

**SUD BOSNE I HERCEGOVINE**



**СУД БОСНЕ И ХЕРЦЕГОВИНЕ**

Number: X-KR/06/200  
Sarajevo, 30 May 2008

Суд БиХ / Суд БХЗ  
Кривично одјелjenje I / Одјелjenje за кривична дела /  
Одјелjenje за кривична дела I / Одјелjenje за кривична дела II /  
Одјелjenje за кривична дела III / Одјелjenje за кривична дела IV /  
Одјелjenje за кривична дела V / Одјелjenje за кривична дела VI /

**X-KR-06/200**

Prepared by: 67. 2805

**IN THE NAME OF BOSNIA AND HERZEGOVINA**

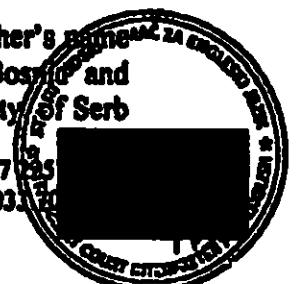
The Court of Bosnia and Herzegovina, Section I for War Crimes of the Criminal Division of the Court, in the Panel composed of Judges Šaban Maksumić, as the President of the Panel, and Pietro Spera and Marie Tuma as members of the Panel, with the participation of the legal officer Manuel Eising as the Record-taker, in the criminal case against the Accused Željko Mejačić, Momčilo Gruban and Duško Knežević, for the criminal offence of Crimes against Humanity in violation of Article 172(1)(a)(e)(f)(g)(k)(h) of the Criminal Code of Bosnia and Herzegovina (CC BH), all in conjunction with Article 29 and 180(1) of the CC BH, in relation to Željko Mejačić and Momčilo Gruban also in conjunction with paragraph (2) of Article 180 and Article 29 of the CC BH, acting upon the Indictment of the Prosecutor's Office of Bosnia and Herzegovina No. KT-RZ-91/06 of 7 July 2006, after the completion of the public main trial (which was partially closed for public), in the presence of the 1<sup>st</sup> Accused Željko Mejačić, 2<sup>nd</sup> Accused Momčilo Gruban, 3<sup>rd</sup> Accused Duško Knežević, Defense Counsel for the 1<sup>st</sup> Accused Jovan Simić, Attorney from Belgrade and Ranko Dakić, Attorney from Prijedor, Defense Counsel for the 2<sup>nd</sup> Accused Duško Panić, Attorney from Doboj and Goran Radić, Attorney from Podgorica, Defense Counsel for the 3<sup>rd</sup> Accused Nebojša Pantić and Milenko Ljubojević, Attorneys from Banja Luka and the Prosecutors of the Prosecutor's Office of Bosnia and Herzegovina Peter Kidd and David Schwendiman, following the deliberation and voting, on 30 May 2008 rendered the following verdict which was announced publicly by the President of the Panel.

**VERDICT**

**THE ACCUSED**

1. **ŽELJKO MEJAKIĆ**, son of Blagoje, mother's name Milka, born on 2 August 1964 in Petrov Gaj, Municipality of Prijedor, residing at No. 4/5 Svetosavska Street in the place of Omarska, Prijedor Municipality, of Serb ethnicity, citizen of Bosnia and Herzegovina and the Republic of Serbia, formerly employed as a police officer, graduated from the Secondary School for Internal Affairs, married, father of 2 children, no previous convictions, no other criminal proceedings pending.
2. **MOMČILO GRUBAN**, also known as "ČKALJA", son of Milan, mother's name Radojka, born on 19 June 1961 in the village of Marička, Municipality of Prijedor, Bosnia and Herzegovina, residing in Marička, of Serb ethnicity, citizen of Bosnia and Herzegovina and the Republic of Serbia, machinist by occupation, graduated from Secondary and Post-Secondary Mechanical Engineering School, married, father of 2 children, no previous convictions, no other criminal proceedings pending.
3. **DUŠKO KNEŽEVIĆ**, also known as "DUĆA", son of Milan, mother's name Dragica, born on 17 June 1967 in Orlovci, Municipality of Prijedor, Bosnia and Herzegovina, residing in the place of Gornji Orlovci, the Prijedor Municipality, of Serb ethnicity, no previous convictions, no other criminal proceedings pending.

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ethnicity, citizen of Bosnia and Herzegovina and the Republic of Serbia, waiter by occupation, married, father of one child, no previous convictions, no other criminal proceedings pending.

## **ARE GUILTY**

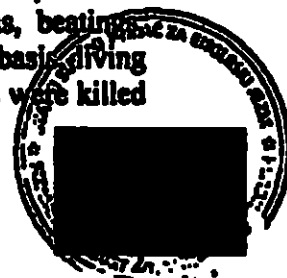
### **Because they:**

From 30 April 1992 to the end of 1992, during the armed conflict in the Republic of Bosnia and Herzegovina and in the context of a widespread and systematic attack on Bosnian Muslim, Bosnian Croat and other non-Serb civilian population of the Prijedor Municipality by members of the Army of Republika Srpska, Territorial Defense, police and paramilitary formations ("Serb forces") and armed civilians first led by the Prijedor Municipality Crisis Staff and later on by the Serb Assembly of the Prijedor Municipality, a plan was executed to permanently remove Bosnian Muslims, Bosnian Croats and other non-Serb inhabitants from the territory of the planned Serb state in Bosnia and Herzegovina and as part of this plan more than 7000 non-Serb civilians from the area of this municipality who survived the first artillery and infantry attacks, among them particularly intellectuals, economic and political leaders as well as wealthy citizens, were systematically captured and taken to and arbitrarily confined at Omarska, Keraterm and Trnopolje camps, which were established and operated under the direction of the Crisis Staff of the Prijedor Municipality, where they were held in inhumane conditions and subjugated to grave physical, psychological and sexual maltreatment, many of them killed on the basis of their ethnicity, religion or political affiliation, and the Accused directly participated in this mistreatment and persecution in a manner that:

### **OMARSKA CAMP**

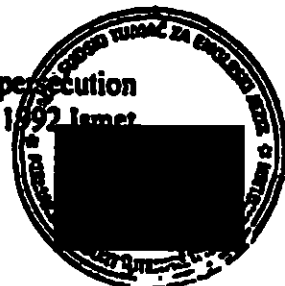
#### **ŽELJKO MEJAKIĆ:**

1. Between 28 May 1992 and 21 August 1992, Željko Mejačić was the Chief of Security and de facto Omarska Camp Commander who supervised and was responsible for all three shifts of guards in the camp and had effective control over the work and conduct of all Omarska camp guards and other persons working within the camp, as well as most camp visitors and was supervising and had full control over the conditions in the Omarska camp and the lives and limbs of more than 3000 civilians detained in the Omarska camp, participated in arbitrarily depriving the detainees of their liberty and contributed to and furthered the functioning of the camp's system of ill-treating and persecuting Bosnian Muslims, Croats, and other non-Serbs held in the camp through various forms of physical, mental, and sexual violence and had the authority and duty to improve the conditions of the camp which were brutal and degrading resulting in an atmosphere of terror with detainees being kept without the basic necessities of life such as adequate food, drinking water, medicines and medical care, and in unhygienic and cramped conditions, and subjected to interrogations, beatings, torture, harassment, humiliations and psychological abuse on a daily basis, living in constant fear for their own lives and at least one hundred detainees were killed or died as a result of these conditions, including:



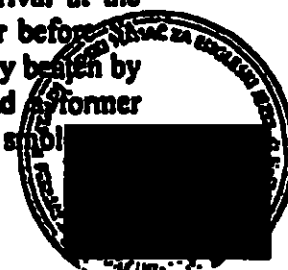
- killings of detainees directly and personally committed by persons over whom Željko Mejakić had effective control and which killings were committed in furtherance of the described system of ill-treatment and persecution at the camp in which he participated, including on or about 30 May 1992 Asaf Muranović and Avdo Muranović were shot together and killed by a visitor to the camp or a camp guard; in June or July 1992 Abdulah Puškar and Silvije Sarić were beaten to death by the camp guards; around mid-June 1992 Emir ("Hanki" or "Hankin") Ramić was shot and killed by Željko Timarac in the presence of Duško Knežević who were both visitors to the camp; on or about 10 June 1992 Mehmedalija Nasić was shot and killed by Milan Pavlić, a camp guard; in June or July 1992 Safet ("Čifut") Ramadanović was beaten to death by Popović ("Pop"), Draženko Predojević and other camp guards; in mid-June 1992 Bećir Medunjanin was beaten on multiple occasions by Duško Knežević and Zoran Žigić, who were both visitors to the camp, and others, and died as a result of that beating; on one night in June 1992 several men (approximately 12) with the surname Garibović were beaten by a group of Serb soldiers visiting the camp or camp guards, after which they disappeared without a trace; in June 1992 "Dalija" Hrnić was beaten to death by two uniformed men and Zoran Žigić and Duško Knežević; on or about 10 June 1992 Slavko ("Ribar") Ećimović was beaten to death by Duško Knežević and Zoran Žigić; on about 25-26 June 1992 Mehmedalija Sarajlić was beaten to death by camp guards; in June or July 1992 Velid Badnjević was shot and killed by a camp guard; around mid-June 1992 Amir Cerić and another man named Avdić were shot and killed by or in the presence of visitors to the camp including Duško Knežević and Zoran Žigić; in July 1992 Mirsad ("Mirso", "Asim", "Kera") Crnalić was shot and killed by camp guards; during his detention in the camp Husein Crnkić sustained injuries to which he eventually succumbed; in July 1992 Rizah ("Riza" or "Rizo") Hadžalić was beaten to death by camp guards; on or about 18 June 1992 Jasmin ("Jasko") Hrnić, Enver ("Eno") Alić and Emir Karabašić were beaten to death in the camp; in late June or early July 1992 Miroslav Šolaja died as a result of beatings by the camp guards; in the first half of July 1992 Azur Jakupović, having already been severely beaten by the camp guards was killed along with Edvin Dautović and their bodies were loaded together after that; one day in late July 1992 Dr. Osman Mahmuljin, Dr. Eniz Begić, Zijad Mahmuljin and Ago Sadiković disappeared from the camp; in July 1992 Esad ("Eso") Mehmedagić disappeared from the camp; on or about 25 July 1992 Nedžad Šerić disappeared from the camp; in July 1992 Gordan Kardum was beaten to death by camp guards; in July 1992 Burhanudin Kapetanović and a man by the surname Badnjević disappeared from the camp; on one evening in July 1992 at least 7 detainees disappeared including Emsud Baltić and several men surnamed Mešić; in late July 1992 a large number of unidentified detainees including at least 50 detained villagers of the Hambarine village were shot dead;

- killings resulting from the described system of ill-treatment and persecution at the camp in which Željko Mejakić participated, that is, in June 1992 Ismet



**("Ico") Hodžić died as a result of a lack of medication and medical treatment for his diabetes;**

- **beatings and other physical assaults on detainees committed directly and personally by Željko Mejakić or in his immediate presence with discriminatory intent, that is, Saud Bešić who while detained in the camp was beaten during interrogation and after a while Željko Mejakić entered the room and kicked him in the chest;**
- **beatings and other physical assaults on detainees directly and personally committed by persons over whom Željko Mejakić had effective control and which beatings and physical assaults were committed in furtherance of the described system of ill-treatment and persecution at the camp in which he participated, including as follows: on or about the night of 29-30 May 1992 upon their arrival at the camp the new detainees including K041 were beaten by two lines of guards and then later again at the camp canteen and then again on their way back to their rooms from the canteen; on 4 June 1992 K042 was severely beaten by camp guards with thick lengths of cable and whips with iron balls on their ends; during his detention in Omarska camp, Emir Beganović received a number of severe beatings including on or about 10 June 1992 he together with detainees K036, Rezak Hukanović, Asaf Kapetanović and Abdulah Brkić were severely beaten in the same building with fists, other implements and kicked by camp visitors called "Dragan", Nikica Janjić, Šaponja, Zoran Žigić and Duško Knežević, and in addition to Nikica Janjić cutting Emir Beganović with a large knife, he sustained injuries to his head and body from the beating, and the other detainees sustained visible injuries too; in mid-June 1992 a group of visitors to the camp including the person called "Dragan" again severely beat up Emir Beganović and rendered him unconscious; in mid-June 1992 Nikica Janjić, a visitor to the camp, took Emir Beganović to the "White House" where Emir Beganović showed Momčilo Gruban the injuries from his previous beating by Janjić and others and asked for help and Momčilo Gruban told him to go to the "White House" with Janjić and said that Janjić would no longer mistreat him, however, once inside, Beganović received another vicious beating from Janjić during which he sustained injuries and his head and face were covered in blood; in mid-June 1992 witness K022 was severely beaten on multiple occasions including on one occasion by Zoran Žigić and Duško Knežević who used a baton and a truncheon with a metal ball attached; in mid-June 1992 the day after the last mentioned beating, witness K022 together with other detainees, including Fadil Avdagić, were severely beaten by Zoran Žigić and Duško Knežević resulting in Witness K022 losing consciousness, receiving injuries to his nose and other bodily injuries; on or about 23 June 1992 Muhamed Čehajić was severely beaten by at least one camp guard; on or about 4 July 1992 a part of approximately 120 detainees were beaten by the camp guards upon their arrival at the Omarska camp from the Keraterm Camp; on the evening of or before Peter's Day (Petrovdan) in mid-July 1992 detainees were severely beaten by the camp guards while being made to walk around a fire and a former football player known as "Durat" was forced into the fire or smothered**



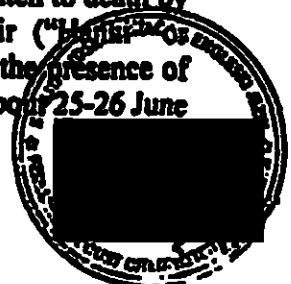
cinders; on or about 17 or 18 July 1992 Mustafa Puškar was severely beaten by camp guards with a bar and kicked again when he fell; on or about 20 July 1992 K017 was beaten on the head and body with a police baton by a camp guard rendering him unconscious.

- rapes and other forms of sexual abuse of detainees committed by persons over whom Željko Mejakić had effective control and which rapes and sexual abuse were committed in furtherance of the described system of ill-treatment and persecution at the camp in which he participated, including witness K019 who was sexually abused on numerous occasions by the camp guards; witness K027 who was sexually assaulted by the Shift Commander Mlado Radić and on another occasion in July 1992 by Nedeljko Grabovac; witness K040 who was sexually assaulted twice by camp guard Lugar.

### **MOMČILO GRUBAN**

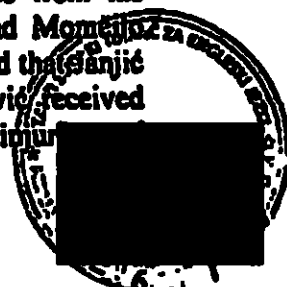
2. Between 1 June 1992 and 21 August 1992 the Accused Momčilo Gruban was a commander of one of the three guard shifts in the Omarska camp and in addition to supervising and effectively controlling the work and conduct of guards and most camp visitors during his shift, he supervised the conditions in the Omarska camp by arbitrarily depriving the detainees of their liberty and contributed to and furthered the functioning of the camp's system of ill-treating and persecuting Bosnian Muslims, Croats, and other non-Serbs held in the camp through various forms of physical, mental, and sexual violence and had the authority and duty to improve the conditions of the camp where conditions were brutal and degrading resulting in an atmosphere of terror with detainees being kept without the basic necessities of life such as adequate food, drinking water, medicines and medical care, and in unhygienic and cramped conditions, and subject to interrogations, beatings, torture, harassment, humiliations and psychological abuse on a daily basis, living in constant fear for their own lives and at least one hundred detainees were killed or died as a result of these conditions, including:

- killings of detainees directly and personally committed by persons during Momčilo Gruban's shift and over whom he had effective control and which killings were committed in furtherance of the described system of ill-treatment and persecution at the camp in which he participated, including when in July 1992 Burhanudin Kapetanović and a person by the surname Badnjević disappeared from the camp; in late July 1992 a large number of unidentified detainees including at least 50 detained villagers of the Hambarine village were shot dead;
- killings of detainees directly and personally committed by persons outside of Momčilo Gruban's shift but in furtherance of the described system of ill-treatment and persecution at the camp in which he participated, including in June or July 1992 Abdulah Puškar and Silvije Sarić were beaten to death by the camp guards; around the middle of June 1992 Emir ("Hankin") Ramić was shot and killed by Željko Timarac in the presence of Duško Knežević who were both visitors to the camp; on or about 25-26 June



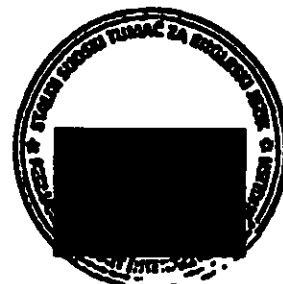
1992 Mehmedalija Sarajlić was beaten to death by camp guards; in June or July 1992 Velid Badnjević was shot and killed by a camp guard; on or about 10 June 1992 Slavko ("Ribar") Ećimović was beaten to death by Duško Knežević and Zoran Žigić who were both visitors to the camp; around mid-June 1992 Amir Cerić and another man named Avdić were shot and killed by or in the presence of visitors to the camp including Duško Knežević and Zoran Žigić; during his detention in the camp Husein Crnkić sustained injuries to which he eventually succumbed; on or about 18 June 1992, Jasmin ("Jasko") Hrnić, Enver ("Eno") Alić and Emir Karabasić were beaten to death in the camp; on or about 10 June 1992 Mehmedalija Nasić was shot and killed by Milan Pavlić a camp guard; in June or July 1992 Safet ("Čifur") Ramadanović was beaten to death by Popović ("Pop"), Draženko Predojević and other camp guards; in mid-June 1992 Bećir Medunjanin was beaten on multiple occasions by Duško Knežević and Zoran Žigić, who were both visitors to the camp, and died as a result of the beating; on one night in June 1992 several men (approximately 12) with the surname Garibović were beaten by a group of Serb soldiers visiting the camp or the camp guards, after which they disappeared without a trace; in June 1992 "Daliya" Hrnić was beaten to death by two uniformed men and Zoran Žigić and Duško Knežević, who were visitors to the camp; in the first half of July 1992 Azur Jakupović having already been severely beaten by the camp guards was killed along with Edvin Dautović and their bodies were loaded together after that; in July 1992 Rizah ("Riza" or "Rizo") Hadžalić was beaten to death by the camp guards; in late June or early July 1992 Miroslav Šolaja died as a result of beatings inflicted by the camp guards; one day in late July 1992 Dr. Osman Mahmuljin, Dr. Eniz Begić, Zijad Mahmuljin and Ago Sadiković disappeared from the camp; in July 1992 Eсад ("Eso") Mehmedagić disappeared from the camp; on or about 25 July 1992 Nedžad Šerić disappeared from the camp; in July 1992 Gordan Kardum was beaten to death by the camp guards; on one evening in July 1992 at least 7 detainees disappeared including Emsud Baltić and several men surnamed Mešić;

- killings resulting from the described system of ill-treatment and persecution at the camp in which Momčilo Gruban participated, that is, in June 1992 Ismet ("Ico") Hodžić died as a result of a lack of medication and medical treatment for his diabetes;
- beatings and other physical assaults on the detainees directly and personally committed by persons during Momčilo Gruban's shift and over whom he had effective control and which beatings and physical assaults were committed in furtherance of the described system of ill-treatment and persecution at the camp in which he participated, including in mid-June 1992 Emir Beganović was taken to the "White House" by Nikica Janjić where Emir Beganović showed Momčilo Gruban the injuries from his previous beating by Janjić and others and asked for help and Momčilo Gruban told him to go to the "White House" with Janjić and said that Janjić would no longer mistreat him, however, once inside, Beganović received another vicious beating from Janjić during which he sustained injuries



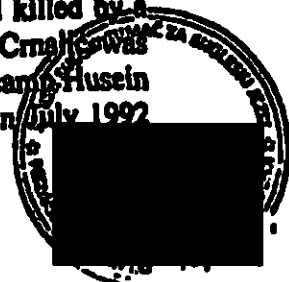
his head and face were covered in blood; on or about 4 July 1992 a part of approximately 120 detainees were beaten by the camp guards upon their arrival at the Omarska camp from the Keraterm Camp; on or about 17 or 18 July 1992 Mustafa Puškar was severely beaten by the camp guards with an iron bar and kicked again when he fell; on or about 20 July 1992 K017 he was beaten on the head and body with a police baton by a camp guard, rendering him unconscious.

- beatings and other physical assaults on the detainees directly and personally committed by persons outside of Momčilo Gruban's shift but in furtherance of the described system of ill-treatment and persecution at the camp in which he participated, including on 4 June 1992 K042 was severely beaten with thick lengths of cable and whips with iron balls attached by the camp guards; during his detention in Omarska camp, Emir Beganović received a number of severe beatings including on or about 10 June 1992 he together with detainees K036, Rezak Hukanović, Asaf Kapetanović and Abdulah Brkić were severely beaten in the same building with batons and other implements and kicked by camp visitors called Dragan, Nikica Janjić, Šaponja, Zoran Žigić and Duško Knežević, and in addition to Nikica Janjić cutting Emir Beganović with a large knife, he sustained injuries to his head and body during that beating and the other detainees sustained visible injuries; in mid-June 1992 Emir Beganović was again severely beaten by a group of visitors to the camp including a visitor called Dragan, to the point where Emir Beganović lost conscience; in mid-June 1992 Witness K022 was severely beaten on multiple occasions including on one occasion by Zoran Žigić and Duško Knežević who used a baton and a truncheon with a metal ball attached; in mid-June 1992 the day after the last mentioned beating Witness K022 together with other detainees including Fadil Avdagić were again severely beaten by Zoran Žigić and Duško Knežević resulting in Witness K022 losing consciousness, receiving injuries to his nose and other parts of his body; on or about 23 June 1992 Muhamed Čehajić was severely beaten by at least one camp guard; while detained in the camp Saud Bešić was beaten during interrogation and after a while Željko Mejakić entered the room and kicked him in the chest; on the evening of or before St. Peter's Day (Petrovdan) in mid-July 1992 detainees were severely beaten by camp guards while being made to walk around a fire and a former football player known as "Durat" was forced into the fire or smoldering cinders;
- rape and other forms of sexual abuse of detainees directly or personally committed by persons outside of the shift that was under Momčilo Gruban's command but in furtherance of the described system of ill-treatment and persecution at the camp in which he participated, including witness K027 who was sexually assaulted by the shift Commander Mlado Radić and on another occasion in July 1992 by Nedeljko Grabovac, witness K019, who was raped on numerous occasions by camp guards and witness K040 who was sexually abused twice by camp guard Lugar;



### **DUŠKO KNEŽEVIĆ**

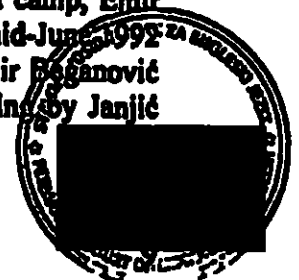
3. Between 28 May 1992 and 21 August 1992, the Accused Duško Knežević, who held no official position in the Omarska camp, entered the Omarska camp at will and unhindered by anyone committed killings and beatings of the detainees and by this contributed to and furthered the functioning of the camp's system of ill-treating and persecuting Bosnian Muslims, Croats, and other non-Serbs held in the camp through various forms of physical, mental, and sexual violence which resulted in the conditions in the camp being brutal and degrading resulting in an atmosphere of terror with detainees being kept without the basic necessities of life such as adequate food, drinking water, medicines and medical care, and in unhygienic and cramped conditions, and subjected to interrogations, beatings, torture, harassment, humiliations and psychological abuse on a daily basis, living in constant fear for their own lives, and at least one hundred detainees were killed or died as a result of these conditions, including:
- killings of the detainees personally and directly committed by Duško Knežević or in his immediate presence with discriminatory intent, including in mid-June 1992 in the "White House" Amir Cerić and a man surnamed Avdić were shot and killed by or in the presence of Duško Knežević and Zoran Žigić; in June 1992 in the "White House" Duško Knežević together with two uniformed men, and Zoran Žigić beat "Daliya" Hrnčić to death; in mid-June 1992 in the "White House" Duško Knežević together with Zoran Žigić beat Bećir Medunjanin to death using various implements; on or about 10 June 1992 Duško Knežević together with a visitor to the camp Zoran Žigić severely beat the detainee Slavko ("Ribar") Edimović who died as a result of that beating; around the mid-June 1992 Emir ("Hanki" or "Hankin") Ramić was shot and killed by Željko Timarac, a visitor to the camp, in the presence of Duško Knežević;
  - killings of the detainees directly and personally committed by persons other than Duško Knežević but in furtherance of the described system of ill-treatment and persecution at the camp in which he participated, including on or about 30 May 1992 Asaf Muranović and Avdo Muranović were shot together and killed by a visitor to the camp or a camp guard; on or about 10 June 1992 Mehmedalija Nasić was shot by Milan Pavlić, a camp guard; in June or July 1992 Safet ("Čifut") Ramadanović was beaten to death by Draženko Predojević and other camp guards; on one night in June 1992 several men (approximately 12) with the surname Garibović were beaten by a group of Serb soldiers visiting the camp or camp guards, after which they disappeared without a trace; in June or July 1992 Abdulah Puškar and Silvije Sarić were beaten to death by the camp guards; on about 25-26 June 1992 Mehmedalija Sarajlić was beaten to death by the camp guards; in late June or early July 1992 Miroslav Šolaja died as a result of beatings by camp the guards; in June or July 1992 Velid Badnjević was shot and killed by a camp guard; in July 1992 Mirsad ("Mirso", "Asim", "Kera") Crnković was shot and killed by the camp guards; during his detention in the camp Hussein Crnković sustained injuries to which he eventually succumbed; in July 1992





Rizah ("Riza" or "Rizo") Hadžalić was beaten to death by the camp guards; on or about 18 June 1992 Jasmin ("Jasko") Hrnić, Enver ("Eno") Alić and Emir Karabašić were beaten to death in the camp; in the first half of July 1992 Azur Jakupović, having already been severely beaten by the camp guards, was killed along with Edvin Dautović and their bodies were loaded together after that; on one day in late July 1992 Dr. Osman Mahmuljin, Dr. Eniz Begić, Zijad Mahmuljin and Ago Sadiković disappeared from the camp; in July 1992 Esad ("Eso") Mehmedagić disappeared from the camp; on or about 25 July 1992 Nedžad Šerić disappeared from the camp; in July 1992 Gordan Kardum was beaten to death by the camp guards; in July 1992 Burhanudin Kapetanović and a man by the surname Badnjević disappeared from the camp; on one evening in July 1992 at least 7 detainees disappeared including Emsud Baltić and several men surnamed Mešić; in late July 1992 a large number of unidentified detainees including at least 50 detained villagers of the Hambarine village were shot dead;

- murder resulting from the described system of ill-treatment and persecution at the camp in which Duško Knežević participated, that is, in June 1992 Ismet ("Ico") Hodžić died as a result of a lack of medication and medical treatment for his diabetes;
- beatings and other physical assaults of the detainees directly and personally committed by Duško Knežević or in his immediate presence with discriminatory intent, including on or about 10 June 1992 he together with detainees K036, Rezak Hukanović, Asaf Kapetanović and Abdulah Brkić were severely beaten in the same building with fists, other implements and kicked by camp visitors called "Dragan", Nikica Janjić, Šaponja, Zoran Žigić and Duško Knežević, and in addition to Nikica Janjić cutting Emir Beganović with a large knife, he sustained injuries to his head and body from the beating and the other detainees sustained visible injuries; in mid-June 1992 in the "White House" Duško Knežević together with Zoran Žigić beat K022 using a baton and a truncheon with an attached metal ball, and the next time Duško Knežević and Zoran Žigić continued to beat the same detainee as well as detainee Fadil Avdagić;
- beatings and other physical assaults of the detainees directly and personally committed by persons other than Duško Knežević but in furtherance of the described system of ill-treatment and persecution at the camp in which he participated, including as follows: on or about the night of 29-30 May 1992 K041 and other detainees newly arrived at the camp were beaten by two lines of guards and then later again at the camp canteen and then again on their way back to their rooms from the canteen; on 4 June 1992 K042 was severely beaten by the camp guards with thick lengths of cable and a whip with metal balls attached; while detained in the camp Saud Bešić was beaten during interrogation and after a while Željko Mejakić entered the room and kicked him in the chest; during his detention in the Omarska camp, Emir Beganović received a number of severe beatings including in mid-June 1992 he was taken to the White House by Nikica Janjić where Emir Beganović showed Momčilo Gruban the injuries from his previous beating by Janjić



and asked for help and Momčilo Gruban told him to go to the White House with Janjić and said that he would no longer mistreat him, however, once inside, Beganović received another vicious beating from Janjić during which he sustained further injuries to his face and head which were covered in blood; in mid-June 1992 Emir Beganović was again severely beaten by a group of visitors to the camp including a visitor called Dragan, which rendered him unconscious; on or about 23 June 1992 Muhamed Čehajić was severely beaten by at least one camp guard; on or about 4 July 1992 a part of approximately 120 detainees were beaten by the camp guards upon their arrival at the Omarska camp from the Keraterm Camp; on the evening of or before St. Peter's Day (Petrovdan) in mid-July 1992 detainees were severely beaten by the camp guards while being made to walk around a fire and a former football player known as "Durat" was forced into the fire or smoldering cinders; on or about 17 or 18 July 1992 Mustafa Puškar was severely beaten by the camp guards with an iron bar and hit him again when he fell; on or about 20 July 1992 K017 was beaten on the head and body with a police baton by a camp guard, which rendered him unconscious;

- rape and other forms of sexual abuse of the detainees directly or personally committed by persons other than Duško Knežević but in furtherance of the described system of ill-treatment and persecution at the camp in which he participated, including witness K019 who was raped on numerous occasions by the camp guards; witness K027 who was sexually assaulted by the shift Commander Mlado Radić and in July 1992 by Nedeljko Grabovac; witness K040 who was sexually abused twice by camp guard Lugar.

## **KERATERM CAMP**

### **DUŠKO KNEŽEVIĆ**

4. Between 24 May 1992 and 6 August 1992, the Accused Duško Knežević, who held no official position in the Keraterm camp, entered the Keraterm camp at will and unhindered by anyone, there he committed killings and beatings of the detainees and these actions contributed to and enhanced the functioning of the camp's system of ill-treating and persecuting Bosnian Muslims, Croats, and other non-Serbs held in the camp through various forms of physical, mental, and sexual violence which resulted in the conditions in the camp being brutal and degrading resulting in an atmosphere of terror with detainees being detained without the basic necessities of life such as adequate food, drinking water, medicines and medical care, and in unhygienic and cramped conditions, and subjected to multiple interrogations, beatings, torture, harassment, humiliations and psychological abuse on a daily basis, living in constant fear for their own lives, and dozens of detainees were killed or died as a result of these conditions, including:

- killings of the detainees personally and directly committed by Duško Knežević or in his immediate presence with discriminatory intent, including



**SUD BOSNE I HERCEGOVINE**



**СУД БОСНЕ И ХЕРЦЕГОВИНЕ**

**Number: X-KR/06/200  
Sarajevo, 30 May 2008**

**Суд БиХ / Суд БиХ  
Kraljice Jelene / Kraljice Jelene  
Kraljice Jelene / Kraljice Jelene  
Kraljice Jelene / Kraljice Jelene  
Kraljice Jelene / Kraljice Jelene**

**X-KR-06/200**

**Prepared by: 2805**

**IN THE NAME OF BOSNIA AND HERZEGOVINA**

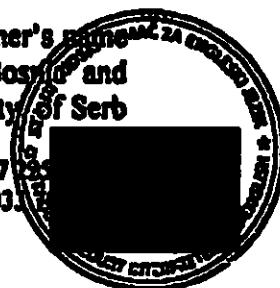
The Court of Bosnia and Herzegovina, Section I for War Crimes of the Criminal Division of the Court, in the Panel composed of Judges Šaban Maksumić, as the President of the Panel, and Pietro Spera and Marie Tuma as members of the Panel, with the participation of the legal officer Manuel Eising as the Record-taker, in the criminal case against the Accused Željko Mejakić, Momčilo Gruban and Duško Knežević, for the criminal offence of Crimes against Humanity in violation of Article 172(1)(a)(e)(f)(g)(k)(h) of the Criminal Code of Bosnia and Herzegovina (CC BH), all in conjunction with Article 29 and 180(1) of the CC BH, in relation to Željko Mejakić and Momčilo Gruban also in conjunction with paragraph (2) of Article 180 and Article 29 of the CC BH, acting upon the Indictment of the Prosecutor's Office of Bosnia and Herzegovina No. KT-RZ-91/06 of 7 July 2006, after the completion of the public main trial (which was partially closed for public), in the presence of the 1<sup>st</sup> Accused Željko Mejakić, 2<sup>nd</sup> Accused Momčilo Gruban, 3<sup>rd</sup> Accused Duško Knežević, Defense Counsel for the 1<sup>st</sup> Accused Jovan Simić, Attorney from Belgrade and Ranko Dakić, Attorney from Prijedor, Defense Counsel for the 2<sup>nd</sup> Accused Duško Panić, Attorney from Doboj and Goran Radić, Attorney from Podgorica, Defense Counsel for the 3<sup>rd</sup> Accused Nebojša Pantić and Milenko Ljubojević, Attorneys from Banja Luka and the Prosecutors of the Prosecutor's Office of Bosnia and Herzegovina Peter Kidd and David Schwendiman, following the deliberation and voting, on 30 May 2008 rendered the following verdict which was announced publicly by the President of the Panel.

**VERDICT**

**THE ACCUSED**

1. **ŽELJKO MEJAKIĆ**, son of Blagoje, mother's name Milka, born on 2 August 1964 in Petrov Gaj, Municipality of Prijedor, residing at No. 4/5 Svetosavska Street in the place of Omarska, Prijedor Municipality, of Serb ethnicity, citizen of Bosnia and Herzegovina and the Republic of Serbia, formerly employed as a police officer, graduated from the Secondary School for Internal Affairs, married, father of 2 children, no previous convictions, no other criminal proceedings pending.
2. **MOMČILO GRUBAN**, also known as "ČKALJA", son of Milan, mother's name Radojka, born on 19 June 1961 in the village of Marička, Municipality of Prijedor, Bosnia and Herzegovina, residing in Marička, of Serb ethnicity, citizen of Bosnia and Herzegovina and the Republic of Serbia, machinist by occupation, graduated from Secondary and Post-Secondary Mechanical Engineering School, married, father of 2 children, no previous convictions, no other criminal proceedings pending.
3. **DUŠKO KNEŽEVIĆ**, also known as "DUČA", son of Milan, mother's name Dragica, born on 17 June 1967 in Orlovci, Municipality of Prijedor, Bosnia and Herzegovina, residing in the place of Gornji Orlovci, the Prijedor Municipality, of Serb

Kraljice Jelene br. 88, 71 000 Sarajevo, Bosnia i Hercegovina, Tel: 033 707 100, Faks: 033 707 135  
Крaљицe Јелeнe бр. 88, 71 000 Сaрaјeвo, Бoснa и Хeрцeгoвинa, Тeл: 033 707 100, Фaкс: 033 707 135



ethnicity, citizen of Bosnia and Herzegovina and the Republic of Serbia, waiter by occupation, married, father of one child, no previous convictions, no other criminal proceedings pending.

## **ARE GUILTY**

### **Because they:**

From 30 April 1992 to the end of 1992, during the armed conflict in the Republic of Bosnia and Herzegovina and in the context of a widespread and systematic attack on Bosnian Muslim, Bosnian Croat and other non-Serb civilian population of the Prijedor Municipality by members of the Army of Republika Srpska, Territorial Defense, police and paramilitary formations ("Serb forces") and armed civilians first led by the Prijedor Municipality Crisis Staff and later on by the Serb Assembly of the Prijedor Municipality, a plan was executed to permanently remove Bosnian Muslims, Bosnian Croats and other non-Serb inhabitants from the territory of the planned Serb state in Bosnia and Herzegovina and as part of this plan more than 7000 non-Serb civilians from the area of this municipality who survived the first artillery and infantry attacks, among them particularly intellectuals, economic and political leaders as well as wealthy citizens, were systematically captured and taken to and arbitrarily confined at Omarska, Keraterm and Trnopolje camps, which were established and operated under the direction of the Crisis Staff of the Prijedor Municipality, where they were held in inhumane conditions and subjugated to grave physical, psychological and sexual maltreatment, many of them killed on the basis of their ethnicity, religion or political affiliation, and the Accused directly participated in this mistreatment and persecution in a manner that:

### **OMARSKA CAMP**

#### **ŽELJKO MEJAKIĆ:**

1. Between 28 May 1992 and 21 August 1992, Željko Mejačić was the Chief of Security and de facto Omarska Camp Commander who supervised and was responsible for all three shifts of guards in the camp and had effective control over the work and conduct of all Omarska camp guards and other persons working within the camp, as well as most camp visitors and was supervising and had full control over the conditions in the Omarska camp and the lives and limbs of more than 3000 civilians detained in the Omarska camp, participated in arbitrarily depriving the detainees of their liberty and contributed to and furthered the functioning of the camp's system of ill-treating and persecuting Bosnian Muslims, Croats, and other non-Serbs held in the camp through various forms of physical, mental, and sexual violence and had the authority and duty to improve the conditions of the camp which were brutal and degrading resulting in an atmosphere of terror with detainees being kept without the basic necessities of life such as adequate food, drinking water, medicines and medical care, and in unhygienic and cramped conditions, and subjected to interrogations, beatings, torture, harassment, humiliations and psychological abuse on a daily basis, living in constant fear for their own lives and at least one hundred detainees were killed or died as a result of these conditions, including:



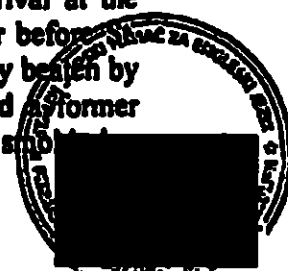
killings of detainees directly and personally committed by persons over whom Željko Mejakić had effective control and which killings were committed in furtherance of the described system of ill-treatment and persecution at the camp in which he participated, including on or about 30 May 1992 Asaf Muranović and Avdo Muranović were shot together and killed by a visitor to the camp or a camp guard; in June or July 1992 Abdulah Puškar and Silvije Sarić were beaten to death by the camp guards; around mid-June 1992 Emir ("Hanki" or "Hankin") Ramić was shot and killed by Željko Timarac in the presence of Duško Knežević who were both visitors to the camp; on or about 10 June 1992 Mehmedalija Nasić was shot and killed by Milan Pavlić, a camp guard; in June or July 1992 Safet ("Čifur") Ramadanović was beaten to death by Popović ("Pop"), Draženko Predojević and other camp guards; in mid-June 1992 Bećir Medunjanin was beaten on multiple occasions by Duško Knežević and Zoran Žigić, who were both visitors to the camp, and others, and died as a result of that beating; on one night in June 1992 several men (approximately 12) with the surname Garibović were beaten by a group of Serb soldiers visiting the camp or camp guards, after which they disappeared without a trace; in June 1992 "Dalijsa" Hrnić was beaten to death by two uniformed men and Zoran Žigić and Duško Knežević; on or about 10 June 1992 Slavko ("Ribar") Bćimović was beaten to death by Duško Knežević and Zoran Žigić; on about 25-26 June 1992 Mehmedalija Sarajlić was beaten to death by camp guards; in June or July 1992 Velid Badnjević was shot and killed by a camp guard; around mid-June 1992 Amir Cerić and another man named Avdić were shot and killed by or in the presence of visitors to the camp including Duško Knežević and Zoran Žigić; in July 1992 Mirsad ("Mirso", "Asim", "Kera") Crnalić was shot and killed by camp guards; during his detention in the camp Husein Crnkić sustained injuries to which he eventually succumbed; in July 1992 Rizah ("Riza" or "Rizo") Hadžalić was beaten to death by camp guards; on or about 18 June 1992 Jasmin ("Jasko") Hrnić, Enver ("Eno") Alić and Emir Karabašić were beaten to death in the camp; in late June or early July 1992 Miroslav Šolaja died as a result of beatings by the camp guards; in the first half of July 1992 Azur Jakupović, having already been severely beaten by the camp guards was killed along with Edvin Dautović and their bodies were loaded together after that; one day in late July 1992 Dr. Osman Mahmuljin, Dr. Eniz Begić, Zijad Mahmuljin and Ago Sadiković disappeared from the camp; in July 1992 Esad ("Eso") Mehmedagić disappeared from the camp; on or about 25 July 1992 Nedžad Šerić disappeared from the camp; in July 1992 Gordan Kardum was beaten to death by camp guards; in July 1992 Burhanudin Kapetanović and a man by the surname Badnjević disappeared from the camp; on one evening in July 1992 at least 7 detainees disappeared including Emsud Baltić and several men surnamed Mešić; in late July 1992 a large number of unidentified detainees including at least 50 detained villagers of the Hambarine village were shot dead;

killings resulting from the described system of ill-treatment and persecution at the camp in which Željko Mejakić participated, that is, in June 1992



**("Ico") Hodžić died as a result of a lack of medication and medical treatment for his diabetes;**

- **beatings and other physical assaults on detainees committed directly and personally by Željko Mejakić or in his immediate presence with discriminatory intent, that is, Saud Bešić who while detained in the camp was beaten during interrogation and after a while Željko Mejakić entered the room and kicked him in the chest;**
- **beatings and other physical assaults on detainees directly and personally committed by persons over whom Željko Mejakić had effective control and which beatings and physical assaults were committed in furtherance of the described system of ill-treatment and persecution at the camp in which he participated, including as follows: on or about the night of 29-30 May 1992 upon their arrival at the camp the new detainees including K041 were beaten by two lines of guards and then later again at the camp canteen and then again on their way back to their rooms from the canteen; on 4 June 1992 K042 was severely beaten by camp guards with thick lengths of cable and whips with iron balls on their ends; during his detention in Omarska camp, Emir Beganović received a number of severe beatings including on or about 10 June 1992 he together with detainees K036, Rezak Hukanović, Asaf Kapetanović and Abdulah Brkić were severely beaten in the same building with fists, other implements and kicked by camp visitors called "Dragan", Nikica Janjić, Šaponja, Zoran Žigić and Duško Knežević, and in addition to Nikica Janjić cutting Emir Beganović with a large knife, he sustained injuries to his head and body from the beating, and the other detainees sustained visible injuries too; in mid-June 1992 a group of visitors to the camp including the person called "Dragan" again severely beat up Emir Beganović and rendered him unconscious; in mid-June 1992 Nikica Janjić, a visitor to the camp, took Emir Beganović to the "White House" where Emir Beganović showed Momčilo Gruban the injuries from his previous beating by Janjić and others and asked for help and Momčilo Gruban told him to go to the "White House" with Janjić and said that Janjić would no longer mistreat him, however, once inside, Beganović received another vicious beating from Janjić during which he sustained injuries and his head and face were covered in blood; in mid-June 1992 witness K022 was severely beaten on multiple occasions including on one occasion by Zoran Žigić and Duško Knežević who used a baton and a truncheon with a metal ball attached; in mid-June 1992 the day after the last mentioned beating, witness K022 together with other detainees, including Fadil Avdagić, were severely beaten by Zoran Žigić and Duško Knežević resulting in Witness K022 losing consciousness, receiving injuries to his nose and other bodily injuries; on or about 23 June 1992 Muhamed Čehajić was severely beaten by at least one camp guard; on or about 4 July 1992 a part of approximately 120 detainees were beaten by the camp guards upon their arrival at the Omarska camp from the Keraterm Camp; on the evening of or before Peter's Day (Petrovdan) in mid-July 1992 detainees were severely beaten by the camp guards while being made to walk around a fire and a former football player known as "Durat" was forced into the fire or smothered**



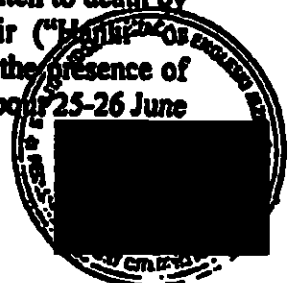
cinders; on or about 17 or 18 July 1992 Mustafa Puškar was severely beaten by camp guards with a bar and kicked again when he fell; on or about 20 July 1992 K017 was beaten on the head and body with a police baton by a camp guard rendering him unconscious.

