

**THE GUIDANCE  
THROUGH THE TRIAL JUDGMENT AGAINST  
RADOVAN KARADŽIĆ**

Here is at anyone's disposal the Trial Judgment of Radovan Karadžić before the International Criminal Tribunal ... in the Hague, issued on 24 March 2016, after 8 years of trial.

All are invited to be free to read, to study and to comment the Judgment. The Defence and Karadžić personally are of an opinion that this Judgment, as well as the entire endeavor tied to the Yugoslav crisis, and the BiH crisis in particular, is a horrifying example of how none of this should ever be done. But, all of the political mistakes are, although more damaging to the Region, are much more understandable than the mistakes made in the Tribunal, because these mistakes damaged the entire civilization, introducing unacceptable improvisations, forgery, deception and lies as a new jurisprudence.

- **THE DEFENCE IS FREE TO STATE THAT THERE WAS NO SUCH AN ERRONEOUS DELIBERATION IN THE NEWER HISTORY!**
- **THE UNITED NATIONS WOULD HARDLY RECOVER AFTER THIS AFFAIR THAT HAD BEEN CONDUCTED ON BEHALF OF THIS INSTITUTION!**
  
- Here is at a disposal to all and everyone a Judgment which is  
**AN EXAMPLE OF  
HOW THE LEGAL AND JUDICIAL PROCESSES  
MUST NOT  
EVER BE CONVEYED. THIS MAY SERVE AS A MANUAL  
HOW THIS SHOULDN'T BE DONE EVER**

(GROUPS OF WRONGFUL DELIBERATIONS:

**I - A FORGERY OF THE HISTORY OF CONFLICT, BY INVENTION AND IMPOSITION OF A CONSTRUCT CALLED "JOINT CRIMINAL ENTERPRISE", WITHOUT ANY EVIDENCE, AND IN SPITE OF A PLETHORA OF EVIDENCE THAT THE SERB SIDE WAS IN FAVOUR OF ALL THE PEACEFUL SOLUTIONS, WHICH EXCLUDED ANY CRIME;**

**II - CRIMINALISATION OF A MERE ETHNIC OR RELIGIOUS AFFILIATION OF THE SERB SIDE, WHICH IN AN INTERETHNIC AND INTERRELIGIOUS WAR IMPLIED ALL AND EVERY CITIZEN, SINCE ALL AND EVERY CITIZEN HAD BEEN A TARGET OF THE ADVERSARY SIDE;**

**III - NEGLIGENCE OF THE ENTIRE DOMESTIC LEGAL SYSTEM, CONSTITUTIONS, LAWS, PARTICULARLY THOSE PERTAINING TO DEFENSE – AND THUS CRIMINALIZING A LAWFUL AND OBLIGATORY SERB ACTIVITIES AS UNLAWFUL;**

**IV - CREATING A FAKE HISTORY OF THE SERB NATION, AS WELL AS THE ENTIRE HISTORY OF THE REGION;**

**V - IMPLICITE JUSTIFICATION OF A HUGE ILLEGAL AND ANTICONSTITUTIONAL ACTIVITIES OF THE MUSLIM-CROAT SIDES IN BIH – AND THUS CRIMINALIZING THE LEGAL SERB OPPOSITION TO THESE VIOLATIONS OF THE CONSTITUTION;**

**VI - NEGLECTING A GENUINE DOCUMENTS, DISTORTING WORDS, SHIFTING “TIME FRAME”, NEGLECTING AND MIXING-UP CONTEXTS, AND OTHER “OPERATIONS AND INTERVENTIONS” IN WORDS, DOCUMENTS, TESTIMONIES, AND THUS EXCLUDING ANY POSSIBILITY FOR A FAIR TRIAL;**

## I

### **WRONG PRESENTATION OF THE SERB POLITICAL LIFE AS ILLEGAL:**

1. Since it is evident that the Serbs in BiH didn't seek anything new, but only tried to protect their rights that had been jeopardized by the changes illegally and anti-constitutionally pursued and imposed by the Muslim side (at the beginning supported by the Bosnian Croats) the Serb side undertook a serial of public political measures, which all had been in accord with the existing political and legal system, laws and Constitution, and in addition – approved and supported by the ICFY in the Hague during 1991. However, the Prosecution/Chamber presented these political moves, as well as the entire political life of the Serb community, as a criminal activity, aimed as alleged by the Prosecution – to facilitate realization of the JCE;
2. **R E G I O N A L I S A T I O N:** FORMATION OF NEW MUNICIPALITIES; Formation of new municipalities had been provided for by the Constitution, and any viable concentration of population had been authorized to stay in an existing municipality, or to join another neighboring, or to form a new municipality;
3. **COMMUNITY OF MUNICIPALITIES:** this institution had been established far before this crisis, and existed for several decades. This was provided for by the Constitution, and

this was entirely in competence of the municipalities and their interests. (See: Formation of new municipalities, Community of municipalities;

- 4. COMPETENCES OF MUNICIPALITIES:** Without any knowledge of the domestic laws and Constitution, the Prosecution offered, and the Chamber accepted, to criminalize all the legal competences and obligations of municipalities provided by the Constitution and the Law on the Defense. All the rights and obligations of municipal authorities, pertaining to the exercise of authority, control of territory, preparations for defense, all is interpreted as illegal and taken against the Serbs in BiH and President Karadžić as a proof of criminal intents, within the alleged JCE.
5. In the same manner the Tribunal mixed up the Serb position about “living together with other ethnicities” with the Serb refusal to “live as a minority under domination of another ethnic group”, which would happen if the illegal secession was achieved against the Serb consent. There is a plethora of evidence in the file that the Serbs and President Karadžić WANTED to live together with others, and advocated preservation of Yugoslavia as well as Bosnia intact, undisturbed and undivided.
6. The attempt of the Historic Serb-Muslim Agreement” initiated by the MBO (Bosniak Muslim Organisation, a secular Muslim party) and enthusiastically accepted by the Serbs in summer 1991, is another proof for this “living together” (See:##). It had been sabotaged by the SDA (the Muslim party)
7. Similarly, the Tribunal mixed up the Serb attitude toward the “state separation” within a decentralisation of BiH – with an alleged, and never proven, “separation of population”.
8. There is no a single evidence about an alleged Serb intention to have an ethnic homogenous state, and there are many documents and proofs that it was quite opposite.
9. It had also been confused and mixed up the Serb intention to have a compact territorial areas, as Mr. Koljević was quoted in TJ para 2721 above, with the alleged “homogenisation of population” which was criticized by Dr. Karadžić in the BH Parliament in October 91. (see:##)
10. And this unproven allegation – that Karadžić “participated in constitution of the JCE with the aim of separation of the ethnic communities” is the very corner stone of the Indictment/Judgment, which is proven to be deep fake and non-existent. Instead, it was proven that the issue was a territorial administrative reorganization and decentralisation of BiH.
11. All the statements of the President and his associates, public and confidential, all orders and all the agreements with other parties and the international mediating persons and agencies, prove the Serb dedication to a multiethnicity of their entity, and none to the opposite. The same pertains to the right of refugees to their return to places of origin. (see##, ##, ##)

12. All the concessions that the Serb side had made for the sake of a peaceful solution had proven this.

## THE TRIBUNAL MISCONCEPTIONS OF THE CAUSES AND CONSEQUENCES OF THE POLITICAL CRISIS IN FORMER YUGOSLAVIA AND BOSNIA-HERZEGOVINA 1990 - 1995

A FORGERY OF THE HISTORY OF CONFLICT, BY INVENTION AND IMPOSITION OF A CONSTRUCT CALLED “JOINT CRIMINAL ENTERPRISE”, WITHOUT ANY EVIDENCE, AND IN SPITE OF A PLETHORA OF EVIDENCE THAT THE SERB SIDE WAS IN FAVOUR OF ALL THE PEACEFUL SOLUTIONS, WHICH EXCLUDED ANY CRIME;

- I,1. By skipping to criminalize and prosecute the crime against peace, The Tribunal (the Prosecution as well as many chambers) selectively persecuted, prosecuted and judged the highest civilian and military leaders of only one – the Serb side for the events that had been foreseen by many contemporaneous world authorities;
  - The Tribunal allocated the beginning of the interethnic tensions in Yugoslavia in 1980s, and as a cause named an economic crisis, and death of Marshal Tito, see [TJ para. 33](#), which was far from any accuracy.
    - The Chamber thus neglected the centuries of controversies, antagonisms, animosities, conflicts and civil wars. See: *Lawrence Eagleburger: I think the major lesson here is when you got involved in something like this with a thousand years of history underlying it all, you need to understand that once the dam breaks, the viciousness can be pretty awful – on all sides.* 'Yugoslavia, the Avoidable War, Part 1, at 46:00.
    - Only in 20<sup>th</sup> Century there had been several international wars followed by civil wars among the South Slavic ethnicities and nation. The WWII and a horrendous consequences, particularly pertaining to the Serb people living western from the Drina River, i.e. in the so called “Independent state of Croatia”, which was a Hitler’s ally, and comprised the BIH too. A genocide committed against the Serbs, Jews and Roma is undisputable as much as the Holocaust itself is out of any dispute. The denial of this crimes that took place 45 years earlier is an INSULT of these peoples. See: *Colin Powell: The biggest mistake was recognizing all these little countries when they started to decide they were independent. [...] The Serbs had very good reason to be worried about being in a Muslim-dominated country. It wasn't just paranoia.* Henry Louis Gates, Colin Powell and the Black Elite, *The New Yorker*, 25 September 1995
    - The Chamber also neglected a dramatic developments while Tito was still alive, and in particular so called “mass movement” in Croatia, that ended in 1971, but also a Kosovo and Metohija riots and separatist movement in Kosovo and Slovenia, all of it before 1980s.

○ **CONSEQUENCE FOR THIS CASE:** The Prosecution-Chamber alliance was free to “establish” that president Karadžić invented and imagined a “jeopardy for the Serb people” in an alleged order to raise the interethnic tensions, in order to be able to achieve a criminal enterprise. For the same reason the Prosecution-Chamber “identified” the beginning of the Joint Criminal Enterprise (JCE) in October 1991, and thus qualified all the legal political life of the Serbs in Bosnia as a criminal activity, aimed to facilitate the JCE achievement (see##) .

○ In spite of this known fact, any mentioning and remaining of these sufferings by the leadership of Serbs in BiH the Chamber characterized as a war-mongering and as a plan to commit a crimes.

○ In other word: the Muslim/Croat action towards the BH independence without consensus WAS ILLEGAL and ANTI-CONSTITUTIONAL, WITH THE USE OF FORCE; [TREANOR, T.14159...](#)



- I,2. Thus the Tribunal exposed the Serb side, which was against the changes that could have led to a war, and everything that a war brings, the side which didn't seek for anything new, revolutionary that demanded any action – to an endless blame and persecution in public, in media, in the governmental and non-governmental organizations and activities, thus stigmatizing the entire Serb people – and prejudicing every single trial against the Serbs.
  - Had the Chamber respected a very known and non-disputable facts about the nature of the interethnic relations, there wouldn't be a corner-stone of the Indictment-Judgment. Not only the history had given every reason for a caution, but the most recent events, such as the war in Croatia, with a mass killings of the Serb civilians, and expulsion of almost entire Serb population out of Croatia, and a bit later – from the BiH Federation and from Kosovo, INFIRMED AND JUSTIFIED ALL THE SERB CONCERNs.(See: Powel, Owen...)

The forthcoming paragraphs will show that the Trial Chamber made numerous errors in law and fact when analyzing evidence and rendering conclusions regarding the alleged common criminal purpose/JCE objective and the Appellant's *mens rea* and *actus reus*. All errors made by the Chamber can be categorized in three main groups of fundamental errors:

- (1) The Chamber failed to render a reasoned opinion concerning its decision to completely or significantly disregard, give appropriate weight and/or suppress important exculpatory evidence contained in numerous Defence Final Brief's and Trial Judgment's paragraphs;
- (2) The Chamber systematically misinterpreted and/or misapplied manifestly inconsistent or exculpatory evidence; and

(3) The Chamber systematically opted for the inferences most adverse to the President.

This is how the Tribunal **WRONGFULLY** presented the Yugoslav/Bosnian crisis, with an unlimited forgery of historic and contemporaneous facts:

#### 1.0 A FORGERY OF THE SERB POLITICAL INTENTIONS AND PLANS:

- 1.1 The Tribunal had established a flagrant lie – that the Serbs in Bosnia-Herzegovina “wanted” something, had some plans, and prepared for a realization of such a new situation in the state even with a violence if necessary. (see#####)
- 1.2 The Serbs in the entire former Yugoslavia didn't want anything new, except a multiparty parliamentary system, instead of the existing a mono-party socialist (a communist-like) system, which was in accord with all the other communities and republics.
- 1.3 The other republics imposed the changes, i.e. dissolution of Yugoslavia, in a completely illegal and anti-constitutional manner, illegally arming themselves, attacking the only legal armed force and thus introducing the civil war. The highest political and legal authorities qualified this as an illegal enterprise, see **James Baker**: *Because we said if Yugoslavia does not break up peacefully, there is going to be one hell of a civil war. It nevertheless broke up non-peacefully, it broke up through the unilateral declaration of independence by Slovenia and Croatia and the seizing by these two country's republics of their border posts which was an act of force and which was an act that was in violation of the Helsinki principles, but the European powers and the United States ultimately recognised Slovenia and then Croatia and then Bosnia as independent countries, and admitted them to the United Nations. The real problem was that there was a unilateral declaration of independence and a use of force to gain that independence rather than a peaceful negotiation of independence which is the way it should have happened.* Yugoslavia, the Avoidable War, at 13:42. So had been qualified by the most prominent political leaders, including the Judge Antonio Cassese!
- 1.4 Even the expert-witness of the Prosecution confirmed that the Serb attitude was to preserve the *status quo*, not initiating any risky or violent changes, see: The Serbs in Bosnia-Herzegovina wanted to preserve the *status quo*, living together with Croats, Muslims and others in Yugoslavia, as well as in BiH. In such a case there wouldn't be possible any JCE...SEE: **TREANOR, T.14158** *since Bosnia was in Yugoslavia, and the Serbs in Bosnia were in Yugoslavia, then all they had to do was just remain in Yugoslavia, maintain the status quo. – if that's what happened, that would maintain the peace* The same Prosecutor's expert confirmed that the two other sides violated the law and Constitution, using a force in the parliamentary decision making process: In other word: the Muslim/Croat action towards the BH independence without consensus WAS ILLEGAL and ANTI-CONSTITUTIONAL, WITH THE USE OF FORCE; **TREANOR**,

T.14159...

THIS

**EXPERTISE DIDN'T MAKE ANY INFLUENCE, AND THE CHAMBER CONTINUED TO BLAME THE SERB SIDE FOR A LEGAL OPPOSITION TO THE ILLEGAL CONDUCT OF THE TWO OTHER SIDES!**

- 1.5** The Serbs in Bosnia and Herzegovina didn't want anything new. Without wishes, intentions or attempts to change the existing situation – there couldn't be any "Joint criminal enterprise". However, the Chamber accepted the Prosecution allegations that the Serbs in Bosnia started to act as BiH was (approaching) heading towards an independence", and thus shifted the responsibility for future development on the Serb side.
- 1.6** Although the Chamber concluded that the Serb claims for their rights, including their claims for their autonomy on their territories – was not an illegal or criminal move, this position wasn't reflected in the Judgment!
- 1.7** In the entire Yugoslavia, and in particular in BIH, the Serb side was against a war and everything that a war brings! The Serb side didn't seek for anything new, revolutionary, which demanded any action – (to an endless blame and persecution in public, in media, in the governmental and non-governmental organizations and activities, thus stigmatizing the entire Serb people – and prejudicing every single trial against the Serbs.

