

a. Trg Međunarodnog Prijateljstva, Alipašino Polje, 16 June 1995 (Scheduled Incident G.15)

4479. According to the Indictment, on 16 June 1995 at about 3:20 p.m., a modified aircraft bomb, fired from SRK-held territory in Lukavica exploded next to 10 Trg Međunarodnog Prijateljstva, lightly injuring seven persons and causing considerable damage to the neighbouring buildings.<sup>15025</sup> The Accused argues that the bomb that exploded in this incident was a modified FAB-250 with three rocket motors and that its “most probable” target was the Bitumenka factory, which was 140 metres away from the incident site and in which ABiH was deployed.<sup>15026</sup> He also argues that a “major ABiH offensive was underway at the time of the incident”.<sup>15027</sup> **(How difficult and dangerous was the situation for the Serb side, can be seen from P4926, the Accused’s act of proclamation of the imminent state of war, concluded by the Assembly:**

**Date: 16 June 1995**

Proceeding from the fact that the Muslim and Croatian armed forces with the presence and support of foreign forces have undertaken and intensified an all-out offensive against Republika Srpska and RSK /Republic of Serbian Krajina/ in order to destroy the Serbian people and Serbian lands; with the objective of finally crushing and defeating the enemy, pursuant to Article 80 of the RS Constitution, Article 7 of the Law on Defence, Article 174 of the Law on the Army of Republika Srpska, and the Conclusions of the 51<sup>st</sup> session of the National Assembly of Republika Srpska, I hereby:

**ORDER**

1. The highest-special measures to ensure combat readiness shall be imposed on the Armed Forces, all government organs and organisations, all enterprises, institutions and the entire population in Republika Srpska.

2. The above-mentioned entities shall bring their activities and behaviour in line with the laws governing a state of imminent threat of war (*Official Gazette - Special Issue*, no. 1 of 29 November 1994), with this Order and other orders that will follow.

**#In such a dramatic situation, confronted with a several times mightier enemy, including the NATO, the Army of Croatia, and put under the International and Yugoslav sanctions, the Chamber finds worthwhile to accept a witness remarks about “only sporadic shooting”#!?!? the Chamber didn’t facilitate the Defence to depict the contexts for all the incidents and developments, and thus isolated the Serb conduct as unjustified, unreasonable and overreacted!)**

4480. On 16 June 1995, the weather was fine and there was good visibility.<sup>15028</sup> KDZ079 and four others were at the community centre office located at 10 Trg Međunarodnog Prijateljstva in Alipašino Polje.<sup>15029</sup> That centre was located in a residential area, across the street from the

<sup>15025</sup> Indictment, Scheduled Incident G.15. See also Prosecution Final Brief, Appendix C, para. 78.

<sup>15026</sup> Defence Final Brief, paras. 2379, 2381.

<sup>15027</sup> Defence Final Brief, para. 2380.

<sup>15028</sup> See Adjudicated Fact 3061.

<sup>15029</sup> P2922 (Witness statement of KDZ079 dated 12 March 1995), p. 2; P2922 (Witness statement of KDZ079 dated 17 May 2006), paras. 3–4; P2922 (Addendum to witness statement of KDZ079, 22 April 2010). See also P479 (Transcript from *Prosecutor v. D. Milošević*), T. 3522–3524.

PTT Building, where UNPROFOR Sector Sarajevo Headquarters was based.<sup>15030</sup> Throughout the day, there was sporadic shooting and shelling in the vicinity of Ilidža and, around 3:30 p.m., a bomb exploded near the centre, throwing KDZ079 onto a large table and then into a wall with significant force.<sup>15031</sup> She lost consciousness and was taken to a nearby shelter, where she stayed for three to four days due to intensive shooting and shelling.<sup>15032</sup> She had scratches on the side of her body, her hearing was damaged, and she could not hear properly for a year after the incident throughout which she also suffered from headaches and had pain in her liver and lungs.<sup>15033</sup> No one was killed in the explosion or suffered serious injuries but the whole office was destroyed and only the exterior walls remained standing.<sup>15034</sup> In total, seven people were injured in the explosion.<sup>15035</sup>

4481. KDZ079 described hearing a strange sound, “like a plane coming”, just before the explosion.<sup>15036</sup> She also testified that she heard later that the explosion was caused by an air bomb which landed about five to ten metres away from the community centre.<sup>15037</sup> Several weeks later, when she visited this location, KDZ079 saw a large crater and noticed that the balconies and windows of the surrounding buildings were damaged.<sup>15038</sup>

4482. KDZ079’s witness statement records that at the time of the incident the TO had an office in the community centre.<sup>15039</sup> When giving evidence in the *Dragomir Milošević* case, however, she testified that this office dealt with “civilian protection” or “civilian defence”, which was a civilian institution, supplying the civilians with medicine, food, and humanitarian aid.<sup>15040</sup> **(Was this change in the testimony suspected for an intent to minimise the importance of the TO office? The TO and the Civilian Protection are two different institutions, and couldn’t be mixed. Beside that, who on the Serb side knew that it was an atypical task of this TO office? And she was prepared to correct her previous statement!)** She also testified that there were no soldiers in the community centre, only civilians; usually these were the elderly people from the neighbourhood, who would come to take shelter in the building and help distribute aid.<sup>15041</sup>

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<sup>15030</sup> See Adjudicated Fact 3062. See also P2190 (GPS locations for shelling and sniping incidents in Sarajevo); P2191 (Map of Sarajevo with scheduled sniping and shelling incidents); P2213 (Image re scheduled sniping and shelling incidents in Sarajevo).

<sup>15031</sup> P2922 (Witness statement of KDZ079 dated 12 March 1995), p. 2; P2922 (Witness statement of KDZ079 dated 17 May 2006), paras. 5–7; KDZ079, P479 (Transcript from *Prosecutor v. D. Milošević*), T. 3539.

<sup>15032</sup> P2922 (Witness statement of KDZ079 dated 17 May 2006), paras. 7, 12; KDZ079, P479 (Transcript from *Prosecutor v. D. Milošević*), T. 3516–3518; P454 (Aerial photograph of Sarajevo marked by KDZ079).

<sup>15033</sup> P2922 (Witness statement of KDZ079 dated 17 May 2006), paras. 7, 13; P2922 (Witness statement of KDZ079 dated 12 March 1995), p. 2; KDZ079, P479 (Transcript from *Prosecutor v. D. Milošević*), T. 3516.

<sup>15034</sup> P2922 (Witness statement of KDZ079 dated 17 May 2006), paras. 8–9; KDZ079, P479 (Transcript from *Prosecutor v. D. Milošević*), T. 3517.

<sup>15035</sup> See Adjudicated Fact 3063.

<sup>15036</sup> P2922 (Witness statement of KDZ079 dated 12 March 1995), p. 2; KDZ079, P479 (Transcript from *Prosecutor v. D. Milošević*), T. 3513, 3516.

<sup>15037</sup> P2922 (Witness statement of KDZ079 dated 17 May 2006), paras. 10–11; KDZ079, P479 (Transcript from *Prosecutor v. D. Milošević*), T. 3514, 3519, 3535–3538, 3542–3544; P458 (Photograph of buildings in Sarajevo); P455 (Aerial photograph of Sarajevo marked by KDZ079). See also KDZ166, T. 8282–8283 (26 October 2010); P1803 (Map of Alipašino Polje).

<sup>15038</sup> P2922 (Witness statement of KDZ079 dated 17 May 2006), para. 11.

<sup>15039</sup> P2922 (Witness statement of KDZ079 dated 12 March 1995), p. 2.

<sup>15040</sup> KDZ079, P479 (Transcript from *Prosecutor v. D. Milošević*), T. 3506, 3508–3509, 3513–3515.

<sup>15041</sup> KDZ079, P479 (Transcript from *Prosecutor v. D. Milošević*), T. 3515, 3545–3546.

4483. This incident was investigated by the CSB Sarajevo team, including Turkušić and KDZ166, but only 10 days later due to intensive shelling in the area.<sup>15042</sup> The team noted in the official report prepared following the investigation that (i) the scene had been altered, (ii) parts of four rockets were found on the scene, and (iii) the projectile was a modified air bomb, probably fired from around Lukavica.<sup>15043</sup>

4484. As the criminal technician working on the case, KDZ166 took photographs, drew a sketch of the scene, and prepared his own report of the on-site investigation.<sup>15044</sup> According to that report, the projectile landed on a “concrete path which runs above no. 10, Trg Međunarodnog Prijateljstva and leads to Ive Andrića St.”<sup>15045</sup> It was “probably a modified aircraft bomb with four in-built rocket engines” which came “from the direction of the aggressor’s positions in the west” and created a large crater, over 11 metres long and 2.5 metres deep.<sup>15046</sup> Seven people were wounded as a result.<sup>15047</sup> During cross-examination, KDZ166 testified that the direction of fire was “west, north-west, roughly speaking”, which meant that its trajectory was either over the student dormitories or over Bitumenka Factory.<sup>15048</sup> He also slightly corrected the direction of the north on the sketch he prepared, and stated that in his opinion the projectile did not come from Lukavica but, based on the diameter of the crater, from the west or the northwest.<sup>15049</sup> **(#All of these controversies# originate from the Prosecution witnesses. Beside that, both the Student dormitory and the Bitumenka Factory were used for the military purposes!)**

4485. KDZ166 testified that Alipašino Polje was a residential area.<sup>15050</sup> On cross-examination, he confirmed that Energoinvest was in the vicinity and that the area to the north of the incident site was industrial.<sup>15051</sup> In addition, the TV building was nearby, as was the police station.<sup>15052</sup>

4486. Zečević thought that the damage and the effects experienced by KDZ079 and other victims pointed to a blast wave effect and thus to a fuel-air bomb.<sup>15053</sup> Looking at other incidents in the area, including the one on Safeta Hadžića street, Zečević determined that the azimuth of the modified air bomb in this case was 285 degrees, which corresponds to the area

<sup>15042</sup> KDZ166, T. 8316–8317 (26 October 2010); P1791 (Witness statement of KDZ166 dated 13 February 2010), p. 13; P431 (BiH MUP Report re shelling of Trg Međunarodnog Prijateljstva on 16 June 1995) (under seal).

<sup>15043</sup> P431 (BiH MUP Report re shelling of Trg Međunarodnog Prijateljstva on 16 June 1995) (under seal).

<sup>15044</sup> P1791 (Witness statement of KDZ166 dated 13 February 2010), pp. 13–14; P1805 (Sketch re shelling of Trg Međunarodnog Prijateljstva on 16 June 1995); P1806 (Photographs re shelling of Trg Međunarodnog Prijateljstva on 16 June 1995); P1814 (BiH Report re shelling of Trg Međunarodnog Prijateljstva on 16 June 1995) (under seal). See also KDZ166, T. 8284–8285 (26 October 2010).

<sup>15045</sup> P1814 (BiH Report re shelling of Trg Međunarodnog Prijateljstva on 16 June 1995), p. 1 (under seal). See also KDZ166, T. 8322 (26 October 2010); D803 (Map of Alipašino Polje marked by KDZ166).

<sup>15046</sup> P1814 (BiH Report re shelling of Trg Međunarodnog Prijateljstva on 16 June 1995), p. 1 (under seal). See also KDZ166, T. 8284–8286 (26 October 2010); P1805 (Sketch re shelling of Trg Međunarodnog Prijateljstva on 16 June 1995); P1806 (Photographs re shelling of Trg Međunarodnog Prijateljstva on 16 June 1995).

<sup>15047</sup> P1814 (BiH Report re shelling of Trg Međunarodnog Prijateljstva on 16 June 1995), p. 1 (under seal); P431 (BiH MUP Report re shelling of Trg Međunarodnog Prijateljstva on 16 June 1995) (under seal).

<sup>15048</sup> KDZ166, T. 8322–8323 (26 October 2010); D804 (Map of Sarajevo marked by KDZ166).

<sup>15049</sup> KDZ166, T. 8325–8329 (26 October 2010); D805 (Sketch re shelling of Trg Međunarodnog Prijateljstva on 16 June 1995 marked by KDZ166); D806 (Aerial photograph of Trg Međunarodnog Prijateljstva marked by KDZ166); D807 (Aerial photograph and sketch re shelling of Trg Međunarodnog Prijateljstva on 16 June 1995).

<sup>15050</sup> KDZ166, T. 8283–8284 (26 October 2010).

<sup>15051</sup> KDZ166, T. 8318–8319 (26 October 2010); D803 (Map of Alipašino Polje marked by KDZ166).

<sup>15052</sup> KDZ166, T. 8320–8321 (26 October 2010); D803 (Map of Alipašino Polje marked by KDZ166).

<sup>15053</sup> P2318 (Report by Berko Zečević entitled “The use of modified aircraft bombs during the siege of Sarajevo, 1994–1995”), pp. 132–133.

of Butila and Ilidža–Rajlovac, namely to the northwest of the incident site.<sup>15054</sup> **(Did the Chamber ever considered why Zecevic kept asserting that it was a fuel-air bomb? If a use of this bomb would be more damaging of the Serb legal position, was that a reason? Or, was he so highly incompetent? For a much less “deviant” opinions the Defence witnesses were discredited!)**

4487. Basing her analysis on the size of the crater, Anđelković-Lukić thought that the bomb used in this case was a modified FAB-250 with three rocket motors and with solid explosive charge as indicated by the strong blast effect on the victims.<sup>15055</sup> She challenged Zečević’s determination that this was a fuel-air bomb, arguing that the victims who were in the vicinity of the explosion would not have survived had that been the case.<sup>15056</sup> Finally, she challenged his determination of the azimuth, stating that he used the other incidents because he had no parameters from which he could determine that angle for this specific incident.<sup>15057</sup>

**4488.** Subotić also thought that the modified air bomb used in this incident was a FAB-250 with solid explosive charge, as the victims would not have otherwise survived and because the shape and the depth of the crater ruled out a fuel-air bomb.<sup>15058</sup> Using the photographs of the rockets found on the scene, Subotić noted that only three nozzles can be seen and thus concluded that the bomb probably had three rocket motors, rather than four.<sup>15059</sup> She noted the disagreement on the azimuth between KDZ166’s report (west) and the official report (Lukavica, which is to the south), and determined based on KDZ166’s corrected sketch of the incident site, that the azimuth was north-northwest, and that the bomb’s trajectory went over the Bitumenka Factory, which was 140 metres away and was “most probably” the target.<sup>15060</sup> She also claimed that both the CSB Sarajevo and Zečević wanted to “show at any cost that the only target in this attack was a residential area and this is why they determined that the incoming trajectory crossed only the residential area”.<sup>15061</sup> **(And with the fuel-air charge. Zecevic and other Muslim investigators distorted the facts as much as they could, no matter what!)**

4489. Radojčić testified, like Milošević above,<sup>15062</sup> that this incident occurred in the midst of a “fierce” ABiH offensive and that he “allow[ed] for the possibility that the target may have been the [Bitumenka] building” which housed ABiH forces and mortars.<sup>15063</sup> Moreover, according to him, the building of the Prvi Maj school, now called Fatima Gunić school,

<sup>15054</sup> P2318 (Report by Berko Zečević entitled “The use of modified aircraft bombs during the siege of Sarajevo, 1994–1995”), p. 133. *See also* D3540 (Zorica Subotić’s expert report entitled “The Use of Modified Aircraft Bombs in the Sarajevo Area in 1994–1995”, 15 March 2012), p. 121, Figure 58.

<sup>15055</sup> D2662 (Mirjana Anđelković-Lukić’s expert report entitled “Expert Analysis of Documents”, 26 July 2012), p. 28.

<sup>15056</sup> D2662 (Mirjana Anđelković-Lukić’s expert report entitled “Expert Analysis of Documents”, 26 July 2012), pp. 28–29.

<sup>15057</sup> D2662 (Mirjana Anđelković-Lukić’s expert report entitled “Expert Analysis of Documents”, 26 July 2012), p. 29.

<sup>15058</sup> D3540 (Zorica Subotić’s expert report entitled “The Use of Modified Aircraft Bombs in the Sarajevo Area in 1994–1995”, 15 March 2012), pp. 116–117; Zorica Subotić, T. 38212–38214 (14 May 2013).

<sup>15059</sup> D3540 (Zorica Subotić’s expert report entitled “The Use of Modified Aircraft Bombs in the Sarajevo Area in 1994–1995”, 15 March 2012), p. 118.

<sup>15060</sup> D3540 (Zorica Subotić’s expert report entitled “The Use of Modified Aircraft Bombs in the Sarajevo Area in 1994–1995”, 15 March 2012), pp. 119–121, 184, 188; Zorica Subotić, T. 38214–38216 (14 May 2013).

<sup>15061</sup> D3540 (Zorica Subotić’s expert report entitled “The Use of Modified Aircraft Bombs in the Sarajevo Area in 1994–1995”, 15 March 2012), p. 121 (adding further that CSB Sarajevo did so by rotating the direction of north, which was “a method frequently used in their investigations”).

<sup>15062</sup> *See* para. 4468.

<sup>15063</sup> D2562 (Witness statement of Vladimir Radojčić dated 8 December 2012), paras. 64, 114.

accommodated the command of one of the units of the 102<sup>nd</sup> Brigade of the ABiH.<sup>15064</sup> Finally, he testified that he never ordered that fire be opened on Trg Međunarodnog Prijateljstva nor received any reports about this incident.<sup>15065</sup> Milošević testified that the bomb was used in order to stop the attack of the 102<sup>nd</sup> Brigade of the ABiH on Nedžarići.<sup>15066</sup>

4490. In addition to the evidence and the adjudicated facts outlined above, the Chamber also took judicial notice of the following two facts: (i) the projectile that exploded on Trg Međunarodnog Prijateljstva 10 was a modified air bomb;<sup>15067</sup> and (ii) it was fired from an SRK position, having been launched by members of the SRK.<sup>15068</sup> **(#Deadly combination#! How could anything be decided without these “adjudicated facts”? on the basis of evidence tendered in this process, there couldn’t be any convicting decision! Apart from it, why this Accused is charged for a strictly technical matters, while there was no any evidence about criminal intent even of those who fired, let alone the higher commands and the President!)**

4491. The Chamber, relying on the evidence and the adjudicated facts recounted above, is satisfied that the projectile that landed on Trg Međunarodnog Prijateljstva on 16 June 1995 was a modified air bomb. Given the extensive damage caused by the explosion, the Chamber is also convinced that it was a heavier bomb, most likely FAB-250 with three rocket motors. Given the conflicting evidence on this issue, the Chamber is not convinced that it was a fuel-air bomb as claimed by Zečević. Ultimately, however, the Chamber considers that the type of the charge used in the bomb is irrelevant given its highly destructive nature.

4492. In terms of the casualties, the Chamber finds, relying on the evidence and the Adjudicated Fact 3063, that seven people were injured in the explosion, including KDZ079. The Chamber also considers that they were all civilians and that they were not taking direct part in the hostilities at the time of the incident.<sup>15069</sup>

4493. With respect to the direction of fire, while there are some discrepancies among the experts and local investigators, the evidence nevertheless shows that the modified air bomb came from the general northwesterly direction. While Subotić claims that Zečević’s direction of fire was closer to the west than to the north because he was trying to show that civilians were the only target, the Chamber does not accept her claim and recalls that Zečević explained the basis on which he determined this direction of fire, namely from his experience of other incidents in the area. Ultimately, as with the incident on Dositejeva street, the Chamber is convinced beyond reasonable doubt that the modified air bomb in this incident was fired from SRK-held territory. This is confirmed by the intercepted conversation in

<sup>15064</sup> D2562 (Witness statement of Vladimir Radojčić dated 8 December 2012), para. 114 (not specifying which unit that was). *See also* D2553 (Witness statement of Svetozar Guzina dated 3 December 2012), para. 46 (testifying that the ABiH was located there throughout the war). The Chamber received no evidence, however, as to the location of this school or the distance between it and the incident site.

<sup>15065</sup> D2562 (Witness statement of Vladimir Radojčić dated 8 December 2012), para. 114.

<sup>15066</sup> Dragomir Milošević, T. 32780–32781 (28 January 2013).

<sup>15067</sup> Adjudicated Fact 3063.

<sup>15068</sup> *See* Adjudicated Fact 3064.

<sup>15069</sup> While KDZ079 testified that the civilian protection, or civilian defence, was located in the community centre building, the Chamber considers that this did not make the building and the persons located therein a legitimate military target since, according to KDZ079, there were no soldiers in the building. Those in the building were usually the elderly from the neighbourhood who would come to take shelter there and help distribute aid. In addition, none of the Defence witnesses suggested that they considered this building to be a legitimate military target.

which Prstojević told Ristić that they sent over a “krmača” or two to the Bosnian Muslim side that day. Milošević also admitted that the SRK used the bomb in order to stop the attacks in Nedžarići. **(#Military reasons#! However, it was a legal intent, and aimed to achieve a military objective, a defence against the Muslim attack. Let us see what reported only one ABiH brigade on the same day, see D186, p.1:**

#### 1. ENEMY FORCES

The enemy had /handwritten: one/ company defending against our operations. It was operating using all available means.  
Losses in manpower: three or four Chetniks killed and we believe that a large number were put out of action.  
Losses in MTS /materiel and technical equipment/: one PAT /anti-aircraft gun/, one MB /mortar/, a significant amount of ammunition, one Motorola and a destroyed ZIS /76mm field gun/ VP /firing position/ in the Blagovac RN /?sector/.

#### 2. OUR FORCES:

On 16 June 1995, we began offensive liberation operations in the zone of operations of our brigade. Combat operations began at 0400 hours. The enemy forces had /handwritten: one/ company defending along the axis of attack. Initially, our forces were successful and inflicted significant losses on the enemy in both manpower (three or four Chetniks killed) and MTS (one PAT, one MB and significant amounts of ammunition captured, and a ZIS VP was destroyed in the Blagovac RN; one Motorola was seized).

**Bragging about the Serb loses! Now, let us see the spending of the heavy ammunition of only this 111 Brigade for this day:**

#### Ammunition Spent:

MB 60 shells	200
MB 82 shells	175
MB 120 shells	22
TRM /rifle grenade/	200
ROB /hand grenade/	200
7.62mm bullets	20,000
7.62mm TZ / instant incendiary/ bullets	2000
7.9 bullets	2000

**So, only one of 15 brigades fired 797 big calibre projectiles to the Serb part of the city.**

4494. The Chamber further finds that the area of Alipašino Polje was a residential area with a large number of civilians living there. While Radojčić testified that Fatima Gunić School housed an ABiH command, the Chamber has received no evidence about the location of this school or its distance from the incident site. In any event, the Accused’s argument is that the most probable target was the Bitumenka Factory, not the school, the factory being about 140 metres away from the incident site. The Chamber notes, however, that it has received no evidence that Bitumenka was used by ABiH or that it otherwise was a legitimate military target. Even if it was, however, the modified air bomb missed it by at least 140 metres, confirming once again the inherent inaccuracy of this weapon. **(How, the Chamber didn’t receive evidence about Bitumenka? Did the Defence witnesses testify to that direction? Or the Defence witnesses are not counted? Again, it was not 140 metres, having in mind that the bomb flew over Bitumenka, and may be missing it even in centimetres! The entire Serb part of the city was under an enormous fire, but the Chamber neglected this context!)**

4495. Finally, while there may have been some shelling and fighting during the day, KDZ079 testified that it was sporadic and that it took place in the vicinity of Ilidža, on the confrontation line. This is consistent with Konings who explained that there was a lot of

fighting in those days but that it took place on the confrontation lines.<sup>15070</sup> The incident site here was not on the confrontation line and there is no evidence that fire was opened from it on the SRK positions that day. **(This is an outrageous #“reductio ad absurdum”#! The contemporaneous documents depict a great offensive on the Serb side, but the Chamber accepted a testimony of a witness that hadn’t been cross examined that the fire was sporadic and a few hundred metres away!?!? See the contemporaneous documents pasted above! Let us see how the actions were along the confrontation lines, see D187:**

#### 1. Aggressor:

Following our breakthrough of the l/o /line of defence/ along the stretch between Urošs and Jeftovićs house, some time after 0800 hours, the aggressor regrouped with the continuous arrival of new infantry forces, and slowly began repelling our breakthrough. After 1000 hours, the enemy began with heavy shelling of our newly-seized positions from several directions: Dolovo, Knjeginjac, Orlovača, Pitine Stijene, Bistrik Kula, Savić Brdo, Gradište and Mirkovići. The enemy opened fire from MB /mortars/, Howitzers, tanks, BsT /recoilless cannons/ and *Praga* /anti-aircraft guns/. This went on and was interrupted by infantry attacks. It concluded around /?1500/ hours and the enemy had not seized its previous positions by that time.

Losses of the aggressor: As far as we know there are three dead, one of which was pulled out to our side, and there is an unknown number of wounded.

After breaking through the aggressor’s line of defence by a depth of 400 metres, we began with engineering works and erecting road blocks. As of 1000 hours, following exceptionally heavy artillery fire and infantry attacks, defence of this position began. As the artillery fire increased, the conditions for retaining the newly-reached positions became more difficult and around 1300 hours, in consultation with the commander of the 3<sup>rd</sup> Battalion, it was decided that a gradual withdrawal would ensue and the withdrawal concluded around 1400 hours. Our forces withdrew to the standard l/o.

#### **Let us see how big loses were, and how much heavy ammunition spent this Muslim unit:**

Our losses: one dead soldier from the 115<sup>th</sup> bbr (PK /assistant commander/ for ObP /intelligence/ at the 3<sup>rd</sup> battalion of the 115<sup>th</sup> bbr):

Two dead soldiers from the 143<sup>rd</sup> lbr /Light Brigade/ (one was not pulled out), and 59 soldiers who were either seriously or lightly wounded (the 115<sup>th</sup> bbr, 143<sup>rd</sup> lbr and the ~~145<sup>th</sup> lbr~~ collectively).

#### 2.4. Logistics:

During combat operations since 16 June 1995 we spent the following MTS /materiel and technical equipment/:

RIFLE GRENADE	267
ROB /hand grenade/	169
GRENADES FOR RPG / rocket propelled grenade/	
WITH B/P /charge/	44
GRENADES FOR RB WITH B/P	18
60mm MINES	246
ZOLJA /hand-held launchers/	4
CONTAINER OF OSA /hand-held launchers/	2
82mm MORTAR	280
120mm MORTAR	41
20mm SHELLS	120

**As it can be seen, only this one (115) Brigade spent to 15:00 P.M. all together 1191 big calibre only on their part of the battlefiels, i.e. during their attack on the Serb**

<sup>15070</sup>

See fn. 14998.

**settlements! It was not “some shelling and fighting” it was a horrifying offensive that threatened the Serbs in Sarajevo to disappear!)**

4496. Accordingly, the Chamber does not consider that the modified air bomb was aimed at neutralising a specific military target. Rather, the Chamber is convinced beyond reasonable doubt that the bomb was launched into a generally residential area, in retaliation for the attacks mounted by the ABiH on the confrontation lines. This is confirmed by Mladić’s instruction to Milošević that the Bosnian Muslim side should be made to pay for fighting as well as by Milošević’s admission that the bomb was used in order to stop the ABiH attacks in Nedžarići. **(What both, Mladic and Milosevic said – didn’t pertain to any civilians to pay, but strictly military. It can be found in the contemporaneous orders of both Mladic and Milosevic, see P05642, p. 4)**

Ratko MLADIĆ:	One by one, destroy, attack, only military targets!
Dragomir MILOŠEVIĆ:	What?
Ratko MLADIĆ:	Only military targets. If they continue, the aviation will go in.
Dragomir MILOŠEVIĆ:	All right.

**What General Milosevic said is #directly contradicting to the Chamber’s inference#: if he was defending Nedzarici neighbouring to the site if impact, it was in the direct to the forces that attacked Nedzarici! What the Chamber could have been convinced beyond reasonable doubt that it was aimed at a civilian targets, while in the very same intercept it was underlined by Mladic, and accepted by Milosevic to aim only military targets?)**

Further, given the inaccuracy of the modified air bombs and recalling their destructive power, the Chamber is of the view that the SRK soldiers launching this modified air bomb into the central area of Sarajevo should have been aware that such an attack would cause great damage to civilian objects and result in civilian casualties.

*b. Findings on shelling in Sarajevo*

4497. Having considered all the evidence presented in this case in relation to shelling in Sarajevo in the period relevant to the Indictment, the Chamber is convinced that throughout the conflict the SRK units engaged in deliberate, disproportionate, and indiscriminate shelling of the civilian objects and civilians in the city.<sup>15071</sup> **(This conviction of the Chamber is founded on:**

**1) #the false evidence, obtained by the Muslim investigating services,**

**2) #on the notorious UNMO’s invalid reports,**

<sup>15071</sup>

In reaching this conclusion, the Chamber relied not only on the findings on scheduled shelling incidents discussed above, but also on the general evidence relating to the situation in the city and the types of shelling it was exposed to on a regular basis. **(That means, on a basis of impressions and believes? Then, why to follow any procedure and submission of evidences? A general picture is even easier to manipulate than the scheduled incidents, which, as we have seen, were not properly investigated.**

3) #on a staged incidents,

4) #on the Muslim efforts to denigrate the Serbs and drag the International community into the war on their side, and finally

5) #on a lack of an objective insight of the internationals into the deployment of the warring forces.

Of course, preventing the Serb side to participate in the investigations is a firm reason to reject all the findings made without the Serb insight and participation, and that should be codified by the UN, that the sides concerned must be involved in investigations! The #Chamber neglected a plethora of evidence that the Serb side had an exclusively defensive tactics in Sarajevo, a “tactics of a containment” of the Muslim forces#, that a vast majority of the violations of the CF Agreements had been committed by the Muslim side, and therefore they initiated a fire forcing the Serb side to respond and retaliate, and finally, the Chamber neglected an over-exaggerations of the effects of shellings in Sarajevo, both in terms of physical damages and number of casualties. Namely, had the Serb side fired as many shells as it was alleged, there wouldn’t be any city, and the civilian casualties would be innumerable. Thus, if the Serb side fired indiscriminately, or even intentionally, as it was alleged, about a million shells towards the city during this 43 months of war, that would mean that only every 526<sup>th</sup> shell would inflict one casualty, according to the Tabeau’s finding. They did so using a multitude of heavy weapons, such as 80 and 120 mm mortars, as well as other artillery and higher calibre weapons. These were located, more or less permanently, on the hills surrounding Sarajevo, their permanent placement allowing the firing crews to acquire a certain degree of targeting accuracy. Nonetheless, the evidence of the witnesses who were in the city during the conflict shows that there often seemed to be no military value in the targets that were selected and that fire was often randomly scattered around the city. (#“There often seemed” but was never proven#! Nobody who didn’t know the deployment of the Muslim-Croat forces, their military facilities, their heavy weapons, particularly those mobile, can say something like that. Nobody! And as we have seen, the restriction of movement (ROM) for the internationals in the city prevented them to see what the Serbs could have seen and felt when fired upon from those places. Remember Mr. Conway, seeing a mortar battery only at the end, or after the war. Molisevic opposed to the Fraser’s assertion that a legitimate retaliation of the SRK wasn’t directed towards the headquarters of the 1 Corps of the ABiH, but somewhere else, saying that the SRK never retaliated against any of 275 headquarters, but only towards the firing places!) The evidence is also overwhelming as to the high numbers of shells that fell on the city during the conflict, including on its residential areas and civilian objects. The shells would fall on an almost daily basis, with the exception of a few quiet periods as outlined in Section IV.B.1.a, while the heaviest shelling took place in the early days of the conflict and in the summer of 1992. The fact that this type of shelling of the city continued for over three years indicates to the Chamber that the intention of the SRK forces was not in fact to target military targets alone, but rather to target civilians and/or use random and disproportionate fire in the city. (For what purpose? There must have been a motive. Why the Serbs would do that, taking into account several very impressive elements, such as:

a) #not intending to advance towards the city, and therefore no an artillery preparations were needed;

b) #any initiation of fire would cause a retaliatory fire, which was detrimental for the small (in man power) SRK and the civilians;

c) #there was no any benefits for the Serb side in doing anything in Sarajevo, since the entire international propaganda was against them, and no benefits at all, but only disadvantages;

d) #this assertion could have a sense only if there was no the huge Muslim forces in the city, and around the city, with the full participation of the 1<sup>st</sup> Corps of the ABiH, and a very substantial contribution of the 3<sup>rd</sup> Corps (Zenica) 2<sup>nd</sup> Corps (Tuzla) and 4<sup>th</sup> Corps (Mostar) the proportion in the manpower was: from the city only 3 : 1 in favour of the ABiH, and 5 : 1 in favour of the 1<sup>st</sup> Corps of ABiH, while an overall proportion concerning the three other Corpses was 12 to 15 : 1 in the Muslim favour;

e) #it is well established and accepted that the SRK had a defensive strategi, with the aim to contains the Muslim troops, not to defeate them, nor to take the city under own control!) Further, as with sniping, the Chamber is particularly persuaded by the evidence of international witnesses who worked for the UN in the city and, therefore, could not only observe the shelling practices of the SRK but were also able to have a more complete picture of the events on the ground through UNPROFOR and UNMO reports and through their dealings with the warring sides. (Not only a #notorious bias of the internationals# in Sarajevo, but also their inabilities to know the deployment of the forces, their believes that everything that came from the hills came from the Serb side, and particularly their exposition to the Muslim sources, discualify them for any credible testimony!) All those witnesses were consistent as to the illegitimate nature of the SRK's shelling of the city and their heavy weapon supremacy. (Having been ignorant about the deployment, they couldn't be privy of a basic information, without which they couldn't be a credible witnesses, and could not testify correctly even if wanted, and ssome of them certainly wanted to be unbiased!) Further, the evidence outlined above clearly indicates that even when used in response to ABiH fire, the SRK fire was usually disproportionate and/or indiscriminate. (Again, they didn't know that the SRK didn't retaliate towards any expected facility, but against the firing places, about which those international witnesses didn't have a single idea of whereabouts!) The specific scheduled shelling incidents discussed in detail above also clearly illustrate the non-selective nature of the SRK fire. Furthermore, on top of the regular artillery weapons and mortars, the SRK used highly destructive modified air bombs, which were imprecise and completely unsuitable for an urban environment such as Sarajevo. (But much more precise than any other indirect firing weapons. All of that is not established, and relied only on a believes and impressions of the Presecution witnesses, who prevailed only because the Chamber discredited all the Defence witnesses on no basis!) . Finally, the Chamber's finding that the SRK was shelling Sarajevo civilians, either through deliberate targeting or through indiscriminate and disproportionate attacks, is further reinforced by the high number of civilians who either died or were wounded as a result of the shelling undertaken by the SRK. (Taking into account that there was about 1,400 days of the urban war, and taking into account the confirmed

fact that the Muslim side had an interest, and therefore did shelling of their own people, and taking into account the staging (at least one, Vase Miskina was confirmed by the internationals) incidents, this can not be a correct inference. Taking into account that the Serb side was in favour of the demilitarisation of Sarajevo, and that the urban war was the Muslim choice, the SRK is not proven to be deliberately inflicting any civilian casualty. It is a separate, but crucial question, what all of it has to do with this Accused? Neither he wanted a war, nor he wanted to occupy any of the Muslim settlements, nor he insisted that Sarajevo remain militarised, nor he ordered, nor he allowed, but contrary, have forbidden firing towards the city!)

**4498.** In coming to the above conclusions, the Chamber also carefully assessed the evidence of the former SRK soldiers and officers who claimed that they were not deliberately targeting civilians and that their use of heavy weaponry was always selective and proportionate. The Chamber found this evidence disingenuous, as it flies in the face of the overwhelming and highly persuasive Prosecution evidence as to the facts on the ground. It is also contrary to the evidence specifically related to the scheduled shelling incidents. Finally, it is further contradicted by the SRK's own analysis of the targeting practices conducted by the SRK's Chief of Artillery in July 1994, as well as by the orders of the SRK and of the Accused concerning the preservation of ammunition.<sup>15072</sup> (The preservation of ammunition wasn't the main concern of the President, there were many orders of his, motivated by another, a purely humanitarian motives. The Chamber would be right only if there was no a Muslim fire that usually started and compelled the Serbs to defend. The fact that the VRS was a popular army, composed mainly of reservists and ordinary people, could have some impact on the skilfulness, but certainly none of them wanted to initiate any fire, since the other side would return the fire against their own settlements. All those documents clearly show that SRK units opened disproportionate and non-selective fire, achieving poor results in terms of striking relevant military targets.<sup>15073</sup> (Nobody did say that, and nobody could, because the SRK, although being three to five times weaker than the ABiH 1 Corps, and also a few times weaker than 2<sup>nd</sup> Corps (attacking from Tuzla) and 3<sup>rd</sup> Corps, (attacking from Zenica) defended their own part of the city. There were many, many offensives, with many, many casualties on both sides, particularly on the side which was attacking, i.e. the Muslim side. Many of those were reported as a civilian casualties. However, the mentioned document D2587 is wrongly translated and interpreted, see this para: D2587:

We all wush to liquidate as much as possible persons converted ti Islam but not causing the consequences such as caused by couple of mines or grenades over Sarajevo resulting in minimun effects.

**#Words of others#!** In the original it was said "Poturica", not the people converted to Islam. The difference is huge, and everyone who live in the Serb linguistic area knew this: "Poturice" are not all the Muslims, but only these who fight against their former brothers, the Orthodox Serbs. "poturica" is an ugly name for those Serbs who wanted to become Turks, not only Muslims! But, anyway, Lt. Colonel Marcetic said it to the contrast to the rest of his order, forbidding any unjustified fire towards the city.

<sup>15072</sup> See para. 3999.

<sup>15073</sup> The Chamber finds D2587 particularly telling in this context as it alludes to the fact that the SRK units all wanted to liquidate as many Bosnian Muslims as possible. See fn. 13248.

**Therefore, the deputy commander sexplained that a fight against enemies is one, and shooting towards the city another matter! #EXCULPATORY#!**

The Chamber therefore considers that the evidence these witnesses gave on the issue of selectivity and proportionality was self-serving and dishonest and undermined their credibility. Furthermore, while the Chamber accepts that SRK units would sometimes open fire that was directed at the ABiH forces on the confrontation lines and/or was a proportionate response to ABiH fire, as confirmed by many of the above-mentioned international witnesses, this does not impact on the ultimate finding that much of the heavy weapon fire on the city was neither selective nor proportionate. **(If this inference was correct, there would be much more destruction, and many more casualties. But this was not the case. Also, from the regular combat reports it is visible that there was mainly a two-way fire, and there was many impacts, incoming or outgoing fires that couldn't be identified, and allocated to any side. There is so many irregularities in registering, counting and allocating shells, so that any allegation could be made, but shouldn't be accepted as something established. Simply, this can not go without opposition, the assertion and the Chamber's finding that all of those unidentified shells be allocated to the SRK. A mere analysis of all the combat reports and the consumption lists would revert all of these wrong inferences. Simply, if compared the assertions about a thousand or more shells as an average figure a day, there would be up to 1,400,000 shells hitting the city. However, the city of Sarajevo was not even scratched, let alone destroyed, which would be if the Serbs did what the a alleged to have done! A siple look of the city shows that except some governmental building, turned into a military facilities, nothing in the city was destroyed!)**

4499. While the evidence of the above-mentioned SRK witnesses on the selective and proportional nature of SRK fire is unreliable, their evidence on other aspects of SRK targeting shows that KDZ182's assessment that mortar and artillery fire was strictly controlled at higher command levels while leaving some leeway for "underlings" was ultimately accurate. As noted above, Galić and Indić confirmed that higher calibre artillery was controlled at the corps level while the basic assets of the brigade were controlled by the brigade commanders. Similarly, both Galić and Simić testified that authorisation of the brigade command or of the corps command was necessary before mortar or artillery fire could be opened. In addition, as confirmed by Dušan Škrba and Nikola Mijatović, SRK units were allowed to open fire without permission and using simple preparation, without waiting to hear from the SRK observers, if directly threatened. **(But this is a sovereign right of any soldier and any commander in any army, to defend himself and his unit. What is wrong with that? In what army an attacked unit must wait to be authorised to defend itself? And this fact explains how all the SRK artillery actions depended on the ABiH attacks. Nobody ever successfully denied the fact that the SRK didn't initiate fires, but only responded, aand therefore was forced to fire!)** Finally, as found above in the section dealing with modified air bombs, the use of such bombs was under strict VRS Main Staff control. **(So what? Was there any illegal or criminal order or intention, particularly done by the Accused?)**

4500. In terms of the Accused's arguments that the ABiH was responsible for civilian casualties in the city because it did not remove the civilians from the vicinity of the military objectives or because it abused civilians objects for military purposes, the Chamber recalls that the parties to a conflict are indeed under an obligation to remove civilians, to the maximum extent

feasible, from the vicinity of military objectives and to avoid locating military objectives within or near densely populated areas.<sup>15074</sup> However, the failure of a party to abide by this obligation does not relieve the attacking side of its duty to abide by the principles of distinction and proportionality when launching an attack.<sup>15075 (15075)</sup> The evidence is clear that the SRK units did not abide by those principles. **(This is not correct conclusion, because didn't define what to do an attacked side!?! In such a case, all the responsibility is on the side that attacked and initiated the response. However, there is no evidence about the SRK's "attacks". If the SRK planned and conducted an unprovoked attack, the Chamber would be right in deliberating that way, but since the SRK never initiated, never planed, never conducted any attack against the 12<sup>th</sup> Division and the city proper, but was forced to defend it's lines and settlements with their families behind the lines, then the responsibility was on the Muslim side – not to fire from vicinity of civilian areas!)**

**4501.** As for the use of mobile mortars by the ABiH from civilian areas, the Chamber accepts that this practice caused difficulties to the SRK units and that it was illegal. However, the legality or otherwise of ABiH firing practices is only relevant to the allegations made in this case if they go to one of the main allegations in this case, such as showing that the SRK observed the principles of distinction during the conflict in Sarajevo. In that respect, the Chamber agrees with Fraser that given the low probability of the SRK response actually hitting and destroying the mobile mortar in question, the SRK units should have refrained from firing back if the mobile mortar was intermingled with civilians.<sup>15076</sup> **(When fired at, the attacked side may be seeing only the area of firing, but not necessarily the weapons, but still #the attacked side is entitled to respond to the spot from which it was fired at#. To sustain a fire and not to respond because the other side have chosen to fire from a civilian area is not envisaged by any international law of war, because if an attacked side couldn't respond directly against a weapons that were firing, it can attack any vital and crucial military facility, such as a production of a deadly weapons, infrastructure, or even to initiate an infantry attack on a totally different end of the battlefield (city) in order to attract enemy forces from another end. During this war, and the court processes afterwards, there is a confusion introduced by this Tribunal as to what the sides were entitled to do, and particularly through denying the right to defend against a side that is aggressive! That would be a huge precedent in the international law, if a side that attacked would be able to protect itself by hiding behind it's own civilians! IN NO CIRCUMSTANCES CIVILIANS COULD BE USED TO ACHIEVE A MILITARY BENEFIT!#** In addition, as discussed in a later section of this Judgement, the ABiH would usually fire one or two rounds from those mortars but the SRK would then respond in a disproportionate manner, indicating that the aim was retaliation rather than that of neutralising the mobile mortar in

<sup>15074</sup> *Galić Appeal Judgement*, para. 194; Article 58 of Additional Protocol I.

<sup>15075</sup> *Galić Appeal Judgement*, para. 194.

<sup>15076</sup> Indeed, Golić testified that in early June 1992 he received an order from the Chief of Artillery not to fire at a mobile mortar located in the National Museum. *See* D2665 (Witness statement of Izo Golić dated 15 December 2012), para. 29. **The Chamber should have known that Izo Golic was a Muslim from Rogatica in the VRS, and that he would never be in the VRS had the VRS had a criminal attitude towards the Muslims.**

question.<sup>15077</sup> **(The Chamber couldn't know that. Nobody could have known that. And as the Accused believed, it is not the case that a number of shells indicate proportionality, but an aim, an objective wanted to be achieved. Why would a weaker side refrain from destroying a weapons that are jeopardizing it every now and then, exhausting it's resources and leading itself to a total defeat and disaster?)**

4502. Finally, the Accused's argument that the Bosnian Muslim units within the city opened mortar and artillery fire on their own civilians in order to lay the blame on the Serbs has been rejected by the Chamber for the reasons outlined in more detail in the later section of the Judgement.<sup>15078</sup> **(#But this was not only the President's argument, it was mentioned in many UN documents as a real possibility#! And the very same Chamber had it accepted already in this Judgment#!)**

1. Bosnian Muslim side targeting own civilians

4503. Throughout this case the Accused argued, both generally and in relation to specific scheduled incidents, that it was the Bosnian Muslim side that sniped and shelled civilians in Sarajevo in order to gain international sympathy and to provoke an international response against the Serbs; he also claimed that the Bosnian Muslims were responsible for all major incidents in the city which resulted in civilian casualties.<sup>15079</sup>

4504. The Prosecution argues that these claims by the Accused should be rejected as "international witnesses" consistently "debunked" them; further, the Prosecution claims that, to the extent it occurred, any such activity was insignificant in light of the frequent sniping and shelling conducted by the Bosnian Serb Forces during the conflict.<sup>15080</sup> **(Had it been so, why the Muslims would have to do the shelling and sniping of their own people even in the "insignificant" extent? No doubt that they did it, and the only question is: why they did it? Because the Serbs didn't do it, and any lull in Sarajevo was detrimental for their main purpose, namely to drag the internationals into the war on their side.**

4505. To support his claims, the Accused cross-examined a number of Prosecution witnesses on the topic and also called a number of witnesses, including Edin Garaplija. Soon after the war Garaplija, a former member of the BiH MUP's SDB,<sup>15081</sup> conducted a police interview with Nedžad Herenda, a member of a secret police unit established in 1992 as part of the SDB called Ševe.<sup>15082</sup> According to Garaplija, during this interview Herenda admitted that during the war he operated as a sniper and was tasked with shooting at Serb positions, which he often did from the Executive Council building.<sup>15083</sup> He also admitted that, in 1995, while positioned at the Executive Council building, he shot and killed the FreBat soldier who was erecting an anti-sniping barrier near the Holiday Inn<sup>15084</sup> in order to cause the UN to "blame the

<sup>15077</sup> See paras. 4535, 4544.

<sup>15078</sup> See Section IV.B.1.d: Bosnian Muslim side targeting own civilians.

<sup>15079</sup> Defence Final Brief, paras. 1968, 1972–1974, 2181; Hearing, T. 10620 (20 January 2011).

<sup>15080</sup> Prosecution Final Brief, para. 795.

<sup>15081</sup> Edin Garaplija, T. 33381 (7 February 2013).

<sup>15082</sup> D2906 (Video clip of interview with Edin Garaplija, with transcript); Edin Garaplija, T. 33382, 33384 (7 February 2013).

<sup>15083</sup> Edin Garaplija, T. 33388, 33403, 33410 (7 February 2013) (adding that Herenda would also snipe at Bosnian Serb civilians in Grbavica).

<sup>15084</sup> The death of this soldier has been recounted earlier in the Judgement. See para. 3608, fn. 11619.

Serbs”.<sup>15085</sup> Herenda further admitted that he and other members of Ševe attempted to kill Sefer Halilović by placing explosives in his house and by making it look as if the explosion was caused by a Serb projectile.<sup>15086</sup> Mistaking Halilović’s brother-in-law for Halilović, they activated the explosive before Halilović arrived home and killed his wife and brother-in-law instead.<sup>15087</sup> Finally, Herenda confessed that he shot and wounded Ismet Bajramović Čelo, a military police commander in the ABiH who was also involved in organised crime, and that he shot at an ABiH unit that got out of control, killing two of the commander’s guards.<sup>15088</sup> Garaplija and his colleagues were shocked by these revelations as up until that point they thought that the Bosnian Serb side alone engaged in such activities.<sup>15089</sup> When asked in cross-examination if Herenda ever confessed to sniping at Bosnian Muslim civilians in the city, Garaplija responded in the negative.<sup>15090</sup> **(If it was not Herenda sniping at Bosnian Muslim civilians, this still doesn’t mean that there was no such a cases. Herenda was a high official, and such a criminal activity could have been a “privilege” of a lower rank official criminals! Ali, ni{ta I niko se ne bi usudio da to radi bez podr{ke sa nivoa na kome je bio Herenda!))**

4506. Gray testified that he believed the ABiH strategy in Sarajevo involved, in part, “the killing of their own citizens” and that the “Presidency was killing their own people for the media”.<sup>15091</sup> As an example, he referred to the incident of 13 July 1992 when several mortar shells fell around the PTT building, killing and wounding a number of “young people” who had gathered nearby—though Gray conceded that he and his team were unable to determine the origin of fire on that occasion, he believed the ABiH was responsible due to (i) the lack of an unobstructed line of sight from the SRK positions to the incident site and (ii) because the accuracy of the round indicated to him that it was fired from close range.<sup>15092</sup> Another example was an incident involving Douglas Hurd, a foreign dignitary who was visiting Izetbegović at the Presidency building. According to Gray, whenever foreign dignitaries were

<sup>15085</sup> Edin Garaplija, T. 33387–33389, 33391–33393 (7 February 2013); D2906 (Video clip of interview with Edin Garaplija, with transcript); D2907 (UNPROFOR report, 18 April 1995), paras. 5–6 (stating that both ABiH and VRS forces had sniping positions from which a sniper could have killed the French soldier); P2011 (Video footage of Sarajevo, with transcript); D2774 (Witness statement of Milenko Indić dated 19 January 2013), paras. 153–157. *But see* P820 (Witness statement of David Harland dated 4 September 2009), para. 172; P1762 (Witness statement of David Fraser dated 17 October 2010), pp. 34–36, 72; David Fraser, T. 8016 (18 October 2010); P2414 (Witness statement of KDZ182), pp. 71–73 (under seal); P2407 (Witness statement of KDZ304), p. 10; KDZ304, T. 10514–10515 (18 January 2011) (all testifying that the French soldier was shot by a Serb sniper). Garaplija’s evidence is indirectly corroborated by KDZ182’s evidence outlined below about a sniper operating in one of the BiH government buildings. Accordingly, the Chamber considers Garaplija’s evidence about Herenda being responsible for shooting the French soldier persuasive and therefore rejects the evidence of Harland, Fraser, KDZ304, and KDZ182, that this soldier was shot by the Bosnian Serb Forces. *See* para. 3608.

<sup>15086</sup> D2908 (Video clip of interview with Edin Garaplija, with transcript); Edin Garaplija, T. 33393–33397 (7 February 2013). *See also* D171 (ABiH Supreme Command Staff Bulletin, 8 July 1993), p. 2.

<sup>15087</sup> D2908 (Video clip of interview with Edin Garaplija, with transcript); Edin Garaplija, T. 33393–33395 (7 February 2013) (speculating that the motive for this incident might have been to retaliate for Halilović’s earlier statements opposing the division of BiH).

<sup>15088</sup> Edin Garaplija, T. 33411–33414 (7 February 2013) (explaining that both those incidents were politically motivated). *See also* Francis Roy Thomas, T. 6816–6818 (15 September 2010) (testifying that UNMOs heard rumours of political murders within the city).

<sup>15089</sup> Edin Garaplija, T. 33387 (7 February 2013). *See also* D2774 (Witness statement of Milenko Indić dated 19 January 2013), paras. 151–152. When cross-examining Garaplija the Prosecution focused on his conviction relating to the mistreatment of Herenda during the interview. *See* Edin Garaplija, T. 33404–33409 (7 February 2013). However, there was no meaningful challenge by the Prosecution to Garaplija’s evidence concerning Herenda’s activities. In any event, the Chamber found Garaplija to have been truthful and credible in that respect and accepts his evidence in relation thereto.

<sup>15090</sup> Edin Garaplija, T. 33411 (7 February 2013).

<sup>15091</sup> D2398 (Witness statement of Richard Gray dated 22 April 2012), para. 14; Richard Gray, T. 29987–29990 (8 November 2012); D2411 (UNPROFOR report, 14 July 1992), para. 2 (reporting that Izetbegović would accept only intervention or death for his people). *See also* P1479 (Ratko Mladić’s notebook, 16 July–9 September 1992), p. 73; D593 (VRS Main Staff Order, 22 July 1992), p. 2.

<sup>15092</sup> D2398 (Witness statement of Richard Gray dated 22 April 2012), para. 13; Richard Gray, T. 29979–29981 (8 November 2012). The Chamber notes that this is not one of the scheduled incidents charged in the Indictment.

visiting the Presidency, shells would fall just outside of the building.<sup>15093</sup> Gray suspected that this was an ABiH strategy, which he says was confirmed when he started talking to two ABiH officers while waiting on the steps of the Presidency for Hurd to arrive; the two soldiers at one point looked at their watches and swiftly moved inside the Presidency building, following which mortar bombs landed nearby, causing casualties.<sup>15094</sup>

**4507.** Demurenko stated that he and others in UNPROFOR had the impression that Bosnian Muslims were sniping at their own civilians, but that this was impossible to prove.<sup>15095</sup> According to Demurenko, there was an effort within UNPROFOR not to blame Bosnian Muslims for the fighting in and around Sarajevo.<sup>15096</sup> Demurenko nevertheless reported to his command on a small number of incidents of ABiH forces shelling and sniping at Bosnian Muslim civilians.<sup>15097</sup> **(Since nobody can claim that all such a cases had been noticed and reported, it must be kept in mind that there must have been many more those not reported than those reported. The Defence is interested in a pattern, while a quantity is to be established, and that would be a task and an obligation of the OTP. Excluding some of incidents that would enable the wholeness of picture and prove the existence of a patern in the conduct of one of sides – is not acceptable, and this constitute a crime of obstruction and sabotage of justice! For instance, excluding the Vase Miskina street incident (the Bred queue incident) which was a first obviously staged incident is not acceptable, because it disturbs yhe Defence to depict the patern! Such a “cleaning” the corps of evidence is not correct and should be forbidden, because defences do not have sufficient means to conduct own investigations. In the domestic system these investigations are done by an investigating judge, which is much better and more fair, because prosecution offices want to win at any cost!)**

**4508.** Desimir Šarenac, Chief of Security in the 1<sup>st</sup> Sarajevo Mechanised Brigade,<sup>15098</sup> testified that the SRK obtained intelligence that ABiH forces occasionally shelled certain facilities and areas in order to portray it as Serb fire.<sup>15099</sup> In addition, it appeared to him that some projectiles were simply makeshift projectiles, which were fired at Serb positions but accidentally exploded on ABiH-held civilian areas.<sup>15100</sup> Dragomir Milošević claimed that there were instances of ABiH targeting their own territory with high-calibre weapons.<sup>15101</sup>

<sup>15093</sup> Richard Gray, T. 29990 (8 November 2012).

<sup>15094</sup> Richard Gray, T. 29989–29991 (8 November 2012) (adding that he reported this to General MacKenzie who later spoke to the media about it and shortly after gave up his command of UN headquarters in Sarajevo). This is also not one of the scheduled incidents charged in the Indictment. **(But, as the Chamber used to do, this incident should be taken into account as a part of the entire picture. This kind of exclusion of a “surplus” of evidence is introduced in this court as allowed, while it really has an enormous influence on the entire picture. (Remember Janc excluding “surplus” bodyes, then 27 May Vase Miskina incident and so on. However, those incidents are supporting a Defence claims about a pattern.**

<sup>15095</sup> D2270 (Witness statement of Andrey Demurenko dated 13 October 2012), para. 23.

<sup>15096</sup> D2270 (Witness statement of Andrey Demurenko dated 13 October 2012), paras. 23–24.

<sup>15097</sup> D2270 (Witness statement of Andrey Demurenko dated 13 October 2012), e-court pp. 75, 86, 89, 90. *See also* D2302 (UNPROFOR daily report, 8 June 1995), p. 5; D2317 (UNPROFOR daily report, 19 July 1995), p. 5; D2312 (UNPROFOR daily report, 30 July 1995), pp. 1, 6; D2326 (UNPROFOR daily report, 7 August 1995), p. 5.

<sup>15098</sup> Desimir Šarenac, T. 34921–34923 (6 March 2013).

<sup>15099</sup> Desimir Šarenac, T. 34945–34946 (6 March 2013), T. 34972 (7 March 2013).

<sup>15100</sup> Desimir Šarenac, T. 34946 (6 March 2013).

<sup>15101</sup> Dragomir Milošević, T. 32586–32590 (23 January 2013); D2796 (SRK combat report, 14 August 1993); D2797 (SRK combat report, November 1994), para. 1.

Both Galić and Milošević testified that whenever important delegations would come to Sarajevo and visit ABiH-controlled parts, the ABiH leadership would “try to attribute fire to [the Serbs]”; as a result, they had to warn SRK units to refrain from responding to the ABiH’s provocative fire.<sup>15102</sup> Galić further claimed that ABiH forces would shell the Presidency building.<sup>15103</sup> This was confirmed by KW570 who noticed a pattern in Sarajevo such that whenever there were high-level meetings or negotiations there, the ABiH would open mortar fire towards the Presidency.<sup>15104</sup> The Accused himself made a claim in a video interview that Bosnian Muslims were placing explosives on the streets of Sarajevo in order to “kill their own people”, particularly when “some high dignitary is coming”.<sup>15105</sup>

4509. Some witnesses called by the Prosecution also acknowledged certain incidences of ABiH targeting its own population in order to garner international sympathy. For example, Fraser testified that he was aware of one sniping and one shelling incident where Bosnian Muslims forces targeted their own civilians.<sup>15106</sup> With respect to the sniping incident, Fraser heard stories from UN soldiers that the FreBat soldiers had video footage of ABiH sniper firing on his own people but he himself never saw the tape nor was told when this happened.<sup>15107</sup> As for the shelling incident, Fraser recalled that it started with Serbs firing one shell, followed by the ABiH firing a shell at the same target some 40 minutes later.<sup>15108</sup> A protest was lodged against the Bosnian Muslims forces for such actions.<sup>15109</sup>

4510. Harland agreed that there were some cases of Bosnian Muslims sniping at their own side, but not many—he could recall only two during his time in Sarajevo.<sup>15110</sup> **(#Significant#! Since Mr. Harland was not able to register every single case, these two are significant, because of the pattern. The Defence insists on the pattern, and once it is established, the Prosecution is further obliged to prove what wasn’t the Muslim, but the Serb fire, instead of an automatic allocation of responsibility to the Serbs!)** He further recalled the ABiH statement that such sniping activities in September and October 1993 were carried out by “renegades”.<sup>15111</sup> Harland also agreed that the media was a key strategy of the Bosnian Presidency and that they had a need to engage in provocations where the media was

<sup>15102</sup> Stanislav Galić, T. 37235 (15 April 2013); Dragomir Milošević, T. 32591–32592 (23 January 2013); D2799 (SRK combat report, 30 September 1993).

<sup>15103</sup> Stanislav Galić, T. 37232–37233 (15 April 2013), T. 37354–37355 (16 April 2013); D3409 (SRK combat report, 5 May 1993), p. 2.

<sup>15104</sup> KW570, T. 32263–32264 (18 January 2013).

<sup>15105</sup> P1274 (Video footage of interview with Radovan Karadžić, with transcript), p. 1.

<sup>15106</sup> P1762 (Witness statement of David Fraser dated 17 October 2010), pp. 67, 77–79 (also describing a third incident where FreBat soldiers came across Bosnian Muslims filming a staged attack); David Fraser, T. 8054 (18 October 2010).

<sup>15107</sup> P1762 (Witness statement of David Fraser dated 17 October 2010), p. 77; David Fraser, T. 8051–8054 (18 October 2010); D770 (UNPROFOR report re Dobrinja, 23 September 1994), p. 2. *See also* P2414 (Witness statement of KDZ182), p. 43 (under seal) (testifying that the FreBat soldiers were sure that there was a “Bosnian army sniper” shooting from the “parliament building” in mid 1995 and that, after a few months of suspicion that this was the case, the UN intervened; this led to the shooter stopping to fire sometime in mid-June 1995); KDZ182, T. 13088–13091 (9 March 2011); P2417 (Article from New York Times, entitled “Conflict in the Balkans: in Sarajevo”, 1 August 1995), pp. 1–2. This in turn confirms Garaplija’s evidence about Herenda sniping from the Executive Council building and shooting a French soldier on 14 April 1995. *See para.* 4505.

<sup>15108</sup> P1762 (Witness statement of David Fraser dated 17 October 2010), pp. 77–78; David Fraser, T. 8055–8057 (18 October 2010). *See also* Michael Rose, T. 7329 (6 October 2010); D162 (Michael Rose’s book entitled “Fighting for Peace: Bosnia, 1994”), p. 197.

<sup>15109</sup> David Fraser, T. 8053 (18 October 2010).

<sup>15110</sup> P820 (Witness statement of David Harland dated 4 September 2009), paras. 296–297 (testifying also that more than 90% of the sniping victims on the ABiH-held territory appeared to have been shot at from the Bosnian Serb side of the confrontation line); David Harland, T. 2103 (7 May 2010). *See also* D681 (UNPROFOR report re situation in Sarajevo, 27 October 1994).

<sup>15111</sup> David Harland, T. 2184–2187 (10 May 2010); P823 (UNPROFOR Weekly Political Assessment, 3 November 1993), p. 3.

present.<sup>15112</sup> **(That was why the “sniper Alley” was hit so many times! But, the Harland’s ssuperiors didn’t share this Harland’s “opinion” – see the UN official reports!#)**

**4511.** KDZ185 testified that ABiH forces carried out a “media war” in Sarajevo which included staging “dramatic events” around the city and targeting their own citizens.<sup>15113</sup> One such incident involved the firing of a shell into the Markale market area which UNPROFOR investigated immediately after the event and concluded that the shell was likely fired from a position close to the frontline in the north of the city.<sup>15114</sup> In total, he could recall only a few occasions where the UN suspected that ABiH was responsible for firing on the city and also admitted that ABiH would occasionally fire at the airport.<sup>15115</sup> **It doesn’t matter how many incidents and occasions he saw, because for sure he couldn’t claim that he saw all of them. The pattern matters, not a quantity of proven cases! The burden of proving should anyway be on the Prosecution, but after these examples, it must have been an additional obligation of the Prosecutor, and the Prosecution and its fulfilment of these obligations should have been monitored!)**

**4512.** Other Prosecution witnesses testified, however, that while they were aware of the allegation that ABiH forces sniped or shelled their own civilians, they never personally observed it or received any conclusive proof to that effect.<sup>15116</sup> For example, Mole acknowledged that there was a general perception that the BiH Presidency would gain more if they were perceived as the “beleaguered party” and that there may well have been instances in which ABiH forces fired on their own territory in order to maintain that perception.<sup>15117</sup> However, no UNMO report established this as fact; the most UNMOs were able to establish is that there was doubt as to the origin of fire in certain incidents.<sup>15118</sup> According to Mole, there were “sufficient unknowns” for UNPROFOR members to be “reasonably sure” such allegations were true, emphasising that in war conditions it was impossible to conduct a complete forensic analysis that would conclusively determine whether ABiH forces targeted their own population.<sup>15119</sup> **(The same goes to the all investigations, but the #Serbs were accused in any case, because of a general perception#. Does it mean that a “perception” is acceptable only if it is against the Serbs, while if on the Muslim account, it should be**

<sup>15112</sup> David Harland, T. 2103 (7 May 2010).

<sup>15113</sup> P6060 (Record of interview with KDZ185), e-court pp. 13, 15; KDZ185, T. 4229 (28 June 2010).

<sup>15114</sup> P6060 (Record of interview with KDZ185), e-court p. 15; KDZ185, T. 4229–4230 (28 June 2010). *See also* KDZ088, T. 6394–6395 (8 September 2010) (closed session) (testifying that on 27 May an explosion occurred on Vase Miskina street which the Serbs were initially accused of causing but for which UNPROFOR later determined that the explosion was caused by mines placed in basement windows on the street). *But see* P155 (BiH MUP Report re shelling incident on 27 May 1992) (stating that the Bosnian police investigators determined that the explosion was caused by a shell launched from the direction of Trebević). The Chamber notes that neither of these incidents is part of the scheduled incidents charged in the Indictment. **No wonder why! But the Defence insists on those “removed” cases as a support to the Defen claims about the pattern.**

<sup>15115</sup> KDZ185, T. 4289 (29 June 2010), T. 4290–4291 (29 June 2010) (private session); D342 (ABiH 1<sup>st</sup> Corps response to UNPROFOR protest, 10 February 1992).

<sup>15116</sup> *See e.g.* Harry Konings, T. 9346–9348 (7 December 2010) (recalling one incident in which ABiH fired 20 mm rounds at his OP which then may have carried into the city); D889 (UNMO report, undated), p. 1; P1953 (Witness statement of Harry Konings dated 11 November 2010), p. 12; Pyers Tucker, T. 23309 (18 January 2012); Francis Roy Thomas, T. 6815–6817 (15 September 2010); Thomas Knustad, P123 (Transcript from *Prosecutor v. D. Milošević*), T. 2042; Herbert Okun, T. 1645 (26 April 2010); Adrianus van Baal, T. 8457–8459 (27 October 2010); D826 (Excerpt from Adrianus van Baal’s testimony in *Prosecutor v. Galić*); Hussein Abdel-Razek, T. 5549 (20 July 2010); P5906 (Witness statement of KDZ450 dated 17 January 2011), para. 77; KDZ450, T. 10670 (20 January 2011) (private session).

<sup>15117</sup> P1426 (Witness statement of Richard Mole dated 7 May 2010), para. 121.

<sup>15118</sup> P1426 (Witness statement of Richard Mole dated 7 May 2010), para. 121; Richard Mole, T. 5890 (18 August 2010).

<sup>15119</sup> Richard Mole, T. 5885–5886 (18 August 2010).

**relativized and mitigated? Even the Chamber relied on a “general evidence” and other derivatives and “nicknames” of beliefs and impressions, but not in the cases of a probable Muslim responsibility!)**

4513. Rose also stated that, during his time in Sarajevo, allegations were made both in the media and by FreBat members that ABiH forces were firing on their own people; however, he himself never saw evidence of this and testified it was impossible for UNPROFOR to determine conclusively who fired a particular shot.<sup>15120</sup> **(Why it didn’t pertain to a fires allegedly originating from the Serb side?)** Further, the incidents in which UNPROFOR suspected Bosnian Muslims of firing at the UN, NATO aircrafts, or their own citizens were “very few”.<sup>15121</sup> **(#Registered very few, but could be more#!What does it mean – “very few”? The correct sentence would be that the UN personnel learned about “very few” which doesn’t mean the there was only “very few”. If it was so lucrative, functioning and being successful in denigrating the Serbs, or to break the peace conference, or to obtain sympathies, or an interest for a foreign military intervention – why the Muslims would limit themselves on a “very few”? This kind of a successful instrument, with no risk of being disclosed, or punished by a NATO bombing – wouldn’t be given up so easily!))** KDZ182 also testified that in all UNPROFOR investigations of shelling incidents, nearly all fire came from the Bosnian Serb side, although some shells did appear to have come from the Bosnian Muslim side.<sup>15122</sup> According to him, small arms shots originated from both sides, with the larger proportion coming from the Serbs.<sup>15123</sup>

4514. Finally, the Chamber also heard from a number of Prosecution witnesses who vehemently denied that ABiH units would target their own civilians.<sup>15124</sup> For example, Bell testified that he never saw or reported any instances of ABiH forces firing upon themselves or staging incidents, and would give no credence to such allegations.<sup>15125</sup> **(Mr. Bell wasn’t permanently there, and as a matter of fact, he was rarely there, and in a short periods, so he wasn’t able to say that there wasn’t such a cases, no matter he didn’t hear about it. It would be too much to expect Bell to know such a things, since he spent only several day at each of his visits!)** Bowen testified that he was first introduced to the theory that Bosnian Muslim forces were shelling their own territory in late August 1992 by a military aide to UNPROFOR Sarajevo Sector commander who admitted to having no proof for such theory.<sup>15126</sup> Bowen did not accept this theory, noting that even now, some twenty years after

<sup>15120</sup> P1638 (Witness statement of Michael Rose dated 26 March 2009), paras. 213–214; Michael Rose, T. 7307–7308 (5 October 2010), T. 7328–7337 (6 October 2010) (testifying also that there were rumours that Ejup Ganić had a secret police unit tasked with sniping at trams in such a way that the Serb side would be blamed for it); D162 (Michael Rose’s book entitled “Fighting for Peace: Bosnia, 1994”), p. 197; D680 (UNPROFOR report re shelling incident on 8 November 1994).

<sup>15121</sup> Michael Rose, T. 7328–7334 (6 October 2010); D681 (UNPROFOR report re situation in Sarajevo, 27 October 1994) (reporting on a sniping incident involving a tram and that all the evidence suggested that the fire came from the ABiH-held territory). *But see* Mirsad Sabljica, T. 7684–7688 (testifying that CSB Sarajevo investigated this incident and determined that the fire came from the Bosnian Serb side).

<sup>15122</sup> P2447 (Witness statement of KDZ182), pp. 48–52, 54 (recalling only one instance where this happened).

<sup>15123</sup> KDZ182, T. 13085–13088 (9 March 2011) (private session).

<sup>15124</sup> *See e.g.* Mirsad Kućanin, P17 (Transcript from *Prosecutor v. S. Milošević*), T. 28971; Mirsad Kućanin, P16 (Transcript from *Prosecutor v. Galić*), T. 4729–4730; Adrianus van Baal, T. 8462–8463 (27 October 2010), T. 8533 (28 October 2010); KDZ166, T. 8354 (26 October 2010).

<sup>15125</sup> P1996 (Witness statement of Martin Bell dated 8 March 2010), para. 117; Martin Bell, T. 9920–9921 (15 December 2010).

<sup>15126</sup> Jeremy Bowen, T. 10165–10166 (13 January 2011), T. 10196, 10200–10201 (14 January 2011); P2068 (Witness statement of Jeremy Bowen dated 10 August 2009), para. 39.

the war, no “smoking gun” evidence of ABiH shelling its own people had come out.<sup>15127</sup>

**(#Passing by journalists# couldn't know! Like Martin Bell, Mr Bowen was present in Sarajevo only a few times and for a few days, and their “lack of knowledge” doesn't effect the other evidence. But, it is very interesting how this Chamber easily accepted “a passing by thoughts, opinions, and impressions of a rare visitor to Sarajevo, and neglects the official UN documents about the same subjects. #No journalists or occasional visitors could have diluted or mitigated the facts that the Muslims fired at their own people#, as well as to the UN personnel, and shed a doubt on the UN documents and testimonies of the UN high officials#!)** KDZ304 also thought that the allegations that Bosnian Muslims shelled themselves were baseless and testified that during his time in Sarajevo he did not witness any fire from the ABiH frontline against the civilian population of Sarajevo.<sup>15128</sup>

**(#Those, and many other witnesses didn't know anything about the deployment of the forces#. Their the most frequent illusion was that only the Serbs were on the surrounding hills, and how possibly could they say anything about who fired. The same could be said for the alleged Serb shellings, he didn't witness any of these fires either!)**

4515. The Chamber has analysed the evidence outlined above in the context of all the evidence it has heard in this case in relation to sniping and shelling in Sarajevo. While the Chamber found Garaplija to be credible, his evidence did not go as far as to show that the Bosnian Muslim side targeted its own civilians, let alone that the Bosnian Muslim side was responsible for all major shelling or sniping incidents in the city. Instead, his evidence merely showed that Herenda, a member of a special police unit, was engaged in political executions of notorious Bosnian Muslim individuals who were not civilians. Garaplija's evidence further revealed that Herenda killed an UNPROFOR soldier in order to blame the Bosnian Serb side and provoke international reaction against them.<sup>15129</sup> However, as recounted above, when asked about the targeting of Bosnian Muslim civilians, Garaplija responded that Herenda did not admit to any such practice. **(#What Garaplija confirmed is sufficient for the pattern, and for a warning that the Prosecution is obliged to give more persuasive evidence when charging the Serb side#. If Herenda didn't admit such practice, it doesn't mean that it didn't exist, taking into account the entirety of evidence!)**

4516. Having said that, the Chamber accepts the evidence of Fraser, Harland, KDZ185, and other Prosecution witnesses that there were some incidents where Bosnian Muslim side targeted its own territory, usually near the Presidency building, for political purposes. However, all those witnesses limited the occurrence of such incidents to a minuscule number and all were firm in their position that most of the fire on Sarajevo came from the Bosnian Serb side. **(#That is assembling “apples and oranges”#. Here is matter of a criminal firing against civilians, not a general firing. Even this general and overall firing is not proven to be prevalently from the Serb side, because the lists of consumption of a big calibre ammunition indicates that the Muslim side fired at least as much as the Serb**

<sup>15127</sup> Jeremy Bowen, T. 10184–10185 (13 January 2011), T. 10196, 10200–10201 (14 January 2011); P2068 (Witness statement of Jeremy Bowen dated 10 August 2009), para. 39. See D936 (Excerpt from Jeremy Bowen's book entitled “War Stories”), e-court p. 6.

<sup>15128</sup> P2106 (Witness statement of KDZ304), p. 28 (under seal); KDZ304, T. 10517 (18 January 2011).

<sup>15129</sup> D2270 (Witness statement of Andrey Demurenko dated 13 October 2012), e-court pp. 85–86; D2271 (UNPROFOR daily report, 18 July 1995), pp. 4–5 (indicating that ABiH opened fire on UNPROFOR soldiers); D2398 (Witness statement of Richard Gray dated 22 April 2012), para. 10 (testifying that ABiH units sniped at UN personnel in the PTT building and that he was personally targeted by ABiH fire).

side. But, such a criminal shellings are almost automatically allocated to the Serb side, although not properly investigated and not proven, but was obviously in favour of the Muslim goals!)

4517. Furthermore, Harland testified that these few incidents were attributed to the "renegade forces" on the Bosnian Muslim side. In contrast, the Accused's claim, if true, would have meant a conspiracy on a large scale involving many, if not all, ABiH and police units in the city colluding over a number of years in order to secretly snipe and shell their own people. The Chamber does not accept this. In addition, as seen in preceding sections, in many of the charged sniping and shelling incidents, the Chamber found they were committed by the SRK.<sup>15130</sup> There is therefore no evidence of such a wide scale conspiracy. **(But the Chamber missed to count in the Muslim main strategy, namely dragging the NATO and international community into the war. So, it wasn't only "gaining the international sympathies" or "for a political purposes". It was their main strategy and the hope to get rid of the Serbs and form their own state, Bosnia 100% Muslim. And having in mind this, "a wide scale of conspiracy" is easlily imaginable. So, this inference shouldn't be founded on such a narrow basis, missing the main point, confirmed by many Prosecution witnesses! Anyway, it wouldn't be the only inference!)**

4518. Even the witnesses called by the Accused did not go as far as to claim that all or most major incidents in the city involving civilian casualties were caused by the Bosnian Muslim side. As noted earlier, Garaplija's evidence did not concern sniping on Bosnian Muslim civilians at all. Demurenko testified of the impression he had that the Bosnian Muslims were sniping their own people, conceding that this impression was difficult to prove. **(Many allegations against the Serbs were #impossible to prove to#o, but the Chamber accepted it as proven. It was really impossible to expect that a witness know every single incident, but it should be sufficient to establish that the Muslim side had this attitude, and did this kind of things. Once it was established, none of those incidents that hadn't been proven to be the Serb liability must not be so easily labelled as a Serb misdeed!)** More significantly, while he authored a large number of UN daily reports during his time in the city, many of which were admitted into evidence in this case, only a miniscule number of those recorded specific incidents in which the fire was said to have come from the ABiH-held territory.<sup>15131</sup> **(In this fn. the Chamber claims that D2302 didn't contain any proof about sniping their own civilians, but it did, see D2302, p. 5.**

**AT 08 1100B, A BOSNIAN CIVILIAN WAS WOUNDED IN GR (BP 920-595) BY SNIPING FROM GR (915-592) NEAR PARLIAMENT. THE CASUALTY WAS EVACUTED BY A CIVILIAN CAR**

**Garaplija and other Prosecutor witnesses confirmed that the Parliament building and the Executing Council building served as a sniper nests, and the Muslim civilian was shot there! Another document mentioned in this footnote is D2312, but again it does confirm the Muslim-Muslim sniper fire, see D2312, p. 1:**

<sup>15130</sup> The Chamber also recalls that it has discussed some of the evidence on the issue of ABiH targeting its own civilians in the sections dealing with specific scheduled and sniping incidents, when it was relevant to those. One example is the evidence of KW586 who blamed ABiH for the first Markale market incident and whose evidence was rejected, by majority. **(This is another problem, a matter of "democracy" and voting, but doesn't exclude that the perpetrators were ABiH)**

<sup>15131</sup> See fn. 15097. The same is the case with respect to the other UN reports tendered into evidence in this case: the vast majority of those contain no reports of the Bosnian Muslim side targeting its own civilians.

DURING THE DAY THE SITUATION IN SECTOR SARAJEVO WAS QUIET, BUT SOME SHELLING HAS BEEN REPORTED IN NEDARICI AND KASINDOLSKA AREAS. THERE WERE ALSO SOME SNIPING IN DOWNTOWN FROM PRESIDENCY AREA TO SCENDERIA AREA. THE LEVEL OF FIRING INCIDENTS IS HIGHER THEN YESTERDAY (AROUND 1000).

Both, the Presidency area and Skenderija area were deep into the Muslim controlled area! Again, it is enough for the pattern. Taking into account what Gen. Morillon, when asked why the internationals do not report about this Muslim tricks, said, “we have to live here” even mentioning a simple case was requiring a courage!) Similarly, KW570’s testimony was confined to the ABiH’s pattern of firing towards the presidency when an important delegation was visiting the city. However, he made no mention of civilian victims resulting from such fire. Gray also mentioned ABiH fire on the Presidency during foreign visits but recalled only one such Presidency incident where civilian casualties were involved.<sup>15132</sup> The SRK soldiers and officers, such as Galić, Milošević, and Šarenac, who testified on this subject, were not located in the city during these incidents and their testimony was based primarily on rumours and intelligence gathered by their units. As such, it is of limited value. (How it is possible that the Chamber considered the intelligence of a “limited value”. The Army had it’s own intelligence, and if the comand had been officially informed about an event, it was reliable. Since it was usually a “strictly confidential” and not aimed to any public purpose, but to the superior commands, nobody would dare to send a false or uncertain information. On those reports there is usually a remark pertaining to the accuracy, and if not confirmed, it is also noted. Also, the commands did have their observation posts..

4519. Finally, it is clear from the evidence above that, with the exception of a few individuals, most of the international witnesses present on the ground never received any conclusive proof that the Bosnian Muslim side was sniping or shelling its own civilians. Had there been a large scale conspiracy of the kind alleged by the Accused, there is no doubt that those witnesses would have been informed of or would have reported on such incidents with much greater frequency. (#Absurdity#! What kind of conspiracy would it be, if the internationals would “have been informed”? There is so many evidence how the Muslim side have hidden everything that would compromise the ABiH, like the heavy weaponry. How possibly the internationals could have been informed, and by whom? It was sufficient that they got signes, but they had never dared to investigate it!) They would have also observed some of those incidents first-hand. Thus, for all these reasons, the Chamber rejects the Accused’s argument that the Bosnian Muslim side was responsible for all major incidents in the city or was, as part of a general policy, sniping and shelling its own civilians throughout the conflict in Sarajevo. While such incidents may have taken place on a few occasions, this did not occur frequently enough to throw doubt on the other findings made in this Judgement relating to the conflict in Sarajevo. (#Because the UN witnesses did not see the pattern “occurring frequently” means only that: they didn’t see it frequently, which doesn’t mean that it didn’t happen frequently#! If the internationals knew that it happened sometimes, a frequency is a matter of quantity, and their ability to be present at the critical points, and it doesn’t sged any doubt about the existence of pattern. For

<sup>15132</sup>

Much of Gray’s evidence focused on the ABiH targeting UN personnel, including himself. The Chamber also notes that the shelling incident near the PTT building Gray used as an example of ABiH forces targeting their own civilians was in fact inconclusive as it was not possible to tell where the shell came from. His belief that it was an ABiH shell was based on the assumption that the youths gathered near the PTT building were specifically targeted which would have been impossible for the SRK to do. However, it is equally possible that these youths were victims of a random shell fired by the SRK.

**the Defence it is sufficient to demand a more accurate investigations of every single incident that was allocated to the Serbs, instead of making decisions on an account of the Serbs in all the doubtful cases!)**

## 1. Hospitals in Sarajevo

4520. The Prosecution alleges that as part of the sniping and shelling campaign against civilians in Sarajevo, the “Serb forces” repeatedly targeted ambulances and hospitals, killing and injuring members of staff and patients.<sup>15133</sup> During the trial, the Prosecution called doctors who worked in the State Hospital,<sup>15134</sup> the Koševo Hospital,<sup>15135</sup> and the Dobrinja Hospital; they gave evidence about the fate of those hospitals during the war. Additionally, they authenticated various medical records relating to scheduled incidents and provided general information about Sarajevo casualties.

4521. The Accused in contrast argues that the “ABiH abused for military purposes premises of civilian character, such as hospitals” and that the SRK never fired on the Koševo Hospital.<sup>15136</sup> The Prosecution in turn rejects that claim and argues that it is “misguided” as the hospitals were shelled even when there were no mortars or military targets in their vicinity; further, the Prosecution claims that hospital buildings showed damage which reflects disproportionate attacks by the SRK.<sup>15137</sup>

### a. State Hospital

4522. Bakir Nakaš, a doctor at the State Hospital, a large building complex located in the centre of Sarajevo in the Marin Dvor area,<sup>15138</sup> testified that the hospital was sniped and shelled from 13 May 1992 onwards, despite its south side being clearly marked with a Red Cross emblem.<sup>15139</sup> He estimated that, between 1992 and 1995, the hospital was hit by over 200 projectiles and was subjected to direct shooting, with the worst shelling taking place right after the departure of the JNA from Sarajevo, namely between 13 and 16 May 1992, when it was hit by around 40 shells.<sup>15140</sup> Milan Mandilović, also a doctor at the State Hospital during

<sup>15133</sup> Prosecution Final Brief, paras. 758–759.

<sup>15134</sup> Prior to 1992, this hospital was known as the Sarajevo Military Hospital and was run by the JNA. Following the JNA’s withdrawal from Sarajevo in May 1992, it was referred to as the Sarajevo State Hospital. See P1525 (Witness statement of Bakir Nakaš dated 8 September 2010), paras. 5, 10; Bakir Nakaš, T. 6700 (14 September 2010).

<sup>15135</sup> The Koševo Hospital was a civilian medical facility and was also known to as the “University Clinical Centre” Koševo. See P1525 (Witness statement of Bakir Nakaš dated 8 September 2010), para. 81; Adjudicated Facts 96, 97.

<sup>15136</sup> Defence Final Brief, paras. 1937, 1955 (then stating, based on the evidence of Galić, that “any decision to fire” on buildings such as the Koševo Hospital would have taken into account the surroundings and the presence of any civilians; in doing so, the Accused implies that fire may have been opened on the Koševo Hospital); Closing Arguments, T. 47979 (2 October 2014).

<sup>15137</sup> Prosecution Final Brief, para. 794; Closing Arguments, T. 47720 (30 September 2014).

<sup>15138</sup> P1525 (Witness statement of Bakir Nakaš dated 8 September 2010), para. 12; P1529 (Map of Sarajevo marked by Bakir Nakaš); Aernout van Lynden, T. 2392–2394 (19 May 2010), T. 2580–2583 (21 May 2010); P927 (Aerial photograph of Sarajevo marked by Aernout van Lynden); D211 (Panoramic photograph of Sarajevo marked by Aernout van Lynden). The State Hospital comprised four main buildings, the tallest being twelve storey high, as well as an annex and two other buildings. See P1525 (Witness statement of Bakir Nakaš dated 8 September 2010), para. 13.

<sup>15139</sup> P1525 (Witness statement of Bakir Nakaš dated 8 September 2010), paras. 22–23, 27; P1526 (Photograph of the Sarajevo State Hospital); Bakir Nakaš, T. 6688–6689 (14 September 2010). See also P926 (Witness statement of Aernout van Lynden dated 26 February 2010), para. 35; P954 (SKY news report re Sarajevo, with transcript); Aernout van Lynden, T. 2392 (19 May 2010), T. 2595–2597 (21 May 2010), T. 3057–3059 (31 May 2010); P2068 (Witness statement of Jeremy Bowen dated 10 August 2009), para. 25. See also para. 4031.

<sup>15140</sup> P1525 (Witness statement of Bakir Nakaš dated 8 September 2010), paras. 23, 34; Bakir Nakaš, T. 6675, 6719–6723, 6741, 6750 (14 September 2010); D619 (Photograph of Sarajevo State Hospital marked by Bakir Nakaš). The Accused challenged Nakaš’s evidence about the State Hospital being hit by 200 projectiles on the basis that no extensive damage could be seen in a photograph of the hospital

the war, confirmed that the hospital was shelled with varying levels of intensity by Bosnian Serbs and that it was hit by both infantry and artillery fire.<sup>15141</sup> As it is situated near the Sniper Alley, the hospital was also subjected to sniper fire which injured both the hospital staff and its patients.<sup>15142</sup> Almost 85 to 90% of the fire hit the south side of the State Hospital building which, according to Nakaš, meant that the source of the fire was the VRS-held area of Trebević, Vraca, and Grbavica.<sup>15143</sup> As a result, the front part of State Hospital, facing south, was not operational throughout 1992 to 1995.<sup>15144</sup> **(It would be fair to say that the “State Hospital” prior to being conquered by the Green Berets, had for decades been a JNA hospital, #built up by the JNA, owned by the JNA and served for the treatment of the member of the JNA as well as the other citizens#. It had been attacked many times before conquered, demolished and the medical personnel killed, wounded or detained. So, many of the scars on the façade of the “State Hospital” originated from this period, but the internationals who testified hadn’t been informed about it by their Muslim hosts!)**

**4523.** It was determined, on the basis of the fragments found at the hospital, that the shells originated from various tanks and other types of artillery and mortar pieces.<sup>15145</sup> Nakaš thought that “the Serbs were intent on destroying the vital parts of the hospital” once the JNA left, since the very first shelling targeted the pillars on the eighth floor, which were key to the building’s stability, and also because the operating theatres were often targeted.<sup>15146</sup> **(T#Before VRS, JNA period#! he SRK can not be kept liable for anything that the JNA may have done during those days when it’s members had been butchered throughout the Sarajevo streets by the Green Berets and the Patriotic league, in spite of the Izetbegovi} – Yugoslavia agreement about a peaceful withdrawal of the JNA from Bosnia.. The SRK hadn’t been formed until the end of May 1992, and didn’t start functioning until the late summer 92.)**

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shown to Nakaš in court. However, the Chamber notes that this photograph was taken in the summer or autumn of 1992, that is, early on in the conflict whereas Nakaš’s estimate concerned the whole period of the conflict. *See* Bakir Nakaš, T. 6749 (14 September 2010); P1525 (Witness statement of Bakir Nakaš dated 8 September 2010), para. 22. **(This is not true! All of them, Mandilović, Van Linden, Nakas, were talking about the few first months of the war, when the Muslim Green Berets attacked the Hospital, and the Serb volunteers associated with the JNA tried to retake it from the Green Berets! But, the SRK hadn’t been formed yet! The entire seven weeks there had been a fierce fightings around the Military hospital, without any involvement of the VRS or SRK, which even didn’t exist. Later on there was no hitting of this hospital, except firing against the mortar battery behind the hospital, and a howitzer on the top of the Gorica hill, just above the Hospital.)**

<sup>15141</sup> Milan Mandilović, T. 5350, 5390 (16 July 2010); T. 5400, 5405, 5407 (19 July 2010); P1217 (Witness statement of Milan Mandilović dated 24 February 2010), paras. 42–43, 53–58; P1222 (Photograph of the Sarajevo State Hospital).

<sup>15142</sup> P1525 (Witness statement of Bakir Nakaš dated 8 September 2010), paras. 27, 29–32, 40. Mandilović did not know if the hospital was deliberately sniped at, but testified that it was repeatedly hit with small-arms fire. *See* P1217 (Witness statement of Milan Mandilović dated 24 February 2010), para. 47.

<sup>15143</sup> P1525 (Witness statement of Bakir Nakaš dated 8 September 2010), paras. 23–25, 33; Bakir Nakaš, T. 6688–6690 (14 September 2010); P1526 (Photograph of the Sarajevo State Hospital). *See also* Milan Mandilović, T. 5350–5351 (16 July 2010); P1217 (Witness statement of Milan Mandilović dated 24 February 2010), para. 46. Mandilović thought that the north side of the hospital was hit by Bosnian Serb shells from Poljine. *See* Milan Mandilović, T. 5388 (16 July 2010), T. 5440 (19 July 2010); P6336 (UNMO report, 2 January 1993), e-court pp. 1–5. *See also* Adjudicated Fact 3016.

<sup>15144</sup> P1525 (Witness statement of Bakir Nakaš dated 8 September 2010), para. 38; Milan Mandilović, T. 5390 (16 July 2010); P1217 (Witness statement of Milan Mandilović dated 24 February 2010), para. 53.

<sup>15145</sup> P1525 (Witness statement of Bakir Nakaš dated 8 September 2010), para. 26.

<sup>15146</sup> P1525 (Witness statement of Bakir Nakaš dated 8 September 2010), para. 48; Bakir Nakaš, T. 6690–6691 (14 September 2010). *See also* Adjudicated Fact 2884. Mandilović believed that the reason for shelling the hospital was to destabilise the city and affect the morale of the people. *See* Milan Mandilović, T. 5383 (16 July 2010).

**4524.** The shelling negatively affected the functioning of the State Hospital.<sup>15147</sup> Hospital staff and patients were wounded in the hospital on several occasions from September 1992 to mid-1994, and there was a particular incident, sometime in late summer 1994, where two patients in the hospital were injured by sniper fire.<sup>15148</sup> The rooms above the second floor were abandoned as they were more exposed, and the only operating theatre used regularly was located in the basement.<sup>15149</sup> The intensive care unit was in the gym and the rest of the patients were located in the corridor.<sup>15150</sup> The medical staff could not respond to emergencies properly as only the most vital parts of the State Hospital were provided with electricity and there was lack of medical supplies, food, and water.<sup>15151</sup> The most difficult period was from late July to the beginning of September 1993, when the State Hospital had no water, electricity, or gas.<sup>15152</sup> The number of staff was greatly reduced and the only way the hospital could cope with the high demand for medical services was by only admitting patients with life-threatening conditions and injuries.<sup>15153</sup> Because the higher floors of the State Hospital provided a good position for filming, international TV crews occupied some of them, including Sky News war correspondent Van Lynden.<sup>15154</sup> **(How come they had felt secure?)**

*a. Koševo Hospital*

4525. Koševo Hospital is a large compound containing 36 clinics, located just south of Breka, in the northeastern part of Sarajevo.<sup>15155</sup> Fatima Zaimović, who was the head of nursing at the Children's Surgery ward at the Koševo Hospital,<sup>15156</sup> testified that the main entrance of the hospital was on Bolnička street, close to her ward.<sup>15157</sup> This ward dealt with children up to 14 years of age, but would also occasionally assist with the intake of civilian adults.<sup>15158</sup>

**4526.** As was the case with the State Hospital, the number of the medical staff in Koševo Hospital was greatly reduced during the war and the hospital itself was often shelled, resulting

<sup>15147</sup> P1525 (Witness statement of Bakir Nakaš dated 8 September 2010), para. 41.

<sup>15148</sup> P1217 (Witness statement of Milan Mandilović dated 24 February 2010), paras. 48, 50. See also P2068 (Witness statement of Jeremy Bowen dated 10 August 2009), para. 25; Adjudicated Fact 2883. On one occasion Mandilović was on the floor that was hit by a shell, only 10 metres away from the room that was destroyed. See P1217 (Witness statement of Milan Mandilović dated 24 February 2010), para. 43.

<sup>15149</sup> P1525 (Witness statement of Bakir Nakaš dated 8 September 2010), paras. 35–37. See also P2068 (Witness statement of Jeremy Bowen dated 10 August 2009), para. 25; P6336 (UNMO report, 2 January 1993), e-court pp. 1–5.

<sup>15150</sup> P1525 (Witness statement of Bakir Nakaš dated 8 September 2010), para. 37; P2068 (Witness statement of Jeremy Bowen dated 10 August 2009), para. 25.

<sup>15151</sup> P1525 (Witness statement of Bakir Nakaš dated 8 September 2010), paras. 37, 43–44; Milan Mandilović, T. 5356–5357 (16 July 2010); P1217 (Witness statement of Milan Mandilović dated 24 February 2010), paras. 34–35. See also Adjudicated Fact 3093.

<sup>15152</sup> P1525 (Witness statement of Bakir Nakaš dated 8 September 2010), para. 42.

<sup>15153</sup> P1525 (Witness statement of Bakir Nakaš dated 8 September 2010), para. 46.

<sup>15154</sup> Bakir Nakaš, T. 6725–6726 (14 September 2010); D620 (Article from Dani magazine entitled “Sarajevo General Hospital—Hospital in the Line of Fire”, 5 April 2002), p. 3; P926 (Witness statement of Aernout van Lynden dated 26 February 2010), paras. 31–32, 34, 42; Aernout van Lynden, T. 2389–2391 (19 May 2010).

<sup>15155</sup> Fatima Zaimović, T. 1868 (5 May 2010); P816 (Map of Sarajevo); P817 (Aerial photograph of Koševo Hospital marked by Fatima Zaimović); P1525 (Witness statement of Bakir Nakaš dated 8 September 2010), para. 81; P1529 (Map of Sarajevo marked by Bakir Nakaš).

<sup>15156</sup> P814 (Witness statement of Fatima Zaimović dated 26 February 2010), para. 1.

<sup>15157</sup> Fatima Zaimović, T. 1869–1871 (5 May 2010); P817 (Aerial photograph of Koševo Hospital marked by Fatima Zaimović).

<sup>15158</sup> P814 (Witness statement of Fatima Zaimović dated 26 February 2010), paras. 6–7.

in death of and injuries to both staff and patients.<sup>15159</sup> As a result, neither the staff nor the patients felt safe.<sup>15160</sup> In addition, during the conflict, Koševo Hospital lacked necessary medical and surgical supplies; there was often no electricity, and very little water.<sup>15161</sup> All this made work conditions, and in particular the operating conditions, extremely difficult.<sup>15162</sup>

**(That was the case with the entire BiH. Remember how 12 newborn babies in Banjaluka had died because of a shortage of oxygen? None of the international organisations helped these babies to survive!)**

When Koševo Hospital was shelled or sniped, the children would be taken down to the basement while those who were bed-ridden, would be kept in the corridors and the nursing staff would stay with them.<sup>15163</sup> Zaimović testified that in such times, the children would panic, start screaming, and rush to the nurses for protection.<sup>15164</sup>

Many of these children were so traumatised they withdrew into themselves and started wetting their beds.<sup>15165</sup> Zaimović herself had a serious stress-related heart attack at the end of 1995.<sup>15166</sup>

**(This is the same Fatima Zaimovic who testified how she had seen, on the distance of eight to ten km, a canon bullets flying from the barrel, although it had a velocity that hardly could have registered by a slow motion filming! There were other lies about tnaks and other weaponry, pronounced by this witness! Is it possible that the witness remained credible?)**

4527. Van Lynden and his TV crew set up a satellite dish in one of the hospital buildings and worked from there from June to August of 1992; he testified that hospital buildings within the Koševo Hospital complex were damaged by the shelling.<sup>15167</sup>

**(#Abuses of hospitals#! The Chamber had everything needed to draw a correct conclusion about events in the Kosevo Hospital. Many international dignitaries testified that they had seen the abuse of the Kosevo Hospital by the ABiH, and Gen. Morillon and other commanders and representatives protested with Izetbegovic about this drastic violation of the humanitarian laws!)**

#### *b. Dobrinja Hospital*

4528. As stated earlier, Youssef Hajir is a doctor who, based on the needs in the beginning of May 1992, established a medical clinic that eventually became Dobrinja Hospital and worked there during the conflict.<sup>15168</sup> While this hospital was also referred to as a military or war

<sup>15159</sup> P814 (Witness statement of Fatima Zaimović dated 26 February 2010), paras. 2–4, 11–14, 31; Fatima Zaimović, T. 1888, 1894–1896 (5 May 2010); Thomas Knustad, P123 (Transcript from *Prosecutor v. D. Milošević*), T. 1993. See also P1258 (Witness statement of Hussein Ali Abdel-Razek dated 16 July 2002), e-court pp. 16, 20 (testifying that it was obvious to him that the hospital was not randomly shelled but specifically targeted by professional units); Hussein Abdel-Razek, T. 5637–5638 (21 July 2010); P1558 (Witness statement of Francis Roy Thomas dated 13 May 2009), para. 95; P1572 (UNMO report, 30 November–1 December 1993) (reporting that Koševo Hospital was shelled during the night, resulting in two deaths); P1576 (UNMO report, 13–14 December 1993); P1429 (UNMO report for December 1992), p. 3; P1584 (UNMO report, 3–4 January 1994); P1275 (UNPROFOR protest letter to Radovan Karadžić, 31 January 1993) (informing the Accused that Koševo Hospital was shelled resulting in injuries to patients and staff); Adjudicated Fact 3018.