- rapes and other forms of sexual abuse of detainees committed by persons over whom Željko Mejakić had effective control and which rapes and sexual abuse were committed in furtherance of the described system of ill-treatment and persecution at the camp in which he participated, including witness K019 who was sexually abused on numerous occasions by the camp guards; witness K027 who was sexually assaulted by the Shift Commander Mlado Radić and on another occasion in July 1992 by Nedeljko Grabovac; witness K040 who was sexually assaulted twice by camp guard Lugar.

## **MOMČILO GRUBAN**

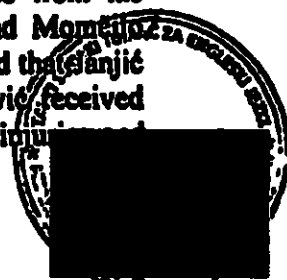
2. Between 1 June 1992 and 21 August 1992 the Accused Momčilo Gruban was a commander of one of the three guard shifts in the Omarska camp and in addition to supervising and effectively controlling the work and conduct of guards and most camp visitors during his shift, he supervised the conditions in the Omarska camp by arbitrarily depriving the detainees of their liberty and contributed to and furthered the functioning of the camp's system of ill-treating and persecuting Bosnian Muslims, Croats, and other non-Serbs held in the camp through various forms of physical, mental, and sexual violence and had the authority and duty to improve the conditions of the camp where conditions were brutal and degrading resulting in an atmosphere of terror with detainees being kept without the basic necessities of life such as adequate food, drinking water, medicines and medical care, and in unhygienic and cramped conditions, and subject to interrogations, beatings, torture, harassment, humiliations and psychological abuse on a daily basis, living in constant fear for their own lives and at least one hundred detainees were killed or died as a result of these conditions, including:

- killings of detainees directly and personally committed by persons during Momčilo Gruban's shift and over whom he had effective control and which killings were committed in furtherance of the described system of ill-treatment and persecution at the camp in which he participated, including when in July 1992 Burhanudin Kapetanović and a person by the surname Badnjević disappeared from the camp; in late July 1992 a large number of unidentified detainees including at least 50 detained villagers of the Hambarine village were shot dead;
- killings of detainees directly and personally committed by persons outside of Momčilo Gruban's shift but in furtherance of the described system of ill-treatment and persecution at the camp in which he participated, including in June or July 1992 Abdulah Puškar and Silvije Sarić were beaten to death by the camp guards; around the middle of June 1992 Emir ("Hankin") Ramić was shot and killed by Željko Timarac in the presence of Duško Knežević who were both visitors to the camp; on or about 25-26 June



1992 Mehmedalija Sarajlić was beaten to death by camp guards; in June or July 1992 Velid Badnjević was shot and killed by a camp guard; on or about 10 June 1992 Slavko ("Ribar") Ećimović was beaten to death by Duško Knežević and Zoran Žigić who were both visitors to the camp; around mid-June 1992 Amir Cerić and another man named Avdić were shot and killed by or in the presence of visitors to the camp including Duško Knežević and Zoran Žigić; during his detention in the camp Husein Crnkić sustained injuries to which he eventually succumbed; on or about 18 June 1992, Jasmin ("Jasko") Hrnić, Enver ("Eno") Alić and Emir Karabasić were beaten to death in the camp; on or about 10 June 1992 Mehmedalija Nasić was shot and killed by Milan Pavlić a camp guard; in June or July 1992 Safet ("Čifut") Ramadanović was beaten to death by Popović ("Pop"), Draženko Predojević and other camp guards; in mid-June 1992 Bećir Medunjanin was beaten on multiple occasions by Duško Knežević and Zoran Žigić, who were both visitors to the camp, and died as a result of the beating; on one night in June 1992 several men (approximately 12) with the surname Garibović were beaten by a group of Serb soldiers visiting the camp or the camp guards, after which they disappeared without a trace; in June 1992 "Dalijsa" Hrnić was beaten to death by two uniformed men and Zoran Žigić and Duško Knežević, who were visitors to the camp; in the first half of July 1992 Azur Jakupović having already been severely beaten by the camp guards was killed along with Edvin Dautović and their bodies were loaded together after that; in July 1992 Rizah ("Riza" or "Rizo") Hadžalić was beaten to death by the camp guards; in late June or early July 1992 Miroslav Šolaja died as a result of beatings inflicted by the camp guards; one day in late July 1992 Dr. Osman Mahmuljin, Dr. Eniz Begić, Zijad Mahmuljin and Ago Sadiković disappeared from the camp; in July 1992 Esad ("Eso") Mehmedagić disappeared from the camp; on or about 25 July 1992 Nedžad Šerić disappeared from the camp; in July 1992 Gordan Kardum was beaten to death by the camp guards; on one evening in July 1992 at least 7 detainees disappeared including Emsud Baltić and several men surnamed Mešić;

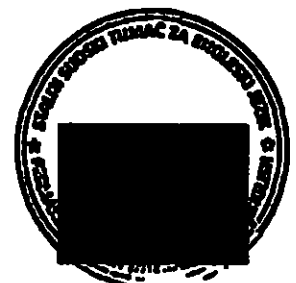
- killings resulting from the described system of ill-treatment and persecution at the camp in which Momčilo Gruban participated, that is, in June 1992 Ismet ("Ico") Hodžić died as a result of a lack of medication and medical treatment for his diabetes;
- beatings and other physical assaults on the detainees directly and personally committed by persons during Momčilo Gruban's shift and over whom he had effective control and which beatings and physical assaults were committed in furtherance of the described system of ill-treatment and persecution at the camp in which he participated, including in mid-June 1992 Emir Beganović was taken to the "White House" by Nikica Janjić where Emir Beganović showed Momčilo Gruban the injuries from his previous beating by Janjić and others and asked for help and Momčilo Gruban told him to go to the "White House" with Janjić and said that Janjić would no longer mistreat him, however, once inside, Beganović received another vicious beating from Janjić during which he sustained injuries





his head and face were covered in blood; on or about 4 July 1992 a part of approximately 120 detainees were beaten by the camp guards upon their arrival at the Omarska camp from the Keraterm Camp; on or about 17 or 18 July 1992 Mustafa Puškar was severely beaten by the camp guards with an iron bar and kicked again when he fell; on or about 20 July 1992 K017 he was beaten on the head and body with a police baton by a camp guard, rendering him unconscious.

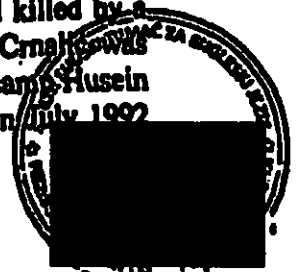
- beatings and other physical assaults on the detainees directly and personally committed by persons outside of Momčilo Gruban's shift but in furtherance of the described system of ill-treatment and persecution at the camp in which he participated, including on 4 June 1992 K042 was severely beaten with thick lengths of cable and whips with iron balls attached by the camp guards; during his detention in Omarska camp, Emir Beganović received a number of severe beatings including on or about 10 June 1992 he together with detainees K036, Rezak Hukanović, Asaf Kapetanović and Abdulah Brkić were severely beaten in the same building with batons and other implements and kicked by camp visitors called Dragan, Nikica Janjić, Šaponja, Zoran Žigić and Duško Knežević, and in addition to Nikica Janjić cutting Emir Beganović with a large knife, he sustained injuries to his head and body during that beating and the other detainees sustained visible injuries; in mid-June 1992 Emir Beganović was again severely beaten by a group of visitors to the camp including a visitor called Dragan, to the point where Emir Beganović lost conscience; in mid-June 1992 Witness K022 was severely beaten on multiple occasions including on one occasion by Zoran Žigić and Duško Knežević who used a baton and a truncheon with a metal ball attached; in mid-June 1992 the day after the last mentioned beating Witness K022 together with other detainees including Fadil Avdagić were again severely beaten by Zoran Žigić and Duško Knežević resulting in Witness K022 losing consciousness, receiving injuries to his nose and other parts of his body; on or about 23 June 1992 Muhamed Čehajić was severely beaten by at least one camp guard; while detained in the camp Saud Bešić was beaten during interrogation and after a while Željko Mejakić entered the room and kicked him in the chest; on the evening of or before St. Peter's Day (Petrovdan) in mid-July 1992 detainees were severely beaten by camp guards while being made to walk around a fire and a former football player known as "Durat" was forced into the fire or smoldering cinders;
- rape and other forms of sexual abuse of detainees directly or personally committed by persons outside of the shift that was under Momčilo Gruban's command but in furtherance of the described system of ill-treatment and persecution at the camp in which he participated, including witness K027 who was sexually assaulted by the shift Commander Mlado Radić and on another occasion in July 1992 by Nedeljko Grabovac, witness K019, who was raped on numerous occasions by camp guards and witness K040 who was sexually abused twice by camp guard Lugar;



### **DUŠKO KNEŽEVIĆ**

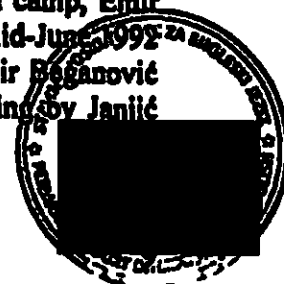
3. Between 28 May 1992 and 21 August 1992, the Accused Duško Knežević, who held no official position in the Omarska camp, entered the Omarska camp at will and unhindered by anyone committed killings and beatings of the detainees and by this contributed to and furthered the functioning of the camp's system of ill-treating and persecuting Bosnian Muslims, Croats, and other non-Serbs held in the camp through various forms of physical, mental, and sexual violence which resulted in the conditions in the camp being brutal and degrading resulting in an atmosphere of terror with detainees being kept without the basic necessities of life such as adequate food, drinking water, medicines and medical care, and in unhygienic and cramped conditions, and subjected to interrogations, beatings, torture, harassment, humiliations and psychological abuse on a daily basis, living in constant fear for their own lives, and at least one hundred detainees were killed or died as a result of these conditions, including:

- killings of the detainees personally and directly committed by Duško Knežević or in his immediate presence with discriminatory intent, including in mid-June 1992 in the "White House" Amir Cerić and a man surnamed Avdić were shot and killed by or in the presence of Duško Knežević and Zoran Žigić; in June 1992 in the "White House" Duško Knežević together with two uniformed men, and Zoran Žigić beat "Dalića" Hrnić to death; in mid-June 1992 in the "White House" Duško Knežević together with Zoran Žigić beat Bećir Medunjanin to death using various implements; on or about 10 June 1992 Duško Knežević together with a visitor to the camp Zoran Žigić severely beat the detainee Slavko ("Ribar") Edimović who died as a result of that beating; around the mid-June 1992 Emir ("Hanki" or "Hankin") Ramić was shot and killed by Željko Timarac, a visitor to the camp, in the presence of Duško Knežević;
- killings of the detainees directly and personally committed by persons other than Duško Knežević but in furtherance of the described system of ill-treatment and persecution at the camp in which he participated, including on or about 30 May 1992 Asaf Muranović and Avdo Muranović were shot together and killed by a visitor to the camp or a camp guard; on or about 10 June 1992 Mehmedalija Nasić was shot by Milan Pavlić, a camp guard; in June or July 1992 Safet ("Čifut") Ramadanović was beaten to death by Draženko Predojević and other camp guards; on one night in June 1992 several men (approximately 12) with the surname Garibović were beaten by a group of Serb soldiers visiting the camp or camp guards, after which they disappeared without a trace; in June or July 1992 Abdulah Puškar and Silvije Sarić were beaten to death by the camp guards; on about 25-26 June 1992 Mehmedalija Sarajlić was beaten to death by the camp guards; in late June or early July 1992 Miroslav Šolaja died as a result of beatings by camp the guards; in June or July 1992 Velid Badnjević was shot and killed by a camp guard; in July 1992 Mirsad ("Mirso", "Asim", "Kera") Crnaković was shot and killed by the camp guards; during his detention in the camp, Husein Crnić sustained injuries to which he eventually succumbed; in July 1992



Rizah ("Riza" or "Rizo") Hadžalić was beaten to death by the camp guards; on or about 18 June 1992 Jasmin ("Jasko") Hrnić, Enver ("Eno") Alić and Emir Karabašić were beaten to death in the camp; in the first half of July 1992 Azur Jakupović, having already been severely beaten by the camp guards, was killed along with Edvin Dautović and their bodies were loaded together after that; on one day in late July 1992 Dr. Osman Mahmuljin, Dr. Eniz Begić, Zijad Mahmuljin and Ago Sadiković disappeared from the camp; in July 1992 Esad ("Eso") Mehmedagić disappeared from the camp; on or about 25 July 1992 Nedžad Šerić disappeared from the camp; in July 1992 Gordan Kardum was beaten to death by the camp guards; in July 1992 Burhanudin Kapetanović and a man by the surname Badnjević disappeared from the camp; on one evening in July 1992 at least 7 detainees disappeared including Emsud Baltić and several men surnamed Mešić; in late July 1992 a large number of unidentified detainees including at least 50 detained villagers of the Hambarine village were shot dead;

- murder resulting from the described system of ill-treatment and persecution at the camp in which Duško Knežević participated, that is, in June 1992 Ismet ("Ico") Hodžić died as a result of a lack of medication and medical treatment for his diabetes;
- beatings and other physical assaults of the detainees directly and personally committed by Duško Knežević or in his immediate presence with discriminatory intent, including on or about 10 June 1992 he together with detainees K036, Rezak Hukanović, Asaf Kapetanović and Abdulah Brkić were severely beaten in the same building with fists, other implements and kicked by camp visitors called "Dragan", Nikica Janjić, Šaponja, Zoran Žigić and Duško Knežević, and in addition to Nikica Janjić cutting Emir Beganović with a large knife, he sustained injuries to his head and body from the beating and the other detainees sustained visible injuries; in mid-June 1992 in the "White House" Duško Knežević together with Zoran Žigić beat K022 using a baton and a truncheon with an attached metal ball, and the next time Duško Knežević and Zoran Žigić continued to beat the same detainee as well as detainee Fadil Avdagić;
- beatings and other physical assaults of the detainees directly and personally committed by persons other than Duško Knežević but in furtherance of the described system of ill-treatment and persecution at the camp in which he participated, including as follows: on or about the night of 29-30 May 1992 K041 and other detainees newly arrived at the camp were beaten by two lines of guards and then later again at the camp canteen and then again on their way back to their rooms from the canteen; on 4 June 1992 K042 was severely beaten by the camp guards with thick lengths of cable and a whip with metal balls attached; while detained in the camp Saud Bešić was beaten during interrogation and after a while Željko Mejakić entered the room and kicked him in the chest; during his detention in the Omarska camp, Emir Beganović received a number of severe beatings including in mid-June 1992 he was taken to the White House by Nikica Janjić where Emir Beganović showed Momčilo Gruban the injuries from his previous beating by Janjić



and asked for help and Momčilo Gruban told him to go to the White House with Janjić and said that he would no longer mistreat him, however, once inside, Beganović received another vicious beating from Janjić during which he sustained further injuries to his face and head which were covered in blood; in mid-June 1992 Emir Beganović was again severely beaten by a group of visitors to the camp including a visitor called Dragan, which rendered him unconscious; on or about 23 June 1992 Muhamed Čehajić was severely beaten by at least one camp guard; on or about 4 July 1992 a part of approximately 120 detainees were beaten by the camp guards upon their arrival at the Omarska camp from the Keraterm Camp; on the evening of or before St. Peter's Day (Petrovdan) in mid-July 1992 detainees were severely beaten by the camp guards while being made to walk around a fire and a former football player known as "Durat" was forced into the fire or smoldering cinders; on or about 17 or 18 July 1992 Mustafa Puškar was severely beaten by the camp guards with an iron bar and hit him again when he fell; on or about 20 July 1992 K017 was beaten on the head and body with a police baton by a camp guard, which rendered him unconscious;

- rape and other forms of sexual abuse of the detainees directly or personally committed by persons other than Duško Knežević but in furtherance of the described system of ill-treatment and persecution at the camp in which he participated, including witness K019 who was raped on numerous occasions by the camp guards; witness K027 who was sexually assaulted by the shift Commander Mlado Radić and in July 1992 by Nedeljko Grabovac; witness K040 who was sexually abused twice by camp guard Lugar.

## **KERATERM CAMP**

### **DUŠKO KNEŽEVIĆ**

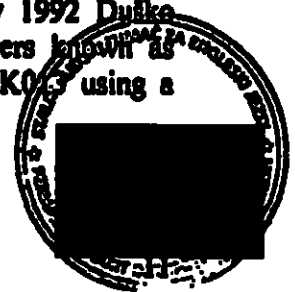
4. Between 24 May 1992 and 6 August 1992, the Accused Duško Knežević, who held no official position in the Keraterm camp, entered the Keraterm camp at will and unhindered by anyone, there he committed killings and beatings of the detainees and these actions contributed to and enhanced the functioning of the camp's system of ill-treating and persecuting Bosnian Muslims, Croats, and other non-Serbs held in the camp through various forms of physical, mental, and sexual violence which resulted in the conditions in the camp being brutal and degrading resulting in an atmosphere of terror with detainees being detained without the basic necessities of life such as adequate food, drinking water, medicines and medical care, and in unhygienic and cramped conditions, and subjected to multiple interrogations, beatings, torture, harassment, humiliations and psychological abuse on a daily basis, living in constant fear for their own lives, and dozens of detainees were killed or died as a result of these conditions, including:

- killings of the detainees personally and directly committed by Duško Knežević or in his immediate presence with discriminatory intent, including



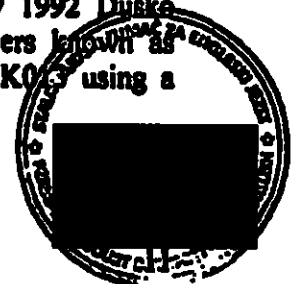
in June 1992, Duško Knežević, the camp guard Predrag Banović, Zoran Žigić and others repeatedly and severely beat Emsud ("Singapurac" and "Snajperista") Bahunjić, using various implements, so in the second half of June 1992 this detainee died as a result of the beatings that he received; in late June 1992 Drago Tokmadžić was beaten to death by the camp guards including Predrag Banović, and visitors to the camp Duško Knežević and Zoran Žigić; during the month of June 1992 Sead ("Car") Jusufović was beaten by Duško Knežević, Zoran Žigić and others and died as a result;

- killings of the detainees directly and personally committed by persons other than Duško Knežević but in furtherance of the described system of ill-treatment and persecution at the camp in which he participated, including: in the second half of June 1992 the camp guards beat a Serb named Jovo Radočaj to death; in late June or early July 1992 an Albanian named Jasmin ("Zvezdaš") was beaten to death by a group of camp guards or camp visitors; in June or July 1992 Džemal Mehić was beaten to death after having been taken out of his room by the camp guard Banović; on or about 25 July 1992 approximately twenty men were called out including Ismet Bajrić, Behzad Behlić and a person called Šolaja, who were taken from where they were detained in the Keraterm Camp and shot dead; between 9 June 1992 and 24 July 1992 Avdić ("Čacko") was beaten to death; in July 1992 Dževad Karabegović was beaten to death after having been taken out of his room by Predrag Banović; in June or July 1992 Besim Hergić was beaten to death;
- beatings and other physical assaults of the detainees directly and personally committed by Duško Knežević or in his immediate presence with discriminatory intent including: between 30 May to 5 August 1992 together with Predrag Banović, Zoran Žigić and a person called "Sahadžija", Duško Knežević beat a detainee K05 with a metal rod, his fists and his feet on several occasions; in June or July 1992 Duško Knežević beat a detainee Fajzo Mujkanović and cut his neck with a knife and due to these injuries this detainee was hospitalized; on or around 16 June 1992 Duško Knežević together with Zoran Žigić beat prisoners Ilijaz Jakupović and witness K033 to the point where their faces were covered in blood; Witness K033 was subsequently beaten by Duško Knežević several times; in late June 1992 Duško Knežević beat a detainee K015 hitting him on the head and all over his body with a baton; in June 1992 Duško Knežević and other persons severely beat Esad Islamović; in late June 1992 Duško Knežević together with Zoran Žigić beat Edin Ganić with a baton inflicting upon him bodily injuries; in June and July 1992 Duško Knežević together with Zoran Žigić and Predrag Banović on several occasions beat a detainee Jasmin Ramadanović who was hospitalized as a result of that; in the second half of June 1992 Duško Knežević beat the detainees Amir Karačić, Josip Pavlović, Dijaz Sivac and several other unidentified detainees as a result of which they suffered bruises all over their bodies; on or about 5 July 1992 Duško Knežević together with Zoran Žigić and three other soldiers known as "Vokić," "Timaras" and "Karlica" severely beat a detainee K013 using a baton and other implements;



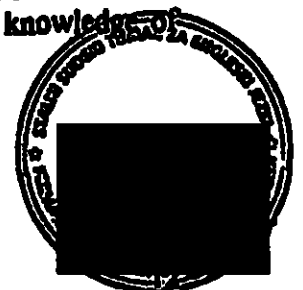
in June 1992, Duško Knežević, the camp guard Predrag Banović, Zoran Žigić and others repeatedly and severely beat Emsud ("Singapurac" and "Snajperista") Bahunjić, using various implements, so in the second half of June 1992 this detainee died as a result of the beatings that he received; in late June 1992 Drago Tokmadžić was beaten to death by the camp guards including Predrag Banović, and visitors to the camp Duško Knežević and Zoran Žigić; during the month of June 1992 Sead ("Car") Jusufović was beaten by Duško Knežević, Zoran Žigić and others and died as a result;

- killings of the detainees directly and personally committed by persons other than Duško Knežević but in furtherance of the described system of ill-treatment and persecution at the camp in which he participated, including: in the second half of June 1992 the camp guards beat a Serb named Jovo Radočaj to death; in late June or early July 1992 an Albanian named Jasmin ("Zvezdaš") was beaten to death by a group of camp guards or camp visitors; in June or July 1992 Džemal Mešić was beaten to death after having been taken out of his room by the camp guard Banović; on or about 25 July 1992 approximately twenty men were called out including Ismet Bajrić, Behzad Behlić and a person called Šolaja, who were taken from where they were detained in the Keraterm Camp and shot dead; between 9 June 1992 and 24 July 1992 Avdić ("Čacko") was beaten to death; in July 1992 Dževad Karabegović was beaten to death after having been taken out of his room by Predrag Banović; in June or July 1992 Besim Hergić was beaten to death;
- beatings and other physical assaults of the detainees directly and personally committed by Duško Knežević or in his immediate presence with discriminatory intent including: between 30 May to 5 August 1992 together with Predrag Banović, Zoran Žigić and a person called "Šahadžija", Duško Knežević beat a detainee K05 with a metal rod, his fists and his feet on several occasions; in June or July 1992 Duško Knežević beat a detainee Fajzo Mujkanović and cut his neck with a knife and due to these injuries this detainee was hospitalized; on or around 16 June 1992 Duško Knežević together with Zoran Žigić beat prisoners Ilijaz Jakupović and witness K033 to the point where their faces were covered in blood; Witness K033 was subsequently beaten by Duško Knežević several times; in late June 1992 Duško Knežević beat a detainee K015 hitting him on the head and all over his body with a baton; in June 1992 Duško Knežević and other persons severely beat Esad Islamović; in late June 1992 Duško Knežević together with Zoran Žigić beat Edin Oanić with a baton inflicting upon him bodily injuries; in June and July 1992 Duško Knežević together with Zoran Žigić and Predrag Banović on several occasions beat a detainee Jasmin Ramadanović who was hospitalized as a result of that; in the second half of June 1992 Duško Knežević beat the detainees Amir Karačić, Josip Pavlović, Dijaz Sivac and several other unidentified detainees as a result of which they suffered bruises all over their bodies; on or about 5 July 1992 Duško Knežević together with Zoran Žigić and three other soldiers known as "Vokić," "Timarac" and "Karlica" severely beat a detainee K013 using a baton and other implements;



- beatings and other physical assaults of the detainees directly and personally committed by persons other than Duško Knežević but in advancing the described system of ill-treatment and persecution at the camp in which he participated, including between 24 May 1992 and 6 August 1992 Zejro Čaušević, Katiak, Ismet Kljajić and Mesud Terarić were severely beaten by the camp guards with Zejro Čaušević being subjected to multiple beatings, one of which by Tomica, resulting in wounds to his head and body which then became infested with worms due to the lack of medical care; on or around 13 June 1992 together with other persons detainees K05, Ziko Krivdić and Suad Bajrić were beaten and Suad Bajrić was injured by a bayonet; on or about 14 June 1992 Predrag Banović and others beat the new detainees who had arrived from Sivei that day; on the night of 16-17 June or July 1992 Dragan Kondić beat K010 on the chest with a baton and then together with others continued to beat him in another location; in June 1992 two men including a military policeman from Sarajevo clubbed and kicked K016 in the presence of Dušan Fuštar; in June or July 1992 Predrag Banović and his brother Nenad Banović severely beat and kicked Faruk Hrnđić; in late June 1992 three brothers named Ališić were beaten up; between 20 and 24 July 1992 Enes Crljenković was beaten on multiple occasions including on the first day of his detention at the Pista when he was beaten by Predrag Banović, Nenad Banović and others together with other detainees who were forced to lie down on a concrete strip in the sun; the following day Enes Crljenković was beaten again while he was laying on the pista by camp guards, including Dragan Kondić; between 20 and 24 July 1992 Besim Fazlić, Mehmed Avdić, Muharem Sivac and Mirsad Crljenković were beaten by camp guards; in the second half of July 1992 Dragan Kondić and Zoran Žigić beat K010; on or about 20 July 1992 upon his arrival at the camp Ismet Bajić was beaten by the camp guards; on or about 20 July 1992 people who were brought to the Keraterm Camp from the Brdo area were beaten by the camp guards upon their arrival at the camp and were then subsequently kept confined for three days without food or toilet facilities; between 31 May 1992 and 5 August 1992 guard Banović beat Meho Kapetanović; between 3 June and 5 August 1992 Enver ("Žuti") Modronja, was beaten by Predrag Banović on the head with a baton; between 9 June 1992 and 5 August 1992 Šaban Elezović was beaten by Predrag Banović and others to the point where one of his arms was broken or dislocated; camp guard Banović beat Mirsad Karagić in the camp with a police baton; in June or July 1992 Suad Halvadžić was beaten by Predrag Banović and others and Predrag Banović cut off a piece of Suad Halvadžić's ear; on or about 21 July 1992 Predrag Banović shot Uzeir ("Zejro") Čaušević in the leg and he was later taken out of the camp in a military truck and disappeared without a trace.

Thus, as described above, within a widespread and systematic attack against the civilian population from the wider territory of the Prijedor Municipality, with knowledge of such attack, and knowing that they were participating in it:



- Within the Omarska Camp, Željko Mejakić and Duško Knežević by their acts committed or otherwise aided and abetted the crimes described above with discriminatory intent; Željko Mejakić, Momčilo Gruban and Duško Knežević acting in concert with Milojica Kos, Dragoljub Prcać, Mlado Radić and Zoran Žigić, among others, also participated in the joint criminal enterprise at the Omarska Camp to ill-treat and persecute Muslims, Croats, and other non-Serbs held in the camp through various forms of physical, mental, and sexual violence and are therefore responsible for the crimes described above, all of which were committed within the objective of the joint criminal enterprise; Željko Mejakić and Momčilo Gruban are also responsible by virtue of their position as superiors for the offences perpetrated by their subordinates over whom they had effective control, when they knew or had reason to know that their subordinates were about to commit such acts, or had done so, and they failed to take the necessary and reasonable measures to prevent or punish the perpetrators thereof;
- Within the Keraterm Camp, Duško Knežević by his acts committed or otherwise aided and abetted the crimes described above with discriminatory intent; Duško Knežević acting in concert with Dušan Fuštar, Duško Sikirica, Damir Došen, Dragan Kolundžija, Predrag Banović, Nenad Banović and Zoran Žigić, among others, also participated in the joint criminal enterprise at the Keraterm Camp to ill-treat and persecute Muslims, Croats, and other non-Serbs held in the camp through various forms of physical and mental violence and are therefore responsible for the crimes described above all of which were committed within the objective of the joint criminal enterprise.

#### **Whereby the Accused**

1. **ŽELJKO MEJAKIĆ** committed the criminal offence of Crimes against Humanity under Article 172(1) of the Criminal Code of Bosnia and Herzegovina namely, per sub-paragraph a) murder (killings), per sub-paragraph e) imprisonment (arbitrary and unlawful confinement of camp detainees), per sub-paragraph f) torture (beatings and other physical assaults), per sub-paragraph g) sexual violence (rapes and other forms of sexual abuse), per sub-paragraph k) other inhumane acts (confinement in inhumane conditions, harassment, humiliation and other psychological abuse), and per sub-paragraph b) persecution, all in conjunction with Article 29 and Article 180(1)(2) of the CC BH.
2. **MOMČILO GRUBAN** committed the criminal offence of Crimes against Humanity under Article 172(1) of the Criminal Code of Bosnia and Herzegovina namely, per sub-paragraph a) murder (killings), per sub-paragraph e) imprisonment (arbitrary and unlawful confinement of camp detainees), per sub-paragraph f) torture (beatings and other physical assaults), per sub-paragraph g) sexual violence (rapes and other forms of sexual abuse), per sub-paragraph k) other inhumane acts (confinement in inhumane conditions, harassment, humiliation and other psychological abuse) and per sub-paragraph b) persecution, all in conjunction with Article 29 and Article 180(1)(2) of the CC BH.





3. **DUŠKO KNEŽEVIĆ**, committed the criminal offence of Crimes against Humanity under Article 172(1) of the Criminal Code of Bosnia and Herzegovina namely, per sub-paragraph a) murder (killings), per sub-paragraph f) torture (beatings and other physical assaults), per sub-paragraph k) other inhumane acts (confinement in inhumane conditions, harassment, humiliation and other psychological abuse) and per sub-paragraph b) persecution (all acts as described in Counts 3 and 5 of the Indictment) and as to COUNT 3 only per sub-paragraph g) sexual violence (rapes and other forms of sexual abuse), all in conjunction with Article 29 and Article 180(1) of the CC BH.

Therefore the Court, pursuant to Article 285(1) of the CPC BH, applying Article 39, 42 and 48 of the CC BH

### **SENTENCES**

1. **THE ACCUSED ŽELJKO MEJAKIĆ TO A LONG-TERM IMPRISONMENT FOR THE DURATION OF 21 YEARS.**
2. **THE ACCUSED MOMČILO GRUBAN TO A TERM OF IMPRISONMENT FOR THE DURATION OF 11 YEARS.**
3. **THE ACCUSED DUŠKO KNEŽEVIĆ TO A LONG-TERM IMPRISONMENT FOR THE DURATION OF 31 YEARS.**

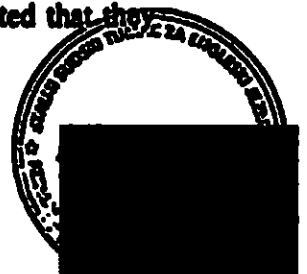
Based on Article 56 of the CC BH, in conjunction with Article 2(4) of the Law on Transfer of Cases from the International Criminal Tribunal for the former Yugoslavia to the Prosecutor's Office of Bosnia and Herzegovina (Law on Transfer of Cases), the time that according to ICTY and Court of BiH Decisions the Accused Željko Mejačić spent in custody from 1 July 2003 onwards, the Accused Momčilo Gruban from 2 May 2002 until 17 July 2002 and from 21 July 2005 onwards and the Accused Duško Knežević from 18 May 2002 onwards, shall be credited towards the pronounced term of imprisonment.

### **I**

Pursuant to Article 188(4) of the CPC BH, the Accused persons are relieved of their duty to reimburse the costs of the proceedings, and the costs shall be reimbursed from within the budget.

### **II**

Pursuant to Article 198(2) of the CPC BH, the injured parties are instructed that they may take civil action to pursue their claims under property law.



## **Reasoning**

### **Proceedings**

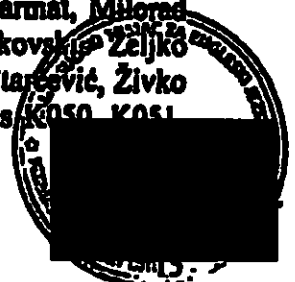
Under the Indictment of the Prosecutor's Office of Bosnia and Herzegovina No. KT-RZ-91/06 of 7 July 2006, taken over as confirmed from the International Criminal Tribunal for the former Yugoslavia (consolidated Indictment of the International Criminal Tribunal for the former Yugoslavia No. IT-02.65 of 5 July 2002 and submission of the Amended Consolidated Indictment No. IT-02-65 of 13 January 2005), pursuant to the Law on Transfer of Cases from the International Criminal Tribunal for the former Yugoslavia to the Prosecutor's Office of Bosnia and Herzegovina and the Use of Evidence Obtained by the International Criminal Tribunal for the former Yugoslavia in the Proceedings before the Courts in Bosnia and Herzegovina, adapted pursuant to the Criminal Procedure Code (the CPC BH), the Accused Željko Mejačić, Momčilo Gruban and Dušan Fuštar were charged with the commission of the criminal offence of Crimes against Humanity in violation of Article 172(1)(a)(e)(f)(g)(h) and (k) of the CC BH, in conjunction with Article 29 and Article 180(1)(2) of the CC BH, and the Accused Duško Knežević with the criminal offence of Crimes against Humanity in violation of Article 172(1)(a)(f)(g)(h) and (k) of the CC BH, in conjunction with Article 29 and Article 180(1) of the CC BH. At the plea hearing held on 28 July 2006, the Accused persons pled not guilty to the charges of the Indictment, and the case was referred to the Trial Panel for the scheduling of the main trial.

Upon the completion of the prosecution case and before the defense case, the Accused Dušan Fuštar and his Defense Counsel, Attorneys John Ostojić and Zlatko Knežević, on 27 March 2008 signed the Agreement on the admission of guilt with the Prosecutor's Office of BH, which was submitted to the Court for consideration together with the amended Indictment of the Prosecutor's Office of BH No. KT-RZ-91/06 of 21 March 2008, pursuant to Article 275 of the CPC BH. On the Prosecutor's motion, to which the Accused and their Defense Counsel consented, the proceedings with respect to Dušan Fuštar were severed and completed separately under number X-KR-06/200-1.

### **Evidence**

In the course of the evidentiary proceedings, the following prosecution witnesses were examined: Asmir Baltić, Fadil Avdagić, Emir Beganović, Said Bešić, Saud Bešić, Zlata Cikota, Enes Crljenković, Izet Dešević, Sakib Jakupović, Enes Kapetanović, Senad Kapetanović, Kerim Mešanović, Azedin Oklopčić, Mustafa Puškar, Nusret Sivac, Ermin Striković, Anto Tomić, and witnesses under pseudonyms K01, K03, K05, K07, K08, K09, K010, K013, K014, K015, K016, K017, K018, K019, K022, K023, K027, K029, K033, K034, K035, K036, K037, K040, K041, K042, K043 i K044, and Borislav Knežević, K055 and K056 as additional witnesses for the Prosecution.

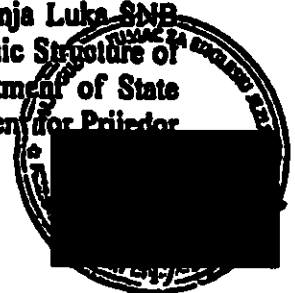
After that, the Court heard the following defense witnesses: Rajko Marmat, Milorad Stupar, Pero Rendić, Mirko Kobas, Radovan Kečan, Nada Markovski, Željko Grabovica, Mile Matijević, Boro Vučenović, Svetozar Krecelj, Branko Stanić, Živko Piljić, Stevo Petoš and Boško Matijaš and witnesses under pseudonyms K050, K051



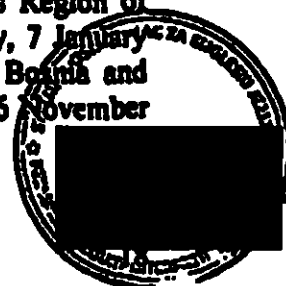
**The Prosecutor's Office of BH adduced the following physical evidence listed in the original indictment dated 7 July 2006 against all four Accused persons under following numbers:**

1. (1A) Aerial photo of the Omarska Mine (ICTY No. 0100-2444); (1B) Photo of the administrative building, Omarska Mine (0109-7404); (1C) Photo of the hangar, view from the administrative building (0109-7407); (1D) Photo of the right side of the hangar, view from the administrative building (0109-7408); (1E) Photo of the „white house“ (0109-7413); (1F) Photo of the administrative building (0203-0311); (1G) Photo of the kitchen/restaurant (0109-7406); (1H) Photo of the Omarska camp detainees in the canteen (0104-8435); (1I) Photo of the Omarska camp restaurant (0105-6517); (1J) Photo of Kerim Mešanović in the „glass house“ (0045-2452); (1K) Aerial photo of the Omarska Mine (0107-2772); (1L) Photo of the TAM truck (0039-3770); (1M) Photo of the pump and the administrative building (0039-3500); (2) Omarska Mine model; (3) Statement of the witness K017 given to the ICTY in 1998 and 1999; (4A) Decision on termination of employment of Cikota Zlata (0020-2870); (5) Photo of Miroslav Šolaja's clothes (0326-1687); (7) Newspaper article "Bećir Medunjanin and his family", Kozarski vjesnik, 12 June 1992; (0031-9260-7 (BHS), 0096-3674 (ENG)); (8A) Photo of the Keraterm camp (reception booth, entrance) (0200-6266); (8B) Photo of the Keraterm camp (rooms 2, 3, 4, toilets) (0200-6270); (8C) Photo of the Keraterm camp (garage, room No. 1) (0336-4943); (10) Photo of Goran Kardum and another person (0105-6516); (10A) Exhibit 8A marked by K014; (10B) Exhibit 8C marked by K014; (11A) Photo of the Keraterm depicting the garbage disposal and the hangar (0200-6264); (11B) Photo of the Keraterm camp indicating where the executions took place after the massacre in room No. 3 (0200-6270); (11C) Photo of the Keraterm camp depicting the small house behind which, according to the witnesses, there was a light-machinegun mounted for the execution after the massacre in the room No. 3 (0200-6268); (12A) Photo of the Keraterm camp, witness is indicating where the garbage disposal was located on which bodies were discarded (0200-6264); (12B) Photo of the Keraterm camp, witness is indicating where one victim by the name of I. Budimlić was beaten up, on the left from the weigh station (0200-6266); (13A) Photo of the Keraterm camp, witness is indicating the rooms 1 and 2 and the weigh station where his brother was beaten (0200-6265); (13B) Photo of the Keraterm camp- the small house and the weigh station where the witness' brother was beaten up (0200-6266); (13C) Photo of the Keraterm camp, a different view, witness is indicating rooms 3 and 4 where a table with a machinegun mounted on it was positioned before the massacre in the room No. 3 (0200-6262); (14) List of detainees written by K016 (0068-2509); (15A) Photo of the Keraterm camp, witness is indicating where the dead bodies were discarded (0200-6262); (15B) Photo of the Keraterm camp, witness is indicating rooms 1 and 2 and the kitchen (0336-4943); (16A) Photo of the Keraterm camp, witness is indicating the weigh station and where Fuštar had sat (0200-6263); (16B) Photo of the Keraterm camp, witness is marking where the school desks and the machine guns were positioned before the massacre in the room No. 3 (0200-6265); (17) Order of Simo Drljača, Chief of the Public Security

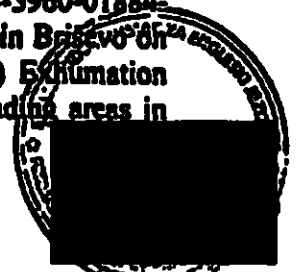
Station Prijedor, to form the Omarska camp of 31 May 1992 (00633763-00633766); (18) The list of employees engaged in providing security for the Omarska collection center who need to be issued with special passes, Željko Mejakić, commander of the station of the wartime police Omarska, 21 June 1992; (19) Order of the Crisis Staff of the Prijedor Municipality No. 01-023-49/92, 2 July 1992; (20) Official note signed by Duško Sikirica about how Zoran Žigić frequented Keraterm and beat up people who subsequently died, 4 July 1992; (21) List of 1<sup>st</sup> category persons, Omarska Collection Center, 28 July 1992; (22) Dispatch note of the Prijedor Public Security Station No. 11-12-2169, 1 August 1992; (23) Letter of the Prijedor Public Security Station addressed to the Security Services Center Banja Luka, No. 11-12-38, 4 August 1992; (24) Letter titled "Selection of POW for the Manjača POW Camp", Command of the 1<sup>st</sup> Krajiški Corps, 6 August 1992; (25) Letter of the Public Security Station No. 11-12-2188 addressed to the Chief of the Security Services Center Banja Luka, 9 August 1992; (26) Report of the Public Security Station Prijedor about the reception centers in the territory of Prijedor Municipality and the moving out of citizens from the territory of the municipality, 14 August 1992; (27) Report of the Security Services Center Banja Luka on the existing situation and issues regarding the detainees, collection centers, the moving out of the population and the role of the Public Security Station and its connection to these activities, 18 August 1992; (28) Official note of the Public Security Station Prijedor with the list of persons sent from Omarska to Manjača, 17 August 1992; (29) Letter of the Public Security Station Prijedor to the Chief of Security of the Security Services Center Banja Luka on the documentation relative to the POWs transferred from Omarska to Manjača, 23 August 1992; (30) Dispatch note of the Public Security Station Prijedor on the non-existence of detention camps, prisons and collection centers in Prijedor Municipality No. 11-12-2223, 28 August 1992; (31) Report on the activities of the Prijedor Public Security Station in the third quarter, September 1992; (32) Report on the work of the Public Security Station Prijedor in the last 9 months of 1992, Public Security Station Prijedor, January 1993; (33) Letter of Stojan Župljanin, Chief of Staff of the Security Services Center Banja Luka, to all public security stations No. 11-1/01-57, 19 August 1992; (34) List of Prijedor Police Station employees who signed and did not sign the solemn declaration, 29 May 1992; (35) Decision on the organization and activities of the Prijedor Municipal Crisis Staff dated 20 May 1992, Prijedor Municipality Official Gazette, Year I, issue 2/92, 25 June 1992; (36) Solemn declaration of Dušan Fuštar, Prijedor Public Security Station, 8 May 1992; (37) Reserve police payroll for May 1992, Prijedor II Reserve Police Station, Prijedor Public Security Station; (38) Reserve Police Payroll for June 1992, (employed), Prijedor II Reserve Police Station, Prijedor Public Security Station; (39) Reserve Police Payroll for June 1992, (unemployed), Prijedor II Reserve Police Station, Prijedor Public Security Station; (40) List of members of the reserve police force in August 1992, Prijedor II Reserve Police Station, August 1992; (41) Census of the Prijedor Municipalities by local communes No. 02-074-1-16/91, 1991; (42) Results of the 1993 census in Prijedor Municipality (by local communes), undated; (43) Overview of citizens who have moved out and into the area covered by the Sector, Banja Luka SNB Sector, May 1993; (44) Overview of Data on the Number and Ethnic Structure of Population by Municipalities in the Area of Banja Luka Department of State Security for 1991 and 1995, February 1995; (45) Security Assessment for Prijedor



