

SUD BOSNE I HERCEGOVINE



СУД БОСНЕ И ХЕРЦЕГОВИНЕ

COURT OF BOSNIA AND HERZEGOVINA

Case No.: X-KR-07/386

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Before: Judge, Davorin Jukić, Presiding
Judge Lars Folke Bjur Nystrom
Judge Patricia Whalen

PROSECUTOR'S OFFICE OF BOSNIA AND HERZEGOVINA

v.

MILORAD TRBIĆ

FIRST INSTANCE VERDICT

Counsel for the Prosecutor's Office of Bosnia and Herzegovina:

Mr. Kwai-Hong Ip

Counsel for the Accused Milorad Trbić:

Mr. Milan Trbojević

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IN THE NAME OF BOSNIA AND HERZEGOVINA !

The Court of Bosnia and Herzegovina in the panel comprising Judge Davorin Jukić, as the presiding Judge, and Judges Lars Folke Bjur Nystrom and Patricia Whalen as the panel members, with participation of Legal Officer Emira Hodžić, as record-keeper, in the criminal case against the Defendant Milorad Trbić on the count of Genocide in violation of Article 171 of the CC of BiH items (a), (b), (c), (d), in conjunction with Article 180(1) and Article 29 of the Criminal Code of Bosnia and Herzegovina (CC of BiH), following the Indictment of the Prosecutor's Office of Bosnia and Herzegovina No. KT-RZ – 139/07 dated 20 July 2007, confirmed and accepted on 27 July 2007, amended on 4 March 2009, after having held the public and main trial, in the presence of the Defendant Milorad Trbić and his Defence Counsel, Attorney Milan Trbojević, and the international prosecutor of the Prosecutor's Office of Bosnia and Herzegovina, Kwai Hong Ip, on 13 October 2009 rendered, and on 16 October 2009 publicly pronounced the following:

V E R D I C T

ACCUSED:

TRBIĆ MILORAD, son of Mihajlo and Ljeposava Milović, born 22.02.1958 in Ponihovo, Municipality of Zenica, JMB 2202958190068, married with one adult child, completed primary and secondary education, specialist for power-supply devices, former service in JNA 1977-1978, former Reserve Captain in the VRS, with no registered address in BiH, unemployed, having been convicted of two counts of immigration fraud by the United States District Court for the Middle District of North Carolina, 1:03CR112-1 dated 02.07.2003 and sentenced to imprisonment for time served to the date of the conviction and then remanded to the custody of the US Marshal for hand-over to the Immigration and Naturalization Service for deportation; after being transferred to the seat of the ICTY on 7 April 2005, he was held in the UN Detention Unit in Scheveningen, The Netherlands, pursuant to the Order on custody during the investigation phase, No. IT-05-86-I dated 8 April 2005. On 11 June 2007, he was handed over to authorities of Bosnia and Herzegovina; currently in custody pursuant to the Decision of the Court of BiH X-KRO- 07/386 dated 12.06.2007 in the Detention Unit of the Court of BiH, Sarajevo;

Pursuant to Article 285(1) of the Criminal Procedure Code of Bosnia and Herzegovina (hereinafter the CPC of BiH)

HAS BEEN FOUND GUILTY

Of the following:

Between 10 July and 30 November 1995, during a widespread and systematic attack against the members of the Bosniak people in the UN Protected Area of Srebrenica (Srebrenica enclave) in furtherance of a state and organizational policy, wherein the VRS and RS MUP conducted an operation to permanently and forcibly transfer from the UN Protected Area of Srebrenica (Srebrenica enclave) the entire Bosniak civilian population; an operation to capture, detain, summarily execute and bury all the able-bodied Bosniak men and boys from Srebrenica enclave; and an operation to conceal the evidence of the executions where the victims' remains were exhumed from the initial (primary) mass graves and reburied in unmarked (secondary) graves: wherein during 12 and 13 July 1995, the entire Bosniak civilian population of up to 40,000 Bosniak civilians were forcibly removed from Srebrenica enclave and between 12 July and 30 November 1995, over 7,000 Bosniak men and boys were summarily executed, buried, exhumed and reburied including 3,737 identified persons **MILORAD TRBIĆ**, as a Reserve Captain in the VRS, Security Officer (Referent) in the Organ for Security and Intelligence Affairs in Zvornik Brigade, VRS perpetrated the following:

1. Between 12 July to 30 November 1995, **MILORAD TRBIĆ** participated in a joint criminal enterprise with Colonel Ljubiša Beara, Lieutenant Colonel Vujadin Popović, Lieutenant Drago Nikolić and others, with the common purpose and plan to capture, detain, summarily execute and bury all able bodied Bosniak males from Srebrenica enclave, who were brought into the Zvornik Brigade zone of responsibility, which was the aim of a larger operation conceived by VRS Main Staff Officers including General Ratko Mladić and implemented and directed by senior VRS Security Officers including Colonel Ljubiša Beara, Lieutenant Colonel Vujadin Popović, and Lieutenant Drago Nikolić, sharing a common intention to fulfil the aims of the common purpose and plan, and intending that his acts would assist and contribute to it, perpetrated the following acts:

a) Sometime between the evening of 12 and midday on 13 July 1995, acting on the directions of Colonel Ljubiša Beara, selected and located school buildings in Orahovac (Grbavci School), Petkovci and Ročević to be used as temporary detention facilities to hold civilian Bosniak men

from Srebrenica enclave, who were brought into the Zvornik Brigade zone of responsibility, knowing that these civilian Bosniak men would be those captured by VRS soldiers and transported away from Srebrenica enclave;

b) In the late evening hours on 13 July 1995 at **Grbavci School, Orahovac, MILORAD TRBIĆ** supervised and controlled other VRS soldiers in securing the school where Bosniak males from Srebrenica enclave were being detained in inhumane conditions with inadequate accommodation and supplies of food and water; on 14 July 1995, ensured that there was an adequate guard force to contain and control the Bosniak men detained inside the school by requesting from the 4th Battalion, Zvornik Brigade 10 (ten) additional VRS soldiers to augment the number of guards at the school to secure and control the Bosniak men inside the school whereby an additional 10 (ten) VRS soldiers were sent and upon their arrival he tasked them to secure the school; during the day outside the school gymnasium, **MILORAD TRBIĆ**, acting jointly with other VRS soldiers, summarily executed by automatic weapon fire, up to 20 (twenty) Bosniak men from Srebrenica enclave who were previously detained inside the gymnasium in order to intimidate and therefore subdue and control the remainder of the detained Bosniaks inside the school; and also assisted Drago Nikolić and other senior VRS officers by supervising and coordinating the activities of VRS soldiers in securing, escorting, loading and transporting the Bosniak men in trucks from Grbavci School to two adjoining meadows at **Lazete** near Orahovac, knowing that the Bosniaks were being taken there for their summary execution at that location; and later on 14 July 1995, at Lazete, **MILORAD TRBIĆ**, summarily executed by automatic rifle fire an unknown number but at least 1 (one) Bosniak males from Srebrenica enclave who had been taken to Lazete for summary execution; wherein by the end of 14 July 1995, approximately 1,000 (one thousand) Bosniak men were summarily executed by automatic rifle fire by VRS soldiers, and then during 14 and 15 July 1995, the victims were buried in unmarked mass graves at Lazete by VRS soldiers from the Engineering Company, Zvornik Brigade.

c) On or about 15 July 1995 at **Ročevići School**, while supervising the securing of Bosniaks from Srebrenica enclave who were being detained in the school, **MILORAD TRBIĆ** fired an automatic rifle at male Bosniak detainees, thereby killing at least 5 (five) of them; on 15 July 1995, as coordinated by Lieutenant Colonel Vujadin Popović who was at the school, **MILORAD TRBIĆ**, acted jointly with and supervised the activities of other VRS soldiers in transporting the Bosniak detainees from the School to a summary execution site at the municipal refuse dump by the Drina River at **Kozluk** knowing that they would be summarily executed at that location; and, later on 15 July 1995, at Kozluk, **MILORAD TRBIĆ** carried out summary executions of Bosniak men from Srebrenica enclave for a period of at least 20 minutes thereby killing several (unknown

number but more than one) of them by automatic weapon fire; whereby on 15 July 1995 approximately 500 (five hundred) Bosniak men were summarily executed by automatic weapon fire, in Ročević and Kozluk and on 16 July 1995, VRS soldiers from the Engineering Company, Zvornik Brigade buried the deceased victims in unmarked graves at and around the refuse dump in Kozluk.

d) During the early morning hours of 15 July 1995, at **Petkovci School**, **MILORAD TRBIĆ** acted jointly with and supervised other VRS soldiers in securing the school premises where Bosniak males from Srebrenica enclave were being temporarily detained knowing that other VRS soldiers were removing the Bosniak detainees from the building and transporting them to **Petkovci Dam** and then summarily executing them; whereby during the evening of 14 July and the day of 15 July 1995 at Petkovci Dam, at least 179 Bosniak men were executed by automatic rifle fire and then buried in an unmarked grave at Petkovci Dam by VRS soldiers including those from the Engineering Company, Zvornik Brigade on or about 15 July 1995.

e) On **15 July** 1995, at **Kula Grad**, Zvornik, **MILORAD TRBIĆ** coordinated and supervised the summary execution by VRS soldiers of a group of detained Bosniak men from Srebrenica enclave including Rešid SINANOVIĆ, son of Rahman, born 15 October 1949.

f) On 16 and 17 July 1995, at the Command of the Zvornik Brigade at Standard Barracks, Karakaj, Zvornik Municipality, as the Duty Operations Officer of the Brigade, **MILORAD TRBIĆ** coordinated and transmitted oral and written directions and reports between participating units and supervising officers, and coordinated the provision of logistical support by arranging for the resupply of fuel and ammunition to military units participating in the operation to summarily execute and bury Bosniak males from Srebrenica enclave thereby knowingly and intentionally provided communications and logistics coordination for the operation whereby, on 16 July 1995, at least 500 Bosniak men held in **Kula School**, Pilica were transported to **Branjevo Military Farm** and then, on 16 July 1995, at **Branjevo Military Farm**, Pilica, up to 1,200 (one thousand two hundred) Bosniak men, including those from Kula School, were summarily executed by automatic rifle fire; and on or about 16 July 1995 at **Pilica Dom** (Cultural Centre), Pilica, approximately 500 (five hundred) Bosniak men were summarily executed by automatic weapons and handgrenades; and the deceased from these mass summary executions were buried in a mass unmarked grave at Branjevo Military Farm by VRS soldiers from the Engineering Company, Zvornik Brigade on or about 17 July 1995.

g) On or about 19 July 1995:

VRS and/or MUP forces, having captured in the Zvornik Brigade zone of responsibility 4 (four) Bosniak men who had **survived the Branjevo Military Farm executions**, handed them over to Zvornik Brigade Military Police and security personnel who interrogated them and detained them for a few days, and then summarily executed them, wherein the executed men were later identified as:

- Sakib KIVIRIĆ; son of Salko, born 24 June 1964;
- Emin MUSTAFIĆ, son of Rifet, born 7 October 1969;
- Fuad ĐOZIĆ, son of Senusija, born 2 May 1965; and,
- Almir HALILOVIĆ, son of Suljo, born 25 August 1980.

On 20 July 1995

On or about 13 or 14 July 1995, 19 (nineteen) wounded Bosniak men from Srebrenica enclave surrendered or were captured and were admitted to the **Milići Hospital** and treated; Aziz BEĆIROVIĆ, son of Nezir, born 16 September 1973 in Opetci, Srebrenica Municipality (died in the hospital);

on about 14 July 1995, 11 (eleven) of these wounded Bosniak men were transferred from the Milići Hospital to the Zvornik Hospital on orders from the VRS Main Staff; a few days later those Bosniak men were transferred from the Zvornik Hospital to the infirmary of the Zvornik Brigade; and on or shortly after 20 July 1995, 10 (ten) of those Bosniak men were removed from the Zvornik Brigade Headquarters infirmary and summarily executed by the VRS; the victims were identified as:

- Mensur SALKIĆ, son of Šukrija, born 25 December 1970 in Osati, Srebrenica Municipality;
- Behaija KURTIĆ, son of Ahmet, born 18 January 1964 in Joseva, Bratunac Municipality;
- Izet HALILOVIĆ, son of Ramo, born 1951 in Srebrenica, Srebrenica Municipality;
- Behudin LOLIĆ, son of Ramiz, born 4 January 1967 in Donji Potočari, Srebrenica Municipality;
- Huso SALIHOVIĆ, son of Mešan, born 10 May 1974 in Skugrići, Vlasenica Municipality;

- Vahdet SULJIĆ, son of Alija, born 3 June 1968 in Pasmulići, Srebrenica Municipality;
- Remzija IBIŠEVIĆ, son of Ibrahim, born 20 July 1943 in Glogova, Bratunac Municipality;
- Mujo BEČIĆ, son of Hakija, born 26 February 1970 in Srebrenica, Srebrenica Municipality;
- Sulejman BEGOVIĆ, son of Mustafa, born 3 March 1970 in Bukovica, Vlasenica Municipality; and,
- Mehmedalija HAMZABEGOVIĆ, son of Ibrahim, born 15 February 1957 in Glodi, Zvornik Municipality.

h) in furtherance of the joint criminal enterprise which includes burials of all able-bodied Bosniak men from the Srebrenica enclave, who were brought into the Zvornik brigade zone of responsibility, with the purpose and plan to conceal the killings and summary executions that took place in July 1995 in the Zvornik Brigade zone of responsibility by exhuming and reburying the victims of the executions in mass unmarked and unregistered graves, **MILORAD TRBIĆ** supervised, directed and coordinated the activities of other VRS soldiers, including those from the Engineering Company, Zvornik Brigade, in the exhumation of the primary mass graves at Lazete (Orahovac), Petkovci Dam, Kozluk and Branjevo Military Farm, all located in the Zvornik Brigade zone of responsibility, which contained the Bosniak victims of the mass summary executions carried out between 14 and 17 July 1995, and the loading of the bodies and body parts of the victims on to vehicles for onward transport to secondary mass graves, by directly tasking soldiers to carry out the work and by controlling and accounting for the provision and distribution of fuel for the operation wherein bodies and body parts exhumed from the primary mass graves were transferred to unmarked and unregistered secondary graves at numerous but at least 13 (thirteen) sites along the Čančari Road where bodies and body parts removed from graves including those at Branjevo Military Farm and Kozluk were relocated; 8 (eight) sites near Liplje where bodies and body parts removed from graves including those at Petkovci Dam were relocated, and 7 (seven) sites near Hodžići where bodies and body parts removed from graves including those at Lazete were relocated; so that the remains and identities of the victims would be concealed.

WHEREBY

the accused **MILORAD TRBIĆ** perpetrated the criminal offence of **Genocide**, in violation of Article 171 CC BiH by way of acts specified at Article 171 (a) killing members of the group and Article 171 (b) causing serious bodily or mental harm to members of the group, as read with Article 180 (1).

Therefore the Panel of the Court of BiH pursuant to Article 285 of the CPC of BiH, with the application of Articles 39, 42, 48 of the CC of BiH

SENTENCES

THE ACCUSED TO 30 (THIRTY) YEARS OF LONG-TERM IMPRISONMENT.

Under Article 56 (1) of the CC of BiH, the time spent in custody under Court Decision shall be credited towards the imposed sentence for the accused, starting as of April 7, 2005.

Pursuant to Article 188(4) of the CPC of BiH, the accused shall be relieved from the duty to reimburse the costs of the criminal proceedings, which costs will be born by the budget of the Court.

Pursuant to Article 198(2) of the CPC of BiH, all aggrieved parties shall be referred to take civil action with their claims as filed or to be filed under property law.

On the contrary, pursuant to Article 284(1)(c) of the Criminal Procedure Code of Bosnia and Herzegovina, the Accused Milorad Trbić

IS ACQUITTED OF CHARGES

That:

1. Between 11 and 13 July 1995, **MILORAD TRBIĆ** participated in a joint criminal enterprise with others in the VRS and RS MUP including General Ratko Mladić, Colonel Ljubiša Beara, and Captain 1st Class Momir Nikolić, with the common purpose and plan to forcibly remove the entire Bosniak civilian population from Srebrenica enclave and transport them to areas under the control of the Army of BiH (ABiH), whereupon, from the afternoon of 12 July 1995 and continuing throughout the entire day of 13 July 1995, in the presence of Ratko MLADIĆ,

Radislav KRSTIĆ, Vujadin POPOVIĆ and others, over 25,000 Bosniak women, children and elderly men were loaded on buses and trucks and transported by the Bosnian Serb forces from Potočari to the confrontation line near Kladanj, where they were released and walked approximately 5 kilometres to BiH Army-held lines outside Kladanj during which, as the Bosniak men, women and children started to board the buses and trucks, VRS and RS MUP forces separated over 1,000 able-bodied Bosniak men from the women and children and transported these Bosniak men to temporary detention sites in Bratunac, so that by the end of 13 July 1995, the entire Bosniak civilian population had been removed from the Srebrenica enclave; on 13 July 1995, approximately 5,000 to 6,000 Bosniak men from a column of men trying to escape from the Srebrenica enclave to Army of BiH held territory were attacked by VRS and RS MUP forces by shelling and ambushes, and were then captured by or surrendered to MUP and VRS forces stationed along the Bratunac-Konjević Polje-Milići Road in the areas of Kravica, Sandići, Konjević Polje and the majority of those captured were moved by vehicles to further temporary detention facilities in and around Bratunac; and during the period 12 July to 16 July 1995: Bosniak men detained in Potočari, along the Bratunac-Konjević Polje road and Bratunac were not provided with food or medical treatment, nor with any meaningful rations of water; during their detention they were frequently beaten by their captors and VRS and MUP soldiers confiscated and destroyed personal property and effects belonging to Bosniak men detained by them including their identification documents and valuables; wherein **MILORAD TRBIĆ**, sharing a common intention with others in the joint criminal enterprise to fulfil the aims of the common purpose and plan, and intending that his acts would assist and contribute to it, perpetrated the following acts: on 12 July 1995, acting jointly with and supervising other VRS soldiers, carried out a search for Bosniaks in Srebrenica enclave to ensure that the enclave would be cleared of Bosniaks and, while doing so, captured and detained up to 15 (fifteen) civilian Bosniak males on the road between Srebrenica and Potočari; and on 13 July 1995 at Potočari, acting jointly with others from the VRS and RS MUP, intimidated, mistreated and threatened Bosniak civilian population to leave the enclave by separating and maintaining the segregation of civilian Bosniak men from their families, and by maintaining the Bosniak civilian population in inhumane conditions in Potočari where there was insufficient and inadequate shelter, food, water and medical supplies by taking no action to alleviate these conditions and accepting and intending it be continued, so that the Bosniak civilian population exercised no free choice but to leave when loaded onto buses and trucks and escorted away from Srebrenica enclave by VRS and MUP forces.

2. On 12 July 1995, at **Potočari**, Municipality of Srebrenica, **MILORAD TRBIĆ**, acting on the directions of Ljubiša BEARA and jointly with and supervising around 12 (twelve) soldiers from the Bratunac Brigade Military Police Platoon, took approximately 15 (fifteen) Bosniak men who had previously been captured and interrogated at a building known as the “White House” located adjacent to the UNPROFOR Headquarters in Potočari, to an area near to Žuti Most at Potočari and supervised the summary execution of the Bosniak men by automatic rifle fire thereby killing them all; in the evening hours of 13 July 1995 at **Bratunac Stadium**, **MILORAD TRBIĆ** fired an automatic rifle at a group of Bosniak men from Srebrenica enclave who had been transported from Potočari and detained at the Stadium by VRS soldiers, thereby killing at least 10 (ten) of the men; and, on 13 July 1995, acting jointly and supervising a group of VRS soldiers, escorted one convoy of 3 (three) buses containing Bosniak males from Srebrenica enclave, from Bratunac Stadium to Grbavci School, Orahovac, Municipality of Zvornik knowing that they would be temporarily detained there and soon after be summarily executed.

3. By participating in the joint criminal enterprise with the common purpose and plan to capture, detain, summarily execute and bury all able bodied Bosniak males from Srebrenica enclave, sharing a common intention with others in the joint criminal enterprise to fulfil its aims, knowing that it was being carried out, **MILORAD TRBIĆ** also perpetrated the following criminal acts that formed part of the common criminal purpose and plan:

Between 12 to 15 July 1995 in Bratunac:

On 12 July 1995, beginning at approximately 22.00 hours and continuing through 13 July, more than 50 (fifty) unidentified Bosniak men were taken from a hangar behind Vuk Karadžić Elementary School in **Bratunac** and summarily executed; on 13 July 1995, in the evening, an (unidentified) Bosniak man who was mentally retarded was taken off a bus parked in front of the Vuk Karadžić Elementary School in Bratunac and summarily executed; and, between the evening of 13 July 1995 and the morning of 15 July 1995, up to 50 (fifty) unidentified Bosniak males were killed, both inside and outside the Vuk Karadžić Elementary School, by VRS and/or MUP personnel.

12 and 13 July in Potočari:

On or about 12 July 1995, in **Potočari**, the bodies of 9 (nine) unidentified Bosniak men who had been shot were found in the woods near the UN Compound on the Budak side of the main road; on or about 12 July 1995, the bodies of nine or ten (unidentified) Bosniak males, who had been shot, were found about seven hundred metres from the UN Compound behind the "White House" in a creek; and, on 13 July 1995, one (unidentified) Bosniak man was taken behind a building near the "White House" by VRS soldiers and summarily executed;

On 13 July 1995:

VRS and/or RS MUP forces captured 6 (six) Bosniak men who, after being interrogated at the **Bratunac Brigade Headquarters**, were placed among the other detained men in Bratunac and were later summarily executed by unknown persons; the victims include;

- Aziz HUSIĆ, son of Osman, born 8 April 1966.

VRS or RS MUP forces captured approximately 16 (sixteen) Bosniak men retreating through the woods away from Srebrenica enclave, transported them to an isolated area on the bank of the **Jadar River** then summarily executed 15 (fifteen) of them with automatic weapons.

VRS and/or MUP soldiers transported about 150 (one hundred and fifty) Bosniak men to an area along a dirt road in the **Cerska Valley** about 3 (three) kilometres from Konjević Polje, summarily executed them with automatic weapons and, using heavy equipment, covered them with dirt.

VRS and/or MUP soldiers, supported by approximately 4 APCs, escorted approximately 100 (one hundred) Bosniak men to a location on or near a hill near the road between Konjević Polje and **Nova Kasaba**, lined up the prisoners in several ranks and executed them with automatic weapons where, a short time later, a second group of approximately 30 (thirty) prisoners arrived, were lined up, and also executed, and a third group arrived soon thereafter and was similarly executed.

RS MUP Police, including elements of the 2nd (Sekovici) Detachment of the RS Special Police Brigade, captured hundreds of Bosniak men from Srebrenica and detained them in a large agricultural **warehouse in the village of Kravica** where, during the afternoon and the early evening hours, MUP Special Police, including elements of the 2nd (Sekovici) Detachment of the RS Special Police Brigade, summarily executed around 1,000 (one thousand) Bosniak men detained in

the large warehouse in the village of Kravica using automatic weapons and hand grenades, and on 14 July 1995, heavy equipment was used to remove the victims' bodies to two large mass graves located in the nearby villages of Glogova and Ravnice.

Bosniak prisoners were captured and detained by MUP Forces throughout the day at **Sandići Meadow**, approximately 18 kilometres west of Bratunac along the Bratunac-Konjević Polje road until the late afternoon or early evening when they were taken from the meadow to other locations, including schools in the Bratunac area and the Kravica Warehouse, and by dark, there were approximately 10 (ten) to 15 (fifteen) unidentified prisoners remaining at the meadow who were then summarily executed by MUP soldiers with automatic weapons.

On 13 and 14 July 1995:

On or about the evening of 13 July and the day of 14 July 1995, at **Luke School near Tišća**, VRS and/or MUP soldiers loaded 25 (twenty five) Bosniak men from Srebrenica enclave, who had been transported from Srebrenica enclave and detained in the school, onto a truck, then drove them to an isolated pasture nearby and summarily executed 22 (twenty two) of them with automatic weapons.

During the night between 13 July 1995 and 14 July 1995, near the **Supermarket in Kravica village**, (unidentified) Bosniak detainees who had surrendered or been captured from the column of men retreating from the Srebrenica enclave were detained on trucks during which, VRS and/or MUP soldiers summarily executed 10 (ten) (unidentified) Bosniak men by automatic rifle fire.

On or about 19 July 1995:

Near the town of **Nezuk**, VRS personnel from the 16th Brigade of the 1st Krajina Corps, re-subordinated to the command of the Zvornik Brigade, captured approximately 10 (ten) (unidentified) Bosniak males from Srebrenica enclave and shortly after their capture, summarily executed 8 (eight) of them.

On 22 July 1995:

Near the town of **Snagovo**, near Zvornik, members of the RS MUP captured approximately five (5) Bosniak men while they were fleeing from Srebrenica enclave and summarily executed 4 (four) of them by automatic weapon fire in the woods.

In July 1995:

At a place called Godinjske Bare, near the town of **Trnovo**, members of the Serbian MUP unit called the Scorpions that were operating with the VRS, summarily executed 6 (six) Bosniak men

from Srebrenica enclave, namely:

- Azmir ALISPAHIĆ son of Alija, born 2 October 1978 in Srebrenica Srebrenica Municipality;
- Safet FEJZIĆ, son of Sakib, born 3 January 1978, in Srebrenica, Srebrenica Municipality.
- Sidik SALKIĆ (born 1959);
- Smail IBRAHIMOVIĆ (born 1960);
- Dino SALIHOVIĆ (born 1979); and,
- Juso DELIĆ (born 1970).

WHEREBY:

the defendant **MILORAD TRBIĆ** would have perpetrated the criminal offence of **Genocide**, in violation of Article 171 CC BiH by way of acts specified at Article 171 (a) killing members of the group, Article 171 (b) causing serious bodily or mental harm to members of the group, Article 171 (c) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part, and, Article 171 (d) imposing measures intended to prevent births within the group, as read with Article 180 (1) and Article 29 of the Criminal Code of BiH.

Pursuant to Article 189(1) of the CPC of BiH, the costs of criminal proceedings and remunerations shall be paid from budget appropriations.

Pursuant to Article 198(3) of the CPC of BiH, all aggrieved parties shall be referred to take civil action with their claims under property law.

REASONING

I. INTRODUCTION

A. REFERRAL OF ICTY CASES

1. Under the Second Consolidated Amended Indictment of the Prosecutor of the International Criminal Tribunal for the Former Yugoslavia (“ICTY”), No. IT-05-88/1-PT dated 18 August 2006, Milorad Trbić was charged on the count of individual criminal liability pursuant to Article 7(1) of the Statute of the International Tribunal for the crimes of Genocide (Article 4), Conspiracy to Commit Genocide (Article 4), Extermination, Persecution and Forcible Transfer (Crimes against Humanity, Article 5), Murder (Violations of the Laws or Customs of the War (Article 3), alleged to have taken place in the area of the Municipality of Srebrenica, in Bosnia and Herzegovina, in the period from July to November 1995.

2. The case against Milorad Trbić was transferred to the national authorities of Bosnia and Herzegovina pursuant to Rule 11 *bis* of the Rules of Procedure and Evidence of the International Criminal Tribunal for the Former Yugoslavia, under the Decision on Referral issued by the Referral Bench of the International Tribunal on 27 April 2007. Authorities of Bosnia and Herzegovina transferred the case without delay to the court of jurisdiction (the Court of Bosnia and Herzegovina) for trial in Bosnia and Herzegovina.

3. On 11 June 2007, the Accused Milorad Trbić was transferred from the UN Detention Unit in The Hague to the national authorities of Bosnia and Herzegovina and handed over to the Court of Bosnia and Herzegovina (“Court of BiH”) for further proceedings.

II. PROCEDURAL HISTORY

4. Pursuant to the Law on Transfer of Cases from the ICTY to the Prosecutor's Office of BiH and the Use of Evidence collected by the ICTY in Proceedings before Courts in BiH ("LOTIC"), on 27 July 2007, the Court of BiH accepted the adapted Indictment of the Prosecutor's Office of Bosnia and Herzegovina No. KT-RZ-139/07 dated 20 July 2007, in relation to Counts 1 (a, b, c, d, e, f, h) and Counts 2 (b, e (i-iii), f, g, h.i, j.i, l.i, m.i, n, p, q, r, s, t.i, u, v, w, x, y, z, aa, bb(i-iv), cc (i-iv), dd, ee) of the Indictment, and on the same day, the Indictment was confirmed in relation to additional Counts 1g. and Count 2 (a, c, d, e.iv, h.ii, j.ii, k, l.ii, m.ii, o, and t.ii)

5. Under the Indictment, Milorad Trbić is charged that by acts described under the cited counts of the Indictment, he committed the criminal offence of Genocide in violation of Article 171 (a) killing members of the group, item b) causing serious bodily or mental harm to members of the group, item c) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; and item d) of the Article, imposing measures intended to prevent births within the group, all in conjunction with Article 180(1) and Article 21 and 29 of the Criminal Code of BiH ("CC of BiH").

6. On 9 August 2007, the Accused Milorad Trbić pleaded not guilty of the criminal offense as charged under the Indictment.

7. On 4 March 2009, the Prosecutor's Office of BiH submitted the Amended Indictment which was accepted by the Court. Under the Amended Indictment, the Accused Milorad Trbić is charged with participation in a joint criminal enterprise with others from the VRS¹ and the RS MUP², including General Ratko Mladić, Colonel Ljubiša Beara and Captain 1st Class Momir Nikolić, with the common purpose and plan to forcibly remove the entire Bosniak civilian population from Srebrenica enclave and transport them to areas under the control of the Army of BiH; the common purpose and plan to capture, detain, summarily execute and bury all able-bodied Bosniak men and boys from Srebrenica enclave, and the common purpose and plan to conceal summary executions which took place in July 1995, in the area of responsibility of the Zvornik Brigade, in the manner as described in the Indictment. The Accused was specifically charged that through his participation in the joint criminal enterprise, intending that his acts assist and contribute to the common purpose and

¹ Army of the self-proclaimed Serb Republic of Bosnia and Herzegovina, hereinafter "VRS".

² Republika Srpska Special Police, hereinafter "RS MUP".

plan, the he undertook actions by ways charged under Counts 1, 2 (a, b, c, d, e, f, g), and 3 of the Indictment.

8. The main trial commenced on 8 November 2007, and the evidentiary proceedings were concluded on 28 September 2009. In the course of the evidentiary proceedings, evidence of the Prosecution, the Defence and the Court was presented.

A. EVIDENCE PRESENTED

1. Evidence of the Prosecutor's Office of BiH witnesses and expert witnesses:

9. In the main trial, the Panel heard the following witnesses for the Prosecution: Alistair Graham, Bruce Bursik, Miodrag Dragutinović, Sreten Milošević, Milivoje Aćimović, Lazar Ristić, Tanacko Tanić, Milorad Birčaković, Milenko Jovičić, Nebojša Jeremić, Desimir Đukanović, Mevludin Orić, Mirsada Malagić, Zoran Radosavljević, Milovan Đokić, Luka Marković, Dean Manning, Momir Nikolić, Joseph Kingori, Teufik Ibrahimbegović, Saliha Đuderija, Munira Subašić, Mile Babić and Stana Vidović, A-5, A-6, A-8, A-10, A-13, A-16, A-22, A-23, A-24, A-41, A-42, A-45, A-46 and P-21, and expert witnesses: Richard Butler, Rifat Kešetović and Cheryl Katzmarzyk.

10. The Prosecutor's Office submitted a large number of documentary evidence in the course of the main trial. For easier reference, documentary evidence of the Prosecution will be listed together with the documentary evidence of the Defence and the Court in an Annex that forms an integral part of the Verdict.

2. Defense witnesses and expert witnesses

11. The following witnesses were heard before the Court: Đorđe Stojaković, witness *****, Goran Bogdanović, Slavko Bogičević, Zoran Jovanović, Dragoje Ivanović, Galić Mihajlo and the witness Bruce Bursik. The Defence called the military expert witness Petar Vuga.

3. Closing arguments of the Prosecutor's Office of BiH

12. In the opening part of its closing arguments, the Prosecution explained and elaborated on the

concept of Genocide, as referred to in Article 171 of the CC of BiH, in accordance with customary international law and international legal instruments, such as: the Genocide Convention, respective Statutes of ICTY and International Criminal Tribunal for Rwanda (“ICTR”), and the Rome Statute of the International Criminal Court. The Prosecution particularly addressed the elements of *actus reus* and *mens rea* referring to them as essential elements of the criminal offence of Genocide and joint criminal enterprise as a mode of liability with which the Accused Milorad Trbić has been charged.

13. The Prosecution submits that there are various types of evidence before the Court: those that have already been adjudicated and relied upon at trials before the ICTY with regard to the events occurring during the fall of Srebrenica, testimonies of witnesses and protected witnesses, both those who provided live testimony before the Court and those admitted in writing before the ICTY. This also includes evidence on intercepted communications, being the best evidence of the locations of the key staff, their activities and state of mind, along with ample documentary evidence comprising of records, orders and reports by the VRS and Republika Srpska Ministry of Interior, which constitute highly relevant and direct indicators of the knowledge of the participants, including the Accused. Directly related to the aforementioned evidence are also the ICTY records of interviews with the Accused in his capacity as a suspect, in which the Accused repeatedly described his participation in the operation to capture, detention, summary execution and burial of Bosniak men from the Srebrenica enclave.

14. The Prosecution finds it indisputable that, from 1992 to 1995, there was an armed conflict between Republika Srpska and the Republic of Bosnia and Herzegovina and that, from its very beginning, the conflict was characteristic of civilians being terrorised for the ultimate goal - ethnically clean territory. In that regard, by mid 1993, due to unhindered aggression by the Bosnia Serbs’ forces, approximately 2 million people or half of the entire population of BiH, left or were expelled from their homes. In support of this, the Prosecution also refers to several military tasks performed in the context of a comprehensive campaign to destroy Bosniaks from East Bosnia who constituted Bosniak civilian population of the Srebrenica enclave in July 1995.

15. As for the direct participation of the Accused Trbić, the Prosecution notes that the Accused visited Potočari and Bratunac during both days, on 12 and 13 July 1995, where he took part in a number of assignments performed by the VRS soldiers, police officers and others, who aided the forcible transfer of Bosnian Muslim population from that territory. The Prosecution submits that the Accused was tasked with mopping up the terrain around Potočari in order to capture all Bosniak men attempting to escape, while he later on participated in the executions of these Bosniaks as

instructed by Colonel Ljubiša Beara, his superior in the security organ. The Accused Milorad Trbić, together with other members of the Zvornik Brigade and military police, visited and identified the facilities in the Municipality of Zvornik which could temporarily receive a large number of prisoners. Among others, those were: Grbavci school in Orahovac, new primary school in Petkovci, Ročević School, Kula School, and the Culture Centre in Pilica. The Prosecution notes that the Accused Trbić was in Potočari where he saw and participated in the separation of Bosniak men from their families. He also stated that based on the separation in Potočari, it was clear that those Bosniak men would be killed. Following the separation, on 13 July 1995, he left for Bratunac where Momir Nikolić, Captain 1st Class, informed him that the prisoners would be kept on the Bratunac stadium, where he voluntarily participated in the abuse and security control of the detained Bosniak men. All those tasks and the time when they took place are consistent with the testimonies of other witnesses.

16. The summary execution operation lasted for slightly more than 48 hours, from the afternoon of 14 July until the evening of 16 July, in which, except for a few survivors, thousands of Bosniak men were executed. The killing operation implied a series of well-organized, systematic and coordinated mass murders in which, the Prosecution believes, Trbić played a role of a coordinator, aider and direct participant in the executions. He was present in Orahovac/Lažete, Petkovci and Ročević/Kozluk until 16 July 1995 when he assumed the role of duty operations officer of the Zvornik Brigade Command, during which period he was a key organizational link in the final part of the mass execution operation. Each of these events has been corroborated by evidence and testimonies of witnesses and protected witnesses. The Prosecution argues that even before his participation in the first mass execution at the referenced sites, the Accused directly and willingly participated in the execution of two groups of men during 12 and 13 July in Žuti Most and Bratunac. At the relevant time all the foregoing localities fell within the area of responsibility of the Zvornik Brigade to which the Accused Milorad Trbić also belonged.

17. The Prosecution attaches special importance to the testimony of the military expert witness, Richard Bulter who, based on his expertise, provided accurate elaboration of the function of the Accused Trbić, that is the role of a duty officer which the Accused assumed on 16 and 17 July 1995. Being a duty officer, the Accused knew what was going on, he received and dispatched orders and information, issued instructions and, within the scope of his duties, he facilitated the transportation of prisoners from the school in Kula to the site of their execution in the army-operated Branjevo Military Farm, as well as manning of the firing squads at the Branjevo Military Farm and the Pilica Dom (Cultural Center), also providing the necessary logistics and coordinating the cleaning and burial activities at the execution sites. By the evening of 17 July, all the mass-

scale executions and related burial activities which were performed during the shift of Milorad Trbić as the Zvornik Brigade duty operation officer, were completed.

18. The Prosecution notes that, even before the fall of Srebrenica, the VRS forces cut off the water supply and prevented the supply of food and humanitarian aid to the civilians in the enclave, with the aim of endangering the existence of the Bosniak population of East Bosnia. This pattern of conduct and activities was applied throughout the period of detention of the Bosnian Muslims on the meadow in Sandići, Nova Kasaba, Bratunac, Orahovac, Petkovci, Ročevići, Kula School and Pilica. In this regard, the witness for the Prosecution, Richard Butler, concluded in his VRS Brigade Command Responsibility Report that, at the brigade level, the Brigade Commander is responsible to ensure that the provisions of the 1949 Geneva Conventions were "strictly complied with in the treatment of prisoners of war." Further, the Security Organ, managing the military police branch, secures and escorts prisoners of war as required. Nevertheless, members of the VRS and RS MUP allowed, encouraged and personally participated in the abuse of the Bosniak prisoners.

19. Between 1 September and 1 November 1995, members of VRS and RS MUP took part in the organized efforts to conceal killings and executions in the area of responsibility of the Zvornik and Bratunac Brigades by re-burying the bodies exhumed from primary mass graves at the following localities: army-operated Branjevo Military Farm, Kozluk, dam near Petkovci and Orahovac, and their transfer to secondary mass graves at thirteen locations along the Čančari road, five locations near Liplje, and seven locations near Hodžići. The Prosecution submits that this was an enormous engineering and logistics project in which the Accused Milorad Trbić played a central role in the organization, facilitation and supervision of all aspects of the reburial operation, as also corroborated by the testimonies of several witnesses, protected witnesses, expert witnesses and statements of the Accused Trbić himself. The Prosecution finds it noteworthy that the Accused stated that he had never expressed his concern or reservations about his participation in the executions.

20. The Prosecution argues that Milorad Trbić was an active and necessary middle level coordinator, and a link between the military operation leaders and the field soldiers, thus enabling connection between the Bratunac Brigade and the activities in the South, including the progress of the activities in the North, within the area of responsibility of the Bratunac Brigade, and also between the execution sites and the methodology applied in the Zvornik region. His direct participation and his facilitating of the operation went on from the first day of the forced transfer from Potočari to the time of capturing Bosniaks on 12 July, along with the concealment of the crime

and mortal remains in the reburial operation of October 1995. The Prosecution submits that the Accused played a direct role in some of the summary executions, personally and voluntarily and that he made preparations for other persons and units to perform their parts in order to achieve the goals of the operation, the successful outcome of which depended on the execution of coordinated and mutually dependent tasks.

21. Therefore, the Prosecution submits that Milorad Trbić is criminally responsible for execution of more than 7,000 Bosniak men, forcible transfer of more than 25,000 Bosniaks from Potočari, and concealment by burial and reburial of mortal remains of those executed into the unmarked mass graves. Those actions make him criminally responsible for Genocide under Article 171(a), (b), (c) and (d) of the CC of BiH. Considering the circumstances, the only appropriate sentence to reflect the appalling nature of the criminal offences of the Accused, which will add to the actual weight of the aggravating characteristics thereof, is the maximum term of imprisonment as stipulated by the law: 45 years.

4. Closing arguments of the Defense Counsel for the Accused

22. The Defense Counsel for the Accused Milorad Trbić noted that the Accused held the position of officer in the Security Organ and was under direct and immediate command of Lieutenant Drago Nikolić, who was, at the time, the Assistant Brigade Commander for Security. The Defense made a particular reference to the introductory part of the Prosecution Closing Brief and the mention of “a long-term policy and goal of RS to attain an ethnically cleansed Serb territory”, and a “pivotal role of the accused Milorad Trbić in the execution of the genocidal plan, starting from separations in Potočari, search of the terrain around Srebrenica on 12 and 13 July 1995, and including large-scale executions in the Zvornik municipality as well as contrived and organized robberies of primary mass graves and the concealment of the mortal remains and fate of the victims”. The Defense for the Accused pointed out that there was no evidence that Milorad Trbić was a holder of such policy and that the positions supporting such allegations were not based on valid and lawful evidence.

23. As for the course of these criminal proceedings, the Defense noted that The ICTY Office of the Prosecutor (“ICTY OTP”) and the Prosecutor's Office of BiH had been conducting the proceedings against Milorad Trbić since 2002, when they reported him to the immigration authorities of the U.S. where he was sentenced to imprisonment for the violation of immigration regulations. He was transferred to The Hague where he was held in custody in unknown locations. He was interviewed on several occasions, but did not receive any warnings of his suspect

status and specific grounds for suspicion against him, as required by the law.

24. The Defense submits that such criminal proceedings violated human rights of the Accused, taking into account Article 13 of the Criminal Procedure Code of BiH ("CPC of BiH"), which stipulates that the accused shall be entitled to be brought before the Court within the shortest reasonable time period and to be tried without delay. The above described methods have also led to the violation of the European Convention on Human Rights which defines in Article 6 the right to a fair trial, i.e. that everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law or more specifically in Article 6(3)(a) to be informed promptly in detail of the nature and cause of the accusation against him, and d) to examine or have examined witnesses against him.

25. The Defense notes that contrary to Article 240 of the CPC, the Trial Panel allowed the Prosecution to tender evidence into the case file up to the moment of the presentation of closing arguments and after the presentation of Defense evidence, as well as to tender into the case record evidence which was not adduced at the main trial, including testimonies of witnesses given in other cases. At the same time the Defense was not given a possibility to cross examine these witnesses pursuant to Article 5(3) of the Law on Transfer of Cases from the ICTY to the Prosecutor's Office of BiH.

26. The Defense particularly emphasized that records made by various agencies should not be given any attention since it is indisputable that as such they cannot constitute evidence in criminal proceedings.

27. The Defense also contests the authenticity of the intercepted conversation given that not a single piece of valid evidence was presented indicating that someone's notes represent authentic transcripts of actual conversations. It is similar with the transcripts of recorded conversations where, beyond any doubt, there are several versions of the same conversation and participants in a conversation are misidentified or not identified in some of the transcripts.

28. Considering that in many places the Prosecutor invokes as evidence expert witness opinions, the Defense notes that the Trial Panel must evaluate these opinions with due caution. Furthermore, official notes, reports and testimonies of investigators cannot constitute evidence in a criminal case. This is especially so with reports on records stating that the suspect said something which is not noted in the record. Such records are inadmissible and so is a report on the conducted interview of which no record was made, including a report made from the compilation of notes or on the basis of several investigators' recollections. The Defense points out that during the examination of the

Accused he was not given any warnings by the investigators and prosecutors, in line with Article 78 of the CPC, that is Article 6(3)a) of the European Convention on Human Rights, because the Accused was not even once informed of the specific grounds for suspicion against him.

29. On several occasions, both in the ICTY and before this Court, Milorad Trbić withdrew his statements, saying they were extorted and given under duress and that they could not be used because he does not stand by them. The Defense therefore submits that the Panel can neither take into consideration and evaluate the testimonies of the Accused nor use them as evidence given that the Accused has been exercising his right to remain silent. Accordingly, the Defense pointed to the testimonies of witnesses Milorad Birčaković, Dragan Obrenović, Vinko Pandurević, Momir Nikolić who do not corroborate any of the Accused's allegations about their movements, taking weapons from vehicles, and the participation in the executions.

30. The Defense holds that the Prosecution Closing Brief is entirely unfounded in the part mentioning the targeting and terrorization of the civilian population for the purpose of achieving the ultimate goal of “ethnically cleansed territory”, because such a goal was never and nowhere formulated and there is no evidence that anyone in the RS entered the war with the aim to achieve “ethnically cleansed territory.”

31. As for the testimony of the protected witness A-46, the Defense contests the mentioned testimony since the witness, while giving the evidence, stated that there had been no orders to undertake any actions towards civilians. However, having entered the courtroom after a break, although the Prosecutor did not ask him any particular question, the witness changed his testimony and said that capture, detention and killings did take place. The Defense finds it absolutely clear that the testimony was pre-arranged and compensated by reducing the charges and accepting an incommensurately short sentence as compared to other accused persons. No evidence in the case record indicates that anyone knew of such an order on 11 July 1995, that is, at the time the unit to which the witness belonged was sent to Srebrenica.

32. In addition to this testimony, the Defense also challenges paragraphs 91, 93 and 96 of the Prosecution Closing Brief because the argumentation provided is completely inappropriate for the case against the Accused given that he has nothing to do with the May 1992 events when Bosniak villages were attacked, or with any activities undertaken at the time the Bosniak forces recaptured Srebrenica. Finally, he had nothing to do with the Directive no. 4 of the Main Staff of the Army of RS, because he was not in a position to make any decisions regarding its possible implementation.

33. The Defense for the Accused noted that chapter 3 of the Prosecution Closing Brief

charges the Accused with deliberate armed attack and shelling of the civilian population in April 1993. The Defense submits that this falls outside the time period covered by the Indictment, and that the Accused Milorad Trbić has nothing to do with those possible attacks and shelling from April 1993. Although the reference has been made to the Resolution 819 of the UN Security Council dated 16 April 1993, requesting all sides to treat Srebrenica and its surroundings as a safe area that must be excluded from any attacks, the Defense points to the Demilitarization Agreement signed by General Mladić on behalf of the Army of RS and General Sefer Halilović on behalf of the Army of BiH, stating the conditions under which Srebrenica was to be demilitarized. The Defense notes that there is not a single word to suggest that the demilitarization of the safe area of Srebrenica was not done in accordance with the UN Security Council Resolution, which was fully confirmed by the international prosecutor Peter McClosky at the ICTY hearing held on 29 June 2006 and that the Prosecutor is invoking it without any grounds as there never was any demilitarized area as such.

34. With regard to the Indictment, the Defense Counsel for the Accused notes that the wording of Count 1 of the Indictment does not meet the requirements under Article 227 of the BiH CPC, as it does not contain essential elements of the criminal offenses charged against the Accused.

35. First of all, the Defense claims that the wording under Count 1 of the Indictment does not meet the requirements under Article 227 of the CPC because it does not contain essential elements of the criminal offenses charged against the Accused. Commenting on sub-counts a), a/1), a/2), b/1), b/2), b/3), b/4), c/1), c/2), d) of the Indictment, the Defense holds that the Prosecution does not have evidence to prove the allegations in the Indictment that the Accused participated in capturing, supervised the transportation of prisoners, or that he personally participated in the killings of those people. Furthermore, the Defense notes that the sub-counts e) and f) of the Indictment do not contain important specific and essential elements which could constitute the subject matter of the criminal offenses the Prosecution is trying to charge against the Accused. It is undisputable that the Accused was a Duty Operations Officer of the Zvornik Brigade on 16 / 17 July 1995, and that he performed the duties falling under the competence of the duty operations officer, in accordance with the rules of service. The Defense submits that regular duties of a duty officer cannot be incriminating and the Prosecution is attempting to claim that the Accused, as the duty officer, coordinated and conveyed the instructions referring to the executions of Bosniaks, without a shred of evidence for such claims. As for the sub-count g) of the Indictment, the Defense submits that the Prosecution clearly does not have any evidence, as they mention unidentified victims, unidentified units which allegedly committed the crime, unspecified time and territory outside the Zvornik

Brigade area of responsibility.

36. The Defense contests the charge of the Indictment that one of the intentions of the joint criminal enterprise was to prevent births within the Srebrenica population, by referring to the Judgment of the International Court of Justice in The Hague in the case of *Bosnia and Herzegovina v. Serbia*, paragraph 361, which reads the following: “The Court finds that the evidence placed before it by the Applicant State (BiH) does not enable it to conclude that Bosnian Serb forces committed acts which could be qualified as imposing measures to prevent births in the protected group within the meaning of Article 2 (d) of the Convention”.

37. The Defense further challenges the averment of the Prosecution Closing Brief that Milorad Trbić played a pivotal role in the execution of the genocidal plan in Srebrenica, considering that Milorad Trbić is not a high-ranking officer who can participate in any planning or issue orders.

38. The Defense submits that the testimonies of investigators, their reports and notes cannot constitute valid evidence in the criminal proceedings, and moves the Trial Panel not to find established any aggravating circumstance or fact arising from the materials produced by the Prosecution investigators, to the detriment of the Defense, since the Accused was clearly subjected to numerous pressures, unnecessary interviews and blackmail. The Prosecution failed to provide any documents from which all interviews with Milorad Trbić could be followed.

39. The Defense points out that in their testimonies, witnesses - military police officers, *****, **, Dragoje Ivanović, as well as witnesses Milorad Birčaković, Sreten Milošević and Tanacko Tanić, do not mention seeing Milorad Trbić in Orahovac at the relevant time. In that regard, the Defense notes that the allegations from the testimony of the protected witness A-45, who was examined on 15 January 2008, are not justified, since it is impossible for a security officer, that is, for an officer in the Security Organ, as was the Accused himself, to be entitled to direct command, that is, to issue orders. Military experts, Richard Butler and Colonel Petar Vuga also agree with this.

40. According to the Defense, it is beyond dispute that the Accused Milorad Trbić could not have taken part in the planning of the operation, such as making a decision to reduce the territory of the safe area to the Srebrenica township, changing the decision to extend the reduction of the safe area until the takeover of the Srebrenica township, as well as making a decision on the evacuation of the entire population of the Srebrenica township and then also altering the decision to execute all prisoners, able bodied Bosniaks.

41. The Defense is of the view that the Prosecution failed to prove that Milorad Trbić participated in the operation of locating, capturing, detaining prisoners and refugees, nor did it prove that he personally participated in the executions and burial of those murdered in July 1995. With regard to Count 3 of the Indictment, alleging that the Accused was a key person in the operation of concealment of evidence, by exhuming the primary graves and reburying the victims in the secondary graves in the period between 1 September and 30 November 1995, upon the Main Staff order stating that Milorad Trbić would be in charge of controlling the consumption of certain amount of fuel, the Defense claims that there is not a single piece of evidence indicating that the Accused supervised gas station managers, or that he issued fuelling orders and made documentation establishing particular consumption of fuel. In that regard, construction machine operators and vehicles were not under the authority of Milorad Trbić, meaning that he was not the person who made decisions as to which vehicle and machine would be used for which specific activity. This indicates that the Accused Milorad Trbić could not choose the locations for secondary graves.

42. In the conclusion of the closing argument, the Defense notes that Prosecution failed to prove that the Accused Milorad Trbić committed the criminal offense charged under the Indictment, proposing that the Accused be acquitted of charges.

5. Closing arguments of the Accused Milorad Trbić

43. At the beginning of his presentation, the Accused said that he himself was a victim of the war, since until 1992, he had lived in Zenica, an area populated by predominantly Muslim population, but moved to Zvornik after having assessed that it was necessary to leave the area.

44. In Zvornik, the Accused was drafted to the VRS, as a reserve lieutenant, and assigned to the Zvornik Brigade to the post of the Deputy Commander of the 2nd Infantry Battalion. He remained in this post until 1994, when he was assigned to the post of Security Officer in the security body with the Zvornik Brigade, where he stayed until the demobilization. The Accused believes that the function he was assigned to in 1994 was of a lower rank than the previous one, adding that he did not have ambitions to advance in his military career.

45. After the war, the Accused stated that he went to the United States, where he stayed until the completion of the procedure for obtaining citizenship. The Accused said that contacts with the ICTY and Federal Bureau of Investigation (“FBI”) in North Carolina took place in the U.S. Several months later, he was arrested and tried for illegal entry and failure to report his participation in the

VRS. He was deported from the United States to the Netherlands, where he was held under house arrest.

46. According to the Accused Milorad Trbić, in his contacts with the ICTY representatives, he was subjected to pressure, blackmails, threats and frauds in order to admit guilt that was non-existent.

47. Furthermore, the Accused informed that he was subjected to unpleasant treatments, such as being video surveillance in a cell, or examinations of his medical condition, which caused him nervousness, fear and lack of concentration. The Accused claims that on several occasions he informed the ICTY and the Court of BiH that he did not stand by all his statements, including the one given in the U.S., as statements were coerced by pressure, threats and blackmail. The Accused insisted that these statements should not be used in any way or in any proceedings.

48. The Accused also pointed out that his case was merged with other cases, and severed later on without any justification, and that the length of the proceedings itself and the granted introduction of new evidence by the Prosecution constituted a violation of his fundamental human rights.

49. At the end of his closing arguments, the Accused told that he performed the duties that he had been assigned to, and did so in accordance with the applicable regulations, adding that the activities and duties he recorded in the duty officer's log were real and true. According to the Accused, he did not take part in any of the events, nor was he present in any of the locations alleged as execution sites.

B. PROCEDURAL DECISIONS

50. The Panel finds the procedural decisions are included as an integral part of the Verdict. They are listed in the Annex section of the Verdict for easier reference.

III. GENERAL CONSIDERATIONS REGARDING EVALUATION OF EVIDENCE

A. SCOPE OF THE EVIDENCE

51. The Panel evaluated evidence in this case in accordance with the CPC of BiH. In evaluating the evidence, the Panel considered first the principle of Free Evaluation of Evidence³ which prescribes that the evaluation of evidence is not regulated by special formal evidentiary rules prescribed in advance. This principle, however, is limited by the principle of Unlawful Evidence in Article 10 of the CPC of BiH which prescribes that “the Court shall not base its decision on evidence obtained through violation of human rights and freedoms prescribed by the Constitution and international treaties ratified by Bosnia and Herzegovina, or on evidence obtained through essential violation of this Code.”

52. The European Court of Human Rights (“ECtHR”) established a general rule of fairness that the domestic courts are guided by when evaluating evidence. Since the European Convention on Human Rights (“ECHR”) does not have an explicit provision on the evaluation of evidence, the ECtHR did not venture into setting a specific rule on the evaluation of evidence but rather evaluates evidentiary considerations based on whether the court proceedings were fair in their entirety. When considering the fairness of a trial, the Panel examines the manner in which evidence was collected, and if it is established that it was collected in such a manner which violated some of the rights under the ECHR, than it further examines the nature of such a violation.

53. In that regard and for the sake of judicial economy, the Panel instructed the Prosecution and Defense to bear in mind three critical aspects when raising objections. Objections may be raised as to relevancy, authenticity or probative value when the admissibility of tendered documentary evidence is questioned.

54. In the course of the evidentiary proceedings, when tendering the evidentiary materials the parties may state their objections along those lines, while the Panel may evaluate and decide on the first two lines of objection during the evidentiary proceedings for the sake of efficiency, leaving the decision on probative value for final deliberations and the Verdict.

³ Article 15 CPC of BiH.

B. BURDEN OF PROOF

55. The Panel applies the presumption of innocence as set forth in Article 3 of the CPC of BiH which is an embodiment of the general principle of law according to which the burden of proof lies with the Prosecution to prove the guilt of the Accused beyond a reasonable doubt. When deciding as to whether the guilt of the Accused was proven according to this standard for each count of the Indictment, the Panel conscientiously considered as to whether, in addition to the conclusion on the guilt of the Accused, if it is possible to reach a reasonable conclusion based on the presented evidence that the Accused is innocent and thus render an acquittal.

C. TESTIMONY OF VIVA VOCE WITNESSES

56. In the Indictment, the Prosecution moved for the direct examination of 38 witnesses and 3 expert witnesses. The Defense summoned 8 witnesses (one of them, that is Bruce Bursik, was also summoned earlier as a Prosecution witness) and 1 expert witness.

57. The Panel cautiously considered the testimonies of all witnesses for Prosecution and Defense in relation to the averments of the Indictment. With regard to the witness testimonies, the Panel considered them in order to establish whether they confirm the fact of the Indictment beyond reasonable doubt.

58. The Panel was at all times conscious of the fact that there are factors in this case which aggravate the decision-making related to credibility, and that such evaluation, bearing in mind the severity of the charges, should be made following diligent considerations.

59. The Panel considered the fact that minor discrepancies in the various witness statements do not discredit the facts stated by the witness if (s)he retold the essence of relevant facts of the Indictment in sufficient detail. The Panel considered the fact that the witnesses testified 13 to 14 years after the incident and that the lack of details related to some peripheral issues does not necessarily discredit the witness. The Panel found that certain witnesses were sincere but certain parts of their testimonies are unreliable due to limited perception or memory, or due to prejudices on which they based their conclusions about the meaning of what they saw or heard. However, the Panel also found that those very witnesses precisely perceived, and reproduced other facts. The Panel found that certain witnesses are sincere and reliable and frequently so to their own detriment.

60. It was extremely difficult for the injured witnesses to testify in this case. These witnesses

have had to testify before as to the events of July 1995. The fact that their testimony is often repeated (in this and other trials) is a circumstance beyond anyone's control. The reality is there are few survivors left to testify about these crimes. The Defense agreed that due to the enormous emotional toll on survivor witnesses to not object to the testimony of other survivors being admitted from other proceedings and the Defense would and did decline to exercise their right to cross examine these witnesses. Therefore, this evidence was found to be credible.

61. The Panel had the opportunity to observe all live witnesses, their conduct, voice, attitude, bodily and emotional reactions to questions, non-verbal conduct in relation to the parties and lawyers, and the atmosphere in which they gave testimonies.

62. When evaluating all witness testimonies, the Panel was mindful of the fact that some witnesses talked about the relevant incidents by presenting facts they heard of from others. Those pieces of evidence were treated as second-hand evidence and they were not assigned the same weight as evidenced experienced directly.

63. With regard to certain witnesses, the Panel finds that parts of their testimonies were not sincere because of either their personal interests or friendship or loyalty towards the Accused, or because they wanted to influence the outcome of the proceedings. However, the Panel also found that those respective witnesses truthfully and accurately testified about other facts because they were not aware of the significance of those facts or they did not manage to maintain their own perception. When reaching its decision, the Panel considered the manner in which the witnesses gave their testimonies as well as their conduct and also compared the internal consistency of the testimonies they gave before the Panel and their prior statements.

64. The Panel found that with those witnesses who were not reliable and did not tell the truth in certain parts of their testimonies, but were found to be reliable and told the truth about other facts, the Panel would not dismiss their testimonies in their entirety as it would not be in the interest of justice nor would it be in accordance with the obligation to provide a free evaluation of evidence and determine the truth. Instead, the unreliability of certain parts of witness testimony was a factor considered in evaluating the accuracy of the remaining parts of such testimony. Accordingly, the Panel evaluated the reliability and sincerity of each witness respectively and consequently evaluated the reliability and accuracy of each fact that the witnesses testified about.

65. The Trial Panel thoroughly evaluated the findings of the expert witnesses that were presented by both Prosecution and Defense in relation to the incidents described in the Indictment. Evaluating the probative value of the expert witnesses' findings, the Panel took into

consideration the expertise of specific expert witness, methodology applied by the expert witnesses respectively and the consistency of their findings with other pieces of evidence admitted by the Panel.

D. EVIDENCE BEYOND RESONABLE DOUBT THROUGH CIRCUMSTANTIAL EVIDENCE

66. The Panel found certain relevant facts from the Indictment on the basis of indirect evidence – circumstantial evidence. This case has an ample amount of evidence that indicate certain circumstances which, when combined, refer to the existence of specific facts on which rests the guilt of the Accused. The conclusion reached on the basis of such pieces of evidence must be the only possible reasonable conclusion.

67. The legislation of Bosnia and Herzegovina adopted the principle of free evaluation of evidence which prescribe that the evaluation of evidence is not limited to rules set in advance. The Panel must conscientiously evaluate each piece of evidence respectively and in their interrelatedness and on that basis reach a conclusion as to whether certain fact was proven or not. The task of the Panel is to truthfully and completely establish both inculpatory and exculpatory facts. The standard applied when establishing the state of facts is to establish whether a reasonable trier of fact would reach that conclusion beyond reasonable doubt.

68. In accordance with the principle of free evaluation of evidence, the relevant facts can be established during the main trial through direct and indirect-circumstantial evidence. Direct evidence comprises those pieces of evidence that directly establish a disputable fact. Indirect evidence is used to establish the veracity of a disputable fact through other facts.

69. The Constitutional Court of Bosnia and Herzegovina has taken the position that the establishment of facts through circumstantial evidence is not in contradiction to the principle of a fair trial set forth under Article 6(1) of the ECHR.⁴

70. Jurisprudence has set the rule of proof through circumstantial evidence in such a way that circumstantial evidence must act as a firm close circle which allows only one reasonable conclusion in relation to the relevant fact, and objectively excludes the possibility of any other conclusion in relation to the fact at issue. Following this position, it is accepted that a ground for a convicting sentence can comprise of only such a series of facts that are established based on circumstantial evidence which was undoubtedly established, interrelated in a logical and firm way so as to

represent a closed circle and to lead with full certainty to the only possible conclusion - that it is exactly the Accused who committed the criminal offence charged under the Indictment, and that the presented evidence excludes any other possibility.⁵

71. This position was also taken by the Supreme Court of Croatia in their conclusion that even in view of the lack of direct evidence the responsibility of the accused is determined when the presented pieces of circumstantial evidence in their interrelatedness appear as links of a chain in the overall harmony, and constitute not only a collection of evidence but a system of circumstantial evidence, and in their totality and interrelatedness exclude any other possibility other than the one found by the First Instance Court.⁶

E. PROTECTED WITNESSES

72. For purposes of this Verdict the testimony of protested witness A-50 must remain confidential as it is subject to a protective order from the ICTY. The testimony was taken from an ICTY trial. Prior to testifying the witness received all necessary warnings and the advice of counsel as to how this testimony may be used. Parts of this testimony will be utilized in this Verdict as direct evidence. Subsequent to this court proceeding the witness withdrew part of his statements through an ICTY Prosecutor. The withdrawn part of the testimony will not be utilized in this Verdict. Statements not subsequently withdrawn however will be utilized. Due to the nature of this witness the statements will be used as direct evidence but will not be considered corroborative of any evidence given by the Accused in his statements.

73. Protected witnesses were granted protection based initially on what type of protections a witness felt would be appropriate based on their personal needs. For example, Protected Witness P-21 requested specific protective measures from the Trial Panel. A hearing was held in close session on 12 January 2009 to review the request for protective measures. The witness requested a closed session in the part where his job is discussed, assignment and use of a pseudonym and a press ban on publishing photographs and personal details of this witness. The basis of the request was a concern that if these details were made public the identity of the witness would be revealed to the public. This was due to the fact that the testimony was based on employment and the witness was the only person to hold that job. Furthermore, the witness and the family of the witness were under

⁴ *Senada Hasića*, AP 5/05 (Constitutional Court of BiH), 2006, para. 31.

⁵ Commentary on Criminal Procedure Code of BiH, Council of Europe and European Commission 2005, Art. 281, p. 716.

⁶ Supreme Court of Croatia, Kž 1744/68 (1968).

threats. The witness made it clear that the Accused was not a person known to the witness or that the threats to the witness did not originate from the events in Srebrenica. Rather the witness was under threats as well as the witness's family due to current work unrelated to this case. The witness felt that if it was also known that the witness was testifying in a court trial it would increase the risk to the witness and to the family of the witness. The Trial Panel concurred with this assessment and there was no objection by any party. Based on this the Trial Panel issued a pseudonym to the witness and closed the session in the part where his job was discussed. The subject matter of the testimony concerned trauma and secondary trauma to the families of persons still missing and unidentified.

74. This can be contrasted with the request made by Protective Witness A-46. This particular witness only requested the use of a pseudonym and a ban on reporting content and publishing photographs and personal details of this witness but the witness agreed to testify in open court. Although the witness felt under threat, the witness was comfortable with these levels of protection. The Trial Panel is not guided by consistency when granting protections but rather is concerned with the balance of the needs of the witness and the need of the public. Due consideration is given to both competing interests, but the safety of the witness is paramount. In this case a lesser measure was requested by the witness and the Panel concurred and granted this lesser measure.

F. VOLUME OF EVIDENCE

75. Within the State Court, this case has an historic amount of evidence to review and analyze. Article 281 of the CPC of BiH *Evidence on Which the Verdict is grounded* states:

(1) The Court shall reach a verdict solely based on the facts and evidence presented at the main trial.

(2) The Court is obligated to conscientiously evaluate every item of evidence and its correspondence with the rest of the evidence and, based on such evaluation, to conclude whether the fact(s) have been proved.

76. In total the Prosecution tendered 1121 documentary exhibits. The Defense tendered 7 pieces of documentary exhibits. The Panel was presented almost immediately with a voluminous amount of material. As the trial progressed the Prosecution continually added to this mass. The Panel was confronted with case management problems unique to these types of trials. The grounds under which evidence comes into the trial remain the same whether it is one page of evidence or 60,000 pages. The sheer volume of evidence however causes dilemmas. The problem stems from one of control. How does one ensure the review of the massive amount of witness testimony, statements

and documentation? Procedures were utilized to ensure proper evaluation under Article 281 of the CPC. The Panel found it necessary to both design systems for cataloguing evidence, and to also remind parties of their need to state the purpose of the evidence.

77. Responding to Trial Motion 4 the Panel addressed the issue of admissibility of the multitude of testimony and statements in its order dated 28 February 2008 (see Annex). The Panel recognizes while the value of this testimony does not necessarily carry the same weight as live testimony it is necessary and useful for corroboration. For purposes of corroboration, the level of detail made available to the court helps determine the truth or accuracy of other testimony. The overwhelming repetition of similar facts indeed carries its own weight when taken from a variety of witnesses. The Panel ruled that Defense had an absolute right to call any documentary witness for live cross examination. For the most part the Defense did not exercise this right. The Trial Panel had ruled on this in the order dated 28 February 2008 that this evidence could come in subject to the Defense rights to cross examination. If the Defense did not call a witness for cross-examination, the Panel deems this right is waived.

78. In addition, deciding on the Prosecution Motion No.13, in their Procedural Decision of 24 November 2008 (explained in detail in the section of the Verdict referring to Procedural Decisions), the Panel admitted, among others, transcripts of testimony of a number of witnesses who gave evidence in various cases before the ICTY. These transcripts represent the same type of evidence as the transcripts admitted by the Decision of 28 February 2008. At the hearing held on 24 November 2008, the Panel advised Defense Counsel for the Accused Milorad Trbić of their right to summon the witnesses for cross examination in relation to the admitted transcripts.

79. The Defense did raise an objection to the Panel admitting in transcripts of VRS soldiers who were not called as witnesses. The Panel reminded the Defense of the Accused's right to call these witnesses for cross-examination. However, the Defense actually only chose to call a few witnesses for purposes of cross examination. The Defense exercised this right as to two witnesses A-46 and Mile Babić.⁷ He called both of these men as witnesses and they were duly heard. The decision by the Defense not to call documentary witnesses for cross-examination did not preclude the Trial Panel from analyzing this evidence and allowed the Panel to utilize the transcripts of these witnesses as detailed below in the Verdict. All testimonies considered have both the documented direct exam as well as the documented cross-examination for the Panel's review.

⁷ As regards these witnesses see the reasoning relevant to Prosecution Motions No. 16, 17 and 18.

80. The Panel has found the intercept evidence to be credible. There was live testimony from the intercept supervisors and operators.⁸ Detailed testimony was provided as to the equipment used and methods of transcription to insure the utmost accuracy. Indeed accuracy was necessary to this process as significant military decisions were made on the basis of these transcriptions. Transcription logs were kept and the Panel evaluated each submission. The importance of this evidence is contained in the Panel's findings in paragraph 667. This evidence is used to corroborate the events described by Trbić in his statements as well as his role as duty officer on 16 and 17 July. Finally they are used here as in other trials at the ICTY as a contemporaneous record of key persons locations and activities.⁹ This evidence is relevant and it is reliable.¹⁰ The Panel acknowledges there was evidence that indicated due to the nature of the transmissions and the geography of the zone which the intercept units covered it was not always possible to hear entire conversations or all participants. There were procedures utilized by the operators to ensure maximum accuracy. Operators along with their colleagues would listen to recorded communications until they could be deciphered. If they were unable to decipher a section they would so indicate this in the transcription. Finally this evidence is not viewed in isolation but is part of the voluminous mass of documents and testimony which serve to corroborate and clarify the events of July 1995.

81. Evidence was catalogued, reviewed and assigned weight and applied to each count and or sub-count. The Panel cautiously considered all pieces of documentary evidence presented at the main trial and significant evidence will be noted on respectively in the parts of the Verdict. With regard to the evidence analysis, the Court is not obliged to reason all of the evidence referred to in the Verdict. This position has also been confirmed and elaborated in detail by the jurisprudence of the ICTY Appeals Chamber:

The Appeals Chamber recalls that every accused has the right to a reasoned opinion under Article 23 of the Statute and Rule 98ter(C) of the Rules. However, this requirement relates to the Trial Chamber's Judgement; the Trial Chamber is not under the obligation to justify its findings in relation to every submission made during the trial. The Appeals Chamber recalls that it is in the discretion of the Trial Chamber as to which legal arguments to address. With regard to the factual findings, the Trial Chamber is required only to make findings of 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.¹¹

⁸ See also Expert Witness Richard Butler (17 and 18 March 2008).

⁹ See *Prosecutor v. Blagojević and Jokić*, IT-02-60-T, Decision on the Admission into Evidence of Intercept-Related Materials, 18 December 2003.

¹⁰ See also Expert Witness Richard Butler (17 and 18 March 2008).

¹¹ *Prosecutor v. Kvočka et al.*, IT-98-30/1-A, Appeal Judgement, 28 February 2005, ("*Kvočka et al* Appeal Judgment") paras. 23-25 citing *Prosecutor v. Delalić et al.*, IT-96-21-A, Appeal Judgment, 20 February 2001, ("*Čelebići* Appeal Judgment") para. 498; *Prosecutor v. Kupreškić et al.*, IT-95-16-A, Appeal Judgment, 23 October 2001, ("*Kupreškić et al*

Additionally, the ICTY Appeals Chamber explained, “[t]he Trial Chamber is not obliged in its Judgment to recount and justify its findings in relation to every submission made during trial.”¹²

82. Footnotes have been used to credit sources or to indicate support for the findings of the Panel. In this regard footnotes as to the evidence are not intended to be exhaustive given the volume of evidence.

83. Finally, procedural decision dated 28 February 2008 is contained in the Annex to this Verdict. This decision explains the legal basis for admitting in prior testimony or statements in 5 different categories. Each of these admissions was subject to the right of the defense to summon the witness for cross examination. If the Defense did not choose to summon the witness then the statements or testimony were admitted in and utilized as a Prosecution exhibit in their entirety. All testimony was read and analyzed in its entirety including both the direct and the cross-examination.

Appeal Judgment”) para. 39; *Prosecutor v. Kordić and Čerkez*, IT-95-14/2-A, Appeal Judgment, 17 December 2004, (“*Kordić and Čerkez* Appeal Judgment”) para. 382.

¹² *Čelebići* Appeal Judgment, para. 498.

IV. STATEMENTS OF MILORAD TRBIĆ

84. The Trial Panel has reviewed all statements given by the Accused prior to the start of trial. A complete examination of all statements given by the Accused when he was a suspect is analyzed based on the considerations below.

85. During the evidentiary procedure in this case, the issue of use of statements given by the accused Milorad Trbić in his capacity of a suspect to the ICTY investigators and his statements given to the ICTY OTP and FBI investigators in the USA was raised.

86. The records of the Accused Milorad Trbić's examinations as a suspect conducted by the ICTY OTP were tendered into evidence at the main trial on 27 November 2007: Interview of Milorad Trbić with ICTY OTP-FBI Deposition in USA on 19 August 2002, as Exhibit T-3; Interview of Milorad Trbić with ICTY OTP on 21 January 2004, as Exhibit T-13; Interview of Milorad Trbić with ICTY OTP on 23 May 2004, as Exhibit T-15; Interview of Milorad Trbić with ICTY OTP on 27 May 2004, as Exhibit T-16; Interview of Milorad Trbić with ICTY OTP on 29 October 2004, as Exhibit T-17; Interview of Milorad Trbić with ICTY OTP on 8 November 2004, as Exhibit T-18.

87. Prosecution moved to adduce these documents after the examination of the witness Alistair Graham at the main trial on 27 November 2007, which motion was not objected by Defense, and they were accepted into evidence by the Panel.

88. Defense Counsel for the Accused Milorad Trbić indicated in the closing argument that official reports and informative interviews made by the investigators cannot be used as evidence in the criminal proceedings and that the Court's decision cannot be based on them.

89. In line with this the Panel found it necessary and purposeful to clarify this procedural situation in the context of the Criminal Procedure Code of the former Socialist Federal Republic of Yugoslavia ("SFRY"), the currently applicable CPC of BiH and the ECHR.

90. At the time of the SFRY, before the outbreak of the war in Bosnia and Herzegovina, the Criminal Procedure Code of SFRY ("CPC of SFRY"), *Official Gazette of SFRY*, nr. 4/1977 which was amended in 1986, *Official Gazette* nr. 26/1986, was applicable in this region.

91. Based on the Decree With the Force of Law on the Adoption of the Criminal Procedure Code, *Official Gazette of RBiH* nr. 2/1992, the CPC of SFRY was taken over in its entirety as

the Criminal Procedure Code of the Republic of Bosnia and Herzegovina (“CPC of RBiH”).

92. Prior to the first large-scale reform of the criminal legislation this Code was amended several times under several decrees. It is important to note that the key notions of the criminal procedure applicable in the former SFRY were adopted by the RBiH Code and subsequently the criminal procedure codes of Federation of BiH, Republika Srpska and the Brčko District, until the 2003 reform when the entire criminal procedure code was amended and modified in accordance with the common law and the ECHR when the CPC of BiH, *Official Gazette of BiH*, nr. 3/03 came into force.

A. CRIMINAL CODE OF SFRY

93. The SFRY Criminal Procedure Code started from two basic assumptions:

- a) The defendant’s right to remain silent which was effective during the procedure prior to issuing of the order to conduct the investigation, during the investigation and at the main hearing; and
- b) The right of the criminal procedure authorities to examine the defendant at the main hearing¹³

94. The defendant’s statement was obtained through a procedural step which in this code was referred to as the defendant’s examination pursuant to Article 218 of the CPC of SFRY. The formalities of the defendant’s examination about the crime he was charged with were conditioned by the fact that he was examined in order to be given an opportunity to defend himself and to obtain his statement as evidence in the criminal proceedings.¹⁴ The suspect’s statement was equated with the statement of the defendant. The Code made a distinction between the two, using different terms, thus a person against whom an investigation was conducted or a decision to conduct an investigation had been issued was referred to as the defendant¹⁵, while a person against whom a decision to conduct an investigation had not been issued but just a motion to conduct an investigation had been filed, or such a motion had not been filed, was referred to as the suspect.¹⁶ As a result, such persons had different procedural rights.

¹³ Criminal Procedural Law of Yugoslavia, vol. 2, Law on Facts and their Establishing in Criminal Proceedings Vladimir Bayer, Ph.D., Zagreb, 1972.

¹⁴ Ibid p. 135.

¹⁵ Commentary on the Criminal Procedure Code of SFRY, Tihomir Vasiljević, Ph.D. and Momčilo Grubač, Ph.D., Belgrade, 1982, p. 374.

¹⁶ Ibid.

95. At the pre-investigative stage the suspect could be questioned by the investigative judge or a law enforcement agency.

96. At the stage prior to initiating the investigation several entities in various capacities and with different positions participated who contributed with their actions to detect the criminal offence and perpetrator, as well as to initiate criminal proceedings.

97. Thus this Code gave special authorization to the law enforcement agencies. Article 151 of the CPC of SFRY prescribes that “if there are grounds to suspect that a crime has been committed which is prosecuted *ex officio*, law enforcement agencies must take steps necessary to locate the perpetrator of the crime, to prevent the perpetrator or accomplice from hiding or fleeing, to detect and preserve clues to the crime and articles which might serve as evidence and to gather any information which might be of use to effective conduct of the criminal proceedings.”

98. Paragraph 2 of the same Article described the actions which these agencies were entitled to undertake, which were not listed but were given as examples with the possibility to use all other necessary steps and actions.

99. When undertaking these actions the law enforcement agencies could collect information from people but could not interview people in the capacity of a defendant, witness or expert witness, because it was an exclusive right of the investigative judge,¹⁷ unless the law provided otherwise. Such a situation was foreseen under Article 155(1) which reads: “When the perpetrator of a crime is unknown, public prosecutor may request that a law enforcement agency take certain investigatory actions if in view of the circumstances of the case it would be advisable to take such actions even before an investigation is instituted.”

100. The collected information obtained through these activities, that is operational activities of the law enforcement agencies, were used only for bringing criminal charges and no court’s decision could be based on this information collected by law enforcement agencies during the proceedings prior to the decision to conduct investigation. Information by the law enforcement agencies were drafted in the form of an official report or record.

101. The reason for this was that when taking statements the law enforcement agencies did not provide procedural notices which safeguarded a person’s rights, consequently this information could not be used as evidence on which a court’s decision would be based.

102. By virtue of their office the law enforcement agencies were not procedural authorities under criminal law. As stated earlier they collected information that might be useful for an effective conduct of the criminal proceedings. These agencies collected information from citizens at the stage prior to criminal proceedings, before the decision to conduct the investigation was issued. Such materials could include statements by the suspect or individuals who subsequently were to appear as defendants or witnesses in the criminal proceedings. Such statements were given without the interviewee being informed about the alleged grounds for suspicion, without attendance of an attorney or informing of the suspect that he has no duty to present his defense or respond to certain questions. These agencies did not have the duty to adhere to the procedural formalities because their information did not have probative value. The actions by different agencies including the law enforcement agencies undertaken prior to issuing of the decision to conduct an investigation were not a part of the investigation. Investigation started with a decision to conduct an investigation by investigative judge. Likewise, the law foresaw that the provisions applicable to the investigation¹⁸ would apply to the actions undertaken prior to issuing of the decision to conduct investigation. Based on this it followed that at that point there was no investigation yet.

103. Upon completion of the investigation or filing of an indictment to the court, the investigative judge had the duty to remove all information collected by law enforcement agencies from the defendant or from privileged witnesses and to issue a separate decision about it. When the decision became final the records that had been removed were closed in a separate folder, separately from other file documents, so that they could not be examined or used in the further course of the proceedings.¹⁹ In this case, the information by the law enforcement agencies could only be used exceptionally upon request of the defendant or upon decision of the Panel where special statutory requirements were met.²⁰ The reason behind this was that the defendant had certain procedural safeguards that could not be violated and had to be observed during the examination by the investigative judge.

104. Unlike with the examination of the suspect by law enforcement agencies, when examining the suspect the investigative judge was bound by formal rules applicable to the examination of the

¹⁷ The investigative judge could examine a suspect even before the investigation has been instituted or a defendant after the decision to conduct the investigation has been issued but he had to give him proper warnings. If the warnings were not given such a statement could not be used as evidence at the main trial.

¹⁸ Article 154(3); Article 156(2); Article 159(4) of the CPC of SFRY.

¹⁹ Article 83(1) and (2) CPC of SFRY.

²⁰ Article 84(2) if the defendant himself asks for the reading of the removed records of his examination.

suspect during the investigation, thus such a record could be used as evidence in the criminal proceedings.²¹

105. After a decision to conduct an investigation was issued the suspect got the status of a defendant. At this stage of the proceedings the defendant could be examined only by the investigative judge. Prior to examination the defendant had to be advised that he had no duty to present his defense or answer questions put to him.²² Likewise he had to be instructed of his right to hire a defense counsel who could attend the examination²³ and that he was entitled to a 24-hour time as of the moment he had been instructed of his right to hire a defense counsel.²⁴ If the procedural rules were abided by such statements could be used at the main hearing. If these provisions were not abided by, that is if the defendant was not given the proper warnings, no court decision could be based on such statements of the defendant and such statements had to be removed from the case record based on a decision and kept in a separate folder pursuant to Article 83(1) of the CPC of SFRY.

106. At the trial stage before initiating any other action the trial judge examined the defendant and then followed the presentation of other evidence. The same rules applicable to the examination of a defendant during the investigation²⁵ were applicable to the examination of the accused at the main hearing.²⁶ During the examination of the defendant, the earlier statement of the defendant given to the investigative judge could be used for clarification.²⁷ If the accused refused to answer questions or refrained from answering specific questions the trial judge would read his earlier statement or a part thereof.²⁸ When the investigative statement of the defendant significantly departed from the testimony of the accused at the main hearing, the court had a duty to examine the accused about his earlier statement and to read it. There is even the opinion of the Supreme Court of Croatia in their Judgment nr. Kž. 2186/70-5 dated 13 April 1971 stating that the testimony at the main hearing and the state of facts established based on that testimony solely could not be accepted without the review of both testimonies.

²¹ Criminal Procedural Law of Yugoslavia, vol. 2, Law on Facts and their Establishing in Criminal Proceedings Vladimir Bayer, Ph.D., p. 138.

²² Article 218(2) CPC of SFRY.

²³ Article 67(1) and (2), Article 218(9) CPC of SFRY.

²⁴ Article 218(9) CPC of SFRY.

²⁵ Article 317(1) CPC of SFRY.

²⁶ Articles 317-320 CPC of SFRY.

²⁷ Article 317 CPC of SFRY.

²⁸ Article 317(2) CPC of SFRY.

107. The examination of the suspect by law enforcement agencies was not bound by formal procedural rules therefore notes relative to the suspect statement could not be used as evidence at the main hearing. The purpose of such examinations was to obtain an input for the purpose of collecting information that might be used as a foundation for the decision to open an investigation.²⁹ As opposed to these examinations during the examination of the suspect/defendant the investigative judge was bound by formal rules on examination of the defendant,³⁰ and consequently such a record of examination could be used at the main hearing.

B. CRIMINAL PROCEDURE CODE OF BiH

108. The CPC of BiH provides that during the investigation apart from the prosecutor the suspect may also be questioned by an authorized official person³¹ which was the exclusive right of the investigative judge according to previous law. Article 20 of the CPC of BiH clarifies who the authorized official persons are including the persons who have adequate authorization within the law enforcement agencies in Bosnia and Herzegovina. With this provision the CPC of BiH awarded authorized officers with the capacity of investigative bodies who execute their authority in line with the Code. The key role of the authorized official persons is to take steps necessary to locate the perpetrator, to prevent the suspect or accomplice from hiding or fleeing, to detect and secure leads to the criminal offence and objects that might serve as evidence, and to gather any information that might be useful for the criminal proceedings.³² It is important to note this is the same role as the investigators at the ICTY.

109. In line with this and for the purpose of implementation of the listed tasks the CPC of BiH provides that authorized official persons may interview individuals provided that that they observe the rights guaranteed under Article 78 of the CPC of BiH. In that case, records of statements may be used as evidence in the criminal proceedings.³³ Article 78 explicitly relates to the suspect and his rights that must be observed during the questioning which clearly suggests the conclusion that the CPC of BiH provides for the possibility that an authorized official person questions the suspect during the investigation.

²⁹ Criminal Procedural Law of Yugoslavia, vol. 2, Law on Facts and their Establishing in Criminal Proceedings Vladimir Bayer, Ph.D., Zagreb, 1972, p. 136.

³⁰ Article 218 CPC of SFRY.

³¹ Article 77 CPC of BiH.

³² Article 218 CPC of BiH.

³³ Article 213(3) CPC of BiH.

110. The questioning of the suspect by the prosecutor must also be in line with the rules prescribed by this CPC of BiH which relate to the provisions on questioning of the suspect³⁴, and when a statement is given in line with these provisions such a statement may be used as evidence at the main trial.

111. Article 78 of the CPC of BiH foresees that the suspect must be advised of the following rights:

At the beginning of the questioning, the suspect shall be informed of the charge against him, the grounds for the charge and he shall be informed of the following rights:

- a) the right not to present evidence or answer questions;³⁵
- b) the right to retain a defense attorney of his choice who may be present at questioning and the right to a defense attorney at no cost in such cases as provided by this Code;³⁶
- c) the right to comment on the charges against him, and to present all facts and evidence in his favor and that, if he does so in the presence of the defense attorney, the statement made is allowed as evidence at the main trial and may, without his consent, be read and used at the main trial...³⁷

112. Article 78 clearly states that the intention of the law maker was to enable the suspect to present his defense if he wants and on the other hand to allow use of his investigative statement at the main trial regardless whether the accused will present his defense or not, which means even without his consent. The potential use of the investigative statement of the accused is not conditioned by his presentation of defense at the main trial. The presentation of defense by the accused is his right and not his obligation.³⁸ If the accused decides to remain silent the law has foreseen the possibility to use the investigative testimony of the accused pursuant to Article 273(3) of the CPC of BiH which is an exception from the direct presentation of evidence.³⁹

113. Article 273(3) of the CPC of BiH reads: “If the accused during the main trial exercises his right not to present his defense or not to answer questions he is asked, records of testimonies given during the investigation may, upon decision of the judge or the presiding judge, be read and used as evidence in the main...”

³⁴ Articles 77 through 80 of the CPC of BiH.

³⁵ The right to silence and the privilege against self-discrimination are implied into Article 6 of the ECHR as elements of the fundamental right to a fair trial.

³⁶ Article 6(3)(c) of ECHR provides the right to personal representation or legal assistance.

³⁷ This paragraph involves the observance of the obligation in Article 6(3)(b) that those charged with a criminal offence are to have adequate time and facilities for the preparation of a defense. The right to a fair trial also involves the principle of providing a reasonable opportunity of presenting a defense.

³⁸ The suspect or the accused has not duty to prove his innocence.

114. The use of testimonies given during the investigation is conditioned by a formal rule which must be fulfilled in order to use the investigative testimony as evidence and it pertains to the notice given to the suspect when questioned during the investigation. The second part of the quoted paragraph of Article 273 of the CPC explicitly says that such a testimony may be used: ...”*only if the accused was, during his questioning at investigation, instructed as provided for in Article 78 Paragraph (2) Item (c) of this Code.*”⁴⁰

115. In line with the above, when deliberating on whether to accept the investigative statements of the accused the Trial Panel will take into consideration the following criteria:

- a) If the suspect was advised that he could state his position regarding the crime alleged against him;
- b) If the suspect was advised that in the event he wanted to state his position, that is to present his defense, he had to do that in the presence of his defense counsel in case of a mandatory defense;⁴¹
- c) If the suspect was advised that in case he gives his statement in the presence of his defense counsel his statement may be used as evidence at the main trial
- d) If the suspect was advised that in case he gives a statement in the presence of his defense counsel his statement may be read and used at the main trial even without his consent;

116. The CPC of BiH provides that during the investigation the suspect may be questioned by the prosecutor or an authorized official person. During the questioning of the suspect the rules relative to the questioning of the suspect must be complied with. The investigative testimonies of the suspect may be used as evidence at the main trial regardless whether the accused wants to present his defense or to remain silent. When deciding if the statements of the suspect will be used as evidence at the main trial the Court takes into consideration if the requirements defined under Article 273(3) of the CPC of BiH have been met.

117. The Panel also followed the review of facts for prior statements made by an accused described by the ECtHR case *Brennan v. UK*⁴² which was also followed by the First Instance Panel in *Milos Stupar et al* at the Court of BiH.⁴³ In *Brennan v. UK* the ECtHR had an opportunity to

³⁹ Article 273(3) of the CPC BiH was incorporated in the Criminal Procedure Code with the amendments to the Criminal Procedure Code of BiH (*Official Gazette of BiH* nr. 58/08).

⁴⁰ See Article 78 (2)(c) of CPC of BiH.

⁴¹ In the event of cases in which the defense is not mandatory the suspect may waive his right to the presence of defense counsel during the questioning but if the defense is mandatory then the suspect may not waive his right to the presence of defense counsel.

⁴² *Brennan v. UK*, no. 39846/98, ECHR 2001.

⁴³ *Milos Stupar et al*, X-KR-05/24 (Ct. of BiH), Decision on Motion of Prosecutor’s Office of BiH regarding admission of statements of accused and proposal of evidence from the Indictment, 18 April 2007, pgs. 6-8.

decide on the sufficiency of the judicial scrutiny necessary to assure fair use of the prior statements of the accused. After following the review described in *Brennan v. UK*, the Panel decided (1) whether each statement was obtained legally and (2) whether legally obtained statements can be used as evidence against the accused if the accused who made the statement exercises his right to remain silent at the trial. The Panel's analysis of the Accused's statements will be discussed in greater detail below.

118. The ECtHR has had the occasion to decide on the sufficiency of the judicial scrutiny necessary to assure the fair use of prior statements of the accused. The rights guaranteed to the accused in the criminal proceedings are embedded under Article 6 of the ECHR which in its relevant part prescribes:

Article 6 – Right to a fair trial

1. In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law....
2. Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.
3. Everyone charged with a criminal offence has the following minimum rights:
 - a. to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him;
 - b. to have adequate time and facilities for the preparation of his defense;
 - c. to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;
 - d. to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
 - e. to have the free assistance of an interpreter if he cannot understand or speak the language used in court.

119. Though not specifically stated in Article 6 itself, the ECtHR has concluded that the right to remain silent is also protected by Article 6. The ECtHR infers this right from the right to a fair trial read together with the right of the criminal accused to the presumption of innocence and the right not to incriminate oneself. That right, as defined by the ECtHR, requires that national courts refrain from basing findings of criminal liability on incriminating statements made by the accused, when

those statements have been improperly compelled by state authorities.⁴⁴

120. The ECtHR will not interfere with evidentiary rules applied by national courts generally, unless the application of the rule renders the entire proceedings unfair:

The Court reiterates that the admissibility of evidence is primarily a matter for regulation by national law and as a general rule it is for the national courts to assess the evidence before them. The Court's task under the Convention is not to give a ruling as to whether statements of witnesses were properly admitted as evidence, but rather to ascertain whether the proceedings as a whole, including the way in which evidence was taken, were fair.⁴⁵

121. As mentioned, the ECtHR has had the occasion to decide on the sufficiency of the judicial scrutiny necessary to assure the fair use of prior statements of the accused. In the case of *Brennan v. UK*, the ECtHR approved the use of suspect statements against the accused who made them for a determination of guilt when the trial court:

1. Heard the testimony from the police officers and others present when the statements were taken;
2. Heard testimony from a neuro-psychologist regarding the competence of an accused's whose mental state had been put at issue;
3. Reviewed the statements themselves and the circumstances in which they were made;
4. Heard arguments from the lawyers of the accused;
5. Gave the accused the opportunity to be heard in order to explain the circumstances in which the statements were obtained.⁴⁶

122. The ECtHR concluded that because the court undertook the above described review of the facts, the use of prior statements made by the accused when they were suspects, was permitted against the accused at trial, regardless of whether or not the accused appeared as witnesses in the main trial.

123. In this case, the Panel followed the procedure approved by the ECtHR in *Brennan v. UK*.

124. The first criterion was met on 27 and 28 November 2007 when the Panel heard testimony from former Investigations Team Leader of the ICTY OTP Alistair Graham who interviewed the Accused with ICTY OTP Senior Trial Attorney Peter McCloskey. During each of the interviews

⁴⁴ *Heaney and McGuinness v. Ireland*, no. 34720/97, § 40, ECHR 2001; *Allan v. United Kingdom*, no. 48539/99, § 44, ECHR 2003.

⁴⁵ *Luca v. Italy*, no. 33354/96, § 38, ECHR 2003.

with the Accused Alistair Graham read the Accused his rights and recorded the questioning pursuant to the ICTY Rules of Evidence and Procedure when each of the statements were made by the Accused Milorad Trbić with the ICTY OTP. Alistair Graham testified as to the manner and circumstances of the questioning, the condition of the Accused during questioning, and the rights given to the Accused that will be discussed in greater detail in the Panel's analysis of the individual statements below. It is clear that the Accused knew at all times he was being questioned about the crimes in Srebrenica during July to November 1995.

125. Secondly, the competency of the Accused was not put into issue, and the Panel concludes that there is no evidence that would suggest that he was not competent at the time of questioning to understand his rights or to waive his rights at the time he was questioned.

126. The third criteria was met when the Panel went through a thorough evaluation of each interview between the Accused and the ICTY OTP in its entirety to determine whether the rights secured by the CPC of BiH, the ICTY Rules of Procedure and Evidence, and the ECHR were respected. The circumstances in which the interviews were made were also reviewed. Meeting these legal requirements will also be discussed in greater detail below.

127. In regards to the fourth criteria the Panel heard arguments of the Defense throughout the presentation of the interviews of the Accused during the testimony of Alistair Graham former Investigations Team Leader in the ICTY OTP on 27 and 28 November 2007. The Defense began the cross-examination of Alistair Graham stating that he did not dispute that he gave the Accused warnings on a couple of occasions as required and it was taped. What the Defense did allege was that the Accused was put under duress during the interviews, and Graham repeatedly testified that these allegations were untrue and that the Accused was never put under any pressure to confess to anything. Graham testified the Accused was only asked to tell the truth about what he knew or what he saw and what he had been involved in. The Panel also asked Graham if at any time in his dealings with the Accused were any offers made to him in return for his statements, and Graham testified there were absolutely no offers or guarantees given to the Accused in return for his statements. Furthermore, he stated from the moment that he met the Accused he appreciated that being interviewed by law enforcement officers is stressful, and he was mindful of this and that is why breaks were given, drinks and meal times were all considered for the Accused and the interpreter.

⁴⁶ *Brennan v. UK*, no. 39846/98, ECHR 2001.

128. The Panel gave the Accused the opportunity to comment on the testimony of the witnesses relevant to the interviews as well as on the circumstances of the taking of the statements themselves. The Accused took advantage of this opportunity on 28 November 2007 by personally examining witness Alistair Graham. As the Defense alleged during the cross-examination of Alistair Graham, the Accused also stated his statements were extorted. Mr. Graham again testified that there was no pressure for the Accused to confess to any crimes, and that he what he wanted was the Accused's truthful account of events including whether he participated in events. The Panel finds witness Alistair Graham credible, and that there was no evidence to support the representations that the Accused was put under duress during the interviews with the ICTY OTP. The Defense did not present evidence to substantiate their claim of duress.

129. Article 1 of the Law on Transfer of Cases foresees that:

(1) The provisions set forth in this Law shall regulate the transfer of cases by the International Criminal Tribunal for the former Yugoslavia to the Prosecutor's Office of BiH and the admissibility of evidence collected by the ICTY in proceedings before the courts in BiH.

(2) In case the provisions set forth in this Law do not provide for special provisions for the matters referred to in paragraph 1 of this Article, other relevant provisions of the BiH Criminal Procedure Code, the criminal procedure codes of the Republika Srpska and the Federation of Bosnia and Herzegovina and the District of Brcko shall apply.

130. Article 3(1) of the Law on Transfer of Cases includes a general principle whereby "evidence collected in accordance with the ICTY Statute and RoPE may be used in proceedings before the courts in BiH."

131. The foregoing clearly suggests that the Law on Transfer of Cases is a *lex specialis* in relation to the CPC of BiH. Considering the statements of the Accused taken by the ICTY OTP, the first element to be established in terms of the provisions of Article 3(1) of the Law on Transfer of Cases is whether the stated evidence has been obtained in accordance with the ICTY Statute and Rules of Procedure and Evidence ("RoPE").

132. The ICTY Statute under Article 21 foresees the concrete security measures which enable the accused to exercise some fundamental guarantees, such as the right to have legal assistance assigned to him (...) as well as to necessary translation into and from a language he (the suspect) speaks and understands.⁴⁷

⁴⁷ Article 21 of the ICTY Statute protects internationally acknowledged human rights standards that are prescribed under Article 14 of the International Covenant on Civil and Political Rights.

133. Rule 42 *Rights of Suspects during Investigation* of the ICTY Rules of Procedure and Evidence foresees both stated securities and it also foresees one more security – the right to remain silent, and to be cautioned that any statement the suspect makes shall be recorded and may be used in evidence.

(A) A suspect who is to be questioned by the Prosecutor shall have the following rights, of which the Prosecutor shall inform the suspect prior to questioning, in a language the suspect speaks and understands:

- (i) the right to be assisted by counsel of the suspect's choice or to be assigned legal assistance without payment if the suspect does not have sufficient means to pay for it;
- (ii) the right to have the free assistance of an interpreter if the suspect cannot understand or speak the language to be used for questioning; and
- (iii) the right to remain silent, and to be cautioned that any statement the suspect makes shall be recorded and may be used in evidence.

(B) Questioning of a suspect shall not proceed without the presence of counsel unless the suspect has voluntarily waived the right to counsel. In case of waiver, if the suspect subsequently expresses a desire to have counsel, questioning shall thereupon cease, and shall only resume when the suspect has obtained or has been assigned counsel.

134. Rule 43 *Recording Questioning of Suspects* of the ICTY Rules of Procedure and Evidence requires that whenever the Prosecutor questions a suspect, the questioning shall be audio-recorded or video-recorded, in accordance with the following procedure:

- (i) the suspect shall be informed in a language the suspect understands that the questioning is being audio-recorded or video-recorded;
- (ii) in the event of a break in the course of the questioning, the fact and the time of the break shall be recorded before audio-recording or video-recording ends and the time of resumption of questioning shall also be recorded;
- (iii) at the conclusion of the questioning the suspect shall be offered the opportunity to clarify anything the suspect has said, and to add anything the suspect may wish, and the time of conclusion shall be recorded;
- (iv) a copy of the recorded tape will be supplied to the suspect or, if multiple recording apparatus was used, one of the original recorded tapes;
- (v) after a copy has been made, if necessary, of the recorded tape, the original recorded tape or one of the original tapes shall be sealed in the presence of the suspect under the signature of the Prosecutor and the suspect; and
- (vi) the tape shall be transcribed if the suspect becomes and accused.

135. Before 12 December 2002 Rule 43 required that the tape be transcribed as soon as

practicable after the conclusion of questioning and a copy of the transcript supplied to the suspect. It was amended on 12 December 2002 and required that the tape be transcribed if the suspect becomes an accused. This requirement was applicable during the first interview the Accused had with the ICTY OTP on 19 August 2002, but not during the subsequent interviews which occurred after 12 December 2002. This requirement in Rule 43 was complied with for the 19 August 2002 interview because the transcript was certified by the certified verbatim reporter as a true and correct record of the testimony of the Accused on 23 September 2002.⁴⁸ The Accused waived the reading and signing of the deposition.⁴⁹ A copy of the transcript was supplied to the Accused.⁵⁰

136. Milorad Trbić was informed by the ICTY OTP that he may be a suspect in all of the interviews with the ICTY OTP.⁵¹ After his last interview with the ICTY OTP on 8 November 2004, the Prosecutor at the ICTY indicted the Accused on 10 February 2005 along with Vinko Pandurević, and on 24 March 2005 a Trial Chamber at the ICTY confirmed the indictment against the Accused.⁵² He was transferred into the Tribunal's custody on 7 April 2005.⁵³ After the indictment no further statements were taken by the ICTY OTP.

137. Further, Rule 92 *Confessions* of the ICTY RoPE foresees that “[a] confession by the accused given during questioning by the Prosecutor shall, provided the requirements of Rule 63 were strictly complied with, be presumed to have been free and voluntary unless the contrary is proved”. The questioning of an accused is defined by Rule 63 *Questioning of Accused* of the ICTY RoPE:

(A) Questioning by the Prosecutor of an accused, including after the initial appearance, shall not proceed without the presence of counsel unless the accused has voluntarily and expressly agreed to proceed without counsel present. If the accused subsequently expresses a desire to have counsel, questioning shall thereupon cease, and shall only resume when the accused's counsel is present.

⁴⁸ T-3 (Interview of Milorad Trbić with ICTY OTP-FBI Deposition in USA on 19 August 2002) (“Trbić 19 August 2002 US Deposition”), p. 84.

⁴⁹ T-3 (Trbić 19 August 2002 US Deposition), p. 4.

⁵⁰ Prosecution Trial Brief 24– Compliance with ICTY Rule 43, 10 November 2008, Annex A – ICTY OTP Disclosure letter and schedule dated 29 June 2005 and Annex B – Schedule of disclosures made of Suspect Examination transcripts.

⁵¹ T-3 (Trbić 19 August 2002 US Deposition), p. 8; T-12 (ICTY OTP Information Report submitted by Alistair Graham on 23 January 2004) (“ICTY OTP Information Report 23 January 2004”), p. 2; T-15 (Interview of Milorad Trbić with ICTY OTP on 23 May 2004) (“Trbić 23 May 2004 Interview”), p. 1; T-16 (Interview of Milorad Trbić with ICTY OTP on 27 May 2004) (“Trbić 27 May 2004 Interview”), p. 1; T-17 (Interview of Milorad Trbić with ICTY OTP on 29 October 2004) (“Trbić 29 October 2004 Interview”), p.1; T-18 (Interview of Milorad Trbić with ICTY OTP on 8 November 2004) (“Trbić 8 November 2004 Interview”), p.1.

⁵² *Prosecutor v. Pandurević and Trbić*, IT-05-86-I, Indictment, 10 February 2005; *Prosecutor v. Pandurević and Trbić*, IT-05-86-I, Decision on Review of Indictment and Order for Non-Disclosure, 24 March 2005, p. 3 (confirming indictment).

⁵³ *Prosecutor v. Pandurević and Trbić*, IT-05-86-I, Decision on Motion of Prosecutor to Vacate the Order for Non-Disclosure Entered 30 March 2005, 8 April 2005, p. 2; *Prosecutor v. Pandurević and Trbić*, IT-05-86-I, Order for Detention on Remand, 8 April 2005, p. 2.

(B) The questioning, including any waiver of the right to counsel, shall be audio-recorded or video-recorded in accordance with the procedure provided for in Rule 43. The Prosecutor shall at the beginning of the questioning caution the accused in accordance with Rule 42 (A)(iii)

138. Bearing in mind Article 1(2) of the Law on Transfer of Cases, it is necessary to also apply the fundamental principle of the legality of evidence set forth in Article 10 of CPC of BiH. Article 10 of CPC of BiH foresees that “[i]t shall be forbidden to extort a confession or any other statement from the suspect, the accused or any other participant in the proceedings“. Further, paragraph 2 of the same Article foresees that “[t]he Court may not base its decision on evidence obtained through violation of human rights and freedoms prescribed by the Constitution and international treaties ratified by Bosnia and Herzegovina, or on evidence obtained through essential violation of this Code.”

139. The provision of Article 10(1) of CPC of BiH on an extorted confession or any other statement pertains to the confession, that is, statement which has been obtained through the use of force, threat, deception, coercion, promise, delusion or some other forbidden conduct toward a person being a party in the proceedings. There was no evidence produced by the Defense on any forbidden conduct. On the contrary, some of the statements by the Accused indicated he tried to use deception to obtain favors.

140. Within the meaning of Article 10(2) of the CPC of BiH, legally invalid evidence would be the evidence obtained in violation of Article 6 of the ECHR and Article 14 of ICCPR which is not the case here.

141. Therefore, the Panel decided:

1. Whether each statement was obtained legally.
2. Whether legally obtained statements can be used as evidence against the accused if the accused who made the statement exercises his right to remain silent at the trial.

142. For each statement, the Panel analyzed thoroughly whether each of the requirements of the ICTY Rules of Procedure and Evidence were met. The applicable requirements are provided, as mentioned above, in Rule 42 *Rights of Suspects during Investigation* and Rule 43 *Recording questioning of suspects*. As well as Rule 63 *Questioning of Accused* and Rule 92 *Confessions*.

143. Rule 42 was met in each of the six interviews between the ICTY OTP and Milorad Trbić.⁵⁴ Milorad Trbić was informed he was a suspect for each interview with the Prosecutor, and was informed prior to questioning the rights provided in Rule 42 in the language that he speaks and understands. Specifically, he was informed prior to each interview of the right to be assisted by counsel of his choice or to be assigned legal assistance without payment if he did not have sufficient means to pay for it. As well as being informed that he had the right to have the free assistance of an interpreter if he could not understand or speak the language used for questioning, and the right to remain silent, and was cautioned that any statement that he made shall be recorded and may be used in evidence. Lastly, under Rule 42 Milorad Trbić was informed that the questioning shall not proceed without the presence of counsel unless he has voluntarily waived the right to counsel. In case of waiver, if he subsequently expressed desire to have counsel, questioning shall thereupon cease, and shall only resume when he has obtained or has been assigned counsel. As a result, Rule 42 of ICTY Rules of Procedure and Evidence requirements were met for each of the interviews between ICTY OTP and the Accused Milorad Trbić.

144. Rule 43 of the ICTY Rules of Procedure and Evidence is another rule which should be met when questioning a suspect by the ICTY Prosecutor. The questioning of Milroad Trbić by the ICTY Prosecutor was audio recorded. For each of the six interviews, Milorad Trbić was informed in the language he understood that the questioning was being audio-recorded.⁵⁵ During almost all the breaks in the course of the questioning, the fact and the time of the break was recorded before the audio-recording ended and the time of the resumption of the questioning was recorded.⁵⁶ Also at the conclusion of the questioning Milorad Trbić was offered the opportunity to clarify anything that he said, and to add anything he wished, and the time of the conclusion was recorded.⁵⁷

145. In regards to the interview on 21 January 2004 interview, Alistair Graham testified that he learned soon after the interview that while the tapes of that interview were being transcribed some problems existed with the tapes. As a result, from reviewing the transcript and the audio-recording

⁵⁴ T-3 (Trbić 19 August 2002 US Deposition), pgs. 8-9; T-13 (Interview of Milorad Trbić with ICTY OTP on 21 January 2004) (“Trbić 21 January 2004 Interview”), pgs. 1-2.; T-15 (Trbić 23 May 2004 Interview), pgs. 1-2; T-16 (Trbić 27 May 2004 Interview), pgs. 1-2; T-17 (Trbić 29 October 2004 Interview), pgs. 1-2; T-18 (Trbić 8 November 2004 Interview), pgs. 1-2.

⁵⁵ T-3 (Trbić 19 August 2002 US Deposition), pgs. 8-9; T-13 (Trbić 21 January 2004 Interview), p. 1; T-15 (Trbić 23 May 2004 Interview), p. 1; T-16 (Trbić 27 May 2004 Interview), p. 1; T-17 (Trbić 29 October 2004 Interview), p. 1; T-18 (Trbić 8 November 2004 Interview), p. 1.

⁵⁶ T-3 (Trbić 19 August 2002 US Deposition), pgs. 28 and 64; T-13 (Trbić 21 January 2004 Interview), pgs. 13-14, 19; T-15 (Trbić 23 May 2004 Interview), pgs. 10-11, 18-19, 29-30, 41-42, 54, 63-64, 74-75; T-16 (Trbić 27 May 2004 Interview), pgs. 12-13, 20; T-17 (Trbić 29 October 2004 Interview), pgs. 14-15, 20, 32, 48-49, 64-65; (Trbić 8 November 2004 Interview), pgs. 14-15, 32-33.

it can not be determined if Milorad Trbić was given the opportunity to clarify anything he said or add anything he wished, or the time of the conclusion recorded.⁵⁸ However, in response to the tapes being unable to be transcribed, Alistair Graham testified that he reviewed the notes he made during the interview and prepared an information report of the issues addressed during the part of the interview that was inaudible.⁵⁹ This information report was introduced by Alistair Graham when he testified at the main trial and was subject to cross-examination.⁶⁰

146. The other procedural requirements of Rule 43 were met. A copy of the recorded tapes was supplied to Milorad Trbić or, if multiple recording apparatus was used, one of the original recorded tapes. Additionally, the tape was transcribed. Prosecution provided the receipt of Milorad Trbić's suspect examination transcripts signed by his Defense Counsel at the time on 30 August 2005.⁶¹

147. The only possible requirement under Rule 43 which is unclear is whether after a copy was made, if it was necessary, of the recorded tape, the original recorded tape or one of the original tapes was sealed in the presence of Milorad Trbić under the signature of the Prosecutor and Milorad Trbić. It must be noted this issue has never been raised by the Accused so the Panel can not determine if this step was in fact omitted as there is no document to say one way or the other. Nevertheless, an ICTY Trial Chamber has addressed the issue of irregularities of procedure under Rule 43, and determined that if such an irregularity had occurred, the Defense would be required to make such a showing that the irregularity had led to the violation of the rights of the Accused and that such a violation warrants an exclusion of the accused's statements.⁶² In this case, the Accused did not raise at the ICTY or during the main trial at the Court of BiH that by not sealing the original recorded tape or one of the original tapes in the presence of Milorad Trbić under his and the Prosecutor's signature violated his rights and that this violation warranted an exclusion of his statements. If it was an issue it had to be raised in a timely manner and corrected by the ICTY. Therefore, the Panel holds that not meeting this procedural requirement of Rule 43 (if in fact it was not met) is a harmless error, and does not warrant the exclusion of any of Milorad Trbić's interviews with the ICTY OTP.

⁵⁷ T-3 (Trbić 19 August 2002 US Deposition), pgs. 82-83; T-15 (Trbić 23 May 2004 Interview), p. 76; T-16 (Trbić 27 May 2004 Interview), p. 20; T-17 (Trbić 29 October 2004 Interview), p. 67; Trbić 8 November 2004 Interview), p. 48. The requirement of Rule 43 (iii) is similar to Article 79 (2)(c) of the CPC of BiH.

⁵⁸ Alistair Graham (27 and 28 November 2007); T-12 (ICTY OTP Information Report 23 January 2004).

⁵⁹ Alistair Graham (27 and 28 November 2007); T-12 (ICTY OTP Information Report 23 January 2004).

⁶⁰ Alistair Graham (27 and 28 November 2008).

⁶¹ Prosecution Trial Brief 24– Compliance with ICTY Rule 43, 10 November 2008, Annex A – ICTY OTP Disclosure letter and schedule dated 29 June 2005 and Annex B – Schedule of disclosures made of Suspect Examination transcripts.

⁶² *Prosecutor v. Delalic*, Decision on the Motions for the Exclusion of Evidence by the Accused, Zejnil Delalic, 25 September 1997, paras. 4, 44 and 45.

148. Statements of Milorad Trbić were not taken when he was an accused, however the Panel notes that the requirements of ICTY Rule 63 *Questioning of Accused* were met as added assurance of legality. During the ICTY OTP and FBI Deposition in USA on 19 August 2002, the interview of the Accused with ICTY OTP on 21 January 2004, 23 May 2004, and on 27 May 2004, the Accused voluntarily and expressly agreed to proceed without counsel present. He did not subsequently express in these interviews a desire to have counsel, whereupon questioning ceased, and resumed when his counsel was present. During the ICTY OTP interview with the Accused on 29 October 2004 and on 8 November 2004 his Defense Counsel was present during those interviews.

149. The questioning, including his waiver of the right to counsel, was audio-recorded in accordance with the procedure provide for in Rule 43 as mentioned above. The Prosecutor during each interview at the beginning of the questioning cautioned Milorad Trbić in accordance with Rule 42 (A)(iii) which regards informing the accused of the right to remain silent, and cautioning the accused that any statement he makes shall be recorded and may be used in evidence.

150. Rule 92 *Confessions* provides that a confession by the accused given during questioning by the Prosecutor shall, provided the requirements of Rule 63 were strictly complied with, be presumed to have been free and voluntarily unless the contrary is proved. Therefore, because the requirements of Rule 63 were strictly complied with in all six interviews between the ICTY OTP and Milorad Trbić, it is presumed that the confessions by him were free and voluntarily. The contrary was not proved.

151. Based upon the analysis and review of all of Milorad Trbić's statements, all of his statements by the ICTY OTP were obtained legally because the procedural requirements of Rules 42, 43, 63 and 92 of the ICTY Rules of Procedure and Evidence were met and not violated. The Panel also held that Article 10(1) of CPC of BiH which forbids extorted confession or any other statement was not violated.

152. The second determination for the Panel is whether the legally obtained statements can be used as evidence against Accused Milorad Trbić's statements who exercised his right to remain silent at the trial which is secured by the ECHR, the ICTY RoPE and Statute, and the CPC of BiH. The Panel holds that the presentation of his statements into evidence does not violate Milorad Trbić's right to remain silent.

153. The Panel notes that the Accused waived the right to remain silent when giving these statements, and as explained above, these waivers were documented and clarified.⁶³ The Panel respects the right of the accused to remain silent, in the way that during the main trial it has provided him with the opportunity to present his position in respect of the formality and merits of the statements he gave, pursuant to Article 6 of the CPC of BiH, respecting at the same time his position that he did not want to make a statement. However, his prior statements which he gave consciously and willingly are taken as part of evidence of the Prosecution and their existence may not be disregarded.

154. The right to silence is not a right expressly enumerated in the ECHR, but rather it has been inferred by the ECtHR from Article 6(1) right to a fair trial and Article 6(3)d) right to the presumption of innocence. The right to silence is not absolute. As mentioned previously, another Panel at the Court of BiH addressed the similar issue of whether to accept as evidence records of statements of the accused. In that Panel's decision it described how most European countries bound by the ECHR routinely admit legally obtained prior statements of the accused in their main trial regardless of whether they testify or invoke their right to silence at the main trial stage: for example, England (Police and Criminal Evidence Act § 76(1)), France (Code de Procedure Penale, Article 428) and Holland (Dutch Criminal Procedure Code, Article 341).⁶⁴ The same Panel also pointed out, that practice has never been criticized by the ECtHR. Furthermore that Panel explained, those European countries that do not allow the use of investigative statements against the accused at the main trial has express statutory prohibitions against it, and it is the statute, not the ECHR, that precludes that practice. In Germany, for example, the statutory law prohibits the written statement given by a suspect to a police officer from being tendered into evidence (Article 254 *Strafprozess Ordnung*). However, the officer can be questioned at the main trial and can recite the contents of the statement to the Court, should the accused remain silent. It can also be used as the basis for questioning the accused, should they decide to testify.

155. The accused's right to silence under the ECHR is no greater than his right protected by ICTY Rule 42 or Article 6 of the CPC of BiH. The ECtHR has actually gone beyond approving the admission into evidence at trial of investigative statements made by accused who have waived their right to silence in the course of investigation. The ECtHR has declared it permissible for a national

⁶³ T-3 (Trbić 19 August 2002 US Deposition), p. 9 and Prosecution provided in Prosecution Trial Brief 24– Compliance with ICTY Rule 43, 10 November 2008, Annex C: USA FBI Form FD-395 “Advice of Rights” dated 19 August 2004 signed by the Accused during the suspect examination held that day; T-12 (Trbić 21 January 2004 Interview), p. 2; T-15 (Trbić 23 May 2004 Interview), pgs. 1-2; T-16 (Trbić 27 May 2004 Interview), pgs.1- 2; T-17 (Trbić 29 October 2004 Interview), pgs.1-2; T-18 (Trbić 8 November 2004 Interview), pgs.1-2.

court to draw inferences as to guilt where a defendant invokes his right to silence in the investigative phase and later relies on a fact during his defense which he could have disclosed in the investigation.⁶⁵ The ECtHR has also approved convictions based solely on the prior statements of an accused who invoked his right to silence at the main trial.⁶⁶ In this case, *Brennan v. U.K.*, the accused made incriminating statements regarding his involvement in terrorist activities during a police interview. He did not give testimony at his trial, invoking his right to remain silent. The Prosecution was permitted to enter the accused's pre-trial statements into evidence and he was found guilty in a verdict based on these statements. Therefore, as long as the accused is given the opportunity to explain or deny his statement at some stage of the proceeding, the ECtHR did not interfere with a verdict based in any degree on the prior legally obtained statements, regardless of whether the accused invokes his right to silence at the main trial.⁶⁷

156. Article 3(2) of the Law on the Transfer of Cases, states:

The courts shall not base a conviction of a person solely or to a decisive extent on the prior statements of witnesses who did not give oral evidence at trial.

157. The Panel does not need to decide if this refers to an accused who decides to exercise his right to silence during the main trial. As The Panel did not base the conviction of Milorad Trbić solely or to a decisive extent on his prior statements to the ICTY OTP. However, as mentioned previously, his prior statements which he gave consciously and willingly are taken as part of evidence of the Prosecutor and their existence may not be disregarded.

158. The Court of BiH has not defined a standard or rule on out-of-court statements to warrant or sustain a conviction. To devise a standard or rule, the Panel looked to other jurisdictions to gain guidance. In the Panel's review, it found that the United States Supreme Court established the trustworthiness standard in two cases issued on the same day.⁶⁸ This standard has been subsequently adopted in other jurisdictions in the United States.⁶⁹ The trustworthiness standard requires the Prosecution to "introduce substantial independent evidence which would tend to

⁶⁴ *Milos Stupar et al*, X-KR-05/24 (Ct. of BiH), Decision on Motion of Prosecutor's Office of BiH regarding admission of statements of accused and proposal of evidence from the Indictment, 18 April 2007, p. 34.

⁶⁵ *Averill v. UK*, no. 36408/97, § 51-52, ECHR 2000.

⁶⁶ *Brennan v. UK*, no. 39846/98, ECHR 2001.

⁶⁷ *See Luca v. Italy*, no. 33354/96, § 40, ECHR 2001.

⁶⁸ *Opper v. United States*, 348 U.S. 84, 93, 99 L.Ed. 101, 75 S. Ct. 158 (1954); *Smith v. United States*, 348 U.S. 147, 156, 99 L. Ed. 192, 75 S. Ct. 194 (1954). *See also Dawkins v. Berghuis*, 2009 U.S. Dist. Lexis 67977 (W.D. Mich. Aug. 4, 2009).

⁶⁹ *State of Utah v. Brent Mauchley*, 2003 UT 10, 67 P.3d 477 (2003); *United States v. Dickerson*, 333 U.S. App. D.C. 348, 163 F.3d 639, 642 (D.C. Cir. 1999); *United States v. Singleterry*, 29 F.3d 733, 737 (1st Cir. 1994); *State v. Harris*, 215 Conn. 189, 575 A.2d 223, 225 (Conn. 1990); *State v. George*, 109 N.H. 532, 257 A.2d 19, 21 (N.H. 1969).

establish the trustworthiness of the [confession].”⁷⁰ Stated differently, the independent evidence must strengthen and add weight or credibility to the confession,⁷¹ so as “to produce a confidence in the truth of the confession.”⁷² The confession’s trustworthiness must be established by a preponderance of the evidence.⁷³ As a result, the trustworthiness standard prevents the State from convicting a defendant on an uncorroborated out-of-court confession alone.⁷⁴

159. The Supreme Court of Utah emphasized, “that since a demonstrably wrong statement may indicate that a confession is false, the overall facts and circumstances related in the confession must be consistent with “facts otherwise known or established.”⁷⁵ For example, if a man spontaneously confesses that he fondled a child, but the evidence demonstrates he was never in physical proximity with the child, his confession is likely untrustworthy because the facts related in the confession are inconsistent with otherwise known or established facts.⁷⁶ In this instance, the Panel also dismissed certain parts of the Accused’s statements because there was no evidence of the event.⁷⁷

160. At times, there may be substantial independent evidence of a crime but not of the perpetrator’s identity.⁷⁸ Or, there may be independent evidence of a crime and the perpetrator, but not enough to establish guilt.⁷⁹ In such situations, the independent evidence itself may “bolster the confession...and thereby prove the offense ‘through’ the statements of the accused.”⁸⁰ One of the ways a confession may be bolstered by independent evidence is by showing a person’s confession demonstrates the individual has specific personal knowledge about the crime.⁸¹

161. Examples of mundane details may include the following: “how the victim was clothed, disarray of certain furniture pieces, presence or absence of particular objects at the crime scene,” “or which window was jimmied open.”⁸² Another case found that a defendant’s knowledge about

⁷⁰ *Mauchley*, 67 P.3d 477 at 488 (alteration in original) (quoting *Opper*, 348 U.S. at 93).

⁷¹ *Mauchley*, 67 P.3d at 488 citing *United States v. Corona-Garcia*, 210 F.3d. 973, 979 n.4 (9th Cir. 2000) (quoting Black’s Law Dictionary 344 (6th ed. 1990)).

⁷² *Mauchley*, 67 P.3d at 488 citing John Henry Wigmore, *Wigmore on Evidence* § 2071 at 511 (1978).

⁷³ *Mauchley*, P 58, 67 P.3d at 490.

⁷⁴ *Mauchley*, 2003 UT 10, P 50, 67 P.3d at 488.

⁷⁵ *Mauchley*, 67 P.3d at 489 citing *State v. Lucas*, 30 N.J. 37, 152 A.2d 50, 59 (N.J. 1959).

⁷⁶ *Mauchley*, 67 P.3d at 489.

⁷⁷ *Trbić Amended Indictment*, Count 2 (a) regarding allegation that the Accused supervised a summary execution of Bosniak men by automatic rifle fire near Zuti Most (“Yellow Bridge”) at Potočari.

⁷⁸ *Mauchley*, 67 P.3d at 489.

⁷⁹ *Mauchley*, 67 P.3d at 489.

⁸⁰ *Mauchley*, 67 P.3d at 489 citing *Smith*, 348 U.S. at 156.

⁸¹ *Mauchley*, 67 P.3d at 489.

⁸² *Mauchley*, 67 P.3d at 489.

the time of a fire, where the fire started, and the layout and contents of the room in which the fire originated was sufficient to corroborate his confession.⁸³

162. The degree of “fit between the specifics of a confession and the crime facts” is critical because the “fit” determines whether a confession should be deemed trustworthy.⁸⁴ If a person merely provides information already known by the police or the public, or if the information provided is inaccurate, a confession may be untrustworthy.⁸⁵

163. The Defense did raise an additional argument at the end of the trial that the Accused was held at the ICTY under coercive circumstances. None of the statements taken, however, were during the period of time when he was an accused. For example, his attorney claimed that Milorad Trbić after he was detained as an Accused at the ICTY was under 24 hour surveillance in his jail cell. Neither the attorney nor the Accused ever provided any witnesses or actual evidence on this point nor did they show any mistreatment by the ICTY OTP while the statements were taken which are relevant to the indictment. The evidence which the Defense did provide was a letter from the ICTY which responded to Defense counsel’s query about the Accused’s legal status from 24 October to 7 April 2005.⁸⁶ This letter confirmed that the Accused was a suspect during the time he made his statements and was taken into custody at the UN Detention Unit in The Hague on 7 April 2005. The Trial Panel gave him additional time to call witnesses, obtain evidence from the Victims and Witnesses Section at the ICTY, or to enter into a stipulation of facts with the Prosecution as to these circumstances, but the Defense never followed through with any witnesses, evidence or stipulation of facts and failed to explain the relevance to the main trial or why it was being raised at the end of the trial. Finally, it must be noted that the Defense Counsel never challenged the integrity of the investigators or the quality of the investigation. The primary investigators Alistair Graham and Bruce Bursik were present at the main trial and subject to cross-examination.

164. In this case the Panel reviewed the Accused’s statements as a whole. To the extent there were events for which no corroboration could be found it was disregarded.⁸⁷ The Panel created an

⁸³ *Mauchley*, 67 P.3d at 489 citing *Leo & Ofshe*, at 438. *See also Lucas*, 152 A.2d at 61 (finding defendant’s knowledge about the time of a fire, where the fire started, and the layout and contents of the room in which the fire originated was sufficient to corroborate his confession).

⁸⁴ *Mauchley*, 67 P.3d at 489 citing *Leo & Ofshe*, at 438.

⁸⁵ *Mauchley*, 67 P.3d at 488 citing *Leo & Ofshe*, at 439.

⁸⁶ O-7 [Letter to Milan Trbojević, Defence counsel for Accused, from ICTY re: Defense counsel’s request for provision of information regarding Mr. Milorad Trbić for the period of 24 October 2003 to 7 April 2005 (relevant period), 12 May 2009].

⁸⁷ *Trbić* Amended Indictment, Count 2 (a) regarding allegation that the Accused on 12 July 1995 supervised a summary execution of Bosniak men by automatic rifle fire near Zuti Most (“Yellow Bridge”) at Potočari. This does not mean that the event did not occur, only that there was no corroborating evidence in the testimonial or documentary evidence.

extensive timeline to ensure that neither the Prosecution nor the Defense placed the Accused in two places at once. Finally, the overwhelming amount of evidence into the occurrence of the events did not differ from the core stories that the Accused repeated throughout his statements. Despite his attempts at deception, the Panel found each statement contained sufficient evidence that corroborated with other evidence which satisfies the concept of trustworthiness.

V. SUMMARY OF LAW

A. APPLICABLE LAW

165. The Court has applied the law of the CC of BiH. For sentencing purposes the Panel notes that while the crime of genocide was codified under the former CC of the SFRY it also was punishable by a sentence of death. The punishment prescribed by the CC of BiH is obviously more lenient than the capital punishment that was in force at the time of the perpetration of the criminal offence, which satisfies the principle of the constraints regarding the applicability of the law, that is, the application of the law which is more lenient to the perpetrator. This is consistent with the ruling of the Appellate Panel of the Court of BiH in the Verdict handed down against *Abduladhim Maktouf*, No. KPŽ 32/05 of 4 April 2006, and the Verdict against *Dragoje Paunović*, No. KPŽ 05/16 of 27 October 2006, which was upheld by the Decision of the Constitutional Court of Bosnia and Herzegovina No. AP- 178/05 of 30 March 2007.

B. LAW OF GENOCIDE

1. Elements of the Crime

166. Article 171 of the CC of BiH defines the offense of genocide as:

Whoever, with an aim to destroy, in whole or in part, a national, ethnical, racial or religious group, orders perpetration or perpetrates any of the following acts:

- a) Killing members of the group;
- b) Causing serious bodily or mental harm to members of the group;
- c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- d) Imposing measures intended to prevent births within the group;
- e) Forcibly transferring children of the group to another group,...

167. Article 171 of the CC of BiH is identical in most respects to Article 141 of the Criminal Code of the Socialist Federal Republic of Yugoslavia (“SFRY”) and Article 2 of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide (“Genocide Convention”),

entry into force 12 January 1951.⁸⁸

168. Article 141 of the CC of the SFRY defined the offense of genocide as:

Whoever, with the intention of destroying a national, ethnic, racial or religious group in whole or in part, orders the commission of killings or the inflicting of serious bodily injuries or serious disturbance of physical or mental health of the group members, or a forcible dislocation of the population, or that the group be inflicted conditions of life calculated to bring about its physical destruction in whole or in part, or that measures be imposed intended to prevent births within the group, or that children of the group be forcibly transferred to another group, or whoever with the same intent commits one of the foregoing acts, shall be punished by imprisonment for not less than five years or by the death penalty.

169. The Panel notes that, in addition to the other acts enumerated in Article 2 of the Genocide Convention, Article 141 specifically defined forcible transfer as one of the possible underlying acts of genocide.

170. Article 2 of the Genocide Convention defines the offense of genocide as:

Any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- a) Killing members of the group;
- b) Causing serious bodily or mental harm to members of the group;
- c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- d) Imposing measures intended to prevent births within the group;
- e) Forcibly transferring children of the group to another group.

171. Although, the application of Article 171 of the CC of BiH need not be premised on the customary status of the crime of genocide, the Panel notes that it is indisputable that genocide is recognized as a crime under customary international law. As early as 1951, the International Court of Justice declared, “[T]he principles underlying the Convention are principles which are recognized by civilized nations as binding on States, even without any conventional obligation.”⁸⁹ Likewise, the Secretary General's Report pursuant to Security Council Resolution 808 and unanimously approved by Security Council Resolution 827 declared, “The part of the conventional

⁸⁸ See also Rome Statute of the International Criminal Court (“Rome Statute”), Art. 6, entry into force 1 July 2002, U.N. Doc. A/CONF.183/9 (identical to Art. 2 of the Genocide Convention).

international humanitarian law which has beyond doubt become part of international customary law is the law applicable in armed conflict as embodied in: ...the Convention on the Prevention and Punishment of the Crime of Genocide of 9 December 1948.”⁹⁰

172. Article 2 of the Genocide Convention is incorporated verbatim in Article 4 of the ICTY Statute and Article 2 of the ICTR Statute, applicable to the activities in Srebrenica and confirmation that the definition of genocide as recognized in customary international law is identical to that set out in the Genocide Convention. As the Trial Chamber highlighted in *Jelisić*, “Article 4 of the Statute takes up word for word the provisions of the [Genocide Convention]. ...Subsequently, the Convention has become one of the most widely accepted international instruments relating to human rights. There can be absolutely no doubt that its provisions fall under customary international law....”⁹¹

173. Article 171 of the CC of BiH, as well as Article 141 of the CC of the SFRY before it, were adopted as domestic law in order to meet the State's obligation under the Genocide Convention. Article V of the Convention reads: “The Contracting Parties undertake to enact, in accordance with their respective Constitutions, the necessary legislation to give effect to the provisions of the present Convention and, in particular, to provide effective penalties for persons guilty of genocide....” The SFRY took an active role in the drafting of the Genocide Convention and ratified it in 1950⁹² As domestic law thus derived from international law, Article 171 of the CC of BiH brings with it as persuasive authority its international legal heritage, as well as the international jurisprudence that interprets and applies it.

174. Accordingly, the crime of genocide under Article 171 of the CC of BiH incorporates two distinct sets of elements, namely the *chapeau* elements – the genocidal *mens rea* or intent – of genocide and the elements of the underlying acts.⁹³

⁸⁹ *Reservations to the Convention on the Prevention and Punishment of the Crime of Genocide*, Advisory Opinion, (1951) ICJ Reports 23.

⁹⁰ Secretary General's Report pursuant to para. 2 of Security Council Resolution 808 (1993) (“Secretary General's Report”), UN Doc. S/25704, para. 45. *See also*, *Prosecutor v. Akayesu*, ICTR-96-4-T, Judgment, 2 September 1998, (“*Akayesu* Trial Judgment”) para. 495 (“The Genocide Convention is undeniably considered part of customary international law.”); *Prosecutor v. Jelisić*, IT-95-10-T, Judgment, 14 December 1999, (“*Jelisić* Trial Judgment”) para. 60 (“Article 4 of the Statute takes up word for word the provisions of the Genocide Convention, which is undoubtedly part of customary international law.”).

⁹¹ *Jelisić* Trial Judgment, para. 60.

⁹² Official Gazette of the Presidium of the People's Assembly of the Federal People's Republic of Yugoslavia, no. 2/50.

⁹³ While the underlying acts specified in sub-paragraphs a) through e) can be characterized as the *actus reus* of genocide, it must be recognized that these underlying acts themselves have both *actus reus* and *mens rea* elements. Accordingly, it is preferable to conceptualize genocide as similar to crimes against humanity in requiring distinct inquiries into the *chapeau* or general elements and the underlying act. This serves to emphasize that the crime of genocide requires proof of two distinct *mens rea*, the *mens rea* of the underlying act and the genocidal *mens rea*.

(a) Actus Reus

175. For purposes of this decision the Panel finds it necessary to only discuss the first two methods of commission.

(i) Killing members of the group

176. Pursuant to Article 171(a) of the CC of BiH, the *actus reus* of genocide includes “killing members of the group”. The Panel concludes that, at a minimum, “killing members of the group” includes acts of murder as otherwise defined in domestic law⁹⁴ In particular, the Panel concludes that Article 171(a) prohibits “depriving another person of his life” as also prohibited as a crime against humanity and a war crime pursuant to Articles 172(1)(a), 174(a), and 175(a) of the CC of BiH.

177. The Court of BiH and the ICTY has previously identified the elements of the crime of murder:

- 1) the deprivation of life;
- 2) the direct intention to deprive of life, as the perpetrator was aware of his act and wanted the act to be perpetrated.⁹⁵

178. The qualification “members of a group” does not imply *per se* that the number of victims must be large or significant. In theory, the killing of only one victim can still amount to an act constituting the *actus reus* of the crime of genocide.⁹⁶

179. Finally, the qualification “members of the group” requires that the victims of the killings must be members in fact of the national, ethnical, racial, or religious group that the perpetrator sought to destroy in whole or in part.⁹⁷

⁹⁴ The Panel expresses no conclusions regarding whether the concept of “killing members of the group” in Article 171(a) is broader than murder.

⁹⁵ See *Rašević and Todović*, X-KR/06/275 (Ct. of BiH), First Instance Verdict, 28 February 2008, (“*Rašević and Todović* First Instance Verdict”) p. 61; *Dragan Damjanović*, X-KR-05/51 (Ct. of BiH), First Instance Verdict, 15 December 2006, (“*Damjanović* First Instance Verdict”) pgs. 53, 54. See also *Prosecutor v. Blagojević and Jokić*, IT-02-60-T, Judgment, 17 January 2005, (“*Blagojević and Jokić* Trial Judgment”) para. 642; *Prosecutor v. Krstić*, IT-98-33-T, Judgment, 2 August 2001, (“*Krstić* Trial Judgment”) para. 543.

⁹⁶ In *Ndindabahizi*, the ICTR Trial Chamber found the killing of one person satisfied that *actus reus* of genocide. *Prosecutor v. Ndindabahizi*, ICTR-2001-71-I, Judgment, 15 July 2004, (“*Ndindabahizi* Trial Judgment”) para. 471.

⁹⁷ *Prosecutor v. Brđanin*, IT-99-36-T, Judgment, 1 September 2004, (“*Brđanin* Trial Judgment”) para 688.

180. In this instance, the crime of killing also encompasses the concealment of the crime. Concealment of a crime can also be a separate offence. However, when these acts constitute one operation the act of concealing the crime can be considered part of the underlying offense. The ICTY has regarded the burial of the victims of mass executions, right after they were killed, as comprised within the killing operation.⁹⁸ The Panel endorses this approach and regards the further reburials as part of the killing operation as well. Indeed, in the present case, the only difference between the burials of July 1995 and the reburials of September 1995 is one of time; for the remaining part, the acts and the intent are the same.

181. Also, several national jurisdictions criminalize as accessory modes of liability behaviors where a person helps concealing a crime it did not commit. In order for that there be no lacuna in the law, ongoing concealment of a crime by the direct perpetrator of the said crime must be criminalized as well, by considering it the extension of the original crime and therefore one sole criminal behavior. Indeed, the act is one of concealment of the crime. The fact that it has to be repeated to prevent disclosure is simply by circumstance. In the present case,⁹⁹ the Panel notes however that the second concealment (reburials) has more severe consequences than the first concealment (burials), due to the dismemberment of bodies occurred because of the second concealment. The impact of these consequences is a consideration for sentencing.

(ii) Causing serious bodily or mental harm to members of the group

182. Pursuant to Article 171(b) of the CC of BiH the *actus reus* of genocide includes “causing serious bodily or mental harm to members of the group”. It has not been defined by the ICTY and ICTR but has been described. The scope should be assessed on a case by case basis and with due regard for the particular circumstances.¹⁰⁰ The *ad hoc* case-law has specified that the harm need not be permanent or irremediable¹⁰¹, but it must be harm that results in a “grave and long-term disadvantage to person’s ability to lead a normal and constructive life”.¹⁰²

183. Bodily harm refers to harm that seriously injures the health, causes disfigurement or causes any serious injury to the external, internal organs or senses.¹⁰³ Mental harm refers to more than

⁹⁸ *Blagojević and Jokić* Trial Judgment, para. 567 (l). These findings were not challenged on appeal.

⁹⁹ See sections VII.E.1 and VIII.H.

¹⁰⁰ *Krstić* Trial Judgment, para. 513.

¹⁰¹ *Blagojević and Jokić* Trial Judgment, para. 645; *Akayesu* Trial Judgment, para. 502; *Krstić* Trial Judgment, para. 513.

¹⁰² *Krstić* Trial Judgment, para. 513. Followed by *Blagojević and Jokić* Trial Judgment, para. 645.

¹⁰³ *Prosecutor v. Kayishema and Ruzindana*, ICTR-95-1-T, Judgment, 21 May 1999, (“*Kayishema and Ruzindana* Trial Judgment”) para. 109 followed by *Blagojević and Jokić* Trial Judgment, para. 645.

minor or temporary impairment of mental faculties.¹⁰⁴ The ICTY and the ICTR have held that inhuman treatment, torture, rape, sexual abuse and deportation are among the acts which may cause serious bodily or mental injury.¹⁰⁵ Furthermore, the harm must be inflicted intentionally.¹⁰⁶

184. In particular, the Trial Chamber in *Krstić* held that “inhumane treatment [...] and deportation are among acts which may cause serious bodily and mental injury.” It found support for this in the case law of the ICTY Tribunal as well as other sources.¹⁰⁷ In the same judgment, it includes “forcible transfer” under “inhuman treatment” which according as mentioned above is included in subparagraph (b).¹⁰⁸ The Trial Chamber in *Blagojević and Jokić* held that the forcible transfer constituted “serious mental harm” within the meaning of Article 4(2)(b).¹⁰⁹ It also found that that the perpetrators intended the forcible transfer, and the way it was carried out, would cause serious mental harm to the victims.¹¹⁰

185. Additionally, the Trial Chamber in *Blagojević and Jokić* held “that the trauma and wounds suffered by those individuals who managed to survive the mass executions does constitute serious and bodily and mental harm”.¹¹¹ Furthermore, the Bosniak men who did survive “suffered mental harm from having their identification documents taken away from them, seeing that they would not be exchanged as originally told, and when they understood what their ultimate fate was”.¹¹² It also recognized that the forced displacement of women, children, and elderly people was itself a traumatic experience in the given circumstances, as well as the forced separation from their loved ones, its consequences, and separately, their continued search for the bodies of the missing loved ones.¹¹³

¹⁰⁴ *Blagojević and Jokić* Trial Judgment, para. 645 citing to *Prosecutor v. Semanza*, ICTR-97-20-T, Judgment, 15 May 2003. (“*Semanza* Trial Judgment”), paras. 321, 322; *Prosecutor v. Ntagerura et al.*, ICTR-99-46-A, Judgment, 7 July 2006, (“*Ntagerura et al* Appeal Judgment”), para. 644.

¹⁰⁵ *Krstić* Trial Judgment, para. 513. Followed by *Blagojević and Jokić* Trial Judgment, para. 646.

¹⁰⁶ *Blagojević and Jokić* Trial Judgment, para. 645.

¹⁰⁷ *Blagojević and Jokić* Trial Judgment, para. 646 citing *Krstić* Trial Judgment, para. 513.

¹⁰⁸ *Krstić* Trial Judgment, para. 518. See *Blagojević and Jokić* Trial Judgment, paras. 646, 654.

¹⁰⁹ *Blagojević and Jokić* Trial Judgment, para. 654.

¹¹⁰ *Blagojević and Jokić* Trial Judgment, para. 654.

¹¹¹ *Blagojević and Jokić* Trial Judgment, para. 647.

¹¹² *Blagojević and Jokić* Trial Judgment, para. 647.

¹¹³ *Blagojević and Jokić* Trial Judgment, paras. 650, 652, 653.

(b) Mens Rea

186. The definition of the crime of genocide requires a specific intent which is the distinguishing characteristic of this particular crime under international law.¹¹⁴ Article 171 defines the elements of this genocidal intent as:

- 1) the aim;
- 2) to destroy;
- 3) in whole or in part;
- 4) a national, ethnical, racial or religious group.

In *Miloš Stupar et al* (Kravica) the First Instance Panel discusses the elements of the crime as follows:

(i) “Aim” (“Intent”)

187. Genocidal intent can only be the result of a deliberate and conscious aim. The destruction, in whole or in part, must be the *aim* of the underlying crime(s).¹¹⁵ In addition, and consistent with Article 2 of the Genocide Convention, the term “aim” encompasses the intent to destroy the group “as such”. That is, the evidence must establish that “the proscribed acts were committed against the victims *because of* their membership in the protected group,” although they need not have been committed “*solely because of such membership*”.¹¹⁶

(ii) “to Destroy”

188. The International Tribunals, the ILC, and a majority of scholars have concluded that the “destruction” element requires that the perpetrator intend to achieve the physical or biological

¹¹⁴ Report of the International Law Commission on the work of its forty-eighth session, 6 May - 26 July 1996 (“1996 ILC Report”), UN Doc. A/51/10. *See also*, *Akayesu* Trial Judgment, para. 498 (“Genocide is distinct from other crimes inasmuch as it embodies a special intent or *dolus specialis*.”).

¹¹⁵ *Blagojević and Jokić* Trial Judgment, para. 656 (emphasis added). *See also*, 1996 ILC Report, pg. 44 (“However, a general intent to commit one of the enumerated acts combined with a general awareness of the probable consequences of such an act with respect to the immediate victim or victims is not sufficient for the crime of genocide.”); *Krstić* Trial Judgment, para. 571 (“For the purpose of this case, the Chamber will therefore adhere to the characterization of genocide which encompass only acts committed with the *goal* of destroying all or part of a group.”) (emphasis in original).

¹¹⁶ *Prosecutor v. Niyitegeka*, ICTR-96-14-A, Judgment, 9 July 2004, (“*Niyitegek* Appeal Judgment”) para. 53 (emphasis in original).

destruction of the group, that is, destruction of its material existence.¹¹⁷ Physical or biological destruction may be accomplished through a variety of methods, most of which do not imply the immediate material destruction of the group through killings.¹¹⁸ The Genocide Convention, and the laws which implement it currently and in the former Yugoslavia, list a variety of methods by which the physical destruction of the group will ultimately be brought about. Although the most immediate method is killing the members of the group, other methods, singly and in combination, if done with the same aim, would lead to the group's destruction. The Trial Chamber in *Blagojević and Jokić* reasoned that "the physical or biological destruction of the group is the likely outcome of a forcible transfer of the population conducted in such a way that the group can no longer reconstitute itself" echoing the conclusion of the Appeals Chamber in *Krstić* that "forcible transfer could be an additional means by which to ensure the physical destruction of [the protected group]".¹¹⁹

(iii) "In Whole or in Part"

189. This Panel also concurs with the reasoning of the ICTY Appeals Chamber and the ILC that the intention to destroy a group "in part" requires the intention to destroy a "substantial part of that group."¹²⁰ The Panel further agrees that the analysis of the "substantiality" of the part of the group involves a number of considerations, which include numeric size; the relative size of the part to the total size of the group; its prominence within the group; whether the part of the group is emblematic of the overall group; and whether the part is essential to survival of the group. The specific intent to destroy a part of the group may extend only to a limited geographic area.¹²¹ "The intent to destroy formed by a perpetrator of genocide will always be limited by the opportunity presented to him".¹²²

¹¹⁷ See, e.g., *Prosecutor v. Krstić*, IT-98-33-A, Judgment, 19 April 2004, ("*Krstić* Appeal Judgment") para. 25; *Krstić* Trial Judgment, para. 580; *Semanza* Trial Judgment, para. 315.

¹¹⁸ The ILC has suggested that the underlying acts listed in paragraphs a through c of the Genocide Convention can be understood as acts of physical destruction, whereas the acts listed in paragraphs d and e can be understood as acts of biological destruction. 1996 ILC Report, pg. 46.

¹¹⁹ *Blagojević* Trial Judgment, para. 666. In addition, under the law as it existed at the time, forcible transfer was one of the listed methods by which genocide was accomplished. Article 141 of the Criminal Code of SFRY.

¹²⁰ *Krstić* Appeal Judgment, para. 8; 1996 ILC Report, p. 45 ("None the less the crime of genocide by its very nature requires the intention to destroy at least a substantial part of a particular group."). See also *Jelisić* Trial Judgment, para. 82; *Prosecutor v. Sikirica, et. al*, IT-95-8-T, Judgment on Defense Motions to Acquit, 3 September 2001, para. 65; *Kayishema and Ruzindana* Trial Judgment, para. 97; *Prosecutor v. Bagilishema*, ICTR-95-1A-T, Judgment, 7 June 2001, ("*Bagilishema* Trial Judgment") para. 64; *Semanza* Trial Judgment, para. 316. See also Benjamin Whitaker, Revised and Updated Report on the Question of the Prevention and Punishment of the Crime of Genocide, U.N. Doc. E/CN.4/Sub.2/1985/6, para. 29 ("In part' would seem to imply a reasonably significant number, relative to the total of the group as a whole, or else a significant section of a group, such as its leadership.").

¹²¹ *Brđanin* Trial Judgment, para. 703.

¹²² *Krstić* Appeal Judgment, para. 13.

The Panel holds that the beliefs and perceptions of the perpetrators regarding the substantiality of a part of the group are an additional factor to be considered. However, in the final analysis, the Panel must be satisfied that the identified part is *objectively* a “substantial part of that group”.

(iv) “A national, ethnical, racial or religious group”

190. Whether a group is a protected group should “be assessed on a case-by-case basis by reference to the *objective* particulars of a given social or historical context, and by the *subjective* perceptions of the perpetrators”.¹²³ The protected group can be subjectively identified “by using as a criterion the stigmatization of the group, notably by the perpetrators of the crime, on the basis of its perceived national, ethnical, racial or religious characteristics”.¹²⁴

2. Proof of Genocidal Intent

191. In order to establish genocide, the evidence must reflect: (1) the *actus reus* of the offence, which consists of one or several of the acts enumerated under Article 171; (2) the *mens rea* of the offence, which is described as the intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such.

192. Genocide is distinct from many other crimes because it includes a special intent or *dolus specialis*. Special intent of a crime is the specific intent, included as an element of the crime, which requires the perpetrator to clearly seek to produce the act charged. Thus, special intent in the crime of genocide lies in “the intent to destroy, in whole or in part, a national, ethnical, racial or religious group”.¹²⁵ A person may only be convicted of genocide if he/she committed one of the enumerated acts with the specific intent.¹²⁶ The offender is culpable if he/she intended the act committed to extend beyond its actual commission, for the realization of an ulterior motive, which is to destroy, in whole or part, the group of which the victims are part of.¹²⁷

¹²³ *Semanza* Trial Judgment, para. 317 (emphasis in original). See also, *Bagilishema* Trial Judgment, para. 65; *Prosecutor v. Musema*, ICTR-96-13-T, Judgment, 27 January 2000, (“*Musema* Trial Judgment”) paras. 161-163; *Prosecutor v. Rutaganda*, ICTR-96-3-T, Judgment, 6 December 1999, (“*Rutaganda* Trial Judgment”) paras. 56-58; *Kayishema and Ruzindana* Trial Judgment, para. 98; *Akayesu* Trial Judgment, para. 702.

¹²⁴ *Krstić* Trial Judgment, para. 557 (citing *Prosecutor v. Nikolić*, IT-94-2-R61, Review of the Indictment pursuant to Rule 61, 20 October 1995, para. 27 and *Jelisić* Trial Judgment, para. 70).

¹²⁵ *Akayesu* Trial Judgment, paras. 498, 517-522; see also *Musema* Trial Judgment, para. 164.

¹²⁶ *Rutaganda* Trial Judgment, para. 59

¹²⁷ *Akayesu* Trial Judgment, para. 522.

193. As the Trial Chamber said in *Akayesu*, intent “is a mental factor which is difficult, even impossible to determine. This is the reason why, in absence of a confession from the accused, his intent can be inferred from a certain number of presumptions of fact”.¹²⁸ It goes further on by saying that “it is possible to deduce the genocidal intent inherent in a particular act charged from the general context of the perpetration of other culpable acts systematically directed against that same group, whether these acts were committed by the same offender or by others”.¹²⁹ Indeed, intent can, on a case-by-case basis, be inferred from the material evidence submitted to the Chamber.¹³⁰ A perpetrator’s *mens rea* may be inferred from his/her actions or from the context of the alleged culpable acts.¹³¹ The review of the overall context of the circumstances to determine the intent of an Accused must also be viewed in relationship to the actual conduct of the Accused. The Accused’s intent should be determined, above all, from his/her words and deeds, and should be evident from patterns of purposeful action.¹³²

194. The prohibited acts enumerated in subparagraphs (a) to (e) of Article 171 CC BiH are by their very nature conscious, intentional or volitional acts which an individual could not usually commit without knowing that certain consequences are likely to result. In order to constitute genocide, the accused must have acted *with the intent to destroy, in whole or in part, a national, ethnical, racial or religious group*. Even assuming that the accused knew that the act would lead to a result connected to a genocidal plan of others, the evidence must be reviewed to determine whether the accused possessed the intent to destroy, in whole or in part, a national, ethnical, racial or religious group. A general intent to commit one of the enumerated acts combined with an overall awareness of the probable consequences of such an act with respect to the immediate victim or victims is not sufficient to establish the crime of genocide.¹³³ Regardless of the extent of the atrocity that occurred, a conviction for the crime of genocide cannot enter without sufficient evidence as required by law.

¹²⁸ *Akayesu* Trial, Judgment, para. 523.

¹²⁹ *Akayesu* Trial, Judgment, para. 523; see also *Prosecutor v. Gacumbtsi*, ICTR-2001-64-T, Judgment, June 17, 2004, (“*Gacumbtsi*, Trial Judgment”) para. 252.

¹³⁰ *Rutaganda* Trial Judgment, paras. 61-63; see also *Musema* Trial Judgment, para. 167; *Trial of Joseph Altstotter and Others* (“Justice Case”), United States Military Tribunal, Nuremberg, 17th February – 4th December, 1947 Law Reports, Vol. VI, pgs. 62-64.

¹³¹ *Semanza* Trial Judgment, para. 313; see also *United States v. Wilhelm Von Leeb* (“High Command Case”), United States Military Tribunal, Nuremberg, 30th December 1947 - 28th October 1948, Vol. XI, p. 75.

¹³² *Bagilishema* Trial Judgment, para. 63.

¹³³ International Law Commission, *Draft Code of Crimes against the Peace and Security of Mankind with commentaries*, Yearbook of the International Law Commission, vol. II, Part One, 1996, at p. 44, available at http://untreaty.un.org/ilc/texts/instruments/english/commentaries/7_4_1996.pdf; see also *Krstic* Trial Judgment, para. 571.

195. According to the *Akayesu* Trial Judgment, “[w]ith regard to the crime of genocide, the offender is culpable [...] because he knew or should have known that the act committed would destroy, in whole or in part, a group.” In other words, the accused committed the acts with the requisite intent if:

- a) he consciously desired the acts to result in the destruction, in whole or in part, of the group, as such; or,
- b) he knew his acts were destroying, in whole or in part, the group, as such; or
- c) he knew that the likely consequence of his acts would be to destroy, in whole or in part, the group, as such.¹³⁴

196. The individual acts themselves, however, do not require premeditation; the only consideration is that the act should be done in furtherance of the genocidal intent, so that for the crimes of genocide to occur, the *mens rea* must be formed prior to the commission of the genocidal acts.¹³⁵

197. Intent can be, on a case-by-case basis, inferred from the material evidence submitted to the Panel.¹³⁶ A perpetrator’s *mens rea* may be inferred from his actions.¹³⁷ Evidence of the context of the alleged culpable acts may help to determine the intention of the accused, especially where the intention is not clear from what that person says or does. It is to be noted that the use of context to determine the intent of an accused must be counterbalanced with the actual conduct of the accused. The accused’s intent should be determined, above all, from his words and deeds, and should be evident from patterns of purposeful action.¹³⁸ Intent may be inferred from the totality of the circumstances, including the general political doctrine which gave rise to the genocidal acts, the repetition of destructive and discriminatory acts, and the placing members of the group in concentration camps where death rate is very high. Circumstances from which the fact finder can infer intent would include acts other than those listed.¹³⁹

¹³⁴ *Akayesu* Judgment, para. 520.

¹³⁵ *Kayishema and Ruzindana* Trial Judgment, , para. 91; Sixth Committee Records, 72rd mtg., at p. 88 (the Greek Representative, Rapporteur noted that "it appeared very clear that the majority was opposed to including the concept of premeditation."); Sixth Committee Records, 73rd mtg., at p. 90 (wherein State representatives rejected inclusion of the word "deliberate" in Article II of the Genocide Convention).

¹³⁶ *Rutaganda* Trial Judgment, para. 61-63; *See also Musema* Trial Judgment ,para. 167; see also *Justice Case*, pgs. 62-64 (holding that the accused's knowledge may be presumed).

¹³⁷ *Semanza* Trial Judgment, para. 313; *See also High Command Case*, p. 1261 (holding that intent may be inferred from causative act or omission of accused).

¹³⁸ *Bagilishema* Trial Judgment, para. 63.