**2.0 This is how the Tribunal mis-presented the Yugoslav/Bosnian crisis, with an unlimited forgery of historic and contemporaneous facts:**

**2.1 The Tribunal allocated the beginning of the interethnic tensions in Yugoslavia in 1980s, and as a cause named an economic crisis, and death of Marshal Tito, see TJ paragraph 33, which was far from any accuracy. Reducing the roots of crisis on 1980s, brushing centuries of history and allocating the responsibility to this generation, is not correct and not fair. See *Former U.S. Assistant Secretary of State Lawrence Eagleburger* stated that:**

*I think the major lesson here is when you got involved in something like this with a thousand years of history underlying it all, you need to understand that once the dam breaks, the viciousness can be pretty awful – on all sides.* \*Yugoslavia, the Avoidable War, Part 1, at 46:00 accessible at <https://www.youtube.com/watch?v=u04IL4Od8Qo>

**2.2 The Chamber thus neglected the centuries of controversies, antagonisms, animosities, conflicts and civil wars. Only in 20<sup>th</sup> Century there had been several international wars followed by civil wars among the South Slavic ethnicities and nations. The WWII and a horrendous consequences, particularly pertaining to the Serb people living western from the Drina River, i.e. in the so called Independent state of Croatia, which was a Hitler's ally, and comprised the BiH too – was completely neglected and denied by the Tribunal. A genocide committed against the Serbs, Jews and Roma people is undisputable as much as**

the Holocaust itself is out of any dispute. The denial of this crimes that took place 45 years earlier is an INSULT of these peoples and their innocent victims. The consequence for this case: The Tribunal sentenced President Karadžić for a propaganda of a genocide that didn't happen. See, the Wiesenthal Centre report:

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*The Wiesenthal Centre,  
<http://motlc.wiesenthal.com>*

**The Ustashe were a Croatian nationalistic and terrorist organization. Their hatred toward the Jews could have been surpassed only by their hatred toward the Serbs. After the creation of the Croatian puppet state by Hitler in 1941, the Ustashe terrorists had murdered over 500.000 Serbs, expelled over 250.000 and forcibly converted 250.000 to Catholicism.**

4

*The Wiesenthal Centre,  
<http://motlc.wiesenthal.com>*

**Jasenovac was the largest concentration camp in Croatia. Between 1941 and 1945, over 600 000 were murdered there the Serbs, the Jews (around 30.000), and the Gypsies."**

6

*Letter of the Chief of Germany's Secret Police, Turner, addressed to Heinrich Himmler, February 17th, 1942.*

**The terrible deeds were committed by the Ustashe in Croatia against the Serbs. The Ustashe groups had committed their horrendous acts especially against the elderly, women and children, in the most atrocious ways. The estimation of about 300.000 Orthodox Christian individuals, whom the Ustashe had butchered and tortured with their sadistic methods, must be taken into account.**

**2.3 Within the first 10 months of the WWII the Ustashas astonished even the Hitler's Secret Police Chief!!! HOW COME – THE SERB SIDE WAS COMPELLED TO DEFEND THIS MARBLE TRUTH BEFORE THE UNITED NATIONS COURT?**

**2.4 The Chamber also neglected a dramatic developments while Tito was still alive, and in particular so called "mass movement" in Croatia, that ended in 1971, but also a Kosovo**

and Metohija riots and separatist movement in Kosovo and Slovenia, all of it before 1980s.

**2.5 CONSEQUENCE FOR THIS CASE:** The Prosecution-Chamber alliance was free to “establish” that President Karadžić invented and imagined a “jeopardy for the Serb people” in an alleged order to initiate the interethnic tensions, in order to be able to achieve a criminal enterprise. For the same reason the Tribunal “identified” the beginning of the Joint Criminal Enterprise (JCE) in October 1991, and thus qualified all the legal political life of the Serbs in Bosnia as a criminal activity, aimed to facilitate the JCE achievement (see##).

- 2.6** Not only the recent history had given every reason for a caution, but the most recent events, such as the war in Croatia, with a mass killings of the Serb civilians, and expulsion of almost entire Serb population out of Croatia, and a bit later – from the BiH Federation and from Kosovo.
- 2.7** The most responsible leaders of the world have been aware of a great jeopardy for the newly “promoted” minorities in the secessionis Republics, and that was one of the crucial reasons for establishment of the ICFY – International Conference on Former Yugoslavia – in 1991. See: Colin Powell: *The biggest mistake was recognizing all these little countries when they started to decide they were independent. [...] The Serbs had very good reason to be worried about being in a Muslim-dominated country. It wasn't just paranoia.*<sup>1</sup> (See all other quotations at the end of this Guide!)

**2.8**

### **3 A FORGERY OF THE SERB POLITICAL INTENTIONS AND PLANS:**

**3.1** The Tribunal had established a flagrant lie – that the Serbs in Bosnia-Herzegovina “wanted” something, had some plans, and prepared for a realization of such a new situation in the state even with use of violence if necessary. (see#####)

**3.2** The Serbs in the entire former Yugoslavia didn't want anything new, except a multiparty parliamentary system, instead of the existing mono-party socialist (a communist-like) system. The multiparty attitude was in accord with all the other ethnic communities and Republics, and therefore didn't contribute to any increase of tensions, but rather to the contrary: there was a decisiveness on the Serb side to improve the interethnic relations, which the Chamber recognized and commended President Karadžić for that! In BiH all the three communities wanted to replace the mono-party communist system by a multiparty and democratic one. The main Muslim party SDA declared its attitude towards the common Yugoslav state, to remain as a “reasonable federation” – and all of these three elements made a good climate among the ethnic parties and served as a basis for future coalition in Government!

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<sup>1</sup> Henry Louis Gates, Colin Powell and the Black Elite, *The New Yorker*, 25 September 1995.

- 3.3** The Serbs in Bosnia and Herzegovina didn't want anything new. Without wishes, intentions or attempts to change the existing situation – there couldn't be any crime, let alone a "Joint criminal enterprise".
- 3.4** However, the Chamber accepted the Prosecution allegations that the Serbs in Bosnia started to act as BiH was heading towards an independence", and thus shifted the responsibility for future development on the Serb side.(2.3.2) This way the Prosecution-Chamber "smuggled" a question of responsibility for the war, i/e "crime against peace" on the Serb account, in spite of the Statute of the Tribunal provisions!
- 3.5** Thus the Chamber justified the entire chain of anti-constitutional and illegal actions of the Muslim side in obtaining an independence the way they wanted, regardless of the Serb rights and interests. The Croatian side only joined the Muslim side, but a substantial part of the Croat demand had been justified!
- 3.6** The Chamber completely neglected the matter of a massive violation of the Constitution and laws by the Muslim side, particularly pertaining to the claims for independence, accusing only the Serb side for a legitimate political reaction against this political forceful violence.

- 3.7** The other Republics imposed the changes, i.e. dissolution of Yugoslavia, in a completely illegal and anti-constitutional manner, including the Muslim part of Bosnia, illegally arming their secret armies, attacking the only legal armed force (JNA) and thus introducing the civil war. The highest political and legal authorities of the world qualified this as an illegal enterprise, see####

*Antonio Cassese, Comment on Article 1,  
Section 2 of the United Nations Charter,  
Paris, Economica, 1991, pp. 49-50*

According to international law, the six Yugoslav republics did not have the right to external self-determination. [...] The acquisition of independence of Slovenia, Croatia, BiH, and FYR Macedonia, can accordingly be observed as a **revolutionary process**, which took place outside of the boundaries of existing legal norms

**3.7.1** Immediately after the coalition Government was established, the Muslim party SDA reneged on the pre-coalition accord about preserving Yugoslavia, and started an aggressive campaign for secession;

**3.7.2** For that purpose, as well as for the purpose of domination in all the aspects of public life, the SDA sabotaged all agreements on the just distribution of power, a good habit in a multiethnic society, a lawful obligation on proportional participation,

**particularly in a sensitive public services such as Police, Secret service (state security) Defense and economic authorities – all of it with the purpose to be able to prepare an illegal army and forceful illegal secession. THE SDA DID ALL OF IT WITHIN LESS THAN A YEAR.**

**3.7.2.1 By the end of March 1991. The SDA and the Muslim leadership made a decision to form a secret armed force – later known as Patriotic League, and April 30, 1991 was the date of starting the “combatants period” for participants; ; June 10, 1991 this secret Army got the political supreme Command, the Council; for defense of the Muslims; Already in September 1991 there were 9 regional and 94 municipal Headquarters of this Army ready for a combat activities. See: ##**

**3.7.3 The European Community was aware of illegality of the rump BH Presidency moves, see: para 55,**

- The Serb political claims against secession were **LEGAL** and **CONSTITUTIONAL**;
- The Serb claims for remaining of the Serb majority areas in Yugoslavia was a Serb concession, aimed to satisfy the needs of the Muslim and Croatian ethnic communities, and was as **LEGAL**, as it was the case with Northern Ireland, in an identical situation, as well as the West Virginia case;
- A further Serb concession was to accept the BH independence under the condition of decentralization and a high autonomy within BiH, as was agreed in the ICFY in the Hague in 1991, with an explicit commitment of Mr. Alija Izetbegovic;
- All of the Serb concessions had been aimed to avoid a war and to please the two other ethnic communities and their intentions.
- The Serb claims after these concessions had been recognized by the international community, i.e. United Nations, the European Community, United States and Russian Federation, with participation of their envoys to the political talks and offer of five plans for a new political arrangement of BiH;
- The first accord on decentralization of BIH on 13 February 92; the speech Karadžić gave on 14 February 92 pertained to what had been agreed a previous day, but if this context is neglected, the speech looks different, and that was a regular case in this process;
- The acceptance of the political, constitutional agreement of so-called Cutileiro's peace plan within the Lisbon Agreement on 18 March 1992;
- The Serb side remained faithful to this approach to the end of crisis, accepting four out of five proposed plans.
- The Muslim side reneged on the first, Lisbon Agreement, and thus caused the war!
- **ALL OF THIS FUNDAMENTAL FACTS ARE WELL DOCUMENTED, SUPPORTED AND PROVEN IN THE FILE OF THIS CASE!**

**3.8. Although the Chamber concluded that the Serb claims for their rights, including their claims for their autonomy on their territories – was not an illegal or criminal move, this position didn't reflect in the Judgment, but quite opposite, was a basis for prosecution and sentence.**

**3.8 .1 Since the Serbs in BiH had their rights, and since they had been very flexible, accepting the minimum, why these rights hadn't been honored? Although the Serb claims had been legal, and although the International Conference on former Yugoslavia supported it repeatedly in all the five peace plans, and although Mr. Izetbegović (a Muslim community leader) committed to it at the same conference in the Hague in 1991, and initially accepted in the first Plan (The Lisbon Agreement) these rights had been denied by a brutal military attack throughout BiH.**

**3.9 The Chamber ignored an obvious fact – that the war in BiH didn't break out because of the Serb political claims – but because of the Muslim denial of these rights by an illegal military force!**

**3.10 Also, the Chamber neglected an obvious fact that there was no possibility for any Joint Criminal Enterprise without a war. It had been well documented in the file, that the Serb side and President Karadžić himself fought for a peace and against a war at any cost. See:#####**

**3.11 Therefore, any allegation about existence of a “common plan” to expel the Bosnian Muslims and Croats from the Serb claimed territories beginning in October 1991 is senseless, and shouldn't ever be considered, let alone accepted.**

**3.12 The Chamber numbered out all the Serb political moves as a criminal ones, regardless of the full legality of those moves according to the domestic legislation, the Constitution of SFRY and the Constitution of BIH;**

**3.13 All the Serb political moves had also been in accordance with the results of the International Conference on former Yugoslavia (ICFY) as of 1991 (far before the war) until the end of the Conference peace process in November 1995.**

**3.13.1 Mr. Izetbegović (a Muslim community leader) committed to a “high autonomy for the constituent peoples in BiH in September to December 1991. [\(6.8.1.1\)](#) At the same conference in the Hague in 1991, and initially accepted in the first Plan (The Lisbon Agreement) these rights had been denied by a brutal military attack throughout BiH.**

**3.14 The Chamber ignored an obvious fact – that the war in BiH didn't break out because of the Serb political claims – but because of the Muslim denial of these rights by an illegal military force! None of the Serb political claims existed out of the Muslim/Croat insistence on a unilateral and anti-constitutional endeavor, with a numerous violations of the Serb constitutional and legal rights. [\(6.9.1\)](#)**

**3.15 Also, the Chamber neglected an obvious fact that there was not possible any Joint Criminal Enterprise without a war. It had been well documented in the file, that the Serb side and president Karadžić himself fought for a peace and against a war at any cost. See: [\(6.10.1\)](#)#####**

**3.16** Therefore, any allegation about existence of a “common plan” to expel the Bosnian Muslims and Croats from the Serb claimed territories beginning in October 1991 is senseless, and shouldn’t ever be considered and accepted. Between October 15, 1991 and 6 April 1992, when the war broke out there had been a development in political life with many Serb concessions, and development on the Conference in the Hague in 1991, and until the end of March 1992:

#### **SUMMARY:**

- A. The crisis in former Yugoslavia erupted on the basis of a long lasting antagonisms among some of South Slavic ethnicities, particularly those included in Yugoslavia in 1918. The crisis appeared because of finalization of an old separatist endeavor particularly in Croatia and Slovenia, lately accompanied by Bosnia and Herzegovina. The realization of these endeavors was extremely illegal, unilateral, unacceptable and criminal (See: #####)
- B. The Serbs in Bosnia-Herzegovina wanted to preserve the *status quo*, living together with Croats, Muslims and others in Yugoslavia, as well as in BiH, see the OTP expert witness: The Serbs in Bosnia-Herzegovina wanted to preserve the *status quo*, living together with Croats, Muslims and others in Yugoslavia, The Serbs in Bosnia-Herzegovina wanted to preserve the *status quo*, living together with Croats, Muslims and others in Yugoslavia, as well as in BiH. In such a case there wouldn’t be possible any JCE...SEE: [TREANOR, T.14158](#) since *Bosnia was in Yugoslavia, and the Serbs in Bosnia were in Yugoslavia, then all they had to do was just remain in Yugoslavia, maintain the status quo. – if that’s what happened, that would maintain the peace...* as well as in BiH, IF THEIR RIGHTS HAD BEEN PROTECTED BY THE FEDERAL STATE, OR BY THEIR AUTONOMY WITHIN BIH. The later was the last Serb concession, recognized by the European Community, and finally codified in all the peace plans, as in the Dayton Agreement, and by the UN Security Council Resolution.
- C. The Chamber deliberately distorted the fundamental facts about the war, thus making it possible to conclude that the Serbs wanted it, because there wouldn’t be any JCE without a war: [TJ. Para 2697:](#) [REDACTED]  
[REDACTED] NOT AT ALL, BUT VICE VERSA: WHEN THE CUTILEIRO PLAN WAS RENEGED ON BY THE MUSLIMS, THEN THE WAR BROKE OUT! SERBS WERE FAITHFUL TO THE LISBON AGREEMENT, WHICH EXCLUDED ANY JOINT CRIMINAL ENTERPRISE?
- D. Had the Serb fundamental rights been respected by the Muslim leadership, the Serb would accept the independence of such a decentralized Bosnia, there wouldn’t be any war, and therefore there wouldn’t be possible any JCE!