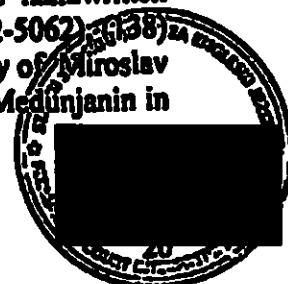
Municipality, operative Duško Jelisić, SNB Sector, Banja Luka Security Services Center, 23 October 1992; (46) Report on the work of the Prijedor Municipal Red Cross for the period from 5 May 1992 until 30 September 1992, 30 September 1992.; (47) Decisions of the Autonomous Region Krajina Crisis Staff of 22 May 1992, Autonomous Region Krajina Official Gazette, No. 2; (48) Decision to release persons from detention, Prijedor Municipality Crisis Staff, 2 June 1992; (49) Conclusion of the Prijedor Municipality Crisis Staff No. 02-111-191/92 of 12 June 1992, Prijedor Municipality Official Gazette, Year I, No. 2/92, 25 June 1992.; (50) List of reserve operational employees from the National Security Service hired to work in the Omarska and Keraterm in June 1992; (51) Letter of the Prijedor Public Security Station to the General Hospital "Dr. Mladen Stojanović" listing hospital employees who can be found in refugee camps, 11 July 1992; (52) Foreign Journalists Visited Collection Centers in Omarska and Trnopolje" - Kozarski Vjesnik article, 14 August 1992; (53) List of persons to be taken to the Omarska Collection Center, entered in the register on 24 July 1992; (54) List of persons to be taken to the Omarska Collection Center, 6 - 8 July 1992; (55) List of persons to be taken to the Omarska Collection Center, 23 July 1992; (56) List of persons to be taken to the Omarska Collection Center, 14 July 1992; (57) Solemn declarations of police employees, Prijedor Public Security Station, May 1992; (58) Certificate of the Municipal Organization of the Red Cross for Azedin Oklopčić, 14 August 1992; (59) Register of visitors to Wartime Police Station, Omarska in the period from 11 July 1992 to 22 September 1994; (60) Official Note regarding bribe taking and unauthorized release of detainees by Zoran Žigić, Intelligence and Security Organ of the Prijedor Regional Command, 13 June 1992; (61) "It's Difficult For Everyone", Kozarski Vjesnik article, 17 July 1992; (62) Letter from Bishop of Banja Luka to Simo Drljača, Prijedor Public Security Station Chief, 11 August 1992; (63) Reply of Simo Drljača, Chief of the Public Security Station Prijedor to the letter of Bishop Komarica, 16 September 1992; (64) Approval of the 1<sup>st</sup> Krajiški Corps for visit of the International Committee to the detention camps at Manjača, Trnopolje, Omarska and Prijedor, 3 August 1992; (65) Dispatch note of the Prijedor Public Security Station Chief Simo Drljača explaining the structure and organization of the Prijedor Public Security Station No. 11-12-2031, 29 May 1992; (66) Letter of the Prijedor Public Security Station addressed to RS Ministry of the Interior on determination of rank of Željko Mejakić, 23 October 1995; (67) Map, Map of municipalities (ICTY No. 0229-6710); (68) Map, Big map of Prijedor (ICTY No. 0046-4993); (69) Map, Map of ethnic make-up of Prijedor (ICTY No. 0216-9347); (70) Map, Map of Prijedor with photos (ICTY No. 0124-8887); (71) Map, Map of Prijedor with photos and description (ICTY No. 0216-6220); (72) Rulebook on internal organization of the Republic Secretariat of the Interior, January 1990; (73) „Instruction on organization and activities of the organs of Serb people in Bosnia and Herzegovina in a state of emergency”, Main Board of SDS BiH, 19 December 1991; (74) Abridged minutes of the meeting of the SDS Municipal Board Prijedor and the SDS caucus, 27 December 1991; (75) Decision on the proclamation of the Assembly of the Serb People of Prijedor Municipality, No. 001/92, 7 January 1992; (76) Decision on Joining the Autonomous Region of Bosanska Krajina, Assembly of Serb People in Prijedor Municipality, 7 January 1992; (77) Decision on strategic objectives of the Serb People in Bosnia and Herzegovina of 12 May 1992, Republika Srpska Official Gazette, 26 November



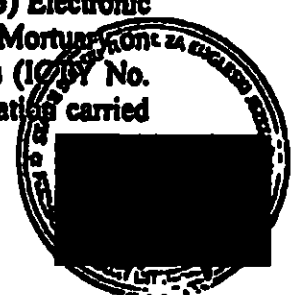
1993; (78) Decision on the Formation of War Presidencies in Municipalities in Times of Imminent Threat of War or Wartime of 31 May 1992, Official Gazette of the Serb People in BiH, Issue 8, 8 June 1992; (79) Memo to Public Security Stations sent by Stojan Župljanin, Head of the Banja Luka Security Services Centre, forwarding the Decision of the ARK Crisis Staff according to which only women, children and elderly may leave the ARK territory, 12 June 1992; (80) Confirmation of decisions falling under the jurisdiction of the Municipal Assembly issued by the Crisis Staff, 24 July 1992; (81) Sketch authored by the witness K013 (0104-7754); (82A) Video footage of the interview with Željko Mejakić, RTV Beograd (V000-2046); (82B) Transcript of the exhibit 82A (0301-1297 (ENG) & 0301-0771 (BHS)); (83A) ITN report from Omarska and Trnopolje detention camps (V000-0401); (83B) Transcript of the exhibit 83A, (84A) Video footage of Omarska and Trnopolje (V000-0664); (84B) Transcript of the exhibit 84A (0305-8493-0305-8507 & 0306-5733-0306-5754); (85A) Video footage of the ITN meeting with the officials in Prijedor regarding visit to Omarska camp (V000-1402); (85B) Transcript of the exhibit 85A (L007-5858-L007-5861); (86A) "Victims of war – a time to mourn", Part 2 (V000-0077); (86B) Transcript of the exhibit 86A (0042-7421-0042-7465); (86C) Transcript of the exhibit 86A, in another form (0015-6765-0015-6800); (87) Video footage of Omarska and Trnopolje (V000-0662); (88) Aerial shots of Prijedor, including detention camps in Omarska, Trnopolje, Keraterm, etc. (V000-4075); (89) Excerpt from "Bosnia, the hidden horror", ABC News Nightline (V000-2843); (90) Video footage of the Manjača camp, Prison and Omarska camp (V000-3190); (91) Testimony of Abdulah Brkić (transcript from the Kvočka trial and the statement given to the ICTY dated 2 November 1994.); (92) Testimony of Sifeta Sušić (transcript from the Kvočka trial and the statement given to the ICTY in 1994 and 1995); (93) Testimony of K012 (transcript from the Tadić trial and the statement given to the ICTY in 1995); (94) Testimony of K021 (transcripts from the Tadić and Stakić trial); (95) Testimony of K031 (transcripts from the Kvočka trial); (96) Testimony of Edin Ganić (transcripts from the Kvočka trial and the statement given to the ICTY on 1 March 1999); (97) Solemn declaration of Predrag Banović (0104-8614); (98) Photos of the beds in Omarska (0212-3687); (99) Floor plans of the ground and first floors of the Administration building at Omarska camp (0100-5923-0100-5924); (100) Floor plans in the Omarska camp, diagram of the hangar and the garage (0045-4062); (101) Newspaper article " ICRC Evacuates 1,560 people from Trnopolje Camp", 2 October 1992 (0031-7985); (102) Letter of the Public Security Station Prijedor addressed to the Security Services Center Banja Luka No. 11-12-2213, 22 August 1992 (0063-3308); (103) Commission report on the visit to the collection centers and other prisons in the AR Krajina, 17 August 1992 (0124-5060-0124-5067); (104) Transcript of the testimony of Nicolas Sebire from the Stakić trial; (105) "Additional Report" of Nikolas Sebire from 2002 (0184-3960-0184-4285); (106) List of Annexes to the Additional Report on Exhumations and Proof of Death (ICTY No. 0184-7968-0184-7969); (107) Exhumation report, list of individuals allegedly killed at the Keraterm camp in late July 1992 (ICTY No. 0184-3960-01884-4285); (108) Exhumation report, list of individuals allegedly killed in Bišćani in July 1992 (ICTY No. 0184-3960-01884-4285); (109) Exhumation report, list of individuals allegedly killed in Bratstvo or about 24 July 1992 (ICTY No. 0184-3960-01884-4285); (110) Exhumation report, list of individuals allegedly killed in Čarakovo and surrounding areas in



July 1992 (ICTY No. 0184-3960-01884-4285); (111) Exhumation report, list of individuals allegedly killed in Hambarine from May through July 1992 (ICTY No. 0184-3960-01884-4285); (112) Exhumation report, list of individuals allegedly killed in Jaskići on or about 14 June 1992 (ICTY No. 0184-3960-01884-4285); (113) Exhumation report, list of individuals allegedly killed in Kozarac and the surrounding areas between May and June 1992 (0184-3960-01884-4285); (114) Exhumation report, list of individuals allegedly killed in Mehmed Šahorić's house in Kamičani on or about 26 May 1992 (ICTY No. 0184-3960-0184-4285); (115) Exhumation report, list of individuals allegedly killed in Prijedor town in late May / early June 1992 (ICTY No. 0184-3960-0184-4285); (116) Exhumation report, list of individuals allegedly killed in the Ljubija football stadium on or about 25 July 1992 (ICTY No. 0184-3960-0184-4285); (117) Exhumation report, list of individuals allegedly killed in the military barracks at Benkovac in late May 1992 (ICTY No. 0184-3960-0184-4285); (118) Exhumation report, list of men killed in the Keraterm camp on 24 - 25 July 1992 (0184-3960-01884-4285); (119) Exhumation report, list of individuals allegedly killed at Omarska camp in late July 1992, following the cleansing of the Brdo area (ICTY No. 0184-3960-0184-4285); (120) Exhumation report, list of individuals from Keraterm and Omarska killed on or about 5 August 1992. The remains of some of them were exhumed at Hrastova Glavica (ICTY No. 0184-3960-0184-4285); (121) Exhumation report, list of individuals killed at Keraterm camp between 24 May and 5 August 1992 (ICTY No. 0184-3960-0184-4285); (122) Exhumation report, list of individuals killed at Omarska camp between 27 May and 21 August 1992 (ICTY No. 0184-3960-0184-4285); (123) Exhumation report, list of individuals killed in Trnopolje camp between 25 May and 30 September 1992 (ICTY No. 0184-3960-01884-4285); (124) Exhumation report, list of individuals killed outside Manjača camp on or about 6 August 1992 (ICTY No. 0184-3960-01884-4285); (125) Exhumation report, list of individuals who were executed near Korićanske Stijene on or about 21 August 1992 (ICTY No. 0184-3960-01884-4285); (126) List of individuals allegedly killed in the Ljubija Iron Ore Mine (Redak or Kipe) on or about 25 July 1992; (127) Exhumation report, list of men and women from Omarska who were taken on a bus and killed in late July 1992. Some of them were exhumed from Jama Lisac in Krupa na Uni Municipality (ICTY No. 0184-3960-01884-4285); (128) Flow Chart showing movement of people from Omarska camp to mass gravesites to Visoko mortuary, 6 October 2000; (129) "Book of the Missing Persons from Prijedor Municipality", March 1998; (130) Video footage of the mass gravesites Kevljani and Jama Lisac, OTP, ICTY, 22 September 2002 (ICTY No. V000-2702); (131) Excerpt from the video footage filmed at the mass gravesite Kevljani in 1999 and at the mass gravesites Jama Lisac and Donji Dubovik in 2000 (ICTY No. V000-3985); (132) Photo of the body of Edvin Dautović at the mass gravesite in Kevljani (ICTY No. 0081-2965-12A); (133) Photo of the skeleton on Edvin Dautović at the mortuary in Visoko (ICTY No. 0092-5054-23); (134) Photo of the body of Miroslav Šolaja at the mass gravesite in Kevljani (ICTY No. 0081-2965-06A); (135) Photo of the clothes of Miroslav Šolaj (ICTY No. 0326-1687-0326-1690); (136) Photo of the ID document of Miroslav Šolaja (ICTY No. 0092-5062-34A); (137) Photo of the handwritten message found next to the body of Miroslav Šolaja (ICTY No. 0092-5062-34B); (138) English translation of the handwritten message found next to the body of Miroslav Šolaja (ICTY No. 0092-6907); (139) Photo of the body of Sadeta Medunjanin in

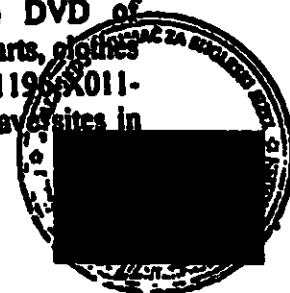


the cave next to the mass gravesite Jama Lisac (ICTY No. 0103-7652); (140) Photo of the body of Edna Dautović in front of the cave next to the mass gravesite Jama Lisac (ICTY No. 0103-7696-0103-7697); (141) Map showing location of Kevljani and Donji Dubovik mass grave sites in relation to Prijedor and Omarska (ICTY No. 0105-6518); (142) Photograph of graves of the Briševo victims buried at the Rajčak Catholic church (ICTY No. 0203-3351); (143) Photograph of the mass grave and execution site in Redak (ICTY No. 0203-3348); (144) Photo documentation of evidence of mass murder found in Hrastova Glavica – Podvidača, 16 photographs (ICTY No. 0068-1229-0068-1272); (145) Photographs of and around the Kevljani mass grave site, 203 photographs (ICTY No. 0081-2961-0081-2966); (146) Photographs taken at the exhumation site in Kevljani, 152 photographs (ICTY No. 0082-7467-0082-7475); (147) 44 rolls of film of the ICTY mortuary photos regarding the Kevljani mass grave, 1485 photographs, June – August 1999 (ICTY No. 0092-5049-0092-5091); (148) 13 rolls of film regarding the Redak exhumation site, 378 photographs (ICTY No. 0100-6958-0100-6970); (149) Photographs of artifacts and relevant data, 288 photographs and 70 documents, Sanski Most morgue, 2001 (ICTY No. X017-2764-X017-3349); (150) 26 rolls of film with photographs taken at the mortuary in Visoko relating to exhumation of the Redak mass grave site, 923 photographs (ICTY No. 0102-9121-0102-9146); (151) 14 rolls of film with photographs of autopsies performed on remains recovered from the Jama Lisac/Donji Dubovik site, ICTY mortuary, 506 photographs, July – August 2000 (ICTY No. 0103-7444-0103-7457); (152) Photographs of exhumation sites at Redak, Paščinac Cemetery and Ljubija, 198 photographs, ICTY (ICTY No. 0107-4667-0107-4674); (153) Digital photographs of various sites in the former Autonomous Region of Krajina, including the Tomašica and Benkovac exhumation sites in Prijedor, 47 photographs, ICTY (ICTY No. 0219-4058-0219-4104); (154) Digital photographs of the exhumation at Korićanske Stijene, BiH Federal Commission for Missing Persons, 67 photographs, 15 – 21 May 2003 (ICTY No. 0295-2142-0295-2208); (155) Photographs of the exhumation at Korićanske Stijene, 24 photographs (ICTY No. 0297-9309-0297-9309); (156) Digital photographs of clothes associated with the exhumation at the Kevljani mass grave site, 115 photographs (ICTY No. 0326-1653-0326-1767); (157) Digital photographs of the Korićanske Stijene exhumation, 100 photographs (ICTY No. 0402-0753-0402-0852); (158) Electronic copies of pathology reports of examination carried out at the Visoko Mortuary on the remains exhumed at the Kevljani mass grave site, 18 documents (ICTY No. D000-0221); (159) Electronic copies of pathology reports of examination carried out at the Visoko Mortuary on the remains exhumed at the Kevljani mass grave site, 17 documents (ICTY No. D000-0222); (160) Electronic copies of pathology reports of examination carried out at the Visoko Mortuary on the remains exhumed at the Kevljani mass grave site, 16 documents (ICTY No. D000-0223); (161) Electronic copies of pathology reports of examination carried out at the Visoko Mortuary on the remains exhumed at the Kevljani mass grave site, 24 documents (ICTY No. D000-0224); (162) Electronic copies of pathology reports of examination carried out at the Visoko Mortuary on the remains exhumed at the Kevljani mass grave site, 23 documents (ICTY No. D000-0225); (163) Electronic copies of pathology reports of examination carried out at the Visoko Mortuary on the remains exhumed at the Kevljani mass grave site, 10 documents (ICTY No. D000-0226); (164) Electronic copies of pathology reports of examination carried





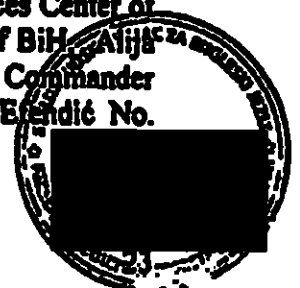
out at the Visoko Mortuary on the remains exhumed at the Kevljani mass grave site, 18 documents (ICTY No. D000-0227); (165) Electronic copies of pathology reports of examination carried out at the Visoko Mortuary on the remains exhumed at the Kevljani mass grave site, 24 documents (ICTY No. D000-0228); (166) Electronic copies of pathology reports of examination carried out at the Visoko Mortuary on the remains exhumed at the Kevljani mass grave site, 4 documents (ICTY No. D000-0229); (167) Redak Grave Site, Report of the Chief Pathologist, ICTY Operations in Bosnia-Herzegovina, 2000 Season, 15 February 2001, Richard Right, Emeritus Professor of Anthropology, University of Sydney (ICTY No. D000-0595); (168) Redak 1 mass grave site – 3D image of the bodies in the grave, including 3D image program (ICTY No. D000-0596); (169) One electronic folder containing 5313 documents – primary evidence related to exhumation (photographs, autopsy reports, maps, lists of exhumed bodies); (170) Documents from CD ROM marked „Stari Kevljani Mass Grave, Exhumation, Preparation for Autopsy“, Bihać Ministry of the Interior, 430 photographs (ICTY No. D000-1661). Following, from numbers 28 through 31, are the also photographs included in this CD ROM; (171) Bodies and artifacts on site, 719 photographs (ICTY No. D000-1661); (172) Bodies in bags prior to washing, 484 photographs (ICTY No. D000-1661); (173) Artifacts recovered in the course of washing, 154 photographs (ICTY No. D000-1661); (174) Photographs taken at the Jakarina Kosa exhumation site, 439 photographs, ICTY (ICTY No. D000-0757); (175) Part 1 of video entitled „Aerials Exhumation Sites, 16 April 2002“ and including suspected mass grave sites at Gornja Plitska (Kotor Varoš), Tomašica (Prijeđor) and Benkovac (Prijeđor), SFOR (ICTY No. V000-3882); (176) Part 2 of video entitled „Aerials Exhumation Sites, 16 April 2002“ and including suspected mass grave sites at Gornja Plitska (Kotor Varoš), Tomašica (Prijeđor) and Benkovac (Prijeđor), SFOR (ICTY No. V000-3883); (177) Video footage of exhumation and excavation at Tomašica in Prijeđor Municipality, ICTY (ICTY No. V000-3961); (178) Video footage of exhumation and excavation at Benkovac in Prijeđor Municipality (ICTY No. V000-3962); (179) Video footage of exhumation and excavation at Pašinač Cemetery in Prijeđor municipality (ICTY No. V000-3963); (180) Part 1 of video footage of exhumation and excavation at Redak 1 and 2 in Prijeđor Municipality, ICTY (ICTY No. V000-3964); (181) Part 2 of video footage of exhumation and excavation at Redak 1 and 2 in Prijeđor Municipality, ICTY (ICTY No. V000-3965); (182) Annex G to the Amor Mašović report dated 9 January 2004 – video footage of exhumations at various grave sites (ICTY No. V000-4667); (183) Video footage related to exhumations in BiH, conducted at various locations, the original title is „Video film: Ekshumacije masovnih grobnica s nekoliko različitih lokaliteta“ (ICTY br. V000-6210); (184) Video footage of excavation and exhumation works at the Kevljani grave site, possibly June 1999 (ICTY No. V000-6211); (185) Video footage of exhumation material (ICTY No. V000-3893); (186) Video footage of exhumation material (ICTY No. V000-3894); (187) Video footage of exhumation material (ICTY No. V000-3895); (188) Video footage of exhumation material (ICTY No. V000-6278); (189) Video footage of exhumation material (ICTY No. V000-6279); (190) Video footage of exhumation material (ICTY No. V000-6280); (191) DVD of exhumation material containing color photographs of exhumed body parts, clothes and personal artifacts (ICTY No. X009-4467-X009-5464 and X011-1196-X011-1199); Color photographs of grave sites and possible locations of grave sites in



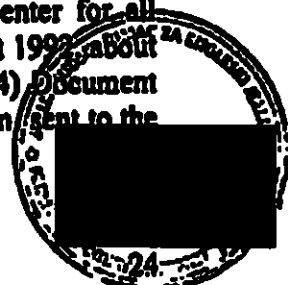
Gornja Plitska, Benkovac (Prijedor) and Tomašica (Prijedor) (ICTY No. X014-3005-X014-3092); 12 rolls of film regarding the exhumations at Tomašnica, Benkovac barracks, Harem Vrbanjice II, Gornja Plitka 1, Gornja Plitska 2, Gornja Plitska 3 (ICTY No. X014-3272-X014-3282); 62 digital photographs of exhumations performed at Korićanske stijene on the Vlačić mountain between 15 and 21 May 2003 (ICTY No. X016-7065-X016-7126) and data with photographs from the mortuary in Sanski Most dated (ICTY No. X017-2211-X017-2763); (192) Lease Contract (Zlata Cikota); (193) ICTY Statement of the witness K034 from 2000, pg. 4, paragraph 5, 9-10; (194) Part of the transcript of the testimony of witness K027 in the Kvočka trial in 2000; (195) Two parts of the transcript of the testimony of witness K019 in Kvočka trial in 2000 and a part of transcript from the Sikirica trial from 2001; Statement given to the ICTY in 2002, pg. 3, paragraph 4 (ENG) and pg. 3, paragraph 5 (BHS); (196) Transcripts of the testimony of the witness Emir Beganović in the Kvočka trial dated 4 May 2000, pg. 1359/14 line through pg. 1360/12 line; pg. 1404/12 line through pg. 1406/19 line; pg. 1407/17 line through pg. 1416/15 line; pg. 1426/20 line through pg. 1430/18 line; pg. 1478/17 line through pg. 1482/25 line; pg. 1550/25 line through 1551/8 line; pg. 1555/2 through 19 line; pg. 1413/4 line through pg. 1416/15 line and pg. 1481/25 line through 1482/19 line; (197) Statement of witness K036 given to the ICTY in April 1996, pg. 3, paragraphs 2 and 3 (ENG and BHS); (198) Statement of witness K010 given to the ICTY in August 2000; Statement given in BiH in September 1994; Statement given in BiH in November 1994; Statement given in BiH in December 1995; Transcript from the Sikirica trial, 2001; (199) Transcript of the testimony of witness K07 in the Sikirica trial in 2001; Statement given to ICTY in March 2001; Statement given to ICTY in March 2002; unsigned notes of the ICTY OTP investigators dated June 1999; Official note of the investigator (undated); Statement given in BiH dated March 1993; Statement from BiH dated March 1999; (200) Excerpt from Instructions for the Work of the Municipal Crisis Staffs of the Serbian People, Government of the Serbian Republic of Bosnia and Herzegovina, 26 April 1992; (201) Memorandum by Prijedor Public Security Station forwarding a Banja Luka Security Services Center order on treatment of prisoners-of-war and civilian, 21 August 1992; (202) Death certificate to the name of Igor Knežević; (203) List of men named Duško or Dušan Knežević who were members of the 43<sup>rd</sup> Motorized Brigade Prijedor; (204) Census forms from the 1991 Census for all persons named Dušan or Duško Knežević in Prijedor Municipality with maps indicating the place of residence for those born between 1950 and 1970; (205) Map of the town of Prijedor and a certificate confirming that the name of the street "Šoše Mažara" in Prijedor was changed to "Prote Matije Nenadovića"; (206) Testimony of Ismet Dizdarević.

In the course of the evidentiary proceedings, the Defense adduced the following documentary evidence:

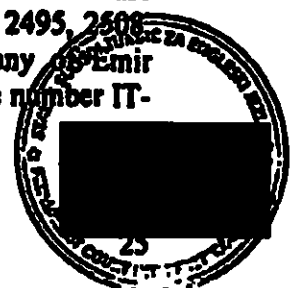
(E-01) Document ERN SA 032086, excerpt from the agreement on division of functions between political parties in the SRBiH Ministry of the Interior; (E-02) Document ERN B0048007, Report of the Banja Luka Security Services Center of 15 April 1992; (E-03) Dispatch note of the Minister of the Interior of BiH, Alija Delimustafić No. 10-70 of 29 April 1992; (E-04) Dispatch note of the Commander of the Staff of the Territorial Defense of RBiH, Colonel Hasan Efendić No.



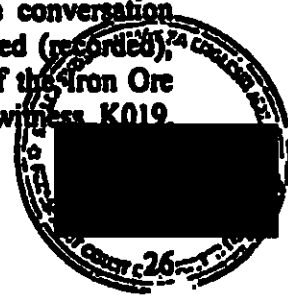
02/145-1 of 29 April 1992 and English translation of the same document; (E-05) Dispatch note of the Assistant Minister of the Interior of BiH Momčilo Mandić No. 02-24e82 of 31 March 1992; (E-06) Document ERN P0043151, dispatch note of the Prijedor Public Security Station No. 11-12-1873 of 30 April 1992; (E-07) Document ERN P0044255, dispatch note of the Banja Luka Security Services Center No. 11-92 of 10 April 1992; (E-08) Document ERN P 0044242, dispatch note of the Banja Luka Security Services Center No. 11-98 of 16 April 1992; (E-09) Document ERN P 0003932, distribution list for the previous dispatch note authored by the Chief of Staff of the Prijedor Public Security Station, Hasan Talundžić; (E-10) Document ERN P 0035097, excerpt from the Law on Internal Affairs of the Serb Republic of BiH (Official Gazette of SRBiH No. 18 of 29 June 1990, pg. 495); (E-11) Document ERN 00184324, excerpt from the Law on Internal Affairs of the Serb Republic of BiH (Official Gazette of Serb People in BiH No. 4 of 23 March 1992, pg. 79); (E-12) Document ERN 00633780, Decision to release persons from captivity, Prijedor Municipality Crisis Staff, dated 2 June 1992; (E-13, 14, 15, 16) 13- English version of page 6680 of the transcript of the testimony of Sivac Nusret of 30 July 2002; 14 - BCS version of the previous document; 15 - Document ERN 01050397 Decision of the Municipal Court in Sanski Most No. R- 139 of 25 March 1998, 16 - copy of the newspaper article titled „Ahmet Tatarević“ published on 23 January 2007; (E-17) Official document of the RS Ministry of the Interior, Police Station in Kozarska Dubica No. 10-1-11/02-234-55/07 of 10 April 2007; (E-18) Document ERN P0031426 - dispatch note of the Public Security Station Prijedor Chief Hasab Talundžić No. 11-12-3375/91 of 4 August 1991; (E-19) Document ERN P0031410- dispatch note of the SRBiH Ministry of the Interior No. 606 of 6 August 1991; (E-20) Document ERN 01137039- Rulebook on Internal Organization of the Republic Secretariat of Internal Affairs of SR BiH of 29 .1990; (E-21) Document ERN 00184860- Certificate of the Prijedor Municipal Organization of Red Cross to the name of Sivac Nusret; (E-22) Document ERN 00237034- Certificate of the Prijedor Municipal Organization of Red Cross to the name of Azedin Oklopčić; (E-23) Copy of the medical file of Sivac Nusret with the English translation- ICTY number of the document IT -98-30/1-Ap.11/3559; (E-24) excerpt from the book written by Doctor Duško Jakšić- RS- area, population, resources, Banja Luka, 1995, pg. 344, 345 and 348-351; (E-25) Document ERN 00792731- list of persons to be arrested by the Prijedor Public Security Station No. 203; (E-26) Document ERN 03061164 - BCS version, excerpt from the report of N. Sebire - for the needs of the OTP of the ICTY in The Hague; (E-27) Document - movement permit to the name of Duraj Sejdi, Prijedor Public Security Station No. 11-12-181 of 5 June 1992- BCS version; (E-28) English translation of the previous document; (E-29) Document- Decree on disbandment of the former Republic Staff of Territorial Defense No. 01-011-303/92 of 8 April 1992; (E-30) Prijedor- Ano Domini 1992 (testimonies and documents); (E-31) Document ERN P 0053540 and following numbers (BCS and English versions); (E-32) Mobilization call-ups of the RBiH Territorial Defense Staff Kozarac to the names of Softić Senad, Džonlagić Senad and Softić Nedžad from Kozarac; (E-33) Document ERN 00633185 - dispatch note of the Banja Luka Security Services Center for all Chiefs of public security stations, No. 11-01/01-OD-439 of 19 August 1992 about the need for a selection of POWs to be performed at Manjača; (E-34) Document ERN 00633308 - dispatch note of the Prijedor Public Security Station sent to the



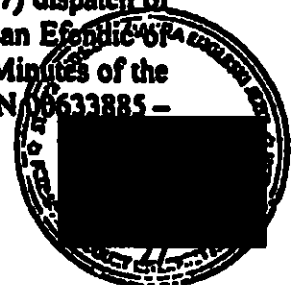
Banja Luka Security Services Center, No. 11-12-2213 of 22 August 1992, about the selection and transfer of a group of prisoners from Manjača to Trnopolje; (E-35) Document of the Prijedor Police Station – Police Station Department Omarska, Report of the escort service; (E-36) ET 0149-9488 through 0149-9492, newspaper article "Morala sam reći svijetu" by Diane Taylor with photographs of Jasenko Rasol, BCS version; (E-37) English version of the previous newspapers article published in the magazine "Eve" titled "I had to tell The World", ERN 014948-0149492; (E-38) France-press Agency news of 24 June 1993, English version, ERN 00035638-00035640; (E-39) English version of the previous document ERN 00968375-00968376; (E-40,41,42) 40- interview with K027 published in "Dnevni avaz", 17 February 2007 on pg. 6; 41- newspaper article "Visit to Omarska on 6 August" published in „Dnevni avaz“ on 30 July 2006; 42- newspaper article „Victims' voices do not travel far“ published in „Oslobođenje“ on 26 June 2006; (E-43,44,45,46,47,48,49,50) 43 - ERN P0056486 – Decision ordering Muhamed Čehajić into custody, Prijedor Public Security Station No. 11-12/02-KU-210/92 of 3 June 1992; 44 - ERN P0056490 – document of the Prijedor Public Security Station No. 11-12/02-KU-210/92 of 3 June 1992 – information of VPD on bringing Muhamed Čehajić into custody; 45 – ERN 00415329 – document of the Basic Court in Prijedor No. Ki-82/92 of 3 June 1992 addressed to the District Prison in Banja Luka – information on custody ordered for Čehajić Muhamed and Avdić Mehmed; 46 – ERN P0056639 – Decision of the Basic Court in Prijedor No. Kv.20/92 of 7 July 1992 on extension of custody of the accused Alić Bahrija and others; 47 – ERN 00415300 – Decision of the Basic Court in Prijedor No. Kv.21/92 of 21 July 1992 on extension of custody of the accused Sikirić Ferid; 48 – ERN 00415282 – 0045287 : Number of the Public Prosecutor's Office KT-195/92 of 4 June 1992 – Motion to conduct investigation against Mujadžić Mirsad, Čehajić Muhamed and others; 49 – ERN 02199378 – Decision of the Basic Court in Prijedor of 18 August 1992 by which the Basic Court in Prijedor declared the lack of subject-matter jurisdiction in the criminal case against the accused Mujadžić and others and referred the case to the Military Prosecutor's Office, that is, the Military Court; 50 – ERN 02074855-02074863, Indictment of the Military Prosecutor's Office in Banja Luka against Mujadžić Mirsad and others dated September 1992, received in the Military Court in Banja Luka and entered under number IK-3/92 on 11 September 1992; (E-51) statement of the witness given to the OTP in The Hague on 10 December 1997, BIH 00014696 – 00014701; (E-52) Statement of the witness given to the OTP in The Hague on 7 March 2003 L0094459 – 00014701; (E-53) Notes of the investigator of the OTP in The Hague of 1 July 2002 regarding a witness interview; (E-54) The following pages of the transcript of the testimony before the ICTY of 23 January 2003 in the case number IT-99-36-T "Prosecutor vs. Brđanin" : 13671, 13672, 13673, 13674, 13685, 13696, 13698; (E-55) the following pages of the transcript of the testimony before the ICTY on 5 and 06 September 2000 in the case number IT-98-30-T "Prosecutor vs. Kvočka and others": 4730, 4731, 4736, 4741, 4751, 4764, 4765, 4766, 4767, 4783, 4784, 4819, 4820, 4821, 4840, 4841, 4843, 4844, 4847, 4848, 4859; (E-56) the following pages of the transcript of the testimony of Emir Beganović before the ICTY at The Hague on 19 July 1996 in the case number IT-94-I-T „Prosecutor vs. Duško Tadić“: 2490, 2494, 2501, 2495, 2508, 2514; (E-57) the following pages of the transcript of the testimony of Emir Beganović before the ICTY in The Hague on 4 May 2000 in the case number IT-



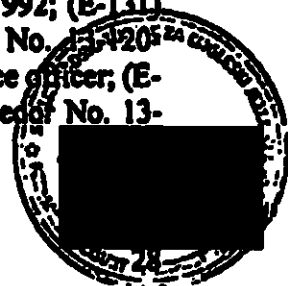
98-30/1-T "Prosecutor vs. Kvočka and others": 1378,1386, 1387, 1388, 1390, 1404, 1405, 1413, 1414,1429, 1430, 1342, 1343, 1356, 1357, 1362, 1371, 1372, 1373,1374, 1375; (E-58,59) 58 – Dispatch note of the Prijedor Public Security Center No. 14-02/4-BJ of 24 August – excerpt from the criminal records concerning Beganović Emir, BCS version; 59 - English version of the previous document ERN 5028 and 5029; (E-60) ERN 01060693-01060699, statement of Azedin Oklopčić given to police authorities of the Kingdom of Sweden on 19 March 1993. This document also bears the marking BIH 00014859; (E-61,62) 61 - ERN P0054859-0054850, hospital protocol for Emir Zjakić from Prijedor dated 30 May 1992, 62 – English translation of the hospital protocol; (E-63,64) 63 – a hospital document – Discharge summary issued by the hospital to the name of Nisić Miroslav, a police officer in reserve; 64 – English translation of the previous document; (E-65) document of the Prijedor Police Station – Police Station Department Omarska int. number 79/92 of 11 June 1992 addressed to the Chief of Staff of the Prijedor Public Security Station; (E-66) ERN 03062830, excerpt from the Report of N. Sebire, pg. 48 concerning Ramadanović Safet and Ganić Sulejman; (E-67) ERN 03064884, notes of the OTP investigators Hans Elvebro and Kapila Waideratn of 26 September 1998 from their meeting with the witness Dešević Izet and the photo identification; (E-68,69) 68 – ERN 03501299-035012300, OTP document titled „declaration” on authenticity of the previous document signed by Mazahar Inayat, OTP investigator, English version; 69 – BCS version of the previous document; (E-70) ERN 03074951-03050763, excerpt from the report of N. Sebire- paragraph 47(6), ordinal number 34, Islamović Nedžad; (E-71) ERN P0050761-0050763, Handwritten list of persons who need to be issued the entry passes for the Collection and Remand Center Omarska; (E-72,73) 72 – the following pages of the transcript of the testimony of witness Velić Maruf before the ICTY on 26 September 2000 in the case "Prosecutor vs. Kvočka and others" : 5709, 5711; 73 – the following pages of the transcript of the testimony of Velić Maruf before the ICTY on 26 September 2000 in the case „Prosecutor vs. Kvočka and others" : 5680 – 5687 (the testimony about the death of Šolaja Miroslav); (E-74) ERN 01067887, layout of the ground floor of the administrative building (on which the witness identified „the garage” during cross-examination; (E-75) the following pages of the transcript of the testimony of K022 before the ICTY in the case "Prosecutor vs. Kvočka and others": 2623, 2624 and 2658; (E-76) ERN 03052960, excerpt from the Report of N. Sebire, "Annex 2" under ordinal number 761 – information on the hardship and death of Medunjanin Haris, BCS version; (E-77,78) 77- ERN 03074835, excerpt from the Report of N. Sebire under number 39 – information on death and exhumation of Medunjanin Haris from Kozarac, BCS version; 78- ERN 01847979, excerpt from the Report of N. Sebire, paragraph 44(1) under number 39 – information on death and exhumation of Medunjanin Haris, English version; (E-79) ERN 02014991-02014992, Document of the Municipal Court in Sanski Most No. R-477/98 of 22 September 1998 – Decision establishing death of Medunjanin Haris and Medunjanin Bećir; (E-80) ERN 03084190-03084191, English version of the previous document; (E-81) Official document of the Swedish authorities dated 18 April 2001 sent to the ICTY in The Hague, English version, in which it reads that the conversation between the Swedish police and the witness was not audio recorded (recorded); (E-82) layout of the ground floor of the administrative building of the Iron Ore Mine Omarska with the markings of the room A19 in which witness K019



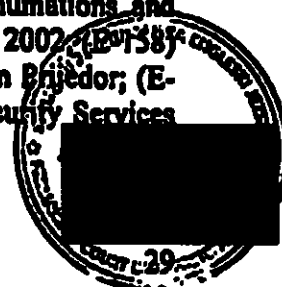
according to her testimony, was raped twice during the day; (E-83) pages 6229 and 6230 of the testimony before the ICTY in the case "Prosecutor vs. Kvočka and others", the part referring to the alleged rapes which took place during the day, which is when according to the witness, the rapes took place in the room marked as B1 (the room on the upper floor of the administrative building); (E-84,85) 84-written statement of the witness given to the OTP in The Hague, to the investigator Susan Tucker on 2 and 3 March 2000 and the statement given to the OTP in The Hague, to the investigator Tariq Malik on 1 November 2002; 85 - written statement of the witness given to the Swedish police authorities in the town of Kalmar on 10 May 1993; (E-86) ERN 01105512 - 01105529 - statement of Jakupović Sakib given to the OTP dated 29 and 30 October 1994; (E-87) ERN 01035462 - 01035479 - statement of Jakupović Sakib to the OTP in The Hague, given to the investigator Tariq Malik on 5 September 2000; (E-88,89) 88 - ERN P0053545 and P053546, mobilization lists of the Territorial Defense Staff of the RBiH in Kozarac (ordinal number 55. Jakupović Sakib); 89 - English version of the previous document, ICTY IT-98-30/1-A p.40/3559 bis; (E-90) Record of examination of the witness Jakupović Sakib, Prosecutor's Office of BiH No. KT-RZ-143/06 of 26 July 2006; (E-91) Photographs of residential facilities in Petrov Gaj (presented to the witness Jakupović Sakib during cross-examination); (E-92) transcript of the testimony of the prosecution witness K042 in its entirety before the ICTY in the case "Prosecutor vs. Kvočka and others" of 5 June 2008; (E-93,94,95,96) 93 - ERN P00054849 - hospital report for Zjakić Emir from Prijedor dated 30 May 1992, that is, 11 June 1992; 94 - English version of the previous document; 95 - Document - hospital discharge summary for Nilić Miroslav, No. 5031 in the case before the ICTY in The Hague No. IT-98-30/1-T; 96 - English version of the previous document; (E-97) ERN 00249979 - 00249980 - statement given by K042 to Swedish police authorities on 3 February 1995 on which the witness wrote "Trnopolje Kuruzović Slobodan Faca" (in the cross-examination the witness denied that it was his handwriting); (E-98) ERN 00962318, BCS version of the previous document; (E-99) ERN 01097404, Photograph on which the witness marked certain positions regarding certain persons in relation to the incident involving Hadžalić Rizah; (E-100) Diagram of the ground floor of the administrative building with notes entered by witness K042, admitted as evidence in the ICTY case "Prosecutor vs. Kvočka and others" dated 5 June 2000 under number 3/77-A (Defense requested this exhibit to be obtained from the ICTY), (E-101) ERN B0084759, Document of the Security Body of the Prijedor Tactical Group No. 239/92 of 24 June 1992 about the capturing of Jakupović Azur, Hodžić Hajro, Adamović Darko and Softić Senad; (E-102) ICTY Judgment No. IT-98-30/1-T of 2 November 2001 in the case "Prosecutor vs. Miroslav Kvočka and others" BCS version; (E-103) Rulebook on the manner of work of the public security service 1977; (E-104) Rulebook on internal organization of the RS Ministry of the Interior in the imminent threat of war and war, September 1992; (E-105) Rulebook on disciplinary liability of the employees of the RS Ministry of the Interior; (E-106) ERN 01816880 dispatch of the Chief of Staff of the BiH Army Supreme Command, Sefer Halilović, strictly confidential 02/1513-209 of 23 December 1992 in reference to the status of Mirza Mujadžić; (E-107) dispatch of the Commander of the RBiH Territorial Defense Staff, Colonel Hasan Efendić of 29 April 1992 on the commencement of combat activities; (E-108) Minutes of the 84 Session of the RBiH Presidency held on 6 May 1992 (E-109) ERN 00633885 -



special report of the US Embassy in Belgrade of 9 November 1992; (E-110) ERN P0003541-0003545 - Prijedor Public Security Station, employees performance report for February 1992; (E-111) ERN 0034301-0034306 - National Security Sector Banja Luka: „The most recent information obtained through activities aimed at shedding light on the attack on the military patrol, paramilitary activities and illegal arming of people in the territory of Kozarac, Prijedor and other neighboring settlements, June 1992; (E-112) ERN 00633256 - document of the Prijedor Public Security Station No. 11-12/16 of 13 June 1992 sent by the Chief of the Prijedor Public Security Station, Simo Drljača, to the Chief of the Banja Luka Security Services Center about the unlawful conduct of the members of the Special Police Unit; (E-113) ERN B0043531-0043541- Information of the Public Security Station Banja Luka of 5 May 1993 No. 11-2-str.pov.-79/93 about the recorded unlawful activities of the Special purposes police unit of the Banja Luka Security Services Center; (E-114) ERN 00951920, cover page of the daily paper "Glas" Banja Luka, number 6600, issue for 28 April 1992, the text about the decision passed by the Assembly of the Autonomous Region Krajina to form the unit; (E-115) ERN 00951922 - cover page of the daily paper "Glas" Banja Luka, No. 6601, issue for 29 April 1992, a short interview with the Chief of the Banja Luka Security Services Center, Stojan Župljanin, about the formation of the unit; (E-116) ERN 00951947 - cover page and page 3 of the daily paper "Glas" Banja Luka, No. 6686, issue for 23 June 1992, text under title "Special forces members against police"; (E-117) ERN00633182 - dispatch of the Banja Luka Security Services Center No: 11-1/01-50 of 14 August 1992 conveying the order of the RS Ministry of the Interior strictly confidential No. 10-17 of 27 July 1992 about the disbandment of the special police units in the security services centers; (E-118) ERN 02969857 - 02969871 - /Decree of the RS President on presentation of decorations; (E-119) Order of the Chief of the Prijedor Public Security Station Simo Drljača on the establishment of the Collection and Remand Center Omarska, 31 May 1992; (E-120) ERN 00792696 - List of persons to be apprehended to the Collection and Remand Center Omarska; (E-121) ERN 00792712 - List of persons to be apprehended to the Collection and Remand Center Omarska; (E-122) ERN.00792632 - List of persons to be apprehended to the Collection and Remand Center Omarska; (E-123) ERN 00792691 - List of persons to be apprehended to the Collection and Remand Center Omarska; (E-124) ERN 00792698 - 00792699 - List of persons to be apprehended to the Collection and Remand Center Omarska; (E-125) ERN 00792717 - Official note of the Prijedor Public Security Station of 9 July 1992; (E-126) ICTY No. ET-0042-2310-0042-2310, non-English version of the certificate for Ibro Beglerbegović No. 11-12-30 of 24 July 1992, signed by the Chief of the Prijedor Public Security Station Simo Drljača and the translated version of the same document; (E-127) Prijedor Police Station - Police Station Department Omarska, proposed plan of the security service, 7 June 1992; (E-128) Police Station Department Omarska, Official note concerning the reserve police forces officer Govedar Zdravko, 17 June 1992; (E-129) Police Station Prijedor - Police Station Department Omarska, Report on the escort service dated 21 August 1992; (E-130) Police Station Department Omarska, Official note on the situation in Donji Jakupovići dated 5 October 1992; (E-131) Decision of the Municipal Secretariat of Internal Affairs Prijedor No. 13-1205/21/171 of 1 July 1983 deploying Željko Mejakić to the duties of a police officer; (E-132) Decision of the Municipal Secretariat of Internal Affairs Prijedor No. 13-

