

1. Adija Mulaobegovića street (formerly Đure Jakšića street), 26 June 1994 (Scheduled Incident F.9)

3837. The Indictment alleges that, on 26 June 1994, Sanela Muratović, a 16 year old girl, was shot and wounded in her right shoulder while walking with a girlfriend on Đure Jakšića street (presently Adija Mulaobegovića street) in the west end of Sarajevo.<sup>12670</sup> In its Final Brief, the Prosecution argues that Muratović was shot from the SRK positions in the area of the School for the Blind, approximately 200 metres away.<sup>12671</sup> The Accused argues that the wounding of Sanela Muratović can be attributed to the fact that it happened very near the confrontation line during active combat between the two sides, when no soldiers would have expected civilians to be present in the area.<sup>12672</sup>

3838. On 26 June 1994, between 7 and 7:30 p.m., on a sunny early evening, Sanela Muratović, age 16, and Medina Omerović, age 17, were walking to Omerović's apartment at Đure Jakšića street 17 on the eastern side of Lukavička Cesta in Novi Grad<sup>12673</sup> when some uniformed soldiers warned them of incoming sniper fire.<sup>12674</sup> **(Obviously, the #two girls were approaching the confrontation line and were warned by the Muslim soldier#!)** Muratović was shot in her right shoulder, while Omerović, walking to the left, was not injured.<sup>12675</sup> Only one single shot was fired and it directly hit Muratović.<sup>12676</sup> There was no fighting in the area at the time of the incident.<sup>12677</sup> **(#Absurdity#! But, in this very same paragraph it is said that the girls had been warned by a soldier. So, if there was no an intensive fire, the soldier knew that the snipers had been active!)**

3839. Hogan visited the site of the incident and recorded the exact location where the victim was shot.<sup>12678</sup> Van der Weijden also visited the incident site but not the upper floor of the School for the Blind in Nedžarići, which is 190 metres away from the location of the incident site and which offers a clear view of that location, according to the photograph provided to him by the Prosecution.<sup>12679</sup> When at the site Van der Weijden considered other potential origins of fire and eventually concluded, eliminating all other possibilities, that the shot did

<sup>12670</sup> Indictment, Scheduled Incident F.9. The incident occurred in Alipašino Polje, an area located in the southwest of Sarajevo, just northwest of Dobrinja and east of Nedžarići. See e.g. P1803 (Map of Alipašino Polje); D2556 (Map of Sarajevo marked by Svetozar Guzina); Adjudicated Fact 82.

<sup>12671</sup> Prosecution Final Brief, Appendix C, para. 36.

<sup>12672</sup> Defence Final Brief, para. 2243–2244.

<sup>12673</sup> The incident occurred in the suburb of Sarajevo called Alipašino Polje, an area located in the southwest of Sarajevo, just northwest of Dobrinja and east of Nedžarići. See e.g. P1803 (Map of Alipašino Polje); D2556 (Map of Sarajevo marked by Svetozar Guzina).

<sup>12674</sup> See Adjudicated Facts 222, 223.

<sup>12675</sup> See Adjudicated Facts 224, 225. See also P1880 (Discharge sheet for Sanela Muratović).

<sup>12676</sup> See Adjudicated Fact 228.

<sup>12677</sup> See Adjudicated Fact 229.

<sup>12678</sup> Barry Hogan, T. 11214–11215 (3 February 2011); P2204 (Photograph re sniping incident of 26 June 1994 on Đure Jakšića street marked by Barry Hogan); P2207 (Images re scheduled sniping incidents in Sarajevo); P2190 (GPS locations for shelling and sniping incidents in Sarajevo); P2191 (Map of Sarajevo with scheduled sniping and shelling incidents).

<sup>12679</sup> P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92–’94”), pp. 67–69. See also Barry Hogan, T. 11214–11215 (3 February 2011); P2204 (Photograph re sniping incident of 26 June 1994 on Đure Jakšića street marked by Barry Hogan).

indeed come from the School.<sup>12680</sup> Van der Weijden was of the opinion that any bullet up to the 7.92 mm calibre was capable of causing the victim's injuries; however, he concluded that, given the distance between the alleged origin of fire and the site of the incident and the fact that the material provided to him by the Prosecution suggested that "only single shots or perhaps semi automatic fire were generally fired in that area", he thought that the most likely weapon used in this incident was an M79, an M91, or a civilian bolt action hunting rifle or an older generation rifle such as an M48.<sup>12681</sup> In addition, given the short distance between the School for the Blind and the incident site, the victim would have been easily identifiable as a young woman; furthermore, the fact that she did not use a trench which was there to protect the people crossing the street, would have indicated to the shooter that she was not "tactically aware" and thus not a combatant.<sup>12682</sup> **(But, there is another inevitable conclusion: from that distance a sniper would have been more precise, and the girls wouldn't be only wounded.)**

3840. Poparić testified that there was very little information for this incident, most of it coming from Omerović.<sup>12683</sup> He argued, based on Omerović's evidence in the *Galić* case and some of the images taken in the area, that it was clear that the location of the incident was right on the separation line between the warring parties and that Omerović's building was used by the ABiH soldiers.<sup>12684</sup> He also pointed out that there was an inconsistency in the evidence as to the precise location of the girls when Muratović was shot.<sup>12685</sup> According to Poparić, Omerović did not accurately show her location to Hogan since she indicated to him that she and Muratović were already in front of the trench when Muratović was wounded, whereas in her testimony in the *Galić* case she said that they ran to the trench only after Muratović was wounded.<sup>12686</sup> This is a crucial detail to Poparić since, unlike the location shown to Hogan, the location from which the girls ran to the trench was not visible from the School for the Blind.<sup>12687</sup> Poparić also argued that no evidence was presented that there was a firing position at the School for the Blind window, which had the view on the incident site and that it would be illogical to have a firing position in that location as it would make an easy

<sup>12680</sup> Van der Weijden denied that his task was simply to confirm that the School for the Blind was the location of the shooter. He conceded, however, that he did not know where the confrontation line was in the area between the School and the site of the incident, but noted that since the ABiH soldiers helped the victim they were probably in the buildings next to the incident site. He also conceded that he had no information as to the position of the victim's body when she was hit, or any information on the exact location of her wound. Patrick van der Weijden, T. 7142–7152 (29 September 2010); D671 (Aerial photograph of Sarajevo marked by Patrick van der Weijden). **This was a sufficient "not knowing" to shade a doubt.**

<sup>12681</sup> P1621 (Expert Report of Patrick van der Weijden entitled "Sniping Incidents in Sarajevo '92–'94"), p. 67.

<sup>12682</sup> P1621 (Expert Report of Patrick van der Weijden entitled "Sniping Incidents in Sarajevo '92–'94"), p. 70.

<sup>12683</sup> Mile Poparić, T. 38981 (30 May 2013).

<sup>12684</sup> D4884 (Mile Poparić's expert report entitled "Small Arms Fire on the Sarajevo Area 1992–1995", 15 August 2012), pp. 114–115.

<sup>12685</sup> D4884 (Mile Poparić's expert report entitled "Small Arms Fire on the Sarajevo Area 1992–1995", 15 August 2012), pp. 115–116.

<sup>12686</sup> D4884 (Mile Poparić's expert report entitled "Small Arms Fire on the Sarajevo Area 1992–1995", 15 August 2012), p. 116; Mile Poparić, T. 38979–38980 (30 May 2013).

<sup>12687</sup> D4884 (Mile Poparić's expert report entitled "Small Arms Fire on the Sarajevo Area 1992–1995", 15 August 2012), pp. 116–117; Mile Poparić, T. 38979–38980 (30 May 2013). The photograph of the view from the School for the Blind to the incident site was shown to Guzina during re-examination. He first claimed that the small building partially blocking the view to the Đure Jakšića street was new but then changed his mind when prompted by the Accused. See Svetozar Guzina, T. 31193–31194 (11 December 2012); D2560 (Photograph of building in Sarajevo, undated). The Chamber is not convinced by Guzina's testimony in this regard, but notes that even if the small building was not new, the photograph shows that there was still a partial view from the School for the Blind onto the Đure Jakšića street. Furthermore, this was conceded by Poparić who testified that the area around the trench was visible from the School for the Blind. **(Anyway, it was not sufficient to maintain this incident in the Indictment, because a mere fact that there was visibility is only a precondition for the further investigation, and in no way would be sufficient to replace a real investigation!)**

target.<sup>12688</sup> Poparić concluded that if the girls were already running before Muratović was shot then they were not shot from the School for the Blind and there must have been an exchange of fire or a ricochet.<sup>12689</sup> If, however, the girls were just next to the trench when shot at, there was a “theoretical possibility” that the shooter was at the level of the ceiling in the room of the School that had the view onto the trench but this, according to Poparić, was improbable.<sup>12690</sup> During cross-examination, when presented with a photograph of the School for the Blind taken in 1996 and shown a number of openings in the wall of the School on the side which was exposed to the incident location, Poparić denied that they were consistent with firing positions.<sup>12691</sup>

**3841.** Radojčić testified that he never issued an order to any unit of his brigade to open fire on Đure Jakšića street and that he never received any information about this incident.<sup>12692</sup> He did note, however, that he had information that one of the units of the 102<sup>nd</sup> Brigade of the ABiH 1<sup>st</sup> Corps was positioned on that street.<sup>12693</sup> **(If #the most immediate commander of the unit neither ordered nor knew about the incident#, how possibly this Accused could have been charged with this incident?)**

3842. Guzina confirmed that the location of the incident was “just behind the first line” which was the “worst line during the conflict” and stated that it was not logical to assume that civilians would be at that location.<sup>12694</sup> He also testified, based on the SRK’s daily combat report of 26 June 1994, that there was fighting in the area in the evening and night of 25 June 1994 as the ABiH “fired infantry weapons provocatively on all the lines of disengagement” of the Ilidža Brigade and its units responded in order to protect themselves.<sup>12695</sup> Thus, according to Guzina, Muratović could have been wounded during the battles in the area.<sup>12696</sup> Guzina opined, however, that a civilian should not have been in this location as both sides were under obligation to remove civilians from the frontline, and explained that in such circumstances every soldier had to make a decision as to whether he was under threat and whether to shoot on an observed target or not.<sup>12697</sup> When Galić was shown the same SRK report, which

<sup>12688</sup> D4884 (Mile Poparić’s expert report entitled “Small Arms Fire on the Sarajevo Area 1992–1995”, 15 August 2012), p. 117. Poparić in fact argued that there was no evidence that the School for the Blind as a whole was used as a sniper nest. See Mile Poparić, T. 38980 (30 May 2013). When confronted with an UNMO report stating that the Commander of the 1<sup>st</sup> Battalion of the Ilidža Brigade admitted that sniper fire was opened from the School for the Blind, Poparić responded that it was not clear that this was related to the incident involving Muratović. See Mile Poparić, T. 39271–39272 (5 June 2013); P1601 (UNMO report, 13 July 1994), p. 4.

<sup>12689</sup> Mile Poparić, T. 38982 (30 May 2013).

<sup>12690</sup> Mile Poparić, T. 38982 (30 May 2013).

<sup>12691</sup> When told that he made conclusions in his report as to the presence of ABiH sniping nests based on a similar photograph of a building in the ABiH-held territory (Image 6 in his report), Poparić explained that there was a difference in the photographs as he was not able to see the openings properly in the photograph of the School for the Blind. Mile Poparić, T. 39272–39277 (5 June 2013); P6368 (Photograph of a building). The Chamber agrees with Poparić that the detail on the two photographs is different.

<sup>12692</sup> D2562 (Witness statement of Vladimir Radojčić dated 8 December 2012), para. 117. Stanislav Galić also testified in relation to this incident that no one ordered this attack. Stanislav Galić, T. 37532–37533 (22 April 2013).

<sup>12693</sup> D2562 (Witness statement of Vladimir Radojčić dated 8 December 2012), para. 117.

<sup>12694</sup> D2553 (Witness statement of Svetozar Guzina dated 3 December 2012), para. 45; Svetozar Guzina, T. 31167–31168 (11 December 2012). On cross-examination, Guzina did agree that civilians lived in that area but noted that there was fighting on that day. Svetozar Guzina, T. 31169–31170 (11 December 2012).

<sup>12695</sup> D2553 (Witness statement of Svetozar Guzina dated 3 December 2012), para. 45; D2554 (SRK combat report, 26 June 1994), p. 1. When told that the SRK combat report of 26 June 1994 referred to the fighting that happened the day before and not on the day of the incident and when confronted with Adjudicated Fact 229 which provides that there was no fighting on 26 June 1994, Guzina remained adamant that the fighting lasted all day on 26 June as he had checked this fact in his diaries. Svetozar Guzina, T. 31174–31177 (11 December 2012).

<sup>12696</sup> D2553 (Witness statement of Svetozar Guzina dated 3 December 2012), para. 45.

<sup>12697</sup> Svetozar Guzina, T. 31170–31172 (11 December 2012).

provides that the SRK would “continue to strictly implement the cease-fire agreement and refrain from combat actions”, he noted that a restraint from combat activities meant that there was to be no firing so that if an incident occurred it would have to be reported and processed in some way.<sup>12698</sup> Galić also testified that two days prior to the incident an SRK combat report was sent to the VRS Main Staff, informing the latter that the SRK units were under orders to “consistently implement” cessation of hostilities.<sup>12699</sup>

3843. As noted above, Guzina conceded that the 1<sup>st</sup> Battalion had three snipers but claimed that those were positioned towards Butmir and not towards the site of this incident.<sup>12700</sup> When confronted with an UNMO report dated 11 July 1994 which indicates that there has been yet another sniping incident at a location near the School for Blind, whereby a 17 year old man was the third civilian casualty in the same spot in the last few days, Guzina responded that the UNMO report did not establish that this was sniper fire, and maintained that no professional snipers were located in that position.<sup>12701</sup> When confronted with an UNMO report dated 13 July 1994, in which he is recorded as having admitted to the sniping activity from the School for the Blind and as having promised that this would not happen again, Guzina denied ever making that admission and claimed that the UN liaison officers were able to write whatever they pleased.<sup>12702</sup> **(As General Rose and other high UN officers stated, the #UNMO weren't reliable at all#! Since a possible conversation between Guzina and the UNMO member was through a translator-interpreter, some possibilities of misunderstandings are multiplied!)**

3844. The Chamber has also taken judicial notice of a number of adjudicated facts which suggest that: (i) the bullet did not hit Muratović by mistake nor was there a ricochet,<sup>12703</sup> **How could that be established, on what basis, on what evidence? Why the same evidence wasn't submitted in this case?)** (ii) the shot which hit her originated from the area of the School for the Blind;<sup>12704</sup> (iii) UNMO and other witnesses had found that the School for the Blind was a “sniping nest” from where civilians were shot at,<sup>12705</sup> and (iv) the distance between the area of the School for the Blind and the position of the victim at the time of the incident was about 200 metres.<sup>12706</sup> Further, Adjudicated Fact 233 states that Muratović was a civilian and that she was deliberately targeted from SRK-controlled territory.<sup>12707</sup> **(Is there any “adjudicated fact” that the civilians were as close to the trench that was a part of the confrontation line? There was no more than one or two metres between the victim and the trech!!! Obviously, estimating on the basis of the “soldier’s warning” on the incoming sniper fire, there was no civilians prior to the victim’s arrival, as well as that there was a sort of constant fire by both sides!)**

<sup>12698</sup> Stanislav Galić, T. 37533–37535 (22 April 2013); D2554 (SRK combat report, 26 June 1994), p. 3.

<sup>12699</sup> Stanislav Galić, T. 37536–37537 (22 April 2013); D3455 (SRK combat report, 24 June 1994), p. 3. The report also notes, at page 1, that SRK units are at a heightened level of combat readiness and that they have been warned of the need to stop unnecessary opening of fire along the lines.

<sup>12700</sup> See fn. 12492.

<sup>12701</sup> Svetozar Guzina, T. 31177–31179, 31194–31195 (11 December 2012); P1600 (UNMO report, 11 July 1994), p. 5.

<sup>12702</sup> Svetozar Guzina, T. 31180–31181 (11 December 2012); P1601 (UNMO report, 13 July 1994), p. 4.

<sup>12703</sup> Adjudicated Fact 230.

<sup>12704</sup> See Adjudicated Fact 226.

<sup>12705</sup> See Adjudicated Fact 227.

<sup>12706</sup> See Adjudicated Fact 232.

<sup>12707</sup> See Adjudicated Fact 233.

3845. The Chamber considers, given Muratović's age at the time of the incident and the fact that she was walking with Omerović to Omerović's house on Đure Jakšića street without much tactical awareness, that both girls were civilians and were not taking direct part in hostilities at the time of the incident. Further, it is clear from the evidence outlined above<sup>12708</sup> that civilians lived near the confrontation line in the area of Đure Jakšića street. It follows therefore that the civilian presence in the area was not unusual and that civilians had to, at times, move around the area, contrary to Guzina's evidence. This would have undoubtedly been known to the SRK units located in the area, including Guzina, and the Chamber does not accept his evidence that civilians should not have been there. **(Certainly, civilians should have not been there, otherwise a soldier wouldn't warn the girls it it was a usual event! No civilians are allowed on the front line, because many civilians fought too, and the soldiers in the opposite trenches may not have ability to differentiate, because nobody was expected to be on the line! Otherwise, why a Muslim soldier warned them, if it was a regular situation of passing the same path??? The International law of war does not allow civilians to obstruct military events, and this was specified in many agreements that the sides signed with the ICRC!)** Thus, it is completely logical that Muratović and Omerović, and other civilians, would have ventured outside whenever there was a cease-fire or a lull in fighting. As also noted above, the two SRK reports sent to the VRS Main Staff just before and on the day of the incident indicate that there was a cease-fire in place at the time, which further explains why the two girls were walking in the area even though it was close to the confrontation line.<sup>12709</sup> **(As Lord Owen said, see D:178 above, the #Muslim Generals didn't care too much about ceasefire agreements#, and there is a document in the file, made by the UN personnel, that out of 319 ceasefire violation, the ABiH committed 318. But, if it was as the Prosecution alleged, and the Chamber accepted, then why the soldier warned the girls, and why there was no many more victims in 1,4000 days of the war? Although along all the confrontation lines there were civilian apartments and civilians, their traces in and out of the apartments had never been along the confrontation lines, but somewhere behind it! This case should have been dropped as the previous one, and many others. Particularly, since it was not any practice, but an isolated incident regardless of the perpetrator, why this Accused is charged with it??? Are other Presidents going to be treated the same way?)** Finally, contrary to Guzina's evidence, the Chamber is convinced that there was no fighting on the day of the incident as two young girls would not be out on the street in such a case. Furthermore, as also recounted above,<sup>12710</sup> the girls were explicitly warned by the ABiH soldiers about sniper fire. **(None of this arguments pro are convincing compared to the #fact that it was a combat zone#, regardless of the ceasefire, which had always been violated, 99% by the ABiH. So, it is almost insane to think that in a civil war, with the armies composed of the local population, in an urban area, with the c/l-s very close to each other, anyone could without a reasonable doubt conclude from where a bullet came. A mere fact that the ABiH violated so many SF-s as well as the fact that it was in their interest to have a crisis in Sarajevo, demand an additional caution when deliberating such incidents.**

<sup>12708</sup> See paras. 3784, 3787–3788, fn. 12694.

<sup>12709</sup> While the SRK report issued on the day of the incident does refer to some exchange of fire in the Ilidža Brigade's zone of responsibility, the Chamber notes that these exchanges took place mainly during the night of 25 June and in areas that were not close to Đure Jakšića street. See D2554 (SRK combat report, 26 June 1994), p. 1.

<sup>12710</sup> See para. 3838.



3846. The Chamber is also satisfied, based on the evidence above, that the School for the Blind was some 200 metres away from the incident site and that it had a line of sight to Đure Jakšića street. The Chamber does not accept Poparić's analysis as to discrepancies in Omerović's story since the description of the incident she gave in her evidence in the *Galić* case – as recounted by Poparić – is not necessarily inconsistent with the location of the incident shown to Hogan. The fact that Muratović was shot first and only then started running towards Omerović's house and found refuge in the trench does not mean that she was not shot when near the trench. In other words, other than saying that Muratović was not in the line of sight of the School for the Blind when shot, Poparić does not provide any explanation or visual information as to where she was in fact standing when shot. Thus, the Chamber accepts the evidence of Hogan as to the location of the victim when shot and is satisfied that she could be seen from the School for the Blind at that location. **(Again, #“could have been shot from this position” because “she could be seen from the School# - means “she had been shot”! This is a completely new practice – in a shortage of evidence – a slight possibility is promoted into probability, and probability into a fact, an evidence! Thus, the Defence was forced to prove that this “possibility” was not used, instead the Prosecution to prove that it was so, and the SRK soldier deliberately shot towards the confrontation line! How possibly the Chamber understood that a girl hit by a rifle bullet in her shoulder could continue to run? All of it is so obscure, that it was a matter of decency not to offer it to the Chamber and the Defence to deal with it. Another, a permanent question without answer is: what this Accused has to do with the incident. A second question is: if it was a huge number of the sniper victims caused by the Serbs, why the Prosecution is limited to several that are clumsily or not at all investigated?)**

3847. The Chamber is further satisfied, based on the evidence of Guzina outlined above, that the 1<sup>st</sup> Battalion of the Ilidža Brigade of the SRK had positions in the School for the Blind. It is also satisfied that the soldiers located in the School opened sniper fire at the civilians in the area **(When the SRK soldiers “opened sniper fire at the civilians in the area”? How many cases happened in this area during these 1,400 days of a street fights? How the Chamber could have known this, since this clumsy evidence is the only one? Who made an investigation which undoubtedly confirmed that it was so? Such an assertion without any foundation now serves as a basis for another inference, and maybe another, and another. This is senseless to draw such an inference and particularly to assign it to the commands of the SRK units, because it was so rare, and unestablished anyway, so that this is unacceptable!)** and thus possessed either a sniper rifle or an M48 rifle with an optic sight, which is in line with Van der Weijden's evidence as to the gun used in this incident.<sup>12711</sup> **(Why it didn't happen ever before or after this incident?)** Finally, the Chamber is satisfied that Sanela Muratović was deliberately targeted by one of those soldiers and that this soldier would have undoubtedly been aware of her civilian status given the short distance between the School for the Blind and the location of the incident.<sup>12712</sup> **(#Absurdity after absurdity#! If so, why she was only wounded, and not killed? How she had been dressed? How the ABiH soldiers changed the shifts, what way. This kind of deliberation**

<sup>12711</sup> See P1600 (UNMO report, 11 July 1994), p. 5. This is further confirmed by the SRK combat report of 24 June 1994 which provides that SRK units have been “warned of the need to stop unnecessary opening of fire along the lines”, thus implying that such was the practice of those units. D3455 (SRK combat report, 24 June 1994), p. 1.

<sup>12712</sup> The Chamber does not consider that Muratović was caught in cross-fire as she was warned that there was sniper fire in the area. See Adjudicated Fact 223.

must not have happened, because it compromises the very idea of the international justice! Finally, why there is no any medical evidence and documentation about this incident and the victim Sanela Muratovic? Not even discharging letter from the hospital? And President Karadžić was so distant from the event, whatever it was, that it is not understandable by a common mind that Karadžić was charged with this incident. In which country would be accepted this case, and would result in a convicting judgment?)

(C) Sedrenik

3848. Two of the 16 scheduled sniping incidents took place in a suburb of Sarajevo called Sedrenik. The Prosecution alleges in relation to both that the origin of fire was a rock-faced ridge called “Špicasta Stijena” or “Sharpstone”, which overlooks Sedrenik.<sup>12713</sup>

3849. Sedrenik is a settlement located in the northeastern part of Sarajevo.<sup>12714</sup> It is a residential area which was frequently targeted throughout the war by small arms fire, as well as shells and mortars, resulting in a number of casualties.<sup>12715</sup> This made it difficult to live in Sedrenik during the conflict and Sedrenik’s inhabitants were often forced to leave their houses early in the morning or late at night, while it was dark.<sup>12716</sup> The areas known for being frequently exposed to sniper fire were protected by bed sheets and blankets, which would be hung from wires, all in order to block the line of sight to snipers.<sup>12717</sup> The situation was such that many people left Sedrenik and moved to safer areas of Sarajevo.<sup>12718</sup>

3850. A team consisting of six to ten UNMO observers was based in a civilian house located in Sedrenik.<sup>12719</sup> The base had a UN flag on the roof but it was nevertheless targeted by sniping fire on an almost daily basis, as were their cars.<sup>12720 (12720)</sup>

3851. Two main locations featuring in the evidence relating to this area of the city were two elevations above Sedrenik, namely Grdonj Hill and Špicasta Stijena.<sup>12721</sup> Špicasta Stijena is a bare rock, some 50 to 100 metres high, overlooking Sedrenik.<sup>12722</sup> According to a number

<sup>12713</sup> Scheduled Incidents F.2 and F.17; Prosecution Final Brief, Appendix C, paras. 23–25. Scheduled Incident F.13 also took place in this area but was struck out of the Indictment pursuant to Rule 73 bis of the Rules.

<sup>12714</sup> P1953 (Witness statement of Harry Konings dated 11 November 2010), para. 10. See Adjudicated Fact 2844.

<sup>12715</sup> P496 (Witness statement of Tarik Žunić dated 21 April 2006), pp. 2–3; P496 (Witness statements of Tarik Žunić dated 10 November 1995), p. 2; P1762 (Witness statement of David Fraser dated 17 October 2010), pp. 24, 26; David Fraser, T. 8015–8016 (18 October 2010); P1978 (Witness statement of Nedžib Đozo dated 7 December 2010), paras. 16, 19–20; Nedžib Đozo, T. 9598–9609, 9642–9646 (10 December 2010); D911 (ABiH map of Sarajevo marked by Nedžib Đozo); P23 (Witness statement of Mirsad Kućanin dated 12 November 1995), p. 8. See also P1991 (Stari Grad Police Station war diary) generally for the various incident reported in Sedrenik.

<sup>12716</sup> P1978 (Witness statement of Nedžib Đozo dated 7 December 2010), para. 22.

<sup>12717</sup> P1978 (Witness statement of Nedžib Đozo dated 7 December 2010), para. 22. See also P1762 (Witness statement of David Fraser dated 17 October 2010), p. 24.

<sup>12718</sup> P1978 (Witness statement of Nedžib Đozo dated 7 December 2010), para. 22.

<sup>12719</sup> P1953 (Witness statement of Harry Konings dated 11 November 2010), paras. 10–12; Harry Konings, T. 9300 (7 December 2010); P1961 (Photograph of Sarajevo hillside); P152 (Witness statement of Thomas Knustad dated 21 May 1996), pp. 2, 7; Thomas Knustad, P123 (Transcript from Prosecutor v. *D. Milošević*), T. 1985–1986.

<sup>12720</sup> P1953 (Witness statement of Harry Konings dated 11 November 2010), para. 40; P496 (Witness statement of Tarik Žunić dated 21 April 2006), p. 2; Thomas Knustad, P123 (Transcript from Prosecutor v. *D. Milošević*), T. 2011.

<sup>12721</sup> D4884 (Mile Poparić’s expert report entitled “Small Arms Fire on the Sarajevo Area 1992–1995”, 15 August 2012), pp. 37–38; Slavko Gengo, T. 29786 (6 November 2012); P1978 (Witness statement of Nedžib Đozo dated 7 December 2010), para. 16; Nedžib Đozo, T. 9590–9591 (10 December 2010); D909 (Photograph of Sarajevo marked by Nedžib Đozo) (marking Grdonj Hill with the number 1 and Špicasta Stijena with the number 2).

<sup>12722</sup> Nedžib Đozo, T. 9545–9548 (9 December 2010), T. 9619–9621; P1980 (Photographs of Špicasta Stijena); P1953 (Witness statement of Harry Konings dated 11 November 2010), para. 12; P1961 (Photograph of Sarajevo hillside).

of witnesses, it was the origin of much of the sniping fire on Sedrenik.<sup>12723</sup> **(The ABiH occupied several hills that were dominant to the Serb positions, and also closer to Sedrenik than the Serb positions. Thus the Muslim forces occupied the Grdonj Hill and kept it the entire war, and there is no dispute about it. The Serb positions on Spicasta Stijena were inferior to the Grdonj Hill forces. How then this possibility was excluded from any considerations? Since the Muslim side was striving for an international military intervention, what would prevent them to stage their customary tricks on Sedrenik too?)**

# 1. Confrontation lines in the area

3852. Slavko Gengo, the Commander of the 7<sup>th</sup> Infantry Battalion of the 1<sup>st</sup> Romanija Infantry Brigade of the SRK,<sup>12724</sup> testified that his battalion was in control of the nine kilometre long confrontation line in the area, in the Kadrijina Kuća – Mala Tvrđava – Špicasta Stijena – Pašino Brdo – Velika Tvrđava – Pašino Brdo – Donje Bioško – Faletići – Zečija Glava – Borije – Tabakovo Guvno sector.<sup>12725</sup> The Battalion numbered some 800 men<sup>12726</sup> and consisted of the command, six companies, one independent platoon, a logistics platoon, and a communication detachment.<sup>12727</sup> There was a deficit of professional officers; most of the soldiers in the battalion were locals, which had effect on the command's ability to control the units.<sup>12728</sup>

**3853.** According to Gengo, Špicasta Stijena was held by the VRS throughout the conflict.<sup>12729</sup> Blaško Rašević, commander of a platoon and later a company in Mrkovići,<sup>12730</sup> which was part of the 1<sup>st</sup> Romanija Infantry Brigade,<sup>12731</sup> confirmed this saying that from 5 April 1992 his platoon, as well as another Mrkovići platoon, took up positions on the Velika

<sup>12723</sup> P1953 (Witness statement of Harry Konings dated 11 November 2010), para. 40; P152 (Witness statement of Thomas Knustad dated 21 May 1996), p. 4; P1558 (Witness statement of Francis Roy Thomas dated 13 May 2009), para. 66; P496 (Witness statement of Tarik Žunić dated 21 April 2006), pp. 2–3; P23 (Witness statement of Mirsad Kučanin dated 12 November 1995), p. 8; P1978 (Witness statement of Nedžib Đozo dated 7 December 2010), para. 15. Knustad also testified that he even saw a modified air bomb being launched from Špicasta Stijena during his time in Sarajevo, namely after 21 June 1995. See P152 (Witness statement of Thomas Knustad dated 21 May 1996), p. 2; Thomas Knustad, P123 (Transcript from Prosecutor v. *D. Milošević*), T. 1990, 2028–2029. **(Where this MAB landed?)**

<sup>12724</sup> D2383 (Witness statement of Slavko Gengo dated 14 October 2012), para. 3.

<sup>12725</sup> D2383 (Witness statement of Slavko Gengo dated 14 October 2012), para. 13; D2384 (Map of Sarajevo marked by Slavko Gengo); P1021 (VRS map of Sarajevo); P6295 (VRS map of Sarajevo). The Chamber notes that Mala and Velika Tvrđava were also known and referred to as Mala and Velika Kula throughout the evidence.

<sup>12726</sup> 650 of those men were in infantry companies while the rest belonged to logistics support. See Slavko Gengo, T. 29766 (6 November 2012).

<sup>12727</sup> D2383 (Witness statement of Slavko Gengo dated 14 October 2012), para. 13.

<sup>12728</sup> D2383 (Witness statement of Slavko Gengo dated 14 October 2012), paras. 25–26. However, according to Gengo, disciplinary problems happened mostly when parts of the unit were dispatched on assignments outside the battalion's zone of responsibility. See D2383 (Witness statement of Slavko Gengo dated 14 October 2012), para. 26.

<sup>12729</sup> Slavko Gengo, T. 29786 (6 November 2012). Two UNMO observers stationed in the area, namely Konings and Knustad, also testified to that effect. Knustad even saw a Bosnian Serb flag on Špicasta Stijena. See P1953 (Witness statement of Harry Konings dated 11 November 2010), para. 40; Thomas Knustad, P123 (Transcript from Prosecutor v. *D. Milošević*), T. 2036. Furthermore, senior UNMO observer, Francis Roy Thomas, visited the Serb positions on Špicasta Stijena. P1558 (Witness statement of Francis Roy Thomas dated 13 May 2009), para. 66.

<sup>12730</sup> Rašević was the company commander between 31 January 1993 and September 1994. See D2527 (Witness statement of Blaško Rašević dated 1 December 2012), paras. 16–17. Mrkovići is a village north of Grdonj Hill and Sarajevo city. See D2794 (Satellite image of Sarajevo marked by Dragomir Milošević).

<sup>12731</sup> With the formation of the VRS, the two Mrkovići platoons first became part of the 2<sup>nd</sup> Romanija Brigade and then later the 1<sup>st</sup> Romanija Infantry Brigade, which was part of the SRK. The commander of the 1<sup>st</sup> Romanija Brigade was Dragomir Milošević, followed by Vlado Lizdek. See D2527 (Witness statement of Blaško Rašević dated 1 December 2012), para. 20; Blaško Rašević, T. 30911 (4 December 2012).



Tvrđava-Špicasta Stijena axis and “successfully defended that line until the end of the war”.<sup>12732</sup> According to Rašević, his unit carried out only defensive tasks and never received an order to attack.<sup>12733</sup> Stanislav Galić, who was the SRK Commander until 1994, testified that Špicasta Stijena was around one kilometre away from Sedrenik, that it was partly under SRK control at one point, and that it then came under ABiH control.<sup>12734</sup> However, he provided no detail as to when the change-over happened.<sup>12735</sup> **(It was a #well known fact that the Serb side was interested only in defending the Mrkovici village and the road Pale – Vogosca, passing through the Mrkovici area# The same reasons motivated the Muslim side to permanently attack this part of the front line, and there was many attempts to “deblock” Sarajevo at that spot. For that reason, the locals who made this unit were interested only in a lull, rather than in any firing, because it was endangering their families right behind the lines.)**

5854. Contrary to the evidence outlined above, Dragomir Milošević testified that the SRK forces were not located on Špicasta Stijena but in the area of Mala Kula, just behind Špicasta Stijena.<sup>12736</sup> He went so far as to claim that Špicasta Stijena was not in the zone of responsibility of the SRK.<sup>12737</sup> However, when questioned by the Chamber, he conceded that the SRK would have had “conditions from [Špicasta Stijena] to execute possible fire”, and that “possible fire was executed to the degree required for [the units] to protect themselves”.<sup>12738</sup> **(It was misunderstood, because nobody would be so mad to have the trench exactly on the ridge of Spicasta Stijena, because there would be exposed to a dangerous and effective fire. The trenches were a bit deeper in the territory, but when needed, the unit could have approach the ridge and fire against the units that attacked!)**

3855. Accordingly, the Chamber is satisfied that, with the exception of a few days around mid-1994, when it was temporarily taken over by the ABiH, Špicasta Stijena was in the zone of responsibility of the SRK, more precisely the 7<sup>th</sup> Battalion of the 1<sup>st</sup> Romanija Infantry Brigade, and that the SRK soldiers were able to open fire from that feature.<sup>12739</sup> **(But they didn’t open any fire that wasn’t a defense against the Muslim units! There is no a slightest evidence that the SRK units wanted to advance a bit, and therefore the local Serbs defended their families, and didn’t want to widen their territory. On the contrary,**

<sup>12732</sup> D2527 (Witness statement of Blaško Rašević dated 1 December 2012), paras. 20, 29; D2528 (Map of Grdonj marked by Blaško Rašević). Siniša Maksimović, who briefly replaced Rašević as the Commander of Mrkovići Company in 1994, testified that the company’s positions were located to the north of the Grdonj Hill, at the level of Mala Kula but he did place Špicasta Stijena in the Mrkovići Company’s zone of responsibility. See D2354 (Witness statement of Siniša Maksimović dated 19 October 2012), paras. 5, 9; Siniša Maksimović, T. 29306 (23 October 2012); D2355 (Map of Sarajevo marked by Siniša Maksimović); D2356 (Photograph of Sarajevo from Grdonj Hill); D2357 (Photograph of Sarajevo from Grdonj Hill); P1978 (Witness statement of Nedžib Dožo dated 7 December 2010), para. 17.

<sup>12733</sup> D2527 (Witness statement of Blaško Rašević dated 1 December 2012), para. 21. Rašević also testified that from their positions they could see the firing positions of the ABiH in the city, including near the Faculty of Physical Education, the Koševo Hill tunnel, the Koševo stadium, Nemanja Vlatković School, and Koševo Hospital grounds. See D2527 (Witness statement of Blaško Rašević dated 1 December 2012), para. 23. See also D2383 (Witness statement of Slavko Gengo dated 14 October 2012), para. 23.

<sup>12734</sup> Stanislav Galić, T. 37467, 37478–37479 (22 April 2013).

<sup>12735</sup> The Chamber received evidence there was a temporary take over of Špicasta Stijena by Bosnian Muslim forces, which took place in mid-September 1994 and lasted for about two days. See D2354 (Witness statement of Siniša Maksimović dated 19 October 2012), para. 10; Siniša Maksimović, T. 29303 (23 October 2012); Blaško Rašević, T. 30914–30915 (4 December 2012); Slavko Gengo, T. 29786 (6 November 2012). In addition, Gengo testified that two trenches on Špicasta Stijena were taken from the SRK in summer of 1994. See D2383 (Witness statement of Slavko Gengo dated 14 October 2012), para. 33.

<sup>12736</sup> Dragomir Milošević, T. 32567–32568 (23 January 2013), T. 33187–33188 (5 February 2013); D2794 (Satellite image of Sarajevo marked by Dragomir Milošević).

<sup>12737</sup> Dragomir Milošević, T. 33189–33195 (5 February 2013).

<sup>12738</sup> Dragomir Milošević, T. 33196–33197 (23 January 2013).

**the Muslim side kept attacking village of Mrkovići not only because of the village and territory itself, but because of the communication Pale to Vogosca, and if taken, the entire Serb part of Sarajevo would be lost!)** In addition, the Chamber is also satisfied that, since it is situated on a steep slope, Sedrenik could be easily seen from both Špicasta Stijena and the adjacent Grdonj Hill.<sup>12740</sup> **(The Grdonj Hill had never been in the Serb hands!)**

3856. The ABiH units opposing the 7<sup>th</sup> Battalion, including the Mrkovići Company, belonged to the 105<sup>th</sup> and 110<sup>th</sup> Mountain Brigades and held the top of the Grdonj Hill, with the area of Sedrenik behind them, as well as the extensive views towards the city.<sup>12741</sup> According to Nedžib Đozo, who was a police investigator in the Stari Grad police station,<sup>12742</sup> the ABiH units were not positioned directly below or at the foot of Špicasta Stijena as that would have been too close and too dangerous; instead, they were positioned to the left, towards Grdonj, and to the right, towards the forest.<sup>12743</sup> Đozo also testified these were not proper lines but rather two or three positions protecting the area from the “onslaught of Serb forces towards Sedrenik.”<sup>12744</sup> Gengo also testified that in the area of Špicasta Stijena and Velika and Mala Tvrđava, the 7<sup>th</sup> Battalion was deployed higher than the ABiH units.<sup>12745</sup>

3857. The positions of the 105<sup>th</sup> Mountain Brigade were some 20 to 100 metres away from the positions of the Mrkovići Company and the line of disengagement on Špicasta Stijena was, in certain places, as narrow as 20 metres.<sup>12746</sup>

## **1. Snipers in the area**

3858. Milošević denied that the SRK had any snipers on Špicasta Stijena, explaining that the distances involved were great that any type of infantry weapons in that position would have been useless.<sup>12747</sup> Gengo confirmed this, stating that there were no trained snipers in the 7<sup>th</sup>

<sup>12739</sup> Indeed, even the Accused’s expert witness, Mile Poparić, prepared his report working on that assumption. See D4884 (Mile Poparić’s expert report entitled “Small Arms Fire on the Sarajevo Area 1992–1995”, 15 August 2012), p. 41. In his report, Mile Poparić provides photographs of various trenches on Grdonj and Špicasta Stijena. See D4884 (Mile Poparić’s expert report entitled “Small Arms Fire on the Sarajevo Area 1992–1995”, 15 August 2012), Images 13–17. See also Adjudicated Facts 101, 102, and 160.

<sup>12740</sup> Slavko Gengo, T. 29786 (6 November 2012); D4884 (Mile Poparić’s expert report entitled “Small Arms Fire on the Sarajevo Area 1992–1995”, 15 August 2012), pp. 37–38. In addition, according to the witnesses, all the trees from Špicasta Stijena towards Sedrenik were cut by the civilians who needed firewood. D2383 (Witness statement of Slavko Gengo dated 14 October 2012), para. 34; Nedžib Đozo, T. 9546–9547 (9 December 2010), T. 9593–9595 (10 December 2010). The Chamber notes that Nedžib Đozo also testified that sniping fire on Sedrenik could only be opened from Špicasta Stijena as Sedrenik was not visible from Grdonj Hill. See P1978 (Witness statement of Nedžib Đozo dated 7 December 2010), para. 16. However, in light of Poparić’s report, the Chamber does not accept this part of his testimony.

<sup>12741</sup> D2527 (Witness statement of Blaško Rašević dated 1 December 2012), para. 26; D2354 (Witness statement of Siniša Maksimović dated 19 October 2012), para. 5; Siniša Maksimović, T. 29306 (23 October 2012); D2355 (Map of Sarajevo marked by Siniša Maksimović); D2356 (Photograph of Sarajevo from Grdonj Hill); D2357 (Photograph of Sarajevo from Grdonj Hill); Dragomir Milošević, T. 32567, 32570 (23 January 2013); D2794 (Satellite image of Sarajevo marked by Dragomir Milošević); D2383 (Witness statement of Slavko Gengo dated 14 October 2012), para. 16; Slavko Gengo, T. 29838 (6 November 2012); Asim Džambasović, T. 15194, 15207, 15238–15240 (22 June 2011); D1378 (Map of ABiH positions in Sarajevo marked by Asim Džambasović); P1058 (ABiH map). According to Džambasović, the command post of the 105<sup>th</sup> Brigade was located in the Šipad building in Trampina street. See Asim Džambasović, T. 15207 (22 June 2011).

<sup>12742</sup> P1978 (Witness statement of Nedžib Đozo dated 7 December 2010), para. 4.

<sup>12743</sup> P1978 (Witness statement of Nedžib Đozo dated 7 December 2010), paras. 16, 18. But see Tarik Žunić, P494 (Transcript from *Prosecutor v. D. Milošević*), T. 1723–1724, 1726–1727, 1741–1742.

<sup>12744</sup> P1978 (Witness statement of Nedžib Đozo dated 7 December 2010), para. 16.

<sup>12745</sup> D2383 (Witness statement of Slavko Gengo dated 14 October 2012), para. 16.

<sup>12746</sup> D2354 (Witness statement of Siniša Maksimović dated 19 October 2012), paras. 5, 10; Asim Džambasović, T. 15240, 15251 (22 June 2011); Thomas Knustad, P123 (Transcript from *Prosecutor v. D. Milošević*), T. 2045.

<sup>12747</sup> According to Milošević, there were some artillery weapons in Mrkovići but they were withdrawn and placed under the command of UNPROFOR. See Dragomir Milošević, T. 32571 (23 January 2013).

Battalion and that opening fire towards Sedrenik was impossible because of the distances involved, the configuration of the terrain, and the fact that trenches on Špicasta Stijena were “always under cross-fire”.<sup>12748</sup> Gengo did concede, however, that the 1<sup>st</sup> Romanija Infantry Brigade had over sixty 7.62 and 7.9 mm sniper rifles in its arsenal.<sup>12749</sup> While claiming that the Mrković Company did not have professional snipers or sniper rifles, Rašević testified that they had optical devices placed on hunting rifles, which then had a targeting accuracy of up to 1,000 metres, with the greatest accuracy between 300 and 400 metres.<sup>12750</sup> Siniša Maksimović, who briefly replaced Rašević as the Commander of Mrković Company in 1994,<sup>12751</sup> conceded that his unit would open fire from Špicasta Stijena but only when attacked and only on ABiH positions.<sup>12752</sup>

3859. Contrary to Gengo and Milošević’s evidence as to the presence of snipers on Špicasta Stijena, Thomas testified that due to a large number of sniping incidents originating from Špicasta Stijena, he tried to negotiate UNMOs’ presence there and in the course of his negotiations with the SRK was able to visit their positions in the area some time after February 1994.<sup>12753</sup> According to him, Špicasta Stijena was a “very well dug in position” such that there was “no need for special facilities for the snipers.”<sup>12754</sup> The SRK soldiers could “just pick a trench and prepare themselves, shoot, and then move on to another trench” as they had a clear view.<sup>12755</sup> Ultimately, negotiations to have UNMO presence on Špicasta Stijena were unsuccessful despite Thomas taking the matter to Major Indić and thus bringing it to Galić’s attention.<sup>12756</sup> Thomas’ evidence is confirmed by an UNMO report of 6 March 1995, according to which two civilians and the APC of the UNPROFOR’s Egyptian battalion came under sniper fire from the positions of Špicasta Stijena; when the APC returned fire and engaged the SRK shooter, the UNMO Vogošća team was threatened by the Commander of the SRK’s Radava Battalion<sup>12757</sup> and told to leave his “target practice area (Sedrenik)” or it would be fired upon.<sup>12758</sup>

3860. In terms of the disposition of fire in Sedrenik, Fraser testified that it was the Serbs that fired more in the area, which is why protective screens were set up.<sup>12759</sup> However, Galić

<sup>12748</sup> D2383 (Witness statement of Slavko Gengo dated 14 October 2012), para. 35; Slavko Gengo, T. 29787 (6 November 2012).

<sup>12749</sup> Slavko Gengo, T. 29788, 29794–29796 (6 November 2012); P5945 (Report of 1st Romanija Infantry Brigade to SRK, 29 October 1993); P1279 (SRK request to VRS Main Staff, 10 July 1995).

<sup>12750</sup> D2527 (Witness statement of Blaško Rašević dated 1 December 2012), para. 29. See also D2354 (Witness statement of Siniša Maksimović dated 19 October 2012), para. 8. The Chamber also recalls here Van der Weijden’s evidence that a substantial number of combatants in Sarajevo had hunting rifles fitted with scopes, which were suitable for sniping. See P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92–‘94”), Appendix A, pp. 3–4.

<sup>12751</sup> At the time of the incident, however, Maksimović was a member of the intervention platoon in the 4<sup>th</sup> Battalion of the Igman Brigade and held the line on Igman, which is far from Sedrenik. See D2354 (Witness statement of Siniša Maksimović dated 19 October 2012), paras. 3–5; Blaško Rašević, T. 30914–30915 (4 December 2012).

<sup>12752</sup> When shown the UNMO report of 6 March 1995 referring to two civilians being wounded by fire from Špicasta Stijena, Maksimović explained that this happened when he was no longer the commander in the area. Siniša Maksimović, T. 29297–29298 (23 October 2012); P1619 (UNMO report, 6 March 1995).

<sup>12753</sup> P1558 (Witness statement of Francis Roy Thomas dated 13 May 2009), para. 66.

<sup>12754</sup> P1558 (Witness statement of Francis Roy Thomas dated 13 May 2009), para. 66. See also P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92–‘94”), p. 20.

<sup>12755</sup> P1558 (Witness statement of Francis Roy Thomas dated 13 May 2009), para. 66.

<sup>12756</sup> P1558 (Witness statement of Francis Roy Thomas dated 13 May 2009), para. 66.

<sup>12757</sup> Radava is a village not far from Mrkovići. See D2354 (Witness statement of Siniša Maksimović dated 19 October 2012), para. 4; D2355 (Map of Sarajevo marked by Siniša Maksimović).

<sup>12758</sup> P1619 (UNMO report, 6 March 1995).

<sup>12759</sup> P1762 (Witness statement of David Fraser dated 17 October 2010), pp. 24, 26; David Fraser, T. 8015 (18 October 2010).

testified that ABiH was constantly attacking SRK positions on the axis Sedrenik-Zlatište and that ABiH forces would even open sniper fire on Sedrenik itself.<sup>12760</sup> Rašević confirmed that ABiH forces launched several attacks on his positions between April 1992 and January 1993, noting that the area was deemed important because it was a dominant elevation that could cut off the connection between Vogošća and Hresa and leave all Serb-held municipalities in encirclement.<sup>12761</sup> Dragomir Milošević also testified that the area was of strategic importance to the SRK, which is why the ABiH would regularly launch attacks on Mrkovići and the road leading from Pale to Vogošća via Špicasta Stijena.<sup>12762</sup> Finally, Gengo too mentioned such attacks on the positions of his battalion, including by ABiH sniper fire—he then stated that he and his forces would return fire in retaliation, and in doing so would use both machine gun and mortar fire.<sup>12763 (12763)</sup>

3861. In Poparić's view, in terms of safety for Sedrenik, the positions at Špicasta Stijena and Grdonj were "very disadvantageous" because Sedrenik was situated on a steep incline, meaning that almost every bullet fired from Špicasta Stijena and Grdonj would have had a ricocheting angle, so that in an exchange of fire a substantial number of projectiles would fly in the direction of the inhabited area.<sup>12764</sup>

3862. Taking all the above evidence into account, particularly the evidence of Thomas, Milošević, and Gengo, the Chamber is satisfied that the SRK positions above Sedrenik were of strategic importance to the SRK and that the SRK was able to and would open fire both from Špicasta Stijena and from its positions around it. **(It had been of a great strategic importance, #but only in terms of defence against permanent ABiH attacks with the aim to take Mrkovici village and cut the communication between the rest of the RS and the Serb Sarajevo, thus killing 200,000 Serbs#. What motive would SRK have to initiate any fighting in that situation? A motive is needed as much as opportunity and ability!)** Additionally, it is also satisfied, relying on Gengo, Rašević and the SRK documents cited above,<sup>12765</sup> that the SRK soldiers in the area had machine guns, sniper rifles, and hunting rifles with optic sights. Finally, relying on the evidence of UNMO witnesses, Žunić, Đozo, and in particular the UNMO report of 6 March 1995,<sup>12766</sup> the Chamber is satisfied that the SRK soldiers would open small arms and/or sniper fire at the civilians in Sedrenik, and that Sedrenik was used by the SRK for "target practice". **(#Why the civilians cutting the woods weren't aimed at#? There had never been a single incident, although there couldn't be any obstacle for the Serb soldiers to kill many of the Muslim civilians! And why not on all of the 1,400 days, and why not many more victims? Let us see what had been written in P01619 of 6 March 1995:**

<sup>12760</sup> Stanislav Galić, T. 37190 (15 April 2013), T. 37411 (18 April 2013), T. 37541–37542 (22 April 2013); D3425 (SRK combat report, 2 September 1993); D3457 (SRK combat report, 27 July 1994).

<sup>12761</sup> D2527 (Witness statement of Blaško Rašević dated 1 December 2012), paras. 22, 26, 27; Blaško Rašević, T. 30906–30909 (4 December 2012); D2529 (Map of Sarajevo marked by Blaško Rašević).

<sup>12762</sup> Dragomir Milošević, T. 32568–32569 (23 January 2013).

<sup>12763</sup> D2383 (Witness statement of Slavko Gengo dated 14 October 2012), paras. 10, 27–28, 33; Slavko Gengo, T. 29782–29783 (6 November 2012).

<sup>12764</sup> D4884 (Mile Poparić's expert report entitled "Small Arms Fire on the Sarajevo Area 1992–1995", 15 August 2012), p. 42.

<sup>12765</sup> See fn. 12749.

<sup>12766</sup> See paras. 3849–3851, 3859–3860.

ATTACKS ON UN PERSONNEL/EQUIP/ESTABLISHMENTS:  
a. WHILE ASSISTING CASUALTIES REPORTED AT PARAS 8.a.ii. AND 8.a.iii. UNMOS CAME UNDER OCCASIONAL SAF. NUMBER OF RDS UNKNOWN BUT ORIGIN OF FIRE ASSESSED AS SHARPSTONE BP940624.

**Therefore, it #wasn't known or established what was the origin of fire, but "assessed"#. Further:**

CIVILIAN (MALE, AGED 14 YRS) INJURED BY SA RD IN THE LEFT FORE ARM AT 061350A MAR 95 AT GRID BP945610. ORIGIN OF FIRE ASSESSED BY UNMOS AT LOCATION AS SHARPSTONE BP940624.

**The entire "finding" of the nature and perpetrator of this incident relied on this UNMOS "ASSESSMENT". The same document contains several descriptions of incidents initiated by the UNPROFOR, trying to approach the Serb lines without authorisation of the SRK Command!)**

## **2. Sedrenik, 17 April 1993 (Scheduled Incident F.2)**

3863. The Indictment alleges that, on 17 April 1993, a nine year old girl was shot and wounded in the back while playing in the front garden of her house in the Sedrenik area of Sarajevo.<sup>12767</sup> In its Final Brief, the Prosecution argues that the fire originated from Špicasta Stijena, which was controlled by the SRK and which had an unobstructed view of the location where the girl was hit.<sup>12768</sup> The Accused argues, however, that the girl could not be seen from Špicasta Stijena when shot whereas she could be seen from the ABiH positions at Grdonj Hill.<sup>12769</sup>

3864. The Chamber has also taken judicial notice of a number of adjudicated facts relating to the events on the day of this incident. According to those, the weather was sunny and a nine year old girl,<sup>12770</sup> who was wearing dark trousers and a blue jacket, had gone outside into her front yard to play underneath a window of her house in Sedrenik.<sup>12771</sup> **(#Deadly combination#! This "adjudicated fact" is not contested, and if all the adjudicated facts were of that nature, there would be nothing wrong. However, the Prosecution/Chamber understood that the weather was the same to the ABiH units, not only to the SRK units, and therefore it doesn't change anything.)** The bullet hit the girl in "the area of [her] shoulder blade [...] went through [her] body and ended up in the wall" behind her.<sup>12772</sup> Some unspecified time thereafter that day, the girl was transported in a car to a hospital in Sarajevo with the help of neighbours.<sup>12773</sup> A shot was fired at the car as it pulled away from the girl's house, hitting it in the back.<sup>12774</sup>

<sup>12767</sup> Indictment, Scheduled Incident F.2.

<sup>12768</sup> Prosecution Final Brief, Appendix C, paras. 23–24.

<sup>12769</sup> Defence Final Brief, paras. 2188–2193.

<sup>12770</sup> As noted in Adjudicated Fact 157, the nine year old girl was known as Witness E in the *Prosecutor v. Galić* case. See also P5068 (Pseudonym sheet for Witness E in the *Prosecutor v. Stanislav Galić* case) (under seal).

<sup>12771</sup> See Adjudicated Fact 157.

<sup>12772</sup> See Adjudicated Fact 158.

<sup>12773</sup> See Adjudicated Fact 159.

<sup>12774</sup> Adjudicated Fact 159.



3865. Hogan visited the site of the incident and recorded the exact position of the girl when she was shot.<sup>12775</sup> Van der Weijden also visited the incident site, as well as Špicasta Stijena, which is 1,108 metres away, towards the northwest.<sup>12776</sup> He noted that the bullet that wounded the victim exited her body and struck the wall behind her, leaving a trace, which meant that its path could be roughly traced to the position of the shooter.<sup>12777</sup> While observing the environment from the exact location and height at which the girl was located when shot, he found that there was only one possible location for the origin of fire, namely Špicasta Stijena.<sup>12778</sup> When he visited Špicasta Stijena, he found that it offered an unobstructed view towards the incident site and, like Thomas, thought that it was an obvious location for a sniper position or a machine-gun emplacement.<sup>12779</sup> Van der Weijden also noted that a tree in a garden close to the incident site obscured the view somewhat but that this would not have been the case more than 15 years ago.<sup>12780</sup>
3866. As for the weapon used in this incident, Van der Weijden thought that the bullet that struck the victim could not have been greater than 7.92 mm as such a calibre would have caused greater damage.<sup>12781</sup> Given that there was no evidence of multiple shots, Van der Weijden concluded that probably an M76 or M91 semi-automatic sniper rifle was used to shoot the girl, although he conceded that the range here would have been extreme for those rifles.<sup>12782</sup> According to Van der Weijden, the shooter would have been able to conclude that the victim was a small child because (i) the weather was sunny on the day of the incident; (ii) the girl was standing next to her house, which would have indicated her size; (iii) she had long hair and was wearing civilian clothing; and (iv) she was playing in the garden for one and a half hours before being shot which would have made her visible to the shooter occasionally.<sup>12783</sup>
3867. Poparić, while acknowledging that the girl's house is visible from Špicasta Stijena, testified that the exact spot she was located at when shot<sup>12784</sup> was not visible from the "outermost trench of the [VRS]" on Špicasta Stijena but was instead visible from Grdonj Hill.<sup>12785</sup> In support of this claim, Poparić produced two photographs of the view on the

<sup>12775</sup> Barry Hogan, T. 11208–11209 (3 February 2011); P2190 (GPS locations for shelling and sniping incidents in Sarajevo); P2195 (Photograph re sniping incident of 17 April 1993 in Sedrenik marked by Barry Hogan); P2207 (Images re scheduled sniping incidents in Sarajevo).

<sup>12776</sup> P1621 (Expert Report of Patrick van der Weijden entitled "Sniping Incidents in Sarajevo '92–'94"), pp. 20–21.

<sup>12777</sup> In his report, Van der Weijden attaches a photograph of that view, showing unobstructed view from the incident site to Špicasta Stijena. P1621 (Expert Report of Patrick van der Weijden entitled "Sniping Incidents in Sarajevo '92–'94"), pp. 22–23.

<sup>12778</sup> P1621 (Expert Report of Patrick van der Weijden entitled "Sniping Incidents in Sarajevo '92–'94"), p. 22.

<sup>12779</sup> See P1621 (Expert Report of Patrick van der Weijden entitled "Sniping Incidents in Sarajevo '92–'94"), pp. 20, 22. This was confirmed by Barry Hogan and the photograph he took at the exact location where the girl was playing when shot. See Barry Hogan, T. 11208–11209 (3 February 2011); P2195 (Photograph re sniping incident of 17 April 1993 in Sedrenik marked by Barry Hogan).

<sup>12780</sup> P1621 (Expert Report of Patrick van der Weijden entitled "Sniping Incidents in Sarajevo '92–'94"), p. 22.

<sup>12781</sup> P1621 (Expert Report of Patrick van der Weijden entitled "Sniping Incidents in Sarajevo '92–'94"), p. 20.

<sup>12782</sup> P1621 (Expert Report of Patrick van der Weijden entitled "Sniping Incidents in Sarajevo '92–'94"), p. 20.

<sup>12783</sup> P1621 (Expert Report of Patrick van der Weijden entitled "Sniping Incidents in Sarajevo '92–'94"), p. 23.

<sup>12784</sup> Poparić obtained that location from a photograph the girl marked during her testimony in the *Galić* case. See D4884 (Mile Poparić's expert report entitled "Small Arms Fire on the Sarajevo Area 1992–1995", 15 August 2012), p. 59, Image 34. In contrast, Van der Weijden used the GPS location obtained by Barry Hogan. See P1621 (Expert Report of Patrick van der Weijden entitled "Sniping Incidents in Sarajevo '92–'94"), p. 20.

<sup>12785</sup> D4884 (Mile Poparić's expert report entitled "Small Arms Fire on the Sarajevo Area 1992–1995", 15 August 2012), pp. 61–63; Mile Poparić, T. 38945 (29 May 2013).

house from both Špicasta Stijena and Grdonj Hill.<sup>12786</sup> Another method Poparić used to prove his claim was to calculate the site angle between the incident site and the VRS trenches and then, based on the assumption as to the potential height of the house adjacent to the girl's house, calculate the distance the adjacent house would have to have been located at from the girl's house for the girl's exact location to be visible from Špicasta Stijena.<sup>12787</sup> That distance, according to him, was much bigger than the actual distance between the two houses (which he again gauged from photographs), thus proving in his view that the girl was not visible from Špicasta Stijena when shot.<sup>12788</sup> Poparić also noted that the girl's house was far from Špicasta Stijena, over 1,100 metres away, which made it very difficult to see the girl, regardless of the optical equipment being used.<sup>12789</sup> He also expressed a view that in his personal opinion no one targeted the girl deliberately, but that she was hit by a stray bullet, which could not have come from Špicasta Stijena.<sup>12790</sup>

3868. In cross-examination, Poparić conceded that he did not visit the girl's house or examine the bullet trace in the wall because (i) he assumed the changes had been made to the house and the examination would not have been useful and (ii) soon after visiting Špicasta Stijena, he realised that the location of the victim was not visible from there.<sup>12791</sup> He also clarified that the girl was a protected witness in a previous case and therefore the defence team did not consider contacting her.<sup>12792</sup> When shown a photograph taken from Špicasta Stijena in 1996 and asked if it showed a much clearer line of sight to the victim's house than photos taken by him, Poparić argued that the house was indeed more visible but that the ground floor, where the girl was located when shot, still could not be seen.<sup>12793</sup>

**3869.** Rašević, who commanded the SRK's Mrković Company at the time of the incident, testified he held the positions on Špicasta Stijena, but that he never received an order to shoot at civilians or civilian targets, and that he never issued such orders to his subordinates.<sup>12794</sup> Furthermore, his company never opened fire at civilians in Sedrenik.<sup>12795</sup> In cross-examination, Rašević was shown the UNMO report of 6 March 1995.<sup>12796</sup> When asked to comment how this information squared with his answer that his units never fired from Špicasta Stijena, Rašević responded that this incident happened after he left Mrković but conceded that, based on that report, he could not exclude that there was no firing from the SRK positions at Špicasta Stijena.<sup>12797</sup> **(First of all, the UN report said that it was #“assessed” – not “established”# and the witness could have rejected to speculate. Also,**

<sup>12786</sup> D4884 (Mile Poparić's expert report entitled "Small Arms Fire on the Sarajevo Area 1992–1995", 15 August 2012), p. 61; Mile Poparić, T. 38942–38943, 38945–38946 (29 May 2013); D3634 (Two photographs of houses marked by Mile Poparić). Poparić also used Google-earth images. Mile Poparić, T. 38943–38944 (29 May 2013).

<sup>12787</sup> D4884 (Mile Poparić's expert report entitled "Small Arms Fire on the Sarajevo Area 1992–1995", 15 August 2012), pp. 61–63.

<sup>12788</sup> D4884 (Mile Poparić's expert report entitled "Small Arms Fire on the Sarajevo Area 1992–1995", 15 August 2012), pp. 62–63; Mile Poparić, T. 38945 (29 May 2013).

<sup>12789</sup> Mile Poparić, T. 38941 (29 May 2013).

<sup>12790</sup> Mile Poparić, T. 38945 (29 May 2013). See also Siniša Maksimović, T. 29306 (23 October 2012).

<sup>12791</sup> Mile Poparić, T. 39222–39224 (4 June 2013). According to the Prosecution, Poparić's analysis of the origin of fire was undermined because of his failure to analyse the actual impact point of the bullet. See Prosecution Final Brief, Appendix C, para. 9.

<sup>12792</sup> Mile Poparić, T. 39304 (5 June 2013).

<sup>12793</sup> Mile Poparić, T. 39225–39227 (4 June 2013); P6362 (Photograph of houses in Sarajevo marked by Mile Poparić).

<sup>12794</sup> D2527 (Witness statement of Blaško Rašević dated 1 December 2012), paras. 21, 29.

<sup>12795</sup> D2527 (Witness statement of Blaško Rašević dated 1 December 2012), para. 29. In fact, Rašević testified that SRK never fired from Špicasta Stijena at all. See Blaško Rašević, T. 30917 (4 December 2012).

<sup>12796</sup> See para. 3859; P1619 (UNMO report, 6 March 1995).

<sup>12797</sup> Blaško Rašević, T. 30917–30920 (4 December 2012).

**the witness did not exclude that there may be a fire from Spicasta Stijena, but he never conceded that the SRK soldiers ever fired at civilians. Whenever attacked by the ABiH, the SRK soldiers fired back. And these attacks were very frequent!)**

3870. Siniša Maksimović, the Commander of Mrkovići Company after this incident took place,<sup>12798</sup> testified that the positions of the company were the same even before he arrived to the area and that, based on a photograph given to him by the Accused's defence team, these positions had no view onto the exact location of the incident.<sup>12799</sup> When shown a different photograph, taken by Hogan at the precise location the victim was located when shot, which shows a different view towards the alleged origin of fire, he testified that if that was indeed the origin of fire then it was under control of another VRS unit—unit that was his neighbour on the left flank.<sup>12800 (12800)</sup>

3871. Maksimović also explained that the distance between the incident site and the position of SRK units was somewhere between 800 and 1,000 metres and that, to his knowledge, the units at that location did not have soldiers trained for sniper fire, or guns of that range.<sup>12801</sup> When shown a report from the 1<sup>st</sup> Romanija Infantry Brigade to the SRK command, dated 29 October 1993, and reporting on the brigade's sniping capabilities, including that it possessed about 50 M76 7.92 mm calibre rifles, Maksimović conceded that those rifles have a range of about 1,000 metres.<sup>12802</sup> **(But the witness, conceding the range of those rifles #didn't concede that his unit had this kind of rifles#, no he conceded that it has any accuracy and preciseness on this distance! It may be assembled and wording made by a young associates, but the Judges should be cautious about such a shameless trickery!)**

3872. Maksimović also testified that the position of his units was under constant fire by the ABiH units as Grdonj Hill was in a dominant position in relation to his company's positions.<sup>12803</sup> Nevertheless, he conceded that SRK soldiers would open fire from Špicasta Stijena.<sup>12804</sup> **(Why wouldn't they open fire, while under the constant fire? The witness didn't concede that the SRK soldiers from Spicasta Stijena fired against Sedrenik, or aimed at civilians. Another trickery and abuse of Mr. Maksimovic's testimony! Here is this part of Maksimovic's testimony ab-used in this paragraph, a response to the Prosecutor's cross-examination: T.29297: Q Thank you. Now in your statement and I think -- and in relation to the situation at Sedrenik generally, you talked about the ABiH holding a position between -- beneath Spicaste Stijene and you've talked about whether or not your unit opens sniper fire from Spicaste Stijene. Is it your evidence today that SRK**

<sup>12798</sup> At the time of the incident Maksimović was a member of the intervention platoon in the 4<sup>th</sup> Battalion of the Igman Brigade and held the line on Igman, which is far from Sedrenik and only replaced Rašević briefly in 1994. See D2354 (Witness statement of Siniša Maksimović dated 19 October 2012), paras. 3–5; Blaško Rašević, T. 30914–30915 (4 December 2012). For that reason, the Prosecution submits that his evidence is irrelevant to this incident. See Prosecution Final Brief, Appendix C, para. 24.

<sup>12799</sup> Maksimović was able to make that conclusion based on the photograph given to him by the Accused's team and said to have been taken from the approximate location of the victim when shot. He marked this photograph, placing the location of his units behind the roof of the house adjacent to the victim's house. See D2354 (Witness statement of Siniša Maksimović dated 19 October 2012), para. 7; D2358 (Photograph of Sedrenik marked by Siniša Maksimović).

<sup>12800</sup> Siniša Maksimović, T. 29299–29300 (23 October 2012); P2207 (Images re scheduled sniping incidents in Sarajevo).

<sup>12801</sup> He explained that his units only had 7.62 mm automatic rifles which were most accurate at 300 to 400 metre range and for which 800 metres would be the extreme range. See D2354 (Witness statement of Siniša Maksimović dated 19 October 2012), para. 8; Siniša Maksimović, T. 29301, 29305–29306 (23 October 2012); P2193 (Map of Sarajevo).

<sup>12802</sup> Siniša Maksimović, T. 29301–29304 (23 October 2012); P5945 (Report of 1<sup>st</sup> Romanija Infantry Brigade to SRK, 29 October 1993).

<sup>12803</sup> D2354 (Witness statement of Siniša Maksimović dated 19 October 2012), paras. 8, 10.

<sup>12804</sup> Siniša Maksimović, T. 29297 (23 October 2012).

*units at that area did not shoot from Špicasta Stijena at all? A. I can't say that. We did open fire when necessary when we were attacked. Of course we fired. However, our activities were aimed at the enemy positions, exclusively at the enemy positions. (#Absurdity# How this answer could be interpreted as a confession of a sniper fire against civilians?)* Finally, he testified that he never issued orders for civilians to be fired on in the area and that he never heard that civilian targets were fired on by the members of his unit.<sup>12805</sup>

3873. Galić testified that he had no knowledge about this incident at the time, but that he realised during his trial that SRK positions on Špicasta Stijena did not have a view of the area where the girl was located when shot.<sup>12806</sup> Further, he stated that he never issued orders to target civilians in the area of Sedrenik and if anyone did open such fire, it was done unbeknownst to him.<sup>12807</sup>

3874. The Chamber has also taken judicial notice of a number of adjudicated facts going to the origin of fire, which state that (i) the bullet that injured the nine year old girl was fired from the area of Špicasta Stijena;<sup>12808</sup> (ii) there was no military equipment or personnel near the girl at the time;<sup>12809</sup> (iii) the girl, along with others, was targeted again from the direction of Špicasta Stijena as she was being taken to the hospital;<sup>12810</sup> and (iv) the girl was a civilian and was deliberately targeted from SRK-controlled territory.<sup>12811</sup> (#Deadly combination#! Of course, without “adjudicated facts” and 92bis evidence, the Prosecution would be helpless against the Accused. Why this trial had been conveyed if the only evidence was brought from other cases, and not checked in this courtroom? Still, the Chamber didn’t explain how it accepted that on this distance there was possible to aim and get a “result”. While moving towards the Hospital, the distance was even longer, how could it be aimed and hit from Špicasta Stijena?)

3875. The Chamber considers, given the girl’s age at the time of the incident and the fact that she was playing in front of her house, that she was a civilian and that she was not taking direct part in hostilities at the time of the incident nor was she around soldiers or military targets when it happened. Contrary to Poparić’s opinion that the girl was hit by a stray bullet from an exchange of fire, the Chamber is satisfied that there was no fighting at the moment she was playing in her yard as she would not have been engaging in such an activity if that were the case. (In many similar cases the Chamber didn’t consider circumstances and surroundings. But, still there is no any explanation how the ABiH positions, much closer to the victim, had been excluded?)

3876. The Chamber is also satisfied, based on the evidence above, that the area of Špicasta Stijena had a line of sight to the exact location where the girl was playing. In fact, the Chamber accepts Van der Weijden’s evidence that Špicasta Stijena was the only location that

<sup>12805</sup> D2354 (Witness statement of Siniša Maksimović dated 19 October 2012), para. 9.

<sup>12806</sup> Stanislav Galić, T. 37478–37482 (22 April 2013); D3439 (VRS Main Staff Order, 17 April 1993).

<sup>12807</sup> Stanislav Galić, T. 37478–37479 (22 April 2013).

<sup>12808</sup> See Adjudicated Fact 161.

<sup>12809</sup> See Adjudicated Fact 162.

<sup>12810</sup> See Adjudicated Fact 163.

<sup>12811</sup> See Adjudicated Fact 164.

had a view of the girl at the time. The Chamber is persuaded by his analysis because he personally observed the environment from the girl's position when shot and he also examined the bullet traces on the wall. In contrast, the Chamber does not accept Poparić's analysis of this incident as it is based on a number of speculations. First, unlike Van der Weijden, Poparić did not visit the victim's house nor was he able to observe the view from the house to Špicasta Stijena, which should have been the very first step for an expert to take. Second, his claim that the view between the location of the victim when shot and Špicasta Stijena was obstructed is based on (i) various calculations based on the height of the adjacent house and its distance to the victim's house, and (ii) a photograph of the victim's house taken from Špicasta Stijena. Having considered his ground (i), the Chamber finds it unconvincing as it is based on a number of speculations as to the measurements involved—not having been to the location of the incident, Poparić is merely guessing the height of the adjacent house and the distance between the two houses. As for (ii), while the photograph does appear to show that the tree near the victim's house is obstructing the view of the location of the girl when shot, the Chamber also recalls Van der Weijden's testimony that when he visited Špicasta Stijena, he found that it offered an unobstructed view of the incident site.<sup>12812</sup> He noted the existence of the said tree and partially obstructed view due to its branches, but concluded that the view would not have been so obstructed more than 15 years ago.<sup>12813</sup> Accordingly, the Chamber is persuaded by Van der Weijden's analysis that Špicasta Stijena was the only possible origin of fire for this incident. **(Not at all, if the Muslim army positions are not excluded, and shouldn't be excluded!)**

3877. The Chamber is further satisfied, based on the evidence of local SRK commanders, that the 7<sup>th</sup> Battalion of the 1<sup>st</sup> Romanija Infantry Brigade of the SRK had positions in the area of Špicasta Stijena and would open fire from that area, as attested to by a number of witnesses, including Thomas, Milošević, and Gengo. **(What does it mean? #None of them said that the SRK soldiers "opened fire from that area" against civilians, but opened fire against the enemies, who kept Spicasta Stijena under the constant fire!#)** Relying, among other things, on the UNMO report of 6 March 1995, the Chamber is also satisfied that the SRK soldiers located in the area would open sniper fire at the civilians in Sedrenik, as they used the area for "target practice". **(#This is a criminal allegation#! Who established that the SRK soldiers used civilians for this purpose? We have seen the evidence that the civilians used to collect mushrooms in front of the Serb trenches, and had never been fired at. Also, we have seen that the civilians collecting woods on a daily basis had never been fired at, as well as when the Muslims cut off so large field of forest.)** It is also satisfied, relying on the evidence above,<sup>12814</sup> that the SRK soldiers in the area possessed either sniper rifles or hunting rifles with optic sights, which would have had the range needed to

<sup>12812</sup> P1621 (Expert Report of Patrick van der Weijden entitled "Sniping Incidents in Sarajevo '92-'94"), p. 20, 22. See also Barry Hogan, T. 11208–11209 (3 February 2011); P2195 (Photograph re sniping incident of 17 April 1993 in Sedrenik marked by Barry Hogan).

<sup>12813</sup> P1621 (Expert Report of Patrick van der Weijden entitled "Sniping Incidents in Sarajevo '92-'94"), p. 22. Indeed, this is confirmed by the photograph of the area taken in 1996, namely P6362, where the ground floor of the girl's house can be seen from Špicasta Stijena. The Chamber also notes that Poparić acknowledged Van der Weijden's evidence about the tree but testified that he "personally" thought that the bullet could not have come from Špicasta Stijena. Mile Poparić, T. 38945 (29 May 2013). However, in light of the evidence on visibility that Van der Weijden gave, which in turn was supported by the evidence of Barry Hogan, the Chamber does not accept Poparić's view that the fire could not have come from Špicasta Stijena.