¹³⁹ *Prosecutor v. Karadzic & Mladic*, Review of Indictments Pursuant to Rule 61, Case Nos. IT-9S-S-R61 & IT-95-18-R61 (11 July 1996) (“*Karadzic & Mladic* Indictment”) at p. 52, para. 94; see also *Prosecutor v. Nikolic*, Review of

198. The Trial Chambers in its decisions in the *Akayesu* and *Kayishema and Ruzindana* cases, considering that intent is a mental factor which is difficult, even impossible to determine, but that in the absence of a confession from the accused, considered that intent may be inferred from the following factors:

- the general context of the perpetration of other culpable acts systematically directed against that same group, whether committed by the same offender or by others;
- the scale of atrocities committed or the number of group members affected; the relative proportionate scale of the actual or attempted destruction of a group;
- the general nature of the atrocities committed in a region or a country;
- the fact of deliberately and systematically targeting victims on account of their membership of a particular group, while excluding the members of other groups; the physical targeting of the group; the methodical way of planning; the systematic manner of killing;
- the general political doctrine which gave rise to the acts;
- the repetition of destructive and discriminatory acts;
- the perpetration of acts which violate, or which the perpetrators themselves consider to violate the very foundation of the group—acts which are not in themselves covered by the list but which are committed as part of the same pattern of conduct; the physical targeting of the group's property;
- the use of derogatory language toward members of the targeted group;
- the weapons employed and the extent of bodily injury.¹⁴⁰

199. "Although a specific plan to destroy does not constitute an element of genocide, it would appear that it is not easy to carry out genocide without such a plan, or organization".¹⁴¹ It is virtually impossible for the crime of genocide to be committed without some or indirect involvement on the part of the State given the magnitude of this crime. It is unnecessary for an individual to have knowledge of all details of genocidal plan or policy.¹⁴² The existence of such a

Indictment Pursuant to Rule 61, Case No. IT-94-2-R61, 20 Oct. 1995, para. 34 ("the constitutive intent of the crime of genocide may be inferred from the very gravity" of "discriminatory acts of extreme seriousness" such as large-scale killings within a particular region); *Trial of Bruno Tesch and Tuo Others ("Zyklon B Casé')*, Law Reports, Vol. I, p. 102 (holding that knowledge can be inferred from the "general atmosphere and conditions of the firm.").

¹⁴⁰ *Akayesu* Trial Judgment, paras. 523-524; *Kayishema and Ruzindana*, Trial Judgment, paras. 93, 527; *See also* *Musema* Trial Judgment,, para. 166; *Prosecutor v. Jelusic*, IT-95-10-A, Appeals Judgment, July 5 2001, ("Jelusic Appeal Judgment") para. 47.

¹⁴¹ *Kayishema and Ruzindana* Trial Judgment, para. 94.

¹⁴² *Kayishema and Ruzindana* Trial Judgment, para. 94 (citation omitted).

genocidal plan would be strong evidence of the specific intent requirement for the crime of genocide.¹⁴³

200. To the extent the accused was in a subordinate position, a subordinate need only have a degree of knowledge of the ultimate objective of the criminal conduct; knowledge of every detail of a comprehensive genocidal plan or policy is not required.¹⁴⁴ The extent of knowledge of the details of a plan or a policy to carry out the crime of genocide would vary depending on the position of the perpetrator in the governmental hierarchy or the military command structure. This does not mean that a subordinate who actually carries out the plan or policy cannot be held responsible for the crime of genocide simply because he did not possess the same degree of information concerning the overall plan or policy as his superiors. A subordinate is presumed to know the intentions of his superiors when he receives orders to commit the prohibited acts against individuals who belong to a particular group. He cannot escape responsibility if he carries out the orders to commit the destructive acts against victims who are selected because of their membership in a particular group by claiming that he was not privy to all aspects of the comprehensive genocidal plan or policy. The necessary degree of knowledge and intent may be inferred from the nature of the order to commit the prohibited acts of destruction against individuals who belong to a particular group and are therefore singled out as the immediate victims of the massive criminal conduct.¹⁴⁵

201. Proof of genocidal intent does not require specific statements or admissions by the accused describing his intent. Rather, since “it may be difficult to find [e]xplicit manifestations of intent by the perpetrators,” the circumstances and facts surrounding the perpetrator’s acts can, as a matter of law, establish genocidal intent beyond doubt”.¹⁴⁶

¹⁴³ *Kayishema and Ruzindana* Trial Judgment, para. 276.

¹⁴⁴ *Prosecutor v. Tadić*, IT-95-1-T Judgment, 7 May 1997, (“*Tadić* Trial Judgment”) para. 676 (“knowledge and intent can be inferred from the circumstances.”); Mauthausen Case, Vol. XI Law Reports IS (holding that knowledge of criminal acts may be inferred from the conditions of the camp and that guilt may be based on the continued participation in the enterprise).

¹⁴⁵ ILC 1996 Rep., at p. 89-90 compare to William A. Schabas, *Genocide in International Law*, p. 221 (“In reality, genocide is more likely to be committed where the principal offender – the actual murderer – lacks the genocidal intent, but is incited or directed to commit the crime by a superior – technically an accomplice – who possessed the genocidal intent. The principal offender is a subordinate who may possibly be ignorant of the genocidal plan. He or she follows an order to commit an act while unaware that the intent behind the order is to destroy a group in whole or in part.”)

¹⁴⁶ *Kayishema and Ruzindana* Trial Judgment, para. 93. See also *Prosecutor v. Rutaganda*, ICTR-96-3-A, Judgment, 26 May 2003, para. 525 (“In the absence of explicit, direct proof, the *dolus specialis* may therefore be inferred from the relevant facts and circumstances”); *Prosecutor v. Ntagerura, et. al.*, ICTR-99-46-T, Judgment, 25 February 2004, (“*Cyangugu* Trial Judgment”) para. 663; *Semanza* Trial Judgment, para. 313; *Akayesu* Trial Judgment, para. 523; *Krstić* Appeal Judgment, para. 34 (“Where direct evidence of genocidal intent is absent, the intent may still be inferred from the factual circumstances of the crime.”); *Jelisić* Appeal Judgment, para. 47 (“As to proof of specific intent, it may, in the absence of direct explicit evidence, be inferred from a number of facts and circumstances, such as the general context, the perpetration of other culpable acts systematically directed against the same group, the scale of atrocities

202. Intent is a state of mind, and specific intent to destroy a protected group, like specific intent for any other crime where a particular state of mind is an element of the offense, must be proven by examination of the surrounding facts and circumstances, as well as the act itself. While the intent is subjective, the Panel needs to be able to use objective criterion to evaluate if the totality of his actions rise to a finding of genocidal intent beyond a reasonable doubt. The Accused is entitled to the presumption of innocence. The standard the Panel uses must be clear and unequivocal. For this reason the Panel developed the factors below before examining the acts of the Accused. The Panel also agreed the test cannot be so stringent that you create a situation where you have a crime but no one can be found guilty of committing it nor can responsibility rest in a leader alone. Practically speaking, genocide needs partners. While a leader may ultimately be the most culpable it is a joint crime. In theory of course you can have one person and one death but the reality is this crime is only charged when the act is substantially complete. In this case the death of over 7,000 men and boys became the crime and it took planning and partners to do it. Before examining the actions of the Accused and before assessing any legal liability, the Panel decided on objective criteria to analyze the question of intent. The law defining genocidal intent is slim. With this in mind the Panel used a test which was developed by the Panel in the First Instance Verdict for *Miloš Stupar et al (Kravica)*¹⁴⁷ to prove genocidal intent, and expanded this test to include factors to help determine the specific nature of the perpetrator's acts. Therefore, evidence regarding:

- 1) The general context of events in which the perpetrator acted including any plan to commit the crime;
- 2) The perpetrator's knowledge of that plan; and
- 3) The specific nature of the perpetrator's acts including the following:
 - 1) No acts to the contrary for genocidal intent;¹⁴⁸
 - 2) Single mindedness of purpose;
 - 3) Efforts to overcome resistance of victims;
 - 4) Efforts to overcome the resistance of other perpetrators;
 - 5) Efforts to bar escape of victims;
 - 6) Persecutory cruelty to victims;

committed, the systematic targeting of victims on account of their membership of a particular group, or the repetition of destructive discriminatory acts.”).

¹⁴⁷ *Miloš Stupar et al, (Kravica)* X-KR-05/24 (Ct. of BiH), First Instance Verdict, 29 July 2008, (“*Miloš Stupar et al* First Instance Verdict”) pgs. 58-59.

¹⁴⁸ *Miloš Stupar et al, (Kravica)* X-KRŽ-05/24 (Ct. of BiH), Second Instance Verdict, 9 September 2009 (“*Miloš Stupar et al*. Second Instance Verdict”).

- 7) Ongoing participation within the act itself;
- 8) Repetition of destructive acts i.e. more than one act or site;
- 9) The acts themselves (The Kravica test):
 - a. the number of victims;
 - b. the use of derogatory language toward members of the targeted group;
 - c. the systematic and methodical manner of killing;
 - d. the weapons employed and the extent of bodily injury;
 - e. the methodical way of planning;
 - f. the targeting of victims regardless of age;
 - g. the targeting of survivors; and
 - h. the manner and character of the perpetrator's participation¹⁴⁹

when taken together, an analysis of these factors can either establish the perpetrator's intent beyond a reasonable doubt or develop evidence that would mitigate and negate this finding. The Panel also looked at commission and intent from an opposite view. What actions would tend to create reasonable doubt as to the intent of Accused? For example, did he show any resistance to the plan? Did he engage in any deliberate acts which could interfere with the plan or assist in its failure? Did he try to save a life? Did he show any lack of awareness as to what the plan was for? Did he show remorse? Finally, did he take any action to seek reconciliation? These last factors would not necessarily preclude possessing the requisite intent at the time but it could certainly raise issues as to the certainty of the intent at the time. Also it must be understood that there is no one factor that could control, nor are all necessary or even relevant but it is rather the totality of the evidence that shall be decisive.

¹⁴⁹ *Miloš Stupar et al* First Instance Verdict, p. 118 In considering the inferences that can be drawn from the act of killing, the factors listed, *inter alia*, have been identified by other Tribunals as relevant to this analysis. See, e.g. *Kayishema and Ruzindana* Trial Judgment, paras. 93, 531-540; *Prosecutor v. Seromba*, ICTR-2001-66-I, Judgment, 13 December 2006, (“*Seromba* Trial Judgment”) para. 320; *Jelisić* Appeal Judgment, paras. 47-49; *Akayesu* Trial Judgment, para. 523; *Rutaganda* Trial Judgment, para. 399; *Cyangugu* Trial Judgment, paras. 689-690.

C. JOINT CRIMINAL ENTERPRISE

203. Individual Criminal Responsibility –Article 180(1) of CC of BiH:

A person who **planned, instigated, ordered, perpetrated** or otherwise **aided and abetted** in the planning, preparation or execution of a criminal offence referred to in Article 171 (Genocide)... of this code, shall be personally responsible for the criminal offence. The official position of any accused person, whether as Head of State or Government or as a responsible Government official person, shall not relieve such person of criminal responsibility nor mitigate punishment.¹⁵⁰

204. Article 180 establishes the mode of criminal liability that the Panel must find in order to convict persons for crimes specifically referenced within Article 180.¹⁵¹ It has been charged together with Article 29 of Chapter 5 of the CC of BiH, which provides for the manner of commission and degrees of liability for commission of offences.¹⁵²

205. Article 180(1) is derived from and is identical to Article 7(1) of the ICTY Statute. Article 180(1) became part of the CC of BiH after 7(1) had been enacted and interpreted by the ICTY to include, specifically, joint criminal enterprise as a mode of co-perpetration by which personal criminal liability would attach.¹⁵³

206. The international jurisprudence interpretation of the term “perpetrated” in Article 7(1), which was incorporated into domestic law as Article 180(1), specifically provides: (1) that JCE is a form of co-perpetration that establishes personal criminal responsibility; (2) that “perpetration” as it appears in Article 7(1) of the ICTY Statute (and hence also in Article 180(1) of the CC of BiH) includes knowing participation in a joint criminal enterprise; and (3) that the elements of JCE are established in customary international law and discernable. This Panel, in applying the term “perpetrated” in Article 180(1) must consider the definition of that term as it was understood when it was adopted from international law into the CC of BiH.¹⁵⁴

207. There have been a number of cases at both first and second instance levels in the Court of BiH which have considered this doctrine both utilizing it and discarding it as a mode of liability.

¹⁵⁰ Emphasis added.

¹⁵¹ *Rašević and Todović* First Instance Verdict, p. 103.

¹⁵² *Rašević and Todović* First Instance Verdict, p. 103.

¹⁵³ *Rašević and Todović* First Instance Verdict, p. 103.

¹⁵⁴ The Constitutional Court of BiH has held that the ICTY Statute is an “integral part of the legal system of Bosnian and Herzegovina” as it is one of the documents that regulates the application of international law to which BiH is subject under Article III(3)(b) of the Constitution of BiH. *Abduladhim Maktouf*, Case No. AP-1785/06, Decision on Admissibility and Merits on the appeal from the Verdict of the Court of Bosnia and Herzegovina (“*Maktouf* Decision”), 30 March 2007, para. 70.

This Panel still finds it necessary to give some background and rationale for the recognition of joint criminal enterprise. It was the ICTY Appeals Chamber that first articulated in *Prosecutor v. Tadić* the doctrine of joint criminal enterprise as a “fully fledged legal construct of modes of criminal liability”.¹⁵⁵ This judgment also spelled out the three categories of joint criminal enterprise which will be discussed below. The ICTY Appeals Chamber noted that Article 7(1) includes joint criminal enterprise as a mode of co-perpetration because it was warranted by the nature of the crimes which are committed most commonly in wartime situations.¹⁵⁶ Generally, these crimes do not result from the criminal propensity of single individuals but are manifestations of collective criminality, carried out by groups of individuals acting in pursuance of a common criminal design.¹⁵⁷ Although only some members of the group physically perpetrate the criminal act, the participation and contribution of the other members of the group is often vital in facilitating its commission.¹⁵⁸ “It follows that the moral gravity of such participation is often no less – or indeed no different- from that of those actually carrying out the acts in question.”¹⁵⁹

208. “The rationale behind JCE liability is to reflect the exact degree of responsibility of those who in some way made it possible for the perpetrators physically to carry out the criminal acts.”¹⁶⁰ Specifically, “to hold criminally liable as a perpetrator only the person who materially performs the criminal act would disregard the role as co-perpetrators of all those who in some way made it possible for the perpetrator physically to carry out that criminal act. At the same time, depending upon the circumstances, to hold the latter liable only as aiders and abettors might understate the degree of their criminal responsibility”.¹⁶¹ As a result, “international criminal responsibility embraces actions perpetrated by a collectivity of persons in furtherance of a common criminal design”.¹⁶² This reasoning justified the recognition of an implied form of participation or complicity not explicitly set out in Article 7(1), sometimes described as “common purpose” or “common design” and now commonly known as “joint criminal enterprise”.¹⁶³

209. In this instance the Panel will detail below the contours of the JCE as defined by the evidence presented.

¹⁵⁵ Cassese, Antonio, *International Criminal Law*, Oxford: Oxford University Press, 2008, p. 191.

¹⁵⁶ *Prosecutor v. Tadic*, IT-95-1-A, Judgment, 15 July 1999, (“*Tadic* Appeal Judgment”) para. 191.

¹⁵⁷ *Tadic* Appeal Judgment, para. 191.

¹⁵⁸ *Tadic* Appeal Judgment, para. 191.

¹⁵⁹ *Tadic* Appeal Judgment, para. 191.

¹⁶⁰ *Prosecutor v. Brđanin*, IT-99-36-A, Judgment, 3 April 2007, (“*Brđanin* Appeal Judgment”) para. 405.

¹⁶¹ *Tadic* Appeal Judgment, para. 192.

¹⁶² *Tadic* Appeal Judgment, para. 193.

¹⁶³ Schabas, William, *The UN International Criminal Tribunals: The former Yugoslavia, Rwanda and Sierra Leone*, Cambridge: Cambridge University Press, 2006, p. 309.

210. Joint criminal enterprise is not a crime itself, but a manner of commission of a crime.¹⁶⁴ If an accused is charged with co-perpetrating a crime as part of a joint criminal enterprise, the Prosecution must prove beyond doubt that a crime has actually been perpetrated, that its perpetration was achieved by those operating together in a joint criminal enterprise, and that the elements necessary to establish the accused's liability for that perpetration have been met.¹⁶⁵

211. Joint criminal enterprise generally, and basic joint criminal enterprise in particular, were already part of customary international law by July 1995, and the elements and definition were established.¹⁶⁶ Since that time, the Trial Chambers and Appeals Chamber of the Tribunal have had several occasions to apply the concept of joint criminal enterprise, and particularly "basic" or "general" JCE.¹⁶⁷ In so doing they have refined, but not changed, the understanding of general JCE and systemic JCE within the context of the conflict within the former Yugoslavia. This Panel is not bound by the decisions of the ICTY. However, the Panel is persuaded that the ICTY's characterization of general JCE¹⁶⁸, its elements, *mens rea* and *actus reus*, properly reflects that state of customary international law as it existed in July 1995 and thereafter.

212. The Appeals Chamber in *Tadić* was the first at the ICTY to identify and articulate three categories of JCE in existence in international law at the operative time. Later ICTY cases identified these categories as follows: the first category is "general" or "basic," the second category is "systemic" and third is "extended". The verdict is only concerned with the basic or general form of JCE.

213. The BiH Appeals Panel in *Rašević and Todović* affirmed the First Instance Panel in their conclusion that joint criminal enterprise liability was part of customary international law at the time the offenses in the proceeding were committed (April 1992 through October 1994).¹⁶⁹ It is important to note that the First Instance Panel in *Rašević and Todović* expressly did not consider whether "extended" form (also referred to as JCE III) of joint criminal enterprise liability was part

¹⁶⁴ *Rašević and Todović* First Instance Verdict, p. 111.

¹⁶⁵ *Rašević and Todović* First Instance Verdict, p. 111.

¹⁶⁶ *Tadić* Trial Judgment, para. 669. *Tadić* Appeal Judgment, para. 220; *Prosecutor v. Stakic*, IT-97-24-A, Appeal Judgment, 22 March 2006, ("*Stakic* Appeal Judgment") para. 62 (same); *Prosecutor v. Vasiljevic*, IT-98-32-A, Appeal Judgment, 23 February 2004, ("*Vasiljevic* Appeal Judgment") para. 96-99 (same).

¹⁶⁷ See e.g. *Krstić* Trial Judgment; *Prosecutor v. Simić et al*, IT-95-9-T, Judgment, 17 October 2003 ("*Simić et al* Trial Judgment"); *Brđanin* Trial Judgment; *Brđanin* Appeal Judgment..

¹⁶⁸ The ICTY has referred to general or basic JCE as JCE I and systemic JCE as JCE II. For clarity, this Verdict uses the terms "basic JCE" and "systemic JCE".

¹⁶⁹ *Rašević and Todović*, X-KR/06/275 (Ct. of BiH), Second Instance Verdict, 6 November 2008, ("*Rašević and Todović* Second Instance Verdict") p. 26 and *Rašević and Todović* First Instance Verdict, p. 111.

of customary international law between 1992 and 1995.¹⁷⁰ In *Miloš Stupar, et al (Kravica)* also found this unnecessary.

214. The basic or general form of JCE is characterized by a group of people who act together pursuant to a “common design” and possess the same criminal intent. If a crime is committed by such a group, pursuant to that common design, persons who voluntarily participated in an aspect of that design and intended the criminal outcome can be held personally criminally liable as co-perpetrators.¹⁷¹ “An example is a plan formulated by the participants in the joint criminal enterprise to kill where, although each of the participants may carry out a different role, each of them has the intent to kill.”¹⁷²

1. Actus Reus

215. The elements of JCE which are discernable from the customary international law are easily identified. The *actus reus* requires¹⁷³:

1. **A plurality of individuals.** They need not be organized in a military, political or administrative structure, as is demonstrated.
2. **The existence of a common purpose which amounts to or involves the commission of a crime provided for in the Statute.** There is no necessity for this plan, design or purpose to have been previously arranged or formulated. It may materialize extemporaneously and be inferred from the fact that a plurality of persons acts in unison to put into effect a joint criminal enterprise.
3. **Participation of the accused in the common purpose involving the perpetration of one of the crimes provided in the Statute.** This participation need not involve commission of a specific crime under one of the provisions (murder, extermination, torture, rape, etc), but may take the form of assistance in, or contribution to, the execution of the common plan or purpose. The contribution need not be necessary or substantial, but should at least be a **significant contribution** to the crimes for which the accused is found responsible.¹⁷⁴

216. In *Brđanin* the ICTY Appeals Chamber explained in establishing these elements, the Trial Chamber: “must, among other things: identify the plurality of persons belonging to the JCE (even if it is not necessary to identify by name each of the persons involved); specify the common

¹⁷⁰ *Rasevic and Todovic* First Instance Verdict, p. 111.

¹⁷¹ *Tadic* Appeal Judgment, para. 196.

¹⁷² *Vasiljevic* Appeal Judgment, para. 97.

¹⁷³ See generally, *Prosecutor v. Krnojelac*, IT-97-25-A, Judgment, 17 September 2003, (“*Krnojelac* Appeal Judgment”) para. 31 and *Vasiljevic* Appeal Judgment, para. 100.

¹⁷⁴ *Brđanin* Appeal Judgment, para. 414; *Prosecutor v. Krajišnik*, IT-00-39-A, Judgment, 17 March 2009, (“*Krajišnik* Appeal Judgment”) para. 215.

criminal purpose in terms of both the criminal goal intended and its scope (for example, the temporal and geographic limits of this goal, and the general identities of the intended victims).”¹⁷⁵ Additionally, the Trial Chamber must “make a finding that this criminal purpose is not merely the same, but also common to all of the persons acting together within a joint criminal enterprise;¹⁷⁶ and characterize the contribution of the accused in this common plan”.¹⁷⁷ Again, the contribution to the crimes for which the accused is to be found responsible should at least be significant.¹⁷⁸

217. In order for the Panel to make a finding that this criminal purpose is not merely the same, but also common to all of the persons acting together within a joint criminal enterprise it notes that the Appeals Chamber of the Special Court of Sierra Leone in *Sesay et al* listed factors derived from ICTY jurisprudence which are relevant to make this determination.¹⁷⁹ These factors include, but are not limited to: the manner and degree of interaction, cooperation and communication (joint action) between those persons;¹⁸⁰ the manner and degree of mutual reliance by those persons on each other’s contributions to achieve criminal objectives that they could not have achieved alone;¹⁸¹ the existence of a joint decision-making structure;¹⁸² the degree and character of dissension; and the scope of any joint action as compared to the scope of the alleged common criminal purpose.¹⁸³ The Panel must find that persons alleged to constitute the plurality of persons joined together to achieve their common goal.¹⁸⁴

¹⁷⁵ *Brđanin* Appeal Judgment, para. 430.

¹⁷⁶ *Brđanin* Appeal Judgment, para. 430 citing *Stakić* Appeal Judgment, para. 69.

¹⁷⁷ *Brđanin* Appeal Judgment, para. 430.

¹⁷⁸ *Brđanin* Appeal Judgment, para. 430.

¹⁷⁹ *Prosecutor v. Sesay et al*, Special Court for Sierra Leone, SCSL-04-15-A, Judgment, 26 October 2009, (“*Sesay et al* SCSL Appeal Judgment”) para. 1141.

¹⁸⁰ See *Brđanin* Appeal Judgment, para. 410 (holding that whether a crime forms part of the common purpose may be inferred from the “fact that the accused or any other member of the JCE closely cooperated with the principle perpetrator in order to further common criminal purpose”); *Krajišnik* Trial Judgment, para. 884.

¹⁸¹ *Krajišnik* Trial Judgment, para. 1082.

¹⁸² That the plurality of persons “need not be organized in a military, political or administrative structure” as a matter of law does not imply that the presence or absence of such a structure is not a relevant evidentiary consideration. *Vasiljević* Appeal Judgment, para. 100; *Tadić* Appeal Judgment, para. 227.

¹⁸³ See *Brđanin* Appeal Judgment, para. 430 (the trier of fact must “specify the common criminal purpose in terms of both the criminal goal intended and its scope (for example, the temporal and geographic limits of this goal, and the general identities of the intended victims.)”)

¹⁸⁴ *Prosecutor v. Martić*, IT-95-11-A, Judgment, 8 October 2008, (“*Martić* Appeal Judgment”) para. 172; *Brđanin* Appeal Judgment, para. 431

218. A person who participates in a joint criminal enterprise in any of the following ways may be found guilty for the crime committed, all other conditions being met:¹⁸⁵

- (i) by participating directly in the commission of the agreed crime itself (as a principal offender);
- (ii) by being present at the time when the crime is committed, and (with knowledge that the crime is to be or is being committed) by intentionally assisting or encouraging another participant in the joint criminal enterprise to commit that crime; or
- (iii) by acting in furtherance of a particular system in which the crime is committed by reason of the accused's position of authority or function, and with knowledge of the nature of that system and intent to further that system.

219. This list is not necessarily exhaustive. The ICTY Appeals Chamber in *Vasiljević* explained that it is generally sufficient for a participant in a joint criminal enterprise to perform acts that in some way are directed to the furtherance of the common design.¹⁸⁶ If the agreed crime is committed by one or another of the participants in the joint criminal enterprise, all of the participants in the enterprise are guilty of the crime regardless of the part played by each in its commission.¹⁸⁷ However, all persons (principal perpetrators) who carry out the *actus reus* of the crimes do not have to be members of a joint criminal enterprise.¹⁸⁸ At the same time, it is not necessary that the accused be present when the crime is committed in order to be guilty of the crime as a member of JCE.¹⁸⁹

220. An accused or another member of a JCE may use the principal perpetrators to carry the *actus reus* of a crime.¹⁹⁰ However, “an essential requirement in order to impute to any accused member of the JCE liability for a crime committed by another person is that the crime in question forms part of the common criminal purpose”.¹⁹¹ This may be inferred, *inter alia*, from the fact that “the accused or any other member of the JCE closely cooperated with the principal perpetrator in order to further the common criminal purpose”.¹⁹²

¹⁸⁵ *Prosecutor v. Krnojelac*, IT-97-25-T, Judgment, 15 March 2002, (“*Krnojelac* Trial Judgment”) para. 81.

¹⁸⁶ *Vasiljevic* Appeal Judgment, para. 102.

¹⁸⁷ *Krnojelac* Trial Judgment, para. 82.

¹⁸⁸ *Brđanin* Appeal Judgment, para. 414.

¹⁸⁹ *Krnojelac* Appeal Judgment, para. 81.

¹⁹⁰ *Martić* Appeal Judgment, para. 68 citing *Prosecutor v. Martić*, IT-95-11-T, Judgment, 12 June 2007, (“*Martić* Trial Judgment”) para. 438.

¹⁹¹ *Martić* Appeal Judgment, para. 68 citing *Martić* Trial Judgment, para. 438; *Brđanin* Appeal Judgment, para. 418.

¹⁹² *Martić* Appeal Judgment, para. 68 citing *Martić* Trial Judgment, para. 438; *Brđanin* Appeal Judgment, para. 410.

2. Mens Rea

221. The requisite *mens rea* for general JCE is that the accused must both intend the commission of the crime (this being the shared intent on the part of all co-perpetrators)¹⁹³ and intend to participate in a common plan aimed at its commission.¹⁹⁴ If the common criminal purpose involves commission of a crime that requires specific intent, for example, persecution, then the participant must share that specific intent.¹⁹⁵ However, shared intent, even specific intent, may be inferred.¹⁹⁶

222. Finally, the Panel has narrowed the scope of the JCE based on the evidence presented. As the Panel in *Miloš Stupar, et al* concluded:

Neither case law nor the literature support the proposition that a single basic JCE can stretch from the highest echelons of the military leadership to the lowliest foot soldier including persons with such disparate roles and parts assigning them *all the same level of criminal responsibility*.¹⁹⁷

This mode of liability is not appropriate for every case or every accused. It is cautiously applied to certain actors whose actions and intent meet the criteria.

¹⁹³ *Vasiljevic* Appeal Judgment, paras. 97,101; *Krnjelac* Appeal Judgment, para. 31.

¹⁹⁴ *Brđanin* Appeal Judgment, para. 356 citing *Prosecutor v. Kvočka et al.*, IT-98-30/1-A, Judgment, 28 February 2005, (“*Kvočka et al* Appeal Judgment”) para. 82 (requiring “intent to effect the common purpose”). (emphasis added)

¹⁹⁵ *Prosecutor v. Kvočka et al.*, IT-98-30/1-T, Judgment, 2 November 2001, (“*Kvočka* Trial Judgment”), para. 288.

¹⁹⁶ *Kvočka* Trial Judgment, para. 288.

¹⁹⁷ See, e.g., Cassese, *International Criminal Law*, pgs. 209-210.

VI. DID GENOCIDE OCCUR? – SUMMARY OF ICTY, ICJ AND COURT OF BIH CASES

223. This question has been answered in the affirmative by three different courts in four different cases.

224. The International Court of Justice held that the acts perpetrated by members of the VRS after the fall of Srebrenica in July 1995 were committed with the specific intent to destroy in part the group of Muslims of Bosnia and Herzegovina as such, and accordingly that these were acts of genocide, committed by members of the VRS in and around Srebrenica from about 13 July, 1995.¹⁹⁸

225. The ICTY Trial Chamber in *Krstić* concluded that “the intent to kill all the Bosnian Muslim men of military age in Srebrenica constitutes intent to destroy in part the Bosnian Muslim group within the meaning of Article 4 and therefore must be qualified as genocide.”¹⁹⁹ The Trial Chamber recognized that there was no military or security reason for these killings and,

[t]he Bosnian Serb forces had to be aware of the catastrophic impact that the disappearance of two or three generations of men would have on the survival of a traditionally patriarchal society...The Bosnian Serb forces knew, by the time they decided to kill all of the military aged men, that the combination of those killings with the forcible transfer of the women, children and elderly would inevitably result in the physical disappearance of the Bosnian Muslim population at Srebrenica.²⁰⁰

The Trial Panel also concluded that the concealment and reburial of bodies of the massacred men strongly indicated the intent to destroy the group.²⁰¹

226. The ICTY Appeals Chamber affirmed these findings and stated unequivocally to call the massacre at Srebrenica by its proper name: genocide.²⁰²

227. The ICTY Trial Chamber in *Blagojević and Jokić* reached a similar conclusion and found that the genocide was committed and over 7000 Bosnian Muslim men from Srebrenica were massacred. The Trial Chamber found that the Bosnian Serb forces not only knew that the combination of the killings of the men with the forcible transfer of the women, children and elderly, would inevitably result in the physical disappearance of the Bosnian Muslim population of

¹⁹⁸ Case Concerning the Application of the Convention on the prevention and Punishment of the Crime of Genocide (*Bosnia and Herzegovina v. Serbia and Montenegro*), Judgment of 26 February 2007, para 297.

¹⁹⁹ *Krstić* Trial Judgment, para. 598.

²⁰⁰ *Krstić* Trial Judgment, para. 595.

²⁰¹ *Krstić* Trial Judgment, para. 596.

²⁰² *Krstić* Appeal Judgment, para. 37.

Srebrenica, but clearly intended through these acts to physically destroy this group.²⁰³ The separation of men from the rest of the Bosnian Muslim population shows the intent to segregate the community and ultimately to bring about the destruction of the Bosnian Muslims from Srebrenica. The Bosnian Muslim men were stripped of their personal belongings and identification, detained and finally taken to execution sites, where the Bosnian Serb forces deliberately and systematically killed them, solely on the basis of their ethnicity.²⁰⁴

228. The ICTY Appeals Chamber Judgment reversed Blagojević's conviction of complicity in genocide and to aiding and abetting the genocide because it was not proven he had knowledge of the mass executions. They did not reverse the finding that the crimes committed by the Bosnian Serbs forces amounted to genocide. The Appeals Chamber Judgment held that Blagojević's knowledge of the forced transfer coupled with the opportunistic killings and mistreatment of Bosniak male detainees to Bratunac did not suffice to demonstrate that he knew the perpetrators' genocidal intent.²⁰⁵ In order for Blagojević to be guilty of aiding and abetting the genocide, he would have to have knowledge of the crime of genocide. The issue of genocidal intent was the focus of the appeal and not the crime of genocide, which was affirmed.

229. Finally, the Court of Bosnia and Herzegovina in *Prosecutor's Office of BiH v. Miloš Stupar et al*²⁰⁶ concluded genocide was committed in Srebrenica and in so concluding their conclusions were consistent with the above cited cases. This conclusion was affirmed by the Appellate Panel in *Prosecutor's Office of BiH v. Miloš Stupar et al*.²⁰⁷

²⁰³ *Blagojević and Jokić* Trial Judgment, paras. 671-677.

²⁰⁴ *Blagojević and Jokić* Trial Judgment, para. 674.

²⁰⁵ *Prosecutor v. Blagojević and Jokić*, IT-02-60-A, Judgment, 9 May 2007, ("*Blagojević and Jokić* Appeal Judgment") paras. 122-123.

²⁰⁶ *Miloš Stupar et al* First Instance Verdict, p. 103.

²⁰⁷ *Miloš Stupar et al* Second Instance Verdict.

VII. HOW DID IT OCCUR? SUMMARY OF THE GENOCIDAL PLAN

A. GENERAL OVERVIEW

230. The facts established beyond a reasonable doubt establish that there was an armed conflict in BiH between the armed forces of the VRS and the Army of the Republic of BiH (“ARBiH”). The events central to this case occurred in July to November 1995.²⁰⁸ In order to understand the general context of events in which the Accused acted it is important to understand both the military structure and the events leading up to the acts charged.

B. VRS ORGANISATION

231. Radovan Karadžić was the president of the Republika Srpska since 1992. As the Republic President, he was the Supreme Commander of the Army of the Republika Srpska (“VRS”); as such, he managed and commanded the VRS forces.²⁰⁹

232. The organization, structure and work methodology of the VRS adhered to the regulations that applied to the former JNA. Management and command of the RS Army was based on the principle of unity of command.²¹⁰

1. Main Staff Command

233. The Main Staff was the supreme military-command organ of the VRS. Colonel General Ratko Mladić was the Commander of the Main Staff in 1995. The Main Staff Command was located in Han Pijesak while the Forward Command Post was in Bijeljina. The Main Staff comprised two arms and six departments. In 1995, in addition to Colonel General Ratko Mladić, the key persons in the Main Staff were Colonel General Manojlo Milovanović, Chief of Main Staff and General Ratko Mladić’s Deputy, Colonel General Milan Gvero, Assistant Commander for Moral, Religious and Legal Affairs; General-Major Zdravko Tolimir, Assistant Commander for Security and Intelligence; General-Major Radivoje Miletić, Deputy Chief of the Main Staff and Chief of Operations; Colonel Ljubiša Beara, Chief of the Main Staff Security Administration; Colonel

²⁰⁸ Established Fact 1 (Decision of the Panel dated 13 December 2007).

²⁰⁹ O-1 (Expert Report by Petar Vuga for the Defense of Milorad Trbić), para 2.8., fn. 6.

²¹⁰ S-4 (23) (Report on the combat readiness of the Zvornik Infantry Brigade for the period 1 January – 31 December 1994).

Radoslav Janković, Main Staff Intelligence Administration Officer; Colonel Milovan Stanković, Main Staff Intelligence Administration Officer; Lieutenant Colonel Dragomir Keserović, Main Staff Intelligence Administration Officer; Colonel Bogdan Sladojević, Main Staff Operations Department Officer, Colonel Neđo Trkulja, Main Staff Operations Department, Chief of Armored Units.²¹¹

234. Two independent units were directly subordinated to the Main Staff: 65th Protection Regiment and 10th Sabotage Detachment. Sections of the 10th Sabotage Detachment were re-subordinated to the Drina Corps in early July 1995.

2. Corps and Brigade Level

235. The VRS had 6 Corps that were deployed in different geographical areas. These were: 1st and 2nd Krajina Corps, the Eastern Bosnia Corps, the Herzegovina Corps, the Sarajevo-Romania Corps and the Drina Corps. All the Corps were under the direct command of the VRS Main Staff.²¹² Within these Corps, the primary combat components were Brigades and they were organized to conduct operations under almost any combat conditions. As such they were placed directly under the Corps Command.²¹³

3. Zvornik Brigade

(a) Structure

236. In early 1992 the area of Zvornik Municipality was in the Eastern Bosnia Corps' area of responsibility with its headquarters in Bijeljina. On 2 June 1992, 1st Zvornik Light Infantry Brigade was formed in the Zvornik municipality (hereinafter: the Zvornik Brigade). After the Drina Corps was formed in November 1992, the Zvornik Brigade became part of the Drina Corps, thus the area of Zvornik fell under the Drina Corps Area of Responsibility.²¹⁴ Witness Miodrag Dragutinović who was the Assistant Chief of Staff for Operations and Education in the Zvornik Brigade at the critical time, testified about the Brigade's structure, also described in the established facts, Richard Butler's Report and documentary evidence.

²¹¹ T-813 (Srebrenica Military Narrative (Revised) Operation "Krivaja 95" 1 November 2002 by Richard Butler), ("Butler Narrative Report") para. 2.20. This exhibit was admitted during the live testimony of Richard Butler on 17 and 18 March 2008.

²¹² T-813 (VRS Main Staff Command Responsibility Report 9 June 2006 by Richard Butler), ("Butler VRS Main Staff Command Responsibility Report") para. 1.0.

²¹³ T-813 (Butler Narrative Report) , para. 1.0.

²¹⁴ Established Fact 9 (Decision of the Panel dated 13 December 2007).

237. The Zvornik Brigade comprised 8 Infantry Battalions, each of which was 450 - 550 strong. These are the Battalions:

1. Lokanj - Pilica Battalion, led by the Commander Lieutenant Milan Stanojević
2. Kalešić – Malešić Battalion, led by the Commander Srećko Aćimović
3. Boškovići Battalion, led by Commander Branko Studen
4. Baljkovica Battalion, led by the Commander Second Lieutenant Pero Vidaković
5. Kiseljak Battalion, led by the Commander Vladan Matić
6. Petkovci Battalion, led by the Commander Captain 1st Class Ostoja Stanišić
7. Memići Battalion, led by the Commander Second Lieutenant Dragan Beatović
8. Kravica Battalion, led by the Commander Captain 1st Class Radik Petrović.²¹⁵

238. The Brigade also had a Logistics Battalion, Mixed Artillery Division, Air Defense Division, Podrinje Reserve Battalion of the Brigade, also known as “The Drina Wolves” and the “R” Zvornik battalion.²¹⁶

239. There were three independent companies within the Zvornik Brigade: the Engineering Company, the Military Police Company and the Communications Company.²¹⁷ The Engineering Company was around 90 men strong and it was divided into three platoons: Pioneer or Combat Engineering Platoon, Fortification or General Engineering Platoon and Road Construction Platoon.²¹⁸ There were also two additional platoons: Platoon for Automatic Biological and Chemical Defense and Reconnaissance Platoon.²¹⁹

240. In January 1995 the Zvornik Brigade was made up of 5,248 commissioned officers, non-commissioned officers and soldiers.²²⁰ This Brigade was much larger than the Bratunac Brigade.

²¹⁵ Witness Miodrag Dragutinović (28 November 2007); T-25 (Zvornik Brigade Command Chart with notes made by Dragutinović 18 September 2001); T-27 (Chart- Zvornik Brigade –Battalions and Locations); T-813 (Butler's Report), para. 2.8.

²¹⁶ Established Fact 12 (Decision of the Panel dated 13 December 2007); T-27 (Chart- Zvornik Brigade –Battalions and Locations); S-4 (99) (Order on Reforming of the Zvornik Light Infantry Brigade dated 21 March 1994).

²¹⁷ Established Fact 13 (Decision of the Panel dated 13 December 2007); O-5, Vinko Pandurević, *Prosecutor v. Popović et al* IT-05-88, Testimony of (22 days) dated: 27, 28, 29, 30 January, 2, 3, 9, 10, 11, 12, 13, 16, 17, 18, 19, 20, 23, 25, 26, 27 February, 2, 3 March 2009 (“Pandurević Popović Testimony”), 28 January 2009.

²¹⁸ Established Fact 16 (Decision of the Panel dated 13 December 2007).

²¹⁹ Established Fact 13 (Decision of the Panel dated 13 December 2007).

²²⁰ Established Fact 14 (Decision of the Panel dated 13 December 2007).

(b) Zvornik Brigade's Area of Responsibility

241. The First Zvornik Infantry Brigade's area of responsibility covered a 40-kilometer long area along the Drina River around the town of Zvornik.²²¹ On the right-hand side, the boundaries of the Zvornik Brigade's area of responsibility were flanked by the Drina River. The left-hand side boundary separated the Zvornik Brigade from the 1st Bratunac Light Infantry Brigade, down the Drinjača River. In the northern part, the Zvornik Brigade's area of responsibility borders in the area of Pilica with the 1st Brigade's area of responsibility and constitutes the border between the Drina Corps and the Eastern Bosnia Corps. The left part of the Zvornik Brigade's area of responsibility consisted of the first combat lines manned by all infantry battalions, from the 1st to the 7th.²²² The major portion of the total number of locations where the imprisoned Muslim males were executed (Orahovac, Ročević, Pilica, Branjevo, Kozluk, Petkovci) was situated within this Brigade's area of responsibility.²²³

242. The Brigade Command was situated in the Standard Barracks near Karakaj, three kilometers north of Zvornik along the Drina River.²²⁴ The Brigade also secured the manpower of the Forward Command Post (FCP) in Kitovnice near the Orahovac village.²²⁵

243. In July 1995 8th Battalion was deployed outside the Zvornik Brigade's area of responsibility, also known as the 4th Battalion of the Bratunac Brigade. It was deployed in Bratunac Brigade's area of responsibility and this battalion was based in Kravica.²²⁶

244. In July 1995 Zvornik Brigade had a duty officer both in the Brigade Command and in the Forward Command Post.²²⁷

(c) The Brigade's Command Structure

245. The Zvornik Brigade's Command was situated in the Standard Factory in Karakaj, three kilometers to the north of Zvornik, along the Drina River.²²⁸ It is often referred to as "Standard" by witnesses.

²²¹ Established Fact 14 (Decision of the Panel dated 13 December 2007).

²²² T-817 (Map showing Zvornik Brigade area of responsibility and Battalion areas).

²²³ Expert Witness Richard Butler (17 and 18 March 2008); T-817 (Map showing Zvornik Brigade area of responsibility and Battalion areas).

²²⁴ Established Fact 14 (Decision of the Panel dated 13 December 2007).

²²⁵ Established Fact 14 (Decision of the Panel dated 13 December 2007).

246. In July 1995, the Commander of the Zvornik Brigade was Lieutenant Colonel Vinko Pandurević.²²⁹ The Security Department under the leadership of Lieutenant Drago Nikolić, Logistics Department under the leadership of Captain Sreten Milošević and Department for Moral, Religious and Legal Affairs, led by Major Nenad Simić, were directly subordinated to the Commander of the Zvornik Brigade.²³⁰

247. The Brigade Commander was assisted by its Staff that was organized and managed by the Chief of Staff.²³¹

248. The Chief of Staff was also the Deputy Commander, and at the critical time, that was Major Dragan Obrenović.²³²

249. The Chief of Staff comprised the following organs: Organ for Operations and Education led by Major Miodrag Dragutinović, Organ for Personnel and Administrative Affairs, led by Major Galić, Organ for Communications led by Major Petrović, Engineering Organ led by its Chief - Major Dragan Jokić, Organ for Anti Air Defense and Artillery Organ.²³³

250. As all other VRS brigades, the Zvornik Brigade was organized in adherence to the JNA infantry brigade rules, thus the organization of the Brigade and the Commander's authorities also functioned in accordance with these rules in July 1995.²³⁴ In the main trial, witness Miodrag Dragutinović explained that, due to its size and number of units, the Zvornik Brigade had a specific structure.²³⁵

251. Witness Miodrag Dragutinović further explained the reporting system within the Brigade, and pointed out that every Battalion had the duty to file daily reports to the Duty Operations Officer in the Brigade concerning the current situation in the Battalion. Pursuant to its function, the Brigade Command had the duty to file daily combat reports to the higher command as well as special reports, under special circumstances.

²²⁶ T-817 (Map showing Zvornik area of responsibility and Battalion areas); T-813 (Butler Narrative Report), para. 2.8.

²²⁷ See also T-982, Witness A-50 Testimony (Confidential).

²²⁸ Established Fact 14 (Decision of the Panel dated 13 December 2007).

²²⁹ Witness Miodrag Dragutinović (28 November 2007); T-26 (Zvornik Brigade Command Chart).

²³⁰ Witness Miodrag Dragutinović (28 November 2007); Established Fact 10 (Decision of the Panel dated 13 December 2007).

²³¹ Established Fact 11 (Decision of the Panel dated 13 December 2007).

²³² Witness Miodrag Dragutinović (28 November 2007); T-26 (Zvornik Brigade Command Chart).

²³³ Established Fact 11 (Decision of the Panel dated 13 December 2007).

²³⁴ Expert Witness Richard Butler (17 and 18 March 2008).

²³⁵ Witness Miodrag Dragutinović (28 November 2007).

(d) Security Organ – Military Police

252. VRS Security organs functioned in accordance with the adopted JNA service rules from 1984.²³⁶

253. JNA brigade rules define security organs as a specialized organ in the command in charge of organizing and implementing the measures and actions concerning counter-intelligence affairs.²³⁷ The crucial role of this organ was to participate in proposing, organizing and implementing the security measures in the brigade as well as conducting counter-intelligence activities. Among the security counter-intelligence affairs of the security organ, written and verbal reports of the defence expert witness Petar Vuga both list the following: implementation of measures and actions of counter-intelligence protection of assignments and affairs, documents, material and technical resources, zones and installations of special importance for the RS.²³⁸ The security organ is directly subordinated to the commander of the command of unit, authority or headquarters of the forces within whose composition it falls formation-wise, and it reports to the commander.²³⁹ In terms of professional management of the Security Organ in the VRS, the chain of command was established and began with the VRS Main Staff, that is, Assistant Commander of the Main Staff for Security–Intelligence Affairs. It then went through the Chief of Administration and the chiefs of security organs were subordinated in terms of their specialized duty, and it vertically extended through the Assistant Brigade Commander for Security down to the Security Intelligence Affairs Officer.²⁴⁰

254. Management and command of the security organs is clearly defined in the Instruction of the VRS Main Staff dated 24 October 1994 that witness Vinko Pandurević testified about, which emphasizes the independence of all organs in the realm of counter-intelligence affairs with respect to the brigade command. It also clearly follows from the order issued by the VRS Main Staff on 23 December 1994²⁴¹ that the security organs were required to file their reports through the security organs' chain and not through the brigade commander, and that the commander's attempts to have

²³⁶ T-813 (Butler VRS Brigade Command Responsibility Report) Annex No. 0090-9817-0090-9843 fn. 52 (SFRY Rules of Service of Security Organs in the Armed Forces from 1984); O-1 (Expert Report by Petar Vuga for the Defense of Milorad Trbić), p. 4 ; O-5, Pandurević *Popović* testimony on 28 January 2009.

²³⁷ T-813 (Butler VRS Brigade Command Responsibility Report) Annex No. 0090-9817-0090-9843 fn. 52 (SFRY Rules of Service of Security Organs in the Armed Forces from 1984).

²³⁸ O-1 (Expert Report by Petar Vuga for the Defense of Milorad Trbić), para. 2.49 (iii).

²³⁹ O-1 (Expert Report by Petar Vuga for the Defense of Milorad Trbić), p. 14; T-813 (Butler VRS Brigade Command Responsibility Report), para. 3.13.

²⁴⁰ O-1 (Expert Report by Petar Vuga for the Defense of Milorad Trbić), para. 2.81.

²⁴¹ S-4(25) (Command and Control of the VRS Security Organs Order).

insight and exercise control over security organs' operational activities as well as his access to their reports were considered illegal.

255. Witness Vinko Pandurević²⁴² stated that he was not familiar with the Security Organ's work in the realm of counter-intelligence, and that he made several attempts to request that the Drina Corps Command inform him when his Assistant for Security Affairs would be deployed to the specialized duties pursuant to the order of the Chief of Security of the Corps; however that was never approved. He further stated that the Brigade Commander did not have full access to the work of the Security Organ as he was not authorized to supervise them in the domain of counter-intelligence affairs, which comprised eighty percent of the work of these organs. In fact Pandurević gives as an example of their activities an internal investigation of him.²⁴³

256. Also, witness Dragan Obrenović, who was the Chief of Zvornik Brigade Staff at the critical time, stated in his testimony that the chief of the Brigade's Security Organ decided on his own initiative whether to familiarize the Brigade Commander with counter-intelligence information.

257. Deputy Commander of the Corps or Brigade for Security was the head of security affairs, that is, the Chief of Security. According to the adopted JNA service rules, the Chief of Security had two roles. His first role covered counter-intelligence affairs, while his second role included law implementation in the Brigade, which gave him a supervisory role over the actions that the military police participated in.²⁴⁴ The Chief of Security was also responsible for the specialized training and staffing of the Military Police units.²⁴⁵

258. The Military Police functioned in accordance with the service rules dating from 1984. According to the Security Organs' service rules, the basic role of the Military Police was to regulate the movement of civilians in the combat zone, apprehend deserters, secure facilities and ensure transportation of prisoners-of-war and other affairs.²⁴⁶

259. The Brigade Commander commanded the Brigade's Military Police Unit. He exercised his command through the Military Police Commander.²⁴⁷ Expert witness Petar Vuga presented the same

²⁴² O-5, Pandurević *Popović* Testimony on 28 January 2009.

²⁴³ O-5, Pandurević *Popović* Testimony, pgs. 31626, 31641.

²⁴⁴ Expert Witness Richard Butler (17 and 18 March 2008).

²⁴⁵ S-4(20) (Order on Changes to Organisation of Security Intelligence Organ VRS). T-813 (Butler VRS Brigade Command Responsibility Report), para. 3.12.

²⁴⁶ Expert Witness Richard Butler (17 and 18 March 2008).

²⁴⁷ S-4(20) (Order on Changes to Organisation of Security Intelligence Organ VRS); Expert Witness Richard Butler (17 and 18 March 2008).

inference in his finding and opinion.²⁴⁸ On the other hand, in terms of their specialized duties, the Security Organ managed the Brigade's Military Police unit.²⁴⁹ Witness Vinko Pandurević explained that the Brigade Commander commanded the Military Police through the Staff Commander or through his assistants. The witness also explained that the headquarters support units, including the Military Police, carried out their standard assignments for which they needed no special instructions by the Brigade Commander, and that the commander was not familiarized with the conduct of counter-intelligence affairs; if there was a need to deploy the Military Police Company to a special assignment that was not within their standard duties, then it was necessary to seek permission for that kind of assignment from the Brigade Commander or from Acting Brigade Commander.

260. Given that the VRS functioned in accordance with the adopted rules that were in force in the former JNA, a difference needs to be made here between command and control (as well as control in professional respect) which was a difference that also existed back then. Command includes the decision making and task-assignment authority.²⁵⁰ Command is exercised by way of written commands such as: operational orders, strategic orders, tactical orders, directives, instructions, etc.²⁵¹ Command adheres to the principles of unity of command, unity, subordination and continuance.²⁵² Control is defined as “an organized activity of implementation of policies, objectives and tasks.” Defence expert witness Petar Vuga explained that command and control are not synonymous but that the notion of control also includes the function of command as to its own control function. Control in professional respect encompasses control over different professional aspects.²⁵³

261. Control of a Military Police Unit in this professional respect was conducted by an appointed officer of the security organ of the command, unit, facility or headquarters that was the chief of security or the assistant commander for security. This officer made recommendations to the chief of command, unit, facility or headquarters concerning the deployment of the Military Police²⁵⁴ and was responsible for the unit's state of affairs and activities. His role was to recommend to the commander what tasks the Military Police could perform, and provide for the implementation of the commander's decision. Assistant Commander for Security controlled the activities of the Military

²⁴⁸ O-1 (Expert Report by Petar Vuga for the Defense of Milorad Trbić), para. 2.69.

²⁴⁹ Expert Witness Richard Butler (17 and 18 March 2008); O-1 (Expert Report by Petar Vuga for the Defense of Milorad Trbić), para. 2.68.

²⁵⁰ O-1 (Expert Report by Petar Vuga for the Defense of Milorad Trbić), para. 2.69.

²⁵¹ O-1 (Expert Report by Petar Vuga for the Defense of Milorad Trbić), para. 2.69.

²⁵² O-1 (Expert Report by Petar Vuga for the Defense of Milorad Trbić), para. 2.69.

²⁵³ O-1 (Expert Report by Petar Vuga for the Defense of Milorad Trbić), para. 2.68.

²⁵⁴ T-813 (Butler Narrative Report) SFRY Rules of Service of Security Organs in the Armed Forces from 1984, ERN 0090-9817-0090-9843, fn. 52.

Police.²⁵⁵ He was authorized to issue orders and tasks to the military police as long as the Military Police were to act within the wider orders that the Assistant Commander receives from the Commander.²⁵⁶

262. Expert witness Richard Butler clarified that the unit commander was a person who had the authority over the unit's activities, but bearing in mind the special functions of the Military Police, the commander could not have professional knowledge in this specialized field of action. Therefore, the Chief of Security decided in which particular situations military police would be deployed. He made recommendations to the commander and finally the Chief of Security had the duty to cooperate with the Military Police Commander to ensure adherence to the order. Butler pointed out that, due to the particular nature of tasks and assignments, the Chief of Security and his subordinates were authorized to control the Military Police Units and the deployment thereof.²⁵⁷ The Security Organ conducted technical control over the military police.²⁵⁸ Butler exemplified this with a document in which Lieutenant Colonel Vujadin Popović, as the Chief of Security in the Drina Corps, issued an instruction relative to the treatment of prisoners of war wherein he gave technical instructions to the subordinates on the level of the Brigade and Military Police.²⁵⁹ Witness Miodrag Dragutinović confirmed this fact in his main trial testimony, indicating that the Security Organ led by Drago Nikolić could directly deploy the Military Police Company within the domain of the Military Police assignments.²⁶⁰

263. Concerning the Zvornik Brigade, the Military Police was commanded by the Brigade Commander Vinko Pandurević, through his Military Police Commanders. Military Police Commander in July 1995 was Momir Jasikovac.²⁶¹ Security organs were entrusted with the control of the Military Police. Assistant to the Commander for Security, Drago Nikolić, was in charge of the security affairs in the Zvornik Infantry Brigade. His deputy was the Administrator for Security and that was the Accused Milorad Trbić. It is important to note that due to the size of the Bratunac Brigade this position was not necessary. All functions performed solely by Captain 1st Class Momir Nikolić in the Bratunac Brigade were performed by Drago Nikolić and Trbić in the Zvornik Brigade. By the order of the Drina Corps Commander, Major General Milenko Živanović, dated 29 January 1995, in terms of their organization the security organs were directly subordinated to the

²⁵⁵ Expert Witness Richard Butler (17 and 18 March 2008).

²⁵⁶ Expert Witness Richard Butler (17 and 18 March 2008).

²⁵⁷ Expert Witness Richard Butler (17 and 18 March 2008).

²⁵⁸ Expert Witness Richard Butler (17 and 18 March 2008).

²⁵⁹ Expert Witness Richard Butler (17 and 18 March 2008).

²⁶⁰ Witness Miodrag Dragutinović (28 November 2007).

²⁶¹ Witness Miodrag Dragutinović (28 November 2007); Witness Dragoje Ivanović (19 May 2008); Witness ***** (21 April 2008).

commanders, and in terms of their specialization they were subordinated to the Department of Security of the Drina Corps and the Administration for Security of the VRS Main Staff.²⁶² This order also pertained to the Zvornik Brigade.

264. As previously mentioned, the security organs as specialized organs could participate in the proposing and implementing the security measures. Drago Nikolić could therefore assign the Accused Milorad Trbić with certain duties.²⁶³

265. With reference to the treatment of prisoners of war, expert witness Butler pointed out that the JNA rules are indicative of a relationship of close cooperation between the security and intelligence organs in this field. Brigade Commander was responsible for ensuring a correct examination of the prisoners of war through intelligence authorities. He had the duty to ensure that the prisoners of war are treated in accordance with the provisions of 1949 Geneva Conventions. On the other hand, the security organ also managed the Military Police and conducted security and transfer of prisoners, when required.²⁶⁴

266. Expert Witness Butler also clarified the procedure concerning the prisoners of war which was standard in the time prior to July 1995. Following arrest, the prisoners were placed in confinement, after which the RS and FBiH commissions in charge of prisoners of war would arrange an exchange of prisoners within a certain time period. He stated that the standard practice up until 1995 was to register both the living prisoners and the dead bodies in order to include them in the exchange. He further explained that the Assistant Commander for Intelligence and Security Affairs would normally take care of whether he can obtain intelligence from the prisoners, while the Brigade commander would ensure their transfer to the Corps Command or Batkovica, which was normally the centre for the prisoners of war. Expert witness Richard Butler stated that this standard practice was adhered to on 22 and 23 July 1995, that is, the time period after the mass killings.

267. In that respect, expert witness Richard Butler explained that the Chief of Security Drago Nikolić was in charge of ensuring technical management and assistance to the Military Police i.e. organizing of the Military Police. He could recommend appointment of the commander and ensure that the Brigade Commander's decisions are implemented. The Chief of Security, by his function, was authorized to control the Military Police in terms of their assignments. The role of Assistant

²⁶² S-4 (20) (3D 41-1372) (Changes in the organisation of the intelligence and security support of the VRS dated 29 January 1995).

²⁶³ O-1 (Expert Report by Petar Vuga for the Defense of Milorad Trbić), para. 2.17.

²⁶⁴ T-813 (Butler Narrative Report), para. 3.19.

Chief of Security of the Zvornik Brigade was to assist the co-ordination with reference to the matters pertaining to the capturing, imprisonment and execution of prisoners.²⁶⁵

268. Finally, Richard Butler explained that, pursuant to the applicable rules of the VRS, the commander exercised the right to issue orders, which was in effect also at the critical time, and the subordinates had the duty to follow those orders. The same regulations however prescribed that the soldiers were not under obligation to follow the orders that they consider illegal.²⁶⁶

(e) Forces of the RS Ministry of the Interior (MUP) units – Command and Control Relationship with VRS

269. Aside from the forces of the Army (VRS), the other component of the Armed Forces of the Republika Srpska consists of the units and forces of the Ministry of the Interior (“MUP”) police. These MUP assets, when used under the purview of national defence, are directed by the President of the Republic²⁶⁷ According to the foregoing and the *Law on the Implementation of the Law on Internal Affairs During an Imminent Threat of War or the State of War*, the Minister of the Interior is vested with the responsibility to establish special police units for the purpose of performing combat tasks.²⁶⁸ These MUP units must integrate under the command of the VRS during their use in designated tasks. However, VRS control over them is not absolute, as it provides that MUP units assigned to combat operations retain their own internal command framework and maintain their organisational integrity.²⁶⁹

4. Role and Duties of the Duty Operations Officer

270. The Republika Srpska Army defined the position, role and responsibility of the duty operations officer in the manner as defined by the JNA 1983 rules.²⁷⁰ Pursuant to these rules, the duty operations officer was a member²⁷¹ of the internal organs of the service.²⁷² His role was established in order to ensure an uninterrupted functioning of the group’s command.²⁷³ Duty

²⁶⁵ Expert Witness Richard Butler (17 and 18 March 2008).

²⁶⁶ Expert Witness Richard Butler (17 and 18 March 2008).

²⁶⁷ T-813 (Butler VRS Brigade Command Responsibility Report), para. 6.0.

²⁶⁸ T-813 (Butler VRS Brigade Command Responsibility Report), para. 6.1.

²⁶⁹ T-813 (Butler VRS Brigade Command Responsibility Report), para. 6.3.

²⁷⁰ O-1 (Expert Report by Petar Vuga for the Defense of Milorad Trbić), p. 32.

²⁷¹ O-1 (Expert Report by Petar Vuga for the Defense of Milorad Trbić), p. 32.

²⁷² O-1 (Expert Report by Petar Vuga for the Defense of Milorad Trbić), p. 32.

²⁷³ Witness Miodrag Dragutinović (28 November 2007).

operations were organized by the Chief of Staff, a function to which Staff officers were assigned. The duty officer was a higher ranking officer and his assistant was an officer with a lower rank and role. Witness Miodrag Dragutinović explained that the duty operations officer was on duty for 24 hours. The duty officer assumed duty in the early morning hours after briefing with the commander. The preceding duty officer had the duty to de-brief the new duty officer about everything that occurred during his watch. Witness Milanko Jovičić, who was assistant to the duty operations officer on 16 July 1995, explained that the duty operations officer remained on duty for 24 hours, and that the assistant duty officer's duty started at midnight until the next morning. The usual practice was that a duty roster was made for the duty operations officers who had their own assistants for each watch.

271. The duty operations officer recorded all the occurrences in the duty operations officer's logbook. Witnesses Miodrag Dragutinović testified the duty operation officer had in his office a logbook to keep notes, and he had a separate notebook that would be used to compile the duty officers' logbook. This would be the place where he would put down everything that happened during his shift based on his own notes that he would keep during his shift.²⁷⁴ Dragan Obrenović's testimony confirms this and further explained that there were three types of notebooks kept by the duty operations officer: a duty shift book or logbook, another logbook and a workbook. The logbook was where the handing over and takeover of duty was recorded. The workbook was always at hand and the duty officer would write down straight away anything that he considered important. The duty officer would use that book to fill in the logbook or diary to write out his report to the commander. Obrenović further explained the duty officer would use the workbook and record a telephone conversation that the duty officer considered important. The other logbook was compiled according regulations by the JNA. This is where the logbook differed from the other books where notes were jotted down inside.²⁷⁵

272. As referenced in the Command Responsibility Report compiled by Richard Butler, in the conduct of his duty, the duty operations officer was superior to all internal service organs in that command place. This was also confirmed by the expert witness for the defence, Petar Vuga.²⁷⁶ Listing the duties and responsibilities of the duty operations officer, both expert witnesses used the same source of information *i.e.* the Instruction on the Work of Command-Headquarters from 1983, wherein the duty operations officer's duties are listed as the following:

²⁷⁴ Witness Miodrag Dragutinović (28 November 2007). *See also* Milenko Jovičić (17 December 2007) and Witness A-50 Testimony (Confidential), p.6637.

- a) to follow up the course of combat operations, and enter the changes occurred with the subordinate and adjacent units into the respective Summaries and War Map of the Staff;
- b) to inform the commander or the Chief of Staff about the major changes or about the orders issued by the superior officer, requiring the decision by the commander;
- c) to know the arrangement of the elements at the command post, i.e. the post occupied by the commander, chief of staff and assistants commander;
- d) to control and maintain the communication with duty operations officers of the superior and subordinated commands;
- e) to receive and dispatch orders and reports at the time when other organs are on leave or as ordered;
- f) to inform the assistant commander for logistics (PKPo) and respective organs at the rear command post (PKM) about the orders issued by the superior commanding officer, reports and information submitted by the subordinate officers, neighbors, organs and organizations etc. relating to the logistic support;
- g) to monitor and check the measures undertaken towards direct security and defense of the command post (KM), and in case of an attack, he sounds alert.²⁷⁷

273. The place where the duty operations officer was located together with the communications devices was connected to both subordinate and superior commands as well as to other commands and headquarters and it served as the reception point for information that was then forwarded in an identical form, with their form and contents unaltered.²⁷⁸ This point represented the primary gathering point of information related to the combat units accessible to the unit commander, chief of staff and specialized organs.²⁷⁹ At the time when the commander or chief of staff was absent, the duty operations officer was the person through whom it was ensured that all necessary information would be received by the commander and the chief of staff.²⁸⁰ While on duty, the duty operations officer was tasked to maintain communication with all units subordinate to the Zvornik Brigade, while at the same time, to have contact with the superior command.²⁸¹ The witness Miodrag Dragutinović testified that all incoming data from units would be gathered with the duty operations officer and then forwarded to the Brigade command. The duty operations officer had an insight into all tasks of all subordinate units and coordinated activities of the units.²⁸² He was in charge of

²⁷⁵ T-983, Dragan Obrenović, *Prosecutor v. Blagojević et al* IT-02-60 Testimony of (7 days) dated 1, 2, 6, 7, 8, 9, 10 October 2003 (“Obrenović Blagojević Testimony”), 6 October 2003, pgs. 2604-2606, 2622.

²⁷⁶ O-1 (Expert Report by Petar Vuga for the Defense of Milorad Trbić), p. 32, para. 3.1.6.

²⁷⁷ O-1 (Expert Report by Petar Vuga for the Defense of Milorad Trbić), p. 32.

²⁷⁸ O-1 (Expert Report by Petar Vuga for the Defense of Milorad Trbić), p. 32.

²⁷⁹ T-813 (Butler VRS Brigade Command Responsibility Report), para. 3.8.

²⁸⁰ T-813 (Butler VRS Brigade Command Responsibility Report), para. 3.8.

²⁸¹ Witness Miodrag Dragutinović (28 November 2007).

²⁸² Witness Miodrag Dragutinović (28 November 2007).

disseminating regular combat reports. The expert witness Richard Butler noted that the duty officer was instrumental in facilitating contacts and coordination between individuals, including his knowledge on the whereabouts of other officers, knowledge about activities while on duty, as well as the equipment necessary for an action. The expert witness pointed out that this fact clearly demonstrates a high degree of coordination involved, in addition to the detailed knowledge of all developments.²⁸³

274. Although the parties to the proceedings debated over the authority of the duty operations officer to issue orders in absence of the Commander, in which regard the expert witness for the Defense Petar Vuga was explicit in his submissions that the duty operations officer could not issue orders in the absence of the commander, while the expert witness for the Prosecution Richard Butler told that the decision-making was left to the duty operations officer's discretion in absence of the Commander, provided that the decisions were in line with the Commander's instructions, the Panel analysed only those acts pertinent to coordination and conveyance of verbal and written instructions and reports between units and officers, as well as acts that amount to coordination of supply of logistical support, of which the Accused Milorad Trbić was found guilty, which will be addressed by the Court in the factual sections of the Verdict.

275. The duty operations officer in the Zvornik Brigade performed in accordance with the JNA regulations. In July 1995, according to the expert witness Richard Butler, there were no extraordinary circumstances relative to these activities, which were carried out in accordance with the cited rules.

5. Accused Milorad Trbić

(a) General

276. The Accused Milorad Trbić was born on 22 February 1958. Following the outbreak of the war in BiH, he joined the VRS forces. Until 1994, he was appointed the Deputy Commander of the 2nd Battalion of the Zvornik Brigade.²⁸⁴ On 17 March 1994, he was appointed Assistant for Security Affairs, with the rank of Captain 1st Class.²⁸⁵ He performed this duty at the time relevant to the Indictment. On 16/17 July 1995, the Accused also acted as the duty operations officer. The expert witness Richard Butler clarified that despite the order of the Main Staff of the VRS in 1994 not to

²⁸³ Expert Witness Richard Butler (17 and 18 March 2008).

²⁸⁴ T-871 (List of personnel 2 Bat, Zvornik Brigade, Tab S in Vuga Bundle).

²⁸⁵ T- 818 (Zvornik Brigade HQ Staff Appointments List); T-819 (Zvornik Brigade Appointment Decision 06-53 dated 17 March 1994).

use members of the security organs as the duty operations officers, this was nevertheless approved after Vinko Pandurević insisted, hence the Accused Milorad Trbić was in a position to act as the duty operations officer in his Brigade.²⁸⁶ Again, this position was unique to the Zvornik Brigade given its size.

277. Inferences of the Panel on concrete acts committed by the Accused in the capacity of the Deputy Chief of Security and the duty operations officer shall be presented in section on the factual findings.

C. EVENTS PRIOR TO 12 JULY

1. Preparations for the attack

278. The Drina Corps was formed on 1 November 1992 and became the last of six Corps formations of the Army of the Republika Srpska (VRS).²⁸⁷ It was formed in response to the growing security threat posed along the western regions of the Drina River by Muslim strongholds in the mountainous regions of Cerska, Srebrenica, Žepa, Gorazde and the outlying areas of Višegrad.²⁸⁸

279. One month after the formation of the Drina Corps, the Muslim forces operating from the Srebrenica area began a two stage military campaign. Their first objective was to link up with another group of forces in Cerska, thus isolating the Serbian forces holding the towns of Bratunac and Skelani, and second, the actual capture of Bratunac itself.²⁸⁹

280. By January 1993, the Bosnian Muslim military operations had successfully isolated the Bratunac area from the rest of the Drina Corps.²⁹⁰

281. On the other side, as presented in Richard Butler's Report, on 19 November 1992, VRS military and political leadership issued the Directive Operative No. 4, wherein *inter alia* the Drina Corps received the instruction to "exhaust the enemy in the wider area of the Drina Valley region.

²⁸⁶ Expert Witness Richard Butler (17 and 18 March 2008).

²⁸⁷ T-813 (Butler Narrative Report), para. 1.0.

²⁸⁸ T-813 (Butler Narrative Report), para. 1.0.

²⁸⁹ T-813 (Butler Narrative Report), para. 1.22.

²⁹⁰ T-813 (Butler Narrative Report), para. 1.24.

Keep inflicting upon the enemy greater losses and force him to leave the area of Birač, Žepa and Goražde”.²⁹¹

282. The Main Staff of the VRS and the Drina Corps initiated a counter offensive to eliminate the ARBiH strongholds of Cerska and Srebrenica. Bosnian Serb forces continued to attack through the spring and by early April, VRS forces were within two kilometers from Srebrenica.²⁹²

283. VRS attacks on the area *i.e.* eastern Bosnia, caused concern in the UN Security Council by the pattern of hostility by “Bosnian Serb paramilitary units” against towns and villages in this area, pointing out that any acquisition of territory by the threat or use of force, including through the practices of “ethnic cleansing” is unlawful and unacceptable.²⁹³

284. Security Council especially expressed their concern at the information provided by the Secretary-General on the rapid deterioration of the situation in Srebrenica and its surrounding areas, as a result of the continued deliberate armed attacks and shelling of innocent civilians by “Bosnian Serb paramilitary units”.²⁹⁴ Another important tactic in the VRS strategy was to prevent the population of Srebrenica from accessing food, medicines and other necessities for a normal life.

285. Therefore on 16 April 1993, UN Security Council passed the Resolution 819 demanding that “all parties and others concerned treat Srebrenica and its surroundings as a safe area which should be free from any armed conflict or any other hostile act”.²⁹⁵ The second Security Council Resolution 824 also declared Žepa and Goražde safe areas.

286. With the establishment of safe areas, the conflict lines around Srebrenica stabilized, however small scale fighting continually flared up along the boundary of the enclave from mid-1993 through mid-1995. On one side, the ARBiH 28th Division units were active from the direction of the enclave, which on the other side required the VRS to maintain the defensive perimeter which ran opposite the designated enclave boundary.²⁹⁶ Contrary to the UN Resolutions, VRS continued to attack the protected area and obstruct the flow of humanitarian aid.²⁹⁷

²⁹¹ T-813 (Butler Narrative Report), para. 1.22.

²⁹² T-813 (Butler Narrative Report), para. 1.25.

²⁹³ T-1089 (UN Security Council Resolution dated 21 February 1992).

²⁹⁴ T-1089 (UN Security Council Resolution dated 21 February 1992).

²⁹⁵ T-1089 (UN Security Council Resolution dated 21 February 1992).

²⁹⁶ T-813 (Butler Narrative Report), para 1.27.

²⁹⁷ T-1086 (UN Secretary-General's Report “The Fall of Srebrenica“ dated 15 September 1999), para. 93.

287. In 1995, VRS forces expressed that there was a possibility that the ARBiH forces were planning a “spring offensive”.²⁹⁸ These predictions on the part of the VRS in terms of the ARBiH forces’ offensive is also mentioned in Butler’s Report.

288. In accordance with these predictions, on 8 March 1995 the Republika Srpska Armed Forces Supreme Command issued a document titled Directive no. 7.²⁹⁹

289. According to this Directive, the Drina Corps was tasked to:

...complete the physical separation of Srebrenica from Žepa, preventing even communication between individuals in the two enclaves. By planned and well-thought out combat operations, create an unbearable situation of total insecurity with no further survival or life for the inhabitants of Srebrenica and Žepa.³⁰⁰

290. On 20 March 1995, the Drina Corps Commander issued the Order for Defense and Active Combat Operations operative no. 7, pursuant to the Directive issued by the VRS Supreme Command, thus issuing the identical order to the Drina Corps.³⁰¹

291. The order further states: “In the case that UNPROFOR forces leave Srebrenica and Žepa, the Drina Corps Command shall plan an operation named *Jadar* with the task of breaking up and destroying the Muslim forces in these enclaves and definitely liberating the Drina Valley region”.³⁰²

292. Further on, on 8 April 1995, General Živanović issued the Order for Defense and Active Combat Operations operative no. 7/1³⁰³ ordering, *inter alia*, the strengthening of combat activities around the enclaves.

293. On 31 May 1995 the Drina Corps forces launched the “Jadar – 95” Operation.³⁰⁴

294. After this operation was launched, the UNPROFOR Dutch Bat troops were forced to abandon Observation Point Echo which was of strategic importance for the VRS in view of the planned operation of the capture of Srebrenica.³⁰⁵

295. In the month of May 1995, the Drina Corps issued several orders with the aim to “create conditions for the liberation of the enclave”.³⁰⁶

²⁹⁸ T-113 (Order for Defence and Active Combat Activities, operational No. 7 dated 20 March 1995).

²⁹⁹ T- 813 (Butler Narrative Report), para 1.37.

³⁰⁰ Established Fact 18 (Decision of the Panel dated 13 December 2007); T- 813 (Butler Narrative Report), para 1.37.

³⁰¹ T-113 (Order for Defence and Active Combat Activities, operational no. 7 dated 20 March 1995).

³⁰² T-113 (Order for Defence and Active Combat Activities, operational no. 7 dated 20 March 1995).

³⁰³ T-114 (Order for Defence and Active Combat Activities, operational no. 7/1 dated 08 April 1995).

³⁰⁴ T-113 (Republika Srpska President's Order conf. no. 01-1118/95 dated 16 July 1995), fn. 82.

³⁰⁵ T- 813 (Butler Narrative Report), para 1.38.

296. On 16 June 1995 the Republika Srpska President Radovan Karadžić issued an order aimed at a “total defeat of the enemy” establishing special measures for combat readiness for all armed forces, all state organs and organizations, all enterprises and authorities and the entire population.³⁰⁷

297. The same day, pursuant to the previous order, the Drina Corps Commander, Milenko Živanović, issued an order for mobilization of all able-bodied men in the Corps’ area of responsibility.³⁰⁸

298. The military stage was then set for “Krivaja 95”, the code name for the battle plan for the reduction of the UN designated “safe area” of Srebrenica.³⁰⁹

299. On 2 July 1995, General Major Milenko Živanović issued an Order for Active Combat Operations no. 1 called *Krivaja 95*.³¹⁰

300. The Order reads that, pursuant to Directives 7 and 7.1, the Drina Corps is issued the task of taking offensive actions, and in the Drina Corps’ area of responsibility to separate the Srebrenica and Žepa enclaves as soon as possible and narrow them down to the town proper area.

301. The indicated objective of this Order is: “with a sudden attack to completely separate and narrow down the Srebrenica and Žepa enclaves, improve the tactical position of the forces deep in the AOR and create the conditions for the elimination of the enclaves.”

302. A number of witnesses testified about the conditions in Srebrenica prior to the attack.³¹¹

303. Among other events, witness Pieter Boering³¹² also testified about the situation in Srebrenica in the time period of June and early July 1995. This witness stated that the food for the population of the enclave was scarce. Water supply was improvised. Health care was limited. Medical equipment was either broken or insufficient. Sanitary conditions were difficult. It was difficult to

³⁰⁶ T-121(Order to the Drina Corps no. 04/112-14 dated 15 May 1995 to stabilize the defense around Žepa and Srebrenica enclaves); T-122 (Order to the Drina Corps no. 04/112-14 dated 15 May 1995 to stabilize the defense around Žepa and Srebrenica enclaves and create the conditions for liberation of enclaves); T-123 (Order to the Drina Corps no. 04/112-14+7 dated 18 May 1995 about the closing of Žepa and Srebrenica).

³⁰⁷ T-222 (RS President Order, no. 01-1118/95 dated 16 July 1995).

³⁰⁸ T-221 (Drina Corps Order no. 05/1-205 dated 16 July 1995).

³⁰⁹ T- 813 (Butler Narrative Report) Para 1.38.

³¹⁰ T-223 (Order to the Drina Corps for Active Combat Activities no. 04/156-2 dated 02 July 1995).

³¹¹ T- 886, Witness A-3, *Prosecutor v. Popović et al* IT-05-88, Testimony dated 15 November 2006 (“Witness A-3 *Popović* Testimony”), pgs. 3933-3938; Witness Mevludin Orić (29 January 2008); Witness Mirsada Malagić (4 February 2008); Joseph Kingori (8 September 2008).

³¹² T- 872, Witness Pieter Boering *Prosecutor v. Popović* Testimony dated 19 september 2006 (“Witness Pieter Boering *Popović* Testimony), pgs. 1892-1893.

maintain personal hygiene and deposit waste. Witness Joseph Kingori,³¹³ UN observer also testified that upon his arrival he found the situation in Srebrenica disturbing in terms of shortage of food and medical care for the population, and that the VRS kept tightening the siege around the enclave by gradually restricting an already limited flow of humanitarian aid to the Srebrenica “safe area”. During the month of March, April, May and June there was no supply of fresh food, meat or dairy products in the enclave. UNHCR reported that in the month of June they delivered only 30 percent of the planned food supplies for Srebrenica due to the restrictions posed by the VRS forces.³¹⁴ From April 1995, VRS made great efforts to minimize the presence of international forces and thus disable them from monitoring the VRS activities. Although the Security Council stipulated military observers’ presence in the area of Srebrenice, VRS prevented the replacements of military observers thus their number decreased from six to three in the time period from April to June 1995.³¹⁵

2. Attack on Srebrenica and the fall of Srebrenica

304. VRS launched the attack on Srebrenica on 6 July 1995.³¹⁶ Butler’s Report reads that the attack on Srebrenica was launched in the early morning of that day. At 04:30 hours fire was opened on the positions of the 28th Infantry division. Witness Joseph Kingori testified that shelling woke him up in the early morning hours of that day and that until 18:00 hours in the evening around 250 shells were fired on the area of Srebrenica and its surrounds. There were dead and wounded people in the town and they were taken to the hospital. Prosecution witness Mevludin Orić, who was in Srebrenica at the time when the attack was launched, described that the shells were fired from all directions and that shelling continued into 11 July 1995.³¹⁷

305. In the following days, five UNPROFOR Observation Points fell under the control of the VRS forces advancing toward the town.³¹⁸ In his report, Butler also writes about the fall of UNPROFOR’s Observation Points. At the same time, the ARBiH defense forces were pushed back toward the town.³¹⁹ Based on the targeted locations, UN Military Observers were under the impression that VRS attack was directed at inflicting a maximum number of civilian casualties.³²⁰

³¹³ Witness Joseph Kingori (8 September 2008).

³¹⁴ T-1086 (UN Secretary- General's Report “The Fall of Srebrenica“ dated 15 september 1999), para. 237.

³¹⁵ T-1086 (UN Secretary- General's Report “The Fall of Srebrenica“dated 15 september 1999), para. 237.

³¹⁶ Established Fact 21(Decision of the Panel dated 13 December 2007 Decision).

³¹⁷ Witness Mevludin Orić (29 January 2008).

³¹⁸ Established Fact 22 (Decision of the Panel dated 13 December 2007).

³¹⁹ Established Fact 24 (Decision of the Panel dated 13 December 2007).

³²⁰ Witness Joseph Kingori (8 September 2008).

306. All the time prior to the launch of the attack on Srebrenica and during the attack, UN sent regular reports on the condition of the BiH UN Mission in this area, updating the authorities on the situation in the Srebrenica enclave. Thus, the report sent on 7 July 1995 urges “that activities be undertaken to prevent the bloodshed and damage to the civilian property in the UN safe area”.³²¹ The UN Report sent on 8 July 1995 reads that the situation in terms of water and electricity supply was critical. This report clearly shows that since the early morning hours of 8 July the VRS forces continued shelling the area near the town and densely populated settlements around Srebrenica, including Potočari, in furtherance of one of the goals *i.e.* to put the area under the control of the VRS.³²²

307. VRS continued their engagement into 9 July 1995. That day President Karadžić issued a new order in which he gave the green light for Srebrenica to be taken.³²³ Soon the situation became critical for the civilian and military leadership of Srebrenica. By the evening of the same day the VRS Drina Corps was already four kilometers inside the territory, stopping just one kilometer away from the town of Srebrenica.³²⁴

308. In the early morning hours of July 10, the VRS forces continued advancing toward Srebrenica, which meant advancing toward the UNPROFOR’s positions, *i.e.* Bravo Company which was the sole unit of any significance between Srebrenica and the VRS forces. Colonel Karremans dispatched urgent requests for NATO air support for defence of the town but no support was sent before the afternoon of July 11.³²⁵

309. Butler’s report also indicates that the VRS troops pushed the Dutch Bat back toward the town proper. The same report indicates that the 10th Sabotage Detachment had reached the southern entrance to Srebrenica.

310. When the defense in the southern part began to give in, about 4.000 residents – Bosnian Muslims living in the nearby Swedish refugee residential compound fled to the town of Srebrenica.³²⁶

311. Many witness testimonies and documentary evidence both indicate that tactical shelling of the area in and around Srebrenica forced the population to head to Srebrenica proper, knowing that

³²¹ T-869 UNMO Report Dossier ERN 00527568 dated 9 July 1995 (“Collection of UNMO Reports”).

³²² T-869 Collection of UNMO Reports dated 9 July 1995.

³²³ Established Fact 27 (Decision of the Panel dated 13 December 2007).

³²⁴ Established Fact 26 (Decision of the Panel dated 13 December 2007).

³²⁵ Established Fact 28 (Decision of the Panel dated 13 December 2007).

³²⁶ Established Fact 25 (Decision of the Panel dated 13 December 2007); T-869 (Collection of UNMO Reports dated 9 July 1995).

the civilians would seek shelter from UNPROFOR which was quartered in the PTT building, stirring fear of uncertainty and panic among the population.³²⁷

312. Witness Mirsada Malagić, who lived in the town of Srebrenica as a refugee, described the situation after the attack was launched. She pointed out that at the time of the attack all the civilians headed to the town of Srebrenica which was overcrowded, indicating that every apartment, house or a shed was packed and that the people had nowhere to go. The witness stated that nobody felt safe to sleep or stay at home and that thousands of people were in the streets.³²⁸ Witness Mevludin Orić also indicated that Srebrenica proper was crammed with civilians. Witness A-16 stated that the VRS shelling tightened the siege around Srebrenica.³²⁹ Testimonies of witnesses A-9, A-25, A-27 confirmed this as well as witness Pieter Boernig.³³⁰ Military Observers' Report states that the population from the surrounding areas had fled to Srebrenica proper as their villages were razed to the ground and the civilians expelled.³³¹

313. The attack targeted around 40,000 civilians living in the enclave at the time of the attack on Srebrenica.³³²

314. VRS continued its attack on Srebrenica on 11 July. At 14:30 hours of the same day, NATO bombed the VRS tanks advancing towards the town. NATO however gave up on their further activities after the VRS threatened to kill the Dutch troops they held in captivity and shell the UN base in Potočari with about 20,000 civilians in it.³³³

315. As the situation in Srebrenica progressively deteriorated, fearing for their fate, the population of the enclave headed in the direction of the Dutch Bat's Potočari Base in search for protection.

316. Between 20,000 to 25,000 refugees gathered in Potočari by the evening of that day.³³⁴

317. At the same time, since the night of 10 July, with a part of the 28th Division, the men started gathering in the area of the villages of Šušnjari and Jagličići. Between 10,000 and 15,000 men, both

³²⁷ Witness Joseph Kingori (8 September 2008).

³²⁸ Mirsada Malagić (4 February 2008).

³²⁹ Witness A-16 (29 January 2008).

³³⁰ T- 890, Witness A-27 *Stupar et al.* Testimony: T-914, Witness A-25 *Stupar et al.* Testimony; T-919 Witness A-9 *Miloš Stupar et al* X-KR-05/24 Testimony dated 05 October 2006 ("Witness A-9 *Stupar et al.* Testimony"); T- 872, Witness Pieter Boering *Popović* Testimony.

³³¹ T- 869 (Collection of UNMO Reports dated 9 July 1995).

³³² Established Fact 4 (Decision of the Panel dated 13 December 2007).

³³³ Established Fact 28 and 30 (Decision of the Panel dated 13 December 2007); T-813 (Butler Narrative Report).

³³⁴ Established Fact 33 (Decision of the Panel dated 13 December 2007); T-1056 (Srebrenica Trial Video).

civilians and soldiers, formed a column in an attempt to reach the territory under the ARBiH control.³³⁵

318. VRS forces entered the town of Srebrenica on 11 July 1995; the town was deserted at that point.³³⁶

319. On 14 July 1995, Radovan Karadžić issued a decision declaring the state of war in the Srebrenica Municipality.³³⁷

320. The Panel acknowledges the Prosecution's claim that the attack the VRS launched on the Srebrenica safe area was widespread and systematic in its nature and directed against the civilian Bosniak population. Widespread or a widely spread attack is defined as involving a crime that can be widespread or committed on a large scale "due to either a cumulative effect of a series of inhumane acts or a singular effect of an inhumane act of extraordinary magnitude".³³⁸

321. A systematic attack is defined as involving "patterns of crimes – that is the non-accidental repetition of similar criminal conduct on a regular basis".³³⁹

322. In accordance with the aforementioned definition of the attack, all actions of the VRS army and MUP units have the characteristics of a widespread and systematic attack. That is to say, an attack on the safe area began with a shelling of both Srebrenica and the surrounding villages which continued unabated for several days. The shelling was followed by the military capture of Srebrenica that resulted in the flight of Bosniak civilians from the area. One part of the population, between 20,000 and 30,000 of them, fled to the UN base in Potočari, and the other part, around 15,000 persons (mostly men) set out on a journey through the woods to reach the free territory. Bosniak population was the target of the attack, in as much as the women, children and the elderly were subjected to unbearable living conditions in Potočari, and then forcibly transferred, and the men in as much as the column in which they were moving was the target of shelling, ambushes and executions. As a consequence of this attack, the Bosniak population disappeared from the Srebrenica safe area.

³³⁵ T-813 (Butler Narrative Report), para 3.22; T-1056 (Srebrenica Trial Video).

³³⁶ T-1056 (Srebrenica Trial Video).

³³⁷ T-813 (Butler Narrative Report) Attach. to the Exhibit no. 0084-5443-0084-5443 (Decision of the Republic President, Radovan Karadžić to Declare the State of War in the Srebrenica – Skelani Municipality dated 14 Jul 1995).

³³⁸ *Prosecutor v. Kordić and Čerkez*, IT-95-14/2-T, Judgment, 26 February 2001, ("Kordić and Čerkez Trial Judgment") para. 179.

³³⁹ *Prosecutor v. Kunarac et al*, IT-96-23/1-A, Judgment, 12 June 2002, ("Kunarac et al Appeal Judgment") para. 94.

323. The attack on the Srebrenica safe area was also systematic. Before the launching of the attack, preparations were made when different orders and directives were issued by the VRS military leadership. A number of activities were undertaken that created unbearable living conditions in Srebrenica by way of humanitarian aid restrictions, water, electricity and medical aid shortage. An order for general mobilization was issued and the combat readiness was raised to a high level. The attack that followed after months of preparations was carried out according to a specific plan *i.e.* by shelling the surrounding villages in order for the Bosniak population to gather in a small territory in the Srebrenica proper, stirring fear and panic. All the events following the military taking of Srebrenica were organized and carried out in an equally systematic manner. Women, children and elderly were transported by buses and trucks, while all men were subjected to an identical pattern of treatment. They were imprisoned, transported to the places of detention and then killed in the same manner, from firearms, and thereupon buried in mass graves and then reburied in secondary graves.

324. Bearing in mind the fact that the Bosniak population lived in Srebrenica until July 1995, that the killings of Bosniaks were committed even after 19 July, and that reburials continued until 30 November 1995, the Panel finds that a widespread and systematic attack was carried out on the Bosniak civilian population both inside and outside the Srebrenica safe area. Both VRS military units and MUP units deployed in the area of Srebrenica from 10 July took part in the attack. Although these findings of widespread and systematic attack are not necessary to the crime of genocide, they are important in understanding the conflict in which the crime occurred.

3. Forcible Transfer

325. A consequence of the takeover of Srebrenica on 11 July 1995 by the VRS was the flight of the Bosniak population from the town and its surrounding villages, that is, as noted earlier, the gathering of over 20,000 persons in the UN base in Potočari. The witness Pieter Boernig described the situation in Potočari in the following words: “It was an enormous crowd of people waiting aimlessly.” Several thousands were pressed inside the UN compound, while the rest were spread throughout the surrounding factories and fields. Conditions in Potočari were deplorable. Witnesses A-16, Mirsada Malagić, Ćamila Omanović, as well as members of the Dutch Battalion spoke of the round-up of the population in Potočari and the conditions there, as well as the fear of uncertainty which they felt, as confirmed by a number of established facts.³⁴⁰ In her testimony, the witness Mirsada Malagić spoke of a general commotion, children in distress, hungry, wet. The witness

³⁴⁰ Established Fact 33, 34, 35 and 36 (Decision of the Panel dated 13 December 2007).

Ćamila Omanović said that men were separated from the crowd: “it was a horrible atmosphere; you could hear cries of a woman giving birth; and cries of a woman who went mad”.³⁴¹

326. Faced with the new situation regarding the population that had gathered in Potočari, Radovan Karadžić, President of Republika Srpska, issued a directive appointing Miroslav Deronjić as Civilian Commissioner for Srebrenica. In one part of the Directive, it is noted that the Commissioner will ensure a free choice of place of residence and relocation, while all those who fought against the VRS shall be treated as prisoners of war.³⁴²

327. In order to resolve the issue of refugees, three meetings were held at the Hotel Fontana in Bratunac. The first meeting was held on the evening of 11 July around 20:30 hours, attended by commanders of the VRS and UNPROFOR representatives.³⁴³ At this meeting, General Mladić requested that the presence of Bosniak representatives also be ensured. The second meeting commenced around 23:00 hours on the same day when Nesib Mandžić, in capacity of a Bosniak representative, came to the meeting together with UNPROFOR representative Major Pieter Boering.³⁴⁴ The meeting was also attended by the Civilian Commissioner for Srebrenica, Miroslav Deronjić. On the occasion, Mladić clearly underlined the following to the Bosniak representative: “I need to have a clear position ... of the representatives, on whether you want to survive, stay or disappear”.³⁴⁵

328. The third meeting was scheduled to take place on 12 July at 10:00 hours, at which Mladić requested that more Bosniak representatives be brought to attend. Nesib Mandžić, Ćamila Omanović and Ibro Nuhanović attended that meeting.³⁴⁶ Miroslav Deronjić, as the Civilian Commissioner to whom Karadžić told to attend the meeting, presented three options offered by Karadžić, that is, for Bosniaks to stay in Srebrenica, to go to third countries or to go to Kladanj. However, Mladić disregarded his words and rudely interrupted him. General Mladić reiterated his message to the Bosniak representatives that they could either survive or disappear. In order to survive, the ARBiH forces should lay down their weapons and surrender, while the screening of all men was necessary so as to see if there were any war criminals amongst them.³⁴⁷ On the other hand, he said: “There is no need for your people to get killed, your husbands, your brothers, or your

³⁴¹ T-959, Witness Ćamila Omanović, *Prosecutor v. Krstić*, IT-98-33-T., Testimony of 23 March 2000 (“Witness Ćamila Omanović *Krstić* Testimony”)

³⁴² T-813 (Butler Narrative Report), para. 4.1.

³⁴³ T-872, Witness Pieter Boering *Popović* Testimony, p. 1942; T-1056 (Srebrenica Trial Video).

³⁴⁴ T-872, Witness Pieter Boering *Popović* Testimony, p. 1952.

³⁴⁵ T-813 (Butler Narrative Report), para. 4.8.

³⁴⁶ T-959, Witness Ćamila Omanović *Krstić* Testimony, p. 1093.

³⁴⁷ T-959, Witness Ćamila Omanović *Krstić* Testimony, p. 1098; T-1056 (Srebrenica Trial Video).

neighbours. All you have to do is say what you want. On handing over the weapons, you may chose to stay in the territory or if it suits you, you may go wherever you want. The wish of every individual will be observed, no matter how many of you there are...When the weapons are handed over each individual will go wherever he says he wants to go...³⁴⁸

329. Although the transport of the population was discussed in previous meetings, at this meeting, a final agreement was reached to transfer the population to the territories controlled by the ARBiH. Mladić also added that the VRS would provide buses, while UNPROFOR would take care of the fuel so as to enable a successful transport of the population.³⁴⁹

330. Soon thereafter, the VRS started to arrive in Potočari to search and secure the area. The witness Pieter Boernig testified that when he came to Potočari after the third meeting, buses had already been there and the boarding of the people was already underway, despite the agreement that each bus would be escorted by members of the Dutch Battalion, which was not observed.

331. In Potočari on 12 and 13 July, officers of the Command of the Drina Corps and the Corps units oversaw the transport of civilians from the area, which was in the area of responsibility of the Bratunac Brigade.³⁵⁰ On the other hand, from the morning of 12 July, VRS forces began gathering men aged 16 to 60 years from among refugees in Potočari and holding them in separate locations.³⁵¹ The process also involved RS MUP units.³⁵² The VRS and MUP, walking among the Bosnian refugees, were separating all Bosnian Muslim men aged 16 to approximately 60 or 70 from their families.³⁵³ The separations continued on 13 July as well.³⁵⁴ The witness Ćamila Omanović testified that they all started moving towards buses; entire families were attempting to save themselves, but at the entrance to the buses, they began with separation of men, without them being aware of either reasons or criteria for separation. Mirsada Malagić said that there was a crowd of soldiers at the very barricade at the entrance to buses and trucks, making sure that they would not miss anyone, for they would only allow entrance to women and children. Each man was separated to the left-hand side and directed to a house. They had to leave their backpacks on a pile. Her father-in-law was 70, and he too was separated. Momir Nikolić received instructions from Mladić

³⁴⁸ T-1056 (Srebrenica Trial Video).

³⁴⁹ T-1056 (Srebrenica Trial Video).

³⁵⁰ Established Fact 37 (Decision of the Panel dated 13 December 2007).

³⁵¹ Established Fact 43 (Decision of the Panel dated 13 December 2007).

³⁵² On 10 July 1995, the RS MUP ordered the formation of a special unit from parts of the MUP, that is, to comprise several units which took part in the Sarajevo war arena. Ljubiša Borovčanin was appointed Commander of joint units, and this unit was ordered to gather in Bratunac on the 11th, where Ljubiša Borovčanin was supposed to get in touch with the Chief of Staff of the Drina Corps.

³⁵³ Established Fact 41 (Decision of the Panel dated 13 December 2007).

³⁵⁴ Established Fact 42 (Decision of the Panel dated 13 December 2007).

to coordinate the transport from Potočari. He personally saw that the VRS forces intimidated and abused the population, forcing them to board the buses and trucks.³⁵⁵ The witness Leendert Van Duijen, whose testimony was admitted in transcript, said the following in his evidence: “People sat in their own faeces. They were injured, wounded; to stay was not an option for them, without food, without water, and it was clear that they had to leave and leave fast”.³⁵⁶

332. Bearing in mind the established fact that the attack affected 40,000 people who lived within the Srebrenica enclave, and that the town of Srebrenica was completely empty after the attack,³⁵⁷ therefore the Panel concludes that the forcible transfer of 40,000 residents from the Srebrenica enclave was a consequence of the attack on Srebrenica.

333. On 12 and 13 July 1995, the women, children and elderly were bussed to the territory near Kladanj,³⁵⁸ and the transport was completed on the evening of 13 July.³⁵⁹ This was a major operation with the participation of the VRS and the RS MUP forces. Witness Čamila Omanović described the entire process of transfer as: “that we were faced with a situation where everything had been prepared in advance, that there was a team of people working in an organized manner”.³⁶⁰

334. There are many facts leading to a conclusion that the plan of “liberation” of Srebrenica in terms of military takeover had further objectives.³⁶¹ The Prosecution witness Miroslav Deronjić, who testified before the ICTY and whose evidence was admitted by the Panel, said that he met with Karadžić on 8 or 9 July 1995, who told him then: “Miroslav, those people they should all be killed”, and added “[w]herever you can, you have to kill.” He then added the following sentence: “Western Slavonia principle”. Deronjić explained he knew what this implied since prior to the events in Srebrenica, during their attack in the area of Western Slavonia, Croats killed whatever they found on their way, including civilians and the column in flight.³⁶² Witness Joseph Kingori testified that in June 1995, he was called to a meeting in Bratunac, where he was told to convey to Bosnian Muslims that the VRS would take over the enclave, and that they should all agree to a safe passage

³⁵⁵ T-868 (Momir Nikolić Sentencing Judgement and Agreed Facts No. IT-02-60-PT dated 6 may 2003) (“Momir Nikolić Sentencing Judgment and Statement of Facts”).

³⁵⁶ T-927, Leendert Van Duijn *Popović* Testimony on 27 September 2006, p. 2300.

³⁵⁷ Established Fact 31 (Decision of the Panel dated 13 December 2007).

³⁵⁸ Established Fact 38 (Decision of the Panel dated 13 December 2007).

³⁵⁹ Established Fact 39 (Decision of the Panel dated 13 December 2007).

³⁶⁰ T-959, Witness Čamila Omanović *Krstić* Testimony, p. 1139.

³⁶¹ T-1056 (Srebrenica Trial Video). News broadcast reporting on the “liberation” of Srebrenica.

³⁶² T-957, Witness Miroslav Deronjić *Momir Nikolić* Sentencing Hearing Testimony p. 1565.

or otherwise, they would all be killed. He also said: “we could not trust them and we did not expect Muslims to trust them either”.³⁶³

335. It was evident that the meetings in the Hotel Fontana were only a cover for actions planned already in advance, and that the agreement on the transfer of the entire population located in Potočari was not a result of the agreement reached at those meetings between General Mladić, civilian and UNPROFOR representatives. Unfavourable conditions in Potočari at the time did not provide for any other alternative but to leave. Even the messages sent to Bosniaks by General Mladić through their representatives clearly indicated that they had no other choice but to leave, while everything else was done for the purpose of concealing the plan due to the fear of international condemnation. To that aim, that is, in order to make false propaganda, General Mladić came to Potočari, among the gathered people and said that nothing would happen to any of them, that they would all be evacuated and that they would all reach the free territory.³⁶⁴

336. General Robert Franken, an army officer, who gave evidence in *Krstić* and whose testimony was admitted in transcript by the Panel, testified that there were between 25,000 to 30,000 people in Potočari, and that the preparation of the transfer was a major logistics endeavour. Based on the following, it can be inferred that the preparations for the transfer of such a mass of people must have started prior to the conclusion of the meeting held on 12 July. Many facts speak in favor of such inference. Witness Joseph Kingori also agreed with this assessment.³⁶⁵

337. Namely, at 07:30 hours on 12 July, General Major Krstić issued an order to Krsmanović to provide 50 buses from the area of Pale, Višegrad, Rogatica, Sokolac, Han Pijesak, Vlasenica, Milići, Bratunac and Zvornik, to be in Bratunac by 17:00 hours.³⁶⁶ On the same day, the RS Ministry of Defence requested requisition of buses in municipalities of Milići, Zvornik, Višegrad, Vlasenica, Milići and Bratunac, to be brought to the sports stadium in Bratunac.³⁶⁷ Not even fuel was the problem since according to evidence, Miroslav Deronjić started with preparations for Srebrenica as early as in May, after Karadžić gave him certain indications, and he accordingly procured fuel supplies. Furthermore, pursuant to the order to ensure 50 buses for evacuation from the Srebrenica enclave, the Drina Corps on the morning of 12 July at 10:00 hours requested

³⁶³ Witness Joseph Kingori (8 September 2008).

³⁶⁴ Witness Mirsada Malagić (4 February 2008).

³⁶⁵ Witness Joseph Kingori (8 September 2008).

³⁶⁶ T-813 (Butler Narrative Report), Annex (Intercepts between Krstić and Krsmanović over military phone on 12 July 1995, at 7:35)

³⁶⁷ T- 813 (Butler Narrative Report), Annex No. 0062-7878-0062-7878 (Request for requisition of buses dated 12 July 1995).

additional 12,000 litres of fuel from the VRS Main Staff.³⁶⁸ This fact was confirmed also by Momir Nikolić. On 12 July, prior to the meeting in the Hotel Fontana, Momir Nikolić met Vujadin Popović, Chief of Security of the Drina Corps, who told him already at that point that all women and children from Potočari would be bussed from there in the direction of Kladanj.³⁶⁹

338. Even the agreement regarding the transport of the *entire* population was a cover, for despite the promises made by General Mladić that it was only necessary to do a screening of men in order to establish whether there were war criminals among them, it had already been agreed that men would be separated, transported to temporary detention sites, and then killed. So in the first convoys that left from Potočari, several men would be left on buses for the reasons of propaganda and TV cameras, only to be later on singled out at check points.³⁷⁰ At the same time when Popović informed Momir Nikolić about the plan of evacuation of women, children and the elderly, he also presented him with the plan that able-bodied men who were in the crowd of civilians would be separated, temporarily detained in Bratunac and killed soon thereafter.³⁷¹

339. With the aim to deceive the public, on 17 July 1995, Deronjić made a statement about the evacuation of the population from Potočari. The statement indicated that the negotiating sides agreed that the population: “could stay in the enclave or move out, depending on the wish of each individual, should we wish to move out from the enclave we could choose where we wanted to go, we decided that the entire civilian population move out of the enclave and be evacuated to the territory of Kladanj municipality.” The statement was signed by Nesib Mandžić, the UNPROFOR representative Robert Franken and Miroslav Deronjić.³⁷²

340. The idea of misrepresentation of the situation appeared in other documents as well, and for other aims. On 13 July 1995, Colonel Radoslav Janković reporting about the evacuation of the population and the condition of the wounded, proposed that media coverage of the Srebrenica operation was necessary for the purpose of taking over the enclaves of Goražde and Žepa: “so that it is seen that we provided adequate treatment of the population, even for combatants who had surrendered their weapons.”³⁷³

³⁶⁸ T-138 (Request of the Drina Corps Command sent to the VRS Main Staff, confidential No. 21/6-686 dated 12 July 1995).

³⁶⁹ T-868 (Momir Nikolić Sentencing Judgment and Statement of Facts), Annex A, para. 4.

³⁷⁰ T-868 (Momir Nikolić Sentencing Judgment and Statement of Facts), Annex A, para. 6.

³⁷¹ T-868 (Momir Nikolić Sentencing Judgment and Statement of Facts), Annex A, para. 4 .

³⁷² T- 813 (Butler Narrative Report), fn. 235 (Statement of RS Civilian Affairs Committee for Srebrenica No. 07-27/95, 17 July 1995).

³⁷³ T- 813 (Butler Narrative Report), Annex No. 0066-3716 (Letter dated 13 July 1995, sent to the Drina Corps and the Main Staff).

D. GENOCIDAL PLAN: EVENTS PRIOR TO AND THROUGH 12 JULY 1995

341. The Panel has not been provided with sufficient evidence to be able to infer at the exact point in time the execution plan was conceived, but the evidence presented during the proceedings is sufficient for the Panel to reach a conclusion on the existence of a plan to execute Bosniak men from the area of Srebrenica, considering the efficient, organized and uniform manner in which they were treated. The same actions were taken in the respective plans applied to Bosniak men within the mass of people who gathered in Potočari and to Bosniak men in the column attempting to reach the territory under the control of the ARBiH, these actions include the separation of men from women and children, forcing the surrender of men from the column, shelling the column, laying ambushes, gathering and transfer of the men to the sites designated for execution and finally, individual killings and organized executions. This is corroborated by ample evidence in the case, which will be further reasoned in the text of the Verdict that follows.

1. Bratunac Brigade

342. After the attack on Srebrenica was launched on 6 July, Deronjić visited Karadžić on 8 or 9 July in Pale where they discussed Srebrenica. Karadžić said “Miroslav, those people they should all be killed”, and added “[w]herever you can, you have to kill.”³⁷⁴ He was referring to the prisoners.³⁷⁵

343. In the days that followed, there was a range of events aimed at the preparation of execution. Specifically, simultaneously with the preparations for evacuation of women, children and elderly persons, the preparations for execution of men began. Several events pertaining to Bosniak men happened between the evening of 11 July and during 12 July.

344. Karadžić issued two orders, that is, directives related to Srebrenica. The first directive appointed Miroslava Deronjić as the "Civilian Commissioner for the Serbian Municipality of Srebrenica"³⁷⁶, and the second order ordered the formation of a Public Security Station for Serb Srebrenica.³⁷⁷ The second order stated that citizens who engaged in combat be treated as prisoners of war. This order did not make distinction between men in terms of their age, instead, under the pretext of screening for the presence of the war criminals, all men were to be brought in.

³⁷⁴ T-957, Witness Miroslav Deronjić *Momir Nikolić* Sentencing Hearing Testimony, p. 1565.

³⁷⁵ T-957, Witness Miroslav Deronjić *Momir Nikolić* Sentencing Hearing Testimony, p. 1567.

³⁷⁶ T-813 (Butler Narrative Report), para. 4.1.

³⁷⁷ T-813 (Butler Narrative Report), Radovan Karadžić's Order of 11 July 1995, (0084-5439-0084-5440).

345. At the same time, it was estimated as to how many men were there in the mass of people in Potočari. On 11 July 1995, Chief of Intelligence and Security of the Bratunac Brigade, Momir Nikolić wrote up a report chronicling all the relevant intelligence and security information of the day including the estimate of 1,000 to 2,000 able-bodied Muslim men in Potočari, and forwarded that report to his command and to the intelligence and security officers of the Drina Corps who he knew were present at the Hotel Fontana in Bratunac.³⁷⁸

346. Until the evening of 11 July, some of the VRS senior officers, including Krstić and Mladić, were in a meeting in Bratunac, where tasks were given.

347. Also, Zvornik CJB Chief, Dragomir Vasić noted that a meeting was held at the command of the Bratunac Infantry Brigade by 08:00 hours on 12 July 1995, before the meeting at the Hotel Fontana at which Generals Mladić and Krstić were present, and when tasks were assigned to all participants.³⁷⁹

348. For the purpose of the plan implementation, a certain number of trucks and buses were required to be sent to the Bratunac sports stadium. On 12 July 1995, at 09:50 hours, the Main Staff of VRS issued an order to mobilise from Pale, Sokolac, Rogatica, Visegrad, Han Pijesak, Vlasenica, Milići, Bratunac and Zvornik all available buses in these municipalities which must be sent to Bratunac Sports Stadium by 14:30 on 12 July 1995 at the latest.³⁸⁰

349. In addition, it was necessary to also ensure a large number of persons to take part in the implementation of this plan. In this regard, Deronjić emphasised that many young or elderly men were mobilised during the night to secure the buses arriving in Bratunac. The realisation of the operation of capturing, detaining and killing of Bosniak men from Srebrenica required manpower. The MUP unit which had already been re-subordinated by the 10 July 1995 order also served the purpose. The order by the RS Ministry of the Interior of 10 July 1995 required the formation of a special unit comprising parts of MUP from several units that participated in the Sarajevo theater of war. Ljubiša Borovčanin was appointed the commander of the joint forces, and that unit was ordered to gather in Bratunac on 11 July, where Ljubiša Borovčanin was supposed to contact the Chief of Staff of the Drina Corps.³⁸¹ On 13 July 1995, in order to engage as many men as possible,

³⁷⁸ T-868 (Momir Nikolić Sentencing Judgment and Agreed Facts).

³⁷⁹ T-813 (Butler Narrative Report), para. 4.10.

³⁸⁰ T-417 (Request of the Main Staff of VRS for Mobilisation of Buses of 12 July 1995).

³⁸¹ T-97 (RS MUP Order 64/95 of 10 July 1995); T-813 (Butler VRS Main Staff Command Report, dated 5 April 2000), para. 6.4. The VRS Organisation section of the Verdict provides an explanation of re-subordination of the MUP units to the armed forces of Republika Srpska.

the Drina Corps issued an order to all subordinated units to mobilise men from the surrounding villages, that is, "all those capable of carrying a rifle".³⁸²

350. Based on the presented evidence, the Panel inferred that the Bratunac execution plan did exist and that the preparations were made to that end which, as already stated, reflected in securing of buses and engagement of additional manpower. Furthermore, the locations for temporary detention of prisoners were also identified. With regard to the pre-determined fate of Bosniak men, Deronjić himself stated that he had recalled what Karadžić said in the Pale meeting of 9 July that all Muslim male prisoners should be killed.³⁸³

351. Nikolić stated that in the morning of 12 July in Bratunac, he met with Lt. Colonel Vujadin Popovic, Chief of Security, Drina Corps, and Lt. Colonel Kosorić, Chief of Intelligence, Drina Corps, and that at that time Lt. Colonel Popović told him that the able-bodied Muslim men within the crowd of Muslim civilians would be separated from crowd, detained temporarily in Bratunac, and killed shortly thereafter, and that women, children and elderly would be transported toward the territory near Kladanj.³⁸⁴

352. On that occasion, Nikolić was tasked to help coordinate and help organize this operation, and discussed with Kosorić the appropriate locations to detain the Muslim men prior to their execution. Nikolić identified several specific areas: the Old Elementary School "Vuk Karadžić" (including its gym), the old building of the Secondary School "Đuro Pucar Stari", and the Hangar (which is 50 meters away from the old Secondary School). Miroslav Detronjić confirmed that the buses had been parked downtown and people had been taken to the sports stadium, hangar and the school "Vuk Karadžić". They discussed two locations which were outside Bratunac town. These were: State company "Ciglane" and a mine called "Sase" in Sase.

353. The Panel found that Momir Nikolić received the information and was assigned the task before the third meeting at the Hotel Fontana at which the transportation of the population was finally agreed and at which Mladić warned that men would be checked to ensure that there were no prisoners of war among them. This clearly follows from Exhibit T-868, that is, Statement of Facts and Acceptance of Responsibility of Momir Nikolić, which states that after the conversation, Nikolić waited around the Hotel Fontana, and at the end of the third meeting Colonel Jankovic told him to coordinate the transportation.

³⁸² T-146 (Drina Corps Order of 13 July 1995).

³⁸³ T-957, Witness Miroslav Deronjić *Momir Nikolić* Sentencing Hearing Testimony, p. 1565.

³⁸⁴ T-868 (Momir Nikolić Sentencing Judgment and Agreed Facts), Annex A, para. 4.

354. At the main trial, the Panel examined Momir Nikolić as a witness and, at the main trial, he confirmed the facts stated in the plea agreement, but he denied his role in coordination of the organization and pointed out his disagreement with that part of the plea agreement. The Panel did not accept the arguments of the witness Momir Nikolić, because those were the facts with regard to which Momir Nikolić entered into the plea agreement with the ICTY Office of the Prosecutor, wherein he stated that he went through it with his Defence Counsel and that he had been warned of the consequences thereof, and entered into it by his own choice, voluntarily and consciously.

355. The Panel found that it was exactly a part of the task related to prisoners of war, that is the issue of coordination during imprisonment and killings, that was completed through the Intelligence and Security, which is also corroborated by the Drina Corps Order of 2 July 1995 pertaining to the *Krivaja 95* operation, by which the security and military police officers were tasked with gathering and securing the prisoners of war, wherein they should have acted in compliance with the Geneva Conventions.³⁸⁵

356. After the preparations were made, the round up of Bosniak men began. Thus, on 12 July 1995, after the third meeting at the Fontana Hotel, the separation of men, calls to surrender, laying ambushes, shelling of the column of men heading towards Tuzla began with the sole aim of transferring them to temporary detention and then to execution sites. Most of the Bosnian Muslim men separated at Potočari and captured from the woods were held in Bratunac for one to three days before being transferred to other detention and execution sites.³⁸⁶

2. Potočari

357. The implementation of the execution plan began with the separation of men in Potočari. It was mentioned in paragraph 338 that in Potočari the men were separated under the pretext of screening for war criminals. The separation began from the morning of 12 July and the men were held in separate locations.³⁸⁷ The VRS and MUP, walking among the Bosnian Muslim refugees, were separating all Bosnian Muslim men aged 16 to approximately 60 or 70 from their families.³⁸⁸ Witness Mile Janjić also testified about the participation of the MUP units, apart from military, in

³⁸⁵ T-223 (Drina Corps Order for active combat activities No. 04/156-2 to separate and reduce in size the Srebrenica and Žepa enclaves and to create conditions for their elimination dated 2 July 1995).

³⁸⁶ Established Fact 50 (Decision of the Panel dated 13 December 2007).

³⁸⁷ Established Fact 43 (Decision of the Panel dated 13 December 2007).

³⁸⁸ Established Fact 41 (Decision of the Panel dated 13 December 2007).

an ICTY case³⁸⁹, and the Panel accepted the transcript of his testimony by its Decision of 28 February 2008. The separations continued throughout 12 and 13 July.³⁹⁰ Witness A-16 described the manner in which she had been separated from her brother Potočari, whom she has never seen again.³⁹¹

358. Witness Mirsada Malagić stated that soldiers dressed in camouflage uniforms were standing by the buses. They were preparing to depart from Potočari. They were told to get in the buses. The soldiers then separated the men from the women and children. The women and children went to the left towards the buses, while men proceeded straight towards one house. She also stated that men had had to abandon all their belongings at this point.³⁹² Witness A-42 stated that elderly men, very young men and middle-aged men were separated.³⁹³

359. On the ground of the presented evidence, the Panel was not capable of determining the accurate number of Bosniak men who were taken away from Potočari. According to the established facts, there were about 1,000 men in Potočari, who were transferred to Bratunac.³⁹⁴ Witness Momir Nikolić stated that, on 11 July in the evening, he forwarded a report which provided an estimate of 1,000 to 2,000 men in Potočari. Robert Franken also testified at the ICTY that they began to separate men between 16 and 60 years. According to his estimate, there were 500 to 600 men inside the compound, and between 600 and 900 men outside the compound. He pointed out there is nothing wrong, at least initially with this because it is a normal procedure when you have a great amount of prisoners, to separate them, nevertheless, his concern was what was going to happen to these men.³⁹⁵ This witness stated that there was a list of the major part of the males in the compound in Potočari between 16 and 60 years. They registered their name, year of birth, and place of birth, to give them an identity and protection. The witness stated that he assumed that the men would not head towards Kladanj and that he therefore wanted to protect them. The Serb forces were notified of the list and it was also forwarded to the UN headquarters and the Crisis Staff in The Hague which was the headquarters of the Dutch Battalion, but the report ended up on a desk and it was lost. On the list were the names of 251 men.³⁹⁶ This testimony can be compared to the testimony of the witness Joseph Kingori, a UNMO, who frantically tried to take down the names of

³⁸⁹ T-965, Witness Mile Janjić *Prosecutor v. Popović* IT-05-88 Testimony of 20 November 2007 (“Witness Mile Janjić *Popović* Testimony”) pgs 17937-17938.

³⁹⁰ Established Fact 42 (Decision of the Panel dated 13 December 2007).

³⁹¹ Witness A-16 (29 January 2008).

³⁹² Witness Mirsada Malagić (4 February 2008).

³⁹³ Witness A-42 (28 January 2008).

³⁹⁴ Established Fact 45 (Decision of the Panel dated 13 December 2007).

³⁹⁵ T- 963, Witness Robert Franken’s *Prosecutor v. Krstić* IT-98-33, Testimony of 4 April 2000, (“Witness Robert Franken’s *Krstić* Testimony”) p. 2038.

³⁹⁶ T- 963, Witness Robert Franken’s *Krstić* Testimony, p. 2046.

men. He was only able to get a few names. He indicated there was no organized attempt made whatsoever to identify the men and obtain a comprehensive list.³⁹⁷

360. On the other hand, Butler's Narrative reports on the separation and vetting process within which a list was developed containing the names of Muslim men suspected of being involved in "war-crimes" against Serbs. This list contained the names of 387 Muslim men known by the Bratunac Brigade to be in the Srebrenica "safe area" and who were wanted for "war-crimes" activity.³⁹⁸ There is no evidence to corroborate if any of the men were vetted against this list or that any legitimate effort was made to identify the detained men.

361. At the same time, some of the men who were separated from the women, children and elderly in Potočari were taken to the White House for interrogation.³⁹⁹ On 13 July 1995, the Dutch Bat troops witnessed definite signs that the Bosnian Serbs were executing some of the Bosnian Muslim men who had been separated.⁴⁰⁰ Drina Corps officers were also seen in the vicinity of the White House during the time the separated men were detained there.⁴⁰¹

362. This Panel has also been presented with ample evidence about random executions and organized killings which were committed already in Potočari. Thus, witness A-16 stated that her brother was taken in a house in which she afterwards saw a large number of men. Among others, she saw Ševko Gabeljić in the house whose body was subsequently exhumed and identified. When she left the house in which the men were detained, she saw at least two trucks parked by the road and men who were forced onto them while being kicked and beaten with rifle butts.⁴⁰² Apart from being held in the White House, men were also kept in the area in front of the power sub-station.⁴⁰³ Witness Joseph Kingori testified that he came closer to the White House, but was prevented from entering.⁴⁰⁴ The testimony of this witness who did not manage to stop the practice of singling out of boys under 18 also corroborates that no difference was made in terms of age. Also, Major Van Dujin, a member of the Dutch Battalion, witness, testified that there was a clear view of the Serb soldiers singling out boys or old men that were too old or too young to be soldiers.⁴⁰⁵

³⁹⁷ Witness Joseph Kingori (8 September 2008).

³⁹⁸ T-813 (Butler Narrative Report), para. 5.20.

³⁹⁹ Established Fact 47 (Decision of the Panel dated 13 December 2007).

⁴⁰⁰ Established Fact 44 (Decision of the Panel dated 13 December 2007).

⁴⁰¹ Established Fact 48 (Decision of the Panel dated 13 December 2007).

⁴⁰² Witness A-16 (29 January 2008).

⁴⁰³ T-974, Witness Slobodan Mijatović, *Prosecutor v. Božić, et al*, X-KR-06/236 Testimony of 4 July 2007 ("Witness Slobodan Mijatović Božić, et al Testimony").

⁴⁰⁴ Witness Joseph Kingori (8 September 2008).

⁴⁰⁵ T-927, Witness Leendert Van Dujin, *Prosecutor v. Popović* IT-05-88, Testimony of 27 September 2006 ("Witness Leendert Van Dujin Popović Testimony") p. 2289.

363. The process of separation of men in Potočari was not over after the buses left, as the buses carrying the women, children and elderly headed north towards Bosnian Muslim-held territory, the VRS forces stopped them along the way and again screened for men.⁴⁰⁶

364. The Panel notes the events of Potočari have been the subject of numerous cases at the ICTY as well as the Court of BiH. These events are well documented by the findings in these cases as well as the voluminous evidence of this case.

3. Column

365. As the situation in Potočari escalated towards crisis on 11 July 1995, word spread through the Bosnian Muslim community that the able-bodied men should take to the woods, form a column together with members of the 28th Division of the ARBiH and attempt a breakthrough towards Bosnian Muslim-held territory to the north of the Srebrenica enclave.⁴⁰⁷ At around midnight on 11 July 1995, the column started moving along the axis between Konjevic Polje and Bratunac.⁴⁰⁸ Depending on the source of information used, between 10,000 and 15,000 people would ultimately be part of a "mixed" (military and civilian) column that would attempt to escape along this route.⁴⁰⁹ The column was formed of boys and men aged 16 to 65, but a small number of women, younger children and elderly mixed with them. Although at least a few men were uniformed and armed, the majority of men were civilians.⁴¹⁰

366. With regard to the column movement, during 11 and 12 July, Momir Nikolić, Chief of Intelligence and Security of the Bratunac Brigade, received the intelligence reports that the bulk of the men of military age from Srebrenica had assembled near the village of Jaglić and begun to move in a long column towards Konjevic Polje. The intercepted communications indicate that the VRS commanders began watching their movement. The Drina Corps Intelligence reported on 12 July 1995 that they intercepted radio communications of parts of the 28th Division, and that the enemy progressing should be surveilled and all steps taken to disable, bring out and capture the enemy soldiers and, if necessary, to kill them should they offer resistance.⁴¹¹ It is evident in the Drina Corps intelligence paper of 12 July 1995 that the VRS forces were aware of the column formed of men, women and children, and it was suggested that ambushes be laid to prevent their break

⁴⁰⁶ Established Fact 40 (Decision of the Panel dated 13 December 2007).

⁴⁰⁷ Established Fact 51 (Decision of the Panel dated 13 December 2007).

⁴⁰⁸ Established Fact 52 (Decision of the Panel dated 13 December 2007).

⁴⁰⁹ T-813 (Butler Narrative Report), para. 3.21.

⁴¹⁰ Established Fact 53 (Decision of the Panel dated 13 December 2007); T-1056 (Srebrenica Trial Video).

⁴¹¹ T-137 (Drina Corps Notification, No.17/897 of 12 July 1995).

through towards Tuzla.⁴¹² All the Drina Corps Units were at the highest level of combat readiness and they undertook all actions to carry out the *Krivaja 95* operation, while the military and MUP forces were engaged in ambushing “Muslim extremists” who did not surrender and who attempted to break through towards Tuzla.⁴¹³

367. The Panel examined several witnesses who testified about the column forming and how they survived. Although 15 years have lapsed, their testimony was credible and provided plenty of details. The essential facts of each story are the same. Thus, witness A-27, member of the ARBiH, stated in his testimony that the column had been formed in the area of Jagličići.⁴¹⁴ He said that the column was predominantly made of men, but there were women and children in it as well.⁴¹⁵ He pointed out that, being a member of the ARBiH, he did not dare to go to Potočari out of fear of what could happen to him, if captured there. He also stated that the majority of persons in the column were unarmed. Witness A-25, who was also in the column, stated during his testimony that the column was formed out of fear for the fate of Bosniak men because, as he put it, “they heard what they had done before, and whoever was captured had not survived to date, and they knew what they could expect if they went to Potočari.”⁴¹⁶ Witness Mevludin Orić joined the column on the morning of 12 July 1995, and was in the rear of the column.

368. However, the roads were already lined with Bosnian Serb armed forces, many MUP Units among them. These patrols were already along Kravice - Konjević-Polje road and the Konjević-Polje - Nova Kasaba road. The patrols opened fire at the column from artillery, machine guns and hand grenades.⁴¹⁷ Thus, witness Mevludin Orić stated that on their way to Tuzla, people in the column had to cross the road in Konjević Polje. However, the Konjević Polje road was blocked by members of the VRS and MUP Units, and he saw personnel carriers and tanks on the road during the day.

369. The column was constantly exposed to ambushes. Thus, according to witness Mevludin Orić, while passing through Kamenica, they would come across ambushes every 100 meters resulting in a certain number of people being killed. In addition, this witness stated that the column was shelled with hand-held rocket launchers' shells, impact rifle grenades, and shells. According to his estimate, about 500 people were killed in Kamenica. Witness A-27 also described the shelling

⁴¹² T-141 (Drina Corps Intelligence Report No.17/895 of 12 July 1995).

⁴¹³ T-143 (Notification of the Main Staff forwarded to the Republika Srpska President on 12 July 1995).

⁴¹⁴ T- 890, Witness A-27, *Prosecutor v. Stupar et al X-KR-05/25* Testimony (“Witness A-27 *Stupar et al* Testimony”).

⁴¹⁵ T-1056 (Srebrenica Trial Video).

⁴¹⁶ T-914, Witness A-25, *Prosecutor v. Stupar et al X-KR-05/25* Testimony (“Witness A-25 *Stupar et al* Testimony”).

⁴¹⁷ Established Fact 54 (Decision of the Panel dated 13 December 2007).

of the column saying that many people were wounded and killed as a result. Witness A-48⁴¹⁸ stated that unabated shelling began on 12 July in Kamenica and that his cousin Azmir Alispahić was with him in the column, whom he lost in the wood and whose body was identified in 2003. Witness A-49⁴¹⁹ stated that he abandoned the frontline and after a while joined the column, together with his son. The witness stated that the column was constantly exposed to ambushes and, while moving in the column he watched from the woods a line of about one hundred captives who had arrived from the Kravica direction near the bridge and turned left towards Milići, when fire was opened from armoured personnel carriers, one of which was a white UN personnel carrier, and the captives could not escape. Then, new captives were taken there and lined up among those dead, and these captives were killed in the same manner.

370. Only about one third of the men successfully made it across the asphalt road and the column was split in two parts.⁴²⁰

371. The largest groups of Bosnian Muslim men from the column were captured on 13 July 1995; several thousand were collected in or near the Sandići Meadow and on the Nova Kasaba football field.⁴²¹ Aerial reconnaissance photos confirm the presence of masses of people in these locations on 13 July 1995.⁴²² Many witnesses testified about being induced to surrender and that men were captured and transferred to the temporary detention sites, and that executions at massive-scale followed, which will be further elaborated in following text of the Verdict.

372. The VRS forces involved in the events related to the column had the possibility to open a corridor thus enabling the column to pass through without any fight. This was not sanctioned until 16 July 1995. After several thousands of Bosniak men had already been captured and executed on 16 July, a corridor was opened near Baljkovica to let about 7,000 women, children and men through.⁴²³ Testifying on his own behalf, Pandurević claims in his own trial that after negotiations with Semso Muminović, he decided to open a corridor and let the column go through. This was subsequently closed again by orders of Main Staff.⁴²⁴

⁴¹⁸ T-951 (Witness A-48 Statement to ICTY OTP on 4 December 2004) (Confidential).

⁴¹⁹ T-952 (Witness A-49 Statement to ICTY OTP on 18 and 21 January 1996) (Confidential).

⁴²⁰ Established Fact 57 (Decision of the Panel dated 13 December 2007).

⁴²¹ Established Fact 55 (Decision of the Panel dated 13 December 2007).

⁴²² Established Fact 56 (Decision of the Panel dated 13 December 2007).

⁴²³ T-195 (Main Staff's Report on the Battlefield Situation, No. 03/3-197 of 16 July 1995).

⁴²⁴ O-5, Pandurević *Popović* Testimony on 2 February 2009, p. 31010.

E. GENOCIDAL PLAN: EVENTS 13 JULY 1995 THROUGH 20 JULY 1995

373. Killings which occurred on 13 July 1995 took a variety of forms, namely, the shelling of the column, ambushes, killings during the induced surrenders and various individual and organized killings.

374. On the same day the Drina Corps issued an order to all subordinate units to organize 24-hour ambush activities along the Zvornik - Crni Vrh – Šekovići - Vlasenica road, in order to “prevent the passing of Muslim groups”.⁴²⁵ Many witnesses confirm this fact. Following the shelling of the column on 12 July, Witness A-25 wandered through the woods all night. With the morning light on 13 July he saw the dead, the ones who were killed as a result of the shelling and these first ambushes. On 13 July, following the surrender on the meadow in Sandići, Witness A-9 saw a tank firing at a rock. Many people from the column were near that rock.⁴²⁶ Witness A-27 also described seeing a tank shooting from the same meadow towards the woods through which the column was moving.⁴²⁷

375. In addition to the shelling and ambushing of the column, organized executions were committed as early as 13 July 1995.

376. The first execution took place in the Cerska valley, on 13 July 1995. On 13 July, at around 14:00 hours, a Bosnian Muslim man observed from the hill where he was hiding two or three buses leaving from Konjević-Polje towards Nova Kasaba. He saw the buses turning right off the asphalt road in the direction of the village of Cerska. Approximately five minutes later an excavator followed the vehicles. He lost sight of the vehicles when they turned around a bend, but after about 10 minutes he heard the sound of light arm and machine gun fire. The shooting lasted for about half an hour.⁴²⁸ This is the first organized execution mentioned in Richard Butler’s Report.⁴²⁹

377. Additionally, according to witness testimonies and affirmed findings in the *Stupar Miloš et al.* case, another organized killing of approximately 1,000 men took place on this date. People who were part of the column and who had surrendered along the Bratunac- Konjević Polje road,

⁴²⁵ T-146 (Drina Corps Order number 03/156-12 dated 13 July 1995).

⁴²⁶ T-919, Witness A-9, *Stupar Miloš et al.*, X-KR 05/24 (Court of BiH), Testimony of 5 October 2006, (“Witness A-9 *Stupar Miloš et al.* Testimony”) p. 11.

⁴²⁷ T-890, Witness A-27 *Stupar Miloš et al.* Testimony, pgs. 17 and 22; T-882, Witness Milenko Pepić, *Stupar Miloš et al.*, X-KR 05/24 (Court of BiH), Testimony of 7 September 2006, (“Witness Milenko Pepić *Stupar Miloš et al.* Testimony”) p.18.

⁴²⁸ Established Fact 6 (Decision of the Panel dated 5 February 2009).

⁴²⁹ T-813 (Butler Narrative Report), para. 6.26.

including those who were assembled on the Sandići meadow, were later executed in the afternoon and early evening hours of 13 July 1995, in the Kravica warehouse.⁴³⁰

378. One more organized killing took place that day in the area of the Jadar River. On the morning of 13 July 1995, 16 Bosnian Muslim men who were captured from the column were transported by bus to the Jadar River bank. They had been previously held in a building off the Konjević Polje road where they had been beaten and stripped of their belongings. Momir Nikolić in his statement of facts confirms that he saw men being detained in building in Konjević Polje.⁴³¹ He identified one of the guards as Nenad Deronjić.⁴³² One of the guards on the bus was a man named Deronjić. Deronjić was identified by the survivor witness who knew him. Among these prisoners was a 15 year old boy. After the men got off the bus they were lined up alongside the river. Four VRS soldiers, who escorted them in the bus, opened fire from their automatic rifles. One of the Bosnian Muslim men survived as he threw himself into the river after being shot.⁴³³

379. Moving towards the territory controlled by the Army of BiH, the column had to cross the main road along the Bratunac- Konjević Polje road.⁴³⁴ The last group of people from the column crossed the road in the morning of 13 July, at 06:00 hours, after which the road was blocked and impossible to cross.⁴³⁵ When the rest of the column, amongst them Mevludin Orić⁴³⁶, became aware that the road was blocked by VRS soldiers, they withdrew to a hill observing the APCs and tanks on the Konjević Polje road.

380. At the same time, during the same day, an UNPROFOR APC was moving along that road, calling people to surrender over the loudspeaker, saying: “Surrender, UNPROFOR is here. We will protect you, we will not harm you...”⁴³⁷ This was corroborated by the testimony of Witness A-25, who following the call for surrender, surrendered together with his father on the meadow in Sandići. Witness A-25 estimates that there were already about 1,000 men on the meadow.⁴³⁸ Witness A-27 also testified that people from the column, who survived the shelling and ambushes, finally decided

⁴³⁰ See generally findings in *Stupar Miloš et al.* First Instance Verdict; T-914, Witness A-25 *Stupar Miloš et al.* Testimony, p. 23; T-890, Witness A-27 *Stupar Miloš et al.* Testimony, p. 29; T-919, Witness A-9 *Stupar Miloš et al.* Testimony, p. 17; T-813 (Butler Narrative Report), paras. 6.28, 6.29.

⁴³¹ T-868 (Momir Nikolic Sentencing Judgment and Agreed Facts), Annex A, para. 9.

⁴³² T-708 (List of RS MUP personnel).

⁴³³ T-894, Witness A-28, *Prosecutor v. Krstić* IT-98-33, Testimony of 23 May 2000, (“Witness A-28 *Krstić* Testimony”) p. 273.

⁴³⁴ Witness Mevludin Orić (29 January 2009).

⁴³⁵ Witness Mevludin Orić (29 January 2009); T-882, Witness Milenko Pepić *Stupar Miloš et al* Testimony, p. 13, T-890, Witness A- 27 *Stupar Miloš et al* Testimony, p.11.

⁴³⁶ Witness Mevludin Orić (29 January 2009).

⁴³⁷ Witness Mevludin Orić (29 January 2009).

⁴³⁸ T-914, Witness A-25 *Stupar Miloš et al* Testimony, p. 25.

to surrender. During the surrender they were met by the MUP members who were deployed in that area.⁴³⁹

381. Several reasons led people from the column to make the decision to surrender. The Panel finds people were encouraged to surrender by the very fact that the UNPROFOR APC vehicles were used. They did not understand it was a deception. They did not suspect that the soldiers were actually RS MUP and VRS army members, rather than the UN soldiers. The evidence is conclusive that during the surrender, the prisoners were met by the VRS and MUP soldiers, rather than the UNPROFOR personnel.

382. The Panel finds as well another reason for surrender. Many people from the column were exhausted from the initial escape from the Srebrenica enclave. At the time they left the enclave they were already in a weakened state due to the previous months of deprivation. Now they needed to escape the shelling and the ambushes. They were scared, hungry and thirsty and did not know where to go next. The only option left was to go towards the Konjević Polje - Bratunac road and surrender, hoping they would be transferred to the territory of Kladanj and meet up with other family members. In this manner, many Bosniak men were rounded up, transferred to the detention sites, and subsequently to the execution sites.

383. Once men were captured from the column or detained in Potočari, they were separated from their belongings and their identification papers. They were then moved to detention sites or holding areas prior to their execution.

384. Preparatory activities in terms of securing buses, trucks, fuel and manpower had already been undertaken. The same trucks which were used to transfer women and children towards Kladanj were also used for this purpose. The evidence shows the coordination between the RS Army and RS MUP in relation to these activities. Meetings at the Hotel Fontana with General Mladić and Lieutenant Colonel Thomas Karremans, held to determine the fate of the 40,000 residents of the enclave, were only a ruse. Mladić asked if the UN could help with transportation vehicles and fuel for the exchange. However, this was a cruel deception. While the final meeting was taking place to make these arrangements, the transfer of the women and children and the separation of the men had already begun. Before the negotiations ended, buses already designated for this task by the VRS were pulling up in Potočari.⁴⁴⁰ First, they were used to transport women and children to the Kladanj exchange point. Later these same buses were used on 13 July 1995, to

⁴³⁹ T-813 (Butler Narrative Report), paras. 6.12, 6.33.

⁴⁴⁰ T-813 (Butler Narrative Report), paras. 5.3, 5.8.

transfer the last of the Bosniak men detained in Potočari to Bratunac. On the same day, Bosniak men were rounded up in Nova Kasaba.⁴⁴¹ That day, the organized killings noted above, resulted in the detained Bosniak men being executed in the Cerska and Jadar valley, and finally in the Kravica warehouse. On the same day, buses and trucks transporting other detained men were arriving in Bratunac. There they either remained on the buses or were placed in the school, the hangar or the stadium. These were all previously selected holding facilities.

385. Finally, on this same day in Bratunac, killings of Bosniak (Muslim) men occurred in the hangar, in and around the Vuk Karadžić school and in and around the stadium. The next day excavators and trucks arrived to collect the bodies. Members of the local civilian protection group were organized to pick up and dispose of the bodies and place them in a nearby grave site.⁴⁴²

386. All of these events were being carried out simultaneously by different units, in different locations for the same purpose. Executions of Bosniak men were continued in the days following 13 July 1995. These executions were organized by members of the Security Organ of the Zvornik Brigade.

387. It is clear as early as 12 July, MUP Units from the Zvornik Public Security center were also engaged in securing the Konjević Polje road. They were involved in picking up hundreds of Bosniak men who surrendered along the road.⁴⁴³ Plans were being made to transfer the prisoners to Bratunac as well as to the Zvornik brigade area of responsibility. There is some overlap of tasks with the Bratunac and Zvornik brigades. These two subordinate units of the Drina Corps were both utilized by the Main Staff in the overall plan. The assembly, capture and detention of the Muslim men were primarily under the direction of the Bratunac Brigade. The subsequent detentions and executions of the detained men in the northern sites were under the direction of the Zvornik Brigade. There is some overlap with both of these activities with each Brigade. However, it is clear that as of the 13 July tasks shifted from the Bratunac Brigade to the Zvornik Brigade. Miroslav Deronjić was the top civil officer in Srebrenica. He had been appointed the Civilian Commissioner for Srebrenica on July 11, 1995.⁴⁴⁴ Earlier in Pale on 8 July or 9 July, Karadžić had commented to him as for the Bosniaks of Srebrenica, “Miroslav, those people they should all be killed. Whenever you can, you have to kill. The Western Slavonia Principle.”⁴⁴⁵ On 13 July,

⁴⁴¹ Established Fact 7 (Decision of the Panel dated 5 February 2009).

⁴⁴² Witness Desmir Đukanović (28 January, 2008); T-59 (Video Witness Examination- Site Visit- 28 March 2007- Desimir Đukanović).

⁴⁴³ T-813, (Butler Narrative Report), para 6.24

⁴⁴⁴ T-957, Miroslav Deronjić *Momir Nikolić* Sentencing Hearing, p.1565.

⁴⁴⁵ T- 957, Miroslav Deronjić *Momir Nikolić* Sentencing Hearing, p.1565.

Miroslav Deronjić informed Karadžić of his concern that this not take place in Bratunac. Karadžić said he would send instructions.⁴⁴⁶

388. Deronjić claims he received a promise that the prisoners would not be killed in Bratunac, but rather taken to another location towards Bijeljina.⁴⁴⁷ That evening, Colonel Ljubiša Beara came to Deronjić. Deronjić assumed he was sent by Karadžić. Beara acting on instructions “from the top” indicated the prisoners were to be killed.⁴⁴⁸ He agreed the prisoners should be taken towards Zvornik.⁴⁴⁹ Around 20:30 hours, Colonel Beara ordered the Assistant commander for Intelligence and Security of the Bratunac Brigade, Momir Nikolić, to go and see Drago Nikolić, his counterpart in the Zvornik Brigade, and inform him that the thousands of Muslim prisoners were being held in Bratunac and that they were sending them to Zvornik that evening. Beara then said that the imprisoned Muslims should be detained and executed.⁴⁵⁰ At around midnight, on 13 July, Momir Nikolić returned to Bratunac and told Beara that he had conveyed his orders to Drago Nikolić.⁴⁵¹ There is evidence that this part of the plan was devised prior to this date and this conversation. The Panel finds below (see section VIII. A.) that members of the security organ of the Zvornik Brigade were already engaged in their own tasks involving the Zvornik area of responsibility. This is an indication that each of the brigades were involved in separate tasks and indeed in separate plans within the overall plan.

389. The evidence in this case has proved beyond a reasonable doubt that the prisoners from Bratunac were taken to the Zvornik Brigade area of responsibility and that they were killed and buried there in an organized manner. The collection centers for prisoners and the subsequent large scale executions took place solely in the Zvornik Brigade area of responsibility, namely in the territory of Orahovac, Ročević, Kozluk, Petkovci, Kula Grad, Branjevo Farm and Pilica, with the security organs playing the key role. This will be discussed in detail in the factual findings section and in the section dealing with the joint criminal enterprise for the Zvornik Brigade.

390. There is evidence that the execution plan did continue also in the territory outside the Zvornik Brigade area of responsibility. From 14 July onwards, the activities along the Bratunac – Konjević polje road did not cease but continued. On 13 July, the Drina Corps issued an order to the

⁴⁴⁶ T-957, Miroslav Deronjić *Momir Nikolić* Sentencing Hearing, p.1550.

⁴⁴⁷ T-957, Miroslav Deronjić *Momir Nikolić* Sentencing Hearing, p.1550.

⁴⁴⁸ T-957, Miroslav Deronjić *Momir Nikolić* Sentencing Hearing, p.1550.

⁴⁴⁹ T-957, Miroslav Deronjić *Momir Nikolić* Sentencing Hearing, p.1551.

⁴⁵⁰ T-868 (Momir Nikolić Sentencing Judgment and Agreed Facts), Annex A, para. 10; *See also* his main trial testimony dated 1 September 2008.

⁴⁵¹ T-868 (Momir Nikolić Sentencing Judgment and Agreed Facts), Annex A, para. 10; *See also* his main trial testimony dated 1 September 2008.

Bratunac Brigade to search the “newly liberated area”,⁴⁵² and based on this order, on 14 July, the Bratunac Brigade instructed four battalions to start the sweeping operation in various areas.⁴⁵³ It was stated in the regular combat reports dated 15 and 16 July, sent to the Main Staff by the Drina Corps, that the units of the Bratunac Brigade, Milići Brigade and the Independent Battalion *Skelani* were searching the terrain in order to discover and neutralize enemy troops.⁴⁵⁴ On 15 July 1995, two MUP companies from Jahorina remained on the Kravica- Konjević Polje – Kasaba road.⁴⁵⁵ The Bratunac Brigade Report dated 15 July 1995, reflects that this unit was still involved in the search of the terrain.⁴⁵⁶

391. At one point a ceasefire was discussed between the ARBiH representative, Šemso Muminović, and VRS representative, Vinko Pandurević. This resulted in the opening of a passage on 16 July, and a part of the column was able to cross over to the territory under the control of the Army of BiH.⁴⁵⁷ This was closed again by the VRS.⁴⁵⁸ The execution plan continued after the passage was closed and was carried out against all the remaining Bosniak men who found themselves in that area. The Drina Corps reports dated 17, 18 and 19 July 1995, also point to the activities of the Zvornik and Bratunac Brigade together with the MUP forces, aimed at discovering and neutralizing the enemy moving towards Tuzla.⁴⁵⁹ In his testimony given in the *Blagojević and Jokić* case, Obrenović testified that after 18 July 1995, the last of these remaining men were killed on the spot.⁴⁶⁰ The fate suffered by the wounded men who were transferred from the hospital in Milići to the hospital in Zvornik, and were executed on or shortly after 20 July, speaks about the persistence for killing all remaining Bosniak Muslims.⁴⁶¹

392. After the takeover of Srebrenica by the VRS armed forces, over 7,000 Bosniak men were executed.⁴⁶² In an effort to conceal the crime their bodies were quickly buried in mass graves and in a continuing effort to avoid detection these bodies were moved again and reburied.

⁴⁵² T-813 (Butler Narrative Report), para. 6.40.

⁴⁵³ T-813 (Butler Narrative Report), para. 6.40.

⁴⁵⁴ T-166 (Regular combat report of the Drina Corps dated 15 July 1995), p.1; T-167 (Regular combat report of the Drina Corps dated 16 July), p.1.

⁴⁵⁵ T-813 (Butler Narrative Report), para. 6.41.

⁴⁵⁶ T-813 (Butler Narrative Report), para. 6.42.

⁴⁵⁷ O-5, Pandurević *Popovic* Testimony of 2 February 2009, p. 31009.

⁴⁵⁸ T-985, Obrenović Joint Motion on Plea Agreement dated 20 May 2003, p. 16660.

⁴⁵⁹ T-168 (Regular combat report of the Drina Corps dated 17 July 1995); T-169 (Regular combat report of the Drina Corps dated 18 July 1995); T-170 (Regular combat report of the Drina Corps dated 20 July 1995).

⁴⁶⁰ T-983, Obrenović *Blagojević* Testimony on 2 October 2003, pgs. 2496-2497.

⁴⁶¹ This incident is discussed in detail in the factual section of the verdict.

⁴⁶² Established Fact 6 (Decision of the Panel dated 13 December 2007).

1. Reburial Operations

393. Concern grew within the International Community as vast numbers of Bosnian Muslim men remained unaccounted for and the VRS continued to prevent access to the Srebrenica region.⁴⁶³ A series of meetings were held with President Slobodan Milošević and General Ratko Mladić between 14 July and 19 July to negotiate access for UNHCR and the ICRC to the area.⁴⁶⁴ Despite an agreement being reached, the VRS continued to refuse entry to the areas where the Bosnian Muslim men were being detained.⁴⁶⁵ On 10 August 1995, the United Nations Security Council was briefed by the United States representative, Madeleine Albright, who showed the Council aerial photographs indicating the existence of mass graves near Konjević Polje and Nova Kasaba.⁴⁶⁶ This was confirmed by Witness Dean Manning.⁴⁶⁷ On the same date, the Security Council passed Resolution 1010, demanding that the Bosnian Serb authorities allow UN and ICRC observers to enter into Srebrenica.⁴⁶⁸

394. The Panel finds that a large reburial operation took place in the Zvornik Brigade area of responsibility between September and November 1995. In this section, the Panel will analyze the forensic evidence related to this operation. In a later section, it will make findings on how the reburial operation took place. Investigators of the Office of the Prosecutor of the ICTY were first allowed to visit the area in January 1996.⁴⁶⁹ In April 1996 they commenced forensic examinations of suspected execution points and exhumation of mass graves.⁴⁷⁰ Indeed, none of the mass graves had been marked or registered, and no effort had been made by the VRS to identify the bodies buried in the mass graves.⁴⁷¹ Forensic evidence showed that there were two types of mass graves; “primary graves”, in which individuals were placed right after they were executed on the site or brought from the execution sites shortly after the executions, and “secondary graves”, which were created when the primary graves were disturbed and into which the same individuals were reburied.⁴⁷² Primary graves were either undisturbed, meaning that the bodies they contained were not moved and therefore usually remained intact, or were disturbed, meaning that all or some of the

⁴⁶³ Established Fact 78 (Decision of the Panel 13 December 2007).

⁴⁶⁴ Established Fact 79 (Decision of the Panel 13 December 2007).

⁴⁶⁵ Established Fact 80 (Decision of the Panel 13 December 2007).

⁴⁶⁶ Established Fact 81 (Decision of the Panel 13 December 2007).

⁴⁶⁷ Witness Dean Manning (16 June 2008).

⁴⁶⁸ Established Fact 82 (Decision of the Panel 13 December 2007).

⁴⁶⁹ Established Fact 83 (Decision of the Panel 13 December 2007).

⁴⁷⁰ Established Fact 84 (Decision of the Panel 13 December 2007).

⁴⁷¹ Witness Dean Manning (16 June 2008); Witness A-45 (15 January 2008); T-880, Witness Miloš Mitrović, *Prosecutor v. Blagojević* IT-02-66 Testimony of 4 December 2003, (“Witness Miloš Mitrović *Blagojević* Testimony”) p. 5633.

bodies they contained were moved to other gravesites.⁴⁷³ The bodies located in disturbed primary mass graves or secondary mass graves were bisected, pulled apart and dismembered, as heavy machinery scooped the bodies out of the grave; these bodies and body parts were then comingled in the secondary mass graves.⁴⁷⁴ Also, body parts of one victim were sometimes found in different mass graves and these bodies have to be re-associated in order to be identified.⁴⁷⁵ This makes the identification process much more difficult and is one of the reasons why numerous victims have still not been identified as of this date.⁴⁷⁶ The link between primary and secondary mass graves was established by analyzing matching blindfolds and ligatures⁴⁷⁷, matching shell cases⁴⁷⁸, and matching soil and pollen samples and artifacts, as well as the fact that secondary mass graves contained a high number of body parts, as opposed to whole or almost whole bodies found in undisturbed primary gravesites.⁴⁷⁹

395. The Panel finds that reason behind the reburial operation conducted by the VRS from September 1995 was the international scrutiny into the existence of the primary mass graves. As Witness Dean Manning testified, Madeleine Albright showed to the world the existence of these mass graves, by presenting aerial photos at the Security Council in August 1995.⁴⁸⁰ The Accused also stated that he visited one of the primary mass graves to be assured that there were no traces of the existence of the mass graves.⁴⁸¹ This massive operation conducted in secrecy⁴⁸² was intended to hide the mass executions and mass burials which were conducted by the VRS in July 1995. The Panel emphasizes that this was an ongoing act of concealment of the crime.

⁴⁷² Witness Dean Manning (16 June 2008); T-830 (Srebrenica Investigation – Summary of Forensic Evidence – Execution Points and Mass graves, by Dean Manning, dated 16 May 2000) (“1st Manning Report”); Established Fact 85 (Decision of the Panel dated 13 December 2007).

⁴⁷³ Witness Dean Manning (16 June 2008).

⁴⁷⁴ Witness Dean Manning (16 June 2008); T-830 (1st Manning Report), p. 2.

⁴⁷⁵ Expert witness Rifat Kešetović (22 June 2009); Expert Witness Cheryl Katzmarzyk (22 June 2009); T-1114 (PIP List of Officially Identified Victims). For example, the remains of Junuz Osmanović were found in three different secondary mass graves: Zeleni Jadar 5, Budak 2 and Zeleni Jadar 8.

⁴⁷⁶ Witness Dean Manning (16 June 2008); Expert Witness Cheryl Katzmarzyk (22 June 2009).

⁴⁷⁷ The difference between a blindfold lies more in the place where it was located on the body more than in the material they are composed of. A blindfold is a piece of cloth that was tied around the eyes of the victim. A ligature is a piece of cloth, of wire or of anything else used to tie the hands or feet of the victim. Scientific experts were able to link blindfolds and ligatures found in primary and secondary mass graves by matching the cloth: Witness Dean Manning (16 June 2008).

⁴⁷⁸ An analysis of the ejector marks proved that the shell cases originated from the same weapon. Therefore, either the shell case had been transported from one grave to another, or the weapon was used in July at the primary gravesite and in September or October at the secondary gravesite. As there is no evidence of executions that took place in September or October at those mass burial sites, the experts concluded that these shell cases had been transported from one mass grave to the other: Witness Dean Manning (16 June 2008).

⁴⁷⁹ Witness Dean Manning (16 June 2008); Expert witness Rifat Kešetović (22 June 2009); T-830 (1st Manning Report), p. 16; “Report on the Anthropology Examination of Human Remains from eastern Bosnia in 1999” (“1st Baraybar Report”), Jose Pablo Baraybar, 8 December 1999, T-834/4-211, p. 5.

⁴⁸⁰ Witness Dean Manning (16 June 2008).

(a) Forensic evidence on the existence of secondary mass graves

396. To this date, fifty-three mass graves have been identified as containing bodies of victims of the Srebrenica massacre which took place in July 1995.⁴⁸³ Extensive forensic evidence shows without doubt that all the victims contained in the mass graves referred to in this verdict were killed in mass executions in July 1995 and were civilians refugees from the Srebrenica enclave.⁴⁸⁴ New graves are still being discovered and the identification process of the victims found in all mass graves is ongoing.⁴⁸⁵ In June 2009, a total of 4195 victims had been identified in primary, secondary and tertiary mass graves located in the whole Srebrenica area; in all these cases, the families of the victims were informed and a death certificate had been issued; the International Commission on Missing Persons (ICMP) therefore considers that 4195 cases are closed.⁴⁸⁶

397. The Panel was presented with various documentary sources in order to determine the number of victims which have been identified in the mass graves. First, the “Srebrenica Investigation – Summary of Forensic Evidence – Execution Points and Mass Graves, by Dean Manning, dated 16 May 2000” (“1st Manning Report”)⁴⁸⁷ and the “Srebrenica Investigation – Summary of Forensic Evidence – Mass Graves Exhumed in 2000, by Dean Manning, dated February 2001” (“2nd Manning Report”)⁴⁸⁸ refer to Minimum Number of Individuals, or “MNI”, which is calculated by anthropological examination of specific bones.⁴⁸⁹ Some established facts admitted by the Panel also refer to the MNI’s contained in these two reports. The “Srebrenica Investigation – Summary of Forensic Evidence – Exhumation of Mass Graves Srebrenica – November 2007, by Dean Manning, dated 27 November 2007” (“Manning Report 2007”)⁴⁹⁰ refers to the number of victims identified by DNA analysis, which is much more accurate than the numbers given by the previous method of identification.⁴⁹¹ Finally, the Prosecution submitted an up-to-date list of victims identified by DNA and considered “closed cases” by the ICMP (“PIP List”).⁴⁹²

⁴⁸¹ T-3 (Trbić 19 August 2002 US deposition), pgs. 80 to 82; T-5 (ICTY OTP Information Report 26 August 2002) (Confidential), p. 5.

⁴⁸² T-813 (Butler Narrative Report), para. 11.0.

⁴⁸³ T-1114 (PIP List of Officially Identified Victims); T-833 (Srebrenica Investigation – Summary of Forensic Evidence – Exhumation of Mass Graves Srebrenica – November 2007, by Dean Manning, dated 27 November 2007) (“Manning Report 2007”).

⁴⁸⁴ Witness Dean Manning (16 June 2008); Expert witness Rifat Kešetović (22 June 2009).

⁴⁸⁵ Expert witness Rifat Kešetović (22 June 2009).

⁴⁸⁶ Expert witness Rifat Kešetović (22 June 2009).

⁴⁸⁷ T-830 (1st Manning Report).

⁴⁸⁸ T-831 (Summary of forensic evidence - execution points and mass graves 2001 - by Dean Manning) (“2nd Manning Report”).

⁴⁸⁹ T-830 (1st Manning Report), p. 1.

⁴⁹⁰ T-833 (Manning Report 2007).

⁴⁹¹ Witness Dean Manning (16 June 2008).

⁴⁹² T-1114 (PIP List of Officially Identified Victims).

The Panel will only rely on DNA results (the Manning Report 2007 and the PIP List) when considering the number of identified victims, as these numbers are the most scientifically accurate.

398. The PIP List was introduced through two expert witnesses, Rifat Kešetović and Cheryl Katzmarzyk, which both testified on 22 June 2009. The Panel decided to re-open the evidence and call those two witnesses following an oral ruling by the Panel on 8 June 2009. While the Panel had considered in two oral rulings, dated 2 and 23 February 2009, that the evidence already contained in the case-file, mainly the four Dean Manning Reports, was sufficient for the Panel to understand the Prosecution's claims regarding forensic evidence in relation to mass graves and that additional evidence or witnesses were unnecessary and redundant, the Panel reconsidered its ruling in light of new elements contained in the Amended Indictment filed by the Prosecution on 4 March 2009.⁴⁹³ The Defense objected to this ruling of the Panel but did not present any additional evidence to refute these findings, although the Panel granted him such opportunity.