- E. This is the best proof that the Serbs didn't need any war, and therefore didn't plan any "Joint Criminal Enterprise"!
- F. What happened in the civil war, was predictable to all the relevant world leaders, as well as domestic politicians, but the Muslim extreme leadership took the risk deliberately, and tried to prevent the Serbs in Bosnia from getting their autonomy!
- G. No a consequence of this civil war could have been meditated as a "permanent", and President Karadžić himself confirmed in his order to municipality authorities, that "the refugees and the abandoned property are a temporary features", as well as that all the refugees were to be facilitated to return to their places, see many evidences, mentioned and quoted in the Judgment!

The forthcoming paragraphs will show that the Trial Chamber made numerous errors in law and fact when analyzing evidence and rendering conclusions regarding the alleged common criminal purpose/JCE objective and the Appellant's *mens rea* and *actus reus*. All errors made by the Chamber can be categorized in three (the next) main groups of fundamental errors:

#### **I MISCONCEPTION AND MISINTERPRETATION OF THE EVENTS:**

(1) The Chamber failed to render a reasoned opinion concerning its decision to completely or significantly disregard, give appropriate weight and/or suppress important exculpatory evidence contained in numerous Defence Final Brief's and Trial Judgment's paragraphs; (2) The Chamber systematically misinterpreted and/or misapplied manifestly inconsistent or exculpatory evidence; and (3) The Chamber systematically opted for the inferences most adverse to the Appellant.

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On the basis of these three main groups of errors, the Chamber, consequently, made further numerous errors in law and fact, which led it to erroneously conclude that

- (a) **"CREATION OF A BOSNIAN SERB STATE":** In October 1991, in response to the forthcoming independence of BiH, the President developed plans for the creation of a Bosnian Serb state, **(TJ para. 3435, TJ paras. 2654, 2711, 2941–2951.)** Not correct: in October 91 Dr. Karadžić still tried to preserve the intact Yugoslavia and the BIH intact and equal in Yugoslavia. Karadžić tried to dissuade the Muslim extreme leadership from an illegal and forceful secession, for which he had a support from several Muslim secular parties. The

**speech he gave on 15 October was warning on the unpredictable development in a case of civil war. But, the CREATION OF A BOSNIAN SERB STATE HAD BEEN ENVISAGED BY THE INTERNATIONAL CONFERENCE ON FORMER YUGOSLAVIA – I C F Y!**

“that included physical control of a large percentage of the territory in BiH, (TJ paras. 2839–2856.) Legal and legitimate, provided for by the Constitution, obligatory due to Law of All-People Defence! basing these claims on the ideology he promoted No ideology pertaining to others, but only a Serb unity and reconciliation of leftists and rightists, a tragic heritage of the WWII! as he tried to revive historical territorial rights and focused on the perceived threats faced by the Bosnian Serbs from Bosnian Muslims and Bosnian Croats who were portrayed as their historic enemies; (TJ para. 3435, TJ paras. 2839–2856, 2948.)

**(b) CREATION OF PARALLEL INSTITUTIONS, ORGANS OF GOVERNMENT...**  
The President “worked towards the creation of parallel institutions, organs of government, and military and police structures, which could take-over or retain control of the Serb-claimed areas militarily”, **TJ para. 3436, TJ. paras. 2654, 2707–2715, 2839, 2844–2848, 2991.** (All “parallel institutions” had been envisaged by the ICFY even in 1991, and specified in a sub-conference on BIH –Carrington-Cutileiro! Already as of December 1991 there was evident that if the Serbs accept the BIH secession, staying within such a BIH, there would be a sort of the Serb autonomous state in BiH. As of 13 February 1992 it was assured, and as of 18 March it was codified by the Lisbon Agreement! The Serbs had their own legal institutions established after the elections in 1990! and “to retain control of the Serb-claimed areas militarily” was both right and obligation – whoever wanted to attack it militarily. By definition, a STRICTLY DEFENSIVE ORIENTATION!) without any genuine concern about the manner in which power was taken, (Sesneless, because there happened a legal elections! All and every municipality had the rights and obligations to protect its own population and territory against anyone jeopardizing it!) **TJ para. 3436, TJ para. 3084.** and that he spoke against Bosnian Muslims being allowed to stay in Bosnian Serb claimed territory; **TJ para. 2840** (A malicious lie! It pertained only to a possibility to forcefully maintaining the entire Muslim community to stay in the Serb entity, instead to be given the same as the Serbs and Croats got! There is a sufficient evidence in the file!)

**(c)** The main objective of the President was ethnic separation (“Separations of ethnicities had never been mentioned, but explicitly a “separation of states,” or a “state separation” while simultaneously appealing for minorities to stay in the Serb areas! See an overwhelming evidence!) and the creation of a largely ethnically homogeneous entity by military means, which necessarily entailed the take-over of territory and the forcible movement of the non-Serb population to achieve that objective; (Ethnic homogeneity had never been even meditated, but only a “homogenisation of undisputed territories, corroborated by evidence, but a conclusion “which necessarily entailed take-over of territories and the forcible movement of non-Serbs” is a criminal manipulation and allocation of the Prosecutor’s meditation to the Serbs!) **TJ paras 3439-3440, TJ paras. 2839–2856.**

**(d) SYSTEMATIC AND ORGANISED CRIMES...** Systematic and organised pattern of crimes which were committed in each of the Municipalities by members of the Serb Forces, over a short time period, suggest that these crimes were not committed in a random manner, but

were committed in a co-ordinated fashion, and therefore had been planned. **TJ paras 3444-3445** (It didn't happen "in each of Municipalities" because out of 63 municipalities, only in 20 municipalities (for the purpose of this process called "Municipalities" as if it comprised all the municipalities) there were a combats, skirmishes, and lasting terrorist-antiterrorist actions! Two third of the Serb municipalities didn't have any "pattern", and majority of villages in other 20 "Municipalities" didn't have any crime!)

On the basis of all the errors explained above, the Chamber finally erred in concluding that the President promoted and shared the objective of creating a Bosnian Serb state which was ethnically pure and which required forcible re-distribution of the population. **TJ para 3463, TJ paras. 2896, 2898.** (This "finding" is baseless, senseless and rebutted by many genuine evidences! See: the Judgment comments marked by # mark!)

As the forthcoming paragraphs will demonstrate, the evidence consistently shows that Dr. Karadžić developed plans only for the creation of a Bosnian Serb state by political means, and that he intended and made continuous efforts that this state included both Serbs and non-Serbs. The evidence is also clear that, contrary to the Chamber's conclusions, **TJ para 2849** it was the Bosnian Muslims and Bosnian Croats who insisted on the separation of people in Yugoslavia **in order to become dominant in BiH**. Finally, the evidence unambiguously shows that, when the war broke out, President Karadžić did everything in his power to protect Bosnian Muslims and Bosnian Croats residing in areas under the Serb control, as well as to investigate and punish perpetrators of crimes against non-Serbs, which is the ultimate proof that he did not intend to promote or share the alleged JCE objective.

The Trial Chamber failed to render a reasoned opinion concerning its decision to completely or significantly disregard, give appropriate weight and/or suppress important exculpatory evidence

The Chamber completely disregarded evidence in relation to the historical, legal and constitutional framework within which events in BiH took place and alleged JCE members operated. **Defence Final Brief paras 1-12** The Chamber similarly failed to provide basis for its striking decision to entirely disregard evidence presented in relation to the SDA and HDZ Joint Criminal Enterprises, SDA plans to establish Islamic state in BiH, and SDA and HDZ arming and military organization. **Defence Final Brief paras 33-65, paras 82-86**

As a result of these two grave errors, the Chamber made an incomplete and entirely erroneous analysis of the events, making conclusions as if the Bosnian Serbs and the President had lived and acted in a vacuum, and as if their activities had been completely unprovoked and come out of the blue, and, as such, amounted to a conspiracy against BiH. **The Chamber should have, instead, found that the President's actions were rather reactions to obviously illegal activities of the Bosnian Muslim and Croat leaderships, and that the SDA-HDZ activities were factually illegal,** (**TJ paras 2682, 2685, 2691, 2914, 2927, 2942**) The Chamber, thus, ignored forty-eight paragraphs chock full of evidence exposing the criminal behavior of the SDA and HDZ in BiH, which, in turn, are part of one hundred and sixty paragraphs in total of the Appellant's Final Brief containing evidence regarding the illegal activities of the Sarajevo based SDA and HDZ leaderships. **(Defence Final Brief paras 33-193)** This corpus of evidence is indispensable for a full understanding of the President's *mens rea, actus reus*, and of the context in which the alleged JCE object allegedly "came to existence".

By suppressing the exculpatory contextual evidence, the Chamber, apparently intentionally, denied itself an opportunity to draw inferences consistent with innocence and thus erred in law. As a result of these grave errors, the Chamber made further obvious errors in finding that as a response to the BiH independence, there came into existence a plan which entailed the creation of parallel structures designed to allow for the furtherance of the Overarching JCE objective. (TJ paras 3435, 3477, 2708–2710, 2940–2951, 2947.) (TJ para 3485, TJ paras. 2672, 2711, 2841) (TJ para 3485, TJ para. 2670) (TJ para 3485, TJ paras. 2672, 2708, 2841–2843.) (TJ para 3486, TJ paras. 2671–2672, 2895.) (However, the Chamber wasn't able to point out any evidence that there existed any Overarching Joint Criminal Enterprise. This "finding had been "coined" afterwards, "a posteriori", there happened many things that always happen in all civil wars! And so-called "parallel structures" had been created IN ACCORD WITH THE INTERNATIONAL CONFERENCE ON FORMER YUGOSLAVIA - I C F Y - as a Serb concession to accept the independence of Bosnia!)

The Trial Chamber also erred in finding that the President used fear and hatred to promote the historical territorial claims of the Bosnian Serbs and to garner support for the idea of creating a largely ethnically homogeneous Bosnian Serb state on this land. (TJ para 3486, TJ paras. 2670, 2711, 2713, 2841–2843.) However, all the Serbs in Bosnia demanded and had done was in a full accordance with the Yugoslav Constitution, the BIH Constitution, the Law on All-Peoples Defense, and finally IN ACCORDANCE WITH THE RESULTS OF THE INTERNATIONAL CONFERENCE IN THE HAGUE – I C F Y! Not a single demand, and not a practical move differed from what is provided for in these documents of the ICFY! The Chamber similarly erred when it found that he disseminated propaganda about demographics and the Bosnian Muslim birth-rate as a further justification for ethnic separation, although it pertained to an ARTIFICIAL INCREASE OF MUSLIM POPULATION, BY IMPORTING FOUR MILLIONS OF TURKS!, (TJ para 3487, TJ para. 2851.) about the creation of ethnically homogeneous entities in BiH and for reduction of the number of non-Serbs who remained in the Bosnian Serb state. (TJ para 3487, TJ paras. 2839–2840, 2851, 2854–2855.) ETHNIC HOMOGENEITY HAD NEVER BEEN EVEN MENTIONED, BUT ONLY A TERRITORIAL HOMOGENEITY, AND CORRECT ATTITUDE TOWARDS THE SETTLEMENTS THAT DIDN'T WANT TO BELONG TO ONE OF ENTITIES!!

All these utterly wrong conclusions directly flow from the Chamber's erroneous decision to disregard and/or suppress important exculpatory evidence contained in one hundred and sixty paragraphs of the Defense Final Brief referred to above, which clearly show that the SDA and HDZ illegally formulated and implemented a criminal plan to create a BiH state dominated by the Muslim majority, through preparing the organs, entities and conditions for the forcible ethnic separation from Yugoslavia. All activities and statements of President Karadžić, such as those concerning the reasons for the establishment of the Bosnian Serb parallel governmental structures, about the Bosnian Muslim demographics and the fact that the Serbs faced threat, as well as the Chamber's findings in Sections "Creation of a Bosnian Serb state", (TJ para 2817–2838) ARE TO BE SEEN WITHIN THE CONTEXT OF THE ICFY (CONFERENCE ON YUGOSLAVIA) WHICH ENVISAGED ALL OF THESE STEPS – IF THE SERBS

**ACCEPTED TO SEPARATE FROM YUGOSLAVIA.** See the documents of ICFY from the Hague in 1991, particularly section "Treaty"! **It can not be understood how a chamber of this Tribunal could have erred so much!!!.**

"Regionalization and creation of SAOs", **(TJ paras 2952-2965)** ( which was a completely legal matter, envisaged in the Constitution of SFRY and Constitution of BiH, all from the "communities of municipalities" and other sort of cooperation among them!)

Split in the MUP and creation of a Bosnian Serb MUP," **(TJ paras 2966-2991)** (which was envisaged by the documents of ICFY in 1991, and agreed within the common Ministry of interior!)

and "Variant A/B Instructions and take-over of power," **(TJ paras 2992-3042; See also Defence Final Brief paras 74-81)** (Which was an obligatory document due to the Law on All-Peoples Defense, see the testimony of Kapetina!) must have been considered in this context. Having inexplicably failed to do so, the Chamber erred in law and fact. Therefore, the Appeals Chamber is requested to review the relevant Defence Final Brief paragraphs and reverse the said erroneous Trial Chamber's findings.

Contrary to the Chamber's conclusions, the evidence on the record shows that, in response to secessionist policies of the SDA and HDZ, the President sought only political autonomy for the Serb community, as **ENVISAGED BY THE I C F Y**, with the commitment of Mr. Alija Izetbegovi} at this Conference. **THIS WASN'T ANY OPTIMAL SERB PLAN, BUT A MINIMAL, A BOTTOM-LINE OF THE SERB CONCESSIONS, COMMENDED BY THE INTERNATIONAL COMMUNITY!** The envisaged state of the Serbs in BiH was to be formed on only those areas with the undisputed Serb majority, and all the plans and agreements envisaged existence of the minorities, see the documents! The Chamber implicitly recognized this in **Paragraph 3475** of the Trial Judgment, when it found that the **political objectives of the Bosnian Serb leadership themselves were not criminal.** **NOTHING THAT THE SERBS IN BOSNIA WANTED, AND FINALLY GOT AT THE CONFERENCES, DIDN'T NEED ANY FORCE, LET ALONE A WAR!** For that reason **THE SERBS DIDN'T FORM ANY ARMED FORCES!** A WAR WAS WAGED BECAUSE OF THE MUSLIM TRY TO PREVENT THE SERBS TO ACHIEVE THEIR RIGHTS, AGREED WITH THE INTERNATIONAL COMMUNITY AND THE THREE SIDES IN B I H! For that reason, the Muslims **FORMED A SECRET ARMY – "PATRIOTIC LEAGUE, GREEN BERRETS, AND MANY INDEPENDENT BATTALIONS!**

According to the Chamber, is that these political objectives created the basis and laid the foundations for the structures through which a criminal purpose could be achieved. **(TJ para 3475 referring to TJ paras. 3435–3440, 3447) . It is a fake assertion that the Bosnian Serb state structures, such as the Assembly, were created in order to further the alleged JCE objective to permanently remove the Bosnian Muslims and Bosnian Croats from Bosnian Serb-claimed territory,** **(TJ paras 3479-3480)** or that Dr. Karad`i} wanted "ethnic cleansing" of non-Serbs, rather than political separation of territorial entities – states, as explicitly said by Dr> Karad`i} on 12 May 92, see the transcript! The Serb Assembly was an example of a democratic body, and all the Serb "parallel institutions" (Assembly, Presidency, Government, all Ministries, Police) – had been envisaged by the I C F Y!