<sup>15160</sup> P814 (Witness statement of Fatima Zaimović dated 26 February 2010), paras. 33–39.

<sup>15161</sup> P814 (Witness statement of Fatima Zaimović dated 26 February 2010), paras. 20–22.

<sup>15162</sup> P814 (Witness statement of Fatima Zaimović dated 26 February 2010), para. 23.

<sup>15163</sup> P814 (Witness statement of Fatima Zaimović dated 26 February 2010), paras. 27, 32; Fatima Zaimović, T. 1886–1887 (5 May 2010).

<sup>15164</sup> P814 (Witness statement of Fatima Zaimović dated 26 February 2010), para. 33.

<sup>15165</sup> P814 (Witness statement of Fatima Zaimović dated 26 February 2010), paras. 34–37, 41; Fatima Zaimović, T. 1886–1888 (5 May 2010).

<sup>15166</sup> P814 (Witness statement of Fatima Zaimović dated 26 February 2010), para. 46.

<sup>15167</sup> P926 (Witness statement of Aernout van Lynden dated 26 February 2010), paras. 38–39.

<sup>15168</sup> Hajir explained that around 5 May 1992 he created an improvised emergency room in a storeroom, which is still a part of the Dobrinja Hospital today. This slowly expanded into a “low level hospital”, which became fully operational and staffed by 17 July 1992, since by

hospital in some documents, the name arose because the Civilian Protection and Ismet Hadžić, who later became the Commander of the 155<sup>th</sup> Brigade of the ABiH, decided to use that name.<sup>15169</sup> However, this was done against Hajir's will and eventually, in 1993, at Hajir's insistence, the hospital was registered with the Ministry of Health and named the "General Hospital of Dobrinja".<sup>15170</sup>

4529. Dobrinja Hospital was located in the Dobrinja 2 apartment block, on the ground floor of an eight storey building, and was marked by a Red Cross sign above its door.<sup>15171</sup> The medical staff in the hospital was often targeted by sniper fire when coming to and from work, leaving many killed and injured.<sup>15172</sup> **(This kind of #general claims# are not for a use in a criminal court, and shouldn't even be mentioned in a Judgment, since it wasn't proven, and it is not fair towards the Defence to create an atmosphere in the Judgment on this basis!)** Furthermore, the few ambulances the hospital had, which were also marked with the Red Cross sign, were also targeted by sniper fire, leaving two drivers injured and one killed.<sup>15173</sup> The hospital building itself was hit by heavy artillery shells on at least 15 occasions and "countless times by smaller projectiles".<sup>15174</sup>

4530. Initially, Hajir was the only surgeon in the hospital and he would operate day and night in improvised conditions with any tools he could find; later on, additional surgeons and doctors arrived as well as better supplies.<sup>15175</sup>

*c. Military targets in and around hospitals*

4531. A number of SRK officers and soldiers called to give evidence by the Accused testified that their positions and units were often targeted by both mortar and sniper fire from civilian premises within Sarajevo, including the city's hospitals.<sup>15176</sup> Blaško Rašević of the 1<sup>st</sup>

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that time Mojmiro came under the control of the ABiH and Hajir was able to source supplies from the city centre. See P1866 (Witness statement of Youssef Hajir dated 25 February 2010), paras. 1–2, 25–33; Youssef Hajir, T. 8786–8787, 8808 (1 November 2010); P1870 (Excerpts from Youssef Hajir's book entitled "Dobrinja Hospital").

<sup>15169</sup> P1866 (Witness statement of Youssef Hajir dated 25 February 2010), para. 31; Youssef Hajir, T. 8819–8823, 8825–8826 (1 November 2010); P1871 (Medical records from Dobrinja Hospital); P1870 (Excerpts from Youssef Hajir's book entitled "Dobrinja Hospital").

<sup>15170</sup> P1866 (Witness statement of Youssef Hajir dated 25 February 2010), para. 31; Youssef Hajir, T. 8819–8823, 8825–8826 (1 November 2010); P1871 (Medical records from Dobrinja Hospital); P1870 (Excerpts from Youssef Hajir's book entitled "Dobrinja Hospital"). Hajir conceded that 43 members of his medical staff were members of the ABiH but explained that, like him they simply worked in the hospital. See Youssef Hajir, T. 8868–8869 (2 November 2010). **But, being seen on the streets, they couldn't be identified as a medical workers, and that explains attacks and wounds.**

<sup>15171</sup> Hajir explained that because this was an improvised hospital, the red cross sign was placed above the door only some two or three months after the fighting started. See P1866 (Witness statement of Youssef Hajir dated 25 February 2010), para. 46; Youssef Hajir, T. 8781–8783 (1 November 2010); P1867 (Map of Sarajevo marked by Youssef Hajir). See also P1525 (Witness statement of Bakir Nakaš dated 8 September 2010), para. 81; P1529 (Map of Sarajevo marked by Bakir Nakaš).

<sup>15172</sup> P1866 (Witness statement of Youssef Hajir dated 25 February 2010), para. 45. The Chamber notes that these killings are not charged in the Indictment.

<sup>15173</sup> P1866 (Witness statement of Youssef Hajir dated 25 February 2010), para. 47; Youssef Hajir, T. 8788 (1 November 2010), T. 8867–8870 (2 November 2010); P803 (Sky Newsreport, with transcript). The Chamber notes that these killings are not charged in the Indictment.

<sup>15174</sup> P1866 (Witness statement of Youssef Hajir dated 25 February 2010), para. 44.

<sup>15175</sup> P1866 (Witness statement of Youssef Hajir dated 25 February 2010), paras. 30, 32.

<sup>15176</sup> See e.g. D2658 (Witness statement of Luka Dragičević dated 9 December 2012), para. 29; D2351 (Witness statement of Stevan Veljović dated 19 October 2012), para. 18; D2852 (Witness statement of Srđan Šehovac dated 27 January 2013), para. 14; D2418 (Witness statement of Božo Tomić dated 5 November 2012), para. 19; D2331 (Witness statement of Blagoje Kovačević dated 14 October 2012),

Romanija Infantry Brigade, testified that ABiH maintained a firing position in the Koševo Hospital grounds and would fire from there daily.<sup>15177</sup> Lučić testified that the ABiH used recoilless guns at night from the Koševo Hospital grounds.<sup>15178</sup> **(#Wrong presumption#! The recoilless guns used 76 mm grenades, such as these landed in the fly market at Bascarsija. The entire allegation and charge that the Serbs fired this grenades was based on a presumption that only the Serbs had this weapons. However, we have a document admitted in the file, a SRK report, reporting a fire of rockets towards Bascarsija, fired from the ABIH position! Since all the armies in the former Yugoslavia had been formed from the JNA as with personnel (soldiers, reservists, officers) as with the weaponry possessions, all the sides to the war had the same kind of weapons!)** Maletić testified that he had information on military targets deep in the territory on the Muslim side, and that these included positions within the perimeter of the State and Koševo Hospitals.<sup>15179</sup> Dragomir Milošević also testified that the ABiH had a position at Koševo Hospital.<sup>15180</sup> While Milošević testified that the ABiH used only Koševo Hospital for military purposes,<sup>15181</sup> Galić claimed that several hospitals were “abused” in order to fire at SRK positions.<sup>15182</sup> Radojčić stated that his position was frequently targeted from Dobrinja Hospital.<sup>15183</sup> **(#Abuses confirmed#! There were also the Prosecution’s witnesses, and the official reports of the UN personnel, about these abuses!)**

4532. On the other hand, Nakaš testified that no armed members of the ABiH were allowed to be inside the State Hospital and that there was not a single military facility in the hospital’s vicinity.<sup>15184</sup> He confirmed, however, that towards the end of 1992, two buildings in the State Hospital complex were requisitioned by the 1<sup>st</sup> Corps of the ABiH and used purely as a rehabilitation centre for ABiH soldiers.<sup>15185</sup> Mandilović also testified that the State Hospital did not have any military positions or combatant personnel located within its premises at any time during the war.<sup>15186</sup> Van Lynden explained that he and his crew made sure that the hospital was not being used by the military as they did not want to have their base on or near a military target.<sup>15187</sup> In the months he was there he never saw the hospital building or its immediate surroundings being used by ABiH forces.<sup>15188</sup> The Chamber notes that an ABiH report from January 1993 indicates that HOS units were located in Avde

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para. 44; Blagoje Kovačević, T. 29069–29070 (18 October 2012); D2665 (Witness statement of Izo Golić dated 15 December 2012), paras. 17, 24.

<sup>15177</sup> D2527 (Witness statement of Blaško Rašević dated 1 December 2012), para. 23; Blaško Rašević, T. 30915–30916 (4 December 2012).

<sup>15178</sup> D2516 (Witness statement of Vlade Lučić dated 5 November 2012), para. 14.

<sup>15179</sup> D2519 (Witness statement of Dragan Maletić dated 9 November 2012), para. 28. *See also* D2622 (Witness statement of Željko Bambarež dated 9 December 2012), para. 18.

<sup>15180</sup> Dragomir Milošević, T. 32581–32582 (23 January 2013), T. 33136–33138 (4 February 2013).

<sup>15181</sup> Dragomir Milošević, T. 32581 (23 January 2013).

<sup>15182</sup> Stanislav Galić, T. 37419–37421 (18 April 2013); D3429 (SRK combat report, 4 September 1993), p. 1.

<sup>15183</sup> D2562 (Witness statement of Vladimir Radojčić dated 8 December 2012), para. 21.

<sup>15184</sup> P1525 (Witness statement of Bakir Nakaš dated 8 September 2010), paras. 14–15; Bakir Nakaš, T. 6743 (14 September 2010).

<sup>15185</sup> P1525 (Witness statement of Bakir Nakaš dated 8 September 2010), para. 14; Bakir Nakaš, T. 6698–6701 (14 September 2010); D615 (Map of Sarajevo marked by Bakir Nakaš). Nakaš also testified that there was a police administration building in the Marin Dvor area, near the St. Joseph Church. *See* Bakir Nakaš, T. 6709 (14 September 2010); D616 (Map of Sarajevo marked by Bakir Nakaš).

<sup>15186</sup> P1217 (Witness statement of Milan Mandilović dated 24 February 2010), paras. 37, 39–40. *See also* Adjudicated Fact 3017.

<sup>15187</sup> P926 (Witness statement of Aernout van Lynden dated 26 February 2010), para. 33; Aernout van Lynden, T. 2391 (19 May 2010).

<sup>15188</sup> P926 (Witness statement of Aernout van Lynden dated 26 February 2010), para. 33; Aernout van Lynden, T. 2591–2592 (21 May 2010).

Jabučice street near the hospital premises.<sup>15189</sup> **(Not only the HOS units, but throughout the war there were the #mortar batteries behind the hospital#, in a garages, being dragged outside to fire, and then returned in the garages. Also, there was a howitzer just behind the hospital!)**

4534. As far as the Dobrinja Hospital is concerned, the ABiH command building was some 150 to 200 metres west from the hospital and, according to, there were no ABiH organised military units or barracks in the area around the hospital.<sup>15190</sup>

4535. With respect to the Koševo Hospital, Zaimović claimed that she never saw any ABiH positions, weapons, or ABiH activities close to the complex.<sup>15191</sup> In addition, according to her, there was no military equipment in the hospital itself.<sup>15192</sup> **(Was it the same Fatima who testified tha she had seen a grenade coming out of the tank barrel some eight km away, right at Osmice? And if so, is she still a credible witness?)** Abdel-Razek also testified that the “main hospital” of Sarajevo contained no military value.<sup>15193</sup> **(This sentence misses the most important part: #“as far as I have known”#, which then would make him credible. How he could have known that?)** Van Lynden never saw any artillery within the Koševo complex nor did he hear that the hospital was being used “for artillery purposes”, although he did see one 82 mm mortar next to the hospital in July 1992.<sup>15194</sup> **(So what? He never saw, big deal! And why this Chamber likes to quote a negative facts, rather than positive ones? If he didn’t see, so what, it doesn’t mean there wasn’t any. The weight should be given to those who had seen, because this certainly mean that there was some, contarary to those “who didn’t see,” which means nothing, i.e. doesn’t mean that there wasn’t anything. It is hard to understand why the Chamber is “gathering” the hegative statements of witnesses who anyway couldn’t have known some facts, while there are many official confirmation by the highest UN officials that the Kosevo Hospital had been regularly abused as a source of fire! See:D99, report of Gen. Morillon od 21 January 1993:**

<sup>15189</sup> Bakir Nakaš, T. 67186719 (14 September 2010); D618 (7<sup>th</sup> Mountain Brigade report re ABiH positions, 28 January 1993); D617 (Map of Sarajevo). See also D622 (ABiH Supreme Command Staff Bulletin, 24 October 1993) (in which it is reported that on 23 October 1992, members of the 10<sup>th</sup> Mountain Brigade took positions in front of the State Hospital in order to stop UNPROFOR’s fuel tanker).

<sup>15190</sup> Youssef Hajir, T. 8845–8846, 8848 (2 November 2010). See also para. 3792.

<sup>15191</sup> P814 (Witness statement of Fatima Zaimović dated 26 February 2010), para. 29. See also P1558 (Witness statement of Francis Roy Thomas dated 13 May 2009), para. 95.

<sup>15192</sup> P814 (Witness statement of Fatima Zaimović dated 26 February 2010), para. 30; Fatima Zaimović, T. 1898–1910 (5 May 2010).

<sup>15193</sup> P1258 (Witness statement of Hussein Ali Abdel-Razek dated 16 July 2002), e-court p. 16; Hussein Abdel-Razek, T. 5552–5555 (20 July 2010) (testifying that despite going there very often he never saw any mortars near the Koševo Hospital). Throughout his witness statement Abdel-Razek refers to the “main hospital”. Based on the context of his evidence in that statement as well as his oral testimony, the Chamber considers that when referring to the “main hospital” he was referring to the Koševo Hospital complex. See also Adjudicated Fact 95, which provides that Koševo Hospital was one the two main medical facilities in operation in Sarajevo at the time.

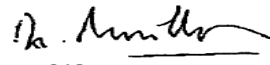
<sup>15194</sup> P926 (Witness statement of Aernout van Lynden dated 26 February 2010), para. 39.

SUBJECT: BREAKING OF GENEVA CONVENTION  
FIRING OF MORTARS FROM THE VICINITY OF KOSEVO  
HOSPITAL - SARAJEVO - 11 JAN 93

References:

A. Senior Military Observer (SMO) SARAJEVO 618/5108 dated 14 Jan 93.  
B. BH Command SARAJEVO BHCS/8606 dated 19 Jan 93.

1. Please find attached at Reference A a self explanatory report by the Senior Military Observer SARAJEVO. Attached at Reference B is the Protest which I sent to President Izetbegovic.
2. I would be grateful if you could pass this report to your Authorities in Geneva. I am also copying this letter to Lt Gen Nambiar for information.

  
P. MORILLON  
Major General  
Commander  
Bosnia Herzegovina  
Command

1. You will have been aware for some time now, from reports submitted to HQ BiH Comd and HQ Sector Sarajevo by this office (References A and B), that both the Kosevo and Citizens Hospitals in Sarajevo have been subjected to frequent artillery and mortar shelling and AAA fire by Serbian Forces. Whenever this matter has been raised with the Serbian military the answer has consistently been that the Bosnian Forces fire mortars from the vicinity of the hospitals.
2. This office has frequently raised the issue and expressed grave concern about such inhumane acts as firing on hospitals; to no avail. On the other hand, and although we have been suspicious, we have not been able to prove that the Bosnian Forces fire mortars or any other weapons from the vicinity of hospitals.
3. We now have conclusive proof, from UNPROFOR eyewitnesses, that the Bosnian Forces fired mortars from the vicinity of the Kosevo Hospital during the afternoon of Mon 11 Jan 93; enclosed is a statement to that effect.
4. It is requested that you take this matter up personally with the Comd 1 Bosnian Corps and express that the crime of using the hospital as a screen to fire weapons from is as inhumane and disgusting as actually firing on the hospital; it is also a cowardly act.
5. It is also requested that, in order to protect UNPROFOR personnel, the names of the eyewitnesses NOT be given to 1 Bosnian Corps or published in any public document.

Therefore, not only this act was established and witnessed, but also the UN representatives feared from the 1<sup>st</sup> Corps ABiH members taking a revengeful acts against the UN personnel! See also D127:

INTERIM COMBAT REPORT ON  
28 July 1993 at 1600 hours

To: VRS /Army of Republika Srpska/ GŠ /Main  
Staff/ and SRK /Sarajevo-Romanija Corps/

Today the enemy seriously violated the ceasefire /by attacking/ the Serbian side. Its MB /mortar/ firing points are located within the perimeter of *Koševo* hospital. They fired 20 82-mm shells into the perimeter of *Jagomir* hospital and *Ernest Grin*. Shells also fell in the Kromolj sector.

The head of the hospital, Miladin ČUKOVIĆ, was killed in the shelling and a nurse was injured. Their snipers are also constantly active. A soldier at Rajlovac barracks was killed by sniper fire.

They continue to engage in engineering work for offensive actions and are constantly attacking using PAMs /anti-aircraft machine-guns/ and PATs /anti-aircraft guns/ along the lines of disengagement with the Ilijaš Brigade.

C O M M A N D E R  
Lieutenant Colonel  
Dragan JOSIPOVIĆ

**This kind of activity was known only to the Serb commands. The #ABiH fired from the Kosevo Hospital to the Jagomir Hospital in the Serb territory, with casualties#! This is a strictly confidential report, not a media one! There are many other “by-passed” statements of the highest international officials, mentioned in the next para 4535, about different abuses of the hospitals and other medical facilities for a combat activities! See a Muslim “Security Service Centre” in Sarajevo, of 19 October 1993:**

The headquarters of the 2<sup>nd</sup> Independent Battalion of the Army of the RBH are located in Meše Selimovića Street, or more precisely in the ground-floor rooms of the Sarajevo Dental Clinic. The unit's commander is Adnan SOLAKOVIĆ and the chief of staff is Samir PEZO. On 11 October 1993, indicative activities started taking place in this unit and some engineering work. Commander of the 10<sup>th</sup> Mountain Brigade Mušan TOPALOVIĆ aka Caco and some of his men started coming more frequently in recent days. The reason for their visits can be linked to combat operations by /illegible/ units: the 9<sup>th</sup> Motorised, 10<sup>th</sup> Mountain and 2<sup>nd</sup> Independent Battalion. These combat operations were carried out in September 1993 in the areas of Jablanica and the town of Prozor. However, members of Adnan SOLAKOVIĆ's unit kept carrying out engineering work and fortifying their headquarters at the location mentioned. On 15 October 1993, they made anti-tank obstacles from tram tracks, a really large number of them, they made bunkers and introduced a high level of combat readiness. A booth was set up at the entrance to the Maxillofacial Clinic in Meše Selimovića Street and covered with three rows of sandbags. Gun holes were made and they are supposedly planning to make a bunker several metres deep with connecting trenches that would enable them to cover the intersection of the Meše Selimovića Street and Moše Pijade Street. They put in stakes where the edges of the bunker and the connecting trenches should be. Another bunker was made at the upper side of the Clinic, which controls the whole Transfusiology plateau and most of Nemanjina Street, and the intersection of the mentioned street and Moše Pijade Street. Below this bunker, there is a concrete slab of about 30 x 10 metres, where four vehicles are parked, two medical vehicles and an armoured combat vehicle. This vehicle is very interesting because inside it is a guard with an M-84 machinegun called "sower of death." The height of this armoured vehicle enables even more effective control of Nemanjina Street. Two to three sniper nests can be seen from time to time on the third floor of the Dental Clinic, distributed in such a way that they cover the petrol station plateau at Koševo, a large part of Moše Pijade Street and the area around the Medical School. Each of the mentioned guard posts is manned by two men who are in full combat gear. The guards at the entrance wear blue flak jackets and we have learned /Independent Battalion/ is bringing in large amounts of food to their headquarters and members of the unit brag around that they have /?13/ "sower of death" machineguns, no one can touch them, and they often mention two nitroglycerine rifles. Because of

**There may not be any suspicion about a wide abuses of the medical institutions belonging to the Kosevo medical complex! Why the Chamber needs denials from the foreigners who anyway were not privy of these deployments? See also D622 and other evidence mentioned even by the Chamber in the following paragraph!)**

4535. A number of international witnesses confirmed, however, that ABiH would position its forces and/or fire at the SRK from Koševo Hospital, using mobile mortars, in order to provoke retaliatory fire.<sup>15195</sup> Richard Gray's military observers witnessed ABiH forces firing from mortars mounted on the back of trucks from the Koševo Hospital car-park, while he personally witnessed ABiH armoured vehicles located in the vicinity of Koševo Hospital.<sup>15196</sup> Rose testified that ABiH "often fired 120 mm mortars at the Serbs in the Jewish cemetery from the grounds of the Koševo hospital".<sup>15197</sup> Tucker recalled that on 11 January 1993 UN soldiers delivering fuel to the hospital's boiler witnessed an 82 mm mortar on the back of a

<sup>15195</sup> See e.g. John Hamill, P1994 (Transcript from *Prosecutor v. Galić*), T. 6207, 6229; Francis Roy Thomas, T. 6842 (15 September 2010); David Fraser, T. 8060 (18 October 2010); John Wilson, T. 3948 (21 June 2010); D99 (UNPROFOR report re ABiH, 21 January 1993).

<sup>15196</sup> D2398 (Witness statement of Richard Gray dated 22 April 2012), paras. 11, 16–18; Richard Gray, T. 29992–29993 (8 November 2012).

<sup>15197</sup> P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 133. See also D162 (Michael Rose's book entitled "Fighting for Peace: Bosnia, 1994"), p. 172.

truck being fired from a derelict house on the western side of the Koševo Hospital, some half an hour before a press conference which had been called by the hospital; this was then followed by retaliatory anti-aircraft, artillery, and mortar fire.<sup>15198</sup> Morillon reported this incident to Izetbegović, noting that “this disreputable and cowardly act” was a blatant breach of the Geneva Conventions and urging Izetbegović to take strong measures to stop the reoccurrence of this practice.<sup>15199</sup> Mole testified that the ABiH units used mobile mortars around the Koševo Hospital in order to attract Serb fire.<sup>15200</sup> According to him, the ABiH would fire one or two rounds and leave immediately; the SRK response would then attempt to target the mortar but it was neither immediate nor accurate enough to do so successfully.<sup>15201</sup>

**(In such a cases, many internationals who saw the retaliatory fire, and didn't see the provocative outgoing fire, qualified this responses as a non-selective and random shelling by the Serb side!)** In addition, there was a “degree of overkill” such that the SRK would respond in a heavily disproportionate manner.<sup>15202</sup> This indicated to him that the response fire was retaliation rather than a military strategy and it also resulted in the hospital being frequently hit.<sup>15203</sup> Mirko Šošić, another doctor who worked at the Koševo Hospital until summer 1992,<sup>15204</sup> testified that, on several occasions, he saw a “cannon” the ABiH used to fire from the grounds of the Koševo Hospital, which was stored in the underground area below the traumatology clinic.<sup>15205</sup>

4536. Some contemporaneous SRK documents also indicate that Koševo Hospital was used by the ABiH. According to a report of the 1<sup>st</sup> Romanija Brigade to the SRK Command, dated 1 October 1992, there were two ABiH intervention platoons positioned in the grounds of Koševo Hospital.<sup>15206</sup> On 3 September 1993 the same brigade reported to the SRK Command that a TO unit and an intervention platoon were based in the Koševo Hospital grounds.<sup>15207</sup> Almir Begić testified that his ABiH unit, consisting of around 50 men, was located in a dentistry clinic some 500 metres from the Koševo Hospital.<sup>15208</sup> In a combat report of 15 May 1993, the SRK Command reported to the VRS Main Staff that the ABiH opened mortar fire on SRK positions “from the area of Koševo hospital”.<sup>15209</sup> On 28 July 1993, the SRK Command reported to the VRS Main Staff that the ABiH fired 82 mm mortar shells from the Koševo Hospital at the SRK positions.<sup>15210</sup> The Chamber also received an ABiH order of 11

<sup>15198</sup> P4203 (Witness statement of Piers Tucker dated 12 May 2010), para. 303; Piers Tucker, T. 23301–23303 (18 January 2012); D2034 (UNPROFOR report, 21 January 1993), e-court p. 5. *See also* D507 (Video footage of Lord Owen’s statement re shelling of Sarajevo hospital).

<sup>15199</sup> D2034 (UNPROFOR report, 21 January 1993), e-court p. 6; D351 (UNPROFOR report re protest letter to Alija Izetbegović, 21 January 1993); Hussein Abdel-Razek, T. 5552–5553 (20 July 2010).

<sup>15200</sup> P1426 (Witness statement of Richard Mole dated 7 May 2010), paras. 122–124; Richard Mole, T. 5891 (18 August 2010). According to Mole, such incidents, when observed, were reported in the UNMOs daily sitreps. *See* P1426 (Witness statement of Richard Mole dated 7 May 2010), para. 128.

<sup>15201</sup> P1426 (Witness statement of Richard Mole dated 7 May 2010), paras. 125–126.

<sup>15202</sup> P1426 (Witness statement of Richard Mole dated 7 May 2010), para. 125; Richard Mole, T. 5891–5893 (18 August 2010).

<sup>15203</sup> P1426 (Witness statement of Richard Mole dated 7 May 2010), paras. 125–126.

<sup>15204</sup> D3138 (Witness statement of Mirko Šošić dated 17 March 2013), para. 2; Mirko Šošić, T. 35772 (21 March 2013).

<sup>15205</sup> D3138 (Witness statement of Mirko Šošić dated 17 March 2013), para. 9; Mirko Šošić, T. 35773–35775 (21 March 2013).

<sup>15206</sup> Dragomir Milošević, T. 32582–32584 (23 January 2013); D2795 (1<sup>st</sup> Romanija Brigade report, 1 October 1992), pp. 1–2. *See also* D2880 (Official note of Ilidža SNB, 16 September 1992), p. 1.

<sup>15207</sup> P4498 (Report of 1<sup>st</sup> Romanija Infantry Brigade, 3 September 1992), p. 2.

<sup>15208</sup> P2051 (Supplemental statement of Almir Begić dated 14 December 2010), para. 3; Almir Begić, T. 9982–9985 (16 December 2010); D930 (Map of Velešići marked by Almir Begić). *See also* Dragomir Milošević, T. 32582–32584 (23 January 2013) (testifying that the SRK identified the dentistry school as a military target); D2795 (1<sup>st</sup> Romanija Brigade report, 1 October 1992), p. 2.

<sup>15209</sup> D3411 (SRK combat report, 15 May 1993), p. 1.

<sup>15210</sup> D2798 (SRK combat report, July 1993), p. 1.

June 1995, which states that the forward command post of the 105<sup>th</sup> Brigade of the 1<sup>st</sup> Corps of the ABiH was located in the “Koševo hospital sector (building under construction)”.<sup>15211</sup>

4537. Some of the SRK soldiers and officers then testified that their units did not return fire on the city hospitals at all, despite being fired on from there. Dušan Šrkba stated that his brigade, namely the 1<sup>st</sup> Sarajevo Mechanised Brigade, never opened fire on the State and Koševo Hospitals or the area around them as they were afraid of inflicting major civilian casualties.<sup>15212</sup> Izo Golić, a mortar platoon commander in the Rogatica Battalion of the 1<sup>st</sup> Romanija Brigade, testified that his unit’s positions were fired upon from the Koševo Hospital some 10 to 15 times during 1992 but that they were never ordered to return fire on the hospital complex.<sup>15213</sup> **(It may have been of some significance to know that Mr. Golic was a Rogatica Muslim of a secular and European orientation, who fought in the VRS all the time of the war! He certainly wouldn’t do that had the atrocities against civilians that are allegedly allocated to the Serbs had been true!)** However, earlier in his statement he also said that the Koševo Hospital complex was one of the targets at which his unit opened fire in case of large concentration of ABiH forces or in case the ABiH forces fired first.<sup>15214</sup> Similarly, Veljović testified that his unit was not allowed to fire at certain targets in the depth of the territory, such as “the hospital”, even though they knew there were military targets there.<sup>15215</sup>

4538. On the other hand, Mirko Šošić testified that SRK shells fell on Koševo Hospital on a number of occasions but that this was a result of the ABiH forces opening artillery fire from within its grounds.<sup>15216</sup> Dragomir Milošević first claimed that the SRK never fired on the Koševo Hospital but then proceeded to explain that if fire was opened from certain locations, such as the hospital, it would be returned, although not before the SRK units assessed the target and the presence of civilians at that location.<sup>15217</sup> Blagoje Kovačević admitted that a response would be forthcoming when fire was opened from schools and hospitals.<sup>15218</sup> **(However, many school, kindergarden or similar bulding, hadn’t been schools during the war. No incidents with a casualties were scheduled in the Indictment!)**

*v. Protests regarding fire on hospitals*

**4539.** Abdel-Razek testified that on one occasion, after Koševo Hospital was shelled,<sup>15219</sup> he raised the issue with Galić who responded, as he always did in relation to any civilian target, by saying that the Bosnian Muslims shelled the hospital in order to gain sympathy from the

<sup>15211</sup> D2792 (Order of ABiH 12<sup>th</sup> Division, 11 June 1995), para. 5.5.

<sup>15212</sup> Dušan Šrkba, T. 29122–29123 (18 October 2012), T. 29131–29132 (22 October 2012).

<sup>15213</sup> D2665 (Witness statement of Izo Golić dated 15 December 2012), paras. 13, 24 (while Golić never explicitly said which brigade his battalion belonged to while in Sarajevo the Chamber notes that the battalion’s positions Golić described in paragraph 13 of his statement were part of the positions held by the 1<sup>st</sup> Romanija Brigade).

<sup>15214</sup> D2665 (Witness statement of Izo Golić dated 15 December 2012), para. 17.

<sup>15215</sup> Stevan Veljović, T. 29282 (23 October 2012).

<sup>15216</sup> D3138 (Witness statement of Mirko Šošić dated 17 March 2013), para. 12.

<sup>15217</sup> Dragomir Milošević, T. 33136–33138 (4 February 2013).

<sup>15218</sup> Blagoje Kovačević, T. 29069–29070 (18 October 2012).

<sup>15219</sup> Abdel-Razek referred to the “main hospital” when discussing this incident. See P1258 (Witness statement of Hussein Ali Abdel-Razek dated 16 July 2002), e-court p. 16. As noted earlier, the Chamber considers this to have been the Koševo Hospital complex.

international community.<sup>15220</sup> Abdel-Razek was convinced, however, that the shells came from the hills held by the SRK.<sup>15221</sup> **(The witness could have known from which hill it was fired, but the foreigners considered that any fire “from the hills had to be a Serb fire”, which is far from truth! The confrontation lines were very close to each other even on the same hill! However, there was an incident undoubtedly caused by the Muslim Army!)**

4540. Abdel-Razek and Tucker were also present during meetings on 18 and 19 December 1992 between Lord Owen on one side and the Accused, Mladić, and Koljević on the other wherein Owen protested about the shelling of the Koševo Hospital and told the attendees that he had visited the hospital and that the situation was a “disgrace” and “very very depressing”.<sup>15222</sup> At one stage during these meetings Owen became angry and told Mladić that the shelling of Sarajevo was a disgrace and that it had to stop; Mladić became angry and ended up shouting at Owen.<sup>15223</sup>

4541. The Chamber also heard that during the SerBiH Assembly session of 12 May 1992, Mladić stated that the Muslims would not be allowed to benefit from the State or Koševo Hospitals until they accepted peace.<sup>15224</sup>

#### *vi. Conclusion*

**4542.** Having considered the evidence and the adjudicated facts outlined above, the Chamber finds that, just like the rest of the city, the hospitals in Sarajevo were subjected to shelling and sniping by the SRK. This in turn affected their capacity to provide adequate medical care to their patients. In this respect, the Chamber accepts the evidence of the doctors who testified about the difficulties they faced while working in those hospitals and the dangers they, and other medical staff, exposed themselves to on a daily basis, in order to provide medical care to the citizens of Sarajevo. The Chamber also accepts their evidence regarding the frequent shelling and sniping their respective hospital buildings were subjected to. While Dušan Škrba claimed that the 1<sup>st</sup> Sarajevo Mechanised Brigade never fired on the hospitals, this is clearly contrary to the evidence before the Chamber, namely that the State Hospital was shelled from the south of the city. **(#Being so general and unspecific about the time and occasion#, the Chamber have counted in the Serb actions even these shellings that happened while the JNA possessed it's Hospital, and shells had been fired by the Muslim Green Berets! However, the Prosecution never submitted any case of casualties from these allegedly illegal firing against the hospitals, although it would love to have any case of ssuch a kind!)** While it is possible that Škrba's and Veljović's specific units did not open fire on these hospitals, there is no doubt that other SRK units did. Indeed, this was confirmed by Blagoje

<sup>15220</sup> P1258 (Witness statement of Hussein Ali Abdel-Razek dated 16 July 2002), e-court pp. 16, 21. According to Abdel-Razek, this was Galić's usual response, namely to deny that the Serb side conducted the shelling and to accuse the Bosnian Muslim side of it. If or when challenged on this by Abdel-Razek he would acknowledge that the Serbs conducted the shelling but then argue that they had been provoked. See P1258 (Witness statement of Hussein Ali Abdel-Razek dated 16 July 2002), e-court p. 21.

<sup>15221</sup> P1258 (Witness statement of Hussein Ali Abdel-Razek dated 16 July 2002), e-court p. 16.

<sup>15222</sup> Hussein Abdel-Razek, T. 5504–5505 (19 July 2010), T. 5545–5547 (20 July 2010); P1273 (Video footage of meeting between Lord Owen and Radovan Karadžić, with transcript); P4203 (Witness statement of Piers Tucker dated 12 May 2010), paras. 92–98; P1996 (Witness statement of Martin Bell dated 8 March 2010), para. 82; P2034 (BBC news report re meeting between Lord Owen and Radovan Karadžić in Pale, with transcript).

<sup>15223</sup> P4203 (Witness statement of Piers Tucker dated 12 May 2010), paras. 95, 98

<sup>15224</sup> P956 (Transcript of 16<sup>th</sup> session of SerBiH Assembly, 12 May 1992), e-court p. 38.

Kovačević, Šošić, and even Dragomir Milošević. Similarly, while Golić stated that in 1992 his unit never returned fire when fired upon from the Koševo Hospital complex, in doing so he contradicted his earlier statement wherein he accepted that his platoon would open fire on the Koševo complex if fired upon from there. **(There may have been some firing only in an immediate defence against the firing positions, #but it was neither premeditated, nor ordered fire#. An attacked unit is entitled to return a fire and silent an attacker! And whose liability was for that? Why the ABiH would be entitled to abuse the hospitals to inflict losses to the SRK units, and the SRK would be banned to defend, neutralise, or at least silent and discourage the attacker?)**

4543. As noted above, the Accused claims that hospitals were abused by the ABiH for military purposes. However, the majority of the evidence supporting this claim concerned the Koševo Hospital complex and not the State or Dobrinja Hospitals. While military units may have occasionally been located in the vicinity of the State and Dobrinja Hospitals, the Chamber is nevertheless convinced that those hospitals were civilian objects and were not used for military purposes by the ABiH. **(#As much abused, as much fired at, even less#! To the extent that these hospitals “were not used for military purposes by the ABiH” to the same extent the said hospitals hadn’t been fired at!!! How, this is a good moment to warn against a general claims about victims. There was no any evidence about a results of this firings, all is so general and can not be used in a criminal case! Since it was established that there was an initial firing from the hospitals, of which some, but not all, had been witnessed by the internationals, the Chamber should have assumed that there was more such the outgoing fires than it was seen, and thus the Prosecutor would be in an obligation to prove that there was some unprovoked firing of the SRK, and which one!)** Furthermore, if the aim of the SRK forces was to target military units in the vicinity of the State and Dobrinja Hospitals, the frequent shelling and the extensive damage caused to those hospitals—particularly to the State Hospital—indicate that they were either deliberately targeted by the SRK forces or, at the very least, hit as a result of an indiscriminate fire onto the city by the SRK.<sup>15225</sup> **(#No shelling State Hospital after JNA left#! Why the Prosecution didn’t submit a persuasive evidence about a SRK shelling of the “State Hospital” after the JNA had lost it, and the Green Berets possessed it? Also, there is evidence, some of which admitted by the Chamber, that the immediate vicinity of the “State Hospital” was used for a military purposes! Once it was established that the ABiH used (abused) the hospitals, this inference is not the only one! There is another, more probable, that it was in response to the ABiH fire!)**

**4544.** In light of the evidence and the adjudicated facts outlined above, the Chamber is also satisfied that the SRK forces deliberately opened fire on the Koševo Hospital. **(When that happened? Was it without any provocation? Since we know that there was such a practice, this kind of a general assertion is not acceptable!)** At the same time, it is clear that there were occasions when the ABiH units used the grounds of Koševo Hospital to fire at SRK positions, usually with mobile mortars. **(#Abuses of hospitals#!But not exclusively by the mobile mortars. #There was a canon close to orthopaedic clinic, there were a stationed mortars, there was a tank occasionally and very frequently in the hospital complex#! But, the main objection of the Defence is: why the Chamber**

<sup>15225</sup>

See Adjudicated Fact 3019 which provides that SRK intentionally targeted the State Hospital.

assumes that beside these occasions that had been witnessed there was no other abuses? To what extent it is believable that all such a cases are registered, so that the rest of it would be unprovoked and deliberate fire of SRK? And why would the ABiH give up so good and productive tool and mechanism which cost it nothing, but obtained more sympathies and increased a possibility for a foreign military intervention?) In such cases, the SRK response fire was counter-fire aimed at ABiH military targets. However, the Chamber also finds, in light of Mole's evidence above, as well as the general evidence about the nature of the SRK shelling in Sarajevo,<sup>15226</sup> that the SRK response to such mobile mortars was often disproportionate and indiscriminate, targeting the hospital complex as a whole in a retaliatory manner, rather than neutralising the specific mobile mortar that opened fire. **(That is why it is not acceptable to reduce the weapons only on a "mobile mortars". It is evident that there was more fixed artillery weapons, even tanks, than a mobile mortars.!)** Furthermore, while parts of the Koševo Hospital complex may have become a military target whenever the ABiH opened fire from them, the SRK units returned fire without issuing an adequate warning as they were required to do by Geneva Convention IV and Additional Protocols I and II.<sup>15227</sup> **(There was a general warning in media and through the mediation of the UN personnel, because there was no a direct line between the SRK and ABiH. But the responsibility was on the ABiH, because it wasn't possible for the SRK to sustain the loses and wait for the ABiH to obey by any warnings! And why the ABiH would obey any of the warnings, since it did abuse the Hospital with the aim to get the SRK fire provoked? Finally, was the ABiH firing from the Hospital complex a violation of the Geneva Convention, and how come the SRK was more responsible than the 1. Corps ABiH?)**

## Siege of Sarajevo

### a. Blockade/Encirclement/Siege

4545. The Prosecution alleges that, starting from early April 1992, the city of Sarajevo was subjected to "blockade".<sup>15228</sup> It further argues that the campaign of shelling and sniping in Sarajevo furthered the blockade and refers to the city as being "besieged".<sup>15229</sup> The Accused argues that Sarajevo was not under "siege"; instead the SRK practiced a "containment strategy"—directed at the ABiH forces in the city—and tried to maintain the *status quo* rather than alter the positions at the Sarajevo frontlines.<sup>15230</sup> He also claims that

<sup>15226</sup> See paras. 3984–3986.

<sup>15227</sup> See Galić Appeal Judgement, paras. 341–346.

<sup>15228</sup> Indictment, para. 78.

<sup>15229</sup> Prosecution Final Brief, paras. 6, 609.

<sup>15230</sup> Hearing, T. 13161 (10 March 2011) (explaining that what happened in Sarajevo was not a siege as ABiH units were able to move in and out of the city through the tunnel under the airport), T. 10242 (14 January 2011) (arguing that the objective of the Bosnian Serbs was to contain the ABiH forces in the city); Defence Final Brief, para. 1821–1836.

the Bosnian Muslim authorities in Sarajevo conducted an “internal siege” by preventing the population from leaving the city.<sup>15231</sup>

4546. Many of the Prosecution witnesses and some witnesses called by the Accused testified that during the Indictment period, Sarajevo was a city kept under “siege” by the Bosnian Serbs and/or that it was “encircled” by them.<sup>15232</sup> Okun stated that the situation in Sarajevo was “obviously a siege” because “Serb forces surrounded the city” and the only way in or out of Sarajevo was “through Serb lines with Serb permission”.<sup>15233</sup> Bell thought that the situation in Sarajevo was one of “total siege”.<sup>15234</sup> There were “very few” places within Sarajevo that were “entirely safe” and the civilian population suffered shortages of food, water, gas, and electricity.<sup>15235</sup> **(Not true! There was at least 65 to 70% of the city that never sustained any fire of any kind, because it was determined by the presence of the ABiH forces and their activity!)** Doyle stated that in April 1992, Sarajevo was “practically a city under siege” by the Bosnian Serbs and was “in turmoil” as there was shelling “from the outside” and “freedom of movement was denied”.<sup>15236</sup> **(But who generated this situation, #who wanted the war, who started and who procrastinated it#? The main question that can not be neglected (although the crime against peace is not incriminated before this Court) who wanted all of that, and why the Serb side is considered as a liable for the situation. There must not be neglected the fact that an ultimate defence is inevitable and guaranteed right, and that the Serb side was the one that defended!)** When Tucker arrived in Sarajevo in October 1992, he found a city surrounded by hostile forces who prevented the entry of food supplies into the city and cut water, electricity, and gas supplies.<sup>15237</sup> **(#They declared the war against the Serbs#! This is a kind of blind labelling of one of the warring sides: there was a war declared by the Muslim/Croat part of the common state against the Serbs. What a hostile forces? There were the warring sides, and the Serb “hostile forces” surrounded the enemy’s forces, not civilians, as the same Muslim/Croat forces surrounded the very same Serb forces and Serb settlements**

<sup>15231</sup> Hearing, T. 10242 (14 January 2011).

<sup>15232</sup> See e.g. P2451 (Witness statement of Anthony Banbury dated 19 May 2009), paras. 197–198 (adding that the siege changed the character and demographics of the city by driving out middle-class and moderate Sarajevans who believed in a multi-ethnic BiH); KDZ185, T. 4174–4175 (28 June 2010) (private session) (testifying that by 1993 the city was already besieged by the Bosnian Serbs for about eight months); KDZ240, T. 16122 (5 July 2011) (closed session); P1525 (Witness statement of Bakir Nakaš dated 8 September 2010), paras. 49–51; Alma Mulaosmanović-Čehajić, P1551 (Transcript from *Prosecutor v. D. Milošević*), T. 1673; Alma Mulaosmanović-Čehajić, T. 6756 (14 September 2010); Mirsad Kučanin, P17 (Transcript from *Prosecutor v. S. Milošević*), T. 28943; David Harland, T. 2103–2104 (7 May 2010); Radomir Kezunović, T. 13915–13916, 13982 (31 May 2011) (testifying that Sarajevo was the “epitome of a surrounded city”); KW570, T. 32208–32209, 32226 (18 January 2013) (private session); KW570, T. 32216 (18 January 2013); D2270 (Witness statement of Andrey Demurenko dated 13 October 2012), para. 30.

<sup>15233</sup> Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4204 (adding also that, while Bosnian Muslims did build a tunnel under the airport, the city was in fact “besieged”); Herbert Okun, T. 1782 (28 April 2010).

<sup>15234</sup> P1996 (Witness statement of Martin Bell dated 8 March 2010), para. 49 (adding that while occasionally broken by relief flights from the UNHCR, this “didn’t make it any less of a siege”).

<sup>15235</sup> P1996 (Witness statement of Martin Bell dated 8 March 2010), paras. 35–36, 49 (adding that civilians also resorted to cutting down trees for fuel and scooping water out of the river). See also P2068 (Witness statement of Jeremy Bowen dated 10 August 2009), paras. 18 – 19, 25, 41 (adding that the Sarajevo citizens were also denied lack of adequate medical care); P926 (Witness statement of Aernout van Lynden dated 26 February 2010), paras. 27–28; KDZ185, T. 4175 (28 June 2010) (private session).

<sup>15236</sup> Colm Doyle, T. 2719–2720, 2736–2737 (26 May 2010), T. 2863, 2866 (27 May 2010), T. 2916–2918 (28 May 2010); D235 (Directive 3, 3 August 1992), p. 5. According to Doyle, there would have been no need for a tunnel under the Sarajevo airport to move supplies and evacuate people if the city was not under siege. When put to him that at the London Conference Bosnian Serbs imposed restrictions around Sarajevo exclusively for military purposes, Doyle responded that this was not his experience. See Colm Doyle, T. 2866–2867 (27 May 2010).

<sup>15237</sup> P4203 (Witness statement of Piers Tucker dated 12 May 2010), paras. 21, 49, 116; Piers Tucker, T. 23291 (18 January 2012). Tucker also described how in January and February 1993, hundreds of people tried to escape Sarajevo by crossing the airport at which point they would be shot and wounded or killed—to him, this was “one of the greater tragedies in Sarajevo”. See P4203 (Witness statement of Piers Tucker dated 12 May 2010), paras. 117, 121.

around Sarajevo, on the outer ring! This is a typical example of an accusation of the Serb side for being liable for the war, because this way it was suggested that the Serb side didn't have to encircle such a huge enemy's forces in Sarajevo!) Fraser testified that Bosnian Serbs were "definitely in control of all the movement and the situation inside the city" as they used all means at their disposal, particularly sniping and shelling, to control freedom of movement and the psyche of the population.<sup>15238</sup> Rose recalled that upon his arrival in Sarajevo in January 1994, the whole city had been reduced to a state of siege as there were "no lights, no water, no electricity, no trams", and the city was in "an almost medieval state".<sup>15239</sup>

**(The same witness, General Rose testified and said to the other side that the situation in the Muslim parts of the City was somewhat better than in Grbavica, a Serb settlement! Whatever the Muslims didn't have, the same didn't have the Serbs!)**

In addition, the Bosnian Serbs frequently interrupted the flow of UN aid into Sarajevo, with the intention of creating a "situation of siege".<sup>15240</sup>

**(All of these #general assertions are no more but a malicious "impressions" everything that the City under the Muslim/Croat control got, came through the Serb territory, with an exception of small amount of electricity passing through the tunnel. Just having in mind that #in these 1,400 days there was around 20,000 flights of humanitarian aid along the confrontation lines, on the airport that the Serb side gave to the UN#. There were thousand and thousand convoys that passed without problems, although very frequently abusing this freedom and violating the law. Whenever there was a delay, it had been due to the objective circumstances, and for that reasons the Defence rejects this kind of labelling and denigrating the Serb side, and only a precise and specific litigation of the cases could be suitable in a criminal court!)** Thomas described Sarajevo as a "besieged city".<sup>15241</sup>

KDZ182 testified that when he arrived in Sarajevo in 1994 he saw a "total blockade" of the city with the Bosnian Serbs manning the surrounding hills, preventing anyone from moving around—according to him, it was "impossible" for Sarajevo to function normally because it was "circled" and therefore difficult to supply.<sup>15242</sup>

**(#Which town or city on the front line could have functioned normally#? These #arguments are against the civil war and those who were in favour of the war#, and that were not the Serbs! The way the Chamber is selecting "opinions" and "impressions" of the foreign representatives in BiH, severely suggests a Serb liability and guilt for the war, in spite of the fact that the Muslim liability and guilt, as well as the guilt of the countries of origin of those international representatives is much, much bigger than the Serb one. To bruising the Serbs in their centuries old country to the edge of survival and expect from them not to defend represents a supreme hypocrisis and responsibility of the international community!)**

Bowen testified that the siege of Sarajevo had an "enormous effect" on the civilian population in the city, depriving them of security and effectively imprisoning them.<sup>15243</sup> When asked on

<sup>15238</sup> P1762 (Witness statement of David Fraser dated 17 October 2010), p. 5. See also P2068 (Witness statement of Jeremy Bowen dated 10 August 2009), paras. 20, 23 (testifying that Bosnian Serbs decided who came in and who went out of the city).

<sup>15239</sup> P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 22. See also P733 (Witness statement of Sulejman Crnčalo dated 1 November 2009), paras. 82–84.

<sup>15240</sup> P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 22. See also P926 (Witness statement of Aernout van Lynden dated 26 February 2010), para. 22.

<sup>15241</sup> Francis Roy Thomas, T. 6858 (15 September 2010).

<sup>15242</sup> P2414 (Witness statement of KDZ182), p. 28 (under seal). See also P23 (Witness statement of Mirsad Kućanin dated 12 November 1995), pp. 4–5; Mirsad Kućanin, P17 (Transcript from *Prosecutor v. S. Milošević*), T. 28937.

<sup>15243</sup> P2068 (Witness statement of Jeremy Bowen dated 10 August 2009), paras. 20, 27 (adding that life was also hard in Bosnian Serb-held areas surrounding the city, but noting that the people there at least "had access to decent food and a way out"); Jeremy Bowen, T. 10105 (13 January 2011) (calling the siege a "noose" around the necks of the people").

cross-examination whether both sides semi-encircled each other in Sarajevo, Van Lynden was adamant that the city was not semi-encircled, but fully encircled and besieged.<sup>15244</sup> When the Accused put to KDZ185 that Sarajevo was a divided rather than a besieged city, KDZ185 responded that Sarajevo proper, that is the central city itself and the area near the airport, were in fact surrounded, and as such under siege.<sup>15245</sup> KW570, a witness called by the Accused, also testified that Sarajevo was, “in reality”, under siege, with the Bosnian Serbs dominating the high ground around the city; he considered it a siege even though UN convoys were going in and supplying the people with aid.<sup>15246</sup> Similarly, Demurenko, also called by the Accused, testified that in terms of human suffering, Sarajevo was a case of “a full siege”, even though it was not completely encircled, because all the roads were blocked and there was very little space for manoeuvre.<sup>15247</sup> Noting that the tunnel under the airport allowed the Bosnian Muslims to move troops and humanitarian aid in and out of Sarajevo, Demurenko viewed the situation in Sarajevo as “a case of siege with [a] certain qualification”.<sup>15248</sup>

4547. Contrary to the evidence above, a number of Defence witnesses, mainly former SRK soldiers and officers, claimed that Sarajevo was not besieged and that the term “siege” was created and misused by the biased media.<sup>15249</sup> For example, Luka Dragičević testified that the “siege of Sarajevo” was a media term that did not accurately describe the situation since SRK positions in Sarajevo were “very disadvantageous”, ABiH units were able to pass through the tunnel under the airport, and the SRK had not cut off utilities and humanitarian aid.<sup>15250</sup> While acknowledging that the SRK blockaded part of the ABiH forces inside Sarajevo, he noted that the SRK was in turn completely encircled on the outside ring by the ABiH.<sup>15251</sup> Similarly, Veljović disputed the accuracy of what he termed the “prevailing view” at the time, namely that the SRK had “laid siege to Sarajevo” by being positioned on dominant features around the city and constantly firing upon anyone within it.<sup>15252</sup> Instead, he claimed that it was the ABiH forces that in fact held a number of elevations in and around Sarajevo, all of which were dominant in relation to SRK positions and from which the ABiH forces opened mortar and sniper fire.<sup>15253</sup> Simić also testified about SRK being at a disadvantage because it was “surrounded doubly, internally and externally” by the ABiH,<sup>15254</sup> while Ratomir

<sup>15244</sup> Aernout van Lynden, T. 2464–2465 (19 May 2010).

<sup>15245</sup> KDZ185, T. 4366–4367, 4374–4375 (30 June 2010); KDZ185, T. 4387–4388 (30 June 2010) (private session). *See also* P2407 (Witness statement of KDZ304), p. 10; KDZ304, T. 10489–10491 (18 January 2011).

<sup>15246</sup> KW570, T. 32208–32209, 32216, 32226 (18 January 2013) (private session) (adding that the Bosnian Muslim government was unable to break the siege using its own forces, and so it “clearly wished” for the siege to be broken through western intervention).

<sup>15247</sup> D2270 (Witness statement of Andrey Demurenko dated 13 October 2012), para. 30 (stating that the VRS encircled about 90% of the city and that the situation in Sarajevo was akin to the siege of Leningrad in World War II).

<sup>15248</sup> D2270 (Witness statement of Andrey Demurenko dated 13 October 2012), para. 30.

<sup>15249</sup> *See e.g.* D2667 (Witness statement of Ratomir Maksimović dated 14 December 2012), paras. 8, 67 (stating that the media coverage of the situation was uneven); D2516 (Witness statement of Vlade Lučić dated 5 November 2012), para. 34 (adding that media reports were biased and malicious); D2387 (Witness statement of Stojan Džino dated 4 November 2012), para. 73. In addition, Bell testified that the pattern of the siege, that of ABiH forces attacking outward with small arms and infantry and SRK responding with heavier weapons, gave the world the impression that Sarajevo was subjected to constant and unprovoked bombardment by the Serb side, when the war was in fact being waged by both sides. *See* P1996 (Witness statement of Martin Bell dated 8 March 2010), para. 57.

<sup>15250</sup> D2658 (Witness statement of Luka Dragičević dated 9 December 2012), para. 41.

<sup>15251</sup> D2658 (Witness statement of Luka Dragičević dated 9 December 2012), para. 41. For the evidence on the so-called inside and outside rings of Sarajevo, *see* para. 3557.

<sup>15252</sup> D2351 (Witness statement of Stevan Veljović dated 19 October 2012), para. 27.

<sup>15253</sup> D2351 (Witness statement of Stevan Veljović dated 19 October 2012), para. 27. *See also* D2667 (Witness statement of Ratomir Maksimović dated 14 December 2012), para. 16.

<sup>15254</sup> D2412 (Witness statement of Savo Simić dated 4 November 2012), para. 14. When cross-examined on this issue, Simić conceded that “Muslim forces” were also “encircled” but noted that Sarajevo “had an exit in a certain sense”. *See* Savo Simić, T. 30026–30034 (8

Maksimović claimed that the SRK was in an “unfavourable operational position” because it was twice surrounded by a “ring” of the ABiH units inside Sarajevo and outside Sarajevo.<sup>15255</sup> Dragomir Milošević noted that the “encirclement” of Sarajevo by SRK forces was “not complete” because there was a way out of Sarajevo between Butmir and Donji Kotorac (a distance of about one kilometre) where no SRK forces were present.<sup>15256</sup> Zurovac denied that the SRK had a policy of “containment” of Sarajevo or that the objective of his battalion was to keep Sarajevo “under siege”.<sup>15257</sup> He claimed that the city was closed from the inside by “criminals” who became high-ranking officers in the ABiH.<sup>15258</sup> However, he then acknowledged that ABiH units would fire out of Sarajevo in order to break out of the “siege”.<sup>15259</sup> Milosav Gagović also testified that Sarajevo was under “blockade” from the inside, not from the outside, because the Bosnian Muslim authorities would not allow people to leave the city.<sup>15260</sup>

4548. With respect to the Accused’s argument that it was the Bosnian Muslim authorities that in fact prevented the population from leaving the city, KDZ450 indeed confirmed that the civilians were “held hostage” in Sarajevo by their own leaders who were using a strategy of “victimisation”; however, he thought that the population was also “obviously” held hostage by the Bosnian Serbs.<sup>15261</sup> Similarly, while conceding that ABiH forces were preventing people from leaving Sarajevo “up to a point”, Van Lynden remained adamant that Sarajevo was “besieged by [Bosnian Serb] forces who would have shot these people or taken them prisoner if they had tried to get out”.<sup>15262</sup>

**(Had it ever happened? What Van Linden could have known about it, since he stayed in Sarajevo for a short period. There were #thousands of the people enabled to pass to the Serb territory#, or through the Serb territory to their destinations, but in an organised way. The Croats used to risk crossing the front line and get to the Serb zones, but there was never any problem! Van Linden is a shame for human kind, he is pathological liar, who wanted to benefit from the Bosnian misfortune. In the Courtroom he played his report, which was pre-recorded and edited, but his audience in his TV statio were duped, as if he was broadcasting live from the balcony of the Military (State) hospital. There had never happened that the Serb side didn’t accept any person crossing the frontline, or that the SRK shoot anyone, no matter coming to the Serb territory, or leaving it. A huge groups of Croats crossed to Grbavica (the Serb settlement, under the Serb control) to a less extent the Muslims to crossed to the Serbs, but no one ever had any problem. The State Documentation Centre (Mr.**

November 2012); P5978 (Map of Sarajevo marked by Savo Simić (marking externally encircled area in blue and internally encircled area, under the control of the Ilidža Brigade, in red); P5979 (SRK Order, 4 August 1992), p. 2 (referring to the “blockade of Sarajevo”).

<sup>15255</sup> D2667 (Witness statement of Ratomir Maksimović dated 14 December 2012), para. 7. *See also* D2562 (Witness statement of Vladimir Radojčić dated 8 December 2012), para. 6; D2270 (Witness statement of Andrey Demurenko dated 13 October 2012), paras. 31, 37.

<sup>15256</sup> Dragomir Milošević, T. 32793 (29 January 2013).

<sup>15257</sup> Dušan Zurovac T. 30290–30294, 30297 (14 November 2012) (adding that it was not possible for 15,000 Serb troops to hold a siege against 60,000 troops of the ABiH 1<sup>st</sup> Corps).

<sup>15258</sup> Dušan Zurovac T. 30290 (14 November 2012).

<sup>15259</sup> Dušan Zurovac T. 30294–30295 (14 November 2012) (denying at the same time that one of the reasons for ABiH attempts to break out of the siege was to allow humanitarian aid into the city).

<sup>15260</sup> Milosav Gagović, T. 31918 (15 January 2013). *See also* D3138 (Witness statement of Mirko Šošić dated 17 March 2013), para. 7.

<sup>15261</sup> P5906 (Witness statement of KDZ450 dated 17 January 2011), para. 65. *See also* Manojlo Milovanović, T. 25559–25600 (1 March 2012) (testifying that Alija Izetbegović prohibited the civilian population from leaving Sarajevo because the ABiH wanted “the civilian population in the vicinity of military targets”); P1483 (Ratko Mladić’s notebook, 2 April–24 October 1993), p. 228 (wherein Morillon is recorded as saying in a meeting with Mladić on 25 June 1993 that Izetbegović has put the city under the blockade).

<sup>15262</sup> Aernout van Lynden, T. 3013–3016 (31 May 2010). *See also* KDZ185, T. 4365–4366 (30 June 2010). *But see* [REDACTED]; D2667 (Witness statement of Ratomir Maksimović dated 14 December 2012), para. 47.

**Toholj) compiled hundreds of statements of the people escaping to the Serb territory, and many of these statements had been published in the Black Book, edited by Mr. Toholj.** UN officials were also aware of the Bosnian Muslim strategy to prevent civilians from leaving the city.<sup>15263</sup>

4549. In terms of the use of the word “siege”, the Chamber also heard that in the summer of 1993 the UNPROFOR spokesman was ordered to avoid using the word “siege” and to use phrases like “tactical encirclement”, “strategic encirclement” and “containment” instead.<sup>15264</sup> According to Bowen, the rationale for this seemed to be that using the term “siege” would harm negotiations in Geneva, but in his view it had the effect of denying “an obvious reality” and “one of the most straightforward facts of a complicated war”.<sup>15265</sup>

**(Opinion of journalist passing by#! #Jeremy Bowen was a journalist, not an expert in the law of war, and he even shouldn't be asked, leta alone quoted on this subject! His opinion was not relevant for this subject#!)**

Richard Phillips, an expert witness called by the Prosecution, testified that he did not use the term “siege” in relation to Sarajevo because it is not a “military term currently in use”; he preferred to describe the events in Sarajevo as either “the battle for Sarajevo”, the “encirclement” of Sarajevo, or the “blockade” of Sarajevo.<sup>15266</sup> Radovan Radinović, a military expert called by the Accused, testified that he viewed the situation as one of a “blockade” of the ABiH forces inside Sarajevo.<sup>15267</sup>

**(This was meant and said by a highest UN military officials, who called the Serb strategy on the Sarajevo battlefield a #“strategy of containment of the enemy's forces”#, which was a perfectly legitimate attitude to a prevention of an enemy to win! Why the Chamber needs an additional “opinion” of a journalists and in the field of the Law of war totally incompetent persons? Their amateurish opinion couldn't make any balance with the experts opinions that the Chamber obtained!)**

He further testified that, in the military documents he obtained, there were references by the ABiH to the need to “deblockade” Sarajevo and references by the SRK to “preventing deblockade”.<sup>15268</sup> Other witnesses thought that terms such as “encirclement” and “siege” describe the same situation, namely that in which people are kept inside an area and denied the “freedom to go about their daily lives”.<sup>15269</sup>

**(This could have not be qualified as that, since the “freedom” was deined only the ABiH soldiers and units, particularly when tried to break through. #The Serb side proposed demilitarisation of Sarajevo many times#!)**

#### (A) Shortage of utilities

<sup>15263</sup> Jeremy Bowen, T. 10242–10244 (14 January 2011); D950 (UN report re meeting with General Soubirou, 17 August 1994), p. 2.

<sup>15264</sup> P2068 (Witness statement of Jeremy Bowen dated 10 August 2009), para. 52; D949 (BBC news report re Sarajevo, with transcript).

<sup>15265</sup> P2068 (Witness statement of Jeremy Bowen dated 10 August 2009), para. 52; Jeremy Bowen, T. 10239–10240 (14 January 2011). *See also* David Harland, T. 2103–2104 (7 May 2010).

<sup>15266</sup> Richard Phillips, T. 3783–3784 (15 June 2010).

<sup>15267</sup> Radovan Radinović, T. 41405–41407 (17 July 2013).

<sup>15268</sup> Radovan Radinovic, T. 41407 (17 July 2013).

<sup>15269</sup> Colm Doyle, T. 2867 (27 May 2010); KDZ088, T. 6385–6387 (8 September 2010) (closed session).

4550. As noted above, a number of witnesses referred to the lack of gas, electricity, and water as one of the reasons they considered the city to have been under siege.<sup>15270</sup> By April 1992, hostilities in BiH had seriously damaged the country's electricity system; as a result, Sarajevo was receiving very little electricity and thus very little running water, which was directly dependent on the supply of electricity.<sup>15271</sup> When Abdel-Razek arrived in Sarajevo in August 1992, there was no water, electricity and gas for the majority of the civilian population.<sup>15272</sup> There were periods in Sarajevo where the utilities situation improved; for example, after the first Markale incident in early 1994 and after the COHA was signed in early 1995.<sup>15273</sup> However, generally speaking, and as reported by the UN, there were severe shortages of electricity, water, and gas in Sarajevo throughout the conflict.<sup>15274</sup> This lack of utilities in Sarajevo made life especially difficult in winter time.<sup>15275</sup> For Rose, the lack of utilities for heating during Sarajevo winters was "catastrophic",<sup>15276</sup> while Van Lynden recalled an "endless" battle to obtain fuel.<sup>15277</sup> Civilians cut down hundreds of trees for firewood, and when trees were depleted, they burned furniture, carpet, shoes, floorboards, doors, and even books to stay warm.<sup>15278</sup> Many vulnerable people, particularly the elderly, died from the cold.<sup>15279</sup> **(This situation had been #cause by the civil war, not by the Serbs, because the #situation was the same both for the Serbs in the Muslim parts of Sarajevo and in the Serb parts of Sarajevo, see: (Rose, +D2424 and other...#)**

<sup>15270</sup> See para. 4546.

<sup>15271</sup> D3321 (Witness statement of Milorad Skoko dated 1 April 2013), paras. 9, 14 (explaining that major thermal and hydro-electric power plants supplying Sarajevo were out of operation, which reduced production capacity by 75%); Youssef Hajir, T. 8860 (2 November 2010); Milenko Indić, T. 32472–32474 (22 January 2013); D2541 (Witness statement of Veljko Lubura 3 December 2012), paras. 6–7; D3325 (Diagram of electric power system in Sarajevo, 1992–1995); Stanislav Galić, T. 37608 (23 April 2013); KDZ185, T. 4174–4175 (28 June 2010); Hussein Ali Abdel-Razek, T. 5623–5624 (21 July 2010); P6270 (UNPROFOR report, 29 July 1993), p. 1 (stating that electricity was the "key of all the utilities" because "all the others are connected with [it]"); Sergey Moroz, D2373 (Transcript from *Prosecutor v. Galić*), T. 18128–18129.

<sup>15272</sup> P1258 (Witness statement of Hussein Ali Abdel-Razek dated 16 July 2002), e-court p. 4; Hussein Abdel-Razek, T. 5610 (21 July 2010). See also P4203 (Witness statement of Pyers Tucker dated 12 May 2010), para. 21; D2541 (Witness statement of Veljko Lubura 3 December 2012), para. 6.

<sup>15273</sup> See Michael Rose, T. 7256–7257 (5 October 2010); P5906 (Witness statement of KDZ450 dated 17 January 2011), para. 70; D1124 (UNPROFOR report, 7 April 1995), para. 5; D1166 (UNPROFOR Weekly Situation Report, 18 February 1995), p. 2; KDZ182, T. 13110 (10 March 2011); Anthony Banbury, T. 13488–13489 (16 March 2011).

<sup>15274</sup> See e.g. P1262 (UN report on Sarajevo, 8 October 1992), para. 2; P835 (UNPROFOR BiH Political Assessment, 16 July 1993), e-court p. 7; P6270 (UNPROFOR report, 29 July 1993), p. 1; P830 (UNPROFOR Weekly Political Assessment, 16 October 1993), p. 2; P823 (UNPROFOR Weekly Political Assessment, 3 November 1993), p. 7; P827 (UNPROFOR Weekly Political Assessment, 17 February 1994), p. 3; P850 (UNPROFOR Weekly Political Assessment, 9 March 1994), p. 2; P6068 (Weekly Report of the Special Coordinator for Sarajevo, 19 September 1994), p. 1; P872 (UNPROFOR Weekly Situation Report, 10 December 1994), p. 5; P6275 (UNPROFOR Weekly Situation Report, 28 May 1995), paras. 6, 17; P888 (UNPROFOR Weekly Situation Report (Sarajevo), 3 June 1995), p. 4; P892 (UNPROFOR Weekly Situation Report Sarajevo), 24 June 1995), pp. 4–5; P896 (UNPROFOR Weekly Situation Report (Sarajevo), 2 July 1995), p. 6; P822 (UNPROFOR Weekly Situation Report (Sarajevo), 8 July 1995), p. 5; P897 (UNPROFOR Weekly Situation Report (Sarajevo), 15 July 1995), p. 5; P6276 (UNPROFOR Weekly Situation Report, 31 July 1995), p. 7. See also P490 (Witness statement of Anda Gotovac dated 17 May 2006), para. 5; Alma Mulaosmanović-Čehajić, T. 6756 (14 September 2010).

<sup>15275</sup> P2068 (Witness statement of Jeremy Bowen dated 10 August 2009), para. 41; P2922 (Witness statement of KDZ079 dated 17 May 2006), para. 20; P490 (Witness statement of Anda Gotovac dated 17 May 2006), para. 5; P1262 (UN report on Sarajevo, 8 October 1992), para. 2; P1866 (Witness statement of Youssef Hajir dated 25 February 2010), paras. 51, 53; P4203 (Witness statement of Pyers Tucker dated 12 May 2010), para. 21.

<sup>15276</sup> P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 30.

<sup>15277</sup> P926 (Witness statement of Aernout van Lynden dated 26 February 2010), para. 23.

<sup>15278</sup> P926 (Witness statement of Aernout van Lynden dated 26 February 2010), para. 23; P733 (Witness statement of Sulejman Crnčalo dated 1 November 2009), para. 83; P1996 (Witness statement of Martin Bell dated 8 March 2010), para. 49; P2027 (BBC news report re Sarajevo, with transcript); P2016 (BBC news report re Sarajevo, with transcript).

<sup>15279</sup> P1866 (Witness statement of Youssef Hajir dated 25 February 2010), para. 53 (recalling several cases of death due to hypothermia at Dobrinja Hospital); P820 (Witness statement of David Harland dated 4 September 2009), para. 87.

4551. When the water supply failed, international aid agencies supplied water pumps which were installed at suitable locations around the city and where residents had to wait their turn to fill up their containers, sometimes for the whole day.<sup>15280</sup> Civilians would venture out of their homes at great risk to collect water from Miljacka River or from wells around the city and would be shelled or sniped at, either on the way or while queuing for water.<sup>15281</sup> Indeed, UNPROFOR reported incidents in which dozens of civilians were killed or injured while queuing for water.<sup>15282</sup> **(The Chamber is either repeating already charged incidents, or accepting such a general, un-investigated and un-corroborated assertions of David Harland. However, presented as it is, it sounds as if the Serb side caused sufferings and killings just like that, without any necessity, and thus in a criminal way. However, let us see P892, on which this assertion is based: P892, p. 1:**

\* The Bosnian offensive which began last week petered out very quickly -- apparently due to heavy casualties -- but is expected to resume again in the near future. HVO leaders in Kiseljak have announced that they will be supporting the operation.

**#The Bosnian offensive”#! This ground offensives followed the NATO bombardments of the Serb military, and some civilian facilities, thus exploiting the NATO results. Let us see in the same document what the Serb side was prepared for: P892, p.2**

Last Friday and Saturday (15/16 June) Bosnian troops attacked Serb positions all along the confrontation line, attacking out of the city, and into it from the south, west and north. Most of these attacks seem not to have been successful, with the Serbs managing to hold their ground in many places, and to take back much of what ground they did lose.

**(#Attacking out of the city#!!! Therefore, the entire confrontation line of the inner ring, long 64 km was burning in the fiercest offensive, while some hundreds of the confrontation line on the outer ring was also simultaneously attacked. The ABiH went**

<sup>15280</sup> See Adjudicated Fact 61; Sergey Moroz, T. 29545 (1 November 2012).

<sup>15281</sup> KDZ185, T. 4175 (28 June 2010) (private session); P1996 (Witness statement of Martin Bell dated 8 March 2010), paras. 49–50; P1999 (BBC news report re Sarajevo, with transcript); P2016 (BBC news report re Sarajevo, with transcript); P2068 (Witness statement of Jeremy Bowen dated 10 August 2009), para. 19; P926 (Witness statement of Aernout van Lynden dated 26 February 2010), para. 24; Sergey Moroz, T. 29545–29547 (1 November 2012); P733 (Witness statement of Sulejman Crnčalo dated 1 November 2009), para. 91; P2923 (Witness statement of KDZ090 dated 19 April 2006), para. 12; P1866 (Witness statement of Youssef Hajir dated 25 February 2010), para. 48; P2922 (Witness statement of KDZ079 dated 17 May 2006), paras. 20, 24; Alma Mulaosmanović-Čehajić, T. 6757 (14 September 2010). Examples of this are Scheduled Incidents G.5 and Scheduled Incident F. 3.

<sup>15282</sup> See P892 (UNPROFOR Weekly Situation Report Sarajevo, 24 June 1995), p. 3 (reporting that 13 civilians were killed and 27 injured in Bosnian Serb attacks on water lines in Dobrinja on 18 June and 21 June 1995); P820 (Witness statement of David Harland dated 4 September 2009), para. 197–198. These killings are not listed in Schedule G of the Indictment. See also P1442 (UNPROFOR report re shelling of Dobrinja on 12 July 1993) (relating to Scheduled Shelling Incident G.5). Milorad Skoko, who was the General Director of the RS Electricity Supply Board, testified that the supply of electricity to ABiH-held Sarajevo was not a power supply disaster because, by his calculations, enough electricity was produced per household to satisfy basic needs. See D3321 (Witness statement of Milorad Skoko dated 1 April 2013), para. 21; Milorad Skoko, T. 36719–36721 (5 April 2013). However, the Chamber notes that in making these calculation Skoko assumed that there were 35,000 to 40,000 households within the confrontation lines in Sarajevo, whereas a household survey conducted within those confrontation lines in 1994 put the number of households as high as 85,000. See Milorad Skoko, T. 36727–36730 (8 April 2013) (testifying that he relied on the BiH census for 1991); 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. 1, fn. 4. Skoko’s evidence also contradicts the overwhelming amount of accepted evidence that the civilian population of Sarajevo was not adequately supplied with electricity throughout the conflict. Indeed, at certain times in the conflict, the only source of electricity for Bosnian Muslim Sarajevo was a cable running over Mt. Igman and under the airport tunnel. See P888 (UNPROFOR Weekly Situation Report (Sarajevo), 3 June 1995), p. 4; P897 (UNPROFOR Weekly Situation Report (Sarajevo), 15 July 1995), p. 5; P6276 (UNPROFOR Weekly Situation Report, 31 July 1995), p. 7; D3321 (Witness statement of Milorad Skoko dated 1 April 2013), para. 20; P6269 (Excerpt from annual report of Elektroprivreda BiH for 1993). Accordingly, the Chamber does not consider Skoko’s evidence as to the level of utilities in the city to be reliable.

on a final count down against the Sarajevo 200,000 Serbs, which would result in a complete catastrophe of the entire 1,500,000 Serbs in Bosnia. All of it was supported by the international media, and by the anti-Serb members of the international missions in Sarajevo. See what was the prospective of the "near future", P892, p.2

On Friday (23 June), the Serbs asked Civil Affairs to provide 500 body bags, in expectation of upcoming casualties.

**P892, p.4:**

#### Utilities

Efforts to restore gas, water and electricity to Sarajevo are being blocked by the Serb military.

Following last week's meeting at Sarajevo airport, Civil Affairs prepared a draft agreement, based on the Serb proposal, and presented it to Minister Muratovic. Under the terms of the agreement, both sides would restore gas, water and electricity to the other side, but there would be no express linkage between progress on one utility and action on the others. Muratovic accepted the proposal, as did Serb civilian leaders. At a meeting on Tuesday (20 June), however, BSA General Tolimir stated that there would be no restoration of utilities until the fighting around Sarajevo was over. Other Serb military officers have subsequently confirmed this position, and have blocked Civil Affairs' efforts to contact Serb civilian negotiators.

**p.5**

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Therefore, it was not a lull violated by the Serb side, it was a "final count down" initiated by the Muslim/Croat side. The Serb military authorities, expecting an immediate 500 casualties, prevented even a contact of the UN Civil Affairs and the Serb civilian authorities, because there was a "state of war" proclaimed for the SRK area of responsibility, and the civilian authorities thus handed all the authorities and responsibilities to the military. General Tolimir demanded ending the fights around Sarajevo as a condition to facilitate the restoration of utilities. What is wrong with that? The choice was on the Muslim side! The elementary honesty required the complete information, with the entire context!

4552. The Chamber heard that water pumps and electricity stations were located on Bosnian Serb territory, which enabled them to shut off the supply of water and electricity.<sup>15283</sup> In addition, the Bosnian Serbs could cut the gas supply because the gas pipeline passed through their territory.<sup>15284</sup> The Bosnian Serbs would therefore cut the

<sup>15283</sup> P1258 (Witness statement of Hussein Ali Abdel-Razek dated 16 July 2002), e-court p. 21; KDZ185, T. 4174-4175 (28 June 2010) (private session) (testifying that it was an objective of the Bosnian Serb "siege" to cut utilities to the city, particularly electricity which was crucial for heating and pumping water); P4203 (Witness statement of Piers Tucker dated 12 May 2010), para. 21; Stanislav Galic, T. 37608, 37619 (23 April 2013); D2541 (Witness statement of Veljko Lubura 3 December 2012), para. 5; Veljko Lubura, T. 31052-31053 (5 December 2012). See also D3325 (Diagram of electric power system in Sarajevo, 1992-1995) (indicating the electricity stations in the city which were controlled by the VRS and the ABiH respectively).

<sup>15284</sup> P2447 (Witness statement of KDZ182), p. 55; P830 (UNPROFOR Weekly Political Assessment, 16 October 1993), p. 2; P2457 (UNPROFOR Weekly BiH Political Assessment, 28 August 1994), para. 1; P2471 (UNPROFOR Weekly BiH Political Assessment, 3 September 1994), para. 11; P2470 (UNPROFOR report, 1 September 1994), p. 7; P6068 (Weekly Report of the Special Coordinator for

supply of utilities in response to ABiH offensives and NATO air strikes, including in mid-June 1994, in response to ABiH offensives in Ozren and on 26 May 1995, following the NATO air strikes.<sup>15285</sup> On the other hand, if the Bosnian Serbs wished to restore utilities to Sarajevo, they could, and they did.<sup>15286</sup>

**(This kind of general assertions shouldn't be part of a serious Judgment, because it is uncorroborated and mainly represent the "opinions" of the present internationals. However, depicting it without context is not fair. Only a misdeeds that weren't caused by the military necessity could have been considered as a criminal acts. Let us see what a Muslim document said about the Serb side of Sarajevo, 3 April 94, D163, p.2:**

♦ According to information from the SVB /Military Security Service/ of the 1<sup>st</sup> Corps, General Michael ROSE visited the zone of responsibility of the 2<sup>nd</sup> Battalion of the 102<sup>nd</sup> mtr /Motorised Brigade/, escorted by four officers. Visiting the feature that the soldiers are using as preparation to go to the line, Mr ROSE spoke to the soldiers present and explained to them that the part of the city controlled by the Army has begun to live a different sort of life ("it is starting to wake up") and that it is receiving more supplies than Grbavica, which is abandoned and without food.

**Or the UN official document on the "Protection officer's visit to Grbavica, 3 March 1993, D2424, p.1:**

2. General observations.

Outward appearances basically same as rest of Sarajevo (under B-H control); no electricity nor running water, damaged buildings, more weapons to be seen on the street, several tanks.

**It is evident that the Serbs didn't deny to Sarajevo anything just for a bad will, and that the Serb part of the city shared the conditions with the Muslim part of Sarajevo!)**

4553. In addition, Bosnian Serbs also obstructed repairs to utilities.<sup>15287</sup> While in late September 1992, UNPROFOR, the Accused, Plavšić, and Ganić, among others, agreed to create joint groups of technicians for the repair of utilities around Sarajevo, Abdel-Razek recalled that this did not materialise.<sup>15288</sup> Instead, Bosnian Serb forces obstructed repair

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Sarajevo, 19 September 1994), p. 1; P886 (UNPROFOR Weekly Situation Report (Sarajevo), 13 May 1995), p. 3; P2441 (UNPROFOR Weekly Situation Report (Sarajevo), 19 May 1995), p. 4; P4192 (UN Weekly Situation Report, 29 May-4 June 1995), para. 13; P888 (UNPROFOR Weekly Situation Report (Sarajevo), 3 June 1995), p. 4. *See also* P4203 (Witness statement of Piers Tucker dated 12 May 2010), para. 116; D1502 (Report of humanitarian organisation, 7 October 1992) (under seal), para. 5.

<sup>15285</sup> P1638 (Witness statement of Michael Rose dated 26 March 2009), paras. 116, 118; P6276 (UNPROFOR Weekly Situation Report, 31 July 1995), p. 7; Milorad Skoko, T. 36749 (8 April 2013) (testifying that utilities may have been cut off by local fighters but not by the Bosnian Serb authorities); P6274 (UNPROFOR Weekly Situation Report, 26 May 1995), p. 3; P6275 (UNPROFOR Weekly Situation Report, 28 May 1995), paras. 6, 17; P888 (UNPROFOR Weekly Situation Report (Sarajevo), 3 June 1995), pp. 3-4; P4192 (UN Weekly Situation Report, 29 May-4 June 1995), paras. 12-13; D1058 (UNPROFOR report to Marrack Goulding, 30 May 1995), para. 11. In a letter to the Accused, Krajišnik, and Lukić on 27 September 1994, the Assembly of the Serbian City of Sarajevo protested about the cutting of utilities to Sarajevo "for the purpose of raising and lowering tensions", and stated that such activities should only be carried out after consultation with the political organs of the municipalities and the city. *See* P6300 (Letter from City Assembly of Sarajevo to Radovan Karadžić, Momčilo Krajišnik, and RS Prime Minister, 27 September 1994), pp. 4-5; Stanislav Galić, T. 37878-37879 (7 May 2013), T. 38022-38023 (9 May 2013) (who, when confronted with this document, testified that he did not know of any deliberate manipulation of the supply of utilities to Sarajevo as that would have disrupted utilities also to the Bosnian Serb side).

<sup>15286</sup> P820 (Witness statement of David Harland dated 4 September 2009), paras. 38, 244; David Harland, T. 2018-2019 (6 May 2010); P1029 (Witness statement of John Wilson dated 4 November 2008), para. 123. *See e.g.* P5058 (Order of the VRS to SRK, 15 July 1993); P6272 (UNPROFOR report, 27 September 1994), p. 1.

<sup>15287</sup> *See e.g.* D4764 (Letter from Elektroprivreda to Vladimir Lukić re electricity supply problems, 11 January 1993), pp. 1-2; D2548 (Minutes of a meeting at Sarajevo airport, 7 July 1994), paras. 2.1, 2.4; P6270 (UNPROFOR report, 29 July 1993), pp. 1, 7; P6273 (UNPROFOR report, 11 October 1994), p. 2; P823 (UNPROFOR Weekly Political Assessment, 3 November 1993), p. 7; D2547 (Minutes of meeting at Sarajevo airport, 27 July 1994), p. 1.

<sup>15288</sup> Hussein Abdel-Razek, T. 5534 (19 July 2010), T. 5610 (21 July 2010); P1258 (Witness statement of Hussein Ali Abdel-Razek dated 16 July 2002), e-court pp. 8, 22 (stating that the Accused agreed on 30 September 1992 to create joint working groups and agreed not to use

teams, shot at UNPROFOR engineers, and shelled utilities soon after they were repaired.<sup>15289</sup> They did so because they saw the flow of utilities as benefiting primarily the Bosnian Muslims living in Sarajevo or because they would use the issue of repairs as leverage in negotiations.<sup>15290</sup> That the Bosnian Serbs had a strategy of obstructing repairs is indicated by a speech Mladić gave to the Bosnian Serb Assembly on 12 May 1992, where he declared:

We are not going to say we are going to destroy the power supply pylons or turn off the water supply, no, because that would get America out of its seat, but gentlemen, please, fine, well, one day there is no water at all in Sarajevo. What is it, we do not know, damage, we should fix it, no, we will fix it, slowly. [...] [W]e have to wisely tell the world, it was [the Bosnian Muslims] who were shooting, hit the transmission line and the power went off, they were shooting at the water supply facilities, there was a power cut at such and such a place, we are doing our best repairing this, that is what diplomacy is [...].<sup>15291</sup> **(#Words of others#! These words had been said as an illustration of the situation in Croatia, when the civilian authorities cut off supplies to the JNA in barracks, and how the JNA responded. Whatever was said in a political speeches was not relevant, relevant were only orders, and there is no a single evidence that it was ordered by the Serbs in BiH! Beside that, it was the first appearance of General Mladic before the Serb Assembly, and the President still was only the President of the SDS, and not of the RS! It is not correct to address the other's wards from a political speeches to President Karadžić!)**

4554. In contrast to some of the above evidence, the witnesses called by the Accused testified that the Bosnian Serbs did not disrupt, but instead facilitated, the supply of utilities to civilians in Sarajevo.<sup>15292</sup> To Galić's knowledge, the SRK never manipulated electricity, water, and gas supplies to Sarajevo.<sup>15293</sup> Similarly, Dragomir Milošević testified that the

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utilities as a "means of war"); P1267 (UNPROFOR report re meeting with Biljana Plavšić, 2 October 1992), para. 3; D2544 (Letter from RS Presidency to UNPROFOR General, 8 October 1992) (stating the names of the people chosen by the Bosnian Serb side to work in the joint working groups); Veljko Lubura, T. 31044, 31054 (5 December 2012). *See also* D4635 (Agreement on restoring public utilities in and around Sarajevo city, 12 July 1993).

<sup>15289</sup> P1258 (Witness statement of Hussein Ali Abdel-Razek dated 16 July 2002), e-court pp. 4, 8, 21; Hussein Ali Abdel-Razek, T. 5610, 5619, 5624–5625, 5627 (21 July 2010); KDZ182, T. 13110 (10 March 2011).

<sup>15290</sup> P1426 (Witness statement of Richard Mole dated 7 May 2010), para. 103; P4203 (Witness statement of Pyers Tucker dated 12 May 2010), para. 116; P892 (UNPROFOR Weekly Situation Report Sarajevo), 24 June 1995), p. 5; P820 (Witness statement of David Harland dated 4 September 2009), para. 201.

<sup>15291</sup> P956 (Transcript of 16<sup>th</sup> session of SerBiH Assembly, 12 May 1992), e-court pp. 38–39.

<sup>15292</sup> *See e.g.* D2516 (Witness statement of Vlade Lučić dated 5 November 2012), para. 27; D2562 (Witness statement of Vladimir Radojčić dated 8 December 2012), para. 49; D2633 (Witness statement of Milorad Šehovac dated 8 December 2012), para. 42; D2383 (Witness statement of Slavko Gengo dated 14 October 2012), para. 29; Slavko Gengo, T. 29796 (6 November 2012); D2667 (Witness statement of Ratomir Maksimović dated 14 December 2012), para. 47; D2331 (Witness statement of Blagoje Kovačević dated 14 October 2012), paras. 39, 41; D2541 (Witness statement of Veljko Lubura 3 December 2012), para. 17; Veljko Lubura, T. 31073, 31081–31083 (6 December 2012); D3695 (Witness statement of Bogdan Subotić dated 16 June 2013), para. 230; Vladimir Lukić, T. 38749–38750 (23 May 2013); D2686 (Witness statement of Mihajlo Vujasin dated 16 December 2012), para. 47; Mihajlo Vujasin, T. 31828 (20 December 2012); D2389 (Witness statement of Predrag Trapara dated 3 November 2012), para. 18; Predrag Trapara, T. 29924 (7 November 2012); D2497 (Witness statement of Nikola Mijatović dated 27 November 2012) para. 16; D2391 (Witness statement of Slobodan Tuševljak dated 5 November 2012), para. 23; D116 (Letter from Ministry of Agriculture to RS Presidency re Sarajevo, 20 July 1993) (a discussion of the RS Ministry of Agriculture, Forestry and Water Management about how to increase the supply of water and electricity to Bosnian Muslim Sarajevo); D104 (Radovan Karadžić's Directive to VRS Main Staff, 11 May 1993) (in which the Accused prohibits the VRS from misusing reservoirs and water dams for military purposes); D3478 (SRK combat report, 14 October 1992), p. 2 (reporting that the SRK had "done everything" necessary to supply water, electricity and gas to Sarajevo). *See also* KDZ088, T. 6501 (10 September 2010).

<sup>15293</sup> Stanislav Galić, T. 37609 (23 April 2013), T. 37874 (7 May 2013), T. 38022 (9 May 2013). Galić explained that the SRK did not manipulate utilities because the SRK and ABiH were equally affected by power cuts. *See* Stanislav Galić, T. 37878–37879 (7 May 2013); P6300 (Letter from City Assembly of Sarajevo to Radovan Karadžić, Momčilo Krajišnik, and RS Prime Minister, 27 September

SRK respected UNPROFOR's requests to repair utilities and did whatever was necessary to ensure there was "water, electricity and all the other bare necessities for everybody".<sup>15294</sup> While Skoko acknowledged that there may have been individual incidents of SRK soldiers obstructing repairs to utilities, he denied that there was any "systemic obstruction".<sup>15295</sup> Veljko Lubura, who was the Chief Engineer of the RS Electric Power Supply Company,<sup>15296</sup> testified that if the Bosnian Serb authorities wanted to cut the electricity supply they would have had to ask him, and they never did.<sup>15297</sup> In addition, he and his engineers never encountered problems while repairing transmission lines in Bosnian Serb territory.<sup>15298</sup> In addition, according to Sergey Moroz, who served with UNPROFOR from October 1993 until October 1994 as a mission commander in the engineering section in Sector Sarajevo,<sup>15299</sup> the reason for cuts to utilities was almost always damage on the transmission lines and he could not say whether that damage was deliberate.<sup>15300</sup> While accepting Lubura's and Moroz's evidence, the Chamber considers that they ultimately do not contradict the evidence of Prosecution witnesses, such as that of Abdel-Razek, that SRK soldiers would deliberately obstruct utilities through shooting at UNPROFOR engineers and shelling utilities soon after they were repaired. Even Skoko accepted that this may have been the case, confining it to something individual SRK soldiers would do on their own. The Chamber is therefore convinced that the shortage of utilities in Sarajevo was caused not only by combat activities on confrontation lines and by ABiH activities, but also by deliberate obstruction of utilities by the SRK soldiers.<sup>15301</sup> **(First of all, it was known that the Muslim side tried to get some advantages from these repairing missions, and the locally deployed troops were entitled to prevent it, because their lives were at the stake. Finally, even if some of the SRK soldiers overestimated a danger for their lives and reacted "on their own" as the Chamber has heard, what does it have to do with the Accused and his liability for this and many other elements of the civil war? Will from now on all the presidents of the state be liable for a solitary, non-systemic misdeeds of their soldiers?)**

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1994), pp. 4–5. *See also* D4623 (SRK report, 16 June 1992) (reporting that the SRK Command did not have electricity for its logistics due to a "power cut").

<sup>15294</sup> Dragomir Milošević, T. 32897–32898 (30 January 2013). *See also* D2847 (SRK Order, 26 August 1993), p. 1; D2848 (SRK report, 30 September 1993), p. 1. Moroz testified that during "tense" periods in Sarajevo, such as January and February of 1994, repair missions were often cancelled due to exchanges of fire; however, there were periods of quiet in Sarajevo when repair missions were conducted successfully, such as in the summer of 1994. *See* Sergey Moroz, D2373 (Transcript from *Prosecutor v. Galić*), T. 18124–18125, 18132, 18140–18142.

<sup>15295</sup> Milorad Skoko, T. 36735–36736, 36749, 36761, 36765 (8 April 2013).

<sup>15296</sup> D2541 (Witness statement of Veljko Lubura 3 December 2012), paras. 1–2.

<sup>15297</sup> Veljko Lubura, T. 31073 (6 December 2012).

<sup>15298</sup> Veljko Lubura, T. 31054 (5 December 2012).

<sup>15299</sup> Sergey Moroz, D2373 (Transcript from *Prosecutor v. Galić*), T. 18116.

<sup>15300</sup> Sergey Moroz, D2373 (Transcript from *Prosecutor v. Galić*), T. 18136. This was confirmed by Lubura who explained that the transmission lines supplying the city from SRK-held territory passed over the confrontation lines and thus were often damaged in combat operations during the conflict. *See* D2541 (Witness statement of Veljko Lubura 3 December 2012), paras. 6, 16; Veljko Lubura, T. 31052 (5 December 2012); D2542 (Map marked by Veljko Lubura). *See also* D3321 (Witness statement of Milorad Skoko dated 1 April 2013), para. 14; Milorad Skoko, T. 36757 (8 April 2013); Mihajlo Vujasin, T. 31809, 31828–31829 (20 December 2012); Milenko Indić, T. 32472 (22 January 2013); Stanislav Galić, T. 37874 (7 May 2013).

<sup>15301</sup> The Chamber notes here that it found the evidence of the SRK soldiers and officers who testified that their brigades or units never interfered with the supply of utilities to Sarajevo self-serving and insincere as it was contradicted by the evidence of credible Prosecution witnesses and UN documents and, most importantly, by some of the contemporaneous Bosnian Serb documents such as P630, P5058, and P6272. It is also inconsistent with the speech Mladić gave during the Bosnian Serb Assembly on 12 May 1992, where he outlined the strategy the Bosnian Serb side would use with respect to utilities.

4555. The Bosnian Muslim side also interfered with or shelled the supply of utilities in Sarajevo, often to portray themselves as victims.<sup>15302</sup> **(As could be seen in this footnote, this fact was confirmed with many, many testimonies and documents!)** Harland personally witnessed their refusal to open gas valves; he also witnessed their sniping at electrical insulators on high-voltage lines thus deliberately interrupting the electricity supply.<sup>15303</sup> Another example was the ABiH shelling of the Blažuj power station on 26 November 1992, which cut Sarajevo's electricity and water supply until late January 1993.<sup>15304</sup> There were also instances in which the ABiH obstructed, harassed or otherwise interfered with utility missions.<sup>15305</sup> Despite this, however, Harland was adamant that the Bosnian Serbs were responsible for the majority of deprivations in utilities in Sarajevo.<sup>15306</sup> **(#Baseless Harland's assertions#! Harland didn't witness any of such a Serb acts, and didn't make any research to be able to state that. Therefore, Harland testified about the Serbs mainly on the basis of a "general evidence" which is a gentle name for the #empty impressions#!)**

i. Shortage of food and other supplies in Sarajevo

4556. Another reason why the witnesses considered Sarajevo to have been under siege was the lack of food, as well as medical and other supplies, that the city experienced, which they testified was caused by the SRK's obstruction of humanitarian aid designated for Sarajevo.<sup>15307</sup> The Chamber has already recounted above, in Section IV.B.1.a, the ebb and flow of the humanitarian aid into the city during the Indictment period and the procedures used by the SRK to control the convoys going to the city.

4557. Prosecution witnesses testified that it was those procedures that made it difficult for UNPROFOR, UNHCR, and other humanitarian organisations to deliver humanitarian aid to

<sup>15302</sup> P1426 (Witness statement of Richard Mole dated 7 May 2010), para. 104; Sergey Moroz, T. 29549–29550 (1 November 2012); D2331 (Witness statement of Blagoje Kovačević dated 14 October 2012), para. 41; D3321 (Witness statement of Milorad Skoko dated 1 April 2013), paras. 18, 24; Milorad Skoko, T. 36767 (8 April 2013); D3563 (Witness statement of Vladimir Lukić dated 18 May 2013), paras. 14, 56; D3695 (Witness statement of Bogdan Subotić dated 16 June 2013), para. 230; Milenko Indić, T. 32472 (22 January 2013); D2562 (Witness statement of Vladimir Radojčić dated 8 December 2012), para. 49; D2667 (Witness statement of Ratimir Maksimović dated 14 December 2012), para. 47; Stanislav Galić, T. 37613–37616 (23 April 2013); D2387 (Witness statement of Stojan Džino dated 4 November 2012), para. 59; D2622 (Witness statement of Željko Bambarež dated 9 December 2012), para. 22; D117 (Letter from Fred Cuny to Morton Abramowitz re Sarajevo, undated), p. 2; David Harland, T. 2110 (7 May 2010); Sergey Moroz, D2373 (Transcript from *Prosecutor v. Galić*), T. 18126–18128 (adding that it was very difficult to determine who was firing on transmission lines but that much of the damage occurred on the Bosnian Serb territory as a result of explosions near electricity pylons). *See also* Veljko Lubura, T. 31065 (6 December 2012); D1127 (UNPROFOR report, 15 June 1995), para. 3.

<sup>15303</sup> P820 (Witness statement of David Harland dated 4 September 2009), para. 88; David Harland, T. 2110 (7 May 2010), T. 2242–2243 (10 May 2010).

<sup>15304</sup> P1426 (Witness statement of Richard Mole dated 7 May 2010), para. 104; Richard Mole, T. 5898–5899 (18 August 2010); Milorad Skoko, T. 36730–36731, 36755–36756, 36766 (8 April 2013); D2541 (Witness statement of Veljko Lubura 3 December 2012), para. 15; Stanislav Galić, T. 37613 (23 April 2013); D3479 (SRK combat report, 26 November 1992), p. 1; P921 (Transcript of 24<sup>th</sup> session of RS Assembly, 8 January 1993), p. 19. For other examples, *see* D3481 (SRK combat report, 19 June 1993), p. 1; D2541 (Witness statement of Veljko Lubura 3 December 2012), para. 10; Veljko Lubura, T. 31075–31076 (6 December 2012); P6270 (UNPROFOR report, 29 July 1993), p. 7; D3321 (Witness statement of Milorad Skoko dated 1 April 2013), para. 18; Milorad Skoko, T. 36767 (8 April 2013); Stanislav Galić, T. 37871–37873 (7 May 2013); Herbert Okun, T. 1802–1805 (28 April 2010); D2770 (Witness statement of KW570 dated 21 November 2012) (under seal), para. 16; D2510 (Report of Ilidža Brigade, 13 December 1992), para. 1; D2497 (Witness statement of Nikola Mijatović dated 27 November 2012), para. 16.

