing Appeal Judgement, para. 43; *Blaškić* Appeal Judgement, para. 696; *Blagojević and Jokić* Appeal Judgement, para. 344.

²³⁹⁸ *Strugar* Appeal Judgement, para. 366. *See also* *Blaškić* Appeal Judgement, para. 696; *Babić* Sentencing Appeal Judgement, paras. 43, 72.

²³⁹⁹ *See* *Blaškić* Appeal Judgement, para. 696; *Krstić* Appeal Judgement, para. 273.

²⁴⁰⁰ *Krajišnik* Appeal Judgement, para. 816; *Hadžihasanović and Kubura* Appeal Judgement, para. 325; *Kordić and Čerkez* Appeal Judgement, para. 1090; *Blaškić* Appeal Judgement, para. 696.

²⁴⁰¹ *Hadžihasanović and Kubura* Appeal Judgement, para. 325; *Babić* Sentencing Appeal Judgement, paras. 43, 75; *Kordić and Čerkez* Appeal Judgement, para. 1090; *Blaškić* Appeal Judgement, para. 696.

²⁴⁰² *Krajišnik* Appeal Judgement, para. 816; *Hadžihasanović and Kubura* Appeal Judgement, para. 325; *Simić* Appeal Judgement, para. 266; *Babić* Sentencing Appeal Judgement, para. 43; *Kordić and Čerkez* Appeal Judgement, para. 1091; *Blaškić* Appeal Judgement, para. 696.

²⁴⁰³ *Blagojević and Jokić* Appeal Judgement, para. 342.

²⁴⁰⁴ *Babić* Sentencing Appeal Judgement, para. 43; *Blaškić* Appeal Judgement, para. 696.

²⁴⁰⁵ *Blagojević and Jokić* Appeal Judgement, para. 342.

²⁴⁰⁶ *Mladić* Appeal Judgement, para. 554; *Babić* Sentencing Appeal Judgement, para. 43; *Blaškić* Appeal Judgement, para. 696. *See also* *Stanišić and Župljanin* Appeal Judgement, para. 1170; *Dordević* Appeal Judgement, paras. 974, 980; *Krajišnik* Appeal Judgement, para. 816; *Simić* Appeal Judgement, para. 266.

625. Ill-health of the convicted person, or his family situation, is to be considered as a mitigating factor only in exceptional circumstances.²⁴⁰⁷ In addition, the comparatively low level of the convicted person in the overall command structure need not necessarily lead to a low sentence.²⁴⁰⁸ Good conduct during the trial proceedings may be a mitigating factor.²⁴⁰⁹ The existence of mitigating factors does not automatically imply a reduction of sentence or preclude the imposition of a particular sentence.²⁴¹⁰

1. Jovica Stanišić

626. The Trial Chamber recalls that, at the time of the commission of the crimes in Bosanski Šamac, Stanišić was Chief of the Serbian State Security Service.²⁴¹¹ It was the abuse of his senior position within the Serbian Ministry of Interior that allowed him to utilize the resources at his disposal to facilitate the commission of the crimes. Accordingly, the Trial Chamber finds that Stanišić abused his position of authority and takes this into account as an aggravating factor.

627. In relation to mitigating circumstances, the Trial Chamber recalls that it is not under the obligation to hunt for information that counsel does not see fit to put before it during closing arguments.²⁴¹² Nevertheless, the Trial Chamber is mindful of Stanišić's age and the fact that, throughout the original trial and the retrial, he complied, without exception, with the terms and conditions of his provisional release.²⁴¹³ In addition, Stanišić's medical conditions are well documented in the medical reports filed throughout these proceedings.²⁴¹⁴ The Trial Chamber also notes Stanišić's assistance in the release of 300 UNPROFOR hostages, captured French pilots, and

²⁴⁰⁷ *Mladić* Appeal Judgement, paras. 554, 555; *Prlić et al.* Appeal Judgement, para. 3309; *Šainović et al.* Appeal Judgement, para. 1827; *Galić* Appeal Judgement, para. 436; *Blaškić* Appeal Judgement, para. 696.

²⁴⁰⁸ *Čelebići* Appeal Judgement, para. 847. *See also* *Aleksovski* Appeal Judgement, para. 184.

²⁴⁰⁹ *See* *Čelebići* Appeal Judgement, para. 788.

²⁴¹⁰ *Mladić* Appeal Judgement, para. 553; *Karadžić* Appeal Judgement, para. 753; *Prlić et al.* Appeal Judgement, para. 3308; *Nyiramasuhuko et al.* Appeal Judgement, para. 3394; *Ngirabatware* Appeal Judgement, para. 265.

²⁴¹¹ *See supra* para. 350.

²⁴¹² *See* Rule 103(C) of the Rules, requiring parties to address matters of sentencing in closing arguments. *See also* *Đorđević* Appeal Judgement, para. 945; *Kupreškić et al.* Appeal Judgement, para. 414.

²⁴¹³ *See, e.g.*, Decision on Stanišić's Thirteenth Motion for Further Extension of Provisional Release, 1 March 2021 ("Decision of 1 March 2021"), p. 2; Decision on Stanišić's Twelfth Motion for Further Extension of Provisional Release, 19 October 2020 ("Decision of 19 October 2020"), p. 2.

²⁴¹⁴ *See* Registrar's Submission of Medical Report, 10 June 2021 (confidential and *ex parte* with confidential and *ex parte* Annex), Annex; Registrar's Submission of Medical Report, 21 May 2021 (confidential and *ex parte* with confidential and *ex parte* Annex), Annex; Registrar's Submission of Medical Report, 9 April 2021 (confidential and *ex parte* with confidential and *ex parte* Annex), Annex; Registrar's Submission of Medical Report, 19 March 2021; (confidential and *ex parte* with confidential and *ex parte* Annex), Annex. *See also, e.g.*, Decision of 1 March 2021, pp. 2, 3, n. 14 and references cited therein; Decision of 19 October 2020, pp. 2, 3, n. 14 and references cited therein; Decision on Stanišić's Eleventh Defence Motion for Further Extension of Provisional Release, 21 April 2020, p. 2, n. 10 and references cited therein; Decision on Stanišić's Tenth Defence Motion for Further Extension of Provisional Release, 28 October 2019, p. 2, n. 9 and references cited therein; Decision on Stanišić's Ninth Defence Motion for Further Extension of Provisional Release, 23 April 2019, p. 2, n. 12 and references cited therein; Decision on Stanišić's Eighth Defence Motion for Further Extension of Provisional Release, 31 December 2018, p. 2, n. 10 and references cited therein.

an American journalist in Bijeljina, as well as his role at the Dayton Peace Conference in November 1995.²⁴¹⁵ The Trial Chamber accords these circumstances some limited weight in mitigation.

2. Franko Simatović

628. The Trial Chamber recalls that, at the time of the commission of the crimes in Bosanski Šamac, Simatović was a senior intelligence officer in the Second Administration of the Serbian State Security Service.²⁴¹⁶ The Trial Chamber finds that, cloaked with the authority of Stanišić and the Serbian State Security Service, Simatović abused his authority in utilizing the resources at his disposal to facilitate the commission of the crimes, which is an aggravating factor.