The Chamber openly and flagrantly **preferred** gossips, jokes, impressions, opinions of witnesses on facts, folklore sayings, words of others, or testimonies of ignorant and incompetent low rank officials – over the **UNITED NATIONS DOCUMENTS, THE I C F Y DOCUMENTS, REPORTS AND OPINIONS OF THE INTERNATIONAL ENVOYS AT ICFY!** All of it you may find in the comments of Judgment, if you do find #, and #Words of others.

**The Chamber neglected so many EXCULPATORY evidence, inherent in many official documents of the UN, European Community, VRS, ABIH, HVO, journalist reports. You may find it in the comments of paragraphs of TJ under the mark #, and #EXCULPATORY!**

Moreover, the Chamber used many of these explicitly EXCULPATORY evidence had been used AGAINST President Karad`i}. For instance, the Chamber regularly used against the President all the reports of HIS OWN Police about executing HIS OWN orders against crimes. Usually, the Chamber “concluded”: “The Accused knew that there were crimes, the Police informed him”! all of it you may find under the mark #EXCULPATORY!

**SUPPRESSING SO MANY EXCULPATORY EVIDENCE IS A UNIQUE EXAMPLE EVER SINCE THE INQUISITION, OR HITLER'S COURTS!** Only a few days before the war broke out, by the time one would expect that his criminal intent had fully developed, the President addressed the Serb deputies and said that: “We wanted no divisions. We did not want the destruction of the things we had in common(...) We kept on hoping that the forces of unity would prevail over the forces of destruction in the BH Parliament (...)But we are clean before God, because we have not made a single move which was not provoked (...) we can be proud of having responded to all non-democratic measures democratically. (**D0304, pp. 7-8**)

On 18 March 1992, when **HAD BEEN AGREED** the “constitutional arrangements of Bosnia and Herzegovina, in the so-called Cutileiro Agreement, which guaranteed the political solution and excluded a war, it was envisaged that members of the nations who would be in a minority in a particular constituent unit would receive protection. (**P0782; D2968, para 10-11**) **In fact, this was explicitly found by the Chamber to be the case,** (**TJ para 2696** and yet it failed to draw any inference consistent with innocence.

On the same day, President Karad`i} told the Serb deputies that they had to do

*“Whatever is necessary on the ground to establish the de facto situation based on justice and the law, to have good and complete control of our destinies and areas, with full respect for citizens of other nationalities. (**D0090, p. 45**)*

*There will probably be all sorts of resettlement going on, but none of it should occur under pressure. (**D0090, p. 46**)*

On 24 March 1992, the day the Muslim extreme leadership reneged on the Lisbom Agreement, and ten days before the war broke out, the President yet again addressed the deputies and told them that the Serbs do not plan to attack anybody, asked the Deputies to

preserve the peace at any cost, maintain the freedom of movement, and concluded: “**The Brussels documents provided us with many things and many of the things we are doing are in line with them**, (meaning the ICFY documents!) **(P0961, pp. 16-8)**

Having been confronted with dozens of his exculpatory statements, including those uttered in the Serb Assembly, the Chamber appeared unable to decide what to do with them. It then adopted a practice that only the exculpatory evidence stated at the Assembly sessions was to be considered as produced for public consumption and, as such, should be approached with caution, **(TJ para 3056)**

while treating the allegedly incriminating Assembly speeches as credible, and not for public consumption. For example, the Chamber found that the President’s allegedly incriminating, and thus credible and “particularly instructive” speech at the Bosnian Serb Assembly held on 18 March 1992, demonstrated that he and the Bosnian Serbs clearly had strategic objectives, which **had to remain secret**. **(TJ para 3092 (Emphasis added))** Another “out of context” – **since this speech had been in the occasion of just agreed Lisbon Agreement, celebrated by all the three sides as an optimal possible solution!**

On the other hand, in paragraph **3054**, the Chamber found that the President’s statements at the same session of 18 March 1992 that there should be “full respect for citizens of other nationalities” and that “no one must be harmed, regardless of their religion, nation”, were, suddenly, only for public consumption. **(TJ para 3056)**

Yet, elsewhere in the Trial Judgment, the Chamber found that

“The Bosnian Serb Assembly was the formal means through which the ideology and objectives of the Dr. Karadžić and the Bosnian Serb leadership were officially sanctioned and disseminated...” **(TJ para 3056)** **Although the Assembly was the highest body of democracy, granted to the Serbs by the ICFY, and was aimed to obtain a full democratic response of the Serbs in BIH! This very session illustrates that all the Serb plans were to be achieved politically, none of them militarily!**

“The Bosnian Serb Assembly was also one of the means through which the policies of the Bosnian Serb leadership were communicated to a municipal level.” **(TJ para 2948)**

Therefore, when the President told the Assembly about “(p)eace at any cost, wherever it is possible”, that they did not need war, and that they could accomplish what they wanted by **political means**, **(TJ para 3052 (Emphasis added))** he was, according to the Chamber’s own conclusions, disseminating his ideology and objectives, as well as instructions to the municipal level for a “full respect for citizens of other nationalities”, that “no one must be harmed, regardless of their religion, nation” and that no resettlement “should occur under pressure”. **(TJ para 3054)**

How the Chamber avoided in its conclusion that the President was also promoting his ideology and objectives when he instructed the deputies to ensure: **(a)** that Muslims and Croats must have equal rights and privileges in the state they were building, and that Muslims and Croats living in the RS would always have their rights protected as a minority group, **(TJ para 3055)** **(b)** that the Bosnian Muslims were not considered second class citizens and that the government officials were actually trying to persuade them that they had nothing to fear of, **(TJ para 3334)** **(c)** that Serbs who committed crimes should be tried, **(TJ para 3356)** or **(d)** that the

Serbs had no need to organize themselves militarily because their policies were being realized politically. (**TJ para 3063 (Emphasis added)**)

Apart from clearly showing that President Karadžić never had the intent to further the JCE objective, and that, *au contraire*, he insisted on a political separation of territorial entities of Bosnian communities, this evidence also shows that the Chamber systematically misinterpreted and/or misapplied **exculpatory evidence** and systematically opted for the inferences most adverse to the President. **All of it could be easily found in the comments of paragraphs of the Judgment, simply executing find #!**

This fact becomes even more obvious if one takes into account that the Chamber noted another 75 facts on the basis of which it could and should have drawn inferences consistent with innocence, but, yet again, failed to do so. The Chamber explicitly noted that the President:

- (1) Was in favor of preservation of the common state with Muslims and Croats in Yugoslavia and was against borders between them; (**TJ paras 2635-2636**)
- (2) Did not think civil war would happen “because the Serbs won’t start the skirmish first; (**TJ para 2638**)
- (3) Did not agree to “sacrifice any Croat, any Muslim, and any human being in organizing a state” and that those who did not know how to organize their state “except with blood and corpses, they must go!”; (**TJ para 2640**)
- (4) His objective was to improve multi-ethnic relations; (**TJ para 2640**)
- (5) Worried about danger of BiH “sliding into chaos and civil war”, and saw the need to reach an agreement with Izetbegović; (**TJ para 2641**)
- (6) Agreed that Serbs and Muslims did not want war and worried that it was Izetbegović who was preparing for civil war; (**TJ para 2646**)
- (7) Told Izetbegović that he was holding back the “extremists” with “all (his) might” and that the solution Izetbegović was pursuing could “trigger a long-lasting civil war”; (**TJ para 2681**)
- (8) Decided to accept the Cutileiro Plan notwithstanding the fact that it contemplated BiH as an independent state, with cantons where ethnic minorities would remain, and even though this was less than what the Bosnian Serb leadership had wished for, namely to remain in Yugoslavia; (**TJ para 2696**)
- (9) Had a tough time keeping Serbs quiet and that he was worried about deaths and disaster; (**TJ para 2700**)
- (10) Agreed that all sides would lose if there was a conflict; (**TJ para 2703**)

(11) Stated that the Bosnian Serbs would not impose anything on other communities and that they would work towards a form of state organization to which Croats, Serbs and Muslims would agree; **(TJ para 2719)**

(12) Blamed the Muslims and Croats for destroying the unity of BiH and Yugoslavia; **(TJ para 2723)**

(13) Stated that "an illusion was created about a discord between the Serbs and the Muslims. (...) Basically, there is nowhere a conflict of interest between the Serbs and the Muslims. Regardless of what may happen, the Serbs and the Muslims will always live in a common state, and they know how and they will know in future how to live together"; **(TJ para 2734)**

(14) Stated that "the Muslims are Slavs, people with our blood and language who, for the most part, opt for the European quality of life and preservation of the Islamic faith. There is no room for panic either among the Serbs or among the Muslims (...) We are much closer to our Muslims than with that Europe"; **(TJ para 2735)**

(15) Issued a declaration expressing the need to maintain peace and calling for greater tolerance between ethnic groups; **(TJ para 2737)**

(16) Spoke about peace and reaching an agreement with the Bosnian Muslims; **(TJ para 2737)** An attempt to achieve a "Historic Serb – Muslim Agreement" was accepted by President Karadžić and a secular Muslim party – MBO!

(17) Stated that the Serbs had no conflict with the Croats and Muslims but with their "militant leadership" who wanted to make them second class citizens and that this was the reason why they created their state unit in BiH, adding that he was proud to say that Muslims and Croats were not in danger in SerBiH and that they had to defend the borders of SerBiH for all citizens of BiH regardless of their confession or nationality; **(TJ para 2738)**

(18) Issued a press statement condemning the BiH declaration of war and noting that this placed pressure on Serbs to fight "against their brothers" and that they wanted a peaceful resolution of the conflict and that all those who sought protection in SerBiH would be provided the bare necessities "irrespective of their nationality"; **(TJ para 2738)**

(19) Issued an announcement to Bosnian Muslims appealing for a cessation of hostilities and assured them that Muslims who remained in SerBiH had full protection, that the Serbs wanted to reach an agreement with Muslims, assuring Bosnian Muslims that they would be allowed to leave in the direction of their choice with the right to return when the war was over; **(TJ para 2740)**

(20) Issued a decision which called for all citizens who had temporarily left the territory of the SerBiH to return; **(TJ para 2741)**

(21) Decided that unlike the Bosnian Muslims and Croats, the Bosnian Serbs were going to build a law-abiding state rather than an ethnically clean state; **(TJ para 2743)**

(22) Announced that civilians living in areas affected by war must be allowed to leave those areas and that any emigration had to be voluntary, adding that Croats and Muslims in the RS were guaranteed all rights granted by a legal state, warning the Serb authorities not to forcibly detain people in war zones, as that would make them hostages, or forcing them to emigrate, which would amount to ethnic cleansing, adding that all refugees would be allowed to return; **(TJ para 2744)**

(23) Expressed his view that “we must have ethnic minorities in the state as well”; **(TJ para 2749)**

(24) Emphasized the need to create conditions for the return of refugees who had left the RS during the conflict, and took a commitment to it; **(TJ para 2763)**

(25) Stated that it was impossible to make the Muslims vanish, and that the Serbs could not declare a ban on the return of refugees according to international law; **(TJ para 2768)**

(26) Said that “we want war by no means” and that “we have no aims, we don’t want to take what belongs to someone else”; “we just don’t want them to take ours”; **(TJ para 2774)**

(27) Stated that "in the state that we are building, we have to ensure that (Muslims and Croats) have all the rights that we have, under the condition that they are not hostile and that they leave the weapons"; **(TJ para 2789)**

(28) Stated that the Bosnian Serbs were willing to negotiate and return “a substantial part” of territory as part of an overall agreement, as long as Serb property rights in predominantly Croat and Muslim areas were protected; **(TJ para 2795)**

(29) Stated that they had to guarantee minority rights; **(TJ para 2796)**

(30) Stated that the Serbs had to take "the power into our hands, in a humane way of course, carry it out in a humane way, a just way towards both Muslims and Croats who live there, that is particularly important, that there would be no fleeing from our areas"; **That was said after it was agreed (13 Feb. 92) that there will be “three Bosnia”** **(TJ para 3023)**

(31) Called upon the population to maintain peace, order, and safety of civilians of all nationalities; **(TJ para 3028)**

(32) Emphasized to the Crisis Staffs and TOs that peace was in their interests; **(TJ para 3031)**

(33) Said that the Serbs did not plan to attack anybody; **(TJ para 3051)**

(34) Spoke about "peace at any cost, wherever it is possible", that the Serbs did not need war, and that they could accomplish what they wanted by political means; **(TJ para 3052)**

(35) Stated that there should be “full respect for citizens of other nationalities” and that “no one must be harmed, regardless of their religion, nation”; **(TJ para 3054)**

(36) Acknowledged that there would probably be resettlement but that “none of it should occur under pressure”; **(TJ para 3054)**

(37) Took into account that a certain percentage of Serbs, Croats and Muslims would live in each constituent unit in BiH and worked towards “preserving the equality of people who remained in their original places of residence” on a reciprocal basis, without questioning the rights or freedoms of other ethnic communities to live in RS; **(TJ para 3055)**

(38) Spoke about ensuring that Muslims and Croats have equal rights and privileges in the state they were building; **(TJ para 3055)**

(39) Emphasized that Muslims and Croats living in the RS would always have their rights protected as a minority group; **(TJ para 3055)**

(40) Emphasized that the Serb state should “rest on rule of rights and humanity”; **(TJ para 3055)**

(41) Called on the SDS members to “constantly monitor our behavior, so that the glory of our just battle would not be tarnished by inhumane actions” with special attention to “just behavior towards civilians of other nationalities”; **(TJ para 3055)**

(42) Stated that Muslims in Bijeljina and Pale were not being bothered or considered second-class citizens and that the government officials were trying to convince them that they had nothing to fear of; **(TJ para 3057)**

(43) Spoke about the possibility that all three peoples in BiH may flourish “if (the declaration of BiH independence) passes without bloodshed”; **(TJ para 3062)**

(44) Said that a war in BiH would not solve anything; **(TJ para 3062)**

(45) Spoke about how the Bosnian Serbs had tried to avoid war, that they had no need to organize themselves militarily because their policies were being realized politically. **(TJ para 3063)**

(46) Acknowledged that “some municipal officials behaved unlawfully” and that the Bosnian Serb Assembly needed to point out these incidents and to take measures to arrest and punish them; **(TJ para 3087)**

(47) Spoke about the full respect for the rights of other nationalities and that the probable resettlement of people should not occur under pressure; **(Meant after the Agreement be implemented!) (TJ para 3094)**

(48) Conveyed the information that the MUP had arrested “groups and individuals who defied the law and looted and committed arson”; **(TJ para 3214)**

(49) Ordered an immediate investigation into the displacement of Bosnian Muslim civilians, adding that they could return anytime they wanted; **(TJ para 3337)**

(50) Stated that there had been a number of traitors who had committed inhumane acts and that they would be tried and punished by law; **(TJ para 3341)**

(51) Agreed that non-Serbs should not be forced to leave their homes; **(TJ para 3345)**

(52) Was angry because he had received calls from international organizations about the killings at Korićanske Stijene, **while he was in London for the Conference**, and “he simply couldn’t believe that something like that had indeed happened”; **(TJ para 3346)**

(53) Issued an order that the forced transfer of the civilian population must be prevented and any written statements by refugees that they would not return, or about appropriation of property, were considered legally invalid; **(TJ para 3347)**

(54) Stated that “ethnic cleansing” in BiH was not part of a policy, emphasizing that people were leaving the territory out of fear and that if there were examples of expulsion by force this was to be condemned; **(TJ para 3348)**

(55) Stated that there had been a lot of discussion on “ethnic cleansing” and reminded the VRS that RS authorities must not participate in it; **(TJ para 3351)**

(56) Agreed that all government bodies should be consistently applying regulations that require the return of illegally obtained property to its original owner; **(TJ para 3354)**