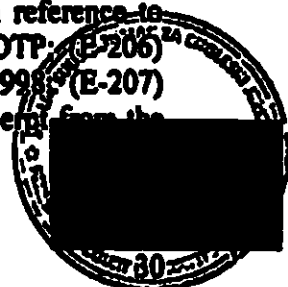


120-28/83 of 11 December 1984 deploying Željko Mejakić to the duties of the 2<sup>nd</sup> patrol sector leader; (E-133) Decision of the Municipal Secretariat of Internal Affairs Prijedor No. 010-33-345 of 1 June 1987; (E-134) Decision of the RS Minister of the Interior No. 09-120-11/465 of 27 October 1993 deploying Željko Mejakić to the duties of the patrol sector leader in the Prijedor Public Security Station- Police Station Prijedor – Police Station Department Omarska; (E-135) Military Booklet of Željko Mejakić No. BC 142710 (fcc with the presentation of the original); (E-136) Organizational chart of the internal affairs bodies for different periods; (E-137) ERN 00634046-7, 01903324-5, P0042953 and L003799 – correspondence between the Chief of the Prijedor Public Security Station Simo Drijača and the Bishop of Banja Luka dr. Franjo Komarica (exhibit P96-1 in the case before the ICTY "Prosecutor vs. Kvočka and others"; (E-138) ERN 00841608 – Order of the 1<sup>st</sup> Krajiški Corps on re-subordination of police members to the military command, strictly confidential No. 397-430/1-92 of 6 September 1992; (E-139) ERN P0054978 – excerpt from the protocol of the hospital in Prijedor from number 3621 through 3630 of 1 July 1992; (E-140) ERN P00387839-0037845 – List of members of the Assembly of the SDS Municipal Board Prijedor, December 1992; (E-141) ERN P0029404-0029414 – Report of the Prijedor Public Security Station No. 11-17-01-1 of 8 June 1993 – information on the violation of the public law and order and the commission of criminal offences by the members of the RS Army; (E-142) ERN 01312025-01312033 – Report of the 4<sup>th</sup> Tactic Group Command to the Commander of the 1<sup>st</sup> Krajiški Corps of 8 December 1992; (E-143) ERN B0098095-0098097 – Banja Luka Security Services Center, National Security Sector – Report dated 20 January 1993 on the work of the Prijedor Detachment of the NSS between 1 January and 31 December 1992; (E-145) ICTY document IT-97-24-PT p. 4216 BCS version with the English translation – document of the RS Army General Staff No. 02/2-47 of 22 January 1993, information on the recommendations for promotions; (E-146) Collection of 32 photographs of the Collective and Investigation Center Omarska; (E-147) Official Gazette of the Autonomous Region of Krajina – general mobilization call-up, 5 June 1992, ERN 00633799; (E-148) Crisis Staff of the Prijedor Municipality – appeal to respond to mobilization, 2 June 1992 ERN 00633799; (E-149) Prijedor Public Security Station, Police Station Prijedor – Motion to initiate minor offence proceedings against Predrag Muzgonja, 27 July 1992 ERN P0055408; (E-150) Medical Center "Dr. Mladen Stojanović" Prijedor – Patient's log for 1992 ERN P0054742-0054781; (E-151) Duty Roster of the Police Station Prijedor, 18 May 1991 ERN B0032257; (E-152) Banja Luka Security Services Center – Report on reception centers in municipalities of 14 August 1992; (E-153) Letter of the local community of Marička (executive board), handwritten, sent on 19 April 1992 to the Public Security Station Prijedor concerning the recruitment of the police reserve forces; (E-154) Order appointing Jusuf Ramić the commander of the Patriotic League for the territory of Prijedor, 21 May 1992 ERN 00798790; (E-155) Prijedor Public Security Station – disciplinary proceedings against Modić and Badnjević, 18 November 1990, ERN 00587498; (E-156) N. Sebire "Additional report- exhumations and proof of death – Prijedor Municipality", 28 August 2002; (E-157) N. Sebire "Exhumations and proof of death – Prijedor Municipality" Annexes dated 3 September 2002, ERN P0033043, handwritten list of employees of the Police Station Prijedor; (E-159) ERN 00451835, dispatch of the Chief of the Banja Luka Security Services

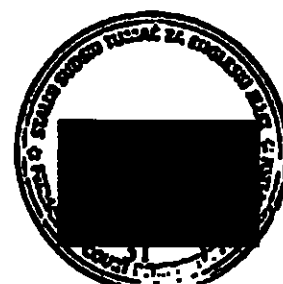




Center; (E-160) ERN 00633164, conclusions of the meeting of the Council of the Banja Luka Security Services Center of 6 May 1992; (E-161) ERN 00633185, POWs-selection - dispatch note; (E-162) ERN 00633237, dispatch of the Banja Luka Security Services Center of 28 May 1992; (E-163) ERN 00633298, dispatch of the Prijedor Public Security Station of 5 August 1992; (E-164) ERN 00633308, dispatch of the Prijedor Public Security Station of 22 August 1992; (E-165) ERN 01470203, interview with Simo Drljača; (E-166) ERN 0323-8844, Order of the Minister of the RS Ministry of the Interior 23 July 1992; (E-167) ERN L0058413, Muharem Nežirević and Miloš Aprilski, resignation letters; (E-168) ERN P0022353, dispatch of the SR BiH Ministry of the Interior dated 26 January 1992; (E-169) ERN SA040286, official note, obika in the Croatian Ministry of the Interior; (E-170) ERN 00792732, list of persons to be apprehended; (E-171) ERN 00792737, list of persons to be apprehended; (E-172) document confirming the death of Bešlić Mirzet; (E-173) document confirming the death of Čaušević Hasega; (E-174) Photograph of collectors; (E-175) mobilization call-ups of the reserve police force; (E-176) ERN P0031386, 1991 mobilization - dispatch note; (E-177) ERN P0031387, 1991 mobilization - dispatch note; (E-178) ERN P0031385, 1991 mobilization - dispatch; (E-179) the sketches of the rooms in the detention camp with dimensions; (E-180) ERN 00386813, Military Prosecutor's Office (Vaso Marinković); (E-181) Musić Nermina, movement permit; (E-182) Excerpt from the book written by Besim Ibišević, training of the Croatian Ministry of the Interior; (E-183) ERN 00633842, division power in Prijedor; (E-184) "Kozarski vjesnik", cover page of the issue for 17 July 1992; (E-185) ERN 00633259, list of killed people; (E-186) ERN 00633812, dispatch note - the army refuses to take over the security; (E-187) ERN P0044563, information authored by Željko Mejakić of 1995; (E-188) ERN 02010899, Anđić Radomir - statement; (E-189) ERN P005 0660, a request for the passes to be issued to journalists; (E-190) Report of the Ministry of the Interior of 12 March 1992; (E-191) ERN P0003409 performance report for the period between 16 June and 15 July 1992 Police Station Prijedor; (E-192) ERN P0003426, performance report for June 1992 Police Station Prijedor; (E-193) English translation of the previous document; (E-194) ERN P0048684, certificate issued by the Colonel Majstorović; (E-195) ERN 00633258, official note - Ranko Kovačević aka Bato; (E-196) ERN 00633809, Report of the Public Security Station for the Prijedor Crisis Staff; (E-197) Diagram of the ground floor of the administrative building with the notes entered by witness K042, admitted as evidence in the ICTY case „Prosecutor vs. Kvočka and others”, date 5 June 2000, under number 3/77-A; (E-198) two slip notes that Idriz Jakupović wrote in the camp for the members of his family; (E-199) Information on paramilitary formations in the territory of the Serb Republic of BiH, 28 July 1992; (E-200) Decision on retirement of Buić Milutin; (E-201) Excerpt from the statement of witness K040; (E-202) excerpt from the transcript of the testimony of K037 before the ICTY of 2 October 2000; (E-203) ERN 00962233, excerpt from the notes of the OTP investigator about the testimony of K042; (E-204) excerpt from the transcript of the testimony of witness Y before the ICTY of 5 July 2000 (witness K09)(E-205) ERN 00878921 document of the Municipal Court in Sanski Most sent to AID for the needs of the Tribunal in The Hague (in reference to witness K023) and the excerpt from his statement given to the OTP; (E-206) excerpt from the statement of witness K041 of 27-28 August 1992; (E-207) Excerpt from the statement of the witness Tomić Anto; (E-208) excerpt from the



statement of the witness (K017); (E-209) excerpt from the statement of the witness (K035); (E-210) transcript of the testimony of Dr. Gajić Slobodan before the ICTY in The Hague on a CD; (E-211) transcript of the testimony of Novak Pušac before the ICTY in The Hague on a CD; (E-212) transcript of the testimony of Dragan Velaula before the ICTY in The Hague on a CD; (E-213) Decision appointing Željko Mejakić the deputy commander of the PS Omarska, 1994; (E-214) ERN P0003176-P0003180, Report on work during public holidays, Police Station Prijedor; (E-215) copy of the military booklet of Gruban Momčilo No. 148671; (E-216) copy of the employment record card of Gruban Momčilo No. 63562; (E-217) excerpt from the Register of Births for Gruban Mladen; (E-218) Statement of Puškar Mustafa: 02-1794 dated 20 July 1998 given to AID, Sector Sanski Most; (E-219) Statement of witness Beganović Emir given to the ICTY; Statement of witness Beganović Emir given to the OG Gornji Rahić dated 8 March 1993; (E-220) Statement of witness Baltić Asmir given to the ICTY; (E-221) Statement of Baltić Asmir given to the BiH Ministry of the Interior, Sector of the State Security Service Zenica, No. 02-51/03 of 14 January 1994; (E-222) copy of the Criminal Code of the SFRY with the commentary, 1977 issue; (E-223) notes on evidence authored by the Prosecutor's Office of BiH, drafts, in relation to witness Džešević Izet, dated 1 August 2006; (E-224) Statement of Oklopčić Azeđin given to the ICTY and the transcript; (E-225) transcript of the testimony of witness K019 before the ICTY; (E-226) Photograph of Omarska marked as MG1; (E-227) Photograph of Omarska marked as MG2; (E-228) Photograph of Omarska marked as MG3 with the marks denoting buildings; (E-229) Photograph of Omarska marked as MG4; (E-230) Photograph of Omarska marked as MG5 depicting persons resembling police officers; (E-231) Photograph of Omarska marked as MG6 depicting persons running; (E-232) Photograph of Omarska marked as MG7 depicting persons resembling camp inmates; (E-233) excerpt from the Register of Births for Knežević Duško born on 17 June 1967 issued by Prijedor Municipality; (E-234) excerpt from the Register of Births for Knežević Duško born on 29 November 1967, issued by Prijedor Municipality; (E-235) excerpt from the Register of Births for Knežević Duško, born on 29 November 1967, issued by the Prijedor Municipality; (E-236) Letter of the RS Ministry of the Interior, Banja Luka Public Security Center, Public Security Station Prijedor No. 10-1-10/05-207- of 25 February 2003 sent to Attorney Bajić Slavica; (E-237) Certificate of the Catering Commercial School in Prijedor confirming that Knežević Duško successfully passed the exams administered by this school outside regular classes and obtained the calling of a waiter; (E-238) Official note dated 7 June 1992; (E-239) Official note dated 21 June 1992, lieutenant; (E-240) Employment record card for the Accused Duško Knežević; (E-241) excerpt from the patient's log (copy).



## **Procedural decisions of the Court**

### **Decisions on witness protection**

The Court granted protective measures to the majority of the witnesses at their request and upon the reasoned motion of the Prosecutor's Office and after taking notice of the views of the Defense, pursuant to the Law on the Protection of Witnesses under Threat and Vulnerable Witnesses (Law on the Protection of Witnesses). In the majority of the cases protective measures had previously been ordered by the ICTY as those witnesses had given evidence in other cases. The Court was obliged to abide by those protective measures. The majority of the witnesses testified under the granted pseudonyms, and the majority of them testified in the courtroom without voice or image distortion, in which cases the public was present in the courtroom. Upon the reasoned motion of the Prosecution, the Court granted additional image protection measure to a certain number of witnesses, hence the public were shifted to another room where they could follow the trial via audio-streaming only without witnesses' images being shown, while at the same time the Panel, the Accused, their Defense Counsel and the Prosecutor were following the trial directly. At certain stages of the examination-in-chief, in which answers to specific questions could have jeopardized the confidentiality of the witnesses' identities, the trial was closed to the public, pursuant to Article 235 of the CPC B-H, especially when a witness was being asked questions of a personal nature or concerning a particular event. In a certain number of cases, the Court granted the Prosecution motion to grant pseudonyms to the witnesses who had not been granted that protective measure at the trials before the Hague Tribunal, taking into account the witnesses' realistic fear for their own and their families' safety. In other words, the circumstances for many of those witnesses had changed in the meantime and they made a decision to return to their pre-war places, so they either restored their estates in the Prijedor Municipality area or have been visiting them regularly, while some of the witnesses stated that their families had already returned and been living in the area. In addition, these witnesses had previously testified before The Hague Tribunal, and testifying before the Court in Sarajevo caused an additional fear and burden to them, especially due to the proximity of the crime scene. Reviewing the balance between a witness' right to the protection of private life and the right of the general public to accurate and timely information, and noting that the exclusion of the public was an exception to the rule of public nature of proceedings, the Court deemed that the exclusion of the public would bring about the desired goal as long as detrimental consequences for the witness could be prevented, while public information would be made possible in another, more acceptable way.

With respect to the witnesses who were granted pseudonyms and who also requested to testify without the presence of the public, the Court, at their request and upon the reasoned motion, that is, response of the parties and the Defense Counsel, applied Article 235 of the CPC B-H and closed the trial to the public completely during the whole course of these witnesses' examination. This strongest protective measure turned out to be necessary in rare cases only, due to the specific matters in the witnesses' testimonies that could have clearly indicated the said witnesses' identities.

Therefore, in addition to the protective measure of granting pseudonyms to witnesses who testified before this Court, the Court, in accordance with the provisions, also granted the aforementioned additional protective measures, re

each specific situation individually and deeming it necessary to increase the pseudonym measure, as the fundamental measure of witness identity protection. In the opinion of the Court, the aforementioned protective measures, granted pursuant to the Law on the Protection of Witnesses, actually served the goal of completely applying the pseudonym measure and achieving its purpose, that is, preventing disclosure of witnesses' identities. In each specific case the Court reviewed the reasons of necessity of applying a particular protective measure pursuant to Article 4 of the Law on the Protection of Witnesses. Anyway, the Defense did not oppose the granting of additional protective measures if their goal was the protection of a witness' identity, which was the primary goal with respect to each and every witness. This Panel is of the view that all the aforementioned measures were necessary for the sake of protecting witnesses' interests, given the fact that protective measures requests were filed by the witnesses personally because their testifying in the case at hand made them fear for their own and the safety of their families whom they visit on a regular basis, or by the witnesses who returned to the Prijedor Municipality area, that is, for the sake of the witnesses' property safety. That was particularly necessary because some of the witnesses received certain threats which, in view of the Court, additionally justifies ordering the aforementioned protective measures, although the existence of specific threats and intimidation is not a necessary precondition for granting protective measures. In other words, these are primarily vulnerable witnesses who have been severely physically or mentally traumatized by the events surrounding the criminal offense, as well as witnesses under threat who requested certain protective measures because of reasonable grounds to fear that danger for their personal safety or the safety of their families was likely to result from their testimony. The Court was guided by the provisions set forth in Article 3(1) and (3) of the Law on the Protection of Witnesses and, therefore, granted the aforementioned measures to the witnesses, being of the view that it did not violate the rights of the Accused to a public and fair trial, that is, the equality of arms. In each case when a more stringent protective measure was applied to a particular witness, the Court had previously established that the same purpose could not be achieved with a more lenient measure.

Finally, in each aforementioned situation the Accused and their Defense Counsel were informed of the identities of the protected witnesses and the complete contents of their statements.


#### **Decision on exception from the direct presentation of evidence**

The Prosecutor's Office of B-H requested in its Motion No. KT-RZ-91/06 of 2 November 2007 that parts of the testimonies of witnesses Abdulah Brkić, Sifeta Sušić, K012, K021, K031, Edin Ganić and Ismet Dizdarević be excepted from the direct presentation of evidence and that the records of these witnesses' depositions at the investigation stage, and the transcripts of their testimony before the ICTY be introduced and used as evidence in the proceedings at hand. The Prosecutor's Office based this request on the provisions of Article 273(2) of the CPC B-H, as read with Article 11 of the Law on the Protection of Witnesses under Threat and Vulnerable Witnesses, and Article 5(1) and 7 of the Law on Transfer.



The Court applied Article 273 of the CPC B-H and granted the witnesses' previous written depositions given in the proceedings before the ICTY or the investigation stage, provided they were used in direct or cross examination.

The Court also granted the aforementioned Prosecution motion, pursuant to Article 273(2) of the CPC B-H, and accepted the depositions, that is, testimonies of witnesses Ismet Dizdarević, Abdulah Brkić, Sifeta Sušić, Edin Ganić, and witnesses K012, K021 and K031, as these persons' coming to the Court was impossible or made considerably difficult for important reasons. As far as all these witnesses are concerned, prior to the admission of their previous depositions, that is, testimonies, it was established that the Witness Support Office of The Registry of the Court of B-H had tried to make contact with these witnesses concerning their testifying, that the witnesses had not been accessible to the Court or able to attend the trial and testify before the Court of B-H for different reasons, of which the Witness Support Office reported. It was established that witness Ismet Dizdarević had died, which follows from the Death Certificate No. 04-202-1-6920/2007 of 29 November 2007, issued by the Prijedor Municipality Registry Office, hence his attendance was impossible. All the aforementioned witnesses, except witness Ismet Dizdarević who has died, refused to testify before this Court, so, given the impossibility of undertaking certain legal measures to secure their presence before the Court of B-H, it was impossible to secure their testifying (the witnesses being abroad). That is why, in this Court's opinion, the legal preconditions for the application of Article 273(2) of the CPC B-H providing a possibility of exception from the direct presentation of evidence, have been met. Having in mind the fact that these persons have serious mental and emotional problems, originating from their traumatic experience in the camp, and that they are vulnerable witnesses, the Court finds that, in addition to Article 273(2) of the CPC B-H, Article 11 of the Law on Protection of Witnesses (Exceptions from the direct presentation of evidence) also justifies the admission of the witnesses' depositions, that is, testimonies, and finds that these persons would be exposed to significant emotional distress by testifying at the main trial. In addition, Article 3 of the Law on Transfer sets forth that the evidence collected in accordance with the ICTY Statute and Rules of Procedure and Evidence may be used in proceedings before courts in Bosnia and Herzegovina, while Article 7 allows for the witness testimonies given to the ICTY personnel during investigations to be read out in proceedings in Bosnia and Herzegovina. The cited provisions lead to the conclusion that it is necessary in certain situations to make an exception from the direct presentation of evidence, pursuant to Article 273(2) of the CPC B-H, especially given that Article 5(1) of the Law on Transfer sets forth that records of depositions of witnesses made before the ICTY shall be admissible before the courts in B-H provided that they are relevant to a fact at issue. In the opinion of the Court, the testimonies, that is, depositions of the aforementioned witnesses contain relevant facts for certain issues and certain events about which the witnesses testified, especially because these witnesses' testimonies were corroborated by the testimonies of other witnesses who were cross-examined before this Court. In addition to this, the Court considered those testimonies to be reliable, given the procedure and manner in which they were obtained, irrespective of the impossibility of cross-examining the witnesses in the case at hand since they were cross-examined in another trial before the ICTY and, given that, as has been said already, these testimonies were corroborated by the testimonies of the witnesses examined before this Court, the Defense had an opportunity to cross-examine.



### **Decisions on the use of video-link**

For technical reasons, the Court examined witnesses Enes Crljenković and Ante Tomić and four witnesses who testified under pseudonyms via video-link, which was made possible by the authorities of the countries where the said witnesses live, by the application of the European Convention on Mutual Assistance in Criminal Matters and the Second Additional Protocol to the Convention.

These witnesses, who expressed willingness to testify in the case at hand, were not able to travel to Bosnia and Herzegovina and personally attend and testify before this Court for justified reasons, medical and family ones alike. It was made possible to the Defense, the Prosecution and the Court to directly- and cross-examine the witnesses without hindrance and thus to directly follow the witnesses' testimonies owing to direct transmission of image and sound. Therefore, in the opinion of the Court, giving evidence via video-link without the witnesses being directly present in the courtroom in no way diminished the relevancy and credibility of the contents of the testimonies, especially given the fact that in all the aforementioned cases the identity of each and every witness was established in a reliable way and that every witnesses took an oath.

### **Decision on judicial notice of established facts**

By the Decision No. X-KRN-06/200 of 22 August 2007, this Panel partially granted the Motion of the Prosecutor's Office of B-H for judicial notice of facts established in ICTY judgments. Pursuant to Article 4 of the Law on Transfer, the Court accepted the facts established by the respective ICTY Trial Panels in the cases as follows: Prosecutor v. Duško Tadić, Prosecutor v. Miroslav Kvočka et al., Prosecutor v. Milomir Stakić and Prosecutor v. Radoslav Brđanin.

The Court accepted as established the following facts:

With respect to the general information on the organization of the Socialist Federal Republic of Yugoslavia (SFRY) and events in its territory in the 1990-1992 period, the Court accepted the following facts:

1. Under the 1946 Yugoslav Constitution, the SFRY was divided into six republics – Serbia, Croatia, Slovenia, Bosnia and Herzegovina, Macedonia, and Montenegro. The population of Bosnia and Herzegovina, more so than any other republic of the former Yugoslavia, had been multiethnic for centuries, with Serbs, Croats, and Muslims as the largest ethnic groups. (ICTY Kvočka Judgment, para. 9);

2. In 1990, the first multi-party elections were held in each of the republics, resulting in the election of strongly nationalist parties that, in turn, heralded the break-up of the federation. In Bosnia and Herzegovina, these parties were the Muslim Party of Democratic Action (SDA), the Serb Democratic Party (SDS), and the Croat Democratic Union (HDZ). (ICTY Kvočka Judgment, para. 10);

3. On 25 June 1991, Slovenia and Croatia declared their independence from the (ICTY Kvočka Judgment, para. 10);



4. In September 1991, several Serb Autonomous Regions in Bosnia and Herzegovina were proclaimed. One of these, the Serb Autonomous Region of Krajina (ARK), consisted of the Banja Luka region and surrounding municipalities; however the Prijedor municipality, in which the SDA held a small majority, did not join the Autonomous Region. (ICTY Kvočka Judgment, para. 11);

6. On 19 December 1991, the Main Board of the SDS issued a document entitled "Instructions for the Organisation and Activity of Organs of the Serbian People in Bosnia and Herzegovina in Extraordinary Circumstances" ("Variant A and B Instructions"). These instructions provided for the conduct of specified activities in all municipalities in which Serbs lived, and essentially mapped out the take-over of power by Bosnian Serbs in municipalities where they constituted a majority of the population ("Variant A") and where they were in a minority ("Variant B"). The stated purpose of the Variant A and B Instructions was "to carry out the results of the plebiscite at which the Serbian people in Bosnia and Herzegovina decided to live in a single state" and to "increase mobility and readiness for the defence of the interests of the Serbian people". (ICTY Brđanin Judgment, para. 69);

7. The Variant A and B Instructions included, amongst others, the directive that the SDS Municipal Boards should form Crisis Staffs of the Serbian people in their respective municipalities. (ICTY Brđanin Judgment, para. 70);

8. The Republic of Serbian People of Bosnia and Herzegovina (later to become the Republika Srpska) had been declared by the Serbs on 9 January 1992, and was slated to come into force upon formal international recognition of the Republic of Bosnia and Herzegovina. (ICTY Kvočka Judgment, para. 10);

9. It was composed of so-called Serbian autonomous regions and districts, which included the ARK. (ICTY Brđanin Judgment, para. 71);

10. In Bosnia and Herzegovina, a referendum on independence held in February 1992 was opposed by the Bosnian Serbs; an overwhelming majority abstained from voting. Nonetheless, Bosnia and Herzegovina declared independence in March 1992. That independence was recognized by the European Community and the United States of America in April 1992. (ICTY Kvočka Judgment, para. 10).

With respect to importance of Prijedor Municipality, the Court accepted as established the following facts:

12. [The opština (municipality) of Prijedor is located in north-western Bosnia and Herzegovina.] (ICTY Tadić Judgment, para. 55);

13. Opština [(municipality)] of Prijedor ... includes the town of Prijedor and the town of Kozarac some 10 kilometres to its east. (ICTY Tadić Judgment, para. 55);

14. Opština Prijedor was significant to the Serbs because of its location as part of the land corridor that linked the Serb-dominated area in the Croatian Krajina to the west with Serbia and Montenegro to the east and south. (ICTY Tadić Judgment, para. 127).

With respect to the facts related to Prijedor Municipality before the takeover, the Court accepted as established the following facts:

15. Before the take-over opština Prijedor was ethnically a relatively mixed area: in 1991 ... Muslims were the majority in the opština; out of a total population of 112,000, 49,700 (44%) were Muslims and about 40,000 (42.5%) Serbs, with the remainder made up of Croats (5.6%), Yugoslavs (5.7%) and aliens (2.2%). (ICTY Tadić Judgment, para. 128; See also ICTY Stakić Judgment, para. 51);

16. Prior to the outbreak of war the various ethnic groups in the opština lived harmoniously together, with only limited signs of division. (Tadić Judgment, para. 129);

17. Such tension as existed was exacerbated by the use of propaganda and political manoeuvres. (Tadić Judgment, para. 130; See also Brđanin Judgment, paras. 80, 82);

18. The Prijedor Municipal Assembly, for which elections were held in November 1990, comprised a total of 90 seats, with opština Prijedor divided into five electoral units. Each party had a total of 90 candidates on the ballot. In the outcome the SDA won 30 seats, the SDS 28, the HDZ 2 and 30 seats went to other parties: the so-called opposition parties, namely the Social Democratic, the Liberal Alliance, and the Reformist parties. (Tadić Judgment, para. 132; See also Stakić Judgment, para. 49);

19. [A]ccording to the SDA, if the election results were followed it would be entitled to 50 percent of the appointed positions with the SDS and HDZ entitled to the remaining 50 percent. The SDS, however, insisted upon 50 percent of the seats for itself. (Tadić Judgment, para. 132);

20. That agreement was implemented at the Municipal Assembly of Prijedor in January 1991. Velibor Ostojić, then acting Minister for Information in the Government of the Republic of Bosnia and Herzegovina and one of Radovan Karadžić's confidants, was present at that session to help mediate the agreement. (Tadić Judgment, para. 132);

21. Once implemented, difficulties arose between the SDA and the SDS over the allocation of important government posts, although it was agreed that both the Mayor of Prijedor and the Chief of Police would be from the SDA. (Tadić Judgment, para. 133);

22. In Prijedor the SDS surreptitiously established a separate Serbian Assembly at the direction of the Central SDS ... as well as a separate police force and security unit ... This occurred about six-months before the takeover of the town of Prijedor... (Tadić Judgment, para. 134);

23. The SDS wanted to remain with Serbia as part of Yugoslavia, emphasising that all Serbs should remain in one state. Because of this disagreement with the non-Serbs who wanted to withdraw from the federation, the SDS proposed a division of Prijedor. (Tadić Judgment, para. 136).



With respect to the circumstances surrounding the takeover of Prijedor on 30 April 1992, the Court accepted as established the following facts:

25. On 30 April 1992 the SDS conducted a bloodless take-over of the town of Prijedor with the aid of the military and police forces. (Tadić Judgment, para. 137; See also Stakić Judgment, para. 74, and Brđanin Judgment, para. 104);

26. The actual take-over was conducted in the early hours of the morning when armed Serbs took up positions at checkpoints all over Prijedor, with soldiers and snipers on the roofs of the main buildings. (Tadić Judgment, para. 137);

29. JNA soldiers, wearing a variety of uniforms, occupied all of the prominent institutions such as the radio station, medical centre and bank. They entered buildings, declared that they had taken power and announced their decision to rename opština Prijedor "Srpska opština Prijedor". (Tadić Judgment, para. 137);

30. A local Crisis Staff was established ("Prijedor Crisis Staff") which implemented a number of decisions made by the ARK Crisis Staff. (Tadić Judgment, para. 139);

31. ... [C]ontrol was immediately taken of the two local media sources: Radio Prijedor and the newspaper Kozarski Vjesnik... (Tadić Judgment, para. 139);

32. ... and thereafter their principal function became the dissemination of propaganda. (Tadić Judgment, para. 139);

33. ... Serb nationalist propaganda intensified. (Tadić Judgment, para. 93);

34. The "need for the awakening of the Serb people" was stressed and derogatory remarks against non-Serbs increased. (Tadić Judgment, para. 93);

35. Calls were also made at that time for the surrender of weapons which, although addressed to the population at large, were only enforced in respect to Muslims and Croats... (Tadić Judgment, para. 139);

36. At the same time the mobilization of Serbs allowed for the distribution of weapons to the Serb population. (Tadić Judgment, para. 139).

With respect to the events in Prijedor Municipality in April – September 1992, the Court accepted as established the following facts:

38. On 12 May 1992, the 16th session of the Assembly of the Serbian People in Bosnia and Herzegovina was held in Banja Luka. At the session Radovan Karadžić outlined the six strategic goals of the Bosnian Serb leadership in Bosnia and Herzegovina. ... The first two strategic goals read as follows:

- "The first such goal is separation from the other two national communities, separation of states. Separation from those who are our enemies and who have used every opportunity, especially in this century, to attack us, and who

continue with such practices if we were to continue to stay together in the same state."

- "The second strategic goal, it seems to me, is a corridor between Semberija and Krajina. That is something for which we may be forced to sacrifice something here and there, but is of the utmost strategic importance for the Serbian people, because it integrates the Serbian lands, not only of Serbian Bosnia and Herzegovina, but it integrates Serbian Bosnia and Herzegovina with Serbian Krajina and Serbian Krajina with Serbian Bosnia and Herzegovina and Serbia. So, that is a strategic goal which has been placed high on the priority list, which we have to achieve because Krajina, Bosnian Krajina, Serbian Krajina, or the alliance of Serbian states is not feasible if we fail to secure that corridor, which will integrate us, which will provide us unimpeded flow from one part of our state to another." (Stakić Judgment, paras. 41-42);

41. After the takeover ... SDS leaders assumed positions in the municipal government, and legally elected Muslim and Croat politicians were forcibly removed. Other leading SDS members were installed in strategic positions throughout the municipality. (Stakić Judgment, para. 473; See also Tadić Judgment, para. 150);

42. ... [I]n the days and months after the takeover in Prijedor, many non-Serbs were dismissed from their jobs. Indeed, only an extremely small percentage of Muslims and Croats were able to continue working. (Stakić Judgment, para. 307; See also Stakić Judgment, para. 125, and Tadić Judgment, para. 150);

43. ... Bosnian Muslims who had lived their whole lives in the municipality of Prijedor were expelled from their homes..., their houses were marked for destruction, and in many cases were destroyed along with mosques and Catholic churches. (Stakić Judgment, para. 544; See also Stakić Judgment, paras. 545-546);

44. ... [There was] widespread looting of Muslim homes in the municipality [of Prijedor]. (Stakić Judgment, para. 294);

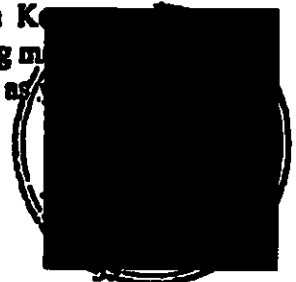
45. Travel outside of the [Prijedor] opština for non-Serbs was prevented and within the opština severely restricted by means of a curfew and checkpoints. (Tadić Judgment, para. 465; See also Tadić Judgment, para. 150);

46. Daily searches were conducted in almost every apartment inhabited by non-Serbs... (Tadić Judgment, para. 465);

47. ... [M]ost of the non-Serb population in the Municipality of Prijedor was directly affected [by the events that took place]. (Stakić Judgment, para. 627);

49. ... [T]he Serb military forces had the overwhelming power as compared to the modest resistance forces of the non-Serbs. (Stakić Judgment, para. 627);

50. After the take-over of the town of Prijedor and before the attack on K... continuous references were made by Serbs on the police radio about destroying m... and everything that belonged to the "balijas", a derogatory term for Muslims, as... the need to destroy the "balijas" themselves. (Tadić Judgment, para. 153);



51. ... [T]he attacks on Hambarine, and the ones that followed in the broader Brdo region, coupled with the arrests, detention and deportation of citizens that came next, were primarily directed against the non-Serb civilian population in the Municipality of Prijedor. (Stakić Judgment, para. 627; See also Stakić Judgment, para. 629);

52. ... [T]housands of citizens of Prijedor municipality passed through one or more of the three main detention camps, Omarska, Keraterm and Trnopolje, established in the towns of Omarska, Prijedor and Trnopolje respectively. (Stakić Judgment, para. 630);

53. Those who remained were required to wear white armbands to distinguish themselves and were continuously subject to harassment, beatings and worse, with terror tactics being common. Non-Serbs in opština Prijedor were subjected to gross abuses... (Tadić Judgment, para. 466);

54. [M]any people were killed during the attacks by the Bosnian Serb army on predominantly Bosnian Muslim villages and towns throughout the Prijedor municipality and several massacres of Muslims took place. (Stakić Judgment, para. 544; See also Stakić Judgment, paras. 545-546, 629).

With respect to the attacks upon Hambarine and Kozarac in May 1992, the Court accepted as established the following facts:

66. As a result of the increased tensions between the various ethnic communities, checkpoints were established and run by the different groups. (Tadić Judgment, para. 140; See also Stakić Judgment, para. 129);

67. One Muslim checkpoint was located at Hambarine and it was an incident that occurred there on 22 May 1992 that provided a pretext for the attack by Serb forces on that outlying area. (Tadić Judgment, para. 140; See also Stakić Judgment, para. 130);

68. . . . [T]he Muslim checkpoint personnel opened fire first. (Stakić Judgment, para. 130; See also Brđanin Judgment, para. 401);

69. Following the incident the Prijedor Crisis Staff issued an ultimatum on Radio Prijedor for the residents of Hambarine and the surrounding villages to surrender to the Prijedor authorities the men who had manned the checkpoint as well as all weapons. The ultimatum warned that failure to do so by noon the following day would result in an attack on Hambarine. (Tadić Judgment, para. 140; See also Stakić Judgment, para. 131, and Brđanin Judgment, paras. 104, 401);

70. The Hambarine authorities decided not to comply with the terms of the ultimatum and, following its expiration, Hambarine was attacked. (Tadić Judgment, para. 140; See also Stakić Judgment, para. 132);

71. After several hours of shelling by artillery, armed Serb forces entered supported by tanks and other weaponry and after a brief period of intermittent local leaders collected and surrendered most of the weapons. (Tadić Judgment, para. 140; See also Stakić Judgment, para. 132);

72. The TO tried to defend the village, but the residents were forced to flee to other villages or to the Kurevo woods to escape the shelling. (Stakić Judgment, para. 133);

73. By this time many of the inhabitants had already fled to other Muslim or Croat-dominated areas, heading north to other villages or south to a forested area which was also shelled. (Tadić Judgment, para. 141);

74. A number of the residents eventually returned to Hambarine, by then under Serb control, although only temporarily because on 20 July 1992 the last major cleansing in the opština occurred with the removal of approximately 20,000 non-Serbs in Hambarine and nearby Ljubija. (Tadić Judgment, para. 141);

75. ... [D]uring the onslaught on Hambarine, at least three civilians died. (Brđanin Judgment, para. 401);

76. At least 50 houses along the Hambarine-Prijedor road were damaged or destroyed by the Serb armed forces. (Stakić Judgment, para. 291);

77. ... [T]he mosque in Hambarine was shelled during the attack on Hambarine. (Stakić Judgment, para. 297);

78. The area of Kozarac, surrounding Kozarac town, comprises several villages, including Kamićani and Kozaruša, Sućici, Brđani, Babići. (Stakić Judgment, para. 139);

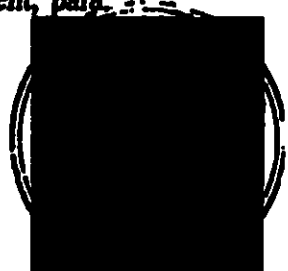
79. After the take-over of Prijedor tension developed between the new Serb authorities and Kozarac, which contained a large concentration of the Muslim population of opština Prijedor. Approximately 27,000 non-Serb individuals lived in the larger Kozarac area and of the 4,000 inhabitants of Kozarac town, 90 percent were Muslim. (Tadić Judgment, para. 142; See also Kvočka Judgment, para. 13);

80. As a result of this tension ethnically mixed checkpoints were supplemented with, and eventually replaced by, Serb checkpoints which were erected in various locations throughout the Kozarac area, as well as unofficial guard posts established by armed Muslim citizens. (Tadić Judgment, para. 142);

81. As of 21 May 1992, the Serb inhabitants of Kozarac started to leave the town. (Stakić Judgment, para. 141);

82. On 22 May 1992 telephone lines were disconnected and a blockade of Kozarac was instituted, rendering movement into and out of Kozarac extremely difficult. (Tadić Judgment, para. 143);

83. An ultimatum was addressed to the TO in Kozarac, requiring the Kozarac TO and police to pledge their loyalty and recognize their subordination to the new authorities in Srpska opština Prijedor, as well as to surrender all weapons. (Tadić Judgment, para. 143; See also Stakić Judgment, para. 141);



84. Following the ultimatum, negotiations took place between the Muslim and the Serb sides which were unsuccessful. (Stakić Judgment, para. 141);

85. ... [T]he Serb army was already positioned around the Kozarac area beforehand, and ... an overwhelming force of around 6,700 Serb soldiers was already prepared to encounter only 1,500-2,000 Muslims without heavy weapons. (Stakić Judgment, para. 157);

86. Around 2 p.m. on 24 May 1992, after the expiration of the ultimatum at noon and an announcement on Radio Prijedor, Kozarac was attacked. The attack began with heavy shelling, followed by the advance of tanks and infantry. After the shelling the Serb infantry entered Kozarac, and began setting houses on fire one after another. (Tadić Judgment, para. 143; See also Stakić Judgment, para. 142);

87. Houses were looted and destroyed on both sides of the road leading to the centre of town [of Kozarac]... [T]he destruction was not the result of war operations, rather, houses were deliberately destroyed after the attack, mostly through arson. (Stakić Judgment, para. 287);

88. After the attack, the houses had been not only destroyed, but leveled to the ground using heavy machinery. (Stakić Judgment, para. 145);

89. Muslim and Croat houses in Kozarac were targeted for destruction, while Serb houses were spared. (Stakić Judgment, para. 288);

90. In the attack on Kozarac care was taken to try to avoid damage to Serb property. ... [U]nlike the mosque, the Serbian Orthodox church survived the attack and subsequent destruction. (Tadić Judgment, para. 144);

91. ... [T]he Mutnik mosque in Kozarac was destroyed by Serbs [in May/June 1992]. (Stakić Judgment, para. 299);

92. The attack continued until 26 May 1992 when it was agreed that the people should leave the territory of Kozarac. (Stakić Judgment, para. 143);

93. During the attack the civilian population had sought shelter in various locations and, as the Serb infantry entered Kozarac, requiring people to leave their shelters, long columns of civilians were formed and taken to locations where they were gathered and separated. (Tadić Judgment, para. 146; See also Stakić Judgment, para. 143);

94. A large number of Muslim citizens of these areas who did not succeed in fleeing in the face of the assaults were rounded up, taken into custody and detained in one of the three camps... (Kvočka Judgment, para. 13);

95. [S]ubject to some exceptions, the men were taken either to the Keraterm or Omarska camps and the women and elderly to the Trnopolje camp. (Tadić Judgment, para. 146);

96. ... [A]t least 80 Bosnian Muslim civilians were killed when Bosnian Serb and police entered the villages of the Kozarac area. (Brdanin Judgment, para. 403)

97. On 26 May 1992, pursuant to an agreement between the Kozarac police department and the Serbs, the wounded were evacuated from the town in an ambulance. However, before this agreement, no wounded had been allowed out of Kozarac. (Stakić Judgment, para. 146);

98. It was reported that by 28 May 1992 Kozarac was about 50 percent destroyed, with the remaining damage occurring in the period between June and August 1992. (Tadić Judgment, para. 143; See also Stakić Judgment, para. 287);

99. Throughout the opština mosques and other religious institutions were targeted for destruction and the property of Muslims and Croats, worth billions of dinar, was taken. (Tadić Judgment, para. 150);

100. Unlike Hambarine, the non-Serb population was not permitted to return to Kozarac after the attack and, subject to some exceptions, the men were taken either to the Keraterm or Omarska camps and the women and elderly to the Trnopolje camp. (Tadić Judgment, para. 146);

101. Eventually the few Serb inhabitants returned and Serbs displaced from other areas moved into Kozarac. (Tadić Judgment, para. 146);

103. ... Fatima Šahorić... and her family along with a number of neighbours had been sheltering in the basement of their house [in Kamićani] on 26 May 1992 when a group of soldiers arrived and asked them to surrender their weapons. Then a soldier fired a rifle-launched grenade into the basement and everyone, except Fatima, was killed. (Stakić Judgment, para. 253);

104. Dr. Idriz Merdžanić spoke with the commander of the [Trnopolje] camp, Slobodan Kuruzović, about collecting and burying the bodies. When granted permission, Fatima Šahorić and six others drove to Kamićani, where the house was located. They were accompanied by soldiers. All of the dead were Muslims and Fatima Šahorić was able to identify the following individuals from among them: Džamila Mujkanović and her brother, Mehmed Šahorić, Lutvija Forić and her son, Tofik, Šerifa Šahrić and Jusuf. (Stakić Judgment, para. 254);

With respect to the subsequent attacks in wider Kozarac Area, the Court accepted as established the following facts:

105. [In June 1992] the mosque in Kamićani was destroyed by Serbs... being set alight. (Stakić Judgment, para. 301);

106. ... [T]he village of Kozaruša, which had a majority Muslim population, was destroyed and... only Serb houses remained, for the most part, untouched. (Stakić Judgment, para. 289).



With respect to the attacks upon Briševo, the Court accepted as established the following facts:

107. The village of Briševo comprised approximately 120 houses and was inhabited almost exclusively by Croats. (Stakić Judgment, para. 284);

108. On 27 May in the morning hours, Briševo was shelled and as the day progressed the shells were complemented by artillery and infantry fire. The soldiers who participated in the attack wore JNA uniforms with red ribbons tied around their arms or attached to their helmets. 68 houses were partially or completely destroyed by fire during the attack. In addition, the soldiers looted various items from the houses, such as television sets, video recorders, radios and certain items of furniture. (Stakić Judgment, para. 284; See also Brđanin Judgment, para. 411);

109. In the early morning hours of 24 July 1992, Bosnian Serb military launched an attack on Briševo. Mortar shells landed on the houses, and the residents hid in cellars. The shelling continued throughout the day and, on the next day, infantry fire joined the artillery. On the evening of 25 July 1992, Bosnian Serb infantry entered Briševo. The soldiers wore JNA uniforms with red ribbons around their arms or helmets. ... (Brđanin Judgment, para. 412);

110. 77 Croats were killed in the village between 24 and 26 July 1992, including three Croats in a maize field and four others at the edge of the woods near Briševo. (Stakić Judgment, para. 269);

111. ... [O]n 29 July 1992 the Catholic church in Briševo was destroyed. (Stakić Judgment, para. 303);

With respect to the attack upon Brdo region, the Court accepted as established the following facts:

112. Brdo comprises the villages of Bišćani, Rizvanovići, Rakovčani, Hambarine, Čarakovo and Zecovi. (Stakić Judgment, para. 204);

113. Bišćani was a village and a local commune comprising the following hamlets: Mrkalji, Hagići, Ravine, Duratovići, Kadići, Alagići and Čemernica. On 20 July 1992, Serb forces attacked this village. (Stakić Judgment, para. 256).