629. Turning to the mitigating factors put forward by Simatović, the Trial Chamber considers that his level in the hierarchy of the Serbian State Security Service and, in particular his role in relation to its special purpose unit, cannot be accurately described as “relatively low”. The Trial Chamber also does not find persuasive Simatović’s submission that he acted in compliance with the applicable law at the time, given that the conduct for which he is held responsible was punishable under the SFRY Criminal code.

630. The Trial Chamber further notes Simatović’s age, general medical condition, lack of prior criminal record, and his conduct in detention, during provisional release, and during the trial proceedings, including his regular court attendance. The Trial Chamber further notes that Simatović voluntarily appeared for a suspect interview with the Prosecution prior to being indicted, had the intent to surrender voluntarily, and declared that he accepted the ICTY jurisdiction before the Serbian authorities.²⁴¹⁷ The Trial Chamber accords these circumstances some limited weight in mitigation.

631. Turning to Simatović’s submissions concerning the overall length of the proceedings, the Trial Chamber notes that the proceedings against the Accused commenced over 18 years ago. At Simatović’s age, this amounts to nearly a quarter of his life in a single criminal proceeding. This is indeed lengthy. A component in this length was the ICTY Appeals Chamber’s decision to order a full retrial on all counts, rather than making findings on appeal on the basis of the existing record or ordering a limited remand to a trial chamber to do so, as was requested by the Prosecution. Bearing in mind that it was the ICTY Appeals Chamber that made this decision, it is beyond the remit of

²⁴¹⁵ See *supra* para. 349.

²⁴¹⁶ See *supra* para. 354.

²⁴¹⁷ *Prosecutor v. Franko Simatović*, Case No. IT-03-69-PT, Decision on Provisional Release, 28 July 2004, paras. 15-19; *Prosecutor v. Jovica Stanišić and Franko Simatović*, Case No. IT-03-69-PT, Decision on Provisional Release, 26 May 2008, para. 51.

this Trial Chamber to take it into account in sentencing, and the Trial Chamber, therefore, declines to do so.

632. The Trial Chamber also notes Simatović's assertion that the "limited freedom" he had during his time on provisional release should be taken into account in determining the sentence. The Trial Chamber, however, recalls that time spent on provisional release under conditions that fall short of being tantamount to detention in custody, as is the case with Simatović,²⁴¹⁸ shall not be counted as time served in custody.²⁴¹⁹ The Trial Chamber is also not convinced that, as a general rule, time spent on provisional release should be taken into account as a mitigating factor. The fact that this period of "limited freedom" was prolonged due to the overall length of the proceedings is tied, in part, to the ICTY Appeals Chamber's decision to order a full retrial. As observed above, given that the retrial was ordered by the ICTY Appeals Chamber, the Trial Chamber is not in a position to take this extraordinary circumstance into account.

E. Comparison with Other ICTY Cases

633. Previous sentencing decisions in other cases before the ICTY may provide guidance if they relate to the same offences committed in substantially similar circumstances.²⁴²⁰ However, the Trial Chamber has an overriding obligation to impose a penalty reflecting the gravity of the crime and the individual circumstances of the convicted person. Accordingly, previous sentencing practice is but one factor which the Trial Chamber must take into account when determining a sentence, without being bound by it.²⁴²¹ Notwithstanding, a "disparity between sentences rendered in similar cases may be considered 'capricious or excessive' if it is out of reasonable proportion with a line of sentences passed in similar circumstances for the same offences".²⁴²²

634. In determining the appropriate sentence for each of the Accused, the Trial Chamber has considered the sentences imposed in the cases of *Prosecutor v. Blagoje Simić* and *Prosecutor v.*

²⁴¹⁸ See, e.g., Decision on Simatović's Motion for Provisional Release, 7 October 2020 (confidential), pp. 3, 4; Decision on Simatović's Motion for Provisional Release, 9 March 2020 (confidential), pp. 4, 5; Decision on Simatović's Motion for Provisional Release During Judicial Recess, 9 December 2019 (confidential), pp. 3, 4; Decision on Simatović's Motion for Provisional Release Before the Commencement of the Simatović Defence Case, 8 October 2019 (confidential), pp. 3, 4; *Prosecutor v. Jovica Stanišić and Franko Simatović*, Case No. IT-03-69-T, Decision on Simatović Request for Provisional Release After Closing Arguments Until Entry of Trial Judgement, 12 February 2013, pp. 3, 4; *Prosecutor v. Jovica Stanišić and Franko Simatović*, Case No. IT-03-69-T, Decision on Simatović Request for Provisional Release, 16 July 2012, pp. 4, 5.

²⁴¹⁹ *Prlić et al.* Appeal Judgement, paras. 3329-3336.

²⁴²⁰ *Stanišić and Župljanin* Appeal Judgement, para. 1185; *Babić* Sentencing Appeal Judgement, para. 32; *Furundžija* Appeal Judgement, para. 250; *Mrkšić and Šljivančanin* Appeal Judgement, para. 376; *Strugar* Appeal Judgement, para. 348; *Blagojević and Jokić* Appeal Judgement, para. 333; *Stakić* Appeal Judgement, para. 381.

²⁴²¹ See *Prlić et al.* Appeal Judgement, para. 3341; *Popović et al.* Appeal Judgement, para. 2093; *Strugar* Appeal Judgement, paras. 348, 349.

²⁴²² *Karadžić* Appeal Judgement, para. 767, referring to *Prlić et al.* Appeal Judgement, para. 3340; *Stanišić and Župljanin* Appeal Judgement, para. 1185; *Dorđević* Appeal Judgement, para. 949.

Stanišić and Župljanin, to the extent that these cases held the accused responsible for crimes committed in Bosanski Šamac during the period covered by the Indictment in this case.²⁴²³ The Trial Chamber has considered also the sentences imposed in the case of *Prosecutor v. Blagojević and Jokić*, to the extent that one of the accused in that case was convicted of aiding and abetting the crimes of murder, persecution, and forcible transfer,²⁴²⁴ as well as in the case of *Prosecutor v. Milutinović et al.*, where two of the accused were held responsible for aiding and abetting the crime of forcible displacement, albeit on a larger scale than in the present case.²⁴²⁵

F. Credit for Time Spent in Custody

635. The Trial Chamber notes that, following the issuance of an arrest warrant on 1 May 2003, Stanišić and Simatović were detained at the behest of the ICTY prior to their transfer to the seat of the Tribunal in The Hague. Simatović was transferred on 30 May 2003, and Stanišić was transferred on 11 June 2003.²⁴²⁶

636. The Trial Chamber notes that, as of the pronouncement of the Judgement on 30 June 2021, Stanišić has been in custody at the behest of the ICTY or the Mechanism for 1,934 days, pending transfer to the ICTY, during the original trial and appeal proceedings, and during this retrial, which included 1,894 days at the United Nations Detention Facility in The Hague. Pursuant to Rule 125(C) of the Rules, he is entitled to credit for that period.

637. The Trial Chamber notes that, as of the pronouncement of the Judgement on 30 June 2021, Simatović has been in custody at the behest of the ICTY or the Mechanism for 2,348 days, pending transfer to the ICTY, during the original trial and appeal proceedings, and during this retrial, which included 2,319 days at the United Nations Detention Facility in The Hague. Pursuant to Rule 125(C) of the Rules, he is entitled to credit for that period.