<sup>15305</sup> P1426 (Witness statement of Richard Mole dated 7 May 2010), para. 104; P1429 (UNMO report for December 1992), p. 8; D1498 (UNPROFOR protest letter to Alija Izetbegović, 23 January 1993), p. 2; KDZ240, T. 16127–16128 (5 July 2011) (closed session); D3480 (SRK combat report, 13 January 1993), p. 1; D2541 (Witness statement of Veljko Lubura 3 December 2012), paras. 12–13; D2548 (Minutes of a meeting at Sarajevo airport, 7 July 1994), para. 2.1.

<sup>15306</sup> P820 (Witness statement of David Harland dated 4 September 2009), para. 88; David Harland, T. 2109–2110 (7 May 2010).

<sup>15307</sup> *See* para. 4546.

Sarajevo.<sup>15308</sup> Banbury testified that the Bosnian Serbs exercised “total control” over UN convoys, that convoy requests were rejected many times against UNPROFOR’s judgement, and that the Bosnian Serbs provided many different reasons to block convoys, none of which was acceptable to UNPROFOR.<sup>15309</sup> Harland testified that the Bosnian Serbs “never wanted to put in place a clear simple system that allowed [the UN] to have freedom of movement”, but instead stole and shot at UN vehicles and abused UN personnel in the convoys.<sup>15310</sup> Okun also confirmed that food convoys under escort from UNPROFOR were “routinely stopped, robbed, [and] made to pay money to get through certain check-points” by Bosnian Serb forces.<sup>15311</sup> KW570, who was called by the Accused, testified that Bosnian Serb forces would often stop convoys, only to let them through when UNPROFOR threatened to use force.<sup>15312</sup> Bowen personally witnessed convoys being held up “many times” by the SRK, sometimes for days.<sup>15313</sup> While some of these witnesses acknowledged that the Bosnian Serbs were entitled to seek assurances from UNPROFOR and UNHCR about the contents of convoys, they claimed that the Bosnian Serbs implemented a very onerous control regime on UNPROFOR and UNHCR, which they used to restrict rather than to facilitate humanitarian aid.<sup>15314</sup>

**(Had there not been a #smuggling of the war materials , ammunition and other military needs that the ABiH received on a daily basis#, thus violating the UN SC Resolution on ban of arming the sides, these objections would have a ground. However, it is documented and proven that this kind of abuse of the mandate was a very frequent issue. Further, the civilian authorities were critical of this strict control, but the militaries were fully entitled to provide the security of their soldiers and territory. The international organisations as well as many governments, and unfortunately some of the UN officials didn’t act in accordance with their mandate and impartiality!)**

**4558.** The Bosnian Muslims also obstructed humanitarian convoys by opening fire on them and then blaming the Bosnian Serb side or by blocking their passage.<sup>15315</sup> However, Rose and Abdel-Razek emphasised that the majority of blocking came from the Bosnian Serbs, who controlled all the major roads into Sarajevo.<sup>15316</sup> Banbury also agreed that the Bosnian Muslim authorities “at times” obstructed the movement of convoys, but claimed that these obstructions were relatively few and easy to solve; they did not constitute a broad practice of stopping convoys.<sup>15317</sup> KDZ182 testified that while UNPROFOR’s freedom of movement was “somewhat limited” by the ABiH within Sarajevo, the restrictions imposed

<sup>15308</sup> See e.g. Michael Rose, T. 7441 (7 October 2010), T. 7598 (8 October 2010); P1685 (UNPROFOR report re convoys, 23 August 1994), p. 7; P1258 (Witness statement of Hussein Ali Abdel-Razek dated 16 July 2002), e-court p. 9.

<sup>15309</sup> Anthony Banbury, T. 13443–13444, 13451, 13456–13458 (16 March 2011). See also Adrianus van Baal, T. 8394–8395, 8413 (27 October 2010); P1685 (UNPROFOR report re convoys, 23 August 1994), p. 7.

<sup>15310</sup> David Harland, T. 2168–2169 (10 May 2010).

<sup>15311</sup> Herbert Okun, T. 1763 (28 April 2010).

<sup>15312</sup> KW570, T. 32217–32218 (18 January 2013). See also Michael Rose, T. 7420–7421 (7 October 2010).

<sup>15313</sup> P2068 (Witness statement of Jeremy Bowen dated 10 August 2009), para. 23.

<sup>15314</sup> Anthony Banbury, T. 13504 (16 March 2011); David Fraser, T. 8043 (18 October 2010); Rupert Smith, T. 11647–11648 (11 February 2011).

<sup>15315</sup> Stanislav Galić, T. 37409–37410 (18 April 2013); D3424 (SRK combat report, 13 August 1993), p. 2; Vladimir Radojčić, T. 31289 (12 December 2012); D2621 (Letter from VRS to UNPROFOR, 30 July 1995), p. 2; Yasushi Akashi, T. 37767–37768 (25 April 2013); D3489 (Excerpt from Yasushi Akashi’s book entitled “In the Valley between War and Peace”), p. 16.

<sup>15316</sup> Michael Rose, T. 7426–7427 (7 October 2010); P1258 (Witness statement of Hussein Ali Abdel-Razek dated 16 July 2002), e-court p. 9 (testifying that it was “mostly” the Bosnian Serbs that blocked convoys).

<sup>15317</sup> Anthony Banbury, T. 13483 (16 March 2011). See e.g. D1165 (UNPROFOR protest to VRS, 15 September 1994), p. 1; D2621 (Letter from VRS to UNPROFOR, 30 July 1995), p. 2. See also KDZ240, T. 16184 (6 July 2011) (closed session).

on freedom of movement by the SRK around Sarajevo were far greater.<sup>15318</sup> **(However, all the #UN officials knew very well, and admitted that the UN representatives were biased in favour of the Muslim side, and the ABiH didn't have any reason to be suspicious, while the Serb side did have a very good reasons to control what was entering the territory#!)**

4559. The Chamber also heard from Defence witnesses that SRK forces did not hinder but in fact facilitated the passage of humanitarian convoys.<sup>15319</sup> Dragomir Milošević explained that the position of the SRK Command was that “no obstacles should be placed in the way of convoys”.<sup>15320</sup> He testified that “very often” there would be a problem with the convoys, but that it was his impression that the flow of humanitarian aid was neither compromised nor obstructed.<sup>15321</sup> Krajišnik agreed that SRK forces obstructed convoys at times, but claimed that they did so because weapons and other prohibited items were being smuggled.<sup>15322</sup> Like Krajišnik, many Defence witnesses testified that humanitarian convoys were used to smuggle weapons, ammunition, and other military equipment to the ABiH in Sarajevo justifying the need to check them.<sup>15323</sup> Contemporaneous documents produced by the Bosnian Serb side at the time also suggest that this was the case on certain occasions.<sup>15324</sup> Additionally, Smith confirmed that there was a suspicion that other things were being transported in humanitarian convoys,<sup>15325</sup> while Okun stated that convoys were abused by all sides and that smugglers were active throughout the conflict.<sup>15326</sup>

<sup>15318</sup> KDZ182, T. 13187–13188 (10 March 2011). *See also* Herbert Okun, T. 1798 (28 April 2010); P2407 (Witness statement of KDZ304), p. 33.

<sup>15319</sup> *See e.g.* D2516 (Witness statement of Vlade Lučić dated 5 November 2012), paras. 26–27; Vlade Lučić, T. 30812 (3 December 2012); D2686 (Witness statement of Mihajlo Vujasin dated 16 December 2012), paras. 44, 46; Mihajlo Vujasin, T. 31827 (20 December 2012); D2444 (Witness statement of Miladin Trifunović dated 11 November 2012), para. 20; Miladin Trifunović, T. 30376 (15 November 2012); D2451 (Witness statement of Velimir Dunjić dated 12 November 2012), para. 14; D2389 (Witness statement of Predrag Trapara dated 3 November 2012), para. 17; D2479 (Witness statement of Mile Sladoje dated 25 November 2012), para. 22; D2562 (Witness statement of Vladimir Radojčić dated 8 December 2012), para. 46; D2633 (Witness statement of Milorad Šehovac dated 8 December 2012), para. 39; D2667 (Witness statement of Ratimir Maksimović dated 14 December 2012), para. 44; Ratimir Maksimović, T. 31575 (17 December 2012). However, in his oral testimony, Radojčić acknowledged that the SRK closed the land routes into Sarajevo in July 1995, forcing UN convoys to use the Mt. Igman route. *See* Vladimir Radojčić, T. 31238–31244 (11 December 2012), T. 31278 (12 December 2012).

<sup>15320</sup> Dragomir Milošević, T. 32893–32894, 32899 (30 January 2013); D2849 (SRK proposal, 31 August 1993), p. 1.

<sup>15321</sup> Dragomir Milošević, T. 32894 (30 January 2013), T. 33228 (5 February 2013). *See also* Stanislav Galić, T. 37571 (23 April 2013), T. 38025 (9 May 2013).

<sup>15322</sup> Momčilo Krajišnik, T. 43322 (12 November 2013).

<sup>15323</sup> *See e.g.* Stanislav Galić, T. 37573 (23 April 2013); Dragomir Milošević, T. 32893–32894 (30 January 2013); D2562 (Witness statement of Vladimir Radojčić dated 8 December 2012), para. 47; D2633 (Witness statement of Milorad Šehovac dated 8 December 2012), para. 40; D2667 (Witness statement of Ratimir Maksimović dated 14 December 2012), para. 45; D2686 (Witness statement of Mihajlo Vujasin dated 16 December 2012), para. 44; D2444 (Witness statement of Miladin Trifunović dated 11 November 2012), para. 20; D2331 (Witness statement of Blagoje Kovačević dated 14 October 2012), para. 40, 50; D2387 (Witness statement of Stojan Džino dated 4 November 2012), para. 59; D2497 (Witness statement of Nikola Mijatović dated 27 November 2012), para. 33; D2451 (Witness statement of Velimir Dunjić dated 12 November 2012), para. 14; D2389 (Witness statement of Predrag Trapara dated 3 November 2012), para. 17; D2479 (Witness statement of Mile Sladoje dated 25 November 2012), para. 23; Mile Sladoje, T. 30581 (28 November 2012); Vladislav Jovanović, T. 34280 (26 February 2013); Milenko Indić, T. 32422, 32424 (22 January 2013); D2745 (Witness statement of Vere Hayes dated 14 January 2013), paras. 5, 7; D3960 (Witness Statement of Tomislav Kovač dated 28 October 2013), para. 69; D3695 (Witness statement of Bogdan Subotić dated 16 June 2013), para. 298.

<sup>15324</sup> *See e.g.* D1086 (Ilidža Municipal Assembly report, 2 February 1993), p. 2; D2123 (Report on abuses of the mandate of international organisations, 14 February 1994), p. 1; D2747 (VRS Main Staff protest letter, 1993), p. 1; D688 (SRK combat report, 9 April 1994), p. 2; D769 (SRK combat report, 12 May 1994), p. 3; D190 (Report re discovery of ammunition in convoy to Butmir, 4 April 1993) (under seal); D3575 (TANJUG news report, 11 April 1993).

<sup>15325</sup> D1031 (Excerpt from Rupert Smith’s testimony in *Prosecutor v. Popović et al.*), p. 2; Rupert Smith, T. 11644 (11 February 2011).

<sup>15326</sup> Herbert Okun, T. 1764, 1798 (28 April 2010). Some Defence evidence also suggested that the UN was implicated or involved in the smuggling of weapons and black market goods in its convoys. *See* D143 (VRS Report on movement of UN convoys, undated), pp. 2–3; D2497 (Witness statement of Nikola Mijatović dated 27 November 2012), para. 33; D2667 (Witness statement of Ratimir Maksimović dated 14 December 2012), para. 45; D2389 (Witness statement of Predrag Trapara dated 3 November 2012), para. 17; Milenko Indić, T. 32422 (22 January 2013); D3695 (Witness statement of Bogdan Subotić dated 16 June 2013), para. 298. At the same time, however,

Furthermore, significant amounts of humanitarian aid were diverted to a black market in Sarajevo, instead of reaching the civilian population.<sup>15327</sup>

4560. While accepting that at times weapons or other military equipment may have been smuggled into the city in some of the convoys and that the Main Staff and the SRK had the right to check that convoys were not being so misused, the Chamber also considers that the checks imposed by the Main Staff were too onerous and restrictive, as testified to by a number of witnesses.<sup>15328</sup> As such, they obstructed, rather than facilitated, the passage of humanitarian aid. In addition, in view of the other evidence outlined in this section as well as the evidence discussed in Section IV.B.1.a, the Chamber does not believe the SRK soldiers and officers who testified that their units never prevented or delayed humanitarian convoys from reaching Sarajevo. **(However, there shouldn't be called as an "obstruction" if there was irregularities and suspicions, in which a case it was a necessity to check and to wait for additional approval from the upper commands. For instance, one of the most frequent reasons was an irregular composition of the convoy, in terms of more vehicles than declared, or different stuff than approved, or even an un-notified and unapproved appearance of a convoy on another, not approved passage. The soldiers in such a case hadn't been informed, and had to halt a convoy and wait for the approval by the superiors. Beside that, the President had already been known as a very strict about any obstacle, and he was quarrelling with his militaries about their caution, and finally the President formed the State Committee for dealing with the issue. Also, since the orders could have been aimed to the Army, not to the population, the President made his orders with his support to the humanitarian organisations public, and used to go directly, physically to the spots and intervene that the population let convoys pass, as in Bratunac, see D3119 of 22 December 1992:**

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international witnesses strongly denied that the UN itself was involved in the abuse of the convoys. See Michael Rose, T. 7426 (7 October 2010); KDZ185, T. 4211–4212 (28 June 2010); KDZ240, T. 16101–16102 (5 July 2011) (closed session); Adrianus van Baal, T. 8396, 8425 (27 October 2010); D2745 (Witness statement of Vere Hayes dated 14 January 2013), para. 8.

<sup>15327</sup> P2068 (Witness statement of Jeremy Bowen dated 10 August 2009), para. 20; David Harland, T. 2171, 2185 (10 May 2010); KDZ088, T. 6555 (13 September 2010) (closed session); D2270 (Witness statement of Andrey Demurenko dated 13 October 2012), para. 34; D2562 (Witness statement of Vladimir Radojčić dated 8 December 2012), paras. 47–48; Vladimir Radojčić, T. 31278 (12 December 2012); D2633 (Witness statement of Milorad Šehovac dated 8 December 2012), paras. 39, 40–41; D2686 (Witness statement of Mihajlo Vujasin dated 16 December 2012), paras. 44–45; D2667 (Witness statement of Ratomir Maksimović dated 14 December 2012), paras. 46–47; D2331 (Witness statement of Blagoje Kovačević dated 14 October 2012), para. 40; D2479 (Witness statement of Mile Sladoje dated 25 November 2012), para. 24; Vere Hayes, T. 31997 (16 January 2013); Vladislav Jovanović, T. 34280 (26 February 2013); John Zametica, T. 42466–42467 (29 October 2013); D2774 (Witness statement of Milenko Indić dated 19 January 2013), para. 165.

<sup>15328</sup> Indeed, as shown in D3873, even the RS Minister of Health complained about one of the VRS decisions restricting the movement of humanitarian convoys, albeit on the grounds that it affected the supplies in the RS.

In front of the assembled crowd of citizens in which there were most mothers and children of defenders who had been killed, and also refugees from other areas of the former Bosnia and Herzegovina, KARADŽIĆ stressed that he knew what kind of horrors the people of this area had had to cope with, especially the population of Srebrenica municipality. Justice will win out and it is on our side, said Mr KARADŽIĆ.

At the end, KARADŽIĆ gave the message to the assembled people that the convoys of humanitarian aid that were going to the population of Srebrenica should be let through without hindrance, although the same people had done great harm to them.

“The Serbs were the first nation in the history of international humanitarian organisations and in the work of the Red Cross to let, in the Serbian-Bulgarian war, humanitarian aid go through their territory to their enemy.”

While leaving this municipality, KARADŽIĆ met representatives of the convoy which, passing without hindrance through Bratunac, took aid to the Muslim population in Srebrenica.

**There is also a huge evidence of the President's insistence that the military people simplify and facilitate the passage of the humanitarian aid!)**

(C)Findings on the siege

4561. Having considered all of the evidence above and in all the preceding sections of the Judgement, the Chamber notes that the Prosecution witnesses, including the Sarajevo locals, were all consistent as to the description of the situation in Sarajevo and the life of the citizens there. They all described a city surrounded by the SRK, shelled continuously, and exposed to constant sniper fire, which in turn had the effect of imprisoning the Sarajevo citizens and led to shortage of food, water, and utilities in the city. The Chamber does not doubt that this was indeed the accurate reflection of the situation in the city. **(The same was for the Serbs, both in the Muslim and the Serb parts of Sarajevo, and it was not the main question whether it was correctly described, but whose responsibility was that. But, the civil war was not the Serb choice, nor the Serbs prevented demilitarisation of Sarajevo, nor they rejected putting the city under the UN administration, but the Serbs proposed it and supported anyone proposing the same. The Serb side should be blamed only for something that was #out of the military necessity and inevitability#!)**

4562. The fact that some humanitarian aid was coming into Sarajevo during the conflict and that the encirclement of Sarajevo was not complete does not change the reality of that situation. As explained earlier, while an exit out of the city did exist, those attempting to leave Sarajevo had to expose themselves to danger when crossing the airport strip or passing through the tunnel.<sup>15329</sup> **(It is not correct to say that “some humanitarian aide was coming into Sarajevo during the conflict”. #Everything that entered Sarajevo, came through the Serb territory, in spite of so many abuses#. There was over 20,000 humanitarian flights landing to the Sarajevo Airport, along the confrontation lines, with no a singe Serb fire, while there was the ABiH fires at the plaines, which is proven by the UN observers. Thousands and thaousands of tracks full of humanitarian and commercial stuff entered Sarajevo with the Serb approval, while the ABiH was constantly trying to conquer the Serb Sarajevo, and kill or expel all the Serb inhabitants! Also, nobody had to pass over the tunnel if civilian, and there are many, many examples that a regular civilians passed**

<sup>15329</sup>

See paras. 3566, 3782.

**through the Serb territory without any difficulty!** Furthermore, while humanitarian aid was indeed coming into Sarajevo throughout the conflict, the Bosnian Serbs controlled and restricted the flow of humanitarian convoys such that the city was rarely fully supplied, as described above in Section IV.B.1.a.<sup>15330</sup> That being the case, the Chamber does not accept the evidence of SRK soldiers and officers who claimed that the situation was not one of siege because the tunnel could be used as an exit and because some humanitarian aid was coming in. **(Not “some of humanitarian aid”, but all that had been aimed to Sarajevo, in spite of the abuses!)** Indeed, to imply, as these Defence witnesses did, that the underground tunnel which was created precisely because the city was surrounded by the SRK somehow made the situation less of a siege seriously affects their credibility as a whole. Similarly, the fact that humanitarian aid had to be sent to the city and that the UN required permission of Bosnian Serbs for this clearly indicates that it was an encircled city, a city under siege, and that the SRK controlled the situation. Had the SRK not surrounded the city and stopped supplies from coming in, neither the tunnel nor the humanitarian aid would have been necessary.<sup>15331</sup>

**(#This is an unbelievable conclusion#! #The Serbs should surrender#! That was the war imposed by the Muslim side and maintained by the Muslim side, prolonged and worsened as much as they wanted it. Did the Chamber mean that about 200,000 Serbs (and Yugoslavs) should surrender, or cease to defend because of the city needs for humanitarian aid? The aid was enabled, but the internationals enabled the Muslim side to manipulate with their own civilians, and with the entire international community, pretending to be the only victims, while they were responsible for the war entirely!)**

4563. The documentary evidence presented in this case about the situation in the city further confirms the findings above. For example, on 12 May 1992, during the 16<sup>th</sup> Bosnian Serb Assembly session, Mladić said that “we have to put a ring around the dragon’s head of Sarajevo this very moment, and only those whom we let out should be allowed out”.<sup>15332</sup> In an intercepted conversation with an unknown male on 25 May 1992, Mladić stated that he had “blocked Sarajevo from four corners” and that the “city is trapped, there is no way out”.<sup>15333</sup> On 1 April 1994, that is, after the tunnel was built and operational, Galić issued an order to the SRK units, instructing them to “fortify positions around Sarajevo by erecting wire and concrete barriers, which would in turn strengthen the belief that they really are blocked (*‘in a camp’*)”.<sup>15334</sup> A number of VRS directives, as discussed earlier, also refer to the “blockade” of Sarajevo and the SRK’s efforts to prevent the lifting of that blockade, as do many SRK orders.<sup>15335</sup> Finally, the Chamber received in evidence a number of contemporaneous military maps, made by both the VRS and the ABiH, showing the confrontation lines in the city at

<sup>15330</sup> See paras. e.g. 3559, 3562, 3566, 3569, 3577–3578, 3580, 3591, 3593–3594, 3596, 3599, 3603, 3607–3608, 3611–3612.

<sup>15331</sup> As for the evidence of Defence witnesses that the SRK was disadvantaged because it was surrounded on the outside ring of Sarajevo by ABiH forces and because the 1<sup>st</sup> Corps of the ABiH held some elevations within the city, the Chamber considers that this claim, whether accurate or not, ultimately has no real bearing on the relevant issues in this case such as whether the SRK was acting in compliance with international law when conducting its operations in and around Sarajevo.

<sup>15332</sup> P956 (Transcript of 16<sup>th</sup> session of SerBiH Assembly, 12 May 1992), e-court p. 38.

<sup>15333</sup> P1041 (Intercept of conversation between Ratko Mladić and unidentified male, 25 May 1992), p. 2. See also P1103 (Intercept of conversation between Momčilo Mandić and Branko Kvesić/Bruno Stojić/Mičo Stanišić, 5 May 1992), p. 5 (in which Mandić refers to holding the “Turks under siege” to starve them “a bit”).

<sup>15334</sup> P5980 (SRK conclusions and tasks, 1 April 1994), para. 8 (emphasis added). Dušan Zurovac denied seeing wire or barriers around Sarajevo as described in this document. See Dušan Zurovac T. 30301 (14 November 2012). Galić also issued an order on 17 November 1992, that is, two days prior to the issuance of Directive 4, in which he instructed the SRK units to “[f]irmly block Sarajevo”. See P6297 (SRK conclusions and tasks, 17 November 1992), p. 3.

<sup>15335</sup> See paras. 3561, 3563, 3572, 3578, 3607, 4041. See also e.g. P5968 (SRK Order, 26 January 1994); P3052 (VRS Main Staff Order, 14 December 1993); P6302 (SRK Order, 26 November 1992); P5979 (SRK Order, 4 August 1992).

various times.<sup>15336</sup> These maps clearly illustrate that the inner city of Sarajevo was almost completely encircled by the SRK and that the SRK was therefore able to control the fate of the Sarajevo citizens. **(So what? A #siege is legitimate military operation#, and it pertained to a military, not civilians. The 1<sup>st</sup> Corps of ABiH had around 80,000 soldiers, deployed in three divisions, and 12<sup>th</sup> Division with it's around 40,000 soldiers was in the inner ring, in the city proper. It is easy to imagine what would these 40,000 troops do to the Serb Army and population hadn't they been contained within the city!)**

4564. In assessing the evidence before it, the Chamber has considered and accepted the Accused's argument that the media was somewhat unfavourable to the Bosnian Serb side when reporting on the situation in Sarajevo. The Chamber also took into account the fact that at one point the UN decided not to refer to the situation in the city as a "siege". Ultimately, however, the Chamber considers both to be of limited weight in light of all the evidence before it. **(The main issue is – such a numerous army within the city, and there is no provision that would forbid an army to contain the enemy's army while the conflict lasted!)**

4565. Furthermore, while the Bosnian Muslim authorities at times prevented civilians from leaving the city or made it difficult for them to do so in order to ensure that the city remained in the news, the Chamber considers that the actions of the SRK forces positioned around the city left the civilian population with very little opportunity to leave Sarajevo safely. **(#Free passage for civilians, in an organized manner#! This is not correct, because there are many examples of the organised transports for civilians who safely passed through the Serb lines and the Serb territories. There were many cases that civilians took a risk to cross to the Serb side, but many of them had been killed by the Muslim side, while the Serb side never shot at civilians crossing the lines along the Miljacka River.)**

4566. For all these reasons, the Chamber finds that the city of Sarajevo was essentially encircled and besieged by the SRK and, as such, under a blockade. The Chamber will therefore continue to refer alternatively to the terms "blockade", "siege" or "encirclement" where relevant in this Judgement. **(But, the Chamber misses to notice that it was not an army that came from elsewhere, nor the "encirclement" had only the aim to contain the Muslim troops, but at the first place, to protect the Serb settlements in and around Sarajevo!)**

## *ii. Objectives of the siege*

4567. There was also a marked contrast between the evidence of witnesses called by the Prosecution and those called by the Accused regarding the aims or objectives of the SRK forces around Sarajevo.

4568. According to Rose, the objective of the siege was to engineer an advantageous peace deal with the Bosnian Muslims and to demonstrate to the Bosnian Croats the strength of the

<sup>15336</sup>

See e.g. D3382 (Map of Sarajevo); D3383 (Map of Sarajevo); D2788 (Map of Sarajevo marked by Dragomir Milošević); D2789 (Map of Sarajevo marked by Dragomir Milošević); D2790 (Map of Sarajevo marked by Dragomir Milošević); P6295 (VRS map of Sarajevo); P6296 (VRS map of Sarajevo); P1058 (ABiH map); P1764 (ABiH Map of Sarajevo) P842 (VRS map of Sarajevo, 31 August 1995).

Bosnian Serb position.<sup>15337</sup> **(Since the #Muslim Government declared the war against the Serbs, this would be a legitimate aim all the way while Sarajevo was militarised!#)** It was also used as a vehicle by Bosnian Serb leaders to exert pressure on the UN and the international community.<sup>15338</sup> **(Wrong, it was a vice versa, the UN and international community exerted pressure over the Serbs for keeping their positions around Sarajevo!)** Since Bosnian Serbs had fewer infantry forces than the ABiH in Sarajevo and could not have taken the city without significant casualties, their objective, according to Fraser, was to “keep pressure” on the city through sniping, shelling, and controlling access to humanitarian aid.<sup>15339</sup> **(This is as wrong as rubbish!)** Mole called this a “policy of containment”, and of maintaining the *status quo*, the object of which was to control Sarajevo, not to occupy it.<sup>15340</sup> **(The #Mole’s judgment is the most accurate, and he wasn’t the only international official who realised that the Serb side was protecting it’s territories and waited for a political solution in a “status quo” position#!)** Thomas thought that there were four objectives to the siege: (i) to create a situation of “out-right terror”; (ii) to shutdown the source of manpower for the ABiH; (iii) to influence politicians who lived in Sarajevo; and (iv) to engage in “sheer retaliatory madness”.<sup>15341</sup> **(This is nothing but rubbish, over-charged with the anti-Serb sentiments!)** Banbury testified that the objectives of the siege were two-fold: first, to deny the BiH government a symbolically important capital city and make it more difficult for it to exercise sovereignty; and second, to punish the people in Sarajevo and cause them “as much pain as possible”.<sup>15342</sup> **(The first of Banbury’s guessing would be legitimate, since BiH had seceded illegally and anti-constitutionally, declaring a war against the “SAO Territorial defences”, but the second one is so amateurish and malicious “opinion” of an international servant who couldn’t hide his anti-Serb sentiments. Beside that, it is inappropriate to take such an opinions of the persons that had been witnesses on facts and events, while this was a domain of an expert!)** He thought that the Bosnian Serbs also wanted to exercise “total political control” over areas where Serbs had traditionally lived, including in Sarajevo.<sup>15343</sup> **(#What Banbury “thought” is his private matter#, he was not privy of any genuine information, nor he was summoned to testify as an expert. The**

<sup>15337</sup> P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 199. See also P1996 (Witness statement of Martin Bell dated 8 March 2010), para. 60; Martin Bell, T. 9770 (14 December 2010); KDZ185, T. 4174–4175 (28 June 2010) (private session).

<sup>15338</sup> P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 199; Michael Rose, T. 7252–7254, 7256–7257 (5 October 2010) (conceding, however, that there was a route out of Sarajevo via Mt. Igman and also through the tunnel at the airport); Jeremy Bowen, T. 10105 (13 January 2011).

<sup>15339</sup> P1762 (Witness statement of David Fraser dated 17 October 2010), p. 5; David Fraser, T. 8030–8031 (18 October 2010). See also P1426 (Witness statement of Richard Mole dated 7 May 2010), paras. 35–36; KDZ450, T. 10655 (20 January 2011); D949 (BBC news report re Sarajevo, with transcript). On cross-examination, Fraser agreed that a “siege” can be a legitimate military tactic so long as it is not calculated to starve the civilian population. He further conceded that it was a legitimate military tactic for Bosnian Serb forces to encircle Sarajevo in order to prevent ABiH forces from leaving Sarajevo and from being deployed on other fronts in BiH. See David Fraser, T. 8062 (18 October 2010). See also KDZ088, T. 6425 (8 September 2010) (closed session).

<sup>15340</sup> P1426 (Witness statement of Richard Mole dated 7 May 2010), paras. 35–36, 93–94 (adding that Bosnian Serbs could already achieve their political aims by applying pressure on Sarajevo through the siege, which would not have been the case if they captured the city; according to him Bosnian Serbs could also put pressure on the city in response to events elsewhere in BiH); Richard Mole, T. 5825–5826 (17 August 2010). See also KDZ450, T. 10655 (20 January 2011); P1997 (BBC news report re interview with Radovan Karadžić at Trebević, with transcript) (in which the Accused states that the Bosnian Serb side could take the city tomorrow if it wished but that it was willing to negotiate for peace instead).

<sup>15341</sup> P1558 (Witness statement of Francis Roy Thomas dated 13 May 2009), para. 75. See also P4203 (Witness statement of Pyers Tucker dated 12 May 2010), para. 49; KDZ185, T. 4174–4175 (28 June 2010) (private session).

<sup>15342</sup> P2451 (Witness statement of Anthony Banbury dated 19 May 2009), paras. 197–198 (adding that the siege changed the character and demographics of the city by driving out middle-class and moderate Sarajevans who believed in a multi-ethnic BiH). See also P27 (Witness statement of Mirsad Kućanin dated 4 September 2000), p. 4 (testifying that in his opinion, the Bosnian Serbs made a “deliberate choice” to keep civilians “trapped” in Sarajevo and set about the “gradual annihilation” of the civilian population).

<sup>15343</sup> Anthony Banbury, T. 13310 (15 March 2011).

same goes to Bowen, and the Chamber shouldn't even notice their "thoughts") Bowen thought that the siege itself was "as much a weapon of war as the bullets and shells that were fired into Sarajevo".<sup>15344</sup> KDZ450 testified that the Bosnian Serbs wanted to remain present in Sarajevo because it was the "historic capital" of BiH and a city of "great symbolic importance", as well as an area of "great interest for strategic and military reasons".<sup>15345</sup>

**(Legal and legitimate, since the Muslims forced a chain of illegal moves detrimental for the Serb survival, instead of negotiating such a sensitive and important issues!)** Thus, their objective was to exert pressure on Bosnian Muslim leaders and force them to accept a division of Sarajevo.<sup>15346</sup> He testified that a frequent method of applying pressure was blocking the flow of humanitarian aid.<sup>15347</sup>

4569. On the other hand, the majority of the witnesses called by the Accused denied the above were the SRK's objectives and claimed that the SRK simply wanted to (i) contain the ABiH forces within the city in order to prevent them from linking up with ABiH forces outside of the city, as that would have led to attacks on Serb territories around Sarajevo and (ii) protect and defend those territories as they belonged to Bosnian Serbs.<sup>15348</sup> Additionally, KW570 thought that the objective of the Bosnian Serb siege was to contain and neutralise the ABiH forces in Sarajevo, in order to force the Bosnian Muslim government to the negotiating table, where a long-term peace settlement for BiH could be worked out.<sup>15349</sup> Milenko Indić testified that the SRK's basic task was to maintain "the established frontline" held by it.<sup>15350</sup> **(This sounds so simple and so accurate! see what the UNHCR reported, D01496, of 6 January 1993, which confirmed that the Muslim Government had it's own reasons to maintain the status quo:**

<sup>15344</sup> Jeremy Bowen, T. 10104–10105 (13 January 2011); P2068 (Witness statement of Jeremy Bowen dated 10 August 2009), para. 20.

<sup>15345</sup> P5906 (Witness statement of KDZ450 dated 17 January 2011), paras. 48–49; KDZ450, T. 10553–10554 (19 January 2011) (private session).

<sup>15346</sup> P5906 (Witness statement of KDZ450 dated 17 January 2011), paras. 48, 140; KDZ450, T. 10553 (19 January 2011) (private session). *See also* P1484 (Ratko Mladić's notebook, 28 October 1993–15 January 1994), pp. 53–54 (in which Mladić recounts a meeting in Belgrade on 13 December 1993 where the Accused lists division of Sarajevo as one of the Bosnian Serb goals). A number of witnesses called by the Accused, however, denied that the Bosnian Serb side wanted to divide Sarajevo. *See e.g.* D2351 (Witness statement of Stevan Veljović dated 19 October 2012), para. 21 (testifying that seizing or dividing parts of Sarajevo was never an objective of the SRK, and that even if there was such a plan at the higher levels, the soldiers "had no such motives").

<sup>15347</sup> P5906 (Witness statement of KDZ450 dated 17 January 2011), para. 140.

<sup>15348</sup> Dragomir Milošević, T. 32574–32577 (23 January 2013); D2412 (Witness statement of Savo Simić dated 4 November 2012), para. 14 (stating that the breakthrough by ABiH forces would have freed up a lot of men for use on other fronts in BiH); Savo Simić, T. 30028, 30031 (8 November 2012); D2658 (Witness statement of Luka Dragičević dated 9 December 2012), para. 22; D2479 (Witness statement of Mile Sladoje dated 25 November 2012), para. 8; Milosav Gagović, T. 31918 (15 January 2013); D2484 (Witness statement of Zoran Kovačević dated 25 November 2012), para. 6; D2516 (Witness statement of Vlade Lučić dated 5 November 2012), paras. 9, 12 (adding that the ABiH was intent on leaving Sarajevo with "huge military potential" and proceeding across the Romanija plateau to link up with other ABiH units in the upper and middle Drina Valley and Sandžak); Vlade Lučić, T. 30827 (3 December 2012); D2391 (Witness statement of Slobodan Tuševljak dated 5 November 2012), para. 11; D2633 (Witness statement of Milorad Šehovac dated 8 December 2012), paras. 4–5, 69; D2650 (Order of 3<sup>rd</sup> Infantry Battalion of 2<sup>nd</sup> Sarajevo Light Infantry Brigade, undated); D2331 (Witness statement of Blagoje Kovačević dated 14 October 2012), para. 9; D2383 (Witness statement of Slavko Gengo dated 14 October 2012), para. 12; D2562 (Witness statement of Vladimir Radojčić dated 8 December 2012), paras. 7–8; D2341 (Witness statement of Dušan Škrba dated 14 October 2012), para. 12; D2379 (Witness statement of Momir Garić dated 2 November 2012), para. 24; D2686 (Witness statement of Mihajlo Vujasin dated 16 December 2012), paras. 14–18; D2444 (Witness statement of Miladin Trifunović dated 11 November 2012), paras. 16–17; D2667 (Witness statement of Ratomir Maksimović dated 14 December 2012), para. 9.

<sup>15349</sup> KW570, T. 32226 (18 January 2013) (private session). KW570 testified that the Bosnian Serbs were willing to end the siege of Sarajevo because it was doing their cause "horrendous damage" and in addition the Bosnian Serbs in Vogošća and Ilidža were subjected to ABiH fire and living under threatening conditions. However, the Bosnian Muslim government resisted all attempts to end the siege. *See* KW570, T. 32261–32262 (18 January 2013) (private session).

<sup>15350</sup> D2774 (Witness statement of Milenko Indić dated 19 January 2013), para. 1.

4. The Honourable correspondent of the Human Rights Watch should be invited to address his protest to the Government of the Republic of Bosnia and Herzegovina who are at present responsible for the continuation of the siege of SARAJEVO.

**(So, the Muslim Government was responsible for the ssiege of Sarajevo!#)**

4570. As noted earlier, the expert witness Radinović testified that the SRK wanted to keep ABiH forces under blockade and prevent them from breaking through to the Romanija plateau, from which they could access the Drina River valley, while the ABiH's 1<sup>st</sup> Corps had as its main objectives to keep Sarajevo "under its control" and to "deblockade the city" so that it could link up with ABiH forces in Igman and reach the Romanija plateau.<sup>15351</sup> Accordingly, Radinović opined, the SRK adopted a defensive strategy and the ABiH adopted an offensive strategy, both strategies being legal and legitimate.<sup>15352</sup> According to him, the VRS had an exclusively "defensive strategy" to defend the territory and the people of RS as it had "absolutely no resources to commit aggression".<sup>15353</sup> **(#Exclusively "defensive strategy#! This is an expert opinion, and it can not be rejected without a damage to the Chamber's credibility!)**

4571. Dragomir Milošević testified that by the time he became the SRK Commander in August 1994, the situation on the battlefield crystallised and it was a matter of maintaining the *status quo*.<sup>15354</sup> According to him, the task of the SRK was to defend its area of deployment while the ABiH conducted operations in an attempt to break through SRK lines; these operations included using artillery, conducting night-time and sabotage operations, planting explosives, and sniping, as well as conducting attacks on the SRK from the outside of Sarajevo.<sup>15355</sup> He also denied that the SRK's aim was to divide Sarajevo, as indicated in the supplement to Directive 6,<sup>15356</sup> saying that he was never given such an order; however, he did acknowledge that by maintaining and improving its position, as ordered in the supplement, the SRK may have been able to affect international negotiations.<sup>15357</sup>

4572. Like Milošević, a large number of former SRK soldiers and officers claimed that the SRK carried out predominantly defensive operations in the city in order to prevent ABiH forces

<sup>15351</sup> Radovan Radinović, T. 41399, 41403–41404 (17 July 2013). Asim Džambasović testified that the "priority military objective" of the ABiH's 1<sup>st</sup> Corps was first to defend the city and only then to create conditions which would enable it to "break out of the siege", which was a "little bit unrealistic" because the ABiH needed seven times the amount of forces and equipment of the VRS to break the siege. See Asim Džambasović, T. 15270–15271 (23 June 2011); D1391 (Order of ABiH 1<sup>st</sup> Corps, 2 January 1993), p. 1.

<sup>15352</sup> Radovan Radinović, T. 41404–41405 (17 July 2013). Both Dragičević and Tomić testified that, in contrast to the SRK, the strategy of the ABiH was to "capture all of BiH" through "offensive operations". See D2658 (Witness statement of Luka Dragičević dated 9 December 2012), para. 22; D2418 (Witness statement of Božo Tomić dated 5 November 2012), para. 21.

<sup>15353</sup> Radovan Radinović, T. 41397–41398 (17 July 2013).

<sup>15354</sup> Dragomir Milošević, T. 33103–33104 (4 February 2013). See also Savo Simić, T. 30028, 30031 (8 November 2012).

<sup>15355</sup> Dragomir Milošević, T. 32576–32578 (23 January 2013), T. 32715 (28 January 2013). An example of such operation was the ABiH offensive on 16 June 1995. See Dragomir Milošević, T. 32737–32739 (28 January 2013); P5642 (Intercept of conversation between Dragomir Milošević, unidentified male, and Ratko Mladić, 16 June 1995), p. 4.

<sup>15356</sup> For the supplement to Directive 6, see para. 3578.

<sup>15357</sup> Dragomir Milošević, T. 33093, 33099–33103 (4 February 2013) (adding also that such a division would have entailed great losses on both sides); P4925 (Supplement to Directive 6, 12 December 1993), para. 2(a) (referring to the Accused's order to the VRS to seize Žuč and Mojmiło in order to ensure "the most favourable position for dividing" Sarajevo). See also D2667 (Witness statement of Ratimir Maksimović dated 14 December 2012), para. 12; D2516 (Witness statement of Vlade Lučić dated 5 November 2012), para. 12; D2331 (Witness statement of Blagoje Kovačević dated 14 October 2012), para. 15; Blagoje Kovačević, T. 29088 (18 October 2012); P3052 (VRS Main Staff Order, 14 December 1993). But see D2562 (Witness statement of Vladimir Radojčić dated 8 December 2012), para. 11 and D2633 (Witness statement of Milorad Šehovac dated 8 December 2012), para. 8 (both of whom testified that the final objective of the Bosnian Serb authorities was to have parts of Sarajevo under their control).

from breaking out, at the same time acknowledging that there were some exceptions, such as operation Lukavac 93 and other offensive actions.<sup>15358</sup> **(Those “offensive actions” were conducted far from the urban area of the city, on the Igman and Bjelasnica mountains!)** Lučić, for example, acknowledged that the SRK undertook offensive operations “designed to recapture lost positions” and to “neutralise the weapons and manpower” of the ABiH in locations where the ABiH was engaging civilian and military targets.<sup>15359</sup>

4573. On the other hand, Blagoje Kovačević testified that “not a single offensive action had been executed” at his positions as the SRK had no interest in taking areas which were not “ethnically defined as Serbian”.<sup>15360</sup> **(Kovacevic kept the positions towards the urban part of the Sarajevo district, and he was right, there was no attempts to capture the other’s settlements, nor it ever happened, except for the Otes settlement, from where the ABiH inflicted many casualties in the Serb Ilidza!)** Gengo also testified that his battalion made no plans to move its lines forward and that there were “never” plans to undertake offensive operations in the Sarajevo area.<sup>15361</sup> When presented with an order issued by Galić on 26 January 1994 to “continue with offensive activities and liberate the Serb part of the City of Sarajevo”, Gengo testified that his battalion never received such an order and that he neither planned nor was involved in offensive activities.<sup>15362</sup> He also explained that the references in the order to “fortifications” and “improving the tactical position” were all defensive in nature.<sup>15363</sup> Milovanović testified that the VRS was “a defensive army with a defensive strategy, from a strategic point of view” and that, as such, it engaged in “active combat activities” only to improve its tactical positions.<sup>15364</sup> Zurovac denied that simply by “encircling” the city, the SRK was engaged in “offensive” measures, explaining that the Serb units around Sarajevo were not the aggressor because it would not make sense to be an

<sup>15358</sup> D2412 (Witness statement of Savo Simić dated 4 November 2012), para. 15 (also referring to some offensive actions the SRK took to improve the SRK’s tactical position, including the liberation of part of the Vraca-Trebević road, and the attempted liberation of part of Šoping); Savo Simić, T. 30033 (8 November 2012), T. 30037–30040 (12 November 2012); D2633 (Witness statement of Milorad Šehovac dated 8 December 2012), para. 6; D2351 (Witness statement of Stevan Veljović dated 19 October 2012), paras. 21–22; D2519 (Witness statement of Dragan Maletić dated 9 November 2012), paras. 13–15; Milosav Gagović, T. 31918 (15 January 2013); D2774 (Witness statement of Milenko Indić dated 19 January 2013), para. 2; D2484 (Witness statement of Zoran Kovačević dated 25 November 2012), para. 6; D2387 (Witness statement of Stojan Džino dated 4 November 2012), paras. 36–37; D2341 (Witness statement of Dušan Škrba dated 14 October 2012), para. 12; Dušan Škrba, T. 29118 (18 October 2012); D2379 (Witness statement of Momir Garić dated 2 November 2012), para. 25; D2686 (Witness statement of Mihajlo Vujasin dated 16 December 2012), para. 18; Mihajlo Vujasin, T. 31799–31802 (20 December 2012); P6067 (Order of Rajlovac Infantry Brigade, 30 November 1992), p. 2; D2451 (Witness statement of Velimir Dunjić dated 12 November 2012), para. 7; D2389 (Witness statement of Predrag Trapara dated 3 November 2012), para. 5; D2391 (Witness statement of Slobodan Tuševljak dated 5 November 2012), paras. 11, 15–17; Slobodan Tuševljak, T. 29947–29948 (7 November 2012); D2398 (Witness statement of Richard Gray dated 22 April 2012), para. 19; D2418 (Witness statement of Božo Tomić dated 5 November 2012), para. 16; D2444 (Witness statement of Miladin Trifunović dated 11 November 2012), para. 16; D2622 (Witness statement of Željko Bambarež dated 9 December 2012), para. 12; [REDACTED]; Manojlo Milovanović, T. 25747 (5 March 2012); D2667 (Witness statement of Ratimir Maksimović dated 14 December 2012), para. 8, 10; D2516 (Witness statement of Vlade Lučić dated 5 November 2012), paras. 8, 10; Vlade Lučić, T. 30827 (3 December 2012); D2562 (Witness statement of Vladimir Radojčić dated 8 December 2012), para. 9; D2479 (Witness statement of Mile Sladoje dated 25 November 2012), para. 8.

<sup>15359</sup> D2516 (Witness statement of Vlade Lučić dated 5 November 2012), para. 10 (as an example, Lučić identified the SRK offensive on a tower in Zlatište, which had to be taken because ABiH units were continuously targeting the road from Vraca to Trebević to Pale).

<sup>15360</sup> D2331 (Witness statement of Blagoje Kovačević dated 14 October 2012), para. 8. When confronted with two post-war statements by Dragomir Milošević referring to SRK carrying out activities to extend its territory, Kovačević claimed that he had no knowledge as to Milošević’s position, but testified that one of the SRK objectives was to keep the road from Lukavica to Pale, which required the taking of “small features”. See Blagoje Kovačević, T. 29090–29094 (18 October 2012); D2901 (Letter from Dragomir Milošević to Ratko Mladić, 19 May 1996), p. 2; D568 (Speech of Dragomir Milošević, 30 March 1996), p. 3.

<sup>15361</sup> D2383 (Witness statement of Slavko Gengo dated 14 October 2012), para. 33; Slavko Gengo, T. 29799 (6 November 2012).

<sup>15362</sup> Slavko Gengo, T. 29800 (6 November 2012); P5968 (SRK Order, 26 January 1994), p. 8.

<sup>15363</sup> Slavko Gengo, T. 29835–29836, 29841–29842 (6 November 2012) (also explaining that the phrase “wider-scale offensive activities” in the order was a reference to combat activities to improve the SRK’s tactical position in order to prevent the ABiH from penetrating the external ring).

<sup>15364</sup> Manojlo Milovanović, T. 25747 (5 March 2012).

aggressor against one's own country.<sup>15365</sup> When shown an SRK order dated 16 December 1993 instructing the units to conduct an "active defence" to prevent ABiH forces from unblocking their part of the town and to establish conditions for the division of Sarajevo into two parts, Zurovac disagreed that "active defence" was another term for offence, but agreed that splitting Sarajevo into two parts would constitute an offensive act "to a certain extent."<sup>15366</sup>

4574. The above can be contrasted with the evidence of KDZ182 who testified that one of the techniques used by Bosnian Serbs during the siege of Sarajevo was to move the confrontation line toward the city "inch by inch".<sup>15367</sup> **(This is incorrect: there is evidence that at the beginning of the war the inner ring of the confrontation line was 42 km long, while to the middle of the war it was enlarged to the Muslim favour to 64 km, i.e. 22 km of result of the Muslim gains, mainly during the NATO actions against the Serbs!)** Similarly, [REDACTED] explained that the encirclement of Sarajevo was only "partly" defensive because it was sometimes necessary to move units and engage in "subversive or sabotage operations" in order to achieve the goal of containing the ABiH forces within Sarajevo.<sup>15368</sup>

4575. Based on the evidence outlined above, the Chamber is satisfied that the siege or encirclement of Sarajevo by the SRK had a number of objectives, one of which was indeed the containment of the ABiH forces within the city in order to prevent them from linking up with ABiH forces outside of the city. However, the military directives issued by the VRS Main Staff and/or the Accused discussed in an earlier section of the Judgement<sup>15369</sup> clearly indicate a number of additional Bosnian Serb goals and strategies in relation to Sarajevo, namely, (i) to keep it under firm blockade and gradually tighten the encirclement; **(For what purpose? For the same, a containment of the ABiH!)** (ii) to conduct, among other things, offensive operations and liberate remaining parts of "Serbian territory" that would in turn improve tactical positions and normal communication within the RS; **(This is also within the main objective, the# containment of the ABiH#, and repeating the techniques doesn't mean that there were some additional purposes!)** (iii) to isolate parts of the city and surrounding settlements; and (iv) to ensure the most favourable position for dividing Sarajevo.<sup>15370</sup> **(#This is a disgrace!# look at the most relevant document of the UN, P941:**

**the total would be substantial. As far as Sarajevo was concerned, he favoured using the administration of Brussels as a model. The Serbian municipalities would be part of the Serbian constituent unit. Secretary Vance asked how this apparent will to talk about constituent units... There is a sufficient evidence that the division was not the Serb aim, but only a transformation in terms of the Brussels model. Is the Brussels a divided city?)**

Additionally, in Directive 4, the VRS Main Staff noted that one of the tasks of the VRS as a

<sup>15365</sup> Dušan Zurovac T. 30297 (14 November 2012).

<sup>15366</sup> Dušan Zurovac T. 30298–30300 (14 November 2012); P5989 (SRK Order, 16 December 1993), pp. 4–5.

<sup>15367</sup> P2414 (Witness statement of KDZ182), p. 29 (under seal).

<sup>15368</sup> [REDACTED].

<sup>15369</sup> See paras. 3561, 3563, 3572, 3578, 3607, 4041.

<sup>15370</sup> D232 (Directive 1, 6 June 1992), para. 2; D235 (Directive 3, 3 August 1992), pp. 2–3, 5; P976 (Directive 4, 19 November 1992), pp. 3, 5; P843 (Directive 5, 25 June 1993), paras. 2, 4–5; P3039 (Directive 6, 11 November 1993), pp. 6, 9–10 (referring to, among other things, the VRS strategic military goal of "liberation" of Sarajevo which was then changed to division of Sarajevo in the supplement to Directive 6); P4925 (Supplement to Directive 6, 12 December 1993), paras. 2(a), 4(e); P838 (Directive 7, 8 March 1995), pp. 7–8, 11–12. See also P5981 (SRK Order, 26 June 1993), para. 4 (indicating that as part of the Lukavac 93 operation the SRK units were tasked with "creating conditions for take over of Sarajevo"); P3052 (VRS Main Staff Order, 14 December 1993).

whole was to “[c]reate conditions for the state leadership of [RS] to participate equally in resolving the crisis in the former [BiH] with other international factors”.<sup>15371</sup> This is in line with the evidence outlined above, namely that the siege was used as a means of putting pressure on Bosnian Muslim authorities and the UN in order to ensure the most favourable peace deal for the Bosnian Serb side during international negotiations.<sup>15372</sup> Similarly, the goals listed above are in line with the evidence of Prosecution witnesses that one objective of the siege was to control the city and its people, and to keep those parts of the city deemed to be ethnically Serb under the control of the Bosnian Serb authorities. While some of the Accused’s witnesses denied that the SRK’s aim was to divide Sarajevo, others, like Radojčić and Šehovac confirmed that the final objective was to keep Bosnian Serb parts of the city under the control of the Bosnian Serb authorities.<sup>15373</sup> **(A legal and legitimate goal!)** Indeed, this aim is clearly outlined in the above mentioned directives and the Chamber also recalls that, by 1993, the frontlines in Sarajevo were more or less set and that certain parts of the city, such as Grbavica and parts of Dobrinja, were under the control of the Bosnian Serb side throughout the war, thus essentially creating a division of the city in certain areas.

4576. Finally, although most defence witnesses testified that, with the exception of Lukavac 93, the SRK was engaging in defensive activities alone, some then proceeded to describe additional offensive actions their respective units undertook during their time in Sarajevo.<sup>15374</sup> This again is in line with the language in the directives which clearly called for offensive actions by the SRK in order to strengthen and consolidate SRK positions and gain territories deemed ethnically Serb. It also confirms the evidence of KDZ182 who testified that the SRK strategy was to move the frontline inch by inch towards the city and with the evidence of [REDACTED] who characterised the encirclement of Sarajevo as only “partly” defensive. Milošević himself confirmed as much in statements he made following the conflict.<sup>15375</sup> Ultimately, however, whether the VRS conducted offensive or defensive actions in and around the city is irrelevant for the purposes of this case. Instead, what matters—and what is thus addressed throughout this Judgement—is whether the VRS/SRK actions in and around Sarajevo were in compliance with international law.

## 2. Campaign of sniping and shelling causing terror

### a. Arguments of the parties

4577. The Prosecution alleges that members of the Sarajevo Forces implemented a military strategy that used sniping and shelling to kill and wound the civilian population of Sarajevo, which in turn resulted in thousands of civilian casualties, including children and the

<sup>15371</sup> P976 (Directive 4, 19 November 1992), p. 3.

<sup>15372</sup> This is also confirmed by the evidence the Chamber heard of fighting in Sarajevo intensifying during peace negotiations.

<sup>15373</sup> See fn. 15357.

<sup>15374</sup> See e.g. D2412 (Witness statement of Savo Simić dated 4 November 2012), para. 15; D2516 (Witness statement of Vlade Lučić dated 5 November 2012), para. 10; D2633 (Witness statement of Milorad Šehovac dated 8 December 2012), para. 6; Blagoje Kovačević, T. 29091–29092 (18 October 2012); (Witness statement of Mihajlo Vujasin dated 16 December 2012), para. 18; Mihajlo Vujasin, T. 31799–31802 (20 December 2012); P6067 (Order of Rajlovac Infantry Brigade, 30 November 1992), p. 2.

<sup>15375</sup> See D2901 (Letter from Dragomir Milošević to Ratko Mladić, 19 May 1996), p. 2; D568 (Speech of Dragomir Milošević, 30 March 1996), p. 3.

elderly.<sup>15376</sup> The Prosecution further alleges that the sniping and shelling comprised direct attacks on the civilian population or on individual civilians not taking direct part in hostilities, and that these attacks included indiscriminate and disproportionate attacks.<sup>15377</sup> According to the Prosecution, “the only reasonable conclusion that can be drawn from the protracted campaign of sniping and shelling” of Sarajevo civilians is that “its primary purpose was terror”.<sup>15378</sup>

4578. The Accused accepts that civilians in Sarajevo experienced terror but argues that civilians on both sides of the confrontation line were terrified as is “always the case in civil wars and street fights”.<sup>15379</sup> He claims that the SRK units did not intend to cause civilian casualties or to spread terror among the civilian population of Sarajevo.<sup>15380</sup> According to him, any psychological pressure experienced by civilians in the city was caused by the Bosnian Muslim authorities who provoked Bosnian Serbs into responding to fire.<sup>15381</sup> In addition, the nature of the conflict in and around Sarajevo meant that the SRK was unable to designate any areas in the city as exclusively civilian since fire was coming from those zones.<sup>15382</sup> The Accused further submits that SRK units were never ordered, verbally or in writing, by SRK commands or civil authorities, to target civilians<sup>15383</sup> and that there was no goal to deliberately make it impossible for the Bosnian Muslim government in Sarajevo to control the living conditions of civilians in the city.<sup>15384</sup> The Accused’s final argument, namely that the Bosnian Muslim side targeted its own civilians in order to gain international sympathy has been dealt with in the earlier part of the Judgement.

*b. Terror in Sarajevo*

4579. A large number of Prosecution witnesses testified that Bosnian Serb Forces sniped and shelled the civilians in Sarajevo in order to instil terror in the civilian population, exert political pressure on their leaders or force them into accepting the *status quo*, and undermine the morale of the ABiH troops whose families were in the city.<sup>15385</sup> Indeed the Chamber heard that already by August 1992, the UN Special Rapporteur on Human Rights reported back to the UN that the city was being shelled on a regular basis and that snipers are killing

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<sup>15376</sup> Indictment, para. 79; Prosecution Final Brief, paras. 714–715. Sarajevo Forces are defined in the Indictment as (i) members of JNA operating in and around Sarajevo until about 20 May 1992, (ii) members of the VRS, in particular the SRK, and (iii) members of other forces operating in or with responsibility over the Sarajevo area. See Indictment, para. 18.

<sup>15377</sup> Indictment, para. 80.

<sup>15378</sup> Prosecution Final Brief, para. 783; Indictment, para. 77.

<sup>15379</sup> Defence Final Brief, para. 1969.

<sup>15380</sup> Defence Final Brief, paras. 1912, 1917.

<sup>15381</sup> Defence Final Brief, para. 1920.

<sup>15382</sup> Defence Final Brief, para. 1905.

<sup>15383</sup> Defence Final Brief, paras. 1930–1938.

<sup>15384</sup> Defence Final Brief, para. 1834.

<sup>15385</sup> See e.g. P1217 (Witness statement of Milan Mandilović dated 24 February 2010), paras. 99, 101; P4203 (Witness statement of Piers Tucker dated 12 May 2010), para. 49; P5906 (Witness statement of KDZ450 dated 17 January 2011), paras. 26, 48–49, 140; KDZ450, T. 10553 (19 January 2011) (private session); P2106 (Witness statement of KDZ304), pp.3, 9–10 (under seal); KDZ304, T. 10446–10447 (18 January 2011); P2414 (Witness statement of KDZ182), pp. 28–29, 54 (under seal); KDZ182, T. 13038–13039, 13093 (9 March 2011); P1558 (Witness statement of Francis Roy Thomas dated 13 May 2009), para. 75; P1953 (Witness statement of Harry Konings dated 11 November 2010), paras. 40, 43; Michael Rose, T. 7267 (5 October 2010); P6060 (Record of interview with KDZ185), e-court pp. 13, 16; KDZ185, T. 4175–4177 (28 June 2010) (private session), T. 4177–4179, 4182–4183 (28 June 2010); P1851 (Witness statement of Per Anton Brennskag dated 26 October 2010), para. 62; P820 (Witness statement of David Harland dated 4 September 2009), paras. 33–35; Rupert Smith, T. 11333–11334 (8 February 2011); P926 (Witness statement of Aernout van Lynden dated 26 February 2010), para. 25; Aernout van Lynden, T. 2412 (19 May 2010); P1996 (Witness statement of Martin Bell dated 8 March 2010), paras. 37, 46, 52.

innocent civilians in what “appears to be a deliberate attempt to spread terror among the civilian population.”<sup>15386</sup> Similarly, towards the end of the conflict, in July 1995, the UN was reporting on a “general atmosphere of terror in the city” caused by the Bosnian Serb sniping and shelling.<sup>15387</sup>

4580. More specifically, Fraser testified that this feeling of terror in Sarajevo was caused by a number of factors, including the fact that the city was besieged and that the residents were shelled and sniped so that they “never quite knew what was going to happen to them when they walked out the door”.<sup>15388</sup> KDZ304 testified that the SRK sniping and shelling aimed at “terrorising” and demoralising the civilian population<sup>15389</sup> and that various measures were used by the Bosnian Serbs to make the people of Sarajevo “choke”; this included the increased targeting and killing of civilians, the disruption of Blue Routes for the supply of humanitarian aid, the disruption of public transport, and the cutting off of electricity and water supplies.<sup>15390</sup> In Harland’s view, terror was caused through several levers of pressure that the Bosnian Serbs used in relation to Sarajevo, such as the shelling and sniping of the civilian population, which he thought was a form of “terrorism directed at the civilians”.<sup>15391</sup>

4581. Harland further testified that the application of terror followed a discernible pattern so that when there was an explicit threat of intervention against the Bosnian Serbs, the pressure would be eased, but when the threat subsided, the pressure would be increased.<sup>15392</sup> He gave as an example the events following the SRK’s capture of Mt. Igman and the first Markale incident, where NATO action was threatened and resulted in a dramatic decline in the Serb sniping and shelling of the civilian population.<sup>15393</sup> KDZ450 testified that there was also a correlation between the increase in ABiH offensives and the attacks directed against civilians in Sarajevo.<sup>15394</sup> Finally, a number of witnesses testified that events at the frontlines outside of Sarajevo also had an effect on the situation in the city.<sup>15395</sup>

<sup>15386</sup> P1265 (Tadeusz Mazowiecki’s Report on the situation in the former Yugoslavia, 28 August 1992), para. 17. *See also* Hussein Ali Abdel-Razek, T. 5514–5515 (20 July 2010).

<sup>15387</sup> P822 (UNPROFOR Weekly Situation Report (Sarajevo), 8 July 1995), p. 2; David Harland, T. 2022–2023 (6 May 2010).

<sup>15388</sup> David Fraser, T. 8030 (18 October 2010). *See also* P2451 (Witness statement of Anthony Banbury dated 19 May 2009), para. 199; KDZ185, T. 4175–4179 (28 June 2010); Rupert Smith, T. 11333–11334 (8 February 2011); P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 89; P733 (Witness statement of Sulejman Crnčalo dated 1 November 2009), paras. 87–88.

<sup>15389</sup> P2407 (Witness statement of KDZ304), p. 10. KDZ304 did concede, however, that military positions of the ABiH were interspersed with the civilian areas. *See* P2407 (Witness statement of KDZ304), p. 35; KDZ304, T. 10493–10494 (18 January 2011).

<sup>15390</sup> KDZ304, T. 10524–10525 (19 January 2011). *See also* P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 96; KDZ450, T. 10642–10644 (20 January 2011) (who was adamant that the Bosnian Serb side deliberately targeted civilians in Sarajevo).

<sup>15391</sup> P820 (Witness statement of David Harland dated 4 September 2009), para. 38–39, 41; David Harland, T. 2018–2019 (6 May 2010). *See also* Yasushi Akashi, T. 37767–37769 (25 April 2013) (testifying that both sides in the conflict used humanitarian assistance as an instrument to either weaken the position of their opponent or strengthen their own position); D3489 (Excerpt from Yasushi Akashi’s book entitled “In the Valley between War and Peace”), p. 26; P6293 (UNPROFOR report, 3 September 1994). Harland did not think that it was the Serb intention to actually capture the city and testified that the Accused admitted to him that it was not politically useful to force the city to surrender. *See* P820 (Witness statement of David Harland dated 4 September 2009), paras. 40–41.

<sup>15392</sup> David Harland, T. 2019–2020, 2032–2034 (6 May 2010); P825 (SRK Order, 11 August 1993). *See also* P926 (Witness statement of Aernout van Lynden dated 26 February 2010), para. 25.

<sup>15393</sup> David Harland, T. 2019–2020 (6 May 2010).

<sup>15394</sup> P5906 (Witness statement of KDZ450 dated 17 January 2011), para. 33.

<sup>15395</sup> *See e.g.* P2414 (Witness statement of KDZ182), p. 30 (under seal); 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); 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); P5906 (Witness statement of KDZ450 dated 17 January 2011), paras. 33–37; KDZ450, T. 10550–10551 (19 January 2011)(indicating that the attacks were organised by the higher command).

4582. According to Fraser, the conditions in Sarajevo were “absolutely the worst conditions for anybody to live in”.<sup>15396</sup> During his time in the city, Fraser asked people, including civilians working for him and locals in the shops, what it was like to live in the city and in response people expressed the terror of never knowing what was going to happen next.<sup>15397</sup> Some residents said that life in Sarajevo was even worse than during the German occupation of BiH in the 1940s.<sup>15398</sup> In order to avoid being targeted, civilians in the city would defer the basic life-saving chores, such as collecting wood, to times of reduced visibility, including foggy weather or night-time darkness.<sup>15399</sup> In addition, schools were closed and temporary neighbourhood schools were established in cellars, in order to minimise children’s exposure to shelling and sniping.<sup>15400</sup>

4583. Fraser singled out two Bosnian Serb activities that had a devastating psychological impact on the citizens of Sarajevo; the first was the targeting of the trams because if they were not running due to sniper fire it meant that the situation was “grave”, which would send “shudders through the city”.<sup>15401</sup> The second was the use of modified air bombs by the Bosnian Serbs, as those were “psychologically very devastating” for the civilian population.<sup>15402</sup> KDZ304 also confirmed that modified air bombs were used as part of the psychological warfare and with the aim of terrorising both the civilian population and the ABiH soldiers whose families lived in the city and were subjected to modified air bomb attacks.<sup>15403</sup>

4584. Like Fraser, Mole testified that the psychological pressure in Sarajevo was intense because of “the constant danger of injury or death from all forms of weaponry and perceived military activity within the city”, no matter where one was.<sup>15404</sup> In other words, wherever people of Sarajevo went they were subject to this “incessant fear and concern” that was both “immense and protracted”.<sup>15405</sup> Tucker testified that life in Sarajevo was “horrible” for the civilian population as the Bosnian Serbs blockaded the city and “subjected the inhabitants to incessant shelling, sniping, starvation, cold, as well as psychological pressure”.<sup>15406</sup> No ten minutes would go by without the sound of small arms fire, and no half hour would go by without the sound of shells or mortar bombs.<sup>15407</sup> He called the activities of the SRK “terrorism by artillery” as its heavy weapons would fire all over the city in an arbitrary

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<sup>15396</sup> David Fraser, T. 8031 (18 October 2010).

<sup>15397</sup> P1762 (Witness statement of David Fraser dated 17 October 2010), pp. 4, 73.

<sup>15398</sup> P1762 (Witness statement of David Fraser dated 17 October 2010), p. 73; David Fraser, T. 8031 (18 October 2010). *See also* P1525 (Witness statement of Bakir Nakaš dated 8 September 2010), para. 56.

<sup>15399</sup> *See* Adjudicated Facts 56, 57. When venturing out for these chores, civilians would often accompany each other so that there would be assistance if they were wounded. *See* Adjudicated Fact 63.

<sup>15400</sup> *See* Adjudicated Fact 58. Many civilians would in fact live in cellars of their buildings in order to avoid the shells, and would move as little as possible. *See* Adjudicated Fact 59.

<sup>15401</sup> P1762 (Witness statement of David Fraser dated 17 October 2010), p. 39.

<sup>15402</sup> P1762 (Witness statement of David Fraser dated 17 October 2010), p. 64.

<sup>15403</sup> P2407 (Witness statement of KDZ304), pp. 26–27; P2108 (UNPROFOR Memo re meeting with SRK, 9 July 1995).

<sup>15404</sup> P1426 (Witness statement of Richard Mole dated 7 May 2010), paras. 4, 8–9, 65. *See also* P2068 (Witness statement of Jeremy Bowen dated 10 August 2009), paras. 24, 27–28, 43; Jeremy Bowen, T. 10212 (14 January 2011).

<sup>15405</sup> Richard Mole, T. 5823 (17 August 2010). *See also* Adrianus van Baal, T. 8461 (27 October 2010).

<sup>15406</sup> P4203 (Witness statement of Piers Tucker dated 12 May 2010), para. 6, 22–23, 44.

<sup>15407</sup> P4203 (Witness statement of Piers Tucker dated 12 May 2010), para. 22.

fashion and with no military purpose.<sup>15408</sup> For KDZ185, the fact that the shelling was so random and hardly ever targeted military objects “kept the population in a state of terror”.<sup>15409</sup>

4585. According to Banbury, the siege of Sarajevo was “clearly a campaign of terror” and the people who lived through it “suffered immensely”.<sup>15410</sup> Nakaš, a doctor in the Sarajevo State Hospital, testified that many people in Sarajevo were in fact “visibly traumatised” and suffered from “post-traumatic stress disorder”.<sup>15411</sup> Bell confirmed this by stating that he had “never seen such anxiety etched on everybody’s faces” and that “some [people] looked almost grey with fear”.<sup>15412</sup> Mandilović, another doctor from the Sarajevo State Hospital, testified that Sarajevo’s civilian population eventually became “numb to everything going on around them” and that people were in a state of “permanent fear”.<sup>15413</sup> Hajir, a doctor working in Dobrinja Hospital, testified that the civilian population suffered deep psychological scars as a result of the siege; life in Sarajevo was hard for everyone and people experienced psychological problems and paranoia.<sup>15414</sup> In addition, they felt fear and anxiety for the safety of their loved ones.<sup>15415</sup> According to Van Baal, when he arrived to Sarajevo in February 1994, the situation was one of “desperation and horror”, where people were underweight and had “fear in their eyes”.<sup>15416</sup>

4586. Bell testified that of all the conflicts he covered, the Sarajevo battlefield was the only one conducted continuously and intensively over a long period of time in a modern city and an urban environment.<sup>15417</sup> According to him, one of the features of this conflict was the least distinction between soldiers and civilian when it came to targeting as he personally observed civilians being deliberately targeted within the city.<sup>15418</sup> He also testified that there were essentially two conflicts in Sarajevo—one was the conflict between the two armies and the other was bombardment and sniping of civilians which happened constantly and on both sides.<sup>15419</sup> Bogdan Vidović, who was a criminal technician in Sarajevo CSB,<sup>15420</sup> testified that in most cases he investigated during the conflict the casualties were civilians, and were not wearing any uniforms.<sup>15421</sup> **(#Combatants in civil cloathing#! That was the case with 80% of the soldiers of the 1<sup>st</sup> Corps of ABiH the entire first year of the war. Bowen depicted a group of well armed civillians going to the front line in Sarajevo!)**

<sup>15408</sup> P4203 (Witness statement of Pyers Tucker dated 12 May 2010), paras. 23, 90.

<sup>15409</sup> P6060 (Record of interview with KDZ185), e-court p. 16.

<sup>15410</sup> P2451 (Witness statement of Anthony Banbury dated 19 May 2009), para. 199.

<sup>15411</sup> P1762 (Witness statement of David Fraser dated 17 October 2010), p. 73; P1525 (Witness statement of Bakir Nakaš dated 8 September 2010), paras. 49–58.

<sup>15412</sup> Martin Bell, T. 9777–9778 (14 December 2010); P1996 (Witness statement of Martin Bell dated 8 March 2010), paras. 52–53; P2000 (BBC news report re Sarajevo, with transcript).

<sup>15413</sup> P1217 (Witness statement of Milan Mandilović dated 24 February 2010), para. 108–110.

<sup>15414</sup> P1866 (Witness statement of Youssef Hajir dated 25 February 2010), paras. 56–57; Youssef Hajir, T. 8797–8799 (1 November 2010).

<sup>15415</sup> Youssef Hajir, T. 8798 (1 November 2010).

<sup>15416</sup> Adrianus van Baal, T. 8461–8462 (27 October 2010).

<sup>15417</sup> P1996 (Witness statement of Martin Bell dated 8 March 2010), para. 32; Martin Bell, T. 9802 (14 December 2010).

<sup>15418</sup> P1996 (Witness statement of Martin Bell dated 8 March 2010), paras. 32–33, 37–38; P2018 (BBC news report, with transcript); P2010 (Video footage of Sarajevo); Martin Bell, T. 9772–9773 (14 December 2010).

<sup>15419</sup> P1996 (Witness statement of Martin Bell dated 8 March 2010), paras. 57–58; Martin Bell, T. 9861–9862, 9870–9871 (15 December 2010).

<sup>15420</sup> P1742 (Witness statement of Bogdan Vidović dated 28 September 2010), pp. 2, 11–12, 31–32, 34.

<sup>15421</sup> P1742 (Witness statement of Bogdan Vidović dated 28 September 2010), p. 35.

4587. The Chamber also received in evidence a large number of contemporaneous video footage showing civilians in Sarajevo in their everyday lives, under constant shelling and sniping.<sup>15422</sup> This footage shows that the situation in the city was extremely dangerous and that its citizens were afraid. In addition, the citizens of Sarajevo who gave evidence before the Chamber were all consistent about the constant danger and fear they lived with in the city during the conflict.<sup>15423</sup> **(#Abuses of civilian settlements#! And #not a word about the ABiH activities and abuses of the civilian settlements for it's combat activities#. None of these alleged activities of the SRK were being done without a military necessity, and this makes them to look as illegal! However, all the SRK conduct was a matter of life and death of the Serbian people around Sarajevo!)**

### *iii. Civilian casualties in Sarajevo*

4588. The Chamber also heard throughout the case that a large number of civilians were killed or wounded during the conflict in Sarajevo.<sup>15424</sup> Nakaš provided the statistical breakdown of patients treated in the State Hospital between 1992 and 1995, showing a total of 8,105 patients, 85% of whom were treated for war-related injuries.<sup>15425</sup> According to Nakaš, 3,698 of those were civilians while the rest were military; however, the latter figure was overblown as it included individuals who had military health insurance, such as retired JNA officers and their dependents, as well as the members of police.<sup>15426</sup> **(Therefore Nakas and Gicevic couldn't be considered a reliable witnesses! For a much less significant omissions or uncertainties the Defence witnesses had been rejected!)** Mandilović estimated that the patients he treated were about 80% civilian and 20% soldiers, with 80% of the civilian

<sup>15422</sup> See e.g. P2077 (BBC news report re Sarajevo, with transcript); P2078 (BBC news report re Sarajevo, with transcript); P1999 (BBC news report re Sarajevo, with transcript); P2016 (BBC news report re Sarajevo, with transcript); P929 (SKY news report re Sarajevo, with transcript); P930 (SKY news report re Sarajevo, with transcript); P931 (SKY news report re Sarajevo, with transcript); P954 (SKY news report re Sarajevo, with transcript); P936 (SKY news report re Sarajevo, with transcript); P932 (SKY news report re Sarajevo, with transcript); P2027 (BBC news report re Sarajevo, with transcript); P1678 (BBC news report re attacks on Sarajevo and Bihać); P1868 (BBC news report re shelling of Dobrinja on 1 June 1993); P2000 (BBC news report re Sarajevo, with transcript); P2074 (BBC news report re Sarajevo, with transcript); P2075 (BBC news report re Sarajevo, with transcript).

<sup>15423</sup> See e.g. P490 (Witness statement of Anda Gotovac dated 17 May 2006), paras. 5, 7 (testifying that she lived in “constant fear” throughout the war as shells would explode near her home); P2922 (Witness statement of KDZ079 dated 17 May 2006), paras. 17–19, 21–22 (testifying that there was a “constant threat” of shelling and sniping in Sarajevo, which placed “enormous” psychological pressure on her and her family); P2923 (Witness statements of KDZ090 dated 19 April 2006), para. 12 (testifying that life in Sarajevo between 1992 and 1995 was very difficult as people lived in “constant fear”); P492 (Witness statement of Sabina Šabanić dated 22 May 2006), paras. 7–8; P2361 (Witness statement of Eset Muračević dated 24 February 2011), para. 96; P2413 (Witness statements of KDZ289 dated 19 April 2006), p. 3 (testifying that there was no place in Sarajevo where she felt safe from shelling and sniping); Alma Mulaosmanović-Čehajić, T. 6756 (14 September 2010); P495 (Witness statement of Slavica Livnjak dated 25 April 2006), para. 6; P496 (Witness statements of Tarik Žunić dated 21 April 2006), p. 3; Mirza Sabljica, T. 7737 (12 October 2010).

<sup>15424</sup> See e.g. P1690 (Witness statement of Alen Gičević dated 16 February 2010), p. 2; Alen Gičević, T. 7624–7625 (11 October 2010); Dragan Mioković, T. 8555, 8557–8560 (28 October 2010), 8563–8566 (29 October 2010); P1830 (Witness statement of Dragan Mioković dated 26 October 2010), p. 2; Adrianus van Baal, T. 8461–8462 (27 October 2010).

<sup>15425</sup> P1525 (Witness statement of Bakir Nakaš dated 8 September 2010), paras. 59–60, 63; Bakir Nakaš, T. 6681–6684 (14 September 2010). Nakaš testified that these figures do not distinguish between patients who were hospitalised and those who were sent home immediately after being treated for their injuries, and also do not reflect the exact circumstances in which injuries were sustained, including data on who inflicted them. See Bakir Nakaš, T. 6729–6733 (14 September 2010); D621 (RS MUP report re ABiH and HVO, 30 December 1992). See also P474 (Witness statement of Faris Gavrankapetanović dated 13 December 2011), e-court p. 10 (testifying that best efforts were made during the war to keep the State Hospital records as complete and as thorough as possible; however, the pressures of operating in a war led to a “small number of omissions and mistakes being made”).

<sup>15426</sup> P1525 (Witness statement of Bakir Nakaš dated 8 September 2010), paras. 59, 61; Bakir Nakaš, T. 6675–6676 (14 September 2010). See also Faris Gavrankapetanović, P473 (Transcript from *Prosecutor v. Galić*), T. 12627–12630; P926 (Witness statement of Aernout van Lynden dated 26 February 2010), para. 60; P932 (SKY news report re Sarajevo, with transcript); Aernout van Lynden, T. 2410–2413 (19 May 2010).

casualties being shelling-related and 20% small-arms-related.<sup>15427</sup> Between August 1994 and November 1995, the proportion of patients treated for injuries caused by shelling rose to approximately 90% while the rest were wounded by sniper fire.<sup>15428</sup> In addition, between August 1994 and October 1995, the State Hospital treated 115 patients wounded by sniper fire, namely 8 children, 66 “adults”, and 41 members of the armed forces.<sup>15429</sup> The State Hospital also treated many people who were suffering from Post-Traumatic Stress Disorder due to the living conditions in Sarajevo.<sup>15430</sup>

4589. Zaimović testified that 331 children were brought in and treated in the Children’s Surgery ward in Koševo Hospital during the war,<sup>15431</sup> most of whom were injured by shrapnel or sniper fire.<sup>15432</sup> In 1992 alone, 163 children were brought to the ward, nine of whom died in the ward itself.<sup>15433</sup> Zaimović also noted that 32 children who were severely injured and for whom the ward could not provide adequate care were taken for treatment outside of the country.<sup>15434</sup> The worst period for her ward was when the Fatima Gunić School was shelled on 9 November 1993, followed by the shelling of Otoka on 10 November, resulting in a number of dead and wounded children.<sup>15435</sup> **(#Abuses of schools#! The Fatima Gunic School hadn’t been a school during the war at all! It was used for a military purposes, and the Chamber had heard it!)**

4590. Hajir testified that throughout the entire war, Dobrinja Hospital received around 16,000 injured persons and that he performed thousands of major and minor surgeries on injuries related to the conflict.<sup>15436</sup> On average 10 to 15 people would come to the hospital and approximately four minor surgeries were conducted each day.<sup>15437</sup> According to Hajir, at the beginning of the war around 95% of the people treated in the Dobrinja Hospital were civilians.<sup>15438</sup> Later on, that percentage decreased to about 85 %.<sup>15439</sup> Hajir did concede,

<sup>15427</sup> P1217 (Witness statement of Milan Mandilović dated 24 February 2010), paras. 80–83.

<sup>15428</sup> Nakaš also estimated that one third of the soldiers who sustained injuries during this period of time were off duty at the time. *See* P1525 (Witness statement of Bakir Nakaš dated 8 September 2010), para. 64.

<sup>15429</sup> P1525 (Witness statement of Bakir Nakaš dated 8 September 2010), para. 91; P1242 (Reports of Surgery Section of Sarajevo State Hospital, 1994–1995), e-court pp. 5–6; Bakir Nakaš, T. 6684–6685 (14 September 2010).

<sup>15430</sup> Milan Mandilović, T. 5357 (16 July 2010).

<sup>15431</sup> She also noted that other hospitals in the city would treat the wounded children. P814 (Witness statement of Fatima Zaimović dated 26 February 2010), paras. 6–10, 16–18; P818 (Extracts from Fatima Zaimović’s diary); P819 (Extracts from Fatima Zaimović’s diary); Fatima Zaimović, T. 1882–1884, 1892 (5 May 2010).

<sup>15432</sup> Fatima Zaimović, T. 1871–1873 (5 May 2010); P814 (Witness statement of Fatima Zaimović dated 26 February 2010), para. 19 (adding that a small number were injured by phosphorous shells or gas explosions, which occurred due to intermittent gas supply in Sarajevo and improvised gas installations); P818 (Extracts from Fatima Zaimović’s diary); P819 (Extracts from Fatima Zaimović’s diary). *See also* Fatima Zaimović, T. 1882–1884 (5 May 2010).

<sup>15433</sup> Fatima Zaimović, T. 1873 (5 May 2010).

<sup>15434</sup> Fatima Zaimović, T. 1874 (5 May 2010); P818 (Extracts from Fatima Zaimović’s diary), e-court p. 3 (entry 102 referring to a child being discharged from the hospital and sent to France).

<sup>15435</sup> P814 (Witness statement of Fatima Zaimović dated 26 February 2010), paras. 16–18. The Chamber notes that these specific killings are not listed in Schedule G of the Indictment and therefore not specifically charged as murder under Counts 5 and 6. *See* Hearing, T. 5479–5481 (19 July 2010); T. 7670–7672 (11 October 2010); T. 10932 (31 January 2011). *See also* Prosecution Rule 73 *bis* Submission, para. 16 (wherein the Prosecution stated that it “will not present evidence in order to secure a conviction in respect of any crime sites or incidents not listed in the Schedules to the Indictment”).

<sup>15436</sup> According to Hajir, some of the injured person he treated sustained their injuries while trying to pass through the Dobrinja tunnel. *See* P1866 (Witness statement of Youssef Hajir dated 25 February 2010), paras. 15–16; Youssef Hajir, T. 8794, 8823–8825 (1 November 2010), T. 8838–8839 (2 November 2010); P1900 (Photographs of victims treated at Dobrinja Hospital); P1901 (Photographs of victims treated at Dobrinja Hospital) (under seal).

<sup>15437</sup> Youssef Hajir, T. 8824 (1 November 2010), T. 8854 (2 November 2010).

<sup>15438</sup> P1866 (Witness statement of Youssef Hajir dated 25 February 2010), paras. 15, 34. Hajir explained that in the beginning of the war there were no uniforms and his criteria for identifying a soldier was to see if they were armed. Hajir also explained that he himself was recorded as being in the 155<sup>th</sup> Brigade of the ABiH but explained that he did not know why that was since he never left the Dobrinja

however, that the hospital never conducted any statistical evaluations and that the numbers were problematic.<sup>15440</sup> At one point Hajir treated a seven or eight year old child who had been shot by a sniper through the heart; he also testified that many of his civilian patients were wounded while waiting for water and for humanitarian aid.<sup>15441</sup>

4591. In addition to the evidence of the Sarajevo doctors, Tabeau's demographic evidence outlined earlier shows that, as an absolute minimum, over 10,000 civilians were either killed or wounded in the conflict in Sarajevo during the Indictment period.<sup>15442</sup>

*iv. Evidence of SRK witnesses*

4592. While the Accused conceded during the case that the civilians in Sarajevo felt terror, he denied that there was any intention to cause such terror on the part of the SRK and the Bosnian Serb side. He called a large number of former members of the SRK who testified that there was no intention, at any level of the SRK, to conduct a campaign of terror against civilians, and/or inflict psychological harm on them.<sup>15443</sup> Galić denied that the SRK fired on Sarajevo without any military purpose and solely for the purpose of terrorising civilians, testifying that these kinds of attacks “did not happen” and “were never ordered” because “terror begets terror”.<sup>15444</sup> Similarly, Dragomir Milošević testified that the SRK did not create an atmosphere in Sarajevo where “people were being driven crazy” and that the thesis that the Sarajevo civilians were subjected to a “campaign of terror” could not be sustained.<sup>15445</sup> Ratomir Maksimović dismissed reports suggesting that civilians were targeted by the SRK as propaganda,<sup>15446</sup> and Dragomir Milošević claimed that these reports reflected an exaggeration or dramatisation of the situation.<sup>15447</sup> Indić gave evidence that there was no plan for “low intensity operations with the aim of terrorizing civilians in Sarajevo”,<sup>15448</sup> while Milovanović denied that Bosnian Serbs intended or planned to terrorise the civilians in Sarajevo, whether

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Hospital. See Youssef Hajir, T. 8811–8814 (1 November 2010), T. 8870–8871 (2 November 2010); D857 (ABiH 1<sup>st</sup> Command Corps report on El Mudžahid).

15439 P1866 (Witness statement of Youssef Hajir dated 25 February 2010), paras. 15, 34. Hajir conceded that the hospital treated members of the ABiH's 105<sup>th</sup> Brigade. See Youssef Hajir, T. 8825 (1 November 2010)

15440 Youssef Hajir, T. 8847 (2 November 2010).

15441 Youssef Hajir, T. 8843, 8853 (2 November 2010).

15442 See paras. 3621, 3997.

15443 See e.g. D2341 (Witness statement of Dušan Škrba dated 14 October 2012), para. 15; D2667 (Witness statement of Ratomir Maksimović dated 14 December 2012), paras. 22–24; D2516 (Witness statement of Vlade Lučić dated 5 November 2012), para. 18; D2633 (Witness statement of Milorad Šehovac dated 8 December 2012), paras. 24–25; D2331 (Witness statement of Blagoje Kovačević dated 14 October 2012), para. 25; D2562 (Witness statement of Vladimir Radojčić dated 8 December 2012), para. 25; Vladimir Radojčić, T. 31192 (11 December 2012); D2479 (Witness statement of Mile Sladoje dated 25 November 2012), para. 13; D2519 (Witness statement of Dragan Maletić dated 9 November 2012), para. 26; D2484 (Witness statement of Zoran Kovačević dated 25 November 2012), paras. 9–11; D2387 (Witness statement of Stojan Džino dated 4 November 2012), paras. 44–46; D2379 (Witness statement of Momir Garić dated 2 November 2012), para. 25; D2686 (Witness statement of Mihajlo Vujasin dated 16 December 2012), paras. 28–30; D2389 (Witness statement of Predrag Trapara dated 3 November 2012), para. 9; D2391 (Witness statement of Slobodan Tuševljak dated 5 November 2012), para. 20; D2418 (Witness statement of Božo Tomić dated 5 November 2012), para. 17; Božo Tomić, T. 30214 (13 November 2012); D2622 (Witness statement of Željko Bambarež dated 9 December 2012), para. 13; Svetozar Guzina, T. 31183 (11 December 2012); Milorad Katić, T. 31419 (13 December 2012); D2665 (Witness statement of Izo Golić dated 15 December 2012), paras. 31–32; Izo Golić, T. 31555 (17 December 2012); D2383 (Witness statement of Slavko Gengo dated 14 October 2012), para. 20. See also [REDACTED].

15444 Stanislav Galić, T. 37408–37409 (18 April 2013).

15445 Dragomir Milošević, T. 33145 (4 February 2013).

15446 Ratomir Maksimović, T. 31591–31596 (17 December 2012).

15447 Dragomir Milošević, T. 33276–33277 (6 February 2013).

15448 D2774 (Witness statement of Milenko Indić dated 19 January 2013), para. 128.

through sniper or artillery fire.<sup>15449</sup> As noted earlier, the SRK soldiers and officers called by the Accused testified that, instead of causing terror, the goal of the SRK was to stand its ground and oppose the ABiH's 1<sup>st</sup> Corps and prevent their units from linking up with ABiH units outside of the city.<sup>15450</sup> The Accused's military expert, Radinović, also stated that he found no evidence that the purpose of the operations of the Serb forces was to terrorise civilians, relying on the fact that places of worship were not targeted and that there were periods of inactivity and cease-fires in Sarajevo.<sup>15451</sup>

4593. Similarly, many of those SRK soldiers and officers testified that they and their units were never ordered, nor did they ever order, that civilians in Sarajevo be targeted.<sup>15452</sup> Radojčić explained that it was "crystal clear" in SRK orders and reports that the use of phrases like "attack on the city" implied that only military targets were selected, that "reprisal" referred to an appropriate response to enemy fire, while "retaliation" referred to selective retaliation against military targets.<sup>15453</sup> [REDACTED] testified that an order to clear the terrain of remaining individuals referred only to military individuals, not civilians, and that the reference to "mopping up the wider area of remaining groups and individuals" in Directive 1 referred to groups and individuals belonging to enemy forces.<sup>15454</sup> These witnesses also claimed that they never wanted to control the living conditions of the people in the city.<sup>15455</sup>

4594. According to those witnesses, the SRK troops were explicitly ordered not to target civilians.<sup>15456</sup> They were issued orders to fire only at military targets, which they

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<sup>15449</sup> Manojlo Milovanović, T. 25735 (5 March 2012).

<sup>15450</sup> See paras. 4547, 4570–4573; Dragomir Milošević, T. 33145 (4 February 2013).

<sup>15451</sup> Radovan Radinović, T. 41408–41409 (17 July 2013); D3864 (Radovan Radinović's expert report entitled "The Control Authority of Dr. Radovan Karadžić in the Strategic Command System of the VRS", 2012), paras. 24–25, 290–292.

<sup>15452</sup> See e.g. Dragomir Milošević, T. 32833 (29 January 2013), T. 33206–33207 (5 February 2013); Stanislav Galić, T. 37408–37409 (18 April 2013), T. 37472 (22 April 2013); D2351 (Witness statement of Stevan Veljović dated 19 October 2012), para. 15; D2667 (Witness statement of Ratimir Maksimović dated 14 December 2012), para. 27; D2516 (Witness statement of Vlade Lučić dated 5 November 2012), para. 18; D2633 (Witness statement of Milorad Šehovac dated 8 December 2012), para. 27; D2331 (Witness statement of Blagoje Kovačević dated 14 October 2012), para. 28; D2562 (Witness statement of Vladimir Radojčić dated 8 December 2012), para. 28; D2479 (Witness statement of Mile Sladoje dated 25 November 2012), para. 15; D2387 (Witness statement of Stojan Džino dated 4 November 2012), para. 49; D2686 (Witness statement of Mihajlo Vujašin dated 16 December 2012), paras. 27, 31; D2389 (Witness statement of Predrag Trapara dated 3 November 2012), para. 11; D2418 (Witness statement of Božo Tomić dated 5 November 2012), para. 18; D2344 (Witness statement of Miloš Škrba dated 14 October 2012), para. 11; D2553 (Witness statement of Svetozar Guzina dated 3 December 2012), para. 39; D2354 (Witness statement of Siniša Maksimović dated 19 October 2012), para. 9; Siniša Maksimović, T. 29297 (23 October 2012); D2527 (Witness statement of Blaško Rašević dated 1 December 2012), para. 21; D2852 (Witness statement of Srđan Šehovac dated 27 January 2013), para. 29.

<sup>15453</sup> D2562 (Witness statement of Vladimir Radojčić dated 8 December 2012), paras. 89, 91; D322 (SRK Order, 19 April 1995); D2580 (SRK instructions, 11 May 1995), p. 2; D2353 (Report of 2<sup>nd</sup> Sarajevo Light Infantry Brigade to SRK, 5 August 1994).

<sup>15454</sup> [REDACTED]; D232 (Directive 1, 6 June 1992), paras. 4–5.

<sup>15455</sup> See D2667 (Witness statement of Ratimir Maksimović dated 14 December 2012), para. 11; D2686 (Witness statement of Mihajlo Vujašin dated 16 December 2012), para. 20.

<sup>15456</sup> Dragomir Milošević, T. 32735–32736 (28 January 2013); Stanislav Galić, T. 37193–37194, 37219 (15 April 2013), T. 37472 (22 April 2013), T. 37846 (7 May 2013); D2341 (Witness statement of Dušan Škrba dated 14 October 2012), para. 16; D2497 (Witness statement of Nikola Mijatović dated 27 November 2012), para. 15; D2667 (Witness statement of Ratimir Maksimović dated 14 December 2012), paras. 21, 50; D2633 (Witness statement of Milorad Šehovac dated 8 December 2012), para. 28, 67; D2331 (Witness statement of Blagoje Kovačević dated 14 October 2012), para. 28; D2562 (Witness statement of Vladimir Radojčić dated 8 December 2012), paras. 31–32; D2479 (Witness statement of Mile Sladoje dated 25 November 2012), para. 17; D2519 (Witness statement of Dragan Maletić dated 9 November 2012), para. 27; Dragan Maletić, T. 30889 (4 December 2012); D2484 (Witness statement of Zoran Kovačević dated 25 November 2012), para. 11; D2686 (Witness statement of Mihajlo Vujašin dated 16 December 2012), para. 33; D2389 (Witness statement of Predrag Trapara dated 3 November 2012), para. 12; D2391 (Witness statement of Slobodan Tuševljak dated 5 November 2012), para. 21; D2444 (Witness statement of Miladin Trifunović dated 11 November 2012), para. 18; Miladin Trifunović, T. 30439 (27 November 2012); Svetozar Guzina, T. 31181 (11 December 2012); D2812 (Warning of SRK, 27 October 1994), p. 2; D2665 (Witness statement of Izo Golić dated 15 December 2012), para. 25; D2267 (Vlado Lizdek's interview with OTP), p. 52. Milorad Šehovac testified that the Accused "insisted on and demanded" that soldiers follow international humanitarian law and the laws of war. The Chamber heard that orders were issued to this effect. See D2633 (Witness statement of Milorad Šehovac dated 8 December 2012), para. 13; D2383 (Witness statement of Slavko Gengo dated 14 October 2012), para. 15; D2519 (Witness statement of Dragan Maletić dated 9

observed.<sup>15457</sup> When shown an intercepted conversation in which Mladić ordered an attack on “only military targets”, Dragomir Milošević testified that this order reflected complete agreement between the SRK Command and the Main Staff that the SRK should only target military targets.<sup>15458</sup> Guzina explained that infantry weapons could be fired without a command or special order only if an SRK facility was attacked and there was no other way to repel the attack.<sup>15459</sup> Similarly, Lučić testified that his unit had good means of communication, and therefore it engaged the enemy only on orders, only if necessary, and only against identified actual military objectives.<sup>15460</sup>

4595. A number of SRK witnesses also blamed the ABiH for failing to protect civilians in the area under the ABiH control.<sup>15461</sup> According to them, military targets were located in civilian areas of ABiH controlled territory, and/or in the depth of ABiH controlled territory.<sup>15462</sup> When asked whether it was reasonable to expect civilian casualties when firing on targets in areas where civilians lived, Mijatović answered that it was reasonable to expect a warring party to avoid firing from civilian areas.<sup>15463</sup> Gengo thought that any potential civilian casualties in Sarajevo “could be considered collateral damage” while civilian facilities “could have been endangered” by SRK fire only due to their proximity to military targets.<sup>15464</sup> When asked about precautions he took to minimise civilian casualties, Gengo responded that the “enemy side should have done that” as he and his unit could not see what was going on in Sarajevo from their positions.<sup>15465</sup> Veljović conceded that there might have been civilian

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November 2012), para. 18; D2658 (Witness statement of Luka Dragičević dated 9 December 2012), para. 16; Stanislav Galić, T. 37193–37194 (15 April 2013).

<sup>15457</sup> Stanislav Galić, T. 37472 (22 April 2013), T. 37219 (15 April 2013); D2351 (Witness statement of Stevan Veljović dated 19 October 2012), para. 15; D2658 (Witness statement of Luka Dragičević dated 9 December 2012), para. 30; D2667 (Witness statement of Ratomir Maksimović dated 14 December 2012), para. 29; D2516 (Witness statement of Vlade Lučić dated 5 November 2012), paras. 11, 18, 25; Vlade Lučić, T. 30817 (3 December 2012); D2562 (Witness statement of Vladimir Radojčić dated 8 December 2012), para. 30; D2617 (SRK Order, 30 April 1995); D2484 (Witness statement of Zoran Kovačević dated 25 November 2012), para. 11; Zoran Kovačević, T. 30610 (28 November 2012); D2686 (Witness statement of Mihajlo Vujasin dated 16 December 2012), para. 33; D2389 (Witness statement of Predrag Trapara dated 3 November 2012), para. 12; D2391 (Witness statement of Slobodan Tuševljak dated 5 November 2012), para. 21; D2622 (Witness statement of Željko Bambarež dated 9 December 2012), para. 17; D2267 (Vlado Lizdek's interview with OTP), pp. 35, 48–49, 52; P1000 (SRK Order, 26 June 1992), p. 2; D2417 (SRK Order, 4 April 1995), para. 2; Savo Simić, T. 30051–30052, 30139–30140 (12 November 2012); D2633 (Witness statement of Milorad Šehovac dated 8 December 2012), para. 26; D2331 (Witness statement of Blagoje Kovačević dated 14 October 2012), para. 27; D2383 (Witness statement of Slavko Gengo dated 14 October 2012), para. 20; D2379 (Witness statement of Momir Garić dated 2 November 2012), para. 25; D2418 (Witness statement of Božo Tomić dated 5 November 2012), para. 18; Siniša Maksimović, T. 29297 (23 October 2012); D2665 (Witness statement of Izo Golić dated 15 December 2012), paras. 31–32; D2519 (Witness statement of Dragan Maletić dated 9 November 2012), para. 25; Dragan Maletić, T. 30864 (4 December 2012); Nikola Mijatović, T. 30728 (30 November 2012).

<sup>15458</sup> P5642 (Intercept of conversation between Dragomir Milošević, unidentified male, and Ratko Mladić, 16 June 1995), p. 4; Dragomir Milošević, T. 32739 (28 January 2013).

<sup>15459</sup> D2553 (Witness statement of Svetozar Guzina dated 3 December 2012), para. 38.