With respect to the attack upon Bišćani, the Court accepted as established the following facts:

114. ... [A]fter the shelling of the village of Bišćani, Serb soldiers looted the Muslim houses while the owners were still inside. ... Muslim houses were found destroyed with traces of fire. (Stakić Judgment, para. 290; See also Stakić Judgment, para. 258);

116. ... [T]he mosque in Bišćani was also destroyed. (Stakić Judgment, para. 302)

With respect to the attack upon Čarakovo, the Court accepted as established the following facts:

117. ... [T]he Muslim village of Čarakovo suffered extensive damage and destruction and ... houses were looted. The village of Čarakovo was attacked by Serb soldiers on 23 July 1992. The soldiers fired mortars and artillery at the fleeing population. (Stakić Judgment, para. 286);

118. Several people were killed. (Stakić Judgment, para. 267; See also Stakić Judgment, paras. 266, 268).

With respect to the attack upon Rizvanovići, the Court accepted as established the following facts:

119. At a date ... not state[d] precisely, in June-July 1992, shelling started at night on Rizvanovići village. (Stakić Judgment, para. 831);

120. ... [H]omes were destroyed and personal belongings looted in the attack on Rizvanovići, a predominantly Muslim village... [A]fter the cleansing of Rizvanovići, all the houses were ablaze. ... [V]aluable were looted in the days following the cleansing. (Stakić Judgment, para. 292);

121. Several men from the village of Rizvanovići were taken out by soldiers and have not been seen since. (Stakić Judgment, para. 197).


With respect to the attacks in Prijedor Town, the Court accepted as established the following facts:

122. Stari Grad was the oldest part of the town of Prijedor and, before the conflict, its residents were predominantly Muslim. (Stakić Judgment, para. 277);

123. After an unsuccessful attempt to regain control of the town of Prijedor on 30 May 1992 by a small group of poorly armed non-Serbs, non-Serbs in Prijedor were ordered to use sheets of white material to mark their homes and indicate that they surrendered. (Tadić Judgment, para. 151; See also Stakić Judgment, para. 128);

124. Serb soldiers and artillery encircled the old town ("Stari Grad") and inhabitants were forcibly removed from their homes and taken to the camps. (Stakić Judgment, para. 277);

125. Ultimately they were divided into two groups: one which consisted of men aged between 12 to 15 or 60 to 65, and one of women, children and elderly men. Generally the men were taken to the Keraterm and Omarska camps and the women to the Trnopolje camp. (Tadić Judgment, para. 151; See also Kvočka Judgment, paras. 14-15).





126. Some individuals were arrested later in the summer on the basis of a pre-designated list of intellectuals and prominent members of society. These community leaders were routinely taken to the Prijedor police station and beaten. (Kvočka Judgment, para. 14);

127. ... [T]he Stari Grad section of the town of Prijedor, and in particular those houses and businesses belonging to Muslim residents, suffered extensive damage, looting and destruction. (Stakić Judgment, para. 276);

128. ... [T]wo mosques were already destroyed in May 1992, amongst them, the Čaršijska mosque. (Stakić Judgment, para. 298);

129. ... [T]he Prijedor mosque was destroyed on 28 August 1992 by Serbs. (Stakić Judgment, para. 305);

130. A group of ... [Serbs] entered the yard outside the main mosque in Prijedor and set it alight. (Stakić Judgment, para. 298);

131. ... [T]he Catholic church in Prijedor was blown up in the early hours of 28 August 1992 ... by a group of Serb soldiers and police. (Stakić Judgment, para. 304; See also Brđanin Judgment, para. 652).

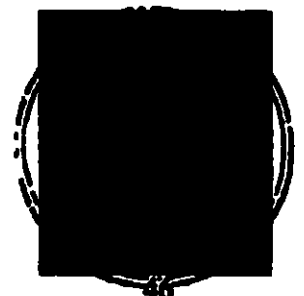
With respect to forcible transfer and displacement, the Court accepted as established the following facts:

132. Throughout the period immediately after the takeover [of Prijedor], Dr. Stakić, in co-operation with the Chief of Police, Simo Drijača, and the most senior military figure in Prijedor, Colonel Vladimir Arsić, worked to strengthen and unify the military forces under Serb control. (Stakić Judgment, para. 479);

135. ... [A] large number of Muslims and Croats fled the territory of the Municipality of Prijedor [between about 30 April 1992 and 30 September 1992]. (Stakić Judgment, para. 322; See also Stakić Judgment, paras. 314, 601; Stakić Appeal Judgment, para. 310, and Brđanin Judgment, para. 159);

136. The exodus of the mainly non-Serb population from Prijedor started as early as 1991 but accelerated considerably in the run-up to the takeover. The mass departure reached a peak in the months after the takeover. Most people travelled on one of the daily convoys of buses and trucks leaving the territory. These convoys would depart from specified areas within the municipality of Prijedor and were also organised on a regular basis from the Trnopolje camp. (Stakić Judgment, para. 692);

137. ... [T]he Serb authorities organised and were responsible for escorting convoys out of Serb-controlled territory. (Stakić Judgment, para. 318).



With respect to the establishment of Omarska, Keraterm and Trnopolje Camps, the Court accepted as established the following facts:

140. ... [T]he camps were set up in conformity with a decision of the Prijedor civilian authorities... (Stakić Judgment, para. 821; See also Stakić Judgment, paras. 159-161, 477, and Brđanin Judgment, para. 159);

141. ... [T]he Crisis Staff ... determined who should be responsible for the running of those camps. (Stakić Judgment, para. 159)

142. Generally the camps were established and run either at the direction of, or in cooperation with, the Crisis Staffs, the armed forces and the police. (Tadić Judgment, para. 154).

With respect to the command structure of the Omarska Police Force, the Court accepted as established the following facts:

149. ... [T]he security of the local populace was entrusted to the police division of the Public Security Service, which was attached to the Ministry of Interior and was separate from the State Public Security Service. At the regional level, each police division was divided into police stations, which in turn were sub-divided into police station departments. (Kvočka Judgment, para. 334);

150. ... [T]he Omarska police station department grew to the status of a police station in April 1992, before the Prijedor take-over by the Serb authorities... (Kvočka Judgment, para. 338);

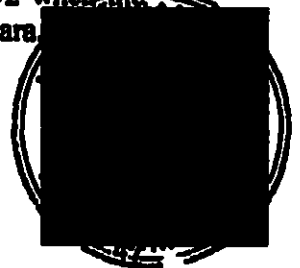
151. The commander of the police station before the take-over was Željko Mejakić, who replaced Milutin Bujčić when he retired in April 1992. (Kvočka Judgment, para. 336);

152. ... [S]hortly after Željko Mejakić was appointed commander of the police station, Kvočka was elevated to a de facto position of authority and influence in the Omarska police station. This position paralleled the function of a deputy commander or assistant commander, a slot that was justified by the increase in size of the station and which was not formally filled at that time. (Kvočka Judgment, para. 344).

The facts accepted by the Court as established relative to certain aspects of Omarska Camp:

With respect to the general information on Omarska Camp, the Court accepted as established the following facts:

154. The camp was in operation from 25 May 1992 until late August 1992 when the prisoners were transferred to Trnopolje and other camps. (Tadić Judgment, para. 154)



155. It was located at the former Ljubija iron-ore mine, situated some two kilometres to the south of Omarska village. (Tadić Judgment, para. 155);

156. Although efforts had already begun to set up the Omarska camp and staff and detainees began arriving around the 27th of May, the Prijedor Chief of Police, Simo Drijača, issued the official order to establish the camp on 31 May 1992. (Kvočka Judgment, para. 17);

159. With the arrival of the first detainees, permanent guard posts were established around the camp, and anti-personnel landmines were set up around the camp. (Stakić Judgment, para. 166).

With respect to the layout of Omarska Camp, the Court accepted as established the following facts:

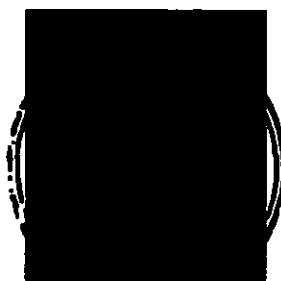
160. The camp consisted of two large buildings, the hangar and the administrative building, and two smaller buildings, known as the "white house" and the "red house". (Tadić Judgment, para. 155);

161. The hangar was a large oblong structure, running north-south, along the eastern side of which were a number of roller doors leading into a large area extending the length of the building with the ground floor designed for the maintenance of heavy trucks and machinery used in the iron-ore mine. The western side of the hangar consisted of two floors of rooms, over 40 in all, extending over the whole north-south length of the building and occupying rather less than one half of the entire width of the hangar. Access to these rooms could be gained either from a door on the western side or, internally, from the large truck maintenance area described above. The bulk of the prisoners were housed in this building. (Tadić Judgment, para. 156; See also Kvočka Judgment, para. 46);

162. To the north of the hangar and separated from it by an open concreted area, known as the "pista", was the administration building, where prisoners ate and some were housed, with rooms upstairs where they were interrogated. (Tadić Judgment, para. 156; See also Kvočka Judgment, para. 47);

164. To the west of the hangar building was a grassed area on the western side of which lay the "white house", a small rectangular single-storied building, having a central corridor with two rooms on each side and one small room at its end, not wider than the corridor itself. (Tadić Judgment, para. 156);

165. The small "red house" was on the same side as the "white house", and across from the end of the hangar building. (Tadić Judgment, para. 156).



**With respect to detainees at Omarska, the Court accepted as established the following facts:**

166. Omarska held as many as 3,000 prisoners at one time, primarily men, but also had at least 36 to 38 women. (Tadić Judgment, para. 155; See also Brđanin Judgment, para. 840, and Kvočka Judgment, para. 21);

167. With little exception, all were Muslims or Croats. (Tadić Judgment, para. 155; See also Brđanin Judgment, para. 840);

168. The only Serb prisoners sighted by any of the witnesses were said to have been there because they were on the side of the Muslims. (Tadić Judgment, para. 155);

169. Boys as young as 15 were seen in the early days of the camp, as well as some elderly people. (Kvočka Judgment, para. 21);

170. ... [M]entally impaired individuals were also detained at the camp. (Brđanin Judgment, para. 842);

171. Inmates were unofficially grouped into three categories. Category one comprised intellectuals and political leaders from the Bosnian Muslim and Bosnian Croat communities, who were earmarked for elimination. Persons who associated themselves with those from the first category would fall into the second category, and the third category encompassed detainees that were in the view of the Bosnian Serb authorities the least "guilty", and eventually were to be released. (Brđanin Judgment, para. 443; See also Brđanin Judgment, para. 843);

172. However, in practice, people from all three categories were kept detained in the camp. (Brđanin Judgment, para. 443).

**With respect to detention facilities in Omarska, the Court accepted as established the following facts:**

177. Prisoners were held in large numbers in very confined spaces, with little room either to sit or to lie down to sleep. (Tadić Judgment, para. 159);

186. Female detainees were held separately in the administrative building. (Stakić Judgment, para. 164; See also Brđanin Judgment, para. 841).

**With respect to hygiene in Omarska, the Court accepted as established the following facts:**

188. ... [T]he hygienic conditions and the medical care available in Omarska camp were grossly inadequate. (Kvočka Judgment, para. 67);

189. There were two toilet facilities in the hangar building for use by over a thousand detainees. ... In other locations, such as the garage in the administration building, there were no toilet facilities at all. (Kvočka Judgment, para. 58);

192. There were no effective washing facilities, and men and their clothes quickly became filthy and skin diseases were prevalent, as were acute cases of diarrhoea and dysentery. (Tadić Judgment, para. 161; See also Brđanin Judgment, para. 934).

With respect to food and water in Omarska, the Court accepted as established the following facts:

193. The detainees at Omarska had one meal a day. (Stakić Judgment, para. 168; See also Kvočka Judgment, para. 51, and Tadić Judgment, para. 160);

198. ... [D]etainees received poor quality food that was often rotten or inedible, caused by the high temperatures and sporadic electricity during the summer of 1992. The food was sorely inadequate in quantity. (Kvočka Judgment, para. 55; See also Stakić Judgment, para. 168);

202. The quantity of water supplied to the detainees was clearly inadequate. (Kvočka Judgment, para. 57);

205. By contrast, the camp personnel enjoyed proper food. (Brđanin Judgment, para. 932).

With respect to interrogations in Omarska, the Court accepted as established the following facts:

206. Prisoners were called out for interrogation, usually some days after their arrival, and would be taken by a guard to the first floor of the administration building; guards would beat and kick them as they went. (Tadić Judgment, para. 163);

207. Interrogations were carried out in the administration building by mixed teams of investigators from the army and the state and public security services in Banja Luka. (Kvočka Judgment, para. 68);

208. Some prisoners were very severely beaten during interrogation (...) (Tadić Judgment, para. 163; See also Stakić Judgment, para. 230);

211. No criminal report was ever filed against persons detained in the Omarska camp, nor were the detainees apprised of any concrete charges against them. (Stakić Judgment, para. 170).



With respect to the presence of outsiders in Omarska, the Court accepted as established the following facts:

213. In the evening, groups from outside the camp would appear, would call out particular prisoners from their rooms and attack them with a variety of sticks, iron bars or lengths of heavy electric cable. (Tadić Judgment, para. 164).

With respect to physical violence in Omarska, the Court accepted as established the following facts:

218. Intimidation, extortion, beatings, and torture were customary practices. (Kvočka Judgment, para. 45);

221. ... [T]he guards meted out harsh beatings to the non-Serb detainees on a routine basis. On account of the gross mistreatment, people were in a constant state of fear. Every night between 3 and 10 people were called out, some of whom were never seen again. (Stakić Judgment, para. 231);

226. Dead bodies of prisoners, lying in heaps on the grass near the "white house", were a not infrequent sight. (Tadić Judgment, para. 166);

227. Those bodies would be thrown out of the "white house" and later loaded into trucks and removed from the camp. (Tadić Judgment, para. 166);

229. The "red house" was another small building where prisoners were taken to be beaten and killed. (Tadić Judgment, para. 167; See also Tadić Judgment, para. 156, and Brđanin Judgment, para. 442);

236. Female detainees were subjected to various forms of sexual violence in Omarska camp. (Kvočka Judgment, para. 108; See also Brđanin Judgment, paras. 515-517).

With respect to Omarska at large, the Court accepted as established the following facts:

242. ... [H]undreds of detainees were killed or disappeared in the Omarska camp between the end of May and the end of August when the camp was finally closed. (Stakić Judgment, para. 220).

The facts accepted by the Court as established relative to certain aspects of Keraterm Camp:

With respect to the general information on Keraterm Camp, the Court accepted as established the following facts:

251. ... [Keraterm camp] was staffed by employees of the Prijedor SJB [Security Service]) and the Prijedor Military Police. As in Omarska, interroga

consisted of members of the Banja Luka CSB ((Security Services Center)) and of the Banja Luka Corps. Sikirica was the camp commander. Nenad Banović, aka "Čupo", and Zoran Žigić, were amongst the guards. Damir Došen aka "Kajin" was amongst the shift commanders. (Brdanin Judgment, para. 849);

252. ... [T]he Keraterm factory was set up as a camp on or around 23/24 May 1992. (Stakić Judgment, para. 162; See also Tadić Judgment, para. 168);

253. The Keraterm camp, located on the eastern outskirts of Prijedor, was previously used as a ceramic tile factory. (Tadić Judgment, para. 168).

With respect to detainees in Keraterm, the Court accepted as established the following facts:

256. The detainees were mostly Muslims and Croats. (Stakić Judgment, para. 162; See also Kvočka Judgment, para. 111).

With respect to detention facilities and conditions in Keraterm, the Court accepted as established the following facts:

258. In Keraterm, detainees were held in four separate rooms known as rooms 1, 2, 3, and 4. (Kvočka Judgment, para. 112);

259. ... Room 2 being the largest and Room 3 the smallest. (Stakić Judgment, para. 162);

260. Conditions in Keraterm were atrocious; prisoners were crowded into its rooms, as many as 570 in one room, with barely space to lie down on the concrete floors. (Tadić Judgment, para. 169; See also Kvočka Judgment, para. 112).

The facts accepted by the Court as established relative to certain aspects of Trnopolje Camp:

With respect to the general information on Trnopolje Camp, the Court accepted as established the following facts:

291. The Trnopolje camp was located near the Kozarac station, on the Prijedor-Banja Luka railway line. (Tadić Judgment, para. 172);

292. The camp held thousands of prisoners, most of whom were older men and women and children. (Tadić Judgment, para. 172);

293. The 1,600 male detainees were held for approximately two to three months. (Brdanin Judgment, para. 940);

294. In the beginning, the Serb soldiers informed the inmates that they were being held there for their own protection against Muslim extremists. However, the camp actually proved to be rather a point where the civilian population, men, women and children, would be gathered, collected and then deported to other parts of Bosnia or elsewhere. (Tadić Judgment, para. 176);

295. Armed soldiers guarded the camp. The commander of the camp was Slobodan Kuruzović. (Tadić Judgment, para. 172);

296. ... and the guards were Bosnian Serb soldiers from Prijedor. (Brdanin Judgment, para. 449);

297. Trnopolje camp was officially closed down at the end of September 1992, but some of the detainees stayed there longer. (Brdanin Judgment, para. 450; See also Brdanin Judgment, para. 940).

With respect to detention facilities and conditions in Trnopolje Camp, the Court accepted as established the following facts:

298. The camp consisted of a two-storied former school building and what had been a municipal centre and attached theatre, known as the "dom". (Tadić Judgment, para. 173; See also Kvočka Judgment, para. 16);

299. An area of the camp was surrounded by barbed wire. (Tadić Judgment, para. 173);

301. Because of the lack of food and the insanitary conditions at the camp, the majority of inmates, one estimate is as high as 95 percent, suffered from dysentery. (Tadić Judgment, para. 177);

302. There was no running water at all, and only limited lavatory facilities. (Tadić Judgment, para. 177);

303. There was almost no water to drink, as only one pump existed for the whole camp. (Tadić Judgment, para. 177);

304. No food was supplied by the camp authorities at Trnopolje. (Tadić Judgment, para. 174).

With respect to physical violence in Trnopolje Camp, the Court accepted as established the following facts:

306. At Trnopolje there was no regular regime of interrogations or beatings, as in the other camps, but beatings and killings did occur. (Tadić Judgment, para. 175; See also Stakić Judgment, para. 225, 242, and Brdanin Judgment, para. 450);



307. The Serb soldiers used baseball bats, iron bars, rifle butts and their hands and feet or whatever they had at their disposal to beat the detainees. Individuals who were taken out for questioning would often return bruised or injured. (Stakić Judgment, para. 242);

308. Because [the Trnopolje] camp housed the largest number of women and girls, there were more rapes at this camp than at any other. (Tadić Judgment, para. 175);

309. Girls between the ages of 16 and 19 were at the greatest risk. (Tadić Judgment, para. 175);

310. During evenings, groups of soldiers would enter the [Trnopolje] camp, take out their victims from the dom building and rape them. (Tadić Judgment, para. 175; See also Brđanin Judgment, para. 514).

With respect to mass executions of Omarska, Keraterm and Trnopolje Camp detainees outside the Camps, the Court accepted as established the following facts:

313. Around late July 1992, 44 people were taken out of Omarska and put in a bus. They were told that they would be exchanged in the direction of Bosanska Krupa. They were never seen again. During the exhumation in Jama Lisac, 56 bodies were found. Most of them died from gunshot injuries. (Stakić Judgment, para. 210);

314. In the early morning of 5 August 1992 ... detainees from Keraterm who had been brought ... the previous day ... to the Omarska camp ... [a]t least 120 people ... were called out. They were lined up and put on to two buses which drove away towards Kozarac under escort... The corpses of some of those taken away on the buses were later found in Hrastova Glavica and identified. A large number of bodies, 126, were found in this area, which is about 30 kilometres away from Prijedor. In 121 of the cases, the forensic experts determined that the cause of death was gunshot wounds. (Stakić Judgment, paras. 211-212; See also Brđanin Judgment, para. 454);

315. When the camp in Omarska was closed down, detainees from that camp were transferred to Manjača camp. (Brđanin Judgment, para. 453);

316. One transport of prisoners took place on 6 August 1992. The journey lasted the whole day. After arrival at Manjača camp, detainees were made to spend the entire night in the locked bus... [D]uring the night, three men were called out from the bus by the Bosnian Serb policemen accompanying the transport. On the next day, the dead bodies of these three men were seen. (Brđanin Judgment, para. 453);

317. Between six and eight men who were taken in a bus from the Omarska camp to Manjača camp were killed outside the Manjača camp [on 6 August 1992]. (Stakić Judgment, para. 213);

318. On 21 August 1992, buses started to arrive in the Trnopolje camp and the detainees were told to board them. At this stage, there were very few women and children in the camp, so it was mostly men who boarded the four buses... Buses proceeded to Kozarac, where they were joined by four other buses which had been loaded in

and eight lorries. The buses had been organised by the Serb authorities to transport people out of Prijedor into Muslim-held territory... The buses and lorries came to a halt near a creek. The passengers were ordered to leave the buses and line up outside. At that moment a truck appeared and the women and children were told to board it. Another truck arrived and departed with more detainees but left behind a number of people who had been at the Trnopolje camp and some residents of Kozarac. The prisoners were then ordered to line up and board two of the buses. There were approximately 100 people packed onto each bus. The bus(es) travelled for about another 10-15 minutes and then drew up on a road flanked on one side by a steep cliff and on the other by a deep gorge. The men were ordered to get out and walk towards the edge of the gorge where they were told to kneel down. Then the shooting began. Two soldiers went to the bottom of the gorge and shot people in the head. ... [T]he precise location where the massacre occurred ... is known as Korćanske Stijene. (Stakić Judgment, paras. 215-218).

The facts accepted by the Court as established relative to the detention facilities and executions other than in the three aforementioned camps:

With respect to detention and beating in the region of Miška Glava, the Court accepted as established the following facts:

319. A second attack on Hambarine occurred on or around 1 July 1992. ... [I]n Gomjenica ... the soldiers rounded up ... people and took them to the Zeger bridge. The soldiers started to kill people and threw their bodies into the Sana river, which was red with blood. Not all the men were killed; some were loaded onto buses and taken to the camps – Omarska and Keraterm... (Stakić Judgment, para. 255);

320. Some people who were fleeing the cleansing of Bišćani were trapped by Serb soldiers and taken to a command post at Miška Glava... The next morning they were called out, interrogated and beaten. This pattern continued for four or five days. (Stakić Judgment, para. 197; See also Stakić Judgment, para. 780);

321. Around 100 men were arrested in the woods near Kalajevo by men in JNA and reserve police uniform and taken to the Miška Glava dom (cultural club). They were detained together in cramped conditions. They spent three days and two nights there and during that time were given a single loaf of bread to share and very little water to drink. (Stakić Judgment, para. 198);

322. The secretary of the local commune had his office at the Miška Glava dom, which was staffed by the Territorial Defence. About 114 Bosnian Muslim detainees were locked up in the café therein. (Brdanin Judgment, para. 858);

323. At Miška Glava, detainees were beaten during interrogations by Bosnian Serb soldiers with fists and rifle butts. They suffered concussions, bleeding and heavy bruising. They were beaten in the presence of other detainees. (Brdanin Judgment, para. 859).



**With respect to detention, beating and killings at the Ljubija Football Stadium, the Court accepted as established the following facts:**

**324. Around 25 July 1992 there was shooting and shelling around Ljubija lasting until around 16:00 when the shelling subsided slightly. Subsequently men were taken on buses to the football stadium in Ljubija. (Stakić Judgment, para. 270);**

**325. In July 1992, Bosnian Muslim civilians detained in Miška Glava were transferred to the Ljubija football stadium, located in Gornja Ljubija. Many civilians were already confined inside the stadium, guarded by Bosnian Serb policemen and members of an intervention platoon. (Brđanin Judgment, para. 413; See also Brđanin Judgment, paras. 860-861);**

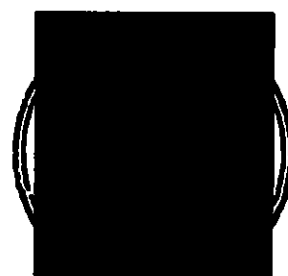
**326. In July 1992, at the Ljubija football stadium, Bosnian Muslim prisoners were made to carry away the dead bodies of those Bosnian Muslims previously executed. One of them did not have a head, while another body had an eye hanging out and the head had been smashed in. (Brđanin Judgment, para. 509);**

**327. ... [S]erious beatings occurred at the Ljubija football stadium... Around 25 July 1992, civilians were taken on buses to the stadium in Ljubija. Detainees were ordered off the buses and some were made to run. As they ran past the bus driver they each received a blow. Most new arrivals were beaten and forced to look down. They were then lined against the wall in the stadium and ordered to bend down (forward at the waist). As the detainees were beaten "there was a stream of blood running along the wall." (Stakić Judgment, paras. 246, 247; See also Stakić Judgment, paras. 271, 780);**

**328. ...[S]ome of those who had been made to line up against a wall and withstand mistreatment at the hands of the soldiers were killed. Later, detainees were forced to assist in removing the bodies of the dead. There were between 10 and 15 bodies ... (Stakić Judgment, para. 271);**

**329. The mine pit in Ljubija was known as Jakarina Kosa. It was cordoned off by the Serbs and trucks could be heard during the night from the direction of the mine. There was also earth-moving equipment and a drill machine that was used to bore holes. One day there was a large explosion and the Serbs left. The locals were told to stay away from the area as it was mined. (Stakić Judgment, para. 273);**

**330. Both Nermin Karagić and Elvedin Nasić testified about the killing and burial of bodies in a place known locally as "Kipe". Both also managed to escape alive during the executions that took place at the site. According to Nermin Karagić approximately 50 people were killed. ... [A] year and a half later [Karagić] returned to the site in order to identify some of the bodies that had been exhumed. He was able to identify his father's body and a DNA test later confirmed that identification. (Stakić Judgment, para. 274).**



**With respect to abductions and killings in the region of Tomašica, the Court accepted as established the following facts:**

**331. Tomašica is a village south of Prijedor where, prior to the conflict, both Bosnian Croats and Bosnian Serbs lived. The latter formed a majority of the population. (Brđanin Judgment, para. 415);**

**332. On 2 December 1992, Bosnian Serb soldiers took male Bosnian Croat residents from Tomašica to the surrounding forests in order to cut wood. They stayed out for three consecutive days. On 5 December 1992, Mile Topalović, who was returning from the woods, was shot dead ... by Bosnian Serb soldiers ... (Brđanin Judgment, para. 415).**

**With respect to detention, beating and torture in the SUP building, the Court accepted as established the following facts:**

**333. ... [M]any people ... were taken to the SUP building in Prijedor and subjected to beatings. ... [T]hey had in common that all of them were non-Serbs...[S]evere beatings were ... committed in ... the SUP building... (Stakić Judgment, paras. 248, 780; See also Stakić Judgment, para. 199);**

**334. Bosnian Muslims and Bosnian Croats were detained at the Prijedor SUP, including a woman and an underage boy. (Brđanin Judgment, para. 862);**

**335. Detainees were beaten with metal objects by members of the intervention squad, composed of men from Prijedor. (Brđanin Judgment, para. 863);**

**336. One detainee had his temple bone fractured as a result of these beatings. (Brđanin Judgment, para. 863);**

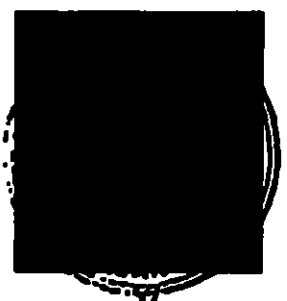
**337. Detainees were also beaten during interrogation and humiliated. (Brđanin Judgment, para. 863);**

**338. Detainees were subjected to ethnic slurs. (Brđanin Judgment, para. 863);**

**339. All non-Serb men arrested and taken to the SUP were then bussed to either the Omarska camp or the Keraterm camp. (Kvočka Judgment, para. 15);**

**340. Women, children, and the elderly tended to be taken to the Trnopolje camp. (Kvočka Judgment, para. 15);**

**341. Prior to their transfer, they were forced to run a gauntlet of policemen. (Brđanin Judgment, para. 863).**



With respect to detention in the JNA barracks in Prijedor, the Court accepted as established the following facts:

342. The JNA barracks in Prijedor, where at least 30 Bosnian Muslim men were detained, were staffed by the Bosnian Serb military. (Brđanin Judgment, para. 864).

In addition to this, by the aforesaid Decision the Court partially accepted the following proposed facts in the scope as indicated in the Annex to the Decision:

24. An atmosphere of mistrust, fear, and hatred was fuelled by the political tensions in the municipality from the second half of 1991 until the takeover of power on 30 April 1992. (Stakić Judgment, para. 688.) (Omitted: As a result of SDS-generated propaganda, the non-Serb population of the municipality of Prijedor was living in constant fear and uncertainty.) This fact concerns Prijedor Municipality before the takeover.

115. Approximately 30 to 40 people were killed by Serb forces with rifles and heavy weapons ... near a clay pit in the hamlet of Mrkalji. The soldiers were wearing camouflage uniforms and the victims were wearing civilian clothes. (Stakić Judgment, para. 256.) (Omitted: The civilian men had not provoked the soldiers and there were people running from the guns before the soldiers opened fire.) This fact concerns the attacks upon the Brdo region, the village of Bičani.

163. The administration building was in part two-storied, the single-storied western portion containing a kitchen and eating area. (Tadić Judgment, para. 156; See also Kvočka Judgment, para. 47.) (Omitted: There were two small garages forming part of the extreme northern end of the building.) This fact concerns the layout of Omarska camp.

185. As many as 600 prisoners were made to sit or lie prone outdoors on the "pista" ... with machine-guns trained on them. (Tadić Judgment, para. 159.) (Omitted: ... some staying there continuously regardless of the weather for many days and nights on end, and occasionally for as long as a month...) This fact concerns the detention facilities in Omarska.

216. These groups appeared to be allowed free access to the camp (Tadić Judgment, para. 164.) (Omitted: ... and their visits greatly increased the atmosphere of terror which prevailed in the camp.) This fact concerns the outsiders in Omarska.

300. Trnopolje was, at times at least, an open prison but it was dangerous for inmates to be found outside, where they might be attacked by hostile groups in the neighbourhood ... (Tadić Judgment, para. 176) (Omitted: ... and this, in effect, amounted to imprisonment in the camp.) This fact concerns the detention facilities and conditions in Trnopolje Camp.

311. ... [M]any of the detainees at the ... Trnopolje camp... were subjected to serious mistreatment and abuse... (Stakić Judgment, para. 780.) (Omitted: ... amounting to torture.) This fact concerns physical violence in Trnopolje Camp.

The Court refused the facts No. 5, 11, 27, 28, 37, 39, 40, 48, 55-65, 102, 133, 134, 138, 139, 217, 222, 247, 254, 305 and 312 from the Prosecution Motion taking into account the criteria required for acceptance of a fact as established.

Article 4 of the Law on the Transfer of Cases reads: "At the request of a party or proprio motu, the courts, after hearing the parties, may decide to accept as proven those facts that are established by legally binding decisions in any other proceedings by the ICTY or to accept documentary evidence from proceedings of the ICTY relating to matters at issue in the current proceedings." The Article affords the Court an opportunity to take advantage of previous ICTY findings in order to achieve judicial economy, whilst preserving the Accused's rights to fair trial. This provision shares the same ratio as Rule 94 (B) of Rules of Procedure and Evidence of the ICTY, according to which: "At the request of a party or proprio motu, a Trial Chamber, after hearing the parties, may decide to take judicial notice of adjudicated facts (...) from other proceedings of the Tribunal related to matters at issue in the current proceedings". The requirement of the Law on Transfer to hear the parties prior to rendering a decision has been met by offering the Defense an appropriate time to respond to the Prosecution Motions.

The general understanding of this instrument, as pointed out in the Court of BiH<sup>3</sup> and ICTY/ICTR<sup>4</sup> case law regarding an Established/Adjudicated Fact of which judicial notice has been taken, is that it creates a legal presumption by which the initial burden of production of evidence is shifted from the Prosecution to the Defense. By proposing a fact that was already established in a prior judgment but provides equally relevant information to the present case, the Prosecutor has met his initial burden of persuasion as to that particular fact.

**<sup>3</sup> Separate Decisions on Established Facts by Court of B-H Trial Panels:**

Decision in the case against *Radovan Stanković*, Case No. X-KR-05/70, of 13 July 2006; Decision in the case against *Gajko Janković*, Case No. X-KR-05/161, of 4 August 2006; Decision in the case against *Milolj Snepar et al. (Kravica)*, Case No. X-KR-05/24, of 3 October 2006; Decision in the case against *Momčilo Mandić*, Case No. X-KR-05/58, of 5 February 2007; Decision in the case against *Krsto Lukić*, Case No. X-KR-06/298, of 27 March 2007.

**Decisions on Established Facts Included into Trial Verdicts:**

Trial Verdict in the case against *Nedo Samardžić*, Case No. X-KR-05/49, of 7 April 2006, pp. 12-16 (in BCS version pp. 10-13); Trial Verdict in the case against *Dragoje Paunović*, Case No. X-KR-05/16, of 26 May 2006; p. 15 (in BCS version p. 13); Trial Verdict in the case against *Boban Šimić*, Case No. X-KR-05/04, of 11 July 2006, para. 49; Trial Verdict in the case against *Marko Samardžija*, Case No. X-KR-05/07, of 3 November 2006, pp. 16-19 (in BCS version pp. 15-18); Trial Verdict in the case against *Radislav Ljubinac*, Case No. X-KR-05/154, of 8 March 2007, pp. 17-22 (in BCS version pp. 15-20).

**Control of Trial Panel Decisions on Established Facts within Appeal Verdicts:**

Appeal Verdict in the case against *Dragoje Paunović*, Case No. X-KRŽ-05/16, of 27 October 2006, p. 5 (in BCS version p. 5); Appeal Verdict in the case against *Nedo Samardžić*, Case No. X-KRŽ-05/49, of 13 December 2006, pp. 8-11 (in BCS version pp. 8-12).

<sup>4</sup> See as the most recent example giving an overview of the ICTY/ICTR practice: Decisions on Adjudicated Facts in the case against *Vijadlin Popović et al.*, Case No. IT-05-88-T, of 26 September 2006, developing further the criteria elaborated by the two ICTY Decisions on Adjudicated Facts in the case against *Momčilo Krajišnik*, Case No. IT-00-39-T, of 28 February 2003 and 24 March 2005.



In accordance with Article 6(2) CPC B-H and the corresponding Article 6(3)(d) European Convention on Human Rights and Fundamental Freedoms (ECHR), the Accused maintains the right to challenge any of the Established Facts that were accepted by the Court. Thus, the principle of Fairness and Equality of Arms has been met; so too, the principle of the Immediacy of the Evidentiary Procedure. In addition to this, the Court of B-H is not bound to base its verdict on any fact established by judgments of the ICTY. Instead, Established Facts are admitted and considered in light of all the evidence produced in the course of the trial, according to the principle of the free evaluation of evidence provided for in Article 15 CPC B-H. Further, the Court of B-H is also not bound by prior decisions of the ICTY Trial Chamber on Adjudicated Facts, in the present case.<sup>5</sup> And finally, the relevant case law of the European Court of Human Rights supports this approach, under the condition that the accepted facts can be challenged by the defendant.<sup>6</sup>

The legislative rationale for providing the Court with this procedural instrument includes general judicial economy and the consideration that often heavily traumatized witnesses should be spared from repeating testimony in a number of cases linked to the same incidents or regions. Also, this approach allows the possibility of harmonizing the practice of the Court of B-H with the corresponding ICTY jurisprudence. Finally, the use of Established Facts can be seen as a means of ensuring the Accused's right to a speedy trial as guaranteed by Article 13 CPC B-H and Article 6(1) ECHR, especially in cases of custody, as this can shorten the trial duration considerably, if introduced at an early stage of the procedure. As neither the Law on Transfer nor the CPC B-H provides for criteria on which to base the exercise of the Court's discretion to accept or reject certain facts proposed by the parties, the standards developed by the ICTY and the ICTR in relation to Rule 94(B) can serve as a guideline. In terms of criteria, the Court bases its conclusions on the ICTY Trial Chamber decision taken on 26 September 2006 in the case against Vujadin Popović et al. (Case No.: IT-05-88-T). This decision further develops the criteria established by the two decisions of the ICTY Trial Chamber in the case against Momčilo Krajišnik<sup>7</sup> (Case No.: IT-00-39-T), these decisions having been already partly taken into consideration by the Court of B-H Appellate Panel within its Judgment against Nedo Samardžić (Case No.: X-KRŽ-05/49) of 13 December 2006, as well as in numerous Trial Panel decisions of this Court.<sup>8</sup>

In order to meet the criteria for being accepted as an Established Fact:

**1. The fact must have some relevance to an issue in the current proceedings**

This precondition requires that the proposed fact be of relevance to the case. The Decision on Established Facts is part of the evidentiary procedure and only relevant evidence shall be accepted as such by the Court.

<sup>5</sup> The ICTY Trial Chamber in the case against *Željko Mjakić et al.*, ICTY Case No. IT-02-65-PT, on 1 April 2004 rendered its Decision on Adjudicated Facts prior to the referral of the case to the Court of BiH.

<sup>6</sup> Judgment of the European Court of Human Rights in the case *Salabiaku v. France*, re 7 October 1988, 13 EHRR 379, para. 28-29.

<sup>7</sup> See *supra* 2.

<sup>8</sup> See complete list of decisions at *supra* 1.

In addition, the formulation of this requirement, closely linked with the wording of Rule 94(B) and Article 4 of the Law on Transfer, demonstrates that it cannot be a precondition for the proposed fact "not to be in dispute" between the parties (having the same meaning as not "being an issue"), as stated in earlier ICTY and some Court of B-H practice.<sup>9</sup> As an established fact only creates a presumption in favor of one party, such a presumption can always be successfully challenged through reasonable argumentation and evidence. The Panel agrees with the Prosecution's contention in this regard, which is itself based on the ICTY decisions cited.<sup>10</sup> No facts from the Prosecution Motions have been refused on the basis of this criterion.

## **2. The fact must be distinct, concrete, and identifiable**

To fulfill this prerequisite, according to the ICTY Popović et al. decision, the proposed fact must not be inextricably commingled either with other facts which do not themselves satisfy the criteria for Established Facts or with other facts that obscure the principal fact. In order to examine whether this is so, the Court must consider the proposed fact in the context of the original judgment<sup>11</sup>. No facts from the Prosecution Motions have been refused on the basis of this criterion.

## **3. The fact as formulated by the moving party must not differ in any substantive way from the formulation of the original judgment**

The Panel upholds the approach found in recent ICTY jurisprudence, namely, that in the case of minor inaccuracy or ambiguity resulting out of its "abstraction" from the original judgment, the Court may, using its discretion, correct the inaccuracy or ambiguity proprio motu. In the light of this criterion the Court refused the certain Fact-Summaries offered in the Supplementary Prosecution Motion, but accepted the facts from the first Prosecution Motion instead, as stated in the operative part of the Decision of 22 August 2008 and as shown in the Annex thereof.

The Panel concludes that even if the summaries accurately reflect a large number of discrete facts, the summaries were not adjudicated by ICTY decisions and therefore cannot be accepted as Established Facts. Moreover, the use of fact-summaries raises rather new issues as to whether the summaries accurately reflect the context of the facts summarized, whatever advantages such summaries may provide in terms of brevity.

<sup>9</sup> See this criterion being listed in the First ICTY Decision on Adjudicated Facts in the case against *Momčilo Krajišnik*, Case No. IT-00-39-T, of 28 February 2003, p.7, while this criterion was then expressly abandoned in the Second Decision on Adjudicated Facts in the same case, rendered on 24 March 2005, p. 8, footnote 45.

This criterion is listed, for example, in the Court of B-H decisions on Established Facts in the case against *Gajko Janković*, Case No. X-KR-05/161, of 4 August 2006, see Decision p. 2; in the case against *Marko Samardžija*, Case No. X-KR-05/07, of 3 November 2006, see Trial Verdict p. 19 (in BCS version p. 17), and in the case against *Radislav Ljubinac*, Case No. X-KR-05/154, of 8 March 2007, see Trial Verdict p. 18 11 (in BCS version p. 17).

<sup>10</sup> See also ICTY Decision on Adjudicated Facts in the case against *Vujadin Popović et al.*, Case 05-88-T, of 26 September 2006, para. 5, footnote 19.

<sup>11</sup> ICTY Decision on Adjudicated Facts in the case against *Vujadin Popović et al.*, Case No. IT-05-88-T, of 26 September 2006, para. 6.



**4. The fact must not be unclear or misleading in the context in which it is placed in the moving party's motion**

In order to evaluate whether the context in which the proposed fact is cited within the motion creates some confusion about its true meaning, the fact must be analyzed in its original context. If the meaning in the original judgment differs substantially in strength or content when compared with the context suggested in the motion, the fact should not be accepted.

On the basis of this criterion the Panel excluded the proposed fact No. 254. The two ICTY judgments cited give two different numbers of detainees held in Keraterm camp. The combination of these two different figures is a conclusion made by the Prosecutor's Office. As only findings stemming from the ICTY judgments are acceptable as Established Facts, but not conclusions of the moving party, even if based on such ICTY-facts, fact No. 254 has been refused.

**5. The fact must be identified with adequate precision by the moving party**

This precondition asks for a precise identification of the paragraphs of the judgment that the proposed facts have been taken from. Again, as under criterion 3., the Court may accept facts in circumstances where the party mistakenly cited the wrong paragraph of the judgment, provided that the proximity of the intended factual finding to the wrongly cited paragraph makes the mistake so obvious that the non-moving party could have understood which factual finding was intended. No facts from the Prosecution motions have been refused on the basis of this criterion.

**6. The fact must not contain characterizations of an essentially legal nature**

As highlighted in the second *Krajišnik* decision: "Many findings have a legal aspect, if one is to construe this expression broadly. It is therefore necessary to determine on a case-by-case basis whether the proposed fact contains findings or characterizations which are of an essentially legal nature."<sup>12</sup>

When analyzing ICTY's case-by-case approach, the position of the Trial Chamber within the ICTY Decision on Adjudicated Facts in the case against *Mejakić et al.*, as an example, excludes facts that speak of the existence of a "policy to commit inhuman acts against the civilian population" and of "acts that were committed on both a widespread basis and a systematic fashion" because of their legal character.<sup>13</sup> However, in contrast to this decision, the ICTY Trial Chamber decided, for example, in the case against *Krajišnik* to accept proposed facts stating that crimes were "committed during an armed conflict as part of a widespread or systematic attack on a civilian population", facts that purport that "ethnic cleansing (...) was committed in the context of an armed conflict",

<sup>12</sup> ICTY Decision on Adjudicated Facts in the case against *Momčilo Krajišnik*, Case No. IT-00-7-24 March 2005, para. 15.