²⁴²³ *Simić* Appeal Judgement, paras. 2-4, 232, 233, 265, 300, 301; *Stanišić and Župljanin* Appeal Judgement, paras. 4-6, 1191, 1192, n. 17. In the second case, the Trial Chamber notes that Mićo Stanišić was held responsible for a larger crime base under the mode of liability of commission, through participation in a joint criminal enterprise.

²⁴²⁴ *Blagojević and Jokić* Appeal Judgement, para. 142.

²⁴²⁵ *Milutinović et al.* Trial Judgement, Volume 3, paras. 630, 930, 1172-1175, 1209, 1211; *Šainović et al.* Appeal Judgement, paras. 6, 7, 10, 1846, 1847.

²⁴²⁶ See *infra* para. 638.

VIII. DISPOSITION

FOR THE FOREGOING REASONS, pursuant to Articles 21, 22, and 25 of the Statute and Rules 122, 125, 126, and 127 of the Rules, the Trial Chamber **FINDS**:

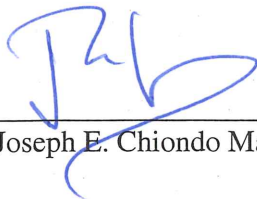
- (i) Jovica Stanišić **GUILTY**, pursuant to Article 1 of the Mechanism Statute and Articles 3, 5, and 7(1) of the ICTY Statute, of Counts 1 to 5 of the Indictment for having aided and abetted the charged crimes committed in Bosanski Šamac, and **SENTENCES** him to a single sentence of 12 years of imprisonment. Pursuant to Rule 125(C) of the Rules, Jovica Stanišić is entitled to credit for 1,934 days spent in detention.
- (ii) Franko Simatović **GUILTY**, pursuant to Article 1 of the Mechanism Statute and Articles 3, 5, and 7(1) of the ICTY Statute, of Counts 1 to 5 of the Indictment for having aided and abetted the charged crimes committed in Bosanski Šamac, and **SENTENCES** him to a single sentence of 12 years of imprisonment. Pursuant to Rule 125(C) of the Rules, Franko Simatović is entitled to credit for 2,348 days spent in detention.

Pursuant to Rule 127(C) of the Rules, Jovica Stanišić and Franko Simatović shall remain in the custody of the Mechanism pending the finalisation of arrangements for their transfer to the State where they shall serve their sentences.

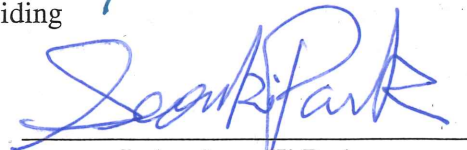
Done in English and French, the English version being authoritative.



Judge Burton Hall, Presiding



Judge Joseph E. Chiondo Masanche



Judge Seon Ki Park

Pronounced orally on 30 June 2021 and filed in writing on 6 August 2021,
At The Hague,
The Netherlands

IX. ANNEX A: PROCEDURAL HISTORY

A. Proceedings before the ICTY

638. On 1 May 2003, Judge Carmel Agius issued a Warrant of Arrest and Order for Surrender for both Accused.²⁴²⁷ Simatović was transferred to the ICTY on 30 May 2003 and had his initial appearance on 2 June 2003.²⁴²⁸ Stanišić was transferred on 11 June 2003, followed by his initial appearance on 13 June 2003.²⁴²⁹ Both Accused pleaded not guilty.²⁴³⁰ The third amended indictment, which became the operative indictment in the case, was filed on 10 July 2008.²⁴³¹ The original trial commenced on 28 April 2008, but was adjourned and reverted to the pre-trial stage, re-commencing over a year later, on 9 June 2009.²⁴³² The evidentiary phase of the original trial proceedings was completed on 5 December 2012 and the closing arguments of the parties were heard between 29 and 31 January 2013.²⁴³³ The ICTY Trial Chamber rendered its judgement on 30 May 2013, acquitting, by majority, the Accused on all counts of the Indictment and ordering their immediate release.²⁴³⁴

639. The Prosecution filed its notice of appeal and its appeal brief against the ICTY Trial Judgement on 28 June 2013 and 11 September 2013, respectively.²⁴³⁵ The ICTY Appeals Chamber heard the oral arguments of the parties on 6 July 2015 and delivered its judgement on

²⁴²⁷ *Prosecutor v. Jovica Stanišić*, IT-03-69-I, Warrant of Arrest, Order for Surrender, 1 May 2003; *Prosecutor v. Franko Simatović*, IT-03-69-I, Warrant of Arrest, Order for Surrender, 1 May 2003.

²⁴²⁸ *Prosecutor v. Franko Simatović*, IT-03-69-I, Order for Detention on Remand, 2 June 2003.

²⁴²⁹ *Prosecutor v. Jovica Stanišić*, IT-03-69-I, Order for Detention on Remand, 11 June 2003.

²⁴³⁰ *Prosecutor v. Franko Simatović*, IT-03-69-I, T. 2 June 2003 pp. 3, 4; *Prosecutor v. Jovica Stanišić*, IT-03-69-I, T. 13 June 2003 pp. 9, 10. On 16 March 2006, a further initial appearance was held, with the Accused respectively entering pleas of “not guilty” in relation to additional allegations against them. See *Prosecutor v. Jovica Stanišić and Franko Simatović*, Case No. IT-03-69-PT, T. 16 March 2006 pp. 548, 549.

²⁴³¹ *Prosecutor v. Jovica Stanišić and Franko Simatović*, Case No. IT-03-69-PT, Prosecution Notice of Filing of Third Amended Indictment, 10 July 2008; *Prosecutor v. Jovica Stanišić and Franko Simatović*, Case No. IT-03-69-PT, Third Amended Indictment, 10 July 2008. See also *Prosecutor v. Jovica Stanišić and Franko Simatović*, Case No. IT-03-69-PT, Prosecution’s Motion Seeking Leave to Amend its Revised Second Amended Indictment in Compliance with the 4 February 2008 73 bis (D) Decision of the Pre-Trial Chamber, 11 February 2008; *Prosecutor v. Jovica Stanišić and Franko Simatović*, Case No. IT-03-69-PT, Decision on the Prosecution’s Motion to Amend the Revised Second Amended Indictment, 4 July 2008, para. 114(4).

²⁴³² *Prosecutor v. Jovica Stanišić and Franko Simatović*, Case No. IT-03-69-T, T. 9 June 2009; *Prosecutor v. Jovica Stanišić and Franko Simatović*, Case No. IT-03-69-PT, Scheduling Order, 5 June 2009; *Prosecutor v. Jovica Stanišić and Franko Simatović*, Case No. IT-03-69-AR73.2, Decision on Defence Appeal of the Decision on Future Course of Proceedings, 16 May 2008, paras. 3, 22.