<sup>12814</sup> See para. 3858.



reach the victim in this case.<sup>12815</sup> **(But not to aim and to be precise. For heaven's sake, how this fact could be neglected, since everyone knows that #there is no a bit of accuracy on this distance#. Again, for 1400 days of the war, had it been the Serb interest, there would be at least an incident per a day. Another matter: the local Serbs didn't intend to advance, they were protecting their families behind their backs, and it was not in their interest to initiate any fire. What would be a motive? Why the same soldiers didn't kill the wood-cutters? Anyway, this was an incident, nobody knows how it happened, and it is not sufficient to accuse the Serb Army.** Finally, given the distance between the incident site and the area of Špicasta Stijena, which would have required a careful shot on the part of the shooter, as well as the fact that the car taking her to the hospital was also shot at, the Chamber is satisfied that the girl was deliberately targeted by one of the SRK soldiers. This soldier would have undoubtedly been aware of her civilian status, for all the reasons outlined above by Van der Weijden.<sup>12816</sup> **(But, still there is #no any answer to those doubts and those insufficiencies in the investigation of all of those incidents#. What is a difference between an incident where there was an insufficient, wrong and inaccurate investigation, and incidents where there was no investigation at all? If there is no any difference, then the Prosecution could charge the Accused with all the alleged incidents, thousands of casualties, no matter they didn't have any investigation. If there had to have an investigation in order to be able to charge somebody, then the investigation must have been without so many mistakes, ambiguities and doubts. The most important is following: an investigation could have an opportunity to establish the exact direction, having at least three points: entering and exiting wounds on the girl's body, and traces on the wall. Even two points would be sufficient to determine the direction. Also, if it was fired from a distance longer than 1,100 metres not only the preciseness would be under a doubt, but also a velocity of the bullet and possibility to damage a wall after transiting the body!)**

### 3. Sedrenik street, 6 March 1995 (Scheduled Incident F.17)

3878. The Indictment alleges that on 6 March 1995, Tarik Žunić, a 14 year old boy, was shot and wounded in the hand while walking home from school at Sedrenik street, in the northeast of Sarajevo. The Indictment also alleges that he was hit as he emerged from behind a protective screen about 100 metres from his house.<sup>12817</sup> In its Final Brief, the Prosecution submits that the shot came from Špicasta Stijena and that the most likely weapon used was M84 machine-gun.<sup>12818</sup> The Accused counterclaims that the location of the incident was not visible from the SRK positions in the area and that sniper fire was not possible due to distances involved and field configuration.<sup>12819</sup>

<sup>12815</sup> The Chamber also recalls here Van der Weijden's evidence that a substantial number of combatants in Sarajevo had hunting rifles fitted with scopes, which were suitable for sniping. See P1621 (Expert Report of Patrick van der Weijden entitled "Sniping Incidents in Sarajevo '92-'94"), Appendix A, pp. 3-4.

<sup>12816</sup> See para. 3866.

<sup>12817</sup> Indictment, Scheduled Incident F.17.

<sup>12818</sup> Prosecution Final Brief, Appendix C, para. 25.

<sup>12819</sup> Defence Final Brief, paras. 2297-2303.

3879. On 6 March 1995, Tarik Žunić, then 14 ½ years old, was walking home from school, which he would attend only on days when there was no shelling or fighting.<sup>12820</sup> At around 1 p.m., he was on Sedrenik street, some 100 metres from his house, and had just passed a canvas erected on the street as protection against sniper fire,<sup>12821</sup> when he heard two shots.<sup>12822</sup> He immediately took shelter on the edge of the street and, while the shooting continued, realised that he had been hit in the right hand.<sup>12823</sup> A civilian car tried to stop and help him but was also targeted by the sniper so drove on.<sup>12824</sup> Another man also tried to help but he too was shot at.<sup>12825</sup> Some five minutes later an APC driven by Egyptian UNPROFOR soldiers arrived and Žunić managed to get on board, after which he was transported to the Koševo Hospital where his wound was attended to.<sup>12826</sup>

3880. On the day of the incident, which was cloudy but not foggy, Žunić was wearing jeans and a green jacket and carrying a blue rucksack on his right shoulder.<sup>12827</sup> Žunić maintained during his evidence that his jacket was not olive-drab green but rather “Benetton-green”,<sup>12828</sup> and that he never fought in the ABiH as he was too young at the time.<sup>12829</sup> Once in the hospital, he noticed two holes on the front of his jacket.<sup>12830</sup> The bullet had first entered the left side of his jacket, then exited through the right side of his jacket and then passed through his right hand.<sup>12831 (12831)</sup>

3881. Žunić testified that the shots came from Serb positions on Špicasta Stijena, to his left, because this location was the only location from which the snipers had a perfect sight of the Sedrenik street.<sup>12832</sup> **(It may have been “the only Serb position, but between the spot and the Serb positions, over 1,000 meters away, there were many Muslim Army positions, as well as many armed civilians and soldiers throughout Sedrenik and on the surrounding**

<sup>12820</sup> Žunić also explained that when there was no shelling or sniping he would use the “main street” to get to school and back. There was also a more sheltered but more difficult route he would take in case fire started when he was coming back from school. On the day of the incident he was taking the main street route. See P496 (Witness statement of Tarik Žunić dated 10 November 1995), p. 2; P496 (Witness statement of Tarik Žunić dated 21 April 2006), p. 2. See also Adjudicated Fact 2998.

<sup>12821</sup> Žunić also testified that there was a “canvas” along the street he was walking on, erected in order to shield the people from the snipers. However, the canvas did not shield the whole length of the street. In addition, there were trees lining the street which provided protection in summer. However, given that this was early March, the trees has no leaves on their branches. See P496 (Witness statement of Tarik Žunić dated 21 April 2006), p. 2.

<sup>12822</sup> P496 (Witness statement of Tarik Žunić dated 10 November 1995), p. 2; P496 (Witness statement of Tarik Žunić dated 21 April 2006), p. 2; Tarik Žunić, P494 (Transcript from *Prosecutor v. D. Milošević*), T. 1707–1715, 1748–1754; P457 (Map of Sarajevo marked by Tarik Žunić); P449 (Aerial photograph of Sarajevo marked by Tarik Žunić); P450 (Aerial photograph of Sarajevo marked by Tarik Žunić); P451 (Photograph of Sarajevo marked by Tarik Žunić); P452 (Photograph of Sarajevo marked by Tarik Žunić); P453 (Photograph of Sarajevo marked by Tarik Žunić), P460 (Photograph of Sarajevo marked by Tarik Žunić).

<sup>12823</sup> P496 (Witness statement of Tarik Žunić dated 10 November 1995), p. 2; P496 (Witness statement of Tarik Žunić dated 21 April 2006), p. 2; Tarik Žunić, P494 (Transcript from *Prosecutor v. D. Milošević*), T. 1725–1728, 1734, 1737–1738. See also Adjudicated Fact 3000.

<sup>12824</sup> P496 (Witness statement of Tarik Žunić dated 10 November 1995), p. 2.

<sup>12825</sup> P496 (Witness statement of Tarik Žunić dated 21 April 2006), p. 2; Tarik Žunić, P494 (Transcript from *Prosecutor v. D. Milošević*), T. 1744–1745.

<sup>12826</sup> Žunić testified that he does not suffer from the consequences of his wound except when the weather is about to change. See P496 (Witness statement of Tarik Žunić dated 10 November 1995), p. 2.

<sup>12827</sup> P496 (Witness statement of Tarik Žunić dated 10 November 1995), p. 2. See also Adjudicated Facts 2998, 2999.

<sup>12828</sup> Tarik Žunić, P494 (Transcript from *Prosecutor v. D. Milošević*), T. 1724–1725.

<sup>12829</sup> Tarik Žunić, P494 (Transcript from *Prosecutor v. D. Milošević*), T. 1741, 1745–1746.

<sup>12830</sup> P496 (Witness statement of Tarik Žunić dated 10 November 1995), p. 2; P496 (Addendum to Tarik Žunić’s witness statement of 10 November 1995, 25 April 2010), p. 1; Tarik Žunić, P494 (Transcript from *Prosecutor v. D. Milošević*), T. 1725, 1740–1741.

<sup>12831</sup> P494 (Transcript from *Prosecutor v. D. Milošević*), T. 1725, 1741; P1548 (Medical report for Tarik Žunić); P1534 (List of medical records of sniping victims), p. 3. See also Adjudicated Fact 3000.

<sup>12832</sup> P496 (Witness statement of Tarik Žunić dated 10 November 1995), p. 2; Tarik Žunić, P494 (Transcript from *Prosecutor v. D. Milošević*), T. 1725, 1738–1739, 1753–1754; P453 (Photograph of Sarajevo marked by Tarik Žunić); P460 (Photograph of Sarajevo marked by Tarik Žunić).

**hills!)** According to him, the ABiH forces were located at the foot of Špicasta Stijena and their positions were not visible from where he was walking when shot.<sup>12833</sup> He believed, based on how loud the shots were and his experience with sniper fire until that point, that they were fired from an M84 machine-gun.<sup>12834</sup> According to Žunić, there were no military installations or trenches in the vicinity of the location where he was shot, and the confrontation line was some 700 to 900 metres away.<sup>12835</sup> Finally, he testified that he had been fired upon on two other occasions, also from Špicasta Stijena.<sup>12836</sup> **(So, a 141/2 years old boy not only testified about what he experienced, but #also gave an expert opinion and assessments!# Now it appears to be important whether there were any tranches or not, while in the other case, (Sanela Muratovic, walking along one) it didn't matter?)**

**3882.** The UNMO observers reported on this incident on the same day, as well as on another incident in the area some 25 minutes earlier, and concluded that the fire in relation to both had come from Špicasta Stijena.<sup>12837</sup> **(The principle in a criminal investigation was and still is: the findings must be so accurate that anyone could come to the same conclusion on the basis of the investigative materials. How to check wha the UN MOs “concluded that the fire in relation to both had come from Špicasta Stijena”? This probably could work for a political propaganda, or a pressure on the warring factions, but what they “conclude” must be subject to a challenge by a defence. Otherwise, why their “conclusion” would be of a higher credibility than any expertise of Mile Poparic?)** The observers also reported that, while assisting the victims of those two incidents, they came under occasional small arms fire, as a result of which the Egyptian battalion's anti sniping APC at that location returned fire on the Bosnian Serb positions on Špicasta Stijena.<sup>12838</sup> Following this, the UNMO team from Vogošća received a phone call from the Bosnian Serb commander of the Radava Battalion,<sup>12839</sup> stating that if the APC “in his target practice area (Sedrenik) is not removed within 30 mins it will be fired upon”.<sup>12840</sup> As a result, the APC was moved to another position from which it continued to monitor the Špicasta Stijena positions.<sup>12841</sup> **(#Not the only inference#! This gives us #another inference#: if the APC was already under an attack by the Serb forces, why the UN MO would be given the ultimatum. It is quite possible that their return of fire against the Serb positions was conceived as a provocation, not as a return of fire. So, the most probable is that the Serb side was confused and angry, and therefore gave the ultimatum! And in no situation any UN unit should interfere in a daily activities. Since it was characterised as a “target practice” it certainly wasn't aimed at any living creature. A new generation of conscripts had a regular training, as in any army!)**

<sup>12833</sup> Tarik Žunić, P494 (Transcript from *Prosecutor v. D. Milošević*), T. 1723–1724, 1726–1727, 1741–1742.

<sup>12834</sup> P496 (Witness statement of Tarik Žunić dated 10 November 1995), p. 2; P496 (Witness statement of Tarik Žunić dated 21 April 2006), p. 2; Tarik Žunić, P494 (Transcript from *Prosecutor v. D. Milošević*), T. 1740.

<sup>12835</sup> P496 (Witness statement of Tarik Žunić dated 10 November 1995), pp. 2–3; P496 (Witness statement of Tarik Žunić dated 21 April 2006), p. 2; Tarik Žunić, P494 (Transcript from *Prosecutor v. D. Milošević*), T. 1709, 1712–1715, 1746–1748; P450 (Aerial photograph of Sarajevo marked by Tarik Žunić).

<sup>12836</sup> Tarik Žunić, P494 (Transcript from *Prosecutor v. D. Milošević*), T. 1728.

<sup>12837</sup> P1619 (UNMO report, 6 March 1995), para. 8.

<sup>12838</sup> P1619 (UNMO report, 6 March 1995), para. 3.

<sup>12839</sup> As noted earlier, Radava is a village near Mrkovići. See fn. 12757.

<sup>12840</sup> P1619 (UNMO report, 6 March 1995), para. 3.

<sup>12841</sup> P1619 (UNMO report, 6 March 1995), para. 3.

3883. Hogan visited the site of the incident and recorded Žunić's exact location when shot.<sup>12842</sup> Van der Weijden then visited the incident site on 29 November 2006.<sup>12843</sup> He noted that the ridgeline on Špicasta Stijena was in clear view and some 650 to 900 metres away from the incident site.<sup>12844</sup> While the road on which Žunić walked before being shot had a metre high wall on the side of Špicasta Stijena and there was some growth hiding him from view, this offered little protection.<sup>12845</sup> **(If it had offered "a little protection from the bullet, certainly it protected him from being seen clearly!")** Van der Weijden also observed that the fence near which Žunić stood when hit had more bullet holes strengthening his opinion that the shots came from the direction of Špicasta Stijena.<sup>12846</sup> Van der Weijden thought it possible for a boy of Žunić's age to be confused for a combatant; however, because there were protective screens on the street at the time when the incident happened, giving the shooter a limited time to see him, it would have been impossible for the shooter to determine in such a short time whether Žunić was a combatant or not.<sup>12847</sup> **(#EXCULPATORY#)** Furthermore, given that this was a residential civilian area, under constant observation from SRK positions, there was no reason for the shooter to identify Žunić as a combatant.<sup>12848</sup> Van der Weijden also commented on the UNMO report referred to above, noting that the SRK commander in question clearly saw this area as his target practice area.<sup>12849</sup> **(How it is that a man in this area shouldn't be identified as a combatant? #Where were living those combatants? In a barracks? No, at their homes, they used all those streets and walls, and it should have been known to the Prosecution experts: there was no a professional army on either side, but only the local people#. All the roads and streets were an area of manoeuvre, and as such were a legitimate targets. So, because it was a residential area means nothing, because we do have many evidences that there was no any clear residential area. Also, a multiple bullet traces on the wall indicate that there was an automatic fire, and it is reasonable to assume that the Muslim combatants used this wall as a rampart!)**

3884. In terms of the weapon used, Van der Weijden agreed with Žunić's assessment that it was probably an M84 as there was a burst of fire at a long range indicating a machine-gun and because the other two machine-guns that could have been used, namely an M87 and an M53, either would have caused a lot more damage or would have had a completely different sound to the M84.<sup>12850</sup> **(Therefore, it was an automatic fire, which shades a doubt on the allegation about sniper, as well as an intention to hurt the victim, as well as about the range, the preciseness... Too many doubts to be neglected!!!)**

<sup>12842</sup> Barry Hogan, T. 11220–11221 (3 February 2011); P2211 (Photograph re sniping incident of 6 March 1995 on Sedrenik street marked by Barry Hogan); P2213 (Image re scheduled sniping and shelling incidents in Sarajevo); P2190 (GPS locations for shelling and sniping incidents in Sarajevo); P2191 (Map of Sarajevo with scheduled sniping and shelling incidents); P2193 (Map of Sarajevo).

<sup>12843</sup> P1621 (Expert Report of Patrick van der Weijden entitled "Sniping Incidents in Sarajevo '92–'94"), p. 32.

<sup>12844</sup> P1621 (Expert Report of Patrick van der Weijden entitled "Sniping Incidents in Sarajevo '92–'94"), pp. 31–32.

<sup>12845</sup> P1621 (Expert Report of Patrick van der Weijden entitled "Sniping Incidents in Sarajevo '92–'94"), p. 32.

<sup>12846</sup> P1621 (Expert Report of Patrick van der Weijden entitled "Sniping Incidents in Sarajevo '92–'94"), p. 32.

<sup>12847</sup> P1621 (Expert Report of Patrick van der Weijden entitled "Sniping Incidents in Sarajevo '92–'94"), p. 32. *See also* Appendix B to this report where Van der Weijden discusses target identification in urban settings.

<sup>12848</sup> P1621 (Expert Report of Patrick van der Weijden entitled "Sniping Incidents in Sarajevo '92–'94"), p. 32.

<sup>12849</sup> Patrick van der Weijden, T. 6956–6957, 6959 (27 September 2010).

<sup>12850</sup> P1621 (Expert Report of Patrick van der Weijden entitled "Sniping Incidents in Sarajevo '92–'94"), p. 31.

3885. Poparić testified that there is very little information about this incident<sup>12851</sup> and that in order to determine the direction of the shot it would have been indispensable to determine where Žunić's entry and exit wounds were located.<sup>12852</sup> He also stated that when he visited the incident site, as marked by Žunić, he was assured by a man and a woman who live next door that the incident happened in front of their house and not in front of the house which Žunić had marked as the location of the incident.<sup>12853</sup> According to Poparić, that location is much less visible from Špicasta Stijena than the location marked by Žunić.<sup>12854</sup> Poparić also went to Špicasta Stijena and observed the incident site from there, concluding that the distance was some 700 to 750 metres and that the possibility of observing people in the area where Žunić was shot is small.<sup>12855</sup> In addition, he observed that the incident site was also visible from Grdonj Hill, meaning that Žunić could have been shot from that location as well.<sup>12856</sup> Poparić too referred to the UNMO report from that day, which to him indicated that an ABiH combat unit was deployed in one of the houses on Sedrenik street as another man was wounded in the same area around the same time.<sup>12857</sup> In addition, according to Poparić, the UNMO report also indicated that UNPROFOR forces interfered in the exchange of fire.<sup>12858</sup> When put to him in cross-examination that the UNMO report in fact shows that the exchange of fire happened during Žunić's rescue and only because UNPROFOR came under sniper fire first, Poparić disagreed saying "if there is no information on any combat with ABiH, there is information on combat with members of [UNPROFOR]."<sup>12859</sup>

3886. Siniša Maksimović, who briefly replaced Rašević as the Commander of Mrković Company in 1994 but left before this incident took place,<sup>12860</sup> testified that the positions of the company were more than 1,000 metres from the incident site and that it would be difficult to see the location of the incident site from those positions.<sup>12861</sup> He conceded, however, that he

<sup>12851</sup> According to Poparić, the BiH MUP did not conduct an investigation at the site due to "combat operations". See D4884 (Mile Poparić's expert report entitled "Small Arms Fire on the Sarajevo Area 1992–1995", 15 August 2012), p. 160. However, in cross-examination, Poparić was shown an official note from the Stari Grad SJB referring to the fact that the investigation could not be conducted due to "firing from the aggressors's positions". **(However, if this was an official report, this case shouldn't ever been brought before the court. Why this omission, or a "mission impossible" should be on the Accused's account? There are many more probable inferences!)** He commented that this language did not rule out "the possibility that the fire was returned" but conceded that this was an assumption on his part. See Mile Poparić, T. 39213–39215 (4 June 2013); P6361 (Official note of Stari Grad SJB, 10 March 1995). The Chamber considers the language in the official note to be clear and directly contrary to Poparić's assumption. In other words, it is clear from the note that the investigators could not conduct an investigation due to fire from the SRK positions.

<sup>12852</sup> Mile Poparić, T. 38925 (29 May 2013). However, the Chamber notes that medical report describing the location of entry and exit wounds suffered by Žunić is in evidence in this case and was in evidence in the *Milošević* case. See P1548 (Medical report for Tarik Žunić).

<sup>12853</sup> D4884 (Mile Poparić's expert report entitled "Small Arms Fire on the Sarajevo Area 1992–1995", 15 August 2012), p. 161; Mile Poparić, T. 38926–38928 (29 May 2013), T. 39218–39221 (4 June 2013); D3630 (Photograph of houses marked by Mile Poparić).

<sup>12854</sup> D4884 (Mile Poparić's expert report entitled "Small Arms Fire on the Sarajevo Area 1992–1995", 15 August 2012), p. 161; Mile Poparić, T. 38927 (29 May 2013).

<sup>12855</sup> D4884 (Mile Poparić's expert report entitled "Small Arms Fire on the Sarajevo Area 1992–1995", 15 August 2012), p. 162; Mile Poparić, T. 38925 (29 May 2013), T. 39221 (4 June 2013).

<sup>12856</sup> D4884 (Mile Poparić's expert report entitled "Small Arms Fire on the Sarajevo Area 1992–1995", 15 August 2012), p. 162.

<sup>12857</sup> D4884 (Mile Poparić's expert report entitled "Small Arms Fire on the Sarajevo Area 1992–1995", 15 August 2012), p. 163; Mile Poparić, T. 38925 (29 May 2013).

<sup>12858</sup> Mile Poparić, T. 38925 (29 May 2013).

<sup>12859</sup> Mile Poparić, T. 39215–39218 (24 June 2013).

<sup>12860</sup> At the time of the incident, Maksimović was a member of the Igman Brigade and held the line on Igman, which is far from Sedrenik. D2354 (Witness statement of Siniša Maksimović dated 19 October 2012), paras. 3–6; Siniša Maksimović, T. 29296 (23 October 2012). In fact, Maksimović only briefly replaced Blaško Rašević in mid to late 1994 as the company commander. See Blaško Rašević, T. 30914–30915 (4 December 2012).

<sup>12861</sup> D2354 (Witness statement of Siniša Maksimović dated 19 October 2012), para. 7; Siniša Maksimović, T. 29306 (23 October 2012).



assessed this distance without knowing the address of the incident and on the basis of a photograph given to him.<sup>12862</sup> As noted earlier, Maksimović conceded during his evidence that SRK soldiers opened fire from Špicasta Stijena but claimed that this only happened in response to an attack and that their fire was aimed only at ABiH positions.<sup>12863</sup>

**(#None of the witnesses “conceded” that a fire had been opened against civilians#, and the SRK unit didn’t intend to advance territorially, and therefore wasn’t interested in initiating any skirmish. The Judgment is manipulating with the term “conceded” too often, while it was interpreted wrongfully! And tah is only showing a hopeless weakness of the Indictment!)**

When confronted with the UNMO report referring to Žunić and another civilian being wounded by fire from Špicasta Stijena and the exchange of fire between the UNPROFOR and the SRK soldiers that followed, Maksimović refused to comment as this incident took place when he was no longer the commander in the area.<sup>12864</sup>

**(This suggests that Maksimovic should comment an event about which he didn’t know anything!? But, another question is: why the other civilian was not of any interest of the Prosecutor, why it was not in the Indictment? The Defence is free to conclude that including this wounded person would disclose the military nature of movement on the street in question!)**

3887. In addition to the evidence outlined above, the Chamber has also taken judicial notice of a number of adjudicated facts going to the origin of fire, which state that (i) Žunić, a civilian, was shot and seriously wounded by a machine gun from SRK-held positions at Špicasta Stijena when he was walking on Sedrenik street and appeared from behind a sheet of canvas;<sup>12865</sup> and (ii) there was no reason for the sniper to mistake Žunić for a combatant.<sup>12866</sup>

**(#Deadly combination#! All of those Adjudicated Facts had been adjudicated in other trials, where the defences probably didn’t have any interest to rebut the allegations. So, in the very same incident there are a 92bis statement of the victim, and adjudicated facts. Is that a fair trial? And both, the Prosecution and the Chamber pretend as if there was no so many armed people, soldiers and civilians, particularly in the territory controlled by the Muslims, and the Chamber is accepting the least possible variant, that the Serbs, distant between 700 and 1,100 metres fired!?!)**

3888. The Chamber considers, given Žunić’s age at the time of the incident and the fact that he was dressed in civilian clothing and was walking home from school, **(Neither a possible shooter, whoever he be, knew that he was returning from the school, nor the civilian clotng was any guarantee that he wasn’t a combatant, since we do have an evidence that the majority of their combatants didn’t have uniforms. For inference!)** that he was a civilian and that he was not taking direct part in hostilities at the time of the incident. **(What that means? If he was at leave, was he a combatant? It means nothing if he didn’t fire at that very same moment!)** Contrary to Poparić’s opinion that Žunić was caught in an exchange of fire,<sup>12867</sup> the Chamber considers that there was no fighting on that day as Žunić

<sup>12862</sup> Siniša Maksimović, T. 29300–29301 (23 October 2012).

<sup>12863</sup> See para. 3872.

<sup>12864</sup> Siniša Maksimović, T. 29297–29298 (23 October 2012); P1619 (UNMO report, 6 March 1995).

<sup>12865</sup> See Adjudicated Fact 3004.

<sup>12866</sup> See Adjudicated Fact 3005.

<sup>12867</sup> The Chamber also does not accept Poparić’s testimony that the fact that another man was wounded on the same day and around the same time indicates that there was an ABiH military unit in one of the houses nearby. First, Poparić does not explain how he reached that conclusion given that such a similar incident can also be explained by the same SRK shooter opening fire at the other man, as was

was able to go to school which, according to his testimony, he would not have done otherwise. **(This is also not true, because he would have used another route. Further, we do not know how tall was Žunić, which wasn't registered even in the medical record!)** Furthermore, he was walking on the main street to get home, which he would not have used had there been any fighting in the area. The Chamber is also convinced that there was no fighting when Žunić entered the protective screen on Sedrenik street as he would have otherwise stayed behind it for protection.

**3889.** The Chamber is also satisfied, based on the evidence above, that the area of Špicasta Stijena had a line of sight to the street on which Žunić was walking. Even Poparić's testimony, namely that the chances of seeing people in that area from Špicasta Stijena were small, still allows for that possibility.<sup>12868</sup> **(#Possible-probable-done#! So, if it was possible, therefore it was probable, and for the purpose of the conviction it goes further – it was for sure. What kind of justice is that? And what this Accused has to do with the local fighting and firing among the people that knew each other very well, kept the trenches and exchanged fire on a daily basis?)** In any event, the Chamber accepts Van der Weijden's evidence on this issue, namely that there was a clear view between the incident site and Špicasta Stijena. **(So what? Even if true, this would be only one prerequisite. Did the Chamber take into consideration from how many positions the ABiH could have seen and fire?)** The Chamber recalls Poparić's testimony that Grdonj Hill also had the view on the incident site and accepts that to be the case. **(That should be sufficient to count on another possibility! Why it was not?)** However, relying on the UNMO report of 6 March 1995, which specifically attributes the fire in this incident to the forces on Špicasta Stijena and even refers to an exchange of fire between UNPROFOR and those forces during Žunić's rescue, the Chamber is convinced that the bullet that hit Žunić in fact came from Špicasta Stijena. **(Having in mind that it was an Egyptian unit, which had a special relation with the Bosnian Muslims, the UNPROFOR is not as reliable. If they fired against the Serb positions, it is not excluded that the Serbs returned fire at them. But exactly the call from Vogosca shows that there was no firing from Spicasta Stijena!)**

**3890.** The Chamber is further satisfied, based on the evidence of local SRK commanders, that the 7<sup>th</sup> Battalion of the 1<sup>st</sup> Romanija Infantry Brigade of the SRK had positions in the area of Špicasta Stijena and would open fire from that area, as attested to by a number of witnesses, including Thomas, Milošević and Gengo. **(The Serbs in the area of Spicasta Stijena sustained many attacks, and never advanced a bit, and it wasn't in their interest**

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eventually found by the UNMO report. Furthermore, the Chamber recalls that the command post of the 105<sup>th</sup> Mountain Brigade was located in in the Šipad building in Trampina street and thus was far away from the incident site. See fn. 12741. **(However, the command post of the 105<sup>th</sup> Mountain Brigade was in the centre of Sarajevo, but it wasn't the only one headquarter of this unit, which had up to 5,000 soldiers. Almost all of these combatants lived along the frontline, every battalion, and every company had their own "command posts", a rear posts and a lot of activities, maneuvering, transport and other activities along the confrontation line. The combatants had lived in these houses and wore civilian cloathing! So simplistic approach is not accurate, and is not fair!)**

12868

Poparić also claimed that the incident may have taken place in front of another house, based on what he was told at the scene by two people who claimed to have seen the incident. The Chamber notes that what Poparić heard from people living on Sedrenik street is not evidence in this case and that if the Accused wanted to challenge the precise location of this incident using this information he should have called the two people in question to give evidence. The Chamber therefore accepts Žunić's location as testified to by him and by Barry Hogan. **(Why the Defence should do the job of the Muslim police? There was no any investigation to be checked and rebuted!)**

to provoke another attack, which in a case of success would be detrimental for their families. This is more than ridiculous to say that the Serbs fired from their part of frontlines, leading to be understood that since they fired, they fired against civilians! If so, why there was no more cases in the Indictment, particularly more convincing that are these scheduled?) Relying, among other things, on the UNMO report of 6 March 1995, the Chamber is also satisfied that the SRK soldiers located in the area would open sniper fire at the civilians in Sedrenik, as they used the area for “target practice”. It is also satisfied, relying on the evidence above,<sup>12869</sup> that the SRK soldiers in the area possessed either sniper rifles or hunting rifles with optic sights, which would have had the range needed to reach Žunić who was around 750 metres away. **(This is a permanent practice in this Court: if there were some Serbs around, possibly, then probably they are responsible. And if they did have a possibility, it is for sure them. #Where there is smoke, there is Indians too#. But, the SRK soldiers could have not to be precise at this distance, and nobody confirmed that any of the mentioned rifles would have any preciseness in this case. Also, according to the wounds, it was obvious that it wasn’t any big calibre which would be a bit more precise, although no weapon would be precise at this distance. It wasn’t included and passed by the official report, that a regular investigation hadn’t been possible to conduct. Enough, to dismiss the incident, because with so many other possibilities, the Serbs must not be accused without a thorough investigation!)** Finally, given the distance between the incident site and the area of Špicasta Stijena, which would have required a careful shot on the part of the shooter, as well as the fact that the two people trying to help Žunić were also shot at, the Chamber is satisfied that he was deliberately targeted by one of the SRK soldiers on Špicasta Stijena. **(The same arguments could have been used against this version of event: the SRK soldiers were domestic people, and there was no specialists among them!)** Given the clothing he was wearing on the day, as well as the fact that he was carrying a blue backpack and was walking in a residential area, far from the command post of the ABiH’s 105<sup>th</sup> Mountain Brigade, **(The command post of the 105<sup>th</sup> Mountain Brigade was in the centre of Sarajevo, but the units deployed in the area had their own headquarters, their rear basis, the reserve troops and everything they needed – in the same neighbourhood. None of these reasons are valid!)** the Chamber considers that the SRK soldier in question had no grounds on which to assume that Žunić was a combatant or that he was taking active part in hostilities. **(#None of those reasons are satisfactory#. First of all, it was no any, even clumsy investigation, there was not established beyond a reasonable doubt that the Serbs fired, and all other mentioned do not corroborate but contrary, makes the possibility that the Serbs were liable for the incident even less probable! The way Zunic behaved is the same as would do any soldier who (and all of them did) lived in the area, as the Serb soldiers fought literally in front of their family homes!)**

(D) Central area of Novo Sarajevo

<sup>12869</sup>

See para. 3858.

3891. Two of the 16 scheduled sniping incidents took place in the areas of Čengiće Vila/Dolac Mala and Hrasno Brdo respectively.<sup>12870</sup> Hrasno Brdo is a hill located just behind the suburbs of Hrasno and Dolac Mala, with Grbavica and Vraca to the east and Novi Grad municipality to the west.<sup>12871</sup> The Prosecution alleges in relation to both scheduled incidents relevant to this area that the fire originated from the SRK positions in the area of Ozrenska street<sup>12872</sup> located on the upper parts of Hrasno Brdo in Novo Sarajevo.<sup>12873 (12873)</sup>

#### (1) Confrontation lines in the area

3892. Ozrenska street was inhabited mostly by Serbs who, sometime in April 1992, organised night guards and armed themselves through the Serb TO.<sup>12874</sup> In May 1992, with the formation of the SRK, the 2<sup>nd</sup> Infantry Battalion was formed in the area;<sup>12875</sup> it was part of the 1<sup>st</sup> Romanija Brigade until mid-1993 when it became part of the 1<sup>st</sup> Sarajevo Mechanised Brigade.<sup>12876</sup>

3893. Slobodan Tuševljak, the Commander of the 1<sup>st</sup> Platoon of the 4<sup>th</sup> Company of the 2<sup>nd</sup> Infantry Battalion from the beginning of the war,<sup>12877</sup> testified that the original line of disengagement between the Bosnian Muslim and Bosnian Serb soldiers in the area of Hrasno Brdo was near Zagorska street<sup>12878</sup> but that on 8 June 1992 the Muslim forces pushed his unit some 200 to 250 metres to the south, thus establishing a confrontation line near Ozrenska street, which did not move until the end of the war.<sup>12879</sup> Dušan Zurovac, who was the Commander of the 4<sup>th</sup> Company between November 1992 and April 1994,<sup>12880</sup> testified that the area of responsibility of his company was on Ozrenska street, from “Pandurevića Kuća” to the cross-roads on Milinkladska street.<sup>12881</sup>

<sup>12870</sup> These are Scheduled Incidents F.4 and F.10.

<sup>12871</sup> See D2419 (Map of Sarajevo marked by Božo Tomić); Adjudicated Fact 75.

<sup>12872</sup> This street is now called Novopazarska street. See D2389 (Witness statement of Predrag Trapara dated 3 November 2012), para. 4.

<sup>12873</sup> See D2419 (Map of Sarajevo marked by Božo Tomić).

<sup>12874</sup> Božo Tomić, a resident of Ozrenska street, was selected to be a squad commander and given an automatic rifle, while the other men had old M48 rifles or semi-automatic rifles. Muslim areas near Ozrenska street also armed themselves. See D2418 (Witness statement of Božo Tomić dated 5 November 2012), paras. 6–8; Božo Tomić, T. 30159–30164 (13 November 2012).

<sup>12875</sup> Originally, while part of the 1<sup>st</sup> Romanija Infantry Brigade, the 2<sup>nd</sup> Infantry Battalion was known as the 3<sup>rd</sup> Infantry Battalion but changed its name sometime in mid-1993 to 2<sup>nd</sup> Infantry Battalion. See D2418 (Witness statement of Božo Tomić dated 5 November 2012), paras. 25–26; Božo Tomić, T. 30178–30179 (13 November 2012).

<sup>12876</sup> Tomić later became deputy commander of a platoon and remained in that position until mid-1994 when he moved to the command of the 2<sup>nd</sup> Infantry Battalion. See D2418 (Witness statement of Božo Tomić dated 5 November 2012), para. 8. The 2<sup>nd</sup> Infantry Battalion had five companies, with over 1,000 men in total, and was commanded by a number of men, including Veljko Stojanović and Aco Petrović. See Slobodan Tuševljak, T. 29943–29944 (7 November 2012); D2418 (Witness statement of Božo Tomić dated 5 November 2012), para. 25; Božo Tomić, T. 30199 (13 November 2012); D2420 (Order of 3<sup>rd</sup> Infantry Battalion, 3 May 1993); P1938 (Witness statement of KDZ310 dated 28 November 2010), para. 29.

<sup>12877</sup> D2391 (Witness statement of Slobodan Tuševljak dated 5 November 2012), paras. 7, 13; Slobodan Tuševljak, T. 29940–29942, 29945–29947 (7 November 2012).

<sup>12878</sup> This street is now called Posavska street. Mile Poparić, T. 39236 (4 June 2013); D2418 (Witness statement of Božo Tomić dated 5 November 2012), para. 6; D2419 (Map of Sarajevo marked by Božo Tomić).

<sup>12879</sup> D2391 (Witness statement of Slobodan Tuševljak dated 5 November 2012), paras. 8–9; D2392 (Map of Sarajevo marked by Slobodan Tuševljak); D2393 (Map of Sarajevo marked by Slobodan Tuševljak). See also Slobodan Tuševljak, T. 29948–29949 (7 November 2012).

<sup>12880</sup> Dušan Zurovac, T. 30246–30247, 30319 (14 November 2012); D2391 (Witness statement of Slobodan Tuševljak dated 5 November 2012), para. 13.

<sup>12881</sup> Dušan Zurovac, T. 30248–30249 (14 November 2012); D2427 (Map of Sarajevo marked by Dušan Zurovac). The Company command was located on Ozrenska street, just behind the lines, while the 2<sup>nd</sup> Battalion command was on Banjalučka street in Grbavica. See Slobodan Tuševljak, T. 29944–29945 (7 November 2012); P1938 (Witness statement of KDZ310 dated 28 November 2010), para. 28.

3894. Thus, the 4<sup>th</sup> Company was located some 150 to 200 metres below Ozrenska street,<sup>12882</sup> and controlled the summit of Hrasno Brdo.<sup>12883</sup> The 4<sup>th</sup> Company numbered only around 120 local men who were often exhausted from manning the positions without much rest; as a result the company encountered absenteeism and disciplinary problems.<sup>12884</sup> Božo Tomić, the deputy commander of the 3<sup>rd</sup> Platoon in the 3<sup>rd</sup> Company of the 2<sup>nd</sup> Infantry Battalion,<sup>12885</sup> testified that his platoon was positioned to the east of the 4<sup>th</sup> Company positions, namely above the football stadium in Grbavica and up Hrasno Brdo towards Ozrenska street and beyond it.<sup>12886</sup> According to Tomić, this part of the confrontation line did not change throughout the war.<sup>12887</sup>

3895. On the other side of the confrontation line were the members of the 101<sup>st</sup> and 102<sup>nd</sup> Mountain Brigades of the 1<sup>st</sup> Corps of the ABiH, which, according to Zurovac and Tuševljak, heavily outnumbered the 4<sup>th</sup> Company.<sup>12888</sup> In some places the ABiH positions were only between 10 and 20 metres away from the 4<sup>th</sup> Company's positions.<sup>12889</sup> According to the information Tuševljak had, the command of the 101<sup>st</sup> Mountain Brigade was located in the building of the Hrasno Brdo local commune and its units had positions in civilian zones.<sup>12890</sup> The goal of the ABiH in this area, in Zurovac's view, was to move the 4<sup>th</sup> Company further into the depth of the SRK territory and take control of Ozrenska street.<sup>12891</sup>

3896. According to Zurovac, his company respected the cease-fires as the situation on the frontline in the area was very difficult.<sup>12892</sup> In contrast, ABiH soldiers would often provoke

<sup>12882</sup> Slobodan Tuševljak, T. 29956 (7 November 2012). *See also* Dušan Zurovac, T. 30254–30259 (14 November 2012); D2428 (Photograph of Sarajevo); D2429 (Photograph of Sarajevo).

<sup>12883</sup> Dušan Zurovac, T. 30254–30259 (14 November 2012); D2428 (Photograph of Sarajevo); D2429 (Photograph of Sarajevo).

<sup>12884</sup> Dušan Zurovac, T. 30264–30273 (14 November 2012); D2432 (Report of 2<sup>nd</sup> Infantry Battalion, 28 December 1993); D2433 (Report of 2<sup>nd</sup> Infantry Battalion, 1 January 1994); D2434 (Report of 2<sup>nd</sup> Infantry Battalion, 7 January 1994); D2435 (Report of 2<sup>nd</sup> Infantry Battalion, 31 August 1993); D2436 (Report of 2<sup>nd</sup> Infantry Battalion, 5 December 1993). Tuševljak testified that his platoon had 42 men at the beginning of the war and only 20 by the end. *See* D2391 (Witness statement of Slobodan Tuševljak dated 5 November 2012), paras. 14, 27; Slobodan Tuševljak, T. 29935–29939 (17 November 2012); D2396 (List of members of the 1<sup>st</sup> Platoon of the 4<sup>th</sup> Company); D2397 (List of members of the 4<sup>th</sup> Company). *See also* D2418 (Witness statement of Božo Tomić dated 5 November 2012), para. 12; Božo Tomić, T. 30200 (13 November 2012).

<sup>12885</sup> D2418 (Witness statement of Božo Tomić dated 5 November 2012), para. 8; Božo Tomić, T. 30165–30166, 30178–30179 (13 November 2012).

<sup>12886</sup> Božo Tomić, T. 30165–30167 (13 November 2012); D2419 (Map of Sarajevo marked by Božo Tomić).

<sup>12887</sup> Božo Tomić, T. 30165–30167 (13 November 2012); D2419 (Map of Sarajevo marked by Božo Tomić).

<sup>12888</sup> Dušan Zurovac, T. 30265, 30284 (14 November 2012); D2391 (Witness statement of Slobodan Tuševljak dated 5 November 2012), para. 14; D2418 (Witness statement of Božo Tomić dated 5 November 2012), para. 16. *See also* Asim Džambasović, T. 15194, 15244 (22 June 2011); D1382 (Map of ABiH positions in Sarajevo marked by Asim Džambasović); Dragomir Milošević, T. 32566 (23 January 2013); D2794 (Satellite image of Sarajevo marked by Dragomir Milošević); Alen Gičević, T. 7616–7617 (11 October 2010); Mirza Sabljica, T. 7703–7704 (11 October 2010); David Harland, T. 2086–2087 (7 May 2010); KDZ450, T. 10665 (20 January 2011).

<sup>12889</sup> Dušan Zurovac, T. 30248 (14 November 2012); D2391 (Witness statement of Slobodan Tuševljak dated 5 November 2012), para. 16; Božo Tomić, T. 30180–30181 (13 November 2012).

<sup>12890</sup> D2391 (Witness statement of Slobodan Tuševljak dated 5 November 2012), para. 18; D2395 (Map of Sarajevo marked by Slobodan Tuševljak).

<sup>12891</sup> Dušan Zurovac, T. 30270 (14 November 2012). Zurovac conceded in cross-examination, however, that ABiH was attacking in order to break the siege of Sarajevo. *See* Dušan Zurovac, T. 30294–30301 (14 November 2012); P5989 (SRK Order, 16 December 1993); P5980 (SRK conclusions and tasks, 1 April 1994). However, Tuševljak denied this, saying that ABiH would have nowhere to go as the depth of the territory was all Serb territory. *See* Slobodan Tuševljak, T. 29947–29948 (7 November 2012).

<sup>12892</sup> Dušan Zurovac, T. 30273–30284 (14 November 2012); D2436 (Report of 2<sup>nd</sup> Infantry Battalion, 5 December 1993); D2437 (Report of 2<sup>nd</sup> Infantry Battalion, 16 December 1993); D2438 (Report of 2<sup>nd</sup> Infantry Battalion, 11 December 1993); D2439 (Report of 2<sup>nd</sup> Infantry Battalion, 18 December 1993); D2440 (Report of 2<sup>nd</sup> Infantry Battalion, 9 January 1994); D2441 (Report of 2<sup>nd</sup> Infantry Battalion, 3 February 1994); D4627 (Report of 2<sup>nd</sup> Infantry Battalion, 13 June 1993). Zurovac conceded in cross-examination that ABiH was trying to break the siege of Sarajevo. *See* Dušan Zurovac, T. 30294–30301 (14 November 2012); P5989 (SRK Order, 16 December 1993); P5980 (SRK conclusions and tasks, 1 April 1994). *See also* D2418 (Witness statement of Božo Tomić dated 5 November 2012), para. 16; Božo Tomić, T. 30181 (13 November 2012).



the 4<sup>th</sup> Company's along the entire separation line, following which it would be forced to return fire.<sup>12893</sup> UNPROFOR forces often visited the SRK units in the area as this was one of the most difficult frontlines.<sup>12894</sup> Indeed, Zurovac testified that he lost 54 men largely due to the activities of the 101<sup>st</sup> Mountain Brigade of the ABiH.<sup>12895</sup>

3897. Tuševljak testified that he and his men never received orders to attack civilians or civilian objects—they carried out defensive actions alone and were told to open fire only when attacked and only at enemy positions rather than in the depth of the ABiH territory.<sup>12896</sup> He conceded, however, that in October 1992 plans were made to attack ABiH positions in Asimovo Brdo, which was necessary as ABiH snipers would attack the company's positions from there, but clarified that the attack never took place and that ABiH remained in that location throughout the war.<sup>12897</sup> (12897)

3898. Based on the evidence above, the Chamber is satisfied that the SRK controlled the positions on and around Ozrenska street on the upper parts of Hrasno Brdo, as alleged by the Prosecution.<sup>12898</sup> In particular, the Chamber finds that this area was in the area of responsibility of the 2<sup>nd</sup> Infantry Battalion of the 1<sup>st</sup> Sarajevo Mechanised Brigade. The Chamber is also satisfied that due to the proximity of two warring sides, it was one of the more difficult confrontation lines to man, and that the local SRK commanders in the area faced a number of issues in their units, including shortage of men, absenteeism, and desertion. **(That is why the said commanders should be trusted when saying that they didn't initiate the exchange of fire. Why would any of the Serbs around Sarajevo provoke any fire, since the Serb side was the weaker side?)**

## (2)Snipers in the area

<sup>12893</sup> In addition, the positions of the 4<sup>th</sup> Company were also shelled by the ABiH units and SRK-held territory was sniped from the skyscrapers on Pero Kosorić square. See Dušan Zurovac, T. 30273–30284, 30325 (14 November 2012); D2391 (Witness statement of Slobodan Tuševljak dated 5 November 2012), para. 15; D2418 (Witness statement of Božo Tomić dated 5 November 2012), paras. 9, 21; Božo Tomić, T. 30179–30180 (13 November 2012). According to Tuševljak, the attacks were so fierce that it was impossible to endure them mentally and physically so eventually, in September 1994, he stripped himself of his rank and moved to another platoon as a common soldier. See D2391 (Witness statement of Slobodan Tuševljak dated 5 November 2012), para. 17; Slobodan Tuševljak, T. 29962–29963 (7 November 2012). See also D4622 (Report of 1<sup>st</sup> Romanija Infantry Brigade, 14 August 1992) in which Dragomir Milošević reports about infantry fire being opened from Ozrenska street positions.

<sup>12894</sup> Dušan Zurovac, T. 30273–30275 (14 November 2012); D2436 (Report of 2<sup>nd</sup> Infantry Battalion, 5 December 1993); Božo Tomić, T. 30209–30214 (13 November 2012); D2421 (Order of 2<sup>nd</sup> Infantry Battalion, 26 May 1993).

<sup>12895</sup> Dušan Zurovac, T. 30275–30276 (14 November 2012). According to Tuševljak, around 230 Serb soldiers were killed in Ozrenska street, as well as a few dozen civilians. See D2391 (Witness statement of Slobodan Tuševljak dated 5 November 2012), para. 17. See also D2418 (Witness statement of Božo Tomić dated 5 November 2012), para. 22.

<sup>12896</sup> D2391 (Witness statement of Slobodan Tuševljak dated 5 November 2012), paras. 19–21. See also D2418 (Witness statement of Božo Tomić dated 5 November 2012), paras. 17–18; Božo Tomić, T. 30181–30182, 30198–30199 (13 November 2012).

<sup>12897</sup> Slobodan Tuševljak, T. 29949–29950 (7 November 2012). When confronted with an excerpt from Mladić's diary stating that this attack was underway, Tuševljak testified that he was not aware of the attack and that his men remained at the foot of Asimovo Brdo until the end of the war. See Slobodan Tuševljak, T. 29950–29951 (7 November 2012); P1478 (Ratko Mladić's notebook, 27 May–31 July 1992), p. 241.

<sup>12898</sup> See also Adjudicated Facts 79, 80.

3899. Initially, according to Zurovac, the 4<sup>th</sup> Company was better armed than the ABiH units in the area but that changed by the time he left the company in April 1994, insofar as infantry weapons were concerned.<sup>12899</sup>

Zurovac denied that the 4<sup>th</sup> Company had snipers and stated that he did not know whether snipers were present in the 2<sup>nd</sup> Infantry Battalion.<sup>12900</sup> When shown a list he prepared and signed and which contained names of men who had deserted the unit and took weapons with them, he conceded that four such men were recorded as having taken a sniper rifle each, but testified that he did not know how they obtained those rifles since the weapons had been issued before he arrived to the area.<sup>12901</sup> He remained adamant that his company did not have snipers to whom he, as a commander, assigned tasks.<sup>12902</sup>

3901. (3901)Tuševljak confirmed this but testified that at the end of 1993, due to constant sniper attacks by the ABiH on Ozrenska street, a trained sniper was sent to his unit in order to eliminate his counterpart on the ABiH side; however, he was killed two days later and no other snipers ever came to Tuševljak's unit.<sup>12903</sup> In addition, he testified that neighbouring platoons also did not have any snipers in their ranks.<sup>12904</sup> He confirmed, however, that his platoon had M84 and M53 machine-guns which used 7.62 mm and 7.9 mm calibre bullets respectively.<sup>12905</sup> The members ofp's Platoon in the 3<sup>rd</sup> Company also had M84 and M53 machine-guns, as well as other weapons that used 7.62 mm calibre bullets.<sup>12906</sup> Tomić testified, however, that these weapons were used only in case of an attack and could not be used for sniper fire as they did not have optical sights.<sup>12907</sup> While agreeing that in case of short distances the soldiers did not need optical sights, he also explained that one could not fire single shots from those weapons but rather bursts of fire, which made them less precise than a sniper rifle.<sup>12908</sup>

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<sup>12899</sup> Dušan Zurovac, T. 30284–30287 (14 November 2012); D2442 (Order of the 101<sup>st</sup> Brigade, 13 June 1995); D2391 (Witness statement of Slobodan Tuševljak dated 5 November 2012), para. 16. In cross-examination, however, Zurovac confined this claim to infantry weapons alone. See Dušan Zurovac, T. 30301–30305 (14 November 2012); P5990 (Map of Sarajevo); P5985 (Request for ammunition of the 4<sup>th</sup> Infantry Company, 3 December 1993).

<sup>12900</sup> Dušan Zurovac, T. 30309 (14 November 2012).

<sup>12901</sup> Dušan Zurovac, T. 30309–30315 (14 November 2012); P5991 (List of personnel and claimed weapons of the 2<sup>nd</sup> Infantry Battalion, 15 January 1994).

<sup>12902</sup> Dušan Zurovac, T. 30326 (14 November 2012).

<sup>12903</sup> D2391 (Witness statement of Slobodan Tuševljak dated 5 November 2012), para. 26; Slobodan Tuševljak, T. 29959–29960 (7 November 2012); P5945 (Report of 1<sup>st</sup> Romanija Infantry Brigade to SRK, 29 October 1993).

<sup>12904</sup> D2391 (Witness statement of Slobodan Tuševljak dated 5 November 2012), para. 26.

<sup>12905</sup> Slobodan Tuševljak, T. 29942–29943 (7 November 2012); D2396 (List of members of the 1<sup>st</sup> Platoon of the 4th Company). Zurovac was also shown a document created and signed by him, requesting ammunition, including 7.62 and 7.9 mm calibre ammunition. It shows that he requested 7.62 mm ammunition for the M84 rifle. See Dušan Zurovac, T. 30304–30305 (14 November 2012); P5985 (Request for ammunition of the 4th Infantry Company, 3 December 1993); Božo Tomić, T. 30185–30188 (13 November 2012); P5983 (List of weapons of the 4th Infantry Company, 22 October 1993). Tomić confirmed that M84 had a range of up to 1000 metres if on a tripod, while M53 had a range of up to 1500 metres if on a tripod. He explained, however, that M53 guns his unit had were old and unsafe for use. See Božo Tomić, T. 30187–30190 (13 November 2012); P5983 (List of weapons of the 4<sup>th</sup> Infantry Company, 22 October 1993); P5984 (Ammunition status of the 4<sup>th</sup> Infantry Company, 8 June 1993); P5985 (Request for ammunition of the 4<sup>th</sup> Infantry Company, 3 December 1993).

<sup>12906</sup> Božo Tomić, T. 30183–30184 (13 November 2012). See also P1938 (Witness statement of KDZ310 dated 28 November 2010), para. 50; P1946 (Excerpt of book on military equipment marked by KDZ310). See also P926 (Witness statement of Aernout van Lynden dated 26 February 2010), para. 106 (testifying that he and his news crew visited SRK positions in Hrasno, above Grbavica, where his cameraman observed an SRK machine-gun position).

<sup>12907</sup> Božo Tomić, T. 30233 (13 November 2012).

<sup>12908</sup> Božo Tomić, T. 30234–30235 (13 November 2012).

3902. KDZ310 testified that he observed members of a sniping unit shooting from a house on Ozrenska street and could even see their long barrelled rifles with various optical equipment fitted to them.<sup>12909</sup> He also observed them use a machine-gun with an optic sight fitted on it which would open bursts of automatic fire.<sup>12910</sup> These snipers told KDZ310 that they targeted both civilians and soldiers alike.<sup>12911</sup> KDZ310 himself observed that the snipers would usually shoot at intersections and transversals, which were built horizontally around town and could be seen well from the house in question.<sup>12912</sup> While protective barriers and containers were set up in those areas as a shield from sniper fire, KDZ310 noted that he could still see—using his binoculars—people going up to these barriers; the snipers in question also confirmed to him that they would target persons near the barriers.<sup>12913</sup> **(#A protected lie#! This witness, KDZ310 is also in a way protected by the Prosecution, and had several motives to exaggerate, because he got an immigrant status for him and his family, while being a deserter from the VRS. However, we already quoted him (para 3658) testifying that he never saw anyone hit by the Serb soldiers, see T.9278 : Q. Did you shoot at everything that moved? A. I never saw soldiers on the opposite side, nor a civilian. Q. Just one more question, please. You were on the ground floor, and occasional sniper shooters came to which floors? A. The upper storeys of the building. They had better visibility of the opposite side from there. Now, which one, I'm not sure. They stayed on several floors, and on some floors they created fake halls, so I'm not sure exactly from which floors they shot. Q. Thank you. Did you ever see them kill somebody? A. No. The truth is that he wanted to please the Prosecutor and meet his needs.)**

3903. Accordingly, the Chamber is satisfied, relying particularly on the list of deserters referred to above, that the SRK units in the area had sniper rifles or at the very least rifles with optical sights. It is also satisfied, based on the above, that they had machine-guns that used both 7.62 and 7.9 mm ammunition. Finally, relying on the evidence of KDZ310, the Chamber finds that a number of professional SRK snipers were also positioned on Ozrenska street and would target civilians and combatants alike.<sup>12914</sup> **(Certainly, this could have been only an “adjudicated fact” in which case any defence is helpless. But the Defence can be quite satisfied with the fact that it had never been established: the KDZ310 never saw any such a case, nor had any knowledge, except what “somebody told him”. Who knows what he was told, and how he understood. Why anyone would confess him such a felony? Also, the fact that there was “machine-guns” and other “rifles with optical sight” means nothing, and is not sufficient for the assertion “snipers were also positioned on Ozrenska street and would target civilians and combatants alike.” Anyone could have possessed rifles of different kinds, these soldiers were ordinary inhabitants of the respective areas, but the Chamber didn’t have any**

<sup>12909</sup> KDZ310 explained that the guns these snipers used had much longer barrels than the guns of regular soldiers he was with. See P1938 (Witness statement of KDZ310 dated 28 November 2010), para. 48.

<sup>12910</sup> P1938 (Witness statement of KDZ310 dated 28 November 2010), para. 48. The Chamber also recalls that Maletić testified that there was a sniper squad in his battalion and that it was subordinated directly to the battalion commander rather than to company or platoon commanders. See D2519 (Witness statement of Dragan Maletić dated 9 November 2012), para. 31; Dragan Maletić, T. 30846–30848 (3 December 2012), T. 30873–30874 (4 December 2012).

<sup>12911</sup> KDZ310 also testified that his own immediate commander told him and the other men in his platoon that they could open fire freely and shoot at anything that moved. See P1938 (Witness statement of KDZ310 dated 28 November 2010), paras. 37, 48; KDZ310, T. 9275–9276, 9278 (29 November 2010).

<sup>12912</sup> P1938 (Witness statement of KDZ310 dated 28 November 2010), para. 48.

<sup>12913</sup> P1938 (Witness statement of KDZ310 dated 28 November 2010), para. 49. See Adjudicated Fact 128.

<sup>12914</sup> See Adjudicated Facts 76, 77.

basis to find that these soldiers “would target civilians” However, the very same witness conceded that he didn’t have any direct knowledge, nor he ever saw the Serb sniper killing anyone!)

4. Azize Šećerbegović street, formerly Ivana Krndelja street, 3 September 1993 (Scheduled Incident F.4)

3904. The Indictment alleges that, on 3 September 1993, Nafa Tarić, a 35 year old woman, and her eight year old daughter Elma Tarić, were shot and wounded by a single bullet while walking together on Ivana Krndelja street, in the centre of Sarajevo. According to the Indictment, the bullet wounded the mother in her left thigh and wounded the daughter in her right hand and in her abdomen.<sup>12915</sup> In its Final Brief, the Prosecution submits that the fire came from the SRK-held positions on Ozrenska street, which had a clear and unobstructed view of the incident site.<sup>12916</sup> The Accused submits, however, that the victims could not have been shot from the SRK positions on Ozrenska street.<sup>12917</sup>

3905. On 3 September 1993, Nafa Tarić and her eight year old daughter Elma Tarić were walking from their apartment in Hrasno down Ivan Krndelja street.<sup>12918</sup> They crossed the street holding hands behind a line of containers installed to provide protection against sniper fire.<sup>12919</sup> As they emerged from the cover of the barriers, they were shot.<sup>12920</sup> A single bullet hit Nafa Tarić’s left thigh, then grazed her daughter’s hand and penetrated her stomach.<sup>12921</sup> They managed to crawl away from the exposed position and were taken to the hospital.<sup>12922</sup>

3906. A police officer, known as Witness J in the *Galić* trial, concluded that the shot had been fired from the SRK positions on Ozrenska street and based his conclusion not only on common knowledge but also on the fact that the police was unable to immediately access the site because of on-going shooting from those positions.<sup>12923</sup>

**(#Absurdity#! This is an absurd conclusion: the fact that the police couldn’t convey an investigation because of “Ongoing shooting from those positions,” “corroborated with “common knowledge” is a basis for conviction this Accused for this incident?!?! How the witness J could have known this? What was the path to this “conclusion”, why this Accused wasn’t in a position to test and challenge it? Also, if it was a witness on the facts, why and how his “conclusion” without any corroboration and without any investigation could be valid? If there was an “ongoing shooting” which prevented the Muslim police to access, how it was excluded that it was a consequence of this fire, instead of a sniper?)**

<sup>12915</sup> Indictment, Scheduled Incident F.4.

<sup>12916</sup> Prosecution Final Brief, Appendix C, para. 31.

<sup>12917</sup> Defence Final Brief, paras. 2199–2206.

<sup>12918</sup> See Adjudicated Fact 173.

<sup>12919</sup> See Adjudicated Fact 174.

<sup>12920</sup> Adjudicated Fact 175.

<sup>12921</sup> P1245 (Medical record for Nafa Tarić); P1235 (Medical file for Elma Tarić); P1241 (Medical records for Elma and Nafa Tarić); Adjudicated Fact 176.

<sup>12922</sup> Adjudicated Fact 177.

<sup>12923</sup> See Adjudicated Fact 179.

3907. Hogan visited the site of the incident and recorded the GPS co-ordinates, as well as video footage, of the exact location of the victims when they were shot.<sup>12924</sup> He explained that they had just left the protective barrier and were crossing the open stretch of the footpath when the bullet struck them.<sup>12925</sup> (12925)

3908. While investigating this incident, Van der Weijden had access to witness statements of a number of witnesses to this event, including Nafa Tarić, as well as to materials prepared by the Prosecution.<sup>12926</sup> Looking at the victims' injuries first, Van der Weijden thought that any bullet up to the 7.92 mm calibre was capable of causing them, and that a higher calibre was not used as it would have caused more damage.<sup>12927</sup> Given that only one bullet caused the injuries to the victims, Van der Weijden concluded that the bullet was most likely fired from a semi-automatic sniper rifle, either an M76 or an M91, both of which are capable of delivering accurate fire at long ranges.<sup>12928</sup> Van der Weijden was told that the alleged shooting position was Ozrenska street, to the south of and 829 metres away from the incident site, which was an extreme range for these types of rifles.<sup>12929</sup> **(But in a case against the Serbs in Bosnia, all is possible, probable and favourable!)** He visited both the incident site and Ozrenska street, and observed that the latter offers clear views of the former.<sup>12930</sup> He opined that the bullet must have come from the south since the shooter located to the north of the incident had a view of the victims and would not have waited that long before firing at them as they were almost behind the cover again when they were shot.<sup>12931</sup> Van der Weijden concluded that the bullet was fired somewhere from the area which was between 200 and 1,104 metres to the south of the incident site.<sup>12932</sup> Further, given that the victims were walking hand in hand, the height of the daughter in relation to her mother would have led the shooter to instantly identify the two victims as civilians.<sup>12933</sup> **(But, der Weijden didn't know whether it was shot from the north or south, which would be clear had there been any review of the victims. He concluded that it was from the south in an incredible, circumstantial way!)**

<sup>12924</sup> Barry Hogan, T. 11210, 11260–11261 (3 February 2011); P2197 (Photograph re sniping incident of 3 September 1993 on Ivana Krndelja street marked by Barry Hogan); P2207 (Images re scheduled sniping incidents in Sarajevo); D994 (Video footage re sniping incident of 3 September 1993 on Ivana Krndelja street); P2192 (Map of Sarajevo); P2190 (GPS locations for shelling and sniping incidents in Sarajevo); P2191 (Map of Sarajevo with scheduled sniping and shelling incidents). [

<sup>12925</sup> Barry Hogan, T. 11260–11261 (3 February 2011).

<sup>12926</sup> P1621 (Expert Report of Patrick van der Weijden entitled "Sniping Incidents in Sarajevo '92–'94"), p. 79.

<sup>12927</sup> P1621 (Expert Report of Patrick van der Weijden entitled "Sniping Incidents in Sarajevo '92–'94"), p. 74. In cross-examination, Van der Weijden conceded that he was never given any information as to whether the bullet that injured the victims was recovered, and thus had to guess the calibre. See Patrick van der Weijden, T. 7118–7119 (29 September 2010).

<sup>12928</sup> P1621 (Expert Report of Patrick van der Weijden entitled "Sniping Incidents in Sarajevo '92–'94"), p. 74.

<sup>12929</sup> P1621 (Expert Report of Patrick van der Weijden entitled "Sniping Incidents in Sarajevo '92–'94"), pp. 74–75. See also Barry Hogan, T. 11210 (3 February 2011); P2197 (Photograph re sniping incident of 3 September 1993 on Ivana Krndelja street marked by Barry Hogan).

<sup>12930</sup> P1621 (Expert Report of Patrick van der Weijden entitled "Sniping Incidents in Sarajevo '92–'94"), p. 76.

<sup>12931</sup> P1621 (Expert Report of Patrick van der Weijden entitled "Sniping Incidents in Sarajevo '92–'94"), pp. 75–76.

<sup>12932</sup> Patrick van der Weijden, T. 7121–7122, 7125–7126 (29 September 2010); D665 (Photograph of Sarajevo marked by Patrick van der Weijden). See also P1621 (Expert Report of Patrick van der Weijden entitled "Sniping Incidents in Sarajevo '92–'94"), p. 75. In cross-examination, Van der Weijden conceded that knowing the location of the entry and exit wounds on the victims' bodies would have been important, though not crucial, when determining the bullet trajectory. See Patrick van der Weijden, T. 7119–7120 (29 September 2010).

**This investigation, as all of it, was clumsy and insufficient for a criminal procedure. Would it be accepted in any national court, having in mind the presence of both warring sides and this inaccurate investigation?**

<sup>12933</sup> P1621 (Expert Report of Patrick van der Weijden entitled "Sniping Incidents in Sarajevo '92–'94"), p. 77.

3909. During cross-examination Van der Weijden conceded that he was informed that Serbs were holding positions on Ozrenska street but never told that the street itself was a separation line and that ABiH was also there.<sup>12934</sup> **(#Sic!!!)** He also conceded that the houses on the north side of Ozrenska street would have a better view of the incident site, but explained that some houses on the south side of the street would also have a view on the incident site.<sup>12935</sup> Finally, Van der Weijden accepted in cross-examination that he could not conclude beyond reasonable doubt that the shot came from the Serb side.<sup>12936</sup> **(A more than enough to dismiss the incident! That was a regular practice: the #Prosecution didn't inform it's experts about the Muslim forces whereabouts#, and thus they put the experts in a difficult position to "stretch" their conclusions so to fit a presumption that the Serbs did it, and nobdy else could. And this is not a fair trial, and that is an attempt to deceive the Chamber, and for sure the Defence!)**

3910. Poparić testified that he visited both the incident site and the area of Ozrenska street<sup>12937</sup> and that the victims could not have been shot from the closest SRK positions in Hrasno Brdo, which he calculated as being 680 metres away,<sup>12938</sup> because they were visible only for about 1.2 seconds after leaving the protective barrier and before being struck by the bullet.<sup>12939</sup> This, according to Poparić, would not have given the shooter sufficient time to spot them and then fire at them.<sup>12940</sup> In other words, the victims could not have been deliberately targeted from SRK positions in Ozrenska street as they would have had to have been shot at before the shooter actually observed them.<sup>12941</sup> The Chamber notes that the Prosecution never cross-examined Poparić on this part of his analysis. **(Therefore, not rebutted and remain valid!)**

3911. Poparić also testified that there was no line of sight between the incident site and the part of Ozrenska street indicated by Nafa Tarić to Hogan as the origin of fire.<sup>12942</sup> He based this conclusion on the photograph he took of the Hrasno Brdo area from the surroundings of the incident site and which he compared with a photograph of the same area but taken from further away.<sup>12943</sup> Because the relevant part of Ozrenska street indicated by Tarić cannot be

<sup>12934</sup> Patrick van der Weijden, T. 7123–7124 (29 September 2010).

<sup>12935</sup> Patrick van der Weijden, T. 7125–7128 (29 September 2010); D666 (Photograph of Sarajevo marked by Patrick van der Weijden).

<sup>12936</sup> Patrick van der Weijden, T. 7128–7132 (29 September 2010); D667 (Map of Sarajevo marked by Patrick van der Weijden).

<sup>12937</sup> Poparić explained that he knew the area very well as his wife lived nearby. He visited it a number of times. Mile Poparić, T. 38878–38879, 38892–38893 (29 May 2013).

<sup>12938</sup> Poparić calculated this distance on the basis of the ABiH operations map, which outlines the confrontation line in the area. He also testified that the closest SRK positions in fact had no view onto the incident site so the distance between the alleged SRK shooter and the incident site would have to have been even greater than 680 metres. See D4884 (Mile Poparić's expert report entitled "Small Arms Fire on the Sarajevo Area 1992–1995", 15 August 2012), p. 73; Mile Poparić, T. 38874, 38892 (29 May 2013), T. 39229 (4 June 2013).

<sup>12939</sup> Poparić determined the length of this time on the basis of the footage filmed by Hogan in which Nafa Tarić is seen walking from the area that was protected by the screen to the area where she was standing with her daughter when shot. D4884 (Mile Poparić's expert report entitled "Small Arms Fire on the Sarajevo Area 1992–1995", 15 August 2012), pp. 67–69.

<sup>12940</sup> Poparić came to this conclusion on the assumption that an M84 machine-gun was used and, using the firing tables for that gun, calculated that the bullet shot by it would have taken 1.21 seconds to reach the victims. D4884 (Mile Poparić's expert report entitled "Small Arms Fire on the Sarajevo Area 1992–1995", 15 August 2012), pp. 73–74; Mile Poparić, T. 38872–38874 (29 May 2013).

<sup>12941</sup> D4884 (Mile Poparić's expert report entitled "Small Arms Fire on the Sarajevo Area 1992–1995", 15 August 2012), pp. 74, 75; Mile Poparić, T. 38872–38889 (29 May 2013); D3616 (Satellite image re sniping incident of 3 September 1993 on Ivana Krndelja street marked by Mile Poparić); D3617 (Photograph of Sarajevo marked by Mile Poparić); D3618 (Photograph of Sarajevo marked by Mile Poparić); D3623 (Photograph of buildings marked by Mile Poparić); D3624 (Map of Sarajevo marked by Mile Poparić).

<sup>12942</sup> Tarić made this indication in the video footage recorded by Barry Hogan. While this footage is not in evidence in this case, Poparić produced stills from it in his report. D4884 (Mile Poparić's expert report entitled "Small Arms Fire on the Sarajevo Area 1992–1995", 15 August 2012), pp. 70–74.

<sup>12943</sup> D4884 (Mile Poparić's expert report entitled "Small Arms Fire on the Sarajevo Area 1992–1995", 15 August 2012), p. 71.



seen in the first photograph but can in the second, Poparić concluded that there was no line of sight to the incident site.<sup>12944</sup> When confronted in cross-examination with the photograph taken by Van der Weijden from that alleged sniping location and showing a clear, straight, line of sight to the incident site, he stated that he did not know where the photograph was taken from and that the co-ordinates given by Van der Weijden of that location “do not say a thing about the photograph itself”.<sup>12945</sup> **(Certainly, almost all of the photos tendered by the Prosecution and it’s witnesses were zoomed and thus unacceptable and worthless in a criminal case!)**

3912. While not accepting that there was a line of sight from the alleged origin of fire as indicated by Tarić, Poparić conceded that there was a line of sight between the victims and the SRK positions on Ozrenska street located further to the east of the origin of fire alleged by Tarić—which he measured to be about 730 or 740 metres away from the incident site.<sup>12946</sup> **(In such a case, the trajectory would be obliquous and the same bullet couldn’t hurt both victims! To have a single bullet hurting two persons, they would have to be in line with trajectory. If the Prosecution was not able to charge a more clear and persuasive case, the Chamber shouldn’t accept this mockery!)** He also conceded that sniper rifles used by trained snipers would be sufficiently precise to hit a person at that distance.<sup>12947</sup> However, he pointed out that, according to the witnesses, a burst of gunfire was heard in this incident, indicating that sniper rifle was not the weapon used.<sup>12948</sup> **(If there was a burst of fire, it is clear that there was a fight going on, and the victims may hav not been aimed!)**

3913. Zurovac testified that the incident site was about 900 metres away from the positions of the 4<sup>th</sup> Company and that there was no clear line of sight between those two locations, as the company was located in “some sort of a valley” and there were hills in the way, obstructing the view.<sup>12949</sup> However, Zurovac, like Poparić, conceded that a line of sight

<sup>12944</sup> Poparić also calculated, using Google Earth, that 540 metres was the distance between the incident site and the line from which the incident site could actually be seen. D4884 (Mile Poparić’s expert report entitled “Small Arms Fire on the Sarajevo Area 1992–1995”, 15 August 2012), pp. 71–73.

<sup>12945</sup> Mile Poparić, T. 39230–39232 (4 June 2013); P6363 (Photograph of a crossroads in Sarajevo); D666 (Aerial photograph of Sarajevo marked by Patrick van der Weijden). The Chamber recalls that it admitted P6363 only for the purpose of understanding Poparić’s evidence and is now citing to it for that purpose alone.

<sup>12946</sup> Mile Poparić, T. 38872–38889, 38892 (29 May 2013); D3616 (Satellite image re sniping incident of 3 September 1993 on Ivana Krndelja street marked by Mile Poparić); D3617 (Photograph of Sarajevo marked by Mile Poparić); D3618 (Photograph of Sarajevo marked by Mile Poparić); D3623 (Photograph of buildings marked by Mile Poparić); D3624 (Map of Sarajevo marked by Mile Poparić).

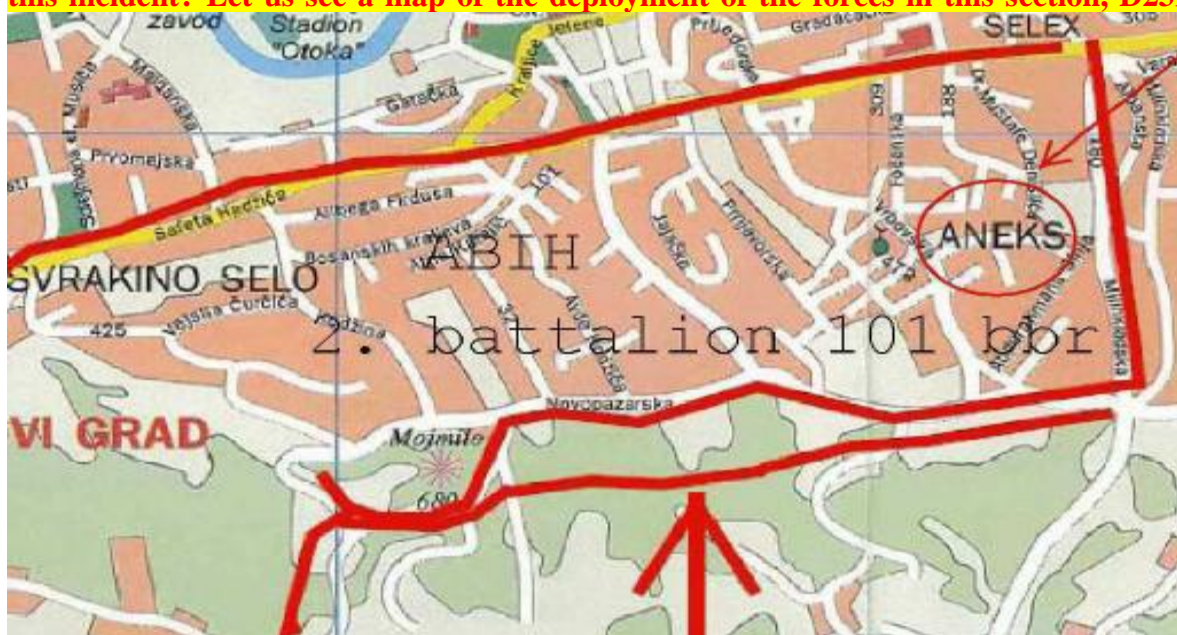
<sup>12947</sup> Mile Poparić, T. 38889 (29 May 2013).