<sup>13</sup> ICTY Decision on Adjudicated Facts in the case against *Željko Mejakić et al.*, Case No. IT-02-17 of 1 April 2004, p. 6.

as well as a perpetrator having taken part in "the common criminal purpose to rid the Prijedor region of the non-Serb population by committing inhuman acts".<sup>14</sup>

This Panel is of the opinion that facts containing any legal conclusions should not be accepted as Established Fact. Thus, neither facts containing a legal element of the criminal act, for example, "armed conflict" or "widespread or systematic attack", nor legal qualifications attributing a mode of perpetration, for example, the "existence of a common criminal purpose" or "having superior responsibility", have been admitted as Established Facts by this Panel. Although the examples cited in this paragraph also have a factual component, this Panel is of the view that their acceptance is excluded by this precondition, even if they only consist of "general facts placing the concrete action of perpetration in a wider context of the war events"<sup>15</sup>. Concepts like "widespread or systematic attack" or "armed conflict" are legal elements of the crimes charged and should not be considered Established Facts in order to create clearly defined boundaries for the use of this new instrument.

Despite its strict approach towards the acceptance of facts that contain legal qualifications as Established Facts, the Panel holds that once a purely factual finding has been accepted as an Established Fact, it will be treated as evidence in the same way as evidence obtained from witnesses or material evidence tendered in the ongoing trial. Therefore, this Panel, in accordance with Article 15 CPC B-H, will be free to draw its own legal conclusions on the basis of those factual findings which it accepted as Established Facts.<sup>16</sup> For not fulfilling this criterion the Court has refused to accept the proposed facts No.: 5, 11, 24 in the scope as indicated in the Annex to the Decision, 27-28, 37, 39-40, 48, 55-65, 102, 115 in the scope as indicated in the Annex to the Decision, 133-134, 138-139, 216 in the scope as indicated in the Annex to the Decision, 217, 222, 247, 305, 311 in the scope as indicated in the Annex to the Decision, and 312.

#### 7. The fact must not be based on an agreement between the parties to the original proceedings

It is of importance that the proposed fact was previously challenged in trial. Therefore, a fact taken from a judgment which is the result of a plea agreement or an agreement to regard certain facts as not being under dispute between the parties to the prior case does not meet the requirements for being accepted as an Established Fact. If not contested in the prior trial, the evidentiary value of the fact does not reach the level of persuasion necessary to produce a shift in the burden of production of evidence towards the side of the non-moving party.

<sup>14</sup> ICTY Decision on Adjudicated Facts in the case against *Momčilo Krajišnik*, Case No. IT-00-39-T, of 24 March 2005, List of Adjudicated Facts admitted by the Chamber, facts No. 323, 321, 316.

<sup>15</sup> See wording of Appeal Verdict in the case against *Dragoje Paunović*, Case No. X-KRZ-27 October 2006, p. 5 (in BCS version p. 5).

<sup>16</sup> See ICTY-Decision on Adjudicated Facts in the case against *Miroslav Kvočka et al.*, Case No. 30/1-T, of 8 June 2000, p. 6.

None of the ICTY judgments that facts were proposed from was based on a plea agreement between the Office of the Prosecutor in The Hague and the Accused, thus no facts from the Prosecution motions have been refused on the basis of this criterion.

#### **8. The fact must not relate to the acts, conduct, or mental state of the Accused**

The ICTY Popović et al. decision explains the latest ICTY practice as follows: "This exclusion focuses narrowly on the deeds, behavior, and mental state of the Accused – that is on the conduct of the Accused fulfilling the physical and mental elements of the form of responsibility through which he or she is charged with responsibility. It does not apply to the conduct of other persons for whose criminal acts and omissions the Accused is alleged to be responsible through one or more of the forms of responsibility (...)." <sup>17</sup>

In contrast to this narrow definition, the ICTY Trial Chamber in the Međakić et al. case excluded all facts concerning the living conditions inside the Omarska camp as being too tendentious, without giving any more specific explanation for its decision. <sup>18</sup>

This Panel holds that indirectly incriminating facts should not be excluded from acceptance as Established Facts. <sup>19</sup> As every piece of evidence presented in trial has to be relevant to the case, every piece of evidence tendered by the Prosecution must at least indirectly go towards establishing the responsibility of the Accused. <sup>20</sup>

In the present case, the definition of the position that the Accused had inside the camps is a conclusion that the Court must reach before the severe living conditions inside the camps can trigger criminal responsibility. Thus, the facts in question only indirectly attest to the Accused's criminal responsibility and are therefore admissible as Established Facts. No facts from the Prosecution motions have been refused on the basis of this criterion.

#### **9. The fact must not be subject to pending appeal or review**

This criterion has to be assessed particularly carefully where facts proposed are from a first instance judgment which is still under appeal. In such circumstances, a fact stemming from such a judgment under review can only be accepted if the fact itself is clearly not the subject of the appeal. <sup>21</sup> This was, for example, often the case at the ICTY, where superior military commanders or political leaders did not deny the crimes to actually have happened but appealed the first instance verdict only on the grounds that it assigned to them effective control over the direct perpetrators of the crimes.

<sup>17</sup> ICTY Decision on Adjudicated Facts in the case against *Vujadin Popović et al.*, Case No. IT-05-88-T of 26 September 2006, para. 13.

<sup>18</sup> ICTY Decision on Adjudicated Facts in the case against *Željko Međakić et al.*, ICTY Case No. IT-02-65-PT, of 1 April 2004, p. 6.

<sup>19</sup> See this criterion being named, for example, in the Decision on Established Facts in the case against *Milolj Stupar et al. (Krvica)*, Case No. X-KR-03/24, of 3 October 2006, p. 6.

<sup>20</sup> See reasoning in ICTY Decision on Adjudicated Facts in the case against *Vujadin Popović et al.*, Case No. IT-05-88-T, of 26 September 2006, para. 13, in particular footnote 48.

<sup>21</sup> ICTY Decision on Adjudicated Facts in the case against *Vujadin Popović et al.*, Case No. IT-05-88-T, of 26 September 2006, para. 14.

The four verdicts that the facts in the Prosecution Motions were taken from were appealed, and in those appeals, either the facts in question were not challenged or those challenges were not successful.<sup>22</sup> Therefore, no facts from the Prosecution motions have been refused on the basis of this criterion.

After analyzing all proposed facts singularly on the basis of all preceding criteria, the Panel took into consideration whether accepting all the admissible facts of the Prosecution motion in the composition, number and content would achieve judicial economy while still preserving the right of the Accused to a fair, public and expeditious trial. Such a test is deemed necessary as "the principle of judicial economy is more likely to be frustrated in this manner where the judicially noticed (...) facts are unduly broad, vague, tendentious or conclusory".<sup>23</sup> In the final analysis, even those facts that meet all of the above listed preconditions may be refused at the discretion of the Panel if the facts taken together infringe the Accused's right to a fair trial.

In the present case, this Panel repeatedly heard witness testimony that partly contradicts two of the proposed facts and therefore the Panel has redacted facts No. 163 and 185 as stated.

#### Facts of Common Knowledge

Apart from accepting facts deriving from prior ICTY judgments as Established Facts, the Prosecutor moved the Court to consider accepting certain facts as so-called "Facts of Common Knowledge". The ICTY and ICTR deal with such facts through Rule 94(A) RoPE. Although there is no corresponding legal provision in BiH law, this Panel draws its right to equally address this issue *a maiore ad minus* from Article 4 of the Law on Transfer which – as seen – explicitly opens the path for the direct use of factual findings which even do not rise to the level of common acceptance.

When addressing the question of how to treat facts proposed as "Facts of Common Knowledge", this Panel can rely on the initial findings of the Court of B-H in the Decision on Established Facts in the case against Miloš Stupar et al. (Kravica)<sup>24</sup>. According to this Decision, a fact can be characterized by the Court as being a Fact of Common Knowledge and the Court then has the discretionary right to accept such a fact even if the fact does not fulfill each of the criteria, namely if it "relates to an element of criminal responsibility"<sup>25</sup>. The wording of the Decisions on Established Facts rendered within the Trial Verdicts against Paunović, Samardžija and Ljubinac seem to indicate a

<sup>22</sup> See ICTY Appeal Judgements in the cases against: *Dakić Tadić*, Case No. IT-94-1-A, of 15 July 1999, *Miroslav Kvočka, et al.*, Case No. IT-98-30/1-A, of 28 February 2003, *Milomir Stakić*, Case No. IT-97-24-A, of 22 March 2006, and *Radoslav Brđanin*, Case No. IT-99-36-A, of 3 April 2007.

<sup>23</sup> ICTY Decision on Adjudicated Facts in the case against *Vujadin Popović et al.*, Case No. IT-05-88-T, of 26 September 2006, para. 16.

<sup>24</sup> Decision on Established Facts in the case against *Miloš Stupar et al. (Kravica)*, Case No. X of 3 October 2006, p. 6.

<sup>25</sup> Decision on Established Facts in the case against *Miloš Stupar et al. (Kravica)*, Case No. X of 3 October 2006, p. 6.

similar approach to Facts of Common Knowledge, all speaking of certain facts being "beyond dispute".<sup>26</sup>

With regard to the criteria for identifying a fact as one of Common Knowledge, this Panel endorses the standards elaborated by the ICTY/ICTR practice in regard of Rule 94(A).<sup>27</sup> In accordance with this practice, a fact can only be regarded as having risen to the level of being "Fact of Common Knowledge" if it can no longer be reasonably disputed.

The ICTY Trial Chamber in the *Popović et al.* case denied the status of Common Knowledge because of the insufficiency of the judicial and documentary record provided by the Prosecution to prove that this fact was notorious and commonly accepted.<sup>28</sup> As the Prosecution in this ICTY case provided a wide range of documents from different judicial, academic and political sources in support of its motion, the level of persuasion that has to be met for proving the existence of Common Knowledge about a specific fact at the ICTY seems to be particularly high.

This Panel adopts a conservative approach, requesting the same high level of persuasion for a fact to be qualified as being Common Knowledge as required at the ICTY. Therefore, the evidence cited to prove the existence of Common Knowledge about a specific fact does not only have to derive from a variety of reliable sources, but also have to make explicitly reference to the fact in question showing the common acceptance this fact has gained.

The Prosecution moved the Court to accept as Facts of Common Knowledge facts that contain legal conclusions such as a "widespread or/and systematic attack" having occurred in the area of Prijedor Municipality. Excluded for the same reason according to criterion No. 6 above, there are also the facts speaking to the existence of a "common purpose" or "joint criminal enterprise" to ethnically cleanse the Prijedor area from non-Serbs, as well as other facts containing different legal conclusions that are refused above according to criterion No. 6.

In this Panel's view, as already elaborated under criterion No. 6. concerning Established Facts, only factual information can be qualified as a Fact of Common Knowledge if the necessary common acceptance of the fact can be proven as elaborated above. Facts containing legal conclusions, in the opinion of this Panel, cannot be qualified as Facts of Common Knowledge, as it is up to the Court in each specific case to draw legal conclusions from the evidence. For these reasons, the facts refused above in accordance with criterion No. 6 cannot be qualified as Facts of Common Knowledge.

The facts that have been refused on the basis of criteria No. 3. and 4., as well as the facts refused according to the Overall Test, have not been accompanied by evidence which

<sup>26</sup> Trial Verdict in the case against *Dragoje Pajović*, Case No. X-KR-05/16, of 26 May 2006, p. 15; Trial Verdict in the case against *Marko Samardžija*, Case No. X-KR-05/07, of 3 November 2006, p. 17; Trial Verdict in the case against *Radoslav Ljubinac*, Case No. X-KR-05/154, of 8 March 2007, p. 22.

<sup>27</sup> See for example: ICTY Decision on Facts of Common Knowledge in the case against *Vujadin et al.*, Case No. IT-05-88-T, of 26 September 2006, para. 13.

<sup>28</sup> ICTY Decision on Facts of Common Knowledge in the case against *Vujadin Popović et al.*, IT-05-88-T, of 26 September 2006, para. 18.

would prove their common acceptance. The Court itself is not aware of the existence of common knowledge which would otherwise qualify these particular facts as per se Facts of Common Knowledge.

Finally, after an analysis of the practice of this Court and that of the ICTY, the Panel endeavored to abide by the strictest criteria for the acceptance of facts established in ICTY judgments, striking a balance between the goal of judicial economy through shortening the evidentiary proceedings, on the one hand, and the Accused's right to a fair and just trial, on the other.

The Defense Counsel for the Accused did not submit motions for judicial notice of facts established in ICTY judgments.

#### **Non-acceptance of certain evidence by the Court**

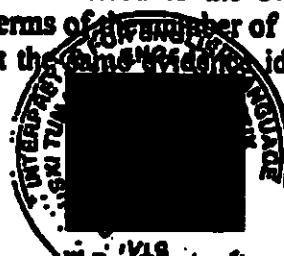
By the application of provisions of the Law on the Transfer of Cases from the ICTY to the Prosecutor's Office of B-H and the Use of Evidence Collected by ICTY in Proceedings before the Courts in B-H, the Court accepted certain evidence obtained in the proceedings before the ICTY, including the finding, that is, testimony of the expert witness Nikolas Sebire.

The Court refused to accept some evidence proposed by the Prosecution and the Defense due to its irrelevance for deliberation in the present case, as well as in the instances when a certain previous statement was not presented to a witness at the main trial, that is, when it was not used in the course of witness examination before this Court. The Court accepted certain Prosecution evidence proposals opposed by the Defense, as it held the said evidence to be relevant to the present case, which particularly concerns the evidence that had already been the subject of evidentiary proceedings in other trials before the ICTY. Finally, the Defense had opposed the tendering of certain evidence, but used it in the cross-examination, as was the case with, for example, Exhibit No. 2 – the Omarska Camp scale model.

#### **Prosecutor's Office of BiH - Closing argument**

Prosecutor Peter Kidd structured his Closing Argument in three major parts relating to the three remaining accused persons in this case.

As for the first accused, Željko Mejakić, the Prosecutor started by pointing out that Mr. Mejakić's own confession given during his testimony before the Court, would suffice to convict him as charged in the Indictment. The Prosecution pointed to a number of facts that could be taken by the Court to conclude that it was precisely the accused Mejakić who held the position of the only Chief of Security in the Omarska camp, as was stated in the Indictment, and that his authority and permanent presence in the camp made him the de facto camp commander. Prosecutor Kidd then referred to the evidence that contradicted the allegations made by the Defence in terms of the number of victims and the nature of the entire camp system, and stated that the same evidence identifies the



accused Mejakić as a loyal disciple to the same system, notwithstanding that his position and role in the camp, as well as his background as a professional police officer, obligated him to protect the detainees. Contrary to this obligation, the accused Mejakić allowed various groups inside the camp to take turns in ill-treating and killing the detainees. Although aware of the overall situation and to a large extent of the individual criminal offences that left the consequences he could see every day in Omarska, he not only failed to fulfil his responsibility to the detainees and prevent their abuse and killing to the extent possible, but he left them to be constantly attacked and to suffer poor living conditions in general.

Concerning the second-accused, Momčilo Gruban, the Prosecution first presented numerous facts that could lead the Court to conclude that the accused held a position of one of the three Shift Leaders in the Omarska camp. His shift was called "Čkalja's shift", which is a nickname of the accused. The Prosecution submitted that his behaviour towards the guards and detainees, the fact that he had control over the situation in the entire camp during his shift, that he exercised other duties like registering the names of detainees that was not done by plain guards and the fact that he used the office on the first floor of the administrative building, like other shift leaders did, all suggest that Momčilo Gruban was a Shift Leader. The Prosecution further submitted that, according to the majority of witnesses, Momčilo Gruban's shift was the best one in the Omarska camp. Both Defence and Prosecution witnesses described the accused Gruban as a person of positive character in such difficult conditions, they said that they would turn to him for all kinds of assistance and that he would help them best he could. The Prosecution, however, submitted that the criminal offences were perpetrated during Gruban's shift as well, although not in the same number and scope as during the other two shifts in the Omarska camp, and that even though the accused Gruban knew about the criminal nature of the camp, he nevertheless kept the system going by his own work.

Reflecting upon the third-accused, Duško Knežević, prosecutor Kidd focused on the issue of identity of the individual in the courtroom and the perpetrator of a number of criminal offences that were analyzed by the Prosecution in written form. The Prosecutor started by referring to numerous evidence that the Court could take to conclude that the crimes committed in the Omarska and Keraterm camps were always perpetrated by one same individual who was called "Duća," and that according to the descriptions of his physical appearance, his probable age, his behaviour, objects used for the abuse of detainees and the same well drilled routine followed in all incidents, some of which were documented in official notes, it must have been the same person. The Prosecutor then tried to prove that this sole perpetrator was precisely this Duško Knežević, the individual present in the courtroom. The Prosecutor supported the conclusion by a number of facts, like the nickname of the accused, who was known by it among the detainees, then stating that his place of residence was in Orlovci and that some of the detainees knew him from there, then the fact that this Duško Knežević was a goal-keeper in the football club and worked as a waiter. He particularly emphasised the evidence obtained by the Defence witnesses and the accusations that he tried to find the individuals in the camps who were responsible for his brother's death. The Prosecutor further submitted that the majority of witnesses failed to identify the accused in the courtroom, but that it should not be given much weight, as a lot of time had passed. Then, the physical appearance of the accused had changed, he now had his head shaved



and wore a suit, and the witnesses had a limited range of sight in the courtroom and could not properly see the accused. The Prosecutor concluded that all the foregoing objective criteria undoubtedly make the accused and the perpetrator one and the same person.

### **Defence for the accused Željko Mejakić – Closing Arguments**

In their Closing Arguments, the Defence Counsel for the accused Željko Mejakić – attorneys Jovan Simić from Belgrade and Ranko Dakić from Prijedor, pointed to the lack of credibility of the witnesses and to the deficient documentary evidence. They submitted that the events in the camps in the Prijedor Municipality were exaggerated. Reflecting upon Nickolas Sabire's report, the Defence identified mistakes in it, given that the names of survivors were allegedly included in the list of victims among the camp detainees, as well as false code numbers of the total number of victims. The Defence further submitted that some of the witnesses before the Court requested protective measures that were not actually necessary and that the Prosecution prepared the witnesses for testifying in an improper manner.

According to the Defence, the Prosecution was supposed to amend the Indictment not later than the moment when the proceedings against Dušan Fuštar were separated, and the Defence should have been given some time to prepare for such an amended Indictment in order to adjust the defense with the new substance of the Indictment. The Defence further submitted that in absence of such a procedure, the Court itself was prevented from harmonising the account of facts with the amended Indictment after the presentation of evidence.

Attorney Jovan Simić reiterated that his defendant took over the position of the Chief of Security in the Omarska camp from Miroslav Kvočka and that Željko Mejakić did not personally commit any criminal offence while he held that position. The Defence disagrees with the allegation made in the Indictment that Mejakić was the de facto camp commander. According to the Defence, in reality, Mejakić did not have any authority over the group of interrogators who questioned the detainees in the camp, he could not have prevented the Special Police from Banja Luka, which spent some time in the camp, to perpetrate criminal offences, and he was not superior to members of the Territorial Defence that were directly involved in the outer circle of security in the camp, given that the Police had to be subordinated to the Army in time of war. The Defence also submitted that Željko Mejakić could not have stopped those who visited the camp. In a detailed analysis of witness testimonies, the Defence pointed to, in their opinion, significant discrepancies and differences between this body of evidence and the allegations of the Indictment.

Along these lines, the Defence voiced their legal opinion as to the necessity of establishing a de iure superior-subordinate relationship in order to be able to establish criminal responsibility. Actually, the Defence argued that command was an ICTY concept, not applicable in BiH. In addition to this legal ground, the Defence also submitted that Simo Drijača would not have tolerated any other de facto authority in his proximity. The Defence Counsel for Željko Mejakić also criticised establishing of criminal responsibility on the ground of his participation in the JCE, given that, in their



opinion, anyone who was ever in the Omarska camp could be charged in the Indictment on the grounds of mere presence. The Defence agreed to this principle provided that it be applied to the highest political officials in the region, but they opposed to it if it be applied only to attempt to charge Željko Mejakić on the grounds of JCE with all the offences perpetrated at higher levels, since the Omarska camp would have existed even without his participation.

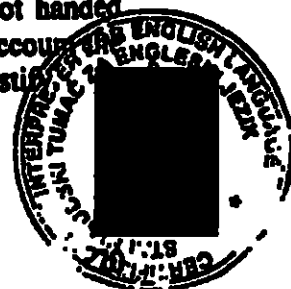
In his analysis of the elements of the criminal offences his defendant was charged with, attorney Simić argued that the number of criminal offences committed in the Omarska camp did not indicate that they were perpetrated in an organised manner. According to the Defence, the camp was established with the purpose of establishing who among the detainees posed a risk to the Serb authorities. Attorney Simić argued that his defendant may not be held responsible on the grounds that the originally planned period of detention of 2-3 weeks was extended due to those interrogations, since he, as a plain police officer, did not have any authority to release the detainees.

The Defence also submitted that Mejakić could not have changed the living conditions in the camp in terms of food, size of rooms, water or medical supply. The Defence reflected upon every single incident involving abuse or killing in the camp and pointed out that the accused Mejakić was not present in the camp at the relevant time, or that the evidence corroborating certain incident was not consistent. They also pointed to the complete absence of the evidentiary foundation, argued that the deaths were a consequence of a natural disease or attempted escapes of detainees from the camp, and that the crimes happened outside the camp following the disappearance of detainees from the camp.

The accused Željko Mejakić personally exercised his right to have the last word in order to support his Defence Counsel. Having expressed his regret for all the victims of the war, particularly in the Prijedor area, he drew the attention of the Court to his voluntary surrender to the Serb authorities. The accused reiterated that he entirely adhered to his statements given during his testimony at the main trial, notwithstanding that he did not have the legal possibility to swear an oath with regard to those. The accused Mejakić further submitted that he was not involved in establishing the camp, that he had no authority to release any detainee, but that he, together with Momčilo Gruban and other police officers, helped the detainees. Finally, Željko Mejakić thanked the Court for the fair conduct of the proceedings.

#### **Defence Counsel for the accused Momčilo Gruban – Closing Arguments**

The Defence Counsel for Momčilo Gruban, attorneys Duško Panić and Goran Rodić, argued that the absence of transcripts before the Court of BiH made it impossible to follow the trial and that it was contrary to the provisions of Articles 153/1/ and 253/1/ and 2/ of the CPC of BiH. The Defence pointed to some portions of audio records and noted that they did not correspond to the interpretation of the same testimonies by the Prosecution. They further submitted that some of the audio records were not handed over to the parties in time, so that the Prosecution was not able to take into account extenuating information provided by the defence witnesses who were last to testify.



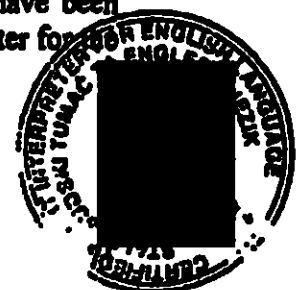
Attorney Panić noted that individual camps in the Prijedor Municipality were not linked together in legal terms, but that each of them existed as a separate unit. The Defence also emphasised a serious lack of organisation and a high level of improvisation in establishing and running the camps. Momčilo Gruban's lawyers raised an objection to the Prosecution that by using the JCE concept, they made everyone guilty, regardless of the shift in which the criminal offences were perpetrated.

Attorney Panić submitted that his defendant could not be held responsible for the criminal offences he is charged with either under direct or command responsibility. According to the Defence, there was no evidence to support the allegation from the Prosecution that Momčilo Gruban was the leader of one of the three shifts in the Omarska camp. The facts used by the Prosecution to try to prove that their defendant held such a position, did not show that Gruban had authority, quite the opposite, they showed that he was a plain guard. The Defence specially emphasised that, the fact that a person recorded arrivals and departures from the camp does not suggest that an individual held an important position and that everyone in the camp was called "sergeant" or "chief". According to the Defence, there were only eight witnesses who provided a more detailed account of Momčilo Gruban's role and explained why they considered him to be the leader of one of the shifts, but even these few witnesses were inconsistent in their testimonies.

The Defence Counsel for Momčilo Gruban addressed individual incidents involving the killings or disappearances of Omarska camp detainees by submitting that their defendant did not have authority to release anyone from the camp and that the incident when Enes Kapetanović was singled out from one group of detainees happened by pure chance. As for the killing of a large group of detainees from the Brdo area, the Defence argued that the evidence in support of this incident was too vague to be used as grounds to render a verdict for such a large number of victims. To that end, the Defence submitted that no analogy could be made to conclude that the similar massacre took place in Omarska as the one in room number 3 of the Keraterm camp in the same night.

The Defence pointed out the inconsistent testimonies given by the witnesses before the ICTY and the Court of BiH pertaining to Gruban's knowledge of the abuse of the detainees and his instructions that the real situation in the camp be veiled during the visits of the Red Cross. They also indicated the absence of evidence to prove that individual incidents took place in the Omarska camp precisely when the shift Gruban was assigned to was in the camp.

According to his Defence, Momčilo Gruban was bound by law to respond to the mobilization call-up and he was assigned to the particular location in Omarska as a reserve police officer and he did not choose it personally. In the given situation, he did his best to make life generally more tolerable for the detainees. He brought them food secretly and made their life more tolerable to such an extent that even the Prosecution witnesses thanked him in the courtroom for his help. Former detainees testified also as Defence witnesses and, having completed their testimonies, they asked the Court to acquit Momčilo Gruban. The Defence also submitted that while it would have been better for Gruban personally that he had left the camp, would it have been better for detainees.



In his Closing Argument, the accused Gruban entirely supported the submissions made by his Defence Counsel.

#### **Defence Counsel for the accused Duško Knežević – Closing Arguments**

The Defence Counsel for the third-accused, attorneys Nebojša Pantić and Milenko Ljubojević, linked their defence strategy to the defence presented for the first accused and stated that they endorsed the arguments provided by attorney Simić as their own arguments.

The Defence Counsel for Duško Knežević reiterated their main argument that their defendant was misidentified and that the wrong man was charged with the crimes committed by another person. The Defence further submitted that the fundamental evidence was based only on indirect information provided by witnesses about the names of perpetrators of the criminal offences in the Prijedor Municipality camps.

According to the Defence, the important witnesses failed to recognise in the courtroom the person they knew from the camp and, contrary to the allegations made by the Prosecution, direct identification of the perpetrator in the courtroom plays an important role, especially in common law court proceedings.

The Defence also wondered how could any person commit such brutal criminal offences during the war, like those their defendant is charged with, and that there is no record of any breach of law by the same person after the war, as opposed to Zoran Žigić, for instance, who was involved in criminal activities after the war as well and was also convicted by the Military Court in Banja Luka.

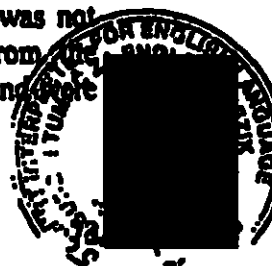
Attorney Pantić proceeded by saying that it clearly followed from the testimonies of defence witnesses that some of the criminal offences his defendant was charged with were actually perpetrated by other individuals and that Duško Knežević was brought before the court only to be the scapegoat.

The Defence Counsel for Duško Knežević also submitted that the Indictment remained unclear until the very end and, same as the Defence Counsel for the first and second accused, reaffirmed the principle of application a more lenient law and the *nulla poena sine lege* principle. In his Closing Argument, the accused Duško Knežević entirely supported the Closing Argument of his Defence Counsel.

Having evaluated all the presented evidence in detail, both individually and in their interconnection, the Court has established the following:

#### **THE OMARSKA CAMP**

The evidentiary proceedings showed that the first group of detainees was brought to Omarska camp during the night between 27 and 28 May 1992 (fact No: 156), while the very last detainees were taken from the camp around 21 August 1992. This was not disputed even by the Defence. The mentioned facts followed primarily from the testimonies of heard prosecution witnesses who were imprisoned in the camp and were



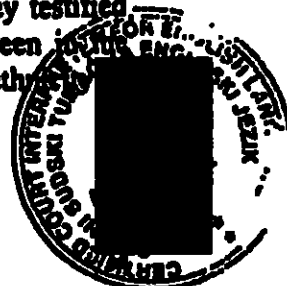
corroborated by the accused Željko Mejačić himself, in his testimony given as a witness at the main trial. According to witness Fadil Avdagić, he was deprived of liberty and spent some time in the Keraterm camp, then he was transferred to the Omarska camp during the night between 27 and 28 May 1992. This witness also stated that detainees were transported by 21-22 buses to the Omarska camp and that approximately 1000 people were transferred from the Keraterm camp to the Omarska camp. Witness K018, who was deprived of liberty on 26 May 1992, stated that he was brought to the Omarska camp on 28 May 1992 and that at the time, he counted 21 buses bringing detainees. In his testimony, witness K041 stated that, having been deprived of his liberty, he spent one night in Benkovac and was then brought to the Omarska camp on 28 May 1992, together with others on two buses. The Court based their conclusion that the Omarska camp actually started functioning on 28 May 1992, similarly on the testimony given by witness Ermin Striković, who stated that having spent 24 hours in Keraterm, he was brought to the Omarska camp in the night of 28 May 1992 and claimed that he was the very first detainee brought to the camp. Like other witnesses before him, he also stated that detainees were transported there in a number of buses. It undoubtedly followed from the testimonies of the mentioned witnesses that the first detainees arrived in the Omarska camp on 28 May 1992 and that there were many of them, since all the witnesses claimed that there were many buses bringing detainees to the camp that night. As already mentioned, even the accused Željko Mejačić confirmed these assertions made by the Prosecution witnesses, and as a defence witness he also stated that he personally learned that the camp was set up in the night between 27 and 28 May 1992 and that he himself arrived in the camp on 28 May 1992 in the morning hours, therefore shortly after the camp started functioning.

According to the testimonies of the Prosecution witnesses, new detainees were being brought to the camp in the days to follow. Witness Asmir Baltić stated that he was brought to the Omarska camp on 30 May 1992, as well as witnesses Emir Beganović, Azedin Oklopčić, K042, K037, K017, then witness K034, who stated he had been brought to the Omarska camp on 29 or 30 May 1992. The mentioned facts lead to the conclusion that following the establishment of the Omarska camp, new detainees were brought there on a daily basis and the majority of rooms in the camp were full to capacity. It followed from the testimony of witness Asmir Baltić, who was originally placed in the room called "Mujina soba", that the living conditions there were tolerable at the beginning, but later on, as new detainees were arriving, it became crowded and too hot. Witness K023 said that he was among those detainees who arrived first and that he found around one hundred detainees in the room, but as new detainees continued to arrive, they had less and less space. It also followed from the presented evidence that the whole time the Omarska camp existed, new detainees were being brought. According to witness Kerim Mešanović, he was brought to the camp on 24 June 1992, witness Zlata Cikota on 23 June 1992, witness Nusret Sivac on 10 June 1992, witness Enes Kapetanović on 12 June 1992, witness K019 on 14 July 1992, while witnesses Anto Tomić, Izet Đešević, K015 and other detainees were brought there from the Keraterm camp on around 4 July 1992. Hence, the whole time the camp was in operation, new detainees were being brought in and only a few were released from the camp, like witness Fadil Avdagić, for instance, who left Omarska on 16 June 1992. The first mass-scale transfer of detainees from the Omarska camp to the Trnopolje and Manjača camps took place on 5 or 6 August 1992. Witness K034 left the Omarska camp on 6 August 1992 and was taken to Manjača, just like witness K023 and witness Kerim Mešanović.



Witness Enes Kapetanović was taken from the camp on 5 August 1992, witness Asmir Baltić on 5 or 6 August 1992 and witness Ermin Striković on 7 August 1992. Witness Senad Kapetanović said that he left Omarska in early August 1992, witness Emir Beganović on 6 August 1992 and witness Azedin Oklopčić on 5 August 1992. After those days when the majority of detainees left the camp, only a small number of detainees remained, including witnesses K017 and Saud Bešić. According to these witnesses, a large group of detainees left the camp on 6 August 1992, so that around 174 detainees remained in the camp according to witness K017, while witness Saud Bešić stated that there were between 147 and 162 detainees who remained. Witness K017 said that he left the Omarska camp on 21 August 1992, while witness Saud Bešić left on 22 August 1992 and he said that the Omarska camp was closed down soon thereafter. In keeping with the previously established facts, the account of facts as stated in the Indictment was corrected by changing the dates of operation of the Omarska camp when the accused Željko Mejakić was the de facto camp commander. The Court indisputably established that the accused Mejakić took over the position in the camp on 28 May 1992 and that he held that position until 21 August 1992, when the camp stopped operating and when he was seen there by the detainees who were the last to leave the camp, more precisely witnesses K017 and Saud Bešić. Relevant reasoning in support of such conclusion is provided in the part of the Verdict pertaining to the responsibility of the accused Željko Mejakić.

The fact that Bosnian Muslims, Croats and other non-Serbs were imprisoned in the Omarska camp (fact No: 167) was established on the grounds of testimonies given by witnesses or individuals imprisoned in the camp. Witness Asmir Baltić stated that he was a Bosniak Muslim by ethnicity, witness Ermin Striković said that he was a Bosniak by ethnicity, so did witnesses Azedin Oklopčić, Fadil Avdagić, K01, K027, Nusret Sivac, K037, Izet Dešević and K022, while witnesses K041, K023, Saud Bešić, Enes Kapetanović, Mustafa Puškar, Sakib Jakupović, K042, Said Bešić, K036, K03 and K019 stated that they were Muslims. Witness Anto Tomić stated that he was Bosnian by nationality, witness Kerim Mešanović said that he was Bosnian of Islamic faith, while witness K035 stated that he was a Croat-Catholic. Witnesses who testified about the detainees who were killed or beaten up in the Omarska camp stated that they were Bosniaks or Croats. According to witness Asmir Baltić, Slavko Ećimović was of Croat ethnicity and the Court will reflect upon his beating and death at a later stage, then witness K041 stated that members of the Garibović family were Muslims, same as Dr. Osman Mahmuljin, as was also confirmed by witness Nusret Sivac who said that Dr. Mahmuljin was a Bosniak. Witnesses Ermin Striković and Fadil Avdagić stated that Silvije Sarić was of Croat ethnicity, Emir Karabašić was Bosniak, while witness Ermin Striković together with witness K018 confirmed that Miroslav Šolaja was of Croatian ethnicity. According to witness Zlata Cikota, Abdullah Puškar was a Muslim, same as Husein Crmkić, Nedžad Šerić, Esad Mehmedagić and Ago Sadiković, which was also confirmed by witness Kerim Mešanović, who also stated that Dr. Enis Begić was a Muslim. Witness Nusret Sivac said that Ago Sadiković and Rizah Hadžalić were Bosniaks, while witness K03 stated that Ismet Hodžić was a Muslim. Therefore, all the mentioned witnesses, detainees of the Omarska camp, who were heard before the Court, stated that they were Bosniaks, Muslims or Croats-Catholics, and when they testified about the fate of people they knew before the war and whom they had seen in the Omarska camp and whose plights they described, they also mentioned their ethnicity.



followed from these testimonies that Bosnian Muslims, Croats and other non-Serb inhabitants of the Prijedor Municipality were imprisoned in the Omarska camp.

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The evidentiary proceedings showed that the first group of detainees was brought to Omarska camp during the night between 27 and 28 May 1992 (Fact No. 156), while the very last detainees were taken from the camp around 21 August 1992. This was not disputed even by the Defence. The mentioned facts followed primarily from the testimonies of heard prosecution witnesses who were imprisoned in the camp and were corroborated by the accused Željko Mejakić himself, in his testimony given as a witness at the main trial. According to witness Fadil Avdagić, he was deprived of liberty and spent some time in the Keraterm camp, then he was transferred to the Omarska camp during the night between 27 and 28 May 1992. This witness also stated that detainees were transported by 21-22 buses to the Omarska camp and that approximately 1000 people were transferred from the Keraterm camp to the Omarska camp. Witness K018, who was deprived of his liberty on 26 May 1992, stated that he was brought to the Omarska camp on 28 May 1992 and that at the time, he counted 21 buses bringing detainees. In his testimony, witness K041 stated that, having been deprived of his liberty, he spent one night in Benkovac and was then brought to the Omarska camp on 28 May 1992, together with others on two buses. The Court based their conclusion that the Omarska camp actually started functioning on 28 May 1992 similarly on the testimony given by witness Ermin Striković, who stated that having spent 24 hours in Keraterm, he was brought to the Omarska camp in the night of 28 May 1992 and claimed that he was the very first detainee brought to the camp. Like other witnesses before him, he also stated that detainees were transported there in a number of buses. It undoubtedly followed from the testimonies of the mentioned witnesses that the first detainees arrived in the Omarska camp on 28 May 1992 and that there were many of them, since all the witnesses claimed that there were many buses bringing detainees to the camp that night. As already mentioned, even the accused Željko Mejakić confirmed these assertions made by the Prosecution witnesses and as a defence witness he also stated that he personally learned that the camp was set up in the night between 27 and 28 May 1992 and that he himself arrived in the camp on 28 May 1992 in the morning hours, therefore shortly after the camp started functioning.

According to the testimonies of the Prosecution witnesses, new detainees were being brought to the camp in the days to follow. Witness Asmir Baltić stated that he was brought to the Omarska camp on 30 May 1992, as well as witnesses Emir Beganović, Azedin Oklopić, K042, K037, K017, then witness K034, who stated that he had been brought to the Omarska camp on 29 or 30 May 1992. The mentioned facts lead to the conclusion that following the establishment of the Omarska camp, new detainees were brought there on a daily basis and the majority of rooms in the camp were full to capacity. It followed from the testimony of witness Asmir Baltić, who was originally placed in the room called *Mujina soba* (*Mujo's room*), that the living conditions there were tolerable at the beginning, but later on, as new detainees were arriving, it became crowded and too hot. Witness K023 said that he was among the first detainees who arrived first and that he found around one hundred detainees, but as new detainees



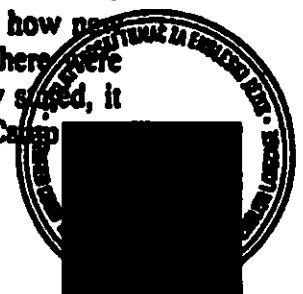
continued to arrive, they had less and less space. It also followed from the presented evidence that the whole time the Omarska camp existed, new detainees were being brought. According to witness Kerim Mešanović, he was brought to the camp on 24 June 1992, witness Zlata Cikota on 23 June 1992, witness Nusret Sivac on 10 June 1992, witness Enes Kapetanović on 12 June 1992, witness K019 on 14 July 1992, while witnesses Anto Tomić, Izet Đešević, K015 and other detainees were brought there from the Keraterm camp on around 4 July 1992. Hence, the whole time the camp was in operation, new detainees were being brought in and only a few were released from the camp, like witness Fadil Avdagić, for instance, who left Omarska on 16 June 1992. The first mass-scale transfer of detainees from the Omarska camp to the Trnopolje and Manjača camps took place on 5 or 6 August 1992. Witness K034 left the Omarska camp on 6 August 1992 and was taken to Manjača, just like witness K023 and witness Kerim Mešanović. Witness Enes Kapetanović was taken from the camp on 5 August 1992, witness Asmir Baltić on 5 or 6 August 1992 and witness Ermin Striković on 7 August 1992. Witness Senad Kapetanović said that he left Omarska in early August 1992, witness Emir Beganović on 6 August 1992 and witness Azedin Oklopić on 5 August 1992. After those days when the majority of detainees left the camp, only a small number of detainees remained, including witnesses K017 and Saud Bešić. According to these witnesses, a large group of detainees left the camp on 6 August 1992, so that around 174 detainees remained in the camp according to witness K017, while witness Saud Bešić stated that there were between 147 and 162 detainees who remained. Witness K017 said that he left the Omarska camp on 21 August 1992, while witness Saud Bešić left on 22 August 1992 and he said that the Omarska camp was closed down soon thereafter. In keeping with the previously established facts, the account of facts as stated in the Indictment was corrected by changing the dates of operation of the Omarska camp when the accused Željko Mejakić was the de facto camp commander. The Court indisputably established that the accused Mejakić took over the position in the camp on 28 May 1992 and that he held that position until 21 August 1992, when the camp stopped operating and when he was seen there by the detainees who were the last to leave the camp, more precisely witnesses K017 and Saud Bešić. Relevant reasoning in support of such conclusion is provided in the part of the Verdict pertaining to the responsibility of the accused Željko Mejakić.

The fact that Bosnian Muslims, Croats and other non-Serbs were imprisoned in the Omarska camp (fact No: 167) was established on the grounds of testimonies given by witnesses or individuals imprisoned in the camp. Witness Asmir Baltić stated that he was a Bosniak Muslim by ethnicity, witness Ermin Striković said that he was a Bosniak by ethnicity, so did witnesses Azedin Oklopić, Fadil Avdagić, K01, K027, Nusret Sivac, K037, Izet Đešević and K022, while witnesses K041, K023, Saud Bešić, Enes Kapetanović, Mustafa Puškar, Sakib Jakupović, K042, Said Bešić, K036, K03 and K019 stated that they were Muslims. Witness Anto Tomić stated that he was Bosnian by nationality, witness Kerim Mešanović said that he was Bosnian of Islamic faith, while witness K035 stated that he was a Croat-Catholic. Witnesses who testified about the detainees who were killed or beaten up in the Omarska camp stated that they were Bosniaks or Croats. According to witness Asmir Baltić, Slavko Ećimović was of Croat ethnicity and the Court will reflect upon his beating and death at a later stage, then witness K041 stated that members of the Garibović family were Muslims, same as Dr. Osman Mahmuljin, as was also confirmed by witness Nusret Sivac who said that Dr. Mahmuljin was a Bosniak. Witnesses Ermin Striković and Fadil Avdagić stated that



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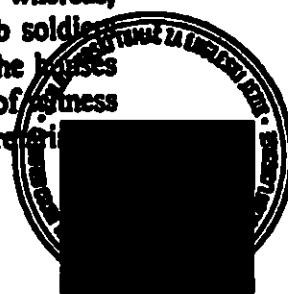
Based on the statements of the witnesses it stems that the Omarska Camp consisted of two large buildings, namely the administration building and the hangar building, as well as of two smaller buildings called the "white house" and the "red house" (Fact No. 160). In addition, a clear view of the Omarska Camp and of the position of the buildings within the Camp's complex is also provided by the scale-model of the Camp, which was tendered as Exhibit No. 2 upon the motion of the Prosecutor's Office of BiH during the referenced proceedings, whose authenticity was confirmed in the criminal proceedings against Miroslav Kvočka and Duško Tadić before the Hague Tribunal, as well as other scale-related pieces of evidence – the photographs of the scale model, the sets of the photographs of the Omarska Camp and the sketches and plans of the Omarska Camp. Detainees were held in the three above-mentioned buildings, as well as on the concrete strip called the pista, which was located between the administration buildings and the hangar building shaped as letter L, which also stems from the above-mentioned evidence. The statements of the heard witnesses suggest that the majority of detainees were held in the hangar building, which is also the largest building within the Camp complex. According to the claims of the heard witnesses, around 3.000 civilians were detained in the Omarska Camp (Fact No. 166), which stems from the statements of the witnesses, that is, from the documentary evidence in the case file, among whom there were also between 36 and 38 women, which stems from the statement of Witness K035, which was also confirmed by the accused Mejakić himself in his statement. According to the statement of witness Asmir Baltić, between 3.000 and 3.500 people were detained in the Camp, which he estimated by the number of the groups of detainees when they would go to lunch, in the manner that there were 180 lines of detainees who would go to lunch in groups of 30 persons. From the statement of witness Kerim Mešanović it stems that around 3.000 detainees were held in the Omarska Camp, since this witness noted that detainees would go to have meals in groups of 30 persons and that there were around a hundred groups and he could estimate this because he was held in the room called the glass-house, which was located right by the restaurant, so that he was able to see the detainees coming to lunch. According to the estimation of witness Azedin Oklopić, around 3.500 people were held in the Omarska Camp, whereby witness Zlata Cikota, who was brought to the Camp on 23 June 1992, noted that she observed frequent arrivals of new detainees, as well as Witness K027, who watched how new detainees were brought to the Camp on a daily basis and who noted that there were around 3.500 detainees in the Camp, based on which, as it has been already stated, it stems that detainees were brought during the whole time the Omarska Camp



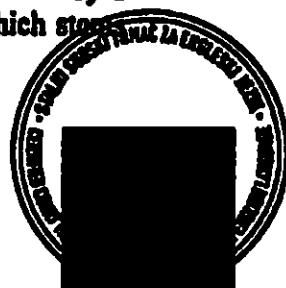


operational. With regard to the allegations in the Indictment, the Court has made a correction in the operative part of the Verdict in terms of the number of civilians who were detained in the Camp, and has found it realistic that the number of civilians amounted to around 3.000, which also allows the possibility that the number of the detainees was lower but also higher than the set one, as it was noted in the Indictment. The above-mentioned number was confirmed by the accused Željko Mejakić himself in his statement given as a witness while he was presenting the information on the number of the persons who were transferred from the Omarska Camp to the Manjača and Trnopolje camps on 6 August 1992. The accused Mejakić noted that on this occasion around 1.350 persons were transferred to Manjača, while around 1.750 were transferred to Trnopolje, whereas 171 men and 5 women were left in the Omarska Camp, which overall surpasses the number of 3.000 persons. In addition, from the Report of the Prijedor Public Security Station (Exhibit No. 26) that was forwarded to the Commission of the Banja Luka Public Services Centre it also stems that during the period from 27 May 1992 until 16 August 1992 the total number of 3.334 persons who were subjected to interrogation were held in the Omarska Camp, which was also noted in the Report of the Banja Luka Public Services Centre (Exhibit No. 27).