²⁴³³ *Prosecutor v. Jovica Stanišić and Franko Simatović*, Case No. IT-03-69-T, T. 29 January 2013, T. 30 January 2013, T. 31 January 2013; *Prosecutor v. Jovica Stanišić and Franko Simatović*, Case No. IT-03-69-T, Closing and Scheduling Order and Decision on Defence Requests for Word Limit Extensions for Final Trial Briefs, 5 December 2012, para. 1.

²⁴³⁴ *Prosecutor v. Jovica Stanišić and Franko Simatović*, Case No. IT-03-69-T, Judgement, 30 May 2013 (public with confidential Appendix C), paras. 2362, 2363.

²⁴³⁵ *Prosecutor v. Jovica Stanišić and Franko Simatović*, Case No. IT-03-69-A, Prosecution's Notice of Appeal, 28 June 2013; *Prosecutor v. Jovica Stanišić and Franko Simatović*, Case No. IT-03-69-A, Prosecution Appeal Brief, 11 September 2013 (confidential; public redacted version filed on 25 September 2013). See also *Prosecutor v. Jovica Stanišić and Franko Simatović*, Case No. IT-03-69-A, Notice of Filing of Public Redacted Version of Prosecution Appeal Brief and Corrigendum, 25 September 2013.

9 December 2015.²⁴³⁶ The ICTY Appeals Chamber granted, in part, the Prosecution appeal, quashed the Accused's acquittals, and ordered that both Accused be retried on all counts of the Indictment.²⁴³⁷ In addition, on 9 December 2015, the ICTY Appeals Chamber issued a Warrant of Arrest and Order for Surrender for both Accused.²⁴³⁸ Following their arrest, the Accused were transferred to the UNDU on 15 December 2015.²⁴³⁹

B. Proceedings before the Mechanism

640. *Assignment of the Case to the Trial Chamber.* On 17 December 2015, the President of the Mechanism assigned the case to the Trial Chamber composed of Judge Burton Hall, Judge Seon Ki Park, and Judge Solomy Balungi Bossa.²⁴⁴⁰ Judge Hall, the Presiding Judge of the Trial Chamber, designated himself as the Pre-Trial Judge in the case.²⁴⁴¹ On 21 February 2017, the President of the Mechanism assigned Judge Joseph E. Chiondo Masanche to replace Judge Bossa on the Bench.²⁴⁴²

641. *Initial Appearance and Assignment of Counsel.* The initial appearance of both Accused was held on 18 December 2015, during which they entered pleas of "not guilty" on all counts in the Indictment.²⁴⁴³ On 17 December 2015, the Registrar provisionally assigned Mr. Wayne Jordash as lead counsel and Mr. Scott Martin as co-counsel to represent Stanišić before the Mechanism.²⁴⁴⁴ Their assignment became permanent on 22 April 2016.²⁴⁴⁵ On 31 March 2017, Mr. Iain Edwards replaced Mr. Martin as co-counsel to Stanišić.²⁴⁴⁶ Mr. Edwards' assignment as co-counsel was withdrawn on 9 April 2021.²⁴⁴⁷ On 17 December 2015, the Registrar provisionally assigned Mr. Mihajlo Bakrač as lead counsel and Mr. Vladimir Petrović as co-counsel to represent Simatović before the Mechanism,²⁴⁴⁸ which assignment became permanent on 22 January 2016.²⁴⁴⁹

642. *Preliminary Motions.* On 17 February 2016, Simatović filed a preliminary motion requesting that the Indictment be reviewed in accordance with Article 17 of the Statute, challenging

²⁴³⁶ ICTY Appeal Judgement, para. 131; *Prosecutor v. Jovica Stanišić and Franko Simatović*, Case No. IT-03-69-A, AT. 6 July 2015.

²⁴³⁷ ICTY Appeal Judgement, para. 131.

²⁴³⁸ *Prosecutor v. Jovica Stanišić and Franko Simatović*, Case No. IT-03-69-A, Warrant of Arrest and Order for Surrender of Jovica Stanišić, 9 December 2015 (confidential and *ex parte*; made public on 15 December 2015); *Prosecutor v. Jovica Stanišić and Franko Simatović*, Case No. IT-03-69-A, Warrant of Arrest and Order for Surrender of Franko Simatović, 9 December 2015 (confidential and *ex parte*; made public on 15 December 2015).

²⁴³⁹ Initial Appearance, T. 18 December 2015 p. 2.

²⁴⁴⁰ Order Assigning Judges to a Case Before a Trial Chamber, 17 December 2015, p. 1.

²⁴⁴¹ Order Designating a Pre-Trial Judge, 17 December 2015, p. 1.

²⁴⁴² Order Replacing a Judge in a Case Before a Trial Chamber, 21 February 2017, p. 1.

²⁴⁴³ Initial Appearance, T. 18 December 2015 pp. 2, 6; Order Scheduling Initial Appearance, 17 December 2015, p. 1.

²⁴⁴⁴ Decision, 31 March 2016, p. 2; Decision, 22 January 2016, p. 2; Decision, 17 December 2015, p. 2.

²⁴⁴⁵ Decision, 22 April 2016, p. 2.

²⁴⁴⁶ Decision, 31 March 2017, p. 2.

²⁴⁴⁷ Decision, 9 April 2021, p. 2.

²⁴⁴⁸ Decision, 17 December 2015, p. 2.

²⁴⁴⁹ Decision, 22 January 2016, p. 2.

the Mechanism's personal jurisdiction, and arguing that, in large part, his retrial is precluded by the principles of *non bis in idem* and *res judicata*.²⁴⁵⁰ On 18 April 2016, the Trial Chamber dismissed Simatović's preliminary motion.²⁴⁵¹ On 2 May 2018, the Trial Chamber also dismissed Stanišić's request to order the Prosecution to further particularise its case and amend the Indictment.²⁴⁵²

643. On 26 September 2018, the Trial Chamber found, *proprio motu*, that, when read together, paragraphs 3 and 15(c) of the Indictment did not provide notice to Stanišić for his alleged responsibility in relation to training centres established outside of Serb-held parts of Croatia and Bosnia and Herzegovina.²⁴⁵³ Notwithstanding this conclusion and following further submissions from the parties, on 11 February 2019, the Trial Chamber found that the Prosecution had provided the Accused with timely, clear, and consistent information, throughout the original trial and during the retrial, detailing the factual basis underpinning the allegation that the Accused contributed to the joint criminal enterprise through their involvement in training camps located in Serbia.²⁴⁵⁴

644. *Pre-Trial Briefs*. Pursuant to the Pre-Trial Judge's order,²⁴⁵⁵ the Prosecution filed its Pre-Trial Brief and witness and exhibit lists on 5 September 2016.²⁴⁵⁶ Stanišić and Simatović filed their respective Pre-Trial Briefs on 7 November 2016.²⁴⁵⁷ On 2 February 2017, the Trial Chamber ordered the Prosecution to file an amended Pre-Trial Brief, expunging any allegations that cannot be supported by evidence tendered during the original trial, as well as amended witness and exhibit lists.²⁴⁵⁸ The Prosecution filed its amended Pre-Trial Brief and witness and exhibit lists on 9 March 2017, and the Accused filed their respective amended Pre-Trial Briefs on 30 March 2017.²⁴⁵⁹

645. *Health of the Accused and Trial Modalities*. In view of Stanišić's history of chronic health conditions, which greatly impacted the commencement of the original trial, and in order to determine the trial schedule, on 24 June 2016, the Trial Chamber requested the Registrar to appoint

²⁴⁵⁰ Simatović Defence Preliminary Motion, 17 February 2016, paras. 17-37.