(57)Appealed to local authorities to ensure protection for all wounded and ill individuals irrespective of what side of the conflict they were on and to treat all prisoners humanely, **which did happen all the times**, ordering the VRS and MUP to apply and respect the international law of war; **(TJ para 3383)**

(58) Stressed that international conventions on the treatment of prisoners of war should be followed to ensure the humane treatment of prisoners of war and ordered release of all civilians and that they be allowed freedom of movement; **(TJ para 3387)**

(59) Ordered that visits by representatives of the ICRC to all prisons must be arranged; **TJ para 3389**

(60) Sent a strictly confidential telegram to the presidents of all municipalities in RS instructing them to ensure “respect of international humanitarian law with regard to the treatment of prisoners of war”, that civilians who had not committed crimes should “not be kept in prisons and collection centers against their will” and that they should ensure their safe passage to territory where they seek refuge from the war, and that officials must accommodate the ICRC and the High Commissioner for Refugees; **TJ para 3392**

(61) Re-ordered unfettered access for the ICRC to detention facilities; **TJ para 3395**

(62) Ordered that the forced resettlement of civilians should be prevented and that “any certificates of sale of property or statements that refugees will not return shall be considered as legally invalid and are declared null and void”; **TJ para 3400**

(63) Pledged to prevent “ethnic cleansing” and punish persons involved in expelling the civilian population; **TJ para 3400**

(64) Issued orders for the protection of non-Serbs remaining in Serb controlled territory; **TJ para 3402**

(65) Instructed the presidents of the municipalities in the Goražde area to ensure that all Bosnian Croat and Bosnian Muslim inhabitants in villages who surrendered their weapons and did not intend to fight should enjoy the full protection of the RS state; **TJ para 3402**

(66) Ordered that Serb authorities must act in accordance with the law and international humanitarian law and all inhabitants who surrender weapons and agree to live peacefully must be permitted to stay and be protected by the RS; **TJ para 3402**

(67) Issued an order to the Bosnian Serb MUP and VRS authorities to investigate criminal activity committed in the RS with particular attention to Prijedor; **TJ para 3403**

(68) Conveyed to the municipal authorities in Prijedor that they should ensure full protection for the non-Serb population; **TJ para 3403**

(69) Instructed the highest authorities of the municipality to publicly condemn cases of assaults on non-Serbs and to maintain law and order, punish the perpetrators, and take measures to protect all citizens and their property against looting, including the property of individuals who had left or been killed; **TJ para 3403**

(70) Replaced the Chief of Police in Bijeljina given that he was providing unsatisfactory security for the population; **TJ para 3404**

(71) Issued an order for the security and protection of all places of worship in Banja Luka and called for the immediate execution of this order and a report on measures taken; **TJ para 3405**

(72) Ordered that the Geneva and Hague Conventions and other provisions of “the international law of war” be observed in all respects; **TJ para 3409**

(73) Called for criminal investigations in response to specific events; **TJ para 3418**

(74) Ordered an investigation of the massacre at Korićanske Stijene; **TJ para 3418**

(75) Ordered the VRS to take measures against groups of servicemen who were harassing refugees. **TJ para 3419**

Having noted 75 facts of obviously exculpatory nature, the Chamber then failed to draw even **one, single** inference that would be consistent with the President's innocence. On the basis of this massive corpus of exculpatory evidence, any reasonable trier of fact would have concluded that the President never sought physical separation from non-Serbs through commission of crimes. Nevertheless, the Chamber incredibly found that the President:

(a) while warning that in a war, there would be bloodshed and all the communities would flee towards their "fully homogeneous" areas, **TJ para 2846** he, in fact, was not simply foreshadowing what he thought could happen, but that he was outlining the pattern which was actually put into practice; **TJ para 2846**

(b) was aware and put on notice that the objective of ethnic separation would result in violence given the extent to which the population in BiH was intermixed and yet still proceeded to pursue this objective; **TJ para 2846** and

(c) that in internal discussions among Bosnian Serb leaders it was clear that the forcible movement of the population had taken place in accordance with instructions received from the highest level of the Bosnian Serb leadership and was well planned. **TJ paras 2846, 2850, 2852, 3363, 3463**

Having noted a vast number of exculpatory evidence, which is still only a portion of the exculpatory evidence presented in the Defence Final Brief, the Chamber, **instead of making the only reasonable inferences possible** - those consistent with innocence - **unreasonably resorted to arguments contrary to common sense**, concluding that the exculpatory evidence, in fact, is not exculpatory at all because:

(a) There was a clear disjuncture between what was written on paper, what the President said in public, and the way in which Bosnian Muslims and Bosnian Croats were treated in practice; **TJ paras 2847, 3094**

(b) These public announcements, speeches, and decisions were often for the consumption of international public opinion, and the statements of the President were completely disingenuous, having regard to the reality of what was happening on the ground in the Municipalities; **TJ para 3095**

(c) The President's statements and announcements were used as a means of creating a narrative, particularly for the international audience, **TJ para 2849** following repeated protests at an international level about the treatment of non-Serbs as means of easing that political pressure, **TJ para 2850** and therefore

(d) The President was aware that his conduct was part of a widespread and systematic attack directed against a civilian population; **TJ para 3464 footnote 11035**

(e) The President continued to act in furtherance of the common plan although he received information about the perpetration of crimes committed by Serb Forces against non-Serbs, **TJ para 3466; See also Defence Final Brief paras 673-676** and

(f) The only reasonable inference to be drawn is that the President intended to achieve the objective of the Overarching JCE and that he shared the intent for the crimes of deportation,

inhumane acts (forcible transfer), and persecution (forcible transfer and deportation). **TJ para 3464**

## The Defense will now deal with each of the Chamber's incredible conclusions.

○ When dealing with the President's criminal responsibility, it is only marginally relevant whether there was a "clear disjuncture" between what he intended and did on one hand, and what happened on the ground, on the other. This disjuncture may have been caused by other factors, as explained in **138 paragraphs** of Defence Final Brief, **Defence Final Brief paras 402-540** containing another massive corpus of exculpatory evidence. Indeed, such an inference would have been in line with the President's basic rights, such as *in dubio pro reo*. All the same, what matters here is whether the crimes resulted from the President's intent and/or were a consequence of the President's acts, and whether that is the only reasonable inference.

○ As explained above, the Chamber noted 75 instances suggesting that the guilt is not the only reasonable inference. However, it still decided not to give any credibility to this evidence, because it was allegedly meant for propaganda purposes. The question, therefore, boils down to the issue of genuineness of the President statements and orders and sincerity of his efforts to prevent and punish crimes against non-Serbs.

○ At the outset, it should be emphasized that the Chamber explicitly or implicitly noted that many of the President's statements and orders were of a strictly confidential nature. **See for example TJ paras 2743, 2749, 2763, 2774, 3351, 3383, 3387, 3389, 3392, 3395, 3400, 3402, 3403, 3405, 3409, 3418, 3419**

○ As such, they should not have been treated as efforts to deceit the international public or their representatives, because they were never privy to such correspondence. Otherwise, this logic would also necessitate evidence showing that there was an understanding between the President and all of his interlocutors and persons who received his confidential orders or were told privately to protect non-Serbs and/or punish crimes against them, that it was all just a facade meant for the international audience. There is, naturally, no such evidence.

○ The evidence is clear that the President was consistent in his public and private conduct when ordering protection of non-Serbs or punishment of crimes against them, because in those 75 instances noted by the Chamber, it cited private telephone conversations, confidential meetings, Assembly sessions, confidential orders, as well as the President's public statements and appeals.

○ Still, the Chamber astonishingly found that in fact "the Accused went so far as to say to the Bosnian Serb Assembly that contrary to the lies and slander of international propagandamongers, the Serbian army maintained the knightly character and military honor, worthy of it", **TJ para 3380** suggesting that the President even tried to deceit the Serb Assembly, although this same Assembly, according to the Chamber, served as means through which the policies and objectives of the Bosnian Serb leadership were communicated. **TJ paras 2944, 2948**

○ The Chamber's logic is inherently wrong. The President, naturally, did not mislead the deputies. He was, instead, consistently telling them that: "**We must abide by the Geneva Conventions.**" **D0456, p. 54**

○ The fact that the President's orders and statements concerning protection of non-Serbs and punishment of crimes against them were genuine is supported by the evidence of all (19) leading RS officials, who testified as the Prosecution, Chamber or Defence witnesses, and who were the only witnesses with credible, insider information about the true policies of the President and the Serb side. **Defence Final Brief paras 1229-1247** However, the Chamber either conveniently rejected their evidence *in toto*, or selectively analyzed their evidence and relied only on those portions that were unfavorable, but also not relevant, for the President.

○ For example, the Chamber never cared to explain why it excluded the evidence of the Prosecution witness Branko Đerić who testified that he "never perceived the rights of my people to be something to be exercised at the expense of other peoples in Bosnia-Herzegovina. I was always in favor of equality(...) I know for sure that Mr. Karadžić was on the same wavelength", **T.27997**;

○ or that the RS leadership strived towards preserving the equality of people who remained in their original places of residence, **T.28017**;

○ and made a commitment to have all human rights be respected without exception, **T.28018**;

○ or that the Republican authorities insisted on implementing international conventions, and preserving everyone's right. **T.28066-7**

○ The Chamber ignored this evidence and instead relied on Đerić's evidence that Momčilo Mandić, Minister of Justice, and Mićo Stanišić, MUP Minister, ignored government decisions with respect to prevention and prosecution of criminal activity and answered more to the President, than to the government. **TJ para 3500**

○ Another example of the Chamber's selective attention is its treatment of the evidence of the Prosecution witness Milorad Davidović. The Chamber relied on what the witness was told – to find that the President exerted pressure on the authorities when ordering that the paramilitary group Yellow Wasps be released, **TJ paras 3208 and 3235**

○ and that the President's position was to avoid conflicts between Serbs even at the expense of not punishing criminal offences. **TJ para 3413**

○ The President's attitude towards paramilitary units is described in detail in Defence Final Brief paragraphs 1052-1129 that include many references to Davidović's testimony that are inconsistent with these findings. **See also Defence Final Brief paras 378-399**

○ However, the point here is that the Chamber found Davidović's evidence to be reliable, sincere and credible **TJ para 632 Footnote 2031** only when this witness gave evidence *against* the Appellant.

○ During his cross-examination, Davidović was confronted with the President's numerous contemporaneous orders and statements of exculpatory nature. He then told the President

"My hat is off to you, and I congratulate you on having done that **T.15677**  
(...) You wanted people who were doing such things to be arrested. So I'm not contesting at any time the efforts that you were making in that direction **T.15735**

(...) I reflected about this frequently, whether you knew all this or whether you couldn't prevent it, but objectively speaking, there was great chaos (...) **I must say that up until today or yesterday, I didn't know that you wrote so many orders and requested that**

**legal measures be taken, and your name was always mentioned in any context.**

Whatever anyone did, he always claimed to have the approval of President Karadzic. (...) I must admit that sometimes I wondered why did he invite us to come over when all that was happening and taking place? (...) If I had known of this support, I would have returned from Serbia to the MUP and I would have placed myself at your disposal, and you may be sure that you wouldn't be sitting here today.” **T.15793**

○ This evidence is nowhere to be found in the Trial Judgment, even though the Chamber heavily relied on Davidović's evidence. It is also important to note that in this answer to the President, Davidović correctly observed that if President Karadžić had possessed intent to further the JCE objective, he would not have issued so many orders to protect non-Serbs and punish crimes against them.

○ The Chamber, therefore, erred in law in failing to provide a reasoned opinion for excluding the exculpatory evidence of Đerić and Davidović, as well as the exculpatory evidence of 157 Defence witnesses. Instead of giving specific and sufficient reasons as to why particular exculpatory evidence was excluded, the Chamber explained for almost each and every Defence witness in a copy-paste fashion that the witness testimony was marked by indicators of evasiveness, contradictions, partiality, and/or inconsistencies. On the other hand, all Prosecution witnesses, except those who gave evidence consistent with innocence, were found to be credible. **See Annex**

○ The President's confidential orders are not the only indicator of his honest and genuine efforts to prevent or punish crimes against non-Serbs. His public speeches confirm the same. For example, during a large public rally in Banja Luka, the President addressed the 50,000 of gathered people, and said that the Serbs had no conflict with the Croats and Muslims but with their militant leadership, that he was proud to say that Muslims and Croats were not in danger in SerBiH and that the Serbs had to defend the borders of SerBiH for all citizens of BiH regardless of their confession or nationality. **TJ paras 2738**

○ The Chamber failed to explain what was dishonest about this speech or whom the President was trying to deceive. There is no evidence suggesting that the President had previously agreed with the crowd to *not* understand this speech seriously because it was meant to deceive the international public opinion. However, even if he had intended to deceive the international public with this speech, and there is no evidence supporting this conclusion, the effect of the speech would have been the same: people were told to respect non-Serbs.

○ In addition, the President clearly made a difference between the militant Muslim leadership and ordinary Muslim citizens, which contradicts the Chamber's conclusion that he identified all Bosnian Muslims and Croats as historic enemies, **TJ paras 2656, 2658, 2659, 2660, 2662, 2663, 2665, 2668, 2670, 2672, 2673,**

○ or that his speeches created a feeling that the Bosnian Serbs would be pardoned for whatever they did and created a fear among Bosnian Muslims. **TJ para 2665;**

○ Had the President considered all Muslims and Croats as enemies, the Chamber would not have been able to note 75 instances that squarely contradict its conclusion. Also other evidence, overlooked by the Chamber, shows that the only enemy for the President was the SDA-HDZ militant leadership. **Also, there wouldn't be so many settlements, some of them 100% Muslim or Croat, that remained safe throughout the war. Also, there wouldn't be imaginable that many Croats fought in the VRS, although they weren't obliged; or many**

**Muslims, including the entire 100% Muslim units in the VRS all the time! Both the Croats and Muslims in the Serb Army didn't defend the Serbs, but defended the principles and values of common life and a secular and democratic open society!** This evidence includes:

(1) his statement in the Assembly that the moment that "the Muslims arrive at **fundamentalism**, they won't be able to live with anyone (...) **in the same legal and political system**"; **P0012, pp. 18-20 (Emphasis added)** The only official standpoint of the Serbs an President himself about the possible independent BiH was communicated to the international envoys, and comprised as follows: Bosnia and Herzegovina to be transformed like Switzerland, and the City of Sarajevo as the Brussels, which is in the exhibit P941. In the same document Karad`i} said to Secretary Vance and his associates, that the Serbs in BiH "want full autonomy from the Muslims and Croats." Any other allegations are fake and malicious!

(2) the Prosecution expert's concession that the President linked the difficulties of living with the Muslims to the appearance of the fundamentalism phenomenon, not with the Muslims as such; **Donia, T.3664**, or

(3) intercepted telephone conversation during which the President said that "there are ordinary people out there, and I think that they should be welcomed with open arms. But as far as the leadership is concerned, there will be no hesitation, they must know that, that if they want to secede they will have to (...) start a war against us and to hit us, to fight us, and then they will get their answer back, that goes without saying (...) our ambition is not to kill them (...) the army treats civilians properly". **D0279**

The Chamber similarly erred in finding that the alleged President's ideology entailed achieving unity of the Serb people, promotion of Serb interests, and physical separation from non-Serbs through commission of crimes. **TJ paras 2652, 2654**

However, anyone is invited to carefully review and analyze the evidence presented in paragraphs 233-326 of Defence Final Brief, containing a detailed pre-war chronological journey through the President's state of mind based on **one hundred** exhibits showing that he never contemplated the creation of an ethnically homogeneous entity by military means, which entailed the forcible movement of the non-Serb population. The evidence rather shows that the President:

- (i) pursued policies to preserve peace;
- (ii) always tried to accommodate and respect the rights of non-Serbs; and
- (iii) did not support or plan the forcible movement of the population or the commission of crimes against non-Serbs.