<sup>12948</sup> Mile Poparić, T. 38889–38890 (29 May 2013). However, the Chamber notes that Poparić recounted Tarić’s evidence on this issue, which was that she heard two more shots after she was wounded. In other words, it is not necessarily clear that she heard a burst of fire as opposed to two more single bullets being fired by the shooter. D4884 (Mile Poparić’s expert report entitled “Small Arms Fire on the Sarajevo Area 1992–1995”, 15 August 2012), p. 69. **But it had been said that the Police couldn’t make an investigation because of the fire exchange, or firing. This means that there was more than two bullets fired.**

<sup>12949</sup> The Chamber notes that at this point Zurovac incorrectly claimed that one could not see the incident site in a photograph shown to him by the Accused during examination-in-chief, which he said was taken in a location unfamiliar to him, but somewhere below Ozrenska street. When shown a second photograph, he conceded that the line of sight existed, noting that this photograph was taken from an area further to the east of the positions of his company in a location unknown to him. See Dušan Zurovac, T. 30249–30251, 30254, 30260–30262 (14 November 2012); D2430 (Photograph of Sarajevo); D2431 (Photograph of Sarajevo). The Chamber notes, however, that both photographs were taken from the same location and that the incident site is visible in both, as testified to by Poparić. See D3623 (Photograph of buildings marked by Mile Poparić). Further, the Prosecution stated on the record, during its cross-examination of Tuševljak, that both photographs were taken from the same location and that one was simply a more zoomed version of the other. See T. 29956–29957 (7 November 2012). **But, a zooming inevitably changes a view and distance, and therefore is not usable.**

existed from an area further to the east of the positions of his company.<sup>12950</sup> **(Which would inevitably affect the trajectory!!!)** Tuševljak confirmed this and noted that a line of sight existed to the east of the 4<sup>th</sup> Company's positions, in the locations manned by the 2<sup>nd</sup> Company of the 2<sup>nd</sup> Infantry Battalion.<sup>12951</sup> However, he testified that, as far as he knew, on the day of the incident no fire was opened on civilians from Ozrenska street.<sup>12952</sup> Galić also testified that he did not order any activity against the area where the incident took place and had received no information about it at the time.<sup>12953</sup> **(All of that is underlining the main question: #what does it have to do with the President#!, who was so distant in the chain of command from any perpetrator, while he did his job by banning any illegal fire? How presidents of other countries see their future after this Judgment?)**

3914. In addition to the above, the Chamber has also taken judicial notice of the following adjudicated facts going to the origin of fire: (i) there was an unobstructed line of sight from SRK positions on Hrasno Brdo to the location of the incident;<sup>12954</sup> **(So what? How about distance?)** (ii) Nafa and Elma Tarić were injured by a shot fired from this area;<sup>12955</sup> **(It had been confirmed that between the victims and the Serb lines there were the Muslim lines, fortifications, military facilities and many soldiers. How they had been excluded from this incident? Let us see a map of the deployment of the forces in this section, D2390:**



**the “Novopazarska” street is former “Ozrenska. All the area northern from the frontline in Ozrenska was possessed by ABiH 2. Battalion off 101 bbr. How a fire from this large area was excluded?)** and (iii) Nafa and Elma Tarić, civilians,<sup>12956</sup> were

<sup>12950</sup> Dušan Zurovac, T. 30261–30262 (14 November 2012); D2431 (Photograph of Sarajevo).

<sup>12951</sup> D2391 (Witness statement of Slobodan Tuševljak dated 5 November 2012), para. 25; D2394 (Map of Sarajevo marked by Slobodan Tuševljak); Slobodan Tuševljak, T. 29957 (7 November 2012).

<sup>12952</sup> Slobodan Tuševljak, T. 29961 (7 November 2012).

<sup>12953</sup> Galić expressed surprise that someone was hit by a bullet in that area as it was well protected by barriers. See Stanislav Galić, T. 37505–37510 (22 April 2013); D3448 (SRK combat report, 3 September 1993); D3429 (SRK combat report, 4 September 1993); D3449 (SRK combat report, 5 September 1993).

<sup>12954</sup> Adjudicated Fact 180.

<sup>12955</sup> Adjudicated Fact 181.

<sup>12956</sup> See Adjudicated Fact 178.

deliberately targeted from an SRK-controlled position.<sup>12957</sup> **(This is ridiculous! Why this process had been conveyed, if an adjudicated fact about a deliberate targeting is reached in another process? No adjudicated fact should be taken into account if not stipulated between the sides!)**

3915. The Chamber considers, given their clothes, age, and gender, as well as the fact that they were walking home when the incident happened, that both Nafa Tarić and her daughter Elma were civilians and that they were not taking direct part in hostilities at the time of the incident. The Chamber is also satisfied that the SRK units, belonging to the 2<sup>nd</sup> Infantry Battalion of the 1<sup>st</sup> Sarajevo Mechanised Brigade, were located just below Ozrenska street on the upper parts of Hrasno Brdo and that they had a line of sight to the incident site, both from the location indicated by Nafa Tarić as the origin of fire, and the positions east of that location. In other words, the Chamber accepts Van der Weijden's evidence about there being a clear line of sight from Ozrenska street onto Ivana Krndelja street from the positions alleged to be the origin of fire by Nafa Tarić.<sup>12958</sup> The Chamber is also satisfied, as found above,<sup>12959</sup> that the SRK soldiers in the area possessed either sniper rifles or rifles with optic sights, as well as machine-guns, all of which had the range necessary to reach the incident site, which was between 680 and 900 metres away, depending on the positions. Finally, the Chamber finds that there was no military activity in the area at the time of the incident. **(#No reasonable chamber would make similar conclusion#! First, to have a single bullet hurting two victims, there would be a trajectory of a decisive, crucial importance. Second, how the SRK soldiers could have known that the victims weren't a Serbs? Finally, how to exclude so many Muslim combatants, armed civilians that resided and were active between the SRK lines and the place of incident? The Police said they couldn't conduct a proper investigation because of an ongoing firing, but the Chamber found that "there was no military activity in the area!?!?)**

3916. In terms of the identity of the perpetrators in this incident, the Chamber finds that the bullet that struck the victims was fired by the SRK snipers on Ozrenska street and that the victims were deliberately targeted. In this respect, the Chamber recalls KDZ310's evidence according to which SRK snipers located on Ozrenska street would target civilians at major intersections visible from Ozrenska street, including those that had protective barriers or containers.<sup>12960</sup> **(KDZ310 #was told such a thing by an unknown person, but he neither saw it, nor could he name anyone who told him that#. A man that wasn't close to this witness would never confess such a thing to somebody not known to him very well! And this is the top of the abuse of "hear-say" evidence, so easily used for such a drastic incident!)** In addition, the local police later established that the fire came from SRK positions on Ozrenska street and was unable to immediately access the site because of the on-going fire from those positions.<sup>12961</sup> **(If the victims had been hit, and if the victims were a target,**

<sup>12957</sup> See Adjudicated Fact 182.

<sup>12958</sup> While both Zurovac and Tuševljak testified that their company's positions did not have the line of sight to the incident site, this does not change the Chamber's finding that the units of the 2<sup>nd</sup> Infantry Battalion were in positions that had such a line of sight on the incident site. Indeed, this was admitted by both Zurovac and Tuševljak, as well as Poparić. **But, it still doesn't mean that their soldiers shot. Possibility equated with probability?!?**

<sup>12959</sup> See para. 3903.

<sup>12960</sup> See para. 3902.

<sup>12961</sup> See para. 3906.

then #why there was further firing#? This #contradicts the Chambers conclusion# that there was no combat activities in the area. Additionally, why the Defence would accept an allegation of a Muslim police, which wouldn't in any respect be unbiased and professional?) The Chamber also recalls that, as recounted by Poparić in his analysis of this incident, Nafa Tarić heard two shots after being struck by the bullet.<sup>12962</sup> This indicates that the two victims were deliberately targeted by the shooter even after they were wounded. (If so, how come they hadn't been hit by a sniper? And who said they had been aimed after being hit with the first bullet? This is all so loose and speculative, and if this would be accepted by the Appeal Chamber, it would be for the first time after the Inquisition times to have #such a weak and doubtful evidence accepted!#)

3917. While accepting Poparić's evidence that the time during which the victims were visible to the shooter after clearing the barrier would have been quite short, the Chamber also recalls KDZ310's evidence that, despite the protective barriers being set up at different intersections visible from Ozrenka street, the people could nevertheless still be seen by snipers when walking up to the barriers.<sup>12963</sup> Thus, the Chamber considers that the sniper who shot Nafa and Elma Tarić must have seen them already before they walked behind the barrier, and then simply waited for them to leave its protection on the other side. (How come: # in spite of accepting the expert findings, the Chamber annihilated this expert opinion by an arbitrary "hear-say" statement of a protected witness who admitted that he never saw anyone from the VRS killing any soldier or civilian#, see T:9278, quoted in para 3901 above? The "creative" construction of the Chamber that a possible perpetrator saw the victims on one end of the barrier, and waited them to appear on the other side of the barrier is something to be remembered forever, since this must not be a way to judge and decide. Neither was it concluded that the victims could have been seen before the barrier, nor they could be seen through a building, nor it was probable that the victims had been hit by one bullet but not at a vital parts of body. However, let us see what the SRK regular report for 3 September 1993 said, D3448:

1. The enemy did not observe the cease-fire agreement and opened fire on our positions at several locations:

- In the zone of responsibility of the 1<sup>st</sup> Rpb /Romanija Infantry Brigade/, in the Trebević sector (x=54,300 y=35,500), an infantry attack was carried out at 0230 hrs. The attack was successfully repelled, and we know for certain that two Muslim soldiers were killed on this occasion, while the others scattered. None of our soldiers were either killed or wounded.

- At around 1230 hrs, the enemy opened intensive small-arms fire at the positions of the 1<sup>st</sup> Smb /Sarajevo Mechanised Brigade/ in the Šanac sector (Grbavica), and during the day they opened sniper fire on the SVČ /Slaviša Vajner Cica/ barracks, Vrace, Grbavica and Dobrinja.

Constant enemy provocations and fire, frequently wounding and killing our soldiers, including, most recently, Captain 1<sup>st</sup> Class Radomir STOJANOVIĆ, are making it very difficult for our soldiers and officers to remain patient and restrain themselves from responding more vigorously with effective fire.

Therefore, a constant firing, even in the area of this incident (Sanac, Vrace, Grbavica) and in the entire Sarajevo area does not allow anyone to draw such an arbitrary conclusions! Similar was registered in a protest-letter of the Main Staff of the VRS to the

<sup>12962</sup> See para. 3912, fn. 12948.

<sup>12963</sup> See para. 3902.



**UN Command on 3 September 1993, D4795:**

In the area of Sarajevo, the Muslim forces opened fire from 82 mm mortars from the direction of Kovač (x = 51,300, y = 24,500) targeting our positions in Gornji Kotorac, and from the direction of Sedrenik (x = 29,200, y = 35,200) strong fire came from anti-aircraft machine guns and anti-aircraft artillery guns. Sniper fire was registered along all the separation lines, and especially from the direction of Stojčevac (x = 51,500, y = 23,500) and Butmir (x = 53,200, y = 26,00), targeting Ilidža and Kasindolska Street. There was also infantry fire from the direction of Stip (x = 55,000, y = 25,200) which targeted Azići and from the town (56,300, 31,500), targeting Grbavica, Vrace and Dobrinja IV.

**How anyone could have concluded that there was no combat activities?)**

5. Ferde Hauptmana street, formerly Miljenka Cvitkovića street, 22 July 1994 (Scheduled Incident F.10)

3918. The Indictment alleges that on 22 July 1994, Seid Solak, a 13 year old boy was shot and wounded in the abdomen while window shopping with his mother and sister on Miljenka Cvitkovića (presently Ferde Hauptmana) street in the Čengić Vila area of Sarajevo.<sup>12964</sup> In its Final Brief, the Prosecution alleges that the fire came from SRK positions on Hrasno Brdo, in the area of the Pržulj house on Zagorska street, which was a notorious sniping nest.<sup>12965</sup>

**(#What does make some place notorious#? If so, how many civilian victims, or military too, are known to be hit from this “notorious sniping nest”#? If none, then how it was notorious? Who characterized it that way? All the Muslim propaganda and arbitrary statements are accepted by the Chamber without any reserve of poofs! The Prosecution never ment to be as responsible to submit evidence and a proper investigation reports, but thought that it was sufficient to say that something, or somebody, was “nototious”. That occurred in the case of many individuals, extremely hated by the Serb adversaries, but without any criminal deed! Thi Accused had been denigrated since 1968, but particularly after established the SDS in July 1990!) The Prosecution also explains that the site of the incident was erroneously alleged to be on Miljenka Cvitkovića street but is instead at Džemala Bijedića, number 20, which runs parallel to Miljenka Cvitkovića and lies just after a small passage from Miljenka Cvitkovića.<sup>12966</sup> The Accused argues that these are in fact two unrelated incidents and that the boy was wounded on Miljenka Cvitkovića street under circumstances different than those discussed in the evidence.<sup>12967</sup> **(In which country it would be acceptable to change a site of crime, adjusting it to a Prosecutor’s intent rather than to any evidence and investigative reports?)****

<sup>12964</sup> Indictment, Scheduled Incident F.10.

<sup>12965</sup> Prosecution Final Brief, Appendix C, para. 32.

<sup>12966</sup> Prosecution Final Brief, Appendix C, para. 32, fn. 208.

<sup>12967</sup> Defence Final Brief, paras. 2246–2254.

3919. On 22 July 1994, Seid Solak, a 13 year old boy, and his sister went out with their mother to visit a relative.<sup>12968</sup> It was a clear day.<sup>12969</sup> They stopped to look at a shoe shop window on Miljenka Cvitkovića street.<sup>12970</sup> **(So, finally it was M. Cvitkovica street???)** Seid got off his bicycle and at that moment was shot in the lower part of his stomach.<sup>12971</sup> The bullet tore through his body and shattered the shop window.<sup>12972</sup> He was taken to an emergency unit where he was hospitalised for several days.<sup>12973</sup> There was no military activity in the area at the time of the incident,<sup>12974</sup> as indicated by the fact that several children were playing and a neighbourhood restaurant was open.<sup>12975</sup> **(However, what was #“indicated” circumstantially, differed drastically from the genuine document of the VRS Main Staff, D2185, #a protest letter of Gen. Milovanovic to the UNPROFOR Command on 22 July:**

This is to inform you that on 21 July 1994 Muslim and Croat forces intensified provocative and other offensive combat actions, flagrantly violating the Agreement on Refraining from Offensive Actions.

In the area of Sarajevo, Muslim forces intensified fire from infantry weapons, especially on civilian facilities in the area of Grbavica, Rajlovac, Vogošća, Nedarići, Kasindolska Street, Ilidža, Faletići, Borija, Zabrde and Čekrčići. Fire from anti-aircraft machine-guns and rifle grenades was opened on Grbavica, Mrkovići, Rajlovac, Ilidža and Hadžići, and from snipers on Faletići, Borija, Rajlovac, Vogošća and Čekrčići. Several houses in the area of Zabrde were torched by fire from hand-held launchers. The Muslims are continuing with engineering works, especially in the area of Stup and with unit movements on the Igman-Hrasnica axis.

**Therefore, a massive violation of CF Agreement can not be called a quiet day, not even for the Prosecutor's purpose! Let us see what the official report of the Muslim police said about the incident, P18:**

At 1700 hours on 22 July 1994 I was informed over the radio by the duty operative that a person had been wounded in Miljenka Cvitkovića Street, and another person wounded and one person killed near the *Jugokomerc* building on Dolac Malta.

**The very first paragraph reported several casualties, which means that there was exchange of fire. Further:**

after which he was taken to the State Hospital for medical treatment. At the moment that the bullet hit him, the boy was in Miljenka Cvitkovića Street, in front of number 4. A second bullet hit the window of the *Arijana* catering establishment in the same street, went through the glass, hit a wall inside the building, bounced off and fell to

**Therefore, it was very precise: Miljenka Cvitkovica, in front of number 4! Further,**

<sup>12968</sup> See Adjudicated Fact 234. See also confidential Prosecution Submission dated 30 January 2015, paras. 9–11.

<sup>12969</sup> Adjudicated Fact 235.

<sup>12970</sup> See Adjudicated Fact 236.

<sup>12971</sup> Adjudicated Fact 237.

<sup>12972</sup> Adjudicated Fact 237.

<sup>12973</sup> See Adjudicated Fact 238; P1239 (Sarajevo State Hospital discharge form) (under seal); P1240 (Medical report) (under seal).

<sup>12974</sup> Adjudicated Fact 240.

<sup>12975</sup> Adjudicated Fact 241.



The duty doctor informed us that at about 1830 hours a person wounded by a shell explosion had been brought in from the Sokolje neighbourhood and the UNPROFOR members had insisted that his injuries be verified and whether he was a civilian. We learned then that this was Edin KURTOVIĆ, son of Sulejman, born 1974 and residing in Slobodarska Street at number 32. He had been wounded by a rifle grenade explosion in the Sokolje neighbourhood, about 300 metres from the line of separation with the aggressor, and at that moment he had not been on duty in his unit but had been walking through the neighbourhood as a civilian. He had received nine wounds all over his body from the grenade explosion, but his life was not in danger.

**Another proof that there was a combat activity!**

3920. Kučanin prepared an official note<sup>12976</sup> relating to the incident.<sup>12977</sup> When at the scene, he met with UNPROFOR soldiers and they conducted an investigation together.<sup>12978</sup> Kučanin was informed that two shots were fired but that the victim had already been taken to the hospital so it was difficult to determine the position he was in when shot.<sup>12979</sup> However, the investigators were able to get that information from an eyewitness.<sup>12980</sup> **(Bravo!! Is that a proper investigation: #somebody told someone that he saw how somebody shot at someone"#####)** According to Kučanin, the first shot hit the boy in the stomach while he was standing on Miljenka Cvetkovića street, at number 4, in front of a shoe shop and next to a passage in a building, which was near the entrance to a café called Arijana.<sup>12981</sup> The other bullet went through the sunshade of the café, then passed through its window, changed direction as a result, hit an inner wall, ricocheted, and finally lodged in the floor of the café, thus leaving three different bullet impacts for the investigators to consider.<sup>12982</sup> The bullet was removed for forensic analysis and it was established that it was of the 7.62 mm calibre.<sup>12983</sup> By connecting the holes in the sunshade and the window, Kučanin concluded that the bullets came from "the aggressor's positions at Zagorska street, the Pržulja house", which was a "well known [VRS] sniping place" located in Hrasno Brdo, in Novo Sarajevo.<sup>12984</sup> **(#How "well known"? who established it? If it was a "well known" sniper place, it could have been monitored and documented. Such a high institution shouldn't**

<sup>12976</sup> Mirsad Kučanin, P16 (Transcript from *Prosecutor v. Galić*), T. 4739; P18 (BiH MUP Report re sniping incident of 22 July 1994 on Miljenka Cvetkovića street). The Chamber notes that this official note is also attached to Kučanin's witness statement, that is, to P23.

<sup>12977</sup> Mirsad Kučanin, P16 (Transcript from *Prosecutor v. Galić*), T. 4739. Mirsad Kučanin was supposed to be in charge of the investigation but handed it over to his colleague from the local police station as soon as he realised that the victim was only wounded; Kučanin remained on the scene, however, as an investigation assistant. See P23 (Witness statement of Mirsad Kučanin dated 12 November 1995), e-court p. 2; Mirsad Kučanin, P16 (Transcript from *Prosecutor v. Galić*), T. 4508–4509, 4661.

<sup>12978</sup> P23 (Witness statement of Mirsad Kučanin dated 12 November 1995), e-court pp. 2, 12; Mirsad Kučanin, P16 (Transcript from *Prosecutor v. Galić*), T. 4509–4510, 4642–4646.

<sup>12979</sup> P23 (Witness statement of Mirsad Kučanin dated 12 November 1995), e-court p. 2; Mirsad Kučanin, P16 (Transcript from *Prosecutor v. Galić*), T. 4509–4510.

<sup>12980</sup> In addition, the investigators found a pool of blood next to the location of the victim when shot. See P23 (Witness statement of Mirsad Kučanin dated 12 November 1995), e-court p. 2; Mirsad Kučanin, P16 (Transcript from *Prosecutor v. Galić*), T. 4510, 4514–4515.

<sup>12981</sup> P23 (Witness statement of Mirsad Kučanin dated 12 November 1995), e-court pp. 2, 12; Mirsad Kučanin, P16 (Transcript from *Prosecutor v. Galić*), T. 4510, 4514–4515, 4661–4662; P19 (Photographs re sniping incident of 22 July 1994 on Miljenka Cvetkovića street), pp. 1–2.

<sup>12982</sup> P23 (Witness statement of Mirsad Kučanin dated 12 November 1995), e-court pp. 2, 12; Mirsad Kučanin, P16 (Transcript from *Prosecutor v. Galić*), T. 4510, 4512, 4515–4516, 4647–4648, 4653–4657, 4759–4761, 4762–4767, 4768–4770; P19 (Photographs re sniping incident of 22 July 1994 on Miljenka Cvetkovića street), pp. 1, 4–6.

<sup>12983</sup> P23 (Witness statement of Mirsad Kučanin dated 12 November 1995), e-court p. 12. See also Mirsad Kučanin, P16 (Transcript from *Prosecutor v. Galić*), T. 4516; P19 (Photographs re sniping incident of 22 July 1994 on Miljenka Cvetkovića street), p. 7.

<sup>12984</sup> To connect the impact points of the bullet the BiH MUP investigators used a device devised by their experienced ballistics expert which was akin to an horizontal periscope, which could go through the smaller opening and which allowed them to see the origin of fire in this incident. See P23 (Witness statement of Mirsad Kučanin dated 12 November 1995), e-court pp. 3, 12; Mirsad Kučanin, P16 (Transcript from *Prosecutor v. Galić*), T. 4512–4513, 4516–4517, 4657–4659; P19 (Photographs re sniping incident of 22 July 1994 on Miljenka Cvetkovića street), p. 8. See also Barry Hogan, T. 11215–11216 (3 February 2011); P2205 (Photograph re sniping incident of 22 July 1994 on Miljenka Cvetkovića street marked by Barry Hogan); P2206 (Map of Sarajevo marked by Barry Hogan).

**take into account such an arbitrary allegation.** On cross-examination, Kučanin admitted that he did not know where the confrontation lines in Sarajevo were but noted that his task was to establish where the bullet came from, regardless of whether that territory was in control of the ABiH or VRS.<sup>12985</sup> Kučanin and the UNPROFOR team then talked to the doctor who treated the victim and learned that the injury was serious as the bullet had passed from the left to the right side of the victim's stomach, although it did not injure any of his internal organs.<sup>12986</sup> **(#No direction, no levels, no explanation how possibly such a big calibre with a high velocity didn't damage any internal organ#! Having in mind the trace of bullet on the sunshade, which was higher than 2 metres, much higher than any person on the same photo, and the trace of the same bullet on the wall, the same set of photos (P19) being high no more than 1,60 metres, it was easy to conclude that the site of the origine of fire must have been very, very high, while it couldn't have been from any long distance!)**

3921. Hogan visited the site of the incident with the victim and recorded the exact location of the victim when shot, namely in front of the shoe shop next to the passage of a building.<sup>12987</sup>

3922. When investigating this incident, Van der Weijden reviewed the photographs of the incident scene taken by the BiH MUP, as well as the witness statements of Kučanin and the victim.<sup>12988</sup> He also visited the incident site using Hogan's co-ordinates, checked for possible locations from which the shot might have been fired,<sup>12989</sup> and then visited those locations to see which was most likely.<sup>12990</sup> He visited the alleged location of the shooter, as provided to him by the Prosecution, and noted that there was now a new building near the incident site removing the line of sight between that particular location and the incident site.<sup>12991</sup> However, he noted that in 1994 there would have been "plenty of view" towards the incident site from Hrasno Brdo.<sup>12992</sup> **(There was even "more plenty" of view from the buildings within the Muslim territory, particularly the high one, which would be more probable, since the trajectory was descending much sharper than it would be if fired from the alleged site!)**

3923. Van der Weijden was not able to determine the exact location from which the shot was fired but rather a general area from which it might have been fired, namely the area of Hrasno Brdo.<sup>12993</sup> On cross-examination, he explained that he excluded the high-rise building near

<sup>12985</sup> Mirsad Kučanin, P16 (Transcript from *Prosecutor v. Galić*), T. 4735–4736.

<sup>12986</sup> P23 (Witness statement of Mirsad Kučanin dated 12 November 1995), e-court p. 13. *See also* Mirsad Kučanin, P16 (Transcript from *Prosecutor v. Galić*), T. 4662.

<sup>12987</sup> Barry Hogan, T. 11215–11216, 11270–11271 (3 February 2011); P2205 (Photograph re sniping incident of 22 July 1994 on Miljenka Cvitkovića street marked by Barry Hogan); P2206 (Map of Sarajevo marked by Barry Hogan); P2207 (Images re scheduled sniping incidents in Sarajevo); D1003 (Video footage re sniping incident of 22 July 1994 on Miljenka Cvitkovića street) (under seal); P2192 (Map of Sarajevo); P2190 (GPS locations for shelling and sniping incidents in Sarajevo); P2191 (Map of Sarajevo with scheduled sniping and shelling incidents).

<sup>12988</sup> P1621 (Expert Report of Patrick van der Weijden entitled "Sniping Incidents in Sarajevo '92–'94"), p. 85.

<sup>12989</sup> According to Van der Weijden, given that the bullet went through the shop window, it was clear that it came from the direction of the south. *See* Patrick van der Weijden, T. 7080 (28 September 2010).

<sup>12990</sup> Patrick van der Weijden, T. 7073, 7080–7082 (28 September 2010).

<sup>12991</sup> P1621 (Expert Report of Patrick van der Weijden entitled "Sniping Incidents in Sarajevo '92–'94"), pp. 81–82.

<sup>12992</sup> P1621 (Expert Report of Patrick van der Weijden entitled "Sniping Incidents in Sarajevo '92–'94"), p. 81.

<sup>12993</sup> P1621 (Expert Report of Patrick van der Weijden entitled "Sniping Incidents in Sarajevo '92–'94"), p. 81; Patrick van der Weijden, T. 7074, 7081–7086 (28 September 2010); D663 (Map of Sarajevo marked by Patrick van der Weijden).

the site of the incident as the origin of fire because there was a large group of people present there at the time of the incident which would not have been the case if there was firing from that building.<sup>12994</sup>

**(#This is a very bad argument#! If there was no a constant fire from within the Muslim territory, but only two solitary shots, the people in the surroundings wouldn't be alarmed!)**

Recalling that the bullet found on the scene was a 7.62 mm bullet, he noted that it was not possible to tell whether it was 7.62X39 mm or 7.62X54R mm bullet; however, he excluded the former on the basis of the “distance from which [it] was likely fired” and thus concluded that the weapon most likely used was an M76 rifle or a civilian hunting rifle.<sup>12995</sup>

**(With so many #“eithers” and “ors”# including civilian hunting rifles – what all of it has to do with this Accused? The Accused could have been charged only if he was for the war at any cost, but we do have the evidence that he “wanted to avoid the war at any cost”, see D1833)**

Van der Weijden testified that since children were playing at the incident site on the day of the incident, it is unlikely that any fighting would have been ongoing nearby.<sup>12996</sup>

In addition, even though the victim could have been confused for an adult, Van der Weijden thought that the presence of his mother, sister, and the other children would have indicated to the shooter that he was not a combatant.<sup>12997</sup>

**(Was it in any sense visible that the victim was not a Serb? Why the victim would be a target of a Serb?)**

3924. The Accused put to Van der Weijden and Hogan that a mistake was made during the investigation of this incident because the café that can be seen in the photographs prepared by the BiH MUP is actually on Džemala Bijedića street, the name of which was never changed, and that Miljenka Cvitkovića street is located behind it.<sup>12998</sup> Van der Weijden, having no knowledge of the names of the streets involved, could not comment on this except to say that he visited the location of the incident on the basis of the GPS co-ordinates provided to him by the Prosecution and that he also identified it using the photographs of the BiH MUP.<sup>12999</sup> Hogan was adamant that the location of the incident, as depicted in the video footage he prepared and on the photographs of the BiH MUP, was correctly recorded, regardless of the address used by the BiH MUP in its reports; he also noted that the location of the incident is known locally as “the hundred meter building on Ferde Hauptmana street” even though Ferde Hauptmana, formerly Miljenka Cvitkovića, is the square behind it.<sup>13000</sup>

3925. Poparić testified that, since all the documents specify that the incident took place on Miljenka Cvitkovića street, he could not accept that this was an accidental mistake, especially given that Džemala Bijedića is one of the best known and longest streets in Sarajevo.<sup>13001</sup> Thus, and also based on the fact that there is no “physical evidence” that the victim was shot in front of the shop window, Poparić testified that he was convinced that the incident in fact occurred in Miljenka Cvitkovića street, not Džemala Bijedića street, under circumstances

<sup>12994</sup> Patrick van der Weijden, T. 7087–7089 (28 September 2010); D663 (Map of Sarajevo marked by Patrick van der Weijden).

<sup>12995</sup> P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92–’94”), p. 80. *See also* Patrick van der Weijden, T. 7084 (28 September 2010).

<sup>12996</sup> P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92–’94”), p. 83.

<sup>12997</sup> P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92–’94”), p. 83.

<sup>12998</sup> Patrick van der Weijden, T. 7089–7091, 7093 (28 September 2010). *See also* Barry Hogan, T. 11270–11273 (3 February 2011).

<sup>12999</sup> Patrick van der Weijden, T. 7090 (28 September 2010).

<sup>13000</sup> Barry Hogan, T. 11270–11274 (3 February 2011); D1003 (Video footage re sniping incident of 22 July 1994 on Miljenka Cvitkovića street).

<sup>13001</sup> D4884 (Mile Poparić’s expert report entitled “Small Arms Fire on the Sarajevo Area 1992–1995”, 15 August 2012), p. 125; Mile Poparić, T. 38893–38896 (29 May 2013); D3625 (Satellite image of Sarajevo marked by Mile Poparić).

different to those described in the official BiH MUP report.<sup>13002</sup> **(Poparić lived in Sarajevo and was familiar with the streets. Taking into account the Kucanin's statement that he handed the investigation over to the local police, it is even less probable that a local policeman would mix-up the two streets. (See fn. 12984) still it is unbelievable that this case is brought before the Chamber, and even more miraculous that the Chamber accepted it!)**

3926. In terms of the origin of fire, Poparić testified that it did not come, as alleged, from the Pržulj house, because when he visited that house there was no view of the incident site from it.<sup>13003</sup> In addition, he explained that the distance between Pržulj house and the incident site is 1,245 metres while the altitude is 95 metres, meaning that the bullet would have to have a low angle of descent and a flat trajectory, which he conceded corresponded to the traces in the café.<sup>13004</sup> However, Poparić then proceeded to argue that those traces were the result of an incident unrelated to the victim's wounding.<sup>13005</sup>

3927. Poparić also criticised the BiH MUP for failing to detect the traces that would indicate origin of fire more accurately and for using an instrument “whose principle of operation [he did] not know” but which he doubted,<sup>13006</sup> instead of determining the angle of descent and incoming trajectory by measuring the co-ordinates of the traces.<sup>13007</sup> Finally, he argued that the distance of 1,245 metres exceeds the capacity of a sniper rifle, meaning that the shot must have been fired by a machine-gun.<sup>13008</sup>

3928. Zurovac testified that his company's positions were some 1.5 kilometres away from the location of the incident and that the boy was standing with his back turned towards those positions when shot, so that there was no theoretical possibility for him to be shot by the soldiers of the 4<sup>th</sup> Company soldiers.<sup>13009</sup> **(In any case, if the bullet came from the Serb positions, the trajectory within the victims body would go from behind to front!)** Tuševljak testified that his platoon never fired on the boy, that their positions were some 1.2 kilometres away from the incident site and that they did not have weapons with that

<sup>13002</sup> D4884 (Mile Poparić's expert report entitled “Small Arms Fire on the Sarajevo Area 1992–1995”, 15 August 2012), pp. 119, 125. In cross-examination, Poparić was asked about the pool of blood seen in front of the shop on one of the contemporaneous photographs taken by the BiH MUP and how it came to be there if the boy was wounded on Miljenka Cvitkovića street. He responded that the boy sustained a small wound and that the pool of blood looked like water to him because it was too big to be blood. Poparić conceded, however, that he was not a doctor. See Mile Poparić, T. 39239–39240 (4 June 2013).

<sup>13003</sup> D4884 (Mile Poparić's expert report entitled “Small Arms Fire on the Sarajevo Area 1992–1995”, 15 August 2012), pp. 121–122. In cross-examination, Poparić confirmed that he did not know exactly where Pržulj house was and that he simply went to the most dominant house at the end of Zagorska street, which he assumed to be Pržulj house. See Mile Poparić, T. 39236 (4 June 2013).

<sup>13004</sup> D4884 (Mile Poparić's expert report entitled “Small Arms Fire on the Sarajevo Area 1992–1995”, 15 August 2012), pp. 120, 123, 126.

<sup>13005</sup> Poparić made that conclusion on the basis of the contemporaneous photograph of the awning of the café and two different holes he detected on that photograph, arguing that the hole higher up in the awning was in fact a bullet hole, whereas the hole the BiH MUP focused on was not a bullet hole at all but a tear made by a sharp object. Analysing the higher hole, Poparić concluded that it was probably the result of a stray bullet fired in the air, which then led him to conclude that the incident involving the café was unrelated to the wounding of the boy. See D4884 (Mile Poparić's expert report entitled “Small Arms Fire on the Sarajevo Area 1992–1995”, 15 August 2012), pp. 123–143; Mile Poparić, T. 38896–38898 (29 May 2013). In cross-examination, Poparić conceded that he reached this conclusion on the basis of a photograph but also on the basis of his extensive experience with bullet holes. Mile Poparić, T. 39236–39239 (4 June 2013).

<sup>13006</sup> See fn. 12984.

<sup>13007</sup> D4884 (Mile Poparić's expert report entitled “Small Arms Fire on the Sarajevo Area 1992–1995”, 15 August 2012), p. 121.

<sup>13008</sup> Mile Poparić, T. 38894–38895 (29 May 2013); D3625 (Satellite image of Sarajevo marked by Mile Poparić).

<sup>13009</sup> The Chamber notes that Zurovac was no longer the company commander at the time of this incident. See Dušan Zurovac, T. 30251–30253, 30263 (14 November 2012); D2427 (Map of Sarajevo marked by Dušan Zurovac).

range.<sup>13010</sup> Furthermore, he testified that no line of sight existed between his positions and the incident site and that there were no snipers in his unit.<sup>13011</sup> He conceded, however, that there was a line of sight between the positions of the company to his right, either the 2<sup>nd</sup> or the 1<sup>st</sup> Company.<sup>13012</sup> **(#Out of range#! In such a case, the #distance would be longer than 1.2 kilometres, and thus less possible#!)** He also conceded that M84 and M53 machine-guns his platoon had could cover the distance of 1.2 kilometres but explained that these machine-guns were located further back in the rear and did not have the optical sights necessary to accurately hit targets at that range.<sup>13013</sup>

**3929.** Galić explained that he did not know about this incident at the time and only heard about it during his own trial.<sup>13014</sup> He also testified that there were ABiH forces in the area of Čengić Vila where the incident took place.<sup>13015</sup> He could not, therefore, deny that there was firing in the area and/or comment on what sort of firing it was.<sup>13016</sup> **(So what?)**

**3930.** In addition to the above, the Chamber has also taken judicial notice of a number of adjudicated facts going to the origin of fire, namely: (i) Seid Solak was not hit by a stray bullet but was deliberately targeted;<sup>13017</sup> (ii) a clear line of sight existed between the site of the incident and SRK positions;<sup>13018</sup> and (iii) Seid Solak, a civilian,<sup>13019</sup> was injured by a shot deliberately fired at him from SRK-controlled territory on Hrasno Brdo.<sup>13020</sup> **(#Deadly combination#! This is all senseless. If some “adjudicated facts” that were out of any possibility of the Defence to deal with, are decisive, why this process had been conveyed? There is no a single facts in favour of such a deliberation, and it was absolutely unbelievable that Solak was shot from the Serb positions, among other elements also because he was looking at the shop window! Since he was shot from one side to other, laterally, the bullet didn’t come from the Serb side, otherwise he would be wounded in his back! This is impossible. As many other matters in this incident!)**

Looking at the location of the incident first, the Chamber is satisfied that the location recorded by Hogan and seen in BiH MUP contemporaneous photographs is the actual location at which the incident happened.<sup>13021</sup> It is also satisfied that it was erroneously noted in the official BiH MUP report and in the Indictment as being on Miljenka

<sup>13010</sup> D2391 (Witness statement of Slobodan Tuševljak dated 5 November 2012), para. 25; D2394 (Map of Sarajevo marked by Slobodan Tuševljak); Slobodan Tuševljak, T. 29961 (7 November 2012).

<sup>13011</sup> D2391 (Witness statement of Slobodan Tuševljak dated 5 November 2012), para. 25.

<sup>13012</sup> Slobodan Tuševljak, T. 29957–29958 (7 November 2012).

<sup>13013</sup> Slobodan Tuševljak, T. 29958–29959 (7 November 2012); D2397 (List of members of the 4th Company).

<sup>13014</sup> Stanislav Galić, T. 37538–37541 (22 April 2013); D3456 (SRK combat report, 22 July 1994).

<sup>13015</sup> Stanislav Galić, T. 37538–37539 (22 April 2013).

<sup>13016</sup> Stanislav Galić, T. 37538 (22 April 2013). When confronted with Blagoje Kovačević’s evidence that the one area from which the SRK was never fired upon was the area of Čengić Vila, he responded that he was not in the position to know and that the SRK commanders insisted that this area should never be targeted as it was the centre of Sarajevo and that museums were located there. See Stanislav Galić, T. 37836–37827 (7 May 2013).

<sup>13017</sup> See Adjudicated Fact 242.

<sup>13018</sup> Adjudicated Fact 243.

<sup>13019</sup> See Adjudicated Fact 239.

<sup>13020</sup> See Adjudicated Facts 244.

<sup>13021</sup> The Chamber recalls that it visited this location during its site visit to Sarajevo. The Chamber also recalls that in its Order on Submissions for a Site Visit, dated 15 November 2010, at paragraph 6, it stated that the purpose of its site visit to Sarajevo was not to gather evidence or receive any submissions from the parties but to permit the Chamber to become more familiar with the topography of certain key locations and thus assist its determination of the charges in the Indictment related to Sarajevo.



Cvitkovića street rather than on Džemala Bijedića street. This error occurred due to the fact that Miljenka Cvitkovića street is on the other side of the passage close to which Solak was standing when shot. However, this being an error as to the street name alone, it did not in any way affect the investigations done at the time of the incident, or subsequently, and does not therefore affect the evidence outlined above.

**(No any explanation as #how a local policeman could have been mistaken about the name of the very famous street and the number of building#!?!?But, even if it was as this patchwork of evidence suggested, still there is an absence of possibility and probability, let alone certainty – that the victim had been hit pform the Serb position and been aimed deliberately!)**

Furthermore, this error was clarified during the trial and did not in any way undermine the Accused's notice of the allegations against him in relation to this incident. Finally, the Chamber finds Poparić's claim that the incident happened somewhere other than where the victim said it happened completely unreasonable.

**(A Defence expert claims are irrelevant, since the Defence is not obliged to prove from where it was fired, but only to point out whay it wasn't as the Prosecution claimed. No matter whether Poparic was right or not about a real source of fire, the most important is that the Defence already had proven that it was not even possible, let alone probable to be as the OTP alleged!)**

In making such a claim Poparić chose to ignore a number of factors, including (i) the fact that Kučanin and his colleagues, including ballistics experts, conducted an investigation at the location on the day of the incident, and that this was the location indicated to Hogan by the victim; (ii) that the Chamber has in evidence a contemporaneous photograph clearly showing a pool of blood in front of the shop marked by the victim;<sup>13022</sup>

**(Whoever had a can of liquid colour, or a chicken, could have obtained a photo of a "pool of blood". This is not evidence, since this may have been obtained in a various ways. It can not be forgotten that the BH Police was an active participant in the war, as an adversary to the Serbs, and under the ultimate influence by the SDA Party! A "condicio sine qua non" should be that both sides participate in investigations, otherwise, it should be announced as invalide investigation!)**

and (iii) that at the time of the incident there would have been a number of eye-witnesses, including the victim's sister and mother, who talked to the police and, later, to Prosecution investigators about this incident and its location.

**(If so, how come the street is not established beyond a reasonable doubt?)**

What Poparić is implying by his testimony is a conspiracy of large magnitude, conducted over a number of years and involving various individuals and entities. However, there is not a shred of evidence to support this implication.

**(Whether there was a conspiracy or not – is irrelevant for the Defence. During the entire period of war there was a "conspiratory" attitude of the Muslim side to use every opportunity to denigrate the Serbs in front of the international community. The point is that the #Prosecution didn't prove that it was a deliberate shot against an identified civilian committed by somebody from the Serb controlled territory#!)**

For all those reasons, the Chamber finds that Seid Solak was wounded on Džemala Bijedića street, near Miljenka Cvitkovića street.

**3932.** In terms of the origin of fire, the Chamber once again cannot accept Poparić's analysis as it is based on a number of speculations. For example, while Poparić testified that

<sup>13022</sup>

The Chamber notes that Poparić uses this photograph in his report. D4884 (Mile Poparić's expert report entitled "Small Arms Fire on the Sarajevo Area 1992–1995", 15 August 2012), p. 120, Image 82.



there was no view between Pržulj house and the incident site, he completely ignored the other evidence which suggests that a new building was built following the incident, blocking the previously existing line of sight between the two locations. **(And what was the evidence that this building was built afterwards? Did they obtain a contemporaneous photo indicating that this building didn't exist? It was so simple to deceive the Chamber, because the Chamber didn't maintain a high threshold for probability, nor any sense for "in dubio pro reo"!)**

3933. In addition, Poparić's analysis that the damage to the awning of the café came about as a result of another incident is again unreasonable. First, it is based on a photograph of what may or may not be a hole in the awning. There is no close up photograph of that "hole" and it is difficult to see if it is indeed a hole or some entirely different type of trace, such as a stain or a shade. The Chamber notes that this "hole" was not referred to by the investigators on the scene at the time of the incident and there is nothing in the evidence suggesting that it is even a hole, let alone a bullet hole. **(This is not true, because the photograph is part of the report on investigation made by the BH MUP, see P19, and it had been marked with an arrow by the police investigators. Look at para 3920, and the sentence: "By connecting the holes in the sunshade and the window, Kučanin concluded that the bullets came from "the aggressor's positions at Zagorska street, the Pržulja house" How this flagrant ignorance and denial of evidence could have occurred?)** Furthermore, in conducting this particular analysis, Poparić appears to ignore the fact that the BiH MUP investigators talked to the people in the café on the day of the incident, as well as the people outside of the café who witnessed the shooting.<sup>13023</sup> Therefore, it would have been clear to those investigators that the café suffered the damage right after or around the time when the victim was wounded, which is why they noted this sequence of events in the official report at the time. To claim that the two incidents are unconnected is therefore unreasonable and seriously throws into doubt Poparić's credibility on this incident. **(The Defence and its experts were not obliged to prove anything, but wanted to help us to understand what happened. The Chamber must not shift the burden of proving to the Defence! Simply, there was so many contra arguments, and this was sufficient to dismiss this incident!)**

3934. Finally, as far as Poparić's criticism of the investigation method used by the BiH MUP investigators, the Chamber is satisfied that they used the well known and accepted method of tracing a bullet through its impact holes, as described earlier in this Judgement.<sup>13024</sup> Thus, the Chamber does not accept Poparić's criticisms in this regard. **(What holes? The Chamber itself concluded that the hole in the sunshed was not established to be a hole made by this bullet, see para 3933 above, although the Muslim police concluded so. To use holes for determination of direction of bullet, there must have been at least two holes. The BH MUP used the hole on the sunshed and traces on the wall inside, the Chamber doesn't accept the hole in the sunshed, but relies on the MUP investigation!?!?)**

<sup>13023</sup> Indeed, in his official note, Kučanin refers to ten people being in the restaurant at the time the bullet struck and notes that it was fortunate that none of them was injured. P18 (BiH MUP Report re sniping incident of 22 July 1994 on Miljenka Cvitkovića street). **How was it possible to have all those facilities, a restaurant, a café, a gathering on the streets, all being exposed to a "notorious sniper nest"? Does anyone note how unjust is this extent of the accusations of the Serbs in BiH?**

<sup>13024</sup> See para. 3628.

3935. Given the age of the victim, as well as the fact that he was on his bicycle and in the company of his mother and sister when shot, the Chamber has no doubt that he was a civilian and that he was not taking a direct part in hostilities at the time of the incident. Indeed, given the presence of a number of people around the incident site on that day, the Chamber finds that there was no military activity or fighting in the area. Based on the evidence above, the Chamber also considers that the location in which the boy was standing when shot was visible from the upper parts of Hrasno Brdo, including from the area around Ozrenska and Zagorska streets.<sup>13025</sup> **(#Absurdity#! It is not a proof if some spot was visible from the Serb positions, it could have been only one of prerequisites, not evidence#! The same place was even better visible and reachable from any spot in the Muslim held territory between the site of incident and the Serb positions! Not only combatants, but many private individuals had been armed and could have fired, and the Chamber didn't have ground to conclude as it did!)** Furthermore, the Chamber accepts Van der Weijden's evidence that at the time of the incident there would have been a clear line of sight between a number of positions on and near Ozrenska street, including the Pržulj house, and the incident site.<sup>13026</sup> The Chamber is also satisfied that Ozrenska and Zagorska streets, as well as the Pržulj house, were in the zone of responsibility of the SRK's 2<sup>nd</sup> Infantry Battalion of the 1<sup>st</sup> Sarajevo Mechanised Brigade and that its units had sniper rifles and machine-guns which had the necessary range to reach the incident site. **(This was not a matter of a "range to reach" but primarily of a preciseness! What rifles to be precise on the distance of 1.2 km, or longer?)** Furthermore, as noted above,<sup>13027</sup> the Chamber accepts KDZ310's evidence that professional snipers were also positioned on Ozrenska street and would target civilians and combatants alike. **(#Protected lies#! What would this Court do without such a protected witnesses, highly payed for their stories? This witness was motivated to lie, who saw nothing, but somebody "told" him that there was shooting at civilians, see T.9278, quoted in para 3902 above, the testimony of the KDZ310.)** Relying further on Van der Weijden's evidence that the shooter could not have been located near the incident site due to the large number of people in the area at the time of the incident, as well as the investigation conducted by the local investigators on the day of the incident, the Chamber is convinced that the shooter was located in the zone of responsibility of the 2<sup>nd</sup> Infantry Battalion of the 1<sup>st</sup> Sarajevo Mechanised Brigade, as established by the local investigators. **(#Not established, just alleged#! That was not "established" by the local investigators, it had been alleged by them, as in all other cases. The Chamber erred in concluding that the shooter could not have been located near the incident site, because it was not necessary to be to close, because between the incident site and the Serb positions there was a #distance of more than 1,200 metres#. All of this space in between was full of the Muslim combatants and other armed people, of which everyone could have shot!)** The Chamber is also convinced that the shooter targeted the victim deliberately, as illustrated by the fact that more than one bullet was fired on the incident site.

<sup>13025</sup> While both Zurovac and Tuševljak testified that their company's positions did not have the line of sight to the incident site, this does not change the Chamber's finding that the units of the 2<sup>nd</sup> Infantry Battalion were in positions that had such a line of sight onto the incident site. Indeed, as outlined above, this was admitted by Tuševljak during his testimony. **So what? Does this Court introduce a new rule, due to which: possibility = probability = adjudicated fact.**

<sup>13026</sup> See P1621 (Expert Report of Patrick van der Weijden entitled "Sniping Incidents in Sarajevo '92-'94"), p. 80; Patrick van der Weijden, T. 7074, 7081–7086 (28 September 2010); D663 (Map of Sarajevo marked by Patrick van der Weijden).

<sup>13027</sup> See para. 3902.

ii. Scheduled sniping incidents F.1 and F.5

3936. The last two sniping incidents alleged in the Indictment took place in two different parts of Sarajevo, the southeastern suburb of Širokača and the northwestern area of Briješko Brdo respectively. Each is examined by the Chamber below.

**1. Žagrići street, Širokača, 13 December 1992 (Scheduled Incident F.1)**

3937. According to the Indictment, on 13 December 1992, Anisa Pita, a three year old girl, was shot and wounded in her right leg on the porch of her residence on Žagrići street in the Širokača area of Sarajevo.<sup>13028</sup> In its Final Brief, the Prosecution argues that the shot that wounded Pita was fired from the SRK-controlled area of Baba Stijena.<sup>13029</sup> The Accused argues that Anisa Pita's house cannot be seen from Baba Stijena and that Pita was wounded in an exchange of fire taking place at the confrontation line.<sup>13030</sup>

3938. Širokača is a suburb located in the southeastern part of Sarajevo south of Miljacka River and east of Grbavica.<sup>13031</sup> Baba Stijena, or Baba Rock, is a ridge on the northern slope of Mount Trebević, just below the Pale-Lukavica road, which overlooks Sarajevo, including Širokača.<sup>13032</sup> During the war, it was in the zone of responsibility of the 2<sup>nd</sup> Company of the 3<sup>rd</sup> Infantry Battalion of the 1<sup>st</sup> Romanija Infantry Brigade of the SRK.<sup>13033</sup> On the other side of the confrontation line was the 10<sup>th</sup> Mountain Brigade, later 115<sup>th</sup> Mountain Brigade, of the 1<sup>st</sup> Corps of the ABiH.<sup>13034</sup>

3939. On 13 December 1992, between 10 and 10:30 a.m., Anisa Pita and her father left their house in the morning as there was no ongoing fighting<sup>13035</sup> and went to a water source about 150 metres from the house, where people were already lining up.<sup>13036</sup> Anisa Pita remained there for a short time as she met another child, named Elma Smajkan, and they decided to go back to the Pitas' house to play.<sup>13037</sup> As Anisa Pita arrived to her house, she was wounded

<sup>13028</sup> Indictment, Scheduled Incident F.1.

<sup>13029</sup> Prosecution Final Brief, Appendix C, paras. 37–38.

<sup>13030</sup> Defence Final Brief, paras. 2182–2186.

<sup>13031</sup> P2191 (Map of Sarajevo with scheduled sniping and shelling incidents); D2347 (Map of Sarajevo marked by Miloš Škrba).

<sup>13032</sup> Stanislav Galić, T. 37473–37474 (22 April 2013); D2344 (Witness statement of Miloš Škrba dated 14 October 2012), paras. 5, 11; D2347 (Map of Sarajevo marked by Miloš Škrba); D2348 (Photograph of Baba Stijena); Miloš Škrba, T. 29188–29189 (22 October 2012).

<sup>13033</sup> D2344 (Witness statement of Miloš Škrba dated 14 October 2012), paras. 5, 11; Miloš Škrba, T. 29189–29190 (22 October 2012). *See* Adjudicated Fact 152. While Škrba testified that the 2<sup>nd</sup> Company in the area was part of the 2<sup>nd</sup> Infantry Battalion of the 1<sup>st</sup> Sarajevo Mechanised Brigade, the Chamber notes that prior to mid-1993, this battalion was called 3<sup>rd</sup> Infantry Battalion and was part of the 1<sup>st</sup> Romanija Infantry Brigade. *See* fn. 12875; D2622 (Witness statement of Željko Bambarež dated 9 December 2012), paras. 3, 5; D2418 (Witness statement of Božo Tomić dated 5 November 2012), paras. 8, 25–26; Božo Tomić, T. 30178–30179 (13 November 2012). Contrary to Škrba, Galić testified that the SRK forces “may have had access” to one part of the Baba Stijena area, while the ABiH forces had their positions in another part of the area, just below the Lukavica-Pale road. *See* Stanislav Galić, T. 37473–37474 (22 April 2013). Given that he was the local commander in the actual area of Baba Stijena, the Chamber accepts Škrba's evidence over that of Galić, and finds that Baba Stijena itself was under the SRK control. **So what?**

<sup>13034</sup> D2344 (Witness statement of Miloš Škrba dated 14 October 2012), para. 6; Stanislav Galić, T. 37474–37475 (22 April 2013); Asim Džambasović, T. 15224–15225 (22 June 2011); D1380 (Map of ABiH positions in Sarajevo marked by Asim Džambasović).

<sup>13035</sup> *See* Adjudicated Fact 147.

<sup>13036</sup> *See* Adjudicated Fact 148.

<sup>13037</sup> *See* Adjudicated Fact 149.

above her right knee by a bullet which subsequently exited her body.<sup>13038</sup> The fog had lifted by that time.<sup>13039</sup>

3940. Hogan visited the site of the incident and recorded Anisa Pita's exact position and location when she was shot, namely at the front door of her house.<sup>13040</sup> Van der Weijden also visited the incident site<sup>13041</sup> and examined the doorway of the house; he crouched down to the girl's level, and then observed the surroundings to see where the shot may have originated from.<sup>13042</sup> Since the garden of the house was completely walled off, he was only able to observe Baba Stijena and thus concluded that Baba Stijena was the only possible origin of fire.<sup>13043</sup> He also visited Baba Stijena and observed that it offered a dominating view of the valley below and thus would have been an obvious location for a machine-gun emplacement and/or a sniper position.<sup>13044</sup> Van der Weijden noted two other possible origins of fire which he excluded, namely (i) a house seen in the area between the girl's house and Baba Stijena, which he excluded because it would have made no sense tactically<sup>13045</sup> to have a shooting position in that location and **(This is a #senseless assertion#. In all and every of these houses there lived the Muslim combatants, as the Serb combatants lived in their houses. Both armies, the ABiH and VRS, had combatants living at their homes, not in barracks. Who said it had to be from a formal shooting position?)** (ii) an area 25 metres away, directly next to Žagrići street, which he excluded because it would have been unlikely for the child to be playing on the street and later on her porch if the soldiers with guns were nearby.<sup>13046</sup> **(Why would a Muslim girl fear from a presence of the Muslim combatants? They lived in every single hous surrounding!)**

3941. Van der Weijden also thought that the calibre of the bullet used in this incident would not have been greater than 7.92 mm as greater damage would have been caused to Anisa Pita's right leg in that case.<sup>13047</sup> Noting the distance between Baba Stijena and the incident site, namely 920 metres, and noting also that "one or more" shots were heard, Van der Weijden concluded that either a semi-automatic sniper rifle (M76 or M91), or a machine-gun

<sup>13038</sup> See Adjudicated Facts 150, 151; P1991 (Stari Grad Police Station war diary), pp. 3–4.

<sup>13039</sup> Adjudicated Fact 150.

<sup>13040</sup> Barry Hogan, T. 11207–11208 (3 February 2011); P2194 (Photograph re sniping incident of 13 December 1992 on Žagrići street marked by Barry Hogan); P2207 (Images re scheduled sniping incidents in Sarajevo); P2190 (GPS locations for shelling and sniping incidents in Sarajevo); P2191 (Map of Sarajevo with scheduled sniping and shelling incidents).

<sup>13041</sup> As noted above, Van der Weijden testified that he visited the sites relevant to the Indictment in November 2006 and January 2009. See para. 3634.

<sup>13042</sup> Patrick van der Weijden, T. 6973–6974 (27 September 2010); D637 (Photograph of a house).

<sup>13043</sup> Patrick van der Weijden noted that the trees in the area have grown since the incident and now obscure the view somewhat, but he was nevertheless of the view that this was the location from which the fire originated. See P1621 (Expert Report of Patrick van der Weijden entitled "Sniping Incidents in Sarajevo '92–'94"), p. 15; Patrick van der Weijden, T. 6995–6996 (27 September 2010). See also Barry Hogan, T. 11207–11208 (3 February 2011); P2194 (Photograph re sniping incident of 13 December 1992 on Žagrići street marked by Barry Hogan).

<sup>13044</sup> P1621 (Expert Report of Patrick van der Weijden entitled "Sniping Incidents in Sarajevo '92–'94"), pp. 13–14.

<sup>13045</sup> Van der Weijden explained that it would have made no sense from a tactical point of view to have a shooting position down the hill, just below the enemy's shooting position. See Patrick van der Weijden, T. 7173 (29 September 2010).

<sup>13046</sup> Patrick van der Weijden, T. 6995–6996 (27 September 2010), T. 7172–7173 (29 September 2010).

<sup>13047</sup> Van der Weijden thought that both 7.62 mm and 7.9 mm bullets could have been used in this incident, although the former was less likely due to distances involved. He also noted that given the small size and mass of a three year old's leg, the bullet would not lose much energy while going through and thus would not have caused the same "devastation" as in the case of an adult. See P1621 (Expert Report of Patrick van der Weijden entitled "Sniping Incidents in Sarajevo '92–'94"), p. 13; Patrick van der Weijden, T. 6996–7004 (27 September 2010).

(M84 or M53) was used, although the range would have been extreme for sniper rifles.<sup>13048</sup>

**(#Must be Indians#! But, it seems nothing matters if a suspect is the Serb side?! All of a sudden we hear that there could have been heard several shots, and guessing about the kind of rifle, excluding all other possibilities from consideration, as if it was established beyond a reasonable doubt that a Serb soldier #distant 920 metres fired#, but only to establish with what kind of rifle. This is senseless, there should be first established that it came from the Baba Stijena, which was not concluded even by elimination of other positions.)**

3942. As for the identification of the victim by the shooter, Van der Weijden was told that she was wearing a red top and blue bottoms, and that she was standing in the doorway of her house when shot, meaning that she did not reach above half of the doorway.<sup>13049</sup> These factors, according to him, would have made her easily distinguishable as a civilian, even with the distances involved.<sup>13050</sup> **(How many “even-s” is needed to have a reasonable doubt?)**

3943. On cross-examination, Van der Weijden rejected the Accused’s submission that the shot may have been fired from the Muslim cemetery located southwest of the Pita house because it was clear that this location offered no view of the exact site where Anisa Pita was shot.<sup>13051</sup> He explained that during his visit, he in fact stopped at the cemetery to see if there was a line of sight to the incident site but could see none and so drove higher up the mountain.<sup>13052</sup> He also conceded that he did not know where the line of separation was in that area and noted that the only information he was provided with by the Prosecution was that the VRS controlled Baba Stijena.<sup>13053</sup> **But, #there was no a milimeter of the VRS line that wasn’t opposed by the Muslim Army line#. Beside that, all of the soldiers of the Muslim Army were living at their homes, and fighting every day, including the Sirokaca Bat.and Sirokaca itself was an area of constant combat activities, See: P1991:**

SIROKACA

31 December 1992

One person was wounded by a sniper bullet:

1. Elvir KLAČAR, born 1974 in Sarajevo, Bostarići Street bb.

ŠIROKAČA

26/27 January 1993

The following man was killed in the shelling:

<sup>13048</sup> P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92–’94”), p. 13. *See also* Adjudicated Fact 153 in relation to the distance involved.

<sup>13049</sup> P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92–’94”), p. 16.

<sup>13050</sup> P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92–’94”), p. 16. *See also* Patrick van der Weijden, T. 6987–6988 (27 September 2010).

<sup>13051</sup> Patrick van der Weijden, T. 6976–7005 (27 September 2020), 7172–7173 (29 September 2010); D638 (Map of Sarajevo marked by Patrick van der Weijden); D639 (Photograph of a house marked by Patrick van der Weijden); D640 (Map of Sarajevo marked by Patrick van der Weijden); D641 (Photograph of a cemetery); D642 (Aerial photograph of Sarajevo marked by Patrick van der Weijden); D643 (Aerial photograph of Sarajevo marked by Patrick van der Weijden); D644 (Aerial photograph of Sarajevo); D645 (Aerial photograph of Sarajevo); D646 (Aerial photograph of Sarajevo marked by Patrick van der Weijden).

<sup>13052</sup> Patrick van der Weijden, T. 6996 (27 September 2010).

<sup>13053</sup> Patrick van der Weijden, T. 6976, 6984 (27 September 2010); D642 (Aerial photograph of Sarajevo marked by Patrick van der Weijden).



⊗⊗ Alija TARAHIIJA, residing at Bostarići bb.

ŠIROKAČA

The following man was wounded by the “sower of death”:  
Šaćir PLAVŠIĆ, son of Alija, born 1964, residing at Bostarići Street 3-d.

ŠIROKAČA

29/30 January 1993

The following man was seriously wounded in the shelling:

\*\*\* Hilmiya CRNČEVIĆ, residing at Komatin no. 27-a.

ŠIROKAČA

12 November 1992

Two soldiers of the BH Army were wounded by an anti-personnel mine:

\*\*\* 1. Šerif MUJEZINOVIC – Bostarići Street 45

\*\*\* 2. Asim KERIĆ – Bostarići Street 37.

On 7/8 December 1992, fifty (50) officers of our SJB headed by Bekto SEJFIĆ, the Commander of the Mobile Company, and his Deputy Kemo HRVO, in coordinated action with BH Army soldiers, carried out combat operations in the area of Trebević.

**The entire document P1991 depicts a daily combat events in Sirokaca! This combat started on 7/8 December 1992 certainly went through Sirokaca too, because Sirokaca is the central part of Trebevic!**

3944. Poparić testified—relying on a number of photographs he took from Baba Stijena and from the incident site—that there was no line of sight between the two locations.<sup>13054</sup> He also stated that this was confirmed when he physically visited Baba Stijena in September 2010 and May 2011.<sup>13055</sup> He further argued that Van der Weijden mistakenly identified as Baba Stijena a small rock on a clearing under Baba Stijena, which had a line of sight and which was under the ABiH control.<sup>13056</sup> Finally, he argued that there is no line of sight between the incident site and Baba Stijena because there is a natural obstacle, namely a terrain elevation, of two metres, at a distance of 403 metres from the incident site in the direction of Baba Stijena, which obstructs the view.<sup>13057</sup> In cross-examination, Poparić conceded, however, that Anisa Pita’s house had been renovated by the time he was at the scene so that it was no longer possible to stand or crouch at the specific location she was at when shot.<sup>13058</sup> When shown two different photographs taken from the incident site prior to the renovations, one marked by Anisa Pita’s father and the other used by Van der Weijden in his report, Poparić denied that either of the photographs showed Baba Stijena and argued that, like Van der Weijden, Anisa Pita’s father wrongly marked Baba Stijena.<sup>13059</sup>

3945. Even disregarding the fact that there was no line of sight, Poparić argued that it cannot be “realistically assumed” that Anisa Pita was deliberately targeted from Baba Stijena given that she was a three year old in a crouching position and thus too small to be detected and

<sup>13054</sup> D4884 (Mile Poparić's expert report entitled “Small Arms Fire on the Sarajevo Area 1992–1995”, 15 August 2012), pp. 51–52.

<sup>13055</sup> D4884 (Mile Poparić's expert report entitled “Small Arms Fire on the Sarajevo Area 1992–1995”, 15 August 2012), p. 52; Mile Poparić, T. 38937–38939 (29 May 2013).

<sup>13056</sup> In addition, he argued that even if Van der Weijden had accurately marked the location of Baba Stijena, it was still clear that there was no line of sight to the incident site due to the density of the trees in the area. D4884 (Mile Poparić's expert report entitled “Small Arms Fire on the Sarajevo Area 1992–1995”, 15 August 2012), pp. 52–54; Mile Poparić, T. 39287–39288 (5 June 2013).

<sup>13057</sup> In making this claim, Poparić relied on three different topographical maps of the area. D4884 (Mile Poparić's expert report entitled “Small Arms Fire on the Sarajevo Area 1992–1995”, 15 August 2012), pp. 54–56; Mile Poparić, T. 38937–38939 (29 May 2013), T. 39266–39267 (5 June 2013).

<sup>13058</sup> Mile Poparić, T. 39266–39267 (5 June 2013).

<sup>13059</sup> Mile Poparić, T. 39267–39269, 39287–39288 (5 June 2013); P6367 (Three photographs); D3648 (Three photographs marked by Mile Poparić).



successfully hit from a distance of some 880 metres in overcast weather.<sup>13060</sup> Poparić also observed that no medical records existed that would make it possible to identify the bullet track and thus determine the bullet's trajectory.<sup>13061</sup> Using the statements of Anisa Pita's parents that they heard several shots at the time of the incident and the fact that Anisa Pita's injury was not serious,<sup>13062</sup> Poparić theorised that she was probably struck by a ricocheted projectile as a result of an exchange of fire.<sup>13063</sup>

**3946.** Miloš Škrba, who was the Commander of the 2<sup>nd</sup> Company of the 3<sup>rd</sup> Infantry Battalion of the 1<sup>st</sup> Romanija Infantry Brigade of the SRK at the time of the incident, testified that there were no sharpshooters or snipers in his company<sup>13064</sup> and that he never issued orders to anyone to open fire at civilians from Baba Stijena.<sup>13065</sup> He conceded that his company had rifles, as well as automatic and semi-automatic weapons, but claimed that it did not have optical equipment, such as binoculars and optical sights, because it did not need them.<sup>13066</sup> In addition, according to Škrba, the 2<sup>nd</sup> Company did not have "determined targets"; its only targets were ABiH soldiers and only when they opened fire on the company's positions.<sup>13067</sup> He also explained that Baba Stijena was exposed to frequent ABiH fire, which is why it was a fortified position,<sup>13068</sup> and that ABiH units had positions in depth, in civilian facilities and houses.<sup>13069</sup> In cross-examination, he conceded that his company would return fire "in most cases", but denied that it would open fire on civilian houses—instead, he said, the fire was directed "at their lines".<sup>13070</sup> **(Additionally, Škrba testified that there was an old man, a**

<sup>13060</sup> D4884 (Mile Poparić's expert report entitled "Small Arms Fire on the Sarajevo Area 1992–1995", 15 August 2012), p. 56; Mile Poparić, T. 38937 (29 May 2013).

<sup>13061</sup> D4884 (Mile Poparić's expert report entitled "Small Arms Fire on the Sarajevo Area 1992–1995", 15 August 2012), p. 56; Mile Poparić, T. 38937 (29 May 2013).

<sup>13062</sup> While Poparić claimed that Anisa Pita did not require hospital treatment, his account of her parents' evidence, namely that they took her to an emergency clinic and that she was then referred to the Koševo Hospital, seems to contradict that. While he does follow up this account by saying that there was no medical record of Pita's treatment, this is insufficient to conclude that no hospital treatment was required. See D4884 (Mile Poparić's expert report entitled "Small Arms Fire on the Sarajevo Area 1992–1995", 15 August 2012), p. 49.

**(If there was a hospital treatment, it should have been recorded and submitted, wouldn't it? How come the Prosecution can count on a negative fact, while the Defence can not point out that something was missing, and conclude that something is not submitted, which should have to be, if wanting to save the Prosecution case? Even if there was a hospital treatment, it is not submitted, and therefore didn't happen.)**

<sup>13063</sup> D4884 (Mile Poparić's expert report entitled "Small Arms Fire on the Sarajevo Area 1992–1995", 15 August 2012), p. 57.

<sup>13064</sup> The Chamber recalls here that Maletić testified that there was a sniper squad in the battalion, which was directly subordinated to the commander. See D2519 (Witness statement of Dragan Maletić dated 9 November 2012), paras. 8–9, 31; Dragan Maletić, T. 30846–30848 (3 December 2012), T. 30873–30874 (4 December 2012).

<sup>13065</sup> D2344 (Witness statement of Miloš Škrba dated 14 October 2012), paras. 9, 11, 16; D2622 (Witness statement of Željko Bambarež dated 9 December 2012), paras. 11–13, 15. When confronted with a report of the 1<sup>st</sup> Sarajevo Mechanised Brigade sent to the SRK Command on 29 October 1993, informing the SRK Command that it was in possession of a number of sniper rifles and optical sights which were issued to combatants in subordinated units, Škrba responded that he could not speak as to the weapons at the level of his brigade and that his company did not have the weapons mentioned in the report. Miloš Škrba, T. 29186–29188 (22 October 2012); P5930 (Report of 1<sup>st</sup> Sarajevo Mechanised Brigade to SRK, 29 October 1993). **(The brigade was deployed on the outer ring too, as all of the Sarajevo brigades were!)**

<sup>13066</sup> Miloš Škrba, T. 29193–29194 (22 October 2012).

<sup>13067</sup> D2344 (Witness statement of Miloš Škrba dated 14 October 2012), para. 16; Miloš Škrba, T. 29189–29193 (22 October 2012).

<sup>13068</sup> D2344 (Witness statement of Miloš Škrba dated 14 October 2012), para. 11; Miloš Škrba, T. 29189–29190 (22 October 2012); P5938 (Video still of Baba Stijena); D4622 (Report of 1<sup>st</sup> Romanija Infantry Brigade, 14 August 1992). Škrba marked two photographs showing positions from which ABiH opened sniper fire on various SRK-controlled areas, including Grbavica and Vraca. See D2344 (Witness statement of Miloš Škrba dated 14 October 2012), paras. 7–8; D2349 (Photograph of Sarajevo marked by Miloš Škrba); D2350 (Photograph of Sarajevo marked by Miloš Škrba); Miloš Škrba, T. 29190–29191 (22 October 2012).

<sup>13069</sup> D2344 (Witness statement of Miloš Škrba dated 14 October 2012), para. 6; Miloš Škrba, T. 29191–29192 (22 October 2012).

<sup>13070</sup> Miloš Škrba, T. 29191–29192 (22 October 2012).

**Muslim, sheparding goats just in front of the Serb lines all the times, and was never engaged. See:D02344, p. 2**

3947. Stanislav Galić, the SRK Commander at the time, testified that no one issued an order to open fire on Anisa Pita, explaining that the positions and trenches of the 10<sup>th</sup> Mountain Brigade of the 1<sup>st</sup> Corps of ABiH were near her house and that ABiH soldiers would have been “moving around” the house to get to their positions.<sup>13071</sup> He said that he never received any reports about this incident and that at that time there was fighting in Oteš, on the opposite side of the frontline, so there should have been no major activity in Širokača on that day.<sup>13072</sup> **(Additionally, all the local combatants of the ABiH lived there, in the very same houses. All their movements, like rear, logistics, shifts changes, went throw-out all of those streets!)**

3948. In addition to the evidence and adjudicated facts outlined above, the Chamber has also taken judicial notice of two adjudicated facts which go to the origin of fire and provide as follows: (i) Anisa Pita was injured by a shot fired from the area of the ridge known as Baba Stijena;<sup>13073</sup> and (ii) on 13 December 1992 Anisa Pita, a three and a half years old civilian, was deliberately targeted and injured by a shot from an area that SRK soldiers had access to.<sup>13074</sup> **(#Deadly combination#! Are these “adjudicated facts” going to be missed from any incident charged? Why the Chamber needed so many adjudicated facts? Because all the incidents had been difficult to be allocated to the Serbs and their liability!)**

3949. The Chamber finds, given Anisa Pita’s age at the time of the incident that she was a civilian and that she was obviously not taking direct part in hostilities at the time of the incident. Further, while Galić suggested that soldiers would have been moving around her house, he provided no specific evidence that soldiers were there when Anisa Pita was shot. Contrary to Poparić’s opinion that she was hit by a ricocheted bullet as a result of an exchange of fire, the Chamber is satisfied that there was no fighting when she was shot because the morning was quiet, as illustrated by people lining up to get water near her house, and by the fact that she was walking home with another child and without her father. Neither would have been likely had there been fighting in the area at the time. **(This is an #erroneous conclusion#. The skirmishes were sudden and sometimes as a very short exchange of fire, and such a kind of inference is not correct! Also, Anisa Pita was a child, crouching on the entrance of her house, and certainly wasn’t visible as she was visible while walking towards the house! Why she was not shot then, if she was a deliberate target? Having in mind a numerous incidents depicted in P1991, with many victims, obviously combatants, both, the Prosecution and the Muslim side decided to “promote” this incident as a deliberate targeting because of an emotional potential of the case! But, this hadn’t been properly proven to be a Serb liability!)**

3950. The Chamber is also satisfied, based on the evidence above, that there was a line of sight between Baba Stijena and the exact location where Anisa Pita was located when shot, as

<sup>13071</sup> Galić stopped short of saying that ABiH soldiers were moving in the area on the day of the incident and acknowledged that this would have been speculation on his part. See Stanislav Galić, T. 37474–37475 (22 April 2013).

<sup>13072</sup> Stanislav Galić, T. 37474–37476 (22 April 2013); D3436 (SRK combat report, 13 December 1992).

<sup>13073</sup> Adjudicated Fact 154.

<sup>13074</sup> Adjudicated Fact 155.

testified to by Van der Weijden and illustrated by the photographs in his report. **(#Possibility equal to probability, and then to a fact#)** These photographs clearly show that line of sight, despite Poparić's claim to the contrary.<sup>13075</sup> The Chamber further notes that Van der Weijden visited the area before the alterations were made to the incident site and thus was able to observe the environment from the girl's position when shot. In contrast, Poparić's evidence is based on his visits in 2010 and 2011, that is, after the relevant alteration took place. In terms of the origin of fire, the Chamber is also persuaded, again relying on Van der Weijden's evidence, that Baba Stijena was in fact the location from which the shot was fired in this incident. While Van der Weijden noted two other possible locations, he excluded them for reasons the Chamber finds persuasive.

3951. The Chamber is further satisfied, based on Miloš Škrba's evidence, that the 2<sup>nd</sup> Company of the 2<sup>nd</sup> Infantry Battalion of the 1<sup>st</sup> Sarajevo Mechanised Brigade of the SRK had fortified positions in the area of Baba Stijena and that its soldiers possessed automatic and semi-automatic weapons. While Škrba testified that his company did not have binoculars or other optical instruments, the Chamber finds it difficult to believe that an SRK company would not have—at the very least—one pair of binoculars, and therefore does not accept his evidence in this respect.<sup>13076</sup>

3952. Relying again on Škrba's evidence, the Chamber is satisfied that SRK soldiers would frequently open fire from Baba Stijena. While Škrba claimed that they only opened fire on ABiH soldiers and their lines, he also testified that the ABiH positions were in depth of the Muslim territory, in civilian houses and facilities, thus confirming that the fire was opened on civilian houses and other civilian facilities. **(#But, it is not true#! He confirmed that the Muslims had their positions in their houses, but it doesn't mean that his soldiers fired at those lines in the private housas, unless they fired at from these houses. If the SRK soldiers had been fired at from these houses, the houses were no longer a civilian houses or facilities, but a military objects!)** The Chamber does not find his denials as to the fire being opened on civilian areas and civilians themselves to be genuine. **(If the Chamber didn't believe this witness, could the Prosecution produce any evidence of other casualties of the civilians during those 1,400 days of the war? Why he shouldn't be trusted? Why only one girl, small as she was, and crouching, is depicted as a civilian victim, while there was a very intense activity of civilians during these 1,400 days? If it was a plan, for which even the President was liable, then it was a very poor result, and the Accused should have been angry with his troops for that!)**

3953. Finally, given the distance between the incident site and the area of Baba Stijena, which would have required a careful shot on the part of the shooter, the Chamber is satisfied that Anisa Pita was deliberately targeted by one of the SRK soldiers located on Baba Stijena.<sup>13077</sup> This soldier would have undoubtedly been aware of her civilian status, for all the reasons outlined above by Van der Weijden.<sup>13078</sup>

<sup>13075</sup> In this respect, the Chamber does not accept Poparić's claim that Van der Weijden wrongly identified Baba Stijena in the said photograph, something that would have been highly unlikely given that he visited Baba Stijena, using GPS co-ordinates of the relevant position, and given that he examined the area carefully.

<sup>13076</sup> In addition, as testified by Maletić, the battalion itself had a sniper squad responsible directly to the battalion command. See fn. 13064.