<sup>15460</sup> D2516 (Witness statement of Vlade Lučić dated 5 November 2012), para. 20.

<sup>15461</sup> See e.g. Slavko Gengo, T. 29781–29782, 29828–29829 (6 November 2012); D2383 (Witness statement of Slavko Gengo dated 14 October 2012), para. 20; Nikola Mijatović, T. 30729 (30 November 2012); D2479 (Witness statement of Mile Sladoje dated 25 November 2012), para. 11; Mile Sladoje, T. 30570–30574 (28 November 2012); Stanislav Galić, T. 38041 (9 May 2013).

<sup>15462</sup> D2633 (Witness statement of Milorad Šehovac dated 8 December 2012), para. 23, 29; D2331 (Witness statement of Blagoje Kovačević dated 14 October 2012), paras. 22, 29; D2387 (Witness statement of Stojan Džino dated 4 November 2012), para. 43; D2686 (Witness statement of Mihajlo Vujasin dated 16 December 2012), paras. 34, 35; Miloš Škrba, T. 29191 (22 October 2012); Nikola Mijatović, T. 30728, 30737 (30 November 2012); D2479 (Witness statement of Mile Sladoje dated 25 November 2012), para. 11; Mile Sladoje, T. 30570–30571, 30573 (28 November 2012) (testifying that practically not a single neighbourhood was purely civilian); D2389 (Witness statement of Predrag Trapara dated 3 November 2012), para. 8; D2484 (Witness statement of Zoran Kovačević dated 25 November 2012), para. 12; D2667 (Witness statement of Ratomir Maksimović dated 14 December 2012), para. 31.

<sup>15463</sup> Nikola Mijatović, T. 30729 (30 November 2012). Prosecution witness Michael Rose testified that “the moral distinction between Bosnian forces firing at the Serbs with the intention of provoking retaliation against civilians and the Bosnians themselves firing on their own people is a fine one”. See Michael Rose, T. 7330 (6 October 2010); D162 (Michael Rose's book entitled “Fighting for Peace: Bosnia, 1994”), pp. 230–231.

<sup>15464</sup> D2383 (Witness statement of Slavko Gengo dated 14 October 2012), para. 20.

<sup>15465</sup> Slavko Gengo, T. 29781–29782, 29828–29829 (6 November 2012).

casualties from SRK fire in densely populated parts of the city, but only when SRK units were threatened by strong artillery fire from such zones.<sup>15466</sup> After agreeing that there was a “pretty high risk” of civilian casualties when firing in the depth of the city, Sladoje stated that it was not possible for the SRK to fire at military objectives only without jeopardising the civilian population which was living in the city.<sup>15467</sup> According to him, it was “impossible to say practically for any area” that there were no civilians there.<sup>15468</sup> This is contrary to the evidence of Dragomir Milošević who testified that he considered and treated Sarajevo as a civilian area.<sup>15469</sup> Thus, if it was not possible to avoid danger to civilians, an assessment would have to be made as to whether collateral damage would outweigh the military advantage.<sup>15470</sup> Radinović claimed that “it was impossible to distinguish between civilians and soldiers in the Sarajevo theatre of war” because many ABiH soldiers wore civilian clothing.<sup>15471</sup> However, Galić testified that SRK soldiers manning their positions were ordered to be “absolutely certain as to who was a civilian or who was a soldier”, despite this being “quite difficult”.<sup>15472</sup> Galić and several other SRK witnesses also testified that, if the SRK Command found out about possible civilian casualties during an attack, it would order that the attack be stopped.<sup>15473</sup> He later explained that, ultimately, civilian casualties and collateral damage in the Sarajevo area could have been stopped only by stopping the war, and that collateral civilian damage was a factor to be considered when returning fire into a civilian zone.<sup>15474</sup>

#### *v. Findings*

**4596.** Given the testimony of the Prosecution witnesses who lived in the city at various times and noting the Accused’s acknowledgement to that effect, the Chamber has no doubt that the citizens of Sarajevo felt terrorised and experienced extreme fear and hardship during the conflict, due primarily to the sniping and shelling they were exposed to by the SRK forces everywhere in the city, including in their own homes. **(The Accused and the Defence sympathized with the citizens of Sarajevo, and could accept that they “felt terrorised” but #it had never been an intention of the Serb side and the SRK commands#. If it is not**

<sup>15466</sup> D2351 (Witness statement of Stevan Veljović dated 19 October 2012), para. 20. Referring to a UNMO report stating that approximately 80% of fire on both sides was on the frontline and 20% in residential areas, Galić stated that both sides were targeting military targets, some of which were located in depth. Whether 20% landing on civilian areas can be tolerated was therefore in his opinion a question of proportionality. See Stanislav Galić, T. 38047–38048 (9 May 2013); D3524 (UNMO report, 4 to 5 January 1994), p. 1.

<sup>15467</sup> Mile Sladoje, T. 30573–30574 (28 November 2012).

<sup>15468</sup> Mile Sladoje, T. 30571 (28 November 2012).

<sup>15469</sup> Dragomir Milošević, T. 33122, 33124–33125, 33129–33136 (4 February 2013) (adding that he determined that there were some 275 command posts in the city). The Chamber notes that Milošević came to that number by assuming that each major ABiH unit had three command posts, which was not the case in fact. See D633 (Order of ABiH 1st Corps, 25 October 1993).

<sup>15470</sup> Dragomir Milošević, T. 33123, 33139–33140 (4 February 2013). See also D2562 (Witness statement of Vladimir Radojčić dated 8 December 2012), para. 37; D2484 (Witness statement of Zoran Kovačević dated 25 November 2012), para. 12.

<sup>15471</sup> D3864 (Radovan Radinović’s expert report entitled “The Control Authority of Dr. Radovan Karadžić in the Strategic Command System of the VRS”, 2012), para. 25. See also D2516 (Witness statement of Vlade Lučić dated 5 November 2012), para. 28; Svetozar Gužina, T. 31151–31152 (6 December 2012), T. 31192 (11 December 2012).

<sup>15472</sup> Stanislav Galić, T. 37194 (15 April 2013).

<sup>15473</sup> Stanislav Galić, T. 37194 (15 April 2013); D2667 (Witness statement of Ratomir Maksimović dated 14 December 2012), para. 33; D2633 (Witness statement of Milorad Šehovac dated 8 December 2012), paras. 26, 30; D2562 (Witness statement of Vladimir Radojčić dated 8 December 2012), paras. 36–37; D2484 (Witness statement of Zoran Kovačević dated 25 November 2012), para. 12; D2686 (Witness statement of Mihajlo Vujasin dated 16 December 2012), para. 37; D2479 (Witness statement of Mile Sladoje dated 25 November 2012), para. 18. However, Zoran Kovačević testified that he did not know of any civilian casualties in Sarajevo during the war. See Zoran Kovačević, T. 30612 (28 November 2012); D2484 (Witness statement of Zoran Kovačević dated 25 November 2012), para. 9.

<sup>15474</sup> Stanislav Galić, T. 37890 (8 May 2013), T. 38041 (9 May 2013).

**trusted on no basis, then it should be trusted that there were 50,000 Serbs for whom the Serb political and military leaders felt a grievances and sorrow, a and would never harm them, because they had been relatives of the same soldiers! Everyone “felt terrorised” but this was due to the war in a urban area lasting for 1,400 days! And that was not the Serb liability!**

The evidence is clear that Sarajevo was under siege by the SRK forces<sup>15475</sup> and that, with the exception of a few months following the establishment of the TEZ,<sup>15476</sup> its citizens were exposed to continuous small arms and heavy weapon fire. They were in danger of death or serious injury no matter where they were in the city and, as such, spent a number of years under enormous psychological pressure. The high numbers of civilian casualties in the city during the conflict clearly illustrate the enormity of the danger they were exposed to. **(This is not established properly, and all what the Prosecution/Chamber had was on a level of a foggy impressions. A “siege”, a firings and other charges against the Serbs are not proven to be of any criminal nature, but only a necessity of defence. See how a real, correct report of the UN representatives used to report the truth, D631:**

PERCENTAGES. DIFFICULT TO ESTABLISH THE PERCENTAGES OF IMPACTS INTO MILITARY AREA AND RESIDENTIAL AREAS. BOSNIAN FORCES WERE FIRING MORTARS FROM RESIDENTIAL AREAS AND SOME OF THESE POSITIONS WERE OBVIOUSLY TARGETTED BY BSA. APPROXIMATELY 50% OF IMPACTS WERE IN FRONT LINE AREAS, THE REMAINDER WERE IN AREAS INHABITED BY CIVILIANS.

**This was a regular practice, and even Gen. Dzambasovic admitted that they didn't have enough space to distant their heavy weaponry far from the civilians.**

9. Other Important Incidents/Patrols and Investigations:

BOSNIAN SCHOOL IN WEST SARAJEVO WAS HIT BY 7 X 120 mm MORTARS AT 1030 HRS THIS MORNING. 1 KILLED AND 4 WOUNDED CONFIRMED BY UNMOS. IT APPEARS THAT THE ROUNDS CAME FROM THE S.W. IT SEEMS VERY LIKELY THAT THE ROUNDS CAME FROM BSA WEAPONS, HOWEVER THE EVIDENCE IS NOT CONCLUSIVE. WHEN QUESTIONED SERB LIAISON OFFICER STRONGLY DENIED SERB RESPONSIBILITY.

**and how witnessed the ABiH self-inflicting fire:**

3. Attacks on UN Personnel/Equipment/Establishments: NIL

A NUMBER OF SMALL ARMS ROUNDS (7.62mm) HIT THE PTT BUILDING DURING THE NIGHT, ONE OF THEM PENETRATING THE UNHCR RADIO ROOM WINDOW, NARROWLY MISSING A CIVILIAN. AFTER STUDYING THE DIRECTION AND RANGE TO THE FRONT LINE TO THE IMPACT AREA, IT SEEMS UNLIKELY THAT THIS ROUND CAME FROM ANYTHING OTHER THAN A BiH WEAPON.

**(This is the first class evidence, particularly for a UN court, AND NONE OF TESTIMONIES OF A PASSING-BY JOURNALISTS OR LOW RANK OFFICIALS COULD MINIMISED THE IMPORTANCE OF THIS DOCUMENT!!!#)**

4597. As also discussed in the preceding sections of the Judgement,<sup>15477</sup> the fire SRK opened on Sarajevo was deliberate fire, often used to directly target civilians and civilian objects in the city, including hospitals and trams.<sup>15478</sup> This is particularly the case with respect to the

<sup>15475</sup> See paras. 4561–4566.

<sup>15476</sup> See paras. 3583–3586.

<sup>15477</sup> See Sections IV.B.1.a: Chronology of events in Sarajevo; IV.B.1.b: Sniping; IV.B.1.c: Shelling; IV.B.1.e: Hospitals in Sarajevo.

<sup>15478</sup> See also Adjudicated Facts 51, 53.

sniping incidents discussed earlier in the Judgement, which by their very nature could have been nothing but deliberate attacks on civilians.<sup>15479</sup> In addition, the shelling by the SRK forces was in most cases either indiscriminate or disproportionate and sometimes both, resulting in a high casualty count among the civilian population of Sarajevo.<sup>15480</sup>

4598. The Chamber rejects the evidence of Defence witnesses, outlined in this section and in the preceding sections of this Judgement,<sup>15481</sup> that civilians in Sarajevo were neither deliberately targeted by the SRK forces nor victims of indiscriminate or disproportionate fire. As already indicated in some of the preceding sections of this Judgement, the Chamber found their evidence to be self-serving and far-fetched, designed to blindly absolve the SRK of any responsibility for most (or, in some cases, all) civilian casualties in the city. In the Chamber's view, the credibility of these witnesses, particularly the former SRK members and expert witnesses Subotić and Poparić, was seriously undermined by their descriptions of the SRK's campaign in Sarajevo. Their evidence is in stark contrast with the evidence of those living or working in Sarajevo during the siege, both local citizens and international observers, and with the evidence of high civilian casualty count in the city, particularly women, children, and the elderly. The falsity of their evidence is further illustrated by the specific sniping and shelling incidents discussed above in which the SRK was found to have been deliberately targeting the civilians or opening indiscriminate and/or disproportionate fire on the city.<sup>15482</sup> Further, the claims of SRK witnesses that they only fired at military targets and with principle of distinction firmly etched in their mind, have also been consistently denied by many Prosecution witnesses. One of the more striking of those was the evidence of Bell who stated that of all the conflicts he covered, the conflict in Sarajevo was one where least distinction was made between civilians and combatants.<sup>15483</sup>

**(None of these conclusions is correct! The Chamber concluded as if the incidents tendered by the Prosecution had been #properly investigated and properly established, but this was not the case#. Also, how the war correspondents such as Martin Bell, Van Linden or any other could have known that some fire was indiscriminate, since they visited Sarajevo now and then knowing nothing about deployment of forces, and even those who stayed in Sarajevo longer than the said correspondents never knew where the forces of the sides were deployed!)**

4599. The Chamber accepts the Accused's claim that the civilians on the Bosnian Serb side of the confrontation line also felt terror and experienced hardship due to wartime circumstances. However, the Chamber does not accept the implication of this argument, namely that the terror felt in Sarajevo was a normal state experienced by everyone in times of war. While it is indeed to be expected for any civilian population to be scared during chaotic times of war, the situation of the civilians living in Sarajevo was unique due to the siege perpetrated by the SRK. It was also different to that of the civilians in Bosnian Serb-held areas. The Chamber recalls here and accepts as accurate the evidence of Bowen who testified that the people in the SRK-held areas at least "had access to decent food and a way out" and that their existence was not as fraught with danger as that of the people confined within the city.<sup>15484</sup>

<sup>15479</sup> See paras. 3968–3969. See also discussion on specific Scheduled Sniping Incidents.

<sup>15480</sup> See discussion on specific Scheduled Shelling Incidents.

<sup>15481</sup> See paras. 3625, 3998–4000. See also individual arguments of Defence witnesses in relation to specific Scheduled Incidents.

<sup>15482</sup> See discussion on specific Scheduled Shelling and Sniping Incidents.

<sup>15483</sup> See para. 4586.

<sup>15484</sup> P2068 (Witness statement of Jeremy Bowen dated 10 August 2009), para. 27.

Furthermore, as testified to by some SRK witnesses, the SRK often moved Bosnian Serb civilians away from the confrontation lines in order to avoid civilian casualties.<sup>15485</sup> The civilians living in Sarajevo, however, did not have that luxury and had no choice but to stay within the confrontation lines in the city. **(There was a simple choice: the #Muslim side shouldn't fire at the Serb part of the city, as it was proposed by the Serbs many times. The Muslim leadership #should have accepted the demilitarization of Sarajevo#, they should have accepted the UN administration of the city, all that the Serb side proposed and supported. The Muslim side didn't have any right to attack the Serb parts of the city, nor any area predominantly inhabited by the Serbs, because the Serbs didn't accept the changes of the nature of BiH as a state, but accepted that the changes may have concern with the Muslims and Croats. The Serbs in Bosnia, and in Sarajevo in particular – didn't have any other choice but to defend their homes and families against a total destruction and annihilation. #All have to be seen in that light, or to be proven that this light was false#!)**

4600. Accordingly, on the basis of all the evidence in this case, the Chamber is convinced that the SRK conducted a campaign of shelling and sniping of the city, including of its civilian population, with the intention to, *inter alia*, terrorise the civilian population of Sarajevo. **(If it was “inter alia”, #what was the rest of purpose of this alleged “Campaign of shelling and sniping”#? Shifting the responsibility to the SRK, and thus to the Serb community in Sarajevo under such mark “inter alia” is a comfortable way to avoid an obligation to explain why this “inter alia” is obscure, and why it couldn't be the only, or the main reason for any firing towards the city. It is well known that the SRK didn't plan or undertake any offensive action towards the city proper, and didn't have any need to fire to the city. What would be the qualification of these firings if it was an inevitable defence against an attacks from the city? Confronted with the notorious fact that the ABiH permanently, on a daily basis conducted it's activity to break out and to conquer the Serb parts of the city, all of these allegations and conclusions of the Chamber are falling apart to dust!)** Furthermore, the SRK's use of modified air bombs towards the end of the conflict was clearly aimed at terrorising the citizens as part of the strategy to demoralise the ABiH soldiers and, as such, is one of the clearest examples of the intention to terrorise.<sup>15486</sup> **(#FAB never in residential areas#! Well, if so, then how many of these “Modified air bombs” landed in the residential areas? This is based on an arbitrary reminiscence of a UN liaison officer, whose sentence had been “merged” with a sentence of the Serb liaison officer, as if ito was something he said. #THIS MUST NOT BE DONE EVER#, not even by the Prosecution, let alone by the Chamber!)** Similarly, every single sniping incident in which a civilian was targeted by SRK snipers, including the specific sniping incidents discussed earlier in the Judgement, is an example of deliberate intention on behalf of the SRK forces to terrorise the civilian population of Sarajevo.<sup>15487</sup>

4601. This intention to terrorise can also be inferred from the pattern in which the terror was applied to the city. For example, it is clear, as explained by Harland and illustrated in the

<sup>15485</sup> See e.g. D2553 (Witness statement of Svetozar Guzina dated 3 December 2012), para. 39; Nikola Mijatović T. 30760 (30 November 2012); D4619 (SRK report, 18 August 1995), p. 2 (wherein SRK command instructs the SRK units to relocate civilian population in an organized manner to “prevent mass losses in border settlements”).

<sup>15486</sup> See Section IV.B.1.iii.D: Scheduled modified air bomb incidents.

<sup>15487</sup> See discussion relating to specific Scheduled Sniping Incidents.

chronology of the events in Sarajevo, that the sniping and the shelling of the civilians in the city would ease whenever there was an explicit threat of intervention by NATO but would then increase as soon as that threat subsided or in retaliation for ABiH offensives.<sup>15488</sup> **(This is #not the only possible inference#, but is completely wrong, as was wrong an inference that the anti-sniping agreements decreased the Serb sniping. Whenever the international representatives were closely monitoring the conduct of both sides, such as when they mediate the anti-sniping agreement or after such a drastic incident like was Markale, the Muslim side decreased their activities, being satisfied by the effects achieved recently, and being cautious that could be caught by the internationals!)** One of the most illustrative examples of this is the aftermath of the first Markale incident in February 1994. Similarly, the evidence shows that events elsewhere in BiH had an effect on the level of terror in the city, thus again showing intentional use of sniping and shelling to terrorise the civilian population. Given these patterns, the Chamber is convinced that terror was used intentionally by the SRK forces, both to demoralise the civilian population and to retaliate during times of ABiH offensives in the city and elsewhere. The SRK wanted to show to the Sarajevo residents that no one was safe and that they were helpless.<sup>15489</sup> **(#Deadly combination#! This senseless “adjudicated fact” is needed to corroborate these unfounded “findings” of the Chamber. It had been established that any firing towards the city was detrimental to the Serb political and military positions, and it would be an idiotic attitude to shoot in own's leg. But, this is a manner how the entire conduct of the other side to the conflict was darkened and invisible, although this conduct may have not only contribute, but cause and justify the conduct of the “visible” side!)**

**4602.** The Chamber notes that throughout the case the Accused tendered into evidence a large body of SRK orders and combat reports in order to show that the situation in Sarajevo was one of war, waged equally by both sides. His aim was also to show that the ABiH forces constantly launched attacks on the SRK-held territory, thereby provoking a response which was always selective and proportionate. The Chamber has referred to many of these documents throughout the Judgement. It has also considered them all in coming to the conclusions outlined in this section. However, the Chamber found their value to be fairly limited in terms of the ultimate findings outlined in this section. While noting the location and the nature of the various attacks by the ABiH forces, including the number and types of mortar shells fired for example, these combat reports and orders provide very little information about the nature of the response the SRK units engaged in, which was one of the main issues in this case.<sup>15490</sup> In other words, aside from stating that the SRK returned fire when attacked (or sometimes refrained from returning fire), these documents rarely provide any information on the specific weaponry used to return fire, or the quantity of fire used. They also rarely specify the exact locations targeted by the SRK in response to the ABiH fire and make no mention of most of the scheduled sniping or shelling incidents listed in the

<sup>15488</sup> See para. 4581.

<sup>15489</sup> See Adjudicated Facts 137, 138.

<sup>15490</sup> See e.g. D4563 (SRK combat report, 27 November 1992); D4565 (SRK combat report, 24 January 1993); D4569 (SRK combat report, 18 August 1993); D4573 (SRK combat report, 12 October 1993); D4574 (SRK combat report, 16 October 1993); D4579 (SRK combat report, 14 March 1994); D4581 (SRK combat report, 23 April 1994); D4584 (SRK combat report, 9 May 1994); D4588 (SRK combat report, 19 May 1994); D4592 (SRK combat report, 20 June 1994); D4597 (SRK combat report, 7 July 1994); D4598 (SRK combat report, 10 July 1994); D4599 (SRK combat report, 12 July 1994); D4600 (SRK combat report, 14 July 1994); D4601 (SRK combat report, 15 July 1994); D4603 (SRK combat report, 17 July 1994); D4607 (SRK combat report, 30 July 1994); D4616 (SRK combat report, 29 June 1995); D4621 (SRK combat report, 11 December 1993); D4625 (Report of 1st Romanija Infantry Brigade, 24 December 1992); D4626 (SRK combat report, 22 March 1994).

Indictment.<sup>15491</sup> (This is not correct that the regular combat reports didn't specify the areas and weaponry used against the SRK and used to respond to the Muslim fire. These reports weren't aimed either to the public, or to any court, but were all "strictly confidential, and directed to the upper commands which knew very well all of these details. Why a lower commander should repeat that he was fired at from the hill Gorica with the howitzer, since everyone in the upper commands knew it very well? This kind of inferring is not fair and not correct, and if the Chamber needed any clarification, it could have demand for it during the process!) All of this makes any analysis regarding proportionality and selective nature of the SRK response on the basis of these reports impossible.

At the same time, given the level of detail as to the activities of the ABiH forces, down to the quantity and calibre of mortar shells the ABiH forces would fire, these documents illustrate that the ABiH engaged mainly in small scale attacks, often using sniper or firearms or limited small calibre mortar fire, and often along the limited number of confrontation lines.<sup>15492</sup>

(The first document used as a basis for this deliberation was D4570. Let us see #how this document was used#! After numbering several incidents with small arms, the report depicted a regrouping of the Muslim forces along the road to Pale, which was a sufficient reason to shell them, and re-grouping in front of a SRK Brigade:

- Grouping of enemy forces noted around the Pale road, reconnoitring our forces, and a grouping of forces in front of the 1<sup>st</sup> Rpbr /Romanija Infantry Brigade/ positions.

But, the main issue, skipped by the Chamber, is report on the SRK response to these "minor" provocations:

2. Our forces are on the lines achieved and have not carried out any combat operations. They are constantly monitoring the forward positions. No weapons with a calibre greater than 12.7mm have been fired.

Therefore, this document rather corroborates position of the Defence, that the Chamber's finding! The same case is the next document D4571:

1. The enemy violated the ceasefire agreement.

Therefore, it was a violation of the CFA, no matter by which calibres and how many rounds had been fired. But, the report contains a crucial argument against this finding of the Chamber:

2. Our units are holding the positions reached and are not responding to fire.

How these documents could have been used as a proof that the SRK over-reacted on a minor provocations? Exactly the same was with the next document that was the basis for this finding, D4572:

1. The enemy violated the cease fire agreement as follows:

Again, a violation of the CFA, and not naïve at all, by using 82 MB mortars, PAMs, rifle grenades, but the SRK didn't respond:

<sup>15491</sup> Indeed, Galić consistently testified that many of the incidents charged in the Indictment were not referred to in SRK reports.

<sup>15492</sup> See e.g. D4570 (SRK combat report, 20 August 1993); D4571 (SRK combat report, 20 September 1993); D4572 (SRK combat report, 21 September 1993); D4582 (SRK combat report, 24 April 1994); D4583 (SRK combat report, 25 April 1994); D4586 (SRK combat report, 10 May 1994); D4587 (SRK combat report); D4589 (SRK combat report, 5 June 1994); D4590 (SRK combat report, 8 June 1994); D4591 (SRK combat report, 14 June 1994); D4593 (SRK combat report, 25 June 1994); D4594 (SRK combat report, 4 July 1994); D4595 (SRK combat report, 3 July 1994); D4596 (SRK combat report, 5 July 1994); D4605 (SRK combat report, 25 July 1994); D4606 (SRK combat report, 26 July 1994); D4629 (SRK combat report, 19 March 1994).

2. Our units are holding the positions reached and are not responding to enemy fire.

**The same was with the D4582:**

During the reporting period the enemy violated the truce as evidenced by the following:

In the zone of responsibility /z/o/ Ilidža pbr. /infantry brigade/ /the enemy/ dug new and developed existing connecting trenches and trenches and during the night occasionally opened infantry weapons fire from the direction of Stup.

/The enemy/ continued to develop its positions in the sectors of Zlatište, Mojmiro and Dobrinja 3 while at the same time regrouping men with motor vehicles on the routes: Dobrinja – Donji Kotorac – Butmir – Hrasnica – Igman and vice versa.

The trenches on Golo Brdo in the 3.Spbr /3<sup>rd</sup> Sarajevo Infantry Brigade/ were shot at from the direction of UNPROFOR at 1050 hours, and we did not have any losses in these attacks. During the night in the zone of the Ilijaš pbr. the enemy attacked our positions in the Misoča River valley with infantry weapons and rifle grenades from the tt/trig point/ 778 sector.

2. Our forces respect the signed truce while intensely monitoring enemy movements.

The units are at an appropriate level of b/g /combat alert/ to repel any enemy attack.

**Again, the #document is corroborating the Defence case and rebutting the finding above#! The same is with D4583:**

2. Our forces are respecting the signed cease-fire which is being accompanied by an intense increase in the movement of the enemy. The units are in the appropriate state of combat readiness to repel any possible enemy attack. The Forward Command Post

**Completely the same was with D4586, and D4587, and D4589, with returning only an infantry fire in Ilijas, and the same was with 4590, with responding by infantry fire against rifle-launched grenades, and D4591, without any return of fire, and D4593, no response to fire, And D4594, responded only in Ilijas, by an infantry fire against the same provocation, while on provocations in other areas there was no firing back! D4595, no response, D4596, responding only in Ilijas, exchange of the infantry fire, all other provocations without response, D4605, no response at all, D4606, except an adequate response in Ilijas, other forces didn't respond to a huge provocations. The very same day, 26 July 1994, the UNPROFOR Daily sitrep D1160 reported to the Headquarters in Zagreb:**

**SARAJEVO STABLE. DAYTIME ACTIVITY IS NOTICEABLY ON THE INCREASE. TENSION EXISTS ON BSA SIDE, ESPECIALLY IN AREAS OF AIRPORT SETTLEMENT AND GRBAVICA. TENSION IS VISIBLE FROM INCREASE IN CASUALTIES AND BSA POSTURING AT WPNS COLLECTION POINTS. THE BSA DECIDED TO CANCEL ANY FURTHER PASSAGE OF CIVILIAN TRAFFIC ACROSS AIRPORT (USING ILIDZA-LUKAVICA AND DOBRINJA-BUTMIR ROUTES) . ON BiH SIDE IGMAN AREA IS ASSESSED AS TENSE.**

**.As can be seen, #only the Serb side sustained casualties#. Further, in the same document:**

C. DR KARADZIC HAS PASSED ON COMMUNIQUE THROUGH BH CIVIL AFFAIRS THAT BSA INTEND CLOSING AIRPORT CROSSINGS FOR CIVILIAN TRAFFIC. REASONS GIVEN AS CONTINUED SMUGGLING OF ARMS BY BiH, CONTINUED SNIPING BY BiH, BiH REFUSAL TO IMPLEMENT POW EXCHANGE AND BiH FAILURE TO HONOUR CESSATION OF HOSTILITIES.

**Therefore, that was the #Serb response on a constant violation of the ceasefire agreement#. See what the Main Staff of the VRS wrote on the same day, D4827:**

To: UNPROFOR COMMAND, ZAGREB  
(Attn.: Mr. AKASHI)  
UNPROFOR COMMAND, SARAJEVO

Harboursing serious concerns about the peace process in the former BiH /Bosnia and Herzegovina/ and disappointment with your inability to make the Muslim and Croat forces honour the provisions on the Agreement to Refrain from Offensive Actions, we hereby notify you of the violations of the Agreement that occurred the previous day.

In the Sarajevo area, the Muslim forces opened sniper fire on Grbavica, Zlatište, Trebević, Nedarići, Lukavica, Kasindolska Street and Ilidža. They fired incendiary rounds and set a residential building on fire in Grbavica. Anti-aircraft fire was opened on Ilidža from the direction of Glavogodina and Butmir. Mortar fire was opened on Ugorska and Zabrđe. Anti-aircraft guns and rifle-launched grenades were fired from the sector of Pogledine and Divić-grad, and infantry fire was opened from the sector of Vratnice and Mosevačko Brdo hill.

**.(#Abuse of official documents#! So, there couldn't be named a #more flagrant abuse of the official contemporaneous document than it was the case with these#, which were supposed to corroborate the thesis that the Serb side responded inadequately to a minor provocations. Not only there were a constant daily provocations, but it was within a ceasefire agreed period, and the Serb side sustained casualties during this lulls. That kind of omission and abuse couldn't be done by a Judge, it must have been an accessory, assisting personnel, but the detrimental effect to the Accused is the same!) As such, and contrary to the Accused's aim, these SRK orders and combat reports do not counter the evidence of Prosecution witnesses who testified that the SRK responses to ABiH fire were disproportionate and indiscriminate and at times not connected to ABiH attacks at all. They do in turn seem to be consistent with the evidence of the Prosecution witnesses who testified about the limited nature of ABiH attacks due to the ABiH inferior position in terms of heavy weaponry. (An absurdous conclusion. Just see the documents used as a basis for this findings!)**

4603. The Chamber recalls that the Defence witnesses also claimed that there were no purely civilian areas in the city and/or that the ABiH was at fault for civilian casualties within the city as it did not move the population away from the military targets. **(Not correct! It was rather vice versa: to pose the heavy armament far from the civilians, or not to fire from a critical vicinity of the civilian population!)** However, as found in relation to various scheduled incidents above, the Chamber considers that the presence of certain military facilities in the city did not immediately convert the whole city or its residential areas into military targets or justified indiscriminate attacks by the SRK. **(#EXLULPATORY#, If they didn't fire, a mere presence didn't bother the SRK#! There was #more than 70% of the city territory that had never sustained any shelling or firing#, and it is not fair and not accurate to assert that the entire city was "converted into military targets". It is quite**

easy to establish these areas that had never been hit by anything!) Furthermore, while ABiH command posts were indeed present in the city, the evidence shows that the SRK did not seriously target them and/or try to destroy them with sustained fire, despite being aware of their exact location.<sup>15493</sup> **(#EXCULPATORY#! General Milosevic in his testimony confirmed that fact, and explained it that the danger to his troops didn't come from the headquarters, whose were over 275 all together, but the danger came from the firing positions spread out around the city. This gave to the internationals an impression that it was an indiscriminate fire. The assertion that the ABiH forces had been "located at the confrontation lines" is incorrect for the next reasons: along the confrontation lines there was only one third of the troops; none of the heavy weapons had been on the confrontation lines, but deep in the city; a re-grouping and manoeuvring areas for an infantry attack were deep in the city; the resupply lines were deep in the city! But, the utmost danger was the heavy weaponry, which had never been on the confrontation lines!)**

4604. It is worth noting that the intermingling of ABiH forces and facilities with civilians and civilian objects in Sarajevo was mainly due to the nature of the siege and the confrontation lines around Sarajevo. The ABiH sometimes had no choice but to locate its command posts and some of its forces among the civilian population. The claim of the SRK soldiers and officers that ABiH forces should therefore be blamed for all the casualties caused by the SRK fire in the city is not only disingenuous but also illustrates the reckless attitude these soldiers and officers ultimately exhibited towards the fate of the civilian inhabitants of Sarajevo.<sup>15494</sup>

**(So, #according to this Chamber's finding, the Serbs were responsible for the Muslim hiding behind their civilians#? This is a disgrace#. The Muslim side had a simple choice: if not to cease firin generally, at least not to fire from the most immediate vicinity of civilians. Is the Chamber of an opinion that the SRK, composed of the local population, should have accept loses and risk that their families be killed, because the Muslim army fired from their civilian, residential areas? Which international law is providing that? For that reason it was crucial to establish which side had an interest in initiating fires and maintaining the Sarajevo battlefield so hot, but the Chamber prevented the Defence to depict anything of the ABiH conduct!)** Additionally, while possible that at times the SRK units found it difficult to distinguish between soldiers and civilians in the city, the Chamber notes that international humanitarian law dictates that in such cases they should have assumed that the individuals in question were civilians.<sup>15495</sup> **(This is also not correct: #according to the Muslim documents, the entire first year of the war more than 80% of the ABiH combatants fought wearing their civilian clothing, which was seen in the Bowen's video! A clothing doesn't make somebody civilian, but it was the arms, present or absent#!)**

<sup>15493</sup> See para. 3990. Furthermore, the evidence also shows that most of the ABiH forces were located at confrontation lines. See para. 3557.

<sup>15494</sup> The Chamber recalls that it has discussed presence of military objects or targets wherever the Defence raised that issue in relation to the specific scheduled incidents discussed above.

<sup>15495</sup> See para. 457 (citing to Dragomir Milošević Appeal Judgement, para. 60).

4605. Thus, for all the reasons outlined above, the Chamber is satisfied beyond reasonable doubt that the SRK forces embarked on a campaign of shelling and sniping of civilians in Sarajevo in order to terrorise those civilians.<sup>15496</sup>

1. Legal findings on crimes

2. Legal findings on crimes

a. Chapeau requirements for Articles 3 and 5 of the Statute

4606. In the Sarajevo component of the case, the Accused is charged with three counts of violations of the laws or customs of war under Article 3 of the Statute, namely murder, terror, and unlawful attacks on civilians, as well as with one count of crimes against humanity under Article 5 of the Statute, namely murder.<sup>15497</sup> The Prosecution alleges that there was a state of armed conflict at all times relevant to the Indictment.<sup>15498</sup> It also claims that all acts and omissions charged as crimes against humanity that formed part of the sniping and shelling campaign were part of a widespread or systematic attack directed against the civilian population of Sarajevo.<sup>15499</sup>

c. Article 3

4607. The Chamber found that there was an armed conflict in BiH throughout the period relevant to the crimes alleged in the Indictment. In Sarajevo, at the latest by early April 1992, heavy firing had erupted in and around the city, and by mid-April shelling had begun.<sup>15500</sup>

4608. For each of the crimes charged under Article 3 of the Statute in relation to the Sarajevo component of the case, namely murder, terror, and unlawful attacks on civilians, the Chamber has examined whether they were closely related to the armed conflict.<sup>15501</sup>

4609. In relation to the four so called “*Tadić* Conditions”,<sup>15502</sup> the Chamber refers to the applicable law sections of this Judgement, which expanded on the legal basis for each of the crimes charged in the Indictment under Article 3 of the Statute.<sup>15503</sup> In relation to murder, the

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<sup>15496</sup> While the Prosecution alleged that Sarajevo Forces were responsible for the campaign of sniping and shelling, the Chamber is unable to conclude that forces other than the SRK were responsible for the sniping and the shelling of civilians in Sarajevo.

<sup>15497</sup> See para. 5.

<sup>15498</sup> Indictment, para. 89.

<sup>15499</sup> Indictment, para. 88.

<sup>15500</sup> See paras. 3542–3543.

<sup>15501</sup> See paras. 4618, 4628, 4635.

<sup>15502</sup> See para. 443.

<sup>15503</sup> See Section III.A.1: Article 3 of the Statute of the Tribunal.

prohibition stems from Common Article 3 which is deemed to be part of customary international law.<sup>15504</sup> Further, the Appeals Chamber has confirmed that violations of the provisions of Common Article 3 entail individual criminal responsibility.<sup>15505</sup> In relation to terror, as mentioned above, the Appeals Chamber has confirmed that the prohibition of terror is part of customary law.<sup>15506</sup> The Appeals Chamber also held that this offence incurs individual criminal responsibility.<sup>15507</sup> Finally the Appeals Chamber has recognised that the prohibition of unlawful attacks on civilians reflects customary international law.<sup>15508</sup> It further held that individual criminal responsibility is incurred for unlawful attacks on civilians if the attacks have resulted in death or serious injury to body or health of the victims in question.<sup>15509</sup> The Chamber is therefore satisfied that the four *Tadić* Conditions are met, and consequently that the chapeau requirements for Article 3 of the Statute are fulfilled, in relation to all of the relevant offences charged in the Indictment.

## ii. Article 5

4610. As found above, there was an armed conflict in BiH throughout the period of the Indictment. The Chamber is also satisfied that the evidence demonstrates that there was a widespread and systematic attack directed against the civilian population of Sarajevo. In reaching this conclusion, the Chamber had regard to the means and method used in the course of the attack, the status of the victims,<sup>15510</sup> and their number. The SRK carried out a series of acts of sniping and shelling between May 1992 and August 1995 that deliberately targeted civilians and civilian areas in Sarajevo.<sup>15511</sup> Over a period of more than three years, in different locations throughout Sarajevo, there were many sniping and shelling acts conducted by members of the SRK and which resulted in the deaths and injury of a high number of civilians. The Chamber is therefore satisfied that the attack on the civilian population of Sarajevo was both widespread and systematic.

4611. The Chamber is therefore also satisfied that the chapeau requirements for murder charged under Article 5 of the Statute are met.

## (b) Crimes

### i. Murder: Counts 5 and 6

#### (A) Sniping and shelling incidents

<sup>15504</sup> *Čelebići* Appeal Judgement, para. 143.

<sup>15505</sup> *Čelebići* Appeal Judgement, paras. 167, 170, 173–174 (holding at para. 173: “It is universally acknowledged that the acts enumerated in common Article 3 are wrongful and shock the conscience of civilised people, and thus are, in the language of Article 15(2) of the ICCPR, ‘criminal according to the general principles of law recognised by civilised nations’.”).

<sup>15506</sup> See para. 458.

<sup>15507</sup> *Galić* Appeal Judgement, para. 92.

<sup>15508</sup> See para. 458.

<sup>15509</sup> *Kordić and Čerkez* Appeal Judgement, para. 67. See also para. 455.

<sup>15510</sup> The Chamber recalls that a population may qualify as civilian as long as it is predominantly civilian and as such considers that the population of the urban areas inside the confrontation lines of Sarajevo between 1992 and 1995 had civilian status as a whole.

<sup>15511</sup> See Sections IV.B.1.b: Sniping; IV.B.1.c: Shelling.

4612. The Chamber recalls its findings in Sections IV.B.1.b and IV.B.1.c above, namely that individuals were killed in Sarajevo by sniping or shelling by Serb Forces, specifically the SRK.<sup>15512</sup>

4613. The Chamber recalls that it found that six children were killed as a result of an explosion caused by three shells on 22 January 1994 but that it could not conclude beyond reasonable doubt that the fire came from SRK positions and therefore that Serb Forces were responsible.<sup>15513</sup> The Chamber also recalls that it received evidence of one person dying in the shelling of 28 and 29 May 1992 but was unable to determine whether he was taking direct part in hostilities when killed.<sup>15514</sup>

(B) Intent of perpetrators

4614. The Chamber recalls its findings that the death of the victims in the incidents recalled above was a result of the acts of Serb Forces, specifically the SRK.<sup>15515</sup> The Chamber finds that the perpetrators of each of these incidents acted with the intent to kill the victims or at least wilfully caused serious injury or grievous bodily harm, which they should reasonably have known might lead to death.

4615. In reaching that conclusion, the Chamber had regard to the circumstances and the manner in which the victims were killed. With respect to the Scheduled Sniping Incidents, the Chamber found in all instances that the victims were deliberately targeted.<sup>15516</sup> More specifically in relation to Sniping Incident F.3, the Chamber recalls its findings that the perpetrator bracketed the distance immediately prior to the incident and that the perpetrator shot the victim and then repeatedly shot towards her. In relation to Sniping Incident F.12, the Chamber found that the victim and his mother were shot at a crossing where there were no soldiers and at a time when there was no combat in the area and a cease-fire was in place.

4616. With respect to the Scheduled Shelling Incidents, the Chamber also found that the victims were either deliberately targeted or were the victims of indiscriminate and/or disproportionate attacks by the SRK. The Chamber recalls, for example, its findings in relation to Shelling Incident G.5 that only one shell was fired and landed at a well-known emergency water point in the yard of a private house, that the area around the well was shelled again later during the conflict, and that the nearest military presence was too far away from the incident site to

<sup>15512</sup> The killing of Munira Zametica (Scheduled Incident F.3); the killing of Nermin Divović (Scheduled Incident F.12); the killing of a number of people between 5 and 8 June 1992 (Scheduled Incident G.2); the killing of at least 12 people, seven of whom were soldiers (Scheduled Incident G.4); the killing of 14 people (Scheduled Incident G.5); the killing of eight people (Scheduled Incident G.7); the killing of at least 67 people, by majority, Judge Baird dissenting (Scheduled Incident G.8); the killing of two people (Scheduled Incident G.9); the killing of Ziba Čustović (Scheduled Incident G.10); the killing of four people (Scheduled Incidents G.11 and G.12); the killing of 43 people, one of whom was a soldier (Scheduled Incident G.19). The Chamber notes that in the following Scheduled Incidents, the Prosecution alleged that individuals were injured but not killed as a result of the incidents: Scheduled Incidents F.1, F.2, F.4–F.11, F.14–F.17 and Scheduled Incidents G.13–G.15.

<sup>15513</sup> See Scheduled Incident G.6.

<sup>15514</sup> See Scheduled Incident G.1, fn. 13408. Similarly, the Chamber received evidence of a number of people dying in Scheduled Incident G.2 but was unable to determine whether some of them were taking part in hostilities when killed. See Scheduled Incident G.2, fn. 13481 (wherein the Chamber lists only those for whom it was sure that they were not participating in hostilities at the time and that they were civilians).

<sup>15515</sup> The Chamber notes that this excludes Scheduled Incident G.6 as the Chamber was unable to determine, on the basis of evidence before it, who the perpetrators were. The Chamber also recalls, with respect to Scheduled Shelling Incident G.8, that the finding that the SRK was responsible was reached by majority, Judge Baird dissenting.

<sup>15516</sup> See paras. 3809, 3728.

explain the firing of the particular shell. In relation to Shelling Incident G.7, the shells exploded in a residential neighbourhood where humanitarian aid was being distributed and a large number of people had gathered waiting for the aid; there was no combat or military presence at the time. In relation to Shelling Incident G.9, only two shells were fired and they exploded on a flea market in a residential area and there was no military target in or near the area at the time. In relation to Scheduled Shelling Incidents G.10, G.11, and G.12, the Chamber noted the indiscriminate nature of the weapon used by the SRK. In relation to Markale incidents, the Chamber found that the SRK fired only one shell in an area it knew housed no military targets and with reckless disregard as to potential civilian victims.<sup>15517</sup>

Accordingly, the Chamber is satisfied that the only reasonable inference to be drawn from the circumstances and the manner in which the victims were killed is that the perpetrators had the intent to kill. **(#This is disgraceful! The entire city was extremely militarized, and all the offensive activities had been started from the Muslim part of city! How this “the only reasonable inference” is possible? Another is more reasonable, there had been 1,400 day of urban war, dictated by the Muslim offensive activities; having that in mind, there was no too many casualties. Had it be as the Chamber accepted, there would be more than 1,4 casualty a day average!#)**

(C) Status of victims

4617. The Chamber recalls its findings that the large majority of the victims in these incidents were civilians who were not taking direct part in hostilities at the time of the incidents; otherwise they were part of a civilian population at the time of the incident.<sup>15518</sup>

(D) Conclusion

4618. In addition to the findings in this section, the Chamber refers to its finding that there was an armed conflict in BiH during the period relevant to the Indictment. The Chamber further finds that the killings referred to above are closely related to that armed conflict. The Chamber finds that the Scheduled Incidents referred to above,<sup>15519</sup> constitute murder as a violation of the laws or customs of war against civilians.<sup>15520</sup>

4619. The Chamber refers to its findings above that there was a widespread and systematic attack directed against the civilian population of Sarajevo. The Chamber finds that the killings referred to above were part of this widespread and systematic attack and thus

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<sup>15517</sup> With respect to the Scheduled Shelling Incident G.8, however, this finding was that of a majority, as Judge Baird was not satisfied that the SRK fired the shell in question.

<sup>15518</sup> The Chamber recalls that those killed in Scheduled Incident G.4 included seven ABiH soldiers while one of those killed in the second Markale shelling was a soldier. In both cases they were located in residential areas, where a large number of civilians had gathered. The Chamber also recalls that it was unable to determine (i) the status of the person killed in Scheduled Incident G.1 and (ii) the status of some of the individuals killed in Scheduled Incident G.2.

<sup>15519</sup> See fn. 15512.

<sup>15520</sup> The Chamber will not enter convictions under Count 6 for the seven soldiers killed in Scheduled Incident G.4 and one soldier who died in Scheduled Incident G.19 as they did not lay down their arms nor were they placed *hors de combat* by sickness, wounds, detention, or any other cause. Similarly, it will not enter convictions under Count 6 in relation to (i) Scheduled Incident G.1 as it was not able to determine the status of the person killed during that shelling, and (ii) a number of people killed in Scheduled Incident G.2 as it was unable to determine their status.

constitute murder as a crime against humanity.<sup>15521</sup> In reaching that conclusion, the Chamber considered the locations, time period, and the status of the victims of these killings, which correspond to the scope of the widespread and systematic attack. Further, given the length, the magnitude, and the intensity of the attack on the civilian populations of Sarajevo, the Chamber finds that the perpetrators knew of the attack and that the killings were part of it.

*ii. Unlawful attack on civilians: Count 9*

(A) Acts of violence causing death or serious injury to body or health

4620. The Chamber recalls its findings in Sections IV.B.1.b: Sniping and IV.B.1.c: Shelling above that individuals were injured and/or killed in Sarajevo by sniping or shelling by Serb Forces, specifically the SRK.<sup>15522</sup> The Chamber finds that these constitute acts of violence causing death or serious injury to body or health. For example, the Chamber recalls shelling incidents that took place in Markale market on 5 February 1994 and 28 August 1995 and during which horrific injuries were caused to a large number of people as illustrated by the video footage of those incidents.<sup>15523</sup>

4621. The Chamber notes that, with respect to Scheduled Incidents F.5, F.7, and G.6, it was not satisfied beyond reasonable doubt that fire had come from SRK positions and therefore could not conclude that Serb Forces were responsible.

(B) Directed against a civilian population or individual civilians

4622. The Chamber recalls its findings that, with the exception of Scheduled Incidents F.5 and F.7, the victims of sniping were deliberately targeted by the SRK. In reaching this conclusion, the Chamber considered, for example, that the distance between the incident site and the location from which the shot was fired would have required a skilful shot on the part of the shooter.<sup>15524</sup> For some incidents, there were additional shots after the victims had been

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<sup>15521</sup> The Chamber will not enter convictions under Count 5 in relation to soldiers who died in Shelling Incidents G.4 and G.19 as the Chamber is not satisfied that they had been placed *hors de combat* when they were killed. Similarly, it will not enter convictions under Count 5 in relation to (i) Scheduled Incident G.1 as it was not able to determine the status of the person killed during that shelling, and (ii) a number of people killed in Scheduled Incident G.2 as it was unable to determine their status.

<sup>15522</sup> The wounding of Anisa Pita (Scheduled Incident F.1); the wounding of a nine-year-old girl (Scheduled Incident F.2); the killing of Munira Zametica (Scheduled Incident F.3); the wounding of Nafa and Elma Tarić (Scheduled Incident F.4); the wounding of Sanija Dževlan (Scheduled Incident F.6); the wounding of Damir Kučinar, Mensur Jusić, and Belma Sukić née Likić (Scheduled Incident F.8); the wounding of Sanela Muratović (Scheduled Incident F.9); the wounding of Seid Solak (Scheduled Incident F.10); the wounding of Alma Čutuna (Scheduled Incident F.11); the wounding of Dženana Sokolović and killing of Nermin Divović (Scheduled Incident F.12); the wounding of Afeza Karačić and Sabina Šabanić (Scheduled Incident F.14); the wounding of Alma Mulaosmanović-Čehajić, Alija Holjan, and three others (Scheduled Incident F.15); the wounding of Azem Agović and Alen Gičević (Scheduled Incident F.16); the wounding of Tarik Žunić (Scheduled Incident F.17); the wounding of a number of people (Scheduled Incident G.1); the wounding and death of a number of people (Scheduled Incident G.2); the wounding of 122 people, at least 12 of whom died as a result of their injuries (Scheduled Incident G.4); the killing of 14 people and wounding of 13 people (Scheduled Incident G.5); the killing of eight people and wounding of 18 people (Scheduled Incident G.7); the killing of at least 67 people and the wounding of over 140 people, Judge Baird dissenting as to the identity of the perpetrators (Scheduled Incident G.8); the killing of two and wounding of seven people (Scheduled Incident G.9); the killing of Ziba Čustović and the wounding of three other people (Scheduled Incident G.10); the killing of four and wounding of 11 people (Scheduled Incidents G.11 and G.12); the wounding of 16 people, two seriously and 14 lightly (Scheduled Incident G.13); the wounding of 3 people (Scheduled Incident G.14); the wounding of seven people (Scheduled Incident G.15); the killing of 43 and the wounding of at least 70 people (Scheduled Incident G.19).

<sup>15523</sup> As noted earlier, the findings in relation to Scheduled Incident G.8 were reached by majority, Judge Baird dissenting.

<sup>15524</sup> See e.g. Scheduled Incidents F.1, F.2, F.17.

hit, such as for example when the victims were being driven to the hospital.<sup>15525</sup> Similarly, in relation to Scheduled Incidents F.8, F.11, F.14, F.15, and F.16, respectively, the Chamber considered, *inter alia*, that the tram was struck by one bullet only; the tram concerned and the tram behind it were shot and struck in the same location and then fire was opened again in that same location at a number of people trying to leave the area; SRK snipers in the relevant area either had an unobstructed view of the incident site or there was sufficient visibility between the location from which the shot was fired and the incident site.

4623. The Chamber also found that, with the exception of Scheduled Incident G.6, the victims of shelling were deliberately targeted by the SRK or were victims of indiscriminate or disproportionate attacks.<sup>15526</sup> In reaching this conclusion, the Chamber considered, for example, in relation to Scheduled Incidents G.5 and G.9 that only one or two shells were fired and landed in a civilian area and there was no military target nearby. In relation to Scheduled Incident G.7, the shells exploded in a residential neighbourhood where humanitarian aid was being distributed and a large number of people had gathered waiting for the aid; there was no combat or military presence at the time. Similarly, in relation to Scheduled Incidents G.8 and G.19, a large number of civilians had gathered to buy goods and there were no military targets in the vicinity of the incident sites. For all the incidents that involved indiscriminate or disproportionate fire by the SRK, the Chamber is satisfied that the only reasonable inference that can be made is that the attacks were directed against civilians.<sup>15527</sup>

4624. The Chamber further found that the large majority of the victims of the Scheduled Incidents were civilians who were not taking direct part in hostilities at the time of the incidents. In relation to Scheduled Incident F.15, the Chamber did not consider the presence of one ABiH soldier on the tram to change the fact that on the day of the incident the tram was a civilian vehicle used to transport civilians. The Chamber recalls that the casualties of Scheduled Incident G.4 included ABiH soldiers but that they were off-duty and involved in or watching a football game together with a large number of civilians. Similarly, one casualty in Scheduled Incident G.19 was found to have been a soldier who was at the Markale market together with a large number of civilians. Accordingly, the presence of these soldiers did not change the character of the population at the game and in the market, respectively, and thus does not undermine the Chamber's conclusion that the attacks in those two incidents were directed against a civilian population.

4625. The Chamber also described the deaths and the wounding of a large number of civilian victims in relation to each incident and thus finds that the victims of those incidents either died or suffered serious injuries.

### (C) Intent of perpetrators

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<sup>15525</sup> See e.g. Scheduled Incident F.2 (the car taking the victim to the hospital was also shot at); Scheduled Incident F.4 (there were two shots after the bullet hit the victims); Scheduled Incident F.17 (a shot was fired at and hit the car carrying the victim as it pulled away from her house).

<sup>15526</sup> The Chamber recalls that Judge Baird dissented in relation to Scheduled Incident G.8.

<sup>15527</sup> For example, in relation to incidents involving modified air bombs, namely Scheduled Incidents G.10—G.15, the Chamber considers that the indiscriminate nature of the weapon which was used in residential areas qualifies those incidents as attacks directed against the civilian population of Sarajevo. With respect to Scheduled Incident G.4, the Chamber found that the firing of the two shells at an event at which a large number of civilians had gathered constituted indiscriminate fire. Accordingly it is satisfied that, in launching this type of attack, the SRK deliberately targeted civilians.

4626. The Chamber found that the perpetrators of the Scheduled Incidents were aware or should have been aware of the civilian status of the persons attacked and/or the lack of military targets in the areas subjected to mortar and artillery fire. In reaching these conclusions in relation to Scheduled Sniping Incidents, the Chamber considered, for example, that the victim's appearance, location, and/or activity—such as a child wearing civilian clothes standing in the doorway or front yard of her house,<sup>15528</sup> an adult woman collecting water at a river,<sup>15529</sup> a woman in civilian clothes cycling,<sup>15530</sup> or a woman with two children crossing a street during a period of cease-fire<sup>15531</sup>—and the sight and distances involved in the given Sniping Incident, would have made the victim or victims identifiable as civilians to the shooter. For the Sniping Incidents in which the target was a tram, the Chamber found that the shooter would have known that the tram was a civilian vehicle carrying civilians.<sup>15532</sup> With respect to the Scheduled Shelling Incidents, the Chamber considered that the nature of the area, with no military targets in the immediate vicinity of the incident sites such as in the case of Markale market for example, and the activities in which the victims were engaged therein would have identified them as civilian objects and/or individual civilians.<sup>15533</sup> In addition, the Chamber is satisfied that in the case of indiscriminate and/or disproportionate attacks, such as those involving modified air bombs for example,<sup>15534</sup> the perpetrators who opened fire should have known that that the attack would result in civilian casualties.

4627. The Chamber finds that the perpetrators in the Scheduled Incidents above wilfully carried out the acts of violence referred to above and made the civilian population or individual civilians not taking direct part in hostilities the object thereof.

#### (D) Conclusion

4628. In addition to the findings in this section, the Chamber refers to its finding that there was an armed conflict in BiH during the period relevant to the Indictment. The Chamber further finds that the acts of violence referred to above are closely related to that armed conflict. As such, the Scheduled Incidents discussed above constitute unlawful attacks on civilians as a violation of the laws or customs of war.<sup>15535</sup>

#### *iii. Terror: Count 10*

##### (A) Acts of violence directed against a civilian population or individual civilians

<sup>15528</sup> See Scheduled Incidents F.1, F.2.

<sup>15529</sup> See Scheduled Incident F.3.

<sup>15530</sup> See Scheduled Incident F.6.

<sup>15531</sup> See Scheduled Incident F.12.

<sup>15532</sup> See Scheduled Incidents F.8, F.11, F.14, F.15, F.16.

<sup>15533</sup> See Scheduled Incidents G.4, G.5, G.7, G.8, G.9, G.19. The Chamber recalls that Judge Baird dissents with respect to Scheduled Incident G.8.

<sup>15534</sup> See Scheduled Incidents G.10 to G.15.

<sup>15535</sup> This excludes Scheduled Incidents F.5, F.7, and G.6 for which the Chamber was unable to determine, on the basis of the evidence presented, the identity of the perpetrators. The Chamber also recalls here that Judge Baird issued a dissent in relation to Scheduled Incident G.8.

4629. The Chamber refers to its findings above that the cited Scheduled Incidents, with the exception of F.5, F.7, and G.6, constitute acts of violence directed against a civilian population or individual civilians causing serious injury to body or health and/or death.

4630. The Chamber also recalls its finding that the civilian population of Sarajevo and individual civilians therein experienced extreme fear, anxiety, and other serious psychological effects resulting from the campaign of sniping and shelling by the SRK.<sup>15536</sup> Indeed, the Chamber found above that the citizens of Sarajevo in fact felt terrorised during the siege of their city.<sup>15537</sup> The Chamber finds that this psychological harm formed part of the acts of violence directed against a civilian population or individual civilians in Sarajevo.

(B) Intent of perpetrators

4631. The Chamber recalls that the crime of terror requires both general and specific intent. With respect to general intent, the Chamber refers to its findings above in relation to unlawful attacks that the perpetrators wilfully made the civilian population or individual civilians not taking direct part in hostilities the object of acts of violence in the form of the cited Scheduled Incidents.<sup>15538</sup>

4632. The Chamber also finds that the perpetrators intended to spread terror among the civilian population of Sarajevo and that the infliction of terror was the primary purpose of the acts of violence directed against the civilian population upon which the Chamber has made findings above. In reaching that conclusion, the Chamber had regard to the nature, manner, timing, location, and duration of the acts of violence, as well as its finding that the civilians in Sarajevo were in fact terrorised by the SRK. The Chamber considered that some sniping and shelling attacks were carried out during times of cease-fire or during quiet periods, when civilians thought it was safe to walk around and when trams were operating.<sup>15539</sup> In some instances, individual civilians were targeted while at their homes and there was no fighting in the area at the time,<sup>15540</sup> or while they walked or cycled about the streets with no fighting in the area at the time.<sup>15541</sup> The Chamber also considered that civilians were targeted at sites known to be areas where civilians went to or gathered for activities,<sup>15542</sup> such as collecting water,<sup>15543</sup> receiving humanitarian aid,<sup>15544</sup> commercial activity,<sup>15545</sup> and, in the case of trams, taking public transportation.<sup>15546</sup> **(#This is a disgrace!!! There was no any Serb action**

<sup>15536</sup> See paras. 4579–4587.

<sup>15537</sup> See para. 4596.

<sup>15538</sup> See paras. 4626–4627.

<sup>15539</sup> See Scheduled Incidents F.8, F.9, F.11, F.12, F.14, F.15, F.16. The Chamber notes that the Appeals Chamber affirmed the *Milošević* Trial Chamber’s consideration of attacks during cease-fires as an indicator of the intent to spread terror. See *Dragomir Milošević* Appeal Judgement, para. 37; *Dragomir Milošević* Trial Judgement, para. 881.

<sup>15540</sup> See e.g. Scheduled Incidents F.1, F.2, F.17, G.2, G.10, G.11.

<sup>15541</sup> See Scheduled Incidents F.4, F.6, F.10.

<sup>15542</sup> The Chamber notes that the Appeals Chamber affirmed the *Milošević* Trial Chamber’s consideration of targeting and attacks of civilians “at sites, well-known to be frequented by them during their daily activities, such as market places, water distribution points, on public transport, and so on” as indicia of the intent to spread terror. See *Dragomir Milošević* Appeal Judgement, para. 37; *Dragomir Milošević* Trial Judgement, para. 881.

<sup>15543</sup> See Scheduled Incidents F.3, G.5.

<sup>15544</sup> See Scheduled Incident G.7.

<sup>15545</sup> See Scheduled Incidents G.8, G.9, G.19.

<sup>15546</sup> See Scheduled Incidents F.8, F.11, F.14, F.15, F.16. The Chamber also found, in relation to these incidents, that no military vehicles were present in the close vicinity of the incident sites and no military activity was underway in the area.

**without the Muslim initiation, the Serbs only reacted on the Muslim attacks, and this was very known to the Chamber, and anyone could check it by reviewing the evidence!#)**

4633. In determining the existence of the intent to spread terror, the Chamber also considered the indiscriminate nature of some of the shelling attacks.<sup>15547</sup> For example, the Chamber recalls its finding that the SRK launched highly destructive modified air bombs on the city, the indiscriminate nature of which was known to the SRK units, as described earlier.<sup>15548</sup> These bombs were used in Scheduled Incidents G.10, G.11, G.12, G.13, G.14, and G.15. The Chamber also recalls that it found, in relation to Scheduled Incidents G.1 and G.2 that the SRK launched disproportionate and indiscriminate shelling attacks on the city resulting in a number of casualties. Further, the Chamber also found, in relation to Scheduled Incident G.5, that firing two shells, which are designed to suppress activity over a wide area, at a football match where a large number of civilians were gathered to watch, and at a time when there was no ongoing combat, constituted deliberate targeting of a civilian area or at the very least indiscriminate fire.

4634. The intent to spread terror was also demonstrated by the duration of the campaign of sniping and shelling, which started in late May 1992 and continued through much of 1995 and many other incidents of shelling and sniping recounted in Section IV.B.1.a. It was also demonstrated through the evidence of a multitude of witnesses on the general nature and pattern of the SRK's sniping and shelling practices in the city.

### (C) Conclusion

4635. In addition to the findings in this section, the Chamber refers to its finding that there was an armed conflict in BiH during the period relevant to the Indictment. The Chamber further finds that the acts of violence referred to above were closely related to that armed conflict. The Chamber therefore finds that the Scheduled Incidents above constitute terror.<sup>15549</sup>

### 3. Sarajevo JCE and the Accused's responsibility

4636. The Accused is charged under Articles 7(1) and 7(3) of the Statute for his alleged role in the crimes committed in the city of Sarajevo between April 1992 and November 1995. Specifically, he is said to be responsible for murder, a crime against humanity and a violation of the laws or customs of war (Counts 5 and 6 respectively); acts of violence the primary purpose of which is to spread terror among civilian population ("terror"), a violation of the laws or customs of war (Count 9); and unlawful attacks on civilians, a violation of the laws or customs of war (Count 10).<sup>15550</sup>

<sup>15547</sup> The Chamber notes that the Appeals Chamber affirmed the *Dragomir Milošević* Trial Chamber's consideration of the indiscriminate nature of attack as a factor in determining specific intent for terror. See para. 454.

<sup>15548</sup> See paras. 4363, 4379–4380.

<sup>15549</sup> As with unlawful attacks on civilians, the Chamber excludes here Scheduled Incidents F.5, F.7 and G.6 as it was unable to determine who was responsible for them. The Chamber also recalls that Judge Baird appended a dissent in relation to Scheduled Incident G.8.

<sup>15550</sup> Indictment, paras. 65, 76–82.

4637. According to the Indictment, the Accused committed these crimes by virtue of his participation in a JCE to “establish and carry out a campaign of sniping and shelling against the civilian population of Sarajevo, the primary purpose of which was to spread terror among the civilian population” (“Sarajevo JCE”).<sup>15551</sup> This objective is said to have involved the commission of the crimes of murder, terror, and unlawful attacks.<sup>15552</sup> The Indictment further avers that the Accused shared the intent for the commission of each of these crimes with others<sup>15553</sup> who acted in concert with him in the Sarajevo JCE, including, among others, Momčilo Krajišnik, Ratko Mladić, Biljana Plavšić, Nikola Koljević, Stanislav Galić, Dragomir Milošević, and Vojislav Šešelj.<sup>15554</sup> The said members allegedly implemented their objective by personally committing crimes and/or by using the Sarajevo Forces to carry out those crimes.<sup>15555</sup>

4638. The Prosecution claims that the Accused significantly contributed to achieving the objective of spreading terror through a campaign of sniping and shelling in a number of ways set out in paragraph 14 (a)–(f), (h)–(j) of the Indictment.<sup>15556</sup>

4639. The Prosecution also avers that, in addition to his liability through his participation in the Sarajevo JCE, the Accused is criminally responsible for planning, instigating, ordering, and/or aiding and abetting the said crimes.<sup>15557</sup> Furthermore, he is alleged to be criminally responsible as a superior as he knew or had reason to know that crimes would be or had been committed but nevertheless failed to take necessary and reasonable measures to prevent them and/or to punish the perpetrators thereof.<sup>15558</sup>

4640. The Chamber will now turn to its assessment of the individual criminal responsibility of the Accused in relation to the events in Sarajevo, in particular the commission through JCE and the issue of whether there was a common plan, design or purpose, as alleged in the Indictment.

4641. As outlined in the Applicable Law section of this Judgement, in order to find an accused criminally responsible on the basis of his participation in the first or basic category of JCE, the Chamber must be satisfied that there existed a common plan, design or purpose which amounts to or involves a commission of crimes, that there was a plurality of persons who acted pursuant to that common purpose, and that the Accused significantly contributed to that common purpose through either his acts or his omissions.<sup>15559</sup> In addition, the Prosecution

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<sup>15551</sup> Indictment, paras. 15–19, 77.

<sup>15552</sup> Indictment, paras. 15, 77.

<sup>15553</sup> Accordingly, the Sarajevo JCE falls into the first or basic category of joint criminal enterprise where all participants acting pursuant to a common purpose possess the same criminal intention to effectuate that purpose, which in turn involves the commission of murder, terror, and unlawful attacks on civilians. In other words, the Prosecution does not allege that it was foreseeable that some of the crimes charged with regards to Sarajevo might be perpetrated by one or more members of the Sarajevo JCE or by persons they used in order to carry out the *actus reus* of crimes forming the objective of Sarajevo JCE.

<sup>15554</sup> Indictment, para. 16. Other alleged members of the Sarajevo JCE are listed in paragraph 17 of the Indictment and include, among others, commanders and senior officers of JNA, VRS, TO, and MUP units responsible for the Sarajevo area.

<sup>15555</sup> Indictment, para. 18 (defining “Sarajevo Forces” as (i) members of JNA operating in or with responsibility over the Sarajevo area until about 20 May 1992, (ii) members of the VRS, particularly the SRK; and (iii) members of other elements of Serb Forces operating in or with responsibility over the Sarajevo area).

<sup>15556</sup> Indictment, paras. 14, 19. See para. 3468 for the outline of the relevant subparagraphs of paragraph 14.

<sup>15557</sup> Indictment, paras. 30–31.

<sup>15558</sup> Indictment, paras. 32–35.

<sup>15559</sup> See para. 561.

must prove that the Accused shared the intent to effect the common purpose of the JCE and had the relevant *mens rea* for the crime with which he is charged.<sup>15560</sup>

4. The existence of a common plan

4642. The existence of a common plan can be inferred from the fact that plurality of persons acted in unison; **(The #entire Serb population in BiH was unison only on the issue of survival, which was threatened to cease in a repeated WWII genocide. The plurality of concessions that the Serbs offered for the sake of peace completely rebut this ridiculous inference of the Chamber. Had the Serbs have any common plan to damage the Muslim/Croat interests, there would be a sort of jubilation among the Serbs for the war policy was pursued by the two other sides, but there was only sorrow and worries on the Serb side!# Disgraceful.#! Try to conclude something like that out of a “joint criminal enterprise!#)** furthermore, the plan need not be previously arranged or formulated but may materialise extemporaneously.<sup>15561</sup> According to the Prosecution, the campaign of sniping and shelling in Sarajevo resulted from a common criminal plan emanating “from the top of the Bosnians Serb political and military hierarchy”.<sup>15562</sup> The Prosecution claims that this is evidenced by the (a) nature and pattern of sniping and shelling attacks against civilians; (b) strict command and control of the SRK snipers, mortars, and other artillery; (c) longevity of the campaign; and (d) personal involvement of the Accused and Mladić in Sarajevo events.<sup>15563</sup> **(In order to be able to draw such an unbelievable and non-viable inference, the Chamber prevented the Defence to present any context and to establish a cause-consequence relation! This is for the first time in the practice that a defence was denied to present the context, as if it was established that there was no any reason for such a Serb conduct, that there was a completely demilitarised city with civilians everywhere, and without any moves of the alleged “victims”! For such a reasons the international justice doesn’t have any future!)**

4643. The Accused, on the other hand, claims that the Bosnian Serb side was simply trying to avoid “a unilateral, unlawful, and violent secession from Yugoslavia” by the Bosnian Muslim side and an “attempt to subjugate the Serb people to a hostile Islamist regime”.<sup>15564</sup> **(#The ICFY in the Hague-London in 1991 gave a guidance for resolution of the crisis!# But this argument pertains to the entire Bosnian crisis, not specifically the Sarajevo events. For Sarajevo the core of problem was that the Muslim side denied to the Serbs (later to the Croats too) to administratively organise their own municipalities, as Mr. Izetbegovic took commitments on the ICFY in the Hague in October 91. Beside this result of the Conference, inhabitants of a local communes had rights, on the basis of the constitutional rights, to decide whether they will stay in a municipality they belonged to this moment, or to joind another neighbouring municipality, or to form their own municipality. In a cases where nobody opposes such a change, a referendum is not needed, but if the “mathernal” municipality opposes such a move, the said inhabitants**

<sup>15560</sup> If the Accused is charged with a specific intent crime, he and the other members of the alleged JCE must share the requisite specific intent for that crime. See para. 569.

<sup>15561</sup> See para. 563.

<sup>15562</sup> Prosecution Final Brief, para. 604.

<sup>15563</sup> Prosecution Final Brief, para. 604.

<sup>15564</sup> Defence Final Brief, para. 1815; Defence Final Brief, confidential, para. 1816.

had right to organise referendum on this issue. In Sarajevo, as well as throughout the BiH the Muslims wanted to deny the elementary Serb rights, and to prevent it by an armed force!) According to him, the Bosnian Serbs were trying to prevent denial of their “rights of freedom and political life, of self-governance, enjoyment of their resources, and other rights guaranteed by the International Covenants on Human Rights”; had they not been deprived of those rights, “there would not have been any alleged JCE”.<sup>15565</sup> The Accused also states that “ultimate self-defense cannot be criminal enterprise” and that this was especially true in the context of the Sarajevo battlefield.<sup>15566</sup> **(Did the Chamber eliminate this version, did it rebut this and on what basis, with what arguments? Did the OTP have proven opposite? Or the Chamber is not obliged to consider the Defence arguments?)**

**4644.** The Chamber has already made a number of findings in the preceding sections of the Judgement relating to the campaign of sniping and shelling in Sarajevo. The Chamber found that the SRK besieged the city and then engaged in a campaign of sniping and shelling in Sarajevo, which lasted roughly from late May 1992 until October 1995 when hostilities in Sarajevo ceased.<sup>15567</sup> As also found above, during this campaign the SRK targeted civilians in Sarajevo either directly or through the launching of indiscriminate and disproportionate attacks all over the city, resulting in thousands of wounded and killed civilians.<sup>15568</sup> **(#Double account#! It isn’t fair to merge a “wounded and killed civilians” so to be able to say that there was “thousands” of them, without any obligation to prove it#! And did the Chamber resist the Prosecution’s and Muslim manoeuvre to depict a combat casualties as civil victims#! The Sarajevo battlefield had about 6,000 of the military, combat casualties of the ABiH, while many of them had been registered on both the civilian and combat casualties lists! This makes 12 to 14% of all the Muslim casualties throughout Bosnia, and can not be more of them! If taken an average, in 1,400 days, there was some 4,3 combatant average casualties a day. The number of civilians was far from these alleged “thousands”! Without a list and names of these civilian victims, the Chamber shouldn’t even consider these allegations#!)** In addition, the Chamber concluded that the SRK conducted the said campaign of sniping and shelling with the intention to terrorise the civilian population and that it conducted the siege of the city with a number of objectives in mind, all outlined in the directives issued by the Main Staff and/or the Accused, including the objective of keeping the city under firm blockade and creating conditions for the Bosnian Serb leadership to participate “equally” in negotiations with the other sides and international community.<sup>15569</sup> **(This was all legal and legitimate, particularly since the Muslim side declared the war against the Serbs. But, pertaining to the “blockade” and the “siege” see what the UNHCR reported, D01496, of 6 January 1993:**

**4. The Honourable correspondent of the Human Rights Watch should be invited to address his protest to the Government of the Republic of Bosnia and Herzegovina who are at present responsible for the continuation of the siege of SARAJEVO.**

**So, the “number of objectives in mind” were all legitimate, and the Serb side implemented a strategy of containment of the Muslim forces in the city, rather than**

<sup>15565</sup> Defence Final Brief, para. 1815.

<sup>15566</sup> Defence Final Brief, para. 1815.

<sup>15567</sup> See Sections IV.B.1.a: Chronology of events in Sarajevo; IV.B.1.b: Sniping; IV.B.1.c: Shelling; IV.B.1.f: Siege of Sarajevo.

<sup>15568</sup> See Sections IV.B.1.b: Sniping; IV.B.1.c: Shelling.

<sup>15569</sup> See Sections IV.B.1.g: Campaign of terror; IV.B.1.f: Siege of Sarajevo.

defeating them in the conditions of a street fights with many casualties. So, the Chamber should at least value this restraint of the SRK, if not award it for avoiding the destruction and casualties!)

4645. The question then is whether or not this campaign of sniping and shelling, the purpose of which was to spread terror among the civilian population, resulted—as alleged—from a common criminal plan emanating from the Bosnian Serb military and political leadership. The Prosecution has presented a large body of evidence to show the existence of this common plan. Much of that evidence has been analysed and discussed in the preceding sections. Accordingly, the findings that follow rely on and draw from those sections, as well as from the evidence explicitly referred to below.

*i. Pattern and longevity of the campaign of sniping and shelling*

4646. In the Chamber's view the two most persuasive factors in favour of the Prosecution's claim that there existed a common criminal plan to establish the campaign of sniping and shelling with the intention of spreading terror among the civilian population in Sarajevo are the pattern and the longevity of the sniping and shelling in the city. (Some of it could be considered #only if the other armed force didn't exist and didn't initiate all the skirmishes#. This way of inferring from only one half of the factual basis is not correct and no a chamber or court all over the world would support it! Borth, a "pattern" and "longevity" depended exclusively from the Muslim side: if they didn't attack, by snipers, heavy weaponry and in a numerous infantry campaigns, neither there would be a "pattern" no would it last a day more that caused by the Muslim conduct! That is why the denial of the Defence intentions to depict the whole picture, a causes and consequences, a chain of events and liability of the sides had been implemented, and thus the Serb side exposed to all kinds of condemnations and sentences!)

4647. In terms of the pattern, the Chamber has already discussed the numerous specific incidents of shelling and sniping alleged in Schedules F and G of the Indictment, which spanned a number of years. Furthermore, the Chamber has referred to many other sniping and shelling events in the city in the period between late May 1992 and October 1995.<sup>15570</sup> Based on all those events<sup>15571</sup> the Chamber is convinced that there was a well-established practice of sniping and shelling in the city conducted by the SRK whereby civilians were either specifically targeted, or were subjected to indiscriminate and/or disproportionate attacks. (All of this was denied and rebutted by the Defence, and the Serb position is that none of that was proven beyond reasonable doubt, but in this section we will comment only the Accused's personal responsibility.) This practice was further confirmed by the more general evidence of various witnesses who lived in the city or were posted there with the UN and other international organisations, and whose evidence the Chamber recounted in the preceding sections.<sup>15572</sup> The willingness of the SRK units and their commanders to engage in the sniping of Sarajevo civilians on an almost daily basis and their deliberate act of launching an

<sup>15570</sup> See Section IV.B.1: Facts.

<sup>15571</sup> The Chamber excludes from this analysis Scheduled Incidents F.5, F.7, and G.6 as it was not satisfied that the evidence presented by the Prosecution was sufficient to establish beyond reasonable doubt that the SRK was responsible for these incidents. In addition, for his part in this analysis, Judge Baird does not rely on Scheduled Incident G.8 due to his dissent in relation thereto.

<sup>15572</sup> See Sections IV.B.1.a: Chronology of events in Sarajevo; IV.B.1.b: Sniping; IV.B.1.c: Shelling.

indiscriminate and destructive weapon such as modified air bombs on the city are prime examples of that practice. **(This kind of “findings” is highly arguable, because none of this was proven, and the Chamber shouldn’t be so general, to tell this without any obligation to name the victims of such a conduct of SRK. For instance, there was around 1,400 days of war in Sarajevo. If it was “sniping of Sarajevo civilians on an almost daily basis, how many victims produced such a precise weapon on a daily basis and all together? Or, how many casualties caused 700 – 1,000 alleged Serb shells a day during this 1,400 days of war? This figure is necessary to estimate whether there were some collateral casualties, or whether they had been a target. Even with these exaggerations a count will show that only 575<sup>th</sup> shell killed somebody!).** Thus, as concluded in Section IV.B.2, there is no doubt that until October 1995 murder, terror, and unlawful attacks on civilians were committed on numerous occasions by the SRK forces in Sarajevo. **(There are many doubts that would any reasonable chamber accept as such, or at least demand additional clarifications!)**

4648. In the Chamber’s view, the fact that this state of affairs continued for over three years means that it cannot have been an accident or the work of “rogue” SRK soldiers.<sup>15573</sup> Rather, the fact that the shelling and the sniping of civilians continued, more or less unabated, for such a long time means that it was actively encouraged by some in the military and political hierarchy in the RS and at the very least tolerated by others in that group. **(In the domestic system, #“some” couldn’t kill “some” on an initiative of “some”#, but it would have to be exactly established in all these cases who were these under the name “some”? This way all in such an affair is of a “some” kind – the nature of incidents, aim, reason, perpetrator, casualties, responsible superiors, military reasons, vicinity of a military, men or weapons on the other side. If it happened, it must not be concluded that it was a deliberate and criminal conduct, #but must be established beyond reasonable doubt who and how influenced or caused, or tolerated it#! But, the Chamber is forgetting that there was another armed force, a very aggressive one, which never gave up an ambition to take the Serb parts of Sarajevo under their possession. So, nothing in terms of longevity depended of the Serbs as an attacked side, an all of it depended only on the Muslim side. Whenever they respected the ceasefire agreements, there were a long lulls in the city. All the participants in the process were expected to establish the truth, even Prosecution, as well as the Defence and the Chamber to the highest degree. But it hadn’t been established, and this is a shared responsibility, but the biggest part of this responsibility rests on the Chamber!)** The only reasonable inference that can be drawn therefore is that the shelling and the sniping of the civilians, as well as the indiscriminate and/or disproportionate attacks launched against the city, were part of a plan. **(That is what the Defence objects: an #inference upon an inference, upon an inference#. Why so many decisions of the Chamber were based on “inferences upon inferences”, while there must had been a critical amount of undoubtedly established facts? Did the firing in and around Sarajevo depended of the both sides? Everyone would agree. Then, how come that the conduct of the Muslim side (ABiH, Green Berets, Patriotic league, HVO, HOS and independent criminal groups) was not important to be established? At least, the initial fact should be established beyond reasonable doubt, i.e. what really happened. Was it really a**

15573

The Chamber also recalls here that it has rejected the Accused’s claim that the major incidents in the city were caused by the ABiH or members of special police units in Sarajevo. See Section IV.B.1.d: Bosnian Muslim side targeting own civilians.

deliberate fire, mere for a criminal purpose and without any reason given by the other side, such as firing, manoeuvring... but it had never been established, and the Defence had lost a large amount of time, and many witnesses on establishing what happened: the Chamber rather accepted to draw inferences of what had happened, and further inferences on why it happened, and a further inference on who was responsible. And the Prosecution had as easy job to do as no one before it. No obligations to prove anything!)

4649. Further support for this conclusion can be found in the evidence outlined below regarding the knowledge that the Bosnian Serb military and political leadership had about the events in the city.<sup>15574</sup> (Unlike the Chamber, the Serb leadership knew the whole truth, being informed by the Serb regular state services, and not by a biased media and ignorant internationals!) As that evidence shows, many of the Bosnian Serb military and political leaders were regularly put on notice that civilians were dying in Sarajevo due to direct targeting or due to indiscriminate and/or disproportionate fire by the SRK, but allowed this type of fire to continue for a protracted period of time.<sup>15575</sup> (This kind of “support” for this kind of “conclusions” #could be valid only in one case: if Sarajevo was demilitarised, if nobody initiated fights from Sarajevo#, if it had been proclaimed as an open city, if the Serbs didn’t agree to a demilitarisation, if the Serbs didn’t agree with a UN administration of the city, if the Serbs wanted to advance and to take control over the entire city. But, it was all the way around: the Muslim side wanted and pursued all of that what the Serbs didn’t, and nobody could establish these “facts” in such a general manner. Since it was a battlefield, the Prosecution was obliged to prove, and the Chamber to demand clarifications and proofs for every single incident. No a general assertions and presumptions of the Serb guilt should be allowed. The Chamber bears responsibility for at least a denial the Defence right to depict what was other side doing and how it influenced the SRK conduct! What the Chamber requires by this kind of conclusion is that the Serb side collectively commit a suicide, i.e. give up the right to defend and survive!) Had it not been a part of their plan, this practice would not have persisted unabated for so long. (Does there the other side and it’s conduct had anything to do with it?@ Another inference is not only possible, but the most probable: if the Muslim side did not persist in its attempts to take over the Serb parts of Sarajevo, had they ceased to fire on a daily basis, and conduct many offensives, there wouldn’t be any shelling, sniping and suffering of the citizens of Sarajevo of all ethnicities!) Accordingly, the Chamber is convinced that the campaign of sniping and shelling, the primary purpose of which was to cause terror among the civilian population, was planned and that it emanated from the higher military and political structures in the RS. (How come the Prosecution didn’t submit and the Chamber didn’t find out a simple trace of such a duplicity in the political and military leadership’s conduct? Since the President was very critical of his military personnel about the international objections on the actions in Sarajevo, if there was any of such a duplicity, somebody from the criticised would reject the criticism by “reminding” the President of his “genuine” and secret orders to commit a crimes! In so much evidence, orders, intercepted conversations, there is nothing but a firm evidence of the permanent effort against any crime!) Relying on the preceding sections which describe the events in the city from the start of the conflict to the cessation of hostilities in

<sup>15574</sup>

In addition, the Chamber also relies on all the sections that deal with the Accused’s contribution to the alleged JCE.

<sup>15575</sup>

See Section IV.B.3.b: Plurality of persons; IV.B.3.c.iii: Accused’s knowledge of crimes and the measures he took to prevent them.

October 1995, as well as the specific shelling and sniping incidents listed in Schedules F and G of the Indictment, the Chamber finds that this plan materialised in late May 1992, with the events described in relation to the Scheduled Incident G.1 and that it then continued to be implemented until October 1995. **(And, what was the result of such a “plan”? What benefits the Serb side obtained out of this? And if so, why the Muslim side had to stage some of incidents, because the regular conduct of the SRK didn’t obtain a material sufficient to denigrate and blame the Serbs? Or, do we deny that at least some of the incidents had been staged, such as Vase Miskina shelling, and shellings and firings in the occasions of the high international’s visits? It had never been excluded either in the court room, or in the communications between the international personnel and institutions!)**

**4650.** As discussed in previous sections, the Chamber does not doubt that the SRK also sniped and shelled ABiH military positions and military personnel during the conflict in Sarajevo or that the war was being waged by both sides in the city and its surrounding areas.<sup>15576</sup> The witnesses and documentary evidence confirm that this was indeed the case. For example, Harland testified that some of the SRK fire was tactical and used in support of SRK combat units on the confrontation lines or on ABiH military targets.<sup>15577</sup> **(There was an obligation on the alliance Prosecution/Chamber to differentiate which cases happened out of this pattern of the Muslim attacks, instead of giving a general assertions, such as “a great number of civilian casualties,” or a “totality of evidence,” meaning a general impression, created by the Muslim side and the biased internationals and media!)** Similarly, a number of SRK combat reports clearly show that ABiH would launch attacks on the SRK forces and SRK-held territory, including the civilians living there. **(#EXCULPATORY#)** However, as recounted on many occasions in the preceding sections, the evidence in this case is also replete with examples of SRK fire not being directed at military targets in the city and/or being opened in a random or disproportionate manner. **(#Since no foreign witnesses knew the deployment of the Muslim forces, the Chamber MUST NOT MAKE SUCH A CONCLUSION, BECAUSE IT IS BASELESS#! In order to be able to make such a conclusion, the Chamber was obliged to require from the Prosecution to prove that a certain incident wasn’t one of those staged, or that there was no a military target that had been moved further right after firing, and before response. Particularly the Chamber was obliged to establish whether the accused Serb side initiated fire, or was it the other side. To conclude that the Serb fire was aimed to terrorise, it must be established that the Serb side didn’t respond to an enemy’s fir. Above all, and the most important, there hadn’t been established that the #foreign witnesses, those who use to come from time to time (like M. Bell, Van Linden, Bowen and others) as well as those who lived in Sarajevo for a while, #WERE NOT AWARE OF THE DEPLOYMENT OF THE OPPOSED FORCES TO THE DEGREE TO BE ABLE TO RECOGNISE WHAT SIDE FIRED IN THE CASES THEY OBSERVED. There was no a single international witness who was fully aware of the deployment of the Muslim forces and heavy weapons within the city, not only mobile ones, but a fixed**

<sup>15576</sup> See e.g. Section IV.B.1.a: Chronology of events in Sarajevo wherein the Chamber outlined a number of attacks and offensives launched by the ABiH.

<sup>15577</sup> P820 (Witness statement of David Harland dated 4 September 2009), paras. 32–33, 291; David Harland, T. 2023 (6 May 2010), T. 2335–2336, 2351 (11 May 2010).

**too, and many of them admitted it in the court room. There are many documents in the file proving that the Muslim side limited and restricted movement of the UN personnel, and a documents showing a permanent orders to the units to hide the weaponry from the UN sight! Having SEEN This genuine Muslim and UN documents, this kind of deliberation is a pure #mockery of justice#! )**

As noted above, this practice was so widespread and so common during the conflict that the only reasonable conclusion one can draw is that it was planned and encouraged with the aim of terrorising the civilian population.

**(Since the Chamber didn't have any evidence and any proof for this conclusion, the Chamber is "drawing the only reasonable conclusion, INFERENCE ON INFERENCE," although there are another, more reasonable inferences, such as: that the other (Muslim) never stopped to fire against the Serbian positions and parts of the city, sometimes to harass the adversaries, but more frequently to check the defensive abilities of the Serbs, or to prepare an infantry attack, or to provoke a response for the purpose of denigration of the Serbs. For that reason, the Chamber shouldn't make any inference on such a slippery ground, without establishing the most basic precondition for a war crime – that there was an attack during which there happened a war crime, in this case, a terror. Once the Chamber establishes who was attacking, all would be clear. And there is an overwhelming evidence that the Serb side didn't initiate any fight in Sarajevo. And why is it so that the Chamber is the main obstacle to the simple truth?)**

In other words, the longevity of the sniping and shelling directed at the civilian population, including civilian objects such as trams and residential buildings, as well as the high number of civilian casualties cannot be explained by the fact that BiH was engulfed in an armed conflict and that the war in Sarajevo was being waged by both sides.

**(This was not the Defence's position, that it was because the other side was "engulfed in an armed conflict" – it was because the other side jeopardized the concrete Serb units on the concrete spots of the confrontation lines, which made the attacked unit entitled to defend the way and the extent the unit assumend to be proper. A superiors could have ordered, commanded and controlled any initiation of fire, but nobody could prevent a unit to defend it's soldiers and positions, particularly since their families were a few tens of metres behind! The Prosecution never submitted and the Chamber never differentiated the civilian from combat casualties, and it is not acceptable to "find" a "high number of civilian cvasualties". All will know that the street fights, as well as several tens of the Muslim offensives against the Serb parts of Sarajevo resulted in many casualties, which the other side registered as a civilian. The Chamber shouldn't miss this opportunity to warn the Prosecution, but since it did, the ommisions are of the Chamber!)**

Furthermore, even if the Bosnian Serbs were trying to protect their rights and/or were trying to defend themselves, as claimed by the Accused, the high number of civilian casualties cannot be explained, justified, or excused on that basis.<sup>15578</sup>

**(The Serb side have #not only "tried" but succeeded to defend the majority of the Serb territory and settlements with a high price in lives of soldiers and civilians#. For a several reasons, such as an inferior number of troops, an absence of any intention to capture the other's settlements, and to contain the huge number of the adversary troops waiting for a political solution, the Chamber had an opportunity to notice the only reasonable inference, corroborated by a huge amount**

of evidence, that the SRK didn't need and didn't want any shooting in Sarajevo, and therefore was limited only to a defence and responses! #The frequency and intensity of the firing by the SRK entirely depended on the conduct of the 1<sup>st</sup> Corps of ABiH#.

This generally named "high number of civilian casualties" had never been established and separated from the combat casualties. And, regarding this "finding" and assumption, should the Chamber point out by what methodology, what instruments and counts, accepted and certified and finally established how many casualties in a 1,400 days of a street fights would be acceptable? It however didn't establish how many casualties was anyway, let alone to differentiate civilian and combat casualties!)

Instead, as already indicated earlier, the only reasonable inference that can be drawn from the events in the city is that the shelling and sniping of civilians, perpetrated with the intention to terrorise them, was planned. (This process is an unseen example of an abuse of "inferences", "adjudicated facts" "impressions of a witnesses", a "Rule 92bis statements" without possibility to cross examine...@@@ all in the absence of a viable and credible evidence! In regard to this "reasonable inference" how the Chamber explains the fact that the Muslim side violated almost all the cease fire agreements, and why the SRK didn't do it's "terror job" in a frequent and long periods of luls? Why the Muslim side didn't want to have Sarajevo out of the headlines and fron pages of the international media? Why would the SRK want the whole world's attention focussed on Sarajevo? These are more reasonable inferences!)

ii. *Control over snipers and heavy weapons used by the SRK*

**4651.** As discussed earlier, the Chamber is satisfied that individual snipers and/or sniper units within the SRK were under control of the SRK brigade commanders and ultimately the SRK Command itself.<sup>15579</sup> The Chamber found that the SRK sniper units had well-established, long-standing, professionally equipped sniper nests, from which they sniped at civilians and civilian objects, such as trams, in the city.<sup>15580</sup> (Here is the entire para 3970, called upon in this footnote, let us see on what it had been founded: 3970. The Chamber is also convinced, relying particularly on the evidence of KDZ310 and Maletić, (However, KDZ310 testified that he never saw anyone killing anyone, but he only knew that the SRK had the snipers, which is not illegal, but legal and necessary, while Maletic never confirmed that he knew about any illegal use of snipers by the SRK!) 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. Futhermore, 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. (The #Chamber itself accepted that there may have been "a rogue elements" firing on their own#. This is a reasonable opinion, knowing that the "Doctrine of armed people" comprised an arming of everyone, as well as the fact that all the locals knew each other and could have had a private reasons to fire!) This is cofirmed not only

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<sup>15579</sup> See para. 3970.

<sup>15580</sup> See para. 3970.

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. (The first assertion, that the SRK Commands ordered "training exercise" has nothing to do with a possible illegal use of snipers, but contrary, it was aimed to have a trained and abled shooters, and the second part, that there was a "reduction in sniping following the signing of the Anti-sniping Agreement", is also wrong, because immediately after signing such an agreement, both sides had been watched by the internationals, and the Muslim provocators of fire wouldn't risk to be caught in a violation. Once the Agreement "ages" for several weeks, they renew the sniping, because of a permanent need to have Sarajevo in the headlines and front pages of media!) 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. (Neither Manojlovic said that these units were out of control, nor there was any evidence that these units fired an illegal fire! So, this inference is far from being a reasonable and the only one!) Instead, it confirms that the SRK Command was reliant on, and regularly used, professional sniper teams, positioning them at most opportune locations. 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. (#Once the Chamber accepted the existence of a rogue shooters, the Prosecution had an additional duty to prove what incidents had been caused by these elements, and what by the SRK soldiers, and additionally the soldiers that followed a superior's command to use the sniper in an illegal activity#) This would not have been possible without the involvement of the senior military leaders, particularly the SRK Command and the Main Staff. (That had never been established at all. All of it is "an inference from an inference from an inference", in a manner "if there is any smoke, there must be Indians"! What happened with the assertions of the UN people who stated that more people suffered from a straw bullets than from snipers. Also, many firing that hadn't been snipers at all, and hadn't been aimed at civilians are counted in the sum of those kept as sniper incidents. How possibly the Chamber concluded that a straw incidents, without a clear aiming to a person could have been be categorised as an intended fire?)

4652. Further, the Chamber found that the SRK's heavy weapons, such as mortars and artillery weapons, were also under control of the SRK commanders, such that their use often required authorisation by artillery officers in the SRK brigades or the SRK Command itself.<sup>15581</sup>

<sup>15581</sup>

See para. 4499.

However, we have a document in the file that Gen. Mladic required at a Presidency session in June or July that the Presidency of the RS orders that no mortar or artillery could be used without authorisation of the VRS, i.e. SRK, see: P01465, of 13 July 92, p.1:

There were proposals for the appointment by civilian organs of observers who would, together with UNPROFOR monitors, control the use of artillery weapons.

At the proposal of General MLADIĆ, it was agreed that the use of artillery be controlled only by the Army on the basis of the order which the commander will issue to the competent officers.

As can be seen, it was not entirely correct to conclude that there was no “a rogue elements” or other models of independent actions. From this document, the RS Presidency session the civilian authorities were meditating about the ways of control of the artillery use, and General Mladic asked to be ordered that only VRS would be authorised to approve the artillery actions. A heavy weaponry was available to all the units of Territorial Defence, as those in a local communes, as in a big companies, and there had been quite a time needed to put all the independent elements, inherited from the previous system, under the unique control of the VRS!) The Chamber recalls here

the evidence of many of the SRK soldiers and officers who were called by the Accused and who described in detail the procedures they followed before they could open mortar or artillery fire on the city.<sup>15582</sup>

**(EXCULPATORY! If there was an Accused intention to allow a harassing and terrorising fire, why would he intervene in such a detailed conduct that was not under his competence?)**

Furthermore, in the case of modified air bombs, the evidence clearly shows that their use was directly controlled by the Main Staff.<sup>15583</sup> Indeed, in the order of 12 June 1994 issued by the Main Staff, Milovanović explicitly stated that the Main Staff was to decide on the use of modified air bombs and “possibly a Corps if the [Main Staff] approve[d]”.<sup>15584</sup> On 26 April 1995, Mladić, having heard that Dragomir Milošević was about to use two modified air bombs against “enemy targets and settlements in the area of Sarajevo”, issued a request for information, “for Commander’s eyes only”, stating as follows:

You are to inform me whether the abovementioned information is correct, who ordered and why, the planned use of heavy weapons and beginning of operations in the area of Sarajevo, if it is a question of retaliation and for what reason, or exploitation of operative effects. If the Supreme Command has issued an order to begin combat operations and use heavy weapons in the area of Sarajevo, it is your duty to inform me.<sup>15585</sup>

**(This is also #EXCULPATORY#! The Main Staff was cautious about use of this weapon, and there is no a clear-cut evidence that it was used against civilians! However, the very same day the Main Staff got an answer from Manojlovic, the chief of the artillery of the SRK, see P1310;**

At the morning briefing of 26.04.1995 the decision was taken to fire on the s. /village/ of Donji Kotorac (tunnel entry) using air bombs.

The firing was supposed to have been executed in the early evening hours and all the necessary preparations for the firing to be executed were to have been made beforehand.

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<sup>15582</sup> See paras. 3998–4000.

<sup>15583</sup> See para. 4365.

<sup>15584</sup> P1294 (VRS Main Staff Order, 12 June 1994).

<sup>15585</sup> P1299 (VRS Main Staff request for information from SRK, 26 April 1995).

A detailed assessment was made of all facilities in the immediate vicinity of the tunnel entrance from the area of the observation post which is located on Ilinjača (tt. /trig. point/ 655). We have established through measuring carried out using instruments that two UNPROFOR points are at most 200 metres away, while the UNPROFOR observers are constantly moving from their observation stations through the settlement of D. Kotorac.

Because I was unable to report this information to the Commander -after the reconnaissance- as he was in the z/o /zone of responsibility/ of the Igman Brigade, I have abandoned the firing on account of /it/ jeopardising the security of own forces and that of the UN forces.

**There may have been no dilemma that the first sentence in the Main Staff letter was not correct, because of a lack of information, but the Chamber as well as the Main Staff had been properly informed that it was not as said in the letter, "against enemy targets and settlements,**

We are in possession of information that you are planning to use two air bombs against enemy targets and settlements in the area of Sarajevo, in the evening or during the night of 26.04. 1995..