Taking into account this massive corpus of exculpatory evidence, it is perplexing that the Chamber arrived at the conclusion that the President advocated separation of population and take-over of Bosnian Serb claimed territories entailing the removal of non-Serbs, which was all founded on the ideology that Bosnian Serbs could not co-exist with Bosnian Muslims and Bosnian Croats. **TJ para 3440, TJ paras. 2839–2956, TJ paras 2895–2896, TJ paras. 2670–2673.**

All the evidence referred to in the Trial Judgment's section "Separation of population— inability to co-exist", **TJ paras 2716-2773** when analyzed impartially and reasonably, show that the President sought political separation of the state entities of communities by legitimate and legal

political means, or at least that this is another reasonable inference to be made on the basis of that evidence.

Unfortunately, the Chamber engaged in cherry picking, omitting important portions of the evidence on which it was relying. For example, in paragraphs 2717-2718, the Chamber found that with respect to the “three national communities” in BiH, President Karadžić suggested that the Serbs should seize power wherever they can, **which was said in the occasion of the Agreement of decentralization of BIH, and meant a responsible execution of authority!** **The shifting of the “time frame” and dislocation of speeches out of context was the most frequent manipulation with the President words!** In the same paragraphs the Chamber underlined that the President was of an opinion that “the more separate things there are the better it will be”. Although political separation is obviously another reasonable inference to be made, **as President Karadžić said to Secretary Vance (P941) – a full autonomy from other two communities, in terms of decentralization of BIH.** It is important to note that the evidence relied on by the Chamber also shows that the President asked the Serbs that “the plebiscite goes off with dignity and good spirits (...) on best terms with your Muslim and Croatian neighbors (...) no conflict anywhere whatsoever”. **P0958, p.8**

Another example of selective analysis of evidence could be found in the Chamber's conclusion that Krajišnik was in favor of a “monolithic Serbian state”, **P0958, p.8** that he wanted to create a state that was ethnically “pure”, **TJ para 2729** or that he spoke about their goal being “to separate from the Croats and Muslims forever”, **TJ para 2767** despite the fact that it elsewhere noted that Krajišnik stressed “if the Muslims want to go from our territory, then we enable them to leave our area, without coercion, because we do not have the right to do that, nor should anyone take on himself their ethnic cleansing”, **TJ para 2773** or that Krajišnik indicated that the “time is ripe for a demarcation of the areas between Croats, Serbs, and Muslims because (...) a common state with them is no longer possible, not because we do not want that, but because that is what they want. The Muslims leadership has imposed the war on us even though the Serbs wanted a political solution of all problems”. **TJ para 2825** Similarly, the Chamber also noted that Krajišnik spoke about creating a state, which would be the home for the entire Serbian people and for all others who so wish. **TJ para 3054;** **However, the Chamber didn't notice that Krajišnik was talking about what the Serbs had already achieved in 1918 and 1945. Therefore, Krajišnik spoke about maintaining an existing status quo!**

The same evidentiary cherry picking applies to Koljević. In paragraph 2721, the Chamber relied on the evidence of three Prosecution witnesses to find that Koljević called for the expulsion of Bosnian Muslims, although other, more credible contemporaneous evidence led by the Prosecution shows that it was Koljević who in July 1992, during a confidential meeting, proposed to the Bosnian Serb leadership that “we should take a stand - discuss law-abiding versus national state and make our policy known”, **P1478, pp. 313-4** and that it was agreed that “unlike the Muslims and Croats we are going to build a law-abiding rather than an ethnically clean state.” **478, p. 313**

It is very important to note the Chamber's finding in paragraph 3446 that the fact that no crimes were committed in the majority of municipalities under the Bosnian Serb control, not covered by the Indictment, “would not affect the Chamber's conclusion that crimes were committed in a systematic and organized manner in Municipalities” covered by the Indictment. **This**

conclusion clearly suggests that the Bosnian Serb leadership did not want the creation of an ethnically clean state, because no crimes against non-Serbs were committed in the majority of the Bosnian Serb municipalities. Notwithstanding the obvious inference consistent with innocence, the Chamber again opted for the inference most adverse to the President: the crimes in the minority of the municipalities, rather than the lack of crimes in the majority of municipalities, reflected the objectives of the President. The Chamber tried to justify this erroneous reasoning by concluding that these fewer municipalities were of strategic importance. **TJ para 3446;**

However, even if this creative explanation were correct, it would still not change the fact that **no crimes** against non-Serbs were committed in the **majority (two third)** of municipalities, which, in turn, would not have been the case, had the state policy been the creation of an ethnically clean state. Also, **if it was about “a strategic importance”** it would **contradict** to the Chambers assertion that it was about “ethnic purity” – since it would have been because of **a military necessity!**. **Worthwhile to notice:** in municipalities with mayors at the same time being members of the SDS Main Board, there was no any crimes whatsoever, which certainly wouldn’t be a case if crimes had been the state intention! The objective analysis should, therefore, find that the Trial Chamber continuously modified reasoning and constantly searched for illogical explanations for why the President must be guilty, instead of drawing obvious inferences consistent with innocence.

Another example of this erroneous approach is the Chamber's conclusion that, although the President continued to learn about instances of “ethnic cleansing” throughout the conflict, it was not until 19 August 1992 that he issued an instruction to the VRS and MUP ordering protection of the civilians, **(TJ para 3496, TJ para. 3400)**

as a result of the pressure by the international community. However, the Chamber found elsewhere in the Judgment that the President’s associates, the Prime Minister Djeric} did it already in April 92, General Mladić in May 92, and President Karadžić once he got the office, and he had issued such orders already in June 1992, **(TJ para 3383) then twice in July, all together – a several times before 19 August 92!** and that also members of the government, VRS, JNA and MUP issued orders to various divisions in the Bosnian Serb MUP or VRS on crime prevention, to ensure compliance with international humanitarian law, prevent the abuse of detainees and mistreatment of civilians, and to report crimes or illegal camps on **24 April 1992, 26 April 1992, 30 April 1992, 10 June 1992, 13 June 92, 23 June 1992, 10 August 1992, 17 August 1992, 19 August 1992, 21 August 1992.** **(TJ para 3409)**

The President’s numerous contemporaneous **confidential** orders and public appeals and statements aimed at protection of non-Serbs and punishment of crimes against them were all at the disposal of the Chamber. That is the most credible and direct evidence of the President’s state of mind. It is also the evidence that is far more relevant than the personal interpretations of mid-ranking international witnesses who testified about the “true” intentions of the President. In this regard, the Chamber erred in relying on Harland’s evidence that the President allegedly told him about his aim to redistribute the population of BiH so that the Serbs would be left in control of a single continuous block of territory and that large numbers of Bosnian Muslims had to be removed. **(TJ para 2726; No matter the reports from the very same meetings, even those drafted by Harland, never mentioned anything similar! See also TJ para 2880 or TJ para 2703 regarding the evidence of Aernout van Lynden, and TJ para 2799**

**regarding the evidence of Pyers Tucker)** This is not only blatantly untrue, bearing in mind the totality of evidence, but it is also directly inconsistent with the Chamber's own conclusions elsewhere in the Judgment that the President:

(a) having been informed of crimes in the Municipalities, provided misleading information to representatives of international organizations, (**TJ para 3503, 3333–3334, 3337, 3341, 3347–3348, 3359, 3369, 3376–3381**)

(b) deflated criticism expressed by internationals in relation to claims of “ethnic cleansing”, (**TJ paras 3503, 3337, 3378, 3347–3348**).

(c) provided misleading information to international observers on the ground, (**TJ para 3504**) or (d) shifted blame for the crimes away from Bosnian Serbs. (**TJ para 3377**) **(And all of it in spite of a convincing evidence about an unprecedented bias of the international media, and international representatives, confirmed by the same international witnesses!)**

On the other hand, the Chamber made another series of conflicting conclusions that, in fact, the President’s statements to the international negotiators demonstrate his knowledge that “ethnic cleansing” was directly linked to the Bosnian Serb JCE objective, (**TJ para 3404**)

such as his alleged statement to the UN and Abdel-Razek that the Bosnian Muslims would be transferred out of Bosnian Serb territory. (**TJ para 2757**) As could be seen, all these far-reaching conclusions made by the Chamber are illogical and utterly wrong: the President was simultaneously lying and telling the truth to the same people about the same thing.

**All of this “by-pas” statements of a middle or low ranking UN officials DRASTICALLY DIFFER FROM THE OFFICIAL DOCUMENTS OF THE U N, CREATED AND SIGNED BY THEIR IMMEDIATE SUPERIORS, COMMANDERS OF THE FORCES IN BiH! All of it is marked by # in comments, and could be seen easily!**

As a matter of fact, this fallacious logic is best illustrated in paragraph 3084 of the Judgment, where the Chamber found that

(1) although the President spoke in terms of taking power in a “humane way” with respect to the Bosnian Muslims and Bosnian Croats,

(2) it was clear that he said this in the context of trying to “change (the Bosnian Serbs’) image with foreign monitors”,

(3) even though the instructions given to Crisis Staffs also required the humane treatment of civilians and respect for POWs. (**TJ para 3084**) **(Not to forget the time frame and context: after reaching the Lisbon Agreement, the President appealed that the local authorities in the Serb entity exercise a very responsible conduct in bodies of authority! The Trial Chamber never cared about a context in which something had been said!)**

Although its reasoning lacked sense, the Chamber continued to selectively and inconsistently apply the evidence when finding that Mandić, **joking with a colleague Croat**, acknowledged that Croats and “the rest of Muslims” would also have rights after “we clean them out”, (**TJ para 2730**) while also finding that this same person at approximately the same time told his interlocutor to “not touch those Muslims who are willing to listen and who are loyal. We cannot ethnically cleanse Iličić or any other place. At least that is the attitude of the Government and political leadership and all.” **This was not a joke, but a serious message to the subordinate! (**TJ para 3310**) (Comments of the massive abuse of the “Words of**

**others” with the aim to obtain a *mens rea* of the President are marked in the comments of paragraphs with the #Words of others mark, and can be find easily!)**

Similarly, the Trial Chamber relied on Mladić's diary to find that (a) in May 1992, the President attended a meeting where he said “then we clear the Posavina of Croats”, (**TJ para 2733 referring to P1478**) leaving an impression that this sentence applied to civilians rather than to the Croat armed forces, or (b) that in June 1992, the Appellant stated that “the birth of a state and the creation of borders does not occur without war”, while Ostojić reported that there were no Muslims in Bratunac, (**Although the Serbs controlled only 20% of Bratunac**). (**TJ para 2875**) The Chamber again failed to note that the evidence it was quoting also shows that in June 1992, during those same private meetings with Mladić, the President said that “we must not put the pressure to have people displaced” (**P1478, p. 98**) or that in July he told Mladić that he was going to sign an agreement that **“all refugees are allowed to return to their homes”**, (**P1478, pp. 358-9**) which he did as promised. (**P1479, p. 17**) Therefore, the Chamber's finding that these selectively quoted statements are “in stark contrast” with his exculpatory speeches described in paragraphs 2734-2738 is wrong.

The Chamber further erred in drawing adverse inferences from Žepinić's evidence that the President spoke to him about his view that the different nationalities could not live together in BiH, and that Žepinić expressed his concern about what was going to happen to the large number of mixed families in BiH. (**TJ para 2739**) However, in the footnote of the same paragraph, the Chamber explicitly noted that Žepinić also believed that the President was against the policy of division, (**TJ para 2739 footnote 9087**) or found elsewhere in the Judgment that Žepinić testified that the President did not take a position that Bosnian Muslims and Croats should be expelled. (**TJ para 2739 footnote 9088**)

Furthermore, Žepinić gave evidence that he was appointed in the MUP as a proponent of the continuation of a multi-cultural society of Bosnia, with the support of the President, (**D2923, paras 10-11**) and that the President was never interested in ethnic backgrounds of policemen and had friends and relatives from all ethnic groups in Bosnia-Herzegovina. (**T. 33650-33651**)

Having analyzed another series of exculpatory statements and orders issued by the Appellant in paragraphs 2740-2741 and 2743-2744 of the Judgment, the Chamber concluded in paragraph 2745 that “despite these public announcements, the Accused continued to advocate the division of BiH on ethnic lines”. However, the main dispute is not about the separation as such; it is about whether the separation was meant to be achieved by legal, political means or illegally through commission of crimes. All the exculpatory statements quoted by the Chamber in these paragraphs suggest that the President sought separation by political means, **and in accord with the Law, Constitution and the results of the ICFY**, which did not involve crimes against non-Serbs. **That what President Karadžić sought was envisaged in all and every peace plan, from the Lisbon Agreement to the Dayton Agreement, as well as in the Conference during 1991, far before the war!** The Chamber's findings that the President warned against the Muslim fundamentalism in July 1992 or that he worried about the Muslim demographic politics on other occasions do not affect the legality of his acts, (**TJ paras 2745-2747**) and this is further supported by the fact that the President was at the same time ordering protection of non-Serb civilians both in July 1992, as noted in paragraphs 2743-2744 of the Judgment, and throughout the entire war, as noted in the 75 instances explained previously.

The fact that President Karadžić wanted political separation by legal means is also confirmed in

paragraph 2749 of the Judgment, where Krajišnik recalled that the aim of the Bosnian Serbs was to divide with the Muslims, while the President added that “we must have ethnic minorities in the state as well”. This same conclusion is the only inference also in paragraph 2752 where the President told the international representatives that the Serbs and Muslims could quite happily live alongside each other, but each with their own administrations and safeguards for minorities.

Another example of the Chamber's selective reading of the evidence can be found in paragraph 2756, where it noted that the President mentioned the case of India and Pakistan because there had been a “huge resettlement of the people and the separation was covered in blood”.

**(Referring to P938 and P12)**

However, the Chamber failed to note that in those same speeches, the President also stated that he "cannot understand why the Muslims will not accept what we also have. We have our unit, the Croats have their unit, the Muslims have their unit and there are the joint organs(...) if they want to live with us, they too should establish similar organs, they should establish cooperation with us, and joint bodies (...) **They think that population resettlement would be the best idea (...) That is one heck of a vague idea**" and "**an idiotism that happened between India and Pakistan! Therefore, Karadžić didn't recommend the India-Pakistan example, but named it as an "idiotism"**"! (P938 (D1285)) and also that the Serbs needed to be wise and united “in order to take the last drop of the power into our hands, in a humane way of course, carry it out in a humane way, a just way towards both Muslims and Croats who live there, that is particularly important, that there would be no fleeing from our areas”. (P12, p. 5) (**The context and time frame is: 14 February 1992, a day after it was concluded that the International community was going to support formation of three Bosniahs**)

Although the Chamber relied on the evidence of Abdel-Razek in paragraph 2757 of the Judgment, that in January 1993 the President allegedly openly told the UN that the Bosnian Muslims would be ethnically cleansed, it noted elsewhere in the Judgment that Abdel-Razek testified that the President “showed respect to me and to the United Nations”, that the meetings between him and the President took place in a “positive atmosphere”, that he was not being deceived at these meetings, but that the problem was in the chain of command, and that the good intentions of the leadership was not reaching the soldiers. (TJ para 4855) (**Worthwhile to note that in the documents from these meetings had never indicated anything similar to the ideas said in testimonies 20 years after!**)

Furthermore, already in the following paragraph 2758, the Chamber noted that also in January 1993, during a meeting attended by Bosnian Serb and Serbian leaders, it was concluded that the territory they got should be “nationally homogeneous as soon as possible”, but that this was not to be achieved by “ethnic cleansing”.