²⁴⁵¹ Decision on Simatović's Preliminary Motion and Stanišić's Motion for Partial Stay, 18 April 2016, para. 22.

²⁴⁵² Decision on Stanišić's Motion for Further Particularisation of the Prosecution Case, 2 May 2018, para. 26.

²⁴⁵³ Decision on Stanišić's Motion in Relation to Witness RFJ-022, 26 September 2018, para. 17.

²⁴⁵⁴ Decision on Prosecution Motion for Reconsideration and Further Submission, 11 February 2019, paras. 13-16.

²⁴⁵⁵ Order Establishing a Pre-Trial Work Plan, 3 June 2016.

²⁴⁵⁶ Prosecution Pre-Trial Brief, 5 September 2016 (confidential); Prosecution Notice of Rule 70(E) Filings, 5 September 2016 (public with confidential Annexes A, B, and E and confidential and *ex parte* Annexes C, D, and F). *See also* Corrigendum to Prosecution Pre-Trial Brief, 30 September 2016 (confidential with confidential Annex A and confidential and *ex parte* Annex B).

²⁴⁵⁷ Stanišić Defence Pre-Trial Brief, 7 November 2016 (confidential); Simatović Defence Pre-Trial Brief, 7 November 2016 (confidential). *See also* Corrigendum to Stanišić Defence Pre-Trial Brief, 25 November 2016 (confidential).

²⁴⁵⁸ Decision on Stanišić's Request for Stay of Proceedings, 2 February 2017, paras. 28, 30.

²⁴⁵⁹ Prosecution Notice of Rule 70(E) Filings Pursuant to the Trial Chamber's Decision of 2 February 2017, 9 March 2017 (public with confidential Annexes A, B, and D and confidential and *ex parte* Annexes C and E); Stanišić Defence Notice of Pre-Trial Brief Filing Pursuant to the Trial Chamber's Decision of 2 February 2017, 30 March 2017 (public with confidential Annexes A and B); Simatović Defence Revised Pre-Trial Brief, 30 March 2017 (confidential). *See also* Decision on Requests for Certification to Appeal Decision on Stanišić's Request for Stay of Proceedings, 1 March 2017, para. 13.

independent medical experts to examine Stanišić and submit written reports.²⁴⁶⁰ On 12 December 2016 and 2 February 2017, the Trial Chamber heard the evidence of the two medical experts appointed by the Registrar and, on 13 April 2017, the Trial Chamber issued a decision on trial modalities, scheduling court hearings three days a week.²⁴⁶¹ Over the course of the trial, the Trial Chamber made minor adjustments to the sitting times, generally sitting two sessions a day, three days a week, with an extra afternoon session when required for purposes of effective court management.²⁴⁶²

646. *Pre-Trial Conference and Commencement of Trial.* The Pre-Trial Conference in the case was held on 17 May 2017.²⁴⁶³ On 13 and 14 June 2017, the Prosecution delivered its opening statement.²⁴⁶⁴ Neither Stanišić nor Simatović elected to make opening statements at that time.²⁴⁶⁵ The presentation of Prosecution evidence commenced on 14 June 2017,²⁴⁶⁶ and during the Prosecution case-in-chief the Trial Chamber received testimonial evidence from 103 witnesses under Rules 110, 111, 112, or 116 of the Rules. The Trial Chamber also admitted numerous documents tendered by the Prosecution from the bar table.²⁴⁶⁷

647. *Close of Prosecution Case and Decision on Motion for Judgement of Acquittal.* On 21 February 2019, the Prosecution rested its case-in-chief.²⁴⁶⁸ On 26 February 2019, the Trial Chamber heard submissions by Simatović, pursuant to Rule 121 of the Rules, for a judgement of acquittal.²⁴⁶⁹

²⁴⁶⁰ Decision on the Prosecution's Request for an Independent Medical Examination of Jovica Stanišić, 24 June 2016, paras. 3, 4, 10, 13. *See also* Decision on Modalities for Trial, 13 April 2017, para. 2.

²⁴⁶¹ Decision on Modalities for Trial, 13 April 2017, Annex.

²⁴⁶² *See* Preliminary Order Regarding Medical Examination of Franko Simatović, 21 December 2017 (confidential), p. 1. *See also* Decision on Prosecution Motion to Vary the Trial Modalities, 6 March 2018 (confidential).

²⁴⁶³ Pre-Trial Conference, T. 17 May 2017; Scheduling Order, 3 May 2017, p. 1.

²⁴⁶⁴ Prosecution Opening Statement, T. 13 June 2017 pp. 3-71; Prosecution Opening Statement, T. 14 June 2017 pp. 3-16. *See also* Scheduling Order, 24 May 2017, p. 2.

²⁴⁶⁵ Prosecution Opening Statement, T. 14 June 2017 p. 16.

²⁴⁶⁶ Witness RFJ-153, T. 14 June 2017 p. 17.

²⁴⁶⁷ Decision on Prosecution Bar Table Motion for Admission of R70#20709, 21 February 2019, pp. 2, 3; Corrigendum to "Decision on Prosecution Motion for Admission of Documents from the Bar Table (Bosnia)" Issued on 11 February 2019, 15 February 2019, pp. 3, 4; Decision on Prosecution Motion for Admission of Documents from the Bar Table (Bosnia), 11 February 2019, p. 3; Decision on Prosecution Motion for Admission of Documents and Videos from the Bar Table, 11 February 2019, pp. 3, 4; Decision on Prosecution Motion for Admission of Documents from the Bar Table (Croatia), 11 February 2019, p. 3; Decision on Prosecution Motion for Admission of Documents from the Bar Table (Expert Reports), 11 February 2019, pp. 16,17; Decision on Prosecution Motion for Admission of Documents from the Bar Table (Jović Book Excerpts), 11 February 2019, p. 3; Decision on Prosecution Motion for Judicial Notice of Authenticity and Admission of Documents from the Bar Table (Mladić Notebooks & Audio Files), 11 February 2019, pp. 7, 8; Decision on Prosecution Motion for Admission of Documents from the Bar Table (Personnel Files), 11 February 2019 (confidential), p. 6; Decision on Prosecution Motion for Admission of Documents from the Bar Table (Bosnia Intercepts), 11 February 2019 (confidential), pp. 3, 4; Decision on Prosecution Motion for Admission of Documents from the Bar Table and For Leave to Amend its Rule 70 Exhibit List in Relation to the Evidence of RFJ-016, 4 September 2018 (confidential), p. 2.

²⁴⁶⁸ Prosecution Notice on Closure of its Case-in-Chief, 21 February 2019, p. 1.

²⁴⁶⁹ Rule 121 Hearing, T. 26 February 2019 pp. 2-54; Order on Rule 121 Proceedings and Preparation and Commencement of Defence Case, 19 February 2019, p. 1; Procedural Matters, T. 6 February 2019 p. 54.