<sup>13077</sup> The Chamber does not accept Poparić's evidence that the nature of Anisa Pita's injuries meant that it was caused by a ricocheted bullet. To the contrary, the Chamber is persuaded by Van der Weijden's conclusion that given the size of a three year old's leg, her injuries

## 2. Briješko Brdo street, 2 November 1993 (Scheduled Incident F.5)

3954. The Indictment alleges that on 2 November 1993, Ramiza Kundo, a 32 year old woman, was shot and wounded in her left leg while carrying buckets of water across Briješko Brdo street (presently Bulbulistan street) in the west end of Sarajevo.<sup>13079</sup> In its Final Brief, the Prosecution argues that the fire originated from a field, referred to as “Polje”, in the Bačići and Briješće area in SRK-held territory, which had an unobstructed line of sight on the incident site.<sup>13080</sup> The Accused argues that given the inconsistent evidence related to this incident it is impossible to determine even the direction from which the bullet was fired.<sup>13081</sup> He also argues that ABiH forces deployed in the area were in dominant positions and that the scene of the incident was not “sufficiently visible” from SRK positions.<sup>13082</sup>

3955. Briješko Brdo or Briješko Hill is a hilly area on the northwestern edge of Sarajevo, located between Rajlovac, which is to its north, and Briješće, which is to its south.<sup>13083</sup>

3956. The Chamber took judicial notice of a number of adjudicated facts related to the circumstances of this incident. They provide that (i) on 2 November 1993, at around 4 pm, Ramiza Kundo, 38 years old at that time, and Rasema Menzilović, were hurrying back from a well located about 50 metres away from Menzilović’s house carrying full 10-litre canisters in each hand along Briješko Brdo street,<sup>13084</sup> (ii) the ABiH confrontation line was between 300 and 400 metres away from the site of the incident;<sup>13085</sup> and (iii) Ramiza Kundo was wounded by a shot fired from the direction of “Polje,” a field in the area of Bačići and Briješće.<sup>13086</sup>

3957. According to Kundo’s medical records, due to an entry-exit wound through her left calf, she was admitted to Koševo Hospital on 2 November 1993, where she was treated and then released several days later.<sup>13087</sup>

3958. Hogan visited the site of the incident with Ramiza Kundo and recorded her exact location and position when shot, as well as the direction from which she said the bullet came. The video footage of that reconstruction shows her walking on a hill, towards the well, and indicating to Polje, located down the slope to her left, as being the direction of fire.<sup>13088</sup> The

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would not have been as devastating as they would have been with an adult. **(Was der Weijden a doctor? How come the Chamber accepts his medical “expertise” while the Defence witnesses are not respected in any terms. And how a leg of an adult would be damaged more that a child’s? A child’s tissues are softer and any projectile with a high velocity would do a damage even more that in an adult’s tissue. The only difference would pertain to a velocity and a distance.**

<sup>13078</sup> See para. 3942.

<sup>13079</sup> Indictment, Scheduled Incident F.5.

<sup>13080</sup> Prosecution Final Brief, Appendix C, para. 39.

<sup>13081</sup> Defence Final Brief, paras. 2207–2211.

<sup>13082</sup> Defence Final Brief, para. 2212.

<sup>13083</sup> P2191 (Map of Sarajevo with scheduled sniping and shelling incidents); P1803 (Map of Alipašino Polje); P2199 (Map of Sarajevo marked by Barry Hogan); D2788 (Map of Sarajevo marked by Dragomir Milošević).

<sup>13084</sup> See Adjudicated Fact 183.

<sup>13085</sup> Adjudicated Fact 184.

<sup>13086</sup> Adjudicated Fact 185.

<sup>13087</sup> P1026 (Medical records for Ramiza Kundo).

<sup>13088</sup> Barry Hogan, T. 11210–11211, 11261–11262 (3 February 2011); P2198 (Photograph re sniping incident of 2 November 1993 on Briješko Brdo street marked by Barry Hogan); P2199 (Map of Sarajevo marked by Barry Hogan); P2207 (Images re scheduled sniping incidents in Sarajevo); D995 (Video footage re sniping incident of 2 November 1993 on Briješko Brdo street). For the still of Kundo

Chamber notes that this reconstruction contradicts one of the adjudicated facts referred to above, as it indicates that Kundo was on her way to the well when she was shot, not on her way back from the well.

3959. Van der Weijden investigated this incident after the Prosecution gave him the location of the incident and the alleged location of the shooter, namely “Polje”.<sup>13089</sup> He was of the view that the calibre of the bullet that struck the victim would not have been more than 7.92 mm as it would have caused greater damage.<sup>13090</sup> He also noted that the road where the incident took place is lined on one side with houses and a concrete wall topped by a fence, while there is an earthen wall on the other side, thus creating a tunnel limiting the view of the incident site to locations in line with the street.<sup>13091</sup> Van der Weijden visited Polje and noted that there were several locations offering an unobstructed view of the incident site from the ground level and that the houses in those locations would offer an even better view.<sup>13092</sup> He believed that the shooter would have been at a maximum distance of 825 metres from the incident site.<sup>13093</sup> From that location, the victim would have been easily identifiable as a female carrying water containers.<sup>13094</sup> Given the possible calibres of the bullet, the range involved, and the fact that only one shot was heard, Van der Weijden concluded that a semi-automatic rifle was probably used, either an M76 or an M91, although this range would have been extreme for those rifles.<sup>13095</sup>

3960. Poparić testified that the information relating to this incident was so contradictory that it was impossible to establish what happened.<sup>13096</sup> He explained that Kundo gave conflicting statements as to whether she was shot when on her way to the well or when returning from the well and that Menzilović’s recollection was that they were on their way back.<sup>13097</sup> Poparić further recounted the testimonies of both Kundo and Menzilović, from the *Galić* case, and noted that both testimonies failed to make clear whether the shot came from Polje or from a depot further west of the incident site.<sup>13098</sup> Poparić also pointed out that Kundo conceded in her testimony in the *Galić* case that an ABiH tank was located some 500 metres above her house.<sup>13099</sup>

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pointing to her left, in the direction of the field, see D4884 (Mile Poparić’s expert report entitled “Small Arms Fire on the Sarajevo Area 1992–1995”, 15 August 2012), p. 76, Image 50.

13089 P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92–’94”), p. 34.

13090 P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92–’94”), p. 34.

13091 P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92–’94”), pp. 36–37.

13092 P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92–’94”), p. 36. See also Barry Hogan, T. 11210–11211 (3 February 2011); P2198 (Photograph re sniping incident of 2 November 1993 on Brijesko Brdo street marked by Barry Hogan).

13093 P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92–’94”), p. 36.

13094 P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92–’94”), p. 37.

13095 P1621 (Expert Report of Patrick van der Weijden entitled “Sniping Incidents in Sarajevo ‘92–’94”), p. 34.

13096 Mile Poparić, T. 38954–38955 (29 May 2013).

13097 D4884 (Mile Poparić’s expert report entitled “Small Arms Fire on the Sarajevo Area 1992–1995”, 15 August 2012), pp. 75–76; Mile Poparić, T. 38955, 38958 (29 May 2013).

13098 When visiting the site, Poparić ruled out the depot as the origin of fire because it “did not afford a line of sight which would make it possible to shoot a person on the [Brijesko Brdo] street in their lower leg.” See D4884 (Mile Poparić’s expert report entitled “Small Arms Fire on the Sarajevo Area 1992–1995”, 15 August 2012), pp. 77–79, 81.

13099 D4884 (Mile Poparić’s expert report entitled “Small Arms Fire on the Sarajevo Area 1992–1995”, 15 August 2012), p. 79; Mile Poparić, T. 38959–38960 (29 May 2013). In cross-examination, when told that he failed to mention that Kundo also testified that this tank was there only for a week and that she could not remember when that was, Poparić explained that he mentioned the tank only to show that there were ABiH troops in the area. See Mile Poparić, T. 39168–39173 (4 June 2013).



3961. Relying on an ABiH map showing confrontation lines in the area,<sup>13100</sup> Poparić noted that the confrontation line was some 500 to 600 metres away from Kundo's house and that the incident site was thus also visible from a "rather wide area" controlled by the ABiH.<sup>13101</sup> In cross-examination, he conceded that the configuration of terrain was such that it created a natural "tunnel" in terms of the line of sight to the incident site, as well as the fact that Kundo was visible from the Serb positions in the area.<sup>13102</sup> When pointed out to him that his potential field of fire was much larger than the potential field of fire as assessed by Van der Weijden, he explained that Van der Weijden only marked what was visible from the SRK positions and did not check the visibility from the ABiH positions.<sup>13103</sup> **(#None of the Prosecution experts knew anything about the deployment of the ABiH units#. And that is why they stretched their reports, to connect an incident to the Serb positions, instead to consider the most probable version. The same was with the Srebrenica experts too, and the poor witnesses used to "exclude" a hundreds of bodies for which they didn't know how the bodies happen to be there. Had the OTP experts been properly informed, they would know that there was 44 months of fighting, with many casualties!)**

3962. Finally, referring to Kundo's medical records, Poparić observed that they do not identify the position of the entry and exit wounds or the orientation of the bullet track, thus adding to the difficulty in determining the direction of fire already made complicated by Kundo's inconsistent statements as to the direction in which she was walking when shot.<sup>13104</sup>

3963. Stanislav Galić testified that he received no reports about this incident at the time but pointed out that ABiH had forces in the area of Brijesko Brdo and that the incident site was not "sufficiently visible" from the SRK positions, which were located in the area of Azići, towards Dobrinja river.<sup>13105</sup> According to Galić, the SRK positions were at the foot of the hill on which the incident happened, meaning that the ABiH forces that controlled the hill were in a dominant position in that area.<sup>13106</sup>

3964. In addition to the evidence and adjudicated facts outlined above, the Chamber has also taken judicial notice of three more adjudicated facts which go to the origin of fire and provide as follows: (i) Ramiza Kundo was injured by a bullet fired from SRK-held territory in the field area, where Brijesće and Bačići are;<sup>13107</sup> **(No a single bullet could have been fired**

<sup>13100</sup> In cross-examination, Poparić conceded that the map he relied on was operative in the period 1 March to 14 September 1995 and explained that he used it nevertheless because the evidence he saw suggested that the confrontation line in the area did not change throughout the war. He denied that he deliberately omitted this information in order to mislead the Chamber and stated that he simply accepted the situation as alleged by the Prosecution insofar as the confrontation lines were concerned. See Mile Poparić, T. 39196–39198 (4 June 2013); P1764 (ABiH Map of Sarajevo).

<sup>13101</sup> D4884 (Mile Poparić's expert report entitled "Small Arms Fire on the Sarajevo Area 1992–1995", 15 August 2012), pp. 79–81; Mile Poparić, T. 38955–38956 (29 May 2013). Poparić explained that the ABiH-controlled area from which Kundo could be seen was in fact bigger than the area from which the SRK units could see her. See Mile Poparić, T. 38958–38959 (29 May 2013).

<sup>13102</sup> Mile Poparić, T. 39233–39236 (4 June 2013).

<sup>13103</sup> Mile Poparić, T. 39234–39235 (4 June 2013); P6364 (Two satellite images of Sarajevo).

<sup>13104</sup> Poparić also explained that, given the configuration of the terrain (that is, the difference in altitude of 100 metres between Kundo and the SRK positions), it would have been important to know how high up on Kundo's calf was her wound located, as that would have allowed him to check whether that part of the leg was visible from where the bullet had been fired. Poparić also referred to a police report on the incident, which is not in evidence in this case, and which provides that Kundo was wounded in her right leg. See D4884 (Mile Poparić's expert report entitled "Small Arms Fire on the Sarajevo Area 1992–1995", 15 August 2012), pp. 82–83, 85; Mile Poparić, T. 38955–38958 (29 May 2013); D3636 (Photograph re sniping incident of 2 November 1993 on Brijesko Brdo street marked by Mile Poparić).

<sup>13105</sup> Stanislav Galić, T. 37513–37516 (22 April 2013); D3451 (SRK combat report, 1 November 1993).

<sup>13106</sup> Stanislav Galić, T. 37515 (22 April 2013).

<sup>13107</sup> Adjudicated Fact 186.

**from the two places!)** (ii) Ramiza Kundo was not hit by a stray bullet or a ricochet as a consequence of regular combat activity;<sup>13108</sup> and, (iii) on 2 November 1993, a civilian Ramiza Kundo was targeted from an SRK-controlled area in full awareness of the high risk that the target was a civilian.<sup>13109</sup> **(#Deadly combination#! Why all of this hadn't been tried to be proven in this process? The so called "adjudicated facts" are an inexhaustible source for manipulations and abuses of the Chamber's discretion! If not accepted by the sides through stipulation, in such a sensitive cases there shouldn't be anything that hadn't been proven in the process itself!)**

3965. Having reviewed the evidence on this incident, as well as the adjudicated facts outlined above, the Chamber is unable to conclude, beyond reasonable doubt, that Ramiza Kundo was wounded by a shot fired by an SRK soldier positioned in the location of Polje. First, the Chamber is of the view that the Accused was successful in rebutting some of the adjudicated facts related to this incident, including those related to the direction and origin of fire. The Chamber recalls here the Accused's cross-examination of Hogan in relation to the direction in which Kundo was walking when shot, as well as Poparić's evidence on the various versions of the event given by Kundo in the *Galić* case. Despite being aware of inconsistencies in relation to that issue, the Prosecution chose not to call Kundo as a witness in this case.<sup>13110</sup> Instead, it decided to rely on adjudicated facts, which in turn contradict the evidence of Hogan, the Prosecution's own investigator. The Chamber is therefore left with a situation in which it has adjudicated facts on one hand (which contradict the Prosecution's own evidence) and Poparić's recounting of Kundo's evidence on the other (which suggests a number of inconsistencies in her evidence).<sup>13111</sup> Thus, the Chamber cannot rely on the adjudicated facts relating to this incident and in particular to the origin of fire.

3966. Turning then to the Prosecution evidence on this incident, it consists of Van der Weijden's observations as to the potential field of fire and Hogan's geo-positioning of the incident and the shooter as recounted to him by Kundo. Given, however, that Van der Weijden never made a determination that the bullet necessarily came from SRK positions,<sup>13112</sup> while Hogan's evidence was not concerned with the exact origin of fire,<sup>13113</sup> the Chamber deems the available evidence simply insufficient to conclude that the bullet that wounded Kundo came from the SRK positions. In that respect, the Chamber also notes the

<sup>13108</sup> Adjudicated Fact 187.

<sup>13109</sup> Adjudicated Fact 188.

<sup>13110</sup> Calling Kundo as a witness would have allowed the Chamber to assess her credibility and the reliability of her evidence, and to come to its own conclusions as to the way in which the incident unfolded, including the direction in which she was walking when shot.

<sup>13111</sup> The Chamber recalls its observation during trial that Poparić is an expert on ballistic matters and therefore not an expert on credibility of victims of the incidents. See Mile Poparić, T. 38905 (29 May 2013). While that remains the case, the adjudicated facts and the evidence presented by the Prosecution in this particular incident are not only scarce but also internally inconsistent. The Prosecution did not discuss this incident with Van der Weijden and it never cross-examined Poparić on this aspect of his analysis. It also appeared to ignore his overall assessment that the information about this incident was very inconsistent. In addition, in contrast to the other incidents, the Chamber has received no contemporaneous documents that would allow it to resolve the various inconsistencies in the evidence before it. Thus, Poparić's recounting of various inconsistencies in Kundo's evidence in the *Galić* case simply reinforced the inconsistencies already present between the evidence led by the Prosecution and adjudicated facts.

<sup>13112</sup> Indeed, as suggested by Poparić, it would appear that when determining the potential field of fire, Van der Weijden limited his observations only on what was visible from Polje as there is no suggestion that he checked the line of sight between the incident and the areas east of Polje, which were controlled by the ABiH. See P1621 (Expert Report of Patrick van der Weijden entitled "Sniping Incidents in Sarajevo '92-'94"), pp. 35–36.

<sup>13113</sup> See Barry Hogan, T. 11231 (3 February 2011).

Prosecution's own admission that Polje was not one of the well-known sniping positions of the SRK.<sup>13114</sup>

3967. For these reasons, the Chamber finds that the Prosecution has failed to prove, beyond reasonable doubt, that the shot that hit and wounded Ramiza Kundo was fired by one of the SRK soldiers in the area. **(That looks like a #responsible and reasonable deliberation, but it should be the case with all of the scheduled incidents#! A separate question is: what all of it has to do with the President and his capacity as a president, who forbade any illegal firing? The Chamber should have known that the Tito's Doctrine of the armed population will inevitably result in many incidents that happened without any command responsibility!)**

*iii. Findings on sniping in Sarajevo*

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<sup>13114</sup> Prosecution Final Brief, Appendix C, para. 2.

3968. Having considered all the evidence presented in this case in relation to sniping in Sarajevo the Chamber is convinced that throughout the conflict SRK units deliberately shot at civilians in Sarajevo, including at trams and other means of public transport.<sup>13115</sup> This was confirmed not only by the witnesses who lived and worked in Sarajevo and who experienced sniper fire on daily basis from notorious sniping locations but also by the evidence indicating that thousands of civilian casualties were caused by sniper or small arms fire in Sarajevo.<sup>13116</sup>

**(#Evidence indicating# is not as same as “proving#! #This assertion is unbelievable and unacceptable even as a gossip#, let alone as a part of the Judgment. This is deeply damaging for the Serb people and for the future relations in the region! No answers on several crucial questions:**

**1. #What thousands#? Where are those thousands in the Indictment?**

**2. #What is presented and alleged in the Indictment is less than two dozen of a doubtful cases#, with only a few death casualties during this 1,400 days of the fights in urban area.**

**3. #In connection with many of those cases there is a data either about an automatic fire, or an exchange of fire in vicinity. Having in mind that the Muslim side was interested in firing and initiating skirmishes, this is much less than a traffic incident casualties in only one year!**

**4. #The Muslim community had all together, on the entire territory of BiH, and in three wars that this community waged (against the Serbs, Croats, and against the Abdic's region) about 60,000 casualties, mainly combatants, while the Serb side had about 33,000 casualties of which 24,000 were combat casualties, and Croats had a bit less than 10,000 casualties. How possibly in Sarajevo could have been “thousands of civilian casualties???**

**5. #There was between 6,000 and 7,000 Muslim combat casualties in Sarajevo, and that makes up to 10% of all the Muslim casualties in BiH.**

**6. #If the Serbs really killed so many civilians, there wouldn't be so many staging incidents!)** The Chamber was particularly persuaded by the evidence of international witnesses working with the UN on this issue as they not only observed the sniping within the city but also had a more complete picture of the situation through constant dealings with both sides to the conflict as well as through the reports of UNPROFOR forces tasked with anti-sniping operations. **(All what the UN personnel could have obtained to the Chamber was purely #on a basis of (mis)information received from the Muslim side#, which they either didn't check, or couldn't check, but certainly didn't investigate, particularly not**

<sup>13115</sup> In reaching this conclusion, the Chamber relied not only on the findings on Scheduled Sniping Incidents discussed above, but also on the general evidence relating to the sniping situation in the city and specifically in the areas notorious for sniping, such as Sniper Alley, for example. **(Another word, a basis for this conclusion is a “general evidence” and existence of “notorious sniping sites”. Who made it “notorious”? The Muslim propaganda, and their misinformation of the international representatives. Such a court should be on the top of the world for its practice and reliability, but it is worse than an average county court. No “general evidence” and “notorious” labels should have any role in such a serious case!)**

<sup>13116</sup> See also paras. 4588–4591.

in a criminal sense. They admitted it, they never made a proper investigation, and thus the Serbs are exposed to their good will to be honest and objective, to oppose their governments which were interested in accusing the Serbs, and to get rid of the subject as easy as possible. This must not be acceptable in a criminal procedure. Particularly in the first two years, many of the foreigners didn't know anything about the deployment of the two opposing forces! Anything that came from the surrounding hills, they qualified as a Serb fire, while there was no a metre of the Serb line without the same one of the Muslim side! Even the highest UN officers confirmed that the UNMO reports were not reliable!)

3969. The Chamber is also satisfied that the evidence shows beyond reasonable doubt that the SRK soldiers' deliberate sniping of civilians was not particularly unusual in the Sarajevo battlefield. It was, in fact, persistent, took place on an almost daily basis, and continued unabated during the entirety of the conflict. **(Anything #out of the Indictment shouldn't be of any interest of the Chamber. If it really happened, why it is not exposed to a Defence challenge and a chance to rebut it? How many casualties secure this title: "Notorious sniper nest"? if it was more than this one, why it wasn't included in the Indictment? A "notorious sniper nests" are notorious only on a basis of somebody's from the opposite side unsupported assertion. Had the Prosecution been interested in proving this "myth" – they should bring it in the Indictment and facilitate a litigation. The Prosecution anyway wasn't hesitant to over-crowd the Indictment with an irrelevant materials and "cases", why would the Prosecution be restrictive in this segment, expecting the Chamber to believe it on a word!)** Sarajevo civilians were shot while fetching water, walking in the city, and when using public transport (particularly trams). Furthermore, children were sniped at while playing in front of their houses, walking with their parents or walking home from school, and even when cycling. The fact that UNPROFOR had to set up anti-sniping barriers throughout the city and establish an anti-sniping unit which would, at times, exchange fire with SRK snipers is a clear proof of this. **(#This is "a clear proof" only of a fact that there were snipers on both sides#, and not that those snipers aimed civilians#! Those were armies, there was a civil war, in Sarajevo entirely in urban zones. Why these armies wouldn't have sniper rifles? But, there should be a real proof that the civilians had been targeted. #The SRK units didn't aim at civilians, nor anything in the Indictments and Judgment prove any clear-cut case of a deliberate killing of civilian. Such a grave words sound empty and indecent, and are very damaging for the interests of all the nations in region, particularly since they are fake and empty. Also, the "barriers" hadn't been erected because of snipers, because there was no to many sniper fire, but mainly a small infantry armes fire. Nor this anti-sniper units achieved some job!)** The evidence shows that the SRK used sniper rifles that both Galić and Milošević admitted were in the SRK arsenal. **(#Absurdity, distortion#! #Used, how? Against whom? Did they ever admit that their soldiers aimed at civilians? Are snipers banned in the world armies#?)** They also used machine guns, which allowed them to hit targets at much longer ranges than normally possible with sniper rifles. **(Again, this is an abuse and distortion of facts: they never admitted any illegal use of these rifles or machine guns. Otherwise, these devices were a part of legal armament of any army!)**

3970. The Chamber is also convinced, relying particularly on the evidence of KDZ310 and Maletić, that the SRK had specialised sniping units or squads which were commanded at a



battalion level or higher and in which the SRK Command took special interest, as indicated by its orders relating to snipers outlined above.<sup>13117</sup>

**(Again, #this is an abuse of these testimonies#. KDZ310 never saw any killing whatsoever, see T.92@, and if the Chamber accepted his hear-say evidence that somebody told him how there was killing of civilians, this would be #the most detrimental use of hear-say in a serious court#! Maletic only confirmed that a presence of snipers as a legal equipment was usual, must not be interpreted as if Maletic admitted an illegal use of it! What would be a benefit for those commanders to aim civilians, among whom could have been the Serbs too? Why the commanders would risk to get in conflict with the Main Staff and the internationals? They would have to be idiots, which they hadn't been!)**

Furthermore, the Chamber has no doubt that these units were under the control of the SRK Command, despite Manojlović's claim that the sniping was out of control in Sarajevo. This is confirmed not only by the SRK Command's orders and training exercises referred to above, but also by the events on the ground, such as, for example, the reduction in sniping following the signing of the Anti-sniping Agreement, as discussed in Section IV.B.1.a.

**(There is #another reasonable inference# in this sense. Namely, when there was an Anti-sniping Agreement, the both sides had been controlled, and thus the Muslim side couldn't provoke unnoticed!)**

The fact that these sniper units operated from professionally set up sniper nests which were located in buildings along the confrontation lines for a number of years, as amply illustrated by the sniper nests in the white high-rises in Grbavica, makes it unlikely that the SRK Command did not have control over the said sniper units.

**(Again, #why it wouldn't be a legal nests, for a legal military use of the snipers#? A mere fact that there were "admitted" snipers and nests still doesn't mean that those snipers aimed at civilians. Such kind of construction, composed of a bits of true facts and an inference that is not supported by any evidence is not acceptable. Again, for more than 1,400 days of the urban combats, and a permanent presence of the both armed forces, with a long periods of lull, with a few casualties from a small arms – do not allow for this kind of assertions!)**

Instead, it confirms that the SRK Command was reliant on, and regularly used, professional sniper teams, positioning them at most opportune locations.<sup>13118</sup> SRK units also used most convenient nature-made elevations along the confrontation lines around the city, such as Špicasta Stijena and Baba Stijena, to position their snipers, again indicating the involvement of the higher levels of the SRK. While the Chamber does not exclude the possibility that there may have been some rogue shooters on the SRK side, the Chamber considers their activities to have been insignificant in light of the evidence on the sustained campaign of sniping against the civilian population in the city from notorious sniper locations and on the overall control over snipers exhibited by the SRK commands.

**(Since the Chamber does not "exclude" the possibility of some rogue shooter, then the Prosecution, as well as the Chamber, would be in an #obligation to separate the two, and to prove which weren't from a rogue elements#. Not only there is no any evidence confirming involvement or knowledge and awareness the commanders of SRK units possessed, there is no a hint that the commanders ordered or tolerated such a shootings. Also, even if the most immediate commanders have hidden the facts from the higher commands, what would be their interest to provoke a fire and response, particularly being defensive and outnumbered by the ABiH? And the permanent question still doesn't have an**

<sup>13117</sup> See para. 3623.

<sup>13118</sup> The other notorious sniping locations are discussed above in the sections relating to specific Scheduled Sniping Incidents.

**answer: what all of it has to do with the political leader who repeatedly issued many orders forbidding any illegal conduct? There had never been so massive use of propaganda of one warring side in a judgment against a leader of the other side!)**

**3971.** In coming to the above conclusions, the Chamber has carefully assessed the evidence of former SRK soldiers and officers who denied the SRK practice of deliberate sniping on civilians in Sarajevo. The Chamber found these denials to be untenable and completely at odds with the reality on the ground when considered in combination with the accepted Prosecution evidence outlined above, as well as the evidence specifically related to the scheduled sniping incidents. The Chamber therefore considers that the evidence of these witnesses was self-serving and dishonest, seriously calling into question their credibility. **(#Absurdity#! Again, having in mind that every single shooting towards the city was against all and every of their interests, #why would they allow the soldiers under their control a shooting against civilians, maybe a Serbs#? This is really irresponsible act of the Court generally. To establish such a lie and make it a part of the history of those peoples and this region is irresponsible and criminal. Had it been a practice and system, there would be more then several thousands of victims. Only one per a day, there would be 1,400 civilian sniper victims, which is far from any truth! The Prosecution didn't succeed to present only one properly investigated case. This Court should have establish a rule that in such a case there must be a multilateral investigative commission, composed of both sides and internationals. All other is a more severe and cruel crime than any in this war!)**

**3972.** The Chamber is also satisfied that the ABiH units and special police forces within the confrontation lines in Sarajevo had snipers, as claimed by the Accused, which they used against the SRK positions and against civilian targets on the Bosnian Serb side of the confrontation line. However, this being the Accused's trial, the sniping practices of the ABiH units and special police forces are only relevant to this case insofar as they allow the Chamber to determine whether the fire coming from the Bosnian Serb side was opened in response to ABiH sniper fire and, if so, whether that response was selective and proportionate. In other words, while regrettable that Bosnian Serb civilians were sniped by the ABiH forces and special police units located in the city, such activities are not part of the Indictment in this case and are also not an excuse for the Bosnian Serb side's targeting of Sarajevo civilians. **(This is not so simple as it looks like to the Chamber, for the several reasons:**

**1. #There were many more Muslim snipers than the Serb, because the most famous Yugoslav factori of optic parts was under the Muslim control and continued to produce;**

**2. #It is established that the Muslim Army (ABiH) had a specialised sniper units for attacking the UN personnel and the Muslim civilians always when it could have been allocated to the Serb side, remember "Larks" and "Swallows" as a special units under the control of the highest Muslim authorities. This is well documented, and corroborated by the witness of a Muslim affiliation, (Edin Garaplija)**

**3. #Once it had been established, all the cases of casualties under a small armes fire required a thorough investigation;**

4. #There were so called “peoples armies”, not professionals, but merely civilians and reservists, and even some of the combatant didn’t serve their compulsory term in the Army. If somebody from the Muslim side killed a relative of such a “people’s soldier” nobody could exclude some incidents of such a revengeful nature, but it would in any case be hidden from the immediate commander, let alone higher commands or the President!

5. #So, the action of the Muslim snipers was not only a matter of retaliation controlled by the commands, but of another nature, so characteristic for a civil war, as Gen. Abdel Razeq from Egipt testified that everyone fought against everyone.

6. #But, the fact that the SRK had “nests” and snipers completely understandable and justified. The SRK snipers weren’t there for a purpose of killing civilians, but to oppose to the Muslim snipers, which didn’t have to be on a very confrontation line, but deeper in the city. So, a mere fact that there were snipers deployed by the SRK can not automatically be established as an illegal and criminal conduct!)

3973. On the other hand, the Accused’s argument that the Bosnian Muslim units within the city opened sniper fire on their own civilians in order to lay the blame on the Serbs is relevant to the Indictment in this case. However, the Chamber has by and large rejected this claim for the reasons outlined in more detail in the later section of the Judgement.<sup>13119</sup> (Anyway, in every case, if somebody fired against civilians deliberately, this would be against everything that the President issued as the orders and propaganda, and encouragement of the soldiers to be noble and have in mind a knighthood of a Serb fighters thorough the centuries. (See appeals to the soldiers) In many cases the Accused acted against any possibility of such a conduct, as well as all the commanders known to him as a professionals. Neither the Chamber, nor the Prosecution had submitted any proof of how the Serb soldiers would differentiate the ethnic affiliation of the victims. Neither in the orders, nor in the combat reports?)

## 2. Shelling

3974. The Prosecution alleges that the Accused, together with a number of others, participated in a joint criminal enterprise to establish and carry out a campaign of shelling against the civilian population of Sarajevo between April 1992 and November 1995, the primary purpose of which was to spread terror.<sup>13120</sup> To illustrate that campaign<sup>13121</sup> the Prosecution presented, *inter alia*, detailed evidence in relation to 15 shelling incidents listed in Schedule G of the Indictment.<sup>13122</sup> These incidents allegedly included opening mortar fire on residential areas in the city and using modified air bombs later in the conflict. As with the scheduled sniping incidents, they are all alleged to have been perpetrated by the Sarajevo Forces. In addition,

<sup>13119</sup> See Section IV.B.A.d: Bosnian Muslim side targeting own civilians.

<sup>13120</sup> Indictment, paras. 15–17.

<sup>13121</sup> Indictment, para. 82 (referring to the shelling incidents in Schedule G as being “illustrative examples” of the campaign).

<sup>13122</sup> Originally, the Indictment contained four additional scheduled shelling incidents but these were withdrawn by the Prosecution pursuant to Rule 73bis. See Rule 73 bis Decision.

the Prosecution brought general evidence on the nature of heavy weapon fire in Sarajevo and referred to a number of unscheduled shelling incidents to establish a pattern of conduct by the Bosnian Serb military and political authorities.<sup>13123</sup>

3974. In response, the Accused denies that the SRK deliberately shelled civilians, stating that there were military targets deep in ABiH-held territory in the city and that the ABiH units “abused for military purposes premises of civilian and protected buildings”, including UN facilities.<sup>13124</sup> Nevertheless, according to the Accused, the SRK units took precautionary measures to prevent opening fire on civilians, such as 24-hour observation by artillery scouts and using more precise weapons when “returning fire on urban areas”.<sup>13125</sup> Further, the Accused submits that the SRK units were informed of the provisions of international humanitarian law and the laws of war, and that orders were issued requiring soldiers to act in accordance with these laws.<sup>13126</sup> Finally, the Accused claims that ABiH units targeted their own civilians by opening mortar fire on them in order to bring about international intervention in BiH.<sup>13127</sup>

*a. Shelling in general*

3976. With respect to shelling, the Chamber heard from several experts in this case. Richard Higgs, an expert on the operational use and technical and ballistic capabilities of mortars,<sup>13128</sup> and Berko Zečević, an expert on ballistics, rockets, and warheads,<sup>13129</sup> were both called by the Prosecution. Zorica Subotić, ballistics expert on firearms and white arms,<sup>13130</sup> and Derek Allsop, an expert on conventional barrelled weapons and their ballistics,<sup>13131</sup> were called by the Accused. The Chamber also admitted evidence from fact witnesses who provided information on the general mechanics of various shelling weapons, as well as shelling and crater analysis methodology.<sup>13132</sup>

3977. During the trial, the Chamber heard evidence about a number of shelling weapons, including (i) infantry weapons, such as mortars, (ii) artillery weapons, such as howitzers, guns, and cannons, and (iii) a weapon system used specifically in Sarajevo, namely modified air bombs. Categories (i) and (ii) will be discussed in this section, while the features of the

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<sup>13123</sup> As indicated to the parties during the case, the Chamber will not be making beyond reasonable doubt findings as to the responsibility of the Accused for specific unscheduled incidents. *See* T. 5480 (19 July 2010); fn. 11204.

<sup>13124</sup> Defence Final Brief, paras. 1954–1955.

<sup>13125</sup> Defence Final Brief, paras. 1909–1911, 1944–1945, 1960–1961.

<sup>13126</sup> Defence Final Brief, paras. 1850–1853.

<sup>13127</sup> Defence Final Brief, paras. 1968, 1972–1974.

<sup>13128</sup> Richard Higgs, T. 5916–5918 (18 August 2010); P1437 (Richard Higgs’s Consolidated Report on Sarajevo Shelling Incidents, 13 March 2009), p. 1.

<sup>13129</sup> Berko Zečević, T. 12149–12150 (22 February 2011). *See also* the Chamber’s oral decision of 22 February 2011. Hearing, T. 12145–12146 (22 February 2011).

<sup>13130</sup> D3542 (Zorica Subotić’s expert report entitled “Mortar Operations in Sarajevo Area in 1992–1995”, 15 August 2012), pp. 2–23. In addition, Mile Poparić, a ballistics expert also commissioned by the Accused to give evidence about sniping, helped Subotić draft her report on mortar attacks in the Sarajevo area. *See* D3542 (Zorica Subotić’s expert report entitled “Mortar Operations in Sarajevo Area in 1992–1995”, 15 August 2012).

<sup>13131</sup> D2372 (Derek Allsop’s expert report entitled “Shelling of Markale Market in Sarajevo 5<sup>th</sup> February 1994”, 20 January 2012), para. 1.1, Appendix A.

<sup>13132</sup> One of those witnesses was John Hamill, an artillery officer in the Irish Army and UNMO in BiH from May 1993 to July 1994. John Hamill, P1994 (Transcript from *Prosecutor v. Galić*), T. 6059–6060.

modified air bombs will be discussed in the section dealing with specific Scheduled Incidents that involved modified air bombs.<sup>13133</sup>

3978. The Chamber heard that mortars can vary in calibre from light to heavy classes; the 60 mm mortar is classified as a light mortar, the 81/82 mm mortar is classed as medium and the 120/122 mm mortar is a heavier class.<sup>13134</sup> Each mortar consists of a sight, indicating bearing and elevation; a barrel or tube; a bipod/tripod adjustable stand; and a platform on which the barrel rests known as the base plate.<sup>13135</sup> The mortar rounds or “shells” are generally fired by placing each shell in the barrel—tail first—after which the shell strikes the firing pin, initiating the charge, and is then propelled out of the barrel.<sup>13136</sup> Higgs explained that mortar shells travel at a high trajectory and, with an adept crew, have an accuracy of less than 40 metres from their target and a maximum range of between 4,500 and 7,500 metres dependant upon, *inter alia*, the amount of propellant used and the elevation of the barrel.<sup>13137</sup> Additional propellant or “charge” can be added starting from a small amount, charge 1, to a maximum amount, charge 6.<sup>13138</sup> At minimum charge, the range of the shell is reduced but the mortar is more accurate.<sup>13139</sup> Mortar shells are stabilised by tail fins and their accuracy generally depends on a number of factors, including the charge used and the stability of the base plate.<sup>13140</sup>

3979. Mortars are capable of both direct and indirect fire.<sup>13141</sup> Direct fire is when the target is directly visible to the unit and the sight of the mortar is used to aim at the target.<sup>13142</sup> Conversely, indirect fire is where the target cannot be seen by the crew and the battery aims at a given target using instrumental methods, such as making adjustments to the bearing or azimuth on the horizontal plane and to the elevation of the barrel on the vertical plane.<sup>13143</sup> The type of terrain, angle of descent, round velocity, calibre, and weather conditions are all determining factors in whether a crater will be formed by the explosion of a shell and whether the mortar’s stabiliser will be found embedded within such a crater.<sup>13144</sup> Mortar crews can

<sup>13133</sup> See Section IV.B.1.c.iii.D: Scheduled modified air bomb incidents.

<sup>13134</sup> See P1437 (Richard Higgs’s Consolidated Report on Sarajevo Shelling Incidents, 13 March 2009), p. 2; Richard Higgs, T. 5981 (19 August 2010); Vlade Lučić, T. 30787 (3 December 2012); John Hamill, T. 9699 (13 December 2010); Berko Zečević, T. 12150 (22 February 2011).

<sup>13135</sup> P1437 (Richard Higgs’s Consolidated Report on Sarajevo Shelling Incidents, 13 March 2009), pp. 2–3. See also John Hamill, P1994 (Transcript from *Prosecutor v. Galić*), T. 6065, 6072–6075; D2372 (Derek Allsop’s expert report entitled “Shelling of Markale Market in Sarajevo 5<sup>th</sup> February 1994”, 20 January 2012), paras. 2.1–2.2.

<sup>13136</sup> P1437 (Richard Higgs’s Consolidated Report on Sarajevo Shelling Incidents, 13 March 2009), pp. 2–3; D2372 (Derek Allsop’s expert report entitled “Shelling of Markale Market in Sarajevo 5<sup>th</sup> February 1994”, 20 January 2012), para. 2.1–2.3.

<sup>13137</sup> P1437 (Richard Higgs’s Consolidated Report on Sarajevo Shelling Incidents, 13 March 2009), pp. 2–3. See also John Hamill, T. 9704 (13 December 2010); Mirza Sabljica, T. 7720 (12 October 2010); P1925 (Witness statement of Emir Turkušić dated 16 February 2010), pp. 5–6.

<sup>13138</sup> P1437 (Richard Higgs’s Consolidated Report on Sarajevo Shelling Incidents, 13 March 2009), p. 2; John Hamill, P1994 (Transcript from *Prosecutor v. Galić*), T. 6074. Different charges will also affect the velocity of the projectile. See D2372 (Derek Allsop’s expert report entitled “Shelling of Markale Market in Sarajevo 5<sup>th</sup> February 1994”, 20 January 2012), para. 2.3.

<sup>13139</sup> The mortar battery also has less chance of being detected by Cymbeline radar at minimum charge. See Richard Higgs, T. 5933, 5935 (18 August 2010).

<sup>13140</sup> P1437 (Richard Higgs’s Consolidated Report on Sarajevo Shelling Incidents, 13 March 2009), p. 3. Having the base plate of a particular mortar in the same position for a long time increases the accuracy of the mortar and thus allows the mortar crew to engage or strike its target with only one round. See P1925 (Witness statement of Emir Turkušić dated 16 February 2010), p. 6.

<sup>13141</sup> P1437 (Richard Higgs’s Consolidated Report on Sarajevo Shelling Incidents, 13 March 2009), p. 2.

<sup>13142</sup> P1437 (Richard Higgs’s Consolidated Report on Sarajevo Shelling Incidents, 13 March 2009), pp. 4–5.

<sup>13143</sup> Richard Higgs, T. 5986 (19 August 2010). See also D2372 (Derek Allsop’s expert report entitled “Shelling of Markale Market in Sarajevo 5<sup>th</sup> February 1994”, 20 January 2012), para. 2.2.

<sup>13144</sup> P1437 (Richard Higgs’s Consolidated Report on Sarajevo Shelling Incidents, 13 March 2009), pp. 5–6. See also John Hamill, P1994 (Transcript from *Prosecutor v. Galić*), T. 6075. When a mortar is fired at the higher charges the increased velocity of the round



also “pre-record” information about a given target from their position, such as the bearing, elevation, charge, and type of target.<sup>13145</sup> This enables the crew to engage these “pre-recorded” targets in the future with a higher degree of accuracy.<sup>13146</sup>

3980. In terms of effectiveness, mortar shells are used against manpower as they generally make only a small crater on impact but will fragment and spread shrapnel over a wide area.<sup>13147</sup> According to Higgs, in an urban area where there is a lot of cover, one would need to fire around five rounds as quickly as possible if the intention is to cause maximum casualties.<sup>13148</sup> Thus, firing one to three rounds would serve no military purpose other than perhaps creating “harassing fire” designed to force the enemy to keep their head down and prevent movement.<sup>13149</sup> **(Not only that, but also #to silent enemy if fired first#! Once an enemy go silent, the purpose is achieved!)** Higgs explained that using that type of fire on a civilian area would serve only to cause casualties and inflict terror.<sup>13150</sup> **(Whas there any civilian area? #There were a huge urban spaces without any military facilities, which never sustained a single shell, but in other, central parts of the city, there was no a clear civilian area#! It had been said several times during the trial. Why many civilian settlements had never sustained a single hit, although these settlements were known as exclusively Muslim neighborhoods? Because there was no any artillery or mortar of the ABiH. Not to mention #up to 300 mosques#, and none of them had been targeted ever! Or not to mention many gasoline stations, with a lines of people waiting, which had never been hit. Doesn it mean anything to the Chamber? If there was a “common purpose” of harassing and terrorising the population, these locations wouldn’t be skipped! What was a difference between places that had been hit, and those that had never been hit? It was only a military presence, mainly firing spots that fired at the Serb part of the city!)** Fraser agreed and testified that mortars are not a good weapons system when used in an urban, densely-populated, area as they inflict little damage on urban buildings but cause a lot of damage to unprotected people who are in the open.<sup>13151</sup> **(Was it established, and when, that the Serbs and SRK wanted to damage an urban buildings? #There was between 40,000 and 80,000 soldiers on a small area of the city, always in some movement, manoeuvres, and with almost permanent attacks on the Serb positions, and mortars were aimed to disable such a numerous units, not to destroy anything!#)**

3981. Hamill testified that conventionally both mortars and guns/howitzers are used to “support the combat troops” even though they have their own distinct features.<sup>13152</sup>

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increases the likelihood that the shell’s stabiliser will be embedded within the crater. Conversely, at the low to medium charges the stabiliser will generally be blown away from the initial impact area. See Richard Higgs, T. 5980–5981 (19 August 2010). See also Zorica Subotić, T. 38457 (16 May 2013); P1695 (Witness statement of Mirza Sabljica dated 11 February 2010), p. 14.

<sup>13145</sup> Richard Higgs, T. 5918 (18 August 2010); P1437 (Richard Higgs’s Consolidated Report on Sarajevo Shelling Incidents, 13 March 2009), p. 4.

<sup>13146</sup> Richard Higgs, T. 5918 (18 August 2010); P1437 (Richard Higgs’s Consolidated Report on Sarajevo Shelling Incidents, 13 March 2009), p. 4.

<sup>13147</sup> P1437 (Richard Higgs’s Consolidated Report on Sarajevo Shelling Incidents, 13 March 2009), p. 4. See also P1925 (Witness statement of Emir Turkušić dated 16 February 2010), pp. 15–16; David Fraser, T. 8008 (18 October 2010).

<sup>13148</sup> P1437 (Richard Higgs’s Consolidated Report on Sarajevo Shelling Incidents, 13 March 2009), p. 4.

<sup>13149</sup> P1437 (Richard Higgs’s Consolidated Report on Sarajevo Shelling Incidents, 13 March 2009), p. 4.

<sup>13150</sup> P1437 (Richard Higgs’s Consolidated Report on Sarajevo Shelling Incidents, 13 March 2009), p. 4.

<sup>13151</sup> David Fraser, T. 8008–8010 (18 October 2010).

<sup>13152</sup> John Hamill, P1994 (Transcript from *Prosecutor v. Galić*), T. 6064. See also David Fraser, T. 8007–8008 (18 October 2010). Hamill uses the terms gun and howitzer interchangeably. See John Hamill, T. 9694 (13 December 2010).

According to him, guns and howitzers are generally used for their long-range ability to fire at distant targets and are therefore positioned farther from the frontline than mortars.<sup>13153</sup> Mortars, due to their shorter range, are generally positioned closer to the frontline than guns and howitzers, but are used in what is termed a “shoot and scoot” fashion.<sup>13154</sup> This means that they will fire a number of rounds in quick succession and then immediately move to another position in order to prevent “counter battery fire”.<sup>13155</sup> According to Hamill, the skill of firing a mortar can be learnt “relatively quickly”.<sup>13156</sup>

3982. Hamill observed that theoretically the maximum angle of elevation for a mortar battery of any calibre is 90 degrees,<sup>13157</sup> but that firing at this angle would be rather precarious.<sup>13158</sup> He observed that a mortar shell is designed to suppress activity over a wide area and that the “danger radius” is considered to be 500 metres for a 120 mm mortar and 250 metres for an 81 mm mortar.<sup>13159</sup> Similarly, Galić testified that the minimum “safety or security zone” for smaller calibre mortars is 200 metres and that for larger calibre mortars, such as the 120 mm mortar, it is around 400 metres.<sup>13160</sup>

#### *b. Shelling in Sarajevo*

3983. Due to its topography, the city of Sarajevo was well suited for the use of indirect fire weapons such as mortars because it is located in a valley, facilitating target observation by forces located on the surrounding hills.<sup>13161</sup> The city’s features, such as buildings and roads, were also good reference points that a mortar crew could use to make adjustments to their sights.<sup>13162</sup>

**3984.** Fraser testified that while both sides of the conflict used shelling, often against civilians, the ABiH forces in Sarajevo “couldn’t hold a candle” to the artillery the SRK had.<sup>13163</sup> Similarly, Harland confirmed that both sides used shelling against civilians, but explained that this was done according to each side’s resources, which meant that the Serb side used such

<sup>13153</sup> John Hamill, P1994 (Transcript from *Prosecutor v. Galić*), T. 6064.

<sup>13154</sup> John Hamill, P1994 (Transcript from *Prosecutor v. Galić*), T. 6064, 6072–6073.

<sup>13155</sup> “Counter battery fire” is where “fire [is] directed by artillery at artillery”. John Hamill, P1994 (Transcript from *Prosecutor v. Galić*), T. 6064. See also KDZ185, T. 4283 (29 June 2010).

<sup>13156</sup> John Hamill, P1994 (Transcript from *Prosecutor v. Galić*), T. 6066.

<sup>13157</sup> John Hamill, T. 9703 (13 December 2010).

<sup>13158</sup> John Hamill, T. 9703 (13 December 2010) (agreeing with the Accused that in practical terms the maximum angle of elevation is probably 86 degrees). According to Allsop, the maximum angle of launch is 85 degrees, which will result in a minimum range of the shell, while the minimum angle of launch is 45 degrees, which will give the shell a maximum range. D2372 (Derek Allsop’s expert report entitled “Shelling of Markale Market in Sarajevo 5<sup>th</sup> February 1994”, 20 January 2012), para. 2.1.

<sup>13159</sup> John Hamill, T. 9703 (13 December 2010). The danger radius is the area within which splinters will travel from the point of detonation and can cause harm to those present. Within this radius, there is a smaller, “lethal radius” where it is highly likely that those within it will be fatally injured. For a 120 mm mortar shell this would be 54 metres from the point of impact. See John Hamill, P1994 (Transcript from *Prosecutor v. Galić*), T. 6191.

<sup>13160</sup> Stanislav Galić, T. 37857 (7 May 2013), T. 38052 (9 May 2013).

<sup>13161</sup> P1437 (Richard Higgs’s Consolidated Report on Sarajevo Shelling Incidents, 13 March 2009), p. 6.

<sup>13162</sup> P1437 (Richard Higgs’s Consolidated Report on Sarajevo Shelling Incidents, 13 March 2009), p. 6.

<sup>13163</sup> P1762 (Witness statement of David Fraser dated 17 October 2010), pp. 52, 75. See also D312 (SRK analysis of combat readiness of artillery rocket units, July 1994), p. 3 (providing that the initial period of the war was characterised by the fact that the SRK was superior to the ABiH when it came to heavy weapons).

shelling much more.<sup>13164</sup> When formed, the SRK was composed of nine light brigades, a mixed anti-armour regiment, a mixed armour artillery regiment, a light artillery regiment, a communications battalion, a medical battalion, and a transport battalion.<sup>13165</sup> Each of these brigades had their own armaments, which their respective unit commander controlled.<sup>13166</sup> The basic assets of each brigade were 100 mm howitzer and 60, 82, 105, and 120 mm mortars.<sup>13167</sup> In contrast, the corps level controlled heavier weapons, such as 155 mm howitzers.<sup>13168</sup> According to Wilson, the Bosnian Serbs had “something in the vicinity of 200 artillery and mortar barrels that they could direct at the city”.<sup>13169</sup> KDZ185 estimated that the SRK had around 300 pieces of heavy weaponry around Sarajevo, with calibre greater than 14.5 mm and ranging up to 152 mm, including multiple rocket launchers.<sup>13170</sup> **(And how**

**many times the Serbs fired out of those Multiple Rocket Launchers”? #None towards the city#. The Prosecutin experts didn’t have in mind that the outer ring was also in the SRK “area of responsibility”, and that it was as six times longer than the inner ring, confronted with the 2<sup>nd</sup> 3<sup>rd</sup> and 4<sup>th</sup> Corps of the ABiH. So, it would be not only fair, but obligatory to specify where these big calibres had been directed to. Let us see what the Accused ordered regarding the shelling of the city, P: 4802, of 10 August 1993:**

be back at Pale on 11<sup>th</sup> August. KARADŽIĆ ordered that no shell is to land on Sarajevo; the Muslim fire shall be returned against the Muslim positions outside the city only after an approval from the Corps Command is received; the Serbs have allegedly withdrawn 50% of their forces from the Bjelašnica and Igman, whereas the remaining 50% will leave once the UN forces took over the positions from the Serbs; KARADŽIĆ ordered that Sarajevo is to be “given” electricity, water and gas (with special emphasis given to gas); KARADŽIĆ maintains that they (the Serbs) are

**or in another document, intercepted communication, P4804, of 11 August 93:**

K: I heard that you take care of these weapons around Sarajevo.

P: Well, I visited everything in these 4 days, the entire complex around Sarajevo.

K: I ask you please to warn them in the strongest terms that no mine must go towards town at any price, even if they shoot at us from down there.

P: We understood and our commander had issued an order to General GALIĆ.

K: All right.

**There is a plethora of such a #direct orders by the President to restrain in responding to**

<sup>13164</sup> P820 (Witness statement of David Harland dated 4 September 2009), para. 290; David Harland, T. 2280 (10 May 2010). *See also* P1029 (Witness statement of John Wilson dated 4 November 2008), paras. 56–57; P2407 (Witness statement of KDZ304), p. 8 (adding that while superior to the ABiH forces in tank and artillery power, the SRK’s arsenal was of mediocre quality and the SRK had difficulty with maintenance and replenishment).

<sup>13165</sup> Stanislav Galić, T. 37157 (15 April 2013). On 1 November 1992, two brigades, the 1<sup>st</sup> Romanija and the Rogatica Brigades, left the SRK for the Drina Corps. *See* Stanislav Galić, T. 37157 (15 April 2013).

<sup>13166</sup> Stanislav Galić, T. 37195, 37200–37201 (15 April 2013); D2774 (Witness statement of Milenko Indić dated 19 January 2013), para. 31.

<sup>13167</sup> Dragomir Milošević, T. 32759–32760 (28 January 2013).

<sup>13168</sup> Dragomir Milošević, T. 32759–32760 (28 January 2013); Stanislav Galić, T. 37195, 37200–37201 (15 April 2013). The SRK generally used their mortar assets, these mainly being 82 and 120 mm mortars. *See* P1762 (Witness statement of David Fraser dated 17 October 2010), p. 53.

<sup>13169</sup> P1029 (Witness statement of John Wilson dated 4 November 2008), para. 48. *See also* P1599 (UNMO report re VRS weapons, 16 January 1994); P1154 (Witness statement of KDZ088 dated 27–29 April 2010), pp. 26–27, 63 (under seal).

<sup>13170</sup> P6060 (Record of interview with KDZ185), e-court pp. 15–16; KDZ185, T. 4207 (28 June 2010). *See also* Colm Doyle, T. 2737–2740 (26 May 2010); David Harland, T. 2295–2297 (11 May 2010); D173 (UNSG’s letter to Ed Koch, 27 January 1993); P1558 (Witness statement of Francis Roy Thomas dated 13 May 2009), paras. 83, 119; P1568 (UNMO assessment of forces in BiH), e-court pp. 5–6; P1599 (UNMO report re VRS weapons, 16 January 1994). Once the TEZ was established, the VRS placed 282 weapons in WCPs. *See* P2447 (Witness statement of KDZ182), p. 63. In June 1994, the UN reported that the SRK had around 500 weapons within the TEZ in violation of the cease-fire agreement of February 1994. *See* P892 (UNPROFOR Weekly Situation Report (Sarajevo), 24 June 1995), p. 3.

the Muslim fire, and a direct ban of initiation of fire#. On the other hand, there is no a single document to the opposite direction. Had it been a plan or intention, some of the subordinates would mention it in so many documents and intercepts, #reminding the President on the original "plan" to terrorise the population!#) On 12 May 1992 during a Bosnian Serb Assembly session, Mladić in fact proclaimed that Sarajevo could not be taken "by spitting at it from a mortar or a howitzer" and that in order to make the Bosnian Muslims surrender they would have to densely plant 300 guns around Sarajevo, including rocket launchers.<sup>13171</sup> From early on, the SRK therefore had large quantities of artillery and heavy weapons, with most of those weapons pointing towards the city.<sup>13172</sup> (If it was pointed towards the city, #why there was no a single case of firing of a big calibres to the city? About two third of these big calibres had been deployed on the outer ring, confronting three other Muslim Corpses! The Chamber was able to see and hear a first class evidence that the Accused and his close associates prevented any advancement towards the city, see: Momcilo Mandic and David telephone komunikation on 27 July 1992, D3698, p.3

Momčilo Mandić:	Our guys insisted to "očiste" /not clear – to mop up or cleanse/ Dobrinja. However, KARADŽIĆ does not let hem and those...
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and p.4:

David:	Krajina men are asking to come here.
Momčilo Mandić:	Who is asking?
David:	Krajina men. Two brigades want to sweep Sarajevo but Radovan doesn't let them.

#EXCULPATORY#! And there are more evidence about the President's refrain pertaining to advancement of the VRS-SRK towards the city. Also, it had never been a military matter to decide about the strategy of the RS. On the very same session when there were presented the known "Six strategic objectives," and nowhere in them there was any mentioning of a Muslim surrender, or a taking over the entire city. Only after that the leadership met the new Main Staff and informed them what were the Serb expectations of the VRS: #to protect the civilians against a genocide, and to defend the territory already inhabited by the Serbs#, see D01598, p. 5

state and the Croats wanted access to the Drina River. At the beginning of the war, he asked the leadership at the time to provide objectives of the war, which were the following:

1. to protect the Serbian people from destruction in order to avoid a repeat of events that took place between 1941 and 1945,
2. to stay within Yugoslavia, or as an alternative to this, have our own state.

(#EXCULPATORY#! The first interview of M. Milovanovic with the OTP, D1598) so, the Defence must reject any idea that a people not being in charge of something could speak of such a things. The Serbs participated in a permanent conference on BiH, and the political issues hadn't been in a military hands, but in the political ones only. And if the political leadership from the beginning of the crisis kept saying that the Serbs do not

<sup>13171</sup> P956 (Transcript of 16<sup>th</sup> session of SerBiH Assembly, 12 May 1992), e-court pp. 35–36.

<sup>13172</sup> P1426 (Witness statement of Richard Mole dated 7 May 2010), paras. 21, 37, 39, 41, 83; Aernout van Lynden, T. 2467 (19 May 2010); P1998 (BBC news report re interview with Colonel Bartula, with transcript); KDZ185, T. 41804181 (28 June 2010) (private session); P4203 (Witness statement of Piers Tucker dated 12 May 2010), para. 295; KDZ304, T. 10454 (18 January 2011). See Adjudicated Fact 2811.

want to win the Muslims, or to take the entire Sarajevo, no matter what was a military logics or wishes, it was never attempted!)

3985. The SRK's mortar batteries surrounding Sarajevo remained in their positions throughout the conflict.<sup>13173</sup> This meant that the SRK had the whole city pre-recorded and therefore had "very accurate weapon platforms".<sup>13174</sup> (#"Containment strategy#, confirmed by the UN officials! This is presented completely wrong: the #SRK was not there to take Sarajevo, nor to control it#, the SRK was there to #protect the Serb Sarajevo with it' 200,000 inhabitants#, and to contain the huge Muslim forces and prevent them to circulate around BiH and conquer the Serb cities, towns and villages! And that was a perfectly legitimate. The UN officers confirmed many times that the Serb tactics in Sarajevo was a tactics of containment and defence! See how the UN reported on this matter, P1435 of 11 November 1992:

31. The Serbs are unlikely to attempt any major infantry assaults of their own choosing. I think they will value the status quo, preferring to defend.

There was no a new assessment that would alter this one, on the contrary, there are documents depicting that the UN high officers assessed that the Serb strategy in Sarajevo was "the containment strategy", meaning to preserve the status quo and prevent the Muslim troops to spread through the BiH! Similar assessment had been repeated in the "commander's assessment" – a UN report of 1994, P1568 of 1 March 1994:

(1) BSA: The primary aim of the BSA is political. Their intent is to put pressure on the Presidency to come to a political settlement to end the war. The secondary aim is to fix BiH forces in SARAJEVO so that they cannot threaten BSA forces or be used in other areas of Bosnia-Herzegovina.

(#EXCULPATORY, CONTAINMENT STRATEGY#! There is an overwhelming evidence to this direction, and none of reliable documents to the other direction. The other, opposite conclusion are based only on some testimonies of a low ranking UN officials, who didn't mention it in their reports, but in the courtroom these witnesses tried to please the Prosecutor, claimng some sensational matters which would, if really existed, be on the front pages of all media in the world! And this compromises both the Prosecution and the UN missions!) Another feature of the SRK weapon sites was that the weapons were not camouflaged, indicating that they were not perceived as being under threat.<sup>13175</sup> Fraser, who himself commanded mortar platoons, thought that the mortar crews in

<sup>13173</sup> P1437 (Richard Higgs's Consolidated Report on Sarajevo Shelling Incidents, 13 March 2009), p. 6; John Hamill, P1994 (Transcript from *Prosecutor v. Galić*), T. 6065. One example where Hamill observed that the SRK mortars appeared to have been permanently stationed was at Gornji Kotorac, a hill overlooking the airport, Vojkovići, Hrasnica, Igman, Stup, and Mojmiło. See John Hamill, P1994 (Transcript from *Prosecutor v. Galić*), T. 6064–6066. See also P1258 (Witness statement of Hussein Ali Abdel-Razek dated 16 July 2002), e-court p. 11.

<sup>13174</sup> Richard Higgs, T. 5918 (18 August 2010); P1437 (Richard Higgs's Consolidated Report on Sarajevo Shelling Incidents, 13 March 2009), pp. 4, 6. See also P1925 (Witness statement of Emir Turkušić dated 16 February 2010), p. 6; Savo Simić, T. 30047 (12 November 2012).

<sup>13175</sup> P1426 (Witness statement of Richard Mole dated 7 May 2010), para. 38. See also P6060 (Record of interview with KDZ185), e-court p. 15 (testifying that the most surprising fact about the SRK batteries around Sarajevo is that they were not guarded very carefully); Aernout van Lynden, T. 2423–2424 (19 May 2010) (testifying that the SRK positions he visited in the east of Sarajevo were not under threat from the city); Jeremy Bowen, T. 10216–10218 (14 January 2011); D942 (BBC news report re Sarajevo, with transcript).



Sarajevo were competent and could generally hit the area they wanted to hit.<sup>13176</sup> KDZ182 was of the opinion that the SRK artillery and mortars were controlled at the “highest level” because of the media scrutiny in Sarajevo; thus, the orders from Pale, and from Mladić in particular, would be transmitted directly by the SRK commander through the channels of communication.<sup>13177</sup> **(#No criminal orders whatsoever#! What orders? Some of them are depicted in this paragraph! Did we see any of such an orders ordering fire towards the city. Why the top of the authorities would deal with any tactical military matters? The only orders that the Accused issued were those banning the firing towards the city, and orders to refrain, and to facilitate the humanitarian aid, electricity and water supplies! But, if attacked, the SRK units had an autonomous right to defend!)** According to KDZ182, leeway was also given to “underlings” in the field to use their weapons at any opportunity in order to generate a climate of terror.<sup>13178</sup> **(What is an evidence for that? How could that be said and admitted and credited by the Chamber without any evidence submitted, and without any consequences for the liar? “According to KDZ185” means nothing, because we do not see whether it was his knowledge, of his believe, impression, or he had a document!?! Let us see what was #an official UN report on this issue#: P1065 of 21 March 1993:**

**b. Serbian Motives**

- (1) the reason for the Serbs to conduct this shelling can only be speculated upon;
- (2) UNPROFOR has no information to support or deny the claim that this shelling was part of a deliberate programme to ‘level the city’;

**(#EXCULPATORY#! The UN Court should respect the UN documents#! There is no a report or assessment that would change this assessment! So, an official position of the UN high representatives was that the reasons “can only be speculated upon”, while in a personal testimonies many of the #middle rank officials of the UN speculated as much as they wanted#, pretending as if they knew, and presenting their own speculations, opinions and believes as a facts!)**

**3986.** In terms of the ABiH fighting capabilities, while it outnumbered the SRK in terms of manpower, the number of heavy weapons available to the ABiH within the city was much smaller than that of the SRK, the majority of its arsenal being small arms and mortars with small quantities of artillery weapons.<sup>13179</sup> **(Why the #UN Court was not obtained with an**

<sup>13176</sup> P1762 (Witness statement of David Fraser dated 17 October 2010), p. 52. See also John Wilson, T. 4079–4080 (22 June 2010); P1258 (Witness statement of Hussein Ali Abdel-Razek dated 16 July 2002), e-court p. 11. See Adjudicated Fact 2807.

<sup>13177</sup> P2447 (Witness statement of KDZ182), p. 53; P2414 (Witness statement of KDZ182), pp. 11–13, 16, 20–22, 54 (under seal); KDZ182, T. 13046–13051, 13070 (9 March 2011); P2419 (VRS Main Staff Order, 6 November 1994); P2420 (Report of 2<sup>nd</sup> Light Infantry Brigade re VRS Main Staff order, 7 November 1994). See also P6060 (Record of interview with KDZ185), e-court p. 14; KDZ185, T. 4216–4218 (28 June 2010); P5906 (Witness statement of KDZ450 dated 17 January 2011), paras. 27–29, 73, 75; KDZ304, T. 10453–10454 (18 January 2011); P2407 (Witness statement of KDZ304), p. 8; P2110 (SRK Order, 22 May 1995).

<sup>13178</sup> P2414 (Witness statement of KDZ182), p. 54 (under seal).

<sup>13179</sup> According to Mole, the ABiH had three T-54 tanks and a few anti-aircraft weapons and little ammunition to operate those and other weapons, in contrast to the SRK. See P1426 (Witness statement of Richard Mole dated 7 May 2010), paras. 39, 59–63. See also P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 133; KDZ450, T. 10597–10598 (19 January 2011). KDZ185 estimated that there were about 50 heavy weapons within Sarajevo, most of which were 82 mm mortars, and one multiple rocket launcher. However, this excluded the weapons on Mt. Igman, which he deemed as being outside of Sarajevo city. See P6060 (Record of interview with KDZ185), e-court p. 15; KDZ185, T. 4256–4264 (29 June 2010). See also P1029 (Witness statement of John Wilson dated 4 November 2008), para. 50; P1558 (Witness statement of Francis Roy Thomas dated 13 May 2009), para. 83; Francis Roy Thomas, T. 6828–6829, 6858, 6880–6885 (15 September 2010), T. 6910–6913 (16 September 2010); P1568 (UNMO assessment of forces in BiH); P1818 (Witness statement of Adrianus van Baal dated 26 October 2010), paras. 79, 82–83; KDZ450, T. 10652 (20 January 2011); D633 (Order of ABiH 1<sup>st</sup> Corps, 25 October 1993); P1996 (Witness statement of Martin Bell dated 8 March 2010), para. 56; Martin Bell, T.

accurate data about the Muslim weapons in the city#, which should have been in the possession of the UN military authorities in BiH? That is the reason for skipping the whole truth – that this amount of the SRK heavy weaponry was deployed mainly on the outer ring of frontline, which was several times longer than the inner ring being long from 42 to 64 km.) The ABiH also had mortars mounted on trucks, which were thus mobile and would move around the city, making it very difficult for the SRK to respond as the mortars would be in the middle of civilian areas.<sup>13180</sup> UNPROFOR tried to find these mortars but was never successful.<sup>13181</sup> (Because these #mortars were mobile#, operating in a manner: “shoot and scoot”, the UN patrols couldn’t find them while firing, but the UN personnel was aware of it, and had seen them from distance!. But the consequence was that while responding to these quickly vacated firing places, the SRK and the Serb side had been suspected and accused for firing randomly. Even if not because of the law and the President’s orders banning any unnecessary firing, why would the VRS, poor as it was, spend the extremely expensive ammunition in vain?)

3987. Mole testified that the coverage of the city by UNMO’s Papa observation posts was successful in that it covered 95% of the city, whereas the OPs on the Lima side did not necessarily cover all the weapon sites that UNMOs knew of, including between eight to ten unmonitored SRK batteries; this in turn resulted in discrepancies in the numbers of recorded rounds landing in Sarajevo versus outgoing rounds from the SRK side.<sup>13182</sup> (This is #contradictory to the original UN reports#, see P: 1578, of 25 December 1992:

14. Commander's Assessment:

THE LEVEL OF SHELLING REMAINS COMPARATIVELY HIGH ALTHOUGH LESS THAN HALF OF WEEK'S HIGHEST TOTAL. THE AREA OF INTENSE ACTIVITY APPEARS TO HAVE SHIFTED FROM VOGOSCA TO GRBAVICA WHICH RECEIVED ABOUT ONE-THIRD OF THE TOTAL IMPACTS. I FEEL OUR TOTALS DO NOT REFLECT BOSNIAN OUTGOING AS IT IS MUCH MORE DIFFICULT TO DETECT THEIR MORTARS FIRING AND TO SEE THE IMPACTS ON THE SERB SIDE.

(#Grbavica is the Serb territory#! There are other similar documents depicting the Muslim side to be successful hiding of their weaponry within the city, and the Mole’s

9863–9864 (15 December 2010); D924 (ICFY Agreement for Peace in BiH, 3 March 1993), p. 20; KDZ304, T. 10463–10464 (18 January 2011); P892 (UNPROFOR Weekly Situation Report (Sarajevo), 24 June 1995), p. 3 (indicating that in June 1994 there were some 100–150 ABiH weapons within the TEZ, which were in violation of the February cease-fire agreement); P926 (Witness statement of Aernout van Lynden dated 26 February 2010), para. 158; Aernout van Lynden, T. 2444–2445, 2447–2458 (19 May 2010) (testifying that he saw no artillery weapons on the ABiH side). *But see* D192 (Transcript of 17<sup>th</sup> June 1992 session of the BiH Presidency), pp. 5–6 (indicating that already in June 1992 the BiH TO in the “Sarajevo region” had some artillery weapons in its possession); D338 (SRK combat report, 31 May 1993); D339 (Order of ABiH 1<sup>st</sup> Corps, 16 February 1993); D632 (Order of ABiH 1<sup>st</sup> Corps, 8 December 1993); D634 (Order of ABiH 102<sup>nd</sup> Motorised Brigade, 1 February 1994); Radovan Radinović, T. 41407–41408 (17 July 2013); P1154 (Witness statement of KDZ088 dated 27–29 April 2010), p. 26 (under seal). *See also* Adjudicated Fact 2810.

<sup>13180</sup> P1762 (Witness statement of David Fraser dated 17 October 2010), p. 59; David Fraser, T. 8062–8063, 8072–8073 (18 October 2010) (adding that in cases where ABiH used mobile mortars, the SRK’s only option was to fire at known military positions rather than at the mobile mortar itself); P1029 (Witness statement of John Wilson dated 4 November 2008), paras. 53–54; Francis Roy Thomas, T. 6841–6843 (15 September 2010) (explaining that if the ABiH mortars were moved too far into the city they could not be used against the SRK due to their limited range of fire; thus, contrary to the Accused’s suggestion, any SRK fire deep into the city and out of the range of the ABiH mortars could not have been targeting those mortars); KDZ185, T. 4227 (28 June 2010). (But this can not be correct, because there could and was an exchange of a mortar or artillery fire from one, the northern hills to the other on the southern side. There was no any such a depth that would be unreachable from some of the front lines.)

<sup>13181</sup> P1762 (Witness statement of David Fraser dated 17 October 2010), p. 74. *See also* KDZ185, T. 4283–4284 (29 June 2010).

<sup>13182</sup> P1426 (Witness statement of Richard Mole dated 7 May 2010), paras. 15–17, 19–20, 111 (testifying also that the Papa OPs did not record any of the ABiH weapons which would fire outside of the city limits); P1429 (UNMO report for December 1992), pp. 1–10; Richard Mole, T. 5808, 5810, 5815–5817, 5847–5848, 5850–5851 (17 August 2010); D538 (UNMO report, 21 December 1992). *See also* Hussein Abdel-Razek, T. 5593–5596 (20 July 2010) (giving similar evidence in relation to the limitations of UNPROFOR reports); D509 (UNPROFOR daily report, 30 January 1993).

testimony is the only one to the opposite direction. Nota bene, Grbavica was a Serb civilian quarter in the centre of Sarajevo. But, more markant was discrepancy between outgoing rounds from the ABiH zone and rounds landing in the SRK area, which brings us before an important question: where have landed so many rounds fired from the ABiH area, and didn't land to the Serb territory? Were these rounds been counted as incoming from the Serb side, while originating from the Muslim side? Some of their shells, handy-made in the factories in Sarajevo, had been reported not to have a range and had fallen in their territory. Also, it was not a case that the UN had better overview of the Muslim Sarajevo (Papa) on the contrary, the "Restrictions of the movement" (ROM) were stronger in the Muslim part of Sarajevo! Let us also to see the discrepancy in the counts of incoming-outgoing shells, mentioned in the P1578 above:

UNMOS CONFIRM THE FOLLOWING: BOSNIAN INCOMING - 692 MIXED IMPACTS, BOSNIAN OUTGOING 19 MOR, SERB INCOMING -204 MIXED IMPACTS, SERB OUTGOING 182 MIXED ROUNDS. UNMOS HAVE SEEN NO CHANGE TO THE CONFRONTATION LINE.

**(#No use of this reports#! Or another Prosecution exhibit, P1587, of 8 January 1994:**

UNMOS CONFIRMED

BOSNIAN INCOMING 175 MIXED IMPACTS/BOSNIAN OUTGOING 12 MORTAR ROUNDS  
SERBIAN INCOMING 0 MIXED IMPACTS/SERBIAN OUTGOING 165 MIXED ROUNDS

**What kind of conclusion is possible on the basis of this report?)**

i. Nature of shelling in Sarajevo

3988. The Chamber notes that the witnesses called by the Prosecution were consistent when testifying about the nature of the SRK shelling of Sarajevo. For example, Wilson explained that from the beginning of the conflict in Sarajevo, the SRK would fire large quantities of heavy weapons into the urban areas of the city and that the SRK fire, while often in response to some threat posed by the ABiH, would be "undoubtedly disproportionate" and indiscriminate, striking most major buildings in the city.<sup>13183</sup> **(#No evidence supporting this allegation#! This is something what they had been served by their Muslim hosts. There were hit some of the governmental buildings that had been turned into a military objects. #Abuse of objects for military purpose#! Such a general assertion is not acceptable. Sarajevo wasn't even stretched during this 1,400 days of war. There is no comparison even with Mostar, which sustained about three months of war, not to mention Aleppo in Syria or any embattled urban area.)** In many cases, there seemed to be no military value in the targets that were selected, while the fire itself was spread out rather than focused on one area.<sup>13184</sup> **(This is also an #arbitrary "assessment"#! since those**

<sup>13183</sup> P1029 (Witness statement of John Wilson dated 4 November 2008), paras. 49, 51–52 (testifying also that when this was raised with the Accused, Mladić and Plavšić during airport negotiations, the response was that this type of fire was legitimate as they were defending the Serbs); John Wilson, T. 3977–3978, 3988–3990 (21 June 2010), T. 4131–4133, 4151–4154 (23 June 2010). See also P1258 (Witness statement of Hussein Ali Abdel-Razek dated 16 July 2002), e-court pp. 15–16, 20–21, 27 (testifying that during his time in Sarajevo, the SRK shelling was constant and used indiscriminately against civilian targets); P1996 (Witness statement of Martin Bell dated 8 March 2010), paras. 41, 57; P2015 (Video footage of Sarajevo).

<sup>13184</sup> P1029 (Witness statement of John Wilson dated 4 November 2008), para. 57; John Wilson, T. 4132–4133 (23 June 2010); D335 (SRK Order, 23 June 1992); Francis Roy Thomas, T. 6798–6799, 6802–6803, 6830–6832 (15 September 2010); P1154 (Witness statement of KDZ088 dated 27–29 April 2010), pp. 81, 83–86 (under seal); KDZ088, T. 6320–6322 (7 September 2010) (closed session); P1502 (SRK Order, 15 July 1992), para. 2.

witnesses, according to their admittance, didn't know where the Muslim heavy weapons had been deployed#. If so, and it was so, how they can say that the Serb fire was indiscriminate? And why the Serbs would be wasting so many shells if there was no any military purpose? The UN officials could also have asked the SRK commanders what was aimed, and then they would learn about many mortars on the building roofs, and many recoilless canons hidden deep in the business and governmental business!) The fact that the SRK forces had an overwhelming superiority in heavy weapons made their responses more extreme.<sup>13185</sup> Indeed, the weapons supremacy of the SRK was not really an advantage in urban fighting as the resort to "terror shelling" to discourage infantry attacks "in reality played into the hands of the Bosnians" according to Thomas.<sup>13186</sup> Other witnesses testified that the SRK's use of indirect weapons, such as mortars, within the city was "entirely illegitimate".<sup>13187</sup> **(#Useless witnesses#! #These witnesses didn't know where the Muslim units were, where the confrontation line was, and particularly didn't know where the Muslim heavy weapons was deployed and moved several times a day!#)**

During his time in Sarajevo, Harland observed three distinct forms of shelling by the SRK in Sarajevo: (i) tactical use of heavy weapons in support of the SRK combat units, which occurred when the ABiH was trying to conduct an operation along the confrontation line; **(#A legal and legitimate action#. Having in mind that there was several hundred of the offensive attempts, and a daily testing of the Serb defence, the majority of the SRK fire was of that nature!)** (ii) tit-for-tat shelling whereby the ABiH would fire some rounds into SRK-held territory, resulting in a "strong response" by the SRK directed against the area from which the ABiH fired; **(Also a #legal and legitimate response#. The extent of response was in competence of the local commander, depending on his assessment of possibility to be attacked by infantry. Having in mind the numeric dominance of the Muslim forces, an energetic response could be understood as a precaution!)** and (iii) "background terror shelling", which had no identifiable military tactical purpose but seemed intended to keep the population of Sarajevo vulnerable, fearful, and isolated.<sup>13188</sup> **(#Useless, ignorant witnesses#! What "seemed" to Harland really only seemed, because neither Harland nor other internationals, in particular journalists and higher military personnel knew where was the ABiH weaponry at a given moment, nor they knew from where they fired against the Serb positions. #Harland himself admitted that he didn't have any military education required for such an "expertise" also, how many men Harland would have to have on the terrain to establish this third "distinct form"? #This is against any common sense, that the SRK would maintain a state of terror in the city, where there was about #50,000 Serbs also#, and if the Serbs are conceived as a beasts towards others, would they be the same towards their relatives living there? If it was for a purpose of terror, that would mean that prior to the Serb fire there was no any fire from the ABiH. How many times it**

<sup>13185</sup> P1426 (Witness statement of Richard Mole dated 7 May 2010), para. 135. See also Jeremy Bowen, T. 10215 (14 January 2011).