**but against a strictly military object, the tunnel below the airport. Also, Manojlovic gave up the idea even before he was asked by the HQ for a clarification. The Chamber used this sentence selectively, although it was in a possession of a proper information!)**

4653. Additionally, as will be discussed in more detail below, the chain of command within the SRK and up to the Main Staff functioned well. Both Galić and Dragomir Milošević, and Mladić as the Main Staff Commander, exerted strict control over the SRK units.<sup>15586</sup> This again indicates to the Chamber that the crimes committed in the city by the SRK soldiers could not have been the work of ill-disciplined or rogue soldiers and were not one-off, unrelated, incidents. As also noted later, while the various SRK commanders and the Main Staff did face some problems relating to discipline of the SRK units, those were not significant enough to undermine the Chamber's conclusion that the SRK was a professional military force with a well-functioning chain of command and efficient information flow. **(#No casualties of**

**MABs#! This is so typical error of the Chamber. How many casualties caused the MABs? Certainly only a few, so few that the military reasons could have accepted this kind of the collateral damage. Further, once a unit is attacked, they didn't need any authorisation to defend themselves. A commander of an attacked unit, and even at lower levels, to a single soldier, are entitled to defend themselves until they are safe and secure, according to their assumption. The only one who could limit their defensive actions would be another unit that would act instead of this attacked unit. No advisors of chiefs far from the c/l are entitled to forbid the defence. So, the Chamber never established whether a SRK unit was attacked, or not, and whether it was a self-defence or not. The Chamber's remark about the SRK as a "professional military force" is intentionally exaggerated and unfair. In the entire VRS there was 2,150 professional officers, while all other combatants and personnel were reservists, or even people without any military training,**

knowledge and experience! This was established and confirmed by many documents and witnesses. Manojlovic himself wrote an analysis on an abilities of the artillery operators to function, concluding that at the beginning it was a personnel with very poor skills! The Chamber used this document against the Accused, instead of using it as an objective mitigating element!)

4654. Accordingly, the only reasonable inference one can draw from this level of control over SRK soldiers and their infantry and artillery weapons is that the crimes perpetrated by the SRK units in relation to the civilian population in Sarajevo were part of the plan to snipe and shell that population in order to spread terror. (This inference would hardly pass even if the SRK was initiating a combat activity, but it never happened, because even in this case there would be an obligation to establish that the action was, or was not justified by the military reasons. At first, the crimes hadn't been established properly in terms of a cause and consequence, as well as with respect to the perpetrators and responsibility!)

*iii. Strategic importance of Sarajevo*

4655. The Chamber has heard throughout the case that Sarajevo was considered extremely important to the Bosnian Serb side. In Galić's own words, it was "the media centre of the world" and the "war [was] won or lost" there.<sup>15587</sup> (So what? Was anything criminal in Galić's statement?) Speaking to the Srpski Borac newspaper on 2 August 1995, the Accused himself acknowledged this by saying:

Before the war we were aware that if it happens it will start in Sarajevo. We decided that if we want to win we have to stay in Sarajevo. The strategic idea was to prevent the independent Bosnian state from functioning whereas, on the other hand, our state would function. [...] Sarajevo is of special importance to us because of combat, strategic and tactical reasons. [...] Sarajevo is, as you know it, related to our survival, to the survival of our state and I suppose that, if the Muslim entity survives in Sarajevo, Sarajevo will be a melting point of cultures [...]. If the Muslims don't accept peaceful transformation of the city into two entities Sarajevo will suffer the fate of Beirut, where working hours are until noon and gunfire in the afternoon. [...] We need every inch in Serbian Sarajevo, we even claim rights on the centre of Sarajevo, say, the entire left bank of Miljacka river.<sup>15588</sup> (So what? The city was the Serbian too, and some times earlier it was a Serb majority place. Beside that, the project of an independent unitary Bosnia was an extremely hostile against the Serbs, was initiated and conveyed on an illegal and anti-constitutional way, in spite of the Serb concessions for the sake of a peaceful solution. Had the Serbs moved out of Sarajevo, Izetbegovic would never negotiate, presenting the Serbs as a rebels on the periphery of "his")

<sup>15587</sup> P969 (Article from Sarajevske Srpske Novine entitled "Aggression in Blue", 25 March 1994), p. 6; P1818 (Witness statement of Adrianus van Baal dated 26 October 2010, paras. 31–32; P5906 (Witness statement of KDZ450 dated 17 January 2011), para. 48.

<sup>15588</sup> D2660 (Article from Srpski Borac entitled "We are Sovereign over Sarajevo", 2 August 1995), pp. 2, 3, 4–5. See also P1410 (Transcript of 51<sup>st</sup> session of RS Assembly, 14–15 June 1995), p. 329 (wherein the Accused said that whenever the situation escalate around Sarajevo the "internationals come and diplomatic activity speeds up").

country. Also, Sarajevo was a common wealth of all the three sides, particularly Muslim and Serbian sides!)

4656. KDZ182 confirmed that Sarajevo was well known around the world as a multiethnic city so that whatever happened there “echoed very strongly”; it was very important to Mladić who, in KDZ182’s view, elaborated the general strategy of terror against the Sarajevo population.<sup>15589</sup> (The KDZ182 was neither qualified, nor allowed to give such an assessments and analysis, since he was a witness on facts, not an expert for a Mladic’s state of mind. Why the Chamber allowed his presentation, and in particular why the Chamber accepted his assessments of another officer, whose language and local habits he didn’t know?) Mole explained that the encirclement of the city in and of itself proved to be a significant leverage, which the Bosnian Serb leadership successfully exploited throughout the duration of the conflict in order to obtain wide-ranging concessions.<sup>15590</sup> (This is wrong as could be #when a military people are asked about political issues#. The only side offering and giving concessions was the Serb side. The Serbs had been entitled to block any secession of BiH in it’s entirety, or was entitled to stay in the Yugoslav union, as West Virginia did during the American war, or as did the Northern Ireland, when the rest of Ireland with Irish majority decided for independence, but a part that was a unionists majority decided to stay in the Great Britain. But, for the sake of peace, only the Serb side made so many concessions!) This is indeed confirmed by the notes of a meeting the Accused, Krajišnik, Plavšić, Koljević, Mladić, Gvero, and Tolimir attended with Slobodan Milošević on 29 August 1995, during which the Accused opposed Milošević’s proposal to withdraw heavy artillery from Sarajevo because the Bosnian Muslims would have no incentive to negotiate once the blockade was lifted.<sup>15591</sup> (So what??? This line of discussion is in vain, #it was the Serb legitimate right to encircle the militarised part of the comon capitol#, with the side that declared the war; it was a necessity to contain the 1<sup>st</sup> Corps ABiH forces, and to protect the Serb people and their suburbs in Sarajevo. Neither President Milosevic, nor anyone else was entitled to demand anything that would be contrary to the Serb survival!)

4657. According to KDZ182, both sides used the symbolic nature of the city to demonstrate their purpose; the Bosnian Serb side used it to show that they could do what they wanted and that they “ruled the game”.<sup>15592</sup> (This was the witness’s #speculation, irrelevant to any criminal consideration#. The main issue was whether the Serbs could have avoided the war, or not. Once it was the case that they couldn’t avoid the war, all other has to be seen in the light of this. The choice was Muslim and Croat, the Serbs decreased their own rights and the rightful aspirations to the minimum, and how possibly the Serbs could have “ruled the game”?) One example of that is the 24 April 1995 statement by the Accused on Voice of America, wherein he said that the international community must accept

<sup>15589</sup> P2414 (Witness statement of KDZ182), pp. 16, 33 (under seal). See also P5906 (Witness statement of KDZ450 dated 17 January 2011), para. 48.

<sup>15590</sup> P1426 (Witness statement of Richard Mole dated 7 May 2010), paras. 35–36; Richard Mole, T. 5825–5826, 5875 (17 August 2010); P1435 (UNMO report, 11 December 1992), para. 12.

<sup>15591</sup> D3058 (Record of meeting between leaderships of FRY and RS, 29 August 1995), p. 9.

<sup>15592</sup> P2414 (Witness statement of KDZ182), pp. 33–34 (under seal); KDZ182, T. 13068–13069 (9 March 2011) (private session). See also P5906 (Witness statement of KDZ450 dated 17 January 2011), paras. 25, 140–141 (testifying that Sarajevo was “both a focal point and a flashpoint” and that it was important also because the Bosnian Muslim leaders were located there); P2130 (UNPROFOR daily report, 25 September 1994), p. 2.

Serb plans or the VRS would invade Sarajevo.<sup>15593</sup> **(This quotation is wrong. Why the Chamber didn't submit the original statement. This is totally unacceptable, to use Banbury's "handwritten notes of what had been said at a daily briefing of SRSG. First of all, Banbury is not credible, nor competent, second, as an anti-Serb biased witness, he made his notes as how he understood it, allocating somebody's meditation or observation to the Accused. The SRSG (Akashi) should have been asked about it. Also, it is unacceptable to take seriously a Banbury's interpretation of a statement given to the VOA, which could have been obtained in original. The Serb position was clear: they gave the maximal concessions and refrained from any victory over the Muslims and Croats. However, the international community felt comfortable with that, armed and supported the Muslim side, while the Serbs were under double sanctions international one and the Yugoslav, and the Serbs in Bosnia had been exhausted and weaker and weaker every day. So, the Accused's position was: either we all are for a compromise and peace, or the Serbs would secure their survival by their own strength!)** The Bosnian Muslim side, on the other hand, used it to keep the city and the rest of BiH in the focus of international attention, namely to carry out a media war in order to make up for their military inferiority and provoke an international reaction.<sup>15594</sup> **(Thanks God, the Chamber didn't forget this crucial fact that cost all the three sides a huge amount of sufferings. Having this in mind, it was easier to conclude which side had an interest for shooting in Sarajevo!)**

4658. The importance of Sarajevo was further illustrated by the fact that around the times of important negotiations and international conferences, as well as official visits, the city would experience an increase in activity, with disproportionate use of artillery on both sides.<sup>15595</sup> **(This is not correct as far as it is concerned with the Serb side, on the contrary it was #opposite to all the Serb interests#! But, the documents on which the Chamber relies for this finding says contrary. See what is in D00336:**

**6. No major developments should be expected in the Sarajevo area. Without unacceptable casualties the capture of the city is an unattainable objective for the Serbs. The BSA will remain in a defensive posture and rely on its superiority in indirect fire weapons to deflect any BH Army offensive.**

<sup>15593</sup> The Accused also said that he had closed the airport over the weekend to show the world who was in control of the airport. See P2451 (Witness statement of Anthony Banbury dated 19 May 2009), para. 143; P2452 (Anthony Banbury's handwritten notes of meeting, 24 April 1995), p. 2; Anthony Banbury, T. 13316 (15 March 2011).

<sup>15594</sup> KDZ185, T. 4227, 4229 (28 June 2010). See also D336 (John Wilson and Graham Messervy-Whiting's report to ICFY, 22 January 1993), paras. 11, 13(d); D503 (Marrack Goulding's note to UNSG, 7 September 1992), para. 12; P5906 (Witness statement of KDZ450 dated 17 January 2011), para. 65.

<sup>15595</sup> KDZ185, T. 4307 (29 June 2010); Hussein Abdel-Razek, T. 5534 (20 July 2010); D502 (SRK combat report, 23 September 1992); KDZ450, T. 10549–10550 (19 January 2011), T. 10615–10616 (20 January 2011); P1673 (UNPROFOR report re Sarajevo heavy weapons exclusion zone, 19 September 1994), para. 3 (indicating that ABiH launched an attack during Izetbegović's visit to New York). Galić testified that it was only the ABiH that partook in these types of activities but that he would warn his units not to respond. See Stanislav Galić, T. 37234–37236 (15 April 2013); D3394 (SRK combat report, 31 December 1992).

7. In the rest of BH, the BSA will continue with the defensive battle, whilst taking every opportunity to maintain pressure on vital nodes along the Croat:BiH Army south-to-north lines of communication. Maintenance of lines of communications to the Krajina will remain an important objective. Limited air operations will continue to facilitate the movement of their military and political leadership.

**(#EXCULPATORY#! No court is entitled to neglect the most relevant documents of the UN on this subject! AFTER SEEING THIS DOCUMENT, THE DEFENCE SHOULDN'T COMMENT ANYTHING ELSE, BECAUSE ALL THE SERB STANDPOINTS ARE JUSTIFIED BY THIS DOCUMENT#! Another document quoted in this footnote as a basis for this inference is D502, let us see it, D502:**

During General Morillon's stay at the *SPS /Slobodan Princip Seljo/* Barracks in Lukavica, the enemy attacked Vojkovići and Dobrinja with mortar fire. Our units were ordered not to return fire. A combined infantry and artillery attack, started yesterday by the enemy from the Ilijaš (Misoča) sector, continued today.

**Therefore, the conclusion about "disproportionate use of artillery on both sides" is not correct, but the the contrary!) Another quoted document, P1673 is also contrary to the Chamber's conclusion, and is a very illustrative to the entire Sarajevo situation, see: P1673:**

This may have been in retaliation for the Serbs cutting off utilities into Sarajevo. It is also apparent, with President Izetbegovic visiting New York on the 19th, that it was an attempt by the BiH to elicit a strong response from the BSA. The BiH may have hoped that the BSA would withdraw heavy weapons from the Weapon Collection Points and that NATO would respond with airstrikes. With Haiti dominating US and international news the BiH wished to both move Sarajevo back onto the front page as well as once again paint the BSA as aggressors shelling indiscriminately into civilian areas. The large number of reported firing points for the BiH mortars suggests that the BiH was moving the weapons around, possibly firing from trucks, with the aim of:

- a. Giving the impression to the BSA of using more weapons than they actually possessed.
- b. Making it more difficult for the BSA (or indeed NATO) to pin point the weapons and to retaliate against them.
- c. By confusing the areas the shelling came from, encourage indiscriminate and multi-targeting by the BSA with resultant civilian casualties.

**There is nothing that would the Defence add to this complete description of the cunning strategy of the ABiH and the Muslim extreme leaders. This pattern was established at the very beginning of the war, and never ceased to be exercised to the end of the war. In the light of this report there must be judged the entire conduct of the SRK in Sarajevo!)**

Mole testified that it was an "accepted norm" that if the Serb side failed to achieve their objectives anywhere in BiH, Sarajevo would suffer and fire would be opened on the city in

response.<sup>15596</sup> (This was an #assumption without any corroboration in evidence#. The Serb side didn't have any interest to fire in Sarajevo, since there was no plans to advance, and an fruitless fire would be politically detrimental to the Serbs! That is how the military summoned to testify on the facts, testify not about what they saw, but what they thought about one of the sides! There was no a single case that the Serb side "failed to achieve their objectives anywhere in BiH" – because after achieving the northern corridor there was no any objective except to defend!) In fact, on several occasions, Galić expressly indicated to Mole that any military setback for the Bosnian Serbs, or any rejection of their political demands, even those pertaining to issues in areas far away from Sarajevo, was sufficient reason for the SRK to subject the city to heavy artillery fire.<sup>15597</sup> (This is far from any truth. Let us see P1433, quoted by the Chamber:

1. As of this date the UNMO group in Sarajevo has a strength of 55 officers commanded by Lt Col R Mole. Currently the UNMOs occupy a total of 14 observation/monitoring positions, 10 on the Lima (Serb) side and 4 on the Papa (Presidency) side. As well the UNMOs maintain an HQ group in the PTT building that includes a dedicated 2 man utility patrol leader team.

It is evident that the Lima (Serbian) part of the battlefield had been covered by the UN monitors #two and a half times more! Further: This is the critical paragraph on which the Chamber relied asserting the above, the same P1433, p. 4:

18 Oct 92 A number of rounds impacted near the PTT building, including one direct hit that produced a hole in the cafeteria ceiling. Main route between the PTT and the airport is now open. UNPROFOR now manning a checkpoint along this route. Today, accompanied by Serb guides, a patrol of the front lines in the general area of Ilidza was carried out. As previously, there is no indication of a buildup of forces by the Serbs in this area. It appears that a large part of the shelling of the city by Serb forces was due to the Serb view that the Presidency was unwilling to participate in a POW and body exchange. The shelling of the city by the Serbs resulted in an immediate meeting between Serb and Presidency representatives with SMO as the mediator; a POW and body exchange, to be monitored by UNPROFOR, has been arranged for later this week.

This is a #mere speculation of the author of this report#. He couldn't have known what was governing the unit that fired. Galić wasn't in a position of a political leader, and Mole could understand Galić's indications said in Serbian as much as Galić could have understood Mole's "indications" in any language Mole spoke. This is ridiculous, to accept such a speculations, since there was no a single case of such a retaliatory fire for a political events, or a remote military events. Why would Galić, his SRK and civilians provoke a fire of the other side and suffer casualties? Only an insane person would do that, and the VRS Main Staff would never approve it, let alone the Accused.) At one point Galić told Mole that if the ABiH's firing from Mt. Igman did not cease, there would be reciprocal firing by his weapons onto the city.<sup>15598</sup> (Even if so, that would be a legitimate reprisal, to compel the Muslim side to cease violating a CFA. The Sarajevo battlefield was a unique one, and if the Muslim army fired against the Serb parts of Sarajevo from

<sup>15596</sup> P1426 (Witness statement of Richard Mole dated 7 May 2010), paras. 91–98, 105, 107, 116 (adding that Galić would also link the events in Brčko to Sarajevo); P1433 (UNMO report for October 1992), p. 4; P1429 (UNMO report for December 1992), p. 5.

<sup>15597</sup> P1426 (Witness statement of Richard Mole dated 7 May 2010), paras. 91–96.

<sup>15598</sup> P1426 (Witness statement of Richard Mole dated 7 May 2010), para. 94.

**Mt. Igman, or from the Moon, the SRK was entitled to respond to the sites most vulnerable for the ABiH, which constantly violated the ceasefire agreements!)**

4659. The Accused personally considered Sarajevo to be of extreme importance as indicated by the Srpski Borac interview referred to above, as well as some of his other statements about the city. For example, during the Bosnian Serb Assembly sessions in July and September 1992, the Accused identified Sarajevo as the most important battlefield.<sup>15599</sup> Similarly, in a press conference he gave on 18 September 1992 in Geneva, the Accused stated:

Sarajevo is my state, my country, my city! [...] The entire ground where Sarajevo was built up was Serbian, is Serbian ownership! We are there 200,000 Serbs, 300,000 Muslims and 50 or 60,000 Croats. Sarajevo is my city. I have an apartment in the middle of it [...]. I used to have. Which is broken the second day of the war [*sic*]. And I'll tell you, when they stop posing their own artillery in the city, we will stop responding fire [*sic*]. When they stop to kill our civilians by snipers they pose on the skyscrapers, there will be stop shelling of these buildings [*sic*].<sup>15600</sup> **(So what? Sarajevo was a common wealth of all the three sides, particularly the Serbs and Muslims. Why the Muslims would have an exclusive right to it? There is nothing criminal in responding to an opponent's fire. And the Accused's assumption that the Sarajevo battlefield was the most important was true, and should be said for a political reasons, so that the combatants know there was no any trade with Sarajevo. The Chamber shouldn't be hunting every single sentence in the Accused's political speeches, but rather to see a relevant documents.**

Koljević, who was also present during this press conference, exclaimed "Sarajevo is a Serbian city, for God's sake!"<sup>15601</sup> **(It was a Serbian city, and it is now a Serbian city. What is wrong with it? Did the Chamber have any other, more relevant argument? If not, then the Chamber shouldn't take side in this matter!)**

4660. Much earlier, during a session of the Bosnian Serb Assembly on 25 February 1992 and before the conflict started in Sarajevo, the Accused stated that he would never accept Sarajevo as the capital of a Muslim BiH given the number of Serbs in the city and given its enormous wealth.<sup>15602</sup> **Here is this para pertaining to the Sarajevo's future in the new BiH, D00088, p. 11**

<sup>15599</sup> D92 (Transcript of 17<sup>th</sup> session of SerBiH Assembly, 24-26 July 1992), p. 16; D456 (Transcript of 20<sup>th</sup> session of RS Assembly, 14-15 September 1992), p. 14. See also D3645 (Witness statement of Nenad Kecmanović dated 27 May 2013), para. 35 (testifying that the Accused, Koljević, and Plavšić were very concerned about the situation in Sarajevo while other parts of BiH were of secondary importance); D3864 (Radovan Radinović's expert report entitled "The Control Authority of Dr. Radovan Karadžić in the Strategic Command System of the VRS", 2012), paras. 174, 176.

<sup>15600</sup> P809 (Video footage of Radovan Karadžić's Press Conference at ICFY, 18 September 1992, with transcript), e-court pp. 10-11. See also P6688 (Interview with Radovan Karadžić in Duga Magazine, 23 May 1992), p. 4; Herbert Okun, P776 (Transcript from Prosecutor v. Krajišnik), T. 4201-4202 (testifying that when he told the Accused that the Bosnian Serbs shelled Sarajevo first, the Accused responded that the Bosnian Muslims started the war by expelling him from his apartment); P784 (First notebook of Herbert Okun's ICFY diary), e-court pp. 45-47; D4474 (Report on visit by Steering Committee to Zagreb, Sarajevo and Belgrade 9-12 September 1992), paras. 18-21.

<sup>15601</sup> P809 (Video footage of Radovan Karadžić's Press Conference at ICFY, 18 September 1992, with transcript), e-court p. 9.

<sup>15602</sup> D88 (Shorthand Record of 8<sup>th</sup> session of SerBiH Assembly, 25 February 1992), pp. 11, 20.

In the first proposed document Sarajevo was to be extraterritorial and governed by the central authorities – the BH authorities. Through IZETBEGOVIĆ's effort that was amended in the second document according to which Sarajevo would be the capital of Muslim Bosnia and Herzegovina and the capital of BH. Of course, under no circumstances will we accept this because counting Yugoslavs in, there are around 215,000 Serbs in Sarajevo and an enormous wealth that we will not abandon. We can accept it as the capital of both Muslims and Serbs because that is how we will carve out the municipalities as well.

**So, the Serb side didn't object an extraterritorial status of Sarajevo, the Muslim side rejected it, wanting the entire Sarajevo only for themselves. The President accepted that Sarajevo be both, the Muslim and Serb, and a third, the capitol of the entire BiH.**

**(Nothing exclusive!)** Thus, during the very early stages of the conflict, the Bosnian Serb political leadership, including the Accused, began entertaining the idea of dividing Sarajevo by assuming control over the south bank of Miljacka River and leaving the areas on the north bank to the Bosnian Muslims.<sup>15603</sup> As a reason for division of Sarajevo into separate and ethnically pure halves, **(This is not correct, and must not be allowed, to add such a**

**malicious "spice" as "separate and ethnically pure halves"! Once the Muslim side decided to change the nature of Bosnia and Herzegovina, there must had been a Serb reaction. Instead of preventing the secession, the Serb side and the Accused personally reconsidered the new position, and proposed an internal reorganisation of BiH and Sarajevo itself, as well as many other municipalities with a substantial presence of the two or three ethnic communities. Nothing "ethnically pure", nothing "separated", but only administratively reorganised, so that every ethnic community develops and live in accordance with it's needs and potentials. And it was well known to every single mediator, and to public, that the Accused proposed a Brussels model, rather than a Beirut division!)** the members of the Bosnian Serb political leadership, in particular Krajišnik and the Accused, would explain at length that coexistence between Bosnian Serbs and Bosnian Muslims had proven to be impossible.<sup>15604</sup> **(This is also an invalid interpretation, and as usually, the essential part was skipped: the thesis was that the Serbs and Muslims could not live un a unitary state as envisaged by the Islamic fundamentalists, and described in the Islamic Declaration authored by Mr. Alija Izetbegovic, who rejected to denounce the book to be a basis for the life of society. Therefore, co-existence was possible, because in a co-existence there would be the two entities with a high autonomy, as Mr. Izetbegovic had committed to on the ICFY in the Hague in 1991. The entire international community knew about it, and that was why the ICFY immediately accepted the sub-conference for BiH, which resulted in thje Lisbon Agreement proposal! In this proposal there was nothing "ethnically pure" or exclusive, and the Serb side remained faithful to it! Another question is: Why the Chamber didn't ask the mediators, including Mr. Cutileiro, what was the Serb position.)** On 16 April 1992, at a meeting attended by Vance, Okun, Koljević, and the Accused, Koljević announced that he and the Accused had agreed to divide Sarajevo; this division of Sarajevo was something that

<sup>15603</sup> P1154 (Witness statement of KDZ088 dated 27–29 April 2010), pp. 92, 94 (under seal); KDZ088, T. 6295–6296 (7 September 2010) (closed session).

<sup>15604</sup> P1154 (Witness statement of KDZ088 dated 27–29 April 2010), pp. 94, 114–115, 118–119 (under seal). See also Vitimir Žepinić, T. 33586–33590, 33594–33595 (13 February 2013) (testifying that the Accused, Plavšić, and Koljević would all make such proclamations).

continued to be “repeated endlessly by the Bosnian Serb leadership” according to Okun.<sup>15605</sup> Okun also testified that one of the objectives of the shelling of Sarajevo was to create a “wall of fire” between the Muslim and Serb parts of the city in order to physically divide the city, as it could only be divided by force.<sup>15606</sup>

**(#This is incorrect to the maximal degree#. Even #Okun himself admitted that his notes weren't verbatim, but were composed of what the interlocutors said and his reminiscences, what he thought about the said. “As it could only be divided by force” is a private opinion, far from any reality#. Is the Brussels “devided” by a force? A force was needed only to the side that wanted to deny to the Serbs their basic rights. The Serbs simply said: the authorities of such a unitary and fundamentalist state will not be able to enter the Serb settlements, and the Serbs didn't need any force, axcept to defend from imposing a hostile regime! #But, the Chamber is neglecting the most relevant evidence, the report of Mr. Vance from a meeting with president Karad`i}, with Okun present at the meeting, see P941:**

Secretary Vance and Lord Carrington met with Dr Karadzic on 26 August. Dr Karadzic was accompanied by Dr Koljevic and an interpreter. Ambassadors Wijnaendts, Cutileiro, Hall and Okun were also present as was Commandant Doyle.

1. Secretary Vance welcomed Dr Karadzic to the Conference. He said it was time to bring the fighting to a halt and begin serious negotiations. Dr Karadzic said that the Serbs were willing to negotiate. Regrettably the Muslims had always negotiated in bad faith. The Muslims had accepted the 18 March principles but had now reneged on them. They were only interested in a Muslim state. Earlier in the year he had urged the international community not to recognise Bosnia. After recognition, the Serbs had been forced to act in order to protect the Serbian population. The Serbs were willing to return territory and were content to remain part of Bosnia and Hercegovina within the existing boundaries. But the Serbian people of Bosnia wanted full autonomy from the Muslims and Croats.

**Both, Okun and Vance, as well as Doyle, had been present, note the Serb position on talks and recognition! see further:**

2. Secretary Vance asked which areas Dr Karadzic considered to be Serbian land. Dr Karadzic said it was difficult to discuss which areas could be handed back. To do so would frighten the Serbian people in these places. He was willing to talk about giving back territory as part of an overall agreement. But any such agreement would also have to protect Serbian property rights in Muslim and Croat areas. Dr. Koljevic said it was clearly in the interests of the Serbs to return land in exchange for full political autonomy. Dr Karadzic said that the precise amount of land that may be returned had not been decided. But the total would be substantial. As far as Sarajevo was concerned, he favoured using the administration of Brussels as a model. The Serbian municipalities would be part of the Serbian constituent unit. Secretary Vance asked how this apparent will to talk about constituent units was compatible with ethnic cleansing. Dr Karadzic said that all sides had practised cleansing over many years. It was imperative for the overall agreement to allow all refugees to return.

**There is no more relevant evidence on the Serb and Karad`i}'s standpoint on Sarajevo:**

<sup>15605</sup> P780 (Seventh notebook of Herbert Okun's Vance Mission Diary), p. 69; Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4173–4174, 4204–4205, 4210–4211, 4249–4251, 4354–4355. The Accused had made statements suggesting to divide Sarajevo long before this. For example, on 21 December 1991, during the Bosnian Serb Assembly session, he suggested that Serbs, Croats, and Muslims could each organise their own administration within Sarajevo. See D86 (Shorthand Record of 4<sup>th</sup> session of SerBiH Assembly, 21 December 1991), pp. 41–42.

<sup>15606</sup> Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4210–4211, 4354–4355.

**an administrative reorganization, no walls, let alone a “fire walls#! What Okun said and wrote down in his book-note was his meditation, Karad`i} never thought anything similar#!**

4661. The Chamber further recalls that Sarajevo also featured among the Bosnian Serb Strategic Goals indicating again the importance of the city to the Bosnian Serb side and the Accused in particular. **(“The Accused in particular” didn’t have any personal interest in anything, because he was a cosmopolitan, but he represented the Serb people’s interests to the best of his abilities. It is not correct to personalise this issue! #The Serbian people in the eastern part of RS wouldn’t have any prospective if they abandoned their rights in Sarajevo#! Would the Chamber dare to advise the Israelies to abandon Jerusalem#!? Or one of the Belgium communities to abandon their rights in the Brussels#!?)** The Chamber addressed the importance of the Strategic Goals to the Bosnian Serbs in preceding sections of the Judgement<sup>15607</sup> and recalls here that the Accused presented them during the 16<sup>th</sup> session of the Bosnian Serb Assembly on 12 May 1992 where they were adopted by the Assembly representatives. **(Wrong, i.e. false assertion: there was no any voting or any other form of adopting of this paper. It was only an information to the MPs on what is going to be negotiated. Had somebody contested the goals, there would be a discussion and voting. The Serb side did have it’s own “strategic goals” always, but before the war the goals were different, and could be found in the pre-war sessions of the Serb Assembly!)** One of the six goals listed was the division of Sarajevo into Serbian and Muslim parts and the “creation of the efficient state authority in both parts”.<sup>15608</sup> Speaking about this particular goal, the Accused stated during the Assembly session that the battle for Sarajevo would be of decisive importance, that “Alija does not have a state while we have a part of Sarajevo”, and that the fighting in the city prevented fighting in other areas where there could be conflicts with Bosnian Muslims.<sup>15609</sup> Furthermore, since Sarajevo had been built on Serb land with Serb money, he exclaimed that they would not allow it to be excluded from the SerBiH.<sup>15610</sup> **(What is wrong with that? The Serb side knew very well what was planned: to expel all the Serbs from Bosnia, and Mr. Izetbegovic said it to President Tudjman, and President Tudjman communicated this information to the American delegation led by Mr. Holbrook. The Chamber didn’t accept the transcript from this meeting, because it was from a book collected by certain Simic. Later the Defence found the hard copy with the ERN number, but it was too late. Anyway, we have seen what happened to the Serbs in Croatia, in the BiH Federation, in Kosovo: there is no more Serbs in many areas. It was also legal and legitimate to prevent Izetbegovic to impose “his state”, a unitary one and founded on the Islamic principles to the Serbs (and Croats, which means to the Christian majority!)** He also stated that the war in Sarajevo had been imposed on the Serbs but that their forces were doing well, holding their enemies in “complete

<sup>15607</sup> The Accused and the Bosnian Serb leadership, including Mladić, formulated and promoted the Strategic Goals, and took steps to ensure that they were implemented and that they continued to be the central element of the Bosnian Serb objectives for the duration of the conflict in BiH. See paras. 2895–2903.

<sup>15608</sup> See para. 2857; P955 (SerBiH Assembly Decision on Strategic Goals of Serbian People in BiH, 12 May 1992).

<sup>15609</sup> P956 (Transcript of 16<sup>th</sup> session of SerBiH Assembly, 12 May 1992), e-court p. 10. See also D92 (Transcript of 17<sup>th</sup> session of SerBiH Assembly, 24–26 July 1992), p. 16 (during which the Accused stated that thanks to the Sarajevo battlefield Izetbegović’s government and BiH are not functioning); Robert Donia, T. 3078–3079 (31 May 2010), T. 3144 (1 June 2010).

<sup>15610</sup> P956 (Transcript of 16<sup>th</sup> session of SerBiH Assembly, 12 May 1992), e-court p. 8. See also D92 (Transcript of 17<sup>th</sup> session of SerBiH Assembly, 24–26 July 1992), p. 16.

encirclement”.<sup>15611</sup> (#What is wrong with “holding own’s enemies in a complete encirclement”#? Should the Serbs surrender, or facilitate the 1<sup>st</sup> Corps to overwhelm the Serb areas and kill everyone, including animals? And that happened many times!) In the same session Mladić made statements, such as “we have to put a ring around the dragon’s head of Sarajevo *this very moment* and only those whom we let out should be allowed out”.<sup>15612</sup> He further explained that Sarajevo could not be taken “by spitting at it from two mortars” and that in order to make the Bosnian Muslims surrender they would have to densely plant 300 guns around Sarajevo including rocket launchers.<sup>15613</sup> (#Gen. Mladic’s opinions were of a military nature#, and he didn’t make a strategic decisions such as to take, or not to take Sarajevo. We do have an evidence that the Accused and Krajisnik prevented taking the entire Sarajevo (Mandic’s intercepted conversations) all other, particularly in the Accused’s claims and statements was legitimate, and wasn’t a basis for any crime. All the Accused wanted and proposed, and supported was achievable by a political means, or a military defence, not offence. And the Chamber had a sufficient evidence that the SRK strategy was a “strategy of containment of the ABiH”).

4662. The Chamber also heard that in September 1992 Van Lynden spent several evenings having informal conversations with the Accused during which he realised that taking Sarajevo was an obsession for the Accused.<sup>15614</sup> (#Van Linden is disgrace#! Van Linden is not qualified to assess the President’s “obsessions”, and everyone knows that the President didn’t want to take Sarajevo, and that his standpoint was to protect the population on their areas and wait for a political solution; see D3698, p.3

Momčilo Mandić:	Our guys insisted to “očiste” <i>not clear – to mop up or cleanse/</i> Dobrinja. However, KARADŽIĆ does not let hem and those...
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.

. A gen uine evidence that “Radovan prevented any attempt to take the whole of Sarajevo#! A journalists like Van Linden shouldn’t be admitted by any serious official, because if it become suitable, such a persons would produce themselves as a witnesses, abusing private diners and chattings. This is also detrimental for the real and honest journalists, who may be suspected for the same conduct!) According to Van Lynden, the Accused made it clear that in his opinion Sarajevo belonged “solely to the Serbs”, stating that “all the ground was actually Serb territory” and that the houses were Serb houses.<sup>15615</sup> During one of these discussions, the Accused also suggested that one of the potential solutions in Sarajevo was to have a version of the Berlin wall in the city since the Serbs could never live

<sup>15611</sup> P956 (Transcript of 16<sup>th</sup> session of SerBiH Assembly, 12 May 1992), e-court p. 8.

<sup>15612</sup> P956 (Transcript of 16<sup>th</sup> session of SerBiH Assembly, 12 May 1992), e-court p. 38 (emphasis added).

<sup>15613</sup> P956 (Transcript of 16<sup>th</sup> session of SerBiH Assembly, 12 May 1992), e-court pp. 36, 38. The Chamber heard evidence that Mladić attempted to ensure the division of Sarajevo in May 1992 by moving the Serb units from Grbavica all the way to Maršal Tito Barracks. [REDACTED]; P1478 (Ratko Mladić’s notebook, 27 May–31 July 1992), p. 42 (where the Accused indicated his support for this plan and stated “we must have [...] part of Sarajevo”); P968 (Interview with Jovan Tintor on Pale TV, 1 August 1994, with transcript), e-court p. 2.

<sup>15614</sup> P926 (Witness statement of Aernout Van Lynden dated 26 February 2010), paras. 71–74; Aernout van Lynden, T. 2418, 2445–2447 (19 May 2010).

<sup>15615</sup> P926 (Witness statement of Aernout Van Lynden dated 26 February 2010), para. 72; Aernout van Lynden, T. 2418 (19 May 2010).

with the Muslims again.<sup>15616</sup> **(No one ever said such a thing! This is a flagrant lie, and it was a widely known that the Accused was against any wall. In what capacity Van Linden spoke with the Accused? #If it was in his capacity of journalist, why he didn't publish it, and if it was a chatting with whiskey, he shouldn't be testifying about it as if it was an official political statement of the President#! . Since it was not, this conduct of Van Linden is dishonest and close to a sort of spying!)** The idea of a division similar to the one in Berlin was supported by Mladić who, during a meeting with Morillon on 27 October 1992, offered two solutions to the situation in Sarajevo, one being to divide Sarajevo into two parts, mark the borders and have a split community like in Berlin and with the wall; or, if that was not accepted, for the Muslim side to surrender all weapons to UNPROFOR, at which point he would open the roads into the city.<sup>15617</sup> **(#Words of others#! How Mr. Tucker can testify what Morillon and Mladic chatted? This never was an official Serb position, and this is not serious from the Chamber to neglect so many documents and pay credit to some chattings. Anyway, this is the most frequent omission of the Chamber, to neglect the official documents of the Serb side, as well as of the UN, and to rely on a statements that shouldn't be considered as reliable, or had been obtained by a side that was interested in the outcome of the process! What is more relevant than the official negotiating position expressed during the conferences?)**

4663. During the 34<sup>th</sup> Assembly session in August 1993, in the context of trying to persuade the Assembly to accept the Owen-Stoltenberg Plan, the Accused stated that the goal relating to Sarajevo, namely to create the "Serb Sarajevo" out of "Serb territory in the town of Sarajevo" had been achieved but that he was ready to compromise as it was in their interests to make "two towns".<sup>15618</sup> **(What is wrong with a readiness for compromises?)** Later in the session, after stating that the Serbs could have taken more territory by force, the Accused stated "[w]e can even take Sarajevo" and, having referred to Grbavica, parts of Dobrinja, Vogošća, Ilijaš, and Nedžarići, indicated "[t]his is all ours" explaining that he would not have agreed to the Owen-Stoltenberg Plan if he was not sure that the Serbs would keep everything that was presently theirs in Sarajevo.<sup>15619</sup> The Accused also stated that Sarajevo was not in the Muslim state but in the Serbian state because "everything around is Serbian"; that the Bosnian Serbs would not "cede a single footstep"; and that the most probable outcome was the division of Sarajevo into two cities.<sup>15620</sup> He stressed that "Serbian Sarajevo is of priceless importance" and that the Bosnian Serb side needed to prepare for war to gain Sarajevo.<sup>15621</sup> **(#All political speeches#, but founded on the true facts and legitimate. When speaking about the "Serb Sarajevo" the President referred to the Serb part of Sarajevo which was**

<sup>15616</sup> P926 (Witness statement of Aernout Van Lynden dated 26 February 2010), para. 73; Aernout van Lynden, T. 2418–2419, 2445–2446 (19 May 2010), T. 2563–2564 (20 May 2010). See also P785 (Second notebook of Herbert Okun's ICFY diary), e-court p. 24; Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4204 (indicating that during a meeting on 17 September 1992 in Geneva the Accused told Okun and Vance that he could persuade Serbs to remain in Sarajevo if there were two entities there). Later in the conflict, the Accused proposed a solution that he said would create peace within two weeks in Sarajevo, namely to place the city under the UNPROFOR control and to have a "green line" akin to that in Cyprus. See D172 (UNPROFOR report re meeting with Radovan Karadžić, 20 February 1993), p. 2; David Harland, T. 2288 (11 May 2010).

<sup>15617</sup> P4203 (Witness statement of Piers Tucker dated 12 May 2010), paras. 26, 32–33.

<sup>15618</sup> P1379 (Transcript of 34<sup>th</sup> session of RS Assembly, 27–29 August, 9–11 September, 29 September to 1 October 1993), p. 15.

<sup>15619</sup> P1379 (Transcript of 34<sup>th</sup> session of RS Assembly, 27–29 August, 9–11 September, 29 September to 1 October 1993), p. 63.

<sup>15620</sup> P1379 (Transcript of 34<sup>th</sup> session of RS Assembly, 27–29 August, 9–11 September, 29 September to 1 October 1993), pp. 64–65.

<sup>15621</sup> P1379 (Transcript of 34<sup>th</sup> session of RS Assembly, 27–29 August, 9–11 September, 29 September to 1 October 1993), pp. 65, 116 (in this session the Accused also stated: "Sarajevo is the greatest problem as there must be water, electricity and gas and no shooting"**(Why this remarks are in the foot note, and not in the main text?)**).

**organised as a separate city and kept this name till several years after the war. Now the Serb Sarajevo exists as Eastern Sarajevo! Here is the essence of what the Accused said at the 34<sup>th</sup> Session of the Assembly quoted under the fn. above, P1379, p.9-10:**

moment. We do not want to hide that our wish was a complete independence, but a compromise has been found between our wishes and restrictions placed by the international community. This is about the Alliance of three Republics, where our Republic is accepted within the borders, which are to be adopted. The Alliance has a

**Therefore, a permanent readiness of President Karadžić for compromises, including a question of borders. There is also the Accused's vision of the common life of the three communities: P1379, p.10:**

little say in the matter. The Alliance is what the three Republics agree upon. I will cite a late BROZ who used to say, after the Constitution of 1974: "Yugoslavia is what the Republics agree upon but not what is written in its Constitution." It is the same now when Bosnia and Herzegovina is in question, and I think that it is the only way we can live together. The further generations will see whether life will depart us or draw closer. But at this moment after this bloody war, which was imposed on us by both international community and our opponents, this is the utmost closeness and connection that we could have accepted and tolerated. I want to say that our Republic

**This was a conciliatory speech, envisaging a "living together" in a way different communities live elsewhere in the world! And here is what the Accused said about Sarajevo, P1379, p.11:**

The paper referring to Sarajevo is in front of you and we can later discuss it either at the Deputies' Club or at the Assembly. As you have seen, Pale has been separated from Sarajevo, but Pale separated by itself before the war at the municipal parliament completely legally and immediately joined Republika Srpska. The remaining territory of the Sarajevo region is left for a later period as it has been here envisaged. I can tell you that Sarajevo region is the union of municipalities the same as the BiH Union is the union of Republics.

**And here is what the Accused said about Sarajevo, p1379, p.14-15:**

The fifth goal is to maintain our part in and protect our rights to Sarajevo, because that part is very important for integrating the territories of East Herzegovina,

Old Herzegovina and Romanija and because our interests in concentrating education culture, science and economy are met in this valley.

Thus, that interest is to create Serb Sarajevo, whatever it is to be called, but to create it of the Serb territory in the town of Sarajevo.

As you can see, the fifth goal has been achieved in this phase. We keep everything what is ours in Sarajevo and we shall probably keep all that in the period of two years. And if there would be any deal to solve Sarajevo definitively before this time, we are ready to compromises, because it is of our interest to make two towns, in order not to disturb each other and to make them prosperous.

**What is wrong with this vision? That is how it is now, and that could have been achieved without any war! And here is what the Accused said about the importance of Sarajevo, and the reasons why there had to be a Serb Sarajevo, P1379, p.65:**

two cities. We will not cede Sarajevo, gentlemen, we frankly said that to delegations. Do not be deceived. Not a single skirmish will pass, we will keep everything that is Serbian in Sarajevo. We have said that to the co-presidents. For us Sarajevo incorporates Eastern Herzegovina, Ancient Herzegovina and Romanija. Pale and Sokolac would not survive if they would have to go to Bjeljina. Romanija has its own downtown in Sarajevo. And it will remain like that. Ancient Herzegovina and Eastern Herzegovina too. We have to educate these kids. We cannot send the kids from there to Banja Luka. We will build the polycentric development and for such development Serbian Sarajevo is of priceless importance to us and we are not going to cede it. It is not good that people who are not from Sarajevo offer and predict the loss of Sarajevo. The people from Sarajevo have to do this. We have the city assembly, the mayor and the chairmen of the municipality assembly. The municipalities will be very important in the upcoming period. They have to sit and tell us to refuse or not to refuse the plan because the status of Sarajevo is solved in such way. I think we should not refuse anything. This is very convenient moment for us. If anyone had proposed us,

**#Maintaining the Serb parts of Sarajevo was of the utmost importance for the survival of the entire south-east part of the Republic of Srpska, which would vacate if not having the urban infrastructure, education and the condition for a dignified life#. And here is the critical paragraph used by the Chamber to assert that the Accused was for a war to gain Sarajevo, P1379, p.115-16:**

Bosna, for the money is theirs, as the one on our side will be ours. They have stated that there will not be any borders, as is modern now in Europe, but we all know when there is money concerned there must be a border. There will be strong control of the monetary manipulation, and of the bringing in of currency, for the world will not believe it. Everybody knows about this, and they write about the large barbed-wire fences that will be set between us. Furthermore, this implies for both across Bosnia,

and in Sarajevo. Sarajevo is the most serious problem, as there must be water, electricity and gas, and no shooting. According to the international war laws we are not allowed to use weapons to move Sarajevo from the front-line television news, and then, for us everything is accomplished with less difficulty. I am convinced that we will not see this for another two years, as there will be a lot of blood-shed, and as NJEGOŠ said “sorrow for the one whose forehead breaks”. We have to prepare for two important wars: one to gain Sarajevo, and another to gain Krajina. Even if

**So, the Accused was defending the Owen-Stoltenberg Peace Plan. The borders appeared to be important for the money-londry prevention, and the Accused said: “They write about a large barb-wire fences”, not that the Serbs predicted or wanted that! Further, in order to keep “Sarajevo on the front-line television news” the other side would continue the war in Sarajevo for the next two years! Not the Serbs had interest to continue the war, but the Muslims, who wanted the entire Sarajevo. In the original it was said: “We have to prepare ourselves for two important wars: one to get Sarajevo, not to gain it, in terms to have it recognised to the Serbs what was the Serbian. Another word, the Serbs had to preopare themselves to endure another two years to keep what was their in Sarajevo. What is wrong with that? The ways of misuse, misunderstanding, misinterpreting, misquoting and even abusing of the evidence is unseen so far!)**

4664. Similarly, during the 36<sup>th</sup> Bosnian Assembly session in December 1993, the Accused stated that it was SDS policy that Sarajevo be preserved, through the fifth Strategic Goal and that the “Sarajevo battlefield has created the state” because, had it broken down, the Bosnian Muslims would have reached the Drina and cut across the corridor.<sup>15622</sup> **(So what? This was true! Not even the Muslim extremists had so many objections on the Serb political views as the Chamber has! Had the Serbs lost the battle for Sarajevo, the internationals would only say that they are deeply sorry, but this is a new reality, as they said when helped Yugoslavia to dissolve in the blood!)**

4665. On 13 and 14 December 1993, at a meeting in Belgrade with Slobodan Milošević, the Accused outlined the Strategic Goals, including the goal to have “our part of Sarajevo”; he then stated that Sarajevo was a priority and the “key to the war” and that he was afraid that “Islamic culture will try to spread its wings in Sarajevo”.<sup>15623</sup> **(#As Okun testified, all of this handwritten notes consisting of a parts of sentences and his reminiscences are not sufficient to interpret them in a non-ambiguous manner#. For instance, the sentence about “spreading of the Islamic culture in Sarajevo” didn’t pertain to a culture of the Bosnian Muslims, but the Saudi Vahabism, which is a source of terrorism, as it really**

<sup>15622</sup> P1383 (Transcript of 36<sup>th</sup> session of RS Assembly, 30–31 December 1993), pp. 128–129.

<sup>15623</sup> P1484 (Ratko Mladić’s notebook, 28 October 1993–15 January 1994), pp. 53–54. Mladić’s notebooks contain many references to meetings with the Accused during which the Accused emphasised the importance of Sarajevo. See e.g. P1477 (Ratko Mladić’s notebook, 14 February–28 May 1992), p. 347 (recounting a meeting on 16 May 1992 with the representatives of the Bosnian Serb Government during which the Accused emphasised the importance of Sarajevo); P1480 (Ratko Mladić’s notebook, 10–30 September 1992), p. 110 (recounting a meeting with the Accused, Krajišnik, and others, during which the Accused said that the Serbs would not be giving up on Sarajevo); P1483 (Ratko Mladić’s notebook, 2 April–24 October 1993), pp. 194, 396 (recounting two meetings, one in Jahorina on 2 June 1993, attended by Galić, Mladić, Krajišnik, and the Accused, among others, during which the Accused said that Sarajevo battlefield was the most important, that nothing could be achieved by negotiation, and that Sarajevo had to be taken; the other meeting was that of the Supreme Command on 24 October 1993 during which the Accused again recalled the importance of Sarajevo); P1484 (Ratko Mladić’s notebook, 28 October 1993–15 January 1994), pp. 133–134 (recounting a meeting in Pale on 14 January 1994 where the Accused emphasised that the Serbs must defeat the Muslims in Sarajevo).

happen now. Otherwise, why the extreme Islamic regimes would finance the project of independent Bosnia? But, anyway, the Serb suspicions and fears were legitimate. Needless to mention that the Serb side didn't have any objection if the fundamental Islam was to be implemented only to those Muslims who accepted it!) The Accused also advocated capturing more elevation points around Sarajevo, including Mojmiło and Žuč.<sup>15624</sup> (So what? The Serbs kept both the Zuc and Mojmiło at the beginning of the war, but the Muslim forces captured it. Since the Muslim side declared the war against the Serbs, why the Chamber takes a right to object the tactics of the Serb side?) To this Slobodan Milošević responded by issuing a reminder that "Sarajevo is primarily a political problem".<sup>15625</sup> Krajišnik backed the Accused and spoke about Sarajevo as a priority, explaining that they were drawing maps of Sarajevo.<sup>15626</sup> Dragomir Milošević, who was also at the meeting, spoke about the need for fresh forces which would "carry out the whole operation to its completion".<sup>15627</sup> The Accused then said that Sarajevo should be divided so that the Bosnian Serb part of the city can function while Krajišnik stated, "we have to finish Žuč before the conference".<sup>15628</sup>

4666. On 6 April 1994, Akashi met with the Accused, Koljević, and Mladić in Pale.<sup>15629</sup> The Accused indicated the Serbs were considering a new approach to the question of Sarajevo, which would entail two separate cities rather than splitting the present Sarajevo in two as previously demanded, wherein the Serb Sarajevo would be built from satellite Serb towns in the Sarajevo area.<sup>15630</sup> (#EXCULPATORY! This was a big concession from the Serb side! And that is how it happened at the end!) Similarly, in a meeting with De Mello in the evening of 7 May 1994, the Accused presented his vision of Sarajevo, in which the inner city would remain Muslim, with Serb Sarajevo stretching from Ilidža to Lukavica, including the airport and Butmir.<sup>15631</sup> He described this as "[t]wo cities, side by side, communicating and cooperating".<sup>15632</sup> (A compromise, and concessions. #EXCULPATORY!) Then, on 10 May 1994, during the 40<sup>th</sup> session of the Bosnian Serb

<sup>15624</sup> P1484 (Ratko Mladić's notebook, 28 October 1993–15 January 1994), p. 54.

<sup>15625</sup> P1484 (Ratko Mladić's notebook, 28 October 1993–15 January 1994), p. 54.

<sup>15626</sup> P1484 (Ratko Mladić's notebook, 28 October 1993–15 January 1994), p. 56. Okun testified that division of Sarajevo was probably the Strategic Goal that Krajišnik emphasised more than any other. See Herbert Okun, P776 (Transcript from *Prosecutor v. Krajišnik*), T. 4244, 4249–4251, 4275–4276, 4299–4307; P790 (Seventh notebook of Herbert Okun's ICFY diary), e-court pp. 24–25, 30. See also P797 (TV Belgrade interview with Momčilo Krajišnik); KDZ240, P2935 (Transcript from *Prosecutor v. Krajišnik*), T. 6769–6772 (under seal); P1477 (Ratko Mladić's notebook, 14 February–28 May 1992), p. 262 (recounting a meeting between the Accused, Krajišnik, and Mladić, during which Krajišnik referred to the Strategic Goals and the division of Sarajevo); P2538 (Patrick Treanor's research report entitled "Radovan Karadžić and the Serbian Leadership 1990-1995", 1 May 2009), para. 261 (recounting an interview that Krajišnik gave to Srpsko Oslobođenje in which he said that the perspective for Sarajevo is such that in the future it will be a Serb town and the Muslims would have to seek a capital without Sarajevo); D3645 (Witness statement of Nenad Kecmanović dated 27 May 2013), paras. 17–19 (recounting a meeting between Krajišnik and Izetbegović in May 1992 during which the former recommended a temporary division of Sarajevo); P1385 (Transcript of 37<sup>th</sup> Session of RS Assembly, 10 January 1994), p. 125 (wherein Krajišnik proposed to agree to a two-year mandate of the UN over Sarajevo and then, when the other Serb-held territories are merged, to fight to get Sarajevo back).

<sup>15627</sup> P1484 (Ratko Mladić's notebook, 28 October 1993–15 January 1994), p. 56.

<sup>15628</sup> P1484 (Ratko Mladić's notebook, 28 October 1993–15 January 1994), p. 59.

<sup>15629</sup> D705 (UNPROFOR report re meetings with Radovan Karadžić and Alija Izetbegović, 7 April 1994), para. 1; Yasushi Akashi, T. 37703–37707 (24 April 2013); Michael Rose, T. 7497 (7 October 2010).

<sup>15630</sup> D705 (UNPROFOR report re meetings with Radovan Karadžić and Alija Izetbegović, 7 April 1994), para. 17. See also P1486 (Ratko Mladić's notebook, 31 March 1994–3 September 1994), pp. 288–292 (recounting another meeting with Akashi, on 19 August 1994, during which the Accused insisted on splitting Sarajevo); D3500 (UNPROFOR report, 7 October 1994), p. 9 (reporting on a 5 October 1994 meeting between the Accused and Akashi, among others, during which the Accused again proposed that Sarajevo be split into "twin cities"); Yasushi Akashi, T. 37718 (24 April 2013).

<sup>15631</sup> P5422 (UNPROFOR report, 8 May 1994), para. 23.

<sup>15632</sup> P5422 (UNPROFOR report, 8 May 1994), para. 23.

Assembly he said: “[W]e have to maintain the character of the Berlin kind of corridor in order to get Sarajevo definitely divided and the territories to become compact. Then we will give them square metre of the hill between Vogošća and Vis, and we will take away from them square kilometre on the Drina.”<sup>15633</sup> **(This was also #legitimate#, and the President had been preparing the Assembly for some swaps of the territories, initiated by the Muslim side. It was known as “quality for quantity”, which meant that a square metre in the city (Vogosca was the city) is worthwile as a kilometre in rural, mountain areas! But, how it is possible that a serious chamber is dealing with such an insignificant sentences?)**

4667. Even in the later stages of the conflict, as the ABiH forces in Sarajevo were getting stronger and better equipped, the Accused and Mladić were unwilling to give up on the idea of Serb Sarajevo. **(Why would they give up the idea of Serb Sarajevo? This was not their private matter, there was about 200,000 citizens of Sarajevo with their rights, who wouldn't accept anything that would be against their basic interests. As the Accused said in the Asassembly session, P00988, p.**

I think we have to conclude clearly, once again, at this assembly that no one except authorised negotiators, no one without authorisation can negotiate. They cannot go anywhere else or to any consultations, whether we are brothers or not. It is our duty, our obligation and our responsibility to these people, we are sworn to the Serbian people in the RS and we have to fulfil that. Of course, if our brothers from must guarantee to him that we would sign whatever he agrees and accepts. That cannot be done without this Assembly and I'm not sure that would be good because **Why the Chamber advocates the Muslim cause more than even they would do?** Thus, on 9 May 1995, Smith reported to Akashi that during a meeting held in Pale earlier in the day, the Accused had made it clear to him that the Bosnian Serbs were not going to let go of Sarajevo.<sup>15634</sup> **(So what? Why would the Serbs give up their part of Sarajevo?)** In July 1995, when asked in an interview with El País what his view on the future of Sarajevo was, the Accused said that the city would be transformed into two neighbouring cities, if the Muslims wished; otherwise, it would be a Serb city, because the entire territory around Sarajevo and the ground on which it stood was Serb land.<sup>15635</sup> **(All of it is within political speech on the subject, and has no relevance, but the main issue was that the Accused didn't advocate anything but a transformation of the district into a two cities, as it was really accepted in the Dayton Agreement!)** He then stated: “We will either have half the city transformed into a Serbian city or we will have the whole thing”.<sup>15636</sup> Similarly, as indicated earlier, on 2 August 1995, in an interview with the Srpski Borac newspaper, the Accused discussed the strategic importance of Sarajevo for the Bosnian Serbs and stated that if the Bosnian Muslims disturbed the Bosnian Serb part of Sarajevo, the Bosnian Serbs will “seize [the city] entirely”.<sup>15637</sup> On 28 August 1995, during the 53<sup>rd</sup> session of the Bosnian Serb Assembly, the Accused said that the Serbs “absolutely cannot leave Sarajevo because then the Muslims would really have a good state”.<sup>15638</sup> **(This is due to a wrong translation of**

<sup>15633</sup> P1390 (Transcript of 40<sup>th</sup> session of RS Assembly, 10–11 May 1994), p. 71.

<sup>15634</sup> P2265 (UNPROFOR report re meeting with Radovan Karadžić, 9 May 1995), e-court p. 3.

<sup>15635</sup> P2564 (Radovan Karadžić's interview in El País, 16 July 1995), p. 5. See also P5063 (Video footage depicting interview of Radovan Karadžić on “Ask the President”, undated, with transcript), e-court p. 17 (where the Accused threatens that if the Muslims do not accept the division of Sarajevo into two cities, Sarajevo will eventually be entirely Serb).

<sup>15636</sup> P2564 (Radovan Karadžić's interview in El País, 16 July 1995), p. 5.

<sup>15637</sup> D2660 (Article from Srpski Borac entitled “We are Sovereign over Sarajevo”, 2 August 1995), pp. 2, 6.

<sup>15638</sup> P988 (Transcript of 53<sup>rd</sup> session of RS Assembly, 28 August 1995), p. 26.

**the sentence the Accused said! Here is the Serbian version:**

је најбоље. Тамо се помиње замјена Горажда за дијелове Сарајева, наиме ми Сарајево нипошто напуштити не можемо, јер би тада тек муслимани имали добру државу, а нас би осушили би нам ове три покрајине Источу Херцеговину, Стару Херцеговину и Романију, ту не би ништа остало ако ми не будемо имали своје Сарајево и тај регионални центар да се ту може и школовати и лијечити и трговати и обављати посао. Значи ми не смијемо, ми се морамо навикњавати на то да ћемо нешто да прихватимо, али не смијемо нипошто ставити до знања никоме да ћемо ми да прихватимо нити смијемо да прихватимо нешто што нас ликвидира као државу и као народ. Не смијемо то да прихватимо и ту нема друге.

exchange of Goražde for parts of Sarajevo is mentioned there. We absolutely cannot leave Sarajevo because then the Muslims would really have a good state, and they would /?reduce us to/ these three provinces, Eastern Herzegovina, Old Herzegovina and Romanija, nothing would be left there if we don't have our own Sarajevo and that regional centre, so people can go to school there, get treatment, trade and do business. Therefore we cannot, we have to get used to the idea that we would have to accept something, but we absolutely cannot make anybody think that we will accept something nor can we accept something that eliminates us as a state and as a people. We cannot accept that and there's no other way.

**The sentence should be translated as follows: "...absolutely cannot leave Sarajevo, because then only the Muslims would have a good state, while we would be dried out in the three provinces... so, once again the Chamber merges "babe i zabe", an apples and orange. This was a discussion in the frame of negotiations of the peace plan, not about the armed fights. The Serbs wanted the Muslims to be satisfied, but not to be the only satisfied side. It was always said that there is no BiH if either side is not satisfied in matters they have rights to!)**

**4668.** On 29 August 1995, one day after the Markale shelling, the political and military leaderships of the FRY and the RS met to discuss a peace initiative; the FRY delegation included Slobodan Milošević, whereas the RS was represented by the Accused, Krajišnik, Plavšić, Koljević, Buha, Mladić, Tolimir, and Gvero.<sup>15639</sup> They discussed a number of issues and, at the end of the meeting, Milošević set forth the Bosnian Serb priorities he would present at the upcoming conference with the Contact Group, namely (i) the north corridor being as broad as possible, especially in Brčko; (ii) compactness of Bosnian Serb territory; (iii) the inclusion of as many towns as possible in territories formally assigned to Bosnian Serbs; and (vi) access to the sea.<sup>15640</sup> At the insistence of the Accused, the list of priorities was amended in the last minute so as to include Bosnian Serb claims to three more areas, including "Serb Sarajevo", once again showing the importance he placed on that issue.<sup>15641</sup>

**(So what? It was a guideline for negotiations, not for a combat resolution. The Strategic goals had anyway been formulated for the purpose of negotiations!).**

<sup>15639</sup> D3058 (Record of meeting between leaderships of FRY and RS, 29 August 1995), p. 1.

<sup>15640</sup> D3058 (Record of meeting between leaderships of FRY and RS, 29 August 1995), p. 13.

<sup>15641</sup> D3058 (Record of meeting between leaderships of FRY and RS, 29 August 1995), p. 13.

4669. On 28 November 1995, during an SDC meeting in Belgrade, Slobodan Milošević expressed concern about Mladić's behaviour and reported the following to the others at the meeting:

Mladić states two days ago: "We're not giving away what belongs to the Serbs, Sarajevo belongs to the Serbs." Please, tell me, when was it in this century that the Serbs were the majority in Sarajevo? When? [...] They got a part of Sarajevo—the south-eastern part; they asked that the entire Sarajevo District be completely separate, and Sarajevo District includes the Municipality of Pale [...] we plucked Pale out, then Lukavica, Vrace, Vojkovići, then down there towards Trnovo, and the remaining part—where the Muslims constitute a vast majority.<sup>15642</sup> **(#Till that time the Dayton Agreement had already been signed#, even by the President, and President Milosevic made a political speech, because he was accused for side-lining the Bosnian Serb part of delegation, and made many mistakes around Sarajevo, which could have been negotiated much better. But, this Chamber didn't take into account either time frame, or a nature of some words, so that a words aimed to persuade somebody, with all exaggerations, are taken verbatim as a definite political position!)**

4670. As already concluded in Section IV.A.3.a.i.E, the Strategic Goals, including the goal to divide Sarajevo, formed the basis for military operations by the VRS. **(This is also not correct. This objective existed much earlier, far before the war broke out, when it was meant to be resolved by negotiations. It is quite known that the Accused stated publicly that the Serb objective was to stay in Yugoslavia, but when made the ultimate concession, they said that if BiH was going to be out of Yugoslavia, it should be transformed as a "Southern Switzerland" and Sarajevo to be administratively organised as the Brussels. And before the VRS had even been meditated, the people of the Serbian Sarajevo established the defence lines and formed their Sarajevo.** Thus, Sarajevo was explicitly mentioned in all but one of the seven military directives issued by the Main Staff and/or the Accused.<sup>15643</sup> As early as in Directive 1, which was issued by the Main Staff on 6 June 1992, Mladić stated that the VRS had "received the task to use offensive actions [...] in order to improve operationally-tactical position in the wide area of Sarajevo".<sup>15644</sup> **(So what? This was a war, and the Chamber shouldn't contest a legal military matters!)** He then tasked the SRK to "mop up parts of Sarajevo" and "cut it out" along the Nedžarići–Stup–Rajlovac axis; he also tasked them with mopping up Mojmiro, Dobrinja, Butmir, and Sokolović Kolonija, and with de-blocking of Sarajevo–Trnovo and Pale–Zlatište communication.<sup>15645</sup> **(So what? What was illegal in this task?)** On the same day that Directive 1 was issued, the Accused had met with Mladić, Koljević, Krajišnik, Ostojić, and others in Jahorina and discussed the Strategic Goals, claiming "we have to protect our territories militarily" and that "the birth of a state and the creation of borders does not occur without war".<sup>15646</sup> **(So what? What is illegal in protecting "our territories militarily" if**

<sup>15642</sup> P2604 (Minutes of 47<sup>th</sup> session of SDC, 28 November 1995), pp. 10–11.

<sup>15643</sup> For more on the seven directives and their supplements, see Section IV.B.1.a: Chronology of events in Sarajevo; IV.B.1.c.iii.A: Scheduled Incidents G.1 and G.2.

<sup>15644</sup> D232 (Directive 1, 6 June 1992), para. 2.

<sup>15645</sup> D232 (Directive 1, 6 June 1992), para. 5. See also [REDACTED].

<sup>15646</sup> P1478 (Ratko Mladić's notebook, 27 May–31 July 1992), pp. 95, 97. The Accused had also met Mladić, Koljević, Plavšić, and Krajišnik the day before, on 5 June, wherein he instructed those attending that "Sarajevo has to be resolved politically while acting

**attacked militarily? The Serbs were ready to make it peacefully, but the Muslim side listened to their advisors to go for a war. A remark about “children and states” couldn’t be born without blood is an academic remark about the issue, not any political statement!)** Following these statements, Ostojić then presented the planned borders of a Bosnian Serb state on a map, including those around Sarajevo, saying that the plan regarding Sarajevo was to include as much industry as possible and most of the fertile land in the area.<sup>15647</sup> The Accused again addressed the issue of Sarajevo and said “we could have gone for a compact and dispersed partition of Sarajevo if there had been the political means” and further “not all our wishes can be fulfilled, we have to be a mature people”.<sup>15648</sup> **(So what? #EXCULPATORY#!)**

**4671.** In Directive 3, issued on 3 August 1992, Mladić outlined the objective of keeping Sarajevo “firmly under blockade” and thus instructed the SRK to “gradually tighten the encirclement”.<sup>15649</sup> In Directive 4, dated 19 November 1992, he instructed the SRK to keep Sarajevo and Igman under “full blockade” and “tighten the circle”.<sup>15650</sup> **(ALL OF THAT WAS #LEGAL AND LEGITIMATE MILITARY PLAN IN A CIRCUMSTANCES OF WAR#. What should be done to an enemy? What was a choice? To ease the enemy to defeat the Serbs? This objections had nothing to do with the Law of war!)** As noted earlier,<sup>15651</sup> in that same directive, Mladić also explained that one of the tasks of the VRS was to create conditions for the Bosnian Serb leadership to “participate equally” in resolving the crisis in BiH with “other international factors”.<sup>15652</sup> **(So what? This is the duty of any army in the world, to facilitate an equal and good position for a political resolution of the crisis!)** Sarajevo and its surroundings were also the focus of the Lukavac 93 operation outlined in Directive 5, in which Mladić tasked the SRK to “create conditions to assume control over [Sarajevo]”.<sup>15653</sup> He explained in the directive that the VRS had been tasked with preventing the capture of special-purpose facilities and the lifting of the blockade of Sarajevo.<sup>15654</sup> **(Legal and legitimate!)** Directive 6 was then issued by the Supreme Command and signed by the Accused in November 1993, wherein he ordered the VRS to create objective conditions for the achievement of “war goals”, including the “liberation of Sarajevo”, and tasked the SRK units with preventing the “deblockade of Sarajevo”.<sup>15655</sup> This was followed by a supplement to the directive, issued by the Accused on 12 December of the same year. In that supplement he noted the impending resumption of talks in Geneva and ordered the VRS to seize Žuč and Mojmiło in order to ensure “the most favourable position

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*quietly, inch by inch.*” He also instructed them to “clean up” Butmir, Hrasnica, Dobrinja, Sokolović Kolonija, and Hrasno. See P1478 (Ratko Mladić’s notebook, 27 May–31 July 1992), p. 93 (emphasis added).

<sup>15647</sup> P1478 (Ratko Mladić’s notebook, 27 May–31 July 1992), p. 99.

<sup>15648</sup> P1478 (Ratko Mladić’s notebook, 27 May–31 July 1992), p. 104. Krajišnik also got involved during the meeting and outlined the goals in terms of having parts of Sarajevo area under the Bosnian Serb control, including “Dobrinja, if we can take it”. See P1478 (Ratko Mladić’s notebook, 27 May–31 July 1992), p. 108.

<sup>15649</sup> D235 (Directive 3, 3 August 1992), pp. 3, 5. The orders relevant to Sarajevo in this directive were relayed the next day to the SRK units by the SRK Command. See P5979 (SRK Order, 4 August 1992).

<sup>15650</sup> P976 (Directive 4, 19 November 1992), p. 5.

<sup>15651</sup> See para. 4575.

<sup>15652</sup> P976 (Directive 4, 19 November 1992), p. 3.

<sup>15653</sup> P843 (Directive 5, 25 June 1993), para. 5(a) (ordering also that the SRK is to use “persistent and active defence” to stop the breakthrough of ABiH).

<sup>15654</sup> P843 (Directive 5, 25 June 1993), para. 2.

<sup>15655</sup> P3039 (Directive 6, 11 November 1993), pp. 6, 9.

for dividing the town”.<sup>15656</sup> As noted above, the need to capture these elevation points was then discussed by the Accused, Mladić, Dragomir Milošević, and Slobodan Milošević on 13 December in Belgrade.<sup>15657</sup> While the focus of Accused’s Directive 7 was mainly on other areas of BiH,<sup>15658</sup> it also included an order to the SRK, among other things, to prevent the lifting of the blockade of Sarajevo “from without” by using “decisive defence”.<sup>15659</sup> **(So what? All legal and legitimate! Nothing of it was facilitating any crime. And it is unbelievable that a chamber of an international court is taking side in this issue, which is out of anyone’s jurisdiction, but the competences of those who were attacked!)**

**4672.** The evidence in this case is also replete with examples of the Accused and Mladić, as well as Koljević, Plavšić, and Krajišnik participating in various meetings with representatives of international community on Sarajevo-related matters, including military matters, the issue of sniping and shelling in the city, cease-fire agreements, the issue of humanitarian convoys and humanitarian airlift to the city, the issue of free movement of UNPROFOR in and around Sarajevo, and flow of utilities.<sup>15660</sup> **(This paragraph proves only one thing: that the numbered here existed, had been around in the area and carried out some duties. Nothing else! What is criminal in all of it. Not even the Muslim extremist deny the Serb representatives to be representatives!)** For example, Abdel-Razek testified that at all times during his meetings with the Bosnian Serbs regarding the situation in the city, a senior Bosnian Serb political figure would be present, either the Accused, Plavšić, or Koljević, despite the fact that these meetings were “military to military meetings”.<sup>15661</sup> **(Big deal!!! The political leadership had to assist the military in dealing with the agreements on ceasefire, monitoring of weaponry and other issues which hadn’t been purely military. The internationals requested the polititcal persons to be involved in all sensitive matters. The witness Razek should not interfere in what were duties of the political and military people, or at least the Chamber shouldn’t even notice this, because it has nothing to do with any crime. But, when the Chamber deals with that, than it should remember that the international negotiators requested the political leaders to maintain a leverage over the military, and asked the political leadership to take commitments in a military matters!)**

**4673.** Furthermore, from the very early days of unrest in and around Sarajevo, the Accused actively participated in organising the Bosnian Serb population and the setting up of the barricades around the city.<sup>15662</sup> As the conflict intensified, he and the other members of the

<sup>15656</sup> P4925 (Supplement to Directive 6, 12 December 1993), p. 1; P3052 (VRS Main Staff Order, 14 December 1993). *See also* Dragomir Milošević, T. 33092–33099 (4 February 2013). A number of SRK soldiers and officers testified, however, that they had no knowledge that the objective of the SRK was to divide Sarajevo. *See e.g.* D2331 (Witness statement of Blagoje Kovačević dated 14 October 2012), para. 15; Blagoje Kovačević, T. 29088–29089 (18 October 2012); D2519 (Witness statement of Dragan Maletić dated 9 November 2012), para. 16. **Certainly, because it was a political issue, not military. Militarily the Serbs defended the entire Serb Sarajevo, but politicaly more than a half was given to the Muslims.**

<sup>15657</sup> *See* para. 4665.

<sup>15658</sup> *See* paras. 4979–4980.

<sup>15659</sup> P838 (Directive 7, 8 March 1995), pp. 7, 11–12.

<sup>15660</sup> Many of these are recounted earlier in the Judgement, such as the meetings relating to the creation of the TEZ and the WCPs, the opening and later the closure of Blue Routes, the Anti-sniping Agreement, and the Airport Agreement.

<sup>15661</sup> P1258 (Witness statement of Hussein Ali Abdel-Razek dated 16 July 2002), e-court p. 5; Hussein Abdel-Razek, T. 5486–5487 (19 July 2010), T. 5650–5651 (21 July 2010).

<sup>15662</sup> Čedomir Kljajić, T. 42197–42200 (30 July 2013); P6468 (Excerpts from Čedomir Kljajić’s interview with OTP), e-court p. 2; P5731 (Intercept of conversation between Radovan Karadžić and Rajko Dukić, 1 March 1992) (in which the Accused instructs Dukić to prepare the people to rise up and “close everything tonight”); D331 (Intercept of conversation between Danilo Veselinović and Radovan

political leadership continued to be involved not only in political but also in military and security matters relating to Sarajevo.<sup>15663</sup> **(So what? This all was not only a constitutional possibility, but an obligation of every single man, let alone politicians and commanders of the TO, who existed in every local commune and every company. The Chamber shouldn't neglect a very specific legislation of former Yugoslavia, particularly unique in the domain of defence and war!)** Neđeljko Prstojević testified about frequent meetings with the Accused in Pale involving discussions about the military and political situation in Sarajevo, including logistics and co-operation between civilian authorities, the VRS, and the MUP.<sup>15664</sup> **(And which law and provision forbade it? What is it that the Chamber was trying to establish? That the Accused existed and was a president with all the duties one president has? What is criminal in that?)** For example, in a meeting in Pale on 14 January 1994, which was attended by the Accused, Krajišnik, Mladić, Galić, Dragomir Milošević, Mićo Stanišić, Prstojević, and other presidents of Sarajevo municipalities, as well as commanders of SRK brigades, the Accused stated that the purpose of the meeting was to

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Karadžić, 13 April 1992); D4506 (Intercept of conversation between Radovan Karadžić and Rade, May 1992). **Let us see how and what had been said in this intercepted conversation, P05731:**

Radovan KARADŽIĆ	We're just discussing something here ... he should go and see what can be done ... he should do something fast.
Rajko DUKIĆ	Uhm, I'd do anything, Radovan, but KALINIĆ has just called. He's completely shocked and he said, "what the fuck have we come to if they're shooting at our flag", here's Momo /as written/.

**As it can be seen, an opposition deputy (Kalinic at this moment was in the Reformists party) demanded to get people rise up in Sarajevo. The accused proposed something fast. Further:**

Rajko DUKIĆ	... the man was almost crying and said, "come on, let's get the people to rise up tomorrow". Dragan is asking that the people in Sarajevo rise up ... all the people to rise up and to ...
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**So, there was a possibility to have the whole people rise up.**

Radovan KARADŽIĆ	Get them, get them to rise up and have things prepared. They should close everything tonight.
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**The Accused recommended to have everything "closed up", which also meant to prevent anybody from the surrounding to come to the city.**

Radovan KARADŽIĆ	And ...erm... someone should call Dragan BOJIĆ, he, he can get in touch. Have it all closed down. It's better if it ends like that than if the people get on the move themselves.
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**Now it is obvious that the Accused didn't want the people to do anything in a chaotic way.**

Radovan KARADŽIĆ	...we're all going out.
Rajko DUKIĆ	We're all going out.

**It is more than obvious that the SDS officials were going to join what already had been underway, they took a control and facilitated negotiations and succeeded. What would happen if the SDS didn't join the protestors? How many dead people would be on the streets?**

<sup>15663</sup> See e.g. D3960 (Witness Statement of Tomislav Kovač dated 28 October 2013), paras. 117, 130–132; P2242 (Radovan Karadžić's agenda, 2 January–25 December 1995), e-court pp. 91–92; P4367 (Excerpt from appointment calendar of Radovan Karadžić, 14 July 1995); Tomislav Kovač, T. 42855–42859 (4 November 2013).

<sup>15664</sup> Neđeljko Prstojević, T. 13257–13261, 13264, 13267–13268 (11 March 2011) (recalling a meeting in Jahorina in September 1992 that involved the Accused, Krajišnik, Mladić, SRK Commander, various SRK brigade commanders, and representatives of local authorities; Prstojević also added that, in addition to such meetings, he would have frequent telephone communications with the Bosnian Serb leadership in Pale); P1006 (SRK Order, 12 September 1992) (in which Galić assigned tasks to the SRK in accordance with the decisions made at the Jahorina meeting).

discuss the military and political situation in Sarajevo.<sup>15665</sup> During the meeting, the Accused updated everyone on the political negotiations in Geneva and stated that he offered Owen the “Trieste model for Sarajevo”, that “the Muslims must not win a single victory in Sarajevo”, that the Serbs must secure the Ilidža-Lukavica road, and that they must defeat the Muslims in Sarajevo as the international community will accept the factual situation on the ground.<sup>15666</sup>

**Here is what Gen. Mladic wrote down the paper from what the Accused said to the political and military leaders of the Sarajevo zone:P1484:**

President KARADŽIĆ:

- \* The goal of this meeting is to discuss the military and political situation in Sarajevo.-
- \* Concerning Sarajevo → The President made an introduction about the political negotiations in Geneva.
- \* We believe that Europe will not allow the war to be prolonged and extended onto the Balkans.
- \* We can expect them to force the Muslims to sign a peace agreement.

The Union is too cramped for us and there would be nothing in it for us.-  
we have kept the most beautiful part of Ozren and gave the Muslims an insignificant part of Jajce and Srbobran.  
We have no obligations towards the Croats...  
Sarajevo would be a huge problem...  
We tried to sell two years of Sarajevo’s sovereignty for the road via Sjemeć...  
We offered Owen the Trieste model in Sarajevo...  
Our firm choice is to be unified with Serbia.

- \* We don’t have to return everything we take in Sarajevo.-
- \* As soon as possible, we must reach a victorious peace.
- \* The factual situation will be accepted in Sarajevo.-
- \* I believe the Muslims won’t wish their city to be under a UN protectorate either.-
- \* Muslims must not win a single victory in Sarajevo.
- \* We must secure the Ilidža-Lukavica road.
- \* We must defeat the Muslims in Sarajevo.

**(First of all, the same as with the Okun notes, Mladic notes weren’t a verbatim, but a short notes, reduced to what a note taker considered important. Further, nothing illegitimate or illegal, since the Accused as the President maintained the strategic level of command, and that was exactly the strategic matter. Taking into account the war declared by the Muslim side, the Serb side was entitled to achieve a victory even by a total defeat of the adversaries, but the Serb side conceived their victory as a successful defence against the Muslim endeavours to conquer the Serb territories in Sarajevo and elsewhere!)** Following the presentation by the various SRK brigade commanders about the

<sup>15665</sup> P1484 (Ratko Mladić’s notebook, 28 October 1993–15 January 1994), p. 133.

<sup>15666</sup> P1484 (Ratko Mladić’s notebook, 28 October 1993–15 January 1994), pp. 133–134. *See also* D2660 (Article from Srpski Borac entitled “We are Sovereign over Sarajevo”, 2 August 1995), p. 8 (in which the Accused stated that the Serb victories around Sarajevo were important as they would create factual situation on the ground that would have to be recognised by the international community). For more on the issue of importance of factual situation on the ground to the Accused, *see* paras. 2844–2845, 3090–3096.

situation on the frontline, Mladić stated that Sarajevo is strategic goal number one, which can be resolved militarily not politically.<sup>15667</sup> Krajišnik then spoke and insisted on Serbs keeping Sarajevo, stating that the whole of Sarajevo must be taken, as one cannot have two masters in such a small area and one cannot share with the Muslims.<sup>15668</sup> Following all these presentations, the Accused agreed with Mladić that “Muslims will break down in Sarajevo”, instructed the participants to make sure that the Muslims keep suffering defeats and feel inferiority, and then stated that “retaliation should be 1:1”.<sup>15669</sup> **(All what had been discussed and meditated, and even proposed is irrelevant if not accepted and turned into an executive order by the President! This kind of counselling and informing the local leaders, both political and military, were necessary for many reasons. Irrelevant for the criminal case. It is not up to any chamber to question regular acting in a war! Thes way the Chamber is questioning the very right of the Serbs to defend!)**

4674. Thus, it is clear on the basis of above, that, from the very beginning of the conflict in BiH, the political and military leadership of the Bosnian Serbs, particularly the Accused, Krajišnik, Koljević, Plavšić, and Mladić, recognised and championed the importance of Sarajevo to the conflict in BiH. **(So what, for heaven’s sake? The Palestinians and Israelies still quarrel about Jerusalem, although the Jews were the oldest population owning Jerusalem, as the Serbs were in Sarajevo. Was Sarajevo important to the Muslim side to the same extent? Was the Serb side more realistic than the Muslim one, demanding only the Serb majority parts of Sarajevo, while the Muslim side wanted the entire city for themselves, as they wanted the whole Bosnia for themselves?).** The city was important not only because of its symbolism and the fact that without it the Bosnian Muslim side would not be able to have a functioning independent state but also because it carried special significance for the Accused who had lived there up until the start of the war and considered it his hometown. **(This can not be called more poilitely but as a stupidity, done by someyoung and inexperienced interns! It had nothing to do with the Accused and his life there. When he said tha it was his city, he was responding to those who alleged that he didn’t like Sarajevo. But, the people, around 200,000 Serbs wanted either to stay in Yugoslavia, or to have BiH including Sarajevo reorganised, as it is now, after the war and the Dayton Agreement! The Serb claims had been judged by the internationals as a realistic, and these claims had been built in all and every peace agreemen proposals!).** Because of this, the Accused, Krajišnik, Koljević, Plavšić, and Mladić all desired to gain control over Sarajevo, or parts thereof, a project in which they were invested throughout the conflict.<sup>15670</sup> **(It had nothing to do with their personal interests too. As a responsible people, responsible to the people who elected them, they represented the interests of the same people. Koljevic and Plavsic already moved out of Sarajevo, together with their families, Mladić’s narrow family never lived there. But, the Chamber is quoting it’s own notes “that this interest materialised in the take over of a number of Sarajevo municipalities...” which is unbelievable conclusion. The Serbs**

<sup>15667</sup> P1484 (Ratko Mladić’s notebook, 28 October 1993–15 January 1994), pp. 139–144.

<sup>15668</sup> P1484 (Ratko Mladić’s notebook, 28 October 1993–15 January 1994), p. 147.

<sup>15669</sup> P1484 (Ratko Mladić’s notebook, 28 October 1993–15 January 1994), pp. 148–149.

<sup>15670</sup> The Chamber notes that this interest also materialised in the take over of a number of Sarajevo municipalities, as outlined in Section IV.A.1.c: Sarajevo area.

**controlled only their majority municipalities, and only the Serb settlements in the ethnically mixed municipalities. This is the best proof that the Serbs wanted only their settlements, not the other's!)** Furthermore, as will be explained in detail below, they were fully informed of the situation on the ground such that the Accused's level of knowledge regarding Sarajevo was said to have been higher than his knowledge about the other parts of BiH.<sup>15671</sup> Ultimately, in the Chamber's view, the Accused, Krajišnik, and Mladić were the "go-to-men" for all the Sarajevo-related issues. **(The communications with the other parts of the Republic of Srpska didn't exist or had been disabled frequently, and the Sarajevo was nine kilometres far from Pale, and the Sarajevo Serbs had been in the most delicate situation! The Serb political and military leadership was supposed to secure the food, gas, energy for 150,000 inhabitants, and the military needs for about 20,000 soldiers and employees in the SRK, as well as to be at disposal to the internationals on a daily basis! Where is there any crime, or any basis for any crime? This is for the first time that a chamber is contesting a mere existence of one community and its representatives!)**

**4675.** The Chamber is also convinced that this interest and involvement in the Sarajevo-related events by the Accused and the other political and military leaders demonstrates that the campaign of sniping and shelling in the city resulted from a plan which emanated from the top of the Bosnian Serb military and political leadership and was rooted in the idea of dividing Sarajevo. As noted by Okun, the city could have only been divided by a wall of fire. **(This is so insane, unbelievable and contrary to any logics. Why the city is not now divided by a wall of fire? Is the Brussels divided that way? Is Geneva divided that way from the neighbouring Arnhem and other border cities in France? The city could have passed the entire time of the war without a single bullet or shell, had the Muslim side accepted the demilitarisation, or had it respected a great number of the Cease-fire Agreements. Regardless of what the political and military leaders were ordering, preventing, banning, for the Chamber is not relevant. Relevant is only the fact that the leadership was there and was ordered something!)**

*a. Conclusion*

**4676.** Based on the findings made above as to the pattern and longevity of the campaign, the control that was exercised over the SRK units by the Main Staff and the SRK Command, and the importance of Sarajevo to the Bosnian Serb political and military leadership, and relying also on the relevant evidence **(what relevant evidence?)** in the sections below dealing with the activities of the Accused and other alleged Sarajevo JCE members throughout the conflict in BiH,<sup>15672</sup> the Chamber finds that there existed a common plan that emanated from the Bosnian Serb political and military leadership, the primary purpose of which was to spread terror among the civilian population of Sarajevo through the campaign of sniping and shelling. Based on the evidence relating to scheduled sniping and shelling incidents, the

<sup>15671</sup> P4203 (Witness statement of Piers Tucker dated 12 May 2010), paras. 69, 281; P4216 (UNPROFOR report re meeting with Radovan Karadžić, 20 November 1992), para. 7.

<sup>15672</sup> In addition, the Chamber also relied on other sections of this Judgement, primarily those dealing with the Municipalities and Hostages components of the case, which outlined the actions of the Accused, Mladić, Krajišnik, Koljević, and Plavšić throughout the conflict in BiH.

Chamber is also satisfied that this plan involved the commission of murder, terror, and unlawful attacks against civilians. **(This is not a bit better than the Muslim propaganda during the war. On the other hand, there is so many evidences that the Serb side did everything to ease the situation of the civilians in Sarajevo, so that the Serbs couldn't do anything else but to surrender and expose their people to massacres and total annihilation! In spite of a huge evidence that any shelling and sniping in Sarajevo was in favour of the Muslim side, and detrimental to the Serb interests, this kind of conclusions are out of mind! The Chamber itself accepted that the Muslim tactics was to drag the international community and NATO into the war on their side, and that only the Muslim side had interests in terror of civilians!)**

## 5. Plurality of persons

4677. As stated above, in addition to the Accused, the Prosecution specifically names the following individuals as the members of the Sarajevo JCE: Momčilo Krajišnik, Ratko Mladić, Biljana Plavšić, Nikola Koljević, Stanislav Galić, Dragomir Milošević, and Vojislav Šešelj.<sup>15673</sup> Further, it lists other un-named members of the Sarajevo JCE, including members of the Bosnian Serb leadership, commanders and senior officers in the VRS, JNA, TO and MUP units responsible for Sarajevo area, and leaders of Serbian and Bosnian Serb paramilitary forces.<sup>15674</sup> In its Final Brief, however, the Prosecution does not list Šešelj as a member of the Sarajevo JCE but focuses instead on the Accused, Mladić, Galić, Dragomir Milošević, and the members of the RS Presidency.<sup>15675</sup> The Prosecution also avers that, since these Sarajevo JCE members made contributions and worked together with the Accused to lead the campaign of sniping and shelling for the purpose of causing terror, “their shared intent for the underlying crimes similarly follows”.<sup>15676</sup>

4678. Based on the foregoing analysis of the evidence relating to Sarajevo, including (i) the chronology of events in the city between 1992 and 1995, (ii) the nature and the objectives of the siege in Sarajevo, (iii) the specific scheduled sniping and shelling incidents, (iv) the general evidence on the nature of the SRK's shelling and sniping in the city, (v) the control the SRK Command and the VRS Main Staff had over the SRK units and their weaponry, and (vi) the importance of Sarajevo to the political and military leadership of the Bosnian Serbs, the Chamber is satisfied beyond reasonable doubt that the common plan outlined in the preceding section involved a plurality of persons. Further, in the Chamber's view, it is inconceivable that the SRK's campaign of sniping and shelling of civilians—which lasted more than three years, involved multiple brigades and units of the SRK, and required significant military resources, weaponry, and organisation—would not have involved a number of individuals operating at both the military and the political level. The Chamber is,

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<sup>15673</sup> Indictment, para. 16.

<sup>15674</sup> Alternatively, according to the Prosecution, some of those were not members of the Sarajevo JCE but were used by members to carry out crimes committed in the furtherance of the objective. See Indictment, para. 17.

<sup>15675</sup> See Prosecution Final Brief, para. 604.

<sup>15676</sup> Prosecution Final Brief, para. 797.

therefore, satisfied that the common plan emanated from both the Bosnian Serb political and military leadership.

4679. Before turning to the main issue in this case, namely, whether the Accused was one of these individuals, the Chamber will consider the other named alleged Sarajevo JCE members.

*a. Military leadership: Ratko Mladić, Stanislav Galić, and Dragomir Milošević*

4680. Given the factors outlined in the preceding paragraphs, the Chamber is convinced beyond reasonable doubt that Mladić, Galić, and Dragomir Milošević were members of the Sarajevo JCE and shared the intent to effect the common plan outlined above. The fact that, as stated in the preceding paragraph, the SRK's campaign of sniping and shelling lasted more than three years, involved multiple brigades and units of the SRK, and required significant military resources, weaponry, and organisation, when coupled with the control found to have been exercised by the Main Staff and the SRK Command over the units engaging in that campaign, already leads to the inevitable conclusion that, at the very minimum, Mladić, Galić, and Dragomir Milošević were part of that plurality of persons. The only reasonable inference that can be drawn from the evidence relating to the sniping and shelling of civilians in Sarajevo is that Mladić, Galić, and Dragomir Milošević were willing participants in the Sarajevo JCE and that they intended to shell and snipe the civilians in the city and thus intended the common plan outlined above.

4681. In addition, the Chamber has also received evidence going to the acts and conduct of those three men, as well as to their state of mind, including their knowledge of the attacks on civilians in the city. Some of this evidence has already been outlined in the preceding sections of the Judgement,<sup>15677</sup> including for example (i) Mladić's speech on 12 May 1992 at the Bosnian Serb Assembly session where he openly spoke about his intentions for Sarajevo, such as the need to place the ring around the dragon's head and to surround the city with 300 mortars and artillery weapons;<sup>15678</sup> (ii) his involvement in the sourcing and the use of modified air bombs;<sup>15679</sup> (iii) his activities in relation to Scheduled Incident G.1, including his orders to shell Baščaršija, Pofalići, and Velešići, and to scatter the shells around Sarajevo, showing in turn his intent to shell the civilian population;<sup>15680</sup> (iv) his directives which consistently ordered the tightening of the blockade of Sarajevo and the idea of "decisive" or "active" defence that in turn involved the shelling and the sniping of civilians and moving of the frontlines in Sarajevo, inch by inch;<sup>15681</sup> (v) Galić's and Dragomir Milošević's implementation of the said directives; and (vi) Dragomir Milošević's orders regarding the use of modified air bombs.<sup>15682</sup> The Chamber will not repeat that evidence here. The following paragraphs therefore outline only the evidence that has not yet been analysed by the Chamber. This evidence relates mainly to their knowledge of the attacks on civilians in the city and their reactions thereto.

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<sup>15677</sup> In addition, some of that evidence is also discussed later on, in the sections dealing with the Accused's participation in and contribution to the Sarajevo JCE.

<sup>15678</sup> See para. 4661.

<sup>15679</sup> See para. 4562. See also fn. 14640 (listing a number of VRS orders relating to the use of modified air bombs).

<sup>15680</sup> See discussion on Scheduled Incidents G.1 and G.2.

<sup>15681</sup> See paras. 4574, 4576.

<sup>15682</sup> See discussion on Scheduled Incident G.10.

4682. For example, the Chamber heard that, in the absence of the Accused,<sup>15683</sup> the sniping and shelling of civilians was consistently raised with other members of the Bosnian Serb military and political leadership by the representatives of the international community and that UNPROFOR would go to the parties responsible anytime there was an incident, be it shelling or sniping.<sup>15684</sup> Thus, in the event of major incidents, the Commander of UNPROFOR Sector Sarajevo would sign the protests which were addressed directly to the SRK Commander.<sup>15685</sup> When the shelling was particularly violent, the Commander of UNPROFOR BiH Command would make oral protests over the phone, followed by written protests, with Mladić or with the political leaders in Pale.<sup>15686</sup>

4683. As far as Mladić's personal knowledge is concerned, the Chamber heard that, as early as 9 May 1992, General Kukanjac of the JNA informed Mladić that Sarajevo was a "ghost town" and the "Serbian leadership" had been shelling it for months with mortar and artillery.<sup>15687</sup> Wilson testified that numerous incidents in which "a number of civilians were killed by artillery or mortars apparently fired from Serb positions" were raised with Mladić and that the latter would generally not deny that the Bosnian Serb side was responsible but would say that the shelling was done for the purpose of "defending the Serbs" or "responding to attacks".<sup>15688</sup> For example, on 30 May 1992, Wilson met with Mladić to convey the Secretary General's appeal to cease or to moderate the shelling of Sarajevo.<sup>15689</sup> Mladić responded that he shared the Secretary General's concern for Sarajevo, but that the Maršal Tito Barracks were under continuous fire and that it was important to evacuate the JNA from there.<sup>15690</sup> He also stated that these attacks on Sarajevo were defending the Bosnian Serbs from attack.<sup>15691</sup>

4684. On 15 September 1992, Nambiar sent a letter to Mladić protesting the "indiscriminate shelling of civilian targets in Sarajevo" on the previous day, asking Mladić to "ensure that,

<sup>15683</sup> The occasions where this has happened in the presence of the Accused are discussed later, in Section IV.B.3.iii: Accused's knowledge of crimes and the measures he took to prevent them.

<sup>15684</sup> P1762 (Witness statement of David Fraser dated 17 October 2010), pp. 21–22, 25, 44–46; David Fraser, T. 8015–8016, 8018, 8056 (18 October 2010), T. 8106, 8110–8011 (19 October 2010); P2451 (Witness statement of Anthony Banbury dated 19 May 2009), para. 201; P6060 (Record of interview with KDZ185), e-court pp. 12, 20; KDZ185, T. 4231 (28 June 2010) (private session); P2106 (Witness statement of KDZ304), p. 17 (under seal) (testifying that the Sarajevo Sector Staff had a section in charge of preparing and transmitting protests); P5906 (Witness statement of KDZ450 dated 17 January 2011), paras. 54, 61–62; P2119 (Witness statement of KDZ450 dated 17 January 2011), paras. 35, 59–60 (under seal); KDZ450, T. 10548 (19 January 2011), T. 10659–10660, 10665 (20 January 2011) (private session), KDZ450, T. 10673, 10693 (20 January 2011); P2414 (Witness statement of KDZ182), pp. 31–32, 35 (under seal); P1558 (Witness statement of Francis Roy Thomas dated 13 May 2009), paras. 57–58, 66; Francis Roy Thomas, T. 6891–6892, 6928–6929 (16 September 2010) (testifying that, while it was difficult to protest before the February 1994 cease-fire, protests were made and "stonewalled" by Indić who would prevent protests getting past him and put up obstacles to see Galić, and that during negotiations with "all levels of the warring factions" it was a "constant theme" that if there was any shooting the fire should be limited to combatants).

<sup>15685</sup> P1558 (Witness statement of Francis Roy Thomas dated 13 May 2009), paras. 59, 95; Francis Roy Thomas, T. 6929 (16 September 2010); P2106 (Witness statement of KDZ304), p. 17 (under seal).

<sup>15686</sup> P5906 (Witness statement of KDZ450 dated 17 January 2011), para. 54; P2119 (Witness statement of KDZ450 dated 17 January 2011), para. 56 (under seal).

<sup>15687</sup> P1477 (Ratko Mladić's notebook, 14 February–28 May 1992), pp. 268–273.

<sup>15688</sup> P1029 (Witness statement of John Wilson dated 4 November 2008), para. 55. *See also* David Harland, T. 2037 (6 May 2010) (testifying that incidents of shelling and sniping were protested to Mladić at meetings).

<sup>15689</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), para. 1; P1044 (UNPROFOR report re attack on UN, 30 May 1992), para. 1; P5050 (UN Press Release, 30 May 1992); P1478 (Ratko Mladić's notebook, 27 May–31 July 1992), pp. 34–35. This meeting was motivated by Security Council Resolution 757, which placed economic sanctions on the FRY, demanded that all parties create the conditions for the unimpeded delivery of humanitarian aid to Sarajevo and other destinations in BiH, and established a security zone which encompassed Sarajevo and its airport. *See* John Wilson, T. 3926 (21 June 2010); P1031 (UNSC Resolution 757, 30 May 1992); P2284 (UNSG report entitled "The Fall of Srebrenica", 15 November 1999), para. 27. *See also* para. 332.

<sup>15690</sup> P1043 (UNPROFOR report re meeting with Ratko Mladić, 30 May 1992), para. 2; John Wilson, T. 3926 (21 June 2010).