Stanišić did not make submissions pursuant to Rule 121 of the Rules.²⁴⁷⁰ In an oral decision rendered on 9 April 2019, the Trial Chamber dismissed Simatović's motion for a judgement of acquittal.²⁴⁷¹

648. *Defence Case.* The Pre-Defence Conference was held on 29 May 2019.²⁴⁷² The Defence case commenced on 18 June 2019 with an opening statement by the Stanišić Defence²⁴⁷³ and the presentation of Defence evidence started on 25 June 2019.²⁴⁷⁴ During the presentation of the Stanišić Defence case, the Trial Chamber received testimonial evidence from 20 witnesses under Rules 105, 111, or 112 of the Rules. Upon Stanišić's request, the Trial Chamber also admitted numerous documents from the bar table.²⁴⁷⁵ The Simatović Defence began the presentation of its evidence on 12 November 2019.²⁴⁷⁶ In light of the COVID-19 pandemic and related restrictions, the in-court hearings were adjourned on 11 March 2020 and resumed again on 1 September 2020, with the testimony of the remaining witnesses for the Simatović Defence.²⁴⁷⁷ During the Simatović Defence case, the Trial Chamber received testimonial evidence from 22 witnesses either *viva voce* and/or under Rules 110, 111, 112, or 116 of the Rules. The Trial Chamber also admitted into evidence numerous documents tendered by Simatović from the bar table.²⁴⁷⁸

649. *Close of Defence Case and Final Trial Briefs.* On 8 October 2020, the Trial Chamber heard the testimony of the last witness for the Simatović Defence²⁴⁷⁹ and the presentation of Defence

²⁴⁷⁰ Rule 121 Hearing, T. 26 February 2019 p. 2; Order on Rule 121 Proceedings and Preparation and Commencement of Defence Case, 19 February 2019, p. 2.

²⁴⁷¹ Ruling, T. 9 April 2019 pp. 1-15.

²⁴⁷² Pre-Defence Conference, T. 29 May 2019; Order on Rule 121 Proceedings and Preparation and Commencement of Defence Case, 19 February 2019, p. 2.

²⁴⁷³ Opening Statement, T. 18 June 2019 pp. 2- 50; Pre-Defence Conference, T. 29 May 2019 p. 9.

²⁴⁷⁴ Witness Ristić, T. 25 June 2019 p. 5.

²⁴⁷⁵ Decision on Stanišić's Eighth Bar Table Motion (Miscellaneous Documents), 7 October 2020, pp. 4, 5; Decision on Stanišić's Seventh Bar Table Motion (Bosnia JCE), 24 June 2020, pp. 4, 5; Decision on Stanišić's Fourth Bar Table Motion (Serbian State Security Service and Stanišić's Focus), 23 June 2020, pp. 3, 4; Decision on Stanišić's Sixth Bar Table Motion (JATD Operations 1993-1995), 8 June 2020, p. 2; Decision on Stanišić's Fifth Bar Table Motion (Red Berets in Bosnia), 29 May 2020, pp. 3, 4; Decision on Stanišić's Third Bar Table Motion (JCE in Croatia), 26 May 2020, pp. 3, 4; Decision on Stanišić's Second Bar Table Motion (Arkan and the Serbian Volunteer Guard), 26 May 2020, pp. 2, 3; Decision on Stanišić's First Bar Table Motion (Personnel Files), 26 May 2020, pp. 2, 3.

²⁴⁷⁶ Witness D. Lučić, T. 12 November 2019. *See also* Procedural Matters, T. 5 November 2019 pp. 1, 2, 13; Procedural Matters, T. 6 November 2019 p.1.

²⁴⁷⁷ Order Scheduling the Resumption of In-Court Hearings, 5 August 2020. *See* Order for Submissions, 23 June 2020; Decision on Simatović's Motion for Extension of Provisional Release, 21 April 2020, p. 1. *See also* Registrar's Submission in Response to the Trial Chamber's "Order for Submissions", 7 July 2020 (confidential); Prosecution Submission in Response to the Trial Chamber's "Order for Submissions", 15 July 2020 (confidential); Stanišić Defence Observations to Registrar's Submission in Response to the Trial Chamber's "Order for Submissions", 15 July 2020; Simatović Defence Observations to Registrar's Submission in Response to the Trial Chamber's "Order for Submissions", 15 July 2020 (confidential); Prosecution Submission in Response to Defence Submissions Pursuant to the Trial Chamber's "Order for Submissions", 20 July 2020 (confidential); Simatović Defence Reply to Prosecution Submission in Response to the Trial Chamber's "Order for Submissions", 20 July 2020 (confidential).

²⁴⁷⁸ Decision on Simatović Defence Bar Table Motion, 14 January 2021, pp. 5-8.

²⁴⁷⁹ Procedural Matters, T. 8 October 2020 p. 95.

evidence concluded on 23 February 2021, with the adjudication of documents that had been marked for identification.²⁴⁸⁰ Final trial briefs were filed by the parties on 12 and 13 March 2021.²⁴⁸¹

650. *Closing Arguments and Pronouncement of Judgement.* The Trial Chamber heard the parties' closing arguments between 12 and 14 April 2021.²⁴⁸² The Trial Chamber pronounced its Judgement on 30 June 2021 pursuant to Rule 122(A) of the Rules²⁴⁸³ and filed its written reasons for the Judgement, in accordance with Rule 122(C) of the Rules, on 6 August 2021.

651. *Provisional Release.* Following their initial appearance on 18 December 2015, on 22 December 2015 the Accused were granted provisional release until a date to be determined by the Trial Chamber.²⁴⁸⁴ On 19 May 2017, the Trial Chamber terminated the Accused's provisional release and ordered them to return to the UNDU by 30 May 2017, in anticipation of the commencement of the trial.²⁴⁸⁵ On 19 July 2017, the Trial Chamber granted Stanišić's request for provisional release and he remained on provisional release for the remainder of the presentation of the Prosecution case, as well as during the presentation of both Defence cases.²⁴⁸⁶ A medical reporting regime, involving the UNDU Medical Service and the Government of the Republic of Serbia, was included as part of Stanišić's provisional release conditions.²⁴⁸⁷ Following the commencement of the retrial, Simatović was also granted provisional release on a number of occasions.²⁴⁸⁸ The provisional release of both Accused was terminated and they were ordered to

²⁴⁸⁰ Decision on Submissions Regarding Exhibits Marked for Identification, 23 February 2021.

²⁴⁸¹ Prosecution Final Trial Brief, 12 March 2021 (confidential with confidential Annexes A-G); Simatović Defence Final Trial Brief, 12 March 2021 (confidential); Stanišić Final Trial Brief, 13 March 2021 (confidential with confidential Annexes I-XXV). *See also* Corrigendum to Prosecution Final Trial Brief, 7 April 2021 (confidential with confidential Annexes A and B).

²⁴⁸² T. 12 April 2021 pp. 1-106; T. 13 April 2021 pp. 1-124; T. 14 April 2021 pp. 1-62.

²⁴⁸³ Judgement, T. 30 June 2021 pp. 1-16.

²⁴⁸⁴ Decision on Stanišić's Urgent Motion for Provisional Release, 22 December 2015, para. 16; Decision on Simatović's Urgent Motion for Provisional Release, 22 December 2015, para. 11.