399. Of the fifty-three mass graves that were examined by various forensic teams since 1996, thirty-five have been identified as secondary mass graves.⁴⁹⁴ Twenty-seven are located in what was the Zvornik Brigade area of responsibility. Among these, the Panel finds that thirteen sites are located along the Čančari Road, eight sites near Liplje, and seven sites near Hodžići.⁴⁹⁵ While the forensic evidence has determined that all these mass graves were secondary mass graves, only some were specifically linked to a particular primary mass grave by forensic analysis using pollen/soil samples, shell cases, and aerial images showing disturbed earth simultaneously at primary and secondary mass graves. Indeed, the ICTY progressively transferred the identification process to the ICMP, which concentrated its work on identifying bodies and returning them to their families.⁴⁹⁶ While the DNA identification of body parts which were found in different mass graves would allow these mass graves to be linked, the Panel will only make findings related to the linkage of mass graves when it was presented with forensic expert reports specifically linking these mass graves.

(b) Forensic evidence linking mass graves located in the Zvornik Brigade area of responsibility

400. The Panel makes findings only related to mass graves located in the Zvornik Brigade area of responsibility as the Panel found that the Accused participated in a joint criminal enterprise which

⁴⁹³ Oral Ruling of the Panel, 8 June 2009.

⁴⁹⁴ T-833 (Manning Report 2007).

⁴⁹⁵ T-833 (Manning Report 2007).

⁴⁹⁶ Witness Dean Manning (16 June 2008).

was geographically limited to that area of responsibility. The Panel emphasizes that this does not preclude to the existence of other mass graves related to the Srebrenica massacre.

(i) Orahovac (Lažete) associated with Hodžići Road 3/4/5

401. Victims which were detained in Orahovac were brought to two fields near Lažete to be summarily executed and buried in two primary mass graves, named Lažete 1 and Lažete 2.⁴⁹⁷ Forensic evidence shows that these graves were later exhumed and some of the bodies they contained were moved to secondary mass graves, at least three of which were located along the Hodžići Road.⁴⁹⁸ These three mass graves have been identified as Hodžići Road 3, Hodžići Road 4 and Hodžići Road 5. Soil and pollen samples, blindfolds, ligatures, shell cases and aerial images of the creation and disturbance dates link the secondary gravesites of Hodžići Road 3, Hodžići Road 4 and Hodžići Road 5 to the primary gravesites of Orahovac (Lažete 1 and Lažete 2).⁴⁹⁹

402. Aerial photos show that the ground in Orahovac was disturbed between 5 and 27 July 1995 and again between 7 and 27 September 1995.⁵⁰⁰ Further aerial images indicate that the mass graves along the Hodžići Road were excavated prior to 2 October 1995.⁵⁰¹ Archeological examination of Hodžići Road 3, Hodžići Road 4 and Hodžići Road 5 indicate that these mass graves were excavated using heavy machinery; they were dug by a wheeled vehicle with a toothed bucket.⁵⁰²

403. Thirty seven (37) individuals located in Hodžići Road 3 were identified by DNA analysis.⁵⁰³ 67 individuals located in Hodžići Road 4 were identified by DNA analysis.⁵⁰⁴ 55 individuals located in Hodžići Road 5 were identified by DNA analysis.⁵⁰⁵ Furthermore, the overwhelming majority of bodies found in these mass graves were determined to be male and to have died of gunshot wounds.⁵⁰⁶ 16 blindfolds and no ligatures were found at the Hodžići Road 3 gravesite; 40 blindfolds and no ligatures were found at the Hodžići Road 4 gravesite; 34 blindfolds and 1 ligature were found at the Hodžići Road 5 gravesite; these blindfolds and ligature were matched with the ones

⁴⁹⁷ See para. 446.

⁴⁹⁸ T-830 (1st Manning Report), pgs. 27 to 37; T-831 (2nd Manning Report), p. 4.

⁴⁹⁹ Established Fact 67 (Decision of the Panel 13 December 2007). See also T-834/4-254 (Anthony Brown Report, 26 February 1999), p. 10 and T-831 (2nd Manning Report), p. 4.

⁵⁰⁰ Established Fact 64 (Decision of the Panel 13 December 2007).

⁵⁰¹ T-846B (Aerial Image of Hodžići Road).

⁵⁰² T-830 (1st Manning Report), Annex A, pgs. 28, 32 and 35. See also T-982, Witness A-50 (Confidential), p. 6658. For every gravesite, the wheel tracks determined how the mass gravesite was dug. However, those tracks were not clear enough to be able to use them to link primary and secondary mass graves.

⁵⁰³ T-833 (Manning Report 2007), p. 12/24.

⁵⁰⁴ T-833 (Manning Report 2007), p. 13/24.

⁵⁰⁵ T-1114 (PIP List of Officially Identified Victims).

found at the Lažete 2 gravesite.⁵⁰⁷ The shell cases collected at the Hodžići Road 3, Hodžići Road 4 and Hodžići Road 5 gravesites were all matched with the ones found at the Lažete 2 primary gravesite.⁵⁰⁸ Some religious items affiliating the victims with Muslim religion were found.⁵⁰⁹

(ii) Branjevo Military Farm (Pilica) associated with Čančari Road 12

404. Victims which were detained at Kula Grad in Pilica were brought to the Branjevo Military Farm to be summarily executed and buried.⁵¹⁰ Victims who were summarily executed at Pilica Dom were also buried at the Branjevo Military Farm. Forensic evidence shows that these bodies were later exhumed and some of the bodies they contained were moved to secondary mass graves, at least one of which was located along the Čančari Road and was identified as Čančari Road 12.⁵¹¹ Soil and pollen samples and blindfolds and ligatures link the Branjevo Military Farm primary mass grave to the Čančari Road 12 secondary mass grave.⁵¹²

405. Aerial images indicate that the primary gravesite of Branjevo Military Farm was created prior to or on 17 July 1995⁵¹³ and was re-excavated between 21 and 27 September 1995.⁵¹⁴ Further aerial images indicate that the Čančari Road 12 secondary mass grave was first excavated after 27 September 1995 and back filled prior to 2 October 1995.⁵¹⁵ Archeological examination of Čančari Road 12 indicates that this mass grave was excavated using heavy machinery; it was dug by a wheel front loader with a toothed bucket.⁵¹⁶

406. One hundred and twelve (112) individuals located at Čančari Road 12 were identified by DNA analysis.⁵¹⁷ When the cause of death could be determined, it was by gunshot. 16 ligatures and 8 blindfolds were found in the Čančari Road 12 mass gravesite; these ligatures and blindfolds were

⁵⁰⁶ Established Fact 69 (Decision of the Panel 13 December 2007).

⁵⁰⁷ T-830 (1st Manning Report), p. 15; T-834/4-262 (Report of the Ministry of Justice, Netherlands Forensic Institution, on Textile Investigation, 11 February 2000). The blindfolds recovered from the Lažete 1 gravesite have not been scientifically examined: T-831 (2nd Manning Report), pgs. 5 and 6.

⁵⁰⁸ T-830 (1st Manning Report), p. 14. The shell cases found at the Lažete 1 gravesite have not been scientifically examined: T-831 (2nd Manning Report), p. 6.

⁵⁰⁹ T-830 (1st Manning Report), Annex A, pgs. 27 to 37.

⁵¹⁰ See para. 624.

⁵¹¹ Established Fact 74 (Decision of the Panel 13 December 2007); T-830 (1st Manning Report), pgs. 19 to 22.

⁵¹² Witness Dean Manning (16 June 2008); T-834/4-254 (Anthony Brown Report, 26 February 1999) p. 10.

⁵¹³ T-839B (Aerial Image of the Branjevo State Farm, 17 July 1995).

⁵¹⁴ T-839C (Aerial Image of the Branjevo State Farm, 21 September 1995); T-839D (Aerial Image of the Branjevo State Farm, 27 September 1995).

⁵¹⁵ T-845B (Aerial Image Čančari Road 12); T-830 (1st Manning Report), p. 19.

⁵¹⁶ T-830 (1st Manning Report), Annex A, p. 20. See also T-982, Witness A-50 (Confidential), p. 6658.

⁵¹⁷ T-833 (Manning Report 2007), p. 13/24.

matched with the ones found at the Branjevo Military Farm.⁵¹⁸ Some religious items affiliating the victims with Muslim religion were found.⁵¹⁹

(iii) Petkovci Dam associated with Liplje 2

407. Victims which were detained at the school in Petkovci were brought to the Dam near Petkovci to be summarily executed and buried. Forensic evidence shows that these bodies were later exhumed and all of the bodies they contained were moved to secondary mass graves,⁵²⁰ at least one of which was located near Liplje and was identified as Liplje 2.⁵²¹ Soil samples link this secondary mass gravesite to the primary mass gravesite of the Dam.⁵²²

408. Aerial images indicate that the primary gravesite of the Dam near Petkovci was created between 5 and 27 July 1995⁵²³ and was re-excavated between 7 and 27 September 1995.⁵²⁴ Further aerial images indicate that Liplje 2 was created prior to 2 October 1995. Archeological examination of Liplje 2 indicate that this mass grave was excavated using heavy machinery; it was dug by a wheel front loader with a toothed bucket.⁵²⁵

409. One hundred and twelve (112) individuals located at Liplje 2 were identified by DNA analysis.⁵²⁶ When the cause of death could be determined, it was by gunshot. 23 ligatures and no blindfolds were found in the Liplje 2 gravesite.⁵²⁷ Some religious items affiliating the victims with Muslim religion were found.⁵²⁸

(iv) Kozluk associated with Čančari Road 3

410. Victims which were detained at the Ročeviči School were brought to a municipal refuse dump at Kozluk to be summarily executed and buried. Forensic evidence shows that these bodies were later exhumed and some of the bodies they contained were moved to secondary mass graves,

⁵¹⁸ T-830 (1st Manning Report), p. 15; T-834/4-262 (Report of the Ministry of Justice, Netherlands Forensic Institution, on Textile Investigation, 11 February 2000). None of the collected shell cases were matched to shell cases found in other mass graves.

⁵¹⁹ T-830 (1st Manning Report), Annex A, pgs. 19 to 22.

⁵²⁰ Witness Dean Manning (16 June 2008).

⁵²¹ T-830 (1st Manning Report), pgs. 42 to 44.

⁵²² Witness Dean Manning (16 June 2008): Indeed, the wall of the Dam was constructed with lime stones and contained reasonable large rocks, which were found at the Liplje 2 gravesite.

⁵²³ T-840B (Aerial Image of the Petkovci Dam, 5 and 27 July 1995).

⁵²⁴ T-840C (Aerial Image of the Petkovci Dam, 7 and 27 September 1995): contains the year "1995".

⁵²⁵ T-830 (1st Manning Report), p. 43. *See also* T-982, Witness A-50 (Confidential), p. 6658.

⁵²⁶ T-833 (Manning Report 2007), p. 14/24.

⁵²⁷ T-830 (1st Manning Report), pgs. 43 and 44. None of the collected shell cases were matched to shell cases found in other mass graves.

⁵²⁸ T-830 (1st Manning Report), Annex A, pgs. 42 to 44.

at least one of which was located along the Čančari Road and was identified as Čančari Road 3.⁵²⁹ Soil samples, shell cases, blindfolds and ligatures and thousands of broken green glass bottles, bottles with the cap still attached to the bottle with the rest of the bottle broken, and unused labels, some in stacks, allowed matching this secondary mass gravesite to the Kozluk gravesite.⁵³⁰ These bottles and labels were proven to originate from the dump of a bottling factory located in the Kozluk area.⁵³¹ That green glass and labels were moved with the bodies to the secondary mass gravesite.⁵³² It was possible to identify the name and address of the factory on some labels.⁵³³

411. Aerial images indicate that this primary mass gravesite of Kozluk was created between 5 and 17 July 1995⁵³⁴ and was further disturbed prior to or on 27 September 1995.⁵³⁵ Further aerial images indicate that the secondary mass gravesite Čančari Road 3 was first excavated after 27 September 1995 and then back filled prior to 2 October 1995.⁵³⁶ Archeological examination of Čančari Road 3 indicates that this mass grave was excavated using heavy machinery; that it was by a wheel front loader with a toothed bucket.⁵³⁷

412. One hundred and twelve (112) individuals located at Čančari Road 3 were identified by DNA analysis.⁵³⁸ When the cause of death could be determined, this was by gunshot. 37 ligatures and 8 blindfolds were recovered from the mass grave.⁵³⁹ A number of shell cases found at the Čančari Road 3 site were matched with those found at the Kozluk site.⁵⁴⁰ Some religious items affiliating the victims with Muslim religion were found.⁵⁴¹

⁵²⁹ Established Fact 76 (Decision of the Panel 13 December 2007); T-830 (1st Manning Report), pgs. 48 to 51.

⁵³⁰ Witness Dean Manning (16 June 2008); T-834/4-254 (Anthony Brown Report, 26 February 1999), p. 10; T-834/4-188 (Martin Ols Report); T-834/4-262 (S.E. Maljaars Report).

⁵³¹ An additional indication of the glass being evidence of the link between the gravesites was that the green glass was spread throughout the Čančari Road 3 gravesite, but none was found outside of the grave: Witness Dean Manning (16 June 2008).

⁵³² Witness Dean Manning (16 June 2008).

⁵³³ Witness Dean Manning (16 June 2008).

⁵³⁴ T-841B (Aerial Image of Kozluk, 5 and 17 July 1995).

⁵³⁵ T-841C (Aerial Image of Kozluk, 7 and 27 September 1995).

⁵³⁶ T-830 (1st Manning Report), p. 48.

⁵³⁷ T-830 (1st Manning Report), p. 49. *See also* T-982, Witness A-50 (Confidential), p. 6658.

⁵³⁸ T-833 (Manning Report 2007), p. 9/24.

⁵³⁹ Blindfolds found at the Čančari Road 3 site were matched with those found at the Branjevo Military farm, but other forensic evidence conclusively matched the Čančari Road 3 mass grave to the Kozluk mass grave.

⁵⁴⁰ T-830 (1st Manning Report), p. 14.

⁵⁴¹ T-830 (1st Manning Report), Annex A, pgs. 48 to 51.

VIII. THE CHARGES: FACTUAL FINDINGS

A. SELECTED AND LOCATED SCHOOL BUILDINGS FOR TEMPORARY DETENTION FACILITIES

(a) Sometime between the evening of 12 and midday on 13 July 1995, acting on the directions of Colonel Ljubiša Beara, selected and located school buildings in Orahovac (Grbavci School), Pekovci and Ročević to be used as temporary detention facilities to hold civilian Bosniak men from Srebrenica enclave, who were brought into the Zvornik Brigade zone of responsibility, knowing that these civilian Bosniak men would be those captured by VRS soldiers and transported away from Srebrenica enclave.

413. The Panel finds that the Prosecution has proved beyond a reasonable doubt the Accused sometime between the evening of 12 and midday on 13 July 1995, acting on the directions of Colonel Ljubiša Beara, selected and located school buildings in Orahovac (Grbavci School), Petkovci and Ročević to be used as temporary detention facilities to hold civilian Bosniak men from Srebrenica enclave, who were brought into the Zvornik Brigade zone of responsibility, knowing that these civilian Bosniak men would be those captured by VRS soldiers and transported away from Srebrenica enclave.

414. The statements of the Accused Milorad Trbić indicate that he received initial direction from Colonel Ljubiša Beara,⁵⁴² the Chief of the Main Staff Security Administration. The Accused also indicates a phone call at 08:30 hours on 12 July 1995 from Beara to perform tasks.⁵⁴³ The Panel finds this phone call set forth the Accused's involvement in the common purpose and plan to capture, detain, summarily execute all able bodied Bosniak males from Srebrenica enclave, who were brought to the Zvornik Brigade zone of responsibility, which was the aim of the larger operation conceived by VRS Main Staff Officers including General Ratko Mladić and implemented and directed by senior VRS Security Officers including Colonel Ljubiša Beara, Lieutenant Colonel Vujadin Popović, and Lieutenant Drago Nikolić and others, sharing a common intention to fulfill the aims of the common purpose and plan, and intending that his acts would assist and contribute to it.

⁵⁴² T-813 (Butler Narrative Report), para. 2.20.

⁵⁴³ T-17 (Trbić 29 October 2004 Interview), p. 6.

415. This parallels the assignment of Momir Nikolić on the same morning. In the morning of 12 July, Captain First Class Momir Nikolć, in his capacity as Chief of Intelligence and Security of the Bratunac Brigade, was verbally tasked by Lt. Colonels Popović and Kosorić with coordinating the forcible transfer and killing,⁵⁴⁴ soon after the conclusion of the meeting at which General-Colonel Ratko Mladić assigned tasks for the day.⁵⁴⁵ During this meeting Momir Nikolć identified specific locations to detain Bosniak males prior to their execution such as Vuk Karadžić School and the “Hangar” behind that school.⁵⁴⁶ For most of the day, Momir Nikolić was in Potočari where he coordinated and supervised the transportation of the women and children to Kladanj and the separation and detention of able-bodied men.⁵⁴⁷ Although Trbić in his statements indicates that he spent the day with Momir Nikolić the Panel was unable to verify the accuracy of all these statements. There is little evidence to corroborate Trbić’s version of events involving him at Potočari personally. It is clear that Trbić was aware that there was a plan to transfer the women and children from Potočari to an exchange point. However, it is credible that at 08:30 hours he received a call from Colonel Beara who was at the Bratunac Brigade Headquarters. Beara orders Trbić to send one part of the Military Police to Konjević Polje to guard the road.⁵⁴⁸ Trbić is informed of the column at this time. This is credible because at 08:00 hours the Commanders met and were informed about the column of men from Srebrenica.⁵⁴⁹ In response to this, tasks were assigned. Trbić goes to Bratunac to get further instructions from Beara and Popović as to the capturing and detaining of men. He meets with both of them in Bratunac to report in that he brought the men (military police) and assigned them to the Konjević Polje. He further reports that everyone else he left in Zvornik in readiness. The purpose of this trip is to see what the tasks are for the security organ of the Zvornik Brigade.⁵⁵⁰

416. Thousands of detainees were initially held in the small town of Bratunac. However, plans were already being implemented to transport the Bosnian Muslim men north to the Zvornik Brigade area of responsibility, where they could be executed away from the public attention and international presence in Potočari. Trbić is tasked with the organization.⁵⁵¹

⁵⁴⁴ T-868 (Momir Nikolić Sentencing Judgment and Agreed Facts), Annex A, para. 4.

⁵⁴⁵ T-813 (Butler Narrative Report), fn. 224,– Dragomir Vasić, Dispatch Note No. 277/95.

⁵⁴⁶ T-868 (Momir Nikolić Sentencing Judgment and Agreed Facts), Annex A, para. 4.

⁵⁴⁷ T-868 (Momir Nikolić Sentencing Judgment and Agreed Facts), Annex A, para. 4.

⁵⁴⁸ T-17 (Trbić 29 October 2004 Interview), pgs. 7-8, 11; *See also* T-813 (Butler Narrative Report), para. 6.20 and fn. 314 (1.Zpbr Regular Combat Report 06-215, 12 July 1995) “One Military Police detachment was sent to Konjević Polje, pursuant to your (Drina Corps) order;...”

⁵⁴⁹ T-813 (Butler Narrative Report), para. 4.10; O-5 Pandurević *Popović* Testimony on 30 January 2009, pgs. 30897-30898.

⁵⁵⁰ T-17 (Trbić 29 October 2004 Interview), pgs. 18-19.

⁵⁵¹ T-17 (Trbić 29 October 2004 Interview), pgs. 35-36.

417. Most of the Bosnian Muslim men separated Potočari and many of the Bosnian Muslim men captured from the column had been transported to temporary detention centers in Bratunac.⁵⁵² With the exception of those killed in mass executions, such as at the Kravica warehouse during 13 July,⁵⁵³ the remaining men were transported to Zvornik. The detention centers in the Bratunac Brigade area of responsibility included Vuk Karadžić School, the “Hangar” behind that school, the football stadium and Vihor garages. Some of these were identified and selected by Momir Nikolić as mentioned above.⁵⁵⁴ Many of the other detainees remained on the buses and trucks which were parked in the street outside these centers.⁵⁵⁵

418. This is exemplified by the testimony of survivor witness Mevludin Orić. He testified that he was captured by VRS forces in Konjević Polje on 13 July. He was detained first in a warehouse, and later transported with a dozen other Bosniak men to Bratunac. They were transported on three buses, and Orić boarded the first bus. He saw three or four MPs in front of the bus who provided security. The MPs wore camouflaged uniforms and blue UNPROFOR flak jackets. He recognized the insignia on the sleeves of their uniforms, which contained a big MP emblem. When the buses reached Kravica, he saw Bosniak men being detained along the road, sitting with their hands behind their heads. The buses stopped, some men were loaded on, and they were taken to Bratunac.⁵⁵⁶ Later he and the others were taken to the Zvornik Brigade area of responsibility.

419. Trbić received another phone call from Beara around 19:00 hours on the evening of 12 July 1995.⁵⁵⁷ Beara instructs him to look for larger spaces⁵⁵⁸ to secure accommodation for a large number of people from Srebrenica. Trbić acknowledged that he “...thought that they were going to be executed...” because “...why else they would keep them in these centers, why not send them immediately to their territory.”⁵⁵⁹ The Panel finds this statement to be disingenuous as the earlier phone call from Beara, Trbić already knew the fate of the Bosnian Muslim men.⁵⁶⁰ But it does indicate that Trbić recognizes the absurdity of any pretext that the captured men were awaiting

⁵⁵² Established Fact 50 and 58 (Decision of the Panel dated 13 December 2007).

⁵⁵³ T-1086 (UNSG Report “The Fall of Srebrenica” dated 15 November 1999), para. 347.

⁵⁵⁴ T-868 (Momir Nikolić Sentencing Judgment and Agreed Facts), Annex A, para. 4.

⁵⁵⁵ The presence of buses filled with detained Bosnian Muslim men was confirmed by a number of witnesses including Prosecution Witness Slobodan Mijatović; Exhibit T-974 Testimony in *Bozić* trial on 4 July 2007 during which he marked up the location of long lines of buses all along the street leading to Vuk Karadžić School on Exhibit T-1071 (T-38); Prosecution Witness Milovan Đokić (11 February 2008), Witness A-41 (4 February 2008)- saw buses along the road from the bus station to Vuk Karadžić School and buses and trucks parked on the street in front of the school); T-965, Witness Mile Janjić *Popović* Testimony on 20 November 2007, pgs. 17933- 17934 - 10 to 15 buses from Potočari carrying Bosniak men and guarded by Bratunac Brigade MPs travelled to Vuk Karadžić School.

⁵⁵⁶ Witness Mevludin Orić (28 January 2008).

⁵⁵⁷ T-17 (Trbić 29 October 2004 Interview), pgs. 35-36.

⁵⁵⁸ This implies that Trbić was already tasked with finding space and must find larger spaces.

⁵⁵⁹ T-17 (Trbić 29 October 2004 Interview), p. 36.

⁵⁶⁰ T-17 (Trbić 29 October 2004 Interview), pgs. 6-8, 11.

transfer to Tuzla. None of these actions make sense in that context. These instructions only make sense if you understand they will not be exchanged. After the phone call with Beara, Trbić tells Momir Jasikovoc, Company Commander of the Zvornik Brigade Military Police, and Drago Nikolić, the Chief of Security of the Zvornik Brigade, about their task and they had to do it during the night.⁵⁶¹

420. A mere one hour later the Accused, Drago Nikolić, Birčaković and Jasikovac visit the schools that were to be used as detention sites in the Zvornik Brigade area of responsibility.⁵⁶² This is a clear indication that the schools were selected earlier. There are other schools in the Zvornik Brigade area of responsibility, but it is clear they need to check the actual sites to agree if they are appropriate for the task. They go to the school in Orahovac and see about the number of people that could be placed there. They decide the gymnasium of the school would be used to hold the men. The Accused gives Jasikovac the instruction “regarding the organization and arrangement for the people once they arrived there”.⁵⁶³ He is to prepare a certain number of military policemen for this task.⁵⁶⁴

421. Trbić, Nikolić and Jasikovac then go the elementary school in Petkovci and Ročević to see if there is space available to hold people. It was decided that more people could be accommodated at these schools as well. He goes to these schools because he did not know “how many people were supposed to arrive but these places were the largest and most adequate for accommodation of large number of people”.⁵⁶⁵

422. Vehicle logs further corroborate the task to identify and organize facilities within the Zvornik Brigade area of responsibility to temporarily accommodate a large number of detainees.⁵⁶⁶ A Zvornik Brigade vehicle log details a series of trips starting on 13 July 1995 to locations that were used for the holding of Muslim males from Srebrenica, visiting Orahovac twice on the morning of 13 July. The same vehicle visits Orahovac, Ročević, Kozluk, Kula and Pilica, most more than once, over the course of the next three days.⁵⁶⁷ While the vehicle record supports this

⁵⁶¹ T-17 (Trbić 29 October 2004 Interview), p. 37.

⁵⁶² T-17 (Trbić 29 October 2004 Interview), p. 37; T-19 (ICTY OTP Information Report submitted by Alistair Graham on 31 August 2004) (“ICTY OTP Information Report regarding August 2004 site visit”) (Confidential) p. 10.

⁵⁶³ T-17 (Trbić 29 October 2004 Interview), p. 38.

⁵⁶⁴ T-17 (Trbić 29 October 2004 Interview), p. 38.

⁵⁶⁵ T-17 (Trbić 29 October 2004 Interview), p. 38.

⁵⁶⁶ T-813 (Butler Narrative Report), paras. 6.55-6.56, 7.3-7.5. The same vehicle repeatedly visits the other detention sites between 14 to 16 July, over the course of the killing operation. Its driver or passengers are clearly involved in the oversight of these facilities and/or the operation.

⁵⁶⁷ T-40 (Vehicle Log for Opel Rekord). The driver is noted as Milorad Birčaković. During his live evidence on 12 December 2007, witness Milorad Birčaković did not recall making these trips but did confirm that around noon, he used this vehicle to accompany a convoy down to Bratunac. This was the same convoy that the Accused travelled with.

there is no corresponding support on 12 July, but as testimony indicated these records were rarely done contemporaneously. Therefore, the records are not complete and do not reflect the entire history.⁵⁶⁸

423. This Panel is presented with much of the same evidence presented in *Milos Stupar et al (Kravica)* case⁵⁶⁹ at the Court of BiH, and it similarly makes the same findings regarding the discussions Miroslav Deronjić had with RS President Radovan Karadžić and Colonel Beara. The statements of Milorad Trbić conforms to these corresponding events in the Bratunac Brigade area of responsibility so they are worth noting: It was Miroslav Deronjić, the top civil officer in Srebrenica, that stated RS President Radovan Karadžić had made the comment on 9 July in reference to the Bosniaks of Srebrenica: “Miroslav, those people there should be killed.”⁵⁷⁰ The movement of the detainees out of Bratunac to “warehouses” in Zvornik was confirmed to Miroslav Deronjić by RS President Radovan Karadžić on the evening 13 July.⁵⁷¹ At around 20:30 hours, Colonel Beara dispatched Captain First Class Momir Nikolić north to warn Lt. Drago Nikolić, Chief of Security at Zvornik Brigade, of the detainees imminent arrival.⁵⁷² Drago Nikolić was then extraordinarily relieved of his duty as IKM Duty Officer sometime before 22:30 hours.⁵⁷³

424. Colonel Beara met with Miroslav Deronjić during the night of 13 July, and there was an open discussion of the VRS plan to execute the Bosnian Muslim men.⁵⁷⁴ Col. Beara announced to those assembled in Derjonić’s office that he had “orders from the top” to kill the prisoners.⁵⁷⁵

425. Derjonić requested that no execution take place in Bratunac. Beara expressly confirmed that he was there to see that the prisoners were killed. Even though Beara had already made plans to transport prisoners to Zvornik⁵⁷⁶ he nonetheless insisted to Deronjić that there would be additional

Therefore, the trips indicated in the log must have been undertaken before lunch time most likely in the early hours of 13 July 1995. This comports with Trbić’s statements that he was tasked with finding facilities to hold prisoners.

⁵⁶⁸ Witness Milorad Birčaković (12 December 2007).

⁵⁶⁹ *Milos Stupar et al* First Instance Verdict, p. 101.

⁵⁷⁰ T-957, Miroslav Deronjić *Momir Nikolić* Sentencing Hearing Testimony, p. 1565.

⁵⁷¹ T-957, Miroslav Deronjić *Momir Nikolić* Sentencing Hearing Testimony, pgs. 1567-1568.

⁵⁷² T-868 (Momir Nikolić Sentencing Judgment and Agreed Facts), Annex A, para. 10. Momir Nikolić testified he arrived at the Zvornik Brigade IKM (via Zvornik Brigade Standard) before it was dark, but as this was summertime it may have been still light out. Witness Momir Nikolic (1 September 2008).

⁵⁷³ T-985 (Obrenović Joint Motion on Plea Agreement dated 20 May 2003) (“Obrenović, Joint Motion on Plea Agreement”), p. 16666; T-813 (Butler Narrative Report), para. 7.9 and fn 383 IKM Duty Officer Log.

⁵⁷⁴ T-957, Miroslav Deronjić *Momir Nikolić* Sentencing Hearing Testimony, pgs. 1538-39, 1550.

⁵⁷⁵ T-957, Miroslav Deronjić *Momir Nikolić* Sentencing Hearing Testimony, p. 1550.

⁵⁷⁶ In the early evening of 13 July, Lt. Col. Popović spoke to Drago Nikolić by phone and conveyed the order that several thousand prisoners would be transported to Zvornik and he was required to secure temporary collection and execution sites. Dragan Obrenović in his Statement of Facts and in his testimony confirmed that Drago Nikolić called him around 19:00 with this information, asking to be relieved as duty officer. T- 983, Obrenović *Blagojević* Testimony, p. 2469. A short time later, Col. Beara ordered Momir Nikolić to drive to Zvornik and meet with Drago Nikolić and

executions in Bratunac.⁵⁷⁷ Upon Deronjić's continued insistence that all further killings be done elsewhere, Col. Beara agreed that all the prisoners (not already killed in the Bratunac Brigade area of responsibility) would eventually be sent to Zvornik.⁵⁷⁸ Although, many detainees were killed during the night of 13 to 14 July in the Bratunac area, the first convoy of buses to head north to Zvornik Brigade area of responsibility left around nightfall on 13 July.⁵⁷⁹

426. As a result, the Panel finds that the Accused sometime between the evening of 12 and midday on 13 July 1995, acting on the directions of Colonel Ljubiša Beara, selected and located school buildings in Orahovac (Grbavci School), Petkovci and Ročević to be used as temporary detention facilities to hold civilian Bosniak men from Srebrenica enclave, who were brought into the Zvornik Brigade zone of responsibility, knowing that these civilian Bosniak men would be those captured by VRS soldiers and transported away from Srebrenica enclave.

B. GRBAVCI SCHOOL, ORAHOVAC

1. General Factual Findings

(a) In the late evening hours on 13 July 1995 at Grbavci School, Orahovac, VRS soldiers secured the school where Bosniak males from Srebrenica enclave were being detained

427. The Panel finds that the Prosecution proved beyond a reasonable doubt that in the late evening hours on 13 July 1995 at Grbavci School, Orahovac, VRS soldiers secured the school where Bosniak males from Srebrenica enclave were being detained.

428. The Prosecution alleged under Count 2b of the Amended Indictment that this happened "on 13 July 1995" at Grbavci School. The Panel finds the evidence discussed below supports that it happened "in the late evening hours on 13 July."

coordinate with him. T-868 (Momir Nikolić Sentencing Judgment and Agreed Facts), Annex A, para. 10. These events already occurred when Colonel Beara went to Deronjić's office.

⁵⁷⁷ T-957, Miroslav Deronjić *Momir Nikolić* Sentencing Hearing Testimony, p. 1550.

⁵⁷⁸ T-957, Miroslav Deronjić *Momir Nikolić* Sentencing Hearing Testimony, p. 1551.

⁵⁷⁹ T-884, Witness A-47 *Prosecutor v. Krstić* IT-98-33 Testimony dated 12 April 2000 ("Witness A-47 *Krstić* Testimony") p. 2810 – the buses arrived at the Hangar in Bratunac about an hour before nightfall.

429. The town of Orahovac is located within the Zvornik Brigade area of responsibility.⁵⁸⁰

430. The Panel finds that male Bosniak prisoners from Srebrenica were brought to Orahovac and detained at Grbavci School in the late evening hours on 13 July 1995. Trbić stated he arrived in Orahovac in the late evening hours on 13 July 1995 and Bosniak males were being guarded by military police.⁵⁸¹ This is corroborated by survivor testimony. Witnesses state the first set of detained Bosniak men from Bratunac left on the evening of 13 July arriving at Grbavci School in Orahovac late that night.⁵⁸² At the school, the Bosniak men were ordered to enter the gymnasium.⁵⁸³ While Witness A-7, a Zvornik Brigade Military Police, could not provide the exact date he was ordered by Drago Nikolić to guard detainees at the school in Orahovac, he explained that when he arrived at the school, the same day he was ordered, it was dark and that prisoners were already there.⁵⁸⁴ He also confirms Trbić's account that Drago Nikolić was present at the school in Orahovac that evening.⁵⁸⁵

431. Other Bosniak male prisoners arrived at Orahovac in a convoy of buses during the morning of 14 July.⁵⁸⁶ Witness Mevludin Orić stated he spent the night of 13 July 1995 on a bus on the street up to Vuk Karadžić School. In the morning of 14 July, around 10 am, 5 buses headed off. The buses stopped eventually at a school with a concrete playing ground that he identified. There was a large (not small) pile of clothes and berets beside the red door.⁵⁸⁷ The detainees were ordered to run into the school and left into the gym. Prosecution Witness A-41, a Bratunac Brigade MP, testified that he escorted buses from Vuk Karadžić School in Bratunac to Orahovac and ensured that the detained Bosniak males entered the gymnasium of the school.⁵⁸⁸ Zvornik MPs including A-8 and other VRS soldiers were also involved in ensuring the detainees entered the

⁵⁸⁰ T-813 (Butler Narrative Report), para. 7.6; T-817 (Map showing Zvornik Brigade area of responsibility and Battalion areas).

⁵⁸¹ T-17 (Trbić October 2004 Interview), p. 58. *See also* T-982, Witness A-50 Testimony (Confidential) p. 6599.

⁵⁸² T-884, Witness A-47 *Krstić* Testimony, pgs. 2819-2820.

⁵⁸³ T-884, Witness A-47 *Krstić* Testimony, p. 2820.

⁵⁸⁴ T-918, Witness A-7 *Prosecutor v. Popović et al* IT-05-88, Testimony of 30 January 2007, ("Witness A-7 *Popović* Testimony") pgs. 6527,6530. This is corroborated by the vehicle log of the Zvornik Brigade supply vehicle which made a trip to Orahovac at about 1 am that morning noted as "police". T-813 (Butler Narrative Report), para. 7.8.

⁵⁸⁵ T-918, Witness A-7 *Popović* Testimony, pgs. 6532-6533.

⁵⁸⁶ Established Fact 62 (Decision of the Panel dated 13 December 2007). *See also* T-884, Witness A-47 *Krstić* Testimony, p. 2822. Witness A-26 described a similar journey from Bratunac to Orahovac on 14 July 1995. T-889, Witness A-26, *Prosecutor v. Popović et al* IT-05-88, Testimony on 24, 25, and 28 August 2006, ("Witness A-26 *Popović* Testimony") pgs. 675-677, 679. During A-26's testimony, he marked a photograph with ERN-0046-1633, which is the same photograph as exhibit T-36 AG9 – Grbavci School in Orahovac. T-868 (Momir Nikolić Sentencing Judgment and Agreed Facts), Annex A, para. 11.

⁵⁸⁷ Witness Mevludin Orić (29 January 2008); Exhibit T-36 AG9 – Grbavci School in Orahovac.

⁵⁸⁸ Witness A-41 (4 February 2008).

gym.⁵⁸⁹ The Bosniak males were ordered to leave some clothes outside and a pile of belongings formed there.⁵⁹⁰ These piles of clothing also included a crutch.⁵⁹¹

432. Prosecution Witness Milorad Birčaković was a Zvornik Brigade MP and driver for Drago Nikolić, the Accused and, depending on need, other MPs. On 14 July 1995, following Drago Nikolić's meeting at the Zvornik Brigade Standard with Lt. Colonel Popović and Colonel Beara. Birčaković drove Nikolić down to Divič to meet the convoy of buses en route from Bratunac. They did not have to wait long until the convoy arrived there to meet them. He was then ordered by Drago Nikolić to board one of the buses to proceed with it to Orahovac. Civilian police in blue uniforms were on that bus as escorts. After he arrived at the school, Birčaković saw some Zvornik Brigade MPs, Drago Nikolić and the Accused arrive separately after him.⁵⁹² He testified Miodrag Jasikovac was also there⁵⁹³ and that Drago Nikolić spoke to Jasikovac on the school playground.

433. VRS soldiers and Zvornik Brigade Military Police continued to be present on 14 July 1995 at Grbavci School, Orahovac. Witnesses who were Bratunac Brigade and Zvornik Brigade Military Police confirmed their role in guarding the school and Bosniak detainees.⁵⁹⁴ They also testified that other VRS soldiers were present and involved⁵⁹⁵ including senior officers such as Drago Nikolić,⁵⁹⁶ Lt. Colonel Popović and Colonel Beara.⁵⁹⁷ According to the personnel roster for the Zvornik Bridge Military Police Company, a detachment of Military Police was present in Orahovac on 14 and 15 July 1995,⁵⁹⁸ as confirmed by Zvornik Brigade MPs listed in the roster. A subsequent effort was made to falsify these records, apparently in order to conceal the participation of this detachment at Orahovac and Ročević.⁵⁹⁹

⁵⁸⁹ Witness A-8 (10 December 2007).

⁵⁹⁰ Witness Mevludin Orić (29 January 2008); Witness Tanacko Tanić (11 December 2007). T-889, Witness A-26 Popović Testimony, pgs. 677, 695; T-3 (Trbić 19 August 2002 US Deposition), p. 34 and T-19 (ICTY OTP Information Report regarding August 2004 site visit) (Confidential), p. 3.

⁵⁹¹ Witness Tanacko Tanić (11 December 2007).

⁵⁹² Witness Milorad Birčaković (12 December 2007).

⁵⁹³ This is corroborated by Defense Witness ***** (21 April 2008), who also saw Jasikovac at the school that day.

⁵⁹⁴ T-918, Witness A-7 Popović Testimony, p. 6535.

⁵⁹⁵ T-918, Witness A-7 Popović Testimony, pgs. 6530-6531, 6535; Witness A-8 (10 December 2007); Witness Milorad Birčaković (12 December 2007); Witness A-41 (4 February 2008); Witness Tanacko Tanić (11 December 2007); Witness ***** (21 April 2008); Witness ***** (21 April 2008).

⁵⁹⁶ Witness A-8 (10 December 2007).

⁵⁹⁷ Milorad Birčaković (12 December 2007) – 90 percent sure he saw Popović. The Accused stated that Lt Colonel Popović and Colonel Beara came to the school. T-3 (Trbić 19 August 2002 US Deposition), pgs. 44-45, 50-51 (Popović); T-15 (Trbić 23 May 2004 Interview), p. 26 (Popović and Beara). This is supported by an entry in the Zvornik Brigade Logbook on 14 July 1995 which reads, "15.00 hrs. Colonel Beara is coming in order to Orovoc Petkovci, Ročević Pilica" T-20 (Zvornik Brigade Duty Officer's Logbook) ERN 0293 5746.

⁵⁹⁸ T-826 (1st Zvornik Brigade Military Police Company Unit Attendance Roster, July 1995).

⁵⁹⁹ T-826 (1st Zvornik Brigade Military Police Company Unit Attendance Roster, July 1995). Examining the entries for 14 and 15 July 1995, it is apparent that a number of names had "O" delineating their location at Orahovac, and they

434. Witness Sreten Milošević, Assistant Commander for Logistics Zvornik Brigade, who was present on 14 July 1995 at Orahovac testified live that he saw VRS soldiers.⁶⁰⁰ Witness Milorad Birčaković was a Zvornik Brigade Military Police and he testified that he saw military police.⁶⁰¹ Additionally, Tanacko Tanić, the Zvornik Brigade finance clerk, who was also present at the school in Orahovac testified that he saw members of the Zvornik Brigade in the playground in front of the school.⁶⁰²

435. The Panel finds in the late evening on 13 July 1995, VRS soldiers were securing Grbavci School in Orahovac where Bosniak males from Srebrenica enclave were being detained. Trbić stated that male Bosniak prisoners were being guarded by military police.⁶⁰³ A-7 corroborates this and describes that in addition to the military police he saw other soldiers at Orahovoac that evening.⁶⁰⁴ The presence of military police from the Zvornik Brigade Military Police Company is also supported by an entry on 13 July in a logbook of a vehicle that appears to have been primarily used for the delivery of food to select units of the Brigade.⁶⁰⁵ The last entry of the day lists a trip to Orahovac, with the notation “police”.⁶⁰⁶ According to Dragan Obrenović ICTY testimony, “...part of the Zvornik Brigade police participated in providing security and guarded the inmates in the school in Orahovac, on the 13th, in the evening, on the 14th, and later on a group remained in the school building in Orahovac on the 15th.”⁶⁰⁷ Therefore, the Panel finds that VRS soldiers and Zvornik Brigade Military Police were securing Grbavci School in Orahovac in the late evening on 13 July 1995.

436. Witness Tanako Tanić was the financial clerk for the Zvornik Brigade. His position is normally a desk job. He was at Zvornik headquarters on the morning on July 14th. “I walked out into the hall and was informed I should... go as there were prisoners escaping.” While this might have been what he was told it most certainly was not true. Given the physical condition of the prisoners there was little fear of them overcoming the soldiers and escaping. Rather, as more than two witness commented, security was necessary to prevent the local civilian population from

were subsequently erased and remarked with a “T” (to designate “in the terrain”). T-813 (Butler Narrative Report), para.s 7.16-7.17. *See also* T-834 (Expert Reports CD P756a and b – de Koeijer Report).

⁶⁰⁰ Witness Sreten Milosević (3 December 2007).

⁶⁰¹ Witness Milorad Birčaković (12 December 2007).

⁶⁰² Witness Tanacko Tanić (11 December 2007).

⁶⁰³ T-3 (Trbić 19 August 2002 US Deposition), pgs. 31-34; T-17 (Trbić October 2004 Interview), pg. 58. *See also* T-813 (Butler Narrative Report), para. 7.8.

⁶⁰⁴ T-918, Witness A-7 *Popović* Testimony, pgs. 6530-6531.

⁶⁰⁵ T-813 (Butler Narrative Report), para. 7.8 citing fn. 381 1 Zvpbr Delivery Truck Log, 01-31 July 1995.

⁶⁰⁶ T-813 (Butler Narrative Report), para. 7.8.

⁶⁰⁷ T-983, Obrenović *Blagojević* Testimony of 10 October 2003, pgs. 3031-3032. *See also* T-813 (Butler Narrative Report), para. 7.8.

causing problems with the prisoners.⁶⁰⁸ After Tanić arrives at Orahovac with 10 others from the Zvornik Brigade he describes the scene at the school, confirms the presence of members of the Zvornik Brigade, describes the dead bodies in the playground and the pile of clothing at the entrance to the gym.⁶⁰⁹ While he was standing there someone approached him and “told me to go execute”.⁶¹⁰ At the time he knew this man’s name, but can no longer remember it.⁶¹¹ He was from the Zvornik Brigade. He refused this command as he had done before in 1992. At that time he refused an order to rape in Kula.⁶¹² He explains that one of the reasons for his refusal this time is he saw children there. He saw two boys; one was escorted by a soldier. The boy was carrying a bucket of water.⁶¹³ Tanić knew they were to be executed. There was no talk of an exchange. Although he had trouble remembering the sequence of events he knew when the first truck pulled away from the gym with prisoners that the executions would take place. As he explained from that day on everything is known. He asks the Panel “what kind of big Serbs are we if we shoot children?”

(b) Bosniak males at Grbavci School were being detained in inhumane conditions with inadequate accommodation and supplies of food and water

437. The Panel finds the Prosecution proved beyond a reasonable doubt that the Bosniak males at Grbavci School were being detained in inhumane conditions with inadequate accommodation and supplies of food and water. An earlier ICTY Judgment estimated 1,000 to 2,500 Bosniak male prisoners, were detained in the gymnasium of the school.⁶¹⁴ The Prosecution has only alleged approximately 1,000 prisoners. This number the Panel agrees with and finds more realistic. Mevludin Orić, a survivor, described the position of the prisoners who were forced to sit with their knees up to their chin. Having visited the site, the Panel finds it is unlikely it could hold 2,500 prisoners in such a position even severely cramped. Grave sites associated with Orahovac have

⁶⁰⁸ Dragoje Ivanović (19 May 2008) - repeats this twice. See also A-42 (28 January 2008) testimony that he believes this was for the reason of security in Bratunac; Witness Tanacko Tanić (11 December 2007) “we prevented civilians from getting near.”

⁶⁰⁹ Witness Tanacko Tanić (11 December 2007).

⁶¹⁰ Witness Tanacko Tanić (11 December 2007).

⁶¹¹ The Panel finds this statement not to be credible.

⁶¹² He was punished by having to clean toilets for six months but this experience led him to believe he could also refuse this order. Apparently he was correct as no harm ever came to him. Witness Tanacko Tanić (11 December 2007).

⁶¹³ See also testimony of Witness Sreten Milosević (3 December 2007) - Story of young wounded boy who survived the executions. Mevludin Orić also talks about two young boys (aged 14 or 15 in his testimony).

⁶¹⁴ Established Fact 63 (Decision of the Panel dated 13 December 2007). Witness A-47 estimated that there were around 2,500 detainees in the gym when it was almost full (T-884, A-47 *Krstić* Testimony, p. 2822). Witness Mevludin Orić (29 January 2008) also estimated this same number. T-889, Witness A-26 *Popović* Testimony on 24 August 2006, pgs. 677, 698 confirm men as old as 70 years old and group of boys, aged between 10 and 14 years old, also in gym. A-26 estimated that between 500 and 1,000 must have come to the school (p. 697). This number seems more realistic as there is testimony that while they were unbearably crowded in the space, they were also sitting down.

identified 430 victims identified through DNA analysis so far.⁶¹⁵ Survivor witness A-47 testified that:

We would from time to time start shouting, because we couldn't take it anymore. We were suffocating. There was no air, there was no water. And then we would start shouting and they would then open fire and shoot above our heads.⁶¹⁶

438. Survivor witness Mevludin Orić described a similar situation during his testimony. He stated that they were ordered by soldiers to squeeze in or be shot, even though there was no space. Furthermore, he testified:

And it was all chaos. You would see old people with heads just hanging. He could not lean on anything...it was because it was too hot and it was overcrowded. We were thirsty, hungry, tired. There were elderly people there. People aged 65 or 70. We could manage somehow, us, the younger people, but they were losing consciousness.⁶¹⁷

According to witness A-7, a Zvornik Brigade MP, prisoners were given water at Orahovac.⁶¹⁸ However, survivor witness A-26 in his testimony agrees they were given water, but it was not enough for everyone there.⁶¹⁹ There is no evidence that prisoners were ever given food. As a result, the Panel finds Bosniak males were being detained in inhumane conditions with inadequate accommodation and supplies of food and water. A prisoner complained and he was taken out and shot.⁶²⁰

(c) VRS soldiers secured, escorted, loaded and transported the Bosniak men in trucks from Grbavci School to two adjoining meadows at Lažete near Orahovac on 14 July 1995 for their summary execution at that location.

439. The Panel finds that the Prosecution proved beyond a reasonable doubt that VRS soldiers secured, escorted, loaded and transported the Bosniak men in trucks from Grbavci School to two adjoining meadows at Lažete near Orahovac on 14 July 1995 for their summary execution at that location.

⁶¹⁵ T-833 (Manning Report 2007), pgs.3/24-4/24 – Orahovac (Lažete 1) and Orahovac 2 (Lažete 2), pgs. 12/24-13/24 – Hodžići Road 3/4/5; T-836 (Srebrenica – Mass Graves Primary & Secondary); T-860 (Srebrenica Graves Primary to Secondary). Please also refer to paragraphs 401 to 403 [Orahovac (Lažete) associated with Hodžići Road 3/4/5] above.

⁶¹⁶ T-884, Witness A-47 *Krstić* Testimony, p. 2823. T-889, Witness A-26 *Popović* Testimony, pgs. 698-699 confirmed that the soldiers guarding the detainees would shoot in the air, ceiling and walls of the gym if there was commotion. He saw bullet holes when he visited the gym later on in a field inspection in 1999.

⁶¹⁷ Witness Mevludin Orić (29 January 2008). Survivor witness A-26 described the lack of water, food and medical treatment (T-889, Witness A-26 *Popović* Testimony, p. 700).

⁶¹⁸ T-918, Witness A-7 *Popović* Testimony, pgs. 6534, 6569-6570.

⁶¹⁹ T-889, Witness A-26 *Popović* Testimony, p. 700.

⁶²⁰ Witness Mevludin Orić (29 January 2008).

440. VRS soldiers secured, escorted, loaded and transported the Bosniak men in trucks from Grbavci School to two adjoining meadows at Lažete near Orahovac. Survivor witnesses described how they were kept in the gymnasium of the school, and recount a similar story of being given some water, blindfolded and then taken out of the building by their captors.⁶²¹ A survivor witness described that when ordered to exit the gym by soldiers “[a] column would march for a while and then it would stop, and this would last for a couple of minutes and then another column would be leaving the gymnasium after that.”⁶²² There was this gap because the trucks were full and they were waiting for another to return.⁶²³ Bosniak male prisoners were put in a truck, and taken to a field not far from the school.⁶²⁴ The survivors also testified of a soldier escorting the truck to the execution site.⁶²⁵ Sometime after this started, some of the prisoners remaining in the gym could hear bursts of gunfire. These meadows are close to the school.⁶²⁶ It would stop and then restart again. Some prisoners understood that prisoners were being executed and they would also be killed.⁶²⁷ Mevludin Orić tells how he stood with his cousin holding hands. His cousin, Hariz, knew they were going to be killed. Orić thought not. Both were right. Orić survived because his cousin’s body fell over him and he was not shot.

441. The process of being blindfolded and loaded onto trucks is also confirmed by a number of Zvornik Brigade soldiers. Prosecution witness Sreten Milošević testified he arrived mid-afternoon/early evening that he saw the prisoners were blindfolded and were loaded onto the trucks.⁶²⁸ Witness A-1 and Milorad Birčaković also testified about this process.⁶²⁹ Furthermore, Sreten Milošević testified that “[s]hooting was also heard from that nearby place; I assumed that the execution of those same people was taking place; the vehicles returned for those people and they were again taken away.”⁶³⁰

⁶²¹ Witness Mevludin Orić (29 January 2008); T-884, Witness A-47 *Krstić* Testimony, pgs. 2822-2823; T-889, Witness A-26 *Popović* Testimony on 24 August 2006, pgs. 706, 708-709.

⁶²² T-884, Witness A-47 *Krstić* testimony, p. 2823.

⁶²³ Witness Mevludin Orić (29 January 2008). *See also* T-918, Witness A-7 *Popović* Testimony, pgs. 6539-6540.

⁶²⁴ Witness Mevludin Orić (29 January 2008); T-884, Witness A-47 *Krstić* Testimony, pgs. 2824, 2828-2830; T-889, Witness A-26 *Popović* Testimony, pgs. 712, 716, 720-721.

⁶²⁵ Witness Mevludin Orić (29 January 2008); T-889, Witness A-26 *Popović* Testimony, p. 709; T-884, Witness A-47 *Krstić* Testimony, p. 2824.

⁶²⁶ Observed by the Panel during the site visit on 26 January 2009.

⁶²⁷ T-884, Witness A-47 *Krstić* Testimony, pgs. 2823-2824.

⁶²⁸ Witness Sreten Milošević (3 December 2007).

⁶²⁹ T-885, Witness A-1 *Popović* Testimony, pgs. 7571-7572; Witness Milorad Birčaković (12 December 2007).

⁶³⁰ Witness Sreten Milošević (3 December 2007).

442. The military police of the Zvornik Brigade were involved in the process of blindfolding and loading the detainees on the trucks.⁶³¹ Several witnesses testified to seeing the involvement of the only female Zvornik Brigade MP, Nada.⁶³² Milorad Birčaković testified that he saw Nada speaking with Miomir Jasikovac, Company Commander of the Zvornik Brigade MPs. Witness Lazar Ristić testified to seeing a woman carrying a bucket of water.⁶³³ Trbić states that Nada was present during the blindfolding.⁶³⁴ A-26, one of the survivors, testified at the ICTY, corroborates this level of detail from Trbić's statement. A-26 tells of her presence during the blindfolding of the detainees.⁶³⁵ Mevludin Orić also testified that a soldier was giving the prisoners a drink of water before being placed in the truck.⁶³⁶

443. The Prosecution Witness A-1 testified that Lt. Drago Nikolić was present at Grbavci School while the detainees were being taken out. He described Nikolić as issuing orders and that people were carrying out his orders:

I think that they planned and coordinated how to do it systematically. There was no need for him to constantly give instructions. People knew it; it had been all pre-planned.⁶³⁷

Additionally, Witness A-7 testified that he saw Drago Nikolić accompany the trucks to and from the killing site on several occasions.⁶³⁸

444. Witness Milorad Birčaković testified that the Trbić and Miomir Jasikovac were still present while detainees were being taken out, which was confirmed by Witness Lazar Ristić who saw the Accused at the school during the early evening of 14 July. Birčaković tells the same story of other witnesses of the trucks being loaded with prisoners. He was ordered to follow these trucks from the school to the killing fields. His car went as far as the water feature which was directly across from one of the execution sites. The other site was farther along a dirt track. Birčaković claims he was by himself in the car. He testified he carried a pistol and his job was to only follow the truck with the prisoners. He claims ignorance as to what was happening with them or what his duty actually entailed.⁶³⁹ The Panel finds while part of this testimony is corroborated by other witnesses, parts of

⁶³¹ T-885, Witness A-1, *Prosecutor v. Popović et al* IT-05-88, Testimony of 22 and 23 February 2007, ("Witness A-1 Popović Testimony") pgs. 7571-7572-testified that the policemen took a certain number of people out of the gym and saw 20 to 25 of them were blindfolded. He testified that the policemen yelled at them, screamed at them to "Hurry up."

⁶³² T-813 (Butler Narrative Report), fn. 370 (1.Zvpbr Military Police Company Unit Attendance Roster, Jul. 1995 – confirming that Nada was the only female Zvornik Brigade MP.

⁶³³ Witness Lazar Ristić (11 December 2007).

⁶³⁴ T-13 (Trbić 21 January 2004 Interview), p. 7. See also T-982, Witness A-50 Testimony (Confidential), p. 6619.

⁶³⁵ T-889, Witness A-26 *Popović* Testimony, pgs. 709.

⁶³⁶ Witness Mevludin Orić (29 January 2008).

⁶³⁷ T-885, Witness A-1 *Popović* Testimony, pgs. 7573-7574.

⁶³⁸ T-918, Witness A-7 *Popović* Testimony, p. 6540.

⁶³⁹ Witness Milorad Birčaković (12 December 2007).

it strain credulity. Witness Dragan Obrenović was told by Ristić that the executions were already underway when Ristić was there.⁶⁴⁰ Therefore, Trbić was still at Orahovac when the executions were ongoing, just as he explained in his prior statements.

445. Further, other members of the Security organs of the VRS were present. Witness Tanacko Tanić explained that he was informed by one of his colleagues from Brigade Command that one of the officers he saw there was Popović, “a security officer from the Corps.”⁶⁴¹ Milorad Birčaković testified that he was 90% sure he saw Popović at Orahovac standing by the road under an oak tree. Witness A-41 testified that Popović was in a vehicle leading the convoy of buses to Orahovac earlier in the day, and that Popović was at Orahovac when he arrived. Witness A-19 corroborates the presence of Popović at Orahovac in the same manner.

(d) By the end of 14 July 1995, approximately 1,000 (one thousand) Bosniak men were summarily executed by automatic rifle fire by VRS soldiers

446. The Panel finds that Prosecution proved beyond reasonable doubt that by the end of 14 July 1995, approximately 1,000 (one thousand) Bosniak men were summarily executed by automatic rifle fire by VRS soldiers at the two adjoining meadows at Lažete near Orahovac.⁶⁴² The Panel further finds that during 14 and 15 July 1995, the victims were buried in unmarked mass graves at Lažete by VRS soldiers from the Engineering Company, Zvornik Brigade.

447. The survivor witnesses testified that the executions of the Bosniak men took place from mid afternoon to around midnight of 14 July 1995⁶⁴³ at the meadows in Lažete, a settlement near to the village of Orahovac.⁶⁴⁴

448. Survivor witness Mevludin Orić testified that the TAM truck carrying his group was followed by a passenger car in which there were soldiers with rifles held out of the windows. His truck traveled only three or four minutes. His group were ordered from the truck and told to line

⁶⁴⁰ T-985 (Obrenović, Joint Motion on Plea Agreement dated 20 May 2003), p. 16662.

⁶⁴¹ Tanacko Tanić (11 December 2007).

⁶⁴² “Approximately 1000” is supported by Established Fact 63 (Decision of the Panel dated 13 December 2007). Witness A-47 estimated that there were around 2,500 detainees in the gym when it was almost full (T-884, Witness A-47 *Krstić* Testimony, p. 2822). Witness Mevludin Orić (29 January 2008) also estimated this same number of detainees in the school. A-26 estimated that between 500 and 1,000 must have come to the school (T-889, Witness A-26 *Popović* Testimony, p. 697). Also mentioned in para. 403, grave sites associated with Orahovac through DNA analysis 430 victims have been identified as of December 2007. Please also refer to paras. 401 to 403 above.

⁶⁴³ Witness Mevludin Orić (29 January 2008) believed it was in the afternoon; Witness A-47 it was between 7:00, 7:30 p.m. that he left the gymnasium (T-884, Witness A-47 *Krstić* Testimony, p. 2824); Witness A-26 testified it was getting dark when executions were going on (T-889, Witness A-26 *Popović* Testimony, p.713).

up. Mevludin grabbed his cousin's hand, Hariz, who said to him, "They will kill us." Immediately there were bursts of automatic gunfire from close range. Several shooters were firing simultaneously. Hariz cried out and squeezed Mevludin's hand. Mevludin fell on his stomach and he felt Hariz fall over his back. He felt Hariz shiver and die. Mevludin testified "I did not dare breath. I realized that it was over. They would kill us and that they wanted to kill us all." He heard his friend Esad Hakija Malić, son of Hakija, cry out and then be shot.

449. Mevludin Orić lay there pretending to be dead. The truck left and another truck arrived within minutes. He heard the same thing happen to another group of detainees. As Mevludin lay there, he heard Bosnian Serb soldiers abusing the dead "swearing our Turkish mother's" and "you are the best when you are dead." He also heard one of the prisoners successfully escape. One soldier complained that the operation was not done properly since some survived. This soldier then shot one man in the head and again shot Mevludin's cousin.

450. Mevludin Orić's account of the executions is matched by the evidence of Prosecution witnesses A-26 and A-47. Witness A-26 testified at the ICTY after being loaded on the truck it was a short trip and when they stopped they were ordered to get out and were lined up. A-26 further testified:

Shooting started...People started falling over, and I fell down with them and I had my arm over the chest of the man next to me. There was one person saying: We should finish them off.⁶⁴⁵

He also described how another truck arrived and that shooting was heard again, and then another truck arrived.⁶⁴⁶ Witness A-47 also testified to the same process of being loaded on a truck and that they did not travel long and were ordered to get off the truck by Bosnian Serb soldiers. They were lined up and then after the truck left, "...we heard automatic rifles being fired. Everybody fell down at that point, and those who were killed, who were still giving some signs of life, were shot at individually..."⁶⁴⁷ Witness A-47 further testified "[t]hey continued bringing people and killing people and that is lasted until dusk. Behind my back there was an excavator who was digging a mass grave."⁶⁴⁸ When he was being transported to the execution site he testified he moved his

⁶⁴⁴ T-44 (Large map of Srebrenica Area); T-817 (Map showing Zvornik Brigade area of responsibility and Battalion areas).

⁶⁴⁵ T-889, Witness A-26 *Popović* Testimony, p.712.

⁶⁴⁶ T-889, Witness A-26 *Popović* Testimony, p.713.

⁶⁴⁷ T-884, Witness A-47 *Krstić* Testimony, pgs. 2824-2825.

⁶⁴⁸ T-884, Witness A-47 *Krstić* Testimony, p. 2825.

blindfold a little upwards so he could see.⁶⁴⁹ He also saw Ratko Mladić arrive in the same red car that was following the trucks and watch one of those executions.⁶⁵⁰

451. Both Orić and Witness A-47 could hear the sound of machines (excavator) behind where they lay.⁶⁵¹ Orić lost consciousness and when he woke up, he removed his blindfold. Groups were still being executed. Witness A-47 remained conscious and watched the continuing executions and an excavator digging a grave.⁶⁵² Witness A-26 also survived by pretending to be dead.⁶⁵³

452. While pretending to be dead Witness A-26 recognized a former Bosnian Serb co-worker Gojko Simić and overheard other soldiers referring to another soldier as “Gojko.”⁶⁵⁴ Investigation has revealed that Gojko Simić from Orahovac was assigned to the 4th Infantry Battalion of the 1st Zvornik Infantry Brigade.⁶⁵⁵

453. At some time after nightfall, an excavator and a loader arrived, both with lights on. Witness A-26 subsequently heard the commotion surrounding the escape attempt of another Bosniak man, and during this commotion the witness made his own escape by moving into the woods.⁶⁵⁶ While escaping, he came upon another very nearby meadow where other people had been killed.⁶⁵⁷ There was a water fountain there. Witness A-26 testified that:

Let me tell you, the bodies were prostrated across the meadow. Most of the area was covered. I don't know how many bodies were there. There was a man who was barely alive who was separated away from the rest of the bodies. And the sounds he produced were not human sounds. They were more like animal sounds. And he was the only person who was a bit away from the rest of the group. The people- the bodies that were there prostrated on that ground were either on their backs or on their bellies, but they were spread out. That's how they had fallen when they were shot.⁶⁵⁸

454. Survivor witnesses estimate that the executions finished sometime in the night.⁶⁵⁹

⁶⁴⁹ T-884, Witness A-47 *Krstić* Testimony, p. 2826.

⁶⁵⁰ T-884, Witness A-47 *Krstić* Testimony, p. 2825.

⁶⁵¹ Witness Mevludin Orić (29 January 2008); T-884, Witness A-47 *Krstić* Testimony, pgs. 2825-2827.

⁶⁵² T-884, Witness A-47 *Krstić* Testimony, p. 2827; T-889, Witness A-26 *Popović* Testimony, p.715 stated there was an excavator digging a pit.

⁶⁵³ T-889, Witness A-26 *Popović* Testimony, pgs. 722-724.

⁶⁵⁴ T-888, Witness A-26 Statement dated 13 – 14 August 1995, (Confidential), p. 6.

⁶⁵⁵ T-813 (Butler Narrative Report), para. 7.13 and 7.15. Gojko Simić was killed in battle two days later on 16 July 1995.

⁶⁵⁶ T-889, Witness A-26 *Popović* Testimony, pgs. 722-724. This is corroborated by Witness Mevludin Orić who overheard the first prisoner escaping and being shot, followed by another prisoner who successfully escaped (29 January 2008).

⁶⁵⁷ T-889, Witness A-26 *Popović* Testimony, p. 724.

⁶⁵⁸ T-889, Witness A-26 *Popović* Testimony, pgs. 724-725.

⁶⁵⁹ Witness Mevludin Orić (29 January 2008). T-884, Witness A-47 *Krstić* Testimony, p. 2849 said that he could not be precise, but it was quite dark. He started moving again at around 11 pm and left after that.

455. Once all the soldiers had left, Orić stood up and in the moonlight, he was able to see the meadow around him. “It was terrible, everyone was dead.” He cried out and A-47 responded. Orić testified that he had to step on dead bodies in order to escape. He heard others crying and moaning but he was unable to help them. As he escaped, he saw that a big and long grave had been dug besides the bodies. He and A-47 escaped together.⁶⁶⁰

456. Mevludin Orić named those he knew in his group that were taken from the gymnasium to the execution site:

- a. His cousin Hariz (Arif) Hasanović, born 1971, ICRC Missing List No. BAZ 916754-02;⁶⁶¹
- b. Edhem (Huso) Hasanović, born 1955, ICRC Missing List No. BAZ 910843-01, whose remains were found and officially identified in Hodžići Road 4 secondary mass;⁶⁶²
- c. Nurif Hodžić, born 1949, ICRC Missing List No. BAZ 906491-02, whose remains were found and officially identified in secondary mass graves Snagovo 2 (Hodžići Road 7);⁶⁶³
- d. Zulfo Hodžić, born 1938, ICRC Missing List No. BAZ 901721-02;⁶⁶⁴
- e. Hakija Malić, born 1952, ICRC Missing List No. BAZ 914737-01, whose remains were found and officially identified in Lažete 2 primary mass grave and in Snagovo 2 (Hodžići Road 7) secondary mass grave;⁶⁶⁵
- f. Hakija’s son, Esad Malić, born 1973, ICRC Missing List No. BAZ 91736-01, whose remains were found and officially identified in Hodžići Road 3 secondary mass grave,⁶⁶⁶ and
- g. Selman Bekrić, born 1947, ICRC Missing List No. BAZ 912432-01.⁶⁶⁷

457. Mevludin Orić believes that all of the group are no longer alive, and remain missing. He also testified that “Nezir Gusić from Križevci” was a detainee in the gym and was made to blindfold the other detainees. The remains of Nezir Gušo, son of Salko, born 1954 in Milačevci (1.4 km

⁶⁶⁰ Witness Mevludin Orić (29 January 2008); T-884, Witness A-47 *Krstić* Testimony, pgs. 2830-2831.

⁶⁶¹ T-834 (ICTY OTP Srebrenica Missing Lists 2002) and T-1111 (ICRC Missing List, 8th Ed), p. 319 on list of persons for whom the ICRC has information but whose remains have not yet been returned to the family.

⁶⁶² T-1114 (PIP List of Officially Identified Victims), Oznaka HZ4B-186, p. 27.

⁶⁶³ T-1114 (PIP List of Officially Identified Victims), Oznaka ZV.SNA-02/046B GOR and ZV.SNA-02/172BP-O5, p. 126.

⁶⁶⁴ T-1111 (ICRC Missing List, 8th Ed.), p. 115.

⁶⁶⁵ T-1114 (PIP List of Officially Identified Victims), Oznaka ZV.SNA-02/113BP-05, ZV.SNA-02/019BP-05 and LZ2-1, p. 235.

⁶⁶⁶ T-1114 (PIP List of Officially Identified Victims), Oznaka HZ3B-079, p. 30.

⁶⁶⁷ T-1111 (ICRC Missing List, 8th Ed), p. 33.

from Križevci), ICRC Missing No. BAZ 902910-01, were found, and officially identified, in primary mass grave Lažete 1.⁶⁶⁸ The Panel concludes this is most likely the same person.

458. Moreover, the Panel finds Bosnian Serb witnesses corroborate the account of the mass killing in Orahovac and the sites of the killing were examined and exhumed and provide further evidence of the event.⁶⁶⁹

(e) During 14 and 15 July 1995, the victims were buried in unmarked graves at Lažete by VRS soldiers from the Engineering Company, Zvornik Brigade

459. The Panel finds that Prosecution proved beyond a reasonable doubt that during 14 and 15 July 1995, the victims were buried in unmarked graves at Lažete by VRS soldiers from the Engineering Company, Zvornik Brigade.

460. Trbić and survivor witnesses described the presence of an excavator at one of the execution during the execution. This is corroborated by Zvornik Brigade Engineering Company soldiers and documents.

461. Dragan Obrenović stated around 14:00 hours on 14 July 1995, received report to release two machine operators from the frontline for the burial of prisoners.⁶⁷⁰ This is confirmed by Witness Miloš Mitrović, who was one of these soldiers. He testified that his colleague went instead and he waited at Zvornik Brigade Standard.⁶⁷¹

462. Witness Cvijetin Ristanović, a member of the Zvornik Brigade Engineering Company, testified that he received an order from Zvornik Brigade Engineering Company officers on the morning of 14 or 15 July to go to the school in Orahovac with a backhoe excavator.⁶⁷² He went passed the school where he saw soldiers in camouflage uniforms and military policemen, and went another 500-600 meters to 1 kilometer further and stopped on the road with a meadow on both sides

⁶⁶⁸ T-1114 (PIP list of Officially Identified Victims), Oznaka LZ1-582B, p. 10.

⁶⁶⁹ Witness Sreten Milošević (3 December 2007); T-918, Witness A-7 Popović Testimony, pgs. 6540-6541; Witness A-8 (10 December 2007); Tanacko Tanić (11 December 2007); ***** (21 April 2008); Witness A-41 (4 February 2008); T-885, Witness A-1 Popović Testimony, pgs. 7580-7582, 7584, 7586-7587.

⁶⁷⁰ T-985 (Obrenović, Joint Motion on Plea Agreement dated 20 May 2003), p. 16665.

⁶⁷¹ T-880, Witness Miloš Mitrović, *Prosecutor v. Blagojević and Jokić* IT-02-60, Testimony of 3 and 4 December 2003, (“Witness Miloš Mitrović *Blagojević* Testimony”) pgs. 5599-5601.

⁶⁷² T-924, Witness Cvijetin Ristanović, *Prosecutor v. Blagojević and Jokić* IT-02-60, Testimony of 1 December 2003, (“Witness Cvijetin Ristanović *Blagojević* Testimony”) pgs. 5363-5365.

and a waterpoint.⁶⁷³ It was around midday when he unloaded his excavator from the truck and went under a railway pass to a meadow.⁶⁷⁴ He was told to dig a hole approximately 2 to 3 meters wide by 15 meters long and around 1.5 to 2 meters deep.⁶⁷⁵

463. At one point, a soldier ordered Cvijetin Ristanović to stop digging. He had to step back and turn around, his back towards the meadow.⁶⁷⁶ He then heard a truck arrive with people getting off and were then shot.⁶⁷⁷ After this, he was told to continue digging. He saw the corpses were wearing civilian clothes and were blindfolded.⁶⁷⁸ Later on, the witness was again ordered to stop digging and the same sequence of events took place.⁶⁷⁹ He also saw corpses at the water point nearby.⁶⁸⁰ The next day he was ordered to return to Orahovac and he dug another hole.⁶⁸¹

464. Witness A-45, a member of the Zvornik Brigade Engineering Company, testified that on 15 July 1995 he was told by the Zvornik Brigade Engineering Company officers to go to Orahovac to bury people that were executed there.⁶⁸² Witness A-45 was provided the exact location to go to bury those executed, and he traveled to the site of the mass graves at Orahovac.⁶⁸³ On this way to the site he saw two soldiers with the white belts of military police. A-45 saw deceased people on the fields either side of the overpass and a backhoe excavator was working on the meadow the far side of the railway line.⁶⁸⁴

465. Defense witness Slavko Bogićević testified about the activities of the Zvornik Brigade Engineering Company in Orahovac. Witness A-45 testified Slavko Bogićević was the Deputy Commander for the Engineering Company, and Cvijetin Ristanović testified that he was ordered by Slavko Bogićević who was present at the grave sites in Orahovac to dig a grave. Slavko Bogićević denied both of these statements and that he was present at Orahovac during the burial operation.

⁶⁷³ T-924, Witness Cvijetin Ristanović *Blagojević* Testimony, pgs. 5369-5370. This waterpoint is the same water fountain or feature described by others including the driver Milorad Birčaković. This water feature is still there and was observed by the Panel on 26 January 2009 site visit.

⁶⁷⁴ T-924, Witness Cvijetin Ristanović *Blagojević* Testimony, pgs. 5370-5371.

⁶⁷⁵ T-924, Witness Cvijetin Ristanović *Blagojević* Testimony, pgs. 5371-5372.

⁶⁷⁶ T-924, Witness Cvijetin Ristanović *Blagojević* Testimony, pgs. 5373-5374.

⁶⁷⁷ T-924, Witness Cvijetin Ristanović *Blagojević* Testimony, pgs. 5373-5374.

⁶⁷⁸ T-924, Witness Cvijetin Ristanović *Blagojević* Testimony, pgs. 5374-5375.

⁶⁷⁹ T-924, Witness Cvijetin Ristanović *Blagojević* Testimony, p. 5375.

⁶⁸⁰ T-924, Witness Cvijetin Ristanović *Blagojević* Testimony, pgs. 5376-5377. Contrast this to Milorad Birčaković testimony where he explains he followed prisoners to this site, but does not know why. He would turn his vehicle around in front of the first killing field.

⁶⁸¹ T-924, Witness Cvijetin Ristanović *Blagojević* Testimony, pgs. 5382-5383.

⁶⁸² Witness A-45 (15 January 2008).

⁶⁸³ Witness A-45 (15 January 2008). Witness A-45 identified in Exhibit T-1 AG-12, marked places Exhibit T-48. A-45 identified and marked locations on Exhibit T-49 and T-50.

⁶⁸⁴ Identified on Exhibit T-1 AG-15 marked as Exhibit T-50.

The Panel did not find Slavko Bogićević testimony on this point credible because he may have been hiding his own personal involvement in Orahovac.

466. Relevant documents, including Zvornik Brigade vehicle records from July of 1995, the Commander's Daily Orders Journal for the Engineering Company of the Zvornik Brigade, and the fuel disbursement log of the Zvornik Brigade, corroborate the accounts of the witnesses and the Accused that excavators, loaders, and TAM military trucks were used in Orahovac on 14 and 15 July 1995.⁶⁸⁵

467. According to these records, there were at least two pieces of earthmoving equipment at the execution site by the afternoon of 14 July 1995, a fact which coincides with witness testimony and the Accused's statements that an excavator was working while executions were occurring during the afternoon and evening.⁶⁸⁶

468. The Panel has found in paragraph 439 that victims which were detained in Orahovac were brought to two fields near Lažete to be summarily executed and buried in two primary mass graves, named Lažete 1 and Lažete 2.⁶⁸⁷ Extensive forensic evidence confirms the existence of two primary disturbed mass graves⁶⁸⁸ in Lažete.⁶⁸⁹

469. Aerial photos show that the ground near Orahovac was disturbed between 5 and 27 July 1995.⁶⁹⁰ These primary mass graves were further disturbed between 7 and 27 September 1995 and bodies they contained moved to secondary mass graves (see below).⁶⁹¹

470. Two hundred eighty four (284) individuals located at Lažete 1 and 2 were identified by DNA analysis.⁶⁹² When the sex of the victims could be determined, they were male.⁶⁹³ When the cause of death could be determined, this was by gunshot.⁶⁹⁴ 4 ligatures and 138 blindfolds were

⁶⁸⁵ Exhibit T-1098 Zvornik Brigade Vehicle Logs [ERN: 0069 4991-0069-4996 (BCS), 0069-5030-0069-5031 (BCS), 0069-5083-0069-5084 (BCS), 0069-5109-0069-5110 (BCS), 0069-5105-0069-5106(BCS)]. Exhibit T-813 (Butler Narrative Report), paras 7.18-7.27, fn 398, Zvornik Brigade fuel dispersal log (BGH 700 on 17 Jul. 95) (ERN: 0069-1064 (BCS) and 0096-5591(ENG)) and fn 402 Zvornik Brigade Engineering Company Daily Order 15.07.1995 (ERN 0082-2744 (BCS) and 0084-6762 (ENG)).

⁶⁸⁶ T-1098 Vehicle Log dated 14 Jul. 95 for Torpedo excavator [ERN: 0069-5031-0069-5032 (BCS)], Vehicle Log for Mercedes 2626 truck [ERN: 0069-5105-0069-5106(BCS)].

⁶⁸⁷ Established Fact 64 (Decision of the Panel dated 13 December 2007).

⁶⁸⁸ This means that victims were put in the mass grave right after being executed and that the mass grave was later disturbed, or robbed, and some of the bodies it contained were moved to (a) secondary mass grave(s).

⁶⁸⁹ T-830 (1st Manning Report), Annex A, p. 23 to 26 and T-831 (2nd Manning Report), p. 4 to 8.

⁶⁹⁰ Established Fact 64 (Decision of the Panel dated 13 December 2007).

⁶⁹¹ Established Fact 64 (Decision of the Panel dated 13 December 2007).

⁶⁹² T-1114 (PIP List of Officially Identified Victims).

⁶⁹³ Established Fact 65 and 66 (Decision of the Panel dated 13 December 2007); T-831 (2nd Manning Report), p. 5.

⁶⁹⁴ Established Fact 66 (Decision of the Panel dated 13 December 2007).

recovered from Lažete 1,⁶⁹⁵ 1 ligature and 147 blindfolds were recovered from Lažete 2⁶⁹⁶. Some religious items affiliating the victims to Muslim religion were found.⁶⁹⁷

2. Acts of Milorad Trbić

471. The above general factual findings form the basis for the event as charged. The findings below are the direct evidence of the Accused's participation in this event. Trbić's statements and other direct evidence are accepted as credible where they are supported by the findings rendered above. Statements from the Accused that have no corroborative counterpart are not used in this decision. Corroborative evidence can be circumstantial. The evidence is deemed trustworthy and reliable when the statements given by the Accused also correspond with the credible evidence as to the charged event. The Trial Panel for the sake of clarity has divided the evidence into two sections (1. General Factual Findings and 2. Acts of Milorad Trbić) for each sub count. This evidence when read together forms the basis for the Panel's conclusions at the end of each section.

(a) In the late evening hours on 13 July 1995 at Grbavci School, Orahovac, Milorad Trbić supervised and controlled other VRS soldiers in securing school where Bosniak males from Srebrenica enclave were being detained

472. The Panel finds that the Prosecution established beyond reasonable doubt that in the late evening hours on 13 July 1995 at Grbavci School, Orahovac Milorad Trbić supervised and controlled other VRS soldiers in securing the school where Bosniak males from Srebrenica enclave were being detained.

473. The Panel found in paragraphs 427 and 431 that Bosniak men had been detained at Grbavci School, Orahovac in the late evening hours on 13 July and 14 July 1995.

474. The Panel finds that the Accused arrived in the late evening hours on 13 July 1995 at Grbavci School.⁶⁹⁸ Trbić has stated consistently that Drago Nikolić told him to go to Orahovac together with Momir Jasikovac and members of the Zvornik Brigade Military Police in the late evening of 13 July at the command Zvornik Brigade.⁶⁹⁹ They were told to prepare for the detention

⁶⁹⁵ Established Fact 66 (Decision of the Panel dated 13 December 2007); T-831 (2nd Manning Report), p. 5.

⁶⁹⁶ T-830 (1st Manning Report), Annex A, p. 25; Established Fact 66 (Decision of the Panel dated 13 December 2007).

⁶⁹⁷ T-830 (1st Manning Report), Annex A, p. 26; T-831 (2nd Manning Report), p. 6 and 8.

⁶⁹⁸ T-17 (Trbić 29 October 2004 Interview), p. 58. *See also* T-982, Witness A-50 Testimony (Confidential), p. 6599.

⁶⁹⁹ T-3 (Trbić 19 August 2002 US Deposition), pgs. 29-30; T-13 (Trbić 21 January 2004 Interview), p.4; T-15 (Trbić 23 May 2004 Interview), p. 18; T-16 (Trbić 27 May 2004 Interview), p. 7; T-17 (Trbić 29 October 2004 Interview), pgs.

of approximately 600⁷⁰⁰ Bosnian Muslims from Srebrenica at the school in Orahovac in the late evening of 13 July 1995.⁷⁰¹

475. Dragan Obrenović testified that at the request of Drago Nikolić in the late evening on 13 July 1995 he released five military policemen and Jasikovac to his disposal and Drago could issue them tasks.⁷⁰² Pandurević also testified that Obrenović told him that he released five or six military policemen and Jasikovac to Drago and that Drago could issue them tasks.⁷⁰³

476. Prosecution Witness A-7 who was present at Orahovac on 13 and 14 July 1995 stated he could not recall whether he saw Trbić at Orahovac or Ročević schools when he was performing guard duties at those schools. He stated he knew Trbić well and saw him often at the Zvornik Brigade HQ. They lived in neighboring settlements and used to see each other every day.⁷⁰⁴ On this point the Panel found that as he was Trbić's friend he most likely would not incriminate him, and thus discounted this portion of this testimony. Defense witnesses***** and *****, who arrived on 14 July to provide security at Orahovac, testified that they did not see Trbić.⁷⁰⁵ However, Lazar Ristić testified that he saw them with Trbić. The Panel does not find that these parts of witness A-7's statement or this part of the testimonies of ***** and ***** credible. Just as with Tanacko Tanić and other witnesses there is a reluctance to name names. Lazar Ristić's testimony is more credible and is supported by other extensive evidence including the phone communication.

477. The Accused Milorad Trbić stated that he and Momir Jasikovac, Commander of the Zvornik Brigade Military Police, were responsible for securing the area and remained doing so the entire night.⁷⁰⁶ Trbić stated he arrived between 23:00 and 00:00 hours.⁷⁰⁷ He described how the buses would come close to the entrance of the gym,⁷⁰⁸ and the Bosnian Muslims from Srebrenica were ordered to get out of the vehicles⁷⁰⁹ and to leave their belongings at the entrance of the gym before

56-57. See also T-982, Witness A-50 Testimony (Confidential), pgs. 6598-6599. In the 29 October 2004 interview Trbić is mentioning that it is Colonel Janković rather than Jasikovac as in other interviews. This maybe a mistake or Trbić is being deceptive.

⁷⁰⁰ See also T-982, Witness A-50 Testimony (Confidential), p. 6607.

⁷⁰¹ T-3 (Trbić 19 August 2002 US Deposition), pgs. 30, 35; T-15 (Trbić 23 May 2004 Interview), p. 18; T-5 (ICTY OTP Information Report 26 August 2002) (Confidential), p.3. See also T-982, Witness A-50 Testimony (Confidential), pgs. 6599, 6605-6607, 6684.

⁷⁰² T-983, Obrenović *Blagojević* Testimony, 2470-2476.

⁷⁰³ O-5, Pandurević *Popović* Testimony on 11 February 2009, p. 31307.

⁷⁰⁴ T-917 (Witness A-7 Statement to ICTY OTP on 23-24 November 2005) (Confidential), p. 5.

⁷⁰⁵ Witness ***** (21 April 2004); Witness ***** (21 April 2004).

⁷⁰⁶ T-15 (Trbić 23 May 2004 Interview), p. 24. See also T-982, Witness A-50 Testimony (Confidential), p. 6604.

⁷⁰⁷ T-17 (Trbić 29 October 2004 Interview), p. 58; See also T-982, Witness A-50 Testimony (Confidential), p. 6599.

⁷⁰⁸ T- 17 (Trbić 29 October 2004 Interview), p. 58. See also T-982, Witness A-50 Testimony (Confidential), p. 6603.

⁷⁰⁹ T-3 (Trbić 19 August 2002 US deposition), pgs. 32-34; T- 17 (Trbić 29 October 2004 Interview), p. 58.

going inside.⁷¹⁰ He stated “I worked on organization and preparation for the killing operation, organization of security until it starts, organization of loading and sending vehicles to the place of the operation, to the place of the killing operation”.⁷¹¹ This statement Trbić never withdraws from any of his interviews. It is supported by the testimony of Lazar Ristić and others and is consistent with his duties and his role as Drago Nikolić’s deputy.

(b) On 14 July 1995, Milorad Trbić ensured there was an adequate guard force to contain and control the Bosniak men detained inside the school by requesting from the 4th Battalion, Zvornik Brigade 10 (ten) additional VRS soldiers to augment the number of guards at the school to secure and control the Bosniak men inside the school whereby an additional 10 (ten) VRS soldiers were sent and upon their arrival he tasked them to secure the school

478. The Panel finds that the Prosecution proved beyond a reasonable doubt that on 14 July 1995 Milorad Trbić ensured there was an adequate guard force to contain and control the Bosniak men detained inside the school by requesting from the 4th Battalion, Zvornik Brigade 10 (ten) additional VRS soldiers to augment the number of guards at the school to secure and control the Bosniak men inside the school whereby an additional 10 (ten) VRS soldiers were sent and upon their arrival he tasked them to secure the school. Note also that as others had testified the local villagers were also seen as getting out of control.

479. Trbić explains this by stating that once the executions started, he felt that maybe some larger problems may occur in that area.⁷¹² Trbić calls from a house near Grbavci School, Lazar Ristić of the 4th Battalion to see if he has any free soldiers to help with security at the school.⁷¹³ Lazar Ristić testified he was the assistant commander of 4th Battalion, and he received a call from the Accused requesting 10 of his soldiers to help guard the school in Orahovac.⁷¹⁴ There is also a note in the Zvornik Brigade Duty Officer’s Logbook made in the late afternoon, early evening of 14 July 1995.

⁷¹⁰ T-3 (Trbić 19 August 2002 US deposition), p. 34; T-19 (ICTY Information Report regarding August 2004 site visit) (Confidential), p. 3.

⁷¹¹ T-13 (Trbić 21 January 2004 Interview), p. 7; *See also* T-982, Witness A-50 Testimony (Confidential), p. 6683-6684.

⁷¹² T-15 (Trbić 23 May 2004 Interview), p. 24.

⁷¹³ T-3 (Trbić 19 August 2002 Interview), pgs. 40-41; T-5 (ICTY OTP Information Report 26 August 2002), (Confidential) p. 4, T-13 (Trbić 21 January 2004 Interview), pgs. 6 – 7; T-15 (Trbić 23 May 2004 Interview), p. 26; *See also* T-982, Witness A-50 Testimony, pgs. 6608-12, 6704-05, and 6767. Lazar Ristić testified he was the assistant commander of 4th Battalion and he received a call from Trbić asking for reinforcements. Bruce Bursik was able to locate the house with the telephone number near the school.

⁷¹⁴ Witness Lazar Ristić (11 December 2007).

It reads “TRBIC = 592-029=”⁷¹⁵ (see paragraph 480 below). Additionally, Dragan Obrenović testified that Lazar Ristić was called by Trbić to see if he had any men available to assist in guarding the prisoners.⁷¹⁶

480. Trbić identified the house which he made his call from during his site visit with ICTY OTP investigators.⁷¹⁷ This house belonged to the Vidović family. Prosecution witness Bruce Bursik confirmed to the Court which house the Accused had pointed out.⁷¹⁸ At trial, additional Prosecution witness Stana Vidović confirmed that in July 1995 this was her house and that her telephone number was 592 029.⁷¹⁹ She also confirmed that VRS personnel frequently used her telephone.⁷²⁰ Remarkably when Trbić is questioned nine years later he still could recite most of this phone number.⁷²¹

481. After receiving the phone call from the Accused, Lazar Ristić testified that while at the 4th Battalion command he told 10 soldiers to go to the school in Orahovac and to assist with providing security of the prisoners there, and that they were to report to the Accused Milorad Trbić.⁷²² They left immediately. Later on 14 July, Lazar Ristić was contacted by one of those soldiers informing him they were asked to execute people. Ristić drove to the school and saw Trbić leaving with two Zvornik Brigade MPs.⁷²³ According to Ristić, before he released his soldiers from the school, he saw Jasikovac and Zvornik Brigade MPs, Rear Services and logistics personnel present at the school as well. He also watched Nada, the only female MP from the Zvornik Brigade, carrying

⁷¹⁵ T-20 (Zvornik Brigade Duty Officers Logbook), p. ERN 0293 5749. Also T-1 BB 1A (BCS) and T-1 BB 1B (Eng) (Excerpt from Duty Officers’ Logbook with “Trbić -592-029”).

⁷¹⁶ T-983, Obrenović *Blagojević* Testimony of 2 October and 10 October 2003, pgs. 2536, 3042.

⁷¹⁷ T-19 (ICTY OTP Information Report regarding August 2004 site visit) (Confidential).

⁷¹⁸ Witness Bruce Bursik (28 November 2007). T-1 BB 2 (Aerial photograph of Grbavci School and surrounding area); T-23 (ICTY OTP Information Report, 2 February 2004) Trbić was given by ICTY OTP investigator Bruce Bursik during a meeting on 2 February 2004 an aerial photograph of Grbavci School and surrounding area (same aerial photograph as T-1 BB2) to circle the house he made the telephone call on 14 July 1995. Trbić pointed out two houses on the photo and stated it was one of these two houses. Attached to T-23 ICTY OTP information report is a copy of the photo Trbić circled the houses. Sometime later Bruce Bursik was able to locate the house with the telephone number near the school [T-1 BB3 (Photograph by Bruce Bursik on site visit to confirm which house Trbić called from)]. Bruce Bursik was able to locate the house with the telephone number near the school. When at the site visit in August 2004 Trbić was asked by ICTY OTP investigators what house he called from and he pointed to a house just south of the school. When informed by the investigators that the OTP had confirmed he made a call from a house opposite the school he identified which house this was and stated he called Standard from this location.

⁷¹⁹ Witness Bruce Bursik (28 November 2007); Witness Stana Vidović (26 January 2009); Witness A-1 also identified the house opposite the school as belonging to the Vidović family (T-885, Witness A-1 *Popović* Testimony, p. 7673).

⁷²⁰ Witness Stana Vidović (26 January 2009).

⁷²¹ T-15 (Trbić 23 May 2004 Interview), p. 74.

⁷²² Witness Lazar Ristić (11 December 2007).

⁷²³ Witness Lazar Ristić (11 December 2007); T-33 (Aerial of Orahovac marked by witness Ristić).

water to the school. However, he also states there was no one higher than Trbić there at the site. Dragan Obrenović confirmed that Ristić gave him the same account.⁷²⁴

482. The Panel finds that Trbić called Lazar Ristić to request from the 4th Battalion, Zvornik Brigade 10 additional VRS soldiers to augment the number of guards at the school to secure and control the Bosniak men inside the school whereby an additional 10 VRS soldiers were sent and upon their arrival the Accused tasked them to secure the school.

(c) During the day on 14 July 1995 outside the school gymnasium, Milorad Trbić, acting jointly with other VRS soldiers, summarily executed by automatic weapon fire, up to 20 (twenty) Bosniak men from Srebrenica enclave who were previously detained inside the gymnasium in order to intimidate and therefore subdue and control the remainder of the detained Bosniaks inside the school

483. The Panel finds that the Prosecution proved beyond a reasonable doubt that during the day on 14 July 1995 outside the school gymnasium, Milorad Trbić, acting jointly with other VRS soldiers, summarily executed by automatic weapon fire, up to 20 (twenty) Bosniak men from Srebrenica enclave who were previously detained inside the gymnasium in order to intimidate and therefore subdue and control the remainder of the detained Bosniaks inside the school.

484. Trbić stated that while Drago Nikolić and Beara visited Orahovac in the early morning hours of 14 July, they informed Trbić and Jasikovac not to allow prisoners out, not give them any food and no one can escape. In case of some rebellion, Drago and Beara said to take them out and shoot them.⁷²⁵ Based on survivor testimony the Panel finds all of these directives were complied with. Later during the day, due to the high temperature and being without food and water the detained prisoners grew desperate. The prisoners began to ask for answers or a solution to their situation. In response, Trbić, Jasikovac and Military Police acted on the order issued by Beara and Nikolić shot about 20 people in front of the gymnasium.⁷²⁶ Trbić stated “[i]t was done in order to prevent them to get out altogether,...and in order to keep them under control.”⁷²⁷ Once the execution starts of these people, the Accused states that together with Drago and Jasikovac, he takes

⁷²⁴ T-984 (Dragan Obrenović Statement to ICTY OTP 5 February 2004), para. 29; T-985 (Obrenović, Joint Motion on Plea Agreement dated 20 May 2003), p. 16662-60.

⁷²⁵ T-15 (Trbić 23 May 2004 Interview), p. 25.

⁷²⁶ During the August 2004 site visit Trbić claims a lower number (10 to 12) but still retells the same story. T-19 (ICTY OTP Information Report regarding August 2004 site visit) (Confidential), p. 3.

⁷²⁷ T-15 (Trbić 23 May 2004 Interview), p. 25; T-19 (ICTY OTP Information Report regarding August 2004 site visit) (Confidential), p. 3.

part in the execution and they take turns in organizing and preparing the vehicles for transport of people to the execution site where people were shot.⁷²⁸

(d) Milorad Trbić also assisted Drago Nikolić and other senior VRS officers by supervising and coordinating the activities of VRS soldiers in securing, escorting, loading and transporting the Bosniak men in trucks from Grbavci School to two adjoining meadows at Lažete near Orahovac, knowing that the Bosniaks were being taken there for their summary execution at that location

485. The Panel finds that the Prosecution proved beyond a reasonable doubt that Milorad Trbić also assisted Drago Nikolić and other senior VRS officers by supervising and coordinating the activities of VRS soldiers in securing, escorting, loading and transporting the Bosniak men in trucks from Grbavci School to two adjoining meadows at Lažete near Orahovac, knowing that the Bosniaks were being taken their for their summary execution at that location. The Panel found in paragraphs 443 to 445 that Drago Nikolić and other senior VRS officers were present and taking part in transporting the prisoners to the meadows at Lažete. Additionally, the Panel found in paragraphs 439 to 442 that VRS soldiers which included Zvornik Brigade Military Police were securing, escorting, loading and transporting the Bosniak men in trucks from Grbavci School to two adjoining meadows at Lažete near Orahovac.

486. The Panel finds that, according to his statements, Trbić organized and prepared the vehicles for transport of people to the execution site.⁷²⁹ Again in his own words, “I worked on organization and preparation for the killing operation, organization of security until it starts, organization of loading and sending vehicles to the place of the operation, to the place of the killing operation.”⁷³⁰ As mentioned above, Lazar Ristić saw Trbić leaving Grbavci School with two Zvornik Brigade MPs.⁷³¹ The Panel finds this is sufficient to place Trbić at Orahovac, however, the Panel is unwilling to find that Trbić definitively left Orahovac at this point. This conflicts with his own credible statements that he remained there throughout the day and night. It is obvious to the Panel that Ristić needs to remove Trbić from the scene so that he can establish his men also left the scene.

⁷²⁸ T-15 (Trbić 23 May 2004 Interview), p. 26.

⁷²⁹ T-13 (Trbić 21 January 2004 Interview), p. 8; T-15 (Trbić 23 May 2004 Interview), p. 26. *See also* T-982, Witness A-50 Testimony (Confidential), pgs. 6619-20.

⁷³⁰ T-13 (Trbić 21 January 2004 Interview), p. 7; *See also* T-982, Witness A-50 Testimony (Confidential), pgs. 6683-6684.

⁷³¹ Witness Lazar Ristić (11 December 2007); T-33 (Aerial of Orahovac marked by witness Ristić).

487. Trbić kept supervising and coordinating the VRS soldiers in securing, escorting, loading and transporting the prisoners, knowing that they would be executed at that location.⁷³² As Trbić is organizing the trucks and the MPs are organizing the blindfolds, Drago and Jasikovac were preparing the volunteers who would carry out the executions.⁷³³ Trbić recalled soldiers from the Zvornik Brigade, military police and from the 4th Battalion taking the prisoners out of the school; they were blindfolded and put on the trucks.⁷³⁴ As soon as the truck would be full, it was set off towards its destination where the Bosnian Muslim men were executed.⁷³⁵ The TAM truck would then drive off with five to seven soldiers with them in the direction towards front lines than towards Zvornik.⁷³⁶ Milorad Birčaković corroborates these statements as he escorts these vehicles on their way to the execution site in order to prevent the prisoners from jumping off the truck and to carry out the order.⁷³⁷ This sequence of securing, escorting, loading and transporting is corroborated by the survivor witnesses and the Bosnian Serb witnesses mentioned above. The level of detail in Trbić's statements match the detail in these statements from survivor Bosniak men and VRS witnesses.

488. The Panel found in paragraph 446 that by the end of 14 July 1995, approximately 1,000 (one thousand) Bosniak men were summarily executed by automatic weapon fire by VRS soldiers at the two adjoining meadows at Lažete near Orahovoac.

489. According to Trbić, he went to the execution site twice.⁷³⁸ When he arrived at the site the first time at about 20:00 hours, and after a short period he then returns to the school.⁷³⁹ Drago and some military police and those Trbić did not know were at the execution site.⁷⁴⁰ During his first time at the execution site he saw bodies; some which he thought were still alive, being pushed by the engineering equipment.⁷⁴¹ According to Trbić, Drago Nikolić informs him that executions had to continue at the second site on the other side of the railway tracks.⁷⁴² There were some units

⁷³² T-15 (Trbić 23 May 2004 Interview), pgs. 26-27; T-19 (ICTY OTP Information Report regarding August 2004 site visit) (Confidential), p. 3. *See also* T-982, Witness A-50 Testimony (Confidential), pgs. 6621-6625.

⁷³³ *See also* T-982, Witness A-50 Testimony (Confidential), pgs. 6619-20.

⁷³⁴ T-3 (Trbić 19 August 2002 US Deposition), pgs. 49-50; T-19 (ICTY OTP Information Report regarding August 2004 site visit) (Confidential), p. 3.

⁷³⁵ *See also* T-982, Witness A-50 Testimony (Confidential), p. 6620.

⁷³⁶ T-3 (Trbić 19 August 2002 US Deposition), pgs. 44-51.

⁷³⁷ T-15 (Trbić 23 May 2004 Interview), p. 26.

⁷³⁸ T-15 (Trbić 23 May 2004 Interview), p. 26; T-19 (ICTY OTP Information Report regarding August 2004 site visit) (Confidential), p. 3.

⁷³⁹ T-15 (Trbić 23 May 2004 Interview), pgs. 26-27; T-19 (ICTY OTP Information Report regarding August 2004 site visit) (Confidential), p. 3.

⁷⁴⁰ T-15 (Trbić 23 May 2004 Interview), p. 26.

⁷⁴¹ T-15 (Trbić 23 May 2004 Interview), p. 27.

⁷⁴² T-19 (ICTY OTP Information Report regarding August 2004 site visit) (Confidential), p. 3.

outside of the Zvornik Brigade but Trbić did not know which ones.⁷⁴³ During the second time Trbić is at the execution sites he stated that they were also executing on the site next to the main road.⁷⁴⁴ This is the site next to the water feature.

490. Trbić stated during the 21 January 2004 interview that the executions ended around 04:00 or 05:00 hours on 15 July 1995.⁷⁴⁵ However, during the August 2004 site visit and in the 29 October 2004 interview Trbić stated that the executions in Orahovac were finished around midnight.⁷⁴⁶ This later statement the Panel finds to be more accurate. This statement is corroborated by survivor witnesses who also state the executions ended around mid-night of 14 July 1995 (see paragraph 454).

(e) Later on 14 July 1995, at Lažete, Milorad Trbić, summarily executed by automatic rifle fire an unknown number but at least 1 (one) Bosniak males from Srebrenica enclave who had been taken to Lažete for summary execution.

491. The Panel finds that the Prosecution established beyond a reasonable doubt that later on 14 July 1995, at Lažete, Milorad Trbić summarily executed by automatic rifle fire an unknown number but at least 1 (one) Bosniak males from Srebrenica enclave who had been taken to Lažete for summary execution.

492. Trbić stated that he partook in executions at Lažete at on 14 July 1995.⁷⁴⁷ Trbić stated during the 23 May 2004 interview with ICTY OTP that he partook in executions at the site on the other side of the tracks in the evening, at night.⁷⁴⁸ During the August 2004 site visit, he stated that at about 20:00 hours on 14 July 1995 he personally participated in the execution of one group of prisoners brought to the site closest to the water point.⁷⁴⁹ In the 29 October 2004 interview the Accused confirms taking part in executions at Lažete.⁷⁵⁰ The Panel is therefore unable to find which meadow at Lažete the Accused executed at least one person. Although the Accused changed which meadow he committed the killings, he consistently stated that he killed prisoners in at least three

⁷⁴³ T-15 (Trbić 23 May 2004 Interview) pgs. 26-27; T-19 (ICTY OTP Information Report regarding August 2004 site visit) (Confidential), p. 3.

⁷⁴⁴ T-15 (Trbić 23 May 2004 Interview), p. 27.

⁷⁴⁵ T-13 (Trbić 21 January 2004 Interview), p. 8. *See also* T-982, Witness A-50 Testimony (Confidential), p. 6621.

⁷⁴⁶ T-19 (ICTY OTP Information Report regarding August 2004 site visit) (Confidential), p. 3; T-17 (Trbić 29 October 2004 Interview), p. 60.

⁷⁴⁷ T-15 (Trbić 23 May 2004 Interview), p. 27; T-19 (ICTY Information Report regarding August 2004 site visit) (Confidential), p. 3; T-17 (Trbić 29 October 2004 Interview), p. 60.

⁷⁴⁸ T-15 (Trbić 23 May 2004 Interview), p. 27.

⁷⁴⁹ T-19 (ICTY OTP Information Report regarding August 2004 site visit) (Confidential), p. 3.

⁷⁵⁰ T-17 (Trbić 29 October 2004 Interview), p. 60.

statements. The Panel gives credence to these statements against self-interest and finds that the Accused participated in mass executions at Lažete.

493. During the August 2004 site visit, Trbić confirmed the exact location of the two adjoining meadows at Lažete to the investigators. The Panel finds this to be clear indication of Trbić's participation in the events at that particular location.

494. According to Trbić, during the evening on 14 July 1995 engineering equipment was working at the execution sites.⁷⁵¹ During his first time at the execution site he saw bodies some which he thought were alive, being pushed by the engineering equipment.⁷⁵² After the Bosnian Muslim men were executed, Trbić stated Jasikovac arranged the clean up of items of clothing or footwear or documents that remained at the school.⁷⁵³ Trbić leaves the school in Orahovac around 08:00 hours on 15 July and goes to the Zvornik Brigade command.⁷⁵⁴ Trbić does not make any mention of seeing engineering equipment on 15 July 1995 in his statements. The Panel found in paragraph 459 that during 14 and 15 July the victims were buried in unmarked graves at Lažete by VRS soldiers from the Engineering Company, Zvornik Brigade.

495. The Panel finds that the pattern established at Orahovac, the first of the killing sites in the Zvornik Brigade area of responsibility, is repeated and carried out in the other sites.

C. PETKOVCI SCHOOL AND PETKOVCI DAM

1. General Factual Findings

(a) During the early morning hours of 15 July 1995, at Petkovci School, VRS soldiers secured the school premises where Bosniak males from Srebrenica enclave were being temporarily detained

496. The Panel finds that Prosecution proved beyond a reasonable doubt that during the early morning hours of 15 July 1995, at Petkovci School, VRS soldiers secured the school premises where

⁷⁵¹ T-15 (Trbić 23 May 2004 Interview), p. 27 – Accused states 14th in the evening, at night; T-19 (ICTY OTP Information Report regarding August 2004 site visit) (Confidential), p. 3 – Accused states about 20:00 on 14 July 1995.

⁷⁵² T-15 (Trbić 23 May 2004 Interview), p. 27. Note Witness A-50 contradicts this version of Trbić's statement but the Panel notes this is simply deception.

⁷⁵³ T-13 (Trbić 21 January 2004 Interview), p. 8; T-19 (ICTY Information Report regarding August 2004 site visit) (Confidential), p. 3. *See also* T-982, Witness A-50 Testimony (Confidential), p. 6621.

⁷⁵⁴ T-13 (Trbić 21 January 2004 Interview) p. 10; T-15 (Trbić 23 May 2004 Interview), p. 28; T-16 (Trbić 27 May 2004 Interview), pgs. 7-8. *See also* T-982, Witness A-50 Testimony (Confidential), pgs. 6624, 6626, 6707, 6785.

Bosniak males from Srebrenica enclave were being temporarily detained. The pattern established at Orahovac was again utilized both at this detention site and the execution site.

497. The Petkovci School is located within the Zvornik Brigade area of responsibility.⁷⁵⁵

498. The Panel finds that during the evening of 14 July⁷⁵⁶ and early morning hours of 15 July 1995, at Petkovci School, Bosniak males from Srebrenica enclave were being temporarily detained. Two survivors of this execution recall that on 14 July 1995, they were transported by Bosnian Serb soldiers from holding sites in Bratunac and Kravica to an elementary school in Petkovci. This school is a short distance from the Zvornik Brigade 6th Battalion Command Post.

499. Witness A-29, a minor, was the first of these survivors to arrive at the school, in a truck loaded with Bosniak males, around the middle of the afternoon on 14 July.⁷⁵⁷ He was only 17 years old in July 1995.⁷⁵⁸ Witness A-31 arrived at the playground of the school around the early evening to hear sporadic shooting, cursing, and yelling.⁷⁵⁹ The detainees were ordered out of the trucks and buses on to the concrete playground and down some stairs into the school building.⁷⁶⁰ When Witness A-29 arrived detainees were sent in one by one in order to allow a Bosnian Serb soldier standing at the door to beat them over the back with his rifle as they passed. Some prisoners were beaten more severely than others by this soldier.⁷⁶¹ Similarly when Witness A-31 got out of the truck he and the other detainees had to run toward the school in between two lines of about 20 Bosnian Serb soldiers. They were hit with rifle butts on the back, kicked and slapped.⁷⁶² The soldiers also made the detainees repeat chants such as “This is Serbian land and will always remain so” and “Srebrenica has always been Serbian and will continue to be that.”⁷⁶³

500. After entering the school building the detainees went into classrooms.⁷⁶⁴ The classrooms were overcrowded with men and it was stifling.⁷⁶⁵ They were told by the Bosnian Serb soldiers not

⁷⁵⁵ T-813 (Butler Narrative Report), para. 7.28; T-817 (Map showing Zvornik Brigade area of responsibility and Battalion areas).

⁷⁵⁶ Established Fact 71 (Decision of the Panel dated 13 December 2007).

⁷⁵⁷ T-896, Witness A-29 *Prosecutor v. Blagojević and Jokić* IT-02-60, Testimony of 21 and 22 July 2003, (“Witness A-29 *Blagojević* Testimony”) pgs. 1401-1402.

⁷⁵⁸ T-896, Witness A-29 *Blagojević* Testimony, pgs. 1380-1381.

⁷⁵⁹ T-903, Witness A-31 *Prosecutor v. Krstić* IT-98-33, Testimony of 14 April 2000, (“Witness A-31 *Krstić* Testimony”) pgs. 2963-2964.

⁷⁶⁰ T-896, Witness A-29 *Blagojević* Testimony, pgs. 1402, 1404; T-903, Witness A-31 *Krstić* Testimony, pgs. 2964-2965.

⁷⁶¹ T-896, Witness A-29 *Blagojević* Testimony, p. 1404.

⁷⁶² T-903, Witness A-31 *Krstić* Testimony, p. 2965.

⁷⁶³ T-896, Witness A-29 *Blagojević* Testimony, p. 1405; T-903, Witness A-31 *Krstić* Testimony, p. 2965.

⁷⁶⁴ T-896, Witness A-29 *Blagojević* Testimony, pgs. 1405-1406; T-903, Witness A-31 *Krstić* Testimony, p. 2966.

⁷⁶⁵ T-896, Witness A-29 *Blagojević* Testimony, p. 1406; T-903, Witness A-31 *Krstić* Testimony, p. 2966.

to open the windows.⁷⁶⁶ One of the detainees tried to open the window, and suddenly a burst of gunfire followed.⁷⁶⁷ The detainees received no water or very little water at all and no food.⁷⁶⁸ Detainees did not have access to toilets and most were soaked in their own urine.⁷⁶⁹ Witness A-29 described men so thirsty he saw one man drink his own urine.⁷⁷⁰ The Bosnian Serb soldiers would come to the door of the classroom and ask for money.⁷⁷¹

501. Bosnian Serb soldiers entered the classroom and called out for people from specific villages around Srebrenica.⁷⁷² After some men responded they were taken from the classroom, and afterwards Witness A-29 heard beating and moaning in the hallway. These men did not return to the classroom.⁷⁷³ When it became dark, Witness A-29 heard shooting all around the school. He heard some of the soldiers getting detainees from the classrooms and saying “Come on, out you go balijas.”⁷⁷⁴ He then heard bursts of gunfire which lasted until about midnight. Witness A-31 also heard gunfire after darkness fell.⁷⁷⁵

502. After midnight, Witness A-29 was taken from his classroom. It was clear to him that the others taken before him had been killed.⁷⁷⁶ After leaving the classroom he was told to strip to his waist and remove his socks. He was not wearing shoes at this point. His hands were then tied behind his back with something like a “sharp thread” by a soldier and he was pushed into a different classroom.⁷⁷⁷ Witness A-31 was also ordered by Bosnian Serb soldiers to get up and leave the classroom, and when he was in the corridor the soldiers told him to strip down except for a vest he was wearing. His hands were also tied behind his back with rope.⁷⁷⁸ Witness A-31 said he “knew then that the end was approaching.”⁷⁷⁹ He saw three or four dead bodies in the hallway at the bottom of the steps.⁷⁸⁰ He saw many other bodies out in the front of the school before he was loaded on to a truck.⁷⁸¹

⁷⁶⁶ T-896, Witness A-29 *Blagojević* Testimony, p. 1407; T-903, Witness A-31 *Krstić* Testimony, p. 2966.

⁷⁶⁷ T-896, Witness A-29 *Blagojević* Testimony, p. 1407.

⁷⁶⁸ T-896, Witness A-29 *Blagojević* Testimony, p. 1406; T-903, Witness A-31 *Krstić* Testimony, p. 2967.

⁷⁶⁹ T-896, Witness A-29 *Blagojević* Testimony, p. 1406; T-903, Witness A-31 *Krstić* Testimony, p. 2968- could see urine on the floor of the classroom.

⁷⁷⁰ T-896, Witness A-29 *Blagojević* Testimony, p. 1406.

⁷⁷¹ T-896, Witness A-29 *Blagojević* Testimony, p. 1407; T-903, Witness A-31 *Krstić* Testimony, p. 2967.

⁷⁷² T-896, Witness A-29 *Blagojević* Testimony, p. 1407.

⁷⁷³ T-896, Witness A-29 *Blagojević* Testimony, p. 1408.

⁷⁷⁴ T-896, Witness A-29 *Blagojević* Testimony, p. 1408.

⁷⁷⁵ T-903, Witness A-31 *Krstić* Testimony, p. 2967.

⁷⁷⁶ T-896, Witness A-29 *Blagojević* Testimony, p. 1408.

⁷⁷⁷ T-896, Witness A-29 *Blagojević* Testimony, p. 1409.

⁷⁷⁸ T-903, Witness A-31 *Krstić* Testimony, pgs. 2968-2969.

⁷⁷⁹ T-903, Witness A-31 *Krstić* Testimony, p. 2969.

⁷⁸⁰ T-903, Witness A-31 *Krstić* Testimony, p. 2970.

⁷⁸¹ T-901 (Witness A-31 Statement to ICTY OTP dated 14, 15 & 16 August 1995) (Confidential), p. 8.

503. The Panel finds that VRS soldiers were securing the school premises. The 6th Battalion Commander Ostoja Stanišić⁷⁸² and Deputy Commander Marko Milošević⁷⁸³ were at the Battalion Command located in the old school approximately 700-800 meters along the road from the new school in which detainees were held.⁷⁸⁴ Both witnesses testified that on 14 July 1995 that Zvornik Brigade Duty Officer,⁷⁸⁵ called the 6th Battalion Command notifying them that some prisoners were about to arrive at the school in Petkovci and they would be accompanied by security. They were directed to pass a message along to Beara.⁷⁸⁶ Marko Milošević, Deputy Commander of the 6th Battalion went down to the school late afternoon/early evening on 14 July and found Ljubiša Beara and Drago Nikolić,⁷⁸⁷ together with four or five military police at the cross-roads beside the school.⁷⁸⁸ Ostoja Stanišić confirmed in his testimony that Marko Milošević reported seeing Drago Nikolić and Beara.⁷⁸⁹ From that position, he could see that the school was being guarded by soldiers.⁷⁹⁰ Based upon the survivor witnesses' and Marko Milošević eye-witness accounts, the Panel finds that VRS soldiers were securing the school premises in Petkovci.

504. Trbić also stated that he saw military police from the Zvornik Brigade⁷⁹¹ and ten soldiers from the 6th Battalion at Petkovci when he arrived around 01:00 hours on 15 July 1995.⁷⁹² Marko Milošević did testify to seeing four or five military police and troops wearing camouflage uniforms and others wearing olive-drab uniforms, but he did not believe the military police were from the Zvornik Brigade because he did not know any of them.⁷⁹³ Additionally, both Marko Milošević and Ostoja Stanišić testified that soldiers from the 6th Battalion were not involved in the securing or

⁷⁸² T-970, Witness Ostoja Stanišić *Prosecutor v. Popović et al* IT-05-88, Testimony of 16 and 17 May 2007, ("Witness Ostoja Stanišić *Popović* Testimony") p. 11594.

⁷⁸³ T-967, Witness Marko Milošević *Prosecutor v. Popović et al* IT-05-88, Testimony of 26 July 2007, ("Witness Marko Milošević *Popović* Testimony") p. 13299.

⁷⁸⁴ T-967, Witness Marko Milošević *Popović* Testimony, pgs. 13302, 13318.

⁷⁸⁵ T-970, Witness Ostoja Stanišić *Popović* Testimony, p. 11601 stated the Zvornik Brigade duty operations officer was Dragan Jokić. Witness Marko Milošević testified he did not know who the duty operations officer he spoke to on 14 July 1995 when he was told Muslim prisoners would be brought to the school in Petkovci. (p. 13301) In *Blagojević et al* Trial Judgment, para. 765 the Trial Chamber found that duty officer Dragan Jokić made the call to Milošević (not challenged or overturned on Appeal).

⁷⁸⁶ T-967, Witness Marko Milošević *Popović* Testimony, pgs. 13300-13301, 13318; T-970, Witness Ostoja Stanišić *Popović* Testimony, pgs. 11600-11601, 11604.

⁷⁸⁷ Marko Milošević testified that he knew Drago Nikolić from before because he worked previously as the Assistant Commander for Security with the 1st Battalion of Zvornik Brigade. T-967, Witness Marko Milošević *Popović* Testimony, pgs. 13299-13300.

⁷⁸⁸ T-967, Witness Marko Milošević *Popović* Testimony, pgs. 13302-13304; T-970, Witness Ostoja Stanišić *Popović* Testimony, pgs. 11604, 11673. Marko Milošević estimated that the time was around 16:00 or 17:00 hours. Ostoja Stanišić who ordered Milošević to the school thought it was between 18:00 and 19:00 hours.

⁷⁸⁹ T-970, Witness Ostoja Stanišić *Popović* Testimony, p. 11604.

⁷⁹⁰ T-967, Witness Marko Milošević *Popović* Testimony, p. 13304.

⁷⁹¹ T-15 (Trbić 23 May 2004 Interview), pgs. 30-32.

⁷⁹² T-19 (ICTY OTP Information Report regarding August 2004 site visit) (Confidential), p. 4; T-17 (Trbić 29 October 2004 Interview), p. 61; T-18 (Trbić 8 November 2004), pgs. 3-4.

⁷⁹³ T-967, Witness Marko Milošević *Popović* Testimony, pgs. 13304-13305.

execution of the Bosnian Muslim men held at Petkovci School.⁷⁹⁴ However, the 6th Battalion presence at the school is marked by Marko Milošević's visit at the cross-roads to relay the message to Beara. These witnesses have reason to protect members of the Zvornik Brigade and the 6th Battalion in order to avoid their own potential responsibility. Therefore, the Panel does not accept their statements in full. The Panel does find that VRS soldiers guarded the prisoners on the 14 July and 15 July 1995, but is unable to determine specifically what units or battalions they belonged to.

505. Marko Milošević heard isolated shots and bursts of gunfire from the school in the late afternoon on 14 July 1995.⁷⁹⁵ Ostoja Stanišić also confirmed hearing isolated shots or short bursts of gunfire from the direction of the school in the early evening.⁷⁹⁶

506. Therefore, the Panel finds during the early morning hours of 15 July 1995, at Petkovci School, VRS soldiers secured the school premises where Bosniak males from Srebrenica enclave were being temporarily detained.

(b) VRS soldiers were removing the Bosniak detainees from the building and transporting them to Petkovci Dam and then summarily executed them

507. The Panel finds that Prosecution proved beyond a reasonable doubt that VRS soldiers were removing the Bosniak detainees from the building and transporting them to Petkovci Dam and then summarily executed them.

508. The Petkovci Dam is located within the Zvornik Brigade area of responsibility.⁷⁹⁷

509. In the early morning hours of 15 July, the detainees were taken, barefoot and hand-tied, out of Petkovci School and placed on trucks.⁷⁹⁸ In a process now becoming routine the prisoners traveled a short distance up to Petkovci Dam,⁷⁹⁹ also known as the Red Dam⁸⁰⁰ due to the color of the water from the aluminum plant there.⁸⁰¹

⁷⁹⁴ T-967, Witness Marko Milošević *Popović* Testimony, pgs. 13332, 13337; T-970, Witness Ostoja Stanišić *Popović* Testimony, pgs. 11621, 11623.

⁷⁹⁵ T-967, Witness Marko Milošević *Popović* Testimony, p. 13307.

⁷⁹⁶ T-970, Witness Ostoja Stanišić *Popović* Testimony, p. 11607.

⁷⁹⁷ T-813 (Butler Narrative Report), para. 7.28; T-817 (Map showing Zvornik Brigade area of responsibility and Battalion areas).

⁷⁹⁸ T-896, Witness A-29 *Blagojević* Testimony, pgs. 1415-1416; T-903, Witness A-31 *Krstić* Testimony, p. 2970.

⁷⁹⁹ T-896, Witness A-29 *Blagojević* Testimony, p. 1416, 10 minute drive; T-903, Witness A-31 *Krstić* Testimony, p. 2974, 10-15 minutes.

⁸⁰⁰ T-903, Witness A-31 *Krstić* Testimony, pgs. 2985-2987; T-1018 P22-3 [Photograph - aerial of Petkovci Dam (marked) - witness indicates execution site]; T-840A (Map of Petkovci Dam).

⁸⁰¹ Prosecutor's Closing Brief (Confidential), para. 349.

510. When the truck with the detainees stopped, they could hear shooting.⁸⁰² The detainees were ordered to get off five to ten at a time. Once each group of five to ten got off the truck there would soon be bursts of fire.⁸⁰³ Witness A-29 testified that a man behind him who untied himself asked him if he wanted untied, and he replied “No, there’s no need to do that” because as he explained “we understood that was the end, so there was no need.”⁸⁰⁴ This was the same realization that the men at Orahovac had a few hours before.

511. When Witness A-29’s got off the truck he testified:

I got off when it was my turn. But like others, we were all binding our time. We were playing for time. We were just living for another extra few seconds...When it was my turn, I jumped off with the others, and I felt on my feet that there were stones. They were hurting my feet. And we were told that we should find a spot. I didn’t know what kind of spot, but when we went behind the lorry, to the right of the lorry, and when we approached I saw rows of dead people on the ground. You could feel them.⁸⁰⁵

512. Both witnesses testified that they lined up in rows and had their backs to the Bosnian Serb soldiers. They were ordered to lie down and then shots were fired. Both survivors fell, only partially injured by the gunfire sprayed in their direction by the Bosnian Serb soldiers in the execution squad.⁸⁰⁶ While Witness A-29 lay there he heard one of the Bosnian Serb soldiers say “[w]hoever’s body is still warm, he needs a bullet to the head” and watched as a soldier shot a man lying next to him in the head at close range.⁸⁰⁷ Witness A-31 also heard the soldiers using ethnic slurs towards the dead, as they searched the rows of dead bodies.⁸⁰⁸

513. The survivors lay still until the shooting stopped and the trucks left. When they were able to move, they rolled over dead bodies to reach and untie each other. As they escaped just before dawn, another truck arrived and there was more shooting. In the morning light they watched, from a vantage point on a hilltop above the Dam, as a loader picked up bodies.⁸⁰⁹ Witness A-31 describes seeing a tractor and trailer, a large caterpillar bulldozer with a front scoop and a loader. He could also see the floodlights that had been illuminating the execution site the night before.⁸¹⁰

⁸⁰² T-896, Witness A-29 *Blagojević* Testimony, p. 1417; T-903, Witness A-31 *Krstić* Testimony, p. 2974.

⁸⁰³ T-896, Witness A-29 *Blagojević* Testimony, p. 1417; T-903, Witness A-31 *Krstić* Testimony, p. 2975.

⁸⁰⁴ T-896, Witness A-29 *Blagojević* Testimony, p. 1417.

⁸⁰⁵ T-896, Witness A-29 *Blagojević* Testimony, p. 1418.

⁸⁰⁶ T-896, Witness A-29 *Blagojević* Testimony, pgs. 1418-1419; T-903, Witness A-31 *Krstić* Testimony, pgs. 2975-2976.

⁸⁰⁷ T-896, Witness A-29 *Blagojević* Testimony, p. 1420.

⁸⁰⁸ T-903, Witness A-31 *Krstić* Testimony, p. 2976.

⁸⁰⁹ T-896, Witness A-29 *Blagojević* Testimony, p. 1423; T-903, Witness A-31 *Krstić* Testimony, p. 2981.

⁸¹⁰ T-903, Witness A-31 *Krstić* Testimony, pgs. 2980-2985; T-902 (Witness A-31 Statement to ICTY OTP dated 19 August 1996) (Confidential), p. 2.

514. The account given by the second surviving witness corroborates in its entirety the account of the first surviving witness of the ordeal at the Dam, as well as the location and method of execution and his eventual escape with the first survivor. This story parallels the survivor stories at Orahovac. The similarities in the killings point to a pattern and level of organization within the VRS. Like in Orahovac the same names appear again: Beara, Popović, Drago Nikolić, and Trbić.⁸¹¹

515. Vehicle records for 15 July 1995 indicate that two vehicles were active in going back and forth between Petkovci and the Dam.⁸¹² One TAM 80 truck made a total of six trips on 15 July 1995 and another truck, TAM 75, made a total of four trips the same day. The drivers of both vehicles were members of the 6th Infantry Battalion, Zvornik Brigade.⁸¹³ Ostoja Stanišić confirms that these trucks were used that day.⁸¹⁴

516. Therefore, the Panel finds that VRS soldiers removed the Bosniak detainees from the school building in Petkovci and transported them to Petkovci Dam and then summarily executed them in the early morning hours of 15 July 1995.

(c) Whereby during the evening of 14 July and the day of 15 July 1995 at Petkovci Dam, at least 179 Bosniak men were executed by automatic rifle fire and then buried in an unmarked grave at Petkovci Dam by VRS soldiers including those from the Engineering Company, Zvornik Brigade on or about 15 July 1995

517. The Panel finds that the Prosecution proved beyond a reasonable doubt that during the evening of 14 July and the day of 15 July 1995 at Petkovci Dam, at least 179 Bosniak men were executed by automatic rifle fire and then buried in an unmarked grave at Petkovci Dam by VRS soldiers including those from the Engineering Company, Zvornik Brigade on or about 15 July 1995.

518. The Panel found in paragraph 498 that during the evening of 14 July and early morning hours of 15 July 1995 at Petkovci School, Bosniak males from Srebrenica enclave were being temporarily detained. The Bosniak males were then transported by VRS soldiers to Petkovci Dam.

⁸¹¹ Above witnesses place Beara and Nikolić at the site. Trbić places Popović there as well. See paragraph 528 below.

⁸¹² T-813 (Butler Narrative Report), para. 7.35.

⁸¹³ T-813 (Butler Narrative Report), para. 7.35, fns. 414, 415, and 416.

⁸¹⁴ Ostoja Stanišić confirmed that he agreed to 6th Battalion trucks being used to take bodies to the Dam. He also confirmed the use of a TAM 80 which he described as a “small truck, up to two and half tonnes capacity with a very small driver’s cabin.” He agrees that the vehicle log for this TAM 80 states that six trips were made to the Dam “Braná” on 15 July 1995. He describes a TAM 75 as the same as a TAM 80 and agrees that the vehicle log for the TAM 75 on 15 July 1995 shows four journeys from Petkovci to the Dam (Braná) and back with the driver and eight passengers. T-970, Witness Ostoja Stanišić *Popovic* Testimony, pgs. 11613-11617, 11666-11667; T-1098 (Zvornik

519. The Panel finds during the evening of 14 July and the day of 15 July at Petkovci Dam, at least 179 Bosniak men were executed by automatic rifle fire and then buried in an unmarked grave at Petkovci Dam by VRS soldiers including those from the Engineering Company, Zvornik Brigade on or about 15 July 1995.⁸¹⁵

520. Witness A-31 estimated that he could see between 1,500 and 2,000 bodies lying on the plateau at the Dam,⁸¹⁶ the Panel finds “at least 179” is supported by forensic evidence. Like at other sites, the numbers vary based on individual estimates. The Panel chooses to rely on the best evidence of the forensic findings. However, the Panel emphasizes this is a minimum number as all graves have yet to be found, all bodies are not yet identified and overtime this number will increase.

521. The excavation equipment operating at Petkovci Dam on or about 15 July 1995 was operated by VRS personnel on the orders of the Engineering Company of the Zvornik Brigade to bury the victims of the mass execution.⁸¹⁷ As mentioned, both survivor witnesses saw earth moving equipment that was loading bodies onto a tractor truck. The Panel did not find any evidence supporting the Prosecution’s allegation in the Amended Indictment Count 2d that burial operation at the Dam was also occurring during 16 July 1995. Therefore, the Panel finds that on or about 15 July 1995 VRS soldiers including those from the Engineering Company, Zvornik Brigade buried those executed at Petkovci Dam.

522. The Panel has found in paragraph 507 that victims which were detained at the school in Petkovci were brought to the Dam near Petkovci to be summarily executed and buried. Extensive forensic evidence confirms the existence of a primary disturbed mass grave⁸¹⁸ at the Dam near Petkovci.⁸¹⁹

Brigade Vehicle Logs) 1-31 July 1995 (ERN 0069-4844-0069-4845 (BCS) TAM 80 Reg. M-5300; 0069-4847-0069-4848 (BCS) TAM 75 Reg. M-5329).

⁸¹⁵ “at least 179” is supported by T-833 (Dean Manning Report 2007), p. 4/24 which indicates as of December 2007, DNA analysis of the remains in Petkovci Dam grave identified 12 individual DNA profiles as victims missing since July 1995. Also the same report p. 14/24 indicates that DNA analysis of the remains at secondary grave Liplje 2 identified 167 individual DNA profiles as victims missing since July 1995. Liplje 2 secondary grave was linked to Petkovci Dam through soil samples. Witness Dean Manning (16 June 2008); T-836 (Map of Execution and Grave Sites – connection between primary and secondary graves); T-860 (Chart showing links between graves known in 2001).

⁸¹⁶ T-903, Witness A-31 *Krstić* Testimony, pgs. 2983, 3000-3001.

⁸¹⁷ T-1063 (Zvornik Brigade Engineering Company Daily Order 15 July 1995) – Tasks for 15 July 1995 includes “6. Work with ULT at Petkovci” and “7. Work with excavator at Petkovci.” Butler’s report indicates that a review of the vehicle records from the Engineer Company of the Zvornik Brigade does not place any of the unit’s earthmoving equipment at the Petkovci execution site. T-813 (Butler Narrative Report), para. 7.34. The Panel finds this is another example of deceit to cover up involvement with the burial of the Bosnian Muslim males summarily executed at Petkovci Dam.

⁸¹⁸ This means that victims were put in the mass grave right after being executed and that the mass grave was later disturbed, or robbed, and some of the bodies it contained were moved to (a) secondary mass grave(s).

⁸¹⁹ T-830 (1st Manning Report), Annex A, p. 38-41.

523. Aerial images indicate that the primary gravesite of the Dam near Petkovci was created between 5 and 27 July 1995⁸²⁰ This primary mass grave was re-excavated between 7 and 27 September 1996 and bodies it contained moved to secondary mass graves (see below).⁸²¹

524. Twelve (12) individuals located at the Dam near Petkovci were identified by DNA analysis.⁸²² When the sex of the victims could be determined, they were male. When the cause of death could be determined, this was by gunshot.⁸²³ 1 ligature and 1 blindfold were recovered from the mass grave.⁸²⁴

2. Acts of Milorad Trbić

(a) During the early morning hours of 15 July 1995, at Petkovci School, Milorad Trbić acted jointly with and supervised other VRS soldiers in securing the school premises where Bosniak males from Srebrenica enclave were being temporarily detained

525. The Panel finds that the Prosecution proved beyond a reasonable doubt that during the early morning hours of 15 July 1995, at Petkovci School, the Milorad Trbić acted jointly with and supervised other VRS soldiers in securing the school premises where Bosniak males from Srebrenica enclave were being temporarily detained. Indeed Trbić left Orahovac and went to Petkovci. The same pattern of detention and execution established at Orahovac is continued here.

526. The Panel already found in paragraph 498 that Bosniak males from Srebrenica enclave were being temporarily detained at Petkovci School during the evening of 14 July and early morning hours of 15 July 1995. Additionally, the Panel found in paragraph 503 that VRS soldiers were securing the Petkovci School premises.

527. The Panel finds that the Accused arrived in the early morning hours of 15 July 1995. Trbić stated consistently that he went to Petkovci School and saw the prisoners were being secured by VRS soldiers and were being taken out and put on small military trucks to be sent to the execution

⁸²⁰ T-840B (Aerial Image of the Petkovci Dam, 5 and 27 July 1995).

⁸²¹ T-840C (Aerial Image of the Petkovci Dam, 7 and 27 September 1995).

⁸²² T-833 (Manning Report 2007), p. 5/24.

⁸²³ T-830 (1st Manning Report), Annex A, p. 39-40.

⁸²⁴ T-830 (2nd Manning Report), Annex A, p. 40.

site at the Dam.⁸²⁵ Trbić stated he arrived at the school with Drago Nikolić who spent most of time at the Dam. He states that he met with Popović at the School.⁸²⁶ The Panel recalls that others confirm the presence of Beara and the presence of Drago Nikolić at Petkovci.⁸²⁷

528. Trbić arrived after midnight at Petkovci School, and described that as he arrived prisoners were already being taken out of the school for transportation to the Dam.⁸²⁸ This timing is supported by the survivor witness accounts.⁸²⁹ Trbić stated “[i]n front of the school I immediately got involved into that activity, the same one I did in Orahovac, I was with Popović in that area. And I continue with the same job I did in Orahovac.”⁸³⁰

529. Therefore, the Panel finds that during the early morning hours of 15 July 1995, at Petkovci School, the Accused acted jointly with and supervised other VRS soldiers in securing the school premises where Bosniak males from Srebrenica enclave were being temporarily detained.

(b) Knowing that other VRS soldiers were removing the Bosniak detainees from the building and transporting them to Petkovci Dam and then summarily executing them

530. The Panel finds that the Prosecution proved beyond a reasonable doubt that the Accused knew that other VRS soldiers were removing the Bosniak detainees from the building and transporting them to Petkovci Dam and then summarily executing them.

531. Trbić stated that small military trucks from the 6th Battalion were used to transport detainees to the Dam.⁸³¹ This is supported by Witness Ostoja Stanišić and the vehicle logs for the two TAM trucks mentioned in paragraph 515. Therefore, the Panel finds that Trbić arrived in the early morning hours of 15 July 1995 and immediately got involved in the task –the same job as in Orahovac- organizing the guarding and transporting of the detainees to their execution.

⁸²⁵ T-15 (23 May 2004 Interview), pgs. 30-32; T-16 (27 May 2004 Interview), pgs. 14 & 17; T-19 (ICTY OTP Information Report regarding August 2004 site visit) (Confidential), p. 3; T-17 (Trbić 29 October 2004 Interview), p. 60; T-18 (Trbić 8 November 2004 Interview), pgs. 3-5.

⁸²⁶ T-19 (ICTY OTP Information Report regarding August 2004 site visit) (Confidential), p. 4; T-17 (Trbić 29 October 2004 Interview), pgs. 60-61; T-18 (Trbić 8 November 2004 Interview), p. 3.

⁸²⁷ T-967, Witness Marko Milošević *Popović* Testimony, pgs. 13299-13300.

⁸²⁸ In the 23 May 2004 Interview (p. 30) and 27 May 2004 Interview Trbić (p. 14) stated he arrived at Petkovci School in the evening of 15 July. However, during the August 2004 site visit he explained to the ICTY OTP investigators that by visiting the sites it helped remind him of the chronology. T-19 (ICTY OTP Information Report regarding August 2004 site visit) (Confidential), p. 4. In subsequent interviews he stated he arrived around 01:00 hours.

⁸²⁹ Ostoja Stanišić heard burst of gunfire from the direction of the free territory (the Dam is in this direction) around 23:00 to 24:00 hours. T-970, Witness Ostoja Stanišić *Popovic* Testimony, pgs. 11608-11609.

⁸³⁰ T-15 (23 May 2004 Interview), p. 30.

⁸³¹ T-15 (23 May 2004 Interview), pgs. 31-32.

532. Trbić also saw 10 to 15 bodies outside the front in the concrete playground, just as Witness A-29 had described.⁸³² Trbić's statements about Petkovci are also corroborated by both Dragan Obrenović and Ostoja Stanišić. Each stated that dead bodies were present beside the school and that 6th Battalion soldiers and trucks were used to transport these bodies to Petkovci Dam.⁸³³ Trbić stated that these bodies were taken along with the last load of detainees to the Dam⁸³⁴ which again is supported by Ostoja Stanišić and Dragan Obrenović, whose statements confirms this.⁸³⁵

533. Therefore, the Panel finds that the Accused knew that other VRS soldiers were removing the Bosniak detainees from the building and transporting them to Petkovci Dam and then summarily executing them.

534. The Panel found in paragraphs 517 during the evening of 14 July and the day of 15 July 1995 at Petkovci Dam, at least 179 Bosniak men were executed by automatic rifle power.

535. According to Trbić, at about 05:00 hours, as it was getting light, he traveled to the Dam with the last group of prisoners for execution.⁸³⁶ This statement again confirms his role in supervision and oversight. This timing accords with the evidence of the survivors, as they escaped from the killing field, just before dawn.

536. Trbić identified the executioners as a group from Višegrad as well as his own Zvornik Military Police.⁸³⁷ This is supported in part by Witness Dragan Obrenović, who also indicated that there was at least one other unit involved in the executions at the Dam.⁸³⁸ Marko Milošević also corroborates that members of the Military Police were present. Because of the above discrepancies, it is not clear exactly what other units were present. There is sufficient corroborating evidence that

⁸³² T-15 (Trbić 23 May 2004 Interview), pgs. 31,34; T-19 (ICTY OTP Information Report regarding August 2004 site visit) (Confidential), p. 4; T-18 (Trbić 8 November 2004), p.4; T-896, Witness A-29 *Blagojević* Testimony, pgs. 1415.

⁸³³ T-970, Witness Ostoja Stanišić *Popović* Testimony, pgs. 11610-11612; Witness Dragan Obrenović, T-985 (Obrenović, Joint Motion on Plea Agreement dated 20 May 2003), p.16661 – Ostoja Stanišić informed him that detainees were killed at the school and their dead bodies were taken by the 6th Battalion soldiers to be buried. Marko Milošević also confirmed that Ostoja Stanišić told him that he had sent 6th Battalion personnel to Petkovci School to clean things up at the school, (p. 13334).

⁸³⁴ T-19 (ICTY OTP Information Report regarding August 2004 site visit) (Confidential), p. 4.

⁸³⁵ Vinko Pandurević confirmed that Obrenović told him this as well. O-5, Pandurević *Popović* Testimony on 3 February 2009 at pgs. 31069-31070 and on 16 February 2009 at pgs. 31521-31522.

⁸³⁶ T-19 (ICTY OTP Information Report regarding August 2004 site visit) (Confidential), p. 4; T-17 (Trbić 29 October 2004 Interview), p. 61; T-18 (Trbić 8 November 2004 Interview), p. 5.

⁸³⁷ T-17 (Trbić 29 October 2004 Interview), p. 63; T-18 (Trbić 8 November 2004 Interview), p. 6. Trbić refers to a unit from Višegrad on 2 separate occasions and to the 10th Sabatage group on another.

⁸³⁸ T-983, Obrenović *Blagojević* Testimony of 6 October 2003, p.2615; T-985 (Obrenović Joint Motion on Plea Agreement dated 20 May 2003), p. 16661.

Zvornik Military Police were present at the detention site. Trbić places them along with Drago Nikolić at the execution site.⁸³⁹

537. The Panel found in paragraph 519 that Bosniak men were buried in an unmarked grave at Petkovci Dam by VRS soldiers including those from the Engineering Company, Zvornik Brigade on or about 15 July 1995.

538. Trbić identified the Petkovci Dam execution and grave site on the plateau to ICTY OTP investigators during the August 2004 site visit.⁸⁴⁰ The Panel finds this to be a clear indication of the Accused's participation in the events at that particular location.

539. Trbić described seeing a football field-size area of dead bodies at the plateau by the Dam and a loader/excavator and a bulldozer working on digging a grave and then covering it up.⁸⁴¹ The Panel recalls Witness A-31's testimony corroborates the presence of this equipment.

540. The killings at this detention and execution site confirm the presence of Beara, Popović, Drago Nikolić and Trbić. It is clear reviewing the evidence as a whole that these men were together organizing and overseeing this detention and execution site.

541. In the early morning hours Trbić leaves with Drago Nikolić and they travel together along with their driver back to the Zvornik Brigade headquarters. There a significant meeting takes place. Trbić, Nikolić, Beara and Popović meet and in Trbić's own words "it was decided at the meeting that we had to continue killing."⁸⁴² The next stop for Trbić after he goes home briefly for a rest is the detention site at Ročevići School.

⁸³⁹ T-17 (Trbić 29 October 2004 Interview), p. 63; T-18 (Trbić 8 November 2004 Interview), p. 6.

⁸⁴⁰ T-19 (ICTY OTP Information Report regarding August 2004 site visit) (Confidential), p. 4.

⁸⁴¹ T-15 (23 May 2004 Interview), p. 35; T-19 (ICTY OTP Information Report regarding August 2004 site visit) (Confidential), p. 4.

⁸⁴² T-18 (Trbić 8 November 2004 Interview), p. 9. Pandurević testified about an intercept on 15 July between General Zivanović and Colonel Ljubiša Beara indicating that Beara was in the Security office in the Zvornik Brigade on the morning 15 July 1995. O-5, Pandurević *Popović* Testimony of 26 February 2009, p. 32184.

D. ROČEVIĆ SCHOOL AND KOZLUK

1. General Factual Findings

- (a) On or about 15 July 1995 at Ročevići School, while supervising the securing of Bosniaks from Srebrenica enclave who were being detained in the school, Milorad Trbić fired an automatic rifle at male Bosniak detainees, thereby killing at least 5 (five) of them; on 15 July 1995, as coordinated by Lieutenant Colonel Vujadin Popović who was at the school, Milorad Trbić, acted jointly with and supervised the activities of other VRS soldiers in transporting the Bosniak detainees from the School to a summary execution site at the municipal refuse dump by the Drina River at Kozluk knowing that they would be summarily executed at that location; and, later on 15 July 1995, at Kozluk, Milorad Trbić carried out summary executions of Bosniak men from Srebrenica enclave for a period of at least 20 minutes thereby killing several (unknown number but more than one) of them by automatic weapon fire; whereby on 15 July 1995 approximately 500 (five hundred) Bosniak men were summarily executed by automatic weapon fire, in Ročević and Kozluk and on 16 July 1995, VRS soldiers from the Engineering Company, Zvornik Brigade buried the deceased victims in unmarked graves at and around the refuse dump in Kozluk.

542. The Panel finds that Prosecution proved beyond a reasonable doubt that on or about 15 July 1995 at Ročevići School, Bosniaks from Srebrenica enclave were detained in the school. The Panel finds that there was enough evidence to prove the Prosecution's allegation that prisoners were detained on or about 15 July 1995 at the school in Ročević as it relates to the acts of Milorad Trbić. There is evidence indicating prisoners were there as early as the 14th.

543. The town of Ročević is located within the Zvornik Brigade area of responsibility.⁸⁴³

544. The Panel finds that male Bosniak prisoners from Srebrenica were brought to Ročević and detained at the school on or about 14 July 1995. Sreten Aćimović, commander of the 2nd Infantry Battalion of the Zvornik Brigade, went to his parents' in Ročević on his day off, on or about 14 July 1995,⁸⁴⁴ around 19:00 hours.⁸⁴⁵ He was unable to give a precise date. When he arrived, a priest and

⁸⁴³ T-817 (Map showing Zvornik Brigade area of responsibility and Battalion areas).

⁸⁴⁴ While Sreten Aćimović does not recall the exact date, but estimates it to be about 7 days after the attack on Srebrenica began. [Witness Sreten Aćimović (3 December 2007)], Mitar Lazarević confirmed it took place on 14 July 1995 (T-966, Witness Mitar Lazarević *Prosecutor v. Popović et al* IT-05-88, Testimony of 26 and 27 June 2007, ("Witness Mitar Lazarević *Popović* Testimony") pgs. 13386 and 13388).

the president of the local commune informed him that prisoners were being held at the school.⁸⁴⁶ He went to the school and stayed only for a few minutes. The witness saw a machine gun pointing at the gymnasium and soldiers guarding the school. He heard prisoners inside the school begging for water and to go to the toilet, but did not see the prisoners. The soldiers guarding the school were not paying attention to the prisoners. Later in the evening, he and the president of the local commune negotiated with the soldiers that the prisoners would be given water and be allowed to relieve themselves.⁸⁴⁷ Witness Sreten Aćimović left the school before he saw their agreement being implemented. Several other witnesses who guarded the school also testified that Bosniak prisoners from Srebrenica were being kept prisoners inside the school.⁸⁴⁸

545. At dusk,⁸⁴⁹ Sreten Aćimović went to the town of Kozluk to call the headquarters of the Zvornik Brigade. He talked to the duty officer of the Zvornik Brigade and told him that prisoners were being detained in Ročević in disastrous conditions. Lieutenant Colonel Popović then picked up the phone (Sreten Aćimović believes that he was standing next to the duty officer) who told him not to dramatize, that the prisoners would be exchanged the next day, and that it was none of his business.⁸⁵⁰

546. Sreten Aćimović was woken up in the middle of the night of 14 July 1995 by one of his associates because they had received a coded telegram requesting that he provide a platoon for the execution of the prisoners detained in Ročević.⁸⁵¹ Witness Sreten Aćimović does not remember who signed the telegram, but believes it was sent from the Zvornik Brigade headquarters. The command of the 2nd Battalion of the Zvornik Brigade decided to refuse the order and Sreten Aćimović sent back a telegram refusing the order.⁸⁵² About 15 to 20 minutes later, Sreten Aćimović received the same telegram, stating that the company commanders would be informed directly of the order to

⁸⁴⁵ Witness Sreten Aćimović (3 December 2007) and T-966, Witness Mitar Lazarević *Popović* Testimony, p. 13365. See also T-15 (Trbić 23 May 2004 Interview), p. 39: Trbić confirms that Aćimović has a house nearby the school in Ročević.

⁸⁴⁶ Witness Sreten Aćimović (3 December 2007).

⁸⁴⁷ Witness Sreten Aćimović (3 December 2007). Mitar Lazarević confirmed that this is what Sreten Aćimović reported to him (T-966, Witness Mitar Lazarević *Popović* Testimony, p. 13366).

⁸⁴⁸ Witness A-13 (12 December 2007); T-918, Witness A-7 *Popović* Testimony; T-965, Witness Mile Janjić *Popović* Testimony, pgs. 17953, 17955-56; Witness Dragoje Ivanović (19 May 2008) and Witness A-8 (10 December 2007). See also T-966, Witness Mitar Lazarević *Popović* Testimony, p. 13366.

⁸⁴⁹ Witness Sreten Aćimović (3 December 2007). Witness Mitar Lazarević believes it was in the afternoon (T-966, Witness Mitar Lazarević *Popović* Testimony, p. 13372).

⁸⁵⁰ Witness Mitar Lazarević confirms that Sreten Aćimović called the headquarters of the Zvornik Brigade and talked to "a security man from the Corps" who told him that the people would be exchanged the following day (T-966, Witness Mitar Lazarević *Popović* Testimony, pgs. 13372 and 13373).

⁸⁵¹ Witness Sreten Aćimović (3 December 2007); T-966, Witness Mitar Lazarević *Popović* Testimony, pgs. 13373 to 13375.

⁸⁵² Witness Sreten Aćimović (3 December 2007); T-966, Witness Mitar Lazarević *Popović* Testimony, pgs. 13375 to 13377.

send soldiers for the execution; the telegram was also forwarded to the company commanders.⁸⁵³ Both Sreten Aćimović and the company commanders refused to comply with the order and sent back a telegram refusing the request.⁸⁵⁴ Drago Nikolić then called Sreten Aćimović to exert enormous pressure on him to comply with the order, stating that the order came “from the top”.⁸⁵⁵ Sreten Aćimović told Drago Nikolić that he didn’t have soldiers for that purpose. Drago Nikolić gave him a deadline by 7:00 or 8:00 the next morning to comply with the order. Drago Nikolić called Sreten Aćimović again around 7:00 or 8:00 and kept pressuring him to send soldiers for the executions, and warned him of the consequences if he failed to obey the order.⁸⁵⁶

547. The next morning, witness Sreten Aćimović returned to the school in Ročević between 10:00 and 11:00 and met with Drago Nikolić, who pressured him again in sending his soldiers for the execution of prisoners.⁸⁵⁷ Sreten Aćimović refused, stating the he needed his men to defend the front line.⁸⁵⁸ Aćimović saw about 20 soldiers guarding the school. The machine gun was still pointing at the gymnasium. Witness Milorad Birčaković confirmed that he went to Ročević on 15 July 1995 and saw soldiers at the school.⁸⁵⁹ Witness A-8, a member of the Military Police of the Zvornik Brigade guarding the school, confirmed that the school was well-secured.⁸⁶⁰ Witness Sreten Aćimović met with Lieutenant Colonel Popović at the school, who asked him to provide soldiers for the execution, and he refused again.⁸⁶¹ Lieutenant Colonel Popović was very agitated. He then asked Aćimović if there were any localities by the school where prisoners could be executed; Aćimović said that there were no such places and inquired on Lieutenant Colonel Popović’s statement the night before that prisoners would be exchanged.

⁸⁵³ Witness Sreten Aćimović (3 December 2007).

⁸⁵⁴ Witness Sreten Aćimović (3 December 2007). Mitar Lazarević only remembers receiving one telegram but confirmed that the command refused to obey the order (T-966, Witness Mitar Lazarević *Popović* Testimony, pgs. 13373 to 13375).

⁸⁵⁵ Witness Sreten Aćimović (3 December 2007). Mitar Lazarević confirmed that he heard Sreten Aćimović quarrelling with someone over the phone (T-966, Witness Mitar Lazarević *Popović* Testimony, pgs. 13377 and 13378).

⁸⁵⁶ Witness Sreten Aćimović (3 December 2007).

⁸⁵⁷ Witness Sreten Aćimović (3 December 2007). Witness Mitar Lazarević confirmed that Sreten Aćimović returned to Ročević the next day to inform their superiors that he would not send his men for that purpose (T-966, Witness Mitar Lazarević *Popović* Testimony, p. 13379).

⁸⁵⁸ Witness Sreten Aćimović (3 December 2007).

⁸⁵⁹ Witness Milorad Birčaković (12 December 2007). This is corroborated by the vehicle log of the Opel Record, which contains an entry for Ročević on 15 July 1995 [T-40 (Vehicle log for Opel Record)].

⁸⁶⁰ Witness A-8 (10 December 2007).

⁸⁶¹ Witness Sreten Aćimović (3 December 2007).

548. The prisoners were being held by members of the Military Police of the Zvornik Brigade.⁸⁶² Witness A-7, a member of the Military Police of the Zvornik Brigade, was sent to the school in Ročević.⁸⁶³ Witness A-13, also a member of the Military Police of the Zvornik Brigade, was sent by his commander, Miomir Jasikovac, to go to Ročević to secure the road nearby the school and stop all non-military cars from getting close to the school. He was also in charge of preventing the local population from approaching the school.⁸⁶⁴ Although Witness A-13 testified that he did not recognize the soldiers who were guarding the school and did not see insignia on their uniforms, the Panel does not find this portion of his testimony credible. The Panel's finding that the prisoners were being guarded by members of the Zvornik Brigade Military Police⁸⁶⁵ is also corroborated by the Zvornik Brigade Military Police personnel roster, which contains altered entries for 15 July 1995. The "R" has been changed to "T" for 6 members of the Military Police.⁸⁶⁶ The Panel finds that the "R" stands for Ročević and that this indicates that other members of the Military Police than witnesses A-7 and A-13 were present at the school in Ročević. Milorad Trbić stated that members of the 2nd Infantry Battalion of the Zvornik Brigade were also guarding the school;⁸⁶⁷ however, Sreten Aćimović, commander of the 2nd Infantry Battalion, testified that none of his soldiers went to Ročević, except himself. Witness Mitar Lazarević, also a member of the 2nd Infantry Battalion of the Zvornik Brigade, confirmed that he never went to Ročević.⁸⁶⁸ Witness A-7, a member of the Military Police of the Zvornik Brigade, testified that he believed he recognized soldiers from the Battalions of the Zvornik Brigade in the schoolyard, without being more precise.⁸⁶⁹ Witness Sreten Aćimović saw soldiers in the school yard he didn't know guarding the school gymnasium.⁸⁷⁰ According to the witness, the soldiers were very aggressive and arrogant; they were

⁸⁶² T-15 (Trbić 23 May 2004 Interview), pgs. 38-40; T-16 (Trbić 27 May 2004 Interview), p. 16; T-18 (Trbić 8 November 2004 Interview), p. 10; T-19 (ICTY OTP Information Report regarding August 2004 site visit) (Confidential) p. 4; Witness Dragoje Ivanović (19 May 2008). Witness A-7 testified he went to Ročević School with three to five military policemen from Zvornik Brigade and saw soldiers from Zvornik Brigade [T-918, Witness A-7 *Popović* testimony, pgs. 6542-6543, 6545 and T-917 (Witness A-7 Statement to ICTY OTP dated 23 and 24 November 2005) (Confidential) para. 13].

⁸⁶³ T-918, Witness A-7 *Popović* Testimony, p. 6542.

⁸⁶⁴ Witness A-13 (12 December 2007).

⁸⁶⁵ Witnesses Mile Janjić and Slobodan Mijatović, both members of the Bratunac Brigade Military Police, both testified that they went to the school in Ročević and guarded the prisoners for some time (T-965, Witness Mile Janjić *Popović* Testimony and T-974, Witness Slobodan Mijatović *Božić et al.* Testimony). The Panel makes no particular findings as to the involvement of the Bratunac Brigade within the Zvornik Brigade area of responsibility.

⁸⁶⁶ "T" stands for "terren" which means "field". T-826 (Zvornik Brigade Military Police personnel roster of July 1995). See also T-813 (Butler Narrative Report), para 7.17.

⁸⁶⁷ T-15 (Trbić 23 May 2004 Interview), pgs. 38-40; T-16 (Trbić 27 May 2004 Interview), p. 16; T-18 (8 November 2004 Interview) p. 10; T-19 (ICTY OTP Information Report regarding August 2004 site visit) (Confidential) p. 4.

⁸⁶⁸ T-966, Witness Mitar Lazarević *Popović* Testimony, p. 13382.

⁸⁶⁹ T-918, Witness A-7 *Popović* Testimony.

⁸⁷⁰ Witness Sreten Aćimović identified the school on exhibit T-30 and T-31 (photographs of the Ročević school and gym). Mitar Lazarević confirmed that this is what Sreten Aćimović reported to him (T-966, Witness Mitar Lazarević, *Popović* Testimony, p. 13366).

armed with automatic rifles.⁸⁷¹ They refused to tell the witness who sent them there. The Panel finds that VRS soldiers other than the Zvornik Brigade Military Police might have guarded the prisoners at the school in Ročević as well, but is unable to determine specifically which unit(s) they belonged to.

549. The Panel finds that approximately 500 Bosniak male prisoners were detained in the school. The gymnasium was full.⁸⁷² Trbić estimated that there were between 500 and 600 prisoners in the gymnasium although Popović told him that there were about the same amount of prisoners as in Orahovac.⁸⁷³

550. The Panel finds that the Prosecution proved beyond a reasonable doubt that VRS soldiers transported the Bosniak detainees from the School to a summary execution site at the municipal refuse dump by the Drina River at Kozluk.

551. According to witness Sreten Aćimović, Lieutenant Colonel Popović called the Zvornik Brigade headquarters for trucks to be sent to the school in Ročević.⁸⁷⁴ A Mercedes truck arrived in front of the school. Popović requested more trucks and asked witness Sreten Aćimović to bring trucks from his unit, but he refused. A second truck, model TAM, arrived a little later at the school.⁸⁷⁵ Also, Witness A-7, a member of the Military Police of the Zvornik Brigade, saw several trucks leaving the school with prisoners.⁸⁷⁶ Since he was in Orahovac the day before, he assumed the same thing was happening. Witness A-8, also a member of the Military Police of the Zvornik Brigade, confirmed that trucks arrived which took the prisoners to Kozluk for execution, and that the prisoners had the same fate as in Orahovac.⁸⁷⁷ Witness Mitar Lazarević heard that the prisoners had been taken away from the Ročević School by trucks.⁸⁷⁸ Finally, Trbić stated that when he arrived in Ročević, the prisoners were being taken by military trucks to Kozluk for execution.⁸⁷⁹ Lieutenant Colonel Popović confirmed to Trbić that the prisoners were being taken away for execution.⁸⁸⁰

⁸⁷¹ Witness Sreten Aćimović (3 December 2007). Mitar Lazarević confirmed that this is what Sreten Aćimović reported to him (T-966, Witness Mitar Lazarević *Popović* Testimony, pgs. 13366 to 13668).