<sup>15691</sup> John Wilson, T. 3926 (21 June 2010); P1029 (Witness statement of John Wilson dated 4 November 2008), para. 126.

under no circumstances, are non-military targets engaged”, and urging him to place “all heavy weapons under UNPROFOR control”.<sup>15692</sup>

4685. On 15 November 1992, members of the SRK command and unit commanders, the presidents of a number of municipal assemblies as well as Mladić and Tolimir held a consultation session in Lukavica Barracks.<sup>15693</sup> During the session, Galić raised a number of issues, including poor discipline and performance by troops, wastefulness in the use of ammunition, and involvement in “[g]enocide on other nations”.<sup>15694</sup> Marko Lugonja reiterated these concerns, stating that certain individuals and groups in the SRK held the conviction that they were the “masters of life and death” to members of other ethnic groups and that the Geneva Conventions and other relevant instruments were obsolete and unneeded.<sup>15695</sup> In response, Mladić did not address the killing of civilians but urged a crackdown on insubordination and poor discipline and defined the task of the SRK as keeping Sarajevo under blockade and pulling as much of the population as possible out of the city.<sup>15696</sup>

4686. On 10 October 1994, Gobilliard issued a written protest to the Bosnian Serb side in response to the shelling of Sarajevo, which was a “reprisal” or reaction to a 5–6 October 1994 ABiH attack in the DMZ in the course of which 17 Serb soldiers were killed.<sup>15697</sup> In retaliation to the shelling, ABiH gunners fired at Serb civilians in the village of Vogovići, killing two people.<sup>15698</sup> To avoid an escalation, Gobilliard and Rose issued a joint statement, protesting to both parties but to no effect.<sup>15699</sup> On the same day, Rose, Gobilliard, and Harland met with Mladić and Tolimir at Jahorina.<sup>15700</sup> At the meeting, Rose condemned the sniping incident of 8 October, involving Alma Ćutuna.<sup>15701</sup> Mladić denied Serb responsibility for this incident, claiming that the shots came from the Holiday Inn and that the incident was engineered by the ABiH.<sup>15702</sup> An UNPROFOR technical expert then provided a map and assured Mladić that the shooting did not come from the Holiday Inn side.<sup>15703</sup>

4687. On 5 March 1995, Smith met with Mladić and Tolimir while Koljević joined during the closing stages of the meeting.<sup>15704</sup> In the meeting, Smith questioned Mladić about the upsurge

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<sup>15692</sup> P1271 (UNPROFOR report re letter sent to Ratko Mladić, 15 September 1992), p. 2; P1258 (Witness statement of Hussein Ali Abdel-Razek dated 16 July 2002), e-court p. 22.

<sup>15693</sup> P5065 (Minutes of SRK Command consultation meeting, 15 November 1992).

<sup>15694</sup> P5065 (Minutes of SRK Command consultation meeting, 15 November 1992), p. 4.

<sup>15695</sup> P5065 (Minutes of SRK Command consultation meeting, 15 November 1992), pp. 8–9 (where Lugonja suggested addressing these problems with greater efforts to ensure full subordination of units, the reinstatement of “commissars”, and the strengthening and swift application of repressive measures to wrongdoers).

<sup>15696</sup> P5065 (Minutes of SRK Command consultation meeting, 15 November 1992), p. 26.

<sup>15697</sup> [REDACTED].

<sup>15698</sup> [REDACTED].

<sup>15699</sup> [REDACTED].

<sup>15700</sup> P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 155; Michael Rose, T. 7268–7269 (5 October 2010); P867 (UNPROFOR report on meeting with Ratko Mladić, 10 October 1994); P1674 (UNPROFOR report re meeting with Ratko Mladić, 11 October 1994); P820 (Witness statement of David Harland dated 4 September 2009), para. 143; P1762 (Witness statement of David Fraser dated 17 October 2010), pp. 44, 68–69; [REDACTED].

<sup>15701</sup> P867 (UNPROFOR report on meeting with Ratko Mladić, 10 October 1994), para. 5; P820 (Witness statement of David Harland dated 4 September 2009), para. 143; P1762 (Witness statement of David Fraser dated 17 October 2010), p. 69; [REDACTED].

<sup>15702</sup> P867 (UNPROFOR report on meeting with Ratko Mladić, 10 October 1994), para. 5; P820 (Witness statement of David Harland dated 4 September 2009), para. 143; P1762 (Witness statement of David Fraser dated 17 October 2010), p. 69; [REDACTED].

<sup>15703</sup> P867 (UNPROFOR report on meeting with Ratko Mladić, 10 October 1994), para. 5; P820 (Witness statement of David Harland dated 4 September 2009), para. 143; Michael Rose, T. 7268–7269 (5 October 2010).

<sup>15704</sup> P876 (UNPROFOR Memo re meeting with Ratko Mladić, 6 March 1995), para. 1.

in sniping attacks on civilians in Sarajevo.<sup>15705</sup> During this meeting Mladić told Smith that the increase in sniping by the VRS in Sarajevo was in response to Serb casualties suffered in military offensives launched by the BiH government.<sup>15706</sup> The UNPROFOR weekly report on this meeting noted that the “explicit recognition by Mladić of [VRS] responsibility for sniping is somewhat surprising”.<sup>15707</sup>

4688. On 26 June 1995, Smith wrote to Mladić and stated that, on an almost daily basis, he was receiving reports of shelling of the populated parts of safe areas, including Sarajevo.<sup>15708</sup> He stated that “in Sarajevo alone nine civilians were killed yesterday due to sniping and shelling. Five of them were children.”<sup>15709</sup> Smith also noted in the letter that despite Janvier raising this issue with Mladić in the past, there had been a noticeable increase in attacks on the civilian population.<sup>15710</sup> Smith did not recall receiving any indication from Mladić in response that there would be a reversal of what was happening and that the attacks on the civilian population would stop.<sup>15711</sup>

4689. On 1 July 1995, Nicolai sent a letter of protest to Mladić in response to the shelling of Sarajevo on 28 and 29 June 1995.<sup>15712</sup> In the letter, Nicolai protested “most strongly about the recent and still continued indiscriminate and deliberate shelling of the residential places of the city of Sarajevo, which unfortunately results in casualties amongst innocent civilian population”.<sup>15713</sup> Nicolai then warned Mladić: “[i]n this fashion you breach all international agreements on protection of civilians at a war, including the Geneva Conventions, recognised by all professional armies in the world. These very serious and inexcusable violations and killing of civilians are liable to trials by an international court.”<sup>15714</sup> In the letter, Nicolai included a copy of Meille’s 30 June 1995 letter of protest to Dragomir Milošević, regarding the same events.<sup>15715</sup>

4690. As recounted earlier, between 28 and 29 August 1995, Smith and Mladić had three telephone conversations, during which the former informed the latter about the 28 August 1995 shelling of Markale market and told him that the Bosnian Serb side was responsible for it, which Mladić continued to deny.<sup>15716</sup> In addition, on 30 August 1995, at around 2 a.m., letters were sent to Mladić, the Accused, and Slobodan Milošević informing them that NATO air strikes had commenced as a result of the Markale attack.<sup>15717</sup> In the letter to Mladić, Janvier wrote that two separate UN teams had found that the shell that landed on Markale

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<sup>15705</sup> Rupert Smith, T. 11309–11310 (8 February 2011); P876 (UNPROFOR Memo re meeting with Ratko Mladić, 6 March 1995), para. 3; P2451 (Witness statement of Anthony Banbury dated 19 May 2009), paras. 94–95; P2455 (UNPROFOR Weekly Situation Report (Sarajevo), 11 March 1995), para. 9; Anthony Banbury, T. 13330–13331 (15 March 2011).

<sup>15706</sup> P2451 (Witness statement of Anthony Banbury dated 19 May 2009), para. 94; P2455 (UNPROFOR Weekly Situation Report (Sarajevo), 11 March 1995), para. 9; Anthony Banbury, T. 13330 (15 March 2011).

<sup>15707</sup> P2455 (UNPROFOR Weekly Situation Report (Sarajevo), 11 March 1995), para. 9; Anthony Banbury, T. 13330 (15 March 2011).

<sup>15708</sup> P2274 (UNPROFOR letter to Ratko Mladić, 26 June 1995); Rupert Smith, T. 11420 (9 February 2011).

<sup>15709</sup> P2274 (UNPROFOR letter to Ratko Mladić, 26 June 1995); Rupert Smith, T. 11420 (9 February 2011).

<sup>15710</sup> P2274 (UNPROFOR letter to Ratko Mladić, 26 June 1995).

<sup>15711</sup> Rupert Smith, T. 11420–11421 (9 February 2011).

<sup>15712</sup> P2107 (UNPROFOR protest letters to Ratko Mladić, 1 July 1995, and Dragomir Milošević, 30 June 1995), p. 2; [REDACTED].

<sup>15713</sup> P2107 (UNPROFOR protest letters to Ratko Mladić, 1 July 1995, and Dragomir Milošević, 30 June 1995), p. 2.

<sup>15714</sup> P2107 (UNPROFOR protest letters to Ratko Mladić, 1 July 1995, and Dragomir Milošević, 30 June 1995), p. 2.

<sup>15715</sup> P2107 (UNPROFOR protest letters to Ratko Mladić, 1 July 1995, and Dragomir Milošević, 30 June 1995), p. 3.

<sup>15716</sup> See paras. 4295–4298.

<sup>15717</sup> P2826 (UNPROFOR report re NATO air strikes, 30 August 1995); D2815 (SRK report, 30 August 1995); Adjudicated Fact 2798.

market on 28 August 1995 came from VRS positions south-southwest of Sarajevo, that this resulted in the initiation of air strikes, that the object of the air strikes was to prevent further shelling of Sarajevo, and that the attacks would cease once Janvier was convinced that the threat of further shelling by the SRK had been eliminated.<sup>15718</sup>

4691. On 1 September 1995, the air strikes stopped and Janvier and Banbury met with Mladić, Perišić, Gvero, and Tolimir in Mali Zvornik, in order to discuss the current situation; upon being told again that the investigation results clearly identified the Bosnian Serbs as the perpetrators, Mladić responded that Markale was “a pretext to gain a corridor for the Muslims to Sarajevo”.<sup>15719</sup>

4692. The Chamber also heard throughout the case that in addition to Mladić, the SRK Commanders themselves were on notice as to the shelling and sniping in the city. Galić was present on the battlefield of Sarajevo throughout the period 10 September 1992 to 10 August 1994, in close proximity to the confrontation lines, and thus actively monitored the situation in the city.<sup>15720</sup> Not only was he informed personally about both sniping and shelling activity attributed to SRK forces against civilians in Sarajevo, but his subordinates were conversant with such activity.<sup>15721</sup> Similarly, Dragomir Milošević regularly toured the confrontation lines and visited different SRK units at their positions.<sup>15722</sup> He also knew about allegations that SRK forces had targeted civilians.<sup>15723</sup>

4693. More specifically, Fraser testified that UNPROFOR had “countless engagements” with Galić and Milošević to discuss sniping, and implored them to stop sniping civilians.<sup>15724</sup> At these meetings UNPROFOR would use summaries of the number of Muslims and Serbs wounded and killed by sniper fire, in an attempt to focus the discussion through the use of empirical data and facts.<sup>15725</sup> Fraser noted that when UNPROFOR protested sniping, shelling, or freedom of movement to Dragomir Milošević or Mladić, “it was not uncommon for both parties to say they didn’t do it [...] and then they would go away and things would get a little better in most cases”.<sup>15726</sup>

4694. Both Galić and Milošević would also imply that the shelling of Sarajevo was linked to other attacks by the ABiH throughout BiH.<sup>15727</sup> The SRK Commanders and the Commander of the ABiH 1<sup>st</sup> Corps generally ignored UNPROFOR protests and did not take them

<sup>15718</sup> P2826 (UNPROFOR report re NATO air strikes, 30 August 1995), e-court p. 2.

<sup>15719</sup> P2451 (Witness statement of Anthony Banbury dated 19 May 2009), paras. 183–192; P2509 (Anthony Banbury’s notes, 1 September 1995); Adjudicated Fact 2798. On 4 September 1995, Mladić wrote a letter to Janvier protesting the use of NATO air strikes against Bosnian Serb targets, denying that the Bosnian Serbs were responsible for the shelling of Markale on 28 August, and protesting the ultimatum to withdraw heavy weapons. See D2310 (Letter from Ratko Mladić to UNPROFOR, 4 September 1995); D2270 (Witness statement of Andrey Demurenko dated 13 October 2012), pp. 91–92 (testifying that he believed Mladić’s letter to be sincere as Mladić did not believe that the VRS was responsible for the Markale market shelling and that the questions and requests to Janvier were reasonable).

<sup>15720</sup> See Adjudicated Facts 31, 33, and 34.

<sup>15721</sup> See Adjudicated Facts 38, 39, and 41.

<sup>15722</sup> See Adjudicated Fact 2854.

<sup>15723</sup> See Adjudicated Fact 2873.

<sup>15724</sup> Fraser, T. 8018 (18 October 2010).

<sup>15725</sup> P1762 (Witness statement of David Fraser dated 17 October 2010), pp. 41–42. See also P1773 (UNPROFOR report re efficacy of Anti-Sniping Agreement, 15 September 1994); David Fraser, T 8130–8131 (19 October 2010).

<sup>15726</sup> P1762 (Witness statement of David Fraser dated 17 October 2010), pp. 8–9, 23, 44; David Fraser, T. 8018, 8025 (18 October 2010). See also P2414 (Witness statement of KDZ182), p. 35 (under seal).

<sup>15727</sup> [REDACTED].

seriously, while sometimes the parties would send a letter stating that they had nothing to do with it.<sup>15728</sup> In general, Galić only reacted to letters of protest when he was able to provide proof that the firing did not come from his troops, which was “extremely rare”.<sup>15729</sup>

4695. Abdel-Razek met with Galić and Plavšić on multiple occasions from 21 August 1992 to 20 February 1993 in his capacity as Commander of UNPROFOR Sector Sarajevo, and testified that the shelling of civilians was one of the major issues he raised with them.<sup>15730</sup> However, there was no progress as they would deny that they were responsible or deny that the shelling and sniping incidents occurred; often they would gradually acknowledge responsibility but then claim that Bosnian Serb actions were justified retaliations against the ABiH.<sup>15731</sup> Galić would also give the impression that the Bosnian Muslim side was conducting the shelling on purpose to attract the sympathy of the world and distort the Serb image; however, he would then gradually acknowledge that the shelling was retaliation by the Bosnian Serb side.<sup>15732</sup> Galić would also threaten to continue shelling the city if the violations continued from the Bosnian Muslim side.<sup>15733</sup> Abdel-Razek thought that both Galić and the “Serb civilian leadership” knew about the sniping and shelling of the civilian population of Sarajevo.<sup>15734</sup>

4696. Like Abdel-Razek, Mole testified that when he would meet with Galić during his time in Sarajevo, indiscriminate SRK fire was “a topic of discussion most days”, although Mole would focus only on the most serious incidents.<sup>15735</sup> Galić’s response to protests tended to be tangential and he would constantly respond “that the Muslims [...] were attacking in a particular sector of the city”.<sup>15736</sup> Galić also frequently threatened to shell Sarajevo “if a certain event did or did not materialise”.<sup>15737</sup>

4697. In terms of sniping, Van Baal testified that every incident that could be attributed to a Bosnian Serb sniper was the subject of an objection by the UNPROFOR Sector Sarajevo to the SRK.<sup>15738</sup> These objections were directed at the leadership of the VRS, including Galić,

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<sup>15728</sup> [REDACTED].

<sup>15729</sup> [REDACTED]. See also P6298 (UNPROFOR protest letter to Stanislav Galić, 13 February 1993); P6299 (UNPROFOR protest letter to Stanislav Galić, 14 February 1993) (indicating that the UN had sent letters of protests on two different occasions in relation to a shelling of the UN OP but received no answer from Galić).

<sup>15730</sup> P1258 (Witness statement of Hussein Ali Abdel-Razek dated 16 July 2002), e-court pp. 2, 12–18, 20–21, 25, 27, 33; Hussein Abdel-Razek, T. 5500 (19 July 2010), T. 5532–5533, 5537, 5580–5581 (20 July 2010).

<sup>15731</sup> P1258 (Witness statement of Hussein Ali Abdel-Razek dated 16 July 2002), e-court pp. 13, 21, 27; Hussein Abdel-Razek, T. 5673 (21 July 2010). Abdel-Razek testified that he raised the issue of the capture of three Muslim drivers by the Bosnian Serbs with the Accused and Plavšić, but never received a “clear-cut” response. See Hussein Abdel-Razek, T. 5661 (21 July 2010); P4216 (UNPROFOR report re meeting with Radovan Karadžić, 20 November 1992), para. 8.

<sup>15732</sup> P1258 (Witness statement of Hussein Ali Abdel-Razek dated 16 July 2002), e-court p. 21 (testifying that, at his last meeting at Lukavica Barracks, he said to Galić, “there are a lot of civilian casualties in the city. Your shelling was heavy and targeting the UN building” to which Galić responded, “we did that because their mortars landed among Serb civilians”, and further testifying that while Galić “always” denied the Serb shelling of civilians, at this meeting Galić “was more frank” in stating that the Serbs shelled the UN building because of UNPROFOR actions).

<sup>15733</sup> P1258 (Witness statement of Hussein Ali Abdel-Razek dated 16 July 2002), e-court p. 15.

<sup>15734</sup> P1258 (Witness statement of Hussein Ali Abdel-Razek dated 16 July 2002), e-court pp. 24–25.

<sup>15735</sup> P1426 (Witness statement of Richard Mole dated 7 May 2010), para. 97.

<sup>15736</sup> P1426 (Witness statement of Richard Mole dated 7 May 2010), para. 98–100, 108 (testifying that he could not recall the local tactical situation changing to a marked degree that would realistically justify the response of heavy weaponry firing into the city as appropriate); P1434 (UNMO report for November 1992), p. 15.

<sup>15737</sup> P1426 (Witness statement of Richard Mole dated 7 May 2010), paras. 92, 107; P1434 (UNMO report for November 1992), pp. 5, 7.

<sup>15738</sup> P1818 (Witness statement of Adrianus van Baal dated 26 October 2010), para. 37.

Indić, and Milovanović.<sup>15739</sup> According to Van Baal, attempts to contact Galić were only occasionally successful and Indić and Milovanović would respond to protests by denying that the SRK had snipers under its control and by blaming the Bosnian Muslims for shooting and targeting their own population.<sup>15740</sup>

4698. KDZ182 testified that protests about shelling and sniping incidents were made to Milošević verbally by UNPROFOR liaison officers and in writing; several hours or days later, the written protests would often lead to meetings with Milošević.<sup>15741</sup> Generally speaking, in those meetings Milošević would claim that he was responding to ABiH fire.<sup>15742</sup> KDZ304 testified that letters of protest were not an effective method during the time he was in Sarajevo.<sup>15743</sup> [REDACTED] it was impossible to speak directly to Dragomir Milošević because “everything was screened at the level of Major Indić or his deputy”.<sup>15744</sup>

4699. In addition to the above evidence, the Chamber heard about many specific meetings during which Galić and Milošević were informed of the sniping and shelling on the city, including attacks on civilians. For example, on 7 October 1992 Morillon met with Galić and Koljević.<sup>15745</sup> The parties discussed lifting the siege of Sarajevo, and Morillon expressed his “disappointment” about recent artillery attacks on Sarajevo.<sup>15746</sup> On 10 February 1993, Valentin sent a letter of protest to Galić regarding the targeting of civilians with mortar fire while they were crossing the airfield at Sarajevo airport between 7 and 9 February 1993.<sup>15747</sup> The letter stated that twenty civilians were injured, three of whom died, and that “[s]uch actions against civilian population run counter to all human norms of morals. We strongly protest against such irresponsible behaviour of your military and intend to inform international community of those facts.”<sup>15748</sup> On this topic, Abdel-Razek testified that when he protested the sniping of civilians crossing the airport, Galić stated that “if the civilians continued to cross the airport, his side would continue shooting at them”.<sup>15749</sup> Similarly, at a meeting with the Commander of FreBat, Galić said that he would continue shooting at civilians if they continued to move through the airport, blaming FreBat for allowing the civilians to do so.<sup>15750</sup>

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<sup>15739</sup> P1818 (Witness statement of Adrianus van Baal dated 26 October 2010), para. 38. *See also* John Hamill, T. 9686 (13 December 2010); P1994 (Transcript from Prosecutor v. *Galić*), T. 6066–6069, 6109, 6115–6116, 6129, 6120–6122, 6146–6149, 6155–6159, 6161–6165 (testifying that he would inform the SRK liaison officers, including Indić, of incidents of sniping and shelling of civilians or civilian areas, and adding that Galić spoke to his liaison officers “as a commander would”).

<sup>15740</sup> P1818 (Witness statement of Adrianus van Baal dated 26 October 2010), paras. 38–39.

<sup>15741</sup> P2447 (Witness statement of KDZ182), p. 31.

<sup>15742</sup> [REDACTED]; P2447 (Witness statement of KDZ182), p. 31; [REDACTED]. *See also* P2407 (Witness statement of KDZ304), p. 17; [REDACTED].

<sup>15743</sup> P2407 (Witness statement of KDZ304), pp. 17–18. According to Fraser, protesting orally by going to the SRK headquarters and dealing directly with the SRK Commander was far more effective than written protests. *See* P1762 (Witness statement of David Fraser dated 17 October 2010), p. 22–23.

<sup>15744</sup> [REDACTED]. *See also* P5906 (Witness statement of KDZ450 dated 17 January 2011), para. 20 (testifying that the sole interlocutor of the liaison office at the SRK Command was Indić).

<sup>15745</sup> P1258 (Witness statement of Hussein Ali Abdel-Razek dated 16 July 2002), e-court p. 23.

<sup>15746</sup> P1258 (Witness statement of Hussein Ali Abdel-Razek dated 16 July 2002), e-court p. 23.

<sup>15747</sup> P1054 (UNPROFOR protest letter to Stanislav Galić, 10 February 1993), p. 2; [REDACTED].

<sup>15748</sup> P1054 (UNPROFOR protest letter to Stanislav Galić, 10 February 1993), p. 2.

<sup>15749</sup> P1258 (Witness statement of Hussein Ali Abdel-Razek dated 16 July 2002), e-court p. 18.

<sup>15750</sup> P1258 (Witness statement of Hussein Ali Abdel-Razek dated 16 July 2002), e-court p. 18.

4700. On 22 March 1993, Valentin met with Galić to request an explanation as to why Stari Grad was shelled the day before.<sup>15751</sup> Galić denied that the Serbs were responsible for the shelling, despite the UN observers being sure that the shells were fired from Bosnian Serb artillery positions.<sup>15752</sup> Similarly, in response to a rise in sniping incidents in April 1994, Soubirou met with Galić on a number of occasions in May, June, and July 1994.<sup>15753</sup> One of those meetings took place on 24 June 1994, whereby Soubirou and Fraser met with Galić at Lukavica barracks.<sup>15754</sup> According to Fraser, this meeting was typical of all the meetings with Galić, as the latter would first give a lecture and deny that Bosnian Serbs were engaged in sniping on civilians, and then, over the course of the conversation would acknowledge that some of this was happening but would blame the other side for it.<sup>15755</sup> Nevertheless, Fraser noted that generally there was a noticeable decrease in the level of sniping after talking to Galić.<sup>15756</sup> Sometime between 8 and 12 July 1994, Soubirou met with Galić to improve relations between his office and the SRK.<sup>15757</sup> During this meeting, Soubirou explained that he wanted to come to an agreement on anti-sniping and asked Galić to designate a Bosnian Serb to deal with this subject.<sup>15758</sup> [REDACTED] Galić never acknowledged that there were Bosnian Serb snipers.<sup>15759</sup>

4701. The Chamber also received evidence about a number of specific written protests sent to Dragomir Milošević.<sup>15760</sup> For example, on 2 December 1994, Gobilliard wrote to Milošević to “strongly protest” the shelling of Sarajevo that day.<sup>15761</sup> The letter addressed the launching of four AT3 missiles at the MUP building, a cinema, and the Presidency building from SRK positions.<sup>15762</sup> On 7 May 1995, Gobilliard wrote to Milošević again, protesting the “continuous shootings” against civilians around the city.<sup>15763</sup> Gobilliard sent another letter on 8 June 1995.<sup>15764</sup> This letter concerned violent artillery attacks along the southern side of the confrontation line.<sup>15765</sup> Explaining the context of the letter, KDZ304 testified that the ABiH had launched an attack in the sector of the Jewish cemetery and in Debelo Brdo, and that the SRK retaliated with artillery fire and tanks and launched “several well-targeted counter-attacks”; however, the response was also disproportionate as it disregarded any possible collateral damage or civilians being affected.<sup>15766</sup>

<sup>15751</sup> P1066 (SRK combat report, 22 March 1993), para. 8.

<sup>15752</sup> P1066 (SRK combat report, 22 March 1993), para. 8; [REDACTED].

<sup>15753</sup> P1762 (Witness statement of David Fraser dated 17 October 2010), pp. 21–22.

<sup>15754</sup> David Fraser, T. 8024–8025 (18 October 2010); P1785 (SRK report re meeting between General Galić and General Soubirou 24 July 1994).

<sup>15755</sup> David Fraser, T. 8025 (18 October 2010).

<sup>15756</sup> P1762 (Witness statement of David Fraser dated 17 October 2010), p. 21.

<sup>15757</sup> P1762 (Witness statement of David Fraser dated 17 October 2010), p. 65.

<sup>15758</sup> P1762 (Witness statement of David Fraser dated 17 October 2010), p. 65.

<sup>15759</sup> [REDACTED].

<sup>15760</sup> The Chamber also took judicial notice of the fact that Milošević received protest letters from UNPROFOR about crimes committed by the SRK. See Adjudicated Fact 2876.

<sup>15761</sup> P2427 (UNPROFOR protest letter to SRK, 2 December 1994), p. 3.

<sup>15762</sup> P2427 (UNPROFOR protest letter to SRK, 2 December 1994), p. 3.

<sup>15763</sup> P2415 (UNPROFOR protest letter to SRK, 7 May 1995).

<sup>15764</sup> P2134 (UNPROFOR protest letter to Dragomir Milošević, 8 June 1995); P2407 (Witness statement of KDZ304), p. 23.

<sup>15765</sup> P2134 (UNPROFOR protest letter to Dragomir Milošević, 8 June 1995).

<sup>15766</sup> P2407 (Witness statement of KDZ304), p. 23 (adding that the SRK often shelled the town to “retaliate” against ABiH attacks).

4702. On 30 June 1995, Meille sent a letter of protest to Dragomir Milošević in which he complained of “attacks on civilian targets in the city of Sarajevo, using very powerful bombs” on 28 and 29 June 1995 by the SRK.<sup>15767</sup> Meille strongly protested against these bombardments “carried out on [Milošević’s] orders”, and demanded that Milošević immediately halt all attacks directed at either the civilian population or UNPROFOR.<sup>15768</sup> The letter provided details of four different events including the date and the time at which they took place, namely, the firing of (i) the “extremely powerful rocket bomb” at the TV building; (ii) four heavy mortar rounds at the Alipašino Polje residential area; (iii) another rocket bomb at the Alipašino Polje residential area; and (iv) three mortar rounds at residential buildings in the city centre.<sup>15769</sup> The letter continued to state that “[t]his ill-considered and irresponsible escalation continued on the evening of 29 June when 3 high-power projectiles struck the PTT building, the HQ of Commander Sector Sarajevo”.<sup>15770</sup> Meille also reminded Milošević of the moral and legal obligations to adhere to international humanitarian law.<sup>15771</sup> Despite all the details provided, Milošević did not react to this letter.<sup>15772</sup> As noted earlier, a copy of the letter was also sent to Mladić on 1 July 1995.<sup>15773</sup>

4703. Galić and Dragomir Milošević themselves confirmed that they received information about the sniping and shelling of civilians in Sarajevo. For example, Galić conceded that he received information that SRK shelling and sniping caused civilian casualties from his staff, through Indić, in meetings with UNPROFOR representatives, and through written protests.<sup>15774</sup> Galić testified that he took the protests that were sent to him by UNPROFOR or UNMOs very seriously.<sup>15775</sup> However, he did not remember a single protest being lodged about a sniping incident alone, and in relation to Abdel-Razek’s evidence regarding his protests about the SRK shelling of UNPROFOR and civilian structures, he testified that Abdel-Razek was not honest with him and misrepresented himself.<sup>15776</sup> Similarly, Milošević conceded that he had received, from UNPROFOR and the media, allegations about Bosnian Serb soldiers sniping at civilians.<sup>15777</sup> While Milošević considered media reports to be “a certain indicator” and he attempted to see what was true and correct in these reports, he claimed that the media exaggerated or dramatised the situation.<sup>15778</sup> According to Milošević,

<sup>15767</sup> P895 (Letter from UNPROFOR to Dragomir Milošević, 30 June 1995); P820 (Witness statement of David Harland dated 4 September 2009), para. 210; P2107 (UNPROFOR protest letters to Ratko Mladić, 1 July 1995, and Dragomir Milošević, 30 June 1995), p. 3; P2407 (Witness statement of KDZ304), pp. 18–20; KDZ304, T. 10448–10452 (18 January 2011) (private session).

<sup>15768</sup> P895 (Letter from UNPROFOR to Dragomir Milošević, 30 June 1995).

<sup>15769</sup> P895 (Letter from UNPROFOR to Dragomir Milošević, 30 June 1995); P820 (Witness statement of David Harland dated 4 September 2009), para. 210.

<sup>15770</sup> P895 (Letter from UNPROFOR to Dragomir Milošević, 30 June 1995).

<sup>15771</sup> P895 (Letter from UNPROFOR to Dragomir Milošević, 30 June 1995).

<sup>15772</sup> P2407 (Witness statement of KDZ304), p. 20.

<sup>15773</sup> P2107 (UNPROFOR protest letters to Ratko Mladić, 1 July 1995, and Dragomir Milošević, 30 June 1995)

<sup>15774</sup> Stanislav Galić, T. 37230 (15 April 2013), T. 37788–37792 (7 May 2013). *But see* D2774 (Witness statement of Milenko Indić dated 19 January 2013), paras. 88, 126, 142–143 (claiming that he never received any protest about deliberate or indiscriminate targeting of civilians, and testifying that, while he received protests about sniper fire being opened, he had never received protests about such fire causing civilians casualties because, after the matter had been “checked”, it was determined that the protest concerned fighting and the exchange of infantry fire). The Chamber rejects this evidence, as it contradicts not only Galić’s and Milošević’s evidence but also all the other evidence presented regarding protests.

<sup>15775</sup> Stanislav Galić, T. 37210–37211 (15 April 2013).

<sup>15776</sup> Stanislav Galić, T. 37397 (18 April 2013), T. 37647–37648, 37652 (23 April 2013), T. 37788–37792 (7 May 2013).

<sup>15777</sup> Dragomir Milošević, T. 33276–33277 (6 February 2013). Dragomir Milošević also testified that civilians were never a target of the SRK and that the SRK never fired at civilian areas. *See* Dragomir Milošević, T. 32582–32583 (23 January 2013), T. 32845–32846 (29 January 2013), T. 33136–33137 (4 February 2013). The Chamber notes that it has rejected this argument in the preceding sections of the Judgement.

<sup>15778</sup> Dragomir Milošević, T. 33276–33277 (6 February 2013).

he also tried to establish whether the information from UNPROFOR was true or not, and if it was true, he issued orders to stop the actions.<sup>15779</sup>

*b. Political leadership: Momčilo Krajišnik, Nikola Koljević, and Biljana Plavšić*

4704. As noted earlier, the Bosnian Serb political leadership, namely Krajišnik, Koljević, and Plavšić, had strong views as to the importance of Sarajevo to the Bosnian Serb cause, as illustrated for example by Krajišnik's insistence on taking the whole of Sarajevo.<sup>15780</sup> Further, the Chamber heard that they also had knowledge of the sniping and shelling of civilians in the city, as illustrated by many meetings they attended regarding the situation in Sarajevo, both in the presence and in the absence of the Accused.<sup>15781</sup> As noted above, Abdel-Razek met with Galić and Plavšić on many occasions during which he raised the issue of shelling of civilians.<sup>15782</sup> According to him, Plavšić "was unconcerned" about this and viewed the Serb shelling of civilian targets as justified retaliation.<sup>15783</sup> During their meetings she expressed concern only for the suffering of the Bosnian Serbs.<sup>15784</sup> Abdel-Razek specifically recounted a meeting on 10 October 1992 where he discussed the shelling of Sarajevo with Koljević and Plavšić.<sup>15785</sup> Koljević stated that the Bosnian Serbs had decided to stop their shelling of Sarajevo two days before the meeting, but that the propaganda service of BiH radio was saying that the Bosnian Serbs were shelling "in a major way" in an attempt to discredit Serbs.<sup>15786</sup> In turn, Plavšić simply insisted that the UN arrange and facilitate the evacuation of 500 Bosnian Serbs from Sarajevo.<sup>15787</sup>

4705. In addition to the many meetings attended by Koljević and Krajišnik and discussed throughout this Judgement, the Chamber also received evidence of the two men regularly attending meetings about the sniping in the city. For example, in a meeting of 27 June 1994, between Andreev, Rose, Banbury, and Krajišnik in Pale, Rose "forcefully requested" that an anti-sniping agreement be signed.<sup>15788</sup> Krajišnik responded that the situation in Sarajevo had become very precarious because of continued sniping by the ABiH, and because the quality of life was improving so much for the residents of the Bosnian Government controlled areas, which was angering many Serbs outside the city.<sup>15789</sup> Krajišnik then denied that the Bosnian Serbs used snipers.<sup>15790</sup> He also stated that an anti-sniping agreement was not possible,<sup>15791</sup> that an agreement would not solve the problem, but that the Bosnian Serbs were very interested in abolishing sniping, as sniping could lead to an escalation of the conflict.<sup>15792</sup> The

<sup>15779</sup> Dragomir Milošević, T. 33276–33277 (6 February 2013). *See also* Ratomir Maksimović, T. 31589–31596 (17 December 2012) (dismissing ABiH and media reports that suggested civilians were targeted by the SRK as propaganda).

<sup>15780</sup> *See e.g.* paras. 4659, 4665, 4673.

<sup>15781</sup> The meetings they attended in the presence of the Accused are discussed later. *See* Section IV.B.3.c: Accused's contribution.

<sup>15782</sup> *See* para. 4695.

<sup>15783</sup> P1258 (Witness statement of Hussein Ali Abdel-Razek dated 16 July 2002), e-court p. 21.

<sup>15784</sup> P1258 (Witness statement of Hussein Ali Abdel-Razek dated 16 July 2002), e-court p. 5.

<sup>15785</sup> P1258 (Witness statement of Hussein Ali Abdel-Razek dated 16 July 2002), e-court pp. 11–12; P1270 (UNPROFOR report re administrative issues, 10 October 1992), para. 6.

<sup>15786</sup> P1270 (UNPROFOR report re administrative issues, 10 October 1992), para. 6(G).

<sup>15787</sup> P1258 (Witness statement of Hussein Ali Abdel-Razek dated 16 July 2002), e-court p. 11.

<sup>15788</sup> P2451 (Witness statement of Anthony Banbury dated 19 May 2009), paras. 28–32; P2465 (UNPROFOR report, 28 June 1994).

<sup>15789</sup> P2465 (UNPROFOR report, 28 June 1994), para. 7; P2451 (Witness statement of Anthony Banbury dated 19 May 2009), para. 30.

<sup>15790</sup> P2451 (Witness statement of Anthony Banbury dated 19 May 2009), paras. 31–32 (adding that Krajišnik's denial of Bosnian Serb sniping was patently false).

<sup>15791</sup> P2465 (UNPROFOR report, 28 June 1994), para. 7.

<sup>15792</sup> P2451 (Witness statement of Anthony Banbury dated 19 May 2009), para. 31.

negotiations continued and, on 1 August 1994, De Mello met with Krajišnik and Muratović at Sarajevo airport.<sup>15793</sup> At the meeting, Muratović and Krajišnik agreed that the issue of sniping could be “de-linked” from the issues of detainees in Eastern Bosnia and the reopening of the airport routes.<sup>15794</sup> On 12 August 1994, Rose met with Koljević, Gvero, and Tolimir at Pale.<sup>15795</sup> The Bosnian Serbs accepted the wording of a proposed anti-sniping agreement during that meeting and the agreement was eventually signed at Sarajevo airport on 14 August 1994.<sup>15796</sup> On 14 September 1994, Andreev met with Muratović and Koljević at Sarajevo airport.<sup>15797</sup> On the subject of sniping, the parties noted with satisfaction the recent reduction in the incidence of sniping, and agreed to explore the possibility of an expanded agreement which would include all small calibre weapons.<sup>15798</sup> Thus, following the signing of the Anti-Sniping Agreement on 14 August 1994, the number of sniping incidents fell significantly.<sup>15799</sup> This indicated to Harland that the level of sniping in Sarajevo was being “controlled and modulated” by the Bosnian Serb leadership.<sup>15800</sup>

4706. The Chamber also found that Krajišnik was involved in the sourcing of modified air bombs from Serbia for delivery to the Pretis Factory; he did so on 17 June 1995, a day after Scheduled Incidents G.14 and G.15 (and several weeks after Scheduled Incidents G.11, G.12, and G.13) occurred, all of which involved modified air bombs.<sup>15801</sup> It is clear that it was his task, and the task of the special group including his brother, to ensure that VRS had sufficient numbers of this indiscriminate weapon in stock.

### *c. Conclusion*

4707. Based on all the evidence outlined in this section and in the sections that follow (insofar as they concern the alleged JCE members other than the Accused), the Chamber is convinced that Mladić, Galić, Dragomir Milošević, Krajišnik, Koljević, and Plavšić were all fully aware, throughout the conflict, that civilians in Sarajevo were being exposed to deliberate sniping and shelling by the SRK units and to indiscriminate and/or disproportionate attacks.<sup>15802</sup> However not one of them made an effort to stop or prevent this practice, other than when it was in their political interest to do so and/or when they were pressured by the international community. Instead, the evidence shows that they actively sought and encouraged the practice of sniping and shelling in order to achieve their military and political goals, retaliate against the Bosnian Muslim side, and use it as a bargaining chip in their dealings with the international community. Indeed, Mladić himself, at one point, acknowledged that sniping

<sup>15793</sup> P2124 (UNPROFOR report re negotiations with parties in BiH, 2 August 1994), paras. 7–10.

<sup>15794</sup> P2124 (UNPROFOR report re negotiations with parties in BiH, 2 August 1994), para. 8.

<sup>15795</sup> P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 136; P1669 (UNPROFOR report re meeting with Nikola Koljević and Milan Gvero, 13 August 1994).

<sup>15796</sup> P1638 (Witness statement of Michael Rose dated 26 March 2009), paras. 136, 139; P1669 (UNPROFOR report re meeting with Nikola Koljević and Milan Gvero, 13 August 1994), para. 2; P820 (Witness statement of David Harland dated 4 September 2009), para. 129; P861 (UNPROFOR report re agreement on elimination of sniping in Sarajevo, 14 August 1994); P1762 (Witness statement of David Fraser dated 17 October 2010), pp. 40–41; P2119 (Witness statement of KDZ450 dated 17 January 2011), para. 70 (under seal); P5906 (Witness statement of KDZ450 dated 17 January 2011), para. 104.

<sup>15797</sup> D1162 (UNPROFOR report, 14 September 1994); Anthony Banbury, T. 13472 (16 March 2011).

<sup>15798</sup> D1162 (UNPROFOR report, 14 September 1994), para. 4(ii); Anthony Banbury, T. 13472–13473 (16 March 2011)

<sup>15799</sup> See para. 3595.

<sup>15800</sup> P820 (Witness statement of David Harland dated 4 September 2009), paras. 133, 300; David Harland, T. 2096–2097 (7 May 2010).

<sup>15801</sup> See para. 4388.

<sup>15802</sup> In coming to this conclusion the Chamber has also considered the evidence concerning these individuals in relation to the other components of this case.

was part of the retaliation for the ABiH attacks.<sup>15803</sup> Similarly, Krajišnik was personally involved in the sourcing of modified air bombs.<sup>15804</sup> In addition, as is clear from their statements and actions, some of which were discussed above, they considered Sarajevo to be important to the achievement of the Bosnian Serb political goals and thus all worked together to effect the siege of the city and ensure that it was divided by the aforementioned wall of fire.<sup>15805</sup> For these reasons, the Chamber considers that all of these individuals intended the execution of the common plan embodied in the Sarajevo JCE.

4708. The Chamber also considers that Mladić, Galić, and Dragomir Milošević were in fact essential to the common plan such that without them, the SRK's campaign of sniping and shelling could not have been conducted and no common plan could have been effectuated.<sup>15806</sup> As testified to by KDZ182, Mladić in particular was instrumental in the implementation of the common plan, being the "strategist" in Sarajevo.<sup>15807</sup> Based on all the evidence in this case, in particular the pattern and the longevity of the campaign of sniping and shelling, the fact that indiscriminate and disproportionate shelling of the city would necessarily bring about civilian casualties, and the above findings in relation to their knowledge and their conduct, the Chamber is satisfied that the only reasonable inference is that the members of the Sarajevo JCE, namely Mladić, Krajišnik, Koljević, Plavšić, Galić, and Dragomir Milošević all shared the intent to commit murder, unlawful attacks, and terror in Sarajevo.

4709. While Šešelj is named in the Indictment as one of the members of the Sarajevo JCE, the Chamber has received very little evidence relating to his activities as far as the Sarajevo JCE is concerned.<sup>15808</sup> Accordingly, the Chamber is not satisfied that Vojislav Šešelj was a member of the Sarajevo JCE as alleged by the Prosecution.

4710. The Chamber will now turn to examine whether the Accused significantly contributed to the Sarajevo JCE.

## 6. Accused's contribution

4711. In its Final Brief, the Prosecution submits that the ways in which the Accused contributed to the Sarajevo JCE as alleged in the Indictment are all reflected in the following actions and/or omissions of the Accused: (a) he did not end the campaign of sniping and shelling even though he could have by virtue of his control over the VRS and other Bosnian Serb Forces engaged in the campaign but in fact oversaw the strategy and implementation of the campaign;<sup>15809</sup> (b) he modulated the violence against civilians and the level of terror in accordance with the Bosnian Serb leadership's political and strategic interests;<sup>15810</sup> (c) he

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<sup>15803</sup> See para. 4880.

<sup>15804</sup> See para. 4388.

<sup>15805</sup> See paras. 4659, 4665, 4673.

<sup>15806</sup> In this respect, see in particular Sections IV.B.3.c.i: Accused's support for Mladić and SRK; IV.B.3.c.ii: Accused's oversight of military activities in Sarajevo.

<sup>15807</sup> See para. 4748.

<sup>15808</sup> See e.g. P2445 (SRT news report re visit of Vojislav Šešelj to Grbavica).

<sup>15809</sup> The Prosecution claims that by doing so the Accused contributed to the Sarajevo JCE as alleged in paragraph 14(a), 14(b), 14(d), 14(e), 14(f), and 14(h) of the Indictment. See Prosecution Final Brief, paras. 605, 612(1), 612(5).

<sup>15810</sup> The Prosecution alleges that by doing so the Accused contributed to the Sarajevo JCE as alleged in paragraph 14(a), 14(d), 14(e), and 14(j) of the Indictment. See Prosecution Final Brief, paras. 605, 612(2).

recruited Mladić, supported Mladić's immediate intensification of the campaign, and also promoted and rewarded the key implementers of the campaign;<sup>15811</sup> and (d) he allowed the campaign to continue for almost four years while denying or deflecting international protests and failing to take any genuine steps to punish the perpetrators.<sup>15812</sup> The Chamber will consider each of these alleged contributions below.

4712. According to the Prosecution, as part of the Accused's efforts to modulate the campaign in Sarajevo, he directed and/or authorised the restriction of humanitarian aid to Sarajevo in an effort to create unbearable living conditions for these inhabitants in furtherance of the objectives of the Sarajevo JCE.<sup>15813</sup> The Prosecution then alleges in its Final Brief that the "impact of the sniping and shelling campaign was amplified by restrictions on humanitarian aid and utilities that forced residents to expose themselves to attacks" when searching for fuel or queuing for water or food.<sup>15814</sup> It also alleges that the Accused's "modulation of the campaign of terror" can be seen in the restrictions he imposed on the supply of humanitarian aid and utilities to the city.<sup>15815</sup>

4713. However, the Chamber does not consider restrictions on humanitarian aid to be relevant to the Accused's contribution to the achievement of the objective of the Sarajevo JCE for two reasons.

4714. First, the objective as defined in the Indictment was not to spread terror as such but to "establish and carry out a *campaign of sniping and shelling* against the civilian population of Sarajevo, the primary purpose of which was to spread terror".<sup>15816</sup> Thus, it is the acts of sniping and shelling, the primary purpose of which was to spread terror among the civilian population, that are central to the alleged objective. That being the case, the Chamber does not consider that the obstruction of humanitarian aid can have any effect, whether positive or negative, on those acts. Accordingly, restrictions on humanitarian aid, even if perpetrated in an effort to create unbearable living conditions for the inhabitants of Sarajevo, could not have furthered in any way the objective of the Sarajevo JCE as defined in the Indictment. **(This is so unfounded allegation and charge, that the perpetrators and those who tolerated or**

<sup>15811</sup> The Prosecution alleges that by doing so the Accused contributed to the Sarajevo JCE as alleged in paragraph 14(a), 14(b), 14(d), and 14(h) of the Indictment. See Prosecution Final Brief, paras. 605, 612(4), 612(6).

<sup>15812</sup> The Prosecution alleges that by doing so the Accused contributed to the Sarajevo JCE as alleged in paragraph 14(a), 14(c), 14(d), 14(i), and 14(h) of the Indictment. See Prosecution Final Brief, paras. 605, 612(3), 612(5).

<sup>15813</sup> Indictment, paras. 14(j), 19.

<sup>15814</sup> Prosecution Final Brief, paras. 603, 777.

<sup>15815</sup> Prosecution Final Brief, para. 622. The Chamber notes that the cutting off of utilities is not mentioned as one of the Accused's alleged contributions in paragraph 14 of the Indictment. In fact, in relation to Sarajevo, utilities are mentioned in the Indictment only once, in paragraph 81, which provides: "The lack of gas, electricity or running water, forced people to leave their homes thereby increasing the risk of death." As such, neither this paragraph, nor the rest of the Indictment, assigns responsibility for the lack of utilities in the city or elaborates on how this practice contributed to the objective of the Sarajevo JCE, which is defined as a "campaign of sniping and shelling" the primary purpose of which is to spread terror. For that reason, the Chamber does not consider that the issue of utilities is relevant to the charges in the Indictment and/or the Accused's contribution to the Sarajevo JCE. Even if that were not the case, the evidence outlined by the Chamber earlier in the Judgement shows that utilities were often cut and obstructed by the Bosnian Muslim side as well as by the Bosnian Serb side. That being the case, it is impossible to determine how significant the contribution of the Accused and other alleged JCE members was to the cutting off of utilities in Sarajevo. See Sections IV.B.1.a: Chronology of events in Sarajevo; IV.B.1.f: Siege of Sarajevo. **(The same logics should be applied to all other features and incidents where the Muslim side used to do the stagings or other war tricks. In such a cases, an additional burden of proving should be allocated to the Prosecution for each and every incident, because it must not be allocated to the Serb side automatically, because of the pattern used by the Muslim side.**

<sup>15816</sup> Indictment, paras. 15–19, 77 (emphasis added).

instigated this action must have been completely morally and socially insane! What would be the purpose of such an inhumane action? How a terror could have been beneficial for the Serb side? Would such a terror hit the 50,000 Serbs living in Sarajevo under the Muslim control? What was a purpose of the Muslim shelling and sniping of the civilians in the Serb part of Sarajevo? How many casualties of such a “campaign” happened in 1,400 days of the war? Which side benefitted from the alleged Serb Campaign? But, nobody could have alleged such a crimes if the Chamber allowed the Defence to depict the contexts, and causes and consequences. This way the Chamber enabled the Prosecution to present Sarajevo as a helpless civilian city, and anything that the Serbs fired towards the city was a criminal action!)

4715. Second, the Indictment alleges that the objective involved the commission of the crimes of terror and unlawful attacks on civilians.<sup>15817</sup> As discussed earlier, the *actus reus* of these crimes consists of acts or threats of violence directed against the civilian population.<sup>15818</sup> In the Chamber’s view, restrictions on humanitarian aid (and also utilities) bear no connection to the “acts or threats of violence”. Evidence of such restrictions is therefore not relevant to proving the Accused’s contribution to achieving the objective of the Sarajevo JCE.<sup>15819</sup> Accordingly, the Chamber will not consider the allegations in paragraph 14(j) of the Indictment as far as they relate to the Sarajevo component of the case.

a. *Accused’s support for Mladić and SRK*

i. Arguments of the parties DOVDEEE, 9/10 AUGUST 17.

4716. The Prosecution alleges that the Accused recruited Mladić who then, with the approval of the Accused, marked his arrival in the Sarajevo theatre in May 1992 with an immediate intensification of the “terror campaign”.<sup>15820</sup> The Prosecution also alleges that the Accused promoted and rewarded the key implementers of the “campaign of terror” against Sarajevo, namely Mladić, Galić, and Dragomir Milošević, despite knowing that they were involved in the commission of crimes.<sup>15821</sup> According to the Prosecution, by rewarding and promoting such individuals, the Accused not only created and sustained “a culture of impunity” but also showed his approval of the campaign of sniping and shelling.<sup>15822</sup> **(Before it happened that Gewneral Mladic took the command of the 2<sup>nd</sup> Military District in May 1992, there was a carnage of the JNA members, in spite of the agreed withdrawal from BiH. Once the JNA left, the Muslim forces intensified theoir attacks on the Serb settlements, and thus created a false picture of an intensification which had been made by General Mladic)**

<sup>15817</sup> Indictment, paras. 15, 77. Additionally, the objective of the Sarajevo JCE involved the commission of the crime of murder. As with terror and unlawful attacks on civilians, the Chamber considers that the Accused’s alleged contribution to restrictions on humanitarian aid has no connection to the *actus reus* of that crime.

<sup>15818</sup> See paras. 450, 459.

<sup>15819</sup> However, the Chamber has referred to such evidence in earlier sections of the Judgement in order to describe the situation that prevailed in the city throughout the period of the Indictment. See Sections IV.B.1.a: Chronology of events in Sarajevo; IV.B.1.f: Siege of Sarajevo.

<sup>15820</sup> Prosecution Final Brief, paras. 605, 612(4), 636–642, 797.

<sup>15821</sup> Prosecution Final Brief, paras. 612(6), 643, 652, 797.

<sup>15822</sup> Prosecution Final Brief, paras. 643, 652.

The Accused submits that Mladić was appointed by the Bosnian Serb Assembly, thus indirectly refuting the Prosecution's allegation that he personally "recruited" Mladić.<sup>15823</sup> Further, the Accused does not expressly respond to the allegation that he let Mladić intensify the campaign of sniping and shelling against the city of Sarajevo; instead, he denies that such a campaign ever existed.<sup>15824</sup> The Accused further submits that there is no evidence that he promoted, rewarded, or otherwise decorated VRS officers while knowing that they were involved in criminal conduct.<sup>15825</sup> Instead, he promoted them on the basis of the proposals from commanders of "lower units" in the field and because he had to respect the system of military subordination, which resulted in him rarely knowing whom he was actually promoting.<sup>15826</sup> **(The point of the Accused's denial of the Prosecution's allegation about Mladic recruited and arriving in May 92 was that Mladic was appointed as a General Kukanjac's deputy much earlier, and when Kukanjac was removed from the post, after the massacre of his soldiers on 2 and 3 May, Mladic succeeded Kukanjac on the post, keeping it until was nominated by the Serb Assembly on 12 May 92. Anyway, it is not relevant, but the Accused succeeded Mladic from the JNA, and didn't recruit him from street or some criminal gang, as suggested by the Judgment! There was nothing wrong with the Mladic's reputation, on the contrary, he was known as an old fashioned officer with a discipline and sharply opposed to crimes, particularly those against women and children! A {to se ti-e unapredjenja, sva ona su bila podlo`na razmatranju u njihovoj bazi, na terenu, i Predsjednik nije morao da poznaje one koje unapredjuje u prvi, ili u generalski ~in, ve} je slijedio sistem unapredjivanja. Da bi osporio neki predlog sa terena, morao bi da ima saznanja i argumente protiv unapredjenja!)**

**4717. )**

i. Accused's support for Mladić and SRK in relation to Sarajevo

4718. As discussed earlier, on 12 May 1992, at the 16<sup>th</sup> Session of the Bosnian Serb Assembly, at which point Sarajevo was already encircled by various Bosnian Serb Forces,<sup>15827</sup> **(This "upside-down" logic is the only way to find the Serb side and this Accused guilty. Those "various Bosnian Serb Forces" didn't encircle Sarajevo, but to the contrary, they protected their own settlements from the Muslim paramilitaries, i.e. the ABiH in forming, composed of the Green Berets, Patriotic League, MUP, Teritorial Defence and**

<sup>15823</sup> Defence Final Brief, paras. 1265, 1268.

<sup>15824</sup> Defence Final Brief, paras. 2967–2971.

<sup>15825</sup> Defence Final Brief, paras. 1335, 1338.

<sup>15826</sup> Defence Final Brief, paras. 1335, 1338, 1340, 1342.

<sup>15827</sup> See para. 3556.

secret services units. And that started on 1 March after the killing of the Serb groom's father, but to the full scale from April 5, 1992, after the proclamation of the General mobilisation, done by Mr. Izetbegovic, the Muslim leader in the Presidency of BiH! If these facts are not true, then the Serbs and this Accused should be indicted and charged, but if it is true, the entire legal action is upside-down, wrong and unacceptable! A "various Serb Forces" is one of the obscure inventions of the Prosecution, accepted by the Chamber. What were these "Bosnian Serb Forces? What people and units were making these "Bosnian Serb Forces", and who was their commander? The Chamber should have already known that it was the TO, which, in the absence of the JNA, was a sovereign armed force in any municipality, with a municipal president as a commander-in-chief. These units were entitled to defend their territory and population up until the Army takes this task. And these "forces did only what was their task – to protect their settlements! How anybody from these "forces" or from the central authorities which didn't function at the beginning, could have been responsible for doing its job? The Serb TO on the central level had been formed only on 16 April 1992, while all the municipal TO units had already have formed the confrontation defence lines!) the VRS was established and Mladić was appointed as its commander.<sup>15828</sup> The Chamber also outlined how the Accused personally sought out Mladić, having noticed his "blunt statements in the newspapers", discussed the relationship between the two men, and made findings thereon.<sup>15829</sup>

**4719.** In particular, during the 16<sup>th</sup> Session of the Bosnian Serb Assembly, after the Accused had announced the Strategic Goals of the Bosnian Serbs and stated that the fighting around Sarajevo would decide the destiny of the BiH, Mladić pleaded with the Bosnian Serb political leadership to enunciate a set of realistic and clearly-defined strategic goals for the Bosnian Serb people.<sup>15830</sup> He then informed those present that Bosnian Muslims in Sarajevo had nowhere to go because the city was facing a blockade, before exclaiming that "the head of the dragon of fundamentalism lies beneath our hammer."<sup>15831</sup> **("Fundamentalism" why not? Many Muslim countries are fighting a "dragon of fundamentalism", and it is not about regular and average Muslim, but about fundamentalism! There were several Muslim parties of a European orientation, but the international community didn't support them!)** He recounted how he had personally observed from a helicopter that Serb howitzers and tanks around Sarajevo were not adequately positioned and manned and warned the deputies that "[w]e should not spit at Sarajevo with two mortars."<sup>15832</sup> **What Gen. Mladic could have observed before 20 May 92 wasn't the Serb artillery, but the JNA weapons, allocated to the 2<sup>nd</sup> Military District, and had nothing to do with the Bosnian Serbs!)** According to Mladić, the surrender of Bosnian Muslims required that 300 guns, including howitzers, and multiple rocket launchers, be positioned around the city.<sup>15833</sup> Other measures advocated by Mladić during this session were denying the population of Sarajevo access to the hospitals located in the city and inhibiting the flow of utilities into Sarajevo while assigning the blame for the resultant shortages to the Muslim side.<sup>15834</sup> **(This is an absurd in**

<sup>15828</sup> See paras. 160, 3115.

<sup>15829</sup> See paras. 3115–3141.

<sup>15830</sup> P956 (Transcript of 16<sup>th</sup> session of SerBiH Assembly, 12 May 1992), e-court pp. 10, 31–32.

<sup>15831</sup> P956 (Transcript of 16<sup>th</sup> session of SerBiH Assembly, 12 May 1992), e-court p. 35.

<sup>15832</sup> P956 (Transcript of 16<sup>th</sup> session of SerBiH Assembly, 12 May 1992), e-court pp. 35–36, 38.

<sup>15833</sup> P956 (Transcript of 16<sup>th</sup> session of SerBiH Assembly, 12 May 1992), e-court p. 36.

<sup>15834</sup> P956 (Transcript of 16<sup>th</sup> session of SerBiH Assembly, 12 May 1992), e-court pp. 34–35.

**understanding a sentence from Mladic's speech, see P956, p.33-34**

fought in Krajina are here to confirm this, because this is our joint fate. I think the Croats are in a more favourable position, there are more of them, I assume there are more of them, I have not /studied/ the demographic structure, at least in Bosnia, or maybe not even in Bosnia. There are more of them in the former Yugoslav areas. And they are in a better position and at least have a body of territory that is attached to Western Europe, and the Vatican, Western diplomacy and all the Western scum swear by them. They are in an unfavourable position in one section of Dalmatia, from the Maslenica bridge southward to the Neretva front and this bit in Western Herzegovina. But at least they have some kind of access to the sea, and can go bring or take aid and food and ammunition, engine and heating fuel from across the sea. They export the cattle they rustled from the areas of the Serbian Republic of Krajina. Pretending they were warriors, they were involved in various underhand dealings, while the Muslims are in a more difficult position. They are in a worse position than the sealed-off Military Hospital, which is not a combat institution, in Sarajevo, referred to, with a

**So, comparing the Croat situation as a favourable with the Muslim situation, who were in a situation in which the Muslims keep the Military Hospital, which is not a combat institution, a sealed off. Therefore, neither the Serbs sealed the Military Hospital, it were the Muslims, nor Mladic advocated any restriction of the Muslim access to a hospital. If the Prosecution is keen to distort the obvious facts, the Chamber should prevent it, and not support it by its inferences! But, anyway, any meditation, or bragging, or muscles showing by any general is not relevant, because the politics was led by the Assembly!)**

After referring to the fact that pursuant to his orders, vital JNA assets in Croatia had been either evacuated to Serb-held areas or rendered completely useless, Mladic assured the Assembly that the disciplined officers of the JNA's Knin Corps were going to change the picture around Sarajevo and that ultimately, the Bosnian Muslim side was not going to reap any benefit from the city unless it accepted peace.<sup>15835</sup>

**(What is wrong in compelling an enemy, who declared a war, to accept a peace? This line of deliberation of the Chamber leads to a necessity to establish responsibility for the war, because all this moral and political lecturing, without a minimum knowledge about the situation and rights of warring factions can not be considered unless the crime against peace is considered. Otherwise, there is a presumption that the "government" i.e. the Muslim side was right in any case, and the Serb "rebels" and outlaws were never right no matter what!)** It is following this speech that the Assembly, including the Accused, voted unanimously to appoint Mladic as the Commander of the VRS.<sup>15836</sup>

**(Wrong! The President couldn't vote in the Assembly, ever! Beside that, the members of Parliament clearly understood the military rhetoric!)**

**4720.** Even before these formalities relating to the creation of the VRS and his own appointment were completed, Mladic was engaged in the Sarajevo battlefield, primarily in efforts to evacuate the JNA personnel trapped in the various barracks in the city.<sup>15837</sup> **(Why wouldn't he, since he was appointed there as the Kukanjac's deputy? Until 20 May 92 Mladic was the JNA general!)** In the process of negotiating those evacuations, Mladic made serious threats against the city and its citizens, revealing his hard-line approach towards the city. **(The detention of the JNA troops in the city, despite the agreement on**

<sup>15835</sup> P956 (Transcript of 16<sup>th</sup> session of SerBiH Assembly, 12 May 1992), e-court pp. 38–39.

<sup>15836</sup> P956 (Transcript of 16<sup>th</sup> session of SerBiH Assembly, 12 May 1992), e-court pp. 53–54.

<sup>15837</sup> Mladic had arrived to Sarajevo on 10 May 1992. See fn. 424.

**evacuation, and unlawful attacks on the JNA column on 2 and 3 May, all of it was an illegal and criminal conduct, and the JNA certainly had its rights to threaten the perpetrators by a legitimate reprisals, but it has nothing to do with the Bosnian Serbs!)**

For example, on 11 May 1992, Mladić told a JNA General trapped in one of the barracks in Sarajevo that if the other side attacked that would be “the end of them”; he then advised the said General to use artillery fire against anything that posed an immediate threat to the barracks and not to spare either the Bosnian Muslim forces or the town.<sup>15838</sup>

**(#Words of others#! One can assume that it was legal and legitimate, maybe Mladic was aware that it was intercepted and tried to dissuade the attackers, nobody was entitled to attack the troops appointed to withdrawal, and so on, but what it has to do with the Accused, or the Bosnian Serbs? Even before 20 May there was the JNA presence, which had a priority in any action, and this conversation was even before 12 May and nomination of Mladic in the VRS!)**

On the same day, in a conversation with another trapped JNA officer, Mladić said that he would “tear down all of Sarajevo for you”.<sup>15839</sup> Similarly, on 19 May in a conversation with yet another JNA officer, after being told that an ABiH General, Jovo Divjak, had threatened to attack the barracks, Mladić replied that if Divjak did that, he “would sentence first himself and then entire Sarajevo to death.”<sup>15840</sup>

**(All of it doesn't have any place in this Judgment! This was between the JNA and Izetbegovic, who committed to a safe withdrawal of the JNA!)**

The next day, Mladić warned two JNA officers about the potential cistern attack and told them that if this attack happened “the city would be burnt down.”<sup>15841</sup>

**(Such a “cistern attack” just had happened in Mostar, close to the barracks, with casualties among the young soldiers waiting to be evacuated to Yugoslavia. It was a completely unnecessary carnage of the youth serving their compulsory service. The emotional shock was horrible, and it should have been taken into account. But, still it has nothing to do with the Accused!)**

He also specifically instructed one of the officers to ensure that any Bosnian Muslim attack against the barracks was responded to with force which was a hundred times greater.<sup>15842</sup>

Further, on 24 May 1992, Mladić assured Tolimir that should the latter or any of his men be harmed in anyway, “Sarajevo will be gone!”<sup>15843</sup>

The following day, Mladić told an unidentified officer that if a single bullet was fired at Jusuf Džonlić barracks or Maršal Tito Barracks he would retaliate “against the town” such that “Sarajevo will shake, more shells will fall on [sic] per second than in the entire war so far.”<sup>15844</sup>

He then also stated that it was not his intention to “destroy the town and kill innocent people” and he preferred to fight the war in the mountains rather than in Sarajevo.<sup>15845</sup>

As discussed earlier, on the same day, during a meeting with Plavšić and

<sup>15838</sup> P6069 (Intercept of conversation between Milosav Gagović, Ratko Mladić, and Miloš Baroš, 11 May 1992), pp. 1–2; Milosav Gagović, T. 31872–31873 (15 January 2013). See also P5672 (Intercept of conversation between Miloš Baroš, Ratko Mladić, and Gagović, 19 May 1992), p. 2 (wherein the Accused told the same General that “If a bullet is fired at you, you will see what will be fired at Sarajevo”).

<sup>15839</sup> P5693 (Intercept of conversation between Ratko Mladić and Potpara, 11 May 1992), p. 1.

<sup>15840</sup> P6070 (Intercept of conversation between Milosav Gagović, Janković, and Ratko Mladić, 19 May 1992), pp. 2–3 (Mladić also added that the Bosnian Muslims were more vulnerable because they were encircled by Bosnian Serbs); Milosav Gagović, T. 31871–31873 (15 January 2013). See also P5670 (Intercept of conversation between Tomčić and Ratko Mladić, 19 May 1992) (during which Mladić said that the other side would not risk having the city destroyed over the JNA personnel in the barracks).

<sup>15841</sup> P5673 (Intercept of conversation between Miloš Baroš, Ratko Mladić, and Potpara, 20 May 1992).

<sup>15842</sup> P5673 (Intercept of conversation between Miloš Baroš, Ratko Mladić, and Potpara, 20 May 1992), p. 4.

<sup>15843</sup> P5657 (Intercept of conversation between Zdravko Tolimir, Ratko Mladić, and “Jerko Doko”, 24 May 1992), p. 2.

<sup>15844</sup> P1041 (Intercept of conversation between Ratko Mladić and unidentified male, 25 May 1992), pp. 1–2 (Mladić also emphasised that the Bosnian Muslims were trapped in the city with no way out).

<sup>15845</sup> P1041 (Intercept of conversation between Ratko Mladić and unidentified male, 25 May 1992), p. 3. While Mladić did state during this conversation that it was not his intention to destroy the city and that he preferred to fight this war in the mountains rather than in

John Wilson, Mladić threatened to “level the city” if JNA barracks were not evacuated and added that international military intervention would only result in the destruction of Sarajevo.<sup>15846</sup>

**(What, anyway, the President has to do with all this JNA – Muslim Government disputes? None of these actions had any political decision of the Accused or other political leaders of the Serbs in BiH. Unless it is the trial of the Serbian people after all? Now we see why the Prosecution “amalgamated” the so called “Bosnian Serb Forces” from so many components including the JNA, and presented it as a force under the Accused’s command!)**

4721. While these conversations with JNA officers took place in the absence of the Accused, the Accused was, however, privy to a number of other discussions and meetings during which Mladić elaborated his plans in relation to the city and the evacuation of the JNA

personnel.<sup>15847</sup> **(So what? The Yugoslav Presidency and the JNA made an agreement with Izetbegovic about the withdrawal from Sarajevo, Izetbegovic’s people cheated and then butchered the soldiers on 2 and 3 May in Sarajevo and on 15 May in Tuzla. What the Accused had to do with all of this? But, anyone should understand this JNA officers, how did they feel about their duties to protect their soldiers. If the Accused was “privy” of their negotiations it doesn’t mean that it was his negotiations. Or the Chamber assumed that the Accused should dictate to the JNA his own conditions? Ridiculous to the extreme point.**

As mentioned earlier, during one such meeting in May 1992, involving [REDACTED], Mladić, the Accused, Krajišnik, Plavšić, and Koljević, Mladić outlined his plan to carry out a widespread artillery attack against the entire city of Sarajevo.<sup>15848</sup> **(The quoted in this fn. is para 4021, and the Defence comment is the document D1218, about killing more than 200 helpless Serbs in the vicinity of the Marsal Tito Barracks. 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! There is an evidence in the file that it wasn’t the President’s idea, that it was a legitimate operation, justified by the Muslim refusal to let the cadets leave, as agreed with Izetbegovic. See 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**

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Sarajevo, the Chamber considers that it is clear from this and all the other conversations he had in this period that, if he deemed it necessary, he was prepared to retaliate against the city as a whole, destroy it, and kill civilians.

<sup>15846</sup> See para. 4025.

<sup>15847</sup> See e.g. para. 4021. [REDACTED].

<sup>15848</sup> See para. 4023.

*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!) Another meeting referred by the Chamber never happened, because, as the Chamber noticed in this very paragraph, the President was absent throughout this period.* [REDACTED].<sup>15849</sup> Throughout this meeting, the Accused and the others remained silent.<sup>15850</sup> *(This is ridiculous too. And if it is meant an attack mentioned to be 28 or 29 May, there is a firm evidence that the President wasn't there, as well as there was no a convincing evidence about event and effects, since the most prominent was the Vase Miskina street attack on 27 May, for which we all know that was staged. "Remaining silent" even if it was true that there had been some meetings, means nothing but that the Accused didn't want to criticise General Mladic before his subordinate, but the main issue is: there was no such a meeting!)* [REDACTED] if those present in the meeting, including the Accused, had been against it the shelling would never have happened.<sup>15851</sup> *(First of all, there was no such a meeting, and second, no such a meetings are aimed to decide about use of artillery, which is subject to the specific orders. Contrary to these lies, there are many explicit orders pertaining to firing towards the city, but these firm evidence is nothing in comparison to these lies. Both, the Prosecution and the Chamber knew who was lying and why, but the Chamber didn't explore any of those cases, nor posted any clarifying question.*

4722. Subsequently, Mladić issued direct orders to SRK brigade commands to carry out an indiscriminate and disproportionate artillery attack against Sarajevo on 28 and 29 May 1992, the nature of which has been described in more detail in an earlier section of the Judgement.<sup>15852</sup> *(#Before VRS, the JNA period#! Even if so, #what the President had to do with it, this was within the conflict of JNA and the BiH Presidency#? There was no any written evidence, orders or plans, but only; some intercepts aimed to be heard by the Muslim leaders, and to make them comply with their commitments!)* For example, on 28 May 1992, Mladić personally ordered Mirko Vukašinović to direct artillery fire at Baščaršija and also against Velešići and Pofalići where “there [was] not much Serb population”.<sup>15853</sup> *(Repeating such a false interpretations will never turn it to be true. It had been already commented that in the same intercepts Mladic limited any firing to the military targets already marked in the documents!)* Mladić also ordered Vukašinović to use artillery fire so as to ensure “that they cannot sleep, that we roll out their minds”.<sup>15854</sup> The following day, Mladić told Potpara to be careful and not respond to provocations, and that he would not order the shelling of Sarajevo unless the Bosnian Muslims posed a threat to Potpara's men.<sup>15855</sup> Later that day, however, Mladić ordered Potpara to fire at the railway station in Sarajevo and told him to scatter the fire around.<sup>15856</sup> It is clear from these orders

<sup>15849</sup> See para. 4023.

<sup>15850</sup> See para. 4023.

<sup>15851</sup> [REDACTED].

<sup>15852</sup> See paras. 4024–4035.

<sup>15853</sup> P1521 (Intercept of conversation between Ratko Mladić and Mirko Vukašinović, 28 May 1992), p. 3; P1518 (Intercept of conversation between Ratko Mladić and Mirko Vukašinović, 28 May 1992).

<sup>15854</sup> P1518 (Intercept of conversation between Ratko Mladić and Mirko Vukašinović, 28 May 1992). See also P1042 (UNPROFOR report re conversations with BiH and JNA delegations, 29 May 1992), para. 5.

<sup>15855</sup> D207 (Intercept of conversation between Ratko Mladić and Potpara, 29 May 1992), p. 8.

<sup>15856</sup> P1511 (Intercept of conversation between Ratko Mladić and Potpara, 29 May 1992); P1522 (Intercept of conversation between Ratko Mladić and Potpara, 29 May 1992), p. 1.

that Mladić showed no concern for the civilian population of Sarajevo nor for any civilian casualties that would result from his orders to shell the city, including Baščaršija, Velešići, and Pofalići. (#Before VRS, the JNA and BiH Presidency affair#! All of it has nothing to do with the President, who even wasn't in the country, and this was a JNA – BiH Presidency conflict pertaining to the illegal and illegitimate attacks of the Muslim forces against the JNA trapped and encircled young soldiers. #I ti vojnici su bili „hors de combat“, i nisu predstavljali prijetnju nikome, i bili su taoci daleko više nego vojnici UNPROFOR-a 1995. But, anyway, the Chamber should be fair mentioning this Mladic's orders, because it is in the same intercept about Velesici that Mladic asked whether his subordinate had marked targets in Velesici. So, for that reason there can not be a WORD ABOUT INDISCRIMINATE FIRE. This is similar to Milosevic's order from 6 April 95, without the one from 4 April, which was a complete order, while the one of 6 April was only repetition of order to fire. But anyway, these commanders understood each other well, and they didn't have to repeat every single time the mantra like “only military targets”, because it was understood!)

4723. As also discussed earlier, on 30 May 1992, while the bombardment continued, Morillon and Mackenzie met with the Accused and Koljević to discuss these events.<sup>15857</sup> During the meeting, the Accused defended the actions of Mladić and the SRK, saying that due to their inexperience, the forces over-reacted to attacks by the Green Berets and that Mladić did not have all the forces under his command.<sup>15858</sup> In doing so, the Accused showed awareness that the bombardment of the city had been extensive and had gone too far. (The President had never said that Mladic and other commanders didn't have sufficient experience, but the soldiers that had been attacked by the Green Berets may be overreacting in defending against the more numerous enemy attacking them. Concerning the inexperience, the Prosecution obtained the Analysis of Tadija Manojlovic about a drastic shortage of the educated and trained artillery operators at the beginning of war! Once they were attacked, nobody could prevent them not to defend themselves, and everyone knows it. Here is what the Accused really said, but first to notice that the meeting took place in Belgrade, right after their meeting with Pres. Milosevic, which is clear that the Accused didn't return to Pale yet. See P01036

3. Mr. Karadzic referred first in general to the situation of the Serbs in Sarajevo who are in control of areas in the suburbs and parts of the city and who are attacked practically every night by the "green berets". He indicated that the Serb forces are inexperienced and self-organized. That Mladic does not have all under his command but that they are trying to bring them under control. He added that because of their inexperience they over-reacted to attacks. He indicated that they were willing to remove artillery from the hills if attacks on the suburbs stopped.

So, #”Mladić does not have all under his command” yet...#! The original note sounds different from what the Chamber interpreted. At the moment, the groups had been self-organized, not under the VRS control (remember the RS Presidency meeting 9 July 92,

<sup>15857</sup> See para. 4037.

<sup>15858</sup> P1036 (UNPROFOR report re meeting with Radovan Karadžić and Nikola Koljević, 30 May 1992), para. 3; P1029 (Witness statement of John Wilson dated 4 November 2008), para. 80; John Wilson, T. 4079–4080 (22 June 2010).

when Mladic asked to have the only control over the heavy calibres) and finally, the Accused confirmed that the Muslim forces were attacking the Serb suburbs every night, and if they stop it, he himself offered to distant the Serb artillery from the city. See the next para from the same report:

4. Karadzic went on to say that they would like to demilitarize Sarajevo, under United Nations supervision, with only police forces to maintain law and order, Serb police in Serbian controlled parts and Muslim police in Muslim areas.

Why the Chamber neglected this proposal that the President Karadzic made so early in the war, to demilitarize Sarajevo? But, let us see how much this was about JNA and the Yugoslav armament, from the report on previous meeting of Gen. Morillon, Gen. MacKenzie and Auger, P01035

General Morillon advised President Milosevic on the Secretary-General's action in response to the appeal of the Presidency of Bosnia-Herzegovina and of his request that President Milosevic use his influence with General Mladic to stop the bombardment of Sarajevo. President Milosevic expressed his complete disagreement with General Mladic's action. He indicated that they had done their utmost to persuade him to stop the bombardment. While he could understand fighting in self-defense, there was no justification for the continued bombardment of the civilian population of Sarajevo. This was moreover not in the interest of Yugoslavia nor of the Bosnian Serbs.

"While he could understand fighting in self-defence..." Then, it seems that it would be necessary to establish whether it was true that the Green Berets attacked every night on the Serb suburbs, or not. See about the Accused:

President Milosevic indicated also that he had been trying to contact Mr. Karadzic to see if he could use his influence to stop the "bloody, criminal" bombardment. He had so far not been able to do so. At our request, he promised to inform us of the outcome of his conversation with Karadzic when he is able to contact him.

Certainly, nobody could contact Karadzic, until his plane landed in Belgrade. Also, let us see what they said about the YU Armament:

Asked by MacKenzie as to his position with regard to the weapons of the JNA in B-H, Milosevic said he had told them from the beginning to "leave their bloody weapons behind". He added that the most important thing for them was to get their children (the cadets) out. He indicated that there were still some JNA soldiers from Serbia in the two Sarajevo barracks. They wanted to get them back without the arms. The delegation he had sent had agreed with Izetbegovic in everything. He added, however, that, after the incident of the convoy, he did not trust Izetbegovic. General MacKenzie pointed out that what had occurred on that occasion had been condemned by the United Nations and that President Izetbegovic had tried to stop the irregular elements.

So, President Milosevic accepted that the JNA armament could be left to the Muslim forces, provided the cadets be let go. MacKenzie recognized that Izetbegovic had his own "irregular elements" and justified Izetbegovic entirely, while the Serb side couldn't be understood when having the troubles with the irregulars!)

4724. Nevertheless, despite the Accused's awareness, another massive attack on the city commenced on the night of 5 June and lasted until 8 June 1992.<sup>15859</sup> (What does it mean, "the Accused was aware"??? So what? #Who was the Accused to order his army and his people to surrender and not to defend?# #And who would obey him,?# No wonder the Chamber made so many mistakes. They didn't consult even the OTP evidence, to establish whether there was an attack of the Muslim forces, or the crazy Serbs shelled without any reason. Look what is in P02239, an intercept of Prstojevic and Mijatovic, 5 June 92:

M: Well, we have a 100% alert, we are expecting an attack /illegible/...

P: Where are you expecting an attack from?

M: From up there, Brijesko Brdo, Sokolje, Boljanov Potak, etc.

P: Tell me, what's the situation like in Ilijaš?

M: They are fighting, too.

P: Where are they being attacked from?

M: Well, from Breza and Visoko.

MIJATOVIĆ called Ljuba at the *Herzegovina* Hotel on Ilidža and told him that they were expecting an attack on Rajlovac, that he could not come to Ilidža, and that he would come tomorrow after he had returned from Pale.

**Here is the SRK report on 7 June on the situation on 6 June, P998:**

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.

**If President Milisevic knew, if Morillon and MacKenzie informed him that there was a #“general offensive” #then he “would understand”, but he wasn’t informed, and it was presented to him as if the Serbs were firing without any reason. Let us see what General Wilson reported to his Australian Government on 8 June 92, the last sentence:**

9. **NOTE. TODAY THERE HAS BEEN VERY HEAVY FIGHTING IN SARAJEVO AND CMO ESTIMATES SIGNIFICANT LOSS OF LIFE.**

**So, piece by piece, and there is a huge building of evidence that it wasn’t any unilateral Serb action. Why it is neglected by the Chamber? Similar information is in D00232 of 6 June 92, the Main Stuff VRS**

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.

**What else is needed to see that there was a huge Muslim offensive particularly around Sarajevo? This is how the Defence is disabled to present a context as a crucial element of events!)**

It was preceded by a meeting on the same day involving Mladić, the Accused, Krajišnik, Plavšić, Koljević and Đerić, during which the Accused instructed those attending that Sarajevo had to be resolved politically while “acting quietly, inch by inch” and told them to clean up Butmir, Hrasnica, Sokolović Kolonija, and Hrasno.<sup>15860</sup>

**(So what? The road through Zlatiste was anyway the Serb supply route so frequently cut off by the Muslim forces. All other was legitimate. The Accused hoped that Sarajevo would be resolved politically, but with a great caution in military sense, which is understandable and inevitable. The said settlements had been the most extreme strongholds of the Islamic fighters. From these settlements the Serb civilians in the Serb settlements sustained casualties on a daily basis. In the domestic terminology “cleaning up” meant exclusively**

to chase the enemy soldiers. Anyway, not a single offensive to achieve this was undertaken!) The following day, while the bombing of the city was taking place, Mladić met the Accused, Koljević, Krajišnik, Ostojić, and others in Jahorina during which the Accused discussed the Strategic Goals, claiming “we have to protect our territories militarily” (To protect “our territories militarily” was a first class constitutional and legal right and obligation at the same time, and failing to do it was subject to a sentence for a high treason. If the territories had been attacked militarily, how else could have been protected, but militarily? The Chamber didn’t notice that the Serb rhetoric was defensive one, in a situation when attacked! Here is the Mladic’s Diary, named as a basis for this assertions: P1478, p. 96:

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\* KARADŽIĆ:

- The birth of a state and the creation of borders does not occur without war. —
- Things that are important for demarcating borders:

\* King Alexander got a large state and lost Serbia. —

\* We paid for this with our lives.

\* What is it that we care about: territory or the people? —

\* If we Serbs to not start thinking about a state and about our territory, then we will lose.

\* According to the map we have 66% of the territory which the world would deny us.

\* 1,920,000 inhabitants would fit into this map. —

\* There are around 66% Serbs in Serbia today. —

\* Slavonia's space is compact. —

\* There would be 35% Muslims in the occupied territory. -

- We must not put pressure to have people displaced. —

So, out of this entry in Mladic’s Diary, written down far from verbatim, the Chamber picked out only a reminiscence and academic chatting about borders, which wasn’t

connected to the BiH situation, but in general. This pertained more to those who seceded from Yugoslavia, rather than to the Serbs in Bosnia, because there republics forced the unilateral secessions and thus making a new international borders! The Chamber didn't notice that the Accused opposed any intention to have a lot of territory, using the example of King Aleksandar who took many territories in Yugoslavia, but lost Serbia, and the Serb people payed it by their lives. This was always the Accused's attitude, not to be greedy for territories, but to take care of people. Finally, the Accused said that there will be 35% of the inhabitants of the Muslim origin, and that "We must not put pressure to have people displaced!" this is the most powerful evidence that there was no any meditation about an ethnically pure entity, nor that there would be any pressure to have people displaces! Why it was not important, or at least worthwile to be noticed?)

and that "the birth of a state and the creation of borders does not occur without war".<sup>15861</sup>

That same day Mladić issued Directive 1, in which he stated that the VRS had "received the task to use offensive actions [...] in order to improve operationally-tactical position in the wide area of Sarajevo".<sup>15862</sup> He then tasked the SRK to "mop up parts of Sarajevo" and "cut it out" along the Nedžarići-Stup-Rajlovac axis; he also tasked them with mopping up Mojmiro, Dobrinja, Butmir, and Sokolović Kolonija, and with de-blocking of Sarajevo-Trnovo and Pale-Zlatište communication.<sup>15863</sup>

**(What kind of consideration is this? The Chamber is not entitled to reconsider and criminalise the legal and legitimate military actions, but to deal with crimes only. This is an insult of the Serbs, and a grave offense of this community. . Da li Ujedinjene nacije slu'e za ovu vrstu posla, i da li podr'avaju sudsko sankcionisanje ovakvih presedana?# It should be sued by the Serbs for criminalizing everything Serbian. Declaring the war against the Serbs, the Muslim side legalised all of their legal military actions!)**

4725. There is no doubt, therefore, that at the very beginning of the conflict in Sarajevo the Accused fully supported and actively encouraged the heavy-handed military approach taken by Mladić in Sarajevo, including the shellings that took place between 28 and 30 May and 5 and 8 June 1992. **(First of all, the President, Krajisnik and Koljevic didn't return from Lisbon-Belgrade until late 30 May. Second, from 5 to 8 June 92 and further there was a great Muslim offensive, known to everyone!)** Indeed, [REDACTED], during the first months of the conflict, the Accused, Krajišnik, Koljević, and Plavšić, mainly due to their lack of knowledge of army matters, **(Why would the political leaders have to have knowledge of army matters? That is why professionals exist, and that is why the Accused handed his operational and tactical competences in commanding the VRS to it's Main Staff and General Mladic)** gave Mladić absolute power over such matters.<sup>15864</sup> Starting in June 1992, however, they began to gradually limit Mladić and eventually the "political power was on top".<sup>15865</sup> **(#EXCULPATORY#!)**

4726. [REDACTED].<sup>15866</sup> [REDACTED].<sup>15867</sup> **(REDACTED IN PUBLIC VERSION, BECAUSE IT IS GUESSING BY THE CHAMBER, AND LIES BY THE WITNESS. HAD THE PROSECUTION FOLOWED IT'S OBLIGATION TO R68 AND DISCLOSED TIMELY DOCUMENTS PERTAINING TO THIS WITNESS, THIS LIE**

<sup>15861</sup> P1478 (Ratko Mladić's notebook, 27 May–31 July 1992), pp. 95, 97.

<sup>15862</sup> D232 (Directive 1, 6 June 1992), para. 2.

<sup>15863</sup> D232 (Directive 1, 6 June 1992), para. 5. See also [REDACTED].

**COULDN'T BE POSSIBLE. Thus the Prosecution benefitted from the violation of the Rule 68!)**

4727. Despite this [REDACTED], of which he was fully aware, the Accused nevertheless continued to support Mladić and his plans for the city. For example, in Directive 3, issued by the Main Staff on 3 August 1992, Mladić outlined the objective of keeping Sarajevo “firmly under blockade” and thus instructed the SRK to “gradually tighten the encirclement”.<sup>15868</sup>

**(This is also #more than ridiculous#! What does it mean? First, there was no any fall-out between this witness and General Mladic, nor was ever. The witness had been promoted, and the Accused didn't do promotions in spit of the Main Staff opinion, but in accord with it. Second, the Accused supported Mladic in everytning legal and legitimate. Why Sarajevo, full of BH soldiers attacking the Serb settlements, shouldn't be blocked? It is not up to the Chamber to criminalise a legal and legitimate moves of the Serb side. A chamber which would do such a thing disqualifies itself from any judging process as a biased and un-trusty. #Just like Harland and Banbury, convinced that they came to Bosnia to defend the Government against the Serbs as outlaws# . But, the President never supported Mladic or anybody else in breaching any rule or provision of laws and conventions, and nobody can deny it! On the contrary, being too trustfull in the allegations of internationals, the Accused went into a very delicate relation with General Mladic and other high army officers, for criticising them without a real basis!)**

The next day, on 4 August 1992, at a meeting between the Accused, Mladić, Krajišnik, and Koljević, the participants accepted this directive without objection, although Koljević requested a “sabotage operation in Sarajevo” and the “[t]aking of Sarajevo”.<sup>15869</sup> **(So what? The Muslims declared the war against Bosnian Serbs, and rejected all the ideas to ease situation in Sarajevo, continuing attacks on a daily basis. Both the siege and defeat were legitimate options!)**

4728. Similarly, in a meeting in Jahorina on 2 June 1993, attended by the Accused, Krajišnik, Prime Minister Lukić, Mladić, the SRK commanders, including Galić, and the presidents of Sarajevo municipalities,<sup>15870</sup> Mladić presented a report on the situation in the SRK's zone of responsibility in which he outlined the problems in the zone, the ABiH's unsuccessful attempts to break the blockade of the city, and then suggested, *inter alia*, that:

Activities of sabotage and terrorist groups should be used in the future, as well as ambushes and *surprise elements*, therefore keeping *constant the negative effect on the moral [sic] of Muslim forces and population, keep them in fear and constant wondering as to the activities of our forces*. It is necessary to develop in them a feeling that their fate depends of [sic] the Army of Republika Srpska through tactical actions and our propaganda activities. Through *incessant activities and combat actions with all available SRK forces, cause as many losses as*

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<sup>15864</sup> [REDACTED].

<sup>15865</sup> [REDACTED].

<sup>15866</sup> [REDACTED].

<sup>15867</sup> [REDACTED].

<sup>15868</sup> D235 (Directive 3, 3 August 1992), pp. 3, 5. The orders relevant to Sarajevo in this directive were relayed the next day to the SRK units by the SRK Commander. See P5979 (SRK Order, 4 August 1992).

<sup>15869</sup> P1479 (Ratko Mladić's notebook, 16 July–9 September 1992), p. 24.

<sup>15870</sup> P1483 (Ratko Mladić's notebook, 2 April–24 October 1993), pp. 182–194.

*possible to the enemy and develop feelings of dependency, fear and in security [sic].*<sup>15871</sup> (The quoted document (P02710) which is the basis for this “finding” is not a valid document at all. It was a reminder of General Mladic what to tell at the meeting, which doesn’t mean it had been said verbatim, nor the discussion indicate that he really said any of it. Mladic never read his speeches, he improvised as can be seen from all of his speeches recorded by others. All that is written down is legal and legitimate, except mentioning “population” although compromising the policy of the Muslim extreme leaders before it’s population may be legal and legitimate too. A destroying an enemy’s will to continue with fighting, decreasing his morale, confronting him with a lost of prospectiveness of further fights – all is legal and legitimate. No wonder why the Prosecution didn’t want to expose this document to the testing by the Defence. But, we contest it, because there is no evidence that everything what is in this memo really was pronounced at the meeting, and thus remained unknown to the present officials!)

At the end of this meeting, the Accused stated that he supported everything that was said at the meeting, that “a wounded animal is the most dangerous one”, that nothing could be achieved through negotiations with Izetbegović, and that Izetbegović therefore must be defeated while at the same time the Bosnian Serbs needed to ensure “favourable international conditions”.<sup>15872</sup> (Here is what the President commented as written down by Gen. Mladic, with the usual unfinished sentences: P01483, p. 194:

\* President KARADŽIĆ (recorded) .-

- I support everything that has been said here.
- A wounded animal is the most dangerous one.
- The Sarajevo battlefield is the most important today. –
- We cannot achieve anything with IZETBEGOVIĆ through negotiations, he must be defeated -
- We have to aim that we must take Sarajevo.
- We should ensure favourable international conditions.
- Around Goražde – AI /? Alija IZETBEGOVIĆ/ dare not attack. –
- If war is what he wants, we have to defeat him ...
- The whole Serbian nation depends on our military victory. –
- Once all officers are Serbs from top to toe, there will be no Chetniks. -

The #Chamber is selectively depicting the Serbian sayings#, such as the one about a “wounded animal”, which we find a bit malicious and with a purpose to depict the President in a bad light#. However, this is saying, and the Serb culture is full of sayings like that. Further, it is obvious that the Accused gives priority to negotiations, but the other side not. Further, the Accused said that “if war is what he wants, we have to defeat him...” so what? It is legal and legitimate. With so many “ifs” the Accused is still in favour of negotiations, but if other side is too!)

<sup>15871</sup> P2710 (VRS conclusions, 31 May 1993), pp. 3–5, 9 (emphasis added). The Chamber notes that while the document itself does not contain Mladić’s signature, it contains handwritten notes and was seized from Mladić’s house, thus suggesting that he was the author. See Prosecution’s Motion for the Admission of 68 Sarajevo Romanija Corps Documents from the Bar Table with Appendix A, para. 5, Appendix A, pp. 4–5.

<sup>15872</sup> P1483 (Ratko Mladić’s notebook, 2 April–24 October 1993), p. 194.

Following these remarks, Mladić addressed the Accused, Krajišnik, and Lukić, stating that the Main Staff would take into account their remarks and produce appropriate orders.<sup>15873</sup> Thus, on 25 June 1993, Directive 5 was issued, outlining the Lukavac '93 operation, in which Mladić tasked the SRK to “create conditions to assume control over [Sarajevo]”.<sup>15874</sup> **(What is wrong with that? There was a war, and the Main Staff of the enemy’s Armi was in Sarajevo, and at least 40,000 combatants attacking the Serb settlements on a daily basis. Why it wouldn’t be controlled?)** He explained in the directive that the VRS had been tasked with preventing the lifting of the blockade of Sarajevo and the capture of special-purpose facilities under SRK control.<sup>15875</sup> As discussed earlier, this operation in turn led to the capture of Mt. Igman and the threats of NATO air strikes against the Bosnian Serb side.<sup>15876</sup> **(NATO was wrong and biased, it prevented the Muslim defeat and prolonged the war as long as it wanted!)**

**4729.** A year and a half later, on 14 January 1994, in a meeting between the Accused, Mladić, Krajišnik, Milošević, Galić, SRK brigade commanders, and Sarajevo municipality presidents, the Accused discussed the military and political situation in Sarajevo as well as the negotiations in Geneva.<sup>15877</sup> **The Chamber should have noticed in the same document (meeting on 12 January 1994) the Koljević’s sentence, significant for understanding of the Srebrenica affair:**

**KOLJEVIĆ: MURATOVIĆ told me: We are beginning to realise that Srebrenica and Žepa are not of strategic importance for us.”**

During the meeting, Mladić stated that Sarajevo was to be resolved “militarily, not politically”.<sup>15878</sup> He called for improvement in the “operative positions” of the SRK.<sup>15879</sup> He also recommended cutting off the tunnel used by the Bosnian Muslims and emphasised “responsibility and discipline in the army”.<sup>15880</sup> Once again showing support for Mladić and his resolution to resolve the situation in Sarajevo militarily rather than politically, the Accused stated that Mladić was “100% right” and that the Bosnian Muslims “will break down in Sarajevo”.<sup>15881</sup> He then ordered the creation of a “stand-by army” and for all soldiers recruited since April 1992 to remain in the army until the end of the war.<sup>15882</sup> He also ordered that the SRK’s “[r]etaliations shall be 1:1”.<sup>15883</sup> He ended the meeting by ordering the SRK commanders to “[q]uickly line up the brigades”.<sup>15884</sup> **(#Words of others#! This is completely incorrect! It was not Mladić’s choice “to resolve the situation in Sarajevo militarily rather than politically...” because a political solution had been rejected by Izetbegovic, and the Serb militaries realised it earlier than the politicians. But, what is a crime here? All of it was legal and legitimate, particularly taking into account that the Muslim side**

<sup>15873</sup> P2710 (VRS conclusions, 31 May 1993), pp. 9–10.

<sup>15874</sup> P843 (Directive 5, 25 June 1993), para. 5(a).

<sup>15875</sup> P843 (Directive 5, 25 June 1993), para. 2.

<sup>15876</sup> See paras. 3572–3275.

<sup>15877</sup> P1484 (Ratko Mladić’s notebook, 28 October 1993–15 January 1994), p. 133.

<sup>15878</sup> P1484 (Ratko Mladić’s notebook, 28 October 1993–15 January 1994), p. 144.

<sup>15879</sup> P1484 (Ratko Mladić’s notebook, 28 October 1993–15 January 1994), p. 144.

<sup>15880</sup> P1484 (Ratko Mladić’s notebook, 28 October 1993–15 January 1994), p. 145.

<sup>15881</sup> P1484 (Ratko Mladić’s notebook, 28 October 1993–15 January 1994), p. 148.

<sup>15882</sup> P1484 (Ratko Mladić’s notebook, 28 October 1993–15 January 1994), p. 148.

<sup>15883</sup> P1484 (Ratko Mladić’s notebook, 28 October 1993–15 January 1994), pp. 148–149.

<sup>15884</sup> P1484 (Ratko Mladić’s notebook, 28 October 1993–15 January 1994), p. 149.

didn't want a political solution. On the other hand, both the Muslim side and its allies wanted the Serbs to get exhausted and be defeated, being under the sanctions. The RS leaders, both political and military, would be responsible for such a catastrophic outcome of the war! The Serb nation would never recover from such an end of the crisis!)

4730. In addition to the Accused's explicit exclamations of support of Mladić's strategy in Sarajevo recounted above, the Chamber has also received a number of Mladić's diaries in evidence which in turn reveal that a number of meetings took place throughout the conflict, which were attended by both the Accused and Mladić and during which the situation in Sarajevo was discussed and a course of action agreed upon. These also show that the two men continued to co-operate throughout the war and continued to agree on the course of action in relation to Sarajevo-related matters.<sup>15885</sup> **(So what? One was the Commander-in-chief, another was Commander of the Main Staff, and there even shouldn't be a cooperation, but subordination. But, what was a crime here? What was illegal? What served as a basis for crimes? Had the Accused ever supported any criminal proposal by anyone? But, the main issue about promotions and the Sarajevo battlefield is as follows: THE DEFENCE CASE WAS NOT THAT THE MILITARY, MLADIC, GALIC, MILOSEVIC OR ANY OTHER COMMANDER COMMITTED CRIMES, BUT THE ACCUSED IS EXCLUDING HIMSELF FROM CULPABILITY!!! The Defence position is that the high military officers had never committed any crime, that many legal actions had been criminalised by the internationals and the Prosecution, and that some irregularities that appeared were due to inexperience of soldiers, or exaggeration in esteem of danger, or similar, but never as premeditated felony!)**

4731. As well as lending support to Mladić's activities in the Sarajevo battlefield, the Accused, in accordance with his powers to promote VRS officers,<sup>15886</sup> also granted Mladić an exceptional promotion on 28 June 1994 for his achievements as Commander of the VRS Main Staff, elevating his rank to Colonel General.<sup>15887</sup> By that point, Sarajevo had been under siege for two years and the Accused had been told on a number of occasions about the indiscriminate and disproportionate shelling the city was exposed to by the SRK.<sup>15888</sup> **(What a #miserable and pathetic president would the Accused be, if he would be governed by what "had been told"? By whom he "had been told"? Who is so reliable and trustful, who is so accurate that the Accused had to pay a full credit to what he had to tell about the situation in Sarajevo, or elsewhere in BiH, about which didn't know anything, or almost anything? This kind of pretentious deliberation really poses the question: what is this court? The only instance that the Accused felt responsible to were this million and a half Bosnian Serbs, who entrusted their lives, lives of their entire families to the elected authorities, and sent their the only sons in trenchese where they use to die. The only accurate information the Accused received were these sent by the authorised state agencies. Hadn't it be so, the Serb people would disappear, and this world would feel sorry for the Serbs as they feel sorry for the American Indians!)**

<sup>15885</sup> See e.g. P1478 (Ratko Mladić's notebook, 27 May–31 July 1992), pp. 38–40, 42, 308–315; P1473 (Ratko Mladić's notebook, 27 January–5 September 1995), p. 42.

<sup>15886</sup> See para. 3427.

<sup>15887</sup> P3046 (Radovan Karadžić's Decree on promotion of Ratko Mladić, 28 June 1994); Raynaud Theunens, T. 16863 (19 July 2011).