<sup>13186</sup> P1558 (Witness statement of Francis Roy Thomas dated 13 May 2009), para. 71.

<sup>13187</sup> P4203 (Witness statement of Piers Tucker dated 12 May 2010), para. 301; P1762 (Witness statement of David Fraser dated 17 October 2010), pp. 80–81 (explaining that he as a commander never would have used indirect weapons in the city but only guided munition and direct weapons); David Fraser, T. 8070, 8083 (18 October 2010).

<sup>13188</sup> P820 (Witness statement of David Harland dated 4 September 2009), paras. 32–33, 291; David Harland, T. 2023–2026 (6 May 2010), T. 2335–2336, 2351 (11 May 2010). See also John Wilson, T. 3947–3951 (21 June 2010); Rupert Smith, T. 11907–11909 (15 February 2011); P1558 (Witness statement of Francis Roy Thomas dated 13 May 2009), para. 71; Francis Roy Thomas, T. 6830–6832 (15 September 2010); KDZ185, T. 4182–4183, 4187–4188 (28 June 2010); P4203 (Witness statement of Piers Tucker dated 12 May 2010), para. 300.

was recorded? None! Let us go throuout the record, both of ABiH, SRK and UN, to identify when it happened that the Serbs were not attacked but were maintaining their shelling of the city, for the purpose of terror, or initiated any fire prior to any Muslim fire!) Harland testified that at the time of his arrival in June 1993,<sup>13189</sup> on average around 1,000 shells a day landed in the city, and sometimes up to 2,000.<sup>13190</sup> (#How thw city would look like#??? It would be very easy to count out and establish how the city would look like if it was fired against civilian targets. There was 1,400 days of war, and if only a half of this amount of time there were this average rates of shells, there would be close to a million of shells, i.e. many more than on Dresden in the WWII, or in any area in these Balkan wars. However, except for a Government buildings, and a company buildings along the c/l, Sarajevo wasn't even scratched! Harland and the others counted all the shells lending along the confrontation lines as a random shelling of the civilian zones. This manner disqualified the UN military mission as incompetent and biased! Let us see what is in the contemporaneous military reports about the spots of lending of these shells: P1499 of Jun 19, 1992:

3. During the day the enemy intensified their artillery attacks on our positions. They were firing at the barracks of Nedžarići, the SPS */Slobodan Princip Seljo/* barracks and some of our positions in Nedžarići and in the Zlatište sector. We have neutralised the actions of enemy artillery from the barracks of Jusuf Džonlić and Viktor Bubanj.

Both, the SRK and ABiH artillery fire was aimed at the other side artillery pieces! Further, P4213 of 8 November 92, a UN report:

1. GENERAL SITUATION. Low/Medium level of activity with 71 rounds incoming to Serb controlled territory and 81 rounds incoming to Presidency controlled territory. Yesterdays threat by Serbs to Presidency of dire consequences if the approximately 6000 refugees were not allowed to leave the city were apparently not followed through in any large measure, although general shelling activity somewhat heavier today.

A pretty balanced exchange of artillery fire. As a "somewhat heavier today, #it doesn't seem to be even close to Harland's assessment about thousand or two thousand rounds! Further:P2293 of 7 January 1994#:

- b. BSA shelling of northern and western areas of the city, along with city centre all week-long. Most frequent BSA targets were Stup (BP8457), Zuc (BP8891), Alipasin Most (BP8659-8959), Smilevici (BP8760), Rajlovac (BP8460). Level of BSA shelling rose from 123 outgoing rounds at the beginning of the week to 1613 outgoing on 4 Jan, 1344 outgoing on 5 Jan, and 815 impacts on 6 Jan 94.
- c. BiH shelling mainly confined to areas of Lukavica (BP8856), Grbavica (BP9059) and BSA side of CL in Vogosca area (BP8963). Level of BiH shelling fluctuated between 10 and 50 rounds throughout the week.

It was quite clear that the #Serb shells landed on the peripheral parts of the city#, far from the urban areas, and obviously along the confrontation lines, such as Stup 12 km far from the centre, or Zuc, hill, or Smiljevici, Rajlovac mountain parts out of the Serb control, while the Muslim shells landed mainly in the urban areas, such as Lukavica and

<sup>13189</sup> P820 (Witness statement of David Harland dated 4 September 2009), para. 25.

<sup>13190</sup> P820 (Witness statement of David Harland dated 4 September 2009), paras. 34, 290.



**Grbavica, and in Vogosca along the CL!**) Thereafter and until the end of the conflict, there was constant but relatively low level shelling by the SRK; on average there were several hundred shells fired every day throughout the whole war, the large bulk of those being fired by the SRK.<sup>13191</sup> Tucker also testified that by far the majority of fire came from the Bosnian Serbs into the city rather than from the other side.<sup>13192</sup> **(#Always provoked fire#)**

**1. #First of all, there was no any Serb fire that was not provoked.**

**2. #Second, they couldn't count all the shells landing in the Serb part of the city. The discrepancy is visible from every single report, in terms that the Muslim side fired many more shells than landed in the Serb Sarajevo, where landed the rest of it?**

**3. #Third, it was up to a commander that was attacked to decide about the extent of jeopardy.**

**4. #Finally, we got a sufficient evidence about an inability of the UN personnel to see and register what was happening. As in all other cases, even if something happened, what does the President have to do with it, since he was always informed by his militaries that it was a legal and necessary responding to a Muslim fire!)**

2. According to Fraser, the shelling in the city was directed mostly at the BiH Presidency and various parts of the city, but “not principally [at] any military position”.<sup>13193</sup> **(#How Fraser could have known that, since he neither knew where the Muslim artillery was, nor anyone knew from where the mobile mortars fired against the Serbs#?)** Thus, while there were various military headquarters of the warring parties in Sarajevo, such as the SRK Command in Lukavica or the ABiH 1<sup>st</sup> Corps Command in the city itself, during his time in Sarajevo these headquarters were never engaged as targets.<sup>13194</sup> **(This aspect was explained by the Defence witnesses, particularly by Gen. Milosevic. There were about #275 different headquarters of the 1<sup>st</sup> Corps ABiH in the city of Sarajevo, and it was concluded that the SRK never responded against any of those headquarters#! As a witness, General D. Milosevic explained that he never engaged the headquarters – #because the Muslim Army didn't fire out of those places#. The SRK responded to a firing points, from which they fired their shells, with the aim to silence them. Therefore, the internationals could talk only about their “impressions”, but not about a proportion, or “civilian” targets. Why would the Serbs fire at a civilian targets, while it was politically detrimental to their cause? A “proportionality” is not determined by a number of shells, but by a goal, an objective whether it was a goal to silent the enemy, or to destroy the weapons so that would not be able to fire again. A more fluid purpose would be if it was necessary to discourage and dissuade the enemy from an infantry**

<sup>13191</sup> P820 (Witness statement of David Harland dated 4 September 2009), para. 34; David Harland, T. 2335 (11 May 2010).

<sup>13192</sup> Pyers Tucker, T. 23297–23298 (18 January 2012).

<sup>13193</sup> P1762 (Witness statement of David Fraser dated 17 October 2010), pp. 51, 75.

<sup>13194</sup> P1762 (Witness statement of David Fraser dated 17 October 2010), p. 51. One exception to that, according to Fraser, was in 1995 when the ABiH fired at the Lukavica Barracks, which then resulted in a heavy barrage of fire back from the SRK and into the city as a whole. According to Fraser this response was completely disproportionate to the fire opened by the ABiH. David Fraser, T. 8006–8007, 8074–8088 (18 October 2010); P1762 (Witness statement of David Fraser dated 17 October 2010), pp. 51–52, 56–59, 75–77; D771 (SRK combat report, 22 June 1994). Dragomir Milošević confirmed that ABiH command posts were “mainly not targeted” as there was no danger emanating from them, such as fire being opened, for example. See Dragomir Milošević, T. 33124–33129, 33137 (4 February 2013).



**attack, but it was also legal and legitimate! When the Serbs fired only a few shells, it was characterized as a harassing fire, because it wasn't massive, but we saw a document from such a unit, saying that it fired two shells to silence the enemy! Here are some #documents confirming the feature of a short response aimed to silent the enemy#, see D2436 of 5 Dec. 1993:**

Last night, the enemy fired in provocation, particularly on the positions of the Third Platoon, so that our soldiers were forced to fire back and silence the enemy. I wish to commend Predrag ŽERAJČIĆ's squad, which functioned like clockwork and which, thanks to its example, managed to restore the confidence of the First Squad of this platoon which has been shaken for a while.

**or D2434 of 7 January 1994. This was the Orthodox Christmas, and the Muslims used to attack the Serb settlements and lines specially fierce on the Orthodox holidays, D2434:**

Yesterday at 1220 hrs, the enemy launched a rather strong combined artillery and infantry attack on the positions of the 4<sup>th</sup> and 1<sup>st</sup> Platoons, on our flank along the Elezove kuće-Kravljčina kuća-Drljanova kuća section. The attack lasted about half an hour and was halted only after a fierce response.

**So, t#hose monitors who didn't register the Muslim attack from the city, and registered only the Serb "fierce response"#, recorded that the Serbs fired toward the city! There are many of such a contemporaneous genuine documents, reports from the basic units, corroborating the Defence position. Let us see what the #UN Commander concluded in his report P1568 of March 1, 1994:**

(2) Much of the fighting in SARAJEVO is to further political ends. The BiH often intentionally provoke the BSA with mortar, infantry, and sniper fire knowing the the BSA will over-react with a massive bombardment. The international media often ignore the provocation and focus only on the BSA reaction. This serves to perpetuate the image of SARAJEVO as a helpless and innocent victim of Serb aggression. Not all Serb shelling is provoked. The Serbs often deliberately shell civilian targets in order to create civilian casualties. The Serbs have yet to realize that their bombardment of SARAJEVO, particularly of civilian areas, serves no military purpose and is a political and public relations disaster.

**#"The international media often ignore the provocation and focus only on the BSA reaction. This serves to perpetuate the image of Sarajevo as a helpless and innocent victim of Serb aggression."# This is the conclusion of a high UN commander, this is not a Serb excuse. #The Chamber shouldn't miss and skip such a remarkable fact noticed and concluded by an experienced commander#!)** He also stated that whenever the ABiH fired out of the city, the SRK would always fire back, usually in a disproportionate manner.<sup>13195</sup> Thus, if the ABiH fired a few mortar rounds, the SRK would respond with a "tremendous amount of shelling", on both military and civilian targets.<sup>13196</sup> In his view, most of the SRK fire in response to the ABiH was disproportionate and indiscriminate, although

<sup>13195</sup> P1762 (Witness statement of David Fraser dated 17 October 2010), p. 52. According to Fraser, proportionate fire means returning sniper fire with sniper fire and mortar fire with mortar fire. If a military object was located in a predominantly civilian area, Fraser would not use indirect weapons at all because of the collateral damage but only direct weapons against a specific target. P1762 (Witness statement of David Fraser dated 17 October 2010), pp. 54–56, 80–81; David Fraser, T. 8069–8072, 8087–8092 (18 October 2010); D772 (ABiH General Staff list of ABiH units in Sarajevo, 10 April 1995).

<sup>13196</sup> P1762 (Witness statement of David Fraser dated 17 October 2010), pp. 52, 56.

sometimes the SRK responses were proportionate.<sup>13197</sup> **(#“In his view” is not sufficient#. It would be of a help to have known what were his sources, how accurate were, and other elements that determine his “view”. Nothing objective is in his view, it is by definition a subjective matter. These responses that were proportionate certainly had been observed by him or his associates, while all other unobserved are labelled as disproportionate!)**

While acknowledging that the ABiH had mobile mortars, which in turn made it “very difficult” for the SRK to respond because the mortars were intermingled with civilians, Fraser noted that he would have refrained from firing as it would have been impossible to find the target and the collateral damage would have been too high.<sup>13198</sup> **(#Being “intermingled with civilians” is in full responsibility of the Muslim side#, and it does present a grave violation of the Geneva Conventions#. Of course, had the international community been unbiased, they wouldn’t dare to do so! There is no a document that envisage this kind of abuse of civilians, to matter whether their own or of the adversaries!)** Fraser also conceded that fighting in an urban setting is extremely difficult for any military, and stated that while he was in Sarajevo it was “particularly difficult for both parties”.<sup>13199</sup> **(From the contemporaneous records it is clear that close to a 100% of those shells, probably from both sides, landed along the confrontation lines on the surrounding hills, and it shouldn’t be counted as if it was fired against the city. If it was as presented, there wouldn’t be any city at all, because no city in the world would survive more than million shells!)**

3991. Mole testified that the background noise of weapons firing in the city was “persistent” and “never ceased”, so that the UNMOs would consider it a quiet day if around 100 rounds of high explosives had landed in the city, whereas a fairly active day would involve 400 to 500 rounds, with an extremely active day involving upwards of 600 rounds.<sup>13200</sup> Mole estimated that, on average, around 14 or 15 civilians would die in Sarajevo per day.<sup>13201</sup> **(#The UN officials must not be so irresponsible#! #How this horrendous mathematics had been established#? For the 1,400 days of war, there would have to be from 19,600 to 21,000 deaths, and that would make one third of all the Muslim casualties, which is far from real count. The internationals were prevented of seeing the scene, or even the victims in hospitals or mortuaries, where they could have been proven a combat casualties, whose number was very high, about 6,000 soldiers, as it had to be after so many offensives against the Serb lines. This is the ABiH record. What Mole and other international witnesses testified was not their knowledge, but the misinformation by their Muslim hosts and interpreters. #If this statement of Mole was right, there wouldn’t be staging of several mass killings, done by the ABiH#!)** According to him, it was almost impossible to record all incoming and outgoing fire in Sarajevo.<sup>13202</sup> While there were times when the frontlines

<sup>13197</sup> P1762 (Witness statement of David Fraser dated 17 October 2010), pp. 56–59; David Fraser, T. 8102–8108 (19 October 2010); D774 (UNPROFOR report re Sarajevo TEZ violations, 18 September 1994).

<sup>13198</sup> P1762 (Witness statement of David Fraser dated 17 October 2010), pp. 59, 61; David Fraser, T. 8062–8063, 8072–8074 (18 October 2010) (adding that in cases where ABiH used mobile mortars, the SRK’s only option was to fire at known military positions rather than at the mobile mortar itself);

<sup>13199</sup> P1762 (Witness statement of David Fraser dated 17 October 2010), p. 61–63.

<sup>13200</sup> Richard Mole, T. 5819 (17 August 2010).

<sup>13201</sup> P1426 (Witness statement of Richard Mole dated 7 May 2010), paras. 77–78 (adding a caveat that sometimes it was difficult to tell who was a civilian, as the ABiH forces did not always wear uniforms).

<sup>13202</sup> Richard Mole, T. 5848 (17 August 2010).

were extremely active, there was also constant pressure on the city, and the only thing that varied was the intensity of shelling; thus the whole city was an extremely dangerous place to live, even for UN members and their clearly marked vehicles.<sup>13203</sup> The PTT building, where the UNPROFOR and UNMOs were located,<sup>13204</sup> and the surrounding area, were hit by shell-fire on many occasions, sometimes having been specifically targeted.<sup>13205</sup>

**(#Implying, suggesting#! It would be fair, if not necessary, to say: #by which side#? It is well documented that the Muslim side posed their artillery and mortars in the vicinity of the UN, firing against the Serbs, with the aim to attract the Serb fire and accuse them for targeting the UN? If the Serbs didn't respond, did sometimes the ABiH forces fired against the UN facilities? Certainly did, and the UN protested many times. But, if it is not said blatantly, the #Chamber is leaving a lot of space for an automatic understanding that the Serbs did it#!)** In terms of damage to the city, Mole confirmed that the areas around the frontlines were heavily damaged but also testified that the remaining areas of the city “showed immense damage from incoming munitions”, such that even apartment buildings suffered destruction.<sup>13206</sup>

**(Why the #Prosecution didn't present at least one “apartment building destroyed”#? There could have been scratches of facades, but no building was destroyed, neither a mortar could have caused it. But, all of the shells, fired along the confrontation lines in the city or along the CL on hills were counted as a shelling of the city, which was wrong reporting!)** He also testified that he observed random fire into the city's civilian areas that had no specific purpose and was not directed at a specific target.<sup>13207</sup>

According to him, if the Serbs failed to achieve their objective anywhere in BiH, the general perception was that Sarajevo would suffer as a result; this sometimes came as a specific threat from Galić or from the RS liaison officer in the PTT building.<sup>13208</sup>

**(#This is a pure speculation of a poorly informed officer#. Look at the evidence, not only which is pasted here, but entirely, all the highest commanders knew that the Serbs didn't intend to achieve anything that hadn't been achieved already, and were ready to return a substantial portion of territory. See P1568 of March 1, 1994:**

<sup>13203</sup> P1426 (Witness statement of Richard Mole dated 7 May 2010), paras. 74–76; Richard Mole, T. 5819–5820, 5822–5823 (17 August 2010).

<sup>13204</sup> P1426 (Witness statement of Richard Mole dated 7 May 2010), paras. 7, 67, 69 (testifying also that there were no military installations or activities near the PTT building).

<sup>13205</sup> P1426 (Witness statement of Richard Mole dated 7 May 2010), paras. 66, 68. The Chamber heard evidence, however, that the ABiH would often fire at the SRK from the vicinity of the PTT building in order to draw a response. *See also* Stanislav Galić, T. 37571 (23 April 2013) (testifying that the SRK never deliberately targeted the UN or their equipment); P4203 (Witness statement of Piers Tucker dated 12 May 2010), paras. 102–103, 105 (testifying that ABiH forces shelled the UN residency on two occasions); P4220 (UNPROFOR documents (reports and letters), 26 December 1992).

<sup>13206</sup> P1426 (Witness statement of Richard Mole dated 7 May 2010), paras. 71–73. *See also* P6060 (Record of interview with KDZ185), e-court p. 16; KDZ185, T. 4220–4224 (28 June 2010) (private session) (testifying that most buildings in Sarajevo bore traces of fire but were not completely destroyed indicating that the fire opened on them was random); Hussein Abdel-Razek, T. 5535 (20 July 2010). Mole also explained that the damage to buildings caused by high-calibre artillery was not as extensive as one would expect from an aircraft bomb. *See* Richard Mole, T. 5820–5821 (17 August 2010).

<sup>13207</sup> P1426 (Witness statement of Richard Mole dated 7 May 2010), paras. 79–82, 84–85, 108–109, 113–116, 118–119; P1434 (UNMO report for November 1992), p. 8; P1429 (UNMO report for December 1992), pp. 3–5; P1435 (UNMO report, 11 December 1992), para. 12; Richard Mole, T. 5817–5820, 5833–5836 (17 August 2010).

<sup>13208</sup> P1426 (Witness statement of Richard Mole dated 7 May 2010), paras. 91–92, 94–96, 105, 107, 112; P1433 (UNMO report for October 1992), p. 4; P1434 (UNMO report for November 1992), p. 3; P1429 (UNMO report for December 1992), p. 3; Richard Mole, T. 5833–5836 (17 August 2010). *See also* Jeremy Bowen, T. 10105 (13 January 2011); P820 (Witness statement of David Harland dated 4 September 2009), para. 35; P1996 (Witness statement of Martin Bell dated 8 March 2010), para. 98; P1678 (BBC news report re attacks on Sarajevo and Bihać); P2017 (BBC news report re Sarajevo and Bihać, with transcript); Martin Bell, 9798 (14 December 2010); P2414 (Witness statement of KDZ182), p. 30 (under seal).

(1) BSA: The primary aim of the BSA is political. Their intent is to put pressure on the Presidency to come to a political settlement to end the war. The secondary aim is to fix BiH forces in SARAJEVO so that they cannot threaten BSA forces or be used in other areas of Bosnia-Herzegovina.

**Or P1435:**

31. The Serbs are unlikely to attempt any major infantry assaults of their own choosing. I think they will value the status quo, preferring to defend.

**(#Containment strategy#! #Defensive strategy#!) This kind of assessment of the highest UN military officers had been repeatedly sent to the UN, while no evidence to contrary had ever been submitted. A “general perception” was easy to be created by a media influence! But, the UN Court accepted the Prosecution’s manœuvre to summon for testimony a low range and incompetent assistants of these commanders, to testify what they have “thought” what “impressions they got” and what was “chatted during a lunch or dinner”! because of this practice, it is not recommendable that a leaders in a crisis areas meet in person any representative of the international community, but to communicate only in writings!) On most days they met, Mole would protest to Galić about the indiscriminate fire observed by the UNMOs, usually focusing on the most serious incidents.<sup>13209</sup> (As we already know, the #UN MO-s weren’t worthwhile of any attention to their reports, which was known to the UN high officers too#. They had some mis-information obtained by their Muslim escorts, but they didn’t have any direct knowledge, nor they had enough personnel!)**

3992. KDZ185 testified that, in his first few months in Sarajevo, the average number of shells per day was about 1,200, and that this “really kept a climate of terror”.<sup>13210</sup> The VRS was firing at the city “in a totally random fashion” so as to “increase psychological pressure on the population and also on the Bosnian government”.<sup>13211</sup> **(#This characterisation is a mere speculation, and shouldn’t be allowed to any witness on facts#. How possibly KDZ185 could have known that the firing was “in a total random fashion” while he didn’t know where the Muslim weapons had been at that moment? How could he have known that an “increase of psychological pressure on the population” was in the Serb interest? Everyone knew that it was all the way around!)** The fact that the shelling was so random and hardly ever targeted military objects “kept the population in a state of terror”.<sup>13212</sup> **(Like many others from the UN, KDZ185 didn’t know what was happening in the city, save for what they were informed by their interpreters. Any firing against the city was in favour of the Muslim Government, as it is already established, so the Serbs didn’t have any interest in maintaining the city in a state of war, let alone of a terror! For that reason the Accused proposed a total demilitarisation of the City, and introducing the UN administration of Sarajevo until the end of war. But, the Muslim side rejected it!)**

<sup>13209</sup> P1426 (Witness statement of Richard Mole dated 7 May 2010), para. 97.

<sup>13210</sup> KDZ185, T. 4187–4188 (28 June 2010).

<sup>13211</sup> KDZ185, T. 4182–4183 (28 June 2010).

<sup>13212</sup> P6060 (Record of interview with KDZ185), e-court p. 16.

3993. Van Lynden testified that people in Sarajevo lived as much as they could in the basements of their apartments or in bomb shelters as they could be hit by shells or gunfire at any moment.<sup>13213</sup> Shells would land in civilian areas in a random and unpredictable way—they were often not followed up by any movement of infantry or armour.<sup>13214</sup> **(That meant that it #was a retaliatory fire#, not a preparatory for an infantry attack, which the SRK never did. The mere fact that the Serbs never initiated firing is sufficient to conclude that it was a retaliatory fire. However, the main question is: how many times Van Linden visited, and how long stayed in Sarajevo? Who was killed while in his home or apartment during this 1,400 days of a street battles? Did he come as a journalist? During the testimony Van Linden confessed that he played his report from Sarajevo pretending to be live broadcast, while it was edited, and therefore he acted without a professional honour. But, this kind of witnesses who didn't move around the city could have spoken only about what they had been said, or what they believed, and this is unbearable and unacceptable, and very bad for journalists themselves, because they appear to be very dangerous for one of the sides in the crisis areas!)** According to Van Lynden, the most sustained and concentrated shelling he witnessed bearing down on Sarajevo happened in June 1992;<sup>13215</sup> **(The witness (Van Linden) #didn't know that on 8 June 1992 the Muslim side started a huge offensive against the Serb settlements in Sarajevo, and that the offensive lasted to the end of June 1992#. See D195 of 8 June 1992:**

1. In the course of the day, the enemy developed offensive operations from the town to the periphery. Special pressure was exerted in the directions: Kobilja Glava-Žuč, Boljakov Potok-Žuč and Han-Žuč. The enemy succeeded in taking the line /? northeast?/ from Rajlovac: Brijesko Brdo-Smiljevići -Uglješići. The attack was brought to a halt. In the afternoon hours, an attack was launched from the direction of Nahorevo towards Pionirska dolina and Betanija. The enemy succeeded in cutting the road at Trebević in the first /? Šumar/ sector. Attacks on all other parts of the front were unsuccessful. Vraca, Vojkovići, Nedžarići, Ilidža, Rajlovac and the firing positions of the Corps artillery group were fired on with artillery and mortars. We expect a strong attack on the airport in the course of the night. carry out firing manoeuvres. We have taken measures to secure the airport and against the enemy's further penetration towards the Rajlovačka Dokotlina.
3. A large number of houses in the Vraca sector were demolished.
4. There were no exceptional developments.
5. The situation as regards security and morale in the units is without major changes.
6. Replenishment with ammunition will be carried out in the course of the night.
7. In the course of the day we had eight dead and 62 injured. Two tanks and five

**That was a carnage, 8 soldiers killed and 62 wounded, not to mention civilians, which weren't reported in the combat report! What does mean a Van Linden's unilateral and**

<sup>13213</sup> P926 (Witness statement of Aernout van Lynden dated 26 February 2010), para. 21; Aernout van Lynden, T. 2394–2395 (19 May 2010).

<sup>13214</sup> P926 (Witness statement of Aernout van Lynden dated 26 February 2010), para. 24; Aernout van Lynden, T. 2468–2475 (19 May 2010) (conceding that he did not know of all the military targets in the city); D193 (RS MUP Report on Sarajevo, 20 July 1992).

<sup>13215</sup> See also discussion on Scheduled Incident G.2.



**partial “second hand” information, without the context? Nothing! Every reasonable chamber would allow the Defence to depict the context and explain the reasons for the shelling! See further: D611 OF 11 June 92:**

Based on your combat reports, our assessments, statements from the combatants and commanders and information by the SR BiH Presidency, we reached the conclusion that the Corps units bravely and devotedly stopped the enemy offensive in the wide area of Sarajevo. We would like to give full credit to all participants in this battle and show due respect to all of those who had fallen. Also, we noticed some inappropriate

1. On many parts of the frontline, mortars, artillery, tanks and APC's leading the anti-infantry combat, were left without infantry support. That is ridiculous and against the rules for the use of the abovementioned armament. This became a regular occurrence in the use of the force in combat, which is causing tremendous casualties and destruction of equipment, like for example in “Osmice”, “Vidovac”, “Stari most”, village of Čemerno (Ilijaš), villages Jelovac, Han Pijesak and so on.
2. After a very hard battle that lasted several days, some units and groups of soldiers in the forward locations remained disoriented, without ammunition, food and so on.

**See further, P1498 of 8 June 92:**

1. The enemy launched general offensive engaging forces along the axes: Zenica – Visoko – Ilijaš, Kiseljak – Blažuj; Kiseljak – Hadžići, Pazarić – Hadžići and Igman – Ilidža. They are building up their troops in the region of Žepa from the Srebrenica, Višegrad and Rogatica regions. The enemy probably intends to break the blockade of Sarajevo from north and west and endanger the Sarajevo – Sokolac – Zvornik communication, and create all the more favourable situation for possible negotiations regarding demarcation in the wider region of Sarajevo. They intend to carry out the operation within the next five or six days. They engage lot of manpower, OMS and artillery on a smaller scale on the above mentioned directions.

**#How possibly these facts hadn't been worthwhile of any Chamber's attention, while what Van Linden said was fully credited? #Van Linden was rarely in Sarajevo, and only a couple of days, and he was ignorant of everything that happened in the city#!**

thereafter there was persistent shelling (except in March 1994) but it was sporadic, with few shells landing here and there.<sup>13216</sup> KDZ182 testified that the SRK shelled not only military

13216

P926 (Witness statement of Aernout van Lynden dated 26 February 2010), paras. 52–58, 122–126; P929 (Sky news report re Sarajevo, with transcript); P930 (Sky Newsreport re Sarajevo, with transcript); P931 (Sky news report re Sarajevo, with transcript); P954 (Sky news report re Sarajevo, with transcript); P936 (Sky Newsreport re Sarajevo, with transcript); P932 (Sky Newsreport re Sarajevo, with transcript); Aernout van Lynden, T. 2401–2413, 2427–2431, 2469–2470 (19 May 2010), T. 2479–2484, 2489–2498 (20 May 2010), T. 2598–2611, 2618–2619 (21 May 2010), T. 3055–3057, 3062–3064 (31 May 2010) (conceding that he did not observe the firing in all parts of the city nor claim that all of the shelling in that period came from the SRK, but remaining adamant that the fire he and his crew observed came from the southern hills overlooking Sarajevo and thus from the SRK positions); **That would mean that on the southern hills there was no any Muslim deployment, but we know that it was not true. For instance, if the Muslim units wanted to fire against the Serb units on the northern hills, they could have done it only from the southern hills, and vice versa. MAYBE WE SHOULD ASK AN INTERN TO REVIEW ALL THE CONTEMPORANEUS REPORTS AND COUNT OUT WHAT HAD BEEN SAID IN THEM ABOUT WHERE THE SHELLS HAD FALLEN.** D195 (SRK Report, 8 June 1992); D196 (Aerial photograph



targets but also purely residential areas, with the aim of scaring the population; even in areas with military targets, the shelling was not focused on those targets exclusively.<sup>13217</sup> **(Taking into account the fact that there was many mobile mortars, and that these up to 40,000 to 60,000 Muslim soldiers in the city were manoeuvring throughout the city in their preparations for an infantry attacks, nobody can claim that the Serbs were firing for no reason. Let us see what Gen. Halilovic, the chief commander of the ABiH reported to the BH Presidency on 9 June 92, at the BH Presidency session, P6358:**

There are many dead and wounded on both sides. We still do not have the final count regarding the dead and the wounded, but the number is 40 dead and around 250 wounded on our side around, and on the other side, as far as we were able to count from the reports submitted by the municipal staff commanders, that number is around 320 dead and wounded, under the presumption that the number has been increased 100%, as usually the loses on the other side are increased, although that is an exceptionally large number of victims which will be, when this madness is over, can not be compensated, as everything else could be compensated, but that can not.

**(#Combatants depicted as civilians#! This was the score of two days of fights in the offensive imposed by the ABiH. Halilovic increased the Serb combat victims, but certainly didn't increase, but rather decreased nubmer of the Muslim combat casualties in only two days of their offensive. Even if it was only 40 as Halilovic admitted, it is too high. #Some of them may be depicted in both the civil and military casualty lists! Any reasonable chamber would demand to see the entire picture!)**

3994. Harry Konings, another UNMO who was on duty in Sarajevo from 4 May to 23 October 1995,<sup>13218</sup> investigated about 100 shelling and sniping incidents in Sarajevo and much of that fire was determined to have originated in SRK-held territory with “40 or 50 of the investigations concern[ing] civilian casualties”.<sup>13219</sup> He opined that mortar and artillery fire in Sarajevo was “overwhelmingly” of SRK origin but that only by doing a site investigation could the UNMOs actually determine direction of fire.<sup>13220</sup> **(#This “but” is enough, all other is an impression#! However, it was not sufficient to determine direction of fire, because from any direction there could have been both, the Serb and Muslim shell. Without determining distance – there can not be any conclusion. UNMOs and other UN personnel admitted that they had never conducted any investigation in a criminal sense, nor the Serb side was notified and approved to participate. Therefore, #these “investigations” can not be used in such a serious case#!)**

3995. According to Tucker, the Bosnian Serbs subjected the inhabitants of Sarajevo to incessant, “daily random shelling of various parts of the city”, and incoming fire from the surrounding Serb forces would land “arbitrarily around the city, [for] no military purpose”.

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of Sarajevo marked by Aernout van Lynden); P808 (Sky Newsreport re Sarajevo, with transcript). See also P1996 (Witness statement of Martin Bell dated 8 March 2010), para. 54.

<sup>13217</sup> KDZ182, T. 13038–13039 (9 March 2011). See also P1263 (UNPROFOR report re Presidency talks, 18 October 1992) (indicating that the SRK shelled the flour mill in the city).

<sup>13218</sup> P1953 (Witness statement of Harry Konings dated 11 November 2010), para. 9.

<sup>13219</sup> P1953 (Witness statement of Harry Konings dated 11 November 2010), paras. 20–21; Harry Konings, T. 9327 (7 December 2010).

<sup>13220</sup> P1953 (Witness statement of Harry Konings dated 11 November 2010), para. 34.

<sup>13221</sup> No half hour would go by without the sound of shells or mortar bombs.<sup>13222</sup> Tucker observed a pattern whereby there would be an ABiH infantry attack in a particular area and the SRK would initially respond using heavy weapons in order to stabilise the situation and push back the ABiH forces.<sup>13223</sup> **(That was the only reason and purpose of the Serb fire: it had never happen that the Serbs fired without prior Muslim attack!)** However, it would then also carry out a “punitive shelling” of the area of the city from which the attack had been mounted.<sup>13224</sup> **(But this is a speculation: if the enemy forces were stil strong and organised to continue the attack, #it was legitimate to discourage and “dissuade” them from a new attack#, which was legitimate! Let us see what Tucker really said, T.23197**

**A** By “punitive shelling,” what I mean is that you would have an infantry attack from the Presidency forces inside Sarajevo attacking outwards towards Serb-held territory. Generally, the -- these infantry attacks initially made quite good progress because the Bosnian Serb forces did not have as many infantry as the Presidency forces. The Bosnian Serbs would then use their heavy weapons in order to repulse the attack and once the -- they could then bring reserve infantry around in order to push the attacking infantry back to the original position on the front line and then after that they would use artillery during this time. Then after that they would generally shell -- the area of the -- of the city from which the infantry attack had come, and the interpretation was that that was to punish the area from which the attack had come. **“and the interpretation was that that was to punish...” therefore, it was their “interpretation”, not a fact that had been established! #Da je u Tu`ila{tvu I u Vije}u bilo vojnih sudija, znali bi da ta jedinica koja napada ima svoje sjedi{te, svoje linije fronta, svoje pozadinske baze, I ulice kojima manevri{u kad pripremaju napad, ili se pregrupi{u za novi napad!})** According to Tucker, because the SRK had less infantry forces than the ABiH 1<sup>st</sup> Corps, Mladić felt that he had to use his “heavy artillery” to defend against ABiH infantry attacks.<sup>13225</sup> **(And what happened with this infantry that had been pushed back? They had their manoeuvring within the city, regrouping and reorganising... who said that the SRK wasn’t entitled to prevent their regrouping? To conclude something like that, one must have a close insight into the situation, which none of the internationals, particularly journalists had at the times! Here is an ABiH document of 16 June 1995, illustrating what Gen. Rose and Tucker said, D2416:**

**Between 0700 and 1000 hours, our newly reached l/o /lines of defence/ on k /elevation/ 625 - Lalovići, the lines on Zlatište, Šućura Kuće above Hladivode and k 830 were exposed to constant and fierce artillery, tank and MB /mortar/ fire from weapons of all calibres. There were intermittent combined artillery and infantry attacks on the above-mentioned lines in half-hour intervals.**

**The newly reached lines on k 830, k 625 and in the sector of Zlatište were integrated, and the unit from the Šućur Kuće line withdrew to its initial position at 0810 hours because of fierce artillery fire. At the VP /firing position/ in the sector of Tešanovo hill, we destroyed a tank with a TF-8 projectile at 0950 hours.**

**therefore, the #Muslim forces conquered some Serb areas by an infantry attack, and had been repelled by a “constant and fierce artillery, tank and MB”#. All of these**

<sup>13221</sup> P4203 (Witness statement of Piers Tucker dated 12 May 2010), paras. 6, 22–23, 44, 49 (testifying that he observed two types of shelling in the city – concentrated fire with multiple shells landing in a short space of time on one area and the single shells landing arbitrarily around the city).

<sup>13222</sup> P4203 (Witness statement of Piers Tucker dated 12 May 2010), para. 22.

<sup>13223</sup> P4203 (Witness statement of Piers Tucker dated 12 May 2010), para. 91.

<sup>13224</sup> P4203 (Witness statement of Piers Tucker dated 12 May 2010), paras. 91, 295; Piers Tucker, T. 23197–23198 (17 January 2012).

<sup>13225</sup> P4203 (Witness statement of Piers Tucker dated 12 May 2010), para. 299.

**legitimate firing looked like the Serbs fired in Sarajevo, but it was fired along the moved confrontation line!)**

**3996.** Jeremy Bowen, a journalist who was reporting from Sarajevo between July 1992 and 1995,<sup>13226</sup> testified that the city had an almost constant sound of gunfire and explosions.<sup>13227</sup> He reported on, and personally saw, a lot of shelling during his time in Sarajevo noting that the shells could fall anywhere and at any time, even on cemeteries during funerals.<sup>13228</sup> There was a pattern in the attacks in that nothing much would happen on the days when weather was bad, but these quiet periods would then be followed up by a sudden surge in shelling that would cause casualties.<sup>13229</sup> **(These are #arguments only against a civil war, and particularly against fighting in an urban area, but nothing about a responsibility#. Who fired, from where and why, Bowen didn't know and couldn't have known, because on the surrounding hills there were both armies deployed!)** In terms of the locations that were shelled, generally there was no pattern and the shelling was random.<sup>13230</sup> **(He, as a journalist #present there from time to time#, in a limited periods, couldn't have known that, and shouldn't even be asked, because he couldn't be everywhere, and didn't have his own service for informations. Once again, this kind of assertions is in vain, because the city area was too small for the 1 Corps ABiH, its tens of thousands of troops, and their weaponry, so nobody could say with a bit of certainty that there was a random shelling!)** In his view, the Bosnian Serbs were responsible for the bulk of the shelling, particularly since he personally observed SRK weaponry pointing towards the city, as well as empty shell cases nearby.<sup>13231</sup> **(#“In his view” must not be relevant before any court, because:**

**a) he was a journalist,**

**b) he didn't have any military education or training,**

**c) he was visiting Sarajevo now and then, staying short time,**

**d) he didn't know anything about the deployment of the armies of two sides!**

**e) A basis for his “conclusion” is ridiculous: Where would the SRK weaponry on the inner ring be pointing to, if more than 40,000 enemy soldiers were in the city? Nobody denied that there was weaponry and firing, but what that means? Was he as same successful in observing the Muslim weaponry?)**

<sup>13226</sup> P2068 (Witness statement of Jeremy Bowen dated 10 August 2009), paras. 5, 13.

<sup>13227</sup> P2068 (Witness statement of Jeremy Bowen dated 10 August 2009), para. 14.

<sup>13228</sup> Jeremy Bowen, T. 10115–10121, 10164–10165, 10167–10187 (13 January 2011); P2077 (BBC news report re Sarajevo, with transcript); P2078 (BBC news report re Sarajevo, with transcript); D936 (Excerpt from Jeremy Bowen's book entitled “War Stories”), e-court p. 6; D937 (Map of Sarajevo marked by Jeremy Bowen); D938 (Map of Sarajevo marked by Jeremy Bowen).

<sup>13229</sup> P2068 (Witness statement of Jeremy Bowen dated 10 August 2009), para. 32. *See also* P1996 (Witness statement of Martin Bell dated 8 March 2010), para. 54.

<sup>13230</sup> P2068 (Witness statement of Jeremy Bowen dated 10 August 2009), para. 33; Jeremy Bowen, T. 10236–10237 (14 January 2011).

<sup>13231</sup> P2068 (Witness statement of Jeremy Bowen dated 10 August 2009), para. 29; Jeremy Bowen, T. 10186 (13 January 2011), T. 10216–10218, 10222–10224 (14 January 2011) (conceding at the same time that there were times when ABiH launched offensives on the SRK); D942 (BBC news report re Sarajevo, with transcript); D944 (BBC news report re Sarajevo, with transcript); D945 (BBC news report re Sarajevo, with transcript).

3997. Confirming the evidence above about the shelling causing civilian casualties within the confrontation lines in Sarajevo, Ewa Tabeau produced a number of reports in which she analysed the numbers of civilian casualties in that area using several different sources. She came to the conclusion that in the period between 1 April 1992 and August 1994 at a very minimum some 1,482 civilians died as a result of shelling in the Bosnian-held parts of Sarajevo, while around 5,745 were wounded.<sup>13232</sup> **(How Ms. Tabeau #differentiated a combat casualties from civilian ones#? There is the official record of the ABiH that in Sarajevo there was about 6,000 military casualties, many of them are depicted in both lists!)** As for the period between September 1994 and November 1995, Tabeau used different sources of information and was able to conclude that, at a minimum, some 449 individuals died from war-related causes, including shelling, within the confrontation lines of Sarajevo.<sup>13233</sup> **(“#... from a war-related causes”#!#! How many of them had been a combat casualties? And how many Serbs were among them? And how many Serb civilians died in this period in the Serb part of the city, just across the confrontation line? Or that didn’t matter at all?)** In addition, in this period, an absolute minimum of 254 civilians were wounded due to shelling.<sup>13234</sup> **(Since there was a state infrastructure on the Muslim side, there was no any reason to use “several different sources”, but to take a state records. Even in this case, which the Defence does not accept, ##that would be around 1,4 casualties a day##. Futher, taking into account that the Serb side was in favour of demilitarisation of Sarajevo, and the Muslim side rejected the idea, there was no the Serb liability. Further, this would be less than 2% of all the casualties of this civil war. #Had it been the Serb objective, there would be much, much higher rate of casualties. Taking into account that the military solution of the crisis was a Muslim choice, a Serb liability disappears#. Further, out of up to a million shells, only 527<sup>th</sup> grenade killed somebody, a person, only one# (#A thousand shells killed only about two persons#!)**

<sup>13232</sup> Tabeau reached these numbers by using two main sources of information in the said period, namely the Households Survey conducted in September 1994 in ABiH-held Sarajevo and the records of the Bakije Funeral Home, the largest funeral home in Sarajevo. She then compared them to the 1991 census and, in order to distinguish between military and civilian casualties, to the ABiH lists of fallen soldiers. See P4997 (Ewa Tabeau’s expert report entitled “Persons Killed and Wounded in Sarajevo During the First Months of the ‘Siege’ from 1 April to 9 September 1992”, 1 May 2009), pp. 1–2, 4–7; P4998 (Ewa Tabeau’s expert report entitled “Population Losses in the ‘Siege’ of Sarajevo 10 September 1992 to 10 August 1994”, 10 May 2002), pp. 1–4; Ewa Tabeau, T. 28173–28176, 28196–28197 (26 April 2012). Tabeau explained that the real number of civilian deaths is most likely higher because the number of those reported as soldiers in the Household Survey was higher than the numbers seen in ABiH lists of fallen soldiers, due to, among other things, families hoping to obtain a military pension. See P4997 (Ewa Tabeau’s expert report entitled “Persons Killed and Wounded in Sarajevo During the First Months of the ‘Siege’ from 1 April to 9 September 1992”, 1 May 2009), p. 8. **This is a pure speculation, and can not be taken into account. On the other hand, the Muslim side was interested in depicting the combat casualties as a civilian ones, in order to gain an international sympathies. Beside that, the ABiH record of their casualties didn’t depend of any family intents, nor the ABiH would allow re-classification, since the Army would have to pay to these families till they existed..**

<sup>13233</sup> For this period, Tabeau’s main source of information in relation to the wounded civilians were patient records of three main Sarajevo hospitals. This source was somewhat incomplete as it did not include the records of a number of smaller hospitals in the city and because it included only hospitalised patients. Tabeau also used a number of different sources relating to those killed in Sarajevo, including again the Bakije Funeral Home records. For this period, however, she was unable to determine which deaths were attributed to shelling and which to sniping since, unlike the Household Survey, the sources she used here did not contain that type of information. She therefore classified 449 deaths as being war-related. See P5002 (Ewa Tabeau’s expert report entitled “Killed and Wounded Persons from the Siege of Sarajevo: August 1994 to November 1995”, 19 March 2007), pp. 3–5, 11–12, 17–18, 23, 51–54; Ewa Tabeau, T. 28206–28209 (26 April 2012).

<sup>13234</sup> P5002 (Ewa Tabeau’s expert report entitled “Killed and Wounded Persons from the Siege of Sarajevo: August 1994 to November 1995”, 19 March 2007), pp. 6–7, 51–57, 62–65 (adding that the real number was probably more around 819 civilians, based on the comparison she made to other partially overlapping sources).

3998. In contrast to the evidence above, the Chamber heard from a number of SRK soldiers and officers who testified that the SRK troops did not open fire on civilians but were instead ordered to shell only military targets and only in response to enemy fire.<sup>13235</sup> Dušan Škrba testified that the members of the Mixed Artillery Battalion for the 1<sup>st</sup> Sarajevo Mechanised Brigade which he commanded<sup>13236</sup> were ordered to use heavy weapons, including 120/122 mm mortars, only in self-defence or on the order of the “superior command”, and only in respect of specific military targets.<sup>13237</sup> Izo Golić (a #Muslim in the VRS, defending the secular way of life) and Savo Simić also testified that their units had strict orders not to open fire without authorisation by the brigade or corps command.<sup>13238</sup> Furthermore, the SRK witnesses testified that the SRK commands took measures to ensure that SRK forces complied with orders to fire only at military targets,<sup>13239</sup> such as for example, repeatedly conveying orders on selectivity of fire to their units.<sup>13240</sup> Vlade Lučić, who served in (and later was in the command of) the 1<sup>st</sup> Romanija Brigade,<sup>13241</sup> testified that the meaning of military target and the prohibition on attacking civilians were also explained to his unit.<sup>13242</sup> According to Stevan Veljović, an officer in the SRK’s 1<sup>st</sup> Romanija Brigade,<sup>13243</sup> the preservation of

<sup>13235</sup> D2351 (Witness statement of Stevan Veljović dated 19 October 2012), para. 15; Savo Simić, T. 30048–30049, 30139–30140 (12 November 2012); D2417 (SRK Order, 4 April 1995), para. 2; D2658 (Witness statement of Luka Dragičević dated 9 December 2012), para. 30; D2516 (Witness statement of Vlade Lučić dated 5 November 2012), paras. 11, 18; Vlade Lučić, T. 30817 (3 December 2012); Stanislav Galić, T. 37204–37205 (15 April 2013), T. 37384 (18 April 2013); D2331 (Witness statement of Blagoje Kovačević dated 14 October 2012), para. 23; D2479 (Witness statement of Mile Sladoje dated 25 November 2012), paras. 12, 17; D2484 (Witness statement of Zoran Kovačević dated 25 November 2012), para. 11; D2387 (Witness statement of Stojan Džino dated 4 November 2012), para. 43; D2379 (Witness statement of Momir Garić dated 2 November 2012), para. 25; D2686 (Witness statement of Mihajlo Vujasin dated 16 December 2012), paras. 33, 35; D2391 (Witness statement of Slobodan Tuševljak dated 5 November 2012), para. 21; D2418 (Witness statement of Božo Tomić dated 5 November 2012), para. 18; D2622 (Witness statement of Željko Bambarež dated 9 December 2012), para. 17; Siniša Maksimović, T. 29297 (23 October 2012); D2665 (Witness statement of Izo Golić dated 15 December 2012), para. 25; D2344 (Witness statement of Miloš Škrba dated 14 October 2012), paras. 16, 20; Miloš Škrba, T. 29192–29193 (22 October 2012); Nikola Mijatović, T. 30728–30730, 30735–30736 (30 November 2012); Slavko Gengo, T. 29781 (6 November 2012); Dragomir Milošević, T. 32582, 32585 (23 January 2013), T. 32758 (28 January 2013).

<sup>13236</sup> D2341 (Witness statement of Dušan Škrba dated 14 October 2012), para. 7.

<sup>13237</sup> D2341 (Witness statement of Dušan Škrba dated 14 October 2012), paras. 7, 14; Dušan Škrba, T. 29113, 29123 (18 October 2012). When confronted with the testimony of Richard Mole, an UNMO at the Lima 5 position where Škrba was commander, that he would be given trivial, irrational, and vague rationales by Škrba for the firing of weapons, such as being told that “the three rounds that had been fired were one for each finger of the Serb salute”, Škrba denied this, claiming that Mole had never made any kind of oral or written objection about these reports. *See* Dušan Škrba, T. 29155–29156 (22 October 2012).

<sup>13238</sup> D2665 (Witness statement of Izo Golić dated 15 December 2012), para. 25; Izo Golić, T. 31554 (17 December 2012); D2412 (Witness statement of Savo Simić dated 4 November 2012), para. 17.

<sup>13239</sup> *See e.g.* Stanislav Galić, T. 37192 (15 April 2013); D2633 (Witness statement of Milorad Šehovac dated 8 December 2012), paras. 23, 30; D2331 (Witness statement of Blagoje Kovačević dated 14 October 2012), para. 32; D2562 (Witness statement of Vladimir Radojčić dated 8 December 2012), para. 23; D2484 (Witness statement of Zoran Kovačević dated 25 November 2012), para. 9; D2387 (Witness statement of Stojan Džino dated 4 November 2012), para. 43; D2686 (Witness statement of Mihajlo Vujasin dated 16 December 2012), para. 27; Miloš Škrba, T. 29192–29193 (22 October 2012). Blagoje Kovačević testified that his unit acted under orders to investigate and punish incidents of opening fire on civilians, and that individuals were punished for improper opening of fire despite no evidence that the fire “caused any consequences”. However, on cross-examination, he was unable to provide any specific example of investigations conducted in cases of sniping or shelling civilians in ABiH controlled territory. *See* D2331 (Witness statement of Blagoje Kovačević dated 14 October 2012), paras. 33–34; Blagoje Kovačević, T. 29075–29078 (18 October 2012).

<sup>13240</sup> D2351 (Witness statement of Stevan Veljović dated 19 October 2012), para. 20; D2497 (Witness statement of Nikola Mijatović dated 27 November 2012), para. 15; D2667 (Witness statement of Ratimir Maksimović dated 14 December 2012), para. 26; Vlade Lučić, T. 30817 (3 December 2012); D2479 (Witness statement of Mile Sladoje dated 25 November 2012), para. 17; D2444 (Witness statement of Miladin Trifunović dated 11 November 2012), para. 18; Miladin Trifunović, T. 30439 (27 November 2012); Dragomir Milošević, T. 32843 (29 January 2013).

<sup>13241</sup> D2516 (Witness statement of Vlade Lučić dated 5 November 2012), para. 6.

<sup>13242</sup> D2516 (Witness statement of Vlade Lučić dated 5 November 2012), para. 18; Vlade Lučić, T. 30817 (3 December 2012). The Chamber heard that members of the SRK were given training on the rules and laws of war. *See* D2633 (Witness statement of Milorad Šehovac dated 8 December 2012), paras. 13, 25.

<sup>13243</sup> D2351 (Witness statement of Stevan Veljović dated 19 October 2012), paras. 12, 15; Stevan Veljović, T. 29234–29236 (23 October 2012).



Bašćaršija, an area in the old part of the city, was evidence of this selectivity of the SRK artillery use.<sup>13244</sup>

3999. Most of the above-mentioned witnesses also testified that in addition to being selective, SRK fire was also always proportionate,<sup>13245</sup> as illustrated by orders issued to use ammunition rarely and sparingly.<sup>13246</sup> When confronted with the Accused's order of 7 February 1994 issued to the VRS Main Staff and all SRK Commands referring to there being "evidence that Serbs are not responding in equal measure to Muslim artillery provocation—sometimes twenty to thirty or even seventy times more", Gengo testified that the Accused's statement was "absolutely impossible" as the SRK did not have enough ammunition to respond even in equal measure to the fire opened by the opposing side.<sup>13247</sup> **(So, the President was guilty to his own Army for trusting the internationals, and to this court for warning his Army on such a false basis. The President conveyed the international's allegation about disproportionate fire, but obviously #he shouldn't rely on such an allegation, but only on the official reports of his Army#!).** Similarly, when Dragomir Milošević was confronted with his own warning to SRK units from July 1995 noting that the SRK was "spending ammunition as if [it] had it in abundance, trying at any cost to outfire the enemy artillery" and that its units would "very often fire at inhabited settlements and specific buildings when there are no combat actions whatsoever", he claimed that the warning referred to small abandoned settlements outside Sarajevo.<sup>13248</sup> **(This kind of warnings by the SRK**

<sup>13244</sup> D2351 (Witness statement of Stevan Veljović dated 19 October 2012), para. 26. When shown an UNPROFOR report of 3 November 1993 stating that the old town of Sarajevo received almost 500 shells in a one-hour period on 27 October 1993, he testified that 500 shells would have razed the old town to the ground, and that the entire VRS did not have 500 shells. He concluded that the UNPROFOR report was "grossly untrue". See Stevan Veljović, T. 29279–29281 (23 October 2012); P823 (UNPROFOR Weekly Political Assessment, 3 November 1993), p. 7.

<sup>13245</sup> See e.g. Stanislav Galić, T. 37191–37192, 37205, 37208 (15 April 2013), T. 37342–37343 (16 April 2013); Dragomir Milošević, T. 33144–33145 (4 February 2013) (testifying that indiscriminate and disproportionate fire would have razed Sarajevo to the ground); Savo Simić, T. 30059 (12 November 2012); D2341 (Witness statement of Dušan Škrba dated 14 October 2012), para. 16; Dušan Škrba, T. 29121–29123 (18 October 2012) (describing proportionate fire as responding with one or two shells at the target in order either to drive them away or to stop their fire); D2686 (Witness statement of Mihajlo Vujasin dated 16 December 2012), para. 35; Blagoje Kovačević, T. 29071 (18 October 2012) (explaining that the basic principle for engagement and selection of targets was for artillery to target artillery, infantry to target infantry, and anti-tank units to engage anti-tank units); Dušan Škrba, T. 29136–29138 (22 October 2012); P1614 (Order of 2<sup>nd</sup> Sarajevo Light Infantry Brigade, 14 August 1994), p. 1. Galić testified that he proposed the removal of Dunjić, the Commander of the Igman Brigade, and Radivoje Grković, the battalion commander in the Nežarići Brigade, because of their disproportionate use of artillery. See Stanislav Galić, T. 37810–37814 (7 May 2013), T. 37895–37897 (8 May 2013). **(#Officials against crimes# So, their attempts to rectify possible aberrations of conduct will be used against them, as well as against the President? Particularly, the President was trusting the internationals in blaming the SRK for firing against the city, which wasn't even close to the alleged. How possibly would General Galić and Milošević end in this Court if they jumped to investigate every fake allegation against the SRK???)**.

<sup>13246</sup> D2667 (Witness statement of Ratomir Maksimović dated 14 December 2012), para. 39; D2633 (Witness statement of Milorad Šehovac dated 8 December 2012), para. 35; D2562 (Witness statement of Vladimir Radojčić dated 8 December 2012), para. 42; D2484 (Witness statement of Zoran Kovačević dated 25 November 2012), para. 13; Zoran Kovačević, T. 30606–30607 (28 November 2012); D2622 (Witness statement of Željko Bambarež dated 9 December 2012), para. 19; D2813 (VRS Main Staff Order, 8 August 1995), p. 2; Slavko Gengo, T. 29825–29826 (6 November 2012); Savo Simić, T. 30059 (12 November 2012); D2341 (Witness statement of Dušan Škrba dated 14 October 2012), para. 16; Dragomir Milošević, T. 32745–32746 (28 January 2013).

<sup>13247</sup> Slavko Gengo, T. 29825–29826 (6 November 2012); P846 (Radovan Karadžić's Order to VRS, 7 February 1994), para. 1.

<sup>13248</sup> Dragomir Milošević, T. 33146–33148 (4 February 2013); P2668 (Warning of SRK, 19 July 1995), p. 1. Lučić and Kovačević testified that they had never seen this warning. However, Savo Simić acknowledged that there were probably cases where certain troops spent more ammunition than necessary and targeted targets that they should not have. **But those cases could have been caused by a personal, (ontogenic) feeling of security and an assessment of jeopardy, and even if it wasn't proper, it doesn't mean it wasn't real in its effects on a terrified person. Therefore, a purpose wasn't any "terror"**. See Vlade Lučić, T. 30797–30798 (3 December 2012); Zoran Kovačević, T. 30607–30608 (28 November 2012); Savo Simić, T. 30084 (12 November 2012). See also P1501 (SRK Order, 14 July 1992); [REDACTED]; D2587 (SRK instructions, 12 June 1993) (in which the SRK Deputy Commander first noted that they all wished to liquidate as many Bosnian Muslims as possible but not



**Commanders were a #results of the President's pressure# as the above! Anyway, this warning of the SRK Commander proves that the SRK Command didn't tolerate, let alone ordered this kind of fire!)** Galić testified that because ABiH units were commingled with civilians, the SRK would primarily seek to neutralise their targets, rather than destroy them, and the quantity of ammunition required to destroy a target can be six times higher than the quantity needed to neutralise a target.<sup>13249</sup> **(And #silencing required only a few shells#. Right? But, a witness of the OTP (Mole) testified that he concluded that a fire was of a harassing nature if it was only several shells fired#! Contrary to documents and logics#!)** He gave an example of refraining from responding to fire on 5 June 1993 because a cease-fire was in effect at the time and because a response would have been likely to cause unnecessary losses of civilians.<sup>13250</sup> Galić also testified that if the SRK received fire from the ABiH, then the best response was to return fire with the same kind of assets; if this was mortar fire there were clearly options to return fire with a number of assets but the "best way to return fire [was] from mortars".<sup>13251</sup> Savo Simić, Chief of Artillery of the 1<sup>st</sup> Sarajevo Mechanised Brigade,<sup>13252</sup> testified that, when authorising return of artillery fire into the city, he "always selected the most precise weapon in the division in order to avoid civilian casualties and the unnecessary destruction of surrounding buildings".<sup>13253</sup> According to Mihajlo Vujasin, the SRK units also warned opposing forces before opening fire on military targets located in civilian zones.<sup>13254</sup>

4000. Some of the SRK witnesses also testified that their units never fired into the depth of Sarajevo.<sup>13255</sup> The others who did, claimed to have done so only when they had reliable information that combat elements of the opposing brigades were located there.<sup>13256</sup> According to Dragomir Milošević, the SRK forces were told to fire only when they were "certain that

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at the political price caused by firing a few shells on Sarajevo with minimal consequences, and then instructed the SRK commanders that the first priority was to save ammunition).

<sup>13249</sup> See Stanislav Galić, T. 37192 (15 April 2013), T. 37507–37508 (22 April 2013) (testifying that whether fire is "effective" is determined by whether the goal is to "neutralise" or "destroy" the target and whether that is achieved), T. 37897 (8 May 2013), T. 38043 (9 May 2013). See also Izo Golić, T. 31550–31551 (17 December 2012); Dragomir Milošević, T. 32747–32749 (28 January 2013) (testifying that there is a large difference in the amount of ammunition required to neutralise a target or destroy a target, because at best there is a "mere chance" to destroy something "in totality").

<sup>13250</sup> Stanislav Galić, T. 37488–37489 (22 April 2013); D3443 (SRK combat report, 3 June 1993).

<sup>13251</sup> Stanislav Galić, T. 37192 (15 April 2013). See also P1762 (Witness statement of David Fraser dated 17 October 2010), pp. 54–56.

<sup>13252</sup> D2412 (Witness statement of Savo Simić dated 4 November 2012), para. 3.

<sup>13253</sup> D2412 (Witness statement of Savo Simić dated 4 November 2012), paras. 20, 29; Savo Simić, T. 30046 (12 November 2012). When shown an intercepted telephone conversation of 25 May 1992 in which Mladić stated that he would "retaliate against [Sarajevo]", that "Sarajevo is going to shake" and that "more shells will fall on [Sarajevo] per second than in the entire war so far", Simić responded that he never received order to punish the population of Sarajevo by shelling them. See Savo Simić, T. 30059, 30070, 30074–30075 (12 November 2012); P1041 (Intercept of conversation between Ratko Mladić and unidentified male, 25 May 1992), p. 1. See also P1518 (Intercept of conversation between Ratko Mladić and Mirko Vukašinović, 28 May 1992); P1511 (Intercept of conversation between Ratko Mladić and Potpara, 29 May 1992); P1521 (Intercept of conversation between Ratko Mladić and Mirko Vukašinović, 28 May 1992), pp. 2–3. **All of those documents are a mere rhetorics, in all of them are elements that are opposite to the alleged. It doesn't mean that any of it was conveyed on the terrain.**

<sup>13254</sup> D2686 (Witness statement of Mihajlo Vujasin dated 16 December 2012), para. 36. See also D2562 (Witness statement of Vladimir Radojčić dated 8 December 2012), para. 35.

<sup>13255</sup> For example, Dušan Zurovac testified that the 4<sup>th</sup> Company of the 2<sup>nd</sup> Battalion of the VRS never used mortars to fire deep into the city of Sarajevo, and Vlade Lučić testified that it was not the task of the 1<sup>st</sup> Romanija Infantry Brigade to respond to fire from the depth of the city, and it did not do so. See Dušan Zurovac T. 30247, 30308 (14 November 2012); Vlade Lučić, T. 30789–30792 (3 December 2012). See also D2389 (Witness statement of Predrag Trapara dated 3 November 2012), para. 8; D2418 (Witness statement of Božo Tomić dated 5 November 2012), para. 18; Božo Tomić, T. 30182, 30191 (13 November 2012).

<sup>13256</sup> D2562 (Witness statement of Vladimir Radojčić dated 8 December 2012), para. 27; D2444 (Witness statement of Miladin Trifunović dated 11 November 2012), para. 18; Miladin Trifunović, T. 30441–30442 (27 November 2012).

they would hit the target” because “[o]ne cannot do anything running blind”.<sup>13257</sup> Thus, a number of brigades had orders to fire on a “sighted target” alone.<sup>13258</sup> A number of witnesses also gave evidence about the SRK system of observation of fire.<sup>13259</sup> This system, which according to Milošević was in operation at all times,<sup>13260</sup> provided information about the firing positions of the ABiH, including whether civilians were located at the targets.<sup>13261</sup> Simić confirmed this by testifying that he required details of the position from which the enemy fire had originated before he would consider authorising return fire.<sup>13262</sup> Dušan Škrba also explained that every military target had to be marked and described in terms of its size, location, and the kind of enemy assets located there but acknowledged that in cases of retaliatory artillery and mortar fire, his unit would employ “simple preparation”, which could be done within five minutes of receiving enemy fire and which only required the topographical information about the target.<sup>13263</sup> When shown an intercepted conversation in which Mladić issued an order to Potpara to fire at the railway station and “hit them with something and scatter them around”, Škrba conceded that this was not a precise order but testified that he never received such an order during his time with the SRK.<sup>13264</sup> Similarly, Mijatović testified that Serb observers would report where the firing came from and confirm that, within a diameter of about 200 metres, everything was clear except for the target.<sup>13265</sup>

- <sup>13257</sup> D2813 (VRS Main Staff Order, 8 August 1995), p. 2; Dragomir Milošević, T. 32745–32748 (28 January 2013). *See also* D2617 (SRK Order, 30 April 1995), para. 10; D2667 (Witness statement of Ratomir Maksimović dated 14 December 2012), para. 26. This evidence was contradicted by Defence expert witness Radovan Radinović, who testified that, as a general pattern, enemy fire would be observed by a VRS observer and then fire would be opened on those targets. However, this fire was opened without any tracking or correction of fire because that was impossible in the circumstances, which resulted in unplanned dispersion of shots. Since most of the targets in Sarajevo could not be observed visually, it was not possible to monitor the return of fire or perform accurate targeting. **But this was responsibility of the Muslim side, not to fire from a civilian area.** *See* D3864 (Radovan Radinović’s expert report entitled “The Control Authority of Dr. Radovan Karadžić in the Strategic Command System of the VRS”, 2012), para. 301. Similarly, Galić testified that the SRK returned fire on mobile mortars in civilian zones. *See* Stanislav Galić, T. 38055–38059 (9 May 2013).
- <sup>13258</sup> D2562 (Witness statement of Vladimir Radojčić dated 8 December 2012), paras. 30, 90; D2479 (Witness statement of Mile Sladoje dated 25 November 2012), para. 12; D2484 (Witness statement of Zoran Kovačević dated 25 November 2012), para. 9. Miloš Škrba and Željko Bambarež testified that similar orders existed in the 2<sup>nd</sup> Infantry Company of the 2<sup>nd</sup> Infantry Battalion of the 1<sup>st</sup> Sarajevo Mechanised Brigade, and in the 2<sup>nd</sup> Platoon of the 2<sup>nd</sup> Company of the 1<sup>st</sup> Sarajevo Mechanised Brigade respectively. *See* Miloš Škrba, T. 29192–29193 (22 October 2012); D2622 (Witness statement of Željko Bambarež dated 9 December 2012), paras. 3, 5, 17.
- <sup>13259</sup> *See e.g.* D2341 (Witness statement of Dušan Škrba dated 14 October 2012), para. 14; Dušan Škrba, T. 29108, 29111, 29119–29120 (18 October 2012); D2633 (Witness statement of Milorad Šehovac dated 8 December 2012), paras. 23, 30; D2686 (Witness statement of Mihajlo Vujasin dated 16 December 2012), para. 35; Slavko Gengo, T. 29840–29841 (6 November 2012); Dragomir Milošević, T. 32745–32747 (28 January 2013); D2412 (Witness statement of Savo Simić dated 4 November 2012), para. 18; Savo Simić, T. 30128–30129 (12 November 2012).
- <sup>13260</sup> Dragomir Milošević, T. 32746–32747 (28 January 2013).
- <sup>13261</sup> D2412 (Witness statement of Savo Simić dated 4 November 2012), para. 18; D2562 (Witness statement of Vladimir Radojčić dated 8 December 2012), paras. 23, 34; Dragomir Milošević, T. 32584–32585 (23 January 2013) (testifying that if there was a chance of civilian casualties, fire would not be opened), T. 32702, 32750, 32757–32758 (28 January 2013), T. 33137–33138 (4 February 2013); Dušan Škrba, T. 29108, 29111 (18 October 2012), D2484 (Witness statement of Zoran Kovačević dated 25 November 2012), para. 12. Dragomir Milošević testified that once fire was observed from an area, it was necessary to narrow down the area, to identify the target, establish the type of weapon, the type of fire, and the number of weapons, and identify the surroundings and consider the damage that could be inflicted on the surroundings. *See* Dragomir Milošević, T. 32757–32758 (28 January 2013).
- <sup>13262</sup> D2412 (Witness statement of Savo Simić dated 4 November 2012), para. 29; Savo Simić, T. 30050–30051, 30053 (12 November 2012). *See also* D2379 (Witness statement of Momir Garić dated 2 November 2012), para. 25.
- <sup>13263</sup> Dušan Škrba, T. 29108, 29111 (18 October 2012), T. 29134–29135 (22 October 2012).
- <sup>13264</sup> Dušan Škrba, T. 29109–29110 (18 October 2012); P1511 (Intercept of conversation between Ratko Mladić and Potpara, 29 May 1992). When also shown intercepted conversations in which Mladić asked whether there was a gun pointed at “some target” in Velešići and, on the following day, asked whether Velešići had been shelled, Dušan Škrba rejected the suggestion that Mladić had no information on any particular targets. *See* Dušan Škrba, T. 29141–29143 (22 October 2012); P1521 (Intercept of conversation between Ratko Mladić and Mirko Vukašinović, 28 May 1992); P1522 (Intercept of conversation between Rako Mladić and Potpara, 29 May 1992), p. 1. **This is not entirely correct. Mladić asked whether the subordinate had written down the targets in Velešići, since he really knew about it. This excludes any other possible target!**
- <sup>13265</sup> When asked why observers were not mentioned in his statement, Mijatović said that he had mentioned it in his interview with the Defence. *See* Nikola Mijatović, T. 30737–30739, 30744, 30760 (30 November 2012). Dušan Škrba testified that the 1<sup>st</sup> Sarajevo

He later added that one could not rely on this as a rule when one's forces were under attack.<sup>13266</sup>

4001. However, most of the evidence of the SRK witnesses outlined above is directly contradicted by the July 1994 report analysing the combat readiness of the SRK's artillery rocket units prepared by the SRK's Chief of Artillery, Colonel Tadija Manojlović, in which he described the issues faced by the units from the beginning of the conflict up to July 1994. In that report, he stated the following:

The initial period of the war was also characterised by the fact that we were superior to the enemy when it comes to the equipment and ammunition [...]. The commanders of the general military provenance carried out their assignments mainly by use of the artillery, *with an increased consumption of ammunition, which was normally used for hitting the targets in Sarajevo.* (**#“Hitting the targets in Sarajevo” meant a justified fire against a specific targets, the military targets, not random fire#!**)

[...]

Basic shortcomings and defects in the [control and command] involve the following: [...] shortage of commanding officers, poor knowledge about the equipment, poor choice of [firing positions], *pounding the targets without necessary observation, high consumption of ammunition, poor maintenance.* (**All of that was due to inabilities of the people's army, a lack of professionals, but, none of it was with a purpose of terror. Necessities, not intentions!**)

[...]

However, the precision of shooting was greatly influenced by the defects and shortcomings in the training process, as well as by an inadequate level of skilfulness attained by the marksmen, reckoners, reconnaissance teams and commanding officers; as a result of thus reduced preparations, *they all were erring in determining the targets, as well as in reckoning and establishing the shooting elements and in launching the artillery attacks without prior observation of the targets.* Group shooting used to be carried out without any corrections being made, so that the results, especially by night, were *rather poor.* (**#A similar answer of the President, about the lack of skilfulness, was characterised by a UN witness as a cynicism of the President#. A remark about “cynicism” is entirely subjective and can not be proven or rebutted, because the languages of the interlocutors were different, but it only confirms a bad will of such a witness, while it was a real problem. Mr. Manojlovic described problems in his competence, but none of it was with the aim of terror!#**)

[...]

The stocks of basic and other MTS have been used up, since the consumption of ammunition and fuel in the initial stages of the war exceeded the amounts that had been planned beforehand. Some of the

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Militarised Brigade never fired at or within 1 kilometre of hospitals or other “areas where larger groups of civilians tend to gather”. See Dušan Škrba, T. 29123 (18 October 2012), T. 29131–29132 (22 October 2012).

<sup>13266</sup> Nikola Mijatović, T. 30744–30745 (30 November 2012).

officers and soldiers were of the opinion that the reserves of ammunition and fuel were unfathomable and that the war would not last. *The measures to restrict the consumption yielded no results. Intensive use of the artillery and intensive shelling caused a considerable reduction of available resources [...].*<sup>13267</sup> **(#Again, nothing aimed to induce a terror. The initial stage of the war, when there was an exceeded consumption was the period when the Territorial Defence fought with a small or not at all help from the JNA, and the period between the JNA withdrew and the VRS got established. But, this was not intentional, this was an inevitable consequence of the falling apart of the state and the Army!)**

**(B)** ABiH firing practices

4002. As for the ABiH firing practices,<sup>13268</sup> the Chamber heard that ABiH units in Sarajevo used their heavy weapons mostly for harassing fire and with the intention to draw a response, by for example, firing from civilian buildings such as hospital grounds or from the vicinity of the PTT building where the UN was located.<sup>13269</sup> KDZ182 confirmed that ABiH troops would position themselves very close to the UN forces, particularly on confrontation lines,<sup>13270</sup> while KDZ185 called this practice a “part of the game”.<sup>13271</sup> Indeed, on a number of occasions the UNMOs had to ask the Bosnian Muslim side to move its mortars away from UNMO positions as they were too close.<sup>13272</sup> According to Tucker, the ABiH strategy above all was to antagonise and provoke the Bosnian Serbs into over-reacting.<sup>13273</sup> However, Harland disputed that the Bosnian Muslims purposely fired mortars from the vicinity of the PTT building in order to draw Serb fire against UNPROFOR; rather, he felt the UN was simply close to the scene of a major battle, and the Serbs were already firing shells in the area.<sup>13274</sup> Both Abdel-Razek and Richard Gray, who was a senior UNMO in Sarajevo in

<sup>13267</sup> D312 (SRK analysis of combat readiness of artillery rocket units, July 1994), pp. 3–4, 7 (emphasis added).

<sup>13268</sup> On this issue, see Section IV.B.1.d: Bosnian Muslim side targeting own civilians.

<sup>13269</sup> P1558 (Witness statement of Francis Roy Thomas dated 13 May 2009), para. 70; Francis Roy Thomas, T. 6830–6831, 6874–6876 (15 September 2010); D631 (UNMO report, 10–11 January 1994), p. 1; Yasushi Akashi, T. 37697 (24 April 2013); D3489 (Excerpt from Yasushi Akashi’s book entitled “In the Valley between War and Peace”), p. 110; D3442 (SRK combat report, 17 May 1993), p. 2 (reporting that the ABiH was trying to provoke Serb fire onto their positions); Stanislav Galić, T. 37486–37487 (22 April 2013) (testifying that the ABiH forces had “both a political and military interest to provoke” Serb fire); D2331 (Witness statement of Blagoje Kovačević dated 14 October 2012), para. 12; D2270 (Witness statement of Andrey Demurenko dated 13 October 2012), para. 37.

<sup>13270</sup> KDZ182, T. 13142–13145 (10 March 2011); D1132 (UNPROFOR report, 28 June 1995), p. 5. See also David Fraser, T. 8061 (18 October 2010).

<sup>13271</sup> P6060 (Record of interview with KDZ185), e-court p. 18; KDZ185, T. 4228–4229 (28 June 2010), T. 4335 (29 June 2010); D354 (UNPROFOR protest letter to ABiH, 20 February 1993).

<sup>13272</sup> Francis Roy Thomas, T. 6812 (15 September 2010); P1029 (Witness statement of John Wilson dated 4 November 2008), para. 47. According to Thomas, whenever UNMOs protested about the Serb response to the ABiH fire from near the UNMO OPs and asked that they stop firing, Indić was unsympathetic and would simply respond to UNMO protests by telling them to get the ABiH units out of the area. See P1558 (Witness statement of Francis Roy Thomas dated 13 May 2009), para. 56. This was confirmed by Abdel-Razek who testified that Galić openly admitted to shelling the UN building because UN allowed ABiH to shell at the SRK from the building. See P1258 (Witness statement of Hussein Ali Abdel-Razek dated 16 July 2002), e-court pp. 15, 21.