⁸⁷² T-966, Witness Mitar Lazarević *Popović* Testimony, p. 13367).

⁸⁷³ T-15 (Trbić 23 May 2004 Interview), p. 40; T-18 (8 November 2004 Interview) p. 10; T-14 (ICTY OTP Information Report 25 January 2004).

⁸⁷⁴ Witness Sreten Aćimović (3 December 2007).

⁸⁷⁵ Witness Sreten Aćimović (3 December 2007).

⁸⁷⁶ T-918, Witness A-7 *Popović* Testimony.

⁸⁷⁷ Witness A-8 (10 December 2007).

⁸⁷⁸ T-966, Witness Mitar Lazarević *Popović* Testimony, p. 13379.

⁸⁷⁹ T-18 (8 November 2004 Interview), pgs. 10-11; T-19 (ICTY OTP Information Report regarding August site visit) (Confidential) p. 4.

⁸⁸⁰ T-18 (Trbić 8 November 2004 Interview), p. 11.

552. The Panel finds that Prosecution proved beyond a reasonable doubt that on 15 July 1995 approximately 500 (five hundred) Bosniak men were summarily executed by automatic weapon fire, in Ročević and Kozluk.

553. The town of Kozluk is located within the Zvornik Brigade area of responsibility.⁸⁸¹

554. A large scale execution and burial operation was carried out at Kozluk between the 15th and 16th July, where around 500 men were executed at the edge of the Drina River.⁸⁸² There are no known survivors of this execution.⁸⁸³ According to Trbić, an estimate of between 600 and 700 people were killed in Kozluk.⁸⁸⁴

555. The prisoners were transported from Ročević to the Kozluk municipal refuse dump, located on the left bank of the Drina River.⁸⁸⁵ The prisoners were then executed at that location.⁸⁸⁶

556. According to Trbić, soldiers from different units participated in the executions in Kozluk: members of the 2nd Infantry Battalion of the Zvornik Brigade, members of the Military Police of the Zvornik Brigade, as well as about 30 soldiers from the Višegrad unit, Lukić's men and men from a unit unknown to Trbić.⁸⁸⁷ The Panel finds that at a minimum members of the Zvornik Brigade were involved in the executions at the Kozluk site.

557. The Panel finds that Prosecution proved beyond a reasonable doubt that on 16 July 1995, VRS soldiers from the Engineering Company, Zvornik Brigade buried the deceased victims in unmarked graves at and around the refuse dump in Kozluk.

558. The bodies of the executed prisoners were buried in unmarked mass graves on site. Witness A-45, a member of the Engineering Unit of the Zvornik Brigade, explained that he went to Kozluk on 16 July upon the orders of the Zvornik Brigade Engineering Unit command.⁸⁸⁸ Miloš Mitrović, another member of the Engineering Unit of the Zvornik Brigade, was also ordered by the

⁸⁸¹ T-813 (Butler Narrative Report), para. 7.53, p. 72; T-817 (Map showing Zvornik Brigade area of responsibility and Battalion areas).

⁸⁸² Established Fact 75 (Decision of the Panel dated 13 December 2007).

⁸⁸³ Established Fact 75 (Decision of the Panel dated 13 December 2007).

⁸⁸⁴ T-15 (23 May 2004 Interview), pgs. 44-45; T-14 (ICTY OTP Information Report 25 January 2004).

⁸⁸⁵ Witness A-45 (15 January 2008). Witness A-45 indicated the location of the execution on T-1/AG-24 (photograph of the Kozluk execution site).

⁸⁸⁶ Established Fact 76 (Decision of the Panel dated 13 December 2007).

⁸⁸⁷ T-15 (Trbić 23 May 2004 Interview), p. 40; T-17 (Trbić 29 October 2004 Interview), pgs. 62-63; T-18 (Trbić 8 November 2004 Interview), p. 13; T-19 (ICTY OTP Information Report regarding August 2004 site visit) (Confidential) p. 5.

⁸⁸⁸ Witness A-45 (15 January 2008).

Engineering Unit of the Zvornik Brigade command to go to Kozluk.⁸⁸⁹ There was a strong stench at the refusal dump;⁸⁹⁰ the Panel therefore finds that the bodies had been lying there since the day before. Bodies were thrown in the gravel pits which had been created through gravel exploitation; there was also a lot of glass of different shapes and colors and garbage thrown by people and companies from the surroundings.⁸⁹¹ Members of the Utilities Company were on the site.⁸⁹² Miloš Mitrović started covering the bodies with dirt with a small SKIP, but, as that machine was too small and not in proper working order, a ULT loader excavator which had been requisitioned from a private company arrived to cover the bodies.⁸⁹³ It took about an hour and a half to the ULT to cover up the bodies.⁸⁹⁴

559. Extensive forensic evidence confirms the existence of three primary disturbed mass graves⁸⁹⁵ by the refusal dump in Kozluk.⁸⁹⁶ Part of the refusal dump consists of large amounts of broken glass, glass bottles and bottle labels marked “Vitinka” and “Kozluk”.⁸⁹⁷ The Panel finds that these bottles, fragments of glass and bottle labels originated from the Vitinka bottling factory, located nearby the dump. As the Panel will detail below, the same bottle labels and broken bottles were found in some secondary mass graves and allowed for these mass graves to be associated.⁸⁹⁸

560. Aerial images indicate that this primary mass gravesite of Kozluk was created between 5 and 17 July 1995.⁸⁹⁹ This primary mass grave was further disturbed prior to or on 27 September 1995 and bodies it contained moved to secondary mass graves (see below).⁹⁰⁰

561. Three hundred twenty eight (328) individuals located at Kozluk were identified by DNA analysis.⁹⁰¹ When the sex of the victims could be determined, they were male.⁹⁰² When the cause of death could be determined, this was by gunshot.⁹⁰³ 168 ligatures and 55 blindfolds were recovered

⁸⁸⁹ T-880, Witness Miloš Mitrović *Blagojević* Testimony, p. 5603. This is corroborated by the vehicle log for a Torpedo Excavator driven by Miloš Mitrović, which contains an entry for Kozluk on 16 July 1995 [T-52 (Zvornik Brigade Engineering Company Vehicle Logs for July 1995)].

⁸⁹⁰ Witness A-45 (15 January 2008) T-880; Witness Miloš Mitrović *Blagojević* Testimony, p. 5605.

⁸⁹¹ Witness A-45 (15 January 2008); T-880; Witness Miloš Mitrović *Blagojević* Testimony, p. 5605.

⁸⁹² Witness A-45 (15 January 2008).

⁸⁹³ Witness A-45 (15 January 2008); T-880, Witness Miloš Mitrović *Blagojević* Testimony, pgs. 5603 and 5606 to 5610.

⁸⁹⁴ T-880, Witness Miloš Mitrović *Blagojević* Testimony, p. 5610.

⁸⁹⁵ This means that victims were put in the mass grave right after being executed and that the mass grave was later disturbed, or robbed, and some of the bodies it contained were moved to (a) secondary mass grave(s).

⁸⁹⁶ Established Fact 76 (Decision of the Panel dated 13 December 2007).

⁸⁹⁷ T-830 (1st Manning Report), Annex A, p. 45.

⁸⁹⁸ Witness Dean Manning (16 June 2008).

⁸⁹⁹ T-841B (Aerial Image of Kozluk, 5 and 17 July 1995).

⁹⁰⁰ T-841C (Aerial Image of Kozluk, 7 and 27 September 1995).

⁹⁰¹ T-833 (Manning Report 2007), p. 5/24.

⁹⁰² T-830 (1st Manning Report), Annex A, p. 45.

⁹⁰³ T-830 (1st Manning Report), Annex A, p. 46.

from the mass grave.⁹⁰⁴ Some religious items affiliating the victims with Muslim religion were found.⁹⁰⁵

2. Acts of Milorad Trbić

562. The Panel finds that the Prosecution proved beyond a reasonable doubt that on or about 15 July 1995 at Ročevići school, while supervising the securing of Bosniaks from Srebrenica enclave who were being detained in the school, Milorad Trbić fired an automatic rifle at male Bosniak detainees, thereby killing at least 5(five) of them.

563. The Panel found in paragraph 544 that Bosniak men had been detained at the school in Ročević on or about 14 July 1995.

564. The Panel finds that Trbić went to Ročević on 15 July 1995 on three occasions. The Panel finds that he arrived the first time between 13:00 and 14:00 hours.⁹⁰⁶ Witness A-13 saw the Trbić arrive at the school by car around 14:00 and stay for five to ten minutes.⁹⁰⁷ The witness saw Trbić go back in the car but does not know when he left Ročević. Trbić stated that he stayed for two hours⁹⁰⁸ and witness A-13's testimony is sufficient to corroborate this statement.

565. Trbić stated that Sreten Aćimović, the commander of the 2nd Infantry Battalion of the Zvornik Brigade, was already at the school in Ročević when he arrived.⁹⁰⁹ However, Sreten Aćimović testified that he did not see Trbić at the school in Ročević, where he arrived around 10:00 or 11:00 and remained for one to one and a half hours. Moreover, witness Sreten Aćimović testified that he heard a phone conversation by Lieutenant Colonel Popović, who asked that "one or two of those previously at Petkovci or Orahovac" be sent and that he asked Trbić about 30 days later who Lieutenant Colonel Popović was referring to; Trbić told him that Lieutenant Colonel Popović was probably referring to him or to Jasikovac.⁹¹⁰ The Panel finds this testimony credible.⁹¹¹ The Panel

⁹⁰⁴ T-830 (1st Manning Report), Annex A, p. 47.

⁹⁰⁵ T-830 (1st Manning Report), Annex A, p. 47.

⁹⁰⁶ T-18 (Trbić 8 November 2004 Interview) p. 10; T-19 (ICTY OTP Information Report regarding August 2004 site visit) (Confidential) p. 4. While the Accused also stated that he went to the school around 10:00 hours [T-15 (Trbić 23 May 2004 Interview), p. 42], the Panel finds that this statement is not credible, based on the testimonies of both witness A-13, who saw the Accused around 14:00 and witness Sreten Aćimović, who went to Ročević around 10:00 and did not see the Accused.

⁹⁰⁷ Witness A-13 (12 December 2007).

⁹⁰⁸ T-19 (ICTY OTP Information Report regarding August 2004 site visit) (Confidential) p. 4.

⁹⁰⁹ Witness Sreten Aćimović (3 December 2007); T-15 (Trbić 23 May 2004 Interview), p. 39; T-18 (Trbić 8 November 2004 Interview) p. 10; T-19 (ICTY OTP Information Report regarding August 2004 site visit) (Confidential) p. 4.

⁹¹⁰ Witness Sreten Aćimović (3 December 2007).

finds that Trbić and Aćimović both went to the school in Ročević but does not make specific findings as to time.

566. The Panel finds that Milorad Trbić supervised the soldiers who were guarding the school in Ročević. The Panel recalls that in Orahovac Trbić supervised the soldiers who were guarding the school there.⁹¹² The Panel found in paragraph 548 that at a minimum the Military Police of the Zvornik Brigade were guarding the school. According to Trbić, he organized the men who would be loading the prisoners on trucks to be transported to the execution site.⁹¹³ Witness A-13, a member of the Military Police of the Zvornik Brigade, saw Trbić speaking to a military policeman; the military policeman later related to the witness that Trbić had instructed him not to allow civilians to access the school yard.⁹¹⁴ The Panel finds that Trbić knew that the prisoners would be executed. Indeed, Trbić already participated in the detention and execution of prisoners in Orahovac between 13 and 15 July 1995. The operation in Ročević followed the exact same pattern and involved at least some of the same actors. By going to Ročević, Trbić clearly indicated his willingness to participate in the general operation to detain and execute the male Bosniaks who had been captured around Srebrenica and brought within the Zvornik Brigade area of responsibility. Moreover, Trbić stated that the prisoners were being taken away for execution.⁹¹⁵

567. The Panel finds that Lieutenant Colonel Popović was also at the school in Ročević and that he coordinated the operation. Lieutenant Colonel Popović was seen at the school both by Trbić and by Sreten Aćimović.⁹¹⁶ Lieutenant Colonel Popović secured Trbić's involvement in the guarding of the remaining prisoners at the school.⁹¹⁷ Lieutenant Colonel Popović also asked Sreten Aćimović to

⁹¹¹ Sreten Aćimović also testified that the Accused told him about a month after the events in Srebrenica that he didn't go to Ročević, that Lieutenant Colonel Popovic requested him to go but that Trbić told Lieutenant Colonel Popovic that he was out in the field and could not go. The Panel finds this statement by Trbić to be self-serving and not reflective of the truth.

⁹¹² See *supra*, para. 472.

⁹¹³ T-15 (23 May 2004 Interview), pgs. 40 and 44; T-19 (ICTY OTP Information Report regarding August 2004 site visit) (Confidential) p. 9.

⁹¹⁴ Witness A-13 (12 December 2007).

⁹¹⁵ T-18 (8 November 2004 Interview), pgs. 10-11; T-19 (ICTY OTP Information Report regarding August 2004 site visit) (Confidential) p. 4.

⁹¹⁶ The Accused stated both that Lieutenant Colonel Popović was already at the school when he arrived [T-18 (Trbić 8 November 2004 Interview), p. 10; T-19 (ICTY OTP Information Report regarding August 2004 site visit) (Confidential) p. 4.] and that Lieutenant Colonel Popović accompanied him to the school [T-15 (Trbić 23 May 2004 Interview), p. 43]. Since witness Sreten Aćimović saw Lieutenant Colonel Popović at the school in the morning on 15 July 1995 (Witness Sreten Aćimović, 3 December 2007) and that the Panel finds that Trbić arrived at the school between 13:00 and 14:00, the Panel concludes that Lieutenant Colonel Popović was already at the school when the Accused arrived.

⁹¹⁷ T-18 (Trbić 8 November 2004 Interview), p. 11.

send his soldiers for the execution of the prisoners and asked about localities where the prisoners could be executed.⁹¹⁸ According to Trbić, Beara was also present at the school.⁹¹⁹

568. The Panel finds that, according to his statements, Trbić returned to Ročević the same day around 16:00 hours, after he went to Kozluk (see below), and stayed until 18:00.⁹²⁰ Trbić kept organizing the transportation of the prisoners, knowing that they would be executed.⁹²¹ When he left Ročević, all the prisoners had been transported to Kozluk for execution.⁹²²

569. The Panel finds that, according to his statements, Milorad Trbić returned one last time to Ročević to organize the cleaning up of the area in front of the school, upon the request of Lieutenant Colonel Popović.⁹²³ According to Trbić, the 2nd Infantry Battalion of the Zvornik Brigade was in charge of cleaning up the school.⁹²⁴ However, Sreten Aćimović, commander of the 2nd Infantry Battalion of the Zvornik Brigade, testified that none of his soldiers went to Ročević, except himself.⁹²⁵ Witness Mitar Lazarević, also a member of the 2nd Infantry Battalion of the Zvornik Brigade, confirmed that he never went to Ročević.⁹²⁶ According to Trbić, the site at Ročević School was cleaned up at around 23:00 hours.⁹²⁷ The Panel finds that Milorad Trbić organized the cleaning up of the site. It is not necessary to find who assisted Trbić in the operation.

570. The Prosecutor established beyond reasonable doubt that Milorad Trbić killed at least five (5) prisoners by automatic rifle at the school.

571. Trbić stated that he killed at least 5 prisoners at the school.⁹²⁸ He also stated other soldiers securing the school killed about 20 prisoners at the school, and that this was ordered by Lieutenant

⁹¹⁸ Witness Sreten Aćimović (3 December 2007).

⁹¹⁹ T-15 (Trbić 23 May 2004 Interview), p. 44.

⁹²⁰ T-18 (Trbić 8 November 2004 Interview), p. 15.

⁹²¹ T-15 (Trbić 23 May 2004 Interview), p. 44; T-19 (ICTY OTP Information Report regarding August 2004 site visit) (Confidential) p. 9.

⁹²² T-19 (ICTY OTP Information Report regarding August 2004 site visit) (Confidential) p. 9.

⁹²³ T-15 (Trbić 23 May 2004 Interview) p. 45; T-18 (Trbić 8 November 2004 Interview), pgs. 22-23; T-19 (ICTY OTP Information Report regarding August 2004 site visit) (Confidential) p. 9.

⁹²⁴ T-18 (Trbić 8 November 2004 Interview), pgs. 22-23; T-15 (Trbić 23 May 2004 Interview), p. 45.

⁹²⁵ Witness Sreten Aćimović (3 December 2007).

⁹²⁶ T-966, Witness Mitar Lazarević *Popović* Testimony, p. 13382.

⁹²⁷ T-15 (Trbić 23 May 2004 Interview), p. 45.

⁹²⁸ In the 23 May 2004 interview with the ICTY OTP, Trbić stated that he killed about 10 people [T-15 (Trbić 23 May 2004 Interview), p. 44]. According to the ICTY OTP Information Report, Trbić stated he participated in the execution of about 10 prisoners at the Ročević school, but did not specify the exact location of the execution [T-19 (ICTY OTP Information Report regarding August 2004 site visit) (Confidential) pgs. 8-9]. Sreten Aćimović testified he saw at least 10 bodies in front of the outdoor toilet. In the 8 November 2004 interview (p. 12) with the ICTY OTP, Trbić stated that he killed maybe 5 or 6 people. Based on this contradictory evidence, the Panel finds that the Accused killed at least 5 prisoners. Also, the Panel finds that the Accused killed these men either the first time or the second time he went to the school (in the 8 November 2004 interview, he stated that he did not kill any prisoners the second time [T-18 (Trbić 8 November 2004 Interview), p. 16]). The Accused also stated that he did not see anyone being executed at the school [T-

Colonel Popović.⁹²⁹ This statement is corroborated by the testimony of witness Sreten Aćimović, commander of the 2nd Infantry Battalion of the Zvornik Brigade, confirmed that he saw the bodies of about 10 prisoners who had been killed in the area in front of the entrance of the school.⁹³⁰ Witness A-8, a member of the Military Police of the Zvornik Brigade, also saw bodies of people who had been killed in the school yard.⁹³¹

572. According to Trbić, the bodies of those killed at the school were buried in Kozluk, together with the ones executed in Kozluk (see below).⁹³²

573. The Panel finds that the Prosecution proved beyond a reasonable doubt that on 15 July 1995, as coordinated by Lieutenant Colonel Vujadin Popović who was at the school, Milorad Trbić, acted jointly with and supervised the activities of other VRS soldiers in transporting the Bosniak detainees from the School to a summary execution site at the municipal refuse dump by the Drina River at Kozluk knowing that they would be summarily executed at that location.

574. Trbić stated that he left Ročević after about two hours and went to the execution site in Kozluk.⁹³³ The Panel finds that, according to his statements, Trbić accompanied one of the trucks transporting the prisoners to the execution site in Kozluk.⁹³⁴

575. The Panel found in paragraph 552 that on 15 July 1995 approximately 500 Bosniak men were summarily executed by automatic weapon fire at the municipal refusal dump in Kozluk.

576. Trbić stated that the executions were already in progress when he arrived.⁹³⁵ At the Kozluk execution site, Trbić stated that he stayed for 30 minutes and that he was with Lazarević, a member of the Engineering Unit of the Zvornik Brigade.⁹³⁶

577. According to Trbić, Sreten Aćimović received the order from Beara to send five or six soldiers of the 2nd Infantry Battalion from Ročević with Trbić to the execution site; which Aćimović

19 (ICTY OTP Information Report regarding August 2004 site visit) (Confidential) p. 4]. The Panel discounts this statement of the Accused; this is an example of Trbić's ongoing efforts to deceive and confuse the investigators.

⁹²⁹ T-18 (Trbić 8 November 2004 Interview), p. 11. In the 23 May 2004 interview, Trbić stated that "others" were also involved in killings at the school [T-15 (Trbić 23 May 2004 Interview) p. 44].

⁹³⁰ Witness Sreten Aćimović (3 December 2007). Mitar Lazarević confirmed that this is what Sreten Aćimović reported to him (T-966, Witness Mitar Lazarević *Popović* Testimony, p. 13390).

⁹³¹ Witness A-8 (10 December 2007).

⁹³² T-18 (Trbić 8 November 2004 Interview), p. 23.

⁹³³ T-19 (ICTY OTP Information Report regarding August 2004 site visit) (Confidential) p. 4.

⁹³⁴ T-16 (Trbić 27 May 2004 Interview), pgs. 16-17; T-18 (Trbić 8 November 2004 Interview), p. 12; T-19 (ICTY OTP Information Report regarding August 2004 site visit) (Confidential) pgs. 5, 9.

⁹³⁵ T-19 (ICTY OTP Information Report regarding August 2004 site visit) (Confidential) p. 9.

⁹³⁶ T-15 (Trbić 23 May 2004 Interview), pgs. 42-44; T-19 (ICTY OTP Information Report regarding August 2004 site visit) (Confidential) p. 9.

executed.⁹³⁷ These men, along with Trbić and Birčaković, accompanied one TAM truck containing 20-30 prisoners from the school to the execution site in Kozluk.⁹³⁸ However, Sreten Aćimović, commander of the 2nd Infantry Battalion, testified that none of his soldiers went to Ročević, except himself.⁹³⁹ Based on the evidence submitted, the Panel is unable to find which unit of the VRS conducted the executions at the Kozluk execution site. However, this is again unnecessary to the issue of Trbić's responsibility as to these events.

578. The Panel finds that Milorad Trbić went to the execution site in Kozluk twice. According to Trbić, he went back to the execution site in Kozluk⁹⁴⁰ with the driver Milorad Birčaković⁹⁴¹ as requested by Lieutenant Colonel Popović⁹⁴² to see what the situation was there so he could have information for Beara and Lieutenant Colonel Popović about the execution of the task.⁹⁴³ The Panel finds that this is consistent with the previous request by Popović to examine and clean up the site in Ročević and report back to members of the joint criminal enterprise.

579. In the 8 November 2004 interview, Trbić stated that he left the Kozluk execution site between 18:00 and 19:00 hours.⁹⁴⁴ During the ICTY site visit in August 2004, Trbić said that the executions had finished when he left the execution site.⁹⁴⁵ In the 23 May 2004 interview he states the killing in Kozluk ended around 20:00 or 21:00 hours.⁹⁴⁶ None of this is material to the charge. Therefore, the Panel makes no findings as to when Trbić left Ročević on the evening of 15 July 1995.

580. The Panel finds the Prosecution proved beyond a reasonable doubt that later on 15 July 1995 at Kozluk, Milorad Trbić carried out summary executions of Bosniak men from Srebrenica enclave for a period of at least 20 minutes thereby killing several (unknown number but more than one) of them by automatic weapon fire.

581. Trbić stated that he participated in the executions for 20 to 30 minutes.⁹⁴⁷ Trbić is unclear whether he executed prisoners the first time he went to Kozluk, the second time he went to Kozluk,

⁹³⁷ T-15 (Trbić 23 May 2004 Interview), pgs. 42-44.

⁹³⁸ T-19 (ICTY OTP Information Report regarding August 2004 site visit) (Confidential) pgs. 5, 9; T-18 (Trbić 8 November 2004 Interview), p. 12.

⁹³⁹ Witness Sreten Aćimović (3 December 2007).

⁹⁴⁰ T-19 (ICTY OTP Information Report regarding August 2004 site visit) (Confidential) p. 9.

⁹⁴¹ T-18 (Trbić 8 November 2004 Interview), p. 17.

⁹⁴² T-18 (Trbić 8 November 2004 Interview), p. 17.

⁹⁴³ T-15 (Trbić 23 May 2004 Interview), pgs. 44-45.

⁹⁴⁴ T-18 (Trbić 8 November 2004 Interview), p. 17.

⁹⁴⁵ T-19 (ICTY OTP Information Report regarding August 2004 site visit) (Confidential) p. 9.

⁹⁴⁶ T-15 (Trbić 23 May 2004 Interview), p. 45.

or both.⁹⁴⁸ The Panel is therefore unable to find when exactly these executions took place, but confirms that Trbić executed several prisoners. While Trbić changed the timing of the killings in his various statements, he consistently stated that he killed prisoners in at least three statements. The Panel gives credence to these statements against self-interest and finds that Trbić participated in the mass executions in Kozluk.

582. Trbić stated that he informed Lieutenant Colonel Popović about the transportation to Kozluk and the execution he took part in once he returned to Rocevic the second time.⁹⁴⁹ According to Trbić, Beara was also at the Kozluk execution site.⁹⁵⁰

583. In the 23 May 2004 interview, Trbić confirmed the exact location of the execution site by Kozluk to the investigators.⁹⁵¹ The Panel finds this to be a clear indication of Trbić participation in the events at that particular location.

584. According to Trbić, when he arrived at the Kozluk execution site on 15 July 1995, heavy engineering machinery was already digging the grave.⁹⁵² He stated that the machines were already working when the execution was finished. Trbić learned that once the executions were finished, the engineering machines were working on their tasks⁹⁵³ and they did not know when they were going to complete it all.⁹⁵⁴ In fact, evidence indicates that the burial operation was completed on 16 July 1995, as corroborated by the testimony of direct witnesses⁹⁵⁵ and a vehicle log⁹⁵⁶. Trbić stated one engineering machine with at a minimum a big scoop in the front.⁹⁵⁷ However, the Panel found in paragraph 557 that the burial operation in Kozluk took place the next day, on 16 July 1995.

⁹⁴⁷ T-18 (Trbić 8 November 2004 Interview), pgs. 12-14; T-19 (ICTY OTP Information Report regarding August 2004 site visit) (Confidential) pgs. 5 and 9; During the same interview, Trbić stated that he did not participate in the killings (p. 5) and that he did participate in the killings (p. 9).

⁹⁴⁸ In the 23 May 2004, he stated that he executed people the second time he went to the execution site in Kozluk [T-15 (Trbić 23 May 2004 Interview), pgs. 44-45].

⁹⁴⁹ T-18 (Trbić 8 November 2004 Interview), p. 15.

⁹⁵⁰ T-15 (Trbić 23 May 2004 Interview), p. 44.

⁹⁵¹ T-15 (Trbić 23 May 2004 Interview), p. 40; he stated that the prisoners had been taken to Kozluk to the Drina River bank, to the sandy area next to the river.

⁹⁵² T-19 (ICTY OTP Information Report regarding August 2004 site visit) (Confidential) p. 9; T-15 (Trbić 23 May 2004 Interview), pgs. 42-44.

⁹⁵³ T-19 (ICTY OTP Information Report regarding August 2004 site visit) (Confidential) p. 9.

⁹⁵⁴ T-15 (Trbić 23 May 2004 Interview), pgs. 44-45.

⁹⁵⁵ Witness A-45 (15 January 2008); T-880, Witness Miloš Mitrović *Blagojević* Testimony, pgs. 5603-5610.

⁹⁵⁶ Vehicle log for a Torpedo Excavator driven by Miloš Mitrović, which contains an entry for Kozluk on 16 July 1995 [T-52 (Zvornik Brigade Engineering Company Vehicle Logs for July 1995)].

⁹⁵⁷ T-18 (Trbić 8 November 2004 Interview), p. 17.

E. KULA GRAD

(a) On 15 July 1995, at Kula Grad, Zvornik, Milorad Trbić coordinated and supervised the summary execution by VRS soldiers of a group of detained Bosniak men from Srebrenica enclave including Rešid Sinanović, son of Rahman, born on 15 October 1949.

1. General Factual Findings

585. The Panel found the Prosecution proved beyond a reasonable doubt that on 15 July 1995, at Kula Grad, Zvornik, Milorad Trbić coordinated and supervised the summary execution by VRS soldiers of a group of detained Bosniak men from Srebrenica enclave including Rešid Sinanović, son of Rahman, born on 15 October 1949.

586. The Panel did not include in the charge Prosecution's allegation that the Accused "acting on the instructions of Colonel Ljubiša Beara" because this is not necessary to the charge against the Accused.

587. The pattern of killing Bosniak men that was set up on 13 July 1995 continued at Kula Grad.

588. In the morning hours of 13 July 1995, Momir Nikolić arrived in Konjević Polje to check if the Bratunac – Konjević Polje road was passable and secure since General Mladić was to pass along that road.⁹⁵⁸ After General Mladić passed, Momir Nikolić drove one detainee over to Bratunac in his vehicle.⁹⁵⁹ His name was Rešid Sinanović.⁹⁶⁰ Nikolić said that Sinanović was an important detainee because he was listed as a war criminal, and was the former Chief of Police in Bratunac.⁹⁶¹ Witness A-28 confirmed that Rešid Sinanović was captured in Konjević Polje on 13 July 1995, and that he was in the same group of detainees as was the witness. The witness further testified that one of the soldiers approached Rešid and said: "There you are" ... "We've been waiting for you for a long time

⁹⁵⁸ T-868 (Momir Nikolić Sentencing Judgment and Agreed Facts), Annex A, para. 9.

⁹⁵⁹ T-868 (Momir Nikolić Sentencing Judgment and Agreed Facts), Annex A, para. 9; T-915, Witness A-19, *Prosecutor v. Popović et al IT-05-88*, Testimony of 8 and 9 November 2006, ("Witness A-19 Popović Testimony") p. 3827.

⁹⁶⁰ T-915, Witness A-19 *Popović Testimony*, p. 3827.

⁹⁶¹ T 915, Witness A-19 *Popović Testimony*, p. 3827.

now.”⁹⁶² In the Bratunac Brigade Headquarters, this detainee was received by Zlatan Čelanović, an attorney and an officer for legal, religious and moral affairs with the Brigade.⁹⁶³

589. Čelanović had met with Beara earlier either on the evening of the 12 July or in the early morning hours of 13 July. They were standing in front of the military police building in Bratunac. Čelanović and Beara were discussing a book which documents Muslims who were suspected of killing Serb civilians in previous years. Beara indicated to Čelanović it would be good for him to check if any prisoners brought to him were mentioned in this book *The Chronicle of our Cemetery*.⁹⁶⁴

590. On 13 July, the Special Police of the Bratunac Brigade brought a group of 5 or 6 Bosniak men to the building of the Bratunac Brigade Military Police. Pursuant to the order of Ljubiša Beara, they were to be screened to see if they committed crimes against Serbs.⁹⁶⁵

591. The special police were accompanied by Momir Nikolić. He gave the same order to Čelanović as did Beara in relation to the detainees. It was necessary for Čelanović to verify if Rešid was mentioned in the book titled *The Chronicle of our Cemetery* as a suspect in the attack against the village of Bjelovac.⁹⁶⁶

592. Čelanović examined Rešid Sinanović, together with 5 other detainees who were captured and brought to the Bratunac Brigade Headquarters, and made notes accordingly.⁹⁶⁷ In addition to Rešid Sinanović were the following men:

- a. Nazif Avdić, son of Ramo, born on 15 September 1954,
- b. Munib Dedić, son of Emin, born on 26 April 1966,
- c. Aziz Husić, son of Osman, born on 8 April 1966,
- d. Mujo Husić, son of Osman, born on 27 August 1961, and
- e. Hasib Ibišević, son of Ibrahim, born on 27 February 1964.⁹⁶⁸

⁹⁶² T-891 (Witness A-28 Statement to ICTY OTP dated 16 August 1995) (Confidential) p. 4.

⁹⁶³ T-873, Witness Zlatan Čelanović, *Prosecutor v. Popović et al* IT-05-88, Testimony of 31 January 2007, (“Witness Zlatan Čelanović *Popović* Testimony”) pgs. 6633 -6634.

⁹⁶⁴ T-873 Witness Zlatan Čelanović, *Popović* Testimony, pgs.6630-6632.

.T-873, Witness Zlatan Čelanović *Popović* Testimony, p. 6632.

⁹⁶⁶ T-873, Witness Zlatan Čelanović *Popović* Testimony, p. 6634.

⁹⁶⁷ T-873, Witness Zlatan Čelanović *Popović* Testimony, p. 6637.

⁹⁶⁸ T-1081 (Statement by Rešid Sinanović, born on 15 October 1949); T-1082 (Statement taken from Nazif Avdić (son of Ramo), born on 15 September 1964, Munib Dedić (son of Emin) born on 26 April 1966 and Aziz Husić (son of

593. In his testimony, witness Zlatan Čelanović confirmed that the notes he was presented with during his trial examination were the ones he made while examining witnesses. He also explained that he had thought that statements made by these men should be documented on paper.⁹⁶⁹ In relation to Rešid Sinanović, the witness said that there were no indications that Sinanović harmed anyone or committed war crimes against Serb civilians, soldiers or anything of that sort.⁹⁷⁰

594. Witness A-12 confirmed that Rešid Sinanović was in the Bratunac Brigade Headquarters on 13 July, since he was told that Rešid was there, so he paid him a visit in Zlatan Čelanović's office.⁹⁷¹

595. Witness Zlatan Čelanović said that after the prisoners gave statements on 13 July 1995, they were taken to Vuk Karadžić School by the Military Police Special Unit.⁹⁷²

596. All these men, Rešid Sinanović⁹⁷³ and five others, were listed as missing persons from Srebrenica on the list of the ICRC.⁹⁷⁴

597. The name of Aziz Husić is still on the ICRC list of missing persons.⁹⁷⁵

598. The body of Nazif Avdić was found and officially identified. He was recovered from a primary mass grave in Kozluk.⁹⁷⁶ Partial remains of Mujo Husić were officially identified. His remains were found in the primary grave in Kozluk and the secondary mass grave Čančari Road 3.⁹⁷⁷

599. Mortal remains of Munib Dedić were recovered and officially identified from the secondary mass grave Čančari Road/Kamenica 11 a secondary grave to Branjevo Farm grave.⁹⁷⁸ Mortal remains of Hasib Ibišević were found in the mass grave at Branjevo Military Farm and officially identified.⁹⁷⁹

Osman) born on 8 April 1966); T-1083 (Statement taken from Hasib Ibišević (son of Ibrahim) born on 27 February 1964); T-1084 (Statement taken from Mujo Husić (son of Osman) born on 27 August 1961).

⁹⁶⁹ T-873, Witness Zlatan Čelanović *Popović* Testimony, p. 6637.

⁹⁷⁰ T-873, Witness Zlatan Čelanović *Popović* Testimony, p. 6658.

⁹⁷¹ T-923, Witness A-12, *Prosecutor v. Popović et al* IT-05-88, Testimony of 21, 22, 23 March 2007, ("Witness A-12 *Popović* Testimony") pgs. 9219-9220.

⁹⁷² T-873, Witness Zlatan Čelanović *Popović* Testimony, p. 6645.

⁹⁷³ T-813 (Butler Narrative Report), para. 8.4; T-1111 (ICRC Missing List, 8th Ed), Rešid Sinanović (son of Rahman) born on 15 October 1949, ICRC Missing No. BAZ 911791-01.

⁹⁷⁴ T-813 (Butler Narrative Report), para. 8.4.

⁹⁷⁵ T-1111 (ICRC Missing List, 8th Ed.), p.123.

⁹⁷⁶ T-1114 (PIP List of Officially Identified Victims) code KK3 788B); T-833 (Manning Report 2007).

⁹⁷⁷ T-1114 (PIP List of Officially Identified Victims) KK3101 BP, CR3-B29; T-833 (Manning Report 2007). *See supra*, paras. 410 to 412.

⁹⁷⁸ T-1114 (PIP List of Officially Identified Victims) code CR 3B -529); T-833 (Manning Report 2007).

⁹⁷⁹ T-1114 (PIP List of Officially Identified Victims) code PLC 121; T-833 (Manning Report 2007).

600. There is evidence related to the further fate of Rešid Sinanović after he was taken to the Vuk Karadžić School, as told by the witness Zlatan Čelanović and supported by documentary evidence. Records on admissions to the Banja Koviljača Health Center show that two days following his examination in the Bratunac Brigade Headquarters, that is on 15 July 1995, Rešid Sinanović was treated and underwent a surgery in this Health Center.⁹⁸⁰

601. Witness Zlatan Čelanović explained that Banja Koviljača is in Serbia. Considering that the accompanying protocol letter, where the name of Rešid Sinanović, born in 1949 is also mentioned, notes the Medical Center of Loznica, witness Čelanović explained that the Medical Center was situated in Loznica, and that the medical facility in Banja Koviljača was a part of that Center. He also said that the closest town to Loznica across the border in, Republika Srpska is Bijeljina, or the place of Kozluk.⁹⁸¹

602. Having been administered medical assistance Rešid Sinanović escaped from the hospital and was captured on 15 July 1995 with a group of men. His capture is also noted in the Zvornik Brigade duty officer's logbook, under the entry made on 15 July 1995, which in relation to the medical treatment of Rešid Sinanović reads as follows: "A Turk /*derogatory term for Muslim*/ lawyer escaped to Loznica hospital, wounded and treated (Siniša)".⁹⁸² The Accused also recalled this event after he was presented with a note made by the duty officer. He confirmed that the person referred to was in fact Rešid Sinanović.⁹⁸³ He further elaborated that there was a group of detainees captured and brought to the border crossing in Karakaj, Zvornik, on 15 July 1995. The Zvornik Brigade Military Police escorted the group at the border crossing in Karakaj near Zvornik.⁹⁸⁴ The site is located in the area of responsibility of the Zvornik Brigade.⁹⁸⁵ Information on the detainees was conveyed to duty operation's officer and the Zvornik Brigade was requested via duty officer to take over the group.⁹⁸⁶ Ljubo Bojanović, duty operation's officer on 15 July, informed the Accused about detainees.⁹⁸⁷

603. Rešid Sinanović was re-examined on 15 July 1995 by the Accused and Captain First Class Duško Vukotić.⁹⁸⁸ All prior statements of the Accused are consistent in that he examined Sinanović

⁹⁸⁰ T-510 (Accompanying letter with the enclosed list of patients from the Banja Koviljača Hospital, Serbia from July 1995); T-746 (Accompanying letter from the *Dr. Milenko Marin Health Centre*, Loznica).

⁹⁸¹ T -873, Witness Zlatan Čelanović *Popović* testimony ,pgs. 6660- 6661

⁹⁸² T-20 (Duty Operations Officer Logbook) ERN 0293 5761; Expert witness Richard Butler (17 and 18 March 2008).

⁹⁸³ T-16 (Trbić 27 May 2004 Interview), p. 16; T-18 (Trbić 8 November 2004 Interview), p. 20.

⁹⁸⁴ T-16 (Trbić 27 May 2004 Interview), pgs. 13 -14; T-18 (Trbić 8 November 2004 Interview), p. 20.

⁹⁸⁵ T-817 (Map showing Zvornik Brigade area of responsibility and Battalion areas).

⁹⁸⁶ T-16 (Trbić 27 May 2004 Interview), p. 16; T-18 (Trbić 8 November 2004 Interview), p. 21.

⁹⁸⁷ T-18 (Trbić 8 November 2004 Interview), pgs. 19-21; T-20 (Duty Officer's Logbook on 15 July 1995).

⁹⁸⁸ T- 18(Trbic 8 November 2004 Interview), p.17.

on 15 July 1995.⁹⁸⁹ Witness Vinko Pandurević confirmed Vukotić's presence on 15 July in Kula Grad.⁹⁹⁰

604. After Rešid Sinanović was examined, in line with the order conveyed through security bodies, the order came again through security bodies, for the group from Loznica to be taken for execution.⁹⁹¹ On a TAM truck vehicle, on 15 July, members of the 1st Battalion transported these detainees to the execution site in the area of Kula Grad and executed them in the evening hours.⁹⁹² Evidence corroborates the allegations in the Amended Indictment that this group of detainees together with Rešid Sinanović was executed in Kula Grad on 15 July 1995 and that their mortal remains were later on transferred to Kamenica.⁹⁹³ Final corroboration of this was the recovery of mortal remains of Rešid Sinanović (son of Rahman) precisely from the mass grave in Kamenica, as the Accused stated.⁹⁹⁴ Kamenica is a secondary grave,⁹⁹⁵ and therefore the Accused knew that the remains had been subsequently removed to this secondary grave where mortal remains of Rešid Sinanović were found.

605. Despite the inconsistencies in the statements of the Accused as to the execution site of this group of detainees including Rešid Sinanović, the statement that the execution took place in Kula Grad and that the bodies were transferred to Kamenica, the Panel found credible considering that forensic evidence corroborates this fact. Furthermore, Trbić's statements on his further movement after the execution of this group in Kula Grad are supported by other evidence.⁹⁹⁶

606. Rešid Sinanović remains missing after 15 July 1995. Not even his name was mentioned anywhere in the documents.

2. Acts of Milorad Trbić

607. The Panel finds as above that the Prosecution proved beyond a reasonable doubt that on 15 July 1995 at Kula Grad, Zvornik Milorad Trbić, coordinated and supervised the summary

⁹⁸⁹ T-16 (Trbić 27 May 2004 Interview), p. 17; T-18 (Trbić 8 November 2004 Interview), pgs. 19-22; T-19 (ICTY Information Report regarding August 2004 site visit) (Confidential), p. 5.

⁹⁹⁰ O-5, Pandurević *Popović* Testimony on 20 February 2009, pgs. 31893-31894.

⁹⁹¹ T-18 (Trbić 8 November 2004 Interview), pgs. 19-22.

⁹⁹² T-18 (Trbić 8 November 2004 Interview), p. 22.

⁹⁹³ T-18 (Trbić 8 November 2004 Interview), p. 23.

⁹⁹⁴ T-1116 (Confidential letter PIP Reg. dated 15 May 2009) (Confidential); T-18 (Trbić 8 November 2004 Interview), p. 19-21 and 48.

⁹⁹⁵ T-833 (Manning Report 2007), p. 10/24.

⁹⁹⁶ T-18 (Trbić 8 November 2004 Interview), p. 22; T-40 (Vehicle Log for Opel Rekord).

executions by VRS soldiers of a group of detained Bosniak men from Srebrenica enclave including Rešid Sinanović, son of Rahman, born 15 October 1949.

608. Trbić states that he received instructions from Beara that were passed through Major Golić directly to him. Trbić is told to take the men, interrogate them and execute them. Trbić indicates he and Captain First Class Duško Vutotić interrogate Rešid with another man from that group and then they take them to Kula Grad. Defense Witness Vinko Pandurević corroborates that Vukotić is at Kula Grad on 15 July, 1995.⁹⁹⁷

609. Trbić's driver Milorad Birčaković was also present on the site on 15 July at the time of the execution.⁹⁹⁸ This is corroborated by an excerpt from a vehicle log for the Opel Rekord vehicle of the Zvornik Brigade which shows that on 15 July 1995, Birčaković was driving this vehicle in the area of Zvornik and Divič, also in the area of Zvornik.⁹⁹⁹ Kula Grad is located in the area of responsibility of the Zvornik Brigade,¹⁰⁰⁰ and more specifically, it is located in the town area of Zvornik.¹⁰⁰¹ This is where the Opel Rekord vehicle travelled that day. After the execution, the Accused returned to Zvornik.¹⁰⁰² The vehicle log for the Opel Rekord indicates the movement of the vehicle in the area of Zvornik, where Kula Grad is also located, which corroborates Trbić's statement regarding the movement on that day. Based on the foregoing, the Panel concluded that the Accused Milorad Trbić's statements are credible and finds he was present during the execution of the group of detainees and Rešid Sinanović on 15 July 1995 in Kula Grad, Zvornik.

610. Finally, being present at the scene, his role would be to coordinate and supervise the other soldiers. This is consistent with his role so far in the executions. It is consistent as well with his legitimate role as assistant to the Assistant Commander for Security under the principles of command and control over security bodies. It is precisely his role to coordinate and supervise soldiers as needed. Therefore, the Panel found that the Prosecution proved beyond a reasonable doubt that the Accused coordinated and supervised the summary execution by VRS soldiers of a group of detained Bosniak men from Srebrenica enclave including Rešid Sinanović, son of Rahman, born on 15 October 1949.

⁹⁹⁷ O-5, Pandurević *Popović* Testimony on 20 February 2009, pgs. 31893-31894.

⁹⁹⁸ T-18 (Trbić 8 November 2004 Interview), p. 22.

⁹⁹⁹ T-40 (Vehicle Log for Opel Rekord) on 15 July 1995, ERN 00694702.

¹⁰⁰⁰ T-44 (Map of Zvornik area).

¹⁰⁰¹ T-44 (Map of Zvornik area).

¹⁰⁰² T-18 (Trbić 8 November 2004 Interview), p. 22.

F. DUTY OPERATIONS OFFICER, KULA SCHOOL, BRANJEVO MILITARY FARM AND PILICA DOM

1. General Factual Findings

(a) On 16 July 1995, at least 500 Bosniak men held in Kula School, Pilica were transported to Branjevo Military Farm

611. The Panel finds that the Prosecution proved beyond a reasonable doubt that on 16 July, at least 500 Bosniak men held in Kula School, Pilica were transported to Branjevo Military Farm.

612. The Kula School, Pilica and the Branjevo Military Farm are located within the Zvornik Brigade area of responsibility.¹⁰⁰³

613. On or about 14 and 15 July 1995, Bosnian Muslim prisoners were taken by bus from Bratunac through Zvornik to Pilica, where they were detained in a school at the village of Kula near Pilica.¹⁰⁰⁴ The school was also known as Kula School due to the tower in its grounds and is now called “Nikola Tesla School”.¹⁰⁰⁵

614. Two survivors, witnesses P-6 and A-32, of the subsequent execution at Branjevo Military Farm provided testimony about their detention in Kula/Pilica School. Witness A-32 testified that on 14 July he was taken by bus from Bratunac to the school in Pilica.¹⁰⁰⁶ He spent the nights of 14 and 15 July at the school in the gymnasium.¹⁰⁰⁷ He noticed that other detainees were located in other parts of the school.¹⁰⁰⁸ He witnessed several acts of violence by the soldiers against the Muslim prisoners, including an incident on 14 July where a bus full of prisoners arrived at the school followed by cries for help and then bursts of fire.¹⁰⁰⁹ Additionally, the prisoners were given no food, little water and no medical treatment.¹⁰¹⁰ The soldiers also took jewelry, watches, money

¹⁰⁰³ T-813 (Butler Narrative Report), para. 7.36; T-817 (Map showing Zvornik Brigade area of responsibility and Battalion areas).

¹⁰⁰⁴ See Established Fact 72 (Decision of the Panel dated 13 December 2007).

¹⁰⁰⁵ Witness Zoran Radosavljević (5 February 2008); T-80 to T-84 (Photographs of Kula School); T-962, Witness Jevto Bogdanović, *Prosecutor v. Popović et al* IT-05-88, Testimony of 10 May 2007, (“Witness Jevto Bogdanović *Popović* Testimony”) p. 11319.

¹⁰⁰⁶ T-905, Witness A-32, *Prosecutor v. Krstić* IT-98-33, Testimony of 14 April 2000, (“Witness A-32 *Krstić* Testimony”) pgs. 3029-3031.

¹⁰⁰⁷ T-905, Witness A-32 *Krstić* Testimony, pgs. 3036, 3038-3039.

¹⁰⁰⁸ T-905, Witness A-32 *Krstić* Testimony, p. 3032.

¹⁰⁰⁹ T-905, Witness A-32 *Krstić* Testimony, pgs. 3033-3036.

¹⁰¹⁰ T-905, Witness A-32 *Krstić* Testimony, pgs. 3036-3037.

for those who had them.¹⁰¹¹ Witness A-32 also testified that on the night of 15 July men were taken out of the gym and some returned and some did not.¹⁰¹²

615. On 14 July, after spending two nights at Vuk Karadžić school in Bratunac, Witness P-6 along with other prisoners boarded seven buses to Pilica.¹⁰¹³ The soldiers killed one man, then they traveled for some more time and they were taken to a school.¹⁰¹⁴ They were put in a room which was overcrowded.¹⁰¹⁵ The prisoners were given no food and little water.¹⁰¹⁶ At the school prisoners were taken out and beaten. Witness P-6 testified that it was “just like in Bratunac.”¹⁰¹⁷

616. Witness Milovan Đokić, a Bratunac Brigade MP, confirmed that on 14 July he escorted a bus of Srebrenica detainees from Bratunac to Ročević and onwards to Pilica (Kula) School. The detainees on his bus remained onboard overnight. The next day, he escorted the same bus of detainees first to Ročevići and then to Pilica Dom.¹⁰¹⁸ Witness A-42 testified that he found out that Bratunac Brigade MPs took prisoners from Bratunac to Pilica.¹⁰¹⁹ Witness Zoran Radosavljević¹⁰²⁰ testified during the evening of 14 July he saw prisoners on buses by the Kula School and heard prisoners shouting from inside the school.¹⁰²¹ On 15 July Witness Milorad Birčaković¹⁰²² drove Miomir Jasikovac¹⁰²³ to the school and he saw prisoners inside the school. He also saw when a prisoner jumped out of a window and “got killed.”¹⁰²⁴

617. Slavko Perić, Assistant Commander for Security at the 1st Battalion of Zvornik Brigade, testified that the Assistant Commander of the 1st Battalion, Momir Pelemiš, was informed by the Brigade that a group of around 200 Muslim prisoners would be arriving and they would be detained at Kula School.¹⁰²⁵ He spoke to Drago Nikolić over the phone and Nikolić told him regardless of who was appointed by Pelemiš to go to the school, that it would be a good idea for Perić to be there to protect the local population.¹⁰²⁶ The Panel finds this explanation similar to the explanation given

¹⁰¹¹ T-905, Witness A-32 *Krstić* Testimony, p. 3037.

¹⁰¹² T-905, Witness A-32 *Krstić* Testimony, p. 3038.

¹⁰¹³ T-968, Witness P-6, *Prosecutor v. Blagojević and Jokić* IT-02-60, Testimony of 14 July 2003, (“Witness P-6 *Blagojević* Testimony”) pgs.1184,1188.

¹⁰¹⁴ T-968, Witness P-6 *Blagojević* Testimony, pgs.1190-1191.

¹⁰¹⁵ T-968, Witness P-6 *Blagojević* Testimony, p.1191.

¹⁰¹⁶ T-968, Witness P-6 *Blagojević* Testimony, pgs.1191-1192.

¹⁰¹⁷ T-968, Witness P-6 *Blagojević* Testimony, p.1191.

¹⁰¹⁸ Witness Milorad Đokić (11 February 2008).

¹⁰¹⁹ Witness A-42 (28 January 2008).

¹⁰²⁰ Witness Zoran Radosavljević, Assistant Commander for Operations, Zvornik Brigade.

¹⁰²¹ Witness Zoran Radosavljević (5 February 2008); T-80 to T-84 (Photographs of Kula School).

¹⁰²² Witness Milorad Birčaković, Zvornik Brigade military policeman. Driver for Drago Nikolić and Milorad Trbić.

¹⁰²³ Miomir Jasikovac, Military Police Commander.

¹⁰²⁴ Witness Milorad Birčaković (12 December 2007).

¹⁰²⁵ T-883, Witness Slavko Perić, *Prosecutor v. Popović et al* IT-05-88, Testimony of 11 and 14 May 2007, (“Witness Slavko Perić *Popović* Testimony”) p. 11376.

¹⁰²⁶ T-883, Witness Slavko Perić *Popović* Testimony, pgs. 11378, 11383-11385.

in Orahovac. He had found out that the detainees would spend the night there and the next morning would be exchanged.¹⁰²⁷ When at the school he saw a convoy of 10 vehicles, mostly buses and maybe one or two trucks.¹⁰²⁸ The gym was full of detainees and he said from the doorway that a “very unpleasant smell emanated from there, and you couldn’t bear to be in the doorway for more than a minute or two.”¹⁰²⁹

618. Additionally, soldiers from the Workers Platoon of the Zvornik Brigade 1st Battalion were sent by their Commander, Radovoje Lakić, to guard the school.¹⁰³⁰ Witness Jevto Bogdanović testified at the ICTY that he and other soldiers stood guard at the school so that the prisoners could be put on the buses, and then driven some place else.¹⁰³¹ He could see prisoners inside the school and saw that it was quite crowded and they were wearing civilian clothes.¹⁰³² He also testified that they were hungry and thirsty.¹⁰³³

619. Slavko Perić testified that he went to the Brigade on 15 July because the detainees were still at the school. Four or five Commanding Officers were present in the Duty Officer’s room and one said to him, “Why aren’t you killing them off?”¹⁰³⁴

620. Prisoners were indeed killed while detained at Kula School. The testimonies of Witness A-32¹⁰³⁵, Milorad Birčaković¹⁰³⁶, Witness P-6¹⁰³⁷, and Jevto Bogdanović¹⁰³⁸ support this.

621. The Panel found that there were at least 500 men detained at Kula School. The Prosecutor alleged in the Amended Indictment it was “over 500” but based on the evidence the Panel finds that “at least 500” is more accurate. Witness Zoran Radosavljević, a resident of the town, testified he saw 7 to 10 buses filled with men arrive at the school.¹⁰³⁹ Witness Slavko Perić also saw 10 buses.¹⁰⁴⁰ A-32 described that he boarded on one of three buses to Branjevo Military Farm and that three people sat to a seat.¹⁰⁴¹

¹⁰²⁷ T-883, Witness Slavko Perić *Popović* Testimony, p. 11391.

¹⁰²⁸ T-883, Witness Slavko Perić *Popović* Testimony, pgs. 11381-11382.

¹⁰²⁹ T-883, Witness Slavko Perić *Popović* Testimony, p. 11391.

¹⁰³⁰ T-962, Witness Jevto Bogdanović *Popović* Testimony, pgs. 11314, 11319.

¹⁰³¹ T-962, Witness Jevto Bogdanović *Popović* Testimony, pgs. 11320-11321.

¹⁰³² T-962, Witness Jevto Bogdanović *Popović* Testimony, pgs. 11321-11322.

¹⁰³³ T-962, Witness Jevto Bogdanović *Popović* Testimony, p. 11322.

¹⁰³⁴ T-883, Witness Slavko Perić *Popović* Testimony, p. 11399.

¹⁰³⁵ T-905, Witness A-32 *Krstić* Testimony, pgs. 3032-3036.

¹⁰³⁶ Witness Milorad Birčaković (12 December 2007).

¹⁰³⁷ T-968, Witness P-6 *Blagojević* Testimony, pgs. 1193-1194.

¹⁰³⁸ T-962, Witness Jevto Bogdanović *Popović* Testimony, pgs. 11323-11324, 11339.

¹⁰³⁹ Witness Zoran Radosavljević (5 February 2008).

¹⁰⁴⁰ T-883, Witness Slavko Perić *Popović* Testimony, pgs. 11381-11382.

¹⁰⁴¹ T-905, Witness A-32 *Krstić* Testimony, p. 3040.

622. Witness P-6 testified that the day they left the school they had their hands tied behind their backs.¹⁰⁴² Witness A-32 also testified that on the morning of 16 July 1995 in the gymnasium he and the other detainees had their hands tied behind their back.¹⁰⁴³ The soldiers were shouting and swearing at the detainees and would occasionally hit someone with the butt of their rifles.¹⁰⁴⁴ The soldiers told the detainees that they were going to Tuzla. Witness P-6 was suspicious and testified “If I’m going to Tuzla, going to be free, why would they tie me up?” They were taken from the school and loaded on to buses for transportation to their execution at Branjevo Military Farm.¹⁰⁴⁵

623. On 16 July Slavko Perić saw the loading of detainees and taking them away from the school. He also identified Beara and Popović as being present at this time.¹⁰⁴⁶ As the second or third bus departed he heard shots from a location not very far from the school.¹⁰⁴⁷ According to him, the transportation of the detainees lasted about two hours.¹⁰⁴⁸

(b) On 16 July 1995, at Branjevo Military Farm, Pilica, up to 1,200 (one thousand two hundred) Bosniak men, including those from Kula School, were summarily executed by automatic rifle fire

624. The Panel finds that Prosecution proved beyond a reasonable doubt that on 16 July 1995, at Branjevo Military Farm, Pilica, up to 1,200 (one thousand two hundred) Bosniak men, including those from Kula School, were summarily executed by automatic rifle fire.

625. On 16 July, Bosniak men were transported from Kula School a short distance to Branjevo Military Farm.¹⁰⁴⁹ The Branjevo Military Farm is an installation operated under the control of the 1st Infantry Battalion of the Zvornik Brigade.¹⁰⁵⁰ The execution of up to 1,200 Bosniak men took place between 10:00 hours and 16:00 hours at this site.¹⁰⁵¹

¹⁰⁴² T-968, Witness P-6 *Blagojević* Testimony, p. 1193.

¹⁰⁴³ T-905, Witness A-32 *Krstić* Testimony, p. 3040.

¹⁰⁴⁴ T-968, Witness P-6 *Blagojević* Testimony, p. 1194.

¹⁰⁴⁵ T-968, Witness P-6 *Blagojević* Testimony, p. 1194; T-905, Witness A-32 *Krstić* Testimony, p. 3040.

¹⁰⁴⁶ T-883, Witness Slavko Perić *Popović* Testimony, pgs. 11411-11415; T-968, Witness P-6 *Blagojević* Testimony, p. 1194: Witness P-6 testified to seeing officers who observed them while being loaded on the buses and “smile to themselves.”

¹⁰⁴⁷ T-883, Witness Slavko Perić *Popović* Testimony, p. 11416.

¹⁰⁴⁸ T-883, Witness Slavko Perić *Popović* Testimony, p. 11416.

¹⁰⁴⁹ T-904 (Witness A-32 Statement to ICTY OTP dated 23 May 1996) (Confidential), p. 4; T-968, Witness P-6 *Blagojević* Testimony, p. 1194.

¹⁰⁵⁰ T-813 (Butler Narrative Report), para. 7.46.

¹⁰⁵¹ T-875, Witness Dražen Erdemović, *Prosecutor v. Popović et al* IT-05-88, Testimony of 4 and 7 May 2007, (“Witness Dražen Erdemović *Popović* Testimony”) p. 10983; T-904, Witness A-32 Statement dated 23 May 1996, (Confidential), p. 4.

626. The survivors, Witness A-32 and Witness P-6, both provide descriptions of the executions at Branjevo Military Farm. Their testimonies corroborate each other. Witness P-6 described that after driving on the bus after two, two and a half kilometers, he heard shooting on a hill. When they arrived at the hill, the buses stopped and the doors opened. The soldiers surrounded the buses. They cursed the prisoners and they cursed Alija and Haris.¹⁰⁵² He remained on the bus and witnessed the other detainees be led by VRS soldiers down a path where there were corpses. When it was Witness P-6's turn to get off the bus they were being lead by eight soldiers carrying automatic weapons. The soldiers demanded money and kicked the witness in the stomach. They reached the place with the corpses and then told by the soldiers to stand straight and turn their backs to them. They were told to lie down and were simultaneously shot. Witness P-6 fell down but was not shot and another person fell on top of him.¹⁰⁵³ While he laid there he heard soldiers asking if anyone else is alive and if anyone responded a soldier would go over and individually shoot that person.¹⁰⁵⁴ After that more buses came and approximately six or seven groups were executed in the same manner near where he lay.¹⁰⁵⁵ Later on Witness P-6 heard soldiers say "We committed genocide just like in 1941 in Jasenovac."¹⁰⁵⁶

627. Witness P-6 laid there for the remainder for the day and a few hours before nightfall he escaped by running across the dead bodies into the bushes on the edge of the field with several other survivors.¹⁰⁵⁷ As he looked out onto the killing field, he estimated that he could see between 1,000 and 1,500 corpses.

628. When Witness A-32 bus arrived at Branjevo Military Farm he saw a large number of bodies on the meadow. The soldiers took a group of ten men out of the bus at a time.¹⁰⁵⁸ Those remaining on the bus observed the men taken out of the bus lined up among rows of dead bodies and were then shot.¹⁰⁵⁹ When it was Witness A-32 turn to get off the bus the soldiers took them to the meadow to where the bodies were and told to then stop. There were a group of soldiers lined up there and they shot them from their automatic rifles. When they opened fire, Witness A-32 threw himself on the ground without serious injury.¹⁰⁶⁰ Later while laying there he was shot in the back

¹⁰⁵² T-968, Witness P-6 *Blagojević* Testimony, p. 1194. Alija Izetbegović and Haris Silajdžić Bosian Muslim war-time leaders/figures.

¹⁰⁵³ T-968, Witness P-6 *Blagojević* Testimony, p. 1195.

¹⁰⁵⁴ T-968, Witness P-6 *Blagojević* Testimony, pgs. 1195-1196.

¹⁰⁵⁵ T-968, Witness P-6 *Blagojević* Testimony, p. 1196.

¹⁰⁵⁶ T-968, Witness P-6 *Blagojević* Testimony, p. 1197. This is a reference to a WWII Concentration Camp in Croatia which was established in 1941 and interned Serbians.

¹⁰⁵⁷ T-968, Witness P-6 *Blagojević* Testimony, pgs. 1197-1198.

¹⁰⁵⁸ T-905, Witness A-32 *Krstić* Testimony, p. 3040.

¹⁰⁵⁹ T-905, Witness A-32 *Krstić* Testimony, p. 3041.

¹⁰⁶⁰ T-905, Witness A-32 *Krstić* Testimony, p. 3041.

but the bullet passed under his left armpit.¹⁰⁶¹ While Witness A-32 lay among the corpses he heard one man crying for help and heard the soldiers say “Let him suffer. We’ll kill him later.” He was familiar with different types of weapons and recognized one of the executioners using a M-84.¹⁰⁶² The VRS soldiers kept bringing groups of detainees that day, and in the afternoon, for about four hours.¹⁰⁶³

629. Witness A-32 laid there and heard a truck unload something and later saw they were the bodies of killed men that were brought there. He spent the night of 16 July there and escaped to hide under a bridge near the killing field the next day. From that spot he could hear machines and vehicles traveling to and from the execution site.¹⁰⁶⁴ This continued most of the day of 17 July.¹⁰⁶⁵

630. The stories of these surviving witnesses are corroborated by the accounts of Dražen Erdemović, a VRS soldier in the 10th Sabotage Detachment who was convicted for his participation in the killings.¹⁰⁶⁶ On 16 July, Dražen and seven other colleagues in his unit traveled to the Zvornik Brigade at Standard.¹⁰⁶⁷ They were there briefly when they met a Lieutenant-Colonel, along with two military policemen, who got into green/grey Opel Kadet car, and Erdemović’s unit followed them to Branjevo Military Farm.¹⁰⁶⁸ When they arrived the Lieutenant-Colonel informed them in a few minutes buses would start arriving, carrying civilians from Srebrenica and they would be executed.¹⁰⁶⁹

631. The buses arrived with two VRS soldiers onboard escorting the Bosniak men. Groups of ten detainees were brought out from the bus and taken to the designated location for the execution.¹⁰⁷⁰ Erdemović and the other VRS soldiers were standing in a line. While the detainees had their backs to Erdemović and the others in the execution squad they were shot with automatic rifles.¹⁰⁷¹ At some point during the executions, the soldiers used the M-84 machine gun because the “execution was proceeding slowly.”¹⁰⁷² Erdemović described this gun as a powerful gun that “butchered those people” and that people did not die but lay there begging for someone to come and kill them.¹⁰⁷³ As found previously, Witness A-32 also testified that he saw an executioner using the M-84 machine

¹⁰⁶¹ T-905, Witness A-32 *Krstić* Testimony, pgs. 3041-3042.

¹⁰⁶² T-905, Witness A-32 *Krstić* Testimony, p. 3044.

¹⁰⁶³ T-905, Witness A-32 *Krstić* Testimony, p. 3042.

¹⁰⁶⁴ T-905, Witness A-32 *Krstić* Testimony, p. 3044.

¹⁰⁶⁵ T-905, Witness A-32 *Krstić* Testimony, p. 3045.

¹⁰⁶⁶ T-875, Witness Dražen Erdemović *Popović* Testimony, pgs. 10931-10932.

¹⁰⁶⁷ T-875, Witness Dražen Erdemović *Popović* Testimony, pgs. 10964-10965.

¹⁰⁶⁸ T-875, Witness Dražen Erdemović *Popović* Testimony, pgs. 10964-10968.

¹⁰⁶⁹ T-875, Witness Dražen Erdemović *Popović* Testimony, pgs. 10970-10971.

¹⁰⁷⁰ T-875, Witness Dražen Erdemović *Popović* Testimony, p. 10971.

¹⁰⁷¹ T-875, Witness Dražen Erdemović *Popović* Testimony, p. 10972.

¹⁰⁷² T-875, Witness Dražen Erdemović *Popović* Testimony, p. 10973.

gun.¹⁰⁷⁴ This scene was repeated throughout the day from 10:00 hours to about 16:00 hours.¹⁰⁷⁵ This timing is confirmed by Jevto Bogdanović who was guarding Kula School that day and finished his task around 16:00 hours.¹⁰⁷⁶ Erdemović estimated there were 15 to 20 bus loads full of detainees arrived and he also estimated that between 1,000 and 1,200 were executed.¹⁰⁷⁷

632. Early in the afternoon about eight to ten soldiers from Bratunac, wearing VRS uniforms, arrive to relieve them. From that point onward, the soldiers from Bratunac took over the killing operation, recognizing and beating many of the Muslim men before executing them.¹⁰⁷⁸

633. There is also documentary evidence of the executions at Branjevo Military Farm.¹⁰⁷⁹

634. Therefore, the Panel finds that on 16 July, at Branjevo Military Farm, up to 1,200 (one thousand two hundred) Bosniak men, including those Kula School, were summarily executed.

(c) On or about 16 July at Pilica Dom (Cultural Center), Pilica, approximately 500 (five hundred) Bosniak men were summarily executed by automatic weapons and hand grenades

635. The Panel finds that Prosecution proved beyond a reasonable doubt that on or about 16 July at Pilica Dom (Cultural Center), Pilica, approximately 500 (five hundred) Bosniak men were summarily executed by automatic weapons and hand grenades.

636. Prosecution alleged in the Amended Indictment that the execution occurred at Pilica Dom on 16 and 17 July. The Panel finds there was enough evidence to support the execution occurred on 16 July, but that there was not enough evidence to support the allegation that the executions continued on 17 July 1995.

637. Pilica Dom (Cultural Center) is located in the Zvornik Brigade area of responsibility.¹⁰⁸⁰

¹⁰⁷³ T-875, Witness Dražen Erdemović *Popović* Testimony, p. 10973.

¹⁰⁷⁴ T-905, Witness A-32 *Krstić* Testimony, p. 3044.

¹⁰⁷⁵ T-875, Witness Dražen Erdemović *Popović* Testimony, pgs. 10972, 10975.

¹⁰⁷⁶ T-962, Witness Jevto Bogdanović *Popović* Testimony, p. 11325.

¹⁰⁷⁷ T-875, Witness Dražen Erdemović *Popović* Testimony, p. 10983.

¹⁰⁷⁸ T-875, Witness Dražen Erdemović *Popović* Testimony, pgs. 10974-10975.

¹⁰⁷⁹ T-20 (Zvornik Brigade Duty Officer's Logbook), on 15 July 1995 pgs. ERN 0293 5761 "50 litres of oil-20 litres of gasoline= for transport of troops to Kula. 10 crates of 7.62mm ammunition." and on 16 July 1995 ERN 0293 5767 (request from 15 July 1995 repeated "1st pb-request from previous day"), ERN 0293 5766 "Popović requested a bus with a full tank and 500 litres of D2" and corresponding intercepted telephone conversation T-54 (Excerpts of Relevant Intercepts), 16 July 1995, 13:58.

¹⁰⁸⁰ T-813 (Butler Narrative Report), para. 7.47; T-817 (Map showing Zvornik Brigade area of responsibility and Battalion areas).

638. From around 15 to 16 July, approximately 500 Bosniak men were detained and executed inside the Pilica Dom.¹⁰⁸¹ There are no known survivors of this execution. Therefore, evidence regarding this event comes from VRS personnel, records and forensic investigations which were undertaken at Pilica Dom.

639. In the evening of 15 July 1995, Witness Pero Petrović, a Zvornik Brigade 1st Battalion soldier and President of Pilica Commune, was in his office adjoining Pilica Dom and a VRS soldier came to his office and asked for the key to unlock the big hall in order to put the prisoners in the hall. Petrović told the soldier he did not have the key nor a hammer that he could use to open the door. Soon after he saw the buses filled with people arriving in front of the Dom and the prisoners started coming out and walking towards the hall.¹⁰⁸² Brantunac Brigade MP, Milovan Đokić, confirmed in live testimony that he escorted buses of Srebrenica detainees to the Dom on 15 July 1995. Ten buses of detainees were unloaded into the Dom that evening.¹⁰⁸³

640. According to Dražen Erdemović, after executions at Branjevo Farm ended around 16:00 hours, a Lt. Colonel from the Drina Corps ordered the 10th Sabotage Unit, along with soldiers from Bratunac who also had participated in the Branjevo Farm executions, to travel a short distance to the Pilica Dom and execute 500 Bosnian detainees from Srebrenica there.¹⁰⁸⁴ VRS soldiers from Bratunac also accompanied the Lt. Colonel and there were also two MPs. The 10th Sabotage Detachment refused to participate but followed on to Pilica Dom shortly afterwards.¹⁰⁸⁵

641. When Erdemović arrived at the café opposite the Dom he saw several dead bodies.¹⁰⁸⁶ He also heard firing and explosions from the direction of the Dom. They went into the café and found the Lt. Colonel there.¹⁰⁸⁷ Shortly afterwards, a Bratunac soldier entered and told the Lt. Colonel that everything was finished.¹⁰⁸⁸

¹⁰⁸¹ T-813 (Butler Narrative Report), para. 7.47 and fn. 433; T-883, Witness Slavko Perić *Popović* Testimony, p. 11404-testified he heard detainees were being detained in Pilica Dom on 15 July so he drove there. He found soldiers guarding the Dom and claimed he did not recognize them so he left. Established Fact 16 (Decision of the Panel dated 5 February 2009) – On 16 July, the VRS soldiers executed approximately 500 men, Bosnian Muslims, in the Pilica Cultural Centre. Considering the size of the building and a large number of men, they were, by all indications, crammed into the main room where they stood on the stage. Shooting and grenade explosions were heard from the other side of the road, which lasted for about 20 minutes.

¹⁰⁸² T-969, Witness Pero Petrović, *Prosecutor v. Popović et al* IT-05-88, Testimony of 9 March 2007, (“Witness Pero Petrović *Popović* Testimony”) Testimony, p. 8544.

¹⁰⁸³ Witness Milovan Đokić (11 February 2008); Identified Pilica Dom on Exhibit T-1-AG 29.

¹⁰⁸⁴ T-875, Witness Dražen Erdemović *Popović* Testimony, p. 10982.

¹⁰⁸⁵ T-875, Witness Dražen Erdemović *Popović* Testimony, p. 10982.

¹⁰⁸⁶ T-875, Witness Dražen Erdemović *Popović* Testimony, pgs. 10983-10984.

¹⁰⁸⁷ T-875, Witness Dražen Erdemović *Popović* Testimony, pgs. 10984-10985.

¹⁰⁸⁸ T-875, Witness Dražen Erdemović *Popović* Testimony, pgs. 10985-10986.

642. There exists forensic evidence corroborating the execution by automatic weapons and hand grenades. Investigators from the United States Naval Criminal Investigations Service and ICTY conducted examination of the Dom. Through their examination they found blood, hair and tissue samples adhering to the walls and floors.¹⁰⁸⁹ This is further documented in a photograph.¹⁰⁹⁰ The presence of high explosive trinitrotoluene (TNT) was found as well as scorch areas consistent with having been caused by explosives.¹⁰⁹¹ Spent shell casings and spent bullets were also collected throughout the building.¹⁰⁹²

643. The involvement of the Bratunac Brigade troops in Pilica is found in the Daily Work Log of the Bratunac Brigade Military Police Platoon. A 17 July 1995 entry notes that “one police patrol remained in Pilica to secure and watch over the Muslims.”¹⁰⁹³ This is an example of spillover of tasks given to both Brigades, both of whom are members of the Drina Corps. It is clear that Zvornik Brigade was also a participant.

644. The occurrence of the execution at Pilica Dom is further supported by notations in the Zvornik Brigade Duty Officer Logbook. In the evening of 16 July for the 1st Battalion there is a request that “At 2210 hrs. the 1st pb asked for one loader, one excavator and a dump-truck with a tarpaulin to be in Pilica at 0800 hrs. Conveyed to Jokić and Milošević”.¹⁰⁹⁴ On 17 July, in an entry made by the Accused’s assistant Milanko Jovičić, “[t]he 1st pb asked if engineering machines had been secured...Trbić to report”.¹⁰⁹⁵ This machinery was sent to Pilica Dom and assisted in the clean-up there, as evidence by witness testimony and vehicle records set out below. The Branjevo Military Farm is an installation operated under the control of the 1st Infantry Battalion of the Zvornik Brigade.¹⁰⁹⁶

645. At morning roll call at Branjevo Military Farm on 17 July, 12 members of the Workers Platoon of the Zvornik Brigade 1st Battalion were ordered to Pilica Dom.¹⁰⁹⁷ At the Dom, these

¹⁰⁸⁹ T-330 (1st Manning Report), Annex A, pgs. 1-3; T-834 (Expert Reports CD- P565a Maloney USNIS Report on Kravica Warehouse and Pilica Dom) and (Expert Reports CD P563a and b Kloosterman Report-tissue and blood samples analysis).

¹⁰⁹⁰ Witness Dean Manning (16 June 2008); T-858 (Photograph of inside wall in Pilica Dom).

¹⁰⁹¹ T-330 (1st Manning Report), Annex A, pgs. 1-3; T-939 (De Bruyen Report – explosives analysis).

¹⁰⁹² T-330 (1st Manning Report), Annex A, pgs. 1-3.

¹⁰⁹³ T-813 (Butler Narrative Report), para. 7.51 and fn. 437 ERN: 0070-6697 (ENG) and ERN: 0066-3982 (BCS).

¹⁰⁹⁴ T-20 (Zvornik Brigade Duty Officer’s Log Book), ERN: 0293 5771.

¹⁰⁹⁵ T-20 (Zvornik Brigade Duty Officer’s Log Book), ERN: 0293 5773.

¹⁰⁹⁶ T-813 (Butler Narrative Report), para. 7.46.

¹⁰⁹⁷ T-962, Witness Jevto Bogdanović *Popović* Testimony, pgs. 11326, 11329.

soldiers were ordered to load the bodies from the inside the Dom on to two yellow tipper trucks which were there. The trucks had backed right up to the door.¹⁰⁹⁸

646. Inside the Dom, the Worker Platoon soldiers found bodies “piled up on each other, just lying there scattered all over the place”. “There was this huge pile and piled up, one over another. They were dead”.¹⁰⁹⁹ The bodies of women were also removed from the Dom and loaded onto the truck[s]”.¹¹⁰⁰ The Dom was empty by 15:00 hours. Jevto Bogdanović heard someone say that there were 550 bodies.¹¹⁰¹

647. This account is corroborated by Witness Pero Petrović who returned to his office on Monday 17 July, and saw a truck directly in front of the Dom and saw soldiers loading bodies of the people who had been killed into the truck.¹¹⁰²

648. Therefore, the Panel finds that on or about 16 July at Pilica Dom (Cultural Center), Pilica, approximately 500 (five hundred) Bosniak men were summarily executed by automatic weapons and hand grenades.

(d) The deceased from the mass summary executions were buried in a mass unmarked grave at Branjevo Military Farm by VRS soldiers from the Engineering Company, Zvornik Brigade on or about 17 July 1995

649. The Panel finds that the Prosecution proved beyond a reasonable doubt that the deceased from the mass summary executions were buried in a mass unmarked grave at Branjevo Military Farm by VRS soldiers from the Engineering Company, Zvornik Brigade on or about 17 July 1995.

650. Prosecution alleged in the Amended Indictment that this occurred on 16 July and 17 July 1995, but the Panel finds that there was not enough evidence to establish with certainty that the victims were buried in a mass unmarked grave at Branjevo Military Farm on 16 July 1995. The evidence is clear for 17 July 1995.

651. An aerial image taken over Branjevo Military Farm on 17 July 1995 shows the extent of bodies and engineering work going on to create the mass grave in which those bodies were to be buried.¹¹⁰³

¹⁰⁹⁸ T-962, Witness Jevto Bogdanović *Popović* Testimony, pgs. 11329, 11332.

¹⁰⁹⁹ T-962, Witness Jevto Bogdanović *Popović* Testimony, pgs. 11330, 11332.

¹¹⁰⁰ T-962, Witness Jevto Bogdanović *Popović* Testimony, p. 11330.

652. Witness Cvijetin Ristanović also testified about his involvement in the burials at the Farm. Damjan Lazarević ordered him to go to Branjevo Military Farm.¹¹⁰⁴ He was sent there with his G-700 loader (with caterpillar tracks) by Damjan Lazarević, his platoon commander.¹¹⁰⁵ When he arrived he saw bodies on the meadow.¹¹⁰⁶ He was ordered by the platoon commander to dig a grave behind the buildings.¹¹⁰⁷ Sometime later after he arrived a yellow loader came and it was placed by the bodies.¹¹⁰⁸

653. Zvornik Brigade Engineering Company witnesses confirm their involvement in the burials at the Farm on 17 July 1995. Witness A-45, a member of the Zvornik Brigade Engineering Company, who as mentioned previously was also at Orahovac and Kozluk execution site, testified that on 17 July 1995 he was told by the Zvornik Brigade Engineering Company officers to go to Branjevo Military Farm to bury people that were executed there.¹¹⁰⁹ When he arrived between 8:00 and 9:00 hours at the Branjevo Military Farm in a TAM truck with some public utilities company workers he saw the bodies in the meadow.¹¹¹⁰ He saw the BGH digging the grave and an ULT 220 which was being used to transport the bodies into the grave.

654. Vehicle records of the Zvornik Brigade establish that a ULT 220 excavator was in use at Branjevo execution and burial site for eight-and-one-half hours on 17 July for the stated purpose of “digging trenches in Branjevo”.¹¹¹¹ These records further indicate the presence of a BG-700 excavator at the site on the same day.¹¹¹²

655. The Zvornik Brigade Engineering Company Daily Orders Book indicate that on 17 July 1995, tasks included “work with BGH-700 in Branjevo”, “Work with ULT-200 in Branjevo” and “transportation of BGH-700 to Branjevo on a flat trailer”.¹¹¹³

¹¹⁰¹ T-962, Witness Jevto Bogdanović *Popović* Testimony, pgs. 11332-11333.

¹¹⁰² T-969, Witness Pero Petrović *Popović* Testimony, p. 8545.

¹¹⁰³ Witness Dean Manning (16 June 2008); T-839 B (Aerial Image of Branjevo Farm, 17 July 1995).

¹¹⁰⁴ T-924, Witness Cvijetin Ristanović *Blagojević* Testimony, p. 5389.

¹¹⁰⁵ T-924, Witness Cvijetin Ristanović *Blagojević* Testimony, pgs. 5389-5391, 5398.

¹¹⁰⁶ T-1061 P661a and P661b are drawings by this witness of Branjevo Farm and Orahovac, the sites at which he was ordered to dig graves.

¹¹⁰⁷ T-924, Witness Cvijetin Ristanović *Blagojević* Testimony, p. 5389.

¹¹⁰⁸ T-924, Witness Cvijetin Ristanović *Blagojević* Testimony, pgs. 5392-5393.

¹¹⁰⁹ Witness A-45 (15 January 2008).

¹¹¹⁰ Witness A-45 (15 January 2008); T-51 (AG 28 Aerial Image of Branjevo Farm, 17 July 1995) which Witness A-45 indicates with a red circle the location of the grave and a black circle the location of the bodies.

¹¹¹¹ T-1098 (Zvornik Brigade Vehicle Longs 1-31 July 1995), ERN: 0069 5109-0069 5110 for ULT 220 “from Birač-Holding”.

¹¹¹² T-1098 (Zvornik Brigade Vehicle Longs 1-31 July 1995), ERN: 0069 5105-0069 5106 for Mercedes 2626 (M-5195).

¹¹¹³ T-813 (Butler Narrative Report), para. 7.44 and fn. 429.

656. The Fuel Disbursal Log of the Zvornik Brigade notes that on 17 July 1995, 100 litres of D2 (diesel) was allocated to a “BGH-700”.¹¹¹⁴

657. The Panel has found in paragraphs 611 and 624 that victims which were detained at Kula School in Pilica were brought to the Branjevo Military Farm to be summarily executed and buried. The Panel has also found that victims who were summarily executed at Pilica Dom were also buried at the Branjevo Military Farm. Extensive forensic evidence confirms the existence of a primary disturbed mass grave¹¹¹⁵ at the Branjevo Military Farm.¹¹¹⁶

658. Aerial images indicate that the primary gravesite of Branjevo Military Farm was created prior to or on 17 July 1995.¹¹¹⁷ This primary mass grave was re-excavated between 21 and 27 September 1995 and bodies it contained moved to secondary mass graves (see below).¹¹¹⁸ Archeological examination of the Branjevo Military Farm mass grave indicates that this mass grave was excavated using heavy machinery; it was by a wheel front loader with a toothed bucket.¹¹¹⁹

659. One hundred thirteen (113) individuals located at the Branjevo Military Farm were identified by DNA analysis.¹¹²⁰ When the sex of the victims could be determined, they were male.¹¹²¹ When the cause of death could be determined, this was by gunshot.¹¹²² 83 ligatures and 2 blindfolds were recovered from the mass grave.¹¹²³ Some religious items affiliating the victims to Muslim religion were found.¹¹²⁴

2. Acts of Milorad Trbić

660. During the time period that Milorad Trbić was Duty Officer, three major acts were completed. These acts include the detention operation at the Kula School, the subsequent transfer of the prisoners to Branjevo Military Farm followed by their execution, and the execution at Pilica Dom with subsequent burial at Branjevo Military Farm.

¹¹¹⁴ T-813 (Butler Narrative Report), para. 7.43 and fn. 428 – Zvornik Brigade Fuel Disbursal Log.

¹¹¹⁵ This means that victims were put in the mass grave right after being executed and that the mass grave was later disturbed, or robbed, and some of the bodies it contained were moved to (a) secondary mass grave(s).

¹¹¹⁶ T-830 (1st Manning Report), Annex A, p. 15-18.

¹¹¹⁷ T-839B (Aerial Image of the Branjevo State Farm, 17 July 1995).

¹¹¹⁸ T-839C (Aerial Image of the Branjevo State Farm, 21 September 1995) and T-839D (Aerial Image of the Branjevo State Farm, 27 September 1995).

¹¹¹⁹ T-830 (1st Manning Report), Annex A, p. 16.

¹¹²⁰ T-1114 (PIP List of Officially Identified Victims).

¹¹²¹ Established Fact 73 (Decision of the Panel dated 13 December 2007): *Prosecutor v. Blagojević and Jokić*, IT-02-60-T, First Instance Judgment, para. 354.

¹¹²² T-830 (1st Manning Report), Annex A, p. 17.

¹¹²³ T-830 (1st Manning Report), Annex A, p. 17.

¹¹²⁴ T-830 (1st Manning Report), Annex A, p. 18.

661. The Panel finds the word “coordinated” adequately described the actions of Trbić and deleted “facilitated” and “ensure.” As for the remaining parts of the charge, the Panel finds there is sufficient evidence to prove the acts of Milorad Trbić charged under Count 2b of the Amended Indictment.

(a) On 16 and 17 July 1995, at the Command of the Zvornik Brigade at Standard Barracks, Karakaj, Zvornik Municipality, as the Duty Operations Officer of the Brigade, Milorad Trbić coordinated and transmitted oral and written directions and reports between participating units and supervising officers

662. The Panel finds that Prosecution established beyond a reasonable doubt that on 16 and 17 July 1995, at the Command of the Zvornik Brigade at Standard Barracks, Karakaj, Zvornik Municipality, as the Duty Operations Officer of the Brigade, Milorad Trbić coordinated and transmitted oral and written directions and reports between participating units and supervising officers.

663. The Panel recalls from paragraphs 270 to 275 the role and duties of the Duty Operations Officer.

664. The Accused took over the role of Duty Officer at Zvornik Brigade between 06:00 and 07:00 hours.¹¹²⁵ He continued this role until midnight that day, being relieved by an assistant, Witness Milanko Jovičić, until approximately 06:00 on 17 July when he returned to duty until around noon. The Defense did not contest that Trbić was the duty officer on 16 and 17 July 1995 and Defense Expert Witness Petar Vuga confirmed that Trbić was the duty officer on 16 and 17 July.¹¹²⁶ Trbić did state he was duty officer and identified his handwriting in the Zvornik Brigade Duty Logbook at the relevant pages for 16 and 17 July, but varied the times he started and ended on 16 and 17 July 1995.¹¹²⁷ However, the Panel finds there is sufficient evidence to support that he was the Duty Operations Officer of the Zvornik Brigade on 16 and 17 July 1995.

¹¹²⁵ T-16 (Trbić 27 May 2004 Interview), p. 5; T-18 (Trbić 8 November 2004 interview), p. 24; *See also* T-982, Witness A-50 Testimony (Confidential), pgs. 6631, 6688.

¹¹²⁶ O-1 (Expert Petar Vuga Report for the Defense of Milorad Trbić), para. 4.3.22.

¹¹²⁷ T-3 (Trbić 19 August 2002 US Deposition), p. 57; T-13 (Trbić 21 January 2004 Interview), pgs. 12-15; T-16 (Trbić 27 May 2004 Interview), p. 5; T-19 (ICTY Information Report regarding August 2004 site visit) (Confidential) pgs. 5 & 9; T-18 (Trbić 8 November 2004 Interview), pgs. 33-37 (For 16 July on ERN 0293 5762 entries from 16 July 1995 through to ERN 0293 5772 all entries until 00.05 hours entry. For 17 July on ERN 0293 5774 through to the end of the first five lines on 0293 5775). *See also* T-982, Witness A-50 Testimony (Confidential), pgs. 6631, 6688.

665. Witness Milanko Jovičić testified that Trbić was the Duty Officer on 16 and 17 July and he acted as Trbić assistant. Jovičić also confirmed that the writing in the Logbook between 00.05 and 05.35 hours was his.¹¹²⁸ Handwriting expert witness, Kathryn Barr confirmed in her reports that the handwriting on the relevant pages belonged to the same person.¹¹²⁹ There are various intercepted conversations which confirm that the Trbić was Duty Officer during 16 and 17 July.¹¹³⁰ Defence Witness Vinko Pandurević, Commander of the Zvornik Brigade in July 1995, confirmed that Trbić was the duty operations officer at Zvornik Brigade on 16 and 17 July 1995¹¹³¹ and that, as Duty Officer, Trbić drafted the Daily Combat Report on 16 July 1995.¹¹³²

666. The Panel finds that Milorad Trbić coordinated and transmitted oral and written directions and reports between participating units and supervising officers. Throughout 16 and 17 July, Trbić had conversed with, relayed messages between and assisted key members implementing the summary execution operation, including Colonel Beara, Lt. Colonel Popović and General Ratko Mladić.

667. The Panel recalls that in paragraph 80 under General Consideration of Evidence it found the intercept evidence credible. In reviewing the testimony of Witnesses A-5¹¹³³, A-6¹¹³⁴, and A-10¹¹³⁵ this evidence is found to be trustworthy and relevant. The nature of the evidence is such that it reveals a coordinated system for transmission of reports, orders and information between the Main Staff, Drina Corps, and specifically the Zvornik Brigade officers. The intercept evidence supports this assessment and confirms interactions between the significant key members.

668. At 08:55 hours on 16 July, Trbić was contacted by Major Golić, an Intelligence Officer at Drina Corps, who asked Trbić to ensure a message from Mladić is relayed to Lt. Col. Popović. “He knows what he is supposed to do according to agreed procedure”.¹¹³⁶ Trbić noted he conveyed the message to Popović at 9:10 hours. Trbić states the “agreed procedure” related to the murder

¹¹²⁸ Witness Milenko Jovičić (17 December 2007).

¹¹²⁹ T-931 (Handwriting Report by Kathryn Barr re: Trbić et al), para. 8.7; T-932 (Handwriting Report by Kathryn Barr re: Trbić); T-933 (CV of Kathryn Barr).

¹¹³⁰ T-54 ((Excerpts of Relevant Intercepts), 16 July 1995, 22:33 Trbić (“Štrbić” sic) stated as Duty Officer and 17 July 1995, 06:15 hours and 08:59 hours – Trbić announces himself in both as Zvornik Brigade Duty Officer.

¹¹³¹ O-5, Pandurević *Popović* Testimony on 3 February 2009, pgs. 31053-31055; on 9 February 2009, pgs. 31083, 31086; on 16 February 2009, pgs. 31526-31531, and on 20 February 2009, pgs. 31866-31887.

¹¹³² O-5, Pandurević *Popović* Testimony on 3 February 2009, pgs. 31053-31055.

¹¹³³ Witness A-5 (16 January 2008).

¹¹³⁴ Witness A-6 (16 January 2008).

¹¹³⁵ Witness A-10 (15 January 2008).

¹¹³⁶ T-20 (Zvornik Brigade Duty Officer’s Logbook), ERN 0293 5763; T-12 (ICTY OTP Information Report 23 January 2004), p. 2; T-16 (Trbić 27 May 2004 Interview), p. 3 confirming with Alistair Graham that document ending in 763 is his handwriting; *See also* T-982, Witness A-50 Testimony (Confidential), p. 6641.

operation.¹¹³⁷ Soon after, the Trbić also takes a message for Colonel Beara to call Main Staff on the telephone extension for the Main Staff (Panorama) Operations Section-155.¹¹³⁸

669. According to Trbić, around 10:00 hours General Mladić visited the Duty Officer's room and Trbić reports to him on what has been going on.¹¹³⁹ Trbić briefed Mladić on the movement of the column and the executions underway at Pilica. He also advised Mladić of the request he had passed on from his Commander, Dragan Obrenović, to the Drina Corps for the deployment of additional men to assist Zvornik Brigade with the column.¹¹⁴⁰ Mladić then calls Colonel Slobodan Cerović, Drina Corps Assistant Commander for Moral, Legal and Religious Affairs, to follow this up.¹¹⁴¹ However, the Panel finds that there is no other evidence at this time to support Mladić's presence at the Zvornik Brigade HQ. What Trbić's statements do indicate is his familiarity with the events of this day. These comments also indicate that Trbić understands of the role and responsibility of Mladić.

670. At 11:15 hours on 16 July, Trbić again spoke to Colonel Cerović. He then makes the entry "At 11:15, it was reported from Zlatar that a triage of wounded and prisoners must be carried out (It was reported to Beara)".¹¹⁴² "Zlatar" was code name for the command of the Drina Corps.¹¹⁴³ There is also a corresponding intercepted telephone call during which Cerović is heard saying that "triage has to be done on the prisoners".¹¹⁴⁴ Trbić then pointed out that Colonel Beara is standing directly behind him and Beara comes on to the line. Cerović repeated to him that there were "instructions from higherto do triage on those," at which point Beara interrupted him by saying "I don't want to talk about it over the phone".¹¹⁴⁵ Trbić has confirmed that "triage" was code for execution.¹¹⁴⁶

671. The Zvornik Brigade Duty Officer's Log Book contains an entry made by Trbić, "Message from Zlatar (Drina Corps) that Lieutenant Colonel Popović must go to Vinko Pandurević in the field at 1640 hours. Message through the 1st pb (1st Battalion) that Popović must report to the duty

¹¹³⁷ T-12 (ICTY OTP Information Report 23 January 2004), p. 2.

¹¹³⁸ T-20 (Zvornik Brigade Duty Officer's Logbook), ERN 0293 5763; Expert Witness Richard Butler (18 March 2008); T-12 (ICTY OTP Information Report 23 January 2004), p. 2.

¹¹³⁹ T-18 (Trbić 8 November 2004 Interview), p. 25.

¹¹⁴⁰ T-18 (Trbić 8 November 2004 Interview), p. 26. Obrenović did not corroborate in his testimony or Statement of Facts that he requested units from Trbić on 16 July 1995. T-983, Obrenović *Blagojević* Testimony, T-985 (Obrenović Joint Motion on Plea Agreement dated 20 May 2003).

¹¹⁴¹ T-18 (Trbić 8 November 2004 Interview), pgs. 25-27.

¹¹⁴² T-20 (Zvornik Brigade Duty Officer's Logbook), ERN 0293 5764; T-16 (Trbić 27 May 2004 Interview), p. 3. *See also* T-982, Witness A-50 Testimony (Confidential), p. 6643 (however ICTY Prosecutor state's it's 1:15 rather 11:15).

¹¹⁴³ T-983, Obrenović *Blagojević* Testimony of 1 October 2003, p. 2439.

¹¹⁴⁴ T-54 (Excerpts of Relevant Intercepts), 16 July 1995, 11:11.

¹¹⁴⁵ T-54 (Excerpts of Relevant Intercepts), 16 July 1995, 11:11.

¹¹⁴⁶ T-12 (ICTY OTP Information Report 23 January 2004), p. 2; Expert Witness Richard Butler (18 March 2008) stated that in the context, the use of the word "triage" here meant the summary execution of the prisoners held in Kula School, Pilica and Pilica Dom.

officer so he can be sent on a task by Zlatar”.¹¹⁴⁷ This supports Trbić statement that Popović was up in Pilica overseeing the executions in that area, which is within the Zvornik Brigade 1st Battalion area of responsibility.¹¹⁴⁸ There is also an intercept at 16:43 hours which adds support. Trbić asked if “my Popović” there, and requests that either Popović or Drago Nikolić must go to Pandurević in the field.¹¹⁴⁹ There is another intercept on 16 July 1995 at 21:16 where Popović stated that he had just been up there with the Boss and asked whether his interim combat report was received. He was referring to Pandurević which during Pandurević’s testimony at the ICTY Pandurević conceded the intercept was referring to him, but denied he met with Popović that afternoon.¹¹⁵⁰

672. Other evidence also demonstrates Trbić’s central role in communications on 16 July. At 22:33 on 16 July during an intercepted phone call, Trbić is asked “Was Popović over at your place?” He responded, “Yes, he was here and gone”.¹¹⁵¹

673. At around 05:30 hours on 17 July, Drina Corps Command (in Vlasenica) called Zvornik Brigade to check, “ Is everything finished there, all the coordinated action?” The assistant to the Duty Officer for the day, Jovičić, advises them that Trbić, the Duty Officer will call with a report. This call was intercepted and it is also reflected in the Zvornik Brigade Duty Officer’s Logbook.¹¹⁵² There is an intercepted telephone conversation recorded at 06:15 hours involving Trbić, General Krstić and Lt. Colonel Pandurević. During the conversation, there is reference to a report from yesterday and Krstić asked, “Have you killed the Turks up there?” Trbić responded, “Basically, we did”.¹¹⁵³

674. There is another intercepted call from Cerović to Trbić on 17 July seeking reports, updates and figures for the detained and executed¹¹⁵⁴ and contact details for others.¹¹⁵⁵ On 17 July Trbić was again intercepted at 12:44 hours telling a caller, who was looking for Popović, that Popović “went there, to, towards the task”. When the caller asked “North of you?” Trbić replied in the

¹¹⁴⁷ T-20 (Zvornik Brigade Duty Officer’s Logbook), ERN 0293 5767.

¹¹⁴⁸ T-3 (Trbić 19 August 2002 US Deposition), pgs. 55-57; T-18 (Trbić 8 November 2004 Interview), p. 24.

¹¹⁴⁹ O-5, Pandurević *Popović* Testimony, p. 32243. 16:43 intercept was not included in T-53 (Intercept Binder). However, this intercept was read into evidence during Pandurević’s testimony and was subject to cross-examination.

¹¹⁵⁰ O-5, Pandurević *Popović* Testimony, pgs. 32242-32244. In Prosecution’s Closing Brief 21:16 on 16 July 1995 intercept is indicated in the T-53 (Intercept Binder) but was not included in this exhibit. This intercept was read into evidence during Pandurević’s testimony and was subject to cross-examination.

¹¹⁵¹ T-54 (Excerpts of Relevant Intercepts), 16 July 1995, 22:33. Expert Witness Richard Butler (18 March 2008) reference to “the white one” is coded reference to Colonel Beara.

¹¹⁵² T-54 (Excerpts of Relevant Intercepts), 17 July 1995, 05:58; T-20 (Zvornik Brigade Duty Officer’s Logbook), ERN 0293 5773; Witness Milenko Jovičić (17 December 2007).

¹¹⁵³ T-54 (Excerpts of Relevant Intercepts), 17 July 1995, 06:15.

¹¹⁵⁴ T-15 (Trbić 23 May 2004 Interview), p. 65.

¹¹⁵⁵ T-54 (Excerpts of Relevant Intercepts), 17 July 1995, 08:59.

affirmative.¹¹⁵⁶ Five minutes later (at 12:49 hours), the same caller told Trbić that “If you get in touch with him, let him finish his work”. Trbić replied “OK, then, I’ll let him work, I won’t disturb him....It’s very hard for me to reach him, that’s the problem, but he will for sure, he’s working on that, you know”.¹¹⁵⁷ Trbić identified the caller as Golić.¹¹⁵⁸

675. An early entry made by Trbić in the Duty Officer Log book on 16 July is relevant to VIII. G of the Verdict.¹¹⁵⁹ It noted “Aziz Bećirević died at the hospital”.¹¹⁶⁰ Aziz Bećirević was one of 11 injured Bosniaks from the column transferred from Milići Hospital to the Zvornik Brigade. The others are then executed the next day.¹¹⁶¹

676. In regards to reports, on 16 July, Trbić drafted and sent the Regular Combat Report 06-218 from Zvornik Brigade to Drina Corps Command.¹¹⁶² Since the Commander of the Zvornik Brigade was at the frontline, this report was submitted without his signature which was permissible in such circumstances.¹¹⁶³ As Duty Officer, Trbić was the conduit and hub for receiving and passing all combat information at Zvornik Brigade Command, which would allow him to compile this report.¹¹⁶⁴ It included information regarding the movement of column from Srebrenica, acknowledging the presence of civilians, and it noted the primary task of cutting off and destroying Muslim forces pulling out from Srebrenica.¹¹⁶⁵ It also recorded the large fuel consumption that day.¹¹⁶⁶

¹¹⁵⁶ T-54 (Excerpts of Relevant Intercepts), 17 July 1995, 12:44.

¹¹⁵⁷ T-54 (Excerpts of Relevant Intercepts), 17 July 1995, 12:49.

¹¹⁵⁸ T-18 (Trbić 8 November 2009 Interview), p.39.

¹¹⁵⁹ Count 2g of Amended Indictment.

¹¹⁶⁰ T-20 (Zvornik Brigade Duty Officer’s Logbook), ERN 0293 5762.

¹¹⁶¹ See below para. 704.

¹¹⁶² O-5, Pandurević *Popović* Testimony on 3 February 2009, pgs. 31053-31055; S-4(74), Zvornik Brigade Regular Combat Report 16 July 1995 (7D00532).

¹¹⁶³ O-5, Pandurević *Popović* Testimony on 18 February 2009 at p. 31724. Pandurević noted that he had not been there, had not read the report or signed it. Witness Miodrag Dragutinović (22 November 2007) explained if the Commander and Chief of Staff were not available, the Duty Officer would submit the combat report and produce a copy for the Commander of Chief of Staff upon their return.

¹¹⁶⁴ O-5, Pandurević *Popović* Testimony on 3 February 2009, p. 31055 and on 16 February 2009, p. 31526 “...those were duty officers who knew much better than me what was going on and they were in constant communication with the duty officer of the Drina Corps and other people at the Drina Corp, also with the Main Staff, and the people who were involved in all that, who had done it; so they were in a position to inform anybody.” On 3 March 2009 at pgs. 32437-32437 “For the duty operations officer to be able to compile a regular combat report, he first has to receive reports from subordinate units, i.e. battalions and independent companies. Since here we had separate units formed to scour the ground outside of their defence zones, and these units are mentioned here, these units reported directly to the duty operations officer about how many soldiers they had captured or how many they had killed during the search of the ground or during fighting.”

¹¹⁶⁵ O-5, Pandurević *Popović* Testimony on 3 February 2009, pgs. 31054-31055.

¹¹⁶⁶ O-5, Pandurević *Popović* Testimony on 18 February 2009, pgs. 31721-31726 – fuel usage by the Zvornik Brigade had increased from 412 on 13 July 1995, to 827 on 14 July 1995, to 841 on 15 July 1995. Fuel usage on 17 July 1995 was 1,590.

677. The type of communication evidence here indicates the extent of Trbić's knowledge of the murder operation. It is clear that the significant players understand he understands what is meant by their questions. Further he was not merely passing information; he was reporting in on the events and confirming them.

678. Based on the above findings, the Panel finds that Trbić coordinated and transmitted oral and written directions and reports between participating units and supervising officers.

(b) Milorad Trbić coordinated the provision of logistical support by arranging for the resupply of fuel and ammunition to military units participating in the operation to summarily execute and bury Bosniak males from Srebrenica enclave thereby knowingly and intentionally provided communications and logistics coordination for the operation

679. The Panel finds that Prosecution proved beyond a reasonable doubt that Milorad Trbić coordinated the provision of logistical support by arranging for the resupply of fuel and ammunition to military units participating in the operation to summarily execute and bury Bosniak males from Srebrenica enclave thereby knowingly and intentionally provided communications and logistics coordination for the operation.

680. Trbić made and received calls regarding the deployment and arrival of a group of soldiers from Bratunac, who were to participate in the executions and with the attack against the column.¹¹⁶⁷ Before 12:00 hours an entry was made by Trbić in the Zvornik Brigade Duty Officer's Log Book, "It was reported from Zlatar that the unit from Badem (BB) will stay with us until further notice". Then at 12:50 another entry, "At 12:50 hrs. It was reported from Zlatar that our parcel is on its way. 30 will arrive in one hour. Another parcel is expected to arrive around 1600 hrs. The brigade IKM was informed".¹¹⁶⁸ The Panel recalls that this is supported by Witness Dražen Erdemović who testified at Branjevo Military Farm that a group of soldiers from Bratunac took over the executions at the Farm that afternoon and then proceeded to Pilica Dom, under the instructions of a Lt. Colonel, to execute the detainees there.¹¹⁶⁹

681. Over four conversations between approximately 13:56 to 13:58 hours, on 16 July, Trbić received and transmitted a request from Lt. Colonel Popović for 500 litres of D2 diesel fuel and confirmed that "a bus loaded with oil is to go to Pilica village". It is clear from the intercepted

¹¹⁶⁷ T-13 (Trbić 21 January 2009 Interview), pgs. 16-18.

¹¹⁶⁸ T-20 (Zvornik Brigade Duty Officer's Logbook), ERN 0293 5765.

¹¹⁶⁹ See paragraphs 630 and 632.

conversations that Trbić had trouble obtaining this quantity of fuel quickly. The initial response to his request was “Well, fuck him, don’t you have 500 litres of oil? They are asking for 2 tons loaded.” However, Trbić was determined to get the fuel and called Golić and informed him that without the oil Popović’s “work will stop”.¹¹⁷⁰ There is corresponding entry in the Duty Officer’s Logbook at 14:00, “Popović requested a bus with a full tank and 500 litres of D2/Diesel/. Zlatar Duty Officer and Golić informed”.¹¹⁷¹ Expert Witness Richard Butler explained that Popović, as a Security Officer did not have the authority to release such a large quantity of fuel and neither did Trbić as Duty Officer.¹¹⁷² Authority for the disbursement of fuel had to come from Drina Corps. By obtaining the required authority, Trbić ensured that the fuel was issued from Zvornik Brigade stocks.

682. The technical service records and the technical material disbursement logbook reflect the disbursement of the 500 litres¹¹⁷³ for Popović. The Panel recalls that during the period in which these conversations were occurring, Bosniak detainees were being transported from detention centers at Kula School, Pilica and Pilica Dom to the Branjevo Military Farm, where they were executed. The Panel finds that Trbić knew the fuel was for transport to the execution site and continuation of the execution.¹¹⁷⁴

683. An entry in the Duty Officer’s Logbook notes a repeat request from Zvornik Brigade 1st Battalion: The original request on 15 July 1995 was for “50 litres of oil-20 litres of gasoline= for transport of troops to Kula. 10 crates of 7.62 mm ammunition”.¹¹⁷⁵

684. Shortly after the execution at Pilica Dom is known to have finished, Trbić procured equipment to ensure the clean up on 17 July.¹¹⁷⁶ Trbić’s assistance is also reflected in several entries in the Duty Officer’s Log: on 16 July, “At 22:10 hrs. the 1st pb asked for one loader, one excavator and a dump-truck with a tarpaulin to be in Pilica at 0800 hours. Conveyed to Jokić and Milošević”¹¹⁷⁷ and on 17 July, in an entry made Trbić’s assistant Milanko Jovičić, “the 1st pb asked

¹¹⁷⁰ T-54 (Excerpts of Relevant Intercepts), 16 July 1995, 13:58. Intercepted military telephone conversation between Trbić and Drina Corps Duty Officer Golić, Bašević and unknown.

¹¹⁷¹ T-20 (Zvornik Brigade Duty Officer’s Logbook), ERN 0293 5766. *See also* T-982, Witness A-50 Testimony (Confidential), p. 6645.

¹¹⁷² Expert Witness Richard Butler (18 March 2008).

¹¹⁷³ T-813 (Butler Narrative Report), paras. 10.41-10.43, fn. 607 – Zvornik Brigade Dispatch Order 21/1-2140, 16 July 1995 and fn. 608 Technical Material Disbursement Logbook 11 May 1994. Expert Witness Richard Butler (18 March 2008). *See also* O-5, Pandurević *Popović* Testimony on 18 February 2009, at 31717 confirming that the fuel was delivered to Pilica where it was emptied into jerry cans. pgs. 31732-31740.

¹¹⁷⁴ *See also* T-982, Witness A-50 Testimony (Confidential), p. 6645.

¹¹⁷⁵ T-20 (Zvornik Brigade Duty Officer’s Logbook), ERN 0293 5761 and 0293 5767.

¹¹⁷⁶ T-15 (Trbić 23 May 2004), pgs. 61,66.

¹¹⁷⁷ T-20 (Zvornik Brigade Duty Officer’s Logbook), ERN 0293 5771. *See also* T-982, Witness A-50 Testimony (Confidential), pgs. 6646-6648.

if engineering machines had been secured...Trbić to report”.¹¹⁷⁸ The Panel recalls that machinery was sent to Pilica Dom and assisted in the clean-up there, as evidenced by witness testimony and vehicle records.¹¹⁷⁹ Trbić knew what the machinery was to be used for.¹¹⁸⁰

685. Trbić was involved in the deployments and directions of soldiers to assist with the activities underway in the Zvornik Brigade area of responsibility on 16 and 17 July.¹¹⁸¹ For example, on 16 July “At 10:10 hrs. Nastić from Milići came and he was told to send some troops for assistance”.¹¹⁸²

686. Trbić does make statements that he left his post and actually took part in the executions at Branjevo Military Farm and Pilica Dom. The Panel notes, however, he was not charged with this and therefore makes no findings on this portion of his statement. There is sufficient evidence that Trbić was present as Duty Officer for the crucial communications and the Panel so finds.

687. The entries that Trbić made in the Duty Officer Logbook, corresponding intercepted conversations, and statements by witnesses and Trbić himself place him at the heart of the final stages of the murder operation and burials. As he noted himself by the morning of 16 July, he “had experience in the organization in the killing of prisoners”¹¹⁸³ and suggested the fact that he “had already known what was going on” was one of the reasons he became duty officer during this period.¹¹⁸⁴ The Panel finds that as Duty Officer, Trbić knew what was happening, received and passed on orders and information, gave instructions and solved logistical problems. His role and participation were significant to the smooth-running and completion of the killing operation.

688. The Panel finds Trbić was the vital relay for communications between key players in the operation. He facilitated the transportation of detainees from Kula School to their execution at Branjevo Military Farm, the manning of execution squads at Branjevo Military Farm and Pilica Dom and the necessary logistical support and co-ordination of the clean-up and burial tasks at these execution sites.

¹¹⁷⁸ T-20 (Zvornik Brigade Duty Officer’s Logbook), ERN 0293 5773. *See also* T-982, Witness A-50 Testimony (Confidential), p. 6648.

¹¹⁷⁹ *See supra*, paras. 644 to 647. *See also* O-5, Pandurević Popović Testimony on 20 February 2009, p. 31867. Jokić confirmed to Pandurević on 18 July 1995 that Trbić told Jokić to send a machine to Pilica.

¹¹⁸⁰ *See also* T-982, Witness A-50 Testimony (Confidential), pg. 6646.

¹¹⁸¹ T-20 (Zvornik Brigade Duty Officer’s Logbook), ERN 0293 5773.

¹¹⁸² T-20 (Zvornik Brigade Duty Officer’s Logbook), see ERN pages 0293 5762 (“VRB/multiple rocket launcher/ came with crew from Višegrad at 0800. The same one was sent to the IKM in Kitovnice.”), 0293 5764 (“At 10:50 hrs. 35 soldiers from the IBK/Eastern Bosnian Corps/ were sent to the IKM.”), 0293 5768 (“From Banja Luka, from the 18th Krajina/?Brigade/ Major Dragičević arrived at the Operations Centre and was with duty officer at 17.25hrs. About 100 troops are coming after him. They are expected at 2100 hrs. He was sent to the Kitovnice IKM to receive a task.”)

¹¹⁸³ T-13 (Trbić 21 January 2004 Interview), p. 12. *See also* T-982, Witness A-50 Testimony (Confidential), pgs. 6630, 6684.

¹¹⁸⁴ T-13 (Trbić 21 January 2004 Interview), p. 15.

689. Therefore, the Panel finds that Trbić coordinated the provision of logistical support by arranging for the resupply of fuel and ammunition to military units participating in the operation to summarily execute and bury Bosniak males from Srebrenica enclave thereby knowingly and intentionally provided communications and logistics coordination for the operation.

G. ON OR ABOUT 19 JULY 1995 AND ON 20 JULY 1995

1. General Factual Findings

(a) On or about 19 July 1995: VRS and/or MUP forces, having captured in the Zvornik Brigade zone of responsibility 4 (four) Bosniak men who had survived the Branjevo Military Farm executions, handed them over to Zvornik Brigade Military Police and security personnel who interrogated them and detained them for a few days, and then summarily executed them, wherein the executed men were later identified as:

- Sakib KIVIRIĆ, son of Salko, born 24 June 1964;
- Emin MUSTAFIĆ, son of Rifet, born 7 October 1969;
- Fuad ĐOZIĆ, son of Senusija, born 2 May 1965; and,
- Almir HALILOVIĆ, son of Suljo, born 25 August 1980.

690. The Panel finds that Prosecution proved beyond a reasonable doubt that on or about 19 July 1995: VRS and/or MUP forces, having captured in the Zvornik Brigade zone of responsibility 4 (four) Bosniak men who had survived the Branjevo Military Farm executions, handed them over to Zvornik Brigade Military Police and security personnel who interrogated them and detained them for a few days, and then summarily executed them, wherein the executed men were later identified as:

- Sakib KIVIRIĆ, son of Salko, born 24 June 1964;
- Emin MUSTAFIĆ, son of Rifet, born 7 October 1969;
- Fuad ĐOZIĆ, son of Senusija, born 2 May 1965; and,
- Almir HALILOVIĆ, son of Suljo, born 25 August 1980.

691. On 18 July 1995, four Bosnian Muslim men (one of them only 14) appeared in the garden of

Nesko Đokić in Donji Lokanj. Đokić's son was a member of the Zvornik Brigade. The men were covered in blood.¹¹⁸⁵ Nesko and his son gave them food and clothes and directions to Army of BiH territory. The Muslim men were captured the next day and the two Bosnian Serbs soldiers who helped them were also later arrested for "collaboration with the enemy".¹¹⁸⁶

692. The Prosecution argues that the Muslim men were survivors who escaped from the 16 July Branjevo Military Farm executions. Richard Butler also supports this analysis.¹¹⁸⁷ The Panel finds this is the only reasonable inference based on the extensive evidence and military documentation that records this event. Geographically this makes sense as well. Donji Lokanj is close to Branjevo Farm. This area is too far north of Srebrenica for them to have traveled from the column.

693. Sometime after this assistance, on 19 July, they were captured by VRS and/ or MUP forces in the Zvornik Brigade area of responsibility and brought to Standard.¹¹⁸⁸ The four upon their arrest gave statements to the Zvornik Brigade Military Police.¹¹⁸⁹ Goran Bogdanović testified he conducted this interview in the presence of Drago Nikolić.¹¹⁹⁰ The prisoners are identified as Sakib Kivirić; son of Salko, born 24 June 1964; Emin Mustafić, son of Rifet, born 7 October 1969; Fuad Đozić, son of Senusija, born 2 May 1965; and Almir Halilović, son of Suljo, born 25 August 1980. The statements do not mention they, the survivors, had come from Branjevo Military Farm. The Panel finds it unlikely they would admit to escaping execution. Based on their statements, the two arrested Serbs were subjected to a line up, a hearing and sentenced to 3 days imprisonment.¹¹⁹¹ Military records indicate they were both soldiers and hence were court martialled. This document was signed by Drago Nikolić.¹¹⁹²

¹¹⁸⁵ T-813 (Butler Narrative Report), para. 8.18.

¹¹⁸⁶ Witness Nebojša Jeremić (19 December 2007).

¹¹⁸⁷ See T-813 (Butler Narrative Report), paras. 8.13 to 8.19.

¹¹⁸⁸ Witness Nebojša Jeremić (19 December 2007).

¹¹⁸⁹ T-820 (Witness Statement of Fuad Đozić); Witness ***** (21 April 2008).

¹¹⁹⁰ Witness ***** (21 April 2008). See T-822 (Zvornik Brigade Military Police Record: Line-up Identification of Nesko Đokić and Slobodan Đokić, 25 July 1995); T-823 (Statement of Nesko Đokić); T-824 (Statement to Slobodan Đokić).

¹¹⁹¹ T-825 (Zvornik Brigade Military Police Record: Judgment against Nesko Đokić and Slobodan Đokić, 25 July 1995); Witness ***** (21 April 2008) confirmed the 3 day imprisonment. Witness Nebojša Jeremić (19 December 2007) indicated it was 60 days. However, the length of sentence is not relevant here so there is no need to harmonize this evidence.

¹¹⁹² T-1079 (Zvornik Brigade Report from Command security organ to Bijelina Military Prosecutor, 26 July 1995). Note there is an inconsistency in the testimony of ***** (21 April 2008). He testified that only the son was in the military. The status of the Bosnian Serb rescuers is not material to this count and therefore there is no need to resolve this.

694. Exclusive competency for the interrogation of these men vested in the Zvornik Brigade Security organ. All four men are on the ICRC missing list.¹¹⁹³

2. Acts of Milorad Trbic

695. In his deposition Trbić gives specific information as to the location where these men were arrested. He indicates they were found on their way to Ugljevik and then brought to the Zvornik Brigade.¹¹⁹⁴

696. Trbić further confirms they were not soldiers. Trbić states that the Muslim men were murdered the same day that Drago issued the order.¹¹⁹⁵ From his first interview in August 2002, Trbić shows he has specific and detailed information about these men. Trbić states in his first deposition taken in the United States that Drago Nikolić told Commander Jasikovac of the Zvornik Brigade Military Police to take the four men kill them and then bury them.

697. Finally, in his last statement on 8 November 2004 he admits he was present at the killings. He denies actual participation, but he admits to being present and he provides information as to their burial site.¹¹⁹⁶ The Panel finds given his role as deputy to Drago Nikolić and his presence at the scene of execution indicates he had a significant role in their execution.

698. Based in the above findings, the Panel finds that the event occurred as charged: VRS and/or MUP forces, having captured in the Zvornik Brigade zone of responsibility 4 (four) Bosniak men who had survived the Branjevo Military Farm executions, handed them over to Zvornik Brigade Military Police and security personnel who interrogated them and detained them for a few days, and then summarily executed them, wherein the executed men were later identified as noted above.

3. General Factual Findings

(b) On 20 July 1995: on or about 13 or 14 July 1995, 19 (nineteen) wounded Bosniak men from Srebrenica enclave surrendered or were captured and were admitted to the Milići Hospital and

¹¹⁹³ T-822 (Line-up identification of Nesko Đokić and Slobodan Đokić dated 25 July 1995); T-1111 (ICRC Missing List 8th Ed), p.154 (Sakib Kivirić, ICRC Missing No. BAZ-914421-01), p. 208 (Emin Mustafić, ICRC Missing No. BAZ-901050-02), p. 68 (Fuad Đozić, ICRC Missing No. BAZ-906271-01); p. 97 (Almir Halilović, ICRC Missing No. BAZ-914374-01).

¹¹⁹⁴ T-3 (Trbić 19 August 2002 US Deposition), p. 60.

¹¹⁹⁵ T-3 (Trbić 19 August 2002 US Deposition), p. 63.

¹¹⁹⁶ T-18 (Trbić 8 November 2004 Interview), p. 46; T-19 (ICTY Information Report regarding August 2004 site visit) (Confidential), p. 7.

treated; Aziz BEĆIROVIĆ, son of Nezir, born 16 September 1973 in Opetci, Srebrenica Municipality (died in the hospital); on about 14 July 1995, 11 (eleven) of these wounded Bosniak men were transferred from the Milići Hospital to the Zvornik Hospital on orders from the VRS Main Staff; a few days later those Bosniak men were transferred from the Zvornik Hospital to the infirmary of the Zvornik Brigade; and on or shortly after 20 July 1995, 10 (ten) of those Bosniak men were removed from the Zvornik Brigade Headquarters infirmary and summarily executed by the VRS; the victims were identified as:

- Mensur SALKIĆ, son of Šukrija, born 25 December 1970 in Osati, Srebrenica Municipality;
- Behaija KURTIĆ, son of Ahmet, born 18 January 1964 in Joseva, Bratunac Municipality;
- Izet HALILOVIĆ, son of Ramo, born 1951 in Srebrenica, Srebrenica Municipality;
- Behudin LOLIĆ, son of Ramiz, born 4 January 1967 in Donji Potočari, Srebrenica Municipality;
- Huso SALIHOVIĆ, son of Mešan, born 10 May 1974 in Skugrići, Vlasenica Municipality;
- Vahdet SULJIĆ, son of Alija, born 3 June 1968 in Pasmulići, Srebrenica Municipality;
- Remzija IBIŠEVIĆ, son of Ibrahim, born 20 July 1943 in Glogova, Bratunac Municipality;
- Mujo BEČIĆ, son of Hakija, born 26 February 1970 in Srebrenica, Srebrenica Municipality;
- Sulejman BEGOVIĆ, son of Mustafa, born 3 March 1970 in Bukovica, Vlasenica Municipality; and,
- Mehmedalija HAMZABEGOVIĆ, son of Ibrahim, born 15 February 1957 in Glodi, Zvornik Municipality.

699. The Panel finds that Prosecution proved beyond reasonable doubt that on 20 July 1995: on or about 13 or 14 July 1995, 19 (nineteen) wounded Bosniak men from Srebrenica enclave surrendered or were captured and were admitted to the Milići Hospital and treated; Aziz BEĆIROVIĆ, son of Nezir, born 16 September 1973 in Opetci, Srebrenica Municipality (died in the hospital); on about 14 July 1995, 11 (eleven) of these wounded Bosniak men were transferred from the Milići Hospital to the Zvornik Hospital on orders from the VRS Main Staff; a few days later those Bosniak men were transferred from the Zvornik Hospital to the infirmary of the Zvornik Brigade; and on or shortly after 20 July 1995, 10 (ten) of those Bosniak men were removed from the

Zvornik Brigade Headquarters infirmary and summarily executed by the VRS; the victims were identified as:

- Mensur SALKIĆ, son of Šukrija, born 25 December 1970 in Osati, Srebrenica Municipality;
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- Izet HALILOVIĆ, son of Ramo, born 1951 in Srebrenica, Srebrenica Municipality;
- Behudin LOLIĆ, son of Ramiz, born 4 January 1967 in Donji Potočari, Srebrenica Municipality;
- Huso SALIHOVIĆ, son of Mešan, born 10 May 1974 in Skugrići, Vlasenica Municipality;
- Vahdet SULJIĆ, son of Alija, born 3 June 1968 in Pasmulići, Srebrenica Municipality;
- Remzija IBIŠEVIĆ, son of Ibrahim, born 20 July 1943 in Glogova, Bratunac Municipality;
- Mujo BEČIĆ, son of Hakija, born 26 February 1970 in Srebrenica, Srebrenica Municipality;
- Sulejman BEGOVIĆ, son of Mustafa, born 3 March 1970 in Bukovica, Vlasenica Municipality; and,
- Mehmedalija HAMZABEGOVIĆ, son of Ibrahim, born 15 February 1957 in Glodi, Zvornik Municipality.

700. The Panel finds the following events occurred. In July of 1995, Dr. Jugoslav Gavrić was the Director of the Zvornik Medical Centre. Upon the order of Dr. Ratko Rokvić, Chief Medical Officer for the VRS (Colonel on the Main Staff), Dr. Gavrić went to pick up a group (approximately 10 to 14) of wounded Muslim men from the clinic hospital in Milići. The hospital was small and could not accommodate the approximately 10 to 14 wounded.¹¹⁹⁷ The wounded were Muslim men from the Srebrenica enclave.¹¹⁹⁸ Some of the wounded could walk while others needed to be carried on stretchers. Each patient had a medical assessment and medical record from their stay in Milići. All were receiving medical therapy. Dr. Gavrić oversaw their transfer to the hospital in Zvornik and turned over care of the patients to Dr. Lazarević. The next morning he returned to the hospital to check on the patients and was told they had been transferred to Tuzla.

¹¹⁹⁷ See T-964, Witness Dr. Jugoslav Gavrić, *Prosecutor v. Popović et al* IT-05-88, Testimony of 21 March 2007, (“Witness Dr. Jugoslav Gavrić *Popović* Testimony”) pgs. 9110 to 9130.

¹¹⁹⁸ O-5, Pandurević *Popović* Testimony on 27 February 2009, p. 32261.

701. Hospital records indicate 18 prisoners treated and sent to Zvornik on the 14th of July, 1995.¹¹⁹⁹

702. Dr. Zoran Begović, Chief of the medical services at the “Standard” Zvornik Brigade infirmary, stated that he received a group of Muslim men from the Zvornik Hospital in July of 1995. His estimate is between 10 and 15 wounded Muslim prisoners were transferred. He received no notice of their arrival. The patients were escorted by soldiers. The next day he was informed by Obrenović to care for them and to keep necessary medical records but not to register them in the patient logbook. Obrenović arranged security for these prisoner patients with the military police present at the standard barracks.¹²⁰⁰ Two of the wounded had limbs amputated. Dr. Begović specifically remembers one patient who had the same last name as himself.

703. Dr. Radivoje Novaković, also a doctor at the Zvornik Hospital, confirms he was sent to the infirmary for the Standard barracks to check on these transferred patients.¹²⁰¹ He recalls protesting against their transfer. He believes there were 11 patients and notes one had died in the hospital from injuries. He confirms that he reviewed their discharge papers from Milići Hospital.¹²⁰²

704. Dr. Novaković confirms that Aziz Bećirović died at the hospital from severe wounds.¹²⁰³ He is identified as Aziz Bećirović, son of Nezir, born 16 September 1973 in Opetci, Srebrenica Municipality.

705. Ten of the wounded (not including the one who died in the hospital from his wounds) have names located in the hospital records and in the ICRC Missing list. Their names are as follows:

- Mensur SALKIĆ, son of Šukrija, born 25 December 1970 in Osati, Srebrenica Municipality, ICRC Missing No. BAZ-914040-01;

¹¹⁹⁹ T-736 (Milići Hospital Patient Logbook, 13-14 July 1995); T-737 (Nine patient forms from Milići Hospital for specialist treatment dated 13-14 July 1995); T-738 (Milići Hospital surgical treatment reports); T-743 (Milići Hospital patient logbook entries 11-15 July 1995); T-744 (Eleven patient files from surgical ward, Sveti Nikola Hospital in Milići dated 13 and 14 July 1995); T-745 (Medical documents x-ray and diagnosis July 1995); T-740 (Note of Release of Patients from Milići Hospital to Zvornik signed by Dr Davidović). T-1080 (Letter from Dr. Davidović dated 24 July 1995 to General Krstić, Commander of Drina Corps – 18 Muslim patients treated and sent to Zvornik on orders of Main Staff). T-240 (Zvornik Hospital Logbook, Patient 4605 onwards). Witness Jugoslav Gavrić received an order from the Chief Medical Officer of the VRS to go to Milići to collect these patients and accompany them to Zvornik Hospital; T-964, Witness Dr. Jugoslav Gavrić *Popović* Testimony, pgs. .9113-9114.

¹²⁰⁰ T-961, Witness Zoran Begović *Prosecutor v. Popović et al* IT-05-88, Testimony of 21 March 2007, (“Witness Zoran Begović *Popović* Testimony”) p. 9142.

¹²⁰¹ See T-881, Witness Dr. Radivoje Novaković, *Prosecutor v. Popović et al* IT-05-88, Testimony of 20 March 2007, (“Witness Dr. Radivoje Novaković *Popović* Testimony”) pgs. 9025 to 9098.

¹²⁰² T-881, Witness Dr. Radivoje Novaković *Popović* Testimony, p. 9027.

¹²⁰³ T-881, Witness Dr. Radivoje Novaković *Popović* Testimony, p. 9040.

- Behaija KURTIĆ, son of Ahmet, born 18 January 1964 in Joseva, Bratunac Municipality, ICRC Missing No. BAZ-913292-01;
- Izet HALILOVIĆ, son of Ramo, born 1951 in Srebrenica, Srebrenica Municipality, ICRC Missing No. BAZ-381197-02;
- Behudin LOLIĆ, son of Ramiz, born 4 January 1967 in Donji Potočari, Srebrenica Municipality, ICRC Missing No. BAZ-901857-01;
- Huso SALIHOVIĆ, son of Mešan, born 10 May 1974 in Skugrići, Vlasenica Municipality, ICRC Missing No. BAZ-903173-02;
- Vahdet SULJIĆ, son of Alija, born 3 June 1968 in Pusmulici, Srebrenica Municipality, ICRC Missing No. BAZ-906843-01;
- Remzija IBIŠEVIĆ, son of Ibrahim, born 20 July 1943 in Glogova, Bratunac Municipality, ICRC Missing No. BAZ-106481-01;
- Mujo BEČIĆ, son of Hakija, born 26 February 1970 in Srebrenica, Srebrenica Municipality, ICRC Missing No. BAZ-914619-01;
- Sulejman BEGOVIĆ, son of Mustafa, born 3 March 1970 in Bukovica, Vlasenica Municipality, ICRC Missing No. BAZ-901989-03; and,
- Mehmedalija HAMZABEGOVIĆ, son of Ibrahim, born 15 February 1957 in Glodi, Zvornik Municipality, ICRC Missing No. BAZ-104970-01.¹²⁰⁴

706. Dr. Novaković believes they stayed 5 to 7 days. This puts the time frame somewhere on or about 20 July 1995.

707. Dr. Begović states the wounded prisoners remained at the Standard barracks infirmary for about 5 days. He was then informed they had been “removed from Standard.” A member of the military police told him they left by bus.¹²⁰⁵ This time their medical records did not accompany them.¹²⁰⁶

708. Obrenović in his plea agreement states that he received word that Popović would come and deal with the prisoners. He further explains that he was told this on or about July 23, 1995. When hearing that it was Popović that was coming he knew the prisoners would not be taken for exchange. Obrenović further states that that his Commander, Pandurević told him that Popović had passed the order from Mladić to Drago Nikolić and that Popović was the courier. The message was

¹²⁰⁴ T-1111 (ICRC Missing List 8th Ed.), pgs. 27, 32, 98, 100, 126, 164, 169, 252, 256 and 283.

¹²⁰⁵ T-961, Witness Zoran Begovic, *Popović Testimony*, p. 91381; Nebojša Jeremić (19 December 2007) states he saw the wounded Muslim prisoners get into a truck at the Barracks. He was standing near the kitchen. He estimates the size of the group to be between 10 and 20.

¹²⁰⁶ T-961, Witness Zoran Begovic *Popović Testimony*, p. 9148.

the patients had to be executed.¹²⁰⁷ Obrenović confirms they were taken away by the Military police.¹²⁰⁸

709. In his testimony in his own defense, Pandurević confirms he gave Obrenović the task to oversee the wounded. Pandurević states he gave the order for the wounded prisoners to be transferred from the Zvornik barracks. He did not see the need for them to be there. He claims he believed they would be transferred to Batkovic for exchange.¹²⁰⁹

710. Pandurević confirms that he had a conversation with Cerović where he was told that Popović will come by at 17:00 hours and deal with the problem of the wounded and the prisoners.¹²¹⁰

711. Pandurević agrees that for the 14 of the named patients, one died at the hospital, one was found in the Liplja secondary grave and 12 are still missing. He agrees this indicates they were taken from his command and murdered but claims no responsibility for this.¹²¹¹ No information is available for the other 5 originally captured and brought to the hospital.

4. Acts of Milorad Trbić

712. There is no direct evidence of Milorad Trbić's specific involvement in this incident.

713. The Panel does find that these killings took place within the context of the other tasks of the Zvornik Brigade. What is significant here is that this pattern does not differ from the story of the capture and execution of other prisoners who are taken to Standard during the same period of time and executed by the Accused. Essentially this is what happens to Rešid Sinanović. This sub count is included not because there is specific evidence involving Trbić, but because the crime here is part of the smaller joint criminal enterprise involving the Zvornik Brigade. The events are confirmed by more than one witness, follow the same common plan and share common participants. The Panel finds that this event can be imputed to both Popović and Drago Nikolić.

714. Based on the above findings the Panel finds the event occurred as charged: that on or about 13 or 14 July 1995, 19 (nineteen) wounded Bosniak men from Srebrenica enclave surrendered or

¹²⁰⁷ T-985 (Obrenović Joint Motion on Plea Agreement dated 20 May 2003), p. 16659.

¹²⁰⁸ T-985 (Obrenović Joint Motion on Plea Agreement dated 20 May 2003), p. 16659.

¹²⁰⁹ O-5, Pandurević *Popović* Testimony on 10 February 2009, p. 31170.

¹²¹⁰ O-5, Pandurević *Popović* Testimony on 27 February, 2009, pgs. 32262-32263.

¹²¹¹ O-5, Pandurević *Popović* Testimony on 27 February, 2009, pgs. 32267.

were captured and were admitted to the Milići Hospital and treated; The Panel further finds that on or about 14 July 1995, 11 (eleven) of these wounded Bosniak men were transferred from the Milići Hospital to the Zvornik Hospital on orders from the VRS Main Staff; a few days later those Bosniak men were transferred from the Zvornik Hospital to the infirmary of the Zvornik Brigade; and on or shortly after 20 July 1995, 10 (ten) of those Bosniak men were removed from the Zvornik Brigade Headquarters infirmary and summarily executed by the VRS; the victims are identified above.

H. REBURIALS

1. General Factual Findings

(a) In furtherance of the joint criminal enterprise which includes burials of all able-bodied Bosniak men from the Srebrenica enclave, who were brought into the Zvornik brigade zone of responsibility, with the purpose and plan to conceal the killings and summary executions that took place in July 1995 in the Zvornik Brigade zone of responsibility by exhuming and reburying the victims of the executions in mass unmarked and unregistered graves, Milorad Trbić supervised, directed and coordinated the activities of other VRS soldiers, including those from the Engineering Company, Zvornik Brigade, in the exhumation of the primary mass graves at Lazete (Orahovac), Petkovci Dam, Kozluk and Branjevo Military Farm, all located in the Zvornik Brigade zone of responsibility, which contained the Bosniak victims of the mass summary executions carried out between 14 and 17 July 1995, and the loading of the bodies and body parts of the victims on to vehicles for onward transport to secondary mass graves, by directly tasking soldiers to carry out the work and by controlling and accounting for the provision and distribution of fuel for the operation wherein bodies and body parts exhumed from the primary mass graves were transferred to unmarked and unregistered secondary graves at numerous but at least 13 (thirteen) sites along the Čančari Road where bodies and body parts removed from graves including those at Branjevo Military Farm and Kozluk were relocated; 8 (eight) sites near Liplje where bodies and body parts removed from graves including those at Petkovci Dam were relocated, and 7 (seven) sites near Hodžići where bodies and body parts removed from graves including those at Lazete were relocated; so that the remains and identities of the victims would be concealed.

715. The Panel finds that Milorad Trbić personally supervised, directed and coordinated the activities of other VRS soldiers in the exhumation of the primary mass graves at Lazete (Orahovac), Petkovci Dam, Kozluk and Branjevo Military Farm, wherein bodies and body parts exhumed

from the primary mass graves were transferred to unmarked and unregistered secondary graves at numerous but at least 13 (thirteen) sites along the Čančari Road, 8 (eight) sites near Liplje, and 7 (seven) sites near Hodžići. While the Indictment referred to 5 (five) sites located near Liplje, the Panel finds, based on the forensic evidence contained in the case-file, that 8 (eight) mass graves are located near Liplje.

716. The Panel has found in section VII. E. 1. that the forensic evidence clearly indicated that some of the bodies contained in the primary mass grave located at Branjevo Military Farm and Kozluk were relocated in secondary mass graves, at least two of which are located along the Čančari Road; that some of the bodies contained in the primary mass grave located at Petkovci Dam were relocated in one or several secondary mass graves, at least one of which is located near Liplje; and that some of the bodies contained in the primary mass graves located at Lažete were relocated in secondary mass graves, at least three of which are located near Hodžići.

2. Acts of Milorad Trbić

717. The Panel finds that the Prosecution established beyond a reasonable doubt that Milorad Trbić, through his active involvement in the reburial operation, continued his participation in a joint criminal enterprise (see section IX. below) with the common purpose and plan to capture, detain, summarily execute and bury all able bodied Bosniak males from Srebrenica enclave, who were brought into the Zvornik Brigade zone of responsibility, that started in July 1995 and extended through the reburial operation which lasted until November 1995. The reburial operation of autumn 1995 was the continuation of the burial operation that started in July 1995 and was only the extension of an operation by the VRS aimed at concealing the crime of genocide committed against the Bosniak males of the Srebrenica area in July 1995.

718. The reburial operation did not follow the pattern of usual military reporting and was conducted with great secrecy.¹²¹² However, sufficient evidence was presented to the Panel to allow it to make conclusive findings on these events.

719. The Panel finds that between the burial operation of July 1995, in which Milorad Trbić did not take part directly, and the reburial operation of September to November 1995, in which Trbić was actively involved, Trbić was responsible for visiting the four primary mass graves located

¹²¹² T-813 (Butler Narrative Report), para. 11.0. Dean Manning confirmed that the forensic analysis of the mass graves clearly indicated that the secondary mass graves were created in order to hide the existence of the primary ones: Witness Dean Manning (16 June 2008).

within the Zvornik area of responsibility and reporting on the existence of visible traces of the executions and mass burials.¹²¹³ Trbić stated that he inspected the Kozluk site and reported on visible bodies;¹²¹⁴ that he inspected the Orahovac site;¹²¹⁵ that he inspected the Petkovci Dam site where he found shell cases;¹²¹⁶ and that he inspected the Branjevo Farm site¹²¹⁷. The inspection of the graves at Branjevo Farm was conducted because the VRS feared that an international organization might conduct an inspection there.¹²¹⁸ Trbić usually conducted these visits following Drago Nikolić's instructions.¹²¹⁹ The Panel emphasizes that these site inspections reflect that Trbić was a trusted member of the joint criminal enterprise. The Panel found earlier that Trbić stated his knowledge that the bodies were being buried in mass graves right after the victims were executed, in July 1995. By visiting the primary mass graves later on, Trbić ensured that no visible traces of the crime remained and it showed his readiness to be further involved in the concealment of the crime, as he demonstrated through his participation in the reburial operation.

720. The Panel finds that the reburial operation took place between September and November 1995 and that it was ordered by the VRS Main Staff and directed by Colonel Beara and Lieutenant Colonel Popović.¹²²⁰ This is confirmed by Trbić and Dragan Obrenović, who both saw Popović with a map containing the location of the mass graves and who both learned that he determined which units would be used for the reburial operation.¹²²¹ Popović also specified that about 100 bodies had to be left in each grave in order to mislead possible future investigation into the mass graves.¹²²² The command of the Zvornik Brigade was aware of the reburial operation.¹²²³ Within the Zvornik Brigade area of responsibility, the Engineering Unit of the Zvornik Brigade was in charge of digging the primary mass graves and transporting the bodies to the secondary mass graves, using

¹²¹³ T-15 (Trbić 23 May 2004 Interview), p. 74.

¹²¹⁴ T-3 (Trbić 19 August 2002 US Deposition), pgs. 64, 65, 67 and 68; T-5 (ICTY OTP Information Report 26 August 2002) (Confidential), p. 5.

¹²¹⁵ T-3 (Trbić 19 August 2002 US Deposition), p. 79; T-5 (ICTY OTP Information Report 26 August 2002) (Confidential), p. 5.

¹²¹⁶ T-3 (Trbić 19 August 2002 US Deposition), pgs. 79 and 80; T-5 (ICTY OTP Information Report 26 August 2002) (Confidential), p. 5.

¹²¹⁷ T-3 (Trbić 19 August 2002 US Deposition), p. 81; T-5 (ICTY OTP Information Report 26 August 2002) (Confidential), p. 5.

¹²¹⁸ T-3 (Trbić 19 August 2002 US Deposition), pgs. 80 to 82; T-5 (ICTY OTP Information Report 26 August 2002) (Confidential), p. 5.

¹²¹⁹ T-3 (Trbić 19 August 2002 US Deposition), pgs. 80 and 82.

¹²²⁰ T-983, Obrenović *Blagojević* Testimony of 2 October 2003, pgs. 2542 and 2544; T-813 (Butler Narrative Report), fn 631 (VRS Main Staff Order 03/4-2341). Lieutenant Colonel Popović also coordinated the operation in the Bratunac Brigade area of responsibility, putting Momir Nikolić in charge of reburying the bodies buried in Glogova.

¹²²¹ T-3 (Trbić 19 August 2002 US Deposition), pgs. 71 and 77; T-5 (ICTY OTP Information Report 26 August 2002) (Confidential), p. 6; T-983, Obrenović *Blagojević* Testimony of 2 October 2003, pgs. 2543 to 2545. *See also* T-982, Witness A-50 (Confidential), pgs. 6654 to 6656 and 6789.

¹²²² T-3 (Trbić 19 August 2002 US Deposition), pgs. 77 and 78; T-5 (ICTY OTP Information Report 26 August 2002) (Confidential), p. 6; T-19 (ICTY OTP Information Report regarding August 2004 site visit) (Confidential), pgs. 3 and 5. *See also* T-982, Witness A-50 (Confidential), p. 6656.

¹²²³ T-3 (Trbić 19 August 2002 US Deposition), p. 75. *See also* T-982, Witness A-50 (Confidential), p. 6788.

machinery from the Zvornik Brigade.¹²²⁴ According to Trbić, the 5th Engineering Battalion of the Drina Corps was in charge of digging the secondary mass graves.¹²²⁵ Trbić added that the Zvornik Brigade's Rear Services were also involved in the operation.¹²²⁶ Witness A-45 stated that members from a private company were also involved in the reburial operation.¹²²⁷ Dragan Obrenović stated that members of the Military Police of the Drina Corps and Military Police from the Zvornik Brigade, under the command of Drago Nikolić, secured the area and the traffic during the reburial operation.¹²²⁸

721. Trbić stated that he was notified of the reburial operation first from Drago Nikolić¹²²⁹, then, a week later, from Popović, about two weeks before the operation started.¹²³⁰ The Panel finds that he participated in the operation with a clear and full knowledge of what the reburial operation consisted of.

722. In the Zvornik Brigade area of responsibility, the reburial operation started in late September or in October, and lasted for at least four nights.¹²³¹ The entire operation might have lasted two weeks.¹²³² The VRS Main Staff provided 5 tons of fuel for the reburial operation in the Zvornik Brigade area of responsibility and assigned the Accused, Milorad Trbić, to the task of maintaining the records of the fuel that was used.¹²³³ Trbić completed this task diligently, by delivering fuel to the Engineering Unit of the Zvornik Brigade and to the 5th Engineering Battalion

¹²²⁴ T-3 (Trbić 19 August 2002 US Deposition), p. 71; T-5 (ICTY OTP Information Report 26 August 2002) (Confidential), p. 6; T-983, Obrenović *Blagojević* Testimony of 2 October 2003, pgs. 2544 and 2545. *See also* T-982, Witness A-50 (Confidential), pgs. 6654 and 6655.

¹²²⁵ T-3 (Trbić 19 August 2002 US Deposition), p. 71; T-5 (ICTY OTP Information Report 26 August 2002) (Confidential), p. 6. *See also* T-982, Witness A-50 (Confidential), pgs. 6654 to 6656.

¹²²⁶ T-3 (Trbić 19 August 2002 US Deposition), p. 71; T-5 (ICTY OTP Information Report 26 August 2002) (Confidential), p. 6. *See also* T-982, Witness A-50 (Confidential), p. 6789.

¹²²⁷ Witness A-45 (15 January 2008).

¹²²⁸ T-983, Obrenović *Blagojević* Testimony of 2 October 2003, p. 2544.

¹²²⁹ T-3 (Trbić 19 August 2002 US Deposition), pgs. 69 and 70; T-5 (ICTY OTP Information Report 26 August 2002) (Confidential), p. 6. *See also* T-982, Witness A-50 (Confidential), pgs. 6653, 6654 and 6789.

¹²³⁰ T-3 (Trbić 19 August 2002 US Deposition), p. 70; T-5 (ICTY OTP Information Report 26 August 2002) (Confidential), p. 6. *See also* T-982, Witness A-50 (Confidential), pgs. 6654, 6658 and 6789.

¹²³¹ Witness A-45 (15 January 2008). Aerial images indicate that the primary mass graves were disturbed and the secondary mass graves were created during that time period: T-830 (1st Manning Report), pgs. 27 to 51. *See also* Witness Slavko Bogičević (15 May 2008).

¹²³² This is supported by T-982, Witness A-50 (Confidential), p. 6788.

¹²³³ T-813 (Butler Narrative Report), fn 631 (VRS Main Staff Order 03/4-2341): the document refers to Captain Milorad TRPIĆ. However, the Panel finds that no Captain Trpić was in the Zvornik Brigade at that time and that the document actually refers to Captain Milorad TRBIĆ, the Accused [see T-813 (Butler Narrative Report), para. 11.3; T-983, Obrenović *Blagojević* Testimony of 6 October 2003, pgs. 2623 and 2624]; T-813 (Butler Narrative Report), fn 632 (VRS Main Staff Order 10/34/2-3-701); T-3 (Trbić 19 August 2002 US Deposition), pgs. 70 and 72; T-5 (ICTY OTP Information Report 26 August 2002) (Confidential), p. 6; T-983, Obrenović *Blagojević* Testimony of 2 and 6 October 2003, pgs. 2544, 2623 and 2624. *See also* T-982, Witness A-50 (Confidential), p. 6654.

of the Drina Corps.¹²³⁴ After the operation¹²³⁵, the Accused asked Dragan Jokić how much fuel was needed for each particular machine used for the operation, in order to complete the records accurately.¹²³⁶ The Panel finds that Trbić was in charge of monitoring the fuel necessary for the machines used during the reburial operation. The Panel further finds that Trbić was in charge of reporting on the reburial operation to Popović.¹²³⁷

723. In support of the Panel's findings that there existed a joint criminal enterprise within the Zvornik Brigade area of responsibility whose members were part of the Security Organ of the Zvornik Brigade, the Panel emphasizes that no fuel from the Logistics Unit was used during the reburial operation. The confidential order signed by General Mladić ordering to deliver fuel to the Standard Barracks in Zvornik and to assign Trbić for the monitoring of the fuel clearly shows that the reburial operation deviated from the regular pattern of functioning of the VRS.¹²³⁸ Pandurević explained that he had never seen fuel being delivered through the Security lines, and that fuel would normally go through the Logistics Unit.¹²³⁹ Witness A-45 added that the fuel would usually be issued by the Logistics Unit but that it was issued by the Engineering Unit during the reburial operation.¹²⁴⁰

724. The Panel finds that Trbić was also responsible for coordinating the Engineering Unit of the Zvornik Brigade during the reburial operation.¹²⁴¹ The division of tasks was again done between members of the Security Organ and coordinated by Lieutenant Colonel Popović and Drago Nikolić.^{1242; 1243} Milorad Trbić stated that he instructed a member of the Engineering Unit named Lazarević, who had also been involved in the primary burial operation, of the reburial task and was his main point of contact during the reburial operation.¹²⁴⁴ Other witnesses testified that Lazarević

¹²³⁴ T-3 (Trbić 19 August 2002 US Deposition), p. 73; T-19 (ICTY Information Report regarding August 2004 site visit) (Confidential) p. 8; T-54 (Intercept of 22 September 1995 at 18:44); Witness A-45 (15 January 2008). *See also* T-982, Witness A-50 (Confidential), pgs. 6656 and 6658.

¹²³⁵ T-3 (Trbić 19 August 2002 US Deposition), p. 74; T-5 (ICTY OTP Information Report 26 August 2002) (Confidential), p. 6. *See also* T-982, Witness A-50 (Confidential), p. 6658.

¹²³⁶ T-14 (ICTY OTP Information Report 25 January 2004), p. 2. *See also* T-982, Witness A-50 (Confidential), pgs. 6657, 6659 and 6660.

¹²³⁷ This is supported by T-982, Witness A-50 (Confidential), p. 6799.

¹²³⁸ T-813 (Butler Narrative Report), fn 631 (VRS Main Staff Order 03/4-2341).

¹²³⁹ O-5, Pandurević *Popović* Testimony on 19 February 2009, p. 31768.

¹²⁴⁰ Witness A-45 (15 January 2008). *See also* T-982, Witness A-50 (Confidential), p. 6799.

¹²⁴¹ This is supported by T-982, Witness A-50 (Confidential), pgs. 6654 and 6800.

¹²⁴² This is supported by T-982, Witness A-50 (Confidential), pgs. 6654 and 6800.

¹²⁴³ According to the Accused, Dragan Jokić also directed him during the reburial operation. However, The ICTY *Blagojević and Jokić* Trial Chamber (*Prosecutor v. Blagojević and Jokić*, IT-02-60-T) found that there was insufficient evidence to confirm Jokić's involvement in the reburial operation. Therefore, the Panel will not make findings as to the possible involvement of Dragan Jokić in the reburial operation.

¹²⁴⁴ Witness A-45 (15 January 2008); T-5 (ICTY OTP Information Report 26 August 2002) (Confidential), p. 6. *See also* T-982, Witness A-50 (Confidential), p. 6655.

was instructed either by Dragan Jokić¹²⁴⁵ or by both Dragan Jokić and Slavko Bogičević.¹²⁴⁶ However, the Panel finds that this is not a crucial finding; it is ultimately irrelevant to find who ordered Lazarević first, since all these witnesses testified that Trbić was in charge of this part of the operation and that Lazarević participated in it. Moreover, the Panel finds that Lazarević was in communication with Trbić throughout the reburial operation. Lazarević was receiving the fuel needed for the Engineering Unit.¹²⁴⁷ According to Witness A-45, Slavko Bogičević instructed Lazarević to first go to Orahovac with men from the Engineering Unit of the Zvornik Brigade and dig up the primary graves, then to report to the Accused Milorad Trbić the next day to receive further orders.¹²⁴⁸ The next morning and the morning after, Trbić ordered the Engineering Unit to go to Kozluk and then to Branjevo Military Farm and, according to Witness A-45, Lazarević reported to Trbić every morning about the completion of the assignment for the previous night and Trbić would then instruct him on where to go next.¹²⁴⁹ Reburials systematically took place during the night.¹²⁵⁰ The Panel was not presented with direct evidence regarding Trbić's role in relation to Petkovci Dam, however the Panel finds that the only reasonable inference is that Trbić was involved in that site as well, since it was located in the area of responsibility of the Zvornik Brigade, that it was disturbed at the same period as the other primary mass graves located within the Zvornik Brigade area of responsibility and that no evidence was submitted of any other involvement at that site. Moreover, forensic evidence supports the fact that the mass grave in Petkovci Dam contained the bodies of Bosniak male victims which had been executed in July 1995 and was disturbed.¹²⁵¹

725. There is little evidence on which unit was involved in digging the secondary mass graves. However, unequivocal forensic evidence demonstrates the existence of these secondary mass graves and links these with the primary mass graves; all contain victims of the massacre related to Srebrenica of July 1995.¹²⁵² Evidence indicates that the 5th Engineering Battalion of the Drina Corps was in charge of the secondary mass graves,¹²⁵³ and that Lieutenant Colonel Popović instructed

¹²⁴⁵ Witness Slavko Bogičević (15 May 2008).

¹²⁴⁶ Witness A-45 (15 January 2008).

¹²⁴⁷ Witness A-45 (15 January 2008); T-5 (ICTY OTP Information Report 26 August 2002) (Confidential), p. 6.

¹²⁴⁸ Witness A-45 (15 January 2008).

¹²⁴⁹ Witness A-45 (15 January 2008).

¹²⁵⁰ Witness A-45 (15 January 2008).

¹²⁵¹ See paragraph 522.

¹²⁵² See section VII.E.1.

¹²⁵³ T-983, Obrenović *Blagojević* Testimony of 2 October 2003, p. 2545; T-3 (Trbić 19 August 2002 US Deposition), p. 71 and T-5 (ICTY OTP Information Report 26 August 2002) (Confidential), p. 6. *See also* T-982, Witness A-50 (Confidential), pgs. 6654 to 6656, 6798 and 6799. Momir Nikolić stated that that same unit was involved in the reburial operation in the Bratunac Brigade area of responsibility: T-868 (Momir Nikolić Sentencing Judgment and Agreed Facts), Statement of Facts and Acceptance of Responsibility of Momir Nikolić, Annex A, para. 13..

them about the reburial task.¹²⁵⁴ Obrenović testified that he heard that the VRS Main Staff changed the truck drivers who were going from the primary to the secondary mass graves so that nobody would know the location of the mass graves.¹²⁵⁵ The Panel finds that members of the joint criminal enterprise of which the Accused was a member were in charge of the secondary mass graves, and that the Accused had a clear knowledge of the overall reburial operation and of the existence of the secondary mass graves when he was coordinating the men who worked at the primary mass graves. While all the details of how the operation was conducted are not known, the Panel finds that the bodies were moved from primary to secondary mass graves and that the Accused knowingly participated in this operation.

726. According to Trbić, the men who had been involved in the reburial operation were rewarded by being allowed to take three days of leave and were given 3 bags of detergent.¹²⁵⁶

727. The Accused accurately indicated to ICTY investigators the location of all the primary mass graves within the Zvornik Brigade area of responsibility by taking them to the sites and showing them the exact location of the mass graves during a site visit: Orahovac, Petkovci Dam, Kozluk and Branjevo Farm;¹²⁵⁷ he also indicated where the bodies buried at the Branjevo Military Farm were relocated.¹²⁵⁸ However, Trbić also misled the ICTY investigators by bringing them to false mass graves: Trbić alleged that mass graves were located in Crni Vrh¹²⁵⁹; in Šepak¹²⁶⁰ in Donji Šepak¹²⁶¹; in Balkovica Potok, Lipovac¹²⁶²; and in Kula Grad;¹²⁶³ which all appeared to be false mass graves or unrelated to the Srebrenica massacre.¹²⁶⁴ The Panel notes that, by continuing to mislead investigators, Trbić engaged in a pattern of deception that hampered the work of the competent officials. This ongoing pattern of deception shows a continuing lack of remorse and a desire to cloud the circumstances surrounding the ultimate stage of the joint criminal enterprise, which consisted in this ongoing cover-up of the original crime.

¹²⁵⁴ T-3 (Trbić 19 August 2002 US Deposition), p. 73.

¹²⁵⁵ T-983, Obrenović *Blagojević* Testimony of 8 October 2003, p. 2871.

¹²⁵⁶ T-3 (Trbić 19 August 2002 US Deposition), pgs. 75 and 76; T-5 (ICTY OTP Information Report 26 August 2002) (Confidential), p. 6. *See also* Witness A-50 (Confidential), pgs. 6658 and 6800.

¹²⁵⁷ T-19 (ICTY Information Report regarding August 2004 site visit) (Confidential).

¹²⁵⁸ T-3 (Trbić 19 August 2002 US Deposition), p. 78; T-19 (ICTY Information Report regarding August 2004 site visit) (Confidential) p. 5.

¹²⁵⁹ T-15 (Trbić 23 May 2004 interview), p. 73.

¹²⁶⁰ T-19 (ICTY OTP Information Report regarding August 2004 site visit) (Confidential), p. 6.

¹²⁶¹ T-19 (ICTY OTP Information Report regarding August 2004 site visit) (Confidential), p. 6.

¹²⁶² T-19 (ICTY OTP Information Report regarding August 2004 site visit) (Confidential), p. 7.

¹²⁶³ T-18 (Trbić 8 November 2004 interview), p. 22.

¹²⁶⁴ Witness Bruce Bursik (28 November 2007); T-19 (ICTY Information Report regarding August 2004 site visit) (Confidential), p. 7.