The President is further quoted in paragraph 2765 of the Judgment as saying at the July 1994 Assembly that Krajina would “take on an appearance of a rotten apple” if their enemy was in Krajina. Again, the Chamber creates an impression that the President was referring to the non-Serb civilian population, although elsewhere in the Judgment, (TJ para 3403) it cited evidence that in July 1994 the President (**strictly confidentially**) ordered municipal authorities in Prijedor in Krajina that they "are duty-bound publicly to condemn all cases of assaults on non-Serbs and to maintain law and order at any cost and bring the perpetrators of incidents to justice. Please transmit my order to the public security station and the Serb army namely that

they are urgently to step up protection measures for all citizens and all their property, including also the property of those who had left their homes earlier or were killed in the war." **(D4213)**  
**A "rotten apple" pertained to the Muslim demands to get their narow territorial spots deep in the Serb territory, to administratively belong to the Muslim entity!**

Therefore, the President's July 1994 statement at the Assembly that the "primary strategic aim (...) is to get rid of the enemies in our house, the Croats and Muslims, and not to be in the same state with them any more" **(TJ para 2770)** cannot be understood as being directed against the non-Serb civilians. **This pertained to Yugoslavia, made of many of nations that didn't want it!**

Furthermore, it should be noted that the Chamber observed Mladić's statement at the Assembly that his concern was to have the Muslims vanish completely, **(TJ para 2766)** and it also noted the President's remark at the same Assembly that "it is impossible to make the Muslims vanish." **(TJ para 2768)**

In the same paragraph, it was noted that the President's position was that they could not declare a ban on the return of refugees according to international law and that in principle they would say that all refugees could return on a reciprocal basis. **(TJ para 2768)**

Similarly, the Chamber noted in paragraphs 2772 and 3070 of the Judgment that the Appellant continued to speak about the Serb right to claim territories on the basis that "(w)e have created new realities", but the Chamber omitted to note that the President also stated at the same Assembly session that "we must create a state using all means, above all those permitted and allowed, of course, with respect for human rights and international conventions". **(P1403)**

Finally, in paragraph 2773, the Chamber found that the President spoke about "turning a blind eye to private agencies and arrangements through which Bosnian Muslims left for western Europe because in those situations "no one can accuse us", whereas if a state institution was involved they would be accused of "ethnic cleansing". The Chamber suggests that the President supported some informal way of ethnic cleansing. However, the Chamber failed to observe in the document it was quoting that it was absolutely clear to everybody present at the meeting that

"Our policy is such as President Karadzic said (...) not to ethnically cleanse them." **(P3149, p. 66)**

Another reasonable inference, therefore, is that the President did not want the state to get involved in private arrangements **of the Muslims willing to reach the European countries and a private agencies**, in order to avoid exposure to hostile propaganda.

For all the reasons stated above, any analyst should find that the Trial Chamber systematically misapplied and/or misinterpreted evidence, and continuously opted for the inferences most adverse to the President. Any reasonable analysis will find out that the Trial Chamber's conclusion that the President's objective was physical separation of Bosnian communities through commission of crimes **must not survive**, and will find that he sought political separation and establishment of separate constituent units with safeguards for national minorities.

Similarly, any objective analysis should find that the Trial Chamber erred in fact and law when it found that ethnic separation and the creation of a largely ethnically homogeneous entity were some of the core aspects of the Strategic Goals and that the President planned the military implementation of these goals which necessarily entailed the take-over of territory and the forcible movement of the non-Serb population, (**TJ para. 3439, TJ paras. 2895-2903; See also Defence Final Brief paras 1286-1293**) even though the Chamber also explicitly found that there was nothing in the Strategic Goals or Variants A&B which called for the commission of crimes *per se*. (**TJ para. 3439**) Furthermore, the Trial Chamber implicitly recognized that the deputies did not understand the Strategic Goals as instructions to commit crimes against the non-Serb population. For example, a deputy from Brčko referring to the tasks set by the President, noted that one of the first priorities “is establishing communication between Semberija and the Bosnian Krajina” and that while military operations had been completed to some extent, there were still Bosnian Muslim forces in Brčko. (**TJ para 2869 (Emphasis added)**)

**Although the Prosecution expert witnesses concluded that the Strategic Goals had not been a military ... but a negotiating plan, the Chamber didn't pay any attention to it, see:**

Any reasonable analysis would find that the Chamber should have drawn another reasonable inference available on the evidence, that is, that the President did not envisage forcible movement of the non-Serb population when pursuing the objectives set in the Strategic Goals, and that the Trial Chamber erred when it found that crimes committed in the Municipalities over a short time period suggest that they had been planned. (**TJ paras 3444-3445**)

In light of the massive corpus of exculpatory evidence to the contrary, another reasonable inference is that the Bosnian Serb leadership did not control the events in the field, (**See also Defence Final Brief paras 402-540**) and that, as soon as the Republic authorities started to function properly, the level of crime fell drastically.

Turning now to other supposedly incriminating evidence in paragraphs 2788-2789, where the Chamber suggests through Prstojević's speech at the Assembly, that the Appellant encouraged the alleged ethnic cleansing of non-Serbs in Ilijadža, **Althoug the witness Prstojevi} clarified that a mere appearance of the President, for whom they even didn't know whether he was alive – encorafed the Serbs in Ilij`a to endure! Together with the evidence that Dr. Karad`i} demanded that in Ilij`a nobody should lose a single hair, no any inference against the President could have been withdrawn!** At the same time there is finding that, at the same Assembly session, the President told the deputies that "in the state that we are building, we have to ensure that they have all the rights that we have." Similarly, in paragraph 2816 of the Judgment, the Chamber leaves an impression that there was something sinister about the President's speech in the Assembly when he said that the Serbs had grabbed several towns where they had been minority. **That had been said in the context of defending the Peace Agreement, according to which several 80 - 100% Serb majority towns and municipalities, such as Drvar, Bosansko Grahovo, Glamo~, Bosanski Petrovac – had been allocated to the Muslim-Croat Federation.** Taking into account the overwhelming exculpatory evidence presented in this Appeals Brief, as well as in the Defence Final Brief, (**Defence Final Brief paras 221-327, paras 1220-1247, paras 1349-1376//** the only reasonable inference to be made is that the Appellant never discussed, knew about or intended crimes, which may have occurred in the towns with Serb minority.

Likewise in paragraph 2872 of the Judgment, it is suggested that a deputy's speech about the evacuation of Muslims from Bosanska Krupa "who were unlikely to have a place to return", is an example of the alleged pattern of the Appellant's involvement in setting objectives, which were implemented at the municipal level. However, the Chamber inexplicably excluded from this analysis the evidence showing that

(1) the Bosnian Serb leadership did not prohibit the return of refugees, (**Defence Final Brief paras 989-999**)

(2) the deputy that spoke about Bosanska Krupa, meant only the Serb part of municipality, on the right bank of the Una River, which was only one third of the Bosanska Krupa municipality, and also he said that he hoped that there will not be any Muslims in the Serb Krupa **while the fights are going on! This part of his sentence had been skipped for the purpose of Judgment!** the President's continuously insisted at this same Assembly session about political solutions for the Bosnian conflict, and

(3) the President had already on 22 April 1992 issued a public appeal calling for a "public commitment by all the parties in BH that they will not accept a policy of fait accompli (...) and that territorial advantages gained by means of force will not be recognized." (**D0220**)

Finally, the Chamber erred in concluding that the Directive 4 to "cleanse the free territory of RS of the remaining enemy groups and paramilitary formations" and "to inflict the heaviest possible losses" on the "enemy" and force them to leave certain areas such as Birač, Žepa, and Goražde with the Bosnian Muslim population, was somehow part of the Appellant's instructions to the VRS. (**TJ para 2876**)

The Chamber erred because it failed to include in its analysis the evidence in relation to Directive 4 presented in twenty-four paragraphs of the Appellant's Final Brief, (**Defence Final Brief paras 1299-1323**)

and, most importantly, because it failed to consider direct evidence of the President's intentions towards the civilians in Eastern Bosnia, as reflected in an intercepted telephone conversation with the RS Prime Minister following the issuance of Directive 4:

(A) **Muslim civilians may stay where they are or go where they want** but armed gangs must put down their weapons (...) we will give amnesty to all ordinary combatants (...) suspected war criminals would be trialled in accordance with the law and that the international tribunal should be present and have the international institutions take part and the **civilians can stay and have no need to flee** (**D3571, pp. 2-5 (Emphasis added)**) (**A linguistic problem is involved too, since it was said that the enemy groups leave WITH THE POPULATION, not vice versa, that the population leave with the armed groups. In Serbian it is clear – the population demanded to be allowed to leave, while the combatants wanted to stay, as it happened two weeks earlier in Kotor Varo{, which resulted in a more cruel skirmish!}**)

For all these reasons, any reasonable analysis would find:

(1) that the President never intended or shared the intent for the crimes of deportation, inhumane acts (forcible transfer), and persecution (forcible transfer and deportation), and consequently also for the JCE III crimes,

(2) that the President was not a member of the Overarching JCE and

(3) that there was no Overarching JCE. **It is particularly important to notice that a temporary removal of the civilians from the combat zones was an obligation both due to**

**the domestic law and the IHR, as well as that THERE WAS NO ANY INTENTIONS, AND ALSO ANY POSSIBILITY TO PERMANENTLY REMOVE SOMBEDY FROM SOMEWHERE! NAMELY, THE PRESIDENT HIMSELF PROPOSED, ACCEPTED AND SIGNED MANY RELEVANT AND BIDING COMMITMENTS AND AGREEMENTS ABOUT RIGHTS OF REFUGEES TO RETURN TO THEIR PLACES OF ORIGIN!**

## **THE TOOLS OF WRONGFUL DELIBERATION AGAINST PRESIDENT KARADŽIĆ]**

**A WORDS:** (Could be found in the comments in each paragraph under the # mark)

- 1. President Karadžić's statements consistent with the inference that “separation” meant political autonomy not forced displacement of the population;\*** *Judgement*, paras. 2716-18, 2720, 2723-25, 2732, 2745, 2747 2750-56, 2768, 2770, 2772-73
- 2. Statements and predictions, in which homogeneous areas are seen as an inevitable product of the civil war, not as something desired by the Bosnian Serb leadership;<sup>2</sup>**
- 3. A matter of territorial homogeneity had been forged to look like an ethnic homogeneity;**
- 4. Political speeches interpreted verbatim;**
- 5. Dissuading from a “war policy”, as a persuading and encouraging to it;**
- 6. Fearful assumptions and predictions of a war consequences – as a threats, or plans, wishes, etc.**
- 7. “Time-frame” shifted words, what had been said far before the war, as if it had been said in the war; what was said after the agreements are reached, as if said in another context. In such a cases, the Presidents's instructions for a consolidation of authorities and responsible conduct, the Chamber depicted as if it was an instruction to “take over” power from somebody else!**
- 8. A crippled sentences, with skipped the crucial part of sentence (an example: a deputy from one municipality said in the Assembly that: “... in the (Serb) part of (his) municipality at the moment there was no a Muslims, and he hoped there will not be any**

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<sup>2</sup> *Judgement*, para. 2719, 2760

**(while the fights are going on)** The underlined parts are skipped, so to create an impression that he was against the presence of the Muslims in the Serb part, although he was anxious that they may be present while the combats are going on!

9. Jokes, folklore sayings, famous poetry lines, irony, sarcasm... depicted verbatim;
10. Statements attributed to President Karadžić that he simply did not make. Such non-existing and fake statements, mainly mentioned in the testimonies of a low ranking UN officials, had not been registered by their superiors in their reports to the UN HQ, nor ever mentioned by any responsible UN official;

Statements consistent with political, not physical, separation

11. The Chamber often unreasonably selected the most sinister interpretation of President Karadžić's words. For example, the Chamber interpreted President Karadžić's statement suggesting the Serbs should seize power wherever they can" and that "the more separate things there are the better it will be" as evidence of his intent for physical separation.<sup>3</sup> (**In his speech at the 16<sup>th</sup> session of the Serb Assembly he added, "a state separation," wanting to be clear to the deputies**)
12. The Chamber also ignored the possibility that political separation could be accomplished by attaching villages to adjacent municipalities controlled by their ethnic group without any movement of the population.<sup>4</sup> (**which was appointed and done before the war, the Dobratić case, D3980 That also was the principal tool for achieving homogeneity of all three member states in BiH, as envisaged by the Lisbon Agreement!**)

**13. Statements regarding the effect of war**

By finding that President Karadžić intended a homogeneous entity, the Trial Chamber linked President Karadžić's policy with the crimes that took place once war broke out. In fact, there was no such link. The crimes were the inevitable result of a civil war among groups with a long history of violent antipathy, not the product of President Karadžić's policy.

Numerous international actors involved in the former Yugoslavia recognized this.

Former U.S. Secretary of State **James Baker** said that:

We said if Yugoslavia does not break up peacefully, there's going to be one hell of a civil war.<sup>5</sup>

Former U.S. Assistant Secretary of State **Lawrence Eagleburger** stated that:

I think the major lesson here is when you get involved in something like this with a thousand years of history underlying it all, you need to understand that once the dam breaks, the viciousness can be pretty awful – on all sides.<sup>6</sup>

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<sup>3</sup> *Judgement*, paras. 2717-18

<sup>4</sup> D4555, p. 2; D4519, p. 6

<sup>5</sup> T832

Former UN Secretary General **Javier Perez-de Cuellar** stated that:

"I'm deeply worried that any early selective recognition could widen the present conflict and fuel an explosive situation, especially in Bosnia-Herzegovina."<sup>7</sup> (@Many others said so@)

President Karadzic's statements about what would happen if war broke out were not a statement of his desire, but a warning of what would obviously occur if war broke out, despite the best efforts of leaders on all sides. (This was pronounced within the Karadzic efforts to dissuade the Muslim leaders from their intention to push towards independence of a unitary Bosnia! So many Serb concessions to the two other sides during the negotiations had exactly this purpose, to avoid a war, as Secretary Vance properly estimated and communicated to other foreign ministers!@D....)

#### Statements of Others

14. When analyzing statements of others, the Chamber also inferred the most sinister interpretation. For example, it found that Krajisnik was in favor of a "monolithic Serbian state",<sup>8</sup> that he wanted to create a state that was ethnically "pure",<sup>9</sup> and that he wanted "to separate from the Croats and Muslims forever".<sup>10</sup> But at the same time, Krajisnik stressed "if the Muslims want to go from our territory, then we enable them to leave our area, without coercion, because we do not have the right to do that, nor should anyone take on himself their ethnic cleansing".<sup>11</sup> Similarly, Krajisnik spoke about creating a state, which would be the home for the entire Serbian people and "for all others who so wish".<sup>12</sup> When Krajisnik recalled that the aim of the Bosnian Serbs was to divide with the Muslims, President Karadzic added "we must have ethnic minorities in the state as well".<sup>13</sup> (This was not a solitary, but rather a multiple statement about existence of minorities, and protection of their rights in all the entities; we should number it out?)
15. The Chamber relied on the evidence of three Prosecution witnesses to find that Koljevic called for the expulsion of Muslims.<sup>14</sup> However, it was Koljevic who, during a confidential meeting in July 1992, proposed to the Bosnian Serb leadership; "unlike the Muslims and Croats we are going to build a law-abiding, rather than an ethnically clean state."<sup>15</sup> (Contrary to all the fake testimonies, Dr. Koljevic explained what was the idea of the political separation, partly accepted in para 2721: Koljević also emphasised that they would not allow the Bosnian Muslims to have a sovereign state which extended over both the Serb

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<sup>6</sup> *Yugoslavia, the Avoidable War*, Part 1, at 46:00 accessible at <https://www.youtube.com/watch?v=u04IL4Od8Qo>

<sup>7</sup> T832

<sup>8</sup> *Judgement*, para. 2721

<sup>9</sup> *Judgement*, para. 2729

<sup>10</sup> *Judgement*, para. 2767

<sup>11</sup> *Judgement*, para. 2773

<sup>12</sup> *Judgement*, para. 3054

<sup>13</sup> *Judgement*, para. 2749

<sup>14</sup> *Judgement*, para. 2721

<sup>15</sup> P1478, p. 313

*and Croat parts of BiH and that they had therefore constituted a Serb Assembly.*<sup>9037</sup> Koljević acknowledged that the process of re-organising municipalities was with the aim of creating “homogeneity of certain areas” and argued that contrary to the political assertions, it was not impossible to divide BiH.” Which clearly meant: a territorial homogeneity!