<sup>15888</sup> See Section IV.B.3.c.iii.B: Accused's knowledge.

4732. Similarly, the Accused also issued decrees assigning senior officers to the SRK, promoted them after their assignments, and bestowed decorations on the members of the SRK war units. On 31 August 1992, the Accused appointed Stanislav Galić as Commander of the SRK.<sup>15889</sup> On 16 December 1992, following a difficult period for the city of Sarajevo and particularly heavy indiscriminate shelling in September and October 1992 which resulted in the representatives of the international community protesting to Koljević, Plavšić, and the Accused,<sup>15890</sup> the Accused used his powers of exceptional promotion to promote Galić to the rank of Major General.<sup>15891</sup> **(#This part of the Judgment is absolutely out of mind#! What does it mean, the Accused promoted, supported, decorated? Even vast majority of Arkan's or Mauzer's units deserved respect for exercising their duties properly and courageously. Recently even Mauzer himself had been decorated *post mortem*, not by this Accused. #The Chamber is treating the SRK as a notorious criminal gang#, and this is mere an insult of the entire Serbian people. Do they have any ability to understand that the people they consider criminals were ordinary people who defended their families against the most cruel enemy, blinded by their religious extremism? The Chamber seems to be over-identified with the Muslim extremists. It seems as if the Chamber considered a mere existence of the VRS and SRK as an illegal and criminal fact!)** Then, on 7 August 1994, just over a month after promoting Mladić, the Accused again granted an early promotion to Galić, giving him a rank of Lieutenant General.<sup>15892</sup> On 12 August 1994, after Mladić initiated a procedure for termination of Galić's professional military service on the basis of Galić's completion of more than 30 years of pensionable service, Galić requested, amongst other things, that the Accused follow through on his promise and award him the highest RS decoration and allocate to him a furnished apartment in the Novi Sad Garrison or in the Banja Luka Garrison.<sup>15893</sup> **(So what? It is only this Court who consider this general as a criminal, nobody in the entire Serbian people think that way about him. At least, even if we respected this Court, at the time Galić was decorated and granted an apartment within the military facilities, he wasn't even mentioned as suspect. Was the Accused supposed to guess in 1994 what this court may have thought about General Galić some time in future? Ili da pita nekog n'eg ~inovnika UN, jer vi{i dostojanstvenici se time ne bi bavili? A bio je obi~aj da se pred penzionisanje dodjeljuje još jedan ~in vi{e.#)**

4733. The Accused was also imperative in the appointment and successive promotions of Dragomir Milošević. Thus, on 10 July 1993, the Accused assigned Milošević, who at the time was the Chief of Operations and Training in the Drina Corps Command, to the posts of Chief of Staff and Deputy Commander of the SRK.<sup>15894</sup> **(Was Gen. Milosevic guilty for**

<sup>15889</sup> P1200 (Decree of President of RS Presidency re Stanislav Galić, 31 August 1992).

<sup>15890</sup> See para. 3562; P1258 (Witness statement of Hussein Ali Abdel-Razek dated 16 July 2002), e-court p. 22; Hussein Abdel-Razek, T. 5507 (19 July 2010) (testifying that he wrote a letter to the Accused requesting him to stop the shelling).

<sup>15891</sup> P2650 (Radovan Karadžić's decree on exceptional promotion, 16 December 1992).

<sup>15892</sup> P2649 (Radovan Karadžić's decree on early promotion, 7 August 1994)

<sup>15893</sup> P1206 (Record of retirement of Stanislav Galić, 12 August 1994), p. 1. According to the evidence before the Chamber, Galić was relieved of his duty as the SRK Commander because he had agreed to the TEZ and the WCPs against Mladić's wishes. See fn. 11476.

<sup>15894</sup> P2676 (Radovan Karadžić's decree on appointment of Dragomir Milošević as SRK Chief of Staff, 10 July 1993); D2149 (Aide mémoire of Manojlo Milovanović), p. 24.

**anything before he had been assigned!)** Then, on 24 March 1994, only a month and a half after the shelling of Dobrinja and Markale on 4 and 5 February respectively, and despite receiving protests from the international community about these two incidents,<sup>15895</sup> the Accused used his powers of exceptional promotion to raise Milošević's rank from that of Colonel to Major General, effective the following day.<sup>15896</sup> **(#Unbelievable!!! The Tribunal still considers these incidents not clarified and not established as a SRK responsibility#. Even the Chamber was not unanimous about the Markale incident! Why would the entire RS, particularly it's President, pay so much unreserved credit to the internationals who had already proven their bias and an anti-Serb sentiments many times prior to these incidents. The Chamber neglected all the official documents of the United Nation officials pertaining to the Markale incident, while the Serb officials are expected to follow these logics! Not even the harshest colonial administration would be so insolent and demanding to be obeyed by the legal and legitimate representatives of any people. This is quite sufficient to disqualify this Court and all courts similar to this one!)** Finally, on 8 August 1994, the Accused appointed Milošević as Commander of the SRK, effective as of 15 August 1994.<sup>15897</sup> Within the VRS, Milošević was considered to have been the Accused's man.<sup>15898</sup> **(It could have been considered only by those who hadn't been "the Accused's men" and whose names the Accused pronounced many times before the Assembly. Among them are some of those who shouldn't be in the VRS later than May 95, when they had been discharged by the Accused, which would be much better for everyone. After 15 May 1995 any their presence in Srebrenica or anywhere in the battlefield was illegal. But, it is completely irrelevant, and it falls in a gossip framework, which shouldn't be noticed by a serious Court!)**

**4734.** In addition to the above appointments and promotions, the Chamber heard that on 25 June 1995, some two months after Scheduled Incident G.10 for which Ilidža Brigade was responsible and of which the Accused was aware,<sup>15899</sup> Mladić informed the SRK Command that on the occasion of St. Vitus Day, the Accused was going to award Petar Mrkonjić medals to the members of the Ilidža Brigade and the 1<sup>st</sup> Romanija Infantry Brigade, among others.<sup>15900</sup> **(The Chamber (or it's clarks) seems tireless in making mistakes and wrong inferences. This assertions understood as if these officers had already been indicted and finally convicted for something they had been indicted much later before this court. Still, no normal, sober and rational Serb believes to this accusations and sentences, and as time goes it would be even more evident!)**

## ii. Conclusion

<sup>15895</sup> See paras. 4835–4836.

<sup>15896</sup> P2677 (Radovan Karadžić's decree on Dragomir Milošević's promotion, 24 March 1994). The Chamber notes that while the English translation of P2677 refers to the promotion being effective from 25 March 1993, the original in BCS refers to 25 March 1994.

<sup>15897</sup> P2678 (Radovan Karadžić's decree on appointment of Dragomir Milošević as SRK Commander, 8 August 1994), p. 2.

<sup>15898</sup> D2901 (Letter from Dragomir Milošević to Ratko Mladić, 19 May 1996), p. 2.

<sup>15899</sup> See para. 4405.

<sup>15900</sup> P2814 (VRS Main Staff Order, 25 June 1995).

4735. Based on the foregoing, the Chamber finds that the Accused brought in and appointed Mladić to the post of VRS Main Staff Commander. According to the Accused's own words at the Bosnian Serb Assembly session in April 1995, he personally went into a lot of effort to bring in Mladić, having noticed Mladić's activities in Knin and having taken note of his "blunt statements". Then, during the 16<sup>th</sup> Session of the Bosnian Serb Assembly and immediately prior to his appointment as VRS Commander, Mladić freely articulated his Sarajevo strategy in front of the Accused and other members of the Bosnian Serb political leadership, specifying in clear terms that in his view, besieging and targeting Sarajevo with large numbers of heavy weapons would compel Bosnian Muslims to accede to the demands made by the Bosnian Serbs. Despite this clear elucidation of what was to come for Sarajevo, the Accused and the other members of the Bosnian Serb leadership voted in favour of Mladić's appointment. (#Word of others#! The Chamber is distorting the meaning of the Mladic's words and the Serb strategy in Sarajevo. The local Serbs had already encircled Sarajevo in their efforts to protect their settlements, and what General Mladic said was nothing new! The Muslim side violated every single right of the Serbian people, denying them what was guaranteed to them by the International Covenants on Human Rights, the domestic constitutions and laws, and finally tried to subjugate the Serb population to their unacceptable regime by a military force, refusing to negotiate a political solution. Finally, the Muslims declared the war against the Serb population. Thus they posted a scene for a military solution of the crisis. And now the Chamber is taking side, although the UN recognised all the three sides to the conflict as equal in rights. This aspect we must attack severely, because this is so wrong, and so remarkable, that it must be noticed and may cause further discussions in the professional circles! #The United Nations had missed their role, and compromised itself for further actions in preserving the world peace!# #This is a result of the „achievement“ of this Tribunal, as well as a mis-doings of the UN moddle and low ranking officials#, many of whome worked for their national governments and actively fought agains one of the sides#!)

4736. The Chamber further finds that shortly after his appointment Mladić did indeed intensify the campaign against Sarajevo through his involvement in the widespread shelling of the city by the SRK as described above and in sections of the Judgement dealing with Scheduled Incidents G.1 and G.2. Despite this intensification, which various international observers brought to the Accused's attention and which he himself indirectly acknowledged in his meeting with Morillon and Mackenzie on 30 May 1992, the Accused nevertheless lent his unwavering support to Mladić, defending him before the international community and blaming the other side for the intensification of the campaign.<sup>15901</sup> (To make such a "finding" credible and sustainable, the Chamber would have to presume that the Muslim part of the city of Sarajevo was demilitarized, undefended opened city. In the absence of this fact, the Chamber is obliged to avoid any general qualification and to deal with every incident separately, with an aim to establish who started and what another side did surplus to a mere defence. What the Chamber is doing in this case and this Judgment looks like the representatives of the international community were

<sup>15901</sup>

See para. 4723.

unmistakable, definite judges, whose “deliberations” on the Mladic’s conduct were neglected by the Accused. But, what if the situation wasn’t as presented to Morillon and MacKenzie and furthered by them? Who would be responsible for the catastrophic development and suffering of the Serbs in Sarajevo, like it was in many places in BiH, forbidden by the Chamber to be depicted in the courtroom? Why a real fears of the Serbs in Sarajevo do not matter? A fears must be taken into account even if irrational and neurotic or psychotic, because even then they are an “inner reality”, let alone the real fears nourished on a daily basis by a horrible crimes committed by the Muslim forces. It is not irrelevant whether the Serb minority around Sarajevo acted under the pressure of everyday attacks and treats to be annihilated as the Pofalici Serbs had been, or they acted from a security and safety, out of a criminal mind and intents. There is no a reasonable court and chamber all over the world which would take out this elements, crucial for understanding the motives of conduct. This kind of precedent must be remembered as a pick of unjust processing and victimizing of a whole community!)

Further, the Accused continued to actively participate in and approve of Mladic’s acts and plans for the city, as illustrated by his acceptance of all the military directives signed by Mladic, as well as the 2 June meeting in Jahorina and a number of other meetings where the two men, along with others, discussed their plans for Sarajevo. . (#(Hah, we cought them, a

Commander in chief and the Main Staff Commander of the same Army met!!! Zar se Was that a crime? What is a Chambers presumption: that President Karad`i} approved something illegal to Mladi}? What is a next possible presumption of the Chamber for these “findings”? Had the Serbs been supposed not to defent their survival and existence? Was there anything that the Muslim or international side did to influence the Serb conduct, or the Serbs acted without any reason, as a beasts? Even before General Mladic took position and the Accused had any public office this people established the defence lines around their settlements and remained decisive to defend at any cost. Had this kind of “finding” ever happened in the history of law?)

Indeed, on 28 June 1994, by which stage the Accused was fully aware of the international community’s objections to the SRK’s and Mladic’s activities in Sarajevo,<sup>15902</sup> the Accused decided to use his *de jure* powers to promote Mladic to the rank of Colonel General, thus in fact rewarding his activities on the Sarajevo battlefield. (If so, and if General Mladic was responsible for everything that happened in Sarajevo, then why generals Galic and Milosevic had been sentenced for the same “crimes”? And the representatives of international community hadn’t been undoubtable and acceptable sources to be trusted by the Accused without any reserve, nor they had been supposed to make the Accused to obey to their conclusions? The same “international community”, which was only one quarter of the real international community, had already shown a total bias and bears a great deal of responsibility for the initiation and determination of the cours of events in the former Yugoslavia.)

Accordingly, the Chamber has no doubt that the Accused supported Mladic in his efforts to intensify the shelling and the sniping in the city throughout the conflict in Sarajevo and throughout the Indictment period. (#This is a completely wrong inference, and a mixage of the facts#. The President supported only the legal defence of the Serbian suburbs, and forbade any illegal and criminal conduct, both orally and in a repeated written orders. Because of trusting the international representatives, misinformed by their Muslim hosts, the President criticised Mladic and other commanders very seriously, producing a

<sup>15902</sup>

See Section IV.B.3.c.iii: Accused’s knowledge.

high tension, while it appeared that they hadn't been responsible, and that in all these cases the Muslim side was attacking, and the Serb side defending itself. The Accused issued many orders to this direction, (could be presented a whole Table) and forbade taking the whole Sarajevo for the reasons of sparing Muslim civilians from sufferings (see Mandić's intercept, add it to the table) and there is nothing more inaccurate and false than this assertion! The most drastic error!

4737. In reaching the above conclusions, the Chamber was cognisant of the tensions that existed at certain times between the Accused and Mladić<sup>15903</sup> but finds that such tensions were not of such intensity and/or scope so as to diminish the level of support which the Accused provided to Mladić's policies vis-à-vis Sarajevo, as clearly shown by the evidence outlined above. **(Neither any Mladić's criminal intention of conduct in Sarajevo was validly proven, nor the Accused's support to such a Mladić's attitude was established. Which one?)**

4738. The Chamber further finds that aside from Mladić, the Accused also promoted or otherwise decorated SRK officers and SRK units who were implicated by international observers in the commission of crimes against the population of Sarajevo, thus showing his support for them. **(#“Implicated by international observers?”# Then, why we need this Court, or any other judicial institution, if the “international observers”, hidden in the Sarajevo cellars and informed by their Muslim hosts and interpreters “indicated” and “implicated” people to be criminals? And what kind of court is this Tribunal to judge this way? How many “international observers” really knew what was happening, how the warring forces were deployed, who started attacks, who was on the hills above Sarajevo? What kind of witnesses may have been a journalists who knew even less, and who visited Sarajevo only now and then? In addition to this selective prosecution and unfair initial approach to the warring sides, a huge mistake the Chamber made was preventing the Defence to depict circumstances, contexts and nature of events. Even a kangaroo court would do less damage to a defence!)** As outlined above, the Accused promoted Galić and Dragomir Milošević, despite being constantly informed of problems with disproportionate firing into the city by the SRK units, as outlined later in this Judgement.<sup>15904</sup> Indeed, his relationship with Milošević was particularly close and continued to be one of mutual support, despite the fact that Milošević was directly implicated, among other things, in the use of modified air bombs in the city.<sup>15905</sup> **(This is all rubbish and on the ground of gossip! The Accused respected General Milosevic for being a very professional and humane officer, and not interested in the old communist ideology! Therefore, for the Accused and all the Serbs that knew him, General Milosevic, as well as General Galic are innocent men convicted on no basis!)** Further, the Accused decorated the members of the Ilidža Brigade in July 1995, even though he was aware that Ilidža Brigade had fired a modified air bomb into the centre of Hrasnica, as found by the Chamber earlier in this Judgement.<sup>15906</sup> **(#As court as findings#. Further, the Chamber even didn't comment a new fact pertaining this incident, that appeared in this case. Namely, the witness Fraser accepted that the Milosevic's Order from 6 April 95 looks different when taken sight of**

<sup>15903</sup> See paras. 3122–3141.

<sup>15904</sup> See Section IV.B.3.c.iii: Accused's knowledge.

<sup>15905</sup> See paras. 4403–4405.

<sup>15906</sup> See e.g. para. 4413.

**his Order from 4 April on the same issue. This is a sufficient basis to acquit both Milosevic and this Accused for this incident!)**

4739. As for the Accused's claim that he hardly ever knew whom he was promoting because he would simply sign off on promotions on the basis of proposals from commanders of "lower units", the Chamber does not consider this to have been the case with regards to Mladić, Galić, and Dragomir Milošević. Indeed, given their high ranks and taking into account the Accused's particular interest and involvement in everything Sarajevo-related, the Chamber does not accept that he would have been unaware of their promotions and/or that he promoted them purely on the basis of the proposals from lower level commanders. **(#No legal, or political, or professional reasons not to promote them#) This is correct for these officers, the President knew who he was promoting and why. But there was no any reason not to promote them. At the time they had been promoted, they hadn't been indicted by any acceptable judicial institution (not counting the Croatia and Muslim BiH courts) let alone sentenced. But, the President didn't recognize that a #by-pass opinion of the "internationals" should be sufficient to punish the Serb generals#. The Prosecution charged the Accused for promoting or decorating many low rank officers and combatants, and for many of them the President have learnt only in that occasion, but respected the proposal from terrain. It is not correct to merge the two situations and thus present the President as insincere** Contrary to his submissions, the Chamber is convinced that when appointing and promoting these three men, the Accused was fully aware and supportive of their appointments and promotions, all the while having knowledge that they were implicated in indiscriminate and disproportionate shelling and in sniping attacks on the civilian population in the city. In doing so, he indicated that the criminal actions of Mladić, as well as the actions of the SRK Commanders and their units, were immune from investigation and punishment. **(#This is a typical error of the Chamber#, which presumed that the #"implications" by the internationals should replace all the investigations, and jump to a sentence and punishment of these generals#! The President made inquiries after every single allegation, particularly in the first year and a half of the war, but all of it appeared to be false. Why would the President support the dismissal of the Bijeljina police chief, although he didn't do anything wrong, but the situation wasn't satisfactory, and would maintain the generals actively involved in a war crimes? Why the President would force the municipal Assembly to dismiss the municipal President, although not personally responsible for any felony, but assessed that the situation in Bijeljina was not satisfactory? But all of the allegations about misdeeds of the said Generals were false! The Tribunal is behaving as if there were a correct and objective investigations with a participation of all sides interested in, which never happened, and which should be codified not to be allowed any more that the UN are involved in a huge deception of one of the warring sides! Also, the Chamber is deciding as if the "internationals" in BiH were an undisputed colonial authorities, and their "opinion" is sufficient fo sentenmcing the officials!)**

*Accused's oversight of military activities in Sarajevo*

i. Arguments of the parties

4740. The Prosecution argues that the Accused, as Supreme Commander of the VRS, oversaw the strategy and implementation of the plan through his command and control over the Bosnian Serb Forces in Sarajevo.<sup>15907</sup> It argues that the Accused was at the “apex of control” of the Bosnian Serb Forces through his position as “President of the SDS, President of the Presidency, sole President and Supreme Commander” and that this power was acknowledged by the members of the VRS, including Mladić, Milovanović, Galić, and Dragomir Milošević.<sup>15908</sup>

4741. The Accused in turn argues that no substantial discussions took place during meetings of the RS political leadership and the SRK commanders as these meetings were of a formal nature.<sup>15909</sup> He further claims that Galić and Dragomir Milošević did not receive orders or instructions from the Presidency that applied exclusively to the SRK, and that “any information arriving from the Presidency applied across the board to the VRS”.<sup>15910</sup> With respect to Galić, the Accused argues that communication between them was limited and “practically non-existent in terms of carrying out combat activities”.<sup>15911</sup> As for Dragomir Milošević, he argues that neither the civilian authorities of the RS nor the political leaders of the SDS ever influenced Milošević’s command because they did not interfere in military matters.<sup>15912</sup> He argues that communication on the ground between republican and military authorities was disrupted and that the system of command and control did not work well due to “obsolete technical equipment” of the SRK.<sup>15913</sup> The Accused also argues that due to the shortage of professional officers in the SRK, the VRS faced problems achieving effective control over its units.<sup>15914</sup> Finally, he argues that “in one period of the war” the relationship between the SRK and republican authorities was tense resulting in a refusal by the military to obey orders from the Supreme Command.<sup>15915</sup> **(But #it never resulted in any crime#! The Supreme Comand was too trustfull of the “internationals” about their allegations, and thus there was many crisis in the relations, but without negative consequences for the citizens of Sarajevo!)**

(B) SRK as a professional army

4742. The Chamber recalls that the VRS, including the SRK, was established as a professional army pursuant to a decision by the Bosnian Serb Assembly and enactment of the Defence Act and the Law of the Army.<sup>15916</sup> **(This is not accurate! The #VRS was never a professional army, but a “people’s army” with only a limited number of the professional officers, about 1% of the whole army were professional officers#. And this is a big difference. The VRS soldiers lived in their homes, and appeared on their shifts when ordered. Many of them didn’t**

<sup>15907</sup> Prosecution Final Brief, paras. 612(1), 614–619.

<sup>15908</sup> Prosecution Final Brief, paras. 614–615, 618.

<sup>15909</sup> Defence Final Brief, confidential, para. 2325.

<sup>15910</sup> Defence Final Brief, para. 2325.

<sup>15911</sup> Defence Final Brief, para. 2965.

<sup>15912</sup> Defence Final Brief, para. 2328.

<sup>15913</sup> Defence Final Brief, para. 2962.

<sup>15914</sup> Defence Final Brief, paras. 2329–2330.

<sup>15915</sup> Defence Final Brief, para. 2327.

<sup>15916</sup> See paras. 160–164.

have any training, and others, being reservists after their conscript service, but not trained for a long periods, and not acquainted with the new generations of weapons!) The Chamber also recalls its earlier finding that the Accused was involved in the creation of the VRS.<sup>15917</sup> (#How possibly this could be a crime of the President? What is a crime in that??? Does the Chamber hold that the Muslim side was entitled to create a secret army two years before the war, in violation of all the federal and Bosnian laws and constitutions, and that the Serbs were forbidden to maintain their Territorial Defence and unify it in an army when declared a war by adversaries? In other word, is the Tribunal of an opinion that the Serbs had lost all their rights provided for by the Federal and Bosnian Constitutions, as well as by the International Covenants on human rights, the European Convention on local selfmanagement, and finally agreed on the ICFY in the Hague during 1991, and finalised in Lisbon – and finally confirmed in Dayton?##

4743. Throughout the case, the Chamber received evidence that the SRK was a well-organised corps that functioned as a professional army within the structure of the VRS, with an effective command and control structure in place in its units at all levels.<sup>15918</sup> (That still doesn't mean that there was no uncontrolled elements, about which there is a sufficient evidence. The SRK Command presented a great troubles that appeared in relations of Prstojevic and other civilian officials and the local commanders! The transition from the phase of Territorial Defence units, under the command of the municipal civil authorities to the unified VRS was a very painfull and difficult process! As a matter of fact, it was unimaginable that those peaceful citizens of the Sarajevo settlements were committing crimes, or firing unles jeopardized. We do have an evidence that the paramilitaries (Legija) complained that the locals didn't allowe them to harm "their neighbours" in Ilidza!) On 19 November 1992, in Directive 4, Mladić himself stated that the SRK "has fully stabilised command and control in the Corps and subordinate units".<sup>15919</sup> (So what? This was eight months after the war broke out! Was this a crime? But, stil this does not exclude a possibility of an unauthorized acts, or an act of uncontrolled elements, or an overreaction due to fear during an enemy's attack. Still, the key word is "attack" who attacked, by which goal, by what force! But, the Chamber didn't allow to the Defence to present "the whole truth"! A July 1994 analysis on the combat readiness of the SRK artillery rocket units prepared by the SRK Chief of Artillery, Tadija Manojlović, states that while the SRK was debilitated by the departure of officers for the FRY in the early stages of the war which in turn had a negative effect on command and control, it still managed to attain "evident results in [the] protection of the Serbian people and the territory" and that, notwithstanding a number of problems it had faced, such as the lack of trained soldiers and officers, the results attained were "excellent and outstanding".<sup>15920</sup> This only supports what the President commented above. Note the "protection of the Serbian people and territory"! Was it forbidden? Was it a crime by

<sup>15917</sup> See paras. 162–163, 3098.

<sup>15918</sup> See Adjudicated Fact 37; Richard Philipps, T. 3755–3756, 3818–3819 (15 June 2010).

<sup>15919</sup> P976 (Directive 4, 19 November 1992).

<sup>15920</sup> D312 (SRK analysis of combat readiness of artillery rocket units, July 1994), pp. 2, 9. See also Richard Philipps, T. 3795–3809 (15 June 2010).

**itself? See what is in the Manojlovic Analysis pertaining to a professional abilities of the SRK, D318:**

Due to well known defects demonstrated during the mobilisation, when units were mainly consisting of the volunteers and the v/o that fled the territories under the Muslim control, the units stood in need of soldiers and officers with the artillery VES, particularly when it comes to critical specialities (such as the reckoners, topographers, marksmen, POR /anti-armour missile/ operators). The tasks assigned to the artillery units required an accelerated training as well as acquiring new skills, which ran parallel to the establishment of units and performing the combat tasks.

In the initial stage of the learning process, the training was carried out at the VPs and at the observation points, without any training plans in place. The training was carried out in all Corps units, using the resources at hand, so that in a very short period of time the majority of commanding officers and soldiers mastered the skills required for carrying out combat assignments. 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.

**Therefore, at the very beginning, i.e. more than a year and a half there was no capable personnel, and the impreciseness was not a deliberate nor was it aimed to induce a terror, but it couldn't be otherwise. See further, D318, how was it in 1994:**

soldiers. Inadequate attention was paid, which was sometimes due to inexperience of the commanding officers, to the selection and elements of the b/r /combat disposition/, the result being that the pieces of artillery were either positioned at the front end or in places where the fire manoeuvrability was practically impossible. Due to shortage of fuel and vehicles the mobility of artillery pieces was reduced at this stage of the war as well. In the second half of 1993 as well as in this year, the training was given much more consideration. The training courses were planned and organised for the commanders of detachments, platoons and batteries. A training course for the Centre/. Soldiers of critical specialities were also given special training. Also, a specialised training was organised for the "S-2M" rocket system operators. Training courses for detachment commanders and communication platoon commanders were organised as well. In a period to come, the Corps Command and unit commands shall organise training courses in deficient specialities, in order to improve command and

**As far as the other elements of professionalism are concerned with, let us see from the same document, D318:**

The following elements had negative impact on morale:

- inadequate preparedness for the war, as a result of an opinion that the war would soon be over;
- incomplete mobilisation of the units;
- a drain of officers from the RS /Republika Srpska/ following the withdrawal of the JNA;
- the ties some units have with their respective native territory;
- inability to place the troops under the barracks living conditions;
- financial problems;
- irregular and low salaries;
- war profiteering, black marketing, thefts;
- desertions;
- inadequate provisions of footwear and clothes, etc.

**This was too far from any professionalism. Even in 1994 the Analysis depicts so #many problems clearly connected with the lack of professionalism#, a lack of skilled and trained soldiers, and a shortage of many material conditions for functioning!)**

According to an April 1993 VRS report, during the previous year, the VRS had been under a “single control and command structure” whereby each corps was assigned specific missions, in their zones of responsibility, within a specific time period.<sup>15921</sup> **(That is the basis of the #President’s assertion that the armed forces, whose supreme commander he was, didn’t commit crimes as such, #although some members of these forces could have, but clandestinely and hidden from the most immediate commanders#, as testified even by Erdemovic, but also contained in many documents. The Defence called it as a correction by a “next level”#, meaning that the perpetrators of felonies feared from their immediate commanders, who would, once finding out some irregularities, rectify it!)**

**4744.** Thomas testified that from Mladić down to the brigade commanders, “there was a kind of command and control that I would expect to find in a NATO army”,<sup>15922</sup> while Van Baal testified that, by 1994, the VRS had a highly centralised command and control structure.<sup>15923</sup> KDZ182 also thought that the chain of command of the VRS and the SRK was “working perfectly” and that “responsibility at each echelon was effectively implemented in the way the actions were actually carried out”.<sup>15924</sup> [REDACTED] Mladić exercised absolute power and

<sup>15921</sup> D325 (VRS Main Staff analysis of combat readiness and army activities in 1992, April 1993), pp. 7–8. According to Galić, when he took command of the SRK in September 1992, Šipčić had been gone for approximately one month and there was a lack of discipline on the frontlines in the northwest due to the fact that the JNA had left but the TO units had not yet been sufficiently incorporated into the VRS. See Stanislav Galić, T. 37619–37622 (23 April 2013); D3483 (SRK Order, 22 September 1992), pp. 1–3. However, the Chamber recalls its finding made earlier that the TOs were integrated into the VRS in mid-May 1992. See para. 3176. According to Prosecution expert Philipps, when Galić took command of the SRK, the training and organisation within the corps improved. See Richard Philipps, T. 3807 (15 June 2010); D321 (SRK Order, 13 July 1994); P1616 (SRK Order, 5 January 1995).

<sup>15922</sup> P1558 (Witness statement of Francis Roy Thomas dated 13 May 2009), para. 50 (adding that he could not recall a single instance where the Bosnian Serb brigade commanders did not follow a corps commander’s direction). Thomas also noted that the cease-fire in February 1994 did have a significant impact on the city of Sarajevo and demonstrated the high level of command and control in the VRS. See P1558 (Witness statement of Francis Roy Thomas dated 13 May 2009), para. 107.

<sup>15923</sup> P1818 (Witness statement of Adrianus van Baal dated 26 October 2010), para. 24.

<sup>15924</sup> P2414 (Witness statement of KDZ182), pp. 20, 53 (under seal).

complete control over everything that concerned the VRS, such as “fighting, logistics, and a number of other elements” but was not involved in the political agenda of the Bosnian Serb leadership.<sup>15925</sup> **(Not contested, but #in order to accuse this Army, one must prove that the Army as such committed crimes#. “As such” means through the command channels, according to rules an army acts, with a previous decision, preparatory orders, executive orders and control of execution. There still remains a responsibility to prevent, investigate and punish. But, both, the Accused and the VRS commands did it to the highest degree it was possible!)**

4745. KDZ450 also testified that the chain of subordination of the armed forces in Sarajevo was “very simple”, with Mladić being the “high command”, then the SRK Commander, and then the brigades.<sup>15926</sup> Military structures worked in a “very typical manner” in that responsibility was very entrenched and the room for individual initiative was “very slim”.<sup>15927</sup> **(That would be correct if meant the SRK units and their initiative to attack or do something that depended on them. But, anyone knows that once a unit is attacked, the said unit is entitled to defend itself by all means adequate to a means used by an attacker, and certainly sufficient to defend! However, when attacked by a more numerous forces, every soldier, being a local man and an amateur, with his family behind him, could have overestimate the danger, and no matter how firm was command and control, could overreact. Still, the responsibility is on the side which initiate a street combats!)** On many occasions Mladić demonstrated effective control, for example, by arranging the opening of confrontation line crossing points, implementing temporary cease-fires, and directly commanding military operations.<sup>15928</sup> **(#EXCULPATORY#! Not criminal!)** Wilson testified that Mladić’s command was far-reaching and that during the meetings they had together, Mladić never denied that he was in control of the war-like activities conducted by the military forces in Sarajevo.<sup>15929</sup> #KDZ182 considered that Mladić was the one who had the real power such that all the incidents in Sarajevo were in fact orchestrated, guided, and designed by him.<sup>15930</sup> **(The witness could have known only for the legal and planned actions, but nobody could have known anything about #actions of an uncontrolled elements#, which existed in this civil war from the beginning to the end of war, and was possible due to the previous doctrine of the AI-People’s Defence” and “Armed population”!)** In his opinion, Mladić instructed the SRK Commander to exert pressure and terrorise the population.<sup>15931</sup> **(#“His opinion” highly depends on his believes and his basic attitude towards General Mladic, and shouldn’t be basis for any Chamber’s deliberation. What happened with evidence? Is it no longer a priority? An opinion has everyone, but it is not the same with everyone, particularly if not expert, but a witness on facts. There is no evidence that Mladic exerted a pressure to terrorise the population”! But, is it the Mladic’s case? The Chamber drew it’s conclusions on the**

<sup>15925</sup> [REDACTED].

<sup>15926</sup> KDZ450, T. 10554–10555 (19 January 2011) (private session).

<sup>15927</sup> KDZ450, T. 10554 (19 January 2011) (private session).

<sup>15928</sup> P1029 (Witness statement of John Wilson dated 4 November 2008), paras. 73, 127 (adding that Mladić was known for carrying out what he said he would do and that Mladić’s threats were taken seriously by Wilson). *See also* John Wilson, T. 4055–4056, 4085 (22 June 2010).

<sup>15929</sup> P1029 (Witness statement of John Wilson dated 4 November 2008), paras. 126, 128. *See also* D3695 (Witness statement of Bogdan Subotić dated 16 June 2013), para. 114 (testifying that Mladić treated his generals badly and that they were his “yes-men”).

<sup>15930</sup> P2447 (Witness statement of KDZ182), p. 13; P2414 (Witness statement of KDZ182), pp. 11, 16, 54, 65 (under seal).

<sup>15931</sup> P2414 (Witness statement of KDZ182), p. 22 (under seal).

President Karadžić's *mens rea* from a jokes and unofficial conversations of others, and the Accused's *actus reus* from erroneously "established" acts of the others! And this kind of testimony of a foreign military is compromising the UN participation in such a crisis!#Words and jokes of others#! )

4746. As for the SRK Commanders, Galić was very popular, had great authority, and was aware of everything that happened in his area of responsibility.<sup>15932</sup> (#As all other commanders, he could have known only what his subordinates reported to him and they could have reported to him only what they had seen, or what they did with their units#. But, he couldn't know anything else, particularly not what an uncontrolled elements may have done. This was a civil war, and as General Razek testified, there always were some groups that would lack discipline, and the commands tried to put them under the control, see the Razek testimony, T.5493: *Q. In paragraph 3 - that's at the bottom in both languages – it says: "Ensure absolute agreement and unity with the civilian authorities and MUP forces at all levels. Eliminate the creation of any paramilitary units or para-political groups, and eliminate any squabbles because we have the same goal." General, did you observe such co-operation as is requested here on the ground? A. Yes. There were serious attempts that I noted within the Romanija Corps, and they were trying to put control on the paramilitary forces in the region because some of these forces were creating many problems, because they did not enjoy the same level of discipline that military -- regular military forces demonstrate. Some of them acted in light of their own emotions. And, of course, such instructions should be given in order to provide for unity and for lack of discipline or disobedience against orders issued by the commanders. Therefore, another UN officer testified different to what the Chamber used for this finding! And further, T.5494: Q. And in paragraph 9, it says here: "Study all the requests made by the Sarajevo Romanija Corps commander and the civilian authorities, and do everything possible to act on them ..." General, as a military officer with experience in combat, do you have any comment on the fact that the rear command post is requested to respond to requests of the civilian authorities? Is there something -- is that special? A. According to my experience, I can say this was a civil war that took place in residential areas, and I expect that such instructions can be given to military commanders to co-operate more closely with civilian authorities in order to impose control and discipline on different parts of the country. And I can accept that such instructions be given in such a manner. (#General Abdel Razek confirmed that he was receiving information from different sources, and from media, and agreed with General Nambiar about the nature of the war#, T.5531-32: I also received information from the media. So I was privy to the nature of the conflict there. As General Nambiar put it, it was a civil war. The neighbours fought about the neighbours, the civilians fought against the military. We cannot really pin-point any particular party. I know that everybody had strong feelings about that, and that was the nature of war. So, in a war of everyone against everyone – it was difficult to expect a conduct as it could be expected from a really professional armies. Why this opinion of a UN general, certainly not a pro-Serb one, didn't matter?) On the occasions when Abdel-Razek met with Galić at his command centre, he noticed that it was run in a*

<sup>15932</sup>

P1818 (Witness statement of Adrianus van Baal dated 26 October 2010), para. 34; P1258 (Witness statement of Hussein Ali Abdel-Razek dated 16 July 2002), e-court pp. 23–24; P6060 (Record of interview with KDZ185), e-court p. 10 (testifying that Galić had effective command and control over the SRK).

professional manner, with officers who had professional relations.<sup>15933</sup> While Mladić was the “supreme Serb military commander”, Galić still had “everyday control over activities in Sarajevo”, such that “militia groups” in the Sarajevo area were under his control.<sup>15934</sup> **(Was the Chamber serious when concluding on a single case? The only what could be concluded is: in this case Galic had control over this check point controlled by civilian combatants, i.e. Razek was lucky to have Galic being around and his order was obeyed. But on such a solitary case there must not be established a sort of axiom and generalisation. The same witness testified about the chaos, when civilians fought against each others and against the military, see the quotations above!)** Tucker testified that, when he met with Galić, it was clear that the relationship between Mladić and Galić “was that of a senior commander and a subordinate” whereby Mladić was the highest ranking Bosnian Serb military commander and only considered himself subordinate to the Bosnian Serb Assembly, while Galić was a disciplined and obedient subordinate.<sup>15935</sup> **(Is this witness important to the Chamber? Then, why the Chamber keeps stating that Mladic was subordinate to the President instead, as Tucker said, to the Assembly? That is how those accidental witnesses are reliable! The Chamber is relying on their opinions, no matter there are many documents, while their opinions are not relevant, particularly since they hadn't been summon to testify as experts!)** According to Mole, Galić was “extremely emotional”, but carried out his military duties extremely well and “could achieve what he wanted” regarding Sarajevo.<sup>15936</sup> **(Does it mean that if General Galic wanted that Sarajevo suffer more, that would be so, if he wanted to ruin it, that would be so, or if he wanted to take Sarajevo, it would be taken? Having in mind that Sarajevo hadn't been taken, and wasn't even scratched, it is Galic who should be prised for that? The very same Mole (as well as some other UN personnel) testified that there were #“uncontrolled elements”# and if Mole is credible when suitable to the Chamber and Prosecution, he should be credible also when he corroborated the Defence case!)** Galić would visit the brigades, such as the 3<sup>rd</sup> Sarajevo Brigade and 1<sup>st</sup> Romanija Brigade for example, a few times per month, meet the commanders, gain knowledge of the situation on the frontlines, and then sometimes call everyone together for a briefing.<sup>15937</sup> In essence, Galić actively monitored the situation in Sarajevo, was cognisant of the situation in the battlefield, was in a good position to instruct and order his troops, was in full control over the SRK artillery assets, and was aware of the quantity of ammunition being used.<sup>15938</sup> **(So what? So more the President relied on Gen. Galic's reports about events in Sarajevo, and not to trust so many internationals, completely ignorant of the deployment and conduct of the forces! Was General Galic in control of the Muslim forces? Was anyone in control of these forces? The main issue remains to be: who initiated fights! It can not be skipped, and in a criminal lwa in any**

<sup>15933</sup> Hussein Abdel-Razek, T. 5501 (19 July 2010).

<sup>15934</sup> P1258 (Witness statement of Hussein Ali Abdel-Razek dated 16 July 2002), e-court p. 28 (explaining that once his vehicle was stopped and searched by “militia members” dressed in civilian clothes who were clearly under the control of a military officer under Galić’s command); Hussein Abdel-Razek, T. 5501 (19 July 2010).

<sup>15935</sup> P4203 (Witness statement of Piers Tucker dated 12 May 2010), paras. 41, 55 (adding that the strategic plan for any operation would emanate from Mladić).

<sup>15936</sup> P1426 (Witness statement of Richard Mole dated 7 May 2010), para. 46. *See also* P1048 (Record of interview with KDZ185), e-court p. 10 (under seal); KDZ185, T. 4216, 4246 (28 June 2010), T. 4263, 4269 (29 June 2010) (private session). On cross-examination, Mole testified that he did not think that the Accused or Mladić had direct involvement in the day-to-day events in Sarajevo as that was the task of Galić as the Commander; however, Galić would have responded to political pressure and military pressure from those above him. Richard Mole, T. 5906–5907 (18 August 2010).

<sup>15937</sup> Ratomir Maksimović, T. 31583 (17 December 2012) (private session); D2267 (Vlado Lizdek's interview with OTP), e-court pp. 24–25.

<sup>15938</sup> *See* Adjudicated Facts 33, 34, 36, 38–41.

country – it would be considered, since a conduct of one side depended on a conduct of the other one!)

4747. The SRK continued to operate as a professional military force after Dragomir Milošević took over from Galić as the SRK Commander,<sup>15939</sup> he too was respected and highly esteemed by the SRK soldiers.<sup>15940</sup> (This is right when speaking of commands, but the combatants had never been a professional soldiers. Confronted to these two distinguished Generals, on the Muslim side were Generals like Caco, Juka and other criminals! Who of them was more dedicated to the respect of the law of war?) As was the case with Galić, Milošević regularly visited the troops and the frontlines.<sup>15941</sup> He would have a briefing with his Chief of Staff and Corps Staff every morning, during which he made decisions and issued orders, and in the evening would receive reports from the Corps Staff.<sup>15942</sup> Once a week or once a fortnight Dragomir Milošević had briefings with the brigade commanders.<sup>15943</sup> So what? This is only in the favour, to the credit of these Generals, who took care of the events on the Sarajevo battlefield. There was no a single trace that they tolerated, let alone encouraged or God forbid ordered any crime. By awarding them for what they had been doing, the Chamber doesn't prove that they supported crimes, but the Chamber gives a credit to the Accused for promoting the two generals. They deserved every single promotion and decoration, more than they received!

4748. While subordinated to Mladić, Dragomir Milošević was in command in the SRK and, therefore, according to KDZ304, was responsible for SRK operations, including for any SRK attacks against civilians or indiscriminate or disproportionate attacks.<sup>15944</sup> (#If there was any such attacks, planned and ordered by Generals, there would be a trace of evidence in the documents, or in intercepted conversations, or in any other way#. This matter couldn't have been hidden, and had it been ever a case that any felony was committed by the SRK forces, with the knowledge, approval or negligence of Commanders, there would be evidence! This way, the Chamber is accepting some guessing of witnesses, who concluded it by an analogy, not by witnessing! See what KDZ304 wrote in his statement R:92ter:, “Dragomir MILOSEVIC is entirely responsible for what happened given the rigidity of the chain of command and the structure.” (P2106, p 9) This was not a sentence of witness, but of a judge! The witness spent there only four months, during the NATO bombing the Serbs, and was not successful in dictating orders to Gen. Milosevic, which resulted in this dishonest sentence! Certainly, this corroborates the Defence position that the regular forces under General Milosevic's command didn't commit any crime deliberately and in a manner an armed force do, with an order, or with any knowledge or approval of the Commander! Any other allegation would be speculative and unacceptable in any reasonable court! The “reason” for this inference of the witness is

<sup>15939</sup> On the reasons behind Galić's removal, the Chamber recalls that KDZ450 testified that Galić was relieved of his duty as the SRK Commander because he had agreed to the TEZ and the WCPs, against Mladić's wishes. See P5906 (Witness statement of KDZ450 dated 17 January 2011), paras. 38–39; Stanislav Galić, T. 37449 (18 April 2013).

<sup>15940</sup> See Adjudicated Fact 2855.

<sup>15941</sup> Stevan Veljović, T. 29261–29262 (23 October 2012); Adjudicated Fact 2854.

<sup>15942</sup> Stevan Veljović, T. 29245–29247 (23 October 2012).

<sup>15943</sup> Stevan Veljović, T. 29248 (23 October 2012). See also Adjudicated Fact 2850.

<sup>15944</sup> P2407 (Witness statement of KDZ304), pp. 6, 9; KDZ304, T. 10452 (18 January 2011) (private session), T. 10514 (18 January 2011). On cross-examination, KDZ304 conceded that he had not seen a single order from the SRK to target civilians. See KDZ304, T. 10514 (18 January 2011).

ridiculous: “given the rigidity of the chain of command” is not an evidence either that the crimes had been committed, or that General Milosevic was “entirely responsible”! This is rather an evidence that General Milosevic tried hard to establish and maintain discipline, which must be commendable!)

According to Fraser, while Mladić was in charge and directed operations in the whole of BiH, including Sarajevo, “within that little box called Sarajevo, Dragomir Milošević was the guy in command”.<sup>15945</sup> KDZ182 considered that “Mladić was the strategist and Dragomir Milošević was the technician in Sarajevo”, that is, Mladić had “the power to design” and Dragomir Milošević had “the power to carry out” in that he “kept total mastery of the means needed to implement locally a certain number of actions”.<sup>15946</sup>

(Again, #the Chamber is paying too much attention to the observations of a UN officers, who didn’t make any investigation, but were able to collect their own impressions, and nothing else#. However, all they suggested to the Chamber was a legal and legitimate conduct of the SRK commanders. Only if the Serb defence was entirely illegal, the Chamber would be right, as well as these witnesses! This way, the Chamber criminalise all the legal defense actions of the entire Serb people, particularly in Sarajevo, by not making any difference between the legal defensive actions and felonies made by individuals, or by the Muslim organised forces! General Fraser himself testified that they didn’t conduct any criminal investigation of incidents, see: T.8055. A. *We did not conduct criminal investigations. We conducted simply an investigation to ascertain the facts and to determine which side was responsible for those incidents. In the event that any criminal activity was -- had occurred, we would bring in our own military police to conduct criminal investigations, but that was mainly pertaining to internal matters.*

General Fraser also confirmed that the UN commanders didn’t consider the UN Military Observers were reliable and consistent, so that their report couldn’t be trusted or used, see T.8034:

Q. Thank you. During our conversation, and also in your statements, you said that you had certain reservations concerning reports by military observers who were embedded with you but were unreliable and sent their reports first to Zagreb and then to you. This is what you said in your statement given on page 0055-5094, given between the 15th and 18<sup>th</sup> November 1997.

Would you agree with that? A. I do agree that I made comments about the utility of UNMOs. They were dependent -- their reliability was dependent on which nation they came from. And their reporting chain did go back to Zagreb, which made getting timely information from them difficult.

Q. Thank you. Are you trying to say that the nationality of an UNMO and certain battalions did have a certain impact on reliability? A.

That's what I said. And further, T.8035: Q. Can you please confirm that this is your statement from 1997? it says here that all of them, more or less, with the exception of certain individuals that you described as positive examples, the rest of them were rather unreliable and their reports were useless; in other words, that UNPROFOR commanders had to resort to using their own sources; is that correct? A.

What I said was that they were inconsistent, unreliable. ... And I just want to clarify. I'm just limiting my comment to UNMOs, United Nations Military Observers, as stated here. (It is rather

<sup>15945</sup> P1762 (Witness statement of David Fraser dated 17 October 2010), p. 9; David Fraser, T. 8014–8015, 8028–8029 (18 October 2010).

<sup>15946</sup> P2414 (Witness statement of KDZ182), pp. 12, 15–19, 48, 65 (under seal); KDZ182, T. 13041–13042, 13046–13049 (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).

**disappointing that the Chamber used the Fraser's testimony selectively, not noticing such arguments that corroborated the Defence case!)**

4749. Indić was also important in the context of Sarajevo, being “Mladić’s eye”, a participant in all of the significant meetings held in Sarajevo, and always alongside Galić and Dragomir Milošević at those meetings; thus, while Indić did not take decisions he had a lot of influence.<sup>15947</sup>

**(This exactly confirms the remark about criminalisation of the entire legal Serb defence! What does it mean: “Indjic had a lot of influence”? Why wouldn’t he, or any other Mladic’s representative have influence? Did he abused his influence in committing or supporting crimes?)**

Indeed, Dragomir Milošević would not do anything without Indić by his side and could not take any strategic initiatives.<sup>15948</sup> In other words, Dragomir Milošević carried out orders but had very little freedom to act independently, as he only executed orders of his superiors.<sup>15949</sup>

**(Then, why he wasn’t acquitted? The Galic’s situation was too much different, why he wasn’t acquitted? And what wrong they ordered? If the Chamber derived its inferences from a fact that certain events happened, it couldn’t automatically be allocated to these generals, or to the Accused. Remember, there was another army in the theatre, and was more numerous and more tricky!)**

4750. While the chain of command appeared to function well during the conflict, the Chamber received evidence, mainly from former SRK soldiers and officers, that the SRK had problems which had an impact on its functions as a professional army. For example, Dragan Maletić, Slavko Gengo, Blagoje Kovačević, and Stojan Džino testified that there was a lack of professionally trained soldiers and officers within their units, which in turn affected the command and control structure and combat effectiveness.<sup>15950</sup>

**(Well, well! Look at that! What now to do with the assertions of several UN officers? Certainly, there were a huge lack of trained soldiers, and even more of professional army officers. The same was concluded by Tadija Manojlovic in his Analysis quoted above, in D318, p.2)**

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<sup>15947</sup> [REDACTED].

<sup>15948</sup> [REDACTED].

<sup>15949</sup> P2447 (Witness statement of KDZ182), p. 13; [REDACTED]. However, during a meeting with UNPROFOR on 21 March 1995, regarding aircraft arriving and departing from Sarajevo airport that were reportedly being fired upon by the SRK, Dragomir Milošević stated that he would ensure that the SRK refrain from firing at aircraft. It was noted that for the first time Dragomir Milošević appeared more dominant in the meeting with Indić and Fraser, the drafter, records that this was uncharacteristic of the SRK Commander. See P2429 (UNPROFOR report, 21 March 1995); [REDACTED].

<sup>15950</sup> D2519 (Witness statement of Dragan Maletić dated 9 November 2012), para. 30; D2383 (Witness statement of Slavko Gengo dated 14 October 2012), para. 26; D2331 (Witness statement of Blagoje Kovačević dated 14 October 2012), para. 35; D2387 (Witness statement of Stojan Džino dated 4 November 2012), paras. 52–55.

up the state they have already created. One-sided, biased and unprincipled attitude of the major part of the international community towards the warring parties, an unprecedented demonisation of the Serbs, total economic blockade and permanent threat with the military intervention – these were the conditions under which the ARJs /Artillery-rocket Units/ of our Corps were established. When some of the AVL /active servicemen/, RVS /reserve officers/ and conscripts left for the SRJ /Federal Republic of Yugoslavia/, particularly at the earliest stages of war, we were additionally debilitated, which had quite a negative impact on the RiK /command and control/. In spite of these impediments, our units managed to attain evident results in protection of the Serbian people and the territory, as well as in liberating the Serbian territory in the SRK area of responsibility.

On the other hand, Vlade Lučić testified that the shortage of professional officers in his unit, the 2<sup>nd</sup> Mountain Battalion of the 1<sup>st</sup> Romanija Infantry Brigade, did not have a major impact on the quality of command because the battalion conducted additional command training and took a professional approach to commanding.<sup>15951</sup> **(This exception only confirmed the rule, the pattern. Otherwise, how the lack of officers in other units would be noticed, and how this difference in Lucic's Battalion would be noticed?)** Maletić also conceded that, over time, the level of training and combat proficiency improved because an effective command and control had been established.<sup>15952</sup> **(That does only mean that it wasn't satisfactory and had to be improved!)** This is indeed confirmed by Tadija Manojlović's July 1994 analysis of combat readiness, referred to above.<sup>15953</sup> **(A chamber tasked to convict somebody no matter what, has to catch whatever found to fulfil so many pages of nothing. Marks used a sythagma "to turn quantity into quality" but even Marks didn't mean that a tone of garbage could be a kilo of gold! In spite of all these evidences, the Chamber concluded that the SRK was a professional military formation!)**

**4751.** Based on all the evidence outlined above, and relying also on the evidence and findings made in the earlier sections of this Judgement,<sup>15954</sup> the Chamber considers that, from its creation and throughout the conflict the SRK, just like the rest of the VRS, functioned as a professional military force. **(Wrong finding, there is a huge difference. Only one percent were professionals, 2,150 officers within 215,000 soldiers of the VRS. It is well known what a professional army means: they are living in baraks all the time, they are training on a daily basis, or fighting; when not fighting, they train, and they are highly specialised. This was a people's army, in a different tradition. To miss this difference means to inevitably make a wrong inference!)** It was fully integrated into the VRS chain of command, it had an effective command and control structure in place with the SRK Command, and it was fully in charge of the SRK brigades and other subordinate units. While the Chamber accepts that some of those units lacked officers and professional soldiers in the beginning of the conflict, as outlined in the July 1994 analysis of the combat readiness of SRK artillery rocket units, the evidence shows that, overall, the SRK was a well-functioning professional corps of the VRS. Galić and Dragomir Milošević were clearly in command of the SRK units during their respective tenures and had effective control over those units.

<sup>15951</sup> D2516 (Witness statement of Vlade Lučić dated 5 November 2012), paras. 6, 22–23 (adding that his unit “sometimes” had problems in achieving effective control over some of its members, but that these problems were not ignored).

<sup>15952</sup> D2519 (Witness statement of Dragan Maletić dated 9 November 2012), para. 30.

<sup>15953</sup> D312 (SRK analysis of combat readiness of artillery rocket units, July 1994), pp. 4–5.

<sup>15954</sup> See paras. 3098–3099.

Mladić as the commander of the Main Staff was their superior and exercised effective control over them, through the regular chain of command. **(#Twisting to absurdity#! ###By arguing about the chain of command, the Chamber is “establishing” that had the SRK units committed crimes, it must have been due to a command, for which they do not have any evidence, and therefore they conclude backwards (a posteriori): since the crimes happened, and since there was a control and a chain of command, it must have been committed due to a command####!. Meanwhile, neither a thorough investigations were conducted, for instance about a rogue and paramilitary elements, whose existence had been recognized, nor was it established who fired from which positions, nor whether there was any military reason or benefit, nor where were the Muslim military facilities, nor how many casualties sides had, nor, nor, nor. This is a journey to a “terra incognita” or like traveling from LA to SF by going back east, over Europe, Asia and Pacific. If there on a hill is a smoke, it must be fire, but it doesn’t mean there must be Indians. But, the Chamber concludes that there must be Indians, because we all know very well that Indians make a smoke by fire!)**

(C) Accused’s authority over the SRK

**4752.** As described previously in this Judgement, the Accused in his capacity as President was also the Supreme Commander of the VRS.<sup>15955</sup> As such, he held the highest *de jure* authority in the VRS.<sup>15956</sup> Further, the Chamber found that from May 1992 and throughout the conflict, the Accused, in fact, exercised this authority over the VRS.<sup>15957</sup> Accordingly, he was involved in the VRS at the strategic level, and when he desired, the operational level as well.<sup>15958</sup> **(#This is a malicious remark “when he desired, the operational level as well”! The President’s involvement in command at an operational level happened only several times and very shortly, always in following requests of the internationals for his intervention! It was either to secure a ceasefire, or a restraint, or a passage of the humanitarian convoys, or to stop a successful counter-offensives of the VRS, like in Gorazde, like in Podrinje, stopping the VRS to take Srebrenica in 1993, and other numerous cases! The Corpses were not strategic but operational formations. But let us see what the Chamber meant!)**

**4753.** The Chamber found in Section IV.A.3.a.iii that the Accused maintained his role as Mladić’s superior and retained his authority over him throughout the conflict.<sup>15959</sup> Many of the witnesses who were in Sarajevo during the conflict and interacted with the Accused and Mladić testified that the Accused, together with and through Mladić, was fully in control over the SRK. For example, Banbury testified that the Accused and Mladić absolutely had the ability to “modulate the level of terror” in Sarajevo as they could stop the shelling and the sniping.<sup>15960</sup> **(#Banbury is useless as a witness, since he thought and stated that the UN were present in BiH to protect only one side, the Muslim Government#! How possibly his opinions and conclusions containing evaluations and characterisations could have**

<sup>15955</sup> See para. 3098.

<sup>15956</sup> See para. 3098.

<sup>15957</sup> See paras. 3142–3157.

<sup>15958</sup> See para. 3157.

<sup>15959</sup> See para. 3141.

<sup>15960</sup> P2451 (Witness statement of Anthony Banbury dated 19 May 2009), para. 200.

been accepted? Why his superiors, such as Akashi didn't make such an assessment? #Whatever Banbury said in his testimony never appeared in the official UN documents, not even in these which had been drafted by Banbury himself#! Banbury was too low official, with a cardinal prejudice that the UN was supposed to be biased in favour of the Muslim Government, to be able to make such a judgments!) [REDACTED] had the impression that there was a "very tight subordination" that was displayed from the corps commander towards the military commanders higher up and then the political leaders.<sup>15961</sup>

(Nobody contested this, and this has a value only if it was established that crimes happened due to commands from this controlled structure, or due to a negligence of the commands. But, nobody established this crucial fact. Because of a clumsy, improper and biased investigations of the Muslim investigators, we hadn't seen a single evidence that the regular SRK forces committed a crime deliberately and out of a military necessity. To control the Commander of the Main Staff, and through him, the Corps commanders, still doesn't mean to control every individual and "uncontrolled" elements which existed. So, again, a circumstantial after circumstantial, after circumstantial...evidence, endlessly. The only problems the Accused had with his commanders, the Main Staff at first place, came from the Accused's fate in the international and their allegations, due to which he issued many unreasonable orders to stop the VRS!) As noted earlier, during the first months of the conflict, the Accused, Krajišnik, Koljević, and Plavšić did not deal with issues that related to military affairs but this restraint on their part waned starting in June 1992 when they began to gradually limit Mladić.<sup>15962</sup> (Actually, the President (not to involve others, because they didn't deal with the army anyway) didn't have any formal or factual possibility to influence any military before 20 May 92. After that he did have a limited formal, but a zero factual possibility to influence the terrain, because in was only on 15 June that he issued an Order on Organisation and Formation of the Army of SerBiH. By this Ordere, a foundation and organisation of the Army were posted, but a real control and command wasn't possible till the end of 1992. Anyway, in this document P3035, the Accused handed his competences of the operational and tactical command to the Main Staff, but neither Main Staff succeeded to establish a control over the military formations until the end of 1992.) The Chamber also recalls that a number of witnesses who were in Sarajevo during the conflict testified about unity between Mladić and the Accused.<sup>15963</sup> Indeed, during his time in Sarajevo, Bowen observed that Mladić usually accompanied the Accused.<sup>15964</sup> (#A horrible crime#! Journalists shouldn't jhad been asked this kind of questions, otherwise in another crisis area they would be considered as a dangerous element by one or all the sides!# Why it is so important to the Chamber? The two had to be together when negotiating, because they were carrying out their duties, and the international representatives requested their presence, and would feel insulted if not met. But why to rely upon a journalist, who saw the situation only occasionally, in a short period, and particularly since nobody contest these facts? What does it mean? If the Accused knew

<sup>15961</sup> [REDACTED].

<sup>15962</sup> See para. 4725. Wilson testified that he attended a meeting on 25 May 1992, in relation to opening the Sarajevo airport. During this meeting, Mladić stated, in the presence of Plavšić, that he was subordinated to the political leadership. See P1040 (UNPROFOR report re meeting with Biljana Plavšić and Ratko Mladić, 25 May 1992), para. 7; P1029 (Witness statement of John Wilson dated 4 November 2008), para. 74. See also Bogdan Subotić, T. 40050–40051 (19 June 2013) (testifying that the RS Presidency would summon Mladić when necessary and the latter would come and brief the Presidency).

<sup>15963</sup> See paras. 3117–3120.

<sup>15964</sup> P2068 (Witness statement of Jeremy Bowen dated 10 August 2009), paras. 70, 72.

for any crime that Mladic allegedly committed, the President wouldn't spare him, but would use it as a mean to dismiss Mladic, as Ministef of Defence Ninkovic testified, see T. 40509-40510: **Q** Thank you. There was mention of some disagreements with the army. As for the Army of Republika Srpska as a state organ, had they committed any crime that you as a minister should have known about? **A** I think that the army did not commit any crimes. I am convinced of that, being a member of the Supreme Command and knowing you, had we found out that the army had committed any kind of crimes, and bearing in mind the tensions that existed between the military, the Supreme Command and the civilian authorities, I am convinced, and I am sure that you would have dismissed immediately some people primarily General Mladic, the Chief of the General Staff, because we could hardly wait for something to pin on him because our option, and your option, was to try and solve everything in a peaceful manner, and we kept insisting at all meetings of the government and the assembly that the peace plan is the priority and that they should only defend the reached separation lines. You were always against any other kind of action and you always advocated a peaceful end to the war, just like every war has to end with a peace agreement. **Q** Thank you. Can you tell the Chamber if there -- or our crimes were not the reason for the tensions with the army, what was the underlying reason for these disagreements? **A** ...the reasons were such as the supplies for the army. One part of the army wanted to provide their own supplies. We place under the civilian control and the government control some of the facilities of the military-industrial complex, then there was the issue of promotion of officers, and many other things such as the system of disseminating information, et cetera, et cetera.... **Minister Ninkovic had been unlawfully arrested by te Army mambbers, he was very critical of General Mladic and some other commanders, but it was never on the basis of their crimes. Had it been so, they would be dismissed immediately!)**

**4754.** The Chamber received evidence about a number of specific meetings where the Accused exerted control or demonstrated his influence over the forces in Sarajevo. For example, on 30 May 1992, in a meeting with the Accused, Morillon referred to the Secretary General's appeal to Mladić to "stop the bombardment" in Sarajevo.<sup>15965</sup> While noting that the soldiers were inexperienced and self-organised and that Mladić did not have everyone under his command, the Accused nevertheless said he was in a position to stop the bombardment.<sup>15966</sup> **How all of this is wrong, see the following: excerpts from P01029, Wilson' statement, para 80: would be in their interest to show their good will by stopping it. He asked Karadzic whether he was in a position to do so.**

**8. Karadzic replied in the affirmative. Mr. Koljevic qualified this by saying that they thought they could persuade the people on the ground to stop the shelling...**

**So, the Karadzic's words hadn't been quoted, but interpreted. Further, Koljevic said that "they thought they could persuade the people on the ground to stop shelling". It**

<sup>15965</sup> P1036 (UNPROFOR report re meeting with Radovan Karadžić and Nikola Koljević, 30 May 1992), paras. 1–2.

<sup>15966</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. 1–3, 8; John Wilson, T. 4079–4080 (22 June 2010). Wilson testified that while this lack of control may have existed at the very beginning of the conflict, it did not explain the overall strategy of the siege and bombardment of Sarajevo at the time; Wilson believed that Mladić had very firm control over heavy weapons and the firing in Sarajevo. See P1029 (Witness statement of John Wilson dated 4 November 2008), para. 82; John Wilson, T. 4079–4080 (22 June 2010).

**doesn't look as a control or command. Further:**

**11. It was agreed that the first step would be that for them to stop the bombardment. For this purpose, Mr. Karadzic would travel today to Sarajevo to contact General Mladic. They would then call**

**Obviously, the President didn't return to Sarajevo even that day, being absent from 19 or 20 May due to the Lisbon talks.**

**15. /handwritten note/ Just been advised by Karadzic's assistant that they could not make Sarajevo because of weather but by phone Mladic had indicated that bombardment would stop...**

**Therefore, the Accused returned to Sarajevo (Pale) not before 31 May 92. See further, para 81:**

**81. I have been asked to comment on these two documents. I cannot specifically recall seeing a report of General Morillon's meetings on 30 May 1992. Cedric Thornberry should have been aware and would have informed me as we were negotiating together in Sarajevo about that time, which included meeting with Mladic and passing on the Secretary-General's concerns. This meeting I had**

**Once again, a Prosecution witness was testifying about a document he saw for the first time in the Prosecution. See further, para 82:**

**82. With respect to Karadzic's description of Serb forces as "inexperienced and self-organised" and his assertion Mladic does not have them all under his control: it is true that, at the very beginning of the conflict, there were various elements of all the parties involved who were not under firm central control. This may have led to some incidents, and perhaps local over-reaction, but it does not explain the overall strategy of siege and bombardment of Sarajevo at the time. Because of the widespread nature of the conflict in Bosnia and Herzegovina, and the large forces involved, it was clear that the Serb forces were acting in concert and in accordance with a centrally inspired and directed strategy.**

**Mr. Wilson is questioning all, the legal activities of the legal Army, and criminal activities of "uncontrolled" individuals, whose existence he recognised. The "overall strategy" and even a part of bombardment were perfectly legal and legitimate, and depended on a conduct of the other side too. But, too many UN representatives thought they were to defend the Government, from the Serbs who came from another planet. "The widespread nature of the conflict" was a civil war imposed by others, not by the Serbs, and the "large forces involved" were a legal and legitimate Serbian army, but we should talk about illegal and criminal matters, not the legal ones. This is an idiotism, and the Defence can not do its defence job against so many prejudices, ignorance and wrong understanding of the situation in which the UN people were supposed to mediate impartially. See further, para 83:**

83. I have been asked whether I recall if the bombardment did cease in the days following 30 May 1992. It is difficult to directly link any action Karadžić may have taken with any lull in the fighting in late May or early June as there were so many military operations occurring and they seemed to be the primary drivers of the bombardment. Certainly I recall the whole period between 14

**Finally! If the Chamber relies on this witness and his statement, these parts shouldn't be missed. From these parts is evident that it was not established that "the Accused nevertheless said he was in a position to stop the bombardmen. But the sentence: "...[a]s there were so many military operations occurring and they seemed to be the primary drivers of the bombardment" is completely rebutting all the allegations that the bombardment was aimed to terrorise the civilians. How come the Chamber didn't pay any attention to this crucial sentence? Further, he said:**

**only brief respites. The Serbs did, however, show that they could impose a ceasefire when necessary, for example, during the actual evacuation of the JNA barracks in Sarajevo when an effective ceasefire was essential for the safety of those being evacuated.**

**However, this general "the Serbs did..." doesn't mean the Bosnian Serbs, or the VRS, but rather indicates that this part of the affair was under the crucial influence of the reminded JNA elements.** Eventually, the Accused informed UNPROFOR that Mladić had indicated by phone that the bombardment would cease.<sup>15967</sup> On the same day, Wilson also met with Mladić to convey the Secretary General's appeal to cease or lessen the shelling of Sarajevo.<sup>15968</sup> When asked for confirmation of the Accused's offer to withdraw all heavy weapons, Mladić said that he had no knowledge of such an offer but would nevertheless give his advice to his government and abide by any agreement made, essentially confirming that he was responsive to and subordinate to the political leadership.<sup>15969</sup> From this, Wilson concluded that there seemed to be a very comfortable relationship between the Bosnian Serb civilian leadership and Mladić; indeed, Mladić would repeatedly say that he was a soldier with no political ambitions.<sup>15970</sup> While Mladić had a strong personality, and was capable of acting independently, ultimately he did "what his political masters told him to do".<sup>15971</sup> **(This is a malicious remark. Neither the Accused, nor Mladic thought that the Accused was Mladic's political master, but the common master of both of them was the RS Constitution and the Serb Assembly!)**

4755. [REDACTED] a meeting on 16 February 1994 between UNPROFOR, Galić, and Indić at Lukavica, where WCP sites and number and location of the deployment of UNMO and

<sup>15967</sup> P1036 (UNPROFOR report re meeting with Radovan Karadžić and Nikola Koljević, 30 May 1992), paras. 11, 15; P1029 (Witness statement of John Wilson dated 4 November 2008), para. 80.

<sup>15968</sup> P1029 (Witness statement of John Wilson dated 4 November 2008), para. 77; P1043 (UNPROFOR report re meeting with Ratko Mladić, 30 May 1992), para. 1; P1044 (UNPROFOR report re attack on UN, 30 May 1992), para. 1; John Wilson, T. 3924–3925 (21 June 2010). This meeting was motivated by Security Council Resolution 757. See John Wilson, T. 3926 (21 June 2010); P1031 (UNSC Resolution 757, 30 May 1992).

<sup>15969</sup> P1043 (UNPROFOR report re meeting with Ratko Mladić, 30 May 1992), para. 5; P1029 (Witness statement of John Wilson dated 4 November 2008), paras. 78, 127; John Wilson, T. 3926 (21 June 2010).

<sup>15970</sup> P1029 (Witness statement of John Wilson dated 4 November 2008), paras. 127, 132, 134.

<sup>15971</sup> P1029 (Witness statement of John Wilson dated 4 November 2008), paras. 132–133. Wilson cited as another example an incident during the Sarajevo airport negotiations where the Accused took Mladić into an adjoining room and engaged in a heated argument, after which Mladić changed his position and accepted the proposal to hand over the airport. See P1029 (Witness statement of John Wilson dated 4 November 2008), para. 134.

UNPROFOR personnel in Sarajevo were agreed upon, but the agreement had to be sent to the political authorities for approval; this demonstrated that any discussions with Galić that resulted in proposals could only be considered non-binding, as Galić was not able to commit himself without asking his superiors, both military and political.<sup>15972</sup> **(This is also wrong. #The basic agreement was concluded between the political leaders of the UN mission and the RS, Akashi and Karadzic, and the technicalities were to be elaborated by the military #! So, it was natural to send it back to those who concluded the basic agreement, to see whether the technical details fit to the Agreement itself. That is how it is in any state and army, why in the Serb one it would be different. The VRS was not a criminal gang, nor it's commanders were a "war lords", but an amry regulated by the Constitution and laws!)**

**4756.** Van Baal recalled an incident on 20 March 1994, in which soldiers from the Ilijaš Brigade surrounded a CanBat contingent which had taken custody of heavy weapons in the TEZ; this prompted Van Baal to telephone the Accused in protest.<sup>15973</sup> The Accused stated that he would give the order not to shoot and some 15 to 20 minutes later the VRS soldiers withdrew.<sup>15974</sup> On the same day, Van Baal became aware of the presence of mines under CanBat APCs and requested that the Accused order their removal.<sup>15975</sup> The Accused assured Van Baal that he would do so and the mines were subsequently removed.<sup>15976</sup> Later that evening, Van Baal discovered that mines were again placed underneath the CanBat APCs.<sup>15977</sup> The next day he met with the Accused and Galić and told them that mines were there; the Accused then told Galić, "you promised me that this would be done last night" and ordered Galić to remove the mines.<sup>15978</sup> Galić left the room and immediately carried out the orders of the Accused.<sup>15979</sup> In the same meeting, the Accused also ordered Galić to remove heavy weapons from the TEZ; Galić implemented the order despite disagreeing with the Accused.<sup>15980</sup> Van Baal deduced that the Accused was in a position to give orders to Galić, that Galić's orders were executed through the command and control system, and that there was immediate feedback through the SRK communications system.<sup>15981</sup> Thus, the Accused was in control and capable of enforcing his political undertakings.<sup>15982</sup> **(See how this is wrong:**

<sup>15972</sup> [REDACTED]; P2120 (UNPROFOR report re meeting with Stanislav Galić, 16 February 1994).

<sup>15973</sup> P1818 (Witness statement of Adrianus van Baal dated 26 October 2010), paras. 21–22.

<sup>15974</sup> P1818 (Witness statement of Adrianus van Baal dated 26 October 2010), paras. 23–24.

<sup>15975</sup> P1818 (Witness statement of Adrianus van Baal dated 26 October 2010), para. 25; Adrianus van Baal, T. 8406–8407 (27 October 2010).

<sup>15976</sup> P1818 (Witness statement of Adrianus van Baal dated 26 October 2010), para. 26; Adrianus van Baal, T. 8406 (27 October 2010). However, upon questioning by the Chamber, Van Baal could not verify that the instructions came directly from the Accused to the SRK soldiers on the ground or whether they came through an intermediary. See Adrianus van Baal, T. 8535–8536 (28 October 2010).

<sup>15977</sup> P1818 (Witness statement of Adrianus van Baal dated 26 October 2010), para. 27; Adrianus van Baal, T. 8406 (27 October 2010), T. 8535–8536 (28 October 2010).

<sup>15978</sup> P1818 (Witness statement of Adrianus van Baal dated 26 October 2010), para. 28. See also Adrianus van Baal, T. 8536 (28 October 2010).

<sup>15979</sup> P1818 (Witness statement of Adrianus van Baal dated 26 October 2010), para. 28; Adrianus van Baal, T. 8407 (27 October 2010), T. 8535–8536 (28 October 2010). Van Baal testified that the order directly from the Accused to Galić was carried out within 20 minutes and he was notified by Galić, personally, meaning that the "remarks and instructions" from the Accused were being directly carried out. See Adrianus van Baal, T. 8536 (29 October 2010).

<sup>15980</sup> P1818 (Witness statement of Adrianus van Baal dated 26 October 2010), para. 29.

<sup>15981</sup> P1818 (Witness statement of Adrianus van Baal dated 26 October 2010), para. 30; Adrianus van Baal, T. 8536 (28 October 2010).

<sup>15982</sup> P1818 (Witness statement of Adrianus van Baal dated 26 October 2010), para. 76 (according to Van Baal, this was demonstrated by a conversation he had with the Accused wherein the Accused promised him that he would contact General Milovanović and order a cease-fire); P1827 (Intercept of conversation between Adrianus van Baal and Radovan Karadžić, 31 May 1994), p. 2.

1. **#This was an exceptional situation, in which the President intervened in the implementation of his agreement with Akashi, and this wasn't any "control and command" out of the compliance with the commitment that the Accused made to the highest UN representative. Therefore, it was not Van Baal who brokered the Agreement with the Accused, it was Akashi.**
2. **#However, the President was wrong and sinful before his Army: the artillery-mortar position in Ilijas was originally out of the TEZ, because it was agreed that the centre of the 20 km circle of TEZ was marked to be in Marindvor in front of the Catholic church. In that case, the Cekrcici artillery spot was out of the circle. Meanwhile, the UN unilaterally changed the centre, moving it to the PTT building, without informing, let alone asking anyone, and so they created an incident. But, there are several questions:**
3. **#Why the Chamber is taking a sole example with a specific nature to generalise the Accused's involvement in a daily operational commands over the VRS?**
4. **#Further, why the Chamber is using an example of a "good deeds" of the President to prove and corroborate his guilt?**
5. **#Further, the UN representatives were inaccurate very often, and ignorant of a crucial elements of situations, particularly in Sarajevo, and were too often asked for their impressions, opinions, guess, expert opinions, while they should had been limited to their eye-witness capacity?**
6. **#They are also selectively quoted and used by the Chamber, with only a limited parts of their statements that fitted the Prosecution's assertions and the Chamber's guilt presumptions.**
7. **#This kind of (ab) use of the UN personnel is compromising the UN generally, and the Accused is about to make an action about it.**
8. **#This war and particularly this process made so many precedents in abusing the UN and its agencies, the ICRC, the journalists, humanitarian organisations, individuals and organisations – in an orchestrated (fascist-like) campaign against one of the warring sides. All of those compromised were in violation of their basic tasks, nature and provisions, so that no country should admit them in any crisis. And the Accused doesn't have any reason to spare them from a defamation before the world public!)**

**4757.** Some of the witnesses noted, however, that the Accused was not always in control of the forces in Sarajevo and that Mladić would not always do as he was told in relation to Sarajevo. For example, Abdel-Razek explained that the Bosnian Serb political leadership was amenable during the meetings with him, but that there were problems with implementation on the ground resulting from the problems in the chain of command and the fact that the good intentions of the political leadership were not reaching the soldiers.<sup>15983</sup> **(How about another explanation and inference: the political leadership was so naïve and un-knowledgeable of**

<sup>15983</sup>

Hussein Abdel-Razek, T. 5529–5531, 5534, 5585–5587, 5597 (20 July 2010), T. 5611, 5615–5616, 5618–5620, 5623–5624, 5640, 5676 (21 July 2010).

**their intention implications on the security of the VRS? So, good intentions sometimes hadn't been applicable, nor the information of foreigners were accurate. This was the main cause of the tensions between the political and military leaders, particularly since the Serb conduct entirely depended on the Muslim conduct, and if the Muslims attacked and fired, there was no possibility that the SRK demonstrate any restraint!)** He later

stated that it was a situation of civil war with "civilians who carried weapons and who were armed with strong passions" such that "there was a lack of control by the central command and that there was no full co-ordination between the leadership and the higher command and the subordinates on the ground".<sup>15984</sup> Similarly, Momir Bulatović recalled a meeting of the

FRY Council of Co-ordination of State Policy in Belgrade on 18 August 1992 discussing the situation in Sarajevo.<sup>15985</sup> Milan Panić, the FRY Prime Minister, stated "the problem is war, they are shooting. [The Accused] told us yesterday that he did not command the guns, they do it themselves".<sup>15986</sup> Also at this meeting, the Chief of the VJ General Staff stated, "when

[the Accused] was at the talks the other day, you heard him say that he did not have control over the individuals who were doing that, but that he did know that they were doing it. They fire one shell at Sarajevo and it's like they fired a thousand shells. Some people get drunk and say, 'Let's fire one.' It's very damaging for us".<sup>15987</sup> **(This had been the case at the**

**beginning of the war, since the VRS needed the rest of 1992 to unify all the armed groups remained from the previous system, such as the volunteers of the JNA, the Territorial Defence self-organized units and individuals in a possession of a big calibre armament. That is why General Mladic demanded from the Presidency of RS in July 92 that only VRS be authorised to govern the heavy weapons, see: @ .)** Bulatović also

expressed an opinion that the Bosnian Serb leadership did not have "full control over the command" and that it was "somewhat detached from the staff that is working and operating [in Sarajevo]".<sup>15988</sup> Bulatović testified that the FRY political leadership advised the Accused

numerous times about the detrimental impact that the shelling of Sarajevo had on the political position of the Bosnian Serbs, which the Accused had agreed with but had been unable to solve.<sup>15989</sup> In Bulatović's opinion, the Accused lacked control over the VRS.<sup>15990</sup> **(But,**

**nothing does matter, the Chamber is dedicated to it's presumption of guilt.)**

**4758.** As for the Accused's relationship with Mladić, Abdel-Razek thought that Mladić was "one of the few people who could stop Karadžić's negations and influence" and that he was

<sup>15984</sup> Hussein Abdel-Razek, T. 5676–5677 (21 July 2010). The Chamber considers that this part of Abdel-Razek's evidence given on cross-examination is inconsistent with much of his testimony on direct examination, particularly the evidence that meetings with Bosnian Serb leaders were difficult and that, on both sides, "leaders manifested cooperation; however, in reality, they acted differently and undertook different actions that were not cooperative". See P1258 (Witness statement of Hussein Ali Abdel-Razek dated 16 July 2002), e-court pp. 7, 18, 22.

<sup>15985</sup> D3051 (Witness statement of Momir Bulatović dated 25 February 2013), para. 25; D3054 (Notes of session of Council for Coordinating Positions on State Policy, 18 August 1992), p. 89.

<sup>15986</sup> D3051 (Witness statement of Momir Bulatović dated 25 February 2013), para. 25; D3054 (Notes of session of Council for Coordinating Positions on State Policy, 18 August 1992), pp. 10–11; Momir Bulatović, T. 34525–34526 (28 February 2013).

<sup>15987</sup> D3054 (Notes of session of Council for Coordinating Positions on State Policy, 18 August 1992), p. 89.

<sup>15988</sup> D3051 (Witness statement of Momir Bulatović dated 25 February 2013), para. 26; D3054 (Notes of session of Council for Coordinating Positions on State Policy, 18 August 1992), p. 89; Momir Bulatović, T. 34560–34561 (1 March 2013).

<sup>15989</sup> D3051 (Witness statement of Momir Bulatović dated 25 February 2013), paras. 29–30; D3055 (Record of 6th session of FRY's SDC, 9 December), p. 24–25 (wherein, in relation to events in Sarajevo, Dobrica Ćosić, President of the FRY, commented, "[h]ow many times have we advised [the Accused] about Sarajevo?").

<sup>15990</sup> D3051 (Witness statement of Momir Bulatović dated 25 February 2013), paras. 29–30.

the only one who could “refuse or accept any of Karadžić’s proposals”.<sup>15991</sup> Tucker testified that he, Morillon, and the UNPROFOR staff formed an opinion that, in most cases, Mladić would do what the Accused and the Bosnian Serb Assembly directed him and the VRS to do.<sup>15992</sup> However, if Mladić believed that he was being ordered to do something that would “endanger” the Bosnian Serbs, he did not always do as ordered.<sup>15993</sup>

**(And that is how it should be. This was his duty, not to carry out an impossible or dangerous order. No president is entitled that, out of his lack of a military knowledge, jeopardize the whole nation!)**

Tucker also stated that although the Accused would often make promises, he needed to speak to the military to actually get things done since the Accused did not know the details of what was going on in the military.<sup>15994</sup>

**(The President had many more other duties, and that was why he handed the operational command over to the Main Staff. The Chamber should have noticed, and accept the Defence position, that the Accused interfered in the operational matters only on a requests from the internationals, and it was always against the VRS interests, because the majority of internationals present there had been biased!)**

Based on the observations he made at the time, Tucker thought that Mladić “pretended he was subservient to Karadžić”, and that the Accused and Koljević had limited power to “actually influence and decide tactical military events”.<sup>15995</sup>

**(Exactly, and neither they should do it, since it was regulated by the Accused’s Order on Organisation and Formation of VRS of 15 June 92. But the internationals misinformed the Accused many times, and the Accused interfered pressuring the VRS commanders!)**

However, after being shown a number of VRS orders and documents showing the involvement of the Accused in military matters, Tucker stated that the Accused’s involvement with military planning and co-ordination was much greater than either he or Morillon believed at the time.<sup>15996</sup> Tucker also explained that the Accused’s level of knowledge of military detail was greater for Sarajevo than other parts of BiH.<sup>15997</sup>

**(#But this has nothing to do with any crimes, unless the mere existence of the VRS, the Accused and the Serbs in BiH was a crime by itself#. Knowing all that, did anyone had proven any Accused’s influence in favour of crimes? The Chamber could have seen the constitutional position of presidents and armies in any democratic country and compare it with the RS, and would see the identical structure!)**

**4759.** Tucker gave two specific examples where Mladić seemed to be acting independently of the Accused. The first was the co-ordinated military attack on Sarajevo by the SRK,<sup>15998</sup> which took place while the Accused was at peace talks in Geneva on 31 October 1992 and surprised the Bosnian Muslims side; Tucker thought that the attack appeared to be a military initiative on the part of Mladić and that it was no coincidence that it happened while the

<sup>15991</sup> P1258 (Witness statement of Hussein Ali Abdel-Razek dated 16 July 2002), e-court p. 12. See also D3695 (Witness statement of Bogdan Subotić dated 16 June 2013), para. 115 (testifying that Mladić would belittle the Accused and other members of the RS Government).

<sup>15992</sup> Pyers Tucker, T. 23225–23226 (18 January 2012).

<sup>15993</sup> Pyers Tucker, T. 23226 (18 January 2012); P4203 (Witness statement of Pyers Tucker dated 12 May 2010), para. 277.

<sup>15994</sup> P4203 (Witness statement of Pyers Tucker dated 12 May 2010), paras. 278, 280.

<sup>15995</sup> P4203 (Witness statement of Pyers Tucker dated 12 May 2010), paras. 277–285; Pyers Tucker, T. 23224–23226 (18 January 2012).

<sup>15996</sup> P4203 (Witness statement of Pyers Tucker dated 12 May 2010), paras. 285; P976 (Directive 4, 19 November 1992); P3037 (VRS Main Staff Order, 20 November 1992); P4248 (Timetable for Military-Political Conference in the Drina Corps, 23 November 1992); P2085 (Order of Drina Corps, 24 November 1992); P4924 (Amendment to Directive 4, 25 November 1992).

<sup>15997</sup> P4203 (Witness statement of Pyers Tucker dated 12 May 2010), paras. 69, 281; P4216 (UNPROFOR report re meeting with Radovan Karadžić, 20 November 1992), para. 7.

<sup>15998</sup> See paras. 3562.

Accused was away.<sup>15999</sup> It was Morillon's view that the Accused was unlikely to have approved a military attack while in Geneva.<sup>16000</sup> Tucker believed that the attack was a message from Mladić and possibly "hardliners in the civilian leadership (e.g. Krajišnik)" that the international community had no real power to influence events in BiH.<sup>16001</sup> **(All what is said is not sufficient to clarify the reasons for this combat activity, particularly since the VRS didn't plan to carry out any offensive actions, because there was no objective in Sarajevo to be achieved by an offensive!)**

4760. The second was a meeting on 15 November 1992, attended by Morillon and Mladić in Lukavica, during which Mladić spoke as if he, and he alone, had the ability to make decisions and implement them and "barely made any effort to conceal the fact that nothing could or would happen in Bosnian Serb held territory without his specific approval"; according to Tucker, it was "very apparent that he made all the practical military decisions that mattered".<sup>16002</sup> **(That was due to the President's Order of 15 June 92, handing the operational and tactical commands to the Mains Staff and its Commander. No president all over the world has unlimited authorisations, particularly in a specialised professional commanding the army!)** Tucker also noticed inconsistencies in Mladić's own position, recalling that in one meeting Mladić stated he would defer to the Bosnian Serb Assembly, but in another meeting he spoke as if he alone had the ability to implement decisions, and then at a follow-up meeting, he deferred to the Accused.<sup>16003</sup>

4761. On 8 December 1994, Andreev and Banbury met with Koljević in Pale.<sup>16004</sup> During the meeting Koljević conceded that "matters had gone too far and that the behaviour of the [VRS] needed to be fixed".<sup>16005</sup> The meeting involved a serious discussion about UNPROFOR withdrawing due to unacceptable curtailment of freedom of movement, theft of property, and restrictions on re-supply,<sup>16006</sup> and Banbury testified that it was unclear whether Koljević's remarks were genuine or whether it was a means of "shifting the blame".<sup>16007</sup> **(Why the Vice-President of the RS would "shift the blame" in front of an official of Banbury's, or even Andreev's level? Anyway, it was not worthwhile to be mentioned, since as such would fall within "in dubio pro reo" rule, wouldn't it?)** Following the meeting, Banbury drafted a report to Akashi, noting that there appeared to be a serious split between the political and military leadership of the Bosnian Serbs, with the former advocating a more co-operative

<sup>15999</sup> P4203 (Witness statement of Piers Tucker dated 12 May 2010), paras. 37, 47.

<sup>16000</sup> P4203 (Witness statement of Piers Tucker dated 12 May 2010), para. 48.

<sup>16001</sup> P4203 (Witness statement of Piers Tucker dated 12 May 2010), para. 47.

<sup>16002</sup> P4203 (Witness statement of Piers Tucker dated 12 May 2010), paras. 56, 59; P4214 (UNPROFOR report, 15 November 1992), para. 21. However, Tucker testified that soon after, following a meeting on 20 November 1992 between Morillon and Accused, it became obvious that Mladić deferred to the Accused who had just come back from Geneva and that "in comparison with Mladić's bombastic behaviour at the meeting on 15 November, at this meeting Mladić is 'back in his box'." See P4203 (Witness statement of Piers Tucker dated 12 May 2010), paras. 64–69; P4216 (UNPROFOR report re meeting with Radovan Karadžić, 20 November 1992); Piers Tucker, T. 23226–23235 (18 January 2012). Further, on 27 November, Morillon reported that the meeting he had with the Accused and Mladić on that day confirmed a moderately healthy military/political relationship between the two men. See D539 (UNPROFOR report re meeting with Radovan Karadžić and Ratko Mladić, 27 November 1992), para. 11(b); P4203 (Witness statement of Piers Tucker dated 12 May 2010), para. 72.

<sup>16003</sup> P4203 (Witness statement of Piers Tucker dated 12 May 2010), paras. 64–69; P4216 (UNPROFOR report re meeting with Radovan Karadžić, 20 November 1992); Piers Tucker, T. 23226–23235 (18 January 2012).

<sup>16004</sup> P2451 (Witness statement of Anthony Banbury dated 19 May 2009), para. 76; P2474 (UNPROFOR report, 8 December 1994).

<sup>16005</sup> P2451 (Witness statement of Anthony Banbury dated 19 May 2009), para. 77.

<sup>16006</sup> P2474 (UNPROFOR report, 8 December 1994), para. 3.

<sup>16007</sup> P2451 (Witness statement of Anthony Banbury dated 19 May 2009), para. 77.

approach in the face of resistance from the latter.<sup>16008</sup> However, at a meeting of 12 December 1994, Krajišnik, Koljević, Gvero, and Tolimir protested against this report and denied the existence of any such a split.<sup>16009</sup> Banbury thought that, if there was a split, it was a split on a policy level, which is usual in any institution, and there was nothing to suggest that there was a change or split in the chain of command.<sup>16010</sup>

4762. Galić testified that there was a parallel or dual command structure, where it was possible to receive orders both from the Accused, as the Supreme Commander, and from Mladić as the commander of the Main Staff, which led to confusion as to who actually commanded the VRS.<sup>16011</sup> However, Galić did not remember a single occasion when a direct order came to him from the Supreme Commander as it would usually go through the Main Staff.<sup>16012</sup> **(#EXCULPATORY!#)** Had he received conflicting orders from the Accused and from Mladić, he would have followed the order of his immediate superior, Mladić.<sup>16013</sup> Dragomir Milošević testified that the relationship between the Accused and Mladić was “detrimental” and he blamed Mladić for wanting to be dominant in all situations without respecting authority.<sup>16014</sup> However, like Galić, Milošević did not have specific personal knowledge of Mladić being defiant against the Accused; it was the general impression he had.<sup>16015</sup> **(#So, his “general impressions” could be neglected, although he was in a close vicinity of the both, while the same kind of general impressions of the foreigners who passed by from time to time are taken as a firm evidence?)**

4763. As discussed earlier in the Judgement, many Defence witnesses, including SRK soldiers and officers, testified that the relationship between the Accused and Mladić was strained.<sup>16016</sup> When Kovač met with Mladić in May 1992, they disagreed over the passage of convoys transporting civilians out of Sarajevo, with Kovač allowing the convoys and Mladić preventing them from departing.<sup>16017</sup> The Accused settled the dispute by allowing the convoys to leave Sarajevo.<sup>16018</sup> **(#EXCULPATORY!#)** According to Kovač, as the war progressed, tensions between the civilian and military authorities increased and a particularly noticeable disagreement concerned the number of VRS soldiers deployed around Sarajevo as compared to Srebrenica and Žepa; Kovač thought the Main Staff was “depriving” units of the

<sup>16008</sup> P2451 (Witness statement of Anthony Banbury dated 19 May 2009), para. 76; P2474 (UNPROFOR report, 8 December 1994), para. 5. *See also* P2261 (UNPROFOR report re meetings with Bosnian Serb and Bosnian Muslim leadership, 22 April 1995), para. 8 (reporting that “cracks between the politicians and the military were very clear”); Rupert Smith, T. 11347–11350 (8 February 2011).

<sup>16009</sup> P2451 (Witness statement of Anthony Banbury dated 19 May 2009), para. 80; P2476 (UNPROFOR report, 13 December 1994), para. 9.

<sup>16010</sup> P2451 (Witness statement of Anthony Banbury dated 19 May 2009), para. 82.

<sup>16011</sup> Stanislav Galić, T. 37593–37595 (23 April 2013).

<sup>16012</sup> Stanislav Galić, T. 37596–37597, 37602–37603 (23 April 2013). *See also* Manojlo Milovanović, T. 25470 (28 February 2012) (testifying that the Supreme Command did not frequently bypass the Main Staff).

<sup>16013</sup> Stanislav Galić, T. 37596, 37606 (23 April 2013).

<sup>16014</sup> Dragomir Milošević, T. 32886–32887, 32902–32905 (30 January 2013). *See also* Dragomir Milošević, T. 32887–32891 (30 January 2013) (discussing the Accused’s attempt to remove Mladić from his command); D2159 (Letter from VRS Main Staff to RS National Assembly, 5–6 August 1995) (order by the Accused to relieve Mladić of his command which was unanimously disagreed with by the VRS Generals); D2843 (Telegram from VRS Main Staff, 8 August 1995).

<sup>16015</sup> Dragomir Milošević, T. 32905–32907 (30 January 2013), T. 33088–33089 (4 February 2013).

<sup>16016</sup> *See* D2686 (Witness statement of Mihajlo Vujasin dated 16 December 2012), para. 62; D2562 (Witness statement of Vladimir Radojičić dated 8 December 2012), para. 67; D3695 (Witness statement of Bogdan Subotić dated 16 June 2013), paras. 112–115. *See also* para. 3140.

<sup>16017</sup> D3960 (Witness Statement of Tomislav Kovač dated 28 October 2013), para. 91.

<sup>16018</sup> D3960 (Witness Statement of Tomislav Kovač dated 28 October 2013), para. 91.

SRK, suspending delivery of ammunition, in an attempt to make Sarajevo fall.<sup>16019</sup> The Chamber has analysed these tensions earlier in the Judgement and made findings thereon.<sup>16020</sup>

(D) Accused's orders relevant to Sarajevo

4764. The fact that the chain of command between the Accused and the SRK operated as intended and that the Accused was directly involved in Sarajevo-related military operations is confirmed by the evidence that the Accused issued orders directly relevant to the SRK and the Sarajevo battlefield.<sup>16021</sup> For example, as outlined above, the Accused issued Directives 6 and 7, as well as the supplement to Directive 6, all of which concerned Sarajevo.<sup>16022</sup> **(This "finding" is based on P04925, which is, again, a document issued by the Main Staff of the VRS, only on the basis of the Directive 6. Again, the document has the Main Staff protocol number, their way of titling the Accused only as the "Supreme Commander" without the "President of the RS and Supreme Commander of Armed Forces". It was not a new Accused's document, but an operational elaboration of Directive 6, which was not directed to the SRK, but to the Main Staff, pertaining to the entire battlefield. So, the Accused orders may have, and had to have pertain to the SRK as all other corpses, but it wasn't issued "directly to the SRK"!)**

4765. On 20 May 1992, the Accused issued an order to the Main Staff, MUP, and Ministry of Defence to establish a military police company within the SRK.<sup>16023</sup> **(#EXCULPATORY#! Again, not directly to the SRK, but to the Main Staff and the Ministry of Defence. But, the Chamber is "fightning" to prove something that nobody contests, i. e. that the Accused was President and the Supreme Commander, and in this capacity issued orders to the Main Staff, but not directly to the corpses!)** Similarly, on 2 June 1992, the Accused issued an order to send two platoons of special forces from Crepoljsko to Nedžarići to be placed under the command of the SRK where they were to report to Kovač.<sup>16024</sup> **(This is again an #abuse of the language differences. This Order of the President was not directed either to the Main Staff or to the SRK, and didn't pertain to the VRS at all, but only to the Police#. According to the law, only President could order a deployment of the police forces to a battlefield and under the Army command.)** He also ordered that the "Presidency as the Supreme Command" be informed of the execution of this task.<sup>16025</sup> **(The same, not pertaining to the Army, let alone to a Corps. To be "informed" is an usual ending of every presidential order.)** [REDACTED] the Accused had an interest in

<sup>16019</sup> D3960 (Witness Statement of Tomislav Kovač dated 28 October 2013), para. 97.

<sup>16020</sup> See paras. 3113–3114.

<sup>16021</sup> See P3033 (Reynaud Theunens's expert report entitled "Radovan Karadžić and the SRBiH TO-VRS (1992-1995)", e-court pp. 27–28.

<sup>16022</sup> See para. 4671. Following the issuance of the supplement to Directive 6, the Main Staff issued an order on 14 December 1993. P4925 (Supplement to Directive 6, 12 December 1993), para. 2(a); P3052 (VRS Main Staff Order, 14 December 1993). See also Dragomir Milošević, T. 33093–33099 (4 February 2013). The Accused also examined and approved the other five directives issued by the Main Staff, as discussed in paras. 3152–3156. **This is not correct! The Accused didn't approve many directives, he himself issued only one created by his office, and signed two others. A directive could have had a strategic or an operational significance, and in a case of late, the Accused wasn't obliged to create or signe it.** See, e.g., P1479 (Ratko Mladić's notebook, 16 July–9 September 1992), p. 24 (a meeting between Accused, Mladić, Krajišnik, and Koljević, where they approved Directive 3).

<sup>16023</sup> P2645 (Radovan Karadžić's order to VRS Main Staff, MUP, and Ministry of Defence, 20 May 1992).

<sup>16024</sup> P1503 (Radovan Karadžić's Order re Nedžarići, 1 July 1992); [REDACTED].

<sup>16025</sup> P1503 (Radovan Karadžić's Order re Nedžarići, 1 July 1992); [REDACTED].