IX. INDIVIDUAL CRIMINAL RESPONSIBILITY OF THE ACCUSED

A. JOINT CRIMINAL ENTERPRISE

1. Introduction

(a) Whereby the Accused Milorad Trbić perpetrated the criminal offence of Genocide, in violation of Article 171 CC BiH by way of acts specified in Article 171 (a) killing members of the group and Article 171 (b) causing serious bodily or mental harm to members of the group, as read with Article 180(1).

728. The Panel finds that Prosecution proved beyond a reasonable doubt that the Accused Milorad Trbić perpetrated the criminal offence of Genocide, in violation of Article 171 CC BiH by way of acts specified in Article 171 (a) killing members of the group and Article 171 (b) causing serious bodily or mental harm to members of the group, as read with Article 180(1).

729. The Panel will first look at the mode of liability and make findings on the participation of the Accused in a joint criminal enterprise. Then the Panel will make findings on the underlying offence and make findings as to the crime itself.

730. The Panel further finds the Accused perpetrated this offense through his participation in a joint criminal enterprise. The Panel recalls article 180(1) of CC of BiH is derived from and is identical to Article 7(1) of the ICTY Statute. Article 180(1) became part of the CC of BiH after 7(1) had been enacted and interpreted by the ICTY to include, specifically, joint criminal enterprise as a mode of co-perpetration by which personal criminal liability would attach.¹²⁶⁵

731. The Panel recalls the requisite elements necessary to prove the basic form of joint criminal enterprise liability are plurality of persons, a common plan or purpose to commit a crime and the participation or joining in of the accused in the furtherance of the plan or purpose.¹²⁶⁶ It is also required for the basic form of joint criminal enterprise that the accused must both intend the commission of the crime and intend to participate in a common plan aimed at its commission.¹²⁶⁷

¹²⁶⁵ *Rašević and Todović* First Instance Verdict, p. 103.

¹²⁶⁶ *See supra*, paras. 215 to 220.

¹²⁶⁷ *See supra*, para. 221.

732. The Panel will first look at the mode of liability and make findings on the participation of the Accused in a joint criminal enterprise. Then the Panel will look at the underlying offence of genocide.

2. Actus Reus

(a) Plurality of Persons

733. The Panel has been furnished with a substantial amount of evidence to identify key actors who together meet the requirements necessary to establish a plurality of persons. The plurality of persons who participated in the realization of a common purpose and plan include, Colonel Ljubiša Beara, Lieutenant Colonel Vujadin Popović, Lieutenant Drago Nikolić, Milorad Trbić and others.¹²⁶⁸ They acted together in the capture, detaining, summary execution and burial of all able bodied Bosniak males from Srebrenica enclave, who were brought into the Zvornik Brigade zone of responsibility.

734. The Panel's review of the evidence in this case, which focused on this Accused, revealed a consistent and core group of actors as defined above. It became apparent to the Panel that the existing military structure was utilized throughout these events. The Accused, Colonel Ljubiša Beara, Lieutenant Colonel Vujadin Popović, Lieutenant Drago Nikolić were all members of the Security and Intelligence Organs. As indicated earlier the Security Organ enjoyed a special relationship within the VRS: it was not accountable at all times to the military members in the chain of command. It operated in conjunction with the military chain of command but also in the shadows. It was accountable within its own structure and ultimately to at least General Mladić. It could operate as an internal affairs unit, it could be used to interrogate and detain prisoners of war, it could assist with security as needed for physical protection of key military personnel and facilities, and provide technical service and support to all units of the military as requested including the military police services.¹²⁶⁹

735. The Panel recalls for example that Lt. Colonel Popović, Assistant Commander for Security Affairs, was with the Security and Intelligence Organ of the Drina Corps, as was Lt. Colonel Kosorić, Chief of Intelligence who accompanied Popović when Popović told Momir Nikolić of his role in the killing operation of the Bosniak men and boys from Srebrenica.¹²⁷⁰ During this meeting

¹²⁶⁸ The Panel recognizes that there may be others both in the military chain of command and in the Security Organ but evidence necessary to establish these persons is not before this court.

¹²⁶⁹ T-813 (Butler VRS Main Staff Command Responsibility Report, June 2006), para. 2.13.

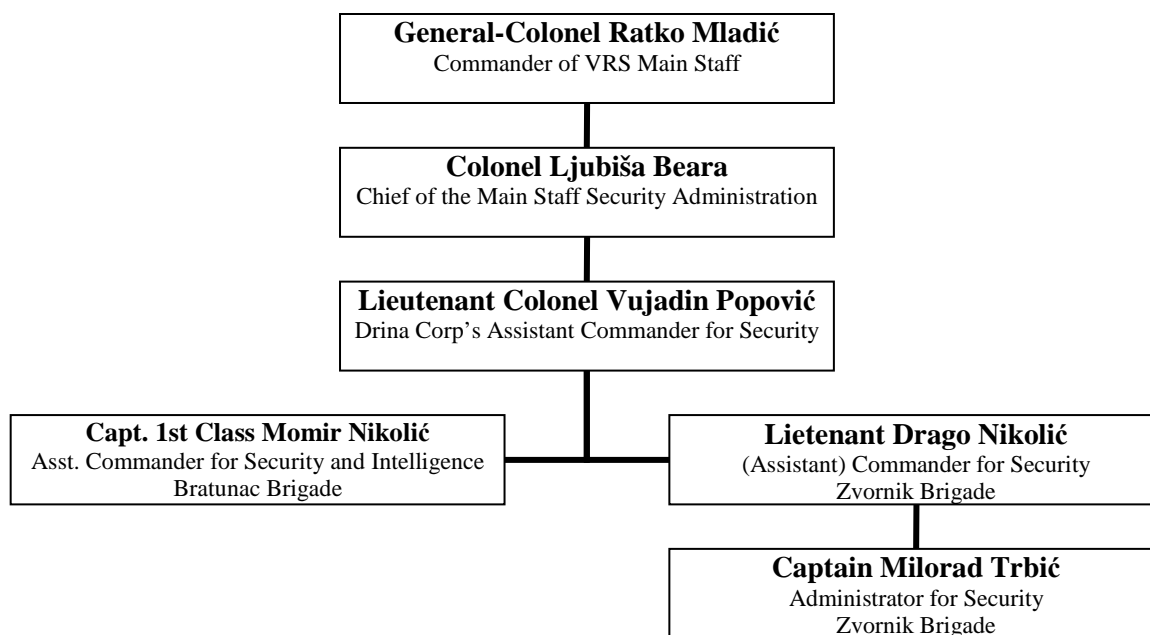
¹²⁷⁰ See *supra*, para. 415.

Momir Nikolić identified specific locations in the Bratunac Brigade area of responsibility to detain Bosniak males prior to their execution. Colonel Beara, who played an active role in supervising the transfer of the detainees from Bratunac to Zvornik, was with the Security and Intelligence Organ for the Main Staff. Some of these actors may be involved in other criminal enterprises which do not involve the Accused as the scope of their command is broader and not defined as solely within the Zvornik Brigade. Lt. Drago Nikolić, who would later be called upon for assistance by Colonel Beara in executing and burying Bosniak detainees¹²⁷¹, was the (Assistant) Commander of the Security and Intelligence Organ of the Zvornik Brigade. The Accused, Captain Milorad Trbić, Drago Nikolić's assistant, acting on the directions of Colonel Beara selected and located school buildings in the Zvornik Brigade area of responsibility which were used as temporary detention facilities to hold Bosniak males from Srebrenica enclave.

736. The Panel uses the following diagram to explain the interrelationship between these actors as well as the chain of command as it applies to them in the Security Organ.

VRS Security Organ

*Does not include military chain of command



737. These names are repeated again and again. It is not the repetition alone which defines membership, but rather the extent and type of interaction and participation. Whether it be at the command centers, at meetings, issuing task assignments, being at detention or execution sites, where at least one or more of them is present, is what defines their role. The Panel recognizes there

¹²⁷¹ See *supra*, para. 423.

are other names mentioned in the evidence presented and reviewed. The Panel notes according to ICTY jurisprudence it is not necessary for the Panel to identify by name each of the persons involved.¹²⁷² The Panel acknowledges that there may be others involved, but the evidence necessary to prove that involvement is not before this court.

738. Findings of the Panel relative to this determination are:

- a. Beara's involvement is noted above at paragraphs:
 - i. 414, 415 (meeting 12 July 1995), 419 (site selection), 423, 424, 425 & 426 (detainees arrival in Zvornik) (section VIII. A. Selected and Located school buildings);
 - ii. 432, 433, 484 (section VIII. B. Grbavci School, Orahovac);
 - iii. 503, 527, 540, 541 (meeting 15 July 1995 about continuing executions) (section VIII. C. Petkovci School and Dam);
 - iv. 567, 577, 578, 582 (meeting 15 July 1995 about continuing executions) (section VIII. D. Ročevići School and Kozluk);
 - v. 623 (Kula School), 666, 668 (communication), 670 (communication) (section VIII. F. Duty Officer); and
 - vi. 720 (section VIII. H. Reburial).
- b. Popović's involvement is noted above at paragraphs:
 - i. 415 (meeting 12 July 1995) (section VIII. A. Selected and Located school buildings);
 - ii. 432, 433, 445 (section VIII. B. Grbavci School, Orahovac);
 - iii. 527, 528, 540, 541 (meeting 15 July 1995 about continuing executions) (section VIII. C. Petkovci School and Dam);
 - iv. 545, 547, 549, 550, 565, 567, 569, 571, 578, 582 (section VIII. D. Ročevići School and Kozluk);
 - v. 623 (Kula School), 666, 668, 671, 672, 674 (16 and 17 July communications), 681 and 682 (fuel) (section VIII. F. Duty Officer); and
 - vi. 720, 721, 722, 724, 725 (section VIII. H. Reburial).
- c. Drago Nikolić's involvement is noted above at paragraphs:
 - i. 419, 420 and 421 (site selection), 423 (section VIII. A. Selected and Located school buildings);

¹²⁷² *Krajišnik* Appeal Judgment, para. 156.

- ii. 430, 432, 433, 443, 474, 475, 484, 487, 489 (section VIII. B. Grbavci School, Orahovac);
- iii. 503, 527, 536, 540, 541 (meeting 15 July 1995 about continuing executions) (section VIII. C. Petkovci School and Dam);
- iv. 546, 547 (section VIII. D. Ročevići School and Kozluk);
- v. 617 (told Perić to go to Kula School), 670 (communication) (section VIII. F. Duty Officer); and
- vi. 719, 720, 721, 724 (section VIII. H. Reburial).

739. This list is not exhaustive.

740. Therefore, the Panel finds that the plurality of persons are Milorad Trbić, Colonel Ljubiša Beara, Lt. Colonel Vujadin Popović, Lt. Drago Nikolić and others.

(b) Common purpose

741. The Panel recalls that the basic form of JCE requires the existence of a common purpose, which amounts to or involves the commission of a crime provided for in the CC of BiH.¹²⁷³ There is no necessity for this plan, design or purpose to have been previously arranged or formulated. It may materialize extemporaneously and be inferred from the fact that a plurality of persons acts in unison to put into effect a joint criminal enterprise.¹²⁷⁴ In *Brđanin* the ICTY Appeals Chamber explained to establish this element the Trial Chamber must “specify the common criminal purpose in terms of both the criminal goal intended and its scope (for example, the temporal and geographic limits of this goal, and the general identities of the intended victims).”¹²⁷⁵ Additionally, the Trial Chamber must “make a finding that this criminal purpose is not merely the same, but also common to all of the persons acting together within a joint criminal enterprise.”¹²⁷⁶

742. The Prosecution has alleged from the outset a comprehensive enterprise which covered all crimes committed after the fall of Srebrenica. The Panel finds however that the entire breadth and scope of the crimes committed at Srebrenica is overbroad and impermissibly large for this Accused. The Panel viewed the overall plan, as presented by the Prosecution, to rid Eastern Bosnia of all Bosnian Muslims. In order to accomplish this plan there were at least two operations sharing some overlap between them. The first operation is described in Count 1 and focuses on the forcible

¹²⁷³ See paragraph 215.

¹²⁷⁴ See generally, *Krnjelac* Appeal Judgment, para. 31 and *Vasiljevic* Appeal Judgment, para. 100.

¹²⁷⁵ *Brđanin* Appeal Judgment, para. 430.

¹²⁷⁶ *Brđanin* Appeal Judgment, para. 430 citing *Stakić* Appeal Judgment, para. 69.

transfer of over 25,000 women, children and elderly from the Srebrenica enclave. Most of the remaining counts in the Amended Indictment focus on the core plan to capture, detain and execute and bury the men from the Srebrenica enclave.

743. The Panel acknowledges the possibility and likelihood of a wider criminal enterprise. It is impossible to look at what happen at Srebrenica and not see that in order for over 25,000 women and children to be forcibly transferred and for over 7,000 men and boys to be destroyed it would need planning and organization. There was a comprehensive plan. In this regard, the Court was mindful of the testimony of the UN monitor Joseph Kingori who watched the beginning of these events on 11 and 12 July 1995 in Potočari. He simply stated “[i]t could not have happened without prior planning and organization”.¹²⁷⁷ To understand this point further one only need to look at one small aspect of the overall operation: the procurement of fuel. Fuel was needed for the buses, transport, troop assignments and excavating equipment. During the war and especially at the end this was a precious and rare commodity. Things didn’t just happen. Buses simply didn’t just appear. Fuel was not readily found. These events were not sudden or random.

744. In *Brđanin* the ICTY Appeals Chambers emphasized the importance of ensuring that the “contours of the common criminal purpose have been properly defined”.¹²⁷⁸ For the contours the Panel found the evidence indicted there was a natural division within the Corps/Brigade structure.

745. ICTY prosecutions have recognized a series of smaller joint criminal enterprises to express the scope of the crimes such as in the indictment which charged the Accused along with others in *Popović et al.*¹²⁷⁹ The Prosecutor of BiH in this case alleged a broad JCE which incorporated two distinct activities and two different brigades with different zones of responsibility within the same Corps command. There was some overlap between the actions of the two brigades and their area of responsibility. For instance one of the Zvornik Brigade’s battalion was subordinated to the Bratunac Brigade in December of 1994. There was also overlap between the actions of the Security Organ of the VRS and the regular military chain of command both in the Drina Corps and in the brigades. A comprehensive examination of the massive evidence available to both the ICTY and the Court of BiH yields a complicated web of relationships and assignment of tasks for the totality of crimes occurring at Srebrenica.

746. Other cases have found for Srebrenica there is either one broad enterprise or there are essentially two major but smaller criminal enterprises encompassing the criminal acts in the days

¹²⁷⁷ Witness Joseph Kingori (8 September 2008).

¹²⁷⁸ *Brđanin* Appeal Judgment, para. 424.

following the fall of Srebrenica, both of them planned. First, the forcible transfer of over 25,000 women and children from Potočari out of the area and territory held by the VRS. The second enterprise is the killing operation of the men and boys from this same area which was completed in the week after the forcible transfer. The division of these two enterprises is task oriented. What became clear to the Panel however was that the lynchpins for the operations between the Main Staff of the VRS and the regular soldiers were the roles played by the Assistant Commanders of Security for the individual brigades, Momir Nikolić and Drago Nikolić. Each of them served to distribute tasks, orders, assignments as needed to the members of their own brigades. For the Panel this military and thus geographic division is a logical dividing point.

747. In the context of this particular Accused, he has no counterpart. The position held by Milorad Trbić in the Zvornik Brigade does not exist in the Bratunac Brigade. The Zvornik Brigade is considerably larger and as such Drago Nikolić needed to have an assistant, Milorad Trbić, to help him complete his tasks. In the absence of Drago Nikolić, Trbić acted instead.¹²⁸⁰ Furthermore, it was clear that for the most part the members of the larger JCE used the existing chain of command and troops in their respective areas of responsibility to complete these tasks. This indicated to the Panel that within a larger JCE there was a separate plan for members of the Bratunac Brigade and for the members of the Zvornik Brigade and the Panel so finds.

748. The Panel concluded after reviewing all the evidence that there was little corroborative evidence to support Milorad Trbić's statements as to events he claimed participation in which took place within the Bratunac Brigade's area of responsibility. While he may have had involvement there is no evidence to independently support this or to conclude this beyond a reasonable doubt. Furthermore, it was clear that there was no evidence to support his involvement in either designing or conceiving the overall plan. Nevertheless, when given the opportunity to join into common plan within his own area of responsibility he did not hesitate.

749. This was a military operation and it was clear that the command structures were in place through out this entire period. The Zvornik Brigade area of responsibility is where the majority of the killing operation took place. The operation in the Zvornik Brigade area of responsibility had little in common with the operations of the Bratunac Brigade. Even the methods used for detention and killing are different in each respective area. While there was certainly some overlap and thus similarity in the guard function along the Bratunac-Konjević Polje road when it comes to the essential killing operations these are in fact executed differently. Compare for example the killings

¹²⁷⁹ *Prosecutor v. Popović et al*, IT-05-88, Second Consolidated Amended Indictment, 14 June 2006.

in the Kravica warehouse¹²⁸¹ with the detention and killings at Orahovac. Orahovac establishes a different pattern which is then followed at each site with the exception of Pilica Dom.¹²⁸²

750. Based on the evidence, the Panel defines the common purpose as a joint criminal enterprise to capture, detain, summarily execute and bury all able bodied Bosniak males from Srebrenica enclave, who were brought into the Zvornik Brigade zone of responsibility, which was the aim of a larger operation conceived by VRS Main Staff Officers including General Ratko Mladić and implemented and directed by senior VRS Security Officers including Colonel Ljubiša Beara, Lt. Col. Vujadin Popović, and Lieutenant Drago Nikolić.

751. The Panel finds that the objective of the common purpose and plan, was to capture, detain, summarily execute all able bodied Bosniak males from Srebrenica enclave, who were brought into the Zvornik Brigade zone of responsibility. This is the plan that Milorad Trbic joined in on.

752. It has been proven beyond reasonable doubt that between 12 July to 30 November 1995, able bodied Bosniak males from Srebrenica enclave who were brought into the Zvornik Brigade zone of responsibility were captured, detained, summarily executed and buried. The Panel recalls that killing and causing serious bodily or mental harm are the underlying acts for the charge of genocide.

753. As will be discussed in the following section concerning the underlying offense, these acts combined with specific intent, as to the Accused amount to the commission of genocide under Article 171 of the CC of BiH.

754. The Panel recalls it must also make a finding that this criminal purpose is not merely the same, but also common to all of the persons acting together within a joint criminal enterprise. The Appeals Chamber of the Special Court of Sierra Leone in *Sesay et al* listed factors derived from ICTY jurisprudence which are relevant to make this determination.¹²⁸³ These factors include, but are not limited to: the manner and degree of interaction, cooperation and communication (joint action) between those persons;¹²⁸⁴ the manner and degree of mutual reliance by those persons on each other's contributions to achieve criminal objectives that they could not have achieved alone;¹²⁸⁵

¹²⁸⁰ Expert witness Richard Butler (17 and 18 March 2008).

¹²⁸¹ *Miloš Stupar et al* First Instance Verdict affirmed in *Miloš Stupar et al* Second Instance Verdict.

¹²⁸² *See supra*, paras. 636 to 648.

¹²⁸³ *Sesay et al* SCSL Appeal Judgment, para. 1141.

¹²⁸⁴ *See Brđanin* Appeal Judgment, para. 410 (holding that whether a crime forms part of the common purpose may be inferred from the "fact that the accused or any other member of the JCE closely cooperated with the principle perpetrator in order to further common criminal purpose"); *Krajišnik* Trial Judgment, para. 884.

¹²⁸⁵ *Krajišnik* Trial Judgment, para. 1082.

the existence of a joint decision-making structure;¹²⁸⁶ the degree and character of dissension; and the scope of any joint action as compared to the scope of the alleged common criminal purpose.¹²⁸⁷ The Panel must find that persons alleged to constitute the plurality of persons joined together to achieve their common goal.¹²⁸⁸ The factors mentioned above will be used to establish that Trbić shared with Beara, Popović, Drago Nikolić and others a common criminal purpose.

755. As will be established below Beara, Popović, Drago Nikolić and Trbić interacted, cooperated and communicated (joint action) continuously with each other at meetings, in the car, on the phone and in person throughout the time frame of this enterprise. Trbić had conversations with each of them throughout this time frame about the actions needed to complete their tasks. The task being to capture, detain, summarily execute and bury all able bodied Bosniak males from Srebrenica enclave, who were brought into the Zvornik Brigade area of responsibility. The findings below show the manner and degree of interaction, the cooperation and communication (joint action) between them;¹²⁸⁹ and the manner and degree of mutual reliance on each other's contributions to achieve criminal objectives that they could not have achieved alone.

a. Selected and located school buildings for temporary detention facilities

- i. The earliest evidence of Trbić's involvement in the plan is on the morning of 12 July when Trbić receives a phone call from Colonel Beara, who was at the Bratunac Brigade Headquarters. During this phone conversation Beara gives him a set of tasks which set forth his involvement in the enterprise. Beara tells Trbić to send one part of the Military Police to the Konjević Polje to guard the road. Trbić claims this is the first time he is informed of the column of men escaping from Srebrenica. He goes to Bratunac to get further instructions from both Beara and Popović. He reports to them that he brought men to Konjević Polje as requested and that everyone else in Zvornik was in readiness. He states that the purpose of this trip is to learn about what his tasks are and the tasks for the security organ of the Zvornik Brigade.¹²⁹⁰ Later Colonel Beara calls Trbić again in the evening of 12 July. During this phone call Beara instructs him to look for larger spaces to secure accommodation.¹²⁹¹ Trbić then participates in the mission to identify temporary detention sites which could hold large number of detainees. This is supported as well by vehicle log books as set out in paragraph 422. This task continues throughout July 13 as well.

¹²⁸⁶ That the plurality of persons "need not be organized in a military, political or administrative structure" as a matter of law does not imply that the presence or absence of such a structure is not a relevant evidentiary consideration. *Vasiljević* Appeal Judgment, para. 100; *Tadić* Appeal Judgment, para. 227.

¹²⁸⁷ See *Brđanin* Appeal Judgment, para. 430 (the trier of fact must "specify the common criminal purpose in terms of both the criminal goal intended and its scope (for example, the temporal and geographic limits of this goal, and the general identities of the intended victims).")

¹²⁸⁸ *Martić* Appeal Judgment, para. 172; *Brđanin* Appeal Judgment, para. 431.

¹²⁸⁹ See *Brđanin* Appeal Judgment, para. 410 (holding that whether a crime forms part of the common purpose may be inferred from the "fact that the accused or any other member of the JCE closely cooperated with the principle perpetrator in order to further common criminal purpose"); *Krajišnik* Trial Judgment, para. 884.

¹²⁹⁰ T-17 (Trbić 29 October 2004 Interview), pgs. 18-19.

¹²⁹¹ See *supra*, para. 419.

- ii. The Panel found in paragraph 423 at around 20:30 hours on 13 July, Colonel Beara dispatched Momir Nikolić to warn Drago Nikolić of the detainees imminent arrival in the Zvornik Brigade area of responsibility. Momir Nikolić returns to Bratunac after this task. Drago Nikolić was then extraordinarily relieved of his duty as IKM Duty Officer sometime before 22:30 hours. It is time for him to begin the Zvornik operation.

756. The above exemplifies the manner and degree of interaction as well as the co-operation and communication between them on 12 July which was continued throughout the entire operation. In order to achieve their common goal they needed to rely on each other. The degree of mutual reliance is critical to the success of the operation. They relied on each other's contributions to achieve their common goal. The common goal was the capture, detaining, summary execution and burial of all able bodied Bosniak males from Srebrenica who were brought into the Zvornik Brigade zone of responsibility.

b. Grbavci School, Orahovac

- i. Following a meeting Drago Nikolić had with Lt. Colonel Popović and Colonel Beara, Drago's and Trbić's driver Milorad Birčaković drove Drago to Divič to meet a convoy of buses en route from Bratunac to Orahovac.¹²⁹² The Panel recalls in paragraph 433 witnesses who were Bratunac Brigade and Zvornik Brigade Military police, who confirmed their role in guarding the school in Orahovac on 14 July. The Panel heard from Bosniak detainees. They also testified that senior officers Drago Nikolić, Lt. Colonel Popović and Colonel Beara were present at Orahovac. The Panel found that Trbić was present at Orahovac in the late evening hours of 13 July and 14 July 1995.¹²⁹³
- ii. In the early morning hours of 14 July Trbić, Drago Nikolić, and Beara met. Trbić was informed as was Momir Jasikovac, Zvornik Brigade Military Police Commander, not to allow prisoners out, not give them any food and to allow no escape. In case of some rebellion, Drago and Beara give instructions to them to take out any prisoner causing problems and shoot them. Based on survivor testimony the Panel finds all of these directives were complied with.¹²⁹⁴ The prisoners began to ask for answers or a solution to their situation. In response, Trbić acted on this illegal directive with others and shot about 20 people in front of the gymnasium.¹²⁹⁵ Trbić stated "[i]t was done in order to prevent them to get out altogether,...and in order to keep them under control."¹²⁹⁶

757. Here is another example where Trbić, Drago and Beara are interacting, cooperating and communicating with each other to make sure that no Bosniak males detained at Grbavci School

¹²⁹² See *supra*, para. 432.

¹²⁹³ See *supra*, section VIII. B. 2.

¹²⁹⁴ See *supra*, para. 484.

¹²⁹⁵ During the August 2004 site visit Trbić claims a lower number (10 to 12) but still retells the same story. T-19 (ICTY OTP Information Report regarding August 2004 site visit) (Confidential), p. 3.

¹²⁹⁶ T-15 (Trbić 23 May 2004 Interview), p. 25; T-19 (ICTY OTP Information Report regarding August 2004 site visit) (Confidential), p. 3.

escape and if there is an attempt to execute immediately. These actors are acting in concert. Not everyone present at Orahovac wanted to be there. Indeed the Panel heard from others who went for coffee or went to a friend's home anything to remove themselves from the scene.¹²⁹⁷

- iii. The Panel found in paragraph 485 that Drago Nikolić, and other senior officers (Popović, and Beara), and Trbić were all present. Each of them were present at the school or took part in transporting the prisoners to the fields near the school, the execution and burial site for the Bosniak male detainees of Grbavci School. Trbić assisted in all activities, supervising and coordinating the activities of VRS soldiers in securing, escorting, loading and transporting the Bosniak men from Grbavci School to the two adjoining meadows at Lažete for execution.¹²⁹⁸ They relied on each other's contributions to accomplish this mass execution. They learned they could depend on the other and indeed Trbić became sought after because of his experience.¹²⁹⁹

c. Petkovci School and Petkovci Dam

- i. The Panel found that on 15 July 1995 Drago Nikolić and Beara present near Petkovci School.¹³⁰⁰ Marko Milošević, Deputy Commander of the 6th Battalion went down to the school late afternoon/early evening on 14 July and found Ljubiša Beara and Drago Nikolić,¹³⁰¹ together with four or five military police at the cross-roads beside the school.¹³⁰² Ostoja Stanišić confirmed in his testimony that Marko Milošević reported seeing Drago Nikolić and Beara.¹³⁰³
- ii. The Panel found that the Accused arrived in the early morning hours of 15 July 1995.¹³⁰⁴ Trbić stated consistently that he went to Petkovci School and saw the prisoners were being secured by VRS soldiers and were being taken out and put on small military trucks to be sent to the execution site at the Dam.¹³⁰⁵ Trbić stated he arrived at the school with Drago Nikolić who spent most of time at the Dam. He states that he met with Popović at the School.¹³⁰⁶ As mentioned above, others confirm the presence of Beara and the presence of Drago Nikolić at Petkovci.¹³⁰⁷

¹²⁹⁷ Witness Sreten Milošević (3 December 2007); Tanacko Tanić (11 December 2007).

¹²⁹⁸ See *supra*, paras. 485 and 486.

¹²⁹⁹ T-15 (Trbić 23 May 2004 Interview), p. 33.

¹³⁰⁰ See *supra*, para. 503.

¹³⁰¹ Marko Milošević testified that he knew Drago Nikolić from before because he worked previously as the Assistant Commander for Security with the 1st Battalion of Zvornik Brigade. T-967, Witness Marko Milošević *Popović* Testimony, pgs. 13299-13300.

¹³⁰² T-967, Witness Marko Milošević *Popović* Testimony, pgs. 13302-13304; T-970, Witness Ostoja Stanišić *Popović* Testimony, pgs. 11604, 11673. Marko Milošević estimated that the time was around 16:00 or 17:00 hours. Ostoja Stanišić who ordered Milošević to the school thought it was between 18:00 and 19:00 hours.

¹³⁰³ T-970, Witness Ostoja Stanišić *Popović* Testimony, p. 11604.

¹³⁰⁴ See *supra*, para. 527.

¹³⁰⁵ T-15 (Trbić 23 May 2004 Interview), pgs. 30-32; T-16 (Trbić 27 May 2004 Interview), pgs. 14 & 17; T-19 (ICTY OTP Information Report regarding August 2004 site visit) (Confidential), p. 3; T-17 (Trbić 29 October 2004 Interview), p. 60; T-18 (Trbić 8 November 2004 Interview), pgs. 3-5.

¹³⁰⁶ T-19 (ICTY OTP Information Report regarding August 2004 site visit) (Confidential), p. 4; T-17 (Trbić 29 October 2004 Interview), pgs. 60-61; T-18 (Trbić 8 November 2004 Interview), p. 3.

¹³⁰⁷ T-967, Witness Marko Milošević *Popović* Testimony, pgs. 13299-13300.

- iii. Trbić arrived after midnight at Petkovci School, and described that as he arrived prisoners were already being taken out of the school for transportation to the Dam.¹³⁰⁸ This timing is supported by the survivor witness accounts.¹³⁰⁹ Trbić stated “[i]n front of the school I immediately got involved into that activity, the same one I did in Orahovac, I was with Popović in that area. And I continue with the same job I did in Orahovac”.¹³¹⁰
 - iv. There is sufficient corroborating evidence that Zvornik Military Police were present at the detention site at Petkovci School.¹³¹¹ Trbić places them along with Drago Nikolić at the execution site.¹³¹² The Panel found that the killings at this detention and execution site confirm the presence of Beara, Popović, Drago Nikolić and Trbić.¹³¹³ It is clear reviewing the evidence as a whole that these men were together organizing and overseeing this detention and execution site.
 - v. The Panel found that in the early morning hours Trbić leaves with Drago Nikolić and they travel together along with their driver back to the Zvornik Brigade headquarters.¹³¹⁴ There a significant meeting takes place. Trbić, Nikolić, Beara and Popović meet and in Trbić’s own words “it was decided at the meeting that we had to continue killing”.¹³¹⁵
- d. Ročevići School and Kozluk
- i. Not everyone joined in. In fact this reluctance or avoidance on the part of others to join in may be the underlying cause for some of the disorganization or the need for last minute assignments. Both Drago Nikolić and Popović had to exert repeated pressure on Sreten Aćimović, commander of the 2nd Infantry Battalion of the Zvornik Brigade, to provide a platoon for the execution of prisoners detained in Ročević as found by the Panel in paragraphs 546 and 547. Sreten Aćimović refused this order from Drago Nikolić and Popović. The Panel also found that the prisoners were transported from Ročević to Kozluk for execution.¹³¹⁶ According to Sreten Aćimović, Lt. Colonel Popović called the Zvornik Brigade headquarters for trucks to be sent to the school in Ročević. Popović confirmed to Trbić that the prisoners were being taken away for execution.¹³¹⁷
 - ii. The Panel also found that Popović was present at the school in Ročević and that he coordinated the operation there.¹³¹⁸ Popović was seen at the

¹³⁰⁸ In the 23 May 2004 Interview (p. 30) and 27 May 2004 Interview Trbić (p. 14) stated he arrived at Petkovci School in the evening of 15 July. However, during the August 2004 site visit he explained to the ICTY OTP investigators that by visiting the sites it helped remind him of the chronology. T-19 (ICTY OTP Information Report regarding August 2004 site visit) (Confidential), p. 4. In subsequent interviews he stated he arrived around 01:00 hours.

¹³⁰⁹ Ostoja Stanišić heard burst of gunfire from the direction of the free territory (the Dam is in this direction) around 23:00 to 24:00 hours. T-970, Witness Ostoja Stanišić *Popovic* Testimony, pgs. 11608-11609.

¹³¹⁰ T-15 (Trbić 23 May 2004 Interview), p. 30.

¹³¹¹ *See supra*, para. 536.

¹³¹² T-17 (Trbić 29 October 2004 Interview), p. 63; T-18 (Trbić 8 November 2004 Interview), p. 6.

¹³¹³ *See supra*, para. 540.

¹³¹⁴ *See supra*, para. 541.

¹³¹⁵ T-18 (Trbić 8 November 2004 Interview), p. 9.

¹³¹⁶ *See supra*, para. 549.

¹³¹⁷ T-18 (Trbić 8 November 2004 Interview), p. 11.

¹³¹⁸ *See supra*, para. 567.

school both by the Accused and by Sreten Aćimović.¹³¹⁹ Also Popović secured Trbić's involvement in the guarding of the remaining prisoners at the school.¹³²⁰ Popović also asked Sreten Aćimović to send his soldiers for the execution of the prisoners and asked about localities where the prisoners could be executed.¹³²¹ According to the Accused, Beara was also present at the school.¹³²²

- iii. The Panel found that the Accused organized the cleaning up of the site.¹³²³ Additionally, the Panel found that the Accused personally returned one last time to Ročević to check on the cleaning up of the area in front of the school, upon the request of Lieutenant Colonel Popović.¹³²⁴
- iv. The Accused stated that he killed at least 5 prisoners at the school.¹³²⁵ He also stated other soldiers securing the school killed about 20 prisoners at the school, and that this was ordered by Popović.¹³²⁶ This statement is corroborated by the testimony of witness Sreten Aćimović, commander of the 2nd Infantry Battalion of the Zvornik Brigade. Aćimović confirmed that he saw the bodies of about 10 prisoners who had been killed in the area in front of the entrance of the school.¹³²⁷ Witness A-8, a member of the Military Police of the Zvornik Brigade, also saw bodies of people who had been killed in the school yard.¹³²⁸ Therefore, the Panel found that the Prosecutor established beyond reasonable doubt that the Accused killed at least (5) prisoners by automatic rifle at the school.¹³²⁹
- v. The Panel found in paragraph 578 that the Accused went to the execution site in Kozluk twice. The Accused went back to the execution site in

¹³¹⁹ The Accused stated both that Lieutenant Colonel Popović was already at the school when he arrived [T-18 (Trbić 8 November 2004 Interview), p. 10; T-19 (ICTY OTP Information Report regarding August 2004 site visit) (Confidential) p. 4.] and that Lieutenant Colonel Popović accompanied him to the school [T-15 (Trbić 23 May 2004 Interview), p. 43]. Since witness Sreten Aćimović saw Lieutenant Colonel Popović at the school in the morning on 15 July 1995 (Witness Sreten Aćimović, 3 December 2007) and that the Panel finds that Trbić arrived at the school between 13:00 and 14:00, the Panel concludes that Lieutenant Colonel Popović was already at the school when the Accused arrived.

¹³²⁰ T-18 (Trbić 8 November 2004 Interview), p. 11.

¹³²¹ Witness Sreten Aćimović (3 December 2007).

¹³²² T-15 (Trbić 23 May 2004 Interview), p. 44.

¹³²³ See *supra*, para. 569.

¹³²⁴ T-15 (Trbić 23 May 2004 Interview) p. 45; T-18 (Trbić 8 November 2004 Interview), pgs. 22-23; T-19 (ICTY OTP Information Report regarding August 2004 site visit) (Confidential) p. 9.

¹³²⁵ In the 23 May 2004 interview with the ICTY OTP, Trbić stated that he killed about 10 people [T-15 (Trbić 23 May 2004 Interview), p. 44]. According to the ICTY OTP Information Report, Trbić stated he participated in the execution of about 10 prisoners at the Ročević school, but did not specify the exact location of the execution [T-19 (ICTY OTP Information Report regarding August 2004 site visit) (Confidential) pgs. 8-9]. Sreten Aćimović testified he saw at least 10 bodies in front of the outdoor toilet. In the 8 November 2004 interview (p. 12) with the ICTY OTP, Trbić stated that he killed maybe 5 or 6 people. Based on this contradictory evidence, the Panel finds that the Accused killed at least 5 prisoners. Also, the Panel finds that the Accused killed these men either the first time or the second time he went to the school (in the 8 November 2004 interview, he stated that he did not kill any prisoners the second time [T-18 (Trbić 8 November 2004 Interview), p. 16]). The Accused also stated that he did not see anyone being executed at the school [T-19 (ICTY OTP Information Report regarding August 2004 site visit) (Confidential) p. 4]. The Panel discounts this statement of the Accused; this is an example of Trbić's ongoing efforts to deceive and confuse the investigators.

¹³²⁶ T-18 (Trbić 8 November 2004 Interview), p. 11. In the 23 May 2004 interview, Trbić stated that "others" were also involved in killings at the school [T-15 (Trbić 23 May 2004 Interview) p. 44].

¹³²⁷ Witness Sreten Aćimović (3 December 2007). Mitar Lazarević confirmed that this is what Sreten Aćimović reported to him (T-966, Witness Mitar Lazarević *Popović* Testimony, p. 13390).

¹³²⁸ Witness A-8 (10 December 2007).

¹³²⁹ See *supra*, para. 571.

Kozluk¹³³⁰ with the driver Milorad Birčaković¹³³¹ as requested by Popović¹³³² to see what the situation was there so he could have information for Beara and Popović about the execution of the task.¹³³³ The Panel found that this is consistent with the previous request by Popović to examine and clean up the site in Ročević and report back to the other members of the joint criminal enterprise.¹³³⁴

- vi. The Accused stated that he informed Popović about the transportation to Kozluk and the execution he took part in once he returned to Ročević the second time.¹³³⁵ According to the Accused, Beara was also at the Kozluk execution site.¹³³⁶
- e. Kula Grad
 - i. The Panel found in paragraph 587 the pattern of killing Bosniak men that was set up on 13 July 1995 continued at Kula Grad.
 - ii. The Panel recalls Trbić states that he received instructions from Beara that were passed through Major Golić directly to him. Trbić is told to take the men, interrogate them and execute them. Trbić indicates he and Captain First Class Duško Vukotić interrogate Rešid with another man from that group and then they take them to Kula Grad. Defense Witness Vinko Pandurević corroborates that Vukotić is at Kula Grad on 15 July, 1995.¹³³⁷
 - iii. The Panel also recalls that being present at the execution scene, Trbić's role would be to coordinate and supervise the other soldiers.¹³³⁸ This is consistent with his role so far in the executions. It is consistent as well with his legitimate role as assistant to the Assistant Commander for Security under the principles of command and control over security bodies. It is precisely his role to coordinate and supervise soldiers as needed. Therefore, the Panel found that the Prosecution proved beyond a reasonable doubt that the Accused coordinated and supervised the summary execution by VRS soldiers of a group of detained Bosniak men from Srebrenica enclave including Rešid Sinanović, son of Rahman, born on 15 October 1949.
- f. Duty operations officer, Kula School, Branjevo Military Farm and Pilica Dom
 - i. The Panel recalls from paragraph 617 that witness Slavko Perić, Assistant Commander for Security at the 1st Battalion of Zvornik Brigade, testified that the Assistant Commander of the 1st Battalion, Momir Pelemiš, was informed by the Brigade that a group of around 200 Muslim prisoners would be arriving and they would be detained at Kula School.¹³³⁹ He spoke to Drago Nikolić over the phone and Nikolić told him regardless of who was appointed by Pelemiš to go to the school, that it would be a good

¹³³⁰ T-19 (ICTY OTP Information Report regarding August 2004 site visit) (Confidential) p. 9.

¹³³¹ T-18 (Trbić 8 November 2004 Interview), p. 17.

¹³³² T-18 (Trbić 8 November 2004 Interview), p. 17.

¹³³³ T-15 (Trbić 23 May 2004 Interview), pgs. 44-45.

¹³³⁴ See *supra*, para. 578.

¹³³⁵ T-18 (Trbić 8 November 2004 Interview), p. 15.

¹³³⁶ T-15 (Trbić 23 May 2004 Interview), p. 44.

¹³³⁷ O-5, Pandurević *Popović* Testimony on 20 February 2009, pgs. 31893-31894.

¹³³⁸ See *supra*, para. 610.

¹³³⁹ T-883, Witness Slavko Perić *Popović* Testimony, p. 11376.

idea for Perić to be there to protect the local population.¹³⁴⁰ The Panel found this explanation similar to the explanation given in Orahovac. The soldiers were there to prevent the chaos of the locals coming into contact with the detainees.¹³⁴¹ The same pattern is repeated. At the school he saw a convoy of 10 vehicles, mostly buses and maybe one or two trucks.¹³⁴²

- ii. The Panel recalls on 16 July Slavko Perić saw the loading of detainees and taking them away from the school.¹³⁴³ He also identified Beara and Popović as being present at this time.¹³⁴⁴ As the second or third bus departed he heard shots from a location not very far from the school.¹³⁴⁵ According to him, the transportation of the detainees lasted about two hours.¹³⁴⁶
- iii. The Panel found in paragraph 666 that Milorad Trbić coordinated and transmitted oral and written directions and reports between participating units and supervising officers. Throughout 16 and 17 July, Trbić had conversed with, relayed messages between and assisted key members implementing the summary execution operation, including Colonel Beara, Lt. Colonel Popović, and General Ratko Mladić.
- iv. For example, the Panel recalls at 08:55 hours on 16 July, Trbić was contacted by Major Golić, an Intelligence Officer at Drina Corps, who asked Trbić to ensure a message from Mladić is relayed to Lt. Col. Popović.¹³⁴⁷ “He knows what he is supposed to do according to agreed procedure”.¹³⁴⁸ Trbić noted he conveyed the message to Popović at 9:10 hours. Trbić states the “agreed procedure” related to the murder operation.¹³⁴⁹ Soon after, the Trbić also takes a message for Colonel Beara to call Main Staff on the telephone extension for the Main Staff (Panorama) Operations Section-155.¹³⁵⁰
- v. The Panel also recalls that the Zvornik Brigade Duty Officer’s Log Book contains an entry made by Trbić, “Message from Zlatar (Drina Corps) that Lieutenant Colonel Popović must go to Vinko Pandurević in the field at 1640 hours. Message through the 1st pb (1st Battalion) that Popović must report to the duty officer so he can be sent on a task by Zlatar”.¹³⁵¹ This supports Trbić statement that Popović was up in Pilica overseeing the executions in that area, which is within the Zvornik Brigade 1st Battalion area of responsibility.¹³⁵² There is also an intercept at 16:43 hours which

¹³⁴⁰ T-883, Witness Slavko Perić *Popović* Testimony, pgs. 11378, 11383-11384.

¹³⁴¹ T-883, Witness Slavko Perić *Popović* Testimony, p. 11385.

¹³⁴² T-883, Witness Slavko Perić *Popović* Testimony, pgs. 11381-11382.

¹³⁴³ *See supra*, para. 623.

¹³⁴⁴ T-883, Witness Slavko Perić *Popović* Testimony, pgs. 11411-11415; T-968, Witness P-6 *Blagojević* Testimony, p. 1194: Witness P-6 testified to seeing officers who observed them while being loaded on the buses and “smile to themselves.”

¹³⁴⁵ T-883, Witness Slavko Perić *Popović* Testimony, p. 11416.

¹³⁴⁶ T-883, Witness Slavko Perić *Popović* Testimony, p. 11416.

¹³⁴⁷ *See supra*, para. 60.

¹³⁴⁸ T-20 (Zvornik Brigade Duty Officer’s Logbook), ERN 0293 5763; T-12 (ICTY OTP Information Report 23 January 2004), p. 2; T-16 (Trbić 27 May 2004 Interview), p. 3 confirming with Alistair Graham that document ending in 763 is his handwriting; *See also* T-982, Witness A-50 Testimony (Confidential), p. 6641.

¹³⁴⁹ T-12 (ICTY OTP Information Report 23 January 2004), p. 2.

¹³⁵⁰ T-20 (Zvornik Brigade Duty Officer’s Logbook), ERN 0293 5763; Expert Witness Richard Butler (18 March 2008); T-12 (ICTY OTP Information Report 23 January 2004), p. 2.

¹³⁵¹ T-20 (Zvornik Brigade Duty Officer’s Logbook), ERN 0293 5767.

¹³⁵² T-3 (Trbić 19 August 2002 US Deposition), pgs. 55-57; T-18 (Trbić 8 November 2004 Interview), p. 24.

supports this. Trbić asked if “my Popović” is there, and requests that either Popović or Drago Nikolić must go to Pandurević in the field.¹³⁵³ There is another intercept on 16 July 1995 at 21:16 where Popović stated that he had just been up there with the Boss and asked whether his interim combat report was received. He was referring to Pandurević. Pandurević during his testimony at the ICTY conceded the intercept was referring to him, but denied he met with Popović that afternoon.¹³⁵⁴

vi. Additionally, the Panel found when Popović requested fuel to go to Pilica on 16 July during the time of executions there, Trbić overcame obstacles in order to ensure fuel was issued from the Zvornik Brigade stocks.¹³⁵⁵ There was no indication of resistance among the members when one would be tasked to do something.

g. On or about 19 July 1995

i. The Panel recalls it found that the event occurred as charged: VRS and/or MUP forces, having captured in the Zvornik Brigade zone of responsibility 4 (four) Bosniak men who had survived the Branjevo Military Farm executions, handed them over to Zvornik Brigade Military Police and security personnel who interrogated them and detained them for a few days, and then summarily executed them, wherein the executed men were later identified.¹³⁵⁶

ii. The Panel also recalls that Trbić confirms the four survivors were not soldiers. Trbić states that the Muslim men were murdered the same day that Drago issued the order.¹³⁵⁷ From his first interview in August 2002, Trbić shows he has specific and detailed information about these men. Trbić states in his first deposition taken in the United States that Drago Nikolić told Commander Jasikovac of the Zvornik Brigade Military Police to take the four men kill them and then bury them.

iii. Finally, in his last statement on 8 November 2004 he admits he was present at the killings. He denies actual participation, but he admits to being present and he provides information as to their burial site.¹³⁵⁸ The Panel finds that his role as deputy to Drago Nikolić and his presence at the scene of execution indicates he had a significant role in their execution.

On 20 July 1995

i. The Panel found in paragraph 713 that the killings took place within the context of the other tasks of the Zvornik Brigade. What is significant here is that this pattern does not differ from the story of the capture and execution of other prisoners who are taken to Standard during the same

¹³⁵³ O-5, Pandurević *Popović* Testimony of 27 February 2009, p. 32243. 16:43 intercept was not included in T-53 (Intercept Binder). However, this intercept was read into evidence during Pandurević’s testimony and was subject to cross-examination.

¹³⁵⁴ O-5, Pandurević *Popović* Testimony of 27 February 2009, pgs. 32242-32244. In Prosecution’s Closing Brief 21:16 on 16 July 1995 intercept is indicated in the T-53 (Intercept Binder) but was not included in this exhibit. This intercept was read into evidence in during Pandurević’s testimony and was subject to cross-examination.

¹³⁵⁵ *See supra*, paras. 681 and 682.

¹³⁵⁶ *See supra*, para. 9.

¹³⁵⁷ T-3 (Trbić 19 August 2002 US Deposition), p. 63.

¹³⁵⁸ T-18 (Trbić 8 November 2004 Interview), p. 46; T-19 (ICTY Information Report regarding August 2004 site visit) (Confidential), p. 7.

period of time and executed by the Accused. Essentially this is what happens to Rešid Sinanović. This sub count is included not because there is specific evidence involving Trbić, but because the crime here is part of the smaller joint criminal enterprise involving the Zvornik Brigade. The events are confirmed by more than one witness, follow the same common plan and share common participants. The panel finds that this event can be imputed to both Popović and Drago Nikolić.

- ii. The Panel recalls that based on its findings it found that the event occurred as charged: that on or about 13 or 14 July 1995, 19 (nineteen) wounded Bosniak men from Srebrenica enclave surrendered or were captured and were admitted to the Milići Hospital and treated; The Panel further finds that on about 14 July 1995, 11 (eleven) of these wounded Bosniak men were transferred from the Milići Hospital to the Zvornik Hospital on orders from the VRS Main Staff; a few days later those Bosniak men were transferred from the Zvornik Hospital to the infirmary of the Zvornik Brigade; and on or shortly after 20 July 1995, 10 (ten) of those Bosniak men were removed from the Zvornik Brigade Headquarters infirmary and summarily executed by the VRS; the victims are identified above.¹³⁵⁹

h. Reburials

- i. The Panel recalls that the Accused, through his active involvement in the reburial operation, continued his participation in a joint criminal enterprise with the common purpose and plan to capture, detain, summarily execute and bury all able bodied Bosniak males from Srebrenica enclave, who were brought into the Zvornik Brigade zone of responsibility. The burials were initially accomplished in July 1995. The burials were simply an attempt to dispose of the evidence and to conceal the crime. What started in July 1995 was extended through the reburial operation which lasted until November 1995. The reburial operation of autumn 1995 was the continuation of the burial operation that started in July 1995. The original intent was to conceal and these acts were only the extension of the operation aimed at concealing the crime of genocide committed against the Bosniak males of the Srebrenica area in July 1995.¹³⁶⁰
- ii. The Panel found in paragraph 719 that between the burial operation of July 1995, in which the Accused did not have as active a part, and the reburial operation of September to November 1995, in which the Accused was actively involved, the Accused was responsible for visiting the four primary mass graves located within the Zvornik Brigade area of responsibility. He then had to report on the existence of visible traces of the executions and mass burials.¹³⁶¹ The Accused usually conducted these visits at the request of Drago Nikolić.¹³⁶² The Panel emphasizes that these site inspections reflect that the Accused was a trusted member of the joint criminal enterprise. Additionally, they show his extensive knowledge of the crimes in order to be able to conduct these inspections. Finally, after months to rethink his involvement this shows he still participated in and shared the same intent to continue with the concealment of this enterprise.

¹³⁵⁹ See *supra*, section VIII. G. On 20 July 1995.

¹³⁶⁰ See *supra*, para. 717.

¹³⁶¹ T-15 (Trbić 23 May 2004 Interview), p. 74.

¹³⁶² T-3 (Trbić 19 August 2002 US Deposition), pgs. 80 and 82.

- iii. The Panel found in paragraph 720 that the reburial operation took place between September and November 1995 and that it was ordered by the VRS Main Staff and directed by Colonel Beara and Lieutenant Colonel Popović.¹³⁶³ Dragan Obrenović stated that members of the Military Police of the Drina Corps and Military Police from the Zvornik Brigade, under the command of Drago Nikolić, secured the area and the traffic during the reburial operation.¹³⁶⁴ The Panel recalls the Accused stated that he was notified of the reburial operation first from Drago Nikolić¹³⁶⁵, then, a week later, from Popović, about two weeks before the operation started.¹³⁶⁶
- iv. In the Zvornik Brigade area of responsibility, the reburial operation started in late September or in October, and lasted for at least four nights.¹³⁶⁷ The entire operation might have lasted two weeks.¹³⁶⁸ The VRS Main Staff provided 5 tons of fuel for the reburial operation in the Zvornik Brigade area of responsibility and assigned the Accused, Milorad Trbić, to the task of maintaining the records of the fuel that was used.¹³⁶⁹ The Panel recalls that the Accused was in charge of monitoring the fuel necessary for the machines used during the reburial operation.¹³⁷⁰ The Panel further found that the Accused was in charge of reporting on the reburial operation to Popović.¹³⁷¹
- v. In support of the Panel's findings that there existed a joint criminal enterprise within the Zvornik Brigade area of responsibility whose members were part of the Security Organ of the Zvornik Brigade, the Panel emphasizes that no fuel from the Logistics Unit was used during the reburial operation.¹³⁷² The confidential order signed by General Mladić directed fuel to be delivered to the Standard Barracks in Zvornik and assigned the Accused the responsibility for the monitoring of the fuel. This clearly shows that the reburial operation deviated from the regular pattern of functioning of the VRS.¹³⁷³ Pandurević explained that he had never seen fuel being delivered through the Security lines, and that fuel would normally go through the Logistics Unit.¹³⁷⁴ Witness A-45 added that

¹³⁶³ T-983, Obrenović *Blagojević* Testimony of 2 October 2003, pgs. 2542 and 2544; T-813 (Butler Narrative Report), fn 631 (VRS Main Staff Order 03/4-2341). Lieutenant Colonel Popović also coordinated the operation in the Bratunac Brigade area of responsibility, putting Momir Nikolić in charge of reburying the bodies buried in Glogova.

¹³⁶⁴ T-983, Obrenović *Blagojević* Testimony of 2 October 2003, p. 2544.

¹³⁶⁵ T-3 (Trbić 19 August 2002 US Deposition), pgs. 69 and 70; T-5 (ICTY OTP Information Report 26 August 2002) (Confidential), p. 6. *See also* T-982, Witness A-50 (Confidential), pgs. 6653, 6654 and 6789.

¹³⁶⁶ T-3 (Trbić 19 August 2002 US Deposition), p. 70; T-5 (ICTY OTP Information Report 26 August 2002) (Confidential), p. 6. *See also* T-982, Witness A-50 (Confidential), pgs. 6654, 6658 and 6789.

¹³⁶⁷ Witness A-45 (15 January 2008). Aerial images indicate that the primary mass graves were disturbed and the secondary mass graves were created during that time period: T-830 (1st Manning Report), pgs. 27 to 51. *See also* Witness Slavko Bogičević (15 May 2008).

¹³⁶⁸ This is supported by T-982, Witness A-50 (Confidential), p. 6788.

¹³⁶⁹ T-813 (Butler Narrative Report), fn 631 (VRS Main Staff Order 03/4-2341): the document refers to Captain Milorad TRPIĆ. However, the Panel finds that no Captain Trpić was in the Zvornik Brigade at that time and that the document actually refers to Captain Milorad TRBIĆ, the Accused [see T-813 (Butler Narrative Report), para. 11.3; T-983, Obrenović *Blagojević* Testimony of 6 October 2003, pgs. 2623 and 2624]; T-813 (Butler Narrative Report), fn 632 (VRS Main Staff Order 10/34/2-3-701); T-3 (Trbić 19 August 2002 US Deposition), pgs. 70 and 72; T-5 (ICTY OTP Information Report 26 August 2002) (Confidential), p. 6; T-983, Obrenović *Blagojević* Testimony of 2 and 6 October 2003, pgs. 2544, 2623 and 2624. *See also* T-982, Witness A-50 (Confidential), p. 6654.

¹³⁷⁰ *See supra*, para. 722.

¹³⁷¹ This is supported by T-982, Witness A-50 (Confidential), p. 6799.

¹³⁷² *See supra*, para. 723.

¹³⁷³ T-813 (Butler Narrative Report), fn 631 (VRS Main Staff Order 03/4-2341).

¹³⁷⁴ O-5, Pandurević *Popović* Testimony on 19 February 2009, p. 31768.

the fuel would usually be issued by the Logistics Unit but that it was issued by the Engineering Unit during the reburial operation.¹³⁷⁵

- vi. The Panel found in paragraph 724 that the Accused was also responsible for coordinating the Engineering Unit of the Zvornik Brigade during the reburial operation.¹³⁷⁶ The division of tasks was again done between members of the Security Organ and coordinated by Popović and Drago Nikolić.^{1377; 1378} The Panel recalls that members of the joint criminal enterprise of which the Accused was a member were in charge of the secondary mass graves, and that the Accused had a clear knowledge of the overall reburial operation and of the existence of the secondary mass graves when he was coordinating the men who worked at the primary mass graves.

758. The other factors to show a common plan are the existence of a joint decision-making structure;¹³⁷⁹ the degree and character of dissension; and the scope of any joint action as compared to the scope of the alleged common criminal purpose. There is little evidence on how decisions are made other than by using the existing command structure. Trbić, as a lower ranking member in the Security Organ, did not attend high level meetings. However, while the operation itself was taking place it is clear from the factual findings he participated in the on going decision making necessary to ensure a successful operation including attending the significant meeting on the morning of 15 July. The evidence indicates there was no dissent or disagreement with each other during this operation. In this instance, the scope of their activities fit into the scope of the joint criminal enterprise. The contours are the same. Again as explained earlier some of the participants may be actors in other criminal enterprises, but that has not been found for this Accused.

759. Based on all factors above the Panel finds that this criminal purpose was not merely the same, but also common to and shared with Beara, Popović, Drago Nikolić, Trbić and others acting together within a joint criminal enterprise.

(c) Participation

760. The *actus reus* also requires participation of the accused in the common purpose involving the perpetration of one of the crimes provided for in the CC of BiH. This participation need not

¹³⁷⁵ Witness A-45 (15 January 2008). See also T-982, Witness A-50 (Confidential), p. 6799.

¹³⁷⁶ This is supported by T-982, Witness A-50 (Confidential), pgs. 6654 and 6800.

¹³⁷⁷ This is supported by T-982, Witness A-50 (Confidential), pgs. 6654 and 6800.

¹³⁷⁸ According to the Accused, Dragan Jokić also directed him during the reburial operation. However, The ICTY *Blagojević and Jokić* Trial Chamber (*Prosecutor v. Blagojević and Jokić*, IT-02-60-T) found that there was insufficient evidence to confirm Jokić's involvement in the reburial operation. Therefore, the Panel will not make findings as to the possible involvement of Dragan Jokić in the reburial operation.

involve commission of a specific crime under one of the provisions (murder, extermination, torture, rape, etc), but may take the form of assistance in, or contribution to, the execution of the common plan or purpose. The contribution need not be necessary or substantial, but should at least be a significant contribution to the crimes for which the accused is found responsible.¹³⁸⁰

761. The Panel recalls a person who participates in a joint criminal enterprise in any of the following ways may be found guilty for the crime committed, all other conditions being met:¹³⁸¹

- (i) by participating directly in the commission of the agreed crime itself (as a principal offender);
- (ii) by being present at the time when the crime is committed, and (with knowledge that the crime is to be or is being committed) by intentionally assisting or encouraging another participant in the joint criminal enterprise to commit that crime; or
- (iii) by acting in furtherance of a particular system in which the crime is committed by reason of the accused's position of authority or function, and with knowledge of the nature of that system and intent to further that system.

762. This list is not necessarily exhaustive. The ICTY Appeals Chamber in *Vasiljević* explained that it is generally sufficient for a participant in a joint criminal enterprise to perform acts that in some way are directed to the furtherance of the common design.¹³⁸² If the agreed crime is committed by one or another of the participants in the joint criminal enterprise, all of the participants in the enterprise are guilty of the crime regardless of the part played by each in its commission.¹³⁸³ However, all persons (principal perpetrators) who carry out the *actus reus* of the crimes do not have to be members of a joint criminal enterprise.¹³⁸⁴ At the same time, it is not necessary that the accused be present when the crime is committed in order to be guilty of the crime as a member of JCE.¹³⁸⁵

763. An accused or another member of a JCE may use the principal perpetrators to carry the *actus reus* of a crime.¹³⁸⁶ However, “an essential requirement in order to impute to any accused member of the JCE liability for a crime committed by another person is that the crime in question forms part of the common criminal purpose.”¹³⁸⁷ This maybe inferred, *inter alia*, from the fact that

¹³⁷⁹ That the plurality of persons “need not be organized in a military, political or administrative structure” as a matter of law does not imply that the presence or absence of such a structure is not a relevant evidentiary consideration. *Vasiljević* Appeal Judgment, para. 100; *Tadić* Appeal Judgment, para. 227.

¹³⁸⁰ *Brđanin* Appeal Judgment, para. 414; *Krajišnik*, Appeal Judgment, para. 215.

¹³⁸¹ *Krnojelac* Trial Judgment, para. 81.

¹³⁸² *Vasiljevic* Appeal Judgment, para. 102.

¹³⁸³ *Krnojelac* Trial Judgment, para. 82.

¹³⁸⁴ *Brđanin* Appeal Judgment, para. 414.

¹³⁸⁵ *Krnojelac* Appeal Judgment, para. 81.

¹³⁸⁶ *Martić* Appeal Judgment, para. 68 citing *Martić* Trial Judgment, para. 438.

¹³⁸⁷ *Martić* Appeal Judgment, para. 68 citing *Martić* Trial Judgment, para. 438; *Brđanin* Appeal Judgment, para. 418.

“the accused or any other member of the JCE closely cooperated with the principal perpetrator in order to further the common criminal purpose”.¹³⁸⁸

764. Joint criminal enterprise requires “participation by the accused, which may take the form of assistance in, or contribution to, the execution of the common purpose.”¹³⁸⁹ The following section focuses on the Accused’s direct perpetration, assistance in and contribution to the achievement of the common purpose.

765. Milorad Trbić is found to have participated in a joint criminal enterprise however not the one as described in the Amended Indictment. The Panel concludes that Prosecution was correct in assessing the nature of Trbić’s participation as one who is a member of a joint criminal enterprise. The evidence shows he is neither a principal planner nor a simple tool of the planners. His acts, which demonstrate how thoroughly he dedicated himself to its accomplishment, elevate his contribution because they serve to show Trbić’s intent is one of a joint actor. He is an implementer of the genocidal plan who is sufficiently aware of the overall plan as to be able to participate directly in all of the significant operations of the genocidal plan. He is present in multiple locations over the entire period in question, he troubleshoots problems, cleans up the site terrain, and assists in covering up the executions (not once but twice).

766. The Accused’s participatory acts included, either by his own hand or through supervision or coordination:

- a. Executions at:
 - i. the school in Orahovac and the execution site nearby (section VIII. B. Grbavci School, Orahovac);
 - ii. the Ročević School and the execution site at Kozluk (section VIII. D. Ročević School and Kozluk); and
 - iii. Kula Grad (section VIII. E. Kula Grad).

- b. Capture and/or interrogation before execution of:
 - i. Rešid Sinanović and others (section VIII. E. Kula Grad); and
 - ii. 4 Bosniak men who had survived the Branjevo Military Farm (section VIII. G. On or about 19 July 1995).

¹³⁸⁸ *Martić* Appeal Judgment, para. 68 citing *Martić* Trial Judgment, para. 438; *Brđanin* Appeal Judgment, para. 410.

¹³⁸⁹ *Brđanin* Appeal Judgment, para. 424.

- c. Securing, guarding, controlling, loading and transportation of Bosniaks at:
 - i. Orahovac (section VIII. B. Grbavci School, Orahovac);
 - ii. Petkovci (section VIII. C. Petkovci School and Petkovci Dam); and
 - iii. Ročević (section VIII. D. Ročević School and Kozluk).
- d. Facilitating and assisting through procuring and organizing logistics and resources and through coordination and communication:
 - i. The identification of temporary detention facilities in the Zvornik Brigade area of responsibility which would detain and secure Bosniak males before execution (section VIII. A. Selected and located school buildings for temporary detention facilities);
 - ii. The transportation and execution of Bosniaks held at Kula School and executed at Branjevo Military Farm (section VIII. F. Duty Operations Officer, Kula School, Branjevo Military Farm and Pilica Dom);
 - iii. The execution of Bosniaks at Pilica Dom and the clean-up operation afterwards (section VIII. F. Duty Operations Officer, Kula School, Branjevo Military Farm and Pilica Dom); and
 - iv. The removal of the mortal remains from primary mass graves and the concealment through reburial in unmarked secondary graves in remote areas (section VIII. H. Reburial).

767. There is only one act which does not have evidence to support a direct connection with the Accused and that is the execution of the prisoners from the Milići Hospital. The evidence indicates however this was committed under the direction of other members of the joint criminal enterprise, namely Popović and Drago Nikolić. They are each involved. Furthermore, the pattern of interrogation at the Standard Barracks and subsequent removal and killing is the same as two of the other incidents found to form part of the common criminal purpose.¹³⁹⁰ With these elements, the Accused is thus held to be responsible for this act which is found to be part of the joint criminal enterprise.

768. The Panel finds based upon the evidence that Trbić made a significant contribution to the achievement of the common purpose: to capture, detain, summarily execute and bury all able bodied Bosniak males from Srebrenica enclave, who were brought into the Zvornik Brigade zone of responsibility.

¹³⁹⁰ See *supra*, (section VIII. E.) and (section VIII. G.).

3. Mens Rea

769. The requisite *mens rea* for basic JCE is that the accused must both intend the commission of the crime (this being the shared intent on the part of all co-perpetrators)¹³⁹¹ and intend to participate in a common plan aimed at its commission.¹³⁹² If the common criminal purpose involves commission of a crime that requires specific intent, for example, persecution, then the participant must share that specific intent.¹³⁹³ However, shared intent, even specific intent, may be inferred.¹³⁹⁴

770. In relation to joint criminal enterprise shared intent, the ICTY has held, “knowledge combined with continuing participation can be conclusive as to a person’s intent”.¹³⁹⁵ As the intent for the JCE was genocide, reference is made in following section which addresses the Panel’s conclusion that the Accused possessed the *mens rea* necessary for genocide. The Panel will focus below as to the Accused’s intent to participate in the common plan aimed at its commission.

771. Trbić’s own statements reveal the extent of this knowledge on 12 and 13 July. In addition, during these days, Trbić also met with the other members of the JCE who were discussing the operation to kill all Bosniak males from the morning of 12 July.¹³⁹⁶ At the very least, Trbić knows for a fact that Bosniak males will be executed when Drago Nikolić told him that detainees were to be executed.¹³⁹⁷

772. The evidence indicating Trbić’s knowledge and state of mind, during these days is set out below in detail:

- a. On 12 July
 - i. In the morning of 12 July, Trbić receives a phone call at 08:30 hours from Col. Beara. Beara tells Trbić to meet him at the Bratunac and to send a unit of the Zvornik Brigade military police to Konjević Polje to guard the road.¹³⁹⁸ Trbić is informed of the column at this time. This is credible because at 08:00 hours the Commanders met and were informed about the

¹³⁹¹ *Vasiljevic* Appeal Judgment, paras. 97,101; *Krnjelac* Appeal Judgment, para. 31. (emphasis added)

¹³⁹² *Brđanin* Appeal Judgment, para. 356 citing *Kvočka et al.* Appeal Judgment, para. 82 (requiring “intent to effect the common purpose”).

¹³⁹³ *Kvočka* Trial Judgment, para. 288.

¹³⁹⁴ *Kvočka* Trial Judgment, para. 288.

¹³⁹⁵ *Krajišnik* Appeal Judgment, paras. 684, 697.

¹³⁹⁶ *See supra*, para. 419.

¹³⁹⁷ *See supra*, para. 484.

¹³⁹⁸ T-17 (Trbić 29 October 2004 Interview), pgs. 7-8, 11; *See also* T-813 (Butler Narrative Report), para. 6.20 and fn. 314 (I.Zpbr Regular Combat Report 06-215, 12 July 1995) “One Military Police detachment was sent to Konjević Polje, pursuant to your (Drina Corps) order;...”

column of men from Srebrenica.¹³⁹⁹ According to Momir Nikolić, he had already been told by Lt. Colonel Popović that all Bosniak men were to be killed.¹⁴⁰⁰

- ii. That evening Trbić received another phone call from Beara who instructs him to look for larger spaces¹⁴⁰¹ to secure accommodation for a large number of people from Srebrenica. Trbić acknowledged that he "...thought that they were going to be executed..." because "...why else they would keep them in these centers, why not send them immediately to their territory".¹⁴⁰² As mentioned above¹⁴⁰³, the Panel finds this statement to be disingenuous as from the earlier phone call from Beara Trbić already knew the fate of the Bosnian Muslim men.¹⁴⁰⁴ It does indicate that Trbić recognizes the absurdity of any pretext that the captured men were awaiting transfer to Tuzla. None of these actions make sense in that context. The only sensible conclusion is they will be executed.

b. On 13 July

- i. In his first statement with ICTY OTP, when asked what he thought was going to happen to the Muslim prisoners at Orahovac, he stated "I thought they were going to be executed". In his statement on 23 May 2004, Trbić explained that around midnight Drago Nikolić and Beara visited Orahovac and told him that "[i]n case of some rebellion, in case of some problems, take them out and shoot them".¹⁴⁰⁵

c. On 14 July

- i. The Panel recalls that during the day on 14 July Trbić participated in the transport of Bosniak men who were detained at Grbavci School to the adjoining meadows in Lažete as well as the execution of Bosniak men and taken to Lažete for summary execution.¹⁴⁰⁶ In his own words, "I worked on organization and preparation for the killing operation, organization of security until it starts, organization of loading and sending vehicles to the place of the operation, to the place of the killing operation".¹⁴⁰⁷ At Orahovac, when it looked like there may not be enough soldiers to complete the execution plan rather than accept the situation, he takes it upon himself to solve the problem so that everything would run smoothly.¹⁴⁰⁸ Contrast this to the actions of witness Sreten Acimović,

¹³⁹⁹ T-813 (Butler Narrative Report), para. 4.10; O-5 Pandurević *Popović* Testimony on 30 January 2009, pgs. 30897-30898.

¹⁴⁰⁰ T-868 (Momir Nikolić Sentencing Judgment and Agreed Facts), Annex A para. 4.

¹⁴⁰¹ This implies that Trbić was already tasked with finding space and must find larger spaces.

¹⁴⁰² T-17 (Trbić 29 October 2004 Interview), p. 36.

¹⁴⁰³ *See supra*, para. 419.

¹⁴⁰⁴ T-17 (Trbić 29 October 2004 Interview), pgs. 6-8, 11.

¹⁴⁰⁵ T-15 (Trbić 23 May 2004 Interview), p. 24.

¹⁴⁰⁶ *See supra*, section VIII. B.

¹⁴⁰⁷ T-13 (Trbić 21 January 2004 Interview), p. 7; *See also* T-982, Witness A-50 Testimony (Confidential), pgs. 6683-6684.

¹⁴⁰⁸ T-3 (Trbić 19 August 2002 US Deposition), pgs. 39-41; T-13 (Trbić 21 January 2004 Interview), pgs. 6-7; T-15 (Trbić 23 May 2004 Interview), p. 26. *See also* T-982, Witness A-50 Testimony (Confidential), pgs. 6608-12, 6704-05, and 6767.

Zoran Radosavljević or Tanacko Tanić, men who despite being under a direct order managed to avoid participation.¹⁴⁰⁹

- ii. While at Orahovac Drago tells him that the executions of prisoners at Petkovci School were to take place next.¹⁴¹⁰ Once the executions were complete at Orahovac, Trbić goes to Petkovci where prisoners were taken out of the school and put on trucks to the execution site at Petkovci Dam.¹⁴¹¹ As mentioned above, the Panel finds that the pattern established at Orahovac, the first of the killing sites in the Zvornik Brigade area of responsibility, is repeated and carried out in the other sites. Trbić stated “[i]n front of the school I immediately got involved into that activity, the same one I did in Orahovac, I was with Popović in that area. And I continue with the same job I did in Orahovac”.¹⁴¹²

d. By 15 July

- i. On the morning of 15 July, Trbić, Drago Nikolić, and Beara meet in the office of the Security Organ of the Zvornik Brigade after the executions at Petkovci. Trbić stated, “[w]e had a break, we had a coffee and had some refreshment”.¹⁴¹³ They had a meeting “[a]bout the continuation of the killing operation.”¹⁴¹⁴ “Popović insisted that considering I had experience from Orahovac and Petkovci, he wanted me to go to Ročević”.¹⁴¹⁵ The Panel recalls that Trbić was found to have killed at least 5 Bosniaks from Srebrenica enclave at Ročevići School. When asked about this by the ICTY prosecutor:

PM:Did Popović expect that or did you just do it?

MT: I just did it.

Indeed a plan conceived by others became his own plan as well.

- ii. As he did in Orahovac the day before, he visited the execution site at Kozluk twice and on one of those occasions participated in executions for 20 to 30 minutes.¹⁴¹⁶ Also he went to the execution site in Kozluk¹⁴¹⁷ with the driver Milorad Birčaković¹⁴¹⁸ as requested by Lieutenant Colonel Popović¹⁴¹⁹ to see what the situation was there so he could have

¹⁴⁰⁹ Witness Sreten Acimović (3 December 2007); Witness Tanacko Tanić (11 December 2007); Witness Zoran Radosavljević (5 February 2008).

¹⁴¹⁰ T-19 (ICTY OTP Information Report regarding August 2004 site visit) (Confidential), p. 3.

¹⁴¹¹ T-15 (Trbić 23 May Interview), pgs. 30-32; T-16 (Trbić 27 May 2004 Interview), pgs. 14 & 17.

¹⁴¹² T-15 (Trbić 23 May 2004 Interview), p. 30.

¹⁴¹³ T-18 (Trbić 8 November 2004 Interview), p. 8.

¹⁴¹⁴ T-18 (Trbić 8 November 2004 Interview), p. 9. Pandurević testified about an intercept on 15 July between General Zivanović and Colonel Ljubiša Beara indicating that Beara was in the Security office in the Zvornik Brigade on the morning 15 July 1995. O-5, Pandurević *Popović* Testimony of 26 February 2009, p. 32184.

¹⁴¹⁵ T-15 (Trbić 23 May 2004 Interview), p. 30. Trbić stated after this meeting about being Duty Officer. It was during the August 2004 site visit with ICTY OTP investigators that Trbić explained the change in his timings was due to his own recollection of the events and visiting the locations had also been very helpful. T-19 (ICTY OTP Information Report regarding August 2004 site visit) (Confidential), p. 3.

¹⁴¹⁶ T-18 (Trbić 8 November 2004 Interview), pgs. 12-14; T-19 (ICTY OTP Information Report regarding August 2004 site visit) (Confidential) pgs. 5 and 9: During the same interview, Trbić stated that he did not participate in the killings (p. 5) and that he did participate in the killings (p. 9). *See supra*, para. 41 (Ročevići section).

¹⁴¹⁷ T-19 (ICTY OTP Information Report regarding August 2004 site visit) (Confidential) p. 9.

¹⁴¹⁸ T-18 (Trbić 8 November 2004 Interview), p. 17.

¹⁴¹⁹ T-18 (Trbić 8 November 2004 Interview), p. 17.

information for both Beara and Popović about the execution of the task.¹⁴²⁰ The Panel recalls its finding that this is consistent with the previous request by Popović to examine and clean up the site in Ročević and report back to members of the joint criminal enterprise.¹⁴²¹

e. 16 July

- i. On the morning of 16 July, Trbić became the Zvornik Brigade Duty Officer. By this point in the operation, he stated "...I had experience in killing of prisoners"¹⁴²² and "I had already known what was going on".¹⁴²³
- ii. The Panel recalls as Duty Officer, Trbić coordinated and transmitted oral and written directions and reports between participating units and supervising officers.¹⁴²⁴ The intercepted conversations and his writing in the Duty Officer's log book also reveal the extent of his knowledge and involvement in the joint criminal enterprise. For example, he was aware Popović was in the Pilica area while executions were occurring at Kula School, Pilica Dom and Branjevo Farm, and arranged for the resupply of fuel and ammunition for the summary execution and burial of Bosniak males from Srebrenica.¹⁴²⁵

f. On July 19

- i. At the detention and execution of the four male survivors from the Branjevo Farm execution, Trbić was present. The execution was pursuant to an order by Drago Nikolić. Trbić denies any level of active participation other than one of observer. That is sufficient for the Panel to find that this execution was part of the shared plan.

h. Reburial operation

- i. In regards to the reburial operation, the Panel recalls the Accused stated that he was notified of the reburial operation first from Drago Nikolić¹⁴²⁶, then, a week later, from Lieutenant Colonel Popović, about two weeks before the operation started.¹⁴²⁷ The Panel finds that he participated in the operation with a clear and full knowledge of what the reburial operation consisted of.¹⁴²⁸
- ii. Additionally, the Panel recalls that the Accused played a central role in the reburial operation in the Zvornik Brigade area of responsibility, as he issued and monitored the fuel used for the machines throughout the operation and coordinated the men who disturbed the primary mass graves. He actively participated in the reburial operation, which the Panel finds is an act of ongoing concealment of the original crime. This is the

¹⁴²⁰ T-15 (Trbić 23 May 2004 Interview), pgs. 44-45.

¹⁴²¹ *See supra*, paras. 30 & 38.

¹⁴²² T-13 (Trbić 21 January 2004 Interview), p. 12.

¹⁴²³ T-13 (Trbić 21 January 2004 Interview), p. 15.

¹⁴²⁴ *See supra*, paras. 662 to 678.

¹⁴²⁵ *See supra*, paras. 679 to 689.

¹⁴²⁶ T-3 (Trbić 19 August 2002 US Deposition), pgs. 69 and 70; T-5 (ICTY OTP Information Report 26 August 2002) (Confidential), p. 6. *See also* T-982, Witness A-50 (Confidential), pgs. 6653, 6654 and 6789.

¹⁴²⁷ T-3 (Trbić 19 August 2002 US Deposition), p. 70; T-5 (ICTY OTP Information Report 26 August 2002) (Confidential), p. 6. *See also* T-982, Witness A-50 (Confidential), pgs. 6654, 6658 and 6789.

¹⁴²⁸ *See supra*, para. 7.

continuation of his role in the joint criminal enterprise with other members of the Security Organ of the Drina Corps and the Zvornik Brigade.

773. Given Trbić's knowledge of the common plan and purpose as demonstrated by his statements and his continued participation throughout the operation to capture, detain, summarily execute and bury all able bodied Bosniak males from Srebrenica enclave, who were brought into the Zvornik Brigade zone of responsibility, the Panel finds that Trbić intended to participate in a common plan aimed at its commission.

(a) Conclusion

774. The extent of his participation as well as the evidence as to his intent compels the Panel to find that the Accused was an actor who joins into the plan himself sharing the plan with the key players in the VRS Security Organ. He intends to participate in the common plan aimed at its commission, and continues to significantly contribute site after site. As will be discussed in the following section he also intends the commission of the crime. It is these factors that give rise to the finding of his participation in a joint criminal enterprise. Any other mode of liability would not cover the breadth of his actions. He is not as the findings above support a simple "tool" used by the planners and therefore not a member of the JCE. Nor was he simply "procured to commit the crimes" by the responsible hierarchy.¹⁴²⁹ His participation is significant and at times even crucial to the success of the overall plan.

¹⁴²⁹ *Krajišnik* Trial Judgment, para. 1082.

B. THE CRIME OF GENOCIDE

1. Actus Reus

775. As stated above, Article 171 of the CC of BiH defines the offense of genocide as:

Whoever, with an aim to destroy, in whole or in part, a national, ethnical, racial or religious group, orders perpetration or perpetrates any of the following acts:

- a) Killing members of the group;
- b) Causing serious bodily or mental harm to members of the group...

776. There is insufficient evidence to conclude guilt of the Accused in this trial for the other remaining acts enumerated in the statute:

- c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- d) Imposing measures intended to prevent births within the group;
- e) Forcibly transferring children of the group to another group...

777. The crime of genocide incorporates two distinct sets of elements, namely the *chapeau* elements which are the elements of the underlying acts and the genocidal *mens rea* or intent.¹⁴³⁰ For the above offense the Panel finds sufficient evidence for both the *actus reus* and the *mens rea*.

778. Pursuant to Article 171(a) of the CC of BiH, the *actus reus* of genocide includes “killing members of the group.” The Panel concludes that, at a minimum, “killing members of the group” includes acts of murder as otherwise defined in domestic law.¹⁴³¹ In particular, the Panel concludes that Article 171(a) prohibits “depriving another person of his life” as also prohibited as a crime against humanity and a war crime pursuant to Articles 172(1)(a), 174(a), and 175(a) of the CC of BiH. The Panel identifies the elements of the crime of murder as:

¹⁴³⁰ While the underlying acts specified in sub-paragraphs a) through e) can be characterized as the *actus reus* of genocide, it must be recognized that these underlying acts themselves have both *actus reus* and *mens rea* elements. Accordingly, it is preferable to conceptualize genocide as similar to crimes against humanity in requiring distinct inquiries into the *chapeau* or general elements and the underlying act. This serves to emphasize that the crime of genocide requires proof of two distinct *mens rea*, the *mens rea* of the underlying act and the genocidal *mens rea*.

¹⁴³¹ The Panel expresses no conclusions regarding whether the concept of “killing members of the group” in Article 171(a) is broader than murder.

- 1) the deprivation of life;
- 2) the direct intention to deprive of life, as the perpetrator was aware of his act and wanted the act to be perpetrated.¹⁴³²

779. The above factual findings detail the actual involvement of the Accused in the killings. The primary means of destruction utilized was killings either execution style or arbitrary and targeted individual killings. The Panel has heard from more than a sufficient number of witnesses, and reviewed more than sufficient documentary evidence to conclude that thousands of Muslim (Bosniak) men from Srebrenica were killed in the Zvornik Brigade area of responsibility. There were five major detention and execution sites. The killings in the Zvornik Brigade area of responsibility began on 13 July and ended on or about 20 July 1995.

780. The qualification “members of a group” does not imply *per se* that the number of victims must be large or significant. In theory, the killing of only one victim can still amount to an act constituting the *actus reus* of the crime of genocide.¹⁴³³ Finally, the qualification “members of the group” requires that the victims of the killings must be members in fact of the national, ethnical, racial, or religious group that the perpetrator sought to destroy in whole or in part.¹⁴³⁴ In this case the number of killings was in fact significant.

781. The identification of the Muslims (Bosniaks) from Srebrenica as a protected group for the purposes of applying the correct law in this case is a legal characterization. It is not necessary that the Accused understand or make proper legal characterizations. It is sufficient that he was aware of the facts upon which the characterization has been made, that is: that he knew that the victims held in the Zvornik Brigade area of responsibility were Muslims from Srebrenica and; that he knew that the men in the column were Muslims from Srebrenica; and that he knew that the victims brought into and held in the Zvornik Brigade area of responsibility were Muslims from Srebrenica.

782. The evidence is overwhelming that Trbić knew that the victims were Muslims from the Srebrenica safe area. In his statements he repeatedly asserts his knowledge that the prisoners held

¹⁴³² See also *Miloš Stupar et al* First Instance Verdict, p. 54; *Blagojević and Jokić* Trial Judgment, para. 642; *Krstić* Trial Judgment, para. 543.

¹⁴³³ In *Ndindabahizi*, the ICTR Trial Chamber found the killing of one person satisfied that *actus reus* of genocide. *Ndindabahizi* Trial Judgment, para. 471.

¹⁴³⁴ *Brđanin* Trial Judgment, para 688.

in the Zvornik Brigade area of responsibility were Bosniaks (Muslims) from the Srebrinica area.¹⁴³⁵ The Defense never challenged this characterization or presented any evidence to the contrary.

783. The Panel concludes that the Bosniak (Muslim) people were a protected group within the meaning of Article 171 of the CC of BiH. Objectively, the Panel notes that Muslims were recognized as a constitutive “nation” of the Socialist Republic of BiH in the 1974 Constitution of the SR BiH. In addition, in the recent history of BiH, the Constitution of Federation of BiH of 18 March 1994 recognized Bosniaks (Muslims) as a constituent nation in the Federation of BiH, which, with regard to this particular case, lived in the territory of Srebrenica until July 1995. Subjectively, the evidence is overwhelming that the Muslim people were identified and stigmatized as a distinct national group by members of other national groups who perpetrated crimes against the Muslim people. That the Muslim people were additionally stigmatized on religious grounds serves only to emphasize that they are a protected group.

784. The Panel further concludes that the Muslim population of Srebrenica constituted a “part” of the protected group of Muslim people within the meaning of Article 171 of the CC of BiH. As previously noted, the intent to destroy a group in part requires the targeting of an objectively “substantial” part of the relevant protected group. While the Muslim population of Srebrenica admittedly numbered only approximately 40,000 persons, the evidence establishes that this population was a particularly prominent and significant part of the group of Muslim people, particularly by July 1995. For both the Bosnian Serbs and the Muslim population, Srebrenica had immense strategic and symbolic value.

785. Strategically, the Muslim population of Srebrenica was an obstacle to the establishment of a contiguous, ethnically pure Bosnian Serb state with protected lines of communication and movement. Conversely, for the larger Muslim population, control of Srebrenica and the safety of the Muslim population there was absolutely imperative to prevent the political fragmentation of Bosnia and Herzegovina as a central state within its internationally recognized borders, which in turn was crucial for the protection of the Muslim population.

786. Therefore, the Panel concludes that the Bosniak (Muslim) population of Srebrenica was a “substantial” part of a protected group within the meaning of Article 171 of the CC of BiH.¹⁴³⁶ The Accused is charged with a series of actions including killings with the aim of destroying that group.

¹⁴³⁵ For example T-3 (Trbić 19 August 2002 US deposition) his first deposition p. 22: Question: “What nationality were these people?” Answer: “These people were Muslim.” See also T-13 (Trbić 21 January 2004 Interview), p. 3; T-15 (Trbić 23 May 2004 Interview), p. 21; T-17 (Trbić 29 October Interview), pgs. 35-36.

¹⁴³⁶ *Miloš Stupar et al* First Instance Verdict and affirmed on appeal *Miloš Stupar et al* Second Instance Verdict.

It is irrelevant if the killings are large mass executions or individual killings. It is irrelevant if these killings in actuality affect the long term survival of the group. It is the commission of the crime coupled with the specific intention to commit this crime which is the determinative factor. The Panel finds that the executed Bosniak prisoners of Srebrenica were a “substantial” part of a protected group within the meaning of Article 171 of the CC of BiH. The intent to destroy the Bosniak population of Srebrenica was accomplished primarily through killing as well as through bodily and mental harm. The law does not require that the genocidal plan which encompasses these actions succeed in its ultimate goal. More importantly, none of the classic genocides of the 20th century actually succeeded in destroying the targeted groups.

787. The second ground on which the *actus reus* of genocide can be determined is section b) of Article 171 of the CC of BiH “causing serious bodily or mental harm to members of the group”. This ground is also well documented in the above findings. In *Blagojević and Jokić* citing the *Krstić* judgment, the Trial Chamber found that the harm need not be permanent or irremediable, but “[i]t must be harm that results in a grave and long term disadvantage to a person’s ability to lead a normal and constructive life”.¹⁴³⁷ The evidence for this harm can simply be summed up by the survivor to the killings of Orahovac, Mevludin Orić, who testified that after all he experienced “[m]y life is lost”.¹⁴³⁸ It is clear that the survivors of the execution endured bodily harm as well as mental harm. The survivors’ stories exemplify the hours and days spent in fear, in abusive conditions and in the knowledge of what was coming. The testimony from the survivors of the reality of the executions and the escape from these execution sites are graphic. The Panel heard from the survivors about their pain and suffering, but also about the sufferings of the victims who did not die instantly. None of this evidence was challenged by the Defense. It is also the mental harm to the other class of survivors, the surviving relatives, which is equally egregious here. The killing of an entire part of the group rendered enormous psychological damage to the remaining survivors which threatens their continued survival as a community even today.¹⁴³⁹ One has only to realize that today the rate of return of Bosniaks to their former homes is minimal. The ethnic makeup of these communities is changed. Their former way of life has been destroyed, families have disintegrated and the land abandoned. Additionally, the mass graves which were designed to conceal the crime have to this day still succeeded in separating survivors from their loved ones. Today, despite the enormous breadth of investigations, grave sites are still being uncovered and

¹⁴³⁷ *Blagojević and Jokić* Trial Judgment, para. 645 citing *Krstić* Trial Judgment, para. 513.

¹⁴³⁸ Witness Mevludin Orić (29 January 2008).

¹⁴³⁹ Witness Tefika Ibrahimfendić (15 December 2008); Witness Munira Subašić (12 January 2009); Witness Saliha Đuderija (15 December 2008).

thousands of bodies have yet to be recovered. This conscious effort to conceal the crime is a continual and prolongs the mental harm caused by the intentional acts.

2. Mens Rea

788. The crime of genocide requires proof that the Accused intended to harm and kill the prisoners held in the Zvornik Brigade area of responsibility held between the 13 July until on or about 20 July 1995, and in addition, he possessed the specific genocidal intent to destroy a protected group in whole or in part by inflicting this harm and committing these killings. The Panel concludes that the Accused did in fact intend to both harm and kill these prisoners and additionally did in fact possess genocidal intent at the time he committed and assisted in those killings.

(a) Intent necessary for killing and for causing serious bodily or mental harm

789. The intent to kill the prisoners is obvious, and has no legal justification. As discussed in section VIII. the Panel finds without a doubt that the Accused was present during these killings and he made a significant contribution to the killings. The Panel further finds that his contribution was done with the intent that the prisoners be killed; that is, the Accused was aware of his act, knew that his actions would contribute significantly to the deprivation of life of the Bosniak prisoners, and he wanted the acts to be perpetrated. Furthermore, he knew the manner in which detentions and executions were conducted would cause serious mental and bodily harm.

790. The actions and methodical pattern of the executions unequivocally indicate the intent to kill all the prisoners. The pattern that was begun at Orahovac was similar at the other four execution sites. The essential characteristics are the same. The prisoners were unarmed. Their personal possessions had been removed from. There was no attempt at identification. With rare exceptions no one was even questioned. They were not taken to an exchange point.¹⁴⁴⁰ The Accused was armed with an automatic rifle as were others. His description of the killings at Orahovac is matched by testimony of other witnesses especially by one of the few surviving victim eyewitnesses, Melvudin Orić.¹⁴⁴¹ The number of prisoners was estimated to be between 750 to 1000.¹⁴⁴² The youngest being about 13.¹⁴⁴³ The prisoners were held in the gym of the local elementary school. The gym was a

¹⁴⁴⁰ T-3 (Trbić 19 August 2002 US Deposition), p. 34.

¹⁴⁴¹ Witness Mevludin Orić (29 January 2008).

¹⁴⁴² See *supra*, para. 437.

¹⁴⁴³ Witness Mevludin Orić (29 January 2008); Tanacko Tanić (11 December 2007). See Dean Manning (16 June 2008).

completely enclosed structure, except for high windows on the side, and the entrance heavily guarded. The gym was stifling from the July heat, the prisoners received only momentary relief when they were moved outside. There was no food and only limited water for a few. Outside the school building TAM trucks were waiting to load the men onto the back of the trucks, their hands were tied behind their back by twine and their eyes covered by strips of cloth.¹⁴⁴⁴ There they were brought to the nearby field and executed. The school site had already been pre-selected by the Accused and Drago Nikolić. The execution site was selected by Drago Nikolić.¹⁴⁴⁵ Soldiers securing the site were also selected by members of the security organ. The Accused's primary role was one of supervision. From his first statements in the U.S., Trbic indicated his role was one of supervision.¹⁴⁴⁶ This comports to his duties as Assistant to Drago Nikolić. In the absence of Drago Nikolić, he performed the duties of the Chief of Security.¹⁴⁴⁷ Finally, the Accused directly participated in the killings.¹⁴⁴⁸ There is no doubt here as to his intentions because he participated in these killings truckload after truckload until the early morning hours.

I took part in the execution and took turns when it comes to organization and preparing the vehicles for transport of people to the execution site, just as well as the execution site, site where the people were shot.¹⁴⁴⁹

While this suffices for intent as to the underlying offense of both killing and serious bodily or mental harm, the Panel also reaches the same conclusion as to the standard for genocidal intent as found below. Any doubt as to his intentions is clearly eliminated when one realizes he participated in the continuous nature of the act for hours and hours until all the prisoners were believed to be dead.

791. The Accused Milorad Trbić states his clear intent in participating in the killing at the other sites as well. There is sufficient evidence to corroborate his statements that he was at Orahovac, Ročevici School, Kozuk, Petkovci School, and Kula Grad.

(b) Intent necessary for genocide

792. The intent to destroy the Bosniak (Muslim) population of Srebrenica accordingly constitutes genocidal intent. As reasoned above and below, the Panel concludes that the Accused had the intent to cause bodily harm, mental harm and to kill, and additionally he possessed the specific intent to

¹⁴⁴⁴ Witness Mevludin Orić (29 January 2008); Witness Milorad Birčaković (12 December 2007).

¹⁴⁴⁵ T-17 (Trbić 29 October 2004 Interview), pgs. 26-27. See also T-982, Witness A-50 (Confidential), p. 6599.

¹⁴⁴⁶ T-3 (Trbić 19 August 2002 US Deposition), p. 35.

¹⁴⁴⁷ O-5, Pandurević *Popović* Testimony on 12 February 2009, p. 31356.

¹⁴⁴⁸ T-15 (Trbić 23 May 2004 Interview), pgs. 25-26.

destroy a substantial part of this protected group. This is the key element. If the evidence shows that the perpetrator does not personally aim at the destruction of the group, he may be criminally responsible for genocide, but as an aider and abettor and not a principle perpetrator. For most of the perpetrators responsible for the crimes in Srebrenica the characterization of aider and abettor will most likely apply. But to find that the Accused was an aider and abettor in this case simply ignores the facts. One would have to ignore the evidence as to the role that Milorad Trbić played and the manner in which he conducted himself. The Panel understands the corroborative evidence is circumstantial. The Panel further understands that the Accused used his own statements to obscure the truth, cause confusion, protect other perpetrators, and also gain some advantage with the investigators at the ICTY. But after a careful review of the evidence, the Panel concluded that there was no basis for reasonable doubt as to the scope of his intent.

793. The Defense argues that none of the events of Srebrenica can be tied to his client. The Defense engaged little in cross examination, never called witnesses for cross-examination despite being reminded of this rights and he allowed substantial amounts of evidence to come into the record unchallenged. Counsel claimed that his client's statements could no longer be relied upon without offering specific proof as to why not. Although counsel for the Accused did not dispute that the events of Srebrenica themselves constituted genocide, the Accused did not join in this. The Accused initially agreed with this assessment, but then retracted it at the next hearing saying he had no knowledge of what constitutes the legal crime of genocide. Presumably his argument is: if I did not have knowledge of the legal qualifications of genocide it follows that I could not have harbored the intent to commit genocide. However, it is never necessary that an accused have the ability to define the legal qualifications of his crime, only that he have notice that his actions and intentions are criminal. It is for the Panel to determine the crime then committed. An accused person need not be able to recite the legal definition of genocidal intent, as long as they possessed the intent to which the definition refers. The necessary intention is the aim to destroy a protected group in whole or part, and it is not necessary that those who form that intention specifically know that the legal term for this is "genocidal intent".

794. While the Panel lists specific criteria to assist in the analysis of the Accused's intent it also gave thought to the inherent difficulty in assessing this special intent. The problem with the issue of special intent is the notion that this standard assumes a standard of proof that is significantly above the ordinary. This after all is the crime among crimes.¹⁴⁵⁰ Despite the magnitude of the crime, it is

¹⁴⁴⁹ T-15 (Trbić 23 May 2004 Interview), p. 26.

¹⁴⁵⁰ *Prosecutor v. Kambanda*, ICTR-97-23-S, Judgment and Sentence, 4 September 1998, ("*Kambanda* Judgment and Sentence") para. 16. See also Schabas, *Genocide in International Law*, p. 9.

committed by ordinary men. Ordinary men are capable of committing the most extraordinary evil given the right set of circumstances. It is the product of unexamined and unchecked hatred.

795. Motive is not relevant in proving the crime of genocide, however, in an ordinary crime such as murder one often looks to motive to understand the crime itself. For a premeditated murder to be understood most of the world accepts the common motivations of greed, jealousy and hatred. These commonplace motivations are simple. For example, greed is the desire to own something in its entirety and hatred is the denial of someone's right to exist. We seem to be able to accept these motivations for one death and agree that an ordinary person who allows hatred to control one's actions is capable of committing murder. It seems difficult, however, to accept the fact that an ordinary man, consumed perhaps with greed for territory, having hatred for a people who would deny him that, desensitized to death after months or years at war, convinced of the right of his position would then set out to methodically eliminate a group for once and for all with no more remorse than the inconvenience of getting caught. And then once having been caught would set out to deceive and confuse his captors, gain what he can from the situation and never take any action to ease the suffering of surviving victims and their family members post conflict. Under the right circumstances you can have the perfect storm with a plurality of persons of various degrees of culpability committing a crime described repeatedly as genocide. For many of us this means facing the uncomfortable truth that ordinary people are capable of committing genocide.

796. What after all does it take? Perhaps unlike murder it takes a more complete indifference to a portion of humanity. The perpetrator must have the ability to forget that a specific portion of the population, of one's larger community, is human. It takes a consuming indifference to the fate of a member of this group. The very notion of indifference here goes beyond hate. Hate implies a relationship, something many in this particular conflict had with neighbors, colleagues, in-laws and schoolmates. But these relationships were also destroyed by the dehumanization that some, not all, embraced. While many resisted what they knew to be false, many did not and fell victim themselves to this propaganda. But once a person loses his humanity to indifference, genocide becomes the means to the end.

797. The Panel viewed the general context of the time and understood as the world must understand now how personal this war was. The target of this war was the civilian population and the war destroyed the fabric of the society that many believed in. The unthinkable became the reality. A review of the Panel's findings above show that Trbić knew what the genocidal plan was at least as to the Zvornik Brigade area of responsibility, he understood what was needed from him and he participated fully in his capacity as Administrator (Deputy) to the Assistant Commander of

Security for the Zvornik Brigade.

798. Nothing about the actions of the Accused can be viewed as legitimate. Under the law at the time members of the VRS were entitled to believe orders that were issued were made in good faith and if appropriate were permissible. Certain orders were considered illegal at face value. The mass execution of prisoners of war is at “face value illegal”.¹⁴⁵¹

799. Many excuses were raised by some witnesses who claimed the initial detention of the Bosniak male population was legitimate. This view centered on the claim that the men needed to be processed to be assured that no one was a suspected war criminal. For the majority this was a complete sham because as soon as they were rounded up they were separated from any means of personal identification. Indeed if there was any truth to this claim, evidence necessary to determine the truth, was in fact destroyed by the VRS soldiers. Names were meaningless; witness Joseph Kingori’s description of frantically trying to take down names as the buses pulled away is chilling.¹⁴⁵² Without a way to prove identity there was no way they could be compared or tracked with any supposed list of wanted war criminals.¹⁴⁵³

800. The story of the Bosniak attorney, Resid Sinanović proves this lie as well. He was one of the few Bosniaks that was actually identified and questioned as to his role in a possible war crime. Zlatan Čelanović, a professional assigned to the Brautunac Brigade, was a lawyer and worked in their legal affairs division. He testified that on 13 July 1995 Mr. Sinanović was brought before him for questioning in Bratunac by Momir Nikolić. Mr. Sinanović was part of a group of 5 or 6 other Muslim men brought for interviews before Mr. Čelanović. Col. Beara had requested of Čelanović the day before to examine some prisoners and to check specifically if any prisoners were mentioned in a book called the “Chronicle of our Cemetery”. If Čelanović found anyone, he was to notify someone in the Security Organ. When the two attorneys met for purposes of interrogation, they talked as colleagues who hadn’t seen each other for awhile. In fact, Mr. Čelanović states, we had “...a verbal exchange. Because even before he was brought, there was actually no grounds for suspecting him in relation to anything”.¹⁴⁵⁴ He later expanded this by stating:

¹⁴⁵¹ Expert Witness Richard Butler (17 and 18 March 2008).

¹⁴⁵² Witness Joseph Kingori (8 September 2008); T-870 (Video clips of Potočari).

¹⁴⁵³ Likewise Robert Franken testified they were also unable to make a list and explain why the registration of the men failed. T-963, Witness Robert Franken *Krstić* Testimony, p. 2048.

¹⁴⁵⁴ T-873, Witness Zlatan Čelanović *Popović* Testimony, p. 6657.

As for Sinanović,...he was a decent and honest man. And following everything that happened nothing surfaced to indicate that he wronged anyone, committed a war crime against Serb civilians, soldiers or anything. He did not harm the Serbs in anyway.¹⁴⁵⁵

801. Despite this finding his fate was ultimately no different from others. This is not to say the others were potentially guilty of anything, but rather to emphasize the fact that any initial reason for separating and holding these men was false. There was no intention ever to exchange these prisoners or to do a legitimate internal review for potential war criminals. After this particular group of prisoners was questioned they were transferred to the school in Bratunac. From there, Resid Sinanović's exact movements are unknown until he is found in a hospital in Loznica, a town in Serbia.¹⁴⁵⁶ Hospital records indicate he was treated there with surgery.¹⁴⁵⁷ This is the ultimate absurdity. Here you have good people trying to save his life only to have others end it. While it is unclear if he received treatment in Loznica or in Banja Kviljaca Health Center on the banks of the Drina in Serbia, what is clear that after he was treated he was turned over to the Zvornik Brigade Military Policemen at Karakaj. He was then transferred to the Zvornik Brigade Headquarters with a few others. It is clear that the plan to detain and execute the Bosniak men from Srebrenica meant that there was no escape.

802. Trbić tells the rest of the story in that he receives an order from Beara through Major Golić, an Intelligence Officer at Drina Corp, to interrogate this group and then take them and execute them. He carries this out.¹⁴⁵⁸ The Accused oversaw the execution, the burial and later the reburial of this innocent man who was a civilian and bore no military threat.¹⁴⁵⁹ If efforts were made to initially save this one man and later more efforts made to provide him medical care, these efforts were undone when he crossed paths with the Accused. His execution was just one more in accordance with the comprehensive plan of execution without exception.

803. Furthermore, we must look at what is not in the evidence. The evidence does not contain any acts to the contrary nor is there any showing of remorse. This was a significant factor for the Appellate Panel in the *Milos Stupar et al* case. The Appellate Panel examined the issue of genocidal intent as follows:

¹⁴⁵⁵ T-873, Witness Zlatan Čelanović *Popović* Testimony, p. 6658.

¹⁴⁵⁶ T-873, Witness Zlatan Čelanović *Popović* Testimony, p. 6660.

¹⁴⁵⁷ T-510 (Cover letter with attached list of patients at a hospital in Banja Kovilja, Serbia, in July 1995); T-746 (Cover letter from the Medical Centre at Bijeljina (Dr. Zoran Jovic) addressed to Veselin Londrovic, with attached photocopy of medical logbook (admittance register) for 1995). Witness Zlatan Čelanović discusses these records during his testimony, T-873, Witness Zlatan Čelanović *Popović* Testimony, pgs. 6659-6662.

¹⁴⁵⁸ T-18 (Trbić 8 November 2004 Interview), pgs. 21-22, 46.

¹⁴⁵⁹ T-18 (Trbić 8 November 2004 Interview), p. 47.

Specifically, this Panel finds that Genocide was committed in Srebrenica in July 1995. Due to its nature, that crime could not have been committed by a single person but it had to include the active participation of a number of persons, each of whom had a role. However, it is evident that not all participants in the events in Srebrenica at the referenced time acted with the identical state of mind, nor did they take the same actions. The Court's role in this particular case is to establish the criminal responsibility of every Accused person individually, considering their actions, purport and intent¹⁴⁶⁰

804. The Appellate Panel looked at actions which could be interpreted as evidence which would indicate an accused did not share in the intent to commit genocide.

It follows from the testimony of the witness S4 that, even in Srednje, the soldiers predicted the reason for their transfer to Bratunac. This witness stated in his testimony that, upon reaching Bratunac and when searching the terrain, they realized that their task would be to "kill the men and separate those infirm". According to this witness, even while in Srednje, some of the members of the Detachment protested against their transfer to Bratunac. This witness himself was thinking of running away and he stated that the reason for their protests was the fact that they did not want to meet with people they knew, as they supposed that they would be killed.¹⁴⁶¹

...

Furthermore, witness S4 also stated that, before they left the location, their commander Trifunović said that what had happened was terrible, that many people got killed and that, eventually, they would be the ones to "pay". The witness confirms that he was present at the funeral of Krsto Dragičević and the lunch after the funeral, and he stated that those present commented on what had happened saying that it was regrettable, that it should not have happened and that someone would have to be held accountable for that.¹⁴⁶²

805. Based on these statements:

The Appellate Panel finds the foregoing facts important in determining the non-existence of the genocidal intent of the Accused. Specifically, lacking explicit evidence to clearly prove the existence of the genocidal intent of the Accused, the Panel had to derive its conclusion based on such indirect pieces of evidence. It is necessary to take into account one of the fundamental principles of criminal proceedings - the principle *in dubio pro reo* - in case of a doubt about the existence of the facts which constitute the elements of the criminal offence or on which the application of a certain provision of the criminal legislation depends, the Court shall render a decision which is more favorable to the Accused.¹⁴⁶³

806. The Appellate Panel was satisfied that the foregoing facts (protests against leaving for Bratunac, concerns about what had been done and in which manner) raised doubts about the

¹⁴⁶⁰ Miloš Stupar et al Second Instance Verdict, para. 572.

¹⁴⁶¹ Miloš Stupar et al Second Instance Verdict, para. 553.

¹⁴⁶² Miloš Stupar et al Second Instance Verdict, para. 554.

¹⁴⁶³ Miloš Stupar et al Second Instance Verdict, para. 555.

reasonableness of the finding by the Trial Panel that there existed the genocidal intent of the Accused.¹⁴⁶⁴

(i) No evidence of acts contrary to genocidal intent

807. In this case there is no similar type of evidence. In his multitude of statements, the Accused Milorad Trbić shows no remorse or hesitation. What is most compelling for the Panel is the sheer indifference of Trbić to the killings. Despite the obvious deceptions in his statements one is left with his repeated stories of the killings and his role in these killings. His overall attitude is calm and emotionless. It is clear he understands the object is to destroy the whole. There is no protest. There is only efficiency on his part. After the killings at Orahovac he is only concerned that he get a chance to say goodbye to his family before they go on vacation to the beach. After the Petkovci killings where he oversaw the executions he returns with Drago Nikolić to the Zvornik Brigade around 08:00 hours. They meet with Beara and Popović to report on the killings after which he explains they “had a break, we had a coffee and had some refreshment”.¹⁴⁶⁵ At this meeting it was agreed to continue the killing. At one point after the killings he was in the car with his driver, Milorad Birčaković. His driver testified that the two of them were silent in the car and they didn’t talk because they were in despair (about the killings). This statement however only can be imputed to the driver himself. It was the driver’s statement and reflects only his state of mind. It cannot be used to assume that Trbić (who actually said nothing) was in agreement with this. On the contrary, in a situation where much could be said and shared he just remained silent.

(ii) Methodical Planning

808. Secondly, in looking at the various factors the Panel looked for evidence as to methodical planning. As we noted above this is not a necessary element to the crime of genocide at least for convictions under a) and b).¹⁴⁶⁶ From his first deposition, the Accused describes the planned nature

¹⁴⁶⁴ *Miloš Stupar et al* Second Instance Verdict, para. 556.

¹⁴⁶⁵ T-18 (Trbić 8 November 2004 Interview), pgs. 8-9; *See also* T-15 (Trbić 23 May 2004 Interview), p. 28; T-16 (Trbić 27 May 2004 Interview), pgs. 12 & 16. Trbić’s states this meeting was after Orahovac in the 23 May 2004 statement and 27 May 2004 statement, but during the August 2004 site visit there are changes in his timing and he explained it was due to his own recollection of the events. Visiting the locations had been very helpful. T-19 (ICTY OTP Information Report regarding August 2004 site visit) (Confidential), p. 9. Pandurević testifies about an intercept on 15 July 1995 between General Zivanović and Beara indicating that Beara was in the Security offices in the Zvornik Brigade on the morning of 15 July. O-5, Pandurević *Popović* Testimony on 26 February 2009, p. 32184 and on 27 February 2009, p. 32200.

¹⁴⁶⁶ *See* Antonio Cassese, *Is genocidal policy a requirement for the crime of genocide?*, pgs. 134-136 in *The UN Genocide Convention: A commentary* (Paola Gaeta, ed., 2009).

of the executions. He knew they were to be executed just by how the men had been separated and brought to the schools instead of to Tuzla for exchange.¹⁴⁶⁷ In another statement, the Accused stated he:

worked on organization and preparation for the killing operation, organization of security until it starts, organization of loading and sending vehicles to the place of the operation, to the place of the killing operation.¹⁴⁶⁸

809. Frequent meetings were held to go over logistics. For example, after Orahovac, the Accused met with Drago Nikolić, Povović and Beara to review the operation at the next site, Petkovci.¹⁴⁶⁹ After Petkovci there was a meeting to discuss Ročevići. The constant thread of participants remains the same: Beara, Popović, Drago Nikolić and Trbić over and over again. The executioners may change but the constant group controlling the events remains the same.

(iii) Single minded purpose

810. A third element the Panel factored in was the totality of the Accused's single mindedness of purpose. He was completely resolute in his execution of the plan. When it looked like there may not be enough soldiers to complete the execution plan rather than saying so be it and perhaps use that to change the outcome he takes it upon himself to solve the problem so that everything would run smoothly.¹⁴⁷⁰ Contrast this to the actions of witness Sreten Acimović, Zoran Radosavljević or Tanacko Tanić, men who despite being under a direct order managed to avoid participation.¹⁴⁷¹

811. The Panel recalls the discussion in *Brđanin* citing a separate opinion of Judge Iain Bonomy in *Prosecutor v. Milutinović et al*¹⁴⁷². The opinion further cites the *Justice* case where the Military Tribunal in looking at the issue of intent for an accused finds "the essence of the proof" in the fact

¹⁴⁶⁷ T-3 (Trbić 19 August 2002 US Deposition), p. 34.

¹⁴⁶⁸ T-13 (Trbić 21 January 2004 Interview), p. 7; *See also* T-982, Witness A-50 Testimony (Confidential), pgs. 6683-6684.

¹⁴⁶⁹ T-15 (Trbić 23 May 2004 Interview), p. 28.

¹⁴⁷⁰ T-3 (Trbić 19 August 2002 US Deposition), pgs. 39-41; T-13 (Trbić 21 January 2004 Interview), pgs. 6-7; T-15 (Trbić 23 May 2004 Interview), p. 26. *See also* T-982, Witness A-50 Testimony (Confidential), pgs. 6608-12, 6704-05, and 6767.

¹⁴⁷¹ Witness Sreten Acimović (3 December 2007); Witness Tanacko Tanić (11 December 2007); Witness Zoran Radosavljević (5 February 2008).

¹⁴⁷² *Prosecutor v. Milutinović et al.*, IT-05-87-PT, Decision on Ojdanić's Motion Challenging Jurisdiction, Separate Opinion of Judge Iain Bonomy, 22 March 2006, in particular paras. 18-22.

that the accused “gave himself utterly to its accomplishment”.¹⁴⁷³ This characterization also accurately describes the degree of willing participation of Milorad Trbić.

(iv) Efforts to overcome resistance of victims

812. Specifically, the Accused explains his role in security and specifically explains what took place at Ročevići. In an effort to calm the prisoners, “the ones who were causing commotions,” he along with others providing security, took out 20 Muslims and shot them. Despite explaining this was done with the “authority of Popovic,” the Accused further explains this was done on his own initiative.¹⁴⁷⁴ As the security officer in charge he knew how important it was to quell any resistance. Trbić also states early that he was instructed by both Drago Nikolić and Beara at Orahovac that in case of rebellion he was to take resistors out and shoot them. That this indeed took place was confirmed by Mevludin Orić. In his statements Trbić shoots prisoners in front of the gymnasium in order to “keep them under control”.¹⁴⁷⁵

(v) Efforts to overcome resistance of other perpetrators

813. One telling comment Trbić made early on in his statements was that he found it necessary to do some killings in order to show others how to do it. While the Panel did not find corroborative evidence as to his participation at the site he referred to, it does find his explanation a plausible one. At each of the confirmed execution sites Trbić kills a random number of prisoners at the detention sites often before the actual executions as well as at the execution site. This is a pattern repeated. As the evidence indicates the executioners often varied from site to site. What does not vary is Trbić’s role in showing how it is done in case there was any doubt or resistance to these actions.

(vi) Efforts to bar escape of victims

814. Orahovac again is the model. Prior to their execution the prisoners at Orahovac were in a vulnerable and weaken condition. Despite this executioners took the time to blindfold each one and to tie their hands behind there back. Milorad Birčaković was assigned the task of following behind

¹⁴⁷³ *Brđanin* Appeal Judgment, para. 398 citing *United States v. Altstoetter et al.*, U.S. Military Tribunal, Judgement, 3-4 December 1947 (“Justice Case”), in *Trials of War Criminals before the Nuremberg Military Tribunals under Control Council Law No. 10 (1951)*, vol. III (fn. 44 in original) Justice Judgment, p. 1156.

¹⁴⁷⁴ T-18 (Trbić 8 November 2004 Interview), pgs. 11-12.

the TAM trucks carrying the prisoners to the execution site. His job was clearly to bar escapes. Trbić was one of the last to leave the execution site at Orahovac as well as the Petkovic Dam site. It is clear from his statements this was to ensure the job was completed. According to survivors from Orahovac and Kozluk the executioners fired bullets in to the heads of bodies they thought were warm or still alive. It is clear no one was to be left alive. The very few who escaped are the miracles. Finally, the Panel notes the killing of Rešid Sinanović. He had actually escaped and was treated in a hospital and captured for a second time. The soldiers at the checkpoint at the Drina River turned over escapees to the Zvornik Brigade and they were brought back to Headquarters. These few who managed to escape the initial executions were then summarily executed and according to Trbić buried in the Kula Grad area.

(vii) Persecutory cruelty to victims

815. It is clear there were no preparations made for food, water or hygiene for the detainees. The only task of the participants was to detain and kill. Many witnesses spoke of the July heat. The suffering of the prisoners was noticed by Bosnian Serb witnesses who did not enjoy or support this level of cruelty.¹⁴⁷⁶ Despite this there were few efforts made to change the situation. It is clear there were no orders from the top or plans made from the top or on the ground to ease the physical suffering. In all of his many statements there is not one shred of evidence that Trbić did anything to alleviate this suffering. Many prisoners, already in a weakened state from the conditions existing in Srebrenica before the fall, had days from capture to execution without food or water and were left to contemplate their fate. This must have been unbearable.

(viii) Ongoing participation within the act itself

816. Trbić joined in. He was an active participant and his activities as noted above formed a significant contribution to the commission of the genocide. Whether it was the actual shooting, arranging for additional soldiers, cleaning up the terrain, finding fuel, locating detention sites or doing the final check of the terrain, he was involved in each site within the Zvornik Brigade area of responsibility site.

¹⁴⁷⁵ T-15 (Trbić 23 May 2004 Interview), p. 25; *See also* T-19 (ICTY OTP Information Report regarding August 2004 site visit) (Confidential), p. 3.

¹⁴⁷⁶ Witness A-42 (28 January 2008).

(ix) Repetition of destructive acts i.e. more than one site

817. Many of the participants in the genocide at Srebrenica were only involved in one site. It is impossible to look at the overall repetition of the acts Trbić engaged and not conclude he was a willing participant. He had days between events to contemplate his own participation. There is no hesitancy expressed or remorse or second thoughts expressed by him. The evidence indicates he just proceeds with the tasks assigned.

(x) The acts themselves: The “Kravica Test”¹⁴⁷⁷

a. The number of victims

818. Based on individuals identified by DNA, at least 2938 identified victims were found in mass graves in the Zvornik Brigade area of responsibility.¹⁴⁷⁸ This number is not final as many more remains are waiting identification and graves are still being discovered. The number is not dispositive as even one killing, if done with the specific intent can be considered genocide.¹⁴⁷⁹ What it does indicate is that the intent was for all the Muslims in the detention sites be destroyed. Again this even applied to ones who were initially saved and received life saving medical care or were temporarily rescued, but were later executed simply because the goal was to kill all Muslims from Srebrenica.

¹⁴⁷⁷ *Miloš Stupar et al* First Instance Verdict, p. 118.

¹⁴⁷⁸ T-833 (Manning Report 2007), pgs. 3/24-19/24. T-836 (Srebrenica – Primary and Secondary Mass Graves) See also section VII.E.1 above. DNA identification of individuals at the following primary and secondary sites located within the Zvornik Brigade area of responsibility as of 27 November 2007: Orahovac (Lažete 1)-115 individuals, Orahovac (Lažete 2)-157 individuals, Branjevo Military Farm (Pilica)-103 individuals, Dam near Petkovci-12 individuals; Kozluk – 328 individuals; Kozluk surface remains – 14 individuals; Čančari Road 2 -111 individuals; Čančari Road 3 – 131 individuals; Čančari Road 5- 221 individuals; Čančari Road 7 – 103; Čančari Road 10 – Kamenica 10-340 individuals; Čančari Road 11-136 individuals; Čančari Road 12 – 112 individuals; Čančari Road 13 – 60 individuals; Hodžići Road 3 – 37 individuals; Hodžići Road 4– 67 individuals; Hodžići Road 5 – 54 individuals; Hodžići Road 6 – Snagova 1 – 57 individuals; Hodžići Road 7 – Snagovo 2 – 102 individuals; Liplje 1 – 142 individuals; Liplje 2 – 167 individuals; Liplje 3 – 44 individuals; Liplje 4 – 221 individuals; Liplje 7 – 104 individuals.

¹⁴⁷⁹ *Ndindabahizi* Trial Judgment, paras. 470-471. As the Trial Panel in *Kravica* pointed out this Panel also recognizes that this conclusion was not considered on appeal, as the Appeals Chamber quashed the conviction for this incident on other grounds. Nonetheless, this Panel also considers that this discussion emphasizes the crucial point, namely that the number of victims must be considered with respect to all the facts and there is no “magic number”. *Miloš Stupar et al* First Instance Verdict, p. 118, fn. 265.

b. The use of derogatory language

819. The survivors accounts tell of the verbal insults and derogatory language used at the detention and execution sites. For example, Mevludin Orić explained he heard one soldier saying “[y]ou are best when you are dead”.¹⁴⁸⁰ There is no evidence that anyone tried to stop this. The language reflects the indifference to the prisoners and the inability to see the Muslims as fellow human beings. It reflects as well the context of the war events, the anger and the bitterness created by individual suffering. There is no evidence however that Trbić used this language or had suffered any deaths in his family as a result of the war.

c. The systematic and methodical manner of the killing

820. The pattern established at Orahovac was carried through in a methodical manner and repeated again at each of the five sites. Prisoners were brought to a detention site and off loaded from the buses and trucks. They were asked to drop their identification and personal belongings before they enter the building or holding area. Once in they were kept in inhumane conditions and deprived of food, water and basic hygiene. Then they were gathered up, at some sites their hands were tied and they were blindfolded, then they were loaded on trucks and taken in small groups to an execution site. There they were shot execution style by automatic rifles. cursory checks were made to ensure people were dead and many were finally silenced with a pistol or rifle shot to the head. Given the number of fallen bodies some of the wounded were still alive and they were buried alive. For after each of these killing sites the equipment was requisitioned and the mass graves were carved out of the soil where the dead lay. Each site was carefully planned. The pattern established at Orahovac was repeated until a week later the genocidal goal was reached.

d. The weapons employed and the extent of bodily injury

821. The weapons used by the shooters were automatic rifles that fired bullets in rapid succession. Tanacko Tanić explained how weapons were provided in the event you did not have a weapon normally assigned to you. The extent of bodily injury was also great. While many were killed quickly execution style, many were severely wounded and were not able to escape. Many were groaning in agony. This drew the attention of their killers who would then go back and finish

¹⁴⁸⁰ Witness Mevludin Orić (29 January 2008).

the job. Perhaps the worst aspect of Melvudin Orić's story was how the two survivors had to leave the injured behind. Already in a severely weakened state themselves they were not able to carry them away. They were not strong enough to carry them so they had to listen to their cries of pain as they made their escape slipping in the blood of others. The automatic rifles were efficient but the number of prisoners ensured that some would only be wounded so an unknown number would also be buried alive.

e. The methodical way of planning

822. Each site was carefully selected to be able to contain hundreds of prisoners. As it was summer, schools were vacant and could be commandeered for this purpose. Each school selected had a nearby area which was out of the public eye for the actual executions and burial. Pilica Dom was the exception to this and the executions here were carried out in the center of town in the building that was sufficiently large to hold hundreds of prisoners. Excavation and burial equipment was organized and arranged for each sites. Trbić went back to most of the sites to do a final check and clean up. Before Trbić assumes his duty as duty officer on 16 July, he goes to examine the terrain at the Petkovci School and the Dam. That same day he notes as duty officer the request for loader, excavator, dump truck with tarplin needed for Pilica. Trbić knows this is for the burial operation there. Trbić notifies Jokić of these needs. Additionally, just in case the engineering unit did not have the proper truck he notifies Sreten Milošević, the logistics commander, of the need for this type of truck to be supplied to Pilica. All executions had the requisite fuel necessary to operate the machinery need for the reburial. Existing organizational structures such as the duty officer position were used as needed to coordinate activities.

f. The targeting of victims regardless of age

823. The youngest victim at Orahovac was identified as being around 13.¹⁴⁸¹ There was no effort to distinguish any particular age group. Melvudin Orić talked about the old men with their "heads hanging". He saw men in their 70's. Tanakco Tanić spoke of seeing at least two children there. The only thing they had in common was they were all Muslims from Srebrenica. Dean Manning testified based on anthropology reports from the graves identified with Srebrenica that the victims

¹⁴⁸¹ Witness Mevludin Orić (29 January 2008).

ranged from as young as 8 years old to as old as ninety.¹⁴⁸² More than one witness talked about the killing of a mentally handicapped man.¹⁴⁸³ There were no exceptions.

g. The targeting of survivors

824. This is similar to factor “efforts to bar escape of victims” above. Those findings apply here as well. The story again of just one man, Rešid Sinanović, indicates the measures taken to ensure that every survivor is found and killed.

h. The manner and character of the perpetrator’s participation

825. It is sufficient to say that Trbić did everything that was asked of him. When the situation required more he assisted on his own initiative. He didn’t complain or comment. He knew what the plan was and he understood his role. He was not fearful. He didn’t object or complain. He followed through. He was a hard worker. Witness Sreten Aćimović said he had good qualities for a deputy. These qualities were useful to him and therefore he recommended him for his deputy in 1992.¹⁴⁸⁴ In 1995 he became a significant implementer of the genocidal plan. Most importantly he completely joined in. After the killings at Petkovci he stated calmly “we agreed to keep on killing”. He then went on to have some refreshment. If there was any doubt as to his intent, this statement alone removes all doubt. His intent was to keep on killing, to kill them all, total destruction.

826. One can only imagine the smells, sounds and images of this level of destruction. Melvudin Orić and others gave powerful testimony as to what it was like. The pain of members of the VRS who did not condone these actions can be heard in the testimony of Tanacko Tanić. Some were confused by the nature of and the reason for this violence, this act. Others were not. Trbić expresses none of this doubt or confusion. In fact, unlike others, he goes from site to site. He does not participate in this crime once but repeatedly. Having participated thoroughly in the killings at Orahovac he knows what it is like and he goes back for more. He is in demand because of his experience. This is not just following orders. This is a man who supported the genocidal plan. He was not part of the original planning or its architect but he made sure it worked to the extent of his capacity at the time and helped along with others to conceal it from the world. The reason for the concealment was simple: They knew their actions were criminal. It wasn’t just killing prisoners of

¹⁴⁸² Witness Dean Manning (16 June 2008).

¹⁴⁸³ Witness Melvudin Orić (29 January 2008).

¹⁴⁸⁴ Witness Sreten Aćimović (3 December 2007).

war, it was the desire to permanently rid the area so near the Drina once and for all of the Muslim population. This they could achieve by killing all the men. This is what Trbić agreed to do as shown by his words and his actions.

827. Based on the above findings, looking at the totality of the evidence both direct and circumstantial, the Panel finds beyond reasonable doubt that Milorad Trbić possessed the specific intent for the crime of genocide.

X. ACQUITTING PART OF THE VERDICT

828. The Panel acquitted the Accused Milorad Trbić of the following criminal acts listed under Count 1 of the Amended Indictment:

Between 11 and 13 July 1995, **MILORAD TRBIĆ** participated in a joint criminal enterprise with others in the VRS and RS MUP including General Ratko Mladić, Colonel Ljubiša Beara, and Captain 1st Class Momir Nikolić, with the common purpose and plan to forcibly remove the entire Bosniak civilian population from Srebrenica enclave and transport them to areas under the control of the Army of BiH (ARBiH), whereupon, from the afternoon of 12 July 1995 and continuing throughout the entire day of 13 July 1995, in the presence of Ratko MLADIĆ, Radislav KRSTIĆ, Vujadin POPOVIĆ and others, over 25,000 Bosniak women, children and elderly men were loaded on buses and trucks and transported by the Bosnian Serb forces from Potočari to the confrontation line near Kladanj, where they were released and walked approximately 5 kilometres to BiH Army-held lines outside Kladanj during which, as the Bosniak men, women and children started to board the buses and trucks, VRS and RS MUP forces separated over 1,000 able-bodied Bosniak men from the women and children and transported these Bosniak men to temporary detention sites in Bratunac, so that by the end of 13 July 1995, the entire Bosniak civilian population had been removed from the Srebrenica enclave; on 13 July 1995, approximately 5,000 to 6,000 Bosniak men from a column of men trying to escape from the Srebrenica enclave to Army of BiH held territory were attacked by VRS and RS MUP forces by shelling and ambushes, and were then captured by or surrendered to MUP and VRS forces stationed along the Bratunac-Konjević Polje-Milići Road in the areas of Kravica, Sandići, Konjević Polje and the majority of those captured were moved by vehicles to further temporary detention facilities in and around Bratunac; and during the period 12 July to 16 July 1995: Bosniak men detained in Potočari, along the Bratunac-Konjević Polje road and Bratunac were not provided with food or medical treatment, nor with any meaningful rations of water; during their detention they were frequently beaten by their captors and VRS and MUP soldiers confiscated and destroyed personal property and effects belonging to Bosniak men detained by them including their identification documents and valuables; wherein **MILORAD TRBIĆ**, sharing a common intention with others in the joint criminal enterprise to fulfil the aims of the common purpose and plan, and intending that his acts would assist and contribute to it, perpetrated the following acts: on 12 July 1995, acting jointly with and supervising other VRS soldiers, carried out a search for Bosniaks in Srebrenica enclave to ensure that the enclave would be cleared of Bosniaks and, while doing so, captured and detained up to 15 (fifteen) civilian Bosniak males on the road between Srebrenica and Potočari; sometime between the evening of 12 and midday on 13 July 1995, acting on the directions of Colonel Ljubiša BEARA, selected and located school buildings in Orahovac (Grbavci School), Petkovci and Ročević to be used as temporary detention facilities to hold civilian Bosniak men from Srebrenica enclave knowing that these civilian Bosniak men would be those captured by VRS soldiers and those who were separated at Potočari and transported away from Srebrenica enclave; and on 13 July 1995 at Potočari, acting jointly with others from the VRS and RS MUP, intimidated, mistreated and threatened Bosniak civilian population to leave the enclave by separating and maintaining the segregation of civilian Bosniak men from their families, and by maintaining the Bosniak civilian population in inhumane conditions in Potočari where there was insufficient and inadequate shelter, food, water and medical supplies by taking no action to alleviate these conditions and accepting and intending it be continued, so that the Bosniak civilian population exercised no free choice but to leave when loaded onto buses and trucks and escorted away from Srebrenica enclave by VRS and MUP forces.

829. The Panel acquitted the Accused Milorad Trbić of the following criminal acts listed under Count 2a of the Amended Indictment:

On 12 July 1995, at **Potočari**, Municipality of Srebrenica, **MILORAD TRBIĆ**, acting on the directions of Ljubiša BEARA and jointly with and supervising around 12 (twelve) soldiers from the Bratunac Brigade Military Police Platoon, took approximately 15 (fifteen) Bosniak men who had previously been captured and interrogated at a building known as the "White House" located adjacent to the UNPROFOR Headquarters in Potočari, to an area near to Žuti Most at Potočari and supervised the summary execution of the Bosniak men by automatic rifle fire thereby killing them all; in the evening hours of 13 July 1995 at **Bratunac Stadium**, **MILORAD TRBIĆ** fired an automatic rifle at a group of Bosniak men from Srebrenica enclave who had been transported from Potočari and detained at the Stadium by VRS soldiers, thereby killing at least 10 (ten) of the men; and, on 13 July 1995, acting jointly and supervising a group of VRS soldiers, escorted one convoy of 3 (three) buses containing Bosniak males from Srebrenica enclave, from Bratunac Stadium to Grbavci School, Orahovac, Municipality of Zvornik knowing that they would be temporarily detained there and soon after be summarily executed.

830. The Panel acquitted the Accused Milorad Trbić of the following criminal acts listed under Count 2g of the Amended Indictment:

By participating in the joint criminal enterprise with the common purpose and plan to capture, detain, summarily execute and bury all able bodied Bosniak males from Srebrenica enclave, sharing a common intention with others in the joint criminal enterprise to fulfil its aims, knowing that it was being carried out, **MILORAD TRBIĆ** also perpetrated the following criminal acts that formed part of the common criminal purpose and plan:

Between 12 to 15 July 1995 in Bratunac:

On 12 July 1995, beginning at approximately 22.00 hours and continuing through 13 July, more than 50 (fifty) unidentified Bosniak men were taken from a hangar behind Vuk Karadžić Elementary School in **Bratunac** and summarily executed; on 13 July 1995, in the evening, an (unidentified) Bosniak man who was mentally retarded was taken off a bus parked in front of the Vuk Karadžić Elementary School in Bratunac and summarily executed; and, between the evening of 13 July 1995 and the morning of 15 July 1995, up to 50 (fifty) unidentified Bosniak males were killed, both inside and outside the Vuk Karadžić Elementary School, by VRS and/or MUP personnel.

On 12 and 13 July in Potočari:

On or about 12 July 1995, in **Potočari**, the bodies of 9 (nine) unidentified Bosniak men who had been shot were found in the woods near the UN Compound on the Budak side of the main road; on or about 12 July 1995, the bodies of nine or ten (unidentified) Bosniak males, who had been shot, were found about seven hundred metres from the UN Compound behind the "White House" in a creek; and, on 13 July 1995, one (unidentified) Bosniak man was taken behind a building near the "White House" by VRS soldiers and summarily executed;

On 13 July 1995:

VRS and/or RS MUP forces captured 6 (six) Bosniak men who, after being interrogated at the **Bratunac Brigade Headquarters**, were placed among the other detained men in Bratunac and were later summarily executed by unknown persons; the victims include;

- Aziz HUSIĆ, son of Osman, born 8 April 1966.

VRS or RS MUP forces captured approximately 16 (sixteen) Bosniak men retreating through the woods away from Srebrenica enclave, transported them to an isolated area on the bank of the **Jadar River** then summarily executed 15 (fifteen) of them with automatic weapons.

VRS and/or MUP soldiers transported about 150 (one hundred and fifty) Bosniak men to an area along a dirt road in the **Cerska Valley** about 3 (three) kilometres from Konjević Polje, summarily executed them with automatic weapons and, using heavy equipment, covered them with dirt.

VRS and/or MUP soldiers, supported by approximately 4 APCs, escorted approximately 100 (one hundred) Bosniak men to a location on or near a hill near the road between Konjević Polje and **Nova Kasaba**, lined up the prisoners in several ranks and executed them with automatic weapons where, a short time later, a second group of approximately 30 (thirty) prisoners arrived, were lined up, and also executed, and a third group arrived soon thereafter and was similarly executed.

RS MUP Police, including elements of the 2nd (Šekovici) Detachment of the RS Special Police Brigade, captured hundreds of Bosniak men from Srebrenica and detained them in a large agricultural **warehouse in the village of Kravica** where, during the afternoon and the early evening hours, MUP Special Police, including elements of the 2nd (Šekovici) Detachment of the RS Special Police Brigade, summarily executed around 1,000 (one thousand) Bosniak men detained in the large warehouse in the village of Kravica using automatic weapons and hand grenades, and on 14 July 1995, heavy equipment was used to remove the victims' bodies to two large mass graves located in the nearby villages of Glogova and Ravnice.

Bosniak prisoners were captured and detained by MUP Forces throughout the day at **Sandići Meadow**, approximately 18 kilometres west of Bratunac along the Bratunac-Konjević Polje road until the late afternoon or early evening when they were taken from the meadow to other locations, including schools in the Bratunac area and the Kravica Warehouse, and by dark, there were approximately 10 (ten) to 15 (fifteen) unidentified prisoners remaining at the meadow who were then summarily executed by MUP soldiers with automatic weapons.

On 13 and 14 July 1995:

On or about the evening of 13 July and the day of 14 July 1995, at **Luke School near Tišća**, VRS and/or MUP soldiers loaded 25 (twenty five) Bosniak men from Srebrenica enclave, who had been transported from Srebrenica enclave and detained in the school, onto a truck, then drove them to an isolated pasture nearby and summarily executed 22 (twenty two) of them with automatic weapons.

During the night between 13 July 1995 and 14 July 1995, near the **Supermarket in Kravica village**, (unidentified) Bosniak detainees who had surrendered or been captured from the column of men retreating from the Srebrenica enclave were detained on trucks during which, VRS and/or MUP soldiers summarily executed 10 (ten) (unidentified)

Bosniak men by automatic rifle fire.

On or about 19 July 1995:

Near the town of **Nezuk**, VRS personnel from the 16th Brigade of the 1st Krajina Corps, re-subordinated to the command of the Zvornik Brigade, captured approximately 10 (ten) (unidentified) Bosniak males from Srebrenica enclave and shortly after their capture, summarily executed 8 (eight) of them.

On 22 July 1995:

Near the town of **Snagovo**, near Zvornik, members of the RS MUP captured approximately five (5) Bosniak men while they were fleeing from Srebrenica enclave and summarily executed 4 (four) of them by automatic weapon fire in the woods.

In July 1995:

At a place called Godinjske Bare, near the town of Trnovo, members of the Serbian MUP unit called the *Scorpions* that were operating with the VRS, summarily executed 6 (six) Bosniak men from Srebrenica enclave, namely:

- Azmir ALISPAHIĆ son of Alija, born 2 October 1978 in Srebrenica Municipality;
- Safet FEJZIĆ, son of Sakib, born 3 January 1978, in Srebrenica, Srebrenica Municipality.
- Sidik SALKIĆ (born 1959);
- Smail IBRAHIMOVIĆ (born 1960);
- Dino SALIHOVIĆ (born 1979); and,
- Juso DELIĆ (born 1970).

831. Having carefully analyzed all the Prosecution, Defence and Court evidence, the Panel found that the presented evidence does not lead one to conclude beyond a reasonable doubt that the Accused committed the offences charged against him in these parts of the Amended Indictment.

832. With reference to the forcible removal of the entire Bosniak civilian population from Srebrenica, as charged in the first part of Count 1 of the Amended Indictment, the Prosecution argued that this was a common purpose and plan of the joint criminal enterprise that Milorad Trbić participated in, together with others in the VRS and MUP, and that he assisted in and contributed to the enterprise by his acts. As joint criminal enterprise is a mode of criminal liability, the Panel deliberated if there is evidence to prove its basic elements.

833. First and foremost, the presented evidence shows that a forcible removal of population from the area of Srebrenice did occur, as discussed in the part of the Verdict titled “Events Prior to 12

July – Forcible Transfer” (section VII. C.3.). Secondly, there was sufficient evidence for the Panel to find that many crimes occurred as charged. The Panel, however, did not find sufficient evidence that Milorad Trbić shared a common purpose or plan which involved the crimes committed in the Bratunac Brigade area of responsibility. The Panel could not link Milorad Trbić to the necessary plurality of persons. The Prosecutor in the Amended Indictment listed other participants in the JCE in rather general terms as “others in the VRS and RS MUP,” and then, in addition to the name of the Accused, he does mention the name of Momir Nikolić. The Panel could not establish the specific nexus or mutuality between the Accused and the other potential JCE members involved in the crimes in the Bratunac Brigade area of responsibility as listed by Prosecution. Furthermore, based on the presented evidence the Panel was not able to find corroborated evidence of specific acts of the Accused that contributed to the fulfillment of a common purpose and plan within the Bratunac Brigade.

834. Based on the above, and in the absence of evidence, the Panel could not accept the criminal liability of the Accused for taking part in a wider joint criminal enterprise with the aim to forcibly remove the population, as charged in this Count of the Amended Indictment.

835. With regard to specific *i.e.* direct acts of the Accused alleged in the Amended Indictment as actions by which the Accused intended to assist and contribute to the fulfillment of the forcible removal by terrain search, intimidation, separation of men which took place in the Bratunac Brigade’s area of responsibility, specifically in Potočari, as well as acts listed under Count 2a, that is capturing of men and killings by the Yellow Bridge, killings at the Bratunac Stadium and escorting convoys of three buses carrying Bosniak males from Srebrenica, based on the presented evidence the Panel was unable to establish that the Accused took part in the incriminated acts either as a co-perpetrator, pursuant to Article 29 of the CC of BiH or as a member of the JCE, pursuant to Article 180(1) of the CC of BiH.

836. When analyzing the evidence, the Panel also had in mind the statements the Accused gave as a suspect. However, the Panel did not find sufficient evidence to support these statements that would corroborate the Prosecution claims. Although the statements the Accused gave during the investigation were admitted as evidence, the Panel viewed these statements in relationship with all other evidence. The Panel did not convict the Accused Milorad Trbić of any acts unless, in addition to these statements, they were corroborated by other evidence based on which the Panel could establish, beyond a reasonable doubt, the veracity of the events alleged in the Amended Indictment and the participation of the Accused in them.

837. The Panel especially emphasizes that, with regard to some events under this section of the Amended Indictment, there was no evidence to confirm beyond a reasonable doubt that the events actually happened, while for some events there was no evidence to confirm that they occurred in the manner described in the Amended Indictment. Furthermore, the Panel was unable to make changes in the factual description of the acquitted acts as the amount of changes required would alter it to an extent that would severely infringe upon the integrity of the Amended Indictment and the Verdict.

838. Furthermore, in relation to the supervision of the VRS soldiers by the Accused, as alleged in this section of the Amended Indictment, the Panel primarily emphasizes that the crimes in relation to Srebrenica took place in the areas of responsibility of the Bratunac Brigade and Zvornik Brigade which were both units of the VRS Drina Corps. One can also clearly infer that the duties of commanding, supervising and coordinating of the overall operation pertaining to the Bosniak population from the Srebrenica area were carried out as if it was a legal operation in adherence to the JNA rules which the VRS adopted upon its formation. This is best described by expert witness Richard Butler who also pointed out that, there is no indication that there was any significant departure from these rules and regulations of the VRS at any point during July 1995, just as these rules and regulations applied the entire time during the war. Staff operated within their own area of competency and command structure. Evidence analysis clearly demonstrates the efficiency and coordination throughout the entire operation which could only be achieved with full adherence to both duties and areas of responsibility. In this respect, members of the Bratunac Brigade were entrusted, among others, with one part of the operation and members of the Zvornik Brigade with the other, depending on where the actions in the operation were to be carried out.

839. Despite the fact that the task of the transfer of civilians and the task pertaining to the prisoners of war was assigned to the Security organs, as already mentioned in the Verdict, the Panel was not presented with a single piece of evidence to prove that the Accused Milorad Trbić, as an Assistant Chief of Security in the Zvornik Brigade had any authority over the events in the Bratunac Brigade's area of responsibility. It also follows from the VRS organizational structure that the Accused could only supervise members of the Zvornik Brigade's Military Police, but by no means other VRS soldiers in the Bratunac Brigade's area of responsibility, as this part of the Amended Indictment asserts. Finally, the Panel points out that, as no evidence was presented to prove beyond a reasonable doubt the acts of the Accused under Counts 1 and 2a of the Amended Indictment, the Panel could not convict the Accused either as a co-perpetrator, pursuant to Article 29 of the CC of BiH or as a member of the JCE, pursuant to Article 180 (1) of the CC of BiH.

840. In addition to the aforesaid, the Panel acquitted the Accused for most of the acts in the sub-

Count 2g of the Amended Indictment. The Prosecution charged Milorad Trbić with participation in the joint criminal enterprise with the common purpose and plan to capture, detain, summarily execute and bury all able bodied Bosniak males from Srebrenica enclave, sharing a common intention with others in the joint criminal enterprise to fulfill its aims, knowing that it was being carried out, charging him that in the time period in July 1995, he committed the criminal offenses in the areas of responsibility of Bratunac Brigade and Zvornik Brigade. For the criminal acts listed under Count 2g of the Amended Indictment, Milorad Trbić was not charged as a direct perpetrator, as the Prosecutor pointed out in his closing argument. Instead he was charged on the basis of JCE liability for executions that were perpetrated in circumstances where the link between the acts of Milorad Trbić and the criminal offences are not immediately apparent, *i.e.* it is not averred that the Accused was present at the executions.¹⁴⁸⁵ The Prosecution submitted that the executions listed under Count 2g were part of the common purpose and plan of a JCE of which the Accused was a participating member. Furthermore, Prosecution submitted the Accused is individually criminally responsible for events at Count 2g by way of the basic form of JCE liability because the alleged criminal acts are within the common purpose alleged in the Amended Indictment.¹⁴⁸⁶ However, because the Panel narrowed the scope of the JCE, most of these acts fall out of the smaller JCE involving the Zvornik Brigade area of responsibility. Furthermore, although the execution near the town of Snagovo alleged in sub-Count 2g can arguably fall within the Zvornik Brigade area of responsibility, the evidence showed it was committed by non-members of the JCE, but was insufficient to impute the act to any of the members of the JCE.

841. As to the sub-Count 2g regarding Nezuk, the Panel found there was an additional basis for an acquittal on this charge. The Panel notes that the evidence supporting this allegation was admitted under the LOTC, and while it does not have any reasons to doubt the credibility of witness A-33, or reliability of the evidence this witness provided, this evidence alone cannot be the sole basis of a conviction in relation to this allegation. There was insufficient corroborative evidence to support this allegation.

842. Although the Panel concluded in the convicting part of the Verdict that the most appropriate mode of criminal liability for this Accused is the one defined under Article 180(1) of the CC of BiH, which defines the common purpose of the JCE the same as it is worded in the Count 2g *i.e.* capturing, detaining, summarily executing and burial of all Bosniak males from the Srebrenica

¹⁴⁸⁵ Prosecutions Trial Brief 30, Prosecution Legal Brief on the applicability of Joint Criminal Enterprise liability for Count 2g. of the Amended Indictment, para. 50.

¹⁴⁸⁶ Prosecutions Trial Brief 30, Prosecution Legal Brief on the applicability of Joint Criminal Enterprise liability for Count 2g. of the Amended Indictment, para. 50.

enclave, it is has found that the common purpose and plan is considerably more narrow than the broad overall plan alleged in the Amended Indictment. The Panel concluded that the JCE members, Milorad Trbić, Colonel Ljubiša Beara, Lieutenant Colonel Vujadin Popović, and Lieutenant Drago Nikolić, shared the common purpose which amounted to or involved the commission of crimes that took place in the Zvornik Brigade's area of responsibility.

843. As regards to the acts that occurred in Bratunac, the Accused is not liable for the criminal offences for which there is no evidence that he neither participated in directly or shared in this common purpose or plan with others.

844. The intent and actions of non-members of the JCE without the specific links to one of the JCE members, as necessary to establish a JCE form of liability, can not provide a basis for the conviction of the Accused for these offenses. By formulating the Amended Indictment in this manner, the Prosecution accused Milorad Trbić of all of the actions that occurred in the area of Srebrenica, without proffering specific evidence that would link the Accused to many of these incidents. There is no evidence to establish that Milorad Trbić had any involvement in the designing or conceiving of this plan. Responsibility for the overall events of Srebrenica thus does not rest with this Accused.

845. Due to the above, the Panel acquitted the Accused for these specific counts based on insufficient evidence to find liability beyond a reasonable doubt, pursuant to Article 284 paragraph c) of the CPC of BIH.

XI. SENTENCING

A. SENTENCING THAT IS NECESSARY AND COMMENSURATE WITH THE GRAVITY OF THE CRIMINAL OFFENSE

846. In terms of the criminal offence of genocide the Panel considered a sanction which is necessary and consistent with the cited legal aims, including the relevant legal elements. The killings and suffering which took place in the area of responsibility of the Zvornik Brigade has been the focus of this trial for the last two years. The Panel recognizes that for victims no sentence will be commensurate with the gravity of this offence. Genocide is often called the crime of crimes.¹⁴⁸⁷ But this Panel believes that this crime is committed by ordinary men who allowed their greed for territory and hatred for a group of people to go unchecked. When this happens then the ordinary becomes the extraordinary when the circumstances present themselves. The Panel also notes that this crime was committed not alone but with others. While not everyone who participated in this crime shared this hatred or shared in the genocidal intent, it is clear that the ones who strived so hard to make this genocidal plan work and therefore accomplish its killing plan did possess a higher level of responsibility. Nevertheless, an important factor for the Panel is that the Accused was not an architect of this plan nor a member of the group who originally planned this crime and as such bears a lesser responsibility. While he bears less overall responsibility he must however still be held accountable for his acts and the level of participation in this crime.

1. The sentence prescribed shall be necessary and commensurate with the level of the threat against persons and values protected (Article 2 of the CC of BiH)

847. In this regard, the Panel shall also be mindful of the legal elements pertaining to this specific purpose, that is, the sufferings of direct and indirect victims.¹⁴⁸⁸ Overall more than 7,000 Muslims were killed fleeing the fall of Srebrenica. At the time of the fall they were a vulnerable and weakened population. The intent here was not only to kill but to destroy a people. There was no desire to have a mass killing (what purpose would be there to that alone?). The killing was done to ensure that a community would never be able to reconstitute itself. The intent was to destroy a

¹⁴⁸⁷ *Kambanda* Judgment and Sentence, para. 16; *Prosecutor v. Serashugo*, ICTR-98-39-S, Sentence, 2 February 1999, para. 15.

¹⁴⁸⁸ Article 48 CC of BiH.

community. The dead and the few survivors of these killings were the direct victims. The remaining members of families left behind are shattered not only physically but psychologically. Their suffering may never go away. It is kept alive because the dead are not yet buried, return to their homes is for many impossible because the trauma cannot be forgotten, and the dead cannot be replaced. Their children are dispersed throughout BiH as well as in the world. The ability to earn a living is diminished by the loss of the male members of the household. Land ownership for the women left behind is complicated. The process of having someone declared dead without a body is also complicated. The cycle of grief can only end and healing begin after remains are found, identified and buried. For some this process of identification may be only for one body for others it can be as many as 22 members of one's immediate family.¹⁴⁸⁹ Finding and identifying remains is a critical tangible aspect in the healing process as is the need to bury one's dead.

848. Witness Tefika Ibrahimfendić is a psychologist with Vive Žene.¹⁴⁹⁰ She has been working with the women survivors, their children and their families since 1995. She describes many of the survivors as people who have been exposed to evil and now they cannot cope. These survivors have experienced a loss of safety and tremendous loss of place in a family unit. They suffer from depression, panic attacks, insomnia, psychosomatic health problems, obsessions with small matters, skin diseases, loss of hair and nightmares.¹⁴⁹¹ They know they cannot erase their memories. They do not trust the future.¹⁴⁹² For those who have been able to find their dead and bury them, they at least have a chance to begin the healing process.

849. The survivors who have family members still missing have a complex grieving process. They are not able to experience simple grief where you can see the dead and begin to heal. There is no closure when someone's remains are missing. Worst still this type of unsettled grief can be transferred to another generation.¹⁴⁹³ Children may be learning about a father from the grandmother and not the mother because it is too painful to admit the loss. The mother may speak to the child as if this person is still alive and thus children have grown up confused and isolated. This then creates three generations of suffering.

850. The search for bodies continues to this day. The attempts made to conceal the crime have made this search even more difficult. The act of reburial has contributed to a unique problem called reassociation. The original graves have been dug up by large earth moving machines which destroy

¹⁴⁸⁹ Witness Munira Subašić (12 January 2009).

¹⁴⁹⁰ Witness Tefika Ibrahimfendić (15 December 2008).

¹⁴⁹¹ Witness Tefika Ibrahimfendić (15 December 2008).

¹⁴⁹² Witness Tefika Ibrahimfendić (15 December 2008).

¹⁴⁹³ Witness Tefika Ibrahimfendić (15 December 2008).

the integrity of the body causing it to break apart. The body parts were then distributed into different mass graves making identification of the remains more difficult as well as the ability to form a complete skeleton.

851. It was clear from listening and observing the testimony of the survivors that the recollection of the event induces still more suffering. The fact is that there are only a few male survivors left. These few are continually called to testify and each time this forces them to relive the suffering. Because the search for bodies is not over there can be no closure for these families. This in turn means the community can also not have any closure. The wound is still fresh for these families and this prevents healing and reconciliation. The community cannot heal until the families heal. The country cannot heal until the communities heal.

852. No sanction can ever adequately address these type of losses and the Panel acknowledges the legal limitations of its response. The Panel acknowledges only a sanction consisting of long term imprisonment is appropriate here. Given the severity of the offence and the resulting consequences, only long-term imprisonment can satisfy the interests of justice. Therefore, the Panel sentenced the Accused for this crime to a long-term imprisonment of 30 (thirty) years, finding that the type of criminal sanction is commensurate with the gravity of the offence given the existing aggravating and mitigating factors, and the participation and the role of the Accused in the commission of the crime, whereas the sentence shall achieve the overall purpose of criminal sanctions and punishing in terms of Article 39 of the CC of BiH.¹⁴⁹⁴

2. Criminal sanction shall be commensurate with the extent of suffering, and be sufficient to deter others from similar criminal offenses in the future (Article 6 and 39 of the CC of BiH)

853. Deterrence is an important consideration as the crime is so great every tool available to the rule of law must and should be utilized to ensure these acts are never repeated. These acts must never be repeated again in potential future conflicts. In order to deter others a sentence must be effective to sufficiently convey the enormity of the evil acts used in a deliberate effort to destroy a people. As such only a sentence of long term imprisonment will suffice.

¹⁴⁹⁴ In this case, having found that long term imprisonment is applicable, the Panel distinguishes this case from *Zijad Kurtović*, X-KRZ-06/299 (Court of BiH), Second Instance Verdict, 25 March 2009. In this instance, the CC of BiH is more lenient than capital punishment that was in force at the time of the perpetration of the criminal offence, which satisfies the principle of the constraints regarding the applicability of the law, that is, the application of the law which is more lenient to the perpetrator.

3. The criminal sanction shall reflect the community's condemnation of the conduct of the accused (Article 39 of the CC of BiH)

854. In the relevant case, the community comprises those living in Bosnia and Herzegovina, members of the Diaspora who have left their country as refugees as well as the larger international community. International law as well as the law of BiH describes the conduct of the Accused as criminal under national and international regulations. Both communities have clearly voiced their positions that crimes of this nature are to be condemned notwithstanding the affiliation of the perpetrator or the site of the commission, and that they must not go unpunished. The sanction must be of sufficient weight to ensure this crime is not condoned with impunity.

4. Criminal sanction shall be necessary and commensurate with the educational purposes of the Code, meaning that persons should be made aware of the danger of the crime as well as the justice inherent in punishing criminals (Article 39 of the CC of BiH)

855. Trials and sanctioning of these crimes must demonstrate zero tolerance for the crimes committed at the time of war, but also show that criminal procedure is an appropriate way to unmask the crimes and end the circle of personal retaliation. The Panel or its judgment cannot order or mandate reconciliation. However, a sanction that fully recognizes the gravity of the offence may contribute to reconciliation by offering a legal and non-violent response, and promote the commitment to serve justice instead of a drive for a personal or community retaliation. This particular offense affected not only the Srebrenica community but the entire country, the surrounding region as well as the world. As stated before there is nothing the Panel can do to adequately address the loss suffered by both individuals and the larger community. The Panel can do what it is designed to do which is to find guilt or innocence and apply the law to the result. In this case the court hopes the sentence illustrates that even the most severe crimes can be adjudicated fairly.

B. THE SENTENCE OR CRIMINAL SANCTION MUST BE NECESSARY AND COMMENSURATE WITH THE INDIVIDUAL PERPETRATOR

856. Fairness as a legal requirement shall also be taken into consideration in calculating a sanction,¹⁴⁹⁵ aside from the specific circumstances of not only the criminal offence, but of its perpetrator as well. The Code foresees the two aims relevant for the person convicted of the criminal offence: (1) to deter the perpetrator from perpetrating criminal offences in the future;¹⁴⁹⁶ and (2) rehabilitation¹⁴⁹⁷. Rehabilitation is a purpose not only foreseen under the Criminal Code as one of the duties of the Court, but it is moreover the only purpose of sanctioning exclusively demanded by international human rights law that the Panel is to adhere to in accordance with the Constitution. Article 10(3) of the International Covenant on Civil and Political Rights stipulates that: “The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation”.

857. There are a number of rules relevant to these purposes for they affect the sanction an individual convicted person receives.¹⁴⁹⁸ The rules, among others, include the degree of criminal liability, the conduct of the perpetrator before, during and after the commission of the criminal offence, motives for perpetrating the offence, and personality of the perpetrator. These considerations can be used in aggravation or mitigation of the sentence, as the facts dictate. The aim behind consideration of all these elements is to assist the court in determining a sanction that is necessary and commensurate in terms of the purpose of sanctioning and elements that had already been taken into consideration in relation to the crime itself and its consequences upon the community, provided that the sanction corresponds to the preventive and reformative demands upon the specific perpetrator.

C. DEFENDANT

1. The degree of liability

858. The Accused, Milorad Trbić, is directly responsible for the crimes he committed as part of a joint criminal enterprise to destroy all the Muslim men brought into his area of responsibility during

¹⁴⁹⁵ Article 39 CC of BiH.

¹⁴⁹⁶ Article 6 and 39 CC of BiH.