²⁴⁸⁵ Order Terminating the Provisional Release of Jovica Stanišić, 19 May 2017, p. 1; Order Terminating the Provisional Release of Franko Simatović, 19 May 2017, p. 1.

²⁴⁸⁶ Decision on Stanišić's Thirteenth Motion for Further Extension of Provisional Release, 1 March 2021 ("Decision of 1 March 2021"), p. 3; Decision on Stanišić's Twelfth Motion for Further Extension of Provisional Release, 19 October 2020, p. 4; Decision on Stanišić's Eleventh Defence Motion for Further Extension of Provisional Release, 21 April 2020, p. 3; Decision on Stanišić's Tenth Defence Motion for Further Extension of Provisional Release, 28 October 2019, p. 3; Decision on Stanišić's Ninth Defence Motion for Further Extension of Provisional Release, 23 April 2019, p. 3; Decision on Stanišić's Eighth Defence Motion for Further Extension of Provisional Release, 31 December 2018, p. 3; Decision on Stanišić's Seventh Defence Motion for Further Extension of Provisional Release, 16 August 2018, p. 3; Decision on Stanišić's Motion for Further Extension of Provisional Release 11 April 2018, (corrigendum filed on 16 April 2018), p. 3; Decision on Stanišić's Motion for Further Extension of Provisional Release, 12 January 2018, p. 3; Decision on Stanišić Defence Motion for Extension of Provisional Release, 25 September 2017 (public redacted version) ("Decision of 25 September 2017"), paras. 14, 15; Decision on Stanišić's Motion for Provisional Release, 19 July 2017 (confidential; made public on 24 July 2017) ("Decision of 19 July 2017"), paras. 23, 24.

²⁴⁸⁷ Decision of 1 March 2021, p.3 (authorizing an extension of Stanišić's provisional release under the conditions set forth in the Decision of 19 July 2017 and the Decision of 25 September 2017). *See also* Decision of 19 July 2017, p. 11; Decision of 25 September 2017, para. 15.

²⁴⁸⁸ Decision on Simatović's Motion for Extension of Provisional Release, 1 March 2021, p. 3; Decision on Simatović's Motion for Provisional Release, 7 October 2020, pp. 3-6; Decision on Franko Simatović's Return from Provisional Release, 7 August 2020 (confidential; made public on 14 August 2020), p. 1; Second Decision on Further Extension of Franko Simatović's Provisional Release, 23 June 2020, p. 3; Decision on Further Extension of Franko Simatović's

return to UNDU by 24 June 2021, for the purpose of their presence at the hearing for the pronouncement of the Judgement.²⁴⁸⁹

Provisional Release, 20 May 2020, p. 2; Decision on Simatović's Motion for Extension of Provisional Release, 21 April 2020, p. 2; Decision on Simatović's Motion for Provisional Release, 9 March 2020 (confidential; made public on 12 March 2020), p. 3; Decision on Simatović's Motion for Provisional Release During Judicial Recess, 9 December 2019, p. 3; Corrigendum to the Decision on Simatović's Motion for Provisional Release Before the Commencement of the Simatović Defence Case, 9 October 2019, p. 1; Decision on Simatović's Motion for Provisional Release Before the Commencement of the Simatović Defence Case, 8 October 2019, p. 3; Decision on Simatović's Motion for Provisional Release During the Summer Judicial Recess, 5 July 2019 (confidential; made public on 22 July 2019), p. 2; Decision on Simatović's Motion for Further Extension of Provisional Release, 23 April 2019, p. 3; Decision on Simatović's Motion for Extension of Provisional Release, 31 December 2018, p. 3; Decision on Simatović's Motion for Provisional Release, 12 September 2018 (confidential; made public on 18 September 2018), p. 4; Decision on Simatović's Motion for Provisional Release During Summer Judicial Recess, 10 July 2018 (confidential; public redacted version filed on 17 July 2018), p. 2; Decision on Simatović's Motion Requesting Provisional Release, 19 March 2018 (confidential; made public on 26 March 2018), p. 3; Decision on Simatović's Motion Requesting Provisional Release During the Court Recess, 4 December 2017 (confidential; made public on 12 December 2017), p. 2; Decision on Simatović's Urgent Defence Motion Requesting Provisional Release, 16 October 2017 (confidential, made public on 23 October 2017), paras. 7, 8; Decision on Simatović's Motion Requesting Provisional Release During the Court Recess, 19 July 2017 (confidential; made public on 24 July 2017), paras. 11, 12.

²⁴⁸⁹ Scheduling Order for Pronouncement of Judgement and Order Terminating Provisional Release of the Accused, 17 June 2021, p. 1.

X. CITED MATERIALS AND DEFINED TERMS

A. List of Authorities

1. Trial Chamber Decisions

STANIŠIĆ, Jovica and SIMATOVIĆ, Franko

Prosecutor v. Jovica Stanišić and Franko Simatović, Case No. MICT-15-96-T, Scheduling Order for Pronouncement of Judgement and Order Terminating Provisional Release of the Accused, 17 June 2021

Prosecutor v. Jovica Stanišić and Franko Simatović, Case No. MICT-15-96-T, Decision on Simatović’s Motion for Extension of Provisional Release, 1 March 2021

Prosecutor v. Jovica Stanišić and Franko Simatović, Case No. MICT-15-96-T, Decision on Stanišić’s Thirteenth Motion for Further Extension of Provisional Release, 1 March 2021 (“Decision of 1 March 2021”)

Prosecutor v. Jovica Stanišić and Franko Simatović, Case No. MICT-15-96-T, Decision on Submissions Regarding Exhibits Marked for Identification, 23 February 2021

Prosecutor v. Jovica Stanišić and Franko Simatović, Case No. MICT-15-96-T, Decision on Simatović Defence Bar Table Motion, 14 January 2021

Prosecutor v. Jovica Stanišić and Franko Simatović, Case No. MICT-15-96-T, Decision on Stanišić’s Twelfth Motion for Further Extension of Provisional Release, 19 October 2020

Prosecutor v. Jovica Stanišić and Franko Simatović, Case No. MICT-15-96-T, Decision on Simatović’s Motion for Provisional Release, 7 October 2020

Prosecutor v. Jovica Stanišić and Franko Simatović, Case No. MICT-15-96-T, Decision on Stanišić’s Eighth Bar Table Motion (Miscellaneous Documents), 7 October 2020

Prosecutor v. Jovica Stanišić and Franko Simatović, Case No. MICT-15-96-T, Decision on Joint Motion of All Parties for Admission of Evidence of Agreed Simatović Defence Witnesses and Associated Exhibits, 21 August 2020

Prosecutor v. Jovica Stanišić and Franko Simatović, Case No. MICT-15-96-T, Decision on Franko Simatović’s Return from Provisional Release, 7 August 2020 (confidential: made public on 14 August 2020)

Prosecutor v. Jovica Stanišić and Franko Simatović, Case No. MICT-15-96-T, Order Scheduling the Resumption of In-Court Hearings, 5 August 2020