<sup>13273</sup> P4203 (Witness statement of Piers Tucker dated 12 May 2010), para. 302 (explaining also that ABiH would also arrange a media briefing and then carry out an infantry attack on the Bosnian Serbs nearby who would then respond with heavy weapons, which the media would see and condemn). **All of these examples should be collected and sorted in a table, so to be easy to review, and to move it from the fn-s to the main text, and depict it in a manner of a “Critical masse”, so to reject any general allegation, unless the OTP submits an additional proof that the SRK really did it.**

<sup>13274</sup> P820 (Witness statement of David Harland dated 4 September 2009), paras. 207–208; P837 (UNPROFOR Update on Sarajevo, 30 June 1995); David Harland, T. 2303–2306 (11 May 2010). See also P2407 (Witness statement of KDZ304), p. 32; Hussein Abdel-Razek, T.

1992,<sup>13275</sup> thought the ABiH was using the UN headquarters as a shield to protect them from being attacked by return Serb fire.<sup>13276</sup> **(Even from this case #it is obvious how much of credit deserved Harland#, and what was his military knowledge. As if the PTT building was a movable asset, and was wondering around, approaching the c/l. all the higher military officers confirmed opposite to what Harland said, and there were a numerous protests of the UN to the Muslim side!)**

4003. In addition to using UN facilities, Colonel Andrey Demurenko, Chief of Staff of Sector Sarajevo,<sup>13277</sup> testified that he saw ABiH units also provoking Serb fire onto civilian buildings.<sup>13278</sup> Similarly, Rose was certain that ABiH forces would fire on the Serbs at particularly important political moments, in order to provoke retaliatory Serb fire on Sarajevo.<sup>13279</sup> He believed that there was only a fine line between such a tactic and directly firing upon their own citizens.<sup>13280</sup> **(No line at all, because they provoked the Serb fire against their own civilians, and responsibility was entirely on the Muslim commanders. How Harland's assertions look like when compared with these knowledge of his superiors?)** KW570 testified that with these practices and through drawing a response, the BiH government was trying provoke an international intervention on their side.<sup>13281</sup> Bell also testified that Bosnian Muslims used "sacrificial attacks" to provoke an international reaction and would provoke the Bosnian Serbs into using their heavy weapons.<sup>13282</sup> Galić testified that the ABiH would fire from schools, hospitals, and locations where the UN forces resided.<sup>13283</sup> **(Having that in mind, #how anyone could speak about a random and indiscriminatory shelling#? In addition, a mobile mortars and other movable weapons facilitated an opportunity for the ABiH to engage the Serb SRK from many places, there can not be any doubt about that. In such a case, the Prosecutin was obliged to give an evidence, beyond reasonable doubt, for any allegation, and not to relay on opinions, impressions and perceptions. This is not acceptable in a serious court, once this illegal pratice and violations of all the conventions by the ABiH was established!)**

## ii. Shelling investigations in Sarajevo

4004. A number of witnesses testifying before this Chamber participated in investigating shelling incidents in Sarajevo. These investigations were conducted by the BiH MUP and also by UNPROFOR and the UNMOs. **(But even the #MUP investigations had not been conducted in accordance with the methodology implied in peace time, while the**

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5580–5581 (20 July 2010) (testifying that when he brought up the issue of ABiH fire from civilian and UN areas with Ganić, the latter told him "where can we go to defend ourselves?"). **They didn't have any reason to defend provided they didn't attack first.**

<sup>13275</sup> D2398 (Witness statement of Richard Gray dated 22 April 2012), paras. 4–5.

<sup>13276</sup> D2398 (Witness statement of Richard Gray dated 22 April 2012), para. 12; P1258 (Witness statement of Hussein Ali Abdel-Razek dated 16 July 2002), e-court pp. 15, 20; Hussein Abdel-Razek, T. 5538–5541 (20 July 2010); D501 (ABiH report re meeting with UNPROFOR, 29 August 1992).

<sup>13277</sup> D2270 (Witness statement of Andrey Demurenko dated 13 October 2012), para. 4.

<sup>13278</sup> D2270 (Witness statement of Andrey Demurenko dated 13 October 2012), para. 37.

<sup>13279</sup> P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 215.

<sup>13280</sup> P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 215.

<sup>13281</sup> D2770 (Witness statement of KW570 dated 21 November 2012) (under seal), para. 15.

<sup>13282</sup> P1996 (Witness statement of Martin Bell dated 8 March 2010), para. 57; Martin Bell, T. 9901–9902 (15 December 2010); D921 (Witness statement of Martin Bell dated 7 February 1996), p. 14.

<sup>13283</sup> Stanislav Galić, T. 37419 (18 April 2013).



**UNPROFOR personnel admitted that they never made a proper investigation required for a criminal procedure!#)**

With respect to the BiH MUP investigations, CSB Sarajevo's unit for serious criminal acts was tasked with investigating shelling incidents involving fatalities.<sup>13284</sup> This department was notified of any such incident by the local police station concerned and would in turn inform an investigative judge of the Sarajevo Supreme Court who would become the head of the investigating team.<sup>13285</sup> A team was then formed, including an investigator, criminal technicians, and a ballistics expert.<sup>13286</sup> The investigative judge was in charge of the investigation and was responsible for ensuring that no legal mistakes were made and for conveying instructions to the investigator who would then pass them on to the other members of the team.<sup>13287</sup> The criminal or forensic technicians were tasked with visually inspecting the scene, taking photographs, creating sketches of the scene, and collecting fragments of projectiles.<sup>13288</sup> In more serious cases, involving a large number of casualties, the scene would also be video recorded.<sup>13289</sup> The ballistics experts' task was to determine the direction rather than the origin of fire, as well as the calibre of the weapon used.<sup>13290</sup>

**(#Insufficient and useless in a criminal case#! There was no a piece of the territory in Sarajevo which would be reachable from the Serb side that wouldn't have the Muslim forces between the spot of incident and the Serbs.)**

The team would come to the site as soon as it was informed of the incident by the local police and as soon as it was safe to do so.<sup>13291</sup> At most incident sites, by the time the team arrived, the dead and wounded would already have been moved to the hospitals and the morgue.<sup>13292</sup>

**(#A flagrant distortions of azimuth#! Then, how the investigations determined direction? There had been several flagrant distortions of azimuth, so to indicate the direction of fire from the Serb positions! Of course, the main objection is that the Serb commander hadn't been notified about incidents, nor allowed to participate in investigations!)**

The local police would usually inform the team what the security situation was at the scene, including whether there had been military activity in the area immediately prior to the incident taking place.<sup>13293</sup> At the request of CSB Sarajevo, members of the counter-sabotage protection unit of the BiH

<sup>13284</sup> KDZ485, T. 8886 (3 November 2010); P1830 (Witness statement of Dragan Mioković dated 26 October 2010), p. 4. Initially, the CSB Sarajevo teams went out to investigate every larger shelling incident regardless of whether there were casualties or not but this practice ceased at the end of 1993 or beginning of 1994, and the department focused only on incidents which resulted in one or more deaths. See P1695 (Witness statement of Mirza Sabljica dated 11 February 2010), pp. 7–8., 10–11; P130 (Witness statement of Zlatko Mededović dated 5 September 2000), p. 4; Ekrem Suljević, T. 5683–5684 (21 July 2010).

<sup>13285</sup> The investigating judge could authorise an investigator to conduct the investigation on his behalf. See P1830 (Witness statement of Dragan Mioković dated 26 October 2010), pp. 2, 4; P1905 (Witness statement of KDZ485), para. 5.

<sup>13286</sup> P1830 (Witness statement of Dragan Mioković dated 26 October 2010), pp. 4–5; P1905 (Witness statement of KDZ485), paras. 5–6. Mirza Sabljica testified that in most serious cases the investigation team would include two ballistics experts rather than one. See P1695 (Witness statement of Mirza Sabljica dated 11 February 2010), p. 9.

<sup>13287</sup> P1830 (Witness statement of Dragan Mioković dated 26 October 2010), p. 5; P1905 (Witness statement of KDZ485), para. 6. See also Dragan Mioković, T. 8555 (28 October 2010); P1695 (Witness statement of Mirza Sabljica dated 11 February 2010), pp. 67–68; Mirsad Kućanin, P16 (Transcript from *Prosecutor v. Galić*), T. 4643–4644; P1276 (Witness statement of Ekrem Suljević dated 9 February 2010), para. 5; P1791 (Witness statement of KDZ166 dated 13 February 2010), pp. 2–3.

<sup>13288</sup> P1791 (Witness statement of KDZ166 dated 13 February 2010), pp. 2–3; KDZ166, T. 8288–8289, 8291 (26 October 2010). In order to become a forensic technician, one needed to finish secondary engineering school and then attend a special police course which lasted six months. See KDZ166, T. 8288 (26 October 2010).

<sup>13289</sup> KDZ166, T. 8295–8296 (26 October 2010).

<sup>13290</sup> P1695 (Witness statement of Mirza Sabljica dated 11 February 2010), pp. 10, 18; P1276 (Witness statement of Ekrem Suljević dated 9 February 2010), para. 16; P130 (Witness statement of Zlatko Mededović dated 5 September 2000), p. 4; P1905 (Witness statement of KDZ485), para. 10.

<sup>13291</sup> KDZ166, T. 8290–8291 (26 October 2010).

<sup>13292</sup> KDZ485, T. 8883–8884 (3 November 2010); P1905 (Witness statement of KDZ485), para. 7; KDZ166, T. 8291–8294 (26 October 2010).

<sup>13293</sup> KDZ485, T. 8886–8887 (3 November 2010).



MUP would on occasion also assist in these investigations.<sup>13294</sup> Ekrem Suljević, a member of that unit who participated in approximately 50 to 60 investigations of shelling incidents during the conflict, testified that the difficult conditions in which the incidents were investigated influenced the detail of the work these teams were able to provide.<sup>13295</sup> However, he also noted that they never left the incident site with any doubt as to the established direction of fire.<sup>13296</sup>

**(A direction is not decisive if a range and distance was not determined! Between a site of event and the Serb positions there always were, in all the cases, a huge territory under the Muslim control, then the Muslim line and trenches, and only then the Serb line and further the Serb territory!)**

4005. At the scene of a shelling incident, a ballistic expert would look at the mechanical traces resulting from the impact of the projectile and its fragments, which would be contoured on the asphalt or any other surface. The expert would also assess whether the shell stabiliser (also referred to as the tail fin of the shell) was embedded at the point of impact.<sup>13297</sup> The ballistics expert would then conduct an “analysis of the central axis” or “axis of symmetry” to determine the direction from which the projectile came.<sup>13298</sup> The central axis method is where the outer edges of a given crater’s two most pronounced shrapnel traces are drawn back to the centre of the crater.<sup>13299</sup> The angle that these two ‘forks’ create is then bisected along their central axis and this bearing is measured to determine the incoming trajectory of the projectile.<sup>13300</sup> Having visually established the direction of fire, the team would also use high precision compasses to determine the azimuth, that is, the angle measured clockwise from the line of magnetic north to the line of the central axis or axis of symmetry.<sup>13301</sup> For mortars, this method has a margin of error of plus or minus five degrees in relation to the direction of the shell.<sup>13302</sup> The calibre of the weapon used was usually determined on the basis of the shell

<sup>13294</sup> See P1276 (Witness statement of Ekrem Suljević dated 9 February 2010), paras. 4–5, 8, 13 (stating that this unit was tasked with, *inter alia*, providing security at meetings and doing on-site investigations of explosions, and included chemical, electrical, and mechanical engineers who were not trained in crater analysis but learned from colleagues and literature).

<sup>13295</sup> P1276 (Witness statement of Ekrem Suljević dated 9 February 2010), paras. 3, 8–11. He was involved in determining the direction of fire, removing trace evidence, and analysing it in the laboratory. P1276 (Witness statement of Ekrem Suljević dated 9 February 2010), paras. 35–36. See also Ekrem Suljević, T. 6232–6233 (6 September 2010); Nedžib Dozo, T. 9584–9585 (10 December 2010); KDZ485, T. 8895–8899 (3 November 2010) (testifying also that he was unaware of any of his colleagues being the victim of shelling whilst attending an incident site); P1905 (Witness statement of KDZ485), para. 8.

<sup>13296</sup> P1276 (Witness statement of Ekrem Suljević dated 9 February 2010), para. 10.

<sup>13297</sup> P1695 (Witness statement of Mirza Sabljica dated 11 February 2010), pp. 11–12, 14; P1703 (Photograph re shelling incident on 8 November 1994 marked by Mirza Sabljica). The recovery and the analysis of traces would be easier when projectiles hit hard surfaces such as concrete or asphalt. See Mirza Sabljica, T. 7816 (13 October 2010); P1276 (Witness statement of Ekrem Suljević dated 9 February 2010), para. 30.

<sup>13298</sup> P1695 (Witness statement of Mirza Sabljica dated 11 February 2010), pp. 11–14; P1717 (Photograph re shelling incident on 8 November 1994 marked by Mirza Sabljica); P1276 (Witness statement of Ekrem Suljević dated 9 February 2010), paras. 19–20. See also Mirza Sabljica, T. 7714–7715, 7721–7731 (12 October 2010); P1723 (Sketch drawn by Mirza Sabljica); P1730 (Photograph re shelling of Dobrinja on 1 June 1993 marked by Mirza Sabljica); P1731 (Photograph re shelling of Dobrinja on 1 June 1993 marked by Mirza Sabljica); P1732 (Photograph re shelling of Dobrinja on 1 June 1993 marked by Mirza Sabljica); P1733 (Photograph re shelling of Dobrinja on 1 June 1993 marked by Mirza Sabljica).

<sup>13299</sup> Zorica Subotić, T. 38357–38359 (15 May 2013); John Hamill, P1994 (Transcript from *Prosecutor v. Galić*), T. 6092.

<sup>13300</sup> Zorica Subotić, T. 38357–38359 (15 May 2013).

<sup>13301</sup> P1276 (Witness statement of Ekrem Suljević dated 9 February 2010), para. 22. Suljević testified that the investigators were well aware of the interference effect of metal on the process of recording an angle using a compass; accordingly, they did not wear flak jackets and paid attention to any metal objects in the area. See P1276 (Witness statement of Ekrem Suljević dated 9 February 2010), para. 23.

<sup>13302</sup> P1695 (Witness statement of Mirza Sabljica dated 11 February 2010), p. 13; P1276 (Witness statement of Ekrem Suljević dated 9 February 2010), para. 25. Sabljica testified that the margin of error using this method could never result in the miscalculation of the direction of fire by 40 to 50 degrees. He also testified that in 90% of the shelling incidents he investigated, that is over 50 cases, he was dealing with mortar projectiles. See P1695 (Witness statement of Mirza Sabljica dated 11 February 2010), pp. 10–11, 13; Mirza Sabljica, T. 7721–7722, 7729, 7740 (12 October 2010). The Chamber notes however that Subotić testified that the central axis method has a defined margin of error of plus or minus ten degrees. See Zorica Subotić, T. 38359–38360 (15 May 2013).

stabiliser which would embed in the surface in about 95% of the cases.<sup>13303</sup> The form and type of the traces and of the damage also helped in establishing the calibre of the mortar.<sup>13304</sup>

4006. The on-site investigation teams did not determine the range of fire, which depends on the type of the projectile used, as well as the charge with which it was fired.<sup>13305</sup> Sabljica explained that it was possible to determine the distance from which the mortar was fired, based on the angle of descent of the projectile and the type of weapon used.<sup>13306</sup> This determination however was not done by Sabljica's unit as they had neither the knowledge nor the equipment necessary; instead, they had a special team supported by persons with an expertise in rocket science and ballistics.<sup>13307</sup> Sabljica explained that the angle of descent is the angle at which the projectile descends and can be determined by placing a stick into a fuse furrow, which has to be of a certain depth for the method to produce accurate results, and then by determining the resulting angle through geometry.<sup>13308</sup> Suljević, testified however that determining the distance from which a shell was fired was impossible without knowing the propelling charges.<sup>13309</sup> According to him, determining the origin of fire can be done through taking statements from witnesses who heard or observed the projectile, but since he and his colleagues were not able to interview witnesses on VRS-held territory, they could not determine the origin of fire in the cases they investigated.<sup>13310</sup> Mededović, a ballistics expert at CSB Sarajevo, noted that, when determining the direction of fire, the ballistics experts did not interview any victims or witnesses.<sup>13311</sup>

4007. Every time there was a shelling incident, UNPROFOR would also try to investigate it; usually the Sector Sarajevo headquarters undertook the investigation because they had the technical expertise.<sup>13312</sup> Thus, UNPROFOR soldiers were at many of the incident sites, either

<sup>13303</sup> P1695 (Witness statement of Mirza Sabljica dated 11 February 2010), pp. 12, 14, 16–17; P1276 (Witness statement of Ekrem Suljević dated 9 February 2010), paras. 29–31.

<sup>13304</sup> P1695 (Witness statement of Mirza Sabljica dated 11 February 2010), pp. 12, 14.

<sup>13305</sup> Mirza Sabljica, T. 7719–7720 (12 October 2010); P1276 (Witness statement of Ekrem Suljević dated 9 February 2010), para. 17; KDZ166, T. 8295 (26 October 2010). Thomas Knustad also confirmed that determining the precise range of fire was very difficult due to the impossibility of knowing the charge with which the projectile was fired. Thomas Knustad, P123 (Transcript from Prosecutor v. D. Milošević), T. 2040–2041.

<sup>13306</sup> Mirza Sabljica, T. 7718–7720 (12 October 2010); P1695 (Witness statement of Mirza Sabljica dated 11 February 2010), pp. 17–18.

<sup>13307</sup> Mirza Sabljica, T. 7718–7720 (12 October 2010); P1695 (Witness statement of Mirza Sabljica dated 11 February 2010), pp. 17–18. One of the members of that team was Berko Zečević whose evidence on his method for determining the relevant distance is discussed later, in relation to Scheduled Incident G.8. Another witness relevant to this issue is Emir Turkušić who used the method in his investigation of Scheduled Incident G.9, which is also discussed below.

<sup>13308</sup> P1695 (Witness statement of Mirza Sabljica dated 11 February 2010), pp. 14–16; P1276 (Witness statement of Ekrem Suljević dated 9 February 2010), para. 15; P1701 (Photograph re shelling incident on 8 November 1994); Mirza Sabljica, T. 7714–7716 (12 October 2010); P1437 (Richard Higgs's Consolidated Report on Sarajevo Shelling Incidents, 13 March 2009), p. 6. Sabljica determined an angle of descent only once whereby he used the embedded stabiliser to create an imaginary axis. Mirza Sabljica, T. 7715–7720 (12 October 2010); P1722 (Sketch drawn by Mirza Sabljica); P1695 (Witness statement of Mirza Sabljica dated 11 February 2010), pp. 14–16; P1716 (Photograph of mortar impact marked by Mirza Sabljica); P1702 (Sketch of mortar impact marked by Mirza Sabljica). Sabljica admitted that this method was imprecise, with a margin of error of plus or minus ten degrees. Mirza Sabljica, T. 7717–7718, 7740 (12 October 2010).

<sup>13309</sup> P1276 (Witness statement of Ekrem Suljević dated 9 February 2010), para. 17. See also John Hamill, T. 9694 (13 December 2010).

<sup>13310</sup> P1276 (Witness statement of Ekrem Suljević dated 9 February 2010), para. 18. Richard Higgs testified that sound on its own would not confirm a firing position, only an approximate direction. He stated, however, that the time delay between the fire and burst can give an approximate range to the firing position. See P1437 (Richard Higgs's Consolidated Report on Sarajevo Shelling Incidents, 13 March 2009), p. 5.

<sup>13311</sup> P130 (Witness statement of Zlatko Mededović dated 5 September 2000), pp. 3–4.

<sup>13312</sup> P1762 (Witness statement of David Fraser dated 17 October 2010), p. 50 (testifying also that all UNPROFOR reports on the incidents went back to the Sector Sarajevo Headquarters and those relating to more sensitive incidents were forwarded to the BiH Command); P2447 (Witness statement of KDZ182), p. 48; P6060 (Record of interview with KDZ185), e-court p. 18; P5906 (Witness statement of KDZ450 dated 17 January 2011), para. 72. Fraser conceded that these were not criminal investigations. See David Fraser, T. 8055 (18 October 2010).

at the beginning of or during the investigation by the CSB Sarajevo.<sup>13313</sup> In addition to conducting their own investigations, UNPROFOR soldiers also monitored the work of CSB Sarajevo teams.<sup>13314</sup> At the end, the findings of both UNPROFOR and CSB Sarajevo would be compared and, according to Suljević, there was no deviation between those as far as direction of fire was concerned.<sup>13315</sup>

4008. UNMOs also investigated shelling incidents alongside the CSB Sarajevo, but kept their investigations separate.<sup>13316</sup> They would travel to incident sites and investigate what they saw and evidence they found, and then file a written report.<sup>13317</sup> Konings testified that UNMOs would exchange information with the CSB Sarajevo during these investigations but that in contrast to the police investigators they were not actually collecting evidence, just data.<sup>13318</sup> **(#Another word, not of any use in any court#!)**

4009. The Accused argues that both the BiH MUP and the UN investigators working on scheduled shelling incidents were “exceptionally unreliable” as they were biased and their work was riddled with mistakes.<sup>13319</sup> The Prosecution responds that this is a broad allegation based on mis-characterisation of the evidence of the relevant witnesses.<sup>13320</sup> As already explained in relation to the sniping investigations<sup>13321</sup> and as will be seen below, in its analysis of the scheduled shelling incidents, the Chamber has considered and analysed a number of CSB Sarajevo and UN reports prepared on the basis of the investigative methods outlined above. These were produced by ballistics experts and/or criminal technicians who were, in most cases, on site soon after the incident and who used accepted ballistics methods to determine the direction of fire. They had access to the scene, contemporaneous information, and eye-witnesses, as well as general knowledge about the shelling in Sarajevo. Thus, the Chamber generally gave considerable weight to the CSB Sarajevo and UN reports when analysing the scheduled shelling incidents. In doing so, the Chamber was also cognisant of the shortcomings of the investigations conducted during the war, such as the difficulties faced by investigators working under threat of fire and their inability to determine the exact origin of fire. **(Anyway, that can not and must not be on the account of the President, nor it would be accepted in any court. #Any insufficiency in the investigations must be subject to the “in dubio pro reo” principle, since there was at least 50% of possibility that the Muslim side fired, or provoked by a mobile mortar, or so#!)** Whenever issues arose with respect to particular reports, they were considered by the Chamber in relation to each particular incident. Accordingly, while finding this type of

<sup>13313</sup> P1276 (Witness statement of Ekrem Suljević dated 9 February 2010), para. 34.

<sup>13314</sup> P1276 (Witness statement of Ekrem Suljević dated 9 February 2010), para. 34.

<sup>13315</sup> P1276 (Witness statement of Ekrem Suljević dated 9 February 2010), para. 34.

<sup>13316</sup> P1953 (Witness statement of Harry Konings dated 11 November 2010), paras. 14, 18; Thorbjorn Overgard, P2058 (Transcript from *Prosecutor v. D. Milošević*), T. 662.

<sup>13317</sup> P1953 (Witness statement of Harry Konings dated 11 November 2010), paras. 15–16; Thorbjorn Overgard, P2058 (Transcript from *Prosecutor v. D. Milošević*), T. 637–638. Fraser testified that he had reservations about UNMOs’ utility and their reports, as their reliability was dependent on their country of origin. *See* David Fraser, T. 8034–8036 (18 October 2010).

<sup>13318</sup> P1953 (Witness statement of Harry Konings dated 11 November 2010), para. 14. Thomas, testified that UNMOs in Sarajevo would investigate the number of people who were killed or wounded as a result of a particular shelling incident and that during this procedure an UNMO officer would personally see the victims either in hospital or in the morgue. *See* P1558 (Witness statement of Francis Roy Thomas dated 13 May 2009), para. 33. *See also* P1953 (Witness statement of Harry Konings dated 11 November 2010), paras. 16–17.

<sup>13319</sup> Closing Arguments, T. 47954–47959, 47989–47991 (2 October 2014).

<sup>13320</sup> Closing Arguments, T. 48056–48059 (7 October 2014).

<sup>13321</sup> *See* para. 3632.

evidence to be generally reliable and credible, the Chamber approached it with caution and as one piece of the puzzle assessed against the totality of evidence tendered in relation to each incident. **(The totality of evidence made of many unreliable, subjective opinions and perceptions, many “Adjudicated Facts” and 92bis evidences, a media pressure and a unilateral information given by the Muslim side. No “totality of evidence could replace and compensate a lack of proper investigation! Nothing dubious should concern with the Accused!)**

4010. As mentioned above,<sup>13322</sup> the Chamber heard from Prosecution investigator, Barry Hogan, who visited Sarajevo on multiple occasions and prepared various materials relating to the incidents listed in Schedule G of the Indictment.<sup>13323</sup> He visited the locations relevant to that schedule in the company of a victim or an eyewitness and used a GPS unit to produce an accurate reading of the position where the shells impacted.<sup>13324</sup> **(An incident site didn’t and couldn’t say anything about a firing site, unless all other investigative procedures are done! #Another question is: why Hogan, in his investigations after the war, didn’t invite the Serb side to participate in his investigations, and to tender possibilities and an accurate data#? #In a future UN missions that should be introduced a new rules: no unilateral investigations, no incomplete investigations! Otherwise, a small nations would see an UN involvement as a jeopardy#!)** These recordings were then used to produce a map depicting the incident sites.<sup>13325</sup> Hogan also recorded video footage of these visits, which show the individual eyewitnesses and/or victims indicating the location where they believed the shells landed, based purely on their own recollection of the incidents.<sup>13326</sup> **(#Their believes are not sufficient even for a site of impact, let alone for a firing site, direction and range#. As in the case of Kundo (Brijesce) there are too many arbitrary data and inaccurate evidence!)** As stated earlier, the Chamber has considered Hogan’s evidence and found that he was a reliable and truthful witness but that his mandate was limited to simply recording the locations of the incident sites. Thus, and for the reasons explained in more detail Section IV.B.1.b.II.C while accepting Hogan’s evidence as credible, the Chamber was aware of its limitations and of the fact that his activities were dependent on the recollections of others. **(A crucial limitations, but credibility is preserved, particularly if used on an account of the President!)**

4011. As noted above, the Chamber heard from three experts in relation to shelling in Sarajevo.<sup>13327</sup> For the Prosecution, Higgs conducted investigations into scheduled shelling incidents G.4, G.5, G.6, G.7, G.8, and G.19 looking at the alleged origin of fire, as well as the

<sup>13322</sup> See para. 3633.

<sup>13323</sup> Barry Hogan, T. 11192–11193, 11196–11205 (3 February 2011).

<sup>13324</sup> Barry Hogan, T. 11204–11205, 11230–11231, 11255 (3 February 2011). If multiple shells were involved in a particular incident, Hogan chose a particular impact site and took a reading from that position. See Barry Hogan, T. 11204–11205 (3 February 2011); P2190 (GPS locations for shelling and sniping incidents in Sarajevo).

<sup>13325</sup> Barry Hogan, T. 11204–11206 (3 February 2011); P2191 (Map of Sarajevo with scheduled sniping and shelling incidents).

<sup>13326</sup> Barry Hogan, T. 11207, 11232 (3 February 2011). These witnesses did not have access to their own prior witness statements or to other supporting material such as the original investigation reports or footage of an incident or its aftermath. Barry Hogan, T. 11288 (3 February 2011).

<sup>13327</sup> One of the Prosecution experts, Berko Zečević, testified about scheduled incident G.8 and the incidents involving modified air bombs. His evidence and credibility will be discussed below, in the section dealing specifically with scheduled incident G.8 and the section dealing with incidents involving modified air bombs, respectively.

military value of the target.<sup>13328</sup> He visited the relevant incident sites years after and due to the passage of time did not conduct any measured crater analysis or take photographs.<sup>13329</sup> Instead, at each site he looked at the general area and surrounding features, as well as the remnants of craters.<sup>13330</sup> He was provided the forensic data of the relevant BiH and UN investigation teams for each incident by the Prosecution, and then opined as to the appropriateness of their methodology and accuracy of their conclusions.<sup>13331</sup> **(#Unlike the Defense expert#! But when the Defence expert Poparic did the same, he wasn't accepted, since he didn't make his own investigation! The experts were supposed to check and question the results of already done investigations, but for the Defence experts there were different criteria!)** In doing so, he checked the information contained within the original investigation reports against photographs of the area and his own site visits.<sup>13332</sup> Higgs testified that, in the absence of grossly inaccurate facts, he had to believe that the original investigators described their methodology and findings honestly in their reports.<sup>13333</sup> **(Whether it was honestly put in their reports is not a question. #A question is whether they were able, and whether they did everything properly to get the most accurate findings, or not#. Here is not at a stake their honesty, but a liability of the President for some incidents. Having in mind the fact that the Muslim investigators belonged to the Muslim Government and the entire police fought on the frontlines, there was no chance for an unbiased and professional investigation. For that purpose it was "condition sine qua non" to have the other, Serb, side participating!)**

4012. The Accused argues that his expert witnesses identified deficiencies in Higgs' work.<sup>13334</sup> He also asserts that the basic methodology of Higgs' investigation was to trust the prior investigations conducted by either the BiH authorities and/or the UN.<sup>13335</sup> The Prosecution argues, on the other hand, that the entirety of the Accused's case in relation to shelling was "false, pretextual and invalid".<sup>13336</sup> **(But, what does it mean? It looks only as a #mere labelling of the opponent#! It is not a President's work being assessed and judged, but the work of the Prosecution experts. It would be as same as one would say to an opponent: "OK, I may be a thief, and maybe I had stolen your property, but you are a gay"! It is not sufficient if the Prosecution label the President, but to prove that the Defence expert findings about the Higs work are not accurate instead!)** The Chamber has analysed Higgs qualifications and testimony and is satisfied that he is an expert, as well as a reliable witness, and that his evidence about the operational use, technical and ballistic capabilities of mortars, and the methodology of crater analysis can be accepted as credible. The Chamber also found Higgs reliable and credible in relation to his evidence on a number of scheduled incidents alleged in the Indictment. However,

<sup>13328</sup> P1437 (Richard Higgs's Consolidated Report on Sarajevo Shelling Incidents, 13 March 2009), p. 1.

<sup>13329</sup> P1437 (Richard Higgs's Consolidated Report on Sarajevo Shelling Incidents, 13 March 2009), pp. 6–12, 18; Richard Higgs, T. 6005–6007, 6015, 6025 (19 August 2010).

<sup>13330</sup> Richard Higgs, T. 6006, 6025 (19 August 2010).

<sup>13331</sup> Richard Higgs, T. 5946 (18 August 2010), T. 6015, 6023–6025 (19 August 2010). See P1437 (Richard Higgs's Consolidated Report on Sarajevo Shelling Incidents, 13 March 2009), pp. 7–12, 18.

<sup>13332</sup> Richard Higgs, T. 6025 (19 August 2010).

<sup>13333</sup> Richard Higgs, T. 6007 (19 August 2010).

<sup>13334</sup> Defence Final Brief, para. 2387.

<sup>13335</sup> The Accused presented this argument during the testimony of Richard Higgs. See T. 6009 (19 August 2010). Subotić also asserted that Higgs' acceptance of the conclusions of an UN investigation was a sign of bias. See D3542 (Zorica Subotić's expert report entitled "Mortar Operations in Sarajevo Area in 1992–1995", 15 August 2012), p. 69.

<sup>13336</sup> Prosecution Final Brief, paras. 787–791.



already during trial, the Chamber made clear that Higgs' evidence is of a limited nature as it does not substantiate the findings of the original investigations, but simply appraises their methodology and the conclusions that were drawn.<sup>13337</sup> Indeed, the majority of Higgs' testimony was based on interpretations of reports compiled by the investigation teams during or immediately after the incidents in question occurred. Accordingly, Higgs' evidence was approached by the Chamber as merely one piece of the puzzle and, at times, as having relatively limited value in the Chamber's determination on the origin of fire in the incidents alleged. **(But when deliberate, the Chamber will forget what weight should be given to the Higgs' assessments of the investigating materials made by others. And when the Defence witness estimates all of them, will be discredited just like that! There should be explained why the Defence expert findings are not accurate, instead of labelling the defendant!)**

4013. Zorica Subotić visited the sites of the scheduled shelling incidents in and after 2010.<sup>13338</sup> She testified that the central axis method was the most accurate and reliable method to determine the incoming trajectory of a projectile, save for the use of specialised radar.<sup>13339</sup> Subotić's conclusions in relation to the scheduled shelling incidents were based on the investigations of the original investigators, such as the CSB or UNPROFOR, as well as witness testimony, footage and photographs relating to the incidents, documents and statements from previous trials before the Tribunal, and any physical traces that remained at the incident sites.<sup>13340</sup> When challenged on cross-examination as to her use of contemporaneous photographs to conduct her analysis and calculations, Subotić explained that contemporary technology allows for the angle from which a photograph was taken to be removed by computer analysis, which in turn allows for more precise measurements.<sup>13341</sup> However, Subotić did concede that there was a noticeable difference between *de visu* examination of mortar traces and what can be discerned from a photograph.<sup>13342</sup>

4014. The Prosecution argues that Subotić is of highly questionable credibility and that her analysis was the product of scientifically unsound methods, using secondary evidence, such as photographs and video footage, or degraded physical evidence.<sup>13343</sup> According to the Prosecution, she revealed an "extraordinary bias" in her analysis and her conclusions were implausible in the face of the totality of the Prosecution evidence.<sup>13344</sup> **(#What this "totality" was consisted of? It is not sufficient to say that the Defence witness was biased. Or a gay. Or an odd person. What is important is argument that can be checked at any time by any expert#. If there was no an accurate investigation that resulted in an doubtful conclusion, all "totalities" do not help, nor it would be accepted in any normal court! Also, it is not even close to a "totality" of evidence, because the Defence was prevented to**

<sup>13337</sup> Richard Higgs, T. 6008–6009, 6011 (19 August 2010). *See also* the Chamber's oral decision of 18 August 2010 on the time allocated for the cross-examination of Richard Higgs and the Accused's request to admit the underlying reports that Higgs relied on as source documents. Hearing, T. 5943–5944 (18 August 2010).

<sup>13338</sup> Zorica Subotić, T. 38363 (15 May 2013).

<sup>13339</sup> Zorica Subotić, T. 38357–38361 (15 May 2013).

<sup>13340</sup> Zorica Subotić, T. 38183–38184 (13 May 2013).

<sup>13341</sup> Zorica Subotić, T. 38362–38363 (15 May 2013).

<sup>13342</sup> Zorica Subotić, T. 38363 (15 May 2013).

<sup>13343</sup> Prosecution Final Brief, Appendix C, paras. 43, 46.

<sup>13344</sup> The Prosecution argues that Subotić got her facts wrong on a number of occasions, that she often made bare assertions and unfounded assumptions, and that she either disregarded or misinterpreted available evidence. *See* Prosecution Final Brief, Appendix C, paras. 43–46; Closing Arguments, T. 47727 (30 September 2014).

**bring about totality by depicting contexts, causes and consequences, and that helped the Prosecution to present only a piece of “totality”!) The Accused argues in response that Subotić based her analysis on the “laws of physics” and the ballistic characteristics of the weapons involved in the incidents.<sup>13345</sup> Further, according to the Accused, the “advocacy” arguments made by the Prosecution in relation to Subotić’s credibility could not make up for the lack of evidence or override the laws of physics.<sup>13346</sup> **(Certainly! It doesn’t matter how a baker looks like, the main issue is whether his bread is OK!)****

4015. Having analysed both Subotić’s expert report and her testimony on the various scheduled shelling incidents alleged in the Indictment, the Chamber notes that she often advanced theories of her own to neutralise the Prosecution evidence, some of which strained credulity and others which were blatantly misleading.<sup>13347</sup> In some instances on cross-examination, Subotić was also evasive and would sidestep questions.<sup>13348</sup> Ultimately, as will be seen from the Chamber’s analysis in relation to each scheduled shelling incident, the Chamber found that in many instances Subotić’s evidence was compromised by her partisanship. Accordingly, it has found her evidence to be of limited value.

*c. Scheduled shelling incidents*

4016. The Prosecution submits in its Final Brief that all scheduled shelling incidents constituted acts of violence directed against the civilian population or individual civilians not taking direct part in hostilities, including indiscriminate and disproportionate attacks.<sup>13349</sup> In addition, it alleges that in all of the incidents the impact locations were within civilian, residential, or commercial areas; that there were no ongoing combat activities in the vicinity at the time of the incidents; and that the shelling in question had no military purpose.<sup>13350</sup>

4017. As was the case in the section of the Judgement dealing with sniping incidents, each scheduled shelling incident is discussed below according to the broad geographical area of Sarajevo where it took place.

*i. Scheduled Incidents G.1 and G.2*

**4018.** The Indictment alleges that from on or about 28 May 1992, the city of Sarajevo was heavily shelled, damaging and destroying civilian targets, causing the deaths of several civilians and injuring others.<sup>13351</sup> In its Final Brief, the Prosecution describes Scheduled Incident G.1 as a “24-hour bombardment of the entire city of Sarajevo on 28–29 May 1992”.<sup>13352</sup> **(And this is #another name for the Vase Miskina incident. Since it was too weak, the Prosecution is trying to introduce it through the window#, to smuggle it illegally, because through the door it can not survive. Meanwhile the President was in**

<sup>13345</sup> Defence Final Brief, paras. 2387, 2391.

<sup>13346</sup> Defence Final Brief, para. 2391.

<sup>13347</sup> See e.g. discussion on Subotić in relation to Scheduled Incidents G.4, G.5, G. 7, and G.13.

<sup>13348</sup> See e.g. Zorica Subotić, T. 38458 (16 May 2013).

<sup>13349</sup> Prosecution Final Brief, Appendix C, para. 40.

<sup>13350</sup> Prosecution Final Brief, Appendix C, paras. 40–41.

<sup>13351</sup> Indictment, Scheduled Incident G.1.

<sup>13352</sup> Prosecution Final Brief, para. 640. See also Prosecution Final Brief, paras. 727–728.

**Lisbon on the conference, and needed some time to lend in Belgrade, and then to reach Pale by ground way, in a car. The United Nations have several documents confirming their suspicions that the bombardment of Vase Miskina street was done by the Muslim forces, aimed to interrupt the Lisbon Conference that was resumed on the basis of the 18 March Agreement!)**

4019. The Indictment also alleges that from on or about 6 June 1992, another massive bombardment of the city was carried out with a variety of artillery fired from positions all around the city, and that as a result of this bombardment, civilian targets were damaged and destroyed and a number of civilians were killed and wounded.<sup>13353</sup> In its Final Brief, the Prosecution describes Scheduled Incident G.2 as the “second massive bombardment of the city centre on or about 6 June 1992”.<sup>13354</sup>

4020. The Accused challenges the vagueness of Scheduled Incidents G.1 and G.2 and argues that the Indictment fails to define the geographic and temporal scope of these incidents.<sup>13355</sup> In relation to Scheduled Incident G.1, the Accused first submits that the only incident which took place on 27 May 1992 was the shelling of Vase Miskina street and presents arguments to the effect that there is no evidence that the shelling was done by the Bosnian Serb Forces.<sup>13356</sup> Second, the Accused challenges the Prosecution’s allegations that Mladić ordered indiscriminate shelling of Sarajevo and the “alleged civilian neighbourhood of Velešići” on 28 and 29 May 1992, referring to two intercepted conversations.<sup>13357</sup> Further, the Accused submits that even if Mladić had ordered the shelling of Velešići, this shelling would not have been illegal because the area concerned had a heavy concentration of ABiH military hardware and personnel.<sup>13358</sup> **(Particularly since #Mladic asked whether his subordinate had marked targets in Velesici, which meant inevitably a military targets#! See the same intercept, a few lines below!)** In relation to Scheduled Incident G.2, the Accused argues that around 6 June 1992, ABiH initiated infantry and artillery attacks against Serb positions around Sarajevo such as Grbavica and Vraca, and that the combat operations on the part of the SRK were directed at repelling these attacks.<sup>13359</sup> **(This was not an ordinary or usual attack, but the biggest offensive on the Serb Sarajevo from the beginning of the war. #A very massive offensive, with hundreds of combat casualties, as will be seen from the Muslim genuine documents!#)**

4021. The Chamber notes that in May 1992, about 800 to 900 JNA personnel and their family members were stationed in the Jusuf Džonlić Barracks, the Maršal Tito Barracks, and the Viktor Bubanj Barracks.<sup>13360</sup> There were plans by the JNA to evacuate these soldiers and

<sup>13353</sup> Indictment, Scheduled Incident G.2.

<sup>13354</sup> Prosecution Final Brief, para. 728. The Prosecution also describes Scheduled Incident G.2 as “another massive and indiscriminate shelling of the city”. See Prosecution Final Brief, para. 640.

<sup>13355</sup> Defence Final Brief, paras. 1980, 1998–1999. The Accused submits that the impermissibly broad nature of Scheduled Incident G.2 prevents him from effectively refuting the allegations. See Defence Final Brief, para. 1999.

<sup>13356</sup> Defence Final Brief, paras. 1980–1994. However, as noted earlier, the mortar attack of 27 May 1992 in Vase Miskina street is outside the scope of Scheduled Incident G.1. See Hearing, T. 37992–37993 (9 May 2013). The Chamber recalls that the Accused himself submitted that the shelling of Vase Miskina street is not charged in the Indictment. See Hearing, T. 6394 (8 September 2010) (closed session). See also Accused’s Statement Pursuant to Rule 84 bis, T. 28867 (16 October 2012).

<sup>13357</sup> Defence Trial Brief, paras. 1995–1996 (referring to P1041 and D207).

<sup>13358</sup> Defence Trial Brief, para. 1997.

<sup>13359</sup> Defence Trial Brief, paras. 2000–2001.

<sup>13360</sup> [REDACTED]; P928 (Sky News report re Sarajevo, with transcript); P1478 (Ratko Mladić’s notebook, 27 May–31 July 1992), p. 36.

their families out of BiH but Bosnian Muslim forces blockaded all three barracks before they could be evacuated.<sup>13361</sup>

**(#That was an illegal action#! To block the civilians and pupils who didn't take part in combats? Also, the evacuation had been agreed between the Muslim leader Mr. Izetbegovic and the JNA Chief of Staff General Adzic in Skoplje!)**

As a result, on the basis of a proposal advanced by Mladić, Bosnian Serb military and political leaders discussed moving armed units northwards, from Grbavica all the way up to the Maršal Tito Barracks; this operation was intended to allow for the evacuation of the JNA personnel from the Maršal Tito Barracks.<sup>13362</sup>

However, the military operation did not materialise at that time, in part due to the refusal of Mićo Stanišić to have MUP forces participate in it.<sup>13363</sup> **(Not only because of that, but we wonder whether Stanisic was awarded by the Chamber for his refrain? But, let us see what the Serb side was undergoing in this very same Sarajevo, in front of all those internationals, who took care only about the Muslim attackers, while the Serb defenders were under their pressure. See D01218, of 15 May 92:**

During the attack on Ilidža on 14 May, ~~six~~ /inserted in handwriting: eight/ members of the Serbian forces were killed: Sava ANDIĆ, Zoran GAJIĆ, Dragiša JANJIĆ, Androš KOCIŠ and two unidentified soldiers. The following ~~50~~ /handwritten: 56 50/ members of the Serbian armed forces were wounded:

- |                      |                                |
|----------------------|--------------------------------|
| 1. Pero KOVAČ        | <del>20. Mladen</del> KNEŽEVIĆ |
| 2. Aleksa ŠUČUR      | 21. Ljubomir KOVAČEVIĆ         |
| 3. Slavko VULIĆ      | 22. Aleksandar BUGAREVIĆ       |
| 4. Nenad ŠTAKA       | 23. Dragan JOVANOVIĆ           |
| 5. Vaso KARABATAK    | 24. Duško RADOJEVIĆ            |
| 6. Relja BOSILJČIĆ   | 25. Rade ŠKOBO                 |
| 7. Dragan VUKOVIĆ    | 26. Dušan DUTINA               |
| 8. Milan VUKOVIĆ     | 27. Nebojša PRŽULJ             |
| 9. Mladen OKUKA      | 28. Đorđo VARAGIĆ              |
| 10. Brane KOJIĆ      | 29. Radenko PEROVIĆ            |
| 11. Mladen ŠTAKA     | 30. Ilija SPARAVALO            |
| 12. Mladen PINDŽO    | 31. Đuro MIJANOVIĆ             |
| 13. Relja VUJIČIĆ    | 32. Savo GRUJIĆ                |
| 14. Veljko KRAJIŠNIK | 33. Milan TOŠIĆ                |
| 15. Ratko ŠHOVAC     | 34. Simo BAŠIĆ                 |
| 16. Aleksa TOŠIĆ     | 35. Željko PLJEVALJČIĆ         |
| 17. Robert LOJANICA  | 36. Petar MADŽAREVIĆ           |
| 18. Branko KOJIĆ     | 37. Miladin DUTINA             |
| 19. Ratko AVRAM      | 38. Gojko RUDAN                |

<sup>13361</sup> [REDACTED]; P1478 (Ratko Mladić's notebook, 27 May–31 July 1992), pp. 17–18.

<sup>13362</sup> [REDACTED]; P968 (Interview with Jovan Tintor on Pale TV, 1 August 1994, with transcript), e-court p. 2.

<sup>13363</sup> [REDACTED].

39. Borislav GAVRIĆ
40. Željko RADOVIĆ
41. Srđan GOLIJANIN
42. Petar ILIĆ
43. Nebojša JANJIĆ
44. Dobrilo JOKANOVIĆ
45. Dobrica GLIGORIĆ
46. Boro JANJIĆ
47. Pero KUBURA
48. Vladimir PEJIČIĆ
49. Dragan POTPARA
50. /?KOČIĆ/

So, wasn't it enough to warn the Serb Army officers about the danger the Muslim attacks presented? When added the carnage of more than 230 helpless Serb civilians in Pofalici, just north from the Barracks, the picture of the war in Sarajevo looks quite opposite of what the Prosecution/Chamber painted! Anyway, it had nothing to do with the VRS, since there existed the JNA – Izetbegović Agreement on withdrawal of JNA, and the JNA could have conveyed a legitimate operation, justified by the Muslim refusal to let the cadets leave, as agreed with Izetbegović. There is a testimony on the subject, T.6292-93: Q. Thank you. Now, still on the subject of Sarajevo: In your written evidence, you spoke about discussions in May 1992 about a plan to split the city in the context of the extraction of JNA soldiers from the blockaded Marsal Tito Barracks. Do you remember that? A. Yes. Q. If you remember that, do you remember who came up with this plan? A. The idea was launched by Mladic, but later, when at a meeting, but not an official meeting - it was just a conversation and then people from political circles appeared - a discussion started about that. So I would call it the common idea of everybody that Sarajevo should be cut through at a certain place to liberate the people from the Marsal Tito Barracks. Q. If you remember that, do you remember who came up with this plan? A. The idea was launched by Mladic, but later, when at a meeting, but not an official meeting - it was just a conversation and then people from political circles appeared - a discussion started about that. So I would call it the common idea of everybody that Sarajevo should be cut through at a certain place to liberate the people from the Marsal Tito Barracks. **Therefore, the President's participation was only in an informal conversation, which resulted in a giving up the idea!**

4022. On 19 May 1992, Lieutenant-Colonel Janković of the JNA reported to Mladić that the ABiH was threatening the barracks and the JNA personnel inside; Mladić responded that if Jovan Divjak, a Serb General in the ABiH, attacked the Maršal Tito Barracks, Divjak “would sentence first himself and then [the] entire Sarajevo to death.”<sup>13364</sup> As noted earlier, on the same day, Šipčić was chosen by Mladić to be the new SRK Commander.<sup>13365</sup>

<sup>13364</sup>

P6070 (Intercept of conversation between Milosav Gagović, Janković, and Ratko Mladić, 19 May 1992), p. 2; KDZ185, T. 4347 (30 June 2010); Milosav Gagović, T. 31872–31873 (15 January 2013); Michael Rose, T. 7291–7292 (5 October 2010). Also on 19 May 1992, Mladić reassured Miloš Baroš, a JNA general at the Maršal Tito Barracks, by stating that “[a]nything they deprive you of, we will deprive Sarajevo of! If a bullet is fired at you, you will see what will be fired at Sarajevo.” See P5672 (Intercept of conversation between Miloš Baroš, Ratko Mladić, and Gagović, 19 May 1992), p. 2; [REDACTED]. Mladić spoke about retaliating against the city



4023. In a continued effort to evacuate the JNA personnel, some time between 20 and 28 May 1992, most probably in the last week of May, there was a meeting between, among others, the Accused, Mladić, Krajišnik, Plavšić, Koljević, [REDACTED] during which Mladić proposed to use “all the equipment and arms” available to “massively bombard Sarajevo”.<sup>13366</sup> **(However, there is no doubt that the #President was absent# during this period, and was in Lisbon, and there was no any meeting as described. As a matter of fact, in the Mladic’s book of schedule there is no any trace of such a meeting, and there is a data that on 19 May 92 the two of them spoke on telephone, and met for the first time only on 9 June or around the date! This is the case with many Prosecutor witnesses that are protected, or were in a risk to be indicted, to invent some evidence. It is well known that the Lisbon Conference lasted from 20 May till 27 May, when it was interrupted because of the staged explosion in Vase Miskina Street!! The Accused didn’t return to Sarajevo until 31 Maj, which is well documented! But, the Prosecution knows very well what is missing from their evidence, and they produce it together with their protected witnesses. This is a shameless manipulation and an end of the international justice! It is only a matter of time when other presidents of a small countries are going to undergo the same manipulation!)** [REDACTED] prior to this time, the Bosnian Serbs had selectively chosen targets that they considered to be military assets.<sup>13367</sup> [REDACTED].<sup>13368</sup> [REDACTED] the members of the Bosnian Serb leadership present at the meeting, including the Accused, did not oppose Mladić’s proposal.<sup>13369</sup> [REDACTED].<sup>13370</sup> Following the meeting, preparatory measures went on for 10 to 15 days; weapons were deployed, ammunition supplied, and targets selected.<sup>13371</sup> During that time, Mladić toured all of the artillery units deployed around Sarajevo and issued orders as to which weapons should be used.<sup>13372</sup>

4024. On 25 May 1992, Mladić informed an unidentified JNA officer that “[i]f a single bullet is fired [...] at Jusuf Džonlić barracks or Maršal Tito Barracks, or if a single soldier is wounded either at the front or in the barracks” he would “retaliate against the town”.<sup>13373</sup> He further stated:

Sarajevo will shake, more shells will fall on per second than in the entire war so far. [...] You can endure more than they can. It is not my intention to destroy the town and kill innocent people.[...] They should pull out the civilians, and if they want to fight we’ll fight. It would be better to fight in the mountains than in the town,

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of Sarajevo in other conversations with members of VRS. See e.g. P5693 (Intercept of conversation between Ratko Mladić and Potpara, 11 May 1992), pp1–2; P5657 (Intercept of conversation between Zdravko Tolimir, Ratko Mladić, and “Jerko Doko”, 24 May 1992), p.2. See para. 3557.

13365

13366

[REDACTED]. **However, this is all lie and false. First, there was no meeting at the said period; second, Mladic never suspended this witness, and had it happened, he wouldn’t be promoted, which happened after this date. So, this moment didn’t look to the Chamber as a distancing of the witness from any liability.**

13367

[REDACTED].

13368

[REDACTED].

13369

[REDACTED].

13370

[REDACTED].

13371

[REDACTED].

13372

[REDACTED].

13373

P1041 (Intercept of conversation between Ratko Mladić and unidentified male, 25 May 1992), p. 1; [REDACTED].

though.<sup>13374</sup> **(It is more than obvious that Mladic was encouraging somebody in the encircled barracks to stand the pending assault. Anyway, this is one of numerous examples that the Prosecution is allocating a words of others to the Accused. What does it have to do with the Accused? Did Gen. Mladic achieved his words? No!)**

4025. On the same day, during a meeting where Plavšić was also present, Mladić informed Wilson that if the JNA personnel in the military barracks around Sarajevo were not evacuated to safety within three days, he would “level the city.”<sup>13375</sup> Mladić also told UNPROFOR representatives that any discussion concerning the reopening of Sarajevo airport, the unblocking of the supply routes to Sarajevo, and the safeguarding of the chemical plants in Tuzla could only take place after the evacuation of JNA personnel and their families from the barracks around Sarajevo had been completed.<sup>13376</sup> Mladić added that international military intervention would only result in the destruction of Sarajevo.<sup>13377</sup> He then requested that Wilson convey his words to the BiH Presidency.<sup>13378</sup> Since Plavšić did not show any opposition, Wilson took this as a very serious threat and, afterwards, communicated Mladić’s message to the Presidency as well as to his own superior, General Nambiar.<sup>13379</sup> **(There was no such a meeting, and there was no such a words of Mladić), but anyway, even if there was all of it, why would Plavsic, or the Accused, oppose Mladic in a presence of others, including his subordinates? It never happens amog civilised people, and Mladic used to speak, as many other Serbs, in a strog terms, but there was no an action adequate to the words! Why in this Court some chattings, jokes, sayings or an outburst of anger are of more value that the official documents, which had been the only basis for the activities of the Army)**

4026. On 27 May, while in Lisbon, the Accused declared that the Bosnian Serb leadership was ready to open the airport to humanitarian flights on the condition that it functioned under the command and control of the UN until such time that its final status was determined by the interested parties at a peace conference to be convened in the future.<sup>13380</sup> On the same day, Bosnian Muslim forces attacked the Maršal Tito Barracks with, *inter alia*, rifles, hand-held rocket launchers, anti-tank weapons, and Molotov cocktails.<sup>13381</sup> **(So, it was known to the Chamber that the President was in Lisbon! But the Defence would point out the sentence of President Karadžić), pertaining to the Airport. Namely throughout the war the President kept saying that nothing will be decided by force, and everything will be**

<sup>13374</sup> P1041 (Intercept of conversation between Ratko Mladić and unidentified male, 25 May 1992), p. 1.

<sup>13375</sup> John Wilson, T. 3921–3922 (21 June 2010), T. 4053–4057 (22 June 2010); P1029 (Witness statement of John Wilson dated 4 November 2008), paras. 6–7, 72–73; P1040 (UNPROFOR report re meeting with Biljana Plavšić and Ratko Mladić, 25 May 1992), para. 2.

<sup>13376</sup> P1040 (UNPROFOR report re meeting with Biljana Plavšić and Ratko Mladić, 25 May 1992), paras. 2, 4, 6, 8.

<sup>13377</sup> P1040 (UNPROFOR report re meeting with Biljana Plavšić and Ratko Mladić, 25 May 1992), para. 3.

<sup>13378</sup> John Wilson, T. 4053–4054 (22 June 2010); P1040 (UNPROFOR report re meeting with Biljana Plavšić and Ratko Mladić, 25 May 1992), para. 2.

<sup>13379</sup> John Wilson, T. 4054 (22 June 2010).

<sup>13380</sup> P949 (Announcement of SDS leadership re Sarajevo airport and humanitarian supplies, 27 May 1992); Colm Doyle, P918 (Transcript from *Prosecutor v. S. Milošević*), T. 25299–25300. On 20 May 1992, the Accused travelled to Lisbon for about a week to attend the peace negotiations there. See Colm Doyle, P918 (Transcript from *Prosecutor v. S. Milošević*), T. 25299–25300.

<sup>13381</sup> P1478 (Ratko Mladić’s notebook, 27 May–31 July 1992), p. 24.

**appointed on the Conference. This devotion of President Karadžić and his closest associates to a political solution makes the war and fights completely senseless, and all the features of a civil war, such as a matters of return of refugees, a private property matters, and other – completely temporary, and not definite. Thus, #no possibility to do anything “permanently”, nor any military, or even political official could say anything else and keep it as real#!)**

**4027.** On 28 May 1992, at around 9 p.m., a JNA convoy which was withdrawing from the Jusuf Džonlić Barracks pursuant to an agreement between representatives from the FRY and the BiH Presidency was attacked by Bosnian Muslim forces; during this attack, a number of JNA officers were killed and several others were captured by the Muslim forces.<sup>13382</sup> That same day at 8:50 p.m., Bosnian Muslim forces attacked the Maršal Tito Barracks and Slaviša Vajner Čiča Barracks, as well as SRK positions in Hadžići, the Sarajevo airport, and the Jewish cemetery with, *inter alia*, anti-aircraft guns and mortars; as a result, two SRK soldiers were killed and a number were wounded.<sup>13383</sup> **(Therefore, #there was no any unilateral shelling by Gen. Mladic, but a fierce battle imposed by the Muslim forces in spite of an agreement#. The specific element was that the people concerned were civilian families and cadets, pupils of the military academy!)**

**4028.** In a conversation on 28 May 1992, Mladić enquired of Colonel Mirko Vukašinić whether he could reach Velešići and Baščaršija from his position in Hreša.<sup>13384</sup> Mladić then ordered Vukašinić to “[f]ire a salvo at Baščaršija” to which Vukašinić replied: “Yes, Sir!”<sup>13385</sup> In another conversation, also on 28 May 1992, Mladić ordered Vukašinić to fire at Velešići and Pofalići and added “there is not much Serb population there”.<sup>13386</sup> In the same conversation, Mladić ordered Vukašinić to continue firing “so that they can not sleep, that we roll out their minds”.<sup>13387</sup> Before the end of the conversation, Mladić ordered the firing of “one more salvo at the Presidency.”<sup>13388</sup> **(However, #Mladic asked whether his subordinate had marked the targets in Velešići#. Therefore, they understood each other, and they didn’t need to many words. See P01521:**

<sup>13382</sup> [REDACTED]; P1477 (Ratko Mladić’s notebook, 14 February–28 May 1992), p. 392; D207 (Intercept of conversation between Ratko Mladić and Potpara, 29 May 1992), p. 5; D2974 (Letter from Momčilo Krajišnik to Jose Cutileiro and others, 28 May 1992), p. 1.

<sup>13383</sup> [REDACTED]; P1477 (Ratko Mladić’s notebook, 14 February–28 May 1992), pp. 393–394; D574 (SRK combat report, 28 May 1992), para. 1.

<sup>13384</sup> P1521 (Intercept of conversation between Ratko Mladić and Mirko Vukašinić, 28 May 1992), p. 2; [REDACTED]. Veljović testified that no Serb bombardment of Baščaršija ever happened because Dragomir Milošević specifically prohibited it, given Baščaršija’s cultural and historic significance. See Stevan Veljović, T. 29230, 29279–29280 (23 October 2012). However, in light of the credible evidence that bombardment of Baščaršija did take place in 1992 and given the numerous contradictions in Veljović’s testimony, the Chamber rejects his assertion.

<sup>13385</sup> P1521 (Intercept of conversation between Ratko Mladić and Mirko Vukašinić, 28 May 1992), p. 3.

<sup>13386</sup> P1518 (Intercept of conversation between Ratko Mladić and Mirko Vukašinić, 28 May 1992); P470 (Witness statement of Ašida Fazlić dated 1 November 2008), paras. 1–6; D2 (Supplemental statement of Ašida Fazlić dated 22 April 2010), e-court p. 4. However, during a telephone conversation with Fikret Abdić on 29 May 1992, Mladić denied that the SRK had shelled the city on 28 May 1992, in particular Baščaršija and the Archive building. Mladić also complained that the Bosnian Muslim forces had attacked Kolonija, Pofalići, the Viktor Bubanj Barracks, and the Jusuf Džonlić Barracks. The two interlocutors then accused each other of breaking cease-fire agreements in the previous weeks and insisted that their forces were only firing after having been fired upon first. Abdić cautioned Mladić against responding with disproportionate fire. Mladić in turn insisted that Abdić’s forces return equipment and vehicles which they confiscated from the Jusuf Džonlić Barracks and that his forces allow peaceful evacuation of the Maršal Tito Barracks. See P5663 (Intercept of conversation between Ratko Mladić and Fikret Abdić, 29 May 1992), pp. 1, 4–15, 20–21. In light of the vast body of accepted evidence to the contrary, the Chamber is of the view that Mladić’s denials as to the shelling of Sarajevo on 28 May 1992, which was unfolding as the conversation was taking place, did not reflect the situation on the ground.

<sup>13387</sup> P1518 (Intercept of conversation between Ratko Mladić and Mirko Vukašinić, 28 May 1992).

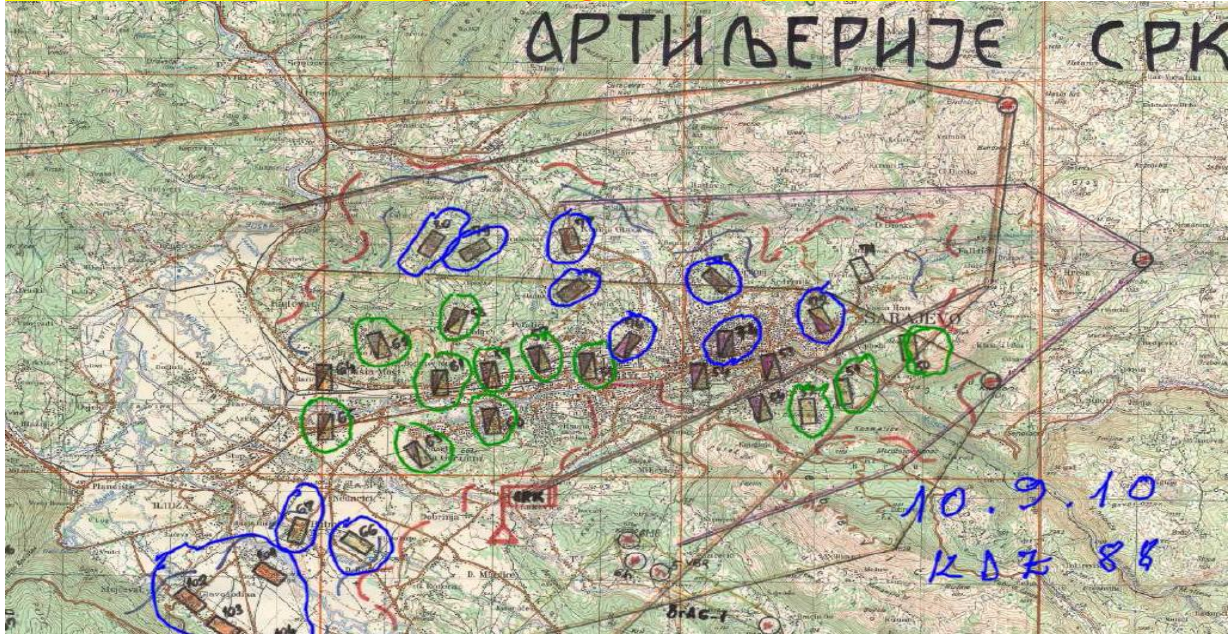
<sup>13388</sup> P1518 (Intercept of conversation between Ratko Mladić and Mirko Vukašinić, 28 May 1992).



12 RM: Do not shell the barracks. Can you reach Velušići?

16 RM: Do you have a gun pointed at some target there?

(So, Mladic meant "targets" which means a legitimate targets. As we remember, there is an admitted map, with marked legitimate targets in the city, see D00581!



This is #the most convincing evidence against all the allegations about a discriminatory fire#. The marked spots were the legitimate military targets, but the international observers never knew anything about this deployment of the Muslim high calibre armament! And, let us see how an order to the artillery crews looked like, see D00586:

Prevent enemy attacks from Sarajevo aiming to lift the blockade of Sarajevo by firing on the following sectors: Humsko Brdo, Pofalići, Velešići, Jarčedoli, Čolina Kapa, Brijesće village, Stup, Alipašino Polje, Mojmiло hill.

(Look at that: on these locations on the outscerce of the City there are a firing places of the Muslim (ABiH) artillery, including Velešići, and tanks which fired to the Serb parts of the City from Kosevsko brdo, and the villages Bare and Betania!

3.2. A KPOOd /Corps Anti-Armour Detachment/ from the 4<sup>th</sup> mpoap. Detachment commander, 4<sup>th</sup> mpoap commander

Task: To prevent enemy armoured and mechanised forces from breaking through at the focus of the Corps' defence.

"A breaking through" of the Muslim forces towards the Serb parts of the city and the defence positions of the SRK was imminent and a defence had been envisaged!

Support the counter-attack of our forces by engaging in fire along the following axes: Trebević - Čolina Kapa - Bistrik; Radava - Pionirska Dolina; Rajlovac - Brijesće; Vogošća - Ugorsko - Kobilja Glava.

Support the offensive by engaging in fire along the following axes: Faletići - Zmajevac, Mrković - Breka, Mojmiло - KMT /Maršal Tito Barracks/ - Hum, Boriја - Bašćaršija.

(There is no doubts: Velešići was a militarised area, from which the SRK expected

**attacks! Second, all of these localities are the mainly uninhabited hills around Sarajevo, and the vast majority of shells fell there, not in the city. Third: all of this elements in this preparatory order are strictly DEFENSIVE, and not offensive!**

Neutralise the enemy artillery by firing on the following sectors: Velešići, Pofalići, Bistrik (the transit tunnel), Koševo hill – Bare.

Neutralise enemy tanks by firing on the following sector: Koševo hill and Bare village, Betanija village.

d) Adjust fire with the basic weapons of batteries at targets in the middle of the target sector.

In order to support the KPOOd, the KAG shall open fire from basic VPs /firing positions/ along the following axes: Ciglane – Kobilja Glava and Bistrik – Kozja Čuprija.

a) The basic POR /anti-tank sector/ in the Mali Glog, Zemanica and Njemanica sectors, the POP-1 /anti-armour position/ in the Biosko, Gradište and Hreša sectors.

b) Organise reconnaissance in the following sector: right Biosko – Breka, left Gradište – Bistrik.

c) T a s k s:

Prevent the breakthrough of armoured and mechanised forces towards Kobilja Glava and Kozja Čuprija bridge and be ready to destroy important solid features and fortifications (bunkers).

**(As it can be seen, it was going to be a lot of fire, all of them flying over the city. However, none of the shells were to fall in the urban area, all of them were directed towards the surrounding hills, to the Muslim military positions!)**

4029. Wilson testified that the shelling that began in the evening of 28 May in Sarajevo was “heavy even by Sarajevo standards”, widespread, and scattered around the city, but at the same time focused on the centre of the city and not related to any conflict on the confrontation line.<sup>13389</sup> Wilson also described it as a “heavy artillery bombardment” by the SRK, which to him was another example of an “undoubtedly disproportionate and indiscriminately directed fire” at the city, whereby there was no military value in the targets that were selected.<sup>13390</sup>

**(#Senseless and absurd!# the entire city was full of military legitimate targets! That is not true, there had been a lot of fire from both sides, as it can be seen from the documents pasted above. This is #something that had to be compared with the Law of war, particularly pertaining to a reprisals#. We do not see what was an immediate reason. Was it the Muslim threat to the families of the JNA officers, or what. In any case, this has nothing to do with the President! The side which initiate and conduct an offensive is dictating the development of events!)**

4030. At that time, Fadila Tarčin was 16 years old and living with her family in Širokača, a residential area on the southern side of Sarajevo which overlooks Stari Grad and Bistrik.<sup>13391</sup>

<sup>13389</sup> John Wilson, T. 3922 (21 June 2010).

<sup>13390</sup> P1029 (Witness statement of John Wilson dated 4 November 2008), paras. 51–52, 57. *See also* Savo Simić, T. 30076–30077 (12 November 2012) (agreeing that civilians were injured in this attack but arguing that the SRK was returning fire).

<sup>13391</sup> P498 (Witness statement of Fadila Tarčin dated 24 February 2004), paras. 1–3.



Tarčin testified that her home was not near any military positions; the barracks at Bistrik, located one and a half kilometres away, were the only military facility nearby, and the confrontation line was around one kilometre away.<sup>13392</sup> When the shelling began in the evening of 28 May 1992, Tarčin, her mother, and other relatives moved to the cellar and waited for the shelling to stop.<sup>13393</sup> After some two hours, for about a 20-minute period, the shelling abated.<sup>13394</sup> However, just after midnight, shrapnel came through the cellar door, injuring Tarčin's right foot and bruising her left knee.<sup>13395</sup> Tarčin waited in the cellar until 4:30 a.m. for the shelling to stop.<sup>13396</sup> At around 5 a.m., a neighbour took her to the Koševo Hospital where they fitted a cast for her right leg; there she remained for two days.<sup>13397</sup> When she returned from the hospital, she could see that the shell which had wounded her had caused extensive damage to three houses in the neighbourhood.<sup>13398</sup> On 28 May 1992 and throughout the rest of the war, Tarčin's "neighbourhood remained under constant shelling", and her house was hit twice more with projectiles.<sup>13399</sup>

4031. Shortly after midnight during the night of 28 May 1992, Ašida Fazlić, an employee of the State Hospital who was living with her son and husband in a room at the same hospital, was severely injured in the head and leg by shrapnel from a shell that hit the third floor of the hospital as shelling of the city was well underway.<sup>13400</sup> **(Let us see what was said in D00207, an intercept of Mladic-Popara-Baros:**

24 P: It's calm at the moment, but there is a frequent activity from 1700 hrs until  
25 2000 hrs and six shells fell. A cadet was slightly wounded, injured.

**It is obvious that there was a #two-way fire#. Taking into account the evacuation of the Barracks, which went wrongly because the Muslim side attacked a helpless soldiers given and broken a guarantees, with casualties, and that was the two-way incident. Let us see further:**

9 RM: Be very cautious. They want to provoke....  
22 RM: Well, by the attacks on the barracks, they want to provoke us in order to open  
23 fire on the town.  
32 RM: Secondly, by their attacks on the barracks they are trying to provoke us to start  
33 opening fire on the town.

<sup>13392</sup> P498 (Witness statement of Fadila Tarčin dated 24 February 2004), paras. 2, 11.

<sup>13393</sup> P498 (Witness statement of Fadila Tarčin dated 24 February 2004), paras. 5, 7–8.

<sup>13394</sup> P498 (Witness statement of Fadila Tarčin dated 24 February 2004), para. 7.

<sup>13395</sup> P498 (Witness statement of Fadila Tarčin dated 24 February 2004), paras. 2, 7–9; P1991 (Stari Grad Police Station war diary), pp. 71–72.

<sup>13396</sup> P498 (Witness statement of Fadila Tarčin dated 24 February 2004), para. 9.

<sup>13397</sup> P498 (Witness statement of Fadila Tarčin dated 24 February 2004), paras. 9–10 (stating that to this day she cannot walk properly due to her injuries).

<sup>13398</sup> P498 (Witness statement of Fadila Tarčin dated 2 November 2008), paras. 2–3.

<sup>13399</sup> P498 (Witness statement of Fadila Tarčin dated 24 February 2004), para. 5.

<sup>13400</sup> P470 (Witness statement of Ašida Fazlić dated 1 November 2008), paras. 4–6; P1022 (Medical records for Ašida Fazlić), e-court p. 1. See also Adjudicated Facts 2883, 2884. For the next 16 months, Fazlić underwent a series of operations and stayed in the State Hospital. In November 1993, UNHCR evacuated her to Norway where she underwent three surgeries, including plastic surgery to replace the destroyed bone in the frontal region of her skull but post-surgery meningitis prevented her from undergoing all the other necessary operations. P470 (Witness statement of Ašida Fazlić dated 1 November 2008), paras. 8–10; P1022 (Medical records for Ašida Fazlić), e-court p. 3.

3 RM: You are to be very careful. If they continue with their attacks we will stop  
4 restraining. You have to find good shelter.

**So, if Mladic in some intercepts didn't mention the Muslim forces conduct, #it doesn't mean that Mladic attacked the city without any reason#. All should be investigated, and then concluded whether a law was violated! It was clear that the #Serb side refrained to the maximum while sustaining the Muslim fire, and the "observers" journalists and others that didn't know where the forces had been deployed, had "seen" these Muslim firings as a Serb one, being unaware that on the hills there were the Muslim positions too!)**

4032. Van Lynden arrived in Sarajevo in late May 1992 and was living on the top floor of the State Hospital from which he was able to film shelling throughout the city.<sup>13401</sup> He saw that the State Hospital had been targeted already and was badly "shot up"; he then personally witnessed the hospital being targeted by anti-aircraft guns at that time.<sup>13402</sup> While living in the hospital, Van Lynden found no indication that Bosnian Muslim forces were using the building or its immediate surroundings for military purposes.<sup>13403</sup> **(First of all, the marks on the Hospital which Van Linden noted were made by the initial attacks on the Hospital by the Green Berets, while the Hospital was the Military Hospital, owned by the JNA. Certainly, some of the floors had been abused for military purposes, but the main reason the fire was attracted was a Muslim armament in the nearest vicinity. There is an evidence in the file that just behind the Hospital there was a battery of mortars, and on the top of the Gorica Hill, just in the line with the top of the Hospital there was a howitzer!)**

4033. Velešići was also shelled at that time.<sup>13404</sup> It consisted mostly of private houses and 60% of its population was Muslim while the rest were Serbs.<sup>13405</sup> Two individuals were wounded in Pogledine and one in Močila due to shelling.<sup>13406</sup> **(#Military targets only#! The "private houses" hadn't been aimed at all, and only two persons wounded prove that. There were a very important military targets in Velesici, like: The Delta's Headquarters, and many other installations. There are many reports about firing against the Serb suburbs from Velesici! And Gen. Mladic asked directly his subordinate whether he had marked some targets in Velesici! If it was not a military target, but a civilian objects, there wouldn't be either this question, or a map with**

<sup>13401</sup> Aernout van Lynden, T. 2387–2394 (19 May 2010); P926 (Witness statement of Aernout van Lynden dated 26 February 2010), paras. 4, 31–32; P927 (Aerial photograph of Sarajevo marked by Aernout van Lynden).

<sup>13402</sup> P926 (Witness statement of Aernout van Lynden dated 26 February 2010), para. 31; Aernout van Lynden, T. 2392 (19 May 2010).

<sup>13403</sup> Aernout van Lynden, T. 2390–2391 (19 May 2010); P926 (Witness statement of Aernout van Lynden dated 26 February 2010), para. 33. *But see* the assertion of Savo Simić who was the Chief of artillery in the 1<sup>st</sup> Sarajevo Mechanised Brigade at the time that the ABiH's 1<sup>st</sup> Corps had mortar firing positions in the State Hospital which were used for attacking his brigade in May 1992, thereby rendering the hospital a legitimate military target. *See* D2412 (Witness statement of Savo Simić dated 4 November 2012), paras. 3, 16, 23; Savo Simić, T. 30074–30076 (12 November 2012). The Chamber, however, rejects Simić's assertion in light of its findings in Section IV.B.1.e: Hospitals in Sarajevo, and in light of his evasiveness and the contradictions that tainted his evidence on this point.