¹⁴⁹⁷ Article 6 CC of BiH.

the period following the fall of Srebrenica. The Trial Panel has found some significant mitigating factors as well as aggravating factors. First, it is clear from the evidence that he was not involved in the planning of these crimes at the initial stage. Secondly, he did agree to cooperate to a certain level with the ICTY investigators. To the extent he cooperated honestly he assisted in adding to the understanding of what took place as well as to the understanding of his role and his level of accountability. However, it must also be noted that he used deception to cover up his role as well as the role of others. To the extent he could help himself he did but to the extent that he caused needless expense and aggravation to investigators is also apparent. An example of this is his trip to BiH. This trip did not yield any new grave sites despite his insistence that the trip would do just that.¹⁴⁹⁹

2. The conduct and personal situation of the Accused

859. Conduct and the personal situation of the Accused Milorad Trbic before, during and after the commission of the crime contain both aggravating and mitigating facts, and are relevant in view of prevention and rehabilitation.

(a) Prior to the commission of the criminal offense

860. The Accused was a member of the JNA military reserves, a family man with no prior convictions.

(b) The circumstances of the criminal offense

861. As the Assistant to the Deputy Commander of the Security Organ Zvornik Brigade, the Accused was pivotal in implementing the criminal plan in the Zvornik area of responsibility. During the period of commission of this crime there is no evidence to indicate he took action to save even one life. He engaged in activities designed to cover up the crimes committed with his role in the reburials. Furthermore, he continued to deceive officials about the location of graves shortly after the war at a meeting on 25 March 1996.¹⁵⁰⁰

¹⁴⁹⁸ Article 48 CC of BiH.

¹⁴⁹⁹ Witness Bruce Bursik (28 November 2007); T-18 (Trbić 8 November 2004 Interview), p. 7.

¹⁵⁰⁰ T-813 (Butler Narrative Report), para. 12.22, p. 124: Following a RS Presidential order to the MUP and the VRS Main Staff dated 23 March 1996 to form a “mixed commission” to fully investigate the facts with respect to the alleged

(c) The circumstances after the relevant time

862. After the end of the war, the Accused, Milorad Trbić sought refugee status in the United States with his family. He provided false information on his immigration application when he failed to acknowledge he had been a member of the VRS. This failure was deemed serious enough that he was convicted of a crime and deported. Based on his representations, which were the subject of a criminal proceeding in the US, it is clear that Trbic covered up his past to avoid the possibility of being charged in the future with war crimes.

863. After the US conviction he was transferred into the custody of the ICTY. Trbić, while always a suspect at the ICTY, was also in their custody as a potential witness. He initially cooperated with investigators. To the extent this cooperation was based on the truth he assisted in clarifying his role and that of others in these events. The Panel has found this level of cooperation a mitigating event. The Panel also recognizes that parts of his many statements include false information which served to waste time and money on fruitless investigations. These attempts at deception indicate no true remorse on his part rather they are seen as an attempt to cover up for others and minimize his own actions.

864. He is still married and the father of an adult daughter. Both his wife and his daughter live in another country.

(d) Conduct during the proceedings

865. In the course of the proceedings, the conduct of the Accused was appropriate. He was respectful of the Court and his behavior was professional. His conduct during the case was appropriate and met the Panel's expectations, and is therefore neither an aggravating nor mitigating factor.

discovery of two decomposed bodies from "earlier battles with the Muslim side in the Pilica area" a part of the mixed commission had been assembled and met on 25 March 1996. This commission was to request competent IFOR or UN authorities to be present, in order to "frustrate the intentions of Ambassador Albright and media experts to launch arbitrary and biased conclusions about this case." On behalf of the Zvornik Brigade, the Accused Milorad Trbić attended the meeting on 25 March 1996 and according to the official from the RS Supreme Military Prosecutor's Office, "None of the people present knew any details of the locality, and of the actions that needed to be undertaken, nor was anyone informed about what would be 'found' on site, or no one wanted to know."

3. Motive

866. The existence of a motive does not constitute an essential element of the criminal offence in the relevant case nor is it linked with the intent. The Accused had the necessary intent to commit the crimes prescribed under the Code and established in the reasoning to the verdict. Therefore, the Panel will make no findings on this issue and motive is neither an aggravating nor mitigating factor.

4. The personality of the Accused

867. The Panel has no evidence on the personality of the Accused other than what he had demonstrated by the commission of the criminal offence, and his evident conduct in the courtroom, which were both discussed in previous paragraphs.

5. Reduction of punishment according to the Code

868. Article 49 of the CC of BiH cites the following in terms of the reduction of punishment:

The court may set the punishment below the limit prescribed by the law, or impose a milder type of punishment:

- a. When law provides the possibility of reducing the punishment; and
- b. When the court determines the existence of highly extenuating circumstances, which indicate that the purpose of punishment can be attained by a lesser punishment.

Bearing in mind the cited article, the Panel inferred that the conditions set under this article have not been met, and hence the punishment could not be reduced.

6. Deterrence and social rehabilitation

869. The length of a sentence and the time spent in jail as punishment for the crime are legitimate deterrents in most cases. They provide the offender with an opportunity to consider the effects of his actions on victims, to reflect on his past mistakes and to make amends for his criminal actions.

D. CONCLUSION

870. Given the established factual and legal findings, the Panel found the Accused guilty of the crime of genocide and sentence him for this crime to a long-term imprisonment of 30 years. The 30 years reflects both the mitigating as well as the aggravating factors in applying a sentence of long term imprisonment. The Court finds that the type of criminal sanction is commensurate with the gravity of the offence given the existing aggravating and mitigating factors, and the participation and the role of the Accused in the commission of the crime, whereas the sentence shall achieve the overall purpose of criminal sanctions and punishing in terms of Article 39 of the CC of BiH.

871. Pursuant to Article 56(1) of the CC of BiH, the time that the Accused spent in custody following the decision of the Court as well as at the ICTY, as of 7 April 2005, shall be credited towards the sentence of imprisonment.

XII. PROPERTY CLAIMS

PERSONS KILLED	APPLICANTS AND AGGRIEVED PARTIES	AMOUNT CLAIMED	ATTORNEY
Zulfo Mehmedović	Jasmin Mehmedović (son)		
	Muhamed Mehmedović (son)		
	Mula Mehmedović (wife)		
	Mejra Kapić		
Ramiz Gabeljić	Azem Gabeljić	80,000,00 KM	
Fahrudin Gabeljić	Azem Gabeljić	20,000,00 KM	
	Hata Gabeljić	20,000,00 KM	
Sulejman Mujčinović	Munira Mujčinović		
Halid Mujčinović			
Ismet Smajić	Amira Smajić	80,000,00 KM	
	Smajić Amir		
Mustafa Adamović	Kada Adamović Mevludin Adamović		Aida Smajić
Bego Mujkić	Hanka Haremivić	60,000,00 KM	
Muhidin Hurić	Nuriya Hurić Mejra Hurić	100,000,00 KM	
Hasib Alić	Dževahira Alić	80,000,00 KM	
Refik Šiljković	Sulejman Šiljković Amir Šiljković Samir Šiljković Sabaheta Ademović Smajić Zarifa Musić Huriya		Emil Galušić
Zahid Ibrahimović	Jasmina Ibrahimović Naida Ibrahimović Selver Ibrahimović		
Dulan Avdić	Zifa Avdić	70,000,00 KM	
Jakub Smajilović	Smajlović Nezir		
Velid Omerović	Velida Zukić	60,000,00 KM	
Rijaz Avdić	Hava Bumbulović	7,000,00 KM	
	Indira Husić	7,000,00 KM	
	Mirzeta Salkić	7,000,00 KM	
	Vesna Omerović	7,000,00 KM	
Bajro Mujanović	Ajka Alić	60,000,00 KM	
Ramiz Omerović	Šahida Omerović	70,000,00 KM	
Zifa Delić	Zifa Avdić	20,000,00 KM	
Čazim Čosić	Zemina Čosić	15,000,00 KM	
	Semir Čosić	20,000,00 KM	
	Semira Čosić	20,000,00 KM	
	Alija Čosić	20,000,00 KM	

	Zarifa Osmanović	140,000,00 KM	Zlata Begić
	Revda Bumbulović	140,000,00 KM	
Sead Mustafić	Sevlida Mustafić	7,000,00 KM	
	Sevludin Mustafić	7,000,00 KM	
Sead Mustafić	Ajkuna Mustafić	20,000,00 KM	
	Selveta Mustafić	7,000,00 KM	
	Mevlida Mustafić	20,000,00 KM	
Mehmedalija Huseinović	Zehra Huseinović	100,000,00 KM	
	Senada Đonlić	100,000,00 KM	
Šaban Mehić	Zahida Mehić	40,000,00 KM	
	Nijaz Mehić	40,000,00 KM	
	Rajfa Mehić		
	Omer Mehić		
Himzo Ridžić	Nura Ridžić	20,000,00 KM	
	Edmir Ridžić	20,000,00 KM	
	Nermin Ridžić	20,000,00 KM	
Meho Selimović	Adila Selimović	40,000,00 KM	
	Bajro Selimović	40,000,00 KM	
	Merka Mustafić	40,000,00 KM	
	Sevludin Selimović	40,000,00 KM	
	Tima Mujić	40,000,00 KM	
Abid Hodžić	Hafiza Hodžić	40,000,00 KM	
	Merima Mustafić	40,000,00 KM	
Osman Omerović	Šaban Omerović	20,000,00 KM	
	Selima Omerović	20,000,00 KM	
	Zuhdija Zahirović	20,000,00 KM	
	Zarfa Mustafić	20,000,00 KM	
	Safija Velić	20,000,00 KM	
	Senajid Omerović	20,000,00 KM	
	Semija Bećirović	20,000,00 KM	
Mustave Džananović	Fahreta Mekanović		Maida Grizović
Ismet Suljkanović	Mevlid Suljkanović	7,000,00 KM	
Suad Mitić	Mina Mitić	70,000,00 KM	
Mirsad Skeledžić	Tahira Skeleđić	200,000,00 KM	
Suad Skeledžić			
Irfan Čakanović			
Čakanović Mehmedalija			
Hasan Omerović	Fadila Omerović	70,000,00 KM	
Meho Mujić	Zurijeta Mujić		
Muhamed Ahmetović	Zilaka Ahmetović		
Smajo Karić	Alija Karić	30,000,00 KM	
	Senaid Karić	30,000,00 KM	
	Said Karić	30,000,00 KM	
Hašim Husejnović	Razija Dedić	20,000,00 KM	
	Kadim Huseinović	20,000,00 KM	
	Kada Huseinović	20,000,00 KM	
	Mirzet Husejnović	10,000,00 KM	
Sead Bećirović	Semija Bećirović	20,000,00 KM	

	Sanela Bećirović	20,000,00 KM	
	Mirela Bećirović	20,000,00 KM	
	Bešir Bećirović	20,000,00 KM	
	Osman Bećirović	20,000,00 KM	
Mensur Zukić	Jasna Tuholjić		Rusmir Tanović
Čamil Jugović	Mejra Jugović	20,000,00 KM	
Fikret Jugović		20,000,00 KM	
Huso Kabilović	Safija Kabilović	20,000,00 KM	
	Juso Kabilović	20,000,00 KM	
Mujo Salihović	Mulo Salihović	20,000,00 KM	
	Sejdalija Salihović	20,000,00 KM	
	Hava Salihović	20,000,00 KM	
Manjo Mujić	Azemka Mujić	20,000,00 KM	
	Džemil Mujić	20,000,00 KM	
Mehmedalija Čakanović	Durija Zejnilović	90,000,00 KM	
Irfan Čakanović	Hakija Čakanović		
Kadrija Bektić	Samida Bektić	20,000,00 KM	
	Kadir Bektić		
	Jasmina Bektić		
	Elma Bektić		
Mujo Pašalić	Amira Mustafić	20,000,00 KM	
	Nermin Pašalić		
Fikret Jugović	Šemsada Jugović	20,000,00 KM	
	Bjelka Jugović	20,000,00 KM	
Nusret Jusić	Rejha Jusić	50,000,00 KM	Esad Hrvačić
Fadil Dedić	Kada Dedić		
	Hamdija Dedić		
	Fahreta Dedić		
Mujo Kešmer	Samir Kešmer		
	Muša Kešmer		
	Džemila Kešmer		
Amir Smajlović	Nura Smajlović		
	Lutvija Smajlović		
	Mefail Smajlović		
	Amar Smajlović		
	Ramiz Džananović		
Abid Husić	Azira Husić	35,000,00 KM	
Mehmed Avdić Mirzet Avdić	Zehra Avdić	20,000,00 KM	
	Šemsija Selimović	20,000,00 KM	
	Izeta Hasanić	20,000,00 KM	
	Mirzeta Alić	20,000,00 KM	
	Izet Avdić	20,000,00 KM	
Nezir Malić	Mevlija Malić		
	Tima Malić		
Mujo Klempić	Kada Klempić	20,000,00 KM	
Mujo Klempić	Nihada Klempić	20,000,00 KM	
	Munira Ibrahimović		
Esad Mujić	Begija Mujić	20,000,00 KM	
	Senahid Mujić	20,000,00 KM	

	Esada Mujić	20,000,00 KM	
Šaban Mehić	Ramiza Mehić	20,000,00 KM	
	Izeta Mehić	20,000,00 KM	
	Mirzeta Harbaš	20,000,00 KM	
Šaban Mehić	Zehta Omerović	20,000,00 KM	
	Esmā Karić	20,000,00 KM	
	Edin Mehić	20,000,00 KM	
Jusuf Mehić	Ramiza Mehić	20,000,00 KM	
Uzeir Sulejmanović	Ajša Sulejmanović	50,000,00 KM	Haris Džafo
	Šefik Sulejmanović	50,000,00 KM	
	Ševket Sulejmanović	50,000,00 KM	
	Behrema Sulejmanović	50,000,00 KM	
	Nevzeta Nuhanović	50,000,00 KM	
Habib Smajlović	Džemila Smajlović	50,000,00 KM	Haris Džafo
	Muhamed Smajlović	50,000,00 KM	
	Sabra Smajlović	50,000,00 KM	
Sadik Hasanović	Đeva Hasanović	50,000,00 KM	Haris Džafo
	Bida Hasanović	50,000,00 KM	
	Almedina Hasanović	50,000,00 KM	
	Veldina Hasanović	50,000,00 KM	
Lutvo Salihović	Šuhra Salihović	50,000,00 KM	Haris Džafo
	Senad Salihović	50,000,00 KM	
	Selvid Salihović	50,000,00 KM	
	Selvida Salihović	50,000,00 KM	
Aziz Mujić	Lejla Mujić	50,000,00 KM	Haris Džafo
	Denizi Mujić	50,000,00 KM	
	Amir Mujić	50,000,00 KM	
Mustafa Spahić	Sadka Spahić	50,000,00 KM	Haris Džafo
	Mehmed Spahić	50,000,00 KM	
	Sarija Spahić	50,000,00 KM	
	Almedina Spahić	50,000,00 KM	
Junuz Dudić	Azemka Salkić	50,000,00 KM	Haris Džafo
	Aza Harbaš	50,000,00 KM	
Behudin Riđić	Mahmut Riđić	50,000,00 KM	Haris Džafo
	Tahira Riđić	50,000,00 KM	
	Azira Riđić	50,000,00 KM	
	Armin Riđić	50,000,00 KM	
	Rizafeta Aljkanović	30,000,00 KM	
	Berisa Riđić	50,000,00 KM	
	Ifeta Hasanović	30,000,00 KM	
Ibro Mehmedović	Nasija Mehmedović	50,000,00 KM	Haris Džafo
	Arneta Mehmedović	50,000,00 KM	
	Hata Mehmedović	50,000,00 KM	
	Ibrahim Memedović	30,000,00 KM	
	Halil Mehmedović	30,000,00 KM	
	Hiba Hodžić	30,000,00 KM	
Ibrahim Ejubović	Zejna Ejubović	50,000,00 KM	Haris Džafo
	Hana Ejubović	30,000,00 KM	
	Munira Kikanović	30,000,00 KM	

	Merka Hasanović	30,000,00 KM	
Adem Bumbulović	Revda Bumbulović	50,000,00 KM	Haris Džafo
	Amra Bumbulović	50,000,00 KM	
	Amer Bumbulović	50,000,00 KM	
Adem Bumbulović	Ševal Bumbulović	30,000,00 KM	Haris Džafo
	Remza Aljić	30,000,00 KM	
	Medina Hasić	30,000,00 KM	
	Adema Osmanović	30,000,00 KM	
Nezir Musić	Zejna Musić	50,000,00 KM	Haris Džafo
	Hadžo Musić	50,000,00 KM	
	Kerim Musić	50,000,00 KM	
	Hata Ahmetović	50,000,00 KM	
Hajrudin Turunović	Zlatija Tursanović	40,000,00 KM	
	Muhamed Tursanović	40,000,00 KM	
	Hajreta Tursanović	40,000,00 KM	
Sadik Salkić	Hana Salkić (daughter)	20,000,00 KM	
	Sajma Mušanović	20,000,00 KM	
	Hana Salkić (wife)	20,000,00 KM	
Ismet Zukanović Suljo Zukanović	Zekija Zukanović	40,000,00 KM	
	Hanija Zukanović	30,000,00 KM	
	Fatima Zukanović	30,000,00 KM	
	Najla Zukanović- Gabeljić	30,000,00 KM	
	Hajrija Zukanović – Bektić	30,000,00 KM	
Meho Šehić	Hajrija Šehić	50,000,00 KM	Haris Džafo
	Mirsad Šehić	50,000,00 KM	
	Sead Šehić	50,000,00 KM	
	Senad Šehić	50,000,00 KM	
Hazim Hodžić	Elvedina Hodžić	50,000,00 KM	Haris Džafo
	Emina Hodžić	50,000,00 KM	
	Zuhra Hrustić	30,000,00 KM	
	Jasmina Zimić	30,000,00 KM	
Bido Suljić	Izeta Suljić	50,000,00 KM	Haris Džafo
	Mevludin Suljić	50,000,00 KM	
	Šemso Suljić	50,000,00 KM	
	Mehmed Suljić	50,000,00 KM	
	Mevlida Mulalić	50,000,00 KM	
Hamed Muminović	Ibrima Muminović	50,000,00 KM	Haris Džafo
	Hamdija Muminović	50,000,00 KM	
	Mevludin Muminović	50,000,00 KM	
	Kadira Musić	50,000,00 KM	
	Fatima Sinanović	50,000,00 KM	
	Muška Tursunović	50,000,00 KM	
	Mevlija Tursunović	50,000,00 KM	
	Hurija Mehmedović	50,000,00 KM	
Munib Pitarević	Ajiša Pitarević	50,000,00 KM	Haris Džafo
	Sabahudin Pitarević	50,000,00 KM	

Šemso Ibrahimović	Merka Ibrahimović	50,000,00 KM	Haris Džafo
	Razija Omerović	50,000,00 KM	
	Remzija Muhić	50,000,00 KM	
	Revda Ibrahimović	50,000,00 KM	
	Dževad Ibrahimović	50,000,00 KM	
Kadir Avdić	Bida Avdić	50,000,00 KM	Haris Džafo
	Eldina Avdić	50,000,00 KM	
	Nermina Avdić	50,000,00 KM	
	Kadira Avdić	50,000,00 KM	
	Aldina Avdić	50,000,00 KM	
Azem Osmanović	Zuhra Osmanović	50,000,00 KM	Haris Džafo
	Hakija Osmanović	50,000,00 KM	
	Bida Osmanović	50,000,00 KM	
	Mersa Osmanović	50,000,00 KM	
	Zuhra Bumbulović	50,000,00 KM	
	Ramiza Nuhanović	50,000,00 KM	
	Habib Osmanović	50,000,00 KM	
	Hidajet Osmanović	50,000,00 KM	
Omer Čivić	Namka Čivić	50,000,00 KM	Haris Džafo
	Mirela Čivić	50,000,00 KM	
	Fevzija Čivić	50,000,00 KM	
	Amira Jusufović	50,000,00 KM	
	Azra Ramić	50,000,00 KM	
Ševket Mustafić	Sabrija Mustafić	50,000,00 KM	Haris Džafo
	Šejla Mustafić	50,000,00 KM	
	Emina Bakal	50,000,00 KM	
	Mersed Mustafić	50,000,00 KM	
	Ademir Mustafić	50,000,00 KM	
Hamed Ibrahimović	Dika Ibrahimović	50,000,00 KM	Haris Džafo
	Zlata Ibrahimović	50,000,00 KM	
	Hamedina Ibrahimović	50,000,00 KM	
	Adnan Ibrahimović	50,000,00 KM	
	Ramiz Ibrahimović	50,000,00 KM	
	Hamdija Ibrahimović	50,000,00 KM	
	Rahima Jusić	50,000,00 KM	
	Naza Sokolić	50,000,00 KM	
Dahma Bajrektarević	Šaha Bajrektarević	20,000,00 KM	
	Hajrudin Bajrektarević	20,000,00 KM	
	Emina Bajraktarević	20,000,00 KM	
	Ešefa Bajraktarević	20,000,00 KM	
	Hajreta Bajraktarević	20,000,00 KM	
	Fatima Suljić	20,000,00 KM	
Vehbija Nuhanović	Nevzeta Nuhanović	40,000,00 KM	
Šahbaz Halilović	Mirela Halilović		
Selim Pirić	Elvira Pirić		
	Muradif Pirić		
Bego Hrustanović	Mujo Hrustanović	24,000,00 KM	

Irfana Čakanović Čakanović Mehmedalija	Sabaheta Čakanović	90,000,00 KM	
Omer Imamović	Imamović Hajrija		Jasminka Mehinagić
Amera Imamović	Hajrija Imamović	240,000,00 KM	
Nevzeta Imamović	Safeta Imamović	240,000,00 KM	
Rešid Ibrahimović	Bida Ibrahimović	20,000,00 KM	
Rešid Ibrahimović	Salko Ibrahimović	20,000,00 KM	
	Sanela Ibrahimović	20,000,00 KM	
	Anela Ibrahimović	20,000,00 KM	
Redžep Hanić	Mustafa Hanić	100,000,00 KM	
	Rukija Hanić	200,000,00 KM	
Rešid Hanić	Rukija Hanić	100,000,00 KM	
Selim Hanić	Rukija Hanić	100,000,00 KM	
Bajro Adamović	Hasiba Adamović	20,000,00 KM	
	Hafiza Adamović	20,000,00 KM	
	Mirnes Adamović	20,000,00 KM	
	Mina Ademović	20,000,00 KM	
Edin Džanić	Enver Džanić		Rusmir Karkin
Šaban Begzadić	Ajša Begzadić	50,000,00 eura	Fadil Hadrović
	Alija Begzadić	50,000,00 eura	
	Hasib Begzadić	50,000,00 eura	
	Sadeta Parlić	50,000,00 eura	
	Admira Kelepanda	50,000,00 eura	
Nedžad Smajlović	Šemsa Smajlović	50,000,00 KM	Haris Džafo
	Hamdija Smajlović	50,000,00 KM	
Osman Dautović	Begija Dautović	50,000,00 KM	Haris Džafo
	Osman Malić	50,000,00 KM	
	Osmo Dautović	50,000,00 KM	
Hamed Smajlović	Hatidža Smajlović	50,000,00 KM	Haris Džafo
	Tahira Špiodić	50,000,00 KM	
Refik Salkić	Zifa Salkić	50,000,00 KM	Haris Džafo
	Zehra Salkić	50,000,00 KM	
	Sabahudin Salkić	50,000,00 KM	
	Rešid Salkić	50,000,00 KM	
	Habiba Husić	50,000,00 KM	
	Fatima Alić	50,000,00 KM	
	Tahira Mehanović	50,000,00 KM	
	Tima Smajlović	50,000,00 KM	
	Hiba Smajić	50,000,00 KM	
Selvbedin Atić	Ramiza Atić	50,000,00 KM	Haris Džafo
	Redžija Ragipović	50,000,00 KM	
	Said Atić	50,000,00 KM	
Omer Mehmedović	Ramiza Mehmedović	50,000,00 KM	Haris Džafo
	Senaid Mehmedović	50,000,00 KM	
	Senada Begić	50,000,00 KM	
Mehmedalija Efendić	Nazifa Efendić	50,000,00 KM	Haris Džafo
	Mensur Efendić	50,000,00 KM	
	Mensura Malkoč	50,000,00 KM	
Hilmo Pirić	Hasija Pirić	50,000,00 KM	Haris Džafo

	Himzo Pirić	50,000,00 KM	
	Sajma Vranjkovina	50,000,00 KM	
	Senada Šarić	50,000,00 KM	
Omer Osmić	Šemsa Osmić	50,000,00 KM	Haris Džafo
	Azra Osmić	50,000,00 KM	
Bajro Memedović	Tahira Mehmedović	50,000,00 KM	Haris Džafo
	Ferid Mehmedović	50,000,00 KM	
Bajro Mehmedović	Ferisa Džinić	50,000,00 KM	Haris Džafo
Muamer Čivić	Nezira Čivić	50,000,00 KM	Haris Džafo
Nedžad Bajramović	Rami Bajramović	50,000,00 KM	Haris Džafo
	Remzija Bajramović	50,000,00 KM	
Šećo Hukić	Rukija Mujić	50,000,00 KM	Haris Džafo
	Zineta Bajramović	50,000,00 KM	
Mustafa Čivić	Nezira Čivić	50,000,00 KM	Haris Džafo
	Amiri Jusufović	50,000,00 KM	
	Azra Ramić	50,000,00 KM	
Osman Smajić	Hajdarević Šaha	7,000,00 KM	Amir Šapčanin
Abdulah Osmanović	Hidan Osmanović	50,000,00 KM	Haris Džafo
	Adila Osmanović	50,000,00 KM	
	Hidajet Osmanović	30,000,00 KM	
	Šemso Osmanović	30,000,00 KM	
	Sajama Osmanović	30,000,00 KM	
	Samira Osmanović	30,000,00 KM	
	Fadila Osmanović	30,000,00 KM	
Muamer Kandžetović	Ajna Kandžetović	50,000,00 KM	Haris Džafo
	Durmo Kandžetović	50,000,00 KM	
	Fatija Kandžetović	50,000,00 KM	
	Amer Kandžetović	50,000,00 KM	
	Amela Kandžetović	50,000,00 KM	
	Ahmed Kandžetović	50,000,00 KM	
Izet Malić	Izeta Malić	50,000,00 KM	Haris Džafo
	Amela Hasanović	50,000,00 KM	
	Alma Pekušić	50,000,00 KM	
	Fikreta Omić	30,000,00 KM	
Junuz Salihović	Begija Salihović	50,000,00 KM	Haris Džafo
	Enez Salihović	50,000,00 KM	
	Nedžad Salihović	50,000,00 KM	
	Jasmina Salihović	50,000,00 KM	
	Zineta Tabaković	50,000,00 KM	
Sulejman Mujić	Rahima Mujić	50,000,00 KM	Haris Džafo
	Suvada Mujić	50,000,00 KM	
	Mirsada Mujić	50,000,00 KM	
Almir Suljić	Izeta Suljić	50,000,00 KM	Haris Džafo
	Mevludin Suljić	50,000,00 KM	
Ibrahim Atić	Ramiza Atić	50,000,00 KM	Haris Džafo
	Said Atić	50,000,00 KM	
	Redžija Ragipović	50,000,00 KM	
	Fadila Atić	30,000,00 KM	
	Mevlida Hasanović	30,000,00 KM	
	Nedžba Salihović	30,000,00 KM	

Jusuf Selimović	Đulsa Selimović	50,000,00 KM	Haris Džafo
	Zekira Alić	50,000,00 KM	
	Zulfa Džanić	50,000,00 KM	
	Zejneba Kadrić	50,000,00 KM	
	Šemsa Mustafić	50,000,00 KM	
Jahić Omer	Hajreta Jahić	50,000,00 KM	Haris Džafo
	Irma Jahić	50,000,00 KM	
	Irfan Jahić	50,000,00 KM	
Delić Hasib	Hazreta Delić	50,000,00 KM	Haris Džafo
	Džulija Delić	50,000,00 KM	
	Nezir Delić	50,000,00 KM	
	Hasedin Delić	30,000,00 KM	
	Čamil Delić	30,000,00 KM	
	Hasmir Delić	30,000,00 KM	
	Munira Sulejmanović	30,000,00 KM	
Esnaf Sulejmanović	Munira Sulejmanović	50,000,00 KM	Haris Džafo
	Mevlida Sulejmanović	50,000,00 KM	
	Edisa Sulejmanović	50,000,00 KM	
	Enan Sulejmanović	50,000,00 KM	
	Elvedina Hodžić	50,000,00 KM	
Esad Sulejmanović	Mevlida Sulejmanović	50,000,00 KM	Haris Džafo
	Elvedina Hodžić	30,000,00 KM	
Ibrahim Subašić	Fata Subašić		
	Sejdefa Šabanović		
	Samir Subašić		
	Selveta Marić		
Redže Šabić	Habiba Fehrić		Emil Galušić
	Mevla Brkić		
	Hatidža Nasupović		
Dahmo Mustafić	Safija Mustafić		
	Begajeta Mustafić		
	Vahida Hasanović		
	Vahdet Mustafić		
Husejina Hukić	Hajra Tabaković		
Senahid Tabaković	Hajra Tabaković		
Abdulah Tabaković	Bida Tabaković		
	Sabit Tabaković		
	Sakib Tabaković		
	Emin Tabaković		
Abdulah Salihović	Adila Salihović		
	Salih Salihović		
	Almasa Salihović		
	Fatima Salihović		
	Sabaheta Muratović		
Šaban Salihović	Munira Salihović		
	Amira Salihović		
	Ajka Salihović		
	Nefail Salihović		
	Amir Salihović		
Hazim Muminović	Mirsada Muminović		

Hajrudin Ibišević	Paša Ibišević		
	Elvir Ibišević		
	Deniza Habibović		
	Elvira Čuhadarović		
Šaban Dautović	Fata Dautović	20,000,00 KM	Sejad Mujačić
Šaban Dautović	Elmir Dautović	20,000,00 KM	Sejad Mujačić
	Daut Dautović	20,000,00 KM	
	Amila Dautović	20,000,00 KM	
	Fatimka Ibrahimović	20,000,00 KM	
	Ersada Nukić	20,000,00 KM	
Ahmet Ramić	Mevlida Ramić	80,000,00 KM	
Sead Ramić	Senad Ramić	80,000,00 KM	
Beriz Đozić	Ifeta Đozić		
Sead Halilović	Zijada Halilović	100,000,00 KM	
Ibrahim Čavkušić	Ismeta Čavkušić		
	Halil Čavkušić		
	Fata Čavkušić		
Nijaz Spahić	Spahić Ramiza	20,000,00 KM	
Refik Alić	Fikreta Karičić	22,000,00 KM	Ifeta Hrnjić
Ismet Ahmetović	Muša Ahmetović	20,000,00 KM	Kadrija Kolić
	Bahra Ahmetović	20,000,00 KM	
	Fatima Ahmetović	20,000,00 KM	
	Fatima Beganović	20,000,00 KM	
	Ibro Ahmetović	20,000,00 KM	
Jusuf Alić	Sabrija Alić	20,000,00 KM	Kadrija Kolić
	Sabera Alić	20,000,00 KM	
	Muharem Alić	20,000,00 KM	
	Fata Alić	20,000,00 KM	
Ibrahim Muminović	Abdulah Muminović	20,000,00 KM	Mujić Fadil
Alija Sinanović	Nura Sinanović	20,000,00 KM	
	Mirnesa Sinanović	20,000,00 KM	
	Hana Sinanović	20,000,00 KM	
Abdurahman Delić	Nura Sinanović	20,000,00 KM	
Alija Sinanović	Sahiba Sinanović-Đerzić	20,000,00 KM	
Fahrudin Hodžić	Vejsil Hodžić	100,000,00 KM	
Bećir Pleho	Adis Pleho	20,000,00 KM	
Hasan Mehmedović	Fatima Omerović		
	Fata Mehmerović		
	Husejnčehajić Hasreta		
Sakib Halilović	Ševka Halilović		
	Elvis Halilović		
	Elvir Halilović		
Abdurahman Delić	Dževad Delić	20,000,00 KM	
	Ekrem Delić	20,000,00 KM	
	Fatima Muhić	20,000,00 KM	
Omer Cvrk	Ramiza Cvrk	200,000,00 KM	
	Muhamed Cvrk	80,000,00 KM	
	Nermina Talović	80,000,00 KM	
	Fatima Karić	80,000,00 KM	

Vahdet Salihović	Nevresa Salihović		Rusmir Tanović
Hamdija Agić	Mehmed Agić	40,000,00 KM	Emir Hasić
Salko Muratović	Ibrahim Muratović	60,000,00 KM	Suad Kumrić
	Meva Muratović	20,000,00 KM	
	Salmir Muratović	20,000,00 KM	
Mehmedalija Hasanović	Kadefija Hasanović	60,000,00 KM	
Nazif Omerović	Sejda Hasanović	60,000,00 KM	
Bećir Kasumović	Adevija Kasumović	60,000,00 KM	
	Elvira Kasumović	60,000,00 KM	
	Fatima Karić	60,000,00 KM	
	Mihada Habibović	60,000,00 KM	
	Zumra Atić	60,000,00 KM	
	Muška Kasumović	60,000,00 KM	
	Mirzet Kasumović	60,000,00 KM	
	Midhat Kasumović	60,000,00 KM	
Ramo Bektić	Nedžad Bektić	60,000,00 KM	
	Šemsija Bektić	60,000,00 KM	
Asim Halilović	Rahima Halilović	60,000,00 KM	
	Hajrudin Halilović	60,000,00 KM	
Hazim Johić	Omer Johić	60,000,00 KM	
	Mejrema Johić	60,000,00 KM	
	Mersida Kunić	20,000,00 KM	
	Mina Sakić	20,000,00 KM	
	Hazim Johić	20,000,00 KM	
Sevdet Smajlović	Smajo Smajlović	60,000,00 KM	
	Zehra Smajlović	60,000,00 KM	
Asim Smajlović	Smajo Smajlović	60,000,00 KM	
	Zehra Smajlović	60,000,00 KM	
Elvir Čivić	Mula Čivić	60,000,00 KM	
Ibrišim Halilović	Mina Halilović	60,000,00 KM	
Šemso Halilović	Samka Halilović	60,000,00 KM	
Ševal Mujić	Fatima Mujić	60,000,00 KM	
	Elvira Mujić	60,000,00 KM	
Senad Mujić	Fatima Mujić	60,000,00 KM	
	Elvira Mujić	60,000,00 KM	
Osman Halilović	Zulejha Halilović	60,000,00 KM	
Mevludin Ibrahimović	Lutvo Ibrahimović	60,000,00 KM	
	Fermin Ibrahimović	20,000,00 KM	
Alija Golić	Behija Golić	60,000,00 KM	
	Alija Golić	60,000,00 KM	
	Alma Golić	60,000,00 KM	
	Adila Golić	60,000,00 KM	
	Adil Golić	60,000,00 KM	
Senad Gobeljić	Mevlija Gobeljić	60,000,00 KM	
Rifet Hasić	Medina Hasić	60,000,00 KM	
Hajdin Mašić	Fetija Mašić	60,000,00 KM	
	Sevlida Mašić	60,000,00 KM	
	Seida Mašić	20,000,00 KM	
	Sevlid Mašić	20,000,00 KM	

Seid Mašić	Fetija Mašić	60,000,00 KM	
	Sevlida Mašić	60,000,00 KM	
	Seida Mašić	20,000,00 KM	
	Sevlid Mašić	20,000,00 KM	
Edin Dedić	Hatidža Dedić	60,000,00 KM	
Azem Kahrić	Nijaza Kahrić	60,000,00 KM	
	Arnela Kahrić	60,000,00 KM	
Mustafa Jusufović	Tima Jusufović	60,000,00 KM	
	Vahid Jusufović	60,000,00 KM	
	Zemina Jusufović	60,000,00 KM	
	Mevlida Sulejmanović	60,000,00 KM	
Ibran Hurić	Ajka Hurić	60,000,00 KM	
	Naza Korkutović	60,000,00 KM	
	Meaza Hurić	60,000,00 KM	
Mešan Omerović	Ifeta Omerović	60,000,00 KM	
	Mirhada Ramić	60,000,00 KM	
Šaćir Avdić	Zejna Avdić	60,000,00 KM	
Amir Alić	Ajka Alić	60,000,00 KM	
	Damir Alić	20,000,00 KM	
	Ermin Alić	20,000,00 KM	
Nedžad Gobeljić	Nurija Gobeljić	60,000,00 KM	
	Ajka Gobeljić	60,000,00 KM	
Selejman Jusupović	Mahza Jusupović	60,000,00 KM	
Sabahudin Zukanović	Redžija Zukanović	60,000,00 KM	
	Mevludin Zukanović	60,000,00 KM	
Smail Selimović	Mulfa Selimović	60,000,00 KM	
	Munira Selimović	60,000,00 KM	
Ramo Džanić	Elvira Džanić	60,000,00 KM	
	Ramiza Džanić	60,000,00 KM	
Šećan Mekanić	Muniba Mekanić	60,000,00 KM	
	Ramiz Mekanić	60,000,00 KM	
Ibran Ibrahimović	Hamid Ibrahimović	60,000,00 KM	
	Razija Ibrahimović	60,000,00 KM	
	Refik Ibrahimović	20,000,00 KM	
	Razija Ibrahimović (sister)	20,000,00 KM	
Sadija Mašić	Habiba Mašić	60,000,00 KM	
Junuz Čatić	Habiba Mašić	60,000,00 KM	
Hasan Rizvanović	Munira Rizvanović	60,000,00 KM	
	Mensur Rizvanović	60,000,00 KM	
	Mula Hasić	60,000,00 KM	
Edhem Musić	Mina Musić	60,000,00 KM	
	Nermin Musić	60,000,00 KM	
	Nermina Husić	60,000,00 KM	
	Edina Musić	60,000,00 KM	
Ejub Hasanović	Naza Hasanović	60,000,00 KM	
	Meho Hasanović	60,000,00 KM	
	Edina Hasanović	60,000,00 KM	
Ahmet Adilović	Sakib Adilović	60,000,00 KM	
Ibrahim Memić	Remzija Memić	60,000,00 KM	

	Safet Memić	60,000,00 KM	
	Sulejman Memić	60,000,00 KM	
	Senada Sačević	60,000,00 KM	
	Mevleta Smajjić	60,000,00 KM	
Nedžib Hrustić	Adila Hrustić	60,000,00 KM	
Rešo Musić	Remza Musić	60,000,00 KM	
Esad Musić	Remza Musić	60,000,00 KM	
Mehdin Omerović	Hatidža Omerović	60,000,00 KM	
	Mersida Omerović	60,000,00 KM	
	Mehrida Kuduzović	60,000,00 KM	
	Aida Omerović	60,000,00 KM	
Ismet Selimović	Haša Selimović	60,000,00 KM	
	Amira Selimović	60,000,00 KM	
	Ismeta Selimović	60,000,00 KM	
Rifet Isaković	Ramiza Isaković	60,000,00 KM	
	Fatima Isaković	60,000,00 KM	
Bego Halilović	Alemina Tulić	60,000,00 KM	
	Fehima Halilović	60,000,00 KM	
	Medina Čajić	60,000,00 KM	
Himzo Mujić	Hanka Mujić	60,000,00 KM	
	Vahidin Mujić	60,000,00 KM	
	Munevera Mujić	60,000,00 KM	
Nedžad Džananović	Nezir Džananović	60,000,00 KM	
	Emina Džananović	60,000,00 KM	
Rasim Hirkić	Osman Hirkić	60,000,00 KM	
Dževad Suljić	Izeta Suljić	60,000,00 KM	
	Ahmedin Suljić	60,000,00 KM	
	Jasmin Suljić	60,000,00 KM	
Sead Ahmetović	Šaha Ahmetović	60,000,00 KM	
	Adnan Ahmetović	60,000,00 KM	
	Elvis Ahmetović	60,000,00 KM	
	Sanel Ahmetović	60,000,00 KM	
Alija Avdić	Smajo Avdić	60,000,00 KM	
	Izet Avdić	60,000,00 KM	
	Zajim Avdić	60,000,00 KM	
	Alija Muratović	60,000,00 KM	
	Hava Avdić	60,000,00 KM	
Munib Osmanović	Hafiza Osmanović	60,000,00 KM	
	Elvisa Mustafić	60,000,00 KM	
Elvis Osmanović	Hafiza Osmanović	60,000,00 KM	
	Elvisa Mustafić	20,000,00 KM	
Meho Salkić	Senada Salkić	60,000,00 KM	
	Mirnes Salkić	60,000,00 KM	
	Ajiša Salkić	20,000,00 KM	
Nusmir Omerović	Faketa Omerović	60,000,00 KM	
Safet Muminović	Zahida Muminović	60,000,00 KM	
	Safeta Muminović	60,000,00 KM	
	Eldin Muminović	60,000,00 KM	
Rasim Sejfić	Mejrema Sejfić	60,000,00 KM	
	Adnan Sejfić	60,000,00 KM	

	Admir Sejfić	60,000,00 KM	
Mustafa Hasanović	Hatidža Hasanović	60,000,00 KM	
	Munir Hasanović	60,000,00 KM	
	Nermin Hasanović	60,000,00 KM	
Mustafa Hasanović	Kenan Hasanović	60,000,00 KM	
	Dževad Hasanović	60,000,00 KM	
Refik Alić	Selma Alić	60,000,00 KM	
	Nizama Ibralić	20,000,00 KM	
Vahid Husić	Ibriša Husić	60,000,00 KM	
	Mirzet Husić	60,000,00 KM	
Vekaz Husić	Ibriša Husić	60,000,00 KM	
	Mirzet Husić	20,000,00 KM	
Sado Salihović	Fadil Salihović	60,000,00 KM	
Mujo Gurdić	Hava Gurdić	60,000,00 KM	
	Zajim Gurdić	60,000,00 KM	
Abid Gabeljić	Zemina Gabeljić	60,000,00 KM	
	Nizama Gabeljić Burić	60,000,00 KM	
	Abedina Gabeljić	60,000,00 KM	
	Senada Hajdarbegović	60,000,00 KM	
	Ešref Gabeljić	60,000,00 KM	
Esad Malić	Mujesira Malić	60,000,00 KM	
Ramo Rizvanović	Zada Rizvanović	60,000,00 KM	
Aziz Muminović	Sabaheta Muminović	60,000,00 KM	
	Salem Muminović	60,000,00 KM	
	Samir Muminović	60,000,00 KM	
	Azema Husić	60,000,00 KM	
Fikret Bumbulović	Zifa Bumbulović	60,000,00 KM	
	Meho Bumbulović	60,000,00 KM	
	Mirsada Uzunović	20,000,00 KM	
Dahmo Suljić	Zehta Suljić	60,000,00 KM	
Amil Suljić	Zehta Suljić	60,000,00 KM	
Ibrahim Skeledžić	Samija Skeledžić	60,000,00 KM	
	Mensura Skeledžić	60,000,00 KM	
Hamid Mekanić	Naza Mekanić	60,000,00 KM	
	Samra Mekanić	60,000,00 KM	
	Amra Mekanić	60,000,00 KM	
	Sadika Mekanić	60,000,00 KM	
Zulfo Klempić	Mevlija Klempić	60,000,00 KM	
	Džejlana Klempić	60,000,00 KM	
Mehan Mujić	Šida Mujić		
	Edmir Mujić		
	Edin Mujić		
	Jasmir Mujić		
	Elvedin Mujić		
Ilijas Sulejmanović	Kadira Sulejmanović	60,000,00 KM	
	Husejin Sulejmanović	60,000,00 KM	
	Hatidža Sulejmanović	60,000,00 KM	
	Midhat Sulejmanović	60,000,00 KM	
Husein Šakić	Mujesira Šakić	60,000,00 KM	
Asim Kremić	Ajkuna Kremić	60,000,00 KM	

	Mejra Hodžić	60,000,00 KM	
Adil Kremić	Ajkuna Kremić	60,000,00 KM	
	Mejra Hodžić	20,000,00 KM	
Sabit Hodžić	Mejra Hodžić	60,000,00 KM	
	Mersiha Hodžić	60,000,00 KM	
	Sabina Hodžić	60,000,00 KM	
	Sadeta Hodžić	60,000,00 KM	
Samir Hasić	Šaha Hasić	60,000,00 KM	
	Jasmina Hasić	20,000,00 KM	
Husein Hasić	Muša Hasić	60,000,00 KM	
Samir Alić	Azemina Alić	60,000,00 KM	
	Sabaheta Alić	20,000,00 KM	
Osman Muastafić	Ajiša Krdžić	60,000,00 KM	
	Zejneba Izmirlić	60,000,00 KM	
Nurija Cvrk	Zilha Cvrk	60,000,00 KM	
Bahrija Ahmetović	Šema Ahmetović	60,000,00 KM	
	Adisa Brkić	20,000,00 KM	
	Senada Duraković	20,000,00 KM	
	Mina Ahmetović	20,000,00 KM	
Dahmo Kadrić	Ramiza Kadrić	60,000,00 KM	
	Bego Kadrić	60,000,00 KM	
	Damira Selimović	60,000,00 KM	
Rizo Parić	Dževahira Parić	60,000,00 KM	
	Ahmed Parić	60,000,00 KM	
	Alema Parić	60,000,00 KM	
Ibrahim Hublić	Šuhreta Hublić	60,000,00 KM	
	Mehmed Hublić	60,000,00 KM	
	Fadila Begić	60,000,00 KM	
	Halida Huseinović	60,000,00 KM	
	Begajeta Kumrić	60,000,00 KM	
	Bahrija Begić	60,000,00 KM	
Emir Halilović	Ajka Halilović	60,000,00 KM	
	Asima Halilović	60,000,00 KM	
	Semra Halilović	60,000,00 KM	
Naser Hotić	Hatidža Hotić	20,000,00 KM	
Ševal Tabaković	Ismeta Tabaković	60,000,00 KM	
	Aldin Tabaković	60,000,00 KM	
	Armin Tabaković	60,000,00 KM	
	Nermin Tabković	60,000,00 KM	
Šefik Begić	Mahza Begić	60,000,00 KM	
	Hurma Begić	60,000,00 KM	
Sead Salkić	Samedin Salkić	60,000,00 KM	
	Hamed Salkić	60,000,00 KM	
	Almedin Salkić	60,000,00 KM	
	Senid Salkić	60,000,00 KM	
Hakija Pitarević	Asim Pitarević	60,000,00 KM	
Hasan Alić	Zehra Alić	60,000,00 KM	
	Razija Alić	60,000,00 KM	
	Hasiba Muhić	60,000,00 KM	
	Jasmina Bećirović	60,000,00 KM	

Sulejman Mehić	Hava Muratović	60,000,00 KM	
Ramiz Mujić	Hava Mujić	60,000,00 KM	
Alija Hasanović	Avdo Hasanović	60,000,00 KM	
Salih Hasanović	Hatidža Hasnović	60,000,00 KM	
	Samir Hasanović	60,000,00 KM	
	Samira Hasanović	60,000,00 KM	
	Adisa Hasanović	60,000,00 KM	
Bego Dedić	Hurija Dedić	60,000,00 KM	
	Begija Bećirović	60,000,00 KM	
Adem Hrnjić	Hatidža Hasanović	60,000,00 KM	
	Samir Hasanović	60,000,00 KM	
	Samira Hasanović	60,000,00 KM	
	Adisa Hasanović	60,000,00 KM	
Nihad Jahić	Hava Jahić	60,000,00 KM	
	Samira Grabovac	20,000,00 KM	
Kadrija Kadrić	Aiša Kadrić	60,000,00 KM	
Mirsad Hasanović	Šefika Hasanović	60,000,00 KM	
	Šemsudin Hasanović	60,000,00 KM	
	Mersudin Hasanović	60,000,00 KM	
	Mersed Hasanović	60,000,00 KM	
Hasib Hasanović	Tima Hasanović	60,000,00 KM	
Zuhdo Čamdžić	Hava Čamdžić	60,000,00 KM	
	Nusret Čamdžić	60,000,00 KM	
	Mirsada Čamdžić	60,000,00 KM	
Mehmed Suljić	Lejljija Suljić	60,000,00 KM	
	Amela Suljić	60,000,00 KM	
	Alma Suljić	60,000,00 KM	
	Nermin Suljić	60,000,00 KM	
Islam Husić	Halima Husić	60,000,00 KM	
	Nurija Husić	60,000,00 KM	
	Ismir Husić	60,000,00 KM	
Dževad Mujić	Sadika Mujić	60,000,00 KM	
	Hamed Mujić	60,000,00 KM	
Jusuf Hamidović	Adem Hamidović	60,000,00 KM	
Šabo Kadrić	Hava Kadrić	60,000,00 KM	
	Šemsa Delić	60,000,00 KM	
	Mensura Dervišević	60,000,00 KM	
	Šemsudin Kadrić	60,000,00 KM	
Kasim Sinanović	Ibriša Sinanović	60,000,00 KM	
Avdo Lelović	Jasmina Lelović	60,000,00 KM	
	Hasna Tihić	60,000,00 KM	
Hidajet Hodžić	Aljo Hodžić	60,000,00 KM	
	Fata Hodžić	60,000,00 KM	
Kada Muratović	Rifet Muratović	60,000,00 KM	
Nurif Hodžić	Aljo Hodžić	20,000,00 KM	
Bego Beganović	Azema Beganović	60,000,00 KM	
	Mehvad Beganović	60,000,00 KM	
	Bakir Beganović	60,000,00 KM	
Husejn Hajdarević	Fatima Hajdarević	60,000,00 KM	
	Senaid Hajdarević	60,000,00 KM	

	Smajil Hajdarević	60,000,00 KM	
Abid Šečić	Begajeta Šečić	60,000,00 KM	
	Amir Šečić	60,000,00 KM	
	Sabina Šečić	60,000,00 KM	
Amir Mujić	Tima Mujić	60,000,00 KM	
Bajzit Hukić	Muška Hukić	60,000,00 KM	
Redžo Lolić	Ferida Lolić	60,000,00 KM	
Sakib Hamzić	Sadeta Hamzić	60,000,00 KM	
	Salem Hamzić	60,000,00 KM	
Habib Čamdžić	Muška Čamdžić	60,000,00 KM	
Ejub Bektić	Fikra Bektić	60,000,00 KM	
	Mihret Bektić	60,000,00 KM	
Dalija Ahmetović	Mevlida Ahmetović	60,000,00 KM	
	Edin Ahmetović	60,000,00 KM	
Husein Jusić	Mevlida Jusić	60,000,00 KM	
Ismet Golić	Hidajet Golić	60,000,00 KM	
	Ismir Golić	60,000,00 KM	
	Ismedin Golić	60,000,00 KM	
Hajrudin (Alija) Avdić	Senada Avdić	60,000,00 KM	
	Adel Avdić	60,000,00 KM	
Hajrudin (Daut) Avdić	Ismeta Avdić	60,000,00 KM	
Edib Kandžetović	Bahra Kandžetović	60,000,00 KM	
	Edin Kandžetović	60,000,00 KM	
	Marizela Osmanović	60,000,00 KM	
Nezir Muminović	Safija Muminović	60,000,00 KM	
	Nevres Muminović	60,000,00 KM	
	Nevresa Muminović	60,000,00 KM	
Rasim Muminović	Mušva Muminović	60,000,00 KM	
Mevlid Osmanović	Azema Osmanović	60,000,00 KM	
	Mersudin Osmanović	60,000,00 KM	
	Samir Osmanović	60,000,00 KM	
	Damir Osmanović	60,000,00 KM	
Ramo Džananović	Sabra Džananović	60,000,00 KM	
Mujo Fejzić	Mina Fejzić	60,000,00 KM	
	Mersudin Fejzić	60,000,00 KM	
Behadil Ejubović	Fata Ejubović	60,000,00 KM	
	Belsada Ejubović	60,000,00 KM	
	Fahreta Ejubović	60,000,00 KM	
	Džemal Ejubović	60,000,00 KM	
Adil Memić	Munira Memić	60,000,00 KM	
Esad Sačević	Paša Sačević	60,000,00 KM	
Nehrudin Alić	Hamida Alić	60,000,00 KM	
Alija Selimović	Pemba Selimović	60,000,00 KM	
Aljo Selimović	Pemba Selimović	60,000,00 KM	
Hamed Hasanović	Zlatka Hasanović	60,000,00 KM	
	Osman Hasanović	60,000,00 KM	
Vejsil Selimović	Fatima Selimović	60,000,00 KM	
Ragib Adamović	Ajša Ademović	60,000,00 KM	
	Muriz Ademović	60,000,00 KM	

Mirsad Mujić	Alija Mujić	60,000,00 KM	
Mirsad Mujić	Aldijana Mujić	60,000,00 KM	
	Mirsada Mujić	60,000,00 KM	
Sead Halilović	Bajro Halilović	60,000,00 KM	
Nail Hasanović	Mejaza Hasanović	60,000,00 KM	
	Hava Hasanović	60,000,00 KM	
Mujo Hamzić	Mina Hamzić	60,000,00 KM	
Alija Omerović	Ramo Omerović	60,000,00 KM	
	Zineta Omerović	60,000,00 KM	
Ševal Smajlović	Zuhra Smajlović	60,000,00 KM	
	Naser Smajlović	60,000,00 KM	
	Muhidin Smajlović	60,000,00 KM	
Sefer Zukanović	Sabrija Zukanović	60,000,00 KM	
	Zehra Zukanović	60,000,00 KM	
Husein Klempić	Šaban Klempić	60,000,00 KM	
Mustafa Klempić	Šaban Klempić	60,000,00 KM	
Fehim Hodžić	Ramiza Hodžić	60,000,00 KM	
	Fadil Hodžić	60,000,00 KM	
	Jasmina Hodžić	60,000,00 KM	
	Jasmina Murić	60,000,00 KM	
Džemil Tihić	Remza Tihić	60,000,00 KM	
	Jasmina Sadiković	60,000,00 KM	
	Elvedin Tihić	60,000,00 KM	
Safet Tihić	Ševko Tihić	20,000,00 KM	
Hasanović Šaban	Begajeta Hasanović	60,000,00 KM	
	Azmira Tihić	60,000,00 KM	
	Alma Pašalić	60,000,00 KM	
Hamed Tabaković	Hajra Tabaković	60,000,00 KM	
Husein Šabanović	Hurija Šabanović	60,000,00 KM	
Salih Mustafić	Jasmina Mustafić	60,000,00 KM	
	Selveta Mustafić	60,000,00 KM	
	Salmir Mustafić	60,000,00 KM	
Hasib Aljkanović	Čama Aljkanović	60,000,00 KM	
Sakib Alić	Hamid Alić	60,000,00 KM	
	Armin Alić	60,000,00 KM	
Safet Salihović	Hamid Alić	20,000,00 KM	
Mehan Salihović	Himza Salihović	60,000,00 KM	
	Hamida Alić	60,000,00 KM	
Husejin Hodžić	ć HurijaHodži	60,000,00 KM	Suad Kumrić
	Husjina Hodžić	60,000,00 KM	
Halil Duraković	Fata Duraković	60,000,00 KM	Suad Kumrić
	Edin Duraković	60,000,00 KM	
Gajibija Hukić	Zilha Hukić	30,000,00 KM	
	Edmir Hukić	30,000,00 KM	
	Begajeta Hukić	30,000,00 KM	
	Sadeta Hukić	30,000,00 KM	
	Sadija Hukić	30,000,00 KM	
Avdo Karahodžić	Zlatija Karahodžić	150,000,00 KM	
	Šefika Karahodžić		

	Sajma Karić		
	Hasnija Zilić		
	Esad Karahodžić		
	Hamdija Karahodžić		
Ramo Salihović	Zlatija Salihović	150,000,00 KM	
	Safer Salihović	100,000,00 KM	
	Zlata Salihović	200,000,00 KM	
Refik Alić	Fikreta Karičić	22,000,00 KM	Ifeta Hrljić
Nurko Jamaković	Nermin Jamaković	50,000,00 KM	Azem Mehanić
	Nermina Jamaković	50,000,00 KM	
	Elvedina Jamaković	50,000,00 KM	
	Mujesira Jamković	50,000,00 KM	
Mevlid Ahmedović	Vahida Ahmedović	50,000,00 KM	Midhat Skenderović
	Selvedin Ahmetović	50,000,00 KM	
Ramo Ahmetović	Avdulah Ahmetović	50,000,00 KM	Haris Džafo
	Osman Ahmetović	50,000,00 KM	
	Ibrahim Ahmetović	50,000,00 KM	
	Smajil Ahmetović	50,000,00 KM	
	Rahima Musić	50,000,00 KM	
	Fatima Hrnjić	30,000,00 KM	
	Kadira Mustafić	30,000,00 KM	
Nezir Emkić	Abidi Emkić	50,000,00 KM	Haris Džafo
	Nijaz Emkić	50,000,00 KM	
	Vezirka Džananović	50,000,00 KM	
	Begajeta Mustafić	50,000,00 KM	
	Sabira Šikalo	50,000,00 KM	
Mevludin Osmanović	Halida Osmanović	50,000,00 KM	Haris Džafo
	Saliha Osmanović	50,000,00 KM	
	Adnan Osamanović	50,000,00 KM	
	Alma Osamanović	50,000,00 KM	
	Meva Osmanović	50,000,00 KM	
	Zehra Alić	30,000,00 KM	
	Mevlida Salkić	30,000,00 KM	
	Islam Osmanović	30,000,00 KM	
Mehmedalija Osmić	Hasiba Osmić		Midhat Skenderović
	Mirnesa Osmić		
Zulfo Čerimović	Sadika Ahmetović		Midhat Skenderović
Asim Mustafić	Sabaheta Mustafić		Midhat Skenderović
	Asmira Mustafić		
Mustafa Gurdić	Ramiza Gurdić	100,000,00 KM	
	Samija Gurdić-Gradišić		
Rame Ibrahimović	Hanija Ibrahimović	100,000,00 KM	
Himzo Rizvanović	Hava Osmanović		
	Šećo Rizvanović		
Rešo Hasanović	Elvira Hasanović	20,000,00 KM	Ahmet Žilić
	Emina Hasanović	20,000,00 KM	
	Meva Hasanović	20,000,00 KM	
Huso Kahrić	Havuša Kahrić		Midhat Skenderović

Zulfo Ćerimović	Sadik Ćerimović Havuša Ćerimović		Midhat Skenderović
Zulfo Ćerimović	Raza Fejzić Sadeta Ahmetović Zenaid Ćerimović Ramzija Mehmedović Uzeir Ćerimović		Midhat Skenderović
Huso Kahrić	Sabaheta Ahmetović		Midhat Skenderović
Hajro Salkić	Vahid Salkić Alija Salkić Fahro Salkić Azem Salkić Fahreta Ahmetović Hajreta Begić	50,000,00 KM 50,000,00 KM 30,000,00 KM 30,000,00 KM 30,000,00 KM 30,000,00 KM	Haris Džafo
Hamed Hasanović	Mujo Hasanović Hasan Hasanović Džemal Hasanović Safet Hasanović	50,000,00 KM 50,000,00 KM 30,000,00 KM 30,000,00 KM	Haris Džafo
Abdulah Avdić	Džemila Avdić Mevludin Avdić Mevlida Almić	50,000,00 KM 50,000,00 KM 50,000,00 KM	Haris Džafo
Hajrudin Klančević	Sadeta Klančević Ilijaz Klančević Mustafa Klančević Kamera Šečić	50,000,00 KM 50,000,00 KM 30,000,00 KM 30,000,00 KM	Haris Džafo
Vahidin Delić	Nezir Delić Ahmija Delić	50,000,00 KM 50,000,00 KM	Haris Džafo
Sabahudin Delić	Nezir Delić Ahmija Delić	50,000,00 KM 50,000,00 KM	Haris Džafo
Sabahudin Haskić	Fatima Haskić Sabaheta Numanović Suad Čoso	50,000,00 KM 30,000,00 KM 30,000,00 KM	Haris Džafo
Mujo Husejnović	Fatima Husejnović Mersidi Husejnović Muamera Husejnović	50,000,00 KM 50,000,00 KM 50,000,00 KM	Haris Džafo
Rašid Šečić	Adila Šečić Akif Šečić Fahret Šečić Hazreta Tabaković Fahreta Husić Nazif Šečić	30,000,00 KM 15,000,00 KM 15,000,00 KM 15,000,00 KM 15,000,00 KM 15,000,00 KM	Sabira Baraković
Mevludin Osmanović	Fatija Osmanović Ibrahim Osmanović Hazim Osmanović Merima Osmanović Hurija Osmanović Dževada Hasić	30,000,00 KM 15,000,00 KM 15,000,00 KM 15,000,00 KM 15,000,00 KM 15,000,00 KM	Sabira Baraković
Sead Mehmedović	Hasiba Mehmedović Senada Hodžić	30,000,00 KM 15,000,00 KM	Sabira Baraković
Mevludin Mešanović	Murveta Malčinović	20,000,00 KM	

	Zada Mešanović	20,000,00 KM	
	Razija Brkić	7,000,00 KM	
	Mehrudin Mešanović	7,000,00 KM	
	Rabija Mešanović	7,000,00 KM	
	Mevlid Mešanović	7,000,00 KM	
Nedžib Hasanović	Meva Hasanović	20,000,00 KM	Ahmet Žilić
Miralem Mujić	Nura Mujić	20,000,00 KM	Jasmir Muratović
Hamdija Mujić	Emina Mujić		Jasmir Muratović
Azem Jahić	Nermina Jahić		Jasmir Muratović
Suljo Pirgić	Sevdija Pirgić		Jasmir Muratović
Džemal Džananović	Vahida Džananović		Jasmir Muratović
Teufik Hadžibulić	Dževada Hadžibulić		Jasmir Muratović
	Zaha Džananović		
Mustafa Alić	Sadeta Alić		Jasmir Muratović
Omer Avdić	Šefija Avdić		Jasmir Muratović
Muharem Begović	Mejra Begović		Jasmir Muratović
Ibrahim Vejzović	Mevlida Mehinović		Jasmir Muratović
Hurzin Šahmanović	Kadefa Šabanović		Jasmir Muratović
Akif Avdić	Safeta Avdić		Jasmir Muratović
Hasan Salić	Hasena Salić		Jasmir Muratović
Šemso Muhić	Zehra Smajić		Jasmir Muratović
Asim Muhić			
Hamzalija Subašić	Kadira Subašić		Jasmir Muratović
Hilmo Subašić	Munira Subašić		Jasmir Muratović
Senahid Bektić	Samija Bektić		Jasmir Muratović
Suljo Jahić	Suada Mujić		Jasmir Muratović
Hašim Husić	Ifeta Husić		Jasmir Muratović
Meho Hublić	Đulzara Đanić		Jasmir Muratović
Idriz Memić	Haša Memić		Jasmir Muratović
Almir Avdić	Sadeta Kožljak		Jasmir Muratović
Ševketa Đozić	Munira Đozić		Jasmir Muratović
Bajro Smajlović	Fazila Smajlović	20,000,00 KM	
	Mirsad Smajlović	20,000,00 KM	
	Edita Smajlović	20,000,00 KM	
	Razija Djedović	20,000,00 KM	
	Mirsad Smajlović	20,000,00 KM	
Avdo Bečinović	Zlata Bećirović	60,000,00 KM	Mirsada Dizdarević
	Abdurahman Bećirović	60,000,00 KM	
	Abdukadir Bećirović	60,000,00 KM	
	Ehlimana Bećirović	60,000,00 KM	
	Sauler Bećirović	60,000,00 KM	
Juso Omerović	Fatima Omerović	60,000,00 KM	
	Huso Omerović	60,000,00 KM	
	Redžo Omerović	60,000,00 KM	
	Akif Omerović	20,000,00 KM	
Jusuf Omerović	Sejida Omerović	60,000,00 KM	Mirsada Dizdarević
	Samir Omerović	60,000,00 KM	
	Fatima Omerović	60,000,00 KM	
	Huso Omerović	20,000,00 KM	

	Redžo Omerović	20,000,00 KM	
Dževad Hasanković	Emina Hasanković	75,000,00 KM	Hasanović Emina
	Dževada Hasanković	75,000,00 KM	
	Almedina Hasnaković	75,000,00 KM	
Abdulah Omić	Šefika Omić	20,000,00 KM	Hasanović Emina
	Adis Omić	20,000,00 KM	
Šaban Hasić	Zejna Mehanović	20,000,00 KM	
Esad Hasanković	Senija Čehajić	12,000,00 KM	Hasanović Emina
Muhamed Dautbašić	Begajeta Dautbašić	20,000,00 KM	
	Muamera Dautbašić	20,000,00 KM	
	Amela Dautbašić	20,000,00 KM	
	Emina Dautbašić	20,000,00 KM	
Nedžib Omerović	Nezir Omerović	31,500,00 KM	
Jakub Gobeljić	Omer Gabeljić		
Mustafa Murtić	Zaim Murtić	25,000,00 KM	
	Fadila Murtić	25,000,00 KM	
	Fatma Murtić	25,000,00 KM	
	Fata Mujezin	25,000,00 KM	
Izet Alihodžić	Ramiza Alihodžić	20,000,00 KM	
Rasim Hamzić	Senada Hamzić	20,000,00 KM	
	Ramadan Hamzić	20,000,00 KM	
Bajro Selimović	Esmā Selimović	30,000,00 KM	
	Ajka Alibašić	30,000,00 KM	
	Adevija Ahmetović	30,000,00 KM	
	Samir Selimović	30,000,00 KM	
	Samira Mehmedović	30,000,00 KM	
	Dedo Selimović	30,000,00 KM	
	Emina Fejzić	30,000,00 KM	
	Jasmin Selimović	30,000,00 KM	
Ramiz Kadrić	Šida Halilović	10,000,00 KM	Amila Imamović
	Hajrudin Kadrić	20,000,00 KM	
Šefik Omerović	Hasiba Omerović	15,000,00 KM	
	Lejlja Omerović	10,000,00 KM	
	Ševala Velić	10,000,00 KM	
	Durija Okić	10,000,00 KM	
	Šefika Šabanović	10,000,00 KM	
	Zejna Gobeljić	10,000,00 KM	
	Alija Omerović	10,000,00 KM	
Avdulah Alić	Šuhra Smajlović		Midhat Skenderović
Meho Malagić	Šuhra Malagić	30,000,00 KM	
	Nusmir Malagić	30,000,00 KM	
	Mehmedalija Malagić	30,000,00 KM	
Ramiz Ibišević	Bajrame Ibišević	31,500,00 KM	
	Nermin Ibišević	31,500,00 KM	
Ramiz Ramić	Suvad Ramić	40,000,00 KM	
Sulejman Ramić		20,000,00 KM	
Mehmed Dizdarević	Ismet Dizdarević	20,000,00 KM	
Sejdalija Mustafić	Samira Mustafić	30,000,00 KM	
	Mustafić Zehra	30,000,00 KM	
Behrudin Dervišević	Hasija Dervišević	40,000,00 KM	

	Senudin Dervišević	40,000,00 KM	
	Senija Salihović	40,000,00 KM	
Muhaz Salihović	Salihović Salčin	50,000,00 KM	
Omer Pitarević	Abida Pitarević	50,000,00 KM	Asim Kadribašić
Nazif Delić	Nazif Delić	80,000,00 KM	Asim Kadribašić
Hasan Suljić	Munira Suljić	80,000,00 KM	Asim Kadribašić
Vahdet Suljić	Ajša Suljić	80,000,00 KM	Asim Kadribašić
Redžo Memić	Nezira Memić	80,000,00 KM	Asim Kadribašić
Huso Begović	Dževad Begović	50,000,00 KM	
	Ahmet Begović	50,000,00 KM	
	Adevija Hadžić	50,000,00 KM	
Hakija Mustafić	Fatima Mustafić		
	Ahmo Mustafić		
Sead Hamzabegović	Safeta Hamzabegović		Amila-Kunosić Ferizović
	Samir Hamzabegović		
	Semir Hamzabegović		
	Zuhdija Hamzabegović		
	Vasvija Hamzabegović		
Sabahudin Lolić	Mirsad Lolić		Amila-Kunosić Ferizović
	Semir Lolić		
Ibro Musić	Ajkuna Musić		Amila-Kunosić Ferizović
	Fatima Musić		
	Amira Musić		
	Edina Musić		
Fejzo Selimović	Ahmedina Selimović		Amila-Kunosić Ferizović
	Nermin Selimović		
	Sabina Selimović		
Ajeta Smajić	Abid Smajić		Amila-Kunosić Ferizović
	Behija Ridžić		
	Fatima Muhić		
	Šerka Ahmetović		
	Razija Jahić		
Rahman Mehmedović	Mina Mehmedović		Amila-Kunosić Ferizović
Fikret Mehmedović	Bahriju Mehmedović		Amila-Kunosić Ferizović
	Emira Mehmedović		
	Munira Mehmedović		
	Ajka Čumić		
Munib Muminović	Mejra Muminović		Amila-Kunosić Ferizović
	Mersija Mujić		
	Mersiha Orić		
	Meva Muminović		
	Hasnija Suljić		
	Muniba Orić		
	Đemalifa Miminović		
	Kadefa Krdžić		
Mersadin Muminović	Mejra Muminović		
	Mersija Mujić		

	Mersiha Orić		
Mersad Muminović	Mejra Muminović		Amila-Kunosić Ferizović
	Mersija Mujić		
	Mersiha Orlić		
Behaije Husić	Tija Burić		Amila-Kunosić Ferizović
Ramo Delić	Fatima Suljemanović		Amila-Kunosić Ferizović
Sead Beganović	Jevra Beganović		Amila-Kunosić Ferizović
	Semir Beganović		
	Almedina Beganović		
	Selvedina Beganović		
Nezir Memišević	Fetija Memišević		Amila-Kunosić Ferizović
Mehmedalija Memišević	Fetija Memišević		Amila-Kunosić Ferizović
	Samira Dervišević		
	Indira Perhatović		
	Hida Memišević		
	Mirnesa Memišević		
	Nurija Memišević		
Kahriman Kadrić	Ibrahim Kadrić		Amila-Kunosić Ferizović
Munib Omerović Omer Omerović	Hajra Omerović		Amila-Kunosić Ferizović
	Senajid Omerović		
Said Mustafić	Kada Mustafić		Amila-Kunosić Ferizović
	Mirsada Mustafić		
Refik Zukić	Mejrema Zukić		Amila-Kunosić Ferizović
	Nadira Zukić		
	Namira Zukić		
Jusuf Selimović	Ifeta Selimović		Amila-Kunosić Ferizović
	Nura Mahmutović		
Hamed Kandžetović	Esma Kandžetović		Amila-Kunosić Ferizović
	Tima Zukanović		
Sefer Zukanović	Tima Zukanović		Amila-Kunosić Ferizović
	Rusmira Zukanović		
	Sevdeta Zukanović		
Latif Džanić	Halima Džanić		Amila-Kunosić Ferizović
	Mersad Hodžić		
	Mersad Džanić		
Sadik Kurtić	Hava Kurtić		Amila-Kunosić Ferizović
	Nefija Kurtić		
	Jasmina Džanić		
	Meliha Muhić		
	Mediha Selimović		
	Samira Kurtić		
Munib Muminović	Kadira Muminović		Amila-Kunosić Ferizović
	Velida Muminović		
	Semira Muminović		
Mehmed Petinić	Rejha Petinić		Amila-Kunosić Ferizović
	Asima Petinić		

	Asmira Petinić		
	Ferida Petinić		
	Nesib Petinić		
Omerović Šahin	Fatima Omerović		Amila-Kunosić
	Sambula Omerović		Ferizović
	Čamija Omerović		
	Senada Karačić		
	Suad Omerović		
	Selma Omerović		
	Suada Omerović		
	Samira Omerović		
	Samir Omerović		
Muharem Ibrahimović	Muška Planjić		Amila-Kunosić
	Munira Avdić		Ferizović
	Zineta Ibrahimović		
	Enes Ibrahimović		
	Elvisa Ibrahimović		
Čamil Mustafić	Suvad Mustafić		Amila-Kunosić
	Elvira Mustafić		Ferizović
Salko Mustafić	Suvad Mustafić		Amila-Kunosić
	Elvira Mustafić		Ferizović
Nijaz Hukić	Nazif Hukić		Amila-Kunosić
	Esad Suljić		Ferizović
Osman Imširović	Fatima Imširović		Amila-Kunosić
	Hanifa Halilović		Ferizović
	Nevzeta Salić		
	Osman Selimović		
	Esmir Imširović		
Jasmin Imširović	Fatima Imširović		Amila-Kunosić
	Hanifa Halilović		Ferizović
	Nevzeta Salić		
	Osman Selimović		
	Esmir Imširović		
Mevludin Suljić	Hasnija Suljić		Amila-Kunosić
	Sabaheta Jugović		Ferizović
	Senudin Suljić		
Amira Mustafić	Tima Mustafić		Amila-Kunosić
	Tima Ramić		Ferizović
Orhan Hasanović	Vezir Hasanović		Amila-Kunosić
	Alija Hasanović		Ferizović
	Revdu Gabeljić		
Edhem Memišević	Habiba Memišević		Amila-Kunosić
	Elvedin Memišević		Ferizović
	Ahmedin Memišević		
Ibrahim Alić	Kada Alihodžić		Amila-Kunosić
	Nazif Alihodžić		Ferizović
Namik Alić	Kada Alihodžić		Amila-Kunosić
	Nazifa Alihodžić		Ferizović
	Sanela Alihodžić		
	Amela Alihodžić		

	Hiba Alihodžić		
	Samed Alihodžić		
	Muhamed Alihodžić		
	Enver Alihodžić		
Smajil Hasanović Hasan Hasanović Senahid Hasanović	Hanka Šenderović Kadira Hasanović		Amila-Kunosić Ferizović
Orić Behaija	Tima Orić		
Mehmed Mehić	Naza Mehić Safer Mehić Mirsada Mehić Farisa Mahmutović		Amila-Kunosić Ferizović
Dževad Mujić	Mersiju Mujić Đelvedina Mujić		Amila-Kunosić Ferizović
Selman Fržina	Salima Fržina Samela Smajić		Amila-Kunosić Ferizović
Alija Bošnjak	Pemba Bošnjak Amera Smajlović Timka Rizvanović		Amila-Kunosić Ferizović
Abid Musić	Tahir Musić Aida Turbić Edin Musić Ibrahim Musić		Amila-Kunosić Ferizović
Ramo Kasmović	Kada Kasumović Raif Kasumović Ramiza Kasumović		Amila-Kunosić Ferizović
Esmir Mujčić	Zlata Nukić		Amila-Kunosić Ferizović
Dahmo Krdžić	Kadefa Krdžić Damira Krdžić Ulfeta Krdžić		Amila-Kunosić Ferizović
Edib Jugović	Ramiza Jugović Elvedina Jugović		Amila-Kunosić Ferizović
Ševko Smajić	Mustafa Smajić		Amila-Kunosić Ferizović
Džemal Ahmetović	Salih Ahmetović Džemal Ahmetović		Amila-Kunosić Ferizović
Huso Duraković	Remza Duraković Izudin Duraković		Amila-Kunosić Ferizović
Ahmo Ferhatović	Sevludin Ferhatović		Amila-Kunosić Ferizović
Fahrudin Alić	Hidajet Alić		Amila-Kunosić Ferizović
Muradif Mehić	Begija Mehić		Amila-Kunosić Ferizović
Salih Alić	Mejra Alić Edin Alić Muška Alić Sejdalija Alić		Amila-Kunosić Ferizović
Muamer Ademović	Rejha Ademović		

	Samira Agović		
	Hanija Čosić		
	Sifa Suljić		
Meho Mustafić	Mina Mustafić	20,000,00 KM	
	Mehidin Mustafić	20,000,00 KM	
	Azmir Mustafić	20,000,00 KM	
	Aza Mustafić	20,000,00 KM	
Đemo Aljkanović	Kemal Aljkanović		
Muhamed Sinanović	Sabina Hodžić	20,000,00 KM	
Sabit Sinanović	Hamid Memišević	7,000,00 KM	
	Sadina Ahmetović	7,000,00 KM	
Muhamed Sinanović	Habiba Sinanović	20,000,00 KM	
Ermin Jusić	Hava Jusić	80,000,00 KM	Asim Kadribašić
Refik Alić	Hasan Alić	80,000,00 KM	Asim Kadribašić
Sabit Sinanović	Habiba Husić	20,000,00 KM	Asim Kadribašić
Hajro Malagić	Azemka Malagić	200,000,00 KM	
Agana Šuhmanija	Zumra Bičić	50,000,00 KM	
Kemal Subašić	Ajke Subašić		Amir Morankić
	Azmir Subašić		
	Nevresa Subašić		
Hakija Muratović	Semija Ridžić	70,000,00 KM	Zlata Begić
	Hatama Selimović	70,000,00 KM	
	Mujesira Husejnović	70,000,00 KM	
	Zumreta Omerović	70,000,00 KM	
Hamdija Kuduzović	Fatima Čaradaković		Rusmir Tanović
Mustafa Ahmetović	Tima Ahmetović	40,000,00 KM	Mirsada Dizdarević
	Bajro Ahmetović	40,000,00 KM	
	Sabahudin Ahmetović	40,000,00 KM	
Hajro Malagić	Amir Malagić	100,000,00 KM	Mirsada Dizdarević
	Admir Malagić		
Nermin Mehić	Ramo Mehić	80,000,00 KM	Mirsada Dizdarević
	Hatema Mehić	80,000,00 KM	
Aziz Ahmić	Salko Ahmić	60,000,00 KM	Mirsada Dizdarević
	Azem Ahmić	60,000,00 KM	
	Ajka Ahmić	20,000,00 KM	
Salih Salihović	Hankija Salihović	60,000,00 KM	Mirsada Dizdarević
	Senahid Salihović	60,000,00 KM	
Sabit Hasanović	Hadžira Hasanović	60,000,00 KM	Mirsada Dizdarević
	Zejna Hasanović	60,000,00 KM	
	Saib Hasanović	60,000,00 KM	
	Naser Hasanović	20,000,00 KM	
	Saliha Smajić	20,000,00 KM	
Redžo Džananović	Ramiza Džananović	20,000,00 KM	Mirsada Dizdarević
	Azem Džananović	20,000,00 KM	
Ibrahim Zukanović	Ramiza Zukanović	60,000,00 KM	Mirsada Dizdarević
	Adisa Zukanović	60,000,00 KM	
Beris Hirkić	Munira Hirkić	60,000,00 KM	Mirsada Dizdarević
	Emir Hirkić	20,000,00 KM	
Zuhrijet Mujkić	Amira Mujkić	60,000,00 KM	Mirsada Dizdarević

	Fatima Mujkić	60,000,00 KM	
	Amra Mujkić	60,000,00 KM	
Nedžad Begić	Nevzeta Begić	60,000,00 KM	Mirsada Dizdarević
	Nađa Begić	20,000,00 KM	
	Dana Begić	20,000,00 KM	
Muhamed Sinanović	Sadina Ahmetović	20,000,00 KM	
	Hamida Memišević	20,000,00 KM	
Sabit Sinanović	Sabiha Hodžić	7,000,00 KM	
Behajja Salčinović	Redžija Salčinović	60,000,00 KM	Suad Kumrić
	Nermin Salčinović	60,000,00 KM	
	Hazim Salčinović	60,000,00 KM	
	Adel Salčinović	60,000,00 KM	
	Nermina Jusufović	60,000,00 KM	
	Merima Salčinović	60,000,00 KM	
Salim Mekanić	Salih Mekanić	60,000,00 KM	
	Muša Mekanić	60,000,00 KM	
Edhem Karić	Hatidža Karić	60,000,00 KM	Suad Kumrić
	Muharem Karić	60,000,00 KM	
	Edmir Karić	60,000,00 KM	
	Edin Karić	60,000,00 KM	
	Velid Karić	60,000,00 KM	
	Muharema Karić	60,000,00 KM	
Meho Ahmetović	Mehmed Ahmetović	60,000,00 KM	Suad Kumrić
Behrudin Krdžić	Tifa Krdžić	60,000,00 KM	Suad Kumrić
	Sabahudin Krdžić	60,000,00 KM	
Sulejman Madžić	Orhan Mandžić	60,000,00 KM	Suad Kumrić
Mujo Cvrk	Zarfa Cvrk	60,000,00 KM	Suad Kumrić
	Aladin Cvrk	60,000,00 KM	
Hasan Ejubović	Fehima Ejubović	60,000,00 KM	Suad Kumrić
	Adnan Ejubović	60,000,00 KM	
	Anel Ejubović	60,000,00 KM	
Bajro Duraković	Selma Duraković	60,000,00 KM	Suad Kumrić
	Ifeta Duraković	60,000,00 KM	
	Rifet Duraković	60,000,00 KM	
	Begajeta Lolić	60,000,00 KM	
Hasan Hrustanović	Mevlida Hrustanović	60,000,00 KM	Suad Kumrić
	Muška Salihović	60,000,00 KM	
	Merima Zildžić	60,000,00 KM	
	Hasija Hrustanović	60,000,00 KM	
	Temina Smajlović	60,000,00 KM	
	Ešref Hrustanović	60,000,00 KM	
	Ekrem Hrustanović	60,000,00 KM	
Munib Ejubović	Mujo Ejubović	40,000,00 KM	
Hasik Dugonjić	Hasnija Dugonjić	300,000,00 KM	Nermina Pivić
	Hasmir Dugonjić	300,000,00 KM	
	Nizama Sivac	300,000,00 KM	
	Sajma Kerla	300,000,00 KM	
	Omer Dugonjić	300,000,00 KM	

Hirkija Osmanović	Abdurahman Osmanović	50,000,00 KM	Haris Džafo
	Husein Osmanović	50,000,00 KM	
	Ismet Osmanović	50,000,00 KM	
	Hakija Osmanović	50,000,00 KM	
	Hida Omerović	50,000,00 KM	
Nedžib Šehić	Merka Šehić	50,000,00 KM	Haris Džafo
	Alija Šehić	50,000,00 KM	
	Nedžada Šehić	50,000,00 KM	
	Senada Šehić	50,000,00 KM	
Muhamed Garaljević	Mirfeta Malkić	50,000,00 KM	Haris Džafo
	Mersa Garaljević	50,000,00 KM	
	Mihada Garaljević	50,000,00 KM	
	Raza Garaljević	30,000,00 KM	
Idriz Garaljević	Raza Garaljević	30,000,00 KM	Haris Džafo
Enez Malagić	Senad Malagić	50,000,00 KM	Haris Džafo
	Reuf Malagić	50,000,00 KM	
	Hajrudin Malagić	50,000,00 KM	
	Azir Malagić	50,000,00 KM	
	Revda Džozić	50,000,00 KM	
Šukrija Rizvanović	Ramiza Rizvanović	50,000,00 KM	Haris Džafo
	Enver Rizvanović	30,000,00 KM	
	Bahira Salihović	30,000,00 KM	
Fahrudin Huremović	Hasiba Huramović	60,000,00 KM	Suad Kumrić
Himzo Alić	Beguna Alić	60,000,00 KM	Suad Kumrić
Atif Alić	Beguna Alić	60,000,00 KM	Suad Kumrić
Beriz Hodžić	Derviša Hodžić	60,000,00 KM	Suad Kumrić
	Osman Hodžić	60,000,00 KM	
	Bernes Hodžić	60,000,00 KM	
Alija Hasanović	Zifa Ademović	60,000,00 KM	Suad Kumrić
Mevludin Hasanović	Fatima Halilović	60,000,00 KM	Suad Kumrić
Osman Halilović	Ramiza Halilović	60,000,00 KM	Suad Kumrić
Salko Halilović	Ifeta Halilović	60,000,00 KM	Suad Kumrić
	Samir Halilović	60,000,00 KM	
Salih Jahić	Fatima Jahić	60,000,00 KM	Suad Kumrić
	Mirfeta Jahić	60,000,00 KM	
Avdo Ahmetović	Hata Ahmetović	50,000,00 KM	Haris Džafo
	Mejra Hasanović	50,000,00 KM	
	Munira Kostjerevac	50,000,00 KM	
Mujo Ahmetović	Hata Ahmetović	50,000,00 KM	Haris Džafo
	Mejra Hasanović	30,000,00 KM	
	Munira Kostjerevac	30,000,00 KM	
Ifet Selimović	Ferida Selimović	50,000,00 KM	Haris Džafo
	Suada Đananović	50,000,00 KM	
	Adela Smajlović	50,000,00 KM	
	Sadina Selimović	50,000,00 KM	
Selman Osmanović	Damir Osmanović	50,000,00 KM	Haris Džafo
	Fatima Osmanović	50,000,00 KM	
	Kadrija Osmanović	30,000,00 KM	
Refik Jahić	Abdulah Jahić		Jasmir Muratović

Ibro Halilović	Fatima Halilović		Suad Kumrić
Ismet Tabaković	Zifa Tabaković	60,000,00 KM	Suad Kumrić
Hamed Bektić	Habiba Bektić		Suad Kumrić
Asim Mujić	Zekira Mujić	20,000,00 KM	Suad Kumrić
Nedžib Rahmić	Kadefa Rahmić	30,000,00 KM	Suad Kumrić
	Elvir Rahmić	47,000,00 KM	
	Nedim Rahmić	47,000,00 KM	
Kiram Dautbašić Damir Dautbašić	Ramiza Dautbašić	54,000,00 KM	Suad Kumrić
Nedžad Džananović	Nezira Ibišević	20,000,00 KM	Suad Kumrić
	Fata Mehić	20,000,00 KM	
Senad Hakić	Enisa Hakić	60,000,00 KM	Suad Kumrić
	Enes Hakić	60,000,00 KM	
	Jusuf Hakić	60,000,00 KM	
	Senada Čikarić	60,000,00 KM	
Mevludin Jahić	Bahra Jahić	60,000,00 KM	Suad Kumrić
	Fuad Jahić	60,000,00 KM	
	Suad Jahić	60,000,00 KM	
Senad Hadžibulić	Refija Hadžibulić	60,000,00 KM	Suad Kumrić
Smajo Atić	Sabiha Atić	60,000,00 KM	Suad Kumrić
	Muhidin Atić	60,000,00 KM	
	Sevledin Atić	60,000,00 KM	
	Indira Atić	60,000,00 KM	
	Sevdet Atić	60,000,00 KM	
Mustafa Salkić	Munira Salkić	60,000,00 KM	Suad Kumrić
	Emina Salkić	60,000,00 KM	
	Enisa Pašalić	60,000,00 KM	
	Ajiša Salkić	60,000,00 KM	
	Tima Jakubović	60,000,00 KM	
	Kiram Salkić	60,000,00 KM	
Abdulah Siručić	Zumra Siručić	60,000,00 KM	Suad Kumrić
	Sifa Okanović	60,000,00 KM	
	Atifa Memić	60,000,00 KM	
	Mesuda Siručić	60,000,00 KM	
	Džemila Kadragić	60,000,00 KM	
	Zekira Husić	60,000,00 KM	
	Muhamed Siručić	60,000,00 KM	
Edhem Džozić	Hava Džozić	60,000,00 KM	Suad Kumrić
	Edhem Džozić	60,000,00 KM	
Ramo Đelić	Ekrem Đelić	60,000,00 KM	Suad Kumrić
Sejdaliya Mašić	Habiba Mašić	60,000,00 KM	Suad Kumrić
Idriz Porobić	Šahza Porobić	60,000,00 KM	Suad Kumrić
	Mirzeta Porobić	60,000,00 KM	
	Mirzet Porobić	60,000,00 KM	
Muaz Osmanović	Beba Osmanović	60,000,00 KM	Suad Kumrić
	Alen Osmanović	60,000,00 KM	
Ševko Mašić	Bida Mašić	60,000,00 KM	Suad Kumrić
	Mirsada Mašić	60,000,00 KM	

	Mirzada Mašić	60,000,00 KM	
	Šejla Mašić	60,000,00 KM	
Nurif Memić	Paša Memić	60,000,00 KM	Suad Kumrić
	Zumra Rizvić	60,000,00 KM	
	Nurzin Memić	60,000,00 KM	
	Senad Memić	60,000,00 KM	
Nazif Ibrahimović	Šahida Ibrahimović	60,000,00 KM	Suad Kumrić
	Samida Ibrahimović	20,000,00 KM	
	Enib Ibrahimović	20,000,00 KM	
	Mersudin Ibrahimović	20,000,00 KM	
Sejdaliya Nukić	Đulsa Nukić	60,000,00 KM	Suad Kumrić
Selim Tabaković	Dundja Tabaković	500,000,00 KM	Nisad Omerović
	Nezira Smajić		
	Razija Omerović		
	Šeća Zukić		
	Fatima Bećirović		
Ramo Ahmetović	Bejda Ahmetović	500,000,00 KM	Nisad Omerović
	Bekir Ahmetović		
	Mersad Ahmetović		
	Mensur Ahmetović		
Muharem Salihović	Mustafa Salihović	500,000,00 KM	Nisad Omerović
	Mera Salihović		
	Raha Mašović		
	Mina Omerović		
	Fatima Bećirović		
Ibiš Kadrić	Kadira Kadrić	500,000,00 KM	Nisad Omerović
	Fadil Kadrić		
	Rifet Kadrić		
	Fadila Bektić		
Esed Hasanović	Zahir Hasanović	500,000,00 KM	Nisad Omerović
	Kada Hasanović		
	Tima Hasanović		
	Nefail Hasanović		
	Esmir Hasanović		
	Esmira Hasanović		
Mujo Mehmedović	Fata Mehmedović	500,000,00 KM	Nisad Omerović
	Amira Mehmedović		
	Husejn Mehmedović		
Hasan Mehmedović	Fata Mehmedović	500,000,00 KM	Nisad Omerović
	Razija Mehmedović		
Hamid Sušić	Vahid Sušić	500,000,00 KM	Nisad Omerović
	Jasmin Sušić		
Selman Bećirović	Alija Bećirović	500,000,00 KM	Nisad Omerović
	Timaka Bećirović		
	Suad Bećirović		
	Sanel Bećirović		
	Selma Bećirović		
Omer Selimović	Mehmedaliya Selimović	500,000,00 KM	Nisad Omerović
	Seljura Selimović		
	Sejfura Selimović		

Kiram Bektić	Nura Bektić	500,000,00 KM	Nisad Omerović
	Biba Bektić		
	Kerim Bektić		
Azmir Harbaš	Nazifa Harbaš	500,000,00 KM	Nisad Omerović
	Svanida Memišević		
	Jasmin Harbaš		
	Esad Harbaš		
Hajro Alić	Behija Alić	500,000,00 KM	Nisad Omerović
	Džemo Alić		
	Adnan Alić		
	Alma Alić		
Hamid Alić	Alija Alić	500,000,00 KM	Nisad Omerović
	Sevda Alić		
	Adisada Alić		
	Hamzalija Alić		
	Zinaida Alić		
	Ahmija Alić		
Ramo Jusofović	Sajma Jusufović	500,000,00 KM	Nisad Omerović
	Avdurahman Jusufović		
	Safija Ahmetović		
	Refija Hajdarević		
Mehmedalija Avdić	Hasiba Avdić	500,000,00 KM	Nisad Omerović
	Lutvija Sejmanović		
	Safija Ahmetović		
	Refija Hajdarević		
Velid Husejnović	Remzija Ibrahimović	500,000,00 KM	Nisad Omerović
	Razija Sulejmanović		
	Nezira Hamzić		
Šahin Husejnović	Rahima Husejnović	500,000,00 KM	Nisad Omerović
	Elvir Husejnović		
	Mirza Husejnović		
Munib Bećirović	Bahra Bećirović	500,000,00 KM	Nisad Omerović
	Mefail Bećirović		
	Mafija Bećirović		
Mirsada Bektić	Šaha Bektić	500,000,00 KM	Nisad Omerović
	Dževad Bektić		
	Mina Memišević		
	Dževada Krlić		
	Jasmin Begić		
	Mirsada Memišević		
Beriz Muhić	Kadir Muhić	500,000,00 KM	Nisad Omerović
Kadrija Muhić	Fatima Muhić	500,000,00 KM	Nisad Omerović
	Rusmila Muhić		
	Hasan Muhić		
	Muhamed Muhić		
Ibro Ramić	Hajra Ramić	500,000,00 KM	Nisad Omerović
	Bahrija Ramić		
	Delva Ramić		

Ragib Hurić	Muška Aljukić	500,000,00 KM	Nisad Omerović
	Džemila Šahbazović		
	Fata Bećirović		
Hasib Aljukić	Ibrahim Aljukić	500,000,00 KM	Nisad Omerović
	Muška Aljukić		
	Mensura Mustafić		
	Hata Šabanović		
	Mersida Jašarević		
Esed Bektić	Džemal Bektić	500,000,00 KM	Nisad Omerović
	Ajša Bektić		
	Edin Bektić		
	Edis Bektić		
	Amela Džafić		
Selim Mehmedović	Smajila Osmanović	500,000,00 KM	Nisad Omerović
	Selima Hasanović		
	Tima Sejmenović		
	Ziba Mujić		
	Muška Sejfić		
Hasan Ademović	Zifa Ademović	500,000,00 KM	Nisad Omerović
	Atif Ademović		
	Admir Ademović		
	Denis Ademović		
Edin Hasić	Hidajeta Hasić	500,000,00 KM	Nisad Omerović
	Elvir Hasić		
	Edina Tutundžić		
	Elvis Hasić		
	Habib Hasić		
Nedžib Hasić	Hidajeta Hasić	500,000,00 KM	Nisad Omerović
	Elvir Hasić		
	Edina Tutundžić		
	Elvis Hasić		
	Habib Hasić		
Asim Suljić	Masija Suljić	500,000,00 KM	Nisad Omerović
	Fadil Suljić		
	Hajrija Delić		
	Nizama Bektić		
Fahro Dervišević	Šuhra Dervišević	500,000,00 KM	Nisad Omerović
	Zineta Dervišević		
	Fikret Dervišević		
Nisad Abdurahmanović	Rašida Abdurahmanović	500,000,00 KM	Nisad Omerović
	Mirsada Hasić		
	Adis Abdurahmanović		
Ismet Abdurahmanović	Nezir Abdurahmanović	500,000,00 KM	Nisad Omerović
	Rešida Abdurahmanović		
	Mirsada Hasić		
	Adis Abdurahmanović		
Ejub Zuhrić	Osmo Zuhrić	500,000,00 KM	Nisad Omerović
	Hurija Mujić		

Ibran Muratović	Hasnija Sulejmanović	500,000,00 KM	Nisad Omerović
	Vasvija Huremović		
	Vahdeta Salkić		
	Vahida Muratović		
Munib Halilović	Fatima Suljić	500,000,00 KM	Nisad Omerović
	Senahid Halilović		
Hakija Mujić	Zahida Jusić	500,000,00 KM	Nisad Omerović
Behajiha Salkić	Šaha Salkić	500,000,00 KM	Nisad Omerović
	Šehra Delić		
	Hava Salikić		
Benjamin Salkić	Šaha Salkić	500,000,00 KM	Nisad Omerović
	Šehra Delić		
	Hava Salikić		
Enez Smailagić	Hajrija Smailagić	500,000,00 KM	Nisad Omerović
	Mustafa Smailagić		
	Mustafa Čivić		
	Smail Samilagić		
Amir Klempić	Hafiza Klempić	500,000,00 KM	Nisad Omerović
	Aldin Klempić		
	Asim Klempić		
	Alma Klempić		
Mehmedalij Ćosić	Fatima Ćosić	500,000,00 KM	Nisad Omerović
	Lutvija Muratović		
	Sejdalija Ćosić		
	Zejna Hodžić		
	Kada Dedić		
	Sejfudin Ćosić		
	Senad Ćosić		
Adem Smajić	Rahima Smajić	500,000,00 KM	Nisad Omerović
	Edin Smajić		
	Dina Smajić		
Nijazija Suljanović	Halida Suljanović	500,000,00 KM	Nisad Omerović
	Nizama Suljanović		
	Maida Strašević		
	Fatima Bajraktarević		
Emir Husejnović	Nezira Husejnović	500,000,00 KM	Nisad Omerović
	Emira Husejnović		
Suljo Ibišević	Habiba Ibišević	500,000,00 KM	Nisad Omerović
	Sulejmana Memić		
	Fatima Imširović		
	Nermina Čelebić		
	Sulejman Ibišević		
Alija Jahić	Fadila Jahić	500,000,00 KM	Nisad Omerović
	Adil Jahić		
	Zijad Jahić		
Hamed Jahić	Fadila Jahić	500,000,00 KM	Nisad Omerović
	Adil Jahić		
	Zijad Jahić		
Hamdija Hasanović	Safeta Hasanović	500,000,00 KM	Nisad Omerović

	Šeherzada Hasanović		
	Adisada Hasanović		
Ibro Salihović	Hurija Salihović	500,000,00 KM	Nisad Omerović
	Eldina Mehmetović		
	Samuela Taletović		
	Nedžmija Dautović		
	Đulsa Salihović		
Šemso Husić	Adila Husić	500,000,00 KM	Nisad Omerović
	Fadila Jugović		
	Kadrija Husić		
	Advija Lemeš		
Abdulah Osmanović	Mujo Osmanović	500,000,00 KM	Nisad Omerović
	Muniba Osmanović		
	Eldin Osmanović		
	Elvedin Osmanović		
	Dženita Osmanović		
Ismet Hrustanović	Kadira Hrustanović	500,000,00 KM	Nisad Omerović
	Adila Hrustanović		
Meho Husejnović	Saliha Husejnović	500,000,00 KM	Nisad Omerović
	Semir Husejnović		
	Elvedin Husić		
	Albin Husejnović		
Azem Delić	Hadžira Delić	500,000,00 KM	Nisad Omerović
	Almasa Delić		
	Muhamed Delić		
	Maida Delić		
Selim Budić	Fatima Budić	500,000,00 KM	Nisad Omerović
	Kabir Budić		
Velija Budić	Fatima Budić	500,000,00 KM	Nisad Omerović
	Kabir Budić		
Ejub Mujčinović	Šaha Mujčinović	500,000,00 KM	Nisad Omerović
	Mevlida Mujčinović		
	Nerfid Mujčinović		
	Nermina Mujčinović		
	Hajro Mujčinović		
Šemso Bajramović	Hiba Bajramović	500,000,00 KM	Nisad Omerović
	Šemsija Ramić		
	Hajrija Pitarević		
Ramo Salčinović	Alija Salčinović	500,000,00 KM	Nisad Omerović
	Remza Salčinović		
	Makbula Salčinović		
	Edina Salčinović		
	Albina Salčinović		
	Ramela Salčinović		
Bego Osmanović	Munira Osmanović	500,000,00 KM	Nisad Omerović
	Hajrudin Osmanović		
	Hajreta Osmanović		
	Abida Osmanović		
Sadik Omerović	Sabit Omerović	500,000,00 KM	Nisad Omerović
	Alija Omerović		

	Mensur Omerović		
Hasib Emkić	Mirsada Emkić	500,000,00 KM	Nisad Omerović
	Mirela Emkić		
Zulfo Avdić	Zejna Avdić	500,000,00 KM	Nisad Omerović
	Samela Avdić		
	Hana Avdić		
	Senail Avdić		
Safeta Buljubašić	Mejra Buljubašić	500,000,00 KM	Nisad Omerović
	Hamed Buljubašić		
	Fadila Osmić		
	Salma Hasanović		
Smajo Smajlović	Đula Smajlović	500,000,00 KM	Nisad Omerović
	Đulesema Huremović		
Halida Smajlović Abid Smajlović	Đula Smajlović	500,000,00 KM	Nisad Omerović
	Đulesema Huremović		
Mešan Smajlović	Đula Smajlović	500,000,00 KM	Nisad Omerović
	Nura Smajlović		
	Mehidin Smajlović		
	Tima Smajlović		
	Fahrudin Smajlović		
Rizo Smajić	Rukija Smajić	500,000,00 KM	Nisad Omerović
	Muhamed Smajić		
	Muriz Smajić		
Mevlid Ibrić	Mulka Ibrić	500,000,00 KM	Nisad Omerović
	Elvir Ibrić		
	Amira Ibrić		
	Tahira Omerović		
Smajil Nukić	Nisveta Bektić	500,000,00 KM	Nisad Omerović
	Nasiha Bajramović		
	Nasir Nukić		
	Nizama Nukić		
Selim Delić	Hadžira Delić	500,000,00 KM	Nisad Omerović
	Hazim Delić		
	Ramiz Delić		
	Ramiza Mujčić		
Eniz Delić	Hadžira Delić	500,000,00 KM	Nisad Omerović
	Ramiz Delić		
	Hazim Delić		
	Ramiza Mujčinić		
Huso Hrustanović	Fatima Hrustanović	500,000,00 KM	Nisad Omerović
Ahmo Hrustanović	Ševala Hrustanović	500,000,00 KM	Nisad Omerović
	Damir Hrustanović		
	Najla Alić		
Bećir Nukić	Lutvija Avdić	500,000,00 KM	Nisad Omerović
	Šaha Nukić		
	Mujo Nukić		
	Mustafa Nukić		
Sead Selimović	Salim Selimović	500,000,00 KM	Nisad Omerović
	Munira Selimović		
	Sanela Selimović		

	Amela Selimović		
	Zejfa Selimović		
	Ismeta Selimović		
Adil Husić	Zumra Husić	500,000,00 KM	Nisad Omerović
	Jajra Šečić		
	Tima Suljić		
	Zuhra Smajlović		
Fadil Hasić	Zumra Husić	500,000,00 KM	Nisad Omerović
	Jajra Šečić		
	Tima Suljić		
	Zuhra Smajlović		
Suljo Husić	Zumra Husić	500,000,00 KM	Nisad Omerović
	Beguna Husić		
	Sulejmana Suljić		
	Senad Husić		
	Senada Husić		
	Šaha Husić		
	Zuhra Husić		
Admir Gurdić	Midhat Gurdić	500,000,00 KM	Nisad Omerović
	Medina Hodžić		
	Sevda Ajšić		
	Samir Gurdić		
Salko Aljić	Remza Aljić	500,000,00 KM	Nisad Omerović
	Sulejman Aljić		
	Ramiza Emkić		
	Šemsija Mehmedović		
Sakib Salkić	Hajra Salkić	500,000,00 KM	Nisad Omerović
	Sanela Salkić		
	Ibrahim Salkić		
Ragiba Johić	Bejha Johić	500,000,00 KM	Nisad Omerović
	Belma Johić		
Mušan Husanović	Fata Hasanović	500,000,00 KM	Nisad Omerović
	Hanifa Hasanović		
	Saliha Beganović		
	Kada Gojković		
	Naza Selimović		
Rifet Mujić	Beguna Mujić	500,000,00 KM	Nisad Omerović
	Zikret Mujić		
	Remzija Avdić		
Edina Omerović	Edhem Omerović	500,000,00 KM	Nisad Omerović
	Edib Omerović		
	Edina Omerović		
	Hidajeta Denjadžić		
Hasan Salihović	Fatima Salihović	500,000,00 KM	Nisad Omerović
	Habiba Salihović		
	Haris Salihović		
	Husmir Salihović		
Mirsad Mehanović	Hajrija Mehanović	500,000,00 KM	Nisad Omerović
	Šuhra Mehanović		
	Mirnes Mehanović		

	Mirhad Mehanović		
	Mirzad Mehanović		
Sabit Hasanović	Hadžira Hasanović		
	Zejna Hasanović		
	Saib Hasanović		
	Saliha Smajić		
	Naser Hasanović		
Beris Hirkić	Munira Hirkić		Mirsada Dizdarević
	Emir Hirkić		
Šahman Omerović	Mevludin Omerović	21,000,00 KM	
	Redžo Omerović		
	Sadika Ahemtović		
	Fata Omerović	20,000,00 KM	
	Hasib Omerović	7,000,00 KM	
	Mevlida Mandžić	7,000,00 KM	
Almir Hakić	Fata Hakić	30,000,00 KM	
Nusret Mustafić Asim Mustafić	Mujo Mustafić		
Ibro Osmanović Hasib Osmanović	Medina Durak		Jasmir Muratović
	Šuhra Osmanović		
Husein Bajraktarević	Vahid Bajraktarević		Jasmir Muratović
Fahrudin Isaković Šahin Isaković	Aiša Isaković		Jasmir Muratović
Nusret Halilović Salih Halilović	Mevlida Halilović		Jasmir Muratović
Šefik Mujić	Hana Mujić		Jasmir Muratović
	Šefika Mujić		
	Damir Mujić		
Zahir Hasanović	Adila Halilović		Jasmir Muratović
Hasan Junuzagić	Sida Junuzagić		Jasmir Muratović
Zahid Malić	Emina Nukić		Jasmir Muratović
Hasib Hrnjić	Hamdija Hrnjić		Jasmir Muratović
Sado Avdić	Hamida Avdić	80,000,00 KM	Asim Kadribašić
Senad Atić	Sena Avdić	80,000,00 KM	Asim Kadribašić
Senahid Ibrahimović Senad Ibrahimović	Mevlida Ibrahimović	160,000,00 KM	Asim Kadribašić
Sejdalija Šečić	Tima Džanić	80,000,00 KM	Asim Kadribašić
Hamed Čamdžić	Muniba Čamdžić	80,000,00 KM	Asim Kadribašić
Hasib Jusić	Senudin Jusić	80,000,00 KM	Asim Kadribašić
Enver Hasanović	Hatidža Hasnović	80,000,00 KM	Asim Kadribašić
Samir Smajilović	Hakija Smajlović	80,000,00 KM	Asim Kadribašić
Ibran Jašarević	Bahta Jašarević	80,000,00 KM	Asim Kadribašić
Mersad Salihović	Džemala Salihović	80,000,00 KM	Asim Kadribašić
Vahida Sejdinović	Remzija Sejdinović	80,000,00 KM	Asim Kadribašić
Ibrahim Čeliković	Džemila Čeliković	80,000,00 KM	Asim Kadribašić
Senad Hasanović	Šahza Hasanović	80,000,00 KM	Asim Kadribašić
Senad Mustafić	Sadeta Mustafić	80,000,00 KM	Asim Kadribašić
Mirzet Okanović	Izeta Okanović	80,000,00 KM	Asim Kadribašić
Kiram Bećirović	Šeća Bećirović	80,000,00 KM	Asim Kadribašić

Mehmed Mehmedović	Ferida Mehmedović	80,000,00 KM	Asim Kadribašić
Sead Salihović Mehmed Salihović	Esnafa Salihović	160,000,00 KM	Asim Kadribašić
Meho Burić	Fatija Burić	80,000,00 KM	Asim Kadribašić
Mesud Gurdić	Amira Gurdić	80,000,00 KM	Asim Kadribašić
Ramo Klempić	Saliha Klempić	80,000,00 KM	Asim Kadribašić
Ramiz Džanić	Remzija Džanić	80,000,00 KM	Asim Kadribašić
Mevludin Pitarević	Berizeta Pitarević	80,000,00 KM	Asim Kadribašić
Hebib Đozić	Nezir Đozić	80,000,00 KM	Asim Kadribašić
Jusuf Mehić	Habiba Mehić	80,000,00 KM	Asim Kadribašić
Mensur Omerović	Hanifa Omerović	80,000,00 KM	Asim Kadribašić
Dževad Efendić	Hanifa Efendić	80,000,00 KM	Asim Kadribašić
Hamdija Krdžić	Zumra Krdžić	80,000,00 KM	Asim Kadribašić
Fikret Mandžić	Razija Mandžić	80,000,00 KM	Asim Kadribašić
Tahir Hrustanović	Fata Hrustanović	80,000,00 KM	Asim Kadribašić
Nesib Kabilović	Bego Kabilović	80,000,00 KM	Asim Kadribašić
Azmir Ibahimović	Alija Ibrahimović	80,000,00 KM	Asim Kadribašić
Adil Nuhanović	Azemina Nuhanović	80,000,00 KM	Asim Kadribašić
Fetahija Hasanović	Hajra Hasanović	80,000,00 KM	Asim Kadribašić
Ohran Mehanović	Timka Mehanović	80,000,00 KM	Asim Kadribašić
Ramo Borić	Šifa Borić	80,000,00 KM	Asim Kadribašić
Dahmo Malagić	Rifet Malagić	80,000,00 KM	Asim Kadribašić
Mesud Avdić	Kadrija Avdić	80,000,00 KM	Asim Kadribašić
Hasan Delić	Hatidža Delić	80,000,00 KM	Asim Kadribašić
Kadir Gabeljić	Fatima Bećirović	80,000,00 KM	Asim Kadribašić
Ramo Avdić	Sabira Muhić	80,000,00 KM	Asim Kadribašić
Ramo Muhić	Adil Muhić	80,000,00 KM	Asim Kadribašić
Zuhrijet Hodžić	Ševala Hodžić	80,000,00 KM	Asim Kadribašić
Husejn Bektić	Adil Bektić	80,000,00 KM	Asim Kadribašić
Izet Samjilagić	Hajreta Samjilagić	80,000,00 KM	Asim Kadribašić
Asim Nuhanović	Dževad Nuhanović	80,000,00 KM	Asim Kadribašić
Dino Halilović	Rahima Halilović	80,000,00 KM	Asim Kadribašić
Mirsad Salkić	Ajša Salkić	80,000,00 KM	Asim Kadribašić
Senaid Delić	Ramiz Delić	80,000,00 KM	Asim Kadribašić
Junuz Alić	Šuhra Alić	80,000,00 KM	Asim Kadribašić
Sakib Harbaš	Fahdeta Harbaš	80,000,00 KM	Asim Kadribašić
Ramiz Osmanović	Fatima Osmanović	80,000,00 KM	Asim Kadribašić
Sead Mustafić	Nurija Mustafić	80,000,00 KM	Asim Kadribašić
Ismet Hodžić Sadif Hodžić	Isnam Hodžić	160,000,00 KM	Asim Kadribašić
Mehmedalija Špiodić	Nevzeta Špiodić	80,000,00 KM	Asim Kadribašić
Sefedin Ibišević	Selveta Ibišević	80,000,00 KM	Asim Kadribašić
Teufik Zildžić	Azabeta Zildžić	80,000,00 KM	Asim Kadribašić
Džemal Avdić Mirsad Avdić	Razija Čatić	160,000,00 KM	Asim Kadribašić
Rešid Dautović	Tifa Dautović	80,000,00 KM	Asim Kadribašić
Mujo Mešanović	Mejra Mešanović	80,000,00 KM	Asim Kadribašić
Hajrudin Sulejmanović	Berisa Hodžić	80,000,00 KM	Asim Kadribašić

Mujo Zuhrić	Tahira Zuhrić	80,000,00 KM	Asim Kadribašić
Hamid Ibarhimović	Mevlida Ibrahimović	80,000,00 KM	Asim Kadribašić
Hamed Bašić	Nevzeta Bešić	80,000,00 KM	Asim Kadribašić
Behaija Salihović	Hurija Salihović	80,000,00 KM	Asim Kadribašić
Hamdija Alispahić	Fata Alispahić	80,000,00 KM	Asim Kadribašić
Hamed Tihčić	Husejin Tihčić	80,000,00 KM	Asim Kadribašić
Salko Gabeljić	Hajrija Gabeljić	80,000,00 KM	Asim Kadribašić
Meho Beganović	Mafija Alić	80,000,00 KM	Asim Kadribašić
Mevludin Krdžić	Zumra Krdžić	80,000,00 KM	Asim Kadribašić
Ibiša Ibišević Ekrem Ibišević	Nijazija Ibišević	160,000,00 KM	Asim Kadribašić
Midhat Bektić	Fikret Bektić	80,000,00 KM	Asim Kadribašić
Mustafa Gabeljić	Safet Gabeljić	80,000,00 KM	Asim Kadribašić
Rašid Suljić	Nura Suljić	80,000,00 KM	Asim Kadribašić
Habib Kalić	Fata Kalić	80,000,00 KM	Asim Kadribašić
Izet Suljić	Muška Suljić	80,000,00 KM	Asim Kadribašić
Hašim Atić	Merka Atić	80,000,00 KM	Asim Kadribašić
Ramiz Muhić	Kadefa Muhić	80,000,00 KM	Asim Kadribašić
Mirsad Halilović	Revda Halilović	80,000,00 KM	Asim Kadribašić
Abdulah Hodžić	Zlatija Hodžić	80,000,00 KM	Asim Kadribašić
Ahmo Avdić	Raza Habibović	80,000,00 KM	Asim Kadribašić
Avdulah Ahmetović	Fatima Ahmetović	80,000,00 KM	Asim Kadribašić
Jusuf Ibrahimović	Munira Ibrahimović	80,000,00 KM	Asim Kadribašić
Munib Salkić	Ermina Hasanović	80,000,00 KM	Asim Kadribašić
Hamed Jusić	Amira Jusić	80,000,00 KM	Asim Kadribašić
Safet Bećirović Jusuf Bećirović	Esad Bećirović	160,000,00 KM	Asim Kadribašić
Zijad Salihović	Merima Salihović	80,000,00 KM	Asim Kadribašić
Azem Dudić	Vahida Dudić	80,000,00 KM	Asim Kadribašić
Nezir Bajramović	Bejda Bajramović	80,000,00 KM	Asim Kadribašić
Kadrija Alić	Hajrija Alić	80,000,00 KM	Asim Kadribašić
Omer Hukić	Mevlida Hukić	80,000,00 KM	Asim Kadribašić
Fadil Merajić	Hata Merajić	80,000,00 KM	Asim Kadribašić
Zajim Nukić	Fahira Ibišević	80,000,00 KM	Asim Kadribašić
Rašid Hukić	Mersija Hukić	80,000,00 KM	Asim Kadribašić
Mustafa Šabanović	Hida Šabanović	80,000,00 KM	Asim Kadribašić
Šefik Mujić	Šefika Pirić	80,000,00 KM	Asim Kadribašić
Avdo Gabeljić	Avdulah Gabeljić	80,000,00 KM	Asim Kadribašić
Rahman Mustafić	Hurća Muratović	12,000,00 KM	
	Hurija Sulejmanović	12,000,00 KM	
	Idriz Mustafić	12,000,00 KM	
	Ramo Musatfić	12,000,00 KM	
	Berid Mustafić	12,000,00 KM	
Šahbaz Mustafić	Nedžiba Mustafić	20,000,00 KM	Fadil Čović
	Amra Mustafić	20,000,00 KM	
	Amar Mustafić	20,000,00 KM	
Mevludin Česko	Nefisa Česko		
	Ismet Česko		
	Advire Česko		
	Ferid Česko		

Ramo Selimović	Hava Selimović		
Senad Hrnjić	Senija Hrnjić		
Senaid Mustafić	Šemsija Jakubović		
Smail Mehmedović	Asmir Mehmedović		
Hajrudin Zukanović	Zineta Zukanović	30,000,00 KM	
	Muniba Zukanović	30,000,00 KM	
	Selmedin Zukanović	30,000,00 KM	
	Hajreta Zukanović	30,000,00 KM	
	Razija Zukanović	30,000,00 KM	
Ekrem Salkić	Sabaheta Salkić		
Sead Omerović	Sabrija Omerović		
Sefer Hasanović	Zumra Hsanović		
Mujo Pašalić	Amir Pašalić	12,000,00 KM	
Jusuf Omerović	Sejida Omerović		Mirsada Dizdarević
	Samir Omerović		
	Fatima Omerović		
	Huso Omerović		
	Redžo Omerović		
Ahmet Hodžić	Tifa Hodžić	60,000,00 KM	Suad Kumrić
	Emir Hodžić	60,000,00 KM	
	Amer Hodžić	60,000,00 KM	
	Amela Čikarić	60,000,00 KM	
Beris Hirkić	Ajkuna Hirkić	60,000,00 KM	Suad Kumrić
	Mirha Hirkić	60,000,00 KM	
Nurija Salihović	Tifa Salihović	60,000,00 KM	Suad Kumrić
	Fatima Salihović	60,000,00 KM	
Rešo Čević	Beguna Alić	60,000,00 KM	Suad Kumrić
Muriz Mulalić	Begija Mulalić	60,000,00 KM	Suad Kumrić
Alija Suljić	Hajra Suljić	60,000,00 KM	Suad Kumrić
Aziz Delić	Bida Delić	60,000,00 KM	Suad Kumrić
Hajrulah Osmanović	Tima Osmanović	60,000,00 KM	Suad Kumrić
Hidajet Alić	Ešefa Alić	60,000,00 KM	Suad Kumrić
	Hilma Alić	60,000,00 KM	
	Nermina Alić	60,000,00 KM	
	Hilmo Alić	60,000,00 KM	
Mehan Sokalić	Alma Sokalić	60,000,00 KM	Suad Kumrić
	Jasmira Čakal	60,000,00 KM	
	Jasmina Cvrk	60,000,00 KM	
	Šefika Sokalić	60,000,00 KM	
	Ešefa Alić	60,000,00 KM	
	Sejad Sokalić	60,000,00 KM	
	Semir Sokalić	60,000,00 KM	
Munib Husejnović	Fatima Husejnović	50,000,00 KM	Haris Džafo
	Jasna Legić	50,000,00 KM	
	Nermina Sekulić	50,000,00 KM	
Senahid Mujić	Samija Mujić		Jasmir Muratović
Bajro Mujić	Fadila Ibrahimović		Jasmir Muratović
Mujo Malagić	Rizafeta Malagić		Jasmir Muratović
Ibrahim Ibrahimović	Hajdar Ibrahimović		Jasmir Muratović
Meho Mustafić	Minu Mustafić		Jasmir Muratović

	Mehidina Mustafić		
	Azemira Mustafić		
	Azu Rahmić		
	Mila Salihbašić		
Manjo Mujić	Habiba Bektić	20,000,00 KM	
	Adis Mujić	20,000,00 KM	
Omer Mujičić	Ajiša Mujičić		Jasmir Muratović
Ismail Talović Ibrahim Talović	Advija Košpić		Jasmir Muratović
Alija Salihović	Hidaet Salihović		Jasmir Muratović
Samir Mustafić Osmo Mustafić	Fatima Musatfić		Jasmir Muratović
Fehro Otanović	Fatima Omerović	60,000,00 KM	
	Sulejman Omerović		
Rešid Malkić	Rahima Malkić	60,000,00 KM	Suad Kumrić
	Riad Malkić	60,000,00 KM	
	Rešida Malkić	60,000,00 KM	
	Đulsa Malkić	20,000,00 KM	
Behudin Malkić	Fatima Malkić	60,000,00 KM	Suad Kumrić
	Mersud Malkić	60,000,00 KM	
	Safet Malkić	60,000,00 KM	
	Mirzet Malkić	60,000,00 KM	
	Đulsa Malkić	20,000,00 KM	
Rasim Sejfić	Mulija Sejfić	60,000,00 KM	Suad Kumrić
	Safa Sejfić	20,000,00 KM	
Muriz Mulalić	Zumreta Mulalić	60,000,00 KM	Suad Kumrić
	Jasmina Mulalić	60,000,00 KM	
Ibrahim Ahmetović	Tima Ahmetović	60,000,00 KM	Suad Kumrić
	Sadik Ahmetović	60,000,00 KM	
Hašid Salkić	Fatima Salkić	60,000,00 KM	Suad Kumrić
Džemal Teskeredžić	Hanija Teskeredžić	60,000,00 KM	Suad Kumrić
Bajro Omerović	Jasminka Omerović	60,000,00 KM	Suad Kumrić
	Samira Omerović	60,000,00 KM	
	Senada Omerović	60,000,00 KM	
Ismet Omerović	Husnija Čoralić	60,000,00 KM	Suad Kumrić
	Jasminka Omerović	20,000,00 KM	
Sabit Ahmić	Adila Ahmić	60,000,00 KM	Suad Kumrić
	Mirnes Ahmić	60,000,00 KM	
	Mirnesa Ahmić	60,000,00 KM	
Rizvo Mustafić	Fatima Mustafić	60,000,00 KM	Suad Kumrić
	Alma Hotić	60,000,00 KM	
	Mevlida Ahmić	60,000,00 KM	
	Elmira Mustafić	60,000,00 KM	
	Rizafeta Mustafić	60,000,00 KM	
Sabit Alić	Sabrija Alić	20,000,00 KM	Suad Kumrić
	Sabera Alić	20,000,00 KM	
	Muharem Alić	20,000,00 KM	
	Fata Alić	20,000,00 KM	

Hamdija Smajlović	Bida Smajlović	60,000,00 KM	Suad Kumrić
	Satka Smajlović	60,000,00 KM	
	Samira Hrustanbegović	60,000,00 KM	
	Dženana Smajlović	60,000,00 KM	
Sajto Pašalić	Aza Pašalić	60,000,00 KM	Suad Kumrić
	Salih Pašalić	60,000,00 KM	
	Samira Pašalić	60,000,00 KM	
Ramiz Alić	Mevla Alić	60,000,00 KM	Suad Kumrić
	Ramiz Bešić	60,000,00 KM	
Behaija Malkić	Asija Malkić	60,000,00 KM	Suad Kumrić
	Đulsa Kapidžić	60,000,00 KM	

XIII. DECISION ON THE COSTS AND PROPERTY LAW-CLAIMS

872. In relation to the convicting part of the Verdict, pursuant to Article 188(4) of the CPC of BiH, given his poor financial standing, the Accused is relieved of the duty to pay the costs of the criminal proceedings and scheduled amounts, which shall be borne by the budget of the Court.

873. Pursuant to Article 198(2) of the CPC of BiH, the Court refers the victims to pursue their property law claims by taking civil action, considering that the process of establishing the facts in terms of the amounts of the claim would require a longer time.

874. In relation to the acquitting part of the Verdict, pursuant to Article 189(1) of the CPC of BiH, the costs of the criminal proceedings and scheduled amounts shall be borne by the budget of the Court.

875. Pursuant to Article 198(3) of the CPC of BiH, in view of the acquitting part of the Verdict, all injured parties are referred to pursue their property law claims by taking civil action.

RECORD-KEEPER

Emira Hodžić

PRESIDING JUDGE

JUDGE

Davorin Jukić

/signature and stamp duly affixed/

LEGAL REMEDY: This Verdict may be appealed with the Appellate Panel of the Court of BiH within 15 days as of the receipt of the written copy thereof.

XIV. ANNEX

A. PROCEDURAL DECISIONS

1. Decision to Accept Established Facts dated 13 December 2007

On 13 December 2007, the Panel rendered a decision partially granting the Motion of the Prosecutor's Office of BiH to Accept Established Facts (hereinafter: the Motion) no. KT-RZ-139/07 dated 30 October 2007. The Panel accepted the facts established by Trial Chambers of the International Criminal Tribunal for Former Yugoslavia (ICTY), in the case of *Prosecutor v. Krstić*, case number IT-98-33-T, ICTY Trial Judgment dated 2 August 2001 (hereinafter: *Krstić*), upheld by the Appeals Chamber in the same case number IT-98-33-A dated 19 April 2004; and in the case *Prosecutor v. Blagojević and Jokić*, case number IT-02-60, Trial Judgment dated 17 January 2005 (hereinafter: *Blagojević*), upheld by the Appeals Judgment in the same case number IT-02-60-A dated 9 May 2007. The following facts, pursuant to Article 4 of the Law on Transfer, were accepted "as proven":

1. A state of armed conflict existed between BiH and its armed forces, on the one hand, and Republika Srpska and its armed forces, on the other (KT 481; EF para. 1).
2. There was an armed conflict in eastern Bosnia between 11 July and 1 November 1995. (BT 549; EF para. 2)
3. The attack, carried out by the VRS and MUP was planned and defined in the "Krivaja 95" order. (BT 551; EF para. 4)
4. The attack continued after the fall of Srebrenica and affected approximately 40,000 people who lived within the Srebrenica enclave at the time of the attack. (BT 551; EF para. 5)
5. The attack was clearly directed against the Bosnian Muslim civilian population in the Srebrenica enclave. (BT 551; EF para. 6)
6. Over 7,000 Bosnian Muslim men from Srebrenica were massacred. (BT 671; EF para. 8)
7. Although the younger and older men could still be capable of bearing arms, they did not present a serious military threat. (KA 27; EF para. 18)
8. The massacred men amounted to about one fifth of the overall Srebrenica community. (KA 28; EF para. 21)
9. The Zvornik Brigade was established as part of the Drina Corps in 1992. (BT 62; EF para. 32)
10. In July 1995 the Commander of the Zvornik Brigade was Lieutenant Colonel Vinko Pandurević. The Chief of Staff and Deputy Brigade Commander was Major Dragan Obrenović. Three departments directly subordinate to the Commander were: the security department, headed by Lieutenant Drago Nikolić; the logistics' department, headed by Captain Sreten Milošević; and the department for morale, legal and religious affairs, headed by Major Nenad Simić. (BT 62, EF para. 33)

11. The Brigade Commander was further assisted by his staff, organized and directed by the Chief of Staff, which consisted of the operations and training organ; the intelligence organ; the personnel affairs organ; the communications organ; the engineering organ; the air defense organ; and the artillery organ. The engineering organ was headed by the Chief of Engineering, Major Dragan Jokić. (BT 63, EF para. 34)
12. The Zvornik Brigade comprised 8 infantry battalions of approximately 450-550 men each; one logistics battalion; one mixed artillery division; and one light anti-aircraft rocket artillery battalion. The Zvornik Brigade also had a unit of infantry battalion strength called 'the Podrinje Special Detachment', known as 'the Drina Wolves'. The Drina Wolves were commanded by Captain Milan Jolović, nicknamed 'Legenda.' The Drina Wolves, although functioning within the Zvornik Brigade, acted as a reserve for the Drina Corps. (BT 64, EF para. 35)
13. The Zvornik Brigade had three separate companies: an Engineering Company, a Military Police Company; and a Communications Company. The Brigade also had two Platoons; a Nuclear, Biological and Chemical Defense Platoon, and a Reconnaissance Platoon. (BT 65; EF para. 36)
14. The Zvornik Brigade headquarters was located at the 'Standard' factory in Karakaj, three kilometers north of the town of Zvornik along the Drina River. The brigade also manned an IKM at Kitovnice near the village of Orahovac. The Zvornik Brigade secured an area of approximately 40 kilometers along the river Drina around Zvornik town. In January 1995, the brigade was reported to comprise of 5,248 officers, non-commissioned officers, and soldiers. (BT 66; EF para. 37)
15. In July 1995, the brigade also had units deployed outside their area. The 4th Infantry Battalion and the 8th Infantry Battalion, known in July 1995 as the 4th Battalion of the Bratunac Brigade, were deployed in the Bratunac Brigade's area, south of the Zvornik Brigade's area. (BT 66; EF para. 38)
16. In July 1995 the Zvornik Engineering Company Commander during the relevant period was Captain Dragan Jevtić and his deputy was Slavko Bogičević. The Engineering Company had approximately 90 members divided into three platoons: a pioneer or combat engineers platoon, a fortification or general engineering platoon, and a road platoon. The main task of the pioneer platoon was to map and lay mine fields or to dismantle them. (BT 66, 523; EF para. 40)
17. The Engineering Company headquarters was located in Glinica approximately one kilometer from the Zvornik Brigade headquarters. (BT 66; EF para. 41)
18. In March 1995, Radovan Karadžić, President of Republika Srpska ("RS"), issued a directive to the VRS concerning the long-term strategy of the VRS forces in the enclave. The directive, known as "Directive 7", specified that the VRS was to: [C]omplete the physical separation of Srebrenica from Žepa as soon as possible, preventing even communication between individuals in the two enclaves. By planned and well-thought out combat operations, create an unbearable situation of total insecurity with no hope of further survival or life for the inhabitants of Srebrenica. (KT 28; EF para. 43)
19. Just as envisaged in this decree, by mid 1995, the humanitarian situation of the Bosnian Muslim civilians and military personnel in the enclave was catastrophic. (KT 28; EF PARA. 44)
20. On 31 March 1995, the VRS Main Staff issued Directive 7.1, signed by General Mladić. Directive 7.1 was issued "on the basis of Directive No. 7" and directed the Drina Corps to, inter alia, conduct "active combat operations...around the enclaves". (KT 29; EF para. 46)
21. The VRS offensive on Srebrenica began in earnest on 6 July 1995. (KT 31; EF para. 50)
22. In the following days, five UNPROFOR observation posts fell one by one in the face of the Bosnian Serb forces advance. (KT 31; EF para. 51)
23. Some of the Dutch soldiers retreated into the enclave after their posts were attacked, but

- the crews of the other observation posts surrendered into Bosnian Serb custody. (KT 31; EF para. 52)
24. Simultaneously, the defending ABiH forces came under heavy fire and were pushed back towards the town. (KT 31; EF para. 53)
 25. Once the southern perimeter began to collapse, about 4,000 Bosnian Muslim residents, who had been living in a Swedish housing complex for refugees nearby, fled north into Srebrenica town. Dutch Bat soldiers reported that the advancing Bosnian Serbs were “cleansing” the houses in the southern part of the enclave. (KT 32; EF para. 54)
 26. By the evening of 9 July 1995, the VRS Drina Corps had pressed four kilometers deep into the enclave, halting just one kilometer short of Srebrenica town. (KT 33; EF para. 55)
 27. On 9 July 1995, President Karadžić issued a new order authorizing the VRS Drina Corps to capture the town of Srebrenica. (KT 33; EF para. 56)
 28. Colonel Karremans sent urgent requests for NATO air support to defend the town, but no assistance was forthcoming until around 1430 hours on 11 July 1995, when NATO bombed VRS tanks advancing towards the town. (KT 34; EF para. 58)
 29. NATO planes also attempted to bomb VRS artillery positions overlooking the town, but had to abort the operation due to poor visibility. (KT 34; EF para. 59)
 30. NATO plans to continue the air strikes were abandoned following VRS threats to kill Dutch troops being held in the custody of the VRS, as well as threats to shell the UN Potočari compound on the outside of the town, and surrounding areas, where 20,000 to 30,000 civilians had fled. (KT 34; EF para. 60)
 31. Late in the afternoon of 11 July 1995, General Mladić, accompanied by General Živanović (then Commander of the Drina Corps), General Krstić (then Deputy Commander and Chief of Staff of the Drina Corps) and other VRS officers, took a walk through the empty streets of Srebrenica town. (KT 36; EF para. 61)
 32. The moment was captured on film by Serbian journalist, Zoran Petrović. (KT 36; EF para. 62)
 33. By the evening of 11 July 1995, approximately 20,000 to 25,000 Bosnian Muslim refugees were gathered in Potočari. (KT 37; EF para. 70)
 34. Faced with the reality that Srebrenica had fallen under Bosnian Serb forces control, thousands of Bosnian Muslim residents from Srebrenica fled to Potočari seeking protection within the UN compound. (KT 37; EF para. 71)
 35. Several thousand had pressed inside the UN compound itself, while the rest were spread throughout the neighboring factories and fields. (KT 37; EF para. 72)
 36. The conditions in Potočari were deplorable. There was little food or water available and the July heat was stifling. (KT 38; EF para. 74, 75)
 37. Drina Corps Command officers and units were present in Potočari monitoring the transportation of the Bosnian Muslim civilians out of the area on 12 and 13 July 1995. (KT 432; BA 55; EF para. 94)
 38. On 12 and 13 July 1995, the women, children and elderly were bussed out of Potočari, under the control of VRS forces, to Bosnian Muslim held territory near Kladanj. (KT 48; EF para. 95)
 39. The removal of the Bosnian Muslim civilian population from Potočari was completed on the evening of 13 July 1995 by 2000hrs. (KT 51; EF para. 99)
 40. As the buses carrying the women, children and elderly headed north towards Bosnian Muslim-held territory, they were stopped along the way and again screened for men. (KT 56; EF para. 100)
 41. The VRS and MUP, walking among the Bosnian refugees, were separating all Bosnian Muslim men aged 16 to approximately 60 or 70 from their families. (BT 168; EF para. 111)
 42. The separations continued throughout 12 and 13 July. (BT 168; EF para. 112)

43. From the morning of 12 July, Bosnian Serb forces began gathering men from the refugee population in Potočari and holding them in separate locations. (KT 53; EF para. 114)
44. On 13 July 1995, the Dutch Bat troops witnessed definite signs that the Bosnian Serbs were executing some of the Bosnian Muslim men who had been separated. (KT 58, EF para. 119)
45. The Bosnian Muslim men who had been separated from the women, children and elderly in Potočari (numbering approximately 1,000) were transported to Bratunac. (KT 66; EF para. 123)
46. There was also an array of non-Drina Corps Serb forces present in Potočari on 12 and 13 July 1995. There were VRS Main Staff officers reporting directly to General Mladić. (KT 151; EF para. 127)
47. The men and boys in Potočari were separated from the women, children and elderly and taken to the "White House" for interrogation. (KT 157; EF para. 138)
48. Drina Corps officers were also seen in the vicinity of the White House during the time the separated men were detained there. (KT 158; EF para. 143)
49. Beginning on the afternoon of 12 July 1995 and continuing throughout 13 July 1995, men detained in the White House were bussed out of the Potočari compound to detention sites in Bratunac. (KT 159; EF para. 144)
50. Most of the Bosnian Muslim men separated at Potočari and captured from the woods were held in Bratunac for one to three days before being transferred to other detention and execution sites. (KT 179; EF para. 147)
51. As the situation in Potočari escalated towards crisis on the evening of 11 July 1995, word spread through the Bosnian Muslim community that the able-bodied men should take to the woods, form a column together with members of the 28th Division of the ABiH and attempt a breakthrough towards Bosnian Muslim-held territory to the north of the Srebrenica enclave. (BT 218; EF para. 148)
52. At around midnight on 11 July 1995, the column started moving along the axis between Konjević Polje and Bratunac. (KT 62; EF para. 152)
53. The Bosnian Muslim group consisted predominately of boys and men who were between the ages of 16 and 65, although a small number of women, children and elderly people were also present. While at least some of the men were armed and were wearing uniforms, the majority of the men were civilians. (BT 220; EF para. 153)
54. Later in the day of 12 July, heavy shooting on the column began. The Bosnian Serb armed forces, including many MUP units, who were patrolling the road between Kravica and Konjević Polje and the road between Konjević Polje and Nova Kasaba started firing at the column, using artillery, machine guns and hand grenades. (BT 162; EF para. 159)
55. The largest groups of Bosnian Muslim men from the column were captured on 13 July 1995; several thousand were collected in or near the Sandići Meadow and on the Nova Kasaba football field. (KT 64; EF para. 169)
56. Aerial reconnaissance photos confirm the presence of masses of people in these locations on 13 July 1995. (KT 64; EF para. 170)
57. Only about one third of the men successfully made it across the asphalt road and the column was split in two parts. (KT 62; EF para. 176)
58. Most of the Bosnian Muslim men separated at Potočari and captured from the woods were held in Bratunac for one to three days before being transferred to other detention and execution sites. (KT 179; EF para. 185)
59. The town of Bratunac is in the zone of the Bratunac Brigade of the Drina Corps. (KT 180; EF para. 186)
60. The Bratunac Brigade military police were engaged in escorting these prisoners to northern detention sites on 14 and 15 July 1995. (KT 181; EF para. 213)
61. On the evening of 13 July, at least 1,000 Bosnian Muslim men were killed in the Kravica Warehouse. (BT 296; EF para. 243)

62. A large group of the prisoners who had been held overnight in Bratunac were bussed in a convoy of 30 vehicles to the Grbavci school in Orahovac early in the morning of 14th July 1995. (KT 220; EF para. 259)
63. There are estimates that between 1,000 and 2,500 Bosnian Muslim men were detained in the gymnasium of the school. (BT 320; EF para. 272)
64. Aerial photos show that the ground in Orahovac was disturbed between 5 and 27 July 1995 and again between 7 and 27 September 1995. Two primary mass graves were uncovered in the area, and were named "Lažete-1" and "Lažete-2" by investigators. (KT 222; EF para. 283)
65. The Lažete 1 gravesite was exhumed by the OTP between 13 July and 3 August 2000. All of the 130 individuals uncovered, for whom sex could be determined, were male. One hundred and thirty eight blindfolds were uncovered in the grave. (KT 222; EF para. 284)
66. All of the 243 victims associated with Lažete 2 were male and the experts determined that the vast majority died of gunshot injuries. In addition, 147 blindfolds were located. (KT 222; EF para. 285)
67. Forensic analysis of soil/pollen samples, blindfolds, ligatures, shell cases and aerial images of creation/disturbance dates, further revealed that bodies from the Lažete 1 and Lažete 2 graves were removed and reburied at secondary graves named Hodžići Road 3, 4 and 5. (KT 222; EF para. 288)
68. Aerial images show that these secondary gravesites were created between 7 September and 2 October 1995 and all of them were exhumed by the OTP in 1998. (KT 223; EF para. 289)
69. Following a similar pattern to the other Srebrenica related gravesites, the overwhelming majority of bodies at Hodžići Road 3, 4 and 5 were determined to be male and to have died of gunshot wounds. (KT 223; EF para. 290)
70. The total minimum number of individuals exhumed at the three gravesites was 184. (KT 223; EF para. 291)
71. On the 14th July, Bosnian Muslim prisoners, who had been detained in Bratunac and Kravica were taken by bus to the Petkovci School in the Zvornik municipality. (BT 337; EF para. 292)
72. On 14th July, Bosnian Muslim prisoners were taken by bus from Bratunac through Zvornik to Pilica, where they were detained in the sports hall of the Pilica School. (BT 347; EF para. 306)
73. At least 132 male individuals, all wearing civilian clothes were buried in a large cultivated field about 130 meters north from Branjevo Military Farm. (BT 354; EF para. 320)
74. In a secondary grave along the Čančari road, the remains of people initially buried at the Branjevo Farm were discovered. In one report the minimum number of individuals found in the secondary grave in Čančari was 283 victims. Three were determined to have been between 8 and 12 years old, 49 were between 13 and 24 years old and 231 were older than 24. At least 269 victims were male. (BT 354; EF para. 321)
75. A large scale execution and burial operation was carried out at Kozluk between the 15th and 16th July. The evidence suggests that around 500 men were executed at the edge of the Drina River. There are no known survivors. (BT 357; EF para. 322)
76. Two secondary graves along the Čančari road contained evidence that the bodies came from the primary graves in Kozluk. Three primary graves were found in the area surrounding the bottling factory in Kozluk, which still contained human remains and clothes. The victims in the primary grave had been executed at that location. All victims found in the primary and secondary graves wore civilian clothing. (BT 362; EF para. 328)
77. The minimum number of individual victims related to the executions in Kozluk was

between 451 and 506 persons. Two were determined as being between 8 and 12 years old, 47 were between 13 and 24 years old and 457 were older than 24 years old. (BT 362; EF para. 329)

78. Concern grew within the International Community as vast numbers of Bosnian Muslim men remained unaccounted for and the VRS continued to prevent access to the Srebrenica region. (BT 380; EF para. 344)
79. A series of meetings were held with President Slobodan Milošević and General Ratko Mladić between 14 July and 19 July to negotiate access for UNHCR and the ICRC to the area. (BT 380; EF para. 345)
80. Despite an agreement being reached, the VRS continued to refuse entry to the areas where the Bosnian Muslim men were being detained. (BT 380; EF para. 346)
81. On 10 August 1995, the Security Council was briefed by the United States representative, who showed the Council aerial photographs indicating the existence of mass graves near Konjević Polje and Nova Kasaba. (BT 380; EF para. 348)
82. On the same date, the Security Council passed Resolution 1010, demanding that the Bosnian Serb authorities allow UN and ICRC observers to enter into Srebrenica. (BT 380; EF para. 349)
83. Investigators of the Office of the Prosecutor were first allowed to visit the area in January 1996. (BT 381; EF para. 350)
84. In April 1996 they commenced forensic examinations of suspected execution points and exhumation of mass graves. (BT 381; EF para. 351)
85. Forensic evidence showed that there were two types of mass graves, “primary graves”, in which individuals were placed soon after their deaths and “secondary graves”, into which the same individuals were later reburied. (BT 381; EF para. 353)

II. The remaining proposed facts are either reserved or refused for the reasons stated in the Reasoning part of the Decision.

R e a s o n i n g

Prosecution Motion

On 30 October 2007, the Prosecutor’s Office of BiH submitted its Motion on the basis of Article 4 of the Law on Transfer. The Motion contained 375 facts in total, which were taken from the Trial and Appeal Judgments rendered by the ICTY in the cases *Prosecutor v. Krstić* (Case No. IT-98-33-T dated 2 August 2001 and IT-98-33-A dated April 19, 2004) and *Prosecutor v. Blagojević and Jokić* (Case No. IT-02-60 dated 17 January 2005 and IT-02-60-A dated 9 May 2007).

In support of his Motion, the Prosecutor pointed out that taking judicial notice of the proposed established facts would effectively promote judicial economy and afford the accused an expeditious trial. In addition, the Prosecutor stated that the established facts are merely presumptions that may be challenged by the Defense during the trial in accordance with the Article 6(2) CPC BiH and Article 6(3)(d) of the European Convention on Human Rights and Fundamental Freedoms (ECHR). Finally, the Prosecutor submitted that the criteria for accepting a fact as “established” in accordance with Article 4 of the Law on Transfer should be the same as those applied under Rule 94 (B) of the ICTY Rules of Procedure and Evidence. Accordingly, the Prosecutor proposed eight criteria for determining whether this panel should accept proposed facts as established.

Defense Responses

In response to the Prosecutor's Motion, the Defense argued that the acceptance of the established facts violates the right of the accused to a fair trial enshrined in Article 6(1) of the European Convention of Human Rights ("the ECHR") as well as Article 3(1) and Article 247 of the CPC BiH. In his view, the admission of the purported adjudicated facts will seriously impair the rights of the accused and will not contribute to the objective of judicial economy and expediency. In addition, the defense argued that the right of the accused to a fair trial is also impinged by a retroactive application of LOTC since the law was enacted after the events to which it applies took place. Finally, the defense contended that some of the facts proposed by the Prosecutor's Office are irrelevant to the case, repetitive in their nature and contain legal conclusions as to the criminal responsibility of the accused.

After careful consideration of the arguments, the Court has decided as follows:

Applicable Law

Article 4 of the Law of Transfer of Cases¹⁵⁰¹ as well as Rule 94 (B) of the Rules of Procedure and Evidence¹⁵⁰² stipulate that at the request of a party or *proprio motu*, the courts, after hearing the parties, may decide to accept as proven those facts that are established by legally binding decisions in any other proceedings by the ICTY or to accept documentary evidence from proceedings of the ICTY relating to matters at issue in the current proceedings.

The requirement of Rule 94(B) to hear parties prior to rendering a decision concerning Established Facts has been met by offering the parties on the record an opportunity for a hearing. Both parties declined further hearing agreeing to rely on their written submissions to the Court.

The procedure of judicial notice is primarily intended to ensure the expediency of the proceedings. By taking judicial notice of the established facts, the Court achieves judicial economy in the sense that it condenses the relevant proceedings to what is essential for the case of each party and eliminates the necessity to prove the fact again that has been previously adjudicated in past proceedings.

The procedural legal impact of taking judicial notice of an established fact is that the burden of proof to disqualify the fact is shifted from the Prosecution to the Defense¹⁵⁰³. If during a trial, an accused wants to dispute an adjudicated fact of which the Court has taken judicial notice, the accused has a right (as a matter of safeguarding the fairness of the trial) to submit evidence that calls into question the veracity of the adjudicated facts.¹⁵⁰⁴

¹⁵⁰¹ Article 4 of the Law of Transfer of Cases stipulates that "at the request of a party or *proprio motu*, the courts, after hearing the parties, may decide to accept as proven those facts that are established by legally binding decisions in any other proceedings by the ICTY or to accept documentary evidence from proceedings of the ICTY relating to matters at issue in the current proceedings".

¹⁵⁰² Rule 94(B) states that "at the request of a party or *proprio motu*, a Trial Chamber, after hearing the parties, may decide to take judicial notice of adjudicated facts or documentary evidence from other proceedings of the Tribunal relating to the matter at issue in the current proceedings".

¹⁵⁰³ Court of BiH case law: Decision in the case against *Momčilo Mandić*, Case No. X-KR-05/58, dtd 5 February 2007; Decision in the case against *Krešo Lučić*, Case No. X-KR-06/298, of 27 March 2007.

ICTY case law: Decision on Adjudicated Facts in the case against *Vujadin Popović et al.*, Case No. IT-05-88-T, dtd 26 September 2006, developing further the criteria elaborated by the two ICTY Decisions on Adjudicated Facts in the case against *Momčilo Krajišnik*, Case No. IT-00-39-T, of 28 February 2003 and 24 March 2005.

¹⁵⁰⁴ Article 6(2) of CPC BiH and Article 6(3)(d) ECHR.

The Court emphasizes that its first concern is to ensure that the accused is offered a speedy and fair trial in accordance with Article 13 CPC BiH and Article 6 (1) ECHR. Accordingly, as long as this principal is upheld, the Court has a duty to avoid a waste of unnecessary time and resources.

Criteria for Decision on Proposed Facts

Considering that neither the Law on Transfer of Cases nor the CPC BiH provides the criteria that have to be met in order to accept as proven the facts established by the ICTY, the Court, bearing in mind the duty to respect the right to fair trial guaranteed by the ECHR and CPC BiH, applied criteria that the ICTY established in the case *Prosecutor v. Momčilo Krajišnik* (Case No.: IT-00-39-T). In order to meet the established criteria an adjudicated fact must 1) be distinct, concrete and identifiable; 2) be restricted to factual findings and should not include legal characterizations; 3) be contested at trial and form part of a judgment which has either not been appealed or has been finally settled on appeal; or 4) be contested at trial and now forms part of judgment which is under appeal, but falls within the issues which are not in dispute during the appeal; 5) not attest to criminal responsibility of the accused; 6) not be a subject of reasonable dispute between the parties in the present case; 7) not be based on plea agreements in previous cases; and 8) not impact the right of the accused to a fair trial¹⁵⁰⁵.

This Court delineates the above-cited criteria as follows in the light of the ICTY and Court of BiH jurisprudence:

1. The fact must be distinct, concrete, and identifiable

In order for a fact to be clear, distinct, concrete and identifiable, it must be taken from the specific paragraphs of a Trial or Appeals Judgment.¹⁵⁰⁶ Moreover, it must be comprehensible when taken out of its context and must have the same or at least a similar form as the one that was adjudicated in the trial or appeals judgments from which it has been taken.

Applying the principles discussed above, the Panel rejects the following facts: 10, 12, 20, 27, 31, 48, 68, 73, 81-82, 175, 220, 245-246, 352, 354.

2. The fact must be restricted to factual findings and should not include legal characterizations.

Since many findings have a legal aspect, the absence of legal characterizations is usually assessed on a case-by-case basis.¹⁵⁰⁷ In general, even findings related to the *actus reus* or the *mens rea* of a crime are deemed to be factual findings and may be admitted as long as they comply with other established criteria¹⁵⁰⁸.

While the ICTY jurisprudence on adjudicated facts tends to exclude any facts that contain legal terms and make primarily legal points¹⁵⁰⁹, the Court of BiH have taken the view that facts that may

¹⁵⁰⁵ ICTY Decision on Adjudicated Facts in the case against *Momčilo Krajišnik*, Case No. IT-00-39-T of 28 February 2003.

¹⁵⁰⁶ *Prosecutor v. Prlic*, IT-04-74-T, dated September 7, 2006

¹⁵⁰⁷ ICTY Decision on Adjudicated Facts in the case against *Momčilo Krajišnik*, Case No. IT-00-39-T, of 24 March 2005, para. 15.

¹⁵⁰⁸ *Id.*

¹⁵⁰⁹ ICTY Decision on Adjudicated Facts in the case against *Željko Mejačić et al.*, Case No. IT-02-65-PT, of 1 April 2004, p. 6., excluding facts that speak of the existence of a “policy to commit inhuman acts against the civilian population” and of “acts that were committed on both a widespread basis and a systematic fashion”

contain some legal elements of the criminal offense (e.g. “widespread or systematic attack”), in certain cases, are suitable to be accepted as Established Facts¹⁵¹⁰.

This Panel excludes any proposed facts that contain any legal conclusions or legal qualifications attributing a mode of perpetration (e.g. “existence of a common criminal purpose”) as they place the concrete action of perpetration in a wider context of the war events. Accordingly, this Panel rejects the following facts: 3, 9, 11, 13-17, 19, 22-26, 28-30, 63-65, 69, 80, 103-104, 110, 113, 134, 142, 206-212, 217, 356.

3-4. The fact must not be subject to a pending appeal or review

Only facts from final judgments can be judicially noticed¹⁵¹¹. In other words, the Court cannot take a judicial notice of the adjudicated facts if those facts are being appealed. On the other hand, if the facts have been adjudicated at trial and are not covered by the appeal, they remain unaffected and may be judicially noticed even before the appeal is finally concluded. The mere fact that the judgment has been appealed does not in itself provide sufficient grounds for excluding all facts adjudicated in that judgment.

All facts proposed by the Prosecutor’s Office which this Court has accepted satisfy these criteria.

5. The fact must not relate to the acts, conduct, or mental state of the Accused

The Court may take judicial notice of a fact related to the responsibility of the Accused provided that these facts do not relate to the acts, conduct, and mental state of the accused.¹⁵¹² This refers to the facts relating to the conduct of persons (other than accused), who have participated in a joint criminal enterprise cited in the indictment or to facts relating to the acts and conduct of subordinates of the accused.

The practice of the Court of BiH varies significantly. Some Panels admit all facts that do not mention the Accused as a direct perpetrator¹⁵¹³, while others exclude facts that could indirectly implicate criminal responsibility of the accused through his superior position or his participation in a common plan¹⁵¹⁴.

This Panel rejects any facts that attest, directly or indirectly, to the acts, conduct or mental state of the accused. Accordingly, the following facts cannot be subject of judicial notice: 101, 107-109, 128, 131, 171-174, 187-194, 204-205, 214-215, 266-270, 330-343, 355-389.

¹⁵¹⁰ See Decisions on Established Facts taken in the cases against: *Radovan Stanković*, Case No. X-KR-05/70, of 13 July 2006; *Gojko Janković*, Case No. X-KR-05/161, of 4 August 2006; *Momčilo Mandić*, Case No. X-KR-05/58, of 5 February 2007; *Krešo Lučić*, Case No. X-KR-06/298, of 27 March 2007.

See also Decisions within Court of BiH Trial Panel Verdicts against: *Neđo Samardžić*, Case No. X-KR-05/49, of 7 April 2006, pp. 12-16 (in BCS version pp. 10-13); Trial Verdict in the case against *Dragoje Paunović*, Case No. X-KR-05/16, of 26 May 2006, p. 15 (in BCS version p. 13); Trial Verdict in the case against *Boban Šimšić*, Case No. X-KR-05/04, of 11 July 2006, para. 49; Trial Verdict in the case against *Marko Samardžija*, Case No. X-KR-05/07, of 3 November 2006, pp. 16-19 (in BCS version pp. 15-18); Trial Verdict in the case against *Radislav Ljubinac*, Case No. X-KR-05/154, of 8 March 2007, pp. 17-22 (in BCS version pp. 15-20).

¹⁵¹¹ *Prosecutor v. Ljubičić*, IT-00-41-PT, Decision of 23rd January 2003, p. 6

¹⁵¹² *Prosecutor v. Prlić*, IT-04-74-T, dtd September 7, 2006.

¹⁵¹³ See, for example, Decision in the case against *Momčilo Mandić*, Case No. X-KR-05/58, of 5 February 2007, p. 4, accepting as an Established Fact that *Miroslav Krnojelac* was appointed by *Momčilo Mandić*, being the Minister of Justice of the Serb Republic of BiH at that time.

¹⁵¹⁴ See, for example, Decision in the case against *Gojko Janković*, Case No. X-KR-05/161, of 4 August 2006, p. 3 and Decision in the case against *Miloš Stupar et al. (Kravica)*, Case No. X-KR-05/24, of 3 October 2006, p. 8.

6. The fact is not subject of (reasonable) dispute between the Parties in the present case

Only facts that are not subject to reasonable dispute between the parties in the case at hand could be judicially noticed.

The defense counsel for Milorad Trbić, Milan D. Trbojević, filed his response to the Prosecutor's Motion for established facts, objecting to a number of the proposed facts on the grounds that those facts are repetitive, irrelevant, ambiguous, and/or contain conclusions of law. In compliance with the above-referenced criteria, all facts objected to by the defense counsel Milan D. Trbojević have been rejected by this Panel.

7. The fact must not be based on plea agreements in previous cases

A fact is capable of admission as an established fact if it is truly adjudicated and is not based upon an agreement between the parties to previous proceedings, such as agreed facts underpinning a plea agreement.¹⁵¹⁵ Truly adjudicated facts are facts extracted from cases for which the Appeals Chamber has ruled on the merits or has not been called to do so.¹⁵¹⁶

All facts proposed by the Prosecutor's Office which this Court has accepted satisfy these criteria.

8. The fact does not impact on the right of the Accused to a fair trial.

The principle of judicial economy is frustrated when the judicially noticed facts are unduly broad, vague, tendentious or conclusory.¹⁵¹⁷ In the final analysis, even those facts that meet all of the above listed preconditions may be refused at the discretion of the Panel if the facts taken together infringe upon the right of the accused to a fair trial.

Accordingly, the Panel rejects the following facts due to their irrelevance to the case at hand, excessive details, or repetitive nature: 45, 47, 49, 57, 76-79, 83-93, 96-98, 105, 106, 115-118, 120, 122, 124, 126, 129-130, 132-133, 135-137, 139-141, 146, 149-151, 154-158, 160-168, 177-185, 195-203, 218-219, 244, 260-265, 271, 273-282, 286-287, 293-305, 307-319, 322-327, 347.