Prosecutor v. Jovica Stanišić and Franko Simatović, Case No. MICT-15-96-T, Decision on Stanišić’s Seventh Bar Table Motion (Bosnia JCE), 24 June 2020

Prosecutor v. Jovica Stanišić and Franko Simatović, Case No. MICT-15-96-T, Order for Submissions, 23 June 2020

Prosecutor v. Jovica Stanišić and Franko Simatović, Case No. MICT-15-96-T, Second Decision on Further Extension of Franko Simatović’s Provisional Release, 23 June 2020

Prosecutor v. Jovica Stanišić and Franko Simatović, Case No. MICT-15-96-T, Decision on Stanišić's Fourth Bar Table Motion (Serbian State Security Service and Stanišić's Focus), 23 June 2020

Prosecutor v. Jovica Stanišić and Franko Simatović, Case No. MICT-15-96-T, Decision on Stanišić's Sixth Bar Table Motion (JATD Operations 1993-1995), 8 June 2020

Prosecutor v. Jovica Stanišić and Franko Simatović, Case No. MICT-15-96-T, Decision on Stanišić's Fifth Bar Table Motion (Red Berets in Bosnia), 29 May 2020

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STRUGAR, Pavle

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TOLIMIR, Zdravko

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VASILJEVIĆ, Mitar

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4. ICTR**BAGOSORA, *et al.***

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Édouard Karemera, Matthieu Ngirumpatse, and Joseph Nzirorera v. The Prosecutor, Case No. ICTR-98-44-AR73.17, Decision on Joseph Nzirorera’s Appeal of Decision on Admission of Evidence Rebutting Adjudicated Facts, 29 May 2009 (“*Karemera et al.* Decision of 29 May 2009”)

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Prosecutor v. Jovica Stanišić and Franko Simatović, Case No. MICT-15-96-T, Simatović Defence Observations to Registrar’s Submission in Response to the Trial Chamber’s “Order for Submissions”, 15 July 2020 (confidential)

Prosecutor v. Jovica Stanišić and Franko Simatović, Case No. MICT-15-96-T, Stanišić Defence Submissions Further to the Trial Chamber’s “Order for Submissions”, 15 July 2020

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Prosecutor v. Jovica Stanišić and Franko Simatović, Case No. IT-03-69-A, Notice of Filing of Public Redacted Version of Prosecution Appeal Brief and Corrigendum, 25 September 2013

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Prosecutor v. Jovica Stanišić and Franko Simatović, Case No. IT-03-69 PT, Prosecution's Motion Seeking Leave to Amend its Revised Second Amended Indictment in Compliance with the 4 February 2008 73 bis (D) Decision of the Pre-Trial Chamber, 11 February 2008

C. Defined Terms and Abbreviations

Additional Protocol I

Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977, 1125 U.N.T.S. 3

Additional Protocol II

Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), 8 June 1977, 1125 U.N.T.S. 609

Appeals Chamber

Appeals Chamber of the Mechanism

Common Article 3

Common Article 3 of the Geneva Conventions of 1949

Geneva Convention I

Geneva Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, 12 August 1949, 75 U.N.T.S. 31

Geneva Convention II

Geneva Convention (II) for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, 12 August 1949, 75 U.N.T.S. 85

Geneva Convention III

Geneva Convention (III) Relative to the Treatment of Prisoners of War, 12 August 1949, 75 U.N.T.S. 135

Geneva Convention IV

Geneva Convention (IV) Relative to the Protection of Civilian Persons in Time of War, 12 August 1949, 75 U.N.T.S. 287

Geneva Conventions

Geneva Convention I, Geneva Convention II, Geneva Convention III and Geneva Convention IV, collectively

ICTR

International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States, between 1 January 1994 and 31 December 1994

ICTR Rules

ICTR Rules of Procedure and Evidence

ICTR Statute

Statute of the ICTR

ICTY

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

ICTY Rules

ICTY Rules of Procedure and Evidence

ICTY Statute

Statute of the ICTY

Indictment

Prosecutor v. Jovica Stanišić and Franko Simatović, Case No. IT-03-69-PT, Prosecution Notice of Filing of Third Amended Indictment, 10 July 2008

JATD

Unit for Anti-Terrorist Activities

JNA

Yugoslav People's Army

JPN

Special Purpose Unit of the Serbian Ministry of the Interior

JSO

Unit for Special Operations

Mechanism

International Residual Mechanism for Criminal Tribunals

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Footnote (footnotes)

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Page (pages)

para. (paras.)

Paragraph (paragraphs)

PJM

Special Police Unit of the Public Security Service

Prosecution

Office of the Prosecutor of the ICTY or the Mechanism

Prosecution Final Trial Brief

Prosecutor v. Jovica Stanišić and Franko Simatović, Case No. MICT-15-96-T, Prosecution Final Trial Brief, 12 March 2021 (confidential with confidential Annexes A through G); Corrigendum to Prosecution Final Trial Brief, 7 April 2021 (confidential with confidential Annexes A and B)

Prosecution Pre-Trial Brief

Prosecutor v. Jovica Stanišić and Franko Simatović, Case No. MICT-15-96-PT, Prosecution Notice of Rule 70(E) Filings Pursuant to the Trial Chamber's Decision of 2 February 2017, 9 March 2017 (public with confidential Annexes A, B, and D and confidential and *ex parte* Annexes C and E)

Registrar

Office of the Registrar of the ICTY or the Mechanism

RP.

Registry Pagination

RSK

Republic of Serbian Krajina

Rules

Rules of Procedure and Evidence of the Mechanism

SAO

Serbian Autonomous Area

SBWS

Slavonia, Baranja, and Western Srem

SFRY

Socialist Federal Republic of Yugoslavia

Simatović Final Trial Brief

Prosecutor v. Jovica Stanišić and Franko Simatović, Case No. MICT-15-96-T, Simatović Defence Final Trial Brief, 12 March 2021 (confidential)

Simatović Pre-Trial Brief

Prosecutor v. Jovica Stanišić and Franko Simatović, Case No. MICT-15-96-PT, Simatović Defence Revised Pre-Trial Brief, 30 March 2017 (confidential)

Stanišić Final Trial Brief

Prosecutor v. Jovica Stanišić and Franko Simatović, Case No. MICT-15-96-T, Stanišić Final Trial Brief, 13 March 2021 (confidential with confidential Annexes I-XXV)

Stanišić Pre-Trial Brief

Prosecutor v. Jovica Stanišić and Franko Simatović, Case No. MICT-15-96-PT, Stanišić Defence Notice of Pre-Trial Brief Filing Pursuant to the Trial Chamber's Decision of 2 February 2017, 30 March 2017 (public with confidential Annexes A and B)

Statute

Statute of the Mechanism

T.

Transcript from hearings at trial or appeal in the present case, all references are to the official English transcript, unless otherwise indicated

Trial Chamber

Trial Chamber of the Mechanism seised of the case of *Prosecutor v. Jovica Stanišić and Franko Simatović*, Case No. MICT-15-96-T

UN

United Nations

UNDU

United Nations Detention Unit

United Nations Security Council Resolution 1966

UN Security Council Resolution 1966, U.N. Doc. S/RES/1966, 22 December 2010

UNPROFOR

United Nations Protection Force