<sup>13404</sup> Almir Begić, T. 9956–9958 (15 December 2010); Dušan Škrba, T. 29141 (22 October 2012); P1522 (Intercept of conversation between Ratko Mladić and Potpara, 29 May 1992), p. 1.

<sup>13405</sup> Dušan Škrba, T. 29141 (22 October 2012); Almir Begić, T. 9956 (15 December 2010). While accepting that the Bosnalijek Factory was located just southeast of his home, Begić denied that it manufactured explosives during the war. *See* Almir Begić, T. 9979 (16 December 2010). *See also* D930 (Map of Velešići marked by Almir Begić).

<sup>13406</sup> P1991 (Stari Grad Police Station war diary), pp. 71–72. Considering that the Stari Grad Police Station war diary does not provide any information as to the status or the activities of these wounded individuals during the shelling, the Chamber is not convinced beyond reasonable doubt that they were civilians and, if so, that they were not taking direct part in hostilities at the time.

**marked targets!)** The shelling also inflicted extensive damage on the Old Town.<sup>13407</sup> **(#The JNA period#! This “finding” was founded on a statement of Wilson, and on a report about talks of UNPROFOR with the BH and the JNA delegations. First, it should be kept in mind that #President Karad`i} didn’t have any influence on the events at that time#, while the JNA was in BH. Further, it was well known that the Command of the 2<sup>nd</sup> Military District was in the Stari Grad, in Bostrik. Finally, the urban area of Stari Grad was just about 10% of the overall territory of the municipality of Stari Grad. The rest was mainly uninhabited space, partly under the Serb, anmd partly under the Muslim control. A reported shells were aimed at this uninhabited areas, which did have many military facilities and firing positions. If it happened that the urban area of Stari Grad was hit as suggested, since it was built up during the Otoman times, there would be no a stone over a stone, but the whole world would see a pictures like in Dresden or Alepo! That was very easy to cheat the Chamber!)** In Vratnik, one person was killed, two houses caught fire, and a number of housing facilities and passenger vehicles were damaged.<sup>13408</sup>

**4034.** On 29 May 1992 at around 8 a.m., Wilson met with General Bošković, Colonel Čađo, and Lieutenant Colonel Janković, all from the JNA, who told him that Mladić had ordered the firing of artillery rockets and mortars in response to an attack on Lukavica by the Bosnian Muslim forces.<sup>13409</sup> According to Wilson, during the meeting, the JNA commanders sought to dissociate themselves from the shelling of the city and expressed their disapproval, noting that Mladić was acting independently of the JNA.<sup>13410</sup> Later, a BiH delegation joined the meeting to discuss the evacuation of the JNA barracks and played a taped radio intercept from the previous night, showing that Mladić personally directed artillery attacks on the city.<sup>13411</sup> **(Certainly, that was #all about the JNA and it’s withdrawal#, and this has nothing tho do with President Karad`i}!)**

**4035.** On the same day, Mladić informed Potpara, an artillery officer from the JNA, and Baroš that the attacks by Muslim forces on the barracks had been intended to provoke the Serbs to open fire on Sarajevo.<sup>13412</sup> Mladić then advised Potpara to be careful and act with restraint.<sup>13413</sup> **(#EXCULPATORY#!)** However, Mladić also told Potpara and Baroš that if the attacks by Muslim forces continued, he would no longer show restraint and would shell

<sup>13407</sup> P1029 (Witness statement of John Wilson dated 4 November 2008), para. 76. See also P1042 (UNPROFOR report re conversations with BiH and JNA delegations, 29 May 1992), paras. 1–3.

<sup>13408</sup> P1991 (Stari Grad Police Station war diary), p. 72. As with the wounded individuals mentioned in fn. 13406, the Chamber is unable to find beyond reasonable doubt that the person killed during this shelling was a civilian and, if so, that he was not taking direct part in hostilities at the time.

<sup>13409</sup> John Wilson, T. 3909–3910, 3923–3924 (21 June 2010); P1029 (Witness statement of John Wilson dated 4 November 2008), para. 76; P1042 (UNPROFOR report re conversations with BiH and JNA delegations, 29 May 1992), para. 3.

<sup>13410</sup> John Wilson, T. 3924 (21 June 2010); P1029 (Witness statement of John Wilson dated 4 November 2008), para. 76; P1042 (UNPROFOR report re conversations with BiH and JNA delegations, 29 May 1992), paras. 3, 6. See also P1478 (Ratko Mladić’s notebook, 27 May–31 July 1992), p. 18 (suggesting that there was a rift between the Serbian and Bosnian Serb contingents); P5663 (Intercept of conversation between Ratko Mladić and Fikret Abdić, 29 May 1992), p. 10 (indicating that Mladić did not see himself as belonging to the Serbian military or state).

<sup>13411</sup> John Wilson, T. 3924 (21 June 2010); P1029 (Witness statement of John Wilson dated 4 November 2008), para. 76; P1042 (UNPROFOR report re conversations with BiH and JNA delegations, 29 May 1992), paras. 4–6.

<sup>13412</sup> D207 (Intercept of conversation between Ratko Mladić and Potpara, 29 May 1992), pp. 2–3; P1478 (Ratko Mladić’s notebook, 27 May–31 July 1992), p. 24.

<sup>13413</sup> In the same intercepted conversation, Mladić informed Potpara and Baroš that the conversation was being intercepted by Bosnian Muslims. See D207 (Intercept of conversation between Ratko Mladić and Potpara, 29 May 1992), pp. 2–3.

Sarajevo.<sup>13414</sup> **(#Certainly, he didn't order any shelling of the civilian targets!#)** Later that day, Mladić asked Potpara where there had been shelling and Potpara replied “towards the tobacco factory [...] Pofalići.”<sup>13415</sup> Mladić also asked Potpara whether Velešići had been shelled and after receiving an affirmative answer, commented that there will be more shelling there.<sup>13416</sup> In the same conversation, he asked if Potpara had “the means to fire at the station”.<sup>13417</sup> When Potpara responded that he did have the means, Mladić then ordered Potpara to fire.<sup>13418</sup> On the same day, Potpara reported to Mladić that his unit had returned fire towards “a museum, the hospital, and Crni Vrh” with 82 mm shells.<sup>13419</sup> **(#“Returned the fire”, legal and legitimate#!)** Mladić then ordered Potpara to fire at the railway station, “[a]nd scatter them around.”<sup>13420</sup> According to a regular combat report issued by the SRK Command on 29 May 1992, SRK units had used 70 shells of 60 mm calibre, 140 shells of 82 mm calibre, 272 shells of 105 mm calibre, and 131 shells of 120 mm calibre, as well as various other types of projectiles and bullets on that day.<sup>13421</sup> **(#If it was against a civilian targets, there would be many casualties, and many buildings ruined! Obviously, all of it was aimed at a different military targets#. A “Crni Vrh” is far from any settlement, as well as confrontation line over the hills were!)**

**4036.** On 30 May 1992, there were intense negotiation efforts to end the shelling of Sarajevo.<sup>13422</sup> Wilson met with Mladić in order to convey the Secretary General’s appeal to bring an end to it.<sup>13423</sup> During the meeting, Mladić stated that the Maršal Tito Barracks were under constant fire by Bosnian Muslim forces, maintained that he was simply defending the Serb people, and insisted that the JNA personnel be allowed to leave the barracks.<sup>13424</sup> **(That was it! #Not an action of the RS, but the JNA affair#! The JNA was entitled to save and secure it’s cadets, a young people that had been “hors de combat” and the JNA had been guaranteed by Mr. Izetbegović], the Muslim leader, the safe departure out of BiH!)** On the same day, around noon, Morillon met with Slobodan Milošević, to convey the Secretary General’s appeal to bring an end to shelling in Sarajevo and ask Milošević to exercise his influence over Mladić; during the meeting, Milošević stated that he disagreed with Mladić’s actions and that he had been trying to contact the Accused to see if the Accused could use his influence to stop the “bloody, criminal” bombardment.<sup>13425</sup> **(Neither President Milosevic,**

<sup>13414</sup> D207 (Intercept of conversation between Ratko Mladić and Potpara, 29 May 1992), pp. 4–8.

<sup>13415</sup> P1522 (Intercept of conversation between Ratko Mladić and Potpara, 29 May 1992), p. 1.

<sup>13416</sup> P1522 (Intercept of conversation between Ratko Mladić and Potpara, 29 May 1992), p. 1.

<sup>13417</sup> P1522 (Intercept of conversation between Ratko Mladić and Potpara, 29 May 1992), p. 2. The Chamber notes that it is clear from the context of the conversation that an error in the transcription of the conversation led to a number of statements by Mladić being attributed to Potpara and vice versa.

<sup>13418</sup> P1522 (Intercept of conversation between Ratko Mladić and Potpara, 29 May 1992), p. 2.

<sup>13419</sup> P1511 (Intercept of conversation between Ratko Mladić and Potpara, 29 May 1992); [REDACTED].

<sup>13420</sup> P1511 (Intercept of conversation between Ratko Mladić and Potpara, 29 May 1992). As noted earlier, Dušan Škrba, who was with the SRK during the war, testified that this was not a precise order. See para. 4000.

<sup>13421</sup> P1514 (SRK combat report, 29 May 1992), p. 2; [REDACTED]. The Chamber notes that while the translation of P1514 indicates that this combat report is dated 20 May 1992, the original version refers to 29 May 1992.

<sup>13422</sup> P1029 (Witness statement of John Wilson dated 4 November 2008), para. 81.

<sup>13423</sup> P1029 (Witness statement of John Wilson dated 4 November 2008), para. 77; John Wilson, T. 3924–3926 (21 June 2010); P1043 (UNPROFOR report re meeting with Ratko Mladić, 30 May 1992); P5050 (UN Press Release, 30 May 1992).

<sup>13424</sup> During the meeting, Mladić also requested that a meeting between the Accused and Izetbegović be arranged, as numerous Serb attempts to organise one had failed. The attendees then discussed the issue of the hand-over of JNA weapons to the BiH forces in return for de-blocking the barracks but Mladić stated that this deal was made with the JNA and not with him. See P1043 (UNPROFOR report re meeting with Ratko Mladić, 30 May 1992), paras. 2–4.

<sup>13425</sup> P1035 (UNPROFOR report re meeting with Slobodan Milošević, 30 May 1992), paras. 1–3; P5050 (UN Press Release, 30 May 1992).

**nor the UN officials could have contacted the #President, because he was in Lisbon, returning to Sarajevo only on 31 May#!)**

4037. Then, at around 2:30 p.m., Morillon met with the Accused and Koljević.<sup>13426</sup> During the meeting, the Accused told Morillon that he would be able to convince Mladić to agree to a cease-fire.<sup>13427</sup> The Accused also stated that the “Serb forces” were inexperienced and self-organised and therefore tended to over-react to attacks by the Green Berets; **(#Lack of professionals#! What the President said was the same what Col. Manojlovic wrote about the initial period of war in his assessment of the abilities of artillery department that he commanded, see: D312! The same document had been used against the President by the Prosecution, and the Chamber accepted it, although Manojlovi} only reported a real problems of lack of educated artillery operators. When President Karad`i} communicate the same information to the international interlocutors, he hadn’t been trusted!)** the Accused stated further that sometimes the Serbs were being blamed for attacks for which they were not responsible.<sup>13428</sup> It was agreed at the meeting that the Accused would be responsible for seeing Mladić in person in order to stop the bombardment and implement a cease-fire starting “Monday at 1800 hrs”.<sup>13429</sup> The Accused did not manage to see Mladić **(Because the Accused was still in Belgrade!)** but reached him by phone and the latter indicated that the bombardment would stop.<sup>13430</sup> On 30 May 1992, the SRK reported that its units had fired 20 shells of 120 mm calibre and 15 shells of 122 mm calibre that day.<sup>13431</sup>

4038. On 3 June 1992, discussions began between UNPROFOR representatives, the Bosnian Muslim leadership and the Bosnian Serb leadership, including the Accused, on the question of the opening and control of Sarajevo airport.<sup>13432</sup> On 5 June 1992, in a letter to José Cutileiro, the Accused asserted that despite the good will shown by the Bosnian Serb leadership in expressing their readiness to open Sarajevo airport, the Bosnian Muslims had threatened the lives of JNA personnel and their families who were present in the Maršal Tito Barracks and during the night, Bosnian Muslim forces had shelled residential areas of Sarajevo inhabited by Serbs.<sup>13433</sup> **(The Muslim forces were enabled to do whatever they wanted, because supported by the internationals, while the Serbs had been objected, criticised and accused for a merely legitimate responses!)**

4039. During the night of 5 June 1992, JNA personnel and their families, who had hitherto been blockaded inside the Maršal Tito Barracks, were finally evacuated to Bosnian Serb

<sup>13426</sup> P1029 (Witness statement of John Wilson dated 4 November 2008), para. 80; P1036 (UNPROFOR report re meeting with Radovan Karadžić and Nikola Koljević, 30 May 1992).

<sup>13427</sup> P1029 (Witness statement of John Wilson dated 4 November 2008), para. 80; P1036 (UNPROFOR report re meeting with Radovan Karadžić and Nikola Koljević, 30 May 1992), paras. 7–8, 11.

<sup>13428</sup> P1029 (Witness statement of John Wilson dated 4 November 2008), para. 80; P1036 (UNPROFOR report re meeting with Radovan Karadžić and Nikola Koljević, 30 May 1992), paras. 3, 5.

<sup>13429</sup> P1029 (Witness statement of John Wilson dated 4 November 2008), para. 80; P1036 (UNPROFOR report re meeting with Radovan Karadžić and Nikola Koljević, 30 May 1992), para. 11.

<sup>13430</sup> P1029 (Witness statement of John Wilson dated 4 November 2008), para. 80; P1036 (UNPROFOR report re meeting with Radovan Karadžić and Nikola Koljević, 30 May 1992), para. 15.

<sup>13431</sup> P1513 (SRK combat report, 30 May 1992), p. 3.

<sup>13432</sup> P1039 (UNPROFOR report re airport meetings in Sarajevo, 3 June 1992), e-court p. 1.

<sup>13433</sup> D333 (Radovan Karadžić’s letter to Jose Cutileiro, 5 June 1992). The Accused repeated this allegation to the UN Secretary General a few days later. See D1509 (Radovan Karadžić’s letter to UN Secretary General, 10 June 1992), p. 1.



positions; the JNA's heavy weaponry and ammunition was, however, left behind.<sup>13434</sup> Immediately after the completion of the evacuation of the JNA personnel, a number of Bosnian Muslims entered the barracks in order to take hold of the weaponry left behind by the JNA.<sup>13435</sup> Soon after, the barracks became the target of heavy artillery fire by the SRK.<sup>13436</sup> The intensity of the shelling forced the Bosnian Muslims who had entered the barracks to flee.<sup>13437</sup> **(A legitimate target! the VRS was strongly against leaving so many heavy calibre armament to the adversaries!)**

**4040.** At the same time, various neighbourhoods of Sarajevo were shelled, including the old city centre, Vratnik, Baščaršija, Logavina, Bistrik, Sedrenik, Vasin Han, and Hrid-Jarčedoli.<sup>13438</sup> **(That had already been within the Muslim offensive, and can not be considered #out of this context#! Gen Mladis had already informed the Corpses of the VRS about what is prepared by the ABiH, see: 6 June D232, see P998 of 7 June 1992:**

1. The enemy commenced a general offensive engaging its forces in the following axes: Zenica – Visoko – Ilijaš, Kiseljak – Blažuj, Kiseljak – Hadžići, Pazarić – Hadžići and Igman – Ilidža. It is concentrating its forces from areas of Srebrenica, Višegrad and Rogatice into Žepa area.

Its probable intentions are to de-block Sarajevo from the north and west and endanger the route Sarajevo-Sokolac-Zvornik, and create favourable conditions for possible negotiations regarding the separation of territory in the wide area of Sarajevo. Operation is to take place within next 5-6 days. Strong manpower potential is engaged in the abovementioned axes as well as armoured and mechanised equipment and artillery to a lesser degree.

**Therefore, nobody should #accuse only one side without a context#. Such a huge offensive required a huge defence too! See further:**

<sup>13434</sup> D577 (SRK combat report, 6 June 1992), p. 1; D333 (Radovan Karadžić's letter to Jose Cutileiro, 5 June 1992); P929 (Sky News report re Sarajevo, with transcript); P930 (Sky News report re Sarajevo, with transcript); Aernout van Lynden, T. 2405–2407 (19 May 2010), T. 2610–11 (21 May 2010); P926 (Witness statement of Aernout van Lynden dated 26 February 2010), paras. 52–58; D1509 (Radovan Karadžić's letter to UN Secretary General, 10 June 1992), p. 1; P2760 (SerBiH MUP performance report, April to June 1992), p. 3; D2667 (Witness statement of Ratimir Maksimović dated 14 December 2012), para. 66; Dragomir Milošević, T. 32558–32559 (23 January 2013); Milosav Gagović, T. 31865, 31872 (15 January 2013); D2738 (Witness statement of Milosav Gagović dated 7 March 2014), paras. 29–30.

<sup>13435</sup> P930 (Sky News report re Sarajevo, with transcript); Aernout van Lynden, T. 2599 (21 May 2010); P973 (Robert Donia's expert report entitled "Bosnian Serb Leadership and the Siege of Sarajevo, 1990–1995", January 2010), pp. 85–86; D2665 (Witness statement of Izo Golić dated 15 December 2012), para. 29; P6358 (Excerpts from transcript of 114<sup>th</sup> session of BiH Presidency, 9 June 1992), pp. 3.

<sup>13436</sup> P930 (Sky News report re Sarajevo, with transcript). The initial shells failed to hit the barracks, instead falling along the railway behind it. Subsequently, however, the shells hit the barracks, which then went up in flames. See P930 (Sky News report re Sarajevo, with transcript); P926 (Witness statement of Aernout van Lynden dated 26 February 2010), paras. 55, 58; Aernout van Lynden, T. 2405–2406 (19 May 2010).

<sup>13437</sup> Aernout van Lynden, T. 2599 (21 May 2010). The Chamber is not satisfied that the Bosnian Muslims who entered the barracks were civilians.

<sup>13438</sup> P930 (Sky News report re Sarajevo, with transcript); P926 (Witness statement of Aernout van Lynden dated 26 February 2010), para. 55–57; P1991 (Stari Grad Police Station war diary), pp. 77–80.

2. THE MILITARY OF SERBIAN REPUBLIC OF BH RECEIVED THE TASK TO USE OFFENSIVE ACTIONS WITH RESTRICTED AIM IN ORDER TO IMPROVE OPERATIONALLY-TACTICAL POSITION IN THE WIDE AREA OF SARAJEVO, IN NORTHERN AND WESTERN BOSNIA, AND AT THE SAME TIME TO MAINTAIN FIRM FRONT AT THE REACHED LINES OF BORDERING REGIONS OF SERB-HELD TERRITORIES AND TO PROTECT SERBIAN POPULATIONS FROM GENOCIDE AND EXTERMINATION.

**Therefore, #any Serb offensive action was aimed within a restricted objective, for the defence purpose#! Further:**

4. I DECIDED: DEFEND THE LINES ALREADY ATTAINED BY MEANS OF PERSISTENT AND ACTIVE DEFENCE, PREVENT INFILTRATION OF SABOTAGE GROUPS AND INFILTRATION OF ENEMY TROOPS IN THE MAIN DIRECTIONS. BY USING A PART OF OUR FORCES IMPLEMENT ACTIVE OFFENSIVE ACTIONS IN ORDER TO ČIŠĆENJE /MOP UP or CLEANSE/ THE TERRITORIES OF REMAINING GROUPS AND OF INDIVIDUALS BELONGING TO THE ENEMY. PROVIDE SECURE COMMUNICATION THROUGHOUT THE TERRITORY OF SERBIAN REPUBLIC OF BH AND SECURE CONNECTIONS WITH FRY.

THE GOAL OF THE ACTION:

- A) SECURE PARTS OF SARAJEVO WITH A MAJORITY SERBIAN POPULATION TO OČISTITI /MOP UP or CLEANSE/ THE WIDER AREA OF SARAJEVO AIRPORT AND OČISTITI /MOP UP or CLEANSE/ ITS WIDER AREA OF REMAINING GROUPS AND OF INDIVIDUALS BELONGING TO THE ENEMY, THUS ENSURING THE SAFETY OF AIRCRAFTS BRINGING IN HUMANITARIAN AID, AND RENDER POSSIBLE THE NORMAL SUPPLY OF FOOD AND MEDICATIONS TO THE CIVILIAN POPULATION.

**#General Mladi} ordered further defensive actions#, and it would be fair to have a complete sentences in the Judgment pertaining to the term “o~istiti”, because tha literally meant to cleanse it from the enemy’s groups and individuals. In addition, Mladi} ordered manitarian flights and normal traffics. Further:**

SARAJEVO – ROMANIJA CORPS SHOULD REGROUP IN SUCH AWAY TO OČISTITI /MOP UP or CLEANSE/ PARTS OF SARAJEVO. WITH A MAJORITY SERB POPULATION, / AS PRINTED/ IF POSSIBLE CUT IT OUT ALONG THE AXIS: NEĐARIĆI – STUP – RAJLOVAC, SECURE WIDER SECTOR OF THE AIRPORT SARAJEVO FOR SECURE LANDING OF AIRCRAFTS CARRYING HUMANITARIAN AID, AND OČISTITI /MOP UP or CLEANSE/ MOJMILO, DOBRINJA, BUTMIR AND SOKOLOVIĆ KOLONIJA OF REMAINING GROUPS. FURTHER, DE-BLOCK THE SARAJEVO –TRNOVO AND PALE-ZLATIŠTE COMMUNICATION, SECURING THE ROAD FROM GORAŽDE, ROGATICA AND ŽEPA. SECURE THE COMMUNICATION SARAJEVO – SOKOLAC – VLASENICA, ESTABLISH STRONGER COMMUNICATION WITH EAST-BOSNIAN CORPS.

Again, any “mop up” or “cleanse” pertained only to the groups of enemies. Red as it is in the Judgment, it was suggested that it pertained to “mop up” of civilians. However, there is a provision concerninh civilians, but the Chamber didn’t think it was worthwile to be mentioned, see:

MALTREATING OF CIVILIAN UNARMED POPULATION IS STRICTLY  
FORBIDDEN AND PRISONERS MUST BE TREATED PURSUANT TO GENEVA  
CONVENTION.

The way it was conducted in this court is far from “the whole truth, and this is not a fair! #Accusation of only one side out of context#! ) .

4041. On or about 6 June 1992, Bosnian Muslim forces initiated a military operation to “de-block” Sarajevo from the north and the west.<sup>13439</sup> On 6 June, Mladić issued Directive 1, informing the commands of the various VRS corps that Bosnian Muslim forces had launched a military operation in order to “de-block Sarajevo from the north and west”.<sup>13440</sup> With Directive 1, Mladić defined the immediate task of the VRS as using offensive action with a view to improving the operational and tactical position of the VRS in the wider area of Sarajevo and in northern and western Bosnia.<sup>13441</sup> More particularly, Mladić ordered the securing and mopping up of Serb-inhabited parts of Sarajevo, including Zlatište, Dobrinja, Butmir, Sokolović Kolonija, Mojmir, and the area around the airport, as well as the opening of the Sarajevo-Trnovo-Kalinovik communication line.<sup>13442</sup> On the basis of Directive 1, Šipčić ordered SRK units to, *inter alia*, continue to maintain the blockade of Sarajevo by barricading and reinforcing its positions, and to cut through the city by moving troops along the Nedžarići-Stup-Rajlovac axis.<sup>13443</sup> The Muslim offensive lasted several days and despite some early successes, was in the end neutralised by Serb infantry and artillery.<sup>13444</sup>

4042. On 6 June 1992, Zilha Granilo lived on Bjelave street, in the Bjelave neighbourhood of Sarajevo.<sup>13445</sup> She recalled that the whole city seemed to be shelled that day.<sup>13446</sup> Between

<sup>13439</sup> D577 (SRK combat report, 6 June 1992), p. 1; D232 (Directive 1, 6 June 1992), p. 1; P998 (SRK instructions, 7 June 1992), p. 1; P1498 (Order of 2<sup>nd</sup> Motorised Brigade, 8 June 1992), p. 1; P1478 (Ratko Mladić’s notebook, 27 May–31 July 1992), p. 128; P1038 (John Wilson’s report to Australian Government, 15 June 1992), para. 1.

<sup>13440</sup> D232 (Directive 1, 6 June 1992), p. 1.

<sup>13441</sup> D232 (Directive 1, 6 June 1992), p. 1.

<sup>13442</sup> D232 (Directive 1, 6 June 1992), pp. 2–4. During his testimony, Krajišnik, while casting doubt on the existence of a direct connection between the fifth Strategic Goal and Directive 1, stated that at the time, Serb areas around Sarajevo were disjointed and that the objective of Directive 1 was to link these areas together and to secure the roads that connected them. Krajišnik added that Directive 1 contained military instructions about the airport because the security of the airport had been compromised and the flow of humanitarian aid into the area interrupted. See Momčilo Krajišnik, T. 43798–43801 (19 November 2013). However, for reasons that have been given in paragraph 2902, the Chamber does not accept Krajišnik’s evidence on Directive 1 and its underlying basis. (How much Krajišnik was right, could be seen from the fact that the Serbs from Eastern Ilidza (Kasindo Hospital, Lukavica et. al.) had to travel to Western Ilidza, Hadzici, Rajlovac... all around, some 70 km, instead of 3 km. The Directive 1 didn’t have anything to do with a final solution, because a final solution was envisaged to be a political one, as it happened to be.

<sup>13443</sup> P998 (SRK instructions, 7 June 1992), pp. 1–2.

<sup>13444</sup> P1478 (Ratko Mladić’s notebook, 27 May–31 July 1992), p. 128; D195 (SRK Report, 8 June 1992), pp. 1–2; D611 (SRK Order, 11 June 1992), p. 1; D427 (Minutes of 23<sup>rd</sup> session of Government of SerBiH, 8 June 1992), p. 1.

<sup>13445</sup> P499 (Witness statement of Zilha Granilo dated 30 October 2008), para. 2; D123 (Map of Sarajevo marked by Fatima Zaimović); D731 (Map of Sarajevo marked by Alen Gičević).

4 and 5 p.m., she stopped to pick a few cherries in her yard on her way to the shelter in the basement of a nearby bank building.<sup>13447</sup> A shell fell into her neighbour's shed, 10 or 15 metres away from where she was standing.<sup>13448</sup> **(#Absurdity#! How come, there was an overall shelling, but she was standing out of her home? Is anyone of an opinion that she was aimed at?)** The impact threw her two or three metres away; shrapnel was lodged into her leg and back, and created a small puncture in her neck.<sup>13449</sup> A neighbour drove her to the hospital where she received treatment.<sup>13450</sup> **Let us see what the SRK Commander [ip~i] reported on the same day, 6 June 1992., D577:**

In the Hadžići sector, the enemy launched an attack from Kremnik, Batalovo Brdo, Plješevac and Oštrik.

After the Ilidža Brigade provided assistance in manpower and equipment, the attack was repelled, but the positions are under constant pressure. From the direction of Hrasnica, Kovači, Sokolović Kolonija and Butmir, the enemy fired artillery in the direction of Vojkovići, the airport and the SPS */Slobodan Princip Selfo/* Barracks in Lukavica. In the morning, the enemy fired artillery also on the general Trnovo sector. After the KMT */Maršal Tito Barracks/* pulled out, the enemy infantry attempted to penetrate the Grbavica – *Vodovod* – Dobrinja line with mortar support from the sector of *Viktor Bubanj* Barracks, Butmir settlement (the mosque) and Hrasnica. The enemy attack was repelled. During the day, the enemy shelled redeployment areas of the 1<sup>st</sup> Rbr */Romanija Brigade/* in the Vrace sector. During the day, grouping of enemy forces was observed in the MT */Maršal Tito/* Barracks, the railway station, *Tvornica Duvana*, the Assembly Building, and in the Kovačići */sector/* with the aim of

**( For such a situation the Serbs used to say: #“the hunters are after a wolf, but a foxes are nicking chicken!”# The same, SRK was under an overall offensive by the Muslim forces, and additionally under the criticism of the “international community”. Such a thing never happened so far under the auspices of the United Nations!**

**4043.** On the morning of 6 June 1992, Fatima Palavra, a 14 year old, and four members of her family, were sitting in the living room of her uncle's apartment, located on the top floor of a building known as “Papagajka”, on Hamdije Kreševljakovića street, in the Skenderija neighbourhood of Sarajevo.<sup>13451</sup> While looking at Miljacka River from the living room, Palavra suddenly saw a bright shining light, followed by an explosion which rendered her unconscious.<sup>13452</sup> Palavra regained consciousness in the children's surgical ward of the Koševo Hospital and saw that her sister was also there.<sup>13453</sup> Palavra had suffered shrapnel injuries to her right leg and temple and had undergone surgery.<sup>13454</sup> At the hospital, Palavra's uncle told her that the explosion had killed his partner and had injured the rest of the family members.<sup>13455</sup> As a result of the explosion, Palavra's uncle's apartment was completely

<sup>13446</sup> P499 (Witness statement of Zilha Granilo dated 30 October 2008), para. 3.

<sup>13447</sup> P499 (Witness statement of Zilha Granilo dated 30 October 2008), paras. 3-4.

<sup>13448</sup> P499 (Witness statement of Zilha Granilo dated 30 October 2008), para. 4.

<sup>13449</sup> P499 (Witness statement of Zilha Granilo dated 30 October 2008), paras. 4-5.

<sup>13450</sup> P499 (Witness statement of Zilha Granilo dated 30 October 2008), paras. 5-6. Granilo testified that her daughter Jasna Granilo, a member of the police at the time of the incident, was killed as a result of the shelling of Breka street, near the local commune office. See P499 (Witness statement of Zilha Granilo dated 30 October 2008), paras. 1, 6-7. Considering that Jasna Granilo was a member of the police and that the exact circumstances of her death in another shelling incident on that day are unknown, the Chamber is unable to conclude beyond reasonable doubt that she was not taking direct part in the hostilities when she was killed.

<sup>13451</sup> P497 (Witness statement of Fatima Palavra dated 30 October 2008), paras. 2-3, 5.

<sup>13452</sup> P497 (Witness statement of Fatima Palavra dated 30 October 2008), paras. 6-7.

<sup>13453</sup> P497 (Witness statement of Fatima Palavra dated 30 October 2008), paras. 7-8.

<sup>13454</sup> P497 (Witness statement of Fatima Palavra dated 30 October 2008), paras. 7-8.

<sup>13455</sup> P497 (Witness statement of Fatima Palavra dated 30 October 2008), para. 10.

destroyed.<sup>13456</sup> **(#The same street was a seat of many military infrastructure, headquarters and mortars#!)**

4044. On the same day, Ziba Avdić, and her husband, Muhamed, were at an apartment in a residential complex situated on Koševo Hill.<sup>13457</sup> There were no barracks, police stations or factories in the vicinity of this complex.<sup>13458</sup> **((#Military targets of the first class#! But #there were a mortar batteries, as we will point out in documents, and in a tunnel below the Kosevo Hill had a tank, which appeared on both ends of the tunnel, firing at the Serb positions, and retreating in the tunnel. This is well documented in the file of this case#!)** Avdić recalled that the shelling of her neighbourhood that day began at 8 a.m. and forced her and her husband to take shelter in the basement.<sup>13459</sup> The shelling abated for a period; as it got dark, however, Avdić saw that illumination flares were fired from the direction of Poljine.<sup>13460</sup> After this, two shells landed in the parking area in front of her building, setting a number of parked vehicles on fire.<sup>13461</sup> Muhamed and four other individuals from the building went outside to extinguish the fires.<sup>13462</sup> At 9:30 p.m., as these individuals were standing near the entrance of the building, a shell landed in front of them, killing some of them instantly and injuring Muhamed and some others.<sup>13463</sup> Muhamed and the other injured individuals were taken by the TO to a hospital; however, Muhamed died from his injuries later that evening.<sup>13464</sup> **(#Deadly combination#! What this Defence could do with these materials? Nothing! #This President didn't order, or allow anyone to act contrary to the law of war, on the contrary, had forbidden this kind of conduct many times#! Now, reading 92bis, what he can do, except to remind that it was a fierce offensive undertaken by the Muslim side? This is example of a unilateral presentation of events. Why would the Serbs fire any shell if there was no a Muslim offensive?)**

4045. On 7 June 1992, forces of the Vogošća Brigade shelled the UNIS towers and as a result, one of the towers was set ablaze.<sup>13465</sup> Filming the UNIS towers from the State Hospital which was about 200 metres away, Van Lynden did not see any outgoing fire coming from the towers.<sup>13466</sup> **(There was #no doubt about the military nature of these two towers#, and Van Lynden wouldn't see anything he wouldn't like to see. Anyway, why the Chamber is mourning over the towers, as if it was a hospital? It was an enterprise and served as a sniper nest, and enriched by mortars and recoilless cannons!)** He also did not see any Bosnian Muslim forces there during a visit to the towers with his film crew a few days earlier.<sup>13467</sup> What he could see and film with his crew on 7 June 1992 was machine gun fire directed at the lower part of the UNIS towers, coming from the south, which were positions

<sup>13456</sup> P497 (Witness statement of Fatima Palavra dated 30 October 2008), para. 11.

<sup>13457</sup> P500 (Witness statement of Ziba Avdić dated 31 October 2008), paras. 1, 3.

<sup>13458</sup> P500 (Witness statement of Ziba Avdić dated 31 October 2008), para. 1.

<sup>13459</sup> P500 (Witness statement of Ziba Avdić dated 31 October 2008), para. 3.

<sup>13460</sup> P500 (Witness statement of Ziba Avdić dated 31 October 2008), para. 4.

<sup>13461</sup> P500 (Witness statement of Ziba Avdić dated 31 October 2008), para. 5.

<sup>13462</sup> P500 (Witness statement of Ziba Avdić dated 31 October 2008), para. 6.

<sup>13463</sup> P500 (Witness statement of Ziba Avdić dated 31 October 2008), para. 7.

<sup>13464</sup> P500 (Witness statement of Ziba Avdić dated 31 October 2008), paras. 7–8.

<sup>13465</sup> Aernout van Lynden, T. 2408–2410 (19 May 2010); P931 (Sky News report re Sarajevo, with transcript); P926 (Witness statement of Aernout van Lynden dated 26 February 2010), para. 59; P1154 (Witness statement of KDZ088 dated 27–29 April 2010) (under seal), p. 82.

<sup>13466</sup> Aernout van Lynden, T. 2410 (19 May 2010); P926 (Witness statement of Aernout van Lynden dated 26 February 2010), para. 59.

<sup>13467</sup> Aernout van Lynden, T. 2474 (19 May 2010).



held by the SRK.<sup>13468</sup> Van Lynden also filmed the Parliament building being hit by artillery fire.<sup>13469</sup> **(#This is an example of wrong use of journalist for a purpose of Prosecutor. His Muslim hosts wouldn't take him and his crew in the towers without a preparation. What relevance is in what a foreign journalist had seen in his short visits to Sarajevo? Or, more appropriate: of what relevance is what this journalist didn't see?#)**

4046. On 8 June 1992, Fahra Mujanović and her four year old son were in the yard of their family house, situated in Barica which was a purely residential area very close to Sarajevo and in the vicinity of Žuč Hill.<sup>13470</sup> **((#Not purely residential area#, far from it! The Defence had already submitted a documents that rebut this assertion about a “purely residential area”. There was both, a mortar battery and a headquarter of the Patriotic League, later of an ABiH unit!))** Suddenly, an 82 mm mortar shell landed in the yard and exploded, lodging shrapnel in Mujanović's legs, left arm, back, chest, and head and throwing her across the yard, onto the ground.<sup>13471</sup> The shelling continued for another hour or so, preventing Mujanović's neighbours from coming to her aid; during this time, Mujanović who was lying on the ground, lost and regained her consciousness several times.<sup>13472</sup> Eventually, a female neighbour approached her and after changing her blood-soaked clothes, asked a young man to take Mujanović to Koševo Hospital in his car.<sup>13473</sup> During the ride from Barica to Koševo Hospital, the car was hit by sniper fire several times.<sup>13474</sup> At the hospital, Mujanović saw approximately 150 other people who had been admitted due to “terrible and shocking injuries” resulting from the shelling in and around Sarajevo on that day.<sup>13475</sup> She underwent surgery to remove the shrapnel from her body.<sup>13476</sup>

4047. The heavy shelling of the city continued well into the night of 8 June 1992.<sup>13477</sup> **(As well as the #Muslim offensive, which had been the most intensive on the same day, 8 June 92! All the reports of the UN, of the VRS and ABiH confirmed that fact#. The fire from the Serb side, being reactive, had been defined by the Muslim “heavy shelling” and a fierce offensive! See D195:**

<sup>13468</sup> P931 (Sky News report re Sarajevo, with transcript); P926 (Witness statement of Aernout van Lynden dated 26 February 2010), para. 59.

<sup>13469</sup> P931 (Sky News report re Sarajevo, with transcript).

<sup>13470</sup> P1865 (Witness statement of Fahra Mujanović dated 5 November 2008), paras. 4, 8; Fahra Mujanović, T. 8770 (1 November 2010). In April 1992, Barica had been regularly subjected to shelling from Serb-held positions in Žuč, Krivoglavci, Kromolj, Vogošća, Poljine, and Tihovići. See P1865 (Witness statement of Fahra Mujanović dated 5 November 2008), paras. 4–6, 8, 12; Fahra Mujanović, T. 8751–8752, 8761 (1 November 2010).

<sup>13471</sup> P1865 (Witness statement of Fahra Mujanović dated 5 November 2008), paras. 8–9; Fahra Mujanović, T. 8754–8756, 8765, 8767, 8770 (1 November 2010).

<sup>13472</sup> P1865 (Witness statement of Fahra Mujanović dated 5 November 2008), para. 9.

<sup>13473</sup> P1865 (Witness statement of Fahra Mujanović dated 5 November 2008), para. 10.

<sup>13474</sup> P1865 (Witness statement of Fahra Mujanović dated 5 November 2008), para. 10.

<sup>13475</sup> P1865 (Witness statement of Fahra Mujanović dated 5 November 2008), para. 12; Fahra Mujanović, T. 8756 (1 November 2010).

<sup>13476</sup> P1865 (Witness statement of Fahra Mujanović dated 5 November 2008), para. 11. Despite her surgery, many pieces of shrapnel were not removed and, as a result, Mujanović suffers from constant pain and recurring headaches. See P1865 (Witness statement of Fahra Mujanović dated 5 November 2008), para. 11; Fahra Mujanović, T. 8756–8757 (1 November 2010).

<sup>13477</sup> P931 (Sky News report re Sarajevo, with transcript); P932 (Sky News report re Sarajevo, with transcript).

1. In the course of the day, the enemy developed offensive operations from the town to the periphery. Special pressure was exerted in the directions: Kobilja Glava-Žuč, Boljakov Potok-Žuč and Han-Žuč. The enemy succeeded in taking the line /? northeast?/ from Rajlovac: Brijesko Brdo-Smiljevići -Uglješići. The attack was brought to a halt. In the afternoon hours, an attack was launched from the direction of Nahorevo towards Pionirska dolina and Betanija. The enemy succeeded in cutting the road at Trebević in the first /? Šumar/ sector. Attacks on all other parts of the front were unsuccessful. Vraca, Vojkovići, Nedžarići, Ilidža, Rajlovac and the firing positions of the Corps artillery group were fired on with artillery and mortars. We expect a strong attack on the airport in the course of the night.

The forces in the Vraca, Grbavica, Nedžarići, Ilidža, Hadžići, Rakovica and Ilijaš sector are defending themselves successfully. The 1<sup>st</sup> Sarajevo Mountain Brigade has achieved partial success in the area of Zlatište. The Vogošće Brigade has lost positions in the Žuč sector. For now, the forces on the Mojmiro water supply system are holding on to current positions. The position of the 2<sup>nd</sup> battalion of the 2<sup>nd</sup> /?Romanija Brigade/ was cut in the Trepevica sector /first ? Šumar/. We can only carry out firing manoeuvres. We have taken measures to secure the airport and against the enemy's further penetration towards the Rajlovačka Dokotlina.

3. A large number of houses in the Vraca sector were demolished.

**#This kind of a biased, unilateral depicting of the situation should have been forbidden forever, at least in the UN courts#!)**

4048. [REDACTED] around 1,000 to 1,500 members of the SRK bombarded Sarajevo during this operation<sup>13478</sup> and that the SRK used grenade launchers, 82 to 130 mm mortars, anti-aircraft guns, tanks, and multiple rocket launchers.<sup>13479</sup> Due to the nature of the weaponry and Sarajevo's dense urban environment, "[e]verything was being hit," including housing and accommodation buildings.<sup>13480</sup> **(Presented as such, without remarks that it was in a defence against a formidable Muslim offensive, it looks bad. But, #this kind of unilateral presentation doesn't increase the fairness of this trial, but quite opposite#!)**

4049. As a result of the shelling of Sarajevo between the night of 5 June and 8 June 1992, a number of civilians, including women, children and the elderly, were killed or seriously wounded.<sup>13481</sup> This shelling also caused extensive damage to civilian buildings and infrastructure, including the Music Academy, and a number of houses in Baščaršija.<sup>13482</sup>

<sup>13478</sup> [REDACTED].

<sup>13479</sup> [REDACTED]; P1029 (Witness statement of John Wilson dated 4 November 2008), para. 48.

<sup>13480</sup> [REDACTED].

<sup>13481</sup> Based on all the evidence before it, the Chamber was able to conclude beyond reasonable doubt that the following individuals were civilians and that they were not participating in hostilities when they were killed: Osman Kapetanović, Abdulah Ferhatović, Muhamed Avdić, Hasija Neimarlija (67 years old), and Emir Arnautović (17 years old). **(This makes 5 allegedly civilian casualties during the four days of a fierce fighting!)** Similarly, the Chamber was able to conclude beyond reasonable doubt that the following individuals were civilians and that they were not participating in hostilities when they were wounded: Fatima Palavra (14 years old), Ivan Oneščuk, Fahra Mujanović, Zilha Granilo, Jasmina Sandaktarević (13 years old), Nezira Mušić (80 years old), Vasvija Hodić (62 years old), Ismeta Bećirević, Fatima Hajdini (15 years old), Hikmet Maletović, Senada Meletović, Simo Petrović (64 years old), and Sabina Bećirević (10 years old). **(This makes 13 wounded people, allegedly civilian! BUT, THE ENTIRE RESPONSIBILITY WAS ON THE MUSLIM SIDE FOR INITIATING AND**

4050. On the morning of 9 June 1992, during a session of the BiH Presidency in which Izetbegović was also present, Halilović referred to the continuous shelling of the city by Serb Forces during the previous days and stated that the Serb side had 150 artillery pieces in its possession whereas the Bosnian Muslims had only ten pieces, of which only five functioned properly.<sup>13483</sup> **(#A REASON MORE NOT TO INITIATE AN OFFENSIVE FROM THE CITY! And to accept Sarajevo to be demilitarized AND PUT UNDER THE UN ADMINISTRATION, WHICH THE MUSLIM SIDE REJECTED!#)**

4051. On the same day, after a detailed discussion during a meeting of the Bosnian Serb Presidency, attended by the Accused, Plavšić, Krajišnik, Koljević, Đerić and Mladić, it was concluded that “the heavy artillery fire on the city [should] be halted”.<sup>13484</sup> The next day, the Accused conveyed to the Secretary General that he was ready to bring to a halt “any artillery fire around Sarajevo”.<sup>13485</sup>

4052. As noted earlier, the Accused challenges the vagueness of Scheduled Incidents G.1 and G.2. However, the Chamber considers that Scheduled Incidents G.1 and G.2 are geographically limited to the city of Sarajevo and temporally limited to a “24 hour bombardment” on 28 to 29 May 1992 and to a bombardment which began on or about 6 June 1992, respectively. Throughout the trial, the Prosecution limited the evidence it presented on these two Scheduled Incidents to those specific geographical and temporal frames. The Chamber therefore rejects the Accused’s argument in this regard. **(There was a lot of the intelligence data that the Muslim side prepared an offensive in many places in BiH. The same happened in Sarajevo, beginning in the middle May in Sarajevo, continuing on 27 May in Sarajevo and the Sana River Valley. Anyway, the Accused was in Lisbon as of 20 to 29 May 92, spending the day of 30 and 31 in Belgrade, and therefore didn’t have any influence on the events that had been crucially influenced by the JNA evacuation matters. (to see contemporaneous documents. But, it still wasn’t the VRS, since on 26 May Colonel Sipčić ordered re-forming of the previous TO units into the VRS units, as described in D00308, which couldn’t be done in such a short time. Here is a Regular Combat Report of the SRK on 27 May, comprising 26/27 May, D00573:**

On 26/27 May 1992, from 0100 till 0300 hours in the area of the *Željezničar* stadium – the *Pavlovića* motel (Kupreška, Sinjska and Varaždinska /streets/) the enemy opened heavy fire on our positions and units. This was small-arms fire.

**CONDUCTING SUCH A FORMIDABLE OFFENSIVE AGAINST THE SERB PARTS OF THE CITY!) See P1991 (Stari Grad Police Station war diary), pp. 77, 79–80, 82, 86; P497 (Witness statement of Fatima Palavra dated 30 October 2008), paras. 5–8, 10; P500 (Witness statement of Ziba Avdić dated 31 October 2008), paras. 3, 6–7; P499 (Witness statement of Zilha Granilo dated 30 October 2008), paras. 1–3; P1865 (Witness statement of Fahra Mujanović dated 5 November 2008), para. 12; P819 (Extracts from Fatima Zaimović’s diary), p. 3. On 7 June 1992, while at the morgue of Koševo Hospital, Van Lynden saw an eight or nine year old boy on a stretcher who had died from shrapnel wounds. See P926 (Witness statement of Aernout van Lynden dated 26 February 2010), para. 59; Aernout van Lynden, T. 2408–2409 (19 May 2010); P931 (Sky News report re Sarajevo, with transcript).**

<sup>13482</sup> P1991 (Stari Grad Police Station war diary), pp. 79–80, 82.

<sup>13483</sup> P6358 (Excerpts from transcript of 114<sup>th</sup> session of BiH Presidency, 9 June 1992), pp. 1, 3.

<sup>13484</sup> D428 (Minutes of 4<sup>th</sup> expanded meeting of Bosnian Serb Presidency, 9 June 1992).

<sup>13485</sup> D1509 (Radovan Karadžić’s letter to UN Secretary General, 10 June 1992), p. 1.

**And further:**

On several occasions, the enemy tried to provoke clashes in the areas of Mojnilo and the Aerodrom estate, opening fire from infantry weapons. Some movement of enemy forces was observed in the area of Dobrinja towards the Butmir airport. The enemy has occasionally attacked our forces in the areas of Trebević, Lapišnica and Crepoljsko. In the area of the Kaljina river, the Muslim population was noticed to be fortifying defence positions along the: Gire – Imamovići – Banja Lučica line, and in the area of Čeribašići – /illegible: Se...već/

**(As can be seen, during the night 26/27 May the #Muslim army initiated a multiple attack on the SRK positions#. To be clear, Trebevic is in a connection with Sirokaca, which is on the slope of Trebevic.**

**Let us see what the SRK Command wrote in it's RCR (regular combat report) on 28 May 92, D00574**

1. The enemy:

On 27 and 28 May 1992 the enemy fired from the area of Marijin Dvor, Pofalići, Holiday Inn and Veselići. They fired from 82 mm and 120 mm mortars and PAMs /anti-aircraft machine gun/. Large enemy groups spotted in the areas of Vase Miškina Street, Tobacco Factory, Dairy Plant and the Parliament building.

The enemy forces are fortifying in the area of Sokolović Kolonija.

**“Veselići” is as a matter of fact “Velesici” which can be checked in the original. Obviously, there was a fire from the places mentioned as the Serb targets. Let us see what the SRK Command decided to do with his Corps: D00574, p.2**

5. Problems continue in the POOB /Logistics Services/. Maintenance and reinforcement of materiel and ammunition are of special concern. Clothing for the soldiers and personnel reinforcements are also inadequate.

6. I have decided to continue to mobilise troops for the Corps units and at the same time hold our present positions.

Continue the reconnaissance in the direction of the wider area of Trnovo and Rogatica and prevent these roads from being blocked.

**(#Only one side depicted#! Reporting on 28 May 1992, the SRK Command reported about the development on 26 and 27 May. #There can not be a true picture if the conduct of both sides is not presented! Now, it is clear that the Chamber erred when “rejects the Accused’s argument in this regard”. And the explanation, namely that the Prosecution limited it’s arguments only on these two scheduled incidents is wrong. The Prosecution didn’t want to depict the entire picture, and this should not be awarded!)**

4053. The Chamber also recalls the Accused’s contention that any potential shelling of Velešići on 28 and 29 May and the combat operations by the SRK around 6 June 1992 were in any event lawful either because the areas that were targeted had a heavy concentration of ABiH military hardware and personnel or because there were ongoing Bosnian Muslim military attacks against the SRK. The Chamber first notes that any military action launched in response to military attacks by the opposing party should be directed at military targets and proportionate. In this regard, the Chamber notes that Scheduled Incidents G.1 and G.2 occurred in a purely urban setting where large concentrations of civilians and civilian buildings were closely intermingled with a number of military targets. **(#This can not be**

responsibility of the SRK#, because by intermingling their military targets with the civilian buildings is a grave violation of the Geneva Conventions by the Muslim side. Being aware of that, the Chamber shouldn't decide anything against the SRK, let alone against the Karadžić, who was the President, who didn't command in operational and tactical sense, and who was in Lisbon! According to which provisions the SRK was obliged to sustain such an intensive fire and losses, because the ABiH posed its armament close to civilians?) In this context, particular military prudence was warranted. Instead, as described above, the massive shellings conducted by the SRK on 28 and 29 May and around 6 June 1992 indiscriminately targeted entire civilian neighbourhoods of Sarajevo, without differentiating between civilian and military targets. (#Not established, a malicious allegation#! However, these assertions about indiscriminate "targeting entire neighbourhoods of Sarajevo, without differentiating between civilian and military targets" hadn't been established by an accurate, unbiased and professional investigation, but is based only on a fluid impressions of internationals hidden in their shelters, on the Muslim propaganda aimed to interrupt the Lisbon Conference, and on the basis of a media interpretations of media that already had been biased and anti-Serb oriented! The Prosecution and the Chamber mentioned the Muslim conduct reduced, so #to have an impression that the SRK shelled without any reason#. How possibly the local Serbs could risk not to respond, while their families were jeopardized by a possibility of a break-through of the Muslims into the Serb settlements. And in this case, there was no a commander or a political leader who was entitled to command not to respond. It must be kept in mind that there still were not a unique VRS, since the TO-s still existed, under the command of the locals, see D00308 of 26 May 92:

Pursuant to an order from superior Command, and in order that the organisational and establishment changes in the Corps and the organisation of the units operations in the zone of responsibility may be effected as effectively as possible,

#### I H E R E B Y O R D E R

1. Expand the current TO /Territorial Defence/ units of the Serbian Defence Forces of the Serbian Republic of BH and form them as follows:

a) Form the TO New Sarajevo Brigade from the territories of Grbavica, Hrasno, Vraca and Kovačići. The current commander will continue to be the Brigade Commander.

and so on, from a) till l) in article 1, and other necessary orders such as following:

Strictly prohibit unnecessary expenditure of ammunition and opening fire unless there are justifiable reasons for so doing.

Therefore, it is clear that the SRK was at the beginning of formation, so that it can not be said that the SRK existed even in 10% of a capacity required for a Corps. If the Commander Sipčić did everything required and envisaged by the law and international conventions, what the Accused could have done more?) [REDACTED]. Had this witness not be protected, and had the Prosecution disclosed his contemporaneous interview, this lie wouldn't survive. However, #there was no such a meeting in late May#, as can be seen from the fact that the Accused was in Lisbon, as well as there is no a trace of any meeting in the Mladić's notes-diaries. Further, contrary to the Accused's reliance on the intercepted conversation of 25 May 1992 between Mladić and the unidentified JNA officer to show that the shelling of Velešići was not indiscriminate, it is clear that in this conversation, Mladić declares that "Sarajevo will shake" with more shells fired than in the entire war so far, while at the same time acknowledging the urban context of Sarajevo and the presence of



civilians there. (#Appart from “the unidentified JNA officer” which was entirely out of the President Karad`i}’s competences and authorities#, this threat of Gen. Mladic, aimed to those in the ABiH who recorded his communications, doesn’t mean that Velesici were shelled indiscriminately and can not be used to conclude anything in general! It should have been proven that Velesici had been shelled indiscriminately regardless of what General Mladic said, or not said! This kind of a circumstantial deliberation is not correct!) Three days later, large parts of urban Sarajevo were indeed hit with heavy artillery fire. Further, even if initially launched in response to Bosnian Muslim attacks originating from specific locations in Sarajevo, the Chamber finds, relying in particular on the evidence of Wilson, that the shellings by the SRK on 28 and 29 May and around 6 June 1992 were carried out in a disproportionate manner. Accordingly, the Chamber rejects the Accused’s assertions in this regard. (#In what sense – disproportionate#? If an objective was to silence the Muslim Army weapons, it may be disproportionate, but if it was an objective to discourage the Muslim more numerous Army from an infantry attack, it may not be sufficient. The main fact is that the Muslim ABiH initiated all of those offensives, and the SRK defended it’s man power and territory, on which all the families of the very same combatants were living! And the way units were to defend themselves with regard to intensity and proportion, neither Wilson nor the Accused could have ordered to the attacked commander how to defend!)

**4054.** Based on the foregoing, the Chamber finds that from 28 May to 29 May 1992, in response to attacks by the ABiH, the SRK subjected the entire city of Sarajevo, including the largely Bosnian Muslim populated areas of Pofalići, Vratnik and Velešići to indiscriminate and disproportionate shelling and that as a result of this shelling, a number of civilians were injured, and various civilian buildings and structures, including the State Hospital, were extensively damaged or destroyed. (Finally, the Chamber was aware of a “response to an ABiH attack”. All other allegations about “indiscriminate” or “disproportionate” firing are nothing but a “nuances”, because it could only be established by an investigation, in terms where were the Muslim firing positions, and so on. Still, there is no connection with this Accused. Let us again see what the Muslim Commander Gen. Halilovic reported to the BH Presidency on 9 June, talking about 8 June and previous several days, P6358, p.4

During the combat yesterday, two tanks were captured, three guns, many infantry weapons, and a solid quantity of ammunition. Eleven personnel carriers were destroyed, 6 tanks, and other vehicles as well, so that is a large number.

**Halilovic reported what had been captured from the Serbs and SRK. Further:**

There are many dead and wounded on both sides. We still do not have the final count regarding the dead and the wounded, but the number is 40 dead and around 250 wounded on our side around, and on the other side, as far as we were able to count from the reports submitted by the municipal staff commanders, that number is around 320 dead and wounded, under the presumption that the number has been increased 100%, as usually the loses on the other side are increased, although that is an exceptionally large number of victims which will be, when this madness is over, can not be compensated, as everything else could be compensated, but that can not.

**#Why it was not of any interest of the Chamber that the SRK had such a high rate of loses, particularly having in mind the fact that the offensive was initiated by the Muslim side#? That is**

why the Serb side didn't have any interest in initiating any fire, because there was an inferiority in manpower on the Serb side! See what is said about Gen. Wilson:

In front of us lies putting into order these combat lines. Last night at 11 o'clock, Colonel WILSON asked first for the presidents and the ministers, and then he asked for me. I said that I do not have the authority to sign any ceasefires, but that in principle knowing the policy led, we are always for ceasefire, but the other side every time, the moment they sign it they violate it. And after consultations the escort came and conveyed to me the information that we could do that, but in a reasonable period of time – in an hour or two in order to inform the units.

#Since the Muslim offensive failed, Gen. Wilson offered his good services to bring about a truce! But it is of a great importance to see the #entire context#, and the Muslim intentions too. Let us see what is said in the D230, the ECMM weekly report:

3. The bread queue attack. The attack on the bread queue in Sarajevo caught international attention. On the strength of it Muslim delegates walked out of the peace conference in Lisbon. It must be emphasised that we know of no evidence that Serbs committed this attack. A Muslim attack with the aim of discrediting Serbs is also a real possibility.

We see from this exhibit, that the President was in Lisbon, that the incident in Vase Miskina was a #trick of the ABiH in a high probability#, that the Muslim leadership used the incident to break the conference. How possibly this kind of atmosphere in Sarajevo could be excluded from an overall picture, as the Chamber would like to say. It is obvious that the Muslim side prepared itself for an acceleration of events, which really appeared in the first week of June 92. It is not satisfactory that the Prosecution limits itself on several subsiding incidents, which had inevitably been crucially influenced by the Vase Miskina street incident.

**4055.** The Chamber also finds that between the night of 5 June and 8 June 1992, in response to an ABiH attack, the SRK subjected the entire city of Sarajevo, including the old city centre, Vratnik, Baščaršija, Logavina, Bistrik, Sedrenik, Vasin Han, and Hrid-Jarčedoli to indiscriminate and disproportionate shelling, as a result of which a number of civilians were killed or injured, and various civilian buildings and structures, including the Music Academy, were extensively damaged or destroyed. (Does the Chamber know how the Serb side went through this "ABiH" attack"? Wouldn't it be of an interest to see what the Serb side faced, and whether its response had to be decisive? Let us see what the Main Staff of the VRS knew at that moment, June 6, see D00232:

1. ACCORDING TO THE INFORMATION AVAILABLE TO US, THE ENEMY STARTED A GENERAL OFFENSIVE IN THE DIRECTION OF SARAJEVO, ENGAGING FORCES ALONG THE LINES: ZENICA – VISOKO – ILIJAŠ, KISELJAK – HADŽIĆI AND PAZARIĆ – HADŽIĆI. CONTROL IS BEING MAINTAINED IN THE AREA OF ŽEPA BY WEAKER FORCES AND BROKEN FORMATIONS FROM ROGATICA, SREBRENICA, ZVORNIK AND VIŠEGRAD. PROBABLY THE INTENTIONS OF THE ENEMY ARE TO DE-BLOCK SARAJEVO FROM THE NORTH AND WEST, AND TO ENDANGER THE COMMUNICATION: SARAJEVO – SOKOLAC - ZVORNIK. THE OPERATION IS INTENDED IN THE NEXT 5-6 DAYS IN ORDER TO CREATE FAVOURABLE CONDITIONS FOR POSSIBLE NEGOTIATIONS ABOUT DEMARCATION IN BROADER AREA OF SARAJEVO.

**As it is clear, the #VRS had information about a huge offensive prepared from several directions toward Sarajevo#.**

2. THE MILITARY OF SERBIAN REPUBLIC OF BH RECEIVED THE TASK TO USE OFFENSIVE ACTIONS WITH RESTRICTED AIM IN ORDER TO IMPROVE OPERATIONALLY-TACTICAL POSITION IN THE WIDE AREA OF SARAJEVO, IN NORTHERN AND WESTERN BOSNIA, AND AT THE SAME TIME TO MAINTAIN FIRM FRONT AT THE REACHED LINES OF BORDERING REGIONS OF SERB-HELD TERRITORIES AND TO PROTECT SERBIAN POPULATIONS FROM GENOCIDE AND EXTERMINATION.

**Now, we see the same task that M. Milovanovic said in his first interview with the Prosecution, D01598, what was the task given to the VRS by the political leadership: the same sentences, D01598, p. 5**

1. to protect the Serbian people from destruction in order to avoid a repeat of events that took place between 1941 and 1945,
2. to stay within Yugoslavia, or as an alternative to this, have our own state.

**#That is another proof that the political leadership didn't give to the VRS any political objective, since the leadership was devoted to the political solution and against any "*fait accompli*" # And here is what the Prosecution wanted to present as an ethnic cleansing, which was not, because it was specified only in one para. Not in all, that it pertained the remaining enemies to be cleansed. And all of it was on 6 June 92, in the eve of the**

**Muslim offensive (D00232):**

4. I DECIDED: DEFEND THE LINES ALREADY ATTAINED BY MEANS OF PERSISTENT AND ACTIVE DEFENCE, PREVENT INFILTRATION OF SABOTAGE GROUPS AND INFILTRATION OF ENEMY TROOPS IN THE MAIN DIRECTIONS. BY USING A PART OF OUR FORCES IMPLEMENT ACTIVE OFFENSIVE ACTIONS IN ORDER TO ČIŠĆENJE /MOP UP or CLEANSE/ THE TERRITORIES OF REMAINING GROUPS AND OF INDIVIDUALS BELONGING TO THE ENEMY. PROVIDE SECURE COMMUNICATION THROUGHOUT THE TERRITORY OF SERBIAN REPUBLIC OF BH AND SECURE CONNECTIONS WITH FRY.

Having in mind the enemy' objective and possibility, a great superiority in number of troops, and having in mind already seen cruelty of the enemy towards the civilians and even animals in the Serb villages – it is completely in the competence of the commanders on terrain to decide whether it would be sufficient to silent the enemy artilleries, to discourage the infantry attacks, or to destroy their artillery, or to block their infantry manoeuvres, General Mladic had every right to “desuade” them from any offensive, particularly taking into account what happened in Ilidza two weeks earlier!)  
Let us see what Mladic thought saying to mop up the area around the Airport (D00232):

THE GOAL OF THE ACTION:

- A) SECURE PARTS OF SARAJEVO WITH A MAJORITY SERBIAN POPULATION TO OČISTITI /MOP UP or CLEANSE/ THE WIDER AREA OF SARAJEVO AIRPORT AND OČISTITI /MOP UP or CLEANSE/ ITS WIDER AREA OF REMAINING GROUPS AND OF INDIVIDUALS BELONGING TO THE ENEMY, THUS ENSURING THE SAFETY OF AIRCRAFTS BRINGING IN HUMANITARIAN AID, AND RENDER POSSIBLE THE NORMAL SUPPLY OF FOOD AND MEDICATIONS TO THE CIVILIAN POPULATION.

Therefore, no confusion, it pertained to the enemies, not civilians. But, let us see what happened this very same day, see D00333, The Accused's letter to Ambassador Cutileiro on 5 June 92.:

Tonight, June 5, Mr Izetbegović gave the negative reply to Lord Carrington's letter about the Bosnia Conference. Explicitly, on the TV news, he said "that now everything is different and that he does not want any Conference about the constituent units."

In spite of the good will we showed in our readiness to open the airport unconditionally we were blackmailed with the lives of JNA families to leave the heavy arms in the barracks "Marshal Tito". This same evening the Moslem side has started shelling of Serbian residential areas in Sarajevo.

No confusion, before any action from the Serb side, in spite of the Serb good will to open the Airport for the benefit of the citizens of Sarajevo, as Mladic also ordered to enable a safe landing of planes, see: D00232. And now it is clear that Mladic didn't threaten by

shelling for nothing, but in a response to the attacks mentioned in this D00333. Another thing, pertaining to the context: although there was a lot of good moves by the Serb side, or just because of it, the Muslim side intensified their aggressive activities. No doubt, they didn't want to have Sarajevo calmed down! But, the Prosecution relied only of a: a) "general impression" b) "entirety of evidence" c) "quantity instead of quality of evidence", d) and on so many adjudicated facts, and d) 92bis Rule statements of witnesses, bot out of any possibliti that the Defence test it, and finally on the statement of international representatives of middle and low rank, who didn't know anything at a first hand, but produced many "hear-say" evidence! This is far from any justice and from any fairness!

However, the Chamber neglected the fact that the Serb side didn't need this offensive, nor there would be any Serb shell hadn't been this huge Muslim offensive conveyed. Let us see what the then Commander of the SRK reported on 11 June 92, D611:

Based on your combat reports, our assessments, statements from the combatants and commanders and information by the SR BiH Presidency, we reached the conclusion that the Corps units bravely and devotedly stopped the enemy offensive in the wide area of Sarajevo. We would like to give full credit to all participants in this battle and show due respect to all of those who had fallen. Also, we noticed some inappropriate #If anything had been well documented, it was this Muslim offensive, and the Chamber recognised that, but still continued to depict it as a Serb aggressiveness towards the city!# Absurdity#!)

ii. Southwestern suburbs: Dobrinja and Alipašino Polje

1. Confrontation lines and artillery in the area

4056. The Chamber has already discussed above, in the section on Scheduled Sniping Incidents in Sarajevo's southwestern suburbs, the exact location and the lay out of those suburbs, as well as the confrontation lines in the area during the conflict.<sup>13486</sup> For that reason, the Chamber will not repeat the same evidence here but recalls that the confrontation line ran along the road between the apartment blocks referred to as Dobrinja 3 and Dobrinja 4.<sup>13487</sup> Dobrinja 1, Dobrinja 4 and the Airport Settlement were under Serb control,<sup>13488</sup> as the Ilidža Brigade's zone of responsibility ran from Dobrinja, across the Airport Settlement, Nedžarići, along the Dobrinja River, Pijačna street, and the railroad to Miljacka River.<sup>13489</sup> The 1<sup>st</sup> Battalion of the Ilidža Brigade was positioned in Nedžarići,<sup>13490</sup>

<sup>13486</sup> See Section IV.B.1.b.iii.B: Southwestern suburbs: Dobrinja and Alipašino Polje.

<sup>13487</sup> Slavica Livnjak, P493 (Transcript from *Prosecutor v. D. Milošević*), T. 873; Sanija Dževlan, P2291 (Transcript from *Prosecutor v. Galić*), 3515–3516, 3528–3529; P2294 (Map of Sarajevo marked by Sanija Dževlan).

<sup>13488</sup> P1866 (Witness statement of Youssef Hajir dated 25 February 2010), para. 20; Youssef Hajir, T. 8806 (1 November 2010); D2633 (Witness statement of Milorad Šehovac dated 8 December 2012), paras. 11, 15; D2648 (Map of Sarajevo marked by Milorad Šehovac); D2649 (Map of Sarajevo marked by Milorad Šehovac). See Adjudicated Fact 91.

<sup>13489</sup> D2562 (Witness statement of Vladimir Radojčić dated 8 December 2012), para. 14; D2589 (Map of Sarajevo marked by Vladimir Radojčić); Stanislav Galić, T. 37162–37168 (15 April 2013); D3381 (Map of Sarajevo marked by Stanislav Galić); D3382 (Map of Sarajevo).



while the 5<sup>th</sup> Battalion was positioned to the southeast of the 1<sup>st</sup> Battalion, near the airport.<sup>13491</sup> To the west of Dobrinja the confrontation line ran through the former “Energoinvest” complex in Ilidža and Stup.<sup>13492</sup> The 1<sup>st</sup> Sarajevo Mechanised Brigade of the SRK had its positions to the southeast of Dobrinja in the direction of Lukavica, and to the northeast, in Grbavica.<sup>13493</sup>

4057. The 1<sup>st</sup> Battalion of the Ilidža Brigade had in its arsenal 82 and 120 mm mortars.<sup>13494</sup> The mortar batteries of the battalion were located around the Faculty of Theology.<sup>13495</sup> The 1<sup>st</sup> Mechanised Sarajevo Brigade’s mixed artillery division was equipped with a collection of armaments, including three 120 mm D30 howitzer batteries, two 122 mm self-propelled Gvozdika howitzer batteries, one 128 mm Plamen multiple rocket-launcher (VBR) battery, and two 120 mm mortar batteries.<sup>13496</sup>

**4058.** Alipašino Polje was on the ABiH side of the confrontation line, which separated it from the Serb-held Nedžarići.<sup>13497</sup> As discussed earlier,<sup>13498</sup> the ABiH units opposing the Ilidža Brigade belonged to the 101<sup>st</sup> Brigade of the 1<sup>st</sup> Corps of the ABiH, positioned in Alipašino Polje and Vojničko Polje, and the 102<sup>nd</sup> Brigade of the 1<sup>st</sup> Corps of the ABiH located in Stup.<sup>13499</sup> The 5<sup>th</sup> Motorised Brigade of the 1<sup>st</sup> Corps, later known as the 155<sup>th</sup> Brigade, was located in Dobrinja.<sup>13500</sup> Beyond the Sarajevo airport, to the southwest of the Ilidža Brigade’s positions, the 104<sup>th</sup> Brigade of the 1<sup>st</sup> Corps of the ABiH occupied the areas

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<sup>13490</sup> D2479 (Witness statement of Mile Sladoje dated 25 November 2012) para. 7; D2480 (Map of Sarajevo marked by Mile Sladoje); D2562 (Witness statement of Vladimir Radojčić dated 8 December 2012), para. 14; Mile Sladoje, T. 30562–30563 (28 November 2012).

<sup>13491</sup> D2553 (Witness statement of Svetozar Guzina dated 3 December 2012), para. 34; D2555 (Map of Sarajevo marked by Svetozar Guzina).

<sup>13492</sup> Milomir Šoja, P1633 (Transcript from Prosecutor v. *D. Milošević*), T. 5122–5124, 5126, 5144–5145; Milomir Šoja, T. 7215–7217, 7219 (30 September 2010) (stating that Osjek and Ilidža were under the control of the SRK, but most of Stup, including the cold storage facility, was occupied by the ABiH); D676 (Map of Sarajevo marked by Milomir Šoja). *See also* David Harland, T. 2018 (6 May 2010); P820 (Witness statement of David Harland dated 4 September 2009), para. 30; P842 (VRS map of Sarajevo, 31 August 1995); D2562 (Witness statement of Vladimir Radojčić dated 8 December 2012), paras. 6, 14, 16–17; D2589 (Map of Sarajevo marked by Vladimir Radojčić).

<sup>13493</sup> D2412 (Witness statement of Savo Simić dated 4 November 2012) para. 12; D2413 (Map of Sarajevo marked by Savo Simić); D2341 (Witness statement of Dušan Škrba dated 14 October 2012) para. 8; D2342 (Map of Sarajevo marked by Dušan Škrba).

<sup>13494</sup> D2479 (Witness statement of Mile Sladoje dated 25 November 2012), para. 6; Vladimir Radojčić, T. 31236 (11 December 2012).

<sup>13495</sup> D2479 (Witness statement of Mile Sladoje dated 25 November 2012), para. 6; D2481 (Map of Sarajevo marked by Mile Sladoje). There were some inconsistencies in the evidence of the witnesses called by the Accused as to whether the brigade had mortars around the Institute for the Blind. *See* D2479 (Witness statement of Mile Sladoje dated 25 November 2012), para. 27; D2562 (Witness statement of Vladimir Radojčić dated 8 December 2012), paras. 1–2; 111. *See also* P1058 (ABiH map).

<sup>13496</sup> D2412 (Witness statement of Savo Simić dated 4 November 2012), para. 9. The command post of the mixed artillery division and a battery of the division rocket launchers were located in the Uzdojnica village sector. The brigade’s 120mm mortar batteries were based in Prljevo Brdo and Uzdojnica sectors, and the howitzer artillery pieces were located in Tilava, Petrovići, and Klek villages. D2412 (Witness statement of Savo Simić dated 4 November 2012), para. 12; D2413 (Map of Sarajevo marked by Savo Simić).

<sup>13497</sup> *See* Adjudicated Facts 83, 84; Richard Mole, T. 5842–5845 (17 August 2010); P1430 (Map of Sarajevo marked by Richard Mole); D537 (Map of Sarajevo marked by Richard Mole); D2479 (Witness statement of Mile Sladoje dated 25 November 2012), para. 7; D2480 (Map of Sarajevo marked by Mile Sladoje); Mile Sladoje, T. 30563–30564 (28 November 2012); P6009 (Map of Sarajevo marked by Mile Sladoje); D2553 (Witness statement of Svetozar Guzina dated 3 December 2012), paras. 34–35; D2555 (Map of Sarajevo marked by Svetozar Guzina); D2556 (Map of Sarajevo marked by Svetozar Guzina). The portion of Nedžarići east of Ante Babića street and south of Đure Jakšića street (now renamed Adija Mulaobegovića) was under the ABiH control, however. *See* Adjudicated Fact 85.

<sup>13498</sup> *See* paras. 3787–3788, 3792.

<sup>13499</sup> D2479 (Witness statement of Mile Sladoje dated 25 November 2012), para. 7; D2480 (Map of Sarajevo marked by Mile Sladoje); Mile Sladoje, T. 30569 (28 November 2012); P6011 (Photograph of Sarajevo marked by Mile Sladoje); P6012 (Photograph of Sarajevo); D1384 (Map of ABiH positions in Sarajevo marked by Asim Džambasović). *See* Adjudicated Fact 83. Džambasović testified that a number of ABiH units changed their names throughout the war but in 90% of the cases did not change their disposition. The 6<sup>th</sup> Mountain Brigade and the 105<sup>th</sup> Brigade merged to form the 101<sup>st</sup> Brigade while the 3<sup>rd</sup> Motorised Brigade became the 102<sup>nd</sup> Brigade. Asim Džambasović, T. 15194, 15200, 15202 (22 June 2011).

<sup>13500</sup> Asim Džambasović, T. 15194, 15220 (22 June 2011); D1379 (Map of ABiH positions in Sarajevo marked by Asim Džambasović); Mirza Sabljica, T. 7835–7836 (13 October 2010); Dragomir Milošević, T. 32523 (23 January 2013).

of Butmir and Sokolović Kolonija.<sup>13501</sup> According to Sladoje, all ABiH positions were in civilian areas where people lived in apartment buildings and there was not a single “entirely civilian settlement” that did not have a military target in it.<sup>13502</sup> **( However, let us see what the SRK Commander reporten on 12 June 1992, D4613**

Throughout the day, heavy fighting took place in the zone of the corps, with the enemy trying to push back our forces and capture as large an area as possible. But despite the huge losses suffered, the enemy did not succeed in its efforts. In combat, the enemy also made use of chemical weapons.

Based on the intensity of the fire and the number of troops involved, the assessment is that the enemy tried to push back the forces from Vrace and cut off the road leading out to Lukavica. All our units displayed a high level of morale and showed their worth

**It is useless what the Chamber is numbering out the Muslim units and their firing power, since the Chamber doesn't take into account the mere fact that every engagement of the forces depended exclusively on the Muslim side. However, after being aware of the successes in defence, President Karad'ić offered an unconditional ceasefire on the same day, which was reported by the EC Monitoring Mission, see D228:**

#### MONITORING ACTIVITY 12 JUNE 1992

##### KEY POINTS

1. Dr Karadzic of the Serb Democratic Party offered an unconditional cease-fire in Bosnia-Herzegovina from 15 June and the reopening of SARAJEVO airport.

**No use, all the Serb peace initiatives had been characterised as a Serb weakness, see further:**

15. The day saw several significant developments for Bosnia-Herzegovina. The UN Secretary General urged the parties to reconvene talks under the auspices of the EC Peace Conference. Dr Karadzic, the President of the SDS (Serb Democratic Party) offered an unconditional cease-fire from 0600 hours on 15 June, free access for UN military observers and the reopening of SARAJEVO airport. Lord Carrington said he would hold talks in the airport as soon as it was secured by the UN.
16. The declaration by the UN Secretary General is a reaffirmation of the worth of EC initiatives so far. Karadzic's cease-fire offer could indicate a weakening of resolve and a desire to avoid accusations of creating a humanitarian disaster in SARAJEVO. Serb tactics may thus have back-fired, or alternatively this announcement may have come when there has been sufficient time for Serb forces to achieve other objectives in other areas.
17. It is impossible to assess if Karadzic has the necessary control over Serb forces to deliver the cease-fire that he offers.