Finally, the Court reserves judgment on the following facts for later considerations: 7, 39, 42, 102, 121, 221-242, 247-258,

The remaining issue, and the only substantive legal argument raised by the accused in opposition to the Prosecutor's Motion, is whether or not accepting all or some of the proposed facts as "established" violates the right of the accused to a fair trial. The accused argues that accepting facts from another court decision as "established" in this case violates his right to a fair trial because it deprives the accused to personally and directly participate in the criminal proceedings in violation of Article 6(1) of ECHR and it also violates a universally applicable presumption of innocence enshrined in Article 3(1) of CPC BiH

Paragraph 1 of Article 6 of the European Convention of Human Rights enunciates the principle of fair trial in criminal proceedings in conjunction with paragraphs 2 and 3, which cover the more specific guarantees than those enumerated in paragraph 1. Those specific rights, however, are not exhaustive. The European Court of Human Rights has repeatedly emphasized that the standard of

¹⁵¹⁵ *Prosecutor v. Slobodan Milosevic*, IT-02-54-T, dtd June 5, 2002, p. 3

¹⁵¹⁶ *Ibid*, 5.

¹⁵¹⁷ ICTY Decision on Adjudicated Facts in the case against *Vujadin Popović et al.*, Case No. IT-05-88-T, dtd 26 September 2006, para. 16.

fairness is determined by overall legal proceedings.¹⁵¹⁸ In the context of criminal proceedings, the principle of “fairness” means that the defendant has a reasonable opportunity of presenting his case to the court under conditions which do not place him at a substantial disadvantage vis-a-vis Prosecution.¹⁵¹⁹ To date the Strasbourg Court has interpreted fairness under Article 6(1) to ensure that the prosecution discloses to the defense all material evidence in their possession for or against the accused, and that the accused has an ample opportunity to challenge that evidence.¹⁵²⁰

By taking judicial notice of facts that have been adjudicated, this Panel acknowledges a well-founded presumption for the accuracy of the fact. Any facts which make reference to the accused or which indirectly or directly attest to the criminal responsibility of the accused were rejected by this Panel. The facts which this Court accepted as “established” speak generally of the acts by the Bosnian Serb Army and paramilitary groups on the Muslim civilian population of the municipalities of Bratunac, Zvornik and Srebrenica and their environs. The accused is entitled to a right of rebuttal and can bring out new evidence in an effort to successfully challenge and disprove any of the “established” facts at the trial.

In addition, when reviewing the evidence as a whole at the conclusion of the main trial, this Panel will review the established facts in light of all evidence presented at the trial, and will make its final determination as to their relevance to the case at hand.

This is a procedural decision of the Panel, which will be entered in the main trial record pursuant to Article 239(4) of the CPC BiH. This decision can only be contested in the appeal against the verdict.

2. Decision to Accept Established Facts dated 5 February 2009

On 5 February 2009, the Panel rendered a decision partially granting the Motion of the Prosecutor's Office of BiH to Accept Established Facts (hereinafter: the Motion) no. KT-RZ-139/07 dated 16 January 2009. The Panel accepted the facts established by Trial Chambers of the International Criminal Tribunal for Former Yugoslavia (ICTY), in the case of *Prosecutor v. Krstić*, case number IT-98-33-T, ICTY Trial Judgment dated 2 August 2001 (hereinafter: *Krstić*), upheld by the Appeals Chamber in the same case no. IT-98-33-A dated 19 April 2004; and in the case *Prosecutor v. Blagojević and Jokić*, case no. IT-02-60, Trial Judgment dated 17 January 2005 (hereinafter: *Blagojević*), upheld by the Appeals Chamber in the same case number IT-02-60-A dated 9 May 2007. The following facts, Pursuant to Article 4 of the Law on Transfer of Cases, were accepted „as proven“:

1. The engineer company disposed of heavy machinery and vehicles. If required, it could commandeer engineer equipment from the civilian sources. In July 1995, the engineer

¹⁵¹⁸ *Khan v. United Kingdom*, (2001) 31 E.H.H.R 55, (1997) E.C.H.R. 2122/92; *Barbera, Messegue and Jabardo v. Spain* (1994), E.C.H.R. 10588/83; *Bonisch v. Austria* (1991) 13 E.H.H.R. 409, (1986) E.C.H.R. 8658/79;

¹⁵¹⁹ *Bonisch v. Austria* (1991) 13 E.H.H.R. 409, (1986) E.C.H.R. 8658/79

¹⁵²⁰ *Khan v. United Kingdom*, (2001) 31 E.H.H.R 55, (1997) E.C.H.R. 2122/92

company disposed of and employed the following heavy machinery and vehicles: two trucks, two ULT loaders, loader and two excavators (EF para.42, BT 70)

2. *Vuk Karadžić* school and various buildings in the vicinity were guarded by members of several units of the armed forces of Republika Srpska, including the members of the Bratunac Brigade Military Police platoon, special police, civil police of the MUP (Ministry of the Interior) and members of *Vukovi s Drine* (the Drina Wolves) and paramilitary formations (EF para.222, BT 272)
3. From 12 to 14 July, more than 50 Bosnian Muslims, male, were summarily executed by firing squad at the *Vuk Karadžić* school and around it (EF para.225, BT 564)
4. In the period from 13 to 15 July, several men were taken out of the *Vuk Karadžić* school and executed (EF para.226, BT 564)
5. On the morning of 13 July, 16 Bosnian Muslims captives from the column were bussed from the warehouse in Konjevic Polje to the river bank of Jadar. A 15 years old boy was among them as well. When the men got out of the bus, they were lined up by the riverside. Four Serbs who escorted them in the bus opened fire from automatic rifles. One Bosnian Muslim survived as he threw himself into the river after being shot. He recognised one of the soldiers who participated in shooting as being a member of the 2nd PJP Company (EF para.228, 229, 230, BT 293)
6. On 13 July at about 14:00, from the hill on which he was hiding, a Bosnian Muslim saw two or three buses setting off from Konjević Polje towards Nova Kasaba. He saw the buses diverting from the asphalt road on the right in the direction of Cerska. The buses followed the armed personnel carrier with soldiers wearing camouflage uniforms and one more vehicle. About five minutes later, the vehicles were followed by an excavator. When the vehicles turned around a curve, they disappeared from sight. However, some ten minutes later, he heard shooting from light weapons and machine guns. The shooting lasted for about half an hour (EF para. 231, BT 294)
7. The whole day on 13 July, approximately 1,500 to 3,000 Bosnian Muslim men, captives in the column, were detained at the Nova Kasaba football field (EF para. 236, BT 253)
8. Men in Nova Kasaba had to hand over all valuables and leave their belongings. The captives were sitting in lines, one by the other, and were surrounded by members of the Bosnian Serb army. During their detention, they received no beverages. (EF para. 237, BT 253)
9. On 27 July 1995, the Government of the United States of America made the aerial photographs of the area of Nova Kasaba which showed disturbed soil at four different locations. In July 1996, a team of investigators-forensics lead by dr. William Haglund, exhumed four primary undisturbed mass graves in the area of Nova Kasaba. The mass graves located at two fields contained 33 male victims. Thirty two victims were killed by bullets, while one victim died from the consequences of the massive head trauma. Twenty seven men were found with their hands tied behind their backs. It is estimated that, at the time of death, all victims were at the age fit for military service or younger. The evidence found in the graves leads to a conclusion that many victims were shot dead after laying down in the grave. (EF para. 240, BT 255)
10. In 1999, four more primary graves in Nova Kasaba were exhumed, in which at least 55

additional persons were found. Based on the findings, at least 52 victims were male and at least 43 victims died from multiple wounding inflicted by fire arms (EF para. 242, BT 255)

11. In the evening of 13 July , Colonel Beara, together with Miroslav Deronjić and others, began to organize the burial of Bosnian Muslim men who were killed in the Kravica Warehouse (EF para. 247, BT 304)
12. Several meetings of the civilian authorities and VRS were held on the premises of SDS in Bratunac. A decision was made that the Sanitary Unit workers of the utility company *Rad* and the Bratunac Civilian Protection compulsory work unit report the next morning to Kravica in order to load the bodies onto the vehicles (EF para. 248, BT 304)
13. Miroslav Deronjić ordered that, on the morning of 14 July, the Civilian Protection workers report for duty in the village of Glogova (EF para. 248, BT 304)
14. Between 14 and 16 July, bodies of male Bosnian Muslims were transported by trucks from the warehouse in Kravica to the grave sites in the villages of Glogova and Ravnice, were they were supposed to be buried (EF para. 251, BT 304)
15. The buses provided by the Drina Corps were used for transportation of the captured Bosnian Muslims to the detention and the execution sites (EF para. 255, BT 442)
16. On 12 and 13 July 1995, the Drina Corps Command must have been informed of the changed utilisation of buses from the initially planned transportation of Bosnian-Muslim women, children and elderly to transportation of men from Potočari to Bratunac and, as of the evening of 13 July 1995, the Drina Corps Command must have known that the buses were provided for transportation of the captured Bosnian Muslim north, to Zvornik. (EF para. 256, BT 442)
17. On 16 July, the VRS soldiers executed approximately 500 men, Bosnian Muslims, in the Pilica Cultural Centre. Considering the size of the building and a large number of men, they were, by all indications, crammed into the main room where they stood on the stage. Shooting and grenade explosions were heard from the other side of the road, which lasted for about 20 minutes. There exists evidence indicating that, the next day, the bodies were loaded onto the truck and buried at the army-owned farm Branjevo, about three kilometres away from the Pilica Cultural Centre. As far as it is known, nobody survived that massacre. There exists the forensic evidence corroborating the killing (EF para. 312, BT 355-356)
18. On 16 July, the captives were told that they all could leave for Tuzla. They tied their hands behind their backs and took them onto the buses. The soldiers cursed the Bosnian Muslim men and they occasionally hit some captive with the rifle but. The captives were taken to the army-owned farm Branjevo in the Pilica local community. The buses were escorted by the members of the Drina Corps Military Police battalion. The captives were taken off the buses in groups and brought to a meadow. The lined up soldiers ordered those men to turn their backs and opened fire at the captives from the automatic rifles and machine guns (EF para. 316-319, BT 349-350)
19. On or about 17 or 18 July 1995, initial reports were received on the executions and the detention centers, as some men, Bosniak Muslims from the column who survived, reached Tuzla (EF para. 347, BT 380)

II

The remaining facts proposed in **Annex A and Annex B (I, II, III) and Annex C** were refused for the reasons stated in the Reasoning part of the Decision.

Reasoning

Prosecution Motion

On 16 January 2009, pursuant to Article 4 of the Law on Transfer, the Prosecutor's Office of BiH submitted its Motion to admit the reserved, revised and additional established 172 facts in total, which were taken from the Trial and Appeals judgments rendered by the ICTY in the cases *Prosecutor v. Krstić* (Case No. IT-98-33-T dated 2 August 2001 and IT-98-33-A dated April 19, 2004) and *Prosecutor v. Blagojević and Jokić* (Case No. IT-02-60 dated 17 January 2005 and IT-02-60-A dated 9 May 2007).

In support of its Motion, the Prosecutor pointed out that it proposed the established facts with regard to several counts of the Indictment to be admitted for the reason of judicial economy, because the Prosecutor's Office deemed that the live presentation of evidence would not be required, and that also, it would not result in unfair trial should the Panel accept the facts as established.

In Annex A to its Motion, the Prosecutor's Office provided the facts which were reserved in the previous Panel's decision to partly grant the established facts of 13 December 2007, and it resubmitted them for consideration. Also, in Annex B(i), the Prosecutor stated that he filed the facts which had been rejected by the previous decision as being unspecific and unrecognizable and which were provided in the new motion as specific, concrete and recognizable.

In part B(ii), the Prosecutor stated that he proposed the facts which are relevant, not repetitive in nature and concise, and which were rejected by the previous decision as being irrelevant, excessively detailed and repetitive in nature. The Prosecutor noted that the facts in the Annex B(ii) are relevant for the issues stated in the specific paragraphs of the Indictment.

In Annex B(iii) the Prosecutor stated that he filed the facts which were rejected by the previous Decision as legal conclusions and noted that he entirely deleted the facts which constituted the legal conclusions and reformulated them to become the facts.

In Annex C the Prosecutor emphasized that he proposed the facts which had not been previously filed nor had they been the subject matter of the Trial Panel's considerations in its previous Decision.

Defense Responses

In response to the Prosecutor's Motion, the Defense for the accused Milorad Trbić objected to the acceptance of the established facts as stated in the submission of the Prosecutor's Office. In its response, the Defense for the accused noted that the Court reconsidered the same motion in relation to which a decision on acceptance of the established facts has already been rendered. The Defense Counsel states that there are no legal grounds for the Prosecutor's Office to propose rendering of a decision on acceptance of the established facts, upon the completion of the evidentiary procedure, and the prosecution completed its case indeed. The Defense Counsel also stated that the repeated proposal of the facts does not contribute to the judicial economy. The Defense argues that the position of the Prosecutor's Office is unclear with regard to allegedly reserved established facts because the previous Court Decision states the reservation and refusal of the proposed facts, but its

reasoning does not state that the reservation means the rendering of a subsequent decision. Finally, the Defense Counsel for the accused Milorad Trbić proposed that the motion of the Prosecutor's Office should be refused or rejected.

After careful consideration of the arguments, the Court has decided as follows:

Applicable laws

Article 4 of the Law of Transfer of Cases¹⁵²¹ as well as Rule 94 (B) of the Rules of Procedure and Evidence¹⁵²² stipulate that at the request of a party or *proprio motu*, the courts, after hearing the parties, may decide to accept as proven those facts that are established by legally binding decisions in any other proceedings by the ICTY or to accept documentary evidence from proceedings of the ICTY relating to matters at issue in the current proceedings.

The requirement of Rule 94(B) to hear parties prior to rendering a decision concerning Established Facts has been met by offering the parties on the record an opportunity for a hearing.

The procedure of judicial notice is primarily intended to ensure the expediency of the proceedings. By taking judicial notice of the established facts, the Court achieves judicial economy in the sense that it condenses the relevant proceedings to what is essential for the case of each party and eliminates the necessity to prove the fact again that has been previously adjudicated in past proceedings.

The procedural and legal impact of taking judicial notice of an established fact is that the burden of proof to disqualify the fact is shifted from the Prosecution to the Defense¹⁵²³. If during a trial, an accused wants to dispute an adjudicated fact of which the Court has taken judicial notice, the accused has a right (as a matter of safeguarding the fairness of the trial) to submit evidence that calls into question the veracity of the adjudicated facts.¹⁵²⁴

The Court emphasizes that its first concern is to ensure that the accused is offered a speedy and fair trial in accordance with Article 13 CPC BiH and Article 6 (1) ECHR. Accordingly, as long as this principal is upheld, the Court has a duty to avoid a waste of unnecessary time and resources.

Criteria for Decision on Proposed Facts

Considering that neither the Law on Transfer of Cases nor the CPC BiH provides the criteria that have to be met in order to accept as proven the facts established by ICTY, the Court, bearing in

¹⁵²¹ Article 4 of the Law of Transfer of Cases stipulates that "at the request of a party or *proprio motu*, the courts, after hearing the parties, may decide to accept as proven those facts that are established by legally binding decisions in any other proceedings by the ICTY or to accept documentary evidence from proceedings of the ICTY relating to matters at issue in the current proceedings".

¹⁵²² Rule 94(B) states that "at the request of a party or *proprio motu*, a Trial Chamber, after hearing the parties, may decide to take judicial notice of adjudicated facts or documentary evidence from other proceedings of the Tribunal relating to the matter at issue in the current proceedings".

¹⁵²³ Court of BiH practice: Decision in the case against *Momčilo Mandić*, Case No. X-KR-05/58, dtd 5 February 2007; Decision in the case against *Krešo Lučić*, Case No. X-KR-06/298, of 27 March 2007.

ICTY practice: Decision on Adjudicated Facts in the case against *Vujadin Popović et al.*, Case No. IT-05-88-T, dtd 26 September 2006, developing further the criteria elaborated by the two ICTY Decisions on Adjudicated Facts in the case against *Momčilo Krajišnik*, Case No. IT-00-39-T, of 28 February 2003 and 24 March 2005.

¹⁵²⁴ Article 6(2) of CPC BiH and Article 6(3)(d) ECHR.

mind the duty to respect the right to fair trial guaranteed by the ECHR and CPC BiH, applied criteria that the ICTY established in the case *Prosecutor v. Momčilo Krajišnik* (Case No.: IT-00-39-T). In order to meet the established criteria an adjudicated fact must 1) be distinct, concrete and identifiable; 2) be restricted to factual findings and should not include legal characterizations; 3) be contested at trial and form part of a judgment which has either not been appealed or has been finally settled on appeal; or 4) be contested at trial and now forms part of judgment which is under appeal, but falls within the issues which are not in dispute during the appeal; 5) not attest to criminal responsibility of the accused; 6) not be a subject of reasonable dispute between the parties in the present case; 7) not be based on plea agreements in previous cases; and 8) not impact the right of the accused to a fair trial.¹⁵²⁵

This Court delineates the above-cited criteria as follows in the light of the ICTY and Court of BiH jurisprudence:

1. The fact must be distinct, concrete, and identifiable

In order for a fact to be clear, distinct, concrete and identifiable, it must be taken from the specific paragraphs of a trial or appeal judgment.¹⁵²⁶ Moreover, it must be comprehensible when taken out of its context and must have the same or at least a similar form as the one that was adjudicated in the trial or appeal judgments from which it has been taken.

Applying the principles discussed above, the Panel rejects the following established facts: 7, 39, 224 and 239.

The Panel rejected all facts proposed in ANNEX A which were taken out of its context, by which their meaning was changed. Nevertheless, the Panel accepted the facts the change of which did not alter their essence, that is, their meaning, but it accepted them in a form in which they are stated in the Verdict from which they have been taken.

2. The fact must be restricted to factual findings and should not include legal characterizations.

Since many findings have a legal aspect, the absence of legal characterizations is usually assessed on a case-by-case basis.¹⁵²⁷ In general, even findings related to the *actus reus* or the *mens rea* of a crime are deemed to be factual findings and may be admitted as long as they comply with other established criteria.¹⁵²⁸

While the ICTY jurisprudence on adjudicated facts tends to exclude any facts that contain legal terms and make primarily legal points¹⁵²⁹, the Court of BiH have taken the view that facts that may

¹⁵²⁵ ICTY Decision on Adjudicated Facts in the case against *Momčilo Krajišnik*, Case No. IT-00-39-T of 28 February 2003.

¹⁵²⁶ *Prosecutor v. Prlic, IT-04-74-T, dated September 7, 2006*

¹⁵²⁷ ICTY Decision on Adjudicated Facts in the case against *Momčilo Krajišnik*, Case No. IT-00-39-T, of 24 March 2005, para. 15.

¹⁵²⁸ *Id.*

¹⁵²⁹ ICTY Decision on Adjudicated Facts in the case against *Željko Mejakić et al.*, Case No. IT-02-65-PT, of 1 April 2004, p. 6., excluding facts that speak of the existence of a “policy to commit inhuman acts against the civilian population” and of “acts that were committed on both a widespread basis and a systematic fashion”

contain some legal elements of the criminal offence (e.g. “widespread or systematic attack”), in certain cases, are suitable to be accepted as Established Facts¹⁵³⁰.

This Panel excludes any proposed facts that contain any legal conclusions or legal qualifications attributing a mode of perpetration (e.g. “existence of a common criminal purpose”) as they place the concrete action of perpetration in a wider context of the war events.

Accordingly, this Panel rejects the following facts: 258, D40, D41, D42 and D43.

3-4. The fact must not be subject to a pending appeal or review

Only facts from final judgments can be judicially noticed¹⁵³¹. In other words, the Court cannot take a judicial notice of the adjudicated facts if those facts are being appealed. On the other hand, if the facts have been adjudicated at trial and are not covered by the appeal, they remain unaffected and may be judicially noticed even before the appeal is finally concluded. The mere fact that the judgment has been appealed does not in itself provide sufficient grounds for excluding all facts adjudicated in that judgment.

All facts proposed by the Prosecutor’s Office which this Court has accepted satisfy these criteria.

5. The fact must not relate to the acts, conduct, or mental state of the Accused

The Court may take judicial notice of a fact related to the responsibility of the Accused provided that these facts do not relate to the acts, conduct, and mental state of the accused.¹⁵³² This refers to the facts relating to the conduct of persons (other than accused), who have participated in a joint criminal enterprise cited in the indictment or to facts relating to the acts and conduct of subordinates of the accused.

The practice of the Court of BiH varies significantly. Some Panels admit all facts that do not mention the Accused as a direct perpetrator¹⁵³³, while others exclude facts that could indirectly implicate criminal responsibility of the accused through his superior position or his participation in a common plan¹⁵³⁴.

All facts proposed by the Prosecutor’s Office of BiH which this Court has accepted satisfy these criteria.

¹⁵³⁰ See Decisions on Established Facts taken in the cases against: *Radovan Stanković*, Case No. X-KR-05/70, of 13 July 2006; *Gojko Janković*, Case No. X-KR-05/161, of 4 August 2006; *Momčilo Mandić*, Case No. X-KR-05/58, of 5 February 2007; *Krešo Lučić*, Case No. X-KR-06/298, of 27 March 2007.

See also Decisions within Court of BiH Trial Chamber Verdicts against: *Neđo Samardžić*, Case No. X-KR-05/49, of 7 April 2006, pp. 12-16 (in BCS version pp. 10-13); Trial Verdict in the case against *Dragoje Paunović*, Case No. X-KR-05/16, of 26 May 2006, p. 15 (in BCS version p. 13); Trial Verdict in the case against *Boban Šimšić*, Case No. X-KR-05/04, of 11 July 2006, para. 49; Trial Verdict in the case against *Marko Samardžija*, Case No. X-KR-05/07, of 3 November 2006, pp. 16-19 (in BCS version pp. 15-18); Trial Verdict in the case against *Radislav Ljubinac*, Case No. X-KR-05/154, of 8 March 2007, pp. 17-22 (in BCS version pp. 15-20).

¹⁵³¹ *Prosecutor v. Ljubičić*, IT-00-41-PT, Decision of 23rd January 2003, p. 6

¹⁵³² *Prosecutor v. Prlic*, IT-04-74-T, dtd September 7, 2006.

¹⁵³³ See, for example, Decision in the case against *Momčilo Mandić*, Case No. X-KR-05/58, of 5 February 2007, p. 4, accepting as an Established Fact that *Miroslav Krnojelac* was appointed by *Momčilo Mandić*, being the Minister of Justice of the Serb Republic of BiH at that time.

¹⁵³⁴ See, for example, Decision in the case against *Gojko Janković*, Case No. X-KR-05/161, of 4 August 2006, p. 3 and Decision in the case against *Miloš Stupar et al. (Kravica)*, Case No. X-KR-05/24, of 3 October 2006, p. 8.

6. The fact is not subject of (reasonable) dispute between the Parties in the present case

Only facts that are not subject to reasonable dispute between the parties in the case at hand could be judicially noticed.

The defense counsel for Milorad Trbić, Milan D. Trbojević, filed his response to the Prosecutor's motion for established facts, objecting to the entire motion for the reason that this Panel has already rendered a decision on the proposed facts before.

The Panel notes that, with regard to the facts accepted by this decision, the Defence Counsel for the accused failed to state his specific position, that is, he failed to explicitly oppose them, considering that they have been reserved by the previous decision. Accordingly, the Panel finds that the accepted facts satisfy this criterion as well.

7. The fact must not be based on plea agreements in previous cases

A fact is capable of admission as an established fact if it is truly adjudicated and is not based upon an agreement between the parties to previous proceedings, such as agreed facts underpinning a plea agreement.¹⁵³⁵ Truly adjudicated facts are facts extracted from cases for which the Appeals Chamber has ruled on the merits or has not been called to do so.¹⁵³⁶

All facts proposed by the Prosecutor's Office which this Court has accepted satisfy this criterion.

8. The fact does not impact on the right of the Accused to a fair trial.

The principle of judicial economy is frustrated when the judicially noticed facts are unduly broad, vague, tendentious or conclusory.¹⁵³⁷ In the final analysis, even those facts that meet all of the above listed preconditions may be refused at the discretion of the Panel if the facts taken together infringe upon the right of the accused to a fair trial.

Paragraph 1 of Article 6 of the European Convention of Human Rights enunciates the principle of fair trial in criminal proceedings in conjunction with paragraphs 2 and 3, which cover the more specific guarantees than those enumerated in paragraph 1. Those specific rights, however, are not exhaustive. The European Court of Human Rights has repeatedly emphasized that the standard of fairness is determined by overall legal proceedings.¹⁵³⁸ In the context of criminal proceedings, the principle of "fairness" means that the defendant has a reasonable opportunity of presenting his case to the court under conditions which do not place him at a substantial disadvantage vis-a-vis Prosecution.¹⁵³⁹ To date the Strasbourg Court has interpreted fairness under Article 6(1) to ensure that the prosecution discloses to the defense all material evidence in their possession for or against the accused, and that the accused has an ample opportunity to challenge that evidence.¹⁵⁴⁰

Therefore, the Panel refused the facts proposed in ANNEX B (I, II and III). The Prosecutor proposed in this Annex, facts which have already been considered by the Trial Panel and which the

¹⁵³⁵ *Prosecutor v. Slobodan Milosevic*, IT-02-54-T, dtd June 5, 2002, p. 3

¹⁵³⁶ *Ibid.*, 5.

¹⁵³⁷ ICTY Decision on Adjudicated Facts in the case against *Vujadin Popović et al.*, Case No. IT-05-88-T, dtd 26 September 2006, para. 16.

¹⁵³⁸ *Khan v. United Kingdom*, (2001) 31 E.H.H.R. 55, (1997) E.C.H.R. 2122/92; *Barbera, Messegue and Jabardo v. Spain* (1994), E.C.H.R. 10588/83; *Bonisch v. Austria* (1991) 13 E.H.H.R. 409, (1986) E.C.H.R. 8658/79;

¹⁵³⁹ *Bonisch v. Austria* (1991) 13 E.H.H.R. 409, (1986) E.C.H.R. 8658/79

¹⁵⁴⁰ *Khan v. United Kingdom*, (2001) 31 E.H.H.R. 55, (1997) E.C.H.R. 2122/92

Panel had refused and they cannot be the subject matter of reconsideration. Their possible acceptance could violate the rights of the Accused to fair trial.

However, although it had considered them in its previous decisions, the Panel accepted the facts 316-319 and 312 from the referenced Annex (BII), as it found them necessary, harmless to the right of the accused to fair trial, whereas judicial economy is also satisfied.

Insofar as to the facts in ANNEX C, the Panel is satisfied that it is purposeless to file a motion for acceptance of new facts at this stage of the proceedings. The purpose of the acceptance of established facts is to have a decision on these facts rendered at the first trial for the purpose of judicial economy, they become meaningless when proposed towards the end of the evidentiary procedure. The acceptance of the facts proposed in the referenced Annex would unnecessarily delay the proceedings at this point in time.

Furthermore, in rendering a decision, the Panel took into account that sufficient evidence has been presented with regard to these proposed facts of whose relevance the Panel will render a decision at the end of the main trial, based on all other presented evidence.

The Panel notes that the facts D40, D41, D42 and D43 in this Annex are refused for the reason of not satisfying the requirements under paragraph 2 of this decision, that is, they constitute legal characterization.

By taking judicial notice of facts that have been adjudicated, this Panel acknowledges a well-founded presumption for the accuracy of the fact. The accused is entitled to a right of rebuttal and can bring out new evidence in an effort to successfully challenge and disprove any of the "established" facts at the trial.

In addition, when reviewing the evidence as a whole at the conclusion of the main trial, this Panel will review the established facts in light of all evidence presented at the trial, and will make its final determination as to their relevance to the case at hand.

This is a procedural decision of the Panel, which will be entered in the main trial record pursuant to Article 239(4) of the CPC BiH. This decision can only be contested in the appeal against the verdict.

3. Decision ordering witness protection measures granted by the decisions of the International Criminal Tribunal for Former Yugoslavia

Deciding upon the Motion of the Prosecutor's Office of Bosnia and Herzegovina to grant witness protection measures, dated 29 October 2007, on 29 November 2007, the Panel rendered a decision determining that the protective measures granted by the Decisions of the International Criminal Tribunal for Former Yugoslavia (ICTY), pursuant to Rule 75(F)(i) of the ICTY Rules of Procedure and Evidence, would remain in force also in the criminal proceedings against Milorad Trbić, conducted before the Court of Bosnia and Herzegovina, assigning the following pseudonyms to the witnesses: **A-1, A-2, A-3, A-4, A-5, A-6, A-7, A-8, A-9, A-10, A-11, A-12, A-13, A-14, A-15, A-16, A-17, A-18, A-19, A-20, A-21, A-22, A-23, A-24, A-25, A-26, A-27, A-28, A-29, A-30, A-31, A-32, A-33, A-34, A-35, A-36, A-37, A-38, A-39, A-40.**

As for the witnesses who were granted protective measures by the Decision number X-KRN-06/236 dated 12 December 2006 in the *Zdravko Božić et al.* case, and who were proposed as prosecution

witnesses in the case against Milorad Trbić tried before the Court of Bosnia and Herzegovina, the Panel decided that they should remain effective in this case as well, finding that they continue to be justified and purposeful. The witnesses were assigned the following pseudonyms: **A-41, A-42, A-43, A-44.**

All personal details of witnesses referred to by the pseudonyms from A-1 through A-44 have been declared confidential. Personal details of witnesses A-41, A-42, A-43 and A-44 shall be kept secret until the Court decides otherwise, but not longer than (30) years after the decision has become final.

Confidential data about witnesses under the pseudonyms from A-1 through A-44 shall be considered secret and persons performing official duties or any persons who happen to come into possession of the confidential information about the witnesses shall be obliged to keep those pieces of information confidential. Unauthorized disclosure of such information constitutes a criminal offense.

The Registry of the Court of BiH shall be in charge of the enforcement of this Decision and has the duty to undertake all measures in order to keep all personal details of witnesses confidential and to inform all persons who happen to come into possession of some of the data pertaining to the mentioned witnesses of possible consequences (Article 24 of the Law on Protection of Witnesses Under Threat and Vulnerable Witnesses)

For the purpose of protecting the identity of these witnesses, the Panel shall leave out from the verdict previous pseudonyms of the mentioned witness.

4. Decision to admit the testimony of witness A-50

Deciding upon the Trial Motion of the Prosecutor's Office of Bosnia and Herzegovina number KT-RZ-139/07 dated 29 October 2007, the Panel admitted the testimony of witness A-50 given before the ICTY in the case *Prosecutor v. Blagojević number IT-02-60-T*. Decision on the admissibility of the testimony of the mentioned witness is contained in the confidential Annex to the Verdict, which will be available to the Prosecutor's Office, the Defense for the accused and the accused Milorad Trbić.

5. Decision on the admission of testimonies and reports given in other cases, before another court, pursuant to the Law on Transfer of Cases by the International Criminal Tribunal for Former Yugoslavia (ICTY)

Deciding upon the Trial Motion no. 4 of the Prosecutor's Office of BiH for the admission of trial testimonies, investigation statements and expert reports in a documentary form pursuant to the Law on Transfer of Cases from the ICTY to the Prosecutor's Office of BiH and the Use of Evidence Collected by the ICTY in Proceedings before the Courts in BiH (hereinafter the LOTC), on 28 February 2008, the Panel rendered a decision admitting the use of evidence listed in Annexes A, B, C and E to the Motion, with the limitations stated in the reasoning of the Decision.

The Panel further accepted the use of evidence enumerated in Annex D, provided the requirements under Article 273 of the Criminal Procedure Code of Bosnia and Herzegovina (hereinafter: the BiH CPC) are met.

On 21 January 2008, the Prosecutor's Office of Bosnia and Herzegovina filed in writing the Trial Motion No. 4 requesting the admission of trial testimony, investigation statements and expert reports in a documentary form. The Prosecutor moved the Panel to admit evidence in a documentary form as follows: (1) transcripts of trial testimony of witnesses before the Trial Chambers of the ICTY in the cases of Prosecutor v. Radislav Krstić, IT-98-33 (hereinafter *Krstić*), Prosecutor v. Vidoje Blagojević et al., IT-02-60 (*Blagojević*), and Prosecutor v. Vujadin Popović et al. IT-05-88 (*Popović*); (2) transcripts of trial testimony of expert witnesses before the Trial Chambers of the ICTY, and expert reports admitted as evidence by the Trial Chambers of the ICTY in the *Krstić*, *Blagojević* and *Popović* cases; (3) witness statements given during the investigations in the related ICTY cases of *Blagojević* and *Krstić* which were admitted into evidence in the *Popović* case pursuant to the ICTY Rules of Procedure and Evidence (the RoPE) Rule 92 bis and Rule 92 ter by the ICTY Trial Chamber; (4) witness statements given during the investigations in the related ICTY cases of *Blagojević*, *Krstić*, and *Popović*; (5) transcripts of trial testimony of witnesses before the Court of Bosnia and Herzegovina in the cases of Zdravko Božić et al., KT-RZ-132/06, No. X-KR-06/236 (*Božić*) and Milos Stupar et al., No. X-KR-05/24 (*Kravica*).

Arguments of the Prosecution

Annex A: Pursuant to Article 5 of the LOTC, the Prosecution moved to admit at the trial the transcripts of testimony of witnesses made before the ICTY Trial Chamber, listed in Annex A to the Motion. All of the listed witnesses previously testified before the ICTY in the *Krstić*, *Blagojević*, and/or *Popović* cases, and in some instances testimonies of certain witnesses were admitted as evidence in the later ICTY cases *Blagojević* and *Popović*, either subject to further cross-examination pursuant to Rule 92 ter, or without the need for cross-examination.

Annex B: Admissibility of the testimonies and expert reports admitted by the Trial Chambers of the ICTY in the *Krstić*, *Blagojević*, and *Popović* cases, and transcripts of expert witness trial testimony before the ICTY Trial Chambers relating to expert reports, listed in Annex B to the Motion. According to the Prosecution, Article 6(1) LOTC is a general statement on the admissibility of the equivalent of a written report, that is, "findings and opinion of an expert." Also, it imparts a pre-qualification for admitting expert witness reports and their pre-trial statements into evidence. The Prosecution holds that the court may admit into evidence the expert report produced by the expert where previously the document was admitted into evidence before a Trial Chamber of the ICTY, whether or not the expert appears to give testimony before the Court in the present proceedings. The expert reports listed in Annex B are the findings and opinions of persons recognized before the ICTY as experts and were admitted as such by the Trial Chambers in the *Krstić*, *Blagojević*, and/or *Popović* cases. The Prosecutor underlines that it is accepted that Article 6(4) LOTC preserves the right of the defendant to cross-examine the expert witness subject to a request from the defendant. However, under the same paragraph, the Court must decide on this request, clearly indicating that such a request must be necessary and reasonable, and therefore, the Prosecution invited the Court to require any request for cross-examination to indicate clearly which issues call for further cross-examination. Under Article 6(2) LOTC, the court may consider those facts and opinions of an expert, admitted under the criteria set out in Article 6(1) LOTC, as evidence on which the Court may make a finding or base a decision. In this regard, Article 6 LOTC is a *lex specialis* in relation to CPC BiH Article 270 (6).

Additionally, the Prosecution moved the Court to admit at trial the transcripts of expert witnesses' testimony, given before the Trial Chamber of the ICTY in the *Krstić*, *Blagojević* and *Popović* cases, as listed in Annex B to the Motion. The expert testimony before the Trial Chambers in the *Krstić*, *Blagojević* and *Popović* cases meet the formal requirements of Article 6 (3) LOTC which preempts and is a *lex specialis* to the requirement of Article 270 (5) of the BiH CPC requiring that the expert

witness appears in court.

Annex C: The Prosecution also moved to admit at trial witness statements given during the ICTY investigations, which were admitted as evidence by the ICTY Trial Chamber in the Popović case pursuant to Rule 92 bis and Rule 92 ter of RoPE, in accordance with LOTC Articles 3 and 4. Rule 92 bis provides for admission before the ICTY Trial Chamber of evidence of a witness in the form of a written witness investigation statement or transcript of prior witness trial testimony in lieu of oral testimony, provided the statements go to prove of a matter other than the acts and conduct of the accused. Rule 92 ter provides for admission of the same written evidence in lieu of oral testimony, provided the witness appears for cross-examination before the Trial Chamber of the ICTY. In addition, and in fairness, where the ICTY Trial Chamber admitted prior witness statements pursuant to Rule 92 ter, the Prosecution moved to admit the corresponding transcripts of witnesses' testimonies where they were cross-examined before the Popović Trial Chamber pursuant to Article 5 LOTC.

Annex D: The Prosecution moved to admit witness statements given during the investigations in the related ICTY cases of Blagojević, Krstić and Popović pursuant to Articles 3 and 4 LOTC. The Prosecution accepted that the admission of witness statements from the investigative stage is subject to the right to a fair trial, and save for those accepted occasions where a witness is unavailable due to death, serious illness or other justifiable circumstances, it is accepted that such statement may not be used to convict an accused to a sole or decisive extent. However, such documentary evidence may be used to corroborate other evidence. The Prosecution submitted that Article 7 LOTC does not affect the admission of this type of evidence, instead this provision only relates to those occasions where a witness is not available for trial, for the reasons listed in Article 273(2) of the CPC BiH, and where the Court is minded to admit the witness' investigative statement. Article 7 does not incorporate Article 273(2) CPC and, therefore, Article 7 should not be read so as to subject the witness statements taken during the investigative stage by ICTY investigators to the requirements set forth in Article 273(2) CPC. Article 7 merely allows the Prosecution to call investigators, who were present at witness examinations conducted during the investigative stage, to give evidence of how the examination was conducted and the contents of the statement provided.

Annex E: The Prosecution moves to admit at trial prior witness trial testimony before the Courts of BiH in the *Božić* and *Kravica* trials pursuant to Article 15 CPC. The Prosecutor submits that the direct presentation of evidence is a principle that, inter alia, requires the presentation of evidence by way of live testimony of witnesses during the evidentiary proceedings at trial, and safeguards the right of the accused to confront a witness, meaning that an accused must be given the opportunity to cross-examine the witness who gives evidence against him. The Prosecutor notes that the prior witness trial testimony before the Court of BiH listed in Annex E has been confronted and its reliability has been tested through cross-examination by defense counsel. Moreover, the cross examinations conducted against these witnesses by defense counsel in BiH were done in the situation where the witness gave evidence that was directly related to the acts, conduct and mental state of accused in those trials. The same witnesses here are proposed as evidence relating to the counts of the indictment that the accused is responsible for on the basis of joint criminal enterprise.

As for the relevance of the proposed statements, the Prosecution submits that the witness trial testimony, investigative statements and expert reports proposed for admission in Annexes A through E to this Motion, are all relevant to establishing the elements of the offence charged.

On 8 February 2008, the Prosecution supplemented the Motion by specifying the relevance of respective prior statements and testimonies, for every witness and expert witness, and in oral submissions in trial emphasized that the supplemented Motion is also a final one. Therefore, the Prosecutor moved for the admission of testimonies, reports, statements and biographies for the

following witnesses and expert witnesses:

Annex A:

1. Ljubomir Beatović's testimony in Blagojević on 21 May 2004,
2. Major Pieter Boering's testimony before the ICTY in Popović trial on 18, 19, 21, 22, 25, 26 and 27 September 2006,
3. Zlatan Čelanović's testimony in Popović on 31 January 2007,
4. Miloš Đukanović's testimony in Popović on 18 May 2007,
5. Lt. Vincentius Bernardus Egbers's testimony in Popović on 18, 19 and 20 October 2006,
6. Dražen Erdemović's testimony in Popović on 4 and 7 May 2007,
7. Major Robert Franken's testimony in Popović from 16th to 18th October 2006,
8. Paul Groenewegen's testimony in Blagojević on 10 July 2003, and in Popović on 25 October 2006,
9. Thomas Karremans, his testimony in Blagojević on 24 and 25 June 2004,
10. Eelco Koster's testimony in Krstić on 23 March 2001, and in Popović from 25th to 27th October 2006,
11. Dean Manning's testimony in Blagojević on 5 and 6 February 2004, and his biography,
12. Miloš Mitrović's testimony in Blagojević on 3 and 4 December 2003,
13. Dr Radivoje Novaković, his testimony in Popović on 20 March 2007,
14. Milenko Pepić's testimony in Popović on 9 July 2006 (video recording from Kravica, dated 7 September 2006)
15. Slavko Perić's testimony in Popović on 11 and 12 May 2007,
16. (survivors) PW-10 (witness N) and the testimony in Krstić on 12 and 13 April 2000,
17. A-1 testimony in Popović on 22 and 23 February 2007,
18. (survivors) A-3 testimony in Popović on 15 and 16 November 2006,
19. A-20 testimony in Popović on 16, 17 and 20 November 2006,
20. (survivors) A-26 testimony in Popović on 24, 25 and 28 August 2006, the statement given to the ICTY OTP dated 13 and 14 August 1995,
21. (survivors) A-27 testimony in Popović on 6, 7 and 8 February 2007, (Kravica 12 October 2006)
22. (survivors) A-28 testimony in Krstić on 23 May 2000, and in Popović on 27 and 30 October 2006, and the statement given to the ICTY OTP dated 9 June 1999 and 14 June 1999,
23. (survivors) A-29 testimony in Blagojević on 21 and 22 July 2003, and in Popović on 31 October and 1 November 2006, the statement given to the ICTY OTP dated 12 and 13 August 1995,
24. A-15 testimony in Krstić on 28 and 29 March 2000, and the cross examination in Popović on 27 October 2006, and the statement given to the ICTY OTP dated 26 September 1995,
25. A-30 testimony in Blagojević on 17 December 2003, and the statement given to the ICTY OTP dated 6 October 2003,
26. (survivors) A-31 testimony in Krstić on 14 April 2000, and the statement given to the ICTY OTP from 14th to 16th August 1995, 19 August 1996 and 6 October 2003,
27. (survivors) A-32 testimony in Krstić on 14 April 2000, and the statement given to the ICTY OTP dated 23 May 1996,
28. (survivors) A-18 testimony in Krstić on 24 and 27 March 2000, and the cross examination in Popović on 1 and 2 November 2006, and the statement given to the ICTY OTP dated 24 January 1996,
29. (survivors) A-33 testimony in Krstić on 23 May 2000, and the statement given to the ICTY OTP dated 26 August 1995,
30. A-34 testimony in Krstić on 12 April 2000, and the statement given to the ICTY OTP dated 17 January 1996,
31. (victim) A-17 testimony in Popović on 31 October 2006, and the statement given to the

- ICTY OTP dated 5 December 2004,
32. (survivors) A-25 testimony in Popović on 2 and 3 November 2006 (Kravica 7 March 2007),
 33. A-19 testimony in Blagojević on 27, 28 and 29 October 2003, and the statement given to the ICTY OTP dated 28 November 2001,
 34. A-7 testimony in Popović on 30 January 2007, and the statement given to the ICTY OTP dated 23 and 24 November 2005,
 35. (survivors) A-9 testimony in Popović on 8 February 2007 (Kravica 5 October 2006),
 36. A-11 testimony in Popović on 23, 26 and 27 March 2007 (Božić 21 November 2006),
 37. A-12 testimony in Popović on 21, 22 and 23 March 2007, and the statement given to the ICTY OTP dated 25 February 1998,
 38. Cvijetin Ristanović's testimony in Blagojević on 1 December 2003, and his cross examination in Popović on 10 July 2007,
 39. Jean Rene Ruez's testimony in Popović on 7, 8, 11, 12, 14, 15 and 18 September 2006,
 40. Lt. Johannes Rutten's testimony in Krstić on 5 April 2000, and his cross examination 29 and 30 November, and 4 and 7 December 2006,
 41. Ostoja Stanojević's testimony in Blagojević on 4 and 5 December 2003, and the cross examination in Popović on 10 July 2007,
 42. Van Duijn's testimony in Popović on 27, 28 and 29 September 2006.

Annex B:

43. Jose Baraybar, the report and his testimony in Krstić on 29 and 30 May 2000, and the biography of expert witness
44. Kathryn Barr, the report and the transcripts of her testimony in the Popović trial on 30 January 2004, and the biography of expert witness
45. Anthony Brown, the report of the expert witness admitted on 7 November 2003 in the Blagojević case
46. Helge Brunborg, the report and testimony in Popović on 1 February 2007 and 9 and 10 May 2007, and the biography of expert witness
47. Richard Butler, testimony in Blagojević on 10, 11, 12, 13, 14, 17, 18, 19, 20, 21, 24 and 26 November 2003, and his reports, and the biography of expert witness;
48. John Clark, testimony in the Krstić case on 30 and 31 May 2000, in Popović on 19 and 20 /as in the original/ 2007, his reports and the biography of the expert witness;
49. P.C.A.M De Bruyn., the report dated 2 March 2000.
50. Johan De Koeijer, the report admitted in the Blagojević case on 7 November 2003;
51. Stephanie Frease, testimony in Popović on 19th and 25th January 2007, 26 and 28 February 2007, and 1 and 2 March 2007, and 5 June 2007 (pursuant to Article 5)
52. William Haglund, testimony in Krstić on 29 May 2000, and in Popović on 15 March 2007, his report and biography;
53. A.D. Kloosterman, the report admitted into evidence in Blagojević trial on 7 November 2003;
54. Cristopher Lawrence, testimony in the Krstić case on 31 May 2000, and in Popović on 21 February 2007, including his reports;
55. S.E. Maljaars, the report dated 11 February 2000;
56. Michael Maloney, the report admitted into evidence in Blagojević trial on 7 November 2003;
57. Martin Ols, the report admitted into evidence in Blagojević trial on 6 February 2004;
58. Freddy Peccerelli, testimony in Popović on 13 March 2007 and his report,
59. Richard Wright, testimony in Krstić trial on 26 and 29 May 2000, in Popović on 20 and 21 February 2007, his report and biography;

Annex C:

60. Anne Martijn Mulder, statement given to the ICTY OTP dated 24 and 25 October 1995, admitted in Popović on 12 September 2006
61. PW-7 statement given to the ICTY OTP on 4 December 2004, admitted into evidence in Popović on 12 September 2006;
62. PW-8 statement given to the ICTY OTP dated 18 and 21 January 1996, admitted into evidence in Popović on 12 September 2006;
63. PW-9 statement given to the ICTY OTP on 9 June 1999, admitted into evidence in Popović on 12 September 2006.

Annex D:

64. Marko Aleksić, statement given to the ICTY OTP on 17 January 2006
65. Amor Mašović, statement given to the ICTY OTP on 5 November 2004
66. Milorad Vidović, statement given to the ICTY OTP on 22 February 2004

Annex E:

67. PW-5, prior testimony in the Kravica trial on 21 March 2007

Arguments of the Defense

The Defense Counsel for the Accused raised the issue of retroactive application of the LOTC, as the Defense deems it to be less favorable to the defendant, contrary to the principle of direct presentation of evidence in court and a violation of Article 6 of the European Convention on Human Rights (hereinafter the ECHR). The Defense Counsel contested the application of the LOTC as a *lex specialis* in relation to the CPC BiH, and submitted that Article 273 of the CPC BiH stipulates the conditions when to use prior statements given in the investigation. As for the testimony of witnesses, the Defense Counsel noted that there is no need to once again summon the victims, that is, survivors, and does not object that the prior testimonies be admitted at trial, except for those witnesses who are former VRS members, as they have no reason whatsoever not to appear before the Court and once again take the witness stand. As for expert witnesses, the Defense Counsel stated that in principle he has no reasons to object, except for the expert witnesses Richard Butler, Kathrin Barr and Dean Manning, who according to the Defense Counsel should be called for a direct examination. Additionally, on 4 March 2008 in relation to the expert witness Kathrin Barr, having read her findings, the Defense Counsel stated that he decided to withdraw his motion for her direct examination conceding to the admission of her testimony.

Having reviewed the Prosecution Motion and the submissions of the Defense, the Panel decided as stated in the operative part on the following grounds.

Legal analysis

This Decision is based on the Law on the Transfer of Cases from the ICTY to the Prosecutor's Office of BiH and the Use of Evidence Collected by the ICTY in Proceedings before the Courts in BiH (LOTC), relevant provisions of the Criminal Procedure Code of Bosnia and Herzegovina (the BiH CPC) applied by the Court of BiH and the European Convention and Human Rights (ECHR).

This case has been transferred to the Court of BiH by the ICTY pursuant to Rule 11 *bis* of the Rules of Procedure and Evidence (the *Rules*). As such, the Law on Transfer applies in addition to the BiH CPC. The following rules and laws are controlling on the Court and must be applied as a whole.

Article 1 of the Law on Transfer reads that *“the provisions set forth in this Law shall regulate the transfer of cases by the International Criminal Tribunal for the former Yugoslavia (hereinafter: ICTY) to the Prosecutor’s Office of BiH (hereinafter; the Prosecutor’s Office) and the admissibility of evidence collected by the ICTY in proceedings before the courts in Bosnia and Herzegovina”*.

Article 1 of the CPC BiH provides that *“this Code shall set forth the rules of the criminal procedure that are mandatory for the proceedings of the Court of Bosnia and Herzegovina, the Chief Prosecutor of Bosnia and Herzegovina and other participants in the criminal proceedings provided by this Code, when acting in criminal matters”*.

Article 3 (1) of the LOTC refers to the general principle whereby *“evidence collected in accordance with the ICTY Statute and RoPE may be used in proceedings before the courts in BiH”*, while paragraph 2 of the same Article prescribes that *“the courts shall not base a conviction of a person solely or to a decisive extent on the prior statements of witnesses who did not give oral evidence at trial”*.

Furthermore, Article 4 of the LOTC stipulates that *“at the request of a party or proprio motu, the courts, after hearing the parties, may decide (...) to accept documentary evidence from proceedings of the ICTY relating to matters at issue in the current proceedings”*.

Evidence provided to the ICTY by witnesses is addressed in Article 5 of the LOTC, where *“transcripts of testimony of witnesses given before the ICTY and records of depositions of witnesses made before the ICTY in accordance with Rule 71 of the Statute and the ICTY RoPE, shall be admissible before the courts provided that that testimony or deposition is relevant to a fact in issue”*. In its paragraph 2, Article 5 lays down that *“the courts may exclude evidence given by a witness with protective measures where its probative value is outweighed by its prejudicial value”*. Further, Article 5 (3) of the LOTC prescribes that *“nothing in this provision shall prejudice the defendant’s right to request the attendance of witnesses as referred to in Paragraph 1 of this Article for the purpose of cross-examination. The decision on the request shall be made by the court”*.

Furthermore, Article 6 of the LOTC envisages that *“the statement of an expert witness entered into evidence in any proceedings before a Trial Chamber of the ICTY shall be admissible as evidence in domestic criminal proceedings, whether or not the person making it attends to give oral evidence in those proceedings”*. Paragraph 2 of the same Article sets forth that *“the statement of an expert witness falling under paragraph 1 above, when admitted, shall be evidence of any fact or opinion of which the person making it could have given as oral evidence”*. Pursuant to article 3 of the LOTC, *“the courts shall admit an expert witness’ testimony by using the transcript of the testimony he/she gave before a Trial Chamber of the ICTY in any other case, providing that he/she had been previously warned about his rights and obligations regarding his testimony, and providing the testimony relates to the existence or non-existence of facts which themselves relate to the case in question”*. Likewise, in reference to testimonies of expert witnesses, the LOTC in its Article 6 (4) foresees that *“nothing in this provision shall prejudice the defendant’s right to request the attendance of an expert witness as referred to in Paragraph 1 of this Article for the purpose of cross-examination or to call an expert witness of his own to challenge the statement of an expert witness given before the ICTY. The decision on the request shall be made by the court”*.

Article 7 of the Law on Transfer stipulates that in addition to the reading of a transcript of testimonies given during the investigation in terms of Article 273 (2) of the BiH CPC, the relevant investigator of the ICTY may also be examined with regard to the circumstances of the conducted investigative activities and information obtained during those activities. It ensues from this legal provision that the testimonies given to the ICTY officials, which were not used in the proceedings before the ICTY, may be used provided that the requirements under Article 273(2) of the BiH CPC

have been satisfied. Additionally, this Article provides that the relevant investigator of the ICTY may be examined with regard to the circumstances of the conducted investigative activities and information obtained during those activities.

It is inferred from the cited legal provisions that the LOTC is a *lex specialis* so as to eliminate the risk of inadmissibility of evidence collected by the ICTY pursuant to the CPC BiH. *Lex specialis* is a set of special regulations overriding the CPC BiH in both substance (evidence collected by the ICTY) and application (rules on admissibility and use). Being a *lex specialis*, the LOTC either derogates or takes precedence over the CPC BiH in matters where the two are not aligned, or evokes the CPC BiH in matters that are not specifically addressed by the LOTC (Article 1 (3) of the LOTC).

In addition, Article 3 (1) of the LOTC governs the use of evidence collected by the ICTY in proceedings before the courts in BiH, thus making these pieces of evidence available to be used before the Court of BiH in cases transferred by the ICTY. In addition to these general principles, the LOTC provides for specific rules for certain types of evidence. The LOTC regulates the procedure for the transfer of cases over to the Prosecutor's Office of BiH, including the procedure and requirements to use the evidence collected by the ICTY. Each of these separate rules shall be applied to individual relevant sets of evidence, as indicated in the text below.

Criminal Procedure Code of Bosnia and Herzegovina

Article 15 of the CPC BiH lays down the principle of free evaluation of evidence that confers the right upon the Court to evaluate the existence or non-existence of facts freely. Specifically, in evaluating the existence or non-existence of a certain fact, the Court is not bound or limited by special formal evidentiary rules. Probative value of evidence is not preset neither in terms of quality or quantity. In free evaluation of evidence, the Court shall pay due diligence to any evidence individually or in connection with other pieces of evidence, and based on such subsequent evaluation, infer whether a fact is proven or not, wherein both logical and psychological assessment comprise the evaluation of evidence. The free evaluation of evidence is restricted by the principle of legality of evidence.

Furthermore, Article 10 (2) of the CPC BiH provides that "*the Court may not base its decision on evidence obtained through violation of human rights and freedoms prescribed by the Constitution and international treaties ratified by Bosnia and Herzegovina, nor on evidence obtained through essential violation of this Code*".

The issue of unlawful evidence is threefold:

1. evidence obtained through violations of certain fundamental rights and freedoms,
2. evidence that the Code strictly prohibits to be used in rendering a court decision in a criminal proceedings,
3. evidence that an authority in criminal proceedings would not have obtained had there not been data deriving from unlawful evidence (the so-called fruit of a poisonous tree)

Article 274 (2) of the CPC BiH refers to the authenticity of certain evidence that need be the original of a writing, script, recording, footage, photographs or equivalent.

Article 273 of the BiH CPC provides for the exception from the direct presentation of evidence in the manner that (2) „ *Prior statements given during the investigative phase are admissible as evidence at the main trial and may be used in direct or cross-examination or in rebuttal or in rejoinder and subsequently presented as evidence. The person must be given the opportunity to*

explain or deny a prior statement. Notwithstanding Paragraph 1 of this Article, records on testimony given during the investigative phase, and if judge or the Panel of judges so decides, may be read or used as evidence at the main trial only if the persons who gave the statements are dead, affected by mental illness, cannot be found or their presence in Court is impossible or very difficult due to important reasons. “ A part of the evidence shall be considered the subject to limitations from the cited provision.

Mindful of the above legal provisions, the Panel finds that documentary evidence collected in accordance with the CPC of BiH, which is both authentic and relevant to the criminal proceedings, and not contrary to the imperative provisions of Article 10 of the CPC of BiH, may be admitted as evidence in the criminal proceedings as well as be subject to the analysis below.

For example, as the evidence involves the statements of witnesses, the Code additionally provides for direct and cross examination of these witnesses. Specifically, in terms of Article 261 (1) of the CPC of BiH, the parties and the defense counsel are entitled to call witnesses and to present evidence, and in terms of Article 262 (1) of the CPC of BiH, the parties and the defense counsel are entitled to examine their own witnesses (direct examination), followed by cross examination by the adverse party, that is, the defense counsel (cross examination), and re-direct examination of the witness by either the prosecution or the defense, depending on which party called the witness.

Having in mind the foregoing, the Panel holds that the party that calls the witness, for the sake of efficiency and judicial economy, may waive its right to examination-in-chief by its motion to admit the prior testimony given in reference to the same circumstances before another trial panel. The testimony ought to be conducted in line with the CPC of BiH, that is, the statement should be given upon instructions on the rights and duties of a witness, which according to the CPC of BiH is the duty of the presiding judge, and after being sworn-in in terms of Article 88 of the CPC of BiH.

The waiver of the right to directly examine the witnesses by any of the parties or the counsel shall not be to the prejudice of the right of the adverse party or the defense counsel to cross examine the witness.

Having in mind that a procedural situation of such nature is not explicitly prescribed in the CPC of BiH, as well that such an interpretation derives from the above cited legal provisions, the Panel finds that the concrete case is analogous to application of the criteria set forth in the LOTC Article 5 which envisages that “*nothing in this provision shall prejudice the defendant’s right to request the attendance of witness as referred to in Paragraph 1 of this Article for the purpose of cross-examination. The decision on the request shall be made by the Court.*”

Analysis of the rights safeguarded by ECHR

The CPC of BiH and the LOTC maintain the duty of the court to ensure a fair trial for the defendant. Provisions of the ECHR relevant to the admissibility of such pieces of evidence are embedded under Article 6 (1) that guarantees the right to a fair trial, and Article 6 (3) ensuring the right to confront and obtain the attendance of witnesses. Such a position has been previously taken in the *Kravica* case (see Decision number X-KR-05/24 dated 4 December 2006, and Corrigendum dated 6 February 2007).

Relevant sections of Article 6 (1) and (3) read:

„(1) In the determination ...of any criminal charge against him, everyone is entitled to fair ... public hearing...

(3) Everyone charged with a criminal offence has the following minimum rights: (...) d) to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses

on his behalf under the same conditions as witnesses against him.“

The jurisprudence of the European Court of Human Rights (hereinafter the ECtHR) had found that the general principles of a fair trial also encompass the right of the defendant to confront the witnesses against him in a public hearing, as well as the important right to contest evidence and cross-examine the witnesses¹⁵⁴¹. Yet, those rights are neither absolute nor unlimited. The ECtHR did not set rules on evidence, but instead it examines whether the use of evidence admitted in violation of the rights of the defendant resulted in the defendant's deprivation of the right to a fair trial. In cases where invalid evidence serves as a ground for a conviction, either entirely or to a significant extent, it shall be found that the rights of the defendant have been violated.

The LOTC is explicit in emphasizing that the defendant is entitled to request to cross-examine the witnesses whose statements the Court decided to use in accordance with Article 5. Should there be no possibility for the cross-examination, then the statement, if admitted, shall be subject to Article 3 (2) of the LOTC, meaning that the courts shall not base a conviction of a person solely or to a decisive extent on the prior statements of witnesses who did not give oral evidence at trial.

Analysis of specific categories of evidence

In terms of the relevancy of the proposed statements, testimonies, reports and records in the form of audio recordings, the Panel notes that the Prosecutor's Motion explicitly listed which count or counts of the Indictment are relevant to each individual witness and expert witness. According to the Panel, all proposed evidence is relevant to the criminal proceedings against the accused Milorad Trbić, conducted upon the adapted Indictment of the Prosecutor's Office of BiH number KT-RZ-139/07 of 20 July 2007, following the corrections of 25 July 2007.

Annex A:

In relation to the testimonies of witnesses PW-10, A-3, A-20, A-26, A-27, A-28, A-29, A-31, A-32, A-18, A-33, A-17, A-25, A-9 under Annex A, the Court notes the fact that the said witnesses are survivors, or in fact victims, and considering that the Defense did not object to the admission of statements of victims and surviving witnesses, the Court admitted the statements that these witnesses gave to the ICTY Trial Chambers, their prior statements given to the ICTY OTP in the course of investigation, and the recording of the testimony of witnesses A-9 and A-25 in the Kravica trial, as authentic and relevant to these proceedings.

Furthermore, the Court noted that the remaining statements listed in Annex A to the Motion are testimonies before the Trial Chambers of the ICTY, and the Panel holds these relevant to the matters in these criminal proceedings. Respective relevancies of these testimonies were elaborated by the Prosecutor whereby these testimonies pertain to all or individual counts of the Indictment. Therefore, in the relevant case, legal requirements referred to in Article 5 of the LOTC are satisfied, and the Court admits them to be used at trial.

As for prior investigation statements of witnesses A-15, A-30, A-34, A-19, A-7 and A-12 given to the OTP of the ICTY, the Panel finds that the said statements are documentary pieces of evidence collected in accordance with the Statute and the RoPE of the ICTY, pertaining to issues of

¹⁵⁴¹ Messegue and Jabardo, Judgement dated 6 Dec 1988, para. 78; Kostovski v. The Netherlands, Judgement dated 20 Nov 1989, para. 41-45; Asch v. Austria, judgement dated 26 April 1991, para. 26-31; Unterpertinger v. Austria, Judgement dated 24 Nov 1991; Ludi v. Switzerland, Judgement dated 15 June 1992, para. 43-50; Luca v. Italy, judgement dated 22 Jan 2001, para. 39-45;

relevance to the case at hand, therefore the requirements set forth in Article 3 and 4 of the LOTC have been fully met, and the Court admits them to be used at trial.

As for the testimony of witness A-11 in the *Božić and et al.* case before the Court of BiH on 21 November 2006, and of the witness Milenko Pepić in the Kravica trial on 7 September 2006, the Panel notes that the said testimonies were given before the trial panel, following the warnings made by the presiding judge, and under oath. The Panel finds that the Prosecutor waived his right to direct examination by way of moving these testimonies to be admitted. Therefore, the Panel considers these testimonies as documentary evidence collected in accordance with the CPC of BiH, and as both authentic and relevant to the current proceedings, and thus the Panel admits them to be used at trial.

The testimony of Witness A-9, given in the Kravica case on 5 October 2006, fully meets the same criteria; additionally, the person concerned is a survivor, that is, a victim, and hence the Defense did not contest its admission and waived their right to cross examination.

Annex B:

The Court notes the fact that the reports of expert witnesses listed in Annex B to the Motion are an equivalent to a written report, that is, “findings and opinion of an expert witness”. These reports are the findings and opinion of persons recognized before the ICTY as expert witnesses, and admitted as such in proceedings before the ICTY. Therefore, the Panel holds that the formal requirements under Article 6 (1) of the LOTC have been met and the Panel admits them to be used in the criminal proceedings at hand.

Furthermore, the Court notes that the aforementioned expert witnesses gave evidence in criminal proceedings before Trial Chambers of the ICTY in accordance with the ICTY RoPE, and that their statements are relevant to the criminal proceedings pending before the Court. Therefore, the Panel holds that they meet the requirements under Article 6 (3) of the LOTC, and admits the statements of the aforementioned expert witnesses for use in the present criminal case.

As for the admissibility of biographies of expert witnesses Baraybar Jose, Katryn Barr, Brunborg Helge, Richard Butler, John Clark, William Haglund and Richard Wright, the Panel notes that these are pieces of evidence collected by the ICTY. However, although these pieces of documentary evidence have no direct impact on the relevant issues in the present criminal proceedings, the Panel finds it necessary to underline that these are nevertheless relevant as they corroborate documentary evidence of importance for the case at hand. Therefore, the Panel finds that in the specific case the requirements under Article 3 and 4 of the LOTC have been satisfied, and the Panel admits these to be used in these criminal proceedings.

Annex C:

The Court notes that the statements given to the Office of the Prosecutor of the ICTY, listed in Annex C of the Motion, were collected by the ICTY, and admitted as evidence in the *Popović* case on 12 September 2006 and 9 June 1999, and these statements are relevant to the current case according to the Panel. Therefore, the Panel holds that the requirements under Article 3 and 4 of the LOTC have been satisfied, and the Panel admits these to be used in these criminal proceedings. Moreover, the Panel points out that the statements of witnesses PW-7, PW-8 and PW-9 are those of victims, that is, survivors, and the Defense did not contest its admissibility in this regard. Furthermore, the Defense waived their right to cross examine these witnesses.

Annex D:

Given that these statements were not previously used in the ICTY cases, the Panel finds that Article 273 of the BiH CPC and Article 7 of the LOTC are applicable in this particular case. The Panel notes there has been no showing that these witnesses meet the criteria under 273(2) of the BiH CPC. These statements can therefore be admitted only if the requirements under Article 273 (2) of the BiH CPC have been met. Article 7 of the LOTC confirms that this testimony may be read out if it conforms to 273. Additionally if there are questions raised as to whether the proper procedure for taking statements was observed, the investigator may be summoned as a witness subject to certain limitations. Contrary to the arguments of the prosecution, nothing in Article 7 of the LOTC allows this type of evidence to be considered without the requirements of 273 being met. Thus, in this regard the prosecutor is called upon to submit to the Court data based on which it could make an assessment as to the fulfillment of the legal criteria under Article 273 (2) of the BiH CPC.

Annex E:

As for the testimony of witness PW-5, the Panel notes that this witness gave evidence before the trial panel of the Court of BiH in the Kravica case, under oath and following the statutory instructions made by the presiding judge. This testimony constitutes evidence collected in accordance with the CPC of BiH, and is both authentic and relevant to the current proceedings, and thus the Panel admits it to be used at trial. Furthermore, it is important to note that if this type of evidence is acceptable under the standards provided for in Article 5 of the LOTC for witness testimonies delivered at the ICTY it is certainly equally acceptable, if not even more so, when the evidence is established at the Court of BiH, in line with the rules of evidence stipulated in the BiH CPC. The Court also notes that the principle expressed in the LOTC Article 5 applies here as well.

At this stage of the proceedings, the Panel analyzed only the authenticity, relevancy and the legality of the collected evidence, that is, its admissibility in accordance with Articles 3, 4, 5, 6 and 7 of the LOTC, without any consideration to its probative value. Therefore, the Panel did not consider the part of the Prosecution Motion pertaining to the probative value, as it finds it to be immaterial at this stage of the proceedings. Moreover, the Defense has the possibility to propose the cross-examination of the above witnesses if it has not already waived the right to cross examine them. The Panel shall promptly rule on this at the scheduled hearing.

In view of the foregoing, based on this Decision the Prosecutor will submit to the Court transcripts, statements and trial recordings which were under this Decision admitted as proven in these criminal proceedings, in BCS, so that they could be marked as evidence in this case. As for the transcripts and statements collected by the ICTY, each individual piece of evidence tendered into the evidentiary materials must be certified by the ICTY, for the purpose of its authentication.

6. Decision on the Corrigendum to Decision dated 28 February 2008

On 28 February 2008, the Panel rendered the Decision on the admission of witness testimonies as well as expert witness reports and testimonies given in other cases, as detailed in the section above. Following the Decision, the Prosecution submitted its Motion no. 13, pointing to an error made in the operative part of the Decision, pertaining to the date of testimony of the witness Pieter Boering and the case from which the testimony of the witness A-19 was taken. Review of the record established an obvious typographical error, and in view of the foregoing, the Decision of 28 February 2008 was corrected in the following manner:

Instead of: „Major Pieter Boering’s testimony before the ICTY in Popović trial on 18, 19, 21, 22, 25, 26 and 27 September 2006, it should read: „Major Pieter Boering’s testimony before the

ICTY in Popović trial on 19, 21, 22, 25, 26 and 27 September 2006“,
Instead of: „ A-19 testimony in Blagojević on 27, 28 and 29 October 2003, and the statement given to the ICTY OTP dated 28 November 2001, it should read: „ A-19 testimony in Popović on 8 and 9 November 2006“, as stated in the Prosecution Motion number 4 for the admission of the mentioned testimony. These transcripts were submitted to the Court as evidence.

After the part:“ A-11 testimony in Popović on 23, 26 and 27 March 2007 and the video recording from the main trial in Božić et al. case, dated 21 November 2006, “the video recording from the main trial in Božić et al. case, dated 21 November 2006”, shall be deleted.

7. Decision to grant the Prosecution Trial Motion No. 13 dated 24 November 2008

Deciding upon the Trial Motion of the Prosecutor’s Office of BiH no. 13 for the admission of trial testimonies, investigation statements and expert witnesses reports in a documentary form pursuant to the Law on the Transfer of Cases from the ICTY to the Prosecutor’s Office of BiH and the Use of Evidence Collected by the ICTY in Proceedings before the Courts in BiH (hereinafter: the LOTC), on 24 November 2008, the Panel rendered a decision granting the Trial Motion of the Prosecutor’s Office of Bosnia and Herzegovina No.13, and admitting the use of the additional evidence enumerated in Annexes B and C to the Motion.

On 12 November 2008, at the request of the Trial Panel, the Prosecutor’s Office of BiH submitted the Trial Motion No 13, consolidating all previous motions and filings by the Prosecutor’s Office of BiH in relation to additional witnesses and evidence proposed in the previous Trial Motions Nos. 4 and 9, in order to facilitate the inspection of the additional proposed evidence of the Prosecutor’s Office of BiH, by the Panel, the accused and his defense counsel.

By this Motion, the Prosecution primarily withdrew a certain number of witness and expert witness testimonies given in the proceedings before other courts, due to time, resource and financial constraints which prevented the Prosecution from translating all admitted trial testimonies into BCS, which were admitted by the Panel under the Decision dated 28 February 2008. Those are the following witness and expert witness testimonies listed in **Annex A to the Motion**:

1. Ljubomir Beatović’s testimony in Blagojević on 21 May 2004
2. Miloš Đukanović’s testimony in Popović on 18 May 2007
3. Major Franken Robert’s testimony in Popović from 16 through 18 October 2006
4. Dean Manning’s testimony in Blagojević on 5 and 6 February 2004 and his biography
5. Milenko Pepić’s testimony in Popović on 9 July 2007
6. A-27 testimony in Popović on 6, 7 and 8 February 2007
7. A-28 testimony in Popović on 27 and 30 October 2006
8. A-29 testimony in Popović on 31 October and 1 November 2006
9. A-15 testimony and eximantion in Popović on 27 October 2006
10. A-18 testimony in Popović on 1 and 2 November 2006
11. A-25 testimony in Popović on 2 and 3 November 2006.
12. A-9 testimony in Popović 8 February 2007
13. Cvijetin Ristanović’s testimony in Blagojević on 1 December 2003.
14. Jean Rene Ruez’s testimony in Popović on 7, 8, 11, 12, 14, 15 and 18 Septemebr 2006
15. Lieutenant Rutten Johannes’ testimony in Popović on 29 and 30 November and 4 and 7 Decemebr 2006
16. Ostoja Stanojević’s testimony in Popović on 10 July 2007
17. Jose Baraybar’s trial testimony in Krstić on 29 and 30 May 2000
18. Barr Kathryn, transcript of her testimony in Popović on 30 January 2004

19. Helge Brunborg, report and testimony in Popović on 1 February 2007 and 9-10 May 2007
20. Richard Butler's testimony in Blagojević on 10, 11, 12, 13, 14, 17, 18, 19, 20, 21, 24 and 26 November 2003;
21. John Clark's testimony in Krstić on 30 and 31 May 2000 in Popović on 19.-20.2007,
22. Stephanie Frease's testimony in Popović on 19, 25 January 2007, 26-28 February 2007 and 1-2 March 2007 and 5-6 March 2007
23. William Haglund's testimony in Krstić on 29 May 2000 and in Popović on 15 March 2007,
24. Cristopher Lawrence's testimony in Krstić on 31 May 2000 in Popović on 21 February 2007,
25. Freddy Peccerelli's testimony in Popović on 13 March 2007
26. Richard Wright's testimony in Krstić on 26 and 29 May 2000 and in Popović on 20-21 February 2007,
27. Marko Aleksić's statement given to the ICTY Prosecutor's Office on 17 January 2006
28. Amor Mašović's statement given to the ICTY Prosecutor's Office on 5 November 2004
29. Milorad Vidović's statement given to the ICTY Prosecutor's Office on 22 February 2004

I. Additionally, for ease of reference, the Prosecution moved to substitute the video recordings of the testimonies of witnesses Milenko Pepić, A-27, A-25 and A-9 given before the Court of BiH in Miloš Stupar *et al.* case number X-KR 05/24, which the Panel admitted as evidence under the Decision of 28 February 2008, with the trial transcripts.

II. In **Annex B** the Prosecution moved to summon the following witnesses to testify live at the main trial as additional witnesses :

- a) Saliha Đuderija
- b) P21
- c) Teufika Ibrahimefendić
- d) Munira Subašić
- e) Milorad Vidović
- f) Jasna Zečević

III. In **Annex C** to the Motion No. 3, the Prosecution further moved to admit the investigative statements and/or trial transcripts in cases before the ICTY of the following witnesses, pursuant to Article 273 (2) of the BiH CPC;

- a) Miroslav Deronjić – Sentencing hearing transcript dated 28 October 2003 in the case before the ICTY in *Prosecutor v. Momir Nikolić*, IT-02-60-1-S
- b) Milan Marić – Statement given to the ICTY investigators on 30 June 2002
- c) Čamila Omanović – Trial transcript of testimony in *Prosecutor v. Radislav Krstić* number IT-98-33-T on 22 and 23 March 2000

As well as the trial transcripts of the following witnesses, pursuant to Articles 3, 4, and 5 of the LOTC:

- a) A-14- Trial transcript of testimony in the case Prosecutor v. Popović number IT 05-88 on 5 and 6 September 2007
- b) Zoran Begović – Trial transcript of testimony in the case Prosecutor v. Popović number IT 05-88 on 21 March 2007
- c) Jevto Bogdanović – Trial transcript of testimony in the case Prosecutor v. Popović number

- IT 05-88 on 10 May 2007
- d) Franken Robert – Trial transcript of testimony in the case Prosecutor v. Krstić on 4 April 2000
 - e) Jugoslav Gavrić - Trial transcript of testimony in the case Prosecutor v. Popović number IT 05-88 on 21 March 2007
 - f) Mile Janjić - Trial transcript of testimony in the case Prosecutor v. Popović number IT 05-88 on 20 and 21 November 2007
 - g) Mitar Lazarević - Trial transcript of testimony in the case Prosecutor v. Popović number IT 05-88 on 26 and 27 June 2007
 - h) Marko Milošević - Trial transcript of testimony the case Prosecutor v. Popović number IT 05-88 on 26 June 2007
 - i) P-6 - Trial transcript of testimony in the case Prosecutor v. Blagojević and Jokić number IT 02-60 on 14 June 2003
 - j) Pero Petrović - Trial transcript of testimony in the case Prosecutor v. Popović number IT 05-88 on 9 March 2007
 - k) Ostoja Stanišić - Trial transcript of testimony in the case Prosecutor v. Popović number IT 05-88 on 16 and 17 May 2007

IV The Prosecution moved to admit the trial transcripts of the following witness testimonies in cases before the Court of BiH, pursuant to Article 15 of the BiH CPC

- a) A-43 - Trial transcript of testimony in Božić, case number X-KR-06/236, on 4 September 2007
- b) Marko Aleksić - Trial transcript of testimony in Kravica, case number X-KR-05/24, on 7 and 12 July 2006
- c) Ljubomir Beatović - Trial transcript of testimony in Božić, case number X-KR-06/326, on 12 June 2007
- d) Slobodan Mijatović - Trial transcript of testimony in Božić, case number X-KR-06/236, on 4 July 2007

Prosecution arguments

Annex A

The Prosecution withdrew all trial transcripts of witness and expert witness testimonies listed in this Annex, which had been admitted by the Panel under the Decision number X-KR 07/386 dated 28 February 2008, because it was not in a position to provide the translation of the transcripts.

Annex B

In this Annex, the Prosecution listed all witnesses proposed as additional witnesses at the main trial. It is stated in the Motion for the examination of witnesses Saliha Đuderija, P-21, Teufika Ibrahimfendić, Munira Subašić and Jasna Zečević that the evidence of these witnesses would be relevant to Count 2 of the Indictment, in particular to the effect of unregistered burial and burial sites, and legal, social and cultural impact of the missing male family members on Bosniak families, and the impact of that on Bosniaks as an ethnic group.

As for the witness Milorad Vidović, the Prosecution submitted that his evidence was relevant to Count 2 of the Indictment, in particular to the events that occurred in Orahovac on 14 July 1995. The Prosecution submits that the witnesses proposed to testify would give evidence relevant to establishing the elements of the criminal offense charged in the Indictment. Enclosed with the

Motion, the Prosecution submitted specific Counts of the Indictment to which each of the witness testimonies pertain.

Annex C

In relation to the admission of trial transcripts of witnesses listed in the Annex C, the Prosecution noted that considering that the witnesses Miroslav Deronjić, Čamila Omanović and Milan Marić are deceased, it is justified to admit the transcripts of their testimonies, pursuant to Article 273 (2) of the BiH CPC. As for the relevance and probative value, the Prosecution noted that the testimony of Miroslav Deronjić was relevant to Count 2 in the Indictment, given that he was a civilian commissioner for Srebrenica at the relevant time, and that the testimonies of the witnesses Čamila Omanović and Milan Marić were relevant to Count 1 in the Indictment.

In terms of the admission of testimonies of the mentioned witnesses pursuant to Articles 3, 4, and 5 of the LOTC, the Prosecution submits that the proposed testimonies were previously given in cases before the ICTY, explaining the relevancy of the testimony of each witness to the specific counts of the Indictment. The Prosecution referred to the reasoning of its Motion No. 4, considering that this Motion represents a compilation of the previous Prosecution motions Nos. 4 and 9. The Prosecution submitted that the admission of witness testimonies goes in favor of the judicial economy. The testimonies proposed by the Prosecution were given before the ICTY in Krstić, Blagojević and Popović, and the relevancy of each witness is provided in the Annex to the Motion.

With regard to the testimonies of witnesses listed in section III of Annex C, the Prosecution moved for the admission of the testimonies of these witnesses pursuant to Article 15 of the BiH CPC, considering that these testimonies were given in other cases before the Court of BiH and are relevant to this case. The Prosecution fully maintains its reasoning offered in the Motion No. 4, which is mentioned in the Decision of 28 February 2010.

As for the witnesses Ljubomir Beatović and Robert Franken, the Prosecution moved to substitute the transcripts of their testimonies in Blagojević and Popović, admitted by the Panel under the Decision of 28 February 2008, with their transcripts in Božić and Krstić because the former were not translated and the witnesses testified about the same facts in both cases.

Defense arguments

The Defense Counsel for the accused Milorad Trbić noted that the accused was a low-ranking officer, and that by no means did it fall under his competence, either by his position or his actual participation. Thus, the Defense finds additional evidence unnecessary. The Defense stated its objection to comprehensive tendering of witness testimonies from other cases, as they contain testimonies on general events that took place in Srebrenica, which were entirely irrelevant to the accused.

Court findings

Having reviewed the Prosecution Motion and the Defense submissions, and having provided the parties and the accused with an opportunity to verbally state their position at the hearing, the Panel rendered the Decision as in the operative part for the following reasons.

At the hearing held on 24 November 2008,, the Panel once again instructed the accused and his Defense Counsel that in case of the admission of transcripts of witness testimonies, they would

have the possibility to call all those witnesses for cross-examination.

This Decision is based on the Law on the Transfer of Cases from the ICTY to the Prosecutor's Office of BiH and the Use of Evidence Collected by the ICTY in Proceedings before the Courts in BiH (LOTC), relevant provisions of the Criminal Procedure Code of Bosnia and Herzegovina (the BiH CPC) applied by the Court of BiH and the European Convention and Human Rights (ECHR).

This case was transferred to the Court of BiH by the ICTY pursuant to Rule 11 *bis* of the Rules of Procedure and Evidence (the *Rules*). As such, the Law on Transfer applies in addition to the BiH CPC. The following rules and laws are controlling on the Court and must be applied as a whole.

Article 1 of the Law on Transfer reads that *"the provisions set forth in this Law shall regulate the transfer of cases by the International Criminal Tribunal for the former Yugoslavia (hereinafter: ICTY) to the Prosecutor's Office of BiH (hereinafter; the Prosecutor's Office) and the admissibility of evidence collected by the ICTY in proceedings before the courts in Bosnia and Herzegovina"*.

Article 1 of the CPC BiH provides that *"this Code shall set forth the rules of the criminal procedure that are mandatory for the proceedings of the Court of Bosnia and Herzegovina, the Chief Prosecutor of Bosnia and Herzegovina and other participants in the criminal proceedings provided by this Code, when acting in criminal matters"*.

Article 3 (1) of the LOTC refers to the general principle whereby *"evidence collected in accordance with the ICTY Statute and RoPE may be used in proceedings before the courts in BiH"*, while paragraph 2 of the same Article prescribes that *"the courts shall not base a conviction of a person solely or to a decisive extent on the prior statements of witnesses who did not give oral evidence at trial"*.

Furthermore, Article 4 of the LOTC stipulates that *"at the request of a party or proprio motu, the courts, after hearing the parties, may decide (...) to accept documentary evidence from proceedings of the ICTY relating to matters at issue in the current proceedings"*.

Evidence provided to the ICTY by witnesses is addressed in Article 5 of the LOTC, where *"transcripts of testimony of witnesses given before the ICTY and records of depositions of witnesses made before the ICTY in accordance with Rule 71 of the Statute and the ICTY RoPE, shall be admissible before the courts provided that that testimony or deposition is relevant to a fact in issue"*. In its paragraph 2, Article 5 lays down that *"the courts may exclude evidence given by a witness with protective measures where its probative value is outweighed by its prejudicial value"*. Further, Article 5 (3) of the LOTC prescribes that *"nothing in this provision shall prejudice the defendant's right to request the attendance of witnesses as referred to in Paragraph 1 of this Article for the purpose of cross-examination. The decision on the request shall be made by the court"*.

Furthermore, Article 6 of the LOTC envisages that *"the statement of an expert witness entered into evidence in any proceedings before a Trial Chamber of the ICTY shall be admissible as evidence in domestic criminal proceedings, whether or not the person making it attends to give oral evidence in those proceedings"*. Paragraph 2 of the same Article sets forth that *"the statement of an expert witness falling under paragraph 1 above, when admitted, shall be evidence of any fact or opinion of which the person making it could have given as oral evidence"*. Pursuant to article 3 of the LOTC, *"the courts shall admit an expert witness' testimony by using the transcript of the testimony he/she gave before a Trial Chamber of the ICTY in any other case, providing that he/she had been previously warned about his rights and obligations regarding his testimony, and providing the testimony relates to the existence or non-existence of facts which themselves relate to the case in question"*. Likewise, in reference to testimonies of expert witnesses, the LOTC in its Article 6 (4)

foresees that “*nothing in this provision shall prejudice the defendant’s right to request the attendance of an expert witness as referred to in Paragraph 1 of this Article for the purpose of cross-examination or to call an expert witness of his own to challenge the statement of an expert witness given before the ICTY. The decision on the request shall be made by the court*”.

Article 7 of the Law on Transfer stipulates that in addition to the reading of a transcript of the testimonies given during the investigation in terms of Article 273 (2) of the BiH CPC, the relevant investigator of the ICTY may also be examined with regard to the circumstances of the conducted investigative activities and information obtained during those activities. It ensues from this legal provision that the testimonies given to the ICTY officers, which were not used in the proceedings before the ICTY, may be used provided that the requirements under Article 273(2) of the BiH CPC have been satisfied. Additionally, this Article provides that the relevant investigator of the ICTY may be examined with regard to the circumstances of the conducted investigative activities and information obtained during those activities.

It is inferred from the cited legal provisions that the LOTC is a *lex specialis* so as to eliminate the risk of inadmissibility of evidence collected by the ICTY pursuant to the CPC BiH. *Lex specialis* is a set of special regulations overriding the CPC BiH in both substance (evidence collected by the ICTY) and application (rules on admissibility and use). Being a *lex specialis*, the LOTC either derogates or takes precedence over the CPC BiH in matters where the two are not aligned, or evokes the CPC BiH in matters that are not specifically addressed by the LOTC (Article 1 (3) of the LOTC).

In addition, Article 3 (1) of the LOTC governs the use of evidence collected by the ICTY in proceedings before the courts in BiH, thus making these pieces of evidence available to be used before the Court of BiH in cases transferred by the ICTY. In addition to these general principles, the LOTC provides for specific rules for certain types of evidence. The LOTC regulates the procedure for the transfer of cases to the Prosecutor’s Office of BiH, including the procedure and requirements to use the evidence collected by the ICTY. Each of these separate rules shall be applied to individual relevant sets of evidence, as indicated in the text below.

Criminal Procedure Code of Bosnia and Herzegovina

Article 15 of the CPC BiH lays down the principle of free evaluation of evidence that confers the right upon the Court to evaluate the existence or non-existence of facts freely. Specifically, in evaluating the existence or non-existence of a certain fact, the Court is not bound or limited by special formal evidentiary rules. Probative value of evidence is not preset neither in terms of quality or quantity. In free evaluation of evidence, the Court shall pay due diligence to any evidence individually or in connection with other pieces of evidence, and based on such subsequent evaluation, infer whether a fact is proven or not, wherein both logical and psychological assessment comprise the evaluation of evidence. The free evaluation of evidence is restricted by the principle of legality of evidence.

Furthermore, Article 10 (2) of the CPC BiH provides that “*the Court may not base its decision on evidence obtained through violation of human rights and freedoms prescribed by the Constitution and international treaties ratified by Bosnia and Herzegovina, nor on evidence obtained through essential violation of this Code*”.

The issue of unlawful evidence is threefold:

1. evidence obtained through violations of certain fundamental rights and freedoms,
2. evidence that the Code strictly prohibits to be used in rendering a court decision in a criminal proceedings,

3. evidence that an authority in criminal proceedings would not have obtained had there not been data deriving from unlawful evidence (the so-called fruit of a poisonous tree)

Article 274 (2) of the CPC BiH refers to the authenticity of certain evidence that need be the original of a writing, script, recording, footage, photographs or equivalent.

Article 273 of the BiH CPC provides for the exception from the direct presentation of evidence in the manner that (2) „ *Prior statements given during the investigative phase are admissible as evidence at the main trial and may be used in direct or cross-examination or in rebuttal or in rejoinder and subsequently presented as evidence. The person must be given the opportunity to explain or deny a prior statement. Notwithstanding Paragraph 1 of this Article, records on testimony given during the investigative phase, and if judge or the Panel of judges so decides, may be read or used as evidence at the main trial only if the persons who gave the statements are dead, affected by mental illness, cannot be found or their presence in Court is impossible or very difficult due to important reasons.* “A part of the evidence shall be considered the subject to limitations from the cited provision.

Mindful of the above legal provisions, the Panel finds that documentary evidence collected in accordance with the CPC of BiH, which is both authentic and relevant for the criminal proceedings, and not contrary to the imperative provisions of Article 10 of the CPC of BiH, may be admitted as evidence in the criminal proceedings as well as be subject to the analysis below.

For example, as the evidence involves the statements of witnesses, the Code additionally provides for direct and cross examination of these witnesses. Specifically, in terms of Article 261 (1) of the CPC of BiH, the parties and the defense counsel are entitled to call witnesses and to present evidence, and in terms of Article 262 (1) of the CPC of BiH, the parties and the defense counsel are entitled to examine their own witnesses (direct examination), followed by cross examination by the adverse party, that is, the defense counsel (cross examination), and re-direct examination of the witness by either the prosecution or the defense, depending on which party called the witness.

Having in mind the foregoing, the Panel holds that the party that calls the witness, for the sake of efficiency and judicial economy, may waive its right to examination-in-chief by its motion to admit the prior testimony given in reference to the same circumstances before another trial panel. The testimony ought to be conducted in line with the CPC of BiH, that is, the statement should be given upon instructions on the rights and duties of a witness, which according to the CPC of BiH is the duty of the presiding judge, and after being sworn-in in terms of Article 88 of the CPC of BiH.

The waiver of the right to directly examine the witnesses by any of the parties or the counsel shall not be to the prejudice of the right of the adverse party or the defense counsel to cross examine the witness.

Having in mind that a procedural situation of such nature is not explicitly prescribed in the CPC of BiH, as well that such an interpretation derives from the above cited legal provisions, the Panel finds that the concrete case is analogous to application of the criteria set forth in the LOTC Article 5 which envisages that “*nothing in this provision shall prejudice the defendant’s right to request the attendance of witness as referred to in Paragraph 1 of this Article for the purpose of cross-examination. The decision on the request shall be made by the Court.*”

Analysis of the rights safeguarded by ECHR

The CPC of BiH and the LOTC maintain the duty of the court to ensure a fair trial for the defendant. Provisions of the ECHR relevant to the admissibility of such pieces of evidence are

embedded under Article 6 (1) that guarantees the right to a fair trial, and Article 6 (3) ensuring the right to confront and obtain the attendance of witnesses. Such a position has been previously taken in the *Kravica* case (see Decision number X-KR-05/24 dated 4 December 2006, and Corrigendum dated 6 February 2007).

Relevant sections of Article 6 (1) and (3) read:

„(1) In the determination ...of any criminal charge against him, everyone is entitled to fair ... public hearing...

(3) Everyone charged with a criminal offence has the following minimum rights: (...) d) to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him.“

The jurisprudence of the European Court of Human Rights (hereinafter the ECtHR) had found that the general principles of a fair trial also encompass the right of the defendant to confront the witnesses against him in a public hearing, as well as the important right to contest evidence and cross-examine the witnesses¹⁵⁴². Yet, those rights are neither absolute nor unlimited. The ECtHR did not set rules on evidence, but instead it examines whether the use of evidence admitted in violation of the rights of the defendant resulted in the defendant's deprivation of the right to a fair trial. In cases where invalid evidence serves as a ground for a conviction, either entirely or to a significant extent, it shall be found that the rights of the defendant have been violated.

The LOTC is explicit in emphasizing that the defendant is entitled to request to cross-examine the witnesses whose statements the Court decided to use in accordance with Article 5. Should there be no possibility for the cross-examination, then the statement, if admitted, shall be subject to Article 3 (2) of the LOTC, meaning that the courts shall not base a conviction of a person solely or to a decisive extent on the prior statements of witnesses who did not give oral evidence at trial.

Analysis of specific categories of evidence

In terms of the relevancy of the proposed statements, testimonies, reports and records in the form of audio recordings, the Panel notes that the Prosecutor's Motion explicitly listed which count or counts of the Indictment are relevant to each individual witness and expert witness. According to the Panel, all proposed evidence is relevant to the criminal proceedings against the accused Milorad Trbić, conducted upon the adapted Indictment of the Prosecutor's Office of BiH number KT-RZ-139/07 of 20 July 2007, following the corrections of 25 July 2007.

Annex A:

As for Annex A, the Prosecution withdrew previously admitted testimonies listed in Annex A, which did not require rendering of a decision.

In terms of the evidence listed in Annex A, pertaining to the Prosecution Motion for the admission of the transcripts of testimonies instead of video recordings for a certain number of witnesses who testified in *Kravica*, case number X-KR 05/24, namely, Milenko Pepić, A-27, A-25 and A-9, in addition to the previously admitted video recordings, on 24 November 2008, the Panel admitted the transcripts of these testimonies in BCS. However, the Panel did not render a separate decision on

¹⁵⁴² *Messegue and Jabardo*, Judgement dated 6 Dec 1988, para. 78; *Kostovski v. The Netherlands*, Judgement dated 20 Nov 1989, para. 41-45; *Asch v. Austria*, judgement dated 26 April 1991, para. 26-31; *Unterpertinger v. Austria*, Judgement dated 24 Nov 1991; *Ludi v. Switzerland*, Judgement dated 15 June 1992, para. 43-50; *Luca v. Italy*, judgement dated 22 Jan 2001, para. 39-45;

their admission given that it had already admitted the mentioned testimonies earlier, and that this was a technical issue.

Annex B

With regard to the witnesses listed in Annex B, the Court accepted to summon as additional witnesses Saliha Đuderija, P21, Teufika Ibrahimović and Munira Subašić, because their evidence is relevant to the issues discussed in these criminal proceedings. Relevance of these testimonies was elaborated by the Prosecutor who specified whether a testimony pertains to all or individual counts of the Indictment.

On the other hand, the Panel refused to summon as witness Jasna Zečević proposed to testify in Annex B, as she would testify on the same circumstances as the previously mentioned witnesses and she is also employed in the same organization as the witness Teufika Ibrahimović, and would testify on the same circumstances.

At the hearing held on 10 November 2008, regarding the Motion No. 13, the Prosecutor moved for the examination of the additional witness Stana Vidović, in place of the examination of Milorad Vidović. The Panel granted this Prosecution Motion, deciding to summon as a witness, instead of Milorad Vidović, his wife Stana Vidović whose evidence the Panel finds relevant to this case.

In relation to the admission of the transcripts of witnesses listed in the first part of Annex C, the Panel admitted the proposed transcripts of testimonies of the witnesses Miroslav Deronjić, Omanović Čamila and Milan Marić, considering that all three witnesses are deceased and these testimonies satisfy the requirements of Article 273 (2) of the BiH CPC. Relevance of these testimonies was elaborated by the Prosecutor who specified whether a testimony pertains to all or individual counts of the Indictment.

Testimonies, that is, the transcripts of testimonies of witnesses listed in the second part of Annex C to the Motion constitute testimonies given before the ICTY Trial Chambers, and according to the Panel, they are relevant to the issues discussed in these criminal proceedings. Relevance of these testimonies was elaborated by the Prosecutor who specified whether a testimony pertains to all or individual counts of the Indictment. Thus, the Panel finds that in this particular case, legal requirements under Article 5 of the LoTC have been met and the Court admits them to be used in this case.

As for the third part of Annex C, that is, the testimonies of witnesses A-43 given in Božić, case number X-KR-06/236, on 4 September 2007, Marko Aleksić in Kravica, case number X-KR 05/24, on 7 and 12 July 2006, the testimonies of Ljubomir Beatović in Božić, case number X-KR-06/236, on 12 June 2007 and Slobodan Mijatović in Božić, case number X-KR-06/236, on 4 July 2007, the Panel notes that the said testimonies were given before trial panels, following the warnings made by the presiding judge, and under oath. The Panel finds that the Prosecutor waived his right to direct examination by moving that these testimonies be admitted. Therefore, the Panel considers these testimonies documentary evidence collected in accordance with the CPC of BiH, and as both authentic and relevant to the current proceedings, and thus the Panel admits these to be used at trial. Furthermore, it is important to note that if this type of evidence is acceptable under the standards provided for in Article 5 of the LOTC, for witness testimonies delivered at the ICTY it is certainly equally acceptable, if not even more so, when the evidence is established at the Court of BiH, in line with the rules of evidence stipulated in the BiH CPC. The Court also notes that the principle expressed in LOTC Article 5 applies here as well.

At this stage of the proceedings, the Panel analyzed only the authenticity, relevancy and the legality of the collected evidence, that is, its admissibility in accordance with Articles 3, 4, 5, 6 and 7 of the

LOTC, without any consideration of its probative value. Therefore, the Panel did not consider the part of the Prosecution Motion pertaining to the probative value, as it finds it to be immaterial at this stage of the proceedings. Moreover, the Defense has the possibility to move for cross-examination of the above witnesses if it has not already waived the right to cross-examine them. The Panel shall promptly rule on this at the scheduled hearing.

In view of the foregoing, based on this Decision the Prosecutor will submit to the Court transcripts, statements and trial recordings which were under this Decision admitted as evidence in these criminal proceedings, in BCS, so that they could be marked as evidence in this case. As for the transcripts and statements collected by the ICTY, each individual piece of evidence tendered into the evidentiary material must be certified by the ICTY, for the purpose of its authentication.

8. Decision to examine Stana Vidović outside the Courtroom

On 24 November 2008, the Panel rendered a decision to examine Stana Vidović as an additional Prosecution witness, scheduling her examination for 1 December 2008.

After that, on 28 November 2008, the Prosecution received an Official Note stating that the witness Stana Vidović was of poor health and unable to travel. This Official Note was also delivered to the Panel.

The Panel therefore postponed the examination of this witness, ordering the Prosecution to consider alternative methods of examining this witness.

On 17 December 2008, the Prosecution submitted the Motion for the examination of the witness Stana Vidović in Zvornik, Zvornik Municipality, pursuant to Article 272 (1) of the BiH CPC.

In the reasoning of the Motion the Prosecution noted that the witness was in a poor health condition and thus unable to travel to Sarajevo, even if she had been provided with a driver, but she would agree to testify in her own house located in Orahovac. In view of the security and operational difficulties in organizing the examination in her private house, the Prosecution proposed that the examination be conducted at the Basic Court in Zvornik.

The Motion further noted that the witness lives 15 km away from Zvornik, which is at a lesser distance than Sarajevo, and the investigators estimated that she would be able to come to Zvornik. The Prosecution noted that this witness was important for these criminal proceedings.

On 12 January 2009, the Panel agreed to the examination of the witness Stana Vidović outside the Court of BiH building, that is, in the Zvornik Basic Court, pursuant to Article 272 (1) of the BiH CPC and Article 262 of the BiH CPC, to which the witness agreed.

On 26 January 2009, the witness Stana Vidović was directly and cross-examined in the courtroom of the Zvornik Basic Court, in the presence of the Trial Panel, the Prosecution, the accused and his Defense Counsel, as well as the record-taker, and the examination was recorded by a technical recording device, constituting the main trial record.

9. Panel Decisions concerning the Prosecution Trial Motions Nos. 16, 17, 18, regarding the additional evidence

After the Prosecutor's Office of BiH concluded the presentation of its evidence, on 19 January 2009 the Prosecution submitted the Trial Motion No. 16, the second motion of the Prosecutor's Office of BiH for additional evidence, following the Motion No. 13. The Prosecution proposed to

summon for the main trial additional expert witnesses, forensic pathologists Dr. Rifat Kešetović and Dr. Cheryl Katmarzyk, and to summon additional witnesses Jovan Ilić, P 17, Milenko Tomić and Rado Bošković. Furthermore, in the second part of the Motion, the Prosecution moves for admission of the testimony of witness Mile Babić who testified at the main trial in the Božić et al. case- X-KR 06/236 on 10 July 2007, and witness A-46 who testified at the main trial in the Stupar et al. case X-KR 05/24 on 29 May 2008 and 11 June 2008.

Annex A to the mentioned Motion contains details on the relevancy, testimony summaries and circumstances relevant to the witness testimonies and expert witness opinions.

The Prosecution submitted that the proposed additional witnesses and expert witnesses were necessary for the purpose of full examination and clarification of the factual allegations in the Indictment. The Prosecution proposed two days for the presentation of their evidence, which, according to the Prosecution, would not additionally prolong this case.

In relation to the Motion, the Defense for the accused noted that in case this evidence was admitted, they would propose to summon their witnesses who would establish the manner and time of death of all the victims, without objecting to the proposed evidence. The Defense Counsel for the accused further requested to verbally examine the witnesses.

On 2 February 2009, the Panel verbally rendered a decision that was entered in the record, partially granting this Motion. The Panel refused to examine expert witnesses and witnesses listed in the first part of the Motion, holding that their testimonies would be cumulative given that numerous witnesses had previously given evidence on the same circumstances.

On the other hand, the Panel accepted to examine at the main trial witnesses Mile Babić and A-46 by way of admitting their prior testimonies in other cases, while the Prosecution would conduct a redirect examination and the Defense would cross-examine them at the main trial.

While examining the Motion, the Panel was mindful of the fact that four Dean Manning's reports, which constitute a summary of all expert findings, were then admitted into the case record and that they contain an amount of information which would, generally speaking, be sufficient for the Panel to understand the Prosecution's allegations pertaining to the scientific conclusions on forensic examinations conducted in relation to the mass graves. Parts of these reports also include data on DNA analysis and identification of bodies, as well as scientific dilemmas in terms of re-association of body parts scattered in the process of reburials.

At that time there was no actual need to examine additional witnesses who would only corroborate what was already said in Dean Manning's reports and other expert findings.

The Defense did not object to this evidence, proposing to examine witnesses whose evidence would pertain to the number of victims and the time of death. Accordingly, the Panel saw no need for further presentation of evidence along those lines.

On 21 January 2009, the Panel received the Prosecution Trial Motion No. 17. This was the third Motion for additional Prosecution evidence, namely, the documentary evidence. The Motion contained three categories of evidence:

A) ICTY exhibits referred to by witnesses during their testimony that has been admitted in written form by the Panel. The Prosecution submitted that those were eye-witnesses and additional evidence included the identification of locations by these witnesses. Thus the testimony would be incomplete without the admission of these pieces of evidence.

B) ICTY Expert Reports referred to by Dean Manning in his live evidence but which were not available to the Prosecutor's Office of BiH when he testified. The Prosecution submits that it is necessary to admit these pieces of evidence for better understanding of Dean Manning's reports.

C) Exhibits referred to by witnesses during their testimony that has been admitted in written form in this trial in lieu of live testimony. Those are charts, maps, photographs and video recordings referred to by witnesses during their testimony, while the transcripts of the testimony had already been admitted by the Panel. The prosecution noted that it was necessary to admit the proposed evidence for better understanding of these testimonies.

D) Other necessary and relevant evidence which was not previously available to the Prosecution.

E) Updated forensic and victim evidence regarding the Podrinje Identification Project data on the names of victims that have officially been released to the public through Records on Identification and Death Certificates.

On 2 February 2009, the Panel held a status conference regarding this Motion, establishing that the Defense did not have all the documentation in BCS and therefore could not state its position with regard to the Motion No. 17, until all evidence has been submitted to the Defense in their mother tongue. Accordingly, the Panel ruled that the evidence must be delivered both to the Court and the Defense in the BCS language. While rendering the Decision, the Panel was mindful of the evidence listed in the A, B and C parts of the Motion, and all subsequent Panel Decision pertained to those parts.

On 23 February 2009, the Panel clarified that it would admit all evidence proposed by the Motion no. 17, which is available in BCS version.

Parties to the proceedings and the defense for the accused were unclear as to whether the Panel rejected the evidence proposed in parts D and E. At the hearing held on 27 April 2009, the Panel clarified its Decision, explaining that it would admit the evidence listed under A, B, and C, but refuse the evidence under D and E, given that this evidence is cumulative.

On 22 May 2009, the Prosecution moved for reconsideration of three pieces of evidence listed in the Motion No. 7 that the Panel had rejected. Those were the following pieces of evidence: TDD 129 - PIP Records on Identification and Death Certificates, TDD 130- PIP List of officially identified victims and TDD 131 – List of grave codes from Lukavac. In light of the stage of the proceedings at the time and having in mind the Defense request to respond to those pieces evidence by introducing their additional evidence, the Panel refused to admit these pieces of evidence. On 29 May 2009, the Prosecution submitted written Motion No. 18 moving the Panel to reconsider its Decision. In the Response to this Motion the Panel once again examined the Amended Indictment which was filed with the Court in March 2009. Considering that the Amended Indictment contained the exact number of victims identified up to that point, the Panel reconsidered the Motion in view of the Amended Indictment. In addition, given that these pieces of evidence by their nature (procedure and methodology of establishing the victims' identity) constitute new evidence, the Panel concluded that those pieces of evidence must be introduced through witnesses.

Bearing in mind these circumstances, the Panel reconsidered the Prosecution Motion. The Panel admitted this evidence to be adduced since it pertains to the exact number of victims who were identified by the time the Amended Indictment was filed. These pieces of evidence cannot be used to supplement the charges against the accused or to extend these proceedings. Thus the Panel limited these pieces of evidence to the procedure of identifying the victims. Following the Panel Decision to admit additional evidence, those pieces of evidence were filed into the case record and they will be listed in Annex A to the Verdict in the part pertaining to the Prosecution documentary

evidence.

10. Ordering protective measures for witness A-46

Following the Panel Decision to summon for the main trial additional witness A-46, on 6 February 2009, the Prosecution submitted a confidential Motion to order protective measures for witness A-46. The Prosecutor proposed that the witness be assigned a pseudonym, that his personal details be kept confidential until the completion of these proceedings or until a new Court decision, that no picture or image of the face of the protected witness be published in any televised broadcast, printed media or the internet, or otherwise be made available to the public. Finally, the Prosecutor proposed that the witness testify in the courtroom, but that the video recordings of all trials where this witness testifies be not released to any person without a Court Order, that is, that the contents of the testimony be not released in the public.

At the hearing regarding the examination of witness A-46, held on 23 February 2009, the Defense for the accused did not object to the proposed measures. Legal representative of witness A-46, attorney Haris Bojić, also agreed with the proposed measures, and so did the witness A-46. The Panel rendered a decision to assign the witness the pseudonym A-46, and that he testify directly, but that his identity, photograph, voice and contents of his testimony not be published in the media.

11. Exclusion of the public

Pursuant to Article 235 of the BiH CPC, the Panel excluded the public from the following parts of the main trial: On 30 October 2007, 8 November 2007, in order to discuss the issue of protected witnesses, on 27 November 2007 and 28 November 2007 during the testimony of the witness Alister Graham for the reasons of mentioning the data pertaining to the protected witness A-50, then on 12 February 2008, in order to discuss the testimony of a witness who was granted protective measures in the proceedings before the ICTY, on 26 February 2008, in order to discuss a confidential document, on 12 May 2008, in order to discuss protected witnesses, on 23 June 2008 in order to discuss confidential documents, on 3 November 2008, in order to consider a confidential Prosecution filing, on 19 January 2009, in order to consider the status of a certain number of protected witnesses and witnesses for whom the Prosecution sought protective measures at a later stage, on 16 March 2009, 18 May 2009 and 18 June 2009 in order to discuss the issue of the status of a witness, on 22 June 2009 and 28 September 2009 in order to discuss confidential documents and a protected witness.

On 10 December 2007, Prosecution witness A-8, who was ordered protective measures in the Hague, also testified in this case with the same protective measures. Having heard the Prosecution Motion, and with the consent of the defense for the accused, in addition to the measures which have already been granted, the Panel excluded the public while examining the Prosecution Motion and during the testimony of this witness (direct and cross-examination), in order to protect his identity. The Panel excluded the public on 19 December 2007, in order to consider the Prosecution Motion for ordering protective measures to witness A-45, as well as on 15 January 2008, during his testimony (direct and cross-examination), to which the Defense Counsel for the accused also agreed.

On 21 April 2008, upon the Motion of the Defense for the accused, the Panel rendered the Decision not to publish in the media personal details and photographs of two witnesses who testified that day, to which the Prosecutor agreed. On 28 September 2009, the Panel also excluded the public in order

to discuss the protective measures for the witness P 13.

On 12 January 2009, the Panel excluded the public in order to consider the Motion of the Prosecution to order protective measures for witness P 21, and to determine the type of measures, namely to protect the witness's identity, not to publish any photograph or personal details of the witness in the media and to exclude the public from the trial while the witness testifies on his/her profession, to which the parties to the proceedings and the defense counsel for the accused agreed. Furthermore, the Panel excluded the public on 23 February 2009 in order to consider the Prosecution Motion for ordering protective measures for witness A-46.

In most of the cases, except during the examination of witnesses A-8 and A-45, the public was excluded from the courtroom only for a short while, so that the Panel, the parties to the proceedings and the defense counsel could freely discuss the issues of confidential nature.

In all the foregoing examples of the exclusion of the public, having considered the case law indicating that it is not always possible to predict and fully control the pace of responding to legal and factual issues, the Panel decided to exclude the public from parts of the main trial, when discussing the ordering of protective measures for witnesses in accordance with the given circumstances. The BiH public was informed of the proceedings conducted before the Court of BiH in detail, through the media. The fact that the public receives detailed information on trial particulars can represent an insurmountable obstacle for witnesses to testify freely. For this reason, while endeavoring to strike a balance between the right of a witness to the protection of personal and private life and the interest of the public to receive true information in a timely fashion – also noting that the exclusion of the public is an exception to the general rule providing for public trials – the Panel found that the exclusion of the public achieved the purpose in as much as irreparable damage to witnesses could be prevented, while the public received information in an acceptable manner. In order to protect personal and private life of witnesses, as well as other important witness interests, including security and possibility to give full evidence, the Panel found it logical and adequate to protect the witnesses in this case in this manner.

12. Ordering and terminating protective measures for witness P 13

Following the Panel Decision to summon additional Prosecution witness P13, upon the Prosecution Motion, at the main trial held on 7 July 2008, the Panel granted protective measures to this witness, to which both the Defense for the accused and the accused agreed.

On 8 September 2008, this witness refused to testify because of the concluded guilty plea agreement before the International Tribunal for the Former Yugoslavia, and because of the fear for his/her family security.

Afterwards, on 29 October 2008, the Prosecution moved to admit as evidence, in place of his testimony, written testimonies given by the witness at the main trial in the *Prosecutor v. Blagojević and Jokić* case on 2, 6, 7, 8, 9, 10 October 2003, where he testified as a public witness, his statement of facts and acceptance of liability in the *Prosecutor v. Dragan Obrenović* case, dated 10 December 2003, and statement made during the examination before the ICTY Prosecutor's Office on 5 February 2004, pursuant to Articles 3, 4, and 5, 7 and 8 of the LoTC.

In his Motion, the Prosecutor additionally noted the fact that it was legally impossible to force this witness to testify, in case he refused to do so, given that this witness was supposed to testify from Norway which did not ratify the Agreement on Mutual Legal Assistance in Criminal Matters, based on which he could be compelled to testify.

In this Motion the Prosecution maintained the arguments previously stated in the Motion No. 4, in relation to the admission of trial transcripts and documentary evidence, listed in the Court Decision of 28 February 2008, noting the relevancy of these testimonies to this particular case.

Although he previously objected to the tendering of the transcripts, insisting on the live examination of witness P 13, having contacted the defense counsel for this witness, at the hearing held on 27 April 2009, the defense counsel for the accused agreed to the admission of transcripts of testimony of witness P 13, noting that he would not insist that the witness be again summoned to testify.

On several occasions during the main trial, the Panel discussed the status of this witness with the Prosecution, the accused and his defense counsel, given that he refused to testify at the main trial in this case. In that regard, at the time of ordering the protective measures to witness P 13, the Panel opined that the Prosecution Motion for ordering these measures was justified, and the witness himself insisted on these measures. However, when he refused to testify, further justifiability of protective measures came into question.

After this witness refused to testify, the Panel admitted his testimonies before the Hague Tribunal, which were given publicly, without any protective measures, as well as his statement of guilt. Furthermore, the Prosecutor did not submit a single piece of evidence that the family of this witness could be at risk, or in which manner, if the previous witness testimonies which he gave as a public witness were to be used.

In light of these circumstances, at the hearing held on 9 February 2009, the Panel terminated the protective measures for witness P 13, in accordance with Article 15 of the Law on Protection of Witnesses under Threat and Vulnerable Witnesses.

13. Site visit

During the main trial, considering that a large number of locations are listed in the Indictment, the Panel decided to visit sites and locations listed in the Indictment of the Prosecutor's Office of BiH, on 3 March 2008 and 26 January 2009, in order to better understand the testimonies of witnesses who testified at the main trial and witnesses whose testimonies were admitted by the Panel in the form of transcripts. The Panel ruled that in addition to the Trial Panel, the site visit would be attended by the Prosecutor, the accused and his defense counsel. As noted by the defense counsel for the accused Milorad Trbić, it was in the interest of the defense to visit the locations which are subject of the charges against the accused Milorad Trbić under the Indictment. Furthermore, as agreed with the defense counsel for the accused, the accused Milorad Trbić was not present during the second site visit on 26 January 2009. During the site visit, no evidence was presented or submitted to the Panel.

14. Presentation of defense evidence before the conclusion of the Prosecution evidence

On 18 March 2008, at the main trial hearing, the Panel ruled that the Defense should start adducing their evidence before the Prosecution concluded the presentation of their evidence. After the Prosecution presented most of the proposed evidence, they were still to summon witnesses whose testifying depended on certain technical requirements, as the witnesses concerned came from abroad. It was therefore proposed that the defense should start adducing its evidence and examining defense witnesses, until technical requirements for the examination of the remaining Prosecution witnesses and the expert witness have been met, to which the defense for the accused agreed.

Finding that such an action served the interest of justice and efficient conduct of the proceedings, and that the decision was made exclusively in the interest of the accused, the Panel ruled that in the particular case, the change in the schedule of the presentation of evidence at the main trial was entirely justified.

Following the examination of the remaining Prosecution witnesses, the defense resumed the presentation of evidence.

After the presentation of the defense evidence, the Panel admitted additional Prosecution evidence for the reasons stated in the previous sections, giving an opportunity to the defense for the accused and to the accused, to adduce their additional evidence, all with a view to fair trial and equality of arms.

15. Expiry of a 30 (thirty) day deadline

Time period between the hearing held on 7 July 2008 and the hearing held on 18 August 2008 was longer than 30 days. Bearing in mind Article 250 (2) of the BiH CPC which stipulates that: “The main trial that has been adjourned must recommence from the beginning if the composition of the Panel has changed or if the adjournment lasted longer than 30 days. However, with the consent of the parties and the defense attorney, the Panel may decide that in such a case the witnesses and experts not be examined again and that no new crime scene investigation be conducted, but that the minutes of the crime scene investigation and the testimony of the witnesses and experts given at the prior main trial be used instead”, and taking into account that the parties to the proceedings and the defense counsel were beforehand informed of this by the Panel and that at the hearing held on 7 July 2008 they agreed not to observe the 30-day deadline in this case, the Panel did not recommence the main trial from the beginning.

Throughout the main trial, the Panel scheduled hearings in this case within the statutory timeframes, being particularly mindful of the right of the accused to be tried within a reasonable deadline.

16. Decision regarding Factual Changes to the Amended Indictment

With regard to the factual description of the Amended Indictment of the Prosecutor’s Office of BiH charging the Accused Milorad Trbić of the criminal offense of Genocide in violation of Article 171 of the CC of BiH, the Panel made some adjustments and minor corrections as a result of the factual findings of the Panel. It must be noted, however, that those changes do not aggravate the position of the Accused in any way whatsoever, compared to his position under the Amended Indictment itself.

The objective identity of the indictment and the verdict will not be brought into question if the changes in the verdict pertain to the specification of the criminal offense, or to the circumstances that are not essential to the description of the criminal offense or, for that matter, if the verdict provides a more complete and accurate general factual description of the offense referred to in the indictment.

B. CONFIDENTIAL PROCEDURAL DECISION INVOLVING A PROTECTED WITNESS

C. PROSECUTION DOCUMENTARY EVIDENCE

T-01 –AG 1 Map of Route taken 16-19 August 2004

T-01 –AG 2 Potočari Aerial Photograph

T-01 –AG 3 Video Surrogate Sheet

T-01 –AG 5a Bratunac Stadium Gates 1

T-01 –AG 5 Bratunac Stadium Wall 1

T-01 –AG 6 Bratunac Stadium Wall 1 –now

T-01 Bratunac Stadium Wall 2

T-01 –AG 7 Kravica Warehouse 1

T-01 –AG 8 Kravica Warehouse 2

T-01 –AG 9 Orahovac 1

T-01 –AG 10 Orahovac 2

T-01 –AG 11 Orahovac 3

T-01 –AG 12 Lazete Water Point

T-01 –AG 13 Lazete Water Point MT

T-01 –AG 14 Lazete Water Point MT

T-01 –AG 15 Lazete 2

T-01 –AG 16 Lazete 2 MT

T-01 –AG 17 Petkovci School Front

T-01 –AG 18 Petkovci School Rear

T-01 –AG 19 Petkovci School outhouse

T-01 –AG 20 Petkovci Dam 1

T-01 –AG 21 Ročevići School 1

T-01 –AG 22	Ročevići School 2
T-01 –AG 23	Road to Kozluk
T-01 –AG 24	Kozluk 1
T-01 –AG 25	Kozluk 2
T-01 –AG 26	Kozluk 3
T-01 –AG 27	Pilica Branjevo MF 1
T-01 –AG 28	Pilica Branjevo MF 2-r70
T-01 –AG 29	Pilica Dom 1
T-01 –AG 30	Pilica Dom Café
T-01 –AG 31	Pilica Dom Side Entrance
T-01 –AG 32	Pilica Dom Interior
T-01 –AG 33	Pilica Dom Exterior MT
T-01 –BB 1a	Tel-No- Duty Officer Log Book - 0293-5763
T-01 –BB 1b	Tel-No- Duty Officer Log Book - 0308-9344
T-01 –BB 2	20040218 - Attachment to report, aerial photo – houses circled by Trbić where he used telephone
T-01 –BB 3	House telephone ID Photograph- labeled A-D by Bursik
T-01 –BB 4	Photo
T-02	Suspect Aid Memoir
T-03	Interview of Milorad Trbić with ICTY OTP-FBI Deposition in USA on 19 August 2002
T-04	Declaration Alistair Graham 14 December 2002
T-05	Information Report – Alistair Graham, 26 August 2002 (Confidential)
T-06	Information Report- Alistair Graham, 30 September 2002 (Confidential)
T-07	Information Report- Alistair Graham, 15 November 2002 (Confidential)
T-08	Information Report- Alistair Graham, 12 December 2002 (Confidential)
T-09	Information Report- Alistair Graham, 2 January 2003 (Confidential)

- T-10 Declaration- Alistair Graham, 14 November 2003
- T-11 Declaration- Alistair Graham 4 December 2003
- T-12 ICTY OTP Information Report submitted by Alistair Graham on 23 January 2004
- T-13 Interview of Milorad Trbić with ICTY OTP on 21 January 2004
- T-14 ICTY OTP Information Report submitted by Alistair Graham on 25 January 2004
- T-15 Interview of Milorad Trbić with ICTY OTP on 23 May 2004
- T-16 Interview of Milorad Trbić with ICTY OTP on 27 May 2004
- T-17 Interview of Milorad Trbić with ICTY OTP on 29 October 2004
- T-18 Interview of Milorad Trbić with ICTY OTP on 8 November 2004
- T-19 ICTY OTP Information Report submitted by Alistair Graham on 31 August 2004 regarding site visit. (Confidential)
- T-20 DO LOG BOOK exhibits original 3-238, ENG 3-238.1
- T-21 Extract from LOG BOOK and ENG translation of the same BB-5A, BB5-B
- T-22 DO LOG BOOK – 02935764, and ENG translation- BB6A and B
- T-23 Information Report- Bruce Bursik 2 February 2004, ERN 0350-7975
- T-24 Information Report- Alistair Graham 2 January 2003
- T-25 MD-4- Zvornik Brigade Command Chart w/notes made by Dragutinović 18 September 2001
- T-26 MD-1-Zvornik Brigade Command Chart –ppt
- T-27 MD-2- Chart- Zvornik Brigade –Battalions and Locations
- T-28 MD-3a-b- Interim Combat Report 18 July 1995- signed by Pandurević
- T-29 Photograph- from Exhibit T-1 – Aerial of Orahovac, with Bursik Markings removed
- T-30 Photograph AG-22 –Gym and front of Ročević school
- T-31 Photograph AG-22- Entire building and gym at Ročević school

- T-32 Photograph- 142/1, aerial of Orahovac taken from BB-3
- T-33 Photo T-32, marked by witness Lazar Ristić
- T-34 AG-9, marked by witness Tanacko Tanić
- T-35 AG-11, marked by witness Tanacko Tanić
- T-36 AG-9 from T-1, marked by witness Milorad Birčaković
- T-37 AG-11 from T-1, marked by witness Milorad Birčaković
- T-38 AG-12 from T-1, marked by witness Milorad Birčaković
- T-39 AG-13 from T-1, marked by witness Milorad Birčaković
- T-40 ZB Vehicle Log for Opel Rekord, ERN # 00694699-704, 03075152-57(ENG)
- T-41 Diagram of Communication system drawn by witness in prep, and subsequently marked at trial
- T-42 Excerpt from DO Logbook, ERN# 02935762-774774
- T-43 Photo of Standard and Detention Unit, #23, marked DD-4, marked by witness(marked copy with court)
- T-43a Same as T43- unmarked copy of photograph
- T-44 Large Map of Srebrenica Area
- T-45 Sketch of Standard Offices by Witness Jeremić
- T-46 Photo of Standard- Main entrance
- T-47 DD-2 Pictures of Construction Vehicles
- T-48 AG-12 from T1 marked by witness A-45
- T-49 AG-14 from T1 marked by witness A-45
- T-50 AG-15 from T-1 marked by witness A-45
- T-51 AG-28 from T-1 marked by witness A-45

- T-52 ZB-Engineering Company Vehicle Logs for July 95
- T-53 Intercept Binder
- T-54 Excerpts of Relevant Intercepts
T-55 Sheet of Pseudonyms for Intercept Witnesses (Confidential)
- T-56 Map of area, with Okresanica and Zvornik
- T-57 Photograph of receiver equipment
- T-58 Photograph of UHER
- T-59 Video Witness Examination- Site Visit- 28 March 2007- Desimir Đukanović
- T-60 Witness Statement 17-04/2-04-2-329/07- Desimir Đukanović
- T-61 Record of Video Examination- 28 March 2008- Desimir Đukanović
- T-62 Immunity Agreement dated 29.08.07 for Witness PW-2 in KT-RZ 132/06 (Confidential)
- T-63 Decision on Immunity for Witness PW-2 in KT-RZ 132/06 (Confidential)
- T-64 Unmarked Aerial of Bratunac Town
- T-65 Aerial of Bratunac Town marked by Witness A-42
- T-66 Aerial Photo of Bratunac Town marked by Witness ORIĆ
- T-67 Sketch made previously by witness ORIĆ, area around VK School in Orahovac
- T-68 Aerial of Potočari-unmarked
- T-69 Aerial of Potočari- marked by witness Mirsada Malagić, #1 Zinc Factory, #2 barricade, #3 House where men were taken
- T-70 MM-V1- Video of Srebrenica area around UNPROFOR compound 10-11 July 1995
- T-71 Photograph of rucksacks and bags left by Bosniak men separated at Potočari
- T-72 Video MM-V2, video of Potočari July 1995
- T-73 Immunity Decision for PW-1, A-41 (Confidential)
- T-74 Aerial of Bratunac marked by Witness A-41

- T-75 Photo-Vuk Karadžić school front
- T-76 Photo- left wing of Vuk Karadžić school
- T-77 Photo-left side of gym in Orahovac
- T-78 Photo-extension to gym door where prisoners loaded onto TAM
- T-79 Photo- Potočari Aerial with buildings labeled- Ruez
- T-80 Photograph-Kula Primary School
- T-81 Photograph- Kula Primary School (in direction of Pilica Dom)
- T-82 Photograph- Entrance to Kula Primary School yard
- T-83 Photograph- Kula School
- T-84 Photograph- Kula School lower part
- T-85 Srebrenica Missing – Persons Reported Missing After the Take-Over of the Srebrenica Enclave by the Bosnian Serb Army on 11 July 1995. Including translation.
- T-86 Letter from Deputy RS MOI Tomislav Kovač to Serbian and Montenegrin MOI seeking assistance to prevent the issuance of travel documents and granting residency in order to facilitate military service in the RS
- T-87 RS MOI letter to Serbian & Montenegrin MUP stating state of war introduced in territory of Sarajevo Romanija Corps in RS by Presidential decision - requesting assistance to prevent unlawful exit of RS conscripts for RS to FRY
- T-88 RS MOI letter from Kovač to Karadžić stating that 1586 conscripts from Serbia have been handed over to VRS by Serbian MUP.
- T-89 RS MOI summary of information and about the Front. Serbian MUP and RS MUP have sent 350 members of special purposes units. 27-Jun-95 they will be engaged on the Trnovo front.
- T-90 RS MOI summary. Information from the front and its periphery. 2 Serb MUP platoons, Kajman and Plavi and Skorpion Serbian MUP attacked Lučevik feature.
- T-91 RS MUP dispatch indicating Serbian MUP (Kajman) detachment operating with VRS
- T-92 RS MUP dispatch indicating Serbian MUP (Kajman, Plavi & Skorpion) detachment operating in BiH

- T-93 RS MUP report of 2 Serbian MUP injured and transferred for Treskavica to Srbinje
- T-94 RS MUP report of 4 Serbian MUP injured and transferred for Treskavica to Srbinje
- T-95 RS MOI report. Serbian MUP forces with VRS and RS MUP continue offensive actions targeted at Lisičja Glava elevation. Srebrenica operation began 06-Jul-95.
- T-96 RS MUP report of 2 Serbian MUP injured and transferred for Treskavica to Srbinje
- T-97 RS MOI report ordering detachment of RS and Serbian MUP on 11-Jul-95 to Srebrenica
- T-98 Serbian MUP order indicating that Serbian MUP troops are ordered to pull back from Trnovo by 1200 hours on 20-Jul-95 to undertake other assignments
- T-99 RS MUP report indicating that 5 Serbian MUP personnel were injured in front line Trnovo.
- T-100 RS MUP report stating the Serbian MUP was relieved at Trnovo front by Banja Luka Special Police Unit
- T-101 RS MUP report indicating 2 Serbian MUP were injured at Trnovo and transferred to Srbinje hospital
- T-102 RS MUP report indicating 2 Serbian MUP were injured at Trnovo and transferred to Srbinje hospital
- T-103 RS MOI Cabinet of the Minister. Letter to Joint Staff of PS MUP, RS and Serbia MUP insisting that an order of Karadžić be carried out.
- T-104 Photographs of exhumation conducted at Godinjske Bare, Trnovo Municipality, BiH
- T-105 BiH Ministry of Internal Affairs crime laboratory report. Expert evaluation of traces of firing gun re exhibits located at Godinjske Bare, Trnovo Municipality Opstine, BiH
- T-106 DNA report concerning positive identification of Safet Fejzic resulting from the exhumation of human remains at Godinjske Bare, Trnovo Municipality, BiH
- T-107 Record No. 07/22-55, Excerpt from Decree on Appointment of the President, Judges and Registrars of the Military Disciplinary Court, signed by KARADŽIĆ
- T-108 Main Staff No. 04/4-1237, KARADŽIĆ order on engagement of RS MUP forces, signed by MLADIĆ

- T-109 IKM 65th Motorised Protection Regiment, Procedure for Treatment of War Prisoners, signed by SAVČIĆ
- T-110 RS Presidential Decision with typesigned signature blocks of Dr Biljana PLAVŠIĆ and Dr Nikola KOLJEVIĆ. Also signature block of Gen Maj Manojlo MILANOVIĆ, Chief of Staff.
- T-111 GS VRS Organisation, Mobilisation and Personnel Affairs information report No. 28/16-288 making reference to JNA, VJ and SRJ. Report typesigned Col Mico GRUBOR, Assistant Commander for Organisation, Mobilisation and Personnel Affairs. Information on alterations and amendments to the taken over rulebook on personal income of the former JNA.
- T-112 Drina Corps Security Section instruction No. 17/450, re handling of war prisoners and other persons, signed by Maj Vujadin POPOVIĆ, Chief of Security.
- T-113 Drina Corps No. 03/277-2, Order for Defence and Active Combat Operations, Operative No. 7, signed by ŽIVANOVIĆ
- T-114 Drina Corps No. 03/277-3, Order for Defence and Active Combat Operations, Operative No. 7/1, signed by ŽIVANOVIĆ
- T-115 Birač Bde Command order to the Zvornik Territorial Defence Staff, ordering, inter alia, that: "The moving out of the Muslim population must be organized and co-ordinated with the municipalities through which the moving is carried out. Only women and children can move out, whilst men fit for military service are to be placed in camps for exchange." Order signed by Maj Svetozar ANDRIĆ, Commander.
- T-116 Birač Bde Command order, signed by Maj Svetozar ANDRIĆ, Commander, ordering the setting up of a camp in Vlasenica (possibly Sušica) and forbidding any arbitrary liquidation of prisoners.
- T-117 War Diary, Book 1, from 1 Jul 1992 to 31 Dec 1992, containing hand-written daily notes on combat activities. No indication which unit, area: Boskovici, Kiseljak, Petkovci, Drinjača, Zvornik. These documents were stored in a folder and are left in the original order.
- T-118 Drina Corps Order No. 2-216 to Zvornik Brigade, Decision for further activities, signed by ŽIVANOVIĆ
- T-119 Drina Corps Order No. 01/5-373, Defining tasks from the briefing and urging their completion, re tasks relating to the Muslim enclaves of Srebrenica, Žepa and Goražde, signed by Živanović.
- T-120 1st Bratunac Light Infantry Brigade conscript registration form for Miroslav STANOJEVIĆ, dob 10 Apr 1972, and report on the wounding of STANOJEVIĆ in Kravica on 13 July 1995 at 12.00, witnesses: Ivan SIMIĆ and Rade PETROVIĆ, both forms dated 25 Jul 1995, approved by Vidoje BLAGOJEVIĆ.

- T-121 Drina Corps order No. 04/112-14 to stabilise defence around Žepa and Srebrenica enclaves and establish conditions for the liberation of the enclaves. Order typesigned Col Radislav KRSTIĆ, Deputy Commander.
- T-122 Drina Corps order No. 04/112-15, in addition to previous order 04/112-14, to stabilise defence around Zepa and Srebrenica enclaves and establish conditions for the liberation of the enclaves. Order typesigned Col Radislav KRSTIĆ, Deputy Commander.
- T-123 Drina Corps order No. 04/112-17 regarding the closing of the Srebrenica and Zepa enclaves. The order references Drina Corps order 04/112-15, dated 16 May 1995 and 1.Plpbr report 01-561/95, dated 18 May 1995. Order typesigned Col Radislav KRSTIĆ, Deputy Commander.
- T-124 1st Birač Infantry Brigade order No. 03/2-28/2, based on collected information regarding Muslim offensive action and Drina Corps order strictly confidential No 04/112-14, dated 15 May 1995, according to which, our forces will carry out the attack on the enclaves of Srebrenica and Žepa on 17 May 1995 for the purpose of liberating the above-mentioned areas.
- T-125 SSNO General Staff Armed Forces SFRY report No. 277-1 stating that on 15th-16th February 1993 975 fighters were dispatched from the Command of the 2nd Corps, Tuzla to: Bratunac (850), Vlasenica (30) and Srebrenica (95). They are armed with anti-armour means, automatic and semi-automatic rifles and io (optical) means for night vision. Report typesigned Gen Maj Branko CADJO.
- T-126 VJ GS report No. 5-33 stating that from reliable sources we have received information that in the EU a mood exists that the smallest of incidents in the territory of the former BH, for which the Serb side could be blamed, could be used as a cause for utilising close air support to UN forces. Report typesigned Gen Col Momčilo PERŠIĆ, VJ Chief of the General Staff.
- T-127 Zvornik Brigade Report No. 430-01, report on the War Path of Combat Readiness of the Zvornik Light Infantry Brigade in the Period Between 1 November 1992 and 1 November 1993, signed by PANDUREVIĆ
- T-128 5th Engineering Battalion Extraordinary report No. 107-1 to the Drina Corps command regarding a shooting incident, signed by SIMANIĆ
- T-129 5th Engineering Battalion Extraordinary report No. 107-2 to the Drina Corps command providing details of soldiers wounded during a shooting incident in the area of Konjevic Polje, signed by SIMANIĆ
- T-130 5th Engineering Battalion Combat report No. 38-56 to the Drina Corps command, signed by SIMANIĆ
- T-131 Zvornik Light Infantry Brigade Report No. 430-01, On the War Path of and Combat Readiness of the Zvornik Light Infantry Brigade in the Period Between 1 November 1992 and 1 November 1993, signed by PANDUREVIĆ

T-132 5 Corps document No. 07/01-367-1/99

T-133 Drina Corps document No. 04/156/6

T-134 Drina Corps 4th Radio Recognisance Unit document No. 13-34/1

T-135 AHMETOVIĆ, Nedžada, ABiH 28th Division, statement

T-136 Drina Corps document No. 04/156-10

T-137 Drina Corps Intelligence document No. 17/897

T-138 Drina Corps document No. 21/6-686

T-139 Drina Corps document No. 22/227

T-140 1st Milići Infantry Brigade document No. 06/11

T-141 Drina Corps Intelligence document No. 17/895

T-142 Drina Corps 4th Radio Recognisance Unit document No. 13-34/3

T-143 Main Staff document No. 03/3-193

T-144 Drina Corps Intelligence document No. 17/896

T-145 1st Prodrina Light Infantry Brigade document No. 04/520-51/95

T-146 Drina Corps document No. 03/156-12

T-147 Drina Corps document No. 21/6-625

T-148 Main Staff document No. 03/4-1629

T-149 Drina Corps 4th Radio Recognisance Unit document No. 13-37/1

T-150 Drina Corps 4th Radio Recognisance Unit document No. 13-36/3

T-151 Telegram No. 04-520-54/95

T-152 Drina Corps 4th Radio Recognisance Unit document No. 03/157-12

T-153 Drina Corps 4th Radio Recognisance Unit document No. 03/157-6

T-154 Drina Corps 4th Radio Recognisance Unit document No. 13-37/4

T-155 Drina Corps 4th Radio Recognisance Unit document No. 13-38/1

T-156 Drina Corps 4th Radio Recognisance Unit document No. 13-37/2

T-157 Drina Corps 4th Radio Recognisance Unit document No. 13-37/3

T-158 Zvornik Brigade document No. 05/283-03

T-159 Main Staff document No. 3/4-1731

T-160 Drina Corps 4th Radio Recognisance Unit document No. 13-38/4

T-161 Drina Corps Regular Combat Report

T-162 Drina Corps Regular Combat Report

T-163 Drina Corps Regular Combat Report

T-164 Drina Corps Regular Combat Report

T-165 Drina Corps Special Combat Report

T-166 Drina Corps Regular Combat Report

T-167 Drina Corps Regular Combat Report

T-168 Drina Corps Regular Combat Report

T-169 Drina Corps Regular Combat Report

T-170 Drina Corps Special Combat Report

T-171 Drina Corps Regular Combat Report

T-172 Drina Corps Regular Combat Report

T-173 Drina Corps Regular Combat Report

T-174 Drina Corps Regular Combat Report

T-175 Drina Corps Regular Combat Report

T-176 Drina Corps Special Combat Report

T-177 Zvornik Brigade - Notebook of the Duty Operations Officer

T-178 Zvornik Brigade - Reports of the Duty Operations Officer (missing one page
- reports for 07/08/95 and 08/09/95)

T-179 Zvornik Brigade - War Diary No. 5

T-180 Zvornik Brigade - Notebook of the Duty Operations Officer

T-181 Zvornik Brigade - Notebook of the Duty Operations Officer

- T-182 RS Srebrenica commission's cover letter to ICTY Banja Luka office head, with description of documents submitted.
- T-183 VRS Main Staff situation report. Report 03/3-185, typesigned Radivoje MILETIĆ.
- T-184 VRS Main Staff situation report. Report 03/3-186, typesigned Radivoje MILETIĆ.
- T-185 VRS Main Staff situation report. Report 03/3-187, typesigned Radivoje MILETIĆ.
- T-186 VRS Main Staff situation report. Report 03/3-188, typesigned Radivoje MILETIĆ.
- T-187 VRS Main Staff situation report. Report 03/3-189, typesigned Radivoje MILETIĆ.
- T-188 VRS Main Staff situation report. Report 03/3-190, typesigned Radivoje MILETIĆ.
- T-189 VRS Main Staff situation report. Report 03/3-191, typesigned Radivoje MILETIĆ.
- T-190 VRS Main Staff situation report. Report 03/3-192, typesigned Radivoje MILETIĆ.
- T-191 VRS Main Staff situation report. Report 03/3-193, typesigned Radivoje MILETIĆ.
- T-192 VRS Main Staff situation report. Report 03/3-194, typesigned Radivoje MILETIĆ.
- T-193 VRS Main Staff situation report. Report 03/3-195, typesigned Radivoje MILETIĆ.
- T-194 VRS Main Staff situation report. Report 03/3-196, typesigned Radivoje MILETIĆ.
- T-195 VRS Main Staff situation report. Report 03/3-197, typesigned Radivoje MILETIĆ.
- T-196 VRS Main Staff situation report. Report 03/3-198, typesigned Radivoje MILETIĆ.
- T-197 VRS Main Staff situation report. Report 03/3-199, typesigned Radivoje MILETIĆ.

- T-198 VRS Main Staff situation report. Report 03/3-200, typesigned Radivoje MILETIĆ.
- T-199 VRS Main Staff situation report. Report 03/3-201, typesigned Radivoje MILETIĆ.
- T-200 VRS Main Staff situation report. Report 03/3-202, typesigned Radivoje MILETIĆ.
- T-201 VRS Main Staff situation report. Report 03/3-203, typesigned Radivoje MILETIĆ.
- T-202 VRS Main Staff situation report. Report 03/3-204, typesigned Radivoje MILETIĆ.
- T-203 VRS Main Staff situation report. Report 03/3-205, typesigned Radivoje MILETIĆ.
- T-204 VRS Main Staff situation report. Report 03/3-206, typesigned Radivoje MILETIĆ.
- T-205 VRS Main Staff situation report. Report 03/3-207, typesigned Radivoje MILETIĆ.
- T-206 VRS Main Staff situation report. Report 03/3-208, typesigned Radivoje MILETIĆ.
- T-207 VRS Main Staff situation report. Report 03/3-209, typesigned Radivoje MILETIĆ.
- T-208 VRS Main Staff situation report. Report 03/3-210, typesigned Radivoje MILETIĆ.
- T-209 VRS Main Staff situation report. Report 03/3-211, typesigned Radivoje MILETIĆ.
- T-210 VRS Main Staff situation report. Report 03/3-212, typesigned Radivoje MILETIĆ.
- T-211 RS MOD request (02/21-3656/95) for mobilisation of motor vehicles, signed by Momčilo KOVAČEVIĆ.
- T-212 RS MOD Zvornik order (02-78/95) mobilising buses to be sent to Bratunac sport stadium, signed by Stevan IVANOVIĆ.
- T-213 RS MOD Zvornik order (02-78/95) mobilising motor vehicles /illegible/.
- T-214 RS MOD Zvornik order (02-78/95) mobilising all available buses, typesigned by Stevan IVANOVIĆ.

- T-215 RS MOD Zvornik order (02-79/95) mobilising all available buses, typesigned by Stevan IVANOVIĆ.
- T-216 Zvornik Bde request (01-257) for mobilisation of seven trucks, signed by Vinko PANDUREVIĆ.
- T-217 RS MOD request (02-21-3614/95) for 20 buses /partly legible/, signed by Momčilo KOVAČEVIĆ.
- T-218 Bratunac Bde order (04/254-58) to mobilise conscripts for work duties, and a list of enterprises where the conscripts are to be deployed, signed by Vidoje BLAGOJEVIĆ.
- T-219 RS MOD Zvornik order (02-81/95) to mobilise all military age men to "secure" the terrain from Muslim groups fleeing Srebrenica, signed by Stevan IVANOVIĆ
- T-220 Dispatch form of RS President's Order No. 01-1118/95
- T-221 Drina Corps order (05/1-205) to mobilise all military age men for combat operations in the Corps AOR, typesigned General Major Milenko ŽIVANOVIĆ.
- T-222 Order (01-1118/95) by RS President, introducing a maximum level of combat readiness in all RS to counter an "all-out offensive on RS" and "defeat the enemy." Order is signed by Radovan KARADŽIĆ and stamped.
- T-223 Drina Corps Combat Order (04/156-2), to cut off the Srebrenica and Zepa enclaves, creating the conditions for their "elimination." Signed by Major General Milenko ŽIVANOVIĆ.
- T-224 VRS Main Staff order (03/4-1790) by General Ratko MLADIĆ, to introduce full combat readiness in VRS.
- T-225 Partly legible dispatch (05-1905/95) by RS MUP Sarajevo RDB to Deputy Minister of Interior, probably an intelligence report
- T-226 Dispatch /intelligence report/ (05-1936/95) by Sarajevo RDB to Deputy Minister of Interior, typesigned Dragan KIJAC.
- T-227 Depeša /obavještajni izvještaj/ RDB Sarajevo, br. 05-1936/95, zamjeniku ministra unutrašnjih poslova, odštampan potpis: Dragan KIJAC.
- T-228 Dispatch /intelligence report/ (05-1935/95) by Sarajevo RDB to Deputy Minister of Interior, typesigned Dragan KIJAC.
- T-229 Dispatch /intelligence report/ (05-1989/95) by Sarajevo RDB to Deputy Minister of Interior, typesigned Dragan KIJAC.

- T-230 Dispatch /intelligence report/ (05-2018/95) by Sarajevo RDB to Deputy Minister of Interior.
- T-231 Dispatch /intelligence report/ (05-2000/95) by Sarajevo RDB to Deputy Minister of Interior, typesigned Dragan KIJAĆ.
- T-232 Dispatch /intelligence report/ (05-2037/95) by Sarajevo RDB to Deputy Minister of Interior, typesigned Dragan KIJAĆ.
- T-233 Dispatch /intelligence report/ (05-2046/95) by Sarajevo RDB to Deputy Minister of Interior, typesigned Dragan KIJAĆ.
- T-234 Dispatch /intelligence report/ (05-2083/95) by Sarajevo RDB to Deputy Minister of Interior, typesigned Dragan KIJAĆ.
- T-235 Dispatch /intelligence report/ (05-2097/95) by Sarajevo RDB to Deputy Minister of Interior, typesigned Dragan KIJAĆ.
- T-236 Dispatch /intelligence report/ (05-2274/95) by Sarajevo RDB to Deputy Minister of Interior, typesigned Dragan KIJAĆ.
- T-237 Final Report of the Republika Srpska (RS) Commission For The Investigation Of The Events In And Around Srebrenica Between 10th and 19th July 1995
- T-238 The Final Report (Eng version) of the Republika Srpska (RS) Commission For The Investigation Of The Events In And Around Srebrenica Between 10th and 19th July 1995
- T-239 VJ 2nd Army situation report (5-24) to the VJ GS, signed by Gen Maj Božidar BABIĆ. (Part of 0362-5104-0362-5523)
- T-240 Logbook "Protokol" of the Zvornik Hospital. Director ĐERIĆ, Ljubomir signed and stamped this copy as being an original copy of the original logbook. (Partial English translation)
- T-241 Notes from an interview with arrested members of the ABiH, Mehmed NUKIĆ and Enver BEHTIĆ. Unsigned.
- T-242 Notes from an interview with arrested member of the ABiH, Sead Salihović. Unsigned.
- T-243 Article from Drinski magazine titled, "On the Road to Victory"
- T-244 Article from Drinski magazine titled, "Naser's Estate no Longer Exists"
- T-245 Report titled, "Cannonic: Drina Corps (1992-1995) Military Expertise", authored by Enver HADŽIHANOVIĆ, Kadir JUSIĆ and Munib MILISIĆ
- T-246 ABiH document No. 09/13-77, signed by B.Gen. Mustafa HAJPULAHOVIC-TALIJAN

- T-247 Black & white aerial image titled, "Refugee Relocation Preparations, Žepa Enclave, Bosnia and Herzegovina"
- T-248 Drinski magazine article dated July 1995, titled "Demilitarisation of Žepa", written by Milan Pantić
- T-249 Main Staff Report No. 07/21-393 regarding misinformation spread via the media. Quotes General GVERO.
- T-250 Main Staff Order No. 03/4-1037 regarding UNPROFOR hostages, type-signed by MILANOVIĆ
- T-251 Main Staff Order No. 06/18-249 regarding movement of UNPROFOR convoy into the Zepa and Srebrenica enclaves, type-signed by MILETIC
- T-252 Army of Republika Srpska "Analysis of the Combat Readiness and Activities of the Army of the Republika Srpska in 1992"
- T-253 VRS Main Staff Order No. 15/354-40 defining jurisdiction and personnel matters in the Organ for Moral, Religious and Legal Affairs, cover letter signed by Slobodan CEROVIĆ
- T-254 1st Birač Brigade regular combat report No. 03/1-713 to the Drina Corps command, typesigned by Col. Svetozar ANDRIĆ
- T-255 1st Birač Brigade regular combat report No. 03/1-714 to the Drina Corps command, typesigned by Col. Svetozar ANDRIĆ
- T-256 1st Birač Brigade regular combat report No. 03/1-715 to the Drina Corps command, typesigned by Col. Svetozar ANDRIĆ
- T-257 1st Birač Brigade regular combat report No. 03/1-716 to the Drina Corps command, typesigned by Col. Svetozar ANDRIĆ
- T-258 1st Birač Brigade regular combat report No. 03/1-717 to the Drina Corps command, typesigned by Col. Svetozar ANDRIĆ
- T-259 1st Birač Brigade regular combat report No. 03/1-718 to the Drina Corps command, typesigned by Col. Ljubomir VLAČIĆ
- T-260 Skelani Brigade document No. 01/1-438 to the Drina Corps command regarding reassignment of MUP personnel, typesigned by Boško VUKOVIĆ
- T-261 Skelani Brigade special combat report No. 01/1-289 to the Drina Corps command, typesigned by Boško VUKOVIĆ
- T-262 5 Engineer Battalion command combat report No. 38-54, signed by Major Mile SIMANIĆ

- T-263 5 Engineer Battalion command combat report No. 38-55, signed by Major Mile SIMANIĆ
- T-264 5 Engineer Battalion command combat report No. 38-58, signed by Major Mile SIMANIĆ
- T-265 5 Engineer Battalion command combat report No. 38-60, signed by Capt. Milenko AVRAMOVIĆ
- T-266 Drina Corps Report No. 4/3-4 to the VRs Main Staff listing Drina Corps officers assigned under Article 271, signed on behalf of Col. Milutin SKOČAJIĆ
- T-267 List of officers assigned from the Army of the SRJ under Article 271, unsigned
- T-268 VRS Main Staff order No. 30/10-168 regarding the organisation and formation of the VRS Drina Corps, signed by Gen. Ratko MLADIĆ
- T-269 VRS Main Staff order No. 03/4-1807 to take over defence lines and improve tactical position in the area of Srebrenica and Zepa, type-signed by Gen. Ratko MLADIĆ
- T-270 VRS Main Staff report No. 03/3-201 re situation on the front, type-signed by Gen. MILETIĆ
- T-271 4th Radio Reconnaissance Platoon report No. 13-6/4 re intercepted communication from Žepa, shattered ABiH units from Srebrenica and Tuzla, type-signed by Lt. Mirko PETROVIĆ
- T-272 4th Radio Reconnaissance Platoon extraordinary report No. 13-36/3 re intercepted ABiH communication regarding planned breakthrough of VRS lines, type-signed by Lt. Mirko PETROVIĆ
- T-273 4th Radio Reconnaissance Platoon extraordinary report No. 13-37/4 re intercepted ABiH communication reporting attack by ABiH led by Naser ORIĆ, type-signed by Lt. Mirko PETROVIĆ
- T-274 4th Radio Reconnaissance Platoon extraordinary report No. 13-37/3 re intercepted ABiH communication reporting position of ABiH led by Naser ORIĆ, type-signed by Lt. Mirko PETROVIĆ
- T-275 4th Radio Reconnaissance Platoon extraordinary report No. 13-37/2 re intercepted ABiH communication reporting first radio appearance in two months of Naser ORIĆ, type-signed by Lt. Mirko PETROVIĆ
- T-276 Drina Corps message No. 01/5-217, signed by Milenko ŽIVANOVIĆ

- T-277 1st Milići Light Infantry Brigade regular combat report No. 332-1699, type-signed by Capt. Milomir NASTIĆ
- T-278 1st Milići Light Infantry Brigade extraordinary combat report No. 707/95, type-signed by Capt. Čedomir BRAJKOVIĆ
- T-279 1st Milići Light Infantry Brigade regular combat report No. 332-1700, type-signed by Capt. Milomir NASTIĆ
- T-280 1st Milići Light Infantry Brigade regular combat report No. 332-1703, type-signed by Sgt. Dragomir LALOVIĆ
- T-281 1st Milići Light Infantry Brigade regular combat report No. 332-1702, type-signed by Capt. Milomir NASTIĆ
- T-282 1st Milići Light Infantry Brigade regular combat report No. 332-1702, type-signed by Capt. Milomir NASTIĆ
- T-283 1st Milići Light Infantry Brigade regular combat report No. 332-1704, type-signed by WO Živadin PAVLOVIĆ
- T-284 1st Milići Light Infantry Brigade regular combat report No. 332-1708, type-signed by Capt. Milomir NASTIĆ
- T-285 1st Milići Light Infantry Brigade regular combat report No. 332-1709, type-signed by Capt. Milomir NASTIĆ
- T-286 1st Milići Light Infantry Brigade regular combat report No. 332-1710, type-signed by Capt. Milomir NASTIĆ
- T-287 1st Milići Light Infantry Brigade regular combat report No. 332-1711, type-signed by Capt. Milomir NASTIĆ
- T-288 1st Milići Light Infantry Brigade regular combat report No. 332-1712, type-signed by Capt. Milomir NASTIĆ
- T-289 1st Milići Light Infantry Brigade Order No. I/01-809-1, re security for a route, signed by Capt. Milomir NASTIĆ
- T-290 1st Milići Light Infantry Brigade Report No. 332-1705, re engagement of the 1st pb units, type-signed by Capt. Milomir NASTIĆ
- T-291 Main Staff report No. 03/4-1654 on the dispatch of an infantry company to assist the 1st Zvornik Infantry Brigade, type-signed by Maj. Gen. Radivoje MILETIĆ
- T-292 1st Zvornik Infantry Brigade document No. 01-271 re replenishment of the battalions, signed by Lt. Col. Vinko PANDUREVIĆ

- T-293 1st Zvornik Infantry Brigade document No. 01-272 requesting personnel rotation, type-signed by Lt. Col. Vinko PANDUREVIĆ
- T-294 Zvornik Brigade Interim Combat Report No. 06-224/2, type-signed by Lt. Col. Vinko PANDUREVIĆ
- T-295 RS Ministry of Defence Order No. 02-78/95, regarding buses, signed by Stevan IVANOVIĆ
- T-296 RS Ministry of Defence Order No. 02-79/95, regarding mobilisation of buses and trucks, signed by Stevan IVANOVIĆ
- T-297 RS Ministry of Defence Order No. 02-81/95, regarding mobilisation of conscripts, signed by Stevan IVANOVIĆ
- T-298 Drina Corps request No. 05/1-241, regarding mobilisation of conscripts, signed by Maj. Gen. Radislav KRSTIĆ
- T-299 Drina Corps instruction No. 03/57-1 on disconnecting telephone and telegraph lines in areas of combat operations, type-signed by Maj. Gen. Milenko ŽIVANOVIĆ
- T-300 Drina Corps Intelligence report No. 17/918, type-signed by Maj. Pavle
- T-301 Drina Corps order No. 04/156-28 to engage units to assist the 1st Zvornik Infantry Brigade in combat operations, type-signed by Gen. Maj. Radislav KRSTIĆ
- T-302 Drina Corps order No. 03/157-7 to return elements of the 1st Zvornik Infantry Brigade, type-signed by Gen. Maj. Radislav KRSTIĆ
- T-303 Drina Corps document No. 23-102, list of wounded men who received treatment in the Sv. Nikola hospital, type-signed by Col. Dr. Slobodan DOŠIĆ
- T-304 RS MoD order No. 02-143/95 to make available to the Zvornik Brigade certain medical staff, signed by Capt. Stevan IVANOVIĆ
- T-305 1st Zvornik Infantry Brigade document No. 01-609, review of engineer units for 1995, signed by Col. Vinko PANDUREVIĆ
- T-306 Zvornik Public Security Centre dispatch No. 12-6/08-512/95 re situation in Zvornik area
- T-307 1st Zvornik Infantry Brigade document No. 01-272 requesting personnel rotation, type-signed by Lt. Col. Vinko PANDUREVIĆ

- T-308 Drina Corps document No. 04/156-14 requesting information on results of terrain searches, type-signed by Col. Slobodan ČEROVIĆ
- T-309 Zvornik Brigade Order No. 898-1 regarding zones of responsibility for combat operations for battalions, signed by Maj. Dragan PETKOVIĆ
- T-310 Drina Corps Order No. 2-159 regarding zones of responsibility for combat operations for brigades, signed by Col. Milenko ŽIVANOVIĆ
- T-311 The photograph shows (from left to right): Branislav Puhalo, Miladin Kenjić, Rajko Banduka, Ljubi[a Beara and Zoran Zrnić.
- T-312 Order on exhumation of bodies at Godinjske Bare, Trnovo Municipality, BiH where 5 bodies are located.
- T-313 Record of exhumation and autopsy at Godinjske Bare, Trnovo Municipality, BiH where 5 bodies are located.
- T-314 Report on criminal technical investigation of site at Godinjske Bare, Trnovo Municipality, BiH
- T-315 Testimony of medical expert regarding 5 bodies exhumed at Godinjske Bare, Trnovo Municipality, BiH
- T-316 Collection of 21 still photographs identifying victims taken from video V000-5095
- T-317 RS Secretariat for Relations with the ICTY and the Investigation of War Crimes letter no. 02/1-773-638/03, dated 22 Sep 2003, stamped and signed by director Dejan MILETIĆ to the ICTY. Pursuant to a decision of the BH Human Rights Chamber dated 7 Mar 2003, Miletić is sending a preliminary report of the RS Government (on the events in Srebrenica in July 1995).
- T-318 RS Government Office of the Legal Representative letter no. 02-052-84-3/03, dated 8 Sep 2003, stamped and signed by Milan S. DUPOR to the RS Secretariat for Relations with the ICTY, attn. director Dejan MILETIĆ. Pursuant to a decision of the BH Human Rights Chamber Dupor is sending a report of the RS Government on the measures taken by the RS re the Srebrenica case (events in July 1995) to be passed on to the ICTY.
- T-319 RS Government, Cabinet of the President letter no. 01-2135/03, dated 5 Sep 2003, stamped and signed by president Dragan MIKERIĆ to the BH Human Rights Chamber, attn. Olga KAPIĆ: status report on measures taken re the Srebrenica case (49 complaints) including a list of documents attached to the report.
- T-320 RS government decision no. 02/1-020-774/03, dated 21 Aug 2003 stamped and signed by president Dragan MIKERIĆ to grant financial means to carry out measures requested by a decision of the BH Human Rights Chamber dated 7 Mar 2003. This is part of the RS government report on investigations carried out re the events in Srebrenica in July 1995, no. 01-2135/03, dated 5 Sep 2003.