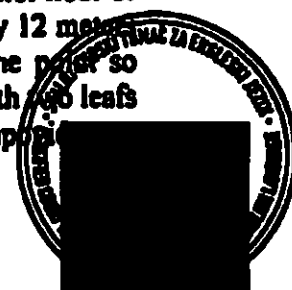
The fact that these were civilians from the Prijedor Municipality stems primarily from the statements of the heard witnesses, who were personally detained in the Omarska Camp and who noted in their statements that they were apprehended in their houses, apartments and in the street, that they were not members of any military unit at the moment of their apprehensions and that they were unarmed. Therefore, witness Asmir Baltić noted that he was at home when the attack was launched, after which soldiers knocked at people's doors and took them out. In his statement the witness noted that they first asked him for his name and surname and that he answered that his surname was Baltić and as soon as he told them his first name the persons who came to his door, having been assured that he was a person of Bosniak ethnicity, told him "get out". Witness Asmir Baltić stressed that all men who were found in their houses were taken away and that they were all Muslims. From the statement of witness Ermin Striković it stems that he surrendered himself as a civilian to the Serb soldiers, as well as witnesses K023, K042 and Said Bešlić, who were apprehended together with their fellow-citizens in the column of civilians which headed towards Prijedor, and then they were taken to the Camp. According to the statement of Witness K017, after Prijedor was shelled, on 30 May 1992 at 3:30 a.m. the Serb soldiers showed up and ordered the citizens to get out from their houses and apartments, after which they forced them to move towards the center of Prijedor, so that everybody set off, as he stated, including his family and neighbors. While he was describing the events that took place when he was deprived of liberty, witness Fadil Avdagić noted that, after the Kozarac settlement was shelled, a column of inhabitants who were all Muslims and a small number of Croats headed towards Prijedor and they were stopped at the check-point in the Sušići village by the Serb soldiers and that, without any explanation, they separated women and children from men, after which men were taken to the Keraterm Camp. Witness Zlata Cikota was apprehended on 22 June 1992, as she noted, in her apartment, when police officers from the Prijedor MUP came to get her and took her to the premises of MUP, whereas, according to the statement of Witness K01, he was apprehended when Serb soldiers surrounded the houses in the village in which he lived, took out men from the houses and took them to Keraterm and then to Omarska. According to the statement of witness Kerim Mešanović, he was deprived of liberty on the premises of the Secretariat



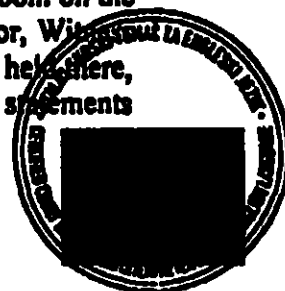
Defense, where he worked, at the moment when they sent him from his work place and told him that he was needed in Omarska, whereas witness Emir Beganović was apprehended in his friend's house when an order was issued over the Prijedor radio station that people from certain parts of the town should get out of their homes, put on white ribbons and set off towards certain places. Witness Azedin Oklopčić was apprehended on 30 May 1992 after he heard shooting while he was in his house, so he and his family members got out of the house and they were taken to the "Balkan" hotel, where men were separated from the women and the children and taken away by buses. Witness K036 was apprehended while he was walking from his house towards his neighbor's house, whereas witness Izet Đešević was apprehended in Donja Ljubija while he was doing some work around his beehives, after which he was taken to the police station without being informed about the reasons of his deprivation of liberty, whereby Witness K03, who was a patrolman in the Reserve Police Force, was apprehended in fact as a civilian after he no longer held that post and after he returned the weapons and the uniform that had been issued to him. Witnesses Nusret Sivac, K019 and K037 were also apprehended in their homes, whereby according to the claims of Witness K037 none of the apprehended men who were in the column, including himself, was armed, while Witness K034 was apprehended by the persons who wore camouflage uniforms and who drove military trucks while he was on his way home, going back from work. Statements of a certain number of witnesses also suggest that among the persons who were detained in the Omarska Camp there were underage persons too and that some of them remained there even until August 1992, which stems from the statement of Witness K017, who noted that it was found out that there was an underage person among the detainees and that Željko Mejakić issued an order that he should be transferred to Trnopolje. In addition, Witness K01 also confirmed these claims by noting that his brother, who was 16 at that time, was with him in the Omarska Camp during the whole period, and that he left the Camp together with him. According to the statement of Nusret Sivac too, there were many underage persons in the Omarska Camp, since fathers were detained together with their children in the Camp. He noted the example of Burho Kapetanović, Sead Henić, Hilmo Crnalić and their sons. When he was apprehended and in the police station this witness also met a young man who, according to his estimation, could not have been older than 15 and who introduced himself as Malovčić from Raškovac and who was taken to the Omarska Camp together with him and who was even killed in the Camp. Among the detainees of the Omarska Camp there were also older persons (Fact No. 169), as well as sick and physically disabled persons, for example detainee Safet Ramadanović, who was, according to the statement of Witness K018, between 65 and 70 years old, and who had a heart condition, as well as mentally disabled persons (Fact No. 170), for example detainee Crnalić who was mentally ill according to the statement of witness Nusret Sivac, detainee Ismet Hodžić, who had diabetes and who depended on insulin therapy according to the claims of witnesses K03 and Asmir Baltić, and detainee Esad Mehmedagić, who before the war and during the time he was held in the Omarska Camp had weak eyesight to such an extent that he was unable to move around without another person's help. Along with this, in his statement witness Asmir Baltić noted that there were two deaf-mute detainees who were brought to the Camp together with him by a bus. Finally, women with underage children were also held in the Camp, which stems from the statement of the Witness K040.



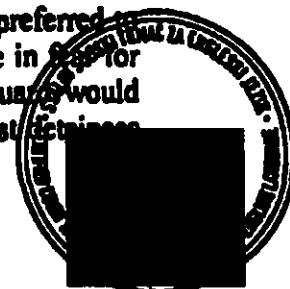
During the evidentiary proceedings and based on the evidence presented, the Court has found it determined that the conditions in the Omarska Camp were brutal and degrading, while the very conduct of the Camp staff, along with the above-described conditions in which the detainees were held, created the atmosphere of terror among the detainees. A series of witnesses who gave their statements during the main trial testified about the inhumane conditions in the Omarska Camp in which the detainees were held without the basic necessities of life, including food, drinking water, medicines and medical care, in unhygienic conditions and in cramped rooms. As far as the accommodation in the area of the Omarska Camp is concerned, the witnesses who were held in different rooms of the Camp testified about poor conditions in all the rooms. First of all, the rooms in which the detainees were held were overcrowded due to the large number of people who were held there and the rooms were so cramped that the detainees could hardly sit or lie down (Fact No. 177). From the statements of witnesses K041, Fadil Avdagić, Emir Beganović and K034 it stems that the room called the garage was a small room and, according to the statement of witness Fadil Avdagić, it was just large enough for one car to be parked there. According to the statements of witnesses Emir Beganović and Fadil Avdagić, around 200 people were held in the above-mentioned room, whereby according to Witness K034, who was, as a detainee, an orderly of the room for some time, at one point there were around 250 people held in the garage. While he was describing the conditions in that room, Witness K041 noted that the detainees were so cramped that they could not stand, which was also confirmed by witness Fadil Avdagić, as well as witness Emir Beganović who noted that detainees were *packed like sardines*, that they were so cramped inside the room that once the door was opened they would automatically get out, and that he himself was standing on one foot due to the lack of space and he described the "garage" as one of the worst horrors of the Omarska Camp. Witnesses who were held in the above-mentioned room consistently described the difficult situation in the room caused by the lack of air and too much heat. Witness K041 noted that he was unable to breathe due to the lack of oxygen, since there was only a small utility window open, so that people fainted. Witness Fadil Avdagić also confirmed that there was enormous heat in the room called the garage due to which people fainted, whereby witness Emir Beganović described it as horrible, a room in which there was no air and which only had a small window. According to the statement of Witness K034, the door of the garage was closed, while out of two windows which were in the room one was nailed shut, whereas the other one was closed so that the only way air could get in was through the keyhole and underneath the door, which made water pour down from the ceiling caused by the steam that was created by breathing. Witness K034 noted that three detainees died in such conditions. While he was describing his stay in the room called the "garage", in which he spent an hour upon his arrival at the Omarska Camp, witness Izet Đešević noted that the door was closed, that it was unbearable since the detainees were cramped over each other, whereas the guards threw inside a bucket full of human waste to make things even more difficult and they said: "Here, drink this", whereas they would let some air inside the room only if some of the detainees would give them money or cigarettes. The housing conditions were also bad in other rooms in which the detainees were held. While describing the conditions in the room number 26 which was located on the first floor of the hangar building, witness Sakib Jakupović noted that this room was 12 by 12 meters large with two small windows facing the restaurant and that it was at one point so cramped with people that the door, which was a double winged iron door with two leaves and no door-handle, was hard to close. These claims by witness Sakib Jakupović



also confirmed by Witness K03, who described the conditions in the room 26 as unbearable, since the room was covered with a tin roof and since it was summer time and there were between 300 and 400 people in the room. Witnesses Ermin Striković, K023 and K018 described the state in the room number 15, which was also located near the hangar building and, according to their claims, the state in this room was not much different from the conditions in other rooms. According to the statement of witness Ermin Striković, between 300 and 350 people were held in the room number 15, it was overcrowded and one could neither sit nor lie down. According to the statement of witness K023, who was brought to room number 15 at the point when there were around 100 detainees there, new detainees were being brought so that there was less and less space, one could not sit down and, as this witness stated, the temperature in the room could have reached even up to 50 degrees Celsius, since it was summer time, the building was covered with a tin roof and the heat was unbearable considering the fact that there were even between 500 and 600 people there. The claims of the above-mentioned witnesses were also confirmed by Witness K018, who described the conditions in room number 15 as worse than just bad, since between 300 and 400 people were held there, so that the detainees had to lie down by one another's side, like "sardines", whereas, according to the estimation of witness Asmir Baltić, between 700 and 800 people were held in the room number 15 and they even slept on the concrete floor in the bathroom. While he was describing the conditions in the room called the "cloakroom", which was among the detainees also known as *Mujina soba* (after detainee Mujo who was chosen as the orderly of the room), witness Asmir Baltić noted in his statement that the room was filled to capacity, that the detainees were cramped, which was also confirmed by Witness K037, who described the conditions in the cloakroom as horrible, noting that there were 625 detainees held in a small space area and noting that there was no toilet, that the room smelled offensively, that detainees were lice-infested, whereas Witness K017, as he noted, moved to the space called the pista because *Mujina soba* was overcrowded. According to the statement of witness Asmir Baltić, who spent one night in the room called the "white house", the room in which he stayed was 2.5 by 2.5 meters, while 64 detainees were held there, so that, according to this witness, it was unbearable, especially since the room was stained with blood of beaten detainees, and since they were ordered to close the windows, the witness described the night he spent in the "white house" as hell. Witness K01 described the conditions in the "white house" as unbearable, so that people fainted because it was so overcrowded, they sat over each other, it was stuffy and there were 180 people in his room, where they took care of their bodily functions too, whereas, according to witness Kerim Melanović, who was also held in the "white room" for a short period of time, the situation was ghastly since 53 men were held in a 5 by 5 meters room where the door was closed as well as the windows. According to this witness, people smelled of sweat and blood, in the corner there was a canister which was used for taking care of bodily functions, so that the situation was getting worse because of the high temperatures outside. Witness Sakib Jakupović also described the conditions in the "white house", although he did not stay in the above-mentioned rooms, but he had to clean them after the "white house" was emptied and after the detainees were transferred to other rooms. According to this witness, the "white house" smelled disastrously repulsive, whereby there were blood stains even on the ceiling of the rooms. While he was describing the largest room on the first floor of the hangar building which was located at the end of the corridor, Witness K017 noted that it was overcrowded, since between 200 and 300 people were held there, and that detainees slept even on the stairs and in the toilet. According to the statements



of witnesses, just like the conditions in the rooms which were crammed and in which the housing conditions were bad, the conditions were very bad on the pista too, which also reinforces the conclusion of the Court that the conditions in the Omarska Camp were generally bad, regardless of the part of the Camp in which detainees were held, including the part of the Camp called pista (Fact No. 185). Witness Anto Tomić noted that the living conditions on the pista were difficult, since it was July and the air temperature reached even up to 40 degrees Celsius, the detainees were exposed to the sun all day long, whereby there was insufficient water. Witness Nusret Sivac also confirmed the conditions on the pista, he described the first time he saw the Omarska Camp, on the occasion of his arrival there, as shocking, since on the pista he saw motionless bodies of detainees who were forced to lie on their stomach, whereas in his statement witness Asmir Baltić, who also spent some time on the pista, noted that detainees had to lie motionless on their stomach on the concrete, and if some of the detainees would move, a guard would come and beat him. The above-mentioned difficult conditions were additionally worsened by the lack of access to a toilet, that is, the detainees' inability to use toilet facilities, so that, according to the statements of the witnesses, the hygienic conditions were most inadequate (Fact No. 188), to which the Camp staff also significantly contributed with their conduct. As witness Asmir Baltić noted, during the time he spent in the hangar the detainees had to perform their bodily functions inside the hangar. Witness K041 described the time he spent in the room called the "garage" by noting that detainees could not use the toilet, so that they were given a plastic bucket in which they relieved themselves, because of which some of them got dysentery, while the room smelled repulsively, which was also confirmed by Witness K017, who noted that toilets were extremely dirty and smelled bad. Witness Ermin Striković noted that the detainees from the room in which he was held were taken out only once a day to perform their bodily functions, namely in the open air, since there was no toilet, whereas, according to the statement of Witness K023, the detainees took care of their bodily functions in the rooms where there was no toilet, just concrete washing basins. While he was describing the conditions in the room in which he was held, witness Azedin Oklopčić noted that detainees could not use the toilet and that they relieved themselves with their clothes on, which was also confirmed by witness Fadil Avdagić, whereby from the statement of witness Azedin Oklopčić it stems that some of the detainees in the Camp had dysentery and that a detainee called Maho Habibović even died of dysentery and hunger. Witness K034 also noted that the detainees did not go to toilet to take care of their bodily functions, but that they relieved themselves in a bucket in the room in which they were held. According to the statement of witness Emir Beganović, who also confirmed the claims of other witnesses that there was a bad smell in the Camp and that detainees were sick of dysentery, during the time he was held in the room called *Mujina soba* human waste poured out into the room, since both toilet bowls were blocked, so that their contents poured out of the toilet bowls and detainees slept on this human waste. Hygienic conditions in the "white house" were as bad as in other rooms in the Camp, since the detainees took care of their bodily functions inside the rooms in which they were held. Based on the statements of witnesses who described the conditions in each room in which they were held, it clearly stems that one of the reasons why detainees did not use the toilet to take care of their bodily functions was the fact that on such occasions they used to be beaten by guards, so that they preferred to relieve themselves in the rooms in which they were kept because they were in fear for their safety. In this way, according to the statement of Witness K03, a guard would come in and tell the detainees to line up to go to the toilet and then the first detainees



who would line up would be beaten, so that the others would give up on going to the toilet. This witness, as he stated, chose to relieve himself in a boot or a bag, rather than to go to the toilet. According to the claims of the witness who, as it has been already noted, spent some time in the room called the "garage", detainees who would return from the toilet were beaten and covered with blood, so that nobody wanted to go to the toilet any more, whereas Witness K023 confirmed that detainees who were held in the room number 15 were beaten on their way to the toilet, so that they took care of their bodily functions in the rooms with concrete washing basins. Witness Azedin Oklopčić also noted that detainees were beaten on their way to the toilet, which also happened to him, as well as to Witness K017, who was beaten on his way to the toilet and witness Mustafa Puškar, which are the circumstances the Court shall refer to in the part of the Verdict that deals with individual events. Witness K034 also testified about the beatings of detainees on their way to the toilet and he said that the detainees were beaten while they were running to the toilet, so that they would give up on going to the toilet. The conditions in the Omarska Camp were also partly described by Defense witness Mirko Kobas, who visited the Omarska Camp on several occasions as a medical technician, noting that the Camp was in a disastrous state, that an infection was spreading and that detainees were dirty, which was also confirmed by witness Branko Starčević, a former guard in the Omarska Camp, who noted that detainees were hungry and dirty and that a *horrible smell* spread all over the Camp, as well as witness Milorad Stupar, who confirmed that detainees, whom he saw on the occasion of his visits to the Omarska Camp, were in a miserable state. According to the statements of witnesses, supplies of drinking water in the Omarska Camp were in fact non-existent. Therefore, witness Asmir Baltić noted that water was very bad and that it was not safe to drink, but that detainees had to drink it whenever there was some. Witness K041 described the lack of drinking water in the room called the garage by noting that guards would give detainees water to drink only if they would sing nationalistic songs. Namely, when detainees would ask the guards to give them water to drink, the guards would tell them: "Sing songs, we will give you water", after which they would throw them bottles of water, which was insufficient even for 10 persons. Witness K023 also confirmed the claims of witness Asmir Baltić that water was 100 percent not safe to drink and that the diseases which spread among the detainees, such as dysentery, were a result of the lack of water and unhygienic conditions (Fact No. 192). According to the statement of witness Zlata Cikota, detainees drank industrial water, whereas guards drank spring water. The consequences which this witness suffered from the consumption of this water were such that she urinated blood and felt pain in her kidneys. It is true that during the cross-examination witness Kerim Mešanović said that the water that was used in the Omarska Camp was tap water, whereby witness Asmir Baltić said that the detainees drank from the tap, however witness Mešanović did not say whether the water was safe to drink or not, while witness Baltić, as it has been noted above, stressed that water was not safe to drink. From the statements of other witnesses it stems that the detainees drank water that was not technically safe to drink. According to the statements of witnesses Emir Beganović and Azedin Oklopčić, it is undisputable that there was a water tap, but witness Azedin Oklopčić clearly noted that detainees did not drink the same water as the guards, which means that drinking water was not available for detainees, since drinking water was brought from a spring, as he noted, from which it follows that tap water was not safe to drink. Witness Nusret Sivac described the water which poured out of the tap by noting that it was red and that it was used only for washing huge industrial machines and it was not allowed to drink, so that, due to the use of such water detainees suffered

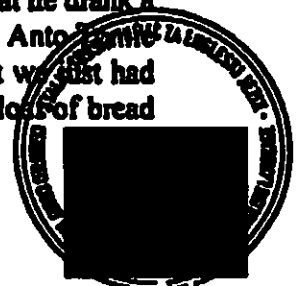


from dysentery and other stomach-related illnesses. The statements of witnesses Zlata Cikota and Azedin Oklopčić that guards did not drink the same water as the detainees were also confirmed by this witness, who noted that the guards drank water from a cistern which was brought especially for them. Just like Witness K041, witness Nusret Sivac also noted that detainees had to sing nationalistic songs in order to get a canister of drinking water. According to the statement of Witness K027, the water which detainees drank was used in the mine, it had an insipid taste and it was turbid and this witness noted that on one occasion Dr. Esad Sadiković, a detainee who took care of other detainees' health, recommended them not to drink that water, because it was bad for the kidneys. This witness also confirmed the claims of other witnesses that the guards in the Camp used special water that was brought in for them in canisters. The fact that during their stay in the Omarska Camp the detainees drank water that was not safe to drink was also confirmed by the testimony of Emir Beganović, who described the situation in which he was questioned, on which occasion the person who questioned him offered him a glass of water stressing that it was spring water. These claims of witness Beganović corroborate the evidence provided by other witnesses about the fact that the detainees and the Camp staff did not drink the same water. The very fact that the detainees did not have sufficient water at their disposal imposes the conclusion that they particularly did not have water to take a bath or wash themselves (Fact No. 192), which was also confirmed by many witnesses in their statements, such as Witness K035, who noted that it was impossible to have a bath and that the water was often turbid, just like Witness K023. The detainees bathed themselves on one occasion only, in the way that they were stripped naked and washed with a fire-hose, so that they clearly remember this only bath they had as a shameful and humiliating experience. According to the statement of Witness K03, detainees were taken out to the grassy area and then they were washed with a fire-hose, which was so strong that people used to fall under the pressure of the water. These claims of Witness K03 were also confirmed by Zlata Cikota, who noted, while she was describing the referenced event, that all the detainees were naked on this occasion while guards were washing them with the fire-hose between the "white house" and the pista, which was very uncomfortable for her to watch, since the detainee Hajra Hodžić was also there among the men and she was also naked. The incident of the detainees' bath was also described by Witness K027, who noted that the detainees were lined up on the pista and that they were washed with a large fire-hose, while the water jet was so strong that it hit the bodies of the detainees, due to which they would stumble and fall over the pista. According to the statement of this witness too, all the detainees who "had bath" on this occasion were naked, while among them there was also a woman called Hajra Hodžić. The Court did not accept the position of the Defense that the insufficient quantity of water given to detainees was safe to drink, in particular the claims of the accused Željko Mejakić himself that he personally drank that water, since based on the statements of the Prosecution witnesses it clearly stems that the water was not safe to drink, although it poured out of the tap, which, according to the statements of many witnesses, could be visibly determined, since it was colored, which resulted in frequent cases of dysentery among the detainees only. The frequent cases of dysentery and diarrhea among the detainees were also confirmed and determined by the established Fact No. 192, admitted by the Decision of this Court number X-KRN-06/200 dated 22 August 2007.

The witnesses who were held in the Omarska Camp during the critical period described in their statements also the food that was distributed to them during the meals. Based on

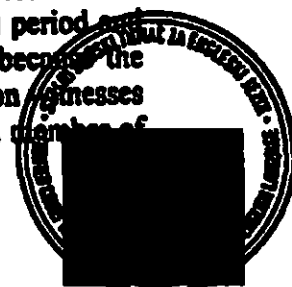


the statements of witnesses the Court undoubtedly concluded that the food in the Camp was not appropriate, that is, that it was of bad quality and in insufficient quantities, which was also confirmed in the Decision on the Admission of Established Facts number X-KRN-06-200 dated 22 August 2008, as Fact No. 198, whereas some detainees were given no food for days. All the witnesses consistently stated that the food was prepared outside the area in which the detainees were held and where they ate, which is an undisputable fact in terms of both the Prosecution and the Defense. As far as the quality of the food given to the detainees is concerned, from the statements of the Prosecution witnesses it clearly stems that meals in the Omarska Camp were sparse and of low-quality, namely the detainees were given inadequate food only once a day, which was also admitted by the Decision on the Established Facts dated 22 August 2007 as Fact No. 193. According to the statement of witness Asmir Baltić, the detainees were given one eighth of a loaf of bread and cabbage leaves boiled in water or sometimes beans. Witness Ermin Striković also confirmed that the food in the Omarska Camp was so bad by noting that meals consisted of a piece of bread and some soup with nothing in it, as well as Witness K023 who described the meals given to the detainees noting that they consisted of a leaf of cabbage in some water and one eighth of a loaf of bread, which was also confirmed by witness Senad Kapetanović, who stressed that meals consisted of some soup made of scarce cabbage or beans and that one kilogram of bread was divided among 20 detainees. According to the claims of Witness K027 the food was unvaried, sour because of high temperatures, and tasteless, while the detainees were given a piece of bread with 2 or 3 leaves of cabbage cooked in some water or some beans. Witnesses K017, Mustafa Puškar, Nusret Sivac, K035, Zlata Cikota and Azedin Oklopčić also consistently noted that the detainees ate low-quality food, whereby witnesses Nusret Sivac and Zlata Cikota described such food as hogwash. According to the statements of witnesses Zlata Cikota, K035 and K027 the quality of the food that was given to the detainees was drastically different from the food that was given to the guards in the Camp, and, according to the claims of Witness K027, after the food was brought in, the food for the detainees was separated from the food for the staff. The Witness K035 had an opportunity to eat the food that was given to the guards and he described it as tasteful and of good quality, whereby, according to the claims of witness Zlata Cikota, the guards ate steaks, mashed potato and tomato. These claims were also confirmed by witness Senad Kapetanović, who on one occasion got a meal from Rendić, a man who cooked the food for the detainees and the Camp staff, upon the order of Momčilo Gruban Čkalja, and on this occasion the witness got a steak, more bread than usual, a vodka and a coffee. Fact No. 205 also confirms the fact that the Omarska Camp staff had good meals and it was included in this Court's Decision on the Admission of Established Facts number X-KRN-06/200 dated 22 August 2007. A number of witnesses during their testimonies noted that they had their first meal only several days after they arrived at the Camp, such as witness Asmir Baltić, who claimed that he personally had nothing to eat for the first 5 or 6 days, after which he got his first meal, whereby Witness K023 got his first meal 2 or 3 days after his arrival. According to the statement of witness Sakib Jakupović, while he was held in the room number 15, sometimes the detainees would not receive their meals every day, whereby witness Ermin Striković, who was held in the room called the "garage" for 2 or 3 days noted that during his stay in this room he ate only once, namely a slice of bread and that he drank a glass of water. While he was describing the low quality of the food, witness Anto Jamić said: "The food was such that we used to have a quiz trying to guess what we just had for lunch. It consisted of some soup with nothing in it and one eighth of a loaf of bread





which was several days old." Along with the indisputably established fact that the detainees were given low-quality food, based on the statements of several witnesses it undoubtedly stems that during the whole time they spent in the Camp the detainees were given food only once a day, while some of the witnesses testified about the short time during which they had to eat their meals, that is, that the guards forced them to go to the restaurant, to eat the meal and to get out of the restaurant in only 3 minutes, and in this way the Camp staff made the already difficult position of the detainees additionally hard. Based on the statement of Witness K041 it stems that the detainees had a very short time to eat the meal, whereby according to the claims of witness Asmir Baltić meals were distributed once during 24 hours and the detainees had 9 seconds to finish their meals, whereby those who would continue eating would be beaten by the guards. Witnesses Ermin Striković, K017, Senad Kapetanović, Sakib Jakupović, Nusret Sivac, K035 and Anto Tomić also confirmed the claims of the above-mentioned witness that the food was distributed to the detainees only once a day, while witness Kerim Mešanović noted in his statement that the detainees would go to have a meal in groups of 30 persons and that they had very little time to eat, approximately 3 minutes for each group, which was also confirmed by witnesses Sakib Jakupović and Nusret Sivac, K027, Emir Beganović and witness Azedin Oklopčić, who said that the time for eating was limited to 2 or 3 minutes. Witness K035 also confirmed that the detainees had limited time to eat. He noted that the detainees often had no time to eat the meal, while Witness K027 noted that sometimes the guards would beat the detainees who would not manage to finish their meals. The above-mentioned contents of the witnesses' statements about the quality and the amount of food which they were given in the Camp for the meals, from which it follows that it was far below the satisfactory level, are additionally corroborated by the physical condition of the detainees, namely their body weight before and after the time they spent in the Camp, since from the witnesses' statements it follows that each of them lost on average between 25 and 30 kilograms. Witness Asmir Baltić noted that before the Omarska Camp he had 105 kilograms, whereas after that, when he was weighed in the Trnopolje Camp, he had 70 kilograms. Witness Ermin Striković weighed, as he noted, 85 kilograms before the Omarska Camp, while he had 51 kilograms when he was weighed in the Manjača Camp, where he was taken directly from the Omarska Camp, while Witness K023 had 88 kilograms before his stay in the Omarska Camp, whereby he weighed 58 kilograms in Manjača. Witness Zlata Cikota stated that before the Omarska Camp she had 86 kilograms, whereby she weighed 51 kilograms after she was released from the Camp, as well as witness Anto Tomić, who had 80 kilograms before the war conflict commenced, whereby he had 54 kilograms at the point when he was released from the Camp. According to the statements of the above-mentioned witnesses, the state of exhaustion of all the detainees was bad in general due to the low-quality and insufficient food, as well as due to other conditions, since, according to the statement of witness Asmir Baltić, the detainees dragged themselves around and they were exhausted, while witness Mustafa Puškar too noted that the people started losing kilograms and that their bodies became weak, as well as witness Ermin Striković who described his state by noting that he was unable to stand or walk, or even to sit, and that the only position which he was able to endure was to lie down. The Court did not accept the claims of the Defense witness Branko Starčević, who worked as a guard in the Omarska Camp during the critical period and who noted that the guards ate the same food as the detainees primarily because the claims of this witness are in contrast with the claims of numerous Prosecution witnesses and also partly with the statement of witness Milorad Stupar, who, being a member of



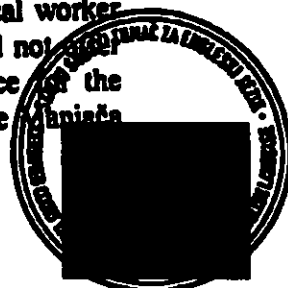
the territorial defense, worked on the outside security of the Camp and who used to have a meat pie for lunch, whereas, according to the statement of this witness, in the afternoon he would have lunch that consisted of cooked beef, rice and potato, which suggests that this was absolutely not the food that was given to the detainees. Witness Pero Rendić, who worked in the kitchen in which the food was prepared in the Omarska Camp, noted in his statement that the same food was cooked in one cauldron for the detainees and the staff of the Camp, which claims the Court could not accept since they are in contrast with the statements of the Prosecution witnesses who had an opportunity to see and even to taste the food that was eaten by the guards, which they claimed was incomparably better. Even in case it was the same food, the Camp staff who prepared the food given to the detainees had ample opportunity to separate the thin food of leaves in some water, as the detainees described their meals, and give it to the detainees, and give vegetables and meat to the guards. Besides, the clear fact that some guards would give to the detainees additional food they would not eat themselves, as it was noted by witness Milorad Stupar, lead to the conclusion that the food for the detainees was considerably worse than the food for the guards. The overall above-described bad conditions in the Omarska Camp were also confirmed by the accused Željko Mejakić himself, who noted in his statement that the accommodation of the detainees was well below any level of decency, that the rooms were overcrowded and hygiene was non-existent since the detainees could have no bath, that is, they had no access to toiletries. In his statement the Accused also partly corroborated the claims of the Prosecution witness about the meals which were given to the detainees by noting that the food was of low-quality, that the detainees were given only one meal a day and that sometimes some detainees would have no meal at all.

Along with the above-described way the detainees had meals, the witnesses also described the beatings which took place on their way to have lunch, so that, in fact, going to the restaurant was for detainees associated with physical abuse. According to the statement of Witness K041, he was beaten on the occasion of his first visit to have a meal, on his way there and on his way back from the meal, whereby the beating of the detainees on the occasion of their going to have a meal was also confirmed by Witness K01, as well as witness Emir Beganović and Witness K027, whereas Witness K018 noted that he was beaten three times during the lunch time and that the detainees were beaten on several occasions during the lunch time. The beating during the lunch time which all the detainees remember took place on the day which the detainees call *the black Friday* or *the bloody lunch*, as it was noted by witnesses K035 and Kerim Mehanović. According to the claims of witness Nusret Sivac, on that day all the detainees had to go through torture because the guards in the Camp *turned wild*. While he was describing the referenced event, witness Nusret Sivac said that two rows were lined up along the way towards the restaurant, that the path was oiled and that certain items and pieces of furniture were placed along it so that the detainees would be kept in the corridor for as long as possible, while many of them fell under the blows, which was also confirmed by witness Ermin Striković by noting that the detainees had to jump over the set barriers, so that those who would fail to pass over and who would fall would be beaten by the guards. As witness Striković noted himself, his cervical bone was fractured on this occasion, since he was hit by a metal object over that part of his body. According to the statement of witness Asmir Baldić, on the critical occasion the guards spilt water and set trays on their way to lunch, so that the detainees who passed between the two rows would slip, on which occasion they were beaten. While he was describing



the way the detainees were beaten on their way to have a meal, witness Emir Beganović also mentioned the beating which took place on the critical day when, as he noted, the guards threw trays on the ground as they made their way to the restaurant so that the detainees would slip and fall. Witness Azedin Oklopić also confirmed the statements of the above-mentioned witnesses, since from his statement it also stems that on that day water was spilt over the route to the canteen and trays were placed along the path which the detainees had to run, whereby he personally slipped over a tray and fell in the direction of stairs. Witness K042 also confirmed that the detainees were on the critical day beaten on their way to lunch and he noted that trays were set on tiles over which the detainees had to run and he said: "Those who fell had bad luck", which leads to the conclusion that those who fell were beaten. According to the statement of witness K035 on that day the guards were beating the detainees to such an extent that many of them gave up on going to have lunch, whereby as pieces of bread fell out of the detainees' hands, the guards would pick them up and put them in bags and later on they said that the detainees entered a hunger strike. While he was describing the referenced event, witness Kerim Mešanović noted that on the day which he called *the black Friday* the beating took place which lasted from the morning until the afternoon and that there were rumors that trays were set in the corridor, so that the detainees who would slip would be beaten. Witness Anto Tomić also testified about the same event and he noted that a bench was set at the entrance to the restaurant, so that the detainees had to jump over it to get into the restaurant, on which occasion they were beaten. From the statements of the above-mentioned witnesses it follows that the detainees were beaten on their way to have lunch, especially on that day when barriers were placed on their route towards the restaurant, to which some detainees referred to as trays, while others referred to furniture, that is, benches, which clearly represented a method the Camp guards used to beat and maltreat the detainees, which resulted in the already present fear of the detainees, so that many of them, as witness Kerim Mešanović noted, gave up on going to lunch. Witness Emir Beganović himself noted that he avoided going to have a meal because he was afraid of being beaten. From the above-mentioned facts it stems that the detainees were beaten by the guards on a regular basis, so that they avoided going to the toilet or lunch precisely for the reason that they were constantly afraid of being beaten.

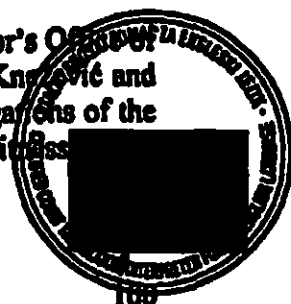
As far as medicines and medical care are concerned, based on the statements of the heard witnesses the Court undoubtedly determined that the persons who were detained in the Omarska Camp were deprived of them. Witnesses Asmir Baltić, K017, Emir Beganović, K042 and Nusret Sivac noted that Dr. Esad Sadiković, who was a detainee himself, offered the detainees medical assistance, as well as that the detainees had to manage on their own as far as medical assistance was concerned. It is true that some witnesses saw certain people, who wore white overcoats, walking around the Camp, however, according to the claims of witnesses, those medical workers did not offer any medical assistance to any detainees. In this way, witness Ermin Striković, who did not get any medical assistance even at the time he received injuries on his way to *the bloody lunch*, noted that a man who wore a white overcoat and who was physically disabled used to come to the Camp, but he did not know if any detainee received medical assistance. Witness K023 also testified about the fact that there was no medical assistance in the Omarska Camp and he noted that only once he saw medical worker Ljuban Andić and Dr. Jusuf Pašić walk through the rooms, but that they did not offer their assistance to anyone, whereby he himself received medical assistance for the injuries he sustained while he was beaten only after he was transferred to the



could not reliably determine if the group of people with the surname Garibović were killed on that occasion, but the fact is that they were not seen after that, which was also confirmed by both witnesses. The Court also did not determine beyond reasonable doubt that the men from the Garibović family were roll-called by a group of Serb soldiers, because the Court had no reliable evidence that would corroborate it, since Witness K034 stated that a masked guard or a person outside the Camp roll-called them, while Witness K041 noted that the guards did that. With regard to this, a correction was made in the factual part of the Indictment, leaving a possibility that the Garibovićs were roll-called either by the guards or by the Serb soldiers who came to the Camp as visitors. With regard to the time the referenced event took place, the Court has found it completely determined that it took place during a night in June 1992, since both witnesses who were heard noted that it was night time, whereby Witness K041, who noted that he was held in the "garage" until 2 July 1992, was more precise and noted that the Garibovićs were roll-called in early June. The above-mentioned subjective evidence was also additionally corroborated by the documentary evidence in the case-file, that is, the Additional Report by Nicolas Sebire dated 28 August 2002, Exhumations and Proof of Death, from which it stems that the above-mentioned group of men from the Garibović family, by their names and surnames, were officially declared dead by a decision of the Municipal Court in Sanski Most.

With regard to the beating of Dalija Hrnić, who, according to the allegations in the Indictment, died of a beating in June 1992, the Court has found it established that the beating of this person indeed took place and that it caused his death. Witness Fadil Avdagić, who was present on the occasion of the beating of Dalija Hrnić, gave a statement about the referenced event and he identified the persons who, as the witness noted, beat Dalija while he was lying on the floor. Witness Fadil Avdagić determined with certainty that 4 persons who wore uniforms participated in the beating of Dalija Hrnić, namely Zoran Žigić, Duća and another two uniformed persons. The witness was precise in terms of the time when the referenced event took place, noting that he was brought to the "white house" on 16 June 1992, which is completely consistent with the time when other events took place in the "white house" during that period, when a group of soldiers, including Duško Knežević Duća, used to beat the detainees to death. In addition, this witness noted that, after he got out, he heard that Dalija Hrnić had died, which was confirmed by Witness K035 who said that he had heard that Dalija Hrnić had succumbed to the injuries sustained during the beating. It is true that Witness K035 stated that the above-mentioned person died as a result of the beating while he was interrogated by one of the inspectors, however, the Court completely trusted witness Fadil Avdagić about the above-mentioned circumstances, since he visually witnessed that Duško Knežević and others beat Dalija Hrnić, whereby the statement of Witness K035 represents a corroborating evidence about the fact that Dalija Hrnić died of beating in the Camp. From the Additional Report of Nicolas Sebire dated 28 August 2002, Exhumations and Proof of Death, it stems that Dalija Hrnić was officially declared dead by a decision of the Municipal Court in Sanski Most, which additionally corroborates the subjective evidence regarding the death of this person.

Furthermore, according to the allegations in the Indictment of the Prosecutor's Office of BiH, on or around 10 June 1992 Slavko Ećimović was beaten by Duško Knežević and Zoran Žigić, as a result of which he died. The Court has found these allegations of the Indictment to be established as well, having assessed the statements of witnesses



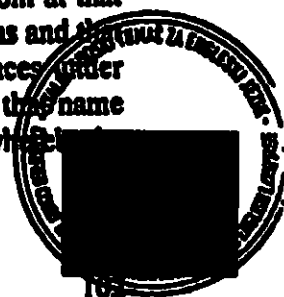
were heard about the circumstances of the beating of Slavko Ećimović. According to the statements of witnesses Emir Beganović, K036 and Abdulah Brkić, they saw Slavko Ećimović in the "white house" during the time they themselves were also beaten, that is, on around 10 June 1992. Witness Emir Beganović, who had an opportunity to see the physical and mental state of Slavko Ećimović, stated that Ećimović was in a state of delirium, that he did not know what he was talking about, that he was beaten, that he hallucinated and that his mouth was tied with a piece of wire. Witnesses K036 and Abdulah Brkić also confirmed that Slavko Ećimović was severely beaten, whereby witness K036 explicitly claimed Ećimović was beaten a lot by Žigić, Duća and others, while witness Abdulah Brkić stated in the context of the beating that took place in the "white house" on that day that on the critical occasion Duća Knežević, Zoran Žigić, Sapina (how he called Šaponja) and Timarac came, that they provoked Ećimović by calling him *ustasha* and that they beat him. From the statements of the above-mentioned witnesses, who consistently confirmed that Slavko Ećimović was in a bad state, stems the only logical conclusion that he died of the above-mentioned beating, which is confirmed by the statement of Witness K036, as well as of other witnesses, about the fact that they did not see this person after the above-mentioned event. Since all the witnesses link their last sighting of Slavko Ećimović with the above-mentioned beating, after which nobody saw him again, it is clear that this person died of the injuries sustained during the beating, especially since the witness Emir Beganović in his statement noted "he was alive", in which way he described Slavko Ećimović's difficult state when he last saw him, as if he was describing a man that was going to die at any moment.

As for the beating of Mehmedalija Sarajlić and his dying of beating, the Court also had at its disposal sufficient pieces of reliable evidence based on which the Court could determine that the above-mentioned beating took place at the time and in the manner described in the operative part of the Verdict. From the statements of both witnesses who were heard about the above-mentioned circumstances, namely witness Kerim Mešanović and Witness K021, it stems that the above-mentioned event took place on or around 25 or 26 June 1992, since witness Kerim Mešanović was brought to Omarska on 24 June 1992 and he spent two nights in the "white house" where Mehmedalija Sarajlić was beaten, whereby Witness K021 noted that the above-mentioned incident took place on 26 June 1992. Both witnesses consistently stated that they heard Sarajlić being maltreated, whereas Witness K021 stated that he recognized his voice while he was begging them not to beat him. According to the statement of Kerim Mešanović, before he saw Mehmedalija Sarajlić's dead body he heard terrible cries, screams, prayers, as well as hitting with different items and eventually this witness personally took out Sarajlić's dead body, which was, as he noted, beaten up, while his pants were dirty and bloody. Witness K021 also confirmed the statement of witness Kerim Mešanović, who saw the body of Mehmedalija Sarajlić in the morning not far from the "white house" and this witness also agreed with witness Kerim Mešanović's claims that Mešanović was one of the detainees whose duty was to take out the dead body of Mehmedalija Sarajlić. Witness K027 also saw the dead body of Mehmedalija Sarajlić, since, while he was testifying about dead bodies which were laid down by the "white house", he noted that on one occasion he recognized the body of Mehmedalija Sarajlić, who was wearing a light-colored suit.