<sup>13501</sup> Asim Džambasović, T. 15229–15230 (22 June 2011); D1378 (Map of ABiH positions in Sarajevo marked by Asim Džambasović).

<sup>13502</sup> D2479 (Witness statement of Mile Sladoje dated 25 November 2012), para. 11; Mile Sladoje, T. 30570–30571 (28 November 2012). According to Sladoje and another officer Svetozar Guzina, the following were military targets located in the territory controlled by the ABiH: Standard, Zora, Bitumenka, Oslobodenje, student dormitories, the Geodesic Institute, the Vodovod building in Majdan street, Prvomajska street, Geteova street, Radio Television building, and Fatima Gunić School. D2479 (Witness statement of Mile Sladoje dated 25 November 2012), paras. 18, 25; D2482 (Map of Sarajevo marked by Mile Sladoje); Mile Sladoje, T. 30571–30573 (28 November 2012); D2553 (Witness statement of Svetozar Guzina dated 3 December 2012), para. 46.

**This kind of a pervert logics duped the Muslim side, encouraging them to continue with the war. However, the Muslim Army had never succeeded to “de-block” Sarajevo, because the Serbs literally defended their homes. All of those who encouraged the war, and procrastinated the peace agreement, are responsible to all the three ethnic community, and equally guilty as the Muslim leadership!)**

4059. Rose testified that by February 1994, Dobrinja had been “utterly destroyed” as the Bosnian Serbs had it completely surrounded and would fire directly into Dobrinja, thus forcing the residents to live in their basements.<sup>13503</sup>

2. Dobrinja, 1 June 1993 (Scheduled Incident G.4)

4060. The Indictment alleges that on 1 June 1993, two shells were fired upon a crowd of approximately 200 persons who were watching and participating in a football game in a parking lot bordered on three sides by residential apartment blocks and on the fourth side by the Lukavica road in residential settlement, Dobrinja IIIB.<sup>13504</sup> The Indictment further alleges that the origin of fire was VRS/SRK-held territory approximately to the east-southeast and that over 10 people were killed and approximately 100 were wounded.<sup>13505</sup> In its Final Brief, the Prosecution alleges that two 81 or 82 mm calibre mortar shells exploded in this incident, killing 10 and wounding approximately 100 people.<sup>13506</sup> The Accused argues that the incident did not actually take place at the site where it is alleged to have occurred.<sup>13507</sup> He also argues, that the shells did not come from SRK-held territory and further, regardless of their origin, that the location of the incident was a legitimate military target.<sup>13508</sup>

**4061.** On 1 June 1993, a sunny day, a football tournament was organised in Dobrinja IIIB.<sup>13509</sup> The football pitch was set up in the corner of a parking lot, which was bounded by six-storey apartment blocks on three sides and on the fourth side, which faced the north, by Mojmiilo Hill; it was not visible from any point on the SRK side of the confrontation line.<sup>13510</sup> Around 200 spectators, including women and children, gathered to watch the teams play.<sup>13511</sup> There were ABiH soldiers present at the parking lot, who were off-duty, unarmed, and not engaging in any military activity.<sup>13512</sup> **(#That didn't make them civilians!#)** Ismet Fazlić was the referee of the second match.<sup>13513</sup> **(They played two matches along the confrontation line? That was how much they had been afraid of the Serbs! Now, remember the carnage in Ilidza on 14 May! Would any relative of those killed and wouldned miss an opportunity to take a revenge?)** About 10 to 20 minutes into that game, shortly after 10 a.m., the first shell landed among the players in the centre of

<sup>13503</sup> P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 36.

<sup>13504</sup> Indictment, Scheduled Incident G.4.

<sup>13505</sup> Indictment, Scheduled Incident G.4.

<sup>13506</sup> Prosecution Final Brief, Appendix C, para. 50.

<sup>13507</sup> Defence Final Brief, paras. 2003–2005.

<sup>13508</sup> Defence Final Brief, paras. 2007–2011

<sup>13509</sup> See Adjudicated Facts 245, 246.

<sup>13510</sup> See Adjudicated Facts 247, 268.

<sup>13511</sup> See Adjudicated Fact 248.

<sup>13512</sup> See Adjudicated Fact 267.

<sup>13513</sup> See Adjudicated Fact 250.

the pitch.<sup>13514</sup> Fazlić was hit by shrapnel and sustained serious injuries in both legs and other parts of his body.<sup>13515</sup> There were eleven young men on the ground, eight of whom died on the spot.<sup>13516</sup> Omer Hadžiabdić who was 15 years old at the time, was watching the match from the overturned cars when the first shell struck the football pitch.<sup>13517</sup> He was wounded by shrapnel in his leg.<sup>13518</sup> Nedim Gavranović, who was 12 years old at the time, was standing behind one of the goals when he heard the first explosion and felt a very strong blow.<sup>13519</sup> He sustained an entry and exit wound in his right lower leg caused by shrapnel.<sup>13520</sup> A second shell landed at almost the same spot within seconds of the first shell.<sup>13521</sup> It fell in front of a young man and tore his leg off.<sup>13522</sup> There were many wounded people on the ground.<sup>13523</sup> **(It is really #a miracle#! How come the shell wounded those people in the lower parts of their legs, while the fragments are not spread horizontally?)**

4062. On the same day, the 5<sup>th</sup> Motorised Brigade of the ABiH sent its daily report to the Command of the 1<sup>st</sup> Corps of the ABiH in which it reported that two 82mm mortar shells had fallen in its zone of responsibility on a parking lot where football was being played.<sup>13524</sup> It was reported that six soldiers and five civilians lost their lives, whilst 55 soldiers and 32 civilians were wounded.<sup>13525</sup> Similarly, the National Security Service of the RS MUP's Ilidža War Department reported on the incident on the same day, noting that 10 to 20 persons were killed and 50 ABiH soldiers were wounded when 2 shells fell during a football match on a parking lot in Dobrinja III.<sup>13526</sup>

**4063.** The next day, the BiH Presidency ordered the ABiH Supreme Command Staff to investigate this incident.<sup>13527</sup> The Supreme Command reported back to the Presidency on 6 June that the football tournament was organised by a group of ABiH soldiers from the 5<sup>th</sup> Motorised Brigade, that the game was attended by a large number of civilians, children, and ABiH soldiers, and that 12 people (seven of whom were soldiers) were killed, while 101 people (51 of them combatants) were injured; the report also noted that the shells were fired from the direction of Lukavica.<sup>13528</sup> Former ABiH General Asim Džambasović<sup>13529</sup> testified that he knew about this incident and that the superior command criticised assembling of that

<sup>13514</sup> See Adjudicated Fact 251.

<sup>13515</sup> See Adjudicated Fact 252.

<sup>13516</sup> See Adjudicated Fact 253.

<sup>13517</sup> Adjudicated Fact 254.

<sup>13518</sup> See Adjudicated Fact 255.

<sup>13519</sup> Adjudicated Fact 256.

<sup>13520</sup> Adjudicated Fact 257.

<sup>13521</sup> See Adjudicated Fact 258.

<sup>13522</sup> Adjudicated Fact 259.

<sup>13523</sup> Adjudicated Fact 260. See also P2068 (Witness statement of Jeremy Bowen dated 10 August 2009), para. 44; P1868 (BBC news report re shelling of Dobrinja on 1 June 1993).

<sup>13524</sup> D1272 (5<sup>th</sup> Motorised Brigade combat report, 1 June 1993), pp. 1–2.

<sup>13525</sup> D1272 (5<sup>th</sup> Motorised Brigade combat report, 1 June 1993), pp. 1–2.

<sup>13526</sup> D341 (RS MUP Ilidža report re ABiH, 1 June 1993).

<sup>13527</sup> D1397 (Letter from BiH Presidency to ABiH Supreme Command Staff, 2 June 1993).

<sup>13528</sup> D1398 (Report of ABiH Supreme Command Staff, 6 June 1993). See also Adjudicated Fact 261. The second ABiH Supreme Command report of 9 June 1993 clarified that Fazlić was one of the eight organisers of the game, and that the Supreme Command was taking steps to document the responsibility of the organisers of the event. D1399 (Report of ABiH Supreme Command Staff, 9 June 1993).

<sup>13529</sup> From November 1992 Džambasović served as Chief of Staff of the 1<sup>st</sup> Corps of the ABiH. In August 1993 he transferred to the General Staff of the ABiH. See Asim Džambasović, T. 15188 (22 June 2011).



type, as it was not reasonable at that time to organise sports activities.<sup>13530</sup> **(But, let us first see what the ABiH was doing to the Serb Army and the Serb settlements, see RCR of the SRK on 29 May 93 D02672, p.1**

- in the 1.Rpbr /1<sup>st</sup> ?Romanija Infantry Brigade/ sector of responsibility, there was provocative infantry fire in the direction of Mrkovići. Also in the 1.Rpbr sector, a fire was localised (Širokača, Bistrik). One soldier was wounded in the direction of activity of the 5.pb (5<sup>th</sup> Infantry Battalion)

**Sirokaca and Bistrik had been mentioned in the Judgment #as a civilian and residential areas, whyle we see they weren't#. And further, p.2**

- 82 mm MB /mortars/ were fired at Grbavica, on positions of the 1.Smbr (1<sup>st</sup> Sarajevo Mechanised Brigade). There were no consequences. The enemy fired a *malyutka* from Mojnilo at a self-propelling gun, wounding Warrant Officer 2<sup>nd</sup> class Antonije DJORDJJEVSKI. He was admitted to Kasindol hospital, but is to be released for treatment at home. An enemy sniper fired on Dobrinja 4 and Grbavica.

**So, the Muslim side was firing sniper fire towards Grbavica and Dobrinja. And further:**

- In the Ilidža Brigade zone of responsibility, the enemy fired on Nedžarići. Fire had to be returned. One soldier was killed and two wounded. A sniper was firing on Kasindolska Street. No response was made.

**So, Nedzarici were fired at by the Muslim Forces, and this is the closest vicinity of the incident spot.**

2. Members of the SRK are respecting the ceasefire as much as they can. Because of heavy firing on the line or responsibility, the 1.Rpbr has increased reconnaissance and observation. All other units have also received a supplementary order to increase the level of observation and reconnaissance.

**Therefore, no matter there was a c/f, the ABIH kept firing and killing the SRK soldiers. Let us see further:, p. 3:**

7. There were casualties. One soldier was killed in Nedžarići and two wounded. One soldier was wounded in the 1.Rpbr/5 /5<sup>th</sup> battalion/. Three *Orao* workers were wounded. Warrant Officer 2<sup>nd</sup> class Antonije DJORDJJEVSKI (1.Smbr) was wounded.



8. **C o n c l u s i o n:** The Corps units are complying fully with the order on the ceasefire. Unfortunately, the enemy is constantly violating it. This time the violation is concentrated on the positions around the edge of Sarajevo. The entire

**Let us see what was going on during 30 May 93, D02671:**

- In the 1. Rpbr /1<sup>st</sup> ?Romanija Infantry Brigade/ sector of responsibility, the enemy carried out fierce attacks, particularly on positions towards Vidikovac. During one massive and ferocious attack the enemy managed temporarily to take some of our positions. With the help of a neighbouring unit, the enemy was driven back to the starting positions by a vigorous counterattack. We assume that they had considerable losses in manpower. The information is being confirmed. On our side, three soldiers were slightly wounded and 4 seriously. During the attack, the enemy, in addition to infantry fire, shot many artillery projectiles of all calibres at our defence positions. Our defence positions have been stabilised and the units

**How these artillery projectiles had been counted, as a Serb? p. 2**

- in the 1.Smbr /1<sup>st</sup> Sarajevo Mechanised Brigade/ sector of responsibility, the enemy also mounted a strong infantry attack using artillery on defence positions in the Zlatište area. The lines have not been moved. The attack was repulsed. During combat activities, two of our tanks sustained minor damage and 2 soldiers were slightly wounded.
- The enemy attacked and shelled positions of the lap PVO /anti-aircraft light artillery regiment/ in the Trebević area (the bobsled run), killing one soldier and seriously wounding another. The *Mladost* holiday centre on Brus was set on fire and the woods nearby.
- During the day the enemy fired 41 shells from an 120 mm MB/mortar/ and a howitzer on the SPS */Slobodan Princip Seljo/* barracks and positions on Vranješ from the Kovači, Igman and Stojčevac directions. A depot-cum-hangar in the grounds of the SPS barracks was hit extensively damaging, in addition to the building: 6 vehicles, 1 generator and 2 mobile kitchens. A member of the barracks security was slightly wounded. There was constant enemy sniper fire along all lines of defence and on the SPS and SVČ */Slaviša Vajner Čičal/* barracks.

- During the day over 200 projectiles of all calibres landed on positions of the mpoap /mixed antitank artillery regiment/, with no consequences.
- The enemy used provocative infantry and sniper fire in the Ilidža Brigade sector of responsibility. The broader Ilidža area was shelled with 2 x 155 mm howitzer shells (Doglodi sector), 20 x 82 mm MB /mortar/ shells and 6 x 120 mm shells on the Ilidža neighbourhood. There were no injured.

**p.3** 7. Casualties: 1 soldier killed, 5 seriously and 5 slightly wounded.

**p4.**

Our forces were obliged to respond robustly to the all-out enemy offensive, particularly in the Trebević area, and to return the enemy to the starting positions. The front has been stabilised and strengthened.

**Let us see what happened on 31 May 93, D00338, p. 1**

1. During the day the enemy violated the ceasefire intensively as follows:
  - with sniper fire on the Vraca and Grbavica sectors and PAM / anti-aircraft machine-gun fire/ from the Debelo Brdo /hill/ sector.
  - with minor provocative attacks from the Sokolović Kolonija and Butmir directions in the sector of the Ilidža Brigade. At 0845 a Sagger anti-tank missile was fired from the Sokolović Kolonija direction and fell in the Kovači sector near the old cemetery. There were no consequences.

**In the very same Dobrinja there was shelling and casualties, p.3**

/circled/ 7. Casualties: one soldier killed by a sniper bullet (hit at 1530 hours on 30 May, died today), one soldier wounded on Dobrinja, 2 civilians dead and ten wounded.

**And finally, let us see what happened on 1 June 93: D00340**

1. During the day the enemy violated the ceasefire by firing on our defence positions.
  - The enemy opened sniper fire on the area of the Ilidža Brigade from Stupsko Brdo, Alipašino Polje, Sokolović Kolonija and Butmir. At around 2100 hours the enemy fired 10 rifle launcher shells on Doglodi.
  - The enemy fired 120 mm and 82 mm mortars on the area of Zlatište to Osmice and Krtelji in the area of the 1<sup>st</sup> Sarajevo Motorised Brigade.

**And that is the next door settlement, in touch with Nedzarici (a Serb settlement) and Dobrinja)**

7. Losses: two soldiers from the 1<sup>st</sup> Romanija Infantry Brigade were seriously and two were slightly wounded when they walked into a minefield.

**And in such a volatile situation the ABiH organized a football match along the confrontation line!!! As it is visible from the evidence, D003414, a Muslim document:**

A part of the units which are not engaged have marked the *Bairam* holiday with sports tournaments and other activities.

**And this document put a light on all the incidents along the confrontation line and in the urban areas of Sarajevo! While refraining, the SRK sustained casualties as if there was no a ceasefire! Whenever there was any request for the sport activities, the Accused personally approved it, as can be seen from D1656, a preparation for an abuse of Bajram in Vlasenica:**

Following realisation of the “Good Friday” plan (for Vlasenica Serbs it should have been BLACK /Friday/), the SDA /Party of Democratic Action/ had a plan ready for taking over power in nearly all segments of life. This is confirmed by a note from the now former president of the Executive Committee of Vlasenica Municipality, a photocopy of which we present here without any comment, but its content is quite clear.

Ibro /?Nuh/ 730-303

13 April 1992

/illegible/	- The commission worked well, given the conditions.
Dulo	- Herd for slaughtering
Nedra	- Call president of Tuzla Municipal Assembly
Selim	<del>Vlasenica</del> BESLAGIĆ to talk to our refugees.
Munir	- General Staff is directing entire operations
Sakib	- I raised the question of whether these refugee
Rizo MUSANOVIĆ	shelters are just for now or for good.

- Organising for defence

Ferid; Muradif; Munir

MUP /Ministry of the Interior/: Mido; Fadil

SDK /Public Auditing Service/: Kemo; Mujaga

Administrative organ: Sejfo, Isko

Health care: Sejo, Ismet

Education: Sejfo

- Isko to let out the children  
from the secondary school  
for Friday and Monday,  
secure /?engine/ and doctor  
from Fi/?z/ola

Court: Mustafa, /illegible/, /illegible/

PTT /Post Office/: Senada, /?Omčo/

Economy: Ibro; Enko

Goods traffic and supply: Džemo AVDIĆ, Eso

/illegible/ Ševko, ŠAHBEGO/?VIĆ/

Refugees: /illegible/; /illegible/ Zaim

Water: Selim

/inverted text:

Mirza SELIMOVIC

655 – 759/

/inverted text:

banks and foundations: Muhamed

/illegible/ 600

Nedim M.

/illegible/ 400

Mensur Š.

...Therefore, the Serb side had been accused (and sentenced) for an alleged “take-over the power” in municipalities, #while the Serbs had never meant to control the Muslim parts of municipalities#, but the Muslims in Vlasenica reneged on the already agreed



**division of the municipality, planning to make the Christian Good Friday for the serbs in Vlasenica to be a “Black Friday”. ( There are a two documents, one on a unilateral ban on firing during the Bajram, and another, approval of the football match between the UNPROFOR and the ABiH representation. But, let us see how the Muslim Army used to depict the civilian casualties, D00077, 20 Aug. 1993:**

SVB (Military Security Service) has received new information that the citizens of a Serbian nationality are being treated like second class citizens in Dobrinja and that pressure is being applied on them so that they would move out of that area. Namely, one reliable source said that there are cases of physical abuse, illegal arrests, and even withholding humanitarian aid for Serbian citizens, which has caused revolt and fear among the citizens. He provided the example of one individual that has not received humanitarian aid for months just because he is a Serb. The son of that individual was physically harassed by uniformed men on several occasions without any cause and he has sustained severe injuries (eyesight). The murder a few months ago of a certain Mercep in Dobrinja is also indicative even though the authorities presented it as a death resulting from shelling. Namely, the fault of Mercep was allegedly the fact that he did not to return to Dobrinja on time after he was allowed to go to the city to take his wife to the hospital. The family of the murdered man was threatened not to tell anyone about this incident.

**#This is so called “civil settlement” Dobrinja, and that is how the ABiH depicted the casualties. And this is a Muslim document, another Muslim document, D1398 has a similar report#:**

On 1 June 1993, (around 1000 hours), a football tournament started at Dobrinja organised by a group of combatants of the 1<sup>st</sup> Battalion (5<sup>th</sup> mtbr /motorised brigade/). A large number of civilians, children and fighters gathered on the parking lot behind the building in V. Maglajlića Street, where the tournament was taking place. The explosion of two mortar grenades, fired from the direction of Lukavica killed 12 people (7 fighters) and wounded 101 persons (51 fighters).

According to information available so far, the Military Security Service knows that, through the command and control chain, the fighters had at a briefing that morning been warned not to play any games because of possible shelling. However, these warnings did not give any results, as attested to by data on the number of killed fighters, 58 of them, (11 squad commanders /komandir/, 2 platoon commanders /komandir/, 1 assistant company commander /komandir/, 3 medical orderlies, 2 company supplies officers, 2 messengers and 37 fighters).

**Therefore, #this was a mere military event, and in the light of the Muslim attacks on the Serb settlements and defence lines, this even was a highly provocative. But, still we do not have undoubtable evidence that the Serb side fired. See the tricks in document below!**

**Let us see an intercept between the Accused and Gen. Gvero, 2 June 1993, D04511**

G: Mister President, two 62mm MB /mortar/ grenades were fired on the *Zetra* area from the Muslim positions below Zlatište at 14:10 hours. I guarantee that it wasn't our guys. And considering where the fire came from, the intention is obviously to accuse us /and/ continue their variant /?thing/.

K: Please, immediately /?inform/ BRIQUEMONT, mark the zone.

G: Hello, I beg your pardon, pardon me, in the direction of the *Skenderija* area, not *Eetre* /as printed/ /*Zetral*.

K: On civilians, was it? Is there UNPROFOR there?

G: There are some and their base is there. The French one.

K: France again – France is now defending us, man, France is now defending us; things are going very well with her now. Call these guys in “Krajina” and ask them to give their word until midnight; when they give their word, that it stay that way until midnight.

G: Goodbye, Mister President. Bye!

**From this intercept it is visible that the ABiH was firing from Zlatiste (a hill overlooking the city) to their own territory, against the UN (French) unit. Since it came from the hills, it would be reported as a Serb shell, while it wasn't. So, no matter was there a CF or not, they kept firing, being protected by the UN and international media!)**

4064. UNPROFOR soldiers went to the site to perform shell crater analysis as soon as they heard of the incident.<sup>13531</sup> Captain Houdet conducted the analysis<sup>13532</sup> and found that the splinter pattern in what he referred to as “Crater 1” indicated that the projectile was at least an 81 mm mortar shell and that it had a bearing to the origin of fire of 143 degrees (2500 mils).<sup>13533</sup> He found that the splinter pattern in what he termed “Crater 2” indicated a mortar shell of the same calibre, but with a bearing to the origin of fire of 138 degrees (2420 mils).<sup>13534</sup> Houdet concluded that due to the crater fragments and the buildings surrounding the football pitch, the projectiles could only have been mortar shells with the only possible origin of fire in the direction of the SRK-held territory, to the south, southeast.<sup>13535</sup> Houdet observed that there was no fuse furrow in either of the craters due to macadam surface, which is why the precise angle of descent and the range of the shells could not be determined.<sup>13536</sup> **(Therefore, the insufficient material. In such a case determining the direction only, is not sufficient, because on the same direction there are both armies positions#1)** Nevertheless, he concluded that if fired at the minimum range, the 81 mm shell that created Crater 1 would have originated approximately 300 metres south of Lukavica Barracks.<sup>13537</sup> UNPROFOR commander, Lieutenant-General Morillon, faxed the Accused just after midnight on 2 June 1993 informing him that “the shelling this morning in D[obrinja] caused the deaths of a number of innocent women and children”.<sup>13538</sup> **(As it can**

<sup>13531</sup> P6060 (Record of interview with KDZ185), e-court p. 20; KDZ185, T. 4213 (28 June 2010).

<sup>13532</sup> KDZ185, T. 4214 (28 June 2010) (private session); T. 4268 (29 June 2010) (private session); P1053 (UN Report re shelling of Dobrinja on 1 June 1993), e-court pp. 9–11.

<sup>13533</sup> P1053 (UN Report re shelling of Dobrinja on 1 June 1993), e-court p. 9.

<sup>13534</sup> P1053 (UN Report re shelling of Dobrinja on 1 June 1993), e-court p. 9.

<sup>13535</sup> P1053 (UN Report re shelling of Dobrinja on 1 June 1993), e-court pp. 9–11; KDZ185, T. 4215 (28 June 2010); T. 4268–4269 (29 June 2010) (private session); P6060 (Record of interview with KDZ185), e-court p. 20.

<sup>13536</sup> P1053 (UN Report re shelling of Dobrinja on 1 June 1993), e-court p. 9.

<sup>13537</sup> Houdet calculated that for a shell to clear the buildings surrounding the incident site it would have to have a minimum angle of descent of 40.5 degrees. Noting that the minimum angle of descent for 81 and 120 mm mortars is around 45 degrees, he calculated that at that angle the minimum range for an 81 mm mortar would have been 1,120 metres. P1053 (UN Report re shelling of Dobrinja on 1 June 1993), e-court pp. 2, 9–11.

<sup>13538</sup> P5059 (Fax from UNPROFOR to Radovan Karadžić, 2 June 1993). The SRK Liaison Officer to UNPROFOR, Milenko Indić, testified that he did not receive any protests in relation to this incident. D2774 (Witness statement of Milenko Indić dated 19 January 2013), para. 130.



**be seen from the D04056, both the Accused and Mladic were in Banjaluka, several hundred km far away!)**

4065. The UN Commission on War Crimes investigated the incident some 27 days later and published a preliminary report on 7 July 1993 prepared by two Canadian officers.<sup>13539</sup> Having analysed Houdet's report, they concluded that the incident occurred at approximately 10:20 a.m., that two mortar shells of minimum 81 mm calibre fell at the scene of the incident, and that they were fired from the direction of SRK-held Lukavica.<sup>13540</sup>

4066. The officers also interviewed two men wounded in the incident, namely Zlatan Steković and Eldin Zornić.<sup>13541</sup> Steković told them that the day of the incident was clear and sunny, with good visibility.<sup>13542</sup> He also told them that despite the frontline being only 100 to 150 metres away, the site could not be seen from the Serb positions due to the height of the apartment buildings around the parking lot where the game was played.<sup>13543</sup> Zornić told the officers that he was in the ABiH and knew that there were no military targets within one kilometre of the scene.<sup>13544</sup> He corroborated Steković's remarks that there was no direct line of sight from the Serb positions to the scene of the incident.<sup>13545</sup> Zornić also speculated that the shells came either from Lukavica or Nedžarići.<sup>13546</sup> **(Lukavica was southeast and Nedzarici northwest from the incident spot!)**

4067. The officers were given a casualty list by the Bosnian State Commission for War Crimes from which they concluded that 13 persons were killed in this incident, while 133 were injured.<sup>13547</sup> During their investigations, the two officers used a copy of the UNPROFOR map of Dobrinja, which indicated that the ABiH had mortars approximately 500 metres from the site of the incident, outside of the Dobrinja Hospital.<sup>13548</sup> However, when inspecting the area the two officers did not see the mortars in question.<sup>13549</sup> When asked about these mortars, KDZ185 testified that ABiH mortar positions continually moved and had no fixed location.<sup>13550</sup> **(Look at that! #Enough for a reasonable doubt, and indicative for a general assessment of the deployment of the Muslim Army mortars and other weaponry#! THIS ALSO REBUTS ALL THE UNPROVEN ALLEGATIONS ABOUT THE UNDISCRIMINATORY SERB FIRE, because in its**

<sup>13539</sup> P1053 (UN Report re shelling of Dobrinja on 1 June 1993), e-court pp. 1–2, 9–11. *See also* KDZ185, T. 4268 (private session), T. 4285–4286 (29 June 2010).

<sup>13540</sup> P1053 (UN Report re shelling of Dobrinja on 1 June 1993), e-court pp. 7, 9.

<sup>13541</sup> P1053 (UN Report re shelling of Dobrinja on 1 June 1993), e-court pp. 2–3, 12–35. Another eye-witness to the incident also provided information that the first shell fell near the perimeter, whilst the second fell almost in the centre of the football pitch. He further told them that at first he thought they were 82 mm mortar shells but he later found parts of a 60 mm mortar shell at the site. P1053 (UN Report re shelling of Dobrinja on 1 June 1993), e-court pp. 6–7, 57–59.

<sup>13542</sup> P1053 (UN Report re shelling of Dobrinja on 1 June 1993), e-court pp. 3–4.

<sup>13543</sup> He also opined that the cheering of the substantial crowd could have been heard at the confrontation lines and that there were no military targets in the area. *See* P1053 (UN Report re shelling of Dobrinja on 1 June 1993), e-court pp. 3–4.

<sup>13544</sup> P1053 (UN Report re shelling of Dobrinja on 1 June 1993), e-court p. 4.

<sup>13545</sup> P1053 (UN Report re shelling of Dobrinja on 1 June 1993), e-court p. 4.

<sup>13546</sup> P1053 (UN Report re shelling of Dobrinja on 1 June 1993), e-court p. 4.

<sup>13547</sup> P1053 (UN Report re shelling of Dobrinja on 1 June 1993), e-court p. 4.

<sup>13548</sup> P1053 (UN Report re shelling of Dobrinja on 1 June 1993), e-court pp. 6, 52, 55–56.

<sup>13549</sup> P1053 (UN Report re shelling of Dobrinja on 1 June 1993), e-court p. 6.

<sup>13550</sup> KDZ185, T. 4283 (29 June 2010). *See also* John Hamill, P1994 (Transcript from Prosecutor v. *Galić*), T. 6168; John Hamill, T. 9697–9698 (13 December 2010).

**response, the Serb soldiers were hunting the artillery/mortar pieces that just had fired on the Serb side of the city!)**

4068. The CSB Sarajevo could not conduct the forensic investigation of this incident during the war due to “incessant attack operations” but conducted it two years later,<sup>13551</sup> in November 1995 upon request of the Prosecution.<sup>13552</sup> **(And the #Chamber accepted this hilarious explanation#? How possibly a football match could be organized, with the two plays, and an ordinary investigation couldn’t, although it would be of an immeasurable smaller organisation and not attracting anyone’s attention? Did the Muslim Army officers have any responsibility along the confrontation lines: a night prior to the match there was #shooting of the Juka Prazina unit, a two weeks earlier there was a carnage in Ilidza, the last several day of May there was the Muslim “incessant attacks” everywhere on the south confrontation line, with a casualties on the Serb side during a ceasefire, and they organize a football match close to the c/l#?** Ballistic experts Sabljica, Mededović, and Kućanin, amongst others, conducted the investigation in the presence of an eyewitness to the event, Refik Sokolar, and a Prosecution investigator.<sup>13553</sup> According to Sabljica and Mededović’s ballistics report, two shells fell on the parking lot, one landing on the parking lot tarmac surface and the other on the soil surface next to the parking lot.<sup>13554</sup> Based on the size of the marks on the tarmac surface, it was determined that the shell that landed on the tarmac was an 82 mm shell.<sup>13555</sup> Using the central axis analysis, the investigators concluded that the shell came from a southeasterly direction (the azimuth being 110 degrees from the north).<sup>13556</sup> The point of impact of the second shell was not examined due to the changed appearance of the soil surface.<sup>13557</sup> Sabljica confirmed that the report purposefully did not state which of the two armies fired the shell.<sup>13558</sup> **(What now? Why the Serb Army would be liable, not to mention the President? #There was an exchange of fire on a daily basis, initiated by the Muslim side, with the aim to overwhelme the Serb parts of Sarajevo, and the**

<sup>13551</sup> P1699 (BiH MUP Report re shelling of Dobrinja on 1 June 1993), p. 3. The Chamber notes that the report of the UN Commission on War Crimes states that CSB Sarajevo did not conduct an investigation because it considered the UNPROFOR’s investigation sufficient. See P1053 (UN Report re shelling of Dobrinja on 1 June 1993), e-court p. 5; KDZ185, T. 4282 (29 June 2010).

<sup>13552</sup> P1699 (BiH MUP Report re shelling of Dobrinja on 1 June 1993), p. 3; Mirza Sabljica, T. 7726 (12 October 2010). Sabljica conceded that having an investigation two or three years later posed certain problems but explained that there was no mechanical intervention with the crater that they examined at the time of the on-site investigation; it was only later on that a red substance was poured into it, as was done all over Sarajevo (making the so-called “roses of death”), which made the crater more visible but also removed some of the traces. Mirza Sabljica, T. 7842, 7873–7874, 7881, 7883 (13 October 2010).

<sup>13553</sup> P1699 (BiH MUP Report re shelling of Dobrinja on 1 June 1993), p. 3. See also Mirza Sabljica, T. 7836 (13 October 2010).

<sup>13554</sup> P1699 (BiH MUP Report re shelling of Dobrinja on 1 June 1993), p. 3. See also Mirza Sabljica, T. 7849–7854, 7867 (13 October 2010); D757 (Photograph re shelling of Dobrinja on 1 June 1993 marked by Mirza Sabljica); D761 (Photograph re shelling of Dobrinja on 1 June 1993 marked by Mirza Sabljica).

<sup>13555</sup> P1699 (BiH MUP Report re shelling of Dobrinja on 1 June 1993), p. 5. See also P1695 (Witness statement of Mirza Sabljica dated 11 February 2010), pp. 18–19. Sabljica confirmed on cross-examination that he was not informed that an eye-witness had reported finding fragments of 60 mm calibre shell on the scene. See Mirza Sabljica, T. 7867–7870 (13 October 2010); P1053 (UN Report re shelling of Dobrinja on 1 June 1993), e-court p. 57.

<sup>13556</sup> P1699 (BiH MUP Report re shelling of Dobrinja on 1 June 1993), pp. 4–5. See also Mirza Sabljica, T. 7724–7731 (12 October 2010), T. 7840–7844 (13 October 2010); P1730 (Photograph re shelling of Dobrinja on 1 June 1993 marked by Mirza Sabljica); P1731 (Photograph re shelling of Dobrinja on 1 June 1993 marked by Mirza Sabljica); P1732 (Photograph re shelling of Dobrinja on 1 June 1993 marked by Mirza Sabljica); P1733 (Photograph re shelling of Dobrinja on 1 June 1993 marked by Mirza Sabljica); D753 (Photograph re shelling of Dobrinja on 1 June 1993 marked by Mirza Sabljica); P1695 (Witness statement of Mirza Sabljica dated 11 February 2010), pp. 18–19.

<sup>13557</sup> P1699 (BiH MUP Report re shelling of Dobrinja on 1 June 1993), p. 5. See also P1695 (Witness statement of Mirza Sabljica dated 11 February 2010), p. 19.

<sup>13558</sup> Mirza Sabljica, T. 7878 (13 October 2010).

**Serbs defended themselves and their families. # What President Karad`i} was supposed to do? To order a capitulation of his community#?)**

4069. Sabljica further testified that the separation line was some 300 to 400 metres away from the incident site, noting that Dobrinja was divided between the two sides.<sup>13559</sup> He also explained that Mojmiilo Hill, which is north and northwest of the incident site, was under ABiH control, while the “Aerodromsko naselje” in Dobrinja, which is west and southwest of the incident, was under SRK control.<sup>13560</sup> Finally, he explained that the minimum distance from which an 82 mm mortar shell can be fired is 600 to 650 metres, but that it gives “best results” at 4,200 metres.<sup>13561</sup> During cross-examination he conceded that with a zero charge an 82 mm calibre mortar has a range of 80 metres.<sup>13562</sup> **(#And that could have been an explanation why there was no a furrow fuse tunnel, because it was fired from the vicinity#!)**

4070. Higgs visited the incident site accompanied by the Prosecution and “examined the two craters in question”,<sup>13563</sup> which were filled in with a red substance thus making a detailed crater analysis impossible.<sup>13564</sup> **(That had been done by the Muslim police, #the Serb police didn’t have any access to ste site!#)** However, he also noted that “enough of the crater is still present to draw some conclusion,” namely the minimum angle of descent necessary to clear the surrounding buildings.<sup>13565</sup> **(No, this is not possible to determine without a fuse furrow, all other would be guesing! A #“some conclusion” is not sufficient in such an important case!#)** Having examined the two craters, Higgs agreed with the findings made by Houdet.<sup>13566</sup> He noted that eye-witnesses said they heard the sound of a weapon firing and that the confrontation line was some 200 metres away from the incident site.<sup>13567</sup> **For heaven’s sake, why it was so difficult to determine such a steady fact? How then to trust their other findings. A distance from the c/l varies from 200 to 500 metres, but it is very important, #particularly since the witnesses heard the outgoing fire noise#. It is well known that no army keeps a mortars on the first line, particularly after 15 months of war everyone have learnt not to do that. Therefore, much more probable it was fired from within the Muslim territory, because it was not a perfect silence, but a noise as at any playground!)** In his view, this meant that the mortar was not far away and was firing on

<sup>13559</sup> Mirza Sabljica, T. 7858–7865 (13 October 2010); D759 (Map of Sarajevo marked by Mirza Sabljica); D760 (Map of Sarajevo marked by Mirza Sabljica).

<sup>13560</sup> Mirza Sabljica, T. 7858–7860, 7867 (13 October 2010); D757 (Photograph re shelling of Dobrinja on 1 June 1993 marked by Mirza Sabljica); D758 (Map of Sarajevo marked by Mirza Sabljica); D761 (Photograph re shelling of Dobrinja on 1 June 1993 marked by Mirza Sabljica).

<sup>13561</sup> Mirza Sabljica, T. 7866–7867 (13 October 2010).

<sup>13562</sup> Mirza Sabljica, T. 7869–7872 (13 October 2010); D762 (Excerpt from JNA manual).

<sup>13563</sup> Richard Higgs, T. 6012 (19 August 2010) (testifying that both rounds fell in the area of the improvised football pitch made of tarmac).

<sup>13564</sup> Richard Higgs, T. 6005–6006 (19 August 2010); P1437 (Richard Higgs’s Consolidated Report on Sarajevo Shelling Incidents, 13 March 2009), p. 7. Sabljica agreed with the Accused that Higgs’ reference to two craters was unusual, because only one shell landed on the tarmac according to his recollection. He opined that the craters examined by Higgs may be related to other incidents. *See* Mirza Sabljica, T. 7881–7883 (13 October 2010).

<sup>13565</sup> Richard Higgs, T. 6006–6007 (19 August 2010); P1437 (Richard Higgs’s Consolidated Report on Sarajevo Shelling Incidents, 13 March 2009), p. 7.

<sup>13566</sup> P1437 (Richard Higgs’s Consolidated Report on Sarajevo Shelling Incidents, 13 March 2009), p. 7.

<sup>13567</sup> P1437 (Richard Higgs’s Consolidated Report on Sarajevo Shelling Incidents, 13 March 2009), p. 7. Sabljica testified that in order for a witness to hear a shell being fired, they would have to be some 50 to 100 metres away from the origin of fire. However, he explained that information about witnesses hearing the firing was usually not taken into account by his team because it was a subjective opinion that should be taken with a grain of salt. *See* Mirza Sabljica, T. 7855–7858, 7872–7873 (13 October 2010).

low charge to reduce the time of flight and increase accuracy.<sup>13568</sup> **(This also corroborates the Defence standpoint, that it could have been fired out from the ABIH positions! With such a state of matter, no a reasonable chamber would decide against an accused!)**

4071. Higgs was also of the view that the purpose of those firing the mortar was to “harass” those present at the incident site because more than two shells would have been fired if the intention was to neutralise a certain target or the nearby water plant.<sup>13569</sup> **(A pure speculation. It was not up to him to guess the motives several years after the incident!)** He thought that, rather than being an accident, this was a deliberate attack as the frontline was not far and the football match was not carried out covertly.<sup>13570</sup> **(As much as it is possible that it was not an incident but a deliberate attack, the same possibility, even more, is that the Muslims fired it, deliberately, of course! Mr. Higgs hadn’t been informed by the Prosecutor that this practice existed, and the highway to speculations was opened. But, where is an end of speculations?)** Higgs commented that given the closeness of the two rounds **(Which “two rounds”? The one that Sabljica agreed was not from this incident? The crater also differed too much, and the Sabljica’s opinion only contributed to a general uncertainty and confusion of the findings!)** it was probable that the same mortar battery fired both rounds and agreed with Houdet’s conclusion that the mortar rounds must have been fired from the Serb side of the confrontation lines.<sup>13571</sup> **(But, according to the same investigators, the direction of one of the shells was from the east, and another from the west! In such a case, even if there were a two shells, it couldn’t be from the same weapon!)** Based on the statements of witnesses who heard the mortar fire, he came to the conclusion that the mortar battery may well have been situated in an area hidden from observation in the area of Lukavica Barracks to the southeast of Dobrinja.<sup>13572</sup> **(But we were discussing the distance from which the outgoing sound could be heard, and it wasn’t as if it was fired from the Serb side. To see in transcript.**

4072. Hogan, accompanied by Fazlić, recorded the GPS co-ordinates and filmed the locations where the shells impacted in this incident.<sup>13573</sup> On cross-examination, he testified that he was aware of—and disagreed with—the conclusion by the CSB Sarajevo team in 1995 that the second shell fell in soft soil next to the parking lot.<sup>13574</sup> **(#Could they “disagree” in another case, this is tra-la-la for this case#?)**

4073. John Hamill, an officer in the Artillery Corps of the Irish Army who served as an UNMO in Sarajevo from May until June 1993<sup>13575</sup> visited the site at the request of the

<sup>13568</sup> P1437 (Richard Higgs’s Consolidated Report on Sarajevo Shelling Incidents, 13 March 2009), p. 7.

<sup>13569</sup> P1437 (Richard Higgs’s Consolidated Report on Sarajevo Shelling Incidents, 13 March 2009), pp. 4, 7–8 (also observing that the water plant was too far away from the point of impact).

<sup>13570</sup> P1437 (Richard Higgs’s Consolidated Report on Sarajevo Shelling Incidents, 13 March 2009), p. 8.

<sup>13571</sup> P1437 (Richard Higgs’s Consolidated Report on Sarajevo Shelling Incidents, 13 March 2009), p. 8.

<sup>13572</sup> P1437 (Richard Higgs’s Consolidated Report on Sarajevo Shelling Incidents, 13 March 2009), p. 8.

<sup>13573</sup> D1005 (Video footage re shelling of Dobrinja on 1 June 1993); Barry Hogan, T. 11205–11206, 11277–11278 (3 February 2011); P2190 (GPS locations for shelling and sniping incidents in Sarajevo); P2191 (Map of Sarajevo with scheduled sniping and shelling incidents).  
<sup>13574</sup> Barry Hogan, T. 11278–11281 (3 February 2011).

<sup>13575</sup> During his time in Sarajevo, Hamill worked exclusively in the SRK-held territory to the north and south of the city P1995 (Supplemental information sheet for John Hamill, 18 September 2001), e-court p. 2; John Hamill, T. 9673–9674 (13 December 2010); John Hamill, P1994 (Transcript from *Prosecutor v. Galić*). T. 6111, 6114.

Prosecution on 18 September 2001.<sup>13576</sup> He stated that the craters were old but largely preserved, despite having been filled with red substance.<sup>13577</sup> He found that the easternmost crater, which he termed “Crater 1”, was better preserved than the other crater, which he termed “Crater 2”, but that the red substance now prevented the precise determination of whether the craters were made by gun or mortar.<sup>13578</sup> With Crater 1, Hamill observed traces characteristic of a gun or howitzer shell, but also noted that this did not mean that the crater was not caused by a mortar.<sup>13579</sup> He determined that the projectile that created Crater 1, be it a gun or a mortar shell, was fired from an approximate direction of 2,200 mils, plus or minus 150 mils, that is generally east-southeast of the impact site.<sup>13580</sup> With respect to Crater 2, Hamill was only able to conclude, based on its shape that it appeared to have come from the same direction as Crater 1.<sup>13581</sup> In relation to the exact origin of fire, Hamill observed that both rounds originated from a bearing that runs through the area of Toplik, where SRK forces had a battery of 122 mm guns which were monitored by the UNMOs at the time.<sup>13582</sup> He believed that the SRK also operated 82 mm mortars in Toplik.<sup>13583</sup> **(However, #in such a case, the sounds of outgoing fire couldn’t be heard by the people at match#. Also, the UNMO-s from this Lima OP didn’t report any firing. Also, they kept saying that the SRK would notify them whenever it was about to respond by a big calibres!)**

4074. Hamill testified that the minimum angle of descent necessary for the projectiles to have cleared the surrounding buildings and landed on the site indicates that they could have been fired from either a mortar or a howitzer.<sup>13584</sup> He further commented that the UN team came up with two different bearings, indicating that the weapons may have been fired at some distance from each other.<sup>13585</sup> He equated this to his own findings, noting that he had a specific bearing for Crater 1 and a more indeterminate bearing for Crater 2 but that both rounds generally came from the same direction.<sup>13586</sup> **(#Contrary to the CSB findings!#)**

<sup>13576</sup> Hamill was accompanied by Hogan and Fazlić. See P1995 (Supplemental information sheet for John Hamill, 18 September 2001), e-court p. 2; John Hamill, P1994 (Transcript from *Prosecutor v. Galić*). T. 6114; John Hamill, T. 9689 (13 December 2010).

<sup>13577</sup> Hamill thought that the red substance preserved the crater and enabled him to do a reasonable job of determining what type of weapon was used and from where. See John Hamill, T. 9689–9693 (13 December 2010); P1995 (Supplemental information sheet for John Hamill, 18 September 2001), e-court p. 2; John Hamill, P1994 (Transcript from *Prosecutor v. Galić*). T. 6114, 6116–6117.

<sup>13578</sup> P1995 (Supplemental information sheet for John Hamill, 18 September 2001), e-court p. 2. Hamill could not explain why the CSB Sarajevo investigation team in 1995 only found and examined one crater in the asphalt. He was adamant that he saw two craters in the tarmac in 2001, one more obvious than the other. See John Hamill, T. 9708 (13 December 2010).

<sup>13579</sup> Hamill also stated that if Crater 1 was created by a mortar, a medium mortar was probably used. P1995 (Supplemental information sheet for John Hamill, 18 September 2001), e-court p. 2; John Hamill, P1994 (Transcript from *Prosecutor v. Galić*). T. 6114–6115, 6172; John Hamill, T. 9693–9694, 9713, 9722 (13 December 2010).

<sup>13580</sup> P1995 (Supplemental information sheet for John Hamill, 18 September 2001), e-court p. 2; John Hamill, P1994 (Transcript from *Prosecutor v. Galić*). T. 6114–6117; John Hamill, T. 9693 (13 December 2010).

<sup>13581</sup> P1995 (Supplemental information sheet for John Hamill, 18 September 2001), e-court p. 2.

<sup>13582</sup> P1995 (Supplemental information sheet for John Hamill, 18 September 2001), e-court p. 2; John Hamill, P1994 (Transcript from *Prosecutor v. Galić*). T. 6115, 6123, 6172–6173.

<sup>13583</sup> P1995 (Supplemental information sheet for John Hamill, 18 September 2001), e-court p. 2.

<sup>13584</sup> John Hamill, T. 9699–9700 (13 December 2010). Hamill also testified that the higher the angle of descent, the shorter the range from which the projectile was fired. When shown a photograph of the more preserved crater taken by the CSB Sarajevo investigators two years after the incident, he confirmed that its pattern was consistent with a higher angle of descent—assuming the damage was caused by a shell. However, if caused by a “mortar bomb” then the pattern did not indicate a high angle of descent. See John Hamill, T. 9700–9701, 9707–9710, 9716–9719 (13 December 2010).

<sup>13585</sup> John Hamill, T. 9699–9700 (13 December 2010). When asked by the Chamber to comment on the firing capabilities of mortars, Hamill testified that it is possible to fire two rounds from the same tube within seconds of each other and then to have these rounds come down quite a distance away from each other. See John Hamill, T. 9702 (13 December 2010). **How come the CSB Sarajevo didn’t collect any fragment, and what happened with the fin tails of the mortar shells? My God, nothing meets a requirements of a criminal case!**

<sup>13586</sup> John Hamill, T. 9700 (13 December 2010).



When asked to compare the bearing determined by the CSB Sarajevo team to the bearings determined by him and by the UNPROFOR investigators, Hamill stated that the difference was not as large as it seemed as all of these bearings would fall in the same area, that is “somewhere in east of southeast”.<sup>13587</sup>

**(Not correct! Nedzarici was north-west from the spot! Anyway, #this degree of arbitrariness wouldn't be admitted in any court# of any country that supports this Tribunal!)**

4075. Zorica Subotić visited the site of the incident in September 2010.<sup>13588</sup> She challenged the alleged location of the incident, stating that the match was not played on the parking lot but rather “on a five-a-side pitch located near the parking lot”,<sup>13589</sup> leading her to conclude that Fazlić falsely indicated the location of the football pitch to investigators.<sup>13590</sup> She argued that, in addition, instances of imprecision within Houdet’s report cast doubt on the accuracy of his analysis and even on whether he actually visited the scene of the incident at all.<sup>13591</sup> Further, a number of witnesses who provided locations of the craters to investigators were contradicted by the CSB Sarajevo report which referred to only one crater on the asphalt surface of the parking lot.<sup>13592</sup> Subotić argued that the second crater “was probably made by hand after 21 November 1995” and thus was not in existence when Houdet examined the scene.<sup>13593</sup>

4076. While Subotić agreed on the direction of fire for this incident, namely that it came from the southeast of the incident site, she thought that it originated from ABiH-held territory.<sup>13594</sup> She confirmed Houdet’s findings as to Crater 1, but found that the azimuth of Crater 2 was 108 degrees and claimed that it was not related to this particular incident and was also not the crater identified by Houdet as Crater 2.<sup>13595</sup> In addition, she noted that

<sup>13587</sup> John Hamill, T. 9715–9716 (13 December 2010).

<sup>13588</sup> D3542 (Zorica Subotić’s expert report entitled “Mortar Operations in Sarajevo Area in 1992–1995”, 15 August 2012), p. 63.

<sup>13589</sup> D3542 (Zorica Subotić’s expert report entitled “Mortar Operations in Sarajevo Area in 1992–1995”, 15 August 2012), pp. 55–62, 72–73, 156. Subotić based this claim on eyewitness statements and the Fédération Internationale de Football Association (“FIFA”) rules of the game. According to her, the game roughly corresponded to FIFA’s “five-a-side football game”. Given that there was a sports pitch beside the parking lot, which met the requirements specified by FIFA, she thought that the game, and thus the incident, took place on that pitch. While acknowledging that video footage recorded immediately after the incident shows two goal posts on the parking lot, next to a large blood stain, she proceeded to discount this location as the scene of the incident because the size of the goal post did not correspond to the FIFA rules. See D3542 (Zorica Subotić’s expert report entitled “Mortar Operations in Sarajevo Area in 1992–1995”, 15 August 2012), pp. 55–62, 72–73, 156; Zorica Subotić, T. 38249–38251 (14 May 2013); D1005 (Video footage re shelling of Dobrinja on 1 June 1993).

<sup>13590</sup> D3542 (Zorica Subotić’s expert report entitled “Mortar Operations in Sarajevo Area in 1992–1995”, 15 August 2012), pp. 60–61, 157. She also claimed that the fact that the parking lot was presented by Fazlić and others as the scene of the incident could be construed “as a bid to cover up evidence”. D3542 (Zorica Subotić’s expert report entitled “Mortar Operations in Sarajevo Area in 1992–1995”, 15 August 2012), pp. 65, 73.

<sup>13591</sup> D3542 (Zorica Subotić’s expert report entitled “Mortar Operations in Sarajevo Area in 1992–1995”, 15 August 2012), pp. 61–62, 68, 156–157. These imprecisions were: (i) his reference to “macadam surface” which is a road laid with crushed stone and which was not present at the incident site and (ii) Houdet’s grid references for the craters which indicated a location 200 metres away from the parking lot. D3542 (Zorica Subotić’s expert report entitled “Mortar Operations in Sarajevo Area in 1992–1995”, 15 August 2012), pp. 61–62; Mirza Sabljica, T. 7878–7879, 7883 (13 October 2010). With respect to (i), while Higgs testified that the English term macadam is equivalent to tarmac or asphalt, Subotić refused to accept that this was a case of linguistic confusion and maintained that macadam surface had multiple definitions. See Zorica Subotić, T. 38410–38412 (16 May 2013); Richard Higgs, T. 6013 (19 August 2010). As for (ii), she admitted on cross-examination that she did not know what map system Houdet used. See Zorica Subotić, T. 38409–38411 (16 May 2013).

<sup>13592</sup> D3542 (Zorica Subotić’s expert report entitled “Mortar Operations in Sarajevo Area in 1992–1995”, 15 August 2012), pp. 62–63, 67. These witnesses, namely Ismet Fazlić, Nedim Gavranović, and Omer Hadžabić, testified in the *Galić* case.

<sup>13593</sup> D3542 (Zorica Subotić’s expert report entitled “Mortar Operations in Sarajevo Area in 1992–1995”, 15 August 2012), p. 64.

<sup>13594</sup> Zorica Subotić, T. 38407 (16 May 2013); D3542 (Zorica Subotić’s expert report entitled “Mortar Operations in Sarajevo Area in 1992–1995”, 15 August 2012), pp. 67–74, 156–157.

<sup>13595</sup> D3542 (Zorica Subotić’s expert report entitled “Mortar Operations in Sarajevo Area in 1992–1995”, 15 August 2012), pp. 67–68.

Houdet based his conclusions about the distance from which the shells were fired on the minimum angle of descent whereas he should have used the maximum angle.<sup>13596</sup> Furthermore, according to her, all the trajectories up to the maximum angle of descent could have struck the scene of the incident, meaning that the 82 mm mortar shell could have been fired from any range between 80 and 4,850 metres.<sup>13597</sup> She also argued that investigators from CSB Sarajevo incorrectly determined the azimuth of the crater that they examined, as they arrived at 110 degrees compared to the 143 degrees calculated by Houdet and accepted by her.<sup>13598</sup> Finally, Subotić concluded on the basis of the likely angle of descent of the shell, it being greater than 65 degrees,<sup>13599</sup> and the distance to SRK positions,<sup>13600</sup> that the shell that produced the crater in the parking lot during this incident was not fired from SRK positions.<sup>13601</sup> On cross-examination she conceded that for the shell to have been fired from ABiH held-territory to the southeast, the furthest distance from the incident site that it could have been fired from was 200 metres.<sup>13602</sup>

4077. Noting the different data about the number of casualties, Subotić used the report of the Supreme Command of the ABiH of 6 June 1993 to point out that 58 out of 114 casualties, or 51.8%, were ABiH personnel.<sup>13603</sup> She also argued that the BiH security organs suspected the incident had been staged.<sup>13604</sup>

4078. Galić testified that on the day of the incident a cease-fire was in place in Sarajevo.<sup>13605</sup> Commenting on his regular combat report for 1 June 1993, which provides that the SRK did not open fire that day, he stated that SRK forces respected the cease-fire and that had they

<sup>13596</sup> D3542 (Zorica Subotić's expert report entitled "Mortar Operations in Sarajevo Area in 1992–1995", 15 August 2012), pp. 68–69. During cross-examination, the Prosecution agreed with Subotić that Captain Houdet should have looked at the maximum angle of descent and determined the minimum firing distance on that basis. *See* Zorica Subotić, T. 38412 (16 May 2013).

<sup>13597</sup> D3542 (Zorica Subotić's expert report entitled "Mortar Operations in Sarajevo Area in 1992–1995", 15 August 2012), pp. 68–69.

<sup>13598</sup> D3542 (Zorica Subotić's expert report entitled "Mortar Operations in Sarajevo Area in 1992–1995", 15 August 2012), p. 72. Subotić argued that, according to a photograph of the CSB Sarajevo investigation, the investigators positioned their magnetic compass incorrectly while determining the azimuth of the crater. *See* Zorica Subotić, T. 38251–38252 (14 May 2013), T. 38417–38420 (16 May 2013). The Chamber notes that the photograph in question is not clear enough to show where exactly the compass was placed by the CSB Sarajevo team. In addition, even if that was the case, it does not mean that the measurements were taken at the exact moment at which the photograph was taken.

<sup>13599</sup> Subotić thought it was greater than 65 degrees on the basis of the appearance and the dimensions of the crater. *See* D3542 (Zorica Subotić's expert report entitled "Mortar Operations in Sarajevo Area in 1992–1995", 15 August 2012), p. 70.

<sup>13600</sup> D3542 (Zorica Subotić's expert report entitled "Mortar Operations in Sarajevo Area in 1992–1995", 15 August 2012), p. 57 (stating that the confrontation line was 270 metres away). *See also* Adjudicated Fact 263 which provides that the distance from the pitch to the confrontation lines in the direction of fire was approximately 300 metres. According to Subotić, the closest SRK position where a mortar could have been positioned was 400 metres to the southeast. At this range, an 82 mm shell can be fired with either primary, first, or second charge. She excluded the first and second charges because the resulting angle of descent would have been too high. She then argued that given the height of the surrounding buildings, the SRK mortars were likely to be at minimum 425 metres away from the scene, leaving a subsequent angle of descent on primary charge of 58.7 degrees, which was "manifestly smaller" than the angle at which the shell landed. D3542 (Zorica Subotić's expert report entitled "Mortar Operations in Sarajevo Area in 1992–1995", 15 August 2012), pp. 57, 68–71.

D3542 (Zorica Subotić's expert report entitled "Mortar Operations in Sarajevo Area in 1992–1995", 15 August 2012), pp. 68–71.

<sup>13602</sup> Zorica Subotić, T. 38407 (16 May 2013). The Chamber notes that Hamill testified that the danger radius for a 120 mm mortar is 500 metres and for an 82 mm mortar it is 250 metres. John Hamill, T. 9703 (13 December 2010). *See also* para. 3982.

<sup>13603</sup> D3542 (Zorica Subotić's expert report entitled "Mortar Operations in Sarajevo Area in 1992–1995", 15 August 2012), p. 52; D1398 (Report of ABiH Supreme Command Staff, 6 June 1993), e-court p. 2.

<sup>13604</sup> Subotić relies here on the two ABiH reports that state that the military police placed into custody a number of persons who were "suspected in connection with the mentioned shelling". *See* D3542 (Zorica Subotić's expert report entitled "Mortar Operations in Sarajevo Area in 1992–1995", 15 August 2012), p. 55. These reports make it clear that the ABiH wanted to find persons responsible for organising the tournament and therefore make no mention of ABiH soldiers staging this incident. *See* D1398 (Report of ABiH Supreme Command Staff, 6 June 1993), e-court p. 2; D1399 (Report of ABiH Supreme Command Staff, 9 June 1993), e-court p. 2.

<sup>13605</sup> Stanislav Galić, T. 37367–37368 (18 April 2013).

been active in the area, this would have been stated in the report.<sup>13606</sup> He also stated that he neither received an order nor gave one to fire on the area, and that his command received no reports of fire being opened in the area.<sup>13607</sup> Galić stressed that the incident occurred “perhaps 150 metres in-depth from the confrontation line at the positions of the [ABiH]” and that close to the parking lot there was an atomic shelter which was used to house soldiers and military material, thus making the area where the mortars landed a justified and legitimate military target.<sup>13608</sup> In cross-examination, however, he testified that he did not know if the fire was opened on the SRK position from the incident site on the day of the incident.<sup>13609</sup> **(It doesn’t change a bit of his testimony! #Why would he have known something that probably didn’t happen#? Gen. Galic knew that the SRK didn’t fire! He didn’t say that the ABiH fired against the SRK positions, or not, he just said that he didn’t have an information that it had been fired. When the linguistic problems are added to other clumsy data, all of it goes on the account of the President!)** He also confirmed that under normal circumstances he would not place a mortar on or even near a confrontation line nor would he fire a mortar at a target that was some 150 metres away because for calibres of up to 120 mm, the “safety zone” from which they must fire is at least 200 metres away from the target, while for larger calibres it is 400 metres.<sup>13610</sup> When asked if he would fire at his own faction located some 150 metres away as part of a conspiracy, he stated that it was possible but risky, and maintained that he would never order the shelling of civilians.<sup>13611</sup> According to Galić, given the state of affairs in Sarajevo, it was “not normal” to have a football match or similar public gatherings so close to the confrontation lines.<sup>13612</sup>

4079. In terms of the casualties of this incident, the Chamber received evidence that on 1 June 1993 at least 122 people were brought to the Dobrinja Hospital as a result of the incident.<sup>13613</sup> Due to the number of casualties, both the hospital and the morgue were overcrowded.<sup>13614</sup> A number of victims were thus transferred to the Koševo Hospital<sup>13615</sup> and State Hospital,<sup>13616</sup> and at least three children were taken to the surgery ward of the Children’s

<sup>13606</sup> Stanislav Galić, T. 37370, 37373–37380 (18 April 2013); D340 (SRK combat report, 1 June 1993); D3414 (Combat report of ABiH Igman Operations Group, 1 June 1993). *But see* KDZ185, T.4272–4273 (29 June 2010).

<sup>13607</sup> Stanislav Galić, T. 37373 (18 April 2013).

<sup>13608</sup> Stanislav Galić, T. 37368 (18 April 2013). *See also* Adjudicated Fact 265 which provides that a nuclear shelter was located approximately 100 metres away from the parking lot behind a block of flats.

<sup>13609</sup> Stanislav Galić, T. 37854–37855 (7 May 2013).

<sup>13610</sup> Stanislav Galić, T. 37855–37857 (7 May 2013) (explaining that doing so would be possible where there is a large obstacle, such as a high-rise building, that would then prevent fragments from reaching the forces that opened the fire but stated that even this would be too risky).

<sup>13611</sup> Stanislav Galić, T. 37857–37860 (7 May 2013).

<sup>13612</sup> Stanislav Galić, T. 37372–37373 (18 April 2013).

<sup>13613</sup> P1053 (UN Report re shelling of Dobrinja on 1 June 1993), e-court pp. 42–51; P1869 (List of patients from Dobrinja Hospital, 1 June 1993); P1898 (List of patients admitted to Dobrinja Hospital on 1 June 1993); P1896 (Medical record for Omer Hadžiabdić). Youssef Hajir, who was the director of the Dobrinja General Hospital, testified that the hospital received “about 130 to 140 persons injured” and it is evident that it was difficult to keep adequate medical records during this period. *See* P1866 (Witness statement of Youssef Hajir dated 25 February 2010), paras. 2, 41–43, 63–64, 69–70.

<sup>13614</sup> Youssef Hajir, T. 8789–8790 (1 November 2010); P1866 (Witness statement of Youssef Hajir dated 25 February 2010), para. 42.

<sup>13615</sup> P1866 (Witness statement of Youssef Hajir dated 25 February 2010), para. 43; Faris Gavrankapetanović, P473 (Transcript from Prosecutor v. *Galić*), T. 12615–12616, 12632; P461 (Admission records from Koševo Hospital), pp. 60–64; P462 (Surgery records from Koševo Hospital), pp. 2–4. *See also* P1868 (BBC news report re shelling of Dobrinja on 1 June 1993).

<sup>13616</sup> P1243 (Medical reports of victims of shelling in Dobrinja III on 1 June 1993); P1873 (Medical records from Sarajevo State Hospital); P1525 (Witness statement of Bakir Nakaš dated 8 September 2010), para. 83; P1217 (Witness statement of Milan Mandilović dated 24 February 2010), para. 118.

Department at the Koševo Hospital.<sup>13617</sup> From the Dobrinja Hospital records it is clear that at least 27 of the victims were under the age of 18, including 4 children who died as a result of their injuries.<sup>13618</sup> As noted earlier,<sup>13619</sup> the ABiH Supreme Command investigated this incident at the request of the BiH presidency and concluded that 12 persons died in the incident, including 7 who were ABiH personnel, and that 101 persons were injured, 51 of which were ABiH soldiers.<sup>13620</sup> The medical records available to the Chamber also indicate that 12 people died in this incident.<sup>13621</sup>

4080. In addition to the evidence and adjudicated facts outlined above, the Chamber has also taken judicial notice of the following adjudicated facts that go to the origin and the nature of fire in this incident: (i) the shells that hit the football pitch were of at least 81-82 mm calibre and originated from the direction east-southeast, within SRK-held territory;<sup>13622</sup> **(But, just #this wasn't established beyond a reasonable doubt#. Also, it is significant that the #SRK didn't have any record of this event#, which would be recorded anyway, since it was so huge, and many ABiH members had been killed and wounded.)** (ii) the headquarters of ABiH 5<sup>th</sup> Motorised Brigade was not in the area of the parking lot in Dobrinja IIIB settlement where the football pitch was set up, but in the Dobrinja II settlement;<sup>13623</sup> and (iii) the atomic shelter was not the intended target of the attack.<sup>13624</sup>

4081. Having considered the evidence and the adjudicated facts recounted above, the Chamber is convinced that two shells of at least 81 mm calibre struck the parking lot in the Dobrinja IIIB residential settlement on 1 June 1993. The Chamber recalls that Subotić challenged this location, claiming that the football match was played on a purpose-built sports pitch beside the lot. Her claim, however, ignores the considerable evidence indicating that the match was in fact played on the parking lot. Furthermore, the Chamber considers her proposition that the residents of Dobrinja would have been playing soccer governed by the FIFA rules unacceptable given the wartime circumstances at the time and the fact that the primary concerns of the organisers was to find a location that would be protected from the view of the SRK forces. Accordingly, the Chamber considers that this type of analysis has seriously damaged Subotić's credibility both generally and specifically with respect to this incident.

<sup>13617</sup> P1818 (Extracts from Fatima Zaimović's diary), p.12; Fatima Zaimović, T. 1876–1878 (5 May 2010); P1869 (List of patients from Dobrinja Hospital, 1 June 1993), pp. 7, 11–12.

<sup>13618</sup> P1053 (UN Report re shelling of Dobrinja on 1 June 1993), e-court pp. 42–51.

<sup>13619</sup> See para. 4063.

<sup>13620</sup> D1398 (Report of ABiH Supreme Command Staff, 6 June 1993); D1399 (Report of ABiH Supreme Command Staff, 9 June 1993); D1397 (Letter from BiH Presidency to ABiH Supreme Command Staff, 2 June 1993). The Chamber also notes that RS MUP acquired intelligence about the incident and was informed that between 10 and 20 persons were killed, including nine of whom were ABiH soldiers, and additionally 50 ABiH members were wounded in the incident. See D341 (RS MUP Ilidža report re ABiH, 1 June 1993).

<sup>13621</sup> These individuals were Dragan Osadcij, Asim Zagorica, Adnan Mirvić, Refik Ramić, Alija Gojak, Jusuf Ražić, Atif Bajraktarević, Marko Žižić, Damir Trebo, Adel Selmanović, Mirza Deljković and Munir Šabanović. P1053 (UN Report re shelling of Dobrinja on 1 June 1993), e-court pp. 42, 46, 48, 51; P1869 (List of patients from Dobrinja Hospital, 1 June 1993), pp. 2, 5–6, 12–14; P1872 (Death certificates from Dobrinja Hospital); P1888 (Death certificate for Asim Zagorica); P1889 (Death certificate for Atif Bajraktarević); P463 (Koševo Hospital morgue records), pp. 9–10. See also D1398 (Report of ABiH Supreme Command Staff, 6 June 1993); D1399 (Report of ABiH Supreme Command Staff, 9 June 1993).

<sup>13622</sup> See Adjudicated Fact 262.

<sup>13623</sup> See Adjudicated Fact 264. The headquarters of the 5<sup>th</sup> Motorised Brigade was in the northwest of Dobrinja, approximately 150 to 200 metres west of Dobrinja Hospital. See Youseff Hajir, T. 8783–8786 (1 November 2010); P1867 (Map of Sarajevo marked by Youseff Hajir); Asim Džambasović, T. 15247–15249 (22 June 2011); D1384 (Map of ABiH positions in Sarajevo marked by Asim Džambasović).

<sup>13624</sup> See Adjudicated Fact 266.

4082. Relying on the medical evidence and the ABiH Supreme Command investigation discussed above, the Chamber finds that the explosion caused by the two shells on 1 June 1993 resulted in 122 casualties, at least 12 of whom died as a result of their injuries.

4083. In terms of the direction and origin of fire, the Chamber recalls that the UNPROFOR investigators came to the scene on the day of the incident and thus were able to observe the traces of the two points of impact, arriving at the conclusion that the shells originated from the south-southeast of Dobrinja.<sup>13625</sup> As noted above, a team from CSB Sarajevo conducted forensic examination at the incident site in November 1995 but examined only one point of impact, also concluding that the projectile in question originated from a southeasterly direction. This was then confirmed by Higgs and Hamill who thought that southeast was the direction from which the fire came. Finally, even Subotić agreed that at least one of the incident-related shells originated from the southeast. Accordingly, the Chamber is convinced that both shells came from that direction. **(Still, there was some 300 to 500 metres of the territory between the incident spot and the confrontation line #occupied and controlled by the Muslim side#. Taking into account the fact that the outgoing fire sound was heard, nobody excluded a possibility that the shells had been fired from this territory!)**

4084. As far as the origin of fire is concerned, the precise angle of descent for the shells could not be determined at the incident site and therefore the shells may have originated anywhere along this trajectory to the southeast of Dobrinja. The Chamber notes that the UNPROFOR, CSB Sarajevo, and Hamill all concluded that the shells originated from the SRK-held positions to the south of Lukavica. In contrast, Subotić concluded that the fire originated from ABiH-held positions along this same trajectory. Given the location of the incident site and the confrontation line to the southeast,<sup>13626</sup> the furthest distance from the incident site that the shells could have been fired from if they had originated in ABiH-held territory was 200 metres.<sup>13627</sup> In this respect, the Chamber recalls the evidence of Hamill and Galić in relation to danger radii and safety zones and that it would have been unsafe and extremely risky to fire a medium calibre shell at a target that is less than 200 metres away.<sup>13628</sup> Thus, the fire must have originated in an area that was further than 200 metres away from the incident site in the approximate direction of fire to the southeast. This places it firmly within the SRK-held territory. **(#“Extremely dangerous” doesn’t mean “impossible” and does not exclude this possibility#. Additionally, further on this direction there were again the Muslim held territories. This simply wasn’t established beyond a reasonable doubt. Since it wasn’t recorded in the SRK documents, indicates that, even if it came from the Serb side, Gen. Galic didn’t have any knowledge, let alone participation in the incident. How then the Accused could be involved?)**

<sup>13625</sup> The Chamber does not accept Subotić’s suggestion that a second crater on the parking lot was made by mechanical intervention as it is clear from the evidence that both shells landed on the asphalt surface of the parking lot.

<sup>13626</sup> See e.g. D759 (Map of Sarajevo marked by Mirza Sabljica); D760 (Map of Sarajevo marked by Mirza Sabljica). See also paras. 4069, 4076.

<sup>13627</sup> See para. 4076.

<sup>13628</sup> See para. 3982. The Chamber acknowledges that the apartment building in between the incident site and the confrontation line may have offered some protection for an ABiH unit to fire at the incident site from a position within the weapon’s danger radius. It does not however consider that it is reasonable that the ABiH would have fired in the direction of its own territory, at short distance and at high elevation, as part of some conspiracy to garner international support against the VRS. **But neither the SRK would pose it’s mortars on the c/l, and it wasn’t far in the Serb territory, in which case there wouldn’t be heard the outgoing sound.**



4085. As recounted above, Galić testified that the SRK did not open fire on Dobrinja on 1 June 1993. However, the Chamber cannot accept this evidence in light of the evidence analysed above in relation to this incident, as well as the evidence about the general situation in Dobrinja and the shelling its civilian inhabitants were exposed to on a regular basis during the conflict.<sup>13629</sup> **(This conclusion of the Chamber would be right, but there is a fact that makes it impossible: #there was always from 3,500 to 5,000 ABiH soldiers, on a small territory, the ABiH facilities were everywhere, mainly in the residential buildings#, and this 5<sup>th</sup> Brigade never respected the CF agreements. Having this in mind, nobody, no a reasonable chamber could conclude that it was a civilian inhabitants “exposed to (a shelling) on a regular basis.”)**

4086. In terms of the nature of the area and the status of the victims, the Chamber recalls that the incident site was a parking lot within a residential settlement and that it was not visible from any point of the SRK side of the confrontation line. While an atomic shelter was located approximately 100 metres away from the parking lot, no fire was opened on the SRK from that location that day. In addition, even if it was housing soldiers and military equipment at the time as suggested by Galić, the Chamber does not consider that this shelter was the intended target in this incident as more than two mortar rounds would have been necessary to destroy it.<sup>13630</sup> Furthermore, assuming that there was an ABiH mortar battery approximately 500 metres away from the incident site, as suggested by one of the UNPROFOR maps, given the distance involved the Chamber does not consider it to have been the intended target either. **The Chamber does not explain how come #the first shell was so precise#. Further, as can be seen from the D208, during the night 31 May to 1 June a #“rogue General” Juka Prazina was firing a lot against the Serb settlements and the Serb tank crew, and his positions were in the line with the shells trajectory#. So, if this is acceptable, despite so clumsy, inappropriate and incomplete investigation, then it would introduce a jurisprudence that would ruin a very idea of justice.**

4087. The Chamber recalls that 58 of the casualties in this incident were members of the ABiH and thus were a legitimate military target. However, the Chamber also notes that, in total, around 200 spectators, including women and children, were watching the game and that an almost equivalent number of casualties in this incident were civilians not taking direct part in hostilities at the time. The Chamber recalls that the presence of soldiers within the civilian population does not deprive the population of its civilian character and that the *mens rea* of a person responsible for an attack is to be assessed according to the knowledge that he or she had at the time of launching the attack.<sup>13631</sup> **(But, it didn’t determine who was “a person responsible”, not even close. All of that said in this para may be right, but the main, #the basic fact is still missing#. No a reasonable chamber would resolve such an insufficient investigationa and unestablished facts on an account of any accused#.)** There is no evidence as to whether the SRK units responsible for this incident knew at the time when they launched the attack that ABiH soldiers would be present at the football event or how many of them would attend, but the evidence shows that the SRK units were not able to see the incident site from their positions. However, even if the presence and the number of ABiH

<sup>13629</sup> See paras. 3783, 4059.

<sup>13630</sup> The Chamber also recalls that the two shells fell in quick succession to one another, landed at almost the same position, and that the second shell did not land any closer to the atomic shelter.

<sup>13631</sup> See paras. 453, 457.

soldiers were known to the SRK units in advance, it must have been obvious to those launching the attack that large numbers of civilians would inevitably gather at the event given (i) that the event involved a football match, that is, a purely civilian activity; (ii) the time of the event, that is, daytime and during a period of cease-fire; and (iii) the location of the event, that is, the middle of a residential area, surrounded by residential apartment blocks. Further, the SRK's decision to fire two mortar shells at such an event, those shells being designed to suppress activity over a wide area,<sup>13632</sup> shows in turn that the SRK units in question did not take any precautionary measures in accordance with the laws of war. Therefore, the Chamber is convinced that this incident is an example of indiscriminate fire. **All of that is in vain because of #the basic facts unestablished#! In 1994 the UNPROFOR and Football Club of Sarajevo appointed a match, they informed the Accused, and the Accused issued the strictest order to Gen.Mladic and Galic to secure the match against any incident, see P1643:**

This is to inform you that I have given permission for a football match to be played between an UNPROFOR team and a team from *Sarajevo* Football Club at Koševo Stadium between 1200 and 1600 hours on 20 March 1994.

UNPROFOR will play a similar match against the Serbian *Željezničar* Club at Grbavica at a time to be agreed.

During the time the match is played, it is necessary to prevent the Serbian side from provoking an incident at all costs, as this might bring condemnation from the whole world.

Moreover, the further normalisation of life in Sarajevo is in our interest, all the more so because it does not cost us anything in terms of territory.

Inform all brigades in the area that they shall absolutely comply with this order.

**So easy, if the Muslim side didn't want to stage an incident!)**

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<sup>13632</sup>

See para. 3982.