- T-321 RS Government Secretariat document no. 0/01-SL/03, dated 15 Sep 2003, stamped and signed by secretary Biljana SIMEUNOVIĆ: excerpt from the minutes of the 28th session of the RS government on 31 Jul 2003 when Milan DUPOR presented report no. 02-052-70/03, dated 30 Jul 2003 on the execution of a decision of the BH Human Rights Chamber dated 7 Mar 2003. This is part of the RS government report on investigations carried out re the events in Srebrenica in July 1995, no. 01-2135/03, dated 5 Sep 2003.
- T-322 RS report on previous payments to the Srebrenica - Potočari Foundation dated 4 Sep 2003, stamped and signed illegibly. This is part of the RS government report on investigations carried out re the events in Srebrenica in July 1995, no. 01-2135/03, dated 5 Sep 2003.
- T-323 RS Ministry of the Interior letter no. K/B-3236-2/03, dated 28 Aug 2003, stamped and signed for minister Zora ČORIĆ to the RS government. Čorić is sending a report on measures and activities carried out to shed a light on the events in Srebrenica in July 1995. This is part of the RS government report on investigations carried out re the events in Srebrenica in July 1995, no. 01-2135/03, dated 5 Sep 2003.
- T-324 RS Ministry of the Interior, Criminal Police Administration report no. 02/3, dated 28 Aug 2003, stamped and signed by chief Milorad JELISAVAC on measures and activities carried out in order to shed a light on the events in Srebrenica in July 1995. This is part of the RS government report on investigations carried out re the events in Srebrenica in July 1995, no. 01-2135/03, dated 5 Sep 2003.
- T-325 RS Ministry of the Interior, Bijeljina CJB letter no. 12-02/4-233-762/03, dated 27 Aug 2003 type-signed by chief Mile PEJČIĆ to the BH State Prosecutor: report on collected information and evidence re Srebrenica 1995. Some persons mentioned in the statements of Nikolić and Obrenović as potential perpetrators have been identified and interviewed. This is part of the RS government report on investigations carried out re the events in Srebrenica in July 1995, no. 01-2135/03, dated 5 Sep 2003.
- T-326 Letter of the BH Prosecutor's Office no. A-226/03, dated 13 Aug 2003, stamped and signed by deputy prosecutor Meddžida KRESO to the Bijeljina CJB: instructions which measures to take re investigations of the events in Srebrenica in July 1995. This is part of the RS government report on investigations carried out re the events in Srebrenica in July 1995, no. 01-2135/03, dated 5 Sep 2003.
- T-327 Letter of the Bijeljina CJB, Criminal Police Department, no. 12-02/4-233-762/03, dated 6 Aug 2003, stamped and signed by chief Mile PEJČIĆ to the BH Public Prosecutor. Pejic is informing on measures taken re the investigation of events in Srebrenica in 1995 and sending some requests made and statements taken re this matter. This is part of the RS government report on investigations carried out re the events in Srebrenica in July 1995, no. 01-2135/03, dated 5 Sep 2003.

- T-328 Zvornik SJB official note no. 12-1/02-2-230-118/03, dated 15 Aug 2003, drafted and signed by Zoran RADIVOJEVIĆ. This is the report on their findings. This is part of the RS government report on investigations carried out re the events in Srebrenica in July 1995, no. 01-2135/03, dated 5 Sep 2003.
- T-329 Work plan of the Zvornik SJB no. 12-1/02-2-230-26/03, dated 13 Aug 2003 on how to proceed with the investigation of events in Srebrenica in 1995. The plan is drafted and signed by Zoran RADIVOJEVIĆ and Danijela DJERIĆ, approved by and signed for Crime Administration Department Chief Stanimir VIDOVIĆ and SJB Chief Milorad MARIĆ. This is part of the RS government report on investigations carried out re the events in Srebrenica in July 1995, no. 01-2135/03, dated 5 Sep 2003.
- T-330 Sarajevo Police Administration letter no. 09-12/1-04-3-4786, dated 18 Aug 2003 stamped and signed by director Zlatko /?, last name illegible/ to the RS Criminal Police Administration: information that the Sarajevo Police have no investigations file on the events in Srebrenica. This is part of the RS government report on investigations carried out re the events in Srebrenica in July 1995, no. 01-2135/03, dated 5 Sep 2003.
- T-331 RS Criminal Police Administration letter no. 02/3- strictly confidential 247/03, dated 21 Aug 2003, stamped and signed by chief Milorad JELISAVAC to the VRS Main Staff. This is part of the RS government report on investigations carried out re the events in Srebrenica in July 1995, no. 01-2135/03, dated 5 Sep 2003.
- T-332 RS Criminal Police Administration letter no. 02/3- strictly confidential 247/03, dated 5 Aug 2003, stamped and signed by chief Milorad JELISAVAC to the VRS Main Staff. This is part of the RS government report on investigations carried out re the events in Srebrenica in July 1995, no. 01-2135/03, dated 5 Sep 2003.
- T-333 RS Criminal Police Administration letter no. 02/3- 6374/03, dated 31 Jul 2003, stamped and signed by chief Milorad JELISAVAC Sarajevo Police Administration. This is part of the RS government report on investigations carried out re the events in Srebrenica in July 1995, no. 01-2135/03, dated 5 Sep 2003.
- T-334 RS Criminal Police Administration letter no. 02/3- 6374/03, dated 31 Jul 2003, stamped and signed by chief Milorad JELISAVAC to the RS Bureau for the Search for Arrested and Missing Persons. This is part of the RS government report on investigations carried out re the events in Srebrenica in July 1995, no. 01-2135/03, dated 5 Sep 2003.
- T-335 RS Criminal Police Administration letter no. 02/3-6374/03, dated 31 Jul 2003, stamped and signed by chief Milorad JELISAVAC to the RS Intelligence-Security Service. This is part of the RS government report on investigations carried out re the events in Srebrenica in July 1995, no. 01-2135/03, dated 5 Sep 2003.

- T-336 RS Criminal Police Administration letter no. 02/3-6374/03, dated 31 Jul 2003, stamped and signed by chief Milorad JELISAVAC to the RS Secretariat for Relations with the ICTY and the Investigation of War Crimes. This is part of the RS government report on investigations carried out re the events in Srebrenica in July 1995, no. 01-2135/03, dated 5 Sep 2003.
- T-337 RS Ministry of the Interior document no. strictly confidential 02/240/03, dated 31 Jul 2003: comprehensive plan from criminal proceedings re the events in Srebrenica in Jul 1995. The plan is drafted and signed by Milorad JELISAVAC, Milun MILANOVIĆ, Mile PEJČIĆ and Zoran PETRIĆ, approved and signed by Police Director Radomir NJEGUŠ and Minister Zoran \ERIC is part of the RS government report on investigations carried out re the events in Srebrenica in July 1995, no. 01-2135/03, dated 5 Sep 2003.
- T-338 RS Defence Ministry letter no. 8/1-01-012-36/03, dated 1 Sep 2003, signed by minister Milovan STANKOVIĆ to the RS Government: report on the results of the investigation re events in Srebrenica in July 1995 pursuant to a decision of the Human Rights Chamber. This is part of the RS government report on investigations carried out re the events in Srebrenica in July 1995, no. 01-2135/03, dated 5 Sep 2003.
- T-339 RS Defence Ministry, Defence Security Service, Security Administration, letter no. 01/1-162-4, dated 28 Aug 2003, stamped and signed by Chief Gen.Maj. Dragomir KESEROVIĆ to the RS Ministry of Defence, attn. of the minister: detailed report on the results of the investigation re events in Srebrenica in July 1995 pursuant to a decision of the Human Rights Chamber. This is part of the RS government report on investigations carried out re the events in Srebrenica in July 1995, no. 01-2135/03, dated 5 Sep 2003.
- T-340 RS Defence Ministry ruling no. 8/1-01-012-361/03 dated 18 Aug 2003, signed for minister Milovan STANKOVIĆ on the appointment of members to the "Commission for the Removal of Negativity" /sic/ to investigate the events in Srebrenica in Jul 1995. Appointed are: Slavko MARIĆ as expert team leader, Aleksa VULIN, Rajko BLAGOJEVIĆ, Branko VIGNJEVIĆ, Milena VOKIĆ and Ranko GLAMOČANIN. This is part of the RS government report on investigations carried out re the events in Srebrenica in July 1995, no. 01-2135/03, dated 5 Sep 2003.
- T-341 List of persons in the VRS Professional Military Service, not dated, no originator indicated. Listed are mostly members of the 65th Protection Regiment with their dob, rank and a remark /?unit to which they moved?/: This is part of the RS government report on investigations carried out re the events in Srebrenica in July 1995, no. 01-2135/03, dated 5 Sep 2003.

- T-342 RS Defence Ministry order no. 8/1-01-173/03 dated 6 Aug 2003, signed by minister Milovan STANKOVIĆ ordering the VRS General Staff Chief to collate information re the events in Srebrenica 1995 and to report to the Ministry of Defence by 1 Sep 2003. This is part of the RS government report on investigations carried out re the events in Srebrenica in July 1995, no. 01-2135/03, dated 5 Sep 2003.
- T-343 RS Defence Ministry order no. 8/1-01-173/03 dated 6 Aug 2003, stamped and signed by minister Milovan STANKOVIĆ ordering the Security Administration to collate information re the events in Srebrenica 1995 and to report to the Ministry of Defence by 1 Sep 2003. This is part of the RS government report on investigations carried out re the events in Srebrenica in July 1995, no. 01-2135/03, dated 5 Sep 2003.
- T-344 RS Office for Tracing Detained and Missing Persons letter no. 317/03, dated 22 Aug 2003, stamped and signed by acting director Aleksandar RADETA to the RS Ministry of the Interior, Criminal Police Administration attn. M. JELISAVAC. This is part of the RS government report on investigations carried out re the events in Srebrenica in July 1995, no. 01-2135/03, dated 5 Sep 2003.
- T-345 RS Office for Tracing Detained and Missing Persons letter no. 339/03, dated 28 Aug 2003, stamped and signed by acting director Aleksandar RADETA to the RS Office of the Legal Representative, attn. M. DUPOR. This is part of the RS government report on investigations carried out re the events in Srebrenica in July 1995, no. 01-2135/03, dated 5 Sep 2003.
- T-346 RS State Commission for the Exchange of Prisoners of War and for Missing Persons, partly illegible document no. 193/97, dated 29 May 1997 drafted by Milan IVANČEVIĆ, stamped and signed by commission president Jovo ROSIC: report on the partial cleaning of the area of Kravica/Srebrenica in the course of which the remains of 67 perished Muslims were recovered.
- T-347 RS Office for Tracing Detained and Missing Persons, document no. 338/2003, dated 28 Aug 2003, stamped and signed by director Aleksandar RADETA. This is part of the RS government report on investigations carried out re the events in Srebrenica in July 1995, no. 01-2135/03, dated 5 Sep 2003.
- T-348 RS Office of the Prime Minister letter no. 01-1986/03, dated 21 Aug 2003, stamped and signed by Prime Minister Dragan MIKERIĆ to the ICTY, President Theodor MERON. This is part of the RS government report on investigations carried out re the events in Srebrenica in July 1995, no. 01-2135/03, dated 5 Sep 2003.
- T-349 RS Secretariat for Relations with the ICTY and the Investigation of War Crimes, letter no. 02/1-773-570/03, dated 22 Aug 2003, stamped and signed by Dejan MILETIĆ. This is part of the RS government report on investigations carried out re the events in Srebrenica in July 1995, no. 01-2135/03, dated 5 Sep 2003.

- T-350 RS Secretariat for Relations with the ICTY and the Investigation of War Crimes, letter no. 02/1-773-571/03, dated 22 Aug 2003, stamped and signed by Dejan MILETIĆ. This is part of the RS government report on investigations carried out re the events in Srebrenica in July 1995, no. 01-2135/03, dated 5 Sep 2003.
- T-351 Copy of 0339-5245-0339-5246: RS Secretariat for Relations with the ICTY and the Investigation of War Crimes, letter no. 02/1-773-570/03, dated 22 Aug 2003, stamped and signed by Dejan MILETIĆ. This is part of the RS government report on investigations carried out re the events in Srebrenica in July 1995, no. 01-2135/03, dated 5 Sep 2003.
- T-352 RS Intelligence-Security Service letter no. 10-01-924/03, dated 3 Sep 2003, stamped and signed by director Risto ZARIĆ to the RS Government Secretariat. There are indications that some of the graves were re-located.
- T-353 Bratunac state border controlling police station confirmation no. 01/2-4.3-48/95, dated 20 Jul 1995, on the handover of Muslims Ahmet TEPIĆ and Edin DŽANIC to the Bratunac 1st Light Infantry Brigade. Stamped and signed by Vidoje RADOVIĆ from the Bratunac police for handover and by Momir NIKOLIĆ from the Bratunac Brigade for takeover.
- T-354 Ljubovija state border controlling police station record no. 28-193/95, dated 20 Jul 1995, on the handover of Muslims Ahmet TEPIĆ and Edin DŽANIC to the Bratunac state border controlling police station. Stamped and signed for handing them over by Zoran SEVIĆ and for taking them over by Vidoje RADOVIĆ.
- T-355 Bratunac state border controlling police station official note, dated 20 Jul 1995, drafted signed by Vidoje RADOVIC on the takeover/handover of Muslims Ahmet TEPIĆ and Edin DŽANIC who were deported from Serbia, taken over from the Ljubovija state border controlling police station and then handed over to the 1st Bratunac Light Infantry Brigade Command.
- T-356 Bratunac state border controlling police station confirmation no. 01/2-4.3-33/95, dated 5 May 1995, on the handover of Muslims Seid MEHMEDOVIĆ and Mirsad GAVELJIĆ to the Bratunac 1st Light Infantry Brigade Intelligence-Security Chief. Stamped and signed for handing them over by Vidoje RADOVIĆ and for taking them over by Momir NIKOLIĆ.
- T-357 Serbian Ministry of the Interior, Bajina Basta state border controlling police station record no. 28-158/95, dated 5 May 1995, on the handover of Muslims Seid MEHMEDOVIĆ and Mirsad GAVELJIĆ who had crossed the border to the Bratunac state border controlling police station. The document is not complete, signatures are missing.

- T-358 Bratunac state border controlling police station official note, dated 5 May 1995, signed by Vidoje RADOVIĆ recording that deported Muslims Seid MEHMEDOVIĆ and Mirsad GAVELJIĆ were taken over from the Bajina Basta state border controlling police station and handed over to the 1st Bratunac Light Infantry Brigade Command.
- T-359 Bratunac state border controlling police station confirmation no. 01/2-4.3-47/95, dated 23 Jul 1995, on the handover of Muslims Abdurahman MALKIĆ, Hamdija MALKIĆ, Hamza MALKIĆ, Hariz IBRAHIMOVIĆ, Hazim IBRAHIMOVIĆ and Fahrudin IBRAHIMOVIĆ who crossed the border to the Bratunac 1st Light Infantry Brigade. Stamped and signed for handing them over by Vidoje RADOVIĆ and for taking them over by Momir NIKOLIĆ.
- T-360 Bajina Bašta state border controlling police station record no. 28-240/95, dated 23 Jul 1995, on the handover of Muslims Hariz IBRAHIMOVIĆ, Hazim IBRAHIMOVIĆ and Fahrudin IBRAHIMOVIĆ who crossed the border to the Bratunac state border controlling police station in Skelani. Signed for handing them over by Risto SEOVAC and for taking them over by Pero MILIĆ.
- T-361 Bajina Bašta state border controlling police station record no. 28-241/95, dated 23 Jul 1995, on the handover of Muslims Abdurahman MALKIĆ, Hamdija MALKIĆ and Hamza MALKIĆ who crossed the border to the Bratunac state border controlling police station in Skelani. Signed for handing them over by Risto SEOVAC and for taking them over by Pero MILIĆ.
- T-362 Bratunac state border controlling police station official note, dated 23 Jul 1995, on the handover/takeover of deported Muslims Abdurahman MALKIĆ, Hamza MALKIĆ /sic/, most likely Hamdija MALKIĆ, Hamza MALKIĆ, Hariz IBRAHIMOVIĆ, Hazim IBRAHIMOVIĆ and Fahrudin IBRAHIMOVIĆ who had crossed the border. They were taken over from the Bajina Basta state border controlling police station and handed over to the 1st Bratunac Infantry Light Brigade Command. The document is drafted and signed by Vidoje RADOVIĆ.
- T-363 Bratunac state border controlling police station confirmation no. 01/2-4.3-49/95, dated 24 Jul 1995, on the handover/takeover of Muslims Fahrudin AVDIĆ, Mefail RAHMIĆ, Meho MULALIĆ, Ferid HALILOVIĆ, Muharem HUSIĆ and Nedžib RAHMIĆ who had crossed the border to the 1st Bratunac Infantry Light Brigade. The document is stamped and signed by Vidoje RADOVIĆ for handing them over and by Momir NIKOLIĆ for taking them over.

- T-364 Bajina Bašta state border controlling police station record no. 28-242/95, dated 24 Jul 1995, on the handover/takeover of Muslims Fahrudin AVDIĆ, Mefail RAHMIĆ, Meho MULALIĆ, Ferid HALILOVIĆ, Muharem HUSIĆ and Nedžib RAHMIĆ who had crossed the border to the Bratunac state border controlling police station. The document is stamped and signed by Vidoje RADOVIĆ for taking them over and by Risto SEOVAC for handing them over.
- T-365 Bratunac state border controlling police station report, dated 24 Jul 1995, drafted and signed by Vidoje RADOVIĆ on the handover/takeover of Muslims Fahrudin AVDIĆ, Mefail RAHMIĆ, Meho MULALIĆ, Ferid HALILOVIĆ, Muharem HUSIĆ and Nedžib RAHMIĆ who had crossed the border. The Muslims were deported from Serbia, taken over from the Bajina Basta state border controlling police station and handed over to the 1st Bratunac Light Infantry Brigade Command.
- T-366 Bratunac state border controlling police station confirmation no. 01/2-4.3-50/95, dated 26 Jul 1995, on the handover/takeover of Muslims Sadik ISAKOVIĆ, Nasir DURAKOVIĆ and Emir DURAKOVIĆ who had crossed the border, stamped and signed for handing over by Vidoje RADOVIĆ from the Bratunac border police station and for taking over by Momir NIKOLIĆ from the 1st Bratunac Light Infantry Brigade. Also handed over was money and a pistol seized from them as well as the money seized from Ahmet TEPIĆ and Edin DŽANIĆ who had been handed over 20 Jul 1995.
- T-367 Ljubovija state border controlling police station record no. 28-199/95, dated 26 Jul 1995, on the handover/takeover of Muslims Sadik ISAKOVIĆ, Nasir DURAKOVIĆ and Emir DURAKOVIĆ who had crossed the border, stamped and signed for taking over by Dragan VASILJEVIĆ from the Bratunac border police station and for handing over by Zoran SEVIĆ from the Ljubovija state border controlling police station. Also handed over was money and a pistol seized from them as well as the money seized from Ahmet TEPIĆ and Edin DŽANIĆ who had been handed over 20 Jul 1995.
- T-368 Bratunac state border controlling police station official note, dated 26 Jul 1995, drafted and signed by Dragan VASILJEVIĆ on the handover/takeover of Muslims Sadik ISAKOVIĆ, Nasir DURAKOVIĆ and Emir DURAKOVIĆ
- T-369 Bratunac state border controlling police station confirmation no. 01/2-4.3-51/95, dated 29 Jul 1995, on the handover/takeover of Muslims Hajrudin BEČIĆ, Muhidin SIRUČIĆ and Šefik EFENDIĆ. The Muslims had been taken over from the Ljubovija state border controlling police station and are now handed over to the 1st Bratunac Light Infantry Brigade. Also handed over was money seized from them. The document is stamped and signed by Vidoje RADOVIĆ from the Bratunac police for handover and by Momir NIKOLIĆ from the Bratunac Brigade for taking over.

- T-370 Ljubovija state border controlling police station record no. 28-203/95, dated 29 Jul 1995, on the handover of Muslims Hajrudin BEČIĆ, Muhidin SIRUČIĆ and Šefik EFENDIĆ to the Bratunac state border controlling police station. Also handed over was money seized from them. The document is stamped and signed by Vidoje RADOVIĆ from the Bratunac police for taking over and by Zoran SEVIĆ from the Ljubovija police for handing over.
- T-371 Bratunac state border controlling police station official note, dated 29 Jul 1995, drafted and signed by Vidoje RADOVIĆ on the takevoer/handover of Muslims Hajrudin BEČIĆ, Muhidin SIRUČIĆ and Šefik EFENDIĆ. Also handed over was money seized from them. The Muslims were deported by the Ljubovija state border controlling police station, taken over from them and handed over to the 1st Bratunac Light Infantry Brigade.
- T-372 Bratunac state border controlling police station confirmation no. 01/2-4.3-86/95, dated 14 Oct 1995, on the takeover/handover of Muslims Senahid JUSIĆ, Vahdet BARAKOVIĆ, Mahmut HADŽIBULIĆ, Emin HALILOVIĆ, Suljo HALILOVIĆ. The Muslims had been taken over from the Ljubovija state border controlling police station and are now handed over to the 1st Bratunac Light Infantry Brigade. The document is stamped and signed by Vidoje RADOVIĆ from the Bratunac police for handover and by Momir NIKOLIĆ from the Bratunac Brigade for takeover.
- T-373 Ljubovija state border controlling police station record 28-280/95, dated 14 Oct 1995, on the handover of Muslims Senahid JUSIĆ, Vahdet BARAKOVIĆ, Mahmut HADŽIBULIĆ, Emin HALILOVIĆ, Suljo HALILOVIĆ to the Bratunac state border controlling police station. The document is stamped and signed by Vidoje RADOVIĆ from the Bratunac police for takeover and by Zoran SEVIĆ from the Ljubovija police for handover.
- T-374 Bratunac state border controlling police station official note, dated 14 Oct 1995, drafted by Vidoje RADOVIĆ on the takeover/handover of Muslims Senahid JUSIĆ, Vahdet BARAKOVIĆ, Mahmut HADŽIBULIĆ, Emin HALILOVIĆ, Suljo HALILOVIĆ. The Muslims had been taken over from the Ljubovija state border controlling police station and were handed over to the 1st Bratunac Light Infantry Brigade Command.
- T-375 Bratunac state border controlling police station confirmation no. 01/2-4.3-87/95, dated 15 Oct 1995, on the handover of Muslims Emin TABAKOVIĆ and Fahrudin ALIĆ. The Muslims had been taken over from the Ljubovija state border controlling police station and are now handed over to the 1st Bratunac Light Infantry Brigade. The document is stamped and signed by Vidoje RADOVIĆ from the Bratunac police for handing over and illegibly /?Momir NIKOLIĆ/ by the Bratunac Brigade for taking over.

- T-376 Ljubovija state border controlling police station record no. 28-281/95, dated 15 Oct 1995, on the handover of Muslims Emin TABAKOVIĆ and Fahrudin ALIĆ to the Bratunac state border controlling police station. The document is stamped and signed by Dragan ILIĆ from the Bratunac police for taking over and by Zoran SEVIĆ from the Ljubovija police for handing over.
- T-377 Bratunac state border controlling police station official note, dated 15 Oct 1995, drafted and signed by Dragan ILIĆ on the takeover/handover of Muslims Emin TABAKOVIĆ and Fahrudin ALIĆ. The Muslims were deported from Serbia by the Ljubovija police, taken over from them and are now handed over to the 1st Bratunac Light Infantry Brigade Command.
- T-378 Bratunac state border controlling police station confirmation no. 01/2-4.3-88/95, dated 16 Oct 1995, on the handover of Muslims Mevludin MANDŽIĆ and Ramiz MANDŽIĆ to the 1st Bratunac Light Infantry Brigade. The Muslims had been taken over from the Ljubovija state border controlling police station and are now handed over to the 1st Bratunac Light Infantry Brigade. The document is stamped and signed by Vidoje RADOVIĆ from the Bratunac police for handover and illegibly by /?Momir NIKOLIĆ?/ from the Bratunac Brigade.
- T-379 Ljubovija state border controlling police station record no. 28-282/95, dated 16 Oct 1995, on the handover of Muslims Mevludin MANDŽIĆ and Ramiz MANDŽIĆ to the Bratunac state border controlling police station. The document is stamped and signed by Vidoje RADOVIĆ from the Bratunac police for takeover and by Zoran SEVIĆ from the Ljubovija police for handover.
- T-380 Bratunac state border controlling police station official note, dated 16 Oct 1995, drafted and signed by Vidoje RADOVIĆ on the takeover/handover of Muslims Mevludin MANDŽIĆ and Ramiz MANDŽIĆ. The Muslims had been deported by the Ljubovija state border controlling police station, taken over from them and were then handed over to the 1st Bratunac Light Infantry Brigade Command.
- T-381 Bratunac state border controlling police station in Skelani record, dated 21 Jul 1995, on the takeover of Muslims Smajil MEHMEDOVIĆ, Ramiz MUMINOVIĆ, Bekir KANDŽETOVIĆ and Ibrahim KANDŽETOVIC and their money from the Bajina Basta state border controlling police station. The document is signed by Pero MILIĆ from the Bajina Bašta police for handover and illegibly for takeover.
- T-382 Bajina Bašta state border controlling police station record no. 28-239/95, dated 21 Jul 1995, on the handover of Muslims Smajil MEHMEDOVIĆ, Ramiz MUMINOVIĆ, Bekir KANDŽETOVIĆ and Ibrahim KANDŽETOVIĆ and their money to the Bratunac state border controlling police station in Skelani. The document is signed by Pero MILIĆ from the Bratunac police for takeover and by Risto SEOVAC and Radojica KIJANOVIĆ from the Bajina Bašta police for handover.

- T-383 Bratunac state border controlling police station confirmation no. 01/2-4.3-57/95, dated 1 Aug 1995, on the handover of Muslim Ibro KRLIĆ who had been taken over from the Ljubovija state border controlling police station to the 1st Bratunac Light Infantry Brigade. The document is signed for Vidoje RADOVIĆ from the Bratunac police for handover and Mirko JANKOVIĆ from the Bratunac Brigade for takeover.
- T-384 Bratunac state border controlling police station in Skelani official note, dated 21 Jul 1995, signed and drafted by Pero MILIĆ on the takeover/handover of Muslims Smajil MEHMEDOVIĆ, Ramiz MUMINOVIĆ, Bekir KANDŽETOVIĆ and Ibrahim KANDŽETOVIĆ. The Muslims had been taken over from the Bajina Bašta state border controlling police station and were then handed over to the Skelani Military Police Commander Živko MILANOVIĆ.
- T-385 Ljubovija state border controlling police station record no. 28-210/95, dated 1 Aug 1995, on the handover of Muslim Ibro KRLIĆ to the Bratunac state border controlling police station. The document is signed for Vidoje RADOVIĆ from the Bratunac police for takeover and Zoran SEVIĆ from the Ljubovija police for handover.
- T-386 Bratunac state border controlling police station official note, dated 1 Aug 1995, drafted and signed by Dragan VASILJEVIĆ on the takeover/handover of Muslim Ibro KRLIĆ who was deported by the Ljubovija state border controlling police station, taken over from them and then handed over to the 1st Bratunac Light Infantry Brigade Command.
- T-387 Bratunac state border controlling police station confirmation no. 01/2-4.3-56/95, dated 31 Jul 1995, on the handover of Muslim Azem AVDIĆ after his crossing the border at Ljubovija to the 1st Bratunac Light Brigade. The document is stamped and signed by Vidoje RADOVIĆ from the Bratunac police for handover and by Mirko JANKOVIĆ from the Bratunac Brigade for takeover.
- T-388 Bajina Bašta state border controlling police station record no. 28-252/95, dated 31 Jul 1995, on the handover of Muslim Azem AVDIĆ to the Bratunac state border controlling police station. The document is stamped and signed for Vidoje RADOVIĆ from the Bratunac police for takeover and by Risto SEOVAC from the Bajina Bašta police for handover.
- T-389 Bratunac state border controlling police station official note, dated 31 Jul 1995, drafted and signed by Pero MILIĆ and Dragan V. /?VASILJEVIĆ/ on the takeover/handover of Muslim Azem AVDIĆ who was deported from Serbia by the Bajina Bašta state border controlling police station, taken over by the Bratunac police and then handed over to the 1st Bratunac Light Infantry Brigade Command.
- T-390 Bratunac state border controlling police station confirmation no. 01/2-4.3-52/95, dated 30 Jul 1995, on the handover of Muslim Hajro AHMETOVIĆ to the 1st Bratunac Light Infantry Brigade. The document is stamped and signed by Vidoje RADOVIĆ from the Bratunac police for handover and by Mirko JANKOVIĆ from the Bratunac Brigade for takeover.

- T-391 Ljubovija state border controlling police station record no. 28-205/95, dated 30 Jul 1995, on the handover of Muslim Hajro AHMETOVIĆ to the Bratunac state border controlling police station. The document is stamped and signed by Vidoje RADOVIĆ from the Bratunac police for takeover and by Zoran SEVIĆ from the Ljubovija police for handover.
- T-392 Bratunac state border controlling police station official note, dated 30 Jul 1995, drafted and signed by Vidoje RADOVIĆ on the takeover/handover of Muslim Hajro AHMETOVIĆ who was deported from Serbia by the Ljubovija state border controlling police station, taken over from them and then handed over to the 1st Bratunac Light Infantry Brigade Command.
- T-393 RS MUP list of submitted evidence
- T-394 RS MUP list of submitted evidence
- T-395 RS Srebrenica commission note with information about discovered mass graves
- T-396 List of 28 different locations and types of mass graves, with estimated number of bodies buried in each grave
- T-397 Crime scene investigation report on several mass graves around Srebrenica
- T-398 Crime scene investigation report on several mass graves around Srebrenica
- T-399 Crime scene investigation report on several mass graves around Srebrenica
- T-400 Crime scene investigation report on several mass graves around Srebrenica
- T-401 Crime scene investigation report on several mass graves around Srebrenica
- T-402 List of documents related to Srebrenica and Operation Krivaja 95
- T-403 Cover page of VRS Main Staff situation reports
- T-404 Cover page entitled, Batkovići Camp
- T-405 Cover letter signed by RS Defence Minister STANKOVIĆ and a list of prisoners of Batković camp
- T-406 Cover page entitled Krivaja 95
- T-407 Order (03-386/95) by Zvornik Civilian Defence District Staff, creating civil defence units tasked with "clearing up" a ground area in and around Srebrenica
- T-408 Order (03-386/95) by Zvornik Civilian Defence District Staff, creating civil defence units tasked with "clearing up" a ground area in Srebrenica and Bratunac municipalities
- T-409 RS MOD Šekovići list (05/3-830-263/95) of 11 people to be sent to Srebrenica for "clearing up" terrain

- T-410 RS MOD Šekovići list (05/3-830-263/95) of 11 people to be sent to Srebrenica for "clearing up" terrain
- T-411 Order (03-137/95) by Zvornik Civilian Defence District Staff creating civilian defence units for the purpose of "clearing up" non-combat areas
- T-412 Order (03-137/95) by Zvornik Civilian Defence District Staff creating civilian defence units for the purpose of "clearing up" non-combat areas
- T-413 RS MOD Zvornik request (03-368/95) for assistance in clearing up "consequences of war operations" in Srebrenica
- T-414 RS MOD Zvornik request (03-368/95) for assistance in clearing up "consequences of war operations" in Srebrenica
- T-415 Cover page entitled, Mobilisation of Motor Vehicles, Krivaja 95
- T-416 RS MOD request (02/21-3640/95) for at least 50 buses, to be sent to Bratunac sports stadium, signed by Momčilo KOVAČEVIĆ.
- T-417 VRS Main Staff order (09/31/13-3/154) mobilising at least 50 buses, to be sent to Bratunac, typesigned Gen Maj Petar ŠKRBIĆ.
- T-418 RS MOD Zvornik report (??-79/95) on sent motor vehicles, typesigned Stevan IVANOVIĆ.
- T-419 RS MOD report (05-80-328) on mobilisation of a minibus owned by Zvornik Inženjering socially owned enterprise, signed by Ristan CVJETINOVIĆ.
- T-420 RS MOD Zvornik order (02-143-13/95) mobilising a small bus for Ministry of Defence Zvornik department, signed by Stevan IVANOVIĆ.
- T-421 RS MOD Zvornik report (05-80-350) on 34 mobilised motor vehicles, signed by Ristan CVIJETINOVIĆ.
- T-422 RS MOD Zvornik report (05-80-348) on mobilised buses owned by Zvornik Drinatrans socially owned enterprise, signed by Ristan CVJETINOVIĆ.
- T-423 RS MOD Zvornik order (02-143-15/95) mobilising two buses, signed by Stevan IVANOVIĆ.
- T-424 RS MOD Sarajevo order (01-21-011-198/95) mobilising all available motor vehicles, typesigned Mitar KOVAČEVIĆ.

- T-425 VP 7469 Zvornik request (05/284-1) for mobilisation of seven military conscripts, signed by Maj Mihajlo GALIĆ.
- T-426 5th Sanitetska Company request (01-02-/95) for one driver and one motor vehicle, signed Dr Zoran LAZAREVIĆ.
- T-427 Drina Corps request (22/236) for five drivers and five motor vehicles, signed by Radislav KRSTIĆ.
- T-428 RS MOD Zvornik report (05-80-353) report on mobilisation of 14 motor vehicles, signed by Ristan CVJETINOVIĆ.
- T-429 RS MOD Zvornik order mobilising motor vehicles
- T-430 RS MOD Zvornik order (02-137/95) mobilising motor vehicles, typesigned Milorad MILIĆ.
- T-431 RS MOD Bratunac report (03-07/95) on mobilised buses and trucks, signed by Aleksandar TEŠIĆ.
- T-432 /illegible/ Document typesigned Gen Maj Radislav KRSTIĆ.
- T-433 /illegible/
- T-434 RS MOD Zvornik order (02-137/95) mobilising motor vehicles, typesigned Milorad MILIĆ.
- T-435 RS MOD Zvornik report (05-80-358) report on mobilised buses and trucks, signed by Ristan CVJETINOVIĆ.
- T-436 Zvornik Bde request (01-268) for extended time to use a "manouverable crane" /sic/, signed by Mihajlo GALIĆ.
- T-437 RS MOD Zvornik order (02-147/95) mobilising buses and armed drivers, typesigned Stevan IVANOVIĆ.
- T-438 Drina Corps order (22/268) mobilising buses and trucks, typesigned Gen Maj Radislav KRSTIĆ.
- T-439 27th Logistics Base request (63-218) for trucks to transport containers out of Srebrenica, signed by Col Marko SARKANOVIĆ.
- T-440 Romanijaprevoz Pale list of buses used by VRS in the period between 2 July 1995 and 31 July 1995, with taken routes, signed by Verislav SAVČIĆ, Director.
- T-441 Drina Corps order (04/111-2) mobilising all human and technical resources, typesigned Gen Maj Milenko ŽIVANOVIĆ.
- T-442 Cover page entitled, Mobilisation, Krivaja 95
- T-443 RS MUP Order (k/p-267/95) mobilising all military age men, typesigned Tomislav KOVAČ.

- T-444 Bratunac SJB request (01-12/95) for 10 additional conscripts, signed by Miodrag JOSIPOVIĆ.
- T-445 RS MOD Bratunac dispatch (03-75/95) and identical letter, listing 7 conscripts who were mobilised into VRS, typesigned Aleksandar TEŠIĆ.
- T-446 Bratunac Bde lists (04/10-1) of present and absent "R" battalion conscripts, signed by Dragomir ESKIĆ.
- T-447 RS MOD Šekovići report (05-800-77/95) on results of mobilisation in Šekovići, signed by Tomislav BOBAR.
- T-448 RS MOD Bratunac list of 11 conscripts mobilised into a VRS wartime detachment (VP 7042 Bratunac), signed by Aleksandar TEŠIĆ and Dragomir ESKIĆ.
- T-449 RS MOD Bratunac list of five conscripts mobilised into a VRS wartime detachment (VP 7042 Bratunac), signed by Aleksandar TEŠIĆ and Dragomir ESKIĆ.
- T-450 RS MOD Bratunac list of 107 conscripts mobilised into a VRS wartime detachment (VP 7042 Bratunac), signed by Aleksandar TEŠIĆ and Dragomir ESKIĆ.
- T-451 RS MOD Šekovići report (05-800-77/95) on results of mobilisation in Šekovići, signed by Tomislav BOBAR.
- T-452 RS MOD Sokolac cover letter (07/1-831-4/95) and list of military conscripts registered at Sokolac department of the RS defence ministry, signed by Milovan CERANIĆ.
- T-453 RS MOD Bratunac list of 4 conscripts deployed in a Bratunac wartime detachment (VP 7042 Bratunac), signed by Aleksandar TEŠIĆ and Dragomir ESKIĆ.
- T-454 RS MOD Šekovići report (05-800-77/95) on results of mobilisation in Šekovići, signed by Tomislav BOBAR.
- T-455 RS MOD Šekovići report (05-800-77/95) on results of mobilisation in Šekovići, signed by Tomislav BOBAR.
- T-456 Bratunac Bde request (04/440-1) for a cargo truck, signed Col Vidoje BLAGOJEVIĆ.
- T-457 Bratunac Bde request (01-442-1), to Bratunac Municipal Assembly, to take proposed security measures, signed by Vidoje BLAGOJEVIĆ.
- T-458 RS MOD Bratunac list of 28 conscripts deployed in VRS wartime detachment (VP 7042 Bratunac), signed by Aleksandar TEŠIĆ and Dragomir ESKIĆ.

- T-459 RS MOD Bratunac list of conscripts deployed in VP 7042 Bratunac "R" Battalion 2nd Coy, signed by Aleksandar TEŠIĆ.
- T-460 RS MOD Bratunac list of conscripts deployed in VP 7042 Bratunac "R" Battalion, signed by Aleksandar TEŠIĆ.
- T-461 RS MOD Bratunac list of conscripts deployed in VP 7042 Bratunac "R" Battalion, signed by Aleksandar TEŠIĆ.
- T-462 RS MOD Bratunac list of conscripts deployed in VP 7042 Bratunac "R" Battalion, signed by Aleksandar TEŠIĆ.
- T-463 RS MOD Bratunac list of conscripts deployed in VP 7042 Bratunac "R" Battalion 2nd Coy, signed by Aleksandar TEŠIĆ.
- T-464 RS MOD Bratunac list of conscripts deployed in VP 7042 Bratunac "R" Battalion, signed by Aleksandar TEŠIĆ.
- T-465 RS MOD Bratunac list (23/95) of conscripts deployed in VP 7042 Bratunac "R" Battalion, signed by Aleksandar TEŠIĆ and Dragomir ESKIĆ.
- T-466 RS MOD Bratunac report (03-23/95) on results of mobilisation in Bratunac, signed by Aleksandar TEŠIĆ.
- T-467 RS MOD Bratunac list of 10 conscripts deployed in VP 7042 Bratunac, signed by Aleksandar TEŠIĆ and Dragomir ESKIĆ.
- T-468 RS MOD Šekovići report (05-800-77/95) on results of mobilisation in Zvornik, signed by Tomislav BOBAR.
- T-469 Drina Corps request (05/1-242) to Vlasenica Ministry of Defence Department, to mobilise military conscripts to "search" the terrain for Muslim groups fleeing Srebrenica, signed by Gen Maj Radislav KRSTIĆ.
- T-470 RS MOD Zvornik order (02-82/95) to mobilise all military-age men to "secure" Drina Corps AOR, signed by Stevan IVANOVIĆ.
- T-471 RS MOD Zvornik cover note/dispatch/ (01-84/95) of RS President's order No.01-118/95, typesigned Stevan IVANOVIĆ.
- T-472 RS MOD Zvornik list (05-80-34) of 255 military conscripts, called up for 15 July 1995, signed by Ristan CVJETINOVIĆ.
- T-473 RS MOD Vlasenica report (01-800-28) on mobilisation of students into VRS wartime detachments further to an order by the Minister of Defence, signed by Jovan KORUŠIĆ.
- T-474 RS MOD Vlasenica report (01-842-28-2/95) on mobilisation of students into VRS wartime detachments further to an order by the Minister of Defence, signed by Jovan KORUŠIĆ.

- T-475 RS MOD Vlasenica report (01-800-28/95) on mobilisation of students into VRS further to an order by the Minister of Defence, signed by Jovan KORUŠIĆ.
- T-476 Cover page entitled, Various Other Documents Related to Srebrenica
- T-477 RS MoD report to Srebrenica Commission, with attached list of units involved in Operation Krivaja 95
- T-478 3rd Military Police Battalion Bijeljina situation report (5/110-438), signed by Maj Dragiša VULIN.
- T-479 Cover page entitled, RS MUP Archive
- T-480 Report by Bijeljina CJB to Srebrenica Commission, on steps taken to aid ongoing investigation
- T-481 Official note by RS MUP Šekovići police station on its failure to locate mass graves around Šekovići
- T-482 Official note by RS MUP Milići police station, with information regarding July 1995 events in Srebrenica
- T-483 Official note by Milići police station, regarding the activities of Military Police 1st Company in the period from 11 July 1995 to 13 July 1995
- T-484 Official note by RS MUP Srebrenica police station, regarding a witness statement made by an unspecified person, in relation to events in Srebrenica in the period between 10 July 1995 and 13 July 1995.
- T-485 Official note by RS MUP Srebrenica police station, regarding a witness statement made by an unspecified person, in relation to events in Srebrenica in the period between 10 July 1995 and 19 July 1995.
- T-486 Official note by RS MUP Bratunac police station, regarding crimes in Kravica perpetrated by Milan LUKIĆ.
- T-487 Official note by RS MUP Bratunac police station, regarding a possible mass grave location in Sandići
- T-488 Official note by RS MUP Bratunac police station, regarding gathered intelligence on crimes in Srebrenica and Bratunac
- T-489 Official note by RS MUP Bratunac police station, regarding gathered intelligence on mass graves around Bratunac
- T-490 Official note by RS MUP Bratunac police station, regarding alleged incidents between Muslims fleeing Srebrenica, sparked by Zulfo TURSUMOVIĆ.

- T-491 Official note by RS MUP Srebrenica police station, regarding information received from Draško TRIPIĆ and Vujadin NIKIĆ, who were told by Enver HAMZIĆ about alleged clashes among ABiH members fleeing Srebrenica.
- T-492 Official note by RS MUP Srebrenica police station, regarding information received from an unspecified person, who quoted witness statements saying that many Bosniaks fleeing Srebrenica had drowned while trying to cross the Drina into FRY.
- T-493 Official note by RS MUP Srebrenica police station, regarding a statement by Hajrudin BAJRAMOVIĆ, member of Srebrenica police station.
- T-494 Official note by RS MUP Vlasenica police station, regarding an informative talk with Rajko STEVANOVIĆ, a driver.
- T-495 Official note by RS MUP Vlasenica police station, regarding an informative talk with Božo MILIĆ, owner of a bus company.
- T-496 Official note by RS MUP Vlasenica police station, regarding an informative talk with Jovo NIŠIĆ
- T-497 Official note by RS MUP Vlasenica police station, regarding an informative talk with Dragomir SAVIĆ
- T-498 Official note by RS MUP Vlasenica police station, regarding an informative talk with Dragomir VIDOVIĆ
- T-499 Official note by RS MUP Vlasenica police station, regarding an informative talk with Miloš SAVIĆ
- T-500 Official note by RS MUP Vlasenica police station, regarding an informative talk with Grujo BANJANIN
- T-501 Official note by RS MUP Vlasenica police station, regarding the organisation of Vlasenica SJB /police station/ in July 1995
- T-502 Official note by RS MUP Vlasenica police station, regarding redeployment of Vlasenica police station personnel into five special police detachments.
- T-503 Official note by RS MUP Vlasenica police station, regarding July 1995 events in Srebrenica
- T-504 Official note by RS MUP Vlasenica police station, regarding information received from residents of Dragaševac and Luke, in relation to Srebrenica
- T-505 Official note by RS MUP Vlasenica police station, regarding possible locations of mass graves.

- T-506 Official note by RS MUP Vlasenica police station, regarding possible locations of mass graves
- T-507 Official note by RS MUP Vlasenica police station, regarding statements from local Serbs who do not recall seeing any civilians being loaded off buses from Srebrenica.
- T-508 Official note by RS MUP Vlasenica police station, on failed attempt to confirm locations of mass graves or that Bosniak civilians were taken off buses from Srebrenica.
- T-509 Official note by RS MUP Zvornik police station, regarding a search operation conducted by SFOR and ICTY investigators. Organisation of Zvornik CJB in July 1995 is given.
- T-510 Cover letter with attached list of patients at a hospital in Banja Koviljača, Serbia, in July 1995
- T-511 Official note by RS MUP Šekovići police station, stating that a certain bus company did not transport Bosniak civilians out of Srebrenica
- T-512 Two official notes by RS MUP Šekovići police station, stating that certain members of Šekovići police station were involved in operations in Srebrenica from 10 July 1995 to 19 July 1995 under the command of Zvornik CJB.
- T-513 Official note by RS MUP Šekovići police station, stating that a number of Birča 1st Brigade members were involved in an attack on Srebrenica in July 1995
- T-514 Official note by RS MUP Šekovići police station, regarding the organisation of Šekovići municipal authorities
- T-515 Official note by RS MUP Šekovići police station, regarding an informative talk with a specified person, whose name has been crossed out.
- T-516 Cover letter by RS MUP to the Srebrenica commission, regarding MUP organisation in July 1995
- T-517 Table showing organisation of RS MUP in July 1995
- T-518 RS MUP 1995 Activity Report
- T-519 Cover page by RS MUP Bijeljina CJB with attached sketch drawing of Zeleni Jadar site showing possible locations of mass graves.
- T-520 Cover page by RS MUP Bijeljina CJB with attached photo archive showing a former garbage dump outside Srebrenica, possibly hiding mass graves.

- T-521 Cover page by RS MUP Bijeljina CJB with attached photo archive showing Zeleni Jadar site of possible mass graves.
- T-522 Cover page by RS MUP Bijeljina CJB with attached photo archive and sketch drawing of Jasenovo location of mass graves.
- T-523 Letter by RS MUP Bijeljina CJB to Srebrenica commission, regarding attached photo archives and sketch drawings of possible mass graves.
- T-524 Cover letter by RS MUP to Srebrenica commission, with attached information on organisation of Dobož CJB in July 1995
- T-525 Cover page by RS MUP Bijeljina CJB, with attached sketch drawings of locations of mass graves outside Srebrenica
- T-526 Cover page by RS MUP Bijeljina CJB, with attached photo archive of locations of mass graves around Srebrenica.
- T-527 Report by RS MUP Bijeljina CJB to Srebrenica commission, on locations of mass graves around Srebrenica and interviews conducted with civilians and RS policemen.
- T-528 Cover page by RS MUP Bijeljina CJB, with attached photo archive of locations of mass graves around Srebrenica.
- T-529 Cover page by RS MUP Bijeljina CJB, with attached sketch drawings of locations of mass graves outside Srebrenica
- T-530 Cover page by RS MUP Bijeljina CJB, with attached sketch drawings of locations of mass graves outside Srebrenica.
- T-531 Cover page by RS MUP Bijeljina CJB with attached photo archive showing possible locations of mass graves outside Srebrenica
- T-532 Handwritten list of /probably document/ source numbers with corresponding dates
- T-533 Intelligence report by Sarajevo RDB to Deputy Minister of Interior
- T-534 Dispatch /intelligence report/ (05-1538/95) by Sarajevo RDB to Deputy Minister of Interior, regarding VRS activities and incidents between DUTCHBAT members and civilians in Srebrenica, typesigned Dragan KIJAĆ.
- T-535 Dispatch /intelligence report/ (05-1958/95) by Sarajevo RDB to Deputy Minister of Interior, typesigned Dragan KIJAĆ.
- T-536 Dispatch /intelligence report/ (05-1990/95) by Sarajevo RDB to Deputy Minister of Interior, typesigned Dragan KIJAĆ.

- T-537 Handwritten list of numbers of captured soldiers and civilians.
- T-538 List of 732 Bosniak civilians who have been missing since May 1992
- T-539 Twelve (12) different list of missing Bosniak civilians
- T-540 List of captured members of Srebrenica OS /Armed Forces/
- T-541 List by RBiH Committee for investigating war crimes, of missing soldiers from the Vlasenica, Bratunac and Srebrenica municipalities
- T-542 List by RBiH Committee for investigating war crimes, of missing soldiers from the Vlasenica municipality
- T-543 List by RBiH Committee for investigating war crimes, of missing soldiers from Konjević Polje
- T-544 List of captured members of Srebrenica OS /Armed Forces/
- T-545 Order (04/92) declaring general mobilisation, further to an order by the BiH Presidency, signed by Nedžad Bektić
- T-546 Photograph of a soldier carrying a machinegun
- T-547 Photograph of several armed soldiers
- T-548 Cover page entitled, Intelligence and Security Services´ Report
- T-549 Report by RS Intelligence and Security Services, regarding available intelligence on July 1995 events in Srebrenica
- T-550 Cover Letter Accompanying The Final Report of the Republika Srpska (RS) Commission For The Investigation Of The Events In And Around Srebrenica Between 10th and 19th July 1995
- T-551 **Annex** to the RS Commission Report on Srebrenica entitled "Identity Establishment"
- T-552 **Annex** to the RS Commission Report on Srebrenica entitled "Enactments, Judgement Rendered By The Hague Tribunal In The R. Krstić Case and The Decision Of Human Rights Chamber And Others
- T-553 **Annex** to the RS Commission Report on Srebrenica entitled "Mass Grave Sites" - These are photographs
- T-554 Letter of the RS Commission for the Investigation of Events in and around Srebrenica 10 - 19 July 1995, no. 01-012-310/04, dated 19 Oct 2004, signed by Chariman Milan BOGDANOVIĆ to the ICTY Banja Luka Field Office.
- T-555 Letter of the RS Commission for the Investigation of Events in and around Srebrenica 10 - 19 July 1995, no. 01-012-310/04, dated 19 Oct 2004, signed by Chariman Milan BOGDANOVIĆ to the ICTY Banja Luka Field Office.

- T-556 Photographs
- T-557 Addendum to the RS Srebrenica Commission's report of the 11th June 2004 on the events in and around Srebrenica between 10th and 19th July 1995. (In English) (Part of 0362-5104-0362-5523)
- T-558 Photographs
- T-559 Photographs
- T-560 Cover letter re attachemtns to report (Part of 0362-5104-0362-5523)
- T-561 Cover page and table re photographs (Part of 0362-5104-0362-5523)
- T-562 Photographs
- T-563 Cover page re photographs
- T-564 Photographs
- T-565 Sketch/plan (Part of 0362-5104-0362-5523)
- T-566 Cover letter re attched documents (Part of 0362-5104-0362-5523)
- T-567 RS MUP CJB Bijeljina report (12-1-8/01-222-238/04), signed by Ratko KANDIĆ. (Part of 0362-5104-0362-5523)
- T-568 RS MUP CJB Bijeljina report (12-1-6/02-174/04), signed by Zoran MILOŠEVIĆ. (Part of 0362-5104-0362-5523)
- T-569 RS MUP CJB Bijeljina report (12-1-7/02-230-7/04), signed by Nenad MINIĆ. (Part of 0362-5104-0362-5523)
- T-570 Cover pages re attached documentation (Part of 0362-5104-0362-5523)
- T-571 CJB Zvornik work plan for July 1995. (Part of 0362-5104-0362-5523)
- T-572 CJB Zvornik work plan for August 1995. (Part of 0362-5104-0362-5523)
- T-573 CJB Zvornik work plan for September 1995. (Part of 0362-5104-0362-5523)
- T-574 RS MUP document (199) re security. (Part of 0362-5104-0362-5523)
- T-575 RS MUP document (200) re security. (Part of 0362-5104-0362-5523)
- T-576 RS MUP document (202) re security. (Part of 0362-5104-0362-5523)
- T-577 RS MUP document (05-189/95), signed Milenko KARIŠIĆ. (Part of 0362-5104-0362-5523)

- T-578 RS MUP document (109). (Part of 0362-5104-0362-5523)
- T-579 CJB Zvornik order (12-6/08-462/95). (Part of 0362-5104-0362-5523)
- T-580 RS MUP CJB Bijeljina document (11-01/4-1-485/95), signed by Branko GAJIĆ. (Part of 0362-5104-0362-5523)
- T-581 CJB Bijeljina document (11-01-729), signed by Petko BUDIŠA. (Part of 0362-5104-0362-5523)
- T-582 CJB Bijeljina document (11-01-738/95), signed by Petko BUDIŠA. (Part of 0362-5104-0362-5523)
- T-583 RS MUP Bratunac document (01/2-4.3-51/95), typesigned Vidoje RADOVIĆ. (Part of 0362-5104-0362-5523)
- T-584 RS MUP Bratunac document (01/2-4.3-52/95), typesigned Vidoje RADOVIĆ. (Part of 0362-5104-0362-5523)
- T-585 RS MUP Bijeljina document (rjb-od-154-95). (Part of 0362-5104-0362-5523)
- T-586 CJB Zvornik document (12-6-08-533/95), typesigned Dragomir VASIĆ. (Part of 0362-5104-0362-5523)
- T-587 RS MUP CJB Bijeljina document (11-01/4-1-546/95), signed by Branko GAJIĆ. (Part of 0362-5104-0362-5523)
- T-588 CJB Zvornik document (12-6/08-651/95), typesigned Dragomir VASIĆ. (Part of 0362-5104-0362-5523)
- T-589 SJB Vlasenica document (13-2/01-95/95), typesigned Milenko MAJSTOROVIĆ. (Part of 0362-5104-0362-5523)
- T-590 SJB Vlasenica document (13-2/01-90/95), typesigned Milenko MAJSTOROVIĆ. (Part of 0362-5104-0362-5523)
- T-591 SJB Vlasenica document (13-2/01-89/95), typesigned Milenko MAJSTOROVIĆ. (Part of 0362-5104-0362-5523)
- T-592 SJB Vlasenica document (13-2/01-77/95), typesigned Milenko MAJSTOROVIĆ. (Part of 0362-5104-0362-5523)
- T-593 SJB Vlasenica document (13-2/01-71/95), typesigned Milenko MAJSTOROVIĆ. (Part of 0362-5104-0362-5523)
- T-594 SJB Šekovići document (13-4/01-240/95), typesigned Andjelko MATIĆ. (Part of 0362-5104-0362-5523)
- T-595 CJB Zvornik document (13/02-230-587/95), typesigned Dragomir VASIĆ. (Part of 0362-5104-0362-5523)

- T-596 CJB Zvornik document (12/6-08-477/95), typesigned Luka BOGDANOVIĆ. (Part of 0362-5104-0362-5523)
- T-597 CJB Zvornik document (12-6/08-491/95), typesigned Dragomir VASIĆ. (Part of 0362-5104-0362-5523)
- T-598 CJB Zvornik document (13/02-230-396), typesigned Dragomir VASIĆ. (Part of 0362-5104-0362-5523)
- T-599 CJB Zvornik order (13/02-502/95), typesigned Dragomir VASIĆ. (Part of 0362-5104-0362-5523)
- T-600 CJB Zvornik document (12/6-08-527/95), typesigned Luka BOGDANOVIĆ. (Part of 0362-5104-0362-5523)
- T-601 CJB Zvornik document (12/6-08-522/95), typesigned Luka BOGDANOVIĆ. (Part of 0362-5104-0362-5523)
- T-602 CJB Zvornik document (13/02-230-407/95), typesigned Dragomir VASIĆ. (Part of 0362-5104-0362-5523)
- T-603 RS MUP Bijeljina duty officer report, typesigned Biljana GAJIĆ. (Part of 0362-5104-0362-5523)
- T-604 RS MUP Bijeljina duty officer report, typesigned Milorad BRATIĆ. (Part of 0362-5104-0362-5523)
- T-605 RS MUP Bijeljina duty officer report, typesigned Milorad PLAKALOVIĆ. (Part of 0362-5104-0362-5523)
- T-606 RS MUP Bijeljina duty officer report, typesigned Biljana GAJIĆ. (Part of 0362-5104-0362-5523)
- T-607 RS MUP Bijeljina duty officer report. (Part of 0362-5104-0362-5523)
- T-608 RS MUP Bijeljina duty officer report, typesigned Milorad PLAKALOVIĆ. Same as 0362-5239-0362-5239 (Part of 0362-5104-0362-5523)
- T-609 RS MUP Bijeljina duty officer report, typesigned Biljana GAJIĆ. (Part of 0362-5104-0362-5523)
- T-610 RS MUP Bijeljina duty officer report, typesigned Gliša SIMANIĆ. Same as 0362-5240-0362-5240 (Part of 0362-5104-0362-5523)
- T-611 RS MUP Bijeljina duty officer report, typesigned Milorad BRATIĆ. (Part of 0362-5104-0362-5523)
- T-612 RS MUP Bijeljina duty officer report, typesigned Milorad PLAKALOVIĆ. Same as 0362-5241-0362-5241 (Part of 0362-5104-0362-5523)

- T-613 RS MUP Bijeljina duty officer report, typesigned Biljana GAJIĆ. Same as 0362-5242-0362-5243 (Part of 0362-5104-0362-5523)
- T-614 RS MUP Bijeljina duty officer report, typesigned Milorad PLAKALOVIĆ. Same as 0362-5245-0362-5245 (Part of 0362-5104-0362-5523)
- T-615 RS MUP Bijeljina duty officer report, typesigned Milorad PLAKALOVIĆ. Same as 0362-5230-0362-5230 (Part of 0362-5104-0362-5523)
- T-616 RS MUP Bijeljina duty officer report, typesigned Gliša SIMANIĆ. Same as 0362-5233-0362-5233 (Part of 0362-5104-0362-5523)
- T-617 RS MUP Bijeljina duty officer report, typesigned Milorad PLAKALOVIĆ. Same as 0362-5235-0362-5235 (Part of 0362-5104-0362-5523)
- T-618 RS MUP Bijeljina duty officer report, typesigned Biljana GAJIĆ. Same as 0362-5236-0362-5237 (Part of 0362-5104-0362-5523)
- T-619 RS MUP Bijeljina duty officer report. (Part of 0362-5104-0362-5523)
- T-620 RS MUP Bijeljina duty officer report, typesigned Milorad PLAKALOVIĆ. Same as 0362-5238-0362-5238 (Part of 0362-5104-0362-5523)
- T-621 RS MUP Bijeljina duty officer report, typesigned Biljana GAJIĆ. (Part of 0362-5104-0362-5523)
- T-622 RS MUP Bratunac work report for July 1995, signed by Vidoje RADOVIĆ. (Part of 0362-5104-0362-5523)
- T-623 RS MUP Bratunac work plan (01/2-4.3-54/95) for August 1995, signed by Vidoje RADOVIĆ. (Part of 0362-5104-0362-5523)
- T-624 RS MUP Bratunac inspection activity plan (01/2-4.3-53/95), signed by Vidoje RADOVIC. (Part of 0362-5104-0362-5523)
- T-625 RS MUP Bratunac activity listing for 28 June - 28 July 1995, typesigned Vidoje RADOVIC. (Part of 0362-5104-0362-5523)
- T-626 RS MUP Bratunac and Skelani table for July 1995, typesigned Vidoje RADOVIĆ. (Part of 0362-5104-0362-5523)
- T-627 RS MUP Bratunac work report for 1995, typesigned Vidoje RADOVIĆ. (Part of 0362-5104-0362-5523)
- T-628 RS MUP Zvornik work report for Zvornik Police Station, July 1995, signed by Petko PANIĆ. (Part of 0362-5104-0362-5523)
- T-629 RS MUP Zvornik work report for July 1995, signed by Radivoje MIJATOVIĆ. (Part of 0362-5104-0362-5523)

- T-630 RS MUP Zvornik work report for Zvornik Police Station, August 1995, signed by Petko PANIĆ. (Part of 0362-5104-0362-5523)
- T-631 RS MUP CJB Bijeljina Police work report for the crime section, July 1995. (Part of 0362-5104-0362-5523)
- T-632 RS MUP Bijeljina Police work report (01/2-4-19/96) for 1995, signed by Milomir ORAJANIN. (Part of 0362-5104-0362-5523)
- T-633 RS MUP CJB Bijeljina work report for 1995. (Part of 0362-5104-0362-5523)
- T-634 CJB Zvornik report (13/02-230-553/95), signed by Dragomir VASIĆ. (Part of 0362-5104-0362-5523)
- T-635 RS Vlasenica form for Sretko PAVLOVIĆ, dob 19/10/71 (Part of 0362-5104-0362-5523)
- T-636 List of sought after persons, including ICRC number, name, sex, date & place of birth, place & date of disappearance. (Part of 0362-5104-0362-5523)
- T-637 RS MUP CJB Bijeljina letter (12-02/4-233-762/04), signed by Slobodan NIKIĆ. Same as 0362-5337-0362-5339 (Part of 0362-5104-0362-5523)
- T-638 RS MUP Banja Luka report (02/3-3916/04), typesigned Milorad JELISAVAC. (Part of 0362-5104-0362-5523)
- T-639 RS MUP CJB Bijeljina report (12-1-7/02-230-518/04). Same as 0362-5335-0362-5336 (Part of 0362-5104-0362-5523)
- T-640 RS MUP CJB Bijeljina report (12-1-7/02-230-01/03). (Part of 0362-5104-0362-5523)
- T-641 RS MUP CJB Bijeljina report (1103/03). (Part of 0362-5104-0362-5523)
- T-642 RS Vlasenica form for Bajro MAHMUTOVIĆ, dob 03/11/66. (Part of 0362-5104-0362-5523)
- T-643 Extract from ICRC listing of missing persons on the territory of BiH (4th edition). The name Bajro MAHMUTOVIĆ is underlined. (Part of 0362-5104-0362-5523)
- T-644 ID card of Bajro MAHMUTOVIĆ, dob 03/11/66. (Part of 0362-5104-0362-5523)
- T-645 RS MUP CJB Bijeljina report, signed by Cvijetin MARKOVIĆ. (Part of 0362-5104-0362-5523)
- T-646 RS MUP CJB Bijeljina report (12-1-7/02-230-518/04). Same as 0362-5324-0362-5325 (Part of 0362-5104-0362-5523)
- T-647 RS MUP CJB Bijeljina letter (12-02/4-233-762/04), signed by Slobodan NIKIĆ. Same as 0362-5320-0362-5322 (Part of 0362-5104-0362-5523)

- T-648 RS MUP CJB Bijeljina Lopare Police Station report (12-3/01-29-129), listing of personnel involved in Srebrenica in July 1995, signed by Risto RADIĆ. (Part of 0362-5104-0362-5523)
- T-649 CJB Bijeljina report (12-01/05-593), signed by Trivko STOVIĆ. (Part of 0362-5104-0362-5523)
- T-650 RS MUP CJB Bijeljina Ugljevik Police Station report (12-4/01-116/04), listing personnel assigned to duties in the CJB Zvornik region in July 1995, signed by Zdravko RIKIĆ. (Part of 0362-5104-0362-5523)
- T-651 Bijeljina Police Station report (12-01/3-1574/04), listing personnel assigned to duties in the CJB Zvornik region in July 1995, signed by Branko MICIĆ. (Part of 0362-5104-0362-5523)
- T-652 RS Commission document (01-012-266/04). (Part of 0362-5104-0362-5523)
- T-653 BiH Federation Federal Ministry of Defence report (06-03/6-4.4-707-1/04), signed by Sabro HASKOVIĆ. (Part of 0362-5104-0362-5523)
- T-654 Cover page for RS MOD attached documents (Part of 0362-5104-0362-5523)
- T-655 Bratunac state border controlling police station official note, drafted signed by Vidoje RADOVIĆ on the takeover/handover of Muslims Ahmet TEPIĆ and Edin DŽANIĆ who were deported from Serbia, taken over from the Ljubovija state border controlling police station and then handed over to the 1st Bratunac Light Infantry Brigade Command. (Part of 0362-5104-0362-5523)
- T-656 Ljubovija state border controlling police station report (28-193/95), regarding the handover of Muslims Ahmet TEPIĆ and Edin DŽANIĆ to the Bratunac state border controlling police station. Stamped and signed for handing them over by Zoran SEVIĆ and for taking them over by Vidoje RADOVIĆ. (Part of 0362-5104-0362-5523)
- T-657 Bratunac state border controlling police station report (01/2-4.3-48/95), regarding the handover of Muslims Ahmet TEPIĆ and Edin DŽANIĆ to the Bratunac 1st Light Infantry Brigade. Stamped and signed by Vidoje RADOVIĆ from the Bratunac police for handover and by Momir NIKOLIĆ from the Bratunac Brigade for takeover. (Part of 0362-5104-0362-5523)
- T-658 Bratunac state border controlling police station official note, drafted and signed by Dragan VASILJEVIĆ on the takeover/handover of Muslim Ibro KRLIĆ who was deported by the Ljubovija state border controlling police station, taken over from them and then handed over to the 1st Bratunac Light Infantry Brigade Command. (Part of 0362-5104-0362-5523)

- T-659 Ljubovija state border controlling police station report (28-210/95), regarding the handover of Muslim Ibro KRLIĆ to the Bratunac state border controlling police station. The document is signed for Vidoje RADOVIĆ from the Bratunac police for takeover and Zoran SEVIĆ from the Ljubovija police for handover. (Part of 0362-5104-0362-5523)
- T-660 Bratunac state border controlling police station report (01/2-4.3-57/95), regarding the handover of Muslim Ibro KRLIĆ who had been taken over from the Ljubovija state border controlling police station to the 1st Bratunac Light Infantry Brigade. The document is signed for Vidoje RADOVIĆ from the Bratunac police for handover and Mirko JANKOVIĆ from the Bratunac Brigade for takeover. (Part of 0362-5104-0362-5523)
- T-661 Bajina Bašta state border controlling police station report (28-239/95), regarding the handover of Muslims Smajil MEHMEDOVIĆ, Ramiz MUMINOVIĆ, Bekir KANDŽETOVIĆ and Ibrahim KANDŽETOVIĆ and their money to the Bratunac state border controlling police station in Skelani. The document is signed by Pero MILIĆ from the Bratunac police for takeover and by Risto SEOVAC and Radojica KIJANOVIĆ from the Bajina Bašta police for handover. (Part of 0362-5104-0362-5523)
- T-662 Bratunac state border controlling police station in Skelani record, regarding the takeover of Muslims Smajil MEHMEDOVIĆ, Ramiz MUMINOVIĆ, Bekir KANDŽETOVIĆ and Ibrahim KANDŽETOVIĆ and their money from the Bajina Bašta state border controlling police station. The document is signed by Pero MILIĆ from the Bajina Bašta police for handover and illegibly for takeover. (Part of 0362-5104-0362-5523)
- T-663 Bratunac state border controlling police station in Skelani official note, signed and drafted by Pero MILIĆ on the takeover/handover of Muslims Smajil MEHMEDOVIĆ, Ramiz MUMINOVIĆ, Bekir KANDŽETOVIĆ and Ibrahim KANDŽETOVIĆ. The Muslims had been taken over from the Bajina Bašta state border controlling police station and were then handed over to the Skelani Military Police Commander Živko MILANOVIĆ. (Part of 0362-5104-0362-5523)
- T-664 Bratunac state border controlling police station report (01/2-4.3-49/95), regarding the handover/takeover of Muslims Fahrudin AVDIĆ, Mefail RAHMIĆ, Meho MULALIĆ, Ferid HALILOVIĆ, Muharem HUSIĆ and Nedžib RAHMIĆ who had crossed the border to the 1st Bratunac Infantry Light Brigade. The document is stamped and signed by Vidoje RADOVIĆ for handing them over and by Momir NIKOLIĆ for taking them over. (Part of 0362-5104-0362-5523)
- T-665 Bajina Bašta state border controlling police station report (28-242/95), regarding the handover/takeover of Muslims Fahrudin AVDIĆ, Mefail RAHMIĆ, Meho MULALIĆ, Ferid HALILOVIĆ, Muharem HUSIĆ and Nedžib RAHMIĆ who had crossed the border to the Bratunac state border controlling police station. The document is stamped and signed by Vidoje RADOVIĆ for taking them over and by Risto SEOVAC for handing them over. (Part of 0362-5104-0362-5523)

- T-666 Bratunac state border controlling police station report, drafted and signed by Vidoje RADOVIĆ on the handover/takeover of Muslims Fahrudin AVDIĆ, Mefail RAHMIĆ, Meho MULALIĆ, Ferid HALILOVIĆ, Muharem HUSIĆ and Nedžib RAHMIĆ who had crossed the border. The Muslims were deported from Serbia, taken over from the Bajina Bašta state border controlling police station and handed over to the 1st Bratunac Light Infantry Brigade Command. (Part of 0362-5104-0362-5523)
- T-667 Bratunac state border controlling police station report (01/2-4.3-52/95), regarding the handover of Muslim Hajro AHMETOVIĆ to the 1st Bratunac Light Infantry Brigade. The document is stamped and signed by Vidoje RADOVIĆ from the Bratunac police for handover and by Mirko JANKOVIĆ from the Bratunac Brigade for takeover. (Part of 0362-5104-0362-5523)
- T-668 Ljubovija state border controlling police station report (28-205/95), regarding the handover of Muslim Hajro AHMETOVIĆ to the Bratunac state border controlling police station. The document is stamped and signed by Vidoje RADOVIĆ from the Bratunac police for takeover and by Zoran SEVIĆ from the Ljubovija police for handover. (Part of 0362-5104-0362-5523)
- T-669 Bratunac state border controlling police station official note, drafted and signed by Vidoje RADOVIĆ on the takeover/handover of Muslim Hajro AHMETOVIĆ who was deported from Serbia by the Ljubovija state border controlling police station, taken over from them and then handed over to the 1st Bratunac Light Infantry Brigade Command. (Part of 0362-5104-0362-5523)
- T-670 RS Commission document, signed by Cvetko SAVIĆ. (Part of 0362-5104-0362-5523)
- T-671 Serbian MUP Užice document (69/04), signed by Maj Vladan DERIKONJIĆ. (Part of 0362-5104-0362-5523)
- T-672 Serbian MUP Užice document listing of Muslims. (Part of 0362-5104-0362-5523)
- T-673 Serbian MUP Užice document listing of Muslims. (Part of 0362-5104-0362-5523)
- T-674 Serbian MUP Užice document listing of Muslims. (Part of 0362-5104-0362-5523)
- T-675 Serbian MUP Užice document listing of Muslims. (Part of 0362-5104-0362-5523)
- T-676 Serbian MUP Užice document listing of Muslims. (Part of 0362-5104-0362-5523)
- T-677 Serbian MUP Užice document listing of Muslims. (Part of 0362-5104-0362-5523)

- T-678 Serbian MUP Užice document listing of Muslims. (Part of 0362-5104-0362-5523)
- T-679 Serbian MUP Užice document listing of Muslims. (Part of 0362-5104-0362-5523)
- T-680 Serbian MUP Užice document listing of Muslims. (Part of 0362-5104-0362-5523)
- T-681 Serbian MUP Užice document listing of Muslims. (Part of 0362-5104-0362-5523)
- T-682 Document listing of Muslims. (Part of 0362-5104-0362-5523)
- T-683 Serbian MUP Užice document (26-31/96) listing of Muslims. (Part of 0362-5104-0362-5523)
- T-684 Document listing of Muslims. (Part of 0362-5104-0362-5523)
- T-685 RS document (9-495/1) (Part of 0362-5104-0362-5523)
- T-686 RS document (9-1316/1) (Part of 0362-5104-0362-5523)
- T-687 BiH Federation Federal Ministry of Defence Sarajevo report (09-12/1-04-3-338), typesigned Zlatko MILETIĆ. (Part of 0362-5104-0362-5523)
- T-688 Serbian MUP Belgrade document (1450/04). Same as 0362-5438-0362-5439 (Part of 0362-5104-0362-5523)
- T-689 Cover page re attached documents (Part of 0362-5104-0362-5523)
- T-690 Document re Commission material (9-124/2004-13) (Part of 0362-5104-0362-5523)
- T-691 ABiH 2nd Corps Security Section report (06-101-160-57-1/95), typesigned Col Mehmed ŽILIĆ. (Part of 0362-5104-0362-5523)
- T-692 10.KOG report (5-79), addressed to the GS VJ, signed by Dragan RADJENOVIĆ. See also 0362-5440-0362-5450 (Part of 0362-5104-0362-5523)
- T-693 Serbian MUP Belgrade document (1450/04). Same as 0362-5418-0362-5418 (Part of 0362-5104-0362-5523)
- T-694 10.KOG report (5-79), addressed to the GS VJ, signed by Dragan RADJENOVIĆ. See also 0362-5435-0362-5437 (Part of 0362-5104-0362-5523)
- T-695 Cover page listing Momir NIKOLIĆ, Miroslav DERONJIĆ and SCG-MOD. (Part of 0362-5104-0362-5523)

- T-696 RS Commission document (01-012-276/04) and attachments. Attachments relate to Momir NIKOLIĆ and Miroslav DERONJIĆ and include statements. (Part of 0362-5104-0362-5523)
- T-697 MOD Belgrade document (2532-3) re RS Commission. (Part of 0362-5104-0362-5523)
- T-698 Annex G to the Addendum to the RS Srebrenica Commission's report of the 11th June 2004 on the events in and around Srebrenica between 10th and 19th July 1995, regarding missing persons.
- T-699 Photographs
- T-700 Photographs
- T-701 Report of RS Government Commission for Investigation of the Events in and around Srebrenica between 10th and 19th July 1995, re "The Events in and around Srebrenica between 10th and 19th July 1995" /Događaji u i oko Srebrenice od 10. do 19. Jula 1995./, dated Banja Luka June 2004
- T-702 Conclusions of the RS Government on the Report of the Commission for investigation of events in and around Srebrenica between 10 and 19 July 1995.
- T-703 Copy of the Report dated 16-Aug-05 of the Investigative Sub-Groups of the Srebrenica Working Group, in the name of Prof Smail Čekić and addressed to H.E. Paddy Ashdown, HR for BiH.
- T-704 Draft report of the Investigative Sub-Group of the Republika Srpska Task Force investigating the events in Srebrenica in July 1995, to the High Representative. The document is signed by the Sub group chairman, Smail Cekic and members of the group, Radovan Pejić and Velid Šabić. The report is dated 16th August 2005.
- T-705 Unofficial translation of the draft report of the Investigative Sub-Group of the Republika Srpska Task Force investigating the events in Srebrenica in July 1995, to the High Representative. The document is signed by the Sub group chairman, Smail ČEKIĆ and members of the group, Radovan PEJIĆ and Velid ŠABIĆ. The report is dated 16th August 2005.
- T-706 Faxed copy of the Supplement dated 30 Sept 05 to the Report dated 30 March 05 for the implementation of conclusions from the Final Report of the Srebrenica Commission. (English & BCS)

- T-707 Letter dated 4/10/05 and signed Pero BUKEJLOVIĆ, Prime Minister, Republika Srpska, with the accompanying Amendment (dated 30.09.05) to the Report dated 30/03.05 from the working group for the implementation of the conclusions of the final report made by the Commission for investigation of events in and around Srebrenica in the period from 10th to 19th July 1995 and attachments (contained on CD-Rom).
CD-Rom containing electronic copy of attachments to the report of 30.09.05 as referred to above. This CD-Rom contains 8 spreadsheets with information as follows:
1. List of MUP personnel total 1988
 2. List of the Commands/Units of the VRS in Srebrenica between 10 - 19 July 1995
 3. List of VRS Command/Units and their personnel - Totalling 22823 persons
 4. List of military personnel in the VRS Brigades - Total 22588
 5. List of Serb soldiers & ranks - total 3526
 6. List of Serb military personnel (identified participants) with units/ranks - total 16853
 7. List of VRS Main Staff
 8. List of names of Serbs - total 811
- T-708 Attachment no. 1 contains "Spisak pripadnika MUP-a RS" (list of RS MUP personnel). 36 page listing of names, JMB no.s, units and functions. 1988 individuals listed.
- T-709 Attachment no. 2 contains "PREGLED brojnog stanja komandi, jedinica i ustanova VRS i MORS u događajima u i oko Srebrenice od 10. do 19. jula 1995. godine" (List of the Commands/Units of the VRS in Srebrenica between 10 - 19 July 1995). 1 page.
- T-710 Attachment no. 3 contains "Brojno stanje komandi, jedinica i ustanova - pripadnici" (List of VRS Command/Units and their personnel). 394 page listing of names, JMB no.s, units and functions. 22734 individuals listed.
- T-711 Attachment no. 4 contains list of military personnel in the VRS Brigades. 469 page listing of names, JMB no.s, units and functions. 22587 individuals listed.
- T-712 Attachment no. 5 contains "SPISAK POTENCIJALNIH DUPLIH IMENA IZ SPISKA VRS" (List of Serb soldiers & ranks). 65 page listing of names, JMB no.s, units and functions. 3525 individuals listed.
- T-713 Attachment no. 6 contains "Identifikovani učesnici" (List of Serb military personnel (identified participants) with units/ranks). 319 page listing of names, JMB no.s, units and functions. 16583 individuals listed.
- T-714 Attachment no. 7 contains "SPISAK MOGUĆIH UČESNIKA" (List of possible participants). 1 page listing of names. 22 individuals listed all as members of the VRS Main Staff.
- T-715 Attachment no. 8 - dosije.pdf contains 810 pages of personnel information regarding Serbs. The information is contained within forms indicating details from 2005 and from 10-19 July 1995. Forms list name, JMB no.s, dob, unit & function.
- T-716 List of 2nd Detachment of the RS Special Police Brigade members from Šekovići during July 1995

- T-717 Special edition of "Večernje Novosti" listing names of 3,287 Serbs who were killed in Srebrenica and vicinity between 1992 and 1995
- T-718 List of 15 names of members of the VRS 10th Sabotage Detachment, Vlasenica Platoon, signed by TODORVIĆ, Dragan
- T-719 Notebook containing handwritten entries from 1995 relating to logistical support issued to the VRS 10th Sabotage Detachment, Vlasenica Platoon
- T-720 Personnel files titled, "List of Items Issued to the Persons in Reserve formation" of members of the VRS 10th Sabotage Detachment, Vlasenica Platoon
- T-721 Handwritten note regarding admission of body of KOLIVRAT, Dragan to the Health Centre in Vlasenica, signed by ČUMIĆ, Dr. Vinko
- T-722 Obituary of KOLIVRAT, Dragan
- T-723 Invoices regarding supplies issued to the VRS 10th Sabotage Detachment during the period July 1995 to January 1996
- T-724 Map – "Operation Stupčanica-95 (Žepa), 1st Podrinja Light Infantry Brigade", one of several maps (communication, artillery, tactical) showing combat activities in the area of Žepa
- T-725 Map – "Operation Stupčanica-95 (Žepa), 1st Podrinja Light Infantry Brigade", one of several maps (communication, artillery, tactical) showing combat activities in the area of Žepa
- T-726 Map – "Operation Stupčanica-95 (Žepa), 1st Podrinja Light Infantry Brigade", one of several maps (communication, artillery, tactical) showing combat activities in the area of Žepa
- T-727 Map – "Operation Stupčanica-95 (Žepa), 1st Podrinja Light Infantry Brigade", one of several maps (communication, artillery, tactical) showing combat activities in the area of Žepa
- T-728 Map – "Operation Stupčanica-95 (Žepa), 1st Podrinja Light Infantry Brigade", one of several maps (communication, artillery, tactical) showing combat activities in the area of Žepa
- T-729 Map with handwritten notes: "Srebrenica has been Serbian and remains Serbian!" (with date 12 July 1995)m, signed by Maj. Gen. Radislav KRSTIĆ. Note in the same handwriting, "Žepa too is Serbian!" (with date 27 July 1995) also with signature of Maj. Gen. Radislav KRSTIĆ.
- T-730 Map titled, "Deployment of our Enemy and UNPROFOR Forces in the Srebrenica and Žepa Enclaves", with handwritten information about Muslim forces and UNPROFOR.

- T-731 Map titled, "Working Map of the Drina Corps Command Staff, begin 1 Jul 1994, end 10 Apr 1995", stamped, approved and signed by Chief of Staff Maj. Gen. Milutin SKOČAJIĆ, showing positions of VRS and BiH Army in the Drina Corps AOR
- T-732 Map – untitled, undated, unsigned showing combat operation to attack Žepa
- T-733 Map titled, "Decision of the Drina Corps Commander for Defence", approved without signature by Col. Gen. Ratko MLADIĆ and Maj. Gen. Milenko ŽIVANOVIĆ, showing combat activities in the area of Rogatica, Višegrad, Olovo, Srebrenica and Zvornik
- T-734 Map titled, "Plan of Deployment of Drina Corps Forces to Prevent Enemy Forces from the Enclaves (Žepa and Srebrenica) to Pass Towards Kladanj-Tuzla", dated 1995, unsigned, showing locations of VRS and BiH Army forces in the area of Srebrenica, Kravica, Konjević Polje, Žepa and Jasen
- T-735 Map titled, "Decision of the Drina Corps Commander on the Final Operation in the Žepa Enclave", coded "Stupcanica-95", stamped, approved and signed by Col. Gen. Ratko MLADIĆ and Maj. Gen. Radislav KRSTIĆ, showing combat activities in the Žepa operation
- T-736 Two pages extracted from a hospital patient logbook with entries dated 13 July 1995, containing 14 Muslim names. Seized pursuant to search warrant at Milići Hospital on 12 December 2002
- T-737 Nine forms entitled "Uputnica Specijalisti, Republika Srpska, bolnica SV, NIKOLA, Milići"(Referral to a specialist doctor, Republika Srpska, SV NIKOLA Hospital) containing Muslim names and explaining the patients' need for medical attention from a specialist. Seized pursuant to search warrant at Milići Hospital on 12 December 2002
- T-738 Medical reports concerning surgical treatment of Muslim and Serb patients. Seized pursuant to search warrant at Milići Hospital on 12 December 2002
- T-739 A sheet of A3 size paper, folded in half, with hand written note dated 20-07-95 and indicating "put aside by Prof. Davidović's order". Seized pursuant to search warrant at Milići Hospital on 12 December 2002
- T-740 Note related to the release of injured persons to the hospital in Zvornik pursuant to the order of Chief of Medical Services of the VRS, signed by Dr. Raomir Davidović. Seized pursuant to search warrant at Milići Hospital on 12 December 2002
- T-741 A copy of the "Report on the crime scene" concerning the traffic accident in Pobrđe, Bratunac municipality on 07.11.2002 and signed by Investigating Judge Ljiljana Pejić.

- T-742 A copy of "Report of criminal charges" against Kovačević Aleksandar addressed to the Principal Prosecutor's Office in Srebrenica and signed by the Chief of SJB Bratunac Slavoljub Mladenović.
- T-743 Two pages extracted from a hospital patient logbook with entries dated 11 July 1995 to 15 July 1995, indicating patients' names, dates of birth, and addresses or places of birth. Seized pursuant to search warrant at Milići Hospital on 12 December 2002.
- T-744 Eleven patient files of Muslim males who were treated in the surgery ward of Sveti Nikola Hospital in Milići on 13 and 14 July 1995. Seized pursuant to search warrant at Milići Hospital on 12 December 2002
- T-745 Medical documents containing Muslim and Serb names related to x-ray examination and subsequent diagnosis. Seized pursuant to search warrant at Milici Hospital on 12 December 2002
- T-746 Cover letter from the Medical Centre at Bijeljina (Dr. Zoran Jović) addressed to Veselin Londrović, with attached photocopy of medical logbook (admittance register) for 1995
- T-747 List of members of the Second Detachment of Šekovići-Platoon Skelani 1-46
- T-748 List of members of the Second Detachment of Šekovići who earned their salary for July 1995, Special Brigade - Second Detachment of Special Police of Šekovići.
- T-749 List of members of Special Police Brigade provided by RS MUP, Crime Police Administration, number 02/3, strictly confidential, 994/05 dated 26 October 2005.
- T-750 List of members of Special Police Brigade provided by RS MUP, Crime Police Administration.
- T-751 Summary of acquired information regarding Srebrenica, compiled by AID Tuzla
- T-752 Command structure of the Drina Corps, as compiled by AID Tuzla
- T-753 Receipts from the Hotel Fontana in Bratunac for July to October 1995
- T-754 Record of 23rd RS Government Session held in Pale
- T-755 Book titled, "Chronology of Events in the Area of the Former Yugoslavia, 1990-1995", by Dragan RADIŠIĆ, Banja Luka 2002, portions relating to July and August 1995 only
- T-756 Hand-written, undated list titled "Companies of Interest for the RS" listing companies in the Zvornik municipality and their management, originator unknown.

- T-757 Minutes from the 1st Zvornik War Presidency meeting on 31 Jul 1995 attended by Jovan MITROVIĆ (president), Zoran ZEKIĆ, Jovo MIJATOVIĆ, Stevo IVANOVIĆ, Branko GRUJIĆ, Dragomir VASIĆ and Mihajlo GALIĆ, recorded by Mitar VASIĆ. Pursuant to the declaration of a state of war by president KARADŽIĆ, the war presidency takes over the duties of the Municipal Assembly Executive Board.
- T-758 Zvornik Municipal Red Cross workplan 1 Aug - 31 Dec 1995, not signed.
- T-759 Minutes from the 2nd Zvornik War Presidency meeting on 1 Aug 1995 attended by Jovan MITROVIĆ (president), Zoran ZEKIĆ, Jovo MIJATOVIĆ, Stevo IVANOVIĆ, Branko GRUJIĆ, Dragomir VASIĆ and Mihajlo GALIĆ, recorded by Mitar VASIĆ.
- T-760 Zvornik Municipal War Presidency decision on 24 hour stand-by shifts for members of the War Presidency from 1 - 8 Aug 1995, stamped and signed by President Jovan MITROVIĆ.
- T-761 Minutes of the 3rd meeting of the Zvornik Municipal War Presidency, presided by Jovan MITROVIĆ, on 2 Aug 1995; others present: Zoran ZEKIĆ, Jovo MIJATOVIĆ, Stevo IVANOVIĆ, Branko GRUJIĆ and Dragomir VASIĆ; minutes drafted by Mitar VASIĆ.
- T-762 Minutes of the 5th meeting of the Zvornik Municipal War Presidency, presided by Jovan MITROVIĆ, on 7 Aug 1995; others present: Zoran ZEKIĆ, Jovo MIJATOVIĆ, Stevo IVANOVIĆ, Branko GRUJIĆ, Mihajlo GALIĆ and Dragomir VASIĆ; minutes drafted by Mitar VASIĆ.
- T-763 Zvornik War Presidency report no. 01-138/95, signed by Jovan MITROVIĆ, to the RS Ministry of Defence on the activities of the presidency from 31 Jul to 7 Aug 1995 listing decisions taken and orders issued at the first four War Presidency meetings.
- T-764 RS Ministry of Defence letter no. 01-21-4352/95, stamped and signed by Minister Milan S. NINKOVIĆ to the Zvornik Municipal War Presidency: request to allot 8 apartments in Zvornik to the MoD.
- T-765 Zvornik Municipal Civilian Protection Staff letter no. 03-80-977/95, stamped and signed by Chief Dragan MIRKOVIĆ to the Zvornik Municipal War Presidency: recommendation on the completion of the Civilian Protection units.
- T-766 Zvornik Municipal War Presidency minutes from the 6th meeting on 9 Aug 1995, presided by Jovan MITROVIĆ, also present: Zoran ZEKIĆ, Jovo MIJATOVIĆ, Stevo IVANOVIĆ, Branko GRUJIĆ, Dragomir VASIĆ, Mihajlo GALIĆ; minutes taken by Mitar VASIĆ.
- T-767 Zvornik Police Station report no. 13-01-1-209/95, stamped and signed for Commander Petko PENIĆ on the state of public order since the invention of curfew.

- T-768 Zvornik Branch of the RS Public Revenue Administration, no. 04-458-102/95, stamped and signed by Chief Gordan JOVANOVIĆ, report on the effect of the Zvornik War Presidency decision no. 01-88/95, dated 1 Aug 1995 on private business.
- T-769 Zvornik War Presidency agenda for the 7th meeting on 11 Aug 1995, stamped and signed by Jovan MITROVIĆ.
- T-770 Zvornik War Presidency minutes of the 7th meeting on 11 Aug 1995, presided by Jovan MITROVIĆ; others present: Jovo MIJATOVIĆ, Stevo IVANOVIĆ, Zoran ZEKIĆ, Mihajlo GALIĆ; absent: Dragomir VASIĆ, Branko GRUJIĆ; minutes taken by Mitar VASIĆ.
- T-771 Zvornik War Presidency minutes of the 8th meeting on 14 Aug 1995, presided by Jovan MITROVIĆ; others present: Jovo MIJATOVIĆ, Stevo IVANOVIĆ, Zoran ZEKIĆ, Dragomir VASIĆ, Branko GRUJIĆ; absent: Mihajlo GALIĆ; minutes taken by Mitar VASIĆ.
- T-772 Zvornik War Presidency report no. 01-349/95, stamped and signed by Jovan MITROVIĆ to the RS Government: report on the War Presidency activities 7 - 14 Aug 1995; basically quoting minutes from meetings, incl. decision to meet with Zvornik Brigade command, support for decisions of National Assembly Karadžić etc.
- T-773 Zvornik War Presidency minutes of the 9th meeting on 18 Aug 1995, presided by Jovan MITROVIĆ; others present: Zoran ZEKIĆ, Jovo MIJATOVIĆ, Stevo IVANOVIĆ, Branko GRUJIĆ, Mihajlo GALIĆ; absent: Dragomir VASIĆ; notes taken by Mitar VASIĆ.
- T-774 Zvornik War Presidency minutes of the 10th meeting on 19 Aug 1995, presided by Jovan MITROVIĆ; others present: Zoran ZEKIĆ, Jovo MIJATOVIĆ, Stevo IVANOVIĆ, Branko GRUJIĆ, Mihajlo GALIĆ; absent: Dragomir VASIĆ; notes taken by Mitar VASIĆ.
- T-775 Zvornik War Presidency minutes of the 11th meeting on 22 Aug 1995, presided by Jovan MITROVIĆ; others present: Zoran ZEKIĆ, Jovo MIJATOVIĆ, Stevo IVANOVIĆ, Mihajlo GALIĆ, Dragomir VASIĆ; absent: Branko GRUJIĆ; notes taken by Mitar VASIĆ.
- T-776 Zvornik War Presidency minutes of the 12th meeting on 24 Aug 1995, presided by Jovan MITROVIĆ; others present: Zoran ZEKIĆ, Jovo MIJATOVIĆ, Stevo IVANOVIĆ, Mihajlo GALIĆ, Dragomir VASIĆ, Branko GRUJIĆ; notes taken by Mitar VASIĆ.

- T-777 Zvornik War Presidency minutes of the 13th meeting on 25 Aug 1995, presided by Jovan MITROVIĆ; others present: Zoran ZEKIĆ, Jovo MIJATOVIĆ, Stevo IVANOVIĆ, Mihajlo GALIĆ, Dragomir VASIĆ, Branko GRUJIĆ and Maj. Dragan OBRENOVIĆ from the Zvornik Brigade; notes taken by Mitar VASIĆ.
- T-778 Zvornik War Presidency agenda for the 12th meeting on 24 Aug 1995, stamped and signed by Jovan MITROVIĆ.
- T-779 Zvornik War Presidency report no. 01-517/95, stamped and signed by Jovan MITROVIĆ to the RS Government on the activities of the War Presidency 15 - 25 Aug 1995. A copy of this report addressed to the RS Ministry of Defence has been received before (0214-6465-0214-6470) and translated (L008-2270-L008-2277).
- T-780 Zvornik War Presidency minutes of the 14th meeting on 30 Aug 1995, presided by Jovan MITROVIĆ, others present: Dragomir VASIĆ, Jovo MIJATOVIĆ, Mihajlo GALIĆ, Stevo IVANOVIĆ, Zoran ZEKIĆ, Branko GRUJIĆ, Boško NIKOLIĆ, Drago SAKOTIĆ, Sonja RUBEŽ; minutes taken by Mitar VASIĆ.
- T-781 Zvornik War Presidency minutes of the 15th meeting on 1 Sep 1995, presided by Jovan MITROVIĆ, others present: Dragomir VASIĆ, Jovo MIJATOVIĆ, Mihajlo GALIĆ, Stevo IVANOVIĆ, Zoran ZEKIĆ, Branko GRUJIĆ; minutes taken by Mitar VASIĆ.
- T-782 Zvornik War Presidency minutes of the 16th meeting on 5 Sep 1995, presided by Jovan MITROVIĆ, others present: Dragomir VASIĆ, Jovo MIJATOVIĆ, Stevo IVANOVIĆ, Branko GRUJIĆ; absent: Mihajlo GALIĆ, Zoran ZEKIĆ; minutes taken by Mitar VASIĆ.
- T-783 Zvornik War Presidency minutes of the 17th meeting on 7 Sep 1995, presided by Jovan MITROVIĆ, others present: Dragomir VASIĆ, Jovo MIJATOVIĆ, Stevo IVANOVIĆ, Branko GRUJIĆ, Mihajlo GALIĆ, Zoran ZEKIĆ; minutes taken by Mitar VASIĆ.
- T-784 Zvornik War Presidency letter no. 01-644/95, stamped and signed by Jovan MITROVIĆ: Information on the situation and problems at Vezionica Zvornik DP. Another copy of this document has been received before (0214-6471-0214-6472) and translated (0340-8470-0304-8471).
- T-785 Zvornik War Presidency minutes from the 18th meeting on 11 Sep 1995 presided by Jovan MITROVIĆ, others attending: Dragomir VASIĆ, Jovo MIJATOVIĆ, Stevo IVANOVIĆ, Zoran ZEKIĆ, Branko GRUJIĆ, Mihajlo GALIĆ, Maj. Dragan OBRENOVIĆ and Sreten MILOVSEVIĆ from the Zvornik Brigade; minutes taken by Mitar VASIĆ.

- T-786 Zvornik War Presidency minutes from the 19th meeting on 13 Sep 1995 presided by Jovan MITROVIĆ, others attending: Dragomir VASIĆ, Jovo MIJATOVIĆ, Stevo IVANOVIĆ, Zoran ZEKIĆ, Branko GRUJIĆ, Mihajlo GALIĆ and Capt. Milorad TRBIĆ from the Zvornik Brigade; minutes taken by Mitar VASIĆ.
- T-787 Zvornik War Presidency minutes from the 20th meeting on 15 Sep 1995 presided by Jovan MITROVIĆ, others attending: Dragomir VASIĆ, Jovo MIJATOVIĆ, Stevo IVANOVIĆ, Zoran ZEKIĆ, Branko GRUJIĆ, Mihajlo GALIĆ and Maj. Dragan OBRENOVIĆ from the Zvornik Brigade and Drago SAKOTIĆ; minutes taken by Mitar VASIĆ.
- T-788 Zvornik War Presidency minutes from the 21st meeting on 19 Sep 1995 presided by Jovan MITROVIĆ, others attending: Dragomir VASIĆ, Jovo MIJATOVIĆ, Stevo IVANOVIĆ, Zoran ZEKIĆ, Branko GRUJIĆ; absent: Mihajlo GALIĆ; minutes taken by Mitar VASIĆ.
- T-789 RS Ministry for Industry and Energy no. 03-312-1448/95, stamped and signed for Minister Boro BOSIĆ to the Zvornik War Presidency re the management of co. "Vezionica".
- T-790 Zvornik War Presidency ruling no. 01-693/95, stamped and signed by President Jovan MITROVIĆ to discharge Jakov GALIĆ from his duties as acting director of company "Vezionica".
- T-791 Zvornik War Presidency ruling no. 01-694/95, stamped and signed by President Jovan MITROVIĆ on the appointment of Vitomir TOMIĆ as acting director of company "Vezionica".
- T-792 Zvornik War Presidency minutes of the 22nd meeting on 23 Sep 1995, presided by Jovan MITROVIĆ, attended by Jovo MIJATOVIĆ, Stevo IVANOVIĆ, Mihajlo GALIĆ, Branko GRUJIĆ, Zoran ZEKIĆ, Dragomir VASIĆ and Tomo SIMIĆ; minutes taken by Mitar VASIĆ.
- T-793 Zvornik War Presidency report no. 01-736/95, stamped and signed by Jovan MITROVIĆ to the RS Ministry of Defence on the activities of the Zvornik War Presidency 11 Sep - 28 Sep 1995. Another copy of this document has been received before (0214-6477-0214-6483) and translated (L008-5399-L008-5403).
- T-794 Zvornik War Presidency minutes of the 23rd meeting on 29 Sep 1995 presided by Jovan MITROVIĆ, attended by Jovo MIJATOVIĆ, Branko GRUJIĆ, Zoran ZEKIĆ, Stevan IVANOVIĆ, Mihajlo GALIĆ; absent: Dragomir VASIĆ; minutes taken by Mitar VASIĆ.
- T-795 Zvornik War Presidency minutes of the 24th meeting on 4 Oct 1995 presided by Jovan MITROVIĆ, attended by Dragomir VASIĆ, Stevan IVANOVIĆ, Mihajlo GALIĆ, Zoran ZEKIĆ; absent: Branko GRUJIĆ, Jovo MIJATOVIĆ; minutes taken by Mitar VASIĆ.

- T-796 Zvornik War Presidency minutes of the 25th meeting on 10 Oct 1995 presided by Jovan MITROVIĆ, attended by Dragomir VASIĆ, Stevan IVANOVIĆ, Mihajlo GALIĆ, Zoran ZEKIĆ, Branko GRUJIĆ, Jovo MIJATOVIĆ, Jovo IVANOVIĆ and Sreten MILOŠEVIĆ (Zvornik Brigade Logistics Assistant); minutes taken by Mitar VASIĆ.
- T-797 Zvornik War Presidency minutes of the 26th meeting on 14 Oct 1995 presided by Jovan MITROVIĆ, attended by Dragomir VASIĆ, Branko GRUJIĆ, Stevan IVANOVIĆ, Mihajlo GALIĆ and Vukašin NIKOLIĆ; absent: Zoran ZEKIĆ and Jovo MIJATOVIĆ; minutes taken by Mitar VASIĆ.
- T-798 Zvornik War Presidency minutes of the 27th meeting on 18 Oct 1995 presided by Jovan MITROVIĆ, attended by Dragomir VASIĆ, Branko GRUJIĆ, Stevan IVANOVIĆ, Mihajlo GALIĆ, Zoran ZEKIĆ, Jovo MIJATOVIĆ and Boško MILIĆ ("Drinatrans" director); minutes taken by Mitar VASIĆ.
- T-799 Zvornik War Presidency minutes of the 28th meeting on 27 Oct 1995 presided by Jovan MITROVIĆ, attended by Branko GRUJIĆ, Mihajlo GALIĆ, Zoran ZEKIĆ, Jovo MIJATOVIĆ and Verica BATIĆ; absent: Dragomir VASIĆ, Stevan IVANOVIĆ; minutes taken by Mitar VASIĆ.
- T-800 Zvornik War Presidency minutes of the 29th meeting on 7 Nov 1995 presided by Jovan MITROVIĆ, attended by Branko GRUJIĆ, Mihajlo GALIĆ, Jovo MIJATOVIĆ, Dragomir VASIĆ, Stevan IVANOVIĆ and Sreten MILOŠEVIĆ (Zvornik Brigade Logistics Assistant); absent: Zoran ZEKIĆ; minutes taken by Mitar VASIĆ.
- T-801 Zvornik War Presidency minutes of the 30th meeting on 10 Nov 1995 presided by Jovan MITROVIĆ, attended by Branko GRUJIĆ, Mihajlo GALIĆ, Jovo MIJATOVIĆ, Dragomir VASIĆ, Stevan IVANOVIĆ, Zoran ZEKIĆ and Slavoljub TOMAŠEVIĆ (Zvornik Hospital Director), Siniša CIRKOVIĆ (Zvornik Health Centre Director), Zoran LAZAREVIĆ (Chief of the Surgical Ward), Radiša OBRADOVIĆ (from the Health Insurance); minutes taken by Mitar VASIĆ
- T-802 Zvornik War Presidency report no. 01.961/95, stamped and signed by Jovan MITROVIĆ to the RS Government on the activities of the Zvornik War Presidency 21 Oct - 23 Nov 1995. This document has been received before (0214-6491-0214-6496) and translated (L008-3026-L008-3034).
- T-803 Article from publication NIN entitled "Exclusive: Milorad Pelemiš, Commander of the VRS 10th Sabotage Detachment", by Vrzić, Nikola
- T-804 2 Articles, Reuter relating to Srebrenica
- T-805 Article from Slobodan Bosna weekly magazine, dated 1 Sep 2005, titled: MLADIĆ'S Monster Finally Breaks the Silence - interview with a member of the 10th VRS Sabotage Detachment about his participation in the killings in Srebrenica and other crimes, by Suzana ŠAČIĆ.

- T-806 Index to the Drina Corps collection
- T-807 Zvornik Brigade Appointment Decision 06-53 dated 17.03.1994
- T-808 Zvornik Brigade HQ Staff Appointments List
- T-809 Zvornik Brigade CMD Duty Roster July 1995
- T-810 Photograph-T-1, AG-7 Kravica warehouse, marked by witness Luka Marković
- T-811 Aerial Photo of Kravica Warehouse
- T-812 Video of site visit with Luka Marković, and transcript of video
- T-813 Srebrenica Military Narrative (Revised) Operation “Krivaja 95” by Richard Butler;
VRS Main Staff Command Responsibility Report by Richard Butler
- T-814 Drina Corps Security Section instruction No. 17/450, re handling of war prisoners and other persons, signed by Maj Vujadin POPOVIĆ, Chief of Security dated 15.04.95.
- T-815 VRS Main Staff Order 12/46-501/95, Conduct of Combat Operations around Srebrenica, dated 9 Jul/95, signed by TOLIMIR
- T-816 Drina Corps Order No. 03/156-12, dated 13 Jul/95, signed by Živanović
- T-817 Map showing Zvornik Brigade area of responsibility and Battalion areas
- T-818 Zvornik Brigade HQ Staff Appointments List
- T-819 Zvornik Brigade Appointment Decision 06-53 dated 17.03.1994
- T-820 Witness Statement of Fuad ĐOZIĆ ERN 0071-0383-0071-0385
- T-821 Photo of Orahovac School marked by witness in 3 places.
- T-822 Identification Report of Neško ĐOKIĆ ERN 0071-0325-0071-0326
- T-823 Statement of Neško ĐOKIĆ ERN 0071-0355-0071-0357
- T-824 Statement of Slobodan ĐOKIĆ ERN 0071-0347-0071-0349
- T-825 Decision for prison for Neško and Slobodan ĐOKIĆ signed by Drago NIKOLIĆ ERN 0071-0367-0071-0369

- T-826 Zvornik Brigade Military Police personnel roster of July 1995
- T-827 NO EXHIBIT, provisional number, withdrawn during hearing 15.12.2008
- T-828 Manning CV
- T-829 Last page of 2001 Manning report: Srebrenica investigation - summary of forensic evidence - 2001; Expert reports examined 1996 - 2001.
- T-830 Srebrenica Investigation – Summary of Forensic Evidence – Execution Points and Mass Graves, by Dean Manning, dated 16 May 2000
- T-831 Srebrenica Investigation – Summary of Forensic Evidence – Mass Graves Exhumed in 2000, by Dean Manning, dated February 2001
- T-832 Manning Report: Summary of forensic evidence - execution points and mass graves 2001 - by Dean Manning, ICTY Investigations Team Leader - 24 August 2003.
- T-833 Srebrenica Investigation – Summary of Forensic Evidence – Exhumation of Mass Graves Srebrenica – November 2007, by Dean Manning, dated 27 November 2007
- T-834 CD of Expert Reports (See PO Disclosure Disc 27a)
- T-835 Chart of Srebrenica Graves Exhumed and Examined by ICTY 1996-2001
- T-836 Map of Execution and Grave Sites – connection between primary and secondary graves
- T-837 A Location Map of Grave at Orahovac
- T-837 B Aerial Image - split pane of Lazete 1 and 2, dated 5 and 27 July 1995
- T-837 C Aerial Image - split pane of Lazete 2 dated 7 and 17 Sept 1995
- T-838 Trial Video
- T-839 A Photo: Location Map of Grave at Branjevo Farm
- T-839 B Photo: Aerial Image of Branjevo Farm, 17 July 1995
- T-839 C Aerial Image of the Branjevo State Farm, 21 September 1995
- T-839 D Aerial Image of the Branjevo State Farm, 27 September 1995
- T-840 A Photo: Location Map of grave at Petkovci Dam
- T-840 B Aerial Image of the Petkovci Dam, 5 and 27 July 1995
- T-840 C Aerial Image of the Petkovci Dam, 7 and 27 September 1995

T-841 A Location Map of Grave at Kozluk

T-841 B Photo: Aerial Image - split pane Kozluk 5 and 17 July 1995

T-841 C Photo: Aerial Image - split pane Kozluk 7 and 27 Sept 1995

T-842 A Location Map of Graves at Zeleni Jadar

T-842 B Photo: Aerial Image Split Pane Zeleni Jadar

T-842 C Photo: Aerial Image Split Pane Zeleni Jadar 1a and b, 7 and 2 Oct 1995

T-842 D Photo: Aerial Image Split Pane Zeleni Jadar

T-843 A Aerial Image Split Pane ZJ2

T-843 B Aerial Image Split Pane ZJ2

T-843 C Aerial Image Split Pane ZJ3

T-843 D Aerial Image ZJ3

T-843 E Aerial Image Split Pane ZJ4

T-843 F Aerial Image ZJ4 and ZJ5

T-843 G Aerial Image Split Pane ZJ6

T-843 H Aerial Image Split Pane ZJ6

T-844 A Aerial Image Glogova 1 and 2

T-844 B Aerial Image Split Pane GL01

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T-865	IKM Dury Operations Log
T-866	Letter ZVK brigade to MOD 02/165-95 dated 15 July 1995
T-867	Joint motion for consideration of amended plea agreement between Momir Nikolić and the Office of the Prosecutor – 7 May 2003
T-868	Momir Nikolić Sentencing Judgment and Statement of Facts dated 6 May 2003

- T-869 Collection of UNMO reports
- T-869/I Tabbed excerpts from UNMO reports
- T-870 Video clips of Potočari.
- T-871 List of personnel 2 Bat, Zv Bde, Tab S in Vuga Bundle
- T-872 Pieter Boering, *Prosecutor v. Popović et al.*, IT-05-88, testimony during 6 days, that is: 19 September 2006, 21 September 2006, 22 September 2006, 25 September 2006, 26 September 2006, 27 September 2006
- T-873 Zlatan Čelanović, *Prosecutor v. Popović et al.*, IT-05-88, testimony on 31 January 2007
- T-874 Vincent Egbers, *Prosecutor v. Popović et al.*, IT-05-88, testimony during 3 days, that is: 18 October 2006, 19 October 2006, 20 October 2006
- T-875 Dražen Erdemović, *Prosecutor v. Popović et al.*, IT-05-88, testimony during 2 days, that is: 4 May 2007, 7 May 2007
- T-876 Groenewegen Paul, *Prosecutor v. Blagojević et al.*, IT-02-60, testimony on 10 July 2003
- T-877 Karremans Thomas, *Prosecutor v. Blagojević et al.*, IT-02-60, testimony during 2 days, that is: 24 June 2004, 25 June 2004
- T-878 Koster Eelco, *Prosecutor v. Krstić*, IT-05-88, testimony on 23 March 2001
- T-879 Koster Eelco, *Prosecutor v. Popović et al.*, IT-05-88, testimony during 3 days, that is: 25 October 2006, 26 October 2006, 27 October 2006
- T-880 Miloš Mitrović, *Prosecutor v. Blagojević et al.*, IT-02-60, testimony during 2 days, that is: 12 March 2003, 12 April 2003
- T-881 Dr. Radivoje Novaković, *Prosecutor v. Popović et al.*, IT-05-88, testimony on 20 March 2007
- T-882 Milenko Pepić, Kravica X-KR 05/24 – transcript dated 7 September 2006
- T-883 Slavko Perić, *Prosecutor v. Popović et al.*, IT-05-88, testimony during 2 days, that is: 11 May 2007, 14 May 2007
- T-884 Witness A-47, *Prosecutor v. Krstić*, IT-98-33, testimony during 2 days, that is: 12 April 2000, 13 April 2000
- T-885 Witness A-1, *Prosecutor v. Popović et al.*, IT-05-88, testimony during 2 days, that is: 22 February 2007, 23 February 2007

- T-886 Witness A-3, *Prosecutor v. Popović et al.*, IT-05-88, testimony during 2 days, that is: 15 November 2006, 16 November 2006
- T-887 Witness A-20, *Prosecutor v. Popović et al.*, IT-05-88, testimony during 3 days, that is: 16 November 2006, 17 November 2006, 20 November 2006
- T-888 Interview A-26, ICTY OTP Interview Record for the period 13-14 August 1995 (Confidential)
- T-889 Witness A-26, *Prosecutor v. Popović et al.*, IT-05-88, testimony during 3 days, that is: 24 August 2006, 25 August 2006, 28 August 2006
- T-890 A-27 Testimony, Kravica X-KR 05/24 – transcript.
- T-891 A-28 Interview, ICTY OTP Interview Record dated 16 August 1995 (Confidential)
- T-892 A-28 Interview, ICTY OTP Interview Record dated 8 June 1999 (Confidential)
- T-893 A-28 Interview, ICTY OTP Interview Record dated 14 June 1999 (Confidential)
- T-894 Witness A-28, *Prosecutor v. Krstić*, IT-98-33, testimony dated 23 May 2000
- T-895 A-29 Interview, ICTY OTP Interview Record dated 26 September 1995 (Confidential)
- T-896 Witness A-29, *Prosecutor v. Blagojević et al.*, IT-02-60, testimony during 2 days, that is: 21 July 2003, 22 July 2003
- T-897 A-15 Interview, ICTY OTP Interview Record dated 26 September 1995 (Confidential)
- T-898 Witness A-15, *Prosecutor v. Krstić*, IT-98-33, testimony during 2 days, that is: 28 March 2000, 29 March 2000
- T-899 A-30 Interview, ICTY OTP Interview Record dated 6 October 2003 (Confidential)
- T-900 Witness A-30, *Prosecutor v. Blagojević et al.*, IT-02-60, testimony of 17 December 2003
- T-901 A-31 Interview, ICTY OTP Interview Record for 3 days, that is, 14- 16 August 1995 (Confidential)
- T-902 A-31 Interview, ICTY OTP Interview Record dated 19 August 1996 (Confidential)
- T-903 Witness A-31, *Prosecutor v. Krstić*, IT-98-33, testimony of 14 April 2000

- T-904 A-32 Interview, ICTY OTP Interview Record dated 23 May 1996
(Confidential)
- T-905 Witness A-32, *Prosecutor v. Krstić*, IT-98-33, testimony of 14 April 2000
- T-906 A-18 Interview, ICTY OTP Interview Record dated 24 January 1996
(Confidential)
- T-907 Witness A-18, *Prosecutor v. Krstić*, IT-98-33, testimony during 2 days, that is: 24 March 2000, 27 March 2000
- T-908 A-33 Interview, RS MUP Interview Record dated 26 August 1995
(Confidential)
- T-909 Witness A-33, *Prosecutor v. Krstić*, IT-98-33, testimony dated 23 May 2000
- T-910 A-34 Interview, ICTY OTP Interview Record dated 17 January 1996
(Confidential)
- T-911 Witness A-34, *Prosecutor v. Krstić*, IT-98-33, testimony of 12 April 2000
- T-912 A-17 Interview, ICTY OTP Interview Record dated 5 December 2004
(Confidential)
- T-913 Witness A-17, *Prosecutor v. Popović et al.*, IT-05-88, testimony of 31 October 2006
- T-914 A-25 Testimony, Kravica X-KR 05/24 – transcript.
- T-915 Witness A-19, *Prosecutor v. Popović et al.*, IT-05-88, testimony during 2 days, that is: 8 November 2006, 9 November 2006
- T-916 A-19 Interview, ICTY OTP Interview Record dated 28 November 2001
(Confidential)
- T-917 A-7 Interview, ICTY OTP Interview Record for 2 days, that is: 23 – 24 November 2005 (Confidential)
- T-918 Witness A-7, *Prosecutor v. Popović et al* IT-05-88, Testimony of 30 January 2007
- T-919 A-9 Testimony, Kravica X-KR 05/24 – transcript of 5 October 2006
- T-920 Witness A-11, *Prosecutor v. Popović et al.*, IT-05-88, testimony during 3 days, that is: 23 March 2007, 26 March 2007, 27 March 2007

- T-921 A-12 testimony, Kravica X-KR 05/24 – transcript.
- T-922 A-12 Interview, ICTY OTP Interview Record dated 25 February 1998 (Confidential)
- T-923 Witness A-12, *Prosecutor v. Popović et al.*, IT-05-88, testimony during 3 days, that is: 21 March 2007, 22 March 2007, 23 March 2007
- T-924 Ristanović Cvijetin, *Prosecutor v. Blagojević et al.*, IT-02-60, testimony of 1 December 2003
- T-925 Rutten Johannes, *Prosecutor v. Krstić*, IT-98-33, testimony of 5 April 2000
- T-926 Stanojević Ostoja, *Prosecutor v. Blagojević et al.*, IT-02-60, testimony during 2 days, that is: 4 December 2003, 5 December 2003
- T-927 Leendert Van Duijn, *Prosecutor v. Popović et al.*, IT-05-88, testimony during 3 days, that is: 27 September 2006, 28 September 2006, 29 September 2006
- T-928 BARAYBAR, Jose Pablo - Report titled, "Calculation of the Minimal Number of Individuals Exhumed by the International Criminal Tribunal for the Former Yugoslavia between 1996 and 2001"
- T-929 BARAYBAR, Jose Pablo – CV
- T-930 BARAYBAR, Jose Pablo - Report on Excavations at the Site of Zeleni Jadar 6, Bosnia and Herzegovina 2001
- T-931 BARR, Kathryn - Handwriting Report - Trbić *et al.*, on 29 June 2006
- T-932 BARR, Kathryn - Handwriting Report - Trbić *et al.*, on 10 January 2007
- T-933 BARR, Kathryn - CV
- T-934 BRUNBORG, Helge - Report on Missing and Dead From Srebrenica, on 12 February 2000
- T-935 BRUNBORG, Helge - Addendum on the Number of Missing and Dead From Srebrenica, on 12 April 2003
- T-936 BRUNBORG, Helge - CV
- T-937 BRUNBORG, Helge - Report titled, "2004 Addendum to the List of Missing Persons from Srebrenica", dated 25 August 2004
- T-938 BRUNBORG, Helge - Report titled "Rebuttal Report regarding Report on the Number of Missing and Dead from Srebrenica"

- T-939 DE BRUYN, P.C.A.M. - Explosive analysis - conducted by HIKT, Srebrenica area, on 2 March 2000
- T-940 LAWRENCE, Christopher - Report on Bodies Recovered Near Kozluk in 1998
- T-941 LAWRENCE, Christopher - Report on Autopsies of Human Remains from the Dam Site June 1998
- T-942 LAWRENCE, Christopher - Report on Autopsies of Human Remains from Čančari Road Site 3, August-September 1998
- T-943 LAWRENCE, Christopher - Report on Autopsies of Human Remains from Hodžići Road Site 3, October 1998
- T-944 LAWRENCE, Christopher - Report on Autopsies of Human Remains from Hodžići Road Site 4, October 1998
- T-945 LAWRENCE, Christopher - Report on Autopsies of Human Remains from Hodžići Road Site 5, October 1998
- T-946 LAWRENCE, Christopher - Report on Autopsies of Human Remains from Zeleni Jadar Site 5, October 1998
- T-947 LAWRENCE, Christopher - Report on Autopsies of Human Remains from Liplje Site 2, October 1998
- T-948 WRIGHT, Richard - Exhumations in Eastern Bosnia in 1998
- T-949 MULDER, M.A. Interview, ICTY OTP Interview Record during 2 days, that is: 24-25 October 1995
- T-950 MULDER, M.A. Interview, ICTY OTP Interview Record, dated 12 May 2000
- T-951 A-48 Interview, ICTY OTP Interview Record, dated 4 December 2004 (Confidential)
- T-952 A-49 Interview, ICTY OTP Interview Record, dated 18 January 1996 (Confidential)
- T-953 A-49 Interview, ICTY OTP Interview Record, dated 21 August 1996 (Confidential)
- T-954 A-49 Interview, ICTY OTP Interview Record, dated 22 May 1996 (Confidential)
- T-955 A-51 Interview, ICTY OTP Interview Record, dated 9 June 1999
- T-956 Krsto Simić Testimony, Kravica X-KR 05/24 – Transcript, dated 21 March 2007

- T-957 Miroslav Deronjić, Sentencing hearing transcript in *Prosecution v. Nikolić* IT-02-60-S-1, of 28 August 2003
- T-958 Milan Marić testimony, Statement to ICTY OTP, dated 30 June 2002
- T-959 Ćamil Omanović, *Prosecutor v. Krstić*, IT-98-33, testimony during 2 days, that is: 22-23 March 2000
- T-960 Witness A-14, *Prosecutor v. Popović et al.*, IT-05-88, testimony during 2 days, that is: 5 - 6 September 2007
- T-961 Zoran Begović, *Prosecutor v. Popović et al.*, IT-05-88, testimony dated 21 March 2007
- T-962 Jevto Bogdanović, *Prosecutor v. Popović et al.*, IT-05-88, testimony dated 10 May 2007
- T-963 Robert Franken, *Prosecutor v. Krstić*, IT-98-33, testimony dated 4 April 2000
- T-964 Jugoslav Gavrić, *Prosecutor v. Popović et al.*, IT-05-88, testimony dated 21 March 2007
- T-965 Mile Janjić, *Prosecutor v. Popović et al i dr.*, IT-05-88, testimony during 2 days, that is: 20 November 2007, 21 November 2007
- T-966 Mitar Lazarević, *Prosecutor v. Popović et al.*, IT-05-88, testimony during 2 days, that is: 26 June 2007, 27 June 2007
- T-967 Marko Milošević, *Prosecutor v. Popović et al.*, IT-05-88, testimony dated 26 June 2007
- T-968 Witness P-6, *Prosecutor v. Blagojević et al.*, IT-02-60, testimony dated 14 July 2003
- T-969 Pero Petrović, *Prosecutor v. Popović et al.*, IT-05-88, testimony dated 9 March 2007
- T-970 Ostoja Stanišić, *Prosecutor v. Blagojević et al.*, IT-02-60, testimony during 2 days, that is: 16 May 2007, 17 May 2007
- T-971 Witness A-43, *Prosecutor v. Božić et al.*, X-KRŽ-06/236, Court of BiH, testimony dated 4 September 2007
- T-972 Marko Aleksić, *Prosecutor v. Stupar et al.*, Kravica X-KR 05/24, Court of BiH, testimony during 2 days, that is: 7 July 2006, 12 July 2006
- T-973 Ljubomir Beatović, *Prosecutor v. Božić et al.*, X-KRŽ-06/236, Court of BiH, testimony dated 12 June 2007

- T-974 Slobodan Mijatović, *Prosecutor v. Božić et al.*, X-KRŽ-06/236, Court of BiH, testimony dated 4 July 2007
- T-975 Letter from President of Basic Court of Zvornik number 082-0-Su-08-000 259, dated 6 May 2008 about Requests for Declaring Missing Persons Dead etc.
- T-976 Stana Vidović prior witness statement by POBH dated..... video and audio of examination
- T-977 POBH Witness Statement, Trial transcripts, Mitrović et al, X-KR 05/25 (Confidential)
- T-978 A-46 Trial (Stupar et al, X-KR 05/24) transcript (Confidential)
- T-979 Witness Examination Record of Mile BABIĆ - SIPA 9 September 2006
- T-980 Witness Examination Record of Mile BABIĆ - POBH 22 January 2007
- T-981 Mile BABIĆ trial (Božić *et al.* X-KR 06/236) transcript dated 10 July 2007 - audio only 23 February 2009, pending transcription
- T-982 Witness A-50 Testimony (Confidential)
- T-983 Dragan Obrenović, *Prosecutor v. Blagojević et al* IT-02-60, Testimony of (7days) dated: 1 October 2003, 2 October 2003, 6 October 2003, 7 October 2003, 8 October 2003, 9 October 2003, 10 October 2003
- T-984 Dragan Obrenović, Witness Statements to ICTY OTP dated 2 April 2000, 4 June 2003 and 5 February 2004
- T-985 Dragan Obrenović, Joint Motion on Plea Agreement dated 20 May 2003
- T-986 Pros Trial Motion 17 – 21 January 2009 Documents - awaiting Court decision on admission
- T-986 Map of Eastern Bosnia
- T-987 Photograph, White House at Potočari
- T-988 Handwritten list of 239 names of Bosnian men within the DutchBat compound
- T-989 Still from Video Clip - Witness Identifies this man as Col. Janković
- T-990 Photograph of burning possessions, Potočari
- T-991 Aerial of Potočari - Witness identifies where bodies were found as reported to him.

- T-992 Handwritten list of 59 names of wounded people in Potočari
- T-993 Statement regarding 12 July 1995 Meeting in Hotel Fontana
- T-994 Declaration regarding 12 July 1995 Meeting in Hotel Fontana
- T-995 Still from Video Clip- Witness identifies the person as being in Potočari and sees him in Court as Accused, Krstić
- T-996 Photograph - Orahovac Grbavci School gym
- T-997 Photograph - Railway overpass Orahovac
- T-998 View on ground of area of grave and execution site at Lazete 2 (marked)
- T-999 Prior Statements of Hurem Suljić 25 July 1995
- T-1000 Marked Map of Eastern Bosnia - witness indicates position on 13 July 1995
- T-1001 Photograph - red brick shed where witness first taken by Bosnian Serb soldiers
- T-1002 Photograph - Road at Konjević Polje. Witness indicates were detained
- T-1003 Photograph - river. Witness indicated execution site
- T-1004 Photograph - Wounds of Witness A-28
- T-1005 Aerial of Potočari - witnesses identifies various locations on it
- T-1006 Photograph of Potočari taken by witness - points out houses on fire, Serb positions, minefields, etc.
- T-1007 Marked Aerial of Potočari - indicating where bodies found and position of White House
- T-1008 Photographs of bodies found at Potočari
- T-1009 Photographs of bodies found at Potočari
- T-1010 Photographs of bodies found at Potočari
- T-1011 Ordinance Map of Bratunac and Potočari - Witness indicates movement and position during July 1995
- T-1012 Aerial Photograph - Nova Kasaba football field - witness indicated where taken and held

- T-1013 Photograph (marked), Petkovci School
- T-1014 Photograph - Aerial showing rear of Petkovci School - witness indicates playground, route into school and where the trucks were
- T-1015 Photographs- Stairs Petkovci School - witness indicates the 5 or 6 steps down he took into the school
- T-1016 Photograph - Stairs inside Petkovci - Witness indicates 1st floor and railings
- T-1017 Photograph - Classroom at Petkovci School, witness indicates items and confirms where detained.
- T-1018 Photograph - aerial of Petkovci Dam (marked) - witness indicates execution site
- T-1019 Photograph - Petkovci Dam Guard House and Lights (marked)
- T-1020 Photograph - overflow channel at Petkovci Dam where witness hid
- T-1021 Photograph - Aerial of Petkovci Dam (marked) shows where he was shot and hid
- T-1022 Panoramic photograph of Kravica Warehouse - witness points out where he saw bodies
- T-1023 Aerial Photograph of Kula School
- T-1024 Photograph - Branjevo Farm aerial
- T-1025 Photograph - Branjevo Farm - rest area for executions marked
- T-1026 Aerial Photograph - Kula School (marked)
- T-1027 Photograph Luke School
- T-1028 Photograph Luke School
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- T-1030 Photograph Luke School
- T-1031 Marked Map of Eastern Bosnia
- T-1032 Map - Cerska Valley executions
- T-1033 Photograph - Konjević Polje

- T-1034 video clip - Cerska Valley investigations
- T-1035 Photograph - Cerska Valley mass grave site
- T-1036 Photograph - Probe Sites Cerska Valley
- T-1037 Photograph – refugees
- T-1038 Photograph - Potočari. Witness points out where refugees were and burning houses
- T-1039 Video Still - Mane and Van Dujin at Potočari
- T-1040 Photograph - UN Compound, Potočari taken by witness
- T-1041 Colour photograph taken by witness showing burning pile of personal belongings at Potočari
- T-1042 Photograph -Potočari (marked) Witness indicates where found bodies
- T-1043 Sketch by witness of Potočari
- T-1044 Video Still - Witness saw this man in brown T-shirt at the White House (Popović)
- T-1045 Video Still - witness identifies the man as someone with Mladic at the UN Compound in Potočari
- T-1046 Video Clip - Meeting at Hotel Fontana
- T-1047 English transcript of video of third meeting at Hotel Fontana
- T-1048 French transcript of video of third meeting at Hotel Fontana
- T-1049 BCS transcript of video of third meeting at Hotel Fontana
- T-1050 Video Clip - Trucks at Potočari
- T-1051 Video Clip - Crowds at Potočari
- T-1052 Diagram of Srebrenica enclave
- T-1053 Marked up Map of Eastern Bosnia
- T-1054 VRS Main Staff Intelligence and Security Section Intelligence Information No. 12/45-566 dated 18 May 1995
- T-1055 Report on Debriefing on Srebrenica dated 4 October 1995 by Brigadier General O ven der Wind
- T-1056 Srebrenica Trial Video and English Transcript

T-1057 Article in the Drinksi on Branjevo Farm dated June 1995

T-1058 Karremans' Interview dated 23 July 1995

T-1059 Interpreter's Note

T-1060 Schedule for Engagement of Troops, Engineering Company, Zvornik Brigade, July 1995

T-1061 Sketch of Branjevo Farm

T-1062 ULT 220 details

T-1063 Zvornik Brigade Engineering Company Staff Orders for 15 July 1995

T-1064 Zvornik Brigade Engineering Company Staff Orders for 16 July 1995

T-1065 Photograph of Kravica Warehouse

T-1066 Sketch of location made by witness

T-1067 Sketch of location made by witness

T-1068 Vehicle Log TAM75 July 1995, Orahovac, Kozluk, Kula

T-1069 Baraybar Report on Exhumations in Eastern Bosnia Aug-Oct 1999

T-1070 Clark Report of Chief Pathologist for Season 2001

T-1071 Exhibits which accompany Slobodan Mijatović's testimony

T-1072 Photos marked up by S2 during his testimony on 12 October 2006

T-1073 Exhibits which accompanied Mile Babić's testimony

T-1074 Exhibits which accompanied S4's testimony

T-1075 Exhibits referred to by A-43 during testimony

T-1076 Exhibits referred to by Marko Aleksić during his testimony

T-1077 Exhibits referred to by A-25 in his testimony

T-1078 Dutch Royal Military Police Report 2 August 1995

T-1079 Zvornik Brigade Report from Command security organ to Bijeljina Military Prosecutor, 26 July 1995 signed by Drago Nikolić

- T-1080 Letter written by Dr Davidović of Milići Hospital on 24 July 1995
- T-1081 Notes made by Zlatan Čelanović during interrogation of Rešid Sinanović
- T-1082 Notes made by Zlatan Čelanović during interrogation of Nazif Avdić and others
- T-1083 Notes made by Zlatan Čelanović during interrogation of Hasib Ibišević
- T-1084 Notes made by Zlatan Čelanović during interrogation of Mujo Husić
- T-1085 UN President of the Security Council Press Statement, UN Doc S/PRST/1995/32 dated 14 July 1995
- T-1086 UN Secretary General Report to the General Assembly - The Fall of Srebrenica, UN Doc A/54/549 dated 15 November 1999
- T-975 Letter number 082-0-Su-08-000 259 dated 6 May 2008 from the Basic Court of Srebrenica regarding the number of persons declared dead.
- T-1087 Stills from Srebrenica Trial Video with Identifications
- T-1088 Bosnian Muslim Identification Book
- T-1089 UN Security Council Resolution 743, S/RES/743 dated
- T-1090 UN Security Council Resolution 819, S/RES/819 dated 16 April 1993
- T-1091 UN Security Council Resolution 821, S/RES/821 dated 28 April 1993
- T-1092 UN Security Council Resolution 824, S/RES/824 dated 6 May 1993
- T-1093 UN Security Council Resolution 836 dated 4 June 1993
- T-1094 Bratunac Brigade MP Duty Log Book
- T-1095 Bratunac Brigade Report 04-1738-1/94 dated 4 July 1994
- T-1096 Drina Corps Order 22/297 dated 12 July 1995 - traffic regulation along Konjević Polje - Bratunac Road
- T-1097 Zvornik Brigade Vehicle Log No. 22-1667/95 dated 15 July-31 July 1995, TAM 130 (Metalno)
- T-1098 Zvornik Brigade Vehicle Logs July 1995
- T-1099 Skorpions Video and ICTY OTP H/O Slip
- T-1100 Belgrade District Court War Crimes Chamber - First Instance Verdict - Skorpions trial
- T-1101 Belgrade Court War Crimes Chamber - Appeal Decision on the Skorpions

- T-1102 MUP Special Police - Dispatch No. 118/95 dated 1 July 1995.
- T-1103 Stenogram taken at Session of BiH SDS Party Assembly, 12 July 1991
- T-1104 Excerpt from the BiH Serb People Assembly on 26 – 27 January 1992
- T-1105 Stenographic Record of 8th Session of the Assembly of the Serb People, 25 February 1992
- T-1106 Transcript of Shorthand Notes from Meeting of Deputies Club of SCS, BiH, 28 February 1992
- T-1107 Stenograph of 11th Session of Assembly of Serbian People of BiH, 18 March 1992
- T-1108 Tape Recording (transcript) of 17th Session of the BiH Serb People's Assembly, 25-26 July 1992
- T-1109 Minutes and Tape Recording (Transcript) of the 34th Session of the RS National Assembly, 27-29 August 1993, 9-10 September 1993 and 29 September-01 October 1993
- T-1110 Tape Recording (transcript) of 46th Session of RS National Assembly, 9-11 November 1994
- T-1111 8th Edition of the ICRC Missing List for BiH
- T-1112 ICMP Blječeva Summary Exhumation Report
- T-1113 Records of Identification and Death Certificate from PIP
- T-1114 PIP List of Officially Identified Victims
- T-1115 Lukavac Grave Code List
- T-1116 Conf. Letter from PIP Reg. Rešid Sinanović dated 15 May 2009 (Confidential)
- T-1117 Witness Examination Record Dr. Rifat Kešetović 4 December 2008
- T-1118 Pictures Used with Dr. Rifat Kešetović
- T-1119 ICRC Information Form for Missing Persons - blank
- T-1120 Witness Examination Record Cheryl Katzmarzyk – 4 December 2008
- T-1121 Pictures Used with Cheryl Katzmarzyk

D. DOCUMENTARY EVIDENCE OF THE DEFENSE FOR THE ACCUSED MILORAD TRBIĆ

- O-1 Expert Report of Expert Petar Vuga dated 14 September 2008
- O-2 Report of Commission for research happenings in and around Srebrenica from 10 July to 19 July 1995, Banjaluka July 1994
- O-3 Withdrawn Exhibit Confidential
- O-4 Proposed Exhibit was denied Confidential- Documentation in connection with status of Trbić in Hague
- O-5 Transcript of Testimony of Pandurević Vinko, in Popović IT-05-88-T and Audio Recordings
- O-6 Transcripts and Audio Recordings of Opened and Closed sessions in Case Popović, dates 11 May 2005, 4 April 2006, 15 September 2006, 24 November 2006 (Confidential)
- O-7 Defence proposed letter from ICTY dated 12 May 2009, which says about his status

E. DOCUMENTARY EVIDENCE OF THE COURT

- S-1 Indictment – in the United States District Court for the Middle District of North Carolina
- S-2 Judgement in the United States District Court for the Middle District of North Carolina
- S-3 ICTY OTP Info Report – 25 June 2004, Alistair Graham (Confidential)
- S-4 Evidence in the Pandurević case
- S-4(1) Drina Corps Command, no.370/1, realization of the planned tasks from the directives 4 and 5, signed by Milenko Živanović
- S-4(2) Zvornik Brigade Regular Combat Report, 14 September 1995
- S-4(3) Zvornik Brigade Regular Combat Report, 15 September 1995
- S-4(4) Zvornik Brigade Regular Combat Report, 19 September 1995
- S-4(5) Zvornik Brigade Regular Combat Report, 20 September 1995

- S-4(6) Zvornik Brigade Regular Combat Report, 24 September 1995
- S-4(7) Zvornik Brigade Regular Combat Report, 28 September 1995
- S-4(8) Zvornik Brigade Regular Combat Report, 29 September 1995
- S-4(9) Zvornik Brigade Regular Combat Report, 30 September 1995
- S-4(10) "Technical services" binder for Dec-94 to Aug-95. Receipts (per day) for supplies of: light weapons Fuel, ammunition, passenger vehicles
Information report Šemso Muminović
- S-4(11) Information report Šemso Muminović
- S-4(12) Information report Šemso Muminović
- S-4(13) Information report Šemso Muminović
- S-4(14) Witness statement Šemso Muminović
- S-4(15) Partial transcript of Srna broadcast, includes interview with Vinko Pandurević
- S-4(16) Interview with Miloš Tomović conducted in Sarajevo
- S-4(17) Pandurević biography from the book War in Bosnia and paramilitary formations
- S-4(18) Submission pursuant to rule 65ter filed on behalf of the accused Vinko Pandurević
- S-4(19) Zvornik Brigade Command - Security Organ Intelligence Report No. 17/375 – 5 December 94
- S-4(20) Changes in the organisation of the intelligence and security support of the VRS /Army of Republika Srpska/
- S-4(21) Organising the intake of v/o /conscripts/ and forming units, order
- S-4(22) Opel Vectra file
- S-4(23) REPORT ON THE COMBAT READINESS OF THE ZVORNIK INFANTRY BRIGADE FOR THE PERIOD 1 JANUARY - 31 DECEMBER 1994
- S-4(24) Promotion
- S-4(25) Command and Control of the VRS Security Organs O R D E R
- S-4(26) The Sociology of the army – excerpt
- S-4(27) Regulations regarding Brigade Commanders' Authority

- S-4(28) Zv. Brigade Command, Order for stronger control of military conscripts
- S-4(29) Enver Hadžihasanović Testimony in Case IT - 98 – 33
- S-4(30) KDK, Request for Mobilization of Military Conscripts No. 05/1-242 (signed and stamped copy of 3D00317 and P03046)
- S-4(31) CJB Zvornik - Order by CJB Staff Commander Dragomir Vasić - Dispatch No. 12-6-08-533/95 (Complete Version of 4D00122 and 4D00345)
- S-4(32) Official Land Register for Various Locations - Srebrenica and Potočari
- S-4(33) Google Earth Image: Bratunac to Dutchbat Terrain Overview
- S-4(34) Google Earth Image: West of Potočari Landscape, View from the North
- S-4(35) Google Earth Image: Potočari View, from the North
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- S-4(57) Map: Zvornik 477-4-3 (Srebrenica)
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- S-4(59) Map: Zvornik 477-3-4 (Rupovo Brdo)
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- S-4(61) Video of Google Earth Imagery of Potočari, Srebrenica and Surrounding Terrain
- S-4(62) Video of Google Earth Imagery of Hrvačić Plot, North of Dutchbat Compound, Potočari
- S-4(63) RBI 20.07.
- S-4(64) RBI 21.07.
- S-4(65) MO Secretariat Zvornik 15 July 95
- S-4(66) TG-1 Command, no. 01-246, order for march no. 3 - COMPLETE VERSION
- S-4(67) K-da Zvpbr summary report according to engineering 20 December 1995
- S-4(68) Drina Corps Command, order, no. 05/2-470 – BCS
- S-4(69) 2nd Drina Light Infantry Brigade Command, 23 October 1995 – Engagement of 2nd Drina Light Infantry Brigade Command in the 2nd Krajina Corps zone

- S-4(70) ZB Comand, Losses of manpower and logistics of the 1st ZB in the 2nd Krajina Corps zone
- S-4(71) Drina Corps Command – Order dated 11 April 1993
- S-4(72) Zvornik Brigade Command, RBI
- S-4(73) Drina Corps Command- IKM Pribićevac
- S-4(74) RBI command Zvpbr
- S-4(75) Kanjuh – 20 June - Cerović-Gen. Krstić
- S-4(76) Kanjuh – 8 July - Jevotević-Vinko
- S-4(77) Kanjuh - 17.25 - Cerović-Gen. Krstić
- S-4(78) Kanjuh - 23.20 - Pandurević-DKZO-Palma-Zlatar-Uran-IKM DK
- S-4(79) Zvornik Brigade Report (01-306)
- S-4(80) Drina Corps Order
- S-4(81) Zvornik Brigade Regular Combat Report, 21 September 1995
- S-4(82) Zvornik Brigade Regular Combat Report, 22 September 1995
- S-4(83) Zvornik Brigade Regular Combat Report, 23 September 1995
- S-4(84) Zvornik Brigade Regular Combat Report, 27 September 1995
- S-4(85) Drina Corps Command, 01/4-136-2, order for the taking over of the Zeleni Jadar sector
- S-4(86) TG Višegrad Command, no. 153-1, combat order - COMPLETE VERSION
- S-4(87) ZB Command, no. 01-292, order for march - COMPLETE VERSION
- S-4(88) VP 7469, Zvornik, no. 955-1 - COMPLETE VERSION
- S-4(89) ZB Command, no. 958-1, RBI - COMPLETE VERSION
- S-4(90) ZB Command, no. 958-2, RBI - COMPLETE VERSION
- S-4(91) 5th plbr Goražde brigade, no. 815-1/92 - COMPLETE VERSION
- S-4(92) Report of UN Sarajevo
- S-4(93) DC IKM Pribićevac, VBI - COMPLETE VERSION
- S-4(94) DC IKM Pribićevac, no. 08/95, VBI - COMPLETE VERSION

- S-4(95) POSS Command, no. 2-03 - COMPLETE VERSION
- S-4(96) PRL September, Nisan, D. Stević and B. Pandurević - COMPLETE VERSION
- S-4(97) PRL September, Reno Fofran, Stupar, Pandurević, Milovnović, Danojlović, Obrenović - COMPLETE VERSION
- S-4(98) DC Command, 04/156-28, engaging units
- S-4(99) Reforming of the Zvornik Light Infantry Brigade, ERN 0452-5852
- S-4(100) Drina Corps Command, Department for Personal Affairs, 17/1197
- S-4(101) Photograph of Vinko Pandurević and Phillipe Morillon
- S-4(102) Surrogate sheet photo material - Map showing the destruction of Serbian villages in the municipalities of Srebrenica and Bratunac - May 1992-January 1993
- S-4(103) Order for March No. 4, Doc. No. 01-247
- S-4(104) Zvornik Brigade - Relevant Regular Combat Reports – 1995
- S-4(105) Zvornik Brigade, regular combat report, doc no. 435-04
- S-4(106) Zvornik Brigade, relevant regular combat reports – 1993
- S-4(107) Medical documentation - Meljina - Monte Negro – 18 July 071994 – 1 August 1994
- S-4(108) Medical documentation - Vinko Pandurević's absence from the unit - from 11 January 1995 – 11 March 1995
- S-4(109) Main Staff VRS, no. 02/5-176 – Order
- S-4(110) Main Staff VRS, No. 02/5-35 – Directive
- S-4(111) article - 'Baštinici Hajrinog Djela'
- S-4(112) VRS Main Staff, combat readiness of DK units
- S-4(113) ZB Command, 82-4 , RBI
- S-4(114) ZB Command, No. 125-1, RBI
- S-4(115) ZB Command, No. 154-2, RBI
- S-4(116) ZB Command, No. 01-22, Request
- S-4(117) ZB Command, RBI, from 17 February till 21 February 1994

- S-4(118) ZB Command, No. 06-204, RBI
- S-4(119) ZB Command, RBI
- S-4(120) Crisis in the balkans: the overview; Allied Air Chief Stresses Hitting Belgrade Sites
- S-4(121) Potograph, Vinko Pandurević in front of ACP (Morillon), March 1992
- S-4(122) RS Ministry of Defence, Instructions for Ministry of Defence
- S-4(123) Surrogate sheet, Synopsis/ Description of evidence: Appendix 11a to Military expert report (7D891)
- S-4(124) Surrogate sheet, Synopsis/ Description of evidence: Appendix 12 to Military expert report (7D891)
- S-4(125) Surrogate sheet, Synopsis/ Description of evidence: Appendix 13 to Military expert report (7D891)
- S-4(126) Surrogate sheet, Synopsis/ Description of evidence: Appendix 20 to Military expert report (7D891)
- S-4(127) Duty operations officer diary, 0293-6684-0293-6686, 4-7 July 1995 – Translation
- S-4(128) Drina Corps Command, no. 01/5-557, order
- S-4(129) Zvornik Brigade Command, Regular Combat Report, no. 06-206 - COMPLETE VERSION
- S-4(130) Zvornik Brigade Command, Regular combat report, no. 154-4
- S-4(131) Surrogate sheet: Map; Baljkovica-95
- S-4(132) Investigative notes of an interview with Milenko Živanović and Vinko Pandurević (redacted)
- S-4(133) Investigative notes of an interview with Milenko Živanović and Vinko Pandurević (unredacted)
- S-4(134) Two regular combat reports Dec-1992 and Jan-1993
- S-4(135) Intercept no 924 dated 13 July 1995
- S-4(136) Zvornik Brigade Combat Report, signed by Pandurević
- S-4(137) VRS Main Staff Directive 02/5-10 requesting proposals for the organisational and establishment structure of the army corps

- S-4(138) VRS Main Staff Order 02/5-210/1, Order to amend Operational Directive Four, paragraph 3
- S-4(139) Drina Corps Command order 01/158-1
- S-4(140) Drina Corps Command Regular Combat Report No. 3/2-216, signed by Radislav KRSTIĆ, dated 15 July 1995
- S-4(141) Drina Corps Command Regular Combat Report No. 3/2-218, signed by Radislav KRSTIĆ, dated 16 July 1995
- S-4(142) Drina Corps Command Radio Intercept Detachment Report 13-37/2
- S-4(143) 1st Zvornik Infantry Brigade (hereinafter "Zvornik Brigade") Order 01-21
- S-4(144) Zvornik Brigade Order 01-262
- S-4(145) Zvornik Brigade Interim Combat Report 06/236
- S-4(146) Zvornik Brigade Daily Combat Report 06/243
- S-4(147) Zvornik Brigade Daily Combat Report 06/245
- S-4(148) PVL for Vinko Pandurević
- S-4(149) Zvornik Brigade Command Roster for September 1995
- S-4(150) Zvornik Brigade document No. 01-547, re appointment of OBRENOVIĆ, type-signed by Vinko PANDUREVIĆ, dated 27 December 1994
- S-4(151) 4. RIV extraordinary report with intercepted ABiH communication reporting an attack by the ABiH troops led by Naser ORIĆ, typesigned by LT Mirko PETROVIĆ.
- S-4(152) 4. RIV extraordinary report with intercepted ABiH communication reporting the position of the ABiH troops led by Naser ORIĆ, which attempted to meet the troops from Srebrenica, typesigned by LT Mirko PETROVIĆ.
- S-4(153) Zvornik Military Police 7469 Statement Neško Đokić
- S-4(154) See below
- S-4(155) BCS of Intercept dated 15 July 1995, 08:55 hrs, from printout
- S-4(156) Republic of Serbia MUP report no. 28-264/95-338, signed by Risto ŠEOVAC, dated 23 July 1995
- S-4(157) Zvornik Brigade Regular Combat Report No. 06-298, type-signed Vinko PANDUREVIĆ, dated 25 September 1995

- S-4(158) Zvornik Brigade Document No. 01-440, signed by Vinko PANDUREVIĆ, dated 25 September
- S-4(159) RS MUP Order No. 66/95 to urgently dispatch all available guides with police dogs to the Srebrenica sector, signed by Tomislav KOVAČ, dated 12 July 1995
- S-4(160) Intercepts dated 12 July 1995, 09:10 hours and 08:00 hours
- S-4(161) Intercept dated 12 July 1995, 10:56 hours
- S-4(162) VRS Main Staff Order No. 02/5-213 to prepare and organize military and political seminar on 23 November 1992 in Zvornik, type-signed Lt Col Gen Ratko MLADIĆ, dated 20 November 1992
- S-4(163) VRS Main Staff schedule of presentations to the Drina Corps, signed by Gen Ratko MLADIĆ and Gen Manojlo MILOVANOVIĆ, dated 23 November 1992
- S-4(164) Drina Corps Order No. 2-212, measures to be undertaken for defence from military intervention of foreign countries, signed by Milenko ŽIVANOVIĆ, dated 11 December 1992
- S-4(165) Drina Corps Order No. 01/5-75, combat order for the liberation of Kamenica, Cerska and Konjević Polje, type-signed by Col. Milenko ŽIVANOVIĆ, dated 1 February 1993
- S-4(166) Drina Corps Order No. 01/5-165, combat order for further operations, type-signed by Col. Milenko ŽIVANOVIĆ, dated 21 March 1993
- S-4(167) Zvornik Brigade Regular Combat Report No. 82-3, type-signed by Maj. Vinko PANDUREVIĆ, dated 31 January 1993
- S-4(168) Drina Corps Regular Combat Report No. 04/4-68, signed by Gen. Milenko ŽIVANOVIĆ, dated 1 February 1993
- S-4(169) Zvornik Brigade Report No. 82-1, report on an unusual incident, type-signed Maj. Vinko PANDUREVIĆ, dated 31 January 1993
- S-4(170) Zvornik Brigade Regular Combat Report No. 82-2, type-signed Maj. Vinko PANDUREVIĆ, dated 31 January 1993
- S-4(171) Zvornik Brigade Regular Combat Report No. 109-1, type-signed Maj. Vinko PANDUREVIĆ, dated 13 February 1993
- S-4(172) Zvornik Brigade Regular Combat Report No. 146-3, type-signed Maj. Vinko PANDUREVIĆ, dated 2 March 1993

- S-4(173) Zvornik Brigade Regular Combat Report No. 105-2, type-signed Maj. Vinko PANDUREVIĆ, dated 10 February 1993
- S-4(174) Intercept dated 8 February 1993 at 10:45 hours
- S-4(175) Birač Brigade Regular Combat Report No. 14-397/93, type-signed Lt. Col. Svetozar ANDRIĆ, dated 2 March 1993
- S-4(176) Birač Brigade Special Operative Report No. 14-398/93, type-signed Lt. Col. Svetozar ANDRIĆ, dated 2 March 1993
- S-4(177) Zvornik Brigade Regular Combat Report No. 148-4, type-signed Maj. Vinko PANDUREVIĆ, dated 4 March 1993
- S-4(178) Zvornik Brigade Regular Combat Report No. 168-1, amendment, type-signed Maj. Vinko PANDUREVIĆ, dated 10 March 1993
- S-4(179) Zvornik Brigade Regular Combat Report 2 No. 168-3, type-signed Maj. Vinko PANDUREVIĆ, dated 11 March 1993
- S-4(180) UNPROFOR HQ BH Command (Main) Kiseljak, SitRep for 12 March 1993
- S-4(181) Zvornik Brigade Regular Combat Report 1 No. 87-2, type-signed Maj. Vinko PANDUREVIĆ, dated 2 February 1993
- S-4(182) Zvornik Brigade Regular Combat Report 2 No. 111-4, type-signed Maj. Vinko PANDUREVIĆ, dated 15 February 1993
- S-4(183) Zvornik Brigade IKM Kiseljak Information Report entitled, "Basic characteristics of the Poturicas' preparation for spring offensive," signed by Lt. Col. Vinko PANDUREVIĆ, dated 3 April 1995
- S-4(184) Drina Corps Regular Combat Report No. 01/4-126, signed by Col. Milenko ŽIVANOVIĆ, dated 2 March 1993
- S-4(185) Drina Corps Regular Combat Report No. 01/4-127, signed for Col. Milenko ŽIVANOVIĆ, dated 2 March 1993
- S-4(186) Drina Corps Regular Combat Report No. 04/4-133, signed for Col. Milenko ŽIVANOVIĆ, dated 4 March 1993
- S-4(187) Excerpt from handwritten intercept notebook 231 - pages 0107-7905-0107-7918, with English translations (see also 65 ter #2315)
- S-4(188) Drina Corps document No. 2-198, decision on liberation, type-signed Col. Milenko ŽIVANOVIĆ, dated 8 December 1992
- S-4(189) VRS Main Staff Combat Order No. 02/2-135, type-signed Gen. Manojlo MILOVANOVIĆ, dated 15 February 1993

- S-4(190) Drina Corps Order No. 02/5-106, removal of remains of destroyed mosque in Konjevic Polje, type-signed Col. Milutin Skočajić, dated 24 February 1994
- S-4(191) Zvornik Brigade Regular Combat Report No. 03-1/33, type-signed Maj. Vinko PANDUREVIĆ, dated 24 February 1994
- S-4(192) Zvornik Brigade Regular Combat Report No. 34, type-signed Maj. Vinko PANDUREVIĆ, dated 25 February 1994
- S-4(193) Zvornik Brigade Regular Combat Report No. 03-1/37, type-signed Maj. Vinko PANDUREVIĆ, dated 28 February 1994
- S-4(194) Intercept dated 27 September 1995, at 08:20 hours
- S-4(195) Intercept dated 23 September 1995, at 19:25 hours
- S-4(196) Article from Drinski magazine titled, "The First Furrow of the War," by M. PANTIĆ, dated February 1995
- S-4(197) Zvornik Brigade Report No. 01-443, on the state of morale for the month of September 1995, signed by Lt. Col. Vinko PANDUREVIĆ, dated 27 September 1995
- S-4(198) Booklet titled, "Values and Standards of the British Army," dated January 2008
- S-4(199) *Prosecutor v. Dragan Obrenović*, Case No. IT-02-60/2-S, excerpt from Defence Closing Statement (T.1555-1558), dated 30 October 2003
- S-4(200) Personal diary of Mirko TRIVIĆ, with complete English translation – see 2D00125
- S-4(201) Drina Corps Warning Order Operational No. 1, signed by Col. Milenko ŽIVANOVIĆ, dated 19 November 1992
- S-4(202) Zvornik Brigade Regular Combat Report No. 105-4, type-signed Maj. Vinko PANDUREVIĆ, dated 11 February 1993
- S-4(203) Extract from the MOD Zvornik District Telephone Directory
- S-4(204) Extract from a document from the RS Presidency: List of Municipalities with corresponding names, phone numbers and positions of individuals
- S-4(205) Map cut-out from 65ter number 1463 - Krivaja 95: Military map seized by OTP (Zvornik to Branjevo)
- S-4(206) Map cut-out from Working Map of the Drina Corps Command Staff, Begin: 24 Jan 1993, coded Proboj, approved without signature by Col. Milutin SKOČAJIĆ
- S-4(207) Extract of notebook seized by NATO forces during a search of residences of the family of Radovan KARADŽIĆ on 25-26 May 2005
- S-4(208) Vehicle log for Mercedes P-4687 for 17-30 September 1995

- S-4(209) Drina Corps Command, no.370/1, realization of the planed tasks from the directives 4 and 5, signed by Milenko Živanović
- S-4(210) Zvornik Brigade Regular Combat Report, 26 September 1995
- S-4(211) Translation
- S-4(212) P4398 – closed session

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H. ABBREVIATIONS

ARBiH	Army of the Republic of Bosnia and Herzegovina
CC of BiH	Criminal Code of Bosnia and Herzegovina
CC of SFRY	Criminal Code of the Socialist Federal Republic of Yugoslavia
Court of BiH	Court of Bosnia and Herzegovina
CPC of BiH	Criminal Procedure Code of Bosnia and Herzegovina
CPC of RBiH	Criminal Procedure Code of the Republic of Bosnia and Herzegovina
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights
FBI	Federal Bureau of Investigation
ICMP	International Commission on Missing Persons
ICTR	International Criminal Tribunal for Rwanda
ICTY	International Criminal Tribunal for the former Yugoslavia
ICTY OTP	International Criminal Tribunal for the Former Yugoslavia
LOTC	Law on the Transfer of cases from the ICTY to the Prosecutor's Office of BiH and the use of evidence collected by the ICTY in proceedings before the Courts in BiH
RS MUP	Republika Srpska Ministry of Internal Affairs

SFRY

Socialist Federal Republic of Yugoslavia

VRS

Army of the Republika Srpska

We hereby confirm that this document is a true translation of the original written in Bosnian/Croatian/Serbian.

Sarajevo, 6 May 2010

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