Nedžarići as it was an important part of the frontline.<sup>16026</sup> **(The Chamber must have been desperate for the lack of evidence against the President, and turned to #a “quantity as a quality” manoeuvre#! Of course the President had an interest in Nedzarici, it was his duty, since Nedzarici was a 100% Serb settlement encircled almost totally by the Muslim forces, and attacked on a daily basis! All the combat reports contained information about these attacks of a merely civilian settlements, but nobody cared about it!)**

4766. On 9 October 1992, the RS Presidency held a session in which it decided to halt the bombing of Sarajevo and do so through the Main Staff.<sup>16027</sup> **(Of course, through the Main Staff. This was a strategic decision, and was directed only to the Main Staff!)** Thus, on 10 October 1992, Galić issued an urgent order to all SRK units to stop firing on Sarajevo as of 3 p.m. that day, instructing them to open fire only in case of “great necessity”, and not before given permission from him or his deputy.<sup>16028</sup> **(But, how this could prove any Accused’s guilt? It is obvious that the order pertained to any fire that wasn’t extremely necessary, while in a “great necessity” nobody could have issued any ban on defence!)**

4767. On 15 July 1993, pursuant to an order from the Accused, Milovanović ordered the SRK Command to immediately take all measures, through the subordinate units, to release water and gas to Sarajevo and enable repairs of the electrical system.<sup>16029</sup> **(The Accused deserves a punishment for that!?! #EXCULPATORY#!)** He also banned units from opening fire at the centre of the city, except “in defence of VRS positions”, because “unnecessary and uncontrolled opening of fire at Sarajevo greatly damages the RS”.<sup>16030</sup> **(#EXCULPATORY#! THIS ORDER ALSO WASN’T DIRECTED TO THE srk, BUT TO THE Main Staff, although pertaining to the SRK. If there in Sarajevo was another VRS corps, it would pertain to this one. See:**

In reference to the Order no: 01170/93 dated 13<sup>th</sup> July 1992 of the President of Republika Srpska, Dr. Radovan KARADŽIĆ, and based on the current political situation and in order to resolve the Sarajevo issue, I hereby issue this

On the same day, Dragomir Milošević issued an order to all units of the SRK that they were “forbidden to fire on Sarajevo proper, unless defending VRS positions”.<sup>16031</sup> **(#EXCULPATORY#!)** He also ordered that water, gas, and electricity be provided to Sarajevo and stated that the “unnecessary and uncontrolled firing on Sarajevo is causing great harm to the RS”.<sup>16032</sup> **(#EXCULPATORY#!)** On 23 July 1993, Milošević urgently informed Galić that the Accused had ordered, through the Main Staff, that the SRK “immediately provide water, electricity and gas supplies” to Sarajevo.<sup>16033</sup> **(#EXCULPATORY#!)**

4768. Following another round of peace talks in Geneva and a cessation of hostilities agreement signed at the Sarajevo airport between Mladić and Delić,<sup>16034</sup> on 30 July 1993, pursuant to

<sup>16026</sup> [REDACTED].

<sup>16027</sup> D431 (Minutes of RS Presidency session, 9 October 1992), p. 2.

<sup>16028</sup> P1264 (SRK Order, 10 October 1992); Hussein Abdel-Razek, T. 5507–5508 (19 July 2010).

<sup>16029</sup> P5058 (Order of the VRS to SRK, 15 July 1993).

<sup>16030</sup> P5058 (Order of the VRS to SRK, 15 July 1993).

<sup>16031</sup> P836 (SRK Order, 15 July 1993); David Harland, T. 2243–2245 (10 May 2010); Miladin Trifunović, T. 30388–30389 (15 November 2012).

<sup>16032</sup> P836 (SRK Order, 15 July 1993).

<sup>16033</sup> P2666 (Radovan Karadžić’s order to SRK, 23 July 1993).

<sup>16034</sup> See para. 378.

consultations with the Accused, Mladić gave an order to cease fire on all frontlines effective on the same day at 12 p.m.<sup>16035</sup> **(#EXCULPATORY#!)**

4769. On 26 September 1993, pursuant to an order of the Accused, Milovanović issued an order to the SRK and Drina Corps commands stating that approval has been given for the transport of “Muslim deputies and other persons from Srebrenica, Žepa, and Goražde” organised by UNPROFOR.<sup>16036</sup> **(#EXCULPATORY#!)** The SRK and Drina Corps Commands would be notified by telephone as to the time of the opening and closing of the corridor.<sup>16037</sup> Milovanović noted that the order “shall be taken very seriously due to the political consequences it might have for [RS]” and the SRK and Drina Corps Commanders were personally responsible to him for implementing the order.<sup>16038</sup> **(#EXCULPATORY#!)**

4770. On 16 January 1994, the Accused issued an order to the VRS in which he strictly prohibited any combat operations in the direction of the Sarajevo airport and against any positions of UNPROFOR, UNHCR, and other international organisations; allowed full protection and freedom of movement for their vehicles and convoys with necessary checks; and instructed that all contentious issues in relation to UNPROFOR and military observers must be processed exclusively by the Corps Commands and Main Staff.<sup>16039</sup> **(#EXCULPATORY#! The Accused wanted the highest military authorities to resolve any misunderstanding with the UN agencies!)** He stated that given the attitude of international factors towards the war existing at the time, particularly during the talks in Geneva, it was necessary to prevent unwanted incidents with the international organisations.<sup>16040</sup> **(#EXCULPATORY#!)**

4771. On 13 March 1994, the Accused issued an order to the Main Staff instructing that the VRS was to exercise “maximum restraint” during Bajram, not respond to ABiH provocation, and to ensure that convoys safely arrive at their destinations.<sup>16041</sup> **(#EXCULPATORY#! The Bajram is, if not known, the greatest Muslim holiday, and despite the fact that the Muslim side used the Serbian Orthodox holidays and a lack of caution in the Serb villages, to butcher unprotected civilians, the Accused and the Serb side didn’t follow this pattern!)**

4772. On 23 July 1994, pursuant to an oral order from the Accused, Milovanović issued an order to the SRK Commander to carry out all necessary preparations for the closure of the Blue Route across Sarajevo airport, “in order to prevent the transit of the Muslims- civilians and motor vehicles from Sarajevo and into Sarajevo” and to prevent the movement of UNPROFOR and humanitarian organisations towards Igman and Lukavica.<sup>16042</sup> **(Justified by the reasons of security of the VRS and the Serb civilians, because of a numerous abuses of the humanitarian issues on the account the the Serb security!)**

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<sup>16035</sup> D4507 (Summary of intercepted conversation between Milan Gvero and Radovan Karadžić, 30 July 1993).

<sup>16036</sup> P5066 (VRS Main Staff Order, 26 September 1993).

<sup>16037</sup> P5066 (VRS Main Staff Order, 26 September 1993), p. 1.

<sup>16038</sup> P5066 (VRS Main Staff Order, 26 September 1993), p. 2.

<sup>16039</sup> D4443 (Radovan Karadžić’s Order, 16 January 1994).

<sup>16040</sup> D4443 (Radovan Karadžić’s Order, 16 January 1994).

<sup>16041</sup> D4610 (Radovan Karadžić’s Order, 13 March 1994).

<sup>16042</sup> P1639 (SRK Order, 23 July 1994); Michael Rose, T. 7259 (5 October 2010) (confirming that this matched the situation as he observed on the ground).

4773. On 19 August 1994, the Accused informed the Main Staff that two platoons of UNPROFOR soldiers and a medical unit would be travelling from Sarajevo through Pale and he approved this travel.<sup>16043</sup> **(#EXCULPATORY#)** Accordingly, he ordered that these units be escorted from Pale to Kopači and to treat them politely.<sup>16044</sup> **(#EXCULPATORY#)** In another order relating to the treatment of UN representatives, on 25 August 1994, the Accused ordered the Main Staff to issue an order to the commander of the Ilidža Brigade to return radio communication equipment seized from a UNHCR radio technician.<sup>16045</sup> **(@EXCULPATORY@)**

4774. At one point during the conflict, the Accused ordered the Main Staff to secure the perimeter and building of the "Pretis-Holding, TAS, UTL, and Energetika" Factories in Vogošća, to ensure safe passage and constant control of the "Sumbulovac-Visojevica-Srednje-Vogošća" road, and to report to him on the results within 48 hours.<sup>16046</sup> **(#EXCULPATORY#)**

4775. The Accused also issued orders directly to the SRK. For example, on 1 November 1992, the SRK Command issued an order to its units, relaying an order from the Accused regulating the procedures for safe passage for ICRC delegates and vehicles authorised to visit prisons, military camps, and police stations.<sup>16047</sup> **(#EXCULPATORY#)** As a rule, the President addressed the Main Staff and through it some corpses directly when asked by the internationals to help them in some of their actions. As they expressed in their letters to the Accused, they were very grateful for this attitude of the President! See D4775, from the UNHCR Haed, on 4 May 93:

*lean D. Karadžić:*

I would like to thank you for your kind hospitality yesterday in Pale. I also appreciated our honest and open discussions during our meeting which I believe will result in further cooperation between your authorities and UNHCR. Allow me to reassure you of our commitment to all victims of this conflict in Bosnia and Herzegovina, and our intention of further increasing our cooperation with your authorities as much as possible regardless of any further political developments.

regards to my... with regard to the  
I am particularly grateful for your assurance with regard to the establishment of UNHCR's presence in and unhindered access to Zepa and Gorazde, which you have also announced publicly. Although there seems to be some misunderstanding indicated in the letter from General Mladic dated 11 May 1993 (this letter and [redacted] reply are attached for ease of reference), I trust that the matter will be solved urgently by you in accordance with our agreement.

... for UNHCR to use the

<sup>16043</sup> D4611 (Radovan Karadžić's Order, 19 April 1994).

<sup>16044</sup> D4611 (Radovan Karadžić's Order, 19 April 1994).

<sup>16045</sup> D4829 (Radovan Karadžić's Order, 25 August 1994).

<sup>16046</sup> P5036 (Radovan Karadžić's Order, undated).

<sup>16047</sup> D4739 (Letter from Radovan Karadžić to all local civilian and police authorities, 31 October 1992); D4740 (SRK Command procedure for ICRC personnel and vehicles signed by Radovan Karadžić, 1 November 1992).

accordance with our...

I would also like to thank you for your assurance for UNHCR to use the corridor to Central Bosnia through Banja Luka for the delivery of humanitarian assistance to the victims in the region. As discussed in our meeting, the opening of such a corridor is of the utmost importance in view of the current conflict between BiH and HVO forces. I have publicly stated our appreciation for your humanitarian gesture. As we agreed, my Office will inform you formally of the detailed plan for humanitarian convoys through this corridor, so that the appropriate escort can be arranged by your authorities.

Thanking you once again for your cooperation with our humanitarian efforts.

Yours sincerely

4776. As mentioned earlier, on 7 February 1994, following the incident in Markale market on 5 February, the Accused issued an order to the Main Staff, SRK Commander, and commanders of the SRK brigades stating that there was evidence that the VRS was not responding in equal measure to the ABiH artillery but were responding, "sometimes twenty or thirty, or even seventy times more".<sup>16048</sup> **(#EXCULPATORY#! It came from the Accused's stupidity to trust every single allegation of foreigners about a "disproportionate" responses of the SRK artillery!)** He therefore ordered to:

- (1) Introduce the strictest possible control of retaliation to provocation, respond only when we are threatened and when there is full military justification, respond only against military targets and strictly at the commander's commands and respond in equal measure to the provocation in the 1:1 (one to one) ratio. **(#EXCULPATORY#!, a "one to one ratio" was also his stupidity, because "proportionality" pertains to a military objective wanted to be achieved!)**
- (2) Exclude any possibility of uncontrolled shelling. Keep the behaviour under control and sanction offences, urgently and in the strictest manner in keeping with the law. **(#EXCULPATORY#!)**
- (3) The Corps Commanders shall answer directly to me for acts of the Corps, while brigade commanders shall answer for the acts of the brigades. **(#EXCULPATORY#!)**
- (4) I am to be informed immediately about every incident.<sup>16049</sup> **(#EXCULPATORY#! "To be informed" was necessary because of the foreigners's need to have an answer from the Accused. Whenever the Accused didn't know about some incident, he neither confirmed, nor denied, but it was interpreted as if the Accused admitted a felony!)** Milovanović testified that he implemented this order.<sup>16050</sup> He also testified that the Accused addressed the order to SRK Commander and SRK brigades because he wanted the order to reach them as soon as possible but also did not want to bypass the Main Staff order; to Milovanović this was

<sup>16048</sup> P846 (Radovan Karadžić's Order to VRS, 7 February 1994); P820 (Witness statement of David Harland dated 4 September 2009), paras. 77-78; Reynaud Theunens, T. 16891-16893 (19 July 2011).

<sup>16049</sup> P846 (Radovan Karadžić's Order to VRS, 7 February 1994); Manojlo Milovanović, T. 25475, 25477-25478 (29 February 2012).

<sup>16050</sup> Manojlo Milovanović, T. 25475-25477 (29 February 2012); P4493 (VRS Main Staff Order, 7 February 1994).

an example of the Accused exercising his command and control as Supreme Commander and making the SRK Commander and brigade commanders directly answerable to the Accused.<sup>16051</sup> **(#EXCULPATORY!** As discussed above, there was a period of relative calm in Sarajevo following this order.<sup>16052</sup> **(#EXCULPATORY! But, it didn't depend entirely on the Accused's will, or the SRK intents, but rather on the Muslim units conduct!)** On 15 February 1994, at a meeting involving the Accused, Mladić, Krajišnik, Koljević, and Milovanović, Milovanović reported that he had agreed to a cease-fire and the placing of artillery under UNPROFOR, but had not signed anything yet.<sup>16053</sup> **(#EXCULPATORY! It was signed on 18 February, by the Accused and Akashi!** Krajišnik expressed concern that nothing had been signed and stated that the Supreme Command must respond to the NATO ultimatum.<sup>16054</sup> **(#EXCULPATORY!** The Accused instructed that “three to four artillery positions must be secured at brigade level” and that “[c]oncealment and relocation must be carried out”.<sup>16055</sup> **(#EXCULPATORY!** In relation to UNPROFOR, the Accused stated that the Bosnian Serbs should not “say no”; instead, they should say “yes, but” as this is what good diplomats do.<sup>16056</sup> **(#EXCULPATORY#!)**

4777. On 19 March 1994, the Accused informed the Main Staff (Mladić personally) and the SRK Command (Galić personally) that he had given permission for a football match to be played between an UNPROFOR team and a local Sarajevo team on 20 March 1994.<sup>16057</sup> **(#EXCULPATORY!** He stated: “it is necessary to prevent the Serbian side from provoking an incident at all costs, as this might bring condemnation from the whole world”.<sup>16058</sup> **(#EXCULPATORY!** He also stated that 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”.<sup>16059</sup> **(#EXCULPATORY!** He instructed Mladić and Galić to inform all the brigades in the area that they must absolutely comply with this order.<sup>16060</sup> **(#EXCULPATORY!** Rose testified that this match did indeed go on without incident.<sup>16061</sup> **(#EXCULPATORY!**

4778. On 2 March 1995, a report from the SRK Colonel Luka Dragičević was sent to all SRK units, raising issues about the leadership of the VRS and Main Staff, and criticising the Accused.<sup>16062</sup> **(#EXCULPATORY!** On 9 March 1995, the Accused ordered the SRK Command to urgently send him a copy of that report and information on who sent it to the SRK Command, the identity of its author, and its intended recipients.<sup>16063</sup> **(#EXCULPATORY! Although the President promoted democracy, this kind of action is not allowed in any army! But this illustrates the President difficulties with his Army officers, because of being so restrictive and critical of them, although it often was only on a basis of a false allegations of internationals!)**

4779. Finally, at some point during the war, the Accused issued a message to the SRK stating that the “shelling of civilian targets is a war crime, which is chastised with the toughest punishment, and the enemy wishes to brush those crimes off on you”.<sup>16064</sup>

<sup>16051</sup> Manojlo Milovanović, T. 25477–25478 (29 February 2012). See also P3033 (Reynaud Theunens’s expert report entitled “Radovan Karadžić and the SRBiH TO-VRS (1992-1995)”), e-court p. 28.

<sup>16052</sup> See paras. 386–390, 3582–3587.

<sup>16053</sup> P1485 (Ratko Mladić’s notebook, 9 January–21 March 1994), pp. 105–106.

<sup>16054</sup> P1485 (Ratko Mladić’s notebook, 9 January–21 March 1994), p. 106.

<sup>16055</sup> P1485 (Ratko Mladić’s notebook, 9 January–21 March 1994), p. 108.

<sup>16056</sup> P1485 (Ratko Mladić’s notebook, 9 January–21 March 1994), p. 109.

**(#EXCULPATORY!** He continued by stating that “we are a disciplined army” and it was not in their interest to provoke military intervention and risk losing their state.<sup>16065</sup>

**(#EXCULPATORY!** He asked the SRK to keep vigil of the enemies and keep an eye out for “traitors” who would fire mortars without command or permission; everyone was obliged to prevent “such a traitor from doing so, and to bring him to justice”.<sup>16066</sup>

**(#EXCULPATORY!** This was not an executive order, but a sort of educative influence towards a proper conduct!)

**4780.** In addition to all of the above orders, the evidence also shows that the Accused issued oral orders and instructions in meetings and telephone conversations that were directly relevant to the military activities in Sarajevo. For example, on 31 May 1992, Mladić met with the Accused and other members of the Bosnian Serb political leadership.<sup>16067</sup> In the meeting, the Accused gave a briefing on the negotiations in Lisbon and Belgrade and reported that Cutileiro had asked him to halt operations around Sarajevo and to leave the airport.<sup>16068</sup>

**(#EXCULPATORY!** The Accused then stated, “[w]e have to issue decisions”, including decisions to “determine comprehensible borders” and make the police and army “capable for some tasks”.<sup>16069</sup>

**(#EXCULPATORY!** The meeting concluded with the Accused stating that they needed to talk about Sarajevo and they must have a “part of Sarajevo”.<sup>16070</sup> **(# LEGAL AND LEGITIMATE#!**

4781. On 5 June 1992, the Accused met with Mladić, Koljević, Plavšić, Krajišnik, and Đerić and instructed the attendees to “clean up” Butmir, Hrasnica, Dobrinja, Sokolović Kolonija, and Hrasno.<sup>16071</sup> **(To “clean up” in a military sense meant to remove all the military units that had attacked the Serb settlements on a daily basis, and this was legal and legitimate to distant them from the Serb civilians. But, anyway, the action had never been undertaken!)** As discussed earlier, the SRK forces launched an attack on Sarajevo later that evening, which was indiscriminate and disproportionate, lasting three days and

<sup>16057</sup> P1643 (Letter from Radovan Karadžić to Ratko Mladić and Stanislav Galić, 19 March 1994); P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 64; Michael Rose, T. 7264–7266 (5 October 2010).

<sup>16058</sup> P1643 (Letter from Radovan Karadžić to Ratko Mladić and Stanislav Galić, 19 March 1994); P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 64; Michael Rose, T. 7264–7266 (5 October 2010).

<sup>16059</sup> P1643 (Letter from Radovan Karadžić to Ratko Mladić and Stanislav Galić, 19 March 1994).

<sup>16060</sup> P1643 (Letter from Radovan Karadžić to Ratko Mladić and Stanislav Galić, 19 March 1994); P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 64; Michael Rose, T. 7264–7266 (5 October 2010).

<sup>16061</sup> Michael Rose, T. 7264–7266 (5 October 2010); P1638 (Witness statement of Michael Rose dated 26 March 2009), para. 64.

<sup>16062</sup> P2691 (SRK report, 2 March 1995); Luka Dragičević, T. 31435–31436 (13 December 2012).

<sup>16063</sup> P2679 (Radovan Karadžić’s order to SRK, 9 March 1995). Dragomir Milošević submitted an urgent report to the Accused stating that Dragičević’s report was “made in a hurry” and that the core members of the SRK Command have not discussed it and he was not even aware of its contents. Milošević stated that it was agreed that the “Main Staff commander would get in touch with you and ask you not to subject the contents of the report to a separate discussion”. See P2680 (SRK report to Radovan Karadžić, 10 March 1995); P2681 (SRK report, 10 March 1995).

<sup>16064</sup> D314 (Radovan Karadžić’s letter to SRK, undated). The document is undated and contains no stamp. While the Accused attempted, during Guzina’s testimony, to make a connection between D314 and the follow up order of the SRK Command of 15 May 1993 (D2561), Guzina was unclear as to the alleged connection and thus as to the date of D314. See Svetozar Guzina, T. 31195–31197 (11 December 2012); D2561 (SRK Order, 15 May 1993). As such, this order has little probative value.

<sup>16065</sup> D314 (Radovan Karadžić’s letter to SRK, undated).

<sup>16066</sup> D314 (Radovan Karadžić’s letter to SRK, undated).

<sup>16067</sup> P1478 (Ratko Mladić’s notebook, 27 May–31 July 1992), pp. 36, 38.

<sup>16068</sup> P1478 (Ratko Mladić’s notebook, 27 May–31 July 1992), pp. 38–39.

<sup>16069</sup> P1478 (Ratko Mladić’s notebook, 27 May–31 July 1992), p. 40.

<sup>16070</sup> P1478 (Ratko Mladić’s notebook, 27 May–31 July 1992), p. 42.

<sup>16071</sup> P1478 (Ratko Mladić’s notebook, 27 May–31 July 1992), p. 93.

causing a number of civilian casualties.<sup>16072</sup> **We will see from documents that it was a Muslim attack and a huge Muslim offensive, but it certainly hadn't been discussed nor ordered at the said meeting, and it is not correct to associate it with the meeting. Let us see on what the Chamber based this "finding" that the Accused's meeting of 5 June 92 caused the shelling known as incident G.2. and G.3. On or about 6 June 1992, Bosnian Muslim forces initiated a military operation to "de-block" Sarajevo from the north and the west. (See: 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.**

**It is quite clear that the Muslim side launched an offensive, a day after the said meeting took place. Further: (para 4036 Of the Judgment: 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. See: 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. (#The "international presence" enabled the Muslim side to do whatever they wanted, which turned to be a very bad for both the Muslims and Serbs#! On the other side, the Serb side was blocked by many ways, and accused for a perfectly legal and legitimate moves!# #Everything indicates that there was an offensive of the Muslim forces, recognized in some paragraphs of this Judgment, and how possibly any shelling could be determined as a Serb army felony? And how possibly the Accused's meeting on 5 June with his associates, producing some good decisions, (there is a para in the Judgment on this) could have caused this Muslim offensive and a subsequent Serb shellings? ?# Na tom sastanku su predviđene muslimanske akcije iz tih obli`njih muslimanskih naselja, i one su se de{avale u svakoj ofanzivi, tako da je vojni~ki bilo opravdano i neophodno da se iz tih naselja istjeraju borci ABiH, mada to nije u~injeno zbog izmije{anosti sa civilima! )** On 15 June 1992, at a meeting between Mladić, the Accused, other members of the RS Presidency, and representatives from the Sarajevo municipalities, Koljević raised the problem of the Sarajevo airport which could not be solved "until the road to Ilidža and Nedžarići is sorted out" and urged the others to "treat Dobrinja as our territory into which [Bosnian Muslim] snipers and terrorists have infiltrated".<sup>16073</sup> To this the Accused responded that the issue of Dobrinja must be resolved through co-operation with the police.<sup>16074</sup> Prstojević provided an update on the situation in Ilidža, stating that the ABiH had around 6,500 soldiers in the area and that if the Bosnian Serbs surrendered the airport, "Ilidža would be cut off".<sup>16075</sup> He thus requested the deployment of soldiers to Dobrinja to carry out an operation.<sup>16076</sup> The meeting then concluded with the decision to "clear the

<sup>16072</sup> See discussion in relation to Scheduled Incident G.2.

<sup>16073</sup> P1478 (Ratko Mladić's notebook, 27 May–31 July 1992), pp. 166–167.

<sup>16074</sup> P1478 (Ratko Mladić's notebook, 27 May–31 July 1992), p. 169.

<sup>16075</sup> P1478 (Ratko Mladić's notebook, 27 May–31 July 1992), p. 170.

<sup>16076</sup> P1478 (Ratko Mladić's notebook, 27 May–31 July 1992), p. 170.

Serbian territory”, giving priority to Mojmilo and Dobrinja.<sup>16077</sup> Following the protests by the Secretary General about the Bosnian Serb forces shelling civilian areas in Dobrinja and his calls for the shelling to cease immediately,<sup>16078</sup> at a meeting on 27 June 1992 with Mladić, Koljević, and Plavšić, among others, Krajišnik stated that the Presidency was “walking on the edge of the abyss” and that operations against Dobrinja “must really stop”.<sup>16079</sup> That day, the Accused issued an order to the Main Staff to cease all operations in Dobrinja immediately and warned that disregarding the order would have “political consequences”.<sup>16080</sup>

4782. On 21 July 1992, in a meeting between Mladić, the Accused, and other VRS officers, the Accused informed Mladić about the 14-day cease-fire agreement and said that all heavy weapons must be presented to UNPROFOR for inspection, that refugees be allowed to return to their homes, and that people moving from the “zones of operations” be allowed to go wherever they want.<sup>16081</sup> **(#EXCULPATORY!)** Then, on 29 August 1992, at a meeting with Mladić, the Accused ordered that within 96 hours, UNPROFOR must be given information about heavy weaponry in the territory of Sarajevo excluding warehoused items.<sup>16082</sup> **(#EXCULPATORY! It had been understood that only weapons that were at the firing positions should be registered!)** He ordered that within seven days, heavy weapons around Sarajevo should be grouped.<sup>16083</sup> **(#EXCULPATORY!)** He further ordered Mladić to “preserve the positions around Sarajevo” and to strengthen those positions by transferring 5,000 to 6,000 soldiers from the Bosnian Krajina.<sup>16084</sup> **(#EXCULPATORY! TO MAINTAIN A STRATEGIC BALANCE, THERE HAD TO BE MORE TROOPS INSTEAD OF REMOVED ARTILLERY!)** Mladić warned the Accused about how to mobilise this many soldiers, to which the Accused responded: “With the police, forcibly”.<sup>16085</sup> **(#EXCULPATORY!)**

<sup>16077</sup> P1478 (Ratko Mladić’s notebook, 27 May–31 July 1992), pp. 171–172.

<sup>16078</sup> P1523 (UNSG’s statement to UNSC, 26 June 1992); KDZ088, T. 6662–6663 (13 September 2010) (closed session).

<sup>16079</sup> P1478 (Ratko Mladić’s notebook, 27 May–31 July 1992), p. 240.

<sup>16080</sup> P1504 (Minutes of 12<sup>th</sup> session of SerBiH Presidency, 27 June 1992), para. 3; P1154 (Witness statement of KDZ088 dated 27–29 April 2010), paras. 69–70 (under seal); P1478 (Ratko Mladić’s notebook, 27 May–31 July 1992), p. 240 (stating that the Presidency had sent a letter to the Secretary General informing him that operations against Dobrinja had ceased); D2977 (Letter from Radovan Karadžić to Jose Cutileiro and others, 27 June 1992); D2968 (Witness statement of Jose Cutileiro dated 11 April 2012), para. 30.

<sup>16081</sup> P1478 (Ratko Mladić’s notebook, 27 May–31 July 1992), pp. 358–359.

<sup>16082</sup> P1479 (Ratko Mladić’s notebook, 16 July–9 September 1992), pp. 107–108.

<sup>16083</sup> P1479 (Ratko Mladić’s notebook, 16 July–9 September 1992), p. 108.

<sup>16084</sup> P1479 (Ratko Mladić’s notebook, 16 July–9 September 1992), p. 109.

<sup>16085</sup> P1479 (Ratko Mladić’s notebook, 16 July–9 September 1992), p. 109.

4783. On 19 October 1992, at a meeting with Mladić, Plavšić, Krajišnik, Đerić, Gvero, Dukić, and Tolimir, the Accused reported on the negotiations in Geneva; he stated that the question of Sarajevo “dominated the conference” and that the Bosnian Serbs should ensure that Sarajevo survives the winter because the Bosnian Muslims wanted to create an image of a “drastic and horrible” situation in Sarajevo.<sup>16086</sup> **(#EXCULPATORY!** Towards the end of the meeting, the Accused stated that he was “convinced 101% that [NATO] will bomb” and that accordingly it was crucial not to fire on Sarajevo.<sup>16087</sup> **(#EXCULPATORY! ! The President wanted to persuade the others that a military restraint around Sarajevo should be secured!)**

4784. On 20 December 1992, at a meeting of the Supreme Command, attended by Mladić, Koljević, Krajišnik, Lukić, Bogdan Subotić, and Milovanović, the Accused stated that the Bosnian Serbs were supposed to end the war in Sarajevo, but that the enemy was “on the rise” and was “conducting a big offensive”.<sup>16088</sup> **(#EXCULPATORY!** The tasks agreed upon at the conclusion of the meeting included reorganising the army and border units and coming up with a co-ordinated plan with the Ministry of Defence to fulfil the needs of the army.<sup>16089</sup> **(#JUSTIFIABLE! Anyway, why it was of any interest of the Chamber, unless everything in connection with the Serbs was criminalized?)**

4785. On 21 February 1993, in a telephone conversation, the Accused instructed two SRK soldiers to “see to it that Izetbegović’s declaration of a one-sided cease-fire be sent to us, Morillon and others have requested that [...] I am asking you that we don’t fire anywhere except [...]” **(#EXCULPATORY!** and was interrupted by Matišić who informed the Accused that they had received, two hours earlier, an order from Milovanović to carry on doing what has been planned regardless of the cease-fire.<sup>16090</sup> **(#EXCULPATORY!** The Accused responded, “absolutely, that’s all right, but there is something that has to be done”.<sup>16091</sup> **(#EXCULPATORY! If Milovanovic had ordered something that didn’t pertain to the city core, it should be carried out!** The Accused informed them that “we think that shells should not be falling here on the city for no reason” and ordered them to “strictly forbid shelling in the city, except where operations have been planned and where they are in progress”.<sup>16092</sup> **(#EXCULPATORY!**

4786. On 2 May 1993, in a telephone conversation, the Accused ordered Gvero to “call UNPROFOR to all gas stations to check that the Serbs are keeping this open” and that “nowhere around Sarajevo, there must be nothing firing anywhere”.<sup>16093</sup> **(#EXCULPATORY!** The Accused said that no one from the VRS was allowed to give any more statements, and ordered the preparation of anti-aircraft defence in case of NATO

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<sup>16086</sup> P1481 (Ratko Mladić’s notebook, 5 October–27 December 1992), pp. 48–50.

<sup>16087</sup> P1481 (Ratko Mladić’s notebook, 5 October–27 December 1992), p. 59.

<sup>16088</sup> P1481 (Ratko Mladić’s notebook, 5 October–27 December 1992), pp. 335, 339–340.

<sup>16089</sup> P1481 (Ratko Mladić’s notebook, 5 October–27 December 1992), p. 349.

<sup>16090</sup> D4510 (Intercept of conversation between Radovan Karadžić and Matišić, 21 February 1993).

<sup>16091</sup> D4510 (Intercept of conversation between Radovan Karadžić and Matišić, 21 February 1993).

<sup>16092</sup> D4510 (Intercept of conversation between Radovan Karadžić and Matišić, 21 February 1993).

<sup>16093</sup> D4512 (Intercept of conversation between Milan Gvero and Radovan Karadžić, 2 May 1993), p. 1.

intervention.<sup>16094</sup> **(#EXCULPATORY!** On the same day, the Accused ordered Milovanović to allow UNPROFOR to access Mt. Bjelašnica.<sup>16095</sup> **(E#XCULPATORY!**

**4787.** On 2 June 1993, in another telephone conversation, the Accused ordered Gvero to contact those units responsible for targeting a pontoon bridge stating that they had damaged the good image of the VRS.<sup>16096</sup> **(#EXCULPATORY!** In relation to information that the “Zetra” area in Sarajevo had been hit by mortars, the Accused ordered Gvero to contact Briquemont and inform him that it was not the VRS.<sup>16097</sup> **(Because Gvero responded and re-assured the Accused that this was not done by the VRS! #EXCULPATORY! See D4511, a Croatian secret service intercept:**

- K: Call them and ask them not to fire until tomorrow evening; to fire at *pooč* /word unknown/ /*?ponoć* - midnight/, since they have already given their word; I don’t understand it – if they’ve given their word; we have to keep our word. We have to honour our word, if we do not, no one will respect us.
- 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: A protest has just gone out to BRIQUEMONT; he has been informed about it; we’re informing /*him*/ of the time, place, intentions, etc.
- K: Very well, have our liaison officer pencil it in for him where exactly this shooting is coming from; yes, yes, that is very important.

**Therefore, President Karadžić didn’t order General Gvero to lie to Briquemont, but since Gvero guaranteed to the President that it was not VRS firing, President ordered him to communicate that to Briquemont. As the Chamber left it in the Judgment, looks as if President Karadžić ordered to Gvero to deceive the UN General, and that is not fair, and should be forbidden forever, at least in the UN courts!)**

**4788.** On 30 July 1993, in another telephone conversation between the Accused and Gvero, the Accused insisted on arresting and initiating criminal proceedings against the individuals who were responsible for firing on the UNPROFOR units in Sarajevo and also wanted to release a public statement to this effect.<sup>16098</sup>

**(#EXCULPATORY! Here is this intercept of the Croatian secret service, D4507:**

<sup>16094</sup> D4512 (Intercept of conversation between Milan Gvero and Radovan Karadžić, 2 May 1993), p. 2.

<sup>16095</sup> D4513 (Intercept of conversation between Radovan Karadžić and unidentified general, 2 May 1993). *See also* P5660 (Intercept of conversation between Ratko Mladić and Momčilo Mandić, 25 May 1992) (in which Mandić tells Mladić that the Accused has requested to “arrange this thing over the airport” but Mladić reminds Mandić that they are not supposed to arrange anything over the phone but are supposed to meet instead).

<sup>16096</sup> D4511 (Intercept of conversation between Milan Gvero and Radovan Karadžić, 2 June 1993).

<sup>16097</sup> D4511 (Intercept of conversation between Milan Gvero and Radovan Karadžić, 2 June 1993).

<sup>16098</sup> D4507 (Summary of intercepted conversation between Milan Gvero and Radovan Karadžić, 30 July 1993).

Last night, General MLADIĆ gave an order to cease fire on all frontlines effective today, 30 July, at 1200 hrs. This order has been given after the consultations with KARADŽIĆ. In the course of several conversations between KARADŽIĆ and GVERO, Radovan KARADŽIĆ insisted on the arrest of individuals responsible for the recent opening of fire on the UNPROFOR units in Sarajevo. KARADŽIĆ insisted on going public with a release of a statement that the said individuals have been arrested and that there are ongoing criminal proceedings against them. One gains an impression that this issue is very important to him, allegedly, American President has pressured him to that. KARADŽIĆ mentioned that “they” (meaning UNPROFOR forces) could even start shooting starting Tuesday, 3 June.

**So, Karad'ić “didn't want to release a public statement to this effect” but ordered General Gvero that the VRS always admit the faults of it's members, to arrest, to sue them, and to inform the public about it!)**

4789. On 2 August 1993, also in a telephone conversation, the Accused ordered Gvero to “release immediately gas, electricity and water” to Sarajevo and “do everything that is in our power” as this was important for the Bosnian Serbs and the negotiations that day.<sup>16099</sup> **(There should be a correct understanding of this Accused's interventions. He was at the peace negotiations in Geneva. The Muslim side used every opportunity to interrupt and leave the talks, mainly inventing or staging a reason. The Accused wanted to save the talks, and wanted a proper information, and also wanted the VRS to do everything possible to ease the Sarajevo situation. #EXCULPATORY!)**

4790. On 3 August 1993, Milovanović called the Accused and reported that there was firing around Sarajevo and it came from the ABiH.<sup>16100</sup> The Accused ordered Milovanović to take UNPROFOR observers to the SRK positions in Sarajevo so that UNPROFOR “can confirm who is attacking”.<sup>16101</sup> **(#EXCULPATORY!)** He also ordered Milovanović to inform Mladić to be cautious and not fall for the ABiH provocation because one wrong move and Mladić might “wreck the entire country, the entire nation” and that the “conference will fail, to our detriment”.<sup>16102</sup> **(#EXCULPATORY!)** The following day, in another telephone conversation, the Accused told Milovanović that he was looking for Mladić and that Mladić needed to call him.<sup>16103</sup> **(#EXCULPATORY!)** The Accused was upset about the shelling of Mt. Igman and the “fallout” between UNPROFOR and Mladić.<sup>16104</sup> The Accused stated, “if I give him some orders, he has to carry it out. He has the right to say that it's not useful and that it's damaging, but if I later make a decision, has to carry that out to the end”.<sup>16105</sup> **(#EXCULPATORY!)** Also on this day, in relation to a concern that Mladić may not order the withdrawal of troops from Mt. Igman, the Accused told Milovanović: “I am the supreme commander and I am ordering; order them to withdraw and tell Mladić to report to me from the airport”.<sup>16106</sup> **(#EXCULPATORY! Shows many things and corroborates many**

<sup>16099</sup> P4796 (Intercept of conversation between Radovan Karadžić and General Gvero, 2 August 1993), p. 2.

<sup>16100</sup> D4508 (Intercept of conversation between Radovan Karadžić and Manojlo Milovanović, 3 August 1993), p. 1.

<sup>16101</sup> D4508 (Intercept of conversation between Radovan Karadžić and Manojlo Milovanović, 3 August 1993), p. 1.

<sup>16102</sup> D4508 (Intercept of conversation between Radovan Karadžić and Manojlo Milovanović, 3 August 1993), p. 3. The Chamber notes this was during the ICFY conference peace talks when the Bosnian Serbs had agreed, in principle, to open the Sarajevo airport by 4 August 1993. See para. 379.

<sup>16103</sup> D3871 (Intercept of conversation between Radovan Karadžić and Milovanović, 4 August 1993).

<sup>16104</sup> D3871 (Intercept of conversation between Radovan Karadžić and Milovanović, 4 August 1993), p. 1.

<sup>16105</sup> D3871 (Intercept of conversation between Radovan Karadžić and Milovanović, 4 August 1993), p. 1.

<sup>16106</sup> P4786 (Intercept of conversation between Radovan Karadžić and General Milovanović, 4 August 1993), p. 2.

**Defence claims, among others that the Accused had a real difficulties to secure a full execution of his orders, and also the Accused's effort to make the peace and secure the peace negotiations to continue! On the other hand, the internationals posed too many demands and ultimatums damaging for the Serb interests, and no wonder the Army officers didn't understand their President!)**

4791. As discussed earlier, on 5 August 1993 at a meeting with UNPROFOR representatives, the Accused agreed to withdraw the SRK forces from Mt. Igman and on 14 August 1993, despite Mladić's protests, an agreement establishing the Mt. Igman DMZ was signed.<sup>16107</sup>

**(#EXCULPATORY!)** On 5 August 1993, at a meeting of the Supreme Command, including Mladić, the Accused reported that NATO had made a decision to conduct air strikes on Bosnian Serb positions.<sup>16108</sup> He stated that, to avoid air strikes, the Bosnian Serbs should withdraw from Mt. Igman and Mt. Bjelašnica, to supply utilities to Sarajevo, allow humanitarian convoys to pass though, supply fuel to Sarajevo (for bakeries), and not to fire any shells at Sarajevo.<sup>16109</sup>

**(#EXCULPATORY!)** On the same day, Milovanović issued an order to the SRK Command, "on the basis of an oral command of the Supreme Commander" in an effort to respect the signed agreement about the cessation of combat actions.<sup>16110</sup>

**(#EXCULPATORY!)** This order outlined measures that should be taken by the SRK in terms of reporting on weapons, ammunition, and rockets in each brigade.<sup>16111</sup>

**(#EXCULPATORY!)** It also ordered that as of 9 August 1993, within the regular combat reports, the SRK Command will report about the "number of fired bullets, grenades, mines and rockets in units that are in direct surroundings of Sarajevo, as well as reason for firing, the name of units where it happened and measures that are taken".<sup>16112</sup>

**(#EXCULPATORY! Exposing the Serb side to such a pressure as no any other warring side was inhumane, exhausting the whole nation and exposing their combatants and civilians to deaths, while encouraging their adversaries to continue with hostilities!)**

4792. On 10 August 1993, the Accused issued an order in a telephone conversation with a colonel from the Main Staff that no shell was to land on Sarajevo and that Sarajevo was to be given electricity, water, and gas.<sup>16113</sup>

**(#EXCULPATORY!)** On 11 August 1993, the Accused had a conversation with Prstojević and Gvero over the phone.<sup>16114</sup> First, Prstojević confirmed that he was taking care of the weapons around Sarajevo.<sup>16115</sup> The Accused then ordered him

<sup>16107</sup> See paras. 379, 3574.

<sup>16108</sup> P1483 (Ratko Mladić's notebook, 2 April–24 October 1993), pp. 262–263.

<sup>16109</sup> P1483 (Ratko Mladić's notebook, 2 April–24 October 1993), p. 263. See also Bogdan Subotić, T. 40060–40061 (19 June 2013) (testifying that Mladić could have taken Sarajevo from Mt. Igman but was prevented from doing so by the Accused).

<sup>16110</sup> P5054 (VRS Main Staff Order, 5 August 1993).

<sup>16111</sup> P5054 (VRS Main Staff Order, 5 August 1993).

<sup>16112</sup> P5054 (VRS Main Staff Order, 5 August 1993), p. 2.

<sup>16113</sup> P4802 (Intercept of conversation between Radovan Karadžić and unidentified member of VRS Main Staff, 10 August 1993); Stanislav Galić, T. 37875–37877 (7 May 2013) (testifying that it was impossible to interrupt gas and electricity for only one side and that since it was not addressed to the SRK, but rather the Main Staff, he could not confirm that this order had come to his staff). One day prior, on 9 August 1993, pursuant to an order of the Accused, Vladimir Lukić, the Prime Minister of the RS, issued an order to the Presidents of the Executive Committees of the Municipal Assemblies, Chiefs of the SJBs, and all VRS Commanders to ensure the freedom of movement of humanitarian aid convoys and UNPROFOR, enable "maximum possible flow of electricity, water and gas for the entire area of the City of Sarajevo", and inform him of the execution of this order. D3328 (Order of RS Government, 9 August 1993); Milorad Skoko, T. 36759–36760 (8 April 2013). **#EXCULPATORY!**

<sup>16114</sup> P4804 (Intercept of conversation between Radovan Karadžić, Colonel Prstojević, and General Gvero, 11 August 1993).

<sup>16115</sup> P4804 (Intercept of conversation between Radovan Karadžić, Colonel Prstojević, and General Gvero, 11 August 1993), p. 1.

to issue a warning that no one should shoot at Sarajevo, even if shot at.<sup>16116</sup> **(#EXCULPATORY!** Prstojević stated he understood and that his commander had issued an order to Galić.<sup>16117</sup> **(#EXCULPATORY!** Gvero then spoke and informed the Accused that the Military Agreement for Peace in BiH had been signed.<sup>16118</sup> **(#EXCULPATORY!** The Accused expressed concern about reports that the VRS was returning to Mt. Igman and Mt. Bjelašnica.<sup>16119</sup> **(#EXCULPATORY!** On the same day, in a conversation between the Accused and Tomanić, the Accused asked for Gvero because he wanted to know why Bosnian Serb soldiers had returned to Mt. Igman and Mt. Bjelašnica and stated that “all the agencies in the world” and UNPROFOR have reported this.<sup>16120</sup> **(#EXCULPATORY!** The Accused then ordered Tomanić to call Galić and “to pass on to him urgently to withdraw the troops regardless of how many UNPROFOR forces went up there”.<sup>16121</sup> **(#EXCULPATORY!** The Accused also stated angrily that “someone is putting the state at risk [...] from Mladić to I-don’t-know-who, I will relieve him of his duty”.<sup>16122</sup> **(#EXCULPATORY!** He further added that “the army is lying to me. They have been lying to me the whole time. The reports I receive are never accurate.”<sup>16123</sup> **(#EXCULPATORY!** He ended the conversation by asking Tomanić to tell Galić to urgently call him.<sup>16124</sup> **(#EXCULPATORY!** Also on this day, the Accused ordered Miletić to call the director of the SRNA and to release a press statement stating that the information regarding the return of the forces to Igman and Bjelašnica is a lie and that the troops are progressively withdrawing from their positions.<sup>16125</sup> **(Tis happened after the Accused was ensured that the allegations about return of the VRS on Igman was a propaganda. #EXCULPATORY#!** In the evening, the Accused spoke to Gvero to ensure that SRK had moved all soldiers from Mt. Igman.<sup>16126</sup> He also stated that the media from Sarajevo, including foreign media, should be allowed to go there and report that the roads to Sarajevo were open and that there was no siege to speak of.<sup>16127</sup> **(#EXCULPATORY!**

4793. In a telephone conversation of 12 August 1993, the Accused ordered Milovanović to withdraw forces from certain lines around Mt. Igman by a strict deadline in an effort to save the current negotiations.<sup>16128</sup> **(#EXCULPATORY!** The Accused stated: “General, listen to me and follow the orders. I am telling you how it is. Our side accepted, after convincing and bargaining [...] you should be interested in my orders. Do you want to destroy the entire state?”<sup>16129</sup> **(#EXCULPATORY!** Milovanović responded, “yes, sir” and the Accused stated

<sup>16116</sup> P4804 (Intercept of conversation between Radovan Karadžić, Colonel Prstojević, and General Gvero, 11 August 1993), p. 1.

<sup>16117</sup> P4804 (Intercept of conversation between Radovan Karadžić, Colonel Prstojević, and General Gvero, 11 August 1993), p. 1.

<sup>16118</sup> P4804 (Intercept of conversation between Radovan Karadžić, Colonel Prstojević, and General Gvero, 11 August 1993), p. 1.

<sup>16119</sup> P4804 (Intercept of conversation between Radovan Karadžić, Colonel Prstojević, and General Gvero, 11 August 1993), p. 2.

<sup>16120</sup> D3872 (Intercept of conversation between Radovan Karadžić and Tomanić, 11 August 1993) [NB; duplicate of D2091 (Intercept of conversation between Radovan Karadžić and Tomanić, 11 August 1993)]; Ljubomir Obradović, T. 25186–25188 (24 February 2012); Radovan Radinović, T. 41607–41608 (19 July 2013).

<sup>16121</sup> D3872 (Intercept of conversation between Radovan Karadžić and Tomanić, 11 August 1993).

<sup>16122</sup> D3872 (Intercept of conversation between Radovan Karadžić and Tomanić, 11 August 1993).

<sup>16123</sup> D3872 (Intercept of conversation between Radovan Karadžić and Tomanić, 11 August 1993). The Chamber notes the English translation was misspelled as “The army is laying [sic] to me. They have been laying [sic] to me the whole time.” The Chamber has corrected it in the text.

<sup>16124</sup> D3872 (Intercept of conversation between Radovan Karadžić and Tomanić, 11 August 1993).

<sup>16125</sup> P4805 (Intercept of conversation between Radovan Karadžić and Colonel Miletić, 11 August 1993).

<sup>16126</sup> P4803 (Intercept of conversation between Radovan Karadžić and General Gvero, 11 August 1993), p. 1.

<sup>16127</sup> P4803 (Intercept of conversation between Radovan Karadžić and General Gvero, 11 August 1993), p. 2.

<sup>16128</sup> P4806 (Intercept of conversation between Radovan Karadžić, General Gvero, and General Milovanović, 12 August 1993).

<sup>16129</sup> P4806 (Intercept of conversation between Radovan Karadžić, General Gvero, and General Milovanović, 12 August 1993).

they would talk tomorrow.<sup>16130</sup> The following day, the Accused spoke to Gvero over the phone as he was looking for Milovanović who could not be found.<sup>16131</sup> Gvero responded that Milovanović had gone to meet Hayes.<sup>16132</sup> The Accused then ordered Gvero to pass along his order to Galić to pull back the SRK troops on Mt. Igman “far enough to avoid us having any problems in relation to the international community.”<sup>16133</sup> **(#EXCULPATORY!)** The Accused also stated that the order must be complied with and that such information must reach Owen by 2 or 2:30 p.m.<sup>16134</sup> On the same day, Galić issued an order to SRK commands, in accordance with an order issued by the Accused and “in order to avoid unjust punishment by the [USA] and its allies”, to occupy new command positions by 8 p.m. on the same day.<sup>16135</sup> The order outlined where various brigades should position themselves, including an order to the Igman Brigade that “after the take-over of positions in the area of Trešnjevo brdo and Butila by UNPROFOR, shall withdraw to positions in the area of Bresovača”.<sup>16136</sup> **(#EXCULPATORY!)**

**4794.** On 24 October 1993, at a meeting of the Supreme Command, attended by Mladić, the Accused, Bogdan Subotić, and Gvero, the possibility of shortening VRS frontlines was discussed.<sup>16137</sup> The Accused stated that the Bosnian Serbs must choose “quality” territory and not be overly concerned about the “quantity” of territory.<sup>16138</sup> **(#EXCULPATORY!)** He stated that Sarajevo was “the most important territory” and that “1 km near Sarajevo is worth more than dozens near Teočak”.<sup>16139</sup> He instructed that priority must be given to the areas of Žuč, Orlić, and Moj Milo.<sup>16140</sup> **(#LEGAL AND LEGITIMATE!)**

**4795.** As mentioned above, on 14 January 1994, in a meeting with Mladić, Krajišnik, Dragomir Milošević, Galić, SRK unit commanders, and Sarajevo municipality presidents, the Accused ordered the creation of a “stand-by army” and that all soldiers recruited since April 1992 should remain in the army until the end of the war.<sup>16141</sup> **So what?** He ordered that the SRK’s “[r]etaliation shall be 1:1”.<sup>16142</sup> He further ordered that SRK commanders “[i]mpress upon the army [...] a feeling of optimism and concord”.<sup>16143</sup> He ended the meeting by ordering the SRK commanders to “[q]uickly line up the brigades”.<sup>16144</sup> **(#EXCULPATORY! None of these tasks led to any crime or any illegal conduct. On the contrary, al of it was aimed at a peaceful resolution of the conflict!)**

<sup>16130</sup> P4806 (Intercept of conversation between Radovan Karadžić, General Gvero, and General Milovanović, 12 August 1993).

<sup>16131</sup> P4783 (Intercept of conversation between Radovan Karadžić and General Gvero, 13 August 1993), p. 1.

<sup>16132</sup> P4783 (Intercept of conversation between Radovan Karadžić and General Gvero, 13 August 1993), p. 1.

<sup>16133</sup> P4783 (Intercept of conversation between Radovan Karadžić and General Gvero, 13 August 1993), p. 1.

<sup>16134</sup> P4783 (Intercept of conversation between Radovan Karadžić and General Gvero, 13 August 1993), p. 1.

<sup>16135</sup> P5042 (SRK Order, 13 August 1993).

<sup>16136</sup> P5042 (SRK Order, 13 August 1993).

<sup>16137</sup> P1483 (Ratko Mladić’s notebook, 2 April–24 October 1993), p. 392.

<sup>16138</sup> P1483 (Ratko Mladić’s notebook, 2 April–24 October 1993), p. 396.

<sup>16139</sup> P1483 (Ratko Mladić’s notebook, 2 April–24 October 1993), p. 396.

<sup>16140</sup> P1483 (Ratko Mladić’s notebook, 2 April–24 October 1993), p. 396.

<sup>16141</sup> P1484 (Ratko Mladić’s notebook, 28 October 1993–15 January 1994), p. 148.

<sup>16142</sup> P1484 (Ratko Mladić’s notebook, 28 October 1993–15 January 1994), pp. 148–149.

<sup>16143</sup> P1484 (Ratko Mladić’s notebook, 28 October 1993–15 January 1994), p. 149.

<sup>16144</sup> P1484 (Ratko Mladić’s notebook, 28 October 1993–15 January 1994), p. 149.

4796. On 29 January 1994, the Accused and Mladić met with subordinate officers of the VRS.<sup>16145</sup> At the meeting, the Accused stated that the Bosnian Serbs must create a “single, mobile army” whose sole ideology is Serbian nationalism.<sup>16146</sup> **(#Legal and legitimate, particularly taking into account that the vast majority of the army officers came from an ideologised army, affected by the communist ideology. If the Chamber depicts some sentences mechanically, out of context, then a misunderstanding is inevitable. Here is the context of this Accused’s sentence, another his sentences:**

- The concept of the armies of Yugoslavia and Russia was disastrous, mostly for them...
- The relationship between the army and government has improved. The number of officers criticising government has declined...
- It is becoming clearer who - are the commanders and who are not...

**And #this sentence illustrates all invaluability of the short hand notes, unfinished sentences#. Another word, this is not written down verbatim, and is irrelevant to this case, because this was an education of the army officers to abandon the communist ideology!)** He stated that the “most important point is Sarajevo” and that “[w]ith the blockade of Sarajevo we have created a state”, which had forced Izetbegović to negotiate.<sup>16147</sup> **(So what? All legal, because Izetbegovic denied the basic Serb rights and tried to deprive them from freedom and choice!)** He stated that “[w]e must not give out a single war-mongering statement” but instead discuss peace in order to “save the Serbs from the blockade and pressure”.<sup>16148</sup> **(#EXCULPATORY! This, as many other statements about the public statements of the militaries, which were contrary to the Serb interests, and even to what the same officers were doing. One could remember Mladic’s statement that he was ready to fire a rockets to London, Paris and Rome, after which the Accused publicly said that it was an idiotic statement!)** The Accused further ordered the army to “stay where it is” because “minor details may decide the division of BiH”.<sup>16149</sup> **(#EXCULPATORY!)** He finally ordered those present to “[e]nsure civilised conduct at the checkpoints” and to respect UNPROFOR personnel.<sup>16150</sup> **(#EXCULPATORY!)**

4797. The Chamber also received evidence that even prior to the establishment of the SRK, the Accused was issuing orders to armed forces and influencing the military situation in Sarajevo.<sup>16151</sup> **(On 1 March 1992, P05731, there was no any Serb “armed force”, nor the President had any commanding post, because the war wasn’t commenced yet. There was a people upset with the killing of the groom’s father at the wedding ceremony. The Accused, being in Belgrade and without a direct insight in the crisis, instructed the SDS**

<sup>16145</sup> P1485 (Ratko Mladić’s notebook, 9 January–21 March 1994), p. 51.

<sup>16146</sup> P1485 (Ratko Mladić’s notebook, 9 January–21 March 1994), p. 75.

<sup>16147</sup> P1485 (Ratko Mladić’s notebook, 9 January–21 March 1994), p. 78.

<sup>16148</sup> P1485 (Ratko Mladić’s notebook, 9 January–21 March 1994), p. 78.

<sup>16149</sup> P1485 (Ratko Mladić’s notebook, 9 January–21 March 1994), p. 80.

<sup>16150</sup> P1485 (Ratko Mladić’s notebook, 9 January–21 March 1994), p. 80.

<sup>16151</sup> See, e.g., P5731 (Intercept of conversation between Radovan Karadžić and Rajko Dukić, 1 March 1992) (the Accused being informed that ‘Dragan’ has asked that the people in Sarajevo rise up and the Accused ordering “get them to rise up and have things prepared”); D4525 (Intercept of conversation between Radovan Karadžić and Ilić, 3 March 1992) (the Accused being informed on 3 March 1992 of the situation in Sarajevo and ordering that the “[Bosnian Serbs] should all stay in their settlements and set up a defence formation”); D3755 (Intercept of conversation between Radovan Karadžić and Milenko Karišik, 24 April 1992) (the Accused telling Karišik that one of the “white” ones will be coming to see who is violating the cease-fire and thus not to retaliate unless threatened). **#EXCULPATORY!**

chief of the Executive Board to join the riots in order to have influenced it, and to close any possibility that the people from surrounding mountains enter the city. Another exhibit, D04223 of 3 March 92:

KARADŽIĆ,	All right. And, you see, we would have to inform someone, because here
Radovan:	the Muslims are mobilizing and they are attacking Serbian villages.
KARADŽIĆ,	No, so it's not some kind of a spontaneous riot and those are not barricades
Radovan:	but..., and the control over the passage, but it is an attack on settlements, on several places, in several places. If in an hour or two they don't stop, a real civil war will ensue which will be a catastrophe.

while the translation is wrong. The President said: "if in an hour they do not dismantle it, a real civil war will ensue..." asking that the barricades be dismantled. Or D4522 of 3 March too,

Karadžić	Let them plan, then let them say, that, that SDS is urging Serbs for, to barricades. Let them, cunts, let them plan barricades and they'll see what Serbs are for.
Dutina Todor:	They are not planning they are putting them up.
Karadžić	What can you do? What would you do?
Radovan:	
Dutina Todor:	Well, fuck their mother, I would gather four or five men here, some and , and...
Karadžić	No, no let's see why, for what goal, what is going on. To see what, who, how? Let two hours pass between their fuck up and our response, so far every time we were blamed. Everyone is neglecting a political assassination of the wedding party and they're saying Srbs have set up barricades, let'em put up barricades. Let us see what we are going to do about the barricades.
Radovan:	
Dutina Todor:	Yes.
Karadžić	That's nothing. What can they achieve with barricades. If they move against the Serbs they're finished. So, they're putting up barricades, their government can fuck itself with them.
Radovan:	
Karadžić	Allright, old man, but you should decide. You just let them put up
Dutina Todor:	Should we at least let the people know, ours, so they know?
Karadžić	Well the people should know but, but the people themselves will know when they see the baricades
Radovan:	
Dutina Todor:	Is that so?
Karadžić	Of course. We have nothing else, we go full on, it could not be controlled yesterday and the day before... if we did not get involved the people would have gone to war on their own, they would have torn down Sarajevo as far as I know all the things they have.
Radovan:	
Dutina Todor:	There you go.
Karadžić	Thus if the SDS crisis staff did not get involved, everything would have gone up in smoke.
Radovan:	the barricades. They don't have ours, we shall not give them a cause, let them put the barricades up, we are to see what to do 0324 about it.

This is #explicitly exculpatory#, showing that the Serb side was against any barricades, and against any tensions, or worsening of situation! Or D4554 although it was not an "order" but a recommendation that the Serbs stay at their settlements and orient only to a defence;

Gordan	He says that the manager of "Famos" in Hrasnica has been kidnapped by some Muslims.
Radovan	Is it TODORVIĆ?
KARADŽIĆ	
Gordan	He only knows ... he's only heard that it's a Serb.

Gordan	He also says that ... I don't know ... he was in Vojkovići and something bad is being prepared. My brother's just arrived from town and he says that there's general chaos. The town is full of police and so ... I don't know ... something very bad is cooking.
Radovan KARADŽIĆ	Yes, well, they have started a secret mobilisation. IZETBEGOVIĆ ... erm ... Tell him to call me on the special line. Call Momo at 22375 and after that let me ... have them call IZETBEGOVIĆ (KARADŽIĆ is speaking to someone unknown in the room). All right, I don't know what it is with this manager ... I don't have ... And where did they ... erm ... kidnap him from? From Hrasnica?
Radovan KARADŽIĆ	All right. All right, whoever calls ... only the Serbs should stay in their settlements and organise for defence and not allow anyone to enter the settlement.
Gordan	Uh-huh.
Radovan KARADŽIĆ	Nothing else. We are not launching an offensive, we are not going to do anything aggressive. We'll wait and see what happens.

**the next exhibit, D03755, the President advised Milenko Karisik, a police officer, that he invite the “white” ones, meaning the European Community Monitoring Mission representatives (ECMM) to see who was violating the ceasefire agreement, but it was 24 April, the war was going on, and Karisik wasn’t any “armed force” but a police officer!)**

On 13 April 1992, in a telephone conversation he ordered Danilo Veselinović to fire at the sports hall in Mojmiło after being informed it held the Green Berets’ weapons and general staff headquarters.<sup>16152</sup> He also told Veselinović that it was important that no people were in the building and that no civilians should be killed.<sup>16153</sup> **(#EXCULPATORY! But, Veselinovic didn’t want any “armed force” but a mere TO (territorial defence) lawfully formed far before the war, and entitled to defend against any enemy!)** During the conversation, the Accused was informed about the situation around Dobrinja and the airport.<sup>16154</sup>

**4798.** Similarly, in May 1992, the Accused spoke to “Rade” inquiring about the situation in Sarajevo and was informed there was shelling in Sarajevo and Mojmiło; the Accused ordered the Bosnian Serbs not to fire back unless threatened.<sup>16155</sup> **(#EXCULPATORY! This also wasn’t any “order” but rather recommendation. The Accused was in Banjaluka since 10 or 11 May, attending the Assembly session ON 12 May, and the police brigade parade on 13 May, then meeting the US ambassador Zimmermann in Belgrade on 14 (probably on 15 May too) and on 15 May he called Danilo Veselinovic, but found Rade, got informed and expressed his standpoint to a civilian that was on-duty. Let us see what had been said: D04506, p. 1:**

<sup>16152</sup> D331 (Intercept of conversation between Danilo Veselinović and Radovan Karadžić, 13 April 1992), p. 2; John Wilson, T. 4002–4005 (21 June 2010). When shown this conversation, Mijatović testified that the Accused was always “very explicit, very imperative” that civilians and civilian facilities should not be fired upon. See Nikola Mijatović, T. 30762–30763 (30 November 2012). See also D920 (Intercept of conversation between Radovan Karadžić and Radovan Pejić, 23 April 1992) (wherein the Accused informed Pejić that a cease-fire would be signed that day and that the Bosnian Serb side should not launch any attacks).

<sup>16153</sup> D331 (Intercept of conversation between Danilo Veselinović and Radovan Karadžić, 13 April 1992), pp. 2–3.

<sup>16154</sup> D331 (Intercept of conversation between Danilo Veselinović and Radovan Karadžić, 13 April 1992), pp. 2–5.

<sup>16155</sup> D4506 (Intercept of conversation between Radovan Karadžić and Rade, May 1992), p. 1; John Wilson, T. 4047–4051 (22 June 2010) (Wilson did not know anything about this conversation; however, he testified that the Bosnian Serbs did not always notify UNPROFOR when they were forced to respond).

Radovan KARADŽIĆ:	Aha. And who's firing?
Rade:	They're also firing a little. They're firing back, and so are our guys.
Radovan KARADŽIĆ:	Aha. See to it that you, that we not fire , please.
Rade:	Oh, should I convey the message?
Radovan KARADŽIĆ:	Convey it that wherever we are it should...
Rade:	Cease...
Radovan KARADŽIĆ:	Yes. We have a very... very important and strong reason, but if they threaten you, you must fire back.

**(#EXCULPATORY! And no orders, but "please"!.** The Accused also ordered Rade to call Plavšić "or someone" before they started shooting and to call UNPROFOR "to tell them that they're [ABiH] threatening you all the time and that you can't hold out".<sup>16156</sup> **All** **#EXCULPATORY, but there was no orders from the Accused as a civilian, to Rade as a civilian, but just one "please".**

Radovan KARADŽIĆ:	But you should, you should... call Biljana PLAVŠIĆ or someone
Radovan KARADŽIĆ:	But before, before... er... when they start shooting, it should be said that we're honouring the unilateral cease-fire, and they keep shoo... at us.
Rade:	Okay, so he should talk to Doctor PLAVŠIĆ?
Radovan KARADŽIĆ:	Yes, she should say, she should inform them that our side is not shooting and that they're constantly shooting at us.
Rade:	Okay.
Radovan KARADŽIĆ:	Thanks a lot.

**So, no orders at all, and everything is HIGHLY EXCULPATORY! The Accused communicated with these interlocutors as a chief negotiator from the Serb side since the first contacts of Mr. Vance and Lord Carrington with the BiH officials in 1991.**

(E) Accused receiving information about the military situation in Sarajevo

**4799.** The Chamber heard that the Accused regularly received reports from the VRS and the SRK as follows: companies to battalions to brigades to the SRK Command to Main Staff, and then from Main Staff on to the Supreme Command.<sup>16157</sup> Accordingly, there was a system of communication which linked the companies, the battalions, the corps, including the SRK, the Main Staff, and the Supreme Command.<sup>16158</sup> While Galić testified that when he took command of the SRK communication was not functioning properly,<sup>16159</sup> Dragomir Milošević explained that although the communication system in the SRK was not working properly in the early period after its establishment, it was constantly worked on and improved upon and,

<sup>16156</sup> D4506 (Intercept of conversation between Radovan Karadžić and Rade, May 1992), pp. 1–2.

<sup>16157</sup> Stevan Veljović, T. 29238–29243 (23 October 2012); D319 (SRK Order, 18 July 1993); KDZ088, T. 6258–6259 (7 September 2010) (closed session), T. 6332 (8 September 2010) (closed session), T. 6622–6624 (13 September 2010) (closed session); P1154 (Witness statement of KDZ088 dated 27–29 April 2010), pp. 109–110, 161–162 (under seal); Richard Philipps, T. 3755–3756 (15 June 2010). According to Van Baal, the VRS had very sophisticated communication equipment and systems. See P1818 (Witness statement of Adrianus van Baal dated 26 October 2010), paras. 24, 30, 63–65.

<sup>16158</sup> Stevan Veljović, T. 29241 (23 October 2012). See also P2414 (Witness statement of KDZ182), pp. 20, 53 (under seal); KDZ182, T. 13071–13073 (9 March 2011) (private session).

<sup>16159</sup> Stanislav Galić, T. 37618–37620 (23 April 2013). See, e.g., D2838 (SRK Order, 16 September 1992) (order issued by Galić to regulate the system of reporting); D2839 (SRK instructions, 4 November 1992) (order issued by Dragan Marčetić regulating the times reports are due to the SRK command).

by 1995, it was functioning meticulously.<sup>16160</sup> As early as September 1992, regulations regarding the system of reporting between the units of the SRK and SRK Command were enacted in order to ensure accuracy in the reporting system.<sup>16161</sup> Reports to the SRK Command were to include, “(i) situation and activities of the enemy, (ii) combat readiness of units, (iii) security and morale, (iv) decision for further action, **(So, every company and battalion had it’s own “decisions for further action”, which was going to proceed unless the immediate superiors opposed and denied it. But, it is important to notice that the #Supreme Commander didn’t get all of the details#, but only a general information, amalgamated of all that reached the Main Staff!)** (v) situation in the territory of the zone of responsibility, (vi) situation and problems in the rear, (vii) unusual incidents and casualties, and (viii) proposals and requests”.<sup>16162</sup> Reports were to be sent to the SRK Command daily at 2:30 p.m. and again at 6:30 p.m.<sup>16163</sup> The reporting system functioned as regulated; daily combat reports from the SRK command would go to the Main Staff every evening<sup>16164</sup> and interim reports would go to the Main Staff daily, usually around 2 p.m.<sup>16165</sup> Simić testified that there was a daily deadline for the brigades submitting reports to the SRK Command, so that it could inform the Main Staff of the situation in its area of responsibility.<sup>16166</sup> As described earlier, the Main Staff would integrate reports from the Corps into its daily combat reports, which were sent to the Supreme Commander on a daily basis.<sup>16167</sup> Therefore, the Accused would receive a daily report from the Main Staff which would summarise the activities and events in the SRK’s zone of responsibility.<sup>16168</sup> **(The reports hadn’t been as detailed as these the corps commands got from brigades, and also the Main Staff got from the corpses a condensed report! However, it is at least irrelevant if the Prosecution didn’t submit some of these reports notifying the Accused about crimes which the Accused wanted not to be investigated!)**

<sup>16160</sup> Dragomir Milošević, T. 32871, 32877–32879 (29 January 2013); D2839 (SRK instructions, 4 November 1992) (regulating that reports be sent to the SRK command at specific times daily). *See also* D312 (SRK analysis of combat readiness of artillery rocket units, July 1994), pp. 3–4.

<sup>16161</sup> Dragomir Milošević, T. 32875 (29 January 2013); D2838 (SRK Order, 16 September 1992).

<sup>16162</sup> D2838 (SRK Order, 16 September 1992). *See also* Stevan Veljović, T. 29242–29243 (23 October 2012).

<sup>16163</sup> D2838 (SRK Order, 16 September 1992). Stevan Veljović testified that the latest the reports would be sent was 8 p.m. Steven Veljović, T. 29242 (23 October 2012). *See also* D2774 (Witness statement of Milenko Indić dated 19 January 2013), para. 30.

<sup>16164</sup> *See, e.g.*, D3396 (SRK combat report, 15 January 1993); D3403 (SRK combat report, 12 February 1993); D3404 (SRK combat report, 14 February 1993); D3405 (SRK combat report, 15 March 1993); D3409 (SRK combat report, 5 May 1993); D3410 (SRK combat report, 4 February 1993); D3411 (SRK combat report, 15 May 1993); D3412 (SRK combat report, 19 May 1993); D3413 (SRK combat report, 28 May 1993); D3416 (SRK combat report, 24 June 1993); D3417 (SRK combat report, 5 July 1993); D3418 (SRK combat report, 11 July 1993); D3421 (SRK combat report, 18 July 1993); D3422 (SRK combat report, 25 July 1993); D3423 (SRK combat report, 29 July 1993); D3424 (SRK combat report, 13 August 1993); D3425 (SRK combat report, 2 September 1993); D3426 (SRK combat report, 22 September 1993); D3427 (SRK combat report, 13 October 1993); D3428 (SRK combat report, 26 October 1993); D3452 (SRK combat report, 6 January 1994); D1515 (SRK combat report, 4 February 1994); D2801 (SRK combat report, 19 February 1994); D2802 (SRK combat report, 20 February 1994); D2804 (SRK combat report, 8 December 1993).

<sup>16165</sup> Stanislav Galić, T. 37216 (15 April 2013). *See e.g.* D3393 (SRK combat report, 25 December 1992); D3394 (SRK combat report, 31 December 1992); D3395 (SRK combat report, 11 January 1993); D3406 (SRK combat report, 18 March 1993); D3407 (SRK combat report, 22 March 1993); D3408 (SRK combat report, 5 April 1993).

<sup>16166</sup> Savo Simić, T. 30004, 30006–30007 (8 November 2012). Simić, who was Chief of Artillery of the SRK’s 1<sup>st</sup> Sarajevo Mechanised Brigade from May 1992 to May 1994, testified that the Chief of Artillery had a counterpart Chief of Artillery in the Main Staff with whom the SRK Chief of Artillery would intermittently communicate, usually over the phone. *See* Savo Simić, T. 30009–30010 (8 November 2012). *See also* Adjudicated Facts 2858, 2872.

<sup>16167</sup> *See* para. 207.

<sup>16168</sup> *But see* P4804 (Intercept of conversation between Radovan Karadžić, Colonel Prstojević, and General Gvero, 11 August 1993) (during which the Accused stated that the VRS was lying to him and the reports he was receiving were never accurate); D2841 (Warning of SRK, 2 April 1995); D4619 (SRK report, 18 August 1995), para. 6 (Čedomir Sladoje reporting on 18 August 1995 that “false reports, of which there have been unacceptably too many so far, do the greatest damage to combat operations” and to “take all measures for complete, prompt, and correct reporting to the superior command”).

4880. In addition to reports sent from the Main Staff, the Accused also received reports from the MUP, the intelligence services, and other sections that were close to the command of the VRS.<sup>16169</sup> Galić recalled that the Accused toured the SRK Command once, talked to officers there, and was informed about various problems.<sup>16170</sup> Further, he recalled that in 1993 the Accused attended a meeting with the SRK Command where the problem of disproportionate use of artillery was discussed as well as the pressure from “the mass media of the world” for such use to be decreased.<sup>16171</sup> **(#EXCULPATORY! Contradicts to the Prosecution/Chamber’s stands about terror!)** Galić stated that the Accused wanted to reduce the amount of artillery to the minimum depending on military necessity and objectives.<sup>16172</sup> **(#EXCULPATORY, contradicts to “terror”!)** Mladić’s diary confirms that on 2 June 1993, the Accused, Mladić, Krajišnik, and Lukić met with representatives of the RS authorities and SRK commanders, including Galić.<sup>16173</sup> According to the diary, at the end of the meeting the Accused stated that the “Sarajevo battlefield is the most important today” and that Izetbegović could not be negotiated with but had to be defeated.<sup>16174</sup> He also instructed that the Bosnian Serbs must “take Sarajevo” while ensuring “favourable international conditions”.<sup>16175</sup> [REDACTED].<sup>16176</sup> [REDACTED].<sup>16177</sup> **(#EXCULPATORY! However, the “reduced allegations are not correct, the witness wanted to present himself as a very important, and close to the leadership! His assertion that he used to meet the Accused and his associates “several times each week” would be an over-exaggeration, because the Accused and his associates had many other duties! But, it diminishes the witness’s credibility!)**

4801. In addition to the official reporting procedure described above, the Accused would also receive information about the military situation in Sarajevo through meetings and telephone calls with various individuals on the ground, including VRS and SRK officers.<sup>16178</sup> **(#Was there in these reports any information on crimes? Or any trace of the Accused’s support for any illegal conduct of the Serb military around Sarajevo, or elsewhere? Contrary to the Prosecution/Chamber’s implications, the fact that there were so many reports to the President only corroborate his assertions that there was no any criminal intent on his, or the side of his Army, and that the information he got from his Army on a daily basis were much more accurate and credible than these gotten from the internationals indoctrinated by their Muslim hosts!)** For example, following the bombardment of Sarajevo on 28 and 29 May 1992 described earlier in the Judgement,<sup>16179</sup> on 31 May 1992, Mladić met with the

<sup>16169</sup> Stanislav Galić, T. 37525 (22 April 2013).

<sup>16170</sup> Stanislav Galić, T. 37883, 37888 (8 May 2013). *See also* [REDACTED].

<sup>16171</sup> Stanislav Galić, T. 37883–37889, 37897–37898 (8 May 2013).

<sup>16172</sup> Stanislav Galić, T. 37888 (8 May 2013).

<sup>16173</sup> P1483 (Ratko Mladić’s notebook, 2 April–24 October 1993), pp. 182–194.

<sup>16174</sup> P1483 (Ratko Mladić’s notebook, 2 April–24 October 1993), p. 194.

<sup>16175</sup> P1483 (Ratko Mladić’s notebook, 2 April–24 October 1993), p. 194.

<sup>16176</sup> [REDACTED].

<sup>16177</sup> [REDACTED].

<sup>16178</sup> *See paras. 4780–4796. See also* P1479 (Ratko Mladić’s notebook, 16 July–9 September 1992), pp. 172–173; P1481 (Ratko Mladić’s notebook, 5 October–27 December 1992), pp. 63–68; P1483 (Ratko Mladić’s notebook, 2 April–24 October 1993), p. 259. In addition, even prior to the establishment of the VRS and the SRK, the Accused was being informed about the situation in Sarajevo. *See e.g.* P5604 (Intercept of conversation between Gvozden and Radovan Karadžić, 3 March 1992); P5702 (Intercept of conversation between Branko Kovačević, Momo and Radovan Karadžić, 22 April 1992); D920 (Intercept of conversation between Radovan Karadžić and Radovan Pejić, 23 April 1992); P1473 (Ratko Mladić’s notebook, 27 January–5 September 1995), pp. 123–126.

<sup>16179</sup> *See discussion in relation to Scheduled Incident G.I.*

Accused and other members of the Bosnian Serb leadership.<sup>16180</sup> In the meeting, the Accused stated that they had to talk about Sarajevo and must have a “part of Sarajevo”.<sup>16181</sup> **(The #Serb side never claimed for the entire Sarajevo#, it was the Muslim side claiming the entire Sarajevo as well as the entire BiH, and this was the cause of the war and it’s prolongation, not the Serb claims! See P1478, p. 38:**

Dr KARADŽIĆ Briefing on the events

in Lisbon and Belgrade . –

**!The meeting took place on 31 May 92 late evening, at 22:00, and the main purpose was that the President inform the military and others about the events in Lisbon and Belgrade. It is clear that the Accused just returned from Lisbon, and was no present from 19 or at least 20 May 92, and therefore there couldn’t be any meeting alleged by the Prosecution, see further:**

– In Lisbon they dragged things out intentionally the 21<sup>st</sup> to the 27<sup>th</sup> and they want to fool us once more . –

**So, the President had to depart Pale at least on 19 May, and in addition to the fact that there is no any evidence about this alleged meeting , not even im the Mladic’s diary, this “proof” must be dropped out!) In a meeting a few days later, on 6 June 1992 during another massive bombardment described above,<sup>16182</sup> (This “massive bombardment” was within a massive Muslim offensive on the Serb settlements in Sarajevo, and the Chamber knew that!) Mladić met again with the Bosnian Serb political leadership, including the Accused, Krajišnik and Koljević, to discuss, *inter alia*, the borders of the RS.<sup>16183</sup> During this meeting, Krajišnik informed the attendees that Hadžići and Vogošća had been “liberated” and that the goal was to form a Birač–Romanija area, which should also include Dobrinja.<sup>16184</sup> **(Nothing criminal in it! As the Chamber already have known, both Hadzici and Vogosca meant only the Serb parts of these mounicipalities: in Vogosca it was a bit more than a half, but in Hadzici less than a third of the municipal territory!)****

4802. On 10 July 1992, in a meeting between Mladić, the Accused, Krajišnik, Koljević, Plavšić, Đerić, Buha, Gvero, and Tolimir, the attendees discussed the situation in Sarajevo at length. Koljević produced a map of Sarajevo showing routes for the passage of humanitarian aid and stated: “Let us take a stand regarding Sarajevo”.<sup>16185</sup> **(#EXCULPATORY!** He also informed the others that Bosnian Serb fighters in Nedžarići were “embittered” with the RS political leadership because the fighters “[did] not know the status of Sarajevo”.<sup>16186</sup> Krajišnik stated that the issue of demilitarisation of Dobrinja was a “major problem” for the Bosnian Serbs and cautioned the Accused against offering the UN anything, stating that it was better to “let them ask for it”.<sup>16187</sup> **(#EXCULPATORY! The President was well known for his flexibility and permissiveness to the UN and other internationals, and he was frequently criticesed by his associates for that!)**

<sup>16180</sup> P1478 (Ratko Mladić’s notebook, 27 May–31 July 1992), pp. 36, 38.

<sup>16181</sup> P1478 (Ratko Mladić’s notebook, 27 May–31 July 1992), p. 42.

<sup>16182</sup> See discussion in relation to Scheduled Incident G.2.

<sup>16183</sup> P1478 (Ratko Mladić’s notebook, 27 May–31 July 1992), p. 93.

<sup>16184</sup> P1478 (Ratko Mladić’s notebook, 27 May–31 July 1992), p. 108.

<sup>16185</sup> P1478 (Ratko Mladić’s notebook, 27 May–31 July 1992), pp. 308–310.

<sup>16186</sup> P1478 (Ratko Mladić’s notebook, 27 May–31 July 1992), p. 312.

<sup>16187</sup> P1478 (Ratko Mladić’s notebook, 27 May–31 July 1992), p. 311.

4803. On 24 February 1995, the Accused and Krajišnik met with the commanders and Presidents of the Sarajevo Municipalities and discussed, among other things, the shortage of troops in Rajlovac.<sup>16188</sup> At the meeting, Krajišnik raised the issue of “[h]ow to hold on to Sarajevo”.<sup>16189</sup> **(#Nothing criminal! Shows a shortage of manpower!)**

4804. On 8 June 1995, at a meeting with Mladić, the Accused stated that the situation was “very serious” and that relationships between certain military officers and the civilian authorities had been “disrupted”, and that soldiers were “abandoning the lines”.<sup>16190</sup> **(#EXCULPATORY! The Accused’s difficulties in “bridging” the ideological gap between old communist ideology of officers and the new democratic authorities!)** He stated that the Bosnian Serbs “must keep Sarajevo until a political solution”.<sup>16191</sup> **(#EXCULPATORY! Not to take the city, but to “keep” it till political solution!)**

## ii. Conclusion

4805. Based on the foregoing evidence, the Chamber finds that the Accused exercised in fact his *de jure* authority over the SRK units in Sarajevo. **(#Wrong finding#! Even a #bastardous associations of a contradictory words such as “in fact his *de jure* authority”# doesn’t help: de jure is de jure, not de facto! But it is wrong in the basic assertion: the Accused never exerted his authorities on the Corpses in their combat activities directly, but only through the VRS. However, the Accused contacted Corpses when initiated by the internationals, to help a humanitarian activities, or a cease-fire agreements, therefore, #EXCULPATORY! It should be announced to other nations not to cooperate with the internationals involved in their crisis, because it will be turned against them, both on the terrain and befor courts! #All good deeds could have been taken against the host nation!#)** As the evidence outlined above shows, the Accused had direct contact with Mladić throughout the conflict and was able to issue orders to him, such as in the aftermath of the bombardment in Sarajevo at the end of May 1992, which were then implemented on the ground. **(Nobody contested this, but this is not sufficient to conclude that in those orders was something criminal. It is not proven, and thus it seems that a mere existence of the Serbs and their institutions was a crime. Apart from this, even a superficial analysis of the Accused’s orders to Mladic are EXCULPATORY for both of them and for the Serb cause as well!)** Even taking into account disagreements that arose between the Accused and Mladić during the conflict, which were to be expected given their respective positions, **(Is that so in the countries of the honourable Judges, a disagreements between President and the army commanders to be expected?)** the Chamber finds that these disagreements did not undermine the Accused’s ultimate authority over the situation in Sarajevo, including over the SRK units. Indeed, neither Galić nor Milošević could recall a single occasion where they received two inconsistent orders from

<sup>16188</sup> P1473 (Ratko Mladić’s notebook, 27 January–5 September 1995), p. 42.

<sup>16189</sup> P1473 (Ratko Mladić’s notebook, 27 January–5 September 1995), p. 42.

<sup>16190</sup> P1473 (Ratko Mladić’s notebook, 27 January–5 September 1995), p. 168.

<sup>16191</sup> P1473 (Ratko Mladić’s notebook, 27 January–5 September 1995), pp. 168–169.

Mladić and the Accused regarding combat operations in Sarajevo.<sup>16192</sup> **(But, see the content of this fn.: it opposes the Chamber's finding from the next paragraph!)** Furthermore, despite the tension that arose in August 1993, when the Accused wanted forces to withdraw from Mt. Igman and expressed concern over Mladić's resistance to that decision, the forces eventually withdrew in accordance with his wishes. Additionally, while the Accused claimed in his conversation with Tomanić on 11 August 1993 that the army was lying to him, he was nevertheless able to obtain the information he sought and eventually removed the forces from the Mt. Igman area. **(#How this fact could be used against the President?)**

**4806.** The Chamber is therefore satisfied that the Accused, as Supreme Commander, commanded the SRK mainly through the Main Staff and Mladić and sometimes directly through the SRK Commander. **(The #President exercised his constitutional duties#, and never ordered any crime commitment or tolerance, and also didn't interfere in the operational matters, unless it pertained to his negotiations on the peace conferences! A mere fact that the President "commanded" to the described extent can not be a crime, unless the Serbs are a world's exception!)** While Abdel-Razek and Bulatović thought that the Accused did not exercise effective control over the SRK, and his expert witness, Radinović, opined that the Accused failed to exert effective control over the Sarajevo situation because of unauthorised activities of the troops and the inability to control all the renegades on the ground,<sup>16193</sup> this is contrary to the majority of evidence received by the Chamber as recalled above, including the credible observations of Smith, Rose, Banbury, KDZ450, and Van Baal, among others. **(The named witnesses couldn't have a proper insight, since they didn't have enough monitors as they claimed many times, and had been informed by their Muslim hosts. Anyway, the highest UN military officials in BiH considered their military observers as unreliable. But, the main issue is: the Prosecution didn't prove that the commanders in SRK knew more than the Accused, and approved or tolerated a criminal conduct of the troops. And certainly, the President could have known only what the commanders knew, even less, but no a bit more!)** Furthermore, Radinović's evidence directly contradicts the evidence the Chamber has received in relation to: (i) a number of specific meetings where the Accused successfully exerted control or showed influence over forces in Sarajevo, including the meetings of 30 May 1992 (with Morillon) **(This meeting happened in Belgrade!)** and 21 March 1994 (with Van Baal); and (ii) orders issued by the Accused relevant to Sarajevo, some of which went directly to the SRK and which were implemented on the ground, including the order that followed the incident in Markale market on 5 February. **(Ridiculous! The meeting of 30 May 92 took place in Belgrade, after a ten days of the Accused's absence from the country. The next meeting mentioned took place two years later. The third finding, the Accused's orders directed to the SRK and implemented on the ground could have been only about some restraint in activity, or some humanitarian issues, or something pertaining to the agreements of the Accused and the internationals. It is more than obvious that the Accused made a huge mistake when meeting the internationals, and even the UN military**

<sup>16192</sup> While there may be some suggestion in Mladić's request for information from the SRK Command, dated 26 April 1995, that the Supreme Command issued an order to the SRK Command to launch a modified air bomb, thus bypassing the Main Staff, the Chamber notes that this was not the case, as reported back to Mladić on the same day. See P1299 (VRS Main Staff request for information from SRK, 26 April 1995); P1310 (SRK report to VRS Main Staff re weapons, 26 April 1995) (explaining that a decision to launch a modified air bomb had been made at the SRK Command's morning briefing).

<sup>16193</sup> See D3864 (Radovan Radinović's expert report entitled "The Control Authority of Dr. Radovan Karadžić in the Strategic Command System of the VRS", 2012), paras. 4, 24, 81, 86–87, 90, 114–115, 247–249.

*officers, because all of them abused these meetings, partly because of a lack of understanding of domestic laws and habits, partly because they had been expected to be anti-Serb oriented. The Accused would have been doing better had he nominated a portparol and a deputy for meeting with internationals, and communicate with them in writings.* For the Chamber there is no relevance in the content and nature of the President's orders, just it was "important" to establish something nobody contested, that the Accused was a Supreme Commander, who treated his Army from time to time wrongly, because of trusting the same internationals!)

4807. The evidence is also clear that the Accused used his authority over the VRS and the SRK to organise and direct operations in and around Sarajevo. He did so through the directives he issued and/or approved, which ensured that the city was kept under blockade and, in turn, allowed for the SRK's sniping and shelling of civilians to continue. **(The first part, the "issuing and/or approving the directives, and the blocade of the city are perfectly legal and legitimate, because of the Muslim violation of all and every Serb rights guaranteed by the Constitution and laws, and particularly after the Muslim side declared the war against the Serbs; however, the addition "allowed for the SRK's sniping and shelling of civilians to continue", is unacceptable and contrary to any decent deliberation. Does it mean, or imply, that the Serbs shouldn't contain 40,000 Muslim soldiers, a blood-thirstily oriented toward the Serb civilians, animals and property, because during the blocade somebody could have violated the law? As if the directives and orders had been issued to facilitate sniping and shelling of civilians, through the ensuring the blocade? Does it mean that there shouldn't be even defensive and liberation wars, because somebody could have committed a crime? That should be protected as an original patent-invention. What then the Muslim side would be accused of, because they didn't want any peaceful solution, and enabled everything wrong that happened in BiH!)** He also did it through other types of orders he issued to the Main Staff, all of which were in turn transmitted to the SRK Command and implemented. **(#Did any of them served as a basis for crimes? What is criminal in exercising one's constitutional and lawful obligations#?)** In addition, at times, the Accused would issue orders directly to the SRK units and SRK Commanders.<sup>16194</sup> **(Wrong, incorrect and unfair, see the marks in the fn. 16194! These examples only confirmed that the Accused got involved in an operational commanding only in a crisis that involved the international representatives, asking the Accused to intervene! But, all of it is senseless, since there is no a single trace that the Accused neglected, tolerated, let alone ordered any crime to be committed!)** Finally, as illustrated by the various intercepted phone conversations and meetings outlined above, the Accused was also able at all times during the conflict to issue oral orders to VRS and SRK officers since he was in regular contact with Mladić, Milovanović, Gvero, Galić, and Dragomir Milošević. When he did so, these oral orders were relayed to the SRK units around the city. Accordingly, there is no doubt that throughout the conflict, the Accused was closely involved in military matters in Sarajevo, including in SRK operations and other activities, particularly if they concerned agreements he had reached with the representatives of the international community. **(#EXCULPATORY! Not only "particularly if they concerned agreements he**

<sup>16194</sup>

The Chamber notes that the Accused's orders outlined earlier clearly show that his submission that the SRK did not receive orders from the Presidency which applied exclusively to the SRK is incorrect. Indeed, there were several occasions where that did happen, the most striking being the order he issued in the aftermath of the first Markale shelling, which was implemented and led to a peaceful period in the city.

had reached...” but almost exclusively because of that reason. Again, a leaders of future conflicts should be advised not to meet internationals, not to make agreements with them and not to influence their own national armies to refrain; the possible future leaders such as the Accused, would do better if managed to be invisible and unreachable, and to push their armies to a quick victory!)

The most striking example of this was his involvement in the withdrawal of the VRS and SRK soldiers from Mt. Igman and Mt. Bjelašnica. (#EXCULPATORY! Why it was “stiking example”? the Accused made it in order to save the talks, and to avoid a beginning of the NATO involvement, which could continue after this first drastic involvement. He meant to preserve an opened door for the western countries to stay in talks! The President did risk a bigger conflict with his commanders, for the sake of the peace talks, and now it is a “most striking example”!)

The Chamber is also convinced that the Accused’s involvement in the Sarajevo military matters went beyond planning and strategy as the evidence shows that he was involved at the operational level as well. His orders to (i) send two platoons of special forces to Nedžarići, (#Wrong, it was police, not the VRS#! It was necessary, but nobody except the President could order a combat use of the Police!) (ii) secure Pretis and other factories in Vogošća, and (iii) conceal artillery around Sarajevo following the first Markale incident are prime examples of that.<sup>16195</sup> (#Ordering a protection of the military industry is a strategic, not operational order, as well as this pertaining to artillery, after such a drastic incident as Markale incident was. But, even if the Accused intervened in an operational command, which he didn’t, so what? Is a content and aim of his orders of any significance to the Chamber, particularly in terms of criminal liability, or any Serb activity was criminal? It is pointless to gather evidence that the Accused existed, that he was a President and a Supreme Commander, that he exercised his duties, if it was not proven that his activities were illegal and that led to a crimes!)

4808. The Chamber also finds that the chain of communication and reporting from the SRK to the Main Staff and to the Accused was functioning properly during the period relevant to the Indictment. The regulations governing the communication and reporting system were detailed and followed by the SRK, enabling the Main Staff and the Accused to receive daily information about the situation on the ground in Sarajevo. Thus, the Accused was constantly informed about SRK operations in Sarajevo through regular combat reports. (It is not contested by the Defence. What is contested is the Prosecutor’s allegations that the SRK acted illegally, committing crimes with the aim to spread a terror among civilians in Sarajevo, killing and destroying, and so on. And these allegations had never been properly proven, but are taken for granted, as if Sarajevo was demilitarised and open city. Inly in such a case any fiting towards the city would be illegal and criminal, but it was not a case. Was in this regular reports anything that required the Accused’s action or intervention, particularly in terms of a criminal conduct of the SRK? The Accused received regular reports from the VRS and Police as well, but extremely rare they requested his involvement or intervention. They just gave him a knowledge, so that he knows the situation, and particularly because he had his international contacts, and wanted to be accurate in his responses to the questions in these contacts!) In addition, he

<sup>16195</sup>

See paras. 4765, 4774, 4776. The Chamber does not accept the Accused’s claim that the political authorities never interfered in military matters or that he had no effective control over the SRK units due to the shortage of professional staff. Indeed, the evidence outlined above shows the opposite to have been the case as there are numerous examples of the Accused getting involved in and exerting influence over military matters.

received information from other agencies such as the MUP, the intelligence services, and other sections in the VRS Command. Finally, the many private telephone conversations referred to above show that he was a well-informed, hands on, president who was able to and who often did receive information on military matters from various individuals on the ground. **(So what? Was there any crime reported to the Accused, which he neglected, or covered up, let alone ordered himself?)**

4809. Based on the findings above, namely (i) that the SRK was a professional corps of the VRS with a fully functioning chain of command, **(Wrong inference, only about 1% were professionals, meaning officers, while the regular soldiers were all non-professional combatants, living their lives along the confrontation lines, and some of them even without any training and without their conscript service!)** (ii) that the Accused successfully exercised his authority over the SRK units as testified to by a number of witnesses and as amply illustrated by numerous written and oral orders he issued relating to Sarajevo, **(#All in accordance with the law and Constitution, and his Order from 15 June 1992, i.e. on the strategic level, through the Main Staff, or in stopping a legal SRK actions at requests of internationals, and in implementing the agreements#)**, and (iii) that the Accused was receiving regular reports from the SRK units and other sources about the situation in Sarajevo, the Chamber finds that the Accused was indeed at the apex of control of the forces in Sarajevo, in particular the SRK, despite the occasional tensions that arose between him and Mladić. As such the Accused oversaw the events in Sarajevo, both on a political and military level, and also had the power to stop and prevent the targeting of civilians and the indiscriminate or disproportionate firing on the city by the SRK. **(Had it really happened and was proven, he would do this, as he did many times without any justification, because the SRK was only defending itself and the territory and people in a lawful manner and extent! But, this is the best example and argument against this kind of courts, and this kind of litigations. The Chamber was so easily “satisfied” that something was proven, while not whatsoever. #The Chamber continue to pay credit to witnesses that weren’t competent nor knew enough, nor were impartial#!)**

*iii. Accused’s knowledge of crimes and the measures he took to prevent them*

(A) Arguments of the parties

4810. The Prosecution alleges that the Accused knew about the nature and extent of the sniping and shelling campaign and its effects on the civilian population of Sarajevo, and allowed the campaign to continue for almost four years while denying or deflecting international criticism and failing to take any genuine steps to punish the perpetrators.<sup>16196</sup> It alleges that the Accused was informed of the campaign through repeated protests from international observers, Security Council resolutions, and media reports.<sup>16197</sup> In contrast, the Accused argues that he was not adequately informed of the crimes of terror and unlawful attacks.<sup>16198</sup>

<sup>16196</sup> See Prosecution Final Brief, paras. 605, 612(3), 612(5).

<sup>16197</sup> Prosecution Final Brief, paras. 644–649.

<sup>16198</sup> Defence Final Brief, paras. 2962–2966.

He argues that his receipt of information must be “considered in light of the chaos” as power cuts, interruptions of telephone lines, obsolete technical equipment, and poor roads created problems with the system of command and control throughout the war.<sup>16199</sup> **This pertained to Sarajevo only at the very beginning of the war, and the first year of the war and the lack of information from Krajina and other distant areas, not Sarajevo.** He also submits that SRK combat reports made no mention of the scheduled incidents listed in the Indictment, and contends that communication between himself and Galić was limited to the TEZ, Markale I, and humanitarian issues, and was “practically non-existent in terms of carrying out combat activities”.<sup>16200</sup>

4811. The Prosecution further submits that, while the Accused would sometimes acknowledge responsibility for the sniping and shelling of civilians, **(This is also incorrect reading-in, because the Prosecution interpreted the President’s #reluctance to deny some allegations before he checked# as if he admitted it!)** generally he denied and deflected international criticism, including through false assurances, false denials or excuses, blaming others, cavalier brush-offs, using *tu quoque*, or threatening to do worse.<sup>16201</sup> The Prosecution argues that these denials and deflections were done for the purpose of advancing the campaign of sniping and shelling.<sup>16202</sup> **(In any criminal court there would be required any sort of rationale, a reason and motive for such a conduct, which the Prosecution and the Chamber never submitted and never found convincing! Why would the Serb side do so many activities so damaging of their own interests? Since the Serb side was deprived from the participation in investigations, there was no other possibility than to order the VRS to find out who fired, in particular – whether the VRS units fired!) no a reasonable President would entirely rely on the allegations of foreigners misinformed by the other side!)** While not making a general argument in relation to this claim, the Accused maintains that his denials that the Bosnian Serbs fired at the Markale market on 5 February 1994 were well-founded because the VRS had insisted that they had not fired the mortar.<sup>16203</sup>

4812. The Prosecution also submits that the Accused took no meaningful steps to prevent, investigate, and/or punish SRK unlawful attacks on civilians in Sarajevo.<sup>16204</sup> **(Wrong and false! In no army all over the world president do this, bypassing the military police and all other organs that had to investigate, report, indict and try! But, another question is: whether the Prosecution has any obligation towards the truth and justice or not? Or the Prosecution is expected to pursue its own will to win and to have an accused convicted, no matter what?)** It argues that, had the Accused wanted to order investigations of SRK crimes occurring in Sarajevo, he could have done so effectively.<sup>16205</sup> Instead, he created and sustained a culture of impunity where those responsible for the campaign were promoted or awarded, and Mladić’s plans for the campaign of terror were continually approved.<sup>16206</sup> In contrast, the Accused submits that he took measures to ensure investigations were carried out

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<sup>16199</sup> Defence Final Brief, paras. 2962–2963.

<sup>16200</sup> Defence Final Brief, paras. 2965–2966.

<sup>16201</sup> Prosecution Final Brief, para. 628.

<sup>16202</sup> Prosecution Final Brief, para. 628.

<sup>16203</sup> Defence Final Brief, para. 2999.

<sup>16204</sup> Prosecution Final Brief, para. 643.

<sup>16205</sup> Prosecution Final Brief, para. 650.

<sup>16206</sup> Prosecution Final Brief, paras. 636–644.

and sanctions imposed in the event of any potential criminal activities, including ordering that members of the VRS act in accordance with the Geneva Conventions and the other provisions of the international laws of war.<sup>16207</sup>

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<sup>16207</sup> Defence Final Brief, paras. 2974–2983, 2997–3000.