#### **16. Statements attributed to President Karadzic**

The Trial Chamber relied on the uncorroborated evidence of UN official David Harland that President Karadzic stated that his aim was to redistribute the population so that the Serbs would control a single continuous block of territory and that large numbers of Muslims had to be removed.<sup>16</sup> Although it was Harland’s duty to take careful notes of what was said at meetings with President Karadzic, this statement appears nowhere in any of his reports.<sup>17</sup>

(**Harland was not a negotiator, not even a member of delegation, see P824**)

FILE REF: \_\_\_\_\_  
DRAFTER: DAVID HARLAND  
DATE: 28/01/93  
[Signature] [Initials]

AT THE REQUEST OF DR KARADZIC, A MEETING BETWEEN UNPROFOR AND BOSNIAN SERB LEADERSHIP WAS HELD IN PALE TODAY AT 1100.

UNPROFOR WAS REPRESENTED BY BHC (BRIQUEMONT), COS (HAYES) AND CAC (ANDREEV). ALSO THE MOST SENIOR MEMBERS OF THE SERB LEADERSHIP WERE PRESENT: KARADZIC, MLADIC, KRASJAK, PLAVCIC AND LUKIC; ALSO OTHER SENIOR MILITARY AND POLITICAL LEADERS.

**So, Harland wasn’t named as a member of the Delegation even in the report he drafted. But, neither his superiors, as the principal negotiators, nor Harland himself, ever mentioned such a drastic statement, which certainly would be a main subject in the further negotiations, and a curiosity for media!)**

**17.** Likewise, the Chamber relied upon the uncorroborated testimony of UN Colonel Abdel-Razek that President Karadzic and other Republika Srpska leaders stated in January 1993 that “ethnic cleansing was something that was necessary”, when no such statements appeared in any of his contemporaneous reports.,<sup>18</sup> (**or anyone’s official or unofficial report!**)

**18.** These alleged “confessions” were inconsistent with the Trial Chamber’s conclusion that President Karadzic was disingenuous with the international community.

In the *Krstic* case, the Appeals Chamber observed in a different context that although General Mladić announced that the survival of the population depended upon the complete surrender of the ABiH, it was unlikely that General Mladić would disclose his genocidal intent in the presence of UNPROFOR leaders and foreign media.<sup>19</sup> Likewise, if President Karadzic had the intent to ethnically cleanse Muslims and Croats, it is unlikely that he would have disclosed it to Harland or Abdel-Razek.

#### **19. Skipping all of so many genuine words of President Karadžić, communicated in a strictly**

<sup>16</sup> *Judgement*, para. 2726

<sup>17</sup> In a later part of the *Judgement*, the Trial Chamber acknowledged that this was Harland’s own assessment of what had been said. Fn. 9424

<sup>18</sup> *Judgement*, para. 2757

<sup>19</sup> *Krstic AJ*, para. 87

confidential orders, or on a confidential meetings of the Serb dignitaries;

20. Words of others, particularly members of Parliament, who enjoyed the immunity for whatever they said;
21. Words of unofficial or incompetent Serbs, said by-the-way, in unofficial occasions;
22. Even words of the international witnesses, what they allegedly said to the President, as if President Karadžić himself said that;

**DOCUMENTS:**

23. A complete negligence of the most relevant contemporaneous documents, a genuine documents of the Federal Yugoslav Army (JNA) Serb Army (VRS) Bosnian-Muslim Army (ABIH) Bosnian-Croat Army (HVO) and finally the most relevant documents of the highest officers and civilian officials of the United Nations. Preferring the testimonies of a low ranking officials rather than official documents of their superiors!

**AN ENORMOUSLY HIGH NUMBER OF DELIBERATIONS OF THE CHAMBER HAD BEEN MADE ON THE BASIS OF “ELEMENTS” OUT OF ANY POSSIBILITY OF THE DEFENCE TO CHALLENGE IT:**

24. The “#DEADLY COMBINATION!” In the comments of paragraphs one may easily find it under the mars “#Deadly combination” which comprises a combination impossible to be tested, such as:
  - a) Adjudicated Facts, adjudicated in other processes, in which nobody contested it, because it didn’t concern their defendants;
  - b) Statements and evidence under the Rule 92bis, i.e. statements without cross-examination;
  - c) Disqualifications of about two hundreds of the Defence witnesses, whose testimonies rebutted this fake evidence;

**A DEEP DEPRIVATION OF THE SERB COMMUNITY IN BOSNIA AND HERZEGOVINA OF ANY RIGHTS TO A POLITICAL LIFE:**

25. Depicting a normal and lawful political claims as a felony;
26. Incriminating the Serb fulfilment of legal obligations towards the JNA mobilisation;
27. Incrimination of the Serb legal opposition to an illegal claims for a unilateral and anti-constitutional independence of Bosnia and Herzegovina, which *per se* meant justification of such a claims of the secessionist side in BiH;

- 28. Incrimination of many political moves, provided for by the laws and Constitution, such as pre-composition of municipalities, their aggregation in communities, and other rights perfectly in accord with the laws and Constitution, as well as with the European Convention on Local self-management:**
- 29. Incrimination of such a moves even when obligatory, as a competences and obligations of municipalities pertaining to defence, matter of control of territories and exercise of authority;**
- 30. Neglecting and denying the Serb rights provided for by the ICFY, as if there was no any Conference;**

**WRONGFUL PRESENTATION OF THE MILITARY EVENTS:**

- 31. Neglecting the Muslim-Croat secret and illegal preparations for the war, formation of the secret armies, and other preparations aimed exclusively against their Serb neighbours;**
- 32. Completely neglecting the war policy of the Muslim extremist leadership which was persistent in spite of the Serb flexibility and concessions;**
- 33. Neglecting the Serb efforts, successful in the two third of municipalities, to avoid the war;**
- 34. Shifting a military and combat events from the time when President Karad`i} didn't have any competence over the forces, or commanding role over anyone – to the war time after the President was elected in the Presidency, and further, before the JNA left Bosnia. An example: the Bijeljina events on 31 March – 3 April 92.**
- 35. Not only a linguistic, but a substantial mis-interpretation of a term “taking power” won by the elections, as a “taking-over” power, which implies taking it from somebody else!**
- 36. “Taking-over” of municipalities, abused as the above, although the Serbs had been an absolute majority in 47 municipalities, and relative majority in additional dozen of municipalities. In such an ethnically mixed municipalities – the Serbs took and kept control only over the Serb part of municipality, suggesting to the other side to form a two or three municipalities, which meant only an administrative autonomy from each other. In the Comments you may find it under the mark: #Two municipalities – peace#!**

- 37. In many of such a municipalities there are still two municipalities, administratively belonging to their respective entities!**
- 38. Neglecting an obvious fact that out of about 3,000 settlements under the Serb control, there were combat activities in only 30 to 40 of them, deep in the Serb territory;**
- 39. Depicting a legal anti-terrorist activities of the police and the Army as an “attack against civilians”, or “attacking villages”, although the Chamber had a sufficient evidence that the Serb police and Army were after the terrorists, who pretended to be civilians, while going out and killing the Serb civilians, officials and policemen-soldiers. Since it was deep in the Serb territory, and since they hadn’t been structured, declared and marked as an army, they were a mere – terrorists!**
- 40. There were a very few reasons for the security forces to act in such settlements: the existence of such groups that already made crimes, an ultimatum of the security forces to surrender the perpetrators of crimes, and handing over their illegal armament;**
- 41. The Chamber never recognized any combat casualty on the Muslim side, although more than 90% of the Muslim casualties in the “Municipalities” had been of a combat nature;**
- 42. Thus the Chamber adopted the Prosecutor’s formula: “the Serb Forces” killed several Muslims, as if they hadn’t been a “Muslim forces”, though illegal ones, and all these casualties had been combat casualties;**
- 43. The abuse of a “coined” term “The Serb Forces” that would comprise all the Serbs, the JNA “Serb” units, volunteers, common BH MUP, the Serb MUP, Territorial defence units, paramilitaries, and finally the VRS. For instance, a renegade criminal in Brčko Luka – Jelisić, is called a “Bosnian Serb Force”, while the Police unit that arrested him and other criminals – is left without this attribute, although it was the only Serb Force in this case!**
- 44. The Chamber recognized that the Prosecution’s definition of the “Serb Forces” was too wide, and accepted the Serb document that the only Serb Forces comprised the VRS (with the Territorial defence in it) and the Serb Police (Serb MUP) while all the paramilitaries and volunteers existing out of the VRS had been banned and disowned by the President already on 13 June 1992.**
- 45.1 This part is the most damaging for the President and the Serb side. Such a conception of the “Serb Forces” is the source of all the confusion, and it should be forbidden in the judicial practice once and for all. The Prosecution was free from the obligation of proving its allegations and charges, since every single Serb, even those “local Bosnian Serbs” who may be outlaws for the Serb authorities, or being attacked and**

in necessity to defend, were included in the “Serb Forces”. Thus, for the first time after Hitler’s and Stalin’s court practice, a fluid formula such as “Some Serbs killed some Muslims”, was effective. At the same time this is the weakest part of the Indictment and consequently of the Judgement. Why:

**45.2** Neither the Prosecution nor the Chamber should or could justifiably associate President Karadžić with “the MUP” because the MUP in BH was common until the end of March 1992, and the Serb side didn’t have any influence on it. As a matter of fact, the most numerous and the most dangerous abuses of the state organs by the Muslim SDA Party happened in the MUP. The Serb side didn’t get what belonged to it by the law, constitution and agreements within the coalition.

**45.3** The same is with the JNA, which was under the command and control of the Federal institutions, Ministry for Defence and the SFRY Presidency, and in addition to that, the JNA was under the strongest influence of the new Communist Party – Movement for Yugoslavia, which disliked all the ethnic parties, including the SDS. That stayed that way until the JNA was attacked by all, except by the SDS members.

**45.4** The same pertains to the VJ (Vojska Jugoslavije) and the TO, up until the Republic of Srpska established and consolidated its own Army (VRS) which took the entire rest of 1992. All the time JNA was present in the area, it had an exclusive competence over the Territorial Defence (TO) and all other military and armed groups, such as volunteer units.

**45.5** The paramilitaries had been forbidden by both the JNA, the federal laws, and in particular by the orders of the President and other state institutions of the RS. The RS Police and the Army (VRS) had arrested many of those groups, and it is well known fact.

**45.6** The Chamber erred most when adopted the last Prosecution’s definition of the “Serb Forces” depicted in the para 159 of this Judgement, as is said: The Prosecution further defines the “Bosnian Serb forces” as members of “the VRS, the TO, the MUP and Bosnian Serb paramilitary forces and volunteer units”<sup>1</sup> – since the Accused and any other commander can not be liable for the “members” of the VRS, the TO, the MUP, and particularly for the members of the Bosnian Serb paramilitary forces and volunteer units. Why:

**45.7** The paramilitary forces had been banned as early as in April 1992 by the Prime Minister Djeric, in May 1992 by General Mladic, and on 13 June 1992 by the Accused, who repeated this order many times, which resulted in many arrests. Therefore, the paramilitary units weren’t under anyone’s control and command, and as banned, had been arrested wherever it was possible.

**45.8** A very cunning formulation of “members” of the different forces frees the Prosecution from establishing who by name, and in particular what unit and under whose command committed crimes. Again, “some Serbs killed some Muslims”!!!

45.9 The Chamber got an insight in the domestic laws on defence, and was able to differentiate a peoples Army, composed of the ordinary people, who lived and worked as usual except in term of their shifts in trancheses. All the rest time they were living at homes, without any barracs and permanent control of the commands.

45.10 The Army and the MUP (Police) akted in accorddance with the rules, planning, deciding, ordering preparatory orders, executive orders, tasking a specific units and controlling the execution. The Prosecution wasn't able to submit an evidence with a name of individuals, single units or a commanders who acted criminally on behalf of the VRS and the RS state institutions. The Accused kept asserting that "neither the VRS nor the MUP committed any crime" having in mind that a solitary "member" of such a forces could have commit a crime, but on his own and hiding it from the command.

46 Negligeance of the obvious and well documented fact that the Serb side already possessed about 65% of the BIH territory, and therefore adopted exclusively a DEFENSIVE STRATEGY, and in Sarajevo, a STRATEGY OF CONTAINMENT, qualified as such by the highest UN military officers;

## TO FIND EASIER:

If you execute just: find #, all of the marked spots will be listed, for your easier review.

If you want to re-review a certain subjects, you may execute: find #inference... or any of the subjects listed below!

1. **#Inference on inference, on inference#!**
2. **#distortion#**
3. **#No Karadžić's liability#! )**
4. **(#Individuals, not force units#!)**
5. **(#Before VRS, during JNA#**
6. **(#Security reasons#!**
7. **(#All legal#!**
8. **(#Legal and obligatory#!**
9. **(#Deadly combination#!**
10. **(#Legal, military necessities#!**
11. **#Legal, security necessities#**
12. **(#Not "Serb Forces"#! The "White Eagles", or any paramilitary were not a part of the regular Serb forces!**
13. **#Obligatory, due to domestic Laws and Constitution**
14. **#Domestic LAWS and CONSTITUTIONS neglected;**
15. **STEREOTYPES: (#Heard, not seen#! Again, something heard, nothing seen, and all together based on adjudicated facts or 92bis evidence, not corroborated**

with any document. Such a way, with many aspects unresolved and unestablished, the Judgement is building a skyscraper of illusion of the Serb misdoings!#Deadly combination#!

16. (#Masks and insignias, not VRS#!)
17. (#Ad absurdum#!)
18. (#Prophecy to punish#!)
19. (#Next level# rectified omissions of subordinates!)
20. (#Official's good deeds against officials#!)
21. (#Somebody maybe killed some#!)
22. (#general assertions#?)
23. (#Protected lies#)
24. #Guilt plea lies#! (M. Nikoli!)
25. #Officials proper conduct#!)
26. (#Legal and obligatory#!)
27. (#Muslim military stronghold#)
28. #JNA competence#,
29. #Officials vs. crimes#!)
30. (#General shortage#!)
31. (#Legal combat activities#!)
32. (#abuse of the sacral objects#!)
33. (#Politics, not crime#!)
34. (#”Many died”
35. , #document said otherwise#!)
36. #Responsible conduct of Serb officials#!)
37. (#Adversaries testified, to denigrate Serbs#)
38. #Abuse of civilian settlements#)
39. #Who started skirmishes#)