According to the allegations in the Indictment, Velid Badnjević was shot dead by a guard in the Camp, between 24 May and 6 August 1992. With regard to this killing, the Court has also determined that it took place beyond reasonable doubt, with certain corrections that were noted in the operative part of the Verdict regarding the factual part of the Indictment in the view of the time when the event took place. The Court has reached its conclusion about the killing of Velid Badnjević based on the statement of Witness K036, who was an eye-witness to the referenced killing and this witness stated that Velid Badnjević was killed within a month or a month and a half after he arrived at the Omarska Camp. Since at the beginning of his statement the witness noted that he was brought to the Camp on 30 May 1992, the Court finds that the killing of Velid Badnjević took place in June or July 1992. According to the statement of this witness, Velid Badnjević was killed at the exact moment when he was located between the "white house" and the restaurant which was on the ground floor of the administration building, that he personally saw when Velid Badnjević was shot, after which his body was moved away. While he was describing the referenced event, this witness also described the circumstances which occurred before Velid Badnjević was killed, noting that he lost his nerves, got up and headed somewhere, after which one of the guards started shouting, warning him to stop and then he shot him. During the cross-examination the Defense tried to present the referenced event as the killing of Mehmedalija Nasić in the restaurant, however, the witness explicitly claimed that he stands by the statement given during the main trial. The conclusion of the Court that this witness indeed saw the killing of Velid Badnjević and not the killing of Mehmedalija Nasić is also based on the fact that the witness personally knew this person, that Badnjević was killed outside, between the restaurant and the "white house" and not inside the restaurant and that the killing took place within a month or a month and a half after the witness arrived at the Omarska Camp, which all leads to the conclusion that those were two separate events. The statement of Witness K036 was also additionally confirmed by Witness K022, who also knew Velid Badnjević very well before the war and who noted that Velid Badnjević was in the Omarska Camp and that he was killed.

The circumstances regarding the killing of Amir Cerić and a man called Avdić were entirely confirmed by the statement of Witness K022, who visually witnessed the above-mentioned killings. From the statement of this witness it stems that the killing of Amir Cerić and Avdić took place during the beating of this witness and Bećir Medunjanin, which occurred in mid June 1992 in the "white house". According to the claims of Witness K022, a group of people, including Duško Knežević and Zoran Žigić, came to the "white house" on the critical occasion and started beating everyone without exception, after which they started piling up severely beaten detainees over one another. Then the witness heard the following words: "Look, this one is still stirring, he is moving," after which two or three shots were heard and when the other detainees came in to take the bodies off the pile, the witness saw that only two bodies remained, namely the body of Amer Cerić from Prijedor and Avdić from Brdo, and then he saw that those two bodies were taken outside on the right side of the "white house", where the dead were dumped. It is true that Witness K022 did not see the person who shot Amer Cerić and Avdić, however he stressed that only Knežević and Žigić were in the room at that time, claiming that he could not either feel or hear the presence of other persons and that these two were in charge. The witness particularly explained the circumstances under which he remembered that it was Cerić from Prijedor, since he remembered the name because Cerić's father used to bring food to his son to the "white house", where



**Elma Karovic**

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**From:** Mirza Djozo  
**Sent:** 4. decembar 2008 13:17  
**To:** Elma Karovic  
**Cc:** Vesna Ilic  
**Subject:** RE: predmet Karajić Suljo - zahtjev za posjetu

Elma,

U pogledu izjašnjenja Tužilaštva BiH, a povodom zahtjeva pritvorenika Karajić Sulje za posjetu i obavljanje telefonskog razgovora sa prijateljem Ljajić Mehmedom, izjašnjavamo se da se ne protivimo razgovoru ukoliko isti nije u suprotnosti sa odredbama ZKP-a, kao i sa Pravilnikom o kućnom redu Pritvorske jedinice.

Pozdrav

Mirza Đozo  
Stručni saradnik / pravnik  
Tužilaštvo-Tužiteljstvo BiH  
Kraljice Jelene 88, Sarajevo  
tel. 033/707-127

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**From:** Elma Karovic  
**Sent:** Thursday, December 04, 2008 12:58 PM  
**To:** Vesna Ilic  
**Cc:** Mirza Djozo  
**Subject:** predmet Karajić Suljo - zahtjev za posjetu

Poštovani,

Sud je 03.12.2008.godine zaprimio zahtjev pritvorenika Sulje Karajića da mu se odobri posjeta i telefonski pozivi sa prijateljem LJAJIĆ MEHMEDOM. Da li se Tužilaštvo protivi izdavanju odobrenja po ovom zahtjevu?

S poštovanjem,

**ELMA KAROVIĆ**  
*Stručni saradnik Odjeljenja za sudsku upravu  
Odjel I i II Krivičnog i Apelacionog Odjeljenja  
Sud Bosne i Hercegovine*

**ELMA KAROVIĆ**  
*Court Officer  
Court Management Section  
Section I and II of the Criminal and Appellate Divisions  
Court of Bosnia and Herzegovina*

1. Izjava o izjavi prijatelja LJAJIĆ MEHMEDOM

4.12.2008

heard about Avdić from other detainees who knew him. Witness K022 identified the person with the surname Cerić as Amer Cerić, however the witness was a bit reserved in terms of the first name of the victim, meaning that his name could have been Amir. Bearing in mind the objective evidence, namely the Additional Report by Nicolas Sebire dated 28 August 2002, the Court has determined in a reliable manner that the first name of the killed Cerić was Amir, since the person called Amir Cerić was officially declared dead by the relevant court and it was determined that he was killed in the Omarska Camp.

As for the event of the killing of Mirsad ("Mirso", "Asim", "Kera") Crnalić, who was, according to the allegations in the Indictment, shot dead by the Camp guards in July 1992, based on the evidence presented the Court has also found that these allegations from the Indictment were undoubtedly proved. The Court has based its conclusion about it on the statements of witnesses Kerim Mešanović, Nusret Sivac and Asmir Baltić, who heard shooting on the critical occasion, after which they personally saw the dead body of Mirsad Crnalić. Witness Asmir Baltić stated that he saw Crnalić's body which was hanging over the window of the "white house", as opposed to the other two witnesses, who saw Crnalić's body in front of the "white house". However, the statements of these witnesses are completely consistent in terms of the decisive fact that Mirsad Crnalić was killed, whereas the information about whether the body was seen in front of or on the window of the "white house" is irrelevant in the light of the circumstances of the above-mentioned event, since all the above-mentioned witnesses first heard voices, then shots, after which they saw the body of Mirsad Crnalić. According to the statement of witness Nusret Sivac, the name of the person who was killed on the critical occasion was Asmir Crnalić Vićo, which, according to the assessment of the Court, does not bring in question the identity of the victim, since this witness precisely stated that he was a mentally ill person and that the guards put him in the "white house". Witness Asmir Baltić too confirmed the claims of Nusret Sivac, noting that Crnalić started behaving in a strange manner and that they told him to go to the "white house", as well as the witness Kerim Mešanović, who saw that Crnalić got out of the "white house" and that the guards killed him since he allegedly started running away. The statements of the above-mentioned witnesses were entirely confirmed by witness Saud Bešić as well, who was at that moment in the "white house" and who saw Mirsad Crnalić frantically trampling on other detainees, after which he opened a window and jumped, and then this witness heard some of the guards shouting at him not to run and finally he heard shots. Witnesses Asmir Baltić and Kerim Mešanović confirmed that the above-mentioned event took place in July 1992, as it was noted in the factual part of the Indictment.

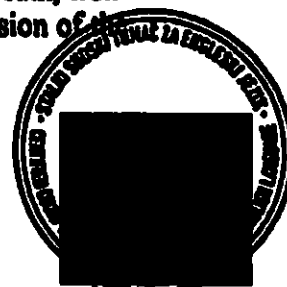
According to the allegations in the Indictment, in late July 1992 Husein Crnkić was shot dead by the Camp guards. With regard to this factual part of the Indictment the Court has made certain corrections, in accordance with the substantive results of the evidence presented about the above-mentioned circumstances, bearing in mind the fact that none of the witnesses saw that Husein Crnkić was shot dead in the Omarska Camp. In his statement Witness K019 noted that Husein Crnkić was taken away together with a group of intellectuals in late July 1992 towards the "red house", however, the statement of this witness was not corroborated by any other statement by the witnesses who saw the intellectuals being taken away and this witness was unable to confirm that Husein Crnkić was shot dead. Witnesses Sifeta Sušić and Zlata Cikota consistently stated that they saw Husein Crnkić in the Omarska Camp during the time when he would go to



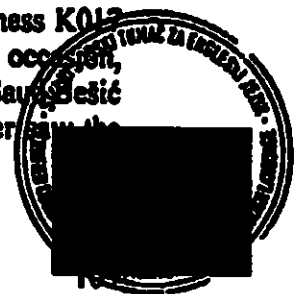


have lunch in the restaurant. Both witnesses precisely described Crnkić's physical state and the injuries they noticed, which were visible to them since they were, as witness Sifeta Sušić noted, 2 or 3 meters away from him. According to the statements of witnesses Zlata Cikota and Sifeta Sušić, on one occasion Husein Crnkić removed his shirt to show them the injuries he sustained, and both witnesses saw the injuries in the region of his clavicles, that is, his shoulder-blades. On this occasion witness Zlata Cikota saw that both his shoulder-blades were broken, that his arms were hanging and that everything was purulent, which was also confirmed by witness Sifeta Sušić, who said that she saw a hole between the shoulder-blades on the back of the above-mentioned person, which was so big that an entire fist could fit into it. From the statement of witness Zlata Cikota it stems that her husband told her that Husein Crnkić had died of a beating, that is, of the injuries sustained, which was partly confirmed by witness Sifeta Sušić, who noted that it was incredible how Crnkić was alive at all with such a big wound. Since the Court was unable to determine with certainty that the death of Husein Crnkić took place in late July 1992, in the operative part of the Verdict it is noted that it took place either in June or July 1992, when all other beatings and the majority of the killings too took place in the Omarska Camp. With regard to the death of Husein Crnkić, the allegations of the witnesses were additionally corroborated by the objective documentation, namely the Additional Report by Nicolas Sebire dated 28 August 2002 from which it stems that his body was found in the Kevljani mass grave and identified under number KV16-002B.

One of the events that were described by several witnesses, since it took place in front of a large number of detainees, is the beating of Rizah Rizo Hadžalić by the guards in the Camp, due to which beating this person died and this event took place in July 1992. With regard to this event, the Court has also determined beyond any reasonable doubt that it took place in the manner and during the time described in the operative part of the Verdict. Witnesses Ermin Striković, Nusret Sivac, K027, Mustafa Puškar, Azedin Okloptić and K036 gave their statements about the above-mentioned circumstances. All the above-mentioned witnesses consistently agreed that they knew Rizah Hadžalić well from before, and according to their statements this person died in July 1992. The statements of all the above-mentioned witnesses were also completely consistent in the fact that the beating and death of Rizah Hadžalić were linked to the event in which the above-mentioned person mentioned the word "bujrum" to one of the guards, after which the guards in the Camp started beating him. Along with this, all the above-mentioned witnesses personally saw that Rizah Hadžalić died in the aftermath of the above-mentioned beating, that is, they saw his lifeless body, while Witness K027 heard when Dr. Esad Sadiković, who was also a Camp detainee, declared that Rizah Hadžalić died. The consistent statement of these witnesses were also entirely corroborated by the statement of Witness K019, who heard that Rizah Hadžalić was killed around 12 July 1992, namely several days after this witness was brought to the Omarska Camp, and that the guards Popović, Predojević and others did that. The above-mentioned subjective evidence about the death of the above-mentioned person was also additionally corroborated by the documentary evidence in the case-file, that is, by the Additional Report of Nicolas Sebire dated 28 August 2002, Exhumations and Proof of Death, from which it stems that Rizah Hadžalić was officially declared dead under a decision of the Municipal Court in Sanski Most.



The Court has undoubtedly determined that on or around 18 June 1992 Jasmin "Jasko" Hrnić, Enver "Eno" Alić and Emir Karabašić were beaten in the Camp and that these persons died as a result of the beatings. In the Indictment of the Prosecutor's Office of BiH a person called Fikret Harambašić was also included in the Indictment, however, not a single piece of evidence presented during the main trial led to the conclusion that the above-mentioned person was in the group that was beaten to death on the above-mentioned occasion, since the witnesses did not mention the name of Fikret Harambašić within the context of this event. The Court has based the conclusion that the referenced event indeed took place primarily on the statement of Witness K017, who knew all three persons from before and who described in detail the developments on the critical occasion as much as this witness could see or hear anything about it. According to the statement of Witness K017, detainees Jasmin Hrnić, Emir Karabašić and the Alić brothers (Ekrem and Eno) were roll-called and killed on 20 June 1992, which is consistent with the statement of Emir Beganović, who said that he was in room number 15 in the hangar on or around that date, when he heard what was going on. Since witness Emir Beganović was brought to the Omarska Camp on 30 May 1992, after which he spent one night in *Mujina soba*, and then between 10 and 12 days on the pista, after which he spent one night in the "white house", after which he was taken to room number 15, it is undisputable that the above-mentioned persons were roll-called within the time frame set in the factual description of the Indictment, that is, in the operative part of the Verdict. Witness K017 was completely precise in his description of the above-mentioned event, noting that he heard when Jasmin Hrnić was roll-called at precisely 4:25 p.m. and that, along with Jasmin and Emir Karabašić, there were also the Alić brothers, Eno and Ekrem, about whom he learned later on from the detainees who knew them. According to this witness, on the critical occasion he heard terrible screams, which appeared to be screams of people who were dying and, as this witness noted, this lasted for 35 minutes, after which a period of silence followed. This witness also described the events which took place in the meantime, noting that he personally heard several voices and blows, that several persons participated in the beating, and that one of them was Tadić, who issued orders such as "bite" and who ordered a person with the surname Jakupović to bite off Emir and Jasmin's testicles. The witness did not personally see what happened on that occasion, but he clearly heard blows, screams and orders, whereby he learned what happened directly from the detainees who were held together with him in the same room and who observed the above-mentioned event looking through the window from time to time. The claims of Witness K017 were corroborated by the statement of witness Emir Beganović, who, as it has been already stated, was held on the critical occasion in room number 15, which is located above the place from which the screams were coming. This witness stated that he had never heard such screams before, that it went on for a long period of time and that it was unbearable to listen, while later on he heard that those were of Jasmin Hrnić and Emir Karabašić. Witness Emir Beganović confirmed the statement of Witness K017 with regard to the fact that the detainee with the surname Jakupović, who survived the Omarska Camp, was forced to bite off Jasmin and Emir's testicles with his teeth, since Jakupović, who is witness Beganović's cousin, allegedly told the witness what happened. None of the witnesses stated that he later on saw the persons who were the victims of the above-mentioned beating and torture, so that this, along with the statement of Witness K017 about the fact that the above-mentioned persons were killed on the critical occasion, lead to the conclusion that these persons did not survive the beating. Witness Savić also partly testified with regard to the killing of Enver "Eno" Alić. He never



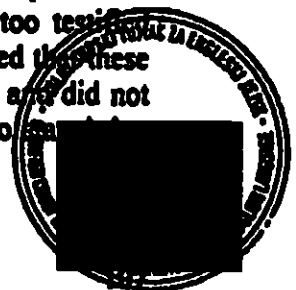
body of the above-mentioned person, nor the killing, but he stated that he last saw Eno Alić on the occasion of his being taken away for questioning and that he was lost ever since. Emir Karabašić's death was additionally corroborated by the documentary evidence in the case-file, that is, the Additional Report by Nicolas Sebire dated 28 August 2002, Exhumations and Proof of Death, from which it stems that the above-mentioned person was officially declared dead under a decision of the relevant court.

As noted in the Indictment, in July 1992 Miroslav Šolaja died of a beating. Having assessed the statements of witnesses who were heard about the death of Miroslav Šolaja and the material documentation regarding the identification of the above-mentioned person, the Court has also found the above-mentioned event established. The key-witness who was heard about the circumstances of the beating and death of Miroslav Šolaja is Witness K018 who knew him, whereby according to his statement, Miroslav Šolaja was held near him in the Omarska Camp, namely in the room with shower cubicles. During the main trial, the above-mentioned witness gave a detailed statement about the multiple beating of Šolaja from the time he arrived at the Camp in early June 1992, until his death. According to this witness, Miroslav Šolaja was roll-called three times, whereby the beating he went through the last time he was roll-called (the third time) led to his death. The witness stated that Šolaja was first beaten around 15 days after the arrival at the Camp, the second beating took place 2 or 3 days after the first beating, whereby the third beating took place 2 or 3 days after the second one, from which it stems that Miroslav Šolaja was beaten to death in late June or early July 1992. According to the claims of this witness, the Court made a correction in the factual part of the Indictment which refers to the time of Miroslav Šolaja's death. As it has been already stated, Witness K018 described in detail the circumstances of the physical abuse of Miroslav Šolaja, and he described his third beating in a particularly detailed way, after which he died. While he was describing his state after the third time he was beaten, Witness K018 noted that Šolaja looked as if he was dead rather than alive, that he was severely beaten and unable to move and that he moaned due to the pain. According to the description provided by this witness, an arm of the above-mentioned person was broken, his back were of dark blue color, as well as his left leg, he was in a state of agony and insanity, which were results of torture and terrible pains. The witness also explicitly stated that Miroslav Šolaja did not receive medical assistance in time, although he requested it from the guards. Witness K018 confirmed that Šolaja's physical and mental state was deteriorating and he noted that, at the time he was finally taken to the sick room, Šolaja looked even worse and he was in a dreadful physical and mental state, after which, as the witness said, he heard that Miroslav Šolaja died on that day and he did not see him ever since. During the direct examination, Witness K018 stated that Miroslav Šolaja wore a green and black tracksuit, a white t-shirt and shoes, which was eventually confirmed by the photographs presented to the witness by the Prosecutor, which were tendered as Prosecution evidence. Witness Anto Tomić also entirely confirmed the statement of Witness K018 about the death of Miroslav Šolaja. He said that he saw him after the beating and after he died and was taken behind the "white house", where dead bodies were taken. In the view of Miroslav Šolaja's death, the statements of the witnesses were also corroborated by the objective documentation, namely the Additional Report by Nicolas Sebire dated 28 August 2002, from which it stems that his body was found in the Kevljani mass grave and was identified under number KV13-006B.

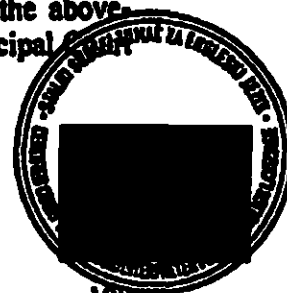


Having made certain corrections in the Indictment of the Prosecutor's Office of BiH, the Court has determined that a person called Azur Jakupović was killed in the first half of July 1992 after he was beaten by the guards, as well as Edvin Dautović, so that their bodies were together thrown onto a truck. The persons who were held in the "white house" and who were right by the place where Azur Jakupović and Edvin Dautović were killed on the critical occasion were heard about the above-mentioned circumstances. According to the statement of Witness K022, he met Azur Jakupović in the "white house" and he claimed that he was being beaten and maltreated for two days, that he went out of the "white house" on one occasion and started screaming and cursing and that there has been no sign of him ever since. Witness K022 gave his statement also about the circumstances of the death of Edvin Dautović, which occurred, as it stems from the above-mentioned statement, after one night Edvin Dautović had a pain in his stomach and he had to use the toilet, regardless of the warning of other detainees that he should not go out, after which Dautović called a guard in the Camp, who took him away passing in front of the window of the "white house", after which blunt blows and moans could be heard, followed by wheezing sounds, and this witness did not see Edvin Dautović ever since. The statement of Witness K022 was confirmed in its entirety by Witness Saud Bešić, who was in the "white house" on the critical occasion, which is when he personally saw the dead bodies of Azur Jakupović and Edvin Dautović and he put them into a van. The statement of witness Saud Bešić is entirely consistent with the statement of witness K022 given about the circumstances that occurred prior to the killing of the two above-mentioned persons, since witness Saud Bešić stated that Azur Jakupović was roll-called and never came back again, while Edvin Dautović went out because he had to use the toilet, whereas the next time the witness saw him Edvin Dautović was dead. From the statement of this witness it stems that the killing of Edvin Dautović and Azur Jakupović took place during a short time interval, and the witness explicitly said that it took place between 10 and 15 July 1992. According to the statement of this witness, the Court made a correction with regard to the factual part of the Indictment by stating that the killings took place in the first half of July 1992. As far as witnesses Kerim Mešanović and Sakib Jakupović are concerned, they only confirmed that Azur Jakupović was detained in the Camp, while from the statement of Kerim Mešanović it stems that Jakupović was alive in early July, since that was when he last saw him, and that his leg was injured. In view of Edvin Dautović's death, the statements of the witnesses are corroborated also by the objective documentation, namely the Additional Report of Nicolas Sebire dated 28 August 2002, from which it stems that his body was found in the Kevljani mass grave and identified under the number KV14-004B.

The Court has determined beyond any reasonable doubt that in late July 1992 a group of intellectuals, including Dr. Osman Mahmuljin, Dr. Eniz Begić, Zijad Mahmuljin and Ago Sadiković, disappeared from the Camp. A large number of witnesses, who were heard about the above-mentioned circumstances, consistently confirmed that the above-mentioned persons were roll-called and taken away, that they never returned and that they are no longer alive. Witness K041 stated that in July 1992 around 20 persons were roll-called, including Dr. Osman Mahmuljin, Dr. Begić and Dr. Jusuf Pašić, and that they have been unaccounted for ever since. Witness Enes Kapetanović too testified about the taking away of Dr. Osman Mahmuljin and Dr. Begić, and he noted that these persons were roll-called after mid July 1992, that they were taken outside and did not return ever again, which was also confirmed by witness Asmir Baltić, who

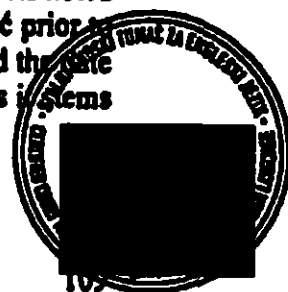


Dr. Mahmuljin was roll-called in late July 1992 together with other intellectuals, after which he has been unaccounted for. Witness Zlata Cikota, who personally knew Dr. Osman Mahmuljin and Dr. Begić, also confirmed the statements of the previous witnesses about the taking away of these two persons. From the statement of this witness it stems that she saw Dr. Begić being taken along the pista towards the "red house," and then the taking away of Dr. Osman Mahmuljin also towards the "red house", which, according to this witness, took place on the same day Dr. Begić was taken away. Witness Zlata Cikota stated that she knew Ago Sadiković well too, as well as Zijad Mahmuljin, to whom she referred to as Ziko during her testimony, and she also noted in her statement that Ago Sadiković and Zijad Mahmuljin were taken towards the "red house" on the same day as Dr. Mahmuljin and Dr. Begić. The witness even stated that she heard shots after Ago Sadiković was taken away and that she saw and heard that he was killed, but that she did not see the bodies, however, she stated that she was certain that she did not see any of these men after that. Witness Kerim Mešanović also confirmed the statements of the above-mentioned witnesses while testifying about the circumstances of the taking away of the persons from the group of intellectuals who were held together with him in the part of the Camp called the "glass-house". According to the statement of witness Kerim Mešanović, Dr. Eniz Begić and Ago Sadiković were taken out of the "glass-house". They were first roll-called by the guards who read the names from a list, after which they were taken toward the "red house" and this witness did not see them again. Nusret Sivac also confirmed the statements about the taking away of these persons and, according to his statement, he was held in the same room as Dr. Osman Mahmuljin and he was present when Dr. Mahmuljin was taken out towards the "red house". This witness stated that Ago Sadiković was also taken towards the "red house", as well as Zijad Mahmuljin, whose taking away he personally witnessed, and Dr. Eniz Begić, after which they were killed. He noted that one of the guards came back wearing Ago Sadiković's jacket, which was also confirmed by witness Zlata Cikota. Witness K036, who knew Dr. Begić, Dr. Osman, Ago and Zijad, confirmed that the above-mentioned persons were roll-called and taken away. Finally, Witness K019, who confirmed that the roll-call was carried out for the whole day and he referred to it as "the great roll-call" and who was located in the place from which he had a good view over the pathway towards the "red house", stated that on that day a large group of detainees were roll-called and taken towards the "red house", including Dr. Osman Mahmuljin, Dr. Eniz Begić, Ago Sadiković and Zijad Mahmuljin. The statements of witness Enes Kapetanović, who noted that the roll-call was conducted in the second half of July 1992, the statement of witness Zlata Cikota, who defined the time more precisely by noting that the above-mentioned event took place on 23 or 25 July 1992, as well as the statement of witness Kerim Mešanović, who noted that he last saw Ago Sadiković on 25 July 1992, and of Witness K019, who said that the day of the roll-call was "around 20 July 1992," clearly suggest that all the above-mentioned persons disappeared from the Camp in late July 1992, whereby all the above-mentioned witnesses are completely consistent in their claims that they did not see them after the roll-call ever again. The above-mentioned subjective evidence was additionally corroborated by the documentary evidence in the case file, namely the Additional Report of Nicolas Sebire dated 28 August 2002, Exhumation and Proof of Death, from which it stems that the above-mentioned person was officially declared dead under a decision of the Municipal Court in Sanski Most.



According to the assessment of the Court, after the presentation of evidence, the event regarding the disappearance of Esad Eso Mehmedagić from the Omarska Camp in July 1992 is closely connected with the taking away and disappearance of the group of intellectuals in late July 1992. The Court has determined in a reliable way that Esad Mehmedagić, whom all the detainees knew as the municipal public attorney or judge, was roll-called and disappeared from the Camp at the time of "the great roll-call of the intellectuals", when all the above-mentioned persons were taken away towards the "red house" from which point there has been no trace of them, since they have not been seen alive again. However, the Court did not find it proven that Esad Mehmedagić was beaten before he was taken away, since none of the witnesses who mentioned the events related to this person gave any information about it. In his statement, witness Kerim Mešanović, who testified about the taking away of other persons towards the "red house", claimed that he knew Esad Mehmedagić and that he personally heard when the name Esad Mehmedagić was roll-called by the guards, after which he was taken away together with Ago Sadiković towards the "red house". Witness K019 also testified about the taking away of Esad Mehmedagić towards the "red house" and he saw him along with all other above-mentioned persons, whereby Witness K018, who was held in the same room with him, also heard and saw the roll-call of Esad Mehmedagić, noting that he last saw him in late July 1992 when he was roll-called, went away and never came back again.

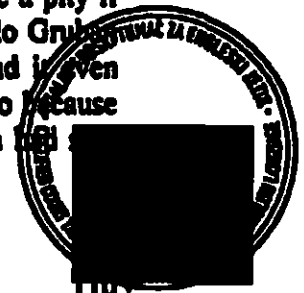
Based on the evidence presented, the Court has found as established the disappearance of Nedžad Šerić from the Omarska Camp, which, according to the Indictment, took place between 25 and 30 July 1992, whereby from the contents of the evidence presented regarding these circumstances it stems that this disappearance was connected with the above-mentioned disappearances of the detained intellectuals. Witnesses Kerim Mešanović, Nusret Sivac, K019 and Zlata Cikota, who testified about the above-mentioned circumstances, personally knew the President of the Prijedor Court Nedžad Šerić and all these witnesses consistently stated that they saw when the above-mentioned person was taken towards the "red house" together with a group of intellectuals. Witness Kerim Mešanović stated that he was held together with Nedžad Šerić in the same room and that he was present when a guard read a list of names, including the name of Nedžad Šerić, on 25 July 1992, after which the witness saw two guards take away Šerić towards the "red house" together with Eso Mehmedagić and Ago Sadiković. Witness K019, who was, as it has been already noted, located in the place from which he could clearly see the path towards the "red house" and who saw that the roll-call of people was carried out during the whole day and that they were taken out and taken to that direction, including Nedžad Šerić, also confirmed that Nedžad Šerić was taken away towards the "red house". The statements of these witnesses were also confirmed by the statement of witness Zlata Cikota, who saw Nedžad Šerić being taken towards the "red house" and who also noted that he was killed there. Finally, witness Nusret Sivac also eye-witnessed the taking away of Nedžad Šerić, noting that he was taken away together with Mujo Cralić. Contrary to this, none of the above-mentioned witnesses noted in his statement that Nedžad Šerić was beaten prior to being taken away, so that, therefore, the Court made a correction with regard to the facts noted in the Indictment in the way that the Court omitted the beating of Nedžad Šerić prior to his being taken away. In addition, the Court has also more precisely determined the date the named person was taken away, since from the above-mentioned statements it stems



that the taking away of the above-mentioned persons took place on or around 25 July 1992.

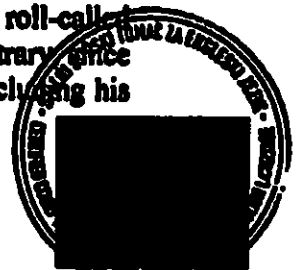
Witnesses Nusret Sivac, K042 and K03 were heard with regard to the circumstances of the beating of Gordan Kardum by the guards in the Camp, as a result of which this person died. It stems from the statement of witness Nusret Sivac that Gordan Kardum was beaten by the guards, together with Rizo Hadžalić, on the pista in the incident in which Rizo Hadžalić said *bujrum* to one of the guards. Since the witness was held on the pista during the above-mentioned event, it is quite certain that he was able to see the above-mentioned beating, whereby his claims that Gordan Kardum was afterwards transferred to the place called "hangar", where he died after 2 or 3 days, are entirely confirmed by Witness K03, who personally knew Gordan Kardum a.k.a. "Gogi" and who saw him being taken away to room number 26 (which was located in the "hangar" building). According to the description of Witness K03, Gordan Kardum was all beaten up and his body was so black and blue that he did not go to lunch for the first several days, which leads to the conclusion that he was in a bad physical state, in the aftermath of which he died. The death of Gordan Kardum a.k.a. "Gogi" was also confirmed by Witness K042, who was Kardum's friend and who confirmed that Kardum was held on the upper floor of the "hangar" building. This witness noted that he personally saw Gordan Kardum dead on one morning while he was on the way to the toilet and when he recognized the dead beaten body of Gordan Kardum among the dead bodies that were located between the "white house" and "red house". From the statement of the above-mentioned witnesses it stems that the beating which resulted in the death of Gordan Kardum took place in July 1992, which was also confirmed by Witness K03, who noted that Kardum was brought beaten around mid July 1992. The above-mentioned subjective evidence about the death of the named person was also corroborated by the documentary evidence in the case file, namely the Additional Report of Nicolas Sebire dated 28 August 2002, Exhumations and Proof of Death, from which it stems that Kardum Gordan was officially declared dead under a decision of the Municipal Court in Sanski Most.

The Court has also established beyond any reasonable doubt the disappearance of Burhanudin Kapetanović and a man with the surname of Badnjević in July 1992, however, based on the evidence presented, it was not reliably determined that this was a person called Nijaz Badnjević, so that, with regard to this, a correction was made in terms of the factual description in the Indictment with the note that it was "a man with the surname Badnjević." The statement of witness Enes Kapetanović, who eye-witnessed this event, primarily represents the basis for this conclusion of the Court with regard to the above-mentioned event, since on the critical occasion he was roll-called together with the above-mentioned persons. Witness Enes Kapetanović noted that in the group of the roll-called persons there were Burho Kapetanović, Badnjević and Murtić from Kozarac, and that he himself was roll-called shortly after that. According to the statement of this witness, the above-mentioned three persons left before him and, when he got out, Momčilo Gruban a.k.a. Čkalja passed by and told him: "Stop, have you been roll-called?", and then he hugged him and told him: "Come here, it would be a pity if such a fellow were gone." The above-quoted words and behavior of Momčilo Gruban precisely suggest the uncertainty of the faith of the roll-called detainees and it even leads to the conclusion that they were supposed to be liquidated, even more so because Enes Kapetanović stated that, later on, he heard from his friends that Čkalja had



that he saved him from certain death, and this statement was confirmed by witness Senad Kapetanović too. Witness Senad Kapetanović, who confirmed that his brother Enes Kapetanović was roll-called together with their cousin Burhanudin Kapetanović, but that Čkalja sent him back, noted in his statement that Burho left the room and that he did not see him again after that, namely that he did not survive the Camp. Witness Asmir Baltić also said what he knew about the disappearance of Burhanudin Kapetanović. He stated that the critical event took place in the second half of July 1992, as well as witness Zlata Cikota, who, as she stated, last saw Burho Kapetanović on 24 July 1992 when he was taken towards the "red house" together with Ziko Ekinović, Čargo and Mujo Crnalić. This witness stated that she attended the funeral of the above-mentioned persons, which took place in Raškovac. The statements of these witnesses were partly confirmed by witness Ante Tomić too, who during the cross examination noted that he heard that Nijaz Badnjević was roll-called and that he disappeared, however, as it has been already elaborated, the Court did not have sufficient evidence at its disposal from which it would stem that it was precisely Nijaz Badnjević. Namely, this witness did not see the above-mentioned being taken away, whereas the eye-witness Enes Kapetanović mentioned only a person with the surname of Badnjević. The subjective evidence about the death of Burhanudin Kapetanović was also additionally corroborated by the documentary evidence in the case file, namely by the Additional Report of Nicolas Sebire dated 28 August 2002, Exhumations and Proof of Death from which it stems that the named person was officially declared dead under a decision of the Municipal Court in Sanski Most.

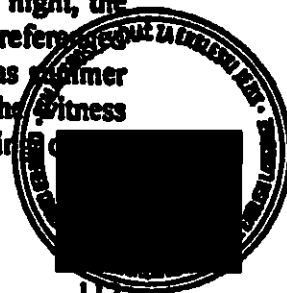
According to the facts noted in the Indictment, one night in June 1992 approximately between 30 and 40 detainees disappeared, including Emsud Baltić and several men with the surname of Mešić. Having determined that this event took place, the Court made certain corrections with regard to the allegations in the Indictment, namely in the view of the number of persons who were roll-called on the critical night and taken to an unknown direction. The Court has based the finding that Emsud Baltić was taken away together with several other men with the surname of Mešić on the statement of witness Asmir Baltić, Emsud Baltić's brother, who was in the same room with the named person during the roll-call. In his statement witness Asmir Baltić noted that his brother did not survive the Camp and that he was taken away along with a group of people on 24 or 25 July 1992. Since this witness was held together with Emsud Baltić in the room called *Mujina soba*, he had an opportunity to see when Emsud Baltić was roll-called and when, together with him, around 8 or 9 p.m. the following persons were roll-called and taken away: Mesud Hadžić, Alija Čomić and Mešić with his three sons. The witness stated that he had not seen the above-mentioned persons ever again and that the last place where he saw his brother alive was at the Omarska Camp, and after that in the mass grave in Kevljani. Based on the statement of the above-mentioned witness, the Court has determined that the referenced event took place in the way described in more details in the Indictment, however, the number of persons who were roll-called and who disappeared that night was more precisely determined in accordance with the claims from the statement of this witness, with the determination that at least 7 persons disappeared, whom witness Asmir Baltić personally saw and listed their names. The truth is that witness Asmir Baltić stated that between 30 and 40 people were roll-called on that night, but the Court assessed that the above-mentioned number is arbitrary, since the witness, who is the only eye-witness of this event, counted 7 persons, including his



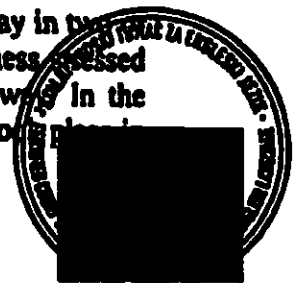


brother, whereas he probably only heard about number 30 or 40, but did not know who those persons actually were.

As noted in the Indictment, in late July 1992 a large number of unidentified detainees were shot dead, including between 100 and 150 detained inhabitants of the Hambarine village. Regarding this event, the Court has also determined beyond any reasonable doubt that it took place, however, based on the contents of the statements of a number of witnesses who were heard about the above-mentioned circumstances, it was determined that at least 50 detained inhabitants of the Hambarine village was killed at the critical time. Witnesses Said Bešić, K037, K040, Izet Đešević and K018 consistently stated that on that day a group of inhabitants from the region of Brdo, including village Hambarine, Čarakovo, Rizvanovići, Biščani, Rakovčani and others, were taken away, and they consistently stated that a large shooting and mass killing could be heard on the same night. According to the statement of witness Izet Đešević, who through a toilet window noticed the rush and people falling down, at first he thought that those were cattle, which leads to the conclusion that a large number of people were outside in the open field that night. This witness described in detail the event that took place on that night, since he observed it from the toilet window, whereby his statement was entirely confirmed by other witnesses who on the critical night heard that "something unusual was going on." Witness Said Bešić stated that there was a lot of shooting and yelling heard that night, so he presumed that people were killed during the night, while Witness K037 heard moans, knocking, yelling of guards, beatings, shooting, which was also confirmed by witness Zlata Cikota, who heard noise the same night too. According to the statement of Witness K019, shooting and curses by guards were heard that night and it started at around 1 a.m., whereby witness K018, who also saw a part of the above-mentioned event through a window, stated that he remembered that night as a bad one, since there was a lot of shooting, that the shooting was fierce and screams and moans could be heard, as well as the words "Please don't, I didn't do anything." That those were inhabitants of the Brdo region, among whom there were also inhabitants of the Hambarine village, was also confirmed by Witness K034, who saw buses which arrived at the Omarska Camp on that day and who recognized the person called Medo Šinik from Hambarine, as well as the witness Kerim Mešanović, who noted in his statement that people from Brdo were brought in July 1992 and that screams could be heard especially after that. The statements of the above-mentioned witnesses were partly confirmed by witness Nusret Sivac as well, whose statement given before the Hague Tribunal in November 1994 was used in the cross examination. He noted that he heard that people from the villages in the region of Brdo had arrived in 12 buses, while one person told him that on the following day he saw only two groups of 30 people each who came to lunch that day. During the evidentiary proceedings the Defense tried to point out that on the critical night the guards of the Omarska Camp were not present there, since the witnesses did not recognize anyone from the regular guards, however, the fact is that the witnesses heard and saw the event, and considering that it took place during the night, it cannot be expected that the witnesses could recognize the guards in the dark. By pointing to the claims of witness Izet Đešević from his statement given in 1995 about the fact that it was foggy that night and that it was a very dark night, the Defense tried to impose a conclusion that the witness was unable to see the referenced event, which the Court did not accept. Namely, this witness noted that it was summer and that the weather was nice, so that even in case there was summer fog, the witness was unable to recognize anyone from among the perpetrators of the killing.



victims, but it is quite certain that he was able to see what was going on and the shapes of human bodies. The statement of witness Izet Đešević about the decisive fact that the detainees were killed on the critical night is completely consistent with the statements of other witnesses, who were able to hear, that is, see what was going on from the perspective of the place where they were held. All the heard witnesses were also entirely consistent with reference to the large number of dead bodies which they saw the following morning around the "white house", from which a clear conclusion stems that those dead bodies were a result of the shooting which occurred during the previous night, when the newly-arrived inhabitants of Brdo were killed, including the inhabitants of the Hambarine village. Witness Said Bešić stated that he saw over 50 bodies piled up, witness Kerim Mešanović noted that he saw the largest number of bodies in the second half of July 1992 and that he heard that a trench-digger/loader loaded the bodies on a yellow truck which was filled to the top, that the bodies were taken away in two turns, namely by two full trailer trucks. The statements about the dead bodies of the detainees from the region of Brdo were also confirmed by witness Zlata Cikota, who saw the bodies at around 4:30 a.m. on the following morning in front of the "white house" and she estimated that there were over 240 bodies. Witness K040 also confirmed the statements of previous witnesses, noting that on the following day on the meadow in front of the "white house" she saw many dead people, that there were around 200 bodies which were lined up and that everything could be seen clearly. According to this witness, there were 3 or 4 rounds of trucks taking away dead bodies. Regarding this event, witness K019, who saw "a terrible sight" on the following morning, stated that he personally saw a truck piled high with bodies, based on which he concluded that there had been a mass execution the previous night. As noted by witnesses K040 and K019, they were not allowed to look and they were ordered to turn their heads, namely to go back to their rooms, which also leads to the conclusion that the Camp staff wanted to cover up the results of the shooting from the previous night. Witness Izet Đešević also described in detail the events of the morning after, when he heard the noise of the loader and then he saw rigid human arms and legs in its front bucket. The witness stressed that there was summer fog that morning, but that it was a bright morning and the fog was not so dense, so that he was able to see a truck loaded up to the top and covered with blankets pass by two times, whereas the smaller TAM truck drove the bodies away several times. The witness stated that he did not see, but he presumed that it was dead bodies loaded on the truck, since he saw blood coming out of the truck, which leads to the conclusion that those were human bodies, even more so since the witness saw rigid human arms and legs on the loader prior to that. According to the statement of Witness K018, that night, or rather the morning after, he saw a maximum of 11 bodies, which did not dissuade the Court from concluding that there were many more bodies there, since other witnesses, who saw the bodies from different positions in the Camp, stated that they saw even up to 200 or over 240 bodies. The very fact that a large number of witnesses saw trucks driving away bodies on several occasions suggests that at least 50 people were killed during the above-mentioned night, which leaves an open possibility that there were many more, even up to 200 people. The above mentioned facts were also confirmed by witness Asmir Baltić, who during the second time he was held in the room called *Mujina soba*, which coincided with the period during which the detainees from the region of Brdo were killed, saw bodies on the truck that drove them away in two or three rounds. In his statement with regard to these circumstances the witness stressed that bodies could be seen since the truck was no more than 8 meters away. In the opinion of the Court it is also an indisputable fact that the referenced event took place



late July 1992, since the following witnesses gave consistent statements about the time when it took place: witness Izet Đešević, who stated that it took place on 23 or 24 July 1992, Witness K018 mentioned 24 July 1992, while witness Kerim Mešanović noted the second half of July 1992 as the time period in which the referenced event took place, which is consistent with the time period witness Asmir Baltić, who saw the bodies being taken away, spent in *Mujina soba*.

As it has been already noted, within the above mentioned system of abuse and persecution in which the detainees were, among others, held without any medications, the Court has determined that during the time the Omarska Camp existed a killing took place as a result of the above-described system, when in June 1992 detainee Ismet "Ico" Hodžić died due to the lack of medicine because of which he was unable to treat his diabetes. Witnesses Asmir Baltić and K03, who gave their statements about the circumstances of the death of Ismet Hodžić, noted that they knew the named person from before the war and that they knew that he had diabetes. Both the above-mentioned witnesses consistently stated that they saw Ismet Hodžić lying down for 2 or 3 days, while Witness K03 was more specific in his claims that Ismet Hodžić died after that time and that afterwards he was taken away in the direction of the "white house". These claims were also confirmed by witness Asmir Baltić, who stated that he last saw "Ico" in front of the "white house", noting that it was around 10 or 12 July 1992, however the witness corrected himself during the cross-examination and he stated that Ismet Hodžić died due to the lack of insulin 5 or 6 days after their arrival at the Camp. Bearing in mind the fact that witness Asmir Baltić was brought to the Omarska Camp on 30 May 1992, as well as the generally well-known fact that the persons who have diabetes and who depend on taking insulin cannot live long without this medicine, it can be quite clearly concluded that Ismet Hodžić died in June and not in July 1992. Therefore, the statements of both witnesses lead to the conclusion that this person died because he was deprived of the necessary medical assistance, namely of being provided with insulin on which his life depended, particularly since Witness K03 heard from Hodžić's brother that he was not allowed to take his insulin on the occasion of his apprehension, whereas witness Asmir Baltić claimed that Dr. Esad Sadiković asked the guards to help "Ico", but nobody helped him and Ico died because they did not bring him his medicine. The above-mentioned subjective evidence about the death of Ismet Hodžić were also additionally corroborated by the documentary evidence in the case file, namely by the Additional Report of Nicolas Sebire dated 28 August 2002, Exhumations and Proof of Death, from which it stems that the named person was officially declared dead under a decision of the relevant Court.

The group of events that was qualified as beatings and other forms of physical abuse committed against the detainees either directly or personally by the accused Željko Mejakić or in his direct presence with a discriminatory intent also includes the event in which Camp detainee Saud Bešić was beaten up, while after some time the accused Željko Mejakić entered the room and kicked him in his chest. The Court has found this event also established, however, during the main trial, the time when it took place was not determined with certainty, as opposed to the date set in the Indictment, according to which it took place on or around 25 June 1992, so that a correction was made regard to the allegations in the Indictment in the manner that it was noted that the named person was beaten during the time he was held in the Camp. In addition, during the proceedings it was not determined that Saud Bešić was beaten by the guards, since

